



**The
Children's
Society**

Old enough to know better?

**Why sexually exploited older
teenagers are being overlooked**

November 2015

By Iryna Pona and Donna Baillie

Letter from a young person supported by The Children's Society

If I could say anything to anyone who is a victim of sexual exploitation I would say that when you put a 'welcome' mat in the front of your house, no one blames you for being robbed, so there's no point blaming yourself for what you wear or who you hang around with. And I would say being exploited is something damaging. Maybe sometimes you can wear something others don't agree on, maybe you can have too much to drink and maybe you can do things that seem okay at the time but later on change your mind. Either way none of these reasons are acceptable enough to be subjected to such wreckage.

The underlying danger of sexual exploitation is just this: anyone can be a Prince Charming, there's no instruction manual on how to be one, but anyone can also be a sexual offender and a child exploiter – it's just the signs of an offender aren't as obvious as a Prince Charming. We all love to visit situations showered with the unknown and we all like affection, but just remember Prince Charming can be disguised as someone that will take your trust and take your innocence and use it to their advantage, and they won't return it.

The only way to survive a situation like this is to save yourself or remain unsaved. Everything that's happened to me has left a scar, it's not visible and it's not irreversible, but I just wish so much that I could have seen these people for what they really were and saved myself before it was too late.

Becky





50,000

the estimated number of females aged 16 and 17 who report having experienced a sexual offence in the last 12 months*



4,900

the estimated number of sexual offences against 16 to 17 year olds reported to the police in England in the last 12 months



860

the estimated number of the reported sexual offences against 16 to 17 year olds where someone was charged or received a summons or community disposal



How many get a successful prosecution when the journey to justice is so difficult for a vulnerable young person?

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Foreword

Twenty years ago The Children's Society published a ground-breaking report that drew attention to the scale of child sexual exploitation in Britain. It highlighted how children were being exploited and then criminalised for their involvement in commercial sexual exploitation.* Our subsequent The Game's Up campaign (which ran from 1995 to 1997) called for changes to legislation to recognise that children who are sexually abused and exploited need protection, not prosecution.

This year the law has finally changed. It is no longer possible to prosecute a child under the age of 18 for involvement in their own sexual exploitation and 'child prostitution' has at last been renamed as what it really is: child sexual exploitation.

Recently, after the exposure of horrific cases in Rotherham, Rochdale, Oxford and Bristol, we have observed raised awareness of the scale and nature of child sexual exploitation. We have seen the extent of organised criminal activity, the nature of grooming from supposed 'boyfriends' and the relentless and focused targeting of vulnerable young people such as those in care. In response to various historic abuses coming to light, there has been a welcome increased focus from the Government on tackling child sexual exploitation.

Despite this, at The Children's Society we regularly work with children whose stories are not being heard and for whom existing protections are not sufficient. This is particularly true for older teenagers: dangerous inconsistencies in the law mean that vulnerable 16 and 17 year olds receive neither the same basic protections as younger children to keep them safe, nor the same rights as adults.

Older teenagers who have experienced sexual exploitation face a triple whammy: they are more likely to be victims of sexual abuse, yet they are less likely to be regarded as children who need protection when they do report cases, and there is also less protection and support available when they have experienced harm.

Our Seriously Awkward campaign report earlier this year exposed how too often the most vulnerable older teenagers are being let down by the law and are not getting basic protections to keep them safe, healthy and happy. We made a case for the need to address the gaps in the law that mean older teenagers who remain vulnerable are treated as adults, when they still need protection as children.

This report once again demonstrates that the legal framework is not always on the side of vulnerable young people, particularly 16 and 17 year olds, when it comes to protecting them from exploitative adults. We see too many barriers to protecting young people at risk of harm.

16 and 17 are known as being awkward ages – but for the most vulnerable it is seriously awkward that we continue placing responsibility on older teenagers to keep themselves safe. The law

needs to change to recognise their vulnerability. That change needs to happen now. It cannot wait another 20 years.



