
CHILDREN AND YOUNG PEOPLE AFFECTED BY CRIME

OVERVIEW OF AREAS

Children and young people disproportionately experience more crime than adults and are significantly over-represented in the most serious crime statistics.¹ Their experience of crime can be distinct from that of adults due to their maturity levels and vulnerability and can have a substantial impact on their health and vulnerability.

VS has identified a number of areas of policy that need to be addressed to improve the safety and wellbeing of children and young people. These aim to ensure that those who do experience crime know how to report and access the right support, are treated with care and respect, can navigate the criminal justice system as painlessly as is possible and are able to receive the redress they deserve.

These areas include:

- Increasing understanding of crime and how to report;
- Improving the experience of children in court and giving them more options on how they give evidence;
- Ensuring access to pre-trial therapy is facilitated if needed;
- Receiving the financial reparations and formal recognition they deserve from the statutory Criminal Injuries Compensation Scheme;
- Ensuring that effective preventative and support strategies are in place to deal with healthy relationships and domestic abuse;
- Tackling female genital mutilation;
- Ensuring that all children have access to age appropriate and effective education covering issues such as consent, healthy relationships and crime;
- Effectively supporting adults abused in childhood.

This is not an exhaustive list.

KEY STATISTICS

The Crime Survey for England and Wales produces estimate of crimes experienced by children aged 10 to 15. The most recent survey found that:

- 10% of children were victims of at least one crime last year.
- 652,000 crimes were experienced by children.
- 45% of crimes experienced were violent crime.
- 41% of crimes experienced by children last year were theft of personal property.

¹ <https://www.victimsupport.org.uk/sites/default/files/You%20%26%20Co%20-%20Getting%20it%20right%20for%20young%20victims%20and%20witnesses.pdf>

The Children’s Commissioner estimates that 1.3 million children currently living in England will have been a victim of contact sexual abuse by the time they turn 18.² The Commissioner also estimates that only one in eight victims will come to the attention of statutory agencies, while one third of victims only became aware they had been abused when they reached adulthood.

It is estimated that 11% of adult women were victims of sexual assault during childhood and that 9% of adults experienced psychological abuse, 7% experienced physical abuse and 8% witnessed domestic violence or abuse in their home.³ Only 26% of rape survivors told anyone about the abuse at the time, with being embarrassed and fear of not being believed cited as the two most common reasons for not reporting.⁴

INCREASING REPORTING AND UNDERSTANDING OF CRIME

Overview of issue and how it affects victims

Children and young people don’t always know what constitutes a crime and how to report it, and many do not realise that they can access support and redress. This is particularly true where forms of criminal behaviour have been normalised within a peer group or a community, or when grooming by another individual is a factor. Children and young people also don’t always know how to report experiences of victimisation; teachers are the professionals children are most likely to tell but they and other professionals often lack confidence about how to recognise and respond to reports of children’s victimisation.⁵ The fact that much of the crime affecting children and young people occurs in contexts where perpetrators are known to the victim (such as school) significantly reduces the likelihood of a victim choosing to report a crime.⁶

There is also evidence that children and young people fear the repercussions of reporting. Research has found that children identify a range of risks associated with reporting crime including reputational damage, implications for their family and fears of significant physical reprisal.⁷

In addition, children and young people may blame themselves for victimisation, falsely assuming responsibility for their experiences. Where children and young people feel in any way responsible for their victimisation they are unlikely to report these experiences or seek support.⁸

²https://www.childrenscommissioner.gov.uk/sites/default/files/publications/Protecting%20children%20from%20harm%20-%20executive%20summary_0.pdf

³ <https://www.victimsupport.org.uk/sites/default/files/Suffering%20in%20silence%20-%20Children%20and%20unreported%20crime.pdf>

⁴<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/abuseduringchildhood/findingsfromtheyearendingmarch2016crimesurveyforenglandandwales>

⁵ <https://www.victimsupport.org.uk/sites/default/files/Suffering%20in%20silence%20-%20Children%20and%20unreported%20crime.pdf>

⁶ <https://www.victimsupport.org.uk/sites/default/files/Suffering%20in%20silence%20-%20Children%20and%20unreported%20crime.pdf>

⁷ <https://www.victimsupport.org.uk/sites/default/files/Suffering%20in%20silence%20-%20Children%20and%20unreported%20crime.pdf>

⁸ <https://www.victimsupport.org.uk/sites/default/files/Suffering%20in%20silence%20-%20Children%20and%20unreported%20crime.pdf>

This lack of understanding can have a serious impact on children and young people. Not being equipped with this knowledge means that many have to deal with their experience alone and not seeking necessary support available to them. Not reporting also means that they be unable to make the offending behaviour stop, or to seek justice and redress for their suffering.

What are the government and criminal justice agencies doing?

In 2016 the Government consulted on introducing a mandatory reporting regime. The proposals included introducing two statutory measures to increase the reporting of child abuse: 1) a mandatory reporting duty, which would require certain practitioners or organisations to report child abuse or neglect if they knew or had reasonable cause to suspect it was taking place; and 2) a duty to act, which would require certain practitioners or organisations to take appropriate action in relation to child abuse or neglect if they knew or had reasonable cause to suspect it was taking place.⁹

The Government pointed to evidence that suggested the introduction of mandatory reporting in other countries, such as Australia, led to an increase in reporting rates. However in March 2018 mandatory reporting plans were dropped by the Government as “the evidence and submissions received through the consultation has not demonstrated conclusively that the introduction of a mandatory reporting duty or a duty to act improves outcomes for children.”¹⁰

The response to the consultation also stated that steps will be taken to “ensure there is strong awareness of the risks and need to report abuse”. These include make relationships and sex education mandatory in all schools, launching a phase of a communications campaign and targeting support for areas where abuse concerns are emerging, such as in sport.¹¹

Victim Support’s position

All children and young people should have access to age appropriate, exemplary education addressing issues of crime and victimisation.

This should be part of a whole school approach to safeguarding and wellbeing that also includes ‘skilling up’ teachers and parents and carers to identify children at risk and equipping them with the tools to effectively intervene and safeguard children. This must be wide in scope and include appropriate education on issues such as consent, domestic abuse, online abuse and bullying. This will improve children’s knowledge and understanding of crime and victimisation and equip them with the skills to know how to report, make safer choices and develop coping strategies.

All police should be trained on respectful and age-appropriate communication and engagement with children and young people in any context.

⁹ <https://www.gov.uk/government/consultations/reporting-and-acting-on-child-abuse-and-neglect>

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685465/Reporting_and_acting_on_child_abuse_and_neglect_-_response_to_consultati....pdf

¹¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685465/Reporting_and_acting_on_child_abuse_and_neglect_-_response_to_consultati....pdf

It is critical that the police prioritise improving their ability to respond to young people in any context in a way which heightens trust and understanding for their role.

Professional bodies, such as those that cover health, education and social care, should ensure that all staff working directly with children and young people are trained and supported to identify signs and respond to disclosures (direct or otherwise) of children's victimisation.

Training professionals who work directly with children and young people to identify risk and vulnerability will ensure that more victimisation is identified and more young people supported and protected. This does not necessarily have to mean introducing a mandatory reporting duty.

IMPROVING SUPPORT IN COURT

Overview of issue and how it affects victims

Pursuing a crime through the criminal justice system (CJS) can bring great benefits to victims and witnesses; it can provide validation and recognition of their experience, give them a voice and allow them to seek justice, safety and protection.¹² However, going to court can be a traumatic and stressful experience for children and in some cases facing the perpetrator in court and remembering details of the crime can lead to 'secondary victimisation'.¹³

Victim Support research found that most witnesses are "very anxious" about going to court. They find it to be an unknown and intimidating environment, worry about coming face to face with defendants and fear possible reprisals for giving evidence.¹⁴ 45% of child witnesses encounter the defendant in the court building or while entering or leaving, and many report these encounters to be "extremely distressing".^{15 16}

One study found that over three-quarters of children feel anxious about giving evidence, and many experience stress symptoms and report that their education has been affected as a result.¹⁷ Research with the Witness Service also found that vulnerable and intimidated witnesses (including children) felt stressed and upset by cross examination and 71% of young witnesses who were cross examined said the experience had upset them.^{18 19} The court process and the language used can also be confusing for children and young people; 90% of witnesses under the age of 10 do not understand questions asked at court.²⁰

Due to the effect that going to court can have on children and young people, it is important that they have access to support and measures to improve their experience.

