County Durham and Darlington
Primary Care Trusts

Protocol for Health Staff Working with Sexually Active Young People

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The flow-chart, notes and aide-memoire that built upon these principles were developed by a multi-disciplinary group from across County Durham and Darlington.

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This protocol could not have been produced without input from all the above professionals and their time and commitment is appreciated and acknowledged.

I N D E X

Appendix 4:

1. Introduction

1.1 All health professionals who have contact with children and young people, should use this protocol.

1.2 This protocol has been devised with the understanding that most young people under the age of 18 will have an interest in sex and sexual relationships.

1.3 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.

1.4 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 to accurately assess the risk of significant harm when a child or young person is engaged in sexual activity.

1.5 This protocol is written on the understanding that those working with these 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.

2. Confidentiality (see appendix 3)

2.1 This protocol has been written with due consideration to the Human Rights Act 1998, in particular Articles 3 and 8 (see Appendix 1) (Grosz, 2005). Thus, there has to be a balance between the young person's entitlement to confidentiality and the sharing of information to protect them, or others, from harm.

2.2 Guidance issued by the Department of Health in July 2004 identifies when a young person's right to confidentiality may be overridden:

'Where a health professional believes that there is a risk to the health, safety or welfare of a young person or others which is so serious as to outweigh the young person's right to privacy, they should follow locally agreed child protection protocols, as outlined in Working Together to Safeguard Children. In these circumstances, the over-riding objective must be to safeguard the young person. If considering any disclosure of information to other agencies, including the police, staff should weigh up against the young person's right to privacy the degree of current or likely harm, what any such disclosure is intended to achieve and what the potential benefits are to the young person's well-being.' (DoH, 2004)

The guidance goes on to state that any disclosure should be justifiable according to the facts of the case. There needs to be an assessment of the need for disclosure of information which will require consideration of a number of factors (see Assessment section below). Advice should

be sought from the Trust Caldicott Guardian where there is any uncertainty (see Appendix 3).

Except in the most exceptional of circumstances, disclosure should only take place after consulting the young person and offering to support a voluntary disclosure.

3. Sexual offences act 2003 (see appendices 2 & 3)

3.1 This protocol takes account of the Home Office Guidance on the Sexual Offences Act which states that,

'Although the age of consent remains at 16, the law is not intended to prosecute mutually agreed teenage sexual activity between two young people of a similar age, unless it involves abuse or exploitation. Young people, including those under 13, will continue to have the right to confidential advice on contraception, pregnancy and abortion.'

3.2 In order to implement this protocol, professionals need to be aware of what is considered as 'Sexual Activity'. The meaning of 'Sexual' is very wide within the Sexual Offences Act 2003. Working Together to Safeguard Children (HM Government, 2006) identifies that sexual activity should concern penetrative sex or other intimate sexual activity. This protocol will consider this as the definition of 'Sexual Activity'.

4. Assessment

4.1 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 professional involved. This assessment must be carried out in accordance with information and guidance set out in:

- Durham Local safeguarding Children Board Child Protection Procedures.
- Darlington Safeguarding Children Board Child Protection Procedures.
- 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 3).
- Working Together to Safeguard Children (HM Government, 2006, paragraph 5.27).

4.2 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). There may also be 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.

4.3 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 subjected to abusive behaviour. Staff need to be aware that the Sexual Offences Act 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 2).

4.4 In order to determine whether the relationship presents a risk to the young person, the following factors should also 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 (see Issues for Consideration, Appendix 4).

- The nature of the relationship between those involved, particularly if there are age or power imbalances as outlined above.

- Ability to consent: Whether both young people truly understand the activity they are involved in and are able to give informed consent. Compliance is not the same as consent (see Issues for Consideration, Appendix 4).

- 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.

- Each partner's perception of the activity: if the young person perceives the activity as abusive, it should be considered as such.

- What is known about the young person's living circumstances or background: e.g. living away from home, access to an appropriate adult carer.

