**Calderdale Harmful Sexual Behaviour panel**

**Operational Guidance**

**Please note: this document should be read in conjunction with the Calderdale Safeguarding Children Partnership procedure for responding to incidents of Harmful Sexual Behaviour accessed via the following link:**

<http://westyorkscb.proceduresonline.com/chapters/p_abuse_child_yp.html?zoom_highlight=sexual+harmful+behaviours>

**Introduction**

1. **The need for a multi-agency response**

Working Together 2010 (now archived) states in relation to children and young people who display HSB:

* There should be a coordinated approach between youth justice, children’s social care, police and health (including child and adolescent mental health services).
* LSCPs should ensure that there is a clear operational procedure in place within which assessment, decision making and case management should take place.

NICE (2016) Guidelines state that local authorities should develop local safeguarding policies and agree a harmful sexual behaviour framework between agencies.

Furthermore, The HMIP Joint Inspection “Examining Multi-Agency Responses to Children and Young People who Sexually Offend” highlighted that:

* Responses to disclosures were often slow, resulting in lengthy periods when little or no work was done with the young person
* Much work was characterised by poor communication between the relevant agencies, with inadequate assessment and multi-agency planning
* Many young people had complex and multiple needs and positive examples of holistic interventions to address these delivered by a range of agencies were rare
1. **What is Harmful Sexual Behaviour?**

*Harmful Sexual Behaviour is when children and young people (under 18) engage in sexual discussions or activities that are inappropriate for their age or stage of development, often with other individuals who they have power over by virtue of age, emotional maturity, gender, physical strength, or intellect and where the victim in this relationship has suffered a betrayal of trust. These activities can range from using sexually explicit words and phrases to full penetrative sex with other children or adults. (Barnardos, 2016)*

The term ‘sexually harmful behaviour’ has previously been used to describe these behaviours however the term Harmful Sexual Behaviour indicates those behaviours that are harmful to both the victim(s), potential victims as well as the person expressing the behaviour, or “harm to others and harm to self” (Hackett, 2016).

Whenever a child or young person has been sexually harmed by another child or young person, all agencies must be aware of their responsibilities to both the victim and the young person who has carried out the HSB. The multi-agency management of both cases must reflect this. Children and young people who harm others may pose a risk to children other than their present victim and the safety of their victim and other children is of paramount importance. However children and young people who behave in this way are likely to have considerable levels of unmet need themselves.

**3.** **Principles of Working With Children and Young People who have Harmful or Problematic Sexual Behaviour**

1. Work with children and young people who harm others must recognise that such children are likely to have considerable needs themselves, and also that they may pose a significant risk of harm to other children and young people;
2. The needs of the children and young people who sexually harm should be considered separately from the needs of their victims;
3. Evidence suggests that children and young people who abuse may have suffered considerable disruption in their lives, been exposed to violence within the family, may have witnessed or been subject to physical or Sexual Abuse, have problems in their educational development and may have committed other offences. Such children and young people are likely to be children in need, and some will in addition be suffering from, or at risk of, Significant Harm and may themselves be in need of protection;
4. The reasons why young people sexually abuse are multi-faceted and to explore these further, a full risk assessment and an assessment of need must be carried out in every case;
5. Children and young people who sexually harm others should be held responsible for their abusive behaviour;
6. Early and effective, intervention with children and young people who sexually harm others may play an important part in protecting children, by preventing the continuation or escalation of abusive behaviour;
7. Young people who sexually harm others have a right to be consulted and involved in all matters and decisions that affect their lives. Their parents have a right to information, respect and participation in matters that affect their family.

**4.** **Recognition of Abuse by a Child or Young Person**

Exploration during childhood is a normal part of development, and it is important that those working with children and families develop an understanding of age appropriate sexual behaviour.

