

LOCAL AUTHORITY SOCIAL SERVICES LETTER LASSL (2004)21

To: The Chief Executive
County Councils)
Metropolitan District Councils) England
Shire Unitary Councils)
London Borough Councils
Common Council of the City of London
Council of the Isles of Scilly

The Director of Social Services

August 2004

Handling allegations of sexual offences against children

1. SUMMARY

- 1.1 This LASSL draws your attention to Recommendations 12 and 13 of the Bichard Inquiry, which are about the handling of allegations of sexual offences against children.
- 1.2 It reminds you of the guidance set out in 'Working Together to Safeguard Children' on this subject, and in the guidance to all social care practitioners on enabling young people to access contraceptive and sexual health information and advice (available on the Teenage Pregnancy Unit website - www.teenagepregnancyunit.gov.uk) and explains that further guidance will be issued in due course.

2. BACKGROUND

- 2.1 Following Ian Huntley's conviction in December 2003 for the murders of Jessica Chapman and Holly Wells, the Home Secretary, David Blunkett, asked Sir Michael Bichard to conduct an independent inquiry into child protection measures, record keeping, vetting and information sharing in Humberside Police and Cambridgeshire Constabulary. The report of the inquiry was published on 14th June 2004. All his recommendations have been accepted by the Government.
- 2.2 Sir Michael's two recommendations about the handling of allegations of sexual offences against children are:

Recommendation Number 12

"The Government should reaffirm the guidance in 'Working Together to Safeguard Children' so that the police are notified as soon as possible when a criminal offence has been committed, or is suspected of having

been committed, against a child – unless there are exceptional reasons not to do so.”

Recommendation Number 13

“National guidance should be produced to inform the decision as to whether or not to notify the police. This guidance could usefully draw upon the criteria included in a local protocol being developed by Sheffield Social Services and brought to the attention of the inquiry. The decision would therefore take account of:

- *Age or power imbalances;*
- *Overt aggression;*
- *Coercion or bribery;*
- *The misuse of substances as a disinhibitor;*
- *Whether the child’s own behaviour, because of the misuse of substances, places him/her at risk so that he/she is unable to make an informed choice about any activity;*
- *Whether any attempts to secure secrecy have been made by the sexual partner, beyond what would be considered usual in a teenage relationship;*
- *Whether the sexual partner is known by one of the agencies (which presupposes that checks will be made with the police);*
- *Whether the child denies, minimises or accepts concerns; and*
- *Whether the methods used are consistent with grooming.*

- 2.3 Paragraph 3.61 of *Working Together to Safeguard Children (1999)*, a guide to interagency working to safeguard and promote the welfare of children, states that:

“The police should be notified as soon as possible where a criminal offence has been committed, or is suspected of having been committed against a child. This does not mean that in all such cases a criminal investigation will be required, or that there will necessarily be any further police involvement. It is important, however that the police retain the opportunity to be informed and consulted, to ensure all relevant information can be taken into account before a final decision is made.”

- 2.4 This is reinforced in paragraph 5.8, which says:

“Whenever the Social Services department (or the NSPCC if relevant) encounters or has a case referred to it which constitutes, or may constitute a criminal offence against a child, it should always inform the police at the earliest opportunity.”

and goes on to make clear that:

“This will enable both agencies to consider jointly how to proceed in the best interests of the child. In dealing with alleged offences involving a child victim, the police should normally work in partnership with social services and/or child welfare agencies. ... There will be cases where, after discussion, it is agreed that the best interests of the child are served by social services-led intervention rather than a full police investigation.”

- 2.5 *Working Together to Safeguard Children* is issued under section 7 of the Local Authority Social Services Act 1970, which means that local authorities must follow it except where exceptional circumstances justify a variation. Sir Michael Bichard refers (in paragraph 4.50 of his report) to circumstances where social services might not pass on information about young people’s sexual activity to the police, saying:

“This seems likely to include cases where there is a sexual relationship which is considered to be consensual and not abusive.”

