

Guidance on Challenging Medical Opinion in Section 47 Cases

Scope of this Guidance

The purpose of this guidance is to provide clear guidance to social workers and managers within the Children and Young People service in relation to applying appropriate professional challenge wherever there is a concern about medical opinion within a S47 enquiry. This includes situations where there is a difference of medical opinion concerning a diagnosis of abuse or neglect (including failure to thrive and faltering growth).

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1. Introduction

This guidance note has been produced by the Wakefield and District Safeguarding Children Board in consultation with the Mid Yorkshire Hospitals NHS Trust.

This guidance aims to inform Children and Young People Service staff on the processes and standards that are in place within the Mid Yorkshire Hospitals NHS Trust in relation to medical opinion in S47 cases, but also to provide them with a clear mechanism by which medical opinion can be effectively and appropriately challenged.

This guidance relates to two common scenarios:

- When a child is seen within a hospital setting and a child protection concern is identified which leads to medical staff making a referral to the Children and Young People Service;
- Where a social worker is already undertaking a S47 enquiry and a request is made by the social worker for a Paediatric Child Protection Assessment to inform the investigations.

Prior to reading this guidance, it is important to recognise the fact that in some cases, even when appropriate challenge is applied, it will simply not be possible for medical professionals, including Named Doctors or expert witnesses to provide a clear opinion on the causation of an injury. In such cases, it will be the responsibility of the professionals in the case to make an assessment of risk without the benefit of a clear medical opinion on causation.

2. Mid Yorkshire Hospitals NHS Trust

The Mid Yorkshire Hospitals NHS Trust provides services across the Wakefield District, and also provides services in the Dewsbury area of Kirklees.

The Trust is responsible for the services provided at:

- Pontefract General Infirmary;
- Pinderfields General Hospital;
- Dewsbury and District Hospital.

3. The Role of the Consultant Paediatrician in S47 Cases

Consultant is the title of the most senior doctor within the hospital setting. A Consultant will have completed specialist training within their chosen specialism.

A Consultant Paediatrician is therefore a senior doctor within the specialist field of paediatrics, which is the branch of medicine that deals with the medical care of infants, children and young people up to the age of sixteen.

When a child under sixteen is admitted to hospital and a child protection concern is identified, their case will always be managed by a Consultant Paediatrician, however the nature of their illness or injury may require the Consultant Paediatrician to refer the child to doctors within other specialisms for assessment or treatment. For example, when a child is admitted to hospital with a burn injury, and there are concerns that the injury may be attributable to abuse or neglect, the case will be managed by a Consultant Paediatrician, with specialist input from the Plastic Surgical Team.

Regardless of how many other medical professionals are involved with a child within the hospital setting, the Consultant Paediatrician will always be the manager of the case whenever there are child protection concerns.

Where the young person is over the age of sixteen, and where child protection concerns exist, their case will not be managed by a Consultant Paediatrician, and will instead be managed by the Consultant responsible for that episode of care.

When a Child Protection concern is identified within a hospital, a Child Protection Paediatric Assessment (CPPA) will be initiated. The Consultant Paediatrician will be responsible for this assessment, although examinations may be carried out by other doctors.

The CPPA is supported by a pro-forma that will be completed by the Consultant Paediatrician. This assessment will incorporate a physical examination of the child, details of the account given by parents/carers, and where appropriate, details of the account given by the child.

The formal CPPA report should be completed and sent to the allocated Social Worker and other relevant professionals within 72 hours.

Within the Mid Yorkshire Hospitals NHS Trust, it is expected that where there are child protection concerns about a child under the age of sixteen, the Consultant Paediatrician will act as a "single point of contact" for social workers.

Where the child is over sixteen, the social worker should liaise directly with the Consultant responsible for their medical care.

Where it is necessary to obtain medical opinion from other specialisms within the Mid Yorkshire Hospitals NHS Trust, it will be the role of the Consultant Paediatrician to discuss the case with any other Consultants involved in the provision of medical care to the child and to facilitate where

possible a formal diagnosis for the social worker. This should remove the need for the social worker to speak directly to a number of doctors from a variety of specialisms and to try to interpret the information they provide.

In the report of the enquiry into the death of Victoria Climbié in 2004, Lord Laming recommended that in cases where there is a difference of medical opinion, and where non-accidental injury (NAI) remains a possible explanation, the possibility of NAI should not be discounted until a recorded discussion has taken place between the medical professionals, and if necessary a second opinion has been sought.

In some child protection cases, a difference of medical opinion may occur that can result in the Consultant Paediatrician being unable to provide a clear opinion about the nature of a child's injury or illness. This can impact on the ability of the Children and Young People Service to accurately and safely assess risk, and can therefore also have an impact on any plans made to safeguard the child.

As a result, it is crucial that rigorous attempts are made to try to arrive at a clear medical opinion, and this may include the need for the consultant to request an opinion from an expert in a particular field of medicine.

It is expected that within the Mid Yorkshire Hospitals NHS Trust, where there is a difference of medical opinion concerning a child protection case, the Consultant Paediatrician will speak directly to all the doctors in the case, and will record these discussions. If still unable to arrive at a clear diagnosis, it is expected that the Consultant Paediatrician will seek the second opinion of a Named Doctor (see section 4, The Role of the Named Professional in S47 Cases) and where appropriate will secure or advise consultation with a recognised expert in that field of medicine.