- 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.

- Whether, if accompanied by an adult, that relationship gives 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 2).

- Whether sex has been used to gain favours (e.g. swap sex for cigarettes, clothes, CDs, trainers, alcohol, drugs etc).

- Whether the young person has a lot of money or other valuable things which cannot be accounted for.

4.5 It is considered good practice for workers to follow the Fraser guidelines when discussing personal or sexual matters with a young person under 16. The Fraser guidelines give guidance on providing advice and treatment to young people less than 16 years of age. These hold that sexual health services can be offered without parental consent providing that:

- The young person understands the advice that is being given.

- The young person cannot be persuaded to inform or seek support from their parents, and will not allow the worker to inform the parents that contraceptive/protection, e.g. condom advice, is being given.

- The young person is likely to begin or continue to have sexual intercourse without contraception or protection by a barrier method.

- The young person's physical or mental health is likely to suffer unless they receive contraceptive advice or treatment.

- It is in the young person's best interest to receive contraceptive / safe sex advice and treatment without parental consent.

5. Actions to be taken

5.1 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. This discussion

with the young person may prove useful as a means of emphasising the gravity of some situations.

5.2 On each occasion that the young person is seen by a health professional, 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.

5.3 In some cases urgent action may need to be taken to safeguard the welfare of a young person. In these 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 Senior Nurse/Named Nurse for child protection. There may then be a need for further consultation with /referral to the Team Leader, Initial Assessment Team, Children and Young People's Services (Durham)/ Team Leader, Duty Team, Children's Services (Darlington). All discussions should be recorded, giving reasons for action taken and who was consulted/ informed.

5.4 It is important that all decision making is undertaken with full professional consultation, never by one person alone. The young person should be informed of actions that are being taken, unless to do so would place them or other young people at risk of harm.

5.5 If you have concerns that the young person may be at risk of sexual exploitation through prostitution, please refer to Children and Young People's Services / Children's Services in line with NHS Safeguarding Children Procedures. **If the situation is an emergency, the local police should be contacted immediately.**

5.6 When a referral is received by Children and Young People's Services/ Children's Services, an enquiry to the Child Protection Register will be made, followed by a strategy discussion with partner agencies include the Police. This discussion should be informed by the assessment undertaken using this protocol and, in the majority of cases, may be largely for the purposes of consultation and information sharing.

5.7 In many cases, it will not be in the best interests of the young person for criminal or civil proceedings to be instigated. However, Police and Children and Young People's Services/ Children's Services and other agencies may hold vital information that will assist in any clear assessment of risk.

5.8 Following any referral to Children and Young People's Services/ Children's Services, and after a strategy discussion with the Police and/or any other agencies there may be one of these responses:

- No further action deemed necessary.

- An initial assessment undertaken which may identify the young person as a child in need and additional services will be provided.

- An initial assessment undertaken which may identify the young person as a child at risk of significant harm and in need of child protection intervention.

The outcome of the referral will be formally fed back to the referring agency within 48 hours.

During this process agencies must continue to offer the service and support to the young person.

5.9 Any girl, either under or over the age of 13, who is pregnant, must be offered support and guidance by the relevant services. These services will also be part of the assessment of the girl's circumstances.

6. Young people under the age of 13 (see flow chart – appendix 4)

6.1 Working Together (2006) states:

'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'.

Cases involving sexually active under 13s should always be discussed with a Named Nurse Child Protection / Senior Nurse Child Protection. *'Under the Sexual Offences Act, penetrative sex 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 a girl or a boy, is suffering or is likely to suffer significant harm. There should be a presumption that the case will be reported to Children and Young People's Services/Children's Services and a Strategy Meeting convened. … All cases involving under 13's should be fully documented including detailed reasons where a decision is taken not to share information'.* (HM Government, 2006, paragraph 5.25.)

6.2 It has been agreed by both Durham Local Safeguarding Children Board and Darlington Safeguarding Children Board that all young people under 13 who are sexually active will be referred to Children and Young People's Services/ Children's Services and a Strategy Meeting will be held which will include the professional who has made the referral.

