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Bradford Guidelines for Safeguarding Sexually Active Children and Young People

This Procedure should be read in conjunction with:

The BSCB Safeguarding procedures

West Yorkshire Procedure for Safeguarding Children and Young People
at risk of Sexual Exploitation,

Safeguarding Trafficked Children and Young People

Safeguarding Children and Young People Missing from Care

Safeguarding Children and Young People Missing from Education

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1. Introduction

1.1 The Welfare of the Child/Young Person is Paramount

In any discussion with a young person about their sexual activity or possible sexual activity the professional must consider whether the sexual activity raises concerns and whether it could be a risk to that young person or other young people. Any concern about a young person's sexual activity should be discussed with line manager and child protection lead within each organisation.

These guidelines recognise that most young people under the age of 18 will have an interest in sex and sexual relationships and that for the majority sexual activity will pose no risk but it also must be acknowledged that in a minority of cases under 18s sexual activity will be an indicator of risk, coercion, abuse or exploitation and that there will be a need to safeguard these young people.

1.2 Young Peoples Rights

As part of our commitment to the Convention on the Rights of the Child United Nations 1989, we recognise that access to quality information and services about sexual relationships and health is essential. In order to promote children and young people's rights ALL workers need to have examined and explored their own values and attitudes to working with young people around their sexual activity as well as what they feel are their own limitations and barriers.

1.3 Settings

This document acknowledges that work around young people's sexual health issues will be undertaken in a wide range of settings and by a wide range of professionals. The guidance applies to any contact with a health professional, youth worker, Connexions Advisor or Voluntary Organisation worker or other professional with someone who is sexually active or is contemplating sexual activity. This will include requests for condoms, emergency contraception, contraception, pregnancy testing, termination of pregnancies and sexual health screening. It also recognises that contact with young people around their sexual health issues may happen on a more informal basis such as in youth work settings and that this may create some challenges for implementing these guidelines.

2. Aims

The guidelines:

- emphasise the need for all professionals working with young people to consider safeguarding children and young people's issues whenever working with them around sexual health and relationship issues. These Guidelines do not cover the whole range of issues that may arise when working with sexually active children and young people.
- are designed to assist all those working with children and young people to identify when sexual activity or possible sexual activity may indicate a risk to young people. The guidelines will also assist professionals to

recognise the risk to the young person from abuse, coercion or exploitation and where they may need further support.

- provide a framework for assessing the level of risk young people's sexual activity may indicate. It will provide more guidance on thresholds for activating child protection procedures.

3. Legislation and National Guidance and the Bichard Inquiry

The guidelines have taken account of the following:-

- The recommendation in the Bichard Inquiry Report (2004) that all suspected criminal activities should be reported to the police.
- Working Together to Safeguard Children Guidance 2006.
- Sexual Offences Act 2003 that clarifies the legal position that Sexual activity under the age of 16 is illegal.

And also links into:-

- The Best Practice Guidance for Doctors and Other Health Professionals on the Provision of Advice and Treatment to Young People on Contraception, Sexual and Reproductive Health including that a confidential service should be available to young people under the age of 16 (Department of Health 2004).
- Enabling young people to access contraceptive and sexual health advice:
 - Guidance for Youth Support Workers (DfES 2005).
 - Legal and policy framework for social workers, residential social workers, foster carers and other social care practitioners (DfES 2004).

Which provide a useful reference for workers in the identified fields, listed above.

4. Initial Process with the young person

4.1 Establishing a relationship

4.1.1 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, pharmacists issuing emergency contraception as a one off will probably only gain some of the answers to the questions the guidance proposes. As a result, the threshold for discussions with a designated line manager and child protection lead within each organisation may be lower for a professional who is more confident that they will see the young person again.

4.1.2 A rapport should be built and established with the young person during a discussion to encourage the free flow of non judgemental information. The relationship may take time to develop and needs to be at the child or young person's pace.

4.2 Confidentiality

- 4.2.1 The duty of confidentiality owed to a child or young person including those under 16, in any setting, is the same as that owed to any other person.
- 4.2.2 It must always be made clear to the child or young person at the earliest opportunity and throughout any working relationship that the duty of confidentiality is not absolute, and that there will be some circumstances where the needs of the child or young person or other children and young people, can only be safeguarded by sharing information with others.
- 4.2.3 A child or young person can say they wish to withhold consent to their information being shared with another agency. However a professional can override this if they are of a firm view that not to do so may jeopardise the safety and welfare of the child or young person.
- 4.2.4 In deciding whether there is a need to share information, professionals need to consider their duty to safeguard with their legal obligations including the duty of confidentiality.

