CHILDREN AND YOUNG PEOPLE IN CONFLICT WITH THE LAW: POLICY, PRACTICE AND LEGISLATION

Section 15: Managing Risk of Serious Harm

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Contents

1. Introduction

There are a small but significant number of children and young people in Scotland who present a risk of serious harm to others as a result of parts of their behaviour.

This group is considered to present a risk of serious harm because their behaviour has already caused serious harm to someone, or has potential to do so. Risk of serious harm is defined as "the likelihood of harmful behaviour of a violent or sexual nature, which is life threatening and/or traumatic, and from which recovery, whether physical or psychological, may reasonably be expected to be difficult or impossible" (Risk Management Authority, 2011:24)

Many children for whom parts of their behaviour pose a risk of serious harm to others will have complex needs and may have experienced multiple traumas in their lives (Creeden, 2013). Services therefore need to manage the risks children present to others in order to promote public safety, whilst respecting their rights as children and supporting them to address their behaviour and realise their full potential (see Section 3). A high level of knowledge and expertise is therefore required. As some teams will infrequently work with children and young people where parts of their behaviour present a risk of serious harm, support from specialists with experience in this field may be beneficial. Appropriate, high-quality support to staff is essential as harmful behaviours of a serious nature can also attract considerable public attention and media coverage, generating high levels of anxiety for professionals.

This section summarises the key messages from research relating to violence and harmful sexual behaviour. It also provides an overview of the current policy context relating to this area of practice and the principles and processes governing effective risk assessment, management and reduction in practice.

2. Key Messages from Research

2.1 Violence

Violence is a broad term that has proven difficult to define precisely; distinctions are often made between various types of violence, for example: youth violence, gang violence, domestic violence, sexual violence, knife crime and stalking. The World Health Organisation defines violence as:

> "The intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation" (Krug, Mercy, Dahlberg, & Zwi, 2002:5)

There are four means by which violence may be inflicted: physical; sexual; psychological attack; and deprivation (World Health Organization, 1996). According to this definition, the

key elements contributing to violence are: the level of intent, whether coercion or force is used, and the potential for harm to the person, whether this is realised or not (Risk Management Authority, 2011; Scottish Government, 2021).

There is an overlap between violent behaviour and harmful sexual behaviour (HSB), insofar as some abusive incidents may be acts of sexual violence (e.g. rape). However, there are also clear differences, in that not all violent behaviour has a sexual component and some sexually abusive acts do not use physical force or physical coercion.

Over the past decade there has been a significant reduction in violence in Scotland (Batchelor, Armstrong, & MacLellan, 2019). Although the number of children and young people engaging in violent behaviour is difficult to determine in Scotland, it appears that the biggest overall contribution to the reduction in violence is the reduction of incidents involving the use of weapons in public places (Skott & McVie, 2019). Offences of Homicide, Attempted Murder, Serious Assault and Robbery have all decreased across the age groups, however, the largest decreases were seen for those aged 16-24 years (Scottish Government, 2019). Despite this significant decrease, levels of violence appear to remain disproportionately high for male children and young people in the most deprived areas (Batchelor et al., 2019).

Key Messages from Research: Violence

- **Childhood violence is a complex phenomenon.** The Edinburgh Study of Youth Transitions and Crime has found that violence was fairly common in early teenage years. However, this declined significantly over time (McAra & McVie, 2016). Most children who are involved in serious or persistent violent behaviour also engage in a wider range of harmful behaviours such as non-violent offending, substance use, self-harm, unauthorised absences etc. (Murphy, 2018). However, for some children, violence is the exclusive form of harmful behaviour.

- **Violence often co-occurs with other mental health difficulties or mental disorder.** A study examining the mental health needs of children referred to a specialist project in Scotland due to concern about their risk of harm to others found that over 60% of the children were displaying symptoms indicating that they would likely meet the diagnostic criteria for four or more psychiatric diagnoses. Attachment disorder and post-traumatic stress disorder were overwhelmingly the most prevalent (Murphy, 2018). In a minority of cases, psychopathic traits can be a factor in violent behaviour, especially when aggression persists into and throughout adulthood. Although the early signs of psychopathy can be identified in adolescence, personality is still highly plastic in pre-adult years. Only a qualified practitioner with an understanding of child development using recognised and validated assessment tools should make a diagnosis in relation to personality disorder in adolescence as this can be difficult to disentangle from other potential diagnoses linked to trauma, attachment and neurodevelopmental issues (Johnstone, 2017).

- **Violence is a predominantly male activity.** In a Scottish context, the majority of offending behaviour by females continues to be non-violent, and over the past ten years there is no evidence to suggest that it is increasing. Although the number of females convicted of a violent crime appeared to be on the increase (McIvor & Burman, 2011) there is no recent evidence that this is the case. In fact the evidence indicates that violent behaviour by females is decreasing, albeit at a less dramatic

rate than in males (Scottish Government, 2019). The Edinburgh Study on Youth Transitions in Crime found that whilst 33% of boys reported involvement in one or more episodes of violence at age 15, only 12% of girls reported this (McAra & McVie, 2010) (see Section 7: Gender, Equality and Diversity) .

- **Persistent violent behaviour by children is associated with victimisation and social adversity.** The Edinburgh Study of Youth Transitions and Crime (McAra & McVie, 2010) found that key predictors of violent behaviour for boys at age 15 are:

    - Self-harm
    - Crime victimisation
    - Family crises
    - Adult harassment
    - Bullying
    - Alcohol and drug use
    - Early initiation of violence by age 12
    - Poor parental monitoring
    - Weak school attachment
    - Peer offending

  Factors for girls were similar although under-age sexual activity and risk taking were also factors statistically present in the lives of girls involved with violent behaviour at age 15. Children referred to the Interventions for Vulnerable Youth (IVY) service due to their potential risk of causing serious harm to others were found to have experienced high levels of adversity (Murphy, 2018; Vaswani, 2018).

