

***Grwp Adolygu Canllawiau  
Amddiffyn Plant Cymru Gyfan***

***All Wales Child Protection  
Procedures Review Group***



# **ALL WALES PROTOCOL**

## **THE MANAGEMENT OF YOUNG PEOPLE ENGAGED IN SEXUALLY HARMFUL BEHAVIOUR**

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Author:	AWCPPRG
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## **DRAFT**

### **INTRODUCTION**

It is understood that children and young people are responsible for up to one third of the sexual abuse of others. This protocol is intended to ensure consistency across Wales where there is professional concern that a child or young person may have engaged in sexually harmful behaviour. This protocol should be read in conjunction with the All Wales Child Protection Procedures (2008) (AWCPP) and Safeguarding Children: Working Together Under the Children Act (2004/2006).

#### **Status of this protocol**

This protocol applies to all staff and volunteers of agencies involved in work with children and young people in Wales. Agencies should ensure that other interagency or internal procedures/guidance/protocols are consistent with this document. This protocol replaces all existing LSCB protocols on the management of young people engaged in sexually harmful behaviour.

#### **Scope of this protocol**

This protocol applies to all children and young people up to the age of 18 years who have, or who are alleged to have, engaged in sexually harmful behaviour. This includes behaviour toward a child, peer or adult. The protocol applies whether or not the young person is subject to criminal proceedings. What constitutes sexually harmful behaviour are those behaviours outlined in the Sexual Offences Act 2003 and as described in Appendix 1. It is recognised that the majority of children and young people engaged in sexually harmful behaviour do not receive criminal disposals. There is no lower age limit of child to whom this protocol applies.

This protocol is not intended for use with regard to mutually agreed, non exploitative sexual activity between teenagers aged 13-16 years. Such activity should be considered with reference to the All Wales 'Protocol for safeguarding and promoting the welfare of sexually active young people' (s5.4 AWCPP 2008). However, an allegation of non consensual sexual activity concerning young people in this age group should not be dismissed as normal or 'experimental' and must be considered with reference to the procedures in this protocol.

Children under the age of 13 years are unable legally to give consent to sexual activity. Therefore, any alleged sexual activity concerning a child under 13 years and another young person must be considered under this protocol.

It should be noted that the needs of a child or young person engaged in sexually harmful behaviour should be considered separately from the needs of their victim (s4.9.1 AWCPP, 2008). In some instances, where multiple allegations or concerns are present, responsibility for the behaviour may not initially be clear. In these circumstances, further investigations and/or assessments may be necessary. However, meetings to jointly consider alleged perpetrators and victims should not occur.

This protocol applies where there is an allegation of sexually harmful behaviour concerning a child or young person or where there is sufficient professional concern in respect of a young person and possible sexually harmful behaviour. This protocol equally applies where the young person denies the behaviour. Denial is common in

young people who sexually harm and neither this, nor the presence or absence of a pending prosecution, should impact on the process outlined below.

### **Purpose of this protocol**

This protocol outlines the co-ordinated multi agency response referred to in AWCPP (2008):

*'There should be a co-ordinated approach to allegations of sexual abuse by children and young people that involves the Youth Offending Service as well as social services, police, education services (including educational psychology and education welfare), the health service (including child and adolescent mental health service) and specialist harmful behaviour services where available.'* (s4.9.1).

This dictates a collaborative approach between child welfare and criminal justice agencies. It recognises that children and young people engaged in sexually harmful behaviour are likely to have considerable needs themselves, and also may pose significant risk of harm to others. Evidence suggests that they may have suffered considerable disruption in their lives, been exposed to family violence, may have been the subject of abuse, have educational difficulties and/or may have committed other offences (Working Together to Safeguard Children, 2006).

This document outlines the procedure to be followed by the agencies involved at different stages of the process from the time of referral to completion of the relevant stages of intervention.

