

# CODE OF PRACTICE FOR THE JOINT INSPECTION OF SERVICES TO PROTECT CHILDREN AND YOUNG PEOPLE

## Section 1: Purpose and Background

### Purpose

As required under Section 1 of the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Act 2006, this Code of Practice provides general guidance on matters relating to the joint inspection of child protection services. It sets out the Joint Inspection process and provides a full explanation of how personal information will be accessed and handled in full compliance with the Data Protection Act 1998 and the principles of the European Convention on Human Rights. Under Section 1 of this Act the joint inspection team will have regard to the Code of Practice in the conduct of their joint inspections of children's services

### Background

In March 2004 Ministers announced there would be a new multi-disciplinary children's services inspection team led by HMIE. Its first task would be to undertake inspections of child protection services in all 32 local authority areas and to put in place integrated inspections for all services for children, by 2008. The inspectorates and agencies involved are Her Majesty's Inspectorate of Education (HMIE), Social Work Inspection Agency (SWIA), the Scottish Commission for the Regulation of Care (Care Commission), Her Majesty's Chief Inspector of Constabulary (HMIC), the NHS Quality Improvement Scotland; (NHS QIS) and, to a lesser extent, Her Majesty's Chief Inspector of Prisons for Scotland (HMIP).

In order to provide the Joint Inspection team with the powers it requires to work jointly and, in so doing, to access and share information, the Joint Inspection of Services for Children and Inspection of Social Work Services (Scotland) **henceforth defined as "the 2006 Act"** was passed in January 2006. This Act, together with its regulations and this Code of Practice provide the framework for the conduct of Joint Inspections of Children's Services and the lawful exercise of powers to access and share information by members of the Joint Inspection Team.

A number of organisations and individuals were consulted by the Scottish Executive's Children and Families Group and gave evidence to the Education Committee when it considered the proposed legislation. Where possible, this draft Code of Practice has been amended to take into account some of the evidence or comments received.

Joint inspection of services for children will look at three levels of service: the strategic level of leadership and planning; the delivery level of systems and processes; and service receipt level including the experience of and impact on the individual child.

The process of joint inspection requires access to information in the individual records of the child or young person – held by health, social work, police, education, youth justice and others - to assess how services are working together, and to evaluate experience and outcomes for children. For the purposes of the 2006 Act, a child is defined as a person under 18 years of age. The joint inspection team will not seek to recover adults' personal records. Paragraph 12 on page 8 provides further detail on how the inspection team will consider the parental or caring context of the child.

For child protection inspections, a sample of children and young people's cases will be at the heart of the inspection. The sample will include cases where early preventative action has taken place, cases where protective interventions have recently occurred and cases where longer term outcomes for children and young people can be identified.

Inspectors will:

- read a range of case records;
- interview key staff involved in some of the cases;
- interview as many children, young people and families as possible provided they are willing to meet with inspectors;
- observe children's hearings, case conferences, reviews and work undertaken by practitioners.

This Code of Practice sets out how personal information will be accessed and handled during the process of joint inspection of services to protect children and young people, in compliance with ECHR and Data Protection Act 1998 requirements.

A separate Code of Practice on the joint inspection of children's services more generally is still under development and will reflect the outcomes of the current consultation on "Developing A Common Approach to Inspecting Services for Children and Young People" (HMIE, October 2005).

HMIE have recruited Associate Assessors to augment the team of inspectors and to provide specialised skills or knowledge to complement those of the permanent or seconded inspectors. Associate Assessors are experienced professionals who have had recent successful experience in child protection, including management experience within the agencies providing children's services. They will take part in the inspection of child protection services. These Associate Assessors will be employed under contract to HMIE and will have corresponding contractual obligations and responsibilities, for example the same confidentiality requirements as permanent team members. They will have to declare any conflict of interest, for example where they work in an area where inspection is taking place as permanent team members have to do at present.

