

CHILDREN'S RIGHTS

along the journey from victims to survivors

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Children's Rights along the Journey from Victims to Survivors: A Review of the UK Literature

A brief review of the recent published research literature on children's rights in England and Wales for child victims of sexual offences

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Introduction and Context

This literature review focuses on the rights of child victims of sexual offences in the UK, specifically in the jurisdiction of England and Wales. This literature review aims to identify what is known about current provision, and its effectiveness and value. Whilst some aspects of the sexual victimisation of children have long been visible in the public domain, such as the rape of children by strangers, others have been – and some still remain- hidden and unexplored. Some aspects, such as ‘child prostitution’ have been recognised, reinterpreted and renamed as abuse and child sexual exploitation as a consequence of campaigns, discussion and awareness raising, often involving survivors themselves, a specific impetus for uncovering rape and familial abuse being the impact of the second wave of the women’s movement in the UK during the late 1960s and 1970s, and the development of the left realism movement in criminological research which utilised a range of methods to explore and document the ‘dark figure’ of unreported crime.¹ In addition, since the pioneering work of the television presenter Esther Rantzen opened up the public debate around sexual abuse of children, a number of high-profile incidents of historical abuse have emerged, some leading to prosecutions and convictions. As McAlinden points out, in less than fifty years “victims of crime have gone from being ‘the forgotten actor’ of criminal justice policy to being the mainstay of political policies on ‘law and order’” (McAlinden 2014), legislation to deal with sex offenders being named after specific victims, as evidenced in ‘Sarah’s Law’ in the UK, and those who offend against children sexually are identified and vilified as ‘folk devils’, subject to what Furedi (Furedi 2013) refers to as ‘a universal loathing for the child abuser’, with child sexual abuse visualized as ‘the supreme evil of our age’ (Webster 2005) . The concept of the ‘folk devil’ has been specifically linked to the moral panic which has emerged over the last four years in relation to so-called groups of ‘South Asian men’ who have been alleged to have been systematically grooming white girls for sexual exploitation (Harrison & Gill, 2015).

Other historical sexual abuses have emerged, some of them institutionally-based and involving organised and ongoing crimes against large numbers of children, often involving adults in positions of trust within churches, hospitals, day-care settings and children’s homes who either participated in, facilitated or wilfully ‘turned a blind eye’ (Jutte, 2015: Terry, 2015). At the time of writing, child sexual abuse remains a prominent feature on the news agenda, many of these abuse investigations still being ongoing, some of them prompted by the reaction to the television documentary expose of the activities of Jimmy Savile, who systematically raped and assaulted large numbers of children and adults of both genders whilst masking his activities with substantial charitable donations, and voluntary work, which appeared benevolent but which provided him with the power to manipulate managers of these institutions. The ongoing Operation Yewtree, prompted by this investigation, has brought to light other abuses by people linked to Savile, such as Ray Teret, and important and influential figures including eminent politicians, including Cyril Smith, who is dead, and Lord Greville Janner, around whom there is still ongoing legal debate as to his fitness to stand trial. An Independent Inquiry into Child Sexual Abuse (IICSA) in England and Wales was announced by the British Home Secretary, Theresa May, on 7 July 2014, and was

¹ A detailed discussion of the historical research into the history of trials for sexual offences is beyond the scope of this review, but a number of interesting recent articles have sought to explore trial records and newspaper reports in order to assess and analyse critically the trans-historical nature of a number of aspects of the prosecution of sexual offences, such as perceived high acquittal rates and dominant rape myths which render defendants likely to be acquitted: see for example Walker (2013).

established to examine how the country's institutions handled their duty of care to protect children from sexual abuse.

At the same time, the opening up of borders within Europe, combined with conflict in a number of countries in the Middle East and Africa, had prompted a wave of mass migration, with many hundreds of thousands of people seeking to travel to the UK, and either voluntarily pay human smugglers to be brought in, or are deceived into trafficking with the promise of jobs and accommodation on arrival. This has prompted a growing demand for information as to the experiences and needs of victims of trafficking, including sexual abuse and coerced sex work, and linked work on the emergent level of awareness of modern slavery. This again may involve minor children, who are often disadvantaged as victims by lack of language skills, local contacts, legal documentation and knowledge of where to seek help. Within the UK, several inquiries have uncovered persistent and large scale official failures to respond in situations where children and young people have been exploited sexually, sometimes in the context of gang culture, and sometimes by organised groups of older men, where a common pattern involves 'grooming' children so that they interpret their contact with their abuser as a relationship with a 'boyfriend', who then forces or otherwise coerces them into sexual activities with other perpetrators (Pearce 2009). The police and other agencies in Rotherham have been found to have routinely and persistently ignored and responded inadequately to minor children who came to them seeking help for abuse and exploitation, in the context of inter-racial tensions, arguments around cultural (mis)understandings, and negative judgments as to the character and behaviour of the young people themselves (Wilson 2015:Jay, 2014: Casey, 2015). Similar failures to identify and protect at-risk children have been identified in Rochdale and Oxford (Jutte, 2015).

All of these examples take place against a backdrop of high levels of access to technology, the growth and development of social media platforms, and widespread smartphone ownership amongst children and teenagers, which facilitates contact between perpetrators and victims without the oversight of parents or guardians, and which allows perpetrators to adopt false personalities and profiles in order to find and befriend potential victims, who may have been preselected due to their existing vulnerability as evidenced in their social media postings. Overall, therefore, the sheer amount and scope of the UK literature is immense, and being augmented daily, by research and peer-reviewed publications in fields as diverse as law, medicine, criminology, social policy, health, economics, medicine and technology.

The rights of child victims of sexual offences

Child victims of sexual offences possess intersecting rights as children, as victims, and as UK citizens protected by the European Convention on Human Rights, including mechanisms for enforcement under the Human Rights Act 1998.

Victims' Rights

Early literature on victim needs in encounters with the criminal justice system in England and Wales focused on outcomes, but more recent research has focused on victim needs, and people's experiences of the justice process, considering issues of victim satisfaction

(Laxminarayan 2013). UK governments, through the agencies of the criminal justice system, have been increasingly focused on championing victims, expressing an explicit aim of “rebalancing the criminal justice system in favour of the victim” (Home Office 2002). That said, the impact of this trend on casting prosecutors as champions of victims has been controversial (Hall, 2010; Jones, 2010), as the role of the Crown Prosecutor is to act on behalf of the public, as is clearly set out in the Code for Crown Prosecutors (Crown Prosecution Service 2004).

The first Victim's Charter was published in 1990 and revised in 1996, and a new Code of Practice for victims of crime came into force in December 2013. At the time of writing a period of ongoing consultation over the creation of a new revised code had just closed. One of the core failings for which the Code has been criticised is that the Code does not create legally enforceable rights, despite the rhetorical use of the term ‘rights’, and the language of rights discourse. This becomes particularly significant in the context of the UK's role within the EU: the EU published ‘General Minimum Standards to address the rights and needs of victims in criminal proceedings’ in 2001, and were updated in 2012 in an attempt to strengthen the rights of victims and their families, to support, information and protection when participating in criminal proceedings (Madoc-Jones 2015). All EU member states have until 16 November 2015 to demonstrate that they have incorporated the most recent Directive into their own jurisdictions’ legislation, policies and procedures, and this directive was one of the drivers behind the reform of the Code in 2013.

There have been a number of calls for a legally enforceable bill of rights for victims, and demand for such an approach has received support across the UK party political spectrum. For example, in September 2014 the Ministry of Justice published ‘Our Commitment to Victims’, and then in February 2015, the Labour Party published the report of the Victim's Taskforce which it had established (Lawrence, 2015). In the run-up to the UK General Election of May 2015, both of the main political parties were stating explicitly the centrality of commitments to victim's rights, and an aim to enact a victim's bill of rights was included in the Queen's speech to the opening of parliament in June 2015.

Human Rights

Prior to the enactment of the Human Rights Act 1998 the process whereby individuals could seek to have their rights enforced, or to seek recognition that their rights had been infringed, involved applying to the European Court of Human Rights in Strasbourg. The Human Rights Act 1998 introduced the ability for individuals and organisations to challenge public bodies in the UK courts. The rights enshrined in the ECHR are enforceable by the UK courts, although as is the case in many situations involving children, it is very unusual for a child to bring a case on their own behalf, and it is more common for an action to be initiated by adults, or an adult organisation, on behalf of a child or group of children.

The rights guaranteed under the ECHR are wide-ranging, including the right to life (Article 2); a right to private and family life (Article 8); the right to marry and found a family, and a right to freedom of religion. It has been criticised for not giving specified, designated rights to children as a group, but it is argued that all the rights within the Convention are equally applicable to children and, by extension in this context, child victims of sexual offences. The article which is of most relevance to child victims is Article 3, which outlaws inhuman and degrading treatment or punishment.

The European Court of Human Rights has, in a number of cases, found that there is a positive duty owed by Contracting states to protect their inhabitants: these cases do not relate to situations where the state is the primary violator of the rights, but rather where the state has provided inadequate structures to prevent abuses, including failing to provide adequate criminal sanctions. When considered in conjunction with Article 1, which sets out that states shall “secure to everyone within their jurisdiction the rights and freedoms [of the Convention]”, this positive duty to protect has been imposed in cases involving children under Articles 2, 3, 4 and 8. Under Article 3, states have been held liable where children have been abused, where the Court is satisfied that the abuse amounts to “torture, cruel, inhumane or degrading treatment”, and where it is shown, for example, that a social worker or police officer knew that the victim was at serious risk of abuse and failed to take adequate measures to prevent further abuse.² The court has also addressed the situation where the state has been responsible directly for the abuse, as seen in several Turkish cases involving the sexual assaults of minors whilst in police custody, these cases involving a range of forms of sexual assaults by police including virginity tests and medical examinations.³

In terms of protecting children from sexual victimisation, the Court has recognised that freedom of expression can be limited legitimately in order to protect children, and states have a relatively wide margin of appreciation in which to do so, thus meaning that states are able to criminalise possession of child abuse imagery, and publication on the Internet, for example.⁴

Children's Rights

Over the last thirty years the UK has witnessed a sea change in how academics and practitioners conceptualise the rights of children, Fortin (2014) pointing out that in the late 1980s it was very unusual for aspects of child law to be discussed with any reference at all to children's rights. At this time, most of the debate was based on the formulation and application of the ‘best interests of the child’ test laid down in the Children Act 1989. In contrast, there is now no shortage of published resources and commentary on children's rights in both the domestic and international context, and some of these have resources have been designed specifically for use by children themselves.⁵ The language of ‘rights’ is used frequently, and at least one local authority (Blackburn with Darwen) has designated trained ‘Children's Rights Champions’ working in relevant departments.

