

NSPCC Cymru/Wales

Response to:

**All Wales Protocol: The Management of Young
People engaged in sexually harmful behaviour**

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About us:

The National Society for the Prevention of Cruelty to Children (NSPCC) aims to end cruelty to children in the UK by fighting for their rights, listening to them, helping them and making them safe.

We share our experience with governments and organisations working with children so together we improve the protection of children and we challenge those who will not learn and change. We campaign for better laws and we educate and inform the public to improve understanding about child abuse.

We provide national services such as ChildLine and our Helpline for concerned adults to provide support for all children. Our local services focus on the most acute forms of abuse and the most vulnerable, highest risk children working in areas such as sexual abuse or children under one so that we can bring help, advice and treatment to children at risk or those who have been abused.

Introduction

NSPCC Cymru/Wales welcomes the opportunity to respond to this consultation on the All Wales Protocol for the management of young people engaged in sexually harmful behaviour.

We were extremely pleased to be involved in early discussions with the Minister for Health and Social Services in 2008 having established the first sexually harmful behaviour service in Wales in 1991. Our experience in working with children and young people who display this behaviour enabled us to begin discussions at a national level over the provision of services and support. The subsequent Task and Finish Group in 2008 was a good opportunity for us to work with others in Wales, including the Welsh Government to develop some key recommendations to ensure this area of work was taken forward positively.

NSPCC Cymru/Wales' service for children and young people who display sexually harmful behaviour continues to form a key part of the NSPCC Strategy. Our practitioners work with children, aged 12 and over, who display sexually harmful behaviour. They will examine the children's relationships with other children and adults and help them to control and alter their behaviour. Each child will see the same workers throughout the programme.

One in three sexual offences suffered by children are committed by young people, but there are few treatment services for children who display sexually harmful behaviour. There is an urgent need to find ways of tackling this behaviour. Assessment and treatment services are patchy, and there is little research into what kind of treatment works. Our work, called Change for Good, aims to establish a consistent and rigorous approach to working with these children.

Our service aims to achieve success via the following criteria:

- there is a drop in reconviction rates for children who sexually abuse
- children who have abused change their attitudes and behaviour
- the number of children suffering sexual abuse by other children declines.

Based on our service experience, we have some particular issues we would like to highlight in our response and would be happy to provide further information as necessary in taking this work forward to create positive change for these young people.

NSPCC Cymru/Wales believes that if our recommendations are taken forward, this All Wales Protocol could work successfully in conjunction with the All Wales Child Protection Procedures to ensure that the needs of these young people and the risks associated with their behaviour are assessed and managed effectively and consistently across Wales.

Concerns

1. United Nations Convention on the Rights of the Child (UNCRC)

The UNCRC was ratified by the UK Government in December 1991. The Convention provides a set of minimum standards relating to children's civil, political, economic, social and cultural rights and as such represents a comprehensive framework by which to examine the impact of all legislation, policy and practice relating to children.

NSPCC Cymru/Wales acknowledges that the Welsh Government and others have made considerable inroads in making the rights of children and young people a reality in Wales and should be commended in their efforts here. All professionals have a role in achieving the rights of children and young people, taking leadership from the Welsh Government.

We are disappointed at the lack of reference made to the UNCRC and to the children's rights agenda in Wales within the draft Protocol.

Children and young people who display sexually harmful behaviour pose a risk to other children but are also children themselves. As such, a children's rights approach should include the right to protection from all forms of violence (Article 19), and from sexual exploitation (Article 34), but also underline the importance of the welfare and rehabilitation of child offenders, and identify basic guarantees for such children. Crucially, many of these children will themselves have been victims of abuse.

We would particularly like to highlight the following Articles:

Article 40 on the administration of youth justice sets out (among other things) that:

States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society...

Article 40 goes on to state that:

A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their wellbeing and proportionate both to their circumstances and the offence¹.

These Articles are supplemented by the general principles of the Convention elaborated in Articles 2 (non-discrimination), 3 (best interests of the child), 6 (right to life), and 12 (respect for the child's views).

NSPCC Cymru/Wales recommends that the draft Protocol is amended to reflect the role it plays in upholding every Article within the UNCRC for children and young people in Wales. By both acknowledging and addressing this responsibility, the All Wales Child Protection Procedures Review Group (AWCPPRG) and the Welsh Government will ensure that both children and young people who are displaying harmful sexual behaviour and those who could be at risk of experiencing sexual abuse are in receipt of all their rights.

2. Management of cases

NSPCC Cymru/Wales strongly believes that any protocol for the management of young people engaged in sexually harmful behaviour should ensure a timely and appropriate response to the needs and risks posed by the young person in question.