Following consultation, for the purpose of the child protection inspections a set of quality indicators has been tested and adopted during two pilot inspections. These were further refined on the basis of the pilot inspections and have been published. 'How well are children and young people protected and their needs met? Self-evaluation using quality indicators HMIE 2005 [www.hmie.gov.uk](http://www.hmie.gov.uk).'

The whole inspection process is designed to gather evidence in relation to each of the indicators. Inspectors gather evidence from a range of sources, and based on the evidence, evaluate practice in relation to each indicator.

The report which follows the inspection focuses on the experience of children, young people and their families of the collective range of services they have had involvement with. It does not report or evaluate separately individual services. The report will include examples of practice, where appropriate, to demonstrate why an evaluation is particularly strong or weak.

The inspection report does not refer in any identifiable way, to individuals, or small groups of individuals, professionals, volunteers, or children, young people or families. This process is discussed in more detail at page 4, and paragraphs 19 and 20 on page 9. Because of the nature of the work, and the level of responsibilities, evaluations of strategic management may make reference to key posts within the organisation, but not to named individuals. Evidence from all case records are anonymised in all inspection evidence templates.

Inspectors will sign for records indicating date of receipt of delivery. Inspectors will also sign and date an individual health record whenever they access them.

The inspection material is subsequently destroyed in line with HMIE's records management policy. This happens immediately after the inspection. One summarised and anonymised record of evidence is kept for one year after the publication of the report. That evidence record is then destroyed.

## **Section 2: The Methodology for Joint Inspection of Services to Protect Children and Young People**

### Notification of Inspection

Chief Officers and the Authority Reporter will receive approximately 12 weeks notice that an inspection will take place. The letter of announcement will be sent to Chief Executives of the local authority and the NHS Board, the Chief Constable and the Authority Reporter.

### Information Leaflet

An initial briefing meeting with Chief Executives and senior officers takes place approximately seven weeks before the first phase of inspection commences. During this meeting information leaflets to inform staff and children and families about the joint inspection will be provided. The inspection team will request these leaflets are made available for local distribution to those involved. Each leaflet makes it clear how further information can be received about the purpose and conduct of the inspection and includes contact details for further information. The leaflet advises that for the purpose of joint inspection of child protection services, the inspection team will proceed on the basis of implied consent. It also advises how people can make known to the inspection team and local agencies any concerns they may have. It will state the planned timescales for the inspection and that during a joint inspection, some children and their families may be invited to attend meetings to discuss their experiences. In response to the consultation, the previous leaflet has been amended to add a specific reference to inspectors' access to health records relating to children and young people. Paragraph 3 provides further information.

### The Case Sample

Evaluating the experiences of children, young people and families and the impact of the work of professionals involved in helping them will be at the centre of the inspection process. A case sample from the anonymised data provided in the pre-inspection return will be identified. This sample is a stratified random statistically based sample. Core records of this case sample held on these children are sought from all agencies involved with them.

The evidence gathered through the reviewing of individual records will be central to shaping the next phase of the inspection. Some of the sample will be selected for in-depth review, which will include meeting (with their consent) the children, young people and their families, as well as some of the professionals who worked with them. This will take place in the second phase of the field work, and will assist inspectors to make judgements about the quality of the services provided to these families, and the impact of services of the safety and wellbeing of children.

In addition, the review of cases will help inspectors identify key areas of work which they wish to look at more closely during phase two, and shape the nature of discussion with focus groups of professionals, operational and strategic managers.

## Confidentiality

The conduct of the inspection will ensure that due regard is paid to the principles of confidentiality as set out in the European Convention of Human Rights and the Data Protection Act 1998. The inspection team will avoid any unnecessary processing of information. No individual names will be recorded or identified in any evidential record held by members of the inspection team. Service users will not be identified or recognisable in any of the reports produced.

Meetings arranged with professionals will provide inspectors with an opportunity to understand the thinking behind the decision-making and the arrangements made for children. Inspectors will hear professional views on how well children's needs are being met including whether professionals experienced any barriers to providing the help they felt the child or young person should have. Inspectors are interested in identifying, promoting and disseminating good practice by professionals.