6.3 Therefore, in all cases where the sexually active young person is under the age of 13, a full assessment must be undertaken and a referral

made to the Children's Services/Children and Young People's Services. The referral will need to identify the young person, as well as their sexual partner if details are known.

6.4 When a girl under 13 is found to be pregnant, a referral to the Children's Services / Children and Young People's Services must be made and they will hold a strategy discussion with the police and other agencies. At this stage a multi-agency support package should be formulated.

7. Young people between 13 and 16

7.1 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 still remains at 16. This acknowledges that this group of young people is still vulnerable, even when they do not view themselves as such.

7.2 Sexually active young people in this age group will still require their needs to be assessed using this protocol. Discussion with Children and Young People's Services/Children's Services will depend on the level of risk/need assessed by those working with the young person.

7.3 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 in law to give consent to such sexual activity.

8. Young people between 16 and 18

8.1 Although sexual activity in itself is not 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.

9. Sharing information with parents and carers

9.1 Decisions to share information with parents and carers will be taken using professional judgement, consideration of Fraser guidelines and in consultation with the Child Protection Procedures. 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. All decisions and discussions must be clearly documented. 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.

10. Review of protocol

It is intended that this protocol will be reviewed 12 months after adoption or following changes in legislation and/or a change in national guidance.

Appendix 1

Articles 3 and 8 of the Human Rights Act 1998

Article 3 provides:

‘No-one shall be subjected to torture or inhuman or degrading treatment or punishment’

Article 8 provides:

‘1. Everyone has the right to respect for his private and family life, his home and his correspondence.’

‘2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedom of others.’

Article 8 is not an absolute right and is permissible if it falls within Article 8(2).

Appendix 2

The Sexual Offences Act 2003 - Definitions

Sexual activity

Sexual Activity defined by the Sexual Offences Act 2003 is:

Any activity for the purposes of the Act – penetration, touching or any other activity if sexual, **if a reasonable person would consider** that:

a) Whatever it's circumstances or any person's purpose in relation to it, it is because of it's nature sexual;

or

b) Because of it's nature it may be sexual and because of it's circumstances or the purpose of any person in relation to it (or both) it is sexual.

Sexual grooming

Section 15 of the Sexual Offences Act 2003 makes it an offence for a person (A) aged 18 or over to meet intentionally, or to travel with the intention of meeting a child under 16 in any part of the world, if he has met or communicated with that child on at least two earlier occasions, and intents to commit a "relevant offence" against that child either at the time of the meeting or on a subsequent occasion. An offence is not committed if (A) reasonably believes the child to be 16 or over.

The section is intended to cover situations where an adult (A) establishes contact with a child through for example, meeting, conversations or communications on the internet and gains the child's trust and confidence so that he can arrange to meet the child for the purpose of committing a "relevant offence" against the child.

The course of conduct prior to the meeting that triggers the offence may have an explicitly sexual content, such as (A) entering into conversations with the child about sexual acts he wants to engage him/her in when they meet, or sending images of adult pornography. However, the prior meetings or communication need not have an explicitly sexual content and could for example simply be (A) giving swimming lessons or meeting him/her incidentally through a friend.

The offence will be complete when, following the earlier communications, (A) meets the child or travels to meet the child with the intent to commit a relevant offence against the child. The intended offence does not have to take place.

The evidence of (A's) intent to commit an offence may be drawn from the communications between (A) and the child before the meeting or may be

drawn from other circumstances, for example if (A) travels to the meeting with ropes, condoms and lubricants.

Subsection (2) (a) provides that (A's) previous meetings or communications with the child can have taken place in or across any part of the world. This would cover for example (A) emailing the child from abroad (A) and the child speaking on the telephone abroad, or (A) meeting the child abroad. The travel to the meeting itself must at least partly take place in England or Wales or Northern Ireland.

