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Age of Criminal Responsibility (Scotland) Act 2019 (ACRA)

ACRA Operational Guidance for Social Work and Police

Published December 2021

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1. PURPOSE

1.2 This Guidance contains information to support Police Scotland and Local Authorities in the application of their operational duties, under the Age of Criminal Responsibility (Scotland) Act 2019 (the Act)¹.

2. INTRODUCTION

2.1 This Guidance should be read in conjunction with the following, published by Scottish Ministers.

- [Age of Criminal Responsibility \(Scotland\) Act 2019 – Statutory Guidance on Investigative Interviews](#)
- [Age of Criminal Responsibility Act \(Scotland\) Act 2019 – Statutory Guidance on the use of a Place of Safety](#)
- [Age of Criminal Responsibility Act \(Scotland\) Act 2019 – Child Interview Rights Practitioner Code of Practice](#)

2.2 The Act raises the age of criminal responsibility to 12 years and provides new specific investigative powers for police investigating the most serious cases of harmful behaviour and new duties for Local Authorities.

2.3 The Act is underpinned by the key principles that a child **cannot be held criminally responsible** for harmful behaviour that amounts to a crime or offence which **occurred** when the **child was aged under 12. The child cannot be arrested or charged** with offences.

2.4 The use of language is important. References must relate to the child's behaviour, wellbeing and welfare needs, and risks and not to criminality².

2.5 Part 4 of the Act relates to police powers in relation to the investigation of significant harm/harmful behaviour (serious physical or otherwise)³, by a child, which occurred whilst aged under 12.

2.6 This Guidance sets out the manner in which police and social work will collaborate to consider the use of investigatory powers under the Act as they relate to the child, whilst ensuring the child's wellbeing and welfare remain a primary consideration.

2.7 This Guidance defines the operational roles, responsibilities and processes that allow professionals to respond to situations where a constable reasonably believes that a child, whilst under the age of 12 years is responsible for causing or risking causing harm to another person.

¹ Link to the Age of Criminal Responsibility (Scotland) Act 2019: <https://www.legislation.gov.uk/asp/2019/7/contents/enacted> and [Explanatory Notes](#)

² Youth justice: Raising the age of criminal responsibility - gov.scot (www.gov.scot)

³ Refer to paragraph 4 relating to criteria and definitions

2.8 Serious incidents must be met with a compassionate, sensitive, proportionate and effective response, addressing the needs of children, families, victims and the wider community.

2.9 At any point where concerns are identified about actual or future significant harm to **any** child, the National Guidance for Child Protection in Scotland (2021)⁴ must be followed. If child protection (CP) concerns arise in relation to the child who is believed to have caused or risked causing serious harm to another person, the immediacy of risk of significant harm to the child involved will determine the prioritisation of next actions.

3. BACKGROUND

3.1 The intention of the Act is to protect children from the harmful effects of early criminalisation, while ensuring that children and their families receive the right support.

3.2 The rights of the child must be properly recognised, upheld and protected in line with the United Nations Convention on the Rights of the Child (UNCRC). The UNCRC⁵ states that children who come into conflict with the law have a right to be treated fairly, with appropriate safeguards and in a manner consistent with the child's sense of dignity and worth (Article 40). Children also have the right to participate effectively in proceedings, have their views taken into account (Article 12) and to have their privacy respected (Article 16). It is crucial that the approach taken by all professionals takes account of the evolving capacities of the child (Article 5).

3.3 Getting it Right for Every Child⁶ (GIRFEC) emphasises the need to take a child centred approach, understanding the wellbeing of a child in their current situation, taking into consideration the wider influences on a child and their developmental needs. This Guidance is therefore relevant to all agencies and services that support children and families through effective and collaborative partnership working.

3.4 The intentions of the Act are compatible with Scotland's approach to welfare and the protection of children as represented within the ethos and principles of the Kilbrandon Report⁷, which informed the establishment of the Children's Hearing system in 1968. The Kilbrandon vision of a welfare approach for young people 'in trouble' or at risk, continues to ensure that the system considers and deals with the underlying issues in a child's life.

⁴ National Guidance for Child Protection in Scotland 2021 - gov.scot (www.gov.scot)

⁵ The UN Convention on the Rights of the Child provides further detail on upholding children's human rights in justice settings in [General Comment 24](#), including during police interviews. Additional guidance is provided in the [Council of Europe Guidelines on Child-Friendly Justice](#) and [Human rights: Children's rights - gov.scot](#) (www.gov.scot)

⁶ Getting it right for every child (GIRFEC): GIRFEC principles and values - gov.scot (www.gov.scot)

⁷ The KILBRANDON Report - gov.scot (www.gov.scot)

3.5 The aim of the Act also aligns with the intentions outlined in The Promise (Independent Care Review, 2020) which highlights the disproportionate criminalisation of care experienced children and young people.⁸

3.6 A child who has behaved in a manner that has caused or risked causing harm (serious physical or otherwise) to another person, may themselves have experienced childhood adversity and difficulties such as significant loss, abuse, neglect, trauma, or a disrupted home and school life. Negative early life experiences can leave some children extremely vulnerable to environmental pressures and this can, in turn, contribute to the emergence of forms of harmful behaviours in childhood⁹.

3.7 All investigative and planning activity triggered by a child's believed harmful behaviour (serious physical harm or otherwise) must have regard for the child's wellbeing as a primary consideration. Interventions must aim to protect children, reduce stigma and ensure better future life chances.

3.8 Police and social work are required to use professional judgement to establish whether using the investigative powers under the Act is necessary and proportionate.

3.9 Police and statutory services will take action to protect the safety and meet the needs of those involved in the situation, including the victim(s) and the community. Responding proportionately and effectively to the needs of a child who has caused or risked causing harm, does not diminish the rights of victims. They will still be the victim of a crime and entitled to have that crime fully investigated by the police and offered the support that is available to all victims of crime.

3.10 Close collaborative working between police, social work and core services is essential at all stages. This means that effective communication will be required at key points where decisions and arrangements are required to be made in relation to investigative interviews and associated processes. Children who are subject to the provisions of the Act may be known to social work, as well as health and education services, so a joint approach to planning is essential to ensure that the needs and wellbeing of the child are paramount considerations.

3.11 Discovering what happened in circumstances of serious harmful behaviour is significantly dependent upon trauma-informed¹⁰, child centred, rights respecting processes and practice. This includes communication and co-ordination with those who care for and have responsibilities towards the child and any other children who have been affected.

⁸ #KeepThePromise - The Promise

⁹ https://consult.gov.scot/youth-justice/minimum-age-of-criminal-responsibility/supporting_documents/00497071.pdf - P14 and the Edinburgh study on Youth Transitions and Crime <http://www.esyc.ed.ac.uk/>

¹⁰ The National Trauma Training Programme (NTP) | NHS Education (scot.nhs.uk)

4. CRITERIA AND CIRCUMSTANCES FOR USING THE POLICE POWERS TO QUESTION A CHILD

4.1 Police can question a child¹¹ believed to be responsible for committing harmful behaviour that does not meet the threshold for an ACRA investigative interview, in an age appropriate way, without applying the provisions in the Act. Constables, including Senior Investigating Officers, should use professional judgement to establish whether using the formal investigative powers within this legislation is necessary and proportionate.

4.2 Police powers of investigation are limited to circumstances where a constable has reason to believe that a child, whilst aged under 12;

- by behaving in a violent or dangerous way, has caused or risked causing **serious physical harm** to another person, or
- by behaving in a sexually violent or sexually coercive way, has caused or risked causing **harm** (in the case of sexual harm, whether physical or not) to another person.

4.3 A child¹² aged 12 or over may also be questioned under the Act, in relation to serious harmful behaviour that took place when the child was under 12, but only if it occurred after the date of implementation¹³ of the legislation and the child, is at the time of the investigation aged under 16, or 16/17 years of age and on a Compulsory Supervision Order. Refer to Appendix 1 – Definition of a Child.

4.4 The Act provides different thresholds of harm, dependent upon the type of behaviour exhibited. In order for the police powers under the Act to apply, where the **behaviour is violent or dangerous, this must result in serious physical harm** being caused or risked, and where it is **sexually violent or sexually coercive, then the harm can be physical, sexual or psychological in nature.**

4.5 **Harmful** behaviour causes **physical and/or psychological damage or injury** which results in suffering, and/or impairment to health and development. Harmful behaviour can be physical, psychological or sexual in nature.

4.6 The extent to which harm might be considered **serious** has been defined as harmful behaviour of a **violent or sexual nature** which is **life threatening and/or traumatic**, and from which **recovery**, whether **physical or psychological**, may reasonably be expected to be **difficult or impossible**.

4.7 It is a matter of **professional judgement**, based on the gathered evidence and context, as to whether the degree of harm is serious.

4.8 **Violent or dangerous** behaviour must result in **serious physical harm**, whilst **sexual harm** can be **any** kind of harm, whether serious physical or

¹¹ s 39

¹² "child" has the same meaning as in the Children's Hearings (Scotland) Act 2011 and includes children under 16 or those aged 16 and 17 who are subject to a Compulsory Supervision Order. There is no power to interview a person 16 or over, unless a Compulsory Supervision Order is in place.

¹³ 17th December 2021

otherwise (includes sexual and psychological harm). Therefore in this document, where ‘**harm**’ or ‘**harmful behaviour**’ is referenced, it should be taken to mean ‘**serious physical harm or otherwise**’ within this context.

4.9 Under these circumstances, the child may only be questioned by police¹⁴ or participate in an investigative interview, in relation to the incident under investigation, if authorised by:

- Investigative Interview by Agreement – s.40(2)
- Child Interview Order (CIO) – s.44, granted by a Sheriff on application by the police
- In urgent cases where there is risk of loss of life – s.54

4.10 A single traumatic event may cause **serious harm**. Serious harm can also result from an accumulation of significant events, both acute and long-standing.

4.11 Where there is a non-recent report of serious harmful behaviour by a child aged under 12 (at the time of the behaviour), and the child is now aged 12 – 15 or 16/17 (if subject to a Compulsory Supervision Order), then the police powers of investigation under the Act can apply, but only if the behaviour occurred after the date of implementation of the Act (i.e. 17th December 2021). Refer to Appendix 1 – Definitions of a Child Under the Act.

Purpose of the ACRA investigative interview

4.12 An ACRA investigative interview must be *necessary* in order to properly investigate the child’s behaviour and the circumstances surrounding it (including whether a person other than the child has committed an offence).

4.13 The purpose of the ACRA investigative interview is to seek information from a child in relation to an incident which is the subject of a police investigation.

4.14 The Act defines an ‘Investigative interview’ as **a meeting or a series of meetings** planned by police in collaboration with the relevant local authority¹⁵ that is conducted:

- a) by a constable or an officer of a local authority or
- b) jointly by a constable and an officer of the local authority¹⁶

4.15 Where an investigative interview is required, the Act sets out a prescriptive procedure for its conduct. It provides powers for the immediate response to and planned investigation of harmful behaviour (serious physical or otherwise) where it is believed that a child, whilst aged under 12;

¹⁴ The Act allows for the constable to cause a child to be questioned by another person.

¹⁵ “Relevant local authority in relation to a child” has the same meaning as in section 201, Children’s Hearing Act 2011 (i.e. the local authority in whose area the child predominantly resides or, if there is no such authority, the local authority with whose area the child has the closest connection).

¹⁶ s 39 (3)

- by behaving in a violent or dangerous way, has caused or risked causing *serious physical harm* to another person, or
- by behaving in a sexually violent or sexually coercive way, has caused or risked causing *harm (whether physical or not)* to another person.

4.16 As well as meeting the **criteria**, additionally, consideration must be given to the

- the **necessity** of an interview in relation to the police investigation;
- the **suitability** of conducting an interview with the child and,
- if this would be in the **child's best interests**

and the primary purpose of the investigative interview, which is:

- to seek an **explanation** from the child as to **what happened**;
- to **understand their role**, if any, in the incident; and
- to **identify any other people** who were **involved** or may be at **risk of harm**

4.17 Through this process, the wellbeing and welfare needs of the child will be identified and assessed and relevant supports identified and put in place.

4.18 In cases where there is a risk of loss of life and there is a need for Urgent Questioning, there will be limited or no opportunity for planning and the questioning will be undertaken solely by police. This will not take the form of an investigative interview¹⁷ but will be immediate action taken by police to elicit information from a child that is essential to the securing the safety of another person(s).¹⁸

Refer to Appendix 4 – Flowchart – Initial Response and Investigative Process.

5. ACRA INTER-AGENCY REFERRAL DISCUSSION (IRD)

5.1 Where it is believed that the behaviour of a child whilst aged under 12 has caused or risked causing harm (serious physical or otherwise), then an ACRA IRD should be instigated at the earliest opportunity.

5.2 In practice, there is alignment with multi-agency IRD principles, approach and processes as outlined in the National Guidance for Child Protection in Scotland (2021), however there are some specific considerations and additional requirements for ACRA IRD.

Refer to Appendix 5 – Flowchart - ACRA IRD and Investigative Interview Process.

¹⁷ As defined in s 39(3)

¹⁸ See section 8 below

6. CIRCUMSTANCES WHERE AN ACRA IRD SHOULD BE CONVENED

6.1 An ACRA IRD must be convened as soon as reasonably practicable where there are reasonable grounds to be believed that a child (whilst aged under 12) has caused or risked causing harm (serious physical or otherwise) to another person.

6.2 An ACRA IRD will coordinate decision-making and planning and will assess whether the provisions of the Act apply if this has not already been established.

6.3 The ACRA IRD is likely to be instigated by police and will be facilitated by the local designated IRD Detective Sergeant and a social worker (usually a Senior Social Worker/ Team Manager) in line with local processes.

6.4 Police have a duty to conduct a thorough investigation of the incident and must liaise with social work to undertake an assessment of risk, needs and protective measures that may be required for any child. Police will share information relating to the incident under investigation, including evidence gathered thus far (**where appropriate and proportionate**) and the facts that have been established.

6.5 The ACRA IRD will take cognisance of the ongoing police investigation into the incident, including ongoing police enquiries and how new information may influence decision making.

6.6 During the ACRA IRD, all available evidence (both inculpatory and exculpatory¹⁹) should be shared (**where appropriate and proportionate**) and discussions should focus on whether the evidence is sufficient to establish the circumstances of the incident and who was responsible. Where these facts can be ascertained, then careful consideration must be given as to whether an interview is **necessary** for the investigation. Due to the fluid nature of investigations, the initial ACRA IRD may not determine in the early stages that an ACRA investigative interview is necessary and may need to be reviewed as the police investigation progresses. It is likely that the Senior Investigating Officer will provide and input into or be present at the IRD. The assistance and input from a Police Interview Advisor may also be sought in the most serious cases.

6.7 The ACRA IRD should take place prior to any investigative procedures directly involving the child. This does not preclude the police from continuing with the investigation and securing evidence from other sources or the application of appropriately authorised ACRA urgent powers.

6.8 This exception applies where police need to question a child immediately where there is **a risk of loss of life**²⁰. Under these conditions, a **retrospective ACRA IRD** will take place and a Sheriff's CIO must be applied for as soon as

¹⁹ Inculpatory means evidence that shows or tends to show a person's involvement in an act, or evidence that can establish who was responsible. Exculpatory means evidence that exonerates or tends to exonerate a person who is believed to have been involved in an act.

²⁰ Refer to section 8 'Urgent questioning' requires authorisation from an officer of the rank of Superintendent or above and police must inform the Child Rights Interview Practitioner (ChIRP) about this authorisation as soon as reasonably practicable. The parent of the child must also be advised unless there is reasonable cause to suspect that this could exacerbate the risk of loss of life.

reasonably practicable. This could also apply where forensic data and samples have been taken from the child under the authorisation of a Superintendent or above, in urgent cases²¹.

6.9 At any stage during the ACRA IRD, where possible, the police should also relay any intentions to make an application for a Sheriff's Order for Search or Forensic Data and Samples and will provide the rationale for such an action. The legislation does not mandate for consultation with the local authority in respect of these particular Orders and there may be occasions when it has been necessary to apply for such an Order to secure evidence (forensic or otherwise) in advance of any ACRA IRD. Transparency across all actions is good practice and may result in the sharing of additional information that could influence subsequent decision making.

6.10 It should be noted, however, that where a Sheriff's Order for Forensic Data and Samples is to be sought in respect of obtaining **intimate samples**, then **an ACRA IRD must take place**.

6.11 There may be occasions when emergency forensic samples need to be taken from the child. It is competent for police to act under these circumstances in the absence of an ACRA IRD having taken place. Police should always make every effort to seek the guidance of social work in relation to any actions taken directly involving the child and must always explain to the child what they are doing and why.

6.12 A collaborative approach is always good practice when seeking the agreement of the child and parent to conduct an investigative interview or if a CIO is sought. Police and social work must work together to plan for the investigative interview.

6.13 The exception to this might be where the decision at the ACRA IRD is that the investigative interview will be police only. Under these circumstances, planning may be undertaken by police, however best practice would always be joint planning for the investigative interview, regardless of whether or not it is single agency led.

6.14 The Act provides that **prior** to making an application for a Sheriff's CIO, police must consult with the local authority about the application and the provisional plan and therefore **an ACRA IRD must take place** prior to making an application to a Sheriff for a CIO, unless it is impracticable to do so.

6.15 Social work or other services may know the child and family and have existing relationships. This can provide helpful support and assistance with planning and engagement with the child and parent/ carer.

