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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.

Northern Ireland

The [Sexual Offences \(Northern Ireland\) Order 2008](#) 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”. Articles [23-31 of the Order](#) deal with “Offences against children under 18: abuse of position of trust”. This legislation was intended to capture those relationships where there is a significant imbalance of power between the adult and the child, and where there is scope for that position of trust to be abused.

The legislation covers relevant scenarios as follows: article [23](#) abuse of position of trust: sexual activity with a child; article [24](#) abuse of position of trust: causing or inciting a child to engage in sexual activity; article [25](#) abuse of position of trust: sexual activity in the presence of a child; article [26](#) abuse of position of trust: causing a child to watch a sexual act; article [27](#) abuse of position of trust: acts done in England and Wales or Scotland; article [28](#) positions of trust; article [29](#) positions of trust: interpretation; article [29A](#) positions of trust: further categories; article [30](#) articles 23 to 26: exception for spouses and civil partners; and article [31](#) articles 23 to 26: sexual relationships which pre-date position of trust.

Articles 28 and 29A 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. Article 28 (1) to (4) provides that:

(1) For the purposes of Articles 23 to 26 a person (A) is in a position of trust in relation to another person (B) if—

- (a) any of the following paragraphs applies, or*
- (b) any condition specified in [F1regulations made by the Department] is met.*

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

(3) This paragraph applies if A looks after persons under 18 who are resident in a home or other place in which—

(a) accommodation and maintenance are provided by an authority under Article 27(2) of the 1995 Order, or

(b) accommodation is provided by a voluntary organisation under Article 75(1) of that Order,

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

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

(a) a hospital,

(b) an independent clinic,

(c) a residential care home or private hospital,

(d) a voluntary home or children's home, or

(e) a residential family centre,

and B is accommodated and cared for in that institution.

Similar to England and Wales, the offences in articles 23 to 26 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 a review of the law on child sex offences by the Department of Justice (NI), followed by a public consultation, section 5 of the [Justice \(Sexual Offences and Trafficking Victims\) Act \(NI\) 2022](#) inserted a new article 29A into the Sexual Offences (NI) Order 2008, creating further “positions of trust” for the purposes of the offences set out in articles 23 to 26 of the Order.

This new article reflects the position in England and Wales, and sets out additional circumstances in which person A will be in a position of trust in relation to person B, for the purposes of articles 23-26 the 2008 Order, namely, that A must knowingly coach, teach, train, supervise or instruct B on a regular basis in a sport or a religion (article 29A(1)). Read together with the offences in articles 23 to 26, A must be aged 18 or over, and B must be under the age of 18.

This area will be kept under review, and the 2022 Act included provisions to allow additional positions of trust to be added via secondary legislation should that prove necessary.

The provisions in respect of abuse of position of trust and those who are included within that cadre of persons considered to have a “position of trust” within the Justice (Sexual Offences & Trafficking Victims) Act (NI) 2022, with provisions outlined below.

Abuse of position of trust: sexual activity with a child

(23) — A person aged 18 or over (A) commits an offence if—

*he intentionally touches another person (B),
the touching is sexual,*

A is in a position of trust in relation to B,

where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and

(a) either—

- (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
- (ii) B is under 13.

This paragraph applies where A—

- (a) is in a position of trust in relation to B by virtue of circumstances within Article 28(2), (3), (4) or (5), and
- (b) is not in such a position of trust by virtue of other circumstances.

Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.

Where in proceedings for an offence under this Article—

- (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 28(2), (3), (4) or (5), and
- (b) it is not proved that he was in such a position of trust by virtue of other circumstances, it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.

A person guilty of an offence under this Article is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

Abuse of position of trust: causing or inciting a child to engage in sexual activity

23. —(1) A person aged 18 or over (A) commits an offence if—

- (a) he intentionally causes or incites another person (B) to engage in an activity,
- (b) the activity is sexual,
- (c) A is in a position of trust in relation to B,
- (d) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and
- (e) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.

(2) This paragraph applies where A—

- (a) is in a position of trust in relation to B by virtue of circumstances within Article 28(2), (3), (4) or (5), and
- (b) is not in such a position of trust by virtue of other circumstances.

(3) Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to

whether he reasonably believed it.

(4) Where in proceedings for an offence under this Article—

(a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 28(2), (3), (4) or (5), and

(b) it is not proved that he was in such a position of trust by virtue of other circumstances,

it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.

A person guilty of an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

Abuse of position of trust: sexual activity in the presence of a child

24. —(1) A person aged 18 or over (A) commits an offence if—

(a) he intentionally engages in an activity,

(b) the activity is sexual,

(c) for the purpose of obtaining sexual gratification, he engages in it—

(i) when another person (B) is present or is in a place from which A can be observed, and

(ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it,

(d) A is in a position of trust in relation to B,

(e) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and

(f) either—

(i) B is under 18 and A does not reasonably believe that B is 18 or over, or

(ii) B is under 13.

(2) This paragraph applies where A—

(a) is in a position of trust in relation to B by virtue of circumstances within Article 28(2), (3), (4) or (5), and

(b) is not in such a position of trust by virtue of other circumstances.

(3) Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.

(4) Where in proceedings for an offence under this Article—

(a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 28(2), (3), (4) or (5), and

(b) it is not proved that he was in such a position of trust by virtue of other circumstances, it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.

