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Child Protection
Standard Operating Procedure

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2.01	Amended at Section 29.3 and 30.1 to show current ACPOS documentation in use as initially stated Police Service of Scotland Under Age Sexual Activity SOP not yet ready for use.	
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3.00	Updated information to allow document to be linked to Scottish Government ‘National Guidance for Child Protection in Scotland’	11/02/2015
4.00	The SOP has been amended to bring it into line with the Criminal Justice Act 2016. There has also been the removal of geographical appendices aligning process and providing clarity and concise information throughout.	17/01/2018

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1. Purpose

- 1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland referred to hereafter as Police Scotland policies for:
- Child Protection
- 1.2 All child protection concerns reported to the Police Scotland will be thoroughly investigated. In addition the Police Scotland is committed to working in partnership with other agencies, sharing information to protect children and providing support and intervention when required.
- 1.3 This commitment supports the Scottish Government's vision for Scotland's children, developed in accordance with the United Nations Convention on the Rights of the Child and encapsulated in the National Guidance for Child Protection in Scotland 2014 (Scottish Government). This outlines the broad needs of all children and young people and recognises that children should be safe, healthy, achieving, nurtured, active, respected, responsible and included, allowing them to achieve their full potential in life.
- 1.4 It also promotes the Scottish Government's Getting It Right For Every Child (GIRFEC) approach which is about how practitioners across all services for children and adults meet the needs of children and young people, working together where necessary to ensure they reach their full potential sharing their approach and accountability.
- 1.5 All child protection concerns are a priority for the Police Scotland, and such matters will be handled with professionalism and in consultation with partner agencies where appropriate. The needs and welfare of the child are paramount, all child protection enquiries will be dealt with in a child focused manner, taking into account the views of the child when decisions are made, unless this places them at further risk.

2. Definitions

2.1 Child

For the purpose of this Standard Operating Procedure (SOP), a child is defined as per section 93(2)(b) Children (Scotland) Act 1995:

- A child who has not attained the age of 16 years,
- A child over the age of 16 years, who has not attained the age of 18 years and in respect of whom a supervision requirement is in force,
- A child whose case has been referred to a children's hearing by virtue of a supervision order issued in England, Wales or Northern Ireland,
- And, for the purpose of the application of chapters 2 and 3 of the Children (Scotland) Act 1995 to a person who has failed to attend school regularly without reasonable excuse, includes a person who is over 16 years of age but is not over school age.

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- For the purposes of Human Trafficking and Child Sexual Exploitation a child is any person under 18 years of age.
- In line with the Criminal Justice Act 2016 a child is considered a person under 18 years of age

2.2 Child Protection

2.2.1 The National Guidance for Child Protection in Scotland 2014 as 'Child protection' means protecting a child from child abuse or neglect. Abuse or neglect need not have taken place; it is sufficient for a risk assessment to have identified a likelihood or risk of significant harm from abuse or neglect

2.3 Child Abuse

2.3.1 Child abuse and neglect are forms of maltreatment of a child. Somebody may abuse or neglect a child by inflicting, or by failing to act to prevent, significant harm to the child. Abuse or Neglect varies significantly in terms of its form and severity and includes emotional abuse. There is no legal definition of significant harm, however there are various pieces of legislation relating to what constitutes Abuse (see National Guidance on Child Protection in Scotland 2014). Child abuse may be committed as an isolated incident, or over a prolonged period of time. In addition, it is widely recognised that child abuse and neglect occurs across all classes and socio-economic groups within society. This is categorised as follows:

2.4 Physical Abuse

2.4.1 Physical abuse is the causing of physical harm to a child or young person. Physical harm may also be caused when a parent or carer feigns the symptoms of, or deliberately causes, ill health to a child they are looking after.

2.5 Emotional Abuse

2.5.1 Emotional abuse is persistent emotional neglect or ill treatment that has severe and persistent adverse effects on a child's emotional development. Emotional abuse can involve deliberately trying to scare or humiliate a child or isolating or ignoring them.

2.6 Sexual Abuse

2.6.1 Sexual abuse is any act that involves the child in any activity for the sexual gratification of another person, whether or not it is claimed that the child either consented or assented or is aware of what is happening.

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

2.7 Child Sexual Exploitation

- 2.7.1 A child may also be offered gifts in return for sexual acts, the child may believe that they have given their consent however this is Child Sexual Exploitation (CSE). Further information can be obtained from the Child Sexual Exploitation (CSE) Toolkit (Child Sexual Exploitation Intelligence Toolkit)

2.8 Neglect

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

2.9 Female Genital Mutilation (FGM)

- 2.9.1 FGM is a harmful practice with no health benefits, it is a violation of the rights of girls and women and is a complex form of child abuse. FGM comprises all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons.

3. Joint Working

- 3.1 Joint working allows for agencies to work together to investigate circumstances surrounding reports of child abuse or neglect. This does not mean that the whole investigation is carried out jointly. It does, however, mean a coordinated approach, with close liaison between agencies at each stage of the investigation (prior to, during and at conclusion). Specific actions / tasks will be allocated to individuals / agencies as appropriate.
- 3.2 Each local authority area has a Child Protection Committee (CPC), who are the strategic planning mechanism for child protection services. Public Protection Unit (PPU) staff should be fully conversant with the work of their local CPC and procedures and will be able to provide advice, expertise and assistance as required.
- 3.3 All officers should familiarise themselves with child protection procedures, with specialist advice and assistance also available from local policing divisions PPU's and also Public Protection Support based at Fettes and Dalmarnock.

