

# Sexually Active Young People

## A Guide for Staff Working with this Client Group

### **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.
- Healthcare workers (HCW) assume a certain level of responsibility for young people. They 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). This is supported by *The Children (Scotland) Act 1995*, which also offers additional protection for those up to 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.

### **Young Person's Rights**

- Young people can independently seek, consent to and refuse medical treatment provided the doctor or nurse feels the client is competent ([Age of Legal Capacity \(Scotland\) Act 1991 sections 2 \(4\)](#)). This requires an assessment by a qualified medical practitioner of whether they understand 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, acknowledging however this may be not right for everyone.

### **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.

### **Duties of the Health Care Worker**

- The Scottish Government published guidance for healthcare professionals in May 2019 on [Healthy relationships and consent: Key messages for young people](#).
- To give the young person:
  - Knowledge and skills to be responsible for their own sexual health.
  - Positively promote their sense of worth and self-esteem, health and development to enable them to make informed decisions.

- 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.
- 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 information about the patient, to his/her colleagues and to their relevant professional association.

Examples of when concerns should be raised:

- Shows signs of physical, emotional, mental or sexual abuse, or there are indications that the young person may be at risk (and/or others) of significant harm if they were to return to a particular situation.
- Self-harming, 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.

## **Written information**

Under The Data Protection Act 1998 young people (aged 12-16 years of age) can have access to their personal health records. It 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 can provide relevant advice and information.

- Advice Line Mon-Fri 9.30am-4.00pm 0131 667 6333
- Freecall Under 21s 0800 328 8970
- Mobile 0300 3301421

## **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.

## **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?

## **Under 16s and those under 19 Years who may be vulnerable**

- 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 Confidentiality Policy).
- Ensure demographics and contact details including address, mobile and email address are up to date, along with their permissions.
- Accurate documentation of the consultation.
- **Complete the young people's risk assessment for all under 16s and those under 19 who are Looked After and Accommodated (LAAC) or vulnerable:**
  - If they require any additional support from social work or third sector organisations for example. Detail the contact names and any relevant contact information.
  - Up to date details of their school or college attended.
  - Accurately complete the social history section including accommodation type.
- If vulnerabilities /disabilities/mental health conditions identified apply a purple triangle to NaSH, e.g. Priority person, please fast track if attends service.

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

## **Risk Assessment**

A joint document ([Spotting the Signs](#)) produced by BASHH and Brook, in collaboration with young people suggests how HCW should ask about sexual health. This is linked on the NaSH home screen. This forms the basis of the below risk assessment.

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.

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.

- 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 Looked After and Accommodated?
- Was someone else present at consultation? If so specify name and relationship (e.g. friend/carer)
- Have you asked to see the client alone for at least part of consultation?
- Have you documented the following?

### **Education**

- Do you attend school/education other than school/pupil referral unit/ college/ training/employment?
- Name of school or programme.
- Do you attend regularly?
- Do you enjoy it?

### **Family relationships**

- Who do you live with?
- How are things at home?
- Do you feel like you can talk to someone at home about sex and relationships, including attending this appointment?
  - Young carer
  - Looked after child
  - Homeless
  - Runaway
  - Family bereavement
  - Learning or physical disability
- Are you involved with any other agencies or professional such as social workers or mental health services?
- If so, would you be happy for us to contact them if we feel we need to?

### **Friendships**

- Do you have friends your own age who you can talk to?
- Do your friends like and know the person you have sex with (if you are involved with or having sex with anyone)?

### **Relationships**

- Are you having sexual contact with anyone?
- If no, when was the last time you did?
- If yes, are you happy with the person you are going out with/having sex with?
- How old were you when you had sex for the first time?
- How old is the person you are having sex with?

- How many people have you had sexual contact with in the past 3 months? 12 months?
- Where do you spend time together?
- Where did you meet the person you have sex with, including the use of social media e.g. SnapChat or Facebook?

### Consent

- Have you ever been made to feel scared or uncomfortable by the person/s you have been having sexual contact with?
- Have you ever been made to do something sexual that you didn't want to do, or be intimidated?
- Do you feel that you could say no to sex?
- Has someone ever given you something like gifts, mobile phones, cigarettes, money, drugs, alcohol, bitcoins or protection for sex or sexual pictures?
- Where do you have sex?
- Who else is or was there when you have sex (or any other form of sexual contact including sending naked pictures)?

