



## **Protecting Looked After Children Guidance February 2018**

### **1. Introduction**

This guidance provides the permissions for Health and Social Care Trusts to manage protection concerns relating to a looked after child by way of the LAC Review process. It replaces guidance issued by the Department of Health (formerly the Department of Health, Social Services and Public Safety) in August 2010. The primary intention of the guidance is to ensure that looked after children are protected from significant harm, while at the same time preventing children and their families being subjected to unnecessary bureaucracy by having to attend multiple reviews or meetings.

This guidance should also be read in conjunction with Co-operating to Safeguard Children and Young People in Northern Ireland (2016); the Missing Children Protocol: Runaway and Missing from Home and Care (2015); the Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse (2016); and the SBNI Core Child Protection Procedures (2017).

### **2. Statutory provisions and obligations**

In protecting looked after children, it is essential that HSC Trusts adhere to the requirements of the law relating to the care and protection of children in Northern Ireland. This means that in the application of this guidance, HSC Trusts must comply in full with the statutory duties placed on them by the Children (Northern Ireland) Order 1995 [the Children Order] and relevant Regulations made under the Children Order.

*Article 25 of the Children Order defines a looked after child as ‘a child who is (a) in the care of the authority; or (b) provided with accommodation by the authority’ for more than 24 hours. These are often the most vulnerable children<sup>1</sup> in society.*

*Article 66 of the Children Order requires a Trust which has reasonable cause to suspect that a looked after child is suffering, or is likely to suffer, significant harm, to make such inquiries as are necessary to enable it to decide whether any action is needed to safeguard or promote that child’s welfare.*

*The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996 places a duty on authorities to draw up and record an individual plan for a child in their care.*

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<sup>1</sup> For the purposes of this guidance, ‘child’ is as defined in Article 2(2) of the Children (Northern Ireland) Order 1995—a person under the age of 18.

*The Review of Children's Cases Regulations (Northern Ireland) 1996 provide for the review of cases of children who are looked after by an authority and set out the arrangements for such reviews.*

Where there is reasonable cause to suspect that a child who lives, or is found, in a HSC Trust's area is suffering, or is likely to suffer, significant harm, Article 66 of the Children Order requires that Trust to make, or cause to be made, such inquiries as are considered necessary to enable the Trust to decide whether it should take any action to safeguard or promote the child's welfare. This duty extends to looked after children.

### **3. Extant Processes for Looked After Children and Child Protection**

Two multi-agency processes are relevant to this guidance. Both processes establish multi-agency plans with regular reviews and meetings involving the child, the child's family and professionals from a range of agencies.

#### ***The Child Protection Process***

The child protection process has been established to ensure the safety and welfare of children believed to have suffered, or be at risk of suffering, significant harm. As part of this process a multi-disciplinary, inter-agency Child Protection Case Conference may be convened to share relevant information about a child and the child's family to consider whether the child is at continuing risk of significant harm. Where the Case Conference decides that the child is **at continuing risk of significant harm**, the child's name should be included on the Child Protection Register and a Child Protection Plan drawn up. The Child Protection Register is a register of all children for whom there are **unresolved child protection issues** and who are currently the subject of an inter-agency Child Protection Plan. Inclusion of a child's name on the Child Protection Register is important to alert professional staff, who are concerned about the welfare of a child, that that child is the subject of an inter-agency Child Protection Plan.

#### ***The Looked After Children (LAC) Review Process***

The arrangements for the review of looked after children (the LAC Review process) have been established to ensure that children who are looked after have their needs regularly reviewed and that plans are in place and provisions made to meet these needs. This can include the need to be protected from harm.

Both the Child Protection and LAC Review processes require multi-agency involvement to consider the needs of the child and both processes establish multi-agency plans with clear expectations of protection and better outcomes for the child. Where the two processes apply, there can be unnecessary duplication and this can be confusing and difficult for children and their families to understand.

