



Championing Children and Young People in England

Office of the Children's Commissioner's submission to the pre-sessional working group of the UN Committee on the Rights of the Child on the United Kingdom of Great Britain and Northern Ireland's implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

July 2013

Office of the Children's Commissioner

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

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

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

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

Our vision

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

Our mission

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

The United Nations Convention on the Rights of the Child

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

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

The articles of the Convention which are most relevant to this area of policy are:

- Article 2:** Children's rights under the Convention shall be respected and ensured without discrimination of any kind
- Article 3:** In all actions concerning children, the best interests of the child shall be a primary consideration; institutions and services responsible for the care of children shall conform with the standards expected by competent authorities.
- Article 4:** States shall take all appropriate measures to implement the Convention rights.
- Article 6:** Every child has the right to life and to optimal development.
- Article 12:** Children have the right to be heard in all matters affecting them and their views shall be given appropriate weight.
- Article 19:** States shall take all appropriate measures to protect children from violence, abuse or neglect.
- Article 20:** Children deprived of their family environment shall be entitled to special protection and assistance from the state.
- Article 22:** Refugee and asylum-seeking children shall be provided with appropriate protection and humanitarian assistance.
- Article 24:** Children have the right to enjoy the highest attainable standard of health and to health facilities.
- Article 33:** Children shall be protected from the use of illegal drugs and the use of children in their production and trafficking shall be prevented, by all appropriate measures.
- Article 34:** Children shall be protected from all forms of sexual exploitation and sexual abuse.
- Article 35:** The abduction, sale and trafficking of children shall be prevented by all appropriate measures.
- Article 39:** States shall take all appropriate measures to promote the

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

recovery and reintegration of child victims of maltreatment or abuse.

The submission below has therefore been drafted with these articles in mind.

Office of the Children's Commissioner's submission to the pre-sessional working group of the UN Committee on the Rights of the Child on the UK's implementation of the Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography

Introduction

The Office of the Children's Commissioner (OCC) welcomed the ratification of the Optional Protocol to the UN Convention on the Rights of the Child (UNCRC) on the Sale of Children, Child Prostitution and Child Pornography (OPSC) in 2009. We also welcome the inclusion of the OPSC in the definition of the UNCRC rights to which the Children's Commissioner must have regard under proposed legislation reforming the OCC which is currently before the UK Parliament.²

This submission is intended to assist the pre-sessional working group UN Committee on the Rights of the Child (UNComRC) in its forthcoming consideration of issues on which to examine the UK on its initial report to the UNComRC under Article 12, paragraph 1 of OPSC. OCC will provide a fuller submission and a further expanded submission to the UNComRC in advance of the examination.

This submission will concentrate on the UK's implementation of two articles of OPSC: Article 8 (protection of the rights and interests of child victims at all stages of the criminal justice process) and Article 9 (prevention of offences). It will use evidence from OCC's two year Inquiry into Child Sexual Exploitation in Gangs and Groups (CSEGG Inquiry) which commenced in 2011 and which has issued two major reports thus far: a briefing for the Secretary of State for Education on the CSEGG Inquiry's emerging findings (the Accelerated Report),³ with particular focus on children in residential care; and the Inquiry's interim report⁴ issued at the completion of Phase 1 of the Inquiry (which gathered evidence to determine the scale, scope, nature and extent of the sexual exploitation, victimisation and abuse of children in England by street gangs and loosely-formed groups and highlighted good practice to support and identify children in these circumstances) (the Interim Report). The CSEGG Inquiry has also published a rapid evidence assessment on the effects that access and exposure to pornography has on children and young people.⁵ Relevant extracts of these three reports are reproduced below. The final report of the Inquiry will be published in November 2013 and will focus on what activity is required in order to prevent, disrupt, reduce and address the consequences of child sexual exploitation in gangs and groups.

This submission will also draw on other work undertaken by OCC including: our third party intervention in the England and Wales Court of Appeal (Criminal Division) in *L, HVN, THN, T and R* [2013] EWCA Crim 991, where the Court of Appeal gave guidance to criminal courts in circumstances where victims of child trafficking have been prosecuted for related

² Children and Families Bill, available at www.parliament.uk

³ June 2012, Office of the Children's Commissioner, available at www.childrenscommissioner.gov.uk

⁴ Nov 2012, Office of the Children's Commissioner, available at www.childrenscommissioner.gov.uk

⁵ M.A.H. Horvath and others, May 2013, Office of the Children's Commissioner, available at www.childrenscommissioner.gov.uk.

offences; and our response⁶ to the Ministry of Justice consultation *Improving the Code of Practice for Victims of Crime*.

