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Interim Age of Criminal Responsibility (Scotland) Act 2019

ACRA Inter – Agency Referral Discussion (ACRA
IRD) Toolkit

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1. Purpose

This document is intended to support Police Officers who will be conducting an ACRA Inter-Agency Referral Discussion (IRD) in response to the duties the [Age of Criminal Responsibility \(Scotland\) Act 2019](#), referred to as the '**Act**', places upon Police and Local Authorities. It should be read in conjunction with the:

- PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#).
- [Child Protection PSoS SOP](#); and
- [PSos Child Protection Inter-Agency Referral Discussions SOP](#).

Previously an ACRA IRD would not have routinely been carried out in relation to a child believed to have been responsible for harmful behaviour (refer to section 14 of the [Child Protection Inter-Agency Referral Discussions SOP](#)), however the introduction of this Act now makes this a mandatory procedure for children who are aged under 12 years at the time the incident takes place, where the Police powers under the Act apply.

2. Criteria for use of Police Powers under the Act

The Police powers under the Act in relation to search, interview, questioning and taking forensic data and samples apply to behaviour believed to have been committed by a child whilst they are **aged under 12** who:

- by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, **or**
- by behaving in a sexually violent or sexually coercive way, has caused **or** risked causing harm (whether physical or not) to another person.

Serious Physical or Sexual Harm

Violent or dangerous behaviour must result in or be likely to have resulted in **serious physical** harm, whilst sexually violent or coercive behaviour can result in or be likely to have resulted in **physical, sexual or psychological** harm, whether **serious or not**.

The **extent** to which harm might be considered **serious** has been defined as harmful behaviour (violent or sexual) which is **life threatening and /or traumatic** and from which recovery, whether **physical or psychological** may reasonably be expected to be **difficult or impossible**.

Harmful Behaviour is behaviour that causes:

- physical and / or psychological damage: **or**
- injury which results in suffering, **and/or**
- impairment to health and development.

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Serious Harmful Behaviour

The extent to which harm might be considered serious has been defined as 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.

A **single traumatic** event may cause serious harm.

Serious harm can also result from an **accumulation** of significant events, both acute and long-standing.

Significant Harm

The extent to which harm might be considered significant is dependent upon the severity or anticipated severity of the impact of the behaviour.

It is **likely**:

- to result in significant interruption, change or damage to physical, emotional, intellectual **or** behavioural health and development;
- resulting in trauma and suffering.

ACRA Incident

An ACRA Incident defines the threshold at which the use of the Police powers under the Act may be used as follows:

- an incident in which a child;
- who whilst under the age of 12 years has caused **or**
- risked causing significant / serious physical or sexual harm to another person.

The [ACRA Aide Memoire](#) will assist practitioners in determining if the ACRA Incident threshold has been met. The SIO will make the final decision as to whether it meets the criteria.

In some situations, further exploration of the circumstances may be required to support decision making in a Child Protection or ACRA context, depending on the circumstances.

Regardless of the decision made, Police will still have a duty to investigate the reported incident using the evidence gathering options at their disposal and Social Work will continue to address any wellbeing concerns in relation to any child and ensure the appropriate interventions and supports are in place for the child (and any other child) and their family.

In all situations of harmful behaviour, it is a matter of **professional judgement**, based on the gathered evidence and context, as to whether the degree of harm to

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which the victim is believed to have been subjected, is suspected of having been subjected, or is likely to be subjected, is significant or serious.

The nature of the harm caused or risked and the likelihood of whether, if it had been perpetrated by an adult subject to the full criminal justice system, it may result in **solemn proceedings**, will be a determining factor in any decision making as to whether the harm can be considered to be significant or serious.

In this document, where 'harm' or 'harmful behaviour' is referenced, it should be taken to mean within the context of an ACRA Incident, unless specified otherwise.

Place of Safety (POS)

Under [section 28 of the Act](#), where a constable finds in **any** place;

- a child under 12 years of age who the constable has reasonable grounds to believe is behaving, or is likely to behave, in a way that is causing, **or** risks causing, **significant** harm to another person, the constable may take the child to a POS and keep the child there;
- **if** the constable is satisfied that it is **necessary** to do so to protect any other person from an **immediate** risk of significant harm or **further** such harm.

This is an **emergency power** to remove the child to a place of safety.

The power can be applied in **any place**, both **private and public**, where the child is found. Thus, it is lawful in the appropriate circumstances to **remove a child from their home address to an alternative POS**.

As soon as practicable after a constable takes a child to a place of safety under section 28, the constable must inform a parent of the child (section 28(3)).

Section 28(4) provides that a child may be kept in a place of safety under this section;

- only for so long as is necessary -
- to put in place arrangements for the care or protection of the child, or
- for an order under section 63 authorising the taking of intimate samples from the child to be obtained, **and**
- in either case, for no longer than 24 hours.

3. ACRA IRD

The principles and approach to an ACRA IRD are similar to those outlined in the [National Guidance for Child Protection in Scotland \(2021\)](#) however, the **purpose differs** in that it will be held in response to reports of **significant / serious physical or sexual harm by the child**.