**4.1** **Developmental Stages of Sexual Behaviour**

These five stages are intended as a guide only – (*for more detail please see AIM U12’s Assessment and Intervention Manual*):

1. 0-4 years. Exploratory behaviours emerge - touch taste, looking, hugs and kisses. Periods of inhibition and disinhibition occur i.e. wandering round naked. They imitate and copy behaviours of life around them including ‘mummies and daddies’ and ‘doctors and nurses’. Random masturbation can occur as this is a sensual stage in development. The distinction between toileting behaviours and comforting behaviours begins to emerge. Parents and carers are most influential, and children learn the social rules and what is permissible from them;
2. 5-7 years. More exploratory behaviour with peers occurs, and there is comparison with others bodies and more questions. Masturbation is less random but more likely among boys due to gender socialisation. There is an increased desire for privacy. They know rude words and provoke reaction from adults although they might not understand the meanings. They are increasing their understanding of the taboos around sexual talk and behaviour. The influence of peers is beginning to emerge;
3. 8-12 years.  Cognitively children can understand and process information they gain, and they are learning about sex, procreation and bodies. Sexual language will have progressed and swear words will be learned and repeated although not necessarily with an understanding of the meaning. Myths about sex flourish at this age. The onset of puberty begins, with some young people will showing an interest in sexual activity at petting level. Competitive comparison of bodies begins. A few will progress on from petting. A development of anxiety about appearance and likability occurs. Those who are gay or lesbian begin to define themselves as feeling different and will feel pressure to conform.   Peers and media significant influence at this stage.
4. 13-15 years. The beginning of the grown up phase. Young people are gaining fully developed adult bodies. Some may have practiced low level petting behaviours and some might be moving onto advanced sexual behaviours. Emotional romantic attachments become important. There is a pressure to be seen to be knowledgeable. Anxiety is still present about status and performance. Peers and media provide a strong influence, and young people can be embarrassed to discuss questions or concerns with adults;
5. 16-18 years. Adult phase. Knowledge language and behaviours present are common. And there is competition with peers in these areas. The need for intimacy and emotional closeness is more important now. There is a return to the sensual stage - hugs and kisses reinforce attachments, along with sexual desire and pleasure. Young people can revisit cultural scripts of caregivers at this stage.

**4.2** **A Continuum of Sexual Behaviours from Healthy to Harmful**

Not all sexual behaviours displayed by children/ young people are healthy; some are harmful and some fall within a mid- range (problematic) which are not the most worrying but nevertheless cause an issue. The term problematic is used to indicate that the behaviour is problematic for someone whether for the child or young person themselves or someone else who is uncomfortable with the invasion of their personal space by a child/adolescent with little sense of boundaries.

The following behaviours give a general indication of categories and are more applicable to younger children:

**Healthy sexual behaviours are**:

* Mutual;
* Consensual;
* Exploratory and age appropriate;
* No intent to cause harm;
* Fun, humorous;
* No power differential between participants.

**Problematic sexual behaviours are**:

* Displaying behaviours not age appropriate - e.g. invasion of personal space, sexual swear word in very young children;
* Some ‘one off’ incidents of low-key behaviours such as touching over clothing;
* Incidents where there is peer pressure to engage in the behaviour e.g. touching someone’s breast, exposure of bottom;
* Behaviours are spontaneous rather than planned;
* They may be self-directed such as masturbation;
* There are other balancing factors such as lack of intent to cause harm, or level of understanding in the young person about the behaviours, or some remorse;
* The child or young person targeted may be irritated or uncomfortable but not scared and feel free to tell someone;
* Parental concern and interested in supporting the child to change.

**Harmful sexual behaviours are**:

* Not age appropriate;
* Elements of planning secrecy or force;
* Power differentials between young people involved such as size status and strength;
* Targeted children feel fear anxiety discomfort;
* Negative feelings are expressed by the young person when carrying out the behaviour e.g. anger aggression;
* The young person does not take responsibility for the behaviour and blames others or feels a strong sense of grievance;
* Incidents are increasing in frequency and the young person’s interest in them is disproportionate to other aspects of their life;
* They are not easily distracted from the behaviour, it appears compulsive ad is persistent despite intervention.