Article 8 OPSC: Protection of the rights and interests of child victims of practices prohibited by OPSC at all stages of the criminal justice process

The Children's Commissioner recently intervened in the Court of Appeal (Criminal Division) case of *L, HVN, THN, T v R* [2013] EWCA Crim 991 concerning Vietnamese child victims of human trafficking who had been found in cannabis farms in the United Kingdom and subsequently prosecuted for the production of a controlled drug under the Misuse of Drugs Act 1971.

The Court of Appeal found, following Article 3 UNCRC and Article 24 of the Charter of Fundamental Rights of the European Union, that where a child victim of trafficking was facing criminal proceedings his or her best interests had to be a primary consideration. The Court also found that courts have a statutory duty to make due enquiries about a defendant's age and that where there is reason to believe that the defendant is a child he/she should be treated as a child until his or her age is assessed. Where the crime(s) committed by the child had been an aspect of his or her exploitation, the criminal court should 'stand between the prosecution and the victim of trafficking' by staying the proceedings as an abuse of process. The test was whether the offences were a manifestation of his or her exploitation as a victim of trafficking and/or whether the alleged crime was consequent on and integral to the exploitation of which he or she was a victim.

The UNComRC could consider asking the Government how they will ensure that child victims of trafficking are treated as victims and not prosecuted for offences that are a manifestation of/consequent on and integral to their exploitation.

In addition to victims of trafficking, some sexually exploited children are likely to be deterred from seeking the support they need by official attitudes which create an artificial boundary between offenders and victims. During phase 1 of the CSEGG Inquiry, engagement in offending was identified as one of the top four warning signs that a child was being sexually exploited, in addition to going missing from home, care or school, presenting with physical injuries (including cigarette burns and broken bones) and misusing drugs or alcohol. When sexually exploited children offend it is often directly linked to the way in which they are being exploited. The Inquiry identified cases where children were forced to shoplift vodka that they would then be forced to drink prior to an assault, and this offence was then used against them with abusers suggesting that if they reported the abuse nobody would believe them because they were a 'criminal'. Likewise, in cases of gang-associated abuse, girls were often required to carry weapons or drugs on behalf of gang members who were sexually exploiting them, and this was then used as means of control.

In addition, both girls and boys were used by adult offenders to recruit their peers into sexual exploitation. Girls who were being exploited would be told that their exploitation would stop if they introduced other girls into the group or gang. Boys were also groomed to recruit and assault their peers and would then pass the girls onto older males who were controlling the group or gang context. In all of these cases children were committing offences as a direct

⁶ May 2013, Office of the Children's Commissioner, available at www.childrenscommissioner.gov.uk.

result of their victimisation and believed that they would not be protected by professionals as a result. Professional duties and guidance such as the Victims' Code of Practice should therefore explicitly state that victims are entitled to a certain standard of service and protection even if they have offended.

The CSEGG Inquiry has also highlighted the particular vulnerabilities of children who have been abused by multiple perpetrators. Where abuse takes place in a peer-on-peer context, child victims may attend school with perpetrators or friends of perpetrators. In gang-affected neighbourhoods, victims may be at risk from gang members and associates who have not been directly involved in their exploitation, but will support perpetrators. In other contexts children may be raped and abused by multiple offenders who they are then unable to identify due to the impact of drugs or alcohol that has been used to control them. Particular consideration is therefore needed as to how these victims can be protected against multiple perpetrators and their associates and how this protection can be assured at different stages of the process, including bail and parole. Research commissioned by the CSEGG Inquiry found that the infrequency of reporting of gang-related child sexual exploitation by victims people is due in part to a lack of confidence in the ability of statutory services to protect the victim following a disclosure and/or fear of potential retaliation should such a disclosure occur.⁷

Further, if perpetrators are prosecuted then each defendant in a multiple perpetrator case may have their own defence barrister. In sexual exploitation court cases over recent years, individual victims have been cross-examined by each defence barrister, often escalating and intensifying the trauma of giving evidence in court. OCC believes that section 28 of the Youth Justice and Criminal Evidence Act 1999, which provides for video-recorded cross-examination/re-examination of the victim/witness to be admitted, should be implemented in order to ensure the protection of vulnerable witnesses.

In general, we also recommend that avoiding delay in progressing a case and in service delivery to child victims is included as a general duty on agencies providing services for children and young people. Timeliness is very important to the well-being and recovery of victims, particularly those who have experienced violence or trauma, as the UNComRC has recognised.⁸

We note that the Crown Prosecution Service has recently issued a consultation on the interim guidelines on prosecuting cases of child sexual abuse.⁹

The UNComRC could consider asking the UK Government about progress in addressing the issues identified above in order to ensure that child victims of offences prohibited under the OPSC are protected at all stages of the criminal justice process.

