

West Midlands Draft Joint Protocol

Child Protection Enquiries and Related Criminal Investigations



Working Together to
Safeguard Children



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This protocol has been agreed by the seven local authorities within the West Midlands area, Birmingham, Coventry, Dudley, Sandwell, Solihull, Walsall, Wolverhampton and West Midlands Police as a framework for joint agency working in child protection. Staff that are or may be involved in the protection of children need to have a working knowledge of this document. They should refer to the relevant sections as required and are expected to adhere to this protocol in their working practice.

To achieve effective working together and support the delivery of this protocol all agencies will adopt a joint approach at a strategic level and participate in joint training.

Each agency signing up to this joint protocol is expected to generate local procedures that reinforce this protocol or incorporate it into existing procedures

Overriding Vision for Local Authorities and Police in the West Midlands

The agencies that are party to this protocol have committed to the following vision for working together in the West Midlands:

- To safeguard the child or young person
- To maximise the involvement of children and their families in child protection processes
- To ensure that all child protection enquiries address each child / young person's needs, including their race, religion, culture, language and ability
- To improve outcomes for the child or young person
- To take individual responsibility to achieve effective collaboration and communication between agencies
- To adhere to Working Together and identified good practice
- LSCBs will be responsible for ensuring the effectiveness of joint investigation arrangements
- Joint responsibility not to contaminate the collation of evidence for criminal proceedings

Agreed Approach

In working together to safeguard and promote the welfare of children Local Authorities and Police in the West Midlands will ensure their approach is underpinned by the following principles (Working Together 5.4):

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| ▪ Decisions made are child centred | ▪ Decisions made are rooted in child development |
| ▪ Focused on outcomes for the child or young person | ▪ Holistic |
| ▪ Ensuring equality of opportunity | ▪ Involving of children and families |
| ▪ Builds on strengths as well as identifying difficulties | ▪ Part of a continuing process, not a single event |
| ▪ Multi / Inter-agency | ▪ Providing and reviewing services |
| ▪ Informed by evidence | |

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1. Introduction

Local Authorities and West Midlands Police bring different skills and expectations as well as potentially competing professional demands to the investigative process. Staff from all agencies need to be aware of these competing demands and recognise that they share the same objective, that of protecting a child.

The purpose of this protocol is:

- To provide guidance to the Local Authorities and West Midlands Police about how child protection enquiries should be conducted and in particular the circumstances in which joint enquiries are appropriate.
- To set out how both agencies must co-ordinate their activities at each stage of the process in Section 47 enquiries and criminal investigations to ensure that enquiries are well co-ordinated in the best interests of the child.
- To define the roles and responsibilities of the respective agencies when dealing with a child who is suffering or likely to suffer significant harm or a child who is in need under Section 17 of the Children Act 1989 where a criminal offence is also suspected.

2. The Duty to Make Child Protection Enquiries

Children's Services has the statutory duty to make child protection enquiries, or cause other agencies to do so. Children's Services is therefore the lead agency for these enquiries.

3. The Duty To Investigate Suspected Criminal Offences

The police are responsible for the gathering of evidence in criminal investigations. This task can be carried out in conjunction with other agencies but the police are accountable for the criminal investigation and are therefore the lead agency.

4. The Responsibilities of all Agencies

All agencies have a duty to assist and provide information and advice in support of child protection enquiries and criminal investigations. Assessing the needs of a child and the capacity of their parents or wider family network adequately to ensure his/her safety, health and development very often depends on building a picture of the child's situation using information from many sources.

All agencies are expected to:

- Collate and share all relevant information
- Contribute information to and/or attend the strategy discussions/meetings
- Update those conducting the enquiries of any developments in the child or family's situation which have a bearing on the child's safety or welfare
- Assist in monitoring the child and providing additional support

Where investigations fall outside of the remit of the Child Abuse Investigation Unit (CAIU), the senior investigating officer, (either CID or front line uniform) and the Children's Services lead must ensure the same level of co-operation, co-ordination and continued information sharing takes place between agencies.

These responsibilities will be adhered to whether the enquiry is conducted by a single agency or joint agencies.

