



Policy Name: Safeguarding and child protection in the Children and Young People Secure Estate

Re-Issue Date: 22 September 2023

Implementation Date: 11 September 2023

Replaces interest for the Youth Custody Service in the following documents: Chapter 2 (maintaining a safe and secure environment) of PSI 08/2012: Care and Management of Young People

The following documents are relevant to the application of this Framework:

YCS Placing Young People in Custody: guide for youth justice practitioners (April 2023)
Building-Bridges-Positive-Behaviour-Framework (2019)
Minimising and Managing Use of Separation and Isolation in the Children and Young People Secure Estate (2022)
Use of Force, Restraint and Restrictive Practices in the Children and Young People Secure Estate (CYPSE) - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1179324/use-force-restraint-restrictive-practices-pf.pdf

Action required by:

<input checked="" type="checkbox"/>	HMPPS HQ (YCS only)	<input checked="" type="checkbox"/>	Governors
<input type="checkbox"/>	Public Sector Prisons	<input type="checkbox"/>	Heads of Group
<input checked="" type="checkbox"/>	Contracted Prisons (YCS only)	<input type="checkbox"/>	Contract Managers in Probation Trusts
<input type="checkbox"/>	National Probation Service	<input checked="" type="checkbox"/>	Youth Secure Estate
<input type="checkbox"/>	HMPPS Rehabilitation Contract Services Team	<input checked="" type="checkbox"/>	Prisoner Escort Custody Service (PECS)
<input type="checkbox"/>	Other providers of Probation and Community Services	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	Healthcare (YCS only)		

Mandatory Actions: By the relevant date of implementation of this Framework, Governors of under-18 Young Offender Institutions (YOI); Directors of Secure Training Centres (STC); and Registered Managers of Secure Children’s Homes (SCH)¹ are responsible for the implementation of local operating procedures which are compliant with the requirements set out in this Policy Framework, and for monitoring how they are applied in their setting.

This policy framework applies to all children sentenced or remanded by the courts to secure settings in the Youth Custody Service in England and Wales, including those who remain in youth custody beyond the age of 18.

For Information: This policy framework sets out YCS policy on the application of statutory safeguarding duties for under-18 Young Offender Institutions (YOI), Secure Training Centres

¹ Hereafter referred to as, “Governors, Directors and Registered Managers”.

(STC), Secure Children’s Homes (SCH) and escort contractors within the broader context of providing high quality integrated and trauma-informed care for children who are in the care of staff at these settings.

How will this Policy Framework be audited or monitored?

The Youth Custody Service will monitor compliance with the requirements set out in this Framework through its assurance, performance and contract management processes, which should also take in account the findings from any case-specific or thematic reviews of practice by local safeguarding partners or national bodies.

Systems and processes will be built to capture information around the Framework to inform continuous improvement and updates to this policy will be issued to reflect any changes in relevant national legislation or statutory guidance on safeguarding. Where data capture systems are created or are in use, details on updating them will be shared through operational and delivery guidance.

Resource Impact: It is assessed that the requirements in this Framework reflect existing legal duties set out in legislation and statutory guidance and will not require additional local or central resource.

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Approved by OPS for publication: Sarah Coccia (Executive Director Prisons), Chair of Operational Policy Sub-board, July 2023

Revisions

Date	Changes
25 September 2023	<ul style="list-style-type: none">• Additional wording to 2.29 to clarify who contacts the child’s family [where applicable if safe to do so].• Removed a bullet point from 3.6.

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1. SUMMARY – SCOPE, DEFINITIONS AND OUTCOMES

“Nothing is more important than children’s welfare. Children who need help and protection deserve high quality and effective support as soon as a need is identified”²

1.1 Safeguarding and child protection are inextricably linked.

- **Child Protection** is the immediate action taken to protect a specific child or children when they have been identified as suffering (or likely to suffer from) significant harm, including procedures for responding to concerns about their care or welfare.
- **Safeguarding** is focused on making the environment around children safe through the establishment of policies, procedures and practices. For the purpose of this Framework, safeguarding, promoting the welfare of children and protecting them from harm is defined as, “.....protecting children from maltreatment; preventing impairment of children’s mental and physical health or development; ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and taking action to enable all children to have the best outcomes.”³

1.2 This Framework applies to all YCS secure settings where remanded and sentenced children and young people are placed. This includes under-18 Young Offender Institutions (YOI), Secure Training Centres (STC) and Secure Children’s Homes (SCH), as well as to escort providers responsible for the physical movement of children between secure settings and Courts.

1.3 Safeguarding must be a “golden thread” embedded in the ethos of each setting in the YCS so that the consideration of safety and welfare is at the heart of all processes and procedures. Preventing harm and abuse and promoting individual wellbeing must be at the heart of everyone’s role. They must apply professional curiosity to explore what may be happening with individual children and ensure that they are proactive to address concerns where they identify them. A commitment to continuous learning across the setting will ensure that practice remains consistent with this ethos.

1.4 It is essential that everyone involved in the care and management of remanded and sentenced children in the YCS understands their safeguarding responsibilities and has regard to the expectations set out at Section 2 of this Framework when carrying out their duties.

1.5 Statutory safeguarding legislation and guidance sets out the duties of organisations that work with children⁴, however certain settings in the YCS may accommodate children alongside young people aged over-18. This Framework assumes that the same principles for preventing harm should apply to all children and young people held in YCS provision so the expectations and requirements set out in this Framework should be applied equally to the whole population at the setting, irrespective of age.

² Department for Education (2018) *Working Together to Safeguard Children*: <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2> - page 7

³ <https://learning.nspcc.org.uk/safeguarding-child-protection>

⁴ As set out in *Working Together to Safeguarding Children*, “A child is defined as anyone who has not yet reached their 18th birthday. The use of ‘children’ therefore means ‘children and young people throughout [this document].”

- 1.6 The Framework does not apply direct expectations and requirements to staff and volunteers from organisations and charities who undertake activities on a contracted or voluntary basis at the setting, but they will be expected to understand the expectations set out at Section 2 and, where necessary, work within the setting's safeguarding and child protection procedures whilst also meeting the duties of the organisation that they are working for.
- 1.7 Governors, Directors and Registered Managers of YOI, STC and SCH and the person or team designated to lead safeguarding and child protection work⁵ at those settings must ensure that they understand and apply the wider set of principles and expectations set out in Sections 3 & 4 of this Framework to ensure that the statutory duty to safeguard and promote the welfare of children at that setting are fully and effectively applied, and that arrangements are in place to cooperate with other agencies.
- 1.8 Children in custody may present with complex needs and face significant challenges because of their life experiences or existing conditions⁶, and these must be taken in to account when decisions about safeguarding their care and welfare are made. All decisions must be child-centred, take account of the child's individual characteristics, culture and beliefs, and the response must reflect their individual care and wellbeing needs whilst balancing their rights; what is in their best interest; and their own goals and ambitions.
- 1.9 Safeguarding and child protection matters are rarely standalone events that can be covered by one definition or label. In many cases, multiple issues will overlap with one another so a co-operative approach involving different agencies will create a shared understanding of each child's circumstances and their individual needs.
- 1.10 Any decision about the disclosure of information, decisions or actions that are taken to protect a child from harm, should, as far as is reasonably practicable, take account of the child's voice by hearing their views, wishes and feelings so support to enable the child to participate in decisions that affect them must be available.

2. SAFEGUARDING INFORMATION FOR ALL STAFF

The following Section must be read, understood and followed by everyone employed in roles or involved in voluntary activities which brings them into contact with children in the secure settings.

- 2.1 ***Safeguarding is everyone's responsibility:*** The Children Act 1989⁷ established the principle that everyone who works with children has a responsibility for keeping them safe and to promote their welfare. The child's welfare and needs, and their needs and wishes, are paramount, and they must receive the support they need.
- 2.2 This Framework uses the definition set out in *Working Together to Safeguard Children*² which defines safeguarding as:

⁵ Hereafter referred to as the designated lead for safeguarding.

⁶ See Dr Anne-Marie Day (2022) *If this were my child, what level of care would I expect and hope for?* - for the Alliance for Youth Justice and available via the following link: <https://www.ayj.org.uk/news-content/anne-marie-day-treating-children-as-children>

⁷ <https://www.legislation.gov.uk/ukpga/1989/41/contents>

- protecting children from maltreatment; or
- preventing children’s mental and physical health or development being impaired; or
- ensuring safe and effective care is provided to children while they are at the setting; or
- taking action to ensure that children have the best possible outcomes in whatever activity they are involved with.

2.3 **All information may be relevant**, irrespective of how seemingly innocuous it might be. Everyone in the secure setting, including staff, contractors and volunteers, must apply vigilance and professional curiosity to all matters about the care and welfare of children and act in line with their intuition or instinct. The designated lead for safeguarding should operate with an “open door” so that anyone who wishes to discuss any matter related to a child at the secure setting can access advice or support.

2.4 Information about child protection and safeguarding matters should not be viewed in isolation and it is unlikely that a single person can have the full picture of what a child needs. Abuse, neglect and harassment are rarely stand-alone events that can be covered by one definition or label: multiple issues will often overlap with one another, and staff should be alert to a range of indicators of changes in the child’s wellbeing, such as children who are disengaged or absent from activities; changes in friendship groups; or signs of unexplained injuries or self-harm.

2.5 All staff, contractors and volunteers must understand what to do if they wish to bring any matters, however innocuous, to the attention of the designated lead for safeguarding at the setting and any decisions, actions or outcomes must be clearly recorded.

The overriding mantra which members of staff must adopt is, “if you are suspicious about something, do something about it.”

What staff need to know

2.7 All staff, contractors and volunteers must be aware of the role of the local operating procedures set out at paragraph 5.22(i) of this Framework which are relevant to delivery of effective safeguarding and child protection arrangements at the site.

2.8 As part of the induction to their role at the setting, all staff, contractors and volunteers must complete local safeguarding and child protection training so they that they understand the legal duty of all staff at organisations which work with children to protect and safeguard children and how they should respond if they have any concerns about the care or welfare of any child. This should be scenario-based and focus on the themes which are most likely to see in the course of their duties and include the response to respond to instances of bullying, harassment and violence between children. The competency and knowledge of staff members must be checked before completion of the training package that they undertake.

2.9 Training for staff, contractors and volunteers must also inform them about the mandatory legal requirements for reporting in the following circumstances:

- Cases of Female Genital Mutilation (FGM) in under-18s. See Home Office guidance for more detail⁸.
- Duties set out in the Prevent Guidance for England and Wales⁹ and guidance for Youth Offending Teams (YOTs)¹⁰ on the identification and management of children's involvement in extremism¹¹.
- Identifying and reporting suspicions that a child may be a victim of Modern Slavery. The Home Office has published detailed guidance on the identification, protection, care and support for victims of modern slavery¹².

- 2.10 To ensure that their competency, knowledge and skills remain up to date, all staff, contractors and volunteers must complete refresher training about safeguarding and child protection every twelve months and take account of any interim updates provided by the designated lead for safeguarding.
- 2.11 Whilst the circumstances around each child will be unique, all staff, contractors and volunteers should ensure that they are aware of the risks and indicators of harm to children from both within and outside the setting and should apply their professional curiosity and intuition to ensure that safeguarding matters are identified as early as possible.
- 2.12 All staff, contractors and volunteers must **immediately** initiate the processes set out at paragraphs 2.13 – 2.41 if they have concerns about the welfare of a child at the setting and ensure that those concerns are brought to the attention of the designated lead for safeguarding. This will ensure that all necessary action is taken to protect the child promptly and relevant information is shared with the Local authority or other safeguarding partners. This includes instances where this is prompted by inappropriate or problematic behaviour by another adult at the site.

What staff must do

Immediate safeguarding and support

- 2.13 Where staff become aware of any safeguarding or child protection matter, whether that involves a child who is at the secure setting or in the community, their immediate response must be to highlight this to the designated lead for safeguarding to ensure the immediate safety and welfare needs of the child or children who are involved are met, and they are safe.
- 2.14 Children may not disclose the whole picture from the outset so it is essential that the child feels as though they are involved in the process and that they trust the people who are trying to help them. If they request the involvement of someone that they have a good relationship with, such as a member of the local advocacy team, a youth worker or someone in a different role, this should be supported if it is practicable.

⁸ Home Office (2020) *Mandatory Reporting of female genital mutilation: procedural information*

<https://www.gov.uk/government/publications/mandatory-reporting-of-female-genital-mutilation-procedural-information>

⁹ Prevent Guidance for England and Wales - <https://www.gov.uk/government/publications/prevent-duty-guidance>

¹⁰ Also now called Youth Offending Service (YOS) in some areas.

¹¹ https://yiresourcehub.uk/component/k2/item/download/715_ca5988804c642c57fba87376333f955c.html

¹² <https://www.gov.uk/government/publications/modern-slavery-how-to-identify-and-support-victims/modern-slavery-statutory-guidance-for-england-and-wales-under-s49-of-the-modern-slavery-act-2015-and-non-statutory-guidance-for-scotland-and-northe>

2.15 When a safeguarding or child protection matter has been identified, support for the child must be tailored on a case-by-case basis, considering all protected characteristics such as their age or any disability or factors such as their developmental stage or past experience of trauma, alongside the nature of the concerns and the level of the risk. There may be times when the child may wish to isolate themselves from their peers or withdraw from lessons and activities, and it may be necessary to provide a bespoke programme of activities for the child.

2.16 If it is a disclosure from a child which prompts a report to the designated lead for safeguarding it is important to recognise that children may not find it easy to articulate what has happened to them. The way in which staff respond to a report from a child is important as it can encourage the child to provide further information or undermine their confidence in the process. Children must feel that the matter is being taken seriously and they must never be made to feel ashamed for making a report or be given the impression that they have created a problem with the disclosure. Staff should be aware that:

- Children are more likely to disclose information to someone they trust: this could be a member of staff at the secure setting who is supportive and respectful to them and recognises that the child has placed them in a position of trust.
- The child must not be promised confidentiality as it is very likely that information will have to be shared with colleagues such as social workers or the child's home YOT or YOS Case Manager so that next steps and actions can be discussed and agreed.
- Staff must listen carefully to what the child is saying. Staff should be non-judgmental, avoid asking leading questions, reflect back using the child's own words and use open questions when it is necessary for them to prompt the child.
- Facts should only be presented as the child provides them and notes should not reflect the opinion of the note taker.
- The written record must reflect the child's own words. It is good practice if the member of staff gives the child full attention to listen and focusses what they are saying and then writes it up in full at the end of the conversation. If the member of staff makes notes, they should be conscious of the need to remain engaged with the child and not appear distracted by the note taking.

2.17 In some cases, the child may not report the matter directly to a member of staff themselves: they may ask someone else to speak to member of staff on their behalf, or a staff member may overhear a conversation or observe behaviour that gives cause for concern. Irrespective of the way in which a member of staff has learnt about the matter they are concerned about they must act immediately rather than wait to be told about it.

2.18 In gathering information to inform a report to the designated lead for safeguarding, members of staff must be aware that the notes of such reports could become part of a statutory assessment by local authority children's social care services and/or part of a criminal investigation.

Making a report to the designated lead for safeguarding

Local operating procedures for safeguarding and child protection must provide clear instructions about how reports should be submitted to the designated lead for safeguarding at the setting.

- 2.19 Once they receive a report the designated lead for safeguarding will undertake an initial assessment to determine appropriate next steps and should liaise with the child's case worker at the setting, YOT or YOSE Case Manager and other colleagues, such as social workers, as necessary. All decisions, including who was involved, options that may have been considered but not followed and the rationale for that approach must be clearly recorded.
- 2.20 Depending on the circumstances, it may be determined that putting enhanced monitoring of the child in place or providing them with additional support from the on-site health or social care team or other professionals such as psychologists or social workers, is a more appropriate response. If the matter is related to an instance of child-on-child abuse referral to the local behaviour management team and involvement of trained restorative justice or conflict resolution practitioners may be considered.
- 2.21 Although there may be circumstances where a decision may have to prioritise the child's best interests over directly following their wishes, all decisions concerning a child's welfare must ensure that they are given an opportunity to express their views. Where it is possible to do so, the child must be informed about any action which is being taken.
- 2.22 If the designated lead for safeguarding decides that the risk to the child's welfare or safety is such that they are at risk of significant harm a referral to the local authority will be necessary¹³.
- 2.23 Where the reported matter is about a serious incident of abuse or violence between peers, the local serious incident protocol must be followed and a report to the police should be made in parallel to a referral to the local authority. More information and guidance about the response to incidents of abuse or violence between peers can be found at Section 7 of this Framework.

