

PART 24

GUIDANCE FOR PROFESSIONALS WORKING WITH SEXUALLY ACTIVE YOUNG PEOPLE UNDER THE AGE OF 16 IN STAFFORDSHIRE

**STAFFORDSHIRE SAFEGUARDING CHILDREN BOARD PROTOCOL
WORKING WITH SEXUALLY ACTIVE YOUNG PEOPLE UNDER THE AGE
OF 18**

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STAFFORDSHIRE SAFEGUARDING CHILDREN'S BOARD PROTOCOL WORKING WITH SEXUALLY ACTIVE YOUNG PEOPLE BETWEEN THE AGES OF 13 - 16

Introduction

1. This protocol has been devised with the understanding that most young people under the age of 16 will have an interest in sex and sexual relationships.
2. It is designed to assist those working with children and young people to identify where these relationships may be abusive, and the children and young people may need the provision of protection or additional services.
3. It is based on the core principle that the welfare of the child or young person is paramount, and emphasises the need for professionals to work together in accurately assessing the risk of significant harm when a child or young person is engaged in sexual activity.
4. All agencies, which have contact with children and young people, should use this protocol to develop and implement local guidance for their own staff.

Assessment

5. All young people, regardless of gender, or sexual orientation who are believed to be engaged in, or planning to be engaged in, sexual activity must have their needs for health education, support and/or protection assessed by the agency involved. This assessment must be carried out in accordance with information and guidance set out in:
 - Staffordshire Safeguarding Children Board Inter Agency Procedures for Safeguarding Children & Promoting Their Welfare (2007).
 - Department of Health Best Practice Guidance for Doctors and other Health Professionals on the provision of Advice and Treatment to Young People Under 16 On Contraception, Sexual, and Reproductive Health (Appendix 2).
6. In assessing the nature of any particular behaviour, it is essential to look at the facts of the actual relationship between those involved. Power imbalances are very important and can occur through differences in size, age and development and where gender, sexuality, race and levels of sexual knowledge are used to exert such power. (Of these, age may be a key indicator, e.g., a 15 year old girl and a 25 year old man). Where there is an imbalance of power if the young person's sexual partner is in a position of trust in relation to them, e.g., teacher, youth worker, carer etc. In the assessment, workers need to include the

use of sex for favours e.g., exchanging sex for clothes, CDs, trainers, alcohol, drugs, cigarettes, etc. Young people could also have large amounts of money or other valuables which cannot be accounted for.

7. If the young person has a learning disability, mental disorder or other communication difficulty, they may not be able to communicate easily to someone that they are or have been abused, OR are or have been subject to abusive behaviour. Staff need to be aware that the Sexual Offences Act 2003 recognises the rights of people with a mental disorder to a full life, including a sexual life. However, there is a duty to protect them from abuse and exploitation. The Act includes 3 new categories of offences to provide additional protection (Appendix 1).
8. In order to determine whether the relationship presents a risk to the young person, the following factors should be considered. This list is not exhaustive and other factors may be needed to be taken into account -
 - Whether the young person is competent to understand and consent to the sexual activity they are involved in.
 - The nature of the relationship between those involved, particularly if there are age or power imbalances as outlined above.
 - Whether overt aggression, coercion or bribery was involved including misuse of substances/alcohol as a disinhibitor.
 - Whether the young person's own behaviour, for example through misuse of substances, including alcohol, places them in a position where they are unable to make an informed choice about the activity.
 - Any attempts to secure secrecy by the sexual partner beyond what would be considered usual in a teenage relationship.
 - Whether the sexual partner is known by the agency as having other concerning relationships with similar young people.
 - If accompanied by an adult, does that relationship give any cause for concern?
 - Whether the young person denies, minimises or accepts concerns.
 - Whether methods used to secure compliance and/or secrecy by the sexual partner are consistent with behaviours considered to be 'grooming' (Appendix 1).