- **Children at risk of serious violent behaviour often display violent behaviours in early years.** Research examining a group of children referred to a specialist project in Scotland due to concerns about their risk of harm to others found that the mean age of first violence was ten years old, with two fifths of them engaging in violent behaviour prior to 11 years old (Murphy, 2018). There are a range of factors which may be predictive of future violence. These include: bullying or being bullied; sporadic displays of aggression and becoming withdrawn; truanting from school; early formal involvement with police; associating with peer groups engaging in antisocial behaviour; behaviours such as fire setting and abuse towards animals; substance misuse before age 11; and lack of positive peer influences in early adolescence (Loeber & Farrington, 2001).

- **Most individuals who engage in racially motivated violence are young and male.** In Scotland, reports of hate crime have risen over recent years (Hamad, 2017). Those who engage in hate crime tend to be young, white, male, have previous convictions and be unemployed or in low paid employment (Hamad, 2017). One study that examined religiously aggravated offending in Scotland in 2015-16 found that 41% of the charges were against individuals aged 16-30, and 90% of charges were against males (Scottish Government, 2016).

- **Domestic violence should not be ignored as an issue with children.** An NSPCC study of teenage partner violence found that one in four girls reported partner violence with one in nine girls reporting serious partner violence (Barter, McCarry,

Berridge, & Evans, 2009). In Scotland, in 2021-22 there were 302 incidents of domestic abuse recorded by the police where the victim and accused were both under the age of 16 years. The number of incidents increased to 1,105 when the victim and accused were both under the age of 19 years. Under-reporting of this form of violence means that it often doesn't comes to the attention of professionals working with children; however, the social prevalence of such behaviours may suggest that attitudes towards gender should be integrated into general intervention work around interpersonal violence.

Within the context of domestic violence, child to parent violence should also be considered. As with behaviours and attitudes associated with gender related violence, interventions focussed on parenting and the child-parent relationship should include consideration of interpersonal violence.

2.2 Harmful Sexual Behaviour (HSB)

Sexual exploration and experimentation are normal parts of child and adolescent development and are important in shaping sexual identity and an understanding of relationships with others. As part of this process, children may stretch the boundaries of developmentally expected behaviour in ways that are non-abusive. Distinguishing between experimental childhood sexual behaviour and inappropriate or abusive sexual behaviour can be a complex task and requires practitioners to have an understanding of healthy normative behaviour and issues of informed consent, power imbalance and exploitation (McCarlie, 2009). Further guidance on this subject can be found in the National Guidance on Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns. The Expert Group on Preventing Sexual Offending Involving Children and Young People identified the Brook Traffic Light Tool and Hackett's Continuum of children and young people's sexual behaviours as useful aids to assist practitioners in understanding the developmental appropriateness of sexual behaviours. Stop It Now have designed a tool to help parents and carers understand if a child's sexual behaviour is age-appropriate.

Harmful Sexual Behaviour has been defined as:

> "Sexual behaviours expressed by children and young people under the age of 18 years old that are developmentally inappropriate, may be harmful towards self or others and/or be abusive towards another child, young person or adult."
>
> (Hackett, Holmes, & Branigan, 2016:13)

This is in line with the definition adopted by the Expert Group on Preventing Sexual Offending Involving Children and Young People (Scottish Government, 2020).

HSB encompasses a range of behaviours and the above definition recognises that sexual behaviours displayed by children can be problematic and harmful but not necessarily coercive or abusive. Early intervention with problematic behaviours can reduce the escalation of harmful sexual behaviours and prevent offences/crimes taking place.

In the UK around 3% of all crimes committed by children and young people are sexual crimes (Hackett, Phillips, Masson, & Balfe, 2013). A consistent finding in the research is that around one third of sexual offences against children are committed by children under the age of 18 years old (Hackett et al., 2016). However, an NSPCC report highlighted that two thirds (65.9%) of contact sexual abuse experienced by children under 18 years was carried out by someone aged under 18. These figures are of course likely to be an underestimate of the level of HSB that occurs; one study has found that four out of five children (82.7%) aged 11-17 who experienced contact sexual abuse from a peer did not tell anyone else about it (Radford et al., 2011).

Scottish Government figures for recorded crime in Scotland indicate that sexual crimes accounted for 5% of all crimes recorded in 2021-22, the same as in 2019-20. The number of sexual crimes recorded in 2019-20 had increased by 100% since 2010-11. The number of 'Other sexual crimes' recorded by the police had increased over the past few years and was the largest category within recorded sexual crimes. Research estimates that this growth is largely due to growth in cyber-enabled 'Other sexual crimes' such as 'Communicating indecently' and 'Cause to view sexual activity or images'. Almost a quarter of cyber-enabled crime had a victim and perpetrator who were both under the age of 16 years in 2016-17 (compared to 8% for non-cyber enabled crimes). A further 28% of these crimes were committed by 16-19 year olds. This increase led to the setting up of an Expert Group on Preventing Sexual Offending involving children and young people. This group, which reported in 2020, commissioned research to further understand the prevalence and nature of HSB involving children in Scotland. Over a two-year period there were 260 cases involving children reported to COPFS by the police. A random sample of 96 of these cases was examined and revealed there were 45 cases of children charged with rape, attempted rape and/or sexual assault; 45 cases charged with 'other sexual crimes'; and six cases charged with both categories of offences (Scottish Government, 2020). The group also examined the 216 children referred to SCRA in 2016-17 for allegedly committing at least one sexual offence. Of these, 29 were referred for rape and attempted rape, 101 for sexual assault and 117 for 'other sexual crimes'.