5. Resolution Procedure

At all stages in the process of safeguarding children, both agencies should reach agreement on actions to be taken. In the unlikely event that this does not occur, both agencies will adhere to the following procedure:

- Refer issue to immediate line manager. Line managers from both agencies to engage and resolve the issue.
- In the event of failing to reach an agreement, each agency will refer the issue to the next tier of management and this will continue until the issue is resolved.
- In the event that the issue cannot be resolved the lead agency will make the final decision and both agencies should record the rationale and report to the Local Safeguarding Children Board (LSCB).
- The resolution of the issue should be within a timescale of no more than seven working days.

6. Information Sharing

The overriding principle when sharing information is that where it is deemed to be relevant to the protection and safeguarding of a child, information **will be** shared. The rationale for sharing will be recorded together with the detail of the information shared for future reference.

If either agency has **concern** that a child might be at risk of harm they will contact one another to share information in order to determine whether action is required under section 17 or section 47 of the Children Act 1989. Regular updates will be shared between the agencies and continual assessment of the situation undertaken.

The Data Protection Act 1998, the Human Rights Act 1998 or common law principles **do not** prevent appropriate information sharing to safeguard and promote the welfare of vulnerable children.

7. Immediate Protection

Where there is a risk to the life of the child or a likelihood of serious immediate harm, the police officer or social worker must act quickly to secure the immediate safety of the child. Such emergency action may be necessary as soon as the referral is received, or at any point during involvement with children and families. The agency taking protective action must always consider whether this is also required to safeguard other children in the same household, in the household of an alleged perpetrator or elsewhere.

Immediate protection can be achieved by:

- Removal of the alleged abuser
- The alleged abuser agreeing to leave the home
- Voluntary agreement for the child(ren) to move to a safe place
- Application by Children's Services to court for an emergency protection order
- Removal of the child(ren) under police powers
- Gaining entry to the household under police powers (only covers certain circumstances where there is reason to believe that it is necessary to force entry in order to save life or limb or effect an arrest)

Whatever action is taken, it is imperative that there should be agreement between both agencies.

Two of the routes that are used to protect a child are:

7.1. Police Protection Powers (Section 46 The Children Act 1989)

Where a police officer has reasonable cause to believe that a child would otherwise be likely to suffer significant harm, he or she may

- (a) Remove the child to suitable accommodation and keep the child there; or
- (b) Take such steps as are reasonable to ensure that the child's removal from any hospital, or other place, in which the child is then being accommodated is prevented.

The decision to take a child into police protection must be reviewed by a designated police officer that is Inspector rank or above and **independent** of the investigation. Children's Service should be informed of the removal of any child.

Police protection lasts for a maximum of 72 hours.

7.2. Emergency Protection Orders (EPO) (Sections 44 - 45 The Children Act 1989)

An Emergency Protection Order (EPO) may be granted by a court if it has reasonable cause to believe that the child is likely to suffer significant harm if:

- (a) The child is not removed to suitable accommodation; or
- (b) If the child does not remain in the place in which he or she is being accommodated

Normally applications for EPOs are made by Children's Services. On rare occasions where the Local Authority has not applied for an EPO in its own right, any person may apply for an EPO including a police officer.

An EPO lasts for a maximum of 8 days, including any time the child spent in police protection.

'Police protection powers should only be used when necessary, the principle being that wherever possible the decision to remove a child from the parent or carer should be made by a court.' (Home office circular 44/2003).

8. Medical Assessments

8.1. Purpose of the Child Protection Medical Assessment

The purpose of a child protection medical assessment is to inform decisions by the lead agencies about how best to safeguard the child. In order to do this, the medical assessment must:

- Assess the child including any injuries
- Establish if any medical treatment is required and action as appropriate
- Establish if the physical evidence supports or negates any explanations given by the child or parent/carer
- Ensure that any forensic evidence that may inform an investigation is recovered and injuries photographed where appropriate

- Assess the levels of development, functioning and general condition of the child
- Provide a verbal opinion and written report/statement on the assessment, in relation to the allegations and for any subsequent conference or court hearing
- Provide advice regarding any further specialist assessment needed

8.2. Thresholds for Medical Assessments

Thresholds for medical assessments are based on the following:

8.2.1. Physical Abuse or Neglect

Where non-accidental injury or neglect concerns exist these should normally trigger a child protection medical assessment. Even where the injury appears minor, medical assessment is required both to ensure that there are no concealed injuries and to consider whether the explanations are compatible with the injuries found on the child.