- Whether sex/sexual activity has been used to gain favours (e.g., swap sex for cigarettes, clothes, CDs, trainers, alcohol, drugs etc.)
 - The young person has a lot of money or other valuable things which cannot be accounted for.
9. It is considered good practice for workers to follow the Fraser Guidelines/Gillick Competencies when discussing personal or sexual matters with a young person under 16. The Fraser Guidelines/Gillick Competencies give guidance on providing advice and treatment to young people under 16 years of age. These hold that sexual health services can be offered without parental consent providing that:

Fraser Guidelines

- The young person understands the advice being given.
- They young person cannot be convinced to involve parents/carers or allow the medical practitioner to do so on their behalf.
- It is likely that the young person will begin or continue having intercourse with or without treatment/contraception.
- Unless he or she receives treatment/contraception their physical or mental health (or both) is likely to suffer.
- The young person's best interests require contraceptive advice, treatment or supplies to be given without parental consent.

Process

10. In working with young people, it must always be made clear to them that absolute confidentiality cannot be guaranteed, and that there will be some circumstances where the needs of the young person can only be safeguarded by sharing information with others.
11. This discussion with the young person may prove useful as a means of emphasising the gravity of some situations.
12. On each occasion that a young person is seen by an agency, consideration should be given as to whether their circumstances have changed or further information has been given which may lead to the need for referral or re-referral.
13. In some cases urgent action may need to be taken to safeguard the welfare of a young person. However, in most circumstances there will need to be a process of information sharing and discussion in order to formulate an appropriate plan. There should be time for reasoned

consideration to define the best way forward. Anyone concerned about the sexual activity of a young person should initially discuss this with the person in their agency responsible for child protection. There may also be a need for further consultation with the First Response Team (0800 1313 126), Vulnerable Children's Division, Children and Lifelong Learning. In such cases the following process should be followed:

- The professional seeking consultation with First Response should contact this team and specifically request a consultation regarding a case of underage sexual activity.
- In all cases this consultation will be undertaken by either the team manager or senior practitioner on the First Response Team.
- Consultations requested on cases already open to the Vulnerable Children's Division will be re-directed to the case holding social worker.
- Internal Vulnerable Children's Division Records will be checked, including a check as to whether the young person is, or has ever been, subject to a child protection plan.
- These checks, the discussion undertaken, reasons for actions taken and the outcome of the consultation discussion will be recorded on the ICS Contact record. The consultee will be informed in writing of the outcome of their consultation by the First Response Team.
- First Response will advise if the significant harm threshold has been crossed, in which case a referral will be required to Children's Social Care.
- All consultations will record decisions regarding the sharing of information, including reasons for sharing information without consent.
(This process is compliant with Working Together (5.147))

14. It is important that all decision making is undertaken with full professional consultation, never by one person alone. (Agency procedures should include guidance on how this professional consultation will occur within their own agency).

15. If you have concerns that the young person may be at risk of sexual exploitation through prostitution, please refer to the First Response Team (0800 1313 126) and confirm your referral by completing a Multi Agency Referral Form. If the situation is an emergency, the local police should be contacted immediately.
(SSCB Procedures 2007 Section 21)

16. When a referral is received by Children and Lifelong Learning indicating that a child is suffering, or is likely to suffer significant harm (as a result of USI), processes will be followed as at **Part 3** of SSCB Inter-Agency procedures; i.e. – Initial Assessment (may be very brief where the significant harm threshold has been crossed), Lateral Checks, Strategy Discussion.

17. In many cases it will not be in the best interests of the young person for criminal or civil proceeding to be instigated. However, this decision should only be reached as a result of a strategy discussion. The strategy discussion should clearly record who will be responsible for informing the young person about the outcome of the enquiries. Consideration should also be given to if and how, parents/carers should be informed of the enquiries.
18. A strategy discussion will result in either:

S47 Enquiries as part of			
Core assessment	<input type="checkbox"/>	Core assessment (s17)	<input type="checkbox"/>
Police investigation(s)	<input type="checkbox"/>	Referral to other agency	<input type="checkbox"/>
Disciplinary procedures	<input type="checkbox"/>	No further action	<input type="checkbox"/>

19. The outcome of the referral will be formally fed back to the referring agency. In cases which proceed to a s47 enquiry as part of a core assessment, this will occur at the end of the enquiries.
20. Any girl who is pregnant must be offered specialist support and guidance by the relevant services. These services will also be a part of the assessment of the girl's circumstances, and must be included within local guidance.