The United Nations Convention on the Rights of the Child is the most significant international legal instrument in relation to children's rights, and it was ratified by the UK in 1991. The UNCRC developed from a beginning as the Declaration of the Rights of the Child submitted to the League of Nations in 1926. It guarantees a range of rights, and those of most relevance to child survivors of sexual offences are Article 3, which sets out that the best interests of children must be the primary concern in making decisions that may affect them; Article 12 (Respect for the views of the child); Article 19 which guarantees protection from

² See *A. v. the United Kingdom*, no. 95599/94 23 September 1998, which established the state's duty to protect children from physical abuse, and on which the court's subsequent jurisprudence on sexual abuse is based: *E and Others v. the United Kingdom*, no. 33218/96 26 November 2001 expanded this jurisprudence to cover cases of sexual abuse.

³³ *Aydun v. Turkey*, no. 23178/94, 25 September 1997; *Salmanoglu and Polttas v. Turkey*, no. 15828/03. 17 March 2009; *Ahmet Ozkanet and Others v Turkey* no. 21689/93 6 April 2004.

⁴ See *K.U. v. Finland*, no. 2872/02, 2 December 2008.

⁵ The 25th anniversary of the CRC has prompted a number of reflective volumes looking both back at the impact of the Convention and also forward to the future: see, for example, (Freeman 2014), (Milne 2015) (Jancic 2015)

violence, and Article 34 which sets out that governments have a duty to protect children from all forms of sexual exploitation and abuse. Article 39 (Rehabilitation of child victims) is of particular relevance, as it sets down that children who have been neglected, abused or exploited should receive special help to physically and psychologically recover and reintegrate into society, and that particular attention should be paid to restoring the health, self-respect and dignity of the child. There are other additional rights and duties, including the Article 4 responsibility placed on governments to ensure children's rights are respected, protected and fulfilled.

The provision in Article 34 in the Convention, which protects children from sexual exploitation and abuse, is augmented by the Optional Protocol on the sale of children, child prostitution and child pornography, and is also linked to Article 35 which outlaws child abduction, sale and trafficking.

Article 42 sets out that Governments should make the Convention known to adults and children. This is potentially relevant to children who are victims of sexual offences, in relation to their right to be heard, and also their rights to live free of abuse. Thus potentially this is a powerful tool, although opinions differ as to whether the rights included in the UNCRC amount to realistic, realisable rights for children in the UK, or are more aspirational than practical (Fortin 2014), key problems being the aspirational nature of the wording within the CRC, and second, the absence of any direct method of formal enforcement available to either children themselves or the UN Commission. There has never been a court attached to the UNCRC which could assess claims of rights infringements, and there is no UK-based route to challenge akin to that embedded in the HRA 1998. Fortin (2014) makes the point strongly that the UK continues to infringe many of the rights listed in the CRC, even though the UN Committee made many recommendations in response to previous reports, and she doubts whether in promoting children's rights, organisations such as CRAE and UNICEF are being entirely honest with children or other practitioners by focusing on rights. In 2007 Lyon (Lyon 2007) suggested that since none of the rights in the CRC are legally enforceable, then neither public bodies nor government organisations should refer children to the CRC. Instead, she suggested that these organisations should focus on the rights available under the ECHR. As Fortin writes:

"In my more depressed moments I do wonder whether it is worth NGOs urging the government to strengthen efforts to ensure that the CRC is more widely known and understood by children. Why should the government invest effort in telling children about all the rights listed in the CRC when they know that this information is, in practical terms, useless to children?" (p.52)

A much-discussed and controversial issue in England and Wales is exactly this, that the rights enshrined in the UNCRC have not been imported in their entirety into UK domestic law, as the UK has a dualist approach to international treaties. That said, children's rights to make decisions in some contexts have been recognised for many years prior to the UK becoming a signatory, as demonstrated in the Gillick case (Cornock 2014). Some protections are created under other statutes, such as the Equality Act and the Children Act, but there is no specific UK Child's Bill of Rights, which can be enforced. (Macdonald, 2011: MacDonald, 2014) Unlike the situation of the ECHR under the HRA 1998, where aggrieved parties can bring an action in the UK domestic courts, there is no challenge or enforcement procedure in the UK for breaches of the UNCRC. There is regular and ongoing monitoring of the situation, and all signatories to the Convention have to submit reports every 5 years on the

state of children's rights in the UK, but no mechanism by which individuals, groups, and those acting on their behalf can seek to challenge policies, practices and procedures.⁶

That is not to say, however, that the UNCRC has no significance in the UK. In fact, the principles underpinning the CRC have been endorsed in case law and in policy documents. Like other unincorporated treaties, the CRC can influence the decisions of the courts by creating rule of construction, by developing established legal notions and by being absorbed into the criteria for the legality of administrative decision-making (J. Williams 2014). As Baroness Hale stated, "When two interpretations....are possible, the interpretation chosen should be that which better complies with the commitment to the welfare of children which this country has made when ratifying the UNCRC". Indeed, Hale has been one of the most significant proponents of the CRC, working to communicate the importance to other members of the judiciary of the UK's obligations as signatories, and since 2011 we have seen important recognition of the CRC in case law, albeit not in relation specifically to child victims of sexual offences, but in relation to other manifestations of Art 3 obligations. As long ago as 2001, Ursula Kilkelly argued that the UNCRC has been recognised increasingly in the decisions of the European Court of Human Rights (Kilkelly 2001).

Fortin (2014) notes that if the UK government signs and ratifies the Third Optional Protocol to the CRC, in addition to the two other Optional Protocols which it has already signed and ratified, which introduces a new complaints/communications procedure, then the CRC may become more effective.

Since the UK ratification of the Convention in 1991, there have been a number of attempts to create laws, administrative procedures and policy initiatives to support and implement children's rights in practice, including the Children Acts of 1989 and 2004 and the 'Every Child Matters' agenda. That said, Williams goes on to argue powerfully that despite the obvious influence of the CRC on court decision-making, legislative incorporation is essential to delivering the necessary systemic changes, although not all commentators agree (Williams 2011). Interestingly, due to the devolution of certain powers to Wales and Scotland, although Wales shares a legal system with England and Wales (unlike Scotland), Wales became the first part of the UK to implement a compulsory legal framework for compliance with the UNCRC in domestic law, when the Welsh Assembly passed the Rights of Children and Young Persons (Wales) Measure 2011. This measure creates a legal duty on Welsh Ministers to have due regard for the rights of a child, as laid down in the UNCRC, when exercising any of their functions. (Williams, 2013; Invernizzi, 2011). In Scotland, the Children and Young People (Scotland) Act 2014 places duties on Ministers and public authorities to keep under consideration steps to further children's rights and, if they consider it appropriate to do so, to take any of the steps identified. Scottish Ministers are also placed under a duty to promote understanding and awareness of the rights of children, including understanding and awareness amongst children themselves, and they are required to report every three years on progress made in relation to these duties. Whilst this is positive, the Scottish Government did not support proposals for the full incorporation of the UNCRC into Scottish law, or support proposals to advance enforceable legal protections for children's rights. Although their two UNCRC action plans have been welcomed in principle (Children's Commissioners, 2015), the Scottish Government's approach has been criticised for "a lack of tangible and measurable commitments and progress measures." (p.3) The Commissioners have also criticised the Welsh Measure as it does not contain a timetable,

⁶ The Children's Commissioners not only submit formal reports, but also publish versions in child-friendly language. (Children's Commissioners 2015)

quantifiable goals, or a mechanism for implementation and monitoring (Croke 2013). In terms of the rest of the UK, the developments in Scotland and Wales have not been seen in England and Northern Ireland, and few pieces of legislation refer to the UNCRC explicitly, and the Commissioners have expressed their concern at the lack of political commitment by the UK Government to the creation of domestic guarantees for human rights, especially as the current Conservative government was elected in May 2015 with a manifesto commitment to repeal the HRA and replace it with an as-yet-unpublished British Bill of Rights.

Alongside the CRC, the Council of Europe has recognised sexual assault against children as an urgent human rights issue and has stressed that fighting it should be a political priority (Council of Europe Commissioner for Human Rights, 2011) All the member states have signed, and 38 ratified, the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (the 'Lanzarote Convention'), although the UK has not yet ratified or implemented it.

The UK Legal Context

The legal situation in relation to children who experience sexual victimisation comprises a range of offences, some of which can only be committed if a child is the victim, and others which only apply if a child who falls into a specific vulnerable group is the victim, or if the alleged perpetrator falls into a group of individuals, such as teachers, for whom specific offences based on breach of trust come into play. Whilst in academic and professional discourse an array of categories of sexual offending against children are used, the criminal offences do not necessarily use the same language or terminology. Thus, a situation in which a child has been repeatedly raped and sexually assaulted by a parent, which social workers may categorise as 'sexual abuse' would be interpreted and prosecuted as offences of rape of a child and sexual assault of a child, with other offences under the Offences Against the Person Act 1861 added as applicable if there is evidence of additional physical and psychological harm. Similarly, if a child is 'groomed' by a group of older people, and commits a number of sex acts and receives food, favours and gifts, then this would again be prosecuted as rape and sexual assault, with additional 'grooming' offences as applicable: this would be referred to as 'child sexual exploitation' but that in itself describes a range of behaviours and experiences and is not a specific named offence in itself. Other offences may also be relevant, such as abduction and kidnapping, as evidenced in the case of the teacher Jeremy Forrest, who was convicted of abduction and sexual activity with a minor after he and a 15 year old pupil went missing for several days and were found in France.

