

## Response Pro Forma

When responding it would helpful if you would complete this pro forma. Please fill out your name and address or that of your organisation if relevant. You may withhold these details if you wish but we will be unable to include you in future consultation exercises.

## Response Sheet

### Contact details:

Please supply details of who has completed this response.

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03/09/13

Please answer the consultation questions in the boxes below.

1. Do you agree with the new approach of the CPS to cases involving child sexual abuse?

We welcome the CPS's new approach to cases involving child sexual abuse. Our research and services have long found that child victims and witnesses of sexual abuse are not believed and challenged when they come forward which leads to them not getting the support and protection they deserve. The new approach proposed sets out clear support for young people at each stage of the court process.

We endorse all the points contained in the response to this consultation from the NWG CSE Policy Forum.

### **Supporting victims**

Paragraph 17 outlines that available support for victims and witnesses should be explained in age appropriate terms but explanations should always be appropriate to both the victim's age and capacity and take into account any learning disabilities or needs.

**Recommendation 1: Paragraph 17 should outline that explanations should always be appropriate to both the victim's age and capacity and take into account any learning disabilities or needs.**

This section should mention the importance of the victim or witness having the support of one consistent individual before, during and after the court process. Whilst this person cannot go to court and cannot provide therapeutic, counselling support, they can act as a consistent figure to listen and support the young person and will be an independent figure who can help the young person liaise with different agencies such as the police and intermediaries.

Voluntary sector organisations play an important role in supporting the many needs of a child who has been sexually exploited, including the repercussions of CSE on family relationships, accommodation, parenting, education etc. Young people are not just victims of CSE – there are other issues to consider about a child's whole life experience.

Our projects find that young people are not given adequate support when they report allegations of serious sexual violence or when they go through the court proceedings and especially in cases where cases are decided on 'No Further Action' by the Crown Prosecution Service. Initially there is a lot of interest in what happened and young people find themselves having to tell their story to many strangers and

agencies/professionals they did not even know existed.

It takes a long time for young people who have been sexually exploited to trust professionals, because sometimes at first the young people believe in the innocence of the perpetrators (which is part of the grooming process). They are often perceived as 'liars' who have changed their story and therefore cannot be relied upon. Once the case is not going forward (No Further Action decision is made) or it is dropped in court, most professionals withdraw and young people often feel that they have been left to deal with the consequences of disclosing (both psychological and physical) on their own.

This role could be played by an IVSA but voluntary sector support workers can also provide this service equally well or in areas where ISVAs may not exist. The voluntary sector may also be responsible for the ISVA service in an area. Our services regularly provide this support to vulnerable victims and witnesses. The guidelines should point out that the voluntary sector could perform the role of ISVAs in areas where they are not available.

This example shows the importance of supporting a child victim of sexual abuse, before, during and after the court process.

*Case study:*

*The Children's Society, Lancashire*

Joey (aged 14) met another young man online and they soon became quite close. When they met, Joey realised the man was older than he had initially said but they still began a sexual relationship. Joey believed he was in love and that they were in a loving relationship. Soon he realised he was not the only one and that this man was even older than he had claimed to be. The relationship became violent. After the case was reported to the police, Joey felt overwhelmed by the amount of professionals wanting to talk to him about what had happened and he began to refuse to engage. Joey refused to do an ABE interview (Achieving Best Evidence interview where the child is asked to say what happened to them in their own words.) The police asked The Children's Society in Lancashire to become involved and to visit Joey. Through our work with him, Joey was able to tell his story and find support for all the confusion and mixed feelings he had. Joey chose to make a statement and with this the police were able to continue the investigation and collect enough evidence to put the case forward.

The CPS did a thorough job, not only based on evidence provided, but also by requiring files from professionals working with Joey in order to better prepare the case. Joey felt that they were taking him seriously. Through our worker, the police kept Joey and his family informed of each stage and what it meant. Because they felt supported, Joey and his mum were able to pass on extra information and evidence that helped with the case. We also arranged for Joey to visit court in preparation for the trial. Joey felt extremely distraught and anxious when confronted with the reality of his case going to court. However, due to the positive collaboration in this case and the quality of evidence provided, the offender changed his plea to guilty and is being sentenced on Monday

We also endorse the NWG CSE Policy Forum's response that naming one organisation, for example in Paragraph 26 limits professional perceptions, especially when it is a

large national organisation. There are many small independent projects who offer support extremely well.

