

Response

It would be helpful to link this guidance with other developments and guidance on how the police respond to offending behaviour, such as the Flexible Approach guidance and the multi-agency Early and Effective Intervention (EEI) guidance.

These reflect that, in line with GIRFEC, the police are moving from an approach of near automatic referral to the Reporter (or joint report to PF as well), to one where they consider, often with partners, what is the most appropriate response to that behaviour, with referral to the Reporter as one of the options.

The EEI guidance highlights that decisions about the levels of intervention that are appropriate should be informed by the following principles, that they:

- Relate directly to the needs and behaviour of the child – they should not be based simply on the number of offences committed;
- Take account of the impact on others, and make reparation and restoration where appropriate;
- Support parental and child responsibility; and
- Are appropriate, proportionate, timely and fair.

In addition, page 13 of the guidance states that:

“Where a child or young person has failed to engage with services provided or whilst engaging, the pattern of behaviour continues to escalate, requiring compulsion. Concern regarding the care & welfare of the child or young person continues to be a concern. If a child or young person is subject to a supervision requirement but the nature of the offence is such that it would normally be considered by the Early and Effective Interventions group, there should be a presumption that the child is referred to reporter.”

Although the approach in the ACPOS draft guidance to underage sexual activity would seem to be in line with these developments, that link could be made more explicit.

The approach to underage sexual activity between two older children seems to be that there are only two options -

- the child is jointly reported or
- that a partner agency deals with it.

This two option approach may be intentionally different from that outlined in the EEI guidance, but if so, it would be helpful to make clear why this is the case.

Page 3 of the ACPOS guidance covers situations when under age sexual activity involves a ‘Young Child’. However, it does not appear to deal with the situation where the activity involves two young children. Clearly a report to the PF is not an option if both children are aged under 12. Also, if only one party is a young child, it is possible that the other is an older child. This possibility should be mentioned.

We question whether it is the intention to require the case to be jointly reported if there is a short gap in age (e.g. of a few months) but one party is an older child and one a young child, or whether the Guidance should allow for a more nuanced approach in such circumstances?

Page 5 of the Guidance seems to envisage that the only option for the police is to jointly report or not report at all. If it's not to be jointly reported, the separate question is whether compulsory measures are required for the child, whether because the older child has committed a s.37 offence or for other concerns, the exceptions being:

- Where the child is the subject of an open referral so that the reporter or hearing is already considering the need for compulsory measures; and
- Where the child is the subject of a supervision requirement.

We hope the comments above are helpful.

SCRA
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