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An ACRA Inter-agency Referral Discussion (IRD) is usually the beginning of the formal process of information sharing, risk assessment, analysis and decision-making between statutory agencies. It will take place following the reported concern about a child's behaviour that has caused or has risked causing significant / serious or sexual harm to another person.

An ACRA IRD will coordinate decision-making and planning and will assess whether the provisions of the Act apply, if this has not already been established. The Act provides Police powers for the immediate response to and planned investigation of harmful behaviour. Police and Social Work will collaborate to determine what is in the child's best interests and the appropriate approach to the investigation.

At any stage during the ACRA IRD, where possible, Police should also relay any intentions to make an application for a Sheriff's Order for Search or Forensic Data and Samples and will provide the rationale for such an action. The legislation does not mandate for consultation with the local authority in respect of these particular Orders and there may be occasions when it has been necessary to apply for such an Order to secure evidence (forensic or otherwise) in advance of any ACRA IRD. Transparency across all actions is good practice and may result in the sharing of additional information that could influence subsequent decision making.

Where a Sheriff's Order for Forensic Data and Samples is to be sought in respect of obtaining intimate samples, then an ACRA IRD must take place.

The ACRA IRD will inform the development of a strategy that will allow all relevant agencies to discharge their duties in respect of the child who is believed to have **harmed or risked causing harm** and any **other child or person**.

The ACRA IRD will ensure that actions taken are in the best interests of the child who is the subject of the investigation, in terms of:

- ACRA Investigative Interviews and the pre-planning required for their execution;
- the use of any other investigative powers; **and**
- will consider relevant and necessary supports for the child and family, notwithstanding how best to support the Police investigation.

Where a decision is taken to seek an ACRA Investigative Interview with the child, consideration must be given to how this will be facilitated; ACRA Investigative Interview by Agreement or by application for a Sheriff's Child Interview Order (CIO).

All professionals and agencies have a responsibility to share information promptly in order to ensure a child's wellbeing.

At the commencement of an ACRA IRD, the Police investigation is likely to be in the very early stages of evidence gathering and therefore it is possible that conclusive outcomes will not be reached at this stage, however a co-ordinated multi-agency response to concerning behaviour should be reached. This will involve a review of the available information, risk assessment and analysis to make decisions about the

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best way to progress the investigation in a manner that will support the wellbeing of all children involved, both during and after the investigation.

Additionally, the ACRA IRD will consider the welfare and wellbeing of any other child who has been impacted by the incident under investigation and consider if a Child Protection (CP) IRD would be appropriate for them. Where the victim is a child and there is a requirement to conduct a Joint Investigative Interview (JII), then arrangements for a CP IRD should be made as soon as reasonably practicable. It is entirely competent for this to be conducted within the same discussion as that for the child who is believed to have caused or risked causing harm (but must be documented entirely separately).

This is a decision for practitioners and will need to be agreed when arrangements are being made for the ACRA IRD so that the relevant information and personnel relating to the affected parties are available (e.g. where 2 different local authorities are involved, this may not be possible).

Where the ACRA Incident occurs out-with the Home Division / Local Authority or the child is subsequently accommodated or hospitalised out-with their Home Division / Local Authority, follow the guidance in sections 20 – 21 of the [Child Protection Inter-Agency Referral Discussions SOP](#).

Information Sharing

The sharing of information can be justified under the [Human Rights Act 1998](#) provided it is necessary and proportionate to the circumstances of the case.

In terms of the [Data Protection Act 2018](#), disclosure of personal data is justified if necessary to safeguard national security, to prevent or detect crime, to apprehend or prosecute offenders, or to protect the vital interests of a person.

Information sharing from all professionals relevant to the child is imperative for the purposes of the ACRA IRD.

Officers and staff should refer to the [Data Protection SOP](#) for further guidance.

4. Definition of a Child under the Act

Sheriff's Order / Police Power	Required age at time of investigation / execution of Order
Search Order	Child must be aged < 12
Child Interview Order	
Forensic Data and Samples Order	
Investigative ACRA	Child must be aged < 16 or 16 / 17 (if subject to a Compulsory

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Investigative Interview by Agreement	Supervision Order or interim Compulsory Supervision Order- CSO)
Questioning in urgent cases	
Taking of forensic data and samples in urgent cases	
Place of Safety	Child must be aged < 12

Where a child currently aged over 12 but under 16 (or 16 / 17 years but subject of a supervision order) is believed to have caused or risked causing harm when they were under 12 years of age, then the ACRA Police powers can be used (if the incident took place **after 17/12/2021**).

The Police powers under the Act **do not extend** to anyone now aged 16 / 17 years (and not subject to a CSO) or **aged 18 years or over**, even if their behaviour whilst aged under 12 meets the ACRA Incident threshold.

[Part 7 \(section 80\) of the Act](#) provides that a child means a person who is under 16 years of age (except where provided otherwise, as above).

Therefore the powers in relation to questioning and taking of forensic data and samples (including in urgent cases), can also apply to children aged over 12, where the behaviour took place whilst they were aged under 12. It is therefore possible that an ACRA IRD could be held for a child who **is above** the age of **12** years at the time of the investigation / report.

In relation to **search**, the powers under ACRA only apply where the child is aged **under 12 years at the time** the incident is reported.

