



PAN DORSET INTER-AGENCY SAFEGUARDING PROCEDURES

GUIDANCE FOR PROFESSIONALS WORKING WITH SEXUALLY ACTIVE YOUNG PEOPLE UNDER THE AGE OF 18 IN BOURNEMOUTH, POOLE AND DORSET

Procedures Effective from: 2006

Review Date: June 2011

If you have any comments or queries about the pan-Dorset procedures please contact your agency representative on the Pan Dorset Policy and Procedures Group or notify the LSCB using the following email addresses:

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CONTENTS

Introduction

1. Assessment
2. Process
3. Young People under the Age of 13
4. Young People between 13 and 16
5. Young People between 17 and 18
6. Sharing Information with Parents and Carers

Appendices

- Appendix 1 - Additional information
- Appendix 2 - DOH Best Practice Guidance for Doctors and Other Health Professionals

Points of Reference

Pan Dorset Inter-agency Safeguarding Procedures

- Chapter 3, Appendix 11, Protocol for Working With Children & Young People with Sexually Harmful Behaviour
- Part 2, Chapter 4, Working Together To Safeguard Children 2006, Appendix 5, Procedures for Managing allegations against people who work with Children
- Fraser Guidelines – Sex and the Law www.under-cover.org.uk www.brook.org.uk
- Bournemouth Prostitution Strategy (Draft) 2007

Note

Reference to Children's Services in this document relates to Local Authority Children's Services.

Acknowledgement

This Protocol was based on the Protocol developed by Cumbria & Lancashire.

Introduction.

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.

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.

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.

All agencies, which have contact with children and young people, should use this protocol to develop and implement local guidance for their own staff.

1. Assessment

1.1 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 agency involved. This assessment must be carried out utilising the Framework for the Assessment of Children and their Families in accordance with information and guidance set out in;

- Pan Dorset Inter-agency Safeguarding 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. (Appendix2)

1.2 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, eg a 15 year old and a 25 year old). 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 eg teacher, youth worker, carer etc. In the assessment, workers need to include the use of sex for favours eg exchanging sex for clothes, compact discs, trainers, alcohol, drugs, cigarettes etc. Young people could also have large amounts of money or other valuables which cannot be accounted for.

1.3 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 2003 recognises the rights of people with a mental disorder to a full life, including a sexual life. (Also Human Rights Act Chapter 3) 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)

- 1.4 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 (Pan Dorset Inter-agency Safeguarding Procedures, Chapter 3, Appendix 11)
- The age of the child. Sexual activity at a young age is a very strong indicator that there are risks to the welfare of the child (whether boy or girl) and, possibly, others
 - The level of maturity and understanding of the child
 - What is known about the child's living circumstances or background
 - Age imbalance, in particular where there is a significant age difference
 - Overt aggression or power imbalance
 - Coercion or bribery
 - Familial child sex offences
 - Behaviour of the child i.e. withdrawn, anxious
 - Whether the child's own behaviour, because of the misuse of substances places him/her at risk of harm so that he/she is unable to make an informed choice about any activity
 - Whether any attempts to secure secrecy have been made by the sexual partner, beyond what would be considered usual in a teenage relationship
 - Whether the child denies, minimises or accepts concerns
 - Whether the sexual partner/s is known by one of the agencies
 - 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
 - If accompanied by an adult, does that relationship give any cause for concern?
 - 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 has been used to gain favours (eg 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
 - Prostitution is a cause for concern (Working Together to Safeguard Children 2006 Chapter 6 para 6.2 and Appendix 5)

1.5 Workers should 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 under 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, eg 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

2. Process

2.1 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 ensuring that the young person's thoughts, feelings and needs have been ascertained.

2.2 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.

2.3 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 safeguarding children. There may then be a need for further consultation with the Team Manager, Assessment Team, Children's Services. All discussions should be recorded, giving reasons for action taken and who was spoken to.

It is important that where there are concerns all decision making is undertaken with full professional consultation, never by one person alone (agency procedures must include guidance on how this is to be undertaken within their own organisation).

- 2.4 If you have concerns that the young person may be at risk of sexual exploitation through prostitution, please refer to Children's Services by completion of a Multi Agency Referral process. If the situation is an emergency, Dorset Police should be contacted immediately.
- 2.5 When a referral is received by Children's Services, an enquiry as to whether the child has been the subject of a child protection plan will be made, and this may be followed by a strategy discussion with the police and partner agencies. 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.