¹² Radcliffe et al (2016)

¹³ Parsons and Bergin (2010)

¹⁴ <https://www.victimsupport.org.uk/sites/default/files/Out%20of%20the%20shadows%20report.pdf>

¹⁵ [http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579\(1\).pdf](http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579(1).pdf)

¹⁶ Radcliffe et al (2016)

¹⁷ [http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579\(1\).pdf](http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579(1).pdf)

¹⁸ Burton et al. (2006)

¹⁹ Hamlyn et al. (2004)

²⁰ Plotnikoff and Woolfson (2009)

In accordance with the Victims' Code, children under 18 years of age should be automatically assessed as vulnerable and therefore be entitled to special measures at court, such as giving evidence via video link or from behind a screen.²¹ However, criminal justice agencies do not always recognise vulnerability and children are not always assessed as vulnerable and referred to support agencies in advance.^{22 23 24} HMIC also found evidence of the police not adequately working with the Crown Prosecution Service (CPS) to provide special measures for vulnerable victims.²⁵

If children are not automatically being assessed as vulnerable then they may be missing out on the measures that provide assistance, information and support in court, such being able to pre-record their cross examination or give evidence via live link.

There is also a presumption that all child witnesses will give their evidence in a certain way: CPS guidance states that all child witnesses should give their evidence first by recorded interview and then give any further evidence by live link, however some children may want their 'day in court'.²⁶ Children may opt out of this process of giving evidence, subject to the agreement of the court, but as this is the 'default' option.

Registered Intermediaries (RIs) are specialist communications experts that provide communication support to help children give evidence and can protect children from inappropriate cross examination, requested by the police or CPS. However, despite recent progress on the availability of RIs (see below) the number of children matched with RIs remains low: last year 2,977 children were matched with an RI, while the NSPCC states that 21,000 children a year give evidence in court.^{27 28}

Additionally, long waits for the case to come to trial and delays and waits on the day of trial can be "extremely stressful and inconvenient" for child victims and many victims report that they are unable to move on from the crime until the resolution of the case.^{29 30} Although cases involving child witnesses should be prioritised in court listing and scheduling victims do face delays and long waits for justice. For the last five years, only around a third of trials in the Crown Court went ahead as planned on the day they were due to start and currently one in four cases are withdrawn on the day they are due to start.³¹

What are the government and criminal justice agencies doing?

²¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF

²² <https://www.justiceinspectorates.gov.uk/cjji/wp-content/uploads/sites/2/2015/12/meeting-the-needs-of-victims-in-the-criminal-justice-system.pdf>

²³ <http://www.justiceinspectorates.gov.uk/hmic/wp-content/uploads/vulnerability-in-criminal-case-files.pdf>

²⁴ (Pet 163; 888; 343).

²⁵ <http://www.justiceinspectorates.gov.uk/hmic/wp-content/uploads/police-effectiveness-vulnerability-2015.pdf>

²⁶ http://www.cps.gov.uk/legal/s_to_u/special_measures/#a05

²⁷ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-11-01/51350/>

²⁸ <https://nspccorderincourt.wordpress.com/category/registered-intermediaries/>

²⁹ Radcliffe et al (2016)

³⁰ <https://www.victimsupport.org.uk/sites/default/files/Victim%20Support%20Waiting%20for%20Justice%20report.pdf>

³¹ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmpublic/72/72.pdf>

Sections 16-33 of the Youth and Criminal Justice Act 1999 set out that all child witnesses (and other vulnerable witnesses) are eligible for special measures in court.³² The statutory Victims' Code also states that victims who were under the age of 18 when the offence took place are entitled to request special measures, including: to give evidence via a live video link; to give evidence from behind a screen so the witness does not have to see the defendant; and for judges, defence and prosecution advocates to remove their wigs and gowns.³³

Having recently piloted pre-trial cross examination - allowing vulnerable witnesses to pre-record their evidence ahead of the trial taking place (Section 28) - the Government announced in 2016 that it will be rolling this out nationally.³⁴ In their 2017 general election manifesto, the Conservative Party stated that: "we will ensure that child victims and victims of sexual violence are able to be cross-examined before their trial without the distress of having to appear in court".³⁵

In November 2017 Justice Minister Sam Gyimah announced to the House of Commons that: "We are rolling out pre-recorded cross-examination for vulnerable witnesses in the Crown Court, which will enable witnesses to participate in the trial at an early stage. This measure will be tested in three Crown Court centres, initially for intimidated witnesses who are victims of sexual offences and modern slavery offences." A Courts Bill was also announced in the 2017 Queen's Speech.³⁶

While in some cases children and young people are able to give evidence away from the court building, there are currently 21 video live link sites in England and Wales allowing them to do so live. This is fewer than one for every two police force areas.³⁷

The government states that they have doubled the number of Registered Intermediaries (RIs) since 2015.³⁸ The number of requests made for RIs have increased by 365% since 2010 (from 1206 to 5503) and in 2016 93% of requests for RIs from witnesses under the age of 18 were matched.³⁹ However, the number of children watched to an RI still remains proportionally very low.

In addition to RIs, the UK's first two Child Houses for young victims of sexual abuse will launch in London in 2017, run by MOPAC and NHS England using Home Office funding. The Child Houses will provide multi-agency, long term support and advocacy under one roof for children. Engagement with the CJS and the courts are embedded in the service with court evidence provided via video link.⁴⁰

³² http://www.cps.gov.uk/legal/s_to_u/special_measures/

³³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF

³⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553261/joint-vision-statement.pdf

³⁵ https://issuu.com/conservativeparty/docs/ge2017_manifesto_a5_digital/1?ff=true&e=16696947/48955343

³⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/620838/Queens_speech_2017_background_notes.pdf

³⁷ Statistic from an FOI received from HMCTS on 5/01/2017

³⁸ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-11-01/51360/>

³⁹ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-11-01/51350/>

⁴⁰ <https://www.london.gov.uk/press-releases/mayoral/uks-first-child-houses-to-launch>

More generally, the Government has promised: “A more efficient criminal justice system process which tackles the causes of delay between a child sexual abuse offence being reported and a decision being taken on whether to charge.”⁴¹ This process includes a review of protocol between the CPS, police and HMCTS.

Victim Support’s position

No child should be obliged to enter a court building to give evidence

Even with the increased use of video link and pre-recorded cross examination, court buildings are not suitable places to expect children to give their best evidence. Alternative provision should be made so that every child that wants to, can give evidence from venues wholly separate from the court building. Every police force area should establish at least one ‘safe space’ where children can give evidence remotely.

Enhanced practical and emotional support at court should be available for child witnesses

Children and young people should be entitled to enhanced support at court to provide them with a comprehensive understanding of the court system, tailored help to develop coping strategies and identify the most appropriate special measures, and post-trial support to help them to cope and recover.

Children and young people should have more choice over how they give evidence

Currently there is a presumption that all child witnesses should give evidence in a particular way. VS believes that children should be able to give evidence in a way that is tailored to their individual, specific needs, rather than being provided with a default option. Child witnesses and their parents or guardians should be fully informed about the CJS and special measures available to them, allowing them to make an informed and personal decision about how to proceed. This should include the option to combine special measures if they chose, for example by giving evidence via a live link with the defendant screened so they cannot see the witness.

VS supports the national roll out of pre-trial cross examination for vulnerable and child witnesses

Pre-recorded cross examination is an important tool for helping vulnerable witnesses to give their best evidence in court and these measures should ensure that vulnerable witnesses are spared the ordeal of giving evidence in open court. The pilots of pre-trial cross examination resulted in witnesses giving evidence earlier, improved quality of evidence and a less stressful and traumatic experience (although the process was still difficult and unsettling).⁴² However, the option of pre-recorded cross examination should be given as a choice as some witnesses identified as vulnerable may want their day in court and if so this should be facilitated.

⁴¹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592115/Tackling_child_sexual_exploitation_-_progress_report_web_.pdf

⁴²<https://www.gov.uk/government/publications/process-evaluation-of-pre-recorded-cross-examination-pilot-section-28>

The Government should further expand the number of Registered Intermediaries, building on recent progress

The use of Registered Intermediaries have been referred to as the CJS's "good news" story, assisting children and vulnerable adults, improving the quality of their evidence and opening up their access to justice.⁴³ The MoJ should build on the progress made since the introduction of RIs in 2003 and further expand the number and availability of RIs in England and Wales.