5. Non-ACRA Incidents

It is likely that most instances of harmful behaviour by a child whilst aged under 12, will fall below the high ACRA threshold. There may be occasions that still require a multi-agency response from Police and/or Social Work to risk assess and ensure their needs are addressed and appropriate supports are identified. For example, consideration of a CP IRD, referral to the Children's Reporter or a Child's Plan.

6. ACRA IRD Participants

Police, Social Work and Health (wherever possible) should participate in the ACRA IRD. Education will regularly have an essential contribution and hold contextual information about children of school age (such as existing relationships and how they can best support the child and family as well as the investigation) and should be encouraged to participate. Information gathering should involve other services working together, as appropriate.

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Health may be a significant contributor to the discussion, as due to the nature and potential seriousness of the incident under investigation, they will be able to address any consequences for the child's mental wellbeing, such as referral to Child and Adult Mental Health Services (CAMHS). Education may also be central to any Risk Management Plan and support measures within school.

Participants should be sufficiently senior to assess / discuss all available information and make decisions on behalf of their agencies. They will have access to agency guidance, training and supervision in relation to this role.

The ACRA IRD is likely to be facilitated by Police (IRD Detective Sergeant (DS) / Briefing Manager) and a Social Worker (usually a Senior Social Worker / Team Manager), in line with local CP IRD processes. The Senior Investigating Officer (SIO) in the case is likely to also participate and an Interview Advisor may also have a role to play.

The SIO will ensure that the DS / Briefing Manager conducting the ACRA IRD is briefed about the enquiry.

Police have lead responsibility for the investigation and exercise of Police powers under the Act.

Social Work will lead on enquiries relating to children who are experiencing or likely to experience significant harm and assessing their wellbeing needs and any risk assessment in relation to the child. Additionally, they will consider the welfare and wellbeing of any other child who has been impacted by the incident under investigation.

7. ACRA IRD Recording

An accurate record of the ACRA IRD must be maintained and include:

- the time and reason for convening the ACRA IRD;
- the information shared;
- actions taken / proposed (single or joint agency action);
- discussions held;
- reasoned decisions (including consideration of options);
- any lack of consensus, and the manner in which lack of consensus has been escalated and resolved, without delay.

This record should be accurately maintained throughout the duration of the investigation. It is a multi-agency document and version control, in the absence of a multi-agency e-IRD system, is imperative. A [Record of ACRA Inter-Agency Referral Discussion](#) (Force Form 048-026) is available for use. This will be referred to as the ACRA IRD Record.

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The ACRA IRD is recorded jointly and must be retained in the appropriate files of participating agencies.

Any delays to this process or decision not to share information must be recorded in the ACRA IRD Record.

8. When should an ACRA IRD be convened?

An ACRA IRD **will be held in response to a child's behaviour, whilst aged under 12 years**, if it meets the threshold for an ACRA Incident.

This should take place prior to any investigative procedures directly involving the child, albeit this does not prevent Police from continuing to gather evidence from other sources.

The exception being the use of the emergency power to question the child in urgent cases where there is a risk to loss of life ([Refer to section 54 of the Act](#)) and the taking of data and samples in urgent cases ([Refer to section 69 of the Act](#)).

Police are likely to instigate an ACRA IRD, however other agencies can also make a request to convene an ACRA IRD where reports of serious harmful behaviour are made to other statutory agencies.

The decision as to whether any particular set of circumstances meets the threshold of an ACRA Incident (that permits use of ACRA investigatory powers) shall rest with the SIO. In some circumstances, harmful behaviour will be reported via the ACRA IRD, prior to the SIO being advised / updated of the circumstances, however a decision as to whether it meets the requirements for an ACRA Incident should only be taken in consultation with the SIO.

The SIO will ascertain the nature of any further enquiry and what the investigative requirements are in relation to the child. This will include the need for an ACRA Investigative Interview with the child, search and / or forensic data and samples.

Regardless of whether an ACRA IRD can be convened immediately, **Police** must still **initiate contact** with **Social Work** at the **earliest opportunity** to begin the information sharing process. This will also inform the decision about when the ACRA IRD should be held.

The ACRA IRD process may begin **out-with core hours** in order to consider **protective measures** or **interim safety planning** for a child and/or any other person or where there is an **operational imperative** for Police to progress the investigation. For example, this might be where the incident takes place over the weekend and there are:

- **public safety considerations** due to the **seriousness** of the behaviour, **and**
- it is considered to be in the **best interests** of the child to proceed.

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Whilst it might be **competent** to proceed in the **absence** of an ACRA IRD having taken place, this should be considered exceptional and good practice is always to seek to undertake an ACRA IRD prior to any investigative actions / use of police powers under the Act directly involving the child.

Any actions taken must be necessary and justifiable.

The ACRA **mandates** that where Police are seeking to undertake an ACRA Investigative Interview with a child that **prior** to making an application for a Sheriff's Child Interview Order, Police **must consult** with the Local Authority (Social Work) about the application unless it is **impracticable to do so**.

Where any other investigative tools are being sought (**search or forensics**) or where any powers have already been used in respect of the child, these **must** also be discussed at any subsequent ACRA IRD, which should take place as soon as possible.

