

**Draft National Guidance: Under-Age Sexual Activity
Meeting the Needs of Children and Young People and Identifying Child
Protection Concerns: Consultation**

A response by the Association of Directors of Social Work

Response to Consultation questions

1. We agree that the guidance seems to take a more realistic and proportionate approach which attempts to veer away from criminalising young people whilst ensuring that protective measures are taken when needed.
However, there are some potentially contradictory statements made which require to be addressed so that staff are clear as to the range of responses they are in a position to take in these difficult situations.
2. Given the current wording of the guidance, it may be interpreted in a variety of ways by various agencies involved with children and young people. Annex B is of assistance in terms of detailing the process of decision making. However, at 18, it clearly states that “the police must be informed if there is suspicion that a crime or offence has been committed”. This leaves everyone working with young people in a difficult position in that, despite the proportionate response by agencies recommended in the guidance, it also states that referrals will have to be made to the police in the above circumstances and this may lessen the likelihood of a proportionate response due to the potential police response because of their particular duties. The decision to make a single agency assessment is not in line with this statement.

In any case, it is recognised that child or adult protection concerns cannot be determined without discussion with other agencies and the police may have significant information which would put a different reflection on a risk assessment. Therefore, it would be helpful if the guidance gives some discretion to the police in terms of their response at this initial sharing of information stage.

3. Overall, this seems very helpful guidance which could provide a sound basis for local policies and procedures, except for the need for more clarity regarding the potentially contradictory advice and the limits of discretion for staff in decision making.

It could be improved through making clearer the position in relation to the police. It will be important that where police information is not already available to other agencies that this information is sought before making a single agency decision. However, it would be helpful to include in the guidance that there should then be agreement among all agencies including the police as to the proportionate response needed as appropriate to each situation.

4. In general, yes.
5. Yes, though the differences between single worker or carer and single agency discretion should be more detailed.
6. The guidance in some ways helpfully seems to give clear advice regarding a proportionate approach, but, because of the duties in relation to the police, this could lead to a different, less proportionate, kind of approach in some areas. Also, it might be difficult to reach agreement on local policies and procedures for the range of staff involved in child protection activity, e.g. through the Child Protection Committee.
7. Yes, but perhaps there should be a clearer statement as to when a voluntary or independent agency should involve the local authority in dealing with these issues, as it is unclear as to whether there is discretion for individual carers or agencies to manage situations as a single person or agency.
8. We realise that this is a very complex area for guidance but it will not help if it remains that there are potential areas of conflict and/or disagreement about what is legal or whether there is actually discretion for staff including the police in dealing with these potentially very difficult situations.

We hope that the guidance can be strengthened by addressing these issues as it is very helpful guidance overall.