A child protection medical assessment may not be indicated where there are minor non-accidental injuries to an older child and the following factors are all present:

- The explanation of how the injuries were caused given by both the parent and the child match each other and appear to fit the injury seen – i.e. this is an acknowledged instance of non-accidental injury
- The child is mature enough to give a full account and does not appear in any way coerced
- All agencies are in agreement (i.e. do not need medical opinion as evidence in criminal proceedings/care proceedings)

Where medical assessments are required for physical injury or neglect, the responsibility for arranging the medical will rest with Children's Services. A community paediatrician should undertake medical assessments. As soon as a medical assessment is arranged, this must be communicated to the police who have a responsibility to attend.

It should be recognised that the presence or absence of physical signs does not provide a definitive judgement that abuse has or has not occurred.

In cases of physical abuse, a medical assessment should be undertaken prior to the child being ABE video interviewed.

8.2.2. Sexual Abuse

In cases of suspected sexual abuse, the child should be ABE video interviewed prior to any medical assessment. The purpose of interviewing the child prior to medical assessment is to establish the exact nature of the alleged abuse. A joint judgement to decide the necessity and nature of any medical assessment needs to be made based on the outcomes of enquiries conducted in the investigation and the ABE interview with the child. If a medical assessment is conducted without first establishing the nature of the alleged abuse, professionals may be conducting an unnecessary intrusive medical assessment, which could itself be considered abusive.

It is current good practice that a community paediatrician conducts all medical assessments of children who have alleged sexual abuse. Where a forensic medical assessment is required, this should be conducted by a forensically trained paediatrician or a joint examination undertaken by a paediatrician and police forensic medical examiner.

Medical examinations in sexual abuse enquiries are normally arranged by Children's Services. Where forensic examinations are necessary, the police will assist should the services of a forensic medical examiner be required. As soon as a medical assessment is arranged, this must be communicated to the police who have a responsibility to attend.

8.3. Timing of the Medical Assessment

Medical assessments within child protection enquiries can be pivotal in assisting Children's Services or the police to make informed decisions on whether it is both appropriate and legally possible to take immediate steps to protect a child and/or their siblings. The degree of urgency for medical assessment will depend not only on the severity of the immediate harm requiring urgent medical treatment but also on whether:

- There are issues relating to the immediate care of the child
- There is a need to record the physical evidence of abuse before it disappears
- There is a possibility of forensic evidence being available
- Seemingly minor injury may conceal more serious physical harm (particularly in babies)
- There are other children (of the family or elsewhere) who may need safeguarding as a consequence of the medical assessment

A child who is suspected to have been recently sexually abused, should be seen quickly enough to preserve possible forensic evidence or document physical evidence of abuse. Where the referral relates to penetrative sexual abuse that has occurred in last 7 days, immediate medical assessment should be sought.

A child who appears to be suffering from neglect not requiring urgent treatment, or sexual abuse where no recent episode is suspected, need not be seen the same day. However, it should be noted that signs of neglect may change quickly if care of the child is improved and timely medical assessment can be important to benchmark or ensure treatment is started.

8.4. Responsibilities of the Social Worker

Whenever a child protection medical assessment is sought, the request to the medical practitioner by the social worker must always clearly identify:

- The reasons why a child protection medical assessment is required
- The purpose of the medical assessment, and the expectations placed on the medical practitioner
- The degree of urgency for the assessment
- Any consent issues to be resolved
- The medical practitioner has all relevant information of known previous medical assessments undertaken at the request of Children's Services

The social worker must contact the investigating police officer to ensure that he or she has the opportunity to attend the medical assessment.

The social worker should always accompany the child and adult family member, in order to assist with any supplementary information, including any previous relevant family history, e.g. history of previous injuries of child or siblings and to ensure that there is opportunity for private consultation with the medical practitioner regarding outcomes.

