

# Sexually Active Young People

## A Guide for Staff Working with this Client Group

### The Background

Approximately 30% of young people have their first heterosexual experience before they are 16 despite this being illegal according to UK law. Those under 15 frequently regret the sexual activity they have, feel coerced into it and are under the influence of alcohol or drugs.

Children and young people may be vulnerable to exploitation and abuse in sexual relationships and they require support to recognise and manage this.

When we work with young people we assume a certain level of responsibility for them and for their well being. This is supported by *The Children (Scotland) Act 1995* which states that all healthcare workers (HCW) have a statutory responsibility to protect a child and inform relevant authorities e.g. social work if a young person is being harmed or is at risk of harm (from sexual, physical or emotional abuse). The Act offers additional protections to young people up to the age of 18 years.

This policy for appropriately supporting sexually active young people is therefore required so that we can support young people who are sexually active and offer additional support and intervention to those who are more vulnerable because they are being coerced into having sex, being exploited or have been sexually assaulted.

### The Young Person's Rights

- The client can independently seek, consent to and refuse medical treatment provided the doctor or nurse feels the client is competent. This, as described in the Age of Legal Capacity (Scotland) Act 1991 sections 2 (4) requires an assessment by a qualified medical practitioner of whether the client understands the nature and possible consequences of the advice and/or treatment, including contraception and termination of pregnancy.
- It is preferable for young people to have parental support and the value of this should be discussed.

### The Parent's Rights

- Parents have a right of custody until a child is 16, but this right can only be exercised if it promotes the child's interests.
- There is no law requiring parental consent before advice/treatment is given to a young person.

### The Duties Of The Health Care Worker

- To give the young person the knowledge and skills to be responsible for their own sexual health.
- To positively promote that young person's sense of worth and self-esteem, their health and development, so that they are able to make informed decisions.
- To facilitate harm minimisation through education and support, medical care including provision of emergency and ongoing contraception, pregnancy advice, and the testing and treatment of sexually transmitted infections.
- To establish trust between the client and the HCW to ensure the best care. The HCW is in a privileged position to talk about sex and sexuality, relationships and other relevant

issues where there may be the opportunity for harm reduction (for example eating disorders, deliberate self-harm and drug and alcohol abuse).

## **Confidentiality**

The confidentiality that is owed to a person less than 16 years of age is equal to that of an older person. The decision to share information depends on an assessment of current or potential harm, and not on the person's actual age.

If a service is not seen to be confidential then it is likely that some young people will not access the service, may lie about their age and may not disclose sexual activity or abuse.

Health professionals must consider however what information may require to be shared within their own and/ or with other agencies to ensure that a pattern of injuries or a disclosure of potential risk is not being missed.

The health care worker must be prepared to justify his/her decision to share informationo the patient, to his/her colleagues and to their relevant professional association.

Concern may be raised in a situation where the young person:

- Shows signs of physical, emotional/mental or sexual abuse, or there are indications that the young person may be at risk of significant harm if they were to return to a particular situation
- Self-harming, is threatening suicide or is threatening harm to another person

If it is felt that is in the young person's best interests to share information then every effort should be made first to gain the consent of the person concerned.

With specific regards to written information, under The Data Protection Act 1998 young people (aged 12-16 years of age) can have access to their personal health records. This Act also states that parents are not permitted to see a child's health record unless the child has given consent or the child is deemed too young to understand how to make a request. Young people themselves can access their records by requesting access in writing.

For young people who have concerns about how information has been shared or wish to complain about a "breach in their confidentiality" the Scottish Child Law Centre (Advice Line Mon-Fri 9.30am-4.00pm 0131 667 6333 Freecall Under 21s (landlines) 0800 328 8970 (mobiles) 0300 3301421) can provide relevant advice and information.

## **Consenting To Medical Treatment**

The Age of Legal Capacity (Scotland) Act 1991 states that a person under the age of 16 has the right to consent to treatment if in the opinion of a qualified medical practitioner he/she is capable of understanding the nature and possible consequences, benefits and risks of the procedure or treatment.

### Fraser Guidelines:

The Fraser guidelines are a set of criteria which are often used by health professionals to assess whether a young person can be provided with confidential contraceptive services without parental consent. Although Fraser Guidelines can be used as a guide in Scotland, the primary legislation that should be used in Scotland when determining capacity to consent to medical treatment is the Age of Legal Capacity (Scotland) Act 1991.

## **When A Young Person Under 16 Attends For Sexual Health Advice**

Outline the young person's rights with respect to confidentiality, including the ways information may be used and the limits to confidentiality, as for all consultations (see Sandyford Initiative Confidentiality Policy; Data Protection & confidentiality leaflet).