6.16 It is important that the child and family receive the right support during this process and the ongoing police investigation does not prevent social work from engaging with and supporting the family and undertaking any assessment as

²¹ [Section 69 of the Act – Taking of Prints and Samples in urgent cases.](#)

required. Prior to an investigative interview however any social work interaction with the child and family should not involve direct discussion about the incident that is subject of the police investigation.

6.17 The Children's Reporter will not be involved in any ACRA IRD. However, the police may contact the Children's Reporter²² to discuss the case at any point in the investigation. This discussion may assist the police in determining whether there is a requirement for an investigative interview or use of any of the other police powers under the Act. Unlike the Procurator Fiscal, the Children's Reporter cannot direct the police investigation in any way.

7. ACRA IRD PRINCIPLES, APPROACH AND PROCESS

7.1 This section applies where Police and/or Social Work are seeking an investigative interview of a child who is believed to have caused or risked causing serious harm to another person. The ACRA IRD will inform whether it is in the best interests of the child to seek an ACRA Investigative Interview, whether it is necessary and if so, how this should be facilitated i.e. should agreement be sought from the child and parent or an application submitted to a Sheriff for a CIO.

Definition:

An **ACRA Inter-agency Referral Discussion (IRD)** is the beginning of the formal process of information sharing, risk and needs assessment, analysis and decision-making, following the reported concern about the **child's behaviour** that has **caused** or has **risked causing (serious physical harm and/or any kind of sexual harm – physical, sexual, psychological or otherwise)** harm to another person.

The principles and approach to the ACRA IRD are similar to those held under child protection procedures however, the purpose differs in that it will be held in response to concerns about reports of serious harm by the child against another person and not harm caused to the child. An ACRA IRD should be considered at the **earliest opportunity**, however this does not diminish the need for police to seek early dialogue with the local Social Work Department.

An ACRA IRD may be a process rather than a single event.

This discussion may take place in person, or remotely, e.g. a virtual environment. Factors such as urgency, geography and local arrangements will determine how the ACRA IRD is facilitated.

Purpose:

An ACRA IRD is required to ensure a co-ordinated inter-agency response to concerning behaviour. The ACRA IRD will make decisions in relation to investigative interviews, the plan for an interview, if required, and consider relevant and necessary supports for the child and family.

²² Children's Reporter will only be available during normal office hours. The child can only be referred to a Children's Hearing on non-offence grounds, in relation to which the standard of proof is the balance of probabilities and the civil rules of evidence apply. The principal ones being that no corroboration is required and hearsay evidence is admissible.

Instigation:

Police are likely to instigate an ACRA IRD, however other agencies can also make a request to convene an ACRA IRD where reports of serious harmful behaviour are made to other statutory agencies.

ACRA IRD Record:

A record of the ACRA IRD (refer to Appendix 6 – ACRA IRD Record) must be maintained, including the time and reason for starting the ACRA IRD, the information shared, actions taken/proposed (single or joint agency action), discussions held, reasoned decisions (including consideration of options), any lack of consensus, and the manner in which lack of consensus has been escalated and resolved, without delay. This record should be accurately maintained throughout the duration of the investigation. It is a multi-agency document and version control, in the absence of a multi-agency IT system, is imperative.

The minutes from the ACRA IRD should be recorded in accordance with local established processes for IRDs. This is a multi-agency document and version control (in the absence of an e-IRD system) is imperative.

An ACRA IRD template is available for use by police and social work (see Appendix 5)

At all stages, agencies must follow their own service Guidance for the Recording and Retention of Information. The IRD discussion is recorded jointly and must be retained in the relevant files of participating agencies.

Capacity:

As far as can be ascertained from earliest inquiries, consideration is given not only to the child's age but to the child's development, including:

- linguistic abilities
- memory retrieval capacities
- suggestibility
- effects of stress and trauma

In all decisions and plans, the additional support needs for each child must be taken into account, including:

- health concerns
- emotional distress and wellbeing
- speech and language²³
- translation requirements
- risk of self-harm
- risk of harm to others

²³ Local Health Board speech and language therapist services are available to provide guidance if required.

- additional supports relating to disabilities and all protected characteristics
- racial and cultural context

Where an interpreter is required, they should be someone who is independent of the child's family and community. The interpreter should also have an understanding of the child's cultural context as well as being able to speak the relevant language.

Core Professionals:

Police, Social Work and wherever possible Health should participate in the ACRA IRD. Education will have an essential contribution and information gathering should involve other services working together, as appropriate. ACRA IRD participants should be sufficiently senior to assess and discuss available information and make decisions on behalf of their agencies. They will have access to agency guidance, training and supervision in relation to this role.

Police have lead responsibility for the investigation into the behaviour that has caused or may have risked causing serious harm to another person and can exercise other powers in the Act such as taking a child to a place of safety, search or the taking of forensic data and samples.

Social Work have lead responsibility for enquiries relating to children who are experiencing or are likely to experience significant harm and the assessment of the wellbeing needs and any risk assessment in relation to a child. Consideration is also required of the welfare and wellbeing of any other child who has been impacted by the circumstances being investigated.

A designated health professional can provide information that can inform the planning for the interview and any other health assessments and may follow up with any other relevant health needs.

Education is a critical source of contextual information about any child of school age. It is important to recognise existing relationships, for example, from school, as this can support the child and family as well as the investigation.

For the purposes of the ACRA IRD, information sharing between professionals relevant to the child is imperative.. This includes the Named Person, (where this function is in place) or from a professional in an equivalent role, or others who know the child well. This information will be useful for the planning of an interview.

Core agencies and relevant services consulted at the ACRA IRD stage will research the information systems available to them in order to share necessary, proportionate and relevant information for the purpose of effective decision-making, risk assessment and planning to support the child.

Timing:

Where there is reasonable belief a child has caused or has risked causing harm (serious physical or otherwise) to another person, then an ACRA IRD must be convened as soon as reasonably practicable.

The ACRA IRD process may begin **out-with core hours** in order to consider **protective measures** or **interim safety planning** for a child and/or any other person or where there is an **operational imperative** for Police to progress the investigation. For example, this might be where the incident takes place over the weekend and there are:

- **public safety considerations** due to the **seriousness** of the behaviour, **and**
- it is considered to be in the **best interests** of the child to proceed.

Whilst it might be **competent** to proceed in the **absence** of an ACRA IRD having taken place, this should be considered exceptional and good practice is always to seek to undertake an ACRA IRD prior to any investigative actions/use of police powers under the Act directly involving the child.

Any actions taken **must be necessary and justifiable**.

It is acknowledged that different IRD procedures exist across the country and whilst some areas may initiate an ACRA IRD out of hours, this might not be possible in others.

The expectation is, however, that where an ACRA IRD is deemed necessary, this will be facilitated wherever possible including out of hours and in exceptional circumstances.

At the commencement of the ACRA IRD, the police investigation is likely to be in the very early stages of evidence gathering and therefore it is possible that conclusive outcomes will not be reached at this stage. Information must be gathered and shared, to support agreement about a co-ordinated response.

Specific circumstances:

Place of Safety²⁴

An ACRA IRD is likely to be held after place of safety (s.28) powers have been used by police as an emergency response to a concern about a child's harmful behaviour.

Section 28 of the Act provides that:

- where a constable finds in **any place**, a child **under 12 years** of age, who the constable has reasonable grounds to believe is behaving, or is **likely** to behave, in a way that **is** causing, **or risks** causing, **significant harm** to another person,

²⁴ Refer to POS section below

- the constable may take the child to a Place of Safety and keep the child there if the constable is satisfied that it is **necessary** to do so to **protect any other** person from an **immediate** risk of **significant** harm or **further** such harm.

Where the s.28 powers have been used by police and a child has been taken to a place of safety and thereafter left in the care of the Local Authority, an ACRA IRD must be held.

In addition to the required considerations at an ACRA IRD, this will allow for the details of the time spent in the place of safety and the time at which the power ended to be recorded in the ACRA IRD.

The Act requires that specific information is reported by police to Scottish Government in relation to the use of s.28 powers. A recording will be made on the ACRA IRD of the relevant details required for these purposes i.e. the nature of the location, the time spent in the placement.

Police must record the time the s.28 power has come into effect. When the child is in their care, Social Work must record the point where the power ends. This is essential in order to comply with the reporting requirements of the Act. (Refer to Place of Safety section 25 below).

Where the child is to be taken to a place of safety, police will contact social work to establish the location of a suitable facility in which the child can be supported and cared for. This is an immediate and co-ordinated response between police and social work to ensure that the child can be removed from the situation and taken to more appropriate facilities where they can be supported and cared for. If this discussion is not part of a formal ACRA IRD, then an ACRA IRD should be held as soon as possible, where appropriate.

Urgent Questioning

Where there has been urgent questioning of a child or the taking by police of forensic data and samples from a child under emergency authorisation a retrospective ACRA IRD will be required. This should take place as soon as possible following the procedure.²⁵

Child protection

A primary consideration of the ACRA IRD will always be the wellbeing of the child, notwithstanding the need to identify how best to support the police investigation. Where immediate child protection considerations are identified, intervention must not be delayed.

Where any child may have been abused or neglected and/or is suffering or is likely to suffer significant harm, a CP IRD must be convened as soon as reasonably practicable and child protection procedures followed. Co-ordinated information sharing and decision-making processes are critical to ensure

²⁵ Refer to urgent questioning section below

investigative procedures safeguard and protect the child's wellbeing as a primary consideration.

An IRD may need to consider ACRA and CP issues taking into account to requirements for both processes.

When new information arises implying risk of significant harm, the child's safety and wellbeing will be the immediate and primary consideration. This includes consideration of the need for an interim safety plan.

Professionals need to address identified CP concerns and balance the need to investigate the behaviour under the Act. Pauses in or changes between processes need to be carefully considered including the impact of any such changes on a child and a child's ability to understand them.

If it is assessed that, for example, a CP investigation would not be prejudiced and that it was in the child's best interests to continue with the ACRA investigative interview, which can be safely concluded, then the ACRA interview might continue to its natural conclusion. However, if there is any doubt, the CP investigation will take precedence.

Each set of circumstances will need to be assessed on a case by case basis and will be subject to a number of variables.²⁶

Concerns in relation to other children may initiate CP procedures, including a CP IRD to ensure consideration of all children impacted by any serious harmful behaviour.

Child witness

There may be situations where a child, initially believed to have been responsible for an ACRA Incident, is subsequently established to be a **witness**. It would be appropriate to instigate CP procedures (if deemed necessary) and convene a CP IRD to discuss the best manner in which to capture the child's testimony that could then be used as Evidence in Chief in any criminal proceedings.²⁷

Decisions and planning:

The ACRA IRD provides the foundations for the development of a strategic plan that will direct the next stage in joint or single agency decision making and planning.

Priority consideration will be given to:

- the well-being and welfare needs of the child – is there any concern about the immediate safety and wellbeing of the child (or any other child) and any action required?²⁸;
- background and information known about the child;

²⁶ Refer to section 24 below

²⁷ In line with the provisions under the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019

²⁸ Refer to National Guidance for Child Protection in Scotland 2020 for IRD considerations if there is a child protection concern

- any further information that might be required to inform decision making and who will be responsible for gathering this;
- whether the evidence indicates an investigative interview is necessary;
- whether an investigative interview by agreement or by CIO will be sought;
- identifying a parent who can provide agreement²⁹;
- identifying interviewers from both agencies;
- planning for response and action should the child make a disclosure or there is a concern of a child protection nature during the interview;
- the safety and needs of the child/children involved – is a CP IRD required for any child?;
- involvement of the Child Interview Rights Practitioner (ChIRP)³⁰;
- the role of a Supporter (where there is agreement to an investigative interview, the Supporter must be the parent who gave agreement). The identified interviewers must consider the ‘appropriateness’ of this parent and make any contingency plans as necessary³¹;
- any other processes that other agencies might need to know about, in addition to joint evidence, for example, the requirement for forensic data and samples (intimate/non-intimate)³²;
- whether a single agency investigation and follow-up is preferred and if so, why?;
- if no further investigation is required, what are the reasons for this?
- whether early referral to the Children’s Reporter is required and who will make this referral?;
- contingency plans where there is an appeal against a Sheriff’s CIO or agreement is withdrawn.

All agencies involved must ensure that any decision taken to interview the child is *necessary and proportionate*. The final decision as regards whether an investigative interview with the child will be sought will remain with police, however decisions must be justifiable, necessary and proportionate.

It may be decided that an investigative interview is to be sought in order to:

- learn the child’s account of the circumstances that prompted the enquiry, specifically what took place and who was responsible;
- gather information to permit decision-making on whether the child in question, or any other child, is in need of care and protection;

Essential considerations:

- immediate support needed for the child or family;
- how the rights of the child will be upheld at all stages in the process;
- if any action is necessary to mitigate any potential impact on the child in terms of membership of any protected groups, for example, nationality,

²⁹ Based on the criteria set out in section 10 below

³⁰ Refer to section on ‘ChIRP’ below

³¹ Refer to section on ‘Supporter’ below

³² s58 – Taking of Prints and Samples from certain children and s60 – Key Definitions. Intimate samples may only be taken upon the granting of a Sheriff’s Order for Forensic Data and Samples. In an emergency, non-intimate samples may be taken from the child, however, a retrospective application for a Sheriff’s Forensics Order must be submitted as soon as reasonably practicable.

ethnicity, communication needs, including identifying the child's first language, translation needs;

- what information will and will not be shared with the child and family, with the understanding that information is not to be shared, if that could jeopardise a police investigation or place any child or other person at risk of harm;
- how and by whom information about the investigation can best be shared with the child, taking into account their capacity, maturity and communication needs;
- how and by whom information can best be shared with parent/carer (taking into account whether this could impact on a police investigation or place the child, or any other child, at risk of significant harm);
- how and by whom will written information be provided to the child and parent / carer;
- feelings and views of the child about the investigation as it directly relates to the child;
- appropriate liaison with any lead professional and named person (or professional in equivalent role);
- whether the case involves a report to Crown Office in respect of a person above the age of criminal responsibility to ensure any matters that may be sub-judice are not impinged.

Refer to Appendix 10 – Summary of decision making in relation to children under 12

Closure:

An ACRA IRD is closed when a reasoned and evidenced inter-agency decision has been made and recorded. The decisions can include one or more of the following:

- Police and social work ACRA investigative interview;
- Police ACRA investigative interview;
- a decision on whether a Sheriff's Order for Search or Forensic Data and Samples should be made/is required retrospectively;
- social work or other service (e.g. universal services, third sector) intervention and support, in line with local GIRFEC processes);
- referral to the Children's Reporter;
- reasoned decision to take no further immediate action (however police may share information in line with the national concern hub processes).

The decision to close the ACRA IRD could happen at any time due to further information becoming available during the investigation.

The ACRA IRD record will be subject to updates as actions are progressed or new information becomes available. All relevant partners should review the ACRA IRD at regular intervals of not more than 7 days (although the frequency is likely to be set according to local agreement), until closure is agreed.

An ACRA IRD can be reconvened if new information arises which could lead to a reconsideration of the required inter-agency response.

Lead Professional:

A lead professional, who will be from social work, is required to ensure co-ordination of assessment and next steps within a developing but coherent single child's plan³³ to address the needs of the child. They will provide a point of contact for parent / carers and professionals who may need support and/or to be sufficiently informed and understand the process. They may also signpost to additional advice and support. The ACRA IRD record should identify this person before closure.

Lack of Consensus:

If any agency involved in the ACRA IRD disagrees with the decision of another agency and where a compromise cannot be reached, consultation with senior managers from core agencies should take place in order to reach a decision. The points of disagreement and resolution must be recorded on the ACRA IRD record. There should be no delays in protective measures being instigated as a result of the disagreement. In such cases, the matter should be escalated as a matter of urgency.

In cases of lack of consensus, the local designated IRD Detective Sergeant will escalate the matter to the Divisional PPU Detective Inspector or Detective Chief Inspector or if out of hours, the on call Detective Inspector, for further discussion and decision. For social work, concerns must be escalated to a senior manager (following local processes) as soon as possible to avoid any delay in decision making and planning.

Police may decide to seek to undertake a single agency investigative interview as part of the police investigation and any such course of action must be well documented and justified.

Quality assurance and review of IRDs:

Local areas should ensure that quality assurance systems are in place to support consistent standards; recognition of patterns in practice or context of concerns; and to support improvement and organisational learning across all agencies. Quality assurance would usually be achieved through regular reviews of IRDs by senior representatives of core agencies.

A local process for secure electronic sharing of the IRD record between core agencies promotes effective and consistent practice; and makes review, quality assurance and analysis of trends feasible. Local areas will have processes in place to undertake quality assurance and review of practice.

Reports to relevant local strategic partnerships should consider integration of reporting on ACRA decision making and practice, in order to inform

³³ Getting it right for every child (GIRFEC): Child's plan - gov.scot (www.gov.scot)

improvement through training, management and strategic improvements to systems and practice.

Consideration should also be given to holding a debrief session with all practitioners, at the conclusion of the ACRA investigative interview, to ascertain any learning from the process that can inform future training and improvements.

8. POLICE QUESTIONING OF A CHILD IN URGENT CASES³⁴

8.1 Where a constable has reasonable grounds to believe that a child under 12 years of age, by behaving in a violent or dangerous way, has caused or risked causing serious **physical** harm to another person **and** there is a risk of loss of life if the child is not questioned immediately, the child can be questioned about their behaviour and the circumstances surrounding it. **Sexual, emotional and psychological** harm are not included for the purposes of this section.