The majority of sexual offences involving children are now contained within the Sexual Offences Act 2003, some sections of which have been amended recently. It is important to note that the law in relation to sexual offences against children has evolved to reflect greater understandings of the nature and dynamics of the sexual victimisation of young people, and to reflect the criminal and non-consensual nature of the offending, with some offences which previously existed under the 1956 Sexual Offences Act, such as 'unlawful sexual intercourse with a girl under 16' and 'unlawful sexual intercourse with a girl under 13' being reframed as 'sexual activity with a child' and 'rape' respectively. In addition, the scope and applicability of the law has evolved so that the definition of rape, which was first recognised in the common law then most recently in the 1956 act, now includes penile penetration of the vagina, anus or mouth of any person, whether male or female: this is,

however, still subject to criticism is as requires penile penetration, although it is important to point out that other forms of non-penile penetration are covered by the s2 'Assault by Penetration' offence, which did not exist prior to 2003.

At present, the emergence of complaints of historical abuse, often having occurred prior to 1st May 2004 when the SOA 2003 came into force, necessitates police and prosecutors to bring charges and prosecute under offences which existed at the time of the alleged incident, but which no longer exist or exist in different forms. This means that some offenders have been prosecuted for, and convicted of, a number of offences which, because they were committed at different times, comprise offences under the 1956 Act and also under the 2003 act.

There is a core principle set out in the guidance issued by the Crown Prosecution Service, when deciding what offences to charge, that when making such a choice prosecutors should choose the most appropriate charge to fit the circumstances of the case, taking account of the courts' sentencing powers. As a general rule, where the circumstances of a case match a particular offence specified in the Act, that offence should be charged. For example section 25 (familial child sex offence) where the victim is 14 should be charged rather than section 9 (sexual activity with a child), as long as all the elements can be proved. This approach makes clear the context in which an offence is committed. Similarly, offences against children under 13, where age can be proved, should be charged under sections 5-8, where the circumstances fall within those sections, rather than under the more general s1-3 sections, so that it is made clear that the offence is rape of a child, not simply rape. All the offences in the Sexual Offences Act 2003 are crimes of basic intent, as confirmed in *R v Lee Heard (CA) (2006)*.

Non-Consensual Offences which include children (but also apply to adult victims)

Sections 1-4 deal with offences where the defendant (A) engages in sexual activity with the complainant, without the complainant's (B's) consent.

Offence	Section of Sexual Offences Act 2003	Indictable/either way/summary		Maximum Penalty	Other details
Rape	s.1	Indictable only		Life imprisonment	
Assault by penetration	s.2	“		“	
Sexual Assault	s.3	Either way		Statutory maximum in the Magistrates' Court; 10 years' imprisonment in the Crown Court (where the offender is	

				under 18 it falls into section 91 of the Powers of Criminal Courts Act 2000	
Causing Sexual Activity without Consent	s.4	Depends if penetration is involved		Life imprisonment if penetration is involved; otherwise is an 'either way' offence carrying a maximum of 10 years	

Offences Against Children

The 2003 Act identifies three categories of offences against children of different age. They are offences against those under 13; offences against those under 16 and offences against those under 18.

Offences Against Children under 13

Note that a child under 13 does not, in any circumstances, have the legal capacity to consent to any form of sexual activity. These are offences of strict liability as regards to age, and there is no defence of reasonable belief on relation to the age of the complainant.

Offence	Section of Sexual Offences Act 2003	Indictable/either way/summary	Maximum Penalty	Other details
Rape of a child under 13	s.5	Indictable only	Life imprisonment	
Assault of a child under 13 by penetration	s.6	“	“	
Sexual assault of a child under 13	s.7	Either way	Statutory maximum in magistrates' court on 14 years on indictment	
Causing or inciting a child under the age of 13 to engage in sexual activity	s.8	Indictable only	Life if offence involves penetration; otherwise maximum of 14 years' imprisonment	S8 makes it an offence to intentionally cause or incite a child under 13 to engage

It is a defence against aiding, abetting or counselling an offence (except section 8) if the purpose is to:

- Protect the child from sexually transmitted infection
- Protect the physical safety of the child
- Protect the child from becoming pregnant
- Promote the child's emotional well-being by the giving of advice unless the purpose is to obtain sexual gratification or to cause or encourage the relevant sexual act (section 73).

This defence is provided in order not to criminalise health professionals and advice agencies if they provide contraceptive or sexual health services to young people. The same defence applies to a number of other sections in the Act, and will be referred to in this report for brevity as the 'protection' defence.

The 2003 Act protects all children from engaging in sexual activity at an early age, irrespective of whether or not a person under 13 may have the necessary understanding of sexual matters to give ostensible consent. The intention behind sections 5-8 is to provide maximum protection to very young children. A prosecution will usually take place unless there are public interest factors tending against prosecution which outweigh those tending in favour. Given the seriousness of these offences, where the defendant is an adult, notwithstanding the wide nature of the activity in sections 5-8, a prosecution will normally be required.

Where the accused is themselves under 18, the overriding public concern is to protect children. It was not Parliament's intention to punish children unnecessarily or for the criminal law to intervene where it is wholly inappropriate. During the passage of the bill, Lord Falconer said:

"Our overriding concern is to protect children, not to punish them unnecessarily. Where sexual relationships between minors are not abusive, prosecuting either or both children is highly unlikely to be in the public interest. Nor would it be in the best interests of the child ..."

The intention of parliament was not to criminalise consensual sexual activity between young people which could be perceived as usual teenage development. In deciding whether or not to prosecute, prosecutors should have careful regard to a number of factors, the weight to be attached to a particular factor varying depending on the circumstances of each case. The factors include the age and understanding of the offender, including whether the offender has been subjected to any exploitation, coercion, threat, deception, grooming or manipulation by another which has led him or her to commit the offence; the relevant ages and levels of maturity of the parties, i.e. the same or no significant disparity in age; whether the complainant entered into sexual activity willingly, i.e. did the complainant understand the nature of his or her actions and that she/he was able to communicate his or her willingness freely; parity between the parties in regard to sexual, physical, emotional and educational development; the relationship between the parties, its nature and duration and whether this represents a genuine transitory phase of adolescent development; whether there is any element of exploitation, coercion, threat, deception, grooming, seduction, manipulation or breach of trust in the relationship; whether the child under 13 freely consented (even though in law this is not a defence) or a genuine mistake as to her/ his age was in fact made; the nature of the activity e.g. penetrative or non-penetrative activity; the sexual and emotional maturity of

the parties and any emotional or physical effects resulting from the conduct; and the likely impact of any prosecution on the parties.

Offences against children under 16 (sections 9 - 13)

The 2003 Act provides that the age of consent is 16. Sections 9-13 clarify that any sexual activity involving consenting children under 16 is unlawful. Sections 9-12 cover adult defendants.

Offence	Section of Sexual Offences Act 2003	Indictable/either way/summary	Maximum penalty	Other details
Sexual activity with a child	s.9	Indictable only if penetration; otherwise either-way	14 years' imprisonment if penetration; statutory maximum in magistrates' or 14 years on indictment	Offender must be 18 or over; requires that either B is under 16 and A does not reasonable believe B is 16 or over, or B is under 13
Causing or inciting a child to engage in sexual activity	s.10	"	"	"
Engaging in sexual activity in the presence of a child	s.11	Either Way	Statutory maximum in magistrates' or 10 years' imprisonment on indictment	Offender must be 18 or over and intentionally engages in sexual activity; (A's) purpose is to obtain sexual gratification when (B) is present or can observe; (A) knows or believes that (B) is aware of the activity or intends that (B) should be aware and either (B) is under 16 and (A) does not reasonably believe that (B)

				is 16 or over, or (B) is under 13.
Causing a child to watch a sexual act	s.12	“	“	A must be 18 or over; This includes causing a child to watch another person engaging in a sexual activity, or look at any image of any person engaging in an activity.

- Note that if a person under 18 commits an offence if she/he does anything which would be an offence under sections 9 -12 the penalty is reduced to the statutory maximum in the magistrates' or, on indictment, imprisonment for a term not exceeding 5 years.

In summary, where a defendant, for example, is exploitative, or coercive, or much older than the victim, the balance may be in favour of prosecution, whereas if the sexual activity is truly of the victim's own free will the balance may not be in the public interest to prosecute.

In addition, it is not in the public interest to prosecute children who are of the same or similar age and understanding that engage in sexual activity, where the activity is truly consensual for both parties and there are no aggravating features, such as coercion or corruption. In such cases, protection will normally be best achieved by providing education for the children and young people and providing them and their families with access to advisory and counselling services. This is the intention of Parliament.

Other related offences against children (under 16)

Offence	Section of Sexual Offences Act 2003	Indictable/either way/summary	Maximum Penalty	Other details
Arranging or facilitating a child sexual offence	s.14	Either Way	Statutory maximum in magistrates' court or 14 years on indictment.	
Meeting a child following sexual grooming	s.15 (as amended)	Either Way	Statutory maximum in magistrates' court or 10 years on indictment	Offender must be 18+
Sexual communication with a child	S15A	Either Way	Statutory maximum in magistrates' or	Offender must be 18+ and other party

			2 years' imprisonment	must be under 16, and offender does not reasonably believe other party is 16+
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Offences against children under 18 where consent is not relevant due to their relationship with the abuser

Abuse of position of trust (Sections 16-24)

The primary purpose of the abuse of trust provisions is to provide protection for young people aged 16 and 17, who are considered to be particularly vulnerable to exploitation by those who hold a position of trust or authority in their lives. This means that although a young person may be legally able to consent to sexual activity at the age of 16, this consent is irrelevant when they are under 18 if they have a specific trust relationship with the abuser. The prohibited sexual behaviour in each of the sections 16-19 is identical to that prohibited in sections 9-12 (i.e. sexual activity with a child; causing a child to engage in sexual activity; sexual activity in the presence of a child; and causing a child to watch a sexual act). Positions of trust are defined in section 21 and 22 (e.g. looking after persons in educational establishments, residential settings, or where duties involve regular unsupervised contact of children in the community). The defence on the grounds of protecting child well-being (see above) applies, along with a defence if they are married, or where she/he can prove that a sexual relationship pre-dated the relationship of trust with (B), only where the sexual relationship was lawful. This leads to the slightly strange conclusion, as pointed out by Spencer (J. Spencer 2004) that the relationship could be emotional but no sexual contact could exist prior to the marriage.

Familial child sex offences

Sections 25 and 26 reflect the modern family unit and take account of situations where someone is living within the same household as a child and assuming a position of trust or authority over that child, as well as relationships defined by blood ties, adoption, fostering, marriage or living together as partners. Where the offences involve penetration they are indictable only with a maximum sentence of 14 years. In any other case they are either way offence with a maximum sentence of 14 years on indictment. Sections 25 and 26 create two separate offences because the maximum sentence differs depending on proving penetrative or non-penetrative activity. Where the offender is under 18 the offence (whether penetration occurred or not) is either way with a maximum penalty of 5 years on indictment.