ENSURING ACCESS TO APPROPRIATE PRE-TRIAL THERAPY

Overview of issue and how it affects victims

There are strong links between victimisation and mental health problems, particularly for survivors of child sexual abuse (CSA). Individuals who have experienced CSA are more likely to develop psychiatric disorders later in life - including PTSD, depression, anxiety and eating disorders - irrespective of gender or how old they were when the abuse occurred.⁴⁴ 50% of female rape victims develop PTSD and sexual abuse can lead to anxiety, depression, suicide attempts, PTSD, sleep disorders and eating disorders.^{45 46}

It is clear that victims of crime, and in particular victims of sexual abuse, can benefit from therapy. However, there are concerns among some criminal justice agencies that inappropriate pre-trial therapy can lead to the victim's evidence being tainted and the prosecution lost. The CPS states: "the key issue with regard to pre-trial discussions of any kind is the potential effect on the reliability, actual or perceived, of the evidence of the witness and the weight which will be given to it in court. Pre-trial discussions may lead to allegations of coaching and, ultimately, the failure of the criminal case."⁴⁷

While the CPS makes this assertion, the decision to undertake therapy pre-trial is the decision of the victim and their parent/guardian/carer alone. The availability and facilitation of pre-trial therapy is a key right under the Victims' Code which places an obligation on the police or any other service provider acting as the main point of contact in the case to inform child victims "that pre-trial therapy is available if needed, and, if requested, will be facilitated".⁴⁸ CPS, College of Policing and Achieving Best Evidence guidelines all state that criminal justice agencies cannot prevent children from accessing pre-trial therapy and that the "best interests of the child are the paramount consideration in decisions about the provision of therapy".^{49 50 51}

Despite clear guidance to the contrary, there is a substantial body of evidence that victims are being advised by criminal justice agencies not to undertake pre-trial therapy, or are

⁴³ Plotnikoff and Woolfson (2014)

⁴⁴ Sneddon et al (2016)

⁴⁵ Rothbaum et al (1992)

⁴⁶ Chen et al (2010)

⁴⁷ <https://www.cps.gov.uk/publications/prosecution/pretrialadult.html>

⁴⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF

⁴⁹ <https://www.cps.gov.uk/publications/prosecution/therapychild.html>

⁵⁰ <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/child-abuse/further-investigation/#pre-trial-therapy-and-counselling>

⁵¹ http://www.cps.gov.uk/publications/docs/best_evidence_in_criminal_proceedings.pdf

being flatly denied it.^{52 53 54 55 56} This means that many victims are unjustly denied much needed psychological support and is in spite of research showing that young witnesses receiving appropriate pre-trial therapy or counselling are better prepared to go to court.⁵⁷ Research also shows that many of those who wait until after trial to access therapy believe support post-trial is too late.⁵⁸

As well as the (illegitimate) barrier placed by criminal justice agencies on accessing support, victims face other problems when attempting to receive pre-trial therapy. First, the provision and availability of mental health services varies by geographical area, meaning that in some areas it can take a long time to receive any counselling or therapy. The average waiting time between referral and assessment by local Child and Adolescent Mental Health Services ranges from one week in some areas of England to over six months in others.⁵⁹

Second, therapists who work with children before a criminal trial will be aware that their work could potentially prevent the child from securing justice and that providing therapy could undermine the credibility of the child at trial. The CPS also requires that records of the therapy, including notes and video recordings, be maintained so that they can be presented to the court if required, and thus professionals cannot guarantee full confidentiality to the victim.⁶⁰ These issues may result in many mental healthcare professionals being unwilling to deliver pre-trial therapy to victims pending trial, leading to a shortage of providers.⁶¹

What are the government and criminal justice agencies doing?

The CPS is currently reviewing its guidance on pre-trial therapy and the Government is committed to revising existing guidance to “make clear that the interests of the witness in criminal proceedings are paramount in ensuring there is access to therapy both before and after trial”.^{62 63}

Victim Support’s position

The NHS and criminal justice agencies should work together to ensure that appropriate pre-trial therapy is available for vulnerable child victims and will be facilitated if needed

Steps need to be taken to ensure that vulnerable child victims are able to receive appropriate pre-trial therapy.

⁵² Radcliffe et al (2016)

⁵³ https://www.beds.ac.uk/_data/assets/pdf_file/0011/461639/MakingJusticeWorkFullReport.pdf

⁵⁴ [http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579\(1\).pdf](http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579(1).pdf)

⁵⁵ Plotnikoff, and Woolfson (2004)

⁵⁶ PET case 233

⁵⁷ Campbell Research Associates (1992)

⁵⁸ [http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579\(1\).pdf](http://www.nuffieldfoundation.org/sites/default/files/measuring_up_report_wdf66579(1).pdf)

⁵⁹ <https://www.nspcc.org.uk/fighting-for-childhood/news-opinion/postcode-lottery-of-waiting-times-in-local-mental-health-services/>

⁶⁰ <https://www.cps.gov.uk/publications/prosecution/therapychild.html>

⁶¹ https://www.beds.ac.uk/_data/assets/pdf_file/0011/461639/MakingJusticeWorkFullReport.pdf

⁶²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/553335/process-evaluation-doc.pdf

⁶³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592115/Tackling_child_sexual_exploitation_-_progress_report_web_.pdf

Criminal justice agencies should report to the MoJ if they are meeting their obligations on pre-trial therapy under the Victims' Code

VS has strongly and consistently called for the Victims' Code to be monitored and enforced and is encouraged by recent steps taken by some criminal justice agencies to monitor compliance. Given the evidenced lack of compliance with the obligations relating to pre-trial therapy and the strong links between victimisation and mental health, VS believes that any monitoring and enforcement of the Code by the MoJ, PCCs or others should include this obligation.

UPDATING THE CRIMINAL INJURIES COMPENSATION SCHEME

Overview of issue and how it affects victims

Since 1964 British victims of crime have been able to access state funded compensation through the Criminal Injuries Compensation Scheme (CICS). VS believes that compensation makes a vital contribution to a victim's recovery, both in practical terms and as a formal recognition of the wrong that they have suffered. However, the current system is not working for child victims of crime, particularly those who fall victim to serious offences such as child sexual abuse.

There are four main issues that affect children: the definition of consent in sexual offence cases, the reduction of withdrawal of compensation for those with unspent criminal convictions, the 1979 rule and the time limits rule.

The CICS classifies sexual assault as a violent crime only in circumstances where a person did not 'in fact consent', despite the law being clear that where a person is under the age of 16 sexual activity is automatically criminal, unless the victim is over 13 and the defendant reasonably believed he or she was over 16. However, the CICS 'consent' rule means that even the very youngest of children can theoretically be denied compensation if there is any evidence to suggest they complied with their abuse, for example through fear or lack of understanding.

We have seen numerous cases in which compensation has been denied on the basis of apparent 'consent' from a child under 16 years. This includes truly egregious cases where vulnerable victims of child sexual exploitation, who have been subjected to prolonged and depraved acts of abuse, including rape, have been denied compensation because the Criminal Injuries Compensation Authority (CICA) has deemed them to have consented to the acts. This is despite the victims in question were not being of an age where they could legally consent and were manipulated and coerced by much older men. YouGov polling shows two thirds of people (66%) think the rules should be amended so a child cannot be found to have 'consented' to activities involved in their sexual exploitation.⁶⁴

The CICS dictates that victims will have awards withheld or reduced where they have **unspent criminal convictions**. In practice we find that this rule disproportionately affects the most vulnerable victims, including victims of child sexual abuse.

