



Children and Families: Safer from Sexual Crime

The Sexual Offences Act 2003



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The Sexual Offences Act 2003 provides a clear, modern framework to protect the public from sexual crimes. This leaflet sets out the main laws designed to protect children and families.

Further leaflets in this series cover the laws designed to protect adults, and the laws which affect those who work with children or with people with mental disorders. These leaflets are::

Adults: Safer from Sexual Crime

Working within the Sexual Offences Act

For further information, visit:

www.homeoffice.gov.uk/crime/sexualoffences/legislation/act.html

Sexual offences: putting children first

Sexual offences against children are terrible crimes, with a profound, damaging and long-term impact on the lives of victims and their families.

The public, rightly, wants to ensure that children have the best possible protection from sexual abuse.

The Sexual Offences Act is the first major overhaul of sexual offences legislation for more than a century. At its heart is a series of important new measures specifically designed to give better protection to children and families and to put the needs of victims first.

The new legal framework

The Sexual Offences Act sets out a clear new legal framework to protect children of all ages from sexual abuse. It contains a whole series of new and updated offences, with tough sentences, alongside closer monitoring of sex offenders.

The Act plugs previous loopholes in the law, sets clear limits and boundaries about behaviour with children, and reflects what we know today about the patterns and impact of sexual abuse in childhood. It is designed to meet the 21st century challenges of protecting children, and applies to issues such as Internet pornography and 'grooming' children for abuse. It also sets out new and updated laws on the sexual exploitation of children through prostitution and pornography.

Acknowledging that children are also at risk from people in positions of trust, and within families, it provides new legislation against abuse by people who work with children, and updates the laws on sexual abuse within families.

All of these measures are designed to provide a clear and effective set of laws – setting strong standards to deter and punish abusers, giving the police and the courts the up-to-date offences they need to do their job, and ensuring that children have the strongest possible protection under the law.

The new laws: protecting children

Under the new law, the legal age for young people to consent to have sex is still 16, whether they are straight, gay or bisexual.

The aim of the law is to protect the rights and interests of young people, and make it easier to prosecute people who pressure or force others into having sex they don't want.

Although the age of consent remains at 16, the law is not intended to prosecute mutually agreed teenage sexual activity between two young people of a similar age, unless it involves abuse or exploitation.

Under the Sexual Offences Act young people still have the right to confidential advice on contraception, condoms, pregnancy and abortion, even if they are under 16.

It is important to realise that it can take a long time for people to identify what happened to them in childhood as sexual abuse. The law takes account of this, so offences which took place in the past can still be prosecuted. In these cases, the offender will be prosecuted under the law which was in force at the time when the offence took place.

As well as the laws in the Sexual Offences Act which are specifically designed to protect children, in crimes where the victim does not consent – such as rape and sexual assault – the general laws on these offences can also be applied. For details on these offences, see the separate leaflet in this series, *Adults: Safer from Sexual Crime*.

Protecting under 13s

The Sexual Offences Act sets out important new laws to give children under 13 the extra protection they need from sexual abuse, and set the maximum penalties for abusers. These laws apply to children who have not yet reached their 13th birthday – i.e. those who are aged 12 and under.

The law now makes it clear that sexual activity with a child under 13 is never acceptable, and that – regardless of the circumstances – children of this age can never legally give their consent.

All penetrative sex (including penetration of the mouth) of a child under 13 will be automatically classified as rape, with a maximum penalty of life in prison.

Other offences include assault by penetration (with an object or part of the body), sexual assault (any kind of sexual touching), and causing or inciting a child to engage in sexual activity (this could include making a child strip, or promising them rewards for sexual behaviour). When any of these offences involve under 13s, they can be charged as specific crimes, with tougher sentences. Assault by penetration has a maximum penalty of life in prison; sexual assault and causing or inciting a child under 13 to engage in sexual activity both have maximum penalties of 14 years in prison.

Further detail on these types of offence is given overleaf, in the section dealing with under 16s.

