**Lancashire Children's Services approach to allegations of sexual abuse**

1. **Purpose of the document**

The aim of this document is to provide clear guidance for social workers and managers as to our approach to cases that feature sexual abuse allegations relating to an adult who lives in the same home as or has close contact with a child. It is hoped that this will go some way to achieving greater consistency in our decision making. This guidance focusses specifically, but not exclusively, on allegations that have **not** resulted in a conviction, or where a police investigation is ongoing, and scenarios where children still have contact with this alleged perpetrator.

**Image Category Levels**

**Level 1** Images depicting erotic posing with no sexual activity

**Level 2** Non-penetrative sexual activity between children or solo masturbation by a child

**Level 3** Non-penetrative sexual activity between adults and children

**Level 4** Penetrative sexual activity involving a child or children, or both children and adults

**Level 5** Sadism or penetration of, or by an animal

For the purposes of this document sexual abuse includes the use/sharing of indecent or prohibited images of children. In some cases, the allegations relate to the creation (for example uploading or sharing) or possession of indecent/prohibited images of children but do not involve children in the household having been exposed to the same. These cases, however, lead to professional concern about the risk of accidental exposure to child abuse images by the children and/or the adult having a sexual interest in children that could lead to actual abuse.

However, this said, There is a general lack of research on sexual interest in children among the general adult population, with very few studies including female participants or exploring the use of child sexual abuse images. Specifically, there is little evidence around factors that distinguish men who act upon their self- identified sexual interest children from those who do not. Research in the area communicates this inconsistency; being sexually interested in children does not necessarily lead to sexual abuse of children, but some do express their interests by committing child sexual abuse offences.

Several studies point to the inconclusive nature of the evidence around whether paedophilic or hebephiliac interests escalate into contact offending. This is due to several reasons, including weakness of correlational studies that imply evidence of the possession of child sexual abuse images is connected to committing child sexual abuse offences. It must also be noted that child sexual abuse is not only committed by people who are paedophilic.

A significant limitation of the research around the link between accessing child sexual abuse images and committing contact child sexual abuse offences is that studies tend to be based on populations of convicted offenders of one or both activities. This both limits the applicability of the research findings to people who have not been convicted, as characteristics may differ between undetected and detected offenders, and does not necessarily present an accurate picture, as conviction rates tend to underestimate the true offending rates

Some studies have identified different reasons for viewing child sexual abuse images, including the material serving as a blueprint for future sexual activities, or serving as a substitute for paedophilic behaviour. However, although there is evidence to suggest that child-attracted men in particular are liable to molest their own children, the extent to which people who access child sexual abuse images are sexually attracted to children (i.e. paedophiles) is unclear.

Great care must be taken to distinguish between those who access child sexual abuse images and never act upon such images by committing ‘hands-on’ offences, and those who can be termed ‘dual offenders’. Lowenstein (2005) emphasises that it is important “not to believe that one can predict with any degree of certainty anything based on the downloading of images from the internet”.

Whilst the motivation and risk of contact offending will inevitably vary for each offender, key themes emerge from some academic research:

There is a clear correlation between IIOC offending and contact sexual offending against children although causation cannot be established.

Anyone who possesses IIOC poses a risk of committing contact sexual offences against children.

The risk each offender poses needs to be assessed on an individual basis using appropriate risk assessment models backed by professional judgement.

The link between viewing IIOC and contact offending, identified but not yet quantified by research, highlights the need to consider each possession offender as a potential contact offender to some extent. Individual offenders may view images as part of a continuum of offending culminating in a contact offence, as a diversion from contact offending or as a result of experiencing a sexual interest in children. There is a need, therefore, to consider in every case what other offending may accompany the possession offending and where that offending may lead.