Other Offences

Offence	Section of Sexual Offences Act 2003	Indictable/ either way/summary	Maximum penalty	Other details
Indecent photographs of children	s.45 & s.46			

Paying for sexual services of a child	s.47	Either Way	For offences involving penetration, the offences are indictable only with a maximum sentence of 14 years, and where the child is under 13 the offence is indictable only with a maximum of life imprisonment. Where the child is 16 or 17 the offence is either way with a maximum of 7 years irrespective of whether penetration occurs.	Applies to children under 18
Causing or inciting a child to be sexually exploited	s.48	Either Way	Statutory maximum in magistrates' court or 14 years' imprisonment on indictment.	
Controlling a child in relation to sexual exploitation	s.49	“	“	
Arranging or facilitating child sexual exploitation	s.50	“	“	

Amendments to the SOA in 2015 have removed all references to 'child pornography' and 'child prostitution' from the Act, replacing them with phrases referring to 'child sexual exploitation'.

Offences against persons with a mental disorder

The 2003 Act provides protection for persons with a mental disorder and abolishes the term 'mental defective'. There are three categories of offences for vulnerable persons. They are offences against persons with a mental disorder impeding choice (sections 30-33); offences where there are inducements etc. to persons with a mental disorder (sections 34-37); and

offences by care workers against persons with a mental disorder (sections 38-41). Mental disorder is defined as set out in section 1 of the Mental Health Act 1983, as amended by the Mental Health Act 2007, as 'any disorder or disability of the mind'. As well as including serious mental illness this definition ensures the protection of those with a lifelong learning disability, and in this context would be relevant to children.

The Sentencing Council has issued a definitive guideline on sentencing sexual offences which applies to offenders sentenced on or after 14 May 2007, and which must be followed in all courts.

The Extent of Sexual Offending Against Children in the UK

It is notoriously difficult to estimate the extent and prevalence of sexual victimisation of children, not only in the UK but around the world (Bolen 2014).⁷ Indeed, the same can be said of all sexual offences, including those involving adult victims (Horvath & Brown, 2009; Brown & Walklate, 2011). A number of UK studies have attempted to draw conclusions as to the incidence of sexual violence and exploitation experienced by children and young people, both on an annual basis and in terms of lifetime experience: the Crime Survey for England and Wales, which provides a useful snapshot of self-reported victimisation, is not administered to participants aged under 16. In 2013/4, all four countries within the UK saw an increase in the number of recorded sexual offences against children, rising by between 12% and 39% in comparison with the previous year, the biggest increase being in England (Jutte 2015). This may reflect an increased willingness on the part of children to speak out, but other research indicates that there may still be limited and patchy resources and support available to help them recover. Similarly, ChildLine found that counselling sessions where sexual abuse or online sexual abuse constituted the main concern made up 45% of discussions. The total figures are sometimes difficult to compare, due to legal and jurisdictional differences between England and Wales (which share one legal system), Scotland and Northern Ireland.

The NSPCC uses the number of recorded sexual offences against children as a key indicator, but recognises that this in no way reflects actual prevalence. In 2013/4, the police recorded 36,249 sexual offences against children in the UK, which was the highest number of sexual offences against children recorded in the last decade. That said, if the numbers of 17 and 18 year olds were included then the figure would be higher: as it is, the figures do not include offences that include children up to the age of 18. The rate of sexual offences per 1,000 children aged under 16 increased to a high of 2.2 in 2013/4, reflecting a possible greater willingness to report due to the 'Yewtree effect' and also improved compliance with police recording standards after an investigation of police recording practices found high levels of under-recording for sexual offences (Her Majesty's Inspectorate of Constabulary 2014).

Of those offences recorded in England and Wales, in 2013/4 in England there were 5,852 recorded offences of rape of a child, of which 2,631 were rapes of a child under 13, with the comparable figures in Wales being 385 total offences of rape of a child, of which 205 were of female children aged under 13. During the same time period there were 4,825

⁷ This chapter provides a detailed, thoughtful and reflective summary not only of the extent and prevalence of child sexual abuse, but also summarises the diverse range of impacts and effects of child sexual abuse in a global context.

sexual assaults of girls aged under 13 in England, and 299 in Wales. There were 1029 recorded rapes of a male child under 13 in England, with 96 in Wales, along with 378 rapes of a male child under 16 in England and 38 in Wales. The most commonly recorded offence in both England and Wales involved sexual activity with a child under 16. One of the problems, however, relates to recorded crime and criminal justice statistics themselves: it can be challenging to identify exact numbers of child victims, even if they do disclose the offending and it is recorded by the police, as UK recorded crime is not disaggregated by age routinely (Bunting 2014).

The most significant finding from these statistics, therefore, is the increasing number of sexual offences being recorded by the police. This does not, however, reflect the prevalence of sexual offending against children, which has been recognised as a widespread global problem (Zeuthen 2013). As a form of childhood adversity, child sexual abuse has been identified as being important in psychiatric and psychological terms because of its long-term effects on mental wellbeing, which are commensurate with the severity and persistence of the abuse (Bebbington, 2011).

In the 1980s the focus of educational policies aimed at helping children keep themselves safe focused on 'stranger danger' and exhorted children not to go with strangers if they approached them. Whilst undeniably there have been a consistent number of children every year who are abducted, abused sexually and sometimes murdered by strangers, the numbers in the UK remain small, and have been largely stable for the last fifty years, even though the vast amount of media attention paid to such cases, combined with shifts in parental views of risk and safety, has reinforced perceptions that children are in unprecedented danger from strangers. The panics around alleged organised 'Satanic' abuse in the late 1980's has been criticised for deflecting attention from the reality of sexual offending against children, which is far more likely to involve offenders known to children, often within families or in close family and friendship groups. Thus, research by (Radford 2011) estimated that one in twenty children in the UK have been sexually abused, and of those who were abused by an adult one in three did not tell anyone. Over 90% of sexually abused children were abused by someone whom they knew. In more recent statistics published by the NSPCC in relation to child protection, over 2800 children had been identified as needing protection from child sexual abuse in the preceding year (NSPCC, Child Protection Register Statistics 2015), and of contacts to their helpline in the previous year, 16% related to sexual abuse, with an 11% increase between 2014 and 2015 in the number of counselling sessions involving young people who talked to ChildLine about sexual abuse (NSPCC 2015). Freedom of Information requests by the NSPCC, which have provided useful information, have indicated that in the year prior to 2013 over 5,500 sexual offences against children were recorded (NSPCC 2013), and in a similar FOI request found that over 30,000 registered offenders (i.e. Those subject to statutory registration as violent or sexual offenders) have been convicted of offences against children (NSPCC 2012), one third of sexual offences recorded by the police being against children (Office for National Statistics 2013). It is estimated that child sexual abuse, and its consequences, costs the UK £3.2 billion per year (Saied-Tessier 2014).

Even if victims are more likely to recognise abuse, and disclose the abuse to police, associated issues arise in relation to the decision to prosecute, and then the likelihood of magistrates and juries to convict. The UK 'attrition rate' (sometimes called 'the justice gap') in relation to rape complaints has meant that, even where disclosures are made, police charging and later prosecutorial decisions by the Crown Prosecution Service may mean that even if an offence is recorded, it may not lead to a conviction (Brown, 2011: Angiolini, 2015). The precise dynamics of these decisions to charge, or discontinue, cases is difficult

to deduce from the published research: however, a recent article on police charging in a study of 440 child sexual abuse cases, controlling for case characteristics and evidence, found that cases involving children in middle childhood had a higher proportion of suspects charged than cases involving victims in early childhood and adolescence. Further, it was found that cases with older victims had a higher prevalence of extra-familial abuse and suspect confessions, and these factors had a positive effect on the proportion of offenders charged (Leach et. al., 2015).

The prevalence of 'rape myths', around which there is a great deal of debate and discussion in terms of adult complainants, are now much less likely to be applied to children, especially in relation to younger children, although older teenagers may find their own behaviours and attitudes leading to unpleasant cross-examination in court, and whilst the concept of 'victim-precipitated pedophilia' (Virkkunen 1975) has been comprehensively rejected, the younger the child, the more likely they are to be believed (Hohl & Stanko, 2015).

Child Sexual Exploitation

A more recently identified form of sexually offending against children is child sexual exploitation (CSE), our understanding of this having evolved from earlier work on the commercial and sexual exploitation of children (Chase 2005) . This has now been recognised as a child protection issue which can affect any child in any community (Barnardo's 2011). Until relatively recently this was a hidden crime, which was rarely recognised by either young people or professionals as exploitation (Department of Health, 2014), even though Barnardo's (2011) argue that it can have profound impacts on emotional, physical and psychological well-being (Pearce 2009). It is, however, exceptionally difficult to identify its incidence as many victims may not disclose CSE, or identify their experiences as CSE (CEOP, 2011; Melrose, 2013), and the nature and dynamics may not involve simply adult-child contact but also peer-to-peer grooming and exploitation (McAlinden 2012).

There are a wide range of indicators which may indicate that a child is experiencing sexual exploitation, and there is no one definition of CSE. In March 2015 the UK Prime Minister, David Cameron, described CSE as a "national threat" and announced that child sexual abuse would be given the same priority by the police as serious and organised crime. A report by the Office of the Children's Commissioner on gang-related sexual violence in the UK (Berelowitz 2013), which considered academic research and evidence from, many young people, concluded that

"despite increased awareness and a heightened state of alert regarding child sexual exploitation, children are still slipping through the net and falling prey to sexual predators. Serious gaps remain in the knowledge, practice and services required to tackle this problem. There are pockets of good practice, but much still needs to be done to prevent thousands more children falling victim" (p.8).

Children who go missing from care are at greater danger of being exploited sexually (APPG for Runaway and Missing Children and Adults and APPG for Looked after Children and Care Leavers 2012). CSE in the UK is seen as a form of child sexual abuse which can also include grooming, both on and offline, trafficking and exploitation by people in power and also by people in groups or gangs (Cameron 2015). A useful definition is that which has been developed by the National Working Group for Sexually Exploited Children and young people (DCSF 2009):

“the sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships, where young people (or a third person or persons) receive ‘something’ (e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of performing, and/or others performing on them, sexual activities”.

