

## Guidance Note: Identification of Individuals who present a Risk to Children

### Summary

The DfES are currently overseeing a multi agency review of Schedule 1 offences under the Children and Young Person's Act 1933. This commenced in 2005 and is still ongoing.

This interim guidance includes an updated list of offences against children.

The term 'Schedule 1 offender' is no longer helpful and indeed may become problematic legally. The term '**Risk to Children**' should therefore be adopted for those persons who have been identified as posing an ongoing risk to a child.

The conclusion that an individual poses a 'Risk to Children' should be based on all available information including that provided by relevant agencies, such as assessments of risk made by Probation, Police, Health, whether individually or via the Multi-Agency Public Protection Arrangements (MAPPA).

The revised list of offences as reproduced in Annex A provides a useful update of relevant legislation to protect children. However, it should not be deemed to be exhaustive, or used purely as a 'trigger' to denote risk. Rather the protection of children at risk of significant harm remains the responsibility of practitioners exercising their professional judgement.

## **Guidance on Offences Against Children.**

### **Background**

Schedule One of the Children and Young Persons Act 1933 provides a list of offences, amended by subsequent legislation. The offences range from murder and child abuse to any offence causing bodily injury to a child.

Currently a conviction for one of the offences in Schedule One does not trigger any statutory requirement in relation to child protection issues. The list of offences in Schedule One is relevant to matters such as mode of charging, depositions from children and determination of age. However, in practice, conviction for a Schedule One offence triggers further assessments of risk and in practice Schedule One is considered to be a useful tool to help the probation service, the prison service, local authority social services and the police to focus on those individuals who may pose a risk to children. There are a number of problems with Schedule One, including a lack of consistency in its use and anomalies in the offences it covers.

### **The Review**

During 2004, a review of Schedule One and associated procedures was undertaken. A Multi-Agency Working Group was convened to examine existing agency procedures, and to consider whether a more effective method of identifying those who might pose a known risk to children is necessary.

This review is continuing. However, it is becoming clear that the term 'Schedule One Offender', which is used by a variety of agencies, is ill defined and, to a certain extent, unhelpful since it defines people by their offending history rather than the ongoing risks they pose. It is with this in mind that the term should be replaced with "a person identified as presenting a risk, or potential risk, to children". Obviously offending history is an important factor in such assessments but it is not the only one. We are aware that various child protection legislation has been enacted since the 1933 Act and this has created a confused picture. Many practitioners are unsure of which offences are included in Schedule One, and whether there are other offences, not included in Schedule One, which may indicate that a person poses a risk to children.

To provide some clarity on this matter, it has therefore been decided to issue a consolidated list of offences, which all agencies can use to identify "a person identified as presenting a risk, or potential risk, to children". This list, which is attached, identifies the major offences against children currently on the statute.

Agencies, which come into contact, or are working, with an individual who has been convicted or cautioned for an offence against a child may use the list as part of their usual policies and procedures.

Please note, however, the following important points:

- The list at annex A carries with it no statutory requirements. It is simply a list of the major offences that might be committed against children. Schedule One of the Children and Young Persons Act has not actually been repealed or amended. The Review will give further consideration to the necessity of this.
- It is not an exhaustive list. There are also other types of offences on the statute where the child may be an intended victim but the primary offence is not a child specific offence (i.e. Telecommunications offences – obscene text messages; harassment etc.). In addition, new offences may be created by new legislation. Practitioners need to exercise their professional judgement in all instances.
- Some of the offences may only indicate a risk to children in certain circumstances. Again, practitioners need to exercise their professional judgement in these instances.
- Not all convicted/cautioned individuals will pose a risk to children. Also there will be cases where a person without a conviction may pose a risk to children.
- This is not a new directive. There are no changes to existing inter-agency procedures and child protection procedures, which should be followed as before.
- The prison service will continue to notify the police, probation and social services prior to the release of an identified offender. The present process will remain unchanged.
- The list includes both current and repealed offences. This is due to the fact that many offenders will have been convicted prior to the introduction of new legislation, such as the Sexual Offences Act 2003.