The age of consent

The legal age for young people to consent to have sex is still 16, whether they are straight, gay or bisexual. The aim of the law is to protect the rights and interests of young people, and make it easier to prosecute people who pressure or force others into having sex they don't want.

For the purposes of the under 13 offences, whether the child consented to the relevant risk is irrelevant. A child under 13 does not, under any circumstances, have the legal capacity to consent to any form of sexual activity.

Protecting people with a mental disorder

The act has created three new categories of offences to provide additional protection with a mental disorder.

- The Act covers offences committed against those who, because of a profound mental disorder, lack the capacity to consent to sexual activity.

- The Act covers offences where a person with a mental disorder is induced, threatened or deceived into sexual activity.

- The Act makes it an offence for people providing care, assistance or services to someone in connection with a mental disorder to engage in sexual activity with that person.

Appendix 3

Best Practice Guidance For Doctors And Other Health Professionals

Summary

This revised guidance replaces HC (86)1/HC (FP) (86) 1/LAC (86)3 which is now cancelled.

Doctors and health professionals have a duty of care and a duty of confidentiality to all patients, including under 16s.

This Guidance applies to the provision of advice and treatment on contraception, sexual and reproductive health, including abortion. Research has shown that more than a quarter of young people are sexually active before they reach 16 (Wellings et al, 2001).

Young people under 16 are the group least likely to use contraception and concern about confidentiality remains the biggest deterrent to seeking advice. Publicity about the right to confidentiality is an essential element of an effective contraception and sexual health service.

The Government's ten year Teenage Pregnancy Strategy, launched in 1999, set a goal to halve the under 18 conception rate by 2010. This is a Department for Education and Skills Public Service Agreement jointly held with the Department of Health. Progress towards meeting local under 18 conception rate reduction targets is one of the NHS Performance Indicators for Primary Care Trusts (PCT).

The contribution of PCTs to improving young people's access to contraceptive and sexual health advice is a key element of all local Teenage Pregnancy Strategies, linked to implementation of the Sexual Health and HIV Strategy, and is performance managed by Strategic Health Authorities.

The Sexual Offences Act 2003 does not affect the duty of care and confidentiality of health professionals to young people under 16.

PCT commissioners and clinical governance leads should bring the Best Practice Guidance to the attention of all health professionals responsible for the care of young people in any setting.

All services providing contraceptive advice and treatment to young people should:

- Produce an explicit confidentiality policy making clear that under 16s have the same right to confidentiality as adults.

- Prominently advertise services as confidential for young people under 16, within the service and in community settings where young people meet.

- Health professionals who do not offer contraceptive services to under 16s should ensure that arrangements are in place for them to be seen urgently elsewhere.

- Directors of Children's Services should ensure that social care professionals working with young people are aware of this guidance and the Teenage Pregnancy Unit guidance – *'Enabling young people to access contraception and sexual health information and advice: the legal and policy framework for social workers, foster carers and other social care practitioners'.*

Confidentiality

The duty of confidentiality owed to a person under 16, in any setting, is the same as that owed to any other person. This is enshrined in professional codes.

All services providing advice and treatment on contraception, sexual and reproductive health should produce an explicit confidentiality policy which reflects this guidance and makes clear that young people under 16 have the same right to confidentiality as adults.

Confidentiality policies should be prominently advertised, in partnership with health, education, youth and community services. Designated staff should be trained to answer questions. Local arrangements should provide for people whose preferred language is not English or who have communication difficulties.

Employers have a duty to ensure that all staff maintain confidentiality, including the patient's registration and attendance at a service. They should also organise effective training which will help fulfil information governance requirements.

Deliberate breaches of confidentiality, other than as described below, should be serious disciplinary matters. Anyone discovering such breaches of confidentiality, however minor, including an inadvertent act, should directly inform a senior member of staff (e.g. the Caldicott Guardian) who should take appropriate action.

Duty of Care

Doctors and other health professionals also have a duty of care, regardless of patient age.

