

**The Glasgow Protocol
for
Working with Young People Who
Are Sexually Active**

FORWARD

It is now well established that increasing numbers of young people are engaging in a range of sexual activity before the age of 16 years. The reasons behind this behaviour vary considerably. For some young people this will be mutually agreed activity: for others it may be the response to peer pressure or the result of abuse or exploitation. Young people who are sexually active will therefore present with differing needs. Consequently, services and professionals need to be better equipped to recognise and respond to these differing needs.

This protocol provides a framework for professionals to identify, assess and respond to young people if and when they become sexually active. Professionals working with young people and/or their families have a duty of care to ensure that a young person's health, emotional and protection needs are considered in the context of their individual circumstances.

This protocol provides guiding principles and criteria to assist in making quality assessments and develop appropriate responses. I hope that professionals from all agencies will find this helpful in improving our services for young people.

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Introduction

- i. Adolescence is a period of significant physical, cognitive and social change, in which young people begin to develop a growing sense of their individual identity and their sexuality. Whilst generally a healthy population group, adolescence poses new challenges to health and development owing to young people's relative vulnerability and pressure, from peers and elsewhere, to adopt risk-taking behaviours. Young people's sexual activity requires to be seen in this context.
- ii. Work in relation to young people's sexual health and well-being is being undertaken in Glasgow to ensure that values, knowledge and skills are developed to deal with this period of rapid change. ⁽¹⁾ Whether within their family settings, in schools or through universal youth provision, young people should be given opportunities to discuss sexual health and relationships. The emphasis of broader work will be to encourage young people to delay sexual activity until they are older/ready. However, advice and services need to be available for those significant numbers of young people who are sexually active under the age of 16.
- iii. Research indicates that between 35 - 40% of young people have had sexual intercourse before they are 16, that a growing number are becoming sexually active by the age of 13/14 and that they are also engaging in a range of sexual behaviours other than intercourse. Whilst the majority of young people are reporting that sexual activity is consensual, for a minority, it is the result of pressure and can be a source of regret, particularly if the behaviour has taken place in the early teenage years. ⁽²⁾ The UK has the highest number of teenage pregnancies in Western Europe (nearly 7 times that of the Netherlands) and it estimated that 1 in 10 young people have a sexually transmitted infection.
- iv. Our society does not deal consistently with issues relating to sexuality: sex is widely used as a commodity and children are exposed to sexual imagery from an early age and yet there is an inability to discuss issues in an open and mature way. As a result, young people are given very distorted signals and messages, particularly about relationships and gender roles. Information from Child Line Scotland suggests that on all levels young people are struggling with sexual health and relationships issues and are wary of seeking advice or help because they often do not trust what adults will do with an enquiry.

(1) For the purposes of this protocol, the terms 'young person' or 'young people' have been used in their generic, not legal, sense, in recognition that the majority of children who are sexually active under the age of 16 years are adolescents.

(2) Glasgow's Consultation with Young People on Sexual Health & Relationships, November 2006.

Section 1 The need for a protocol

- 1.1 The need for a protocol relating to the under age sexual activity of young people in Glasgow arose from the work of Glasgow's Young People's Sexual Health Steering Group, a partnership between Glasgow City Council and Greater Glasgow & Clyde Health Board, (formerly known as the Teenage Pregnancy Steering Group), and the Child Protection Committee.
- 1.2 It had been identified that there is a lack of clarity amongst professionals about how they can and should respond to those young people who are sexually active under the age of sixteen. This lack of clarity led to a concern that the present situation is:
 - Discouraging young people from seeking appropriate sexual health information and advice
 - Not assisting professionals to offer appropriate advice and support
 - Not helping professionals to identify and appropriately support those young people who are the subject of sexually abusive behaviour and/or relationships. As a corollary, agencies have not been able to identify perpetrators who serially offend against young people, a fact highlighted in the findings of the Bichard Inquiry and the related Serious Case Review in North-East Lincolnshire (2004).
- 1.4 This protocol therefore is the result of a multi-agency group that sought to consider these issues and address them in a balanced way.

