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LANZAROTE COMMITTEE

Committee of the Parties to the Council of Europe
Convention on the protection of children against sexual
exploitation and sexual abuse

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Questionnaire

**“Protecting children against sexual abuse in the circle of
trust: legal frameworks”**

Adopted by the Lanzarote Committee on 2 June 2023

1. The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (hereinafter “the Lanzarote Convention” or “the Convention”), which entered into force in July 2010, requires criminalisation of all forms of child sexual abuse. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

2. The Committee of the Parties to the Convention (also known as the “Lanzarote Committee”), established to monitor whether Parties effectively implement the Convention (Article 1 § 2), decided that:

“1. The monitoring of the implementation of the Convention in the Parties shall be based on a procedure divided by rounds, each round concerning a theme decided by the Lanzarote Committee or any other approach deemed appropriate by the Lanzarote Committee within the scope of the Convention.

2. The Lanzarote Committee will determine the length of each monitoring round in the light of the themes selected and the provisions of the Convention to be monitored.

3. The monitoring round will be initiated by addressing a questionnaire on the implementation of the relevant provisions of the Convention with respect to the selected theme. The Parties shall respond to the questionnaire within the time-limit set by the Lanzarote Committee.”¹

The notion of the circle of trust

3. In January 2018, the Lanzarote Committee concluded its first monitoring round “Protection of children against sexual abuse in the circle of trust”. The notion of “circle of trust” includes members of the extended family, persons having care-taking functions or exercising control over the child, and any other persons with whom the child has relations, including his/her peers.²

The previous and current monitoring rounds on the circle of trust

4. The two implementation reports adopted as a result of the first monitoring round evaluated the frameworks and strategies put in place by the 26 States Parties to the Lanzarote Convention which had ratified it by the time the monitoring round was launched³. Since then, the Convention has been ratified by 22 other Parties,⁴ and numerous changes have taken place in the subject area due to the development of international standards and national reforms. Furthermore, a child’s circle of trust remains the environment where the vast majority of sexual abuse occurs.⁵ The Committee therefore decided to come back to the subject matter of the first monitoring round in 2023, to both take stock of the situation in the 22 Parties that had not been examined in the first round and to evaluate the follow-up given to the Committee’s recommendations by the 26 Parties that had.

¹ Rule 24 of the Lanzarote Committee’s [Rules of Procedure](#)

² See [1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”](#), p. 12. Examples of the different categories of persons may be found in paragraphs 123-125 of the [Explanatory Report to the Lanzarote Convention](#).

³ Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Finland, France, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, North Macedonia, Portugal, Romania, San Marino, Serbia, Spain, Türkiye and Ukraine.

⁴ Andorra, Armenia, Azerbaijan, Cyprus, Czech Republic, Estonia, Georgia, Germany, Hungary, Ireland, Latvia, Liechtenstein, Monaco, Norway, Poland, the Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, Tunisia, United Kingdom.

⁵ See the [Explanatory Report to the Lanzarote Convention](#), paras. 48 and 123-125.

5. All of the current 48 Parties will be monitored at the same time to create a momentum around specific aspects of the monitoring theme. To ensure a more accurate reflection of the situation in the Parties and a speedier publication of intermediary results, the monitoring round will be divided into several parts and conducted on the basis of information submitted by the Parties and other stakeholders in response to questionnaires specific for each part.

Involvement of civil society and other relevant stakeholders in the monitoring round

6. In accordance with paragraph 4 of Rule 26 of the Lanzarote Committee’s Rules of Procedure, the Secretariat shall seek the views of the representatives of civil society and any other bodies involved in preventing and combating sexual exploitation and sexual abuse of children on the implementation of the Convention by Parties, in particular by asking them to comment on the replies to this questionnaire or by any other means (e.g. by offering the observers and participants in the Lanzarote Committee to submit any relevant information they may have with regard to any Party to the Convention by replying directly to some or all of the questions of this questionnaire). These comments and replies will be transmitted by the Secretariat to the Party(ies) concerned and made public.

Type of questions and elements to be borne in mind when replying

7. Each of the questionnaires of this monitoring round will contain questions derived from the Committee’s first monitoring round recommendations and findings, as well as a few new questions based on the Committee’s adopted texts and international standards that have emerged in the meantime, including the case-law of the European Court of Human Rights, to gather information for capacity-building purposes. The first part of the monitoring round will assess the legal framework and related procedures with respect to sexual abuse of children in the circle of trust (“Legal frameworks”).

8. This specific first questionnaire was adopted by the Lanzarote Committee on 2 June 2023. It is recalled that, in accordance with Rule 26 of the Lanzarote Committee’s Rules of Procedure:

“...2. The Secretariat shall address such questionnaires to the Parties through the member in the Lanzarote Committee representing the Party to be monitored, who will act as “contact person”.

3. Parties shall submit their replies in one of the official languages of the Council of Europe to the secretariat within the time limit set by the Lanzarote Committee. The replies shall be detailed, answer all questions and contain all relevant reference texts. The replies shall be made public.

5. The Secretariat may request additional information if it appears that the replies are not exhaustive or unclear. Where warranted, with the consent of the Party(ies) concerned and within the limits of budgetary appropriations, the Bureau of the Lanzarote Committee may decide to carry out a visit in the Party(ies) concerned to clarify the situation.”

9. In addition, Parties are kindly requested to:

- answer the questions with regard to central, regional and local levels to the extent possible. Federal States may, in respect of their sovereign entities, answer the questions in a summarised way;
- provide, whenever questions/answers refer to it, the relevant text (or a summary) of legislation or other regulations in English or French;

- answer the questions from a gender equality perspective, i.e. specifying, where relevant, whether and how measures for victims and/or offenders take into account gender-specific requirements.

10. The term “national legal framework” used in the questionnaire includes not only laws but also all forms of regulations (decrees, resolutions, administrative directions, instructions, and any other decisions creating legal consequences for more than one individual) and higher courts’ directive rulings.

11. The questions asked concern the legal frameworks pertaining to both online and offline forms of activity. Should your national legal framework distinguish between them, please provide details.

12. As indicated above, some of the questions are included for capacity-building purposes. Therefore, nothing in the wording of these questions should be taken as an indication of a preferred state of affairs or course of action.

13. The questionnaire uses a colour-coded system to help you differentiate questions based on the Lanzarote Committee’s 1st monitoring report’s “invite” recommendations (in blue) and “urge”/“consider” recommendations (in red). The questions based on the European Court of Human Rights’ case law and the Committee’s adopted texts are coloured red. The questions included for capacity-building purposes are coloured blue.

14. Some of the questions are addressed only to specific Parties found to be not in compliance with a particular requirement of the Convention in the first monitoring round, or to those Parties and to the 22 Parties which had not been evaluated during the first monitoring round. All other questions are meant to be replied to by all Parties.