4. Initial Response

- 4.1 Police Scotland is committed to protecting children and will investigate all child protection concerns thoroughly and in a timeous and professional manner. Where any investigation is SIO led or considered a Major Incident a policy log should be commenced.
- 4.2 Where a police officer or member of police staff becomes aware of a report of a child protection concern, from whatever source, a supervisory officer should be notified immediately in order to ensure appropriate oversight.
- 4.3 Section 8 of the Victims and Witnesses (Scotland) Act 2014 must be complied with in relation to the rights of a victim to specify the gender of the interviewer.
- 4.4 It is important to remember that child protection concerns can come from variety of sources, both internally and externally. In any case all concerns must be dealt with comprehensively and impartially.
- 4.5 Whilst PPU staff have received additional training in relation to the conduct of child protection investigations, it is more often than not the case that local policing officers are required to provide the initial response to such incidents.
- 4.6 The victim's response will be recorded in the officer's police issue notebook. In all cases, a concern form must be submitted via **Interim** Vulnerable Persons Database (iVPD).
- 4.7 Staff must be mindful that there may be occasions when concerns and/or risks to children are not easily identifiable whilst maintaining an awareness of the communities they serve and also of the indicators of different types of child abuse such as Female Genital Mutilation (FGM) and Child Sexual Exploitation (CSE). Other complex forms of abuse such as Honour Based Violence (HBV), Forced Marriage (FM), and Human Trafficking (HT), which although not specific to children should also be considered when attending any incident.

5. Initial Assessment

- 5.1 Having identified or having been made aware of a child protection concern, the Police Officer dealing with the incident, in conjunction with their supervisor, is responsible for assessing the level of risk to the child or any other children.
- 5.2 All measures that can be taken to reduce that level of risk should be considered taking cognisance of all information available through both the police and partner databases.
- 5.3 Decisions regarding how to progress an enquiry should not be undertaken until all information has been considered. All decisions, and associated rationale, should be accurately recorded.

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- 5.4 Where there is any suggestion of criminality, an intelligence log must be submitted to the Scottish Intelligence Database (SID) at the earliest opportunity.
- 5.5 Officers attending incidents should be mindful of the provisions of Section 51, Criminal Justice (Scotland) Act 2003. This relates to a parent, carer or legal guardian physically punishing a child in their charge. Parents, carers or legal guardians might offer reasonable chastisement or punishment as an explanation for distress or injuries to a child.
- 5.6 The following factors should be considered when assessing whether or not a particular instance of punishment or chastisement constitutes an assault:
- The nature of what was done, the reason for it, and circumstances of it;
 - The duration and frequency;
 - Any effect (physical or mental) on the child;
 - The child's personal characteristics (including gender and health) at the time; and
 - The child's age.

6. Recording Child Protection Concerns

- 6.1 Child protection must be recorded on every occasion when the care of a child by their parent(s), guardian, carer, or in some instances another person, has been called into question, or where there is a suggestion that a child requires some level of care or protection. The form must be completed on iVPD at the earliest available opportunity, and always before the conclusion of the tour of duty, even if the enquiry is not complete at that time. The form must be checked by a supervisor.
- 6.2 The officer completing the child protection concern form should document full details of the nature of the concern raised, and all actions taken in response to the incident. This should include any involvement, at this early stage, of any other agency and any actions agreed or affected with that agency. The completion of the form does not negate the requirement to complete any other forms or reports as appropriate to the incident under investigation, e.g. Crime Report, Command and Control Incident, SID log etc.
- 6.3 All referrals must be notified to the relevant supervisor, at the earliest opportunity.

- 6.4 Prior to making initial contact with the Social Work Department (SWD), or immediately upon receipt of a referral from SWD, efforts should be made to maximise the use of available police information. The following information systems and databases should be checked and the results of such checks fully recorded:
- Criminal History System (CHS);
 - Police National Computer (PNC);
 - SID;
 - Public Protection Unit system / files or iVPD;
 - Local crime recording system;
 - Violent and Sex Offenders Register (VISOR);
 - Local Command and Control system
- 6.5 There may be some emergency situations when action will be taken prior to having all available information to hand. Again in these circumstances, it is imperative that all decisions made and actions taken are reasonable, fully justified and recorded.
- 6.6 The operational supervisor checking the relevant form is responsible for ensuring that an appropriate response has been provided, and that all decisions and actions taken are appropriate to the nature of the matter under investigation.

7. Inter-agency Referral Discussions (IRD)

- 7.1 The core agencies involved in IRD's police, social work and health.
- 7.2 Where one or more of the core agencies assesses that a child is at risk or may be at risk of harm, an Inter-agency Referral Discussion (IRD) will take place as the first stage of the child protection process, any of the core agencies can initiate an IRD.
- 7.3 Except where emergency measures are taken, IRDs will take place before any agency proceeds with an investigation, and before either a Joint Investigative Interview (JII) or Joint Medical Examination takes place. While it is desirable to have complete information on which to base joint decisions, there may be occasions where the core agencies need to make decisions on the information available to them at the time.
- 7.4 The appropriate supervisor (IRD Sergeant or duty Inspector) will carry out the IRD and must be notified at the earliest available opportunity in order to ensure the previous actions and decisions of the initial enquiry officer are correct, and to ensure that there is effective supervisory oversight and involvement in subsequent decision making. However, exchange of information must not be delayed unnecessarily pending the availability of a supervisor.

- 7.5 The purpose of the IRD is to share all relevant information known by each agency in relation to the child, other family members and other significant persons, and to make a shared decision about how the investigation will progressed.

