



**Medway
Safeguarding
Children Board**
Safeguarding Medway's
children together



Medway Safeguarding Children Board

**Procedures and practice guidance
for working with children and young
people who are sexually active
and/or displaying harmful sexual
behaviour.**

www.msab.org.uk

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Summary of Purpose	The procedures and guidance designed to guide the response of all professionals who have a responsibility for children within the statutory, private or voluntary sector within Medway who come into contact with children and young people under the age of 18 who are sexually active or who may be displaying harmful sexual behaviour.	
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Equalities Impact Assessment	During the preparation of this policy and when considering the roles & responsibilities of all agencies, organisations and staff involved, care has been taken to promote fairness, equality and diversity in the services delivered regardless of disability, ethnic origin, race, gender, age, religious belief or sexual orientation.	
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1. Introduction and definitions

- 1.1 These procedures and guidance are designed to assist professionals to identify where children and young people's sexual activity and relationships are through mutual consent, or present as harmful or abusive; and the children and young people may need protection or additional services.
- 1.2 When it is identified that a child under the age of 18 is sexually active there needs to be an appropriate response and assessment of risk. This is to ensure they are accessing the right sexual health services but also that they are not being abused. The guidance recognises that whilst sexual activity involving young people may not be lawful i.e. under the age of consent (16years) it is not always abusive or seriously harmful. It also recognises implications of sexual activity under the age of 13.
- 1.3 For the purposes of this guidance sexual activity relates to intercourse, other penetrative acts or sexual touching. Sexual touching includes any part of the body, clothed or unclothed, either with a body part or with an object.
- 1.4 Sexual behaviours, which are also considered in this guidance, range from developing a sexual interest, solitary masturbation through to other sexual activities.
- 1.5 The sexual behaviour of young people is conceptualised as laying on a continuum (see tool below) from mutual exploration to behaviours that are seriously harmful to them or to other children or young people. This forms the basis of the Kent and Medway Risk Assessment Tool for children who are sexually active.
- 1.6 Professionals working with sexually active young people should ensure that personal beliefs do not influence professional assessments and judgements. If there is any conflict this should be discussed with line management.

2. Stages of normal sexual behaviour¹

- 2.1 There are 4 stages of childhood sexual development. Just like every other part of growing up, some children mature sooner or later than others. Children with developmental delays may not stick to these age guides.
- 2.2 Infancy from 0-4 years: Even at this stage, sexual behaviour is beginning to emerge through actions like; kissing and hugging; showing curiosity about private body parts; talking about private body parts; using words like poo, willy and bum; playing "house" or "doctors and nurses" type games with other children; touching, rubbing or showing off their genitals or masturbating as a comforting habit.

¹ <https://www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/harmful-sexual-behaviour/signs-symptoms-effects/>

- 2.3 Children aged from 5-9 years: As children get a little older they become more aware of the need for privacy whilst also; (as above) showing curiosity about private body parts but respecting privacy; talking about private body parts and sometimes showing them off; using swear and sex words they've heard other people say; touching, rubbing or showing others their private parts.
- 2.4 Pre adolescents from 10-12 years: Children are getting more curious about sex and sexual behaviour through: kissing, hugging and "dating" other children; being interested in other people's body parts and the changes that happen in puberty; asking about relationships and sexual behaviour; looking for information about sex, which may lead them to finding online porn and masturbating in private.
- 2.5 Adolescents from 13-16 years: As puberty kicks in, sexual behaviour becomes more private with: kissing, hugging, dating and forming longer-lasting relationships; being interested in and asking questions about body parts, relationships and sexuality; using sexual language and talking about sex with friends; looking for sexual pictures or online porn; masturbating in private and experimenting sexually with the same age group.
- 2.6 To identify possible harmful sexual behaviours refer to the Brook Sexual behaviours traffic light tool (see below).