(5) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months

- or a fine not exceeding the statutory maximum or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

Abuse of position of trust: causing a child to watch a sexual act

- 25.** —(1) A person aged 18 or over (A) commits an offence if—
- (a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity or to look at an image of any person engaging in an activity,
 - (b) the activity is sexual,
 - (c) A is in a position of trust in relation to B,
 - (d) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and
 - (e) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.
- (2) This paragraph applies where A—
- (a) is in a position of trust in relation to B by virtue of circumstances within Article 28(2), (3), (4) or (5), and
 - (b) is not in such a position of trust by virtue of other circumstances.
- Where in proceedings for an offence under this Article it is proved that the other person was under 18, the defendant is to be taken not to have reasonably believed that that person was 18 or over unless sufficient evidence is adduced to raise an issue as to whether he reasonably believed it.
- (3) Where in proceedings for an offence under this Article—
- (a) it is proved that the defendant was in a position of trust in relation to the other person by virtue of circumstances within Article 28(2), (3), (4) or (5), and
 - (b) it is not proved that he was in such a position of trust by virtue of other circumstances,
- it is to be taken that the defendant knew or could reasonably have been expected to know of the circumstances by virtue of which he was in such a position of trust unless sufficient evidence is adduced to raise an issue as to whether he knew or could reasonably have been expected to know of those circumstances.
- (4) A person guilty of an offence under this Article is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

Justice (SOTV) Act (NI) 2022

Abuse of position of trust: relevant positions

- 5.**—(1) The Sexual Offences (Northern Ireland) Order 2008 is amended as follows.
- (2) In Article 2 (interpretation), after paragraph (4) insert—
- “(4A) “The Department” means the Department of Justice.”.
- (3) In Article 28 (positions of trust), in paragraph (1)(b), for “an order made by the

Secretary of State” substitute “regulations made by the Department”.

(4) After Article 29 insert—

“Positions of trust: further categories

29A.—(1) For the purposes of Articles 23 to 26, a person (A) is in a position of trust in relation to another person (B) if—

- (a) A coaches, teaches, trains, supervises or instructs B, on a regular basis, in a sport or a religion, and
- (b) A knows that A coaches, teaches, trains, supervises or instructs B, on a regular basis, in that sport or religion.

(2) I

n

paragraph

(1)—

“sport”

includes—

- (a) any game in which physical skill is the predominant factor,
- (b) any form of physical recreation which is also engaged in for purposes of competition or display, “religion” includes—

- (a) a religion which involves belief in more than one god,
- (b) a religion which does not involve belief in a god.

(3) Paragraph (1) does not apply where A is in a position of trust in relation to B by virtue of circumstances within Article 28.

(4) The Department may by regulations amend paragraphs (1) and (2) so as to add or remove an activity in which a person may be coached, taught, trained, supervised or instructed.”.

(5) In Article 80—

- (a) the heading becomes “Orders and regulations”,
- (b) after paragraph (3) insert—

“(4) Regulations under Article 28(1)(b) or 29A(4) may not be made unless a draft of them has been laid before and approved by a resolution of the Assembly.

(5) Regulations under this Order may include any incidental, supplementary, consequential, transitory, transitional or saving provision which the Department considers necessary or expedient.”.

(6) The Department of Justice must annually review Article 29A(1) and (2) of the Sexual Offences (Northern Ireland) Order 2008 so as to inform the Department on whether the power in Article 29A(4) of that Order should be exercised.

In preparation for the extended provisions commencing in November 2023 there was a training package which highlighted the new provisions and associated briefings with those who would have been conducting relevant investigations. This has further extended the persons that can be considered as holding a position of trust in respect of sexual offences against children.

There is no specific reference to “circle of trust” per se within the legislation.

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.

England and Wales

As noted above, the criminal law in the UK protects all children up to the age of 18 years old against child sexual abuse offences under the [Sexual Offences Act 2003](#) which 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 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.

Please also see the response to Question 1.

Northern Ireland

Articles 23-31 of the Sexual Offences (NI) Order 2008 deal with “Offences against children under 18: abuse of position of trust”. As with in England and Wales, these offences offer a much greater level of protection to children as they specifically target consensual sexual relationships between adults and children aged 16 or 17. The specific offences are: article [23](#) Abuse of position of trust: sexual activity with a child; article [24](#) Abuse of position of trust: causing or inciting a child to engage in sexual activity; article [25](#) Abuse of position of trust: sexual activity in the presence of a child; and article [26](#) Abuse of position of trust: causing a child to watch a sexual act.

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.

¹⁰ *Ibid.*, Recommendation 6.

¹¹ *Ibid.*, Recommendation 5.

Article 23 of the Sexual Offences (NI) Order 2008 specifically provides that the Abuse of Position of Trust offences apply if “B (the victim) is under 18 and A (the offender) does not reasonably believe that B is 18 or over, or B is under 13.”

Legislation in Northern Ireland under Sexual Offences (NI) Order 2008 reflects that a child is any young person under the age of 18 for relevant sexual offences. It should be noted that the Sexual Offences (NI) Order 2008 contains a range of offences to capture child sexual abuse in all its forms, this included specific offences targeting familial child sex abuse, position of trust offences and other relevant sexual offences.

As outlined above even where the sexual act is lawful because the individual has reached the age of consent (16) regardless of whether there is or is not coercion, force of threat in respect of the offending behaviour where there is a position of trust which by the nature of the activities have been abused.

The legal definition refers to position of trust rather than position of influence per se. This provision should be read in conjunction with the answer to question 1.

Articles 23 to 26: exception for spouses and civil partners;

30. —(1) Conduct by a person (A) which would otherwise be an offence under any of Articles 23 to 26 against another person (B) is not an offence under that Article if at the time—

(a) B is 16 or over, and

(b) A and B are lawfully married or civil partners of each other.

(2) In proceedings for such an offence it is for the defendant to prove that A and B were at the time lawfully married or civil partners of each other.

In circumstances of this nature it is likely that appropriate enquiries would be conducted to ascertain the circumstances of the relationship, how it started, when it started to ensure that there was no relevant time prior to attaining the age of 16 where there was an abuse of position even if this did then lead to a relationship / marriage.

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. There is no defence of consent to the offence so whether child a) consented and or b) was of the age of consent is irrelevant as to whether the offence has been committed.

Scope of offence

3. Does your national legal framework criminalise sexual abuse of children:
- where the offender abuses a recognised position of influence?¹²
 - [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
 - [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

¹² *Ibid.*, Recommendation 1.

¹³ *Ibid.*, Recommendation 7.

¹⁴ *Ibid.*, Recommendation 8.

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.

The Marriage and Civil Partnership (Minimum Age) Act 2022, which came into force in England and Wales on 27 February 2023, changed the law so that 16 and 17 year olds are no longer be allowed to marry or enter a civil partnership, even if they have parental consent. Under this legislation it is illegal and a criminal offence to exploit vulnerable children by arranging for them to marry, under any circumstances whether or not force is used.