Section 2 Purpose of the Protocol

- 2.1 This protocol is the first attempt in Glasgow to devise a systematic approach that can be used by all professionals, in both statutory and voluntary sectors, who work with young people who are sexually active under the age of 16 years. It will therefore provide the basis for a more co-ordinated and strategic response to the sexual health needs of young people in the City.
- 2.2 It has been designed to be used by all professionals across all sectors so that young people are assured of a consistent approach, no matter what service they come into contact with. It is anticipated that as a result of this consistency, over time, young people will be more likely to feel confident about seeking help when they need it.
- 2.3 The key aim of this protocol is to provide clarity. Given the nature of the subject it cannot provide definitive answers to all situations that might arise. What it aims to do is assist professionals in their decision-making process. It seeks to do this by:
 - Setting out guiding principles upon which practice should be based
 - Providing criteria to assist professionals to make quality assessments of the needs of the individual young person they are in contact with
 - Providing guidance for professionals as to what they can/should do on the basis of their assessment.
- 2.4 It is recognised that some professionals may feel uncomfortable dealing with sexual health issues. In addition, as a result of this protocol, some professionals may require to change their existing practice. All professionals have a duty of care to a) ensure that young people are given information and access to services that enables them to safeguard their health and b) appropriately assess information about the nature and circumstances of any sexual activity that comes to their attention.
- 2.5 Whilst this protocol is applicable to all professionals who work with young people, it recognises the differential roles and responsibilities that each profession brings to the situation. Professionals should not give advice, provide services or make assessments which they are not competent to provide. Should professionals have any doubts on these matters, they should refer to a more senior person within their organisation. It may be appropriate in some circumstances to signpost the young person to another service or agency.
- 2.6 Whilst it is recognised that certain sexual activity is unlawful e.g. for a male of any age to engage in sexual intercourse with a female who is under the age of 16 years, it is not the role of professionals covered by this protocol to ensure that the law is utilised to prosecute mutually-agreed teenage sexual activity between two young people of similar age, unless it involves abuse or exploitation.

Section 3 To whom does the protocol apply?

- 3.1 This protocol applies to all professionals who work with young people, male and female, regardless of their sexual orientation, under the age of 16 years, who are engaged in, or planning to be engaged in, sexual activity with another person.
- 3.2 A decision has been made to draw a distinction between those who are 12 years and under and those who are between the ages of 13 - 15 years. This age distinction has been made on the basis of existing practice and legislation.
- 3.3 Whilst it is acknowledged that consensual sexual activity in itself is no longer unlawful when both parties are over the age of 16, this protocol may be used to help professionals make assessments of a small group of particularly vulnerable young people between the ages of 16 -17 years who may be placing themselves at risk or who are at risk. The Children (Scotland) Act 1995 offers young people additional protections up to the age of 18 years, as do existing Child Protection and Vulnerable Young Person procedures. It should also be noted that sexual activity with a young person under the age of 18 by a person in a position of trust is unlawful. ⁽³⁾
- 3.4 The protocol is applicable to all professionals who work with young people with disabilities. Whilst they may have particular individual needs which a professional may have to consider, young people with disabilities have the same rights as everyone else in this age group to information, services, confidentiality etc. It should be noted that this group of young people may be at greater risk of abuse than their non-disabled counterparts, especially when they are living away from home. They may be particularly vulnerable to coercion due to physical dependency or because a learning or sensory disability impairs their ability to communicate.
- 3.5 Further, it should be noted that other groups of young people who experience discrimination and/or disadvantage within society e.g. young women, young gay men, those affected by poverty, those living away from home etc may be particularly vulnerable to sexual abuse or exploitation.

(3) For the definitions of a 'position of trust' please refer to Appendix 1.

