



A comprehensive safeguarding policy for the Young Lambeth cooperative and model policy for commissioned providers providing services for young people.

YOUNG LAMBETH COOPERATIVE SAFEGUARDING POLICY & RESOURCE PACK

YLC Safeguarding Policy

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NOTE: The term child / young person is used throughout this document and is to be read as meaning children and young people (including unborn) up to age 18 and young vulnerable adults with disabilities up to age 25 who also may access some services via Lambeth YLC.

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1. INTRODUCTION

The Young Lambeth cooperative (YLC) is committed to improving the way in which it, along with the providers of services commissioned for young people, discharge their functions to safeguard and promote the welfare of children and young people in line with Section 11 of the Children's Act 2004.

1.1 What is safeguarding and promoting the welfare of children?

Safeguarding and promoting the welfare of children is defined as:

- Protecting children from maltreatment
- Preventing impairment of children's health and development
- Ensuring that children are growing up in circumstances consistent with the provision of safe and effective care
- Taking action to enable all children to have the best outcomes

(Source: *Working Together to Safeguard Children, 2013*)

1.2 Lambeth Safeguarding Children Board (The LSCB)

Lambeth's Safeguarding Children's Board (LSCB) www.lambethscb.org.uk has the lead responsibility for the safeguarding of the borough's children and young people and co-ordinates and scrutinises the effectiveness of all its key partners safeguarding practices, policies and procedures. It therefore encourages all organisations working with young people in Lambeth to 'work safely together' in order to promote a multi agency approach to safeguarding and child protection concerns and help prevent and minimise further risk of harm to children and young people.

All the advice and recommendations included in this document are based on and compliant to protocols and procedures as outlined in the London Child Protection Procedures (V4 – 2011) and Working Together to Safeguard Children (March 2013).

As a key partner agency to the LB Lambeth, the LSCB recommends that the Young Lambeth Co-operative promote this document as a 'model policy' to be adopted by each commissioned provider and tailored accordingly to suit the needs and requirements of each individual organisation and that each organisation identifies a suitable designated safeguarding lead officer.

2. VISION & ETHOS OF THE YLC

The ethos within the YLC is ***'For the YLC, all members and steer group members to acknowledge and understand that the safety and wellbeing of all young people is paramount to the YLC'***.

2.1 Membership of the YLC

- **Responsibility of YLC members**

Whilst there is no statutory responsibility under Section 11 of the Children's Act 2004, for **members** to report suspected abuse or safeguarding concerns to a professional **who does have this responsibility at statutory level**, all members including those under age 18 should support and encourage any young person making a disclosure to report this to a professional (youth worker, teacher, school nurse, police, social worker etc) or parent / carer for further support.

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In incidences where a young person making a disclosure refuses to seek professional help and support, the person receiving the disclosure (**if a YLC Member**) must consider that they have a moral, social, ethical and community responsibility to keep that young person safe and should seek professional advice from the YLC designated safeguarding lead (the Managing Director) whilst retaining confidentiality (where possible) with the young person.

However, in incidences where a young person discloses they are at risk of immediate danger or potential significant harm or may themselves place another young person at risk of immediate danger or significant harm (i.e. they make threats to harm themselves or another person) **to another YLC member**, the recipient of the disclosure should report this threat to the YLC designated safeguarding lead (the Managing Director) as their moral, social, ethical and community responsibility towards keeping another young person safe should override that persons own right towards confidentiality.

Any incidence of a young person / group of young people being at risk of **immediate harm** should be reported to the Police.

- **Responsibility of the YLC**

Section 11 of the Childrens Act 2004 **does** however place a statutory duty on the YLC, its management and management board to ensure their functions **and** the functions of any services which the YLC commissions are discharged having regard to the need to safeguard and promote the welfare of children.

Therefore, anyone acting in a professional capacity for the YLC which includes paid staff, the management, the board, volunteers and any services which it commissions to discharge services have a statutory responsibility to report concerns that they have in relation to the safety or welfare of children and young people to the Local Authority's Social Care to protect them from significant harm and/or neglect. Where appropriate, any referral will be discussed with the parent or carer unless it is felt that by doing so, this would place the young person at further risk.

2.2 Information sharing protocol

The YLC must establish a legal basis for data and information sharing and adopt a protocol and policy in regards to the sharing and retention of information in line with LB Lambeth's and HM Government 2008 advice '10 Golden Information Security Rules'. Further specialist advice can be accessed in '*Working Together to Safeguard Children March 2013*' paragraphs 22 to 25.

The Board of Director's on behalf of the YLC will seek to formally 'sign up' to Lambeth's Overarching Information Sharing Protocol (Appendix 6) through application to the Council's Information Governance Manager (informationcompliance@lambeth.gov.uk). The Managing Director as the named designated person for Safeguarding will sign the protocol in agreement with LB Lambeth on behalf of the YLC.

2.3 Why the YLC needs a safeguarding policy

It shows commitment to the safety, wellbeing and protection of our young people and gives clear signals to our commissioned providers that the YLC prioritises the safety and welfare of our young people in all aspects of the way we commission and discharge our services. It also shows a shared responsibility for safeguarding young people. The development and implementation of clear and concise Safeguarding Policies and Procedures is a key requirement for the YLC and any organisations it works with and commissions to provide services for children and young people.

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Safeguarding is everyone's responsibility. Everyone who works with children and young people has a responsibility for keeping them safe and there must be a child centered approach for services to be effective based on the needs and views of children and young people.

No single professional can identify a full picture of a child or young persons needs and circumstances therefore it is essential that the YLC collaborates effectively with the providers it commissions services from **and** Lambeth Social Care and the Police when concerns are identified.

2.4 Designated Named Senior Officer for Child Protection :

The designated safeguarding lead within the YLC will be the **Managing Director** however all commissioned providers of services for young people must also identify an appropriate local named senior officer (normally the manager in charge) who is the lead for safeguarding and child protection and will oversee all safeguarding concerns and liaise with LB Lambeth's Safeguarding Representative for Youth & Housing Services and other agencies as and when identified.

3. THE SCOPE OF SAFEGUARDING IN THE YLC

3.1 What is Abuse

The term 'child abuse' can often be misinterpreted due to the challenges it presents to professionals working with young people as is not always easily recognisable and professionals often fear either over reacting towards situations or even worse, not responding properly to genuine concerns. Young people do experience common and minor 'assumed' accidents which cause injury to themselves but there will also be occasions when professionals have to further explore due to the nature and frequency of some unexplained injuries.

Professionals working with young people must remember the basic principle that :

*"It is **not** your professional responsibility to decide whether or not child abuse is occurring, **but it is** your responsibility to act on those concerns and do something about it.*

Therefore, do not ever think that you could never be placed in the position of having to report suspected child abuse or gather factual information when requested by another agency.

3.2 Recognised forms of abuse:

3.2.1 Physical Abuse

May involve hitting, shaking, throwing, poisoning, burning, scalding, drowning, suffocating or otherwise causing physical harm to a child. Physical harm may also be caused when symptoms are apparently fabricated to deliberately induce illness in a child (Munchausen Syndrome by Proxy).

3.2.2 Sexual Abuse

Involves forcing or enticing a child or young person to take part in sexual activities including prostitution, whether or not the child is aware of what is happening. The activities may involve physical contact, including penetrative or non-penetrative acts. They may include noncontact activities such as involving children in looking at, or in the production of, pornographic materials or watching sexual activities, or encouraging or 'grooming' children to behave in sexually inappropriate ways.

3.2.3 Emotional Abuse

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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:

- Telling a child they are worthless, unloved or inadequate
- Valued only insofar as they meet the needs of another person
- Age or developmentally inappropriate expectations being imposed
- Overprotection and limitation of exploration and learning
- A child witnessing or hearing the maltreatment of another
- Serious bullying
- Causing a child to frequently feel frightened or in danger
- Exploitation or corruption of a child

3.2.4 Neglect

Persistent failure to meet a child's basic physical or psychological needs, likely to result in the serious impairment of the child's health and development. Neglect may occur:

- During pregnancy as a result of substance abuse
- Failure to provide adequate food and clothing
- Failing to provide shelter including exclusion from home or abandonment
- Failing to protect a child from physical harm or danger
- Failure to ensure adequate supervision (including the use of inadequate caregivers)
- Failure to ensure access to appropriate medical care or treatment

3.2.5 Discriminatory Abuse

Discriminatory Abuse includes racist, religious and sexist abuse, plus abuse based on a person's disability or perceived sexuality

3.2.6 Domestic Violence and Abuse

Since 31st March 2013, the Government's definition of domestic violence was widened to include young people aged 16-17 and now reflects coercive control meaning:

'Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members¹ regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse:

- *psychological*
- *physical*
- *sexual*
- *financial*
- *emotional*

'Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.'

3.3 Signs & Symptoms of Abuse :

Abuse can be devastating for a young person and can lead to serious harm or impairment to their health and development and in worst cases, death or suicide. Professionals must therefore be vigilant in being able to identify potential abuse and responding accordingly to :

- Unexplained or suspicious injuries such as bruising, cuts or burns, particularly if situated on a part of the body not normally prone to such injuries
- An injury for which the explanation seems inconsistent

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- The young person describes what appears to be an abusive act involving themselves or a parent (domestic violence)
- Someone else (child or adult) expresses concern about the welfare of another child
- A young person discloses they are self harming or are feeling suicidal
- A young person discloses they are being threatened by other young people
- There are concerns around e-safety (cyber-bullying, online grooming, inappropriate websites / content has been accessed on the internet etc)
- Unexplained changes in behaviour or emotions such as becoming very quiet, withdrawn or displaying sudden outbursts of temper
- Age inappropriate sexual awareness
- Engaging in sexual explicit behaviours or sexually explicit talk inappropriate to the young persons age
- Distrust of adults, particularly those with whom a close relationship would normally expected
- Difficulty in making friends
- Uncharacteristic eating disorders, depression and suicide attempts
- The young person may become withdrawn, introverted and depressed and have low self esteem and lack of confidence
- A young person disappears from their peer group / school etc unexpectedly and without prior warning

The above list is not definitive but are common indicators of 'potential' abuse which should warrant the need for further discussion and referral.

3.4 When abuse is suspected

Professionals must immediately refer their concerns to their manager or the designated safeguarding lead (the Managing Director) for the YLC who can contact the designated safeguarding representative for Lambeth Youth & Housing Services (Roddy Leith) who will advise on how to progress concerns.

Concerns about further protecting the young person should be referred to Social Care by firstly calling the Referral & Assessment Duty team. Immediate child protection concerns should be made directly to the local Police if a young person(s) is thought to be in immediate danger or risk of significant harm therefore the YLC recommends all providers maintain a trustworthy relationship with their local Police and Community Neighbourhood Safety teams.

It is recommended that all professionals working with young people attend Lambeth's designated training on the Common Assessment Framework (CAF – see below).

If a young member of the YLC were to make a direct safeguarding disclosure to another YLC member, the young member making the disclosure should be encouraged and supported to disclose this to the YLC designated safeguarding lead (the Managing Director). If the young person refuses to make this disclosure, the recipient should consider their moral, social ethical and community responsibility to keep that young person safe and should seek professional advice from the YLC designated safeguarding lead (the Managing Director) whilst retaining confidentiality (where possible) with the young person in order to create a safer environment for the young person.

Managers must keep accurate written local records of any safeguarding and child protection concerns / referrals made and ensure these are stored securely under lock and key and only shared with other professionals and agencies on a need to know basis.

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3.5 Thresholds for Referrals

LB Lambeth Social Care have comprehensive guidance which highlights the circumstances in which Children's Social Care are likely to provide services and where thresholds are not met, which alternative provisions are available. (See Appendix 1).

When referrals are not acknowledged and professionals are not satisfied with the outcome, they have the right to address this with the relevant agency and seek independent advice where necessary.

3.6 Common Assessment Framework (CAF)

The Common Assessment Framework is a pre-assessment checklist and planning framework to conduct an assessment of a child or young persons additional needs. It assists with the earlier identification and any subsequent intervention of additional needs and provides a more integrated approach to service provisions in order to meet these needs. (See Appendix 2).

3.7 Safer Recruitment

The key purpose of the recruitment and selection process for both paid staff and volunteers is to identify the best and safest people for the role ensuring they are aware from the outset, what is expected from them in their professional capacity supported by comprehensive pre-employment vetting checks, induction, training and regular supervision.

Young people view professional people working with them as safe and trustworthy therefore the same recruiting and vetting principles apply for volunteers as for paid staff although a degree of discretion and common sense should be used for 'one off' volunteers provided adequate supervision is in place.

YLC management (including the Board) and hiring managers (including those from commissioned providers) must have attended safer recruitment training and commissioned providers must be able to demonstrate that they have followed stringent application, shortlist, interview and pre-employment vetting and risk assessment processes in line with LB Lambeth's recognised Safer Recruitment Procedures (awaiting these to be published by the LSCB safer recruitment sub-group).

The following interview, recruitment, selection & vetting process should be completed before a start date is agreed for an employee or volunteer.

- **Advert:** Ensure vacancy is advertised with a current up to date job description / person specification and states the requirement for a Disclosure and Barring Service certificate (DBS - replacing the CRB disclosure) and organisations commitment to safer recruitment
- **Application and Shortlist:** Ensure part of the short listing and interview design criteria incorporates questions that consider attitudes to a young persons welfare, authority/power & control, punishment & reward
- **Interview:** Ask questions relevant to the role and probe where necessary. Look out for danger signs / answers that give you concern
- **References:** Verify any specific qualifications required to do the role and ensure a minimum of 2 references cover a period of at least 3 years.
Gaps / inconsistencies or frequent changes in a candidates employment history must be fully explored and valid reasons to be provided and confirmed. Cross match reference dates with employment histories and reconfirm the authenticity of references with a telephone call to the referee or organisation. Chase references that are not returned and question why. All questions asked should be answered. Don't

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accept copies of standard 'to whom this may concern' references that the candidate presents. Anyone can write these.

- **DBS certificate:** Ensure a DBS certificate is received prior to the candidate commencing work. Manage positive disclosures in line with LB Lambeth's policy and risk assessment model
- **Single Central Record:** A comprehensive single central record **must** be maintained by the organisation recording the following information about staff and volunteers.
 - Name
 - Home Address
 - Date of birth
 - Identity evidenced
 - Qualifications
 - Satisfactory References received
 - Induction
 - Eligibility to reside and work in UK
 - DBS certificate number and issue date and any subsequent risk assessment if positive disclosures are identified
 - Training attended

Managers however must appreciate that thorough safer recruitment practices do not guarantee that young people will ever be 100% safe therefore best practice should not stop at the appointment stage. Expected safer working standards and practices must be fully explained and reiterated during the induction and probation period and ongoing throughout the course of employment via regular supervision.

3.8 Safer Working Practices

It is important that all adults working and volunteering with children understand that the nature of their work and the responsibilities that are related to it, place them in a position of trust and authority which must not be abused or taken advantage of.

The vast majority of adults who work with children act professionally and aim to provide a safe and supportive environment which secures the well-being and very best outcomes for children and young people in their care. However, it is recognised that in this area of work tensions and misunderstandings can occur. It is here that the behaviour of adults can give rise to allegations of abuse being made against them. Allegations may be malicious or misplaced. They may arise from differing perceptions of the same event, but when they occur, they are inevitably distressing and difficult for all concerned. Equally, it must be recognised that some allegations will be genuine and there are adults who will deliberately seek out, create or exploit opportunities to groom or abuse children. It is therefore essential that all possible steps are taken to safeguard children and young people and ensure that the adults working with them are safe to do so.

3.8.1 Safer working practices must:

- Keep young people safe by clarifying which behaviours constitute safe practice and which behaviours should be avoided
- Assist adults working with young people to work safely and responsibly and to monitor their own standards and practice
- Support managers and employers in setting clear expectations of behaviour and/or codes of practice relevant to the services being provided
- Support employers in giving a clear message that unlawful or unsafe behaviour or any attempts to groom a young person is unacceptable and that, where appropriate, disciplinary or legal action will be taken

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- Support safer recruitment practice
- Minimise the risk of misplaced or malicious allegations made against adults who work with young people
- Reduce the incidence of positions of trust being abused or misused

The key to this is to always enforce and promote a 'culture of vigilance' in the workplace with open and transparent working practices at all times and with all contact with young people recorded and documented.

There should also be documented local protocols in every work site outlining what service users can expect from employees and what are and are not acceptable behaviours from the service user. These principles also apply to activities and trips occurring off site. For further information, please refer directly to guidance available on the Department for Education website www.education.gov.uk

3.9 Allegations of Abuse

The Young Lambeth Co-operative and the LB Lambeth takes seriously, all allegations made against members of staff. Mechanisms are in place for service users, parents / carers and staff to share any concerns they may have about the actions of staff or volunteers. Any allegations will be dealt with in line with our 'Allegations Against Staff Policy' (see Appendix 5) and must be immediately reported to the YLC Managing Director, the designated safeguarding manager for Lambeth Youth Services (Roddy Leith) and the Local Authority Designated Officer (LADO - Eva Simcock).

Staff who allegations have been made against and have therefore been subjected to the YLC's disciplinary process (or who have resigned before the investigation is concluded), **may** be referred to the Disclosure and Barring Service for consideration to be included on their list of persons barred from working with children & young people.

*Remember, many current and potential perpetrators will not necessarily possess any previous criminal record therefore a 'clear' DBS certificate and satisfactory references are **not** a guarantee that the individual does/will not pose any threat to young people.*

The best way to prevent allegations of abuse of children by employees, is through good, open and transparent management practices and the continuous provision of support, guidance, induction, training and supervision of staff and volunteers.

3.10 Training

The YLC Managing Director must determine the level of safeguarding 'awareness' and 'professional' training required for members, steer group members and board members, paid staff and volunteers. Whilst it would be impractical to expect general members of the YLC to undertake safeguarding and child protection training equivalent to Working Together Group 3 training, the expectation is that the YLC will promote to all members that the safety and wellbeing of children and young people is paramount to the YLC and will endeavour to provide all members with general safeguarding tips and guidance about staying safe and how to respond to incidences if they become aware that themselves or another young person could be at risk of danger, abuse or immediate harm.

All YLC board members, the MD, youth staff and volunteers and staff from commissioned providers must receive accredited Safeguarding and Child Protection training (and refresher training) at least every 3 years at a level determined by the LSCB.

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3.11 Codes of Conduct

- **Staff and Volunteers**

The YLC must ensure that they have an agreed Code of Conduct for staff which clearly outlines acceptable behaviours that both staff and volunteers are expected to adhere to. Any breach of this should / could normally lead to disciplinary action.

- **Service Users**

The YLC must have clearly published guidelines about acceptable and non acceptable behaviours onsite, towards staff, volunteers and other service users. It is beneficial for both the organisation and the service users, if the young peoples' opinions contribute towards this in order for them to be able to differentiate between what are acceptable and what are unacceptable behaviours and what should happen when other young people behave inappropriately.

Young people must be aware of and responsible for their actions and understand the consequences of inappropriate behaviour in all youth provisions.

Threats of temporary or permanent expulsion from the YLC must be followed through in order to maintain boundaries and 'mean what you say' when boundaries are broken by the young person.

Please refer to Appendix 3 for draft model Codes of Conduct for both staff and service users. These must be clearly displayed and on public view and be available for all staff, service users and other members of the public.

- **YLC Members**

Roles and responsibilities towards safeguarding and child protection have been drafted (still under consultation) and are available as Appendix 4 of this document.

3.12 Unacceptable Behaviours within the YLC

- **Bullying**

The bullying of any YLC member or service user for whatever reason will not be tolerated under any circumstances and will always be challenged by staff. Perpetrators of bullying will be excluded from the premises.

- **Internet Safety**

Cyber bullying (or perceived cyber bullying) or any other inappropriate digital communication (including the distribution of pornography, sexting or online grooming of young people) will not be tolerated within the YLC and may in the first instance be reported to the police or CEOP. For further information about e-safety, please refer to the Council's e-safety strategy and policy.

All providers of services for young people should ensure that they have appropriate filters attached to any IT facilities available for public use.

- **Possession of Drugs or Alcohol**

The possession, usage or suspected to be under the influence of drugs (illegal) and alcohol will not be tolerated on the premises and YLC members / service users found to be in possession of either will be asked to leave the YLC / premises and *may* be reported to the police.