THEMES

1. Key notions
2. Victims' age
3. Scope of offence
4. Ex-officio prosecution
5. Measures in respect of children who sexually offend and children displaying risky and harmful sexual behaviour
6. Child victims' rights to protection and parental rights
7. Guarantees of protection for persons reporting suspected offences
8. Assistance to third parties
9. Monitoring of offenders
10. Measures in respect of professionals and legal persons
11. Special representatives
12. Support for child victims in investigative and judicial proceedings
13. Investigation
14. Judicial proceedings

QUESTIONS

Key notions

1. Does your national legal framework:

- a. have a reference to "abuse of a recognised position of trust, authority or influence" as a separate sexual offence against children?⁶ If yes, please provide a copy of the relevant provision(s).
- b. **[for 22 Parties + Belgium and Luxembourg]** establish a separate offence of sexual abuse of children by someone in a recognised position of trust, authority or influence instead of considering the fact that the perpetrator holds that position just as an "aggravating circumstance"?⁷ If yes, please indicate the specific legal provision.
- c. list specific categories of adults in contact with children automatically qualifying as holding this position?⁸ If yes, please list these categories in your response.
- d. define the notion of "circle of trust"?⁹ If yes, please provide the definition.

England and Wales

The Sexual Offences Act 2003 contains a range of criminal offences to deal with child sexual abuse and exploitation in all its forms, including offences which target familial child sex abuse and abuse of certain "positions of trust". For example, the '[Sexual Offences Act 2003](#)' contains offences to capture "abuse of position of trust". These offences offer a much greater level of protection to children as they

⁶ 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework" adopted by the Lanzarote Committee on 4 December 15, Recommendation 3.

⁷ *Ibid.*, Recommendation 2.

⁸ *Ibid.*, Recommendation 4. Examples: members of the extended family (including new partners), persons having caretaking functions (including trainers of any kind) or exercising control over the child professionally or on a voluntary basis (including persons who look after children in their leisure-time) and any other person trusted by the child (including other children).

⁹ *Ibid*

specifically target *consensual* sexual relationships between adults and children aged 16 or 17, thus effectively raising the age of consent from 16 to 18 in certain circumstances. This recognises that where the adult sexual partner is in a defined ‘position of trust’ there is an inherent imbalance of power which could be exploited in order to encourage young people to provide their consent to sexual activity. For the avoidance of doubt, non-consensual sexual activity with a young person aged 16 or 17 is always a criminal offence, as is any sexual activity with a child under the age of 16.

The position of trust offences are covered by sections 16 to 24 of the Act and cover the following scenarios: (16) sexual activity with a child, (17) causing or inciting a child to engage in sexual activity, (18) sexual activity in the presence of a child, (19) causing a child to watch a sexual act, (20) acts done in Scotland. Sections 21 and 22A make detailed provision about the circumstances in which a person is in a position of trust in relation to another person (section 21 must be read with section 22, which is an interpretation provision. Section 23 sets out an exception for spouses and civil partners from the offences at sections 16 to 19 and section 24 provides that conduct which would be an offence under sections 16-19 will not be where the— sexual relationship pre-dated the position of trust.

Sections 21 and 22A do not designate specific categories of adults who may have contact with children as automatically holding a position of trust, however they do outline the circumstances in which a person is considered to be in a position of trust. For example, [section 21\(1 to 4\)](#) provide that:

“(1) ... a person (A) is in a position of trust in relation to another person (B) if—

- a. any of the following subsections applies, or*
- b. any condition specified in an order made by the Secretary of State is met.*

(2) This subsection applies if A looks after persons under 18 who are detained in an institution by virtue of a court order or under an enactment, and B is so detained in that institution.

(3) This subsection applies if A looks after person under 18 who are resident in a home or other place in which –

- a. accommodation and maintenance are provided by an authority in accordance with section 22C(6) of the Children Act 1989 (c.41) or section 81(6) of the Social Service and Well-being Act (Wales) 2014), or*
- b. accommodation is provided by a voluntary organisation under section 59(1) of the Children’s Act 1989,*

and B is resident and is so provided with accommodation and maintenance or accommodation, in that place.

(4) This subsection applies if A looks after persons under 18 who are accommodated and cared for in one of the following institutions:

- a. a hospital,*
- b. in Wales an independent clinic,*
- c. a care home,*
- d. a community home, voluntary home or children’s home,*
- e. a home provided under section 82(5) of the Children’s Act 1989*
- f.*
- g. a place in Wales at which a care home service is provided,*
- h. premises in Wales at which a secure accommodation service is provide,*

and B is accommodated and cared for in that institution”.

The offences in sections 16 to 19 therefore predominantly cover instances of significant state involvement and responsibility for the provision of care and other services, which ensures the protection of children under 18 who are particularly vulnerable. Whilst the example provided above is not exhaustive, it should be noted that not all roles or positions in which a person might have contact with or a supervisory role over a child under the age of 18 are legally defined as a “position of trust” for the purposes of the criminal law.

Following an internal review of the “abuse of positions of trust” offences conducted by the Ministry of Justice, section 47 of the Police, Sentencing and Courts Act 2022 inserted a new section 22A into the Sexual Offences Act 2003, creating further “positions of trust” for the purposes of the offences set out in sections 16 to 19 of the 2003 Act.

This new section sets out additional circumstances in which person A will be in a position of trust in relation to person B, for the purposes of section 16-19 the 2003 Act, namely, that A must knowingly coach, teach, train, supervise or instruct B on a regular basis in a sport or a religion (section 22A(1)). Read together with the offences in sections 16 to 19, A must be aged 18 or over, and B must be under the age of 18.

Further the Government included provisions in the 2022 Act to allow additional positions of trust to be added via secondary legislation should that prove necessary.

Scotland

Sections [42-45](#) of the [Sexual Offences \(Scotland\) Act 2009](#) (“the 2009 Act”) criminalise a person who engages in sexual activity with a child under the age of 18 in respect of whom they are in a position of trust. The definition of ‘position of trust’ covers people who look after children in hospitals, care homes, residential establishments, schools, further and higher education institutions, and institutions in which a child has been detained by virtue of an order of court or under an enactment. It also extends to people who have any parental responsibilities or rights in respect of the child or fulfils any such responsibilities or exercises such rights under an arrangement with a person who has such rights or responsibilities, or has ever had such rights or responsibilities, or otherwise treats the child as a child of their family, where they are members of the same household. There is a power to amend the definition of ‘position of trust’ in the 2009 Act by secondary legislation.

The term ‘circle of trust’ is not recognised in UK legislative frameworks.

Victims’ age

2. Does your national legal framework:

- a. **[for 22 Parties + Italy, Portugal, San Marino, and Türkiye]** provide that every child up to 18 years of age is protected against the criminal offence of sexual abuse by someone in a recognised position of trust, authority or influence?¹⁰ Please refer to the specific legal provisions.
- b. **[for 22 Parties + North Macedonia and Ukraine]** indicate that the child’s legal age for engaging in sexual activities is not relevant in the case of child sexual abuse by someone in a recognised position of trust, authority or influence?¹¹ Please provide details.

