



**Suffolk Safeguarding
Children Board**

Working with Sexually Active Young People Under the Age of 18

Policy Version History

Version	Date	Review Date	Author/Reviewer	Date of LSCB/ PPE Approval
1			Dr Nikki Rycroft <i>West Suffolk & Ipswich and East Suffolk CCGs</i>	September 2008
2			Dr Nikki Rycroft <i>West Suffolk & Ipswich and East Suffolk CCGs</i>	October 2009
3			Dr Sandra Weston <i>West Suffolk & Ipswich and East Suffolk CCGs</i>	April 2015
4	02/08/2017	02/08/2020	Charlie Pincock Consultant Social Worker, Make A Change Team	

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Introduction

This guidance applies to all professionals who work with young people under 18 seeking advice or treatment for sexual health issues. It is based on the core principle that the welfare of the young person is paramount. It emphasises the need for professionals to work together to accurately assess risk when a young person is engaged in sexual activity and describes the action to take when risk is identified.

Aims of this Guidance

- To assist all professionals who provide sexual health advice or treatment to young people under 18 in identifying those young people who may be at risk of maltreatment or abuse and who may need support and protection.
- To clarify referral pathways for young people who are considered to be at risk.
- To inform all professionals of the legal framework which underwrites consultations with sexually active young people including issues relating to consent and confidentiality.
- All agencies that have contact with young people use the Protocol to ensure consistent practice and decision-making.

Legal Context: Sexual Offences Act 2003

Young People Under the Age of 13

Under the Sexual Offences Act 2003, children under the age of 13 are considered of insufficient age to give consent to sexual activity. Any offence under the Sexual Offences Act 2003 involving a child under 13 is very serious and must be taken to indicate a risk of maltreatment or abuse.

Young People Aged Between 13 and 16

The Sexual Offences Act 2003 reinforces the fact that the legal age of consent remains at 16. It is acknowledged that some young people under 16 may be involved in consensual sexual relationships and it is accepted that it is not in the public interest to prosecute such young people if they are of the same or similar age and understanding; the activity is truly consensual for both parties and there are no aggravating features, such as coercion or corruption.

Young People Aged 17 and 18

The Sexual Offences Act 2003 states that it is an offence for a person in a position of trust to engage in sexual activity with a young person under 18 years. Positions of trust are defined in section 21 and 22 of the Act (e.g. persons in educational establishments, residential settings, or where duties involve regular unsupervised contact of children in the community). **Allegations of this nature must be referred to a Local Authority Designated Officer (LADO).** There is wider definition and guidance on making a LADO referral, within the LSCB Policy '[Arrangements for Handling Allegations of Abuse Against People who work with Children or Those Who are in a Position of Trust](#)'.

Young People with a Mental Disorder

The Act provides protection for young people with a mental disorder, whose mental functioning may be impaired such that they may be unable to make a decision about their involvement in sexual activity, may be vulnerable to inducement, threat or deception or may be in a position of dependency upon the carer. *For the purpose of this guidance, mental disorder means mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind. A person who has learning disabilities also falls within this definition of mental disorder.*

Provision of Sexual Health Advice

The Sexual Offences Act 2003 does not affect the ability of health professionals and others working with young people to provide confidential advice or treatment on contraception, sexual and reproductive health to young people under 16.

The Act states that a person is not guilty of aiding, abetting or counselling a sexual offence against a child where they are acting for the purpose of protecting a child from pregnancy or sexually transmitted infection, protecting the physical safety of a child or promoting the child's emotional well-being by the giving of advice.

In all cases, the person must not be causing or encouraging the commission of an offence or a child's participation in it. Nor must the person be acting for the purpose of obtaining sexual gratification.

This exception, in statute, covers not only Health Professionals, but anyone who acts to protect a child, for example Teachers, Connexions Personal Advisers, Youth Workers, Social Care Practitioners and Parents.

Consent and Confidentiality

Fraser Guidelines

Fraser Guidelines give guidance on providing sexual health advice and treatment to young people less than 16 years of age with specific regard to providing such advice and treatment without parental consent.

It is considered good practice for workers to follow the guidelines when discussing personal or sexual matters with a young person under 16.

Guidelines hold that sexual health services can be offered without parental consent providing that:

- The young person understands the advice that is being given
- The young person cannot be persuaded to inform or seek support from their parents and will not allow the worker to inform the parents that contraceptive/protection, e.g. condom advice, is being given.
- The young person is likely to begin or continue to have sexual intercourse without contraception or protection by a barrier method.
- The young person's physical or mental health is likely to suffer unless they receive contraceptive advice or treatment.
- It is in the young person's best interest to receive contraceptive or safe sex advice and treatment without parental consent.