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Members and young people suspected of being under the influence of drugs or alcohol should be refused admittance / asked to leave the premises and could be referred to Social Care if identified as appropriate under the circumstances. However, in instances when it may be in the best interests of the young person for them to remain on the premises in order to keep them safe, management should ask the young person to remain onsite (without using restraint) in another room away from other young people and consider contacting the young person's parent or carer to collect them and offer (where possible), some form of refreshment in an effort to 'sober them up'.

- **Knives & Guns**

Any YLC member or service user either found with or thought to be in possession of a bladed article or fire arm should immediately be reported to the police and excluded from the YLC / premises indefinitely. Possession (or carrying) of a bladed article or fire arm is a criminal offence and likely to result in a lengthy custodial sentence.

Evidence proves that young people carrying weapons are themselves far more likely to be victims of attacks by others.

- **Gang Conflict**

Any altercations or threats of violence between known or perceived gang members should be escalated to the Police in the first instance. Please refer to the council's protocols on '*Safeguarding Children from Street Gangs – the Lambeth Protocol*'.

- **Conflict Resolution**

Conflict between young people within the YLC or a youth site although inevitable, should be perceived as a positive learning curve for young people as long as this is managed in an appropriate way.

Conflict resolution requires young people to use strong interpersonal skills to firstly be able to identify conflict, identify the underlying issues, consider the possible options for resolution and decide on the solution that has the most positive outcome for all parties (including the organisation) involved.

Young people should therefore ideally be involved in the dialogue, co-operation and negotiations and encouraged to 'nip things in the bud' to encourage cohesiveness with the other young people.

- **Physical Intervention**

YLC staff and volunteers should avoid where possible, putting themselves in positions where their physical actions may be open to criticism or misinterpretation. Minimal positive restraint and physical intervention should only be used **as a last resort** where it becomes necessary to physically restrain or use force to control a young person for their own safety, for the safety of others, to prevent a criminal act or to prevent damage to goods or property. Professionals must be mindful of this when making decisions whether or not to intervene in situations drawing a balance between their duty of care towards the young person, the potential risks to themselves (including potential allegations of abuse) and whether this should be dealt with by the Police.

Any form of physical intervention should be immediately documented and signed by witnesses (where possible) and reported to the designated safeguarding manager.

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Professionals duty of care towards young people is only in circumstances where it would be reasonably assumed that they are acting in 'loco parentis' for the young person(s). In situations outside of this environment (i.e. a youth worker witnesses a street fight between their service users), the professionals duty of care towards the young person(s) becomes that of any responsible citizen and should not warrant physical intervention however should be referred to the Police.

- **Sexual Misconduct**

Inappropriate sexual conduct or behaviours will not be tolerated within the YLC or its premises under any circumstances. Age inappropriate sexualized behaviours (including sexting) may warrant a referral to Social Care and/or the Police.

3.13 Health & Safety

It is essential that the YLC and its commissioned providers are perceived as safe and secure environments for young people to associate with other young people and participate in activities which encourage personal growth & development.

By law (Health and Safety at Work Act 1974 section 2(3)) there must be a written Health & Safety policy for organisations which employ 5 or more people.

Youth sites must ensure that they are safe, fit for purpose and have been risk assessed by LB Lambeth in line with the Health & Safety Executives guidance.

Sites must have adequate public liability insurance in place to cover the full range of activities that are undertaken both on and off site.

Sites must have an identifiable documented log of accidents (Accident Book) compliant to the Data Protection Act 1998.

Any concerns must be addressed via Lambeth's Health & Safety team.

3.14 First Aid

A qualified First Aider should ideally be on premises at all time however this needs further discussion about responsibility of first aiders towards young people.

3.15 Security

Youth sites should ideally have on site door security and CCTV installed both inside and in the immediate vicinity outside the premises. It should also be a condition of entry that staff, volunteers **and** service users are required to sign in and out of the premises. This also supports any roll call should the premises need to be evacuated in an emergency and therefore a sign must clearly be displayed on site which highlights an emergency evacuation assembly point outside of the building.

There should be clear signs upon entry to the premises that (if) CCTV cameras are in operation and CCTV systems must be compliant to the CCTV Code of Practice 2008.

All staff and volunteers must receive regular fire training and be confident in responding to any form of emergency.

Appendix 1

London borough of Lambeth Children's Social Care Thresholds

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Acknowledgement

This document is based on that produced by the London Safeguarding Children Board which in turn was based on documents from Westminster City Council and LB Enfield.

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1. Introduction

- 1.1 The majority of children and young people in Lambeth have a number of basic needs that can be supported through a range of universal services. These services include education, early years, health, housing, youth services, leisure facilities and services provided by voluntary organisations. However, some children have more complex needs and may need access to specialist services (e.g. children's Social Care) to support them.
- 1.2 Under the national Every Child Matters agenda, safeguarding children is everybody's business. The range of services working with children and young people has expanded over the last 10 years and this has meant an increased number of referral pathways for services. This document provides guidance about how thresholds affect the type of referrals accepted by children's Social Care, and the main categories referrals fall into.
- 1.3 In this document, "threshold" refers to the point at which LA children's social care are likely to accept a referral for a child, young person or their family.
- 1.4 This guidance does not list specific criteria for receiving an assessment or service. Information about indicators for child protection responses are included in Section 6 of the *London Child Protection Procedures 2007* reproduced at appendix 1.

2. Who is the document for?

- 2.1 This document has been prepared to help explain how children's social care staff apply thresholds to referrals made to the service. The document also sets out the circumstances in which children's Social Care are likely to provide services and, where the threshold for a service is not met, provide alternative options for the referrer (often through universal services).
- 2.2 This document is primarily targeted at professionals who are in regular / daily contact with children or families, and may have a concern about a child or young person. By basing the Lambeth threshold document on the London document, it can be clearly demonstrated that Lambeth thresholds are consistent with those operating in the rest of the London area.
- 2.3 This document has been agreed as guidance for all agencies working with children in Lambeth.

3. Referral pathways and services

- 3.1 Referrals to services regarding concerns about a child typically fall into three categories:
 - Early intervention and prevention – Common Assessment Framework referrals
 - Child in need – Section 17 referrals
 - Child protection – Section 47 referrals
- 3.2 Section 17 and Section 47 referrals will be considered by children's Social Care, but early intervention and prevention referrals will often be made to other services and not processed by the local authority (although the Local Authority does hold a list of cases that have been subject to a CAF).
- 3.3 Safeguarding and child protection work should always be underpinned by principles of working in partnership with families. In all cases, consent must be sought from parents / carers to share information as appropriate, although there are certain circumstances in which this consent is not required (e.g. where there is specific risk of harm to a child and sharing the information with the parents would place the child at further risk).

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- 3.4 Social Care staff have no mandate to compel parents to undertake assessments or accept services, although there may be consequences for the family if recommended services or interventions are not taken up by parents / carers.
- 3.5 Referrals in to Social Care should be done by either carrying out a CAF or, if this is not appropriate, eg because of the urgency of the situation, by completing as much information as possible on a CAF form. The CAF provides a structure for the written referral and should be used wherever possible, but the completion of a CAF is not a pre-requisite for a referral being accepted by Social Care.
- 3.6 Telephone referrals should be made to a member of the Referral & Assessment screening team. The teams numbers are set out in sect 9. All referrals should be followed up in writing within 48 hours.
- 3.7 The London CP Procedures contain a helpful flowchart. This is reproduced at appendix 3.

4. Common Assessment Framework (CAF)

- 4.1 The Common Assessment Framework (CAF) is a holistic assessment of a child's needs for services. It is a process for recognising signs that a child may have unmet needs that universal services cannot meet, and identifying and involving other agencies who may be able to support the child and/ or undertake specialist assessment. Central to its development is the principle that it is child/ young person centred, holistic and can be shared across professionals as appropriate. The term is also used to describe the format in which the assessment is recorded.
- 4.2 The CAF provides a common method of assessment across children's services and local areas. It facilitates early identification of needs, leading to co-ordinated provision of services, involving a lead professional where appropriate, and sharing information to avoid the duplication of assessments.
- 4.3 The common assessment is designed for when:
- There are concerns about how well a child is progressing in terms of their health, welfare, behaviour, progress in learning or any other aspect of their well-being;
 - The child's needs are unclear or broader than a single universal service can address.
- 4.4 A common assessment should be completed when a professional in any agency has concerns that a child will not progress towards the five Every Child Matters priority outcomes (being healthy, staying safe, enjoying and achieving, making a positive contribution and achieving economic well-being) without additional services.
- 4.5 The CAF Pre-Assessment Checklist is a quick form that reflects the 5 ECM Outcomes, designed to help practitioners identify and document an initial concern, and/or determine the level of the concern.
- 4.6 Completing a common assessment should:
- Enable the professional to identify the child's needs;
 - Provide a structure for systematic gathering and recording of information;
 - Record evidence of concerns and a baseline for measuring progress in addressing them;
 - Provide a framework for a discussion with LA children's social care regarding an initial or core assessment or to another service for a specialist assessment.
- 4.7 Completing a common assessment can also provide a standardised written referral proforma to support a telephone referral.
- 4.8 Appendix 2 of this guidance provides a list of levels of need and their characteristics. It is important to note that this list is not exhaustive, but included for illustrative purposes only.

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- 4.9 Where there is an immediate need to protect a child, professionals must contact children's Social Care and/or the police directly and make a referral, rather than completing a Common Assessment.
- 4.10 See *Mobility and Young London: Integrated working without boundaries (the London CAF protocol)* for more information about the operation of the CAF across London. The Protocol represents an agreement by local authorities and partners delivering children's services in London to set in place consistent standards of service for all children, young people and families with identified additional needs, where some responses may need to be accessed via services not in their authority of residence. It also addresses cases where services need to be provided across LA boundaries, and represents an agreement to work collaboratively, to compromise when required and to be flexible with regard to current strategies: ensuring that children and young people remain at the heart of any engagement, support and intervention.

5. Child in Need / Section 17

- 5.1 Section 17 of the Children Act 1989 places a general duty on every local authority to safeguard and promote the welfare of children who are need within their area. Children's Social Care must, so far as is consistent with this duty, promote the upbringing of children in need by their families, through provision of a range and level of services appropriate to the child's needs.
- 5.2 The Children Act 1989 states that a child shall be considered "in need" if:
- S/he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision of services by a local authority;
 - Their health or development is likely to be significantly impaired, or further impaired, without the provision of such services; and/or
 - S/he is disabled.
- 5.3 Before referring a child to children's Social Care under section 17, professionals should in most cases, ensure that a CAF has been completed (with a lead professional identified where appropriate), and that a referral has been made to the appropriate specialist services. A section 17 referral to children's Social Care should be made if these initial attempts to improve the situation have been unsuccessful, accompanied by evidence of the actions taken to date. Although it is normally expected that a CAF will have been completed, a referral can be accepted without the CAF process having been completed where it is clear that the case already meets the criteria for a child in need. (see continuum chart). In these cases the referral should be made using the CAF form, but the CAF process does not need to be followed. (see 3.5 and 3.6 above).

6. Child Protection / Section 47

- 6.1 Section 47 of the Children Act 1989 requires the local authority to make enquiries to enable it to decide whether action is required to safeguard and promote the well-being of the child. Children's Social Care will carry out a core assessment as a means of conducting the Section 47 enquiries.
- 6.2 The purpose of the Core Assessment is to determine whether the child is suffering, or likely to suffer, significant harm and to assess whether action is required to safeguard and promote the child's welfare. Health, education and other services have a statutory duty to help children's Social Care to carry out the Section 47 enquiry. Social Workers will work with the police in the case of a criminal investigation.

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7. Children's Social Care – duties and responsibilities

- 7.1 The children's Social Care service operates under a strict legal framework, and it is this legal framework that dictates which cases must be accepted from referral and assessed, and what services can be offered or provided to children, young people and their families.
- 7.2 Children's Social Care determines the level of need for children by a process of assessment based on the Framework for the Assessment of Children in Need and their Families (2000). The assessment looks at the child's developmental needs, parenting capacity of their carers, and family and environmental factors.
- 7.3 Children's Social Care uses thresholds to consider whether a referral will be accepted, whether an assessment will be undertaken, and what services will be offered or provided. This way, they can ensure that help is targeted at those children who are most vulnerable, and that any decisions made about services are consistent.
- 7.4 Once a referral is accepted, staff will carry out an assessment to identify the child's level of need and risk, and decide on an appropriate plan of action and services to be offered depending on this assessment.
- 7.5 When a referral is below their threshold, children's Social Care will provide referrers with information on more suitable resources and pass the referral to other services where appropriate. Referring professionals should receive a feedback card setting out the outcome of the referral and the reasons for it.

8. How to decide whether to make a referral

- 8.1 It is important to be clear about the purpose and intended outcome of the referral. Using the information in section 3 and the appendix, it is helpful to consider the three main categories of referrals, and related levels of need, to consider where your concerns about a child or young person fit.
- 8.2 It can be very useful to consult with other professionals in the child's network (such as health visitor, youth worker, teacher) if you have concerns. When the concern is around risk of harm to a child, you may want to speak to your own agency lead for child protection and safeguarding. Alternatively, you can speak with one of your local authority's child protection advisers or a duty social worker about a referral.
- 8.3 Professionals in all agencies have a responsibility to refer a child to children's Social Care when it is believed or suspected that the child:
- Has suffered significant harm; or
 - Is likely to suffer significant harm.

9. Details of Children's Social Care teams:

Screening team (for all new referrals) - Tel	0207 926 1772	Fax	0207 926 6874
			0207 926 7856
			0207 926 6586
			0207 926 6583
			0207 926 6010
			0207 926 7868
Screening Team Manager -			0207 926 1772
Referral & Assessment Team 1 - Team Manager			0207 926 6512
Referral & Assessment Team 2 - Team Manager			0207 926 7866
Referral & Assessment Team 3 - Team Manager			0207 926 6522
Referral & Assessment Team 4 - Team Manager			0207 926 5437

Appendix 1.1

Extract from the London CP procedures about the difference between sect 17 and sect 47 referrals.

INDICATOR TABLE

6.4.4 The table below is an indicator guide of the difference within LA children’s social care between a s47 core assessment and an initial assessment. This table is intended as a guide and is not exhaustive. Each local area will have their own arrangements for the Common Assessment Framework (see section [6.2. Common Assessment Framework](#)) and the wider children in need population. See [section 5. Children in specific circumstances](#).

LA children’s social care assessments	
Section 47 / core assessment	Initial assessment
Any allegation of abuse or neglect or any suspicious injury in a pre- or non mobile child.	Allegation of physical assault with no visible or only minor injury (other than to a pre-or non mobile child).
Allegations or suspicions about a serious injury / sexual abuse to a child. See also section 4.3. Recognition of abuse and neglect and section 5.23. ICT-based forms of abuse .	Any injury / incident triggering concern (e.g. a series of apparently accidental injuries or a minor non-accidental incident).
Two or more minor injuries in pre-mobile or non verbal babies or young children (including disabled children).	Any incident / injury triggering concern (e.g. a series of apparently accidental injuries or a minor non-accidental incident).
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.
A child being traumatised, injured or neglected as a result of domestic violence. See also section 5.11. Domestic violence	Level 3 domestic violence. See Safeguarding Children Abused Through Domestic Violence (London Board, 2006) for the assessment of risk to a child.
Repeated allegations involving serious verbal threats and/or emotional abuse. See also section 5.6. Bullying .	Allegation concerning serious verbal threats to children. Allegations of emotional abuse including that caused by minor domestic violence.
Allegations / reasonable suspicions of serious	Allegations of periodic neglect including insufficient supervision; poor hygiene,

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<p>neglect.</p> <p>See also section 4.3. Recognition of abuse and neglect.</p>	<p>clothing or nutrition; failure to seek / attend treatment or appointments; age; young carers undertaking intimate personal care.</p>
<p>Medical referral of non-organic failure to thrive in under fives.</p> <p>See also section 4.3. Recognition of abuse and neglect.</p>	
<p>Direct allegation of sexual abuse made by child or abuser's confession to such abuse.</p> <p>See also section 4.3. Recognition of abuse and neglect, section 5.39. Sexually active children and section 5.40. Sexually exploited children.</p>	<p>Suspicious of sexual abuse (e.g. sexualised behaviour, medical concerns or referral by concerned relative, neighbour, carer).</p>
<p>Any allegation suggesting connections between sexually abused children in different families or more than one abuser.</p> <p>See also section 5.23. ICT-based forms of abuse and section 14. Organised and complex abuse.</p>	
<p>An individual (adult or child) posing a risk to children.</p> <p>See also section 5.18. Harming others and section 13. Risk management of known offenders.</p>	
<p>Any suspicious injury or allegation involving a child subject of a current child protection plan or looked after by a local authority.</p> <p>See also section 5.7. Custodial settings for children, section 5.17. Foster care and section 5.37. Residential care.</p>	
<p>No available parent and child vulnerable to significant harm (e.g. an abandoned baby).</p>	<p>No available parent, child in need of accommodation and no specific risk if this need is met.</p>

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<p>Suspicion that child has suffered or is at risk of significant harm due to fabricated or induced illness.</p> <p>See also section 5.12. Fabricated or induced illness.</p>	
<p>Children subject of parental delusions.</p> <p>See also section 5.29. Parental mental illness.</p>	
<p>A child at risk of sexual exploitation or trafficking.</p> <p>See also section 5.40. Sexually exploited children and section 5.43. Trafficked and exploited children.</p>	
<p>Registered sex offender or convicted violent offender subject to MAPPA moving into a household with under 18 year olds.</p> <p>See also section 13. Risk management of known offenders.</p>	
<p>Pregnancy in a child aged under 13.</p> <p>See also section 5.39. Sexually active children and section 5.40. Sexually exploited children</p>	
<p>A child at risk of FGM, honour based violence or forced marriage.</p> <p>See also section 5.13. Female genital mutilation, section 5.15. Forced marriage of a child and section 5.20. Honour based violence.</p>	

Appendix 1.2

The London Continuum of Need – reproduced from:

Integrated Working Without Boundaries – the London Common Assessment Framework (CAF) Protocol (Young London Matters, 2009) annex 2a: The London Continuum of Need (CAF thresholds)

Annex 1.2 - CAF Thresholds

1.0 Introduction

The purpose of this chapter is to outline common risk triggers for beginning a common assessment and to introduce the *London Continuum of Need* model. This model was developed in consultation with local authorities and key local, regional and national partners. We recognise that some local authorities may have more detailed level descriptors. The London Continuum does NOT provide an exhaustive list of all the possible scenarios and practitioners should *always* use their professional judgement.

The London Continuum establishes a consistent approach for:

- Four levels of need and corresponding service intervention
- Beginning the CAF process

This will facilitate swift and easy access to appropriate services and help remove barriers to cross authority integrated service delivery.

It is acknowledged that children may move from one level of need to another and agencies (including universal services) may offer support for needs at more than one level.

The London Continuum model does not guarantee service provision by particular agencies at each level as there may be restricting factors such as:

- Specific service criteria related to the agency's specialist area of work
- Previous interventions
- Geographical location
- Age limits
- Time limited provision, e.g. only available during school term

The London Continuum builds from the four levels of need:

Level 1

No identified additional needs. Response services are universal services.

Level 2- (Low risk to Vulnerable)

Child's needs are not clear, not known or not being met. This is the threshold for beginning a common assessment. Response services are universal support services and/or targeted services.

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Level 3- Complex

Complex needs likely to require longer term intervention from statutory and/or specialist services. High level additional unmet needs – this will *usually* require a targeted integrated response, which will *usually* include a specialist or statutory service. This is also the threshold for a child in need which will require Children’s Social Care intervention.

Level 4- Acute

Acute needs, requiring statutory intensive support. This in particular includes the threshold for child protection which will require Children’s Social Care intervention.

(Please note The London Continuum of needs within this annex represents the level descriptors. Detailed risk and resilience factors relating to specific policy areas are provided at the end of this document and also can be accessed on the Young London Matters website.)

The London Continuum identifies a set of risk and resilience triggers and levels of need and has been established in consultation with London Local Authorities and those organisations listed within the Protocol. Due to the expert opinion and policy advice utilised in developing the London Continuum, authorities may choose to consider a review of their thresholds and or align these with the London Continuum

When there is an immediate need to protect a child because they are being harmed or at risk of harm the practitioner must contact the local authority Children’s Social Care and/or police directly and make a telephone referral. All practitioners must follow the referral process in their local borough and follow up a verbal referral with a written referral. In some local authorities the common assessment is the accepted mode for a written referral. For cross authority working use the method identified by your Local Safeguarding Children Board.

The London Continuum of Need should be read alongside the London Child Protection Procedures (www.londonscb.gov.uk/procedures) .

