

Help!



Understanding
Under Age Sex

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Working with young people, whilst exciting and fun, brings with it some critical and challenging issues that youth workers and leaders can often find difficult. One such issue is that of under-age sex. This Help leaflet is designed to offer you guidance on areas to consider when responding to disclosures alongside what UK law stipulates.

Many Christians consider pre-marital sex, biblically unacceptable. However, the reality is that a lot of our young people will engage in sexual activity at some point during their teenage years. Social media and the culture we find ourselves in, promotes sex and romance as an indispensable part of everyday life and many young people therefore see no harm in engaging in sexual activity (of any kind) irrespective of age.

With the principle of Gillick competence (which will be discussed further in the leaflet) relevant to under 18 year olds, it has added another layer of complexity in ascertaining safety in relation to the young person(s) who may be involved in sexual activity in some form or another.

The government's 'Working Together to Safeguard Children' Guidance across the years has attempted to address child protection issues and in particular how to deal with allegations of harm arising from under age sexual activity and the current position on reporting.

Ages of Consent

Legally, the age of consent is 16 years. The law makes it clear that a child under 13 years is not capable of consenting to sexual activity and any allegations should be taken very seriously. This leaves us with the age range of 13-15 year olds where issues of consent will need more careful consideration. In some cases advice should be sought for young people aged 16 - under 18s, if there are concerns.

Under 13s

As already stated, sexual activity with an a child under the age of 13 is illegal. These cases should always be reported straight to the police and/ or Children's services. Penetrative sex with a child under 13 years, carried out by an adult or child/young person is classed as rape for which the usual sentence, on conviction, would be custody. Other non-penetrative sexual involvement will also be presumed to be harmful to the child and again should be reported to the Police or Children's services. The current age of criminal responsibility is 10 years, but any sexual activity involving younger children should always be reported to Children's services.

13-15 year olds

The London Child Protection Procedures states that "any sexual activity between a 13-15 year old child and anyone else is also a criminal offence. Where it is consensual it may be less serious than if the child were under 13, but may nevertheless have serious consequences for the welfare of the young person.

Consideration should be given in every case of sexual activity involving a child 13-15 as to whether there should be a discussion with other agencies and whether a referral should be made to Children's Social Care" (LCPP, Edition 5, 2016). In short, a greater degree of professional discretion is allowed for in the case of 13-15 year olds.

At this point terms such as Gillick principle or Frasier guidelines may need to be applied in such situations.

The guidance also lists a number of factors that would raise concerns and would need to be taken into account in deciding whether or not to report. These include, among other things:

- The age and level of maturity of the child
- The age imbalance between the child and the other partner. The greater the gap in age the more significant the harm to the child is likely to be
- Any overt aggression or use of force or the attempt to bribe the child
- The use of substances (alcohol and/or drugs) as disinhibitors
- Abuse of trust. i.e. any sexual relationship between a child and an adult in a position of authority and trust over that child is never permissible and is taken particularly seriously by child protection professionals. (NB: Abuse of trust also relates to young people up to the age of 18 and adults at risk)

Those working with children and young people should also be mindful that underage sexual activity should also be seen as a possible indicator of child sexual exploitation.

16 - under 18 year olds

Whilst, it is acknowledged that a young person can marry and legally engage in intercourse from the age of 16, they are also still defined as a child under the Children Act, 1989. Therefore concerns could arise if any of the factors discussed (with regards to 13-15 year olds) above are present, which will imply that appropriate advice and support will need to be sought from statutory professionals to ensure the safety of the young person.

