

creating safety

CHILD PROTECTION GUIDELINES
FOR SCOTLAND'S ARTS, SCREEN
AND CREATIVE INDUSTRIES



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introduction

Creating Safety provides guidance on child protection for individuals and organisations involved in delivering artistic, cultural and creative projects for children and young people in Scotland.

You may be an individual freelancer working with children, or a small, medium or large-sized organisation or company employing staff and volunteers to work with children. The work may be a one-off activity or a project that will run indefinitely. Whatever the context, the overall aim will be to create the safest possible environment for children, where they can feel safe and comfortable, are treated equitably and with respect, and where they are given freedom to have fun and develop their independence and creativity.

Creating Safety is not a step-by-step guide. This is because every project, situation, and indeed every child is unique – rules, regulations and procedures on their own cannot compensate for using common sense and sound professional judgement to anticipate and respond appropriately to different situations. There are, however, elements of good practice that will help you to minimise risk and create the kind of positive environment described above. It is important to remember that you cannot eliminate risk entirely. Children need exciting and challenging opportunities and an approach which carefully balances the benefits of an activity with the risks will help ensure children do not miss out.

Using this guide

Chapter 1

Highlights the critical role that the creative community has as part of the wider children's sector workforce. Artistic, cultural and creative activities help develop children's capacities in the four areas that underpin Curriculum for Excellence – as successful

learners, confident individuals, responsible citizens and effective contributors.

Chapter 2

Describes four key principles that should underpin all of your work with children, and provides guidance on how to apply these in practice. Following these principles will help you create the best possible environments for children, where risk is minimised and where they are able to explore their creativity.

Chapter 3

Provides definitions of child abuse and neglect, describes how to respond if a child discloses abuse and how to recognise signs of concern that a child may be at risk.

Chapter 4

Provides advice on developing comprehensive procedures for the recruitment and supervision of staff and volunteers. Includes information on Disclosure Scotland and the Protection of Vulnerable Groups Scheme.

Chapter 5

This chapter provides advice and some recommended additional resources to help you write your own code of practice for working with children and young people. Includes a sample code of practice.

Chapter 6

A more detailed overview of what the law requires in relation to child protection and the procedures that have to be followed. The legal responsibilities described in this chapter underpin the *Creating Safety* guidance.

Chapter 7

Provides an alphabetical list of direct web links to further information.

Age definition of 'children'

Throughout these guidelines we refer to 'children'. By this we mean people who are under the age of 18. This definition is based on that contained in the United Nations Convention on the Rights of the Child. We therefore recommend that you should follow these guidelines when working with people up to the age of 18. Further information on age definitions is in **Chapter 6**.

Updates and changes to legislation and policy

The information on policy and legislation in this guide is up to date at the time this revised edition was published on August 2014. You should, however, bear in mind that legislation, policy and practice advice can and does change. For example, there will be new Scottish Government guidance on several aspects of the Children and Young People (Scotland) Act 2014, enacted on 27 March 2014. Ensure that you are aware of any relevant new developments. The Scottish Government will hold current national guidance and relevant policy and law. Your local **Child Protection Committee** should carry out an equivalent role in respect of local information. You can also contact Creative Scotland who can advise on the current position in respect of matters that are particularly relevant to arts and cultural activities.

It is essential that staff and volunteers understand fully their responsibilities in child protection. We would recommend that all adults working with children and young people should receive some training to reinforce their reading and understanding of these guidelines. Creative Scotland can help identify relevant training opportunities. If it is not possible for some or all of your staff and volunteers to access training, you should make sure that they have a good understanding of these guidelines and of your own code of practice (**Chapter 5**).

chapter one



The role of the arts, culture and creativity in promoting children's wellbeing

Many children, indeed probably the majority, enjoy participation in artistic, cultural and creative activities at some point in their childhood. It is vital that everyone involved in delivering these activities recognises the critical role they play as part of the wider children's sector workforce.

As well as having fun and learning a skill, these opportunities can help children's development in many other ways. For some, they provide respite from an otherwise troubled life. For all, they can contribute to the development of competence, confidence and wellbeing.

The Scottish Government's policy Getting It Right for Every Child (GIRFEC), and the introduction of Curriculum for Excellence in schools and nurseries, aims to ensure that all children are supported to do as well as possible. While GIRFEC intends to ensure that all children receive appropriate help and support where needed, Curriculum for Excellence provides an approach to education that seeks to optimise outcomes for all children. Artistic, cultural and creative activities can play an important part in achieving the objectives of both approaches, and contribute to helping children achieve their potential. The Scottish Government's Action Plan for Education and the Arts, Culture and Creativity puts creativity "at the heart of all learning". Its vision is that "all children and young people will be empowered as well-rounded individuals to develop their imagination, demonstrate capacity for original thought and understanding of meaningful innovations, contributing effectively to the world at large."

It is useful to think about how the activities you plan for children can help them deal with other areas of their lives, and how they might contribute to their overall personal development. This is consistent with Curriculum for Excellence, where the overall objective of learning and teaching is to develop children's capacities in four areas – as successful learners, confident

individuals, responsible citizens and effective contributors. Involvement in artistic, cultural and creative activities can play a valuable role in developing these capacities, both within and outwith the school day.

Some specific elements of the four capacities can be very effectively underpinned by artistic, cultural and creative activities. Many involve communicating concepts, ideas and experiences – integral components of successful learning. Learning and developing a skill enhances individual confidence, and producing a finished item, whether a painting, poem or dance routine, supports a sense of achievement and self-respect. Working with others on a task, such as collaborating with a professional artist and peers to develop creative ideas – for example designing and filming an animation, or playing and composing music together – improves capacity to undertake cooperative tasks thus developing respect for others and personal responsibility. Many artistic media can help children communicate their unique experiences and views thus enhancing their ability to contribute socially.

Scotland's Creativity Portal contains examples of projects across Scotland that contribute in various ways to all the curricular areas of arts, science, mathematics, language and literacy, health and wellbeing, social studies, technology, and religious and moral education. There are also examples of projects that are used to deliver outcomes in cross-cutting areas such as 16+ Learning Choices, Citizenship, Enterprise, Interdisciplinary Learning, Learning Outside the Classroom, Supported Learning and Supporting Transitions from 3-18.

chapter two

Once upon a time.

Key principles for working with children

At the heart of good practice in protecting children lies an understanding of their rights. There are four key principles that should underpin your work with children whether you are a large organisation or an individual working with children:

1. **The best interests of the child must always be a primary consideration**
2. **All children and young people should be treated fairly and with dignity and respect**
3. **All children and young people have the right to protection from all forms of harm, abuse, neglect and exploitation**
4. **All children and young people have the right to express their views on matters that affect them.**

Each of these key principles is derived from the United Nations Convention on the Rights of the Child (UNCRC), which has been ratified by Scotland. The Children and Young People (Scotland) Act 2014 imposes new duties on Scottish Ministers and certain public bodies to promote the UNCRC and to publish reports on what they are doing to further children's rights.

Many of you will be undertaking work for a third party, such as a school, and should be aware of the importance of working in partnership with your client when developing activities and procedures. However, even if this is the case, we advise you to make sure you are clear about how the principles above relate to your own practice by formalising them in your own code of practice for working with children. There is advice throughout this guide, and specifically in **Chapter 5**, on which areas your code of practice should cover.

CODE OF PRACTICE CHECKLIST

Set out the standards of behaviour expected from all adults involved in the activities, based on the four key principles for working with children that are set out in this chapter.

This section provides guidance on how each of the four key principles above might inform your practice.

The best interests of the child must always be a primary consideration

Every action or decision you take when working with children should take into account their best interests as a primary consideration.

The 'best interests test'

Try to plan all your activities with a 'best interests test' – at every stage of an activity be prepared to explain why a particular course of action would be in the best interests of the children taking part, individually and collectively.

When doing this, focus on how children will benefit from the experience and how those benefits can be optimised, as well as minimising the opportunities for children to suffer harm of any kind.

Also consider how children might interpret what you do – think about the words you use, the tone of your voice and your body language. This may be particularly important when working with children who have additional support needs or who have had difficult experiences. It will also depend on the ages of the children as well as the situation that you are in, such as the physical location or the specific activity context.

Of course a 'best interests test' is important when deciding on a programme of activities but it is also important in any other decisions you take, such as enforcing rules or discipline. Any rules you set for a group or class should take account of this.

It is also important to remember that the best interests of an individual child within a group may not always coincide with those of a group as a whole, so again this balance may need careful thought.

Try to get to know any children you see on a regular basis. Ask parents, or a member of staff who know the children, to tell you if there is any information that might affect, in a significant way, how you relate to a child. If a child is referred to you by another agency, you should ensure that the agency similarly shares with you any relevant information.

Ask yourself:

- Is what I plan to do in the best interests of the children I am working with?
- How will the children benefit from the activity and how can I maximise those benefits?
- Is my behaviour appropriate for the children I am working with just now?
- Do any of the children I am working with have specific needs which I need to take into account?

Physical contact with children

Physical contact with children is something that many adults are uncertain about when deciding how to behave in a child's best interests. We suggest that physical contact (such as a hug) would be appropriate in certain situations, such as after a child has hurt him/herself. Generally, physical contact will be appropriate if the child has initiated the contact and the adult and child are in a public place, though it should be borne in mind that some children who have been sexually abused might seek inappropriate physical contact.