**Sexual abuse is outlined in Working Together to Safeguard Children 2018**:

*Sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, not necessarily involving a high level of violence, whether or not the child is aware of what is happening. The activities may involve physical contact, including assault by penetration (for example, rape or oral sex) or non-penetrative acts such as masturbation, kissing, rubbing and touching outside of clothing. They may also include non-contact activities, such as involving children in looking at, or in the production of, sexual images, watching sexual activities, encouraging children to behave in sexually inappropriate ways, or grooming a child in preparation for abuse. Sexual abuse can take place online, and technology can be used to facilitate offline abuse. Sexual abuse is not solely perpetrated by adult males. Women can also commit acts of sexual abuse, as can other children.*

It is recognised that assessing risk and formulating plans to ensure the child is safeguarded is complex in such cases for several reasons, including:

1. The allegations may be unproven, allowing the alleged perpetrator to deny them and suggest there is no risk to the child.
2. We cannot force an alleged perpetrator to leave the family home. Where there is an agreement to do so, this is often open-ended and without timescales. Such arrangements can also result in judicial criticism or parental complaints further down the line whereby it is suggested we have acted in breach of either the adult or child's right to a family life.
3. Leaving these arrangements open ended outside of proceedings can contribute to feelings of frustration or stress for the family, often leading to disengagement or breaching of any agreement in place with the social worker. It can also be a stressful experience for the social worker, who is having to defend the decision making in the absence of a factual basis on which to request the alleged perpetrator does not have contact with the child or stays out of the family home
4. Obtaining police disclosure outside of proceedings can be difficult. The absence of this information compromises the quality of any assessments undertaken.
5. Not all allegations result in a police investigation, and when they do, such investigations are protracted and rarely in a timescale that is conducive to safeguarding decisions for the child. The potential delay in investigations that involve the forensic analysis of electronic equipment are referenced in Section 3.
6. **Management of immediate risk**

Where the main carer has separated from the individual who has had allegations made against them, a Child and Family Assessment should be undertaken in the first instance to determine next steps. A Child Protection Plan or Legal advice may still be required to ensure that this separation is permanent, that the main carer is aware of the risks in the future, and able to prioritise the children's needs accordingly, however this will be informed by the Child and Family Assessment. Any assessments should consider if this separation occurred prior to us becoming involved or after providing guidance, their responses to the risks discussed and the individual's ability to protect, whilst also being sensitive to the fact that this may be new information and their immediate response may evolve over even a short period of time. Contact with the alleged offender may need to be resolved by an application for a Child Arrangements Order if it cannot be agreed. In that instance we may be directed by the court to prepare a section 7 report.

Where parents or the alleged perpetrator wish to continue their relationship, or for the individual to have contact with the children, safety planning needs to be considered and clearly outlined within our usual safeguarding processes (strategy discussion and S47’s). Strategy discussion notes should include the interim safety plan, and any written agreements as a result of a S47 investigation should be completed in Forms on LCS. Written agreements may be used to confirm any *temporary* family time or living arrangements, and should be incorporated as soon as possible into any structured plans.

<https://www.proceduresonline.com/lancashirecsc/p_written_agreements.html>

Safety planning should include a contingency to any bail conditions, as bail conditions are often short term, and lifted without notice and therefore should not be relied on as the only safeguarding measure. It is important to ensure that parents are aware throughout the assessment that any lifting of bail conditions does not necessary end safeguarding arrangements in place.

It is important that all historical information is gathered as quickly and efficiently as possible, including that from other authorities and agencies where applicable. The decision making within such cases is often complex, and the ability to fully understand the actions taken previously is further impaired by the amount of time passed. Workers should consider where relevant previous CSC assessments from within Lancashire and outside of area, ISSIS records, police information, probation reports, 'risk assessments', and court documents. It is often useful to be explicit within case discussions and care planning when such information was received, and where information is known to exist but not yet accessible, the explanation and plan around this. This can help when there are changes in care plans or decision making, as well as identifying gaps in our understanding.

The use of historical risk assessments is explored in more detail below.