LONDON CONTINUUM CHARTS

Level 1

No additional needs, only requiring universal service support

FEATURES	UNIVERSAL EXAMPLE INDICATORS	ASSESSMENT PROCESS
<p>Children with no additional needs</p> <p>Children whose developmental needs are met by universal services.</p>	DEVELOPMENTAL NEEDS	<p>No Common Assessment is required.</p> <p>Children should access universal services in a normal way.</p> <p>If professionals are concerned the child is developing an unmet need they should consider completing a pre-assessment checklist to help determine if a full common assessment is required.</p> <p>Key universal services that may provide support at this level:</p> <p>Education Children’s Centres & Early Years Health visiting service School nursing GP Play Services Youth & Connexions Police Housing Voluntary & community sector</p>
	LEARNING / EDUCATION	
	<ul style="list-style-type: none"> • achieving key stages • good attendance at school/college/training • no barriers to learning • Planned progression beyond statutory school age 	
	HEALTH	
	<ul style="list-style-type: none"> • Good physical health with age appropriate developmental milestones including speech and language 	
	SOCIAL, EMOTIONAL, BEHAVIOURAL, IDENTITY	
	<ul style="list-style-type: none"> • good mental health and psychological well-being • good quality early attachments, confident in social situations • knowledgeable about the effects of crime and antisocial behaviour • knowledgeable about sex and relationships and consistent use of contraception if sexually active 	
	FAMILY AND SOCIAL RELATIONSHIPS	
	<ul style="list-style-type: none"> • Stable families where parents are able to meet the child’s needs 	
	SELF-CARE AND INDEPENDENCE	
	<ul style="list-style-type: none"> • Age appropriate independent living skills 	
	FAMILY & ENVIRONMENTAL FACTORS	
	FAMILY HISTORY & WELL-BEING	
	<ul style="list-style-type: none"> • supportive family relationships 	
HOUSING, EMPLOYMENT & FINANCE		
<ul style="list-style-type: none"> • child fully supported financially • good quality stable housing 		
SOCIAL & COMMUNITY RESOURCES		
<ul style="list-style-type: none"> • good social and friendship networks exist • safe and secure environment • access to consistent and positive activities 		
PARENTS & CARERS		
BASIC CARE, SAFETY & PROTECTION		
<ul style="list-style-type: none"> • parents able to provide care for child’s needs 		
EMOTIONAL WARMTH & STABILITY		
<ul style="list-style-type: none"> • parents provide secure and caring parenting 		
GUIDANCE BOUNDARIES & STIMULATION		
<p>parents provide appropriate guidance and boundaries to help child develop appropriate values</p>		

LEVEL 2- Low to Vulnerable

Targeted support

FEATURES	Low to Vulnerable - EXAMPLE INDICATORS	ASSESSMENT PROCESS
<p>2a Vulnerable These children have low level additional needs that are likely to be short-term and that maybe known but are not being met.</p> <p>2b Vulnerable Child's needs are not clear, not known or not being met</p> <p>Child with additional needs – requiring multi-agency intervention Lead professional and Team around child</p>	DEVELOPMENTAL NEEDS	<p>A common assessment should be completed with the child to identify their strengths & needs and to gain specialist support</p> <p>Programmes aiming to build self-esteem and enhance social/life skills Prevention Programmes Positive activities</p> <p>Key agencies that may provide support at this level: Universal and targeted Youth crime prevention services Targeted drug and alcohol information, advice and education, including harm reduction advice to support informed choices</p> <p>Health, education Childrens Centres & Early Years Educational psychology Educational Welfare Specialist Play Services Youth & Connexions services Voluntary & community services Family support services</p> <p>Reference sector specific charts</p>
	<p style="text-align: center;">LEARNING /EDUCATION</p> <ul style="list-style-type: none"> • occasional truanting or non attendance • school action or school action plus • identifies language and communication difficulties • reduced access to books, toys or educational materials • few or no qualifications • NEET 	
	<p style="text-align: center;">HEALTH</p> <ul style="list-style-type: none"> • Slow in reaching developmental milestones, • missing immunizations or checks • Minor health problems which can be maintained in a mainstream school 	
	<p style="text-align: center;">SOCIAL, EMOTIONAL, BEHAVIOURAL, IDENTITY</p> <ul style="list-style-type: none"> • Low level mental health or emotional issues requiring intervention • Pro offending behaviour and attitudes • Early onset of offending behaviour or activity (10-14) • Coming to notice of police through low level offending • Expressing wish to become pregnant at young age • Early onset of sexual activity (13-14) • Sexual active (15+) with inconsistent use of contraception • Low level substance misuse (current or historical) • Poor self esteem 	
	<p style="text-align: center;">SELF-CARE AND INDEPENDENCE</p> <ul style="list-style-type: none"> • Lack of age appropriate behaviour and independent living skills that increase vulnerability to social exclusion 	
	FAMILY & ENVIRONMENTAL FACTORS	
	<p style="text-align: center;">FAMILY AND SOCIAL RELATIONSHIPS & FAMILY WELL-BEING</p> <ul style="list-style-type: none"> • Parents/carers have relationship difficulties which may affect the child • Parents request advice to manage their child's behaviour • Children affected by difficult family relationships or bullying 	
	<p style="text-align: center;">HOUSING, EMPLOYMENT & FINANCE</p> <ul style="list-style-type: none"> • overcrowding • families affected by low income or unemployment 	
	<p style="text-align: center;">SOCIAL & COMMUNITY RESOURCES</p> <ul style="list-style-type: none"> • insufficient facilities to meet needs e.g. transport or access issues • family require advice regarding social exclusion e.g. hate crimes • associating with anti social or criminally active peers • limited access to contraceptive and sexual health advice, information and services 	
	PARENTS & CARERS	
	<p style="text-align: center;">BASIC CARE, SAFETY & PROTECTION</p> <ul style="list-style-type: none"> • inconsistent care e.g. inappropriate child care arrangements or young inexperienced parent 	
	<p style="text-align: center;">EMOTIONAL WARMTH & STABILITY</p> <ul style="list-style-type: none"> • inconsistent parenting, but development not significantly impaired 	
	<p style="text-align: center;">GUIDANCE BOUNDARIES & STIMULATION</p> <ul style="list-style-type: none"> • lack of response to concerns raised regarding child 	

LEVEL 3

High or Complex level additional needs requiring integrated targeted support OR child in need (section 17)

FEATURES	MEDIUM RISK EXAMPLE INDICATORS	ASSESSMENT PROCESS
<p>Children with high level additional unmet needs Complex needs likely to require longer term intervention from statutory and/or specialist services</p> <p>CHILD IN NEED: These children may be eligible for a child in need service from children’s social care and are at risk of moving to a high level of risk if they do not receive early intervention. These may include children who have been assessed as “high risk” in the recent past, or children who have been adopted and now require additional support. If a social worker is allocated they will act as the Lead Professional.</p>	DEVELOPMENTAL NEEDS	<p>The common assessment can be used as supporting evidence to gain specialist / targeted support.</p> <p>The common assessment may also be completed to support child moving out of complex needs</p> <p>Statutory or specialist services assessment (NB a common assessment must NOT replace a specialist assessment).</p> <p>Key agencies that may provide support at this level:</p> <p>LA children’s social care</p> <p>Other statutory service e.g. SEN services. Specialist health or disability services. YISP Youth Offending Team. Targeted drug and alcohol CAMHS Family support services Voluntary & community services Services at universal level</p> <p>Reference sector specific charts</p>
	<p style="text-align: center;">LEARNING/EDUCATION</p> <ul style="list-style-type: none"> • short term exclusions or at risk of permanent exclusion, persistent truanting • Statement of special educational needs • No access to books, toys or educational materials 	
	<p style="text-align: center;">HEALTH</p> <ul style="list-style-type: none"> • disability requiring specialist support to be maintained in mainstream setting • physical and emotional development raising significant concerns • chronic/recurring health problems • missed appointments- routine and non-routine 	
	<p style="text-align: center;">SOCIAL, EMOTIONAL, BEHAVIOURAL, IDENTITY</p> <ul style="list-style-type: none"> • under 16 and has had (or caused) a previous pregnancy ending in still birth, abortion or miscarriage • 16+ and has had (or caused) 2 or more previous pregnancies or is a teenage parent • Under 18 and pregnant • coming to notice of police on a regular basis but not progressed • Received fixed penalty notice, reprimand, final warning or triage of diversionary intervention • Evidence of regular/frequent drug use which may be combined with other risk factors • Evidence of escalation of substance use • Evidence of changing attitudes and more disregard to risk • mental health issues requiring specialist intervention in the community • significant low self esteem • victim of crime including discrimination 	
	<p style="text-align: center;">SELF-CARE AND INDEPENDENCE</p> <ul style="list-style-type: none"> • Lack of age appropriate behaviour and independent living skills, likely to impair development 	
	FAMILY & ENVIRONMENTAL FACTORS	
	<p style="text-align: center;">FAMILY AND SOCIAL RELATIONSHIPS & FAMILY WELL-BEING</p> <ul style="list-style-type: none"> • History of domestic violence • risk of relationship breakdown with parent or carer and the child • Young carers , Privately fostered, children of prisoners, periods of LAC • Child appears to have undifferentiated attachments 	
	<p style="text-align: center;">HOUSING, EMPLOYMENT & FINANCE</p> <ul style="list-style-type: none"> • Severe overcrowding, temporary accommodation, homeless, unemployed 	
	<p style="text-align: center;">SOCIAL & COMMUNITY RESOURCES</p> <ul style="list-style-type: none"> • family require support services as a result of social exclusion • parents socially excluded, no access to local facilities 	
	PARENTS & CARERS	
	<p style="text-align: center;">BASIC CARE, SAFETY & PROTECTION</p> <ul style="list-style-type: none"> • physical care or supervision of child is inadequate • parental learning disability ,parental substance misuse or mental health impacting on parent’s ability to meet the needs of the child • parental non compliance 	
	<p style="text-align: center;">EMOTIONAL WARMTH & STABILITY</p> <ul style="list-style-type: none"> • inconsistent parenting impairing emotional or behavioural development 	
	<p style="text-align: center;">GUIDANCE BOUNDARIES & STIMULATION</p> <ul style="list-style-type: none"> • parent provides inconsistent boundaries or responses 	

LEVEL 4

Complex/Acute additional needs requiring specialist or statutory integrated response OR child protection (section 47)

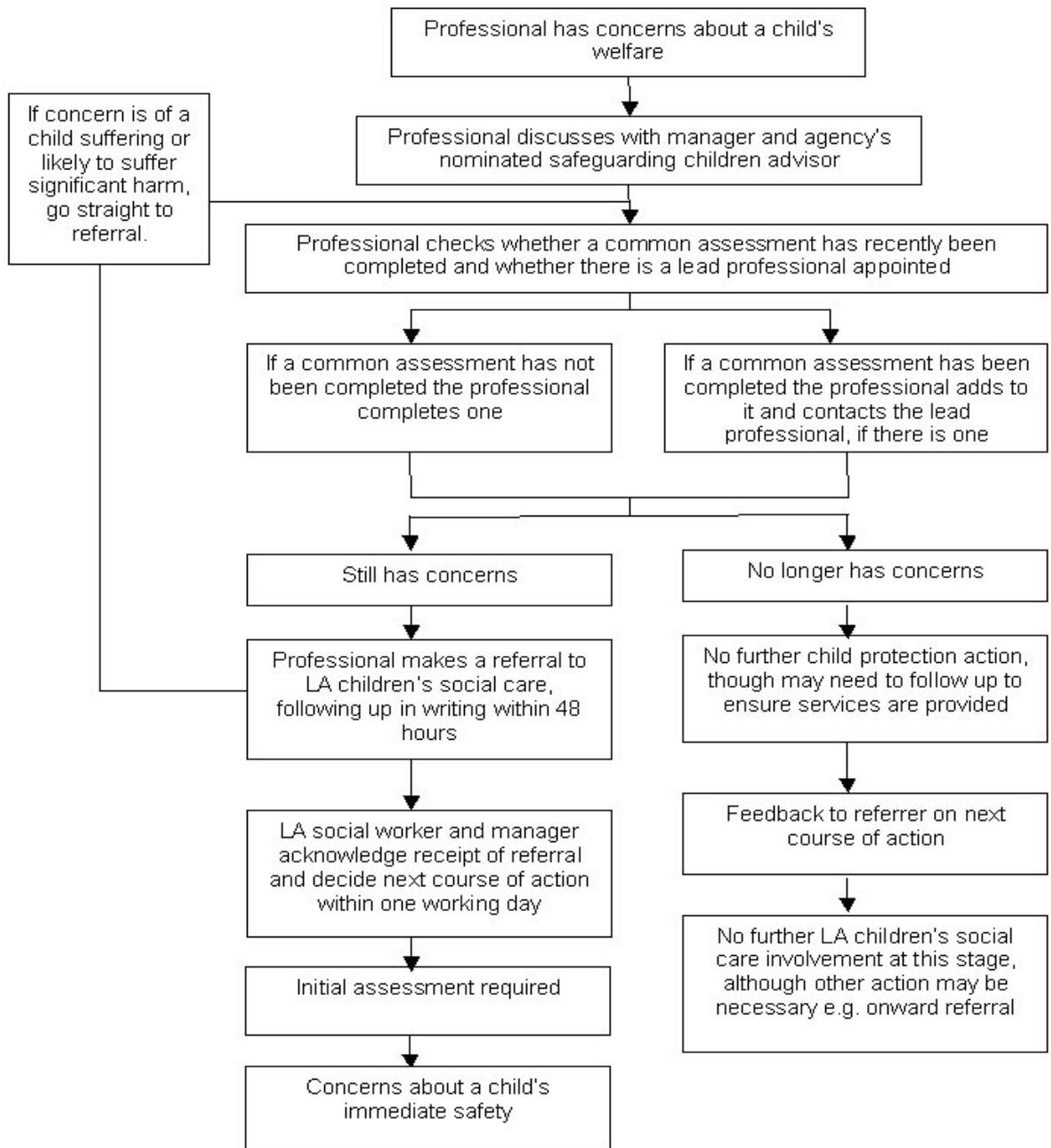
FEATURES	HIGH RISK EXAMPLE INDICATORS	ASSESSMENT PROCESS
<p>Complex additional unmet needs These children require specialist/statutory integrated support</p> <p>CHILD PROTECTION Children experiencing significant harm that require statutory intervention such as child protection or legal intervention. These children may also need to be accommodated by the local authority either on a voluntary basis or by way of Court Order.</p> <p>Agencies should make a verbal referral to children’s social care accompanied by a written referral.</p>	DEVELOPMENTAL NEEDS	<p>Additional services:</p> <p>The common assessment can be used as supporting evidence to gain specialist / targeted support.</p> <p>Statutory or specialist services assessment (NB a common assessment must NOT replace a specialist assessment).</p> <p>Key agencies that may provide support at this level: LA children’s social care</p> <p>Specialist health or disability services. Youth Offending Team. CAMHS Family support services Voluntary & community services Services at universal level comprehensive assessment and formulation of substance specific care plan</p> <p>Reference sector specific charts</p>
	LEARNING / EDUCATION	
	<ul style="list-style-type: none"> chronic non-attendance, truanting permanently excluded, frequent exclusions or no education provision no parental support for education 	
	HEALTH	
	<ul style="list-style-type: none"> high level disability which cannot be maintained in a mainstream setting serious physical and emotional health problems 	
	SOCIAL, EMOTIONAL, BEHAVIOURAL, IDENTITY	
	<ul style="list-style-type: none"> challenging behaviour resulting in serious risk to the child and others failure or rejection to address serious (re) offending behaviour likely to be in Deter cohort of youth offending management known to be part of gang or post code derived collective complex mental health issues requiring specialist interventions in sexually exploitative relationship teenage parent under 16 under 13 engaged in sexual activity frequently go missing from home for long periods distorted self image Young people experiencing current harm through their use of substances. Young people with complicated substance problems requiring specific interventions and/or child protection. Young people with complex needs whose issues are exacerbated by substance use 	
	SELF-CARE AND INDEPENDENCE	
	<ul style="list-style-type: none"> Severe lack of age appropriate behaviour and independent living skills likely to result in significant harm e.g. bullying, isolation 	
	FAMILY & ENVIRONMENTAL FACTORS	
	FAMILY AND SOCIAL RELATIONSHIPS & FAMILY WELL-BEING	
	<ul style="list-style-type: none"> Suspicion of physical, emotional, sexual abuse or neglect High levels of domestic violence that put the child at risk parents are unable to care for the child children who need to be looked after outside of their own family 	
	HOUSING, EMPLOYMENT & FINANCE	
<ul style="list-style-type: none"> No fixed abode or homeless family unable to gain employment or extreme poverty 		
SOCIAL & COMMUNITY RESOURCES		
<ul style="list-style-type: none"> Child or family need immediate support and protection due to harassment /discrimination and No access to community resources 		
PARENTS & CARERS		
BASIC CARE, SAFETY & PROTECTION		
<ul style="list-style-type: none"> Parent is unable to meet child’s needs without support 		
EMOTIONAL WARMTH & STABILITY		
<ul style="list-style-type: none"> Parents unable to manage and risk of family breakdown 		
GUIDANCE BOUNDARIES & STIMULATION		
<ul style="list-style-type: none"> Parent does not offer good role model e.g. condones antisocial behaviour 		

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The London Continuum of Need is available to download at www.younglondonmatters.org/uploads/documents/mobilityandyounglondoncafprotocolannex2a.pdf

Appendix 2

Referral pathways and CAF (reprinted from the London CP Procedures)



CAF form

Notes for use: If you are completing form electronically, text boxes will expand to fit your text Where check boxes appear, insert an 'X' in those that apply.

Identifying details

Record details of unborn baby, infant, child or young person being assessed. If unborn, state name as 'unborn baby' and mother's name, e.g. unborn baby of Ann Smith.

Name	<input type="text"/>	AKA ¹ /previous names	<input type="text"/>
Male	<input type="checkbox"/>	Female	<input type="checkbox"/>
		Unknown	<input type="checkbox"/>
Date of birth or EDD ²	<input type="text"/>		
Address	<input type="text"/>		
Contact tel. no.	<input type="text"/>		
Unique ref. no.	<input type="text"/>		
Version no.	<input type="text"/>		
Postcode	<input type="text"/>	Religion	<input type="text"/>

Ethnicity

<input type="checkbox"/> White British	<input type="checkbox"/> Caribbean	<input type="checkbox"/> Indian	<input type="checkbox"/> White & Black Caribbean	<input type="checkbox"/> Chinese
<input type="checkbox"/> White Irish	<input type="checkbox"/> African	<input type="checkbox"/> Pakistani	<input type="checkbox"/> White & Black African	<input type="checkbox"/> Any other ethnic group*
<input type="checkbox"/> Any other White background*	<input type="checkbox"/> Any other Black background*	<input type="checkbox"/> Bangladeshi	<input type="checkbox"/> White & Asian	<input type="checkbox"/> Not given
<input type="checkbox"/> Gypsy/Roma	<input type="checkbox"/> Traveller of Irish Heritage	<input type="checkbox"/> Any other Asian background*	<input type="checkbox"/> Any other mixed background*	<input type="checkbox"/>

*If other, please specify	<input type="text"/>	Immigration status	<input type="text"/>
Child's first language	<input type="text"/>	Parent's first language	<input type="text"/>
Does the child have a disability?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
If 'yes' give details	<input type="text"/>		

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Is an interpreter or signer required?

Yes

No

Has this been arranged?

Yes

No

Details of any special requirements
(for child and/or their parent)

1 'Also known as'

2 Expected date of delivery

Assessment information

People present
at assessment

What has led to this unborn baby, infant, child or young person being assessed?

Details of parents/carers

Name

Contact tel. no.

Relationship to unborn baby, infant, child or young person

Mother

Address

Parental responsibility?

Yes

No

Name

Contact tel. no.

Relationship to unborn baby, infant, child or young person

Address

Parental responsibility?