**List of offences (chronological)**

<b>Offence</b>	<b>Section</b>	<b>Act</b>
Murder	Common Law	
Manslaughter	Common Law	
Infanticide	Common Law	
Kidnapping	Common Law	
False Imprisonment	Common Law	
Assault or battery	Common Law	
Indecent exposure	Section 4	Vagrancy Act 1824
Indecent exposure	Section 28	Town Police Clauses Act 1847
Conspiring or soliciting to commit murder	Section 4	Offences Against the Person Act 1861
Administering poison, or wounding, with intent to murder	Section 11	Offences Against the Person Act 1861
Threats to kill	Section 16	Offences Against the Person Act 1861
Wounding and causing grievous bodily harm: Wounding with intent	Section 18	Offences Against the Person Act 1861
Wounding and causing grievous bodily harm: Inflicting bodily injury	Section 20	Offences Against the Person Act 1861
Maliciously administering poison	Section 23	Offences Against the Person Act 1861
Abandonment of children under two	Section 27	Offences Against the Person Act 1861
Assault occasioning actual bodily harm	Section 47	Offences Against the Person Act 1861
Child stealing	Section 56	Offences Against the Person Act 1861
Drunk in charge of a child under 7 years	Section 2	Licensing Act 1902
Cruelty to children	Section 1	Children and Young Persons Act 1933
Allowing persons under 16 to be in brothels	Section 3	Children and Young Persons Act 1933
Causing or allowing persons under 16 to be used for begging	Section 4	Children and Young Persons Act 1933
Give / cause to be given intoxicating liquor to a child under 5 years	Section 5	Children and Young Persons Act 1933
Exposing children under seven to risk of burning	Section 11	Children and Young Persons Act 1933
Prohibition against persons under 16 taking part in performances endangering life and limb	Section 23	Children and Young Persons Act 1933
Infanticide	Section 1	Infanticide Act 1938
Rape	Section 1	Sexual Offences Act 1956

Offence	Section	Act
Procurement of a woman by threats	Section 2	Sexual Offences Act 1956
Procurement of a woman by false pretences	Section 3	Sexual Offences Act 1956
Administering drugs to obtain or facilitate intercourse	Section 4	Sexual Offences Act 1956
Intercourse with a girl under 13	Section 5	Sexual Offences Act 1956
Intercourse with a girl under 16	Section 6	Sexual Offences Act 1956
Intercourse with defective	Section 7	Sexual Offences Act 1956
Procurement of defective	Section 9	Sexual Offences Act 1956
Incest by a man	Section 10	Sexual Offences Act 1956
Incest by a woman	Section 11	Sexual Offences Act 1956
Buggery where the victim is under 16*	Section 12	Sexual Offences Act 1956
Indecency between men (gross indecency)	Section 13	Sexual Offences Act 1956
Indecent assault on a woman	Section 14	Sexual Offences Act 1956
Indecent assault on a man	Section 15	Sexual Offences Act 1956
Assault with intent to commit buggery	Section 16	Sexual Offences Act 1956
Abduction of a woman by force or for the sake of her property	Section 17	Sexual Offences Act 1956
Abduction of unmarried girl under 18 from parent or guardian	Section 19	Sexual Offences Act 1956
Abduction of unmarried girl under 16 from parent or guardian	Section 20	Sexual Offences Act 1956
Abduction of defective from parent or guardian	Section 21	Sexual Offences Act 1956
Causing prostitution of women	Section 22	Sexual Offences Act 1956
Procurator of girl under 21	Section 23	Sexual Offences Act 1956
Detention of a woman in a brothel or other premises	Section 24	Sexual Offences Act 1956
Permitting a girl under 13 to use premises for intercourse	Section 25	Sexual Offences Act 1956
Permitting a girl between 13 and 16 to use premises for intercourse	Section 26	Sexual Offences Act 1956
Permitting defective to use premises for intercourse	Section 27	Sexual Offences Act 1956
Causing or encouraging prostitution of, or intercourse with, or indecent assault on, girl under 16	Section 28	Sexual Offences Act 1956
Causing or encouraging prostitution of defective	Section 29	Sexual Offences Act 1956
Man living on earnings of prostitution	Section 30	Sexual Offences Act 1956
Women exercising control over prostitute	Section 31	Sexual Offences Act 1956
Sexual intercourse with patients	Section 128	Mental Health Act 1959
Indecent conduct towards young	Section 1	Indecency with Children Act 1960

Offence	Section	Act
child		
Aiding, abetting, counselling or procuring the suicide of a child or young person.	Section 2	Suicide Act 1961
Procuring others to commit homosexual acts (by procuring a child to commit an act of buggery with any person, or procuring any person to commit an act of buggery with a child)	Section 4	Sexual Offences Act 1967
Living on earnings of male prostitution	Section 5	Sexual Offences Act 1967
Burglary (by entering a building or part of a building with intent to rape a child)	Section 9	Theft Act 1968
Supplying or offering to supply a Class A drug to a child, being concerned in the supplying of such a drug to a child, or being concerned in the making to a child of an offer to supply such a drug.	Section 4	Misuse of Drugs Act 1971
Inciting girl under 16 to have incestuous sexual intercourse	Section 54	Criminal Law Act 1977
Indecent photographs of children	Section 1	Protection of Children Act 1978
Offence of abduction of a child by parent	Section 1	Child Abduction Act 1984
Offence of abduction of child by other persons	Section 2	Child Abduction Act 1984
Possession of indecent photographs of children	Section 160	Criminal Justice Act 1988
Abduction of Child in Care/ Police Protection .. take away/induce away/assist to run away/ keep away	Section 49	Children Act 1989
Recovery of missing or unlawfully held children	Section 50	Children Act 1989
Abuse of Trust	Section 3	Sexual Offences (Amendment) Act 2000
Traffic in prostitution	Section 145	Nationality, Immigration and Asylum Act 2002
Rape	Section 1	Sexual Offences Act 2003
Assault by penetration	Section 2	Sexual Offences Act 2003
Sexual assault	Section 3	Sexual Offences Act 2003
Causing a person to engage in sexual activity without consent.	Section 4	Sexual Offences Act 2003
Rape of a child under 13	Section 5	Sexual Offences Act 2003
Assault of a child under 13 by penetration	Section 6	Sexual Offences Act 2003

