



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

Initial reports of States parties due in 2011

**United Kingdom of Great Britain and Northern Ireland\***

[6 June 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction .....	1–25	3
Child sexual exploitation.....	19–25	5
II. Data .....	26–27	7
III. General measures of implementation .....	28–80	14
A. Legislation .....	28–40	14
B. Victims of child trafficking.....	41–80	16
IV. Implementation of specific articles of the Optional Protocol.....	81–235	22
Article 9 – Prevention and detection.....	81–92	22
Article 3 – Prohibition and related matters .....	93–114	24
Article 4 – Jurisdiction .....	115–118	26
Articles 5 and 6 – Extradition in the event of crime .....	119–124	27
Article 7 – Seizure and confiscation .....	125–133	28
Articles 8 and 9 – Protection of the rights of victims .....	134–182	29
Article 10 – International assistance and cooperation.....	183–221	35
Article 11 – Other relevant provisions of national or international law.....	222–235	41

### List of tables

1. Number of defendants proceeded against at magistrates' courts and found guilty at all courts for selected offences under the 2003 Sexual Offences Act for England and Wales .....	8
2. Number of defendants proceeded against at magistrates' courts and found guilty at all courts for selected offences, England & Wales, 2004-2009 .....	10
3. Persons proceeded against in Scottish courts for crimes against children by crime type, 2005-06 to 2009-10 .....	12
4. Table showing the number of referrals of children believed to be potential victims of trafficking from 1 April 2009 to 31 December 2010 .....	13

## I. Introduction

1. The purpose of this report is to outline to the Committee on the Rights of the Child the progress made by the United Kingdom in implementing the Optional Protocol (OP) to the Convention of the Rights of the Child on the sale of children, child prostitution and child pornography, which the United Kingdom ratified in 2009.

2. The UK Government takes seriously its international obligations for protecting children and many of these have been reflected in a range of legislation designed to enhance the welfare and protection of vulnerable children. The UK Government considers that the safeguards currently in place provide sufficient protection to all children enabling the UK to comply both with its obligations under the Convention on the Rights of the Child, and the European Convention on Human Rights. Foremost among these, are the Children Acts 1989 and 2004 which create a statutory framework requiring local authorities in England and Wales to safeguard and promote the welfare of children in their area. The 2004 Act, for instance, requires local authorities in England and Wales to establish Local Safeguarding Children Boards (LSCBs) which ensure the key agencies work effectively together quickly to identify and respond to signs of child abuse, amongst other matters.

3. The equivalent legislation in Northern Ireland is the Children (Northern Ireland) Order 1995 (S.I. 1995/755). This Order places a statutory duty on Health and Social Care Trusts (HSCTs) to safeguard and promote the welfare of children in need in Northern Ireland. A regional Safeguarding Board for Northern Ireland (SBNI) is to be established under section 1 of the Safeguarding Board Act (Northern Ireland) 2011 (N.I. 2011, c. 7) which will ensure inter-agency co-operation on the safeguarding of children.

4. The Government's 2009 statutory guidance to local authorities, Safeguarding Children and Young People from Sexual Exploitation and organisations such as the National Working Group for Sexually Exploited Children and Young People have both helped to promote greater awareness among practitioners of the value of multi-agency working in preventing child sexual exploitation.

5. In Scotland the National Guidance for Child Protection highlights that Child Protection Committees (CPCs) are responsible for the continuous improvement, strategic planning, public information and communication of child protection policy and practice across their locality and in partnership across Scotland. CPCs are responsible for producing and disseminating public information about protecting children and young people and ensuring the training needs of all staff involved in child protection are met. This can take various forms, including staff training on local protocols, public awareness campaigns and education campaigns on various issues such as child trafficking.

6. The enactment of the Sexual Offences Act 2003 in England and Wales provides for the protection of children against sexual abuse and sexual exploitation and provides for significant penalties to offenders through the courts, and also makes provision for the management of the risk to children posed by such offenders. The Government published statutory guidance (2009) setting out how organisations and individuals should work together to safeguard children from sexual exploitation, and take action against perpetrators. At present, the National Working Group for Sexually Exploited Children and Young People is scoping the extent of services provided by local authorities to investigate and safeguard potential child victims as well as the level of multi-agency work which will be completed by professionals. Other legislation that protects children includes the Adoption and Children Act 2002, the Criminal Justice (Scotland) Act 2003, the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 and the Protection of Children (Scotland) Act 2003. For Northern Ireland, similar legislation includes the

Adoption (Northern Ireland) Order 1987, the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047), the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351) (which effectively replaced the Protection of Children and Vulnerable Adults (NI) Order 2003) and the Sexual Offences (Northern Ireland) Order 2008.

7. Safeguarding children is also a key priority of the Welsh Assembly Government, including in relation to the obligations contained in this Protocol that relate to devolved areas. The Welsh Assembly Government published 'Guidance on Safeguarding Children and Young People from Sexual Exploitation' in January 2011. This guidance will help practitioners rise to the challenge of identifying children at risk of sexual exploitation, taking steps to protect them and taking action against perpetrators. In addition, the Welsh Assembly Government is taking effective action with a wide range of agencies to ensure that Wales will not tolerate human trafficking in any form. The All-Wales child trafficking protocol will be available shortly. This will form part of the national child protection procedures and will complement the on-line training resource commissioned by the Assembly Government to help identify and safeguard child victims of trafficking. In addition, the appointment in April 2011 of the first anti human trafficking coordinator for Wales is a significant step forward.

8. In Northern Ireland, the welfare of the child is also always paramount. The Department of Health, Social Services and Public Safety (DHSSPS) has issued guidance, "Co-operating to Safeguard Children" (currently under review), which sets out the shared responsibility for safeguarding children. DHSSPS and the Police Service for Northern Ireland (PSNI) have issued joint guidance, "Working Arrangements for the Welfare and Safeguarding of Child Victims of Human Trafficking" which provides comprehensive advice for agencies where there is reasonable cause to believe that the child may be the victim of trafficking and the steps that need to be taken to protect the child.

9. The UK Government's ratification of the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography is evidence of the importance these international agreements play in strengthening the resolve of countries in protecting children. In recognition of this the Government revised its statutory guidance "Working Together to Safeguard Children" in June 2010. This emphasises the need for local agencies to develop inter-agency protocols to guide action where concerns are raised about a child's risk to sexual exploitation.

10. Child prostitution is defined in Article 2 (b) of the Optional Protocol, as meaning the use of a child in sexual activities for remuneration or any other form of consideration. In England and Wales the child prostitution offences are set out in sections 47 – 50 of the Sexual Offences Act 2003. Section 47 of that Act defines payment (for a sexual service) as any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

11. Under section 9 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 payment is also defined as any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

12. Under Article 2(c) child pornography includes any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes. The prohibition of indecent photographs or pseudo-photographs of children is covered by the Protection of Children Act 1978 (Protection of Children (NI) Order 1978 in Northern Ireland) and section 160 of the Criminal Justice Act 1988, both of which contain limited exemptions. Some non-photographic images of children being sexually abused are also prohibited under the

Coroners and Justice Act 2009 and some other forms of representation may be covered by the Obscene Publications Act 1959. The publication and distribution of text is also covered by the Obscene Publications Act 1959 although there are defences of public good in the interests of science, literature, art and learning.

13. Child pornography offences are covered in Scotland by Sections 52 and 52A of the Civic Government (Scotland) Act 1982 (as amended). That Act makes it an offence to take or permit to be taken any indecent photograph of a child; distribute or show such an indecent photograph; possess such indecent photographs with a view to its being distributed or shown by himself or others; publish or cause to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such indecent photographs or intends to do so.

14. The Government's commitment in England has reached out to schools to raise children's awareness of the danger of sexual exploitation including commercial sexual exploitation as part of their learning through Personal, Social, Health and Economic Education. The sexual exploitation of some children only comes to light after they are identified as victims of trafficking and the Government will, through its new strategy to tackle human trafficking, focus on the need for practitioners to be fully trained and to work together to identify early and protect children when encountered.

15. The UK Government recognises that children are highly vulnerable to being groomed for sexual exploitation in a variety of ways and that the widespread availability of the internet exposes children to additional risks of being sexually groomed by adults who hide their true identities. In response to this, the Child Exploitation Online Protection Centre (CEOP), working closely with law enforcement agencies, has made notable successes in identifying and enabling the prosecution of many paedophiles in the UK and abroad. Over the 4 years of its operation, CEOP has safeguarded 624 children and for the last year (April 2009 – March 2010) instigated the arrests of 417 suspected child sexual offenders.

16. Acknowledging the UNCRC's aim for member states to have a holistic approach to eliminating the sale of children, child prostitution and child pornography the UK Government is actively working with over 15 underdeveloped countries in reducing poverty and addressing ways to help the most vulnerable people. Children form a significant number of these and are at high risk of being trafficked for sexual exploitation and forced labour. The UK Government believes that through its overseas aid work, it can make a significant contribution to reducing the numbers of children being targeted for trafficking and subsequently exploited.

17. The UK Government recognises that child victims who act as witnesses in criminal proceedings should receive the necessary support to enable them to provide the best evidence for securing prosecutions of offenders. The UK has arrangements in place to ensure that all practitioners working with children recovering from offences under Article 3 paragraph 1 of this Optional.

18. Protocol, provide the required assistance that ensures children's welfare needs are met, such as therapy, emotional support and counselling.

### **Child sexual exploitation**

19. Government guidance, Safeguarding Children and Young People from Sexual Exploitation was issued in June 2009 as supplementary guidance to statutory guidance document 'Working Together to Safeguard Children' (2006).

20. In January 2011, it was announced that, within Government and working with national and local partners, the Department for Education (DfE) would be leading an urgent consideration of what further action needs to be taken to safeguard children and young people from sexual exploitation. This will consider every aspect, from awareness-raising and prevention, to crime detection and victim support. As part of this work, DfE hosted a roundtable meeting in April 2011 with a wide range of organisations with an interest in this issue and the Minister for Children and Families has provided a public commitment that his Department will lead the development of a cross government action plan to tackle this issue which will be published in Autumn 2011.

21. In terms of funding, the Department for Education is providing funding to Barnardo's from 2011-13 to provide specialist training and foster placements for children at risk of sexual exploitation by relocating and fostering them away from areas of risk.

## **1. Child Exploitation and Online Protection Centre**

22. The Child Exploitation and Online Protection Centre (CEOP) was established in 2006. It provides a holistic multi-agency approach to protecting children from sexual exploitation both on and off line. CEOP takes an intelligence led approach that tracks perpetrators, supports child victims and minimises the risk to children through effective partnership working.

23. From its latest 2009/10 annual review the impact of CEOP in keeping children safe from sexual exploitation, since its inception in 2006 is evidenced by:

(a) 624 children being safeguarded from sexual abuse either directly or indirectly as a result of CEOP activity;

(b) 1,131 suspected child sexual offenders being arrested as a result of intelligence reports from CEOP;

(c) 262 high risk sex offender networks disrupted and dismantled;

(d) 11,258 child protection professionals attended specialist CEOP training courses;

(e) Over eight million children and young people have taken part in CEOP's ThinkuKnow education programme which aims to improve children's awareness of how to stay safe online and how to report their concerns.

## **2. National policy work**

24. As part of its involved activity with the UK Government, CEOP has played an active role providing advice to its partners in promoting the protection of children against sexual exploitation through:

(a) The Department for Culture, Media and Sport Gaming Classification consultation;

(b) The Department for Children, Schools and Families (now the Department for Education) Audit of Mobile Literacy Policy Development;

(c) The Digital Britain Report consultation (Led by the Department for Business, Enterprise and Regulatory Reform (now part of the Department for Business, Innovation and Skills) and the Department for Culture, Media and Sport);

(d) The National Policing Improvement Agency Code of Practice on Missing Children;

(e) The Department for Children, Schools and Families (now The Department for Education) Revised Statutory Guidance for Local Authorities on Children Missing from Home or Care;

(f) Scottish Government guidance on children who may have been trafficked;

(g) Guidance in Northern Ireland on children who may have been trafficked;

(h) All-Party Parliamentary Group on Communications: 'Can we keep our hands off the net?' The Group investigated the role for Government over Internet traffic and published its findings in October 2009.

25. CEOP is also working in executive and practitioner partnership with the Department for Education (DfE) hosted UK Council for Child Internet Safety (UKCCIS), established largely in response to Dr Tanya Byron's March 2008 report, 'Safer Children in a Digital World'. CEOP leads on some and is involved with the majority of the working groups within UKCCIS, and sits on the Executive Board. Through these channels, CEOP is able to share its experience and expertise in the broad partnership forum that UKCCIS offers.