3. Consent

- 3.1 The age of consent to sexual activity in the UK is 16 years for both men and women. The age of consent is the same regardless of the gender or sexual orientation of a person and whether the sexual activity is between people of the same or different gender.
- 3.2 *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 abortion²*
- 3.3 The Sexual Offences Act 2003 provides specific legal protection for children aged 12 and under who cannot legally give their consent to any form of sexual activity.
- 3.4 Consent is given when a person agrees by choice, and has the freedom and capacity to make that choice. Consider:
- Does the child have the capacity i.e. the age and understanding to make a choice about whether or not to take part in the sexual activity at the time in question?
 - Was the child in a position to make that choice freely, and was not constrained in anyway?

² Home Office Communications Directorate (May 2004) *Working within the Sexual Offences Act 2003*

3.5 Capacity may be impacted by substances e.g. if substances cause a loss of capacity/understanding then consent is void. Capacity may also be affected by age, education or mental and physical disabilities. If consent is given whilst the child is under duress or is coerced into a sexual act then the consent is void, this may be through the use of threats or violence.

4. Children under the age of 13

4.1 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 where there is penetrative sex or other intimate sexual activity. Cases involving under 13's should always be discussed with safeguarding leads and referred to children's services and the police. Under the Sexual Offences Act 2003, penetrative sex with a child under 13 is classed as rape. If the other party involved is also under 13 then their safeguarding should also be considered.

4.2 Children under the age of 13 will display a range of healthy sexual behaviours from asking questions about sex, consensual kissing and solitary masturbation. These behaviours are expanded upon in the Green behaviours listed in the Brook Sexual behaviours traffic light tool (discussed below). Although the list is not exhaustive.

4.3 The tool also identifies where behaviour may pose a risk to the child and indicate the need for intervention e.g. exposing genitals in public, sexual harassment and unlawful sexual activities.

5. Children and young people aged 13-15

5.1 Sexual activity with a child under the age of 16 is an offence. Consideration for assessment is needed in all cases of sexual activity involving a child aged 13-15. Where it is consensual it may be less serious than if the child were under 13, but may nevertheless have serious consequences for the welfare of the young person. A professional should make this assessment using the risk assessment tool and guidance contained in these procedures.

5.2 To support professionals to identify harmful sexual behaviours and activities Medway endorses the use of the Brook Sexual behaviours traffic light tool.

6. Young people aged 16-17

6.1 Consensual sexual activity is not an offence with young people who have reached the age of 16 with the exception that it is an offence for a person to have a sexual relationship with a 16 or 17 year old if they hold a position of trust or authority in relation to them³.

³ <https://www.legislation.gov.uk/ukpga/2003/42/part/1/crossheading/abuse-of-position-of-trust>

6.2 However, young people aged 16 and 17 are still vulnerable to harm through an abusive sexual relationship and sexual activity involving a 16 or 17 year old may still involve harm or the risk of harm.

6.3 The fact that the young person is older than the age of consent should not exclude them from being safeguarded; child protection procedures apply to children up until their eighteenth birthday.

7. Using the Kent and Medway risk assessment tool for sexually active young people.

7.1 The Risk assessment tool below identifies a range of indicators that should be considered when assessing the potential risk of harm to a child or young person that has been identified as sexually active; these include disabilities and learning difficulties. The tool should be completed with the information known by the professionals at the time and can be reviewed as more information becomes available. It is a dynamic assessment tool and so can, and should as a model of best practice, be repeated.

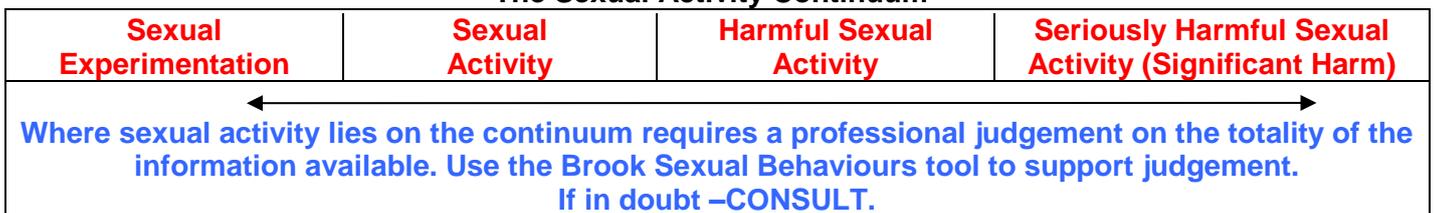
7.2 The assessment tool, in conjunction with the Brook Sexual behaviours traffic light tool, will support professionals to make a judgement as to the level of risk to associate with the child's behaviour.

