

# **West Dunbartonshire Child Protection Committee**



## **INTER-AGENCY GUIDANCE Under age sexual activity protocol**

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*(Pending Final Sign of Police Scotland Standing Operational Procedure on Underage Sexual Activity)*

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Approved at WDCPC May 2017 pending final outcome of Police Scotland's Standing Operational Procedure on Underage Sexual Activity which is awaiting sign off

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## **1 How Should Practitioners Respond?**

In all cases in relation to underage sexual activity, practitioners have a responsibility to ensure that an assessment of the young person's situation and needs is undertaken. If staff members do not have the appropriate skills and training to undertake the assessment, they have a duty to ensure that an assessment is conducted by a staff member in their own organisation or an agreed partner organisation.

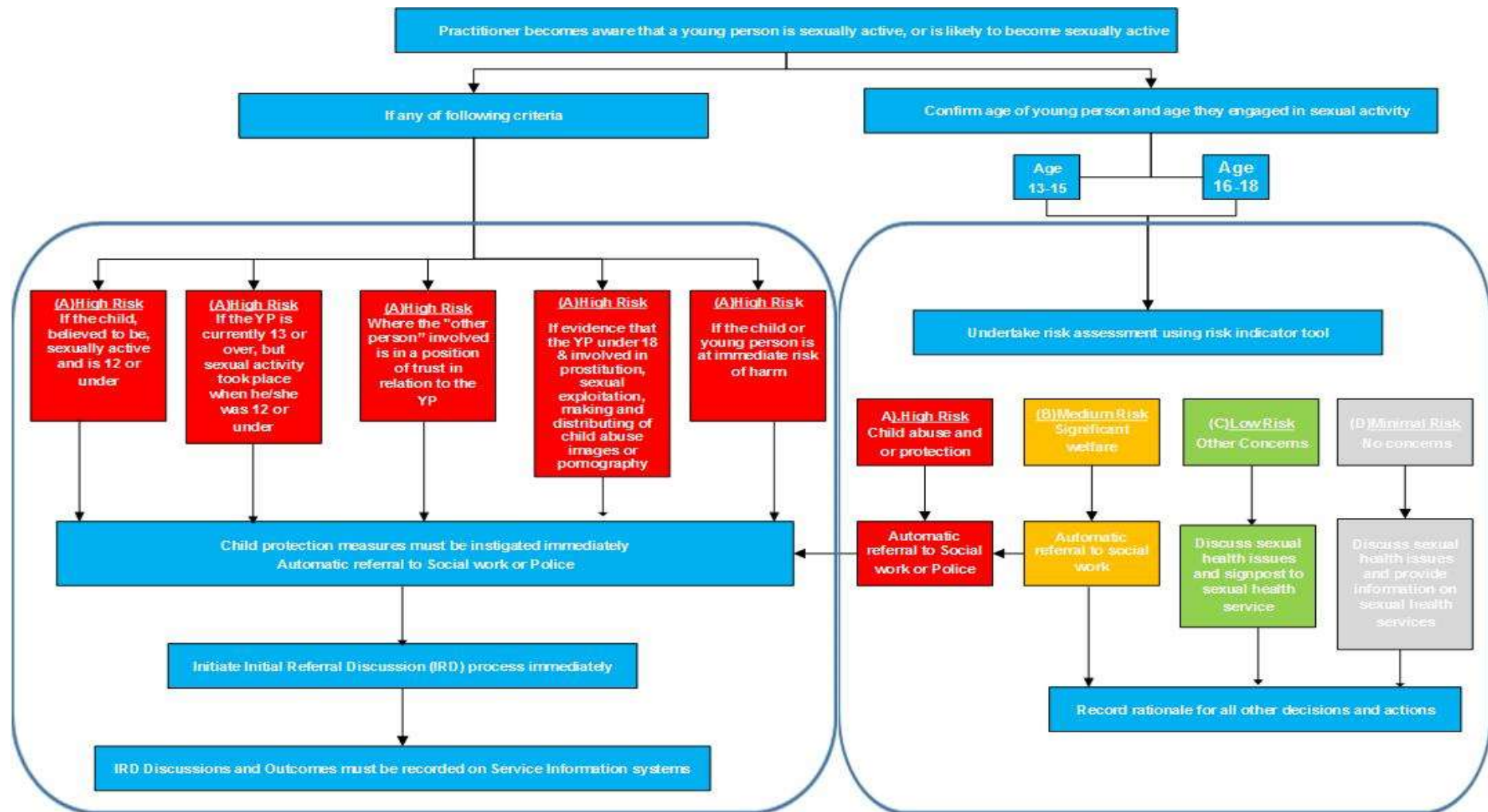
### **1.1 Child Protection and under age sexual activity.**

The 2014 National Guidance on Child Protection specifies when child protection measures must be instigated, these are:

- If the child is, or is believed to be, sexually active and is 12 or under.
- If the young person is currently 13 or over, but sexual activity took place when he/she was 12 or under.
- Where the "other person" involved is in a position of trust in relation to the young person.
- If there is any evidence that the young person is under 18 and is involved in prostitution, sexual exploitation, the making and distributing of child abuse images or pornography.
- If the child or young person is at immediate risk of harm

A 'QUICK GUIDE FLOW CHART' is provided overleaf

## 1.2 Quick Flowchart in Relation to under age sexual activity



## 2 Introduction

[The National Guidance Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns \(2010\)](#) acknowledges that increasing numbers of young people are engaging in a range of sexual activity before the age of 16. The 2010 National guidance regarding under-age sexual activity remains current and continues to be reflected in the [National Child Protection Guidance \(2014\)](#) .

### 2.1 Background

The National Guidance recognises that the reasons behind under age sexual activity can vary considerably. In some cases the activity will be wholly consensual; in others it will happen in response to peer pressure or as the result of abuse or exploitation.

However, when anyone working with children and young people becomes aware of situations where under-age sexual activity has taken place, they have a duty to consider the impact that this has had on them and whether this behaviour is indicative of a wider child protection concern.