### Sexual Health

- What contraception do you use?
- Do you feel you can talk to the person you have sex with about using condoms or other forms of contraception?
- Have you ever had an STI test?
- Have you ever had an STI? If yes, which and was it treated?
- Do you ever use drugs and/or alcohol?
- Do you often drink and/or take drugs before having sex?
- Do you suffer from feeling down/depression?
- Have you ever tried to hurt yourself or self-harm?
- Have you ever been involved in sending or receiving messages of a sexual nature? Does anyone have any pictures of you of a sexual nature?
- Do you know the law surrounding taking naked pictures?

Brook has also developed a [traffic light tool to assess appropriate sexual behaviour](#).

- **Have you any child protection concerns?** If there 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?  
All concerns should be relayed to the Young people's team either by telephone or via internal referral to YP Inclusion Team.
- **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 via telephone or internal referral to this young person's attendance?

## Specific Situations

### Young people less than 13 years of age

#### Resources

- The [Glasgow Protocol for Professionals Working with Young People Who Are Sexually Active 2012](#)
- [National Guidance for Child Protection in Scotland 2014](#)

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. Discuss with the 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. Please inform 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.

**Complete an internal referral to the Young Peoples inclusion team – highlighting your concerns.**

**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 must 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.

**Complete an internal referral to the Young Peoples inclusion team – highlighting your concerns.**

**Child Sexual Exploitation (CSE)**

Child Sexual Exploitation is a form of child sexual abuse in which a person(s), of any age takes advantage of a power imbalance to force or entice a child into engaging in sexual activity in return for something received by the child and/or those perpetrating or facilitating the abuse (see GGC CSE checklist in Appendix 3).

As with other forms of child sexual abuse, the presence of perceived consent does not undermine the abusive nature of the act.

The Scottish Government produced guidance for Healthcare Practitioners in March 2017 on [CSE](#) (click here).

If you have any concerns that a young person is at risk of CSE, information should be shared with the young persons team, via telephone or internal referral. The YP team will consider information sharing or raising a Notification of Concern with other agencies such as social work, school nurse, child protection and/or police.

**Non-consensual sex**

See Sandyford Sexual Assault protocol and Archway Glasgow protocol.

**Condom provision**

See Sandyford protocol for condom distribution

## **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 – <http://www.nhsggc.org.uk/about-us/professional-support-sites/child-protection-unit/>

## **Staff training**

**The NHS GGC Child Protection Service Learning and Educational Strategy stipulates that clinical sexual health staff working with children and young people should be at level 3 competency in child protection.**

Details can be found at:

<http://www.staffnet.ggc.scot.nhs.uk/Corporate%20Services/Child%20Protection/Pages/CPUTrainingInformation.aspx>

## **References**

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## **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> (accessed 27 Nov 2019)

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.

