



**DUMFRIES AND GALLOWAY
CHILD PROTECTION COMMITTEE**

INTERIM GUIDANCE

**INVESTIGATION AND REPORTING
OF
UNDER AGE SEXUAL INTERCOURSE
AND
PREGNANCY**

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Recent enquiry reports have identified the importance of sharing information about children at risk between professionals and agencies. If there is a concern that a child may be in need of protection from harm, this will always override a professional or agency requirement to keep information confidential.

The treatment of cases of unlawful sexual intercourse and under age pregnancy has been an area which has been seen as particularly contentious in the past and work is underway nationally to address this.

The attached document has been endorsed by the Chief Officers Group and the Child Protection Committee for immediate use in Dumfries and Galloway as an interim measure to provide guidance to all staff who are facing dilemmas about reporting under age sexual intercourse and pregnancy.

The practical effectiveness of the guidance will be monitored and evaluated by agencies and any issues identified should be communicated back through the Child Protection Committee via your nominated representatives.

The guidance document itself will be reviewed by the Chief Officers Group on an annual basis.

Introduction

One of the findings of the Bichard Enquiry related to a concern that the issue of underage sex was not being taken sufficiently seriously by agencies and that abusive or predatory behaviour may be overlooked leaving children exposed to risk.

There are, however, many instances where it is unclear at the start of a professional's involvement whether or not there are child protection concerns. Legislation is specific with regards to unlawful sexual intercourse but there is in practice a clear distinction between dealing with a young person who is only technically a victim having been involved in a truly consensual relationship and dealing with a young person who is the victim of abuse.

This fundamental difference creates an issue, particularly for health professionals who have to manage the perceived competing demands of the need to share information and the need to maintain confidentiality. Guidance has recently been circulated by the Chief Medical Officer to the effect that where there is a concern that a child may be at risk of harm, this will always override a professional or agency requirement to keep that information confidential. It is clear that all staff have a responsibility to act to make sure that all children are protected from harm.

It is recognised, however, that it can be difficult to make a judgement on whether a child is at risk of harm from the limited information available. The danger in any agency making that judgement in isolation is that not all pertinent information will have been assimilated and assessed.

The Bichard Report emphasised that it is critical that there is good communication between the police, social work, health professionals, education and other relevant agencies and that decisions taken are based on clearly understood criteria.

This guidance is designed to provide a clear framework to be followed which should identify those who are in need of protection whilst also identifying those individuals who present a risk of sexual harm to young people. It should be read in conjunction with the NHS Dumfries and Galloway and Dumfries and Galloway Council Policy Document relating to Sexual Health Promotion, Protection and Care.

Sharing Information

All professional staff who are approached by young people, namely those under the age of 16, for advice on contraception and/or pregnancy, should advise them to obtain medical advice as soon as possible. Other groups of people, for example foster carers or those who find themselves in a position of trust toward young people, and who are the first point of disclosure for that young person, should provide similar advice.

The most appropriate method would be that they should attend:

- Their own GP
- One of the Youth Clinics set up throughout Dumfries and Galloway
- Clinics run by the Department of Family Planning and Sexual Health
- A community paediatrician
- The school nurse
- Maternity Services

These groups have both training and experience in dealing with such issues and other untrained professionals should try not to become involved in this difficult area.

There is no requirement that the initial approach be reported to the police, the Reporter or to the Social Work Department provided that there is reasonable cause to believe that there are no abusive elements in the relationship. Should the member of staff be doubtful about the young person taking advice, or has other concerns, the matter can be discussed with the:-

SW Children and Families Duty Worker/ Manager East Tel (01387 260877)

SW Children and Families Duty Worker/Manager West Tel (01776 706082)

Senior Child Protection Officer Children's Services Tel (01387 244571)

NHS Child Protection Team Tel (01387 244572)

Police Family Protection Unit Office Tel (0845 6005701)

West of Scotland Standby (out of office)

For Public Use Freephone

Tel (0800 811505)

For Health Staff

Tel (0141 3056920)

Such sharing of information does not necessarily mean that an investigation will thereafter take place or that the matter will be reported to the Procurator Fiscal or Children's Reporter. The welfare of the young person, however, is the paramount consideration to be taken into account. No assurance in respect of confidentiality can therefore be given prior to that discussion taking place as the information shared may raise a concern that the young person is at risk of harm and further action may be required.