Adolescent white males continue to form the largest group of those who exhibit HSB. However, those from minority ethnic groups, younger children, females and those with a learning disability are to a lesser extent included in any statistical figures (Radford et al., 2011).

Key Messages from Research: Harmful Sexual Behaviour

- **Work with children who display HSB requires a child protection approach.** In all cases where a child presents with HSB, immediate consideration should be given to whether child protection measures are required, either to protect the individual harmed or because there is concern about what has caused the child who has harmed to behave in this way. This is covered in Part 4 of the National Guidance for Child Protection of Scotland.

- **Differences in profiles exist across types of HSB.** Research has shown that there may be key differences between children who: harm young children and those who harm peers; engage in contact and non-contact offending; only commit sexual crimes and those who commit non sexual offences and other offences; and those who engage in sexual offending on their own and those who engage in this behaviour

within a group (Höing, Jonker, & van Berlo, 2010). Children with intellectual difficulties are often significantly overrepresented in those who have engaged in HSB (Hackett et al., 2013). This group are a particularly vulnerable and neglected group and may need specific intervention responses (O'Callaghan, 1998).

- **The developmental pathways into HSB may vary between groups.** A Scottish study indicated that there may be different developmental pathways for boys and girls, and for those who develop these behaviours prior to adolescence and during adolescence (Hutton & Whyte, 2006). Girls in the study also had a much higher presentation of disclosed experiences of having been sexually abused, whilst children who started to display HSB before the age of 12 years seemed to have experienced more trauma and potentially negative environments than those over 12. Research also indicates that those engaged in Technology Assisted-Harmful Sexual Behaviour (TA-HSB) display different characteristics to those engaged in offline HSB and those engaged in dual behaviours (Jackson-Hollis & Belton, 2017; Scottish Government, 2020).

- **The majority of children who display HSB will not engage in further HSB.** Whilst there will be a small sub-group who are likely to continue such behaviours into adulthood, research shows that targeted interventions can be highly effective in reducing risk even for those children and young people where there is a higher risk of continuing harmful behaviours (Worling & Långström, 2003). Comprehensive assessment and multi-agency risk management through the Care and Risk Management (CARM) process, detailed in the Framework for Risk Assessment, Management and Evaluation (FRAME) with children aged 12-17 can assist in identifying individuals who may be at higher risk of continuing these behaviours into adulthood without the provision of appropriate supports.

- **Sexual abuse often takes place in a secretive context and can involve targeting, coercion or bribery.** Children who display HSB will often be known to the person who has been harmed, and will sometimes be related (Yates & Allardyce, 2021). The person who has been harmed may be young and vulnerable and may be deemed not to be a 'credible witness'. When working with children, HSB can often be difficult evidentially to prove and we will not always have a clear legal mandate for assessment and intervention work. Motivation and engagement skills are necessary along with careful consideration of ethical reasons for whether we should or should not engage in intervention work that directly discusses the HSB (Allardyce & McAfee, 2016).

- **Children displaying HSB should not be treated or responded to as 'mini-adults'.** A holistic child-centred approach that considers the child across all of the systems within which they exist - family, education, peer, and community - is crucial. Children benefit from more individualised and child-focussed interventions than the group work approaches designed for adults who engage in sexual offending (Hackett, 2014).

HSB and Technology

Children access the internet via phones, tablets and computers for a range of diverse reasons and most offer them positive learning and development opportunities. Technology use is now thoroughly embedded in children's daily lives, with 91% of 12-15 years-olds and 49% of 8-11 year olds in the UK having their own smart phone (Ofcom, 2021). Research indicates that around a fifth to a half of all children and young people have been exposed to pornography online by the age of 16 years (Belton & Hollis, 2016). A recent UK survey of 11–16-year-olds found that 48% of them had seen online pornography, with the likelihood increasing as the age of the respondent group increased. Of those who reported seeing online pornography 34% reported seeing it once a week or more (Martellozzo, Monaghan, Davidson, & Adler, 2020). Furthermore, a recent survey of boys in HMP&YOI Polmont reported that their source of receiving information regarding sex was from online pornography (Scottish Government, 2020). This is particularly concerning when considering the nature of much online pornography which is harmful, abusive, and violent. Research conducted by the Children's Commissioner for England (2023) found that children were frequently exposed to online violent pornography that depicted 'coercive, degrading or pain-inducing sex acts', with 79% of those surveyed indicating they had been exposed to violent pornography before the age of 18.

There remains limited research regarding the link between inappropriate use of interactive technologies and HSB (Quayle, 2017). However, some broad areas of concern emerge from the literature in relation to internet use:

- Recent research that considered the impact of viewing online pornography found some evidence that those who used pornography frequently were more likely to engage in physically aggressive acts (Children's Commissioner for England, 2023). Some research has found the link between pornography use and self-reported sexually coercive behaviour has been found to be statistically significant (Stanley et al., 2018). There are some who argue that, with the increased availability of high-speed internet access and ease of access to pornography, pornography can become addictive in nature (Wilson, 2017). Others contest that young people viewing pornography (and specifically indecent images of children) require targeted interventions focussed on dysregulated internet use and atypical sexual arousal (Aebi, Plattner, Ernest, Kaszynski, & Bessler, 2014).

- Vulnerable and often isolated groups such as those with intellectual difficulties or lesbian, gay, bisexual, transgender and questioning (LGBTQ) can often use the internet as a resource to explore their sexual identity and it can be one of the few sources of information available to them. It is thought that this may contribute to the risk of accessing inappropriate or illegal material, or being made vulnerable to grooming or exploitation (Palmer, 2015).

- Children in conflict with the law through their use of technology, often have no history of offending behaviour or contact with social services, are of above average intellectual function and from backgrounds which differ to those of the general offending population e.g. not from deprived backgrounds (Aebi et al., 2014; Jackson-Hollis & Belton, 2017; Palmer, 2015; Scottish Government, 2020).