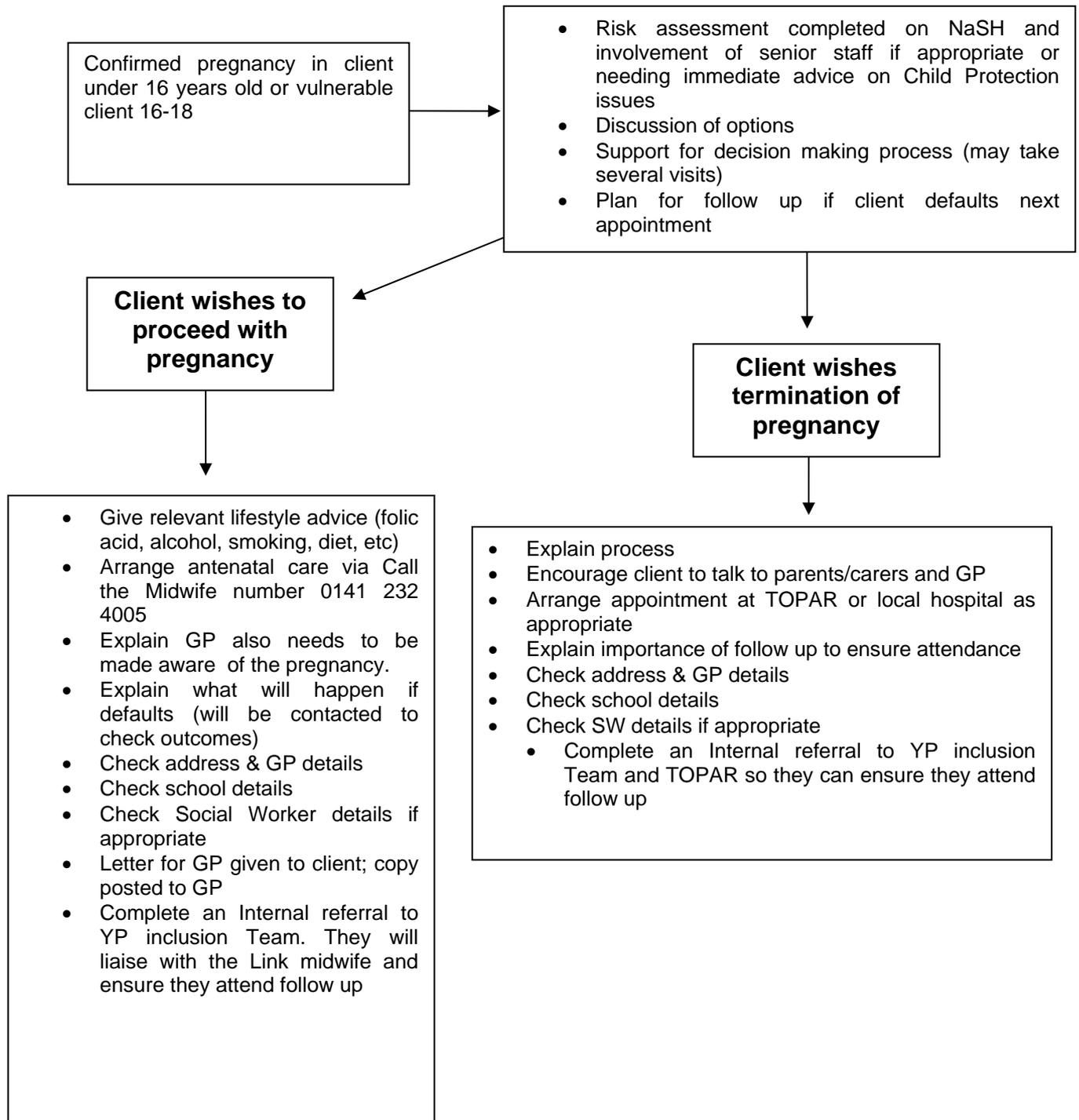
There are possible defenses if the sexual activity does not involve penetrative or oral sex. These are if the older person believed the young person to be aged 16 or over and they have not previously been charged with a similar offence, or the age difference is less than two years.

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 4 – Important contact details

Position	Contact Details								
<b>Dedicated Consultant Paediatrician for Child Protection</b>	Via Royal Hospital for Children Glasgow switchboard: 0141 201 0000								
<b>Archway SARC</b>	The Archway, Sandyford Place, G3 7NB. 0141 211 8175								
<b>Child Protection Unit</b>	Child Protection Unit Ground Floor Office Block Queen Elizabeth University Hospital 1345 Govan Road Glasgow G51 4TF  Telephone: 0141 451 6605								
<b>Sandyford Child Protection Lead</b>	Child Protection Lead – Currently vaccant Inclusion Team Office: 0141 211 8613 Lead Nurse: Caroline Wilson YP mobile: 07814707003 YP e.mail: gg-uhb. <a href="mailto:sandyforyoungpeopleandadultprotection@nhs.net">sandyforyoungpeopleandadultprotection@nhs.net</a>								
<b>Family Protection Units</b>	<table border="1"> <tr> <td>North Glasgow + East Dumbartonshire Saracen Police Office 0141 532 3966/3967</td> <td>Dumbartonshire Clydebank Police Office 0141 532 3358/3314</td> <td>East Glasgow Baird Street/Saracen Police Office 0141 532 3966/3967</td> <td>South Glasgow + East Renfrewshire Aitkenhead Police Office 0141 532 5003/4985</td> </tr> <tr> <td>Hamilton, Cambuslang &amp; East Kilbride Cambuslang Blantyre Police Office 01698 202536</td> <td>Motherwell Motherwell Police Office 01698 483095</td> <td>Central and West Glasgow Stewart Street Police Office 0141 532 3004/3031</td> <td>Renfrew, Paisley &amp; Greenock Renfrew Police Office 0141 532 6121/6160</td> </tr> </table> <p>Ayrshire &amp; Kilmarnock Ayr Police Office - 01563 505135/505092</p>	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
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<b>Social care direct</b>	<b>Phone</b> 0141 287 0555 Out of hours: 0800 811505								
<b>Oncall SRH/GUM Consultant</b>	Sandyford Consultants can be contacted via QEUH Switchboard 0141-201-1000								
<b>Childline Scotland</b>	0800 11 11 (For children) <b>0808 800 5000 (For adults concerned about a child)</b>								
<b>Glasgow and Clyde Rape Crisis Centre</b>	PO Box 53, Glasgow G1 1WE 08088 00 5000								