Young people who are sexually active will have differing needs therefore in line with getting it right for every child (GIRFEC) principles, services and practitioners must provide a range of responses to ensure that individual needs are met.

The West Dunbartonshire local guidance and protocols have been developed as directed by the national guidance.

This protocol;

1. Reflects the principles and criteria outlined in the national guidance.
2. Details the clear processes that are in place locally to ensure appropriate action to meet the needs of the child or young person;
3. Links with the local systems relating to data protection, information sharing, confidentiality, recording of decision-making;
4. Links with local protocols on related matters e.g., protection of vulnerable persons, CSE and child trafficking;
5. Includes a list of local resources and services including sexual health services.
6. Will initiate monitoring procedures to ensure consistent and appropriate practice, following implementation.

## **2.2 Definitions**

The Sexual Offences (Scotland) Act (2009) maintains the age of consent of intercourse at 16 years and redefines sexual offences against and between children. It defines a significant difference between a 'young child' and an 'older child'

The act defines a 'young child' is a child who has not attained the age of 13 years and an 'older child' as a child who has attained the age of 13 years but has not attained the age of 16 years.

The National Guidance Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns (2010) defines a 'young person' as someone aged 13 or over and under 18 (but with a particular focus on those aged between 13 and 15 with respect to under-age sexual activity).

The Children (Scotland) Act 1995 (Sect 93 (2)) defines a child as a person under the age of 16yrs or under 18yrs if remaining looked after and accommodated by the local authority. However, it is recognised that there are several young people between the ages of 16 and 17 years who are not on supervision or accommodated, but who are considered to be at significant risk.

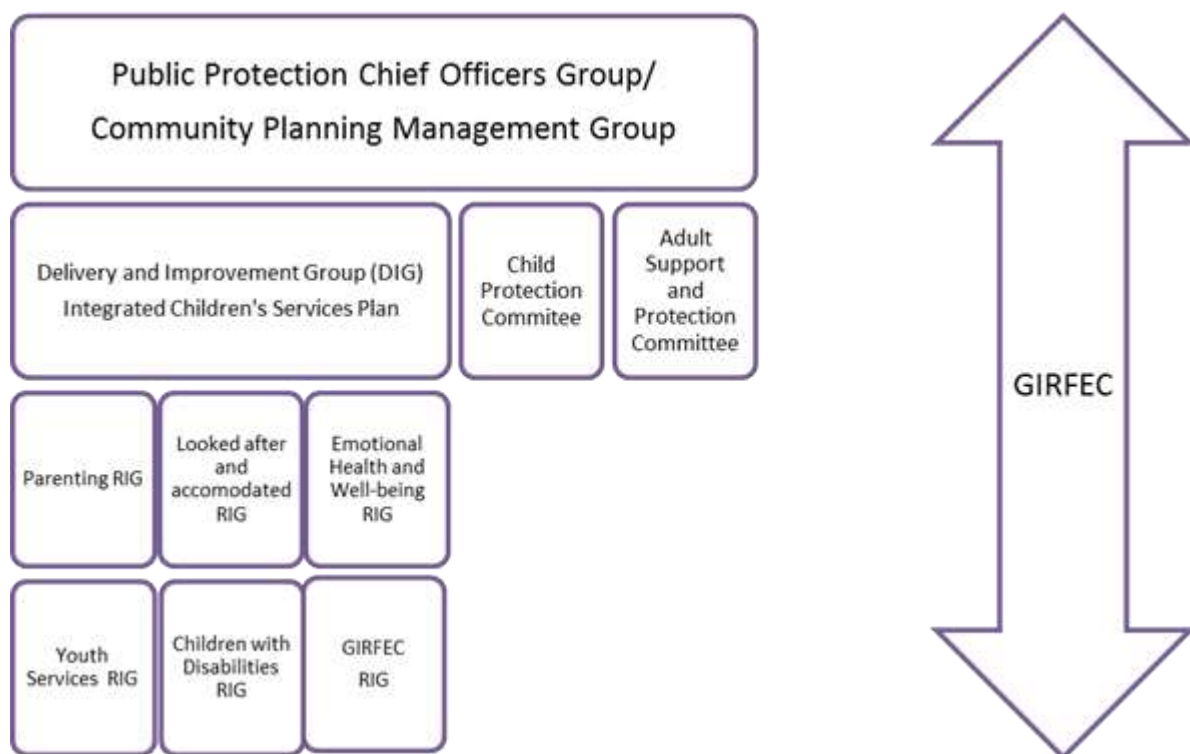
Consideration should also be given to invoking these procedures for those young people 18 to 21 years who have previously been accommodated by the local authority.

If a young person is aged between 16 and 21, they may meet the criteria for protection under Adult Support and Protection (ASP) legislation. If this is the case, it should be considered whether it is more appropriate to proceed under Vulnerable Young People (VYP) or ASP procedures.

## **2.3 Local Structures**

This protocol has been developed by [West Dunbartonshire Child Protection Committee \(CPC\)](#). The CPC ensures that agencies, services and organisations work together to protect children and provide support to parents, carers, children and young people. This protocol is part of this commitment to ensure that children and young people are respected, listened to and protected from harm.

The infrastructure to support integrated children and young peoples' services is illustrated below.



Additional structures and processes are in place that support the provision of integrated support to children and young people. This is illustrated via the Vulnerability Risk Management Procedure; the Vulnerable Young Person (VYP) child protection process for 14-18 year olds and Multi Agency Forum (MAF) process for 16-21 year olds These are illustrated overleaf.



## 2.4 WDCPC Vulnerability Risk Management Procedure for 14-21 year olds

### Vulnerability Risk Management Procedure

#### VYP Child Protection Process

14-18

Agency identifies Risk / Vulnerabilities (either open case or via duty)

IRD/ Case Discussion take place

VYP assessment completed

Multi-agency CP VYP Case discussion  
Chaired by Youth Services Team Leader

Does not proceed to CP  
Refer back to NP or Proceed with TATC care plan.

