

REVIEW OF THE LAW ON CHILD SEXUAL EXPLOITATION

Consultation on policy proposals – Probation Board for Northern Ireland (PBNI) Response

April 2019

QUESTION 1(a): Do you agree or disagree with the proposal to remove legislative references to ‘child prostitute’, ‘child prostitution’ and ‘child pornography’ and replace these with the term ‘sexual exploitation of children’? If you disagree, please explain why.

QUESTION 1(b): Do you agree or disagree with the proposed definition of ‘sexual exploitation of children’ as set out above? If you disagree, please explain why.

QUESTION 2(a): Do you agree or disagree with the proposal to amend the law to ensure that images that are streamed or otherwise transmitted are included for the purposes of the child prostitution and pornography offences? If you disagree, please explain why.

QUESTION 3(a): Do you agree or disagree that the offence of grooming is adequate and appropriate? If you disagree, please explain why.

QUESTION 3(b): Do you agree or disagree that no changes to this offence are required? If you disagree, please explain why.

QUESTION 4(a): Do you agree or disagree with the proposal to change the burden of proof so that, if a defendant wishes to rely on a defence of reasonable belief, the onus would be on the defendant to prove that he or she reasonably believed that the child was over the age specified in the offence? If you disagree, please explain why.

QUESTION 4(b): Do you agree or disagree with the proposal that an individual with a previous conviction for a sexual offence against a child should not be allowed to use a defence of reasonable belief? If you disagree, please explain why.

QUESTION 4(c): Do you agree or disagree with the proposal that an individual with a previous conviction for a relevant foreign offence against a child should not be allowed to use a defence of reasonable belief? If you disagree, please explain why.

QUESTION 4(d): Do you agree or disagree with the proposal that an individual who is subject to a Risk of Sexual Harm Order should not be allowed to use a defence of reasonable belief? If you disagree, please explain why.

AGREE WITH ALL OF THE ABOVE TO 4 (D)

QUESTION 4(e): Are there any other circumstances where you think individuals should not be able to use a defence of reasonable belief in relation to sexual offences against children? Please provide details.

NO, PBNI IS NOT AWARE OF ANY OTHER CIRCUMSTANCES WHERE INDIVIDUALS SHOULD NOT BE ABLE TO USE A DEFENCE OF REASONABLE BELIEF

QUESTION 5(a): Do you agree or disagree that the abuse of trust offences should not be extended to include sports coaches and other groups outside of the state sector? If you disagree, please explain why.

DISAGREE

PBNI IS OF THE VIEW THAT THE ABUSE OF TRUST OFFENCES SHOULD BE EXTENDED TO ANY ADULT IN A POSITION OF TRUST E.G SPORTS COACHES, FROM OUTSIDE THE STATE SECTOR (COMMUNITY, VOLUNTARY, NOT FOR PROFIT, Faith Groups).

QUESTION 6(a): Do you agree or disagree that the current law in relation to indecent images of children is appropriate? If you disagree, do you think that the law should not apply to children under 18 who share indecent images of themselves, or who share images of others unless done with malicious intent?

AGREE

QUESTION 7(a): Do you agree or disagree that there is no need to create a new law on harassment to deal with the aggravated impact where an individual uses anonymity provided by the internet and/or the ability to create multiple online accounts to harass another person? If you disagree, please explain why.

AGREE

PBNI WOULD QUERY IF THE CURRENT LAW ADDRESSES THE USE OF THIRD PARTIES.

QUESTION 8(a): Do you agree or disagree that there is no need to create a new offence of an adult masquerading as a child online? If you disagree, please explain why.

DISAGREE

PBNI IS OF THE VIEW THAT THERE APPEARS TO BE SOME DOUBT THAT THE CURRENT LEGISLATION IS ADEQUATE. TO REMOVE DOUBT THE LAW COULD BE CLARIFIED.

QUESTION 9(a): Do you agree or disagree that there is a need to change the law to make up-skirting a criminal offence? If you disagree, please explain why.

AGREE

QUESTION 9(b): If you agree that up-skirting should be a criminal offence, do you agree or disagree with our proposal to achieve this by amending the existing voyeurism offence as per the law in Scotland and expected changes to the law in England and Wales? If you disagree, please explain why.

AGREE

QUESTION 10(a): Do you agree or disagree with this proposed approach to keep the issue of child sex dolls under review, informed by learning emerging from England and Wales, and to consider specific proposals at a later date? If you disagree, please explain why.

AGREE

PBNI WOULD LIKE TO COMMENT THAT STATISTICS COMPILED BY THE NSPCC INDICATE A THIRD OF OFFENDERS POSSESSING INDECENT IMAGES OF CHILDREN ALSO COMMIT CONTACT SEXUAL OFFENCES AGAINST CHILDREN. FURTHER, MARSHALL'S PREVIOUS RESEARCH INDICATED THAT 53% OF OFFENDERS WHO HAD COMMITTED CONTACT SEXUAL OFFENCES AGAINST CHILDREN HAD USED INDECENT IMAGES OF CHILDREN PRIOR TO AND DURING THEIR OFFENCES. WHILST LIMITED IN RECORDED RESEARCH THIS COULD INCLUDE A SEX DOLL IN THE FORM OF A CHILD. USING A CHILD SEX DOLL FOR SEXUAL AROUSAL COULD COME INTO THE SAME ARENA AS USE OF INDECENT IMAGES OF CHILDREN FOR SEXUAL AROUSAL.

THEREFORE FROM THIS RESEARCH* WE CAN SEE THERE IS A LINK BETWEEN OWNING ABUSIVE CHILD IMAGES AND DIRECTLY HARMING CHILDREN.

*Hillman, H; et al (2014) "Online child exploitation: Challenges and future research directions" accessed at www.eprints.ewe.ac.uk

QUESTION 11(a): Do you agree or disagree that our legislative framework relating to CSE and sexual offences against children is compliant with international standards and that no legislative change is required? If you disagree, please identify which provisions are not compliant and explain why.

QUESTION 12(a): Do you agree or disagree that there is no need to extend the offence of child abduction by a parent under Article 3 of the Child Abduction (Northern Ireland) Order 1985 to include children aged 16 and 17? If you disagree, please explain why.

QUESTION 12(b): Do you agree or disagree that there is insufficient justification to extend the offence of child abduction by persons other than parents under Article 4 of the Child Abduction (Northern Ireland) Order 1985 to include children aged 16 and 17? If you disagree, please explain why.

QUESTION 13(a): Do you agree or disagree that recovery orders would not be an appropriate tool in relation to children not in care who may have been abducted? If you disagree, please explain why.

QUESTION 14(a): Do you agree or disagree with this proposal to introduce new powers to allow police to request information on guests staying in hotel type accommodation? If you disagree, please explain why.

AGREE WITH ALL OF THE ABOVE FROM 11(a) TO 14(a)