

Sexual offences guidelines

Consultation

13 May 2021

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About this consultation

- To:** This consultation is open to everyone including members of the judiciary, legal practitioners and any individuals who work in or have an interest in criminal justice.
- Duration:** From 13 May 2021 to 13 August 2021
- Enquiries (including requests for the paper in an alternative format) to:** Tel: 020 7071 5793
Email: info@sentencingcouncil.gov.uk
- How to respond:** Please send your response by 13 August 2021 to:
Ollie Simpson
Office of the Sentencing Council
Email: consultation@sentencingcouncil.gov.uk
- Additional ways to feed in your views:** This consultation exercise is accompanied by a resource assessment, and an online questionnaire which can be found at:
www.sentencingcouncil.org.uk
A series of consultation meetings is also taking place. For more information, please use the “Enquiries” contact details above.
- Response paper:** Following the conclusion of this consultation exercise, a response will be published at: www.sentencingcouncil.org.uk
- Freedom of information:** We will treat all responses as public documents in accordance with the Freedom of Information Act and we may attribute comments and include a list of all respondents’ names in any final report we publish. If you wish to submit a confidential response, you should contact us before sending the response. PLEASE NOTE – We will disregard automatic confidentiality statements generated by an IT system.
In addition, responses may be shared with the Justice Committee of the House of Commons.
Our [privacy notice](#) sets out the standards that you can expect from the Sentencing Council when we request or hold personal information (personal data) about you; how you can get access to a copy of your personal data; and what you can do if you think the standards are not being met.

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Introduction

What is the Sentencing Council?

The Sentencing Council is the independent body responsible for developing sentencing guidelines for the courts to use when passing a sentence. The Council consults on its proposed guidelines before they come into force and makes changes to the guidelines as a result of consultations.

Why these amendments to the sexual offences guidelines?

The current definitive sexual offences guidelines were published in 2013 and came into force in 2014. This consultation seeks views on a number of proposed amendments to existing sexual offences guidelines to provide greater clarity and to reflect Court of Appeal case law, and also seeks views on a new draft guideline for the relatively new offence of sexual communication with a child.

The case of *Privett and Others [2020] EWCA Crim 557* provided the courts with guidance about how to approach the assessment of harm in cases where there is no actual child victim. These will often occur in the context of undercover “sting” operations. The case of *Privett* involved arranging or facilitating the commission of a child sex offence where there was no child, but the Sentencing Council has decided also to update the relevant guidelines to set out the approach the courts should take when sentencing cases where sexual activity was incited but ultimately did not take place. This accords with the recent approach of the Court of Appeal in *Reed and Others [2021] EWCA Crim 572*, which confirmed that the same approach applied to other relevant offences, not just section 14.

The Council is also consulting on a new guideline for the offence of sexual communication with a child (section 15A of the Sexual Offences Act 2003). This is a relatively new offence, with a maximum penalty of two years’ imprisonment, created by the Serious Crime Act 2015 and in force since 2017.

Following the findings of the 2018 assessment of the sexual offences guidelines, the Council is also consulting on some minor amendments to several guidelines to provide extra clarity on some harm and culpability factors. Finally, the Council is consulting on minor changes to the wording of its guidance on sentencing historic sex cases better to reflect Court of Appeal case law.

What is the Council consulting about?

The Council has produced this consultation paper in order to seek views from as many people as possible interested in the sentencing of sexual offences.

However, it is important to clarify that the Council is consulting on the sentencing guidelines for these offences and not the legislation upon which such offences are based. The relevant legislation is a matter for Parliament and is, therefore, outside the scope of this exercise.

Through this consultation process, the Council is seeking views on:

- the addition of principles and guidance to existing guidelines for situations where no sexual activity has taken place;
- the addition of further explanations and guidance for sentencers across various existing sex offence guidelines;
- the principal factors included within the new draft guideline that make section 15A (sexual communication with a child) offences more or less serious;
- the additional factors that should influence the sentence in these cases;
- the types and lengths of sentence that should be passed; and
- anything else you think should be considered.

A summary of the consultation questions can be found at **Annex A**.

What else is happening as part of the consultation process?

This is a three month public consultation. During the consultation period, the Council will host a number of exercises to test the draft amendments and new guideline and consider whether any changes are needed. Once the consultation exercise is over and the results considered, a final guideline will be published and used by all courts.

Alongside this consultation paper, the Council has produced an online questionnaire. The Council has also produced a resource assessment for the guideline, along with a statistical bulletin and data tables showing current sentencing practice for these offences. The online questionnaire, resource assessment, statistical bulletin and data tables can be found on the Sentencing Council's website: www.sentencingcouncil.org.uk

In the following sections the proposed guidelines are outlined in detail and you will be asked to give your views. You can give your views by answering questions on just the areas which you are interested in or all of the questions below, either by email to consultation@sentencingcouncil.gov.uk or by using the online questionnaire.

Section One: Overarching issues

Approach to the guidelines

In preparing the amendments to these guidelines and the new guideline for sexual communication with a child, the Council has had regard to the purposes of sentencing and to its statutory duties. The Council's aim is to ensure that all sentences are proportionate to the offence committed and in relation to other offences.

Amendments are proposed to several existing guidelines. A textual addition is proposed to section 14 (arranging or facilitating the commission of child sex offence) and further changes are proposed which will be common across the following guidelines (the "causing or inciting guidelines"):

- section 8 (causing or inciting a child under 13 to engage in sexual activity);
- section 10 (causing or inciting a child to engage in sexual activity);
- section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity);
- section 26 (inciting a child family member to engage in sexual activity);
- section 31 (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity);
- section 39 (care workers: causing or inciting sexual activity);
- section 48 (causing or inciting sexual exploitation of a child);
- section 52 (causing or inciting sexual exploitation for gain).

Further minor textual amendments and expanded explanations are proposed to some of the harm, culpability, and mitigating factors which are common to these and other sexual offence guidelines (a full list of the sex offences guidelines for adult offenders is included at **Annex B**). For the purposes of discussion and illustration in this consultation we will consider these amendments as they are made to the guideline for section 7 (sexual assault of a child under 13), but consultees should bear in mind that they will apply more widely.

Sources for the guidelines and amendments

The primary amendments to the guidelines for section 14 and the "causing or inciting guidelines" arise from recent Court of Appeal case law, in particular the case of *Privett and Others* [2020] EWCA Crim 557. The principles set out in *Privett* were recently confirmed as applying to cases beyond section 14 in the case of *Reed and Others* [2021] EWCA Crim 572.