Multi-agency CP VYP Case Conference – Registration considered  
Chaired by Youth Services Team Leader

If additional resources are required to reduce risk refer to ARG

#### Multi-Agency Forum (MAF)

16-21

Agency identifies Risk / Vulnerabilities

VYP assessment completed

Continue with single agency support

Refer to VYP MAF

MAF discussion

If agreed VYPCC required

Plan / action agreed

Can refer to duty

## **2.5 Purpose**

This protocol provides guidance and information to practitioners working with children and young people in West Dunbartonshire on how they should respond when they become aware of under-age sexual activity and are concerned about a young person.

The protocol aims to assist practitioners in their decision-making by;

- Setting out the principles upon which their practice should be based;
- Providing criteria to assist their assessment as set out in the Scottish Government guidance, National Guidance Under-age Sexual Activity: Meeting the Needs of Children and Young People and Identifying Child Protection Concerns (2010).
- Providing guidance for practitioners as to what they can or should do on the basis of their assessment.

## **2.6 To whom does the protocol apply?**

This protocol is for all agencies and practitioners in West Dunbartonshire who work with, and have a duty of care towards children and young people.

This includes any practitioner who might work with a young person under 16 who is engaged or planning to become engaged in sexual activity with another person including

- |                   |   |
|-------------------|---|
| • Social workers  | • Nurses and other health professionals |
| • GPs             | • Residential workers                   |
| • Police officers | • Voluntary sector workers              |
| • Teachers        | • Youth workers                         |

This protocol applies to all young people under the age of 16 and can also apply to young people aged 16 and 17 who may have particular vulnerabilities.

This protocol also recognises the specific characteristics of young people who may be particularly vulnerable to sexual abuse or exploitation.

These include

- |                                  |  |
|----------------------------------|--|
| • young people with disabilities | • those experiencing homelessness        |
| • young women                    | • looked after children and young people |
| • young parents                  | • those living away from home            |
| • young gay men and women        | • survivors of sexual abuse              |
| • those affected by poverty      |  |

### **3 Legislation**

#### **3.1 Equalities**

The [Equality Act \(2010\)](#) brings together a number of existing laws into one place. It sets out the protected characteristics that are protected by anti-discrimination law.

Two specific protected characteristics are of particular relevance here. They are sexual orientation and disability.

##### Sexual orientation

Practitioners working with young people must recognise the rights, needs and aspirations of lesbian, gay, bisexual and transgender young people (LGBT). Any concern about underage sexual activity between same sex, bisexual or transgender young people should be assessed on the basis of this protocol, whilst recognising the potential discrimination that LGBT young people may experience.

##### Disability

Disabled children and young people are more likely to be abused than non-disabled children/young people. Their vulnerability to a non-consensual sexual relationship is greatly increased if

- they are living away from home,
- have difficulties with communication and language,
- they are subject to the use/misuse of substances, including medication.

In light of these additional vulnerabilities, disabled children and young people may be particularly vulnerable to abuse of power. The [National Guidance for Child Protection in Scotland 2014 Additional Notes for Practitioners: Protecting Disabled Children from Abuse and Neglect](#) and the [Child protection and disability toolkit 2014](#) are useful sources of information along with the specialist WDHSCP children with Disabilities team

#### **3.2 Children and Young People (Scotland) Act 2014**

The Children & Young People's Act has been set in the context of the United Nations Convention on the Rights of the Child (UNCRC) and the national children's services improvement programme, Getting It Right for Every Child (GIRFEC). It provides a legal framework within which services are to work together in support of children, young people and families.

The Act incorporates 18 distinct parts and has been introduced in stages; coming into effect between 2014 and 2017. The Act makes important changes to the provision of looked after children's and care leaver services', early learning & childcare, children's services planning with the provision of named person and the child's plan.

For the purposes of underage sexual activity this protocol will focus on specifically Part 1: Rights of Children and Part 4: Provision of Named Persons.

### **3.2.1 Part 1 Rights of Children**

Part 1 of the Act places new duties on a range of public authorities (including local authorities and health boards) to report on the steps they have taken to ensure children's rights are considered and furthered where possible, came into effect on the 1<sup>st</sup> April 2017.

### **3.2.2 UN Convention on the Rights of the Child (UNCRC)**

This part of the Act uses the UN Convention on the Rights of the Child as the framework for working with and for children and young people. It has the goal of promoting and securing the full range of children's human rights and places children and young people at the centre of policy development, and the design, delivery and evaluation of services.

The UNCRC is composed of 54 articles with articles 34, 35 & 36 protections directly related to sexual health:

- Article 34 - No one should ever pressurise, force or trick you into doing anything sexual. This is abuse and you have the right to be protected from it.
- Article 35 - You have a right to be protected from being abducted or sold. There are also things that people should never make you do against your will, like make you marry someone.
- Article 36 - You have a right to be protected from all sorts of exploitation which can damage your welfare or development. Exploitation can mean different things, but the Government must protect you from being taken advantage of in any way.

The UNCRC also provides for specific groups of children by age, setting or those who need special protection or other forms of support. This includes:

- children affected by violence, drugs or alcohol victims of abuse or exploitation
- children who are affected by poverty; deprivation or homelessness
- children in urban and rural areas
- children with additional support needs
- disabled children
- looked after children

### **3.2.3 GIRFEC**

The GIRFEC approach was constructed around the UNCRC, and requires those who work with children and young people to put children at the centre of their day-to-day practice. Putting children at the centre realises all UNCRC Articles, but in particular highlights the requirement to consider the best interests of the child (Article 3), and the need for children's views to be taken into account when decisions are being made about them (Article 12).

Child protection must be seen within the wider context of supporting families and meeting children's needs through GIRFEC. The approach allows you to consider how the policy/measure will protect and promote the wellbeing of children and young people, as defined by the wellbeing indicators. The eight wellbeing indicators are relevant in so far as they link to the Articles of UNCRC as below:

Like the Articles of the UNCRC, the wellbeing indicators are non-hierarchical and interconnected, focused on the whole child rather than just one discrete aspect of their lives. The Act being rooted in the GIRFEC approach puts a number of key elements of GIRFEC into statute, including the Named Person.

