

Managing Serious Incidents

Protocol between Department for Education and Skills (DfES), Department of Health (DH), Commission for Social Care Inspection (CSCI), Healthcare Commission (HC), Ofsted, Strategic Health Authorities (SHAs) and Government Offices (GOs).

Why a protocol is needed.

1. Cases involving abuse or serious concerns about the welfare of children in institutional settings that serve more than one local area or agency, or fall outside of existing registration, regulatory or inspection arrangements can present serious difficulties in their strategic management and in ensuring that the learning and policy implications are understood and taken forward. The purpose of the protocol is to:
 - ensure effective co-ordination of agencies work beyond the immediate local child protection enquiry
 - facilitate strategic management which is able to pick up and deal with either policy or operational issues that have regional or national significance
 - ensure that information is effectively shared between all the agencies with an interest
 - ensure that all commissioning agencies, which have placed children in the institutions, exercise their responsibilities to safeguard the children they are responsible for in a timely manner
 - clarify the respective roles of local authorities, NHS bodies, inspectorates, regulators and Government Departments.
2. Where cases are complex, this protocol seeks to introduce secure procedures for escalation of their management by DfES and inspectorates to appropriate regional or national levels.

Characteristics of the Cases

3. The cases or incidents will generally have the following characteristics:
 - the setting is regulated either by CSCI, Ofsted, DfES or Healthcare Commission, or a combination, or should be regulated
 - the setting is inspected by CSCI, Ofsted or Healthcare Commission or a combination or should be
 - children are placed by many local authorities or NHS organisations and some will be jointly commissioned by local authorities (LAs) and the NHS
 - the children have a variety of legal status. Some will be Looked After either accommodated or on care orders, others may be detained under

the Mental Health Act. Others will be placed with parental agreement but as boarding pupils or voluntary patients. Some may be placed by private agreement with parents and so outside any legal framework

- the organisations which manage the institutions are private businesses, not for profit, voluntary organisations or public sector
 - the institutions may be hospitals, healthcare rehabilitation or respite care providers, schools, children's homes or combine one or more institutional type
 - children are placed by private arrangements made by their parents
 - allegations of abuse or serious concerns in institutions, which are not required to register, e.g. supported housing, activity centres. They may be unregistered and operating illegally e.g. child care setting, schools, children's homes, health establishments
 - other complex child abuse enquiries which may be outside institutional settings and where co-ordination of the strategic response cannot be managed at a local authority or police force level
4. This list of characteristics is not exhaustive but serves to illustrate the potential complexity of management of these cases.

Current arrangements/protocols

5. The great majority of cases of abuse in institutional or other settings are handled locally within the agreed Local Safeguarding Children Board procedures, which should reflect the framework of national guidance provided by *Working Together to Safeguard Children (2006)*.
6. There are a variety of notification arrangements for different settings and for different regulatory regimes. For regulated care settings CSCI must be informed of serious incidents within 24 hours.
7. For independent health care settings regulation 28 of the Private and Voluntary Healthcare (PVH) (England) Regulations 2001 does require notification to the Healthcare Commission within 24 hours of a number of specified matters. The matters specified include the death or any serious injury to a patient, or of any allegation of misconduct resulting in actual or potential harm to a patient
8. There is no requirement for NHS establishments to notify the Healthcare Commission of serious untoward incidents (SUIs) at any point. The line of communication is to the relevant Strategic Health Authority. It is "good practice" for the NHS organisation to notify the SHA of a SUI at the earliest opportunity.

9. There is no such requirement for independent schools regulated by DfES and where the incident is outside the Boarding provision regulated by CSCI.
10. The inspectorates and DfES, where it is the regulator, are best placed to pick up information about such cases whether through the notification systems or through their wider intelligence gathering networks.

Purpose of the new protocol

11. There is a clear framework for managing child protection investigations provided by *Working Together* (paragraphs 6.7 to 6.10) and the related guidance on management of complex abuse cases *Complex Child Abuse Investigations :Inter-agency issues* (Home Office and Department of Health, 2002). This protocol provides a framework for management of the strategic interagency issues which these complex cases may introduce.

Protocol

12. The established briefing systems between SHAs and DH and between CSCI/Ofsted and DfES provide an additional check on whether serious and complex cases are being appropriately handled locally and or regionally. These briefing systems will give officials in DH and DfES the opportunity to challenge Inspectorates and the DfES regional offices if they believe cases are not being escalated to the regional level or where such escalation has not been timely.
13. Where the cases are complex for any or all of the reasons noted in para 3 above the Inspectorate with the lead role in regulating the institution concerned, or DfES where it is the regulator, should consider whether there is a need to escalate management of the case to a regional level. Where DfES is the regulator, the Director for Children and Learners (DCL) for the region will convene the meeting. Where the institution is not regulated or there is no institutional setting the DCL for the region will convene the meeting.
14. In all cases escalation is in the first instance to regional level. This will be the region in which the institution is located or, where there is no institution, the region from which the child protection enquiry is led.
15. The regional tier of the inspectorate or DfES (the DfES GO team) will convene a strategy meeting. In all cases this meeting will include representatives from CSCI, Ofsted, Healthcare Commission, Government Offices and the SHA . In addition consideration should always be given to which local agencies should be involved in the regional meeting e.g. Police, local authority, PCTs, NHS Trusts, Chair of the Local Safeguarding Children Board and other services with a significant role in the case or with the children involved. Consideration should also be given as to whether other inspectorates such as HMIC should be involved. The meeting will consider, as a minimum:

- the circumstances of the case
- whether local agencies are carrying out their role effectively
- what additional management is required beyond the local authority/NHS/Police Force level to ensure the effective management of the case
- whether all the children affected by the case are being safeguarded, if there is a need to relocate the child/children to an alternative establishment
- management arrangements to ensure that the case/incident is effectively managed to its conclusion
- agree an escalation process if one of the agencies is not carrying out their role effectively
- what are the lessons to be learnt to either improve practice or to contribute to future policy development.
- whether the case/incident raises national policy issues or sets important precedents or learning that should be disseminated nationally
- communication and media issues
- legal issues
- briefing to Ministers

16. The regional meeting should be able to deal with all the operational management issues raised by the case through engagement of the national level of inspectorates and national co-ordination through GOs and SHAs. For instance where organisations outside the region are involved, the meeting will need to ensure the operational management issues raised by the case, such as ensuring local commissioners are fulfilling their role to safeguard children concerned in the case or incident are being taken forward, for example by securing alternative placements where required, actively. The regional arm of the inspectorates or GOs or SHAs should escalate to the appropriate organisation at national level if they are unable to resolve the issues at regional level.

17. The regional meeting should consider whether there are policy issues or learning from the case that need to be escalated to national level. In such cases the convener of the regional meeting should liaise with their national lead and with DfES to propose that a discussion is required at national level and to arrange for DfES to convene the national level meeting. This meeting will involve national leads from the inspectorates and relevant

policy input from other Government Departments as well as input from those with the regional responsibility for the cases.

Review of the Protocol

18. This protocol will be reviewed formally after six and twelve months by the inspectorates and Government Departments who are its signatories. The review will include:

- a. Information on numbers of cases considered under the protocol arrangements
- b. How effectively the arrangements set out in the protocol have worked
- c. What difference the protocol has made to the cases considered
- d. What the learning has been from the cases
- e. Consideration of amendments needed to the protocol.
- f. Effects on future national policy.
- g. How the information is mapped into individual inspectorates core systems of assessment?

Agreed by:

DfES

DH

CSCI

Ofsted

Healthcare Commission

9 October 2006