8.2 This questioning must be authorised by the relevant senior officer (Superintendent³⁵ or above) who must be satisfied that:

- there are reasonable grounds to suspect that the child, while under 12 years of age by behaving in a violent or dangerous way, has caused or risked causing physical harm to another person;
- questioning of the child is necessary to properly investigate the child's behaviour and the circumstances surrounding it (including whether a person other than the child has committed an offence), **and**
- it is not practicable to apply for a Sheriff's CIO authorising an investigative interview of the child because there is a risk of loss of life if the child is not questioned immediately.

8.3 The relevant senior officer must consider the **nature and seriousness** of the child's behaviour and if questioning of the child is appropriate given the child's circumstances (including age and matters relating to the behaviour).

8.4 Police must explain to the child that they are to be questioned in these circumstances and that they have the right not to answer questions.

8.5 Where practicable, police must inform the child's parent that the child will be questioned in these urgent circumstances, except where it is reasonably believed that informing a parent would exacerbate the risk of loss of life.

8.6 Police are also responsible for contacting a ChIRP who will be advised of this authorisation.

³⁴ s 54

³⁵ Unlike the authorisation needed to obtain physical data and samples urgently from the child, it is **not** a requirement under this section that the relevant senior officer granting authorisation has had no previous involvement in the case.

8.7 An application for a Sheriff's CIO must be made as soon as practicable after the authorisation for emergency questioning is granted.

8.8 A retrospective ACRA IRD should take place as soon as possible thereafter.

9. INVESTIGATIVE INTERVIEW BY AGREEMENT³⁶

9.1 It is preferable to hold an interview by agreement where possible. This is likely to reduce the time-lag between the incident taking place and the child being afforded the opportunity to speak about the circumstances surrounding it.

9.2 The following criteria must be met with, in order to seek an investigative interview with a child who it is believed that (whilst aged under 12);

- by behaving in a **violent or dangerous** way, has caused or risked causing **serious physical harm** to another person, **or**
- by behaving in a **sexually violent or sexually coercive** way, has caused or risked causing **harm (whether physical or not)** to another person.

Consideration must be given to:

- the **necessity** of an interview in relation to the police investigation;
- the **suitability** of conducting an interview with the child and,
- if this would be in the **child's best interests**

and to the primary purpose of the interview, which is to:

- to seek an **explanation** from the child as to what happened;
- to **understand their role**, if any, in the incident; and
- to **identify any other people** who were **involved** or may be at **risk of harm**.

9.3 The **child and a parent** of the child must provide agreement to the investigative interview about the behaviour to which the investigation relates.

For the purposes of this section³⁷ a parent of the child means a person who

- is aged **18 or over**,
- has **parental responsibilities** (within the meaning of the Children (Scotland) Act 1995) in relation to the child, **and**
- is **related** to the child or with whom the **child lives**.

A person who is 'related' to the child includes reference to a person who:

- is married to or in a civil partnership with a person who is related to the child, e.g. step-parent/partner of parent
- is a blood relative of the child, e.g. grandparents, aunts, uncle, siblings, cousins, etc. This does not include step-siblings unless related by blood to the child.

³⁶ s 40

³⁷ s40 (7) and s40 (8)

A person who meets this criteria can agree to an investigative interview. It is essential that the ACRA IRD considers the application of the qualifying criteria and the legal status of the child and parent.

9.4 Prior to seeking agreement to conduct an interview, an ACRA IRD should have taken place where the following should be discussed and recorded;

- who needs to agree;
- who can agree (both in terms of fitting the criteria of parent and ensuring capacity to agree);
- any concerns about the suitability of the parent to provide agreement. If so, this would mean an order needs to be considered;
- what information³⁸ needs to be provided to the child and parent to inform their decision to agree and in what format the information needs to be presented;
- if there is any other information, in addition to that included on the *Child Information Leaflet – Interview by Agreement*³⁹ that is available and should be provided to inform the child and parent's decision, and how will that be communicated;
- the parent and child's understanding of the information contained in the leaflet;
- what additional support may be required to assist with their engagement and understanding;
- what the *potential* outcomes from the interview are, for example, no further action required, referral to partner agencies, other supports/interventions;
- who and how the agreement will be sought (most likely in person or by telephone);
- how understanding will be verified;
- how any potential scenarios will be responded to (for example, requests to consult someone, time to consider etc).

9.5 When considering whether it is appropriate to seek parental agreement to an interview police and social work should review all available information, including that held by themselves and other agencies.

9.6 In some cases, there can be complex family situations and dynamics that will require careful consideration. This may be particularly important when a parent has retained parental rights and responsibilities but the child resides out-with their care and/ or where they have no active relationship or contact with the child. These issues should be discussed during the ACRA IRD process.⁴⁰

9.7 The parent who has given agreement must act as the Supporter⁴¹ for the child during an interview by Agreement.

³⁸ s41 of the Act covers what is required to be notified.

³⁹ See leaflet – appendix 2 Section 41 places the duty on a constable to provide a notice in writing explaining the information. Another professional communicating information to the child would be following authorisation of a constable.

⁴⁰ Consideration must be given to circumstances where those with parental rights may have different views on the agreement and the impact on the child of complex family relationships and dynamics.

⁴¹ s 50(6)(a) – the child's supporter must be the parent who has given agreement under section 40 1(c)(ii), to the interview being conducted. See Supporter section below.

9.8 Where the child has been questioned under urgent circumstances⁴², then a retrospective application for a Sheriff's CIO must be made. It is not permissible to conduct an investigative interview by Agreement under these circumstances.

10. WITHDRAWAL OF AGREEMENT

10.1 An investigative interview authorised by agreement is no longer authorised if a child or parent withdraws their agreement. Both the child and parent must agree to the interview.

- The child and parent can choose to withdraw agreement at any time.
- If the child and/or parent withdraws agreement and police still wish to interview the child, then they must apply for a Sheriff's CIO.
- The agreement of the child or parent is treated as withdrawn if the child or parent fails to comply in a material respect with the interview plans drawn up.
- Agreement is not to be treated as withdrawn if the child exercises their right to not say anything during the interview or refuses to answer any particular question(s).

10.2 In agreeing to the interview, the child and parent must be clear that they have the right to withdraw their agreement at any time and how they can exercise this right. They should also be provided with an explanation of how police and social work may proceed should agreement be withdrawn, this may include applying for a Sheriff's CIO.

10.3 A child can exercise their right to not answer questions (some or all) in the interview. This will not be taken as them withdrawing their agreement to the interview.

10.4 Where an interview is continued over multiple meetings, the child and parent should be reminded at each meeting, of their right to withdraw agreement should they wish to do so. Those conducting the interview should be satisfied during the interview that the child and parent remain agreeable to the interview continuing.

10.5 Where agreement to the interview is withdrawn by either the child or parent, the interview must stop.

10.6 This will be explained to the child and parent and they should be informed that further considerations will be made as to the need for the interview to continue on a future occasion and if so, how this can happen. A child or parent who withdraws their agreement to interview can subsequently agree to an interview continuing. This agreement must be freely made.

10.7 Where agreement is withdrawn, this should be fed back to the ACRA IRD and thereafter the ACRA IRD process should consider:

- the need to safeguard and promote the child's wellbeing;

⁴² s54 of the Act 2019 – Questioning of Child in Urgent circumstances – risk of loss of life

- the need to interview the child further (based on the criteria and justification for the need to interview the child at all and their best interests);
- whether the person withdrawing agreement is likely to change their mind;
- whether an application for a Sheriff's CIO is necessary and justified.

10.8 The parent who has given agreement must act as the Supporter⁴³ for the child during an interview by agreement.

10.9 If those conducting the interview consider that the parent who has given agreement to the interview is not an appropriate person to act as Supporter⁴⁴, that parent's agreement is treated as withdrawn. Under such circumstances, although it would be permissible to seek the agreement of another parent, it may be more appropriate for an application for a Sheriff's CIO to be made, so that the interview may proceed at a later time.

10.10 The ACRA IRD should consider contingency plans for these circumstances, taking into account the potential impact on the child and the parent / carer and family.

10.11 Police have the power to apply for a Sheriff's CIO at any time during the investigation. This power is not solely dependent upon withdrawal of agreement.

11. INFORMATION TO BE PROVIDED - INVESTIGATIVE INTERVIEW BY AGREEMENT ⁴⁵

11.1 Following agreement to an investigative interview, police must provide written information to the child and parent (who has given agreement) and ChIRP. This will be in the form of a standard *Child Information Leaflet – Interview by Agreement* (see Appendix 2 – *Child Information Leaflets*). It may be provided in hard copy, transmitted electronically or shared by any other competent means.

11.2 This leaflet should be explained to the child in clear and simple terms, in a manner which is age appropriate and takes account of the child's level of understanding and communication needs. This will advise them of their rights and what will happen next as a result of their agreement, including the right to change their mind and withdraw agreement. The police have a responsibility to ensure this information is given to and explained to the child, however in practice, social work may be best placed to support this conversation. This will be considered at the ACRA IRD on a case by case basis.

11.3 Where there is any doubt as to understanding of that agreement, further consideration should be given to providing additional information and assistance, or whether authorisation needs to be sought by way of a Sheriff's CIO.

11.4 This information should be given to the child as soon as possible, prior to the start of the interview. Any delays experienced in delivering this notice should

⁴³ s50(6)(a) – the child's supporter must be the parent who has given agreement under s40 1(c)(ii), to the interview being conducted.

⁴⁴ Refer to section on 'Supporter' below

⁴⁵ s 41

be fully documented within the associated police investigations Policy Log and ACRA IRD record. It might be preferable for the identified police and social work interviewers to deliver this leaflet, to allow initial engagement and rapport building. Both will be able to support the child's understanding of the information provided, which **must** be explained in a manner that is **appropriate** to the child's **age** and **maturity**.

11.5 Where it is an interview by Agreement, then the parent who has given agreement must also be provided with a copy of this additional information.

12. INVESTIGATIVE INTERVIEW BY CHILD INTERVIEW ORDER (Sheriff's CIO)⁴⁶

12.1 A Sheriff's CIO authorises an investigative interview of the child to whose behaviour the application relates. The following criteria must be met with, in order to seek to make an application for a Sheriff's CIO in relation to a child who it is believed that (whilst aged under 12);

- by behaving in a violent or dangerous way, has caused or risked causing *serious physical harm* to another person, or
- by behaving in a sexually violent or sexually coercive way, has caused or risked causing *harm (whether physical or not)* to another person.

12.2 Consideration must be given to:

- the necessity of an interview in relation to the police investigation;
- the suitability of conducting an interview with the child and,
- if this would be in the child's best interests

and to the primary purpose of the interview, which is to:

- to seek an explanation from the child as to what happened;
- to understand their role, if any, in the incident; and
- to identify any other people who were involved or may be at risk of harm.

12.3 When considering the use of an investigative interview under a Sheriff's CIO, wherever possible an ACRA IRD must take place in advance.

12.4 In the first instance an interview by agreement should be considered, however there may be circumstances where a Sheriff's CIO is required.

12.5 In any consideration of the need for a Sheriff's CIO and in making the application, there are specific responsibilities on the police to apply for an order and where practicable, to consult with social work, so that a multi-agency approach is taken.

⁴⁶ s 42

12.6 A Sheriff's CIO may be applied for where a decision has been made that an interview is required and the circumstances meet the threshold for harmful behaviour, **and**

- agreement is not provided; **or**
- agreement provided is subsequently withdrawn; **or**
- where a child has been questioned under urgent circumstances and a retrospective order is required; **or**
- where in the particular circumstances, the police believe an interview is required, however there is no option to seek this by agreement, for example, where there is no 'parent' and therefore no possibility of seeking agreement or where the local authority has parental responsibilities.

12.7 The police have the power to apply for a Sheriff's CIO at any time during the investigation. This power is not dependent on withdrawal of an agreement.

12.8 At the ACRA IRD, police and social work will identify what measures are required in advance of the application. Police will also identify if there is a need to ask for directions to be included in the Order and specify this in their application.⁴⁷

12.9 A Provisional Plan for the interview must also be submitted with the application. In any directions requested, due regard must be given to the need to safeguard and promote the child's wellbeing.

12.10 Where it is not reasonably practical for police to consult with social work prior to submitting an application for a Sheriff's CIO application, this should be discussed at a retrospective ACRA IRD and the reasons recorded in the ACRA IRD record.

12.11 The **Provisional Plan**⁴⁸ (refer to Appendix 7 – Provisional Plan) for the interview, that must accompany the application for the Sheriff's CIO, should be completed with the assistance of the specified police and social work interviewers (identified during the ACRA IRD). This will inform the **Plan for the interview** (that will be drafted at a later stage, if the Sheriff's CIO is authorised – refer to Appendix 8). The Provisional Plan may include the following details, as discussed at the ACRA IRD (where appropriate)

- Date, venue, interviewers, any other persons who will be present (where known).
- Contingency plans (where known).
- How the welfare and wellbeing needs of the child will be met during the interview (taking into account age, maturity, additional support needs and vulnerabilities).

12.12 An Order specifies the period of time within which the interview can be conducted, up to a maximum of 7 days. The time for any period given begins on

⁴⁷ s 44

⁴⁸ See appendix 5 - Provisional Plan template

the day after the Order is made, or a later date if specified in the Order, albeit the Order will be live immediately. Provisional planning should reflect this restrictive framework.

12.13 It is the responsibility of the police to notify social work, as soon as reasonably practicable, upon receipt of notification that an Order has been granted or of an intention to appeal against any decision on an Order. The police and local authority have a duty to comply with any directions in an Order.

12.14 Once an Order has been granted, the child and parent must be provided with a copy of the Order as soon as reasonably practicable and have the Order explained to them, ensuring that the child's explanation is appropriate to their age and maturity⁴⁹ (see Appendix 3 – Who must receive a copy of the Sheriff's CIO?). The Order will be accompanied by a *Child Information Leaflet – Sheriff's CIO* and any Court produced document that explains the terms of the Sheriff's CIO and information on the right of appeal.

12.15 Whilst the Act states a constable **must**, as soon as **reasonably practicable** after the Order is made, **provide a copy** of the **Order** to the relevant people i.e. the child, parent (wherever practicable), Supporter (if not the parent) and the ChIRP) in most cases this should be done in collaboration with Social Work.

12.16 It is preferable that the nominated **Police and Social Work interviewers** deliver the Sheriff's CIO to the child and parent, to allow that initial engagement and rapport building process to commence. Both will also be able to support the child's understanding of the information provided, which **must** be explained to the **child** in a manner that is **appropriate** to their **age** and **maturity**.

13. APPLICATION FOR CHILD INTERVIEW ORDER⁵⁰ - CONSIDERATIONS

13.1 The Sheriff may grant a CIO if satisfied that the criteria have been met⁵¹ and in making this decision, has considered:

- the **nature and seriousness** of the child's behaviour **and**
- **whether an investigative interview** of the child **is appropriate** given the child's circumstances – this includes the child's age and any matter related to the child's behaviour.

13.2 Before making a decision, the Sheriff will consider whether representation should be heard from:

- the applicant,

⁴⁹ This is to ensure understanding of the information and their rights in relation to the order, in particular their right to seek the court's permission to appeal.

⁵⁰ s43 - CIO application process by police

⁵¹ There are reasonable grounds to believe that the child, while under 12 years of age by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, or by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether serious physical or otherwise) to another person and that an investigative interview of the child is necessary to properly investigate the child's behaviour and the circumstances surrounding it, including whether another person has committed an offence.

- the child in respect of whom the application is made,
- a parent of the child,
- any other person the Sheriff considers to have an interest in the application.

13.3 An application for a Sheriff's CIO can also include:

- a requirement to ensure the child's attendance at the investigative interview,
- authorisation to transport the child to and from the interview,
- authorisation for other relevant actions in relation to the interview including any requirements needed to safeguard and promote the wellbeing of the child
- directions about how the investigative interview should be conducted and specify other actions authorised by the Order.

13.4 The Sheriff will make a decision on the application for a CIO and provide intimation to police.

13.5 As soon as reasonably practicable after the Sheriff's CIO is granted and intimation is made to police, the child and the parent must be provided with a copy of the Order.

13.6 The Sheriff's CIO ceases to be valid after 7 days or such shorter period as specified in the Order (beginning the day after the Order is granted) or on a later date specified in the order.

13.7 In addition, the child's Supporter and ChIRP must be provided with a copy of the Order as soon as reasonably practicable.

14. APPEAL AGAINST GRANT OF CHILD INTERVIEW ORDER (CIO)

14.1 Permission to appeal must be made to the Sheriff Appeal Court.⁵² This application must be lodged by a constable or by or on behalf of the child to whom the decision relates. Lodging of the application seeking **permission to appeal** must be applied for;

- a) by the child or their representative within **3 working days**, commencing on the **day after the child** is provided with a copy of the Order **or**;
- b) by the Police, within **3 working days**, commencing on the **day after the day** that the decision to refuse the Order is made **and**;
- c) where, upon receipt of an application, **permission** to appeal is granted, the appeal **must** be lodged **before the end of 3 working days** beginning on the **day** permission is given.

14.2 Where an application for a Sheriff's CIO is refused, wherever possible, police and social work will discuss any intention to or requirement for an appeal.