Remember that a primary consideration must always be to act in the best interests of a child.

CODE OF PRACTICE CHECKLIST

Plan all activities with the best interests of the children and young people as a primary consideration.

All children and young people should be treated fairly and with dignity and respect

Children can have a very strong sense of fairness. Treating children equally is not the same as treating them identically. Of course there will be times when the needs of a particular child require that you treat them differently but the way you treat children must be seen to be fair.

Respecting each child's individuality

The important thing to remember is that every child is an individual with their own unique set of characteristics and experiences. You should never assume that children will be alike, even when their circumstances are similar. This concept underpins GIRFEC, which seeks to ensure that all children get the best and most appropriate support to do as well as possible. Children may have particular needs due to their religious, cultural or ethnic background, illness or disability, or emotional and behavioural difficulties. You should bear in mind that you may come into contact with a child who has already been subject to child protection investigations or whose name has been placed on the Child Protection Register. As it is unlikely that you would know whether or not this was the case, you should always be aware of this possibility in planning activities and relating sensitively to children.

Vulnerable children are often at more risk of harm than are others. To allow these children equal access to participation in an activity you may need to make special arrangements.

If you are undertaking work for a third party, for example in a school, it is a good idea to ask a member of staff who knows the children in advance, whether there are any individuals in the group who have particular needs.

Ask yourself:

- Should I be aware of any religious or cultural sensitivities about this activity?
- Is the activity accessible to all children who want to be involved?

Discipline

Issues relating to fairness are particularly pertinent when it comes to discipline. Working with children can be challenging and how to be effective when it comes to setting and keeping rules is a common concern. Before commencing work with a group of children be clear in your own mind how you are going to deal with difficult behaviour. Even if the children are only meeting up for a short period of time you should spend some time at the beginning of the course or session involving the child or children in considering the rules for the activity, agreeing how they should be enforced, and establishing any sanctions for their infringement. If you are undertaking work for a third party, for example in a school, discuss the issue of discipline in advance with a member of staff who knows the children. Work in partnership to agree a procedure for discipline. Some points to consider in maintaining discipline include:

- Develop a set of rules outlining acceptable and non-acceptable behaviour
- Involve children in developing these rules
- Ensure that all adults, as well as children, agree to abide by the rules
- Ensure that you implement the rules fairly and consistently
- Remember that physical punishment should never be used as a sanction – as well as having adverse physical and emotional effects on children, it is likely to constitute an offence in law.

CODE OF PRACTICE CHECKLIST

Try to ensure that all children and young people are treated fairly.

Establish procedures for working with children and young people who have particular needs.

Establish a procedure for discipline, working in partnership where possible with a member of staff who knows the children.

All children and young people have the right to protection from all forms of harm, abuse, neglect and exploitation

Always be alert to possible sources of harm to a child. Here we refer to ways that you can reduce the risk of harm to children while you are working with them. In Chapter 3, we outline how to respond if you are concerned about what is happening to a child outside of the time you are working with them.

Adult:child ratios

If you are running a service that is registered with the Care Inspectorate, or have been commissioned to undertake work with children by a service registered with this body, you will be required to adhere to the adult:child ratios set down in the National Care Standards. Information on what provision needs to be registered can be found in *Applying to register a care service: guidance for applicants*, available on the Care Inspectorate's website www.scswis.com. The Scottish Social Services Council provides advice on registration of people working in such settings www.sssc.uk.com.

For provision that does not require registration, no specific ratios apply. However, it is essential that you ensure there is adequate adult supervision for any activities that you are involved in.

The number of adults you need will depend on the number and ages of children present, their particular needs and the type of activity they are engaged in. Establishing, as far as possible, whether any children may have particular needs is very important. Remember that while some needs are obvious, such as a child who is a wheelchair user, others, such as autistic spectrum disorders or allergies, may be less conspicuous. Some children may need one-to-one support to be able to participate effectively.

Some organisations have their own guidelines, many of which recommend that there should be one adult for every five children between 2 and 3-years-old, and one adult for every three children under 2-years-old. This is consistent with the ratios required in the National Care Standards. If you are working with a class or group, however, it would be good practice to ensure that two adults are present, so that if an emergency arises, one can stay with the group while the other deals with the emergency – for example, if a child needs to be taken to hospital. These ratios should be seen as general guidance but good judgment on your part is also needed. If the activity you intend to undertake warrants greater supervision you should make provision for this. This may be of particular importance when undertaking activities outdoors. The NSPCC provides good practice advice on ratios. Education Scotland gives advice on ratios in respect of outdoor activities, residential trips and other pursuits.

Some individual freelancers, such as instrumental instructors, may be working with individual children. If this applies to you, think about minimising risk in such situations by, for example, requiring that an adult is present in the child's home, or that a parent remains on the premises while the lesson takes place.

There may be occasions where you are not able to have enough adults to supervise a particular activity adequately. You should not risk going ahead with inadequate supervision. Use the guidance mentioned above coupled with good professional judgement.

CODE OF PRACTICE CHECKLIST

Set out the appropriate adult:child ratios for each group of children and young people you work with.

Assessing risks

Attitudes towards risk analysis when working with children have shifted in the UK in recent years. Official guidance will encourage you to focus more closely on the benefits of

an activity rather than just the risks. The approach helps to ensure that focus on minimising risk does not mean that children miss out on enjoying the healthy range of opportunities that are so important for their development. Play Scotland provides useful advice on maximising the value of play. www.playscotland.org

With this in mind, there are some basic health and safety checks that you should always carry out on the premises and equipment you are using to help reduce the risk of accidents.

Ask yourself:

- Are there any objects that could fall over and hit somebody or create a trip hazard?
- Is all electrical equipment I am using safe to use?
- Have I asked people to participate in activities that have potential dangers?
- Am I intending to use any hazardous materials or liquids?
- Do I have access to first aid facilities?
- Is there a trained first-aider present or available?

It is important to be aware of any potential risks and to take appropriate action. For example, use protective clothing and extra supervision when using hazardous materials. Also consider the age and stage of the children you are working with. For example, if young children go to the toilet unsupervised, are there risks such as the potential to reach an outside exit, which need to be taken into account?

In many instances, identifying risks will be a matter of common sense. If a risk exists that you cannot remove you should seriously consider whether it is appropriate to go ahead with the activity. Even when the level of risk is acceptably low it is still important to ensure that children are aware of potential hazards. You may wish to consider obtaining specific permission for any activities that fall outwith routine activities or programmes.

It is good practice to involve children in assessing risk. Teaching children the skills they need to assess risk for themselves will enhance their sense of safety and security, and help develop confidence, independence

and resilience. Include children in discussion about likely risks, who might be affected by them and what safety measures could be taken to reduce the risk to an acceptable level.

Depending on the size and type of your organisation or group that you are working with, you may be legally required to comply with health and safety legislation. The Health and Safety Executive sets out all relevant legislation and provides general health and safety advice.

In the event of any accidents occurring ensure that you have a procedure in place for recording the incident, any action that was taken and by whom. In some circumstances, it is a legal requirement to pass the record to the Health and Safety Executive under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013).

We recommend that you record the following information in the event of an incident:

- Name, address and age of the person involved in the incident
- Name, address and occupation of the person completing the report
- Date, time and place of incident
- How the incident happened, including cause (if known)
- Any resulting injuries.

It is also a good idea to keep a file or log of any potential hazards that arise, for example a broken window, and to ensure that appropriate remedial action is taken.

CODE OF PRACTICE CHECKLIST

Apply health and safety checks to your premises and all your activities.

Set out the procedures to be followed in the event of a health and safety incident and make sure that children and young people know and understand it.

Bullying

Children can also be at risk of harm from other children. You need to think about how you will deal with any bullying that takes place among the children you are working with. Bullying can take many forms and includes verbal abuse as well as physical intimidation. You should always make it clear that bullying, in any form, will not be tolerated.

If bullying does take place during the activities that you are running, there is a chance that the child will also be getting bullied in other settings. You may wish to take some time to talk to the child who is being bullied and suggest that they speak to his/her parents or teachers about what is happening to them.

CODE OF PRACTICE CHECKLIST

Be clear about how you will deal with bullying.

Using appropriate material

Children have a right under the UNCRC to participate freely in cultural life and the arts. Alongside this right, it is recognised that children need to be protected from information and material that might affect their wellbeing. Working in a creative and artistic environment, it will be important to consider the appropriateness of the material that you use.

What is acceptable may vary, depending on the cultural and local nuances of a particular area or group of people, and on the age and developmental stage of the children you are working with. Good planning is essential and if you are undertaking work for a third party, endeavour to work in partnership with your client in developing your activity plan. If you are travelling with a piece of work then it would be advisable to consult on the content of the material with your hosts in advance.

Some arts activities, such as drama and dance, may involve children imitating and repeating words or actions. You should be very aware of the capacity for children to imitate and act upon what they see and hear. Context will be very important for the use of any artistic material that may be considered unsuitable. Allowing children and young people to view unsuitable material of a sexual nature can be considered a form of sexual abuse. The Sexual Offences (Scotland) Act 2009 provides that it is an offence for a person over the age of 16 to cause a child under the age of 16 to view a 'sexual image' where their motive in doing so is to seek sexual gratification or to humiliate, alarm or distress the child.