Ensure accurate documentation of the consultation. In addition to relevant clinical information, contact details, the name of any known social work contact, and the school or college attended should be recorded in the casenote. The specially designed proforma (the young person's risk assessment) for those under 16 and those under 18 who are Looked After and Accommodated or other wise vulnerable should also be completed. See section on documentation below.

## **YOUNG PEOPLE'S RISK ASSESSMENT**

### **For Clients Under 16 And Those Under 18 Years Who May Be Vulnerable**

- **Check demographics page** to ensure correct contact details
- **Document that a risk assessment has been done in NaSH in the relevant special form - Young People's Risk Assessment (accessed via Episode).**

**NB the risk assessment is the entire information discussed during the consultation and is recorded on multiple pages in the NaSH record.**

### **Risk Assessment**

- Have you discussed issues of confidentiality?
- Have you considered the intellectual age of the patient or any special needs the client may have e.g. Learning Disabilities or being Looked After or Accommodated?
- Was someone else present at consultation? If so specify relationship (e.g. friend/carer)
- Have you asked to see the client alone for at least part of consultation?
- Have you documented the following?
  - Whether they are currently sexually active
  - Age at first intercourse
  - Historical or recent nonconsensual sexual activity
  - Age of sexual partners
  - Whether any partners in a position of power/authority or potentially coercive – are they expected to have sex with their partners friends?
  - Current use of alcohol or drugs including cigarettes
  - Are they being given gifts/money/mobile phones in exchange for sexual acts or other tasks
  - Whether they are at school, in an educational programme or at college-employed/unemployed/other & the name of the school or programme
- Have you considered the following & documented if relevant?
  - With whom do they live? e.g. with one or more parents, alone, in care, with friends
  - Have you asked whether they plan to discuss their visit with parents/guardians?
  - If they do not live with parents, frequency of contact with parent(s) may be useful information
  - Do they have a social worker? Do they have a support worker/key worker/counsellor/support from another agency? (Name of these people would be useful information in some situations)
  - Have they been absconding from their placement/ school or been reported missing?
  - Have you discussed the legal issues?
- **Have you any child protection concerns?** If they are concerns that warrant immediate action have you discussed them with a senior member of staff/ the consultant on call. What action is to be taken? If they need reviewed by the Young people's team have you notified them either by telephone or via the NaSH "Q" system?
- **Have you any other concerns that need addressed?** If so: Have you discussed these? What action is to be taken? Have you alerted the Young People's team to this young person's attendance?

## **Capacity To Consent To Treatment**

- Do you think they understand the information you've given them?
- Do you think they can assess the pros and cons of the management you're suggesting?
- Do you think they have the ability to make a clear choice?
- Are they able to make that choice freely?
- Do you think they have communicated their decisions to you clearly?
- Do you think they have the capacity to consent to the treatment or procedure you're proposing?
- Is it in their best interests to offer them the proposed management?

## **Specific Situations**

### Young People Less Than 13 Years Of Age

The Glasgow protocol and Scottish National Child Protection guidance states that all sexually active young people less than 13 years of age must be referred to social work services. The timing of this will depend on the individual clinical situation.

All these young people must be seen by or discussed with a senior member of medical staff at the time that they attend if possible or at the earliest opportunity. There is always a consultant on call for advice during clinic times.

Relevant advice should be given and appropriate treatment offered. Every effort should be made to get adequate contact details such as a mobile phone number to allow further contact. All young people **aged 13 years or below** should have specific follow up arranged, to allow a further evaluation of their situation and any necessary medical follow up to take place. This is especially important where there are no/unreliable contact details. They should be placed on appropriate virtual diaries to ensure follow up/ further assessment takes place. They should be informed at their first attendance that information about their attendance will be shared with the appropriate social work team. Their consent to do this should be sought and they should be given the chance to discuss how this would be done.

### Young people over 13 who disclose sexual activity under the age of 13 years of age.

The new National guidance on working with sexually active young people states that even if the young person is 13 or over, a disclosure of historical sexual activity at under 13 years of age should also prompt information sharing with social work/appropriate agencies. In the first instance discuss all of these young people with the young people's team. These cases will be considered on a case by case basis and appropriate sharing in the young person's best interests will be considered.

### Non-Consensual Sex

See Sandyford Initiative Sexual assault protocol and Archway Glasgow protocol.

