Appendix 4: Relevant Legislation and Guidance

In 1991, the Government agreed to be bound by the United Nations’ Convention on the Rights of the Child. Article 3.1 states:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration"

Article 34 states: “Every child has the right to be protected from sexual exploitation and sexual abuse. The state must hence prevent the coercion and prostitution of children for such activities as well as safeguard children from pornographic performances and materials”

Although the language remains at odds with today, the ethos of the convention remains the same to promote the best interests of the child and safeguarding them from sexual exploitation.

The Sexual Offences Act 2003 introduced new offences to protect all children aged less than 18 years. The Act provides specific offences in respect of child sexual exploitation:

- Taking, making, permitting to take, distributing, showing, possessing with intent to distribute and advertising indecent photographs or pseudo photographs of children aged 16 or 17 years of age (Section 45)
- Paying for the sexual services of a child aged under 13 years – a child aged under 13 years cannot give consent (Section 47)
- Paying for sexual services of a child aged between 14 and 16 years (Section 47)
- Paying for sexual services of a child aged between 16 and 18 years (Section 47)
- Causing or inciting child ‘prostitution’ or ‘pornography’ (Section 48)
- Controlling a child ‘prostitute’ or child involved in ‘pornography’ (Section 49)
- Arranging or facilitating child ‘prostitution’ or ‘pornography’ (Section 50)
- Arranging or facilitating the arrival in the UK for the purpose of committing a relevant offence (Section 57)
- Trafficking within the UK (Section 58)
- Trafficking out of the UK (Section 59)

The Children Act 1989 and Children Act 2004 set out the arrangements for safeguarding and promoting the welfare of children and young people in England and Wales.

---

1 It is acknowledged that the reference to ‘child prostitute/prostitution’ used within the SOA2003 is an inappropriate term better understood as an act of child abuse through sexual exploitation.
Section 15 of the Sexual Offences Act 2003 makes it an offence for a person (A) aged 18 or over to meet intentionally, or to travel with the intention of meeting a child under 16 in any part of the world, if he has met or communicated with that child on at least one earlier occasion, and intends to commit a "relevant offence" against that child either at the time of the meeting or on a subsequent occasion. An offence is not committed if (A) reasonably believes the child to be 16 or over. (This was amended by the Serious Crime Act 2015, so that it is now an offence for an adult to arrange to meet with someone under 16 having communicated with them on just one occasion - previously it was on at least two occasions).

The Serious Crime Act 2015 has introduced an offence of sexual communication with a child. This applies to an adult who communicates with a child and the communication is sexual or if it is intended to elicit from the child a communication which is sexual and the adult reasonably believes the child to be under 16 years of age.

In *Working Together* (2015) the government emphasises that children involved in sexual exploitation should be treated primarily as victims of abuse, and their needs require careful assessment. They are likely to be in need of welfare services and, in many cases, protection under the Children Act 1989.

Supplementary guidance DCSF (2009) *Safeguarding Children and Young People from Sexual Exploitation* promotes an inter-agency approach in order to:

- Acknowledge and recognise the problem of the sexual exploitation of children
- Recognise that the child is a victim of abuse
- Safeguard children involved, promote their welfare and provide them with the strategies to exit from exploitation and recover
- Investigate and prosecute those who coerce, exploit and abuse children

*Safeguarding Vulnerable Groups Act 2006, as amended by the Protection of Freedoms Act 2012*

---

Established the Vetting and Barring Scheme for England and Wales and to some extent Northern Ireland. Established the Independent Safeguarding Authority (now replaced by the Disclosure and Barring Service) to prevent unsuitable adults working with children and makes barring decisions.

**Sex Offenders Act 1997**

Created the sex offenders notification arrangements through a series of monitoring and reporting requirements. View the [Sex Offenders Act 1997](#).

**Criminal Justice Act 2003**

Part 13 sets out arrangements for assessing risks posed by sexual or violent offenders. Led to the establishment of Multi Agency Public Protection Arrangements (MAPPA). View the [Criminal Justice Act 2003 Part 13](#).