The response to a report about safeguarding or child protection

- 2.24 Within one working day of a referral being made to the local authority, a social worker must make a decision about whether the response can be led by the setting, who will commission input directly from other agencies if it is required, or whether additional assessment is needed to determine:
- Whether the child has unmet needs and a multi-agency assessment under Section 17 of the Children Act 1989⁷ is required; or
 - An investigation under Section 47 of the Children Act 1989⁷ should be initiated because it is assessed that there is, "...reasonable cause to suspect that the child is suffering or is likely to suffer significant harm...."
- 2.25 If there is risk to the life of the child or a likelihood of serious immediate harm, action should already have been taken by staff at the secure setting to intervene and ensure the child's safety. However, staff should be aware that local authority social workers or the police do have powers to initiate an immediate strategy meeting to discuss whether any emergency action is necessary to safeguard the child.

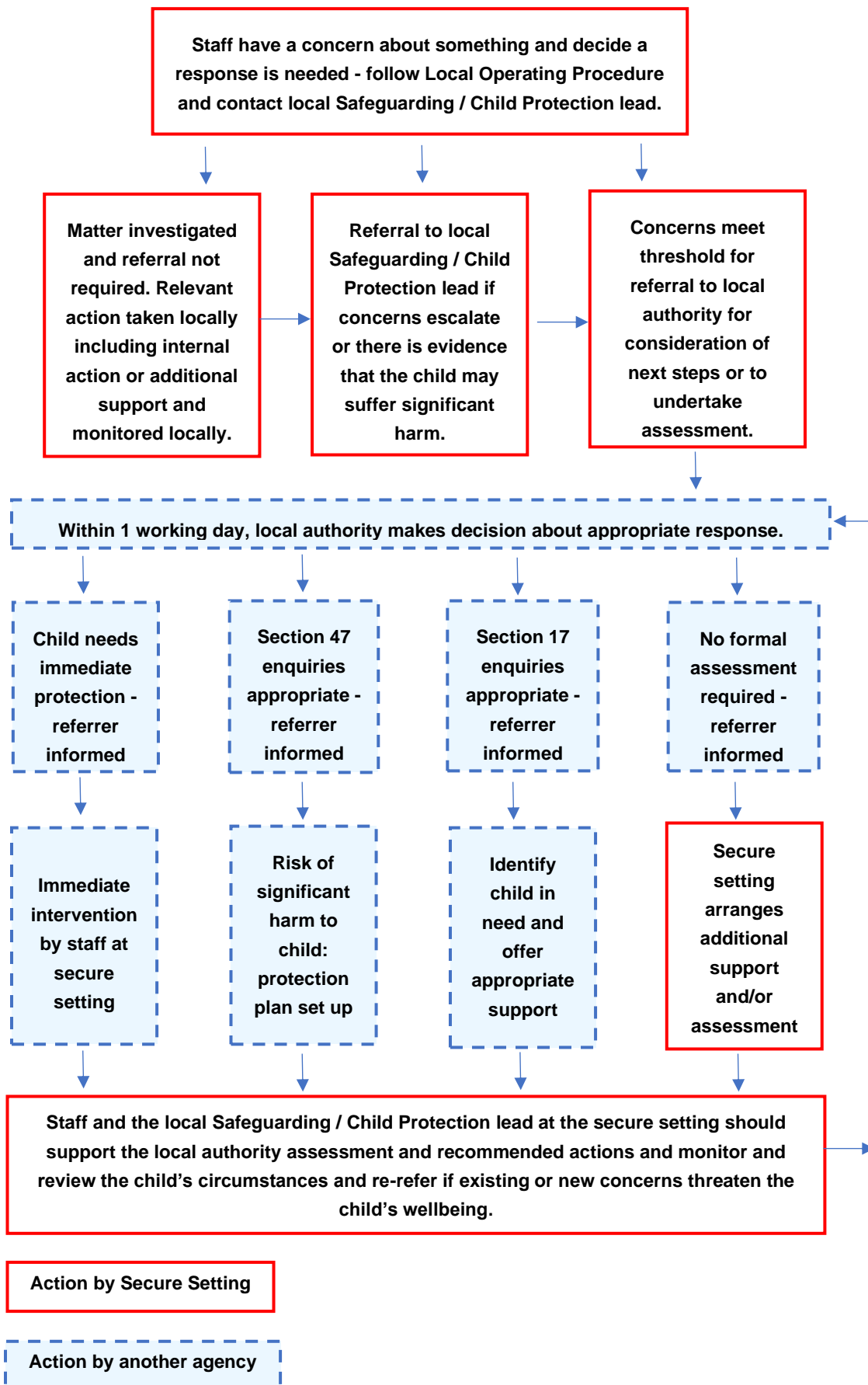
¹³ Chapter 1 of *Working Together to Safeguard Children* (see link at footnote 2) sets out that the safeguarding partners should publish a threshold document that should include the criteria, including the level of need, for when a case should be referred to local authority children's social care for assessment and for statutory services under section 17 and 47.

- 2.26 Where the Section 17 assessment determines that the child does have unmet needs, the local authority will develop and coordinate a multi-agency plan setting out which organisations and agencies will provide support for the child, and what they will provide, including details of any further specialist assessments as well as measurable outcomes for the child¹⁴.
- 2.27 The decision about whether to initiate Section 47 enquiries should be undertaken at a strategy discussion convened by the local authority and involving all agencies which are involved with the child to determine whether there is reasonable cause to suspect the child is suffering or is likely to suffer significant harm. There are three possible outcomes from this discussion¹⁵:
- If concerns about the child's welfare and safety are substantiated and it is determined that the child is likely to suffer significant harm the Manager of social work at the local authority will initiate a Child Protection Conference within 15 working days which may lead to the creation of a Child Protection Plan or decisions about ongoing monitoring and assessment of the child.
 - If concerns about the child's welfare and safety are substantiated but it is determined that the child is not likely to suffer significant harm there will be further consideration about whether a Child Protection Conference is necessary. If it is not, the social worker will coordinate the completion of any additional assessments and a multi-agency plan to ensure the child's safety and welfare.
 - It may also be determined at this stage that the child has unmet needs and it may be determined that an assessment under Section 17 of the Children Act 1989⁷ is necessary.
- 2.28 If any agency who is involved with working with the child, including the secure setting, has serious concerns that the course of action being proposed by the local authority will not adequately safeguard the child resolution should be sought either via the route set out in the local safeguarding protocol and agreed ways of working or in certain circumstances they are entitled to request for a Child Protection Conference to be initiated.
- 2.29 Unless there are compelling reasons to not inform the child's parent, carer or family member - for example, if it assessed that informing them is likely to put the child at additional risk - the child's parents, carers or family members should usually be notified when a report about a safeguarding or child protection matter is submitted to the local authority. As they are likely to have questions about what will happen next or any likely actions or outcomes it would usually be appropriate for this notification to be undertaken by a member of the local safeguarding or child protection team.

¹⁴ See flow chart at p40 of *Working Together to Safeguard Children* (see link at footnote 2)

¹⁵ See flow chart at p44 of *Working Together to Safeguard Children* (see link at footnote 2)

Making a referral – process overview²



The Designated Safeguarding Lead must make a referral to the Local Authority Designated Officer (LADO) within one working day if they receive allegations that a member of staff, contractor or volunteer (or visitor) who works with, or has contact with, children has:

- ***Behaved in a way that has harmed a child or may have harmed a child.***
- ***Possibly committed a criminal offence against a child or related to a child.***
- ***Behaved towards a child or children in a way which indicates that they may pose a risk of harm to children.***
- ***Behaved, or may have behaved in a way that indicates they may not be suitable to work with children.***

If there are concerns about the actions or behaviours of the designated lead for safeguarding these should be brought immediately to the attention of the Governor, Director or Registered Manager and the YCS Head of Safeguarding, who will decide whether a referral to the LADO is required. At sites where the allocation of roles means that this may not be possible or feasible, the person who has identified a concern may need to refer this directly to the LADO.

- 2.30 Where a member of staff, contractor or volunteer at a secure setting identifies that an action or behaviour towards a child by another adult at the site is inappropriate, problematic or concerning they must submit a report to the designated lead for safeguarding so an assessment can be undertaken about whether it meets the criteria for a referral to the LADO to be made. Staff should be aware that as well as adults who regularly undertake roles at the setting, it may be necessary to report behaviour by infrequent visitors to the site such as legal visitors, police, YOT or YOS Case Managers and members of the child's family and friends, as well as those who have contact with the child via correspondence, telephone calls and video links.
- 2.31 The scope of behaviours which might prompt a report of this nature are broad and difficult to define but range from things which may have been thoughtless through to actions which may be intentionally abusive. Concerns may be related to an individual's behaviour inside the setting or from their life when they are away from the site and information may be derived from different sources including suspicions or complaints from children or their parents, someone else within or outside the setting, or as a result of conduct on social media or from vetting checks.
- 2.32 Given the range of potential behaviours which might prompt a report to the designated lead for safeguarding, the exact nature of the concern may be difficult to define: the source may simply have a feeling, sense of unease or "nagging doubt" about something someone has said or that the way they behaved is inconsistent with a code of conduct for staff.
- 2.33 Whatever the basis of the concern, all matters about the conduct of a member of staff, contractor or volunteer must be reported to the designated lead for safeguarding for consideration. Each report must be investigated on a case-by-case basis to determine whether the reported behaviour presents an immediate risk of harm to children at the setting, and therefore whether a referral will need to be made to the LADO. The setting's local procedures and policy for managing for managing the response to allegations of

misconduct at the setting should be followed. Consideration should be given as to what is disclosed to the adult or adults who are involved and whether they should be prevented from further contact with the child or children who are the subject of any allegation; whether they should be stopped from working with all children at the setting in question; or whether their access to the setting should be suspended.

- 2.34 Where it is assessed that there may be an immediate risk of harm to a child or children at the setting, the designated lead for safeguarding should refer the matter to the LADO and, if the matter involves behaviour which might be criminal in nature, a parallel report must be made to the Police. Depending on the circumstances the designated lead for safeguarding might also wish to report the matter to the YCS Operations Team.
- 2.35 Where further enquiries are required to enable a decision about how to proceed, the LADO should convene a strategy discussion involving the designated lead for safeguarding and any other agencies with an interest in the matter (including the police if there is, or the potential for, an ongoing criminal investigation) should be convened to discuss immediate actions and how, and by whom, the matter will be investigated. Once the strategy has been agreed, the role of the LADO will not usually be to lead the investigation, but to ensure that it is investigated appropriately: whether that involves Senior Managers at the setting, the YCS National Safeguarding team, the individual's employer, the police or a combination of these organisations.
- 2.36 When the designated lead for safeguarding receives a report about someone who is not directly employed by the site, they must ensure that the team responsible for safeguarding at the individual's employer is notified and is involved in any subsequent discussions once the matter has been referred to the LADO.
- 2.37 If a matter has been referred to the LADO or police, the secure setting must not initiate internal disciplinary proceedings against a member of staff until external agencies have concluded their investigations.
- 2.38 The point at which the subject of an allegation is informed about any outcome should be considered carefully on a case-by-case basis, with guidance from the LADO and, if appropriate, the local authority children's social care and the police. Allegations about an individual's behaviour may have implications for their reputation, career and relationships with family and friends and the individual must have access to support through the local HR team, their trade union or an external provider such as the PAM Assist¹⁶ programme available to staff working for HMPPS¹⁷.
- 2.39 The care and welfare of any individual who is involved in raising an allegation about the behaviour of an adult must be monitored to ensure that any immediate need for protection or support is identified and can be responded to. All instances where staff have cause to suspect a child is suffering, or is likely to suffer, harm, should result in a report being made to the designated lead for safeguarding.

The outcome of investigations

- 2.40 Matters referred to the LADO for investigation will be assigned one of five conclusions:

¹⁶ See: <https://www.pam-assist.com/>

¹⁷ A different provider may be commissioned to run this service at privately-run settings or those managed by Local Authorities.

- **Malicious:** There is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.
- **False:** There is no evidence to prove the allegation.
- **Unfounded:** There is no evidence or proper basis to support the allegation being made but there is an indication that the person making the allegation misinterpreted the incident, was mistaken about what they witnessed, or they may not have been aware of all the circumstances.
- **Unsubstantiated:** There is insufficient evidence to prove or disprove the allegation, however this is not the same as a False conclusion as this outcome does not imply guilt or innocence.
- **Substantiated:** There is sufficient identifiable evidence to prove the allegation.

2.41 As soon as a conclusion is reached, the subject of the allegations must be informed and any subsequent actions should be guided by strategy developed between the LADO, designated lead for safeguarding and any other agencies who have been involved with the investigation, and in line with the local Code of Conduct. As the circumstances of each case will be different, actions should be specific but outcomes which may be under consideration may be whether the training might address the underlying cause of the allegation (such as training in safeguarding or use of restraint); processes which will need to be followed for disciplinary proceedings; and or notification of the Disclosure and Barring Service (DBS).

Safe and appropriate touch

All staff have a responsibility to ensure safe and appropriate practice at all times. If any member of staff has any issues concerning safe and appropriate touch, or they observe any practice which causes concern, they must seek advice from the Designated Safeguarding Lead.

- 2.42 The Children Act 1989⁷ makes it clear that the paramount consideration in any decision should be in the best interest of the child concerned. Paramount in this context means that it should be the first thing the members of staff think about, and it takes precedence over other considerations.
- 2.43 Within the secure settings, physical contact between a child and a member of staff should only ever be for the purpose of meeting the child's needs. Staff should always think before making any physical contact and must be aware that their actions may be open to misinterpretation. They should be clear about why their actions are in the best interest of the child concerned. They should remember that some children like physical contact and some do not.
- 2.44 Children learn who they are and how the world is, by forming relationships with people and things around them. The quality of a child's relationship with significant adults is vital to their healthy development and emotional health and wellbeing.
- 2.45 Many of the children in the care of the YCS who require emotional support, have been subject to trauma or distress in their lives. It is with this in mind that staff should respond to children's developmental needs by using appropriate safe touch.

- 2.46 There is extensive neurobiological research and studies relating to attachment theory and child development which identify that touch contributes positively to brain development, mental health and the development of social skills.
- 2.47 Every member of staff needs to know the difference between appropriate and inappropriate touch, and it is important for staff to familiarise themselves with information about the child's background plan for their individual management, and to ask advice if they are unsure.
- 2.48 Members of staff should always think before having any physical contact with a child. They should be clear about why their actions are in the best interest of the child concerned. They should remember that some children seek physical contact, and some do not.
- 2.49 Members of staff should not touch a child in secure settings without good reason. They should discuss the use of touch with colleagues if they are unsure whether it is appropriate or not.
- 2.50 Touch and physical contact in secure settings can be broadly distinguished between whether it is for the purpose of responding to a child's emotions where they may be frightened, angry or sad; where the touch is used for the purpose of calming, soothing or containing their distress; or where the adult is congratulating them.
- 2.51 There may also be touch between adults and children in secure settings when is necessary for staff to respond to challenging behaviour or violence and may need to use restraint techniques. All child-facing staff in secure settings should have been trained in how to respond safely to different scenarios where the child may be in a state of hyper-arousal and where their ability to calm themselves or regulate their strong emotional reactions may be impaired. Although physical restraint may be likely, staff should attempt to resolve the situation through the use of conversation, distraction, coaxing skills, gentle persuasion or redirection as well as talking calmly to the child, explain what is happening and why, how it can stop, and what will happen next.
- 2.52 Where appropriate, a member of staff should have consent from the child before they touch them. They should be prepared to explain to the child what they are doing and why they are going to touch them.
- 2.53 Members of staff should be sensitive to verbal or non-verbal signals which indicates that the child dislikes touch. For example, a child may pull away or make negative facial expressions.
- 2.54 Members of staff should be aware that some children may provoke a physical intervention situation in order to gain physical contact.
- 2.55 Staff need to consider the influences of race, gender, religious beliefs, age, sexual identity and disability:
- Gender differences may make someone feel uncomfortable.
 - A child's personal history may distort the understanding of a 'safe' adult.
 - Children from ethnic minority backgrounds may be used to different types of touch.
 - Pupils with multisensory impairments may be startled by touch.
 - Pupils with sensory integration difficulties may interpret touch differently to others.

