

## **Working Together: Q&A on sexual activity of under 16s and under 13s**

### **Q. Doesn't Working Together run counter to the Government's Teenage Pregnancy Strategy:**

A. This guidance does not undermine the importance we place in young people being able to access confidential contraceptive advice. What it does is provide more detailed guidance to help professionals identify and support the minority of young people who are at risk of significant harm. These young people are much more likely to face a range of poor outcomes, including early pregnancy. If we are to really improve the lives of our most disadvantaged young people, agencies must work together to provide supportive early interventions. The effective implementation of this guidance will be through the development of local multi-agency protocols and establishing trust between professionals. The protocol developed by Cumbria and Lancashire is an excellent example of this and has been placed on the Every Child Matters website for others to learn from.

### **Q. Is the Government introducing mandatory reporting of sexual activity involving under 13-year olds?**

A. No. It is a judgement for a professional to make, in which the child's interests are the overriding consideration. However, the guidance makes clear that it will always be necessary to discuss such a case with a child protection lead in the organisation and sets out a presumption that the case would be reported to children's social care. This is because sex with someone under 13 is a serious offence and indicates a risk of significant harm to the child. Local protocols which require mandatory reporting are not in accordance with Working Together.

### **Q. So you would automatically report without permission?**

A. Not at all. In some cases of course young people may give permission for information to be shared, so the question of having to decide to breach confidentiality would not apply. It would always be a judgement on professionals though one informed by this guidance and by local protocols.

### **Q. Is the Government trying to criminalise sexual relationships involving under 13/16 year olds?**

A. No. This guidance sets out a framework for safeguarding sexually active under 13/16 year olds from the harm they may face as a result of or associated with sexual activity – it sets out how professionals should judge when to share information. - and may be at risk from unsuitable partners. The police are among the agencies that are involved when there are concerns about a child's welfare but the key step in the first instance is a discussion between agencies to consider concerns and what if anything should be done

in the best interests of the child. The police have confirmed that where an agency asks if they have any information about a person's sexual partner, they will normally share this information without beginning an investigation if an agency requests this.

**Q. What about doctor/patient confidentiality?**

A. Guidance on confidentiality has always been clear that confidentiality is not absolute. Professionals need to balance their duty of confidentiality to young people who access sexual services with the need to safeguard sexually active under 13/16 year olds.

**Q. Surely practitioners should be allowed to use their professional discretion?**

A. This guidance does not remove that discretion. It does not introduce mandatory reporting, but makes clear that decisions must always be made in the best interests of the child. What it does provide is a framework for looking at these issues.

**Q. Won't this stop young people seeking contraceptive advice?**

A. We fully recognise the importance young people place in confidentiality and want to reassure them that this guidance does not change the existing principles of confidentiality. However confidentiality has never been absolute. The Department of Health guidance makes clear that where a health professional believes a young person or others are at significant risk of harm, they should follow locally agreed child protection protocols. Working Together provides more detailed guidance as a framework for those protocols and to help all professionals, including health, to better identify and support young people most at risk.

**Q. How does Working Together link with the cross-Government information sharing guidance?**

A. Both sets of guidance make clear that information sharing and joint working are cornerstones of the Government's policy to ensure that children are effectively safeguarded. Both are also clear that where there is evidence or a reasonable cause to believe that children and young people are suffering from or at risk of suffering from significant harm then action must be taken.

**Q. Surely this information should be passed/shared with to the police automatically?**

A. Sharing of information must always be justified: for instance, if there is a risk of significant harm to a child or to other children. Conversely, there will be cases which do not justify disclosure, where few or no risk factors are present.

**Q How can you justify keeping information about children who are having sex confidential from parents but not from services?**

A. The provision of confidential contraceptive services is an established principle. While practitioners should always encourage young people to tell their parents that they are having sex, they will not themselves pass this information to parents. However, professionals may share information with other agencies if the child consents or if there is a public interest of sufficient force, such as where there is a clear risk of significant harm to a child.

**Q. Surely parents have the right to know whether their underage children are having sex?**

A. Children under the age of 16 have the same right to confidentiality as adults. Doctors and other health professionals are able to provide contraception, sexual and reproductive health advice and treatment to children without parental knowledge or consent.

**Q. Is this guidance consistent with other Government guidance?**

A. Yes, this is in line with the Department of Health's best practice guidance for doctors and other health professionals on the provision of advice and treatment to young people under 16 on contraception, reproductive and sexual health.

**Q. How does this link to the Axon judgement?**

A. The judgement in Mrs Axon's judicial review of the Department of Health's best practice guidance upheld the principle that confidential advice could be provided to young people under the age of 16.

**Q. Do you need a child's permission to share confidential information about them with other agencies?**

A. Practitioners will ask the child's permission before sharing information, but if the child refuses, they may still lawfully share information if there is a public interest of sufficient force, such as where there is a clear risk of significant harm to a child.

Teenage Pregnancy Unit/DfES  
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