**Disrupting perpetrator behaviour**

- Disrupting perpetrator behaviours should be viewed as an important part of local work to tackle CSE. Whilst there should always be a pro-active investigation aiming for successful prosecutions, a disruption plan targeting suspected perpetrators can be extremely beneficial. A disruption plan might involve a number of activities, ranging from simple observation of an individual’s activities, to the use of a range of civil orders.

Sexual Harm Prevention Orders and Sexual Risk Orders were introduced by the Anti-Social Behaviour, Crime and Policing Act 2014. They replace the previous Sexual Offences Prevention Orders, Risk of Sexual Harm Orders and Foreign Travel Orders which were introduced by the Sexual Offences Act 2003.

Sexual Risk Orders can be made where a person has done an act of a sexual nature as a result of which there is reasonable cause to believe that it is necessary for such an order to be made, even if they have never been convicted. They replace the previous Risk of Sexual Harm Orders.

The court needs to be satisfied that the order is necessary for protecting the public, or any particular members of the public, from sexual harm from the defendant; or protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the defendant outside the United Kingdom.

The Orders prohibit the defendant from doing anything described in the order, and can include a prohibition on foreign travel (replacing Foreign Travel Orders which were introduced by the Sexual Offences Act 2003).
A prohibition contained in a Sexual Risk Order has effect for a fixed period, specified in the order, of not less than 2 years, or until further order. The Order may specify different periods for different prohibitions.

Failure to comply with a requirement imposed under an Order is an offence punishable by a fine and/or imprisonment.

- Other legislation might be used to disrupt incidents of CSE while other measures to safeguard children and young people or gather evidence are taking place. The Licensing Act 2003 can be used to prevent children and young people gaining access to adult venues such as pubs and clubs where they may be especially vulnerable to grooming.

- Local authorities may be able to use their statutory powers to disrupt incidents of sexual exploitation. For example, if practitioners are aware of locations where sexual exploitation is taking place, local authority licensing or housing departments can be invited to exercise their powers to close down venues. If a child is in the care of the local authority and the child is missing, the local authority can apply to the court for a recovery order under s50 Children Act 1989.

Child Abduction Warning Notice (CAWN)

This has been recognised nationally and has been documented as one of the disruption tactics in the HM Government manual for Safeguarding Children and Young People from Sexual Exploitation, which is supplementary guidance to Working Together to Safeguard Children.

Section 7.4 – Disrupting perpetrator behaviour states:

“Disrupting perpetrator behaviour should be viewed as an important part of local work to tackle CSE. Whilst there should always be proactive investigations aiming for successful prosecutions, a disruption plan targeting suspected perpetrators can be extremely beneficial. A disruption plan might involve a number of activities, ranging from simple observations of an individual’s activities, to the use of a range of civil orders including SOPO’s and ROSHO’s, dependent on the type of behaviour and evidence available. Other types of legislation such as ASBO are, restraining orders or Child Abduction notices can be used to disrupt incidences of sexual exploitation while other measures to safeguard children and young people or gather evidence are taking place”.

Child Abduction Warning Notices are not a long term solution to the problem; however they are a useful tool in terms of immediately breaking contact between the child and the individual exploiting
them. They are also useful in ensuring that suspected perpetrator cannot claim they did not know the age of the child. The perpetrators details will also be input onto the Police National Computer System. Child Abduction Warning Notice, under Section 2 of the Child Abduction Act 1984 can be used to disrupt contact between an adult and a child or young person where a child is under 16 years old. Child Abduction Warning Notice under Section 49 of the Children Act 1989 can be used to disrupt contact between an adult and child or young person where a child is under 18 years of age AND in Local Authority Care under Section 31 or 38 of the Children Act 1989.

Although in these cases a complaint from the child or young person is not necessary, it does require the child’s parent, guardian or the person with Parental Responsibility to make a statement.

Policy

Ending violence against women and girls (VAWG) strategy

The Home Office published a strategy for tackling violence against women and girls in November 2010. Action plans updating the government's work towards this goal are published annually in March.