⁷ H Beckett and others, *Research into gang-associated sexual exploitation and sexual violence: interim report*, Nov 2012, University of Bedfordshire/OCC, available at www.childrenscommissioner.gov.uk

⁸ UNComRC, General Comment no 13 (2011), *The right of the Child to freedom from all forms of violence*.

⁹ 11 June 2013, available at www.cps.gov.uk.

Article 9 OPSC: Prevention of offences referred to in OPSC

Findings and Recommendations from the Accelerated Report of the CSEGG Inquiry:¹⁰

Themes in Relation to Children in Care

Existing literature on child sexual exploitation indicates that the proportion of sexually exploited children, who are also children in care ranges between 20% and 35% (Jago et al 2011, CEOP 2011). Of those submissions to the CSEGG Inquiry which specifically provided data on individual children's care status 21% of children identified as being sexually exploited were in the care system. Of the total responses received to the CSEGG Inquiry's call for evidence 42.6% made reference to children in the care system. Of the Oral Evidence Sessions 81% referenced children in care, and of the meetings held during 14 nationwide site visits 100% of areas referenced children in care as likely to be particularly susceptible. In order to produce this accelerated report we have conducted specific analysis on our emerging evidence base to pull out information on children in care, and have engaged with 41 key stakeholders and agencies to ascertain:

- *Whether children in care were specifically vulnerable to child sexual exploitation*
- *What changes were required to protect children in residential care from child sexual exploitation*

Children in care are inherently vulnerable and therefore require greater vigilance in terms of their protection. Most of those in residential care are aged 12 and over with the peak age range being 14 to 16 years old. Abuse or neglect remains the key primary reason for placement (45%) and almost half (49%) of children are placed in a care home for a duration of less than three months. Of those children placed in a home, the data indicates that 29% have had at least five previous placements with only 24% being on their first placement. Residential children's homes may be perceived as a placement of last resort, rather than as the most appropriate placement for a child. Placement in residential care often occurs either following multiple placement breakdowns, or following a child's late arrival into care with longstanding unrecognised problems (Schofield 2012; Berridge et al 2012). Invariably, the most damaged children and young people are placed in residential care, often with relatively largely unsupported and poorly trained care staff (Pearce 2009). It is therefore necessary to consider the effectiveness of residential children's homes in the context of their role within the wider child care and child protection systems. Concerns about how local authorities assess children's needs and identify placements are particularly pertinent. For example, if a child is placed in an inappropriate setting without an accurate assessment of their needs, the staff in any children's home could struggle to keep them safe.

Local authorities (LA) in the North West of England have the highest number of providers and places in the country. Several English LAs have no children's homes within their geographical area and it has become relatively common practice for those LAs who have children needing a place in a care home to place them outside their local authority boundaries. On average, 45% of children in care live in care homes outside the LA which has primary responsibility for them.

¹⁰ Extracted from the CSEGG Inquiry Accelerated Report, pp7-12

The current body of literature on child sexual exploitation consistently cites children in care as being particularly vulnerable to child sexual exploitation (Pearce and Pitts, 2011, Pearce 2009, Creegan 2005, Scott and Skidmore 2006, Coy 2008, Brodie et al, 2011). Children may be in care as a result of child sexual exploitation or may be vulnerable to child sexual exploitation due to histories of intra-familial abuse and neglect which resulted in their care placement.

The impact of multiple placement breakdowns (Coy 2008) has been cited as creating a particular vulnerability by reducing children and young people's ability to feel loved or form close relationships. However, the literature also acknowledges that while children in care account for a disproportionate number of children known to be sexually exploited, the majority of known sexually exploited children are not children in care. In addition there is a significant likelihood that many other victims of child sexual exploitation, whether in care or not, are yet to be identified.

Specific challenges arising from the need to respond to issues of children who go missing, and the need to hold and sustain relationships with children to decrease their vulnerability are regularly cited. In relation to children reported missing, research indicates that while children in care are three time more likely to run away than children at home (The Children's Society 2011), the majority of children reported missing are children going missing from the family home (Hayden 2012). Whether a child has a positive experience and good outcome from their stay in residential care will be largely dependent on the quality of care offered to them and whether or not the placement is the most appropriate to their needs. There are recommendations across the literature for a 'more professionally equipped workforce', and the need for more consistent support and training for staff working in children's residential care. Many children report valuing positive and consistent relationships that they build while in residential care, and not all have negative experiences. The benefits of reflective practice, both with foster carers and those working in residential care are routinely considered by researchers who, above all else, place the quality of the relationships between staff and children as the most effective tool for keeping children safe from harm. Challenges exist in the way that information about the children concerned is collected and shared. There is, for example, a lack of a national picture about the quality, specialism and geography of residential children's homes. Current provision nationally is therefore unlikely to be matched against the needs of children.