Section 4 Principles upon which the protocol is based

- 4.1 In devising this document close attention has been paid to relevant legislation, to Scottish Executive and local guidance and to the original and more recent work of the Committee on the UN Convention on the Rights of the Child.
- 4.2 Since 1991 the UK has been a signatory to the UN Convention on the Rights of the Child, thus state bodies are obliged to ensure that young people enjoy the highest attainable standard of health, develop in a well-balanced manner, are adequately prepared to enter adulthood and play a constructive role in their families, their communities and society at large. This protocol therefore recognises that young people are rights holders and, according to their evolving capacities, they can progressively exercise their rights to promote their health and development. As a consequence professionals should adhere to the following principles:

i. Welfare of the Child

The founding principle of all legislation relating to children and young people clearly states that the child's welfare or 'best interests' is the paramount consideration in all matters.

ii. To voice their opinions

Professionals have a duty to ensure that all children and young people are given a genuine chance to express their views freely on all matters that affect them. To safely and properly exercise this right, all professionals need to listen and to create an environment based on trust, information sharing and sound guidance that is conducive to children and young people's participation.

iii. To be protected from harm

Professionals have an obligation to ensure that all children and young people are protected from all forms of violence, abuse, neglect and exploitation.

iv. To access information and services

Professionals have a duty to ensure that all children and young people are provided with, and not denied, accurate and age appropriate information on how to protect their health and well-being and practice healthy behaviours.

v. To expect confidentiality

It is well documented that one of the main obstacles deterring young people from seeking both early sexual health and pregnancy advice is their fear about confidentiality. Both legal judgments and professional codes of conduct recognise that without assurances around confidentiality, young people may be reluctant to give professionals the information they need in order to provide good and appropriate care.

It is important to state that children and young people have the same right to confidentiality as adults i.e. that personal and private information should not be shared without consent, except in certain exceptional circumstances. The exceptional

circumstances referred to are where there is the potential of significant harm to themselves or others.

If there is a reasonable concern that a child or young person maybe at risk of significant harm as a result of sexual behaviour and/or relationships (see Section 5), this always overrides the professional requirement to keep confidentiality. In these circumstances, all professionals have a duty to act to make sure that the child or young person is protected from harm.

Professionals need to ensure that children and young people are informed from the outset that confidentiality is not absolute but that every reasonable attempt will be made to discuss with them beforehand if confidentiality needs to be departed from. Prior to breaching confidentiality, attempts should be made to gain the child or young person's consent to passing on information.

It is also crucial that children and young people should be advised of how their personal information may be shared within the team or agency they have contact with.

vi. To have their information rights respected

Alongside the law and professional obligations of confidentiality, there are strict rules under the Data Protection Act 1998 as to what professionals are allowed to do with personal information regarding children and young people. It is also important to note that for data protection purposes, the critical age is 12 ⁽⁴⁾ – a child or young person aged 12 or above is presumed to have sufficient mental capacity to be able to exercise their rights and make decisions regarding their own information. This specifically includes matters such as the results of pregnancy or STI tests, as well as information supplied by the young person to the professional (or to which the professional has access).

Both the Council and the Health Board have detailed guidance and procedures relating to data protection issues, and it is equally important to follow these when working with children or young people in a sensitive area such as this. The data protection rules underpin many of the points above, and create a framework within which professionals can determine whether they may disclose information to another person or not, and spell out what the child or young person themselves have to be told about how their information will be used, and by whom. For inter-agency work, professionals should also consult the Data Sharing Protocol between the Council and NHS Greater Glasgow and Clyde, which addresses many of these issues in more detail.

All professionals recording information or releasing information to other parties and persons have legal and professional duties to ensure that the information recorded is accurate, relevant and sufficient for its purpose, and that any disclosure is lawful – either through the consent of the young person concerned, or due to the presence of concern factors which outweigh lack of consent.

(4) Data Protection Act 1998, Section 66

vii. To consent to health interventions

In Scot's law a child under the age of 16 has the legal capacity to make a decision on a health intervention provided they are in fact capable of understanding its nature and possible consequences. ⁽⁵⁾ This is a matter of clinical judgment and will depend on the age, maturity of the young person, the complexity of the proposed intervention, its likely outcome and the risks associated with it. This rule applies to all health interventions, including assessment, treatment and counselling.

Every effort should be made to encourage the child or young person to involve their parents. However, intervention can take place if the child or young person is opposed to this and is deemed to be competent.

If there is a difference of opinion between a child or young person and their parent, where the child or young person has the capacity to make an informed choice, the child or young person's decision must be respected and given effect to even if it differs from the parent's or the professional's view.

viii. Involving Parents

Professionals should encourage children and young people to share information with their parents where it is safe to do so. This is in recognition of the responsibilities, rights and duties of parents to direct and guide their children in the exercise of their rights, consistent with their evolving capacities.