The latest action plan was published in March 2014 and sets out cross-government progress. Actions completed so far include:

- re-launch of the 'This is abuse' campaign which targeted teenage relationship violence, with a greater focus on reaching boys
- completion of the domestic violence disclosure scheme (Clare's Law) pilot and the national roll out from March 2014

It also sets out plans for:

- early intervention, rolling out programmes such as Clare's Law and domestic violence protection orders
- supporting local commissioners
- ensuring that other programmes such as sexual violence, gang related exploitation and modern slavery support the government approach to ending violence against women and girls.

Visit the government's [Ending violence against women and girls in the UK policy pages](https://www.gov.uk/government/publications/ending-violence-against-women-and-girls-in-the-uk)

(HM Government, 2010)

(HM Government, 2014)
Visit the 'This is abuse' campaign website  
(Home Office, 2013)

Sexual Violence against Children and Vulnerable People

The Sexual Violence Against Children and Vulnerable People National Group (SVACV) is a panel of experts and policy makers brought together by the Home Office to co-ordinate and implement the learning from recent inquiries into historical child sexual abuse and current sexual violence prevention issues. They published a progress report and an action plan in July 2013.

Download the Sexual Violence against Children and Vulnerable People National Group progress report and action plan  
(HM Government, 2013)

Download the Multi-agency working and information sharing project: early findings  
(Home Office, 2013)

Guidance

Working together to safeguard children

A guide to inter-agency working to safeguard and promote the welfare of children

Chapters 1-3 provide guidance on the legislative requirements and expectations on services to safeguard and promote the welfare of children, covering: assessing need and providing help; organisational responsibilities, including the requirement to appoint a qualified social worker to the role of designated officer for the management of allegations, unless the candidate has previous experience in the role; and, the statutory objectives and functions of Local Safeguarding Children Boards (LSCBs).

Chapter 4 sets out a learning and improvement framework for LSCBs to monitor the effectiveness of local services and includes: a section on what constitutes a notifiable incident; a definition of 'serious harm' for the purposes of Serious Case Reviews.

Chapter 5 provides guidance on child death reviews listing specific responsibilities of relevant bodies in relation to child deaths.

(HM Government, 2015)

Download Working together to safeguard children: a guide to inter-agency working to safeguard and promote the welfare of children (PDF)

Read more about the changes made to the statutory guidance in 2015 on the Legislation, policy and guidance for England page.
Guidelines on prosecuting cases of child sexual abuse

Sets out the approach that prosecutors should take when dealing with cases involving child sexual abuse. Guidelines cover: how cases will be managed within the Crown Prosecution Service; supporting victims and witnesses; identifying children who may be at risk of sexual exploitation; adult victims of childhood sexual abuse; and assessing the credibility of child abuse allegations. Directs prosecutors to focus on the credibility of allegations rather than whether or not victims make good witnesses.

(Crown Prosecution Service (CPS), 2013)

View the Guidelines on prosecuting cases of child sexual abuse

Multi Agency Public Protection Arrangements (MAPPAs)

MAPPAs are a set of statutory partnership working arrangements that require local criminal justice services and other agencies to work together in partnership in dealing with sexual and violent offenders. They were established by the Criminal Justice Act 2003 and apply to all 42 criminal justice areas in England and Wales. The current guidance for England and Wales was published in 2012. It identifies operational practices and agency responsibilities in relation to MAPPAs. Chapters cover case reviews and the handling of children or young people who are convicted of a serious sexual or violent offence.

(Ministry of Justice, 2012)

Download the MAPPA guidance 2012: version 4

Child sex offender disclosure scheme

Allows anyone to formally ask the police if someone with access to a child has a record for child sexual offences. Police will reveal details confidentially to the person most able to protect the child (usually parents, carers or guardians) if they think it is in the child’s interests. Available across all 43 police forces in England and Wales. Also sometimes known as “Sarah’s Law”

Find out more in our Child sex offender disclosure scheme factsheet

Safeguarding sexually active children

Local guidance designed to help professionals to identify where children and young people’s sexual relationships may be abusive and the children and young people may need the provision of protection or additional services.

(London Safeguarding Children Board, 2006)

Download Safeguarding sexually active children