8. Information Sharing

- 8.1 In terms of child protection responsibilities, police officers and other professionals have a duty of care towards children, which in general, overrides an individual's right to confidentiality.
- 8.2 Disclosure of information, which would normally be in breach of the right to privacy afforded under the Human Rights Act 1998, can be **justified for child protection purposes**, provided the sharing of the information is justified, necessary and proportionate to the circumstances of the case.
- 8.3 In terms of the Data Protection Act 1998, disclosure of personal data is justified if necessary to safeguard national security, to prevent or detect crime, to apprehend or prosecute offenders, or to protect the vital interests of a person.
- 8.4 All professionals and agencies have a responsibility to share information promptly in order to ensure a child's wellbeing. If there is **reasonable concern that a child may be at risk of harm, then this will always override any professional or agency requirement to keep information confidential**.
- 8.5 The police, like all other professionals are required to share all relevant information in their possession, which is pertinent to the child protection concern under discussion. **This includes information relating to previous convictions and intelligence.**

9. Intelligence

- 9.1 If at any time during a child protection investigation a suspect or accused is identified, an intelligence log must be submitted on SID at the earliest opportunity. It is the responsibility of the enquiry officer to ensure that relevant information is regularly updated which will assist in protecting those at risk of harm.
- 9.2 This information is crucial to ensuring the continued protection of groups at risk of harm, in compliance with disclosure requirements under the terms of the Part V of the Police Act 1997 and Protection of Vulnerable Groups schemes.
- 9.3 Information sharing with partners is crucial in child protection investigations, however care must be exercised with intelligence. Generally speaking only summaries of intelligence should be shared. Care must be taken to ensure that such disclosure does not compromise any ongoing police investigation and that the identity of the source of the intelligence remains protected.

10. Crime Recording

- 10.1 The recording of crime in relation to child protection concerns should be carried out in accordance with the Scottish Crime Recording Standard.
- 10.2 Where no criminality is reported or identified, staff should ensure that, in addition to the submission of the relevant Child Concern Form or equivalent, such minor, non-criminal child protection concerns are appropriately recorded on auditable systems such as Command & Control, Storm, etc.

11. Statutory Powers

- 11.1 Where it is considered necessary to remove a child from harm or risk of harm consideration may be given to invoking statutory powers under the Children's Hearing (Scotland) Act 2011, to apply for a CPO or, in an emergency situation, to remove a child to a place of safety.
 - 11.2 Such actions should only be carried out after careful consideration of all available options and where possible following consultation with a supervisory officer. Consideration must be given to the likely impact on the child of taking a particular course of action versus the degree of risk currently faced.
 - 11.3 A distinction must be drawn between removing a child to a place of safety and voluntarily placing them, temporarily, with alternative carers. In instances where children are left unattended, or where their parent, guardian or carer is found drunk and incapable of looking after them, or is arrested, it may be necessary to place the child in the temporary care of a family member, friend, neighbour or some other suitable person, rather than invoking statutory measures under the Children's Hearing (Scotland) Act 2011. This is less likely to cause distress to the child or children involved.
 - 11.4 When placing a child with alternative carers, officers must ensure that appropriate checks are carried out in relation to all known residents of the address where the child is to be accommodated. This includes checks of PNC, CHS, SID, Crime Management, VISOR and other relevant local systems.
 - 11.5 Checks must also be carried out with the SWD in order to fully assess the suitability of the proposed carer, taking account of all available information.
- 11.6. Child Protection Orders**
- 11.6.1 Where placing a child with an alternative carer is not a viable option, or where there is no suitable person(s) identified, it may be necessary to apply for a Child Protection Order (CPO). Such an order will only be granted where it is considered necessary to protect a child who has been, is or is likely to suffer significant harm as a result of treatment or neglect. The term 'significant harm' is detailed further in the National Guidance for Child Protection in Scotland (2014).

- 11.6.2 Under the legislation any person may apply to a Sheriff to grant a CPO to remove a child to a place of safety. Although the legislation allows any person to apply for an order, in the vast majority of cases this will be undertaken by SWD staff.
- 11.6.3 Police Officers may be called upon to serve copies of the order on the relevant parties or to be present whilst this is being carried out by partner agencies.
- 11.6.4 When a Sheriff grants an order, it ceases to have effect unless an attempt is made to implement it within 24 hours of it being granted. This period reduces to 12 hours, where the order is granted by a Justice of the Peace.
- 11.6.5 A person who intentionally obstructs a person acting under the authority of a CPO is guilty of an offence.
- 11.6.6 Sections 37 - 39 of the Children's Hearing (Scotland) Act 2011 outlines the procedure to be adopted when an application for a CPO is made to a Sheriff. Section 55 of the Children's Hearing (Scotland) Act 2011 outlines the procedure to be adopted for an application to a justice of the peace in circumstances (other emergency measures) when it is not practical for an application for a CPO to be made to or considered by a sheriff. Section 59 of the Children's Hearing (Scotland) Act 2011 relates to the obstruction offence.