¹⁰ *Ibid.*, Recommendation 6.

¹¹ *Ibid.*, Recommendation 5.

Not applicable to the UK, as only for the 22 previously unmonitored parties, Italy, North Macedonia, Portugal, San Marino, Turkey, and Ukraine to answer.

Scope of offence

3. Does your national legal framework criminalise sexual abuse of children:
 - a. where the offender abuses a recognised position of influence?¹²
 - b. **[for 22 Parties + Belgium]** where the victim is below 18 and emancipated through marriage, and the perpetrator is the victim's spouse or marital partner?¹³
 - c. **[for 22 Parties + the Republic of Moldova]** where no coercion, force or threat is used by the perpetrator holding the position of trust, authority or influence?¹⁴

England and Wales

Yes, as captured more fully Question 1, the UK's '[Sexual Offences Act 2003](#)' makes specific reference to "abuse of position of trust" in Provisions [16-24](#). "Positions of trust" offences are intended to target certain situations where the child (including those who are above the age of consent) has some dependency on the adult involved, often combined with an element of vulnerability on the part of the child, which makes the child particularly susceptible to influence, exploitation and abuse. These offences are directed at those whose roles mean they have a responsibility for looking after children under the age of 18, for example those providing care for a child in a residential care home, hospital, or educational institution. The Police, Sentencing and Courts Act 2022 created further "positions of trust" for the purposes of the offences set out in sections 16 to 19 of the 2003 Act (broadly capturing those who knowingly coach, teach, train, supervise or instruct a child on a regular basis in a sport or a religion.)

It should be noted that the Sexual Offences Act 2003 contains a range of offences to capture child sexual abuse in all its forms, this included specific offences targeting familial child sex abuse. Additionally, even where a sexual relationship appears to be lawful (insofar as the child is 16 or over and has given consent, there is not a familial element to the relationship and the adult is not in a position of trust as defined by sections 21 and 22A), it is conceivable that the circumstances mean that the child's consent could be vitiated for the purpose of the criminal law. However, this will be highly fact specific.

Scotland

The position in Scotland is broadly similar to that described for England and Wales.

In addition to the specific 'sexual abuse of trust' offences referred to above, there are a range of offences at [Part 4](#) of the 2009 Act that criminalise sexual activity with a child under the age of consent, and depending on the facts and circumstances of the particular case, it may be possible to prosecute such activity using offences at [Part 1](#) of that Act even where the child has reached the age of consent

¹² *Ibid.*, Recommendation 1.

¹³ *Ibid.*, Recommendation 7.

¹⁴ *Ibid.*, Recommendation 8.

(16) and there is not a position of trust, if it can be said that the child did not ‘freely agree’ to participate in sexual activity.

Scope of offence cont.

4. Does your national legal framework:
 - a. criminalise sexual abuse of children for acts other than sexual intercourse and equivalent actions?¹⁵ Please specify which other acts are covered and whether violation of a child’s “sexual integrity” specifically is criminalised.
 - b. **[For 22 Parties + Bulgaria]** ensure equal sanctions for sexual abuse committed within a heterosexual and homosexual sexual activity?¹⁶ Please refer to the specific legal provisions.
 - c. **[For 22 Parties + Albania and the Republic of Moldova]** make any distinct reference to “homosexual activities” in the description of criminal offences involving sexual abuse and sexual exploitation of children?¹⁷

The term “sexual integrity” is not recognised under UK law, with regards to children or adults.

England and Wales

Despite this, the [Sexual Offences Act 2003](#) does criminalise sexual abuse of children, for acts other than sexual intercourse and equivalent actions, recognising that abuse is not limited to contact abuse and can take many forms.

Some examples of relevant provisions include: assault of a child under 13 by penetration ([6](#)), sexual assault of a child under 13 ([7](#)), causing or inciting a child under 13 to engage in sexual activity ([8](#)), sexual activity with a child ([9](#)), causing or inciting a child to engage in sexual activity ([10](#)), engaging in sexual activity in the presence of a child ([11](#)), causing a child to watch a sexual act ([12](#)), child sex offences committed by children and young people ([13](#)), arranging or facilitating commission of a child sex offence ([14](#)), meeting a child following sexual grooming etc. ([15](#)), sexual communication with a child ([15A](#)), indecent photographs of persons aged 16 or 17 ([45](#)), and paying for sexual services of a child ([47](#)).

Child sexual exploitation is also addressed by the UK’s national legal framework under the following provisions: causing or inciting the sexual exploitation of a child ([48](#)), controlling a child in relation to sexual exploitation ([49](#)), and arranging or facilitating sexual exploitation of a child ([50](#)).

Scotland

There are a range of relevant offences covering acts other than sexual intercourse with a child at [Part 4](#) of the [Sexual Offences \(Scotland\) Act 2009](#), including engaging in sexual activity with a child, causing a child to participate in sexual activity, causing a child to be present during sexual activity, indecent communication with a child and voyeurism. These apply where the child is under the age of consent (16).

Child sexual exploitation is addressed via provisions at sections [9-12](#) of the [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005](#), which criminalises paying for the sexual services

¹⁵ *Ibid.*, Recommendation 9.

¹⁶ *Ibid.*, Recommendation 11.

¹⁷ *Ibid.*, Recommendation 12.

of a child, causing or inciting provision by a child of sexual services, controlling a child providing sexual services, and arranging or facilitating the provision of sexual services by a child. These apply where the child is under 18.

Ex officio prosecution

5. Does your national legal framework:
 - a. contain a requirement to investigate and prosecute sexual abuse and exploitation of children by someone in a recognised position of trust, authority or influence without a complaint from the victim or his/her legal representative?¹⁸ Please refer to the specific legal provisions.
 - b. contain a requirement to continue the proceedings even if the victim has withdrawn his/her complaint/statements?¹⁹ Please refer to the specific legal provision(s).
 - c. **[For Portugal]** in case of a sexual act committed by an adult in respect of a child aged 14-16 years old which does not result in the child's death or suicide, require the child victim to lodge a complaint as a prerequisite for investigation and prosecution?²⁰

England and Wales

The [Crown Prosecution Service](#) (CPS) is responsible for preparing and presenting cases in court in England and Wales, determining appropriate charges in complex cases, advising police and other investigative authorities during the early stages of an investigation and providing information, assistance and support to victims and prosecution witnesses. The CPS has produced relevant guidelines which sets out its approach to prosecuting cases of child sexual abuse - '[Child Sexual Abuse: Guidelines on Prosecuting cases of Child Sexual Abuse](#)' (see, [Other case building issues](#))/

Scotland

Under Scotland's criminal justice system, it is for the police to investigate possible breaches of the criminal law and for the [Crown Office and Procurator Fiscal Service \(COPFS\)](#) to consider whether prosecutions should be progressed in any given case. Decision-making within this area is for these independent agencies and the Scottish Government is not involved in decision-making in criminal cases. COPFS make decisions in the public interest using the process set out in their [Prosecution Code](#). COPFS works closely with [Police Scotland](#), the [Scottish Courts and Tribunal Service](#) and other partners to deliver justice in individual cases.