The 'Gillick Principle'

One very important principle in working with children and young people is that of confidentiality. Professionals and children/youth workers owe a duty of confidence to those who share problems and concerns with them; children and young people as well as adults. This principle is sometimes called the 'Gillick Principle' after the landmark ruling which decided that Victoria Gillick's under 16 year old daughter had a right to confidentiality with respect to advice from her GP about contraception. It has now become established practice within health and social care and following this celebrated case back in the 1980s, the House of Lords ruled that young people under 16 who are fully able to understand what is proposed, and its implications, are

competent to consent to medical treatment regardless of age. Subsequent Government guidance spelled out the implications of this for health professionals in the 'Fraser Guidelines'

Confidentiality is particularly important to young people wanting advice about sex and relationships. Many will not ask for help at all if they do not believe that the service is confidential. This leaves them at risk of unplanned pregnancy and sexually transmitted infections as well as increasing the chances that abusive or coercive relationships will remain hidden. Having said this, individuals who work with them also have a duty to protect children from harm and this inevitably involves passing on information to other agencies in situations where children and young people need protection. This balance is not always easy to find.

Child sexual exploitation

Our understanding of child sexual exploitation (CSE) has changed significantly in the last few decades, with the uncovering of cases of grooming in Rotherham and Rochdale, which were also found to be common in other parts of the UK. The young people were made to believe (by perpetrators who groomed them) that they were consensually involving in sexual activities but the reality was that the young people were living under

fear and control of the perpetrators thus making it difficult for them to safely disclose the abuse they were experiencing.

A young person who is experiencing sexual exploitation may not see themselves as a victim of abuse thus making it challenging for those working or in contact with the young person to try and help them access support to break away from these abusive relationships.

In the past, professionals failed to recognise these young people as victims of abuse and they were stereotyped as promiscuous and voluntarily involved in 'prostitution'. These perceptions have now been challenged and all agencies are more proactive in responding to this type of abuse.

Indecent Images of Children and Sexting*

With social media becoming an integral part of the lives of young people, the sexual risks this exposes them to, are also largely increased. Indecent images of children under 16 are illegal and should be reported to the police or advice sought prior to any confrontation with the alleged perpetrator.

Sexting is sending a sexually explicit message or image usually between mobile phones. The person sending and receiving the image could be breaking the law under the Sexual

Offences Act 2003. Section 67 of the Serious Crime Act 2015 creates a new criminal offence criminalising sexual communication with a child.

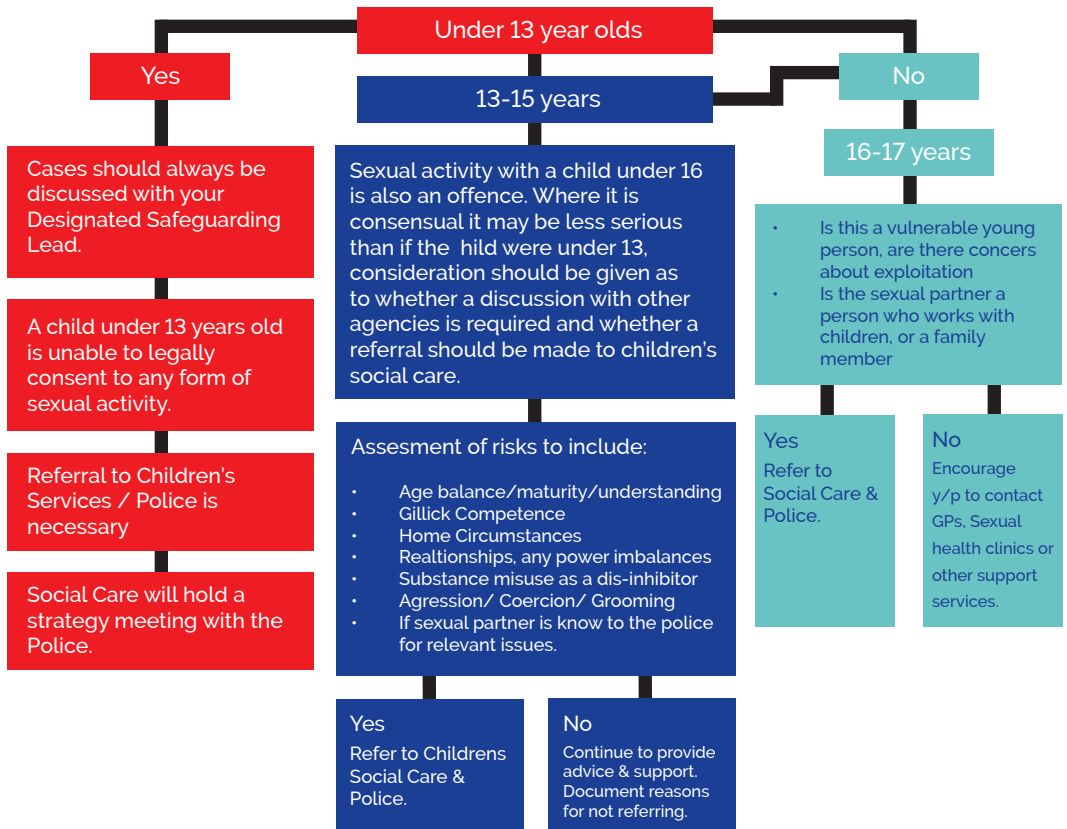
If there are concerns that the child or young person may be at risk of abuse through sexual exploitation, creating/exchanging images or online grooming, a referral to Children's Social Services and the Police must be initiated. CEOP (Child Exploitation and Online Protection Service) offer useful resources to help educate young people, parents and teachers about the risks of online abuse and sexual offences committed via social media. It is important to help children and young people understand the importance of talking to someone they trust about their concerns especially if they find themselves in difficult situations. Isolation is the highest risk factor for children being bullied in these circumstances and can lead to other forms of abuse such as self-harm, substance misuse and at worse, suicide.

