

Messages for practice:

Working with children between 16 and 18 years of age including the legal framework

DEFINITION

A child is defined by the Children Act 1989 as any person under 18. Child Protection Procedures apply to any child/young person up to the age of 18. Reference - All Wales Child Protection procedures.

Domestic violence

The definition of domestic violence and abuse is *"any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass but is not limited to psychological, physical, sexual, financial and emotional"* This expands the definition to include children who are over 16 and it no longer relates to adults only. (see the Guidance issued by the Home office www.gov.uk/domestic-violence-and-abuse).

Consent and Sexual exploitation

A child who is over 16 is able to consent to certain things such as having sexual intercourse and may be considered able to consent to medical treatment. This does not mean that they have provided informed consent. Consent to sexual intercourse must be considered in the context of child sexual exploitation and forced marriage. (See the All Wales Protocol: Safeguarding and Promoting the Welfare of Children at Risk of Abuse through sexual exploitation and the Multi-agency statutory guidance for dealing with forced marriage).

Child Protection Procedures

Child Protection procedures apply to 16 and 17 year olds as well as younger children. The Local Authority's duties to safeguard and protect children apply even if the child is over 16. It may therefore be appropriate to have a strategy discussion, a strategy meeting or convene a Child Protection Conference in respect of a child of this age.

Under Section 47 of the Children Act 1989 the Local Authority can make enquiries in respect of a child after the age of 16. As part of these enquiries the Local Authority should consider whether the authority should make an application to Court with respect to the child.

Working with children between 16 and 18 years of age.

There are some key issues to remember when working with children of this age:-

- Even if they have a child of their own they are still a child and Child Protection procedures should be followed if there are concerns.
- A child of this age may be difficult to engage but it is important even if they are not being cooperative to follow the Child Protection procedures.
- Just because a child of this age appears to know what they are doing and appears able to consent doesn't mean that action should not be taken if it is in their best interests.

If in doubt always seek legal advice or liaise with the police.



How the legal framework applies to 16 – 18 year olds

Orders available to the Local Authority

Emergency Protection Order	Can be applied for after a child reaches 16	If there are reasonable ground to believe that the child is likely to suffer significant harm if he / she is not removed to accommodation provided by the applicant or he / she does not remain in the place in which he is being accommodated or if there are section 47 enquiries and those enquiries are being frustrated and the applicant has reasonable cause to believe that access to the child is required as a matter of urgency.
Care Order/Supervision Order/Interim Care or Supervision Order	Can be applied for until child is 17 unless child is married	<p>Where the child is suffering or is likely to suffer significant harm and that the harm or likelihood of harm is attributable to the care given to the child or likely to be given to him / her if the order were not made, not being what it would expect a parent to give him / her or the child is beyond parental control.</p> <p>For an Interim Order there must be reasonable grounds to believe that the child is suffering or at risk of suffering significant harm. This order can include an exclusion requirement requiring a relevant person to leave a dwelling-house in which he is living</p>

		with a child, prohibiting a relevant person from entering a dwelling-house in which the child lives and excluding the relevant person from a defined area in which a dwelling-house in which the child lives is situated.
Child Assessment Order	Can be applied for when a child is over 16	Where there are reasonable grounds to suspect that the child is suffering or is likely to suffer significant harm; an assessment of the state of the child's health or development, or of the way in which he has been treated is required to enable the applicant to determine whether or not the child is suffering or is likely to suffer significant harm; and it is unlikely that such an assessment will be made or be satisfactory in the absence of an order.
Secure Accommodation Orders	Can be applied for when a child is over 16 if they are subject to a Care Order	Where there is a history of absconding and the child is likely to abscond from any other description of accommodation and if he absconds he is likely to suffer significant harm or that if he is kept in any other description of accommodation he is likely to injure him / herself or other persons
Recovery Orders	Can be applied for until child is 18 when a child is subject to a Care Order.	It is an offence for a person to knowingly and without lawful authority or reasonable excuse to take a child who is subject of a Care order away from and out of care. An order can be obtained directing any person who is in a position to do so to produce the child on request to any authorised person; authorise the removal of the child by any authorised person; require any person who has information as to the child's whereabouts to disclose that information; authorise a constable to enter any premises specified to search for the child, using reasonable force if necessary.
Application under the inherent jurisdiction	Can be applied for until child is 18	Leave of the Court is required. This won't be given if the same outcome could have been achieved by 1 of the orders listed above but will be given if the child is likely to suffer significant harm if the inherent jurisdiction is

		<p>not exercised. It is possible to apply for injunctions to prevent a person who has been identified as a significant risk to the child from contacting the child by any means or, associating with the child. This was used by Birmingham City Council to protect a child from the risk of sexual exploitation by a number of adult males. It could also potentially be used to protect a child from the risk of domestic abuse if there are no other options. This can also be useful in cases of medical treatment for a child and to invoke Wardship proceedings.</p>
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Orders/Powers available to the Police for 16 – 18 year olds

Child Abduction Warning Notice (CAWN)	The child must be subject to a Care Order	Where there are reports that suggest that their behaviour and association with a suspect is giving concern with the child being placed at risk. This is an attempt to prevent a crime being committed.
FGM Protection Order	The application can be made by the girl who is to be protected or a relevant party or any other person with the leave of the Court.	The Court will have regard to all the circumstances, including the need to secure the health, safety and wellbeing of the girl to be protected and can contain such prohibitions, restrictions or requirements and such other terms as the Court considers appropriate.
Forced Marriage Protection Order	A relative or friend, voluntary worker or official who has been asked to help or any other person with the permission of the Court can apply for an Order. A child under 18 can apply for an order.	Forced Marriage is when a person faces physical (threats of violence), emotional a psychological pressure. The forced Marriage unit can be contacted for assistance. fmu@fco.gov.uk

Prosecution under the Children Act 1989	The child must be subject to a Care Order	It is an offence for a person to knowingly and without lawful authority or reasonable excuse to take a child who is subject of a Care order away from and out of care.
Risk of sexual harm orders	Person must have on at least 2 occasions done certain specific acts e.g. engaging in sexual activity involving a child or in the presence of a child or inciting a child to watch sexual activity. There has been debate as to whether or not this should be changed to one occasion.	Order can prohibit the person from doing anything described in the order for a fixed period and this prohibition must be necessary for the purpose of protecting children generally or any child from harm from the defendant.
Sexual offences prevention orders	Can be made if the person has a qualifying offence and that the person's behaviour since the appropriate date makes an order necessary	The order must be necessary to protect the public from serious sexual harm from the defendant.

If in doubt always seek legal advice or liaise with the police.