#### **4. Guiding Principles**

This guidance is underpinned by a number of guiding principles as follows:

- The needs of the child are the paramount consideration in both the LAC Review and Child Protection processes.
- Unnecessary duplication of meetings is not in the best interests of the child or their family and should be avoided.
- For children who are looked after, the LAC Review and Care Planning processes should be sufficiently robust and able to address the safeguarding and protection needs of the child.
- Trusts will be alert to new and emerging risks to the child, subsequent to them becoming looked after, which may place them at risk of significant harm and therefore necessitate the instigation of Child Protection processes.
- Child Protection Registration will always be considered and will be used in circumstances where it is believed that registration affords a child additional protections. That is, the risks to the child are highlighted to other professionals who have cause to enquire.
- The Care Plan agreed by the LAC Review will include [as standard] a section detailing the consideration given to the protection needs of the child who is the subject of the plan and any child protection actions agreed.
- The young person will be involved in the development of the Care Plan consistent with their age and understanding and will have the support of an advocate.
- The LAC Review (both scheduled and unscheduled) will be chaired by a senior person at Band 8a or above.
- Where protection concerns emerge between planned LAC Review meetings, an unscheduled LAC Review meeting will be convened to ensure any new or emerging risks are addressed and managed within the child's Care Plan.
- The Chair of the LAC Review will ensure that all relevant agencies and professionals are invited to attend LAC Review meetings (both scheduled and unscheduled). This will include those persons who have the appropriate information and insight into the particular issues which need to be addressed, including protection issues.

## **5. Child Protection Investigation**

Where a Trust has reasonable cause to suspect that a looked after child is suffering, or is likely to suffer, significant harm, it must make such inquiries as are necessary to enable it to decide whether any action is needed to safeguard or promote that child's welfare in accordance with Article 66 of the Children Order. Consideration should also be given to whether the Protocol for Joint Investigation by Social Workers and Police Officers of Alleged and Suspected Cases of Child Abuse should be initiated.

Where the child protection concerns are substantiated after an Article 66 investigation in respect of a looked after child and the child is assessed to be at continuing risk of significant harm, a LAC Review should be convened to determine and agree what action requires to be taken to manage the risks identified. This may need to be an unscheduled LAC Review (if a planned Review is not due to take place imminently). Any actions agreed by the LAC Review must be fully integrated into the child's Care Plan.

The Chair of the LAC Review (scheduled or unscheduled) will be responsible for deciding whether a Child Protection Case Conference is required in respect of the looked after child. In reaching such a decision, the Chair must consider whether:

- the looked after child is likely to be afforded additional protections by being placed on the Child Protection Register; and
- all relevant professionals were present at the LAC Review to enable a fully informed decision to be made about the child's protection and safeguarding needs and the proposed actions to address them.

Should the Chair of the LAC Review meeting decide that a Child Protection Case Conference need not be convened, this decision—and the reasons for it—must be clearly recorded, along with details of the protective measures agreed in respect of the child.

In cases where a decision is taken to hold a Child Protection Case Conference in respect of a looked after child, the Chair of the Case Conference may decide, taking account of the individual circumstances of the child, that the safeguarding issues can be addressed within the LAC Review process.

## **6. Circumstances when children may be subject to both LAC Review and Child Protection Processes**

There are some specific circumstances when a looked after child may be subject to both LAC Review and Child Protection processes. This includes but is not limited to the following:

- Consideration should be given to convening a Child Protection Case Conference if a child is admitted to care on an emergency basis and a multi-disciplinary assessment, including an assessment of risk, has not yet taken place.

- Prior to a looked after child being discharged from care to the care of their parents or family members, consideration should be given to convening a Child Protection Case Conference. This decision should be discussed and agreed at the LAC Review.

## **7. Managing Child Protection Concerns via the LAC Review Process**

This section details the actions to be taken by the Chair of the LAC Review in cases where a decision has been made that child protection concerns about a looked after child can and should be managed within the LAC review process.