The 2018 assessment of the sex offences guidelines identified certain factors which could be clarified for sentencers. The Council has considered these with the assistance of further Court of Appeal case law. The case of *R v Chall* [2019] EWCA Crim 865 has assisted in clarifying how the courts should approach psychological harm, whilst *R v Forbes* [2016] EWCA Crim 1388 has provided clarity on the culpability factor "abuse of trust".

The case of *Forbes* has also clarified some of the detail of how the courts should approach historic sex offences; that case provides the source of the amendments proposed to the Council's guidance on sentencing historic sex offences.

There is limited Court of Appeal case law for section 15A (sexual communication with a child) but transcripts of sentencing remarks from the Crown Court have been analysed to determine the recurring harm, culpability, aggravating and mitigating factors and the appropriate sentencing levels.

Statistical background

A statistical bulletin is published alongside this consultation document, and can be found <https://www.sentencingcouncil.org.uk/publications/item/sexual-offences-statistical-bulletin/>.

Applicability of guidelines

When issued as definitive guidelines these guidelines will apply only to offenders aged 18 and older. General principles to be considered in the sentencing of children and young people are set out in the Sentencing Council's definitive guideline, [Overarching Principles – Sentencing Children and Young People](#).

Section Two: Cases where no activity takes place

Section 14

The proposed new draft guideline for section 14 offences (arranging or facilitating commission of a child sex offence) can be found here:

<https://www.sentencingcouncil.org.uk/offences/crown-court/item/arranging-or-facilitating-the-commission-of-a-child-sex-offence-for-consultation-only>.¹

Under section 14 of the Sexual Offences Act 2003 a person commits an offence if:

- (a) he intentionally arranges or facilitates something that he intends to do, intends another person to do, or believes that another person will do, in any part of the world, and
- (b) doing it will involve the commission of an offence under any of sections 9 to 13 of the 2003 Act (i.e. sexual activity with a child; causing or inciting sexual activity with a child; engaging in sexual activity in the presence of a child; causing a child to watch a sexual act; and child sex offences committed by children or young persons).

An offence may be committed either where the offending that was arranged or facilitated has taken place or where it has not. The criminal offence is the arranging or facilitating of the activity. This means that even where no activity takes place, and even in situations where no real child victim exists, the offence has still been committed when such activity has been arranged by an offender. Section 14 has a maximum penalty of 14 years' custody.²

The current section 14 guideline came into force on 1 April 2014 as part of a large package of Sexual Offences definitive guidelines. The guideline itself is brief, principally consisting of the following paragraph:

Sentencers should refer to the guideline for the applicable, substantive offence of arranging or facilitating under sections 9 to 12:

- Sexual activity with a child, Sexual Offences Act 2003, s.9
- Causing or inciting a child to engage in sexual activity, Sexual Offences Act 2003, s.10
- Engaging in sexual activity in the presence of a child, Sexual Offences Act 2003, s.11

¹ For comparison the existing guideline is here: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/arranging-or-facilitating-the-commission-of-a-child-sex-offence/>

² The Police, Crime, Sentencing and Courts Bill, currently before Parliament, proposes changes to section 14. It brings sections 5 to 8 of the 2003 Act into the scope of offences which may be arranged or facilitated for a section 14 offence to be committed (rape of a child under 13; assault of a child under 13 by penetration; sexual assault of a child under 13; and causing or inciting a child under 13 to engage in sexual activity. It will also change the maximum penalty for section 14 so that this matches the maximum penalty for the offending which is being arranged or facilitated. If enacted, these changes will require textual amendments to the section 14 guideline but the principle behind the changes proposed in this consultation document will remain the same.

-Causing a child to watch a sexual act, Sexual Offences Act 2003, s.12

The level of harm should be determined by reference to the type of activity arranged or facilitated. Sentences commensurate with the applicable starting point and range will ordinarily be appropriate. For offences involving significant commercial exploitation and/or an international element, it may, in the interests of justice, be appropriate to increase a sentence to a point above the category range. In exceptional cases, such as where a vulnerable offender performed a limited role, having been coerced or exploited by others, sentences below the starting point and range may be appropriate.

The sentencer will then cross refer to the guideline for the offence which was being arranged or facilitated. For example, if sexual activity with a child (section 9 of the Sexual Offences Act 2003) was the offence being arranged or facilitated, the sentencer would refer to the section 9 guideline and follow the standard step-by step guideline in the usual way, with the above guidance in mind.

Although data is not held centrally, it appears that the majority of section 14 cases that come before the courts do not involve a child ultimately engaging in the sexual activity which was being arranged or facilitated. This may be because the offender is apprehended first, but in many cases there is no real child involved because the offender is the subject of a so-called “sting” operation. This will typically involve either the police, or an informal group, pretending to be a fictitious child or the parent of a fictitious child in order to identify those trying to commit sexual offences with children.

Different principles had been applied to the sentencing of such cases over the years, leading to some inconsistency of approach. Whilst an offender’s culpability is generally unaffected by whether a real child victim exists or not, the courts had taken different approaches to the assessment of harm. In some instances the Court of Appeal endorsed an approach which considered the harm that the offender intended and used that as the basis of determining the harm category for the offence.³

However, in other cases the courts took a different approach, following the Court of Appeal’s approach in the case of *R v Baker [2014] EWCA Crim 2752*. This was not a section 14 case, rather an offence under section 10 of the 2003 Act (causing or inciting a child to engage in sexual activity). There was a real victim, but the activity incited did not occur. The principle set out in *Baker* was that where sexual activity does not materialise it should be treated for the purposes of sentencing as falling into Category 3 harm. In some cases, again endorsed by the Court of Appeal, the courts followed this principle when sentencing section 14 cases where no child existed.⁴

The difference in approach can have a significant impact on the sentence imposed on an offender. In the case of *Privett and Others [2020] EWCA Crim 557* the Court of Appeal heard four cases which shared the feature of section 14 offending where no child victim existed because the offender was led to believe they were communicating with the parents who were offering their children for sex, when in fact these were undercover groups. The Court clarified the approach that should be taken in such cases:

“[T]he judge should, first, identify the category of harm on the basis of the sexual activity the defendant intended (‘the level of harm should be determined by reference to the type of activity arranged or facilitated’), and, second, adjust the

³ For example, see *R v Collins [2015] EWCA Crim 915* and *R v Haldane [2015] EWCA Crim 1991*.