Matthew Reed, CEO
The Children's Society

Executive summary

Introduction

This report will examine why older teenagers are particularly at risk of child sexual exploitation. It will analyse what can happen when a young person reveals they are being exploited and why existing protection is insufficient. And it will investigate what provision and support is available to help a young person recover.

Our Seriously Awkward campaign report published in June this year showed that being 16 or 17 is not only an awkward age, but also a time of heightened vulnerability for young people. It is a period of increased risks associated with adolescents' development, lack of experience, the desire to explore the world and pressure (mainly from peers) to take part in activities that may lead to harm, from drug and alcohol use to sending explicit pictures of themselves over social media.

Sixteen is also the legal age of consent to sexual activity. Although many laws (such as the Children Act 1989) declare that any person under the age of 18 is a child, the law protecting children from sexual crimes does not afford young people aged 16 and 17 the same level of protection as younger children.

The law protects 16 and 17 year olds in cases of familial sexual abuse, sexual abuse by people in a position of trust (such as a teacher or medical professional), pornography and child sexual exploitation (what was until the Serious Crime Act 2015 known as 'prostitution related offences').

But when it comes to opportunistic sexual exploitation where there is a clear imbalance of power, coercion and control, or where adults use drugs and alcohol to groom a child to submit to sexual exploitation, the law does not provide any additional safeguards for 16 and 17 year olds. It does not take into account their age-related vulnerabilities, such as emotional and physiological changes and brain development in adolescents, and lack of experience. It also does not take into account any other factors that make them vulnerable to abuse, for example previous experiences of neglect and abuse, mental health problems, being in care or living away from their birth families.

The ability of 16 and 17 year olds to consent to sexual activity – without a clear definition of what true informed consent is in cases where an adult targets a vulnerable 16 or 17 year old for sexual favours – can make professionals reluctant or unsure about the course of action they should undertake. In some cases, there is a perception that once a child is 16, 'they can look after themselves' or have chosen to put themselves in exploitative situations, even where a relationship is clearly exploitative. The legal age of consent also makes it very difficult for the police to bring predatory adults to justice. This can leave 16 and 17 year olds who are groomed or sexually exploited completely unseen, unprotected and unsupported.

From The Children's Society's case notes:

'Comment was made by [a professional with safeguarding responsibility] that young person is capable to plan and get to males' houses, so she can do other things like get herself to appointments. I challenged this and said that meeting the males is another form of self-harm and that this is easier for young person to do as it hurts her. I said I think it's unfair to place the same ethos on her doing positive activities.'

This is extremely concerning. As we know from numerous reports, serious case reviews and our own practice, adults who want to exploit vulnerable teenagers will go to great lengths to befriend and groom young people, whether it's waiting for them outside places where young people live, such as children's homes or hostels, or befriending them on social networks and enticing them with promises of fun, love and affection.

We know from our direct work with young people that adults seeking to exploit will target

one young person after another, moving swiftly on to a new target when professionals attempt intervention. As our practitioners report, sometimes this leaves professionals feeling powerless to disrupt the conveyor belt of sexual abuse they may be witnessing.

This report explains why we believe that young people aged 16 and 17 need additional protection. The report is based on analysis of:

- the Crime Survey for England and Wales
- responses to Freedom of Information requests, sent to police forces in England in August 2015
- analysis of 30 stories of 16 and 17 year olds who we have supported
- interviews with 10 practitioners from our projects.

It also includes a FOI response from the Crown Prosecution Service and analysis of FOI responses from mental health trusts conducted for our Access Denied report.*

Responses to our Freedom of Information requests from 30 police forces show that in the last four quarters, across those forces around 3,900 crimes of a sexual nature were recorded where the victim was aged 16 or 17. Based on this, we can estimate that across all police forces in England the number of recorded offences where the victim is 16 or 17 is around 4,900. The actual number may be a lot higher.