- Children and young people are estimated to be responsible for downloading between three and 15% of indecent images of children (IIOC) (Aebi et al., 2014; Belton & Hollis, 2016).

- A recent survey in Scotland highlighted that the majority of children (78%) were aware that it is an offence to take a nude photo of themselves and share it if they are under 18. However, when boys in HMP&YOI Polmont were asked this question, only one of them was aware that it was illegal (Scottish Government, 2020).

3. Policy Context and Legislation

Whilst the principles and process of assessing and managing the risk of serious harm should be consistently applied in every case, the nature of the risk management arrangements that will be put in place will depend on whether a child's behaviour is being managed under the welfare or criminal justice legislation.

In both cases, practice should be governed and directed by a number of key practice frameworks, namely:

- United Nations Convention on the Rights of the Child (UNCRC)
- Getting it Right for Every Child (GIRFEC)
- National Guidance for Child Protection of Scotland
- National Risk Framework (NRF)
- Framework for Risk Assessment, Management and Evaluation (FRAME) with children aged 12-17 and the Care and Risk Management (CARM) process

When working with children who pose a risk of serious harm (Allardyce & McAfee, 2016), in accordance with GIRFEC, practitioners should:

- Put the child at the centre and develop a shared understanding within and across agencies
- Use common tools, language and processes
- Consider the child as a whole
- Promote closer working where necessary with other practitioners

In working with children who display risk of serious harm, the NRF is designed to assess wider welfare and child protection concerns and may need to be applied in line with GIRFEC national practice guidance where such concerns are present. The CARM process, based on the FRAME practice standards, was developed to promote child focussed multi-agency practice that values the diversity of the roles, skills and knowledge of the various agencies involved. It is underpinned by GIRFEC and a shared understanding of the language, principles and processes of risk management practice. It is also underpinned by the UNCRC articles. Articles that are specifically relevant to managing the risk of harmful behaviours are summarised on the UNICEF website as:

- Article 3 (best interests of the child): The best interests of the child must be a top priority in all decisions and actions that affect children.

- Article 12 (respect for the views of the child): Every child has the right to express their views, feelings and wishes in all matters affecting them, and to have their views considered and taken seriously. This right applies at all times, for example during immigration proceedings, housing decisions or the child's day-to-day home life.
- Article 20 (children unable to live with their family): If a child cannot be looked after by their immediate family, the government must give them special protection and assistance. This includes making sure the child is provided with alternative care that is continuous and respects the child's culture, language and religion.
- Article 37 (inhumane treatment and detention): Children must not be tortured, sentenced to the death penalty or suffer other cruel or degrading treatment or punishment. Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible. They must be treated with respect and care and be able to keep in contact with their family. Children must not be put in prison with adults.
- Article 39 (recovery from trauma and reintegration): Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life.
- Article 40 (juvenile justice): A child accused or guilty of breaking the law must be treated with dignity and respect. They have the right to legal assistance and a fair trial that takes account of their age. Governments must set a minimum age for children to be tried in a criminal court and manage a justice system that enables children who have been in conflict with the law to reintegrate back into society.

3.1 Decision-making processes

If a child aged 12-17 years old has been charged with a serious offence, there is a presumption that the child will be referred to the Children's Reporter (Gibson, 2019). However, this presumption may be overridden and it may be jointly reported to the Procurator Fiscal (PF) in line with the Lord Advocate's Guidelines. A decision will be made by the PF where the case will be heard.

Where there is consideration that the risks posed by parts of a child's behaviour present significant harm to others and formal risk management processes are required, the CARM process supports the multi-agency management of risk and is applicable irrespective of whether the child is subject to the Children's Hearings System or the criminal justice system. CARM provides local authorities and practitioners with a template for child-centred practice in risk assessment, management and reduction with children who present a risk of serious harm to others within the context of GIRFEC and the Whole System Approach. CARM recognises risk management as the means by which we each jointly and distinctively reduce and, where possible, prevent the physical and psychological harm to others that is the result of harmful behaviour.

In a small number of cases, children convicted of a sexual offence in the adult courts and not remitted to the Children's Hearing System will be overseen by Multi-Agency Public Protection Arrangements (MAPPA) which are governed by Sections 10 and 11 of the

Management of Offenders (Scotland) Act 2005. Any child who is subject to notification requirements under the Sexual Offences Act 2003 will be managed via MAPPA.

Inclusion of a child in MAPPA may also occur if they have been convicted of a crime which suggests that they may pose a risk of serious harm, are subject to statutory supervision in the community and where active multi-agency management is necessary to protect the public.

The processes relating to MAPPA are outlined in the MAPPA National Guidance (2022). The principles of evidence-based multi-agency risk assessment and planning are integral components of the MAPPA approach, though it is crucial this is underpinned by an understanding of children which is developmentally, systemically, vulnerability and trauma informed (Dyer, 2017).

The outcomes from MAPPA and CARM meetings should be recorded in the Child's Plan.

4. Risk Assessment Practice

All risk assessments should follow a process through which the best available information is identified, analysed, evaluated and communicated in order to inform decision-making and action about managing and reducing risk. Whilst the focus of these steps may vary depending on the age and developmental stage of the individual involved, the broad process should always remain the same.

Where parts of a child's behaviour pose a risk of serious harm to others, the risk assessment should be comprehensive enough to provide a scrutiny of the risk. This will involve developing an understanding of them in terms of their development, attitudes, beliefs, coping strategies, behavioural patterns, relationships, goals and environment. If an appropriate and effective risk management and risk reduction plan is to be developed collaboratively with the child and their parent/carer, it is essential to establish a good understanding of what needs to change in their life, what might motivate that change and how the change process can best be supported over time.