Execution of section 28 of the Act – Place of Safety

An ACRA IRD is likely to be held after this power has been used by Police as an emergency response to a concern about a child's harmful behaviour.

Where a child has been taken to a place of safety and thereafter left in the care of the Local Authority, an ACRA IRD must be held.

In addition to the required considerations at an ACRA IRD, this will allow for the details of the time spent in the place of safety and the time at which the power ended to be recorded in the ACRA IRD.

The Act requires that specific information is reported by police to Scottish Government in relation to the use of section 28 powers. A recording will be made on the ACRA IRD of the relevant details required for these purposes i.e. the nature of the location, the time spent in the placement.

Police must record the time the section 28 power is executed. When the child is in their care, Social Work must record the point where the power ends. This is essential in order to comply with the reporting requirements of the Act.

Where the child is to be taken to a place of safety, police will contact Social Work to establish the location of a suitable facility in which the child can be supported and cared for. This is an immediate and co-ordinated response between Police and Social Work to ensure that the child can be removed from the situation and taken to more appropriate facilities where they can be supported and cared for. If this discussion is not part of a formal ACRA IRD, then an ACRA IRD should be held as soon as possible, where appropriate.

Refer to section 9 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) for more details on the purpose of a POS.

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Recording details in relation to the use of a POS

Where a place of safety has been used, the **circumstances, details of placement(s) and amount of time** the child is kept under that power, including the time the section 28 power ended, **must** be recorded. The specific recording requirements that must be complied with can be found on the [ACRA Aide Memoire](#). Details relating to the invoking of this Police power and **subsequent movements** of the child (whilst **not in the keep of Police**), including the **time at which this power ended**, will be recorded during the ACRA IRD, i.e. where Police have requested that the Local Authority keep the child in their care until more suitable arrangements can be made for their care and protection.

The information relating to the movements of the child whilst cared for by the Local Authority (under section 28) will thereafter be populated onto the corresponding **Child Concern Form** by the Police ACRA IRD representative within the **free text section; ACRA multi-agency discussion update**.

9. Incident Assessment

Police, Social Work and Health (where possible), will discuss the circumstances of the incident under investigation and agreement should be reached that the threshold is met. The SIO may also be present during this discussion as might an Interview Advisor (as appropriate). The ACRA IRD will review / establish the following;

- the nature of the incident that has taken place;
- the age of the child / children involved; **and**
- whether the circumstances meet the threshold for an ACRA Incident.

If the incident does **not** meet this threshold then the **investigatory powers** under ACRA **do not** apply.

To ensure a child centred approach, Police and Social Work (including Health and Education, as relevant) must coordinate, along with local service providers, to consider the wider influences on a child's behaviour, developmental needs and wellbeing. The child's best interests must be treated as a primary consideration throughout the investigation. It is important that the child and family receive the right support during this process.

Lack of Consensus

In cases of lack of consensus, the local designated IRD DS will escalate the matter to the Divisional PPU Detective Inspector or Detective Chief Inspector or if out of hours, the on call Detective Inspector, for further discussion and decision. The SIO will make the final decision in respect of actions to be taken in relation to the child. This can include seeking to undertake a single agency ACRA Investigative Interview as part of the Police investigation. Any such course of action must be documented and justified.

This should never lead to any delays in taking protective measures in relation to any child. In such cases, the matter must be escalated immediately.

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All points of disagreement and resolution must be recorded on the ACRA IRD record.

Information Sharing

During the ACRA IRD, all evidence (both inculpatory and exculpatory) should be shared (where appropriate and proportionate) and discussions should focus on whether the evidence is sufficient to establish:

- the circumstances of the incident; **and**
- who was responsible.

Where these facts can be ascertained, then careful consideration must be given as to whether an interview is **essential** to the Police investigation. Due to the fluid nature of investigations, the initial ACRA IRD will not always determine in the early stages that an investigative interview is **necessary**. The ACRA IRD will take cognisance of the ongoing police investigation into the incident, including ongoing police enquiries and how new information may influence decision making. The discussion will inform whether it is in the best interests of the child to:

- seek an ACRA Investigative Interview;
- and if so, how this should be facilitated (including logistical considerations);
- whether agreement is to be sought from the child and parent; or
- an application submitted for a Sheriff's Child Interview Order (CIO).

The discussion will also consider:

- the use of other Police powers under the Act (whether retrospectively or
- otherwise).

Inter-agency exchange of relevant knowledge and information relating to the child who has caused or risked causing harm and, where appropriate, the victim, will also inform an assessment of whether this incident fits the criteria for a Critical Incident (see [Critical Incident Management National Guidance](#).) where such a need has been identified.

10. Risk Assessment

The following points should be considered during the risk assessment phase of an ACRA IRD. This list is not exhaustive.

- Review of current safety / wellbeing arrangements; were section 28 powers used to remove the child to a place of safety? What were the circumstances and purpose of removal?
- How old is the child?
- What care arrangements are currently in place for the child?
- Where did the incident take place?