Protecting under 16s

Children under 16 need extra protection from sexual abuse, and the laws in the Sexual Offences Act carry heavy penalties for these offences

At the same time, it is important that parents, or professionals who are working to protect a child or young person, are not worried about being prosecuted when they are doing things such as providing advice on issues like sex education or contraception. Recognising this, the Act carries exceptions to certain offences – such as ‘arranging or facilitating a child sex offence’ – to make sure that people who are acting to protect a child’s health or well-being are not liable to prosecution.

The following offences apply where the offender is aged 18 or over. Where sexual activity takes place between someone below the age of 18 and someone under 16, there are similar offences but these carry a lower maximum penalty.

Sexual activity with a child

This law covers all intercourse, other than penetration or sexual touching of a child. It includes sexual touching of any part of their body, clothed or unclothed, either with your body or with an object. The maximum sentence is 14 years in prison. It is not intended to prosecute two young people of a similar age for engaging in mutually agreed teenage sexual activity, unless it involves abuse or exploitation.

Causing or inciting a child to engage in sexual activity

This covers causing or persuading a child to engage in any sexual activity, including sexual acts with someone else, or making a child strip or masturbate. This offence applies where someone has incited a child to engage in sex even if the intended sexual activity does not take place. The maximum sentence is 14 years in prison.

Engaging in sexual activity in the presence of a child

Under this law, it is an offence to intentionally engage in sexual activity when you know that you can be seen by a child, or you believe or intend that they can see you, and where you do this in order to get sexual gratification from the fact that they may be watching you.

Causing a child to watch a sexual act

This makes it an offence to intentionally cause a child to watch someone else taking part in sexual activity – including looking at images such as videos, photos, or webcams – for the purpose of your own sexual gratification.

Under 16s (continued)

Meeting a child following sexual grooming

Under this important new law, if you are over 18 and have communicated with a child under 16 at least twice (including communication by phone or Internet) it is an offence to meet them, or travel to meet them, anywhere in the world with the intention of committing one of the offences above.

Arranging or facilitating a child sex offence

This makes it an offence to knowingly arrange or carry out an action in any part of the world which will lead to one of the offences above being committed. It could include requesting someone to procure a child (in the UK or abroad), or giving someone else permission to use your house, if you believe that the intention is for sexual activity to take place.

Protecting under 18s

Even though the age of consent is 16, there are a number of situations where it is important to protect 16 to 18 year-olds, as well as younger children, from abuse.

Indecent photographs

Under the Protection of Children Act it is already an offence to take, make, permit to take, distribute, show, possess with intent to distribute, or to advertise, indecent photographs of under 16s. The Sexual Offences Act now extends the age limit so that this offence also applies to images of 16 and 17 year-olds. This offence does not apply where the parties are married or living together in an enduring relationship, consent was given, and no one else is shown in the photograph.

Abuse of children through prostitution or pornography

The Act sets out a series of new offences, with heavy sentences, covering child prostitution and pornography. The offences include: paying for the sexual services of a child (payment can be in cash or in goods or services, including drugs or waiving of debts); causing or inciting a child into prostitution or pornography in any part of the world; controlling a child involved in prostitution or pornography; and arranging or facilitating child prostitution or pornography. 'Paying for the sexual services of a child' is the first prostitution offence which criminalises the buying of sexual services.

Abuse of positions of trust

This part of the Act extends existing legislation which applies to people who work with children in places like schools, youth services, care homes, the health service and the criminal justice system. Under these laws, young people under 18 (and also people with learning disabilities or mental disorders) are protected from abuse by people in positions of trust. A separate leaflet in this series, *Working Within the Sexual Offences Act*, gives more detail on these offences.

Protecting under 18s (continued)

Under 18s: offences by family members

Most sexual abuse of children takes place within the home, or by people who know the child or their family. It is very important that the law properly protects children from abuse by people who are close to them, including those people who are supposed to love and care for them.