## **II. Data**

26. The tables contained in the following pages illustrate the available data in relation to prosecutions and convictions for a variety of offences against children under the Sexual Offences Act 2003 in England and Wales and in Scotland under various pieces of legislation.

27. Also included are data showing the number of referrals of children believed to be potential victims of trafficking under the UK's National Referral Mechanism (NRM) over the period 1 April 2009 to 31 December 2010.

Table 1. Number of defendants proceeded against at magistrates' courts and found guilty at all courts for selected offences under the 2003 Sexual Offences Act for England and Wales

Offence	Statute	2004		2005		2006		2007		2008		2009	
		Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty
Meeting a female child following sexual grooming etc.(Offender is aged 18 or over & victim is under 16)	Sexual Offences Act 2003 S15	8	3	24	18	36	29	39	45	36	38	32	40
Meeting a male child following sexual grooming etc.(Offender is aged 18 or over & victim is under 16)	Sexual Offences Act 2003 S15	1	-	4	7	7	7	2	6	13	10	6	9
Paying for sex with a female child under 16 – no penetration+B346	Sexual Offences Act 2003 S.47(1,2,4b)	1	-	-	-	-	-	1	0	1	1	—	1
Paying for sex with a male child under 16 – no penetration	Sexual Offences Act 2003 S.47(1,2,4b)	-	-	3	-	-	-	0	0	-	-	-	-
Paying for sex with a male child 16 or 17	Sexual Offences Act 2003 S.47(1 a,b,ci,2,5)	1	-	-	-	-	2	0	0	-	-	—	1
Paying for sex with a female child under 16 – penetration	Sexual Offences Act 2003 S.47(1a,b,ci,2,4a, 6)	1	-	-	-	2	-	2	0	1	-	2	—
Causing or inciting child prostitution or pornography - child 13-17	Sexual Offences Act 2003 S.48(1a,bi,2)	2	-	6	3	4	4	1	4	10	6	9	8
Causing or inciting child prostitution or pornography - child under 13	Sexual Offences Act 2003 S.48(1a,bii,2)	-	-	1	-	-	-	1	0	3	1	3	—



Table 1. Number of defendants proceeded against at magistrates' courts and found guilty at all courts for selected offences under the 2003 Sexual Offences Act for England and Wales

Offence	Statute	2004		2005		2006		2007		2008		2009	
		Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty
Controlling a child prostitute or a child involved in pornography - child 13-17	Sexual Offences Act 2003 S.49(1a,bi,2)	-	1	2	-	5	1	2	1	-	1	1	1
Arranging or facilitating child prostitution or pornography - child 13-17	Sexual Offences Act 2003 S.50(1a,bi,2)	-	-	1	-	-	1	0	0	-	1	6	1
Arrange/facilitate travel within the UK of a person for sexual exploitation (Trafficking)	Sexual Offences Act 2003 S.58	-	-	16	3	21	9	18	5	33	13	13	8
<b>Total</b>		<b>14</b>	<b>4</b>	<b>57</b>	<b>31</b>	<b>75</b>	<b>53</b>	<b>66</b>	<b>61</b>	<b>97</b>	<b>71</b>	<b>72</b>	<b>69</b>

(1) The figures given in the table on court proceedings relate to persons for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

(2) Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

(3) The number of defendants found guilty in a particular year may exceed the number proceeded against as the proceedings in the magistrates' court took place in an earlier year and the defendants were found guilty at the Crown Court in the following year; or the defendants were found guilty of a different offence to that for which they were originally proceeded against.

Source: Justice Statistics Analytical Services - Ministry of Justice.  
Ref 235-11

Table 2. Number of defendants proceeded against at magistrates' courts and found guilty at all courts for selected offences, England &amp; Wales, 2004-2009(1)(2)(3)(4)(6)

Statute	Description	2004		2005		2006		2007		2008(5)		2009	
		Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty	Proceeded against	Found guilty
Sexual offences Act 2003													
Section 5	Rape of a child under 13	84	7	237	74	285	124	300	134	317	179	444	180
Section 6	Assault of a child by penetration under 13	58	9	122	41	133	78	130	75	166	88	190	89
Section 7	Sexual Assault of a child under 13	131	41	492	236	516	300	582	344	522	355	876	321
Section 8	Causing or inciting child under 13 to engage in sexual activity	31	3	103	44	86	66	101	68	106	80	138	77
Section 9	Sexual Activity with a child	179	74	641	411	681	615	682	592	720	641	944	678
Section 10	Causing or inciting child to engage in sexual activity	40	13	134	61	133	75	142	86	179	99	205	108
Section 11	Engaging in a sexual activity in the presence of a child	26	12	79	46	80	55	77	59	65	63	78	63
Section 12	Causing a child to watch a sexual act	3	2	22	16	5	11	23	17	20	21	18	18
Section 14	Arranging or Facilitating a child sexual offence	13	1	22	5	18	9	32	18	19	15	25	17
Section 47	Paying for the sexual services of a child	3	-	3	-	2	2	7	3	3	3	3	5
Section 48	Causing or inciting child prostitution or pornography	2	-	7	3	4	4	2	4	13	7	12	8
Section 49	Controlling a child prostitute or a child involved in pornography	-	1	2	-	5	1	2	1	-	1	1	1
Section 50	Arranging or facilitating child prostitution or pornography	-	-	1	-	-	1	-	1	-	2	6	1
Child Abduction Act 1984													
Section 2	Offence of abduction of child by	110	60	123	71	96	66	99	52	87	48	116	50

Table 2. Number of defendants proceeded against at magistrates' courts and found guilty at all courts for selected offences, England & Wales, 2004-2009(1)(2)(3)(4)(6)

other persons													
Children Act 1989													
Section 49	Abduction of children in care and inducing, inciting or assisting a child to run away	24	10	25	20	21	15	25	13	41	26	44	27

(1) The cautions statistics relate to persons for whom these offences were the principal offences for which they were dealt with. When an offender has been cautioned for two or more offences at the same time the principal offence is the more serious offence.

(2) From 1 June 2000 the Crime and Disorder Act 1998 came into force nationally and removed the use of cautions for persons under 18 and replaced them with reprimands and warnings. These figures have been included in the totals.

(3) The figures given in the table on court proceedings relate to persons for whom these offences were the principal offences for which they were dealt with.

When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

(4) Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

(5) The number of defendants found guilty in a particular year may exceed the number proceeded against as the proceedings in the magistrates' court took place in an earlier year and the defendants were found guilty at the Crown Court in the following year; or the defendants were found guilty of a different offence to that for which they were originally proceeded against.

(6) Excludes data for Cardiff magistrates' court for April, July and August 2008.

(7) The Sexual Offences Act 2003 came into force on 1st May 2004.

Source: Justice Statistics Analytical Services - Ministry of Justice.  
Ref: 067-11

Table 3. Persons proceeded against in Scottish courts for crimes against children<sup>1</sup> by crime type, 2005-06 to 2009-10

Crime	2005-06	2006-07	2007-08	2008-09	2009-10
Grooming of children for the purposes of sexual offences					
Proceeded against	1	2	1	4	5
Not Guilty	0	0	1	0	1
Charge proved	1	2	0	4	4
Lewd and libidinous practices					
Proceeded against	221	220	196	227	207
Not Guilty	45	51	60	49	61
Charge proved	176	169	136	178	146
Procuration of child under 18 for pornography					
Proceeded against	0	0	0	1	0
Not Guilty	0	0	0	0	0
Charge proved	0	0	0	1	0
Procuration of sexual services from children under 18					
Proceeded against	0	0	0	1	0
Not Guilty	0	0	0	0	0
Charge proved	0	0	0	1	0
Sexual intercourse with child under 16					
Proceeded against	73	79	105	107	109
Not Guilty	5	12	13	12	9
Charge proved	68	67	92	95	100
Sexual intercourse with girl under 13					
Proceeded against	2	9	6	3	2
Not Guilty	0	0	0	0	0
Charge proved	2	9	6	3	2
<b>Total</b>					
Proceeded against	297	310	308	343	323
Not Guilty	50	63	74	61	71
Charge proved	247	247	234	282	252

(1) Where main offence. Contains a couple of lewd and libidinous practices offences where the victims cannot be directly identified as children.

(2) Acts included in table

Sexual intercourse with girl under 13

Criminal Law (Consolidation) (Scotland) Act 1995 Section 5(1)

Sexual intercourse with child under 16

Criminal Law (Consolidation) (Scotland) Act 1995 Section 5(3)

Grooming of children for the purposes of sexual offences

Protection Of Children & Prevention Of Sexual Offences (Scot) Act 2005 Sec 1

Lewd and libidinous practices

Criminal Law (Amendment) Act 1922 Section 4(1)

Criminal Law (Consolidation) (Scotland) Act 1995 Section 6

Sexual Offences (Amendment) Act 2000 Section 3(1)(A)

Sexual Offences (Amendment) Act 2000 Section 3(1)(B)

Sexual Offences (Scotland) Act 1976 Section 5

Procuration of child under 18 for pornography  
 Protection Of Children & Prevention Of Sexual Offences (Scot) Act 2005 Sec 12  
 Procuration of sexual services from children under 18  
 Protection Of Children & Prevention Of Sexual Offences (Scot)Act 2005 Sec 9

Table 4. Table showing the number of referrals of children believed to be potential victims of trafficking from 1 April 2009 to 31 December 2010.<sup>1</sup>

December 2010

Exploitation Type	Age Range at Date of Referral	Referrals at 31/12/10	Positive RG Decision	Positive CG Decision
Sexual Exploitation	Under 10	0	0	0
	10 to 11	0	0	0
	12 to 15	37	33	25
	16 to 17	56	41	29
	Over 18	6	5	5
Labour Exploitation	Under 10	6	5	1
	10 to 11	1	1	1
	12 to 15	33	24	9
	16 to 17	53	36	15
	Over 18	5	0	0
Domestic Servitude	Under 10	2	1	1
	10 to 11	1	1	1
	12 to 15	17	15	11
	16 to 17	20	17	11
	Over 18	4	3	1
Unknown Exploitation	Under 10	13	4	0
	10 to 11	7	2	0
	12 to 15	23	10	6
	16 to 17	36	18	5
	Over 18	2	1	0
<b>Total</b>		<b>322</b>	<b>217</b>	<b>121</b>

<sup>1</sup> Figures are based on the age at the date of referral. Individuals may have originally been referred as minors, but an age assessment has determined them as adults, resulting in a change in the recorded exploitation type. Individuals may have also been referred when the potential victim of trafficking was an adult at the date of referral; however the trafficking occurred when the individual was a minor. This may result in the case being recorded as exploitation as a minor, but age at date of referral e.g. is 20 years of age.

### III. General measures of implementation

#### A. Legislation

##### 1. England and Wales

28. The Sexual Offences Act 2003 sets out a series of sexual offences involving children as victims, with a clear focus on protecting those aged under 16 (the age of sexual consent). Additionally, the Act sets out financial sexual exploitation offences applying to all children under 18, together with a range of sexual offences that would capture victims of any age in cases where there is no consent. Offences applying particularly to the grooming, coercion and control of children for sexual exploitation include:

- Section 9 – Sexual activity with a child (child under 16)
- Section 10 – Causing or inciting a child to engage in sexual activity (child under 16)
- Section 11 – Engaging in sexual activity in the presence of a child (child under 16)
- Section 12 – Causing a child to watch a sexual act (child under 16)
- Section 14 – Arranging or facilitating a child sex offence (child under 16)
- Section 15 – Meeting a child following sexual grooming (child under 16, defendant 18 or over)
- Section 47 – Paying for the sexual services of a child (under 18)
- Section 48 – Causing or inciting child prostitution or pornography (child under 18)
- Section 49 – Controlling a child prostitute or a child involved in pornography (child under 18)
- Section 50 – Arranging or facilitating child prostitution or pornography (child under 18)
- Section 57, 58, 59 – Trafficking into, within or out of the UK for sexual exploitation

29. In relation to the child sex offences contained in the Sexual Offences Act 2003 (section 9 – section 12) a person has a defence if s/he ‘reasonably believed’ that the victim was 16 or over at the time of the commission of the alleged offence.

30. The defence is not available if the child was, in fact, under 13 at the relevant time. If the defence is raised then the prosecution must call sufficient evidence to prove beyond reasonable doubt that such a belief did not exist, or if it did exist, was not reasonable.

31. The types of evidence which the prosecution may seek to call to rebut the defence include:

(a) Evidence that the defendant had been told the age of the victim, either by the victim him/herself, or by a third party;

(b) Evidence that the circumstances in which the defendant knew the victim (e.g. teacher, youth worker, family friend etc.), or the length of time that s/he knew the victim, must mean that s/he was aware that the victim was under 16; and

(c) The physical appearance of the victim, if it is clearly obvious to any reasonable person that the victim is under 16.