⁵² s110 of the Courts Reform (Scotland) Act 2014

14.3 The **lodging** of an appeal at court **suspends** the effect of any CIO originally made by the Sheriff.

14.4 A child who wishes to appeal an Order is entitled to legal representation and children's legal aid to help them to do this. This will be dependent on their capacity to instruct a solicitor and their wish to do so. Where the child has a ChIRP, this person **may** be able to advise and represent the child as a solicitor in relation to an appeal or this may be another solicitor.

14.5 Where a Sheriff's CIO is granted, it can be effected without delay and planning and arrangements for the investigative interview can be progressed. The ACRA IRD should consider the possibility of an appeal and take this into consideration when planning the interview, and ensure this is part of the contingency plans.

14.6 Careful consideration will be need to be given to any intention to undertake an investigative interview during the period in which a child could lodge an appeal. This should be considered in line with any specific direction in the Sheriff's CIO that must be complied with, for example, the date and time for the investigative interview to take place.

14.7 If the Order is upheld or varied following the appeal, a new period within which the Order has effect may be specified by the Sheriff Appeal Court.⁵³

14.8 Where an appeal is not lodged at the court by the child or their representative prior to the interview taking place, it remains competent to act in accordance with any instructions on the Sheriff's CIO.

14.9 It is important that where the child/family intimate an intention to lodge an appeal, that this is discussed as part of the planning process and the ChIRP is kept fully informed.

14.10 If the child or someone acting on their behalf takes an appeal to the Sheriff Appeal Court and the Sheriff grants permission to appeal, then the appeal may be lodged. **Once lodged, no questioning of the child can take place in relation to the incident however interview planning may continue.**

14.11 Where an appeal is successful and an investigative interview has taken place, all recorded information might need to be destroyed in line with agency guidance. The Sheriff might provide direction in this regard. There might be other legitimate reasons for retaining material, (for example, if a formal complaint is made against police or social work or child protection concerns have been identified that will require further agency action).

⁵³ s46 allows the Sheriff Appeal Court, in a case where the interview authorised by the original order has not been completed at the time where that order is upheld or varied, to specify a new period within which the child interview order is to have effect.

15. ROLE OF THE CHILD SUPPORTER⁵⁴

15.1 During an investigative interview the child has the right to have a Supporter present in the room in which the interview is being conducted⁵⁵.

15.2 The child has the right to have their Supporter and/or the ChIRP present in the room when an interview is being conducted. The investigative interview may only proceed if both are within the building where the interview is taking place and at least one of those persons is in the interview room with the child.

15.3 The Supporter should not be denied access to the child during the interview unless the police officer and social worker⁵⁶ agree that the Supporter's absence from the room in which the interview is being conducted is necessary, for example, to safeguard or promote the child's wellbeing. The Supporter can remain in the building where the interview is taking place.

Who can be a Supporter

15.4 Interview by Agreement

- The Act states that where the investigative interview is by agreement, the child's Supporter must be the parent who gave the agreement.
- Where, prior to the interview by agreement commencing, those conducting the interview do not consider the child's Supporter i.e the parent to be appropriate, then any agreement to an investigative interview that was given by this parent is considered to be withdrawn.

15.5 Interview by Sheriff's CIO

- Where the investigative interview is authorised by a Sheriff's CIO, the Supporter must be aged over 18 and could be the child's parent, but need not be.
- This means that any person can be considered by the child to be a Supporter, for example, another relative, a family friend, or a support or advocacy worker. It is important to consider the involvement of someone who may have an existing, trusting relationship with the child.
- The child's Supporter must be considered **appropriate**. and in making this decision, the views of the child, so far as is possible, should be considered, taking account of the child's age and maturity and having regard to these views. This decision will be made during the ACRA IRD.

⁵⁴ s50

⁵⁵ "Supporter" has the meaning given by section 50(2) of the Act

⁵⁶ Under these circumstances, where both interviewers determine that the supporter should be removed from the room, a 'relevant constable', meaning an officer of Sergeant or above, who has not had any involvement in the investigation or the planning and conduct of the interview, should be consulted, along with an officer of the relevant local authority (no restrictions as to who this can be) to make that decision.

15.6 The Act does not define ‘appropriateness’ however **the following factors should be considered** during the ACRA IRD, when determining who should act as the child’s Supporter:

- the suitability of the parent(s) must be considered in the early stages of discussions;
- the views of the child;
- is the identified Supporter involved or suspected to be involved in the incident under investigation?
- does the Supporter have any clear prejudices towards the child or case outcome, e.g. is a sibling/other relative or friend involved?
- does the Supporter have any learning disabilities or any other vulnerabilities that may diminish their ability to act in this capacity?
- are Social Work aware of any factors that might impinge on their ability to perform this role?
- as far as can be ascertained, does the parent have a good relationship with the child?

16. Role of the Child Interview Rights Practitioner (ChIRP)⁵⁷

16.1 The child has the right to receive advice, support and assistance from a Child Interview Rights Practitioner (ChIRP).

16.2 The role of the ChIRP is outlined in the Scottish Government ChIRP Policy Paper and Code of Practice.⁵⁸ The ChIRP will be a legally qualified professional who is registered to undertake the role.

16.3 Police will make contact with the ChIRP as soon as reasonably practicable once an agreement or Sheriff’s CIO has been granted for an investigative interview with the child.

16.4 Police and social work will arrange to consult with the ChIRP in relation to the planning for the interview. A summary of the discussion must be recorded on the ACRA IRD record.

16.5 The child has the right to a private consultation with the ChIRP before, or at any time during the interview and the ChIRP must not be denied access to the child at any time during the interview.

16.6 As part of the planning and preparation for the interview, the interviewers will explain any potential deviation from the plan (for example, where a child makes a disclosure and child protection becomes the immediate priority⁵⁹). The ChIRP (and the Supporter) must be aware of any changes to the process that may

⁵⁷ s 51

⁵⁸ Age of Criminal Responsibility (Scotland) Act 2019: child interview rights practitioners – code of practice - gov.scot (www.gov.scot)

⁵⁹ In some circumstances this will involve an interviewer or ChIRP asking for a pause or break during the Investigative interview and a decision can be made on next steps, while ensuring the ChIRP and Supporter are aware of and understand these changes in order to fully support the child.

be required in these circumstances. These contingencies will be discussed at the ACRA IRD.

16.7 The child has the right to have the ChIRP and/or their Supporter present in the room when the interview(s) is being conducted. The investigative interview may only proceed if **both are within the building** where the interview is taking place and **at least one** of those persons **is in the interview room** with the child.

16.8 The ChIRP can advise the child of their right of complaint to either police or social work should they be unsatisfied with the conduct of an interview.

In summary, the ChIRP's role is to :

- make recommendations to the child about their rights in relation to the interview;
- ensure the child is aware of the right to refuse to answer questions;
- be present in the building/or the room where the interview is being conducted;
- communicate the child's views;
- support the child in communicating with the person conducting the interview;
- support the child to understand what may happen as a result of the interview;
- question whether the interview is being conducted in accordance with the terms of any Sheriff's CIO;
- ensure the interview is being conducted fairly and in a way that treats the need to safeguard and promote the wellbeing of the child as a primary consideration.

17. THE RIGHTS OF THE CHILD

The Child's Rights

Whether an investigative interview is by Agreement or Sheriff's CIO, the child has the right :

- to receive relevant information which must be age appropriate and accessible and take account of any developmental factors and communication needs;
- to have the ChIRP and/ or Supporter present in the room when the interview is being conducted;
- to have their views considered when identifying a Supporter where there is a Sheriff's CIO;
- to receive advice, support and assistance from a ChIRP before and during the interview;
- to a private consultation with the ChIRP before, or at any time during, the interview. The ChIRP must not be denied access to the child at any time during the interview; and

- not to make any comment or answer any questions during the interview.

Prior to the start of an investigative interview, the interviewers must ensure that the child is provided with information that contains details of:

- the behaviour to which the interview relates;
- the purpose of the interview;
- their rights in relation to the interview - including their right not to answer questions, and
- what *may* happen as a result of the interview.⁶⁰

Where the child and parent agree to the investigative interview, they must be provided with a notice in writing (Child Information Leaflet – *Interview by Agreement*) that explains what their agreement means and how to withdraw their agreement at any stage.

The child must also be advised of their right to appeal a decision by the Sheriff to grant a CIO. This information will be provided along with the copy of the Sheriff's CIO and will comprise of a Court produced document that explains this process.

Social work and Police will work together to ensure that the child and parent/ carers are informed and supported.

18. APPROACH AND PRINCIPLES OF THE ACRA INVESTIGATIVE INTERVIEW

18.1 Taking a child-centred approach to planning and conducting interviews is vital in securing best information and providing the necessary support for the child before, during and after the interview.

18.2 Police and social work will collaborate in the planning of the interview taking into account information from other services gathered at the ACRA IRD.

18.3 A pre-interview briefing and planning meeting must be held prior to any ACRA investigative interview taking place, involving the police officer and social worker undertaking the interview. This should ideally be conducted by one of those who attended the ACRA IRD. If appointed, a police Senior Investigating Officer and Interview Advisor might also be present. This will be recorded on the ACRA Investigative Interview VRI Briefing, Debriefing and Process Record – refer to Appendix 9.

18.4 The approach to investigative interviewing of children under this Act will be trauma-informed and achieve the intended outcome through robust planning and interview techniques. The approach being adopted for ACRA Investigative Interviews is based upon recognised training for Joint Investigative Interviewing

⁶⁰ This may be general information such as the need to ensure that decisions are made with regard to their wellbeing and welfare as a primary consideration and to whom information may be shared. Specific outcomes may not be known at this stage so it is important to offer support and reassurance, as far as possible, to the child.

(JII) and comprises component parts: strategy, planning, actions and outcomes, underpinned by on-going support and evaluation.

18.5 ACRA investigative interviews differ from JII's in their purpose and in the considerations required by the Act.

Strategy

The planning of the interview includes a strategy to identify the aims and objectives of the investigative interview and coordinate all stages of the process. The strategy developed during the ACRA IRD informs planning for the investigative interview. Interviewers will be alert to the child's needs and will indicate if the planning needs to be adapted, in light of any new information.

The strategy must also consider the role of the ChIRP and the Supporter and the specific duties under the Act (for example if an interview is being conducted under an agreement or if a Sheriff's CIO will be sought).

Planning

The assigned Police and Social Work interviewers will draft a plan for the interview that will include details about the child's needs, such as their:

- strengths and resources;
- any complex needs;
- speech and language or communication needs
- cognitive factors;
- experiences of trauma and adversity;
- context and motivation;
- relationships.

To address this complexity, effective interview planning is essential, and will consider practicalities such as location, transport, timing, breaks and communication between interviewers during the investigative interview. The plan should be dynamic so interviewers can respond to any answers given by the child as well as to the needs of the child as they become apparent during the interview.

The interviewers should involve the ChIRP in this planning stage and should consider the communication required with the child's Supporter, to ensure that the interview is well coordinated and roles and responsibilities are clear. Any contingencies should be discussed, such as where child protection concerns might arise.

Action

The investigative interview will be undertaken using an agreed approach between police and social work based on robust planning.

It is important that all decisions are informed by the need to reduce anxiety to the child and minimise any risk of traumatising.

Purpose

The aim of the interview is to seek information from the child in relation to an incident which is the subject of a police investigation, while ensuring a trauma informed approach and focus on the wellbeing of the child.

The interview may also identify any wellbeing or welfare concerns in relation to the child. This will inform next steps in planning to support the child and family, including risk management and appropriate and proportionate interventions where needed.⁶¹

Support and Evaluation

Interviewers require support to effectively undertake their role. This can be achieved by ensuring that there is quality assurance and practice evaluation carried out to assess competency. Similar to those quality assurance arrangements currently in place for JII's, it is expected that local processes will be in place for quality assurance and governance in relation to the application of this approach and that multiagency evaluation arrangements will be established, to support continuous improvement of local arrangements and practice.

This can involve a debriefing of all professionals (including the ChIRP) to provide support and identifying learning and development.

GENERAL PRINCIPLES FOR THE INVESTIGATIVE INTERVIEW

18.6 General principles that underpin the conduct of investigative activities are summarised below:

Rights: The child's feelings and views are sought and their rights are respected and protected at every stage.

Safety: The investigations process is carefully considered and sufficiently robust to establish the circumstances of serious harmful behaviour, whilst ensuring the safety of all those involved.

Wellbeing: The wellbeing of the child is the lens through which all decisions and actions in respect of that child, are taken.

Preparation: Processes include early discussion between the lead agencies and co-ordination and partnership with those responsible for the child's care.

Understanding: Each stage and any change or decision is explained in a way that makes sense to each child and those responsible for their safe care, taking into account culture, capacity, age and stage.

Support: Support will be provided for children and families involved in these processes.

Skill: Professionals involved have received the required training and are supervised accordingly to ensure a co-ordinated and child-centred process.

Pace: The pace of exploration should be set by the child and the interviewer will remain attuned to the impact of trauma upon the needs and feelings of each child.

⁶¹ See Support and Intervention section below

Place: Investigative processes are conducted in an environment which is child-friendly and accessible to all those attending

Improvement: Processes will be evaluated and improved to ensure adherence to standards

19. TRAINING

19.1 Investigative Interviewers (police and social workers) will be trained to develop the specific understanding, knowledge and specialised skills required for the effective interviewing of children under the Act. Interviewers will be JII trained and will receive additional investigative interview training on the relevant duties, roles and responsibilities under the Act and relevant trauma informed principles and approaches to interviews in such situations.⁶²

19.2 Interviews will be recorded by means of a Visually Recorded Interview (VRI). All trained officers and staff will be trained and competent in the use of this equipment.

20. ROLE OF THE INTERVIEWERS

20.1 ACRA Investigative Interviews are planned for and undertaken by two interviewers, one police officer and one social worker, identified during the ACRA IRD.

20.2 The lead interviewer may be from either police or social work and roles will be agreed at the planning stage after consideration of all relevant factors. Whilst ACRA Investigative Interviews are part of a police investigation, they can be led by either agency, however interviewers will be adaptable and flexible during the interview and hence the skillset of each profession will be recognised, when assigning roles.

20.3 The lead interviewer has primary responsibility for asking questions and information gathering. The second will take written notes of the salient points to ensure that all relevant matters are addressed and assist in identifying and reviewing pertinent information about anything the child may disclose. This will inform the decision-making that influences the developing joint strategy and future support for the child.

20.4 Where both interviewers are in the room with the child, it may become apparent that the child displays a preference towards the second interviewer. In such cases, the second interviewer should lead the interview.

⁶² This will be single agency training (as an interim measure) and JII trained police officers will have undertaken the ACRA Investigative interview training course.

JII trained police officers will have received Trauma Enhanced practice level 3 and additional child development training, in addition to a training package that explains their role in relation to the investigative interview of the child and the practical exercises in the application of legislative requirements for the preparation and planning of an interview. Training requirements for social workers will be determined by the relevant local authority.

20.5 During any scheduled breaks, the second interviewer should share their observations about the conduct of the interview and inform subsequent questioning. This provides an opportunity for both interviewers to review and reflect on their notes and lines of enquiry.

20.6 It is recognised that there are challenges with these interviews as there will potentially be four adults in the interview room, along with the child. The planning and consultation with the ChIRP and any subsequent discussions with the Supporter will inform a cohesive approach that should be adopted by all involved and that the process remains child focused and respectful of the child's rights.

20.7 It is essential that the child is assisted to understand the roles and responsibilities of those involved.

21. PLAN FOR THE ACRA INVESTIGATIVE INTERVIEW

21.1 The Plan for the Interview (Appendix 8) will be developed by the identified interviewers and informed by the outcomes of the ACRA IRD, bearing in mind that the purpose is to seek information from a child in relation to an incident which is the subject of a Police investigation. Where a Senior Investigating Officer or Interview Advisor have been appointed to the investigation, they are also likely to be involved in the planning for the interview.

21.2 This is in **3 parts; A, B and C**. Part A is participant details, Part B, logistics and the purpose of the interview and part C, considerations in relation to the child's wellbeing and additional needs. The child must only be given **Parts A and B**. **Part C** is for **partner agency use only**.

21.3 The Police and Social Work interviewers will be fully briefed by the relevant Detective Sergeant, Senior Social Worker and SIO prior to drafting the Plan. Consideration should also be given to support from an Interview Advisor (IA)⁶³ (as deemed necessary).

21.4 It is important to remember that the child and their family may already have involvement with other services or agencies (for example, Education, Speech, Language and Communications Needs) and so they may also be consulted during this planning process.

21.5 Additionally, the ChIRP assigned to represent the child during the interview should be invited to contribute to the Plan for the Interview unless there are specific reasons to the contrary.

21.6 Police are the statutory authority for investigations and therefore have overall responsibility for the content of the Plan.

21.7 Where possible and deemed relevant, the plan(s) will specify:

- the specific needs of the child:

⁶³ Refer to the [Crime Investigation National Guidance \(hyperlink\)](#)

- how the child's rights will be adhered to;
- the support and assistance required by the child during the ACRA Investigative Interview;
- any adaptations or special requirements needed for the child;
- the purpose of the interview and details of the seriously harmful behaviour;
- the evidential basis upon which the child has been identified as being responsible for the seriously harmful behaviour
- the role of the interviewers (lead role/ contingency plan);
- the role of the ChIRP and Supporter;
- the persons by whom the child may be questioned at each meeting
- the anticipated period over which the ACRA Investigative Interview will be conducted;
- the anticipated number of meetings which may take place as part of the interview;⁶⁴
- the date of each meeting;
- the location at which each meeting will take place;
- any other relevant information (e.g. transport of the child to and from the interview authorised in a Sheriff's CIO or in connection with an interview by agreement);
- what may happen as a result of the ACRA Investigative Interview⁶⁵ (ensure consistency with the information provided by the ChIRP to the child and parent); and
- contingencies, should any child protection concerns emerge.