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- What is the child's current demeanour?
- Do any of these initial provisions require amendment?
- Where the child has been taken home, review this decision and determine if any further action needs to be taken.
- What is the evidence to suggest the child is responsible for causing or risking causing harm to another person?
- Is the child safe?
- Is there any information to suggest that another person was involved in the incident? Ensure that appropriate measures are immediately taken to safeguard the wellbeing of that child and others and to initiate the proper procedures.
- Consider if a Community Impact Assessment is required and follow protocols.
- Where the victim is an adult and considered to be vulnerable, then adult protection guidelines should be followed and an Adult Protection IRD arranged.

11. Priority Considerations

Needs of the Child

Consideration must be given to the child's age and development, including linguistic abilities, memory retrieval capacities, suggestibility and the effects of stress and trauma.

Additional support needs must be considered and will include:

- health concerns
- emotional distress and wellbeing
- speech and language
- translation requirements
- risk of self-harm
- risk of harm to others
- additional supports relating to disabilities and all protected characteristics,
- racial and cultural context.

Police should be guided by Social Work or other relevant professionals, to determine what support measures may be required, such as communication boards or other visual aids, or signing. All specialists brought in to assist in preparing for the interview should be independent from the investigation, qualified and be accredited in their role.

Children from ethnic minority backgrounds may have additional support needs (including communication needs), and cultural differences should also be taken into account. When interviewing children from different backgrounds and heritage,

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interviewers might encounter beliefs and values that are different to their own. The child's culture and customs must always be respected.

Consideration should be given to:

- rituals or customs that might affect the scheduling of the interview;
- behaviour towards authority figures; and
- beliefs and practices regarding child raising that can also vary between cultures.

A child should, wherever possible, be interviewed in their first language or preferred language. Only in urgent circumstances, where immediate intervention is necessary due to the risk of loss of life, might an exception be made.

Where an interpreter is required, they should be someone independent of the child's family and community. The interpreter should also have an understanding of the child's cultural context as well as being able to speak the relevant language.

The ACRA IRD will set the foundation for the development of a strategic plan that will inform the next stage in joint or single agency decision making and planning.

Priority consideration will be given to (but is not limited to), the following:

- the well-being and welfare needs of the child – is there any concern about the immediate safety and wellbeing of the child and any action required? ([National Guidance for Child Protection in Scotland 2021](#) and [Child Protection PSoS SOP](#))
- background and information known about the child;
- whether the evidence indicates an investigative interview is necessary;
- any further information that might be required to inform decision making and who will be responsible for gathering this;
- whether an investigative ACRA Investigative Interview by Agreement or a Sheriff's CIO will be sought.
- whether additional measures should be requested on the application for the Sheriff's CIO, such as specifying how the child will be transported to the interview venue and by whom.
- identifying interviewers from both agencies;
- planning for the interviewers response, should the child make a disclosure or there is a concern of a child protection nature (refer to section 41 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#)).
- the safety and needs of the child/children involved – is a CP IRD required for any child?
- involvement of the Child Interview Rights Practitioner (ChIRP – see section 36 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#)).
- identify a Supporter (where there is agreement to an investigative interview, the supporter must be the parent who gave agreement. The IRD must consider the

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‘appropriateness’ of this person (refer to section 35 - PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#)).

- any other processes that other agencies might need to know about, in addition to joint evidence, for example, the requirement for forensic data and samples (intimate / non-intimate or search;
- whether a single agency investigation and follow-up is preferred and if so, why?
- if no further investigation is required, what are the reasons for this?
- whether early referral to the children’s reporter is required and who will make this referral?
- contingency plans, where there is an appeal against a Sheriff’s CIO.
- immediate support for the child or family;
- how the rights of the child will be upheld at all stages in the process;
- if any action is necessary to mitigate any potential impact on the child in terms of membership of any protected groups, for example, nationality, ethnicity, communication needs, including identifying the child’s first language; translation needs;
- what information must be shared with the child and family, with the understanding that information will not be shared, if that could jeopardise a Police investigation or place any child or other person at risk of harm;
- how and by whom information about the investigation can best be shared with the child, taking into account their capacity, maturity and communication needs;
- how and by whom information can best be shared with family (taking into account whether this could impact on a Police investigation or place the child, or any other child, at risk of significant harm);
- how and by whom will written information be provided to the child and parent / carer;
- feelings and views of the child about the investigation as it directly relates to the child;
- how the ACRA IRD decisions will be reviewed if significant new information arises;
- appropriate liaison with any lead professional (a qualified Social Worker who will co-ordinate assessment and the next steps within a developing single child’s plan) and named person (or professional in equivalent role);
- whether the incident falls within the definition of a critical incident in line with the [Critical Incident Management National Guidance](#).
- other children in the household and the potential impact on their safety and wellbeing;
- whether the case involves a report to Crown Office in respect of a person above the age of criminal responsibility to ensure any matters that may be sub-judice are not impinged.

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Safety Planning

Safety planning and assessment of community impact is an essential consideration of the Police response to a child who, **whilst aged under 12 years**, is believed to have **caused or risked causing significant / serious or sexual harm** to another person.

Multi-agency safety planning is a key consideration of the ACRA IRD process. Depending on the harmful act that has taken place (e.g. serious sexual harm), a formal Victim Strategy may be appropriate.