We received different messages about whether changes are required to legislation, regulation, guidance or practice in order to improve the protection of children in residential care. Some agencies and individuals stated no changes were required to legislation, whilst others stated changes were necessary. Key issues to be addressed are as follows:

- *The process of assessing the needs of children and the appropriateness of placements*
- *The need to consider the place of children's residential homes within the wider child care and child protection system*
- *Care planning and safety planning arrangements for children*
- *Empowering of staff through improved standards of training and support*

- *Greater consistency regarding data collection, information sharing and responses to children at risk within children's homes and across the local authority and independent sectors*
- *Improvements to support for staff and children and relationship building in order to reduce incidences of missing children*
- *Data sharing and multi-agency working to improve intelligence on child sexual exploitation and protection of children*
- *Concerns about the use of foyers, bed and breakfast and hostel accommodation for 16 - 17 years olds*
- *Focus on child sexual exploitation as it applies to children in care, and the lack of attention paid to the risks of CSE to other children including boys*
- *Concerns about the criminalisation of children in care.*

When we draw together the evidence from the CSEGG Inquiry, and the additional submissions received to enable the preparation of this accelerated report, we are able to identify consistent themes. Key issues arising are:

- *Children in care, particularly those in residential children's homes, are vulnerable*
- *While children in care account for a disproportionate number of children known to be sexually exploited, the majority of sexually exploited children are not in care*
- *In some areas agencies, counter-evidentially given the previous point, are focusing exclusively on children in care or known to social care services when seeking to identify children at risk of or known to be sexually exploited*
- *Children are being sexually exploited when living in a range of circumstances, and may be sexually exploited prior to living in residential care*
- *Relationships with parents, care staff, outreach workers, social workers and other trusted adults, together with proactive action to prevent, disrupt and convict perpetrators, will impact most positively to protect children from sexual exploitation*
- *Questions about the use of restraint and restriction of liberty as an approach to protecting children from sexual exploitation.*

Responses to the Submissions Received

Having considered all the additional submissions received, in accordance with the CSEGG Inquiry evidence base and the expertise within the OCC, we agreed with the vast majority of suggestions submitted. This is demonstrated in the recommendations we propose as part of this accelerated report.

Careful consideration was given to the question of whether residential care staff should be given increased powers of restraint and deprivation of liberty, better to protect children at risk of or actually being sexually exploited. Of the 41 submissions, three requested that such increased powers should be recommended. A further four submissions asked for greater clarity on the issue, and nine stated unequivocally that there should be no increase in powers of either restraint or the restriction of liberty.

The remainder did not comment on this issue. All those in the first group were private home providers. Those in the latter two groups came from all other sectors, including some private home provider representatives.

It was also noted that the Chief Inspector of the former Commission for Social Care Inspection in his letter issued in 2007 stated that 'there is no legitimate status of "semi-secure"; an establishment is either using its premises for the purpose of restricting liberty or it is not'. (See Appendix E)

Current statutory guidance, regulations and National Minimum Standards were examined to assess whether they are fit for purpose. The relevant sections on restraint and deprivation of liberty are reproduced in this report for reference. In addition, the statutory guidance on children who run away and go missing from home or care (2009) was examined to determine whether it is sufficiently comprehensive.

It is our view that the existing legislation and statutory guidance provide a sound balance between the permission to restrain a child or deprive him/her of liberty in order to protect that child or others at risk, whilst having in place appropriate protections to ensure such measures are not misused. Such misuse could result in children being abused, either by intent or inadvertently.

Volume 5 of the Children Act 1989 Regulations and Guidance sets out unambiguously that a children's home must provide a homely and caring environment. The best outcomes are achieved when the children and young people living there are cared for by well trained, supportive, actively engaged adults, with whom they can develop appropriate attachments and make positive relationships. Children and young people need both good adult role models, and the freedom and space to develop coping strategies, approaches to relationships, and strong respect for other individuals.

We have also sought to identify any evidence that might demonstrate that periods of deprivation of liberty or use of restraint are either effective or quick-fix solutions to prevent ongoing sexual exploitation of children. It has not been possible to identify any such evidence.

On the contrary, our extensive evidence shows that children who are being sexually exploited are inexorably drawn to their abusers. They may take years to escape. This can be compounded by threats to hurt family or friends if the child seeks to escape. The result is that children return repeatedly to their abusers in much the same pattern as is seen in women who are victims of domestic violence. Whilst such behaviour apparently defies logic, the evidence is that an intense emotional dependence on, and/or fear of the abusers is created. This cannot be fractured by short term restrictions on a child's liberty.