Where the child is taken direct to the hospital, the social worker must ensure that the paediatrician is contacted speedily, and fully informed of the concerns and nature of the injuries. The social worker should ensure that any explanations given in their presence by the child or other family members to the medical practitioner are recorded.

As part of child protection enquiries, the social worker will normally contact the family practitioner to obtain any relevant information known about the family, which assists in assessing the situation holistically. The GP should be notified of the outcome of the enquiries.

8.5. Responsibilities of the Police Officer

Where the medical assessment relates to suspected **sexual abuse** and where forensic examination is necessary, it is the responsibility of the police to liaise with the on-duty forensic medical examiner. An appropriately trained police officer will be present at that examination in order to brief the forensic medical examiner and paediatrician regarding the circumstances of the case, and to package and label all exhibits recovered.

8.6. Involvement and Consent of Parents/Carers and Children

Those conducting child protection enquiries must always secure consent for the child to be medically examined, treated or photographed. In the majority of cases, this consent will be given by parents/carers. Occasionally it will be necessary to gain consent by court order. Any relevant documentation should be shown to the examining doctor.

A parent's refusal for a medical assessment should not be allowed to cause unnecessary delay. Legal advice should be sought immediately.

Young people aged 16 years and over are able to give their own consent to be medically examined, treated or photographed. However it is good practice to involve parents unless to do so would jeopardise the child's welfare or is against their wishes.

Account should always be taken of the age and ability of the child to give consent. Some children under 16 years may be assessed by the medical practitioner to be *Fraser* competent to give informed consent. Legal advice should nevertheless be sought if this is against the parent's wishes.

Children must not be medically examined against their wishes unless the medical practitioner believes that there is a need for emergency medical treatment.

8.7. General Considerations

Whenever a child protection medical assessment is sought for a particular child, consideration must be given as to whether the siblings/other children in the same household should also be medically assessed. The onus should be to justify why medical assessment of the other children is **not** appropriate.

Where the outcome of a medical assessment contradicts other information known to professionals then staff should have the confidence to challenge the medical opinion. In some circumstances the police or Children's Services may wish to seek a second opinion for clarification. The original examining doctor should be advised of the proposed action and the reasons for doing so. The reason for this request should be clearly recorded.

Occasionally, a parent may be advised by a social worker to take their child to their general practitioner for treatment of a minor injury. **This should never be used as an alternative to a child protection medical assessment.**

9. Domestic Abuse Incidents that cause Child Protection Concerns

All agencies have a responsibility to evaluate the Domestic Abuse Risk Indicator Model (DARIM) notification in respect of any children in the household. This should be done within the context of all information held on the family and if this raises additional concerns then an investigation must take place.

Where either agency deals with a domestic abuse incident or concerns where children are present, or normally resident, they must consider if there are child protection issues. If the concerns are founded then the following procedures will be followed in relation to child protection.

10. Inter-Agency Notification of Child Protection Concerns

There will be some Section 17 cases where a criminal offence is suspected. In these instances, Children's Services must refer the case to a Child Abuse Investigation Unit (CAIU) for initial assessment, checking of police systems and a strategy discussion where appropriate. In these circumstances, the police will record the details of the referral on a WC392 form and Children's Services will record information on the strategy discussion/meeting template of the ICS. Both parties will record and exchange the agreed outcomes.

10.1. No suspicion of a criminal offence

Where there is no suspicion of a criminal offence having occurred then there will not be a requirement for Children's Services to refer the matter to the police. However, staff should consider the benefits of speaking with the police to request a check of police intelligence databases as this could help inform any assessment of risk.

Police should assist Children's Services by providing intelligence that may help to inform any assessment risk.

10.2. Suspicion of a criminal offence

If during the course of enquiries evidence of a suspected criminal offence emerges the process may develop into a joint enquiry. Social workers and police will therefore need to be aware of the need to:

- Keep accurate and contemporaneous notes of any interview
- Be alert to the potential for medical and forensic evidence

10.3. Notification of a referral

On being notified of a referral, Children's Services has a duty to decide within 24 hours whether an initial assessment is required and then, within 7 days, whether a core assessment is required

Where either agency receives information, which amounts to an allegation or suspicion of child abuse, they should always discuss the case with the partner agency at the earliest opportunity but in any event before the end of that working day/tour of duty.