Whistleblowing

All members of staff, contractors and volunteers are expected to raise concerns if they identify poor or unsafe practice in any the secure settings safeguarding regime and know that such concerns will be taken seriously by the senior leadership team.

- 2.56 Each site must have whistleblowing procedures in place so that staff, contractors and volunteers can bring concerns to the attention of the senior leadership at the secure setting.
- 2.57 Where a member of staff member feels unable to raise an issue directly with their employer or considers that their concerns are not being addressed, other whistleblowing channels are open to them.
- Government guidance on whistleblowing can be found via the following link:
<https://www.gov.uk/government/publications/counter-corruption-and-reporting-wrongdoing>
 - Staff at YOI and STC can also contact the **Reporting Wrongdoing Hotline on 01527 544777** or one of the HMPPS Nominated Officers, whose role is to provide support and advice about raising these kinds of concerns.
 - HMPPS policy and guidance for Reporting Wrongdoing can be accessed via the following link:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074309/counter-corruption-pf.pdf
 - Members of staff in SCH should use the confidential reporting procedures which are available for employees of their local authority.
 - In addition, the NSPCC's *What You Can Do To Report Abuse* Helpline is available as an alternative route for staff who do not feel able to raise concerns regarding child protection failures internally or have concerns about the way a matter is being handled.

Tel: 0800 028 0285 (available Monday - Friday 8:00am - 8:00pm) / **Email:**
help@nspcc.org.uk

3. THE ROLE OF THE DESIGNATED LEAD FOR SAFEGUARDING

All secure settings must have a designated lead for safeguarding to lead this area of practice across all functions at the setting and ensure that the following requirements are met.

- 3.1 At each setting the designated lead for safeguarding must be part of the local senior leadership team to ensure that safeguarding and child protection practice and matters of concern are considered at the highest level, embedded at the heart of strategy and actions are coordinated across different functions.

The designated lead for safeguarding must meet the following requirements:

- 3.2 They must be available throughout core working hours for staff in the setting to provide an immediate response to any safeguarding or child protection matters. Where the designated

lead for safeguarding is off-site or unavailable they must ensure that someone is nominated to fulfil this role while they are away.

Outside core working hours appropriate cover arrangements must be in place to ensure that any safeguarding or child protection matters can be managed at all times.

- 3.3 They must read, understand and lead on the application of all aspects of this Policy Framework across the secure setting.
- 3.4 They must ensure that training on safeguarding and child protection is available and completed by staff, contractors and volunteers as part of their induction to their role at the secure setting. The designated lead for safeguarding should work with local safeguarding partners to ensure that this training reflects the duties of organisations which work with children, the legal duty of all staff at those organisations to protect and safeguard children and how those duties should be applied if there are any concerns about the care or welfare of any child, including the response to instances of bullying, harassment and violence between children.
- 3.5 They must ensure that arrangements are in place at the setting to record when staff, contractors and volunteers have completed their induction and annual refresher training about safeguarding and child protection, and that staff are prompted when it is necessary to complete refresher training.
- 3.6 They must undertake enhanced safeguarding training to ensure that they are equipped with the necessary skills and knowledge to lead safeguarding and child protection activity and promote the safety of children across the site. Training should equip them for the activities detailed below, including understanding the responsibilities, processes and procedures of other agencies and their role in supporting investigations and case conferences undertaken by the local authority.

Specific job descriptions and the way in which roles and responsibilities are discharged is likely to differ between different settings in the YCS, but in broad terms a designated lead for safeguarding can reasonably be expected to undertake the following activities as part of their role:

- Coordinating and monitoring the application of local safeguarding arrangements to ensure that they are understood and used effectively, and that safeguarding is at the heart of all activities across the setting.
- Consideration of each child's care and welfare needs on their arrival at a secure setting to ensure continuity of care from their previous location in the community or other secure accommodation, so that any existing safeguarding matters can be identified and monitored. This may encompass a review of records on internal systems such as AssetPlus, the NHS SBAR (Situation, Background, Assessment and Recommendations) system, Education and health Care (EHC) plans and NOMIS (the National Offender Management Information System) or the new Digital Prison Services platform; as well as information from the child's home YOT or YOS and the local authority children or family services team.
- Maintaining a clear and detailed log of all reports about safeguarding and child protection which are submitted by staff, contractors or volunteers at the site, including details of any decisions or any actions taken and the outcome. As such disclosures may involve information which may be distressing or traumatic, the designated lead for safeguarding must ensure that signposting is

in place to ensure that members of staff have access to support through the local Care Team or from an external provider such as the PAM Assist^{Error!} programme available to staff working for HMPPS^{Error!} ^{Error!} Bookmark not defined.

- Investigating concerns about the care, welfare or wellbeing of children at the secure setting which have been reported by members of staff, contractors or volunteers at the site.
- Initiating and coordinating arrangements to ensure the safety of children or others in the secure setting if it is assessed that they are suffering from, or is likely to suffer, immediate harm.
- Making referrals to the local authority, LADO or other bodies where a matter meets the threshold for referral. This will include (but is not limited to) concerns about safeguarding and child protection matters, the behaviour of adults, and referrals about Modern Slavery or Female Genital Mutilation.
- Developing and maintaining links with statutory and voluntary agencies outside the setting, including with the local LADO and the child's home local authority, to ensure that the care and welfare needs of children are fully supported when they are at the setting and also when plans are being made for their return to the community.
- Developing links with the complaints-handling team and involved with the triage process so that complaints from children at the setting which do not meet the threshold for a safeguarding or child protection referral to the local authority follow the internal complaints procedure, and that there is clear communication with the child about how it is being handled. Guidance about the responsibilities of staff on the response to a complaint is available of the YCS intranet via the following link:
<https://justiceuk.sharepoint.com/sites/HMPPSIntranet-YCS/SitePages/Child-friendly-complaints.aspx>
- Facilitating the provision of additional information to local safeguarding partners to support investigation following referral of a safeguarding or child protection matter.
- Referring matters to the Police where it is alleged that a crime may have been committed which has had an impact on the care or welfare someone in the secure setting.
- Undertaking an annual review of local safeguarding and child protection operating procedures and practice at the setting and providing support to reviews of practice undertaken by local safeguarding partners.
- Ensuring the Disclosure and Barring Service is notified about instances where complaints about the behaviour of someone towards a child are substantiated and lead to their dismissal.

3.7 They must ensure that all members of staff at the secure setting receive regular updates (for example, via email, e-bulletins, staff meetings) about matters related to safeguarding and child protection to ensure that all they have up-to-date skills and knowledge to safeguard and protect at the site, and that the competency of staff in this area is periodically checked.

3.8 They must ensure that there are procedures in place to ensure that an appropriate response and actions are followed if concerns or allegations about safeguarding or child protection matters involve a member of staff, contractor, volunteer or visitor at the setting.

- 3.9 They must ensure that processes are in place for staff to escalate matters about child protection or safeguarding if there are instances where they consider that their concerns are not being addressed within their own organisation or by other agencies.
- 3.10 They must ensure that there are arrangements in place to ensure that the staff at the setting understand and are able to fulfil mandatory legal requirements for reporting in the following circumstances:
- Cases of Female Genital Mutilation (FGM) in under-18s. Home Office guidance provides more detail⁸.
 - Duties set out in the Prevent Guidance for England and Wales⁹ and guidance for Youth Offending Teams (YOTs) on the identification and management of children's involvement in extremism¹¹.
 - Identifying and reporting suspicions that a child may be a victim of Modern Slavery. The Home Office has published detailed guidance on the identification, protection, care and support for victims of modern slavery¹².
- 3.11 Following referral of a matter to the local authority, the designated lead for safeguarding must ensure that any procedures are followed to support any subsequent enquiries or investigation under Sections 17 or 47 of the Children Act 1989⁷ to determine whether additional assessment or action is needed to meet the child's needs or safeguard their welfare.
- 3.12 Safeguarding and child protection must always focus on upholding the child's best interests: the designated lead for safeguarding must ensure that arrangements allow for the child to be able to communicate their views, wishes and feelings, in line with their level of understanding and competency to ensure that professional judgement is informed by the best interests of the child¹⁸.
- 3.13 Planning and risk assessments undertaken when planning for a period of temporary release from the secure setting should take account of relevant policy and guidance and be developed in collaboration with others involved with the management of the child, such as their YOT or YOS Case Manager and social workers, to ensure that all matters relating to the care and welfare of the child and other children and members of the public are considered.
- 3.14 Where children move to another secure setting, or to the community, they must ensure that their individual child protection record is transferred to the designated lead for safeguarding at the new site, or to the relevant YOT or YOS and / or local authority within one working day.
- 3.15 They must ensure that the legal requirement for employers to make a referral to the DBS where they consider that an individual has engaged in conduct that harmed (or is likely to harm) a child, or if a person otherwise poses a risk of harm to a child so that this will be highlighted in future vetting enquiries undertaken by any future employers or voluntary organisations.
- 3.16 They must ensure that they understand relevant data protection legislation, regulations and guidance and how that applies to information about safeguarding and child protection

¹⁸ See NHS Guidelines: *Children and young people - Consent to treatment* - <https://www.nhs.uk/conditions/consent-to-treatment/children/#:~:text=Children%20the%20age%20of,responsibility%20can%20consent%20for%20them.>

matters at their setting. This includes both the maintenance of detailed, accurate and secure written records of matters about the care or welfare of children located at the setting as well as the sharing of personal information with others in the secure setting and externally with local safeguarding partner agencies and practitioners. Paragraphs 5.30 – 5.36 of this Framework provide more information about holding and sharing information.

- 3.17 They must establish (and lead) a local Safeguarding Committee which is responsible for oversight of the application of safeguarding arrangements and ensure that safeguarding and child protection strategy and activity is joined up and coordinated across the site. Membership of the Committee must include representatives from all activities across the setting, including providers of contracted services and voluntary activities, as well as local safeguarding partners to ensure that there are constructive links and relationships with the Local Safeguarding Partnership. This will help ensure that assurance can be given to the Local Safeguarding Partnership that the setting is effectively discharging its duties to safeguard and protect children at the site.
- 3.18 They must ensure that the local Safeguarding Committee has arrangements in place to measure and evaluate safeguarding and child protection practice at the site and identify issues with process and procedure. This includes ensure that the Public Sector Equality Duty is applied to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those with protected characteristics and those without.
- 3.19 They must ensure that the local operating procedure for safeguarding and child protection is reviewed and updated every twelve months (as a minimum) and is signed off by the local Safeguarding Committee to ensure that it reflect changes in guidance and recommended practice by national and local safeguarding partners.
- 3.20 They must ensure that all relevant local operating procedures are accessible by all staff, contractors, volunteers and children at the site.

Use of restraint and physical intervention

- 3.21 All staff in YOI, STC and SCH should be trained in local restraint package and understand the principles of behaviour management and restraint.
- 3.22 Procedures set out in the YCS Framework *Use of Force, Restraint and Physical Intervention*¹⁹ should be followed that where restraint or physical intervention is used in an incident involving a child, the designated lead for safeguarding and the coordinator for use of restraint at the setting must conduct a review of the report from staff who were involved and any CCTV or Body Worn Camera footage that is available. In the event that they identify any harm to the child or children involved a referral to the local authority for independent review must be made immediately. Guidance on harm and vulnerability can be found at Section 6 of this Framework.

¹⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1179324/use-force-restraint-restrictive-practices-pf.pdf

4. THE ROLE OF GOVERNORS, DIRECTORS AND REGISTERED MANAGERS

Governors, Directors and Registered Managers are responsible for ensuring that mechanisms are in place to support effective safeguarding and child protection policy and procedure in their settings and that staff understand their responsibilities for fulfilling those procedures and that children are safeguarded.

- 4.1 The Governor, Director or Registered Manager of secure settings in the YCS are accountable for meeting the following requirements:
- Creating a culture and environment where staff, contractors and volunteers are committed to safety, protection and equality; where practice which may have implications for safeguarding or protecting children are highlighted; and where children trust that they will be listened to, so that their fears and concerns can be heard and acted on.
 - Providing strategic leadership of safeguarding arrangements at their setting and ensure that their setting is compliant with the requirements established by the Children Act 1989⁷ and set out in *Working Together to Safeguard Children*² (for sites in England) and (in Wales) *Working Together to Safeguard People*²⁰. These requirements set the minimum expectations. Other relevant legislation and guidance which impacts upon the attainment of safeguarding and child protection requirements must also be met.
 - Ensuring that arrangements are in place with the local authority and safeguarding partners to set out agreed ways of working together, including (but not limited to) representation at local safeguarding and child protection forums and case meetings; thresholds for referring matters of concern; management of any subsequent enquiries; and information sharing agreements²¹.
 - Reinforcing messages about safeguarding and child protection so that all staff understand the importance of maintaining an environment where exploitation, abuse and harassment of any kind are not tolerated and they are vigilant to identify, report or challenge inappropriate behaviour, and procedures are followed, and action is taken where staff do not follow them properly.
 - Ensuring that duties and obligations created by the Data Protection Act 2018²² and the General Data Protection Regulation (GDPR)²³ - to process personal information fairly and lawfully and to keep the information they hold safe and secure - are understood and applied properly at the secure setting.

5. SAFEGUARDING AND CHILD PROTECTION: LEGISLATION AND THE LAW

- 5.1 Statutory responsibilities for secure settings and partner organisations for safeguarding children and responding to concerns about their care and welfare are established by legislation, guidance and regulations.

²⁰ <https://www.gov.wales/working-together-safeguard-people-code-safeguarding-practice>

²¹ *Working Together to Safeguard Children* sets out that Local Authorities, with their partners, should develop and publish local protocols for assessment. A local protocol should set out clear arrangements for how cases will be managed once a child is referred into Local authority children's social care.

²² <https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

²³ See: Information Commissioner's Office – UK GDPR guidance and resources: <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/>

For secure settings in England: Children Act 1989⁷

5.2 In England, the Children Act 1989⁷ (which has subsequently been updated and amended by the Children Act 2004²⁴ and the Children and Social Work Act 2017²⁵) created a statutory duty for different agencies and organisations to have arrangements in place which safeguard and promote the welfare of children and improve their well-being. More specifically:

- **Section 10** creates a duty for each local authority in England to work with the police and clinical commissioning groups (CCG)²⁶ to make arrangements to work with other organisations – including the Probation Service, governors of schools and colleges - which undertake work and activities with families and children in their area, with the aim of improving outcomes for children in the following areas:
 - Physical and mental health and emotional well-being.
 - Protection from harm and neglect.
 - Education, training and recreation.
 - The contribution made by them to society.
 - Social and economic well-being.

- **Section 11** creates a duty for certain specified agencies and organisations, including Governors of prisons and Directors of STC and contracted prison sites (as well as Local Authorities, NHS England and YOT or YOS), to ensure that they take account of the need to safeguard and promote the welfare of children when they are delivering services.

5.3 The purpose of the Section 11 duty is to ensure that this responsibility is treated as a priority, and that staff at YOI and STC will take preventative action if there are concerns about the safety or welfare of any children in their care.

5.4 The duties created by Section 11 also apply where external providers are contracted to undertake different activities on behalf of the specified agencies and organisations.

The Children's Homes (England) Regulations 2015²⁷

5.5 For SCH, *The Children's Homes (England) Regulations 2015* establish the regulatory framework which professionals working in those settings must apply when working with the children who are in their care. Regulations which are particularly relevant to safeguarding are summarised as follows:

- **Regulation 12 - The protection of children standard** - sets out, “that children are protected from harm and enabled to keep themselves safe.” In support of the standard, the Registered Manager must ensure that the premises and day-to-day care provision is safe for children and staff, and that they undertake regular monitoring to ensure that the home's child protection arrangements are effective.

²⁴ <https://www.legislation.gov.uk/ukpga/2004/31/contents>

²⁵ <https://www.legislation.gov.uk/ukpga/2017/16/contents/enacted>

²⁶ NB: from 1st July 2022, provisions in the Health and Care Act 2022 replaced CCGs with Integrated Care Systems

²⁷ <https://www.legislation.gov.uk/uksi/2015/541/contents/made>

The Registered Manager is also responsible for ensuring that staff working at the setting are able to meet a range of expectations set out in the standard, including having the skills they need to identify and assess whether individual children are at risk of harm and (if necessary) make arrangements to respond and reduce that risk of harm; or act if they have serious concerns about the child's welfare.

