

Office of the Children's Commissioner

**Submission to the Joint Committee on Human Rights
Inquiry into violence against women and girls**

March 2014

About the Office of the Children's Commissioner

The Office of the Children's Commissioner (OCC) is a national organisation led by the Children's Commissioner for England, Dr Maggie Atkinson. The post of Children's Commissioner for England was established by the Children Act 2004.

The Children's Commissioner promotes the views and interests of all children in England, in particular those whose voices are least likely to be heard, to the people who make decisions about their lives.

Proposed reforms to the Commissioner's role and remit are set out in Part 6 of the Children and Families Bill. The Bill tasks the Children's Commissioner and OCC with a legal duty to promote and protect children's rights with a particular focus on the rights of children who are within the new Section 8A of the Children Act 2004 (as inserted by clause 105 of the Children and Families Bill 2014) or other groups of children who we consider to be at particular risk of having their rights infringed. It says we may provide advice, assistance and representation to children who fall within the new Section 8A.

The United Nations Convention on the Rights of the Child

The UK Government ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1991. It is the most widely ratified international human rights treaty, setting out what all children and young people need to be happy and healthy. While the Convention is not incorporated into national law, it still has the status of a binding international treaty. By agreeing to the UNCRC the Government has committed itself to promoting and protecting children's rights by all means available to it.

In relation to the current Inquiry, the articles of the Convention which are most relevant are:

Article 2: The Convention applies to all children, whatever their background and gender.

Article 3: The best interests of the child must be top priority in all actions concerning children.

Article 12: Every child has the right to say what they think in all matters affecting them, and to have their views taken seriously.

Article 19: Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and mistreatment by their parents or anyone else who looks after them.

Article 24: Every child has the right to the best possible health. Governments must take measures to abolish 'traditional practices prejudicial to the health of children'.

Article 34: Governments must protect children from sexual abuse and exploitation.

Article 39: Children neglected, abused, exploited, tortured, or who are victims of war must receive special help to help them recover their health, dignity and self-respect.

The response below has been drafted with these articles in mind. We will provide evidence where we feel the UNCRC gives us a locus to do so, and where our existing evidence base gives us a perspective. There are, of course, many areas where the protections for children under the UNCRC are mirrored in the articles of Convention on the Elimination of Discrimination against Women (CEDAW) and the Istanbul Convention. All require positive action and due diligence on the part of governments to ensure that children are able to enjoy their rights in practice. This is the starting point for OCC's submission.

Office of the Children's Commissioner's evidence submission to the Joint Committee of Human Rights Inquiry into violence against women and girls

Executive Summary

- Children and young people require support to negotiate their exposure to harmful attitudes, imagery and behaviour.
- The appropriate response to violence against girls and young women is a child protection response, focused on responding to the warning signs of abuse rather than the individual profile of victims, with age-appropriate, sustained support for children affected.
- OCC hopes to see the welcome progress in assessment, investigation and prosecution of child sexual exploitation sustained and reflected in relation to other forms of violence against women and girls.
- Policy related to girls and young women who experience gender-based violence is complex. Better data, appropriate services, and well-coordinated responses to violence against girls and young women are required.
- The submission sets out a number of priority areas if the Government is to meet its obligations under the UNCRC and CEDAW, and fulfil the requirements set out in the Istanbul Convention.

1. Introduction

1.1 The Office of the Children's Commissioner (OCC) welcomes the opportunity to provide evidence to the Joint Committee on Human Rights (JCHR) on children and young people's experiences of violence against women and girls and the sufficiency of government's response to this issue. Building on our evidence base this submission focuses on:

- a) preventing violence against young women and girls
- b) identification, protection and support
- c) assessment, investigation and prosecution
- d) policy framework and data collection.

1.2 Our submission is restricted to those matters which affect children and young people in England.

1.3 We know that many children live in households where there is domestic violence and abuse, with profound consequences for their wellbeing and development, and that domestic violence and other forms of child maltreatment are often found together. However, the main focus of our submission is forms of violence directed at girls and young women.