A doctor or health professional is able to provide contraception, sexual and reproductive health advice and treatment, without parental knowledge or consent, to a young person aged under 16, provided that:

- She/he understands the advice provided and its implications.

- Her/his physical or mental health would otherwise be likely to suffer and so provision of advice or treatment is in their best interest.

However, even if a decision is taken not to provide treatment, the duty of confidentiality applies, unless there are exceptional circumstances as referred to above.

The personal beliefs of a practitioner should not prejudice the care offered to a young person. Any health professional who is not prepared to offer a confidential contraceptive service to young people must make alternative arrangements for them.

Good practice in providing contraception and sexual health advice to young people under 16

It is considered good practice for doctors and other health professionals to consider the following issues when providing advice or treatment to young people under 16 on contraception, sexual and reproductive health.

If a request for contraception is made, doctors and other health professionals should establish rapport and give a young person support and time to make an informed choice by discussing:

- The emotional and physical implications of sexual activity, including the risks of pregnancy and sexually transmitted infections.

- Whether the relationship is mutually agreed and whether there may be coercion or abuse.

- The benefits of informing their GP and the case for discussion with a parent or carer. Any refusal should be respected. In the case of abortion, where the young woman is competent to consent but cannot be persuaded to involve a parent, every effort should be made to help them find another adult to provide support, for example another family member or specialist youth worker.

- Any additional counselling or support needs.

Additionally, it is considered good practice for doctors and other health professionals to follow the criteria outlined by Lord Fraser in 1985, in the House of Lords' ruling in the case of Victoria Gillick V West Norfolk and Wisbech Health Authority and Department of Health and Social Security. These were commonly known as the Fraser Guidelines:

- the young person understands the health professional's advice;
- the health professional cannot persuade the young person to inform his or her parents or allow the doctor to inform the parents that he or she is seeking contraceptive advice;
- the young person is very likely to begin or continue having intercourse with or without contraceptive treatment;
- unless he or she receives contraceptive advice or treatment, the young person's physical or mental health or both are likely to suffer;
- the young person's best interests require the health professional to give contraceptive advice, treatment or both without parental consent.

Sexual Offences Act 2003

The Sexual Offences Act 2003 does not affect the ability of health professionals and others working with young people to provide confidential advice or treatment on contraception, sexual and reproductive health to young people under 16.

The Act states that, a person is not guilty of aiding, abetting or counselling a sexual offence against a child where they are acting for the purpose of:

- protecting a child from pregnancy or sexually transmitted infection;
- protecting the physical safety of a child;
- promoting child's emotional well-being by the giving of advice.

In all cases, the person must not be causing or encouraging the commission of an offence or a child's participation in it. Nor must the person be acting for the purpose of obtaining sexual gratification.

This exception, in statute, covers not only health professionals, but anyone who acts to protect a child, for example teachers, Connexions Personal Advisers, youth workers, social care practitioners and parents.

Appendix 4

Guidance Notes to Accompany the Flow Chart for Professionals Working with Sexually Active Under 13's

This Note, the Flow Chart and Issues for Consideration are one aspect of a wider Protocol for working with Sexually Active Young People.

Introduction

1. This process applies to any contact with a health professional, with someone who is sexually active and under 13, **including** requests in non-NHS settings for emergency contraception; Chlamydia screening or repeat issuing of condoms. It does not apply to condom distribution campaigns where there is no one-to-one consultation, nor does it apply to the sale of condoms.

2. The Flow Chart and Issues for Consideration have been put together by a multi-disciplinary group from County Durham and Darlington. The Flow Chart is aimed at providing staff with guidance on how contact with sexually active under 13s should be managed. Its use MUST be in conjunction with local Child Protection procedures.

3. In designing the flow chart, at the centre of our contact with the young person is their health and well-being. We have a duty to ensure that we work together to minimise risks to potentially vulnerable young people and in so doing, we must respect an individual's legal rights to privacy and confidentiality.

