



Championing Children and Young People in England

Office of the Children's Commissioner's response to the College of Policing consultation:

Guidance on Child Abuse & Guidance on Child Sexual Exploitation

September 2013

Office of the Children's Commissioner

The Office of the Children's Commissioner (OCC) is a national organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. The post of Children's Commissioner for England was established by the Children Act 2004. The United Nations Convention on the Rights of the Child (UNCRC) underpins and frames all of our work.

The Children's Commissioner has a duty to promote the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives. She also has a duty to speak on behalf of all children in the UK on non-devolved issues which include immigration, for the whole of the UK, and youth justice, for England and Wales. One of the Children's Commissioner's key functions is encouraging organisations that provide services for children always to operate from the child's perspective.

Under the Children Act 2004 the Children's Commissioner is required both to publish what she finds from talking and listening to children and young people, and to draw national policymakers' and agencies' attention to the particular circumstances of a child or small group of children which should inform both policy and practice.

The Office of the Children's Commissioner has a statutory duty to highlight where we believe vulnerable children are not being treated appropriately in accordance with duties established under international and domestic legislation.

Our vision

A society where children and young people's rights are realised, where their views shape decisions made about their lives and they respect the rights of others.

Our mission

We will promote and protect the rights of children in England. We will do this by involving children and young people in our work and ensuring their voices are heard. We will use our statutory powers to undertake inquiries, and our position to engage, advise and influence those making decisions that affect children and young people.

The United Nations Convention on the Rights of the Child

The UK Government ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991.¹ This is the most widely ratified international human rights treaty, setting out what all children and young people need to be happy and healthy. While the Convention is not incorporated into national law, it still has the status of a binding international treaty. By agreeing to the UNCRC the Government has committed itself to promoting and protecting children's rights by all means available to it.

The legislation governing the operation of the Office of the Children's Commissioner requires us to have regard to the Convention in all our activities. Following an independent review of our office in 2010 we are working to promote and protect children's rights in the spirit of the recommendations made in the Dunford report and accepted by the Secretary of State.

The UNCRC and a rights-based approach to child protection

Under the UNCRC, everyone under the age of 18 years has a right to protection from violence and harm, and to grow up in a loving and secure family environment. Specifically, the UNCRC sets out the following rights:

- Article 19:** **Protection from all forms of violence.** Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.
- Article 34:** **Sexual exploitation.** Governments must protect children from sexual exploitation.
- Article 39** **Rehabilitation of child victims.** Children neglected, abused, exploited, tortured or who are victims of war must receive special help to help them recover their health, dignity and self-respect.

The UN Optional Protocol on the Sale of children, child prostitution and child pornography provides detailed requirements for governments to end the sexual exploitation and abuse of children. The UN Committee on the Rights of the Child has also provided detailed guidance for governments on steps they need to take in ending violence against children². Our response reflects this guidance.

The UNCRC also has four overarching principles of the Convention. These principles must underpin and inform everything that public bodies do to protect children from harm, and they also inform our response. They are

¹ You can view the full text of the United Nations Convention on the Rights of the Child on the Office of the United Nations High Commissioner for Human Rights website at: <http://www2.ohchr.org/english/law/crc.htm>. A summary version, produced by UNICEF, is available at: http://www.unicef.org/crc/files/Rights_overview.pdf

² UN Committee on the Rights of the Child, General comment No. 13 (2011), The right of the child to freedom from all forms of violence

- Article 2: Non-discrimination.** The UNCRC applies to all children whatever their ethnicity, gender religion, abilities, whatever they think or say, whatever type of family they come from.
- Article 3: Best interests of the child.** The best interests of the child must be a top priority in all things that affect children.
- Article 6: Survival and development.** Every child has the right to life. Governments must do all they can to ensure that children survive and develop to their full potential.
- Article 12: Respect for the views of the child.** Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously.

OCC welcomes this opportunity to comment on Approved Professional Practice guidelines. By distilling current knowledge and good practice in protecting children from harm, guidance can support a rights approach to child protection. It can do this by providing police with the confidence in their obligations to intervene effectively to protect the child, to engage children and understand their experiences, views and wishes, and to work with other agencies to make sure that children get the services they need and can experience a safe and secure childhood and fully develop into healthy adulthood.

The basis for our response

Our response to the Guidelines on Child Sexual Exploitation draws extensively on the evidence we have gathered as part of OCC's Inquiry into Child Sexual Exploitation in Gangs and Groups (referred to throughout this response as the CSEGG Inquiry).