The professional may lawfully share information if the child or young person consents or if action is deemed necessary to safeguard the welfare of the young person and where there is a clear risk of significant harm. This must be judged by the professional on the facts of each case. However, there will be some cases where professionals will be justified in sharing some confidential information in order to make decisions on sharing further information or taking action – the information shared should be proportionate. Anyone concerned about the sexual activity of a young person should initially discuss this with the lead person in their organisation for child protection. Wherever possible, informal discussions should be carried out in such a way as not to breach confidentiality.

- 4.2.5 Decisions to share information with parents require professional judgement and should be informed by BSCB Information Sharing and Confidentiality Procedures.
- 4.2.6 The Sexual Offences Act 2003 does not affect the duty of care and confidentiality of professionals including services to young people under 16 years old.

4.3 Fraser Guidelines (previously known as Gillick Competence)

- 4.3.1 Fraser Guidelines should be used to assess the young person's degree of competence. Young people under 16 who are Fraser Competent can consent to treatment. Therefore sexual health information, support, advice and treatment can be offered without parental consent providing that the young person;
- understands the professional advice
 - cannot be persuaded to inform his/her parents or carers
 - is likely to have intercourse without contraception

- physical and/or mental health is likely to suffer without advice and support
- best interests require advice and support without parental support

4.4 Considerations and clarifications

- 4.4.1 It should be made clear to the young person that sex under 16 is illegal and sex or sexual activity for under 13's is cause for serious concern.
- 4.4.2 The professional must on all occasions encourage the young person to talk to their parents/carers or another trusted adult and discuss the benefits of this with them.
- 4.4.3 The professional may need to clarify whether the young person is sexually active. Many young people will want to discuss issues around sexual health and relationships.
- 4.4.4 Professionals should also consider incorporating messages about delaying sexual activity into the discussion. This may include discussing whether they are ready for sex, or empowering a child or young person to say no even if they have previously had sex. Children and young people may need emotional as well as practical support.
- 4.4.5 It is essential for professionals to clarify the age of the child or young person the contact is with as this will have a bearing on the procedure followed.

5. Assessment of risk

The best interest of the child or young person should be the overriding consideration when a professional is considering whether a young person's sexual activity or possible sexual activity is a risk to the young person.

5.1 Children under the age of 13

- 5.1.1 Children under 13 cannot 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.
- 5.1.2 Cases involving under 13's should always be discussed with a line manager and child protection lead in the organisation.
Section 5 of the Sexual Offences Act 2003(SOA '03) makes it an offence of Rape for a person intentionally to penetrate with his penis the vagina, anus or mouth of a child under the age of 13. Whether or not the child consented to this act is irrelevant.
Section 6 of the Sexual Offences Act 2003 makes it an offence if intentional sexual penetration of the vagina or anus of a child under 13 with a part of the body or anything else.

When the allegation concerns penetrative sex there would be reasonable cause to suspect that a child, whether girl or boy, is suffering or is likely to suffer significant harm. These cases should ALWAYS be reported to the BSCB Child Protection Unit and a strategy discussion should be held in accordance with guidance in Working Together to Safeguard Children paragraph 5.54. This strategy discussion should involve children's social services, police and relevant agencies to discuss appropriate steps with the professional. All cases involving under 13's should be fully documented

- 5.1.3 A decision not to refer should only be made if (a) the sexual activity is not penetrative (this includes grooming or inciting a child to engage in sexual activity (section 8 of SOA '03). and (b) following a discussion with the line manager and child protection lead within the professionals employing authority. When a referral is not made, the professional and agency concerned is fully accountable for the decision. The actions taken by the professional MUST BE RECORDED and the rationale for these actions clearly given including the reasons for not making a referral.
- 5.1.4 Consideration will need to be given to age differentials see section 6
- 5.1.5 These guidelines recognise the difficulty that while sexual activity with a child under 13 is a criminal offence the law entitles young people to confidentiality.

5.2 Young People between 13 and 16

- 5.2.1 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.
- 5.2.2 Where a professional has concerns about a young person 13-16 they should discuss this with the line manager and child protection lead for their organisation. The decision whether or not to make a referral to the appropriate agency will depend on the level of risk assessed by those working with the young person.
- 5.2.3 Decisions should be documented including the reasons for not referring.

5.3 Young People 16, 17 and 18

- 5.3.1 Consensual Sexual activity is not an offence (exception to this see 5.3.4) over the age of 16, nevertheless 16 and 17 year old young people are still vulnerable to harm through an abusive or coercive sexual relationship. Professionals providing services for 16 and 17 year old young people need to still assess and address their safety.
- 5.3.2 Where a professional has concerns about a young person in this age group they should discuss this with the line manager and child protection lead for their organisation. The decision whether or not to make a

referral to the appropriate agency will depend on the level of risk assessed by those working with the young person.