Specifically in relation to child protection matters, the decision to share information with parents should be based on professional judgment using the foregoing principles and agency guidelines. However, information should not be shared with parents of young people aged 16 – 18 against their wishes. This is due to the fact that the only parental responsibility that parents have towards young people aged 16 – 18 is that of guidance. Guidance is only advice and if the young person does not wish to take advice from his/her parent then confidentiality should be maintained.

(5) Age of Legal Capacity (Scotland) Act 1991, Section 2(4)). Please note that although the 'Fraser Guidelines' are widely used by health professionals, legal advice indicates that they have no authority in Scotland. The primary legislation that should be used therefore when determining 'competency' is the Age of Legal Capacity (Scotland) Act 1991.

Section 5 Making Assessments

When a child or young person is, or is likely to become, sexually active

- 5.1 When a professional becomes aware that a young person is sexually active or is likely to become sexually active, the professional has a duty of care to ensure that the young person's health and emotional needs are addressed **and** to assess whether the sexual activity is of an abusive or exploitative nature. It is recognised that this process may not always be a straightforward and so it will require sensitive handling and the use of professional judgment.
- 5.2 All young people who are, or who are planning to be, sexually active have a right to access information and services to meet their immediate health needs, in terms of education, emotional support, contraception/protection etc. For those professionals in settings where such provision can be offered, reference should be made to the aforementioned Age of Legal Capacity (Scotland) Act (1991). Other professionals, at a minimum, have a responsibility to either signpost or refer a young person, with their permission, to appropriate local services.
- 5.3 Where a professional is not in a position to meet the young person's immediate health needs, having given due regard to 4.2 (viii), it is within the law, without parental consent or even knowledge, to provide information, to make an appointment or to accompany a young person to an agency which is able to meet their immediate health needs.
- 5.4 When a professional becomes aware that a young person is, or is likely to become sexually active, the professional has a responsibility to make an initial assessment as to whether the sexual behaviour and/or relationship may be abusive or not. It is essential to look at the facts of the actual relationship between those involved and to take into account the wider needs of the young person. Crucial elements of this assessment relate to issues of consent, the ages of those involved, the circumstances of the sexual activity and the vulnerability of the young person involved.
- 5.5 It is recognised that information about sexual behaviour involving a young person can come from a variety of sources e.g. rumour, directly from the young person, from a third party or from direct observation. The source and the nature of the information will determine the timing and who is best placed to seek clarification from the young person. In addition, the skills, confidence and the level of responsibility of the professional involved and their knowledge of the young person will determine who is best placed to speak with the young person.
- 5.6 Depending on the source, the clarity and the immediate seriousness of the information, it may or may not be appropriate to speak directly with the young person at this initial stage. These are matters for professional judgment. If the initial information is indicating that child protection measures may be required, contact should be made immediately with social work services without speaking with the young person. If required, advice can be sought by contacting social work services.
- 5.7 For all other situations (i.e. where the need for child protection measures is not immediately apparent), professionals are required to make an initial assessment of the information before them. There is an expectation that the professional will explore

with the young person the circumstances of the sexual activity. The young person's views should always be sought and listened to.

5.8 It is acknowledged that personal relations are sometimes ambiguous and open to interpretation. However there are two particular circumstances which offer no ambiguity and would require an automatic referral to social work services. These are:

- i. Where the child is 12 years of age or under and/or
- ii. Where the other person is in a position of trust in relation to the young person. It should be noted that this legislation is applicable to young people up to the age of 18 years. (For the legal definitions of 'position of trust' please refer to Appendix 1).