- At least 16,500 children were identified as being at risk of **child sexual exploitation** during one year, and 2,409 children were confirmed as victims of sexual exploitation in gangs and groups during the 14 month period from August 2010 to October 2011.
- 1 in 6 girls reported some form of severe domestic violence and abuse inflicted on them by a **partner**¹ (Barter et al, 2009).
- Of 1485 cases handled by the **Forced Marriage Unit** in 2012, 13% involved victims below 15 years, 22% involved victims aged 16–17 (FMU, 2012).
- Corporal punishment remains legal in domestic law in the home and in some other settings (section 58 Children Act 2004).

1.4 In the development of this submission, the OCC have drawn upon our:

- a) *Inquiry into child sexual exploitation in gangs and groups*, (the CSEGG Inquiry) and accompanying commissioned research on: *the impact of pornography on children and young people; children and young people's understanding of consent; sexual violence in gang-affected neighbourhoods*
- b) *consultation response* to the definition of domestic abuse
- c) *consultation response* and policy position on personal, social, health and economic (PSHE) education
- d) policy position on corporal punishment
- e) stakeholder engagement on harmful practices including so-called 'honour'-based violence, forced marriage, and female genital mutilation.

2. Preventing violence against young women and girls

- 2.1 The cumulative evidence being generated by the OCC, and a range of other voluntary, statutory and research institutions, indicates that children and young people require support to negotiate their exposure to harmful attitudes, imagery and behaviour. Such support should build their resilience, create positive gender norms and relationships, and as such prevent violence against women and girls. In particular, our evidence suggests that effective strategies to address violence against girls and young women need to take account of the impact of pornography, engage with children and young people's understanding of sexual consent, ensure that every child receives effective relationships and sex education, and provide training for professionals on the warning signs and impact of child sexual exploitation.
- 2.2 In 2013 a rapid evidence assessment of the impact of pornography on children and young people, commissioned by the OCC, found that children and young people are both exposed to, and access, pornography, and that this exposure influences their attitudes towards relationships, sexual activity, and gender norms.

¹ Barter C, McCarry M, Berridge D et al. (2009) *Partner exploitation and violence in teenage intimate relationships*. London: NSPCC

- 2.3 An OCC commissioned study into children and young people's understanding of consent found that: *'in the main young people understand what is meant by giving consent to sex, but have a very limited sense of what getting consent might involve; young people can describe what consent means in theory but real life contexts make a significant difference to their perceptions of what non-consensual sex looks like; the most significant influence on young people's understanding of consent is constructions of gender, particularly of masculinity.'*
- 2.4 Based on this evidence, the OCC wrote to the Department for Education in 2013 in response to the Government's consultation on the Draft National Curriculum proposals, recommending that, with reference to CEDAW's concluding observations, the Government give due consideration to the role of PSHE in upholding children's rights, and in addition to consider referring to sex and relationships education as relationships and sex education (RSE) – thus placing emphasis on the importance of children's ability to develop healthy relationships.
- 2.5 Data submitted to the OCC demonstrated that 78% of local safeguarding children boards (LSCBs) had delivered awareness-raising programmes for professionals on child sexual exploitation. The CSEGG Inquiry recommended every LSCB should ensure that the core training delivered to all professionals who come into contact with children and young people should include information on warning signs and impact, of child sexual exploitation, to ensure victim identification, and should outline an implementation plan for training as part of their 2013–14 business plan.
- 2.6 In terms of public awareness, the OCC welcomes the Home Office-led 'this is abuse' campaign. We recommended that the success of this campaign be built upon by the Home Office incorporating the findings of our report into the impact of pornography on children and young people into the ongoing teen abuse campaign, with future activity on this workstream reflecting young people's exposure to violent sexualised imagery within their peer groups and relationships.
- 2.7 The evidence base indicates that preventative activity is needed in schools, in neighbourhoods, with local businesses, parents and carers and amongst professionals. To date the Government has focused attention on working with the internet industry to improve internet safety, and on promoting the teenage relationship abuse campaign. However, the OCC remains concerned that work within schools is inconsistent and reiterates the concluding observation by CEDAW that all children receive relationships and sex education as a means of preventing violence against women and girls.