- 5.3.3 Decisions should be documented including the reasons for not referring.
- 5.3.4 Young people 16 and 17 years old 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; and/or any pre-existing legislation.
- 5.3.5 Where an agency involved knows that a young person is sexually active but the professionals' assessment does not raise concerns that the young person's sexual relationship is abusive, coercive or exploitative then the organisation should make arrangements for the young person to receive continued confidential advice. This can include developing preventative support services such as sex and relationships education, developing self esteem and confidence or other issues identified from appropriate health, voluntary, youth and other services.

For information and support on preventative resources, training, professionals contact Young Peoples Sexual Health Team or CASHpoint (Contraception Advice and Sexual Health).

6. Assessment of risk

Indications of Risk of Harm

- 6.1** There are many indicators to the risk of harm. This list is not intended to be a checklist that the professional works through point by point but as described earlier provides a framework and prompts for the professional. What the professional chooses or can discuss with a young person will depend on various issues such as:
 - Whether the young person is known already to the professional.
 - The level of trust established between the professional and young person.
 - The time available.
 - Whether the professional is certain they will see the young person again or whether it is a one off contact.
- 6.2** In order to determine whether a relationship presents a risk of harm to a young person, the following factors should be considered:
 - Whether the child or young person understands the concept of consent – Was coercion or pressure involved?
 - The number of sexual partners the young person has had in the last 6 months
 - Is there an age or power imbalance (See Section 6.5)
 - Who else is present at the discussion? (Peers/parents/partner)
- 6.3 Further Assessment**

Further clarity may be required because of concerns, uncertainty or because time or the flow of the discussion allows. Other factors to consider are:

 - living circumstances or background

- education/ Schooling
- missing episodes from school or home
- how the young person presents i.e. anxious, withdrawn
- substances/ alcohol misuse
- self harm/ mental health
- grooming/ secrecy
- aggression/ violence
- denial, minimising risk
- sexual exploitation.
- information about the sexual partner causes concern
- the Common Assessment Framework

6.4 Consideration should be given to the fact that the young person may not recognise that they are in fact a victim of abuse or are at risk.

6.5 Power Imbalances

Sexual abuse and exploitation of a child or young person involves an imbalance of power. The assessment should seek to identify possible power imbalances within a relationship. These can result from differences in size, age, material wealth and/or psychological, social and physical development. In addition gender, sexuality, race, and levels of sexual knowledge can be used to exert power.

Whilst a large age differential could be a key indicator e.g. a 15 year old girl and a 20 year old man, practitioners should be aware that a 14 or 15 year old boy, supported by peers, is able to exert very real pressure over a girl of the same age or older. There will also be instances when the sexual predator is a woman or girl and the victim is a boy.

Where a power imbalance results in coercion, manipulation and/or bribery and seduction, these pressures can be applied to a young person by one or two individuals, or through peer pressure (i.e. group bullying). Professionals assessing the nature of a child or young person's relationships need to be aware of the possibility that either or both of these situations can exist for the child or young person and conduct an holistic assessment of the young person's needs.

6.6 Grooming

Grooming includes efforts by a sexual predator (usually older than the child or young person) to befriend the child or young person by indulging or coercing her/him with gifts, treats, money, drugs, developing a trusting relationship with the child or young person's family, developing a relationship with the child or young person through the internet etc in order to abuse the child or young person.

It is a criminal offence for an adult (aged 18 or over), having on at least 2 earlier occasions, communicated or met a child under 16, knowing they were under this age to meet or travel with the intention of meeting this child in order to commit a sexual offence with them.

6.7 Risk Assessment Framework for Sexual Exploitation

In Progress (LH re-drafting).

6.8 Disabled Children and Young People

6.8.1 Disabled children and young people are more likely to be abused than non disabled children; and they are especially at risk when they are living away from home. They may be particularly vulnerable to coercion due to physical dependency, a learning disability or a communication difficulty. This increases the risk that a sexual relationship may not be consensual. It should not be assumed that because a young person has a disability they cannot be Fraser competent.

6.8.2 Although there is a duty to protect them from abuse and exploitation, professionals need to be aware that the Sexual Offences Act 2003 recognises the rights of people with such disabilities to a full life, including a sexual life.

6.9 Accessing information to assess risk

6.9.1 Each organisation must recognise that they may only hold some pieces of the “jigsaw” and may not have access to the wider multi-agency intelligence about a young person, their partner, or family, without making a referral. If a professional has any concerns about a young person they should contact the BSCB Child Protection Unit or the Police Child and Public Protection Unit.

6.10 Reviewing need

On each occasion that a professional has contact with a young person (by telephone or a meeting) or receives information about them, consideration should be given as to whether the young person’s circumstances have changed in a way which may require referral to an appropriate agency (see contacts section).