Child sexual abuse: learning from case reviews (NSPCC, 2020) warns against practitioners interpreting *'a lack of disclosure from a child to mean that abuse has not occurred.*' This is particularly relevant in families whereby the alleged perpetrator appears to have been meeting the needs of their own children to a good enough standard, and the allegations have been made by an individual outside of the home. The document also suggests that *'safeguarding measures should not automatically be removed solely because disclosures are not corroborated by parents, carers or medical examiners.'*

Where the allegations are against another child within the home or perhaps a relative child who has regular contact with other children, consideration should be given to holding Multi-agency Risk Management Meetings (MARM). The MARM process should be undertaken wherever a child has committed a serious offence of a violent or sexual nature. This process can often result in greater participation by the police. Consideration should be made to inviting parents to these meetings, and it may be that by incorporating them into the CIN meeting process, this is possible.

The involvement of all agencies in the decision making and safety planning within cases that feature allegations of sexual abuse is essential. Plans should be created collaboratively with families, as well as our partner agencies, and the contingency response should the safety plan be breached made clear. Consideration should be given to the therapeutic needs of the child, and what support services may be available to them. Referral to the LADO should be considered where the induvial has a role in working with children (including unpaid work). Professionals should be reminded at the point of step down or closure that written agreements in isolation don't safeguard children. They would need to continue to monitor and refer back into CSC if new concerns arose. Workers need to be specific in the handover process (step-down or closure) that time doesn’t necessarily decrease risk, and it's for those professionals to hold the information and refer back into CSC if needed, or to ensure that the relevant new professional or agency is aware of the information (for example, should a young person progress on to high school). Social workers need to be explicit within their multi-agency meetings what concerns or behaviours would warrant such a re-referral.

Social workers often struggle to balance their intuition or 'gut feelings' with the need to ensure practice is evidence-based. Professional intuitions and emotions should not be dismissed but used as a hypothesis to be tested or explored within our analyses. As long as these feelings are reflected upon and critiqued, bias can be avoided. Undertaking such reflection with other agencies can often add considerable value to our assessments.

1. **Role of the police**

Where there is an on-going police investigation and there is as yet insufficient evidence to charge a suspect, he/she is released pending further investigation (ss. 37(2), 34(2) and 34(5) of the Police and Criminal Evidence Act 1984 (PACE)). Bail conditions are implemented where the recovery of further evidence is needed, and whilst they may assist with safeguarding this is not their primary objective.

There is a difference between police bail and bail imposed by the criminal court, and it is important to clarify which applies in a specific case.

In October 2022, the Police moved away from only being able to set bail conditions at 28 days, owing to a government response to moving away from individuals being released under investigation and this resulting in significant delays in investigations concluding.

Under the new rules, the Police now generally use bail conditions as opposed to being released under investigation, and whilst at times a shorter period of bail may be agreed, the police now have the power to agree a 3 month bail period. If the investigation continues past 3 months and bail is still required, the Police require the approval of an Inspector to extend this bail for anything up to 6 months. Likewise with 6-9 months the Police require the approval of a Superintendent. In the event that bail conditions are required in excess of 9 months, this can be extended furhter at a magistrates court for 12, 18, or 24 months (complex cases only).

At the point of bail conditions being cancelled the police will provide written notification of them being discontinued to the alleged perpetrator.

Where the parent/carer is alleged to have created indecent images of children the backlog of work in the Lancashire Digital Investigation Unit is creating significant delay in charging decisions being taken. If a case is in proceedings one way around this is to negotiate the release of the device(s) to an independent forensic examiner on a jointly instructed and funded basis.

1. **Use of legal advice**

Prior to the consideration of any need to seek legal advice, a comprehensive child and family assessment should be completed (save for in cases of imminent risk) and the need for legal advice should be considered on the merit of individual family circumstances and assessment.

The child and family assessment, needs to consider the age and vulnerability of the child/ren, the self-protection ability of each child, strengths and protective factors for the child and family, and the parental ability of the non-alleged offending parent/carer to safeguard the child. The child and family assessment should be undertaken collaboratively with the child/ren and family, include direct work with the child/ren and parents and should include an analysis of how the family plan to mitigate any risks to the child/ren.