¹ <http://www2.ohchr.org/english/law/crc.htm>

Young people who display sexually harmful behaviour, from our experience as one of the main service providers in Wales, require a unique response. We understand that there is a legal requirement on social services to undertake an Initial Assessment and Strategy Discussion as part of the referral process. However, NSPCC Cymru/Wales would strongly argue that in relation to referrals where serious allegations are made of a young person who has displayed sexually harmful behaviour, that safeguards should be in place to ensure that this legal process does not create a potentially dangerous and unnecessary delay in convening a crucial multi-agency Strategy Meeting.

We are fully aware that capacity of frontline professionals is a considerable issue across Wales and timescales are often extremely tight. We believe that this protocol should, if applied correctly, ensure that frontline professionals are empowered and supported in their role here.

In light of this, we would urge the AWCPFRG to acknowledge and address this critical issue throughout the draft protocol by strengthening the reference to the legality and urgency involved in the management of cases where a young person has, or is alleged to have, engaged in sexually harmful behaviour. (Points 6 below provides further information on how to ensure this.)

3. Management of younger children

We understand that the current draft protocol will apply to all children and young people up to the age of 18 who have, or who have alleged to have, engaged in sexually harmful behaviour. However, NSPCC Cymru/Wales' experience of working with these young people is that the assumption that a one size fits all approach could be dangerous. We believe that there would be huge benefits to exploring the possibility of establishing a separate protocol to be applied to children under the age of 10 years.

Currently in the UK, the age of criminal responsibility is 10 years and we believe that the management of younger children requires a further needs-led approach. The AWCPFRGs also differentiate between older young people and younger children when considering all issues in cases of alleged sexually harmful behaviour. NSPCC Cymru/Wales would therefore welcome further discussion into the appropriateness of the current draft proposals' "no lower age limit..." (page 3). Any additional protocol could further explore the management of the needs and risks posed by younger children in a more effective and tailored approach.

NSPCC Cymru/Wales would encourage the AWCPFRG to consider the issue of appropriateness of this draft protocol for under 10s and discuss the possibility of establishing a separate protocol for younger children who have, or who have alleged to have, engaged in sexually harmful behaviour. We would welcome involvement in any discussion around this.

4. Scope of protocol

In order to ensure that the final protocol is user-friendly, succinct and clear, we believe that the scope should include the definition of sexually harmful behaviour within the text and not just as an Appendix. We also believe that as a result of the legal age for sexual consent being 16 years old, the final protocol should avoid making references to any sexual activity between young people who are under 16. In light of this, NSPCC Cymru/Wales cannot endorse the inclusion of the reference to "mutually agreed, non exploitative sexual activity" as it currently stands (page 3):

This protocol is not intended for use with regard to mutually agreed, non exploitative sexual activity between teenagers aged 13-16 years. Such activity should be considered with reference to the All Wales 'Protocol for safeguarding and promoting the welfare of sexually active young people' (s5.4 AWCPFRG 2008). However, an allegation of non consensual sexual activity concerning young people in this age group should not be dismissed as normal or 'experimental' and must be considered with reference to the procedures in this protocol.

Children under the age of 13 years are unable legally to give consent

to sexual activity. Therefore, any alleged sexual activity concerning a child under 13 years and another young person must be considered under this protocol.

We urge the AWCPPRG to remove the relevant detail to sexual activity under 16 years old to ensure that boundaries and thresholds are not blurred and the scope of the final protocol is clear amongst all professionals.

5. Spell out legal duty

We acknowledge the fact that many references to legal requirements within the current draft protocol do clearly reference the accurate legislation and/or guidance documents. However, we believe that this should be consistently applied throughout the draft and would encourage the AWCPPRG to acknowledge and address this.

This protocol must be user-friendly, succinct and clear to ensure that children and young people who display sexually harmful behaviour are assessed appropriately and access the services that best meet their particular needs. We believe that the inclusion of the legal requirements placed on professionals at the very beginning of the document is essential.

We believe this would be extremely helpful in ensuring that the reader fully understands his/her legal duty to act on their concerns and ensure that this is applied consistently amongst all professionals across Wales.

We also believe that this reduces the fear that some professionals may have when references are made to specific parts of legislation with an inference that they should then read through these documents to fully understand and appreciate their role and duty to safeguard. For example, the draft protocol is correct in referring the reader to the *AWCPPs* (2008) and to *Safeguarding Children: Working Together Under the Children Act 2004* (2006) yet we feel that it may be more helpful to highlight the particular duty (duties) set out within these statutory guidance documents. For example, the protocol could include the following duties:

Paragraph 9.37 of *Safeguarding Children: Working Together*:

(...) Staff and carers need to be aware that sexual offences may be committed by teenagers and on occasion by younger children. Staff should therefore not dismiss abusive sexual behaviour as 'normal' between young people. They should avoid developing high thresholds before taking action.