- **Regulation 34 – Policies for the protection of children** – requires the Registered Manager to have policies in place which safeguard children from abuse or neglect and set out the procedures which staff should follow in the event that abuse or neglect of a child has been alleged.

5.6 The standard states that the Registered Manager must have policies in place to notify.

- **Regulation 40 – Notification of a serious event** – establishes the duties of the Registered Manager to notify specified agencies and other relevant people in the event that a child located at the SCH dies (and to allow the Prisons and Probation Ombudsman to undertake an investigation); that a person working at the SCH is found to be unsuitable to work with children; or of any incidents related to a child which they consider to be serious.

5.7 To support application of the Regulations, DfE has also published the *Guide to the Children's Homes Regulations including the quality standards*²⁸ which provides further explanation and information about the Regulations to support those working in SCH to deliver quality and individualised care and positive outcomes for each child.

*Working Together to Safeguard Children*²

5.8 *Working Together*² is published and updated by the Department for Education (DfE) and provides statutory guidance to set out the expectations, roles and responsibilities which are essential for safeguarding and promoting the welfare of children by people or organisations which fall in scope of statutory safeguarding duties which the legislation has established for secure settings.

5.9 *Working Together*² reiterates the statutory expectations set out in the Act, Regulations and guidance for Governors, Directors and Registered Managers to have local policies in place that promote and safeguard the welfare of children; that a designated member of staff will be responsible for implementation of those operating procedures; and that each secure setting should work with local organisations which also have designated responsibilities for safeguarding children to agree how they will work together and ensure that they meet the needs of individual children.

For secure settings in Wales

5.10 The protection and well-being of children in Wales is a subject which has been devolved to Senedd Cymru (the Welsh Parliament). The *Social Services and Wellbeing (Wales) Act 2014*²⁹ establishes the legal basis for providing support to people in Wales who need care and assistance.

²⁸ See:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/463220/Guide_to_Children_s_Home_Standards_inc_quality_standards_Version_1.17_FINAL.pdf

²⁹ <https://www.legislation.gov.uk/anaw/2014/4/contents>

- 5.11 Section 130 of the Act established a duty for “relevant partners”, including those working with children at secure settings in Wales, to ensure that Local Authorities are made aware if there are reasonable grounds to suspect that a child is experiencing (or at risk of experiencing) abuse, neglect or other kinds of harm or has care or support needs.
- 5.12 In support of the statutory provisions set out in the Act, Ministers in the Welsh Government and the Secretary of State for Wales published guidance in *Working Together to Safeguard People*²⁰ and *The Wales Safeguarding Procedures*³⁰ to provide a central reference for the roles and responsibilities of practitioners in Wales and support the safeguarding of children who are at risk of abuse and neglect. They apply to all practitioners who work in Wales, including anyone who works for non-devolved organisations such as HMPPS, including the YCS.

Working with local safeguarding partners (England)

- 5.13 Although primary responsibility for the care of children detained in custody lies with the secure setting where they are located, safeguarding does not begin or end at the entrance to that setting. Secure settings in both England and Wales are part of an interconnected web of partners who also hold safeguarding responsibilities for children. No single member of staff or practitioner at any organisation or agency is expected have a full picture of a child’s needs and circumstances, so it is sharing information is important to enable safeguarding partners to work together and build an understanding of the child’s needs and circumstances.
- 5.14 In England, Section 16E of the Children Act 2004²⁴ (inserted by the Children and Social Work Act 2017²⁵) establishes that three organisations - the local authority, CCG³¹ and the local Chief Officer of police³¹ – are *safeguarding partners*. They have a collective and shared responsibility to safeguard and promote the welfare of all children in their local area.
- 5.15 As the leaders of local safeguarding strategy, the *safeguarding partners* must work with local organisations and agencies which work with children and families, including secure settings which fall in their geographical area, to ensure they safeguard and promote the welfare of children when carrying out their activities, as well as coordinating activity, sharing information and learning, and identifying new or emerging safeguarding issues.
- 5.16 *Working Together*² does not define specific ways in which local arrangements are delivered and how they expect local organisations and agencies to meet their statutory requirements so they will differ from one area to another. However, to ensure that there are clear criteria for responding to circumstances where there may be safeguarding concerns about children, a threshold document for the local area must be published which sets out:
- Procedures and processes for cases where children are the subject of abuse, neglect or exploitation and for instances if there are children in their area who are being managed in the youth secure estate; and
 - the criteria and process for making a safeguarding referral about a child or children to the local authority children’s social care team if someone believes that a child has

³⁰ See: [Safeguarding Wales](#)

³¹ NB: multiple CCG and Chief Officers may be represented in the local safeguarding partnership arrangement if the local authority cuts across the boundaries of different CCG or police areas. (See also footnote 17 about the change from CCG to Integrated Care Systems.)

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suffered significant harm - physical, emotional or sexual, or through neglect – whilst they were living at the secure setting or before they arrived there.

- 5.17 Guidance on the consideration of concerns that a child may be suffering from significant harm, or are likely to do so, and how the statutory duty to report this to children's services can be found at Section 6 of Framework.

Working with Safeguarding partners (Wales)

- 5.18 The *Social Services and Well-being (Wales) Act 2014*²⁹ provides the legal framework for the provision of social services in Wales. The Act created six Regional Safeguarding Boards across Wales which are made up of representatives of Local Authorities, the Chief Officer of police, local health board, NHS trust and the providers of probation or youth offending services which fall within the safeguarding board area.
- 5.19 The Regional Safeguarding Boards are responsible for the protection of children in their areas, whether they are living in the community or have been detained to a secure setting in Wales. In doing so they receive referrals from "relevant partners" who have reasonable cause to suspect that a child is at risk of experiencing, abuse, neglect or another type of harm, and for coordinating and monitoring the effectiveness of local safeguarding arrangements.

After a referral has been submitted (England and Wales)

- 5.20 Section 2 of this Framework provides detail about the process that should be followed for referring safeguarding or child protection concerns to a local authority (in England) or a Regional Safeguarding Board (in Wales). After receiving the referral, the local authority has a legal duty to undertake assessment to determine whether the child has unmet needs and a multi-agency assessment under Section 17 of the Children Act 1989 is required; or an investigation under Section 47 of the Children Act 1989 is needed because there are reasonable grounds to suspect that a child "is suffering, or is likely to suffer, significant harm". and to make enquires to enable it to decide whether it should take any action to safeguard or promote the child's welfare.

Local Operating Procedures

The secure setting must have clearly defined child-centred local operating procedures and processes in place for staff to follow in all matters related to safeguarding and child protection.

- 5.21 For policies, procedures and services to be effective they should be based on a clear understanding of the rights, needs and views of children. The designated lead for safeguarding must ensure that the legal requirement to safeguard and promote the welfare of children and the local processes which support that are reflected throughout local operating procedures, including (but not limited to):
- (i) ***Safeguarding and Child Protection:*** How the setting will meet its statutory duties to safeguard and prevent harm to children when the child is both on-site or off-site to visit Court, have a medical appointment or for another reason.

The local operating procedure should also set out key roles and responsibilities and the members of staff who hold them, how the setting works with the wider network of safeguarding partners and arrangements for staff to follow when highlighting concerns about the care and welfare of any child or members of staff. This should include how the setting will respond to allegations of violence or child-on-child abuse and the provision of support to victims, perpetrators and other children who may have been affected

- (ii) **Behaviour Management:** The response to instances of challenging behaviour or violence within the setting, including the training which all staff must complete and the processes for recording and reviewing incidents when restraint or physical intervention is used and the characteristics of the children who were involved. This operating procedure must also set out how the vulnerability of individual children will be managed and establish strategies for minimising use of restraint and physical intervention.
- (iii) **Self-harm:** The response for the care of children who have been identified as being at risk of harming themselves, including the relevant professionals and organisations who may provide them with mental or emotional support.
- (iv) **Staff behaviour (or “Code of Conduct”):** Should, amongst other things, include guidance for staff about appropriate relationships with children and the use of social media.
- (v) **Safe recruitment:** An operating procedure on recruitment and vetting procedures that are in place to ensure that unsuitable people are prevented from working at the secure setting.
- (vi) **Retaining and sharing information:** An operating procedure on holding and sharing information which sets out how relevant information should be stored within the setting and shared between different functions at the setting and externally with partner agencies.
- (vii) **Public protection:** To set out arrangements for identification and management of children who present a high and very high risk of serious harm to others, and how that risk is managed and reduced including how the setting will work with external agencies such as the YOT or YOS and the Police to plan for the child’s release into the community³².
- (viii) **Whistleblowing or reporting wrongdoing:** The secure setting must have an operating procedure in place for instances of whistleblowing to enable staff to raise concerns. An operating procedure to ensure that safeguarding or child protection concerns are considered when wrongdoing is reported.
- (ix) **Searching:** Should set out the expectations for searching people, accommodation, communal areas and vehicles at the secure setting.

³² NB: YOI will be expected to reflect HMPPS policy as set out in PSI 18/2016: <https://www.gov.uk/government/publications/public-protection-manual-psi-182016-pi-172016>

- (x) **Visits:** Should set out set out guidance for staff on the local management of official and social visits to the secure setting.
- (xi) **Anti-corruption:** Guidance on identifying, reporting and managing countering corruption and wrongdoing at the secure setting.

5.22 **External providers of services:** *Organisations which are commissioned to provide services, activities and interventions at the secure setting must demonstrate that their staff have received safeguarding and child protection training and that the organisation has the necessary arrangements in place to ensure that they can identify and report concerns about the care or welfare of children.*

5.23 Before a contract to run a commissioned service³³ is awarded to an external organisation, the provider must demonstrate that they have necessary arrangements to ensure that statutory safeguarding and child protection expectations can be met.

5.24 Arrangements must be in place throughout the life of the contract to monitor the provider's performance against the expectations set out in their contract and agreed working practices and review how those expectations are being delivered on a regular basis.

5.25 Protocols must be in place between the provider and the secure setting to ensure that information related to safeguarding and child protection matters can be shared to ensure they can be responded to appropriately.

Holding, using and sharing information

Sharing information about safeguarding and child protection matters can help ensure that individuals receive the right services at the right time and prevent needs from becoming more acute.

Under the Data Protection Act 2018²² and General Data Protection Regulation (GDPR)²³ all organisations must be transparent and accountable in relation to their use of data.

All organisations handling personal data need to have clear arrangements for collecting, storing, and sharing information about safeguarding and child protection matters.

Fears about sharing information must not be allowed to stand in the way of the need to promote the welfare and protect the safety of children.

5.26 Using, sharing and holding information is an essential part of effective safeguarding and child protection arrangements. Serious case reviews have regularly found that a failure to share information between different agencies is at the heart of serious incidents.

5.27 Any guidance which applies to the setting must be followed in the storage, management and sharing of person information: in YOI the designated lead for safeguarding must

³³ The range of commissioned services will differ from one setting to another, but may include education, healthcare, social work, advocacy and youth work.

understand and apply the guidance set out in the HMPPS Information Security Policy Framework³⁴. Staff in other settings must follow and apply relevant guidance for that sector.

- 5.28 The child's own rights and acting in their best interests should always be considered, however that does not mean that concerns about whether it is permissible to share information should delay decisions about taking action to safeguard a child or children. Timeliness is especially important in emergency situations and delays to sharing information may have a significant impact as it may increase the risk of harm to a child or may place members of their family or friends at further risk of harm.
- 5.29 The child's own rights and acting in their best interests should always be considered, however that does not mean that concerns about whether it is permissible to share information should delay decisions about taking action to safeguard a child or children. Timeliness is especially important in emergency situations and delays to sharing information may have a significant impact as it may increase the risk of harm to a child or may place members of their family or friends at further risk of harm.
- 5.30 The designated lead for safeguarding must understand the relevant data protection legislation and regulations - the Data Protection Act 2018²² and the General Data Protection Regulation²³ -and how they apply to personal information which may be about child protection and safeguarding matters. The legislation places duties on organisations and individuals to process personal information fairly and lawfully when they are storing and sharing it with other organisations which are working within the secure setting or with external partners, such as the local authority, police and local CCG.
- 5.31 The designated lead for safeguarding must take responsibility for any information that they hold locally about child protection and safeguarding matters: for taking decisions about what they share with partner organisations; the impact of any disclosure of information, decision or actions on the child; and ensuring that it is shared in accordance with the law irrespective whether this is shared via a formally designated route for the transfer of data between agencies or on a more ad hoc basis.
- 5.32 Staff do not need consent to share personal information if it is for the purpose of protecting or safeguarding a child or other individual safe from neglect or harm, or to protect their physical, mental, or emotional well-being. To provide support about when and how information about safeguarding and child protection matters is shared, the Government published the "Seven Golden Rules"³⁵ about information sharing which staff in secure settings should understand and apply in considering any matters around the use of personal information:
- Laws, Rules and Regulations around data protection and human rights laws are NOT barriers to sharing information where it can be justified and reasonable.
 - Decisions about sharing information should take considerations about the safety and well-being of the individual and others into account.
 - There should be openness and honesty with the person whose information is being shared (involving their parent, carer or guardian if they are under the age of 18) about why, what, how and with who information will be shared.

³⁴ See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1159581/information-security-policy-framework.pdf

³⁵ See: [Information sharing: advice for practitioners \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1159581/information-sharing-advice-for-practitioners.pdf)

- Wherever possible the person whose information is going to be shared should have provided consent to share it. Information can still be shared without consent if, there is good reason to do so, such as where there may be immediate concerns about their safety or welfare. This judgement must be based on any facts as they are presented, and any decisions should be clearly recorded.
- The information which is being shared should be necessary for the purpose for which it is being shared and should only be shared with people or agencies who need it to enable them to do their job effectively and make informed decisions. Information that is shared must be accurate, up-to-date, and shared in a timely fashion. and be shared securely.
- The person sharing the information should seek the advice of colleagues if they have any doubt about the information they are planning to share or the reasons for sharing it, or the recipients are appropriate.
- All decisions, whether that is to share information with external partners or not, should be recorded to ensure that an audit trail is available at a later date should any decisions be subject to challenge or investigation. If the decision is to share, the reasons should be recorded including what information has been shared and with whom. If the decision is not to share, the reason for this decision should be recorded and discussed with the requester.

Record keeping and retention of information

Each setting can decide where records about safeguarding and child protection matters are kept, but they must be kept confidential, held securely and comply with the Data Protection Act 2018²² and the UK General Data Protection Regulation (UK GDPR)²³.

- 5.33 The designated lead for safeguarding should review the records of reports they receive to identify patterns of inappropriate, problematic or concerning behaviour which may necessitate a referral to the LADO for investigation. Consideration should also be given to whether local procedures should be reviewed and revised to enhance the understanding and application of safeguarding and child protection measures and the setting.
- 5.34 Records of matters related to safeguarding or child protection matters, including information about concerns about the behaviour of an adult around children at the setting, should be kept confidential and stored securely. Separate files should be opened for each concern or referral and should be kept away from the child's general record.
- 5.35 Each setting should follow relevant policy and procedure on the management and retention of all data and personal information. For YOI this is set out in the Information Security Policy Framework³⁴ and the Records, Information management and Retention Policy³⁶. STC and SCH should follow local policy and procedures.
- 5.36 The designated lead for safeguarding may also find it helpful to refer to NSPCC guidelines³⁷ about the retention and storage of child protection records, which provides a useful

³⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895486/psi-04-2018-records-information-management-retention-policy.pdf

³⁷ See: [Child protection records retention and storage guidance | NSPCC Learning](#)

overview of the things which organisations should consider in this area. Some key points which the lead for safeguarding should keep under consideration is:

- Whether local record keeping is in line with **current** legislation and guidance.
- Whether records are stored safely, and who has access to them.
- The purpose for retaining the record and the length of time that it will be retained.
- Whether local safeguarding agencies can provide guidance and support about keeping and retaining records.

Transfer to another secure setting

- 5.37 If it is determined that the child's needs may only be met with access to specific professionals or interventions it may be necessary to consider their transfer to another setting where they can more easily access that support.
- 5.38 Before any transfer can take place, it will need to be considered in detail by YCS Placements Team who will consider a range of information, including the child's ongoing needs, any safeguarding or child protection matters and the views of staff in the secure setting, the child's YOT or YOS Case Manager and their parents, guardian or carers. For young people moving to adult custody relevant policy and process should be followed³⁸.