Meetings will also be requested with families, including children and young people when appropriate, to hear in detail their views on the interventions undertaken by professionals. In particular inspectors want to hear if professional intervention had, in the view of the child or young person made things better for them, and if they had been involved in decisions made about their lives. As mentioned above, all meetings with children and their families will be with their consent. The purpose of the meeting is explained clearly by inspectors at the beginning of the meeting, children and young people retain their right to terminate the interview and children and young people are thanked for agreeing to take part in the evaluation process.

Inspectors will also attend case conferences, reviews, children's hearings, some individual meetings between professionals and families, and any other examples of ongoing practice taking place during the inspection period. Children and their families will always be asked if inspectors can be present at a meeting.

## Verbal Feedback

After completion of the fieldwork phase, verbal feedback will be provided to senior officers within 3 weeks. This detailed feedback will cover the evaluations of all the quality indicators, and give the reasons for the evaluations backed by evidence. Feedback will also be given on strengths and areas for improvement. The evaluations made at this point will be provisional, to give agencies the opportunity to identify additional sources of evidence if they disagree with an evaluation.

## The Report

The draft report will be shared with chief officers and the Authority Reporter for comments concerning accuracy and to provide an opportunity for the submission of additional evidence. The report will be structured around the over-arching question that inspection sought to answer: ***“How well are children and young people protected and their needs met?”*** The emphasis will be on the collective responsibility of the agencies. The report will highlight strengths and areas for improvement. The report is published in a form which makes it accessible to service users.

The model of inspection has been developed so that it focuses on the experience of children, young people and their families, and contributes to helping professionals in seeking continuous improvement for their clients. It is a partnership model which encourages professionals at all levels and their clients to participate in the process. It is firmly evidence-based, and views expressed to inspectors are only used as sources of evidence if they can be confirmed by other sources of evidence. In making their evaluations, inspectors come to a collective professional judgement, based on evidence, and are always willing to discuss evaluations with professionals to ensure they are robust.

### **Section 3: Code of Practice for Access to Confidential Information, including Health Information**

1. The rationale underlying the joint inspection of services to protect children and young people is to audit child protection and improve children's services rather than to review individual records, such as those held by health or the police. The principles of the joint inspection of child protection services have been agreed by the Heads of Inspectorates, following extensive consultation. However, access to individual records is necessary to ensure effective inspection. These records are accessed to verify and check specific areas relating to the relevant Quality Indicators used by the inspection team. These include:

#### **QI.1: How effective is the help children and young people get when they need it?**

- 1.1 Children and young people are listened to, understood and respected.
- 1.2 Children and young people benefit from strategies to minimise harm.
- 1.3 Children and young people are helped by the actions taken in immediate response to concerns.
- 1.4 Children and young people's needs are met.

#### **QI.3: How good is the delivery of key processes?**

- 3.1 Involving children, young people and their families in key processes.
- 3.2 Information sharing and recording.
- 3.3 Recognising and assessing risks and needs.
- 3.4 Effectiveness of planning to meet needs.

2. All members of the Inspection team have received appropriate training and are bound by professional, legal and contractual obligations to preserve confidentiality. Section 3 of the Act, has introduced a duty of confidentiality that places a requirement on inspectors not to disclose personal confidential information. There are some exceptions provided for to take into account the important, existing statutory duties of inspectors, for example to report an offence. Nevertheless, this provision within Section 3 reinforces the requirement to handle personal information confidentially by the Joint Inspection Team.

3. While seeking the consent of individuals to access to their records is best practice, for the purpose of the Joint Inspection of Child Protection Services, the inspection team will proceed on the basis of implied consent. Patient information leaflets covering access to health information by inspectors for the purpose of quality assurance or improvement should advise patients that their consent has been implied for the purpose of joint inspection of services to protect children unless the patient specifically indicates otherwise to the holder of the record or the relevant Health Board. The Services for Children Unit will liaise with the Scottish Executive Health Department to ensure that an appropriate template for a leaflet is distributed to all NHS Boards, if this is considered necessary, following a review of the first stage of the Joint Inspection of Child Protection Services.