32. These offences are ‘standard fare’ for prosecutors who deal with sexual crime, with no real concerns or problems with respect to interpretation. No separate data on this issue is collected.

33. The main difficult issue with which prosecutors are faced is in deciding whether it is in the public interest to bring prosecutions when the sexual activity is consensual and the potential defendant is close in age to the victim (or is a child himself/herself).

34. Part 2 of the Sexual Offences Act 2003 contains provisions relating to the notification requirements for registered sex offenders. This scheme is often referred to as the Sex Offenders’ register and requires offenders to provide to their local police a record (amongst other information) of their name, address, date of birth and national insurance number annually and whenever their details change. The notification requirements forms an invaluable tool to the authorities in providing a robust framework for managing sex offenders, which plays an integral role in the Multi Agency Public Protection Arrangements (MAPPA). MAPPA is designed to ensure all practitioners collaborate in managing the risk of harm of known offenders; allowing the police to keep track of the whereabouts of individual sex offenders (including when those offenders travel outside the UK) and requiring offenders to provide information that assists the authorities in identifying and managing the risk of known sex offenders.

35. The Government will shortly consult on four key proposals to further strengthen the notification requirements scheme. This will include the introducing of a requirement for registered sex offenders to notify the police of all foreign travel (currently only travel outside of the UK for three days or more is notified) and introducing a requirement for registered sex offenders to notify when they reside with a child under the age of 18. It is considered that these proposed changes will provide the police with the powers and information they need to prevent registered sex offenders from seeking to exploit gaps in the system to cause harm, particularly to vulnerable children, both in the UK and overseas. It is expected that the subsequent legislative amendments will be introduced in late 2011.

## 2. Scotland

36. Scottish law on sexual offences is contained in the Sexual Offences (Scotland) Act 2009. Part 4 of this Act provides for sexual offences involving children as victims, with a clear focus on protecting those aged under 16 (the age of sexual consent). Part 1 of the Act provides for a range of sexual offences covering victims of any age in cases where there is no consent. The Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 provides for additional sexual exploitation offences concerning prostitution and pornography, applying to all children under 18.

### *Examples of testing the legislation*

37. With regard to child prostitution and pornography offences, the Scottish Crown Office and Procurator Fiscal Service operate within the definition of the crimes as provided by the terms of the legislation governing such offences in sections 9-12 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. Where the accused claims to have had a reasonable belief that the child involved in the offence was aged over 18 years, the Crown must prove by corroborated evidence that the accused had no belief, or if there was belief that it was not reasonably held.

38. This is similar to the test applied in other statutory crimes involving sexual activity with children, aged between 13 and 16 under Part 4 of the Sexual Offences (Scotland) Act 2009. In the recent case of *GWH v Griffiths*, 2009 (under the now repealed and replaced offence of lewd, libidinous and indecent behaviour involving a girl aged over 12 but under 16 at section 6 of the Criminal Law (Consolidation) (Scotland) Act 1995). The report of the

case held that it was necessary for the Crown to prove (and corroborate) the state of mind of the accused at the time the offence was committed, as to the age of the complainer. There are, however, no reported cases where the issue of reasonable belief as to the age of the complainer in terms of the relevant sections of Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 has been judicially discussed or considered. However, the position in *Griffiths*, referred to above, would appear to apply equally here.

39. It is of course a matter for the Jury, having heard the whole facts and circumstances of a case to infer the existence of this necessary *mens rea*, that is, the state of mind of the accused at the time of the offence. This may include considering evidence of the knowledge of the accused and relationship to the child in determining this matter. The Crown Office and Procurator Fiscal Service do not hold information on the evidence laid in individual cases or on the outcome of particular charges.

### **3. Northern Ireland**

40. In Northern Ireland, the Sexual Offences (NI) Order 2008 is the legislation equivalent to the Sexual Offences Act 2003.

## **B. Victims of child trafficking**

41. Estimating the numbers of children trafficked into and within the UK is difficult owing to the hidden nature of its criminality and the long periods of time it takes for children to feel safe and willing to disclose their trafficking experience. However data from successive reports by the Child Exploitation and Online Protection Centre suggests there are approximately 300 child trafficking victims in the UK per annum.<sup>2</sup> In addition to this the United Kingdom Human Trafficking Centre recorded 322 referrals of children as potential victims of trafficking from 1 April 2009 to 31 December 2010.

42. In 2007, the Government and the then Scottish Executive established a joint UK Action Plan on Tackling Human Trafficking which contained ongoing, overarching action to improve knowledge of the scale and nature of human trafficking into and within the UK. The United Kingdom Human Trafficking Centre (UKHTC) plays a key role in co-ordinating activity for responding to the challenges practitioners face in tackling human trafficking.

43. Both prior to and during the reporting period (2009-2011), a range of practical measures has been implemented enabling the UK Government to satisfy its obligations under the Council of Europe Convention on Action against Trafficking in Human Beings. These include progress on improvements in better identifying and safeguarding trafficked children. A new human trafficking strategy is to be published shortly; a National Referral Mechanism was set up and introduced in April 2009 which acts as a formal framework to assist first responders to identify, refer and support child victims of trafficking, and a new Child Trafficking Toolkit was developed and piloted across a number of local authorities.

### **1. Practical measures taken**

44. Numerous practical measures have been taken over the reporting period, which give effect to the Council of Europe Convention on Action against Trafficking in Human

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<sup>2</sup> Our best estimate of the numbers of trafficked children in the UK is based on the Child Exploitation and Online Protection Centre's Strategic threat assessment of child trafficking 2009 and their Strategic Overview report 2010, which identified 325 and 287 potential child victims per annum respectively.



Beings. These include, in conjunction with the Scottish Government, the updating of the joint UK Action Plan on Human Trafficking launched in 2007; the setting up of a National Referral Mechanism, which helps to identify, refer and support child victims of trafficking and to prevent them from going missing, and work with the London Safeguarding Children's Board to feed into the piloting and development of a Child Trafficking Toolkit. The Child Exploitation and Online Protection Centre published two Strategic Threat Assessments on child trafficking, improving the picture on the nature and incidence of child trafficking. The Government has, with Comic Relief, also jointly funded a Child Trafficking Advice and Information Line for practitioners responsible for keeping children safe.

## **2. Joint UK Action Plan on Tackling Human Trafficking**

45. The UK Joint Action Plan was refreshed in July 2008 and in October 2009 and significant progress has been made in implementing a range of measures that has actively assisted practitioners to better identify and safeguard vulnerable children believed to have been trafficked. These included actions to:

- (a) reduce demand for trafficked children in destination countries;
- (b) improve the ability of the UK to investigate child trafficking effectively;
- (c) raise awareness among young people of the dangers of being sexually exploited, whilst working to combat it;
- (d) improve knowledge of the scale and nature of child trafficking;
- (e) enable early identification of child victims to prevent exploitation;
- (f) ensure front line staff have the right tools and expertise to identify child victims of trafficking and offer appropriate protection and support;
- (g) address the matter of children who may have been trafficked going missing from local authority care;
- (h) deploy a multi-agency response in tackling child trafficking at ports of entry;
- (i) develop effective strategies to combat the trafficking of children forced or coerced into criminal activities, such as illegal cannabis farming and street crime for the profit of organised crime gangs.

## **3. Ratification of the Council of Europe Convention on Action against Trafficking in Human Beings**

46. The UK ratified the Council of Europe Convention on Action against Trafficking in Human Beings in December 2008. Ratification and implementation of the Convention underline the Government's commitment to taking real action to combat trafficking.

47. Implementation of the Convention reinforces the Government's strategy and provides a framework to tackle all aspects of trafficking and to contribute to the Government's commitments to make communities safer, while simultaneously helping to combat irregular immigration and the harm caused by organised immigration crime.

48. The Convention entered into force in the UK on 1 April 2009. A multi-agency, Home Office-led task force has been established to monitor its implementation. The early indications are that new arrangements to identify and support victims of trafficking are working, and victim numbers are within the projected range.

#### **4. National Referral Mechanism**

49. The most significant change under the Convention was establishing a formal victim identification and support process or National Referral Mechanism in April 2009. It provides improved procedures for local agencies to earlier identify, refer and support child victims of trafficking and to prevent them from going missing. It should therefore also yield better data on victims. The mechanism was developed through wide expert consultation and operational testing.

50. A multi-agency Home Office-led task force has been set up to monitor implementation of the National Referral Mechanism. The task force steering group contains representatives from Government departments, the UK Human Trafficking Centre and NGO victim support providers.

51. The UK Human Trafficking Centre has commenced a programme of data collection. Statistical data is kept on victims identified through the National Referral Mechanism. Quarterly returns are also now kept in relation to victims and suspects connected to trafficking of human beings, into, within and out of the UK, in accordance with the UK Action Plan and data is available on victims recovered and suspects arrested during Operation Pentameter 2.

#### **5. Co-operation and good practice**

52. Cooperation, good practice sharing and joint working across different agencies is critical to success in this area. The Child Exploitation and Online Protection Centre for example has identified and is building on good practice within police forces and local authority children's services where child trafficking is being directly addressed. Identified good practice has consisted of efficient joint working at local levels, mainly where major ports are located, and has child protection as the key driving force and priority. Good practice in relation to law enforcement is being shared through Association of Chief Police Officers (ACPO) channels - the Chief Executive Officer of the Child Exploitation and Online Protection Centre is a senior serving police officer and holds the ACPO portfolios on a number of child protection areas, including child trafficking, child abuse investigation, travelling sex offenders and combating child abuse on the internet - as well as through direct membership on sub-groups of Local Safeguarding Children's Boards.

53. In Northern Ireland, the Department of Health, Social Services and Public Safety for Northern Ireland and the Police Service of Northern Ireland have published guidance 'Working Arrangements for the welfare and Safeguarding of Child Victims of Human Trafficking' (Feb 2011).

#### **6. Serious Organised Crime Agency**

54. Tackling Human Trafficking is now core police business. Tackling organised immigration crime, including human trafficking, is the second priority for the Serious Organised Crime Agency (SOCA), after drugs. SOCA coordinates a multi agency programme, including operational activities, aimed at tackling organised immigration crime in the key source and transit countries that impact on the UK. SOCA co-ordinates its activity through 2 multi-agency Programme Boards a key part of which is countering the threat from organised criminals involved in human trafficking.

55. The United Kingdom Human Trafficking Centre (UKHTC), since its creation in 2006 will play a key role within SOCA by working with its partners in developing a fuller understanding of human trafficking and advising law enforcement and other practitioners of improved responses to tackling trafficking.

## 7. Scottish Crime and Drug Enforcement Agency

56. The Scottish Intelligence and Co-ordination Unit (SICU), which is an integral part of the Scottish Crime and Drug Enforcement Agency (SCDEA), is a multi agency unit with representatives from SOCA, HM Revenue & Customs, Scottish Prison Service and United Kingdom Borders Agency. The SICU was established to collect and analyse intelligence on organised crime, including human trafficking, in Scotland and provide Scotland's first dedicated expert resource on trafficking.

## 8. Children used for drug trafficking

57. The Government is not aware of intelligence or evidence that suggests children being used to traffic drugs to any great extent. It is not convinced that there is a case for setting up a discrete monitoring system to try to assess the scale of the problem. However, records of drugs trafficking offences or arrests do give a breakdown of the statistics by age group. The Government considers that this provides the necessary assessment.

## 9. Street children

58. The Government is taking a number of measures to address the issue of children found begging or involved in street crime, having been exploited by organised criminal networks. From Operation Golf involving the Metropolitan Police Service, to the Joint Investigation Team involving a bilateral arrangement between the UK and Romania, to the collection and analysis of human trafficking data by the UK Human Trafficking Centre and to the introduction of the UK's National Referral Mechanism for victims of trafficking, we have introduced measures that will assist greatly in collecting better intelligence about child victims exploited in this way.

## 10. Child Trafficking Toolkit

59. The child trafficking toolkit and guidance was launched by the London Safeguarding Children's Board on 3 February 2011 and will help assist practitioners to early identify and provide a quick safeguarding response to trafficked children. The Child Exploitation and Online Protection Centre (CEOP) has also published two Strategic Threat Assessments (2009 and 2010) on child trafficking, which provide comprehensive analyses of the numbers of children trafficked in the UK and improve our understanding of the nature of child trafficking and the challenges for practitioners to improve their responses to identifying and protecting trafficked children. The joint funding by the Home Office and Comic Relief, of the National Society for the Prevention of Cruelty to Children (NSPCC) Child Trafficking Advice and Information Line (CTAIL) over the past 4 years has been a real success in actively assisting practitioners to identify and safeguard potential child victims of trafficking. Since CTAIL started in September 2007, the service has actively supported a total of 508 potentially trafficked children by advising practitioners to provide appropriate safeguarding responses to keep them safe.