21.8 Where the interview is to be conducted under a Sheriff's CIO, the Plan for the Interview must comply with any directions authorised by a Sheriff in the Order.

21.9 Information in relation to the plans must be accurately recorded and must be held in an auditable format.⁶⁶

21.10 The Plan for the Interview will be a standard electronic template⁶⁷ and will be shared with core agencies either electronically or by hard copy to be retained in their records.

21.11 As soon as reasonably practicable after the plan(s) are drawn up, the plan must be shared with the child and parent⁶⁸. The ACRA IRD will decide the best approach to this and who should be involved, but this must involve an explanation to the child in a manner and approach that they understand and takes account of their age, stage of development and communication needs.

21.12 Who received a copy of the Plan for the interview:

⁶⁴ The number of meetings is to be taken as the number of occasions when it is anticipated that all relevant participants will be present for an investigative interview. Due to the naturally fluid nature of any police investigation, it is impossible to determine all of the requirements with precision.

⁶⁵ For example, referral to SCRA, no further action, further enquiries to be made, referral to other agencies (social work, Third sector agencies etc), however this may not be possible to ascertain at this stage.

⁶⁶ Any notes associated with discussions around formulation of the plan(s) should be filed and retained according to agencies' policies and in compliance with the Data Protection Act 2018.

⁶⁷ Held by police - see appendix 6

⁶⁸ The plan contains a section for sharing with the child and parent

Sections of Plan to be provided	Parts A & B			Parts A, B & C
Type of Investigative Interview	Child	Parent	Supporter	ChIRP
By Agreement	X	X		X
Under a Sheriff's CIO	X	X (if practicable)	X	X

21.13 Any delays to this process or decision not to share, must be fully recorded and explained in the ACRA IRD record and on the Police Policy Log.

21.14 The ACRA Investigative Interview may not take place without the child being given a copy of the Plan in advance, and the interview should proceed in accordance with the plan. Interviewers should ensure that the child and parent are fully aware of the ensuing process and that there is a common understanding of the roles of all present.

21.15 Where there is any deviation from the initial plan, then this should be recorded by the identified lead agency on the Plan for the Interview and shared with the child, parent who has given agreement/the Supporter (if different) and the ChIRP, as soon as reasonably practicable, prior to the commencement of the interview.

22. LOCATION AND TIME OF THE INTERVIEW

22.1 Investigative Interviews will be visually recorded⁶⁹ unless there are specific reasons why this may be inappropriate for the individual child or this is not possible for practical reasons. The logistics of the interview and requirement for equipment will be discussed (in so far as possible) at the ACRA IRD.

22.2 The use of VRI equipment and the identification of a suitable interviewing facility, will be dependent upon local arrangements. This will be discussed and planned at the ACRA IRD.

22.3 Careful consideration will be given to when an interview would suit the child and family. Arrangements will be agreed on a case by case basis, based on the child's needs.

22.4 Decisions should consider any geographic challenges in relation to the practicalities of transporting the child and/or others, to a predetermined location. This is especially important when considering children who reside in rural areas, particularly remote and island locations where there may be limited options.

22.5 In all circumstances, the needs of the child must be a primary consideration, this will include age and developmental stage of the child,

⁶⁹ This could be fixed or mobile visual recording equipment.

accessibility issues for those in attendance, concerns about the location within a community, and any specific considerations, such as disabilities (for example hearing impairment, mobility or other physical constraints etc.).

22.6 The needs of any victim must also be considered, for example where suitable premises are located in a community where a victim lives or premises where a victim attends for support. Practical arrangements will take cognisance of the needs or concerns of the victim, including careful consideration of where and when any child victim will be interviewed.

22.7 When identifying suitable premises, the following should be taken into consideration:

- high quality child friendly environment where a child feels safe and secure, reduces distress;
- supports feelings of safety, security and wellbeing – e.g. child friendly décor, toys and soft furnishings;
- equipment required - camera/microphone positioning (non-intrusive)
- local – reduce the need to travel and remain in a familiar community;
- situated in a quiet location (soundproofing preferable);
- option for a second dedicated interview monitoring room;
- available at suitable times when required;
- local coordination and cooperation required for access;
- provides a private, confidential space to minimise stigma;
- internal and external look and feel of the premises minimises child's anxiety and put them at ease;
- minimal noise, interruptions and distractions;
- disability access and accommodation of equipment (e.g. wheelchair access) ;
- accommodate the number of people required to be in the room;
- amenities – kitchen or availability of refreshments, toilet facilities;
- possibility for child to visit or see photos beforehand to reduce anxiety.

23. RECORDING

23.1 The use of a VRI has been identified as good practice and this method of capturing information, is consistent with that which is applied to the capture of evidence from children under current child protection JII guidance and practice. It is child-focused and supports more seamless interaction between the interviewer(s) and the child. A VRI improves the quality (recording and content) of the investigative interview and will minimise the number of meetings that take place, which is in the child's best interests.

23.2 At all stages, agencies must follow their own service Guidance for the Recording and Retention of information.

24. CHILD PROTECTION CONCERNS – DURING AN ACRA INVESTIGATIVE INTERVIEW

24.1 If a child's presentation or account gives interviewers reason to believe that the child may have experienced or may be at risk of significant harm, the interviewers have the discretion to make a dynamic judgement as to whether the ACRA investigative interview should be paused or terminated. Therefore the planning for an ACRA investigative interview must involve contingency planning for any child protection issues emerging. This should include planning and preparation with the ChiRP.

24.2 Both interviewers will be JII trained, so it may be appropriate and competent to decide that the ACRA interview should be paused and thereafter terminated, with any continuation taking the form of a new recording in a JII format, however a number of factors must be considered.

24.3 Managing this situation at the time is complex and will require a dynamic assessment, taking into account CP and ACRA considerations on a case by case basis, at all times ensuring the child's wellbeing remains a primary consideration.

24.4 The incident under police investigation will need consideration given its serious nature, including any potential risks to others.

24.5 In any situation the response must be trauma informed and child centred. It is important that the concern expressed by the child is listened to, acknowledged and taken seriously by the interviewers. Consideration must be given to the child's rights in this context and their decision to share sensitive, personal and possibly traumatic information at this time, perhaps for the first time.

24.6 Collaborative and flexible teamwork will be required. Any change in focus for the interview will require supervision and careful preparation in advance.

24.7 On occasions where the investigative interview is paused, due to a child protection concern arising, police and social work should make a joint decision about how to proceed, taking into account what would be in the best interest of the child at that time and the views of the ChiRP and Supporter (where appropriate), as necessary. The SIO must also be consulted prior to any decisions being made.

24.8 Where a decision is taken to focus on child protection, the Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland⁷⁰ will be followed.

24.9 This means that the ChiRP and Supporter will no longer be present in the interview setting. This must be carefully managed. The Supporter may be the child's parent and therefore supporting their understanding of the situation is critical.

24.10 If the ACRA investigative interview needs to be terminated and a JII commenced then interviewers will start a new recording.

⁷⁰ [Guidance on Joint Investigative Interviewing of Child Witnesses in Scotland - gov.scot \(www.gov.scot\)](http://gov.scot/website/government/government-guidance-on-joint-investigative-interviewing-of-child-witnesses-in-scotland)

24.11 Interviewers may decide to arrange a JII on another occasion to allow for more detailed planning. It is important to approach this from a child centred perspective.

24.12 Police may still continue with enquiries to gather evidence about the incident under investigation and police and social work should liaise to share updates on the progress of the investigation and any new information, so that the best outcomes for the child can be determined, including whether safety measures are required, or additional support is needed.

24.13 A CP IRD should be convened as soon as possible to discuss the CP issues and agree any further action required and discuss any outstanding action required in relation ACRA.

24.14 Decisions will be updated on the ACRA IRD record by the lead agency and changes should be agreed to by all participants.

24.15 Existing child protection procedures continue to provide a structured framework to consider care, protection and risk management including the possible need for an urgent response, both in relation to the protection of the child and others.

24.16 Depending on the specific circumstances, relevant and proportionate legal measures can be considered (details of this are outlined in the National Guidance for Child Protection, 2021).

In making any determination about how to proceed, the following should be considered, however professional judgement will be required:

Child protection considerations:

- Is there concern about the immediate safety of the child?
- What is in the best interests of the child at that time?
- What is the nature, seriousness and immediacy of the harm disclosed?
- How is the child presenting at that time?
- Has the child disclosed any injury or discomfort?
- When did the incident take place?

Proceeding to JII:

- Should a JII interview take place immediately?
- How will this be structured?
- Will some of the process (ground rules, rapport building etc.) need to be repeated for the JII?⁷¹
- Can the child protection concern be acknowledged at this time and be returned to at a future JII?

⁷¹ if the JII is to be undertake using the Scottish Child Interview Model there is a need to pay attention to robust use of the Scottish NICHD Protocol, which includes purposeful rapport, testing out understanding of the ground rules and use of the Episodic Memory Training to support best evidence being secured in the Substantive Phase of the Interview

- The ChIRP and Supporter will need to leave the room, how will this be managed and what impact will this have on the child?
- It is important to ensure that the child, Supporter and ChIRP are clear about the processes being undertaken and why.
- In circumstances where a decision is made to proceed with a JII, the child must not be asked any questions directly relating to the ACRA investigation as this can only be carried out under the provisions under the Act, and the child's rights must be safeguarded.
- Where a JII commences, a new recording will need to be started. This should be undertaken as unobtrusively as possible avoiding a negative impact on the child.

ACRA considerations:

- Can the ACRA investigative interview be safely concluded?
- What impact is pausing the ACRA interview likely to have on the child?
- Is there concerns about the safety of others?
- How will the decision impact on the ACRA investigation?

At any stage, urgent action may be required to protect a child or another person from actual or likely significant harm, this may include an interim safety plan.

25. PLACE OF SAFETY⁷²

25.1 This power can be used if police have reasonable grounds to suspect that the child is behaving, or is likely to behave, in a way that is causing, or risks causing, significant harm to another person. The power can only be exercised if this is **necessary** to protect another person from an **immediate risk** of significant harm (or further significant harm, if they have already been harmed).

25.2 This **emergency** power allows police to **take** the child to a place of safety and to **keep** the child there. The use of the power must be **necessary** and **proportionate**.

25.3 As soon as practicable after police take a child to a place of safety, they must inform a parent.

A child may be kept in a place of safety under this section

(a) only for **so long as is necessary** -

- (i) to put in place arrangements for the **care or protection** of the child, or
- (ii) for an order (under section 63) authorising the taking of **intimate samples** from the child to be obtained, and

(b) in either case, for **no longer than 24 hours**.

⁷² s 28

25.4 At any stage, where there is a need to safeguard and protect a child who may be at risk of harm, child protection procedures should be followed as set out in the National Guidance for Child Protection in Scotland 2021.

25.5 The need to safeguard and promote the wellbeing of the child as a primary consideration⁷³ applies to the powers set out in this guidance.

25.6 Harmful behaviour can be physical, psychological or sexual in nature. Behaviour is harmful when it results in or is likely to result in physical or psychological damage and/or impairment to health and development.

25.7 The extent to which harm is 'significant' relates to the severity or likely severity of suffering and significant interruption, change or damage to physical, emotional, intellectual or behavioural health and development, resulting in trauma and suffering.

25.8 It is a matter for professional judgement, based on the gathered evidence and context, as to whether the degree of harm to which the victim is believed to have been subjected, is suspected of having been subjected, or is likely to be subjected, is 'significant'.

25.9 It is essential that police are able to articulate the impact that resulted in their use of powers and must cover the essential elements, namely:

- it is necessary to do so to **protect any other person**; and
- there is an **immediate risk of significant harm or further such harm**.

25.10 Where there is **no risk** of immediate, significant harm or further such harm, police will act in line with their duties⁷⁴ to ensure the safety of the child believed to have caused or risked causing harm.

25.11 Where police use s28 powers they will contact social work⁷⁵ and advise that they are dealing with an ACRA incident. Police will provide a synopsis of the incident.

25.12 In all cases police and social work will undertake checks to assess the suitability of any arrangements. Social work will undertake relevant checks based on the information provided and will share relevant and proportionate information to inform decision making. This will include (where relevant and if known):

- child protection register check
- concerns or alerts noted
- legal status of the child
- child's place of residence

⁷³ s72(2)

⁷⁴ under the Police and Fire Reform (Scotland) Act 2012

⁷⁵ Contact details for social work both during and outwith office hours are provided in the published list however local areas should share specific details and may develop local protocols to support this.

25.13 **Social Work** will identify the most appropriate Place of Safety for the child, in a timeous manner.

25.14 It is anticipated that **in most situations**, police will **return a child to their home** where the child is willing to accompany them, or in accordance with their powers under the Police and Fire Reform (Scotland) Act 2012 and formal use of ACRA powers will not be required.

25.15 A child's home or place of residence can be a Place of Safety and police can take a child there under s28 power.

25.16 Where a child cannot be returned to the care of the parent or carer, consideration should be given to the suitability of extended family, friends and other relevant adults as appropriate to ensure the care and protection of the child.

25.17 The section 28 power will **cease to have effect** where Police consider that the child's immediate care and protection is adequately met by leaving them in a place where a suitable person(s) is capable of attending to the child's needs.

25.18 Early liaison with Social Work is essential to ensure that the child's needs at that time can be met. Social Work can make other provision for a child such as a foster care, residential care or other suitable premises. This will be considered on a case by case basis.

25.19 Where Social Work are unable to provide a place, the child should be taken to the nearest police station that has an identified Place of Safety room, at which time the attending officer will continue to liaise with Social Work to ascertain a more suitable location to transfer the child to.

25.20 **Only Police** can exercise the section 28 power. Police can **take** a child to a POS. Police can **ask** a Local Authority to **keep** the child as part of the exercise of the power until arrangements are made for the care and protection of the child. Social Work will make an assessment of the needs and risks on a case by case basis.

25.21 It is essential that officers discuss with social work colleagues any concerns they may have about the child's behaviour. If the child is calm and compliant then officers may leave the child with the Local Authority. If the circumstances change and the Local Authority staff ask for officers to return for any reason, it is essential that officers return immediately to support their colleagues.

25.22 Where there is any identified risk that the child may attempt to harm anyone whilst in the care of the Local Authority or attempt to abscond, it is incumbent on Police to remain with the child. Local Authority staff will have no power under section 28 to intervene in such instances.

25.23 Police are empowered to use reasonable force in the exercise of this power.

25.24 There are also additional considerations where intimate forensic data or samples (may only be taken under the authority of a Sheriff's Order for Forensic Data and Samples) need to be obtained from the child (so that evidence is not lost or destroyed), in order to properly investigate the incident. In most cases the requirement for intimate samples is likely to be time sensitive and so the preference is that if there are powers to take the child to a Place of Safety then it should be a suitable space to facilitate a forensic medical examination of the child (i.e. an NHS facility). Discussion will need to take place with the local hospital to seek agreement to taking the child there and keeping them there under s.28 for the purposes of conducting a Forensic Medical Examination. This will be on a case by case basis.

25.25 In specific circumstances, police may decide to remain with the child in a Place of Safety, for example where forensic samples are required. These arrangements will not be suitable for some social work and other places of safety and therefore a police station may be the only suitable venue.

25.26 Following the use of this power, an ACRA IRD should take place in most cases.⁷⁶

25.27 Supporting the child in these circumstances is important and a trauma informed approach should be used. Police and social work will collaborate to ensure the wellbeing of the child is considered and their rights respected.⁷⁷

25.28 Information must be gathered to inform police reports to Scottish Ministers⁷⁸.

25.29 Where the child is left in the care of the Local Authority, police will advise Social Work of the time the s.28 power has come into effect. Social work will record the point where the power ends. This information will be noted in the ACRA IRD Record.

25.30 The following details must be recorded and reported to Scottish Government by Police:

- nature and circumstances of the incident;
- evidence of risk to others;
- rationale for not returning the child home (where applicable);
- date, time and location use of the power started and ended;
- details of officer(s) exercising the power;
- type and location of the place of safety;
- length of time at the place of safety;
- any further movement of the child, with associated times/lengths of stay;
- whether the child was kept in a police station, and, if so, the authorising officer and reasons why;

⁷⁶ Refer to IRD section above

⁷⁷ Key principles for places of safety are outlines in the Ministerial Guidance (Annex A)

⁷⁸ Details are outlined in Ministerial Guidance

- whether the child was kept in a police cell, and, if so, the authorising officer, reasons why and who supervised the child while in the cell⁷⁹; and
- date, time and details of the parent notified (or the reason if not informed).

26. PLANNING AND SUPPORT FOR THE CHILD AND FAMILY

26.1 This section focuses on what happens after ACRA powers have been used. It outlines key pathways, services and approaches to provide support for children and families.

26.2 This section applies equally to children who don't meet the threshold and criteria for an ACRA investigative interview, or children that do meet the criteria, but there is a decision not to have an investigative interview and/or to use any of the other available police powers of investigation under the Act.

26.3 At this stage social work will be the lead agency.

26.4 Where there is consideration of the use of ACRA powers, the child and their family may already be involved with social work and/or third sector services. Most children will be in contact with the universal services of health and education.