See also our
Help! leaflet
Pornography
and Indecent
Images of
Children

Do you tell the parents?

The other question that youth leaders really struggle with is whether they should inform the parents of young people who are known to be sexually active. Our advice is that young people should be strongly encouraged to talk openly with their parents about sexual matters wherever this is practicable and/or appropriate. The young person concerned has to make his or her own choices and do what they believe to be the best thing for them. Unfortunately, there are some parents who would react very badly to their son or daughter confiding in them in this way, and so it is only natural for them to fear that, were they to tell their parents, their predicament would become even worse. The consequences for young people of telling their parents needs to be carefully thought through and, if they do want to tell them, they may need help and support in doing this. The CCPAS Helpline can always be contacted to talk through these issues (03030031111).

REMEMBER: The welfare of the child/young person is paramount. Please discuss any deviation from this guidance with the designated Safeguarding Lead.



How can the church get it right?

At CCPAS we are frequently contacted by church leaders and children and youth workers, worried about teenagers known to them who are thought to be sexually active. The following flowchart offers a comprehensive and clear guidance in responding to cases of sexually active young people.

A longer term approach: An example to follow

When churches connect with young people, whether or not they are from christian communities, the question of sex is bound to come up sooner rather than later. We live in a sex-saturated society and young people desperately need to understand and see modelled for them, respectful and biblically based relationships.

Sex and relationship education which views sex positively within the context of biblical teaching on marriage needs to be on the agenda for teaching programmes for children and young people as for the wider church family. We must be realistic and compassionate enough to understand that for very many young people in our churches as well as outside them, the Christian ideal of sex within marriage and abstinence outside of marriage is a world away from their actual lived experience.

As a church, be willing to offer practical and realistic support to young people who struggle with societal pressures in relation to sex and relationships. If you feel unskilled at the level of support they require, be honest in seeking specialist support and advice from local charities and even statutory agencies. Youthscape and Youth for Christ are two resourceful organisations working with young people in understanding and developing positive self-esteem and healthy relationships. Practical guides developed by Grove publishers (Can I have a chat?, Thinking Biblically about sex) can also offer useful guidance on this subject.

**If you have any questions on this topic,
please do not hesitate to call us**

0303 003 11 11

This is one of an expanding series of **Help!** Guides published by CCPAS, many of which are particularly relevant to workers.

See CCPAS website for more details www.ccpas.co.uk



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