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

- 2.6 Following any referral to Children's Services and after a strategy discussion with the Police and/or any other agencies there may be one of the following responses
- no further action deemed necessary
 - following an initial assessment the young person may be identified as a child in need and additional services provided
 - the young person may be identified as a child at risk of significant harm and in need of safeguarding
 - the child may need to be the subject of a core assessment
 - the outcome of the referral will be formally fed back to the referring agency (Inter-agency Safeguarding Procedures 2006 Chapter 2.46)

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

- 2.7 Any girl or a young person with learning/disabilities, who is pregnant, must be offered specialist support and guidance by the relevant services.

3. Children (taken out Young People) Under the Age of 13

- 3.1 Under the Sexual Offences Act 2003, a child under the age of 13 is not legally capable of consenting to sexual activity. Penetration of the vagina, mouth or anus of a child under 13, with a penis, is classified as rape. 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. If you have concerns that the child may be at risk of sexual exploitation through prostitution, or engaged in penetrative sexual relationships or activity, this must be referred to Children's Services and Dorset Police. If the situation is an emergency, the Dorset Police should be contacted immediately.

Dorset Police must be notified as soon as possible when a criminal offence has been committed or is suspected of having been committed against a child unless there are exceptional reasons not to do so. (Recommendation 12 of Sir Michael Bichard's report – see list of hyperlinks)

- 3.2 In all cases where the sexually active child is under the age of 13, a full assessment must be undertaken, including checks with other agencies. Each case must be assessed individually. Where it is identified that there is a risk of significant harm or that it is known an offence has been committed a referral to Children's Services must be made. A strategy meeting will be held with Dorset Police and/or other relevant agencies to determine what action should be taken to safeguard the young person. In order for this to be meaningful, the child will need to be identified, as will their sexual partner if details are known.
- 3.3 A decision not to refer can only be made following a case discussion with the named or designated lead for child protection within the professional's employing authority. When a referral is not made, the professional and agency concerned is fully accountable for the decision and a good standard of record keeping must be made, including the reasons for not making a referral. **Again, all cases should be carefully documented including where a decision is taken not to share information.**
- 3.4 When a girl under 13 is found to be pregnant, a referral to the Children's Services must be made and they will hold a strategy discussion with the police and/or other agencies. At this stage a multi agency support package should be formulated.

4. Young People between 13 and 16

- 4.1 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 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.
- 4.2 Sexually active young people in this age group will still have to have their needs assessed using this protocol. Discussion with Children's Services will depend on the level of risk/need assessed by those working with the young person. (see para 1.4 relating to risk factors)
- 4.3 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 to give consent to such sexual activity.
- 4.4 In all cases where it is identified that there is a risk of significant harm or that an offence has been committed against a child or young person, a referral to Children's Services must be made following which a strategy meeting will be held which will involve a discussion with the Dorset Police. Any decision not to hold a strategy meeting should be clearly documented.

5. Young People between 17 - 18

- 5.1 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 Safeguarding Procedures under the Children Act 1989. As with younger children, 16-17 year olds may also be particularly vulnerable to harm through abusive sexual relationships. Agencies and workers who become aware of this occurring need to assess the young person's wellbeing and safety and consider whether or not a referral should be made to Children's Services or Dorset Police. 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.

6. Sharing Information With Parents and Carers

- 6.1 Decisions to share information with parents and carers will be taken using professional judgement, consideration of Fraser guidelines and in consultation with the Safeguarding 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. 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.
- 6.2 Determine what information from the strategy discussion will be shared with the family, unless such information sharing may place a child at increased risk of significant harm or jeopardise police investigations into any alleged offence(s). Pan Dorset Inter-agency Safeguarding Procedures 2006 Chapter 2 para 2.66 (*WT06 chapter 5 para 5.55*)
- 6.3 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.

7. Reviewing Needs

Agency staff who continue to have contact with a young person, or receive information which may indicate the young person's circumstances have changed which indicates potential or actual risk of significant harm, must consider whether or not a referral or re-referral should be made to Children's Services or Dorset Police. Please refer to 1.4 above.