11.7 Police Emergency Powers

- 11.7.1 Where the conditions for applying for a CPO are met, but it is not practicable to apply to a Sheriff for such an order, a constable may remove a child to a place of safety under section 56 of the Children's Hearing (Scotland) Act 2011. Before invoking their emergency powers officers should carefully consider the justification for their actions and whether the provisions of the legislation are met.
- 11.7.2 Contact must be made immediately with the SWD, in order to alert the department to the situation and to set in motion SWD procedures, including the identification of appropriate accommodation for the child.
- 11.7.3 As soon as practicable after a constable removes a child under this section, the constable must inform the Principal Reporter and take such steps as are practicable to inform the relevant persons as defined in Section 200 of The Children's Hearing Scotland Act 2011.
- 11.7.4 The Regulations as detailed in the Emergency Child Protection Measures (Scotland) regulations 1996 what information should be imparted and from whom certain information might be withheld where it is considered necessary to safeguard the welfare of the child
- 11.7.5 Where the child is able to understand and it is appropriate to do so, the child should be informed of the reasons for the emergency protection measures having been taken, and of any further steps that may be taken to ensure their ongoing protection.

11.7.6 Requests by the child for contact with other persons, including those with whom the child was living with immediately prior to the measures being taken, will have to be assessed on the merits of each individual case.

11.8 Child Assessment Orders

11.8.1 A Local Authority can apply to a sheriff for a Child Assessment Order, which enables an officer of a local authority or a person authorised by that officer to carry out an assessment of the child's health or development, or the way in which the child has been or is being treated or neglected. Section 59 of the Children's Hearing (Scotland) Act 2011 relates to the obstruction offence.

11.9 Exclusion Orders

11.9.1 Exclusion orders set in place by the Children (Scotland) Act 1995 have not been repealed and replaced by the Children's Hearing (Scotland) Act 2011. An exclusion order has the effect of removing an abuser from the family home and may be used as an alternative to a CPO, which removes the child. The effect of this order is intended to reduce the possibility of a traumatic impact on the child being removed from the home, in addition to the suffering already caused by the abuse. Only a local authority can apply for an exclusion order and three conditions must be satisfied before the sheriff grants the order, specifically:

- (a) That the child has suffered, is suffering, or is likely to suffer, significant harm as a result of any conduct, or any threatened or reasonably foreseen conduct of a named person.
- (b) That the making of an exclusion order against the named person.
 - (i) Is necessary for the protection of the child (irrespective of whether the child is for the time being residing in the family home) and
 - (ii) That, if an order is made, there will be a specified person in the family home who can take responsibility for caring for the child and any other member of the family who needs such care.

11.9.2 Section 78 (6) of the Children (Scotland) Act 1995 stipulates that a constable may arrest without warrant a person named in an Exclusion Order to which a power of arrest has been attached, if the police officer has reasonable cause to suspect the named person is in breach of the Order.

11.9.3 The granting of an Exclusion Order is a civil process and therefore arrest can be effected on the evidence of one witness. The Act is silent on the issue of evidential requirement.

11.9.4 A power of arrest is never automatically attached to any Interdict or Exclusion Order granted under the 1995 Act. **Before taking any action** staff must enquire with the Records Department (or local equivalent) to check the existence and validity of any Exclusion Order or Interdict and any power of arrest that is said to be attached.

12. Interviewing Children

- 12.1 The Scottish Government's document 'Guidance on Joint Investigating Interviewing of Child Witnesses in Scotland (2011)', gives practitioners and managers comprehensive guidance on the arrangements and standards expected when child witnesses are to be interviewed.
- 12.2 The decision on the need for a JII of a child witness will be taken by the core agencies, health, police and social work during the IRD.
- 12.3 The use of Visually Recorded Interview (VRI) equipment has become standard practice and trained officers should be familiar with this. Refer to Part 6 and Appendix C of the Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland (Scottish Government 2011)

13. Medical Examination

- 13.1 The necessity for a child to receive immediate medical attention must always take precedence over any investigative requirement.
- 13.2 In all cases where any form of abuse or neglect of a child is suspected, the need for medical assessment must be discussed during the IRD.
- 13.3 The decision to undertake a medical examination, the nature of examination required and timing including not to examine must be made by the on-call paediatrician for Child Protection in discussion with other core agencies. Such decisions should be clearly and accurately documented. The examination must be undertaken by a suitably trained doctor.
- 13.4 Due consideration should be given to the preservation of forensic evidence that can be lost as soon as 72 hours after sexual activity, but the need to collect or preserve evidence should not override the welfare needs of the child, which are always of paramount consideration. The opportunity should be taken to arrange for photographic evidence to be obtained at the same time as a medical examination, to help prevent any further unnecessary trauma to the child. (See section on Consent below)

13.5 Consent

- 13.5.1 The Age of Legal Capacity (Scotland) Act 1991 states that any child under the age of 16 years shall have the legal capacity to consent on his or her own behalf to any surgical, medical or dental procedure or treatment, including psychological or psychiatric examination where, in the opinion of a qualified medical practitioner attending him/her, he/she is capable of understanding the nature and possible consequences of the procedure or treatment.

- 13.5.2 Where the medical practitioner has accepted the consent given by a child, to a medical examination, the parent, guardian or carer should also be consulted as a matter of good practice. However, there is no legal requirement for this. Should the parent, guardian or carer refuse consent, it is acceptable for the medical examination to proceed against their wishes. However, in such cases, the medical examiners may refuse to proceed with the medical examination without that parental consent. Ultimately this decision about whether or not to proceed rests with the medical examiners.
- 13.5.3 Where a parent, guardian or carer refuses consent, or where they have not been asked because of the circumstances of the case, the Local Authority can apply to a sheriff for a Child Assessment Order or Child Protection Order to allow the medical examination to take place.
- 13.5.4 If the Child Assessment or Child Protection Order is not granted, then consideration should be given to applying to COPFS with a view to obtaining a warrant to carry out the examination.