⁴ For example, see *R v Stilwell [2016] EWCA Crim 1375* and *R v Allington [2019] EWCA Crim 1430*.

sentence in order to ensure it is "commensurate" with, or proportionate to, the applicable starting point and range if no sexual activity had occurred (including because the victim was fictional) ('sentences commensurate with the applicable starting point and range will ordinarily be appropriate').

[...]

Sentencers in future with section 14 offences in these circumstances should follow the Sentencing Guideline in the way we have described. This may lead to the result that a defendant who arranges the rape of a fictional 6-year-old is punished more severely than a defendant who facilitates a comparatively minor sexual assault on a real 15-year-old. In our view, there is nothing necessarily wrong in principle with that result. The sentence should be commensurate with the applicable starting point and range, and in cases where the child is a fiction this will usually involve some reduction...to reflect the lack of harm."⁵

The Court of Appeal then invited the Sentencing Council to consider whether and what clarification might be needed to the relevant guidelines (for section 14 and others if necessary). The Council agreed that clarification would be useful and has proposed providing further clarification to the section 14 guideline to reflect the approach set out by the Court of Appeal in *R v Privett*.

The proposed amendment leaves the guideline as a concise narrative guideline, directing sentencers to the relevant guideline for the activity being arranged or facilitated. Additional text is proposed as follows to make clear the correct approach to take to assessing harm in cases where no sexual activity takes place:

No sexual activity need take place for a section 14 offence to be committed, including in instances where no child victim exists. In such cases the court should identify the category of harm on the basis of the sexual activity the offender intended, and then apply a downward adjustment at step two to reflect the fact that no or lesser harm actually resulted.

The extent of this adjustment will be specific to the facts of the case. In cases where an offender is only prevented by the police or others from conducting the intended sexual activity at a late stage, or where a child victim does not exist and, but for this fact, the offender would have carried out the intended sexual activity, a small reduction within the category range will usually be appropriate.

Where, for instance, an offender voluntarily desisted at an early stage a larger reduction is likely to be appropriate, potentially going outside the category range.

In either instance, it may be the case that a more severe sentence is imposed in a case where very serious sexual activity was intended but did not take place than in a case where relatively less serious sexual activity did take place.

The sentence will then be subject to further adjustment for aggravating and mitigating features, in the usual way.

Notice that to a large degree the extent of the reduction to reflect the lesser (or lack of) harm which has occurred is left to the sentencer's discretion, which may be affected by the facts of the case. The intention is for the guideline to enable sentences to reflect the differing circumstances of cases: in some instances an offender may arrange sexual activity, but make an early decision not to follow through in recognition of the error of their

⁵ *R v Privett and Others [2020] EWCA Crim 557, (67) and (72)*

actions; in other cases it will be clear that the offender would have carried out the sexual activity arranged and was only prevented by the fact that the child was not real. The degree of reduction should reflect where on that spectrum the offending before the court sits.

Question 1: Do you have any comments on the proposed amendments to the section 14 guideline?

“Causing or inciting” offences

As a sample of the changes proposed to the guidelines for those offences in the Sexual Offences Act 2003 which involve causing or inciting sexual activity, the draft revised guideline for section 10 offences (causing or inciting a child to engage in sexual activity) can be found [here]: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child-causing-or-inciting-a-child-to-engage-in-sexual-activity-for-consultation-only>.⁶

There are other offences that may be charged under the Sexual Offences Act 2003 even when no sexual activity takes place. For example, where someone has incited sexual activity with a real child but that activity does not ultimately take place for whatever reason, they may be charged under section 10 of the Act (causing or inciting sexual activity with a child). Or where someone incites sexual activity online with, or with regard to, a fictitious child as part of a sting operation they may be charged with an attempted section 10, under section 1 of the Criminal Attempts Act 1981.

As with section 14, it appears that the majority of section 10 cases before the courts involve situations where no sexual activity has taken place, often because the victim is non-existent. The Sentencing Council believes that the guideline for section 10, as well as those for other offences in the Act where an offence is committed by activity being incited even if it does not occur, should be amended to reflect the principles set out above for similar section 14 cases. This will reflect what the Court of Appeal has recently set out for non-section 14 cases in *Reed*:

“The difference in approach as between Privett and Baker, which depends simply on the particular offence with which the accused has been charged, is unsustainable; it would mean that the assessment of harm would be markedly different in cases of grave sexual offending involving young people simply because of the particular section under which the perpetrator is charged... This decision will end the rigid distinction between those cases where particular sexual activity takes place and those cases where the defendant, for instance, does everything he is able to bring that sexual activity about but for reasons beyond his control it does not materialise. The sentencing judge should make an appropriate downward adjustment to recognise the fact that no sexual activity occurred, as demonstrated by the court in Privett (at [67]). Furthermore, we consider this approach should apply to all of the offences set out in [5] above when the defendant attempts to commit these offences or incites a child to engage in certain activity, but the activity does not take place.”⁷

⁶ This guideline is also used for section 9 offences (sexual activity with a child) and the existing version can be found here: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child/>

⁷ *Reed and Others* [2021] EWCA Crim 572, (23)

The Council proposes that the following text be added at step one of the relevant guidelines so that sentencers will be reminded of the correct approach before considering which harm and culpability categories to place the offending in:

In section 10 cases where activity is incited but does not take place the court should identify the category of harm on the basis of the sexual activity the offender intended, and then apply a downward adjustment at step two to reflect the fact that no or lesser harm actually resulted.

The extent of downward adjustment will be specific to the facts of the case. Where an offender is only prevented by the police or others from carrying out the offence at a late stage, or in attempts where a child victim does not exist and, but for this fact, the offender would have carried out the offence, a small reduction within the category range will usually be appropriate. No additional reduction should be made for the fact that the offending is an attempt.

Where for instance, an offender voluntarily desisted at an early stage a larger reduction is likely to be appropriate, potentially going outside the category range.

In either instance, it may be the case that a more severe sentence is imposed in a case where very serious sexual activity was intended but did not take place than in a case where relatively less serious sexual activity did take place.

The sentence will then be subject to further adjustment for aggravating and mitigating features.

The addition of this text means that the mitigating feature “Sexual activity was incited but no activity took place because the offender voluntarily desisted or intervened to prevent it” is no longer needed, as that situation will have been covered by the new wording at step one. The Council therefore believes this should be deleted.