Our response to the Guidelines on Child Abuse is briefer and more general. It is informed by participatory work OCC has undertaken with young people with experience of child protection processes, and by the obligations set out in the UN Convention on the Rights of the Child.

Special considerations for 18 – 21 year olds

The OCC's remit as set out in the Children Act 2004 includes 18, 19 and 20 year olds who have a learning disability and/or who have been looked after by a local authority at any time after attaining the age of 16. It is clear from the CSEGG Inquiry that many of these young people are vulnerable to abuse and exploitation.

We appreciate that the legal framework within which child abuse and child sexual exploitation investigations are carried out is focused on under-18's. Young adults who have experienced early adversity, are "more likely to demonstrate elevated levels of risk taking behaviours, akin to the behavioural characteristic of adolescence"³: as a consequence, working with this group may present unique challenges, which are different to those involved in working with other vulnerable adults. We encourage the College of Policing to consider whether specific guidance on working with these groups of young people – drawing on guidance for working with child victims - could be incorporated into forthcoming APP guidance on Working with Vulnerable People, and Vulnerable Adult Abuse.

³ The Royal Society 'Neuroscience and the law', December 2011

Guidance on Child Sexual Exploitation

The OCC very much welcomes this guidance. We believe it has the potential to play an important role in ensuring that children who are victims or at high risk of Child Sexual Exploitation receive the support they need at the earliest possible stage, and that perpetrators are apprehended and brought to justice.

The final report of OCC's Inquiry into Child Sexual Exploitation in Gangs and Groups will be published in November 2013. Based on a review of practice across statutory and voluntary sector agencies, the report will help improve the identification, protection and support for victims of child sexual exploitation by setting out examples and models of effective practice. We welcome the commitment to update APP documents regularly, and look forward to discussion of how findings and recommendations from our final report can inform this process.

1. Introduction

We would welcome a statement here that the safeguarding, well-being and best interests of child victims lies at the centre of all police action on CSE.

2. Definition of CSE

2.2 It is important to emphasise that CSE is often accompanied by actual or threatened extreme physical violence, and emotional abuse.

2.3 We suggest this is amended to read "A common feature of CSE is that the child or young person **often** does not recognise the coercive nature....."

3. Warning Signs

We warmly welcome the inclusion of this list and agree it is very important for all police forces and personnel who may come into contact with children to be aware of these warning signs. The list in the guidance includes all the 14 warning signs included in the CSEGG interim report, but the list is expanded to 27 bullet points. If the intention is to enable officers to ask the right questions of a child who is presenting just one or two warning signs, we consider that a somewhat shorter, simpler list might be advisable.

In addition to listing the warning signs, we recommend the guidance spells out clearly how these warning signs can be used:

- in regular training, to ensure that all police who come into contact with children understand that the presence of these signs can be an indication of CSE, and feel confident to ask the right questions of children or partner agencies in order to identify whether other warning signs are present
- in particular, to ensure that police understand how offending (or anti-social) behaviour by children can be part of the process of being exploited or the consequence of it, and how this could affect a policing response
- at a force level, police forces should be using the warning signs as part of proactive work with other agencies to profile local risk and identify children who are exhibiting signs

indicating that they are already being sexually exploited, enabling appropriate assessment and action to be put in place.

4. Risk factors

We would make very similar points about the risk factors: we think the list is too long, and think this section would be more useful if there were some suggestions about how this information can be used.

4.2 is this supposed to read 'sexual **orientation**'?

The list of risks includes children who are in care, and those who live in hostels or bed and breakfast accommodation. We suggest it would be relevant to highlight the extent to which perpetrators actively seek out and target children living in residential settings and/or those who go missing.

5. Locations of concern

We think it is important that attention is also given to **locations where abuse actually takes place**. There is overlap with the list of places in 5.1 where young people congregate, but there are significant differences: particularly the use of abandoned buildings, hotels and B&Bs, stations, vehicles, party locations and schools as places where children are abused.

In our view, focusing on these areas may provide increased opportunities to develop intelligence than just focusing on 'honey-pot' locations. It may be helpful to highlight some of these locations in section 14.6. We do not like the term 'honey-pot'. Children are not honey.

The guidance should also make clear that locations may well be different where **peer-on-peer sexual exploitation is taking place**: with abuse more likely to take place in schools or in public places in the neighbourhood such as parks and stairwells.