FRAME with children aged 12-17 highlights that assessment is a process that involves four key aspects: Identification, Analysis, Evaluation and Communication.

4.1 Identification

This step involves gathering and reviewing all relevant information across the wider systems within which the child lives, and identifying the:

- Historical and current factors relevant to the child and how these might impact and influence further offending (vulnerabilities) or desistance (strengths)
- Nature of previous and current harmful behaviour
- Seriousness of previous and current harmful behaviour

In accordance with the GIRFEC National Practice Model and FRAME with children aged 12-17, this information should be gathered from a range of sources including from the child

themselves, their parents or carers, education, health and the police.

4.2 Direct Work with the Child

The child will be a very important source of information and building a relationship with them will be critical. Direct work with them should seek to identify information about the following:

- An exploration of beliefs and attitudes that may underpin their harmful behaviour
- The child's understanding of their own history and any prior experiences of victimisation
- Analysis of the function of violence/HSB (Fraser, Burman, Batchelor, & McVie, 2010)
- Strengths, skills and resources
- Future plans and goals
- Exploration of learning style
- Experience of previous interventions/support - what was helpful/unhelpful

4.3 Involving Families in the Assessment Process

In addition to gathering information from the child, it is vital to recognise the important roles that parents and carers play in informing risk assessment.

Parents need to be involved with comprehensive assessments in meaningful ways; however, many parents whose children have been involved in harmful behaviour face social stigma, rejection, and hostility in reaction to their child's behaviour and may need considerable support. They may also struggle with acknowledging personal trauma or the extent of their child's behaviours. Engaging parents/carers using examples from Facing the Future (Hackett, 2001) can assist in addressing their emotional experiences or reactions.

4.4 Risk Assessment Tools

The information gathered and the identification of the type of harmful and concerning behaviour(s), should inform which risk assessment tool(s) is appropriate. Risk assessment tools ground the assessment in an evidence base and aid consideration of risk. FRAME recommends utilising a structured professional judgement approach. It is the responsibility of the practitioner and the agency to be clear about which risk assessment tools they utilise within their local authority area. This may be guided by the Risk Assessment Tools Evaluation Directory (RATED) produced by the Risk Management Authority.

An appropriate instrument is one that is suitable for the individual and in its application, practitioners should be aware of the impact of age, gender, race, mental health and cognitive ability. To ensure that decision-making is responsible, ethical and defensible, risk assessment tools must be applied in line with the guidance provided by the authors of the instrument and should only be undertaken by practitioners who are competent in the use of the instrument.

4.5 Analysis/Formulation

Having identified the relevant information from a broad range of sources, it will be necessary

to analyse the relevance of this information in relation to the harmful behaviour. The analysis should include:

- Detailed analysis of past and current harmful behaviour in terms of the pattern, nature, seriousness and likelihood
- Application of a functional analysis in order to explore how, why and when harmful behaviour occurs, periods when it doesn't occur, and any relevant risk and protective factors (strengths and vulnerabilities).
- A formulation that offers an understanding of the interaction and respective role of risk and protective factors in an episode of harmful behaviour; it should help to identify triggers and early warning signs which may assist in recognising and responding to imminence and inform meaningful risk reduction interventions.
- Identification of likely future plausible risk scenarios based on the evidence you have regarding that child to inform the risk management and risk reduction plan, to develop contingency measures to prevent or reduce the impact of further harmful behaviour.

Used in the context of risk assessment, formulation is the process by which you generate a hypothesis about the factors which have contributed to a person developing harmful behaviours, and the factors which maintain those behaviours. The purpose is to help identify individualised targets for intervention that will manage and importantly reduce the risk of the harmful behaviour occurring. Formulation is the step that bridges the gap between identification and evaluation by allowing us to analyse the risks as they apply to the individual. Formulation:

- Helps us consider how general theoretical or empirical knowledge applies to the story of the individual or family that we are working with
- Helps us to understand why a difficulty exists rather than simply describing a set of symptoms, problems or risk factors
- Bridges the gap between describing risk and intervening to manage and reduce risk
- Guides intervention by showing us the pathway that led to the behaviour
- Is individually sensitive and specific
- Allows us to understand complex or co-morbid cases where numerous problems exist together and interact with each other
- Should additionally be trauma, vulnerability, developmentally and systemically informed, recognising that harmful behaviour is often a response to unmet need

One of the most commonly used methods of case formulation is the four Ps. For each P you identify the factors, circumstances or behaviours, which contribute to the harmful behaviour:

- **Predisposing** - factors in the individual's past that may increase their tendency or vulnerability towards harmful behaviour. These might include impulsivity, early exposure to violence, insecure attachments with caregivers etc.
- **Precipitating** - events or circumstances that may trigger the behaviour or disinhibit usual behavioural controls. These can be motivators or disinhibitors and might include intoxication, emotional collapse, a perceived slight or rejection etc.
- **Perpetuating** - factors that cause the risk of harm to remain. These might be impeders or unresolved vulnerabilities such as lack of parental management, a cognitive impairment, a learning disability, lack of stable/safe home etc.

- **Protective** - aspects of the individual that are functioning well or environmental circumstances that moderate the risk. These might include significant pro-social relationships, medication, motivation to engage in supervision etc.

Having identified the relevant factors for each P, the formulation combines the information and analysis into a narrative, which explains how the various factors contribute to and influence the problematic behaviour.