26.5 A child under 12, whose behaviour has causes concern, may have experienced adversity, loss, instability, abuse and / or neglect. Children who are involved in harmful behaviour may have been harmed themselves. The impact of an incident, or series of incidents, in early childhood on a child's life chances can be long lasting, therefore any intervention will be carefully assessed and considered.

26.6 It is important that the needs of the child are viewed holistically, within the context of their own environment and family.⁸⁰ Identifying supports early, can help to minimise or prevent the risk of future harmful behaviour.

26.7 A child's cognitive ability develops over time and a child may not understand the full impact of their actions on others, or indeed on themselves. Some children will also have additional needs such as speech and language or learning supports and careful attention must be made to any specialist needs required for the child.

26.8 All interventions and supports will be trauma informed and recognise the importance of relationships, trust, engagement and connections with the child and their family to ensure that any intervention is effective and supportive. Supports must take a rights based approach for all children at every stage.

26.9 A GIRFEC approach for children is firmly grounded in securing both their best interests and wellbeing⁸¹ and supporting families by ensuring children receive the right help, at the right time. This approach ensures that the child's health, education and wellbeing needs are at the fore and that early intervention, support

⁷⁹ Refer to S28(6) and (7)

⁸⁰ GIRFEC National Practice Model - gov.scot (www.gov.scot)

⁸¹ Getting it right for every child (GIRFEC): Wellbeing (SHANARRI) - gov.scot (www.gov.scot)

and diversion is recognised. Any intervention will be proportionate and not unnecessarily bring a child into a 'system' where this is not required.

26.10 An identified Lead Professional or Named Person, or person in an equivalent role, will coordinate support and intervention for the child and family. A multi-agency assessment following the national practice model can be undertaken following local GIRFEC and staged intervention processes which can include a multi-agency Team around the Child⁸² meeting and the development of a single Child's Plan⁸³ which will include any necessary action required to address the child's needs.

26.11 Relevant information must be shared with the Team Around the Child to ensure appropriate supports are put in place for the child and family, to consider the child's wellbeing needs and any change needed to the Child's Plan.

26.12 Where a child has displayed harmful behaviour the Child's Plan should be holistic and tailored to need and context, including risk assessment and management measures and interventions. Where there is concern regarding sexually harmful behaviours reference should be made to National Child Protection Guidance (2021).⁸⁴

26.13 Where the child requires recovery or therapeutic support and intervention, this needs to be fully considered and the relevant services put in place. This support could be from health, social work or third sector or other local services that would meet the child's assessed need.

26.14 The Promise⁸⁵ emphasises that families must be given support to overcome the difficulties they may encounter. Meaningful engagement with families must ensure their voices are heard and they are involved in decisions that affect them.

26.15 For children who have been involved in an investigative interview process, consideration of relevant family support is important. The Promise highlights 10 principles of family support which should be embedded into practice.

- Holistic and relational
- Therapeutic
- Non stigmatising
- Patient and persistent
- Underpinned by children's rights
- Community based
- Responsive and timely
- Work with family assets
- Empowerment and agency
- Flexible

⁸² These meetings can vary in terminology across the country eg Child's Plan meeting/ Girfec meeting etc

⁸³ Getting it right for every child (GIRFEC): Child's plan - gov.scot (www.gov.scot)

⁸⁴ Refer to National Child Protection Guidance 2021 (p169) : Children and young people who have displayed harmful sexual behaviour

⁸⁵ Home - The Promise

26.16 Effective engagement to meet a child's needs and therefore reduce future risk is more likely within approaches which stress respectful and rights-based communication with children and families, build upon strengths that have been evidenced, address need and risk, and work with the interaction of relationships and factors in the child's world. This could include approaches such as Signs of Safety⁸⁶ and Family Group Decision Making / Family Group Conferencing.⁸⁷

26.17 The Framework for Risk Assessment and Management and Evaluation⁸⁸ sets out standards for children involved in harmful behaviour. Effective practice requires joined-up planning at operational, tactical and strategic levels between child protection and child care services.

26.18 A Contextual Safeguarding approach may be useful to support the exploration of the behaviour within the context of family, peer and school and neighbourhood.⁸⁹

EARLY AND EFFECTIVE INTERVENTION (EEI) ⁹⁰

26.19 EEI⁹¹ aims to ensure children and families get the right support as early as possible. This approach supports agencies working together to take early action to respond to behaviour.

26.20 The scope of Early and Effective Intervention (EEI) should be widened to include the concerning and harmful behaviour of children aged under 12 years.⁹²

26.21 EEI responds by reducing the likelihood that a children may come into contact with the police as well as when this has already occurred by responding to such behaviour as an indicator of need. The overall aim is to improve the outcomes for children by ensuring they and their parents are included in any decisions being made about what a proportionate response to meet the needs of the child, in their context, may be. If a response is required it is instigated at the right time, with the intention of preventing children from entering into formal systems of compulsory measures that are not needed or necessary.

⁸⁶ Signs of Safety (SoS) is a model of child protection and family support which is based on structured development of partnership between professionals and family members, and between professionals themselves. The model works by encouraging shared understanding and ideas about what needs to change, and by defining shared responsibilities in steps towards achieving these changes.

⁸⁷ FGDM is an independently co-ordinated process which empowers family members to shape plans for children. The process is applicable in a wide range of urgent circumstances when partnership with families is essential – for example, to develop participation in an agreed safety plan for a child at risk of significant harm.

⁸⁸ [Assessment and management of young people: guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/assessment-and-management-of-young-people-guidance/gov.scot/www.gov.scot)

⁸⁹ [What is Contextual Safeguarding? \(csnetwork.org.uk\)](https://www.csnetwork.org.uk/what-is-contextual-safeguarding/)

⁹⁰ A Rights-Respecting Approach to Justice for Children and Young People: Scotland's Vision and Priorities: <https://www.gov.scot/publications/rights-respecting-approach-justice-children-young-people-scotlands-vision-priorities/>
A Rights-Respecting Approach to Justice for Children and Young People: Scotland's Vision and Priorities - Action Plan: <https://www.gov.scot/publications/rights-respecting-approach-justice-children-young-people-scotlands-vision-priorities-action-plan/>

Working with children in conflict with the law 2021: standards: <https://www.gov.scot/publications/standards-those-working-children-conflict-law-2021/>

⁹¹ The scope of EEI includes the concerning and harmful behaviour of children that took place whilst they are aged under 12 years.

⁹² Refer to the Early and Effective intervention – Framework of Core Elements

26.22 Police will follow local procedures in identifying whether the child meets the threshold for referral to EEI and will thereafter update and share the Child Concern form (VPD) with social work via existing methods.

SPECIALIST SUPPORT

26.22 A small number of children may require specialist support for their mental wellbeing and health and to deal with the presenting behaviours and /or prevent harmful behaviour escalating in future. There are a range of services that will be available locally including the specialist support such as Child and Adolescent Mental Health Service (CAMHS), counselling services in schools, community wellbeing service support for children, young people and their families including services available from third sector organisations.

26.23 Consideration must also be given to possible risks regarding self-harm and suicide. Workers in police, social work, health, education, and the third sector need to be alert to circumstances where the child may be at heightened risk, and should maintain awareness of what to do to support children. A trauma-informed initial response can often significantly reduce risk and feelings of pain, isolation and despair.

REFERRAL TO THE CHILDREN'S REPORTER

26.24 A key principle of the Children's Hearing system is the welfare-based approach towards children, at risk or in need, which looks at a child's actions in the context of their support needs and an understanding of why that behaviour may have occurred.⁹³

26.25 As a result of the Act a child under the age of 12 years can no longer commit an offence in Scotland and the Children's Reporter cannot refer a child to a children's hearing on offence grounds where the offence took place when the child was under the age of 12. The Children's Reporter can refer a child to a Children's Hearing on non-offence grounds that may include reference to any serious harmful behaviour by the child.⁹⁴

26.26 The Children's Reporter will consider the child's development, parenting and family and environmental factors alongside the history of co-operation with any previous intervention; the impact of any previous intervention; the current motivation to change; and the willingness to co-operate with any intervention.

26.27 Where a child is not referred to a children's hearing, the Children's Reporter may refer the child to the local authority for them to work with the child on a voluntary basis, or they may decide to take no further action. A fundamental principle of the children's hearings system is that the hearing will consider the individual circumstances of each child, and should not make orders in respect of

⁹³ [Welcome to SCRA | Scottish Children's Reporter Administration](#)

⁹⁴ If the reporter decides to arrange a children's hearing where the child was under 12 when the offence was committed, the reporter must not select the offence ground. The most likely alternative grounds will be:

- Section 67(2)(m): that the child's conduct has had, or is likely to have, a serious adverse effect on the health, safety or development of the child or another person; or
- Section 67(2)(n): that the child is beyond the control of a relevant person.

the child, such as compulsory supervision orders, unless to do so is better for the child.

26.28 Any agency can refer a child to the Children's Reporter at any stage. Where the statutory criteria are met⁹⁵ police and the local authority must refer a child. ⁹⁶

26.29 A decision can be taken at ACRA IRD where an investigative interview is being considered, as to whether there is a requirement, or not, for a referral at that time. This will depend upon the information gathered in relation to the incident and the welfare and wellbeing of the child, what is known about the child and their background and what can be established in the early stages of the investigation as well as known family circumstances. However, it may be that a decision is taken at the end of the investigative interview process where more information has been gathered and assessed.

SECURE CARE

26.30 It is very rare for a child under the age of 12 to be placed in secure care in Scotland and is only relevant for a very small number of children who may be a significant risk to themselves, or others in the community whose needs and risks can only be managed in secure care's controlled settings. ⁹⁷

26.31 Robust regulations and requirements are in place, ensuring that any child would only be placed in secure accommodation for as long as absolutely necessary.⁹⁸ Decision making for secure care is necessarily robust and any decision taken to deprive a child of their liberty must meet very strict criteria.

26.32 A decision for secure care is made by the Local Authority Chief Social Work Officer and the Manager of the secure care accommodation. The Act does not change the criteria or decision making process.

27. DUTY TO INFORM VICTIM⁹⁹

27.1 Under the Act, Police Scotland have a duty to provide the Children's Reporter with details of the victim of harmful behaviour. This is shared on the basis of a Legal Requirement under Article 6 of GDPR.

27.2 Through the Victim Information Team, SCRA can provide victims of seriously harmful behaviour with information on the disposal of the case, whether it is a decision of the children's reporter or children's hearing. The Victim Information Team will provide the information to victims of such behaviour where the victim has opted to receive it, subject to some exceptions in particular

⁹⁵ The statutory criteria for referral to the Reporter are: (a) the child is in need of protection, guidance, treatment or control; and (b) it might be necessary for a Compulsory Supervision Order to be made in relation to the child. The Local Authority and the Police must refer a child when the criteria apply. Any other person may do so.

⁹⁶ <http://www.scra.gov.uk/wp-content/uploads/2016/03/Guidance-on-Referral-to-Reporter.pdf>

⁹⁷ The Children's Hearings (Scotland) Act 2011 provides the legal framework, including specific conditions and the 'secure care criteria' that must be satisfied ; [Secure care: pathway and standards - gov.scot \(www.gov.scot\)](#)

⁹⁸ The Children's Hearings (Scotland) Act 2011 provides the legal framework , including specific conditions and the 'secure care criteria' that must be satisfied.

⁹⁹ s27

situations. Where the victim is a child, this information will be provided to the parent or other person responsible for the care of the child.

28. SHARING OF INFORMATION BY POLICE WITH PARTNERS AND THIRD SECTOR AGENCIES

28.1 Local Police Risk and Concern Hubs determine the need to share information through a holistic assessment of information held by Police Scotland, which can maximise early intervention. Child Concern wellbeing information (National interim Vulnerable Persons Database - iVPD) is shared with statutory agencies under Article 6 - Public Tasks. The same assessment will be applied to the Child Concern forms raised for children who, whilst aged under 12, are believed to have caused or risked causing harm to others, where there are concerns for their wellbeing due to the nature of the behaviour(s) and / or there is a requirement to refer the child to the Children's Reporter.

Appendices

1. Table A – Definitions of a child under the Act
2. Child Information Leaflets
3. Who must receive a copy of the Sheriff's CIO?
4. Flowchart 1(to be added)
5. Flowchart 2 (to be added)
6. ACRA IRD template (to be added)
7. Template – Provisional Plan
8. Template – Plan for the ACRA Investigative Interview
9. ACRA Investigative Interview – Briefing, debriefing and Process Record
10. Summary of police decision making in relation to children under 12

Appendix 1

Table A – Definitions of a child under the Act

Sheriff's Order/Police Power	Required age at time of investigation/execution of Order
Search Order	Child must be aged < 12
Child Interview Order	Child must be aged < 16 or 16/17 (if subject to a Compulsory Supervision Order or interim Compulsory Supervision Order – CSO)
Forensic Data and Samples Order	
Investigative Interview by Agreement	
Questioning in urgent cases	

Taking of forensic data and samples in urgent cases	
Place of Safety	Child must be aged < 12

Appendix 2

Child Information Leaflets

In the execution of any Sheriff's Order, the use of police powers in urgent cases or the use of a POS, the relevant Child Information Leaflet must be given to certain individuals.

The content of the leaflet must be explained to the child in a manner appropriate to the child's age and maturity. It is preferable that the assigned Police and Social Work interviewers make contact with the child **prior to an Investigative Interview** taking place and therefore wherever possible, they should be tasked with the delivery of the relevant leaflets and Orders to the child and parent.

These can be shared in hard copy or electronically.

Who receives copies of the ACRA Child Information Leaflets?

Types of ACRA Child Information Leaflet	Child	Parent	ChIRP
Sheriff's Order for Search	X		
Questioning in Urgent Cases	X		
Forensic Data and Samples in Urgent Cases	X		
Sheriff's Order for Forensic Data and Samples	X		
Investigative Interview by Agreement	X	X	X
Sheriff's CIO	X		
Place of Safety	X	X	

Appendix 3

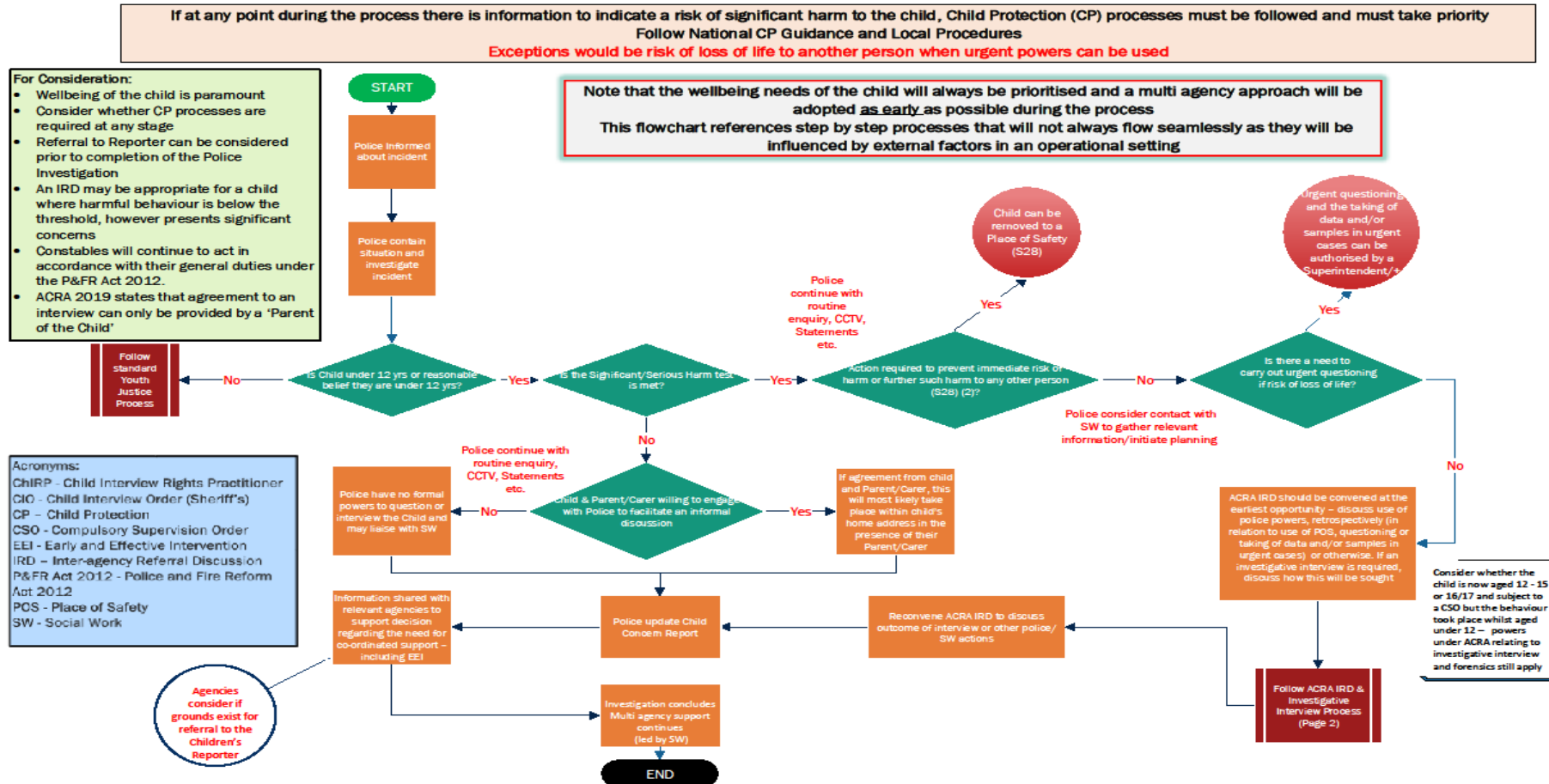
Who must receive a copy of the Sheriff's CIO?