Yes

No

Current family and home situation

(e.g. family structure including siblings, other significant adults etc; who lives with the child and who does not live with the child)

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Details of person(s) undertaking assessment

Name	<input type="text"/>	Contact tel. no.	<input type="text"/>
Address	<input type="text"/>	Role	<input type="text"/>
		Organisation	<input type="text"/>

Name of lead professional (where applicable)

Lead professional's contact number

Services working with this infant, child or young person

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Universal	GP	x	Details	<input type="text"/>	Tel.	<input type="text"/>
	Early years or education/training provision	x	Details	<input type="text"/>	Tel.	<input type="text"/>
Other services	Service	<input type="text"/>	Details	<input type="text"/>	Tel.	<input type="text"/>
	Service	<input type="text"/>	Details	<input type="text"/>	Tel.	<input type="text"/>
	Service	Housing	Details	<input type="text"/>	Tel.	<input type="text"/>
	Service	<input type="text"/>	Details	<input type="text"/>	Tel.	<input type="text"/>
	Service	<input type="text"/>	Details	<input type="text"/>	Tel.	<input type="text"/>
	Service	<input type="text"/>	Details	<input type="text"/>	Tel.	<input type="text"/>

CAF assessment summary: strengths and needs

Consider each of the elements to the extent they are appropriate in the circumstances. You do not need to comment on every element. Wherever possible, base comments on evidence, not just opinion, and indicate what your evidence is. However, if there are any major differences of view, these should be recorded too.

1. Development of unborn baby, infant, child or young person

YLC Safeguarding Policy

Health

General health

Conditions and impairments; access to and use of dentist, GP, optician; immunisations, developmental checks, hospital admissions, accidents, health advice and information

--

Physical development

Nourishment; activity; relaxation; vision and hearing; fine motor skills (drawing etc.); gross motor skills (mobility, playing games and sport etc.)

--

Speech, language and communication

Preferred communication, language, conversation, expression, questioning; games; stories and songs; listening; responding; understanding

--

Emotional and social development

Feeling special; early attachments; risking/actual self-harm; phobias; psychological difficulties; coping with stress; motivation, positive attitudes; confidence; relationships with peers; feeling isolated and solitary; fears; often unhappy

--

Behavioural development

Lifestyle, self-control, reckless or impulsive activity; behaviour with peers; substance misuse; anti-social behaviour; sexual behaviour; offending; violence and aggression; restless and overactive; easily distracted, attention span/concentration

--

1. Development of unborn baby, infant, child or young person (continued)

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Identity, self-esteem, self-image and social presentation

Perceptions of self; knowledge of personal/family history; sense of belonging; experiences of discrimination due to race, religion, age, gender, sexuality and disability

--

Family and social relationships

Building stable relationships with family, peers and wider community; helping others; friendships; levels of association for negative relationships

--

Self-care skills and independence

Becoming independent; boundaries, rules, asking for help, decision-making; changes to body; washing, dressing, feeding; positive separation from family

--

Learning

Understanding, reasoning and problem solving

Organising, making connections; being creative, exploring, experimenting; imaginative play and interaction

--

Participation in learning, education and employment

Access and engagement; attendance, participation; adult support; access to appropriate resources

--

Progress and achievement in learning

Progress in basic and key skills; available opportunities; support with disruption to education; level of adult interest

--

Aspirations

Ambition; pupil's confidence and view of progress; motivation, perseverance

--

2. Parents and carers

Basic care, ensuring safety and protection

Provision of food, drink, warmth, shelter, appropriate clothing; personal, dental hygiene; engagement with services; safe and healthy environment

Emotional warmth and stability

Stable, affectionate, stimulating family environment; praise and encouragement; secure attachments; frequency of house, school, employment moves

Guidance, boundaries and stimulation

Encouraging self-control; modeling positive behaviour; effective and appropriate discipline; avoiding over-protection; support for positive activities

3. Family and environmental

Family history, functioning and well-being

Illness, bereavement, violence, parental substance misuse, criminality, anti-social behaviour; culture, size and composition of household; absent parents, relationship breakdown; physical disability and mental health; abusive behaviour

Wider family

Formal and informal support networks from extended family and others; wider caring and employment roles and responsibilities

Housing, employment and financial considerations

Water/heating/sanitation facilities, sleeping arrangements; reason for homelessness; work and shifts; employment; income/benefits; effects of hardship

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Social and community elements and resources, including education

Day care; places of worship; transport; shops; leisure facilities; crime, unemployment, anti-social behaviour in area; peer groups, social networks and relationships

Conclusions, solutions and actions

Now the assessment is completed you need to record conclusions, solutions and actions. Work with the baby, child or young person and/or parent or carer, and take account of their ideas, solutions and goals.

What are your conclusions? (For example strengths, no additional needs, additional needs, complex needs, risk of harm to self or others)

What needs to change? (For example what outcomes, solutions and goals do the child/young person, parent/carer and you want to achieve)

Desired Outcomes:

Action plan (in order of priority)

Who will do this?

By when?

YLC Safeguarding Policy

Agreed review date

How will you know when things have improved?

Child or young person's comment on the assessment and actions identified

Parent or carer's comment on the assessment and actions identified

Consent for information storage and information sharing

I understand the information that is recorded on this form and that it will be stored and used for the purpose of providing services to:

- Me
- This infant, child or young person for whom I am a parent
- This infant, child or young person for whom I am a carer

I have had the reasons for information sharing explained to me and I understand those reasons

I agree to the sharing of information, as agreed, between the services listed below

Yes

No

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(Practitioner to detail what information may be seen by which agencies)

--

Signed

Name

Date

Assessor's signature

Signed

Name

Date

Exceptional circumstances: significant harm to infant, child or young person

If at any time during the course of this assessment you feel that an infant, child or young person has been harmed or abused or is at risk of harm or abuse, you must follow your local safeguarding children board (LSCB) procedures as set out in the booklet

What To Do If You Are Worried A Child Is Being Abused (Department of Health, 2003).

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IW13/1007

Appendix 3

Example Code of Conduct for Employees / Volunteers and Service Users

Staff and volunteers at (name of site) will :

- Treat all young people and service users with respect and be non discriminatory towards cultural differences
- Treat all other staff and volunteers with respect and be non discriminatory towards cultural differences
- Ensure young people and service users are aware of their right to be kept safe from harm
- Display clear guidelines about acceptable and non acceptable behaviours from service users
- Exercise caution whilst lone working with a young person
- Ensure any physical contact is documented and only where necessary (i.e. positive restraint when necessary)
- Refrain from using any form of physical chastisement such as smacking or hitting a young person
- Not be judgemental about the ways in which young people present to them (dress / street talk, cultural differences etc) and be non discriminatory
- Challenge inappropriate language, incidences or behaviours and take appropriate action
- Identify any form of abuse and respond appropriately to the relevant agencies
- Promote and safeguard the welfare of children in line with Section 11 of the Children Act 2004 and refer any safeguarding incidents to the relevant agencies including Social Care and / or the Police
- Where possible, engage with parents / those with parental responsibility to take responsibility for their children's action
- Not engage in any friendships or relationships that could be miss-interpreted by others outside of the work environment
- Be compliant to the YLC's Staff Code of Conduct at all times (for YLC employees)
- Ensure the premises are fit for purpose and do not pose any threat to health or safety

Service Users at (name of site) will :

- Sign in and out of the premises legibly using a name that makes them easily identifiable
- Adhere at all times to the Safeguarding Policy and this Code of Conduct both inside and outside the premises and whilst undertaking activities offsite
- Treat staff, volunteers and other service users with respect and be non discriminatory towards cultural differences
- Be respectful of the youth site as a 'safe space' for young people and not engage in risky behaviours that may threaten or frighten other service users
- Take turns and allow others to take their turn in group activities
- Speak openly in the same way you would wish to be spoken to
- Be on time for organised activities, group work and activities
- Have the right to say 'no' if they do not want to take part in any specific events or activities
- Be respectful of other peoples property and possessions (including the youth site's premises, property and equipment)
- Not bring the organisation or premises into disrepute
- Not bring disputes with other service users on site
- Abide by basic local ground rules relating to:
 - Bullying
 - Internet Safety
 - Possession of Drugs or Alcohol
 - Knives & Guns

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- Gang Conflict
- Conflict Resolution
- Sexual Misconduct

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Appendix 4

Safeguarding roles and responsibilities for YLC tiers

YLC Members shall:

- Promote equality, dignity and respect within the membership group
 - Challenge harassment and discrimination on the grounds of race, gender, sexual orientation, disability, religion, age or any other factor and promote a culture within the YLC which members feel supported in dealing with:
 - Harrassment (including digital harassment)
 - Bullying (including digital bullying)
 - Victimisation
 - Hate Crime motivated by prejudices or hate (which may constitute a criminal offence)
- in line with the YLC's disciplinary rules and standards
- Engage in an organisational culture which promotes the safety and wellbeing of all young people and complies with the YLC's values and respects the YLC as a 'safe space' (including any training activity)
 - Communicate safely (including digitally) with Record and report any direct safeguarding disclosures from a young person to the YLC designated safeguarding lead (the Managing Director)
 - Challenge inappropriate language, incidences or behaviours and take appropriate action in reporting these
 - Refrain from bringing personal 'issues' (i.e. gang or street conflict into the organisation)
 - Refrain from promoting any age inappropriate or illegal activity within the organisation
 - Be accountable for their actions in both their private life and as YLC members which could bring the YLC into disrepute
 - Not disclose any information to the media (including digital social media) which could bring the YLC or any of its members or management into disrepute
 - Retains confidentiality about other YLC members
 - Provide personal information about themselves if requested (age, address, next of kin and contact details)

YLC Steering Group members shall (in addition to the above):

- Work as a team to promote and achieve identified positive outcomes for young people
- Steer the YLC to commission projects and activities which provide value for money, are outcome based and are accessible throughout the borough to young people
- Declare any potential conflict of interest in the commissioning process with the YLC MD
- Identify any safeguarding issues or concerns (including child protection) within the YLC and ensure these are recorded and escalated to the YLC designated safeguarding lead (the Managing Director)
- Understand and know where to access named safeguarding policies and protocols including 'allegations made against professionals'
- Promote the policy framework with the YLC
- Engage in any training as identified by their designated safeguarding lead
- Comply with any 'vetting' checks (if requested) by the YLC prior to appointment as a steer group member including providing identification, personal statements, references and DBS checks (in line with the the YLC's safer recruitment standards)
- Declare any cautions or convictions incurred during their membership of a steering group to the YLC MD
- Declare if they are placed on any of the Disclosure and Barring Services lists which bar working with children or vulnerable adults prior or during their membership of the YLC to the MD
- Communicate safely (including digitally) with YLC members

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YLC Steering Group Safeguarding Lead shall (in addition to the above):

- Take ownership and responsibility within the steering group for any identified safeguarding issues or concerns and ensure (where necessary) these are recorded appropriately within required timescales and escalated to the YLC designated safeguarding lead (the Managing Director) and referred to the relevant agency
- To ensure compliancy within the steer group in regards to the sharing of information and data protection in line with agreed protocols both within the YLC and with external agencies including Lambeth Social Care, Lambeth Safeguarding Children's Board, Police and Health
- To engage with any training as identified by the Board or the MD relevant to the responsibility of a named safeguarding lead
- To identify areas of non compliancy or poor practice in relationship to the YLC's safeguarding standards and to challenge appropriately

YLC Board Members shall (in addition to the above):

- Contribute to the effective running of the YLC and agree its aims and objectives and local policy framework (including safeguarding) taking a team approach
- Quality assure and scrutinise their individual areas of responsibility
- Quality assure and monitor services commissioned by the Board
- Adopt a 'Nolan style' seven principles of public life model
- Accept collective responsibility and accountability for decisions made by the YLC including operational safeguarding practice
- Contribute to a quarterly(?) performance report which must include all safeguarding incidences (anonymous) for the Board and the MD
- Ensure the recognised procedure for complaints is managed in line with agreed protocol
- Identify any 'risk' within the YLC and escalate to the designated Board safeguarding lead and MD and manage appropriately via a recognised risk management plan

YLC Board Member Safeguarding Lead shall (in addition to the above):

- Take ownership and responsibility for safeguarding and promoting the welfare of children and young people within the YLC and ensure any incidents are recorded appropriately within required timescales and escalated to the Managing Director and referred to the relevant agency
- Develop good working relationships and partnerships, enlisting the assistance and support of other agencies to contribute towards a multi-agency approach to safeguard children and young people
- Promote to services that are commissioned by the YLC their requirement to effectively contribute to any safeguarding arrangements for any young person known to them including attending Child Protection and Looked After Children conferences / reviews etc
- To effectively contribute to the research and development of safeguarding policies and initiatives under the directive of the MD, the local authority, the LSCB and central government
- To contribute to the implementation of any safeguarding improvement plan as identified by the local authority, the LSCB or bodies which contribute to the YLC's funding
- To effectively contribute to the YLC's and commissioned services Section 11 responsibilities under the Children's Act 2004

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YLC Managing Director shall (in addition to the above):

- Take overall ownership and responsibility for safeguarding and promoting the welfare of children and young people within the YLC and ensure any incidents are recorded appropriately within required timescales and referred to the relevant agency
- Be the named senior manager if allegations are made against professionals within the YLC
- To represent the YLC at the LSCB or any nominated LSCB sub-group and provide any relevant performance statistics or audits as requested
- To risk assess and act as a panel member when positive DBS disclosures are identified in line with the local authorities safer recruitment panel model
- To ensure compliancy to all policy frameworks and ensure paid staff, volunteers and members abide by the appropriate Codes of Conduct. Any breaches to non compliance will be dealt with in the appropriate manner (i.e. disciplinary procedure for paid staff etc)
- To lead on the implementation of any safeguarding improvement plan as identified by the local authority, the LSCB or bodies which contribute to the YLC's funding
- To take lead responsibility for the YLC's and commissioned services Section 11 responsibilities under the Children's Act 2004 ensuring the YLC and all services it commissions are fit for purpose and provide a safe environment for children and young people
- To ensure services commissioned by the YLC are value for money and achieve the relevant outcomes for children and young people

Appendix 5



TOOLKIT FOR MANAGING ALLEGATIONS AGAINST STAFF IN YLC

Prepared by:

Roddy Leith
Safeguarding Manager for Youth & Housing Services
Lambeth Safeguarding Childrens Board

Revised May 2013

YLC Safeguarding Policy

INTRODUCTION

Purpose of the 'Lambeth Allegations Toolkit'

1. This toolkit will support and assist the YLC in situations where an allegation of abuse has been made against any member of staff, volunteer or board member and is designed to enable the management where appropriate, to use 'common sense and judgement' when dealing with incidences in line with the Pan London Child Protection Procedures agreed protocols.
2. This toolkit will help to ensure that allegations against staff (including volunteers) are managed fairly, quickly, consistently and supportively, whilst ensuring that young people are effectively protected at all times.
3. Where an allegation has been made, unsafe practice is witnessed or events in a person's private life indicate a person could pose a risk of harm if they continue to work in regular or close contact with young people in their present position, or in any other capacity, these procedures should be used. In considering the allegation the following three 'tests' are applied, which are; that the accused person has allegedly:
 - behaved in a way that has harmed a child, or may have harmed a child/young person
 - possibly committed a criminal offence against or related to a child/young person
 - displays behaviours which indicates they may pose a risk of harm if they work regularly or closely with children/young people

These 'tests' are not mutually exclusive and any combination of one or all may be met. A child in these circumstances refers to any person under the age of 18 years.

4. It is also designed to assist management by outlining the type of initial enquires that should be made if an allegation is made against a member of staff and to recognise their responsibility as to where initial enquiries end and a child protection or criminal investigation commences.

Whilst organisations have a statutory duty to co-operate with any investigation, such investigations are the overall responsibility of Lambeth Social Care and/or Police. Over-zealous enquiry or investigation by management, however well meaning, can lead to crucial evidence being tainted or corrupted which may mean that a prosecution, or effective disciplinary action, can not be taken forward. However, it must be noted that organisations will be expected to undertake their own internal disciplinary investigations which may include evidence gathered as part of the child protection or criminal investigation.

5. This toolkit will provide step-by-step guidance for dealing with allegations or concerns made against professionals so that there is a consistency of approach in all cases in line with the procedures as outlines in the '*London Child Protection Procedures*' and the measures outlined in the Government guidance '*What To Do If You Are Worried A Child Is Being Abused*'.
6. Allegations against a professional must be reported to the Local Authority Designated Officer (LADO – Eva Simcock tel 0207 926 4679 or em esimcock@lambeth.gov.uk) on the agreed LADO reporting form (**see Appendix 4:3**), normally after discussion with the designated Local Authority Safeguarding Representative (Roddy Leith tel 0207 926 9193 or em rleith@lambeth.gov.uk) as soon as is practical but within one working day.
7. It is an expectation under the Children's Act 2004 that all staff, volunteers and contractors are aware of their responsibilities and duty to safeguard children and young people which includes knowing the procedure for responding to and managing incidences if / when allegations are made against professionals. This also applies

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if disclosures are made or concerns are raised about the working practices or behaviours about other members of staff, including volunteers and contractors.

8. Under the requirements set out in the Children Act 1989 and the Children Act 2004 all organisations working with children & young people have a statutory duty to share all necessary information and to fully cooperate with child protection investigations, including carrying out any initial investigations, the sharing of information on a need to know basis and instigation any recommendations made. It should be noted that this duty to share information does not negate the common law duty of confidentiality inasmuch that confidential information should not be shared without permission. However the sharing of confidential information without consent is lawful where there is a 'public interest' in doing so and the safeguarding of the child or young person is the priority.
9. This statutory duty to be fully engaged and cooperative in any investigation equally applies where the staff member is not direct employee.
10. Where a member of staff subject to an allegation tenders his or her resignation, or ceases to give their services in the case of a volunteer for example, this must not prevent the allegation being followed up and a conclusion reached. Similarly a 'compromise agreement' must not be used to as a device to prevent any investigation and/or disciplinary action being pursued. In any event 'compromise agreements' cannot prevent any criminal investigation, nor does it override the statutory duty to refer the member of staff or volunteer to the ISA for consideration of that person to be included on the Children's barred List.
11. Whilst this toolkit is written with specific reference to the parts of the documents outlined above, as they relate to allegations against staff, these whole documents must be considered in their entirety when dealing with child protection and safeguarding matters.
12. This allegations toolkit must be used in conjunction with all relevant statutory guidance, and does not supersede or replace any such guidance.
13. Whilst this toolkit provides support and guidance to organisations if / when an allegation is made against a professional, it must be recognised that the most effective child protection and safeguarding arrangements are proactive rather than reactive. Therefore, organisations must appreciate that the most effective deterrent from employing unsuitable persons from working with young people are robust safer recruitment procedures (as indicated in the Youth Services Safeguarding Policy & Resources Pack) which includes a supervised induction and probationary period.

Further information and guidance / training on safer recruitment protocols can be accessed by contacting Roddy Leith at the above contact details.

Framework for managing allegations

14. This toolkit provides the broad framework within which allegations should be managed and includes attached appendices which outline the step-by-step guide and flowchart which expand on each step and detail the actions to be taken.
15. There are a number of reasons for managing allegations against staff and volunteers in a timely, efficient and fair manner. These include:
 - a. That allegations are reported without delay, within one day
 - b. That allegations are reported to the YLC managing director who in turn, contacts their designated safeguarding representative. In the absence of the most senior person within the organisation or if the

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allegation has been made about that person, the allegation is escalated to the chair of the management board.

- c. To ensure the continued safety and welfare of any alleged victim and other children or young people
- d. To protect evidence
- e. To prevent the over-referral of cases to the investigating agencies
- f. To minimise the need for suspension of an alleged perpetrator of abuse where possible, which will include considering any alternatives to suspension? (Government guidance reminds us that suspension should not be a default position when managing allegations.)
- g. To minimise the time an alleged perpetrator is suspended, where no alternative to suspension can be reasonably found.
- h. To obtain a fair, proportionate and consistent outcome for all parties
- i. It should be clear that the same procedures for reporting allegation disclosures also cover instances where a member of staff has concerns about another member of staff's behaviour towards children, at work or in their private lives.