[His Majesty Inspectorate of Constabulary in Scotland](#) provides independent scrutiny of Police Scotland. Similar independent scrutiny of COPFS is provided by [His Majesty's Inspectorate of Prosecution in Scotland](#).

There is no provision that prevents a prosecution taking place where the alleged victim withdraws their statement or complaint, though it will be a matter to be determined in each individual case whether there is sufficient evidence to prosecute notwithstanding that the alleged victim has withdrawn their statement or complaint.

¹⁸ *Ibid.*, Recommendation 57.

¹⁹ *Ibid*

²⁰ *Ibid.*, Recommendation 56.

Measures in respect of children who sexually offend and children displaying risky and harmful sexual behaviour

6. Does your national legal framework:
- a. provide for non-criminal measures in respect of the children below the age of criminal responsibility who commit acts of sexual abuse towards other children?²¹ Please provide details.
 - b. differentiate between adults and children above the age of criminal responsibility in the application of sanctions for offences involving sexual abuse of children? Please refer to the specific legal provision(s) and specify the age of criminal responsibility in your legislation.²²

England and Wales

Non-criminal Measures

The age of criminal responsibility in the UK is 10-years old. Children under 10 cannot, therefore, be charged with committing a criminal offence. However, they can be given a Local Child Curfew to restrict their movements outside the home. Alternatively, if a child has committed an offence or broken a Local Child Curfew, they can be placed under the supervision of a youth offending team under a Child Safety Order. If a child doesn't stick to the rules of an order, the court can consider if the child should be taken into care.

Application of sanctions against Criminally-Responsible Children

Children between the ages of 10 and 17 can be arrested and charged with a criminal offence, however they are treated differently from adult offenders in that special protections are in place for example: an appropriate adult, parent or guardian is contacted when they are arrested, they can be kept in local authority accommodation overnight, remanded into secure children's homes, secure training centres and young offender institutions. If required to go to prison, children are kept separately from adults in cells.

Sentencing

In accordance with [Part 2, Chapter 3, section 21](#) of the [Sentencing Act 2020](#), offenders under 18 are remitted to and tried before Youth Courts. Different sentencing powers are available to the Court, depending on whether a child is (or becomes during criminal proceedings) 12, 15 or 18. These courts are also required to "assess the dangerousness" of sexual offenders ([308](#)), which can impact the severity of sanction applied to a criminally responsible child, especially if the court remits the offender to the Crown Court (where adults are tried).

The Crown Court is the only court able to issue sentences of detention longer than 24 months to criminally responsible children - in accordance with provision [250](#) (long-term detention), [259](#) (mandatory detention for life for murder), [258](#) and subsection [254](#) (extended sentences for dangerous young offenders).

Use of Ancillary Orders

²¹ Inspired by *X and Others v. Bulgaria* (no. 22457/16), 2 February 2021 and *A.P. v. the Republic of Moldova* (no. 41086/12), 26 October 2021.

²² Question included for capacity-building purposes.

Youth courts are able issue referral orders, youth rehabilitation orders, detention and training orders, as well as ancillary orders such 'sexual harm prevention orders':

- **Referral orders:** A referral order is the community sentence most often used by the courts when dealing with 10- to 17-year-olds, particularly for first time offenders who plead guilty. Referral orders require that an offender must agree a contract of rehabilitative and restorative elements to be completed within the sentence. A referral order is an order available for young offenders who plead guilty to an offence whereby the young offender is referred to a panel of two trained community volunteers and a member of the youth offending team. It can be for a minimum of three months and a maximum of twelve months. Referral orders can include reparation or restitution to the victim, for example, repairing any damage caused or making financial recompense, as well as undertaking a programme of interventions and activities to address their offending behaviour.
- **Youth rehabilitation orders (YRO):** YROs contain between one and fifteen requirements for the offender to meet over a, no greater than, three-year period. Only one YRO can be effect at any given time, but different requirements attached to an order can come into effect at different points. A requirement that must run the entirety of the YRO is for 'Supervision'. Before issuing YROs, courts should establish that the family circumstances, religious beliefs, and educational needs are compatible with the requirements being made of the offender.
- **Detention and training orders (DTO):** DTOs are a custodial sentence available for children aged between 12 and 17 years old, however 12- to 14-year-olds can only be issued a DTO if they are a "persistent offender". DTOs require proof that an enhanced youth rehabilitation order would not be justified, due to the seriousness of the offense committed and a written pre-sentence report should also be considered. DTOs can be made for a minimum of 4 months and maximum of 24 months.
- **Ancillary orders:** As well as imposing a sentence, the judge or magistrates may also impose orders on the offenders. These are known as ancillary orders. Some ancillary orders are aimed at redressing the harm caused by an offender, such as compensation orders. Others aim to prevent future re-offending or repeat victimisation, including criminal behaviour orders and exclusion orders. To make a '**Sexual Harm Prevention Order**', the court must be satisfied that the offender presents a risk of sexual harm to the public (or particular members of the public) and that an order is necessary to protect against this risk. The details of the offence are likely to be a key factor in the court's decision, together with the offender's previous convictions and the assessment of risk presented by the Probation Service in any pre-sentence report.

Scotland

Non-criminal Measures - Age of Criminal Responsibility Scotland (5a)

The age of criminal responsibility in Scotland is 12 which means that children younger than 12 cannot accrue convictions or criminal records. The [Age of Criminal Responsibility \(Scotland\) Act 2019](#) ("the Act") sets out a number of measures to ensure that action can still be taken by the police and other statutory agencies when children under 12 are involved in serious incidents (including children who display sexually harmful behaviour). These measures ensure that the harmful behaviour of children

under 12 can continue to be investigated, and that authorities respect, and respond to, the needs of victims.

One of the support measures is [Early and Effective Intervention \(EEI\)](#) which is a voluntary process developed as a mechanism to support all children who come into conflict with the law and aims to ensure children and families get the right support as early as possible. This approach supports agencies working together to take early action to respond to a child’s concerning behaviour or alleged concerning behaviour that may benefit from proportionate and appropriate support. It is the responsibility of [Police Scotland](#) to identify cases suitable for discussion or referral to early and effective intervention processes.

EEI must be anchored in the [United Nations Convention on the Rights of the Child \(UNCRC\)](#), [Child Friendly Justice](#), and [Getting It Right For Every Child \(GIRFEC\)](#). EEI is supported by UNCRC Article 40 (3) (b): “whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected” (United Nations Committee on the Rights of the Child, 1989, p. 12).