## 11. Children in care/going missing

60. *Practice guidance "Safeguarding Children who may have been Trafficked"* was published in December 2007. Supplementing this, the Government has now published multi-agency guidance on children who are at risk of going missing from care and those at risk of sexual exploitation. Revised statutory guidance, *Children Missing from Care and Home - a guide to good practice* published in July 2009, although covering all children who go missing, applies equally to children who may have been trafficked and run away or go missing.

61. “*Safeguarding Children and Young People from Sexual Exploitation*” was issued in June 2009 as supplementary guidance to 'Working Together to Safeguard Children' (2006). This replaced '*Safeguarding Children Involved in Prostitution*', which was issued in 2000, as supplementary guidance to the 1999 edition of '*Working Together to Safeguard Children*'.

62. In Northern Ireland ‘*Regional Guidance: Police Involvement in residential Units; Safeguarding of Children Missing from Home and Foster Care / April 2011*’ has been jointly published by the health and Social Care Board and the Police Service of Northern Ireland. The guidance outlines arrangements for police and health and social care personnel dealing with children who go missing and includes best practice guidance on interviewing and recording arrangements.

63. All these documents highlight how these children may be identified and protected from harm. Children who go missing may be at higher risk of being groomed for sexual exploitation. The UK Human Trafficking Centre has established an expert group on the issue and is working with police forces to develop intelligence and operational responses.

64. The Home Office is working closely with the Department for Education (DfE), other Government departments and key agencies. A number of key actions are being taken forward which will help to tackle the problem and to improve services to this vulnerable group of children. This includes the imminent transfer of responsibility for national missing children services to the Child Exploitation and Online Protection Centre which will mean, for the first time, the UK has a dedicated team of experts focused solely on tackling this issue within a specialised and child focused organisation.

65. The UK Border Agency’s (UKBA) *Code of Practice on Keeping Children Safe from Harm* which emphasised the need for safeguarding vulnerable children whilst in the care of UKBA, was superseded by the Border, Citizenship and Immigration Act (2009) which confers on UKBA the statutory duty to safeguard and promote the welfare of children whilst discharging its immigration and nationality functions.

66. At ports of entry to the UK, considerable progress is now being made by the police, working in partnership with immigration officers and social workers. The Paladin team is a Metropolitan Police-led partnership between the police, the UK Border Agency and Hillingdon (the local authority) Children’s Services who safeguard children at London’s ports. In addition to their award-winning work against the trafficking of children, they have made great progress in reducing the number of Chinese girls who go missing from care. In the 12 months to April 2009, 31 Chinese young people arrived at Heathrow and were looked after by Hillingdon Children Services. Of these, four, all over the age of 16, went missing. In all cases they were reported to the police and appropriate action taken to locate them. Over the subsequent 2 years through effective multi-agency working in the London Borough of Hillingdon substantial success has been made in keeping trafficked children safe and minimising the numbers going missing. For example, only 8 unaccompanied asylum seeking children, most of whom were identified as potential trafficked victims and placed in care with children’s services, went missing out of 364 referrals from 1 April 2009 to 23 February 2011. Similar action has taken place at other UK ports where numbers of trafficked children going missing have been reduced by concerted action by all the agencies involved and the sharing of best practice.

67. In addition to the National Referral Mechanism (mentioned above), the Government is also actively considering the needs of trafficked children within proposals to reform the arrangements and deliver better outcomes for all unaccompanied asylum seeking children. It has launched the *Young Runaways Action Plan*, which aims to better coordinate cross-Government action on children who run away from home or care and places particular emphasis on vulnerable children such as those who have been trafficked.

68. A national indicator on young runaways was introduced in April 2009 and required local authorities to have in place protocols for the multi-agency response to runaways and missing children, including preventative measures. The indicator has now ceased. National Minimum Standards for Children's Homes and Fostering Services require that all homes and fostering services should have explicit procedures to follow when children in their care may be missing or absent. These require partnership with the police forces and local authorities in which services are located.

69. A *Young Runaways Action Plan* was published in June 2008 and a national indicator on young runaways was introduced in April 2009 (although the indicator has now ceased). A number of awareness campaigns have been run and guidance has been published for professionals on *Safeguarding Children who may have been Trafficked*, *Children Missing from Care and Home*, *Safeguarding Children and Young People from Sexual Exploitation* and the UK Border Agency's *Code of Practice on Keeping Children Safe from Harm*.

70. The Ministry of Defence has implemented a number of measures to improve on the duty of care towards all Service personnel, including appointing a Service Complaints Commissioner.

71. The UK Government continued to support international work, including ILO child labour work in China and India, and further programmes in the Greater Mekong Region and Bangladesh, as well as the Education for All initiative. The Foreign and Commonwealth Office launched its Child Rights Strategy.

## 12. Strategic Threat Assessments on Child Trafficking in the UK

72. The Child Exploitation and Online Protection Centre launched its Strategic Threat Assessment on child trafficking in April 2009. This looked at child protection cases where minimum child trafficking indicators were satisfied. The data was gathered from police forces, children's services, the UK Border Agency and NGOs, covering the period March 2007 to February 2008. Within this period, the following statistical trends were identified:

- (a) 325 children from 50 different countries were identified at varying levels of concern for trafficking and for a broad array of exploitation;
- (b) Exploitation as the end result of the trafficking was identified in 182 cases;
- (c) Sexual exploitation was identified as the primary purpose of trafficking with 109 children, 36 were exploited in various type of forced labour, 14 were exploited in street crime, 10 were found to have been exploited in domestic servitude, 8 were used for benefit fraud purposes, 3 were involved in drug smuggling, 1 was the target of an illegal adoption and 1 was a target of forced marriage.

73. In its latest Strategic Threat Assessment (2010) for the period of March 2009 to February 2010, 287 children were identified by CEOP as potential victims of trafficking. Out of 219 cases where the type of exploitation was identified, 35% (76) children were sexually exploited, most being girls. 18% (39) were exploited for cannabis cultivation, 11% (25) were exploited for domestic servitude, 11% (23) for benefit fraud, 9% (19) for labour exploitation, 9% (20) for street crime, 4% (8) for servile marriage, 2% (4) for illegal adoption and 2% for other forms of exploitation.

74. The assessments of the various types of child exploitation evident in the UK has greatly increased our knowledge and helped to inform the UK Government's joined up approach to the problem. This has also contributed significantly in raising national awareness amongst police forces, UKBA and children's services on the detailed issues and profiles evident within child trafficking.

**13. The Child Trafficking and Information Line (CTAIL)**

75. Since October 2007, the National Society for the Prevention of Cruelty to Children (NSPCC) Child Trafficking Advice and Information Line (CTAIL), jointly funded by the Home Office and Comic Relief, has provided an essential service to professionals to help combat child trafficking across the UK through advice on how best to safeguard children suspected of being trafficked. The main aim of CTAIL is to support a safeguarding and child protection response to existing work at the frontline. It raises awareness, receives direct referrals of children and young people from all sectors where there is a concern for trafficking, aids networking, and continues to collate data about cases as well as information on services that can offer support to trafficked children.

76. A partnership between the Child Exploitation and Online Protection Centre (CEOP) and the NSPCC Child Trafficking Advice and Information Line (CTAIL), in place since CTAIL was set up in 2007, has helped to raise awareness amongst police forces nationally about the CTAIL service. CTAIL has also contributed to CEOP's Strategic Threat Assessments and thereby aided the development of the national strategic picture of child trafficking. CEOP now provides a seconded member of staff who engages with police forces across the UK to raise greater awareness of child trafficking and the responses police officers need to take to safeguard children identified as trafficked.

**14. UK Strategy on Human Trafficking**

77. On 14 October 2010 during a Parliamentary debate on Anti Slavery Day, the Minister for Immigration announced the Government's intention to produce a new strategy on combating human trafficking.

78. This strategy will be aligned with the new strategy on organised crime. It will reiterate the Government's intention to take a comprehensive approach to combating trafficking both by combating traffickers and looking after victims. It will mark a greater focus on combating the organised crime groups behind the trade, and will build upon the progress made as part of the action plan.

79. The new strategy will have four main components focussing on:

- Enhance our ability to act early upstream
- Smarter multi-agency working at the border
- More co-ordination of our law enforcement efforts in Britain
- Improved victim care arrangements

80. The Government acknowledges the acute vulnerability of children trafficked to the UK and is determined to do all it can to prevent and safeguard children from the threat of child traffickers and ensure that, where child victims are identified, they receive the best support and protection the UK can provide. The strategy will therefore signal specific areas for future work in relation to child trafficking victims. The new strategy is scheduled for publication later in the spring of this year.

**IV. Implementation of specific articles of the Optional Protocol****Article 9 – Prevention and detection**

81. The UK Government is conscious of the required in the Optional Protocol for States parties to pay "particular attention" to the protection of children who are "especially vulnerable" to the sale of children, child prostitution and child pornography. The foregoing

paragraphs outline how the UK seeks to fulfil its obligations in this regard, including work being done in relation to each article in the Protocol.

82. The legislative tools available to support prevention and detection work include the Sexual Offences Act 2003 and the Children Act 2004, which also applies to Wales and Scotland.

#### **Article 9.1 – prevention and administrative measures**

83. The Sexual Offences Act 2003 prohibits the sexual exploitation of children and contains a range of punishments for offenders, as well as containing a scheme for the management of the risk to children posed by such offenders. The Government published statutory guidance –*Safeguarding Children and Young People from Sexual Exploitation* (2009) setting out how organisations and individuals should work together to safeguard children from sexual exploitation, and take action against perpetrators.

84. In Scotland, new national guidance on child protection was published on 13 December 2010. Although there is no dedicated section on sexual exploitation and prostitution in this guidance, the issues raised in the 2003 guidance (*Vulnerable Children and Young People: Sexual Exploitation through Prostitution*); such as online safety, runaways, systematic and complex abuse are covered separately and in significant detail.

85. The Scottish guidance also addresses some issues referred to as ‘contributing factors’ - including child trafficking. The dedicated section on child trafficking now places it firmly within child protection practices. This guidance makes clear that it is essential to take timely and decisive action where child trafficking is suspected. For this reason local areas should have protocols on child trafficking in place and all staff should be aware of them.

86. The Children Act 2004 also applies to Wales and requires the establishment of Local Safeguarding Children Boards. The core guidance for agencies ‘*Working Together to Safeguard Children*’ was updated and published in March 2010 and includes guidance for local managers and practitioners in the police and children’s workforce to promote children’s welfare and protect them from harm.

87. The Rights of Children and Young Persons (Wales) Measure 2011 imposes a duty on Welsh Ministers to have due regard to the rights and obligations in the United Nations Convention on the Rights of the Child (UNCRC) and its Optional Protocols when making decisions of a strategic nature about how to exercise functions which are exercisable by them.

#### **Article 9.2 – promoting awareness**

88. The Government’s statutory guidance - *Safeguarding Children and Young People from Sexual Exploitation* (2009) – and organisations such as the National Working Group for Sexually Exploited Children and Young People have both helped to promote greater awareness among practitioners of the value of multi-agency working in preventing child sexual exploitation.

89. In Scotland the National Guidance for Child Protection highlights that Child Protection Committees (CPCs) are responsible for the continuous improvement, strategic planning, public information and communication of child protection policy and practice across their locality and in partnership across Scotland.

90. CPCs are responsible for producing and disseminating public information about protecting children and young people and ensuring the training needs of all staff involved in child protection are met. This can take various forms, including staff training on local

protocols, public awareness campaigns and education campaigns on various issues such as child trafficking.

91. The *National Guidance for Child Protection in Scotland* sets a national framework to help shape local practices and procedures. It will improve the way all professionals and organisations work together to give children the protection they need, quickly and effectively at the earliest possible stage.

92. It highlights that all agencies and services have a shared responsibility for protecting children and safeguarding their welfare. Specifically, the guidance advises that staff at all levels in all services, including third and private sector services should have the information, advice and training to make them aware of risks to children and to understand their particular responsibilities in keeping children safe. Staff should also have ready access to appropriate guidance to tell them what action to take if they are concerned about a child's safety or welfare.

### **Article 3 – Prohibition and related matters**

93. The UK Government has the necessary laws in place that prohibit the sale of children, child prostitution and child pornography. The Government's new Human Trafficking Strategy will focus on protecting trafficked children many of whom will be trafficked for sexual exploitation and some sold by traffickers for increased profit.

#### **Article 3.1 - legislation**

94. With regard to the sexual exploitation of children outside the UK, section 72 and Schedule 2 to the Sexual Offences Act 2003 set out the extra-territorial provisions in relation to sexual offences against children carried out by UK nationals and residents. The child sex offences (ss.9-15), child prostitution/pornography offences (ss. 47 -50) trafficking offences where the victim of the offence was under 18 years (ss.57-59), s. 1 Protection of Children Act 1978 and s.160 Criminal Justice Act 1988 (indecent photographs of children) apply to offences committed in any part of the world where the offender is a UK national. There is also extra territorial jurisdiction for these offences in relation to UK residents when there is dual criminality (ie. the act constitutes an offence under the law in force in the other country).