13.6 Conducting the Medical Examination

- 13.6.1 In more serious or sexual cases, investigating officers, will accompany a victim to the medical examination. The officer will typically be within the same room, but screened from the victim during the medical examination. The officer's key function is to receive medical productions from the examiner thereby ensuring continuity of evidence.
- 13.6.2 Police officers are expected to brief medical staff prior to the examination commencing, providing appropriate detail in relation to the nature of the allegation and / or any disclosure made by the child. Relevant background information on the child, the family and any previous allegations of abuse or suspected abuse should also be provided.
- 13.6.3 Officers should be given the opportunity to discuss with the Forensic Physician / Medical Examiner and Paediatrician which forensic samples they think are most relevant. This should be discussed before the examination commences as part of the briefing. Police officers are trained to investigate and gather evidence and should maximise opportunities to seize vital evidence.
- 13.6.4 Following examination, the doctor should give an immediate account of their findings to the officer in attendance. The doctor will also submit a written report of their findings including their considered opinion. A written statement will be required to be noted from the doctor in support of their findings.

13.7 Photographing Of Injuries

- 13.7.1 When a child has visible injuries that require to be photographed, this should be carried out by a Scene Examiner (SE) and if appropriate, at the same time as the medical examination is conducted.

- 13.7.2 Whilst not specifically covered by the Age of Legal Capacity (Scotland) Act 1991, mentioned above, similar considerations as to those outlined regarding medical examination should be applied to the issue of obtaining consent for the taking of photographs. The taking of evidential photographs should be specifically covered in the discussions on consent with the child and, where appropriate, i.e. in most cases, the parent, guardian or carer.
- 13.7.3 The taking of evidential photographs might form part of the requirement to apply for a Child Assessment / Protection Order (see section 15 above).

14. Child Protection Case Conferences

- 14.1 A Child Protection Case Conference (CPCC) is a formal multi-agency meeting where agencies' assessments, including chronologies and risk assessments are shared and necessary actions to protect a child are identified and agreed through a Child Protection Plan (CPP). A key decision is whether a child will be placed on the Child Protection Register (CPR).
- 14.2 There are four types of CPCC: Pre-birth, Initial, Review and Transfer. Participants should be given a minimum of 5 calendar days' notice of the decision to convene a CPCC wherever possible.
- 14.3 Sharing and proper analysis of all available information about the child, their siblings and significant adults in the child's life are key to making correct decisions at a CPCC.
- 14.4 A child attending a CPCC will be given the opportunity to have a support person accompany them. Staff should exercise caution and ensure that the attendance at the CPCC of the parent, guardian or support person does not contravene any bail conditions.

15. Child Protection Register

- 15.1 The Child Protection Register (CPR) is a central register maintained by each Local Authority SWD. It contains details of all children who are considered to be at risk of significant harm following a decision at a Case Conference.
- 15.2 Registration alerts agencies to the fact that there is a level of professional concern about a child, and ensures that plans for these children are formally reviewed. A Child Protection Plan is multi-disciplinary in nature and is structured to ensure that children on the CPR are continually monitored and their immediate and long term needs are met.
- 15.3 The decision about whether to record a child's name on the CPR is made at a Child Protection Case Conference.

15.4 When a police officer receives information regarding a child's name being recorded on the local child protection register, it is essential that further information is obtained regarding the nature of the risk that resulted in the registration. Consideration should be given to highlighting this on appropriate local IT systems.

16. Domestic Incidents and Children

16.1 The identification of children who may be at risk in such circumstances is the responsibility of the initial enquiry officer ensuring their safety and well-being.

16.2 Officers in attendance at any domestic abuse incident should take steps to identify all children present and any other children who are not present at that time but who may be exposed to the abuse as a result of being ordinarily resident within the same household (either on a temporary or permanent basis). Please refer to Domestic Abuse SOP or Domestic Abuse Toolkit.

17. Child Death Investigations

17.1 Most deaths in infancy occur as a result of natural causes. The term Sudden Unexpected Death in Infancy (SUDI) is used when the death of a child is unexpected, and in which a thorough post mortem examination fails to evidence a recognised cause of death.

17.2 Responding officers must notify CID officers immediately and seek their attendance at the locus as soon as possible. Thereafter scene management and investigation will be undertaken by CID / PPU trained officers.

17.3 Due regard should be given to cultural, faith, religious or other beliefs that might be held by a family. These might relate to how a body is handled or any post mortem investigation. Whilst such matters should not interfere with any investigation, reasonable requests should be accommodated where possible.

17.4 The SIO should ensure that the following matters are considered:

- That an Inter-agency Referral Discussion (IRD) is carried out between Police, Social Work and Health for any other siblings/children who are or likely to be at risk of harm;
- Interviewing child witnesses (joint interviews if appropriate);
- Consider the immediate welfare of any other siblings/children in the household;
- Liase with the relevant Social Work Department (SWD) to ensure that records are checked, including the Child Protection Register (including previous registrations);
For further information refer to SUDI Scotland Toolkit.

17.5 Officers can refer to the Investigation of Death SOP for further information.

18. Child Sexual Exploitation (CSE)

18.1 For further information refer to the Child Sexual Exploitation Intelligence Toolkit.

19. Underage Sexual Activity

19.1 Where enquires or disclosures relate to, or uncover, what is considered to be consensual underage sexual activity, officers and staff should refer to the following guidance:

- Sections 30 and 37, Sexual Offences (Scotland) Act 2009;
- Guidance on the Sexual Offences (Scotland) Act 2009 (Scottish Government 2010);
- Underage Sexual Activity (USA) SOP
- Lord Advocate's Guidelines to Chief Constables: Reporting to Procurators Fiscal of Offences Alleged to Have Been Committed By Children (November 2010).