Young People Under the Age of 13

21. Under the Sexual Offences Act 2003, children under the age of 13 are considered of insufficient age to give consent to sexual activity.
22. Whenever other agencies, or the LA in its other roles, encounter concerns about a child's welfare that constitute, or may constitute, a criminal offence against a child, they must always consider sharing that information with LA children's social care or the police in order to protect the child or other children from the risk of significant harm. If a decision is taken not to share information, the reasons must be recorded.
(Working Together to Safeguard Children (2006) Section 5.18)
23. In all cases where the sexually active young person is under the age of 13, a full assessment must be undertaken. Each case must be assessed individually. In the case of those having penetrative sex, a consultation with First Response Team, Children & Lifelong Learning should always occur. In order for this to be meaningful, the young person will need to be identified, as will their sexual partner if details are known.
- Cases involving under 13s should always be discussed with a nominated child protection lead in the organisation.

- Under the Sexual Offences Act, penetrative sex (see definition in Sexual Offences Act) with a child under 13 is classed as rape.
- Where the allegation concerns penetrative sex, or other intimate sexual activity occurs, there would always be reasonable cause to suspect that a child, whether girl or boy, is suffering or is likely to suffer significant harm.
- There should be a presumption that the case will be reported to children's social care and that a strategy discussion will be held in accordance with the guidance set out in Working Together to Safeguard Children (paragraph 5.54).
- This should involve children's social care, police and relevant agencies, to discuss appropriate next steps with the professional.
- All cases involving under 13s should be fully documented including detailed reasons where a decision is taken not to share information.
(Working Together to Safeguard Children (2006) Section 5.25)

Young People between 13 and 16

24. The Sexual Offences Act 2003 reinforces that, whilst mutually agreed, non-exploitative sexual activity between teenagers does take place and that often no harm comes from it, the age of consent should still remain at 16. This acknowledges that this group of young people is still vulnerable, even when they do not view themselves as such.
25. Sexually active young people in this age group will still have to have their needs assessed using this protocol. Discussion with Children & Lifelong Learning will depend on the level of risk/need assessed by those working with the young person.
26. This difference in procedure reflects the position that, whilst sexual activity under 16 remains illegal, young people under the age of 13 are not capable to give consent to such sexual activity.

Young People between 17 - 18

27. Although sexual activity in itself is no longer an offence over the age of 16, young people under the age of 18 are still offered the protection of Child Protection Procedures under the Children Act 1989. Consideration still needs to be given to issues of sexual exploitation through prostitution and abuse of power in circumstances outlined above. Young people, of course, can still be subject to offences of rape and assault and the circumstances of an incident may need to be explored with a young person. Young people over the age of 16 and under the age of 18 are not deemed able to give consent if the sexual activity is with an adult in a position of trust or a family member as defined by the Sexual Offences Act 2003.

28. For referrals regarding allegations made against a person who works with children and young people, please see Staffordshire Safeguarding Children Board Inter Agency Procedures for Safeguarding Children and Promoting Their Welfare (2007)(Section 7).

Sharing Information With Parents and Carers

29. Decisions to share information with parents and carers will be taken using professional judgement, consideration of Fraser guidelines/Gillick competencies, and in consultation with Staffordshire Safeguarding Children Board (SSCB) Inter Agency Procedures for Safeguarding Children and Promoting their Welfare (2007). Decisions will be based on the child's age, maturity and ability to appreciate what is involved in terms of the implications and risks to themselves. This should be coupled with the parents' and carers' ability and commitment to protect the young person. Given the responsibility that parents have for the conduct and welfare of their children, professionals should encourage the young person, at all points, to share information with their parents and carers wherever safe to do so.
30. This protocol is written on the understanding that those working with this vulnerable group of young people will naturally want to do as much as they can to provide a safe, accessible and confidential service whilst remaining aware of their duty of care to safeguard them and promote their well being.

Acknowledgement:

31. This guidance is based upon that contained within the Lancashire & Cumbria Local Safeguarding Children Board Safeguarding procedures. Whilst the procedures have been developed to reflect local systems, the above noted core source is acknowledged by Staffordshire Safeguarding Children Board.