The documentation available to the LAC Review and minutes of the LAC Review must clearly evidence that full consideration has been given to child protection and safeguarding issues, that risks to the child have been assessed and that actions are contained within the Care Plan to ameliorate or manage such risks. Actions must have timescales prescribed against them and it must be clear who has responsibility for ensuring actions are progressed/achieved. As stated above, all Care Plans for a looked after child must include as standard a section detailing the consideration given to the child protection needs and any child protection actions agreed at the LAC Review. The protection section of the Care Plan should:

- include a clear statement of any risks identified;
- list the actions considered necessary to reduce or eradicate the risks, identify who is responsible for taking agreed actions and specify when they will be taken;
- provide information on the supports available to the young person and how these will be accessed;
- highlight any triggers or stressors for the young person and what is required to be actioned should risks emerge;
- specify contingency arrangements and details of key people the young person can contact in times of crisis; and
- identify who is leading the process and specify how it will be reviewed.

The Chair of the LAC Review must take into account all the circumstances and context of the child and, in particular, the safeguarding and child protection needs of that child throughout the LAC process.

The Chair of the LAC Review is required to clearly set out at the outset:

- what the issues are;
- who they relate to;
- who needs to be informed;
- who needs to participate in the LAC Review;
- that the child has been properly consulted;
- that the parents or those with parental responsibility have been properly consulted;
- those caring directly for the child have been consulted; and

- that any other person/professional who has appropriate information and insight into the particular safeguarding issues which need to be addressed have been consulted and their views represented to the LAC Review.

It is the responsibility of the Chair to:

- ensure invitations to the LAC Review, attendance and apologies are recorded;
- ensure a full report is provided in the prescribed format;
- ensure that relevant reports are obtained from professionals, particularly in circumstances when professionals are unable to attend in person.

In particular, and in line with the requirements set out in Regulation 7 of the Review of Children's Cases Regulations 1996, the Chair of the LAC Review must ensure that, so far as is reasonably practicable:

1. The views of the following have been sought and taken into account before conducting any review:
  - (a) the child;
  - (b) his parents;
  - (c) any person who is not a parent of his but who has parental responsibility for him; and
  - (d) any other person whose views the responsible authority considers to be relevant, including, in particular, the views of those persons in relation to any particular matter which is to be considered in the course of the review.
2. The persons whose views are sought under paragraph (1) are involved in the review including, where it is considered appropriate, the attendance of those persons at part or all of any meeting which is to consider the child's case in connection with any aspect of the review of that case.
3. Details of the result of the review and of any decision taken by it in connection with any aspect of the review are notified to:
  - (a) the child;
  - (b) his parents;
  - (c) any person who is not a parent of his but has parental responsibility for him; and
  - (d) any other person whom it considers ought to be notified.

In order to fulfil these statutory requirements, the Chair of the LAC Review must therefore:

- Ensure that introductions and apologies are noted;
- Ensure that all relevant professionals have been invited and if not in attendance their absence is recorded with any additional submitted reports recorded in the minute;
- Clearly state at the outset of the LAC Review the purpose and format of the review and how it will address safeguarding and child protection issues;

- Clarify if any additional information is available at the review but has not previously been shared with review participants.
- Clearly outline any safeguarding and or child protection issues including but not restricted to:
  - Risk of harm to or from others;
  - An assessment of prior patterns of harm;
  - Health (including visits to Emergency Departments and other health contacts such as GUM/Sexual Health Clinics);
  - Education;
  - Contact arrangements;
  - Any other issues identified that need to be addressed as part of the LAC process.

The Chair will also ensure that Regulations 8, 9 and 10 of the Review of Children's Cases Regulations 1996 are complied with as follows:

Regulation 8 – The responsible authority shall make arrangements itself or with other persons to implement any decision which the responsible authority proposes to make in the course of, or as a result of, the review of a child's case.

Regulation 9 – Each responsible authority shall monitor the arrangements which it has made with a view to ensuring that they comply with these Regulations.

