

## Appendix A

# Code of Practice for Local Authorities Responding to Civil Claims of Non-Recent Child Sexual Abuse

## About this Code of Practice

This code of practice has been produced in response to a recommendation from the [Independent Inquiry into Child Sexual Abuse](#) as part of its [investigation into accountability and reparations for victims and survivors of abuse](#). This requested that the LGA develop a code for councils' response to civil claims of non-recent sexual abuse<sup>1</sup>.

This high-level code seeks to summarise feedback provided to IICSA and shared learning from councils to date in relation to responding to civil claims of non-recent sexual abuse and it is not intended to be prescriptive.

Councils will respond according to their own local needs, situations and experiences and to the needs of victims and survivors in their areas. While this note is non-binding, it is recommended that councils use this code to develop their own local procedures and protocols or use this as good practice to complement existing work.

It should be read alongside the [Code of Practice developed by the Association of British Insurers](#) which was also developed in response to a recommendation from IICSA. Different organisations and different parts of councils will need to respond in differing ways and the two codes accordingly will have different uses; they are intended to complement each other and support organisations to work together

It also should be considered a 'live' document and will need to be revised in response to further developments as a result of the Inquiry and the Government's response to this, particularly around key issues such as redress and limitation. It will evolve as policy and case law develops.

We also encourage councils to be aware that there will be victims and survivors of all forms of child sexual abuse within your communities and your workforce, and to be conscious of this when developing your policies and looking at what help and support is available in your area.

Though its focus is on ensuring appropriate and sensitive responses where councils are dealing with claims against them in relation to non-recent child sexual abuse, councils may also find it useful for responses to more recent cases, including those involving other organisations in their area or for supporting adult victims and survivors where the council may not be liable.

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<sup>1</sup> The Victims and Survivors' Consultative Panel as part of IICSA have identified words and phrases relating to child sexual abuse. [www.iicsa.org.uk/key-documents/1412/view/independent-inquiry-into-child-sexual-abuse-iicsa-vscp-terms-phrases.pdf](http://www.iicsa.org.uk/key-documents/1412/view/independent-inquiry-into-child-sexual-abuse-iicsa-vscp-terms-phrases.pdf)

We would like to thank the victims and survivors who gave evidence to the Inquiry whose testimonies have informed this guidance, and the councils who provided valuable input and expertise throughout the development of this code. We encourage councils to work with survivor groups in their own areas where they exist in the development of any local protocols.

## Overarching Principles

Councils should play a crucial part in ensuring that claimants are treated sensitively throughout the process, recognising that making a claim and/or discussing their experiences can be both daunting and emotionally challenging for victims and survivors. Each individual will have had a different experience and will have different needs at different times, and as such each individual will be seeking different outcomes. The council's approach, and that of any organisations or individuals that it commissions, to working with victims and survivors should be personalised to recognise this.

Throughout this document, we refer to victims and survivors as "claimants" in recognition that this code applies where claims have been initiated or intimated. In developing local protocols, councils will wish to consider with local survivor groups the language that should be used.

Councils and their partners should be clear how any learning will be used to ensure children are protected now and in the future. A victim-centred approach to claims of child sexual abuse will need to recognise past failings and commit to acknowledging and addressing these.

While the approach that councils will take will reflect the scale and nature of claims in their area and the needs of claimants, these overarching principles should remain the same. Based on these principles, the following are some broad issues to consider in the development of local responses.