Northern Ireland

The position in Northern Ireland reflects that of England and Wales, although the relevant legislation in Northern Ireland is the Sexual Offences (NI) Order 2008, recently amended by the Justice (Sexual Offences and Trafficking Victims) Act (NI) 2022. The rationale behind the positions of trust provisions also reflects that set out above.

The 2008 Order contains a range of offences which capture the various types of child sexual abuse, including familial sexual abuse.

All sexual activity with a child under 16 is a criminal offence in Northern Ireland. Under the abuse of position of trust legislation, where the child is 16 or over (and the activity is consensual) Article 35 of the Sexual Offences (NI) Order 2008 provides an exception / defence for spouses and civil partners. It provides that conduct by a person (A) which would otherwise be an offence under Article 32 (Sexual activity with a child family member) or Article 33 (Inciting a child family member to engage in sexual activity) is not an offence under that Article if at the time (a) B (the "victim") is 16 or over, and (b) A and B are lawfully married or civil partners of each other.

The position of trust offences (articles 23-31 of the Sexual Offences (Northern Ireland) Order 2008) do not require "coercion, force or threat" in order for the offences to be made out – the abuse of the position of trust between the perpetrator and victim is the key component of this legislation.

There is no specific offence in Northern Ireland, which relates to sexual integrity of children. The Sexual Offences (NI) Order 2008 covers all of the relevant sexual offences that are relevant and could be committed against children. The below highlight a series of the provisions provided for, this will include rape, sexual assaults, arranging / facilitating commission of sex offences of children

Arranging or facilitating commission of a sex offence against a child

21.—(1) A person commits an offence if—

- (a) he intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world, and
- (b) doing it will involve the commission of an offence under any of Articles 16 to 20.

(2) A person does not commit an offence under this Article if—

⁵ *Ibid.*, Recommendation 9.

⁶ *Ibid.*, Recommendation 11.

⁷ *Ibid.*, Recommendation 12.

- (a) he arranges or facilitates something that he believes another person will do, but that he does not intend to do or intend another to do, and
- (b) any offence within paragraph (1)(b) would be an offence against a child for whose protection he acts.

Abuse of position of trust: sexual activity in the presence of a child

25.—(1) A person aged 18 or over (A) commits an offence if—

- (a) he intentionally engages in an activity,
- (b) the activity is sexual,
- (c) for the purpose of obtaining sexual gratification, he engages in it—
 - (i) when another person (B) is present or is in a place from which A can be observed, and (ii) knowing or believing that B is aware, or intending that B should be aware, that he is engaging in it,
- (d) A is in a position of trust in relation to B,
- (e) where paragraph (2) applies, A knows or could reasonably be expected to know of the circumstances by virtue of which he is in a position of trust in relation to B, and (f) either—
 - (i) B is under 18 and A does not reasonably believe that B is 18 or over, or
 - (ii) B is under 13.

Abuse of position of trust: causing a child to watch a sexual act

26.—(1) A person aged 18 or over (A) commits an offence if—

- (a) for the purpose of obtaining sexual gratification, he intentionally causes another person (B) to watch a third person engaging in an activity or to look at an image of any person engaging in an activity,
- (b) the activity is sexual,
- (c) A is in a position of trust in relation to B,

Indecent photographs of persons aged 16 or 17

42. —(1) The Protection of Children (Northern Ireland) Order 1978 (NI 17) (which makes provision about indecent photographs of persons under 16)

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, including where coercion, force, or threat has not been applied by the perpetrator. 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 (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.

However, it should be noted that it is a defence to the abuse of trust offence that the child was the person’s spouse or civil partner at the time.

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. The sex/gender and the sexual orientation of the perpetrator or the victim is irrelevant (except in relation to the crime of ‘rape’ as this can only be committed by a person with a penis).

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](#)).

¹⁵ *Ibid.*, Recommendation 9.

¹⁶ *Ibid.*, Recommendation 11.

¹⁷ *Ibid.*, Recommendation 12.

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](#)).

Northern Ireland

As with the response to previous questions, the position in Northern Ireland mostly reflects that of England and Wales. The [Sexual Offences \(NI\) Order 2008](#) criminalises a range of forms of sexual abuse of children and the same sanctions would apply regardless of sexual identity.

Some examples of this are: article [13](#) assault of a child under 13 by penetration; article [14](#) sexual assault of a child under 13; article [15](#) causing or inciting a child under 13 to engage in sexual activity; article [16](#) sexual activity with a child; article [17](#) causing or inciting a child to engage in sexual activity; article [18](#) engaging in sexual activity in the presence of a child; article [19](#) causing a child to watch a sexual act; article [21](#) arranging or facilitating commission of a sex offence against a child; and article [22](#) meeting a child following sexual grooming etc.

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 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

¹⁸ *Ibid.*, Recommendation 57.

¹⁹ *Ibid*

²⁰ *Ibid.*, Recommendation 56.

England and Wales

Under the criminal justice system in England and Wales, it is for the police and law enforcement agencies to investigate possible breaches of the criminal law (with relevant child sexual abuse offences captured in the Sexual Offences Act 2003 as set out in above responses) and then for the Crown Prosecution Service (CPS) to consider whether prosecutions should be progressed in any given case. The 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](#)).

Northern Ireland

Section 5 of the Justice (Sexual Offences and Trafficking Victims) Act 2022 amended the existing abuse of position of trust legislation contained in Part 3 (Sexual Offences Against Children) of the 2008 Order. The scope of the existing abuse of position of trust provisions, as provided for in Articles 23 to 31 (Offences Against Children under 18 : abuse of position of trust) of the 2008 Order, has been extended to include the non-statutory settings of sport and religion. Prior to this legislative change, the abuse of position of trust offences applied only to those adults in a position of trust of young people within the statutory sector, such as in education, health environments, youth detention and social service care and as defined in Article 28 (Positions of Trust) and Article 29 (Positions of trust : interpretation) of the 2008 Order.