Confidentiality

The duty of confidentiality owed to a person under 16 is the same as that owed to any other person. This duty however is not absolute. Confidential information may be shared without a young person's consent if a professional believes there is a risk to the health, safety or welfare of a young person or others, which is so serious as to outweigh the young person's right to privacy. The young person's right to privacy must be balanced against the degree of current or likely harm and the potential benefits to their overall safety and wellbeing.

Any disclosure without consent must be justifiable according to the particular facts of the case and should only take place after first offering to support the young person with a voluntary disclosure.

All services providing advice and treatment on contraception, sexual and reproductive health to young people should produce an explicit confidentiality policy which reflects this guidance, and which informs them of their information sharing policy.

Confidence is only breached when the sharing of confidential information is not authorised by the person who provided it or to whom it relates.

If information is provided on the understanding that it will be shared with a limited range of people or for limited purposes, then sharing in accordance with that understanding will not

be a breach of confidence. Any information that is shared should be shared on a need to know basis.

Sharing Information with Parents and Carers

Decisions to share information with parents and carers will be taken using professional judgement and consideration of Fraser guidelines, and local safeguarding procedures.

Decisions will be based on the child's age, maturity and ability to appreciate and understand the implications and risks to themselves. This should be balanced against the parents' and carers' ability and commitment to protect the young person. Professionals should encourage the young person to share information with their parents and carers wherever safe to do so.

Working with Young People

When working with young people the professional must seek to build trust as far as possible.

On each occasion that a young person is seen, consideration must be given to whether their circumstances have changed or whether information gained suggests a likelihood of the young person being at risk of harm.

Professionals can check to see whether a Common Assessment has been completed on the young person and if there is a current lead professional involved.

Assessing Risk

All young people regardless of gender or sexual orientation who are believed to be engaged in, or planning to be engaged in sexual activity, must have their needs for health, education, support and protection assessed by the agency involved.

In understanding the nature of any particular behaviour, it is essential to look at the facts of the actual relationship between those involved.

In order to determine whether the relationship presents a risk to the young person, the following factors must be considered:

- Whether the young person is competent to understand and consent to the sexual activity that they are involved in. The younger the young person the less competent they may be.
- The nature of the relationship between those involved, particularly if there are power imbalances, which can occur through differences in size, age and development. The larger the age gap between those involved the greater the need to assess the power balance. If the age gap is greater than 4 years for those under 16 years old, the case should be discussed with the child protection lead. Gender, sexuality, race and levels of sexual knowledge may also be used to exert power. There may also be an imbalance of power if the young person's sexual partner is in a position of trust in relation to them e.g. teacher, youth worker, carer etc.

- Whether overt aggression, coercion or bribery has been involved including misuse of substances/alcohol as a disinhibitor.
- Whether the young person's own behaviour, for example through misuse of substances, including alcohol, places them in a position where they are unable to make an informed choice about the activity.
- If the young person has a learning disability, mental disorder or other communication difficulty.
- Whether any attempts to secure secrecy have been made by the sexual partner beyond that which would be normally considered usual in a teenage relationship.
- Whether the sexual partner is known by the agency as having other concerning relationships with similar young people.
- If accompanied by an adult, does that relationship give any cause for concern?
- Whether the young person denies, minimises or accepts concerns.
- Whether methods used to secure compliance or secrecy by the sexual partner are consistent with behaviours considered to be 'grooming'.
- Whether sex has been used to gain favours (e.g. sex for cigarettes, clothes, CDs, trainers, alcohol, drugs etc.).
- The young person has a lot of money or other valuable things, which cannot be accounted for.

The Suffolk LSCB 'Working with Sexually Active Under 18s Flowchart' can be found in the Appendices of this document; this tool can help you risk assess sexually active young people.

Action to be taken if Concerns or Risks are Identified

Information Sharing

Sharing information is vital for early intervention to ensure that young people with additional needs get the services they require and to protect them from suffering significant harm. The safety and welfare of young people must always be considered when making decisions on whether to share information. The information must be accurate and up to date.

It is important that all decisions are undertaken with full professional consultation, never by one person alone. All decisions and the reasons for these must be clearly recorded.

Common Assessment Framework (CAF)

Where there are concerns about the general welfare of a young person and their needs are unclear or the support of more than one agency is needed, the professional involved should consider completing a [CAF](#).

Referral to the Multi-Agency Safeguarding Hub (MASH)

If risk of harm is identified the young person must be referred to the MASH.

The operational MASH is a multi-disciplinary, multi-agency team including practitioners from Social Care, Police and Health.

Any referral to the MASH must be discussed in the first instance with the young person unless it is considered that this could put them or others at further risk of harm. The organisation making the referral has a duty of care to the individual to secure their physical and mental well-being and offer support.

On receipt of a referral, the MASH Team will determine what they believe the needs of the young person to be and decide on a course of action within one working day in accordance with local safeguarding procedures.