All decisions taken, together with the reasons for them, should be clearly recorded within the appropriate case file/record.

Duty of Care

All medical staff, which in this context also includes all practicing NHS Dumfries and Galloway Nurses, Midwives and Health Visitors delivering a service to young people, have a recognised professional duty to report the

case of any child/young person who they believe to be the subject of abuse. Accordingly, the medical practitioner **must** make a professional judgement in each case of under age sexual intercourse or pregnancy as to whether the relationship involved **may** be abusive or incestuous. Dumfries and Galloway Council also require the same duty of care from **any** employee working with young people.

If it appears that this may be the case, after discussion with an experienced colleague if necessary, the professional duty is to refer the case to Social Work, Police or the Reporter for investigation. Seeking consent to share this information is generally a requirement of good practice. If consent is sought and withheld, however, there is still a duty to share the information. Fairness requires that the young person is informed of the intention to disclose prior to doing so except where it is decided that to do so may place them or others at increased risk.

Again, all decisions taken, together with the reasons for them, should be clearly recorded within the appropriate case file/record.

This applies equally to medical staff who become aware of under age sexual activity because the girl concerned is pregnant.

It is recognised that the first instinct of a medical practitioner may well be to preserve the confidentiality of the patient but in many cases this may not be in the best interests of the child/young person concerned.

When assessing the situation, the following should be considered:

- 1) It is possible that the young person is not having a consensual relationship with his/her partner, but is the victim of abuse. This may be because
 - The partner is much older than him/her
 - The partner is coercing him/her
 - The partner is related to him/her or a member of the same household
 - The partner is in a position of trust in relation to him/her e.g. school teacher, social worker, police officer etc.
 - The partner is inducing them to take part in activity through the use of drugs or alcohol

Note – these are examples only and other circumstances may give rise to the suspicion that a young person is being abused.

- 2) The younger the person the greater the consideration to be given to reporting the matter. Where the young person is under the age of 13 years, the case should always be referred. This also applies where the young person is over the age of 13 years, but sexual intercourse took place prior to her 13th birthday.

- 3) Health professionals involved in the medical care of individuals under the age of 14 years may find themselves in a dilemma between the moral/ethical/confidential. It is then mandatory to consult with senior clinical colleagues and take note of the General Medical Council/Chief Medical Officer guidance on this subject.
- 4) Consideration should be given to the young person's capacity and maturity, as well as his/her physical age.
- 5) The greater the age differential between the young person and his/her partner, the greater the risk that the relationship is abusive and should be reported.

Where a case is being reported by medical staff they should refer to:

- i) The named Social Worker where there is current involvement

OR

- ii) Local Assessment and Referral Team, Social Work Department and ask for the Duty Manager or Duty Social Worker

OR

- iii) The Police Family Protection Unit

The case can then be further considered/discussed, taking into account the following:

- a) If the young person is under the age of 13 years or it is clear at that stage that an abusive relationship is taking place, the matter will be progressed as a joint Social Work/Police investigation. It is anticipated that this will happen in only a small number of cases.
- b) In other cases consideration will be given to the following points:
 - i) whether the parties have been clearly identified
 - ii) ages of the parties involved, including the mental age and maturity of the young person
 - iii) age differential between the parties
 - iv) nature of the relationship involved
 - v) extent of sexual activity involved
 - vi) degree of risk to which the girl in particular is exposed
 - vii) position of other family members
 - viii) consulting the Reporter's Administration Database (RAD)
 - ix) consulting the child protection register
 - x) checking of other relevant data databases such as the Sex Offenders Register, Disqualified from Working with Children List etc.
 - xi) current supports in place

If it becomes clear at this stage that an abusive relationship is (or may be) involved, the matter will be progressed as a joint Social Work/Police investigation.

- c) If doubt remains, the matter can be further discussed with the Social Work, the Family Protection Unit, Children's Reporter or the Procurator Fiscal's Office.

The receiving/investigating agency should provide feedback to the referrer as a matter of good practice and to further enable the young person's continuing health needs to be addressed appropriately.

Under Age Pregnancy

In many cases of teenage pregnancy, the social and educational needs of the girl are likely to require a co-ordinated assessment for support by Education, Health and by Social Work. It is in the young person's interest that they either refer themselves or allow another to contact these agencies on their behalf, at an early stage.