### Condom Provision

See Sandyford protocol for condom distribution

## **Documentation**

The specially designed proforma for those under 16 (young people's risk assessment form accessed from the Episode page in NaSH) should be completed. This is checked frequently by the Young Person's team, to ensure that we are managing cases appropriately, but it is not a substitute for sharing information about clients you have concerns about. Please contact the senior clinician or the consultant on call if you have a case that requires immediate/ urgent discussion. For clients where there are concerns that are not immediate please "Q" Beverly Wilson- Brown AND Fiona Fargie via NaSH (or contact them on the numbers listed in appendix 3

If there has been a recent risk assessment carried out within the same episode time frame please document whether or not there have been changes to the risk assessment and document this at every attendance.

## **What Should I Do If I Am Concerned That A Young Person Is “At Risk”?**

See “Child Protection” protocol available in public folders/protocols and guidelines and online at [www.sandyford.org](http://www.sandyford.org) and Child Protection Unit website – [www.nhsrrc.org/childprotectionunit](http://www.nhsrrc.org/childprotectionunit)

### **References**

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3. Glasgow Protocol for Working with young people who are sexually active. Glasgow Young People's Sexual Health Steering Group 2012.  
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4. The age of legal Capacity (Scotland) Act 1991  
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8. Gillick v West Norfolk and Wisbech AHA (1986) AC 112, (1985) 3 WLR 830, (1985) 3 All ER 402, HL
9. National Guidance for Child Protection in Scotland 2010  
<http://www.scotland.gov.uk/Resource/Doc/334290/0109279.pdf>

10. National Guidance – Under-age sexual activity: Meeting the needs of Children and Young People and identifying the child protection concerns 2010  
<http://www.scotland.gov.uk/Resource/Doc/333495/0108880.pdf>
11. The FPA – Law on Sex fact sheet.  
[http://www.fpa.org.uk/media/uploads/professionals/pdf\\_the\\_law\\_on\\_sex\\_factsheet\\_ja  
nuary\\_2011.pdf](http://www.fpa.org.uk/media/uploads/professionals/pdf_the_law_on_sex_factsheet_january_2011.pdf)

### **Appendix 1 - Laws Relating to Sexual Offences in Young People**

Sexual Offences (Scotland) Act 2009<sup>12</sup>

<http://www.legislation.gov.uk/asp/2009/9/part/4>

The age of consent to any form of sexual activity is 16 for both men and women, so that any sexual activity between an adult and someone under 16 is a criminal offence.

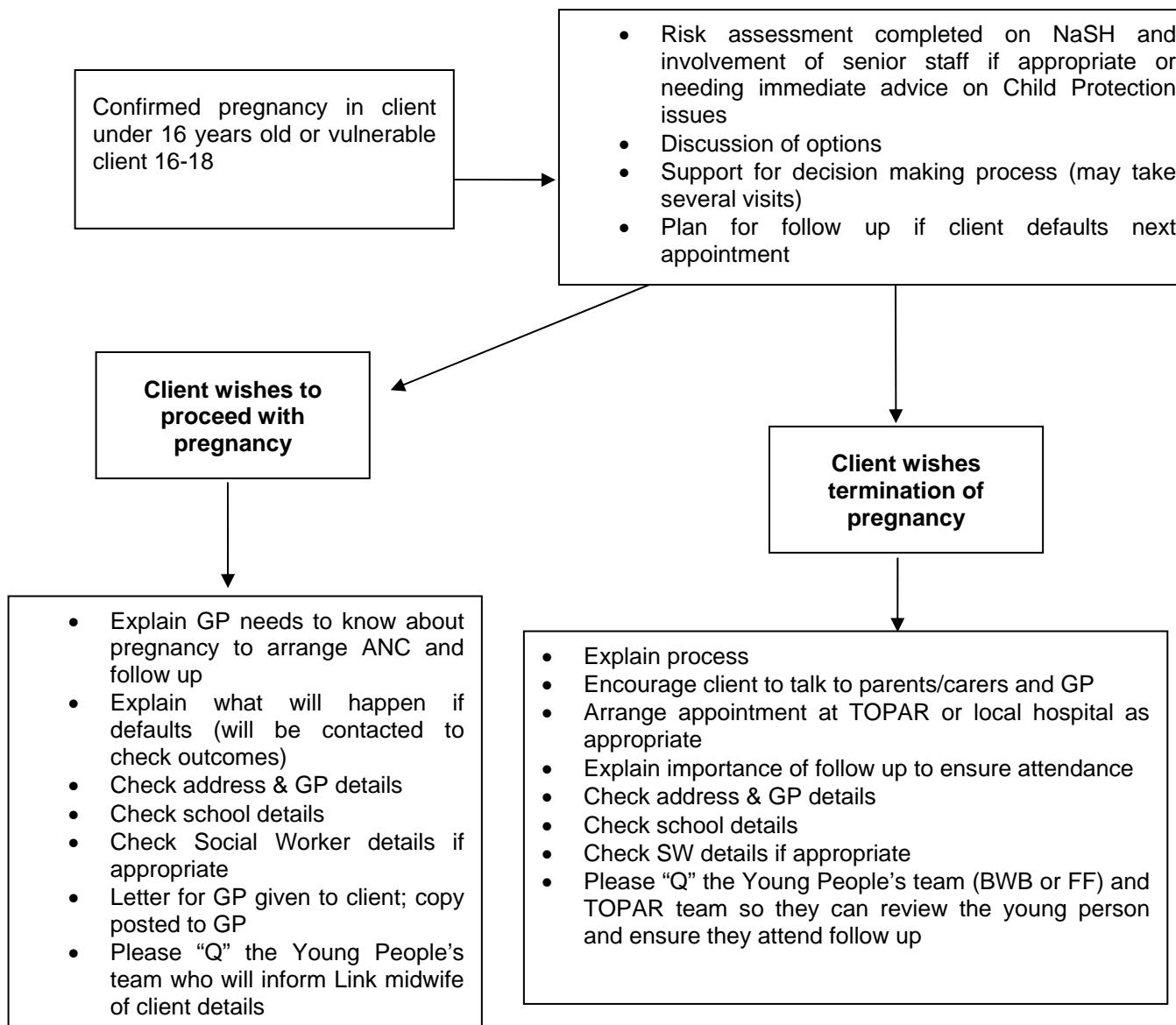
There are possible defenses if the sexual activity does not involve penetrative or oral sex. These are if the older person believed the young person to be aged 16 or over and they have not previously been charged with a similar offence, or the age difference is less than two years.