6. UNDERSTANDING VULNERABILITY AND HARM

Children who are detained in custody are more likely to present with an increased range of needs and vulnerabilities and consideration of reasonable adjustments need to be made throughout the time that they are in the care of the YCS.

Being placed in custody will remove children from adults in the community - families and carers, teachers, youth workers - and who would ordinarily support their rights, monitor their welfare and take action to protect them.

- 6.1 As well as the psychological impact of being placed in custody and being deprived of their liberty, the circumstances experienced by many children before they enter the custodial environment means that they may present a heightened need around their care or welfare than children in the community. Adverse childhood experiences, including abuse, neglect or exploitation may be reflected in symptoms of trauma, psychological health issues, cognitive impairment and propensity to use violence or display coercive behaviour.

Significant harm

- 6.2 There is no statutory definition of significant harm and staff must consider definitions set out at Section 31(10) of the Children Act 1989⁷ that, "... *the question of whether harm is significant turns on the child's health or development, the child's health or development is to be compared with that which could reasonably be expected of a similar child.*"

³⁸ See: [Transition of Young People from the Children and Young People Secure Estate to Adult Custody Policy Framework - GOV.UK](https://www.gov.uk/government/policies/transition-of-young-people-from-the-children-and-young-people-secure-estate-to-adult-custody-policy-framework)
(www.gov.uk)

6.3 In the event that the staff are concerned that a child is suffering from likely or actual harm a safeguarding referral should always be made and, if necessary, child protection arrangements should be initiated.

What might harm look like?

6.4 A child's physical, intellectual, emotional, social or behavioural health or development may be harmed or impaired if they experience ill treatment or neglect or see or hear another person suffering such treatment.

6.5 Ill treatment may take a variety of forms, which may be inter-related and include³⁹:

- **Neglect** which is the failure to meet a child's basic physical, emotional and/or psychological needs which may result in the serious impairment of their health or development. It may involve a failure to provide adequate food, clothing or shelter; protection from physical and emotional harm or danger; adequate supervision; or access to medical care or treatment.
- **Physical abuse** which may involve causing physical harm to a child by hitting, shaking, throwing, poisoning, burning or scalding, drowning or suffocating them.
- **Sexual abuse** may involve enticing, encouraging or forcing a child to take part in sexual activities, whether or not the child is aware of what is happening.

This may involve physical contact (including assault by penetrative acts (such as rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching the child's clothing) or activities where there is no direct physical contact such as involving children in looking at or being involved in producing sexual images, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse.

Sexual abuse may be perpetrated by adult men and women as well as other children and may appear to be voluntary although violence, threats or coercion may also be involved.

- **Emotional abuse** is the persistent emotional maltreatment of a child causing adverse effects on their emotional development, for example by which might be by telling them that they are worthless or unloved, inadequate, or valued only to the extent that they meet the needs of another person.

Indicators if this type of abuse may include not giving the child opportunities to express their views; preventing the child from participating in normal social interaction, deliberately silencing them or 'making fun' of what they say or how they communicate; imposing inappropriate expectations on the child; or overprotecting them and limiting their natural desire for exploration and learning.

- **Extremism** is perpetrated by people who target those who are vulnerable, including children and young people, by seeking to create division between different communities on the basis of differences between their race, faith or denomination; justify discrimination towards women or girls; persuade others that minorities are inferior; or argue against democracy or the rule of law.

³⁹ See: *Working Together to Safeguard Children* p106 – 111 (link at footnote 2)

6.6 A variety of terms may also be used to describe ill treatment, including:

- **Bullying or peer on peer abuse**⁴⁰ can have significant impact on the mental health of children and may be described as the intentional physically, verbal or emotional behaviour of an individual or a group of people to hurt someone else. Bullying may be perpetrated in the physical world, or some children may have experienced this behaviour online as cyberbullying before they arrived at the secure setting.

Bullying behaviour may target the child's characteristics, including their sexual orientation (or perceived sexual orientation); gender; skin colour; religious beliefs or faith; their body size; disability; or neurodiversity.

It might be a one-off or stand-alone event or part of a broader pattern of abuse and intimidation and is repeated over a period of time. It is characterised by physical violence, sexual harassment or emotional abuse which may be seen through abuse name calling, mocking or making offensive comments; spreading hurtful and untruthful rumours; threatening or undermining someone or always leaving them out of a group activity; and initiation rituals or violence where harassment or humiliation might be used as a way of initiating a person into a group.

Bullying may also be associated with theft, debt financial abuse which may take the form of using or taking another child's property without their permission such as sweets, magazines, play station games or shampoo and toothpaste.

- **Coercive control** is similar to bullying and is an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten a victim⁴¹. It is controlling in nature and used to make a person dependent on the controlling person by isolating them from support, exploiting them, depriving them of independence and regulating their everyday behaviour⁴¹.

Modern slavery

All staff in secure settings have a statutory duty to identify and support victims of modern slavery.

6.7 **Modern Slavery** refers to the offences established by the Modern Slavery Act 2015⁴² which includes 'child trafficking' defined in the Act as the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, which may for a variety of reasons.

6.8 Whatever the underlying motive for someone to exploit a child it can be viewed through the lens of **Child Criminal Exploitation (CCE)** which is defined by the Home Office as:

⁴⁰ Dr C. Firmin (2015) "Physical, sexual, emotional and financial abuse, and coercive control, exercised within young people's relationships." in Child-on-child Abuse: Safeguarding Implications of Contextualising Abuse between Young People within Social Fields, University of Bedfordshire

⁴¹ <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/coercive-control/>

⁴² <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

“Child Criminal Exploitation.... occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18. The victim may have been criminally exploited even if the activity appears consensual. Child Criminal Exploitation does not always involve physical contact; it can also occur through the use of technology.”⁴³

- 6.9 Actual or potential harm to a child may also result from circumstances where they are exploited through coercion, control, manipulation or deception to take part in a variety of criminal activities. Depending on the reason for the exploitation it might be described as involvement in County Lines, child sexual exploitation, child trafficking or modern slavery, or may be motivated by radicalising a child to following an extremist ideology. Even where criminal activity appears to have been consensual or rewarded the child may have been criminally exploited.
- 6.10 Victims of modern slavery or CCE can be of any nationality, including children who are British nationals such as those trafficked for child sexual exploitation or those recruited to participate in County Lines drug supply operations where they may be exploited for the purpose of storing or moving illegal drugs to different parts of the country.
- 6.11 Detailed guidance⁴⁴ and a policy Framework on Modern Slavery has been published by HMPPS to raise awareness about modern slavery amongst staff and how staff members can support victims of modern slavery who are remanded or sentenced. Links to a range of resources, including indicators to support identification of different forms of exploitation, are provided in the guidance and Framework.
- 6.12 Whatever form it takes, modern slavery and exploitation is abuse and the identification of a child may be a victim, or is at risk of being a victim, in a secure setting in the YCS should always trigger agreed local safeguarding and child protection procedures to refer to matter to the local authority so that action can be taken to protect the child from harm (or further harm) and their immediate care and welfare needs can be met.

National Referral Mechanism (NRM) and First Responder Organisations

- 6.13 Alongside meeting the child's immediate needs, a referral to the **National Referral Mechanism (NRM)** for modern slavery must be made if the child is considered to be a victim of modern slavery or CCE.
- 6.14 The NRM is the UK's framework for identifying and supporting victims of modern slavery and referrals to it may only be made by designated **First Responder Organisations** which, in England and Wales, include staff from local authority children's services teams and young offender teams. There are no minimum requirements for First Responder Organisations to apply in justifying a referral into the NRM and if the subject of the referral is a child it is not necessary to secure their consent before submitting the referral⁴⁵.

⁴³ Home Office (January 2023) *Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland*, page 77

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1127441/Modern_Slavery_Statutory_Guidance_EW_Non-Statutory_Guidance_SNI_v2.13.pdf

⁴⁴ <https://www.gov.uk/government/publications/modern-slavery-guidance>

⁴⁵ NB: it is necessary to secure consent to make a referral about anyone aged over the adult victim of modern slavery of CCE to the NRM.

- 6.15 Staff should be aware that a referral NRM does not supersede child protection procedures, so existing safeguarding processes should still be followed to ensure that the child's immediate needs are identified, and appropriate action can be taken to protect them from harm.

Single Competent Authority (SCA)

- 6.16 Once referred to the NRM the matter will be considered by the Single Competent Authority (SCA) which is a division of the Home Office responsible for making a conclusive decision on whether, "on the balance of probabilities", the child was recruited, transported, transferred, harboured or received for the purpose of exploitation, and whether there are sufficient grounds to consider them as a victim of human trafficking or modern slavery.
- 6.17 Guidance for staff at the SCA⁴⁶ sets out that interviews with children who are suspected or known to be trafficked must be kept to a minimum and that the SCA must avoid interviewing a child for the purpose of reaching a decision under the NRM if:
- there are specialists in other agencies who are capable of interviewing the child; or
 - the modern slavery issues have already been clarified as part of the asylum process.
- 6.18 The guidance also establishes that the SCA must not serve a decision letter or other papers about human trafficking or modern slavery directly to a child and that any papers should be presented to the child's appointed representative or the local authority.

Independent Child Trafficking Guardians (ICTG)

- 6.19 Section 48 of the Modern Slavery Act 2015 made provision for the establishment of Independent Child Trafficking Guardians (ICTG) in England and Wales whose role is to provide specialist, independent, one-to-one advice and support to trafficked children and to advocate on their behalf to ensure that their best interests are reflected in decisions made by public authorities.
- 6.20 For children who have no-one with parental responsibility for them in the UK, the ICTG service provides one-to-one support via an ICTG Direct Worker. For children who have someone with parental responsibility for them in the UK, advice and support will be provided by an expert ICTG Regional Practice Co-ordinator for those.
- 6.21 In areas where the ICTG service has been fully implemented, if the First Responder (the local authority) considers a child to be a potential victim of modern slavery, they should refer them to the ICTG service.

Remand

- 6.22 Staff should take particular care to consider the circumstances around children who are remanded to custody, as Section 45 of the Modern Slavery Act has established a statutory

⁴⁶ See: https://www.antislaverycommissioner.co.uk/media/1059/victims_of_modern_slavery_-_competent_authority_guidance_v3_0.pdf
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defence for child and adult victims of trafficking and exploitation. This provision means that if they were compelled to undertake a criminal act, and there was little prospect that they would have carried it out if they weren't being exploited, they cannot be found guilty.

- 6.23 The purpose was to strengthen prosecutorial discretion as to whether it would be in the public interest to prosecute an individual in these circumstances and prevent victims of slavery from being punished for crimes they were forced to commit, such as being forced, threatened or deceived into producing or selling illegal drugs.

The needs of children in the criminal justice system

- 6.24 Children involved in the criminal justice system have been identified as having an extremely high prevalence (66-90%) of speech, language and communication needs⁴⁷. These difficulties can affect a child's ability to understand what is being said to them and can also affect their ability to express themselves effectively. As a result, miscommunication and misunderstandings may arise – although these difficulties may not be immediately visible. Staff in secure settings therefore need to know how to communicate simply and clearly with young people, using language or formats that will be easily understood by the child⁴⁸.
- 6.25 The disproportionate representation of children from Black, Asian and ethnic minority communities throughout the criminal justice system has been the focus of considerable attention. The proportion of children in custody from ethnic minorities rose from 25 to 41% between 2006 and 2016⁴⁹, and more recent statistics show that this proportion has continued to rise with the result that in the year ending March 2020 over 50% of children in custody were from ethnic minorities⁵⁰ for the first time. Children from ethnic minorities in STC and YOI have been found to be significantly more likely to report being verbally abused or threatened/ intimidated by staff and significantly less likely to feel cared for or respected by staff, than their white peers⁵¹.
- 6.26 Against the backdrop of these findings staff must consider and understand the lived experience of children from different cultures and communities and their previous exposure to prejudice or discrimination when they are responding to behavioural crises as this may affect the way that the child responds to figures in positions of authority, develop relationships and trust, use (and respond to) verbal and non-verbal communication and respond to attempts to intervene in or de-escalate conflict⁵².

⁴⁷ Bryan, K., Freer, J., & Furlong, C. (2007). Language and communication difficulties in juvenile offenders. *International Journal of Language & Communication Disorders*, 42(5), 505–520

⁴⁸ The Royal College of Speech & Language Therapists has a free training course and resources (known as 'The Box') to improve the ability of staff to communicate with individuals in criminal justice system. Visit the following link: [The Box – free online training | RCSLT](#)

⁴⁹ David Lammy MP (September 2017) *The Lammy Review: An Independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic Individuals in the Criminal Justice System*
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

⁵⁰ Ministry of Justice and Youth Justice Board for England and Wales (28 January 2021) *Youth Justice Statistics: 2019/20*
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/956621/youth-justice-statistics-2019-2020.pdf

⁵¹ HM Inspectorate of Prisons (February 2020) *Children in Custody 2018-19* - <https://www.justiceinspectors.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2020/02/Children-in-Custody-2018-19-Web-1.pdf>

⁵² Equality and Human Rights Commission (2021) *Restraint in schools inquiry: using meaningful data to protect children's rights* - <https://www.equalityhumanrights.com/en/publication-download/restraint-schools-inquiry-using-meaningful-data-protect-childrens-rights>

- 6.27 An appreciation of adolescent brain development and relational (attachment) strategies is also necessary for people working with children so that they understand their behavioural tendencies. As children move through puberty and early adulthood their brains undergo a period of substantial development. These changes mean that during this time, children become much more sensitive to social interaction and reward, and experience stress more keenly than in childhood or adulthood. At the same time there is a slower, more gradual change in their ability to control impulses and emotions, which doesn't stop until they are in their mid- (or sometimes late-) twenties. Changes in sensitivity to reward also drive people in adolescence to seek new sensations and take risks at a time when they haven't achieved the levels of self-control that they will have in their adulthood.
- 6.28 The result is that the structure and function of the immature adolescent brain has the effect of increasing the chance that adolescents will display risk-taking behaviour; preoccupation with how they appear to their peers; hypersensitivity to social exclusion; be more inclined towards risk-taking and prone to impulsivity; less capable of emotional reasoning; and more likely to make errors in regulating their emotions and behaviour. All these are especially true when they are in the presence of adolescent peers.
- 6.29 As well as brain development the impact of hormonal levels on changes in mood and behaviour during adolescence is well recognised, but other factors such as learning or communication difficulties, mental health vulnerability, neurodiversity or the effect of previous exposure to trauma, abuse, neglect, head injuries or foetal alcohol syndrome must also be considered, although staff must be aware that these disabilities may be hidden or not formally diagnosed. Where they are present, they may impact on the child's ability to understand, process and engage with instructions and be reflected in emotional and behavioural outbursts, low tolerance or frustration, difficulties with concentration, anti-social behaviour, rule breaking, anger, aggression and violence.
- 6.30 Staff will also need to be alert to the over-representation of neurodiversity and other conditions amongst children in secure settings, their impact on how children communicate and understand information, instructions or body language⁵³ and how reasonable adjustments for these children might be considered as part of the safeguarding response for children with neurodiversity or disability.
- 6.31 Neurodevelopment disorders (NDDs) encompass a variety of conditions:
- Intellectual Disability and 'Learning Difficulties' (like Dyslexia, Dyscalculia and Developmental Coordination Disorder).
 - Attention-Deficit/Hyperactivity Disorder (ADHD - including all 3 subtypes: predominantly inattention, predominantly hyperactive/impulsive and combined subtype).
 - Autism Spectrum Conditions (ASC).
 - Developmental Language Disorder (DLD, including speech and language difficulties).
 - Tic disorders (including Tourette's Syndrome and Chronic Tic Disorder).
 - Cognitive, emotional and behavioural impairments caused by Acquired Brain Injury (ABI).

⁵³ Guidance must be sought from onsite healthcare and psychology practitioners for specific information about diagnosis or how to respond to children with these conditions.