**Kent and Medway Risk Assessment Tool for Sexually Active Young People
Consideration for Assessment**

Indicator of Risk or Harm	Consideration for Assessment
1. Age of child/young person (YP)	Sexual activity at a young age is a very strong indicator that there are risks to the welfare of children, whether boy or girl, and possibly others. This is particularly relevant if one of the parties is pre-pubertal. Children under 13 cannot lawfully give consent to sexual activity and there must be a referral to children's social services.
2. What is the attitude, level of maturity and behaviour of the YP?	Is the child withdrawn or anxious? Is there a pattern of casual sexual relationships with different partners? Are there more than two other persons involved in the sexual activity? Does the YP deny, minimise or accept the concerns? Is the child willing to work with the professionals to reduce the concerns? Is this realistic?
3. What are the child/YP's living circumstance or background? Is a Social Worker involved? (CP/CIN/LAC/CIC or CAF/Early help assessment)	Has a child in need (s.17) or referral of child protection concern (s.47) ever been made in respect of the YP or their siblings? Do cultural or religious beliefs have an impact on their circumstances and/or on sharing information?
4. Is the child/YP in education, employment or training?	Do you need to take any action if the child/YP is not on a school roll?
5. Are there any disabilities or learning difficulties impeding choice?	Disabled children and young people are more likely to be abused than non-disabled children. However, disabled children and young people have a right to a private life, which should be respected.
6. Is the relationship being kept a secret from parents/carers or friends? If yes is there a reason for this.	Has the sexual partner attempted to secure secrecy beyond what might be considered usual in a teenage relationship?
7. Is there evidence of coercion, bribery or a power imbalance in their relationship? Does this include child sexual exploitation or domestic abuse?	Has the child been encouraged to exchange sex for favours or other inducements such as supply of alcohol or substances? Is there evidence of persuasion, emotional blackmail, threats or use of pornography? Is the relationship reasonably equal and consensual? Power imbalances can occur in many different forms including threats and aggression. Is there an age differential greater than 3 years?
8. Is the young person's use of the internet and social media placing them at risk of abuse?	Consideration needs to be given as to whether the young person is being bully or groomed on line. Is the YP planning to or has met someone as a result of on line contact? Is there sharing of inappropriate texts and images using social media, including mobile devices?
9. Sexual grooming – are there behaviours consistent with grooming?	If you are unclear as to whether grooming may be accruing consider consultation with the named lead professional for safeguarding in your organisation or children's social care/services.
10. Does the YP's use of drugs	The young person's own behaviour in misusing substances or

or alcohol cause concern?	alcohol may place them at increased risk of harm, as they may be unable to give them informed consent. Is alcohol or drugs being used as a dis-inhibitor? Consider if a referral to another community service should be discussed.
11. Are there indicators of self-harm?	If yes have they had CAST/CAMHS intervention? Does the YP need to be referred to another service?
12. Is the partner known to agencies i.e. Social Services, Police or Probation?	Does one or more of the agencies already know the sexual partner? Does this information raise concern? Are there sufficient concerns about the sexual partner that information is needed from the police/social services/probation to support risk assessment. Follow service procedures of seeking advice from safeguarding leads and consider consultation.
13. Are any family or friends Known sex offenders or considered to pose a sexual risk to children?	Is any family member considered to be a risk to children or have convictions for sex offences? Does the sexual partner fall within any of the following categories beyond the normal family relationships? Stepparent, foster parent, step sibling who live in the same household or have been regularly involved in caring for the child, or care workers such as nannies or au pairs if they live with or regularly care for the child. Consider Kent and Medway Child Sexual Exploitation guidance.
14. What is the age of the child YP's partner/partners and gender? Length of time of current relationship. If 16 – 17 is there a breach of trust?	Is the child/young person competent to consent to the sexual activity? The law and procedures are gender neutral. Is there an age differential greater than 3 years? If so consider additional risk factors. Although same age relationships may still be exploitative. Is there a relationship of trust? A legal definition is provided at s.27 Sexual Offences Act 2003.
15. Have you referred to the Fraser Guidelines. If over 16 years MCA 2005 applies.	Remember that the Mental Capacity Act 2005 applies to Young People over 16 years.