However, the number of 16 and 17 year olds who are victims of sexual offences is much higher

than the number of recorded offences. Females aged 16 to 17 are at the highest risk of being a victim of a sexual offence (8.6%) compared to those aged over 18.** But there is significant under-reporting, as analysis of the Crime Survey suggests and as we know from our direct work with older teenagers. Our analysis of the Crime Survey for England and Wales shows that of the 16 and 17 year olds who do not report sexual abuse to the police, around 50% consider the abuse to not be worth reporting, while others state that they don't report sexual abuse because they don't want to go to court, or because they do not want the perpetrators of the abuse punished. Some young people, as we know from our direct work with them, do not report out of fear of not being believed or being judged, others out of fear of the perpetrators, and others out of uncertainty of what constitutes crime, consent and sexual exploitation.

Responses from police forces to our FOI request also reveal that around 1 in 5 crimes of a sexual nature in relation to 16 and 17 year olds result in charge, summon, caution or community disposal (local community based resolution). And around 8 out of 10 crimes recorded get closed without any further action.

The journey of the young person from identification of sexual abuse or exploitation to seeing justice done can be long, emotional, at times perilous and may not necessarily produce a positive outcome. Not all cases that go to court result in convictions. The Crown

Prosecution Service's response to our FOI request, though unable to identify specific outcomes in cases where the victim is 16 or 17, showed that around a quarter of all cases of child sexual abuse result in 'no prosecution' decisions and around 1 in 4 cases that are prosecuted are unsuccessful.

From The Children's Society's case notes:

'Court verdict - Not guilty. [The police officer] discussed that she was sorry this was the outcome and stressed that young person had done very well and they all still believed her. I asked if she knew what swayed it and [the police officer] explained that we as professionals are aware how vulnerable the young person is, however the jury is not and she explained that the defence's summing up said, "we have heard that young person is vulnerable but she is able to go on the internet and she is able to get a train.'

Irrespective of how far justice is pursued, teenagers who experience sexual abuse should be recognised as recovering from trauma and deserve adequate

therapeutic support – yet this support is not readily available either. Our interviews with practitioners highlight severe shortages of therapeutic support services for young people who experienced abuse. Local policies vary considerably from area to area. It is frequently the case that a child who has experienced abuse will not get access to mental health support unless, or until, they have a diagnosable condition – this is simply too late to prevent suffering. In many areas, long waiting times put off older teenagers whose lives may be volatile and the window of opportunity to engage with them may be very short. Very few mental health trusts have a policy of fast-tracking children who are victims of abuse for child and adolescent mental health services.

From The Children's Society's case notes:

'Young person told me several times she deserves everything she has experienced because she shouldn't have been born and that when she tried to take an overdose, if she was successful then it would have been better for everyone.'

The 30 stories of 16 and 17 year olds we supported in our practice that we explored for this report provide the most compelling evidence of why things need to change. These are tragic tales of family conflict and

early experiences of neglect or abuse, with high levels of mental health needs and self-harm in response to sexual exploitation – irrespective of whether the young person believed that they were exploited or not. Disturbingly, these stories show that sexual abuse in itself can become the form of self-harm. Young people keep returning to situations of abuse because they do not believe that they deserve anything good in their lives.