- 2.6 There is evidence that young people having under-age sex are the group least likely to use contraception and therefore the group at most risk of unwanted pregnancy and sexually transmitted infections. A key reason for this is that they have concerns that disclosure of mutually agreed sexual activity will lead to a referral to social services or the police. A strategy of formal referral to the police of every case of sexual activity of under 16 year olds is therefore likely to have a negative effect on young people seeking support.

- 2.7 The guidance to social care practitioners on enabling young people to access contraceptive and sexual health information and advice, *Enabling young people to access contraceptive and sexual health information and advice: legal and policy framework for social workers, residential social workers, foster carers, and other social care practitioners* (2004), available on the Teenage Pregnancy Unit website (www.teenagepregnancyunit.gov.uk), says:

“Although the age of consent remains at 16, it is not intended that the law should be used to prosecute mutually agreed teenage sexual activity between two young people of a similar age, unless it involves abuse or exploitation. However, the younger the person, the greater the concern about abuse or exploitation. It is therefore expected that local policies and protocols will reflect the need for social care practitioners to use their discretion in weighing up the circumstances of each individual case to determine whether a formal notification to the police is necessary.”

- 2.8 It goes on to make clear that practitioners should discuss cases of concern informally with the police, before deciding whether or not to make a formal referral. This will be important in assessing whether or not a relationship is abusive, and whether or not one or other partner is

known to another agency because of concerns about a previous relationship.

- 2.9 *What To Do If You're Worried A Child Is Being Abused* makes clear that following a referral, social workers and their managers should decide on the next course of action within one working day, and record this decision on the Referral and Information Record. Further action may include undertaking an initial assessment, referral to other agencies, provision of advice or information, or no further action. Information recorded should therefore include the decision whether or not to discuss with the police, and whether or not to make an onward referral, to the police or another agency. In addition, a decision to discuss with or refer to the police may be taken at other points in time, as information may become available during an assessment or whilst working with a child or family, and this should also be recorded.
- 2.10 Sir Michael also makes a recommendation that "*the Integrated Children's System should record those cases where a decision is taken **not** to refer to the police*", and that the Commission for Social Care Inspection should, as part of any social services inspection, review whether decisions not to inform the police have been properly taken.
- 2.11 The confidentiality section in paragraphs 7.32 to 7.33 of 'Working Together' states that:
- "Personal information about children and families held by professionals and agencies is subject to a legal duty of confidence, and should not normally be disclosed without the consent of the subject. However, the law permits the disclosure of confidential information necessary to safeguard a child or children in the public interest: that is, the public interest in child protection may override the public interest in maintaining confidentiality."*
- 2.12 This is reiterated in the guidance recently issued by the Department of Health to health professionals about the provision of advice and treatment to young people under 16 on contraception, sexual and reproductive health (Department of Health. *Best practice guidance for doctors and other health professionals on the provision of advice and treatment to young people under 16 on contraception, sexual and reproductive health* (2004)).
- 2.13 The Government intends to consult on further guidance on handling allegations of sexual offences against children as part of the forthcoming guidance under the Children Bill on Local Safeguarding Children Boards.

3. **ACTION**

- 3.1 Authorities are asked to take the following action:

- ◆ In response to Recommendation 12 from the Bichard Inquiry Report, remind staff of the guidance in *Working Together To Safeguard Children* (1999), and set out in the guidance to social care practitioners issued alongside this letter about handling allegations of sexual offences to young people aged under 16 (which is set out in this letter); and
- ◆ Note that further guidance on this issue will be included in the guidance on Local Safeguarding Children Boards to be issued under the Children Bill.

4. **ENQUIRIES**

- 4.1 In the first instance, enquiries about this Circular should be made to Lucy Reynolds in the Children's Safeguards Unit, in the Department for Education and Skills.

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