The Sexual Activity Continuum



This risk assessment tool is based on, and should be read in conjunction with, Kent and Medway Procedures and Practice Guidance for Working with Young People who are Sexually Active. Consideration should also be given to the Kent and Medway Child Trafficking and Child Sexual Exploitation Tool Kits and Procedures.



**Kent and Medway Risk Assessment Tool for Sexually Active Young People
(To be completed by practitioner)**

Date of assessment: _____ Name of Young Person (YP) _____

DOB: _____ Female/Male _____ NHS Number (health only) _____

Address (if known)

School/College: _____ or Employed/Unemployed: _____

Indicator of risk or harm	Comments
1. Age of the child/young person (YP).	
2. What is the attitude, level of maturity and behaviour of the child/YP?	
3. What are the child/YP's living circumstances or background? Is a social worker involved? (CP/CIN/LAC or CAF/Early Help service)	
4. Is the child/YP in education, employment or training?	
5. Are there any disabilities or learning difficulties impeding choice?	
6. Is the relationship being kept a secret from parents/carers or friends? If yes, is there a reason for this?	
7. Is there evidence of coercion, bribery or power imbalance in their relationships? Does this include child sexual exploitation or domestic abuse?	
8. Is the young person's use of the internet and social media placing them at risk of abuse?	
9. Sexual grooming – are there behaviours consistent with grooming?	
10. Does the use of alcohol or drugs cause concern?	
11. Are there indications of self-harm?	
12. Is the partner known to agencies i.e. Social Services, Police or Probation?	
13. Are any family or friends known sex offenders or considered to pose a risk to children?	
14. What is the age of the child/ YP's partner/partners and gender? Length of time of current relationship? If 16 – 17 is there a breach of trust?	
15. Have you referred to the Fraser Guidelines? If over 16 years MCA 2005 applies.	

The Sexual Activity Continuum

Sexual Experimentation	Sexual Activity	Harmful Sexual Activity	Seriously Harmful Sexual Activity (Significant Harm)
<p>Where sexual activity lies on the continuum requires a professional judgement on the totality of the information available. Use the Brook Sexual Behaviours tool to support judgement. If in doubt –CONSULT.</p>			

Summary/Assessment of Risk. Include details of consultations:

OUTCOME (Tick)	DECISION (S) (Tick as many as required)
Sexual experimentation/sexually active – no immediate concerns <input type="checkbox"/>	<input type="checkbox"/> Continue to provide advice and/or services as necessary
Harmful sexual activity <input type="checkbox"/>	<input type="checkbox"/> Referral to specialist services such as sexual health or GUM
Seriously harmful sexual activity (significant harm) <input type="checkbox"/>	<input type="checkbox"/> Discuss with named professional and review risk assessment
	<input type="checkbox"/> Consult with children’s social services
	<input type="checkbox"/> Referral of child protection concern to Children’s Social Services
	<input type="checkbox"/> Immediate referral of a potential crime to Kent Police

View of Young Person:

Future Action/Plan. Please state by Whom and indicate time scales.

Name of Practitioner Signature

Designation Date:

Signature of young person

This risk assessment tool is based on, and should be read in conjunction with, Kent and Medway Procedures and Practice Guidance for Working with Young People who are Sexually Active. Consideration should also be given to the Kent and Medway Child Trafficking and Child Sexual Exploitation Tool Kits and Procedures.

8. Harmful sexual behaviour⁴

8.1 Harmful sexual behaviour may include:

- Using sexually explicit words and phrases
- Inappropriate touching
- Using sexual violence or threats
- Full penetrative sex with other children and/or adults

8.2 Sexual behaviour between children is also considered harmful if one of the children is much older, particularly if there is more than two years difference in age or if one of the children is pre pubescent and the other isn't⁵.