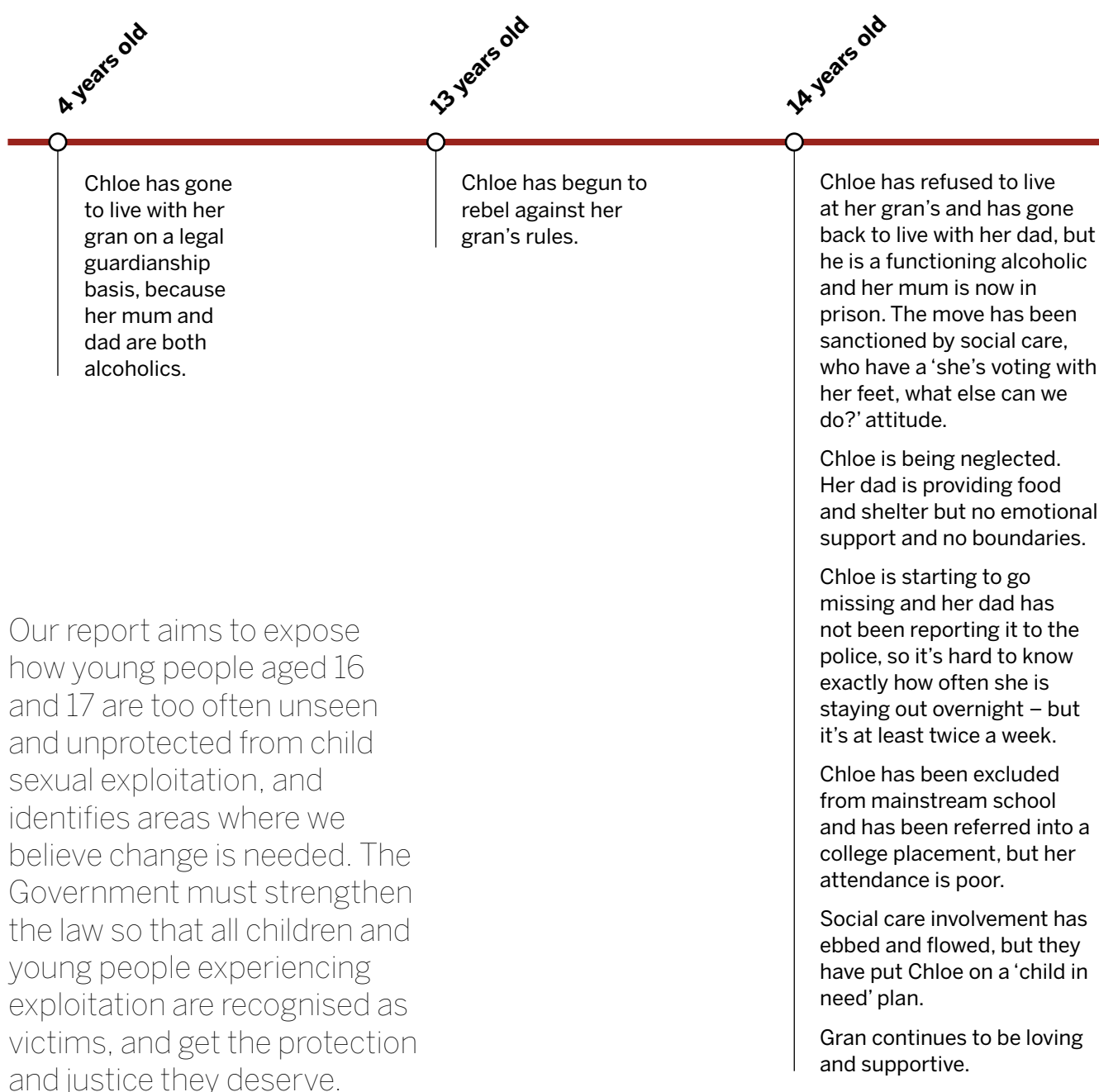
'Kids like me deserve this'

from the statement of a young person who disclosed abuse

At their best these are stories of professionals trying their hardest, with the limited legal tools at their disposal, to make things better before a child legally becomes an adult and children's services have to step away. At their worst these stories tell of attitudes of indifference, of a waiting game until the child reaches 18 and is out of sight and mind of professionals tasked with safeguarding children. But in either scenario, the picture is of all services being stretched and having limited resources, resulting in a high turnover of the staff that young people encounter and patchy work that aims to address the crisis only. This ultimately impacts on a young person's ability to engage with support, trust professionals, disclose their experiences and believe that things can change.

Case study A: A journey of vulnerability*

This case study case is taken from interviews with practitioners about vulnerable 16 and 17 year olds they have supported. Names have been changed to preserve anonymity.**



Our report aims to expose how young people aged 16 and 17 are too often unseen and unprotected from child sexual exploitation, and identifies areas where we believe change is needed. The Government must strengthen the law so that all children and young people experiencing exploitation are recognised as victims, and get the protection and justice they deserve.