⁶⁴ <https://www.victimsupport.org.uk/more-us/news-and-blogs/sexually-abused-children-denied-compensation-cica>

The reasons for this are twofold; firstly, victims of child sexual abuse (and in particular sexual exploitation and grooming) are often targeted by their abusers largely because they are vulnerable, lack adequate support and supervision, and may be considered easier to manipulate.⁶⁵ Such victims are often from troubled backgrounds and may therefore for various reasons be more likely to have criminal convictions prior to the abuse taking place. Secondly, the fact of being abused in itself makes it more likely that a person will themselves go on to commit an offence - either as part of the abuse (and under the coercion of the abuser), or in reaction to the abuse.^{66 67 68}

Over the past five years 159 victims aged 16 or under have had an award for a sexual offence refused due to having unspent criminal convictions. During the same period 105 child victims of sexual offences had their compensation reduced due to this rule; in some cases they received an 80% reduction in compensation.⁶⁹

The ‘1979 rule’ or ‘same roof rule’ rule also prevents any victim who was living with their attacker as a member of the same family at the time of the assault from claiming compensation if the offence took place before 1st October 1979. The reason for this is that it was on this date that such claims became possible at all; prior to this, no victim who had lived with their attacker was eligible under any circumstances. This affects victims who were abused in childhood, where the abuse took place before 1979 and was perpetrated by a member of their own household. Figures obtained by VS show that 1,484 compensation claims have been rejected over the past ten years due to the ‘1979 rule’.⁷⁰

This rule has resulted in people from the same family, living in the same household and who have been abused by the same perpetrator being treated differently based on this arbitrary cut-off date. For instance, VS supported two sisters who were both sexually abused by their father. One sister was able to obtain compensation because the abuse occurred after 1 October 1979 while the other sister was denied compensation because the abuse took place after.

Time limits dictating how long after the offence victims are able to claim can be problematic for child victims and particularly so for victims of non-recent abuse. The Scheme requires that victims make an application within two years of the date of the incident. If the victim was a child at the time of the incident, they must make an application: 1) in the case of an incident reported to the police before the applicant’s 18th birthday, within the period ending on their 20th birthday; or b) in the case of an incident reported to the police on or after the applicant’s 18th birthday, within two years after the date of the first report to the police in respect of the incident. Applications can be made later than two years if the claims officer determines that “due to exceptional circumstances the applicant could not have applied earlier”.

These limits pose obvious problems. Firstly, in cases of child abuse the victim might not report to the police until many years, or even decades, later, far exceeding the two year limit. While there is the “exceptional circumstances” clause, this is at the discretion of the claims officer and victims may also have to go through a lengthy appeal process to

⁶⁵ <https://www.nspcc.org.uk/preventing-abuse/child-protection-system/case-reviews/learning/child-sexual-exploitation/>

⁶⁶ <https://www.victimsupport.org.uk/sites/default/files/Hoodie%20or%20goodie%20report.pdf>

⁶⁷ <http://www.aic.gov.au/publications/current%20series/tandi/421-440/tandi440.html>

⁶⁸ http://www.nctsn.org/sites/default/files/assets/pdfs/victimization_juvenile_offending.pdf

⁶⁹ FOI request received 30/11/2016

⁷⁰ FOI request received 8/12/2016

make their case. Secondly, many victims do not want to put in a CICA claim while the court case is ongoing and for many offences, particularly sexual offences, the time between the offence taking place and the end of trial can be longer than two years. It is not unreasonable for victims to want to wait to the end of the trial before making a claim, and some may feel that making a claim during trial is a distraction and gives the defence the ammunition to say that they only reported the incident because they wanted to receive compensation.

Victim Support is helping a number of CSA victims with CICA claims, including survivors of the Rotherham and Oxford grooming gangs. We have significant experience of seeing the ‘consent’, ‘previous convictions’, and ‘same roof rule’ first hand. VS staff and volunteers often report that victims feel that they have undergone secondary victimisation as a result of these rules, with victims being “left devastated by the decision of CICA”. The children affected have often suffered from the most devastating crimes on the statute book including rape and other sexual offences. To find that having come through their victimisation they are then denied or receive reduced compensation can be traumatic.

What are the government and criminal justice agencies doing?

The government reformed the Criminal Injuries Compensation Scheme in 2012 as part of its changes to victim and witness policy set out in ‘getting it right for victims and witnesses’.⁷¹ Among the changes made were the removal less serious injuries from the scheme and the altering of the guidelines so that the convictions of the deceased were no longer taken into account, except in exceptional circumstances. VS raised a number of our concerns during the consultation period and while these were noted they were not addressed.

As of April 2018 the Independent Inquiry into Child Sexual Abuse (IICSA) is examining the adequacy of awards made by CICA to victims and survivors of abuse.⁷² VS responded to their consultation in September 2016 outlining our concerns and VS will attend an IICSA seminar on the subject in February 2017. IICSA is due to make interim recommendations in 2018.

There have been attempts to have the ‘1979 rule’ declared unlawful, however these have proven unsuccessful. A Teeside law firm unsuccessfully took the case to an Upper Appeals Tribunal in 2015 where it was deemed that the rule “constituted a legitimate aim and that the retention of the rule was proportionate to that aim”.⁷³

A number of MPs have raised concerns with the rules governing the Criminal Injuries Compensation Scheme, including Conservative MP Iain Stewart⁷⁴ and Labour MP Sarah Champion.⁷⁵ In response to a Parliamentary debate led by Iain Stewart the Ministry of

⁷¹ <https://consult.justice.gov.uk/digital-communications/victims-witnesses/>

⁷² <https://www.iicsa.org.uk/investigations/reparations-for-victims-and-survivors-of-child-sexual-abuse>

⁷³ <http://www.bailii.org/cgi-bin/markup.cgi?doc=/uk/cases/UKUT/AAC/2015/478.html&query=JT+and+v+and+CICA&method=boolean>

⁷⁴ <https://www.parliament.uk/written-questions-answers-statements/written-question/commons/2016-04-20/904678>

⁷⁵ <https://hansard.parliament.uk/Commons/2017-09-05/debates/9887B2D7-C9BF-40E6-B617-BAA3F3319CE6/ChildSexAbuseCompensation#contribution-78BA1F15-46CB-4A9C-8551-BEAFD0D56186>

Justice stated that the compensation scheme would be looked at as part of the Government's victims' strategy, due to be published in the summer of 2018.⁷⁶

In July 2017 five organisations - Victim Support, Barnardo's, Liberty, Rape Crisis and the NWG - wrote to the Justice Secretary calling for reforms to the Criminal Injuries Compensation Scheme.⁷⁷ Following the letter, the Criminal Injuries Compensation Authority drew up fresh guidelines to "ensure that child victims of sexual abuse are not denied compensation on the mistaken grounds that they consented to a relationship".⁷⁸ Specialist training is being provided to CICA staff.

Victim Support's position

Children who have been subjected to sexual offences must receive the compensation they deserve and not be deemed to have 'complied' with their abuse.

The Scheme's definition of 'consent' needs to be updated to clearly state that grooming does not constitute consent. No child victim of sexual abuse should be denied compensation and told that they consented to the abuse that they endured. The Government has stated: "Cultural attitudes have shifted so that victims are no longer being blamed for their abuse."⁷⁹ The Scheme is in urgent need of updating to reflect this shift.

Unrelated unspent convictions for all but the most serious crimes should not be taken into account by the Scheme when dictating awards.

The scheme should be proportionate in its approach to compensation claims to prevent victims, including victims of child sexual abuse, from being denied compensation due to convictions for offences such as failing to pay their TV License fee. We believe the scheme should not take unspent criminal convictions into account when determining a compensation award unless the offence was for a serious crime as defined in the Code of Practice for Victims of Crime. The Code defines a serious crime as domestic violence, hate crime, terrorism, sexual offences, human trafficking, attempted murder, kidnap, false imprisonment, arson with intent to endanger life and wounding or causing grievous bodily harm with intent.⁸⁰ This change would reflect the vulnerability of some victims and the effect that crimes can have on children.

The CICS '1979 rule' should be abolished to reflect the true needs and rights of victims of non-recent abuse

⁷⁶ <https://hansard.parliament.uk/Commons/2017-11-23/debates/C81A68B2-0DD4-43B8-8F9A-BEF49B6373FA/SameRoofRuleFamilialSexualAbuseCases?highlight=alex%20mayes#contribution-B4EF5E29-7446-4988-AAA9-A3D9EB0DB84F>

⁷⁷ <https://www.victimsupport.org.uk/more-us/news-and-blogs/14-year-old-victim-sexual-abuse-denied-compensation-%E2%80%98consenting%E2%80%99>

⁷⁸ <https://www.theguardian.com/society/2017/oct/31/child-sexual-abuse-victims-to-be-granted-compensation-following-criticism>

⁷⁹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592115/Tackling_child_sexual_exploitation_-_progress_report_web_.pdf

⁸⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF

The '1979 rule' is damaging to victims and contrary to CICS's own statement of purpose to provide compensation to those suffering violent crime. Victims of abuse who were living with their attacker as part of the same family prior to 1979 should have the same rights to compensation as those who experienced abuse after this arbitrary date.