8.3 A younger child can abuse an older child, particularly if they have power over them e.g. if the older child is disabled⁶.

8.4 Where it is assessed that the sexual activity is harmful the professional should continue to make arrangements for the young person to receive confidential advice and support e.g. emergency contraception alongside referrals to Children's services.

8.5 In all such cases there should be an agreement with the young person to establish means by which the harm can be reduced. The circumstances of the case must then be regularly reviewed using the risk assessment tool in conjunction with the young person and in line with any safeguarding processes in place.

8.6 Where a practitioner has concerns that a relationship presents a risk of significant harm (seriously harmful behaviour within the risk assessment tool) to a child or young person they can have a consultation with children's services unless there is a risk of immediate harm, when a child protection referral must be made.

9. The Brook Sexual behaviours traffic light tool

9.1 To support professionals to identify if a sexual behaviour is harmful the MSCB support the use of the Brook Sexual behaviours traffic light tool which has been built into the sexually active pathway below.

9.2 The tool lists examples of green, amber and red behaviours within four different age groups.

⁴ <https://www.nspcc.org.uk/preventing-abuse/child-abuse-and-neglect/harmful-sexual-behaviour/>

⁵ Davies, 2012

⁶ Rich, 2011

9.3 The lists are not exhaustive and are examples only, they must be considered in context. All behaviours require some form of attention and response, but the type of intervention will vary according to behaviour.

9.4 Traffic light tool can be printed from the following link:

https://www.brook.org.uk/brook_tools/traffic/Brook_Traffic_Light_Tool.pdf

9.5 The Brook also provides examples of the kind of situations that are witnessed by/reported to professionals working with children and young people.

<https://www.brook.org.uk/our-work/the-sexual-behaviours-traffic-light-tool>

- e.g. Anishka, age 4 attempts to touch her brother's penis and asks "what is that?". This is a Green behaviour because it reflects natural curiosity and reflect healthy development for the age group.
- Ajay, age 13 regularly invites Femi, age 13 who has a learning disability into his bedroom and insists on closing the door. This is an Amber behaviour because the behaviour involves young people with different learning abilities and there is an element of secrecy. There may be no cause for concern but there is a need to take notice and investigate further.
- Kobe, age 16 is pressured into sending a picture of his penis to his classmates' mobile phone. This is a Red behaviour as it is not consensual for all young people involved, is affecting other children and young people and makes him vulnerable to further abuse.

10. Confidentiality

10.1 All professionals must respect the duty of confidentiality to a young person where the young person is assessed as being competent to make their own decisions unless there are concerns of a child protection nature, which require this duty to be breached. Professionals should seek advice from their nominated safeguarding lead if they do not feel confident in assessing whether a young person is competent.

10.2 The test of competence in respect of underage sexual activity falls within the ambit of the Gillick competency, which is detailed below. Decisions to share information with parents require professionals to use their judgement, and should be informed by the guidance on Information Sharing and Confidentiality in the Kent and Medway Safeguarding Children Procedures.

10.3 For those children who are referred to children's services and the police, it will normally be necessary for professionals to inform the parent or carer of the reasons for the enquiries being made. This may be highly sensitive for the child and their partner if also a young person.

10.4 When deciding whether a child is mature enough to make decisions, people often talk about whether a child is 'Gillick competent' or whether they meet the 'Fraser guidelines'.

What do 'Gillick competency' and 'Fraser guidelines' refer to? ⁷

10.5 Gillick competency and Fraser guidelines refer to a legal case which looked specifically at whether doctors should be able to give contraceptive advice or treatment to under 16-year-olds without parental consent. But since then, they have been more widely used to help assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions.

"...whether or not a child is capable of giving the necessary consent will depend on the child's maturity and understanding and the nature of the consent required. The child must be capable of making a reasonable assessment of the advantages and disadvantages of the treatment proposed, so the consent, if given, can be properly and fairly described as true consent." Mr Justice Woolfe 1985

How are the Fraser Guidelines applied?