Sheriff's Order	Child	Parent (wherever practicable)	Supporter (if not the Parent)	ChIRP
Investigative Interview under CIO	X	X	X	X

Appendix 4 Flowchart 1 – Initial Response and Investigative Process

AGE OF CRIMINAL RESPONSIBILITY (ACRA 2019) – INITIAL RESPONSE & INVESTIGATIVE PROCESS (KEY STEPS)

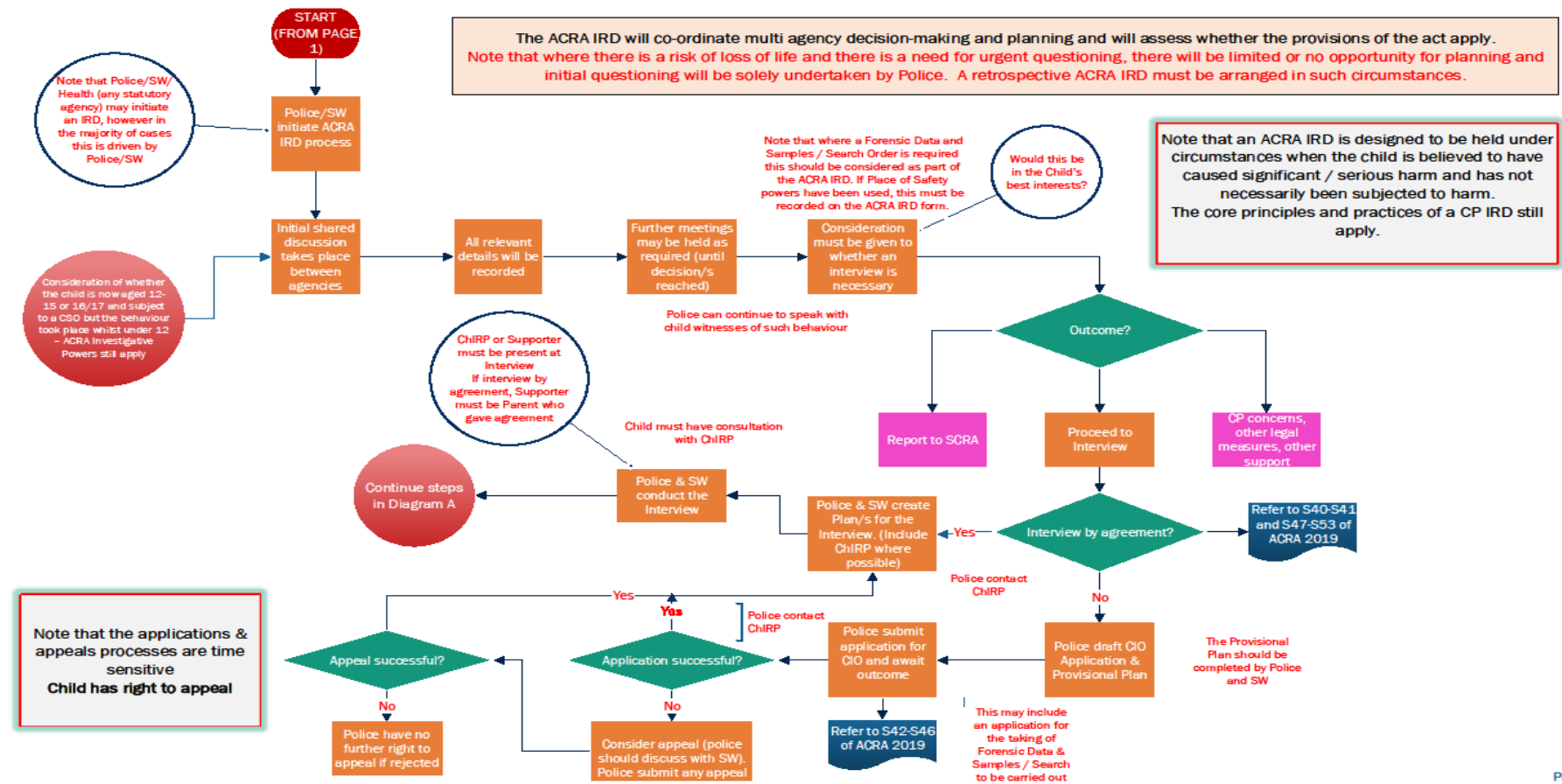
Diagram A



Appendix 5 Flowchart 2 – ACRA IRD and Investigative Interview Process

AGE OF CRIMINAL RESPONSIBILITY (ACRA, 2019) – ACRA IRD & INVESTIGATIVE INTERVIEW PROCESS (KEY STEPS)

Diagram B



Appendix 6 ACRA IRD template

AGE OF CRIMINAL RESPONSIBILITY (SCOTLAND) ACT 2019 (ACRA) RECORD OF INTER-AGENCY REFERRAL DISCUSSION (IRD)

Basic Details

ACRA IRD Form Ref:	<i>Click here to enter text.</i>		
Date ACRA IRD Commenced:	<i>Click here to enter a date.</i>	Time IRD Commenced:	<i>Click here to enter text.</i>
Date of Incident:	<i>Click here to enter a date.</i>	Time of Incident:	<i>Click here to enter text.</i>
Location of Incident:	<i>Click here to enter text.</i>		
Police Incident No:	<i>Click here to enter text.</i>	Crime Report No(s):	<i>Click here to enter text.</i>
iVPD Concern Report No:			

Child Details

Name:	<i>Click here to enter text.</i>	Date of Birth:	<i>Click here to enter a date.</i>
Known As/Alias:	<i>Click here to enter text.</i>		
Age:	<i>Click here to enter text.</i>		
Gender:	<i>Click here to enter text.</i>		
Language(s) Spoken:	<i>Click here to enter text.</i>		
Known Disability:	<i>Click here to enter text.</i>		
Address:	<i>Click here to enter text.</i>		
Local Authority Area:	<i>Click here to enter text.</i>		
School:	<i>Click here to enter text.</i>		
Social Worker:	<i>Click here to enter text.</i>		
GP/Health Professional:	<i>Click here to enter text.</i>		
Agency ID No's:	<i>Click here to enter text.</i>		

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On CPR:	Choose an item.	Care Experienced:	Choose an item.
Subject of CSO:	Choose an item.		

Summary of Incident/Concern, Including Initial Response:

Include description of the child's harmful behaviour, involvement of other parties such as the victim and key witnesses, the initial response by police/other agencies, plus initial safety measures implemented for the child, and where necessary, the victim.

[Click here to enter text.](#)

Additional Details

Named Person/Lead Professional

Name:	Click here to enter text.		
Agency:	Click here to enter text.		
Address:	Click here to enter text.		
Contact Tel. No:	Click here to enter text.	Email:	Click here to enter text.

Referrer

Name:	Click here to enter text.		
Agency:	Click here to enter text.		
Address:	Click here to enter text.		
Contact Tel. No:	Click here to enter text.	Email:	Click here to enter text.

Concern Raised By (If Different)

Name:	Click here to enter text.	Date of Birth (if known):	Click here to enter a date.
Address:	Click here to enter text.		
Contact Tel. No:	Click here to enter text.	Email:	Click here to enter text.
Relationship to Child:	You may insert "As per Referrer" in name field		

ACRA IRD Participants				
Police	Name:	Click here to enter text.	Agency:	Click here to enter text.
	Contact (Tel/Email):	Click here to enter text.	Address:	Click here to enter text.
Social Work	Name:	Click here to enter text.	Agency:	Click here to enter text.
	Contact (Tel/Email):	Click here to enter text.	Address:	Click here to enter text.
Health	Name:	Click here to enter text.	Agency:	Click here to enter text.
	Contact (Tel/Email):	Click here to enter text.	Address:	Click here to enter text.
Other (if applicable)	Name:	Click here to enter text.	Agency:	Click here to enter text.
	Contact (Tel/Email):	Click here to enter text.	Address:	Click here to enter text.
Background Information				
Police	Systems/Record Checks:	PND	Click here to enter text.	
		SID	Click here to enter text.	
		CHS	Click here to enter text.	
		PNC	Click here to enter text.	
		iVPD	Click here to enter text.	
		STORM	Click here to enter text.	
		Crime System	Click here to enter text.	
		Others	Click here to enter text.	
	Risks Identified/relevant information:	Click here to enter text.		
Social Work	Systems/Record Checks:	System 1	Click here to enter text.	

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		System 2	Click here to enter text.
		System 3	Click here to enter text.
		System 4	Click here to enter text.
		System 5	Click here to enter text.
		System 6	Click here to enter text.
		System 7	Click here to enter text.
		Risks Identified/relevant information:	Click here to enter text.
Health	Systems/Record Checks:	System 1	Click here to enter text.
		System 2	Click here to enter text.
		System 3	Click here to enter text.
		System 4	Click here to enter text.
		System 5	Click here to enter text.
		System 6	Click here to enter text.
		Risks Identified/relevant information:	Click here to enter text.
Other	Systems/Record Checks:	System 1	Click here to enter text.
		System 2	Click here to enter text.
		System 3	Click here to enter text.
		System 4	Click here to enter text.
		System 5	Click here to enter text.
		System 6	Click here to enter text.

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		System 7	Click here to enter text.
	Risks Identified/relevant information:	Click here to enter text.	
Details of Child's Family and Any Other Significant Persons			
Relationship to Child	Name	Date of Birth	Address
Click here to enter text.	Click here to enter text.	Click here to enter a date.	Click here to enter text.
Contact Tel:		Contact Email:	
Click here to enter text.	Click here to enter text.	Click here to enter a date.	Click here to enter text.
Contact Tel:		Contact Email:	
Click here to enter text.	Click here to enter text.	Click here to enter a date.	Click here to enter text.
Contact Tel:		Contact Email:	
Click here to enter text.	Click here to enter text.	Click here to enter a date.	Click here to enter text.
Contact Tel:		Contact Email:	
Previous Knowledge of Child and Family:	Include child's background, additional support needs and vulnerabilities, and any relevant family information. Click here to enter text.		

ACRA IRD Details

Summary of Any
Emergency
Discussion **Prior** to
IRD:

Summarise any previous multi-agency discussion and urgent actions already taken.
Click here to enter text.

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Summary of IRD and Actions Agreed:	<i>Include discussion around the exercising of ACRA investigatory powers, plus details of any professional disagreement and action taken to resolve this. Click here to enter text.</i>			
CP Concerns Identified (For Child Subject of IRD):	Choose an item.			
If Yes, Provide Details:	<i>Click here to enter text.</i>			
CP IRD Required:	Choose an item.			
ACRA Investigation Required:	Choose an item.			
Child Removed to Place of Safety Under ACRA:	Choose an item.			
If Yes and child was left in care of LA, enter child's movements, including date/time Place of Safety power ended:	<i>Click here to enter text.</i>			
If Yes, ACRA Place of Safety details updated on iVPD:	Choose an item.			
Senior Investigating Officer:	<i>Rank:</i>	Choose an item.	<i>Name:</i>	<i>Click here to enter text.</i>
	<i>Location:</i>	<i>Click here to enter text.</i>	<i>Contact Tel/Email Details:</i>	<i>Click here to enter text.</i>
Enquiry Officer: (If known)	<i>Rank:</i>	Choose an item.	<i>Name:</i>	<i>Click here to enter text.</i>
	<i>Location:</i>	<i>Click here to enter text.</i>	<i>Contact Tel/Email Details:</i>	<i>Click here to enter text.</i>

Details of ACRA Investigation	
Search	
ACRA Search Required/Carried Out:	Choose an item.
Forensics	
Forensic Data or Samples Required/Obtained:	Choose an item.
Means of Obtaining: Mark with 'X' as required	<div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Taken Urgently Order </div> <div style="text-align: center;"> <input type="checkbox"/> Sheriff's </div> </div>
Requirement for retrospective Sheriff's Order:	Choose an item.
ACRA Investigative Interview	
Interview Required / Carried Out:	Choose an item.
If Yes, Provide Reason:	<i>Click here to enter text.</i>
Means of Interview: Mark with 'X' as required	<div style="display: flex; justify-content: space-around; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Urgent Sheriff's Child Questioning Order (CIO) </div> <div style="text-align: center;"> <input type="checkbox"/> By Agreement </div> <div style="text-align: center;"> <input type="checkbox"/> Interview </div> </div>
Details and outcome of questioning in urgent cases (if applicable):	<i>Questioning in urgent cases must be performed under the authorisation of a Superintendent or above. A retrospective application for a Sheriff's CIO is required.</i> <i>Click here to enter text.</i>

--	--

ACRA Investigative Interview – Result of Interview				
Date/Time of Interview:	Date:	<i>Click here to enter a date.</i>	Time:	<i>Click here to enter text.</i>
Details and Result of Investigative Interview(s):	<i>Provide summary of the Investigative Interview(s) of the child, including where and by whom, key information obtained about the incident and the child's behaviour, plus any child welfare concerns revealed. Include dates and times where subsequent interviews take place.</i> <i>Click here to enter text.</i>			

Details of further ACRA IRD				
Date/Time of Discussion:	Date:	<i>Click here to enter a date.</i>	Time:	<i>Click here to enter text.</i>
Summary of Discussion Including any Further Agreed Actions (including discussions about an appeal against a decision by the Sheriff not to grant any Order):	<i>Document all further multi-agency discussions, including dates and times where subsequent meetings are held. Include details of participants if these change from the initial discussion.</i> <i>Click here to enter text.</i>			

Conclusion of ACRA IRD	
Outcome of Investigation:	<i>State if investigation is still ongoing</i> <i>Click here to enter text.</i>

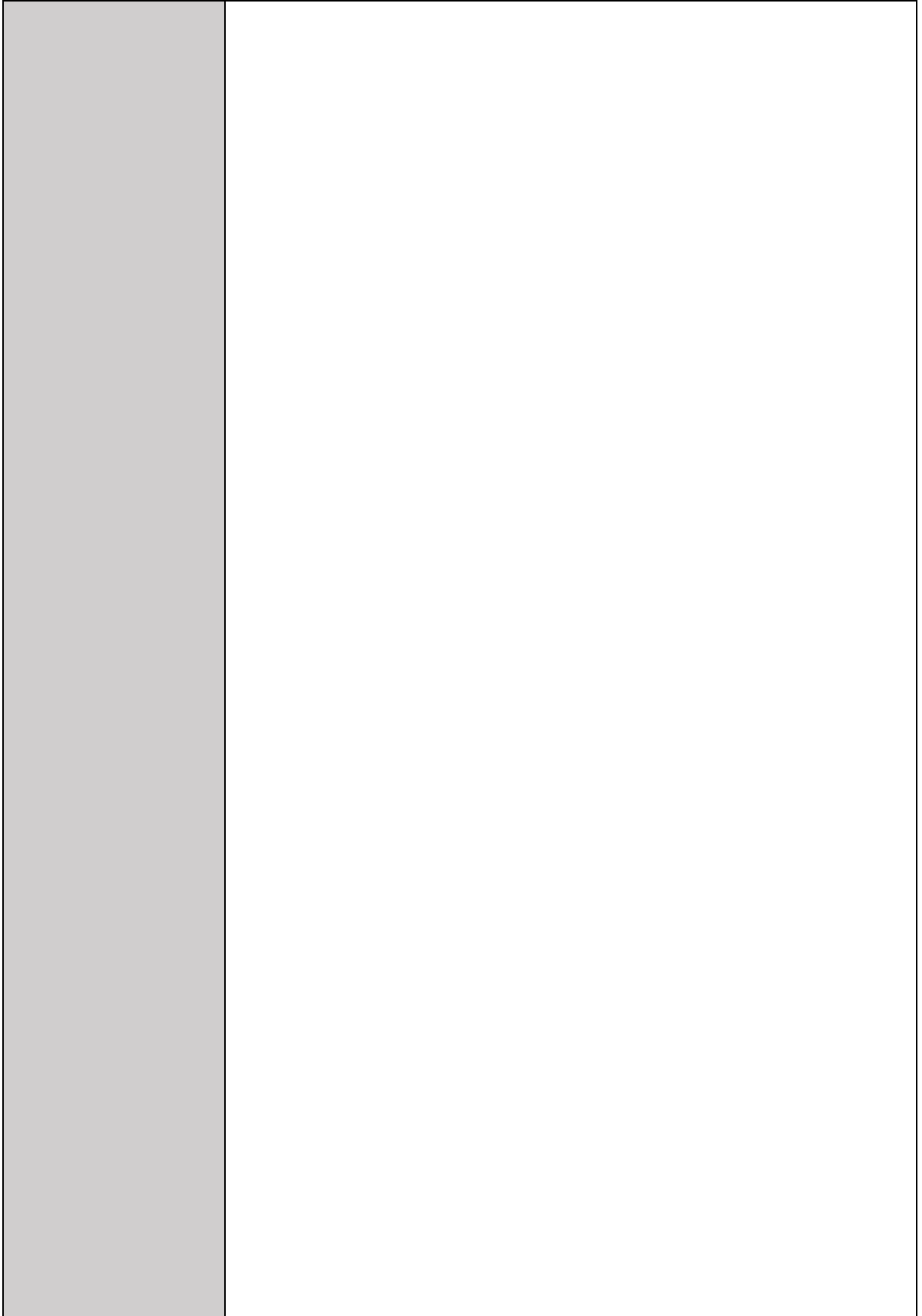
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CP Concerns Identified (Since Initial IRD):	Choose an item.			
If yes, Details:	<i>Click here to enter text.</i>			
CP IRD Carried Out:	Choose an item.			
Community Impact Assessment Completed:	Choose an item.			
Date/Time of Final Discussion:	Date:	<i>Click here to enter a date.</i>	Time:	<i>Click here to enter text.</i>
Summary of Final Multi-Agency Discussion Including any Follow-Up Actions:	<i>Outline the agreed safety plan for the child, plus the victim if appropriate. Include details of participants if these have changed from the initial discussion. Click here to enter text.</i>			
Date/Time ACRA IRD Closed:	Date:	<i>Click here to enter a date.</i>	Time:	<i>Click here to enter text.</i>
Closed By:	Name:	<i>Click here to enter text.</i>	Rank:	Choose an item.
Date/Time ACRA IRD Reviewed:	Date:	<i>Click here to enter a date.</i>	Time:	<i>Click here to enter text.</i>
Reviewing Officer:	Name:	<i>Click here to enter text.</i>	Rank:	Choose an item.