**Recommendation 2: Young people need one consistent person from the beginning to the end of the prosecution process.** The guidelines should state this can be an ISVA or a voluntary sector support worker, particularly in areas where there is no ISVA.

### **The statement taking stage**

Best practice on interviewing trafficked victims suggests an immediate interview is not always appropriate due to the trauma suffered, fear of reprisal and fear of authority figures. Trafficking symptoms are replicated in CSE victims too - therefore shame, Stockholm or capture syndrome issues should also be considered.

We endorse the NWG CSE Policy Forum response which states that consideration should be given to not rushing a victim into an initial evidential interview. This can help prevent a later challenge the credibility of the victims allegations in court by the Defence and it may also have a negative effect, for example if the 'boyfriend' has a number of 'girlfriends' unknown to the victim. A trauma specialist should be part of the decision making/risk assessment process with the impact assessed and appropriate support put in place.

We also welcome the acknowledgement in Paragraph 37 that a victim of child sexual abuse may not give their best and fullest account during their first record 'ABE' interview or statement because of a variety of reasons.

Victims may not identify as a 'victim' of abuse for a variety of reasons and believe that they were in a genuine, loving and non-abusive relationship. They may never see themselves as a victim. Fear, coercion, blackmail as well as a misguided sense of locality need to be taken in to account when interviewing victims. This may also be because young people do not have a benchmark against which to measure how abusive a relationship is. If young people have little experience of relationships, it is difficult for them to judge whether they are in an abusive relationship

We find, as outlined in Paragraph 38 that disclosure can take a number of interviews with young people, often changing their story or giving contradictory accounts in different interviews. Our practitioners report that as a result, young people's cases are NFA'd (No Further Actioned) which has a detrimental effect on the young person and can lead to justice not being achieved.

As mentioned in the section above, the support of one consistent adult for this pre-interview stage is crucial for the well-being of the young person and to help them achieve justice. We also welcome the assistance of a Registered Intermediary at this stage as outlined in Paragraph 36 and the recognition that the earlier the intervention takes place, the more likely successful rapport building will take place and the young person can give their best evidence.

2. Is it right that we should focus on the overall credibility of the allegation rather than the victim?

Yes we agree that the CPS should focus on the overall credibility of the allegation rather than the victim. We agree with the list of factors that have previously militated against some children and young people being regarded as credible victims of sexual abuse. Our services often find that child victims of sexual exploitation are not believed because their account was not consistent or reported immediately after it happened or that they have used drugs and alcohol. We strongly agree that these factors could actually support the allegation of sexual abuse and the police and prosecutors should therefore look to build a case which looks more widely at the credibility of the overall allegation rather than focusing primarily on the credibility and/or reliability of the child and young person.

We also agree that victims should be informed if they are not the only ones to have made a complaint of abuse but agree that details of the other allegation should not be disclosed and a careful record should be kept of what the child or young person has been told.

3. While the list of criteria for the suspects is non-exhaustive, have we got the factors right? (See paragraph 63)

We agree that the guidelines have got the list of factors concerning suspects right.

4. Would it be helpful to have an Annex setting out 'myths and stereotypes' surrounding this type of offending? If so, please provide details of 'myths and stereotypes' that would be useful in the circumstances.

We endorse the NWG CSE Policy Forum's response that the interim guidelines appear to be focused on one particular model of sexual exploitation, i.e. the party model, but in reality other models are equally as prolific but not reported in the media such as internet cases that involve one child or young person, lone offenders on groups of victims or individuals, offenders in a position of authority, benefit fraud and sexual exploitation, forced marriage and sexual exploitation.

Paragraph 13 should also make clear that child sexual exploitation does not only take place through coordinated networks. Single offender/victim cases can also be exploitative and are actually more prevalent. A thematic assessment by the Child Exploitation and Online Protection Centre identified that 'Research tells us that the majority of known perpetrators in the UK of this crime are lone males'.<sup>1</sup> In addition over 90% of children who have experienced sexual abuse, were abused by someone they knew.<sup>1</sup>

**Recommendation 3: This sentence should be amended to say – "Sexual abuse by coordinated networks is growing and *can be described as one type of child sexual exploitation.*"**

We agree that it would be helpful to include an Annex setting out 'myths and stereotypes surrounding this type of offending. We endorse the NWG and LGA's list of myths and stereotypes included in the NWG CSE policy forum response to this consultation which are set out below.