ADDRESSING THE EXPERIENCE OF DOMESTIC ABUSE

Overview of issue and how it affects victims

Children and young people can be affected by DA both as a child in abusive parental relationship and as a direct victim of partner abuse themselves.

Young people are more likely to **suffer partner abuse than** any other age range. 12.6% of women and 6.6% of men aged 16-19 experienced some form of domestic abuse last year; this compares with the average of 8.2% for women and 4% for men.⁸¹ Three quarters of girls aged 13-16 who are in a relationship experience emotional violence, a third experience sexual violence and a quarter experience physical violence.⁸² One in six girls experience severe violence. Boys also experience high levels of abuse within relationships, but the rates of victimisation are lower than those for girls. Half of boys experience emotional violence from their partner, 18% experience physical violence, and 16% experience sexual violence.⁸³

Another study found that 41% of girls and 14% experience some form of sexual violence from a partner. Many also experience coercion and 27% of girls stated that they had sent a sexual image or message as a result of pressure from their partner.⁸⁴

Violence in young people's relationships can lead to mental health issues, including suicide and depression.⁸⁵ A number of studies suggest that girls experience greater negative physical and psychological effects of abuse compared to boys.⁸⁶

However, there is a lack of quality education covering relevant issues around healthy relationships, domestic abuse and consent. PSHE is currently a non-statutory subject and sex and relationships education has a narrow remit and is not compulsory for two thirds of pupils.

One study estimates that a quarter of children experience at least one type of **domestic abuse during childhood**, and 5% of children and young people are exposed to severe domestic violence. Where the abuse is physical, children report men as the perpetrators in nearly all cases (96%). Where children have experienced domestic abuse in the family home, they are likely to have experienced it on a repeated basis.⁸⁷ The Crime Survey for

⁸¹<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2015/chapter4intimatepersonalviolenceandpartnerabuse#intimate-violence-in-the-last-year-by-personal-characteristics>

⁸² Barter et al (2009)

⁸³ Barter et al

⁸⁴ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/women-and-equalities-committee/sexual-harassment-and-sexual-violence-in-schools/written/33352.html>

⁸⁵ Stanley (2011)

⁸⁶ Barter et al (2009)

⁸⁷ http://www.cscb-new.co.uk/wp-content/uploads/2016/04/Children_experiencing_research_review.pdf

England and Wales also estimates that 8% of adults experienced domestic abuse in the home as a child.⁸⁸ It is estimated that 130,000 children in the UK live in households with high risk domestic abuse.⁸⁹ Refuge also reports that two thirds of the population of its refuges are children.⁹⁰

Research also shows that family court system is used by some adult perpetrators of domestic abuse as a way to continue the abuse and inflict further harm. A Women's Aid report recently found that in family courts there is still an over reliance on the principle of 'contact at all costs' in cases of child contact arrangements even in a context of domestic abuse.⁹¹ In 2008, guidance was put in place to protect the wellbeing and ensure the safety of children in determining child arrangements and contact orders in family proceedings.⁹² However, Women's Aid report that this guidance, Practice Direction 12, has not been fully implemented, resulting in children continuing to be exposed to domestic abuse and its consequences.⁹³

Children who witness domestic abuse in their homes can experience a multitude of problems and the experience can cause them significant harm. Experiencing domestic abuse in the home can have such a profound effect that some categorise it as a form of child abuse.⁹⁴ The impact on children can include: psychological and emotional problems such as aggression, anxiety, depression and social withdrawal; cognitive functioning problems such as lower verbal and quantitative skills and developing attitudes supporting the use of violence; and long term development problems such as trauma and low self-esteem.⁹⁵

There is also an evidenced overlap between domestic abuse and child maltreatment in families of between 30 and 60%.⁹⁶ Young people who experience family violence are 3-4 times more likely to experience physical violence and neglect, while children who grow up in a violent home are 15 times more likely to be physically and/or sexually assaulted than the national average.⁹⁷ Those who witness violence in the home exhibit some of the same behavioural and psychological problems as children who are themselves physically abused.⁹⁸

It is clear that witnessing domestic abuse has a profound impact on children and is a long term threat to their mental and physical health and safety. However, children are not

⁸⁸<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/abusedduringchildhood/findingsfromtheyearendingmarch2016crimesurveyforenglandandwales>

⁸⁹<http://safelives.org.uk/sites/default/files/resources/Final%20policy%20report%20in%20plain%20sight%20-%20effective%20help%20for%20children%20exposed%20to%20domestic%20abuse.pdf>

⁹⁰ <http://www.refuge.org.uk/get-help-now/what-is-domestic-violence/effects-of-domestic-violence-on-children/>

⁹¹ <https://1q7dqy2unor827bjls0c4rn-wpengine.netdna-ssl.com/wp-content/uploads/2016/01/Child-First-Nineteen-Child-Homicides-Report.pdf>

⁹² http://www.justice.gov.uk/courts/procedure-rules/family/pdf/practice_directions/Web_pd_part_12j.pdf

⁹³ <https://www.womensaid.org.uk/childfirst/>

⁹⁴<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/abusedduringchildhood/findingsfromtheyearendingmarch2016crimesurveyforenglandandwales>

⁹⁵ <http://vawnet.org/material/problems-associated-childrens-witnessing-domestic-violence>

⁹⁶ http://www.cscb-new.co.uk/wp-content/uploads/2016/04/Children_experiencing_research_review.pdf

⁹⁷ Volpe, J.S., 'Effects of Domestic Violence on Children and Adolescents: An Overview', The American Academy of Experts in Traumatic Stress, 1996.

⁹⁸ <https://www.unicef.org/media/files/BehindClosedDoors.pdf>

always seen as needing services independently of the non-abusive parent and are not always separately risk assessed by the agencies they come into contact with.

What are the government and criminal justice agencies doing?

In March 2016, the Government published their *Ending Violence Against Women and Girls* strategy 2016-2020. The aim of the strategy is to significantly reduce the number of Violence Against Women and Girls (VAWG) victims “by challenging the deep-rooted social norms, attitudes and behaviours that discriminate against and limit women and girls, and by educating, informing and challenging young people about healthy relationships, abuse and consent”.⁹⁹ This strategy covers reducing the harm to children of domestic abuse.

The government plans to do this by intervening early in domestic abuse and recognising its impact on family members. They also want to “educate, inform and challenge” young people about healthy relationships, abuse and consent, and engage men and boys in challenging VAWG. This will include a new campaign to education young people about healthy relationships and support to schools to deliver more effective SRE and healthy relationships education.

The government is also committed to produce a campaign to raise awareness of and challenge teenage relationship abuse; this was launched in February 2017.¹⁰⁰

Regarding childcare arrangements in DA cases, Dr Phillip Lee (Parliamentary Under-Secretary of State for Justice) confirmed in September 2016 that the “Government agree that it should never be a case of “contact at all costs”. He added that President of the Family Division, Sir James Munby, has asked a High Court judge to review Practice Direction 12 following the publication of Women’s Aid findings.¹⁰¹

Victim Support’s position

High quality sex and relationship education should be available to all children and young people to enable them to understand healthy relationships

Evidence shows that lessons on healthy relationships can bring a multitude of benefits for young people.¹⁰² High quality sex and relationship education would improve children and young people’s understanding of healthy relationships and consent and equip them with the safety skills they need to help them make safer choices, know who to talk to about any concerns and develop coping strategies. Around 4.6% of victims of domestic abuse referred to VS were 17 or under years old.¹⁰³

Domestic Abuse services should include direct support services for children and children should be separately risk assessed

⁹⁹https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522166/VAWG_Strategy_FINAL_PUBLICATION_MASTER_vRB.PDF

¹⁰⁰ <https://www.disrespectnobody.co.uk/>

¹⁰¹ <https://hansard.parliament.uk/Commons/2016-09-15/debates/34FB8AA3-6931-4A38-B1E2-2D5AE13B1F84/DomesticAbuseVictimsInFamilyLawCourts#contribution-46CDCA84-5A80-4863-92A7-50F8D3E29133>

¹⁰² <https://www.pshe-association.org.uk/sites/default/files/A%20curriculum%20for%20life%20-%20the%20case%20for%20statutory%20PSHE%20September%202016%20FINAL%20FOR%20WEBSITE%2000916.pdf>

¹⁰³ VS data (cases created) with domestic abuse characteristic from September 2015 - August 2016.