Referrals to the MASH should be made via Customer First on 0808 800 4005. Delay should be avoided. Referrals can be made by phone but must be followed up in writing within 48 hours using the [Multi-Agency Referral Form](#) (MARF).

Young People Aged Under 13

There is a requirement that any case involving a child under 13 where the allegation concerns penetrative sex or other intimate sexual activity will be referred to the MASH and a strategy meeting held.

When a girl under 13 is found to be pregnant, a referral to the MASH must be made and a strategy discussion held with the police and other relevant agencies in accordance with local safeguarding procedures.

Young People Aged Between 13 and 15

All sexually active young people between 13 to 15 must have their needs assessed under this Protocol. Discussion with the MASH will depend on the level of risk identified by those working with the young person. In some cases it may be appropriate to seek advice from the child protection lead to determine whether such a referral is required.

Young people over 16 and under the age of 18 are not deemed able to give consent if the sexual activity is with an adult in a position of trust or a family member as defined by the Sexual Offences Act 2003. Any such cases must either be discussed with the organisation lead for child protection or be referred directly to the MASH.

If concerns relate to a professional person in a position of trust, they must be discussed with a Local Authority Designated Officer (LADO). The LADO can be contacted via email on LADOCentral@suffolk.gcsx.gov.uk or the central LADO telephone number 0300 123 2044.

For more guidance see the LSCB Policy '[Arrangements for Handling Allegations of Abuse Against People who work with Children or Those Who are in a Position of Trust](#)' and the [LADO Referral Form](#).

Concerns Around Child Sexual Exploitation

The recent report by the Children's Commissioner into CSE found that over the past 20 years evidence has shown that large numbers of children are being sexually exploited in the UK. It called for urgent action to ensure practitioners recognise the many warning signs that children display when being subjected to sexual exploitation at the hands of gangs and groups and that they know how to act.

Barnardo's Definition of Child Sexual Exploitation

1	Inappropriate relationships	Usually involving one perpetrator who has inappropriate power or control over a young person (physical, emotional or financial). One indicator maybe a significant age gap. The young person may believe they are in a loving relationship.
2	'Boyfriend' model of exploitation and peer exploitation	The perpetrator befriends and grooms a young person into a 'relationship' and then coerces or forces them to have sex with friends or associates. Our services have reported a rise in peer exploitation where young people are forced or coerced into sexual activity by peers and associates. Sometimes this can be associated with gang activity but not always.
3	Organised/networked sexual exploitation or trafficking	Young people (often connected) are passed through networks, possibly over geographical distances, between towns and cities where they may be forced/ coerced into sexual activity with multiple men. Often this occurs at 'sex parties', and young people who are involved may be used as agents to recruit others into the network. Some of this activity is described as serious organised crime and can involve the organised 'buying and selling' of young people by perpetrators.

See Barnardo's [Puppet on a String Report](#) 2011.

[Suffolk LSCB Child Exploitation Recognition, Referral, Risk and Response Guidance.](#)

Note: CSE is a form of sexual abuse. If you are unfamiliar with the new risk assessment and referral pathway for CSE, act on your concerns in the same way as you would for other safeguarding concerns by seeking advice and contacting the Multi-Agency Safeguarding Hub (MASH) via Customer First on 0808 800 4005.

Young People Alleging Sexual Assault

All assaults of an under 16-year-old should be referred to the MASH via Customer First on 0808 800 4005 as there will always be a Police/Social Care investigation.

In these cases GPs are advised not to examine the child. However, if the family is concerned about symptoms, without any allegation, the child should be examined and relevant swabs/investigations taken.

For over 16-year olds the advice of The Ferns should be sought. The Ferns can be contacted by telephone on 0300 123 5058 (public) and 01473 668974 (professionals).

The Ferns is a Sexual Assault Referral Centre (SARC) which facilitates the involvement of Police and Social Care and the young person will be assessed and treated by a specialist Forensic Medical Examiner in a safe environment. Specialist workers can offer emotional support and practical advice.

<http://theferns-suffolk.org.uk>

Concerns Around Sexually Harmful Behaviour in Children and Young People

Sexually harmful behaviour by children and young people includes a range of behaviours in a variety of situations and can be defined as: “young people who engage in any form of sexual activity with another individual that they have powers over by virtue of age, emotional maturity, gender, physical strength, intellect and where the victim in this relationship has suffered an exploitation and/or a betrayal of trust.” (Palmer, 1995).