Sexual intercourse (vaginal, anal) and oral sex between young people aged 13-15 are also offences, even if both partners consent. A possible defense could be that one of the partners believed the other to be aged 16 or over.

A range of specific offences protect children under 13, who cannot legally give their consent to any form of sexual activity. The maximum penalty could be life imprisonment for rape, sexual assault, sexual assault by penetration, or causing a young child to participate in sexual activity. There is no defense that the accused believed that the child was older.

Guidance from the Scottish Government acknowledges that not every case of sexual activity in under-16s will have child protection concerns, but young people may still be in need of support in relation to their sexual development and relationships.

## Appendix 2 - Flowchart For Management Of Pregnant Clients Under 16



### Appendix 3 – Important contact details

<b>Position</b>	<b>Contact Details</b>			
<b>Dedicated Consultant Paediatrician for Child Protection</b>	Via Yorkhill Hospital switchboard: 0141 201 0000			
<b>Archway SARC</b>	The Archway, Sandyford Place, G3 7NB. 014 1211 8175			
<b>Child Protection Unit</b>	Royal Hospital for Sick Children, Child Protection Unit, 2 <sup>nd</sup> Floor, Medical Records Building, Dalnair Street, Glasgow, G3 8SJ Tel; 0141 201 9253			
<b>Sandyford Child Protection Lead</b>	Fiona Fargie 211-8613 Beverly Wilson-Brown 211-8613			
<b>Family Protection Units</b>	North Glasgow + East Dumbartonshire Saracen Police Office 0141 532 3966/3967	Dumbartonshire Clydebank Police Office 0141 532 3358/3314	East Glasgow Baird Street/Saracen Police Office 0141 532 3966/3967	South Glasgow + East Renfrewshire Aitkenhead Police Office 0141 532 5003/4985
	Hamilton, Cambuslang & East Kilbride Cambuslang Blantyre Police Office 01698 202536	Motherwell Motherwell Police Office 01698 483095	Central and West Glasgow Stewart Street Police Office 0141 532 3004/3031	Renfrew, Paisley & Greenock Renfrew Police Office 0141 532 6121/6160
	Ayrshire & Kilmarnock Ayr Police Office - 01563 505135/505092			
<b>Social care direct</b>	<b>Phone</b> 0141 287 0555 Out of hours: 0800 811505			
<b>Oncall FP/GUM Consultant</b>	Sandyford Consultants can be contacted by paging via Gartnavel Switchboard 0141-211-3000			
<b>Childline Scotland</b>	0800 11 11 (For Children) 0870 336 2910 (For Professionals) - 18 Albion Street, Glasgow, G1			
<b>Strathclyde Rape Crisis Centre</b>	PO Box 53, Glasgow G1 1WE 0141 552 3200			