Our Inquiry found evidence of **trafficking** of children who were moved between different locations in the UK. We suggest this is picked up here, with the potential role of the traffic police highlighted in identifying and disrupting the internal trafficking of children.

It would be useful to indicate ways in which this information may be used: for example, for intelligence-gathering, or to serve as an additional warning sign that a child may be being exploited.

6. Internet and social media

The CSEGG Inquiry has found that almost all cases of CSE reviewed involve the **use of technology**, often in several ways, for example

- Threatening that they will share images of children online, and using these threats to coerce the victim into on-going sexual abuse.
- Harassment and bullying through text messaging.
- Purchasing mobile phones for victims and then sharing their numbers among group or gang members.
- Random contact with children via social networking sites.

- Using 'friends' lists' on networking sites of known victims to target new children.
- Viewing of extreme or violent pornography and discussing it during sexual assaults.
- Posting images of girls (or boys) with rival gang members to invite a sexual assault as punishment.
- Filming and distributing incidents of rape.
- Distributing Blackberry pin numbers for lists of girls labelled as 'easy'.

We suggest this section emphasises that technologies are constantly changing and emerging, in order to avoid – for example - an exclusive focus on Facebook and Blackberry messaging.

7. Types of exploitation

In the CSEGG Inquiry, definitions and typologies have been a recurrent theme for practitioners, many of whom find current definitions overly broad. We recognise how hard it is to get the balance right between setting out the different types of exploitation in clear, specific and practical terms, and keeping definitions broad enough to ensure that professionals do not miss forms of exploitation (or emerging patterns) which do not conform to these typologies.

Our evidence suggests that peer-on-peer exploitation is often missed by professionals. For this reason, we think it would be helpful to distinguish **peer exploitation as a separate category** from the older 'boyfriend' model presented here.

Section 7.3 draws on OCC's report to define and distinguish gangs and groups. Whilst we are pleased that OCC's report is being used, we also think it is important for consistency that the link is made with the definition of gangs in the cross-Government document 'Ending Gang and Youth Violence: a Cross-Government Report'⁴.

It is also important to acknowledge here that CSE can be perpetrated by individuals.

While the issues are indeed complex, section 7.4 could do more to highlight some of the features of **gang-related CSE**. We suggest this is also highlighted in forthcoming APP guidance on Gangs and Youth Violence.

Without greater awareness of the prevalence and dynamics of gang-based CSE, and an understanding of the links between CSE and serious youth violence, there is a risk that significant numbers of victims and perpetrators of CSE will be overlooked. Only 1% of cases submitted through the call for evidence process identified victims who were both group and gang-associated. However, police evidence to the CSEGG Inquiry overwhelmingly focused on particular models of group-based CSE, with very little reference to gang-associated CSE and other group based models.

Research commissioned for the CSEGG Inquiry⁵ identified two broad motives for gang-associated CSE:

⁴ Ending Gang and Youth Violence, A Cross-Government Report including further evidence and good practice case studies, 2011, p.17

⁵ Beckett, H. et al, "Research into gang-associated sexual exploitation and sexual violence: Interim Report", Research commissioned by the Office of the Children's Commissioner for England (OCC) as part of their Inquiry into Child Sexual Exploitation in Gangs and Groups (CSEGG). November 2012

- In the first, girls and young women would be passed around by young men in a casual manner, and used as their sexual property, motivated by a sense of entitlement. This was similar to cases of group associated CSE.
- In the second, sexual violence was used to threaten, punish or control young women, and on occasion young men, who were either associated with rival gangs, or who were perceived to have 'disrespected' or upset members of the gang with which they were associated. Sex can be used as a means of initiating young people into a gang; required in return for (perceived) status or protection; young women can be used to 'set up' people in other gangs; establishing a relationship with, or feigning sexual interest in, a rival gang member as a means of entrapment; and/or sexual assault is a weapon in conflict.

The final CSEGG Inquiry report in November will include a fuller description of different models and patterns of CSE, based on the full range of evidence and research which has informed the Inquiry.

9. Offenders

It is important to note here that CSE may involve multiple perpetrators.

The CSEGG Inquiry has uncovered evidence of children being exploited in order to act as perpetrators: to groom and abuse their peers, prior to passing these girls onto older males in groups, or older gang members, for further exploitation. Likewise, we received evidence of girls and young women being sexually exploited and then being required to bring their peers into exploitative networks or groups, as part of the abuse process; in some cases they would be told that they would get a reprieve from abuse if they brought someone else with them, or that they would be punished if they did not comply. We believe it is important that the guidance recognises that children and young people may be perpetrators, whilst simultaneously also victims, of child sexual exploitation.