This issue has been discussed with the Coalition for the Removal of Pimping (CROP), a voluntary sector agency that represents parents of children who have been sexually exploited. They have told us that while some parents in desperation have sought to lock their children inside the family home, ultimately these parents themselves state such an approach does not work with their own children.

The question also arises as to how long any such deprivation of liberty ought to last in order for it to be effective; and whether such actions are tolerable in a society which values children's psychological and physical integrity. Again, no evidence exists to demonstrate the minimum time such deprivation of liberty must last in order to be effective. The risks of lengthy periods in isolation for a child so detained are acute and it is important to remember the lessons from the Pindown Inquiry conducted by Alan Levy QC in 1990/91.

We are therefore satisfied that the current legislation, guidance, regulations and National Minimum standards require little change.

Recommendations

The Office of the Children's Commissioner was asked whether any specific changes were required in legislation, regulation, guidance or practice to better protect children in residential care.

The following recommendations must not deflect attention from children who are affected by sexual exploitation and who are not in care. The CSEGG Inquiry will be making interim recommendations on prevalence and patterns, and on tackling child sexual exploitation in gangs and groups, in September 2012. We will make full recommendations on policy and practice at the close of the CSEGG Inquiry in September 2013.

We are aware of some excellent work being done by residential children's homes and across the wider child protection system to protect children from sexual exploitation. Some local areas, and the residential homes within them, are working considerably beyond what the regulations require, in order to protect children. It is such practice that we want to see mirrored across the country. We are also aware of the work being conducted by the Department for Education's support and improvement programme for children's homes.

The following recommendations take into account the place of residential care within the wider care and child protection system, and in addition, the connections to policymakers' and society's broader concerns around child sexual exploitation. The evidence submitted for this accelerated report raised a range of observations and recommendations about children in care, irrespective of their being either subjected, or vulnerable, to child sexual exploitation. Whilst some recommendations are directly related to the ability of residential children's homes to better protect children from sexual exploitation, they are linked to recommendations about both residential children's homes, and the care and child protection systems more broadly.

In order for staff in residential children's homes to be empowered and supported to safeguard the children in their care, and to enable some of the most vulnerable children in society to live in a safe and supportive home, the Office of the Children's Commissioner makes the following recommendations:

- 1. Government should undertake a thorough examination of residential care, including the profile of children, location and type of homes, recruitment, qualification and training of staff, and analyses of how local authorities are meeting their duties under the sufficiency*

requirements. For full recommended scope of a thorough examination of residential care please see Appendix D.

2. Government should amend the Care Planning, Placement and Case Review Regulations 2010 and related Guidance to state that a child's care plan should include a safety plan when the child/young person is at risk of or has experienced CSE. This should be based on a thorough assessment of need and explicitly address the risks the child faces, be negotiated with the child and engage family, supporting adults and, as appropriate, the police.

3. Regulations should proscribe any child in care, or leaving care, from being placed in bed and breakfast accommodation.

4. Amendment should be made to Regulation 33 of the Children's Homes Regulations 2001 (as amended by the Children's Homes (Amendment) Regulations 2011. Monthly inspection visits to private children's homes should be by a person independent of the organisation running the home and appointed or approved by the local authority.

5. Consideration should be given to current planning regulations in relation to children's homes. Safeguards need to be put in place to ensure that children's homes are not opened in areas that present a high risk to the children being placed. This must include checks on numbers of registered sex offenders in the area.

6. The Government should amend the Care Standards Act 2000 (Registration) (England)

Regulations 2010 to allow Ofsted to routinely share its information about the location of children's homes with the police.

7. All references in Guidance and Regulation to 'prostitution' when speaking of children should be amended to 'child sexual exploitation'. (For example Schedule 5 of the Children's Homes Regulations 2001 (as amended by the Children's Homes (Amendment) Regulations 2011.

8. Consideration should be given to amending Regulation 11(2)(d) of the Care Planning, Placement and Case Review (England) Regulations 2010. Currently this requires authorities to notify the area authority where the child is to be placed. This could be strengthened by requiring the placing authority to consult with the area authority to assist their assessment that the placement is the most appropriate placement available and that it will meet the child's needs identified in the care plan. This would enable the placing authority to establish, for example, if there is known intelligence locally of sexual exploitation associated with the children's home or local area.