Key Contacts

Roddy Leith
LSCB Designated Safeguarding Manager for Youth and Housing
Tel 0207 926 9193 / 07976 490054
Em rleith@lambeth.gov.uk

Eva Simcock
Local Authority Designated Officer (LADO)
Tel 0207 926 4679
Em esimcock@lambeth.gov.uk

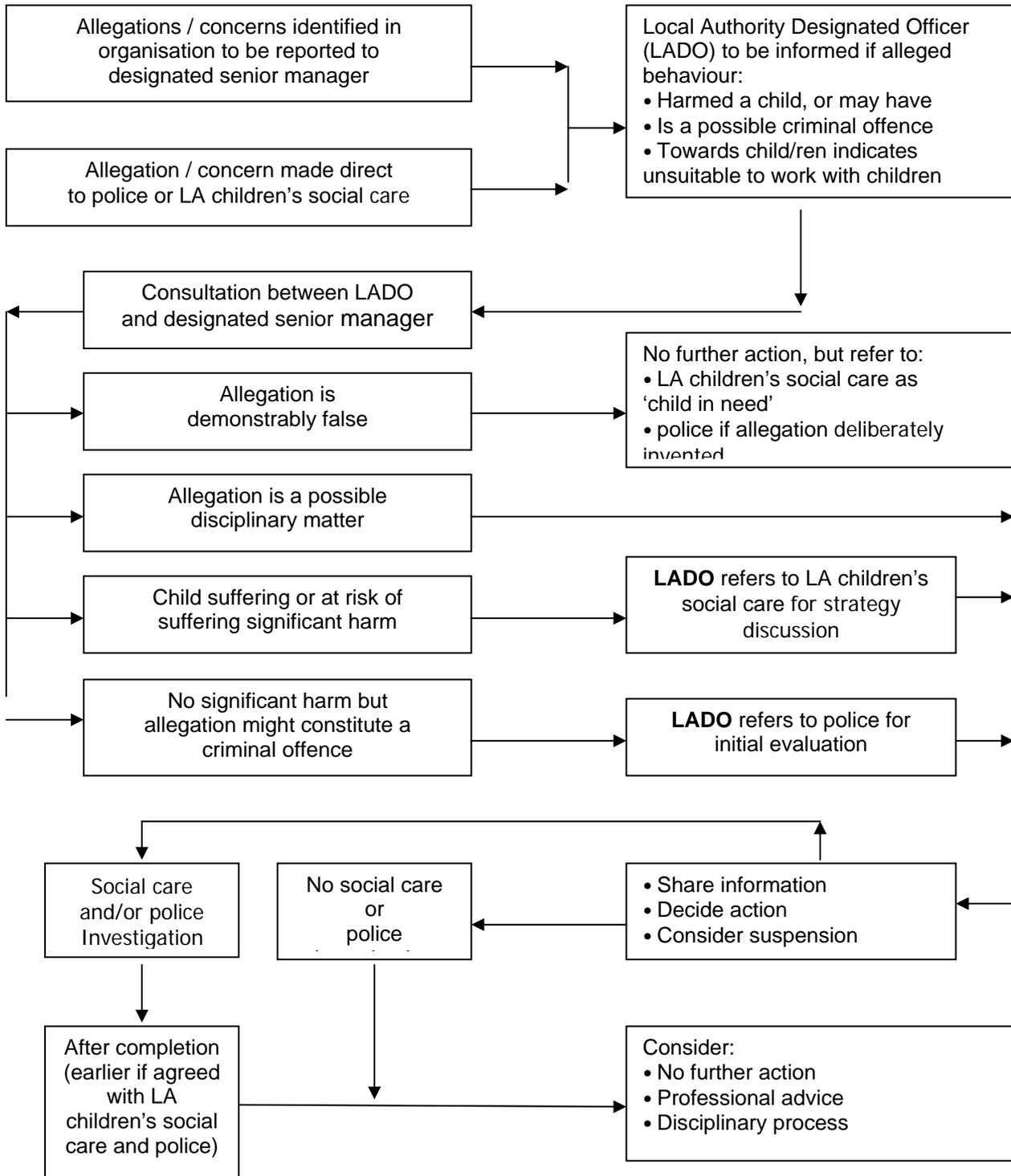
CYPS Social Care
Referral & Assessment Duty Intake Team
Tel 0207 926 6010 / 6583 / 6586 / 6676
Fax 0207 926 6874

Out of Hours Emergency Duty Team
0207 926 1000 (ask for Emergency Social Care Duty Team)

Police
Tel 999

**ALLEGATIONS / CONCERNS AGAINST STAFF
CHILD PROTECTION PROCESS**

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TOOLKIT FOR MANAGING ALLEGATIONS AGAINST STAFF IN YLC

**Step by step processes,
checklist and referral form**

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STEP	DAY	DESCRIPTION	ACTION
1	1	Day of incident / disclosure / observation	<p>Management receive an allegation or concern</p> <p>Take notes of the allegation or concern as reported to you, including details of the child/young person(s) involved, who made the allegation and the date, time and place of the alleged incident.</p>
2	1	Day of incident / disclosure / observation	<p>Management make some initial enquiries</p> <p>Initial enquiries are to inform a decision as to whether a formal referral should be made to the investigating agencies; these enquiries are <u>not</u> an investigation in themselves.</p> <p>Do <u>not</u> formally interview or seek formal written statements from staff or child / young person(s) unless requested to do so.</p> <p>Speak to all staff and child(ren) involved to obtain details: Who/What/When & Where. Make your own notes on:</p> <ol style="list-style-type: none"> <u>who was involved</u>; was the alleged victim and perpetrator in the same area, did anyone else see what happened if so arrange to speak to them also <u>what did happen</u>; who did what and why, in what order did things happen <u>was anyone injured</u>; what were the extent of any injuries, was first aid administered or an ambulance called, gather any details of injuries but do not examine the child / young person(s) unless the injury is in an ordinarily observable place (head, face, hand, bare leg etc.) do <u>not</u> undress or photograph the child / young person(s). See Note below on protecting evidence. <u>when did this happen</u>; time of incident, what was happening at that time (hometime, breaktime, mealttime, during an activity, during a visit etc) <u>where did this happen</u>; youth centre, outside, kitchen, bathroom, hall etc <p>Secure CCTV footage (if any) of the incident itself and as far as is practically possible a period leading up to and a period after the incident.</p> <p>Where possible, secure any other relevant items; mobile internet devices, computers, items used as weapons etc as evidence.</p> <p>Management may request staff to make their own individual notes about the incident / disclosure / observation for future reference as they <i>may</i> be spoken to by one of the investigating agencies or called as a witness.</p>

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			<p>However, staff must be reminded that the matter is confidential and they should refrain from discussing this with others staff members, volunteers, young people, parents or the wider local community.</p> <p>Where it is not practical to make these enquires on the same day it is reported, then these initial enquiries should be carried out on the next working day.</p> <p>NOTE: <i>There may be incidents that are of such a serious nature that immediate intervention by social care and/or the police and/or medical services is required. In these circumstances, the designated Safeguarding Manager (Roddy Leith – tel 0207 926 9193 em rlaith@lambeth.gov.uk should also be contacted at the same time. This may be necessary, for example, where a child has suffered a serious injury or has been abused and emergency or prompt medical attention is required, or it may be that a forensic examination is required to preserve or record evidence of any injury or assault.</i></p> <p><i>Consideration must also be given to all factors which may put children / young people at risk of significant harm, therefore, if it is known that the alleged perpetrator works with children / young people in other settings (play centre / youth club / voluntary group / faith group etc) then further advice should be sought by moving directly to Step 3 or by directly referring to CYPs-Social Care and/or Police</i></p>
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3	1	Day of incident / disclosure / observation or next working day (as appropriate)	<p>Management contact their designated Lambeth Safeguarding Manager (Roddy Leith)</p> <p>Discussion:</p> <p>A discussion with the designated Safeguarding Children Manager will identify the nature of the allegation and the outcome of your initial enquiries.</p> <p>Joint consideration will then be given as to whether the allegation is demonstrably false or unfounded. It must be remembered that an unfounded allegation is <u>not</u> the same as an unsubstantiated allegation. The allegation may or may not be substantiated only through investigation and the gathering of evidence. A false or unfounded allegation could be e.g. that the employee was not even at work on the day the incident was alleged to have happened or that the employee witnessed as being elsewhere and could not possibly have been at the site of the incident. Factors that are not relevant when considering whether an allegation is patently false or unfounded could be e.g. the employee’s previous conduct or personal feelings about the employee or feelings about the child/family/individual making the allegation.</p> <p>NOTE: <i>If the allegation is considered to be false or unfounded, further enquiries should be made in order to identify why an allegation was actually made against the employee.</i></p> <p><i>The outcome of these initial enquiries may lead to further consideration for a child protection referral, e.g. if it was a malicious allegation made by a parent or that the allegation may be a ‘cry for help’ from a child being abused elsewhere. Similarly the employee may not have acted in an abusive or criminal manner, but may have acted unprofessionally or unwisely which led to the allegation being made for which you may want to take some remedial action, see Step 7</i></p> <p>Pan London Child Protections Procedures (April 2011 – Section 17.1.15) highlight that future employers should be provided with the following information when requests are made for references for employees and ex employees who have been subjected to any allegations :</p> <p><i>‘ The referee should be asked to confirm whether the applicant has been the subject of any disciplinary sanctions and whether the applicant has had any allegations made against him / her or concerns raised which relate to either the safety or welfare of children and young people or about the applicant’s behaviour towards children or young people. Details about the outcome of any concerns or allegations should be sought’.</i></p>
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4	1	Day of incident / disclosure / observation or next working day (as appropriate)	<p>Management contact their designated Lambeth Safeguarding Manager (Roddy Leith)</p> <p>Consideration:</p> <p>Where the allegation is not demonstrably false or unfounded consideration will then be given as to whether the allegation falls into any or all of the following categories:</p> <ul style="list-style-type: none"> a) That the member of staff has behaved in a way that has harmed or may have harmed a child / young person(s), b) That the member of staff has possibly committed a criminal offence against or related to a child / young person(s), c) That the alleged perpetrator has behaved in a way that indicates they are unsuitable to work with or be in a position of trust with children / young people. <p>When considering the above any decision must be based on the '<i>balance of probability</i>' that the incident occurred and that it does actually fall with one or more of the above criteria. Balance of probability does not necessarily rely on the same level of stringent evidence being provided as would be expected in a criminal investigation (this being '<i>beyond reasonable doubt</i>') but is reliant on determining that in all probability, it is more than likely that the incident did actually occur than not occur, however, there is not enough supporting evidence to conclude '<i>beyond reasonable doubt</i>'.</p> <p>Other relevant factors include context, nature of the allegation and the severity and/or frequency of the alleged action.</p>
5	1	Day of incident / disclosure / observation or next working day (as appropriate)	<p>Management contact their designated Lambeth Safeguarding Manager (Roddy Leith)</p> <p>Decision 1: Referral</p> <p>A decision is taken whether to refer to the investigating agency(ies) or not to refer based on the discussion and consideration of the initial enquiries.</p> <p>Where it is agreed that on the balance of probability that:</p> <ul style="list-style-type: none"> a) The allegation is not demonstrably false or unfounded b) An incident happened c) The incident/actions fall into one or more of the categories relating to harm, criminal act and/or

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			<p>suitability to work with children as set out above.</p> <p>then a referral to the investigating agencies will be required on the agreed LADO (Local Authority Designated Officer – Eva Simcock tel 0207 926 4679 em esimcock@lambeth.gov.uk) referral form, to alert the designated LADO of an allegation. This may further require a referral to Social Care Referral & Assessment by way of submitted a Common Assessment Framework form to the Duty Intake Team.</p>
6	1	Day of incident / disclosure / observation or next working day (as appropriate)	<p>Management contact their designated Lambeth Safeguarding Manager (Roddy Leith)</p> <p>Decision 2: Suspension</p> <p>Where Step 5 a to c is satisfied and after consultation with HR, consideration will need to be taken as to whether it would be in the best interest to suspend the employee from their duties. Whilst suspension of itself is a neutral act, suspension should not be an automatic or default response to an allegation or incident. The following options should also be considered before suspension :</p> <ul style="list-style-type: none"> a) Paid leave of absence b) Alternative duties that do not involve direct contact with children c) Provision of an additional staff member during contact times <p>It is, of course, recognised that alternatives to suspension may be easier to secure for some staff groups than others. Suspension should be broadly considered as an appropriate course of action where one or more of the following applies:</p> <ul style="list-style-type: none"> d) A child / young person(s) would continue to be at risk. e) That dismissal for gross misconduct may be possible. f) It is necessary for the efficient investigation of the allegation or to allow the investigation to proceed unimpeded. <p>If a decision to suspend is agreed, then Management / Chair of Trustees must inform the member of staff in writing informing the employee what support (if any) can be offered and who the employee is permitted to contact during the investigation / disciplinary process</p>

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7	1	Day of incident / disclosure / observation or next working day (as appropriate)	<p>Management contact their designated Lambeth Safeguarding Manager (Roddy Leith)</p> <p>Decision 3: Disciplinary</p> <p>After consultation with HR, a further decision will need to be made as to whether management need to take further appropriate action or whether formal internal disciplinary action should commenced at this stage. Any internal or disciplinary investigation may be deferred pending the outcome of the child protection or criminal investigation however this may run parallel providing neither investigation will impact on the other. Upon completion of both investigations, the organisation concludes the matter as a 'single agency' investigation.</p> <p>However where a referral to the investigating agencies is not made, at Step 6, the decision to take any disciplinary action at this stage will need to be considered. In both sets of circumstances, the timelines and procedure as outlined in the London Child Protection Procedures April 2011 page 456 must be adhered to.</p>
8	1	Day of incident / disclosure / observation or next working day (as appropriate)	<p>Management contact their designated Lambeth Safeguarding Manager (Roddy Leith)</p> <p>Decision 4: Informing Parents / Carers</p> <p>A decision then needs to be made as to inform the parent / carer of the child / young person about the details of the allegation, normally as soon as possible. However, in circumstances of a very serious nature, it may be necessary for management to consult with colleagues in Social Care and/or the Police about how and who should inform the parents/carers in which case this may best be dealt by a social worker or police officer.</p> <p>Parents/carers should also be kept informed about the progress of the case, without breaching confidentiality, and told of the outcome, but not the detail, of any disciplinary hearing.</p>
9	1	Day of incident / disclosure / observation or next working day (as appropriate)	<p>Management contact their designated Lambeth Safeguarding Manager (Roddy Leith)</p> <p>Decision 5: Informing Staff Member (Alleged Perpetrator)</p> <p>After consultation with HR, the employee must then be informed that an allegation has been made against them, which may be after a decision has been made to suspend from duty. (see step 6) and consideration must be given as to</p>

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			<p>exactly what details of the allegation should be disclosed to them.</p> <p>Normally, information provided should be kept to a minimum however the employee must be informed that the allegation will be subject to an investigation and advise them where they can obtain support.</p> <p>This decision as to when and what to inform the employee must always be made after liaising with the LADO & Designated Safeguarding Manager and / or the Police as considerations may need to be made in order to secure evidence, minimise the risk of absconding or to further protect the alleged victim.</p>
Action following Initial Considerations and/or Following Referral to CYPS & School from Police / Strategy Group			
10	1 to 4	Within three working days following the allegation	<p>No Referral to Police or CYPS Social Care at Step 5</p> <p>Where after the initial consideration that there is no possible criminal offence and there is no ongoing child protection investigation and there is no formal disciplinary action required:</p> <p>Management should institute appropriate action within three (3) working days of the allegation being made.</p>
11	1 to 16	Within fifteen working days following the allegation	<p>No Referral to Police or CYPS Social Care at Step 5</p> <p>Where after the initial consideration that there is no possible criminal offence and there is no ongoing child protection investigation but a <u>formal disciplinary hearing is required without further investigation :</u></p> <p>A disciplinary hearing should be held within fifteen (15) working days of the allegation being made.</p>
12	1 to 11+	Report within ten days of allegation or within 10 days of receiving referral back from strategy.	<p>No Referral to Police or CYPS Social Care at Step 5, or Referred back to CYPS and your organisation from Strategy group</p> <p>Where after the initial consideration that there is no possible criminal offence and there is no ongoing child protection investigation or where the matter is referred back to the CYPS and your organisation and for disciplinary action to be considered and an <u>disciplinary investigation is required:</u></p>

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			<p>The investigating officer (along with the designated Safeguarding Manager) should aim to provide a report within ten (10) working days of the allegation or the matter being referred back.</p>
13	12 to 13+	Within two days of receiving report	<p>On receipt of Step 12 Report</p> <p>Management and Chair of Trustees should consult with their designated Safeguarding Manager to consider whether a disciplinary hearing is needed.</p> <p>Outcome:</p> <p>Disciplinary Hearing <u>not</u> required – no further action or revert to Step 10</p> <p>Disciplinary Hearing <u>is</u> required – move to Step 14</p>
14	13 to 27+	Within fifteen working days of decision to hold disciplinary hearing	<p>Disciplinary Hearing is convened in line with disciplinary procedures</p> <p>Your organisation convenes a discipline committee and hears the disciplinary case.</p> <p>Outcome:</p> <p>Disciplinary case <u>not</u> upheld - no further action, employee returns to work: revert to Step 16</p> <p>Disciplinary case <u>is</u> upheld – disciplinary sanctions imposed:</p> <p style="padding-left: 40px;">Dismissal: revert to Step 15</p> <p style="padding-left: 40px;">Return to Work: revert to Step 16.</p>
15	27 to 57+	Within one month of dismissal or resignation	<p>Referral to ISA</p> <p>Where a person is dismissed or your organisation ceases to use their services, a referral must be made to the Independent Safeguarding Authority for consideration of the inclusion of that person on the Children’s Barred List. The duty to refer applies “when a regulated activity provider / employer has withdrawn permission for an individual to carry out regulated activity, or if the individual has left while under investigation, on the grounds either that they had caused harm or that they posed a risk of harm to a child or vulnerable adult”</p> <p>Action:</p>

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			<p>Referrals are made to the Independent Safeguarding Authority within one month of dismissal or the cessation of their services.</p>
16	27+	<p>As appropriate following 'no further action' decision or return to work following disciplinary action.</p>	<p>Return to Work:</p> <p>Where a person is to return to work following suspension and / or any disciplinary hearing / action, your organisation must consider how best to facilitate this. Most people will require help and support to return to work after what will have been a stressful time. It may be that a phased return is appropriate or a return to different duties is considered.</p> <p>Also any contact with the child(ren) who made the allegation will need to be managed in the workplace. The child(ren)'s parents will also need to be informed of the outcome of the disciplinary hearing, but not the detail, and the employee's proposed arrangements to return to work as part of the commitment to parents under Step 8, this may be best facilitated by arranging to meet with the child/ren's parents prior to the member of staff's return.</p>

The processes and timelines set out in this Step-by-Step guide comply with Chapter 15 of the London Child Protection Procedures V4 – April 2011.

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Checklist

Step	Action	Confirmed Step Completed		Date Completed
		YES	NO	
1	Notes taken of allegation details, as reported			
2	'Initial Enquiries' made			
3 (i)	Contact designated Safeguarding Manager			
3 (ii)	Decision taken on whether allegation is demonstrably false, unfounded or malicious			
If allegation is considered to be false or unfounded at 3 (ii) allegations procedures cease here.				
4	If NO at 3(ii), consideration given on three criteria: significant harm, criminal act, unsuitable to work.			
5	Decision is taken to refer to investigating agencies (LADO & Social Care and/or Police).			
6	Decision is taken as to whether suspension is warranted			
7	Where not referred to Social Care or Police decision taken on commencing formal internal disciplinary process.			
8	Parents informed (Alleged Victim)			
9	Staff member informed (Alleged Perpetrator)			
10	Where formal disciplinary process is not invoked, management take any appropriate action within 3* days			
11	Where formal disciplinary hearing is required but no investigation is needed, the hearing is held within 15* working days			
12	Where formal investigation is needed to inform consideration of disciplinary action, the investigating officer provides report within 10* days			
13	On receipt of report a decision is made within 2* working days as to whether a disciplinary hearing is required			
14	If a hearing is required this is held within 15* working days.			
15	Where required: The referral is made to the Independent Safeguarding Authority.			
16	Where required: Arrangements made for staff member to return to work			
<i>Note: The timescales, as marked with an asterix, are in accordance with Chapter 15 of the London Child Protection Procedures V4 – April 2011</i>				



AGENCY REPORTING FORM FOR ALLEGATIONS AGAINST STAFF AND VOLUNTEERS WORKING WITH CHILDREN WITHIN THE LONDON BOROUGH OF LAMBETH

WHEN TO USE THIS FORM

This form must be filled in and sent to the Local Authority Designated Officer (LADO) in Lambeth in every case where it is alleged that a person working with children has

1. behaved in a way that has harmed or may have harmed a child
2. possibly committed a criminal offence against or related to a child
3. behaved towards a child/ren in a way that indicated s/he is unsuitable to work with children

Whilst it will not be necessary to convene a Strategy Meeting with Social Care and the Police on every case, every incident should be recorded on this form and reported to the Local Authority Designated Officer based in the Quality Assurance Section, Lambeth CYPS Social Care. The LADO can be contacted on 0207 926 8508 (fax 0207 926 5105).

You may be asked to provide associated relevant documentation with this referral form. Once the information has been evaluated by the LADO you will be advised re the appropriate action to be taken.