### 3.3 Links between wellbeing indicators and the Articles of the UNCRC

Adapted from Scottish Government guidance available at <http://www.gov.scot/Resource/0049/00497052.pdf>

Wellbeing indicator	Articles of the UNCRC	
<b>Safe</b>	<ul style="list-style-type: none"> <li>• 11 - abduction and non-return of children</li> <li>• 19 - protection from violence, abuse and neglect</li> <li>• 22 - refugee children</li> <li>• 32 - child labour</li> <li>• 33 - drug abuse</li> </ul>	<ul style="list-style-type: none"> <li>• 34 - sexual exploitation</li> <li>• 35 - abduction, sale and trafficking</li> <li>• 36 - other forms of exploitation</li> <li>• 37 - inhumane treatment and detention</li> <li>• 38 - war and armed conflicts</li> </ul>
<b>Healthy</b>	<ul style="list-style-type: none"> <li>• 3 – best interests of the child</li> <li>• 6 – life, survival and development</li> </ul>	<ul style="list-style-type: none"> <li>• 24 - health and health services</li> <li>• 39 - recovery and rehabilitation of child victims</li> </ul>
<b>Achieving</b>	<ul style="list-style-type: none"> <li>• 4 – Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights</li> </ul>	<ul style="list-style-type: none"> <li>• 18 - parental responsibilities and state assistance</li> <li>• 28 - right to education</li> <li>• 29 - goals of education</li> </ul>
<b>Nurtured</b>	<ul style="list-style-type: none"> <li>• 4 – Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect these rights</li> <li>• 5 - parental guidance and a child's evolving capacities</li> <li>• 18 - parental responsibilities and state assistance</li> </ul>	<ul style="list-style-type: none"> <li>• 20 - children deprived of a family</li> <li>• 21 - adoption</li> <li>• 25 - review of treatment in care</li> <li>• 27 - adequate standard of living</li> </ul>
<b>Active</b>	<ul style="list-style-type: none"> <li>• 3 - best interests of the child</li> <li>• 23 - children with disabilities</li> </ul>	<ul style="list-style-type: none"> <li>• 31 - leisure, play and culture</li> </ul>
<b>Respected</b>	<ul style="list-style-type: none"> <li>• 2 - non-discrimination</li> <li>• 3 - best interests of the child</li> <li>• 4 - Governments must do all they can to make sure every child can enjoy their rights in systems that promote and protect those rights.</li> <li>• 5 - parental guidance and a child's evolving capacities</li> <li>• 8 - protection and preservation of identity</li> <li>• 12 - respect for the views of the child</li> </ul>	<ul style="list-style-type: none"> <li>• 13 - freedom of expression</li> <li>• 14 - freedom of thought, belief and religion</li> <li>• 16 - right to privacy</li> <li>• 17 - access to information; mass media</li> <li>• 18 - parental responsibilities and state assistance</li> <li>• 30 - the right to learn and use the language, customs and religion of their family,</li> </ul>
<b>Responsible</b>	<ul style="list-style-type: none"> <li>• 3 - best interests of the child</li> <li>• 12 - respect for the views of the child</li> <li>• 14 - freedom of thought, conscience and religion</li> </ul>	<ul style="list-style-type: none"> <li>• 15 - freedom of association</li> <li>• 40 - juvenile justice</li> </ul>
<b>Included</b>	<ul style="list-style-type: none"> <li>• 3 - best interests of the child</li> <li>• 6 - life, survival and development</li> <li>• 18 - parental responsibilities and state assistance</li> </ul>	<ul style="list-style-type: none"> <li>• 23 - children with disabilities</li> <li>• 26 - social security</li> <li>• 27 - adequate standard of living</li> </ul>

### **3.3.1 Part 4 Provision of Named Persons**

#### Named Persons/ Named Person Service

Getting it Right for Every Child (GIRFEC) is the Scottish Government's approach to promoting and safeguarding the wellbeing of children in Scotland. In most cases the families around each young person will be able to offer all the help and support that is needed. However, there are times when a young person may need a bit of extra help. The GIRFEC approach is there to make it as easy as possible to get that help when it is needed.

The GIRFEC policy requires that every child and young person and their family have access to help and support from a Named Person. The role of the Named Person is to safeguard and support the wellbeing of children and young people very much like the support that has always been offered by key members of staff in school. This new role of Named Person is integrated into the current role of key promoted members of staff in schools and serves to strengthen the support they currently provide, formalising their role as a central point of contact for children, parents and other people working with them.

The Named Person service, the central organisation in place to assist Named Persons will offer on-going robust professional support and supervision. The service will incorporate clear governance structures to ensure that there is accountability within the organisation for making decisions and putting in place policies and procedures to support Named Persons in carrying out their role.

The Named Person will only offer advice or support in response to a request from a child or parent, or when a wellbeing need has been identified. There is no obligation to accept the offer of advice or support from a Named Person.

**NOTE: The Act, associated orders and guidance does not change guidance and policy in relation to responding to a child protection concern.**

## **4 How Should Practitioners Respond?**

In all cases practitioners have a responsibility to ensure that an assessment of the young person's situation and needs is undertaken. If staff members do not have the appropriate skills and training to undertake the assessment, they have a duty to ensure that an assessment is conducted by a staff member in their own organisation or an agreed partner organisation.

