



Staffordshire and Stoke-on-Trent Safeguarding Children Boards

GUIDANCE FOR PROFESSIONALS WORKING WITH SEXUALLY ACTIVE CHILDREN AND YOUNG PEOPLE UNDER THE AGE OF 18 IN STAFFORDSHIRE AND STOKE-ON-TRENT

Section Staffs 4J / Stoke-on-Trent F10

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STAFFORDSHIRE AND STOKE-ON-TRENT SAFEGUARDING CHILDREN'S BOARD PROTOCOL WORKING WITH SEXUALLY ACTIVE YOUNG PEOPLE

This guidance refers to linked policies which may be relevant. Please see procedures on **Staffordshire Safeguarding Children Board Website** www.staffsscb.staffordshire.gov.uk/Professionals/Procedures/Procedures.aspx

or **Stoke-on-Trent Safeguarding Children Board Website** www.safeguardingchildren.stoke.gov.uk

The main policies, procedures or guidance linked to this area of work are:

- Children and Young People who Display Sexualised Behaviour and Harmful Sexual Behaviour
- Safeguarding Children from Sexual Exploitation
- Forced Marriage Guidance
- Children with a Disability
- Allegations of Abuse made against a person who works with Children

These procedures will be highlighted in bold in the text of this document when professionals need to be particularly alert to possible concerns.

Introduction

1. This guidance has been devised with the understanding that most young people under the age of 16 will have an interest in sex and sexual relationships. It is recognised that sexual exploration and experimentation are a normal part of childhood development.
2. This guidance acknowledges the dilemmas faced by professionals in respecting the human rights of young people, whilst at the same time ensuring that any cases of children and young people in need of protection and/or additional services are identified.
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 guidance to develop and implement local guidance for their own staff.
5. Professionals must always be aware of the importance of culture, ethnicity and religion in working with sexually active children and young people and their families. There will be varying attitudes in different religions and cultures which must always be considered. This is of particular

importance when working with young people where sexual activity may be seen as bringing dishonour on the family. It is also important to be alert to the possibility of young men or women who may be fearful of, or have experienced, a **forced marriage or honour based violence** - see SSCB or Stoke SCB procedures – link in appendix 2.

6. This guidance applies to children and young people regardless of gender or sexual orientation. It is important to be alert to a potentially abusive situation and professionals must be mindful that it may be more difficult for a young male to acknowledge that he may have been sexually abused or exploited.
7. The guidance is based on current legislation such as the Sexual Offences Act 2003, 'Working Together to Safeguard and Promote the Welfare of Children 2010' and the 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

Assessment

8. All young people, regardless of gender or sexual orientation, who are believed to be engaged in, or planning to be engaged in, sexual activity are entitled to have their needs for health, education, support and/or protection assessed. Professionals working with young people in these situations must ensure that appropriate assessments are completed and referrals made to appropriate services .
9. Many young people will be reluctant to discuss the fact that they are sexually active if they are below the legal age of consent (16 years). It will be necessary to tread a fine line between ensuring the young person is not a victim of abuse and deterring them from obtaining advice and medical support.
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. If the young person has a disability, mental disorder or communication difficulty, they may not be able to easily inform someone that they are being or have been abused, or subject to abusive behaviour. 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 (see SSCB or Stoke SCB guidance on '**children with a disability**' - link in appendix 2).

12. During the assessment, the agency must consider whether the child/young person is competent to make informed decisions about being in a sexual relationship. Workers are expected to follow Fraser Guidelines (appendix 1) which gives guidance on providing confidential advice and treatment to young people under 16 years of age. School staff should always involve a school nurse or appropriate health professional in working with a young person under the age of 16 years who is known to be engaged in sexual activity.
13. **Under the Sexual Offences Act 2003, children under the age of 13 are considered of insufficient age to give 'consent' to sexual activity.** Therefore under the law they cannot be deemed competent to give 'informed' consent (see para 16 for procedural advice)
14. The agency working with the child/young person must consider whether there is a need to share information with parents and/or other agencies. In making this decision they must consider not only the child/young person's competency but whether there are any particular risk factors.

15. Recognising and Assessing Risk

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 need to be taken into account.