CODE OF PRACTICE CHECKLIST

Have a clear policy about appropriateness of material you use with children.

Protecting children from exploitation

Enabling children to take part in theatrical performances can provide them with an invaluable, character-building and enjoyable experience. Bear in mind that you may need to apply for a license from the appropriate department of the local authority so that children can take part (required under Section 37 of the Children and Young Persons Act 1963). The Children (Protection at Work) Regulations 2006 are also relevant.

There are also legal restrictions on how many hours a week children are allowed to work. Even if children are involved in a voluntary

performance, try to ensure that your rehearsals and performances do not last too long, finish late at night or involve activities that may be damaging to their health or wellbeing. You should also consider your approach to child protection when working with adults and children together, for example in community theatre productions. Details on child employment are on the public service website www.gov.uk. Generations Working Together generationsworkingtogether.org has also published useful guidance covering work involving different age groups. The Citizens Advice Bureau www.cas.org.uk also sets out information on the hours that children are permitted to work.

CODE OF PRACTICE CHECKLIST

Take every effort to avoid overworking children and young people.

Internet safety

The internet is an important resource but it is open to abuse and can pose dangers to children. Whether you are an individual or an organisation, if you use the internet to communicate with children, and/or provide them with internet access, take the following steps to minimise inappropriate use:

- Develop an internet safety policy which contains a set of rules for internet use
- Take advice on, and where required, install appropriate hardware and software devices that improve security
- Develop an internet agreement to be signed by parents where their child is under the age of 16, and by young people themselves if over the age of 16
- Display guidelines and rules for internet use next to every computer.

The Scottish Government published its Internet Safety Plan in 2010. It advises that you consult the website of the UK-wide Child Exploitation and Online Protection Centre for advice and guidance. This issue is also covered in the Scottish Government's National

Guidance for Child Protection in Scotland 2014, published in May 2014.
www.scotland.gov.uk/Publications/2014/05/3052

CODE OF PRACTICE CHECKLIST

If the children and young people you work with are likely to use the internet as part of any activity you organise, ensure you have a policy for internet safety.

Photographs and images of children

Photographs can be used as a means of identifying children when they are accompanied with personal information. This would include, for example, the name of the child and the club, organisation or school of which he/she is a member. Displaying this kind of information may make the child more accessible to an individual who may wish to 'groom' the child for abuse. It is also possible for photo images to be used or adapted for inappropriate purposes.

Guidance in this area suggests that if photos of children are to be published, the name of the child should not be printed. When it is important to publish a child's name, you should not also publish a photograph of the child.

It is good practice to ask parents' and carers' permission before images are used. You should think about how to deal with this issue in respect of a group of children, for example in a dance show where some parents have no objection to the event being photographed while others do. If you are undertaking work for a third party, it is important to ask what their policy is in this area. Local authorities, for example, usually have their own guidelines and these should be adhered to if you are undertaking work on their behalf or in a local authority setting such as a school or children's residential unit. The NSPCC provides good practice information on this area.

CODE OF PRACTICE CHECKLIST

Have a clear policy in place for photographing and storing images of children.

All children and young people have the right to express their views on matters that affect them

Children have a right under the UNCRC to express their views on all matters affecting them and participation in creative activities is one way of ensuring this right is implemented.

You will also need to make sure that your work allows space for children to express their views about activities they are involved in. Give some thought to ways that children can play as full a part as possible in planning and decision-making within your activities.

Allowing children to express their views will not only assist in their enjoyment of the activities, it can also provide another route to ensure their protection. If children feel respected and listened to it is likely that they will feel more comfortable in letting you know about situations where they do not feel safe.

Ensure that children are clear about the procedures that should be followed should they wish to make a complaint about a staff member or volunteer. This issue is covered in Chapter 3.

Enquire: The Scottish Advice Service for Additional Support for Learning has produced an online guide *Involving children and young people in decisions about their education*, www.enquire.org.uk. It has been written primarily as a resource for educational professionals but can be used by anyone interested in helping children and young people to take part.

CODE OF PRACTICE CHECKLIST

Provide opportunities for children to be involved in decision-making.

chapter three

I wish
to be a
hair dresser.

Dealing with disclosures and suspicions of abuse and neglect

In Scotland, there is an explicit expectation that child protection is the responsibility of everyone in society.

Although there are four public bodies that hold legal responsibility for responding to child abuse and neglect, anyone who is concerned that a child's health and wellbeing is being adversely affected should bring this to the attention of the appropriate authorities.

It is therefore very important that you and your staff, including volunteers, know how to recognise signs of abuse and neglect, and are clear about how to respond. This section provides guidance on this.

It is equally important to remember that this does not mean you or your staff are responsible for deciding whether or not child abuse has occurred. It is your responsibility, however, to report any suspicions or concerns that you may have about a child.

Understanding abuse and neglect

Some facts about child protection:

- At 31st July 2012, there were 2,706 children on the child protection register, an increase of around 5% from the previous year
- In 2012/13, 22,561 children were referred to the Scottish Children's Hearings Reporter Administration (SCRA) and, of those, 20,308 were referred on care and protection grounds
- In most cases of child abuse the abuser is someone known to the child
- Both boys and girls are sexually abused
- Disabled children are more vulnerable to abuse as they are more dependent on personal care and sometimes less able to tell someone about an abusive situation
- Children very seldom make false allegations that they have been abused
- A child is never to blame when he or she has been abused
- Children who suffer neglect or emotional abuse are in need of protection as well as those who are physically or sexually abused.

To feel confident in recognising and responding to child abuse or neglect, it is useful to first have an understanding of what they are, and to know the signs that might indicate a child is suffering from them.

Abuse or neglect occur when a person wilfully causes a child emotional and/or physical harm. This person could be a family member, babysitter, stranger, or community caregiver, and in some cases it could be another young person.

There are five primary categories of child abuse or neglect:

Physical Injury: Any deliberate act of physical harm to a child or young person by the person having care or charge over the child. This could also include a deliberate failure to protect a child from physical danger.

Emotional Abuse: Persistent and/or severe emotional ill treatment or rejection of a child or young person. This may include degrading name-calling, complete absence of affection towards the child, or unrealistic demands for achievement being placed on a child and being intimidated by threats. This is often the most difficult to recognise, but it can have a profound effect on children and young people.

Neglect: Failure to provide care, or exposure of a child to danger that seriously affects his or her health and/or development. This could include starvation and prolonged exposure to cold.

Sexual Abuse: Where children are forced or persuaded to participate in any form of sexual activity by another person. This may include activities that children do not fully understand and cannot give their consent; and/or they have been coerced into participating against their will. Sexual abuse includes a wide range of actions including people indecently exposing themselves to children, asking children to touch their genitals, viewing pornography and penetrative sex.

Non-Organic Failure to Thrive: Children who significantly fail to reach normal growth and developmental milestones – physical growth, weight gain, social and intellectual development – and there is no reasonable medical or organic explanation for this.

There are, in addition, a number of specific activities that the Scottish Government defines as child abuse and which may not be so obviously linked to the primary categories. These are:

- Organised abuse, for example, children involved in prostitution and ritual abuse
- Munchausen’s syndrome by proxy/fabrication or induction of illness in a child by a carer
- Foetal abuse, for example, through maternal abuse of alcohol or drugs
- Domestic abuse (primarily of mothers) which causes physical or emotional abuse of children
- Children affected by parental drug and/or alcohol abuse
- Racial abuse
- Female genital mutilation (circumcision)
- Forced marriage
- Children who need protecting from harming themselves, through self inflicted injuries or reckless behaviour.

The four public bodies that hold legal responsibility for responding to child abuse in Scotland are the local authority, the police, the Scottish Children’s Reporter Administration (SCRA) and Children’s Hearings Scotland. A more detailed explanation of these agencies’ statutory responsibilities is provided in Chapter 6. Any formal action taken by these organisations will arise from these legal duties and will follow current statutory guidance.

CODE OF PRACTICE CHECKLIST

Ensure that all staff and volunteers are aware of the different forms of child abuse and neglect.

The ‘designated child protection worker’

It is good practice for organisations, no matter how big or small, to designate at least one person who has overall responsibility for dealing with allegations or suspicions of abuse. They are the ‘designated child protection worker’ – the person who staff contact if they have concerns about a child’s wellbeing and wish to determine the most appropriate course of action, and the person who has responsibility for ensuring that any formal child protection referrals are made to the appropriate bodies. He or she should also have the responsibility for ensuring that they are aware of any changes in practice or legislation that may have an impact on the organisation’s child protection procedures.

Make sure it is clear to everyone in the organisation who the designated child protection worker is and how he or she can be contacted.

Staff and volunteers should also be told who they can contact outside their organisation, should there be any reason why reporting a concern or an incident to someone inside would be problematic. This may be particularly important in smaller organisations or, for example, in cases where an allegation is made against the designated child protection worker. Concerns can be referred to the local authority. Your local Child Protection Committee will also be able to provide advice. Membership of Child Protection Committees changes frequently. However, WithScotland <http://withscotland.org> includes a postcode search facility which allows identification of local committees.