Appendix 7 Template – Provisional Plan for ACRA Investigative Interview

Age of Criminal Responsibility (Scotland) 2019 (ACRA) ACRA Investigative Interview – Provisional Plan				
Guidance Notes				
<i>Guidance</i>				
<p><i>A Provisional Plan must be completed and submitted with the application for a Sheriff's Child Interview Order.</i></p> <p><i>The Provisional Plan, should, wherever practicable, be drafted in consultation with the relevant Local Authority. Other agencies (where appropriate) may also participate in this planning.</i></p> <p><i>NOTE: This document must not be shared with the child or parent/Supporter.</i></p>				
Date/Time of Provisional Planning meeting:	Date:	<i>Click here to enter a date.</i>	Time:	<i>Click here to enter text.</i>
Participants in Provisional Planning:				
Police Interviewer	Name:	<i>Click here to enter text.</i>	Rank:	<i>Click here to enter text.</i>
	Contact (Tel/Email):	<i>Click here to enter text.</i>	Location:	<i>Click here to enter text.</i>
Social Work Interviewer	Name:	<i>Click here to enter text.</i>	Local Authority:	<i>Click here to enter text.</i>
	Contact (Tel/Email):	<i>Click here to enter text.</i>	Dept/Location:	<i>Click here to enter text.</i>
Other (If applicable)	Name:	<i>Click here to enter text.</i>	Agency:	<i>Click here to enter text.</i>
	Contact (Tel/Email):	<i>Click here to enter text.</i>	Address:	<i>Click here to enter text.</i>
Provisional Plan:	<p><i>Outline the strategy for the ACRA Investigative Interview, to include:</i></p> <ul style="list-style-type: none"> <i>Date, venue, interviewers, any other persons who will be present (where known).</i> <i>Contingency plans (where known).</i> <i>How the welfare and wellbeing needs of the child will be met during the interview (taking into account age, maturity, additional support needs and vulnerabilities).</i> <p><i>While not all arrangements for the interview may have been finalised at this stage, sufficient detail is required to allow a Sheriff to consider and grant a Sheriff's Child Interview Order.</i></p> <p>Enter details here:</p>			

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Appendix 8 Template – Plan for the ACRA Investigative Interview

**Age of Criminal Responsibility (Scotland) 2019 (ACRA)
Plan for the ACRA Investigative Interview**

Guidance

The **child** and **parent/Supporter** must only receive **Parts A and B** of this Plan.

The **Child Interview Rights Practitioner (ChIRP)** should be involved in the drafting of this Plan, where **practicable** and **appropriate**.

PART A – Basic Details (To be shared with the child, parent/Supporter and ChIRP)

Child	Name:	<i>Click here to enter text.</i>	Date of Birth:	<i>Click here to enter a date.</i>
	Contact (Tel/Email):	<i>Click here to enter text.</i>	Address:	<i>Click here to enter text.</i>
Parent	Name:	<i>Click here to enter text.</i>	Date of Birth:	<i>Click here to enter a date.</i>
	Contact (Tel/Email):	<i>Click here to enter text.</i>	Address:	<i>Click here to enter text.</i>
Supporter (If not Parent)	Name:	<i>Click here to enter text.</i>		
	Contact (Tel/Email):	<i>Click here to enter text.</i>		
SIO	Name:	<i>Click here to enter text.</i>	Rank:	<i>Click here to enter text.</i>
	Location:	<i>Click here to enter text.</i>		
Date/Time of Planning Meeting	Date:	Time:		<i>Click here to enter text.</i>
Participants in Planning Meeting				
Police Interviewer	Name:	<i>Click here to enter text.</i>	Rank:	<i>Click here to enter text.</i>
	Location:	<i>Click here to enter text.</i>		
Social Work Interviewer	Name:	<i>Click here to enter text.</i>	Local Authority:	<i>Click here to enter text.</i>
	Contact (Tel/Email):	<i>Click here to enter text.</i>	Dept/ Location:	<i>Click here to enter text.</i>
Interview Advisor (If applicable)	Name:	<i>Click here to enter text.</i>	Rank:	<i>Click here to enter text.</i>
	Location:	<i>Click here to enter text.</i>		
Child Interview Rights Practitioner - ChIRP (If applicable)	Name:	<i>Click here to enter text.</i>	Company :	<i>Click here to enter text.</i>
	Contact (Tel/Email):	<i>Click here to enter text.</i>	Address:	<i>Click here to enter text.</i>
Other (If applicable)	Name:	<i>Click here to enter text.</i>	Agency:	<i>Click here to enter text.</i>

Appendix 9 ACRA Investigative Interview – Briefing, debriefing and Process Record

Age of Criminal Responsibility (Scotland) Act 2019 (ACRA)

ACRA INVESTIGATIVE INTERVIEW

VRI BRIEFING, DE-BRIEFING AND PROCESS RECORD

(Please refer to the ‘VRI Briefing, De-briefing And Process’ guidance, as required)

Child’s Name:

Age: DOB:

Date/Time of Interview:

Location of interview:

Lead Interviewer:

Second Interviewer:

Supporter:

Relationship to Child:

ChIRP:

Legal Firm:

Additional Support Person / Interpreter / Other Person(s) to be Present at Interview (if applicable):

SIO

Enquiry Officer:

Briefing Manager:

ACRA IRD Ref No:

ACRA Investigative Interview VRI Ref No:

Means of Interview

By Agreement

☐

Sheriff's Child Interview Order

☐

Recording medium to be used

VRI

☐

Written

☐

If not VRI provide reason:

Nature of the harmful behaviour/incident under investigation:

Arrangements for transporting the child to the interview:

Summary of any pre-interview conversation with the child:

Include topics discussed during interviewers' previous meetings with the child (e.g. to provide notifications/serve documents)

Briefing by Police DS or Social Work Manager:

Written briefing comments:

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Briefing Signatures

Briefing Manager	
Lead Interviewer	
Second Interviewer	
Date	

Interview Planning

Have the following been completed prior to interview:			
ACRA Provisional Plan (Not required for Interviews by Agreement)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Plan for the ACRA Investigative Interview (Including Plan for the Child's Needs)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
Interview Plan (Topics and key questions for interview)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	

Notifications

Have the following been completed prior to interview: (Depending on the circumstances, notifications may include issue of Child Information Leaflets for Interview by Agreement, Sheriff's Child Interview Order and Plan for the ACRA Investigative Interview, plus Scottish Courts documents where applicable. These should be accompanied by appropriate verbal explanations)		
Notifications to Child	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Notifications to Parent/Supporter	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Notifications to ChIRP	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If any notifications are not made, provide reason(s):

VRI Recording of Salient Points	
Child's Name:	
<p>This record should be agreed and signed by both interviewers. Where interviewers add or amend information within the record (e.g. having reviewed the recording of the interview there is a need to expand on the key information recorded), the interviewers should initial these additions or changes.</p>	
Bookmark/ Time code	Salient points to be recorded

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Lead Interviewer Signed:	Second Interviewer Signed:
VRI Recording of Salient Points	

VRI Recording of Salient Points	

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Lead Interviewer Signed:	Second Interviewer Signed:

**Analysis of Evidence and Information from Interview:
TO BE COMPLETED DURING DE-BRIEFING**

Evidence of Harmful Behaviour

Evidence of risk – immediate and ongoing:

Inconsistencies and missing information:

Presentation of the Child:

- Did the child demonstrate signs of reluctance?
- Did the child's presentation change throughout the interview?

Evidence of the need for support:

Trauma informed principles:

- Safety
- Choice
- Collaboration
- Trust
- Empowerment

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De-briefing by SIO/DS or Social Work Manager:		
Key areas to be addressed:		
Comments:		
If de-briefing of interviewers not conducted, specify reason(s):		
Have the interviewers agreed and signed the record?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Has a handover to the SIO/Enquiry Officer been arranged?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

If no handover arranged, explain why not and how information will be supplied (e.g. via the Crime Report/iVPD only):	
---	--

De-Briefing Signatures

Briefing Manager	
Lead Interviewer	
Second Interviewer	
Date	

Appendix 10 – VRI Briefing, Debrief and Process Guidance

Age of Criminal Responsibility (Scotland) Act 2021 (ACRA)

ACRA Investigative Interviews

VRI Briefing, De-Briefing And Process Guidance

This document is intended to support Police and Social Work in conducting briefings/debriefings related to ACRA Investigative Interviews. These below list is not exhaustive.

Briefing by SIO/DS or Social Work Manager

ACRA IRD information for sharing with interviewers

- Relevant information about the incident from the ACRA IRD.
- Background knowledge and previous Police/SW contact, including potential impact on this interview.
- Details of any previous contact with the child during this investigation (e.g. removal to Place of Safety, Urgent Questioning).
- Key areas to be addressed during the ACRA Investigative Interview.
- Contingencies for Child Protection disclosures.

General reminders for the interviewers

- The Plan for the ACRA Investigative Interview and relevant Child Information Leaflet must have been shared with the child and Supporter in advance of the interview.
- Prepare an Interview Plan.
- As far as possible, follow the D/B/A format (as per Joint Investigative Interviews).
- Advise the SIO as soon as possible about any changes to the Plan for the ACRA Investigative Interview. Ensure the child, Supporter and ChIRP are also informed and issued with an updated copy of the Plan.
- At the end of the interview, the child should be advised of what may happen next (to the extent to which this information can be ascertained). Ensure the ChIRP has been consulted prior to this (to align understanding).
- Interviewers should pause the interview (where necessary) to review and assess whether all relevant points have been covered and identify where further detail is required.

Key areas interviewers need to address during the interview

- Ensure child is advised of their right not to answer questions and understands what this means.
- Ground rules – omit understanding of ‘truth’ and do not say the child must tell the truth.
- Adopt a trauma-informed approach and ensure the wellbeing of the child is a primary focus.
- Where a Child Protection (CP) disclosure is made, make a dynamic assessment whether to redirect the interview and adopt a JII format (in which case the ChIRP must be removed from the room and consideration must be given to also removing the Supporter) or continue with the ACRA Investigative Interview. Seek the views of the ChIRP and Supporter (where appropriate). Ensure the child understands the purpose of the interview.
- The Interview Plan must explore all harmful behaviours (in relation to the incident under investigation) and essential elements.
- The Interview Plan (D/B/A) timeline should be followed and, if there are multiple unrelated incidents (for which you will need separate CIOs), deal with each incident on its own within the ‘D’ before moving to the ‘B’ and ‘A’.
- Within each section of the Interview Plan, fully explore each topic before moving on.
- Use appropriate questions and prompts.
- If the Supporter is deemed not to be appropriate and requires to be removed, pause the interview and contact the SIO/DS.
- Schedule appropriate breaks during the interview.
- Remember the importance of recording salient points and analysis of evidence.
- Upon conclusion of the interview, consider the need for a further ACRA Investigative Interview.
- Consider if a JII or welfare interview by Social Work is required.

Analysis of Evidence and Information from Interview

Evidence of Harmful Behaviour

- Details of each harmful act or behaviour revealed
- Identification of the child as the person responsible
- Witnesses
- Timings, location, essential elements
- Forensic and physical evidence, including location
- Specialist knowledge
- Other people the child has told
- Evidence of offences by any other person(s)
- Any further enquiry, including witnesses to be traced
- Requirement to seek other Sheriff’s Orders
- Exculpatory evidence
- Requirement for another ACRA interview. If interview is by CIO, does it authorise more than one interview?

Evidence of risk – immediate and ongoing:

- Child Protection (CP) disclosure – action taken
- Risks/CP concerns for the child and other children
- Protective factors
- Immediate action required
- Community Impact Assessments
- Disclosures (public or otherwise)
- Recommendations for interim safety plan
- Requirement for follow-up ACRA Investigative Interview or Joint Investigative Interview or welfare interview by Social Work

Inconsistencies and missing information:

- Attempts to clarify?
- Alternative hypotheses?
- Further interview required?

Debriefing by SIO/DS or Social Work Manager

Key areas to be addressed:

- Analysis of needs/risks and information from interview - allows managers (including partner agencies) to contribute to the analysis and confirm next steps.
- Consideration as to whether another interview should be undertaken and what form this should take.
- Arrangements for a medical examination, if required.
- Identify any operational challenges.
- Check that the interview has been downloaded to the divisional shared drive.
- Check the salient points have been agreed by both interviewers.
- Ensure the record of the de-briefing is completed, to include decisions taken and copies retained by both Social Work and Police.
- Consider welfare of interviewers.

Appendix 11
Summary of decision making in relation to children under 12

Decision	Section	Test	Comments
Immediate protection decisions			
Should the police take a child to a place of safety to protect others?	Section 28	Only if constable: 1. has reasonable grounds to believe the <i>child is behaving or is likely to behave in a way that is causing or risks causing significant harm to another person</i> 2. is satisfied that <i>it is necessary to take child to a place of safety to protect any other person from an immediate risk of significant harm or further such harm</i>	New power under ACR (2019) Act
Should the police take a child to a place of safety for the child's own protection?	Section 56 of the 2011 Act	Only if constable is satisfied: 1. that there are reasonable grounds to believe that <i>the child has been or is being treated/neglected that the child is suffering or is likely to suffer significant harm</i> [i.e. the criteria for a sheriff granting a CPO] 2. that the removal of the child is <i>necessary to protect the child from the harm</i> 3. it is not practicable to apply for a CPO	The long-standing power of the police to remove a child to a place of safety for their own protection
Investigation decisions			
Should police question a child about their behaviour?		The police can question a child believed to be responsible for committing harmful behaviour that does not meet the threshold for an investigative interview, (and witnesses of such behaviour),	The police can question a child only if the constable is

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		in an age appropriate way, without applying the provisions in the 2019 Act.	satisfied that the behaviour <i>does not</i> meet the threshold in s39.
Should the police interview a child about their behaviour?	<p>Section 39</p> <p>Section 54</p> <p>Section 40</p> <p>Section 44</p>	<p>1. The police can interview a child if a constable has reasonable grounds to believe that a child, while under 12 years of age—</p> <p>(a) <i>by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, or</i></p> <p>(b) <i>by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether physical or not) to another person</i></p> <p>2. If the behaviour is above this threshold, the police can only interview if:</p> <p>1. <i>Necessary to prevent loss of life and there is a risk of loss of life if the child is not questioned immediately</i></p> <p>2. <i>By Agreement if it is necessary to properly investigate the child's behaviour and the circumstances surrounding it</i></p> <p>3. by obtaining a child interview order – sheriff needs to be satisfied:</p> <p>1. the child's behaviour meets the threshold test</p> <p>2. the interview is necessary to properly investigate the child's behaviour and the circumstances surrounding it</p>	
Should the police take prints or samples from a child?	Section 58	<p>1. The police are prohibited from taking prints or samples from a child under 12 unless authorised by court order or in an urgent case</p> <p>2. A sheriff can authorise the taking of prints or samples if satisfied that:</p> <p>1. there are reasonable grounds to suspect that the <i>child</i>:</p>	

	Section 63	<p><i>(a) by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, or</i></p> <p><i>(b) by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether physical or not) to another person</i></p> <p>2. the taking of the prints or samples is <i>necessary to properly investigate the child's behaviour and the circumstances surrounding it</i></p>	This is the same threshold test of behaviour as for investigative interviews
	Section 69	<p>3. a senior officer (superintendent or above) can authorise the taking of prints or samples if satisfied that:</p> <p>1. there are reasonable grounds to believe that the child:</p> <p><i>(a) by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, or</i></p> <p><i>(b) by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether physical or not) to another person</i></p> <p>2. the taking of the prints or samples <i>is necessary to properly investigate the child's behaviour and the circumstances surrounding it AND</i></p> <p>3. it is not <i>practicable to apply for an order from a sheriff because of the risk that, if the print or sample is not taken immediately, evidence from it would be lost or destroyed</i></p>	This is the same threshold test of behaviour as for investigative interviews
Decisions about sharing information			
should the police tell SW, education or another agency about the child?			No different to their decision about any other child

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should the police refer the child to the reporter?	Section 61 of the 2011 Act	The police have a duty to refer a child to the reporter if they consider: <i>1. that the child is in need of protection, guidance, treatment or control, and</i> <i>2. that it might be necessary for a CSO to be made</i>	No different to their decision about any other child
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