## **PROCESS**

### **Referral**

*'All alleged abuse by children and young people should be treated seriously and should always be referred to social services and/or the police'* (s4.9.1, AWCPP, 2008)

Where the police are the first agency to become aware of such an allegation, they must make an immediate referral to social services. This should be regarded as a child protection referral and managed in accordance with procedures in Part 3 AWCPP (2008).

Any individual professional or agency who has a concern that a child or young person may have engaged in sexually harmful behaviour, even where there is no specific complaint, must refer their concerns to Social Services. This includes young people with a history of sexually harmful behaviour who have moved from one local authority in Wales to another area.

Every professional has a duty to consider the possibility of harm to children and young people (s5.4.3.1, AWCPP, 2008). Where a young person under the age of 13 years is believed to have been involved in sexual activity, a child protection referral must be made, unless the agency takes a recorded decision not to do so. Where a young person of any age alleges non consensual activity, this must always be referred to social services (s5.4.6.1-3, AWCPP, 2008).

### **Immediate action**

Subsequent to referral, social services must follow child protection procedures as

outlined in Part 3 and s4.9.2 AWCPP, 2008. This will involve completion of an Initial Assessment and a strategy discussion may take place.

Separate enquires and investigations must be pursued in respect of the victim and alleged abuser. Different social workers should be allocated to the victim and the alleged abuser, including when living in the same household.

However, it is important that professionals share relevant information gained from enquiries with regard to alleged victim and perpetrator. Information relevant to both should only be collected once (s4.9.2 AWCPP).

### **Strategy Meeting**

Unless the Initial Assessment or Strategy Discussion determines that there are no concerns in relation to sexually harmful behaviour by the child or young person, then social services must convene a Strategy Meeting. Under this protocol, this meeting is specifically to consider the young person who has allegedly displayed sexually harmful behaviour. It is a distinct meeting from any other meetings that considers the alleged victim(s).

The Strategy Meeting should be held as soon as possible after the completion of the Initial Assessment and within 8 working days of the referral to social services.

Consideration should be given to how information from/ about the meeting is shared with the young person and family.

Social services convene and chair the Strategy Meeting. The chair will be a team manager or more senior officer. An assistant team manager can be designated this role via specific agreement with the LSCB. The social worker who has completed the Initial Assessment will be present at the meeting. Formal minutes will be taken and it is good practice for minutes to be circulated to all attendees within 5 working days. The minutes are a confidential record and should not be disclosed without the permission of the chair of the strategy meeting.

It is highly desirable that all professional agencies involved with the young person, or who have expert knowledge of young people who engage in sexually harmful behaviour, are included in the Strategy Meeting. Invitations to the following agencies must be considered in all instances:

- social services (chair and relevant social worker)
- police
- education
- health (including CAMHS)
- youth offending service
- fostering service provider
- specialist sexually harmful behaviour service
- manager and key-worker of residential unit
- any other involved professional agency

Section 3.5.2 of the AWCPP 2008 states that Both police and social services staff, together with other professionals from education and health or other people who can assist in the planning process of the enquiries, should always attend the strategy meeting.

Information from police interviews should be made available to this meeting. Information on the current or previous involvement of the young person and their family with all agencies present should also be available to the meeting. Account will be taken of the factors specified in Appendix 2 with regard to discussions and decision making in respect of the alleged sexually harmful behaviour.

LSCBs should consider how to ensure the involvement of a service or individual specialising in the assessment of young people with sexually harmful behaviour. It is vital that those consulted have appropriate knowledge and experience of young people with sexually harmful behaviour and have appropriate management and supervision arrangements in place. Where attendance at the Strategy Meeting is not possible, then agreements for telephone consultations should be in place.

The meeting shall make an informed decision in relation to

- no further action
- 'child in need' support
- Core Assessment
- specialist assessment by service/ individual working with young people with sexually harmful behaviour
- S47 child protection enquiries or child protection conference

The meeting must consider the young person in the context of their household, school and community. The Initial Assessment must be available. The meeting will discuss the alleged incident and be aware of potential prosecution. Specific consideration should be given to information sharing with other agencies not present.