The Public Prosecution Service (PPS) is the principal prosecution authority in Northern Ireland. The PPS has two main statutory functions –

- (i) to decide whether to prosecute an individual, and
- (j) where we decide to prosecute, to bring those cases to court and conduct the prosecution.

Where an alleged offence by an identifiable suspect is reported to the Police Service of Northern Ireland (PSNI), the PSNI is responsible for investigating the alleged crime, gathering the evidence and reporting the matter to the PPS. It is then for the PPS to decide whether a prosecution should be commenced by applying what is called the Test for Prosecution. The Serious Crime Unit within the PPS is a specialised unit which deals with serious sexual abuse and exploitation. This dedicated team is well placed to understand the issues that cases involving sexual offending present, and to deal sensitively with victims. Each case will be considered individually, with regard to the evidence available and particular circumstances arising. The PPS has recently published a new policy in relation to Sexual Offences. Internal specific guidance for prosecutors has been produced, including awareness of the impact of Child Sexual Exploitation and Evidence Led Prosecution.

5.a.

The PSNI will conduct investigations into all reports relating to Child Sexual Abuse and Exploitation of children, including in the absence of a complaint from the victim, in compliance with our obligations under:

- Section 32 of the Police Northern Ireland Act 2000, (1) D – where an offence has been committed, to take measures to bring offenders to justice

- The Criminal Procedure and Investigations Act 1996 - to identify and follow all reasonable lines of enquiry to gather all reasonably available material (outside of victim complaint) and, where a suspect is identified, investigate towards and away from the suspect.

The presence of a complaint may affect the disposal / prosecution recommendation of the investigating officer, as this is based on an assessment of the strength of the overall evidence, which can only be considered on a case by case basis. Whether or not the prosecutorial test is met is a matter for the Public Prosecution Service.

[1] Ibid., Recommendation 57.

5.b.

The investigation will continue in accordance with the above statutory obligations however, whether or not the case proceeds to criminal justice proceedings is a decision for the Public Prosecution Service.

5.c.

The response in respect of 1.a equally applies to children outlined in this question in respect of 'investigation'. The presence of a complaint may affect the disposal / prosecution recommendation of the investigating officer, as this is based on an assessment of the strength of the overall evidence, which can only be considered on a case by case basis. Whether or not the prosecutorial test is met is a matter for the Public Prosecution Service.

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 would be a matter for the Prosecution to decide in each case whether there is a sufficiency of evidence to continue the prosecution in such circumstances.

<p><u>Measures in respect of children who sexually offend and children displaying risky and harmful sexual behaviour</u></p>

<p>6. Does your national legal framework:</p>

- 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

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

- **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.

Northern Ireland

The age of criminal responsibility in Northern Ireland is 10-years old. Charge children under 10 cannot, therefore, with committing a criminal offence. There will be occasions where matters that would otherwise have been criminal act, save for the age of the child, that will be referred to police for joint agency discussion between police and social services. The child "suspect" or accused may not be identified or their age may not have been confirmed at the time of the report.

This may therefore result in Social Services engaging with the family to provide the support to prevent the behaviours into the age where that child could be held criminally responsible.

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:
- 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.
 - 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.
 - 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.
 - 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.
 - 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.

England and Wales

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.

In terms of data sharing between relevant agencies, through the child protection system and multiagency safeguarding arrangements, this information exchange is facilitated to ensure the safeguarding and protection of the child as they move through the system. We have worked to strengthen multiagency safeguarding arrangements, including ensuring agencies take a victim-centre and trauma-informed approach in their engagement with all victims. The Working Together to

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.

Safeguard Children statutory guidance, updated in 2023, notes that ‘... practitioners should be proactive in sharing information as early as possible to help identify, assess, and respond to risks or concerns about the safety and welfare of children’ in line with the requirements of the Data Protection Act 2018 and UK General Data Protection Regulation (UK GDPR), which both support the sharing of relevant information for the purposes of keeping children safe where there is the relevant legal basis to do so.

Northern Ireland

Parental rights are not suspended or withdrawn when a parent is accused and/or convicted of offences involving child sexual abuse and exploitation. There is no specific legal provision for the circumstances where it is believed or suspected that a parent / guardian may prevent a disclosure to provide any specific power of intervention.

Investigators would attempt to engage the child victim jointly with Social Services through the parental authority and would consider potential child protection measures should the parent become obstructive to the detriment of the child’s safety.

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.

Police have powers under Art 65 of the Children (Northern Ireland) Order 1995 which provides authority to a Police officer of any rank who encounters a child in a set of circumstances where they have reasonable cause to believe that that child is likely then and there or in the immediate future to suffer Significant Harm, they may remove the child to a suitable accommodation and keep them there or take such steps as reasonable to ensure that the child’s removal from any Hospital or other place in which they are then being accommodated is prevented.

There are a number of routes that such a disclosure should be given either under child protection or under the Public Protection Arrangements for NI where someone is then a convicted / registered sex offender (known as verified disclosure). A Joint Protocol is also in place with the Police Service of Northern Ireland and partner agencies to ensure that they work together and share information effectively to ensure that the best interests of the child underpin every aspect of child protection work. The partners to this multi-agency protocol are as follows: -

- Department of Health (DoH)
- Police Service Northern Ireland (PSNI)
- Belfast Health and Social Care Trust (HSCT)
- Northern Health and Social Care Trust (HSCT)
- South Eastern Health and Social Care Trust (HSCT)
- Southern Health and Social Care Trust (HSCT)
- Western Health and Social Care Trust (HSCT)
- Regional Emergency Social Work Service (RESWS)
- National Society for the Prevention of Cruelty to Children (NSPCC)

Scotland

The child protection response by statutory agencies will depend on professional judgement about the risk of harm and the urgency of the circumstances, and abuse within the family environment is always a wellbeing concern. Under [Section 76 of the Children \(Scotland\) Act 1995](#) (“the 1995 Act”), an Exclusion Order may be granted by a sheriff on the application of a local authority to exclude a named person from the family home. The sheriff must be satisfied:

- (1) that the child has suffered, is suffering, or is likely to suffer, significant harm as a result of any conduct, or any threatened or reasonably apprehended conduct, of the named person,*
- (2) that excluding a named person from the family home is necessary for the protection of the child, irrespective of whether the child is for the time being residing in the family home, and would better safeguard the child’s welfare than the removal of the child from the family home, and*
- (3) there will be a person specified in the application who is capable of taking responsibility for providing appropriate care for the child and any other member of the family who requires care, and who is, or will be, residing in the family home.*

The sheriff can make an interim order pending consideration of representations and views in relation to the application. Moreover, a power of arrest may be attached to an interdict associated with such an order. The maximum duration of such an order is six months under [Section 79](#) of the Act. But it would also be open to the sheriff, where the sheriff considers that the conditions for making a [child protection order](#) (CPO) under [Part 5 of the Children’s Hearings \(Scotland\) Act 2011](#) (“the 2011 Act”) are satisfied, to make a CPO instead.