7. Referring

7.1 When professionals within an organisation have taken the decision that it is in the best interests of the child or young person to refer on to an appropriate agency they should initiate the BSCB Multi-Agency Child Protection Procedures which will be reflected within each organisations own Child Protection Procedures.

7.2 The one point of contact for advice and consultation is the BSCB Child Protection Unit (CPU) which includes the BSCB Co-ordinator for Safeguarding Children & Young People from Sexual Exploitation.

7.3 Referrals can be made to Social Services Children’s Initial Contact Point and/or the Police Child and Public protection Unit.

8. Abuse through Sexual Exploitation

If there are concerns that the child or young person may be at risk of abuse through sexual exploitation (including pornography, including creating/exchanging images, grooming through the internet) contact with the Safeguarding Board (CPU) Sexual Exploitation Child Protection Co-ordinator must be made in accordance with the West Yorkshire Safeguarding Young People from Sexual Exploitation Procedure and Guidance

9. Procedure from referral to Social Services

- 9.1** In all cases relating to possible abuse or neglect, Children's Social Services will respond and will advise the referrer of their actions.

10. Criminal Investigation

- 10.1** In the majority of cases, it will not be in the best interests of the young person for criminal proceedings to be instigated against them. It is an offence for any young person to engage in a sexual relationship under the age of 16.
- 10.2** The decision as to whether or not to proceed with criminal action against a young person who has been referred to the Police Child and Public Protection Unit will be made by the Crown Prosecution Service acting upon the advice of the Police Child and Public Protection Unit. The best interests of the young person concerned will be one factor in informing this decision.
- 10.3** All agencies hold responsibilities under the Crime and Disorder Act 1998 to assist with the prosecution of criminal actions in their local area. In some cases, the Police may hold information about a young person or an adult involved with a young person and this may be critical in achieving the protection of a young person. When the Police service is advised of a likely criminal offence, it will record the information it receives but will investigate according to whether or not the individual circumstances of the case warrant it. The Police will liaise with Children's Social Services about an investigation, unless the urgency to act to protect an individual or secure arrests precludes them from so doing.

11. Contacts

BSCB Co-ordinator for Safeguarding Children & Young People from Sexual Exploitation	Tel: 01274 434341
BSCB Child Protection Unit (8.30 – 5pm)	Tel: 01274 434343
Emergency Duty Team (after 5pm)	Tel: 01274 530434

Social Services Area Offices – Children’s Advisors	
BD 1,2,3,7,10	Tel: 01274 435391
BD 4,5,12,LS 28	Tel: 01274 435066
BD 6,8,9,13,14,15	Tel: 01274 432401
BD 20,21,22,16,17,18,LS 29	Tel: 01535 618134

Police Child and Public Protection Unit	Tel: 01274 376061

Young Peoples Sexual Health Team (Upfront)	Tel: 01274 432445
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CASHpoint (Contraception Advice and Sexual Health)	Tel: 01274 432432
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For information services available to young people around sexual health and support for Teenage Parents as well as support, resources, information and training on prevention work
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Safeguarding Sexually Active Under 18s – Flow Chart for Professionals

Initial discussion with young person or likely to be a one-off contact with young person

Consider and clarify: (based on information available particularly that given by the young person)

- Confidentiality Policy
- Young person's age
- Fraser Competencies (if they under 16)
- Clarify whether a young person is sexual active – don't assume they are
- Have they talked to parents/carers?
- Delay message – they do have the right to say no if they want to
- Legalities – Sex under 16 is illegal
- Information about partner/s – age/power imbalance, number of partners in last 6 months
- Do they understand consent – Is there any pressure, coercion involved?
- Context of discussion – Who else is present? Peers/parent/partner
- Record discussions

Sexually Active under 13

Must inform and discuss with line manager and CP Lead and the BSCB CPU

Age 13-17

Clarify issues if uncertain or concerned. Gain further information if trust established, time allows or are certain will not see young person again.

Further Assessment

- Home Circumstances
- Missing Episodes
- Grooming
- Coercion or bribery
- In full time education
- Aggression
- Substance/alcohol misuse or as disinhibitor
- Whether partner is known to police

Further Guidance Needed

- Discuss with Child Protection Lead for organisation
- Activate multi-agency Child Protection procedures in line with employing organisation procedures OR/AND
- Document discussions and reasons for referring or NOT referring

No Concerns

Continued Concerns

Refer to CPU/Area/Police in line with employing organisation procedures

Continue to provide advice, support and treatment & other preventative work linking with other resources/ agencies and strategies if necessary.
Document reason for not referring & re-assess as needed