The meeting must consider immediate risk management and safeguarding strategies to ensure all children and young people are protected. These considerations must be made, irrespective of prosecution or denial status, and be based on all relevant information. It is recognised that supervision arrangements will alter as further information arises, however the safeguarding of those who may be at risk from a young person must be considered.

Risk management strategies and all recommendations/actions must be clearly recorded. Specifically in relation to risk management, this could include

- requests to be made of parents/ carers re supervision in the home/ community
- expectations for supervision arrangements in school
- consideration of disclosures to others where appropriate

The young person may be at risk or in need and as such must also be considered in the Strategy Meeting. A Child Protection Conference will be recommended following s47 investigations where it is felt that the child or young person is at significant risk of harm in his/her own right. It is recognised that children and young people who have sexually harmed *'are likely to be children in need; some will additionally be suffering, or be at risk of, significant harm, and may require protection themselves'*(s 4.9.4, AWCPP, 2008). Please refer to section 3.5.3 AWCPP 2008 Matters to be discussed at the strategy meeting.

A flow chart of the process is attached as Appendix 3.

### **Specialist assessment**

The Strategy Meeting will specifically consider the need for an assessment by a

specialist service for young people engaged in sexually harmful behaviour or by a suitably skilled and managed individual. Safeguarding Children: Working Together under the Children Act (2004) states that an assessment of the young person who has allegedly engaged in sexually harmful behaviour should be carried out in each case (s9.40). In addition, the Youth Justice Board recognises the importance of a co-ordinated response and the importance of specialist knowledge of young people who have sexually harmed (Key Elements of Effective Practise, 2008).

Such assessments will discuss level of risk presented by the young person and define those who may be most at risk and any triggers and relevant situational/ environmental factors. The assessment will contribute to planning and risk management and thereby contribute to safeguarding. The assessment may also identify the young person's needs more holistically and consider intervention to enhance his/her wellbeing. The specialist assessment will also aid the completion of the core assessment. Given the timescales of commissioning specialist assessments, this may be difficult to achieve within timescale for completion of core assessments and specialist assessment may not be appropriate pending any criminal proceedings (as below)

### **Young people subject of police investigation**

In all instances where the police are investigating an allegation that a young person has committed a sexual offence, they must make a referral to social services within 24 hours. The police will contribute to the Strategy Discussion and attend the Strategy Meeting. The police will provide information as to the allegation and likely prosecution.

It is recognised that the Crown Prosecution Service (CPS), in conjunction with the Police, make decisions as to the prosecution of children and young people based on established criteria. A specialist sexually harmful behaviour assessment may be delayed where a police investigation is ongoing or prosecution pending. The Strategy Meeting and subsequent multi agency meetings will remain informed by the police of developments with regard to investigation/prosecution. Full consideration must be given to appropriate risk management and safeguarding whether or not a prosecution is being pursued, where concerns persist.

### **ONGOING PROCESS/ REVIEW**

It is anticipated that the significant majority of young people will be managed within child protection, child in need and/or youth offending systems. The ongoing multi agency meetings within these systems will review relevant assessments, investigations and safeguarding strategies in relation to the child or young person.

If a Child Protection Conference places the young person's name on the Child Protection Register, then core groups and the child protection plan will be the means by which multi agency planning is maintained. Should the young person not be placed on the register, or at any subsequent point of de-registration, consideration must be given to the young person being regarded as a 'child in need'.

Where the child or young person is considered as a 'child in need', then regular child in need meetings must be arranged to facilitate ongoing multi agency involvement in the planning for the young person.

Where the young person is subject to management by the youth offending service, involvement is likely to be in conjunction with the involvement of social services, where

the child or young person is considered 'in need', or in need of protection.

Where a specialist sexually harmful behaviour assessment is requested, or other assessments ordered as a result of the allegations of sexually harmful behaviour (for example a health assessment), then the results of such assessment(s) must be considered in the ongoing multi agency meeting structure.