### **Common myths about child sexual exploitation<sup>2</sup>**

#### **"Myth #1: There are very few 'models' of CSE**

**Reality:** The grooming and sexual exploitation of young people can take many different forms. CSE can be carried out by individuals ("lone perpetrators"), by street gangs or by groups. It can be motivated by money, i.e. commercial sexual exploitation, which involves the exchange of a child (for sexual purposes) for the

<sup>1</sup> *Out of Mind, Out of Sight; Breaking down the barriers to understanding child sexual exploitation*, (2011 ) London: Child Exploitation and Online Protection Centre

<sup>2</sup> [Child Sexual Exploitation: Myth vs. Reality \(2013\) LGA, NWG Network, Office of the Children's Commissioner](#)

financial gain of the perpetrator or for non-commercial reasons such as sexual gratification or a belief in entitlement to sex. It can occur in a wide range of settings, but the common theme in all cases is the imbalance of power and the control exerted on young people.”

**"Myth #2: It only happens in certain ethnic/cultural communities**

**Reality:** Both perpetrators and victims are known to come from a variety of ethnic and cultural backgrounds. CSE is not a crime restricted to British Pakistani Muslim males or White British girls, despite media coverage of high profile cases. Site visits carried out by the OCC inquiry identified perpetrators and victims of CSE from a wide range of ethnic backgrounds. A thematic assessment by the Child Exploitation and Online Protection Centre identified that 'Research tells us that the majority of known perpetrators in the UK of this crime are lone white males'.<sup>3</sup>

**"Myth #3: It only happens to children in care**

**Reality:** The majority of victims of CSE are living at home. However, looked after children account for a disproportionate number of victims and can be particularly vulnerable. An estimated 20-25 per cent of victims are looked after, compared with 1 per cent of the child population being in care."<sup>4</sup>

**"Myth #4: It only happens to girls and young women**

**Reality:** Boys and young men are also targeted as victims of CSE by perpetrators. However, they may be less likely to disclose offences or seek support, often due to stigma, prejudice or embarrassment or the fear that they will not be believed. They may see themselves as able to protect themselves but in cases of CSE physical stature is irrelevant due to the coercion and manipulation used."

Professionals are less likely to recognise boys as victims as they often believe that boys are more able to protect themselves than girls. For example, our services find that professionals often fail to act when a boy has multiple running away incidents, especially when they are repeatedly found at the same address. Our practitioners report that social workers often clearly state that boys cannot be sexually exploited. As this quote from some recent research by Barnardo's and Paradigm Research shows, there is a general lack of understanding of the sexual exploitation of boys and young men:

'A colleague of mine went to team meetings in social services and a [social services] manager actually said "oh, does it happen to boys?" and that's what we're dealing with.'<sup>5</sup>

**"Myth #5: It is only perpetrated by men**

**Reality:** There is evidence that women can be perpetrators of this crime too. They may use different grooming methods but are known to target both boys and girls. In relation to group and gang related CSE, the OCC inquiry found that the vast majority involved only men and, where women are involved, they are a small minority. Where women or girls were identified as perpetrators, their role was primarily, though not exclusively, to procure victims. Women and girls who were perpetrating were identified

<sup>3</sup> *Out of Mind, Out of Sight; Breaking down the barriers to understanding child sexual exploitation*, (2011 ) London: Child Exploitation and Online Protection Centre

<sup>4</sup> 'I thought I was the only one. The only one in the world': Child Sexual Exploitation Inquiry Interim Report (2012) London: Office of the Children's Commissioner

<sup>5</sup> Smeaton, E. (2013) *Running from hate to what you think is love: The relationship between running away and child sexual exploitation* London: Barnardo's and Paradigm Research

during the inquiry's site visits tended to be young, had histories of being sexually exploited themselves and of abusing others in tandem with the group or gang that had previously sexually exploited them. Women and girls directly involved in sexually exploiting children were either in relationships with men who were perpetrators or related to, or friends with, men and boys who were abusers."<sup>6</sup>