4. There may be circumstances where implied consent is refused or withdrawn. A case by case approach will be adopted, using the guiding principles in the Children (Scotland) Act 1995 and the United Nations Convention on the Rights of the Child concerning the 'best interests of the child.' Section 1 (6) of the 2006 Act requires inspectors to have regard to this Code of Practice. If a child or parent does not want the child's health record to be accessed, the inspection team will have regard to these views. If the inspection team considers it necessary to examine the record the situation will be discussed with relevant professionals, including, where appropriate, the NHS Board's Caldicott Guardian. The Caldicott Guardian will be asked to consider whether access to the child's health records without consent is appropriate in all the circumstances of the case.

5. The starting point for an inspection is an announcement letter with an enclosure briefly describing the inspection process to the Chief Executives of the local authority and the NHS Board, the Chief Constable and the Authority Reporter. This letter will also enclose the Pre-inspection Return (PIR) and the guidelines for completing the PIR. The inspection team recently visited senior staff in all local authorities to advise on the completion of the Pre-inspection Return.

6. Among the documents in the PIR, information will be sought to enable inspectors to select children or young people who would form a sample for review. The sample will include children on the Child Protection Register (CPR), children recently removed from the CPR, as well as recent referrals to the key agencies, i.e. social work services, police, the reporter and children who have been identified as a cause of concern by health visitors in the area. Inspectors will also examine cases where the children or young people have received support from services over a longer period (see Appendix 2). It is not the intention of the case sampling to be retrospective but there are 3 categories of cases where the time frame may exceed a calendar year: long-term support for children recovering from abuse, complaints and allegations against staff and critical case reviews undertaken by agencies..

7. In order to preserve the anonymity of children, agencies will be asked to use a unique identifying number and the first half of the child's post code to enable inspectors to select a sample which will be geographically representative of the area. The size of sample varies according to the population of each local authority area.

8. The master index which links anonymised numbers to names will be kept by the designated person within the local authority or agencies being inspected. The

managing inspector will have the primary responsibility of holding a copy of that list for the inspection team, which will be destroyed as soon as the fieldwork is completed.

9. As soon as a local authority is aware of an impending inspection the managing inspector will contact the “key people” in each agency to organise a briefing meeting. This meeting will take place several weeks before the inspection fieldwork starts.

10. During the course of the first fieldwork phase inspectors will read records as listed below in paragraph 11 concerning a number of children in the inspection case sample. All the records supplied concerning a particular child will be allocated to an inspector by the managing inspector. An individual inspector gains a holistic view of how the child has been supported by all the services and agencies involved in the child’s life. The multi-disciplinary nature of the team means that professional expertise is available in any area where further clarity may be required.

11. The records supplied for each child and young person contained within the sample should include:

- the child and family social work record and any other records held by social work concerning the child e.g. family centre, residential unit.
- any records held by the police concerning the child;
- if the child is of school age, the PPR and any other records concerning the child held by the school;
- any records held by SCRA concerning the child; and
- the core health records, namely the health visitor or school nurse records.

12. Only core records pertaining to the child or young person will initially be required. For health, core records are the Health Visitor records for pre-school children and School Nurse records for school-aged children. The joint inspection team will not seek to recover adult’s personal records. However, within child protection services, the parental or caring context will have an impact on whether a child is safe and protected. The joint inspection team will consider the parental or caring context within their evaluation. Relevant information for this purpose that is within the child’s record will be a factor in the Joint Inspection Team’s considerations

13. The joint inspection process may identify an issue or particular case which will lead to a requirement for further information. Under these circumstances, the inspector may wish to discuss the case further with a health professional. In a minority of cases the inspector may wish to access other health records such as those held by GPs, Community Paediatricians or Mental Health practitioners. The experience of the inspection team in the Perth and Kinross audit trial suggests that the opportunity to discuss individual cases with health professionals greatly assisted evaluations and proved more illuminating than the access to further health records. However, it is important to stress that this experience could not be replicated in the

pilot inspections so any indication of how frequently further records may be required is difficult to gauge. This will require to be reviewed in the early part of the inspection programme.