3. Identification, protection and support

- 3.1 OCC's evidence across a number of areas highlights the importance of a robust response to violence against girls and young women as a child

protection issue, based on professionals working effectively together to respond to the warning signs of abuse, with age-appropriate, sustained support for victims.

Child sexual exploitation

- 3.2 The CSEGG Inquiry demonstrated the importance of taking a proactive, rather than reactive, approach to identifying child sexual exploitation. Professionals who respond to the warning signs of abuse, such as children going missing from home or school or repeatedly visiting sexual health services with concerns, were more likely to find children in need of support and protection. Relying on individual characteristics such as gender, age, or ethnicity, is not an effective way to identify victims.
- 3.3 At present, some sexually exploited children are less likely to be identified. The CSEGG Inquiry was concerned to find evidence that black and minority ethnic children who were being sexually exploited were often hidden in youth justice settings rather than identified through formal multi-agency arrangements for tackling child sexual exploitation. A report by the Muslim Women's Network provided additional evidence that the exploitation of ethnic minority children was not being identified.
- 3.4 The CSEGG Inquiry was also concerned that gender stereotyping resulted in an under-recognition of the sexual exploitation of boys and young men, and in professional attitudes that some sexually exploited girls were 'prostituting themselves' and somehow complicit in their own abuse.
- 3.5 Once children have been identified they often require enduring and sustained support, sometimes lasting for a number of years. The CSEGG Inquiry identified examples of services that were providing that level of support; however we remain concerned that short-term interventions continue to be commissioned for children who require support for a longer time period.

Teenage relationship abuse

- 3.6 Following the change to the definition of domestic violence and abuse in 2013 to include 16 and 17 year olds, it is the view of the OCC that service provision and training for professionals remain insufficient, and the potential to confuse cases of child sexual exploitation and domestic abuse remains. Teenage relationship abuse is a child protection and safeguarding issue, and further engagement with local services is required to ascertain the level of need in terms of advice, training, and resources required to build an age-appropriate and effective response.

'Smacking' and corporal punishment

- 3.7 'Smacking' – i.e. the striking of a child by a parent or other adult carer with the palm of an open hand, intending to cause pain – is one type of corporal

(physical) punishment. Smacking may or may not occasion physical injury to a child; if physical injury (eg reddening to the skin, bruising) does occur it constitutes assault occasioning actual bodily harm under section 47 Offences Against the Person Act 1861; section 58 Children Act 2004 states that 'reasonable punishment' is no defence to that offence. However, if no physical injury occurs then the law in England does not prohibit smacking: 'reasonable punishment' offers a defence to parents/carers in the home (e.g. grandparents, nannies, babysitters) or in some part-time educational settings against a charge of common assault/battery. OCC supports the repeal of the 'reasonable punishment' defence and the legal prohibition of smacking (and any other form of corporal punishment) in all settings, together with support and education for parents and others on encouraging positive behaviour.

Harmful marriage practices

- 3.8 Forced marriage affecting under-18's is a child protection issue, requiring effective identification of children at risk, and the provision of appropriate practical and emotional support. OCC recognises that the specific criminal offence of forced marriage proposed in the Anti-Social Behaviour, Crime and Policing Bill would 'speak to the seriousness of the problem'. However, it is vital that wider measures announced by the Government to prevent forced marriage, protect potential victims, and provide support to victims are implemented in tandem with these changes, together with a more robust response from public bodies – notably schools and children's social care.

4. Assessment, investigation and prosecution

- 4.1 In 2012, although the CSEGG Inquiry received evidence on 2,409 children who had been sexually exploited over a 14-month period, 68% of submissions about victims lacked any information on perpetrators. At the time the OCC raised concerns inconsistent policing response to child sexual exploitation across England.
- 4.2 The OCC therefore welcomes the Association of Chief Police Officers' action plan on child sexual exploitation, and the new child sexual exploitation investigation and prosecution guidelines developed by the College of Policing and the Crown Prosecution Service.
- 4.3 The piloting of pre-trial recording of cross-examination and re-examination of witnesses under section 28 of the Youth Justice and Criminal Evidence Act 1999 is also welcomed, and the OCC urges the Government to roll-out this approach across the country as soon as possible.
- 4.4 It is concerning that not all forms of gender-based violence have received as much dedicated attention, with no successful prosecutions to date against perpetrators of female genital mutilation.