It is not sufficient to only provide support to the non-abusive parent in domestic abuse cases, support should also be available for children. Additionally, children should be risk assessed separately to their parents at the Multi Agency Risk Assessment Conference (MARAC) as they have different risk indicators.

TACKLING FGM

Overview of issue and how it affects victims

The World Health Organisation defines female genital mutilation (FGM) as “all procedures involving the partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons”.¹⁰⁴ It is usually carried out on young girls between infancy and the age of 15.¹⁰⁵

FGM is practised in more than 29 African countries and has been reported in parts of the Middle and Far East. In the UK, FGM is almost wholly the result of migration from practising countries.¹⁰⁶ UK communities at risk of the practise include Somali, Kenyan, Ethiopian, Sierra Leonean, Sudanese, Egyptian, Nigerian, Eritrean, Yemeni, Kurdish and Indonesian women and girls.¹⁰⁷

FGM has been illegal in the UK since 1985, however a Home Office funded study on the scale of FGM estimated that there are approximately 137,000 women and girls subjected to the practise permanently residing in England and Wales. London has by far the highest estimated prevalence of FGM. 65,000 girls aged 13 and under are thought to be at risk of FGM in the UK.¹⁰⁸

FGM leads to short and long term physical and psychological harm. Physically, FGM can result in severe pain and bleeding, fever, swelling and even death. Long term it can lead to menstrual problems, difficulties in childbirth and sexual problems. Psychologically, FGM can lead to depression, flashbacks, anxiety, nightmares, self-harm, low self-esteem and post-traumatic stress disorder.¹⁰⁹ ¹¹⁰ Action is needed to prevent children from being subject to FGM.

VS is concerned that some professionals are ignoring their duty to report known cases of FGM to the police. The Home Affairs Committee has said that “some healthcare professionals just [do] not accept that mandatory reporting should be their responsibility” while the Royal College of Midwives said that mandatory reporting “had not worked”. There are currently no sanctions beyond existing disciplinary procedures on professionals for failing to meet their duties.

What are the government and criminal justice agencies doing?

¹⁰⁴ <http://www.who.int/mediacentre/factsheets/fs241/en/>

¹⁰⁵ <http://www.nhs.uk/Conditions/female-genital-mutilation/Pages/Introduction.aspx>

¹⁰⁶ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf>

¹⁰⁷ <https://www.gov.uk/government/publications/female-genital-mutilation-resource-pack/female-genital-mutilation-resource-pack>

¹⁰⁸ <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmhaff/961/961.pdf>

¹⁰⁹ <http://www.who.int/mediacentre/factsheets/fs241/en/>

¹¹⁰ <http://www.nhs.uk/Conditions/female-genital-mutilation/Pages/Introduction.aspx>

The Coalition Government strengthened existing FGM legislation in 2015 by: granting lifelong anonymity to victims; introducing new offence of failing to protect a girl from risk of FGM; bringing in a civil order (FGM protection orders) to protect potential victims; and introducing a duty on healthcare professionals, teachers and social care workers, to notify the police of known cases of FGM carried out on a girl under 18.¹¹¹ The latter has been a requirement since October 2015 but has proved controversial among some professionals who are concerned that it breaches fundamental principles of patient confidentiality.¹¹²

The Government set up the FGM Unit in 2014 to identify and promote examples of best practise and provide support and resources to local areas to aid them in developing their response to tackling FGM. Combatting FGM is also a key part of the Government's *Violence Against Women and Girls Strategy 2016-2020*, which includes commitments to: "challenge the cultural attitudes that underpin traditional harmful practices like FGM", "educate and raise awareness" of FGM and introduce statutory, multi-agency guidance for frontline professionals on FGM.¹¹³ In December 2016 the Government stated that it will "keep the legal framework under constant review".¹¹⁴

Despite the Government's commitment to tackling FGM, there has not been a single successful prosecution to date. The first FGM related prosecution was brought in 2014 against a doctor but he was later acquitted.¹¹⁵ While legislation has been expanded in recent years it is not fully utilised; the mandatory reporting requirements on professionals are not fully taken seriously with the Royal College of Midwives admitting that mandatory reporting "had not worked".¹¹⁶

Victim Support's position

Stronger sanctions should be introduced for failing to meet mandatory reporting responsibilities
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The government should make it clear that failing to report puts children at risk by introducing stronger sanctions on those who are not fulfilling their statutory duty.

The government should review existing FGM legislation to identify any gaps and determine if there is a need for an expansion of the legislation

Steps need to be taken to secure the first successful prosecution in the UK for an FGM offence. Other European countries have had more success in combatting FGM; for example, France has secured approximately 100 convictions since introducing the offence in 1983.¹¹⁷ Given the shocking track record of FGM prosecutions in England and Wales, VS believes that the existing legislation should be reviewed to identify any gaps and potential for additional measures that may enable more prosecutions to be secured.

¹¹¹ <http://www.legislation.gov.uk/ukpga/2015/9/part/5/crossheading/female-genital-mutilation/enacted>

¹¹² <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf>

¹¹³ <https://www.gov.uk/government/publications/strategy-to-end-violence-against-women-and-girls-2016-to-2020>

¹¹⁴ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2016-11-28/HL3610/>

¹¹⁵ <https://www.theguardian.com/society/2015/feb/04/doctor-not-guilty-fgm-dhanuson-dharmasena>

¹¹⁶ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf>

¹¹⁷ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/390/390.pdf>

Schools should raise awareness of FGM and the fact that it is a crime, as part of age appropriate education of safety, crime and wellbeing. Teachers should be skilled up on the warning signs of FGM and must be aware of their statutory reporting duties.

This should be part of a whole school approach to safeguarding and wellbeing that also includes ‘skilling up’ teachers and parents and carers to identify children at risk and equipping them with the tools to effectively intervene and safeguard children.

BETTER EDUCATION AND PROTECTION FROM SEXUAL HARASSMENT IN SCHOOLS

There are two main areas for improvement relating to schools: the provision of broad, high quality and age appropriate sex and relationships education and tackling sexual harassment.

Given the high rates of victimisation among children, including for sexual offences, it is vital that children and young people receive **effective education on staying safe**. It is estimated that one in eight children are victims of crime every year and that half of all crimes against children involve violence.¹¹⁸ The Children’s Commissioner estimates that 1.3 million children currently living in England will have been a victim of contact sexual abuse by the time they turn 18.¹¹⁹ However, levels of reporting among children and young people are low, with barriers to reporting including lack of understanding of what constitutes a crime and how to report, the context in which the crime occurs and risks associated with reporting.¹²⁰

There is a wealth of evidence that education on healthy relationships and staying safe, when taught well and in line with best practise principles, has a positive impact on children.

When giving evidence to the Education Select Committee the then Minister for School Reform, Nick Gibb MP, said: “good-quality PSHE in a school will help combat child sexual exploitation. There is no question in my mind about that”.¹²¹ A study by the medical research organisation Cochrane found that pupils receiving education on relationships and abuse are three times more likely to disclose abuse than those who do not.¹²² Young people who cite school lessons as their main source of information on sex and relationships are less likely to experience non-consensual sex.¹²³ An Ofsted report into the sexual exploitation of children referred to PSHE as an important means of keeping children

¹¹⁸<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingmar2016>

¹¹⁹https://www.childrenscommissioner.gov.uk/sites/default/files/publications/Protecting%20children%20from%20harm%20-%20executive%20summary_0.pdf

¹²⁰ <https://www.victimsupport.org.uk/sites/default/files/Suffering%20in%20silence%20-%20Children%20and%20unreported%20crime.pdf>

¹²¹ <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmeduc/145/145.pdf>

¹²² <https://www.theguardian.com/education/2015/apr/16/sexual-abuse-education-helps-children-report-offenders>

¹²³ <http://bmjopen.bmj.com/content/5/3/e007837.full#sec-12>

safe.¹²⁴ The Chief Executives of the NSPCC and Barnardo's have both said that education on healthy relationships and staying safe "is at the frontline of child protection".¹²⁵

Despite this, education on healthy relationship and staying safe is patchy and requires improvement in many areas. PSHE education is currently a non-statutory subject and as a result it does not have to be taught in schools. A Department for Education study of PSHE provision in 2011 found that 7% of primary and 16% of secondary schools do not have a clear school PSHE education policy and that PSHE is not part of the school plan in 33% of primaries and 27% of secondaries.¹²⁶ Additionally, Ofsted reported in 2013 that PSHE required improvement or was inadequate in 40% of schools, and that sex and relationships education required improvement in over a third of schools. The department said that: "Too many teachers lacked expertise in teaching sensitive and controversial issues, which resulted in some topics such as puberty, sexuality or domestic violence being avoided. In 20% of schools, the staff had received no training or support to teach PSHE education. Teaching was not good in any of these schools."