There are often difficult behaviours such as conduct disorder, problems with anger management, anxiety, clingy, aggression, disruption, poor peer relationships in evidence alongside sexually inappropriate behaviours. Neglect emotional abuse and poor attachments with parents and siblings, little empathy, disrupted patterns of care and loss of significant person and lack of role models are often features in harmful sexual behaviours.

(See also [**Calderdale Traffic Light Tool**](http://www.brook.org.uk/our-work/single/sexual-behaviours-traffic-light-tool) for more useful guidance on this subject of sexual behaviours. These indicators are a guide and do not replace, but should assist, the exercise of professional judgement.)

**5. Decision as to which pathway each case should follow**

The HSB panel will advise, based on the information presented at the meeting, as to whether the case should continue:

* Into a child protection route
* Into a criminal justice route
* Into both child protection and criminal justice routes

**Child Protection route**

* Childrens Social Care takes the role of lead agency.
* HSB assessment is completed (if deemed appropriate) by a nominated worker (identified at panel) and the social worker.
* The assessment is completed and written into report format.
* The outcomes of the assessment are considered and an intervention plan is agreed; this is then used to inform the single assessment and plan.
* Case reviewed at the next available panel.
* Further review dates are agreed as part of the social care intervention plan.

**Criminal Justice route**

* Young person admits sexual offence. Bailed for 28 days or for a timescale considered appropriate.
* The YOT take the role of lead agency (if social care involvement is to end).
* Co-workers of HSB assessment (if appropriate) are allocated at the HSB panel.
* HSB assessment is undertaken and interviews take place with the young person, relevant professionals, family members and significant other persons.
* HSB assessment completed and written into report format and discussed at the next available HSB panel.
* Based on the HSB assessment, and consultation at the HSB panel, the police/Crown Prosecution Service will make a decision regarding an appropriate disposal.
* The outcomes of the assessment report are considered and an intervention plan is agreed.
* Further review dates are agreed as part of the YOT intervention plan.

**Criminal Justice route straight to prosecution:**

* Initial strategy discussion held between police and social care to determine if the child is at risk of serious harm.
* Young person is charged with a sexual offence.
* Young person appears before court.
* If a not guilty plea is entered the legal process continues and no HSB assessment is completed at this point, however the case will be referred to the HSB panel where members can advise on safety planning and appropriate harm-reduction intervention
* If the young person enters a guilty plea or is found guilty the court will request a Pre-Sentence report and should be asked to give sufficient time to complete a HSB assessment to inform the Pre-Sentence Report.
* YOT will complete a HSB assessment in partnership with a colleague identified at the HSB panel.
* YOT make a proposal to the court for an appropriate disposal based on the HSB assessment and Pre-Sentence Report.
* An intervention plan will be formulated and roles and responsibilities identified following sentencing.