5.9 With respect to all other circumstances, what follows is a list of factors to help professionals make an assessment i.e. a determination of 'need' and 'risk'. It is not intended to be used as a checklist: depending on the presenting situation, not all of the following will require exploration. Factors for consideration include:

- i. Whether the young person understood the sexual behaviour they were involved in.
- ii. Whether the young person agreed to the sexual behaviour at the time.
- iii. Whether the young person's own behaviour e.g. use of alcohol or other substances, placed them in a position where their ability to make an informed choice about the sexual activity was compromised.
- iv. The nature of the relationship between those involved and whether a power imbalance exists e.g. differences in size, age, material wealth and/or psychological, social and physical development. In addition, gender, race and levels of sexual knowledge can be used to exert power. It should not automatically be assumed that power imbalances do not exist for two young people similar in age or of the same sex.
- v. Whether manipulation, bribery, threats, aggression and/or coercion, were involved e.g. the young person is being isolated from their peer group, the young person was given alcohol or other substances as a disinhibitor etc.
- vi. Whether the other person has used 'grooming' methods to gain the trust and friendship of the young person e.g. by indulging or coercing the young person with gifts, treats, money etc; by befriending the young person's family; by developing a relationship with the young person via the internet.
- vii. Whether the other person has attempted to secure secrecy beyond what would be considered usual in teenage sexual activity.
- viii. Whether the other person is known by the agency to be or have been involved in concerning behaviour towards children and young people

- ix. Whether a young person, male or female, is frequenting places that are used for prostitution.
- x. Whether a young man is frequenting places where men have sex with men and circumstances of additional dangers e.g. physical assault, might arise.
- xi. Whether there are other concerning factors in the young person's life which may increase their vulnerability or place them 'at risk' e.g. homelessness
- xii. Whether the young person denies, minimises or accepts the concerns held by professionals

5:10 The presence of one or more factor will raise different levels of concern depending on the young person's individual circumstances. For some young people it will be a combination of factors which may suggest that further intervention is required.

5:11 Professionals need to be aware that should information come to their attention about past sexual behaviour and /or relationships involving children or young people the same consideration should be given as to whether this was abusive or exploitative and appropriate action should be taken. It may be the case that the child or young person in question is no longer at risk of harm; however, this information may have implications for other children.

5:12 In line with their own agency procedures, professionals can seek the advice of a colleague or line manager to assist them in this assessment process. Where appropriate, professionals should advise the young person of their intentions to speak with a colleague.

5:13 Professionals need to be aware that some young people may not identify abusive behaviour as such.

Section 6 Possible courses of action

- 6.1 Depending on the outcome of the assessment process, there are several courses of action that can be taken:
- i. If the assessment is that the professional is dealing with mutually-agreed teenage sexual behaviour and/or relationship in which there are no concerns of abuse or exploitation, the professional should, if qualified, provide practical assistance and advice as required. Other professionals must signpost young people to appropriate services.
 - ii. If the professional does not assess the sexual behaviour and/or relationship to be abusive or exploitative but has some concerns about the young person's behaviour e.g. their ability to assess risk, their use of alcohol, the environment in which they seek sexual contacts etc, then either the professional should address these matters directly with the young person or, with their permission, refer them to an appropriate person or agency.
 - iii. If the professional, using the indicators set out in 5.9 has more heightened concerns about the young person's behaviour or about the nature of the sexual behaviour and/or relationship, they should seek guidance from a line-manager in accordance with their own agency guidelines and decide if any further action is required. Advice can be sought from Social Work Services to assist in this decision making.
 - iv. If the professional has definite concerns that the young person has experienced, or may experience, significant harm, but the young person is not at immediate risk, they should make a referral to Social Work Services, detailing those who are involved, the nature of concerns etc. In those circumstances where it is appropriate to speak with the young person prior to the referral being made, every reasonable effort should be made to seek their agreement to the referral. If agreement is not reached, the professional should make the referral and inform the young person that this will be the course of action.
 - v. As stated at 5.8, if the child is, or is believed to be, sexually active and is 12 years or under, the matter should automatically be referred to Social Work Services. If the young person is currently 13 or over but sexual activity took place when they were 12 years or under, a referral to Social Work Services should also be made.
 - vi. Similarly, as stated at 5.8, if the 'other person' is in a position of trust in relation to the young person (please refer to appendix 1) the matter should automatically be referred to Social Work Services.
 - vii. If the young person is perceived to be at immediate risk, a referral must be made to the Police Family Protection Unit as well as to Social Work Services. If the situation takes place out-with office hours, Standby Social Work should be contacted.