9. Consideration should be given, in the National Child Sexual Exploitation Action Plan, to the role of Local Safeguarding Children's Boards in having oversight of:

a. The relationships between police and local authority children's homes in the local area, so that intelligence about groups of exploiters in the area and support to staff and young people can be provided

b. Children who go missing and children at risk of or who have experienced exploitation: ensuring analysis of information gathered through Runaway Children and Missing From Care (RCMFC) records.

10. *In line with the 2009 statutory guidance on children who run away and go missing from care, regulations should be amended to ensure when children have run away from care, that all return interviews involve an independent person, preferably an advocate or trusted adult from outside the home. These should enable young people to talk about any concerns including about the home. The content should feed into local police intelligence about sexual exploitation. Police 'safe and well' interviews should be considered as well – with the young person's agreement. Possibly through amendment to Sec 16 (4) (b) of the Children's Homes Regulations 2001 (as amended by the Children's Homes (Amendment) Regulations 2011.*

11. *The Care Planning, Placement and Case Review Regulations 2010 and related Guidance should be amended to ensure that a child's Independent Reviewing Officer (IRO) should be informed when children run away and consider bringing forward the review. The IRO service should be informed about the pattern of absences or running away by children in care.*

Once we have completed evidence gathering and our fuller analysis on best practice, the OCC will make full recommendations on the following issues. We are extremely concerned about them, and urge the Government to give them due consideration:

- *Whether there should be standard arrangements for recording incidents of children going missing, including from care and school; and equally standard recording of incidents where they affect those considered at risk of, or who have experienced, sexual exploitation.*
- *Whether specific changes are required to ensure that effective measures are in place to safeguard children aged 16 – 18 accommodated in foyers and hostels.*
- *Whether there should be an extension to the age limit from 16 years to 18 years within the provisions of the Child Abduction Act 1984 regarding the abduction warnings process and that these should be issued with or without parental consent, if deemed necessary.*
- *Whether amendments are required to the Care Planning, Placement and Case Review Regulations 2010 and related Guidance to ensure that independent advocacy is available to all children in all children's homes.*

These recommendations were accepted in full by the Government,¹¹ who established three expert groups to make further recommendations – including the Expert Group on the Quality of Children's Homes on which OCC was represented.¹² The government has now issued two consultations on reform to children's homes care and decision-making by local

¹¹ See letter to Sue Berelowitz, Deputy Children's Commissioner, from Tim Loughton MP, then Parliamentary Under Secretary of State for Children and Families, 3 July 2012, available at www.education.gov.uk.

¹² See Report of the Expert Group on the Quality of Children's Homes, April 2013, available at www.education.gov.uk

authorities on where children are placed,¹³ and a further consultation on updating statutory guidance on children who run away or go missing from home or care.¹⁴

The UNComRC could consider asking the UK Government about what further progress has been made by the date of its examination by the UNComRC on the implementation of the recommendations in the Accelerated Report. OCC will also.

Recommendations from the Interim Report of the CSEGG Inquiry:¹⁵

The evidence gathered during Phase 1 of the Inquiry shows clearly that urgent action is required so that professionals and practitioners recognise the many warning signs that children display when being subjected to sexual exploitation at the hands of gangs and groups. The OCC will contact local areas at the close of the Inquiry to assess progress made on the recommendations below in advance of the final report.

Children need to be protected against such abuse.

During Phase 2 we will consider in detail what action is required to prevent and tackle this abuse. In the interim, it is possible to make initial recommendations in relation to the recognition of CSE, the identification of victims and perpetrators and the process of recording and sharing data.

For Immediate action

1. All directors of children's services, the chief medical officer, directors of public health and chief constables, the Royal Colleges, Police and Crime Commissioners, and the Department for Education, the Crown Prosecution Service and Chief Crown Prosecutors, should circulate the warning signs of child sexual exploitation to all professionals who come into contact with children and young people (Appendix A), and ensure they understand and act on them. In addition, urgent implementation of the recommendations below will significantly improve the protection of children subject to, or at risk of, sexual exploitation.

Identification of Victims

2. Coordinated by the local safeguarding children board, and using the self-assessment tool produced by the University of Bedfordshire, all local areas should conduct their own audit of CSE based on the list of warning signs and vulnerabilities produced in this report⁴³.

3. All police forces should work with partner agencies, including third sector specialist organisations, to log information on the girls and young women linked to gang members, and then risk-assess these young people for sexual exploitation.

¹³ Department for Education, *Changes to the Children's Homes Regulations 2001 (as amended) and the Care Standards Act 2000 (Registration) (England) Regulations 2010*, June 2013; and *Improving safeguarding for looked-after children: changes to the Care Planning, Placement and Case Review (England) Regulations 2010*, June 2013; both available at www.education.gov.uk.