A CPO is an emergency care order that lasts for a maximum of 8 working days. The Act requires that when a Sheriff has made a child protection order and the Principal Reporter is satisfied that the criteria for the making of the child protection order are met a children’s hearing must take place on the second working day after the child is removed to a place of safety, where the order authorises removal of the child to a place of safety. Wider conditions within the order can include prohibiting or restricting access to a child from a suspected perpetrator (see, for example, [section 41](#) of the 2011 Act which makes provision for contact directions).

Where it is considered necessary to remove a child from harm or risk of harm, consideration may be given by the police or local authority to invoke statutory powers under Part 5 the Children’s Hearings (Scotland) Act 2011, such as to apply for a child protection order (CPO) ([sections 37 to 40](#)) or to remove a child to a place of safety ([section 56](#)). The court in considering whether to make a CPO must be satisfied that there is reasonable cause to believe that the child is likely to suffer significant harm.

Where the order continues, on the 8th working day (CPO ends) a Children’s Hearing will consider grounds of referral from the Principal Reporter and may make an Interim Compulsory Supervision Order (ICSO). The legal basis for this is [s86 Children Hearing \(Scotland\) Act 2011](#). This provides continuity in the child’s care and can allow for the child to continue to reside in a safe place out with the family home. A child may also request refuge and if the child appears at risk of harm, may be provided with short term refuge (up to 7 days in defined circumstances, exceptionally up to 14 days) by the local authority or a person who is approved by the local authority for this purpose ([s38 Children \(Scotland\) Act 1995](#)).

The children's hearings system in Scotland enables a [compulsory supervision order](#) ("CSO") to be put in place for a child containing measures to safeguard and promote the welfare of the child where a child may be in need of protection, guidance, treatment or control. A child may be referred for consideration to a children's hearings on various grounds as set out in [section 67](#) of the 2011 Act and under [section 83](#) of the Act, a CSO may include various measures. A child who is subject to a CSO will be supported by the local authority.

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.

England and Wales

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, once convicted, could become subject to a number of common conditions associated with their sentencing, 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, to ensure the best interests and safety of the child are protected.

Northern Ireland

Parental rights are not suspended or withdrawn when a parent is accused and/or convicted of offences involving child sexual abuse and exploitation. There is no specific legal provision for the circumstances where it is believed or suspected that a parent / guardian may prevent a disclosure to provide any specific power of intervention.

Investigators would attempt to engage the child victim jointly with Social Services through the parental authority and would consider potential child protection measures should the parent become obstructive to the detriment of the child's safety.

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.

The PSNI have powers under Art 65 of the Children (Northern Ireland) Order 1995 which provides authority to a Police officer of any rank who encounters a child in a set of circumstances where they have reasonable cause to believe that that child is likely then and there or in the immediate future to suffer Significant Harm, they may remove the child to a suitable accommodation and keep them there or take such steps as reasonable to ensure that the child's removal from any Hospital or other place

²⁸ *Ibid.*, Recommendation 32.

in which they are then being accommodated is prevented.

There are a number of routes that such a disclosure should be given either under child protection or under the Public Protection Arrangements for NI where someone is then a convicted / registered sex offender (known as verified disclosure). A Joint Protocol is also in place with PSNI and partner agencies to ensure that they work together and share information effectively to ensure that the best interests of the child underpin every aspect of child protection work.

The partners to this multi-agency protocol are as follows: -

Department of Health (DoH)
 Police Service Northern Ireland (PSNI)
 Belfast Health and Social Care Trust (HSCT)
 Northern Health and Social Care Trust (HSCT)
 South Eastern Health and Social Care Trust (HSCT)
 Southern Health and Social Care Trust (HSCT)
 Western Health and Social Care Trust (HSCT)
 Regional Emergency Social Work Service (RESWS)
 National Society for the Prevention of Cruelty to Children (NSPCC)

Scotland

Parental responsibilities and rights are not suspended or withdrawn when a parent is accused and/or convicted of offences involving child sexual abuse and exploitation. An individual with an interest may apply to the courts under section 11 of the Children (Scotland) Act 1995 for an order removing another persons parental responsibilities and rights.

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.

England and Wales

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.

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*

Northern Ireland

Parental rights are not suspended or withdrawn when a parent is accused and/or convicted of offences involving child sexual abuse and exploitation. There is no specific legal provision for the circumstances where it is believed or suspected that a parent / guardian may prevent a disclosure to provide any specific power of intervention.

Investigators would attempt to engage the child victim jointly with Social Services through the parental authority and would consider potential child protection measures should the parent become obstructive to the detriment of the child's safety.

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.

The PSNI have powers under Art 65 of the Children (Northern Ireland) Order 1995 which provides authority to a Police officer of any rank who encounters a child in a set of circumstances where they have reasonable cause to believe that that child is likely then and there or in the immediate future to suffer Significant Harm, they may remove the child to a suitable accommodation and keep them there or take such steps as reasonable to ensure that the child's removal from any Hospital or other place in which they are then being accommodated is prevented.

There are a number of routes that such a disclosure should be given either under child protection or under the Public Protection Arrangements for NI where someone is then a convicted / registered sex offender (known as verified disclosure). A Joint Protocol is also in place with PSNI and partner agencies to ensure that they work together and share information effectively to ensure that the best interests of the child underpin every aspect of child protection work.