Paragraph 4.9.1 of the *AWCPPs*:

Abuse by children and young people should be treated seriously and should always be referred to social services and/or the police.

We urge the AWCPPRG to ensure that the final draft contains the actual text from legislation and guidance documents that clearly and as succinctly as possible, describe the legal duty on professionals to act on their concerns about children and young people who display sexually harmful behaviour.

6. Process required

Further to our concern over the timeliness of the management of young people engaged in sexually harmful behaviour (point 2 above), we believe that there are a few necessary changes to the draft protocol as it currently stands with regard to the process.

Referral:

We agree that the final protocol should make specific reference to the duty on every professional to act on concerns about any young person who has, or who has alleged to have, engaged in sexually harmful behaviour. However, we disagree with the following statement currently included under the 'Referral' guidance:

Where a young person under the age of 13 years is believed to have been involved in sexual activity, a child protection referral must be made, unless the agency takes a recorded decision not to do so.

We strongly believe this sentence should be removed as it contradicts the legal duty on all professionals to act on concerns and is unhelpful in trying to ensure that this final protocol is not only accurate and user-friendly but can easily be applied consistently across Wales.

We urge the AWCPPRG to remove this reference so that the protocol can ensure that every professional undertakes their duty to act on concerns and that this is applied consistently across Wales.

Strategy Meeting:

Again, we strongly believe that any protocol for the management of young people engaged in sexually harmful behaviour should ensure a timely and appropriate response to the needs and risks posed by the young person in question.

In light of this, we would urge the AWCPPRG to ensure that by specifying timescales such as “within 8 working days of the referral to social services” (page 5), this does not delay the critical establishment of a multi-agency strategy meeting. We strongly agree that this meeting is distinct from any other and that in cases where a young person has, or is alleged to have, engaged in sexually harmful behaviour, should be prioritised so that the necessary risk management and safeguarding strategies are discussed, agreed and applied as a matter of urgency.

We also believe that the AWCPPRG should ensure that all professional agencies involved with the young person and who have an expert knowledge of young people who engage in sexually harmful behaviour must attend each relevant strategy meeting. We do not believe that the current use of “it is highly desirable” (page 5) is sufficient.

We urge the AWCPPRG to ensure that the final protocol in relation to the process involved in managing young people who display sexually harmful behaviour prioritises a timely and comprehensive strategy meeting to determine multi-agency actions for the management and protection of the young person in question. Each professional agencies who is involved with the young person in question, alongside others with an expert knowledge of sexually harmful behaviour must attend such meetings. Appendix 3 must be amended accordingly.

7. Simplify protocol

NSPCC Cymru/Wales is in full agreement that the purpose of this protocol should be to solely manage young people engaged in sexually harmful behaviour. As such, we also agree that the needs and protection of the victim must be considered separately. We are concerned that the references made to victims may prove to further complicate what can be a very complicated process as it currently stands. In light on this, we would urge the AWCPPRG to remove any reference to victims throughout the final protocol so that we maintain this distinction and avoid any confusion.

NSPCC Cymru/Wales urge the AWCPPRG to remove references to victims throughout the final protocol to ensure that the sole focus of the final Protocol refers only to the management of young people who have displayed sexually harmful behaviour and that the distinction between the treatment and protection of the alleged young person and the victim remains separate.

8. Involvement of specialist assessment service

Research by the NSPCC in 2001 found that that the response to young people who display sexually harmful behaviour is often inadequate, typically comprising an inaccurate initial assessment of risk and the provision of inappropriate treatment as a result².

² Lovell, E. ‘I think I might need some help with this problem’, *Responding to children and young people who display sexually harmful behaviour*, London: NSPCC

There is an increasing body of evidence that treatment work with children who are sexually harming is effective in reducing sexual risk to others (Edwards, 2003)³ and that other anti-social and offending behaviours can also be reduced⁴. In our experience the most effective interventions are programmes that engage with the perpetrator, the family, with education, with foster carers, with residential carers and with peers whenever relevant or possible.