95. Under Scottish law, section 55 and Schedule 4 of the Sexual Offences (Scotland) Act 2009 set out the extra-territorial provisions in relation to sexual offences against children carried out by UK nationals and residents. It provides for extra-territorial jurisdiction where a UK national commits a sexual offence against a child listed at Part 2 of Schedule 4. Where the offender is habitually resident in the UK but is not a UK national, extra-territorial jurisdiction applies, but is subject to a requirement for dual criminality (i.e. the act must constitute an offence under the law in force in the country where the act takes place).

96. Trafficking for the purposes of organ transplantation is a specific offence under sections 4 and 5 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004. This applies to both adult and child victims. Section 4 of the 2004 Act also criminalises trafficking of a person for the purposes of labour exploitation. This extends to Scotland and the Criminal Justice and Licensing (Scotland) Act 2010 extends the definition of exploitation by way of organ removal to cover purposes other than transplantation - e.g. research.

97. The Coroners and Justice Act 2009 includes a new offence under section 71, whereby an offender can be prosecuted for holding someone in slavery or servitude or



requiring them to perform forced or compulsory labour. Similar Scottish legislation is contained at Section 47 of the Criminal Justice and Licensing (Scotland) Act 2010.

98. Section 22 of the Criminal Justice (Scotland) Act 2003 contains provisions on trafficking for prostitution and/or the production of obscene or indecent material into and out of the UK which apply in respect of both adult and child victims. Section 46 of the Criminal Justice and Licensing (Scotland) Act 2010 extends the extraterritorial effect of trafficking offences, in both the Criminal Justice (Scotland) Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 to ensure that the offence applies to anything done in or outside the UK. It also contains provisions to create new offences of trafficking of persons into, within or out of a country other than the UK. The new offences apply to UK nationals, persons habitually resident in Scotland and UK corporate bodies. There is no requirement for dual criminality.

99. Sections 9 -13 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 contain provisions prohibiting: paying for the sexual services of a child; causing or inciting provision by a child of sexual services or child pornography; controlling a child providing sexual services or involved in pornography; arranging or facilitating provision by a child of sexual services or child pornography – in any part of the world.

100. Section 92 of the Adoption and Children Act 2002 provides for restrictions on arranging adoptions; only adoption agencies (i.e. local authorities and voluntary adoption societies registered with the Commission for Social Care Inspection) and persons acting in pursuance of a High Court order may take the specified steps in relation to arranging adoptions. Any person who takes steps to arrange an adoption in contravention of section 92(1) commits an offence and is liable on conviction to a penalty of up to six months imprisonment, or a fine not exceeding £10,000, or both (section 93). Article 11 of the Adoption (Northern Ireland) Order 1987 makes similar provision by providing for restrictions on arranging adoptions and placing children in Northern Ireland.

101. In Scotland section 58 of the Adoption and Children (Scotland) Act 2007 provides that any person who brings a child who is habitually resident outside the British Isles into the UK for the purpose of adoption or at any time brings a child adopted by a British resident under an external adoption within the previous 12 months must apply to be assessed as a suitable adopter. Section 61 of that Act makes non-compliance with section 58 a criminal offence.

102. The offences set out in the Sexual Offences Act 2003 ensure that England and Wales comply with the sexual offences in Article 3.1(a) and 3.1(b).

103. This article is complied by Scotland with section 22 of the Criminal Justice (Scotland) Act 2003 (trafficking) and sections 10-12 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (offences concerning sexual exploitation of children for prostitution and pornography).

104. For England and Wales the Protection of Children Act 1978 and section 160 of the Criminal Justice Act ensure that this article 3.1 is complied with for images involving real children.

105. In Scotland the article is complied by the Civic Government (Scotland) Act 1982 as amended by the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005.

### **Article 3.2 – complicity and participation**

106. England, Wales and Northern Ireland comply with this article through section 1 of the Criminal Attempts Act (1981); section 8 of the Accessories and Abettors Act 1861,

which covers those who aid, abet, counsel or procure others to commit indictable offences; and sections 44-46 of the Serious Crime Act 2007 which covers assisting and encouraging crime. In the case of the latter, it is irrelevant whether the crimes assisted or encouraged are, in fact, committed.

107. For Scotland section 293 of the Criminal Procedure (Scotland) Act 1995 covers the participating and instigating of the listed offences of Article 3 1. (a) to (c) and the attempt to commit any of those offences is covered by section 294 of the Criminal Procedure (Scotland) Act 1995.

### **Article 3.3 - appropriate penalties**

108. For England and Wales the penalties for the sexual offences listed under Article 3.1 are covered by the revised penalties in the Sexual Offences Act 2003, the Protection of Children Act (1978), section 160 of the Criminal Justice Act 1988, Obscene Publications Act 1959 and the Coroners and Justice Act 2009.

109. For Scotland the appropriate penalties are covered in the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, Criminal Justice (Scotland) Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.

### **Article 3.4 - liability**

110. Arrangements exist in UK civil law for liability of legal persons for negligence and legal persons may be held accountable under the Proceeds of Crime Act (POCA) 2002.

111. The Interpretation Act 1978 sets out that unless the contrary intention appears "person" includes a body of persons corporate or unincorporated (Interpretation Act 1978, section 5 and Schedule 1).

### **Article 3.5 - adoption**

112. Under the Adoption and Children Act 2002 the welfare of the child throughout his life is the court's and the adoption agency's paramount consideration. There are leading cases in the Family Division where the court decided that the inter-country adoption had to stand because to do otherwise would be against the welfare of the child. In these cases there were no criminal proceedings against the adoptive parents.

113. For Scotland, the Adoption (Scotland) Act 1978 places a duty on the courts and adoption agencies to regard the need to safeguard and promote the welfare of the child throughout his or her life as the paramount consideration.

114. For Northern Ireland, under the Adoption (Northern Ireland) Order 1987, a court or adoption agency is required to regard the welfare of the child as the most important consideration.

## **Article 4 – Jurisdiction**

### **Article 4.1**

115. For the UK as a whole the various laws covering the offences listed under Article 3.1 provide for the jurisdiction to cover all parts of the UK.

### **Article 4.2**

116. The requirement in this Article is not mandatory and therefore no further action is needed. In England and Wales we do not have Extra Territorial Jurisdiction (ETJ) in relation to all of the offences listed nor do we take ETJ for these offences based on the

nationality of the victim. We do have ETJ for all sexual offences involving the sexual abuse of real children in cases where the offender is a UK national or in cases where the offender is a UK resident where there is 'dual criminality'. By 'dual criminality' we mean the sexual offence is a criminal offence in the UK and also in the country in which the offence was committed.

117. For Scotland, Section 55 of the Sexual Offences (Scotland) Act 2009 and section 46 of the Criminal Justice and Licensing (Scotland) Act 2010 provides for extra territorial jurisdiction for the relevant offences in respect of offenders who are UK nationals. There is no provision in Scottish law for circumstances where the victim is a UK national, but the offence is committed outside Scotland.

### **Article 4.3**

118. In consideration of this article, the UK does not refuse to extradite an offender on the basis of UK nationality. In cases where the country seeking extradition is a territory with which the UK has no general extradition relations, section 193 of the Extradition Act 2003 provides the framework for the UK to have extradition relations with parties to international conventions relating to specific very serious crimes, of which the UK is also a signatory. The Home Office is currently in the process of making an order designating a large number of territories for this purpose (which will include territories that are party to the UNCRC Optional Protocol on the sale of children, child prostitution and child pornography).

## **Articles 5 and 6 – Extradition in the event of crime**

### **Article 5.2 and 5.3**

119. Section 193 of the Extradition Act 2003 allows the Secretary of State for the Home Department to designate territories by way of secondary legislation to allow the UK to have extradition relations with other territories that hold the same international conventions as the UK is party to and where there is no other Treaty basis for extradition. Once a territory has been designated under this enabling power, the UK can deal with incoming extradition requests from the relevant territory as if they were a Part 2 territory under the Extradition Act 2003. The UK is currently in the process of making an order designating a large number of territories for this purpose (which will include territories that are party to the UNCRC Optional Protocol).

### **Articles 5.1 and 5.4**

120. Article 5.4 states that for the purposes of extradition, the offences in Article 3 paragraph 1, shall be treated as being committed in the country that they occurred but also treated as committed in any State that is required to establish its jurisdiction over any such offences.

121. The majority of the UK's extradition arrangements are based on a sentence threshold, rather than a list of offences (the exceptions are bilateral treaties dating back to the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, which contained a list of extraditable offences). The dual criminality principle must be satisfied before extradition can be considered. This means that the conduct for which extradition is sought must be a criminal offence punishable by a minimum sentence of at least 12 months' detention in both the State requesting extradition and in the State from which extradition is requested.

**Article 5.5**

122. This Article says that where a State refuses to extradite an offender because of his or her nationality, that State shall take suitable measures to submit the case for prosecution.

123. This is not an issue for the UK, as the UK does not refuse extradition on grounds of a person's nationality.

**Article 6.1 and 6.2**

124. The Criminal (International Co-operation) Act 2003 allows the UK to assist any State in the world by way of obtaining evidence for use in connection with a criminal investigation or criminal proceedings. With regard to the offences listed under Article 3, paragraph 1 of this UNCRC Optional Protocol, the UK can only arrange for the evidence to be obtained if the offence committed (or suspected of being committed) is an offence under the law of the requesting State and if proceedings in respect of that offence have been instituted in that country, or an investigation into the offence is being carried out there, (see section 15 of the Criminal (International Co-operation) Act 2003).

**Article 7 – Seizure and confiscation**

125. There are extensive powers within the Proceeds of Crime Act 2002 (Part 2 – 4 covers seizure and confiscation plus ancillary matters) to confiscate the proceeds derived from such offences defined in Article 3 paragraph 1. Also, child prostitution and pornography offences were added to the 'criminal lifestyle' provisions (Proceeds of Crime Act Schedule 2) by the Sexual Offences Act 2003. This means that the courts can assume that everything a defendant holds and has held in the last six years are the proceeds of crime and so can be included in a confiscation order.

126. In addition, section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 enables a court to deprive the offender of his rights to any property used, or intended to be used, in the commission of his offence and for the property to be taken into the possession of the police, who can eventually dispose of it.

127. For Scotland, Schedule 4 to the Proceeds of Crime Act 2002 as amended by the Proceeds of Crime Act 2002 Amendment (Scotland) Order 2011, covers the criminal lifestyle offences of people trafficking, prostitution, living on the earnings of prostitution and distribution of obscene material (which would include child pornography). Restraint orders (s119 and 120) and 'constables power' to seize property subject to a restraint order to prevent removal from Scotland (s126) and confiscation orders enable clawing back proceeds of crime from convicted persons (s92). The Policing and Crime Act 2009 includes new seizure powers - section 127C to 127F.

128. The UK is now able to assist overseas partners for requests for seizing and confiscating assets related to offences defined in Article 3 paragraph 1. The UK co-operates with and enforces overseas confiscation orders relating to the proceeds of crime and instrumentalities of offences.

129. Legislation to allow the UK to co-operate internationally with the freezing and confiscation of the proceeds of crime was introduced on the 1 January 2006 with the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 and on the 31 December 2005 with the introduction of the Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Orders) Order 2005.

130. In April 2010 the Policing and Crime Act 2009 amended the Sexual Offences Act 2003 to introduce closure orders. This allows the police to seek a court order to close premises for up to 3 months (with the ability to extend for another 3 months) where they

suspect premises have been used for activities associated with the following offences and that closure would prevent these offences taking place:

131. The relevant offences are listed in section 136A of the Sexual Offences Act 2003. They are:

(a) Paying for the sexual services of a child (section 47 of the Sexual Offences Act 2003 or Article 37 of the Sexual Offences (Northern Ireland) Order 2008;

(b) Causing or inciting child prostitution or pornography (section 48 of the Sexual Offences Act 2003, or Article 38 of the Sexual Offences (Northern Ireland) Order 2008;

(c) Controlling a child prostitute or a child involved in pornography (section 49 of the Sexual Offences Act 2003 or Article 39 of the Sexual Offences (Northern Ireland) Order 2008;

(d) Arranging or facilitating child prostitution or pornography (section 50 Sexual Offences Act 2003), or Article 40 Sexual Offences (Northern Ireland) Order 2008;

(e) Causing or inciting prostitution for gain (section 52 of the Sexual Offences Act 2003 or Article 62 of the Sexual Offences (Northern Ireland) Order 2008;

(f) Controlling prostitution for gain (section 53 of the Sexual Offences Act 2003 or Article 63 of the Sexual Offences (Northern Ireland) Order 2008.