### **4.1 Child Protection and under age sexual activity.**

The 2014 National Guidance on Child Protection specifies when child protection measures must be instigated, these are:

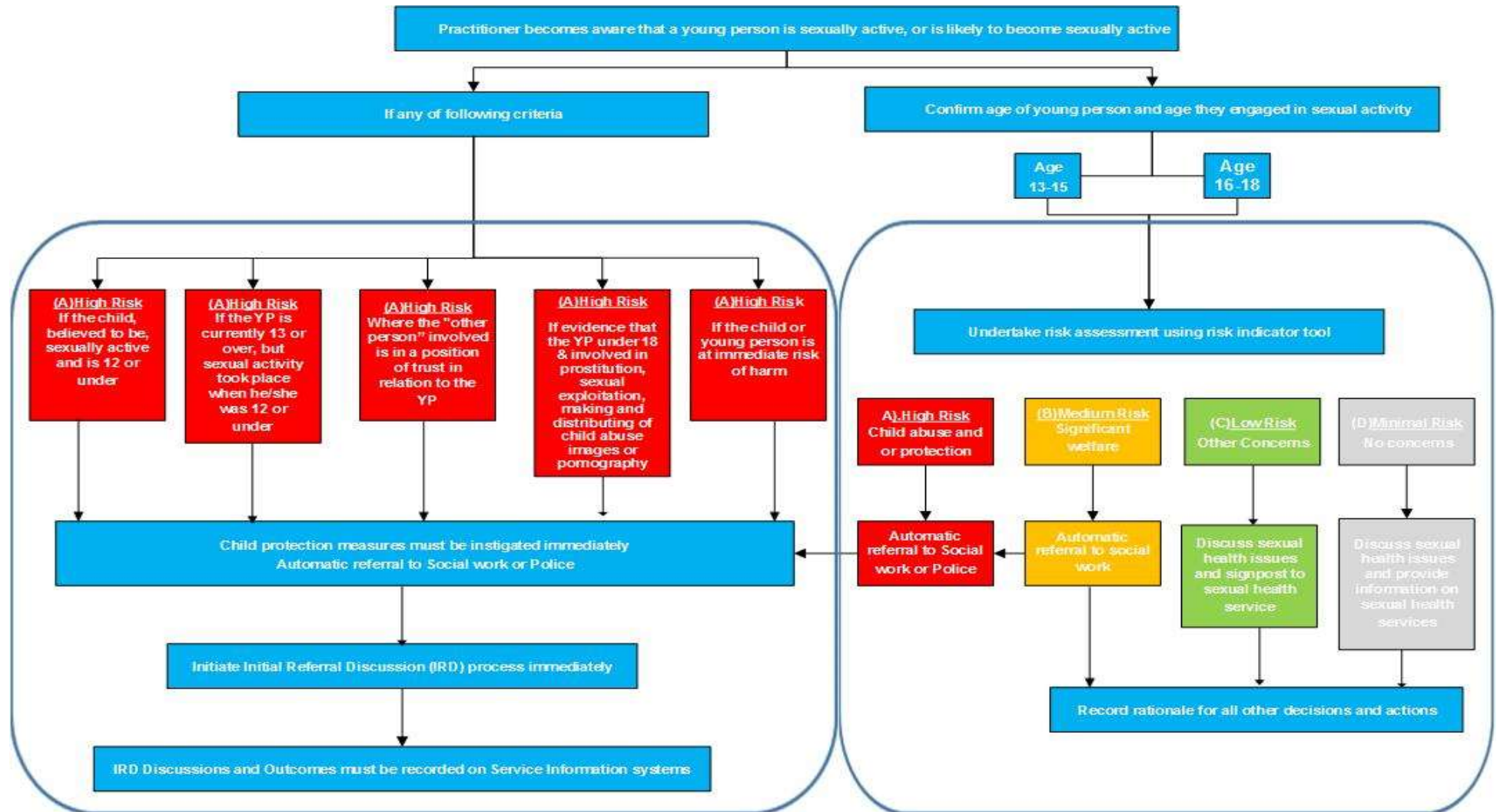
- If the child is, or is believed to be, sexually active and is 12 or under.
- If the young person is currently 13 or over, but sexual activity took place when he/she was 12 or under.
- Where the "other person" involved is in a position of trust in relation to the young person.
- If there is any evidence that the young person is under 18 and is involved in prostitution, sexual exploitation, the making and distributing of child abuse images or pornography.
- If the child or young person is at immediate risk of harm

A 'QUICK GUIDE FLOW CHART' is provided overleaf

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## 4.2 Quick Flowchart in Relation to under age sexual activity



### 4.3 Adverse risk indicators (as per flowchart)

Practitioners should consider the following additional points to help with the indication of risk  
([as extracted from the National Child protection guidance 2014](#))

As per the [national guidance](#) when the term **older child** is used it means a **young person aged 13-15**.

#### Risk Indicator tool

<b>The Child</b>
Did the older child understand the sexual behaviour they were involved in?
Did the older child agree to the sexual behaviour at the time?
Did the older child's own behaviour – e.g. use of alcohol or other substances place them in a position where their ability to make an informed choice about the sexual activity was compromised?
Was the older child able to give informed consent? (e.g. mental health issues, learning disability or any other condition that would heighten the young person's vulnerability)
Was the older child given a sense of affection in return i.e. exploited by the other party?
<b>The relationship</b>
Was there a coercing power or any other relevant imbalance present in the relationship? (e.g. differences in size, age, material wealth and/or psychological, social, intellectual and physical development – in addition, gender, race and levels of sexual knowledge can be used to exert power.) It should not automatically be assumed that power imbalances do not exist for two older children similar in age or of the same sex
Were manipulation, bribery, threats, aggression and/or coercion, involved? (e.g. was the young person isolated from their peer group or was the older child given alcohol or other substances as a disinhibitor etc.)
<b>The other person</b>
Did the other person use 'grooming' methods to gain the trust and friendship of the older child? (e.g. by indulging or coercing the older child with gifts, treats, money etc.; by befriending the older child's family; by developing a relationship with the older child via the internet).
Did the other person attempt to secure secrecy beyond what would be considered usual in teenage sexual activity?
Was the other person known by practitioners to be or have been involved in concerning behaviour towards other children and young people?
<b>Other Factors</b>
Was the older child, male or female, frequenting places used for prostitution?
Was the young man frequenting places where men have sex with men in circumstances where additional dangers, for example, physical assault, might arise?
Were there other concerning factors in the older person's life which may increase their vulnerability? (E.g. homelessness) Did the older child deny, minimise or accept the concerns held by practitioners.