Self-employed/freelance workers

If you are an individual freelance worker, use this guide to help ensure you are clear about how you will respond if a child discloses abuse or if you have concerns about a child’s wellbeing. Your local Child Protection Committee can also provide advice on this. Do not wait until a situation arises, prepare what steps you will take in advance. However, any immediate concerns that you have about a child can be reported to your local authority or the police. If you are undertaking work for a third party, ask in advance who the organisation’s designated child protection contact is.

Signs of concern and how to respond

Artistic and cultural programmes, by their very nature, encourage children to express thoughts, feelings and emotions. In this context children may express personal things about themselves. This could relate to fears or concerns that they have but could also include disclosures of abuse. This makes it even more important for adults who work with children in an artistic and cultural setting to be aware of child abuse and how to respond to children who may be suffering harm.

There are various ways that you might learn or suspect that a child or young person is suffering, or may be at risk of suffering, harm.

Responding to a child who has told you they have been, or are being, harmed

A child may tell you that someone has or is mistreating them in some way. This is often referred to as ‘disclosure’ of abuse. It might also happen that a child, or adult, discloses that they have concerns about another child.

It is important to consider how you would respond to children should they disclose information like this to you.

Child abuse is something that can and does make many people feel uncomfortable. Most of us would not like to believe that an adult we know could cause harm to a child but it can and does happen. There are things that we can do to help children and young people to feel safe and comfortable should they disclose abuse to us.

If a child or young person comes to you and makes a disclosure of abuse, here are some important things to remember:

Never promise a child that you will not tell anyone what he or she has told you. Explain that in concern for his or her wellbeing you have to pass this information on but that it will be to as few people as possible. Tell them who will be told and, to the best of your knowledge, explain to them what will happen next.

Be neutral and non-judgmental. If a child is telling you about abuse they may have suffered, this can be difficult to hear but is

important that any reactions you might have are kept to a minimum. Remember that child may be telling you about something scary or frightening that has happened to them and your calm, neutral and supportive reaction is important.

Do not press the child for more information. You should not ask any leading questions, for example “did your Uncle Sam do this you?” Allow the child to tell his or her story. You only need to establish the basics of what happened and whether the child is at immediate risk. For example, is the adult the child is talking about the one that they will be going home to today? You just need to establish how urgent any action taken must be.

Keep in mind that the child may have been told not to tell anyone. Sometimes people who abuse children will threaten them, or someone they care about, with further harm if they tell anyone. Reassure the child that they have done the right thing in telling you and that you and others are going to help them. There are lots of reasons why children may be afraid to tell. They may have been bribed not to tell, made to feel that they are to blame for what has happened, threatened with, or experienced, actual violence from the abuser, and/or made to feel afraid of what might happen to the abuser as they could be someone that they know and care about.

Write down what a child has told you as soon as possible. Be careful to ensure that your recording accurately reflects what the child said and the circumstances in which the child told you about it.

Report this information to the designated child protection worker in the organisation you are working with. It is the responsibility of this person to pass the information to the appropriate authorities outside your organisation, such as the police or local authority, and to consult with them on any immediate action that should be taken to ensure the safety of the child.

If you are an individual self-employed or freelance worker, make sure you are clear about how you will respond. Do not wait until a situation arises, prepare what steps you will

take in advance. Your local Child Protection Committee can provide advice on this. However, any immediate concerns that you have about a child can be reported to your local authority or the police.

Responding to concerns about a child when they have not disclosed anything

You may become concerned about a child because of something you notice, even though they have not told you that anything is wrong. We do know that when children are being abused, they are often threatened and told to not tell anyone.

The following is a list of things to look for in children that may indicate something is wrong:

- Sudden and significant change in a child's personality and/or behaviour
- Sudden withdrawal from others
- Suspicious bruises with unsatisfactory explanations (for example: hand or finger prints, bruising on the face or neck, lower back)
- Extreme anger or sadness
- Fear of strangers
- Aggressive behaviour
- Attention seeking behaviours
- Lack of self-esteem
- Inappropriate sexual behaviour for their age
- Self-injury
- Depression
- Signs that a child is not being cared for properly, such as consistently being inappropriately dressed for the weather, hunger, or poor personal hygiene.

These indicators do not conclusively mean that a child is being abused or neglected, though they are reasons for some concern. Your concern should be raised if there does not appear to be a satisfactory explanation. There may, for example, be a reasonable explanation for changes in behaviour. A child may be sad due to a family bereavement, or angry because they have had an argument with a friend. We do know that children who have been abused may sometimes react in some or all of these ways. These indicators

characterise 'red flags' for you to pay attention to in your work with children.

If you are concerned about a child ask their family/carer if there is a reasonable explanation. If they are unable to provide a reasonable explanation, or you continue to be concerned, discuss your observations with the designated child protection worker in the organisation you are working with, who will act accordingly. If you are an individual self-employed or freelance worker, make sure you are clear about what steps you will take. Do not wait until a situation arises, prepare in advance. Your local Child Protection Committee can provide advice on this. However, any immediate concerns that you have about a child can be reported to your local authority or the police.

The fact that a concern has been raised should be recorded whether or not any further action is taken.

Trust your intuition and don't keep things to yourself. Remember, it is not your role to determine whether or not abuse or neglect has taken place. You should always err on the side of caution.

CODE OF PRACTICE CHECKLIST

Establish procedures for staff and volunteers to follow if they become concerned about a child or if a child discloses abuse.

What to do if a child makes an allegation against a member of staff or volunteer

This is perhaps one of the most difficult areas to consider. It may not be easy to accept that child abuse could occur within your organisation and/or that someone you know and work with could cause harm to a child. Recruitment and supervision of staff and volunteers should be designed in such a way that the risk of child abuse is minimised. This is covered in Chapter 4. However, the possibility of abuse cannot be eliminated entirely and constant vigilance is necessary.

If a child tells you that someone in your organisation has caused them harm, this should be treated in the same way as any other disclosure a child may make. The information should be passed onto the designated child protection worker and handled in the same fashion. This will ensure that the allegations are treated in a consistent and fair manner.

Staff and volunteers need to be made aware of the procedure that will be followed in the event of an allegation being made against them. These procedures and processes are in place, first and foremost, to protect and promote the wellbeing of children, but they also provide staff and volunteers with the assurance that there is a consistent and predictable response to allegations of child abuse.

If an allegation is made against a staff member or volunteer, you should consider suspending the individual from work with the organisation until the situation has been investigated. If you are unsure of what action to take, it would be appropriate to seek guidance from the police and/or local authority. In some areas there are dedicated multi-agency child protection teams who have special expertise in child protection work. Remember that the most important thing to consider here is the wellbeing and best interests of the child.

CODE OF PRACTICE CHECKLIST

Establish procedures to follow if a child makes an allegation against a member of staff.

Recording information

When a child discloses something that causes concern, or if a member of staff raises concerns about a child's wellbeing, it is important to record this information clearly and accurately. Any concerns should be recorded regardless of whether it will be ultimately passed on to the statutory authorities.

We recommend that your organisation adopts a procedure for recording information, which is the responsibility of the designated child protection worker, but which all staff and volunteers are familiar with.

The information should be written down as soon as possible after the concern has been noted and certainly within 24 hours. The individual who had the concern or to whom the disclosure was made should be the one to record it.

The following information should be contained in the written report if known:

- Date and time
- Name of person making the report
- Name and date of birth of the child
- As much family information as possible (names, addresses, phone numbers)
- Nature of the concern
- What the child actually said (if the child disclosed anything)
- Any observations made that would support the concern
- Name of the alleged abuser.

Both the author and the designated child protection worker should sign this form. If the matter is then passed on to a statutory agency, this written information should be forwarded following any telephone contact with them.

Storing information

It is also very important to have a procedure in place for storing and accessing information about a child which takes into account issues of confidentiality. All personal data should be stored securely but with a procedure in place to ensure staff are aware of important information about a child. The Scottish Information Commissioner provides specific guidance on what you can and cannot do with personal data.

CODE OF PRACTICE CHECKLIST

Establish a procedure for recording and storing information about disclosures of abuse or concerns about a child.

Defamation

The following extract is taken from Guidelines on Child Protection prepared for the independent schools in Scotland, by Kathleen Marshall BA (Hons) LLB.

Concerned adults are sometimes reluctant to report suspicions of abuse for fear that the person suspected will sue them for defamation if the allegation turns out to be unfounded.

To be defamatory, a statement must first of all be untrue. Even if subsequently shown to be untrue, the statement will be protected by "qualified privilege" if it is made to the appropriate authority 'in response to a duty, whether legal, moral or social or in the protection of an interest'. Unjustified repetition of the allegations to other persons will not be protected by privilege.

The qualification on privilege refers to statements motivated by malice. If a statement, even to the appropriate authority, can be shown to be not only untrue, but motivated by malice, then an act of defamation could be successful.

If you are still concerned about defamation you are advised to seek legal advice.



chapter four

Recruiting and supervising staff and volunteers

Creating the best possible environment in which children can enjoy artistic and cultural experiences depends very much on the adults working with them. Good practice in recruiting and supervising staff and volunteers is therefore very important.