The application of sanctions for offences involving sexual abuse of children (5b)

A 16- or 17-year-old may be convicted of a serious offence (including sexual offences) and subject to justice processes as an adult, if they are not classified as a child by [Section 199](#) of the [Children’s Hearings \(Scotland\) Act 2011](#). The definition of a child includes: a person aged 16 or 17 years who is subject to a compulsory supervision order (through the children’s hearings system) or a person over the age of 16 years who was referred to the [Principal Reporter](#) before they turned 16, but a ‘relevant event’ has not yet occurred. Where a 16- or 17-year-old is classed as an adult and has been prosecuted and convicted in court, there is still an opportunity to seek their remittal to the Children’s Hearings System (CHS) up to the age of 17 years and six months. The [Children \(Care and Justice\) \(Scotland\) Bill](#) currently going through Scottish Parliament includes provisions which would see all under 18s classed as children and therefore afforded a legal route to the CHS if the Bill passes through Parliament.

Diversion from prosecution may be considered as a [community justice intervention](#) for under 18s. The Lord Advocate has ordered a review of how prosecutors deal with diversion from prosecution for sexual offences, including those committed by under 18s and will publish revised guidance in due course.

[Multi-Agency Public Protection Arrangements \(MAPPA\)](#) are a set of partnership working arrangements placing statutory duties upon Responsible Authorities under Section 10 and Section 11 of the [Management of Offenders etc. \(Scotland\) Act 2005](#) to assess and manage the risk posed by certain types of offending behaviours, including sexual offending. Implementation of MAPPA with under 18s is strengthened through integration of [FRAME](#) for children aged 12-17 years in care and/or under risk management processes.

Child victims’ rights to protection and parental rights

7. Does your national legal framework:
 - a. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without informing in advance the parents/legal guardians in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position

- of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?²³ Please provide details.
- b. provide for the possibility for child protection professionals to conduct exploratory interviews of a child without acquiring the parents/legal guardians' prior consent in cases in which there is a reasonable suspicion of sexual abuse by someone in a recognised position of trust, authority or influence and there is a reason to believe that parents/legal guardians may prevent a child from disclosing sexual abuse?²⁴ Please provide details.
 - c. allow for the removal of the suspected perpetrator from the family environment in case of reasonable suspicion of sexual abuse of a child living in the same environment together with the suspect?²⁵ Please provide details.
 - d. consider the removal of the child victim from the family environment as a last resort procedure? Is that procedure clearly defined, and does it set out conditions for and duration of the removal?²⁶ Please provide details.
 - e. ensure that the different agencies involved in the coordination and collaboration concerning child sexual abuse are allowed to share personal information as appropriate?²⁷ Please provide details.

Professionals must comply with several statutory functions which work to protect and promote child welfare, including through inter-agency cooperation and information sharing, under the [Children Act 1989](#), the [Children Act 2004](#), the [Children and Families Act 2014](#), the [Children and Social Work Act 2017](#) and others. Additionally, professionals should follow the statutory guidance in '[Working together to safeguard children](#)' and non-statutory guidance in the Department for Education's '[What to do if you're worried about a child](#)'.

Where clear and legitimate concerns about the safety of a child have been raised, and professionals have reason to believe that seeking consent from parents/legal guardians could exacerbate the risk faced by the child, professionals are able to engage with children without prior consent. Provisions [44](#), [44a](#) and [44b](#) of the [Children Act 1989](#) enable professionals to remove suspected perpetrators and/or at risk children from an unsafe environment.

8. Does your national legal framework clearly distinguish:
 - cases of suspension of parental rights as a provisional measure to protect the child before a court decision on the conviction of the concerned parent is taken, and
 - cases of withdrawal of parental rights once the court has convicted the said parent?²⁸ Please provide details.

Parental rights are not suspended or withdrawn when a parent is accused and/or convicted of offences involving child sexual abuse and exploitation. An offender could become subject to a number of

²³ 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 26.

²⁴ *Ibid*

²⁵ This question results from the Committee's reasoning that "before resorting to the removal of the victim, the removal of the perpetrator should be preferred" (page 28 of the 1st implementation report).

²⁶ *Ibid.*, Recommendation 27.

²⁷ *Ibid.*, Recommendation 25.

²⁸ *Ibid.*, Recommendation 32.

common conditions, including needing to disclose their offence to their existing family and/or new partners, no contact with alleged victim(s), no unsupervised contact with children and no living/sleeping at an address where children also live.

Provisions [44](#) and [46](#) of the [Children Act 1989](#) also allow for the removal of a child from their family environment, and for statutory bodies to carry out a “[Section 47 investigation](#)” to help decide what safeguarding actions need to be taken and any risk posed by the offender to members of their household, extended family and wider community.

9. Does your national legal framework provide for:
- a. automatic suspension of parental, visitation, and child hosting rights of parents against whom criminal proceedings for sexual abuse of own child are pending?²⁹ Please provide details.
 - b. automatic withdrawal of parental rights of parents convicted of sexual abuse of own child?³⁰ Please provide details.

As noted in the response to Question 7, parental rights are not suspended or withdrawn when a parent is accused and/or convicted of offences involving child sexual abuse and exploitation however an offender could become subject to a number of common conditions, including needing to disclose their offence to their existing family and/or new partners, no contact with alleged victim(s), no unsupervised contact with children and no living/sleeping at an address where children also live.

Provisions [44](#) and [46](#) of the [Children Act 1989](#) also allow for the removal of a child from their family environment, and for statutory bodies to carry out a “[Section 47 investigation](#)” to help decide what safeguarding actions need to be taken and any risk posed by the offender to members of their household, extended family and wider community.

Guarantees of protection for persons reporting suspected offences

10. How does your national legal framework ensure that any person reporting in good faith suspected sexual abuse and sexual exploitation of a child, including a person bound by professional confidentiality rules, does not get prosecuted or punished by judicial proceedings for defamation, libel or similar offences?³¹

England and Wales

The UK does not have a child sexual abuse and exploitation-specific exemption to laws relating to defamation (injurious to reputation), libel (injurious to reputation, and published or written) or slander (injurious to reputation, published and spoken). The [Defamation Act 2013](#) does allow for ‘Honest Opinion’ defences, which would be available to any person reporting in good faith, wherein:

²⁹ Question included for capacity-building purposes, i.e. to map whether there are Parties that have a particular legal framework in such cases.

³⁰ *Ibid*

³¹ Based on *Yuppala v. Finland* (no. 18620/03), 2 December 2008 and *M.P. v. Finland* (no. 36487/12), 15 December 2016. Partly based on Article 12 of the Lanzarote Convention.

(1) It is a defence to an action for defamation for the defendant to show that the following conditions are met.