13. Contingencies

Child Protection Disclosures

A primary consideration of the ACRA IRD will always be the wellbeing of the child, notwithstanding the need to identify how best to support the Police investigation. Where immediate child protection considerations are identified, intervention must not be delayed, pending receipt of information gathering / sharing.

When information arises implying a child may have been abused or neglected and/or is suffering or is likely to suffer significant harm, the child's safety and wellbeing will be the immediate and primary consideration. A CP IRD must be convened as soon as reasonably practicable and CP procedures followed. This includes consideration of the need for an **interim safety plan**.

An IRD may need to consider ACRA and CP issues, taking into account the requirements for both processes.

Professionals need to address identified CP concerns and balance the need to investigate the behaviour under the Act. Pauses in or changes between processes need to be carefully considered including the impact of any such changes on a child and a child's ability to understand them.

If during an ACRA Investigative Interview a child makes a CP disclosure and it is assessed that a CP investigation would not be prejudiced and that it was in the child's best interests to continue with the ACRA Investigative Interview, which can be safely concluded, then the ACRA Investigative Interview might continue to its natural conclusion. However, if there is any doubt, the CP investigation will take precedence.

Each set of circumstances will need to be assessed on a case by case basis and will be subject to a number of variables. Refer to section 41 of the [Interim Age of Criminal Responsibility \(Scotland\) Act 2019 National Guidance](#).

Each set of circumstances will need to be assessed on a case by case basis. Concerns in relation to other children may result in the initiation of CP procedures, including a CP IRD to ensure consideration of all children impacted by serious harmful behaviour.

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Child is a Witness

There may be situations where a child, initially believed to have been responsible for an ACRA Incident, is subsequently established to be a **witness**. It would be appropriate to instigate CP procedures (if deemed necessary) and convene a CP IRD to discuss the best manner in which to capture the child's testimony that could then be used as Evidence in Chief in any criminal proceedings in line with the provisions under the [Vulnerable Witnesses \(Criminal Evidence\) \(Scotland\) Act 2019](#).

14. ACRA Investigative Interview

What is an ACRA Investigative Interview?

An Investigative Interview is a meeting or series of meetings planned by **Police**, in collaboration with a **Local Authority** and conducted with a relevant child:

- by a constable **or an** officer of a Local Authority; **or**
- **jointly** by a constable and an officer of a Local Authority;

for the purposes of **seeking information** in relation to an incident which is the subject of a Police investigation.

A child can only be questioned by Police or participate in an ACRA Investigative Interview, where this is authorised by:

- an Investigative ACRA Investigative Interview by Agreement – [section 40\(2\) of the Act](#).
- a Sheriff's Child Interview Order (CIO) – [section 44 of the Act](#).
- in urgent cases where there is risk of loss of life – [section 54 of the Act](#).

The strategy developed by the ACRA IRD informs planning for the ACRA Investigative Interview. The strategy must continue to be developed in light of new information as it emerges.

During the ACRA IRD, it may be decided that an ACRA Investigative Interview is to be sought in order to:

- learn the child's account of the circumstances that prompted the enquiry, specifically what took place and who was responsible;
- gather information to permit decision-making on whether the child in question, or any other child, is in need of care and protection;

All agencies involved will ensure that any decision taken to interview the child is **necessary and proportionate**. In addition to establishing the facts of the matter, an interview may also influence decision making in respect of that child and / or any other child, who may be in need of care and protection.

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Purpose of an ACRA Investigative Interview

Police can only seek to question a child, who whilst under 12 years of age, it is believed that:

- by behaving in a violent or dangerous way, has caused or risked causing serious physical harm to another person, **OR**
- by behaving in a sexually violent or sexually coercive way, has caused or risked causing harm (whether physical or not) to another person.

Consideration must be given to:

- the **necessity** of an interview in relation to the Police investigation;
- the **suitability** of conducting an interview with the child and,
- if this would be in the **child's best interests**;

AND the primary purpose of the ACRA Investigative Interview, which is to:

- to seek an **explanation** from the child as to what happened;
- to **understand** their role, if any, in the incident; and
- to **identify any other people** who were involved or may be at risk of harm.

In cases where there is a need to question a child in urgently, this will not take the form of an ACRA Investigative Interview but will be immediate action taken by Police to elicit information from a child that is essential to the securing the safety of another person(s).

The decision to apply for a Sheriff's CIO or to seek an ACRA Investigative ACRA Investigative Interview by Agreement should be made after all available evidence has been reviewed and it is concluded that this is essential to the investigation.

ACRA Investigative ACRA Investigative Interview by Agreement

The **wellbeing** of the child is a **primary consideration** and so it is likely that in many cases, seeking to proceed with an **Investigative ACRA Investigative Interview by Agreement** would be in the **child's best interest**. Refer to section 32 of the [PSoS Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) for more details about this type of interview.