Appendix 1 Additional Information

DEFINITIONS

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 intends 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, meetings, 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 either 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 SEXUAL OFFENCES ACT 2003 www.opsi.gov.uk

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.

CHILDREN AND FAMILIES: SAFER FROM SEXUAL CRIME – (The Sexual Offences Act 2003) www.homeoffice.gov.uk

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, condoms, pregnancy and abortion.

BICHARD INQUIRY - Recommendation Number 12 www.bichardinquiry.org.uk

“The government should reaffirm the guidance in ‘Working Together to Safeguard Children’ so that the Police are notified as soon as possible when a criminal offence has been committed, or is suspected of having been committed against a child - unless there are exceptional reasons not to do so”.

WORKING TOGETHER TO SAFEGUARD CHILDREN (2006)
www.everychildmatters.gov.uk/workingtogether

Paragraph 2.103

‘...The police should be notified as soon as possible by local authority Children’s Services wherever a case referred to them involves a criminal offence committed, or is suspected of having been committed, against a child. Other agencies should consider sharing such information. (See paragraphs 5.17 onwards for detailed guidance on this point). This does not mean that in all such cases a full investigation will be required, or that there will necessarily be any further police involvement. It is important, however, that the police retain the opportunity to be informed and consulted, to ensure all relevant information can be taken into account before a final decision is made....’

Paragraph 5.18

‘...Whenever other agencies, or the LA in its other roles, encounter concerns about a child’s welfare which constitute, or may constitute, a criminal offence against a child, they must always consider sharing that information with local authority Children’s Services 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....’

ADDITIONAL 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)
www.dfes.gov.uk/teenagepregnancy

- **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) www.dh.gov.uk/PressReleases

- **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) www.teachernet.gov.uk

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

- **Guidance on offences against children.**
- (Home Office Circular 16/2005) www.yjb.gov.uk/Publications/Resources/Downloads

Further Information Available From

The 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

Appendix 2

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 those under 16.

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.

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.

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

Action

- PCT commissioners and clinical governance leads should bring this guidance to the attention of all health professionals responsible for the care of young people in any setting via the Safeguarding Children & Young People Health Action Group of the Bournemouth & Poole Local Safeguarding Children Board and Dorset Local Safeguarding Children Board.
- 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.

- Children's Directors 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 2.

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 first 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 (eg the Caldicott Guardian) who should take appropriate action.

The duty of confidentiality is not, however, absolute. 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 Pan Dorset Inter-agency Safeguarding Procedures 2006 Chapter 2 para 2.16. 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.

Any disclosure should be justifiable according to the particular facts of the case and legal advice should be sought in cases of doubt. Except in the most exceptional of circumstances, disclosure should only take place after consulting the young person and offering to support a voluntary disclosure.

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 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 are 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.

Guidance Note to Accompany the Flow Chart for Professionals Working with Sexually Active Under 18's

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

Introduction

1. This process applies to any contact in Bournemouth, Poole and Dorset with a health professional, youth worker, Connexions advisor and voluntary agency worker, with someone who is sexually active and under 18, 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 Note and Flow Chart have been put together by a wide range of statutory agencies (education, health and police), and partners in the voluntary and community sectors. It is aimed at providing staff with guidance on how contact with sexually active under 18s should be managed. Its use **MUST** be in conjunction with local Safeguarding Procedures.
3. In designing the flow chart, the agencies are clear that 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.

The Process

4. 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, a pharmacist issuing emergency contraception as a one-off will probably only gain some of the answers to the questions or prompts the guidance proposes. As a result, the threshold for discussions with a designated member of staff, Children's Services, or the police, may be lower than for a GP who is more confident they will see the young person again.
5. 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.
6. Where a professional worker expects to discuss a case with Named/Designated staff, and/or also with the line manager, 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, and also where advice is sought without disclosing the name of the individual.
7. Where a serious crime is suspected, advice should be sought from Dorset 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 no evidence to the contrary