The impact of this is that many children and young people are not being equipped, or are being insufficiently equipped, on how to understand and deal with issues such as staying safe, reporting crime, healthy relationships, consent and online abuse.

A number of large scale surveys have examined the scale of **sexual harassment (SH) and sexual violence (SV) in schools**. 59% of girls and young women aged 13-21 said in 2014 that they had faced some form of sexual harassment at school or college in the past year; while 29% of 16-18 year old girls have experienced unwanted sexual touching at school.¹²⁷ 71% of all 16-18 year-olds say they hear sexual name-calling with terms such as "slut" or "slag" used towards girls at schools on a daily basis or a few times a week.¹²⁸

The Women and Equalities Select Committee released a report in September 2016 on sexual harassment and sexual violence in schools. It said: "Sexual harassment and sexual violence in schools is a significant issue which affects a large number of children and young people, particularly girls, across the country [...] Despite this evidence and existing legislation, the Government has no coherent plan to ensure schools tackle the causes or consequences of sexual harassment and sexual violence."¹²⁹ They recommended that PSHE and SRE be made statutory.

SH and SV can have a huge impact on children and young people. A survey of girls aged 11-21 found that ¾ report SH negatively affects their lives, including what they wear and their perceptions of their bodies.¹³⁰ A quarter of girls say that concerns over potential harassment make them consider whether or not to speak out in class and teaching unions report that SH leads to girls being less likely to participate and being more self-

¹²⁴https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/386598/The_20sexual_20exploitation_20of_20children_20it_20couldn_E2_80_99t_20happen_20here_2C_20could_20it.pdf

¹²⁵ <http://www.telegraph.co.uk/education/educationnews/11841330/Lessons-to-prevent-sexual-abuse-should-be-mandatory-experts-demand.html>

¹²⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/219615/DFE-RR080.pdf

¹²⁷ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/91.pdf>

¹²⁸ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/91.pdf>

¹²⁹ <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmwomeq/91/91.pdf>

¹³⁰ <https://www.girlguiding.org.uk/social-action-advocacy-and-campaigns/research/girls-attitudes-survey/>

conscious.¹³¹ More needs to be done to protect children from experiencing sexual harassment and abuse in schools.

What are the government and criminal justice agencies doing?

The Children and Social Work Act 2017 made Relationships Education compulsory in all primary schools and Relationships and Sex Education (RSE) compulsory in all secondary schools. These subjects will be compulsory in all schools, including independent schools, academies and maintained schools. Subject to “the outcome of a thorough consideration of the subject”, PSHE may also be made statutory in all schools.¹³²

The Government consulted on changes to sex and relationships education and PSHE from December 2017 to February 2018.¹³³ They stated that Relationships and RSE will likely focus on:

- The different types of relationships and how to understand and build healthy relationships.
- Sex, sexual health and sexuality.
- Relationships and safety online.
- How relationships may affect health and wellbeing.

Guidance will also be updated for the first time in 17 years.

Separate to this, advice to schools and colleges on sexting have been developed, setting out how to safeguard young people with regards to sexting and how to respond to incidents of sexting.¹³⁴

Victim Support’s position

All children should have the opportunity to receive high quality, age appropriate education on safety, appropriate relationships and crime

All children should have the opportunity to receive high quality, age appropriate education on safety, appropriate relationships and crime. This should be part of a whole school approach to safeguarding and wellbeing that also includes ‘skilling up’ teachers and parents and carers to identify children at risk and equipping them with the tools to effectively intervene and safeguard children. This education should cover appropriate education issues on consent, domestic abuse, online abuse, FGM and bullying.

ENDING ABUSE OF POSITIONS OF TRUST

¹³¹ <https://www.girlguiding.org.uk/globalassets/docs-and-resources/research-and-campaigns/girls-attitudes-survey-2016.pdf>

¹³² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/595828/170301_Policy_statement_PSHEv2.pdf

¹³³ https://consult.education.gov.uk/life-skills/pshe-rse-call-for-evidence/supporting_documents/Sex%20and%20Relationships%20Education%20%20A%20call%20for%20evidence.pdf

¹³⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/592115/Tackling_child_sexual_exploitation_-_progress_report_web_.pdf

Overview of issue and how it affects victims

It is illegal for a person in a 'position of trust', such as an authority figure in education or care, to engage in sexual relations with children under the age of 18. However, there are a number of roles where adults are in a position of trust over children that are not covered by this legislation. This includes can include sports coaches and youth workers.

This means that certain individual can abuse their position of trust to groom children and not be legally prosecuted for doing so. This puts children at risk who should be able to trust the authority figures in their lives.

Since November 2016, the NSPCC have received over 1,700 calls from individuals to its sports helpline, including a large number of reports of abuses of positions of trust that are not covered by the current list.

In addition, only people who are in regular, sole charge of children and young people are defined as being in 'regulated activity' and can have an enhanced disclosure and barring service (DBS) check with barred list information. People in positions that do not come under 'regulated activity' but who are instead in 'supervised roles' are not checked against the barred list, such as an assistant coach. This potentially puts children in danger as it can allow people who have been disqualified from working with children and young people to still work with them.

Victim Support's position

The roles covered under the 'positions of trust' legislation should be extended to all those delivering activities that establish trust with children

VS supports the NSPCC's campaign to extend the list of roles covered by the legislation to cover anyone is in a position of trust over children.

Everyone working with children should be subject to the most stringent DBS check

VS support's the NSPCC's campaign to ensure that everyone who works or volunteers regularly with children is subject to the most stringent disclosure and barring check.

EFFECTIVELY SUPPORTING ADULTS ABUSED IN CHILDHOOD

Overview of issue and how it affects victims

There have been a number of studies looking at the scale of adults abused during childhood. The Crime Survey released figures for the first time in August 2016 which showed that 9% of adults aged 16 to 59 had experienced psychological abuse; 7% physical abuse; 7% sexual assault; and 8% had witnessed domestic violence or abuse in the home. With the exception of physical abuse, women were significantly more likely to report that they had suffered any form of abuse asked about during childhood than men. 42% of childhood abuse survivors experienced more than one type of abuse (physical, psychological, sexual or witnessing DA) and over a quarter of women who were raped as a

child continued to experience sexual assault as an adult. Only 26% of rape survivors told anyone about the incident at the time.¹³⁵

The Crime Survey found that perpetrators of physical abuse are most likely to be parents (father 39%, mother 29%) while perpetrators of rape are more likely to be a friend/acquaintance (30%) or another family member (26%). Perpetrators of psychological abuse are also most likely to be parents (mother 40%, father 35%). Older age groups are more likely to report experiencing abuse, particularly sexual assault. This may be because abuse has become less prevalent over time or because survivors are more likely to disclose abuse the further from the experience they are.¹³⁶

A 2009 NSPCC report into child abuse found that 25% of young adults (31% of women and 20% of men) experienced severe child maltreatment. Two thirds of the contact sexual abuse disclosed during the research was perpetrated by other children and young people and the majority of perpetrators were males. The report found that rates of child maltreatment are lower now than in 1998, suggesting that prevalence may be lower today.¹³⁷

There is some evidence that an increasing number of adults abused in childhood have come forward following high profile investigations into allegations of non-recent child sexual abuse. In 2013, a year after the launch of Operation Yewtree, the police recorded a 122% rise in sexual offences occurring more than twenty years ago, suggesting that more victims of non-recent sexual abuse are coming forward. This trend has continued, with recent rises in police recorded sexual offences partially attributed to non-recent offences.¹³⁸ Recently, a former footballer publically discussing the abuse he endured as a child has led to a surge in former players coming forward; as of 16 January 1,016 cases of non-recent child sexual abuse in football have been passed on to the police.¹³⁹

The impact in adulthood of child abuse can be profound but varies depending on a number of factors. The impact of abuse can vary dependent on the age of the victim when the abuse occurred, the frequency and duration of the abuse, and the relationship with the perpetrator.¹⁴⁰