The definition goes on to explain that CSE can occur through the use of technology without the child's immediate recognition, such as when the child is persuaded to post sexual images on social media sites with no immediate payment or gain. A key element is the coercion, characterised by the child's limited availability of choice based on their social, economic and/or emotional vulnerability. Children who are at risk of CSE are highly likely to already be experiencing a range of vulnerabilities that increase their susceptibility to CSE, such as living in a chaotic or dysfunctional household, with a pre-existing history of abuse (Department of Health, 2014; Littler, 2015). The Prime Minister's announcement in March 2015 was significant in that it emphasised the cross-governmental nature of the response, which involves a collaborative and co-operative relationship between the Home Office, Department for Education, The Attorney General, the Ministry of Justice, the Department for Education and the Departments of Communities and Local Government.

Because there is no specific criminal category of CSE in child protection procedures and police recording it is very difficult to assess prevalence. As part of this, for example, 'grooming' has no accepted common legal definition, which leaves a great deal of scope for professional judgement. CSE is usually perceived as being different from, and separate from child sexual abuse within the family, although there may be overlaps, as when family members abuse children within the family but then 'pass them on' to other family members, friends or networks. The situation exposed in Rotherham is indicative, in that subsequent reports into the multiple failures to protect young people identified 1400 cases of CSE between 1997 and 2013, and the authors of the report were at pains to point out that Rotherham should not be seen as unusual or an unrepresentative of the prevalence of CSE in the UK as a whole. Similarly, (Berelowitz 2013) found that between August 2010 and October 2011, 2409 children across England were known to be victims of CSE by gangs, with a further 16500 being at high risk of CSE. Key problems include agencies and professionals being able to recognise adequately the signs of CSE, and to establish effective communication with victims, combined with strategies and policies which ensure multiple agencies work together effectively to protect children (Casey 2015). In Oxford, Serious Case Reviews arose from concerns that 370 girls had been exploited over a fifteen year period, with Operation Bullfinch resulting in seven men being convicted in 2013. The Reviews made it clear that the extent of the exploitation was not recognised by agencies and their day to day routine processes were not strong enough to respond effectively (Bedford 2015). Specific agencies work in relation to child trafficking and online protection, such as CEOP. Useful examples of inquiries and reports include the report of the convictions of nine men in a gang in Rochdale in 2012, where the victims were mainly vulnerable teenagers who were targeted at food shops and bribed with alcohol, drugs and money: the children were not listened to by agencies and appropriate actions were not taken to protect the children (Klonowski 2013). Research by Ann Coffey MP in Greater Manchester found similar issues in her research into young people's own perspectives, and the support they need (Coffey 2014).

Who protects child victims and their rights?

A number of different statutory and non-statutory organisations and agencies are involved in responding to the needs of child victims of sexual offences, alongside the police and the Crown Prosecution Service. Every local authority must protect and promote the welfare of children in need in its area.

Victim Support

Victim Support began in 1972 in Bristol as a voluntary organisation, initially as a network of local support schemes, and by 1979 having a national office. Since then its services became more centrally managed, professionalised and standardised and has since attracted significant state financial investment, now being incorporated under the local Police and Crime Commissioners' framework (Simmonds 2014). Until March 2015 they would not work with those termed 'active offenders', which created challenges where young people were both victims and also displaying harmful sexual behaviours, but this policy has now been abolished. They offer specific support for young victims, and ran the court-based Witness Service until April 2015, since when the service has been run by Citizens' Advice.

Local Safeguarding Children Boards

Section 13 of the Children Act 2004 requires each local authority to establish a Local Safeguarding Children Board, and specifies the organisations and individuals, other than the local authority, which should be represented. The LSCB possesses a range of roles and statutory functions including developing local safeguarding policy and procedures, and scrutinising local arrangements. They are responsible for co-ordinating the activities of each person or body represented on the Board for the purposes of safeguarding and promoting the welfare of children in the area, and ensuring the effectiveness of what is done. They are governed by the Local Safeguarding Children Boards Regulations 2006, and their core principle is of aiming for effective inter-agency collaboration to safeguard children

Third sector/voluntary organisations (charities/NGO's)

Some of the most significant work with children and young people who have experienced sexual victimisation is carried out under the auspices of non-statutory organisations (NGO's), some of which are commissioned by statutory bodies to provide specific services. Provision of services varied across the UK, involving national organisations such as Barnardo's, and local projects such as the Howgill Family Centres (HFC) which run a range of child and family-focused services in West Cumbria. Where an organisation is national in scope, as in the case of Barnardo's, there can still be wide variation in local provision and staffing, both in terms of specific arrangements and programmes offered. For example, in the North West Barnardo's 'Safer Futures' programme has three separate, specific teams, which work together, one focusing on CSE, one on child sexual abuse (especially within families) and one on harmful sexual behaviours. This response by Barnardo's may involve other support, as seen in their Safe Accommodation project which piloted the use of specialist foster placements for children and young people at risk, or victims, of sexual exploitation/trafficking in England (Shuker 2013). Each team possesses specific expertise,

and the team managers work together continually in order to provide appropriate, 'joined-up' services for young people. In contrast, in other areas of the UK there may be one team of people who work on sexual victimisation as a whole. Some organisations provide services for sexually-victimised children (and sometimes adults) as the key focus of their work, whereas for others this forms one element of broader provision for child clients, or as part of their broader provision for those who have experienced sexual victimisation.

Children's Rights Along the Journey

Different children experience (and find their way through) different 'journeys' in order to survive and cope with sexual offending against them, although there is a tendency in the research literature to see the journey which involves reporting to the police, and seeing the offender go through the court process, as the most desirable 'journey'. This is at odds with some accounts by victims themselves, who may not want to go through the court process, but simply want the abuse to stop. There are ongoing debates about mandatory reporting laws where professionals become aware of abuse (Mathews 2015)

Where very young children are victims, or the abuser is a trusted family member or friend, the child may not recognise what is happening is wrong, or they may not interpret the abuse as 'real'. For example, Hannah Baker (Baker 2015) for a long time thought she could remember a monster coming into her bed at night and hurting her, and she believed this to be a nightmare: it was only later when she recognised she had really experienced it. Where children are too young to understand the nature of sexual activity, or to understand adult behaviours, then they may simply view it as a game. For other children the offending is coerced by fear, especially of consequences to themselves, pets or other family members, if they ever tell. Where children do disclose sexual abuse it is frequently disclosed to mothers, but rarely to fathers (Monck et. al., 1995: Monck, 1996). It is important, however, to remember that most children who experience sexual abuse do not disclose at all during childhood (London et. al, 2005: Tener, 2015). Maternal support has been widely cited in the research literature as a key predictor of children's adjustment following disclosure of sexual abuse, both in the immediate short term and longitudinally (Zajac 2015).

The decision to disclose

Autobiographical accounts by child victims of sex offences, especially in cases of sexual abuse within families, all stress the problems and challenges of deciding whether to tell, and whom to tell and when. Empirical evidence indicates that victim disclosure rates are low, the incidence of disclosure increasing with the age of the victim and if penetration occurred. Disclosure also increases if the victim lives within a non-dysfunctional family, as defined in the literature, and they felt that they resisted the abuse, and that as children get older they are more likely to report the abuse if they were not living with the offender at the time of the abuse (Leclerc 2015). Since it was established in 1986, ChildLine in the UK (now part of the NSPCC) has provided a confidential helpline for children, and a high proportion of their work now involves online-based contacts with children. The legal situation is that they cannot guarantee absolute anonymity if a child is at imminent risk of serious harm but their number is known commonly by children, partly as a consequence of their schools-based awareness work. Similarly, local youth services, such as Talkzone in Lancashire,

provide a range of helpline and advice services, offering trained staff who can advise children. School teachers, school nurses and other youth-focused professionals can play a key role in identifying if children have been victims and encouraging reporting. Where there is a one-off incident involving a stranger, and additional violence, for example then the police may be involved immediately, and where children are experiencing sexual exploitation the police may find them repeatedly in unsafe situations or with dangerous people, and recent police initiatives are training and empowering police to recognise and react when children may be at risk. Similarly, statutory child protection services and the NSPCC can intervene in cases of sexual offending or exploitation, utilising their Child Protection powers under the Children Act 1989.

Reporting to the police

Child victims of sexual offences are specifically recognised by the police both as victims of sexual offences and also as vulnerable victims by reason of their age. Police responses to sexual violence in the UK have changed and developed extensively in the last thirty years and officers are no longer trained to regard any female complainant of rape/sexual assault as lying. The substantial and wide-ranging critiques of police responses highlighted by the women's movement and feminist activists documented and challenged the police responses, which commonly made women feel that they were being 'raped all over again' by the police response. In contrast, for example, with the routine experience of women in previous decades where they would be examined for medical forensic evidence by a male doctor, most areas now have access to specific centres for victims of sexual assaults (such as the SAFE Centre in Preston and the Havens in London), where gender-appropriate Forensic Medical Examiners are provided. These initiatives provide services to both male and female victims, reflecting increased awareness of sexual offending against males. Sexual cases are investigated by specially trained police and some forces have designated sexual offending units, as exists in Greater Manchester. Police receive training in understanding and investigating sexual offences, and there are a number of specific practice resources for officers, such as the resources provided by the National Police Improvement Agency. Police work closely with CPS staff to co-ordinate questions of charging and pre-charge decision-making, which means that there has been a sea-change in how complainants in sexual offences are being dealt with. That is not to say that there are no on-going issues, because there are, but it is also important to consider 'distance travelled' and the advances in understanding and attitudes which have evolved and which are still evolving, especially in relation to the more subtle and hidden forms of abuse which are emerging as child sexual exploitation and technological grooming. The Crown Prosecution Service (CPS) provides Rape and Sexual Offences Guidance, which is also published to the public online, and thus sets out clearly the CPS Policy on prosecuting cases of rape, and other sexual offences (Crown Prosecution Service 2012).