Disclosure Scotland and the Protection of Vulnerable Groups (PVG) Scheme

It is essential that you are aware of, and take account of, the detailed advice and procedures described by Disclosure Scotland www.disclosurescotland.co.uk

Disclosure Scotland maintains barred lists of those individuals unsuitable to work with children or protected adults. It provides criminal history information to organisations and potential employers to help them make safer and more informed recruitment decisions.

It is illegal for anyone who has been barred from PVG membership to undertake 'regulated work' with children, and illegal for anyone to employ a barred person to undertake such work. 'Regulated work' covers a range of activities with children, where these are part of the normal duties of the post. The following activities are considered 'regulated work':

- Caring for children
- Teaching, instructing, training or supervising children
- Being in sole charge of children
- Unsupervised contact with children under arrangements made by a responsible person
- Providing advice or guidance to a child or to particular children which relates to physical or emotional wellbeing, education or training
- Moderating a public electronic interactive communication service which is intended for use wholly or mainly by children
- Providing, or working for an organisation which provides, a care home service

which is provided exclusively or mainly for children

- Providing, or working for an organisation which provides, an independent health care service which is provided exclusively or mainly for children
- Work on any part of day care premises at times when children are being looked after in that part
- Being a host parent.

There are no minimum time, frequency or supervisory requirements in respect of these activities. **They must not be undertaken at all by barred individuals.**

While membership of the PVG Scheme is not actually a legal requirement for work with children, application to join the scheme is the only way to find out if a person is barred and it is an offence to employ someone to work with children who is on the barred list.

For guidance on making the PVG Scheme part of your organisation's procedures for recruitment and supervision, see the 'Procedures for recruitment and supervision' later in this chapter.

The PVG Scheme is being phased in for everyone working with children from March 2012. This will ensure that all current staff and volunteers, employed prior to the introduction of the scheme, are in membership.

There is a higher tier fee level of £59, payable when an individual first joins the PVG scheme, and a lower fee of £18 for most PVG Scheme Record Updates on existing scheme members. If a person is already a member, a PVG Scheme Record Update at the lower fee of £18 will be all that the employer will need to prove that the person is a PVG member and not unsuitable to work with vulnerable groups.

Applications for volunteers working in the voluntary sector are handled free of charge. Again, we recommend that you take account of the more detailed information on

Disclosure Scotland's website www.disclosurescotland.co.uk to ensure that you are accessing the most up-to-date advice.

Self-employed/freelance workers and the PVG Scheme

If you are an individual self-employed or freelance worker, there is no specific legal requirement for you to apply for membership of the PVG Scheme. However, we strongly recommend that you do so. Membership of the scheme provides reassurance to parents/carers and to children themselves and makes it more likely that they will feel safe in using the service you are offering. If you are contracted to work for a third party, such as a local authority or voluntary agency, or if you are using premises that belong to certain organisations such as churches or uniformed youth organisations, membership of the scheme may be a requirement of obtaining the contract. It is always the responsibility of the individual to apply for membership of the scheme. However, third parties may provide the application form and/or pay the fee.

Procedures for recruitment of staff and volunteers

Try not to see the adoption of comprehensive procedures as burdensome and a barrier to recruiting staff and volunteers.

A sound recruitment system contributes to protecting children from harm, makes it much more likely that you will employ the most suitable candidates, and helps parents and carers to feel comfortable about allowing you to work with their children.

Any procedures that you put in place should be followed in a consistent way with every applicant, whether they are applying for a paid or voluntary position. Below are the key areas you should consider:

Devise clear roles

Before recruiting somebody, think through what you want that person to do. What kind of skills, experience and qualifications will they need to do the job? Which of these are essential and which less important? Every post within your organisation should have a 'job description' so that staff and volunteers

know what is expected of them.

Application forms

Every member of staff and every volunteer should complete a standard application form to ensure that you have all the relevant details. Items we recommend you include in the application form are:

- An indication of any previous experience of working with children and young people
- Names of two referees – ideally one of whom should have knowledge of the applicant's previous work with children and young people (if the applicant does not have such experience, ask for a reference from a reputable person who could comment on the applicant's suitability)
- A declaration of any past convictions or cases pending.

The Scottish Government's Safer Recruitment advice gives further, more detailed suggestions. Disclosure Scotland's website www.disclosurescotland.co.uk also contains useful advice.

Issue a copy of the job description and your code of practice for working with children and young people (Chapter 5 provides guidance on writing one) along with every application form. You should make clear to applicants, usually by a conspicuous statement on the form, that any information they supply in completing the form will be treated in complete confidence.

Interviews

All applicants should undergo some kind of interview with representatives of your organisation. The purpose should be to explore the applicant's suitability compared to the job description and particularly his or her previous experience of work or contact with children. If there is any reason for you to have concerns about the applicant's response take the time to explore the issue further.

References

Before offering an applicant a post, you should request a written reference from the referees they have nominated. Follow up any questions arising from the reference by telephone or face-to-face contact with the

referee. Always ask the referee to confirm that they have no concerns about the applicant working with children.

Police Record Checks

On the application form ask the applicant to provide details of any criminal convictions. People working with children are exempt from the Rehabilitation of Offenders Act 1974 and must disclose all convictions even if they are 'spent'. Convictions for certain offences will mean an individual would automatically be 'barred' from membership of the PVG Scheme. It is illegal to employ someone to work with children who has been barred and illegal for the individual to apply for such a post.

It is also true, however, that other types of convictions will not result in the individual being barred. It is good practice for an organisation to have a written policy on how it treats applicants with previous convictions and to apply this consistently. A sample policy on the employment of ex-offenders is on the Disclosure Scotland website.

Most organisations employing people to work directly with children now require employees and volunteers to apply for membership of the PVG Scheme. If you are an employer it is good practice to supply the application form to the individual and also pay the appropriate fee to Disclosure Scotland. To request application forms and to get up-to-date information, contact Disclosure Scotland. If a freelancer is already in membership, you can ask for an update of disclosure information on that individual.

After checking the relevant records, Disclosure Scotland provides the information arising from the checks on a standard certificate. This certificate is supplied to the individual concerned as well as to the requesting organisation. Of course if an individual is already barred, the organisation will be notified.

All police information is checked, whether or not it has resulted in a conviction. If, for example, an individual was investigated by the police as part of a child protection enquiry, Disclosure Scotland could include this information in that individual's certificate, even if no charges were brought. In such a case Disclosure Scotland might indicate that they were considering placing the individual on the 'barred' list and would undertake further enquiries before reaching a final decision. Again, as with convictions that do not result in automatic barring, the organisation would have to decide whether or not it offered employment to the individual concerned.

There is no minimum age limit on application to the PVG scheme. The same guidance should be followed for employees and volunteers under the age of 18, and indeed under the age of 16.

It is not necessary for employees or volunteers to periodically renew their membership of the PVG Scheme. Any new relevant information from police records will automatically result in the disclosure record being updated and a new certificate will be issued to the employer. Of course any subsequent conviction could result in an individual becoming included in the barred list.

Most adults who work with children are aware of the reasons why these procedures are put in place and are willing to co-operate.

Trial periods

When an applicant is successful you may wish to consider giving her/him a specified trial period before the appointment is confirmed. This provides you with a chance to observe the applicant at work with children and also gives the applicant a chance to decide whether this type of work is right for them. A good supervision system will assist both the applicant and the organisation throughout the trial period.

Some candidates may have had formal training and/or experience in working with children. Others, while having substantial expertise and experience delivering creative,

cultural or artistic projects, may have had little or no previous involvement with children. If you intend to recruit someone to a post (paid or voluntary), following the procedures above will reduce risk and also improve the likelihood of an individual's suitability.

For further guidance on recruitment, refer to the Scottish Government's Safer Recruitment advice.

Supervision of staff and volunteers

While it is of great importance that you consider child protection issues when recruiting staff, it is at least as important that staff and volunteers, once in post, are formally supervised on a regular basis. As well as observing how staff and volunteers interact with children, regular structured supervision meetings are valuable in ensuring that children are safe and that the service is of good quality.

These supervision sessions should provide an opportunity to satisfy those in charge that the children are safe, for staff and volunteers to raise issues about which they are concerned, and to identify staff and volunteer training and support needs. They can be organised on a group or individual basis. Use your code of practice (Chapter 5) as a guide for what areas you should cover during staff supervision sessions.

The extent to which you implement these procedures should be proportionate to the size and nature of your organisation. You should, however, try to follow as many of these suggestions above as you are reasonably able to.

CODE OF PRACTICE CHECKLIST

Establish recruitment and supervision policies for all staff and volunteers.

chapter five



Developing your own code of practice for working with children and young people

The four key principles for working with children in Chapter 2 should underpin all your interactions with children, whether you are an individual or an organisation.

We strongly advise that you formalise these principles with your own code of practice for working with children and young people.

Your local Child Protection Committee can advise and assist you in developing your own code of practice. However, familiarise yourself with the key areas that your code of practice should cover.