|  |
| --- |
| **6. Framework for Confidentiality and Information Sharing** |
|  | Five key documents provide the main **national framework** for information sharing: * **Data Protection Act 1998** – This Act provides the main legislative framework for confidentiality and information sharing issues. The Act stipulates eight principles (see **Appendix 1**) that must be followed when personal information is “processed” by organisations. (**“Processing”** refers to any work done with personal information including obtaining, recording, viewing, listing, disclosing and destroying.) The Act stipulates the conditions under which information may be shared i.e. the legal justifications.
* **Human Rights Act 1998** – This Act incorporates Article 8 of the European Convention of Human Rights which provides that everyone has the right to respect for their private and family life, home and correspondence.
* **Caldicott Guidance** – The Caldicott Committee produced their report on the “Review of Patient Identifiable Information” in December 1997. Caldicott guidance applies to all NHS organisations and local authority Social Services Departments. Guidance is based on six key principles (see **Appendix 2**). Organisations are required to appoint Caldicott Guardians to oversee the confidentiality / information sharing process.
* **NHS Confidentiality Code of Practice** – The Code of Practice was issued in July 2003 and applies to all NHS organisations. It is a guide to required practice on confidentiality, security and disclosure of personal information.
* **Crime and Disorder Act 1998** - The Crime & Disorder Act 1998 is the primary legislative tool, common to all crime reduction protocols. It does not override existing legal safeguards on personal information.
* **GDPR** seven key principles of data protection regime.
 |
|  | **6.1 Scope of the Agreement**This Agreement covers the sharing of personal information about the young people alleged to have displayed HSB, and their alleged victims, between and within the partner agencies listed above. The Agreement covers sharing for any of the purposes listed in **Section 2 – Terms of Reference** |
|  | **6.2 Approval of this information Sharing Agreement:*** The Information Sharing Agreement (the Agreement) will be submitted to all partners for formal approval after any significant change, update or amendment. Partners will be asked to approve the Agreement and:
* Facilitate the sharing of information on the basis detailed in the Agreement;
* Implement the Agreement within each organisation;
* Support staff in the implementation of the Agreement through the provision of advice and guidance;
* Provide relevant information to facilitate monitoring and review.
 |
|  | **6.3 Data Protection Act:**Partners to this Agreement will ensure that their staffs operate in accordance with the eight key principles of the 2018 Data Protection Act and the UK data protection along with the GDPR. |
|  | **6.4 Purposes of Information Sharing**:Information may be shared under this Agreement for the following purposes: * Referring a case to the HSB Panel Chair for discussion at the next meeting;
* Discussion at Group meetings to inform multi agency actions to prevent abuse occurring and protect victims and young people displaying HSB from harm;
* Provide Group partners with up-to-date information on cases outside of the meeting where appropriate;
* Establish the potential involvement of partner agencies with identified victims/ perpetrators;

 The Agreement will be used to ensure that:* Information is shared in a secure manner.
* Information is shared only on a ‘**need to know’** basis.
* It is clear which agency staff are able to deal with requests for disclosure.
* There are clear procedures to be followed with regard to information sharing.
* Information will only be used for the reason(s) it has been obtained.

The Agreement has been approved only for the purposes listed above. If other information sharing purposes are subsequently identified these will be considered for inclusion in the Agreement by the ISA partners. |
| **6.5 Arrangements for sharing information**  |
|  | **To the HSB Panel Chair.*** Cases will only be referred to the HSB panel following an assessment led by the Children Assessment Team which has identified suspected or known harmful sexual behaviour to be taking place. When this happens, the responsible Social Worker or Team Manager should notify the HSB Panel Chair by secure e mail of the concerns.
* The case will be discussed at a multi-agency meeting.
 |
|  | **To HSB Panel members.**1 week prior to the scheduled meeting, the Coordinator will compile a schedule of cases and known information for the meeting. When approved by the HSB Chair, this will be shared with HSB Panel Members by secure e-mail.**Agencies are responsible for ensuring that arrangements are made to cover the role of HSB Panel Member for reasons of annual leave or sickness. Agendas and referrals must still be actioned in the absence of the nominated officer.** |
|  | **Meetings*** Attendees are expected to verbally share relevant and proportionate information in relation to cases on the agenda;
* Information discussed within the meeting is strictly confidential and must not be disclosed to third parties who have not signed up to the Information Sharing Agreement without the agreement of the partners of the meeting, except by the Chair as described above;