Guidance for the police on procedures, interviews and examinations

The professional body for policing, the College of Policing, sets standards of professional police practice, accredits police training providers and sets learning and development outcomes, promotes good practice in policing based on evidence, supports forces and other organisations to work together to protect the public and prevent crime, and to identify and promote professional values, ethics and integrity. The College publishes Authorised Professional Practice (APP) guidance, and police officers and staff are expected to have regard to APP in discharging their responsibilities. That said, it is permitted

for police to deviate from APP in circumstances where it is legitimate to do so. The underpinning idea of APP however, is to promote good practice in evidence-based policing, combined with high standards of ethics and integrity, promoting commonality of good practice across all UK police forces. An APP on rape and sexual offences is currently under development but other resources are current, such as the ACPO Guidance on Investigating and Prosecuting Rape (Association of Chief Police Officers (ACPO) and the Crown Prosecution Service 2010); the ACPO Briefing Note on First Response to Rape, and provides two online toolkits for authorised users (i.e. police and relevant professionals), investigators and their supervisors and managers on addressing consent and associated myths in rape investigations and prosecutions. As a consequence of the Operation Bullfinch, Operation Span and Operation Retriever high-profile cases in 2012/13, which highlighted the need for a consistent approach to identifying risk and safeguarding children and young people from sexual exploitation, the College published guidance on Responding to Child Sexual Exploitation (College of Policing, 2015), which accompanies other existing guidance on child abuse (College of Policing 2015) Taken together, these provide a suite of resources aimed at promoting and implementing good practice for child victims of sexual offences in a range of policing contexts.

It is beyond the scope of this literature review to describe every element of guidance available to the police within these resources, but the indicative content is useful in illuminating overall approaches to child victims. These resources need to be read in conjunction with the focus on achieving best evidence (ABE) and also in conjunction with CPS guidance, and statutory provisions for vulnerable witnesses (including victims) in court. Specific guidance also exists for Forensic Medical Examiners in relation to best practice in the medical examination, and also guidance for professionals and practitioners working with victims as to the nature and appropriateness of treatment interventions prior to a trial going ahead. If anything, the problem would not now appear to be lack of professional guidance as to good practice; rather, different agencies have their own agendas and desired outcomes, and so although there is overlap it can be difficult to identify one set of overarching principles to apply to all professionals dealing with child victims of sexual offences. This can make it challenging for child victims and their advocates to identify what good practice should be expected or provided, and to challenge that lack of provision if necessary.

The published version of the ACPO (2009) Guidance on Prosecuting Rape (Abridged) has been published as a public-facing document, with sensitive information removed if such information could assist a potential offender. The aim is to enhance the team approach adopted by the police and CPS in order to promote and provide better outcomes for victims of rape, including the promotion of increased confidence in the system; higher numbers of cases leading to convictions and improving the treatment of complainants. This explicitly refers to the provisions of the ECHR, in relation to protecting individuals, without discrimination, from inhuman and degrading treatment. The guidance document explains why delayed reporting in rape cases is not uncommon, pointing out that there is more likely to be a delay in reporting domestic/relationship or acquaintance rape than stranger rape, the reasons for this including lack of confidence and trust in the criminal justice system, and fears about safety. The guidance includes a note that, following the case of *R v D (JA)* [2008] EWCA Crim 2557 it was held that judges are entitled to comment that a delay in a rape complaint may be because *“the trauma of rape can cause feelings of shame and guilt which might inhibit a woman from making a complaint”* and that judges can also direct juries that *‘a late complaint does not necessarily mean a false complaint’*. Children may delay reporting due to fear, loyalty or a lack of understanding. The focus in the guidance is on police understanding how difficult it can be for a victim to report, and not

to undermine their account. The guidance also provides best practice in relation to third party reporting, highlighting the usefulness of Sexual Assault Referral Centres (SARCSs) and Independent Sexual Violence Advisors (ISVAs) in cases where victims refuse direct contact with the police. It is stressed that when identifying risk factors for victim in the future, the responsibility for rape always rests with the offender. Very specific and extensive guidance is given to police on the investigation and case-building process, and the guidance includes a number of checklists (although these are not available in the published public redacted version). There is a clear focus on stressing that every effort should be made to ensure that the victim is supported by the police, and feels supported by them, as well as by ISVAs where available, and other agencies such as sexual violence outreach services and/or Victim Support. The guidance also includes an explanation of Post-Traumatic Stress Disorder and its impact on the conduct and timing of the interview, varying between victims. Victims of sexual assault are eligible for assistance on the grounds of fear or distress about testifying by section 174 of the Youth Justice and Criminal Evidence Act 1999. Children under the age of 17 are recognised as vulnerable witnesses under section 16 of the Youth Justice and Criminal Evidence Act 1999. As child victims clearly fall into at least one of these categories, they are eligible for a range of special measures which can be used to record evidence and help in evidence-giving. Vulnerable witnesses, including children, are also eligible to receive 'social support' at all stages of the investigation, including having someone to support them who is independent of the police investigation and present at the original investigative interview.

A wide range of special measures can be provided in order to enable and assist child victims to give evidence. These can include the use of screens in court to shield the witness from the defendant(s); a live link enabling the witness to give evidence from outside the court room; evidence given in private; removal of lawyers' and judges' wigs and gowns'; video-recording of evidence as evidence-in-chief; video-recorded cross-examination; examination of the witness through an intermediary and, if appropriate, aids to communication (Office for Criminal Justice Reform, 2007; Office for Criminal Justice Reform, 2005).

The focus for the police is on encouraging victims to feel safe, recognising they may need encouragement and support to participate in an interview. Although this guidance is specifically for rape it would be applicable equally to other cases of sexual assault and victimisation. The emphasis is on the police making sure that the victim's views are ascertained as to having a supporter present during interviews and the use of special measures including recording. Although an audio-recording cannot be played to a court as evidence-in-chief as a video recording can, it could be transcribed into a format acceptable to the system, such as an exhibited transcript or a full statement. A video-recording, in contrast, can be shown to the court as evidence in chief if the application to do so is accepted. This has the effect of reducing the time that the victim spends giving evidence in court, and it is hoped that this will minimise the stress involved in reporting their account. This material is provided to the defence as part of the disclosure bundle. The victim will still need to attend court, to be cross-examined, but this does not have to be done live in court; it could be done behind a screen, or via live video link, often to another room in the court building. That said, the final decision on special measures is taken by the court on application by the CPS.

The guidance also provides extensive guidance on working with Rape Specialist Prosecutors, and procedures as to investigating, charging and the evidential test for taking prosecutions forward, as laid down in the Code for Crown Prosecutors. This Full Code test, which applies to all prosecutorial decision-making, requires first that the evidence is

sufficient to provide a realistic prospect of conviction, and second, that prosecution is in the public interest. Once the decision has been taken to charge, there is specific information requiring victims to be kept informed about possible bail decisions, and decisions relevant to charges. It is the duty of the police and the CPS to ensure that victims are informed of all charging decisions and if the decision is taken that there is insufficient evidence to proceed then it is the responsibility of the police to inform the victim. If the decision is taken at a later stage, after a rape specialist prosecutor takes the decision to discontinue after discussion with a second rape specialist prosecutor, the responsibility to notify the victims rests with the CPS, and similar provisions for speed apply if charges are amended. The victim must be informed of bail decision, the date of the court hearing, and any bail conditions, within one working day for vulnerable or intimidated victims (including children). Similar provisions exist within the Code of Practice for Victims of Crime, the core focus being on keeping the victim informed at every stage of the process. Similar expectations exist as to communication with victims where a decision is taken not to charge, to take no further action, to discontinue, or to bring in alternative charges.

The Child Sexual Abuse Review Panel

A specific panel, the Child Sexual Abuse Review Panel, looks again at cases where a person is concerned that they have made prior allegations of being the victim of a sexual offence when they were younger than 18, and where the police or CPS decided that no action should be taken at that time, but the person is not satisfied that the allegations were dealt with appropriately. The panel considers where the approach taken was wrong, and whether the allegations should be reinvestigated by the police, or the prosecution decision should be reviewed by the CPS. The alleged offence must have been committed in England and Wales. The alleged perpetrator must still pose a risk, although this threshold is set very low: it means simply that the person may have the opportunity to commit further offences. The panel consists of a Chief Crown prosecutor, An ACPO rank police officer, a specialist prosecutor, an experienced police child abuse investigator, and an appropriate independent representative. The panel's work is significant in reflecting the changes which have been made over the last twenty years in how police and prosecutors respond to allegations and also reflects the depth of knowledge and research which has emerged into the range and manifestations of sexual abuses of children. (Association of Chief Police Officers of England, Wales and Northern Ireland 2013).

Care for Child Victims in the Criminal Justice System

A range of provision of victim care exists for child victims of sexual offences, some under the aegis of broader victims' services. A number of specialist centres exist, some as Sexual Assault Referral Centres and some under other names (such as the SAFE Centre in Preston, Lancashire, and the Havens in London).⁸

The first Sexual Assault Referral Centre (SARC) in the UK, St Mary's in Manchester, was established in 1986 as a joint venture between Greater Manchester Police, Greater Manchester Police Authority and Central Manchester and Manchester Children's University NHYS Trust. This multi-agency model involving partners has remained a key feature of the SARCs which have been established since (Brooker 2015). The Havens in London include SARCS but also offer other help such as follow-up services including checks for sexually

⁸ For a case study on the psychosocial support for victims and families offered by one such centre, see (Gibney & Jones, 2014).

transmitted infections including HIV, counselling and practical support. These centres offer specialist services for people who have been raped and sexually assaulted, including men, women, young people and children of all ages. Individuals can be referred by the police and criminal justice agencies, such as when a forensic medical examination is needed, or victims can self-refer. The London Havens point out specifically that help at their centre is available to anyone in London who has been raped or sexually assaulted during the previous twelve months medical help and advice can be accessed via their SARCS. The London Havens make it clear that it is up to the individual whether or not they involve the police, and if individuals want to discuss their situation the Haven can arrange for an informal discussion with a specially trained police officer. This can be done without revealing names, and without making a formal report, which gives victims the opportunity to understand the police process in order to make their decision. Alternatively, if the individual calls the police to report first, then a specially trained officer can make a Haven appointment and accompany them to the centre.