20. Human Trafficking and Unaccompanied Asylum Seeking Children

20.1 For further information refer to the Human Trafficking SOP.

21. Female Genital Mutilation (FGM)

21.1 Child protection procedures must always be adhered to in relation to any report of FMG concerning a child. Consideration must be given to the safety of the child and any additional siblings or family members.

21.2 The Prohibition of Female Genital Mutilation (Scotland) Act (2005) makes it unlawful to carry out any of the procedures detailed above on a girl or a woman. It is also an offence under the Act to carry out FGM abroad, or to aid, abet, counsel or procure the carrying out of FGM abroad, even in countries where the practice is not banned by law.

21.3 The Act includes a defence whereby no offence is committed if an approved person carries out a surgical operation on another person, which is necessary for that other person's physical or mental health, or who is in any stage of labour or has just given birth, for purposes connected with the labour or birth. An approved person is a registered medical practitioner, a registered midwife

or a person undergoing a course of training with a view to becoming such a practitioner or midwife.

21.4 In some instances police may receive information in circumstances where there are opportunities to intervene to prevent FGM occurring. In such cases, the primary objective is the protection of the individual involved and the prevention of any future risk of harm to the intended victim. Where this involves a child or young person, it may be necessary to invoke Inter-agency Child Protection Procedures in order to protect them.

21.5 Associated Crimes and Incidents

21.5.1 Officers should be alert to the potential for other crimes and offences perpetrated during or prior to the commission of FGM. The following examples provided are not exhaustive:

21.5.2 FGM can involve the abduction of victims and children from the UK. Typically, in such cases, the victim, who may be a child or young person, is induced or forced by immediate family members to travel abroad for a holiday or to visit relatives. The victim may later return to the UK having been forced to marry and, or subjected to FGM or other forms of violence and in other instances they may just disappear. In all cases the primary objective is prevention and protection.

21.5.3 If a victim is taken abroad, the Foreign and Commonwealth Office (FCO) may assist in repatriating them to the UK. In these circumstances, the FCO will take primacy for such operations.

21.5.4 In cases of abduction, officers should immediately notify the on call Senior Detective Officer who will implement procedures, notify the on call Detective Superintendent and refer to the Child Abduction SOP, Kidnap and Extortion SOP and the NPIA Kidnap and Extortion Manual (copy on CD held by Kidnap Champions in Divisions) and the Child Rescue SOP

21.6 Recording Procedures

21.6.1 It is essential that all concerns of Female Genital Mutilation (FGM) are appropriately recorded on the iVPD, SID and crime recording systems accordingly.

- To assist in highlighting FGM incidents, specific headings and sub-headings are available and must be utilised when raising an intelligence record. Where intelligence is available in relation to FGM, the 'Violence' heading should be used in conjunction with 'Female Genital Mutilation' sub-headings.

22. Non-Recent Child Abuse Enquiries

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- 22.1 For the purpose of this SOP, non-recent child abuse enquiries will be considered to include all reports of child abuse which are reported to the police or partner agencies after a significant period of time has elapsed. This could be a number of years or even decades after the reported abuse took place.
- 22.2 When investigating Non-Recent child abuse enquiries, an inter-agency approach should be adopted in all cases where the complainer is still a child.
- 22.3 Police officers investigating such cases must remain mindful of the fact that the alleged perpetrator may continue to pose a risk to children, regardless of the length of time which has elapsed since the original offence took place.
- 22.4 In all cases, a full risk assessment must be carried out, not only in relation to the home circumstances or living arrangements of the suspect or accused person, but also assessing employment patterns and any hobbies or interests which the alleged perpetrator participates in. Consideration should be given to making a Public Interest Disclosure.
- 22.5 As referred to above under Section 10 Crime Recording, staff should take care when dealing with Non-Recent enquiries and ensure that they establish which offences were in force at the material time to allow relevant and valid charges to be libelled.

23. SCRA and COPFS

- 23.1 Section 61 of the Children's Hearing (Scotland) Act 2011 provides a **statutory duty** on a constable to provide information to the Principal Reporter, Scottish Children's Reporter Administration (SCRA) where the constable considers:
- a. that a child is in need of protection, guidance, treatment or control, and;
 - b. that it may be necessary for a compulsory supervision order to be made in relation to the child
- 23.2 In addition, a report must be submitted to the Principal Reporter if a child is reported for committing an offence (duty to make reports in relation to commission of offences) as well as to the appropriate prosecutor.
- 23.3 Section 67 of the Children's Hearings (Scotland) Act 2011 determines that the Principal Reporter must consider whether grounds contained in subsection (2) of the act relate to the child and, if so, whether it is necessary for a compulsory supervision order to be made in respect of the child.
- 23.4 The Act provides that when discharging his/her duties as per Section 61 of the Act, the constable **must** give the Principal Reporter all relevant information that has been discovered in relation to the child.
- 23.5 Dependent on the circumstances and complexities of the case under investigation, it may be considered appropriate to contact COPFS and SCRA

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at an early stage in order to advise them of the nature of the enquiry, and to seek additional advice or direction.

