

**SAFER FROM  
SEXUAL CRIME:  
PROTECTING  
CHILDREN  
AND YOUNG  
PEOPLE**



Northern  
Ireland  
Office

The Sexual Offences (Northern Ireland) Order 2008 provides a framework to protect everyone from sexual crime. This leaflet sets out the laws designed to protect children and young people from sexual abuse.

Further leaflets in this series cover the law for everyone and the laws which are important to those who work with children or with people who have mental disorders or learning difficulties. These leaflets are:

- Safer from sexual crime: how the law is protecting you
- Working within the Sexual Offences Order 2008

There are also short leaflets covering the following topics:

- Sex and consent: what you need to know
- Sex, young people and the law: what you need to know
- Adult sexual offending against children: the law
- Sex and the vulnerable: what you need to know
- The law and prostitution: what you need to know

# SEXUAL OFFENCES: PUTTING YOUNG PEOPLE FIRST

The new law is designed to protect young people from exploitative sexual behaviour.

It contains protection specifically geared for three different age levels – under 13, under 16 and under 18.

This is the first time the law has specifically addressed offending behaviour against young people. The public, rightly, wants to ensure that children have the best possible protection from sexual abuse. The Sexual Offences Order has at its heart a series of important new measures specifically designed to give better protection to children and young people.

The protection of children, including from sexually abusive behaviour, is a concern that is shared by not only children and young people themselves, but by their families and all agencies that have a duty of care and a responsibility to ensure safeguards. Therefore, while privacy and confidentiality are important and desirable in such a sensitive and personal aspect of life, the detection and stopping of exploitation or abuse will, in some cases, involve information being shared with social services and/or the police.

# THE NEW LEGAL FRAMEWORK

The Sexual Offences Order sets out a whole new series of offences, with tough sentences, to protect children and young people from sexual abuse.

The law now sets clear limits and boundaries about behaviour with children. It is also designed to meet new 21st century challenges through addressing behaviour such as internet pornography and grooming of children for abuse.

Children and young people can also be at risk from members of their own family, and from other people in positions of trust. There are offences specific to these circumstances. There are also laws to deal with sexual exploitation of children through prostitution and pornography.

All of these measures set strong standards to deter and punish abusers and give police and the courts the best chance of doing their job effectively.

# THE NEW LAW: PROTECTING CHILDREN AND YOUNG PEOPLE

Under the new law it will be an offence for anyone to have any sexual activity with a young person under the age of 16. It doesn't need to be full sexual intercourse – any activity of a sexual nature with someone under 16 is illegal.

This represents a big change from what the law has been for many years. All sexual activity with a young person of either gender under the age of 16 is now illegal, even if both parties are under 16 – this is the same as the rest of the UK. Up until now, it was only sexual intercourse that fell within the definition of unlawful carnal knowledge and this offence only applied to intercourse with girls under 17. Now the offence covers all sexual activity and is gender neutral.

The law is now absolutely clear – all sexual activity with all children and young people under 16 is illegal.

When the young person reaches 16, in most circumstances, but not all, the law provides that their consent to sexual activity can legally be accepted by the other person who will then not be guilty of a criminal offence if they engage in consensual sexual activity. The exceptions to this general rule are to be found under the heading 'protecting under 18s'.

Of course, the law is not intended to criminalise mutually agreed teenage sexual activity between two young people of a similar age and understanding, unless it involves abuse, exploitation or harm.

Young people will still have the right to access confidential advice on contraception, condoms and pregnancy, even if they are under 16.

Whilst agencies who provide this advice will wish to give young people who are vulnerable every support, they may sometimes need to share information with others if they think the young person is in need of protection. If they do, the young person will be informed.

# PROTECTING: UNDER 13S

These laws apply to children who have not yet reached their 13th birthday – ie those who are aged 12 and under.

The law now makes it clear that sexual activity with a child under 13 is never acceptable, and that – regardless of the circumstances – there will be no recognition by the law of any consent issue involving children of this age.

This means that all penetrative sex involving a child under 13 is automatically defined as rape/assault by penetration and carries a maximum sentence of life imprisonment.

Other offences include sexual assault (which is any kind of sexual touching), and causing or inciting a child to engage in sexual activity (this could include making a child strip, or promising rewards for sexual behaviour). Both of these offences have maximum penalties of 14 years imprisonment.

These offences do not rely on the absence of consent.

There is no defence of believing the person was over 13 or over 16.

