

As the result of concerns raised at the ACPO National Child Protection Working Group work has been conducted with DfES to clarify mixed interpretations of Working Together to Safeguard Children. Paragraphs 6.20-6.30 and Appendix 5. (Procedures for managing allegations against people who work with children). Specifically, how these procedures apply to members of a Police Force.

The procedures arise from the desire to ensure that allegations against people who work with children are dealt with promptly, properly, and in a transparent fashion. There is recognition that the Police are an agency whose core business is that of investigation, and the procedures do not in any way seek to undermine that professionalism, or seek to replace existing statutory disciplinary processes. However it is vital that the Police service is not perceived to be operating outside these procedures by claiming a special status due to existing arrangements.

Working Together is very specific in stating that 'Safeguarding children is not solely the role of CAIU officers. It is a fundamental part of the duties of all police officers'. (Para 2.100). Whilst paragraph 6.20 refers to 'people who work with children', in relation to the police service this would include someone whose day to day working regularly includes contact with children, young people or families. It would also include any member of staff whose behaviour, regardless of posting, brings into question their suitability to work with children.

The fact that an individual may have close contact with children does not affect the threshold for triggering these procedures. The same high standards of behaviour are expected from all police employees. Where a pattern of behaviour emerges- e.g. several unproven complaints about conduct towards children or young people, serious consideration should be given to triggering Appendix 5 procedures as a way of ensuring transparency and independent oversight.

This letter is intended to provide clarity to the more common concerns and should be read in conjunction with Working Together. (Unless otherwise stated all references to paragraph numbers etc in this guidance are drawn from that publication).

Scope

Paragraph 6.25 and Appendix 5 paragraph 1 set out the criteria for engaging in the process as:

'...It should be used in respect of all cases in which it is alleged that a person who works with children has:

- *Behaved in a way that has harmed, or may have harmed, a child*
- *Possibly committed a criminal offence against or related to a child; or*
- *Behaved towards a child or children in a way that indicates s/he is unsuitable to work with children'*

It is important to understand that the provisions do not apply to matters that are dealt with by routine managerial action or that result from complaints about routine occupational activity. Appendix 5 paragraphs 31 and 32, provide some clarification on this matter, placing the onus on determining whether an allegation falls within the criteria listed above with a senior (police) manager. Only cases that meet the criteria should be referred to the LADO. (Appendix 5 paragraph 13)

The following examples are offered as guidance to senior police managers considering allegations against their staff.

1. Child 'A' is subject of a 'stop & search' encounter and subsequently complains that the search was unlawful as the officer had no grounds to conduct the search. There is no complaint of incivility or other inappropriate conduct. This is routine operational activity and does not fall within the procedures. I.e. there is nothing within the complaint to suggest that the officer behaved in a way that would trigger Appendix 5 procedures.

During the investigation it is subsequently established that the officer's language was unprofessional in that, although not abusive, they were abrupt and insensitive. Their supervisor decides that an action plan should be devised to address communication skills. This is routine management action and again does not fall within the procedures as it does not trigger Appendix 5 procedures.

2. Child 'B' is arrested for burglary and, according to officers, was aggressive on arrest and as a result handcuffed. Initial investigations show that this was in accordance with powers conferred under PACE and training. 'B' complains that the use of force was excessive. This is a complaint about routine operational activity and on the facts presented does not trigger appendix 5 procedures.

During the investigation evidence emerges that excessive force was used and that the officer may face disciplinary or criminal action. This now meets the criteria and Appendix 5 processes should be invoked

3. Child 'C' was reported as missing from home and found by a police officer on mobile patrol. 'C' complains that whilst being taken home they were indecently assaulted by the officer. This allegation immediately reaches the threshold and Appendix 5 should be invoked.

Role of the Local Authority Designated Officer (LADO)

Appendix 5 paragraphs 34-36, set out the role of the LADO. The LADO is not intended to be, or should in practice emerge as, an additional layer of bureaucracy. The LADO must be able to act as a source of advice and be able to instigate actions resulting from that initial conversation; EG convene, attend and possibly chair strategy discussions etc. Circumstances should not exist where LADO's act solely as an information gathering agent or 'gatekeeper' to professionals who are already empowered to act.

The LADO must be reassured that the investigation is being conducted properly and without bias. Although arrangements vary between Forces, there will invariably be involvement by both Professional Standards and Child Protection Units in cases that reach the threshold. The role of PSU's and the extent of Police Disciplinary Regulations are not widely understood outside the service and, where concerns arise, it should be considered good practice to make LSCB's aware of the rigour by which internal investigations are conducted by a Force.

It is important for Forces to understand that the LADO has a statutory responsibility to ensure that they remain informed of progress in cases that meet the criteria for inclusion within the Appendix 5 procedures, and this should be at fortnightly or monthly intervals depending on the complexity of the case. Although Forces should always work closely with the LADO there is no requirement for Forces to establish dedicated reporting mechanisms for this purpose, indeed it is envisaged that in most cases this process can be managed as part of the normal strategy discussions or joint management of the case.

Timescales and retention of information

DfES appreciate that local PSU targets determine Police investigations and that the timescales listed in Appendix 5 are stretching for most agencies. These timescales are currently under review and DfES advises that in the interim local PSU targets should apply.

Although retention periods are suggested in Appendix 5, MOPI already provides clear guidance to the service around retention of information, and these standards generally exceed the requirements of Working Together. As with all child protection matters it is vital that actions and decisions are recorded and retained in a form that enables retrieval and searching.

Conclusion

It is hoped that this letter gives some clarity to the 'Appendix 5' provisions, and that Forces may be reassured that, in the main, existing practice within most Forces already addresses these requirements. The processes in place throughout the service are robust and are already subject to independent scrutiny by the IPCC. Nothing in Appendix 5 seeks to change those arrangements or put in place additional lines of bureaucracy.

Appendix 5 will ensure that minimum standards of investigation are adopted across all agencies. It is important that the Police service not only complies with those minimum standards but, in the spirit of Working Together, is seen to be so doing.