(2) The first condition is that the statement complained of was a statement of opinion.

(3) The second condition is that the statement complained of indicated, whether in general or specific terms, the basis of the opinion.

(4) The third condition is that an honest person could have held the opinion on the basis of—

(a) any fact which existed at the time the statement complained of was published;

(b) anything asserted to be a fact in a privileged statement published before the statement complained of

Scotland

Most active participants in the judicial process are protected in what they say and do by absolute privilege. This includes witnesses. A statement protected by absolute privilege cannot in any circumstances be made the basis of an action for defamation. The [Defamation and Malicious Publication \(Scotland\) Act 2021](#) allows for a defences of truth, honest opinion, and publication on a matter of public interest.

Assistance to third parties

11. What kind of legislative or other measures does your national legal framework have in place to ensure that persons close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care?³²

Children are supported throughout and following the criminal proceedings by Child and Young Persons [Independent Sexual Violence Advisers](#) (ChISVA) whose core purpose is to ensure that the child's voice is heard by professionals and that practical and emotional support is available to the child and affected primary care givers. The UK also has a robust network of [civil society organisations](#) operating distinctly from, but alongside, government that provide a broad range of support services to victims and their families.

Assistance to third parties

12. When determining the support required to the victim and the persons close to him or her, how does your national legal framework ensure that the child's disclosure does not worsen his or her situation and that of the other non-offending members of the family?³³

As noted in the response the Question 10, children in the United Kingdom are supported throughout and following the criminal proceedings by specialist Child and Young Persons Independent Sexual Violence Advisers (ChISVA) who provide practical and emotional support to the child and affected

³² 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 30.

³³ *Ibid.*, Recommendation 31.

primary care givers. Civil society organisations, who operate distinctly from, but alongside, government, provide a broad range of support services to victims and their families.

England and Wales

In England and Wales, the [Child House](#), [Working Together to Safeguard Children](#), [Achieving Best Evidence](#) and [Safeguarding Children as Victims and Witnesses](#) guidance documents note that provided that their safety has been established, children and their parents/carers are offered therapeutic services as soon as is reasonably possible.

Assessment and treatment are available regardless of whether the child chooses to participate in a criminal justice process.

Scotland

The new [Scottish Child Interview Model](#) delivers an interview process that secures the child's best evidence at the earliest opportunity and minimises the risk of further retraumatisation. This is a ground-breaking approach to interviews for vulnerable child victims and witnesses which is currently being rolled out across Scotland thanks to £2 million of Scottish Government funding. A key aim of the new Scottish Child Interview Model – which has been developed and assessed by Social Work Scotland, local authorities and Police Scotland in a series of pilot projects - is to protect children and reduce stress when recounting their experiences.

Monitoring of offenders

13. Does your national legal framework provide for:
 - a. a mechanism to monitor or supervise persons convicted of child sexual abuse and, specifically, persons convicted of child sexual abuse while holding a recognised position of trust, authority or influence?³⁴ Please provide details.
 - b. sharing with other countries data concerning persons convicted of child sexual abuse?³⁵ Please provide details.

[Section 80](#) of the [Sexual Offences Act 2003](#) requires that those convicted of sexual offences become subject to notification requirements. This requires sexual offenders to register with the police within three days of conviction or release from prison, as failure to do is a criminal offence, and to regularly attend a police station to attest that they are compliant with regulations. Compliance includes notification of all foreign travel, the offender's address or notification of no-fixed-abode, bank account and credit card details, and provision of passports and other identity documents. Additionally, [Ancillary Orders](#) like the [Sexual Harm Prevention Order \(SHPO\)](#) are available through the magistrates' court and can be shared with other countries.

It should be noted that while there is no single, publicly accessible "sex offender register", under the [Child Sex Offender Disclosure Scheme \(CSODS\)](#) or 'Sarah's Law' the police can tell parents, carers and guardians if someone has a record for child sexual offences.

³⁴ *Ibid.*, Recommendation 33.

³⁵ Based on Article 38 of the Lanzarote Convention.

Measures in respect of professionals and legal persons

14. Does your national legal framework:
 - a. allow for the immediate removal or suspension of a professional or volunteer working with children suspected of sexually abusing a child?³⁶ Please provide details.
 - b. ensure that professionals working in the public, private or voluntary sectors failing to report offences of child sexual abuse occurring in “out-of-home care”³⁷ settings are held liable?³⁸ Please provide details.
 - c. ensure that legal persons failing to protect children in their care from sexual abuse are held liable?³⁹ Please provide details.

Following recommendation from the UK’s [Independent Inquiry into Child Sexual Abuse](#), the government launched an [open call for evidence](#) on Mandatory Reporting. This sought views on implementing a statutory duty for anyone working in regulated activity with children, persons in positions of trust and police officers to report disclosures or witnessed incidences of child sexual exploitation and abuse, as well as suspected abuse, or face criminal liability.

Existing statutory guidance ([Working together to safeguard children](#), [Keeping children safe in education](#)) and non-statutory guidance ([Keeping children safe in out-of-school settings](#)) expects that practitioners should make immediate referral to the relevant local authority if they believe that a child has been, or is likely to be, abused or exploited. These operate alongside the [Criminal Law Act 1967 \(5\)](#) to pursue the concealment of an arrestable offence.

If a professional or volunteer is accused or suspected of sexually abusing a child, there are a number of possible outcomes:

- A police investigation of a possible criminal offence.
- Children's Social Care enquiries and/or assessment about whether a child needs protection or services; (Refer to the appropriate Social Care team).
- Consideration by an employer of disciplinary action (Ensure that the appropriate registered body is informed in line with the procedures of that organisation).
- No further action.

Special representatives

15. How does your national legal framework ensure that special representatives and guardians *ad litem* who are appointed to avoid a conflict of interest between the holders of parental authority and the child victim:

³⁶ Based on Article 27§3(b) of the Lanzarote Convention.

³⁷ In accordance with the [Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse](#) adopted at its 25th meeting (15-18 October 2019), “out-of-home care” represents all settings in which children can be placed out of their home for care (see point b of the Declaration).

³⁸ Based on the [Declaration of the Lanzarote Committee on protecting children in out-of-home care from sexual exploitation and sexual abuse](#), point 6.

³⁹ *Ibid.*, see point 7.

- a. receive appropriate training and legal knowledge to ensure and safeguard the best interests of the child victim during criminal investigations and proceedings?⁴⁰
- b. avoid combining the functions of a lawyer and guardian ad litem in one person?⁴¹
- c. are provided free of charge for the child victim?⁴²

The CPS' [Guidelines on Prosecuting Cases of Child Sexual Abuse](#) advise that Intermediaries should be considered in all cases of child sexual abuse, not just those involving very young witnesses, and if not involved earlier in the case, they should still be actively considered in advance of the trial as a means of supporting the victim giving evidence in court.