Scenario Planning: An important part of the assessment process involves identifying how risk factors may manifest in the future. This helps to identify what action needs to be built into the risk management plan in order to avert these situations. A scenario planning element exists in a number of structured professional judgement instruments and can prove useful when considering what actions are required to manage the risk. It involves a series of steps. Consideration should be given to identifying the nature, seriousness, potential victims, circumstances, context and timeframe of harmful behaviour in a number of different scenarios including:

- A similar scenario (repeat), e.g. a repeat of previous behaviours resulting in the same or similar harmful behaviour
- A more serious scenario (escalation), e.g. an escalation in harmful behaviour such as a shift from low level violence to the use of a weapon
- A more positive scenario (improvement), e.g. refraining from harmful behaviour or a reduction in the frequency, seriousness or type of harmful behaviour
- A somewhat different scenario (twist), e.g. evidence of a change in the pattern or circumstances of harmful behaviour, such as variance in location or victim targeting

Each scenario should be fleshed out to identify and describe the most likely chain of events: If… when… then. The plausibility of the scenario should be evaluated, and if it remains a credible option, the likelihood of it occurring should be recorded.

Credible scenarios should be analysed in order to identify the potential early warning signs, protective factors and risk factors. Suitable preventive strategies and contingency measures should be developed to avoid the negative scenarios and promote scenarios that are more positive. These strategies should be incorporated into the risk management plan.

4.6 Evaluation and Communication

The third and fourth steps in the risk assessment process are evaluation and the communication of this. An assessment can guide a variety of decision-making processes including Children's Hearings, CARM meetings, secure care screening groups and MAPPA. The purpose of the assessment is to inform the decision-making; the formulation and conclusions should be evaluated against the relevant decision-making criteria in order to determine the most appropriate course of action. The criteria may vary depending on the purpose of the risk assessment, and the circumstances and context of the child. In almost every case, evaluation will aid the decision-making process as to whether they are able to remain in, or return to, the community.

Risk is dynamic and influenced by context and time. As such, a risk assessment needs to capture the complex, changeable nature of risk and communicate an understanding of that

risk in a manner that is relevant to the current task and the context of the particular decision-making process.

Terms such as 'high risk' have traditionally been used to attempt to highlight that children present a risk of serious harm, yet such terms fail to capture strengths and positive attributes. The use of such terms also poses a challenge in a world of multi-agency working given that they are subjective and open to interpretation, unless qualified in respect of what we are defining as of concern.

A comprehensive assessment should end with not just recommendations, but clear actions attributable to individuals and/or agencies with discernible timescales. These should be drawn from a clear analysis of the behavioural concerns in a developmental context, a careful needs assessment and a detailed assessment of risk specific to that individual. The final report should include the following:

- A description of the problem (summarising the nature of the harmful behaviour and the likely risk scenarios that need to be managed)
- A description of the process of assessment that has been followed (i.e. details of the sources that have informed the report, any risk assessment tools that have been used, and any particular methodology that has been applied).
- A summary of the relevant background information. This should include, but not be limited to: details about family structure and function; education; social, relational and sexual development; physical and mental health issues; substance misuse, any history of trauma and resilience factors.
- Findings from any risk assessment tools
- An analysis of previous harmful or problematic behaviour and any attempts to modify it
- A risk formulation which explains how and why the behaviour developed and how it is maintained
- A summary of the likely and plausible future risk scenarios outlining who is at potential risk, the nature of the risk, the likelihood of the event occurring, and the possible triggers and outcomes.
- A summary of risk recommendations and actions, with a note of who is responsible for carrying these out (and associated timescales) that indicates how such measures will seek to manage the risks posed.
- Gaps and limitations to the assessment and what has been attempted to bridge these

As noted, summarising risk in terms of high, medium or low, provides no explanation of the risks posed by a child's behaviour, thus it might be helpful to conclude a risk assessment by offering an opinion on the following factors:

- The likelihood of the behaviour continuing or re-occurring
- The imminence of the behaviour
- The nature of harm most likely to be posed
- Those likely to be harmed
- The impact of the behaviour if it was to happen

Additional consideration – frequency of review: Risk is dynamic, changing with time and

context, so risk assessments must be reviewed and updated regularly, particularly if there is a significant change in circumstances (for example, further harmful behaviour or a move from secure care back to the community). This is particularly important given the developmental changes that can occur in childhood and the fact that their circumstances can change quickly. Reports should note when risk of harm should be re-assessed.

Additional consideration - limits of professional competence: During the process of the assessment, if the worker identifies case-specific issues that may extend beyond the boundaries of professional training, qualification and expertise (Risk Management Authority, 2011), this should be referred back to the worker's manager to allow a decision to be made on how to proceed. The issues identified may require a decision to be made on the allocation of resources.

In order for defensible decision-making to take place and to ensure proportionate responses to risk, a range of risk management options should be considered.

5. Risk Management Practice

Local authorities should have in place a risk management process for children who display violent or harmful sexual behaviours. FRAME with children aged 12-17 proposes the Care and Risk Management (CARM) process as a best practice formal risk management process. It may be adopted by local authorities as a process with adequate alterations to represent local needs; however, local processes should be signed off by Child Protection Committees (CPCs) and grounded within broader public protection structures and processes (e.g. Community Planning Partnerships). Additionally, local authorities should be cognisant of areas of overlap and the need for CARM processes to complement rather than conflict with existing arrangements (e.g. secure screening panels).

The operational requirements for implementing CARM are as follows:

Requirement 1: Referrals to CARM must be made within one day of the behaviour coming to light

Requirement 2: The initial CARM meeting should take place as soon as possible and no later than 21 calendar days after the referral discussion.

Requirement 3: CARM chair must identify appropriate practitioner to complete necessary risk assessments.

Requirement 4: Where a risk assessment has been completed in advance this should be provided five working days in advance to the chair.

Requirement 5: Lead professional is responsible for updating the Child's Plan to incorporate the risk management strategies.

Requirement 6: The CARM chair will establish attendees' views as to whether the child requires ongoing risk management through the CARM process or not, and the reasons why.

Requirement 7: Decision of CARM meeting should be reached by consensus, where this is not, it should be recorded and the chair will make final decision whether CARM process is required or not.