14. Core records will be delivered to a room provided within the local authority where the inspectors are based, and kept in a locked cabinet. If it is practical some core records may be read in the premises of the relevant agency. They will be kept for the minimum amount of time required to review the record and then returned to the record holder. The Managing Inspector's mobile phone number will be made available to the health 'key person' in the event of the need for immediate access to the records. No copies of records will be made by the inspection team. Inspectors will sign for core records, indicating date of receipt and return. Inspectors will also sign and date an individual health record whenever they access them.

15. Non-core records will not leave health premises. They will be reviewed by the inspectors in a quiet confidential area within relevant health premises.

16. While the majority of records are likely to be read by one inspector, some cases could be read by two inspectors. Where more than one inspector reads the records, evaluations will be jointly agreed and recorded by one inspector.

17. Children or young people in the sample may be asked to meet with inspectors to discuss aspects of the service they received. Any approach to meet with children is always made through a key worker and inspectors will ask for express consent for both interviews and to attend any meetings where the child may be present.

18. Inspectors will record relevant evidence and information relating to the above, but no individual name will be recorded or identified in any material held by the Inspection team.

19. Service users and third parties will not be identified or recognisable in the reports produced. All the notes taken by inspectors and evidence collected will use identifying numbers, not names.

20. If serious concerns arise during the Inspection about the safety or welfare of a particular child or children, this will be raised with an appropriate senior officer in the agency(ies) concerned. A protocol covering such situations has been developed (Appendix 3) and will be shared with the relevant senior staff in the agencies being inspected at an early stage by the managing inspector.

21. Inspection material will be destroyed in line with HMIE's records management policy. This happens immediately after the inspection. One summarised and anonymised record of evidence is kept for one year after the publication of the report. That evidence record is then destroyed.

This Code of Practice will be reviewed after the first four Inspections and following further discussion with key stakeholders. It will be modified accordingly, in the light of any new issues identified.

## **Appendix 1**

How well are children and young people protected and their needs met? Self-evaluation using quality indicators HMIE 2005. [www.hmie.gov.uk](http://www.hmie.gov.uk).

## Appendix 2

### Flow Chart of Inspection Process

The notification letter including pre-inspection return (PIR) will be sent to Chief Executives of the council and NHS board, Chief Constable and Authority Reporter 12 weeks prior to inspection.

The PIR will be returned within 4 weeks providing information on:

- Details of key services and personnel within the area who have specific responsibilities in relation to protecting children and young people
- Anonymised information of all children on the child protection register in the past 12 months
- Anonymised information of all children whose names have been removed from the child protection register in the past 12 months
- Anonymised information of children referred to social work, police or Children's Reporter
- Anonymised information of children who have been a cause for concern for health visitors
- Anonymised information of children in need who have been receiving long term services from a range of agencies

From the above information an inspection case sample will be picked by inspectors and the local authority area will be notified.

Phase 1 of the fieldwork will last for one week when inspectors will examine case files and interview key people.

- Evidence from case files will be collated from all agencies for each child who has been identified in the case sample
- The evidence gathered will be evaluated against the quality indicators
- Inspectors will identify professionals they wish to speak to for further information
- Inspectors will identify areas of work they want to take a closer look at in phase 2
- Cases in the inspector's evidential record will be given a unique number. Subsequently, this record will be destroyed after the inspection. One record of evidence is retained for one year and subsequently destroyed.

Phase 2 of the fieldwork will last for two weeks. During this phase the inspectors will plan further work which may include:

- Reading of further case files as necessary to follow further information requests
- Interviews with key managers
- Interviews with professionals
- Interviews with children, young people and their families
- Observation of meetings
- Visits to voluntary organisations or projects

Verbal feedback will be given within 3 weeks of completion of the field work phase.