References

- Enabling young people to access contraceptive and sexual health information and advice: Legal and Policy /Framework for Social Workers, Residential Social Workers, Foster Carers and other Social Care Practitioners.
(Department for Education and Skills Teenage Pregnancy Unit 2004)
- Best practice guidance for doctors and health professionals on the provision of advice and treatment to young people under 16 on contraception, sexual and reproductive health.
(Department of Health July 2004)

- What to do if you are worried a child is being abused Children's Services Guidance.
(Joint publication from the Department of Health, Home Office, Office of the Deputy Prime Minister, Lord Chancellor, Department of Education and Skills) (Republished 2007)
- Handling Allegations of sexual offences against children.
(Local Authority Social Services Letter LASSL (2004) 21 August 2004).
- Guidance on Offences against Children.
(Home Office Circular 16/2005)
- Working Together to Safeguard Children 2006.
- Staffordshire Safeguarding Children's Board (SSCB) Inter-agency Procedures for Safeguarding Children and Promoting their welfare 2007.

Further Information Available From

Home Office - www.homeoffice.gov.uk/sexualoffences/legislation/act.html

Teenage Pregnancy Unit - www.teenagepregnancyunit.gov.uk

Brook - www.brook.org.uk

Sex Education Unit - www.ncb.org.uk/sef

Cabinet Office - www.cabinetoffice.gov.uk

Department of Education and Skills - www.dcsf.gov.uk

Department of Health - www.dh.gov.uk

Initial Assessment for Professionals Working with Sexually Active Young People under 16 years – Reasons Why

32. Cases of underage sexual activity that present cause for concern are likely to raise difficult issues and need to be handled sensitively.
33. A child under 13 years is not legally capable of consenting to sexual activity even though they may be considered Fraser/Gillick competent from a medical perspective. Under the Sexual Offences Act 2003 sexual intercourse with a child under 13 years is statutory rape, regardless of the child's agreement.
34. Working Together to Safeguard Children 5.25 recommends that:
35. "Cases involving under-13's should always be discussed with a nominated child protection lead in the organisation. Where the allegation concerns penetrative sex...there should always be a presumption that the child, whether girl or boy, is suffering or likely to suffer significant harm."

36. It goes on to say that all cases should be fully documented, including giving detailed reasons where a decision is taken not to share information. It is for this reason that the checklist has been devised to demonstrate that staff have undertaken a thorough initial risk assessment.
37. The ability to demonstrate this assessment protects not only the child but also staff as it evidences that child protection concerns have been considered and acted upon. Professionals who work with children and young people accessing contraceptive advice have good relationships with them and are able to assess if there are concerns. We do however need to document that these assessments have taken place.
38. It is recognised that children may not give honest answers but we can only work with the information that we are given.

Using the Initial Assessment Form

39. The prompts are intended to answer the questions in small print below. They may be answered in general conversation rather than just relying on a tick box situation.
40. If there are no concerns please send the form through to your Designated Child Protection Lead who will make some checks to ensure that the child is not especially vulnerable and then inform the child that the incident may be discussed with health colleagues.
41. If the young person is in immediate danger or at risk of significant harm (CA 1989) please make a referral to the First Response Team, Children & Lifelong Learning followed by a completed Multi Agency Referral Form. Any staff unfamiliar with the process should contact their Designated Child Protection Lead for advice.
42. The Designated Child Protection Lead will contact the named contact at the First Response Team to ascertain if there is any information pertaining to the said child that would lead them to believe that the child is more vulnerable than initially thought.
43. The Designated Child Protection Lead then has a duty to share her concerns with the practitioner as to the appropriate course of action that may be required.
44. Informal conversations outside the NHS, thus breaching confidentiality, should be done in consultation with the young person **except** where the professional believes it is not in their best interest to be informed.
45. There will be no action taken (unless in emergency) without the member of staff being informed.

**Flow Chart for Professionals Working
with Sexually Active Young People under 16 years**
(Please also refer to Section 5: Young People between 17-18)

Interim Guidance

Where there are concerns for the welfare of a young person the professional needs to undertake an assessment and complete the under age sexual activity proforma (appendix A)

If the young person is in immediate danger or at risk of significant harm (CA 1989) a referral to the Police or Children's Services Emergency Duty Team should be made without delay.
First Response Team:
0800 1313 126
Staffs Emergency Duty Team 01785 354031.
Police Central Referral Unit
08453 302010

If the young person is not in immediate danger but is a cause for concern they should be discussed with the nominated child protection lead at the earliest opportunity and subsequently with other agencies if required. (see appendix A)

All cases involving under-13's should always be discussed with a nominated child protection lead within the organisation at the earliest opportunity. (see appendix B)

A copy of the under age sexual activity proforma (appendix A) should be faxed/forwarded to the nominated child protection lead for discussion (see appendix B)

No further action - decision recorded

All cases involving under 13 should be fully documented giving detailed reasons where a decision is taken not to share information.