9.4 OCC's Inquiry found that the use of drugs and alcohol was common during sexual exploitation, and that this often made it impossible for children to identify multiple perpetrators.

10. Victims

We think it is worth reiterating here (as in section 4 on risk factors) that victims can be from any ethnic background, and that – although the vast majority are girls – boys are also affected. However, different groups may present differently and agencies need to take a different approach to finding those victims. For example:

- The CSEGG Inquiry found that significantly more boys and young men who were victims were identified when agencies were looking out for this, including boys and young men who were unsure about their sexuality or were gay/bisexual and had left home; and young adolescent boys who were groomed by both gangs and groups to sexually exploit girls and young women, before passing them onto older men.
- Victims reported to the Inquiry came from a very diverse range of backgrounds: 28% were from black and ethnic minority backgrounds. However, the profiles of victims reported to the Inquiry by different agencies varied widely, with the police reporting that the vast majority of victims they had had contact with were from a white background. It is important

that all agencies recognise that victims come from a wide range of backgrounds, and that BME children may display different help-seeking behaviour; may be more likely to have their abuse concealed by family or extended family; and have parents who feel less confident in either the police or children's services to report their children missing from home.

10.1 The factors which make it difficult for victims to disclose may include the impossibility of putting the abuse into words.

10.7 In addition to the impacts listed here, the methods used to coerce victims can also have lasting consequences: including alcohol and substance abuse, involvement in offending, and disrupted education.

11. Victims' families

The guidance rightly recognises the devastating impact that CSE can have on families, and families' need for support. Families also have an important role in safeguarding and protecting children, and supporting children who are victims in rebuilding their lives. To be enabled to support their children effectively in this difficult role, families may need a range of different interventions, both focused on CSE and also on meeting the family's wider needs.

Our Inquiry did identify a number of cases where sexual abuse and violence within the family had played an important part in increasing children's vulnerability to CSE.

This included a number of cases where children were either away from home because they feared forced marriage or so-called 'honour' based violence, or where the threats of such practices were being used to control or coerce children.

In some cases, family members or extended family members, particularly in households where domestic abuse or child sexual abuse were present, were directly involved in the sexual exploitation of children.

It is important that police are aware that the family home may not always be a place of safety, and that they have the understanding and skills to ensure that children are not inappropriately returned home, and that children are spoken to privately where there are concerns about involvement or repercussions from family members.

We believe these risks for some children should be highlighted here, whilst also making it clear that many children will benefit from their parents being seen as partners in their protection and recovery.

12. Repeat victimisation

There are some features of repeat victimisation of CSE victims which are distinctive. Girls and young women may return to perpetrators for a range of reasons: as a result of grooming, out of fear, drug addiction, needing accommodation, out of a sense of loyalty or perceived affection towards their perpetrators. Specific interventions and routes to support young people to escape may be required.

13. Legislation and the law

13.4 We suggest that there could be more guidance generally in this section on how to use existing tools effectively, and particularly to ensure sufficient consideration is given to using orders, warnings and notices to protect children. The CSEGG Inquiry found that the potential of these was often under-utilised, particularly where prosecutions were not possible or had not resulted in a conviction.

14. Investigating CSE cases

Given the level of movement of children between different parts of the country identified by our Inquiry, we suggest the importance of cross-border working between different forces is highlighted here.

We would like to see an emphasis placed on the role the police can play in making it possible for a prosecution to go forward without the young person's testimony, based on other evidence. Victimless prosecutions need to be actively promoted.

We also recommend that recording of sexual offences should enable the recording of multiple perpetrators and allow for a CSE flag.

14.6 Under 'proactive investigation methods for developing intelligence' – we suggest the proactive use of information about children who go missing to identify potential patterns of exploitation; and incorporating CSE issues within intelligence-gathering into street gangs.

15. Other investigative issues

15.4 This issue can extend to anti-social behaviour as well. Children who are being sexually exploited, or are within street gangs, may be required to be in certain public spaces by those who are abusing/controlling them. This is important to consider when police are using powers to disperse children or return them home under anti-social behaviour legislation.

16. Working with partners

This section would benefit from reference to Working Together and the 2009 supplementary guidance on children who are sexually exploited, police collaboration with the child protection process and liaison with children's services about risks and protective action.