#### 4.4 Assessing Risk

Assessment of risk can be separated into three stages:

- Stage 1: Gathering information
- Stage 2: Analysis of information and understanding the impact on the young person (including potential impact) and what is required to reduce risks
- Stage 3: Management of risk and intervention (child protection plan, or alternative support if no child protection concerns)

#### 4.5 Level of Risk

##### **A. High Risk Child abuse and/or protection**

When anyone working with children and young people becomes aware of situations where under-age sexual activity has taken place, they have a duty to consider the impact that this has had on the young person and whether this behaviour may be indicative of a wider child protection concern. This requires consideration of the potential vulnerabilities of the young person and the possibility for them to be subject to or involved in sexual exploitation.

Child protection concerns arise in those circumstances when there is a strong likelihood or risk of significant harm to a child, arising from abuse or neglect. This is a complex matter and subject to professional judgement based on a multi-agency assessment of the circumstances of the child/young person and their family. It can result from a specific incidence of abuse or neglect, a series of incidents or an accumulation of concerns over a period of time.

In this situation staff will try and gain the young person's agreement to share information and make a referral to the police and/or social work. However, even if the young person does not agree staff will make a referral to the police and/or social work either themselves or through the nominated staff member for child protection within their organisation.

Young people have a legal right to be consulted on all decisions that affect their lives. This does not mean staff will do what the young person wishes in every case, but it does mean that consultation must be real and meaningful and that young people's views have to be carefully considered in any decision reached. Staff should tell him or her they are about to make a referral, unless there is a very strong reason not to do so, in which case staff should record the reason for not telling the young person.

In circumstances where referral must be made without consent, everything possible should be done to avoid further disempowering the young person. They should be offered support to help them through the process. In all cases staff will record the decisions and thinking behind it using their organisations record keeping protocol.

## **B. Medium risk - significant welfare concerns**

In this situation staff will try and gain the young person's agreement to share information and make a referral to the police and/or social work. However, even if the young person does not agree staff will make a referral to the police and/or social work either themselves or through the nominated staff member for child protection within their organisation.

As above, young people have a legal right to be consulted on all decisions that affect their lives. This does not mean staff will do what the young person wishes in every case, but it does mean that consultation must be real and meaningful and that young people's views have to be carefully considered in any decision reached.

Staff should tell him or her they are about to make a referral, unless there is a very strong reason not to do so, in which case staff should record the reason for not telling the young person.

In circumstances where referral must be made without consent, everything possible should be done to avoid further disempowering the young person and they should be offered support to help them through the process.

## **C. Low risk - Other health & wellbeing concerns**

If on completion of an assessment of the young person's situation there is no evidence of harm or risk to the young person in relation to child protection, then no further child protection/welfare action needs to be taken.

However, young people may have other health or wellbeing issues that need to be addressed, and in this case staff should signpost the young person to an appropriate local sexual health service and, if necessary, offer to accompany them to the service.

Staff should ensure the young person is aware their confidentiality will be respected. However, staff should ensure they encourage the young person to discuss their relationships with their parents/carers where possible.

Staff will ensure they record their decision and the thinking behind it using their own services record keeping protocols.

#### **D. Minimal risk - No concerns**

If on completion an assessment of the young person's situation there is no evidence of harm or risk to the young person, then no further child protection action needs to be taken. Staff should provide young people with sources of information including information about their local sexual health services and the need for the young person to ensure their sexual health is protected.

There are four likely outcomes from an initial assessment.

#### **Level of Risk**

<b>A. Red</b>	High Risk	Automatic immediate referral to Police or Social Work
<b>B. Amber</b>	Medium Risk	Automatic immediate referral to Social Work
<b>C. Green</b>	Low Risk	There is a need to signpost to NHS Sexual Health Services
<b>D. Grey</b>	Minimal Risk	There is no need to make a referral

Further information on the risk assessment process can be found in [the National Child Protection Guidance \(2014\)](#) and the [National Risk Framework to Support the Assessment of Children and Young People \(2012\)](#)

#### **4.6 Guidance for all staff involved in Initial Referral Discussions (IRD)**

Extracted from WDHSCP IRD guidance dated April 2016

The IRD process within West Dunbartonshire is inclusive of local police, health and education services, and the named person (or named persons where children vary in ages within a family) are included from the point a concern is raised. Further, where health information is required for an older child, or additional details are sought, school nursing and / or the [NHSGGC Child Protection Unit \(CPU\)](#) can be contacted in respect of information gathering and decision making. Where a comprehensive medical is required, the CPU remains to main point of contact / referral.

#### **Process**

Child protection initial referral discussions take place in respect of;

- The decision to progress to a child protection investigation
- The decision, post investigation, to progress to case conference.

Where a child protection concern is received by social work or the police, an IRD should be initiated immediately. It is important to note that where any agency has raised a child

protection concern, the IRD process is the decision making forum in respect of the way forward; i.e. the strength or otherwise of the argument for child protection procedures to be initiated is agreed collectively within the IRD process.

The IRD should agree;

- Progression to child protection investigation (or not).