¹⁴ Department for Education, *Statutory Guidance on children who run away or go missing from home or care*, June 2013, available at www.education.gov.uk.

¹⁵ Extracted from the CSEGG Inquiry Interim Report, pp110-113

4. All those identifying victims of child sexual exploitation should review their processes to ensure that intelligence or individual indicators used to proactively find victims children are not leading to biased identification. They should also liaise with agencies, including specialist third sector organisations, that are working with under-represented children and young people to ensure their identification of all those who are vulnerable or at-risk.

⁴³Evidence shows that any child presenting with combined vulnerabilities from the above lists should be considered to be at high risk for sexual exploitation. Professionals should immediately commence an investigation to ascertain risk and initiate preventative and protective action as required. However, it is important to note that children without pre-existing vulnerabilities can still be sexually exploited, and therefore any child presenting with the risk indicators in the second list but none of the vulnerabilities in the first, should also be considered as potential victims and appropriate assessment and action initiated as required.

Identifying Perpetrators

5. Police forces should review their local multi-agency intelligence collection processes and existing information to proactively identify perpetrators of CSE.

6. Police forces should use multi-agency intelligence to proactively profile local risk, as well as to direct enforcement and disruption activity.

7. LSCBs should agree policies and procedures for ensuring partner agencies including children's social care services, YOTs and police work cooperatively to identify and deal with children and young people who are both victims and perpetrators of CSE. These procedures should be incorporated into each LSCB's CSE strategy and monitored for effective practice.

Further detailed recommendations on improving the identification of victims and perpetrators will be made in Phase 2.

Data gathering and information sharing

8. The Department of Health should issue guidance to all health agencies to ensure effective information-sharing so that victims of child sexual exploitation, and children at risk of CSE, are identified.

9. All agencies should adopt an agreed method for recording the ethnicity, sexual orientation and disability of victims and perpetrators of child sexual exploitation.

10. Youth offending services should share information on either or both victims and perpetrators of child sexual exploitation with other agencies, given the intelligence held on their assessment tools.

11. Police forces should improve their recording of sexual offences to enable the recording of multiple perpetrators and allow for a CSE flag.

Further detailed recommendations on improving the data-collection process will be made in Phase 2.

As soon as possible the following recommendations should be delivered to contribute to a shift in professionals' awareness and understanding of child sexual exploitation.

Recognition and awareness-raising

12. 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.

13. A review of all legislation and guidance which makes reference to children as 'prostitutes' or involved in prostitution (Appendix F) should be initiated by the Government with the view to amending the wording to acknowledge children as sexually exploited, and where appropriate victimised through commercial sexual exploitation.

At this stage we are unable to recommend any particular training programme. During Phase 2 we will explore what is currently offered to professionals and make recommendations if appropriate.

When the final CSEGG Inquiry report is published in 2013, these recommendations will be reviewed, revised where necessary and augmented which will challenge and should enable the system to provide a holistic response to the needs of sexually-exploited children and young people.

PHASE TWO

Phase 2 of the CSEGG Inquiry was launched in September 2012 and will identify the action required to tackle the sexual exploitation of children in gangs and groups. The Inquiry wants to find out what is being done, and should be done, to: address individual cases; strategically approach the issue locally and nationally; address societal problems that underpin child sexual exploitation:

A call for evidence has been published and is available on the OCC website. During Phase 2 further evidence will be gathered through a review of central government policy, site visits, workshops, evidence hearings, commissioned research, interviews with children and young people and data requests to statutory agencies.

The final CSEGG Inquiry report will be published in autumn 2013 with recommendations to improve the protection of children from this pernicious and traumatic form of abuse.

OCC is in the process of collecting information on the progress made on these recommendations. The UNComRC could consider asking the UK government about progress made on implementing each of these recommendations.

Findings and Recommendations from the Rapid Evidence Assessment on the effects that access and exposure to pornography has on children and young people¹⁶

FINDING 1: A significant proportion of children and young people are exposed to or access pornography but there are differences in the literature regarding the regularity of exposure and access (or the rate of recurrence) which highlight the importance of considering frequency as well as prevalence in order to obtain a full picture.

FINDING 2: Children and young people's exposure and access to pornography occur both online and offline. However, in recent years the most common methods of access have changed from magazines, videos, television and books, with the internet becoming

¹⁶ Extracted from the Rapid Evidence Assessment, pp1-8 and p11.

more dominant. There is some evidence that children and young people consider pornography easy to access and culturally prevalent. Accessing pornography through one method appears to be positively related to accessing it through others.

FINDING 3: Exposure and access to pornography appear to increase with age; there is greater risk of exposure with increasing age. Contradictory findings exist in relation to age of first exposure, with variations from 10 to 17 years old.