132. For Scotland the Criminal Justice and Licensing (Scotland) Act 2010 provides explicit powers for the closure of premises associated with or used for the commission of “human exploitation offences” such child sexual abuse.

133. Section 99 of the 2010 Act amends the Anti-Social Behaviour etc. (Scotland) Act 2004 to provide a new set of circumstances where notices and orders may be invoked for the closure of premises associated with the commission of exploitation offences. The provision came into force on 13 December 2010.

## **Articles 8 and 9 – Protection of the rights of victims**

### **Victim support**

134. Victims of crime are legally entitled to minimum standards of support under the Code of Practice for Victims of Crime. The availability of Victim Personal Statements also ensures that victims have the opportunity to express the impact that the crime has had on them.

135. The Government provides funding to a range of voluntary sector organisations which offer emotional support, practical assistance and advocacy, assistance with insurance and compensation claims, personal safety and crime prevention advice. These include organisations which specialise in providing support to victims of specific crimes, including sexual offences.

136. The Government has enhanced its support arrangements for victims of trafficking as part of its implementation of the Council of Europe Convention. Measures include granting identified victims an extendable 45 day recovery period and for those that are eligible a minimum one year temporary residency permit. Residency permits will be granted on two grounds: participation with a criminal investigation, and/or personal circumstances, and can be renewed.

137. A reflection and recovery period will be granted to all those who are identified as victims of trafficking by the Competent Authorities, regardless of the ‘type’ of trafficking

they have experienced, and whether they are co-operating with the police or not. Measures are tailored to the individual needs of the victim. The 45 day period is the UK minimum, going beyond the Convention requirement of 30 days.

138. For some victims, 45 days will be enough, but the Government recognises that others may need longer due to the levels of trauma and impact on their health. It has promised to keep the timeframes under review.

139. In March 2010, the Government appointed an independent Victim's Commissioner in order that the support and services available to victims and witnesses may be improved so that they receive more comprehensive and dedicated support and so that change may be driven forward in the best interests of all victims and witnesses.

#### **Young victims of crime**

140. The Code of Practice for Victims of Crime 2006 sets out the obligations of criminal justice agencies towards victims. Victims under the age of 17 (which will change to 18 in the summer 2011) are automatically considered to be vulnerable and therefore eligible for special measures when acting as a witness in court proceedings. These special measures include the use of screens, TV links or intermediaries to help young witnesses give their best evidence. In addition, Victim Support's Witness Service provides support to children and young people who are witnesses in Magistrates and Crown courts. In the youth justice system, Youth Offending Teams contact victims to ask if they want to be involved in a restorative justice intervention, in appropriate cases.

#### **Local authority responsibilities**

141. Principal responsibility for the care, protection and accommodation of child trafficking victims, falls on local authorities in accordance with provisions in the Children Act 1989 and the Children Act 2004. The same responsibilities are conferred on Health and Social Care Trusts in Northern Ireland under the provisions of the Children (Northern Ireland) Order 1995. Local authorities in England and Wales have a statutory duty to ensure that they safeguard and promote the welfare of all children in need within their area, regardless of their immigration status or nationality.

142. It is also the responsibility of local authorities to determine the level of risk and the appropriate care arrangements for each unaccompanied asylum seeking child. For the period 2009/10 the costs for caring for these children by local authority children's services amounted to around £140 million.

143. The local authority and the child's designated social worker fulfil the requirements of the Council of Europe Convention on Action Against the Trafficking in Human Beings. Child trafficking victims also have access to legal advice, education, medical and psychological support. The Government's White Paper 'Care Matters: Time for Change' and the Children and Young Persons Act 2008 contain additional measures to strengthen service provision and further improve outcomes for all looked after children.

#### **Article 8.1 – protecting the rights and interests of child victims**

144. Progress on taking this forward in the UK has been positive, for example the roll out of Witness Care Units is now complete and there are 165 units in England and Wales providing full nationwide coverage. A needs assessment is now carried out for all prosecution victims and prosecution witnesses. Dedicated Witness Care Officers provide information and support to victims and witnesses from the point of charge through to case completion.

145. In Scotland, the Crown Office and Procurator Fiscal Service (COPFS) Victim Information and Advice Service (VIA) has a remit to keep prosecution victims and vulnerable witnesses, including children, informed. Legal agents are also required to submit notices for special measures for children under the terms of the Vulnerable Witnesses (Scotland) Act 2004.

146. In England and Wales, child victims, or their parent or carer on their behalf, should be offered the chance to provide a Victim Personal Statement. This provides the opportunity for them to say how the crime has affected them and to set out any special concerns or requirements they may have. Similar schemes operate in Scotland and Northern Ireland.

147. The views of children should be considered in proceedings affecting them, which is the case in civil proceedings. In criminal proceedings when considering an application for special measures to assist child witnesses, the court is required to take account of the witness' views.

148. In Scotland, the views and needs of children must be presented in the child witness notice for special measures under the terms of the Vulnerable Witnesses (Scotland) Act 2004.

149. A Witness Service is now located in all courts so that child witnesses are supported whilst attending to give evidence. Pre-trial support and preparation services specifically aimed at child witnesses are provided in some areas by the NSPCC, Witness Service or the Local Safeguarding Children's Boards.

150. In Scotland, in addition to the Vulnerable Witnesses (Scotland) Act 2004 and VIA, there is a court-based Witness Service which will provide pre-court familiarisation visits and on the day support. There is also a Child Witness Support Guidance Pack which outlines support throughout all key stages of the legal process including gathering information about specific needs and vulnerability by police, identification parades, investigative interviews, provision of therapeutic support, pre-court visits and questioning children in court. Additional guidance, "*Special Measures for Vulnerable Adult and Child Witnesses*" provides guidance for practitioners on their approach to child witnesses in court, along with information for child witnesses and their carers on going to court and being a witness.

151. Restrictions on the publication of information which might lead to the identification of child victims are provided by a combination of legislation and self-regulation by the media. Victims of sexual offences are protected by an automatic statutory prohibition on publication of such information.

152. In Scotland, the Criminal Procedure (Scotland) Act 1995 has provisions to restrict reporting on proceedings in court which identify any person (victim, witness or accused) under 16 years of age and, under common law, it is possible to clear the court in certain types of offences where the child is a witness.

153. Witness protection legislation included in the Serious Organised Crime and Police Act 2005, covers child witnesses who are in such danger that they require protected person status. In addition, witness protection offences cover child witnesses who experience intimidation.

154. In Scotland, the witness protection provisions in the Serious Organised Crime and Police Act 2005 were extended to Scotland by way of a legislative consent motion. Scotland also has its own national Witness Liaison Unit which provides support to those individuals who may be at risk having become involved in the criminal justice system as a witness.

155. Cases that go to court are dealt with expeditiously and compensation is awarded if appropriate. The Criminal Procedure Rules 2010 contain rules on how to case manage cases from pre-charge to conclusion in order to reduce delay to the court process.

156. In Scotland, although the Crown Office and Procurator Fiscal Service (COPFS) no longer have any control over the scheduling of cases in the High Court, COPFS recognise the importance of dealing with child witness cases promptly and have issued internal guidance to all staff to ensure that such cases are dealt with as a priority. In Sheriff Court cases COPFS will advise the Clerk that there is a child witness and look to obtain an early trial diet.

### **Article 8.2 - age of victims**

157. There is no lower age limit for competence of a child witness – so a child whatever their age is competent to give evidence as long as they are able to understand questions put to them and to make their answers understood, with the help of special measures if appropriate (section 53 of the Youth Justice and Criminal Evidence Act 1999).

158. Where an asylum applicant has little or no evidence to support their claimed age and their claim to be a child is doubted by the UK Border Agency, an initial assessment of their age is made and the applicant is processed in one of two ways. If the applicant's physical appearance and demeanour strongly suggests they are significantly over the age of 18 they will be treated as an adult. All other applicants are processed in the first instance as though they are a child. This includes referring the applicant to a local authority children's services for an age assessment. The UK Border Agency will then only make a final decision on age once the local authority's age assessment and other relevant evidence has been considered.

159. In Scotland section 24 of the Vulnerable Witnesses (Scotland) Act 2004 abolished the competency test, including for children. In addition, all children up to age 16 are automatically entitled to standard special measures (up to age 18 in human trafficking cases, as a result of section 88 of the Criminal Justice and Licensing (Scotland) Act 2010). Any children aged 16 or 17 are eligible to be considered for special measures. Officials are planning a review of legislative cover as part of the new witness policy framework (this will include consideration of the age of automatic entitlement to standard special measures).

### **Article 8.3 – best interests of the child**

160. Guidance for investigators requires them to consider special measures, applications, and the needs and views of the child at all stages. For example, paragraph 2.53 of *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses and Guidance on Using Special Measures* (2011) states "Interviewers may decide that the needs of the child and the needs of criminal justice are best served by an assessment of the child prior to the interview taking place, particularly if the child has not had previous or current involvement with social services or other public services. Such an assessment offers the opportunity to explore the factors listed [in Box 2.7] and should be considered for all child witnesses".

161. The Crown Prosecution Service Code for Crown Prosecutors advises that if a prosecution is likely to have an adverse effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence and views of the victim, the public interest may tend against prosecution.

162. In Scotland, when considering what special measure, if any, is appropriate under the Vulnerable Witnesses (Scotland) Act 2004, the court must take account of the best interests of the witness. This is reinforced by *Guidance on Interviewing Child Witnesses in Scotland* (2003) – "the guidance starts from the premise that every child has the right to protection



from harm, abuse and exploitation” and “the child’s welfare should be of paramount importance when considering their needs and that of justice”. An updated version of this guidance will be issued during 2011 and will re-state these themes.

#### **Article 8.4 - training**

163. Progress on implementing this within the UK has included training for practitioners working with young victims/witnesses. This specialist training has to be completed before embarking on work with children. Important issues such as child protection and legal implications are also covered.

164. The Specialist Child Abuse Investigation Development Programme is a national initiative which brings together good practice in this area and is currently being rolled out to local police forces. This includes aspects on training for investigators on how to deal with child victims and witnesses.

165. Training courses and e-learning materials published by the CPS, support prosecutors in dealing with cases involving child victims of sexual abuse. The training includes provisions under the Sexual Offences Act 2003, domestic violence and special measures. Additionally, Crown Prosecutors must be familiar with CPS policy on Prosecuting Cases of Rape, the principles of which also apply to cases in which it is alleged that other serious sexual offences have been committed.

166. In Scotland single and multi-agency training on child witness issues is carried out by key agencies. Joint investigative interviewing of children is to be improved by publishing revised interviewing guidance; rolling out visual recording of such interviews across Scotland and updating training to take account of this during 2011 and 2012. Similar arrangements apply for practitioners in relation to the Vulnerable Witnesses (Scotland) Act 2004.

#### **Article 9.3 – Victim Support and Recovery**

167. Any child or young person in the UK and who is a victim who is suffering from a mental or psychological disorder as a result of being a victim, is entitled to treatment to help them recover. A report produced by an independent taskforce set up by the previous Government into the NHS response to violence against women and children published in March 2010, recommended that Primary Care Trusts (PCTs) should develop services that reflect the range of different recovery needs of children who have experienced sexual violence or abuse. A subsequent report recommended the approach go broader than PCTs to cover all aspects of the NHS. Good progress has been made and current work includes the piloting of multi-systemic therapy for child victims of abuse and the investment in Sexual Assault Referral Centres to support victims in the immediate aftermath of sexual assault.

168. The core Government guidance *‘Working Together to Safeguard Children’* (2010) makes clear that services for an abused child may include therapy.

169. When a local authority is carrying out an assessment of a child’s needs, it may be necessary to commission a specialist assessment from Child and Adolescent Mental Health Services (CAMHS) to determine what services may be appropriate.

170. In Scotland, under section 22 of the Children (Scotland) Act, local authorities have a duty to safeguard and promote the welfare of children in their area who are in need, regardless of their immigration status. Children “in need” (as defined in s93(4) of the 1995 Act) are those children in need of care and attention because they are unlikely to achieve or maintain, a reasonable standard of health or development unless services are provided or if the child’s health or development is likely to be significantly impaired, or further impaired,

unless such services are provided. In addition, the duty covers disabled children or those adversely affected by the disability of any other person in their family.

171. The Scottish Government in 2009 published guidance for child protection and other practitioners ‘*Safeguarding children in Scotland who may have been trafficked*’ in 2009. This guidance sets out the reasons for child trafficking; the methods used by traffickers; the roles and functions of relevant agencies; and the procedures to follow to ensure the safety of children suspected of being trafficked.