The purpose of the child and family assessment is not to determine whether the concerns are substantiated, but rather to determine whether if the concerns were to be substantiated via a conviction or Findings in the Family Courts, whether the child/ren would be at a continuing risk of sexual harm due to a lack of ability to reduce/mitigate the risks to the child sufficiently whereby the child is vulnerable and self-protection skills are limited, there are concerns in relation to parental ability to safeguard the child/ren, and/or whereby there are limited wider protective factors. In these circumstances, the child and family assessment needs to consider whether, with support and intervention, these risks could be sufficiently reduced/managed to safeguard the child/ren.

The child and family assessment should also consider the current police action and investigation, any restrictions on the alleged offender pending an investigation, and the timescale in which the investigation is likely to take.

In the event that following the child and family assessment, there is felt to be a need to consider legal advice, Care Planning with the Senior Manager should take place and this should take into account the child, or children's, individual needs. This may be due to the age of the child and protective factors. The Care Planning Meeting will take into account of the merit of seeking legal advice, and what legal action we are seeking to achieve. The Care Planning Meeting notes and recommendation of the Senior Manager will be recorded on the child's case file.

Once Care Planning has taken place and a recommendation reached to either seek legal advice or not, a decision making form should be sent to the Head of Service if they would like legal advice to be sought.

This can then be ratified by the Head of Service based on the decision making form and Care Planning.

Of note is that Assessments are fundamentally flawed by the absence of a factual basis on which to analyse risk; however a Finding of Fact hearing allows the judge to make a decision as to whether allegations made by a party are true or not true, thus providing an indisputable basis for future assessments and care planning both in relation to this child, but also children with whom the alleged perpetrator may have contact with in the future. This will be in matters where there is no Police prosecution however lack of a Police Prosecution does not mean that the abuse has not occurred and it is on this basis that Legal Advice and presentation to the court for findings will be invaluable to protect the children.

In another family case ([*In re H (Minors) [1996] AC 563 at 586*](http://www.bailii.org/uk/cases/UKHL/1995/16.html)), Lord Nicholls explained that it was a flexible test:

"The balance of probability standard means that a court is satisfied an event occurred if the court considers that, on the evidence, the occurrence of the event was more likely than not. When assessing the probabilities the court will have in mind as a factor, to whatever extent is appropriate in the particular case, that the more serious the allegation the less likely it is that the event occurred and, hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability. Fraud is usually less likely than negligence. Deliberate physical injury is usually less likely than accidental physical injury. A stepfather is usually less likely to have repeatedly raped and had non-consensual oral sex with his under age stepdaughter than on some occasion to have lost his temper and slapped her. Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation. Although the result is much the same, this does not mean that where a serious allegation is in issue the standard of proof required is higher. It means only that the inherent probability or improbability of an event is itself a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. The more improbable the event, the stronger must be the evidence that it did occur before, on the balance of probability, its occurrence will be established."

Samantha Bowcock, QC advises the following:

(i) Each case will turn on its own facts and specific legal advice should be sought at the earliest opportunity:

(ii) Section 20 will rarely, if ever, be an appropriate vehicle to manage risk in terms of the children living elsewhere whilst the criminal process takes its course:

(iii) A short period of non-court intervention may be appropriate but only where an innocent parent/carer has evinced a genuine intention to end the relationship and care for the children on their own. If there is any evidence that leads to a suspicion of knowledge of or collusion in the alleged abuse or that the separation may be a sham designed to mislead the local authority, my advice in this regard would not apply and proceedings should be issued:

(iv) It is unwise in the extreme to think that the criminal process might be concluded in a matter of a few months, thereby obviating the need to issue proceedings and allowing for risk to be managed by a non-court process. There may be rare cases in which a reliable set timetable to criminal trial and all other circumstances are equal, allow for this to be actively considered but I stress the word “rare” given my earlier comments:

(v) An eye must be kept on the need for the local authority to step in to act as prosecutor via care proceedings. The number of sexual offence cases that result in a criminal trial and conviction remain depressingly low nationally as well as locally. Many Family Court Judges speak openly of their lack of confidence in the criminal justice system where sexual offences are concerned, particularly those that involve child complainants:

(vi) Where there is any doubt, I would advise that issuing care proceedings should be regarded as the default position.