As mentioned above, there are various offences in the Sexual Offences Act 2003 which cover inciting activity which may not take place, not all involving child victims. These are prosecuted less often than section 10 offences, but for completeness the Council believes the changes above should be made to those guidelines (removing the word “child” where that is not relevant). They are:

- section 8 (causing or inciting a child under 13 to engage in sexual activity);
- section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity);
- section 26 (inciting a child family member to engage in sexual activity);
- section 31 (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity);
- section 39 (care workers: causing or inciting sexual activity);
- sections 48 (causing or inciting sexual exploitation of a child); and
- section 52 (causing or inciting sexual exploitation for gain).

Question 2: Do you have any comments on the proposed amendments to the section 10 guideline?

Question 3: Do you agree that these changes should be made to the guidelines for all the “causing or inciting” offences in the 2003 Act? Please give reasons where you disagree.

Section Three: further cross-cutting amendments

Additional guidance

The 2018 assessment of the sexual offences guidelines, conducted jointly with the University of Leicester, found that the guidelines published in 2013 did not appear to have had an impact on average sentencing severity for most offences. The two exceptions were sexual assault and sexual assault of a child under 13.

In the case of sexual assault, the assessment found that the increase was at the upper limit of expectations, and suggested that there might be uncertainty and inconsistency about how to apply the new harm factor “severe psychological harm”. The report concluded that additional guidance might be required on this factor. In addition, the assessment found that the guideline may have increased sentencing severity for sexual assault of a child under 13: after the guideline came into force severity was towards the upper limit of the range which had been predicted. The report suggested that further guidance on the factor “abuse of trust” may be needed to assist sentencers in this area.

Court of Appeal case law in recent years has provided clarity about the approach to take in both of these areas, some of which is already reflected in the expanded explanations which came into force in October 2019.

R v Chall [2019] EWCA Crim 865 confirmed that:

- expert evidence is not an essential precondition of a finding that a victim has suffered severe psychological harm;
- a judge may assess that such harm has been suffered on the basis of evidence from the victim, including evidence contained in a Victim Personal Statement (VPS), and may rely on his or her observation of the victim whilst giving evidence; and
- whether a VPS provides evidence which is sufficient for a finding of severe psychological harm depends on the circumstances of the particular case and the contents of the VPS.

The Court of Appeal also pointed out (at paragraph 16) that:

“The assessment of whether the level of psychological harm can properly be regarded as severe may be a difficult one. The judge will, of course, approach the assessment with appropriate care, in the knowledge that the level of sentence will be significantly affected by it, and will not reach such an assessment unless satisfied that it is correct. But it is an assessment which the judge alone must make, even if there be expert evidence. It is the sort of assessment which judges are accustomed to making.”

The Council therefore proposes to provide extra assistance on assessing psychological harm in sexual offence cases, by summarising the above principles in a drop down box in

the harm table, in a similar manner to the expanded explanations provided in various guidelines and in the General Guideline for aggravating and mitigating factors:

The assessment of psychological harm experienced by the victim is for the sentencer. Whilst it may be assisted by expert evidence, such evidence is not necessary for a finding of psychological harm, including severe psychological harm. A sentencer may assess that such harm has been suffered on the basis of evidence from the victim, including evidence contained in a Victim Personal Statement (VPS), or on his or her observation of the victim whilst giving evidence.

The harm factor “severe psychological or physical harm” appears in a number of sex offence guidelines and we therefore propose to include the above drop-down text (accessed by clicking on the factor) in each harm table where it occurs. The drop-down can be seen in a proposed version of the guideline for section 7 offences (sexual assault of a child under 13), which can be found here:

<https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-assault-of-a-child-under-13-for-consultation-only>.⁸

Question 4: Do you agree that the above text should be added as a drop-down in sex offence guidelines where the harm factor “severe psychological or physical harm” appears? Please give reasons where you disagree.

The question of what constitutes abuse of trust was considered in *R v Forbes [2016] EWCA Crim 1388*). The most relevant statement is at paragraphs 17 and 18:

“...in the colloquial sense the children's parents would have trusted a cousin, other relation or a neighbour...to behave properly towards their young children, the phrase "abuse of trust", as used in the guideline, connotes something rather more than that. The mere fact of association or the fact that one sibling is older than another does not necessarily amount to breach of trust in this context.

The phrase plainly includes a relationship such as that which exists between a pupil and a teacher...a priest and children in a school for those from disturbed backgrounds...or a scoutmaster and boys in his charge... It may also include parental or quasi-parental relationships or arise from an ad hoc situation, for example, where a late night taxi driver takes a lone female fare. What is necessary is a close examination of the facts and clear justification given if abuse of trust is to be found.”

This principle is already reflected in the existing expanded explanation for the aggravating factor of “abuse of trust”, and the Council proposes to replicate this in extra guidance for sentencers where this appears as a step one culpability factor:

- A close examination of the facts is necessary and a clear justification should be given if abuse of trust is to be found.
- In order for an abuse of trust to make an offence more serious the relationship between the offender and victim(s) must be one that would give rise to the offender having a significant level of responsibility towards the victim(s) on which the victim(s) would be entitled to rely.

⁸ The current version of that guideline can be found here: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-assault-of-a-child-under-13/>

- Abuse of trust may occur in many factual situations. Examples may include relationships such as teacher and pupil, parent and child, employer and employee, professional adviser and client, or carer (whether paid or unpaid) and dependant. It may also include ad hoc situations such as a late-night taxi driver and a lone passenger. These examples are not exhaustive and do not necessarily indicate that abuse of trust is present.
- Additionally an offence may be made more serious where an offender has abused their position to facilitate and/or conceal offending.
- Where an offender has been given an inappropriate level of responsibility, abuse of trust is unlikely to apply.

As with the drop-down explanation for “severe psychological harm” we propose that this be added to each sex offence guideline where the culpability factor “abuse of trust” appears. The drop-down can be seen in a proposed version of the guideline for section 7 offences (sexual assault of a child under 13), which can be found here:

<https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-assault-of-a-child-under-13-for-consultation-only>

Question 5: Do you agree that the above text should be added as a drop-down in sex offence guidelines where the culpability factor “abuse of trust” appears? Please give reasons where you disagree.

Mitigating factors

Since the definitive sexual offences guidelines were published in December 2013, various new aggravating and mitigating factors have become standard in guidelines produced by the Sentencing Council. Amongst these are two which the Council feels may be relevant and useful to include in sexual offences guidelines.