172. The Scottish Government also recently published new National Guidelines for Child Protection in December 2010. This guidance includes dedicated sections on issues such as online safety, runaways, systematic and complex abuse and child trafficking.

173. In Northern Ireland under Article 18 of the Children Order (Northern Ireland) 1995 Health and Social Care Trusts have a duty to safeguard and promote the welfare of any child in Northern Ireland who is in need. Children “in need” as defined in Article 17 of that Order, are those children unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision of services which are provided by the HSC Trust, or if the child’s health or development is likely to be significantly impaired, or further impaired, without the provision of such services; or if the child is disabled.

174. In 2011, the Department of Health, Social Services and Public Safety and the Police Service for Northern Ireland published joint guidance, “Working Arrangements for the Welfare and Safeguarding of Child Victims of Human Trafficking”. The guidance sets out the roles and functions of relevant agencies and the procedures to follow to ensure the safety of children suspected of being trafficked.

175. Further guidance: *Police Involvement in residential Units; Safeguarding of Children Missing from Home and Foster Care / April 2011* has been jointly published by the Health and Social Care Board and the Police Service of Northern Ireland. The document outlines arrangements for police and health and social care personnel dealing with children who go missing and includes best practice guidance on interviewing and recording arrangements.

#### **Article 9.4 – Victim compensation**

176. This is provided within the UK through the Criminal Injuries Compensation Scheme. This allows qualifying victims (of any age) having suffered a physical or mental injury as a direct result of a violent intentional crime within the UK, to be eligible for compensation under the scheme.

177. Compensation is also awarded by criminal courts. In any case where the offender is convicted of an offence causing loss, damage or injury to a victim (of any age), the courts are required to consider making a compensation order, and to give reasons where they do not do so.

178. In Scotland, courts have discretion under section 249 of the Criminal Procedure (Scotland) Act 1995 so that: ‘...where a person is convicted of an offence the court, instead of or in addition to dealing with him in any other way, may make an order requiring him to pay compensation for any (a) personal injury, loss or damage caused directly or indirectly; or (b) alarm or distress caused directly, to the victim’.

#### **Article 9.5 - Prohibiting the production and dissemination of material**

179. In England and Wales section 14 of the Sexual Offences Act 2003 makes it an offence to arrange or facilitate the commission of a child sex offence. Advertising child prostitution is covered by Section 50 of the Sexual Offences Act 2003 - ‘Arranging and Facilitating Child Prostitution.’

180. Section 123 of the Adoption and Children Act 2002 (which also extends to Scotland) provides for restrictions on publishing and distributing certain advertisements or information or causing them to be published or distributed, except where this is done by or on behalf of an adoption agency. Advertising the distribution or showing of indecent photographs of children may be caught by the Protection of Children Act 1978. For Northern Ireland, Article 60 of the Adoption (Northern Ireland) Order 1987 provides for restrictions on advertisements.

181. In Scotland, advertising child prostitution and pornography is covered by the Civic Government (Scotland) Act 1982 and by sections 10 or 12 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act – arranging or facilitating/causing or inciting child prostitution or pornography.

182. More generally, sections 293 and 294 of the Criminal Procedure (Scotland) Act 1995 provide that it is an offence to aid, abet, incite or conspire to commit any criminal offence.

## **Article 10 – International assistance and cooperation**

### **Child Exploitation and Online Protection (CEOP) Centre**

183. The Child Exploitation and Online Protection (CEOP) Centre is the UK's national law enforcement agency dedicated to tackling the sexual abuse of children in both the online and offline environments, with the principal aim of identifying, locating and safeguarding children and young people from harm, in the UK and overseas.

184. In July 2008, CEOP and the Virtual Global Taskforce (VGT) hosted the inaugural International Youth Advisory Congress (IYAC) in London which brought together 148 children and young people from 19 different countries to discuss issues of online and mobile safety and security. The outcome of the Congress was the Global Online Charter, written by the children and young people themselves, an initiative calling for international action to safeguard the interests of young people in the converged environment.

185. CEOP attended the third World Congress against Child Sexual Exploitation in Rio de Janeiro in November 2008 and launched the Global Online Charter, with the Chief Executive Officer and a youth participant from IYAC giving keynote speeches at the main plenary session. CEOP and the Virtual Global Taskforce also produced and presented the Third World Congress thematic paper entitled: 'Online Child Sexual Abuse: The Law Enforcement Response'.

186. CEOP has also led the development of the European Commission funded European Financial Coalition (EFC). This has brought together organisations from across all key sectors to track, disrupt and seek to confiscate commercial gain made by those involved in the production and distribution of child sexual abuse material. The EFC steering group comprises CEOP (chair), EUROPOL, the Italian National Postal and Communication Police, MasterCard, Microsoft, PayPal, VISA Europe and the NGO Missing Children Europe. Advisory members include Allen & Overy and the International Centre for Missing and Exploited Children.

187. CEOP has continued to work in conjunction with the UK Home Office and the Serious Organised Crime Agency to represent the UK in the G8 Roma/Lyon Group forum providing operational expertise to the Law Enforcement and Protection Sub-Group (LEPSG). As a result of the May 2007 Munich meeting where G8 Justice and Interior ministers called for the centralisation of expert knowledge on the abduction of children for sexual exploitation purposes, CEOP took the lead in producing a scoping document around this issue. The ensuing report, entitled '*Analysing the nature and scale of sexually*

*motivated child abduction: A review of the experience of G8 law enforcement – key findings and recommendations*, was completed in April 2009.

#### **Department for International Development (DFID)**

188. The aim of the Department for International Development is to eliminate poverty in poorer countries through the achievement of the Millennium Development Goals (MDG). DFID's work on poverty reduction has a significant effect on key underlying causes of modern slavery such as poverty, lack of education and social exclusion. For example, DFID's work on education aims to secure schooling for 11 million children by 2015. DFID has one of the largest bilateral programmes on social protection, directly helping very poor people in over 15 developing countries.

189. We also believe that one of the most effective ways of reducing child poverty is to get more children into school. Education is a basic human right: all children have the right to equal access to a good quality education and should not have to work to survive. The UK is committed to the education Millennium Development Goals of universal primary completion and gender parity at all levels of education. For example, in Bangladesh, DFID supports the Save the Children Skills and Opportunities for Education (SKOPE) programme, giving working children and children who have never been to school or have dropped out because of poverty access to education and skills helping them get into gainful employment.

190. Vulnerable children are particularly susceptible to the worst forms of child exploitation. DFID supports a number of projects addressing child vulnerability. We provide support to civil society organisations which have a child-rights focus and work with vulnerable children in developing countries. DFID provides funding to charities such as Save the Children, Plan International and World Vision for programmes that aim to reduce exclusion and inequality, and ultimately poverty, among vulnerable groups. This includes educational support, drop-in centres that provide food and shelter, health programmes and counselling for street children who are recovering from physical abuse and sexual exploitation. DFID India, for example, supports Save the Children to address child rights issues. The programme has set up over 650 child protection committees across 28 districts to protect children belonging to excluded groups from all forms of discrimination, ensure their access to education and to other basic services.

191. Through its Civil Society Challenge Fund, DFID supports NGO managed projects directly addressing child labour issues: for example, the Malawi Anti-Trafficking Project run by Salvation Army International Development (SAID). This seeks to reduce child trafficking in Malawi by introducing specific anti-trafficking legislation, raising awareness of the problem among communities at risk, training police and immigration officers, working with children in schools, as well as protecting vulnerable children and previously trafficked children and their families with income-generation activities. DFID is currently designing a four year programme which will aim to reduce trafficking of women and girls in Asia. DFID also supports a project run by Anti-Slavery International on eradication of forced child begging in Senegal. This is focused on Talibe children in Senegal and enables these children to access education and other basic services.

192. DFID works with organisations who are seeking to improve working conditions, including for children, in industries which have global supply chains. For example, DFID provides support to, and closely works with, the UK's Ethical Trading Initiative (ETI). The ETI works with businesses, trade unions and non-governmental organisations to tackle poor working conditions in developing countries. Companies signed up to the ETI base code are committed to action where child labour is uncovered in supply chains.

193. In addition, DFID is providing £12 million to the scaling up of Fairtrade through a Partnership Programme Arrangement (PPA) with the Fairtrade Labelling Organisations International (FLO) over the period 2010/11 to 2013/14. Fairtrade has developed its own standards, compliance procedures and audit tools on child labour, in accordance with the relevant International Labour Organisation (ILO) Conventions. They expect all their producers (small producer organisations as well as hired labour organisations) to meet these requirements.

194. DFID has also set up the £3 million Responsible and Accountable Garments Sector (RAGS) Challenge Fund to address poor working conditions – including child labour issues – in the garments sector. An example of a project supported under RAGS is one in India run by the Monsoon Accessories Trust, helping improve labour conditions in the garment sector in India.

### **Foreign and Commonwealth Office (FCO)**

#### *Child rights*

195. The FCO is informed in its work bilaterally and multilaterally on child rights by the Convention on the Rights of the Child and its two optional protocols: on the sale of children, child prostitution and child pornography; and on the involvement of children in armed conflict.

196. In 2007 the FCO launched the “Child Rights Strategy” that set out guidance for overseas missions for the period 2007-2010. It concentrated on three areas: promotion of the implementation of the rights of the child; children in armed conflict with the law; and the worst forms of child labour. The strategy included lobbying other governments to ratify international standards on child rights.

197. In early 2011 the FCO chaired a UK cross-Government meeting on child trafficking which brought together other government departments working on child trafficking to discuss the UK’s approach to tackling the issue both domestically and internationally.

198. Through the United Nations universal periodic review, the UK raised its concerns on child rights with the following countries over the reporting period: Chad, Chile, Comoros, Costa Rica, Democratic Republic of Congo, Dominican Republic, El Salvador, Iran, Jordan, Kiribati, Lesotho, Mexico, Nicaragua, Saudi Arabia and Yemen.

199. The UK supported the adoption of General Assembly resolutions 64/178 (2009) on improving the coordination of efforts against trafficking in persons, 64/146 (2009) on the rights of the child and 64/145 (2009) on the girl child; Human Rights Council resolutions 10/14 (2009) on implementation of the Convention on the Rights of the Child and the Optional Protocols thereto and 11/3 (2009) on trafficking in persons, especially women and children; General Assembly resolutions 65/197 (2010) on the rights of the child and 65/190 (2010) on trafficking in women and girls; and Human Rights Council resolutions 13/20 (2010) on the rights of the child: the fight against sexual violence against children, 14/2 (2010) on trafficking in persons, especially women and children and 16/12 (2011) on the rights of the child: a holistic approach to the protection and promotion of the rights of children working and/or living on the street.

#### **Bilateral work**

200. The UK embassies in Bangkok, Hanoi and Phnom Penh worked together with the UK Child Exploitation and Online Protection Centre (CEOP) over the period 2009 to 2011 to support the governments of Cambodia, Laos, Thailand and Vietnam in their efforts to protect children and apprehend offenders. In 2010 the UK embassy in Manila joined with these embassies to support the “*Making Every Child Matter in Southeast Asia*” project,

which is aimed at enhancing national and regional capacity to prevent and deter the sexual exploitation of children through multi-sector partnerships and effective awareness-raising.

201. In addition to working with CEOP on the “Making Every Child Matter” project, the UK embassy in Hanoi hosted a CEOP training event in Ho Chi Minh City which was attended by over 100 educators working with vulnerable children in Vietnam, and a regional workshop attended by stakeholders from Vietnam, Cambodia, Thailand and the Philippines. The FCO funded a visit to Vietnam by a CEOP analyst to produce a detailed report on child trafficking in Vietnam. The embassy continued to urge the Vietnamese government to expedite the passage of the new human trafficking legislation, which their National Assembly failed to pass in 2010.

202. The UK embassy in Phnom Penh supported projects to train the Cambodian police force, teachers and local child support workers on child protection. The embassy worked with NGOs to develop an educational tool on child safety and protection.

203. In Bangkok the UK embassy supported a 2009 CEOP workshop to train Thailand’s police force on child protection. The embassy also supported a 2010 regional workshop on child protection which brought together key professionals to discuss tackling regional issues, including child trafficking, and a workshop to train educators.

204. The Philippines and the UK signed a Mutual Legal Assistance Treaty (MLAT) and an Extradition Treaty in 2009. These treaties enable the two countries to apprehend child sex offenders and bring them to justice, helping to reduce trafficking of Philippine children. The FCO will continue to press for early ratification of these treaties. As recognition of Britain’s contribution to the fight against child exploitation, the British Ambassador to the Philippines sits on the Board of Trustees of the Child Protection Units Network (CPUNet). This organisation is dedicated to the support and advancement of child protection units and child protection specialists.