The partners to this multi-agency protocol are as follows: -

- Department of Health (DoH)
- Police Service Northern Ireland (PSNI)
- Belfast Health and Social Care Trust (HSCT)
- Northern Health and Social Care Trust (HSCT)
- South Eastern Health and Social Care Trust (HSCT)
- Southern Health and Social Care Trust (HSCT)
- Western Health and Social Care Trust (HSCT)
- Regional Emergency Social Work Service (RESWS)
- National Society for the Prevention of Cruelty to Children (NSPCC)

Scotland

As indicated above, parental responsibilities and rights are not suspended or withdrawn when a parent is accused and/or convicted of offences involving child sexual abuse and exploitation. An individual with an interest may apply to the courts under section 11 of the [Children \(Scotland\) Act 1995](#) for an order removing another person's parental responsibilities and rights.

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:

(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

Northern Ireland

Section 5 of the Criminal Law Act 1967 places a duty on a person, who knows or believes that a relevant offence has been committed, and 'has information which is likely to secure, or to be of material assistance in securing, the apprehension, prosecution or conviction of any person for that offence' to give that information to the police. However, it is only an offence under the law if a person fails to do so 'without reasonable excuse'. This law applies only in Northern Ireland. In June 2020 the Attorney General produced statutory [Human Rights Guidance](#) for the Public Prosecution Service and the Police Service of Northern Ireland on the application of section 5 to victims of serious sexual offences and those to whom they make disclosure.

Any grounds of defence or protection in civil cases would not sit with police to assess and therefore the PSNI cannot comment on civil matters. Similarly, breaches of professional codes or rules would not be a matter for police unless encompassing the commission of a crime. A criminal investigation will only commence where police have grounds to believe an offence has occurred. If a person has reported a matter in good faith, police are duty bound to investigate that report.

Any offence that considers the conduct of a person in notifying police will have a criminal threshold to surpass such as misconduct in a public office, perverting the course of justice, wasting police time and unlawful disclosure of personal data under the DPA. Each of those offences have elements that

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.

must be made out for a person to pass the hurdle of criminality – a report made in good faith that does not result in a charge or successful prosecution does not necessarily mean a person has intentionally misled police or made a disclosure unlawfully.

Where an offence is suspected, an independent prosecutorial body reviews the evidence obtained by police and applies a two stage test before reaching a decision to prosecute a person. Therefore, there is independence in our system that sits apart from police in making charging decisions.

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

England and Wales

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.

Northern Ireland

Support for children who are witnesses in criminal courts is delivered by [NSPCC's Young Witness Service](#). The service which is funded by the Department of Justice provides emotional support to young prosecution victims and witnesses under the age of 18 who are called to give evidence at court. A [Child Independent Sexual Violence Advocacy](#) service is also funded by the Department and delivered by Victim Support NI.

Scotland

The Scottish Government has an extensive and ongoing package of funding in place for victim support organisations which directly provide support and other forms of therapeutic assistance to victims of crimes, and those affected by crime. We announced in March 2022 that £48m is being

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

awarded to victims' organisations through our [Victim Centred Approach Fund](#) (VCAF), with more than 20 organisations receiving VCAF awards – many for the first time – for the 2022-25 period. A key aim of VCAF awards is to prioritise victim access to practical and emotional support.

In particular, [Victim Support Scotland](#) (VSS; a nationwide service that provides free and confidential support for anyone affected by crime) has been awarded over £18m in VCAF funding for that period. VSS provides a bespoke [Support for the Families Bereaved by Crime](#) service, which recognises the impact of bereavement by crime and can provide victims with links to specialist services like counselling and trauma therapy.

Our [Equally Safe Strategy](#) is aimed at preventing and eradicating violence against women and girls, with a focus on early intervention, prevention and support. This is backed by £19m of annual funding from the Scottish Government's [Delivering Equally Safe Fund](#), which has supported 121 projects from 112 organisations since October 2021, with almost 32,000 people benefiting in the first year of the Fund. The stories of the transformative impact on their lives demonstrate the importance of the work.

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

England and Wales

As noted in the response to 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 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.

In England and Wales, the [Child House](#), [Working Together to Safeguard Children](#), [Achieving Best Evidence](#) and [Safeguarding Children as Victims and Witnesses](#) guidance documents also 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.

Northern Ireland

Support for children who are witnesses in criminal courts is delivered by [NSPCC's Young Witness Service](#). The service which is funded by the Department of Justice provides emotional support to young prosecution victims and witnesses under the age of 18 who are called to give evidence at

³³ *Ibid.*, Recommendation 31.

court. A [Child Independent Sexual Violence Advocacy](#) service is also funded by the Department and delivered by Victim Support NI.

Guidance (currently being reviewed) describes good practice in interviewing witnesses, including victims who are children, and using special measures to enable best evidence to be provided in criminal proceedings. It also contains advice in relation to pre-trial therapy. The guidance applies to both prosecution and defence witnesses and is intended for all persons involved in the criminal justice process, including the police, health and/or social care workers, legal profession and victim support organisations.

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.

England and Wales

[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, where that request is actively made to the police in the interests of safeguarding children.

³⁴ *Ibid.*, Recommendation 33.

³⁵ Based on Article 38 of the Lanzarote Convention.

Northern Ireland

The PSNI do not have any legal authority to exercise powers to remove or suspend a professional or volunteer working with children suspected of sexually abusing a child. We have information sharing and Disclosure mechanisms including our Common Law Disclosure Department to share this information with employers and agencies so that they can take appropriate action within their own Child Protection provisions.

Section 5 of the Criminal Law Act (Northern Ireland) 1967 states that it is an offence not to report a 'relevant offence' to the police, this includes offences against children.

Professional bodies have their own policies in respect of child protection and work closely with PSNI to ensure that the correct procedure is followed. If there is a case whereby this was not adhered to relevant organisation would be informed and reported to the regulatory body to ensure appropriate action was taken. If a specific crime has been committed then PSNI will investigate and prosecute where applicable.