AGENCY Details

Date of referral	
Referrers name	
Referrers job title	
Place of work & address	
Tel number	
Email	
Best contact times	
Who is your Designated Manager/Child Protection Lead	
If a school pl give contact details of Head and Chair of Governors	
Status of organisation eg LA, private, voluntary etc	

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Who is your HR lead for allegations against staff	
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Allegation Details

Date of alleged incident					
Date allegation reported to referrer					
Category of Abuse Alleged – please tick	Physical	Emotional	Sexual	Neglect	
Who has made the allegation eg child, parent, other professional etc					
How was the allegation eg in person, by phone, letter and to whom					
Who else has been informed regarding allegation					
Full details of allegation					
Where is it alleged the incident took place					
What action if any has been taken regarding the allegation					
Is there an allegation of an injury and if so pl describe					
Has a member of staff seen the injury; if so they may be asked to complete a body map diagram					
If injury has parent been advised to take child to GP and if so have they done so?					
Are written incident reports available and if so by whom; pls supply					
Are there witnesses to the alleged incident; pls give details					
If there has been a delay in reporting the allegation pls state why					
Are the parents/carers of					

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the child aware of the allegation and if so pls state when /their views	
Is the child aware of referral and if so when/ their views	
Did an allegation of physical abuse follow an authorised restraint?	Yes No If yes - please send copy of Incident Report and Behaviour Management Plan.
If allegation relates to restraint has staff member had team teach or similar training and when	

Details of person/s subject to the allegation pl repeat box if more than one person

Person subject to allegation known/unknown	
First name	
Surname	
Title	
Job title	
DOB	
Home address	
Ethnicity	
Length of employment	
Date of last CRB	
Details of references taken up	
What is the status of the employment eg f/t, p/t, agency, volunteer etc	
If agency etc pls give contact details	
Have they been subject to previous allegations and if so pls provide full details	
Are there any other concerns/issues of relevance re this person	
Does this person work in any other capacity with children either paid/unpaid?	
Does this person have children of their own? For info only.	
Has the person been suspended/advice taken from HR	

Details of potential victim/child pl repeat box if more than one child

Alleged victim known or unknown/no victim	
First name	
Surname	
DOB	

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Gender	
Ethnicity/Religion	
Home address/tel	
Parent's/carers names/contact details	
Who has PR for the child	
First language of child and parents/carers – is an interpreter required	
Issues of disability/communication/literacy for child or parent/carer	
Any other family members/significant persons for this child	
Has the child made a previous allegation and if so pl give details	
Is/has this child been looked after or on the child protection register	
Are there other professionals working with this child eg social worker/SEN input etc and pl state	
GP details	
Are there any known concerns about this child's home life	
Other information of relevance re this child and the allegation	

Please give details of any other information of relevance

--

Action Taken:

How long did the investigation take from the point of allegation until conclusion?	
1 Month	
3 Months	
12 Months	
12 Months +	

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Next Steps:

Referrer's name:

Referrer's signature:
(pls add electronically if referring by email if possible)

Date:

Appendix 6 – Lambeth Overarching Information Sharing Protocol

LAMBETH OVERARCHING INFORMATION SHARING PROTOCOL

Version 3.1 FINAL

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Overarching ISP V3.1 FINAL DOCUMENT HISTORY

This document has been distributed to:

Version	Date	Author	Released to	Comments
0.3	20 Feb 2007	Rob Elliott / Karen Law		
0.4	28 February 2007	Ian Goodwin (amendments)		
0.5	1 March 2007	Rob Elliott / Karen Law		
0.6	06 March 2007	Ian Goodwin		
0.7	05 April 2007	Ian Goodwin		
0.8	11 May 2007	Ian Goodwin	All LSP organisations responsible officers	Minor changes made to appendices and signatory list made
1.0	17 May 2007	Ian Goodwin	Local Strategic Partnership Performance Board	Protocol endorsed by the board
1.1	29 October 2008	Ian Goodwin	Re-published on the Lambeth First website	Minor change made to front page and signatory list (to include SLAM NHS Trust logo and information). Review of the protocol undertaken by the information compliance advisor. No changes required other than the reference to the Council's Data Protection Advisor in 11.1.2 this has been change to Information Compliance Advisor as a result of a change in job title.
1.2	02 March 2009	Ian Goodwin	Re-published on the Lambeth First website	Inclusion of Lambeth Women's Aid and Mozaic to the signatory list (and symbols to the front page).
1.3	5 July 2011	Ian Goodwin	Council Policy Equalities and Performance Division to check partnership boards and documents referenced in this protocol	Reviewed the protocol and PSISA template against the Ministry of Justice and Information Commissioner Codes of Practice on data sharing to ensure they meet the required standard. Also reviewed the content for continued relevance and applicability, removing content as required. Indemnity clause references and section removed on legal advice obtained. Signatory list updated to include London Probation Trust.
1.4	26 July 2011	Ian Goodwin	Council's Information Governance Working Group and external existing signatories to the Overarching Protocol	Amendments made to partnership bodies and documents referenced in section 5 following feedback from Council's Policy, Equalities and Performance Division, prior to release for consultation. Signatory list updated to include Peabody Housing Association.
2.0	16 January 2012	Ian Goodwin	Signatories to the revised protocol and partner organisations still awaiting to hear from	Removal of organisation logo's from front page. Updating the signatory list in section 11 to reflect current position. Amendment of references to Lambeth PCT (now read NHS Lambeth (Lambeth Business Unit)
2.1	21 March 2012	Ian Goodwin	Re-published on the Lambeth First Website	Addition of Mozaic, London South Bank University and Centrepoint to signatory list at section 11
2.2	23 April 2012	Ian Goodwin	Re-published on the Lambeth First Website	Addition of Metropolitan Police Service (Lambeth) to signatory list at section 11.
2.3	25 February 2013	Ian Goodwin	Council's Information Governance Working Group and external existing signatories to the Overarching Protocol. Also sent to non-signatory bodies in the borough.	Addition reference to transfer of public health functions to local authorities in section 5. Addition of Hyde Southbank to signatory list at section 11. References to Localism Act 2011 in Appendix B
3.0	03 June 2013	Ian Goodwin	Published version for Lambeth Council website	Finalised published version with list of signatory organisations in section 11 updated.
3.1	24 June 2013	Ian Goodwin	Re-published on the Lambeth Council Website	Addition of SOLACE Women's Aid and Mozaic Women's Wellbeing Project as signatories in list at section 11

1 Executive summary

- 1.1.1 This document is an overarching information sharing protocol for the Lambeth community. It does not impose any new obligations, but reflects current regulations and legislation.
- 1.1.2 This protocol sets out the agreed standards that staff in public, voluntary and independent partner organisations must adhere to. It is intended to complement any existing professional Codes of Practice that apply to any relevant professionals working within partner agencies.

2 Introduction

- 2.1.1 It is recognised that effective information sharing is required in order to enable organisations to improve client services, protect the public and respond to statutory requirements. Effective information sharing also supports the Co-operative Borough agenda broadly supported by Lambeth's Local Strategic Partnership, Lambeth First. Organisations recognise the importance of having clear guidelines to follow and ensuring that this information is shared in a secure and confidential manner and in accordance with the law, including the common law of confidentiality, the Data Protection Act 1998, the Human Rights Act 1998 and other related legislation and guidance.
- 2.1.2 This overarching Information Sharing protocol (and appendices) comprises of a set of rules that the organisations identified in section 11 agree to comply with when sharing any personal information with another partner agency. It sets out the standards that staff must follow when sharing personal data to ensure that legislation is not breached and that confidentiality is maintained.
- 2.1.3 The sharing of anonymised or purely statistical information is outside of the remit of this protocol, as the majority of legislation and rules identified concern only the sharing of personal information. However, the Purpose Specific Information Sharing Agreement template created under this protocol can be used to form a basis for the sharing of anonymised or statistical information.
- 2.1.4 Signatories to this overarching protocol are normally the highest level official within the partner organisation (e.g. Lambeth Council's Chief Executive). This high level commitment is recognition that information sharing is a key strategic objective of the partnerships within Lambeth.

3 Organisations covered by this protocol

- 3.1.1 Section 11 contains a list of the organisations who have signed up to this Overarching Information Sharing Protocol.

4 Purpose

4.1 Overarching objectives

4.1.1 To provide a robust framework for the legal, secure and confidential sharing of personal information between partner agencies to enable them to meet both their statutory obligations and the needs and expectations of the people who they serve.

4.1.2 The strategic purpose of this Protocol for the sharing of personal information are:

- a) the delivery of integrated public sector services in line with government initiatives and public expectations,
- b) to facilitate the management and planning of cost effective and efficient services; and,
- c) to provide a framework for information sharing which supports the Lambeth's Co-operative Borough approach

4.1.3 This overarching Protocol:

- a) Clarifies the legal background on information sharing
- b) Outlines the principles that are needed to underpin the process
- c) Provides practical guidance on how to share information in a series of supporting Procedures
- d) Provides a framework within which organisations can develop Purpose Specific Information Sharing Agreements (PSISA) for specific areas of service.
- e) Includes arrangements for reviewing the use of this Protocol and for responding to breaches of this protocol or any of the PSISAs.

5 Governance and review

5.1 Status of this protocol

5.1.1 This Overarching Information Sharing Protocol (**Tier 1**) is the highest level in the protocol structure and applies to all sharing of personal information. It contains the general principles of information sharing and the legislative standards that all types of personal information sharing must comply with.

5.2 Lambeth Strategic Partnership

5.2.1 This protocol is owned by the Lambeth Strategic Partnership (Lambeth First). The Lambeth Strategic Partnership, which brings together the main local organisations in the borough to help make Lambeth a better place for everyone. As well as Lambeth Council, NHS Lambeth (Lambeth Business Unit), South London and Maudsley NHS Foundation Trust and the Metropolitan Police, membership in the Lambeth Strategic Partnership includes representatives from education, social housing, business sector, voluntary sector, faiths and the community as a whole.

5.3 Sustainable Community Strategy

5.3.1 This Information Sharing Protocol will be used as a key tool to support work being undertaken as part of the Sustainable Community Strategy.

5.4 Lambeth Children and Young People's Strategic Partnership

5.4.1 This Information Sharing Protocol will be used as a key tool to support partner agencies of Lambeth Children's Board and in this context, for information sharing between the Council, NHS Lambeth (Lambeth Business Unit), SLaM and the Police.

5.5 Health & Well Being Partnership

5.5.1 This Information Sharing Protocol will be used as a key tool to support partner agencies of the emerging Lambeth Health and Wellbeing Board and in this context, for information sharing between the Council, local NHS commissioning and provider trusts and the Police.

5.5.2 The Health and Social care act 2012 gave Local Authorities powers to perform a public health function, this will see public health functions move from NHS bodies to Local Authorities as of 1st April 2013. This Information Sharing Protocol (and similar NHS protocols) will be used to support the Council and NHS bodies in the continued sharing of information to support this work on an on-going basis.

5.6 Safer Lambeth Partnership

5.6.1 This Information Sharing Protocol will be used as a key tool to support partner agencies of the Safer Lambeth Partnership Board and in this context, for information sharing between the Council, public sector health care providers, the Police, Probation Service, Fire Service and others.

5.7 Formal approval, adoption and review

- 5.7.1 This Protocol will be formally signed off by the Chief Executive (or relevant senior officer) for each of the partner agencies.
- 5.7.2 Formal adoption will follow as soon as 2 or more partners have signed this document. This document then forms the basis for information exchanges between those agencies who have signed up.
- 5.7.3 Given the scale of change in government policy relating to the localism agenda, this protocol will be reviewed every year. The reviews will be undertaken by the Lambeth's Information Governance Manager (or equivalent) in consultation with the Caldicott Guardians and Data Protection Officers of the Partner agencies.

- 5.7.4 Breaches of this protocol and subsequent PSISAs will be managed according to the Procedures set out in appendix D - Handling Breaches.

6 Protocols at two levels

6.1 The structure

- 6.1.1 This Overarching Information Sharing Protocol (**Tier 1**) is the highest level in the protocol structure and applies to all sharing of personal information. It contains the general principles of information sharing and the legislative standards that all types of personal information sharing must comply with.
- 6.1.2 The Purpose Specific Information Sharing Agreements (PSISA) represent **Tier 2** of the structure. The PSISAs will specify precisely what information is to be shared, how it will be shared and to whom that information will be given for a particular area of activity. Responsibility for the production of PSISAs rests with the Head of Service (or equivalent) for the relevant service area.
- 6.1.3 The PSISA must be signed by the relevant Head of Service (or equivalent) for that particular area of work and the Organisation Contact for Information Sharing under that PSISA. The PSISA must comply with the principles set down in this Overarching Protocol.

LEGAL AND PROFESSIONAL FRAMEWORK

7 Legal basis for sharing information

7.1 Understanding the legal framework for information sharing

- 7.1.1 The legal framework within which public sector data sharing takes place is complex and overlapping and there is no single source of law that regulates public sector information sharing.
- 7.1.2 It is essential that practitioners sharing information are clearly aware of the legal framework within which they are operating.
- 7.1.3 The purpose therefore of detailing the law within this protocol, is to highlight the legal framework that affects all types of personal information sharing, rather than to serve as a definitive legal reference point.

7.2 How to approach questions around information sharing

- 7.2.1 In order to approach questions around information sharing the protocol contains useful checklists (see appendices).
- 7.2.2 Appendix A Checklist of legal Considerations raises some of the questions in a more user-friendly way.
- 7.2.3 In summary this comes down to:
 - a) Establishing whether there is power to carry out the function to which the information sharing relates.
 - b) Checking whether there are express statutory restrictions on the data sharing activity proposed, or any restrictions which may be implied by the existence of statutory, common law or other provisions.
 - c) Deciding whether the sharing of the data would interfere with rights under Article 8 of the European Convention on Human Rights in a way which would be disproportionate to the achievement of a legitimate aim.
 - d) Decide whether the sharing of the data would breach any obligations of confidence.
 - e) Decide whether the data sharing could take place in accordance with the Data Protection Act 1998, with particular reference to the 8 Data Protection Principles.

7.3 Freedom of Information Act (FOIA) 2000 requests

- 7.3.1 A number of the partner organisations are “public authorities” for the purposes of the Freedom of Information Act 2000 (FOI). This means that they could receive requests for information relating to the information sharing activities under the resultant PSISAs developed (e.g. statistics on the amount of data sharing being undertaken or the general nature of the data sharing). It is recognised that Public Authorities are individually responsible for meeting their FOI Act obligations. Under the FOI Act’s Section 45 Code of Practice on handling requests for information, good practice is to Consult with third parties who have given information which may be disclosed under the FOI Act, as such care should be taken by the public authority receiving the FOI request to ensure that partners to the individual PSISA are consulted in a suitable

manner of the nature of the request and their intended response.

OBLIGATIONS OF THE PARTIES

8 General undertakings by each organisation

8.1.1 A number of safeguards are necessary in order to ensure a balance between maintaining confidentiality and sharing information appropriately.

8.1.2 The sharing of information by organisations under this Protocol (and subsequent PSISAs) will be based on the following principles:

8.2 Commitment to sharing information

8.2.1 Partner organisations recognise that multi-agency working sometimes requires a commitment to sharing personal information about service users in compliance with guidance and legislation.

8.3 Statutory duties

8.3.1 Partner organisations are fully committed to ensuring that they share information in accordance with their statutory duties including the requirements of the Data Protection Act 1998 and the Human Rights Act 1998.

8.4 Caldicott requirements

8.4.1 All organisations recognise the requirements that the Caldicott principles imposes on NHS organisations and Social Services Departments. They will ensure that information sharing in these areas is handled in a manner compatible with these requirements.

8.5 Duty of confidentiality

8.5.1 Partner organisations recognise the importance of the legal duty of confidentiality, and will not disclose information to which this duty applies without the consent of the person concerned, unless there are lawful grounds and an overriding justification for so doing. In requesting release and disclosure of information from partner organisations, all staff will respect this responsibility.

8.5.2 Agencies who are party to this Overarching Protocol will exercise caution when contemplating the disclosure of personal information relating to a deceased person. Although the Data Protection Act only applies to personal information of a living person, a duty of confidentiality may still apply after the person has died.

8.5.3 All agencies who are party to this Protocol will have in place appropriate measures to investigate and deal with the inappropriate or unauthorised access to, or use of, personal information whether intentional or inadvertent.

8.5.4 In the event of personal information that has been shared under this Overarching Protocol (and subsequent PSISAs) becoming compromised (or suspected of becoming compromised), whether accidental or intentional, the organisation making the discovery will without delay:-

- i) Inform the information provider of the details.
- ii) Take steps to investigate the cause.

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- iii) If appropriate, take disciplinary action against the person(s) responsible.
- iv) Take appropriate steps to avoid a repetition.
- v) Take appropriate steps where possible to mitigate any impact
- vi) Report the breach of information security to the Information Commissioner (if appropriate in the circumstances, in line with advice published by the Information Commissioner).

8.5.5 On being notified that an individual's personal information has / have been compromised, the original provider will assess the potential implications for the individual whose information has been compromised and if necessary:-

- i) notify the individual concerned,
- ii) advise the individual of their rights,
- iii) provide the individual with appropriate support.

8.5.6 See appendix D - Handling Breaches for more information.

8.6 Consent

8.6.1 Unless legal exemptions are applicable, all agencies who are party to the Overarching Protocol will endeavour to seek informed explicit consent from the individual concerned to share their personal information in accordance with an agreed PSISA.

8.6.2 Consent will normally be obtained at the earliest opportunity and should be sufficient to cover the needs for a particular 'piece of work' or situation. It is essential to avoid the need to repeatedly seek consent over minor issues.

8.6.3 In seeking consent to disclose personal information, the individual concerned will be made fully aware of the nature of the information that it may be necessary to share, who the information may be shared with, the purposes for which the information will be used and any other relevant details including their right to withhold or withdraw consent and the impact this will have on service delivery.

8.6.4 For further guidance on consent, see appendix C Consent: Guidance notes.

8.7 Sharing without consent

8.7.1 Organisations will put procedures in place to ensure that decisions to share personal information without consent have been fully considered and comply with the requirements of the relevant law. Such decisions will be appropriately recorded for audit purposes. All relevant staff will be provided with training in these procedures.

8.7.2 For further guidance see appendix C Consent: Guidance notes.

8.8 "Need to know"

8.8.1 Where it is necessary and permissible for information to be shared, this will be done on a "need-to-know" basis only. i.e. the minimum information, consistent with the purpose for sharing, will be provided to the relevant person (or persons).

8.9 Information kept confidential from the service user

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8.9.1 Where professionals request that information supplied by them be kept confidential from the service user, this will be flagged at the point at which the information is given to the relevant person (or persons). Such decisions to keep information confidential from a service user must be able to be supported by an exemption contained within the Data Protection Act 1998 (or amendments).

8.10 Specific purpose

8.10.1 Partners will not abuse information that is disclosed to them for a specific purpose(s) set out in the relevant PSISA. Information shared with a member of another organisation for a specific purpose will not be regarded by that organisation as intelligence for their general use.

8.10.2 Agencies wishing to use information for any purpose other than that for which it was originally provided, or who wish to disclose that information to any person other than those authorised to receive that information under a PSISA, must attempt to:

- i) inform the organisation that provided the information of their intention to use that information for a different purpose, and
- ii) Obtain explicit consent from the individual(s) concerned before processing such information (unless this is not practical – e.g. crime prevention purposes).

8.10.3 Agencies who wish to use information that has been provided to them under a PSISA for research or statistical purposes must ensure that policies and procedures are in place to guarantee that such personal information is anonymised and in line with ethical standards.

8.11 Fact / opinion

8.11.1 Agencies who are party to this Overarching Protocol will ensure that their staff, who are authorised to make disclosure of personal information, will clearly state whether the information that is being supplied is fact, opinion, or a combination of the two.

8.12 Use of anonymised information where possible

8.12.1 Personal information will only be disclosed where the purpose for which it has been agreed to be shared clearly requires that it is essential and appropriate. If the sharing of personal information is not essential and appropriate, consideration will be given to how the information can be suitably anonymised prior to sharing for a particular purpose.

8.13 Access to information

8.13.1 Individuals will be fully informed about the information that is recorded about them, who may see their information and for what purposes. Individuals also have a right to object to the relevant person within an organisation (see section 15) about how that organisation is using their information. Under the Data Protection Act an individual will normally be able to gain access to information held about them and to correct any factual errors that may have been made.