FINDING 4: Exposure is more prevalent than (ostensibly) deliberate access. However, there is considerable variation in the rates of unwanted exposure and some studies report significant numbers of children and young people accessing pornography.

FINDING 5: There are gender differences in exposure and access to pornography. Young men and boys are more likely to be exposed to pornography than young women and girls. They are also more likely to access, seek or use pornography and are exposed to or access pornography more frequently. These gender differences are also found in children and young people's attitudes towards pornography. Boys and young men generally view pornography more positively and state that they view it primarily out of curiosity while girls and young women generally report that it is unwelcome and socially distasteful and that they feel much more uncomfortable than boys and young men when viewing pornography.

FINDING 6: Access and exposure to pornography affect children and young people's sexual beliefs. For example, pornography has been linked to unrealistic attitudes about sex; maladaptive attitudes about relationships; more sexually permissive attitudes; greater acceptance of casual sex; beliefs that women are sex objects; more frequent thoughts about sex; sexual uncertainty (e.g. the extent to which children and young people are unclear about their sexual beliefs and values); and less progressive gender role attitudes (e.g. male dominance and female submission). Children and young people learn from and may change their behaviour due to exposure and access to pornography.

FINDING 7: Access and exposure to pornography are linked to children and young people's engagement in "risky behaviours" (e.g. engagement in sexual practices from a younger age, engaging in riskier sexual behaviours such as unprotected anal or oral sex, and the involvement of drugs and alcohol in sex). For example, young people who used pornography were more likely to report having had anal sex, sex with multiple partners and using alcohol and drugs during sex (Braun-Courville & Rojas, 2009). However, the majority of the research that has found this is cross-sectional and/or correlational, therefore causal relationships cannot be established. "Sexting" (which should be considered as comprising a range of activities) has recently emerged as another "risky behaviour" because it can lead to various negative outcomes for children and young people, including through its potential use within bullying and exploitation. The majority of the harassment that is a consequence of sexting is directed by young men towards young women (Ringrose et al., 2012).

FINDING 8: Considering sexualised and violent imagery more broadly, we can conclude that exposure to sexualised and violent imagery affects children and young people; however, the ways in which they may be affected and how long-lasting the effects may be are debatable. There are links between violent attitudes and violent media; specifically, children and young people who hold more violent attitudes access more violent media. One study found that exposure to sexualised material was related to the likelihood of young

people engaging in more sexualised behaviour because they perceived more social pressure to have sex (Bleakley et al., 2011b).

Recommendations to Government

In light of the evidence in this report:

1. **The Department for Education** should ensure that all schools understand the importance of, and deliver, effective relationship and sex education which must include safe use of the internet. A strong and unambiguous message to this effect should be sent to all education providers including: all state funded schools including academies; maintained schools; independent schools; faith schools; and further education colleges.
2. **The Department for Education** should ensure curriculum content on relationships and sex education covers access and exposure to pornography, and sexual practices that are relevant to young people's lives and experiences, as a means of building young people's resilience. This is sensitive, specialist work that must be undertaken by suitably qualified professionals, for example, specialist teachers, youth workers or sexual health practitioners.
3. **The Department for Education** should rename 'sex and relationships education' (SRE) to 'relationships and sex education' (RSE) to place emphasis on the importance of developing healthy, positive, respectful relationships.
4. The Government, in partnership with internet service providers, should embark on a national awareness-raising campaign, underpinned by further research, to better inform parents, professionals and the public at large about the content of pornography and young people's access of, and exposure to such content. This should include a message to parents about their responsibilities affording both children and young people greater protection and generating a wider debate about the nature of pornography in the 21st century and its potential impact.
5. Through the commitments made to better protect girls and young women from gender-based violence in the ending violence against women and girls action plan, the **Home Office** and the **Department for Education** should commission further research into the safeguarding implications of exposure and/or access to pornography on children and young people, particularly in relation to their experiences of teenage relationship abuse and peer exploitation.
6. **The Home Office** should incorporate the findings of this report into the ongoing teen abuse campaign. Future activity on this workstream should reflect young people's exposure to violent sexualised imagery within their peer groups and relationships.

Recommendation to the Youth Justice Board

7. The **Youth Justice Board** should include questions on exposure and access to pornography within the revised ASSET assessment tool, to better inform

understanding of possible associations with attitudes and behaviour and improve the targeting of interventions for young people displaying violent, or sexually harmful, behaviours.

The Government's formal response to these findings and recommendations is forthcoming. The UNComRC could consider asking the UK Government about its views on them, and progress made on implementing those recommendations that the Government accepts.

**Office of the Children's Commissioner
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