- 6.2 In all of the above situations the professional, in line with their own agency procedures, should make a written record of events, ensuring as much detail as possible and including the reasons behind their action.
- 6.3 On each occasion that a professional has contact with a child or young person or receives information about them, consideration should be given as to whether their circumstances have changed.
- 6.4 In addition, each agency should set in place monitoring procedures to ensure that practice is consistent and appropriate.
- 6.5 Pregnancy in young women under the age of 16 should be dealt with using the same criteria set out in 5:8 and 5:9. If it is assessed that the pregnancy is the result of mutually-agreed teenage sexual behaviour and/or relationship in which there are no concerns of abuse or exploitation, the matter should not be considered to be a child protection matter: the emphasis should be on ensuring that the young woman's health educational, social and emotional needs are appropriately assessed and support is offered.

Section 7 Possible courses of action once a referral has been made to Social Work Services

- 7.1 Once Social Work Services receive a referral, consideration needs to be given as to the best course of action to meet the young person's needs. There are a number of possible responses that can be provided and several of these are noted below. The response should be based on what is the most appropriate to meet that young person's needs, taking into account, the young person's own views.
- 7.2 In some instances, once social work checks have been made, it may be decided that the referring agency will continue to offer support to the young person, and no further social work involvement is required.
- 7.3 Where checks are made and the decision is that no formal proceedings are required, social work may offer a voluntary service to the young person and their family if the young person is assessed as being a 'child in need'.
- 7.4 It may be agreed that due to a number of concerns about the young person's needs and possible vulnerability, the young person may benefit from a full integrated assessment of their needs so that agencies can best identify what supports and services would benefit them. In such instances, a lead agency is identified to compile the assessment and all agencies would be involved in contributing to this.
- 7.5 Some referrals may trigger concerns about the potential risks the young person is placing themselves in due to their own behaviour. In such instances, this may be dealt with under the existing Vulnerable Young Person's Protocol.
- 7.6 Where the young person is believed to be, or likely to be, at risk of significant harm social work have a duty to investigate the matter in line with existing Child Protection Procedures. As part of social work's procedural requirements, the police will be notified and consideration given to the need for a joint investigation.
- 7.7 Where there is a need for further clarification of the concerns and possible risks to a young person, social work may convene a Case Discussion to assess existing information, to decide how to gather further information (if required) and to decide how to proceed. Following the investigation of the referral social work may call a Child Protection Case Conference to consider whether the young person's name should be placed on the Child Protection Register.
- 7.8 Where there are concerns that the young person may be in need of compulsory measures of supervision further investigations should be carried out and unless it is then clear that no compulsory measures of supervision are required, the matter must be referred to the Reporter to the Children's Hearing.

Appendix 1

Section 4 of the Sexual Offences (Amendment) Act 2000, meaning of a 'position of trust'.

Meaning of "position of trust".

4. - (1) For the purposes of section 3 above, a person aged 18 or over ("A") is in a position of trust in relation to a person under that age ("B") if any of the four conditions set out below, or any condition specified in an order made by the Secretary of State by statutory instrument, is fulfilled.

(2) The first condition is that A looks after persons under 18 who are detained in an institution by virtue of an order of a court or under an enactment, and B is so detained in that institution.

(3) The second condition is that A looks after persons under 18 who are resident in a home or other place in which-

(a) accommodation and maintenance are provided by an authority under section 23(2) of the Children Act 1989 or Article 27(2) of the Children (Northern Ireland) Order 1995;

(b) accommodation is provided by a voluntary organisation under section 59(1) of that Act or Article 75(1) of that Order; or

(c) accommodation is provided by an authority under section 26(1) of the Children (Scotland) Act 1995,

and B is resident, and is so provided with accommodation and maintenance or accommodation, in that place.

(4) The third condition is that A looks after persons under 18 who are accommodated and cared for in an institution which is-

(a) a hospital;

(b) a residential care home, nursing home, mental nursing home or private hospital;

(c) a community home, voluntary home, children's home or residential establishment; or

(d) a home provided under section 82(5) of the Children Act 1989, and B is accommodated and cared for in that institution.

(5) The fourth condition is that A looks after persons under 18 who are receiving full-time education at an educational institution, and B is receiving such education at that institution.