The draft report will be shared with chief officers and the Authority Reporter for comment.

The final report will be published approximately 12 weeks following the end of phase two of the inspection.

## Appendix 3

### Addressing matters of immediate and/or serious concern during an inspection

The key principle for inspection is that the safety and welfare of children are paramount. All decisions and subsequent actions taken by inspectors will reflect this principle. During the course of an inspection, inspectors may find evidence of abuse or poor practice which potentially places children at risk or a child may disclose that (s)he is being or has been abused. In either case the inspector will take action to ensure the concerns are addressed. As part of the inspection, inspectors will have access to the agencies' policies and procedures with regard to the recognition and referral of cases of suspected child abuse.

#### Concerns that a child is suffering from abuse

- The inspector will advise the managing inspector of their concerns and, in all cases where it is believed that a child has suffered or is suffering (or is at risk of suffering) from previously un-investigated abuse, the matter will be referred immediately to the relevant agencies. (The contact information and explanation as to how this will be done is contained in the area child protection guidelines which will be followed by the inspector and managing inspector.) **It is the responsibility of these agencies to act upon the information provided, not the responsibility of the inspector. The managing inspector will check that action has been taken and note this in the inspection record.**
- If the concern has come about as a result of a disclosure from a child or children, the inspector will take the disclosure seriously and take appropriate action. The child will be reassured and advised that their concerns will be shared with the appropriate people. If the disclosure alleges abuse by a parent or other relative, the matter will not be raised with the parent or other relative by the inspector unless it is unavoidable in order to stop immediate harm.
- If the disclosure alleges abuse by staff (eg in a residential unit for children and young people, school or early years setting), the matter will **not** be raised directly with the staff concerned. The child protection guidelines will be followed and the disclosure will be referred on as they advise.
- Where the disclosure alleges abuse by other children or young people, the manager of the service will be advised.
- If the disclosure relates to allegations of abuse within a setting regulated by a statutory body (e.g. in a residential home registered and inspected by the Care Commission) that body will also be informed.

## **Concerns that a child is at risk because of poor practice**

On occasion, an inspector may judge that the quality of the service is so poor that children are being placed at immediate risk (e.g. a worker who condones very risky behaviour by a teenager; a severe shortage of staff in a care service; premises which are unsafe; or a plan to protect an individual child that has not been implemented).

- In such circumstances, following discussion with the managing inspector, the matter will be raised with the person responsible for the day to day management of the service (or a person nominated for purposes of the inspection), and (if different) the person responsible for the agency.
- The reasons for the concern will be fully explained to these persons and they will be advised to immediately address the matter in such a way as to ensure that children are kept safe.
- If the concerns relate to a setting inspected by a service specific inspection body (e.g. a school inspected by HMIE) that body will also be informed.

On other occasions, it may be that in the assessment of an inspector, the quality of the service has been very poor over a considerable period and, whilst not putting children at immediate risk, endangers their safety, health or well-being in the longer term (e.g. allowing contact with a very emotionally abusive parent to continue even though the child does not want it; a child living in a residential school that has no facilities to support their disability; or a young person who has very onerous caring responsibilities for a mentally ill parent and has no support).

- In such circumstances, following discussion with the managing inspector, the matter will be immediately raised with the person responsible for providing the day to day running of the service (or a person nominated for purposes of the inspection) and (if different) the person responsible for the agency.
- The reasons for the concern will be fully explained to these persons and they will be asked to quickly address the matter in such a way as to ensure that children are kept safe, healthy and feel well supported. They will be asked to feed back to the managing inspector the action that has been taken.
- If the concerns relate to a setting inspected by a service specific inspection body (e.g. a social work service inspected by SWIA ) that body will also be informed.

In all cases of concern, the inspector will fully record details of the allegation and the actions taken to raise the matter with the appropriate agency(ies). The managing inspector will also record any subsequent follow up of the matter with these agency(ies).