At present many of these guidelines contain the mitigating factor “Age and/or lack of maturity where it affects the responsibility of the offender”. This has now been replaced with the factor “Age and/or lack of maturity” which now comes with an expanded explanation as follows:

Care should be taken to avoid double counting factors including those already taken into account in assessing culpability or harm

Age and/or lack of maturity can affect:

- the offender’s responsibility for the offence and
- the effect of the sentence on the offender.

Either or both of these considerations may justify a reduction in the sentence.

The emotional and developmental age of an offender is of at least equal importance to their chronological age (if not greater).

In particular young adults (typically aged 18-25) are still developing neurologically and consequently may be less able to:

- evaluate the consequences of their actions
- limit impulsivity
- limit risk taking

Young adults are likely to be susceptible to peer pressure and are more likely to take risks or behave impulsively when in company with their peers.

Immaturity can also result from atypical brain development. Environment plays a role in neurological development and factors such as adverse childhood experiences including deprivation and/or abuse may affect development.

An immature offender may find it particularly difficult to cope with custody and therefore may be more susceptible to self-harm in custody.

An immature offender may find it particularly difficult to cope with the requirements of a community order without appropriate support.

There is a greater capacity for change in immature offenders and they may be receptive to opportunities to address their offending behaviour and change their conduct.

Many young people who offend either stop committing crime, or begin a process of stopping, in their late teens and early twenties. Therefore a young adult's previous convictions may not be indicative of a tendency for further offending.

Where the offender is a care leaver the court should enquire as to any effect a sentence may have on the offender's ability to make use of support from the local authority. (Young adult care leavers are entitled to time limited support. Leaving care services may change at the age of 21 and cease at the age of 25, unless the young adult is in education at that point). See also the Sentencing Children and Young People Guideline (paragraphs 1.16 and 1.17).

Where an offender has turned 18 between the commission of the offence and conviction the court should take as its starting point the sentence likely to have been imposed on the date at which the offence was committed, but applying the purposes of sentencing adult offenders. See also the Sentencing Children and Young People Guideline (paragraphs 6.1 to 6.3).

When considering a custodial or community sentence for a young adult the National Probation Service should address these issues in a PSR.

Another mitigating factor which has been introduced in recent years is "Physical disability or serious medical condition requiring urgent, intensive or long-term treatment". It is important to remember that step two aggravating and mitigating factors are not exhaustive and it is likely that courts would be taking into account the health of the offender already. However, the Council feels it would be useful to set this factor out on the face of the guideline. Note that a mental disorder or a learning disability is the subject of an existing mitigating factor in the guidelines (and now links to the overarching guideline *Sentencing offenders with mental disorders, developmental disorders, or neurological impairments*).

In guidelines where this mitigating factor already exists it comes with the following expanded explanation:

Care should be taken to avoid double counting factors including those already taken into account in assessing culpability or harm or those inherent in the offence

- The court can take account of physical disability or a serious medical condition by way of mitigation as a reason for reducing the length of the sentence, either on the ground of the greater impact which imprisonment will have on the offender, or as a matter of generally expressed mercy in the individual circumstances of the case.
- However, such a condition, even when it is difficult to treat in prison, will not automatically entitle the offender to a lesser sentence than would otherwise be appropriate.
- There will always be a need to balance issues personal to an offender against the gravity of the offending (including the harm done to victims), and the public interest in imposing appropriate punishment for serious offending.
- A terminal prognosis is not in itself a reason to reduce the sentence even further. The court must impose a sentence that properly meets the aims of sentencing even if it will carry the clear prospect that the offender will die in custody. The prospect of death in the near future will be a matter considered by the prison authorities and the Secretary of State under the early release on compassionate grounds procedure (ERCG).
- But, an offender's knowledge that he will likely face the prospect of death in prison, subject only to the ERCG provisions, is a factor that can be considered by the sentencing judge when determining the sentence that it would be just to impose.

These mitigating factors and expanded explanations can be seen in a proposed version of the guideline for section 7 offences (sexual assault of a child under 13), which can be found here: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-assault-of-a-child-under-13-for-consultation-only>

Question 6: Do you agree that all sex offence guidelines (as listed in Annex B) should include the mitigating factors “Age and/or lack of maturity” and “Physical disability or serious medical condition requiring urgent, intensive or long-term treatment” with the above expanded explanations? Please give reasons where you disagree.

Victims overseas

At present, the guideline for the offences of sexual activity with a child and causing or inciting a child to engage in sexual activity makes clear at step one that “This guideline also applies to offences committed remotely/online”.

The Council has taken note of the recent report ‘Falling Short: Demand-Side Sentencing for Online Sexual Exploitation of Children’, produced by the International Justice Mission’s Center to End Online Sexual Exploitation of Children, which was published in October 2020 relating to sentencing in England and Wales for those convicted of online child sex abuse and exploitation.⁹ The report makes the argument that sentences for those who direct the abuse of children remotely (usually in the Philippines) are disproportionately low

⁹ See <https://www.ijmuk.org/falling-short>

compared to a) the people who facilitate that abuse in-country and are prosecuted and sentenced there; and b) offenders sentenced here for offences committed online against children in this country.

The Council notes the Report's recommendation that further research should be undertaken on sentencing trends in the area of those convicted of offences relating to online sexual exploitation of children. Because of the limited evidence available across the range of those sentenced for such offences in England and Wales, and because some of the report's recommendations relate to potential changes in prosecuting practice, the Council is unpersuaded at the moment that extensive changes are required to sentencing guidelines in this area.

However, the Council does agree with International Justice Mission that the courts should not be treating offending against victims in other parts of the world less seriously than equivalent offending against victims in this jurisdiction, and that, as a starting principle, it is immaterial whether the offending is remote or in-person (allowing that the facts of a specific case may mean that this distinction in some way affects harm or culpability). We therefore propose that we take this opportunity to set this out explicitly and propose this form of words to achieve this:

Sentencers should draw no distinction between activity caused or incited in person and activity caused or incited remotely, nor between the harm caused to a victim in this jurisdiction and that caused to a victim anywhere else in the world.

There are a number of guidelines where this wording would be relevant. The Council therefore proposes to add it to the following:

- section 8 (causing or inciting a child under 13 to engage in sexual activity);
- section 10 (causing or inciting a child to engage in sexual activity);
- sections 48 (causing or inciting sexual exploitation of a child);
- section 52 (causing or inciting sexual exploitation for gain).

The text can be seen in the revised draft guideline for section 9 (sexual activity with a child) and section 10 offences (causing or inciting a child to engage in sexual activity), which can be found here: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child-causing-or-inciting-a-child-to-engage-in-sexual-activity-for-consultation-only>

Question 7: Do you agree with this addition relating to remote activity to the relevant sexual offence guidelines? Please give reasons where you disagree.