1. The age, level of maturity and understanding of the child – sexual activity at a young age is a very strong indicator that there are risks to the welfare of the child and possibly others. Very young children who are exhibiting highly sexualised behaviour may themselves have been subject to abuse. Therefore sexualised behaviour or activity could indicate that the child has suffered, is suffering, or is likely to suffer, significant harm and a referral under child protection procedures may be warranted. NB Under the Sexual Offences Act 2003 a child under the age of 13 years cannot 'consent' to sexual activity. Professionals should also consider the **Harmful Sexual Behaviour procedure** – see SSCB or Stoke SCB procedures – link in appendix 2.
2. Knowledge of the child's living circumstances or background and family may give rise to concern, particularly familial child sex offences
3. Power imbalances are very important in assessing risks. These can occur through differences in size, age (e.g. 15 year old in relationship with 25 year old) and development (e.g. a young person with a learning difficulty) and where gender, sexuality, race and levels of sexual knowledge are used to exert power. Professionals should consider whether there are any indications that the child may be being sexually exploited – see SSCB or Stoke SCB procedures – link in appendix 2 re. **Safeguarding Children from Sexual Exploitation.**

4. Overt aggression within the relationship (consider whether there are issues about **Harmful Sexual Behaviour** – see safeguarding board website links in appendix 2).
5. Coercion or bribery e.g. exchanging sex for favours, clothes, mobile phones, valuables, drugs, money, alcohol or access to social events (see SSCB/ Stoke SCB procedure '**Safeguarding Children from Sexual Exploitation** – appendix 2).
6. Large amounts of money or other valuables held by the child that cannot be accounted for (consider SSCB procedure for **Safeguarding Children from Sexual Exploitation** – see above).
7. Change in behaviour of the child causing concern e.g. withdrawn or anxious.
8. 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 sexual activity.
9. Young people who have become isolated from their peer group.
10. Possible use of substances as a disinhibitor affecting the ability of the young person to make informed decisions
11. Attempts by the sexual partner to secure secrecy which are unusual and go beyond that which would be considered normal in a teenage relationship (consider whether there may be **sexual exploitation** or **harmful sexual behaviour** – see SSCB or Stoke SCB procedures – links in appendix 2).
12. Denying or minimising concerns
13. Are there concerns that the situation described to you is consistent with methods of 'grooming' ((consider whether there may be **sexual exploitation** or **harmful sexual behaviour** – see SSCB or Stoke SCB procedures – link in appendix 2).
14. Whether the sexual partner is known as having concerning relationships with others.
15. Whether the sexual partner is in a position of trust with the young person (e.g. teacher, sports coach, youth worker) (refer immediately to procedures for **dealing with allegations against persons in a position of trust** and LADO procedures – see links to Staffordshire and Stoke Safeguarding Children Board procedures appendix 2).

16. Process

When 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.

When child is under 13 years of age:

- When there is any reasonable concern that a child under the age of 13 years is involved in sexual activity, the professional receiving this information must keep accurate records and speak to their identified child protection lead within their organisation. There is **always** a presumption that the case will be referred to **the Children's Social Care Services** in the area where the child lives (see contact details for Stoke/Staffordshire appendix 2) under section 47 procedures.
- Any decision made the professional receiving the information not to refer to children's social care services, based on professional judgement and the child's individual circumstances, must only be made with the full agreement and support of the identified child protection lead within their organisation. The rationale for this professional judgment and decision making should always be clearly recorded on the child's records
- If the subsequent strategy meeting/discussion considers the child is not at risk of significant harm, consideration will be given to further assessment and support, and/or signposting to a sexual health service.

When young person is 13, 14 and 15 years old

- "Sexual activity with a child under 16 years is also an offence. Where it is consensual it may be less serious than if the child were aged under 13 years but may, nevertheless, have serious consequences for the welfare of the young person" - *Working Together to safeguard and promote the welfare of children 2010, 5.28.*
- 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. When the Sexual Offences Act came into force on 1 May 2004, the Home Office published an explanatory leaflet for professionals 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. This acknowledges that this group of young people is still vulnerable, even when they do not view themselves as such".

- 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 to children's social care (see Recognising and Assessing risks).
- *“In deciding whether there is a need to share information professionals should consider their legal obligations, including whether they have a duty of confidentiality to the child. Where there is such a duty, the professional may lawfully share information if the child consents or if there is a public interest of sufficient force (e.g. likelihood of significant harm). This must be judged by the professional on the facts of each case” – Working Together to safeguard and promote the welfare of children 2010, 5.23*
- Any decisions on whether or not to share information must be properly documented.
- 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 Designated Person in their organisation/agency responsible for child protection. There may also be a need for further consultation with Staffordshire's First Response Team or the child's existing Social Worker, or Stoke's Art Team (see contact details appendix 2).
- If you have concerns that the young person may be at risk of sexual exploitation refer to the procedures on the SSCB or Stoke SCB websites (see appendix 2) and make a referral to First Response or Stoke ART or the social care team in the Local Authority where the child lives as appropriate. If the situation is an emergency, the local police must be contacted immediately.
- 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 whether and how parents/carers should be informed of the enquiries.
- The outcome of a child protection referral will be formally fed back to the referring agency.
- 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.