Prior to seeking agreement, an ACRA IRD should have taken place and the following should be discussed:

- who needs to agree;
- who can agree (both in terms of fitting the criteria of parent and ensuring capacity to agree);
- any concerns about the suitability of the parent to provide agreement. If so, this would mean an order needs to be considered;

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- what information needs to be provided to the child and parent to inform their decision to agree and in what format the information needs to be presented;
- if there is any other information, in addition to that included on the Child Information Leaflet – ACRA Investigative Interview by Agreement that is available and should be provided to inform the child and parent’s decision, and how will that be communicated;
- the parent and child’s understanding of the information contained in the leaflet;
- what additional support may be required to assist with their engagement and understanding;
- what the potential outcomes from the interview are, for example, no further action required, referral to partner agencies, other supports / interventions;
- who and how the agreement will be sought (most likely in person or by telephone);
- how understanding will be verified;
- how any potential scenarios will be responded to (for example, requests to consult someone, time to consider etc).
- contingency planning, should the child or parent withdraw their agreement.

The child and a parent of the child must provide agreement to the interview.

Complex family situations and dynamics will require careful consideration, particularly when a parent has retained parental responsibilities (within the meaning of the [Children \(Scotland\) Act 1995](#) but the child resides out-with their care and / or where they have no active relationship or contact with the child. These issues should be discussed during the ACRA IRD process.

Refer to section 6 PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) for definition of a parent.

The parent who provides agreement **must** act as the child’s Supporter. Refer to section 35 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) for more details and considerations about the ‘**appropriateness**’ of the Supporter.

If questioning of the child in urgent circumstances has previously taken place, then an Investigative ACRA Investigative Interview by Agreement cannot be sought and an application for a Sheriff’s CIO must be made instead.

Withdrawal of Agreement to the ACRA Investigative Interview

This type of ACRA Investigative Interview is no longer authorised if a child or parent withdraw their agreement.

Where agreement is withdrawn, this should be fed back into the ACRA IRD and the following should then be considered:

- the need to safeguard and promote the child’s wellbeing;

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- the need to interview the child further (based on the criteria and justification for the need to interview the child at all and their best interests);
- whether the person withdrawing agreement is likely to change their mind;
- whether an application for a Sheriff's CIO is necessary and justified.

Police can apply for a Sheriff's CIO at any time during the investigation, not only when agreement is withdrawn.

Refer to section 34 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) for more information on an ACRA Investigative Interview by Agreement.

ACRA Investigative Interview under a Sheriff's CIO

In considering and making an application for a Sheriff's CIO, Police are responsible for applying for the Order and where practicable, to consult with Social Work, so that a multi-agency approach is taken.

At the ACRA IRD, Police and Social Work will identify what measures are required in advance of making the application. Police will also identify if there is a need to ask for specific directions to be included in the Order.

Refer to section 27 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) for more information on the Sheriff CIO.

Where it is not reasonably practicable for Police to consult with Social Work prior to submitting an application for a Sheriff's CIO, this should be discussed at a retrospective ACRA IRD and the reasons recorded in the ACRA IRD Record.

An application for a Sheriff's CIO will only be applied for where:

- an ACRA Investigative Interview by Agreement is not viable as **agreement is not provided**.
- agreement is provided and then **withdrawn**.
- where a child has been questioned in urgent cases and a retrospective Sheriff's CIO is required.
- in the particular circumstances of the matter, the Police believe that an Investigative Interview:
 - is required, however there is **no option** to seek this by agreement, for example, where there is **no 'parent'** and therefore no possibility of seeking agreement **or**
 - where the **local authority** has **parental responsibilities**.

The child's Supporter during an ACRA Investigative Interview under an Order must be **aged 18 or over, be considered to be appropriate** and **need not be related** to the child. Refer to section 35 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#).

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For more information on the Sheriff Order application process see the Sheriff's Order Application Process Guidance.

Child Interview Rights Practitioner (ChIRP)

The role of the ChiRP is to provide advice, support and assistance to a child who is the subject of an ACRA Investigative Interview under the Act. Refer to section 36 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) for more details.

The approved list of ChiRPs is held by SG and details of how to contact them can be found at section 36 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#) and in the Sheriff's Order Application Process Guidance.

Provisional Plan

The application for a Sheriff's CIO must be accompanied by a Provisional Plan ([Force Form 048-024](#)) which will be drafted by the **Police and Social Work** (where possible) **interviewers** identified during the ACRA IRD. It will contain (but is not limited to) the following details:

- date, venue, interviewers, any other persons who will be present (where known).
- contingency plans (where known).
- how the welfare and wellbeing needs of the child will be met during the interview (taking into account age, maturity, additional support needs and vulnerabilities).

These details will be discussed and recorded during the ACRA IRD and will thereafter inform the drafting of the Provisional Plan. An Order specifies a period of up to a maximum of 7 days during which the Order can be executed, beginning on the day after the Order is made, or a later date if specified in the Order, albeit the Order will be live immediately. Provisional planning should reflect this restrictive framework.

Child Information Leaflets

Where any Sheriff's Order has been granted or Police power used, specific information must be given to the child and certain people. These people are listed within Table B, 18 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#).

Police have a responsibility to ensure the relevant Child Information Leaflet is given to and explained to the child, however in practice, Social Work may be best placed to support this conversation. Wherever possible, this should be considered at the ACRA IRD on a case by case basis. It might be preferable that where an ACRA Investigative Interview is being sought with a child, that the identified Police and Social Work interviewers deliver this leaflet, to allow initial engagement and rapport building as they can support the child's understanding of the information provided, which must be explained in a manner that is appropriate to the child's age and maturity.

