

## SECTION 2

### ESSENTIAL INFORMATION

#### 1. KEY TERMS IN THE CHILD PROTECTION PROCESS

##### **Safeguarding and promoting the welfare of children**

1.1 Safeguarding and promoting the welfare of children means:

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

1.2 Young people at serious risk of community based violence such as gang, group and knife crime are likely to have significant needs. Agencies and professionals need to ensure that the safeguarding process responds effectively to the needs of children at risk of violence within the community. This may involve both the perpetrators and victims of violent activity.

##### **Child protection**

1.3 Child protection is a part of safeguarding and promoting welfare. This refers to activity that is undertaken to protect specific children who are suffering, or are likely to suffer, significant harm.

##### **Child in need**

1.4 Section 17 of the Children Act 1989 places a duty on local authorities:

- To safeguard and promote the welfare of children in need, and
- So far as consistent with that duty, to promote the upbringing of children in need by their families,

By providing a range and level of services appropriate to those children's needs.

1.5 A child is in need if:

- They are unlikely to reach or maintain a reasonable standard of health or development without the provision of services; or
- Their health or development is likely to be significantly impaired without the provision of services; or

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- They are disabled.

1.6 In this definition:

- Health means physical or mental health, and
- Development means physical, intellectual, emotional, social or behavioural development.

1.7 The critical factors to be taken into account in deciding whether a child is in need are:

- What will happen to the child's health or development without services being provided; and
- The likely effect the provision of services will have on the child's standard of health and development.

### **Child in need of protection**

1.8 A child is in need of protection if they are suffering, or likely to suffer, significant harm which is attributable to a lack of adequate parental care or control.

### **Significant harm**

1.9 In these procedures –

- Harm means ill-treatment of a child or impairment of a child's health or development (as defined in paragraph 1.3 above) and includes harm caused by seeing or hearing the ill-treatment of another person.
- Ill-treatment includes sexual abuse and forms of ill-treatment which are not physical.

1.10 There are no absolute criteria for judging when harm is significant. Relevant considerations include the degree and extent of physical harm, the duration and frequency of abuse and neglect, the extent of premeditation, the presence or degree of threat, coercion, sadism, and bizarre or unusual elements. Sometimes a single traumatic event may constitute significant harm, e.g. a violent assault, suffocation or poisoning. More often significant harm is a compilation of significant events, both acute and long-standing, which interrupt, change or damage the child's physical and psychological development. In each case, it is necessary to consider any maltreatment alongside the family's strengths and supports and the likelihood of improvements in the care of the child.

1.11 To identify and understand significant harm it is necessary to consider:

- The nature of the harm, in terms of maltreatment or failure to provide adequate care;

- The impact of the harm on the child's health and development;
- The child's development within the context of their family and wider environment;
- Any special needs, such as a medical condition, communication impairment or disability, that may affect the child's development of care within the family;
- The capacity of the parents to meet the child's needs adequately; and
- The wider and environmental family context.

To do this depends on communicating effectively with children and young people, including those who find it difficult to do so because of their age, an impairment, or their particular psychological or social situation.

### **Section 47 enquiries**

1.12 Section 47 of the Children Act 1989 places a duty on the local authority to make whatever enquiries seem necessary to enable them to decide whether they should take any action to safeguard and promote a child's welfare.

1.13 This duty comes into force if:

- The local authority has reasonable cause to suspect that a child who is in their area, or a child who normally lives in their area, is suffering, or is likely to suffer, significant harm; or
- The local authority has applied for, and obtained, an Emergency Protection Order; or
- The local authority is informed that a child who is in their area, or a child who normally lives in their area, is the subject of an Emergency Protection Order; or
- The local authority is informed that a child who is in their area, or a child who normally lives in their area, is in police protection.

### **Abuse and neglect**

1.14 Abuse and neglect are forms of maltreatment of a child. Somebody may abuse or neglect a child by inflicting harm, or by failing to prevent harm. Children may be abused in a family or in an institutional setting, by those known to them or, more rarely, by a stranger. They may be abused by an adult or adults, or by another child or children.

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### Physical abuse

- 1.15 Physical abuse may involve hitting, shaking, throwing, poisoning, burning or scalding, drowning, suffocating or otherwise causing physical harm to a child. Physical harm may also be caused when a parent or carer fabricates the symptoms of, or deliberately induces, illness in a child.

### Emotional abuse

- 1.16 Emotional abuse is the persistent emotional maltreatment of a child such as to cause severe and persistent adverse effects on the child's emotional development. It may involve conveying to children that they are worthless or unloved, inadequate, or valued only insofar as they meet the needs of another person. It may feature age or developmentally inappropriate expectations being imposed on children. These may include interactions that are beyond the child's developmental capability as well as overprotection and limitation of exploration and learning, or preventing the child participating in normal social interaction. It may involve seeing or hearing the ill-treatment of another person. It may involve serious bullying causing the child frequently to feel frightened or in danger, or the exploitation or corruption of children. Some level of emotional abuse is involved in all types of maltreatment of a child, though it may occur alone.