All intermediaries are subject the codes of conduct outlined in the '[Registered Intermediary Procedural Guidance 2020](#)', including that they will "continuously update their knowledge and skills and complete a continuing professional development (CPD) log annually" ([Achieving Best Evidence in Criminal Proceedings](#)) and adhere to the terms set out at the 'Ground Rules Hearing' ([intermediaries – preparation for trial](#)).

Support for child victims in investigative and judicial proceedings

- 17 In investigative and judicial proceedings how does your national legal framework ensure that:
- a. protection measures are available to all children irrespective of their age?⁴³ Please provide details.
 - b. specificities of sexual abuse committed in respect of a child by someone in a recognised position of trust, authority or influence are taken into account in the measures and procedures applied during criminal investigations and proceedings in order not to aggravate the trauma experienced by the child?⁴⁴
 - c. a child who is a presumed victim of sexual abuse is supported by a professional trained to safeguard children's psychological well-being?⁴⁵

England and Wales

In accordance with [Child House](#), [Working Together to Safeguard Children](#), [Achieving Best Evidence](#) and [Safeguarding Children as Victims and Witnesses](#) guidance - provided that their safety has been established, children and their parents/carers are offered therapeutic services as soon as is reasonably possible.

Assessment and treatment are available regardless of whether the child chooses to participate in a criminal justice process.

Scotland

⁴⁰ 1st Implementation Report "Protection of Children against Sexual Abuse in the Circle of Trust: The Framework", Recommendation 35.

⁴¹ *Ibid.*, Recommendation 36.

⁴² *Ibid.*, Recommendation 37.

⁴³ *Ibid.*, Recommendation 38.

⁴⁴ *Ibid.*, Recommendation 39.

⁴⁵ Based on *N.Ç. v. Türkiye* (no. 40591/11), 9 February 2021.

The Scottish Government is progressing with a phased implementation of the Barnahus model – known in Scotland as “[Bairns’ Hoose](#)”. The current agreed policy position of the scope of Bairns’ Hoose as published in the Vision Values and Approach includes;

1. “all children in Scotland, who are believed to have been victims or witnesses to abuse or violence, which has caused or likely to cause significant harm;
2. children under the age of criminal responsibility whose behaviour has caused significant harm or abuse”

The new [Scottish Child Interview Model](#) delivers an interview process that secures the child’s best evidence at the earliest opportunity and minimises the risk of further retraumatisation.

This is a ground-breaking approach to interviews for vulnerable child victims and witnesses which is currently being rolled out across Scotland thanks to £2 million of Scottish Government funding.

A key aim of the new Scottish Child Interview Model – which has been developed and assessed by Social Work Scotland, local authorities and Police Scotland in a series of pilot projects - is to protect children and reduce stress when recounting their experiences.

Support for child victims in investigative and judicial proceedings

18 Since the adoption of the 1st implementation report in the 1st monitoring round in 2015, has your national legal framework been amended to ensure that the justice system accommodates more fully the specificities attached to the participation of children as victims in proceedings and not solely as perpetrators of criminal offences?⁴⁶ Please provide details.

England and Wales

In [cases involving children](#), the Crown Prosecution Service states that:

“Children can be victims of offences and can also be affected by crime even if they are not themselves victims or witnesses. A child may be seriously affected by, for example, domestic violence, even if not present in the same room as the offence is committed.

The Code for Crown Prosecutors reminds prosecutors to consider the circumstances of the victim when considering whether a prosecution is required in the public interest. The more vulnerable the victim’s situation, or the greater the perceived vulnerability of the victim, the more likely it is that a prosecution is required.”

However, whether they are the victim or offender, the UK’s legal framework is able to recognise the inherent vulnerability of children. The [Children and Young Persons Act 1993](#) recognises a duty of care and makes provision for the ‘Welfare of the Offender’ (44).

The [Children and Young Persons Act 1963](#) (29) and [Sentencing Act 2020](#) (177) take into consideration the age of the offender (chronological and emotional), the seriousness of the offence, the likelihood

⁴⁶ 1st Implementation Report “Protection of Children against Sexual Abuse in the Circle of Trust: The Framework”, Recommendation 40.

of further offences being committed, and the extent of harm likely to result from those further offences’.

Scotland

The Scottish Government introduced the Bill which led to the [Vulnerable Witnesses \(Criminal Evidence\) \(Scotland\) Act 2019](#), (“the 2019 Act”) which was passed by the Scottish Parliament. The 2019 Act establishes a legislative presumption that the evidence of child witnesses in cases which involve specific offences must be pre-recorded ahead of trial, except in certain limited circumstances, including where doing so would give rise to a significant risk of prejudice to the fairness of proceedings.

We have adopted a phased approach to implementing the presumption as it applies under the Act. To date the presumption has been introduced for children giving evidence in the High Court with work underway to extend the presumption to child complainants and witnesses giving evidence in the Sheriff and Jury courts.

In 2023 the Steering Committee for the Rights of the Child (CDENF) circulated a questionnaire in the framework of its mapping study of the implementation and development of Barnahus model in Europe. Should your authorities have responded to this questionnaire, you may reiterate those replies and complete as need be.

Investigation

- 19 In the investigation phase:
- a. are interviews of child victims arranged in a child-friendly setting separate from the usual premises where investigations and interviews are conducted (such as police, hospital or court premises), and are such settings provided throughout your territory?⁴⁷ Please provide details.
 - b. are all staff responsible for interviewing child victims required to undergo suitable qualifying training?⁴⁸ Please provide details.
 - c. does your national legal framework require that interviews with child victims are conducted as soon as possible after the offence, that their duration and number are limited, and that in their organisation account is taken of the child’s age and attention span?⁴⁹ Please provide details.
 - d. **[for Serbia]** how do you ensure that child victims of sexual abuse by someone in a recognised position of trust, authority or influence are not repeatedly interviewed during the proceedings?⁵⁰
 - e. where it is indispensable to interview the child victim more than once, does your national legal framework require that the interviews should, if possible and where appropriate, be conducted by the same person and under the same material conditions as the first?⁵¹ Please provide details.
 - f. does your national legal framework offer criminal defence the possibility to contest a child’s disclosure during the interview through questions, thus obviating the need for the child to be present in the court room during the proceedings?⁵² Please provide details.

⁴⁷ *Ibid.*, Recommendation 41.

⁴⁸ *Ibid.*, Recommendation 42.

⁴⁹ *Ibid.*, Recommendation 43.

⁵⁰ *Ibid.*, Recommendation 54.

⁵¹ *Ibid.*, Recommendation 44.

⁵² *Ibid.*, Recommendation 45.

England and Wales

Building on the learning from Barnahus and the UK's own '[Lighthouse](#)' pilot, the Government [published guidance](#) in late 2021 for local partnerships seeking to adopt a Child House model approach to support children and their primary care givers following experiences of child sexual abuse and exploitation.