Social services should ensure the involvement of a service or individual specialising in the assessment of young people with sexually harmful behaviour in the Strategy Meeting. Local Safeguarding Children Boards have an overseeing role here but the routine practice should be co-ordinated by social services in each local area. **We believe the reference to LSCBs on page 6 is inaccurate and should be amended to social services.**

NSPCC Cymru/Wales supports a model like the AIM model. AIM stands for Assessment, Intervention and Moving on and its strength lies in ensuring consistency of practice in a local authority in terms of how children are assessed and referred. Following AIM guidance ensures that there is time to gather sufficient information and evidence about each individual young person presenting with sexually harmful behaviour, including evidence from their family, school, peer group and community. The NSPCC has found that using AIM model has helped to orientate practitioners towards a range of key factors which provide a broad-based assessment of a child's circumstances.

The use of the AIM model ensures that an assessment is discussed and agreed with social services and all other potential stakeholders. An appropriate response to the child is then mutually agreed and owned by the local services that undertake to support and provide treatment interventions for the child. The NSPCC considers this protocol to be a step forward in ensuring that arrangements to assess the risk and needs of those children who display sexually harmful behaviour are undertaken.

Young people subject to police investigation

Firstly, NSPCC Cymru/Wales recommends the removal of the reference made to the Crown Prosecution Service (CPS) currently noted within this section on page 7. We do not feel that this is accurate or appropriate and may lead to further confuse the reader.

We believe that the current response to young people who sexually harm is often incoherent and unhelpful. The NSPCC is particularly concerned about the response of the criminal justice system to those who have been identified and convicted. Young people are unlikely to receive treatment within the criminal justice system as there is currently a lack of treatment programmes in young offender institutions.

9. Provision of services

NSPCC Cymru/Wales would also like to take this opportunity to highlight the references made to sexually harmful behaviour by the Children's Commissioner for Wales in his 2010/2011 Annual Report. We wholeheartedly agree that the draft protocol "...by itself will not resolve the issues of availability of service provision for these children"⁵. We also join the Commissioner in calling on all those involved in planning and commissioning services across Wales for children and young people who display sexually harmful behaviour to review the services they currently provide.

NSPCC Cymru/Wales joins the particular call on local service commissioners in Wales to review the services they currently provide for this group of vulnerable children and young people.

³ Bentovim, A. (2002) 'Preventing sexually abused young people from becoming abusers and treating the victimization experiences of young people who offend sexually', *Child Abuse and Neglect* Vol, 26 pp. 661-678. Hawkes, C., Jenkins, J.A. and Vizard, E. *Roots of Sexual Violence in Children and Adolescents* in Ved Varma (Ed) 1997. Violence in Children and Adolescents. Jessica Kingsley Publishers. London.

⁴ Bentovim, A. (2002) Preventing sexually abused young people from becoming abusers and treating the victimization experiences of young people who offend sexually. *Child Abuse and Neglect* 26 pg661-678. Hawkes, C., Jenkins, J.A. and Vizard, E. *Roots of Sexual Violence in Children and Adolescents* in Ved Varma (Ed) 1997. Violence in Children and Adolescents. Jessica Kingsley Publishers. London. Jonson-Reid, M. and Way, I. (2001) *Adolescent sexual offenders: incidence of childhood maltreatment, serious emotional disturbance and prior offences*, *American Journal of Orthopsychiatry*, Vol. 71, No. 1, pp. 120-30 Hickey, N., Vizard, E., McCrory, E., French, L. (2006) *Links between juvenile sexually abusive behaviour and emerging severe personality disorder traits in childhood*. Department of Health, Home Office, London.

⁵ Children's Commissioner for Wales (2011) Annual Report & Accounts.

10. Portability

As the partnership body that brings together the various statutory bodies with safeguarding duties, the Local Safeguarding Children Boards (LSCBs) play a crucial role in ensuring that each agency is undertaking their duties appropriately and effectively. The membership of LSCBs is therefore crucial in ensuring multi-agency accountability for safeguarding.

LSCBs play a role in ensuring that this Protocol is accessible to all professionals at a local level in their duty to protect and safeguard children and young people.

NSPCC Cymru/Wales is fully aware of the forthcoming changes to the local safeguarding children arrangements across Wales. We understand that these changes will form the Social Services (Wales) Bill and will reflect the current framework for sustainable social services in Wales.

We would urge the AWCPPRG to ensure the portability of the final protocol so that the forthcoming changes to Local Safeguarding Children Boards will not effect a loss of focus or drive to ensure a protocol for the management of young people engaged in sexually harmful behaviour is available and working well in each LSCB area across Wales.

Conclusion

Again, NSPCC Cymru/Wales welcomes the opportunity to respond to this consultation. We would be happy to discuss any of our points with the AWCPPRG and any relevant Welsh Government Official.

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