- Where there are reasonable grounds to think that a girl under the age of 18 years may be concealing a pregnancy, professionals should refer to the procedures on SSCB or Stoke SCB in regard to '**concealed pregnancy**' - see SSCB or Stoke SCB procedures – links in appendix 2.
- There may be concerns about vulnerable adults concealing a pregnancy and in this case contact should be made with the Vulnerable adults department (see contacts – appendix 2).

Young People between 17 - 18

- Although sexual activity in itself is not a criminal 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, harmful sexual behaviour and abuse of power. 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.
- For referrals regarding allegations against a person in a position of trust who works with children and young people, please see Staffordshire Safeguarding Children Board Inter Agency Procedures for Safeguarding Children (Section 7) or Stoke Safeguarding Children Board procedures - see appendix 2.

Sharing Information With Parents and Carers

- Decisions to share information with parents and carers will be taken using professional judgement, consideration of Fraser guidelines and in consultation with Safeguarding Children Board Inter Agency 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.
- This guidance 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.

References

- 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)
- Working Together to Safeguard and Promote the Welfare of Children 2010.
- Staffordshire Safeguarding Children's Board (SSCB) Inter-agency Procedures for Safeguarding Children and Promoting their welfare
- Stoke Safeguarding Children Board inter-agency Procedures for Safeguarding Children and Promoting their welfare

Further Information Available From

Sexual Offences Act 2003: www.legislation.gov.uk/ukpga/2003/42/part/1

Brook - www.brook.org.uk

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

Department of Health - www.dh.gov.uk

Appendix 1

Fraser Guidelines

A child under 13 years is not legally capable of consenting to sexual activity even though they may be considered Fraser competent in other respects. Under the Sexual Offences Act 2003 any sexual activity with a child under 13 years is a serious offence.

However, in assessing whether other young people under the age of consent (16 years for heterosexual and homosexual relationships) are able to make informed decisions about a mutually consensual sexual relationship the Fraser Guidelines should be used for guidance.

FRASER GUIDELINES

ALL CRITERIA MUST BE MET

- **Young person understands the professional's advice**
- **You cannot persuade the young person to inform his or her parents or to allow the professional to inform the parents that s/he is seeking contraceptive advice**
- **The young person is very likely to begin or continue having intercourse with or without contraceptive treatment**
- **Unless s/he 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 doctor/health professional to give contraceptive advice, treatment or both without parental consent.**

A record needs to be kept to say that the young person meets the criteria laid down in the Fraser Guidelines (House of Lords 1985)

Appendix 2

Contact details

Child living in Stoke Local Authority:

ART (Advice and Referral Team)
People Directorate, Vulnerable Children and Corporate Parenting
Swann House
Boothen Road
Stoke-on-Trent
ST4 4SY

Tel. 01782 235100
Fax. 01782 234556

Emergency Duty Team (EDT) (outside office hours) - 01782 234234

Stoke-on-Trent Safeguarding Children Board Procedures:

www.safeguardingchildren.stoke.gov.uk

Child living in Staffordshire Local Authority

First Response Team
Multi Agency Safeguarding Hub (MASH)
Lindum House
Stone
Staffordshire.
ST15 0SD

Tel. 0800 1313 126
Emergency Duty Team (outside office hours) – 0845 6042886)
Fax 01785 854223
e.mail firstr@staffordshire.gov.uk

Staffordshire Safeguarding Children Board:

www.staffsscb.org.uk

Staffordshire Police – Staffordshire and Stoke

Tel. 101 and ask for M.A.S.H. (Multi Agency Safeguarding Hub)
Outside of MASH hours, report to the Area Communications Room.
Tel. 101 replaced 0300 123 4455 in November 2012 however this number will still be in use for a short period of time

Vulnerable Adults Referrals – Staffordshire:

Referrals concerning abuse of vulnerable adults can be made through the Contact Centre:- Tel. 0845 604 2719; Fax 01785 276026.

Email: VAStaffordshire@staffordshire.gov.uk

A trained member of staff will be available to help you between 8:30am - 5:00pm, Monday-Thursday (excluding Bank Holidays) and 08:30am - 4:30pm Fridays.

To report a concern outside of these hours, please contact the [Emergency Duty Service](#) telephone 0845 6042886 .

Vulnerable Adults Referrals - Stoke-on-Trent

The Adult Social Care Centre can be contacted on free phone 0800 561 0015;
FAX 01782 235720

Emergency Duty Team (for referrals outside normal working hours) telephone
01782 234234

E.mail: adult.protection@stoke.gov.uk