Child abuse can lead to adverse psychological consequences for some, but not all, survivors. Abuse, particularly child sexual abuse, can lead to a number of mental health problems such as depression, anxiety, eating disorders, PTSD, trouble sleeping and suicide attempts. There is also a link with child abuse and Multiple Personality disorder, a complex disorder which occurs when someone shows a severe change in identity.¹⁴¹ Child abuse is also associated with poorer physical health in adulthood, with symptoms such as:

¹³⁵<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/abuseduringchildhood/findingsfromtheyearendingmarch2016crimesurveyforenglandandwales>

¹³⁶<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/abuseduringchildhood/findingsfromtheyearendingmarch2016crimesurveyforenglandandwales>

¹³⁷ <https://www.nspcc.org.uk/globalassets/documents/research-reports/child-abuse-neglect-uk-today-research-report.pdf>

¹³⁸[file:///C:/Users/MayesA/Downloads/Focus%20on%20Violent%20Crime%20and%20Sexual%20Offences%20Year%20ending%20March%202015%20\(1\).pdf](file:///C:/Users/MayesA/Downloads/Focus%20on%20Violent%20Crime%20and%20Sexual%20Offences%20Year%20ending%20March%202015%20(1).pdf)

¹³⁹ Correspondence from the NSPCC

¹⁴⁰ VS - Responding sensitively to survivors of childhood abuse

¹⁴¹ Chen et al (2010)

poorer overall health, gastrointestinal problems, gynaecological symptoms, chest pain, irregular heartbeat, shortness of breath and headaches.¹⁴²

Adult survivors of child abuse are also at greater risk of risk taking and unhealthy behaviour such as alcohol and substance abuse and increased arrest rates for crimes such as trading sex. Additionally, they are more likely to experience relationship problems and are more likely to suffer another sexual assault or repeat victimisation.¹⁴³

What are the government and criminal justice agencies doing?

The Home Secretary launched a statutory inquiry into child sexual abuse in February 2015. The purpose of the inquiry is: “To consider the extent to which State and non-State institutions have failed in their duty of care to protect children from sexual abuse and exploitation; to consider the extent to which those failings have since been addressed; to identify further action needed to address any failings identified; to consider the steps which it is necessary for State and non-State institutions to take in order to protect children from such abuse in future; and to publish a report with recommendations.”¹⁴⁴ IICSA is set to make its interim recommendations in 2018.

The focus of the inquiry is on institutional failures, rather than individual cases of child abuse, but it “will allow victims and survivors of child sexual abuse to share their experiences with the Inquiry.”¹⁴⁵ The inquiry is set to make its interim recommendations in 2018.

The Government has also produced its *Violence Against Women and Girls* strategy which includes measures to encourage the reporting of child abuse, to review Local Safeguarding Children Boards and to “promote effective local commissioning” to help adult victims of child sexual abuse.¹⁴⁶ In addition, the Government produced an Action Plan in 2015 on *Sexual Violence against Children and Vulnerable People*. This includes actions to improve guidance for those who works with victims of sexual violence, improve inspection regimes, support local authorities to improve their response to CSA, work to dispel myths about sexual violence within the criminal justice system and improve sex and relationship education.¹⁴⁷

Victim Support’s position

VS welcomes that more adult victims abused in childhood are coming forward, and believes that they must be offered necessary and appropriate support.

Clear referral pathways should be established to ensure that adults who disclose their childhood abuse receive the support they need for as long as necessary.

¹⁴² VS - Responding sensitively to survivors of childhood abuse

¹⁴³ VS - Responding sensitively to survivors of childhood abuse

¹⁴⁴ http://data.parliament.uk/DepositedPapers/Files/DEP2015-0320/CSA_Inquiry_Terms_of_Reference_March_2015_FINAL.pdf

¹⁴⁵ <https://www.iicsa.org.uk/sites/default/files/sharing-your-experience.pdf>

¹⁴⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/522166/VAWG_Strategy_FINAL_PUBLICATION_MASTER_vRB.PDF

¹⁴⁷ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/412420/Sexual_Abuse_Action_plan_5th.pdf

All children should have the opportunity to receive high quality, age appropriate education on safety, appropriate relationships and crime.

Age-appropriate education to stay safe is vital to equip children with the knowledge, skills and safe spaces to understand and discuss these issues.

CASE STUDY

In court and pre-trial therapy

B, aged 15, was a victim of CSA inflicted by family members. She had learning difficulties and therefore required specialist care throughout her case. All four defendants pleaded not guilty and were tried together. B's carer was told by the police and social services that pre-trial therapy was not allowed.

During the trial, B was subjected to three days of cross-examination via video link by four different barristers. She was not provided with an intermediary and the court was adjourned multiple times due to one barrister not heeding instructions from the judge regarding his questions of B, leaving her confused and upset. This also resulted in a prolonged cross-examination period for the victim, who had to repeat her ninety mile round trip over several days.

B's carer was frustrated by the limited and sometimes false information provided to the court on B's circumstances. The court incorrectly referred to B as having spent time at boarding school - it was in fact a special needs residential home - thus giving the jury no explanation of B's learning difficulties. The court held that B's difficulties could only be disclosed during summing up, meaning that there was a risk jury members would not take into account B's additional difficulties during cross examination, which may have harmed her credibility.

Lack of continuity of professionals within the police service, witness care, and court services left B with no consistent support throughout the trial and B had to repeat her experiences to many different people within the same profession. B's carer is struggling to ensure that B has continued counselling for her trauma from one individual on a constant basis. B's carer is receiving emotional support from a VS volunteer, who helps her to support B while they wait to be allocated a councillor from the Child and Adolescent Mental Health Services.¹⁴⁸

CICA and consent

Kate was fourteen when she was first contacted via Facebook by a much older man and invited to a party in the town where she lived. When Kate decided to go along, she had no idea what she was getting in to. There were a group of men at the party and at first they seemed friendly and fun. After meeting up with them a few times Kate very quickly found herself pressurised into a sexual relationship with one of them. Before long she found that she was regularly expected to have sex with the man, and if she didn't comply she would

¹⁴⁸ This is a VS case study but the story and wording have been pulled from an Oxford University Press publication (Radcliffe et al 2016)

be subject to scare tactics, manipulation and threats of violence. The emotional and sexual abuse, including rape, that Kate suffered would continue for the next five years.

When Kate finally managed to escape the abuse it took all her courage to face her abusers in court. Her bravery, and that of the other victims of the gang, resulted in the men being sentenced to more than 30 years imprisonment for crimes including rape, sexual activity with a child, and sexual assault.

Kate was deeply affected by the years of abuse and exploitation she suffered at the hands of the gang. As a result of the abuse Kate started to self-harm on a daily basis and twice attempted suicide. She was diagnosed with depression and anxiety and experienced constant feelings of guilt, fear and anger. She had difficulty sleeping and when she did sleep would frequently have nightmares.

The effect of the abuse was not just psychological but physical too - Kate has suffered from a number of urinary tract infections and has ongoing problems with abdominal pain which has resulted in a number of hospital admissions. Her GP has said that these problems are a consequence of the abuse she experienced.

Victim Support referred Kate to a psychotherapist who found that, in addition to her depression and anxiety, Kate was also suffering from many of the symptoms of post-traumatic stress disorder. Kate received therapy and also started taking antidepressants.

With Victim Support's help, Kate put in an application to the Criminal Injuries Compensation Authority (CICA) - the Government agency responsible for awarding compensation to victims of serious crime. Kate had to wait many months for a response from CICA and when it arrived she was devastated by the outcome. CICA informed her that they would not be honouring her claim because "on the balance of probabilities [she] had not been the victim of non-consensual sexual acts".

The response from CICA was hugely upsetting to Kate because it implied that she was somehow responsible for the abuse that she suffered. This is despite the fact that she was 14 at the time of the abuse and therefore unable to legally consent, and was systematically groomed by a gang intent on sexually exploiting young girls.

All of the professionals who have had contact with Kate agree that she has been sexually abused and has suffered serious consequences as a result. The local probation service calls the case to which Kate was a victim "one of the most serious cases we are currently working on, due to the level of exploitation and harm involved" and further add that "it is very important that [Kate] is not made to feel responsible for what happened or that she is not believed. She was a minor and therefore unable to give consent. She was groomed... and the offenders were convicted".

For more information please contact policyteam@victimsupport.org.uk

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