8.13.2 If an organisation has statutory grounds for restricting a person's access to information about themselves, they will normally be told that such information is held

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and the grounds on which it is has not been provided (unless this would prejudice an investigation or place an individual at risk).

8.13.3 Information that has been provided by another organisation under an agreed PSISA may be disclosed to the individual without the need for obtaining the provider's consent to disclose, with the following exceptions when consent must be obtained from the providing organisation prior to disclosure:-

- i) The provider has specifically stated that the information supplied must be kept confidential from the service user.
- ii) The information contains medical details.
- iii) The information is legally privileged.

8.13.4 In the situation of two or more organisations having a joint (single) record on an individual, that individual may make their access to record request to any of the organisations. The organisation receiving the request will be responsible for processing the request for the whole record and not just the part that they have contributed, subject to the conditions for disclosure mentioned above.

8.13.5 Where an opinion about an individual is recorded and the individual feels the opinion is based on incorrect factual information, they will be given the opportunity to correct the factual error and have their disagreement recorded with the opinion.

8.14 Complaints procedures

8.14.1 Partner Organisations shall put in place procedures to address complaints relating to the disclosure of information. Partners must also ensure that service users are provided with information about these Complaint procedures.

8.14.2 In the event of a complaint relating to the disclosure or the use of an individual's personal information that has been supplied/obtained under an agreed PSISA, all agencies who are party to the PSISA will provide co-operation and assistance in order to resolve that complaint.

8.15 To ensure minimum standards for all PSISAs

8.15.1 In order to maintain a consistent approach, all agencies who are party to this Protocol will ensure that any PSISA will follow the framework set out in the template PSISA.

8.15.2 Where information sharing protocols exist between agencies prior to signing up to the Overarching Protocol, such protocol will remain valid. However, such protocols should be reviewed and if necessary brought into line with the Overarching Protocol at the earliest opportunity in order to maintain a consistent approach.

8.16 Disciplinary action

8.16.1 Partner organisations will ensure that contracts of employment/engagement and/or relevant policies and procedures include reference to the issue of disciplinary action/termination of contract should staff, contractors or other parties working on behalf of the organisation disclose personal information on a basis which cannot be justified as reasonable in the particular circumstances (taking into account the purpose of the disclosure and any relevant statutes).

8.17 To record information disclosed under these protocols in the following way

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8.17.1 Organisations who are party to the Overarching Protocol will:

- (a) ensure that all personal information that has been disclosed to them under an agreed PSISA will be recorded accurately on that individual's manual or electronic record in accordance with their policies and procedures.
- (b) put in place procedures to record not only the details of the information, but who gave and who received that information.

8.18 Storage, transfer and destruction of personal information

8.18.1 Agencies who are party to the Overarching Protocol will put in place policies, procedures and technical controls governing:

- (a) the secure storage of all personal information retained within their manual and/or electronic systems.
- (b) the secure transfer of personal information both internally and externally. Such policies and procedures can cover:
 - i) Internal and external postal arrangements.
 - ii) Verbally, face-to-face and telephone.
 - iii) Facsimiles (safe haven).
 - iv) Electronic mail (secure network or encryption).
 - v) Electronic network transfer.
- (c) the access by their employees, and others working on their behalf, to personal information held within their manual and/or electronic systems and to ensure that access to such information is controlled and restricted to those who have a legitimate need to have access.
- (d) the retention and destruction of records containing personal information retained within their manual and/or electronic systems.

8.19 To ensure that staff under this protocol comply with their obligations

8.19.1 Organisations who are party to the Overarching Protocol will ensure:

8.19.2 That all staff (and other people working on their behalf) are aware of, and comply with their responsibilities and obligations to maintain the confidentiality of personal information about people who are in contact with their organisation.

8.19.3 That all staff (and other people working on their behalf) are aware of, and comply with, the commitment of the organisations to share information legally and within the terms of an agreed Purpose Specific Information Sharing Agreement.

8.19.4 That all staff (and other people working on their behalf) are aware of, and comply with the commitment that information will be shared on a need-to-know basis only.

8.19.5 That staff (and other people working on their behalf) will be made aware that disclosure of personal information which cannot be justified, whether recklessly or intentionally will be subject to disciplinary action.

8.20 To ensure that staff are trained to enable them to share information legally

8.20.1 All parties to the Overarching Protocol will ensure that employees (and other people working on their behalf) who need to share personal information under an PSISA are given appropriate training to enable them to share information legally, comply with any professional codes of practice and comply with any local policies and

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procedures.

8.20.2 Staff and other people working on behalf of an organisation who are not directly involved with sharing personal information should not be excluded from such training, as it is possible that they may come across such information during the course of their duties. It may therefore be appropriate that such employees receive awareness training.

GENERAL PRINCIPLES OF INFORMATION SHARING

9 Purposes for which information will be shared

9.1 Overview

9.1.1 Information will only be disclosed where the relevant agreed purpose for sharing clearly requires this. However, each agency must have regard to its legal power in deciding whether they can share information for that particular purpose. The following range of purposes are agreed as justifiable for the transfer of personal information between the Partner organisation as defined within the remit of this protocol:

- a) Provision of appropriate care services
- b) assuring and improving the quality of care and treatment;
- c) Improving the health of people in the local community
- d) Monitoring, reporting and protecting public health;
- e) Protecting children, young people and adults
- f) Prevention of crime or disorder and the promotion of community safety
- g) Supporting communities (geographical or otherwise)
- h) Supporting people in need
- i) Investigating complaints or potential legal claims
- j) Compliance with court orders
- k) Managing and planning services
- l) Commissioning and contracting services
- m) Developing inter-agency strategies
- n) Performance management and audit
- o) Research
- p) Other statutory requirements

9.2 Relevant information

9.2.1 Consideration must be given to the extent of any personal information that is proposed to be disclosed, taking into account the circumstances of the proposed disclosure. It may not be necessary to disclose all information held regarding a service user and only such information as is relevant for the purpose for which it is disclosed should be passed under the sharing arrangement to the recipient(s).

10 Agreement

10.1 The undersigned parties agree to:

- 10.1.1 Promote good practice in the sharing of personal information by ensuring compliance with the principles, purposes and processes of this Protocol.
- 10.1.2 Take necessary action to identify and mitigate any breaches of the Protocol and to have established policies and practices for dealing with complaints about the sharing of information.
- 10.1.3 Ensure that no restrictions are placed on sharing personal information other than those that are specified in this Protocol.
- 10.1.4 Ensure that data subjects are informed of their rights in respect of personal information, including right of access and the complaints procedure.
- 10.1.5 Develop systems of implementation, dissemination, guidance, training and monitoring to ensure that the Protocol is known, understood and followed by all professionals who need to share personal information.
- 10.1.6 Establish processes to review the use of the Protocol, in order to ensure that practice is in accordance with the requirements of the Protocol, and to take corrective action as needed.
- 10.1.7 Develop information processing systems that ensure collected data is complete, accurate, kept up-to-date and relevant.
- 10.1.8 Ensure that collected data is stored and transmitted securely.

11 Signatories

- 11.1.1 This protocol will be signed by chief officers (or relevant senior officer) of the respective organisations on behalf of their organisations:

Organisation	Name	Designation	Date agreed	Dated updated
Lambeth Council	Derrick Anderson	Chief Executive	31 July 2007	25 February 2013
Prison Service	Edmond Tullett	Governor HMP Brixton	30 July 2007	19 April 2013
Lambeth Victim Support Service	Lina Wallace	London SE Divisional Manager	30 May 2007	20 March 2013
Transport for London	Graham Daly	Head of Community Safety and Policing Partnerships	19 January 2011	28 February 2013
London Probation Trust	Adam Kerr	Assistant Chief Officer	15 June 2011	10 May 2013
Peabody Housing Association	Gudrun Burnet	Community Safety Team Leader	11 July 2011	26 March 2013
Centrepont	Justine Reader	Head of Operations - South London	7 February 2012	19 April 2013
London South Bank University	James Stevenson	University Secretary	30 July 2007	14 May 2013
Metropolitan Police Service (Lambeth)	Matt Bell	Chief Superintendent	23 August 2007	26 March 2013
Hyde Southbank – The Hyde Group	Audrey Williamson	Head of Housing – London South	13 November 2012	24 March 2013

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SOLACE Women's Aid	Diane Mcdonald	Service Co-ordinator Lambeth	18 February 2009	11 June 2013
MOZAIC Women's Well being Project	Coral Williamson	Management Committee Member Treasurer	18 February 2009	21 June 2013

- 11.1.2 Signed copies of this document/signatory letters/emailed acceptance shall be retained by Lambeth Council's Information Governance Manager.
- 11.1.3 Any Organisation who is not party to this Overarching Protocol, but who would want to share information under a Purpose Specific Information Sharing Agreement may do so providing that they agree to comply with the terms of this Overarching Protocol, insofar as it is relevant to the information sharing to which that Purpose Specific Agreement relates.
- 11.1.4 Any organisation wishing to sign up to this overarching protocol should send an email to the Council's Information Governance Manager (informationcompliance@lambeth.gov.uk) for further details on this process.

APPENDIX A - Checklist of legal considerations

11.2 Purpose

11.2.1 This is meant as a guide to assist in determining how to establish the legal basis for data sharing. :

11.3 Vires issues

11.3.1 Is the existing information that is to be shared subject to any statutory prohibitions whether express or implied?

11.3.2 Even if there are no relevant statutory restrictions, do the bodies sharing the data have the vires to do so? This will involve careful consideration of the extent of express statutory, implied statutory and common law powers (see appendix B for further detail on statutory powers).

11.3.3 If there are no existing legal powers for the proposed data collection and sharing, then, can the individual's consent to the collection and sharing be obtained?

11.4 Human Rights Act issues

11.4.1 Is Article 8 of the European Convention on Human Rights (ECHR) engaged i.e. will the proposed data collection and sharing interfere with the right to respect for private and family life, home and correspondence? If the data collection and sharing is to take place with the consent of the data subjects involved, Article 8 will not be engaged.

11.4.2 If Article 8 of the ECHR is engaged, is the interference

- (a) in accordance with the law;
- (b) in pursuit of a legitimate aim;
- (c) A proportionate response to the problem, and
- (d) necessary in a democratic society

11.5 Common law duty of confidence issues

11.5.1 Is the information confidential i.e. does it

- (a) have the necessary quality of confidence;
- (b) was the information in question communicated in circumstances giving rise to an obligation of confidence?;
- (c) has there been an unauthorised use of that material?

11.5.2 Consider also whether the information has been obtained subject to statutory obligations of confidence. If the data collection and sharing is to take place with the consent of the data subjects involved, the information can be shared.

11.5.3 If the information is confidential is there an overriding public interest that justifies its disclosure? The law on this aspect overlaps with that relating to Article 8 of the ECHR.

11.6 Data Protection Act (DPA) issues

11.6.1 Does the DPA apply i.e. is the information personal data held on computer or as part

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of a “relevant filing system” or an “accessible record”?

- 11.6.2 If the DPA applies, can the requirement of fairness in the First Data Protection Principle be satisfied?
- 11.6.3 Can one of the conditions in DPA Schedule 2 be satisfied? Of particular relevance to public sector data sharing are the requirements in paragraph 5 that relate to public functions; and the requirement in paragraph 6, that involves a balance between the interests of the data subject and the interests of the body that shares and/or that receives the data.
- 11.6.4 If the data are sensitive personal data can one of the conditions in Schedule 3 also be satisfied? Paragraph, 7 which is in similar terms to paragraph 5 of Schedule 2, may be applicable.
- 11.6.5 Can the requirement of compatibility that is in the Second Data Protection Principle be complied with?
- 11.6.6 Do any of the exemptions that are set out in the Data Protection Act apply?
- 11.6.7 Seek advice from your organisation’s Data Protection Officer/Legal Advisor/Caldicott Guardian if unsure.

12 APPENDIX B - Relevant legislation

12.1 List of legislation and other guidance potentially relevant to data sharing activities

Below is a non-exhaustive list that is of relevance to information sharing:

- The Data Protection Act 1998
- The Freedom of Information Act 2000
- The Human Rights Act 1998
- The Mental Health Act 1983
- The Children Act 1989 (sections 17, 27, 47 and Schedule 2)
- The NHS & Community Care Act 1990
- The Access to Health Records Act 1990
- The Carers (Recognition & Service) Act 1995
- The Health Act 1999 (section 31)
- The NHS Act 2006 (section 251)
- The Localism Act 2011
- The Local Government Act 2000 (section 2)
- The Local Government Act 1972 (section 111)
- The Education Act 1996 (sections 10 and 13), The Education Act 2002 (section 175)
- The Learning and Skills Act 2000 (sections 114 and 115)
- The Crime and Disorder Act 1998 (section 115)
- The Civil Contingencies Act (2004) Part 1 and supporting regulations.
- The Mental Capacity Act 2005

12.1.1 Some of the legislation is defined in greater detail below. For further advice on this legislation and other relevant professional guidance contact your organisations designated officer.

12.1.2 As well as the above legislation there are also a number of codes of practice that provide useful guidance in this area, such as:

- The Information Commissioner's Data Sharing Code of Practice
- The NHS confidentiality Code of Practice

12.2 Introduction

12.2.1 Legislation, under which most public sector organisations operate, defines the role, responsibility and power of the organisation to enable it to carry out a particular function.

12.2.2 In many instances legislation tends to use broad or vague statements when it come to the matter of sharing personal information, for example: the organisation is required 'to communicate, or will co-operate with' without actually specifying exactly how this may be done. This is because legislation that specifically deals with use of personal information (collection; use; storage; destruction; protection etc.) already exists namely, the Data Protection Act 1998.

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12.2.3 The Data Protection Act 1998, in most cases, is the key to the use of personal information and links into most other legislation. The Act sets out to govern the collection, use, storage, destruction and protection of a living person's identifiable information (Personal Data). In general, recorded information held by public authorities about identifiable living individuals will be covered by the Data Protection Act 1998. It is important to take account of whether the information is held in paper records or in automated form (such as on computer or on a CCTV system): some of the provisions of the Data Protection Act 1998 do not apply to certain paper records held by public authorities. Broadly speaking, the eight data protection principles set out in Schedule 1 to the Data Protection Act 1998, and discussed further below, will apply to paper records held in a "relevant filing system" or an "accessible record", but not to other paper records.

12.2.4 The Data Protection Act 1998 does not set out to prevent the sharing of personal information. To the contrary, providing that the necessary conditions of the Act can be met, sharing is perfectly legal.

12.3 Administrative Law

12.3.1 The principles of administrative law regulate the activities of public bodies; these principles are mainly enforced by way of claims for judicial review in the courts. The courts do not generally review the merits of public law decisions but consider the legality, rationality or procedural propriety of decisions made by public bodies. The rules relating to illegality are most relevant to data sharing: a public body may not act in excess of its powers. If it does act in excess of its powers, then the act is said to be ultra vires. Acts within a public body's powers are said to be intra vires. Under the Human Rights Act 1998, an act of a public authority may be unlawful on the basis that it is contrary to the ECHR. Where questions involving the Convention are involved, the Court will need to consider the merits of the decision more closely than would be the case where the traditional administrative law principles are involved.

12.3.2 Local authorities derive their powers entirely from statute and cannot act outside those limited statutory powers. Most of these statutory powers relate to specific local authority functions. In addition to these specific powers, section 111 of the Local Government Act 1972 provides that local authorities are empowered to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. Section 2 of the Local Government Act 2000 confers a wide (but not unlimited) power on local authorities to promote the well-being of their area. The Localism Act 2011 introduces a new general power of competence which reverses the assumptions that a local authority can only do that which is specifically set down in statute. On the face of it, this means that authority can do anything that is not prohibited by statute, although this is yet to be tested at law with regard to information sharing activities.

12.3.3 There is no general statutory power to disclose data, and there is no general power to obtain, hold or process data. As a result, it is necessary to consider the legislation that relates to the policy or service that the data sharing supports. From this, it will be possible to determine whether there are express powers to share data, or whether these can be implied. Express powers to share data are relatively rare and tend to be confined to specific activities and be exercisable only by named bodies. Implied powers will be more commonly invoked. Alternatively it may be possible to rely on section 111 of the 1972 Act or section 2 of the 2000 Act as a basis for data sharing.

12.3.4 The starting point in relation to implied powers or in relation to section 111 of the

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1972 Act must be the power to carry out the fundamental activity to which data sharing is ancillary. If there is no power to carry out that fundamental activity then there can be no basis for implying a power to share data or for relying on section 111 of the 1972 Act.

12.3.5 A statutory power must be exercised for the purpose for which it is created. If it is not, the exercise of the power will be ultra vires.

12.4 Administrative powers

12.4.1 Express statutory powers can be permissive or mandatory. Express permissive statutory powers (or gateways) to share data include section 115 of the Crime and Disorder Act 1998 (which allows persons to share information with relevant authorities where disclosure is necessary or expedient for the purposes of the Act) and regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2002 (which, among other things, permits the Secretary of State to make particulars in the vehicle registration register available for use by a local authority for any purpose connected with the investigation of an offence or of a decriminalised parking contravention). Examples of mandatory statutory gateways include: section 17 of the Criminal Appeal Act 1995, which makes it obligatory for a public body to provide information, when requested, to the Criminal Cases Review Commission in connection with the exercise of its functions.

12.4.2 Local authorities are only able to do what is expressly or by implication authorised by statute. The following statutory powers are relevant, in addition to the specific powers mentioned above:

- a) Section 111 of the Local Government Act 1972, which provides that a local authority has power to do anything, which is calculated to facilitate, or is conducive or incidental to, the discharge of any statutory functions.
- b) Section 2 of the Local Government Act 2000, which provides that a local authority has power to do anything likely to achieve the promotion or improvement of the economic, social or environmental well-being of the area.

12.5 Data Protection Act 1998

12.5.1 The key principles of the Data Protection Act are:-

- i) Personal Data must be processed (e.g. collected, held, disclosed) fairly and lawfully and that processing must satisfy one of the conditions in schedule 2 of the Act. The processing of sensitive data is further protected in that processing must also satisfy at least one of the conditions in schedule 3 of the Act.
- ii) Personal Data shall be obtained and processed for only one or more specific and lawful purpose(s).
- iii) Personal Data shall be adequate, relevant and not excessive in relation to the specified purpose(s).
- iv) Personal Data shall be accurate and kept up to date.
- v) Personal Data shall not be held for longer than is necessary.
- vi) Processing of Personal Data must be in accordance with the rights of the individual.
- vii) Appropriate technical and organisational measures should protect Personal Data.
- viii) Personal data should not be transferred outside the European Union unless adequate protection is provided by the recipient.

12.5.2 With a few exceptions the Data protection Act 1998 requires anyone processing

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personal information to notify (register) with the Information Commissioner.

- 12.5.3 The registration details include the type of information held, the purpose of use and who the information may be disclosed to. It is therefore essential that anyone considering sharing personal information establishes that their registration covers who they may disclose information to, or what information they may collect (when receiving shared information). If their registration does not cover these matters adequately, amendments must be registered with the Information Commissioner.
- 12.5.4 The first and second principles of the Data Protection Act are crucial when considering information sharing. In essence, these require that personal information should be obtained and processed fairly and lawfully and that personal information should only be used for a purpose(s) compatible with the original purpose.
- 12.5.5 Schedules 2 and 3 of the Act set out conditions that must be met before personal information can be processed fairly and lawfully – For personal information to be processed lawfully, one of the conditions in Schedule 2 must be met. For sensitive personal information, one of the conditions in Schedule 3 must also be met.
- 12.5.6 Sensitive information, as defined by the Act, includes information concerning a person's physical or mental health; sexual life; ethnicity or racial origin; political opinion; trade union membership; criminal record or details of alleged offences etc.
- 12.5.7 In order for there to be no misunderstanding, on anyone's part, it is always advisable for the 'collector' of the information to ensure that the person is made fully aware of why the information is needed, what will be done with it, who will have access to it, their rights and if appropriate, obtain the informed consent of the individual concerned before sharing their information.
- 12.5.8 There are circumstances where information can be shared even if informed consent has not been given. These include the following:
- i) Section 29 of the Act permits disclosure for the purposes of prevention or detection of crime, or apprehension or prosecution of offenders, and where those purposes would be likely to be prejudiced by non-disclosure.
 - ii) Disclosure is also permitted where information has to be made public, or where disclosure is required by law.
- 12.5.9 For the purposes of the common law duty of confidentiality, if there is no informed consent, this is the point where the need for confidentiality would have to be balanced against countervailing public interests – again preventing crime is accepted as one of those interests. See the more detailed discussion of confidentiality, below.
- 12.5.10 For the purposes of the Human Rights Act 1998, Article 8 – Right to respect for private and family life would need to be considered - see the more detailed discussion of Article 8, below.
- 12.5.11 The Data Protection Act gives individuals various rights in respect of their own personal data held by others, namely the right to:-
- i) access their own information (also known as a subject access request).
 - ii) take action to rectify, block, erase or destroy inaccurate data.
 - iii) prevent processing likely to cause unwarranted substantial damage or distress.
 - iv) prevent processing for the purposes of direct marketing.
 - v) to be informed about automated decision taking processes.
 - vi) take action for compensation if the individual suffers damage.