Consultation with First Response Team (see paragraph 3.3)

Concerns highlighted significant harm threshold has been crossed

Referral to **First Response Team**
Children & Lifelong Learning
or Police

(To be followed up by completing the **Multi Agency Referral Form**)

No other concerns identified-Reason for no further action recorded on ICS contact records and agency records

Professionals Working With Sexually Active Young People under 16 Years

Add confidentiality statement here

Name		
D.O.B		
Address		
Age of partner		
Name of partner (if willing)		
<u>Professional Questions</u>	Yes	No
Are there any obvious learning difficulties?		
Are they Fraser/Gillick competent?		
<u>Young Person Questions:</u>		
Do you feel ready for a sexual relationship or do you feel you have to because you feel pressured by your partner or friends? (Evidence of coercion or bribery)		
Does your partner want you to keep this relationship secret? (Attempt by partner to secure secrecy)		
Do you and your partner regularly use alcohol or drugs before sex? (Use of substances as a disinhibitor)		
Do you feel comfortable with this relationship or does it make you feel anxious? (is the young person withdrawn or anxious?)		
Do you understand why we are concerned about you? (Does the young person accept your concerns?)		
Does your boyfriend give you lots of presents? (Is there any suggestion that sex has been given in return for favours)		
Are parents/carer engaged?		
The young person refused to discuss these issues.		
Professional Opinion: If accompanied by an adult, is the relationship a cause for concern?		
<p style="color: red;">While professionals should seek, in general, to discuss any concerns with the family and, where possible, seek their agreement to making referrals to LA children's social care, this should only be done where such discussion and agreement-seeking will not place a child at increased risk of significant harm.</p> <p style="color: red; text-align: center;"><i>(Responding to child welfare concerns where there is or may be an alleged crime. WT 5.16)</i></p>		
Signature of professional	Venue of consultation	Date of Consultation
Name (please print)		
<p>DISCUSSION WITH THE CHILD PROTECTION TEAM</p> <p>ACTIONS AGREED</p>		
Name: (please print)	Signed:	Date:

Form to be faxed to CP Lead within your organisation

GUIDANCE FOR PROFESSIONALS WORKING WITH SEXUALLY ACTIVE YOUNG PEOPLE UNDER THE AGE OF 16 IN STAFFORDSHIRE
Final Version agreed July 2008
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GUIDANCE QUESTIONS
QUESTIONS TO BE CONSIDERED WHEN DESIGNATED CHILD
PROTECTION LEADS DISCUSS A CASE WITH THEIR STAFF MEMBER
WITH REGARD TO SEXUALLY ACTIVE YOUNG PEOPLE UNDER 16
YEARS

This proforma must ALWAYS be completed for children under 13 years

A child under 13 is not legally capable of consenting to sexual activity. Any offence under the Sexual Offences Act 2003 involving a child under 13 is very serious and should be taken to indicate a risk of significant harm to the child." (Working Together to Safeguard Children (2006)

Name:	Date of Birth
Address:	Designated Professional:

	YES	NO
Are you confident that the young person is telling the truth regarding the age of the partner?		
Do you think that the young person is at risk of 'significant harm'?		
Have there been other concerns in the past in relation to this young person?		
Has the designated professional been through the risks to the young person with regard to infection, pregnancy and the issues that pregnancy would raise and the risks to herself generally?		
Has the designated professional discussed the legal implications inasmuch as it is an illegal act having sexual intercourse with a young person under 13 years?		
Will the young person talk to a parent or carer?		
If not, can they be persuaded? If not why not?		
Are there any coercion issues, i.e., peer pressure, expensive gifts?		
To your knowledge, has this young person had any other sexual partners?		
Has the child had a CAF completed?		
Have you checked contact point?		
Do we know anything about the partner involved?		
Does the health professional deem the young person to be Fraser/Gillick competent?		
Are there any other agencies involved with this young person?		

OUTCOME

No concerns		Refer to First Response	
Signature:		Date:	

This information must be stored within the confidential file, according to agencies procedures