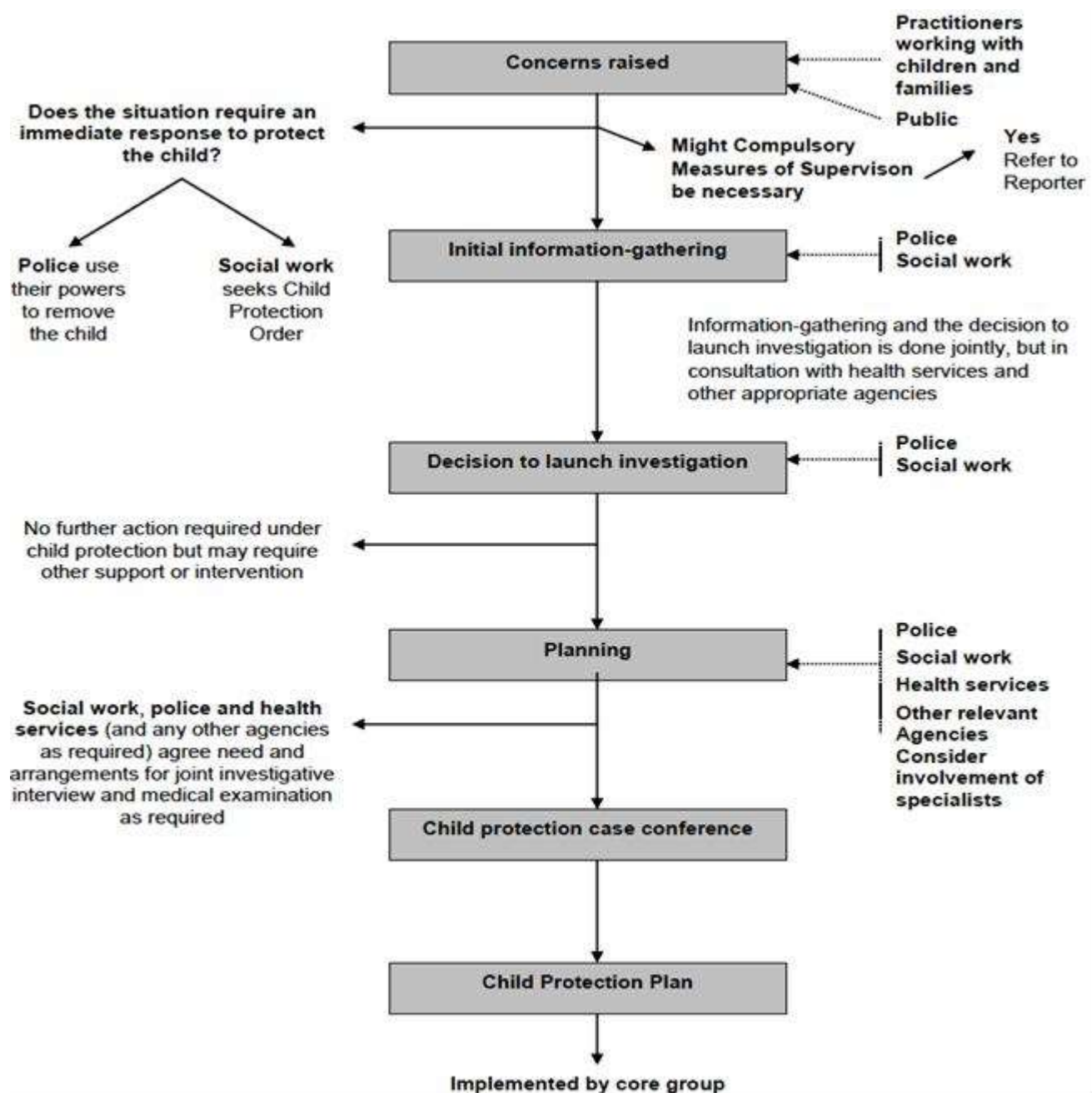
Where IRD participants are agreed that there is no requirement to proceed to a child protection investigation, the process would end at this point, with the outcome being recorded in the child's file by all agencies.

- Where it is agreed that a child protection investigation is required the IRD will be fully recorded and a CP1 created for each child, **whether or not** the case moves to a full child protection case conference.
- This process is inclusive of cases already subject to multi-agency planning processes.

**The entire process is recorded on the social work care first system.**

**It is critically important that initial referral discussions and their outcome(s) are recorded on all services information systems**

The law is clear that society does not encourage sexual intercourse in young people under 16 however, it does not follow that every case presents child protection concerns. It is therefore important in these cases, that a proportionate response is made as there may still be needs to be addressed either on a single agency or multi-agency basis, therefore the IRD process should also be instigated. The flowchart overleaf is extracted from [the National Child Protection Guidance \(2014\)](#)



## 5 Rights to consent to, or refuse, health interventions

Scots law presumes that people aged 16 and over have the capacity to consent to their own medical treatment. For those under 16, there is no presumption of capacity but the provisions of the [Age of Legal Capacity \(Scotland\) Act 1991](#), specifically section 2(4), will apply.



## **6 Children and young people have rights to confidentiality**

Children and young people have the same right to confidentiality as adults' i.e. that personal and private information should not be shared without consent. Child protection concerns relate to the risk of significant harm – however, in order to assess this, it is important that relevant practitioners can share information on wider risk of harm. Specifically, where there is simply a risk of harm, or where there are wider crime prevention or public safety implications or such action would prejudice any subsequent investigation, information may be shared without consent. The National Child Protection Guidance sets out the issues and circumstances relating to 'significant harm' and 'harm' in greater detail.

In the context of under-age sexual activity, if there is a concern of a risk of harm as a result of sexual behaviour and/or relationships, this always overrides the professional requirement to keep confidentiality. In these circumstances, practitioners have a duty to act to make sure that the child and young person is protected. As already stated, where under-age sexual activity relates to those under 13, information must be shared in accordance with local child protection procedures.

Professionals are required to ensure that children and young people are informed from the outset that confidentiality is not absolute, but that every reasonable attempt will be made to discuss with them beforehand if information needs to be shared. Prior to disclosing information, attempts should be made to gain consent to passing on information. However, in individual cases it may not always be appropriate to seek consent where there is justification to share without it – for example, if not disclosing information might result in harm coming to the individual in question or compromise a subsequent police investigation

Staff should ensure the young person is aware their confidentiality will be respected. However, staff should ensure they encourage the young person to discuss their relationships with their parents/carers where possible.

Staff will ensure they record their decision and the thinking behind it using their own services record keeping protocols.

## **7 Pregnancy in young people**

Pregnancy in young women under the age of 16 should be dealt with using the above criteria. If it is assessed that the pregnancy is the result of mutually-agreed teenage sexual behaviour in which there are no concerns of abuse or exploitation, the matter should not be considered to be a child protection matter: the emphasis should be on ensuring that the young woman's health, educational, social and emotional needs are appropriately assessed.