**Information shared and any recommendations or decisions made will be recorded on the meeting’s minutes.** |
|  | **Following the Meeting*** Following the meeting, minutes will be circulated to partner agencies by secure and password protected e-mail;
* HSB Panel Members should process this information in line with their own agency's policies and procedures, bearing in mind that some information may be of a particularly sensitive nature;
* All cases will be brought back to panel, for updates and reviews.
 |
|  | **Consent** The HSB panel is a professional’s meeting. Consent for the sharing of information will not be sought from individuals whose personal information may be shared at a meeting. The following provisions allow the sharing of such information without the knowledge or consent of the individuals concerned:* Section 115 of the Crime and Disorder Act 1998 enables disclosure of information for the purposes of any provision of the Act to a relevant authority, or to a person acting on behalf of such an authority. Section 115 does not impose a requirement to exchange information and responsibility for the disclosure remains with the agency that holds the data and decisions must be made on a case by case basis and a record made of the decision and reasons for it.
* Personal information may be provided to the Police under Section 29 of the Data Protection Act for the prevention or detection of crime or the apprehension or prosecution of offenders. This is a power, not an obligation, and information should only be disclosed where:
* Without disclosure the task of preventing or detecting crime would be seriously prejudiced
* Information shared is limited to what is strictly relevant to a specific investigation.
* There are satisfactory undertakings that the information will not be used for any other purpose than the specific investigation.
* Where sharing is necessary because there is evidence that significant harm may be caused to a child or an adult. In these circumstances the public interest in safeguarding the welfare of the child or adult may override the need to keep the information confidential.
* Where sharing is necessary in the vital interests of the victim or another person. This normally refers to life or death circumstances.
* Where sharing is necessary for medical purposes and is undertaken by a health professional.
* Where a court has ordered that information be shared to inform proceedings and decisions by the court.
* Specialist advice should be sought if there is any uncertainty regarding the appropriateness of using any of the above justifications for sharing information. Advice should be sought from the Caldicott Guardian or the Data Protection Officer of the organisation holding the relevant information (the “data controller”).
* A written record should be made whenever information is shared without consent, giving details of the grounds for the decision.
* The above is in line with the overarching Information Sharing and Confidentiality Policy of The Board.
 |
| **6.6 Access and Security** |
|  | **Access*** Staff access to personal information must be on a ‘**need to know’** basis and any specific additional restrictions agreed within agencies;
* Care should be taken to ensure that access to personal information is restricted on this basis. Restrictions need to be re-enforced by clear policies on confidentiality and by inclusion of appropriate confidentiality clauses in staff contracts;

**If temporary members of staff, volunteers, interpreters, translators or students on placement are to have access to personal information, confidentiality requirements and access arrangements must be made clear as part of their induction process.** |
|  | **Secure storage and transfer of personal information** * Steps should be taken by all partners to ensure that personal information is held and transmitted securely. Data should only be sent by secure e-mail systems.
* Each partner organisation should ensure that staff has copies of their Confidentiality and Information Security policies.

**Further information on the safe transfer of confidential information should be sought from your Information Governance Lead.** |
|  | **Retention of records**Each agency is responsible for retaining and storing minutes and schedules in accordance with the data protection principles detailed below. |
|  | **Staff development issues**Staff will receive quarterly Clinical meetings supported by the partnership to ensure competencies and confidence is maintained within the virtual team. Partner agencies will ensure that appropriate training is provided for all staff involved in sharing personal information to ensure that they are aware of their legal responsibilities in relation to maintaining confidentiality and none disclosure to parties outside the agreement without the consent of all members of the Group. |
|  | **Dissemination, monitoring and review of the Agreement*** Partner organisations will disseminate copies of this ISA to all relevant staff. Partners will ensure that appropriate training is provided to all relevant staff.

 * Partners should investigate and resolve where possible any breaches that arise in relation to information shared under the ISA. This may relate to information shared inappropriately or to information not being shared where it should be. Unresolved breaches should be referred to the Tasking Group.
* The Agreement will be reviewedtwelve months from of the start of implementation. Changes to the Agreement will not be considered during this period unless they are required urgently.

Agreed changes will be incorporated into the ISA as soon as is feasible. |