Article 96 of the Justice Act (NI) 2015 provides for an offence for 'Causing or allowing child or vulnerable adult to suffer serious physical harm which may provide a legal basis for PSNI to take forward an investigation in respect of legal persons failing to protect children in their care from sexual abuse.

Scotland

Nil Return

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.

England and Wales

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.

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.

Northern Ireland

Criminal Law provisions and powers of police may be used to allow for the immediate removal or suspension of a professional or volunteer working with children suspected of sexually abusing a child. There is the procedural response of referral to [Northern Ireland Social Care Council \(NISCC\)](#) in respect of social worker/social care workers as well as the [Disclosure and Barring Service \(DBS\)](#). The DBS maintains the Adults' and Children's Barred Lists for England, Wales and Northern Ireland and makes considered decisions as to whether an individual should be included on one or both of these lists and barred from engaging in regulated activity.

The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 defines regulated activity and makes provision for barring arrangements. enables organisations to carry out background checks on those individuals they engage to work, or volunteer, in regulated activity with Standard or Enhanced Disclosure Checks (EDC) undertaken and issued by AccessNI. An individual is eligible for an EDC when working in regulated activity or doing some other specific roles. As part of this process employers inform applicants that a barred list check with the DBS is required and ask for their consent to undertake the check. Other professions also should refer any professional to the appropriate registering body.

Employers (Health & Social Care Trusts, other statutory employers and community & voluntary sector organisations) should have arrangements in place to initiate a precautionary suspension as the employer and statutory authorities undertake investigations in compliance with legislation, protocols and agency employment policies and procedures. For out-of-home care, the Children's Homes Regulations (Northern Ireland) 2005 require that a disciplinary procedure is in place in every children's home which provides for the suspension of an employee where necessary in the interests of the safety or welfare of children living in the home.

Scotland

Nil Return

<u>Special representatives</u>

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:
- 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

England and Wales

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](#)).

Northern Ireland

Every children's home in Northern Ireland is required by law to have a disciplinary procedure which provides that the failure of an employee to report an incident of abuse, or suspected abuse, of a child living in the home to either the police, the Regulation and Quality Improvement Authority (RQIA), or the Health and Social Care Trust in whose area the home is located, is a ground on which disciplinary proceedings may be instituted. Failure to operate such a disciplinary procedure is an offence under the Children's Homes Regulations (Northern Ireland) 2005. The RQIA must also be notified in writing where a person responsible for the operation of a children's home has criminal charges pending or is convicted of any criminal offence; where there has been any serious complaint about the home or persons working in the home; or where a child protection enquiry involving a child accommodated at the home has been instigated, and the outcome of such an enquiry. Similar provisions are included in new draft Foster Placement and Fostering Agencies Regulations for Northern Ireland, which it is expected will come into force during 2024/25.

Whilst there is currently no mandatory duty to ensure that other professionals working in the public, private or voluntary sectors report offences of child sexual abuse occurring in "out-of-home care" settings, contracts of employment require all employees to comply with and adhere to agency policies and procedures (which include reporting of child safeguarding and child protection concerns and adult safeguarding/protection concerns).

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.

Section 5 of the Criminal Law Act (Northern Ireland) 1967 outlines the penalties for concealing offences etc. These provisions could be applied in the case of an individual who has knowledge of sexual abuse of a child and fails to report this. Please note however that this is not used regularly.

Scotland

Nil Return

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.

Northern Ireland

The PSNI will avail of an Appropriate Adult where appropriate, as defined under the Police and Criminal Evidence (Northern Ireland) Order 1989 to accompany the child during investigative action where there is a conflict of interest between the holders of parental authority and the child. The appropriate adult would usually be present in the interview of a child as a victim, witness or suspect (in accordance with PACE) and throughout the investigative process as appropriate. The Police Service of Northern Ireland would not arrange for provision of an appropriate adult post investigation into Criminal Justice proceedings.

⁴³ *Ibid.*, Recommendation 38.

⁴⁴ *Ibid.*, Recommendation 39.

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

The PSNI has embedded statutory obligations under the Victim Charter (Justice Act (Northern Ireland) 2015) Order (Northern Ireland) 2015 into its operational policies and procedures to ensure that all victims, including children, are supported during investigations namely:

- being interviewed by Police as few times as possible and to have someone of choice with them (unless it would hinder the police investigation)
- provided timely and accurate updates in respect of the investigation including whether or not a suspect is to be prosecuted or not
- return of property owned by the victim as soon as possible.

The PSNI make best use of special measures in accordance with the Criminal Evidence (NI) Order 1989 supporting applications to the courts in consultation and partnership with our colleagues in the Public Prosecution Service including:

- Screening of witnesses
- Evidence by live link both within the confines of the courts and remote evidence centres
- Evidence given in private
- Removal of wigs and gowns
- Video Recorded evidence in Chief.

The PSNI are currently reviewing its Achieving Best Evidence policy and procedures in consultation with partners however, best use is made of Video recorded evidence in respect of Child Sexual Abuse investigations both to gather evidence for use in the investigation and serve as the evidence in chief of the witness / victim.

Any relevant information gained during the interview can also be used to inform any subsequent actions to safeguard and promote the child's welfare in partnership with Social Services. The Joint protocol referred to earlier ensures that there are appropriate referrals made thorough Social Services for intervention in respect of available mental health services.

Scotland

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

Northern Ireland

The Criminal Evidence (NI) Order 1999 provides provision for child witnesses to pre-record their evidence to the court under Articles 4 and 15. This is admissible evidence. Article 12 of the 1999 Order provides provision for all young witnesses to give evidence from a live link outside of the court room. In certain courts this evidence can be given over a link outside of the court house. A Working Group with membership from all stakeholders, including the PPS has been established in relation to Pre-Recorded Cross-Examination which is allowed for by Article 16 of the 1999 Order. When the child, or young person’s complaint is recorded the defence/defendant are not present. The defence are present when the young person is cross examined or re-examined although the provisions described above ensure that they will not be in the same room unless the young person chooses to do so (this is exceptionally rare).