Sexual Harm Prevention Orders

Sexual Harm Prevention Orders (SHPOs) were introduced by the Anti-social Behaviour, Crime and Policing Act 2014, replacing their predecessors Sexual Offences Prevention Orders (SOPOs). They came into effect on 8 March 2015. A Court can order an SHPO when an offender is being sentenced for a relevant sexual offence (as set out in Schedule 3 to the 2003 Act) or upon application by the police or the National Crime Agency.

The Sentencing Council provides detailed guidance on SHPOs on its website at <https://www.sentencingcouncil.org.uk/explanatory-material/magistrates-court/item/ancillary-orders/22-sexual-harm-prevention-orders/>. However, at the moment, the “ancillary orders” stage in the definitive guidelines for sexual offences only provide dropdown information on Slavery and Trafficking Prevention Orders (STPOs) and the automatic orders relating to notification and vetting. There had been text on SOPOs (the predecessor for SHPOs) in the definitive sex offence guidelines when they were published in 2013, but this was outdated by the time the definitive guidelines were published online and so was removed.

The Council believes it would be useful to add information related to SHPOs in the offence specific guidelines on sex offences themselves. It therefore proposes adding the below text in the drop down box at the ancillary orders stage of each sex offences guideline¹⁰:

Sexual harm prevention orders (SHPOs)

Sexual Offences Act 2003, s103A

To make an SHPO, the court must be satisfied that the offender presents a risk of sexual harm to the public (or particular members of the public) and that an order is necessary to protect against this risk.

The only prohibitions which can be imposed by an SHPO are those which are necessary for the purpose of protecting the public from sexual harm from the offender. The order may include only negative prohibitions; there is no power to impose positive obligations.

The order may have effect for a fixed period (not less than five years) or until further order.

This new drop-down text can be seen in a proposed version of the guideline for section 7 offences (sexual assault of a child under 13), which can be found here: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-assault-of-a-child-under-13-for-consultation-only>

Question 8: Do you agree that the above text should be added as a drop-down to the ancillary orders step in each relevant sex offence guideline? Please give reasons where you disagree.

Historic sex offences

The definitive guidelines published in 2013 included an annex setting out principles for the courts to follow when sentencing historic sexual offences, drawn from the case of *R v H [2011] EWCA Crim 2753*. The definitive version of this guidance is now published as a drop-down on the Sentencing Council web page on historic sexual offences: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-offences-historic/>

The substance of the principles set out in this guidance stands, but the Court of Appeal has provided some clarification on them in 2016 in the case of *Forbes*, mentioned above.

¹⁰ Excluding the guideline for Causing or inciting prostitution for gain/Controlling prostitution for gain, as SHPOs are not available for those offences.

Firstly, the Court of Appeal give its principled view that youth and maturity of the offender at the time of committing the offence was a matter properly to be considered as culpability, where the guidance currently treats it as personal mitigation. The Council therefore proposes making a minor amendment to the guidance at paragraph 9 as follows:

*“If the offender was very young and immature at the time of the offence, depending on the circumstances of the offence, this may ~~be regarded as personal mitigation~~ **significantly reduce the offender's culpability.**”*

Forbes also looked at the question of how to apply existing guidelines to historic offences endorsing the position established by *R v H* at para 47(a):

“Sentence will be imposed at the date of the sentencing hearing, on the basis of the legislative provisions then current, and by measured reference to any definitive sentencing guidelines relevant to the situation revealed by the established fact”.

This principle is reflected in the Council's guidance as:

“[1] The offender must be sentenced in accordance with the sentencing regime applicable at the date of sentence....

[2] The sentence is limited to the maximum sentence available at the date of the commission of the offence. If the maximum sentence has been reduced, the lower maximum will be applicable...

[3] The court should have regard to any applicable sentencing guidelines for equivalent offences under the Sexual Offences Act 2003.”

As was acknowledged in the case of *Forbes*, where the wording in the guidance “have regard to” is meant to reflect the formulation in *R v H*, “by measured reference to”. These are clearly very close in meaning, but given the questions which have arisen over how to use guidelines in such cases, the Council would like to make a further minor amendment to principle 3 of the guidance to become closer to the authorities. We therefore propose to amend the wording as follows:

*“The court should ~~have regard~~ **sentence by reference** to any applicable sentencing guidelines for equivalent offences under the Sexual Offences Act 2003. Where the offence, if committed on the day on which the offender was convicted, would have constituted an offence contrary to section 5 or section 6 of the Sexual Offences Act 2003, sections 265 and 278 of the Sentencing Code (special custodial sentence for certain offenders of particular concern) apply.”*

For context, the proposed revised version of the guidance on historic sex offences can be found here: <https://www.sentencingcouncil.org.uk/droppable/item/approach-to-sentencing-historic-sexual-offences-for-consultation-only>

Question 9: Do you agree that the above amendments should be made to the guidance on historic sex offences to reflect better the principles set out by the Court of Appeal? Please give reasons where you disagree.

Section Four: sexual communication with a child

The proposed new draft guideline for section 15A offences (sexual communication with a child) can be found here: <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-communication-with-a-child-for-consultation-only>

This offence is triable either way, with a maximum penalty of two years' imprisonment. It was introduced in the Serious Crime Act 2015, and was intended to fill a perceived gap in the law: existing offences relating to malicious communications required the offender to be seeking to cause distress to the victim, and the communications in question often fell short of the requirements for other child sex offences, with no intention to meet or incite further sexual acts.

This is the first guideline for this offence and the nature of the offending and the two year maximum penalty mean that in some areas a somewhat different approach is needed to this guideline, compared to other child sex offence guidelines.

Step One

The first step of the guideline is to consider the harm caused by the offence and the culpability level of the offender by the assessment of a series of factors.

Note that the draft guideline contains a version of the proposed wording set out earlier in this consultation for situations where no child victim exists: this appears to be the case for the majority of section 15A offences sentenced and in such instances these would be charged as attempts.

Harm factors

Picking up on factors commonly present in sentencing remarks, we propose only two levels of harm. These are not distinguished by the sort of activity that the offender has been discussing with the victim (as might be the case in other child sex offence guidelines). This is because, although full details may be scant in sentencing remarks, it appears that the sorts of activity discussed may in the majority of cases cover a range from (for example) asking about physical appearance and sexual experience, through to discussion about penetrative sex, falling short of incitement. We take the view that such discussions are inherent in the offending and the harm caused by such explicit communications is reflected in the starting points we are proposing (see below).