# PROTECTING: UNDER 16S

Children and young people under 16 need extra protection from sexual abuse, and the laws in the Sexual Offences Order recognise this. At the same time, it is important that parents, practitioners or professionals who are working to protect a child or young person, are not worried about being prosecuted when, for example, they are providing advice or services on issues like sex education or contraception. Recognising this, the Order carries exceptions to certain offences – such as ‘arranging or facilitating a child sex offence’ – to make sure that people who are acting to protect a child’s health or well-being are not liable to prosecution.

The following offences apply where the offender is aged 18 or over. Where sexual activity takes place between someone below the age of 18 and someone under 16, there are similar offences but these carry a lower maximum penalty of 5 years.

### **Sexual activity with a child**

It is an offence to have any sexual activity with a child or young person under 16. The maximum penalty for those over 18 is 14 years in prison.

### **Causing or inciting a child to engage in sexual activity**

This offence covers causing or persuading a child or young person to engage in any sexual activity, including sexual acts with someone else or making a child strip or masturbate. The maximum penalty for those over 18 is 14 years in prison.

**Engaging in sexual activity in the presence of a child**

Under this law, it is an offence to intentionally engage in sexual activity when you know that you can be seen by a child, or you believe or intend for them to see, and this is done to get sexual gratification from the fact that they may be watching.

**Causing a child to watch a sexual act**

This makes it an offence to intentionally cause a child to watch someone else taking part in sexual activity – including looking at images such as videos, photos, or webcams – for the purpose of getting sexual gratification.

**Meeting a child following sexual grooming**

Under this law, if someone is over 18 and has communicated with a child under 16 at least twice, then it is an offence to meet or travel to meet them with the intent to commit a sexual offence.

**Arranging or facilitating a child sex offence**

This is an offence of arranging or carrying out an action in any part of the world which will lead to a sexual offence being committed against a person under 16.

# PROTECTING: UNDER 18S

Even though the age of consent is 16, there are a number of situations where it is important to protect 16 and 17 year-olds, as well as younger children, from possible abuse.

## Indecent photographs

Under child protection legislation it is already an offence to take, make, permit to take, distribute, show, possess with intent to distribute, or to advertise, indecent photographs of under 16s. The Sexual Offences Order now extends the age limit so that this offence also applies to images of 16 and 17 year-olds.

This offence does not apply where the child is 16 years or over, the parties are married or living together in an enduring relationship, consent was given, and no one else is shown in the photograph.

## Abuse of positions of trust

This part of the Order reenacts existing legislation which applies to people who work with children in places like schools, youth services, care homes, the health service and the criminal justice system. Under these laws, young people under 18 (and also people with learning disabilities or mental disorders) are protected from abuse by people in positions of trust. A separate leaflet in this series, Working Within the Sexual Offences Order, gives more detail on these offences.

## Abuse of children through prostitution or pornography

The Order sets out a series of offences (which were already law in Northern Ireland under the Sexual Offences Act 2003), with heavy sentences, covering child prostitution and pornography. The offences include: paying for the sexual services of a child (payment can be in cash or in goods or services, including drugs or waiving of debts); causing or inciting a child into prostitution or pornography in any part of the world; controlling a child involved in prostitution or pornography; and arranging or facilitating child prostitution or pornography. 'Paying for the sexual services of a child' is the first prostitution offence which criminalises the buying of sexual services.

### **Offences by family members**

Most sexual abuse of children takes place within the home, or by people who know the child or their family. It is very important that the law properly protects children from abuse by people who are close to them, including those people who are supposed to love and care for them.

In order to reflect today's changing family structures, the Sexual Offences Order has widened the definition of 'family'. As well as blood relations, such as parents, grandparents, brothers, sisters, half-brothers and half-sisters, uncles and aunts, the Order covers wider family members who are, or have been, living in the same household. This includes foster parents and foster siblings, step-parents, cousins, step-brothers and step-sisters. People who regularly care for a child and live in their household – such as a lodger who regularly babysits – are also included under the definition of family during the time they live in the household.

Again, the laws in this section apply where the child is under 18, and they can be enforced even if a child appears to give their consent. Importantly, these laws also apply if the offender is under 18, although maximum sentences are shorter.

### **Sexual activity with a child family member**

This offence covers all intentional sexual touching and physical contact, including sexual intercourse.

### **Inciting a child family member to engage in sexual activity**

This offence covers inciting or persuading a child family member to take part in sexual activity, such as sexually touching an abuser. The intended sexual act itself does not need to have happened for a charge to be brought.

Another important part of the Order deals with sexual offences against people with mental disorders, including learning disabilities.

For further information, visit [www.nio.gov.uk/sexualoffences](http://www.nio.gov.uk/sexualoffences)