In order to reflect today's changing family structures, the Sexual Offences Act has widened the definition of 'family'. As well as blood relations, such as parents, grandparents, brothers, sisters, half-brothers and half-sisters, uncles and aunts, the Act covers wider family members who are, or have been, living in the same household. This includes foster parents and foster siblings, step-parents, cousins, step-brothers and step-sisters. People who regularly care for a child and live in their household – such as a lodger who regularly babysits – are also included under the definition of family during the time they live in the household.

Again, the laws in this section apply where the child is under 18, and they can be enforced even if a child appears to give their consent. Importantly, these laws also apply if the offender is under 18, although maximum sentences are shorter.

Sexual activity with a child family member

This offence covers all intentional sexual touching and physical contact, including sexual intercourse.

Inciting a child family member to engage in sexual activity

This offence covers inciting or persuading a child family member to take part in sexual activity, such as sexually touching an abuser. The intended sexual act itself does not need to have happened for a charge to be brought.

Sex between adult relatives

A separate section of the Act deals with sex between adult relatives. These laws make sexual penetration - and consenting to sexual penetration - an offence between adult blood relatives.

Sex offenders

Part 2 of the Sexual Offences Act will improve the ways the police and courts monitor convicted sex offenders, and help keep the public safe from re-offending. The sex offenders register, under which people who have committed a sexual crime must register their name and address with the police, has been tightened up in key areas.

Previously, offenders had to notify any change to their name or address within 14 days. Now, they must notify changes within 3 days. If an offender stays at an address other than their home for 7 days or more – whether that is 7 days in a row or 7 days in any 12 month period – they will also have to notify the police.

All offenders on the register will have to notify the police when they intend to spend 3 or more days overseas, and for the first time, convicted sex offenders visiting from abroad will be made subject to the same notification requirements as UK offenders on the register. There is also a new foreign travel order, which can ban people who have committed an offence against a child from travelling abroad where there is a risk of serious sexual harm to children overseas. This will be an important tool in the fight against sex tourism.

The Act also contains sexual offences prevention orders, which allow the courts to impose prohibitions on sexual and violent offenders who pose a risk of serious sexual harm. This could prevent a child sex offender from doing things like visiting children's playgrounds or swimming baths. There is also a new risk of sexual harm order, which can prevent anyone from sexually explicit conduct or communication – such as sending a child indecent text messages, pornography or emails – if they have carried out such conduct or communication on at least two occasions in the past. There is also a new requirement for offenders on the register to confirm their details every year. Each time an offender notifies or confirms their details, the police have the power to take their fingerprints and photograph. Offenders must now also provide the police with their national insurance numbers.

Failure to comply with any of the requirements explained above is a crime. The maximum punishment is 5 years in prison.

Keeping children safe

As a parent or carer, keeping your child safe from sexual abuse can feel like a daunting task. Balancing their need for independence and privacy, and their need to be protected – as well as your own worries and fears – is not always easy.

However, there are important steps that you can take – both practical steps, and steps towards building trust and communication – that can help minimise some of the risks.

Your relationship

Your relationship with your child is the cornerstone of their protection against sexual abuse and exploitation.

- Make sure your child knows you can tell them anything and that you will always listen and be supportive.
- From the time they start to ask questions, try to talk openly with your child about relationships and sex and help them to understand and express their feelings. Teach them to be proud of their bodies and to understand that their bodies belong to them and no one else. Use proper names for sex and body parts. Talk to them about what they think is 'safe' or 'comfortable' behaviour, or touching.
- When you are talking about safety, be as specific as possible. "Be careful" is too general.
- Teach your child that no one, not even a close relative, has the right to make them do anything, or touch them, in a way that makes them feel uncomfortable.
- Teach your child that it is OK to say, "No, get away", and to tell you or another trusted adult about the incident.
- If your child is a victim of sexual abuse, listen and provide safety. Take whatever steps are necessary to prevent further abuse. Report the abuse to a child protection agency or the police straight away.

The NSPCC website contains more advice on protecting your child from sexual abuse, and what to do if they tell you that they have been abused. Visit: www.nspcc.org.uk/html/Home/Needadvice/protectingchildrenfromsexualabuse.htm

Keeping children safe (continued)

In the home

Research shows that most sexual abuse of children is carried out by someone they know, including relatives and friends of the family.