Regulation 10 – Each responsible authority shall ensure that -

- (a) information obtained in respect of the review of a child's case;
- (b) details of the proceedings at any meeting arranged by the responsible authority at which the child's case is considered in connection with any aspect of the review of that case; and
- (c) details of any decisions made in the course of, or as a result of, the review,

are recorded in writing.

The Chair is therefore responsible for outlining the key actions to be taken following the LAC Review, the timeframes within which they are to be achieved and who the lead individual professionals are in addressing these actions.

The chair of the LAC Review is also required to ensure that the requirements of schedules 1, 2 and 3 of the Review of Children's Cases Regulations 1996 are fully complied with.

The schedules can be accessed in Appendix 1.

Where a child becomes looked after, and was placed on the Child Protection Register prior to becoming looked after, the next or a reconvened Child Protection Case conference will, taking account of the individual circumstances of the child, determine that the LAC Review process will take account of safeguarding and child

protection issues, ensure that these are appropriately addressed within the child's Care Plan, and consider whether the child's name should remain on the Child Protection Register.

## **8. Training**

In addition to training on the operation of this guidance, all Chairs of Child Protection Case Conferences and LAC Reviews, must have successfully completed relevant training to ensure that they comply fully with:

- The Children (Northern Ireland) Order 1995, in particular the statutory duties of authorities in relation to children believed to be at risk of, or suffering from, significant harm;
- The Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996;
- The Review of Children's Cases Regulations (Northern Ireland) 1996; and
  - Regional Child Protection Procedures.

## **9. Review**

This Guidance will be reviewed after a period of 18 months, starting on the day it is published for implementation.



**SCHEDULE 1      Regulation 4.4**

Elements to be included in review

1. Keeping informed of the arrangements for looking after the child and of any relevant change in the child's circumstances.
2. Keeping informed of the name and address of any person whose views should be taken into account in the course of the review.
3. Making necessary preparations and providing any relevant information to the participants in any meeting of the responsible authority which considers the child's case in connection with any aspect of the review.
4. Initiating meetings of relevant personnel of the responsible authority and other relevant persons to consider the review of the child's case.
5. Explaining to the child any steps which he may take under the Order including, where appropriate,—
  - (a) his right to apply, with leave, for an Article 8 order (residence, contact and other orders with respect to children);
  - (b) where he is in care, his right to apply for the discharge of the care order; and
  - (c) the availability of the procedure established under the Order for considering representations.
6. Making decisions or taking steps following review decisions arising out of, or resulting from, the review.

## SCHEDULE 2      Regulation 5

Considerations to which responsible authorities are to have regard

1. In the case of a child who is in care, whether an application should be made to discharge the care order.
2. Where the responsible authority is an authority, whether it should seek a change in the child's legal status.
3. Arrangements for contact, and whether there is any need for changes in the arrangements in order to promote contact with the child's family and others, so far as is consistent with his welfare.
4. Any special arrangements that have been made or need to be made for the child, including the carrying out of assessments either by an authority or other persons, such as those in respect of special educational need under the Education and Libraries (Northern Ireland) Order 1986<sup>(1)</sup>.
5. The responsible authority's immediate and long-term arrangements for looking after the child or providing the child with accommodation (made pursuant to the provisions of the Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996<sup>(2)</sup>), whether a change in those arrangements is needed and consideration of alternative courses of action.
6. Where the responsible authority is an authority, whether an independent visitor should be appointed if one has not already been appointed.
7. The child's educational needs, progress and development.
8. Whether arrangements need to be made for the time when the child will no longer be looked after or provided with accommodation by the responsible authority.
9. Whether plans need to be made to find a permanent substitute family for the child.

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### **SCHEDULE 3      Regulation 5**

Health considerations to which responsible authorities are to have regard

1. The child's state of health.
2. The child's health history.
3. The effect of the child's health and health history on his development.
4. Existing arrangements for the child's medical and dental care and treatment, and health and dental surveillance.
5. The possible need for an appropriate course of action which should be identified to assist necessary change of such care, treatment or surveillance.
6. The possible need for preventive measures, such as vaccination and immunisation, and screening for vision and hearing.