10.3.1. During normal office hours

- The police will notify the relevant Children's Services team
- Children's Services will notify the relevant CAIU

10.3.2. Outside normal office hours

- The police will notify the Children's Services Emergency Duty Team (EDT)
- Children's Services/EDT will notify the OCU operations centre who will ensure appropriate officers are allocated to the referral.

10.4. Undertaking checks

On being notified, both agencies will make immediate checks of their records to include:

- Whether the child is subject of a child protection plan
- Whether the child / family is known to either agency
- Intelligence/information systems and relevant records for previous history
- Information that is relevant in deciding the level of enquiry that is required.
- Where Local Authorities have developed information sharing index systems these should be checked by both agencies.
- Where appropriate, IMPACT and/or VISOR checks should be completed by the police.

The results of checks will then be shared in line with the principles previously identified in 'Information Sharing' at section 6.

11. Strategy Discussions

All Section 47 referrals, and any Section 17 referral that involves the suspicion of a criminal offence, will be subject of an early strategy discussion between the police and Children's Services. This discussion will involve a minimum of a detective sergeant from the CAIU and a team manager from Children's Services. The outcome will be a decision to either:

- Take no further action
- Proceed with a single agency enquiry
- Proceed with a joint agency enquiry

Children's Services will complete the relevant documentation and forward a copy to the police.

11.1. Take no further action

After initial enquiries and consultation between the police and Children's Services it may be agreed that further child protection action by either agency is not necessary as there is insufficient evidence of risk of significant harm to the child.

11.2. Proceed with a single agency enquiry

Where there is a need for a child protection investigation but there is agreement, following a strategy discussion, that the investigation will proceed under a single agency regular updates will be shared with the other agency and continual assessment of the situation undertaken.

11.3. Proceed with a joint agency enquiry

Where initial information indicates that a criminal offence has or may have been committed, regular updates will be shared between the agencies and continual assessment of the situation undertaken.

A police referral must be made whenever an allegation is made that may also constitute an allegation of crime, irrespective of the decision made by Children's Services about S.47 enquiries thresholds.

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12. Threshold Response table

The table below provides an illustrative guide for the thresholds that agencies should consider when deciding whether a joint or single agency investigation should take place. Both agencies should involve each other when making a decision about thresholds and where there is doubt, discuss and jointly resolve.

Concern	Joint investigation	Single agency assessment
Physical abuse or neglect	Any allegation of physical abuse or neglect to a child or any suspicious injury to a child	Any incident / injury triggering concern e.g. a series of apparently accidental injuries
	Inconsistent explanations or an admission about a clear non-accidental injury	
	Repeated allegations or reasonable suspicions of non-accidental injury	Repeatedly expressed minor concerns from one or more sources
Domestic abuse incidents	The child has been injured (even if inadvertently) or used as a shield during a domestic abuse incident	Notifications of domestic abuse within a household where children are in residence
	There have been two or more domestic abuse incidents within a twelve month period, that have emotionally impacted on a child	
Verbal threats and/or emotional abuse	Repeated allegations involving serious verbal threats and / or emotional abuse	Allegation concerning serious verbal threats Allegations of emotional abuse including that caused by minor domestic abuse incidents
Neglect	Allegations/reasonable suspicions of serious neglect Allegations of chronic or periodic neglect including insufficient supervision; poor hygiene, clothing or nutrition; failure to seek/attend treatment or appointments; age inappropriate domestic chores	Minor neglect situations e.g. poor housing
Medical referral	Medical referral of non-organic failure to thrive in under fives	
Sexual abuse	Direct allegation of sexual abuse made by child or abuser's confession to such abuse Suspicious of sexual abuse e.g. sexualised behaviour, medical concerns or referral by concerned relative, neighbour, carer	
Risky adult	Risky adult (formerly classified as a schedule 1 offender) moving into a household with under eighteen year olds	
No parent/carer	No available parent / carer and child vulnerable to significant harm e.g. an abandoned baby or child home alone	No available parent / carer, child in need of accommodation and no specific risk if this need met e.g. unaccompanied asylum seeking child
Fabricated or induced illness	Suspicion that child has suffered or is at risk of significant harm due to fabricated / induced illness	
Parental delusions	Children subject of parental delusions which imply risk	

