

7-Minute Briefing – Consenting sexual relationships

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Safeguarding
Children Partnership
LEICESTERSHIRE & RUTLAND

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01 Purpose of this Briefing

This briefing considers local and national learning regarding the issue of consent in relation to children under 16 who are known to be / considering being sexually active and how this may relate to exploitation.

02 The Age of Consent

The legal age for young people to consent to have sex is 16, whether they are straight, gay or bisexual.

Many young people will develop a healthy and developmentally appropriate interest in sexual relationships whilst they are still children and some will do this before they reach the age of consent. However, a child under 13 does not, under any circumstances, have the legal capacity to consent to any form of sexual activity.

07 Resources to support practice

[Working with Sexually Active Children and Young People under the Age of 18 procedure](#) and flowchart

[Child Exploitation, CSE and Assessment of Risk Outside the Home \(Contextual Safeguarding\) procedure](#)



06 Reviewing Practice

- Are you recording the voice of the child and curious about the language/labels they use about relationships?
- Have you made it clear to a child that absolute confidentiality cannot be guaranteed, and that there will be some circumstances where they can only be safeguarded by sharing information?
- Wherever safe to do so, have you encouraged the child to share information with their parents/carers? Have you considered the Fraser Guidelines?
- Where a child has/is planning to engage in sexual activity have you considered health, education, support and/or protection needs? With a child under 16 "consenting" to sexual activity, have you taken account of all relevant contextual information from agencies that know the child well, and the individual circumstances of the incident including power imbalance? Have you recorded all discussions, giving reasons for action taken and who was spoken to?

05 Child protection concerns

Where practitioners are working with a child or young person and they are aware of sexual activity with an adult, they need to refer to the [Sexual Abuse procedure](#) and not be distracted by discussion around whether the child appears to have consented. Where there are concerns about sexual abuse or exploitation, a [referral should be made to Children's Social Care](#). Where the situation is an emergency, the Police should be contacted immediately. Consideration will be given to the need for an assessment and a Strategy Discussion/Meeting, which can provide an essential opportunity to share information and evaluate risk. The Local Authority holding responsibility for a subject child must be visible and able to contribute to the meeting so that historical information can assist in understanding risk. This should include any relevant health history. An indication of contextual risk should lead to an action for consultation with the Vulnerability Hub to consider any necessary support to the child.

03 Sexual Offences Act 2003

Children **under the age of 13** are legally deemed incapable of consenting to sexual activity and therefore all incidences of sexual behaviour involving children under 13 should be considered as a potential criminal and child protection matter, with notification to the Police and a [referral to Children's Social Care](#).

If a child is between the **ages of 13 and 16**, the Act recognises that, whilst mutually agreed, non-exploitative sexual activity between teenagers does take place, the age of consent should still remain at 16. This acknowledges that this group is still vulnerable, even when they do not view themselves as such. Discussion with/referral to Children's Social Care would depend on the level of risk/need.

Although sexual activity in itself is no longer an offence **over the age of 16, young people under the age of 18** are still offered protection under the Children Act 1989. Consideration still needs to be given to issues of sexual abuse, exploitation and abuse of power. Young people over the age of 16 and under the age of 18 are not deemed able to give consent if the sexual activity is with an [adult in a position of trust](#) or a [family member](#) as defined by the Act.

04 The importance of language

If a child under 16 talks about being in a "consenting relationship" or "consenting to sexual activity", the context of the relationship should still be explored to consider risk factors, vulnerability and if there are any power imbalances due to, for example, age and development.

In their ["Why Language Matters"](#) series, the NSPCC discusses how the label 'older boyfriend' can mask child sexual exploitation. They note that accepting a child's use of the term or in practitioners using the term without assessing the risk, they may be legitimising an exploitative relationship and minimising the risk of harm to the child. The NSPCC focus on the term 'older boyfriend' but emphasise that adults or young people of any gender can groom or exploit children, and children or young people of any gender can experience child sexual exploitation.