Offence	Section	Act
Sexual assault of a child under 13	Section 7	Sexual Offences Act 2003
Causing or inciting a child under 13 to engage in sexual activity	Section 8	Sexual Offences Act 2003
Sexual Activity with a Child	Section 9	Sexual Offences Act 2003
Causing or inciting a child to engage in sexual activity	Section 10	Sexual Offences Act 2003
Engaging in sexual activity in the presence of a child	Section 11	Sexual Offences Act 2003
Causing a child to watch a sexual act	Section 12	Sexual Offences Act 2003
Child sex offences committed by a children or young persons	Section 13	Sexual Offences Act 2003
Arranging or facilitating commission of a child sex offence	Section 14	Sexual Offences Act 2003
Meeting a child following sexual grooming etc.	Section 15	Sexual Offences Act 2003
Abuse of position of trust: sexual activity with a child	Section 16	Sexual Offences Act 2003
Abuse of position of trust: causing or inciting a child to engage in sexual activity	Section 17	Sexual Offences Act 2003
Abuse of position of trust: sexual activity in the presence of a child	Section 18	Sexual Offences Act 2003
Abuse of position of trust: causing a child to watch a sexual act	Section 19	Sexual Offences Act 2003
Sexual activity with a child family member	Section 25	Sexual Offences Act 2003
Inciting a child family member to engage in sexual activity	Section 26	Sexual Offences Act 2003
Sexual activity with a person with a mental disorder impeding choice	Section 30	Sexual Offences Act 2003
Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity	Section 31	Sexual Offences Act 2003
Engaging in sexual activity in the presence of a person with a mental disorder impeding choice	Section 32	Sexual Offences Act 2003
Causing a person, with a mental disorder impeding choice, to watch a sexual act	Section 33	Sexual Offences Act 2003
Inducement, threat or deception to procure sexual activity with a person with a mental disorder	Section 34	Sexual Offences Act 2003
Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception	Section 35	Sexual Offences Act 2003

Offence	Section	Act
Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder	Section 36	Sexual Offences Act 2003
Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception	Section 37	Sexual Offences Act 2003
Care workers: sexual activity with a person with a mental disorder	Section 38	Sexual Offences Act 2003
Care workers: causing or inciting sexual activity	Section 39	Sexual Offences Act 2003
Care workers: sexual activity in the presence of a person with a mental disorder	Section 40	Sexual Offences Act 2003
Care workers: causing a person with a mental disorder to watch a sexual act	Section 41	Sexual Offences Act 2003
Paying for the sexual services of a child	Section 47	Sexual Offences Act 2003
Causing or inciting child prostitution or pornography	Section 48	Sexual Offences Act 2003
Controlling a child prostitute or a child involved in pornography	Section 49	Sexual Offences Act 2003
Arranging or facilitating child prostitution or pornography	Section 50	Sexual Offences Act 2003
Causing or inciting prostitution for gain	Section 52	Sexual Offences Act 2003
Controlling prostitution for gain	Section 53	Sexual Offences Act 2003
Trafficking into the UK for sexual exploitation	Section 57	Sexual Offences Act 2003
Trafficking within the UK for sexual exploitation	Section 58	Sexual Offences Act 2003
Trafficking out of the UK for sexual exploitation	Section 59	Sexual Offences Act 2003
Administering a substance with intent	Section 61	Sexual Offences Act 2003
Committing an offence with intent to commit a sexual offence (in a case where the intended offence was an offence against a child)	Section 62	Sexual Offences Act 2003
Trespass with intent to commit a sexual offence (in a case where the intended offence was an offence against a child)	Section 63	Sexual Offences Act 2003
Exposure	Section 66	Sexual Offences Act 2003
Voyeurism	Section 67	Sexual Offences Act 2003
Trafficking people for exploitation	Section 4	Asylum and Immigration (Treatment of Claimants, etc)

Offence	Section	Act
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**A reference to an offence in this list includes:**

**a reference to an attempt, conspiracy or incitement to commit that offence, and a reference to aiding, abetting, counselling or procuring the commission of that offence.**

**Unless stated otherwise, the victim of the offences listed above will be under 18**

**Cautions and discharges for the offences listed above will apply**