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

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.

Northern Ireland

The PPS is not an investigatory body. It works with the police to improve the quality of the recorded evidence of children and young people (ABE) and the experience of those attending. Achieving Best Evidence, or ABE, Guidance is currently being redrafted, police, PPS and other stakeholders are contributing to this process. A Joint Protocol between Police and the local Health & Social Care Trusts is in place in relation to a joint interviewing process. While all relevant officers receive specific ABE training, those in specialist units receive regular specific training which the PPS contributes to. A Cadre of specialist police ABE officers is the subject of a police pilot which has been extended.

Working Groups to establish a Pre-recorded Cross Examination Pilot and a Child House Model include membership from the PPS.

When providing further evidence to the court in the form of cross-examination and re-examination Special Measures are available to young witnesses as primary rule witnesses. These measures include Article 12 live link which can be attended remotely from the court in certain areas, or a separate room in the courthouse. The various special measures available can be found within the Criminal Evidence (Northern Ireland) Order 1999. In many cases young people will be eligible for assistance from a Registered Intermediary who will assist with effective communication to the court. While further examination of children and young people as part of criminal proceedings will take the form of questions put to the witness, the RI may specify the way in which this is done, in some cases they will agree the questions before they are put to the witness.

It is recognised that when investigating child sexual offences there will be considerable evidence that may be provided by the child victim. It is however imperative that police and relevant partner agencies consider how they approach a child victim and ensure that they act within the parameters of joint child investigations.

Generally child interviews take place in a dedicated suite located at a number of sites across Northern Ireland. These are located within Police stations but there is also one suite located on the grounds of Antrim Area Hospital at the Rowan Centre. PSNI officers have limited access to remote ABE equipment for recording interviews outside of these settings but these are not utilised as a matter of routine.

All Public Protection Branch officers interviewing victims of child sexual abuse are trained in Joint Protocol which is classified internally as JIT1 (pre interview assessment) and JIT2 (ABE recorded evidence in chief). All Child Abuse investigation officers also complete the Specialist child abuse investigations development program in line with College of Policing.

Under the Joint Protocol the interview of the child victim / witness will take place as soon as practicable ensuring that the physical and mental wellbeing of the child is prioritised. The Pre

interview assessment considers a number of issues central to the child's capacity and suitability for interview including:

- Consider each child as an individual;
- Assess their individual needs regardless of the offence;
 - Take account of the following characteristics of the child: - Age - Gender - Culture - Religion- Physical and/or learning disability - Confidence and developmental level;
- Consider the views of the child and their carer;
- The child's preferred name / form of address;
- The child's ability and willingness to talk within a formal interview setting to a police officer and social worker;
- Any known factors that may have an influence on the child/young person during the interview process (e.g. threat, potential victim of human trafficking);
- The child's use of language and understanding of relevant concepts such as time and age;
- Any special requirements the child may have including medication requirements or access / communication difficulties and/or communication requirements as a result of any physical or learning impairment;
- Likely impact on child of recalling traumatic event during ABE interview;
- Who may provide support and reassurance to the child, parent, carer? 6.3 The Pre-Interview Assessment should also include: -
 - An explanation to the child of the reason for an interview;
 - When required, the use of a Registered Intermediary;
 - An assessment of the child's competency to give consent to interview and medical examination;
 - The seeking of the child's consent to interview and medical examination;

- Making arrangements for the Investigative Interview;
- Explanation of Special Measures if appropriate and court;
- Considerations of the most appropriate method of interviewing the child

As referred to above the Victim's and Witness Charter is embedded in the Joint Protocol and ABE training for our officers which highlights the restrictions on further questions / probes for victims of child sexual abuse where it becomes apparent that the investigation fits the model.

Further to this, a significant emphasis is placed on the importance of the Planning and Preparation of interviews to avoid any unnecessary duplication or repeated interviewing. Consideration will be given to delaying interviews if the PIA highlights the victim may need time, modelling a trauma informed approach.

As stated previously the PSNI ABE guidance is currently under review and outlines a number of considerations to be reflected on when identifying the lead interviewer including:

- Who is best qualified to lead the interview
- The lead interviewer should be a person who has or is likely to be able to establish rapport with the child, who understands how to communicate effectively with witnesses who might become distressed, and who has a proper grasp of the rules of evidence and criminal offences.
- The lead interviewer must have good knowledge of information important to the investigation, including the points needed to prove particular offences.

There is no current provision which offers criminal defence the possibility to contest a child's disclosure during the interview through questions however, this matter is currently forming part of discussions between partners in respect of the overall ABE review.

There are ongoing discussions in how additional support can be provided to child victims – through the introduction of CSOLA (Child Sexual offences Legal Advisor) or a sexual offence advocate (the provision for advocacy is currently provided through ASSIST NI). Police and partners will continue to put the interests of the child at the centre of the investigation and improve services available.

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

⁵³ *Ibid.*, Recommendation 46.

⁵⁴ *Ibid.*, Recommendation 59.

⁵⁵ *Ibid.*, Recommendation 60.

⁵⁶ *Ibid.*, Recommendation 47.

⁵⁷ *Ibid.*, Recommendation 48.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

- 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
- 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.

Northern Ireland

The Criminal Evidence (NI) Order 1999 provides provision for child witnesses to pre-record their evidence to the court under Articles 4 and 15. This is admissible evidence. Article 12 of the 1999 Order provides provision for all young witnesses to give evidence from a live link outside of the court room. In certain courts this evidence can be given over a link outside of the court house. A Working Group with membership from all stakeholders, including the PPS has been established in relation to Pre-Recorded Cross-Examination which is allowed for by Article 16 of the 1999 Order. When the child, or young person's complaint is recorded the defence/defendant are not present. The defence are present when the young person is cross examined or re-examined although the provisions described

⁶⁰ *Ibid.*, Recommendation 49.

⁶¹ *Ibid.*, Recommendation 50.

⁶² *Ibid.*, Recommendation 51.

⁶³ *Ibid.*, Recommendation 52.

above ensure that they will not be in the same room unless the young person chooses to do so (this is exceptionally rare).

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.