4. The 'issues for consideration' would be relevant to any young person.

5. The decision making process must consider the relationship between the professional and the young person, and seek to build trust as far as possible. The amount of information that will be forthcoming will vary from one setting to another, and will be affected by whether the professional has any prior knowledge of the young person. Therefore, for example a professional seeing the young person as a one-off consultation may only gain some of the answers to the questions or prompts the guidance proposes. As a result, the threshold for discussions with designated staff, Children & Young People's Services/ Children's Services or the police, may be lower than for a GP who is more confident they will see the young person again.

6. Some of the answers to these questions may be gained over the course of several consultations. It is up to the professional to use their judgement as to how much information they can seek each time.

7. Where a professional worker expects to discuss a case with Senior Nurse/Named Nurse Child Protection, or to have an informal conversation outside the NHS thus breaching confidentiality, then this should be done in consultation with the young person, **except** where the professional believes it is not in their best interests to be informed.

8. Where a serious crime is suspected, advice should be sought from the police at the earliest opportunity to safeguard the child and minimise the risk of any evidence, such as e-mails or pictures, being destroyed before they can begin their investigation. All staff must be aware that the police must formally record contact made by an agency. An incident will be recorded as a crime where on the balance of probability an offence defined by law has been committed and there is not evidence to the contrary.

9. Any referral or potential referral should be discussed in the first instance with the young person. The professional making the referral then has a **Duty of Care** to the individual to secure their physical and mental well-being and offer support during that time.

10. In law, children under 13 are deemed to be unable to give informed consent to sexual activity, so professionals working with such children need to ensure that they have taken all reasonable steps to protect the child's welfare and prevent them from harm, and that they have operated within this guidance.

11. The degree of [Fraser] competence of a young person needs to be assessed on an individual basis and documented. This will vary with age, maturity and with the implications of the treatment or advice they are seeking. Young people under sixteen who are Fraser competent can consent to treatment. A child or young person can say they wish to withhold consent to their information being shared with another agency. A professional, however, may override this if they are of the firm view that not to do so may jeopardise the safety and welfare of the child or young person.

12. Where the young person is under 13 years of age, an assessment must be undertaken as to risk, and advice or guidance obtained from the Senior Nurse/Named Nurse Child Protection. The actions taken by the professional **MUST BE RECORDED** and the rationale for these actions clearly given.