### Sexual abuse

- 1.17 Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (e.g. rape, oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching the outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse (including via the internet). Sexual abuse is not solely perpetrated by adult males: women can also commit acts of sexual abuse, as can other children.

### Neglect

- 1.18 Neglect is the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in the severe impairment of the child's health or development. Neglect may occur during pregnancy as a result of maternal substance abuse. Once a child is born, neglect may involve a parent or carer failing to:
- Provide adequate food, clothing or shelter (including exclusion from home or abandonment);
  - Protect a child from physical and emotional harm or danger;
  - Ensure adequate supervision (including the use of inadequate care-takers); or

- Ensure access to appropriate medical care or treatment.

It may also include neglect of, or unresponsiveness to, a child's basic emotional needs.

## **2. THE HUMAN RIGHTS ACT 1998 AND CHILD PROTECTION**

2.1 Actions taken under the child protection procedures will raise issues under the Human Rights Act if they interfere with the right to respect for private and family life. For example, this will apply if the parents and/or the child withhold consent to the carrying out of section 47 enquiries, or to the sharing of personal information about them at a child protection conference. It is also likely to apply to any immediate action taken to safeguard a child.

2.2 The Human Rights Act states that such action is justified only when it is necessary –

- In the interests of national security, public safety or the economic well-being of the country;
- For the prevention of disorder or crime;
- For the protection of health or morals; or
- For the protection of the rights and freedoms of others,

And that the action taken must be proportionate to the purposes to be achieved.

2.3 The process of a child protection conference also has the potential for interference with the right to a fair trial. In addition to the above conditions, the holding of a conference is justifiable only if:

- The parents and child are involved in decision making to the maximum extent which is consistent with the child's welfare; and
- The parents and child are made aware that conference decisions can be challenged - see Chapter 12 of Section 6 [The Initial Child Protection Conference and the Child Protection Plan].

## **3. COURT ORDERS ETC**

*This is a brief summary and must not be regarded as a full statement of the law*

### **Police protection**

3.1 Police protection is a police power which can be used in exceptional circumstances in which urgent action is necessary to protect a child's immediate safety, and there is insufficient time to obtain an Emergency Protection Order.

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- 3.2 If a police officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, he/she may:
- Remove the child to suitable accommodation; or
  - Take steps to prevent the child's removal from any hospital or other place where she/he is being accommodated.

No child may be kept in police protection for more than 72 hours.

- 3.3 Police protection does not grant parental responsibility to the police or the local authority – parental consent is still required for any medical examination or investigation.
- 3.4 While the child is in police protection, the police must allow reasonable contact between the child and his/her family if this is in the child's best interests.

### **Emergency protection order**

- 3.5 An emergency protection order is a court order to secure the immediate safety of a child by removing the child to a place of safety or by preventing the removal of the child from a place of safety. Any person may apply for the order but in practice applications are made by children's social care.
- 3.6 The court may make an emergency protection order if it is satisfied that there is reasonable cause to believe that a child is likely to suffer significant harm unless:
- She/he is removed to accommodation provided by the applicant; or
  - She/he remains in the place where she/he is currently being accommodated (for example a hospital)
- 3.7 The order gives the applicant power to remove the child or to prevent the child's removal. It gives the applicant parental responsibility for the child. The order remains in force for up to 8 days.
- 3.8 An emergency protection order can include a direction that the child be given a medical or psychiatric examination. The child can however refuse the examination if they have sufficient understanding to make an informed decision about this.
- 3.9 The court may give directions about the contact which is, or is not, to be allowed between the child and any named person. Subject to those directions, reasonable contact between the child and his/her parents must be allowed.
- 3.10 The court may add an exclusion requirement to an emergency protection order. This allows a suspected perpetrator to be removed from the home rather than having to remove the child.

**Care order (interim or full)**

- 3.11 A care order is a court order which places a child in the care of the local authority. While the order is in force, the local authority shares parental responsibility for the child with the parents. The local authority may restrict the extent to which the parents will be allowed to exercise their parental responsibility if this is necessary in order to safeguard or promote the child's welfare.
- 3.12 A full care order remains in force until the child's 18<sup>th</sup> birthday, unless the court discharges it earlier. An interim care order is a short-term order made during court proceedings.
- 3.13 While a care order is in force, children's social care has a duty to allow reasonable contact between the child and his/her parents. The court can make an order setting out the contact which must be allowed, or an order which permits children's social care to refuse to allow contact.
- 3.14 An interim care order can include a direction that the child be given a medical or psychiatric examination. The child can however refuse the examination if they have sufficient understanding to make an informed decision.
- 3.15 The court may add an exclusion requirement to an interim care order. This allows a suspected perpetrator to be removed from the home rather than having to remove the child.

**Recovery order**

- 3.16 A recovery order provides legal powers to help secure the return of a child who is missing from their placement. A recovery order may only be made in respect of a child who is subject to:
- A care order
  - An emergency protection order; or
  - Police protection
- 3.17 A recovery order authorises the police to search premises for the child, requires people with knowledge of the child's whereabouts to divulge the information and requires the child to be produced by anyone able to do so. The order can only be made following an application to the court.