All multi-agency staff are advised to contribute their knowledge, experience and expertise towards a co-ordinated, compassionate and professional response to the needs of the child. Investigating officers and prosecutors carry out enquiries in accordance with [Achieving Best Evidence](#) (ABE) guidance, for example by limiting the number of occasions that the child is asked to provide an account of what happened to them or by reducing the frequency of agency visits to the child. Depending on who is able to develop better rapport with the child, it's possible for a police officer to cede interviewing of child witnesses to an adequately trained social worker, in accordance with the ABE framework.

The [Youth Justice and Criminal Evidence Act 1999](#) and Child House model guidance ask local authorities to consider a [visually recorded interview](#) (VRI) suite and 'live link' rooms with sound recording equipment to enable the child to [testify](#) and respond to [video-recorded cross examination](#), as well as space to accommodate the child, parents/carers, interviewer, [intermediary](#) and interpreter.

Key consideration is given to providing a safe, neutral and child-friendly environment. A central and accessible space where children and their primary care givers are able to access all or the majority of services they may need can reduce anxiety and preventing re-traumatisation by the investigatory process.

Scotland

In May 2023 [National Bairns' Hoose Standards](#) commissioned by the Scottish Government were published. These Standards set out what Bairns' Hoose will mean in reality for the children and young people and their families as well as for the professionals who will work with and support them throughout their journey to justice and recovery.

The Standards state that Bairns' Hooses are "places designed by children for children. Children can experience interviews, examinations, recovery support and remote access to legal proceedings under one roof."

Bairns' Hoose will build on the momentum of the new Scottish Child Interview Model for Joint Investigative Interviews, which is being introduced nationally from 2021 to 2024 and will be seen as the 'justice room' of the Bairns' Hoose. The new Scottish Child Interview Model will deliver an interview process that secures the child's best evidence at the earliest opportunity and minimises the risk of further re-traumatisation.

Bairns' Hoose Standard 6 refers to the Interview Process and states "I will be supported during any interview. My interview will be recorded and used so I don't have to repeat myself as much."

The focus of the Pathfinder phase is to begin to test these newly published national Standards. It will enable us to better understand and address the complexity of the necessary systemic change.

These Pathfinders will show us how the Standards work in practice in different contexts, enabling the design of a national Bairns' Hoose model and the support required to achieve this. A Fund of up to £6m will support the Pathfinder phase in 2023-24.

The Pathfinder Phase will be followed by a Pilot phase where Standards will be fully implemented in within participating partnerships, followed by national rollout.

Criminal defence practitioners retain the ability to challenge the evidence of child witnesses through cross-examination whether this evidence is given in court or where it is pre-recorded ahead of trial. The [Vulnerable Witness \(Criminal Evidence\) \(Scotland\) Act 2019](#) does, however, require that a Ground Rules Hearing must take place before a child pre-records their evidence. These hearings are intended to moderate the conduct of evidence by commissioner Hearings and the commissioner presiding over the hearing must ensure a variety of matters are discussed, including; the anticipated length of time for questions, any breaks that will be required, the form and wording of questions and what other steps could reasonably be taken to enable the child to participate more effectively in the proceedings.

Judicial proceedings

20 In the judicial proceedings:

- a. is systematic use of video equipment made in order to record interviews of child victims or enable him or her to testify remotely during the proceedings?⁵³ Please provide details.
- b. does your national legal framework make an exception in the requirement to be physically present at court hearings for child victims of sexual abuse, including when they are giving evidence?⁵⁴ Please provide details.
- c. is there any difference in the scope of the application of this requirement based on the child's age?⁵⁵ Please provide details.
- d. are video recordings of interviews of child victims regarded as admissible evidence?⁵⁶ Please provide details.
- e. what measures do you take to guard against any further contact between a child victim of sexual abuse by someone in a recognised position of trust, authority or influence and a presumed offender during the criminal proceedings?⁵⁷
- f. does your national legal framework allow taking the child's testimony without the presumed offender being present?⁵⁸ Please provide details.
- g. how do you ensure that face-to-face confrontation with the defendant during the proceedings does not take place?⁵⁹
- h. what measures do you take to prevent violation of the child victims' right to privacy by the media through disclosure or publication of personal information or data?⁶⁰

⁵³ *Ibid.*, Recommendation 46.

⁵⁴ *Ibid.*, Recommendation 59.

⁵⁵ *Ibid.*, Recommendation 60.

⁵⁶ *Ibid.*, Recommendation 47.

⁵⁷ *Ibid.*, Recommendation 48.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, Recommendation 49.

- i. does your national legal framework provide for free legal aid to child victims of sexual abuse by someone in a recognised position of trust, authority or influence under the same or more lenient conditions as that available to adults?⁶¹ Please provide details.
- j. does your national legal framework grant to child victims of sexual abuse by someone in a recognised position of trust, authority or influence the right to be represented in their own name by a lawyer trained in the relevant matters?⁶² Please provide details.
- k. what assistance, if any, do you provide to child victims of sexual abuse by someone in a recognised position of trust, authority or influence, once a criminal justice decision has been taken?⁶³

England and Wales

As per the [published guidance](#), following a pilot funded by the UK Government, the UK encourages local authorities to adopt a Child House approach suitable to their own multi-agency arrangements and wraparound support services. This includes ensuring that interviews are video recorded in all cases and these videos are admissible in civil, administrative, and criminal proceedings. This allows children to provide testimony remotely, away from proceedings and their presumed abuser. All children who are victims of sexual abuse are eligible for free legal advice and representation in court.

Children are supported throughout and following the criminal proceedings by Child and Young Persons [Independent Sexual Violence Advisers](#) (ChISVA) whose core purpose is to ensure that the child's voice is heard by professionals and that practical and emotional support is available to the child and affected primary care givers. The UK also has a robust network of [civil society organisations](#) operating distinctly from, but alongside, government that provide a broad range of support services to victims and their families.

To protect the identities of victims, and some young offenders, the UK has strict [Youth reporting restrictions](#) for under-18s which apply automatically in Youth Court proceedings and appeals from the Youth Court and can be applied by any other court, such as the Crown Court.

Scotland

The Scottish Government has established a number of specialist, trauma-informed facilities specifically for the purposes of enabling child and vulnerable witnesses to pre-record their evidence ahead of trial or to provide it remotely during trial. This includes four dedicated evidence by commissioner suites located in Aberdeen, Edinburgh, Glasgow and Inverness which make use of video-recording facilities to pre-record the evidence of child and vulnerable witnesses. Further evidence by commissioner suites will be constructed to support the implementation of the presumption to children giving evidence in sheriff and jury trials.

⁶¹ *Ibid.*, Recommendation 50.

⁶² *Ibid.*, Recommendation 51.

⁶³ *Ibid.*, Recommendation 52.