205. The UK embassy in Kabul supported the UN’s work to protect children in armed conflict in Afghanistan, including the establishment of an in-country monitoring team to investigate children’s rights, including child sexual exploitation and abuse. Prosecution of a small number of cases of child sexual abuse were reported by the UN in 2010. More initiatives, including studies on this issue, are being developed.

206. Also in Asia, the UK embassy in Rangoon promoted child rights with national and international NGOs working in Burma, and with UN agencies, including the International Labour Organization. The FCO raised the use of Burmese children in armed conflict in the UN Security Council in 2010 and supported robust language on the issue in the resolution on Burma at the UN General Assembly.

207. The British High Commission in Accra funded the Ghana National Database on Human Trafficking, an effective tool for practitioners involved in counter trafficking activities across the country. The British High Commission also delivered prosecution training to both the Ghana immigration service and the Ghana police force, with particular focus on human trafficking, including child trafficking.

208. The FCO supported a number of projects in 2009 including: an audit of the Child Protection Systems in Jamaica and the Dominican Republic to improve the quality of investigations, evidence and support of child abuse victims through the court systems; a study in Barbados to secure practical evidence on the problem of cultural tolerance of child sexual abuse; an NGO-run initiative in Senegal supporting a child training and protection centre that offers protection and education to street children; and work with a children’s rights umbrella NGO in the Democratic Republic of Congo to support their lobbying and awareness-raising activities related to their law on child protection, which was passed earlier that year.

209. Through the European Defence Reform mission, the UK embassy in Kinshasa funded a Democratic Republic of Congo biometric census project to give accurate data on soldiers in the Congolese army allowing child soldiers to be identified and removed. In December 2010, the UK, France and US successfully pushed for UN sanctions against Lt Col Innocent Zimurinda of the Congolese army for serious human rights abuses, including his role in the recruitment of child soldiers.

210. In Central America, the FCO funded a regional Child-Pornography Conference in 2010 which strengthened and expanded the regional network and created conditions for real progress to be made on the issue in various areas including legislation, education and protection of children. A local NGO also received funding from the FCO to raise awareness of child pornography issues throughout the Central American region.

211. In 2009, the FCO funded a two year project in Africa that increased the effectiveness of African Union instruments and mechanisms. These now monitor and promote children's rights in Ethiopia, South Africa and Angola through better co-operation between civil society organisations and the African Committee of Experts on the Rights and Welfare of the Child. The project ended in March 2011.

#### **Article 10.1 – international cooperation**

212. The identification of high numbers of trafficked Vietnamese children in the UK and their involvement in criminal activities has highlighted the need for better cooperation between the UK and Vietnamese authorities. The focus has been on gathering evidence on offenders and victims of trafficking, in order to support prosecutions.

213. Bilateral meetings between Crown Prosecution Service (CPS) experts and their Vietnamese counterparts has resulted in constructive agreements to provide assistance to CPS prosecutors and UK law enforcement. As a result, guidance for CPS prosecutors has been updated and circulated to UK law enforcement agencies. The guidance confirms the circumstances when enquiries by both countries' police forces are permitted, under a Memorandum of Understanding and when Mutual Legal Assistance to Vietnam should be prepared.

214. The Child Exploitation and Online Protection (CEOP) Centre's Overseas Tracker team collects intelligence to disrupt and displace UK nationals who travel overseas with the intention of abusing children, and proactively supports overseas and transnational investigations by foreign law enforcement agencies and NGOs. CEOP also has law enforcement operational capacity, and has on several occasions deployed overseas to assist local law enforcement in operations against travelling sex offenders from the UK.

215. CEOP has also established an International Child Protection Network (ICPN). The ICPN is an initiative which brings together law enforcement, government, NGOs and private sector partners in a coordinated effort to tackle child sexual offenders in overseas countries and protect vulnerable children across borders.

#### **Article 10.2 – international cooperation in physical and psychological recovery of victims**

216. The UK provides generous reintegration assistance to unaccompanied children from abroad who wish to return to their countries. The UK only enforces the return of an unaccompanied child if their parents have been located or alternative care arrangements are in place. The best interests of the child would be a primary consideration in any decision to enforce return.

217. The UK Government's ratification of the Council of Europe Convention on Action against the Trafficking in Human Beings has strengthened our commitment to safeguarding

and promoting the welfare of UASC in local authority care, some of whom may be trafficked children.

### **Article 10.3 – addressing the root causes**

218. The aim of the Department for International Development is to eliminate poverty in poorer countries through the achievement of the Millennium Development Goals (MDG). DFID's work on poverty reduction has a significant effect on key underlying causes of modern slavery such as poverty, lack of education and social exclusion. For example DFID's work on education aims to secure schooling for 11 million children by 2015. DFID has one of the largest bilateral programmes on social protection, directly helping very poor people in over 15 developing countries.

219. DFID also supports projects which are specifically designed to prevent human trafficking (including child trafficking). For example, we support the Malawi Anti-Child Trafficking Project, run by the Salvation Army, which aims to improve knowledge of and access to rights for children in Malawi who have been trafficked or are vulnerable to being trafficked. In Bangladesh we have supported the establishment of a specialised unit in the police for human trafficking. In Uganda, we have supported UNICEF to help identify and support trafficked women and children in the northern Karamoja region. DFID is currently developing a new regional programme aiming to reduce human trafficking across the South Asia region.

220. The Scottish Government, through its International Development Fund, provides support to vulnerable children in developing countries at risk of abuse and exploitation. An example of this is the funding that has been made available to Tearfund Scotland - a relief and development agency working to help eradicate global poverty - who is working with communities in the north of Malawi to raise awareness of harmful practices such as early marriage and child labour. Tearfund Scotland have been awarded Scottish Government funding of £396,200 from 2010/11 – 2012/13 and will conduct sensitisation training on children's rights and gender practices, including the importance of sending girls to school. The project aims to benefit over 16,000 young people. In addition, the Active Learning Centre at the University of Glasgow has been awarded funding of £301,069.40 from 2010/11 to 2012/13. With this support the Active Learning Centre will contribute to the strengthening of civil society across Malawi by ensuring that the most vulnerable are able to access justice and project their human rights. This includes the training of 100 paralegals to offer advice and information to poor and vulnerable people in Dedza, Mangochi districts of Malawi.

### **Article 10.4 – financial, technical and other assistance**

221. The UK Government takes its responsibility for protecting children at risk of being harmed under Article 3, paragraph 1 of this Protocol very seriously and will work with other Governments and organisations to ensure that children's rights are protected. Currently the UK Government is doing much in assisting other countries through its overseas aid programme in helping to alleviate child poverty and remove this as a cause for child exploitation. Similarly the Child Exploitation Online Protection Centre (CEOP) has had much success in assisting overseas enforcement in arresting child sex abusers and is currently working with partners in several countries to establish its International Child Protection Network (ICPN) to raise greater awareness of the risks of children being trafficked. The UK Government will widen its reach to other countries in relation to extradition following the amendment the Extradition Act (2003). This will allow the UK to extradite a suspect to a requesting nation who is a signatory of the OP and/or other international convention to which the UK is also a member.



## Article 11 - Other relevant provisions of national or international law

222. In 2008, the UK ratified the Council of Europe Convention on Action against Trafficking in Human Beings, lifted its reservations under the United Nations Convention on the Rights of the Child (UNCRC) regarding immigration and accommodation of children with adults in custody and signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Abuse.

223. Separately from the Convention, the UK has opted into and is taking part in negotiations on the proposed EU Directive on combating the sexual abuse, sexual exploitation of children and child pornography. A number of Articles from the Convention are replicated in the proposed Directive which updates and repeals the existing Framework Decision 2004/68/JHA and is a response to new forms of abuse and sexual exploitation of children caused by the misuse of the internet and communication technologies.

### Child protection in the devolved administrations

224. Progress has been positive across the UK's devolved administrations, ie: Scotland, Wales and Northern Ireland.

#### (a) Wales

225. In April 2008 the Welsh Assembly Government issued practice guidance, *Safeguarding Children who may have been Trafficked*, to professionals and volunteers from all agencies to help them effectively safeguard children who are abused and neglected by adults who traffic them into and within the UK to exploit them. The guidance advises on methods used by child traffickers, possible indicators that a child might have been trafficked, the roles of various agencies and the procedures which practitioners should follow if they suspect a child might have been trafficked.

226. The Welsh Assembly Government issued *Safeguarding Children and Young People from Sexual Exploitation* Guidance in January 2011 to assist practitioners in preventing and managing cases of child sexual exploitation, to help safeguard children and young people who were being sexually exploited from further harm, and to identify and prosecute offenders. The guidance is supplementary to *Safeguarding Children: Working Together Under the Children Act 2004*.

227. The Anti-Human Trafficking Co-ordinator was appointed in April 2011, it is the first post of its kind in the UK. The post's main duties will include coordinating concrete evidence of the scale of the problem in Wales and coordinating services and support to those affected.

#### (b) Scotland

228. The Protection of Vulnerable Groups (Scotland) Act 2007 enhances and extends the protection offered by the Protection of Children (Scotland) Act 2003. This will help to ensure that those who have regular contact with children through paid and unpaid work do not have a history of harmful behaviour, including sexual exploitation. Scottish Ministers will maintain a list of individuals who are unsuitable to work with children.

229. In Scotland new *National Guidance for Child Protection* was published in December 2010 following a major consultation and comprehensive review of child protection procedures across Scotland. This guidance covers issues such as online safety, runaways, systematic and complex abuse, as well as other issues relating to sexual exploitation not covered in the earlier 2003 guidance, *Vulnerable Children and Young People: Sexual Exploitation through Prostitution*. The national guidance also addresses some of the issues referred to in this protocol as 'contributing factors' including child

trafficking. The dedicated section on child trafficking now places child trafficking firmly within child protection practices. This guidance makes clear that it is essential to take timely and decisive action where child trafficking is suspected. For this reason local areas should have protocols on child trafficking in place and all staff should be aware of these protocols.

(c) *Northern Ireland*

230. In Northern Ireland all children who are deemed to be in need, regardless of their immigration status, are entitled to the full provisions of the Children (Northern Ireland) Order 1995 and Health and Social Care Trusts (HSCT) have duties and obligations in relation to the care and support of children.

231. The Department of Health, Social Services and Public Safety (DHSSPS) and the Police Service for Northern Ireland (PSNI) has issued guidance, *Working Arrangements for the Welfare and Safeguarding of Child Victims of Human Trafficking*. This guidance sets out the actions to be taken by the PSNI and HSCTs in relation to lone or unaccompanied children, children in the care of an unsuitable adult and children who are recovered during Police operations where there is reasonable cause to believe that the child may be the victim of trafficking. The *Working Arrangements* are consistent with current child protection guidance and looked after children guidance and the principles of the UNCRC. The *Working Arrangements* are in line with procedural guidance issued in England, taking account of relevant Northern Ireland legislation.

232. The DHSSPS and the statutory services in Northern Ireland have a history of working co-operatively with NGOs and the voluntary sector. Relevant guidance is available on the DHSSPS website.

233. The Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 enhances and extends the protection formerly afforded under the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003. The Independent Safeguarding Authority is a UK body established under section 1 of the Safeguarding Vulnerable Groups Act 2006 for the purpose of establishing and maintaining a list of persons who are barred from working with children and/or vulnerable adults (“the children’s barred list” and “the adult’s barred list”). It is an offence in Northern Ireland for individuals who are included in the children’s barred list to engage in “regulated activity” relating children as defined in Article 9(1) of the Safeguarding Vulnerable Groups (NI) Order 2007.

234. The Department of Health, Social Services and Public Safety, under The Safeguarding Board (Northern Ireland) Act 2011, is in the process of establishing a regional Safeguarding Board for Northern Ireland (SBNI) to replace the existing Regional Child Protection Committee. The SBNI, when it is established, will have ongoing responsibility for improving inter-agency co-operation on the safeguarding of children and will also have responsibility for monitoring how its member agencies are co-operating together and how they are performing against the statutory duty to make arrangements to safeguard and promote the welfare of children and young people.

235. Northern Ireland is the only part of the United Kingdom that has a land border with another country, ie the Republic of Ireland. Under the auspices of the North South Ministerial Council (NSMC), Administrators from both jurisdictions co-operate on matters of mutual interest within their respective areas of competence. The NSMC comprises Ministers of the Northern Ireland Executive and the Irish Government, working together to take forward co-operation between both parts of the island to mutual benefit. In this regard, work in relation to improving child protection guidance and procedures on a cross-border basis has been ongoing and a joint protocol for children who move between the jurisdictions of the Republic of Ireland and Northern Ireland is currently being developed.

This protocol will reference the “Working Arrangements for the Welfare and Safeguarding of Child Victims of Human Trafficking” to ensure that the appropriate responses are made in relation to children in need.

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