Writing your code of practice

Your code of practice should describe how you or your organisation operates or would operate in each of the areas below. It is a good idea to involve colleagues, volunteers and the children you work with in its development. What follows is a summary of the key considerations for your code of practice as covered in previous chapters:

Chapter 2

- Set out the standards of behaviour expected from all adults involved in the activities, based on the four key principles for working with children.
- Plan all activities with the best interests of the children and young people as a primary consideration.
- Try to ensure that all children and young people are treated fairly.
- Establish procedures for working with children and young people who have particular needs.
- Establish a procedure for discipline, working in partnership – where possible – with a member of staff who knows the children.
- Set out the appropriate adult:child ratios for each group of children and young people you work with.
- Apply health and safety checks to your premises and all your activities.

- Set out the procedures to be followed in the event of a health and safety incident and make sure that children and young people know and understand it.
- Be clear about how you will deal with bullying.
- Have a clear policy about appropriateness of material you use with children.
- Take every effort to avoid overworking children and young people.
- If the children and young people you work with are likely to use the internet as part of any activity you organise, ensure you have a policy for internet safety.
- Have a clear policy in place for photographing and storing images of children.
- Provide opportunities for children to be involved in decision-making.

Chapter 3

- Ensure that all staff and volunteers are aware of the different forms of child abuse and neglect.
- Establish procedures for staff and volunteers to follow if they become concerned about a child or if a child discloses abuse.
- Establish procedures to follow if a child makes an allegation against a member of staff.
- Establish a procedure for recording and storing information about disclosures of abuse or concerns about a child.

Chapter 4

- Establish recruitment and supervision policies for all staff and volunteers.

And finally...

- Ensure that the children and young people enjoy themselves!

An additional resource for writing your code is the Scottish Government checklist for parents whose children are involved in youth activities. The checklist sets out

a number of questions parents should consider before allowing their children to participate in activities and it is a worthwhile exercise for you to think about how you or your organisation would respond to these questions. With their permission, we have included the Child Protection Policy prepared by Scottish Youth Dance (see page 38).

Publishing your code of practice

Make sure your code of practice is available to parents, organisations for whom you are undertaking contracted work, or any other relevant groups or individuals – in printed format or online.

We would also recommend that you provide a version of your code of practice to the children you work with, in language that is understandable to them. This may take the form of a ‘promise’ to the children about how they will be treated whilst involved in your activities. See a sample ‘promise’ on page 40.

Make sure that you and all your staff or volunteers are fully aware of your own code of practice and that they agree to follow it.

Codes of practice and contracted work

It is very important that you, and everyone in your organisation, is clear about the procedures you will follow and the measures you will take to ensure that the children you work with are in the safest and best possible environment. Having your own code of practice is one way of helping to ensure this happens, whether you are an individual or a large organisation. However, if you are contracted to work with an organisation that has its own code of practice (eg. a school, youth group, place of worship), it is good practice to ask for a copy of their guidelines before you go. It may be a condition of being awarded the contract or of using the premises that you follow their own code.

chapter six



Relevant legislation and procedures

In order to gain a fuller understanding on some of the issues surrounding child protection it is useful to be aware of what the law requires and the procedures that have to be followed. You should be aware of your legal responsibilities and how they underpin these guidelines.

United Nations Convention on the Rights of the Child (UNCRC)

The key principles underpinning the guidelines in *Creating Safety* are based on the relevant articles in the United Nations Convention on the Rights of the Child (UNCRC). The UK ratified the Convention in 1991, thereby committing itself to ensuring that its laws and policies are consistent with the Convention. Since then, most legislation affecting children has taken account of Convention principles. The Scottish Government has articulated a strong commitment to the principles of the UNCRC and this has been reflected in legislation passed by the Scottish Parliament. For example, the Children and Young People (Scotland) Act 2014 places new duties on Ministers and certain public bodies to promote the UNCRC and report on progress.

UNICEF has published a leaflet that sets out all the articles of the UNCRC in an accessible way. This provides a useful explanation of the UNCRC for both adults and children.

The legal definition of 'children'

Throughout these guidelines we have referred to 'children', and also 'young people'. By this we mean people who are under the age 18. This definition is based on that contained in the UNCRC. We therefore recommend that you should follow these guidelines when working with people up to the age of 18, though you should bear in mind that certain people over 18 are also legally protected under the Adult Support and Protection Act (2007).

You should, however, be aware that in Scots law, legal responsibilities for some purposes

define a child as up to the age of 16. If you are working with people between the ages of 16 and 18, then you may want to make further enquiries as to whether or not you have the legal responsibilities. As suggested above, we would recommend that these guidelines would be appropriate to use in work with children and young people up to the age of 18. This recommendation is consistent with current Scottish Government guidance. Some groups use young workers or volunteers who may be under the age of 18. You need to give thought both to the safety of younger children with whom they may be working, but also to their own need for safety and protection.

Legal Responsibilities

The Children (Scotland) Act 1995 (Part I, Section 5) states that an adult (over 16 years of age) who does not hold parental rights or responsibilities for a child, but who has care or control of that child under the age of 16, has the responsibility to "do what is reasonable in all circumstances to safeguard the child's health, development and welfare". You should assume that in most situations where you are in charge of children or young people that you also have 'care or control'. This provision is a positive duty to safeguard the child's welfare and applies in all situations apart from in schools.

Education legislation places particular powers and duties on the education authorities whilst a child or young person is in school. The introduction of the Curriculum for Excellence gives schools, and individual teachers, much more flexibility in the content and delivery of courses in pursuit of this objective. This may mean that arts workers become involved to a greater extent in the delivery of the curriculum during the school day. If you are involved in such activity you should confirm with the school what legal requirements and procedures apply.

Criminal liability can arise where the adult "wilfully assaults, ill-treats, neglects, abandons

or exposes [the child] ... in a manner likely to cause [the child] unnecessary suffering or injury to health" (Children and Young Persons (Scotland) Act 1937, Section 12). It is important to note that harm does not actually have to occur in order for there to be liability - it is sufficient that harm was likely to occur.

Registration of day care

If you are working with children under the age of 16 you may be required to register with the Care Inspectorate. If you provide care for children under the age of 16 for more than 2 hours a day, and for more than 6 days a year, this may be counted as 'day care' and would require registration (and recurring inspection) under the Regulation of Care (Scotland) Act 2001. The purpose of the Act is ensure that day care facilities are of acceptable quality. It is not primarily intended to regulate recreational clubs or groups such as uniformed organisations. If you are unsure as to whether this applies to you, it is best that you check with the Care Inspectorate.

Statutory agencies

Everyone working with children and young people has a legal responsibility to safeguard children's welfare. Statutory agencies such as the police and local authorities have additional and specific responsibilities. It is helpful to have an understanding of these responsibilities and whom you should contact when you are concerned about a child or young person. Remember that your work with children and young people could make you aware of situations where a child or young person is in danger of harm and it is important that you feel comfortable in communicating and working with the statutory agencies to help protect children.

The police have a general duty to investigate where they believe that a criminal offence may have been committed. If they believe that a child may be in need of compulsory measures of supervision then they will refer the matter to the Scottish Children's Reporter Administration (SCRA).

The local authority has statutory duties to protect children. On receiving that a child may be in need of compulsory measures

of supervision (see below) they will make inquiries and pass on any information they discover to the SCRA. The local authority may continue to be involved once they have passed information on to the SCRA.

If you ever have any concerns about a child we would suggest that you contact the local authority in the first instance. Some local authorities have a specific number for reporting child protection concerns; it would normally be easily found on their website or in the telephone directory. If there is no dedicated number, or you cannot readily find it, you should ring the main number. All staff who answer local authority calls should know where to direct a child protection referral.

Scottish Children's Reporter Administration (SCRA) and Children's Hearings Scotland

The Scottish Children's Reporter Administration (SCRA) and Children's Hearings Scotland administer and operate the Children's Hearings, the system in Scotland that considers the circumstances of, and makes decisions about, children who may be in need of compulsory measures of supervision. SCRA is a national body, headed by the Principal Reporter. The Principal Reporter employs Reporters in local offices throughout Scotland, to assist her/him in carrying out her/his statutory duties. These duties include responsibility for the investigation of and initial decision-making about children referred to SCRA.

It is the Reporter's job to decide whether a child who has been referred may be in need of compulsory measures of supervision. Compulsory measures are legal orders that place a child under the supervision of the local authority. The order may require the child to be supervised while remaining in their home, or can stipulate that they reside in a foster or residential care placement, though other interim measures can also be made. Anyone who believes a child is in need of "protection, guidance, treatment or control" and that it "might be necessary for a compulsory supervision to be made in relation to the child" can, under the terms of the Children's Hearings (Scotland) Act 2011, refer a child to the Reporter.

On receipt of a referral, the Reporter will decide whether a compulsory supervision may be needed. He or she may seek further information before reaching a decision. This information would, in most cases, be gathered through other agencies, such as social work services. If you were involved in, or made, the referral it is possible that you may be asked to supply further information either to the Reporter directly or through a social worker who has been asked to provide a report. Once the Reporter is in receipt of the relevant information he/she will decide whether the child may be in need of compulsory measures of supervision. If the Reporter decides that a ground applies and that compulsory measures may be needed, he/she will arrange a Children's Hearing.