We suggest the guidance is made more specific here, encouraging police forces to build up a list of services which they can refer to in order to meet the wider welfare and safeguarding needs of children and young people affected by CSE, and their families. This would assist in relieving some of the pressures on the police in this area of work.

Guidance on Child Abuse

This is a very long and detailed document. Our comments are brief, and focus on areas requiring further development.

Child protection

The focus and priority of all action taken by agencies in all cases involving actual or possible child abuse, should be the protection and best interests of the child.

We recommend the guidance sets out what is meant by child protection, and highlights the role of the police in supporting child-protection in a multi-agency context: working with children's services, LSCBs, and contributing to child protection conferences. We suggest this is

- highlighted in the introduction (section 1)
- covered in more detail in a separate section which defines 'child protection', summarises the child protection system and the child protection plan
- reflected in the discussion on 'powers of entry' (section 3.6) or elsewhere in a way (for example, a flowchart) that will assist the police to use their powers effectively in conjunction with other agencies who have a role in child protection. This is particularly important as a context for Police Protection powers which can ensure immediate removal of a child to safety.

Children's experiences and views

Listening to what children have to say is critical in understanding the risks they face. Children also report that being believed is very helpful in their recovery⁶.

However, it has been a feature of analyses of Serious Case Reviews that children have too frequently been neither seen nor heard⁷. Children experience fear and anxiety about telling about abuse and about the involvement of children's social care. For children and young people there is shame, denial, stigma, fear of loss of control over what may happen and very realistic fears about the consequences which may include the break-up of the family, and risks of violence when intra-familial abuse is the context for the risk to the child. There is evidence that when children do tell, they may not be believed, and can be silenced easily.

We welcome the inclusion of sections on listening to and observing children: in section 3.7 (establishing the welfare of the child); section 4.7 (victim and witness evidence). The guidance presents an excellent opportunity to support police understanding of the way children may seek to communicate with adults, and the barriers which prevent them telling or being listened to.

Based on OCC's work with children who have experienced abuse and child protection processes, we recommend the following points are highlighted – perhaps in section 2.1.5 on the definition of 'child abuse', or elsewhere:

⁶ OCC young people's consultation group, quoted in OCC Submission to Munro Review of Child Protection, September 2010

⁷ Ofsted (2008), 'Learning lessons, taking action: OFSTED's evaluations of serious case reviews, 1 April 2007 to March 2008

- It is important not to rely on children to tell their story in a neat and linear way – so-called “disclosures”.
- Adults have a significant role in noticing something is wrong and asking children more about what is going on. The onus is on the adult to be proactive.
- Police are often seen by children as important safe adults who can take action, and they can therefore play a key role in making it possible for children to describe what is happening to them
- It is very important to explain to children what help is available to them.
- The experiences of older children who experience abuse are often overlooked, either because they are seen as ‘resilient’, they are blamed for their own abuse (seen as “making bad choices”, engaging in “risky behaviours” or “prostituting” themselves) or because they present with offending or other challenging behaviour.

In late October, the Office of the Children’s Commissioner will publish “**Recognition and telling – barriers to raising safeguarding concerns**”, the outcome of in-depth research with children and young people into what prevents them from telling someone about their abuse. We look forward to sharing the report findings with the College of Policing and believe that the report will have particular relevance for the police and your partner agencies in tackling child abuse.

Detailed comments

2.1.2 ‘Looked after’ might be added to the list here.

2.1.12: We suggest the definition of CSE used in the CSE guidance is included here so that readers are clear when to refer across.

2.1.18 – 2.1.22: we suggest the following are included under ‘significant harm’: under 2.1.21, it is important to recognise the implications of the extension of the definition of domestic abuse to cover 16 and 17 year olds, and the need for a child protection response to this group of children, as well as the harm associated with witnessing domestic abuse; and the risks from going missing/running away.

Section 2.3 ‘Child abuse and associated investigations’. We suggest this section could be made more user-friendly prior to publication, with a clearer alphabetical ordering, and consistency between different sections (some currently include practical guidance and some do not).

2.3.47: We recommend that the role of ‘safe and well’ interviews following return of missing children is highlighted here.

3.10.2: We suggest that ‘natural’ is replaced by ‘birth’ throughout.

3.10.3 The Local Authority will share parental responsibility when the child is on a care order under section 31 of the Children Act 1989.

3.10.4 The discussion of the child’s consent, parental consent prior to interviews is rather vague, and would benefit from greater clarity, including on the issue of the child’s competence.