

Child Sexual Exploitation and the Law

C.S.E. is not a specific criminal offence in itself. It does however, encompass a range of sexual offences and other forms of serious criminal misconduct. Various legal orders can be used to disrupt and prosecute this form of abuse. This leaflet outlines the key legislation and policy guidance for professionals to tackle C.S.E. where an offence is suspected.

The purpose of this leaflet is to raise awareness regarding the steps that may be taken to tackle C.S.E.. The information contained within should not be used as a substitute to seeking advice from legal services when considering actions to address C.S.E., and is not an exhaustive list. It is the role of PSNI to investigate crimes and seek to prosecute perpetrators.

Legal Context - C.S.E.

A child under the age of 13 is not legally capable of consenting to sex or any other type of sexual activity.

*** The legal age of consent is 16 years**

Any sexual activity with any child or young person under the age of 16, whether they consent or not, is a criminal offence.

It is an offence for a person to have a sexual relationship with a 16 or 17 year old if they hold a position of trust or authority in relation to them.

Where the sexual activity with a 16 or 17 year old does not result in an offence being committed, it may still result in harm or the likelihood of harm being suffered.

It is a crime to possess, take, make, distribute or show anyone an indecent or abuse image of child or young person under 18 years of age.

NB While the age of consent is 16 the relevant age in relation of indecent images is 18 years.

Non-consensual sex is rape, whatever the age.

If the victim is incapacitated through drink or drugs, or the victim, or his or her family, has been subjected to violence or the threat of it, they cannot be considered to have given true consent and, therefore, offences may have been committed.

C.S.E. is an issue for all children under 18 years of age and not limited to those in a specific age group.

Sexual Offences (Northern Ireland) Order 2008

This Order introduced a range of offences that recognized the grooming, coercion and control of children eg.:-

- Arranging or facilitating a child sex offence (under 16)
- Meeting a child following sexual grooming* (under 16)
- Paying for the services of a child
- Causing or inciting child prostitution or pornography
- Controlling a child prostitute or child involved in pornography
- Arranging or facilitating child prostitution or pornography
- Trafficking into, **within** or out of the UK for sexual exploitation.

*Grooming

In July 2015 new provision was made amending the current Sexual Offences (NI) Order 2008, in order to better protect children, in particular:-

- **Article 22** reduces the number of times an adult has to have communicated with a child before meeting them, or travelling to meet them from two to one occasion and
- **A new offence, Article 22A** of 'sexual communication with a child' by an adult, where the content is sexual or is intended to cause or incite a child to communicate sexually.

Children (Northern Ireland) Order 1995 - Recovery Orders

To be used where a parent / corporate parent does not want a child / young person to be in the company of a particular adult.

Article 68 - A person shall be guilty of an offence if, knowingly and without lawful authority or reasonable excuse, he

- (a) Takes a child to whom this Article applies away from the responsible person
- (b) Keeps such a child away from the responsible person; or
- (c) Induces, assists or incites such a child to run away or stay away from the responsible person.

Article 69 - (1) Where it appears to the court that there is reason to believe that a child to whom this Article applies-

- (a) Has been unlawfully taken away or is being unlawfully kept away from the responsible person
- (b) Has run away or is staying away from the responsible person; or
- (c) Is missing,

the court may make an order under this Article ("a Recovery Order").

The above applies to children subject to interim / full care orders and up to the age of 18 years.

Child Abduction (Northern Ireland) Order 1985

Article 4 - If without lawful authority or reasonable excuse a person takes or detains a child under the age of 16 years

- (a) So as to remove him from the lawful control of any person having lawful control of the child, or
- (b) So as to keep him out of the lawful control of any person entitled to lawful control of the child.

The above applies to all other children including those who are voluntarily accommodated, and up until the age of 16.

Child Abduction Warning Notices - issued by PSNI against individuals who are suspected of grooming children by stating that they have no permission to associate with the named child and that if they do so they can be arrested under the Child Abduction (NI) Order 1985 or Children (NI) Order 1995

Sexual Offences Act 2003 - (Internal Trafficking)

A person commits an offence if he intentionally arranges or facilitates travel within the United Kingdom by another person (B) and either:-

- (a) He intends to do anything to or in respect of B, during or after the journey and in any part of the world, which if done will involve the commission of a relevant offence, or
- (b) He believes that another person is likely to do something to or in respect of B during or after the journey and in any part of the world, which if done will involve the commission of a relevant offence.

This can include arranging and / or paying for taxis for young people to be taken from one place to another for the purpose of sexual exploitation.

Civil remedies that may be used in cases of C.S.E.

Risk of Sexual Harm Order (RSHO)

Application to a Magistrate's Court in respect of a person aged 18 or over, where:-

The defendant has, on at least 2 occasions done an act within subsection (3), and as a result of these acts, reasonable cause to believe it is necessary for an order to be made. The acts are:-

- Engaging in sexual activity involving a child or in the presence of a child
- Causing / inciting a child to watch a person engaging in sexual activity or to look at still or moving sexual images
- Giving a child anything that relates to sexual activity
- Sexual communication with a child (Child in this instance means a person under 16 years).

For further information see the Northern Ireland Guidance on Part 2 of the Sexual Offences Act 2003 (DOJ).

Sexual Offences Prevention Order (SOPO)

A Sexual offences prevention order (SOPO) is intended to protect the public from the risks posed by sex offenders by placing restrictions on their behaviour. The court must be satisfied that an order is necessary to protect the public or any particular members of the public from serious sexual harm. A key factor to be considered is the risk presented by the defendant. Breach of any prohibition contained in a SOPO gives rise to criminal proceedings and penalties. For further information see the Northern Ireland Guidance on Part 2 of the Sexual Offences Act 2003 (DOJ).

When a victim does not wish to make a complaint, an investigation can still ensue by focusing on the behaviour of the offender. This can result in a prosecution that does not rely on the support of the victim. The PSNI may be able to access CCTV, seize relevant forensic evidence from the victim and/or offender and they will work with partner agencies in building intelligence to disrupt/prosecute illegal activities

Further information on local policies, procedures and guidance

- Regional Child Protection Policy and Procedures (2005)
- Child Protection / Safeguarding in Specific Circumstances Child Sexual Exploitation Referrals (SBNI, 2015)
- S.B.N.I. - Child Sexual Exploitation: Definition and Guidance (2014)
- Regional Guidance - Police Involvement in Residential Units - Safeguarding of Children Missing from Home and Foster Care (2012)
- Co-operating to Safeguard Children – DHSSPS (2003)
- Working Arrangements for the Welfare and Safeguarding of Child Victims of Human Trafficking - DHSSPS and PSNI (2011).

Useful contacts

Trust Gateway Teams: -

Belfast	(028) 9050 7000	Southern	0800 7837 745
South Eastern	0300 1000 300	Western	(028) 7131 4090
Northern	0300 1234 333		

Regional Emergency Social Work Service

(028) 9504 9999 (5.00pm - 9.00am, weekdays / 24hours at weekends / bank holidays)

Barnardo's Safe Choices (028) 9065 8511 (Monday to Friday 9.00am - 5.00pm)

PSNI 101 or 999 in an emergency

Crimestoppers 0800 500 111

NSPCC - Child Trafficking Advice Centre (CTAC) 0808 800 5000

NSPCC - Child Line 0800 1111