Children's Hearings are organised by Children's Hearings Scotland. A Hearing will consist of a panel of three trained volunteers who can make a compulsory supervision order if they are satisfied this is necessary after considering all relevant information. The Reporter will be present to record the Hearing's proceedings and decision. The child and other family members will usually be present at the Hearing, but others who can provide valuable information may also be asked to attend. If you know a child particularly well you may be asked to attend a Hearing.

In some cases the child or parent/s may not accept the grounds of referral. The Reporter may decide in such cases to refer the case to the Sheriff for 'proof'. The Sheriff may hear evidence and decide whether the grounds are established or not. Again, if it is a child whom you know well, or you were integrally involved in the referral process, you may be asked to give evidence in Court.

If the Reporter decides that a Hearing is not necessary then he/she will inform the child and any other relevant person including the person who provided the information. The Reporter may also refer the case to the local authority and ask for them to offer assistance to the child and his or her family on a voluntary basis. The Scottish Government's 'Getting It Right for Every Child' approach provides a mechanism that enables children and their families to access appropriate

support from all relevant agencies in a coordinated way, whether or not the child is subject to compulsory measures of supervision.

Getting It Right For Every Child

Getting it Right for Every Child (GIRFEC) is described by the Scottish Government as the 'methodology' or 'delivery mechanism' for their frameworks on poverty, health inequalities and early years. GIRFEC is a programme that seeks to change working cultures, systems and practices so that professionals can give every child the help they need when they need it. It seeks to increase personalisation, reduce bureaucracy and improve multi-agency working. GIRFEC extends to all children's services and to adult services which impact on children. There is a National Practice Model which seeks to create a degree of consistency in assessment and planning for children across different services. Each child has a 'named person'. For children under the age of 5, the health visitor is normally the 'named person'. For children of school age, the 'named person' is generally a school staff member. The 'named person' acts as the initial point of contact with whom any issues or concerns about a child may be raised. In the event of you being concerned about a child, the 'named person' is a useful contact.

Where a child needs support and intervention from a number of agencies, a 'lead professional' for the child is appointed. The 'lead professional' will coordinate the involvement of the various agencies to ensure that duplication and bureaucracy are minimised and the best and most appropriate help provided. In most such cases, the 'lead professional' will arrange regular meetings among the professionals involved. In these meetings the 'child's plan', describing the various interventions and their intended outcomes, is agreed and subsequently monitored. If you know a child well and have regular and frequent contact with her/him, you may be asked to be part of the meeting. It may be important to ensure that your work with the child supports the intended outcomes of the child's plan.

The key values and principles in GIRFEC are that all professionals working with children will seek to ensure that children are: Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included. The Children and Young People (Scotland) Act 2014, enshrines the role of the named person in law. The legislation also clarifies and reinforces issues around sharing of information likely to be in the best interests of the child.

National Guidance for Child Protection in Scotland

The Scottish Government's National Guidance for Child Protection in Scotland 2014 scotland.gov.uk/Publications/2014/05/3052 was published in May 2014 and is very detailed and extensive. While it will not generally be necessary for arts workers to have a detailed knowledge of the guidance, it should be regarded as a core source of information and advice.

It is essential, however, that the best interests of the child are always given the highest priority and that advice is sought from either the Police or Social Work Services if a child reports a concern or an allegation is made. The information you have can, for example, help the statutory services form a fuller picture of a child or family with whom they are already in contact.

The key areas covered by the guidance include definitions e.g. abuse and neglect, child protection, principles and standards, information sharing and recording, and roles and responsibilities. There is also detailed advice on identifying and responding to concerns about children, identifying and managing risk, parental drug and/or alcohol misuse, mental health and other key areas. The guidance also sets out procedures for investigation, decision-making, and intervention. For example, if you know a child well or were actively involved in raising a concern about a child and/or referring the concern to Police or Social Work, you may be asked for more information to support an investigation or to attend a formal Child Protection Case Conference. If the investigation results in criminal proceedings, you may be asked to give evidence in court.

Some key pointers for staff and managers are:

- Information, advice and training should be available to ensure that employees who work with children are aware of their responsibilities to protect them, what to do if they see signs of abuse or neglect, or if a report or allegation of abuse or neglect is made to them.
- Clear and accessible procedures should be in place to explain what information should be recorded and shared in cases where abuse or neglect is suspected or reported.
- Contact numbers should be readily available for local Police and Social Services who would be responsible for taking action after a concern is referred to them. The Scottish Government guidance sets out the various options open to statutory services once they become aware of a concern about a child.
- Given the sensitivity of the issue, it is inevitable that staff will feel concerned and stressed if they become aware of an immediate or possible concern about the safety and wellbeing of a child. It is essential that staff are well supported by managers and that training and information within the organisation results in staff feeling confident and supported in protecting children in their care.

Culture and leisure services:

Culture and leisure services will encompass a number of services that are specifically designed for or include children and young people. Services such as libraries, play schemes and play facilities, parks and gardens, sport and leisure centres, events and attractions, museums and arts centres all have a responsibility to ensure children and young people's safety. Such services may be directly provided or purchased or grant-aided by local authorities from voluntary and other organisations and, as such, represent an opportunity to promote child protection across sectors. Those working in sport-related services should be familiar with the National Strategy for Child Protection in Sport.

Third sector:

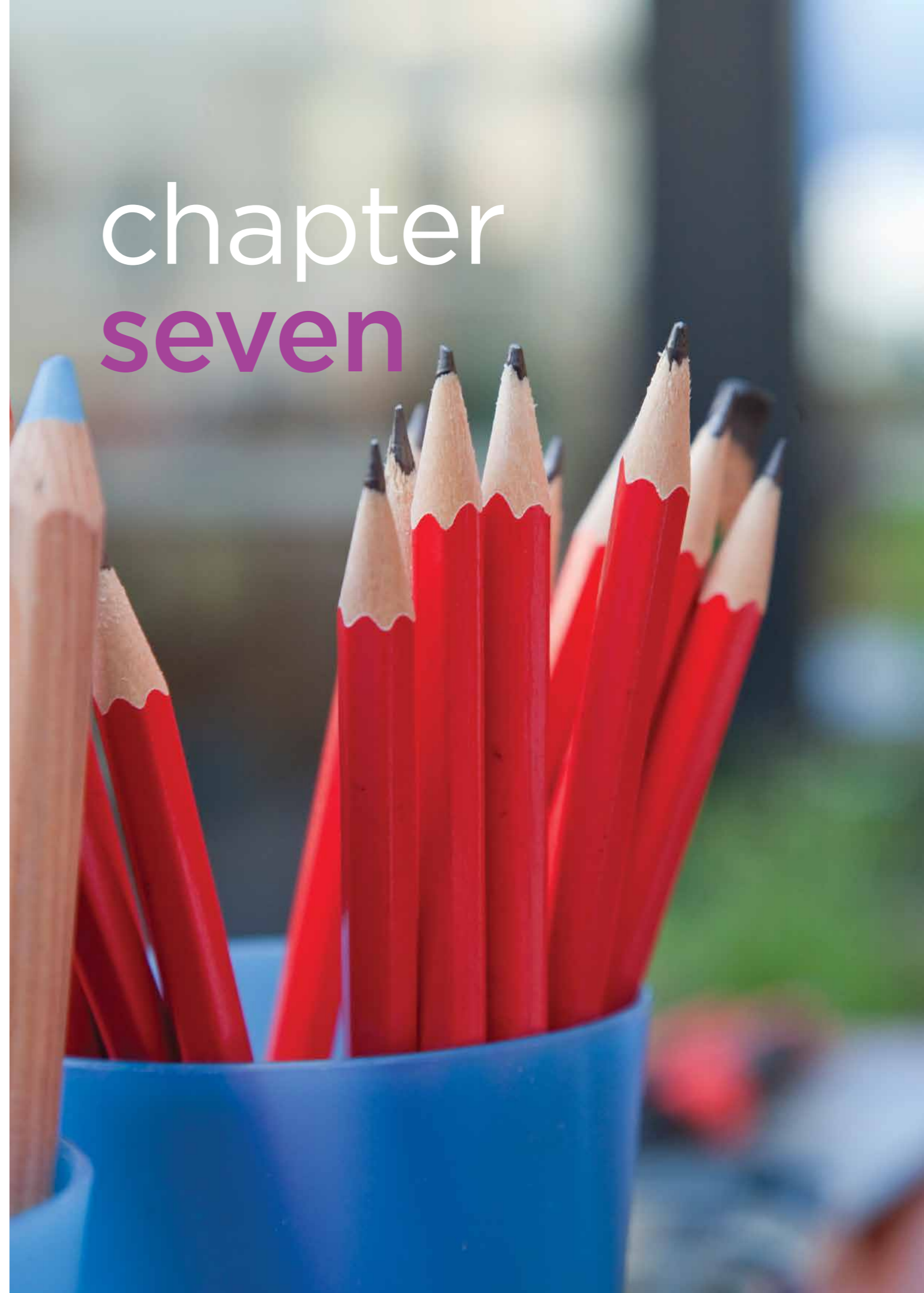
The third sector is made up of various types of organisation with certain characteristics in common. They are non-governmental, value-driven and typically reinvest any profits in furthering their social, environment or cultural objectives. The term encompasses voluntary and community organisations, charities, social enterprises, co-operatives and mutuals, both large and small.