**"Myth #6: It only happens to young teenagers by men**

**Reality:** Peer-on-peer child sexual exploitation happens too and this can also take various different forms. For example, young people are sometimes used to 'recruit' others, by inviting them to locations for parties where they will then be introduced to adults or forced to perform sexual acts on adults. Technology can also play a significant role, with young people known to use mobile technology as a way of distributing images of abuse." See example: <http://www.dailymail.co.uk/news/article-2263452/Girl-13-stood-ledge-begged-boy-delete-sex-video-phone--fell-60ft-death.html>

Retrospective studies present a broad consensus that between 23-40% of all alleged sexual abuse of children and young people is perpetrated by other young people, mainly adolescents.<sup>7</sup>

**"Myth #7: This only happens in large towns and cities**

**Reality:** Evidence shows that CSE can and does happen in all parts of our country. CSE is not restricted to urban areas such as large towns and cities but does in fact happen in rural areas such as villages and coastal areas. Young people can also be transported between towns, cities, villages etc, for the purpose of being sexually exploited and this is known as trafficking within the UK (an offence punishable by up to 14 years imprisonment)."

**"Myth #8: Some people can be both victims and perpetrators**

**Reality:** The OCC inquiry found that around 6 per cent of victims reported in their call for evidence were also identified as perpetrators. However, although victims may appear to be willing accomplices, this should be seen in the context of the controls exerted by the perpetrator."

For example: <http://www.dailymail.co.uk/news/article-2021635/Teenager-Stephanie-Knight-lured-girls-16-Asian-rape-gang-house.html>

**"Myth #9: Parents should know what is happening and be able to stop it**

**Reality:** Parents may be unlikely to be able to identify what is happening: they may suspect that something is not right but may not be in a position to stop it due to the control, threats or fear of the perpetrators. There can be risks to parents when seeking to protect their children and they can need support as well as their children. In some cases, there can be an overlap with intra-familial abuse and this could be a reason why parents do not intervene." This may also be because the victim themselves does not or will not acknowledge they are being exploited.

**"Myth #10: Children and young people can consent to their own exploitation**

**Reality:** A child cannot consent to their own abuse. Firstly, the law sets down 16 as the age of consent to any form of sexual activity. Secondly, any child under-18 cannot consent to being trafficked for the purposes of exploitation. Thirdly, regardless of age a

<sup>6</sup> 'I thought I was the only one. The only one in the world': Child Sexual Exploitation Inquiry Interim Report (2012) London: Office of the Children's Commissioner

<sup>7</sup> NSPCC (2013) Harmful sexual behaviour: NSPCC research briefing, London: NSPCC

person's ability to give consent may be affected by a range of other issues including the influence of drugs, threats of violence, grooming, a power imbalance between victim and perpetrators. This is why a 16 or 17-year-old can be sexually exploited even though they are old enough to consent to sexual activity."

We would also add another myth:

**Myth 11: Children who run away and/or experience sexual exploitation are 'promiscuous', 'streetwise' or 'choose this life style'.**

**Reality:** Children who run away and/or experience sexual exploitation are vulnerable children at great risk who may have experienced abuse. Running away should always be seen as an indicator that something is wrong in a child's life. If they run away repeatedly, this should be seen as a sign that they are a child in great need, rather than that they are 'streetwise'. Children who are at risk or experience sexual exploitation should always be seen as vulnerable children who are in vital need of support. As set out in Myth 11, a child cannot consent to their own abuse.

### **Previous convictions of the child/young witness**

We welcome the section on previous convictions of the child/young witness in Paragraphs 58 to 62 and the direction to look beyond the previous offending by the victim and consider the drivers and circumstances of the offending behavior. As well as what is called 'survival crime' in the guidelines, it should also be acknowledged that any previous criminal convictions may have been a consequence of their exploitative situation. This may include carrying weapons, drugs etc on behalf of the offender.

We often find that children or young people who have been abused play a role in procuring others who are then abused and welcome the statement in Paragraph 61 that careful thought must be given to this.

We endorse the NWG CSE Policy Forum's response that the guidelines should also mention that historic allegations, offending records and missing and CSE related incidents should be checked on the Police National Computer and CPS case records.