Rather, the Council believes that two features in particular should indicate raised harm for the purposes of sentencing: where it has had a particularly bad impact on the victim and where images have been exchanged, either to or from the offender, or both. We therefore propose the following harm table:

Harm

Use the factors given in the table below to identify the Harm category. If the offence involved multiple victims, sentencers may consider moving up a harm category or moving up substantially within a category range.

In cases of attempts where an offender tries to communicate with a child victim who does not exist, the court should identify the category of harm on the basis of the sexual communications intended, and then apply a downward adjustment at step two to reflect the fact that no or lesser harm has actually resulted. In such cases a small reduction within the category range will usually be appropriate. No additional reduction should be made for the fact that the offending is an attempt.

Category 1

- Sexual images sent or received
- Significant psychological harm or distress caused to victim

Category 2

- Factor(s) in category 1 not present

Question 10: Do you have any comments on the proposed harm factors?

Culpability factors

Once the court has determined the level of harm, the next step is to consider the culpability of the offender.

Other child sex offence guidelines draw a distinction between two levels of culpability: in the higher level is a range of behaviours associated with especially predatory behaviour (for example, a significant degree of planning, grooming behaviour used against victim, or a significant disparity in age). However, many of these elements are again considered fundamental elements of this offending, so the Council believes that a small number of distinct elements should indicate raised culpability, as the following table shows:

| Culpability | |
|---------------|--|
| Culpability A | <ul style="list-style-type: none"> • Abuse of trust • Use of threats (including blackmail) • Targeting of a particularly vulnerable child • Commercial exploitation and/or motivation • Soliciting images |
| Culpability B | <ul style="list-style-type: none"> • Factor(s) in category A not present |

Question 11: Do you have any comments on the proposed culpability factors?

Step Two

Once the court has determined the culpability and harm categories at step one, the next step is to identify the starting point of the sentence.

Sentence levels

This is the only child sex offence which carries a maximum penalty of two years' imprisonment. In 2019, just over half of sentences imposed were custodial (36 per cent were suspended, 15 per cent immediate custody). 42 per cent were community orders and 6 per cent otherwise dealt with.

Of those that did get immediate custody the vast majority of sentences (around 80 per cent) were over 6 months. Bearing in mind offenders can receive a reduction of up to a third for a guilty plea, this suggests that sentences imposed before any guilty plea reduction tended to be towards the upper end of the available range for this offence.

Due to the serious nature of these offences, and taking into account current sentencing practice, the Council believes that all categories of offending should carry a starting point of a custodial sentence. Equally, the lower end of the lowest category is a medium level community order as, even with mitigation, the Council does not believe that this sort of offending should result in a fine only.

Having determined the category at step one, the court should use the corresponding starting point to reach a sentence within the category range below. The starting point applies to all offenders irrespective of plea or previous convictions.

| Harm | Culpability | |
|-------------------|--|---|
| | A | B |
| Category 1 | <p>Starting Point 18 months' custody</p> <p>Category Range 9 – 24 months' custody</p> | <p>Starting Point 1 year's custody</p> <p>Category Range High level community order – 18 months' custody</p> |
| Category 2 | <p>Starting Point 1 year's custody</p> <p>Category Range High level community order – 18 months' custody</p> | <p>Starting Point 6 months' custody</p> <p>Category Range Medium level community order – 1 year's custody</p> |

Question 12: Do you have any comments on the proposed sentence levels?

Aggravating and mitigating factors

The court should then consider any additional factors, not identified at step one, which may aggravate or mitigate the offence.

The aggravating and mitigating factors which we propose are those frequently seen in child sex offences, although some of the aggravating factors seen in other guidelines (such as location of offence; timing of offence; presence of others, especially other children; exploiting contact arrangements with a child to commit an offence) are omitted as not being relevant to section 15A offending.

The following are proposed:

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction
- Offence committed whilst on bail
- Offence motivated by, or demonstrating hostility based on any of the following characteristics or presumed characteristics of the victim: religion, race, disability, sexual orientation or transgender identity

Other aggravating factors:

- Failure to comply with current court orders
- Offence committed whilst on licence
- Financial or other reward offered to victim
- Offender lied about age or used a false identity
- Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution
- Attempts to dispose of or conceal evidence
- Failure of offender to respond to previous warnings
- Commission of offence whilst under the influence of alcohol or drugs
- Victim encouraged to recruit others
- Victim particularly vulnerable (where not taken into account at step one)
- Offence involved sustained or persistent communication

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions or no relevant/recent convictions
- Remorse
- Previous good character and/or exemplary conduct*
- Isolated offence
- Age and/or lack of maturity
- Mental disorder or learning disability, particularly where linked to the commission of the offence
- Physical disability or serious medical condition requiring urgent, intensive or long-term treatment

* Previous good character/exemplary conduct is different from having no previous convictions. The more serious the offence, the less the weight which should normally be attributed to this factor. Where previous good character/exemplary conduct has been used to facilitate the offence, this mitigation should not normally be allowed and such conduct may constitute an aggravating factor.

Question 13: Do you have any comments on the proposed aggravating and mitigating factors?

Further steps

The steps following in the draft guideline are standard for offence specific guidelines. Step three covers factors which may merit a reduction in sentence, such as assistance to the prosecution and step four covers reductions in sentence for an early guilty plea.

Step five relates to the dangerousness provisions which may see an extended sentence imposed. Step six directs the court to consider totality.

At step seven, as mentioned above in section 3, we propose directing users' attention to SHPOs as well as to Slavery and Trafficking Prevention Orders and automatic orders on conviction.

Finally, steps eight and nine respectively remind the court of its duty to give reasons for and explain the sentence, and to consider whether to give credit for time spent on bail with a qualifying curfew.

Question 14: Do you have any further comments on the proposed section 15A guideline?

Section Five: Public sector equality duty

The Public Sector Equality Duty is a duty set out in section 149 of the Equality Act 2010 (the 2010 Act) which came into force on 5 April 2011. It is a legal duty which requires public authorities (and those carrying out public functions on their behalf) to have “due regard” to three “needs” or “limbs” when considering a new policy or operational proposal. Complying with the duty involves having due regard to each of the three limbs: The first is the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited under the 2010 Act.

The second is the need to advance equality of opportunity between those who share a “protected characteristic” and those who do not.