There is a substantial body of evaluative research underpinning the justification, processes, operation and effectiveness of SARCS in a range of locations across the UK. Prior to SARCS, non-SARC services did not provide a forensic examination without police involvement, and a minority had so few doctors that they could not provide a 24 hour rota for examinations, with inadequate numbers of physicians being available for child forensic examinations. This led to concerns not only for the well-being and experience of victims, but also for concerns about the evidential implications of the possibilities for DNA contamination, along with a lack of follow up services such as STI screening (Pillai & Paul, 2005). The SARC model of victim assistance formed part of a raft of initiatives based on governmental acknowledgement of the importance of multi-agency partnerships and collaborative efforts in relation to improving criminal justice performance, especially in relation to domestic violence and sexual violence. SARCS adopt a partnership approach between the police and health services, and include liaison and collaborative working with other statutory and voluntary agencies.

The two main priorities of SARCS are forensic examination so that evidence can be collected in the investigation of crime, and care of the victim to minimise the risk of subsequent physical and mental difficulties and promote recovery. The core principle is that of partnership working, with representatives from a broad range of agencies, such an approach having been shown in both the UK and the US to result in improvements across both institutional outcomes (i.e. criminal justice outcomes such as arrest, prosecution and convictions) and outcomes for individual victims (including increased trust and confidence in the CJS, and reduction of long-term health problems.⁹ The evaluative research into SARCS has demonstrated the clear benefits of collaboration between the voluntary and community sector and statutory agencies, and the evaluations have highlighted particularly the important role played by victim advocates, such as ISVAs (A. H. Robinson 2009). Although the benefits of SARCS are clear, resource constraints may mean that they become unable to accept all referrals, as in the case of one SARC in the North-West which at present takes no referrals for children under 12, or have very long waiting lists. Interestingly, although it would be tempting to assume that victims of sexual assault who attend a SARC would prefer staff of their own gender, a study of clients of three SARCS (two in London and one in Manchester) found that most victims preferred SARC staff to be female: almost 100% would carry on with the examination if carried out by a female doctor,

⁹ In the US similar programmes (known as SARTs- Sexual Assault Response Teams) have been established, which aim to “provide the information, assistance and response that meets the individual needs of the survivor” (Preston 2003)

whereas 43.5% said they would not if the doctor were male. Although this study only questioned clients over the age of 16, with no vulnerabilities, it may be interesting to assess if the same applies to children (Chowdhury-Hawkins 2008).

SARCs are one plank of provision; an alternative is that provided by voluntary organisations such as Rape Crisis Centres. Recent research has revealed that the type of setting affected the type of referrals received: each type of project has its own workload which they were designed and well-equipped to handle. (A. & Robinson 2011) SARCs are perceived by some to be at a disadvantage due to their affiliation with statutory partners, which is a particular concern for those relating historical abuse, whereas those in voluntary sector projects have to work harder to build partnerships with statutory agencies. Both approaches have their own strengths and weaknesses and the overall conclusion of the research, which drew on qualitative data from six case study sites and quantitative data from 35 sexual violence projects in the UK, was that both offered notable benefits and, given the diversity of sexual violence victims in any given area, both should be supported. In terms of the rights of victims who are currently children, SARCs offer an immediate response, especially to forensic need, but if young people are coming forward about abuse which happened when they were much younger then rape crisis centres may still offer valuable and relevant services, and the combination of both, where available, can offer a supportive underpinning which can meet the needs of child victims of sexual offences in arrange of circumstances and at a range of different times. That is not to say that there are no problems, and particular issues may exist in relation to members of minority ethnic groups and children/young people with vulnerabilities such as learning and other disabilities, but the complementarity of the services, if collaborative working can be achieved, is a real strength (A. & Robinson 2011).

An important study by Bunting (2008) has cast light on attrition rates in child sex offence cases in the UK. There is wide variation between criminal justice system responses to recorded sexual offences against children and adults, these variations relating specifically to gender, offence type, the timing of the report and victim-offender relationship. Nearly half of child abuse sex cases are not detected by police, and a quarter do not progress through the criminal justice process because either the victim declines to support the prosecution or the police or prosecution service decide not to proceed with the prosecution. This important study, involving research into 8789 sexual offences recorded by the PSNI between 2001 and 2006, found that of those groups which had lower rates of detection followed by formal sanctions (i.e. prosecution) these groups included crimes against children under the age of five, teenagers, and those who experience abuse committed by peers and adults known to them but not related, with variation in formal sanction rates also varying according to where in the region the offence was reported.

Interesting research with adult survivors of child sexual abuse has highlighted reasons why children choose, or choose not to disclose, in the context of retrospective reflection. Research by Wager (Understanding children's non-disclosure of child sexual assault: implications for assisting parents and teachers to become effective guardians 2015) found that 75% of the 183 adult survivors who participated in her study had not told anyone of the abuse while they were a child, and the research revealed five barriers to disclosure, which included a lack of opportunity; embarrassment; normality/ambiguity of the situation; concern for others, and a sense of hopelessness. Wager (2015) argues that this research is helpful in identifying factors which could invite and support early disclosure.

Independent Sexual Violence Advisors

The role of the ISVA is relatively new and multifaceted, having been initiated by Baroness Scotland through the Home Office Violent Crime Unit in 2005. Brought in at the same time as Independent Domestic Violence Advisors, (IDVAs), ISVA's combine the provision of emotional support with practical assistance, and are specially trained, with accredited professional qualification routes. The type of support they provide depends on where they work and on the type of victims most likely to be accessing their services. That said, they tend to have a consistent and common set of responsibilities, including providing crisis intervention, information and assistance, providing non-therapeutic support and advice, and working with other partners to ensure co-ordinated service planning for individual victims (Robinson 2009). They do not provide counselling themselves but can follow up on work done at SARCs, and assist victims in accessing specific services, and some ISVA's work specifically with children (ChISVAs) (Gibney & Jones, 2014).

Children as witnesses in court proceedings

In England and Wales, under the Sexual Offences (Amendment) Act 1992 all victims of rape and other sexual offences, including children, are automatically guaranteed anonymity for life from the time they make the complaint, and it is a criminal offence to publish their identity or other information from which they could be identified. Judges may in limited cases lift these restrictions on request from the defence, and victims can be identified if they agree to it.

The Witness Service operates to support and assist witnesses at every stage of the process, and there are designated facilities in which witnesses can wait, away from defendants. The Witness Service can play a key role in enabling children to give evidence, by providing familiarisation visits prior to the trial, and also video and DVD resources so victims know what to expect when they go to court.

The Youth Justice and Criminal Evidence Act 1999 (YJCEA) introduced a range of 'special measures' which can be used to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses, and under s16 of this Act all child witnesses (under 18) are defined as vulnerable. The court has to be satisfied that granting special measures will maximise the quality of the victim's evidence before the application is granted. These measures include screens, which shield the witness from the defendant (s.23 YJCEA); a live video link which enables the witness to give evidence during the trial from outside the court, either within the court building or in a suitable location outside the court (s24 YJCEA); evidence given in private, where members of the public and all members of the press except one named person in specific cases including sexual cases (s25 YJCEA); and removal of wigs and gowns by judges and barristers (s26 YJCEA). S27 of the YJCEA allows for vulnerable and intimidated witnesses to submit their evidence in chief by means of a video recorded interview undertaken before the trial, and it is now possible for the witness to give additional evidence in court after this interview is recorded.

Examination of the witness can be carried out via an intermediary (s29 YJCEA), who can provide assistance in communication between the barristers, judge and the witness: the intermediary can explain questions or answers so as they can be understood by the witness or person questioning, but cannot change the substantive content of the evidence. This intermediary role, which is the first new, active role to be introduced into English criminal

trials in two hundred years, has been recognised as a “very valuable tool”, as intermediaries are highly qualified specialist communicators, although there are currently only around eighty such trained specialists to cover the country. The role of the intermediary has expanded and diversified substantially since their initial introduction over a decade ago, involving not only assessing a person's needs and advising those in the justice system how best to respond, but also planning familiarisation visits; helping advocates to word questions appropriately, and assisting lawyers in taking instruction (Cooper, 2014; Cooper & Wurtzel, 2014). That said, recent research has shown that intermediaries are regarded by other court professionals, including judges, with enthusiasm and warmth, in the belief that intermediaries play a key role in facilitating access to justice and that the introduction of intermediaries has increased the fairness of the trial process for vulnerable witnesses, including child victims, and the system has garnered international attention as offering a potentially positive avenue in order to enable and encourage children to give evidence (Woodward et. al., 2014; Plotnikoff & Woolfson, 2015; Henderson, 2015; Robinson, 2015).

Communication aids, such as computers, symbol boards and books, can be used where non-verbal witnesses with severe communication needs give evidence. These special measures can be combined so as to meet the needs of individual witnesses, and whilst they include victims they can also be used for other witnesses, and this is clearly of value where children are witnesses to the abuse of other children. The law (s 34 YJCEA) also now outlaws the cross-examination in person of complainants and certain other vulnerable witnesses by defendants in sexual cases. Special measures need to be explained clearly to children and to their parents/carers so that they can express an informed view about appropriate measures prior to the trial, and it is good practice to ensure that the child is able to visit the court prior to any application for special measures. For all child witnesses the presumption is that they will give their evidence-in-chief by recorded interview, but the child may 'opt out' of this and give evidence in person. The NSPCC and the Bar Council have produced videos ('A Case for Balance' and 'A Case for Special Measures') which describe how special measures can be used to help witnesses give evidence. Where children are very young, however there may be a doubt as to their capacity, but it is important to recognise that in some cases children as young as four have given evidence.

These special measures, which existed prior to the YJCEA Act for children, have been introduced to respond to accounts by victims of sexual offences that their experiences in court amounted to a 'second assault' and 'being raped all over again' (Lees 1996). Although there are many potential benefits to these measures, especially for children, some commentators have expressed concern that if the complainant is absent from the courtroom then it may create a sense of distance between him/herself and the jury, which could create the possibility that their account would be less likely to be believed (Payne 2009a), although a study involving video links with adult complainants found little evidence to support this suggestion (Ellison & Munro, 2014). There is increasing recognition that police interviewers need to be highly trained in working with child victims so as to 'ask the right questions' at the right time, so as to elicit the best information, and attempts to elicit information quickly may be counter-productive (Powell 2013).