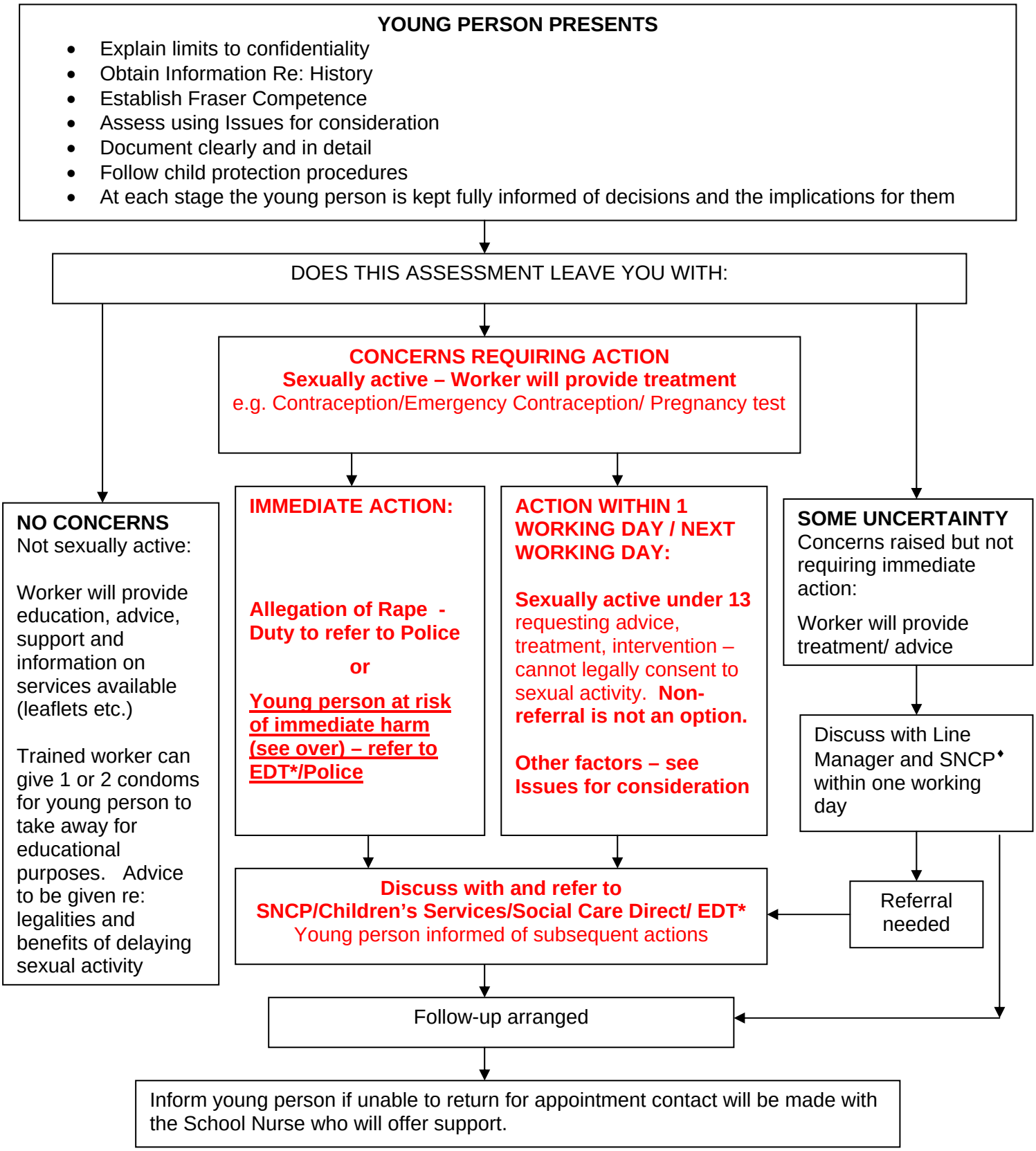
13. **Throughout the process it will be important to remember the perpetrator of abuse might be: the patient; male or female; of the same sex; in a caring role for the individual. Similarly not all**

abuse is recognised as such by the victim at the time, and this is notably the case where a young person is being groomed.

15. Each professional must recognise that they only hold some pieces of the "jigsaw". For example, health professionals would not routinely have access to the Sex Offenders register, or to wider multi-agency intelligence about a young person, their partner, or their family, without making a referral.

16. It is important to recognise that any information passed to Children & Young People's Services/ Children's Services, even in confidence, can be released by a Court Order by a judge in the Family Court. The same does not apply to the Police, who are entitled to withhold information under Public Interest Immunity. This should be considered when disclosing any information that could later put a patient or informant at risk.

GUIDANCE FOR ALL HEALTH STAFF WORKING WITH YOUNG PEOPLE UNDER 13 YEARS SEEKING SEXUAL HEALTH ADVICE



THE CHILD'S WELFARE IS PARAMOUNT, WHEREVER POSSIBLE THE YOUNG PERSON SHOULD BE ENCOURAGED TO DISCUSS THE ISSUES WITH PARENT OR PERSON IN A POSITION OF TRUST

*** EDT = Emergency Duty Team**

♦ SNCP = Senior / Named Nurse Child Protection

ADDITIONAL ISSUES TO CONSIDER FOR YOUNG PEOPLE 13-16 SEEKING ADVICE ON SEXUAL RELATIONSHIPS

To reach a decision re: taking action and sharing information, the following should be considered:
Children under 13 years are not able in law to consent to sexual activity.