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vii) apply to the Information Commissioner or the court to have their rights under the Act enforced.

12.5.12 Section 7 of the Act, gives an individual the right to access the information held about themselves, irrespective of when the information was recorded or how it is stored (manual or electronic).

12.5.13 Disclosure of information held on an individual's record that identifies or has been provided by a third party is subject to certain restrictions (e.g. section 7(4) and the exemption provided by section 30 of the DPA).

12.5.14 The Act provides the holder of the information a limited number of exemptions to decline/refuse access to an individual's record which are set out under Part IV of the Act.

12.5.15 The Data Protection Act 1998 does not apply to personal information relating to a deceased person.

12.5.16 The Data Protection Act 1998 supersedes the Access to Health Records Act 1990 apart from section 3.1.(f) which continues to provide a right of access to the health records of deceased persons made by their personal representatives and others having a claim on the deceased's estate.

12.5.17 In all other circumstances, disclosure of records relating to the deceased person must satisfy the common law duty of confidence.

12.5.18 Schedule 2 of the Data Protection Act 1998 specifies conditions relevant for the processing of any personal data, namely:-

- i) The data subject has given his/her consent to the processing, or
- ii) The processing is necessary for the performance of a contract to which the data subject is a party, or for the taking of steps at the request of the data subject with a view to entering into a contract, or
- iii) The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract, or
- iv) The processing is necessary to protect the vital interests of the data subject.
- v) The processing is necessary-for the administration of justice for the exercise of any functions conferred on any person by or under any enactment for the exercise of any functions of the Crown, a Minister of the Crown or a government department for the exercise of any other functions of a public nature exercised in the public interest by any person, or
- vi) The processing is necessary for the purpose of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject. The Secretary of State may by order specify particular circumstances in which this condition is, or is not, to be taken to be satisfied.

12.5.19 Schedule 3 of the Data Protection Act 1998 specifies additional conditions relevant for the processing of sensitive personal data, namely:-

- i) The data subject has given his/her explicit consent, or
The processing of sensitive personal data is necessary:
- ii) By right or obligation under law, or

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- iii) To protect specific vital interests of the individual or other persons, where consent cannot be given by or on behalf of the individual or,
- iv) In the course of legitimate activities of specified non-profit organisations, with extra safeguards, or
- v) Information already publicly released by the individual.
- vi) For Legal, judicial, government or crown reasons, or
- vii) Medical purposes, or
- viii) To monitor equality of opportunity, or
- ix) By order of the Secretary of State.

12.6 Human Rights Act 1998 and European Convention on Human Rights

12.6.1 The Human Rights Act 1998 (the HRA) gives effect to the principal rights guaranteed by the European Convention on Human Rights (the Convention). In general, it is unlawful under the HRA for a public authority to act inconsistently with any of the Convention rights.

12.6.2 Article 8.1. of the European Convention on Human Rights (given effect via the Human Rights Act 1998), provides that “everyone has the right to respect for his private and family life, his home and his correspondence.”

12.6.3 This is however, a qualified right i.e. there are specified grounds upon which it may be legitimate for authorities to infringe or limit those rights.

12.6.4 Article 8.2 of the European Convention on Human Rights provides “there shall be no interference by a public authority with the exercise of this right except as is in accordance with the law and is necessary in a democratic society 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.”

12.6.5 In the event of a claim arising from the Act that a public sector organisation has acted in a way which is incompatible with the Convention rights, a key factor will be whether the organisation can show, in relation to its decision(s) to have taken a particular course of action:

- i) that it has taken these rights into account;
- ii) that it considered whether any breach might result, directly or indirectly, from the action, or lack of action;
- iii) if there was the possibility of a breach, whether the particular rights which might be breached were absolute rights or qualified rights;
- iv) (if qualified rights) whether the organisation has proceeded in the way mentioned below. “Evidence of the undertaking of a 'proportionality test', weighing the balance of the individual rights to respect for their privacy, versus other statutory responsibilities e.g. protection of others from harm, will be a significant factor for an organisation needing to account for its actions in response to claims arising from the Act”.

12.7 Crime and Disorder Act 1998

12.7.1 The Crime and Disorder Act 1998 introduces measures to reduce crime and disorder,

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including the introduction of local crime partnerships around local authority boundaries to formulate and implement strategies for reducing crime and disorder in the local area.

12.7.2 Section 115 of the Act provides a power (not a statutory duty) to exchange information between partners where disclosure is necessary to support the local Community Safety Strategy or other provisions in the Crime and Disorder Act. This power does not over ride other legal obligations such as compliance with the Data Protection Act (1998), the Human Rights Act (1998) or the common law duty of confidentiality.

12.7.3 Section 115 of the Act provides that any person has the power to lawfully disclose information to the police, local authorities, probation service, fire brigades or health authorities (or persons acting on their behalf) where they do not otherwise have the power, but only where it is necessary and expedient, for the purposes of the Act.

12.7.4 Whilst all agencies have the power to disclose, section 115 does not impose a requirement on them to exchange information, and responsibility for the disclosure remains with the agency that holds the information. It should be noted, however, that this does not exempt the provider from the requirements of the second Data Protection principle.

12.8 Common Law Duty of Confidentiality

12.8.1 All staff working in both the public and private sectors should be aware that they are subject to a common law duty of confidentiality, and must abide by this.

12.8.2 A duty of confidence arises when one person (the “confidant”) is provided with information by another (the “confider”) in the expectation that the information will only be used or disclosed in accordance with the wishes of the confider. If there is a breach of confidence, the confider or any other party affected (for instance a person whose details were included in the information provided) may have the right to take action through the courts.

12.8.3 Whilst it is not entirely clear under law whether or not a common law duty of confidence extends to the deceased, the Department of Health and relevant professional bodies accept that there is an ethical duty to respect the confidentiality of the dead.

12.9 Exemptions to the duty of confidentiality

12.9.1 The duty of confidence is not absolute and the courts have recognised three broad circumstances under which confidential information may be disclosed. These are as follows:

- Disclosures with consent. If the person to whom the obligation of confidentiality is owed (whether an individual or an organisation) consents to the disclosure this will not lead to an actionable breach of confidence.
- Disclosures which are required or allowed by law. “Law” in this context includes statute, rules of law, court orders etc.

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- Disclosures where there is an overriding public interest (e.g. to protect others from harm).

12.9.2 The courts have generally taken the view that the grounds for breaching confidentiality must be strong ones.

12.9.3 The duty of confidence only applies to person identifiable information and not to aggregated data derived from such information or to information that has otherwise been effectively anonymised i.e. it is not possible for anyone to link the information to a specific individual.

12.9.4 Unless there is a sufficiently robust public interest justification for using identifiable information that has been provided in confidence then the consent of the individual concerned should be gained before disclosure of their information. Schedules 2 and 3 of the Data Protection Act 1998 apply whether or not the information was provided in confidence.

12.10 Caldicott Principles

12.10.1 Although not a statutory requirement, NHS and Social Care organisations are committed to the Caldicott principles which encapsulate the above mentioned statutes when considering whether confidential health and social care information should be shared. These are:-

- i) Justify the purpose(s) for using personal information.
- ii) Only use personal information when absolutely necessary.
- iii) Use the minimum amount of personal information that is required.
- iv) Access to personal information should be on a strict need to know basis.
- v) Everyone with access to personal information must be aware of his/her responsibilities.
- vi) Everyone with access to personal information must understand and comply with legislation that governs personal information.

12.11 Access to Health Records Act 1990

12.11.1 Within the governance structures and processes of healthcare organisations, Practitioners have been given professional accountability to protect specific 1st and 3rd party statements. This may include clinical assessments, diagnostics and results as well as sections of sensitive care plans and progress notes.

12.12 Civil Contingency Act 2004 – Part 1

12.12.1 This deals with information sharing between responder bodies, as identified in the Act, as a distinct duty under the Act and as a means of achieving other duties under the Act, and is summarised below:

- Information sharing is a crucial element of civil protection work, underpinning all forms of co-operation.
- The initial presumption is that information should be shared, but that some information should be controlled if its release would be counter productive or damaging in some other way.

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- There are various types of information. Information may be suitable for some audiences, but not for others. Also, the circulation of information can be limited to certain classes of organisation or individual.
- In most instances, information will pass freely between responders, as part of a more general process of dialogue and co-operation.
- Information may also be accessible from open sources, and responders should endeavour to use this route as well.
- However, a formal system exists to request information in circumstances where that is necessary.
- Not all information can be shared. Responders may claim exceptions in certain circumstances (and, as a result, not supply information as requested). Exceptions relate to sensitive information only. Where the exceptions apply, a responder must not disclose the information.

(Readers of this document are advised to read Chapter 3 of the Guidance Notes to the Civil Contingency Act 2004)

13 APPENDIX C - Consent: Guidance notes

13.1 Consent

13.1.1 In the past consent has all too often either been assumed or implied. Unfortunately, when something goes wrong it has been very difficult to prove if consent was actually given. It is therefore recommended that the consent sought should be explicit and appropriately recorded.

13.1.2 In order to facilitate the sharing of personal information (without specific statutory grounds) careful consideration should be given to obtaining explicit consent whenever possible, regardless of the person's age.

13.1.3 For consent to be valid it must be:

- **fully informed** – the individual is aware of what information will be shared, with whom and for what purpose.
- **specific** – a general consent to share information with “partner organisations” would not be valid. Specific means that individuals are aware of what particular information we will share, who with and for what purpose.
- **a positive indication by the data subject** – the provision of opt outs on forms would therefore not obtain the consent of an individual.
- **Freely given** – the individual is not acting under duress from any party.

13.1.4 The person giving the consent must also have the capacity to understand what they are consenting to.

13.1.5 Consent may be given non-verbally, verbally or in writing. In order to avoid any confusion or misunderstanding at later date, non-verbal or verbal consent should be witnessed where possible and the details of the witness recorded.

13.1.6 To give valid informed consent, the person needs to understand why their information needs to be shared, what type of information may be involved and who that information may be shared with.

13.1.7 The person should also be advised of their rights with regard to their information, namely:-

- i) The right to withhold their consent.
- ii) The right to place restrictions on the use of their information.
- iii) The right to withdraw their consent at any time.
- iv) The right to have access to their records.

13.1.8 As well as discussing consent with the person, it is seen as good practice that the person should also be given such information in another required format e.g. different language, Braille.

13.1.9 In general once a person has given consent, that consent may remain valid for an indefinite duration unless the person subsequently withdraws that consent.

13.1.10 If a person makes a voluntary and informed decision to refuse consent for their personal information to be shared, this decision must be respected unless there are sound legal grounds for disclosing without consent (see 14.8 below).

13.1.11 A person, having given their consent, is entitled at any time to subsequently withdraw that consent. Like refusal, their wishes must be respected unless there are

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sound legal grounds for not doing so.

13.1.12 If a person refuses or withdraws consent, the consequences should be explained to them, but care must be exercised not to place the person under any undue pressure.

13.1.13 In the PSISAs detail must be provided on when and how often individuals are reminded of the fair processing notice (and in effect given the chance to withdraw the consent that they have previously provided).

13.1.14 New consent will be required where there are to be significant changes to:

- (a) the personal data that will be shared,
- (b) the purposes for which it will be shared, or
- (c) the partners involved in the sharing (i.e. the proposed data sharing is not covered by the original fair processing notice).

13.2 Capacity to consent

13.2.1 For a person to have capacity to consent, he/she must be able to comprehend and retain the information material to the decision and must be able to weigh this information in the decision making process.

13.3 Young Persons

13.3.1 Section 8 of the Family Law Reform Act entitles young people aged 16 or 17, having capacity, to give informed consent.

13.3.2 The courts have held that young people (below the age of 16) who have sufficient understanding and intelligence to enable them to understand fully what is involved will also have capacity to consent.

13.3.3 It should be seen as good practice to involve the parent(s) of the young person in the consent process, unless this is against the wishes of the young person.

13.4 Parental Responsibility

13.4.1 The Children Act 1989 sets out persons who may have parental responsibility, these include:-

- i) The child's parents if married to each other at the time of conception or birth;
- ii) The child's mother, but not the father if they were not so married unless the father has acquired parental responsibility via a court order or a parental responsibility agreement or the couple subsequently marry;
- iii) The child's legally appointed guardian;
- iv) A person in whose favour the court has made a residence order in respect of the child;
- v) A local authority designated in a care order in respect of the child;
- vi) A local authority or other authorised person who holds an emergency protection order in respect of the child.

(Note: Foster parents or guardians do not automatically have parental responsibility)

13.4.2 Whilst, under current law, no-one can provide consent on behalf of an adult in order to satisfy the Common law requirement, it is generally accepted by the courts that decisions about treatment, the provision of care, and the disclosure of information,

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should be made by those responsible for providing care and that they should be in the best interests of the individual concerned.

13.5 Obtaining Consent

13.5.1 In order for consent to be obtained lawfully it is essential that all persons who may be expected to obtain consent for the sharing of personal information receive appropriate training and that under normal circumstances only those employees who have received training and been approved by management should seek consent.

13.6 Disclosure of Personal Information

13.6.1 The passing of personal information without either statutory power or the consent of the person concerned, places both the organisation and the individual member of staff at risk of litigation.

13.6.2 It is therefore essential that all organisations who are party to the Overarching Protocol have in place policies and procedures governing who may disclose personal information and that such policies/procedures are communicated to all of their employees (and other people working on their behalf).

13.7 Disclosure with consent

13.7.1 Only staff who have been authorised to do so should disclose personal information about an individual service user.

13.7.2 Prior to disclosing personal information about an individual, the authorised member of staff should check the individual's file/record in order to ascertain:-

- a) that consent to disclose has been given, and
- b) the consent is applicable for the current situation, and
- c) any restrictions that have been applied.

13.7.3 On the first instance of disclosure with respect to the particular situation, the person making the disclosure should notify the recipient if consent has been given for the disclosure and any specific limitations the individual has placed on their consent.

13.7.4 Disclosure of personal information will be strictly on a need to know basis and in accordance with any agreed Purpose Specific Information Sharing Agreement.

13.7.5 All information disclosed should be accurate and factual. Where opinion is given, this should be made clear to the recipient.

13.7.6 On disclosing personal information to another agency, a record of that disclosure should be made on the individual's file/record, this should include:

- a) When the disclosure was made
- b) Who made the disclosure
- c) Who the disclosure was made to
- d) How the disclosure was made
- e) What was disclosed

13.7.7 The recipient of information should record:

- a) The details of the information received

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- b) Who provided it
- c) Any restrictions placed on the information that has been given

13.8 Disclosure without consent

- 13.8.1 Disclosure of personal information without consent must be justifiable on statutory grounds, or a meet the criterion for claiming an exemption under the Data Protection Act. Without such justification, both the organisation and the member of staff expose themselves to the risk of prosecution and liability to a compensation order under the Data Protection Act or damages for a breach of the Human Rights Act.
- 13.8.2 There are exceptional circumstances in which a service user's right may be overridden, for example:
- (a) if an individual is believed to be at serious risk of harm, or
 - (b) if there is evidence of serious public harm or risk of harm to others, or
 - (c) if there is evidence of a serious health risk to an individual, or
 - (d) if the non-disclosure would significantly prejudice the prevention, detection or prosecution of a crime.
 - (e) if instructed to do so by a court
- 13.8.3 All agencies should designate a person who has the knowledge and authority to take responsibility for making decisions on disclosure without consent. This person should hold sufficient seniority within the agency with influence on policies and procedures. Within the health and social care agencies it expected that this person will normally be the Caldicott Guardian.
- 13.8.4 If information is disclosed without consent, then full details will be recorded about the information disclosed, the reasons why the decision to disclose was taken, the person who authorised the disclosure and the person(s) to whom it was disclosed.
- 13.8.5 A record of the disclosure will be made in the service user's case file and the service user must be informed if they have the capacity to understand, or if they do not have the capacity then any person acting on their behalf must be informed. If information is disclosed without consent, there may be some exceptional circumstances (particularly in the context of police investigations or child protection work) where it may not be appropriate to inform the service user of the disclosure of information. This situation could arise where the safety of a child (or possibly sometimes of an adult) would be jeopardized by informing the service user of such disclosure. In many such situations it will not be a case of never informing the service user, but rather delaying informing them until further enquiries have been made. Any decision not to inform, or to delay informing, should be recorded on the service user's case file, clearly stating the reasons for the decision, and the person making that decision.
- 13.8.6 In deciding whether or not disclosure of information given in confidence is justified it is necessary to weigh the harm that would result from breach of confidence against the harm that might result if you fail to disclose the information.
- 13.8.7 If disclosure is made without consent, the person making the disclosure must:
- a) Advise the recipient accordingly.

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- b) Record the full details of the disclosure that has been made, including the reason why the decision to disclose was taken (statute or exemption); who made the disclosure and to who it was disclosed to.

13.8.8 The recipient of information that has been disclosed without consent should record:

- a) The details of the information received.
- b) Who provided it.
- c) Any restrictions placed on the information that has been given e.g. 'not to be disclosed to the service user'.
- d) That the information was provided without consent, and the reason(s) why (if known).

13.9 Recording Consent

13.9.1 All organisations should have in place a means by which an individual, or their guardian/representative, can record their explicit consent to personal information being disclosed and any limitations, if any, they wish to place on that disclosure.

13.9.2 The consent form should indicate the following:-

- a) Details of the organisation and person obtaining consent.
- b) Details to identify the person whose personal details may/will be shared.
- c) The purpose for the sharing of the personal information.
- d) The organisation(s)/agency(ies) with whom the personal information may/will be shared.
- e) The type of personal information that will be shared.
- f) Details of any sensitive information that will be shared.
- g) Any time limit on the use of the consent.
- h) Any limits on disclosure of personal information, as specified by the individual.
- i) Details of the supporting information given to the individual.
- j) Details of the person (guardian/representative) giving consent if appropriate.

13.9.3 The consent form should be securely retained on the individual's file/record and that relevant information is recorded on any electronic systems used in order to ensure that other members of staff are made aware of the consent and any limitations.

14 APPENDIX D - Handling Breaches of the Overarching protocol or Purpose Specific Information Sharing Agreement.

14.1 Reporting Breaches of the Protocol

14.1.1 All breaches are to be logged, investigated, and the outcome noted. The logs will be examined as part of the review process.

14.1.2 The following types of incidents will be logged:

- Refusals to disclose information
- Conditions being placed on disclosure
- Delays in responding to requests
- Disclosure of information to members of staff who do not have a legitimate reason for access
- Non-delivery of personal information
- Disregard for procedures
- The use of data/information for purposes other than those agreed in the protocol
- Inadequate security arrangements.

14.2 Breaches noted by members of staff:

14.2.1 A member of staff (or other person) working on behalf of any organisation party to this protocol who becomes aware that the procedures and agreements set out in A PSISA are not being adhered to, whether within their own or a partner organisation, should first raise the issue with the line manager responsible for the day-to-day management of the PSISA.

14.2.2 The manager should record the issue and check whether the concern is justified. If the manager concludes that the PSISA is being breached, he or she should first try to resolve it informally. If the matter can be resolved in this way, the outcome should be noted and forwarded to the designated person for that PSISA who should file the details in a 'breaches log'.

14.3 Breaches alleged by a member of the public:

14.3.1 Any complaint received by, or on behalf of, a member of the public concerning allegations of inappropriate disclosure of information will be dealt with in the normal way by the internal complaints procedures of the organisation who received the complaint: Any disciplinary action will be an internal matter for the organisation concerned.

14.3.2 In order to monitor adherence to and use of the protocol, procedures should be established within each organisation by which complaints relating to the inappropriate disclosure of information is passed by the officer designated to deal with breaches of the PSISA. The designated officer should report any complaints of this nature to the equivalent officer in each relevant organisation.

14.3.3 All alleged breaches of the protocol, whether proven or not, should be analysed as part of the formal review of each PSISA.