Once organised abuse has been identified, it may also be necessary to go back and reassess previous records as this may provide intelligence about cases which were previously not categorised as CSE. For example, we have recently conducted an audit of CSE cases at one of our projects and came across two cases where the young person was missing and disclosed abuse. This was in 2010 and before an Operation uncovered organised CSE and at the time the young person's situation was not contextualised and CSE was not recognised.

In addition we have found two instances of cases where the young person had a disability. Their behaviour was interpreted as a symptom of their disability (ADHD) and therefore was not recognised as CSE. Attention was paid to responding to the behaviour as a result of a disability rather than CSE.

5. What more can the CPS do to support the victim and witnesses through the court process?

We support the NWG CSE policy forum recommendation that the guidelines do not recognise trafficking sufficiently. Although the guidelines refer to the legislation, it makes no reference to the National Referral Mechanism (NRM) which supports the trafficking process. Section 59A which repeals 57, 58 & 59 under the new Protection of Freedoms Act 2012 is becoming more widely recognised and utilised in complex cases of sexual exploitation. Paragraph 73 talks about the trafficking legislation without identifying it as such or mentioning the NRM as a supporting process to the case.

All the impacts of trafficking need to be considered here on both the investigation and victims. Not identifying the trafficking part stops professionals seeing some of the indicators, controls and the duty under the Council of Europe Convention against the Trafficking of Human Beings.

**Recommendation 4: The guidelines should make specific reference to trafficking and the NRM.**

6. Do you have any further comments on the Interim Guidelines on Prosecuting Cases of Child Sexual Abuse?

### **Context and circumstances of child sexual abuse**

This section on the context and circumstances of child sexual abuse should be re-worded to use more neutral and general language and be clearer that there are many types of child sexual abuse. It should not focus on instances or specific examples as this makes the sentence read as if this type of abuse is not that prevalent. If references such as these are to be made, there should be a link to research.

For example, the sentence “there have been instances” where the offender has made threats to the child etc’ should be removed from Paragraph 12. In Paragraph 11 – the link between online and offline abuse should be made clearer and the sentence ‘although in other cases contact offences may then occur’ should be amended to say

'but in other cases contact offences can occur'. Our services report that the link between online and offline abuse is very strong, particularly in the sexual exploitation of boys with some estimating that about 90% of this starts with online contact.

The victim profile should make clear that child sexual exploitation still happens to 16 – 17 year olds. As the Department for Education definition in Annex B explains, child sexual exploitation applies to children under 18. This definition should therefore be moved to this section or referenced.

Paragraph 36 should not refer to a young person as 'seeming mature' or "'streetwise'". Regardless of behavior, the victim or witness is a child and should be dealt with as such. Our practitioners report that these attitudes are often prevalent amongst many different professionals and this should not be the case. Mature and 'streetwise' are subjective terms and places the emphasis on the child rather than the offending adult. This description is also commonly used to refer to boys and leads to professionals not being as attentive about the risk to boys. See the section in Question 4 on myths.

The word 'relaxation' used in Paragraph 13 should be changed. The relationships in this document are about exploitation and referring to relaxation diminishes the exploitation element and is not an appropriate term to use.

This section should refer explicitly to the links between a child going missing and sexual abuse. Several research studies have recognised running away or going missing as being explicitly linked to child sexual exploitation (CSE)<sup>8 9 10</sup>. Going missing or running away should be referred to as a key pattern which can indicate or lead to sexual exploitation. Young people may go missing because they are groomed by adults or peers who seek to exploit them or they may become victims of sexual exploitation once they are missing. For example our practitioners have identified several grooming rings which have resulted in police operations because young people we have been working with had been found at the houses of perpetrators when they were missing. This has led to the identification of other victims and the perpetrators.