- 23.6 Where sufficient evidence exists to charge a suspect with an offence against the child, then the relevant reporting system should be completed prior to termination of duty to ensure the relevant trigger is in place to allow compliance with disclosure obligations under Part V of the Police Act 1997 and Protection of Vulnerable Groups (Scotland) Act 2007.
- 23.7 In circumstances where there is insufficient corroborative evidence to establish criminal involvement, then it may be necessary to submit details of the circumstances to SCRA.
- 23.8 When an officer considers that the victim or witness may require additional support, then this information should be recorded within the Standard Police Report.
- 23.9 Evidence of a prior identification is admissible at Court in certain circumstances, and when completing an SPR officers should request in the remarks section that a section 267B order is requested at court to compel an accused to attend for an identification parade.

24. Sex Offenders Community Disclosure Scheme (SOCDS) - Keeping Children Safe

- 24.1 The Sex Offender Community Disclosure Scheme operating in Scotland is known as Keeping Children Safe. It should be highlighted that if a child is suspected of being or identified as being at immediate risk of harm, the Keeping Children Safe Scheme is not the means by which to address this risk, and the emergency child protection procedures detailed in earlier chapters should be instigated. For more information refer to the Keeping Children Safe SOP.

25. Public Interest Disclosure

- 25.1 When dealing with a child protection investigation, officers must carefully consider, and try to establish, whether or not a suspect or accused poses any risk to any children or vulnerable adults, particularly as a result of his or her employment or involvement in voluntary activities involving access to such groups.
- 25.2 Where such a risk is identified, officers should consider the need for a public interest disclosure to be made to the employer or organisation concerned. This should always be considered at an early stage in any investigation.

- 25.3 Officers should also bear in mind that accused persons can themselves make a disclosure to their employer or family. Such 'self-disclosure' can be the simplest and most effective means by which to ensure that those who need to have an awareness of the risk posed by an offender or suspect do so. This will allow them to take the steps necessary to mitigate that risk.
- 25.4 Depending on the circumstances, such a disclosure may form part of the legislative regimes under Part V of the Police Act 1997 or the Protection of Vulnerable Groups (Scotland) Act 2007. Out-with these provisions, any disclosure would be a disclosure in the public interest.
- 25.5 For further guidance officers must refer to the Disclosure, PVG and Part V SOP or make contact with Information Management.

26. Risk of Sexual Harm Order

- 26.1 The Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 introduced legislation in relation to the grooming of children and provides for Risk of Sexual Harm Orders (RoSHO). When dealing with an enquiry into a sexual offence against a child under 16, consideration should be given to applying for a RoSHO at an early stage, please refer to the Risk of Sexual Harm Order (**RoSHO**) Guidance Document, available on the intranet.
- 26.2 Application for a RSHO will usually be progressed by or in conjunction with the local offender management unit.
- 26.3 For further guidance in relation to this please refer to the Offender Management SOP.

27. Child Suspects

- 27.1 For the most up to date guidance in this area, staff should refer to the Care and Welfare of Persons in Police Custody PSoS SOP and the Offending by Children PSoS SOP . Part 5 of the Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland (Scottish Government 2011) also provides advice on Complicating Factors at page 47 – when the child witness becomes a suspect.
- 27.2 For the avoidance of doubt, social work staff who would routinely be present during the joint investigative interview of a child witness will not be present during the interview of a child suspect. However, any child suspect under 16 years of age or a child suspect who has attained the age of 16 or 17 and is the subject of a compulsory supervision order or an interim compulsory supervision order, made under the children's hearings (Scotland) Act 2011 must have a solicitor present during interview, except with the agreement of the relevant person.
- 27.3 A relevant person” means—

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- (i) Any person who is entitled to have access to the child in police custody
- (ii) If the child is not in police custody, a relevant person is someone who is at least 18 years of age, and is reasonably named by the child.

27.4 In addition to any solicitor, or interpreter that might be required, a child suspect is also entitled to have a responsible adult / relevant person present during interview. This could fall to a member of the SWD in certain circumstances, e.g. no parent or guardian available or where the local authority has parental rights.

27.5 Officers should also refer to:

- Lord Advocate's Guidelines 'Reporting to Procurator Fiscals of Offences Alleged to have been Committed by Children;
- Offending by Children SOP;
- Crime Investigation SOP;
- Care and Welfare of Persons in Custody SOP.

28. Staff Welfare

28.1 Given the very nature of this element of policing, there will be occasions where individuals are exposed to traumatic incidents. These traumatic incidents are events with the potential to have a particularly distressing impact on individuals. For further guidance please refer to local guidance in relation to Occupational Health.

28.2 There is a range of support and welfare services available to all staff of the Police Service of Scotland and officers, but particularly supervisors, should familiarise themselves with these. For further guidance please refer to local guidance in relation to Welfare.

List of Associated Legislation

- The Age of Legal Capacity (Scotland) Act 1991
- Children and Young Persons (Scotland) Act 1937
- Children (Scotland) Act 1995
- Children's Hearing (Scotland) Act 2011
- Criminal Justice (Scotland) Act 2003
- Criminal Procedure (Scotland) Act 1995
- Criminal Law (Consolidation) (Scotland) Act 1995
- Civic Government (Scotland) Act 1982
- Data Protection Act 1998
- Emergency Child Protection Measures (Scotland) Regulations 1996
- Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011
- Mental Health (Care and Treatment) (Scotland) Act 2003
- Part V of the Police Act 1997
- Prohibition of Female Genital Mutilation (Scotland) Act 2005
- Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005
- Protection of Vulnerable Groups (Scotland) Act 2007
- Vulnerable Witnesses (Scotland) Act 2004
- Victim and Witnesses (Scotland) Act 2014