In complex sexual child abuse situations e.g. where several children are involved or abuse has taken place over a number of years, reference should be made to Working Together (Insert hyperlink and web address)

13. Areas outside the CAIU Terms of Reference

The following areas will not be investigated by the CAIU:

- *Child sexual exploitation / child trafficking.* CID will undertake the investigation, however the OCU detective inspector will manage these referrals and determine the most appropriate officer to interview the child, ensuring CAIU are involved in the strategy discussions with other agencies.
- *Any other offence involving the sexual abuse of a child that does not come under the CAIU terms of reference (See Appendix 1).* CID or front line uniform officers will undertake the investigation; however the investigating officers must ensure that background checks on the child victim are carried out with the appropriate CAIU, as they may hold important information in relation to the child that could assist in any investigation.

Where investigations fall outside of the remit of the CAIU, the senior investigating officer, either CID or front line uniform and the Children's Services lead must ensure the same level of co-operation, co-ordination and continued information sharing takes place between agencies.

14. Timescales for Working Together

Staff from both agencies should ensure that they adhere to any statutory or legislative timescales and not adversely impact on their partner's ability to comply.

If one of the agencies is unable to provide a timely response to a joint investigation and there is a need for urgent or speedy action then an initial assessment may be undertaken by a single agency only after being agreed and recorded in a strategy discussion.

15. Conclusion

The purpose of this document is to ensure all agencies meaningfully engage in the 'working together' process to safeguard children. All safeguarding concerns and investigations require effective information sharing in order to establish the varying degree of agency involvement. Individual agencies are responsible for engaging in thorough case discussions; all decisions made should be confirmed between agencies and formally recorded by each individual agency to ensure accountability.

Appendix 1 - Statutory Duties of Both Agencies (Working Together to Safeguard Children 2006)

All organisations that work with children share a commitment to safeguard and promote their welfare, for many organisations that is underpinned by a statutory duty or duties. Local authorities that are children's services authorities have a number of specific duties to organise and plan services and to safeguard and promote the welfare of children.

Local Authorities that are Children's Services authorities

A key objective for these authorities is to ensure that children are protected from harm.

They provide a wide range of care and support for adults, children and families, including: children at risk of harm; disabled children; unaccompanied asylum seeking or refugee children; older people; people with physical or learning disabilities; people with mental health or substance misuse problems; ex-offenders and young offenders; families, especially where children have special needs, and/or where children are growing up in special circumstances as set out in the National Service Framework for Children Young People and Maternity Services, and for children who need to be accommodated or looked after by the local authority, through fostering or residential care; and children who are placed for adoption.

Local Authorities also have a duty under Section 17 of the Crime and Disorder Act 1998 to do all they reasonably can to prevent crime and disorder in the exercise of their functions.

The Police

The main roles of the police are to uphold the law, prevent crime and disorder and protect the citizen. Children, like all citizens, have the right to the full protection offered by the criminal law. The police have a duty and responsibility to investigate all criminal offences and as Lord Laming pointed out in his report into the circumstances leading to the death of Victoria Climbié (2003) "the investigation of crimes against children is as important as the investigation of any other serious crime and any suggestions that child protection policing is of lower status than any other form of policing should be eradicated." Offences committed against children can be particularly sensitive and will often require the police to work with other organisations, such as children's social care, in the conduct of any investigation.

Terms of Reference for the Child Abuse Investigation Units

The CAIU will be responsible for investigating the following crimes:

- Abuse within the family and extended family, including co-habitees of either parent.
- Abuse committed by anyone who has care of or responsibility for of a child, e.g. child minders, babysitters, school teachers, swimming pool attendants, scout- leaders, etc.
- 'Children in care' when the abuser is alleged to be the carer or an employee of the care organisation e.g. foster carers or children's residential unit employee.
- Children who sexually abuse other children.
- Children who suffer emotional or physical abuse as a result of domestic abuse.
- Sudden Unexpected Deaths of Infants
- Organised abuse / institutional abuse involving child victims.