8. Any referral or potential referral should be discussed in the first instance with the young person. The organisation 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.
9. 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 the guidance issued by their organisation.
10. 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, or is in the wider public interest.
11. 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 organisation's Child Protection lead, the Designated/Named clinician, or line manager. The actions taken by the professional **MUST BE RECORDED**, the rationale for these actions clearly given, and the line manager informed.
12. 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.
13. In accordance with guidance from the Department of Health, the health professional is responsible for deciding when a referral is or is not made. Where there is any uncertainty and a referral is not made, the reasons and rationale must be documented in the young person's notes at the time, and for all under 13s this must be recorded because the law treats them as unable to give informed consent to sex.
14. Wherever possible, informal discussions should be carried out in such a way as not to breach confidentiality.
15. Initiating a Safeguarding Procedure may involve discussion with a Named/Designated Doctor or Nurse. Where a Youth Worker, Connexions advisor or any other professional is working in a sexual health service for young people, as part of induction and ongoing training, staff should be made aware of the arrangements for confidentiality, and know who their named and designated professionals are in order to seek advice and support.
16. As part of inter-agency working, each agency must recognise that they only hold some pieces of the "jigsaw". For example, health professionals would not routinely have access to wider multi-agency intelligence about a young person, their partner, or their family, without making a referral.
17. It is important to recognise that any information passed to 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.

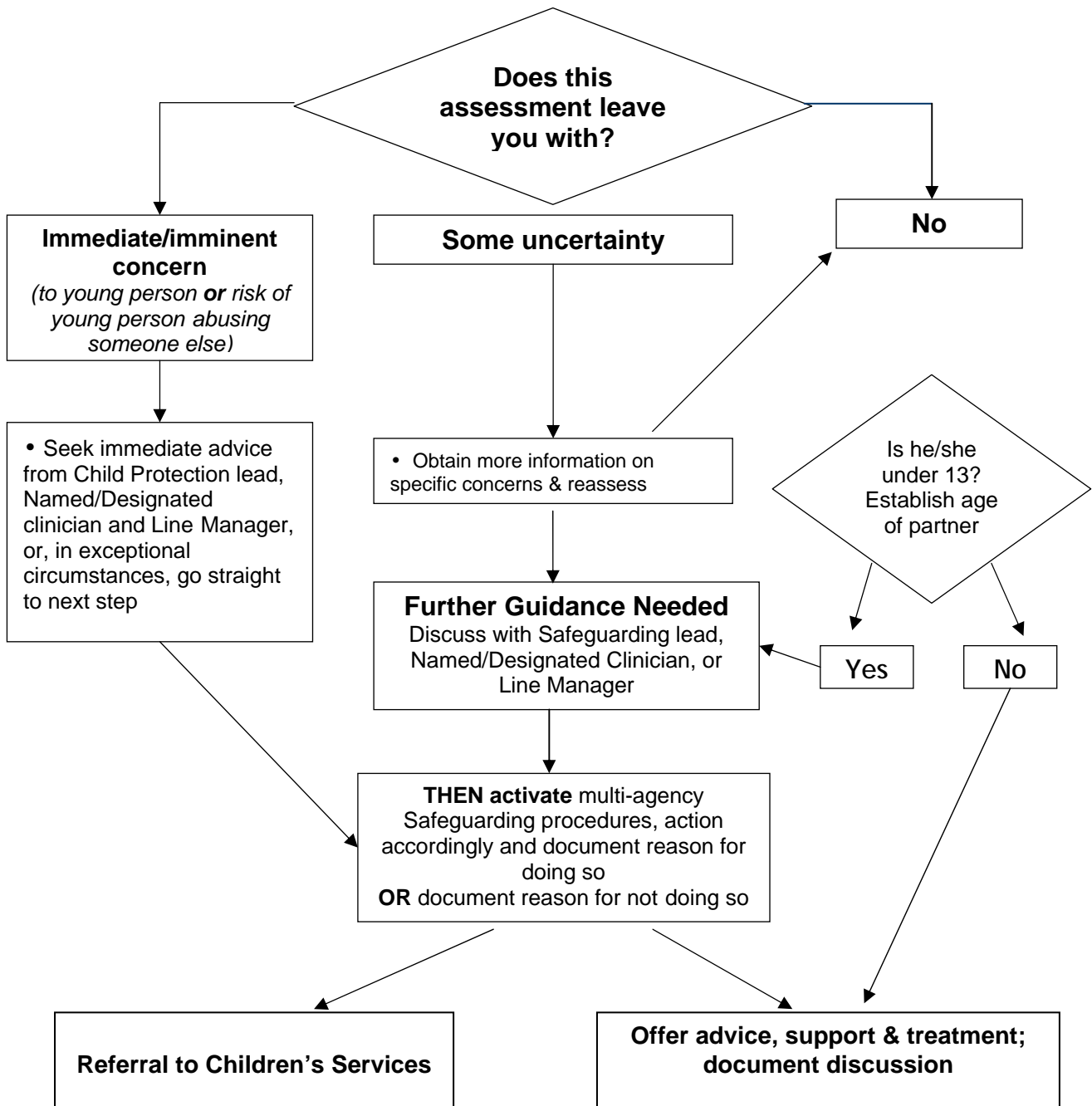
Flow Chart for Professionals Working With Sexually Active Under 18's