## Supporting claimants

### Working with claimants

- Listen to the needs of each claimant and tailor responses and support accordingly.
- Give people time and space to talk about their experience. Assure people that they will both be listened to and that the council is committed to responding.
- Consider how to make claimants as comfortable as possible when engaging with them. Ask whether there are particular things to avoid, for example strong smells or particular colours which may act as a trigger and whether a venue outside of the council would be helpful.
- Tell people what to expect from the process and be clear about timescales, both for the claims process and any criminal proceedings. This will often be out of the council's hands, so councils will wish to work with claimants around their expectations. Plain English and a 'human' approach should be used in communications.
- Councils are advised to appoint a named contact for claimants to ensure they are more easily able to engage with the council when they need to and can build a trusting relationship with that person.
- Consider how claimants will be supported over this time, recognising that needs may change along the way. There may be points in the process that require additional support or sensitivity such as receiving case records or supporting people through court cases, serious case reviews and intense media scrutiny.
- Use the learning developments in safeguarding policy and practice which focus on working with individuals to identify and provide the best outcome for them and aim to support person centred resolution and recovery. This includes the [Making Safeguarding Personal approach](#) in adult safeguarding as outlined in the Care Act 2015
- Support for survivors will be different for each individual. It should include offers of support for both survivors and their families including access to independent counselling. Any publicity may also impact on other victims and survivors of sexual abuse in local communities. Councils should engage with local health services and the voluntary and community sector to identify how best to meet these needs.
- Councils should play a key role in supporting claimants to access support as they come to terms with what has happened to them and any wider support they may need. As such, the council can be both the defendant and the provider of support. Councils will need to consider carefully how to make the division of these roles clear, for example making it clear that something said to a social worker will be used to inform the support provided, rather than used against them in the claims process. Councils should also consider where support services can be provided independently, for example through charity or community organisations which may be funded by the council for this.

- Support may include emotional support but also signposting to local services, such as help with employment, finances or housing.
- Any survivor groups in the local area should be identified and engaged with, recognising this will involve challenge and criticism. Survivor groups can also be valuable sources of advice for other survivors, from highlighting support to sharing experience of legal representation or counsellors, where members are happy to do this. Councils may need to consider how best to engage with victims and survivors where there isn't anything locally and will wish to ensure that victims and survivors who choose not to join these groups are aware of other ways in which they can have their voices heard. In some areas, survivors have been employed to work with other survivors to support them through this process and share their experience.
- The end of a claim, or a court case and the payment of compensation can be a difficult time for claimants. The end of the process is not the end of the experience, and councils will need to consider how to support people as they go through this transition.
- Councils should develop a guide for claimants to ensure they understand what they can expect from the process in relation to support, procedures and timescales. This can also involve offers of support through any media interest.

#### Apologies and assurances

- Victims and survivors have been clear about the importance of meaningful apologies given at the right time and by the right people, both individually and publicly. You should consider reaching out to claimants to offer apologies at an appropriate time rather than waiting for this to be requested.
- Apologies are not automatically an admission of liability. The [ABI Code of Practice](#) confirms that:

*“Insurers will never prevent or discourage their policyholder from apologising to a claimant, and will never require a claimant to agree to confidentiality terms as a condition of settlement of a child sexual abuse claim.”*

- Consider how individual apologies are provided. Some claimants may wish to receive an apology in person; others may prefer to receive this in writing. In either case, consider who is best to provide this and ensure they have an appropriate level of seniority, whether it is an officer or member.
- Recognise where there has been systemic failure and clearly acknowledge this. Avoid being defensive in your approach and put the victim at the centre, ensuring that they feel believed.
- Offer reassurances about how children currently in the council's care are being protected from harm. Work with local partners to provide reassurance that alleged perpetrators do not have access to children or adults with care and support needs. Make it clear what lessons have been learnt and how changes will be implemented.

During a claim:

- Use of the defence of limitation should not be automatic and is likely to only be appropriate in exceptional circumstances. The passage of time in and of itself is not sufficient for a limitation defence to be relied on.
- When determining whether to use the defence of limitation, councils will need to consider each case individually and have regard to matters including:
  - The reasons for delay in bringing a claim, including the impact of abuse on victims and the suppression of information by a defendant.
  - The availability of witnesses and documents and the effect of their non-availability on the defendant's ability to defend a claim.
  - The prospects of success of the claim.
- We know that it can take many years for victims and survivors to come forward, and each case should be considered individually. The ABI Code of Practice provides that:

*"Insurers will not seek to defend child sexual abuse claims on the basis of limitation or consent other than in exceptional circumstances."*
- While it is often necessary for claimants to be assessed by a medical expert, this can be a distressing part of the claims process. To avoid the need for multiple experts, consideration should be carefully given to the instruction of a single expert, in conjunction with the victim and/or their legal representative, and with the endorsement of the court. Any request to reappoint an expert should be done with the full authorisation of the court and in accordance with the Civil Procedure Rules 1998.

After a claim:

- Some councils have chosen to develop their own redress schemes and are able to share their learning if this is a chosen response. We await the recommendations of the Inquiry with regard to a national redress scheme.