16 years old



Chloe has developed a peer group who regularly drink and smoke cannabis, leading to petty crime issues. She was recently arrested for anti-social behaviour.

Chloe is associating with other young people who go missing and stay over at risky adult addresses. Chloe's name has been linked to a police operation to tackle CSE – a known perpetrator had her name and details on a piece of paper in his flat and had befriended Chloe online.

There is a major concern about Chloe hanging around with a woman in her 20s. An attempt has been made to see if the police could issue a harbouring notice to stop the woman seeing Chloe, but this option is not available now because Chloe is 16.

Gran now refuses to have Chloe back as she feels that she can no longer manage the behaviours that Chloe is showing.

Chloe still has a 'child in need' plan – but it seems to change daily.

Chloe's dad is in supported accommodation and because of Chloe's behaviour there is a risk of him losing his current address, so he has said she can no longer live with him.

The response from social care is inadequate. There is a sense that the social worker has just been waiting until she can transfer Chloe to the 16-plus team and progress her to 'independent' living.

Chloe says she wants her own accommodation, which has led to differing views from social care and housing: both are saying that the other is responsible for sorting her out with some accommodation; neither are taking ownership and actually progressing some support.

If Chloe gets her own flat and is supported to live independently, there are real questions about the risks she may face and her ability to succeed under such arrangements.

Chloe is being treated as an adult but she still faces huge risks which date back to inadequate support throughout her teens. Now this support is dwindling even further, leaving her abandoned and vulnerable when she is at a crucial transition point between childhood and adulthood.

'Social care seem to have hung on until Chloe reaches 16, when she will just be progressed on to independent living. But she is still at risk and things are getting worse.'

Practitioner

Methodology

This report has been based on the following sources of information:

- Freedom of Information requests sent to 39 police forces in England. These requests inquired about sexual offences recorded where the victims were aged 16 or 17, the outcomes in relation to crimes where young people were aged 16 or 17, the number of cases where 16 and 17 year olds were flagged as being at risk of sexual exploitation and policies for when young people at risk of CSE turn 18. Out of 39 requests for information sent, 30 responses were received – a 77% response rate.
- Analysis of the Crime Survey for England and Wales. Data in relation to 16 and 17 year olds from the last three crime surveys has been accessed and analysed, April 2011 – March 2014. Data from the most recent survey (2013-14) was used to calculate the percentage of girls aged 16 and 17 who said that they were victims of a sexual offence in the last 12 months.
- Structured interviews with 10 practitioners from The Children's Society's specialist projects supporting children affected by child sexual exploitation, located in seven different areas. The interviews explored the local processes in place to identify and respond to young people affected by CSE, disruption and child protection responses to young people aged 16 and 17, and availability and access to therapeutic support for victims of CSE. Interviewees were also asked to identify and make recommendations for change.
- Analysis of 30 case notes reflecting direct work with 30 young people aged 16 and 17. The case notes we accessed originated in five specialist CSE projects.
- Freedom of Information responses from 53 mental health trusts which informed our Access Denied report. For this report we analysed questions that focussed on access to services and response to victims of sexual exploitation and abuse.

Summary of key findings

Identification

- 16 and 17 year olds are a group of young people who are at high risk of being victims of sexual crimes. Our analysis of the Crime Survey for England and Wales has identified that females aged 16 and 17 are at the highest risk of being a victim of a sexual offence – with nearly 1 in 10 (8.6 %) of them reporting that they have experienced a sexual offence in the last 12 months. If these findings were reflected across the population this would equate to around 50,000 16 and 17 year old girls who had experienced a sexual offence in the last year in England and Wales.
- Our analysis of the Crime Survey for England and Wales also shows that of the 16 and 17 year olds who do not report sexual abuse to the police, around 50% consider the abuse to not be worth reporting, while others state that they don't report sexual abuse because they don't want to go to court, or because they do not want the perpetrators of the abuse punished.
- There is a clear lack of data on how 16 and 17 year olds experience crimes. For the Crime Survey reports and in official crime statistics their numbers are grouped with crimes reported by all adults 16 to 59, which makes it impossible to get the full picture about this very vulnerable group of young people.
- Data from 30 police forces in England shows that in the