10.6 The Fraser guidelines refer to the guidelines set out by Lord Fraser in his judgement of the Gillick case in the House of Lords (1985), which apply specifically to contraceptive advice, where doctor is listed below other health professional will also apply:

"...a doctor could proceed to give advice and treatment provided he is satisfied in the following criteria: 1) that the girl (although under the age of 16 years of age) will understand his advice; 2) that he cannot persuade her to inform her parents or to allow him to inform the parents that she is seeking contraceptive advice; 3) that she is very likely to continue having sexual intercourse with or without contraceptive treatment; 4) that unless she receives contraceptive advice or treatment her physical or mental health or both are likely to suffer; 5) that her best interests require him to give her contraceptive advice, treatment or both without the parental consent."

10.7 There are no age constraints in assessing Fraser Competence and health professionals may lawfully provide contraception to children under the age of 13. However, the risk assessment tool should always be used to establish whether the child or young person is suffering significant harm and decisions made accordingly, including a referral where a child is under the age of 13.

How is Gillick competency assessed?

10.8 Lord Scarman's comments in his judgement of the Gillick case in the House of Lords (1985) are often referred to as the test of "Gillick competency":

⁷ <https://www.nspcc.org.uk/preventing-abuse/child-protection-system/legal-definition-child-rights-law/gillick-competency-fraser-guidelines/>

"...it is not enough that she should understand the nature of the advice which is being given: she must also have a sufficient maturity to understand what is involved."

10.9 He also commented more generally on parents' versus children's rights:

"Parental right yields to the child's right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision."

11. AIM2 assessment tool

11.1 The Medway Youth Offending Service facilitate the use of AIM2 (assessment, implementation and moving on) assessment tool in Medway. The tool provides a framework for initial assessment and is designed to guide intervention and to identify risk and protective factors for perpetrators of harmful sexual behaviours.

11.2 The AIM2 model can be applied with children and young people between the age of 12 to 18 years, who have displayed harmful sexual behaviour, against children, adolescents and/or adults, within the family, outside the family and in stranger abuse. The model is also applicable for young people with learning disabilities.

11.3 The AIM2 assessment tool will be considered at the front door of Children's Services in partnership with the youth offending service and in parallel with other child safeguarding procedures.

11.4 It is important to note that the child may be both and victim and perpetrator of harmful sexual behaviour.

If you have a concern about a child you can contact Medway First response and report your concerns through the referral and contact form.

https://www.medway.gov.uk/info/200170/children_and_families/600/worried_about_a_child/1

Monday to Friday between 9am to 5pm on 01634 334 466.

Out of hours on 03000 419 191

Is the child sexually active?
Complete the risk assessment tool for Sexually Active young people.
Is the child displaying signs of harmful sexual behaviour?
Identify risk using the Brook Sexual behaviours traffic light tool.
For children under 13 years who present as sexually active consider immediate referral to Children's Social care and the Police

Sexual experimentation.
No immediate safeguarding concerns
Level 1 and 2

Harmful sexual activity
Level 3

Seriously Harmful Sexual Activity.
Level 4

Referral to Medway Single Point of Access (SPA) for support as a child in need or child in need of protection

Appropriate advice given to family and/or professionals.
Consider sex education and/or access to PHSE in school.
Consider need for contact with the sexual health services
Consider EHA if needs escalate

Consider Early Help Assessment
Consider referral to Medway Young Persons' Wellbeing service
Consider educational programmes e.g. DAY programme
Consider need for contact with the sexual health services.
Consider completing the Child Sexual Exploitation Assessment Tool

Victim of harmful sexual behaviour
Consider Child Sexual Abuse pathway and need for the Sexual Assault Referral Centre (SARC)
Consider sexual health outreach referral / referral for psychosexual therapy
16+ consider referral to MARAC for high risk domestic abuse
Consider specialist services e.g. NSPCC Letting the future in

Perpetrator of harmful sexual behaviour
Consider S.47 strategy to include Youth Offending Services for access to AIM2 assessment (13 – 17 years) to inform Child and family assessment
Consider specialist services e.g. NSPCC National Clinical Assessment and Treatment Centre (NCATS)

Multi agency risk management