The ability of children to be heard in administrative and judicial proceedings is a core 'right' expressed in the UNCRC, and evidence supports the view that testifying can be very important for children in providing a clear acknowledgment that the abuse occurred and was sufficiently wrong to merit public intervention, predicting more positive outcomes for the child in the future (Goldfarb et.al., 2015). However, the process of going to court can be terrifying, especially in cases of sexual abuse where children have been repeatedly ordered 'not to tell', sometimes with accompanying threats (McElvaney et.al., 2014), and

children can experience the court process as more trauma (Quas et. al., 2012).¹⁰ There are ongoing concerns, not only in the UK but in other jurisdictions which have implemented similar measures, such as Australia and New Zealand, that the same complaints that were being made twenty five years ago about how child witnesses were dealt with in the criminal courts are still being heard today (Spencer & Lamb, 2012).

Once the child has given evidence, they may have to wait weeks for the verdict, and longer for a sentence to be passed if the offender is found guilty. Within the criminal justice system, once the trial is over then the case becomes 'closed', whereas for the child it may merely be the beginning of another set of challenges, as documented vividly in Hannah Baker's account of her abuser's ongoing appeals and subsequent attempts to discredit her (Baker 2015). If the abuser is a family member and is sentenced to imprisonment, then the child and other family members become the child and family of a prisoner, and whilst as a 'child victim' they may be seen as in need of care, sympathy and support, the extensive literature on prisoners' families demonstrates that prisoners' families are seen as 'guilty by association' with the offender and thus experience a wide range of challenges, including social, institutional and community hostility, and negative consequences in relation to financial, housing, and family matters (Codd 2008). Family members may also need support where they are non-abusing parents, guardians or relatives of the child victim, where they experience the 'ripple effect' of the abuse, but with the exception of some US studies their needs and experiences are rarely discussed, even though the evidence demonstrates that sexual offences can have a profound impact on children's family members, especially mothers (Davies 2014).

Anecdotal evidence from professionals working with children in the UK suggests that children may experience problems in accessing support services once the criminal justice case is deemed closed, but there are also associated problems due to limitations on children's involvement in therapeutic services prior to the trial, for evidential reasons, meaning that children 'fall through the gaps' and may never be able to access much-needed services. Problems also arise if the verdict is that the defendant is 'not guilty' as this may mean victims feel that they have not been believed and, in some context, that in official eyes the offence 'never happened.'

Alternative Routes

There are ongoing debates amongst social work and legal professionals as to the nature, practicality and desirability of forms of alternative resolutions in child sexual victimisation cases, including restorative justice. As there has been a substantial focus on criminal justice system responses to child sexual victimisation, a core problem arises where, as in the Jimmy Savile case, there can be no criminal prosecution of the perpetrator as the perpetrator is dead, although there can be prosecutions of those who have assisted or facilitated the offences, and also civil claims for damages for negligence where children have not been adequately protected or their wellbeing safeguarded by professionals responsible for their care. A similar problem arises, often in historical abuse cases, where although the perpetrator is alive, they are so elderly or infirm that they are deemed unfit to stand trial. Similarly, in cases of child sexual victimisation where a perpetrator has not been detected or detained, or where a decision has been taken to discontinue proceedings, victims may feel they have been left without any avenue towards a sense of 'closure' which would

¹⁰ The classic reference point on the traumatic impact of child sexual abuse is the work of Finkelhor (1985).

enable them to move on. In other cases victims may want to opportunity to come face to face with their abuser, outside the adversarial trial process, in order to ask questions, understand their abuser's attitude, and also to communicate to the abuser the harm which has been caused (Daly 2014). In these situations, there is an ongoing discussion of whether a variety of forms of restorative justice would be feasible or desirable, some academics speaking in favour and others arguing that there is insufficient evidence in support (Cossins, 2008; Gal, 2011; Daly, 2014; Daly, 2008).

Learning from children's accounts

There is little evidence of children and young people being actively engaged in writing policy or designing services in the area of child abuse and exploitation. However, there are examples of children and young people's views and experiences being sought in order to inform policy and influence service providers. A constant theme is how difficult it often is for children to report abuse – because of external pressures or threats, because of lack of trust in professionals, and because children do not always recognise what is happening to them as abuse.

Cossar et al.(2013) looked at all kinds of abuse, not just sexual. They worked with peer researchers aged 16 to 24, and their methods included interviews with young people, focus groups with adults and young people, and content analysis of an online peer support site. Key findings were that: young people's recognition of abuse and neglect often starts with an emotional awareness that things are not right, before the child is able to articulate the problem to themselves or others; there are many barriers to telling for young people, including their past negative experiences of help; if a trusted professional responds sensitively and shows concern for the child, they may then begin to talk about underlying problems; if a trusted professional responds sensitively and shows concern for the child, they may then begin to talk about underlying problems; young people value professionals they can trust, who are effective, knowledgeable and available; if a trusted professional responds sensitively and shows concern for the child, they may then begin to talk about underlying problems. The findings were used to develop a framework for understanding recognition, telling and help from a child's perspective (2013: ix). This framework 'could help practitioners to be mindful of what may be going on for a child or young person who comes to their attention because of their behaviour, to understand how young people weigh up the advantages and disadvantages of telling, and to keep in mind the emotional aspects of talking about abuse' (2013: ii).

Beckett et al. (2013) examined gang-associated sexual violence or exploitation, which they found to be rarely reported, for a variety of reasons: resignation or normalisation; fear of judgement by others; fear of retribution or retaliation; and a lack of confidence in services' ability to protect victims (2013: 43). Reasons for this lack of confidence included perceptions of the police, the absence of convictions, and the difficulty in accessing long-term support and protection. Coffey (2014) also focuses on sexual exploitation and reports a wealth of evidence, directly from young people, of the barriers to reporting and of the hugely damaging and demoralising effects of failure to listen to children and young people.

The Children's Commissioner for England (2015) looked at sexual abuse in the family network and found that a high proportion of child victims did not realise that they had been abused until they reached adulthood, because they assumed what was happening was normal or because they did not have the words to understand what was happening. Many

of those who did try to tell were silenced or ignored. (Since many participants were adults recalling childhoods many years ago, this research is not necessarily a reliable guide to current practice, but its findings should not for this reason be disregarded.)

Conclusions

A key issue in the literature is the place of the voices of children themselves, and although child victims have been described as 'experts on their own experience' (Barnardo's 2015) the focus of research tends towards 'working on' children rather than 'working with' children (Greenfields 2013). There is wide variation in the role of children in the development of policy, and it appears that lip-service may be being paid to consultation with children about policies which have already been devised and proposed, rather than children having a role from the beginning, at the centre of policy and practice debates. That said, there are some highly illuminating accounts in the literature where children have spoken out themselves, either as writers (Baker 2015), autobiographical authors (Wilson 2015) or as research participants and as co-producers of research. For example, (Gilligan 2015) involved young people aged 13-23 who had been current or former service users of two specialist organisations in their choice of activities, including semi-structured interviews, focus groups, discussions, questionnaires, artworks and poetry, in order to share their views about what had helped, and will help, them to move on from CSE. The findings emphasised that young people have important things to say about what will help them. They need non-judgmental, friendly, flexible, persevering, and reliable workers, combined with information, advice, safe places, enrichment experiences and services which are available and accessible during evenings and weekends. Perhaps most significantly, these young people highlighted the fact that they are unlikely to engage positively with statutory services, such as police and children's social care, unless those services convince them more effectively that they will listen to, protect and respect them.

There has been no shortage of research in the UK into child sexual victimisation, but from the research there are some evident gaps. Relatively little attention has been paid to the experiences and needs of children with disabilities, including learning disabilities (Franklin et. al., 2015), and the challenges of research with hard-to reach groups are very visible in this context. For example, there is little published research on the experiences and needs of Gypsy/Roma/Traveller children. Whilst a great deal of attention has been paid to forced marriage and so-called 'honour-based violence' against women and girls in some Black, Asian and Minority Ethnic (BAME) communities, sexual victimisation, especially intra-familial abuse, is under-researched, partly because of cultural dynamics which mean in British South Asian communities victims are either silenced, or blamed for their own victimisation (Cowburn et. al.,2015). Similarly, whilst South Asian males have been highlighted in the popular media as perpetrators of child sexual exploitation, mainly of white girls, relatively little attention has been paid to sexual violence and exploitation within BAME community groups, with the exception of the involvement of BAME young people within gangs and groups.

As the focus of this UKIERI-funded project is children's rights, the invisibility of real, enforceable rights for child victims is visible throughout the literature, both in terms of whether or not children in the UK possess genuine rights, and also in terms of the proportion of the vast research literature which adopts perspectives drawn from social work, psychology and criminology, but does not interpret and conceptualise the issues in relation to rights, and rights infringements. Whilst the right of the child to be heard is entrenched in

the UNCRC, for example, much of the research is 'about' and 'for' children rather than produced 'by' and 'with' them. Where children's voices are heard, there is an ongoing lack of evidence that they are really being listened to by legislators, policy-makers and practitioners. Future research needs to develop co-productive participatory approaches, so as to create a meaningful body of literature on the rights of children who have experienced sexual victimisation, working with children to understand the journey 'from victims to survivors' and develop genuine and effective future child-centred policy and practice responses.

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Appendix: Methods

Electronic Databases Searched

Academic Search Complete
 BioMed Central
 BMJ Journals Online
 Cambridge Journals Online
 Child Development & Adolescent Studies
 CINAHL Complete
 Criminal Justice Abstracts with Full-Text
 Ebrary Academic Complete
 HeinOnline Law Journal Library
 IBSS [International Bibliography of the Social Sciences]
 Index to Theses
 Ingenta Connect
 JSTOR
 Lexis Library (Butterworths)

Medline (with Full-Text)
Nexis
Oxford International Law Collection
Oxford Scholarship Online - Law
Oxford University Press Journals
ProQuest Psychology Journals
PsycARTICLES
PsycINFO
PsycINFO
Routledge Handbooks Online
Sage Journals Online
Scopus
Social Policy and Practice
Social Science Abstracts [Wilson]
Social Work Abstracts Plus
SocINDEX™ with Full Text
SpringerLink
Taylor and Francis
Westlaw UK
Wiley Online Library
Zetoc

Indicative Keywords: (used as permutations/combinations)

Child sexual offences; child victim(s); child sexual exploitation; child abuse; safeguarding;
child victim(s); child sexual abuse; child sexual crime; child experience crime; children
courts; prosecuting sex crime' child victims court; sex crime; child rape; victim's rights;
rights of the child; child rights; UNCRC; rights of victim