1. **Use of specialist assessments.**

Specialist risk assessments are compromised where there is no factual basis to work upon, and whilst we may seek to commission such assessments, several agencies are declining to complete such work without Findings having been made or criminal convictions secured. There is also a risk of future parental complaints or judicial criticism where a parent has engaged in a specialist risk assessment without the benefit of legal advice. The use of these assessments outside of the court arena, and within pre-proceedings, is suitable in some contexts but should be discussed with a senior manager. It is vital that the decision making involved in commissioning these assessments, as well as why Findings are or aren’t being pursued, or indeed if Findings were made, are all captured on the child's file.

Senior Management oversight is needed to commission the completion of a specialist assessment and the following points should be considered to ensure the assessments are of good quality:

* Clear factual basis if possible- finding in the family court or criminal conviction.
* Where there has not been a finding or conviction yet, obtaining sufficient information about the nature of what has been alleged, the existence of any supporting evidence eg medical or any other corroborative evidence to enable an assessor to produce an effective assessment. Information/evidence about the nature of what is alleged etc is most likely to be held by the police and would need to be obtained from them.
* Clear and detailed letters of instruction to the person(s) assessing so that they are in no doubt about what they are being asked to do and why.
* Using specialist agencies who have a proven track record of assessing in these cases. These might be agencies with a specialist social work/probation background or independent experts, for example consultant psychologists with expertise in sexual offending.
* If the parents/alleged perpetrator(s) have instructed solicitors, involving them in the proposed assessment so that it is a “joint instruction.”

1. **Reliance on previous risk assessments.**

The term 'risk assessment' can relate to several different types of document and has evolved in meaning over recent years. Historically, child and family assessments or 'core assessments' may have been completed with specific focus on elements of risk, social workers completed their own risk assessments, or psychologists have been commissioned to complete risk assessments. Risk assessments can also be completed by other agencies, including probation and the police at the point of a SHPO (Sexual Harm Prevention Order) being implemented. These are not risk assessments that have been completed to inform our care plans and should be considered within this context.

When referencing a risk assessment, it is important to be explicit as to who completed this and for what purpose. Our knowledge and understanding as to the nature of sexual abuse has increased significantly within recent years, and any historical risk assessments need to be considered with this in mind. Reliance on a risk assessment that was in relation to a very specific family dynamic, or gender, for example is not safe practice and all historical assessments should be approached with professional curiosity and challenge, always focusing on whether this risk assessment adequately addresses the risk for your child in their current circumstances. There may be grounds to believe that a fresh assessment is necessary, and this should be explored in case discussions with the Senior Manager and/or the legal department.

1. **Specialist Commissioned Intervention vs Non Specialist intervention**.

Specialist Safe carers work is available to be commissioned and delivered by independent practitioners and agencies such as The Lucy Faithfull Foundation and The Northwest Sexual Abuse Consultancy. The timing of safe carers’ work will vary according to the circumstances of the case. A protective parent or carer may benefit from the work at a relatively early stage as part of the package of support for them and the children. In other cases, the work may be likely to be more effective after findings have been made or a criminal conviction has been returned. In some cases, the work may have to be repeated but this should not be a common occurrence. The legal department are well-placed from a forensic/evidential perspective to advise on this issue.

Prior to consideration of commissioning specialist Safe Carers work, consideration needs to be given to whether there is a need for specialist intervention, or whether non-specialist intervention can achieve the same desired outcome, such as self-protection work with the child, parent/carer or signs of sexual abuse and grooming.

Senior Management oversight is needed to commission Specialist Intervention such as Safe Carers work and needs to take into account the need for commissioned specialist work v's non-commissioned intervention as outlined above.