Requirement 8: A full minute approved by the chair of the CARM meeting must be circulated to attendees within 15 calendar days.

Requirement 9: The lead professional must communicate key decisions of the CARM meeting to the child and their parent/carer on the same day.

Requirement 10: CPC will provide oversight and scrutiny of the functioning of the CARM process, the decision-making, views of children and their parents/ carers involved.

Requirement 11: When a child subject to the CARM process has been involved in an incident where further harm has resulted from their behaviour, the CARM chair must notify the CPC for consideration about whether a Learning Review is required.

Where aspects of a child's behaviour pose a risk of serious harm, a plan should be developed which clearly outlines how those risks will be managed and reduced. The key areas of this plan should be integrated with the Child's Plan.

The document 'FRAME with children aged 12-17' should be referred to for more detail on meeting these requirements.

5.1 Risk Management Plans

A risk management plan should contain a number of core elements:

- A risk assessment
- Identification of the type of risks to be managed
- The risk factors/vulnerabilities to be addressed and protective factors/strengths to be developed
- Risk management strategies - monitoring, supervision, victim safety planning and intervention
- Identification of early warning signs or measures of positive change
- Contingency measures
- Limitations

An example of a reporting format for a risk management plan suitable for use with children can be found within 'FRAME with children aged 12-17'.

5.2 Monitoring

Monitoring involves a number of observational activities intended to identify changes, which indicate progress or deterioration. These may be factors that could indicate imminence of harmful behaviour, a change in the type of harm posed, or a decrease in the current risk of harm. Monitoring is an active component of risk management as it supports contingency planning and informs readiness to respond to change.

Examples of areas that might warrant monitoring include:

- Frequency of aggressive incidents
- Frequency of unauthorised absences
- Use of pornography (e.g. amount of time/content)
- Frequency of substance use and type of substances used
- The individuals they are spending time with
- Where they are spending time
- Frequency of engaging with supports and seeking advice/guidance
- Frequency of engaging in positive activities or with positive peers
- Use of social networking sites and the content of these
- Emotional state and any changes in emotion or ability to regulate emotions

Decisions on what requires to be monitored should be individualised and proportionate to the risk of harm presented. Particular prominence should be given to key factors, which may indicate that the risk of harm is escalating or imminent. Depending on the individual's situation these could be monitored via parents/carers, professionals or in some instances, through electronic monitoring.

5.3 Supervision

This is the activity of overseeing or administering an order or sentence in a manner consistent with legislation and procedures, ensuring that any requirements/conditions or restrictions of liberty are applied and compliance with such requirements is monitored. It is also a means by which a relationship is established with the individual, to ensure that the individual is engaged through dialogue in a process of change and compliance (Risk Management Authority, 2011).

Examples include:

- Building a relationship with an individual
- Motivating an individual to complete an intervention programme
- Allowing activities, on the condition that the individual is supervised by a responsible adult
- Restricting association, preventing contact with specific peers or adults (including previous or potential victims)
- Restricting activity e.g. preventing a child from attending classes unsupervised
- Restricting movement e.g. curfews, travel bans and prevention from going to certain areas
- Restricting internet use and the use of mobile technology
- Preventing telephone or postal contact with previous victims
- A secure placement or custody

A balance must be struck between the child's rights and the safety of others, and this can only be done through a detailed individualised assessment of risk and need, leading to tailored and necessary supervision arrangements. Thought needs to be given to whether risk management becomes so restrictive that the child loses out on significant life experiences. That is to say, that they miss out on 'positive' risk taking experiences, similar to those that most children experience in an age and stage appropriate way, or that risk is inadvertently increased through missed developmental opportunities e.g. restricted opportunities to develop social/relationship skills.

Supervision needs to be linked with monitoring, as breaches in supervision requirements must be ascertained and acted on appropriately. Conversely, the more evidence there is that an individual is able to self-manage and that external circumstances are stable and supportive, then the less need there should be for supervision. This is obviously a dynamic balance that may change over time and there must be evidence across all the systems within which a child exists to support assessment of risk reduction.

5.4 Victim Safety Planning

This is a risk management activity wherein attention is drawn to the safety of specific individuals or groups who may potentially be victimised, with a view to devising preventative or contingency strategies. The focus in victim safety planning is on working with victims and potential victims to improve their safety and maximise their resilience.

Situations where a child has physically or sexually harmed another child at the same school (or is alleged to have done so) can be particularly challenging and raise issues in relation to victim safety planning. These difficulties are similar to those found in other institutions (e.g., a child in a residential setting who alleges that another individual has assaulted them). Specific arrangements will be necessary to promote safety and parents/carers will need transparency about action taken. Robust safety plans should be produced, cognisant of the risks posed in the community, at home, school or other environments as appropriate.

Where a decision is made to exclude a pupil on grounds of physical or sexual behaviour, this ultimately needs to be premised on a multi-agency assessment of risk. Those making decisions to exclude should be mindful that whilst this may reduce the risk of harm in a school context, it may increase risk in the community due to the child's lack of daily routine and structure.

5.5 Interventions

Interventions can be delivered through supervision or may involve referral to other services. In complex cases, a range of interventions may be required and these should be coordinated within the risk management plan.
Research demonstrates that interventions with individuals are most effective when tailored to an individual's learning ability and style, motivation to change, personality type and level of interpersonal communication skills. Evidence also suggests that when working with individuals who have engaged in harmful behaviour, interventions are most effective when they target the needs of the individual using cognitive behavioural, problem solving and skills learning approaches.