List of Associated Reference Documents

- Protecting Children and Young People - Child Protection Committees (Scottish Government).
- Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland (Scottish Government 2011)
- MAPPA National Guidance 2012 (Scottish Government) – Section 20 and Annex 9
- Protecting Children & Young People: Interim Guidance for Child Protection Committees for Conducting a Significant Case Review (Scottish Executive 2007);
- Guidance on the Sexual Offences (Scotland) Act 2009 (Scottish Government 2010)
- Lord Advocate's Guidelines to Chief Constables on the Investigation and Reporting of Sexual Offences
- Safeguarding Children & Young People from Sexual Exploitation (UK Government 2009 Statutory Guidance 2009)
- Productions SOP
- Domestic Abuse SOP
- Honour Based Violence, and Forced Marriage SOP
- Disclosure SOP
- Data Protection Policy
- Keeping Children Safe SOP
- Offender Management SOP
- Human Trafficking SOP
- National Guidance for Child Protection in Scotland (Scottish Government, 2014)
- GIRFEC – National Guidance for the Scottish Police Service (ACPOS 2010)
- Interpreting and Translating Services SOP
- Sexual Crime Investigation SOP
- Sudden Deaths SOP
- Offending by Children SOP
- Crime Investigation SOP
- Underage Sexual Activity (USA) SOP

Offences for Consideration in a Child Protection Investigation

This list is not intended to be exhaustive and where any uncertainty exists, staff should consult with a supervisor or local CID or PPU staff as appropriate.

General

- Children & Young Person (Scotland) Act 1937
s12. Prevention of Cruelty and Exposure to Moral and Physical Danger
- Children's Hearing (Scotland) Act 2011
s.59. Offences in Connection with Orders etc for the Protection of Children (obstruction)
s.171. Offences in Connection with Orders etc for the Protection of Children (harbouring)

Sexual Offences

- Sexual Offences (Scotland) Act 2009
All offences could be relevant, but the following are of particular note: Part 4: Child Sex Offences (sections 18 to 41)

Young children

- s18. Rape of a young child
- s19. Sexual assault on a young child by penetration
- s20. Sexual assault on a young child
- s21. Causing a young child to participate in a sexual activity
- s22. Causing a young child to be present during a sexual activity
- s23. Causing a young child to look at a sexual image
- s24. Communicating indecently with a young child etc
- s25. Sexual exposure to a young child
- s26. Voyeurism towards a young child
- s27. Belief that child had attained the age of 13 years

Older Children

- s28. Having intercourse with an older child
- s29. Engaging in penetrative sexual activity with or towards an older child
- s30. Engaging in sexual activity with or towards an older child
- s31. Causing an older child to participate in a sexual activity
- s32. Causing an older child to be present during a sexual activity
- s33. Causing an older child to look at a sexual image
- s34. Communicating indecently with an older child etc
- s35. Sexual exposure to an older child
- s36. Voyeurism towards an older child
- s37. Older children engaging in sexual conduct with each other
- s38. Penetration and consent for the purposes of section 37
- s39. Defences in relation to offences against older children

Part 5 Abuse of Position of Trust

Children

S42. Sexual Abuse of Trust

See also - Guidance on the Sexual Offences (Scotland) Act 2009 (Scottish Government 2010)

- Criminal Law (Consolidation)(Scotland) Act 1995

Some sections of this Act have been repealed by the Sexual Offences (Scotland) Act 2009 and new offences created. However these sections may still be of relevance to historical enquiries.

s1. Incest – still current

s2. Intercourse with Step-Child - still current

s3. Intercourse of Person in Position of Trust with Child Under 16 - REPEALED but may be of relevance to historic offences)

s5. Intercourse with Girl Under 16 / Indecent Behaviour Towards Girl Between 14 & 16 – REPEALED (but may be of relevance to historic offences)

Indecent Images Of Children / eCrime Related Offences

- Sexual Offences (Scotland) Act 2009
 - s33. Causing an older child to look at a sexual image
 - s34. Communicating indecently with an older child etc
- Civic Government Scotland Act 1982
 - s52. Indecent Photographs etc of Children
 - s52A. Possession of indecent photographs of children
- Communications Act 2003
 - s127. Improper Use of a Public Electronic Communications Network
- Criminal Justice & Licensing (Scotland) Act 2010
 - s38. Threatening or Abusive Behaviour
- Protection of Children & Prevention of Sexual Offences (Scotland) Act 2005
 - s1. Meeting a Child Following Certain Preliminary Conduct ("Grooming" offence)
 - ss9 -12. Sexual Services of Children & Child Pornography

Honour Based Violence, Female Genital Mutilation & Forced Marriage

- Prohibition of Female Genital Mutilation (Scotland) Act 2005
 - s1. Offence of Female Genital Mutilation
 - s3. Aiding & Abetting female Genital Mutilation
- Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011
 - s9. Offence of Breaching Order (Forced Marriage Protection Order)

TRAFFICKING / ABDUCTION / PROSTITUTION

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- Criminal Law (Consolidation) (Scotland) Act 1995
 - s8. Abduction and Unlawful Detention (of woman or girl in a brothel)
 - s9. Permitting Girl to Use Premises for Intercourse
 - s10. Seduction, Prostitution, etc., of Girl under 16
 - s12. Allowing Child to be in Brothel
- Criminal Justice (Scotland) Act 2003
 - s22. Traffic in Prostitution etc.
- Criminal Justice and Licensing (Scotland) Act 2010
 - s46. People Trafficking
 - s47. Slavery, Servitude and Forced or Compulsory Labour
- Asylum and Immigration (Treatment of Claimants, etc.) Act 2004
 - s4. Trafficking People for Exploitation