4.5 In terms of teenage relationship abuse, and cases of peer-on-peer exploitation, the Government needs to give greater consideration to the approach taken to boys and young men who perpetrate gender-based violence. Given that 29% of perpetrators identified to the CSEGG Inquiry were aged under-19 and the youngest was 12 it is critical that the Government consider what different approaches may be required for assessment, investigation and prosecution when all those involved are children.

5. Policy framework and data collection

5.1 Policy related to girls and young women who experience gender-based violence is complex. The issue of child sexual exploitation alone straddles policy on missing children, child sexual abuse, gangs and youth violence, teenage relationship abuse, children missing from education, and the provision of residential children's homes, amongst others.

5.2 The cross-government violence against women and girls' strategy, and accompanying action plans, go some way in addressing this complexity. However, it was only in 2013 that the Government recognised girls and young women as a group whose needs may have been unmet by a policy framework designed predominantly to respond to the experiences of adult women. Therefore, while child sexual exploitation now features in the cross-government strategy, links with children missing from education and children missing from home are less explicit.

5.3 The experiences of girls and young women are also often missing from national datasets. Until very recently the British Crime Survey only surveyed those aged 16-and-over, and we are therefore often unaware of the true prevalence of gender-based violence as it affects children and young people. While the OCC collected data on the numbers of sexually exploited children as part of the CSEGG Inquiry, it is not clear whether annual statistics on this form of abuse will be collected by the Government.

5.4 This policy and data framework also has an impact on service development, assessment and commissioning. While funding for some rape crisis, sexual assault referral centres, independent domestic violence advocates, and independent sexual violence advocates comes from central government the same cannot be said of child sexual exploitation and other services designed for children and young people. While the OCC welcomes the funding of 13 young people's sexual violence advocates from the Home Office, as part of the CSEGG Inquiry we recommended that 'through the Sexual Violence against Children and Vulnerable People National Group, the Government should undertake a review of the various initiatives being funded by the Home Office, Department for Education, Department of Health and any others as relevant, in order to ensure services are not duplicated and that programmes are complementary, coordinated and adequately funded. All initiatives should be cross-checked to ensure that they are effectively linked into child

protection procedures and local safeguarding arrangements' (Berelowitz et al, 2013) – we reiterate that recommendation as part of this evidence submission.

6. Conclusion and Recommendations

- 6.1 The OCC welcomes the Government's increased recognition of child sexual exploitation, teenage relationship abuse, and forced marriage as it affects girls and young women. In addition, we acknowledge the changes made to guidance for investigating and prosecuting cases of child sexual exploitation over the past year.
- 6.2 However, the OCC also believes that girls and young women have been given less attention than adults in the Government's response to gender-based violence and this needs to be addressed.
- 6.3 In terms of improved compliance with the UNCRC, CEDAW and the Istanbul Convention the OCC would prioritise the following areas:
 - a) That the Government implement all recommendations made by the OCC CSEGG Inquiry report as part of its violence against women and girls and child protection strategies.
 - b) Cross-government commitment to prevention through the provision of age-appropriate PSHE and RSE in all educational settings, and the promotion of whole-school approaches to gender equality.
 - c) Clarification of the role of child protection in responding to girls and young women who experience gender-based violence.
 - d) Rationalising the policy framework as it affects girls and young women, which may involve policy areas of less relevance to adult women.
 - e) Improved data collection on all forms of gender-based violence as they affect children and young people, in addition to adults.
 - f) Delivery of effective and appropriate programmes of support for young victims and potential victims of harmful practices, including forced marriage and female genital mutilation.
 - g) The repeal of the 'reasonable punishment' defence and the legal prohibition of smacking (and any other form of corporal punishment) in all settings, together with support and education for parents and others on encouraging positive behaviour.

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