- 6.32 Beyond Youth Custody⁵⁴ found significant differences in adolescent brain development based on whether children had experienced trauma and that children who experienced significant trauma were more likely to display reckless, self-destructive behaviour; inappropriate aggression; over or underestimating danger; and difficulties in imagining or planning the future.
- 6.33 Studies have identified that all children, and particularly girls, in secure settings have had higher levels of exposure to multiple and chronic childhood adversities and trauma. Exposure to such adverse experiences is common amongst children within secure settings and often go unrecognised, but they can have a far-reaching impact on their development and ability to regulate their emotions and anger, as well as their physical and mental health, sense of self and self-esteem, and ability to forge trusting and productive relationships.
- 6.34 Children who have experienced trauma, or suffered bereavement, loss or abuse may struggle with post-traumatic experiences which may be hidden and may not have attracted a diagnosis of Post-Traumatic Stress Disorder (PTSD). The way in which post-traumatic experiences are processed will differ for each individual and it should not be assumed adverse life experiences will necessarily traumatise all those who experience them. The impact can include vivid reliving of the traumatic event in the form of nightmares or flashbacks, which may be triggered by certain noises, images, words or smells, or the impact of being restrained or confined to a small space. Other expressions of these experiences may also include irritability, sudden outbursts of anger and aggression, sleeping problems, difficulty concentrating and physical symptoms.
- 6.35 Sensory overload can happen to anyone but is more common amongst individuals with a neurodiverse condition, those with histories of emotional trauma and those who have chronic disorders such as chronic fatigue syndrome, fibromyalgia, multiple sclerosis, dementia or those who have experienced head injury.
- 6.36 When sensory overload occurs, the individual's brain struggles to filter out irrelevant sensory stimuli and their functioning becomes impaired which can appear as emotional and / or behavioural disturbance.
- 6.37 Individuals with sensory sensitivities often function best when they can manage or 'dose' their exposure to sensory stimulation. This may take the form of scheduling intervals of quiet time or solitude after periods of stimulation, such as education or being with peers, or individuals may remove themselves or learn to proactively self-isolate from environments that are becoming overstimulating.
- 6.38 Exactly what works best is likely to vary between individuals but recovery from sensory overload may well be facilitated by co-regulation and social support involving conversations and activities and/or a period of supported withdrawal to a less stimulating environment, where activities such as mindfulness, art, music, reading or pursuing specific interests and hobbies may be soothing and help to restore a sense of emotional equilibrium.

Children with special educational needs and disabilities

⁵⁴ Beyond Youth Custody (2016) *Young Offenders and Trauma: Experience and Impact – A practitioner's Guide* -

www.beyondyouthcustody.net/wp-content/uploads/Young-offenders-and-trauma-experience-and-impact-a-practitioner's-guide.pdf

6.39 Children with special educational needs and disabilities (SEND) may require enhanced levels of safeguarding and protection as their experience of adversity and trauma may have impacted on their behaviour, mental health and wellbeing and vulnerability to bullying, harassment and abuse, as well as their vulnerability to grooming for exploitation or radicalisation. Local safeguarding and child protection operating procedure should reflect the fact that additional challenges exist when identifying violence, harassment and abuse involving children with these needs, because:

- Assumptions may be made that indicators that a child has suffered possible violence, harassment or abuse such as their behaviour, mood and injuries are related to the child's disability without further exploration.
- The child may find it difficult to communicate, particularly when describing nuanced or subtle behaviour by others.
- These children may be more prone to isolating themselves from other children, and staff will need to be alert to their absence.
- There is potential for children with SEN and disabilities being disproportionately impacted by behaviours such as bullying, without outwardly showing any signs.

6.40 To address these additional challenges, settings should consider how extra support and reasonable adjustments can be provided for children with special educational needs and disabilities to ensure that any safeguarding risks are minimised. Settings may wish to consider practice guidance issued by The Council for Disabled Children⁵⁵.

Looked after (and previously looked after) children

6.41 A child's "home" local authority has a responsibility for visiting children who are designated as being a Looked After Child (LAC), and plan for their care when they are placed into custody. The way in which local Authorities are expected to discharge these responsibilities is the of separate guidance, *Care Planning, Placement and Case Review*⁵⁶. Similar arrangements are in place in Wales and are set out in the Visits to Children in Detention (Wales) Regulations 2015⁵⁷

6.42 All children who are ordered by a Court to be remanded to a secure setting are automatically designated as Looked After Children.

6.43 When a child is sentenced their status and the responsibilities of the local authority will depend on their care status prior to their arrival in custody:

- If they were not designated as a Looked After Child at the time that they were remanded to custody, their Looked After status will end (although the local authority does have discretion to retain that status if the child's circumstances merit its retention).
- If the child was the subject of a Care Order under section 31 of the Children Act 1989⁷ or was an Accommodated Child under section 20 of the same Act, there would be no change to this legal status, and they would usually retain their Looked After status during the remaining time that they are in custody, although how this is applied will be considered on a case-by-case basis.

⁵⁵ <https://councilfordisabledchildren.org.uk/help-resources/resources/young-people-youth-custody-practice-guide>

⁵⁶ <https://www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review>

⁵⁷ <https://www.legislation.gov.uk/wsi/2015/1823/made>

6.44 Children that became “Looked After” only because they were remanded to custody will usually cease to be “Looked After” when they are sentenced however, if they are aged sixteen or over have been looked after for thirteen weeks or more from the age of fourteen (including any period when they had Looked After status because they were remanded to custody then they will have ‘eligible child’ status and should be supported by local authority children’s services as a ‘care leaver.

Care leavers

6.45 Local Authorities have ongoing responsibilities to the children who cease to be “Looked After” and become care leavers, including keeping in touch with them, preparing an assessment of their needs and appointing a personal adviser who will work with them to develop a pathway plan which describes how the local authority will support the child. The designated lead for safeguarding, social workers and YOT or YOS Case Managers should have details of the Personal Advisor appointed by the local authority and ensure that they liaise with them regarding any issues of concern affecting the care leaver.

Assessing and monitoring risk

6.46 Secure settings must undertake regular proactive risk assessment and analysis of matters which have led to safeguarding and child protection referrals. This should be used to inform safeguarding and child protection operating procedures, improve understanding of the context around instances of violence, harassment and abuse and help staff respond in a tailored way. Analysis should consider:

- Characteristics of children at the setting, including specific protected characteristics which might have an impact on their vulnerability or their relationships with other children and adults at the setting, and the risks which may be associated with those characteristics and how those risks might be managed.
- The sociocultural contexts in the community which children at the setting are associated with, their peer group in the community, family, the school environment, their past experience of violence, harassment and abuse as both a perpetrator and victim.
- Trends around safeguarding and child protection referrals, such as the children who were involved and when and how the disclosure was made.

6.47 Understanding each child’s individual needs and circumstances will enable staff to identify and respond to changes in their behaviour. Staff, contractors and volunteers at the secure setting must be encouraged to see each child as an individual and to develop an interest in them to help understand their life and who they are as this will help ensure that they are alert to scenarios where children may be at increased risk of harm from other people, including other children and adults in the setting. They must be particularly alert where children:

- change the way they behave on their unit or wing or in the way that they relate to their peers or adults around the secure setting, including both increasing confidence or withdrawal and isolation.
- have been identified as having a special educational need or disability or another physical, mental or neurodiverse condition.

- have a Restraint Handling Plan because of a disability, injury or other experience of trauma, or if they are pregnant.
- are showing signs of being involved with a new or different peer group.
- have been identified as being exploited or at risk of exploitation before they arrived at the secure setting.
- have been identified as being radicalised or at risk of being radicalised before they arrived at the secure setting, including being previously referred to PREVENT.
- experienced challenging circumstances, such as drug and alcohol misuse, adult mental health issues and domestic abuse, in their home before they arrived at the secure setting.
- have a history of misusing drugs or alcohol before they arrived at the secure setting.

- 6.48 Secure settings may accommodate children who have committed violent or sexual offences, as well as those who have witnessed or experienced violence or abuse in the families, schools and communities where they were living before they arrived at the secure setting, and that this informs how they respond to peers and adults in the secure setting and how relationships with their peers develop.
- 6.49 When considering instances of abuse, harassment or violence in secure settings and how to respond to them, staff undertaking enquiries should consider each case individually and carefully examine all evidence to determine the impact on each child who is involved and all safeguarding matters which can be identified. These considerations about safeguarding should not only include those who are direct victims but also those who harmed them, those who witnessed the incident or may have been indirectly impacted by it as well as members of staff who were involved.
- 6.50 Reports of exploitation, bullying or child-on-child abuse should be handled sensitively on a case-by-case basis without delay and should involve safeguarding, behaviour and equalities staff so that an integrated response is followed. The initial response to a report from a child about incidents which they have been involved with or witnessed is important and it is essential that all alleged victims are reassured that they are being taken seriously, offered appropriate support and kept safe. A victim should never be made to feel ashamed for making a report and should never be given the impression that they are creating a problem by reporting that they have been the victim of exploitation, abuse, bullying or harassment.
- 6.51 When responding to and investigating the behaviour between children, staff must recognise that child-on-child abuse in all forms is unacceptable and take it seriously. While abuse may be evident if children are physically abusing one another, staff must challenge behaviours which might be passed off as “banter”, “just having a laugh” or “part of growing up” and make it clear that they are not tolerated particularly. Care should be taken, however, to ensure that a proportionate response is most effective as evidence suggests that a zero-tolerance approach disproportionately reduce levels of disclosure by black children, children with learning needs, and those who have been in care⁵⁸.
- 6.52 Wider factors about the children who were involved - such as the backgrounds and any specific characteristics of the victim(s), perpetrator(s) and any others who were involved - should be considered. This will offer greater understanding about the reasons it might have

⁵⁸ Dr Jenny Lloyd (2019) *Why “Zero Tolerance” doesn’t work*

occurred and help inform the actions that are appropriate to improve understanding between different groups of children and protect them in the future.

6.53 A toolkit developed by Farrer & Co.⁵⁹ for schools may be relevant for application to secure settings and demonstrates how a child's behaviour might sit on a scale and that for it to be understood the underlying attitudes, social conditions and contextual dynamics need to be understood: This could include, for example, whether the behaviour is:

- Socially acceptable within the group.
- A single or one-off incident or if it has recurred over a period of time.
- Coercive or pre-planned.
- Reflective of a power imbalance between the child (or children) who are alleged to be responsible for the behaviour and the child (or children) who are alleged to hold power.

6.54 Applying this contextual approach to safeguarding⁶⁰ will enable an understanding and response to children's experiences of harm in a way which recognises the impact of other factors on their perceptions of safety; will help staff working with children in secure settings to distinguish normal from abnormal abusive behaviours; and contribute to preventing future instances of violence, abuse or harassment.

7. THE RESPONSE TO INCIDENTS OF SERIOUS VIOLENCE BETWEEN CHILDREN

The important thing about managing the response to child-on-child abuse is ensuring that it doesn't lead to the creation of a culture in which those who have been harmed are further victimised by peers in the setting and that the setting work towards creating a culture which reduce the likelihood of further incidents in the future.

7.1 The response to instances of serious child-on-child abuse in secure settings is likely to be especially difficult as the victim and alleged perpetrator(s) are likely to be in close proximity to one another and incidents can have wider ramifications for the relationships between children across the setting.

7.2 In all cases, the initial report about incidents of child-on-child abuse must be carefully evaluated in line with local safeguarding procedures. Consideration of the safeguarding and child protection needs of the victim, alleged perpetrator(s) and any other children who were directly involved should start **immediately** after the incident.

7.3 While the secure setting responds to the immediate consequences of the incident, YCS Senior Management must be informed under the National Incident Reporting Process. SCH must also notify Ofsted that an incident has taken place. Where the incident relates to multiple areas in the community a meeting of relevant local partners, including the police,

⁵⁹ Farrer & Co. (2017) *Peer-on-peer abuse toolkit* (developed in collaboration with Dr Carlene Firmin) – available via the following link:

[Peer-on-peer abuse toolkit \(farrer.co.uk\)](https://www.farrer.co.uk/peer-on-peer-abuse-toolkit)

⁶⁰ Publications and practice resources related to Contextual Safeguarding are available from Durham University via the following link:

[Contextual Safeguarding Research Durham University](https://www.durham.ac.uk/contextual-safeguarding-research)

should be convened to ensure that any impact in the community can be discussed and explored and a strategic response can be agreed and implemented.

- 7.4 The secure setting must also consider how best to keep the victim and alleged perpetrator a reasonable distance apart on the secure premises. This may mean a transfer to another secure setting, but any action will need to take into consideration what is the best interests of the children who are involved and if the alleged perpetrator is transferred it must not be perceived to be a judgment on their guilt.
- 7.5 As well as reporting incidents where a child has been harmed to the local authority, the local police and child's YOT or YOS Case Manager should also be notified about serious child-on-child abuse incidents with a parallel report.
- 7.6 In some cases, reports to the police result in a case not being progressed or a not guilty verdict and the victim and their family may need support to avoid the perception that the incident is viewed as being less serious than they believe or that the victim exaggerated the impact. In such instances the victim may be provided with support from their key worker (or personal officer) or their YOT or YOS Case Manager, and members of their family may seek practical and emotional support, information and advice by the Prisoners' Families Helpline⁶¹
- 7.7 Alongside investigation of the incident itself it is important to carefully examine the backgrounds and behaviour and ages of those who were involved. Consideration of the underlying factors which may have contributed to causing the incident will offer greater understanding about the reasons why it may have occurred, enable tailored individual support for the children involved to be put in place and contribute to preventing other incidents in the future.
- 7.8 Other important considerations at this stage will include:
- The nature of the alleged incident, including whether a crime may have been committed. If the incident is considered so serious then a secure setting will need to follow their procedures for reporting serious incidents to senior external managers.
 - The victim's wishes regarding how any investigation will be progressed and any support that they will be offered. This will however need to be balanced with responsibilities of the setting to protect other children who are living there.
 - Characteristics of the children who were involved including their ages and developmental stages and whether there was any power imbalance between the children. For example, is the alleged perpetrator(s) significantly older, more mature or more confident, or does the victim have a disability or learning difficulty?
 - Whether the alleged incident is a one-off or a sustained pattern of abuse.
 - Whether there are ongoing risks to the victim, other children or secure setting and other related issues and wider context, including any links to child sexual exploitation, child criminal exploitation and gang membership.

Safeguarding and supporting the victim and the person alleged to have caused the harm

- 7.9 Incidents of serious child-on-child abuse can be complex and require difficult professional decisions to be made, and although allowing a victim and an alleged perpetrator to remain

⁶¹ See: Prisoners' Families Helpline | Prison Advice and Care Trust

in the same secure setting presents considerable issues for the setting to manage.

- 7.10 When the Governor, Director or Registered Manager working in partnership with the local authority and police have agreed the response to immediate safeguarding and child protection concerns, they may need to consider the question of whether the victim and alleged perpetrator should remain in the same secure setting.
- 7.11 These scenarios will involve complex and difficult professional decisions, and the setting will have a difficult balancing act to safeguard both the victim and perpetrator as well as the wider peer group of children in the secure setting. It is important that each instance is considered on a case-by-case basis, with the best interests of the children who are involved at the heart of any decision and with the most up-to-date risk assessments available to support considerations which should consider the views of the police and professionals who have had contact with the child such as the on-site psychology, healthcare and social work teams, as well as specialist child and adolescent services and the child's YOT or YOS Case Manager.
- 7.12 Where there is a criminal investigation into the incident, consideration may need to be given to transferring the alleged perpetrator from the setting to prevent potential conflict with the victim and witnesses, however the victim's views and wishes should also be at the centre of considerations because they may wish to transfer to another secure setting away from the reminder of the trauma.
- 7.13 Where a criminal investigation leads to a conviction or caution, the secure setting should take suitable action, and in all but the most exceptional of circumstances it is likely that allowing the perpetrator to remain in the same setting as their victim would seriously harm the welfare of the victim.
- 7.14 In all cases, a clear record of decisions must be maintained, and if it is decided that any child involved in a serious incident of child-on-child abuse is to be recommended for transfer to another setting a clear case will need to be submitted to the YCS Placements Team.
- 7.15 Ultimately, any decisions are for the secure settings to make on a case-by-case basis, with the Governor, Director or Registered Manager together with the designated lead for safeguarding and social worker (or deputies) taking a leading role and using their professional judgement, supported by internal and external agencies, such as psychology health, children's social care and the police.

8. SAFER RECRUITMENT

The secure setting must ensure that all safe recruitment practices are undertaken and completed for all members of staff before they start or resume a role at the setting and that these practices are applied throughout the time that person is fulfilling a role at the setting.