The third is to foster good relations between those who share a “protected characteristic” and those who do not.

Under the PSED the protected characteristics are: race; sex; disability; age; sexual orientation; religion or belief; pregnancy and maternity; and gender reassignment. The protected characteristic of marriage and civil partnership is also relevant to the consideration of the first limb of the duty.

Section 149 of the Equality Act 2010 contains further detail about what is meant by advancing equality of opportunity and fostering good relations.

The Council has considered data available in relation to the demographics of offenders sentenced for the sex offences covered by this consultation. This data includes volumes, outcomes, average custodial sentence lengths (ACSL) and the distribution of custodial sentence lengths of offenders sentenced grouped by sex, ethnicity and age and is available in the data tables published here: <https://www.sentencingcouncil.org.uk/publications/item/sexual-offences-statistical-bulletin/>.

There are many and varied reasons for the distribution of offender types and prevalence towards a particular type of offending, including wider social issues. The new and revised sex offence guidelines being consulted on are intended to apply equally to all demographics of offenders, and in drafting the guidelines the Council has taken care to guard against any unintended impact.

The Council recognises, however, that the draft guidelines could be interpreted in different ways. We are therefore seeking views on whether any of the factors in the draft guidelines, or the ways in which they are expressed, could risk being interpreted in ways which could lead to discrimination against particular groups.

We are also seeking views as to whether there are any other equality or diversity issues the guideline has not considered, so that we may consider these post-consultation.

Question 15: Do you consider that any elements of the draft guidelines and revisions presented here, or the ways in which they are expressed, could risk being interpreted in ways which could lead to discrimination against particular groups?

Question 16: Are there any other equality and diversity issues these guidelines and revisions should consider?

Annex A

Consultation Questions

Question 1: Do you have any comments on the proposed amendments to the section 14 guideline?

Question 2: Do you have any comments on the proposed amendments to the section 10 guideline?

Question 3: Do you agree that these changes should be made to the guidelines for all the “causing or inciting” offences in the 2003 Act? Please give reasons where you disagree.

Question 4: Do you agree that the above text should be added as a drop-down in sex offence guidelines where the harm factor “severe psychological or physical harm” appears? Please give reasons where you disagree.

Question 5: Do you agree that the above text should be added as a drop-down in sex offence guidelines where the culpability factor “abuse of trust appears? Please give reasons where you disagree.

Question 6: Do you agree that all sex offence guidelines (as listed in Annex B) should include the mitigating factors “Age and/or lack of maturity” and “Physical disability or serious medical condition requiring urgent, intensive or long-term treatment” with the above expanded explanations? Please give reasons where you disagree.

Question 7: Do you agree with this addition relating to remote activity to the relevant sexual offence guidelines? Please give reasons where you disagree.

Question 8: Do you agree that the above text should be added as a drop-down to the ancillary orders step in each relevant sex offence guideline? Please give reasons where you disagree.

Question 9: Do you agree that the above amendments should be made to the guidance on historic sex offences to reflect better the principles set out by the Court of Appeal? Please give reasons where you disagree.

Question 10: Do you have any comments on the proposed harm factors?

Question 11: Do you have any comments on the proposed culpability factors?

Question 12: Do you have any comments on the proposed sentence levels?

Question 13: Do you have any comments on the proposed aggravating and mitigating factors?

Question 14: Do you have any further comments on the proposed section 15A guideline?

Question 15: Do you consider that any elements of the draft guidelines and revisions presented here, or the ways in which they are expressed, could risk being interpreted in ways which could lead to discrimination against particular groups?

Question 16: Are there any other equality and diversity issues these guidelines and revisions should consider?

Annex B

List of sex offence guidelines

A list of all the sex offence guidelines for over 18 year olds (all section numbers from the Sexual Offences Act 2003 unless otherwise stated):

- Rape (section 1)
- Assault by penetration (section 2)
- Sexual assault (section 3)
- Causing a person to engage in sexual activity without consent (section 4)
- Rape of a child under 13 (section 5)
- Assault of a child under 13 by penetration (section 6)
- Sexual assault of a child under 13 (section 7)
- Causing or inciting a child under 13 to engage in sexual activity (section 8)
- Sexual activity with a child (section 9)/Causing or inciting a child to engage in sexual activity (section 10)
- Engaging in sexual activity in the presence of a child (section 11)/Causing a child to watch a sexual act (section 12)
- Arranging or facilitating the commission of a child sex offence (section 14)
- Meeting a child following sexual grooming (section 15)
- Abuse of position of trust: sexual activity with a child (section 16)/Abuse of position of trust: causing or inciting a child to engage in sexual activity (section 17)
- Abuse of position of trust: sexual activity in the presence of a child (section 18)/Abuse of position of trust: causing a child to watch a sexual act (section 19)
- Sexual activity with a child family member (section 25)/Inciting a child family member to engage in sexual activity (section 26)
- Sexual activity with a person with a mental disorder impeding choice (section 30)/Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity (section 31)
- Engaging in sexual activity in the presence of a person with a mental disorder impeding choice (section 32)/Causing a person, with a mental disorder impeding choice, to watch a sexual act (section 33)
- Inducement, threat or deception to procure sexual activity with a person with a mental disorder (section 34)/Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception (section 35)
- Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder (section 36)/Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception (section 37)
- Care workers: sexual activity with a person with a mental disorder (section 38)/Care workers: causing or inciting sexual activity (section 39)
- Care workers: sexual activity in the presence of a person with a mental disorder (section 40)/Care workers: causing a person with a mental disorder to watch a sexual act (section 41)
- Paying for the sexual services of a child (section 47)
- Causing or inciting sexual exploitation of a child (section 48)/Controlling a child in relation to sexual exploitation (section 49)/Arranging or facilitating sexual exploitation of a child (section 50)

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- Causing or inciting prostitution for gain (section 52)/Controlling prostitution for gain (section 53)
- Trafficking people for sexual exploitation (section 59A)
- Administering a substance with intent (section 61)
- Committing an offence with intent to commit a sexual offence (section 62)
- Trespass with intent to commit a sexual offence (section 63)
- Sex with an adult relative: penetration (section 64)/Sex with an adult relative: consenting to penetration (section 65)
- Exposure (section 66)
- Voyeurism (section 67)
- Keeping a brothel used for prostitution (Sexual Offences Act 1956, section 33A)
- Possession of indecent photograph of a child (Criminal Justice Act 1988, section 160)/Indecent photographs of children (Protection of Children Act 1978)