- Don't force children to kiss, hug or sit on people's laps if they don't want to. This gives them control and teaches them that they have the right to say "no".
- Talk about what "secrets" mean in the family. Teach them that adults should not ask children to keep secrets about things they do together. Discuss the difference between a "good" secret and a "bad" one.

For further information, and a downloadable booklet on protecting children at home, visit:

www.nspcc.org.uk/html/Home/Needadvice/protectingchildrenfromsexualabuse.htm

In the community

- Always know where your child is, who they are with, and when they will come home.
- Get to know the adults in your community who spend time with your children, or are found in places where they spend time. Don't allow children to spend time unsupervised with anyone you don't completely trust.
- Pay attention if an adult wants to create a separate special relationship with your child.

For further information, and a downloadable booklet on protecting children in the community, visit:

www.nspcc.org.uk/html/Home/Needadvice/protectingchildrenfromsexualabuse.htm

Cyber safety

- Try to learn about email, the Internet and chatrooms yourself and take an interest in your child's time online.
- Spend time online with your child and keep watch on their time online.
- Choose an Internet Service Provider (ISP) offering parental control features, and think about getting software that filters the material coming into your computer. But remember, the best filter is your child's brain – teach them about material which is exploitative or pornographic and how to respond so they feel safe online.

For further information for adults and children, and a downloadable booklet for parents on Internet safety, visit www.thinkuknow.co.uk.

Help and support

Brook

Helpline and online enquiry service with free, confidential sexual health advice and contraception to young people up to the age of 25.

Helpline 0800 0185 023

www.brook.org.uk

Childline

Free, confidential 24-hour helpline for children and young people with any kind of problem. Website has materials for children about child abuse.

Helpline 0800 1111

www.childline.org.uk

Childwatch

Helpline and counselling for children, as well as adults, who have been abused in childhood.

Helpline 01482 325 552

www.childwatch.org.uk

CJS Online

Website with information about the criminal justice system, including an interactive 'virtual walkthrough' for victims of crime, to explore what happens when you proceed with a criminal case.

www.cjsonline.gov.uk

Family Matters

Helpline (UK-wide) and counselling (in the South East) for survivors of sexual abuse – adults and children over eight years old.

Helpline 01474 536661

www.charitynet.org/~family-matters

National Association for People Abused in Childhood

Support by post, telephone and in local groups for adults who were abused as children.

Helpline 0800 085 33 30

www.napac.org.uk

NSPCC

Child Protection Helpline giving information, advice and counselling to anyone concerned about a child's safety, plus online materials about child sexual abuse.

Child Protection Helpline 0808 800 5000

www.nspcc.org.uk

Parentline Plus

Charity offering support to anyone parenting a child – including advice on talking to your child about sex and relationships.

Helpline 0808 800 2222

www.parentlineplus.org.uk

Rape and Sexual Abuse Support Centre

Support by telephone and post, and a counselling service, for women and girls who have been raped or sexually abused. Also provide a referral service for male survivors of abuse.

Helpline 020 8683 3300 (minicom: 0208 239 1124)

www.rasasc.org.uk

Sex Education Forum

Information for professionals on sex and relationships. Website contains downloadable factsheets.

Information Line 020 7843 1901

www.ncb.org.uk/sef

Sexwise

Free, confidential advice on sex, relationships and contraception for anyone aged under 18.

Helpline 0800 28 29 30

www.ruthinking.co.uk

Survivors UK

Support, counselling and local groups for male survivors of any kind of sexual violence or rape, plus training for professionals.

Helpline 0845 1221201

www.survivorsuk.org.uk

The Survivors Trust

An umbrella group which provides links to over 70 member organisations working with victims of sexual crime (including childhood abuse).

Helpline 01788 551150

Victim Support

Free, confidential support to help anyone deal with an experience of crime, whether or not they go to the police.

Victim Supportline 0845 30 30 900

www.victimsupport.org.uk

www.thinkuknow.co.uk

Website with information for adults and children about staying safe online.