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Plan for the ACRA Investigative Interview

Where an Investigative Interview is to be conducted, a [Plan for the ACRA Investigative Interview](#) (Force Form 048-025) **must** be drafted. It is divided into 3 parts; A, B and C.

It is important to ensure that the approach to the ACRA Investigative Interview is collaborative and that all practitioners are working together to uphold the rights of the child and are acting in their best interests.

The ChIRP should (where possible) be invited to participate in this planning unless there are specific reasons to the contrary.

It is anticipated that they may already have met with the child and may have a relevant contribution to the content of the plan. They should be contacted by the identified Police interviewing officer at the point where it has been agreed that an Investigative Interview with the child is to be sought.

The Police and Social Work interview team will be fully briefed by the relevant DS, Senior Social Worker and SIO (where appointed) **prior** to drafting the plan. Consideration should also be given to support from an Interview Advisor (IA) (as deemed necessary).

Police are the **statutory authority for investigations** and therefore have **overall responsibility for the content of the plan**.

Where a decision is made at the ACRA IRD that the ACRA Investigative Interview will be Police only, planning may be undertaken by Police, however **best practice** would always be joint planning for the ACRA Investigative Interview, regardless of whether or not it is single agency led.

The following details will be recorded on the Plan for the ACRA Investigative Interview, (as appropriate).

- Details of the seriously harmful behaviour under investigation.
- The purpose of the interview.
- The child's wellbeing and rights in relation to the interview (including their right not to answer questions).
- The period over which the interview will be conducted*.
- The number of meetings which will take place as part of the interview*.
- The date and time of each meeting.
- How long each meeting will last*.
- The location at which each meeting will take place.
- The roles of each person present.

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- The persons by whom the child may be questioned at each meeting.
- Support and assistance required by the child during the interview (including any additional support needs and vulnerabilities).
- The outcome as a result of the interview (ensure this is consistent with the information provided by the ChIRP to the child and parent).
- Any other relevant information (e.g. arrangements for the transport of the child to and from the interview, contingency plans).

***Not all information will be available at the time of drafting this plan and estimates should be provided where possible.**

There are specific considerations that **must** be addressed during the ACRA IRD in order to inform the development of **Part C** of the Plan for the ACRA Investigative Interview. These are details about the child's needs, focusing on the following:

- strengths and resources
- any complex needs
- speech and language or communication needs
- cognitive factors
- experiences of trauma and adversity
- context and motivation
- relationships

A significant proportion of this information will be shared during the ACRA IRD and must be relayed back into the briefing process with the assigned interviewers.

The [ACRA Investigative Interview – VRI Briefing / Debriefing and Process Record](#) is available as Force Form 048-028. The associated [ACRA Investigative Interview – VRI Briefing / Debriefing and Process Guidance](#) is Force Form 048-028B.

It is important to remember that the child and their family may already have involvement with other services, possibly third sector and therefore personnel from other agencies (for example, Education, Speech, Language and Communications Needs) may also be involved with or consulted during this planning process.

The plan will consider practicalities, such as the location, transport, timing, breaks and communication between the interviewers during the ACRA Investigative.

Interview and be dynamic, to allow interviewers to respond to any answers given by the child as well as to the needs of the child as they become apparent.

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A copy of the Plan for the Interview must be shared with the child and certain other people, as soon as possible after they are drawn up and this must be done in advance of the ACRA Investigative Interview. Refer to Table D, section 37 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#).

15. Review / Closure of the ACRA IRD

An ACRA IRD is closed once a reasoned and evidenced multi-agency outcome has been reached and recorded.

The decision to close the ACRA IRD can be made at any point.

The possible outcomes of an ACRA IRD can include one or more of the following.

- Police and Social Work Investigative Interview.
- Police ACRA Investigative Interview.
- A decision on whether a Sheriff's Order for Search or Forensic Data and Samples should be made/is required retrospectively.
- Social Work or other service (e.g. universal services, third sector) intervention and support, in line with local GIRFEC processes);
- Referral to the Children's Reporter;
- Reasoned decision to take no further immediate action (however Police may share information in line with the national concern hub processes).

The ACRA IRD record will be subject to review according to current protocols for CP IRDs. Refer to the section 19 of the [Child Protection Inter-Agency Referral Discussions SOP](#).

16. Forensic Data and Samples

Where the SIO is considering an application for a Sheriff's Order for Forensic Data and Samples (in particular for **intimate** samples – refer to section 28 of the PSoS [Age of Criminal Responsibility \(Scotland\) 2019 National Guidance](#). This **must** be considered as part of the ACRA IRD. Health will be an essential contributor at this stage of the discussion.

The SIO will make the final decision about whether to make such an application, however will be heavily guided by the ACRA IRD participants in relation to the anticipated impact on the child and the best manner in which to approach and execute such an Order.

17. Next Steps

- Will the ACRA IRD need to be revisited and if so, when?
- Are there any other actions required?

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Any subsequent discussions will be documented on the ACRA IRD Record at various stages of the joint investigation with Social Work and there may be a requirement to review and / or amend decisions as new information becomes available. Health should also be an active participant of this process and that relevant information from Education feeds into any discussions.

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Compliance Record

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