**Recommendation 5: The section on the Context and Circumstances of Child Sexual abuse should be re-worded to use more neutral and general language and be clearer that there are many types of child sexual abuse. It should not focus on instances or specific examples.**

**Recommendation 6: The definition of child sexual exploitation in Annex B should be moved or referenced in this section.**

**Recommendation 7: Paragraph 36 should not refer to a young person as 'seeming mature' or "'streetwise'".**

**Recommendation 8: The word 'relaxation' used in paragraph 13 should be changed.**

**Recommendation 9: This section should refer explicitly to the links between a**

<sup>8</sup> *Out of Sight, Out of Mind* (2011) London: CEOP

<sup>9</sup> Jago, S et al (2011) *What's going on to safeguard children and young people from sexual exploitation? How local partnerships respond to child sexual exploitation* University of Bedfordshire, Bedford

<sup>10</sup> Smeaton, E. (2013) *Running from hate to what you think is love: The relationship between running away and child sexual exploitation*

## **child going missing and sexual abuse.**

### **Offending patterns/behavior of the offender**

There needs to be some information added that prosecutors should be aware of wider networks that may intimidate victims and witnesses and disrupt appropriately. Offenders may groom families as well as the victims and that may well extend further than the family.

We endorse the NWG's CSE Policy Forum response that Paragraph 73 and the line 'Young people under the age of 18 cannot consent to be moved for the purposes of sexual exploitation' appears to be confusing the international definition of Human Trafficking (The Palermo Protocol) and Sec 59A and 60 of the Sexual Offences Act 2003 in which there is no mention or definition of consent in reference to a child. The wording of this paragraph also appears to put the emphasis on consent on the movement as opposed to the consent to the exploitation which is erroneous.

### **Recommendation 10: Like the NWG CSE Policy Forum, we suggest inserting this text into Paragraph 73:**

"If a child is identified within the UK National Referral Mechanism as a victim of Human Trafficking within the provision of the Council of Europe convention against Trafficking in Human beings the issue of consent to the exploitation is deemed irrelevant as under the definition a child under the age of 18 cannot consent to be exploited. Under the Sexual Offences Act 2003 the act of the movement and the intent are sufficient for the offence to be proved. In these circumstances, as well as relevant 'contact offences', prosecutors should consider charges under section 59A of the Sexual Offences Act 2003. sexual offences act 2003 (Trafficking within the UK for sexual exploitation) the intent to move the victim for the purposes of committing a sexual offence. "

There needs to be a paragraph that describes the NRM and the process too.

### **Third Party material**

Paragraph 109 should mention that third party material from key/support workers in the voluntary sector can be used in court too and help build the case for going to court covered in Paragraph 68. Voluntary sector organisations often have to record material in general on CSE cases and in case notes.

As illustrated by the case study above and below, The Children's Society often provides third party evidence where a disclosure has been made to us and a child may find it difficult to or not want to give evidence in court due to the traumatic process they have been through. This can be vital to achieving successful prosecutions as it provides the victim with the support they need to disclose fully and provides access to crucial intelligence that the CPS may not otherwise have access to.

### **Recommendation 11: Paragraph 109 should mention that third party material from key workers in the voluntary sector can be used in court.**

*Case study:  
Operation Mansfield*

As part of Operation Mansfield, our involvement was crucial in supporting the young people through the extremely traumatic process of the Operation and also helped the police to gain more evidence about the perpetrators, their actions, the other victims involved and ultimately secure convictions. Voluntary sector services can spend long periods of time with the young person, gain their trust and confidence and support them and their family through the whole process. This can also help provide the police with intelligence.

We were also on the multi-agency, operational management group for Operation Mansfield (Silver group) and the strategic overview group (Gold Group) and fed in intelligence to the different agencies who sat on these two groups. This ultimately helped secure convictions but it also helped identify other victims whilst ensuring that all victims were adequately supported through this process.

### **Annex A: Area Child Sexual Abuse Leads**

We recommend that all CPS Area Child Sexual Exploitation Abuse leads should be trained to a high level in CSE and that it needs to be made clear in their roles that CSE is not the same as Child Abuse.

We support the NWG CSE policy forum recommendation that a flow chart of Child Sexual Abuse leads, where the regions are and how and where they feed into the national CPS Structure should be added to the Annex.

**Recommendation 12: All CPS Area Child Sexual Exploitation Abuse leads should be trained to a high level in CSE and it should be made clear in their roles that CSE is not the same as child abuse.**

**Recommendation 13: A flow chart of Child Sexual Abuse leads, where the regions are and how and where they feed into the national CPS Structure should be added to the Annex.**