4. The Role of the Named Professional in S47 Cases

The term "Named Professional" is defined in Working Together to Safeguard Children, and denotes a professional with specific roles and responsibilities for safeguarding children. All NHS Trusts must identify a Named Doctor and a Named Nurse.

Named Professionals provide skilled professional involvement and advice in child protection processes. As such, all can provide specific advice on child protection issues related to health. They have a key role in promoting good professional practice in safeguarding children, and provide advice and expertise for colleagues within the Trust and in partner agencies.

It is extremely important that all social workers and managers within the Children and Young People Service are aware of the role of the Named Professionals and the support and advice they can give in child protection cases.

In all cases, where staff in the Children and Young People Service hold any concern about the medical opinion offered within a S47 case, they should, without delay, consult with a Named Professional and request their intervention. In most cases, delay will not be acceptable, therefore if the Named Professional for the relevant hospital is not contactable, the Named Nurse, or a Named Doctor in a different hospital should be contacted for assistance.

5. Difference of Medical Opinion-Practice Guidance for Children and Young People Service Staff

It is inevitable that in some cases, where there is a concern about possible abuse or neglect, differences of medical opinion will arise. This is even more likely in cases where the nature of the injury means that doctors from different specialisms become involved in the assessment and treatment of the injury.

Injuries such as head injuries, burns and scalds, fractures etc. are all likely to lead to specialist doctors becoming involved in the case, alongside the Consultant Paediatrician. However the Consultant Paediatrician will always be deemed to be the "manager" of the child's care in cases where there is a concern that the injury may be non-accidental.

Staff in the Children and Young People Service undertaking a S47 investigation for a child under sixteen must always treat the Consultant Paediatrician as their single point of contact. The Consultant Paediatrician will liaise with Consultants from other specialisms involved in the case in order to provide a single opinion to the social worker.

This will avoid the possibility that the social worker starts to receive conflicting or confusing advice/opinion directly from a variety of different professionals. This will also ensure that the Consultant Paediatrician is able to discuss the case directly with the other doctors involved, rather than relying on the social worker to communicate the opinion of other specialist doctors.

It is recommended that on allocation of such a case, the social worker immediately establishes which Consultant Paediatrician (or in a case where the young person is over sixteen, which Consultant) is managing the case, and makes contact in order to establish this clear line of communication at the outset.

Social workers must ensure that they provide the Consultant with as much family history, background and contextual information as possible, as this may influence the medical opinion provided.

In some cases, difference of medical opinion may occur, or the Consultant Paediatrician will be unable to arrive at a clear diagnosis of the nature or causation of an injury. In this case, it is expected practice within the Mid Yorkshire Hospitals NHS Trust that the Consultant Paediatrician will discuss the case directly with the other doctors in this case, and will record these discussions. If opinion still differs, the Consultant Paediatrician must then seek a second opinion from a Named Professional.

In some cases, particularly those where the process of assessing risk and planning for the child is impeded by lack of a clear medical assessment, a strategy meeting should be convened by the child's social worker.

In cases where a difference of medical opinion or unclear diagnosis means that a Strategy Meeting is required, the following procedural requirements must be applied:

- The strategy meeting must be chaired by a Children and Young People Service Manager;
- Full minutes must be kept and distributed to all parties within 24 hours;
- All professionals involved in the case should be invited to attend the meeting. In the case of medical professionals, consideration should be given to the timing of the meeting, to enable maximum attendance to facilitate productive discussion, analysis of risk and planning. The child's social worker will be responsible for issuing of invitations;

- In particular, the Consultant Paediatrician must be present;
- If other doctors in the case cannot be present at the meeting, their findings should be represented at the meeting by the Consultant Paediatrician;
- A Named Professional (either nurse or doctor) must be present;
- Wakefield Council Legal Services should also be present;
- The meeting will act as a formal arena for debate and where professional challenge can be applied to the information available within the case and to the differing medical opinions. If resolution cannot be reached within the meeting, actions required to reach a resolution (e.g. the seeking of further expert opinion) must be agreed (with clear timescales and responsibility).

It must be recognised that at times, and particularly in more complex cases, it will not be possible to resolve difference of opinion within a single Strategy Meeting. In such cases, the meeting should agree a clear plan as to how to progress the issue e.g. the seeking of an expert opinion.

6. Key Messages for Social Workers and Managers

- In some cases, even if this guidance is followed, it will not be possible for a clear diagnosis to be made of an injury. In such cases, the assessment of risk must be informed by other factors;
- Care should always be taken by the social worker to fully understand the opinions and assessment of a doctor, as misinterpretation could impact on actions taken to protect the child;
- It is important that the social worker is able to identify the Consultant Paediatrician who is managing the case at the outset, and establishes a clear line of communication with them;
- The Social worker should always treat the Consultant Paediatrician as the single point of contact. The social worker should have no need to speak to a different doctor;
- In cases where there is a difference of medical opinion, it is the role of the Consultant Paediatrician to provide a final opinion to the social worker, by discussion of the case with the other medical professionals and if necessary, seeking an opinion from a Named Professional;
- However if this does not happen, or if the Social Worker has any concerns about the provision of information or medical assessment, they should contact a Named Professional to discuss this further;
- In cases where a difference of medical opinion cannot be resolved by the Consultant Paediatrician, a strategy meeting should be convened ;
- In any case where provision of medical opinion, assessment or information appears to be hindering an assessment of risk, the social worker or Team Manager should always challenge the medical opinion, and should consult with a Named Professional.