## **Appendix 1**

### **Definitions: 'children and young people who display sexually harmful behaviour'.**

The boundary between what is abusive and what is part of normal childhood or experimentation can be difficult to determine. It can refer to any child or young person who engages in a sexual act, either against the victim's will or without informed consent. Young children are unable to give informed consent, although they may comply with behaviour. Compliance may be secured via aggression, manipulation, fear, bribery etc. We should consider inequalities in relation to age, power, status, physical size, position of authority etc when determining the potential dynamics of sexual activity and young people.

Sexually harmful behaviour covers a range of behaviours that include exposing genitals, touching, penetrating – penile or objectile – and oral, vaginal or anal. It can also include causing or encouraging children into sexual activity, sexual harassment/ threats and accessing indecent images of children. Please refer to [Sexual Offences Act 2003](#)



## Appendix 2

### **Issues to be considered when determining whether there are concerns regarding a child or young person with sexually harmful behaviour:**

- power differentials e.g. age, sex, developmental level, authority
- legality of behaviour
- consent—indications of intimidation, deceit, manipulation, coercion
- does the behaviour fall within normal sexual development?
- any features of compulsive/ very persistent behaviour
- nature of sexual fantasies or diverse sexual interests/ pre occupations
- nature of justifications for behaviour
- complaints by other children/ young people
- escalation of nature of behaviour
- means by which behaviour came to light
- hostile views re young women/ views supportive of sexual assault
- views supportive of sexual contact between adolescents and children
- other concerns/ behaviour

For younger children consideration should also be given to:

- age appropriateness of behaviour
- knowledge of normal sexual exploration
- efforts to secure secrecy
- persistence of behaviour
- abuse reactive behaviour i.e. a response to their own abuse
- immediate environment of child (possible current exposure to sexualised environment or actual abuse)

### Appendix 3

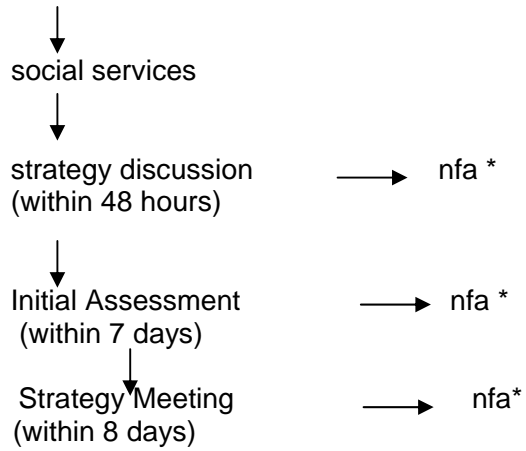
**police investigation**

POSSIBLE ACTIONS

- nfa
- Final Warning/ Reprimand
- charged with offence

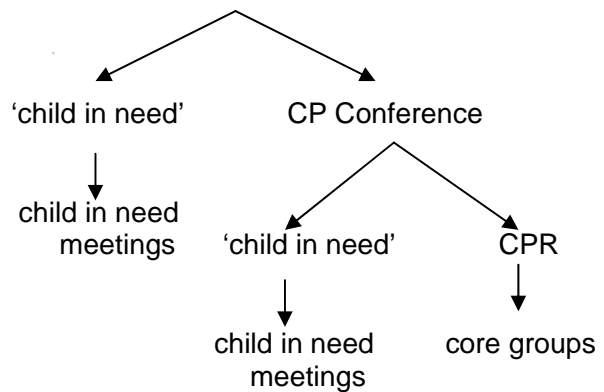
Police action will run in parallel with the multi agency process.

Referral (police or other ref source)



**POSSIBLE ACTIONS**

- No further Action \* (nfa)
- specialist sexually harmful behaviour assessment
- core assessment
- S47 Child Protection enquiries
- CP/'child in need'



\* rationale for No Further Action must be clearly recorded