- Age: the greater the age difference between the young person and their partner, the more likely it is that the behaviour is abusive. (While chronological age is significant, young people mature at different rates. The respective level of cognitive, emotional and social development should also be considered).
- Power Imbalances: This could involve physical size, strength, level of awareness or assertiveness, peer group status or development.
- Ability to Consent: Whether both young persons truly understand the activity she/he is involved in and is able to give informed consent. Compliance is not the same as consent. Workers need to be mindful of the presence of a communication difficulty and the ability to understand and therefore consent.
- Use of Coercion, Bribery or Other Inducement.
- Use of Substance or Dis-inhibitor: where use of a substance places a young person at risk.
- Presence of a Learning Disability: If one partner has a learning disability, extra care should be taken to ensure that that partner is not being exploited.
- Secrecy: Young person attempts to secure secrecy beyond the normal desire for privacy.
- Perception of Activity: Does the young person deny, minimise or accept concerns. If the young person perceives the activity as abusive, it should be considered abusive.
- Grooming Behaviour: Presence of any elements of this towards the young person in this relationship.
- Other Sexual Partners: has one partner had a series of relationships suggesting they are exploitative or vulnerable to exploitation?
- Prostitution: Is there any suggestion that any person involved is being exploited in? If so reference should be made to Safeguarding Children Involved in Prostitution (2000).
- Sexually Transmitted Infections: Is there any indication that either party has knowingly or recklessly put partners at risk of contracting?
- Incest: Are the young people related?
- Living Circumstances: eg living away from home? Is there an appropriate adult carer?
- Family history: Is there a history of sexual behaviour involving children and sex offences?
- Presentation: General presentation of the young person.
- Rape under 18years: a referral should be made to the Police.

In all contacts, the facts obtained, decisions made and actions taken MUST be clearly documented.

Staff should ALWAYS refer for guidance to NHS Safeguarding Children Procedures and Related Guidance and Durham Local Safeguarding Children Board/Darlington Safeguarding Children Board Child Protection Procedures.

Please contact the Named Nurse/Named GP about any uncertainties or issues you may have.

Reference *Working Together to Safeguard Children, A guide to inter-agency working to safeguard and promote the welfare of children. 2006.*

References

Department for Education and Skills Teenage Pregnancy Unit (2004) *Enabling young people to access contraceptive and sexual health information and advice: Legal and Policy Framework for Social Workers, Foster Carers and other Social Care Practitioners.*

Department of Health (July 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, Home Office, Office of the Deputy Prime Minister, Lord Chancellor, Department of Education and Skills (2003) *What to do if you are worried a child is being abused.* London: Department of Health.

Department of Health, Home Office, Department for Education and Employment (2000) *Safeguarding Children Involved in Prostitution.* London: Department of Health.

Grosz, S (2005) *Working with Sexually Active Young People under the age of 18: Pan London and Sheffield Protocol Compatibility with the European Convention on Human Rights.* Stephen Grosz, London: Bindman & Partners.

Local Authority Social Services Letter LASSL (21 August 2004) *Handling Allegations of sexual offences against children.*

Home Office Circular 16/2005 *Guidance on offences against children.*

General Medical Council (2004) *Confidentiality: protecting and providing information* London: General Medical Council.

Nursing and Midwifery Council (2002) *Code of professional conduct.* London: Nursing & Midwifery Council.

Wellings, K; Nanchahal, K., Macdowall, W., McManus, S., Erens, R., et al. (2001) *Sexual Behaviour in Britain: early heterosexual experience*. Lancet 358: 1843-50.

Training Resource:

An example of an effective training resource is

'Confidentiality and young people: improving teenager's uptake of sexual and other health advice'. This publication is endorsed by the Royal College of General Practitioners, the British Medical Association, the Royal College of Nursing and the Medical Defence Union.

Copies can be obtained from Department of Health, PO Box 777, London SE16XH.

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.dfes.gov.uk

Department of Health:
www.dh.gov.uk