INITIAL OR ONGOING CONTACT WITH YOUNG PERSON

INITIAL ASSESSMENT OF RISK (based on information available)

Consider:

- The young person, (inc. whether they appear to be under 13 because the law treats under 13s differently)
- The context of the consultation (inc. who else is present)
- Any information known or forthcoming about their partner
- Give advice, support/treatment in line with Fraser competency
- Young person should be kept advised of actions being taken where this is appropriate to do so.
- Act in a timely way, avoiding and minimising delay, ensuring that at all stages you minimise risk of harm for both the young person and their sexual partner if she/he is **at risk of harm**



Prompts for workers/professional coming into contact with sexually active under 18s

To only be used in conjunction with Guidance Note and flow chart, and relevant safeguarding guidance issued by your organisation

Context:	General (Reasonable level of Trust established with the young person, you have confidence that the young person will be either returning to you for support/treatment, or that you can maintain contact with the young person after the face to face contact has ended)	
	16/17 year olds	Under 16s
Initial prompts for workers	<ul style="list-style-type: none"> ▪ Personal Information ▪ Health, social and sexual health history ▪ Do they understand the concept of informed consent? ▪ Is there informed consent between partners? ▪ In seeing the young person, is there anything untoward that gives you cause for concern? 	<p>As for 16 and 17 year olds, plus:</p> <ul style="list-style-type: none"> ▪ Are they Fraser competent?
Issues to clarify if uncertain or concerned	<ul style="list-style-type: none"> ▪ Who does the young person live with, is this a risk? ▪ Is there any concern about lifestyle issues ▪ Is there any sign of alcohol or substance misuse relating to the sexual activity? ▪ Are they still in touch with their peers ▪ Does the young person or their partner have a Social Worker or a Connexions Personal Advisor? ▪ Is the other partner present? If so, try to see the young person on their own. ▪ If not, are they willing to give details of their partner? ▪ Any age differential ▪ The relationship (e.g. family, or Position of Trust, such as teacher, youth worker etc.) ▪ Is there any evidence of coercion? What makes it coercive? ▪ Any evidence of gifts being used as an incentive to secure consent or secrecy? ▪ Any evidence of violence, threats, or attempts to gain secrecy? ▪ Any evidence of self-harm? ▪ Where did/do they meet? (e.g. internet) 	<p>As for 16/17 year olds, plus:</p> <ul style="list-style-type: none"> ▪ is the other partner present? If so, try to see young person on their own. (* note that legal age of consent = 16). ▪ What is the partner's occupation? Is this a position of power over the young person? ▪ Do they go to school? ▪ If they are under 13, you must ensure that you have sought advice from a Child Protection lead, Named/Designated Person and Line Manager

	Opportunistic (No significant trust established) Likely to be a one-off contact with young person, or where you are uncertain if you will see them again
Initial prompts for workers	<ul style="list-style-type: none"> ▪ Personal Information ▪ Maturity of the young person for their age
Issues to clarify if uncertain or concerned	<ul style="list-style-type: none"> ▪ Are they Fraser competent? ▪ In seeing the young person, is there anything untoward that gives you cause for concern (including their age) ? ▪ Are any peers present? ▪ Are they willing to give personal details? ▪ Do they understand the concept of consent? ▪ Lifestyle issues (e.g. domestic violence, drug or alcohol abuse etc.) ▪ Does the young person or their partner have a Social Worker or a Connexions Personal Advisor? ▪ Is there any sign of alcohol or substance misuse relating to the sexual activity? ▪ Any evidence of violence, threats, or attempts to gain secrecy? ▪ Is there anything else leading to a risk of significant harm? ▪ Any evidence of self-harm?