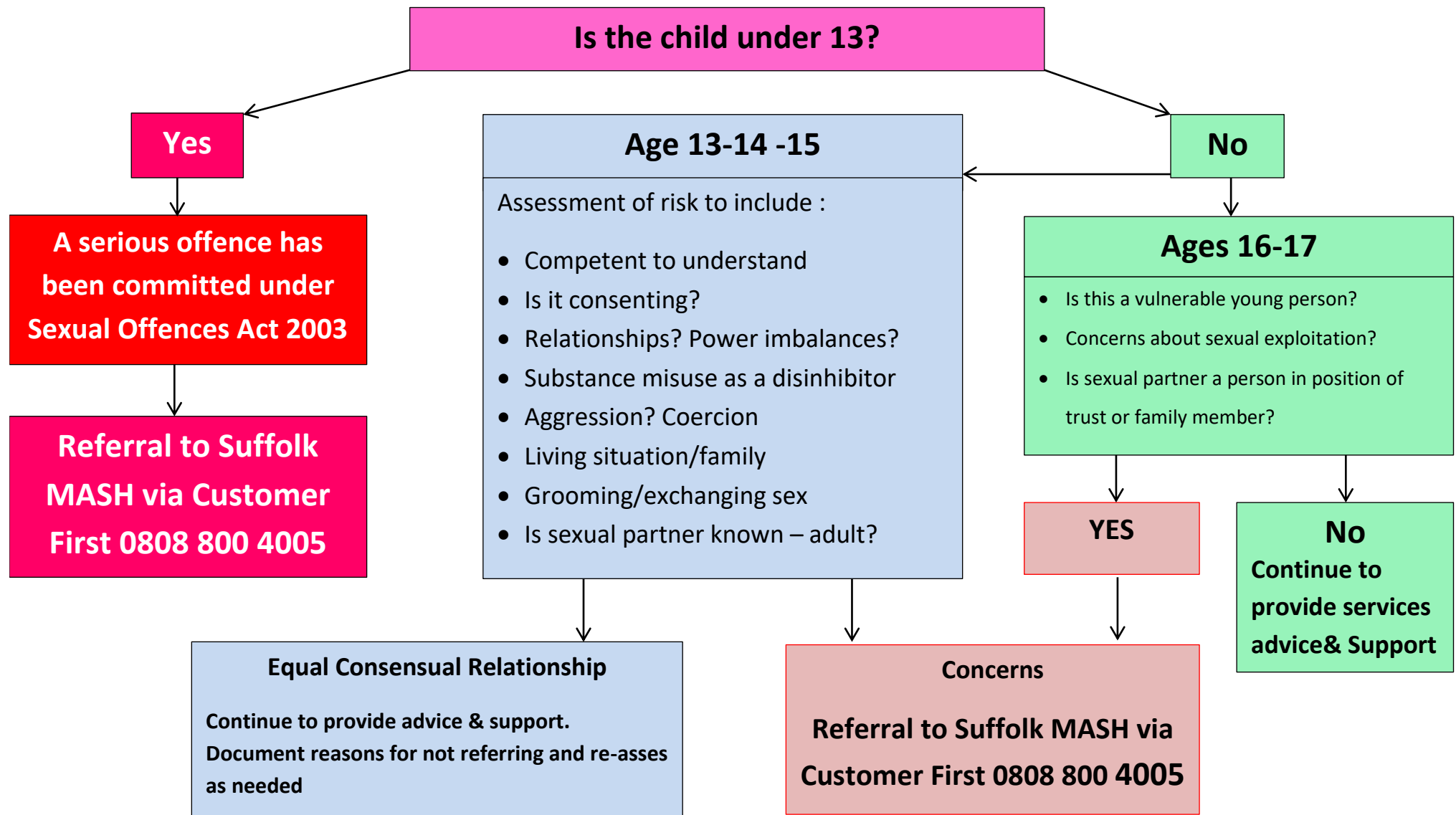
Sexually Harmful Behaviour in Children and Young People should be referred to the MASH via Customer First on 0808 800 4005.

The welfare of children is paramount and the primary objective of professionals must be the protection of victims and prevention of further harm.

However, it is also essential that children and young people who exhibit sexually harmful behaviours are properly and consistently assessed in order to establish the extent, nature and the antecedents of the behaviour. Such young people are likely to be children in need and some in addition will be suffering or be at risk of significant harm and may be in need of protection.

Suffolk Youth Offending Service works in partnership with Children’s Social Care and CAMHS to deliver the Suffolk Sexually Appropriate Behaviour Service (SSABS) which provides specialist assessment, intervention and advice to other professionals on this issue. Enquiries can be made with the SSABS Operational Manager based at West Suffolk House Bury St Edmunds contact number 01284-758230.

Working With Sexually Active Under 18s Flow Chart



Key Amendments, Updates and Stakeholders

August 2017

- Page 11 – Removal of NSPCC as they are no longer in Ipswich, and have updated the contact details for sexually harmful behaviour as the base is now Bury.

In consultation with:

- Charlie Pincock Consultant Social Worker, Make A Change Team