## **8 Links to other related protocols**

### **8.1 Other West Dunbartonshire and West of Scotland protocols**

- [West Dunbartonshire CPC Child Protection, Internet and New Technology Multi-Agency Guidance for Staff \(2015\)](#)
- [West Dunbartonshire CPC Child Exploitation Pages](#)
- [West of Scotland Child Protection Consortium Interagency CP Procedures \(2017\)](#)
- [West Dunbartonshire GIRFEC Pages](#)
- [West of Scotland Managed Clinical Network for Sexual Health](#)

### **8.2 National Guidance**

- [National Guidance for Child Protection in Scotland 2014](#)
- [National Guidance for Child Protection in Scotland 2014 Additional Notes for Practitioners: Protecting Disabled Children from Abuse and Neglect](#)
- [Scottish Government GIRFEC pages](#)
- [The Children and Young People \(Scotland\) Act 2014](#)
- [Common Core of Skills, Knowledge & Understanding and Values for the “Children’s Workforce” in Scotland 2012](#)
- [Children’s Hearings \(Scotland\) Act 2011](#)
- [When and how to best use the CRWIA: Guidance for Scottish Government Officials 2015](#)
- [Guidance on Referral to the Children’s Reporter 2016](#)
- [Child protection and disability toolkit 2014](#)
- [Stalker et al Child protection and the needs and rights of disabled children and young people: A scoping study. 2010](#)

### **8.3 Related documentation**

- [European Convention on Human Rights](#)
- [United Nations Convention on the Rights of the Child:](#)
- [Human Rights Act 1998](#)
- [Data Protection Act 1998](#)
- [ICO Data Sharing Code of Practice](#)
- [Information Sharing- Advice for Practitioners providing safeguarding Services 2015](#)
- [General Medical Council \(GMC\) 0-18 Guidance -Sexual Activity](#)

## Appendix 1 Young People in West Dunbartonshire

### Demographics

The West Dunbartonshire Integrated Childrens' Service Plan 2015-2018 and the [2015/16 Chief Social Work Officers Annual Report](#) provides some information on the social and economic circumstances of children, young people and families in West Dunbartonshire. This is supplemented here with some additional data relevant to this topic area.

Age	Number of Children and Young People in West Dunbartonshire <u>National Records of Scotland 2016 Mid-Year Population Estimates</u>
12	947
13 and 14	1803
15	897
16 and 17	1952

In 2015/16 NHSGGC Sandyford Sexual health services [research](#) identified that young people feel they are growing up in a society that puts great pressure on them to be sexually active but find adults reluctant to discuss adolescent sexual development as a natural part of growing up.

The national self-reported Health Behaviour in School Aged Children (HBSC) carried out in 2014 found that

- 27.4% of 15-year old girls who reported ever having had sexual intercourse compared to 24.4% of 15 year old boys.
- Using the percentages above as a proxy for the West Dunbartonshire 15 year olds this would mean that 108 out of the 444 15 year old boys would have reporting having had sex with 124 out of the 453 15 year old girls.
- Boys and girls from poorer neighbourhoods were more likely than other 15-year olds to have had sex

Snapshot information from 2016 suggests that only 58 individuals aged under 16 from West Dunbartonshire attended NHSGGC Sandyford Sexual Health Services. This represents fewer than one in four of the estimation of the numbers of 15 years who have ever had sex.

## Teenage Pregnancy

Despite the Scottish teenage pregnancy rate falling to the lowest levels on record inequalities continue to exist with females, in the under 20 age group, living in the most deprived areas such as West Dunbartonshire nearly five times more likely to experience a pregnancy.

West Dunbartonshire rates of teenage pregnancy were 5.9 per 1,000 for the under 16 age group in 2012/14 and 28.8 per 1,000 in the under 18 age group. The national rates are 5.6 and 24.9 respectively.

The rates for under 16s and under 18s at a local authority level are reported as three year combined figures, due to small numbers slight fluctuations should be treated with caution. This can be illustrated by the most recently published actual numbers for the combined three year period 2012, 2013 and 2014 for under 16 age group reported as 26 pregnancies in total for West Dunbartonshire (ISD 2016).

## Looked after children

A Snapshot of Looked after children carried out in July 2016 identified 363 children and young people as being looked after by West Dunbartonshire corporate parents.

A breakdown shows that

- 89% of the 363 (323) of children were looked after in the community
- 54% (197) were male with 46% (160) being females
- 73% or (267) children were aged between 5 and 15
- 9% or 27 Children were 16 or over
- 14% (50) were known to have a disability

## Appendix 2- Sources of Support/Referral

### NHSGGC Sandyford Sexual health services [www.sandyford.org](http://www.sandyford.org)

- **Young People @ Sandyford Drop in services available for under 17's.** available at Sandyford West Dunbartonshire, Sandyford Clydebank and Sandyford Central at Charing Cross in Glasgow.

Details at <http://www.sandyford.org/sandyford-sexual-health-services/where-are-our-services/young-people-services/>

- **NHSGGC Free Condoms Service**

<http://www.freecondomsglasgowandclyde.org/>

- Wide Range of Specialist Services available at NHSGGC Sandyford



<http://www.sandyford.org/sandyford-sexual-health-services/>

Email [sandyford@ggc.scot.nhs.uk](mailto:sandyford@ggc.scot.nhs.uk) or call 0141 211 8130 to book an appointment

### LGBT Youthline

Call 0845 113 0005. [www.lgbtyouth.org.uk](http://www.lgbtyouth.org.uk)

Information, advice and support for young people

### Y Sort it

Call 0141 941 3308 [www.ysortit.com](http://www.ysortit.com)

Youth information and support network for 12 – 25 year olds.

### West Dunbartonshire Parenting Programmes and support

Call 01389 812319

Email [GG-UHB.WestDunbartonshireParenting@nhs.net](mailto:GG-UHB.WestDunbartonshireParenting@nhs.net)

<http://www.wdhscp.org.uk/children/parenting-mentoring-and-befriending/parenting/parenting/>