The third sector is a significant provider of services for children and young people, including nurseries, residential care, pre-school play groups, parenting and family support, youth work and other youth services, befriending, counselling, respite care, foster care, adoption, through-care and after-care, advocacy, helplines and education. Some services are provided substantially by volunteers, particularly in relation to youth work (e.g. Scouts Scotland and Guiding Scotland) and helplines (e.g. ChildLine). The third sector includes a number of large to medium-sized charities providing a wide range of specialised services. These often deploy both professional staff and volunteers.

The third sector plays a significant role in engaging with and improving outcomes for children and young people who are vulnerable or disadvantaged for a wide range of reasons including poverty, neglect and disability. Voluntary organisations are often in an ideal position to win the trust and confidence of those children and families who are suspicious of statutory interventions.

Many voluntary organisations will have direct or indirect engagement with children, young people and parents, even if this is not their principal activity. Providers of services to adults, for example, in relation to housing/tenancy support, mental health, disability, drug and alcohol abuse, may become concerned about children within a family, without necessarily having seen the children.

chapter seven



Where to get further information

Useful websites

The websites below provide further information on many relevant issues.

The Care Inspectorate
www.scswis.com

Child Exploitation and Online Protection Centre
<http://ceop.police.uk>

Child Protection Committee Guidance
www.scotland.gov.uk/Publications/2005/02/20675/52303

Children and Young People (Scotland) Act 2014
<http://www.legislation.gov.uk/asp/2014/8/contents/enacted>

Children's Hearings Scotland
www.chscotland.gov.uk/

Children's Hearings (Scotland) Act 2011
www.legislation.gov.uk/asp/2011/1/contents/enacted

Creative Scotland
www.creativescotland.com

Curriculum for Excellence
www.ltscotland.org.uk/understandingthecurriculum/whatiscurriculumforexcellence/index.asp

Disclosure Scotland
www.disclosurescotland.co.uk/publications

Education Scotland
www.educationscotland.gov.uk

Enquire: The Scottish Advice Service for Additional Support for Learning
www.enquire.org.uk

Generations Working Together
www.generationsworkingtogether.org

Getting It Right for Every Child
www.scotland.gov.uk/Topics/People/Young-People/gettingitright

Health and Safety Executive
www.hse.gov.uk

It's Everyone's Job to Make Sure I'm Alright
www.scotland.gov.uk/Publications/2002/11/15820/14009

National Care Standards
www.nationalcarestandards.org

NSPCC – Photographs
www.nspcc.org.uk/Inform/cpsu/helpandadvice/organisations/photography/photography_wda60691.html

NSPCC – Staff/child ratios
www.nspcc.org.uk/Inform/trainingandconsultancy/consultancy/helpandadvice/adult_to_child_ratios_wda66819.html

Play Scotland
www.playscotland.org

Protection of Vulnerable Groups Scheme (PVG) Guidance
www.scotland.gov.uk/Resource/Doc/304621/0095592.pdf

Regulated work (PVG)
www.scotland.gov.uk/Topics/People/Young-People/children-families/pvglegislation/FAQs/RegulatedWork#a1

Regulation of Care Act (2001)
www.legislation.gov.uk/asp/2001/8/contents

RIDDOR
www.hse.gov.uk/riddor

Scottish Children's Reporter Administration
www.scra.gov.uk/home/index.cfm

Scottish Government Child Protection Guidance
www.scotland.gov.uk/Resource/Doc/334290/0109279.pdf

Scottish Government Internet Safety Plan
www.scotland.gov.uk/Resource/Doc/301817/0094110.pdf

Scottish Government Parent Checklist for Activities
www.scotland.gov.uk/Resource/Doc/46997/0024010.pdf

Scottish Government Safer Recruitment Guidance
www.scotland.gov.uk/Publications/2007/03/13154149/2

Sexual Offences Act
www.legislation.gov.uk/asp/2009/9/contents

United Nations Convention on the Rights of the Child (UNCRC)
www2.ohchr.org/english/law/crc.htm

Unicef
www.unicef.org.uk

Useful contacts

Action for Children Scotland

Supports and speaks out for the UK's most vulnerable and neglected children and young people.
www.actionforchildren.org.uk/about-us/what-we-do/our-work-in-scotland

Barnardos Scotland

Works to transform the lives of vulnerable children across the UK through projects, campaigning and research.
www.barnardos.org.uk/what_we_do/barnardos_today/scotland

Childline

Provides free, confidential support to children who have been abused or have other worries or concerns.

Childline Scotland
www.childline.org.uk

Tel: 0800 1111

Children in Scotland

The national agency for voluntary, statutory and professional organisations and individuals working with children and their families in Scotland, and can assist you in accessing further information on child protection issues.
www.childreninscotland.org.uk

Enquire: The Scottish Advice Service for Additional Support for Learning

Offers independent and impartial advice and information to parents, carers, practitioners, children and young people through a helpline, online advice service and a range of guides and factsheets.

Telephone helpline: 0845 123 2303
www.enquire.org.uk

Local Child Protection Committees

Membership of local Child Protection Committees can change. Consult WithScotland's website <http://withscotland.org/public> for details of your local Child Protection Committee contacts which can be searched for by postcode.

Parentline Scotland

A free confidential helpline for parents and carers who need advice or support.

Tel: 08000 28 22 33
www.parentlinescotland.org.uk

Quarriers

Provides social care services for vulnerable children throughout Scotland.
www.quarriers.org.uk

There are also local organisations that provide services only in certain areas. Your local authority should be able to provide information on those.

Sample code of practice

Scottish Youth Dance Child Protection Policy

It is the policy of Scottish Youth Dance to ensure that all participants in workshops, projects and other YDance activities are protected from physical, sexual and emotional harm whilst taking part in YDance activities.

In order to achieve these safeguards, YDance requires that all tutors and other staff working with children and young people follow the Code of Good Practice set out below.

Code of Good Practice

As an adult working with children and young people for YDance

You should:

- Treat all children and young people with respect
- Provide a good example of acceptable behaviour
- Plan activities which involve more than one person being present, or ensure that other adults are within sight or hearing wherever possible
- Respect everyone's right to privacy
- Be available to listen to the concerns of young participants, and to refer them to other sources of help where appropriate
- Try to ensure that your actions cannot be misunderstood or cause offence
- Encourage young participants to feel comfortable enough to point out attitudes and behaviour they do not like
- Show understanding when dealing with sensitive issues and recognise that caution is required when discussing such issues
- Be aware that even caring physical contact with a child or young person can be misinterpreted

You should not:

- Permit abusive behaviour e.g. bullying, taunting, racist behaviour
- Have inappropriate physical or verbal contact with children and young people
- Jump to conclusions about others without first checking facts
- Allow yourself to be drawn into inappropriate attention seeking behaviour, such as crushes or tantrums
- Show favouritism to an individual
- Exaggerate or trivialise any child abuse issues
- Make suggestive remarks or actions, even in jest
- Deliberately place yourself or others in potentially compromising situations
- Believe it could never happen to me

What to do

If you have any reason to suspect a child or young person in a YDance workshop or event is being abused:

- Inform YDance Executive Director or another member of the core staff in the absence of the Executive Director
- Make a written record of all details of the facts known to you as soon as possible, and give a copy to the YDance core staff member to whom you have spoken

If a child or young person tells you about abuse by someone else:

- Stay calm, do not be shocked, and try to act normally
- Allow the individual to speak freely, without interruption, but do not question them or attempt to investigate yourself
- Offer support and reassurance; assure them that you believe what they say
- Explain that you cannot keep it a secret and that you will speak to a member of YDance core staff about it. Never promise a child that you will keep it a secret
- Report the matter as detailed above

If you receive an allegation of abuse about any other YDance worker, or about yourself:

- Immediately inform YDance core staff and keep a written record of all the facts as you know them
- Try to ensure that no one is placed in a position which could lead to further compromise

In all cases you must refer the matter to a member of YDance core staff – do not try to deal with any possible cases of abuse on your own.

Contact

Carolyn Lappin, Executive Director
Tel: 0141 552 7712
carolyn@ydance.org

Sample child protection promise

All of us at *(insert name of organisation)* promise to make sure that you have the best time possible while you are taking part in our activities. We all believe that you have a right to feel safe and comfortable while you are with us. We will do our very best to live up to the promises that we make to you.

We promise to:

- Make you feel welcome
- Always think about your needs as the main consideration
- Treat all children and young people fairly
- Make sure that all our staff and volunteers know what they are supposed to be doing
- Make our activities as safe as possible
- Listen to what you want to tell us
- Do our best to make sure you have fun
- Do what we say we will do!

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Cover and pages 5, 14, 21, 26, 29: Edinburgh Mela Festival education workshop at North Edinburgh Arts (photos: © Eamonn McGoldrick)

Pages 6, 35: Storytelling workshop organised by Edinburgh Creative Links, City of Edinburgh Council (photos: Brendan MacNeill)

At Creative Scotland we aim to provide a prompt, helpful and high quality service and strive to ensure our operations are fair, open, accountable and effective. We treat our customers with respect and our staff expect the same in return. We do not tolerate violence or verbal abuse.

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