- 8.1 Safer recruitment is, “a set of practices to help make sure that staff and volunteers are suitable to work with children and young people.”⁶²
- 8.2 YCS Senior Managers, Governors, Directors and Registered Managers must ensure that they adopt robust recruitment procedures that identify candidates who understand the needs of children and deter and prevent people who are unsuitable to work with children from applying for or securing employment or volunteering opportunities in secure settings.
- 8.3 YCS Senior Managers, Governors, Directors and Registered Managers must ensure that alongside consideration of information from interview and references, all relevant checks are undertaken when decisions are made about the suitability of the prospective employees, including (but not limited to) checks of criminal records, Disclosure and Barring Service (DBS) certification, Barred List, and professional qualifications.
- 8.4 YCS Senior Managers, Governors, Directors and Registered Managers of secure settings should ensure that any offer of appointment made to a successful candidate, be conditional on satisfactory completion of the necessary pre-employment and vetting checks, including right to work checks.
- 8.5 YCS Senior Managers, Governors, Directors and Registered Managers of secure settings must ensure that staff involved in recruitment and selection understand the principles of safer recruitment and have received relevant training.
- 8.6 Following an offer of appointment to a candidate the YCS or the secure setting must verify a candidate’s identity and obtain necessary vetting documentation.
- 8.07 The designated lead for safeguarding must ensure that relevant DBS and criminal record checks for the role are completed before new staff, contractors and volunteers who regularly visit the secure setting commence their roles at the secure setting.
- 8.8 The designated lead for safeguarding must ensure that a database is in place to record DBS clearance for each person working, contracted to work or volunteering at the secure setting is recorded⁶³. DBS checks do not have an official expiry date but the expectation is that they should be renewed at least once in every three years and the central database should enable this to be prompted.
- 8.9 There must be procedures in place for the Governor, Director or Registered Manager to make a referral to the Disclosure and Barring Service if a member of staff, contractor or volunteer at the setting is dismissed, removed or transferred from their role due to concerns about safeguarding or child protection matters (or they resigned before they could be dismissed or removed from their role)⁶⁴.

Recruitment

⁶² NSPCC – see: <https://learning.nspcc.org.uk/safeguarding-child-protection/safer-recruitment>

⁶³ NB: All personal data must be managed in accordance with the law and guidance. Please refer to sections 5.28 – 5.33 of this Framework for further guidance.

⁶⁴ NB: It is a legal duty under Sections 35 or 38 of the Safeguarding Vulnerable Groups Act (2006) to make a referral to the Disclosure and Barring Service when these criteria are met.

8.10 The YCS and all secure settings must ensure that recruitment processes identify people who are committed to creating a culture that safeguards and promotes the welfare of children and that people who are unsuitable for working with children are deterred and prevented from seeking employment or volunteering opportunities with the organisation.

Job Advert

8.11 When advertising a role, the description and person specification should make the YCS commitment to safeguarding and child protection clear by including the following:

- A clear statement of commitment to safeguard and promote the welfare of children and make clear that safeguarding checks will be undertaken as part of the appointment process.
- A description of specific safeguarding and child protection expectation requirements for the role, such as the extent to which the role will involve contact with children.
- Details of specific skills, abilities, experience, attitude and behaviours required for the post.
- Whether the role is exempt from the Rehabilitation of Offenders Act 1974⁶⁵ (and amendments) with regards to the disclosure of previous convictions. Additional guidance is available at:

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

Application forms

8.12 Where a role involves engaging in regulated activity with children the application must include a statement in the application form or in the application pack that it is an offence under Section 7(1)(a) of the Safeguarding Vulnerable Groups Act 2006⁶⁶ to apply for the role if the applicant is barred from engaging in regulated activity relevant to children.

8.13 Safeguarding and child protection procedures must be available to applicants in the application pack.

8.14 Applicants for positions within the YCS and secure settings must be required to provide:

- Personal details, including current and former names, current address and National Insurance (NI) number.
- Information about any criminal offences committed in any country in line with the law as applicable in England and Wales, not the law in their country of origin or where they were convicted.
- Details of their present and past employment, including whether they have previously been employed at a setting in the YCS, and their reason for leaving.
- Full employment history since leaving school, including education, employment and voluntary work, and the reason for any gaps in employment.
- Details of qualifications, the awarding body and the date of award.
- Contact details for references.

⁶⁵ <https://www.legislation.gov.uk/ukpga/1974/53>

⁶⁶ <https://www.legislation.gov.uk/ukpga/2006/47/contents>

- A statement about the personal qualities and experience that the applicant believes are relevant to their suitability for the post advertised and how they meet the person specification.

Shortlisting

- 8.15 It is recommended practice that the review of applications and shortlisting exercise is carried out by at least two people and that those who shortlist also carry out interview to ensure a consistent approach.
- 8.16 Candidates who have been shortlisted should be asked to complete a declaration which includes details of their criminal record and confirmation that they are not barred from working with children⁶⁷ as well as confirmation that the information that they have provided is true. The purpose of a self-declaration is to allow candidates the opportunity to share relevant information and to allow time for it to be discussed and considered before and during an interview.

Reference and employment history

- 8.17 The purpose of seeking references is to allow employers to obtain factual information in support of a decision to appoint a candidate. References should be obtained before an interview to allow information to be explored further with the referee and taken up with the candidate at interview.
- 8.18 Referees should be asked to confirm whether they are satisfied about the applicant's suitability to work with children and to provide the details (not opinions) of any substantiated safeguarding allegations which they are aware of. Information about allegations which resulted in an unsubstantiated, unfounded, false or malicious outcome should not be provided and it should be disregarded if it is. It is also recommended that:
- "Open" references should not be accepted (for example, those addressed "to whom it may concern").
 - Applicants should not be relied on to obtain their own references – if the applicant has provided contact details for their referees there should be nothing to stop the recruiting managers from requesting a reference.
 - At least one reference should be from the candidate's current employer and should have been completed by a senior person with appropriate authority.
 - Clarification of any vague or insufficient information, or verification of any information provided in the reference should be undertaken in writing with the referee.
 - Electronic references must be confirmed as originating from a legitimate source.
 - Information on the application form should be compared with that provided in the reference and any discrepancies should be taken up with the candidate.
- 8.19 Any information that is disclosed in the reference about the candidate's disciplinary action or allegations about their behaviour must be considered carefully when the recruiting manager is assessing the applicant's suitability for the post

⁶⁷ This information should only be requested from applicants who have been shortlisted. The information should not be requested in the application form to decide who should be

8.20 Any questions about the candidate's employment history must be resolved satisfactorily before their appointment is confirmed. In particular the recruiting manager should establish the reason why the candidate is leaving their current employment, consider any gaps in employment and the reasons for them and (if the candidate is not currently employed) obtain verification of their most recent period of employment.

Selection

8.21 If an interview for a post is conducted, it must be used to determine the applicant's suitability to work with children and a range of techniques should be used at interview to identify suitability for the post. Interviewees must agree a set of structured questions which will explore:

- What attracted the candidate to the post they are applying for and their motivation for working with children.
- The candidate's skills and examples of experience of working with children in a way which is relevant to the role.
- The candidate's understanding of the vulnerabilities of children and appropriate boundaries between adults and children.
- The reasons for any gaps in employment, significant changes in career path or where the candidate has changed employment or location frequently.
- Any information about past disciplinary action or allegations should be considered in the circumstances of the individual case.

Pre-Appointment vetting and recording information

Pre-appointment checks are important to identify people who may be unsuitable to work with children.

All offers of appointment should be conditional until satisfactory completion of the mandatory pre-employment checks.

Pre-appointment checks are the first part of an ongoing safeguarding regime which should continue following the candidate's appointment.

8.22 Following an offer of appointment to a candidate, the YCS or the secure setting must ensure that the following are in place:

- Verify the successful candidate's identity – Guidelines on checking identity are available at:
<https://www.gov.uk/government/publications/dbs-identity-checking-guidelines/id-checking-guidelines-for-standardenhanced-dbs-check-applications-from-1-july-2021>
- Obtain an enhanced DBS certificate (including barred list information), for those who will be engaging in regulated activity.
- Verify any professional qualifications required for the role.
- Confirm that the candidate has the right to work in the UK. If there is uncertainty about whether an individual needs permission to work in the UK, then the prospective employer or volunteer managers, should follow the following advice:

<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

- (If the candidate has lived or worked outside the UK) undertake further checks to confirm that they do not have a criminal record in that jurisdiction.

8.23 It is good practice to carry out checks for individuals who have lived or worked abroad for more than three months during their adult life, however not all countries provide criminal record information, and even where they do, the nature and detail of the information provided varies from country to country or the criteria for disclosing offences in other countries may have a different threshold than in the United Kingdom. The Home Office has published guidance⁶⁸ for employers about undertaking overseas criminal records checks about applicants.

8.24 Where information about criminal record is not available, alternative methods of checking suitability should be considered or a risk assessment should be undertaken that supports informed decision making on whether to proceed with the appointment.

The single central record

8.25 It is recommended that a single central record of pre-appointment checks is maintained in paper or electronic form for all members of staff working in the YCS or secure settings, including:

- All members of staff, including those undertaking administrative and support roles in secure settings.
- All members of staff working in YCS national teams.
- A record of all those who undertake a voluntary role at the setting, such as members of the Independent Monitoring Board at each YOI.
- Members of staff employed by contractors who undertake roles at the secure setting.

Record of Pre-employment checks: statutory information

8.26 The single central record for each member of staff, contractor or volunteer must identify whether the person's position involves 'regulated activity', whether the following checks have been carried out and the date on which each check was completed as well as details of any certification that was provided as evidence:

- Identity check.
- Enhanced DBS certificate.
- A barred list check (if the person is undertaking a Regulated Activity).
- A check of any professional qualifications to confirm that they are valid and (if relevant) up-to-date registration with the professional body is in place.
- A check to confirm the person's right to work in the United Kingdom.

⁶⁸ See: <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants/guidance-on-the-application-process-for-criminal-records-checks-overseas>

8.27 For contracted staff and volunteers undertaking regulated activity on behalf of organisations providing services in secure settings, including (but not limited to) teachers, healthcare staff, youth workers, advocates, social workers and representatives of religious organisations, their parent organisation must complete all relevant checks on identity and suitability to work with children and provide confirmation to the designated lead for safeguarding at the secure setting before they undertake child-facing roles at the site.

8.28 Under no circumstances should a contractor in respect of whom no checks have been obtained be allowed to work unsupervised or engage in regulated activity. Secure settings are responsible for determining the appropriate level of supervision depending on the circumstances.

Record of pre-employment checks: non-statutory information

8.29 As well as information to confirm identity and suitability to undertake regulated activity, the YCS and secure settings should record other information relevant to an individual's role, including (but not limited to):

- Confirmation whether the individual has been informed of their duty to disclose relevant information under the childcare disqualification arrangements.
- The date on which the individual undertook safeguarding training and the training package that they completed.
- The identity of the person who carried out the checks.

Professional registrations

8.30 Professionals such as psychologists, social workers, teachers and health care must provide evidence of their professional registration before their appointment is confirmed.

8.31 Where the YCS or a secure setting is made aware that an employee is under investigation for a breach of their professional code of conduct, immediate action should be taken to ensure that individual does not undertake any work with children. The designated lead for safeguarding at the setting must provide all necessary information to the investigation and all relevant findings must be acted on when the professional body has reached its conclusions.

8.32 Where the YCS or a secure setting is made aware that an Interim Prohibition Order has been made in respect of a teacher, immediate action must be taken to ensure that individual does not carry out any teaching work in contravention of the order until the Teacher Regulation Authority completes its investigation.

Visitors

8.33 Secure settings should not ask to see DBS certificates or request that DBS and barred list checks for visitors to the secure setting such as a child's relatives or other visitors.

8.34 Governors, Directors and Registered Managers must use their professional judgment and refer to organisational policy and procedures about the need to escort or supervise visitors while they are at the secure setting.

9. DISCLOSURE AND BARRING (DBS)

YOI, STC and SCH are defined as a 'specified setting' under the Safeguarding Vulnerable Groups Act with the result that individuals who undertake roles at the site are required to undertake DBS Checks and checks against the relevant barred list.

YCS Senior Managers and Governors, Directors and Registered Managers of YOI, STC and SCH have a legal duty to refer to the DBS details of anyone who is removed from working or would have been removed had they not resigned.

9.1 There are four different types of DBS check and the DBS eligibility tool can be used to determine what type of check might be required for different roles⁶⁹:

- **Basic DBS check:** Provides details of convictions and cautions considered to be 'unspent' under the terms of the Rehabilitation of Offenders Act 1974⁷⁰ only.
- **Standard DBS check:** Provides information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC), regardless or not of whether they are spent under the Rehabilitation of Offenders Act 1974⁷⁰. The law allows for certain old and minor matters to be filtered out.
- **Enhanced DBS check:** Provides the same information about convictions, cautions, reprimands and warnings held on the Police National Computer (PNC) as a Standard DBS check, plus additional information held by police such as interviews and allegations. Additional information will only be disclosed where a Chief Officer of police reasonably believes it to be relevant and considers that it ought to be disclosed.

The position being applied for must be covered by an exempted question in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975⁷¹ and by provisions in the Police Act 1997 (Criminal Records) Regulations 2002⁷².

- **Enhanced DBS check with children's barred list information:** Applies where people are working or seeking to work in 'regulated activity' relating to children, this allows an additional check, to be made, about whether the person appears on the children's barred list, along with a check of the Police National Computer records plus additional information held by police as above.

The position must be eligible for an enhanced DBS check as above and be for a purpose listed in the Police Act 1997 (Criminal Records) (No2) Regulations 2009⁷³ as qualifying for a barred list(s) check.

⁶⁹ Online DBS eligibility tool – see: <https://www.gov.uk/find-out-dbs-check>

⁷⁰ <https://www.legislation.gov.uk/ukpga/1974/53>

⁷¹ <https://www.legislation.gov.uk/ukxi/1975/1023/contents/made>

⁷² NB: A list of roles which are eligible for this check has not been defined in legislation or published in guidance, instead eligibility for Standard, Enhanced and Enhanced with Barred List DBS checks is set out in legislation. Organisations should only request a DBS check on someone when they are legally allowed to do so and they must be entitled by law to ask an individual to reveal their full criminal history (known as asking an 'exempted question').

⁷³ <https://www.legislation.gov.uk/ukxi/2009/1882/contents/made>

Regulated activity

- 9.2 Schedule 4 of the Safeguarding Vulnerable Groups Act 2006⁷⁴ established that unsupervised activities undertaken at institutions for the detention of children and children's homes - as well as teaching, training, instructing, caring for children; or providing advice and guidance on their well-being; or driving a vehicle only for children – is 'Regulated Activity' if that activity is carried out:
- Without direct supervision; and
 - Frequently (i.e. at least once each week); or
 - On 4 or more days in a 30-day period; or
 - By the same person as part of their role at the YOI, STC or SCH, or is undertaking the activity in connection with the purpose of the secure setting.
- 9.3 Individuals who meet all of these criteria are defined as undertaking regulated activity with children and must undertake an **Enhanced DBS check** with a check of the **Children's Barred List** too.
- 9.4 Individuals who do not undertake the activity at least once each week but meet the other criteria must undertake an **Enhanced DBS check**, but a check of the Children's Barred List will **not** be required.
- 9.5 Individuals who don't meet any of these criteria, they would be eligible for a **Standard DBS check**"
- 9.6 In addition, there are personal care, or health care, activities provided by or provided under the supervision of a health care professional which may be undertaken with secure settings which will always be defined as regulated activities, regardless of whether they are supervised (or not) or how frequently they are undertaken. In this context:
- Personal care includes helping a child with eating and drinking for reasons of illness or disability or in connection with toileting, washing, bathing and dressing for reasons of age, illness or disability.
 - Health care is means care for children provided by, or under the direction or supervision of, a regulated health care professional.
- 9.7 Regulated activity also extends to day-to-day management or supervision of people undertaking any of these activities and the same checks would be needed for members of staff supervising those undertaking regulated activity even if they aren't doing it themselves.
- 9.8 Where an enhanced DBS certificate is required as part of an application and appointment process, it must be obtained before an individual's appointment is finalised.
- 9.9 Once the checks are complete, the DBS will send a certificate directly to the individual. Once they have received the original certificate it must be shared with the YCS or secure setting to enable them to confirm that information disclosed on the certificate is the same as that shared by the applicant during the recruitment process.