## Processes and practice

Councils should consider their internal processes as early as possible – and ideally, in advance of any claims – as this can help ensure claimants are responded to effectively from the outset. While we recognise this will have resource implications for councils where currently there isn't external funding available, it will also ensure the right people are involved from the start and will minimise duplication and delay.

### Internal processes

- Establish a clear process for dealing with claims of child sexual abuse from day one, wherever these initially come into the council – whether through the contact centre, a social worker or another route.
- Responding to claims of non-recent child sexual abuse will involve colleagues from a range of departments, potentially including partner organisations. Council staff may engage with claimants in a number of roles, for example via statutory safeguarding responsibilities or in relation to civil claims if the council has had a role in the circumstances surrounding the abuse.
- Consider who will need to be involved from the start, including children's and adult's services, human resources, legal services and communications. Everyone may need bringing together in a project board. Consider whether dedicated staffing is required. This may involve identifying a single point of contact for requests for records.
- Keep local multi-agency safeguarding arrangements and Safeguarding Adults Boards informed and ask for expertise. In turn, both may want to assure themselves of the effectiveness of the local response across a range of partners.
- Consider what data will be needed for monitoring and reporting, whether current case management systems will need amending and whether a dedicated budget and associated budget code is needed. Be aware of Freedom of Information requests, for example queries about how many claims have been received, and how information and expenditure can be recorded in a way that will support responding to these quickly, accurately and transparently.
- If not already, councils may wish to look at plans to digitise paper case files to ensure required files can be swiftly located.

### Ensuring effective responses

In addition to establishing effective processes, councils will need to consider how to ensure staff are enabled to provide claimants with the most effective response:

- Consistency of the staff team is important for claimants. Systems should be put in place to ensure staff have the resilience to provide that continuity, including training



and emotional support. Make sure it is clear that senior staff are available to talk to a one-to-one basis, and that the team as a whole has opportunities to come together for support.

- Specialist training for those working with survivors will help to ensure a better understanding of their responses and enable the best support. This can include training people to provide trauma-informed care or achieving best evidence processes.
- If the council is involved in an active police investigation, this can require a significant amount of staff time. Consider how other work might need to be re-organised or additional support brought in to help manage this.
- Establish protocols with the police at the beginning so that both organisations are clear about how they will work together and what can reasonably be expected within GDPR considerations.

#### Communications within the council and its communities

Councils will also need to consider internal and external communications to ensure that their responses are transparent and consistent.

- There may be significant media interest in cases that the council is engaged with, placing staff under a local or national spotlight. Identify who can speak with the media, and how those individuals are being kept up to date. Consider when this should be a councillor and when should this be an officer(s). Ensure training is available for those who will be speaking with the media, especially ahead of any key dates such as the publication of reports
- Individual officers at all levels may be targeted by the media, both in print and in person – ensure people know who to refer journalists to and understand how they should deal with any intrusion. All staff may need support to cope with media coverage and be aware of the potential impact on staff morale; a resilient and well-supported workforce is not only important from an employer's perspective, but will be able to deliver consistent support to claimants and ensure learning continues to be embedded
- The council or individuals may experience comments on social media. Ensure that all staff are aware of the social media policy and be conscious that some staff members may require support.
- Be aware that in addition to supporting claimants, coverage of cases in the traditional media or on social media can be distressing for victims and survivors of child sexual abuse in the community and in your workforce. Signposting to support can be valuable here.
- Agree how frequently politicians, including the Leader, Cabinet Members and the Opposition Leader and local MPs, are to be briefed.

- Depending on the nature of the claims being dealt with, be conscious of the potential for tensions within the community and work with partners including the police to manage this.

### Useful resources

[The impacts of child sexual abuse: A rapid evidence assessment | IICSA Independent Inquiry into Child Sexual Abuse](#)

[Code of Practice developed by the Association of British Insurers](#)

**This code applies to England only.**

**This Code is not legal advice or guidance. It should be used to inform the development of local procedures and protocols and should not be used as a substitute for councils' own legal advice.**

The LGA is keen to hear from councils to inform further iterations of this Code. Please send any comments to [info@local.gov.uk](mailto:info@local.gov.uk)