However, research indicates that interventions with children should be:

- **Holistic**: focusing on the child's needs across all dimensions of their life and development
- **Systemic**: involving families, parents/carers, schools, community, in order to improve children's social environments and attachment relationships
- **Goal-specific**: designed to address specific issues relating to the child's harmful behaviours
- **Developmentally orientated**: being sensitive to the child's age and stage of development

There is a growing international evidence base for the effectiveness of **Multi-Systemic Therapy** (MST) with violent behaviour (Henggeler, Melton, Brondino, Scherer, & Hanley, 1997) and harmful sexual behaviour (Letourneau et al., 2009) although the initial evidence of effectiveness in the UK is limited (Fonagy et al., 2017). Based on social ecological theory, MST is an intensive home-based intervention for families of children with social, emotional

and behavioural problems. MST provides an alternative to out of home placements and is designed to address the comprehensive array of factors that contribute to the increased risk of offending, across multiple systems (i.e. individual, family, peer, school, community). MST is one of 18 'model' (and one of the 6 'model plus) programmes that meet the high scientific standards effectiveness of Blueprints for Violence Prevention, a project of the Center for the Study and Prevention of Violence at the University of Colorado.

The **Good Lives Model** (GLM) (Ward, 2002) is a strengths-based approach premised on the idea that we need to build capabilities and strengths in people, in order to reduce their risk of re-offending/harmful behaviour. The authors of the GLM describe offending/harmful behaviour as a way of meeting everyday human needs by inappropriate means. By identifying the person's needs and offering appropriate activities or strategies to meet those needs, this might prevent a repeat of harmful behaviours.

In terms of other approaches, increasingly **solution focused approaches** have been employed with children who have engaged in HSB. The 'signs of safety' approach (Myers, 2005; Turnell & Edwards, 1997) is employed by some services in Scotland, and supporters of the solution focused approach stress the importance of collaborative, interactive and motivational methods for working with this group (Jenkins, 2005). There is some evidence that strengths-based, solution focused and empowering approaches are critical in interventions with vulnerable families and have positive effects on behavioural problems displayed by children, and children who have engaged in offending/harmful behaviour (MacLeod & Nelson, 2000; Seagram, 1997; Woods, 2011).

However, to reduce the likelihood of harmful behaviour in the future, interventions also need to consider the context in which the harm has occurred as harmful behaviours often occur between peers in shared social spaces such as schools, parks, or on the streets. Interventions should therefore also consider peer groups, the locations of harm and patterns of harmful behaviour within these. Simply focusing on the individual child and the family context could result in missed opportunities to prevent further harm (Firmin, 2017). The Contextual Safeguarding approach developed by Carlene Firmin and colleagues is helpful when the harmful behaviour is occurring out with the home.

Interventions with children where parts of their behaviour pose a risk of serious harm to others is most effective when the young person is in a stable environment and opportunities to re-engage in harmful behaviours are minimised.

In summary, there is a developing evidence base highlighting that the interventions that are effective in reducing harmful behaviours tend to be holistic, trauma-informed, systemic, and address the contexts where harm occurs (Moodie et al., 2015; National Institute for Health and Care Excellence, 2016; Quadara & O'Brien, 2020; Whyte, 2001; Youth Endowment Fund, 2020). See Section 3

Alternatives to deprivation of liberty

As defined in Article 37(b) of the UNCRC, deprivation of liberty should only be used 'as a measure of last resort and for the shortest appropriate period of time'. Effective risk practice and the use of robust community alternatives can mitigate against the need to deprive children of their liberty whilst also maintaining public protection.

6. Staff Supervision and Support

Many professionals find providing guidance and support to individuals charged with serious offences highly rewarding (Kadambi & Truscott, 2006), but most require specific support in their work in this area. Work around HSB involves exposing staff to issues around sexual abuse, which may require them to address personal issues around sexual behaviour and sexual identity with children. Similarly, work around violent behaviour can often require self-reflection about power, gender relationships and values surrounding what is inherently considered to be right and wrong. The cost of not providing this support - in terms of the personal impact, as well as the worker's capacity to provide containment and boundaries - can be considerable (Hackett & Masson, 2006).

In particular, the influence of transference and counter-transference issues with this client group can compromise the ability of staff to balance risks and needs if practitioners are insufficiently reflective and do not have opportunities to explore the personal impact of the work upon them (Bankes, 2001). Impact on team dynamics can also be a factor if support is unsatisfactory (Morrison, 2004). The right level of experience and training is clearly necessary to undertake extensive work with this client group, alongside strong organisational frameworks.

Learning themes from Significant Case Reviews often highlight the need for improvements in staff training, supervision and support (Care Inspectorate, 2016; Glasgow Child Protection Committee, 2013). In particular, the need for reflective supervision practices is often highlighted so that there can be constructive challenge about judgements and progress in reducing risk. This is especially important in complex cases. The SSSC Step into Leadership resource contains a useful supervision learning resource which promotes good practice in supervision across social work and social services, although it is also applicable across other services.

Both front line practitioners and their line managers working with children and young people involved in serious violent or sexual offending should:

- Be appropriately qualified and experienced for the role they are required to undertake
- Have access to training to support their role and which enhances their skills
- Have regular supervision (1:1 and group)
- Have access to appropriate support mechanisms
- Have access to counselling if required

7. Conclusion

Some children will, at times, present with behaviours that pose significant and serious risk of harm to others. It is our role to understand these behaviours through robust assessments that take account of all the systems within which the individual child exists and the relevance and impact of these systems and experiences upon that child. Risk practice must be undertaken through a child-centred lens informed by appropriate theories, knowledge and training. Additionally, appropriate risk assessment instruments should be utilised to ensure robust risk management plans that seek to reduce risks and promote and build the capacity

of that individual child and their system of support. Risk practice is not a one size fits all; it should reflect the individuality of that child within meaningful interventions. It must be reflective and requires review and evaluation of outcomes to ensure adaptation in response to changes in risk of harm, whether these be an increase or reduction in harmful and concerning behaviours. Risk practice must be a collaborative endeavour that necessitates multi-agency collaboration.

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