⁷⁴ See: <https://www.legislation.gov.uk/ukpga/2006/47/contents>

9.10 Where the DBS certificate lists information about convictions, cautions, reprimands and warnings the YCS or secure setting must undertake a risk assessment to inform the decision about whether to continue or halt the appointment, as that decision must be clearly documented, so it can be defended if it is challenged. Things which must be considered include:

- The seriousness of the matter which has been disclosed and the relevance to the post applied that is being for.
- The time that has elapsed since the matter occurred.
- Whether it was a one-off incident or if there is a history of incidents.
- Wider circumstances which were relevant to the incident.

9.11 Discussing the matter with the individual might also be worthwhile to understand whether they individual have accepted responsibility for their actions; what they learned from the experience and what they would do differently if in similar circumstances; and whether there might be any protective factors in place which would change the way in which the individual would respond if faced with similar circumstances again.

9.12 All copies of DBS certificates and records of criminal information shared by the candidate with the YCS, or secure setting are covered by GDPR/DPA 2018 Article 10⁷⁵ and the YCS or the setting is responsible for how it is held.

9.13 A copy of the other documents used to verify the successful candidate's identity, right to work and required qualifications should be placed on their personnel file.

Considering which type of check is required

9.14 The majority of staff in secure settings will be working with children and will be engaging in regulated activity relating to children, in which case an enhanced DBS check which includes children's barred list information, will be required.

9.15 The DBS maintains 'barred lists' of individuals who are unsuitable to work with children and vulnerable adults.

9.16 Barred list information must not be requested on any person who is not engaging in or seeking to engage in regulated activity.

Duty to refer to the Disclosure and Barring Service

9.17 YCS Senior Managers and Governors, Directors and Registered Managers of YOI, STC and SCH have a legal duty to refer to the DBS details of anyone who is removed from working, or would have been removed had they not left, in roles with YCS national teams or at secure settings where that individual:

- has been the subject of a safeguarding report and was subsequently found to present harm to children; or

⁷⁵ See: <https://www.legislation.gov.uk/ukpga/2018/12/section/10/enacted>

- the individual has received a caution or conviction for a relevant offence⁷⁶, which would lead to automatic barring from working with children, with or without the right to make representations; or
- the individual has engaged in relevant conduct in relation to children.

- 9.18 After receiving a referral the DBS will consider whether to bar the person. Detailed guidance about how this is considered, can be found via the following link:
<https://www.gov.uk/government/organisations/disclosure-and-barring-service/about#barring>
- 9.19 Referrals should be made as soon as possible, and ordinarily on conclusion of an investigation. This could include when an individual is suspended; or redeployed to work that is not regulated activity; or dismissed or resigned.
- 9.20 When an allegation is made, an investigation must be carried out to gather enough evidence to establish if it has foundation, and employers should ensure they have sufficient information to meet the referral duty criteria explained in the DBS referral guidance.
- 9.21 There are circumstances where the YCS and secure settings will need to carry out new DBS checks on existing staff:
- An individual moves from a post that was not regulated activity with children into work which is considered to be regulated activity with children. In such circumstances, the Enhanced DBS with Barred List check must be carried out;
 - the individual has had a break in service of 12 weeks or more; or
 - there are concerns about an individual's suitability to work with children.

⁷⁶ The list of offences is set out in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 - <https://www.legislation.gov.uk/uksi/2009/37/made>

GLOSSARY AND KEY TERMS

Abuse	Maltreatment or neglect of children which may be inflicted directly or indirectly or virtually (e.g. online) or by a failure to act to prevent harm and may take place in family or institutional setting by adults or children who are known to them or unknown.
Adverse Childhood Experiences (ACEs)	A wide range of stressful events which children may be exposed to whilst growing up, including harms that affect the child directly (e.g. neglect and physical, verbal and sexual abuse) and harms that affect the environment in which the child lives (e.g. exposure to domestic violence, parental separation or divorce, or living in a home with someone affected by mental illness, substance abuse, or who has been incarcerated).
Bullying	There is no legal definition of bullying, however the Anti-Bullying Alliance ⁷⁷ defines it as: <i>“Bullying is the repetitive, intentional hurting of one person or group by another person or group, where the relationship involves an imbalance of power. It can happen face to face or online.”</i>
Care Leaver	The Care Leavers Association has defined care leavers as: “Any adult who spent time in care as a child (i.e. under the age of 18). This care would have been approved by the state through a court order or on a voluntary basis. It can range from as little as a few months to as long as one’s whole childhood (18 years). Such care could be in foster care, residential care (mainly children’s homes) or other arrangements outside the immediate or extended family. The care could have been provided directly by the state (mainly through local authority social services departments) or by the voluntary or private sector (e.g. Barnardo’s, The Children’s Society and many others). It also includes a wide range of accommodation. For example, it would include secure units, approved schools, industrial schools and other institutions that have a more punitive element than mainstream foster or residential care.”

⁷⁷ <https://anti-bullyingalliance.org.uk/>

Child abuse	Defined by NSPCC as being when, “a child is intentionally harmed by an adult or another child – it can be over a period of time but can also be a one-off action. It can be physical, sexual or emotional and it can happen in person or online.”
Channel	A programme which focuses on providing support at an early stage to people who are identified as being vulnerable to being drawn into terrorism. It provides a mechanism for the secure estate to make referrals if they are concerned that an individual might be vulnerable to radicalisation. An individual’s engagement with the programme is entirely voluntary at all stages.
Child-centred	The recognition of each child as an individual with rights, including the right to participate in decision-making about them in line with their age and maturity.
Child Criminal Exploitation (CCE)	<p>Circumstances where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child into any criminal activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial or other advantage of the perpetrator or facilitator and/or (c) through violence or the threat of violence.</p> <p>Exploited children may be coerced into participating in criminal activities such as robbery and burglary, shoplifting, carrying drugs or tending to cannabis farms and it should be noted that the victim may have been criminally exploited even if the activity appears consensual and it does not always involve physical contact as children can also be exploited through the use of technology.</p>
Child Sexual Exploitation (CSE).	<p>Occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child into sexual activity in exchange for something the victim needs or wants and/or for the financial advantage or increased status of the perpetrator or facilitator.</p> <p>A victim may have been sexually exploited even if the sexual activity appears consensual and CSE does not necessarily involve physical contact as it can occur through the use of technology.</p>
Child in need	<p>Defined under the Children Act 1989 as a child who is disabled or one who is unlikely to achieve or maintain a reasonable level of health or development if they don’t receive additional services or support.</p> <p>Local Authorities are required to provide services for children in need for the purposes of safeguarding and promoting their welfare.</p>

Child-on-child abuse	Child-on-child abuse is behaviour by an individual or group which can be a one-off incident or repeated over time that intentionally aims to hurt another individual or group physically, emotionally, financially or sexually.
Consent	<p>Consent is usually considered in the context of having freedom and capacity to choose for something to happen or agreement to do something.</p> <p>It is often applied to whether consent is given (or not) about participation in sexual activity. For example, consent may be given to one sort of sexual activity but not another (e.g. to vaginal sex but not anal sex, or penetration with conditions, such as wearing a condom) and it may be withdrawn at any time when sexual activity is underway and each time such activity occurs. The age of consent to any form of sexual activity is 16 for both male and female children regardless of the gender or sexual orientation of the people who are involved and whether the sexual activity is between people of the same or different gender.</p>
Contextual safeguarding	An approach to considering and understanding the risks which children are exposed to in different environments, including school, college, their peer groups or online, how that affects their perceptions of harm and the way in which they will behave and live their lives in different situations.
County Lines	<p>Gangs and organised criminal networks involved with the movement of illegal drugs between different areas of the UK, often “exporting” from urban areas to small towns and rural areas where markets for illegal drugs may be underdeveloped.</p> <p>Children and vulnerable adults may be exploited for the purpose of moving and storing drugs and money through the use of coercion, intimidation, violence (including sexual violence) and weapons.</p>
Domestic Abuse	<p>Any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can take a variety of forms and may be psychological, physical, sexual, financial and emotional in nature.</p> <p>Children can be victims of domestic abuse in their home life if it is happening between their parents or carers as well as within the child’s own intimate personal relationships, and exposure to domestic abuse and/or violence can have a serious, long lasting emotional and psychological impact on children.</p>

Extremism	The UK Government's Counter Extremism Strategy ⁷⁸ defines extremism as, "the vocal or active opposition to our fundamental values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs."
Female Genital Mutilation (FGM)	All adults working with children have a statutory obligation to protect girls and women who are at risk of FGM. All staff should speak to the designated lead for safeguarding if they have any concerns about FGM, and all acts of FGM which appear to have been carried out on a girl under the age of 18 must be reported to the police.
First Responder Organisation	An agency in England and Wales that is authorised to refer information about a potential victim of modern slavery into the National Referral Mechanism.
Harmful sexual behaviour	Developmentally inappropriate sexual behaviour which is displayed by children and may be harmful or abusive. It can be displayed towards younger children, peers, older children or adults and is harmful to the children who display it, as well as those that it is directed towards.
"Honour based" violence	Encompasses abuse, incidents or crimes which have been committed to protect or defend the honour of the family and/or the community and may include harmful practices such as FGM, forced marriage, and breast ironing. Abuse committed in the context of preserving "honour" may involve network of family or community members and multiple perpetrators which may be highly relevant when consideration is being given to what and how information is disclosed or actions which are taken to protect or safeguard the child of children who are involved.
Intersectionality	The ways in which systems of inequality based on gender, race, ethnicity, sexual orientation, gender identity, disability, class and other forms of discrimination "intersect" to create unique dynamics and effects.
Looked After Children (LAC)	A child who has been in the care of their local authority for more than 24 hours is known as a Looked After Child. In secure settings, children on remand have <i>Looked After</i> status, which ends if they remain in custody once sentenced unless they are the subject of a Care Order under Section 31 of the Children Act 1989 or if the local authority choose to offer services to the child under Section 20 of the Children Act 1989.

⁷⁸ Home Office (2015) *Counter-Extremism Strategy* - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/470088/51859_Cm9148_Accessible.pdf

	<p>The National Institute for Health and Care Excellence (NICE) has published guidance on Looked after Children and Young People, which sets out how organisations, practitioners and carers should work together to deliver high-quality care, stable placements and nurturing relationships for children in care. This guidance is available via the following link:</p> <p>https://www.nice.org.uk/guidance/ng205/chapter/Recommendations#:~:text=providing%20emotional%20support%20for%20the,to%20reduce%20support%20when%20necessary</p>
Modern Slavery	Human trafficking, and slavery, servitude and forced or compulsory labour.
National Referral Mechanism (NRM)	A framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support.
Neglect	<p>The persistent failure to meet a child's basic physical and / or psychological needs, which may result in serious impairment of the child's health or development.</p> <p>It may involve the failure of a parent or carer to respond child's basic emotional needs or provide adequate food, clothing and shelter, protection from physical and emotional harm or danger, ensuring adequate supervision or enabling access to appropriate medical care or treatment.</p>
Pathfinder process	<p>A structured multi-agency process which supports the identification and management of all offenders managed across the secure estate who present an extremist threat or are vulnerable to extremist influence.</p> <p>The process also helps to quantify the number of offenders in each setting that are of credible concern and supports consistent, appropriate and proportionate targeting of resources.</p>

Prevent duty	All custodial settings and secure children’s homes are subject to a duty under section 26 of the Counter Terrorism and Security Act 2015 (the CTSA 2015), in the exercise of their functions, to have “due regard ⁷⁹ to the need to prevent people from being drawn into terrorism”. ⁸⁰
Radicalisation	<p>Defined by the Revised Prevent Duty Guidance for England and Wales⁸¹ as the process by which a person comes to support terrorism and extremist ideologies associated with terrorist groups.</p> <p>There is no single way of identifying whether a child is likely to be susceptible to an extremist ideology, but background factors combined with specific influences such as family and friends may contribute to a child’s vulnerability.</p> <p>It is possible to protect vulnerable people from extremist ideology and intervene to prevent those at risk of radicalisation being radicalised and staff should use their judgement in identifying children who might be at risk of radicalisation and inform the designated lead for safeguarding who may make a referral to the Channel programme.</p>
Regulated Activity	<p>Unsupervised activities undertaken at institutions for the detention of children and children’s homes, including teaching, training, instructing, caring for children; or providing advice and guidance on their well-being; or driving a vehicle only for children, if that activity is carried out:</p> <p>(i) frequently (once a week or more often); or (ii) on 4 or more days in a 30-day period; or (iii) by the same person, engaged in work for or in connection with the purposes of the establishment.</p> <p>Includes day-to-day management or supervision of people undertaking any of these activities.</p> <p>Further guidance available in <i>Regulated activity in relation to children</i>⁸² published by the Department for Education in 2012.</p>

⁷⁹ According to the Prevent duty guidance ‘having due regard’ means that the authorities should place an appropriate amount of weight on the need to prevent people being drawn into terrorism when they consider all the other factors relevant to how they carry out their usual functions.

⁸⁰ “Terrorism” for these purposes has the same meaning as for the Terrorism Act 2000 (section 1(1) to (4) of that Act).

⁸¹ See: <https://www.gov.uk/government/publications/prevent-duty-guidance>

⁸² See: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/550197/Regulated_activity_in_relation_to_children.pdf

Regulation 44 visit	<p>Secure Children's Homes are subject to monthly (announced or unannounced) Regulation 44 visit by a designated independent person who is expected to observe the care provided, the practice of the staff, compliance with regulations, systems and processes and the quality of the environment.</p> <p>The person undertaking the visit is likely to wish to satisfy themselves that the home is safe and that the home provides stable, safe, and secure care.</p>
Safeguarding partners	<p>Defined in the Children Act 2004 as: “the local authority, (b) a clinical commissioning group for an area any part of which falls within the local authority area, and (c) the Chief Officer of police for an area any part of which falls within the local authority area”.</p>
Sexual abuse	<p>Forcing or enticing a child to take part in sexual activities which may involve physical contact, including assault by penetration such as rape or oral sex; non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing; and non-contact activities such as involving children in looking at, or in the production of, sexual images, watching sexual activities, and encouraging children to behave in sexually inappropriate ways, or grooming a child or other children in preparation for abuse.</p> <p>There may not be any violence or threats of violence involved in the abuse and the child may not be aware of what is happening.</p> <p>The Department of Education has published detailed advice – <i>Sexual Violence and Sexual Harassment Between Children in Schools and Colleges</i>⁸³ - which may be helpful for staff in secure settings to read and consider.</p>
Sexual harassment	<p>Unwanted conduct of a sexual nature which is likely to violate a child’s dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualised environment.</p> <p>It can occur online or in the physical world and may be perpetrated in a variety of ways, including:</p> <ul style="list-style-type: none"> - Sexual comments, such as inappropriate sexual stories, making lewd comments or remarks about clothes and appearance or calling someone by sexualised names. - Sexual “jokes”, “banter” or taunting. - Physical behaviour, such as deliberately brushing against someone, interfering with a person’s clothes and displaying pictures, photos or drawings of a sexual nature.

⁸³ See: <https://www.gov.uk/government/publications/sexual-violence-and-sexual-harassment-between-children-in-schools-and-colleges>

	<ul style="list-style-type: none"> - Online sexual harassment, which may be standalone or part of a wider pattern of sexual harassment and/or sexual violence encompassing non-consensual sharing of sexual images and videos, sexualised online bullying and unwanted sexual comments and messages on social media.
Sexual violence	<p>Children may commit sexual offences under the Sexual Offences Act 2003⁸⁴ against their peers:</p> <ul style="list-style-type: none"> - Rape: A person (A) commits an offence of rape if: s/he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, B does not consent to the penetration and A does not reasonably believe that B consents. - Assault by penetration: A person (A) commits an offence if s/he intentionally penetrates the vagina or anus of another person (B) with a part of her/his body or anything else if the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents. - Sexual assault: A person (A) commits an offence if s/he intentionally touches another person (B) and the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents.
Terrorism	<p>An action that endangers or causes serious violence to a person/people or serious damage to property with the aim of influencing a Government or intimidating the public for the purpose of advancing a political, religious or ideological cause.</p>

⁸⁴ See: <https://www.legislation.gov.uk/ukpga/2003/42/contents>