last four quarters around 3,900 crimes of sexual nature – including rape, sexual assaults, sexual exploitation, pornography and trafficking – have been recorded where the victim was 16 or 17. This is on average 4.7 crimes per 1,000 16 and 17 year olds. Across England, this would add up to around 4,900 sexual offences recorded where the victim is 16 or 17.

- The FOI responses and interviews with practitioners in our projects showed that the data on children flagged as being at risk of CSE is patchy, and that there is no consistent approach to recording and sharing this data. Of 30 responses, six police forces that provided information stated that 676 children are, or have been flagged – with 143 presently flagged in one police force that did not have breakdowns per year. A further six forces either do not record information this way or it is not easily retrievable. Three forces did not answer the question, and the remaining 15 forces refused.
- Interviews with practitioners and analysis of 30 stories of 16 and 17 year olds we have supported show that often, because of their age, these young people are not always recognised as victims of child sexual exploitation – either legally or by some professionals responsible for keeping children safe. In cases where young people are recognised as victims, there is sometimes confusion about what interventions can

be undertaken, particularly because the law fails to address how the age of consent interacts with grooming and exploitation.

Response

- Data from the police forces shows that around 1 in 5 cases of sexual crimes recorded by the police where the victim is aged 16 or 17 result in charges, and 8 in 10 result in no further action. The major reasons for no further action (where specified) included the lack of evidence and the victim not being willing or able to progress.
- The data on the number and outcomes of court proceedings for crimes of sexual nature where the victim was aged 16 or 17 is not available. But CPS data indicates that around a quarter of cases where the offences are related to child abuse result in a 'no prosecution' decision – and that in 1 in 4 cases of child abuse the prosecution is not successful. In the majority of cases the reason given is acquittals (65%) while 'victim issues' make up 13% of unsuccessful prosecutions (eg victim retraction, victim non-attendance, evidence from the victim not supporting the case).
- Interviews with practitioners and analysis of case studies revealed that there is no consistent child protection response in cases of 16 and 17 year olds who are identified as at risk of CSE. In some cases these young people become looked-after, in others they

are put on a child protection plan or are subject to a 'child in need' plan or 'child at risk of sexual exploitation' plan. In many cases children will not have any specific status of vulnerability which determines the response they receive from professionals.

- There is an inconsistent response to disruption of CSE. We did not come across evidence that new sexual harm orders or sexual risk prevention orders are being used extensively to disrupt sexual exploitation of 16 and 17 year olds. The interviews did highlight that the absence of a disruption tool such as Child Abduction Warning Notices (CAWN) is a major problem, as those allow rapid disruption response. Currently, CAWNs can only be used where the child is under 16, which means police cannot use these tools for 16 and 17 year olds who are at risk. In relation to 16 and 17 year olds, the disruption appears to rely more on working with the young person to enable them to disengage themselves from exploitative adults and/or enabling the young person to make a disclosure.

Focus on young people's experiences

- Interviews with practitioners and analysis of cases from our practice show that the use of drugs and alcohol, along with the prevalence of mental health issues, are the factors present in the majority of cases of child sexual exploitation of 16 and 17 year olds.

- Analysis of interviews and case studies shows that alcohol and drugs, including legal highs, are used to groom young people for sexual exploitation. Interviews and case studies confirm what is already known from a range of reports, serious case reviews and court cases: that perpetrators specifically target vulnerable young people – those from broken homes, experiencing mental health issues or living away from their birth families – for sexual abuse or exploitation.

- The law is unclear in the treatment of such cases, so it can be difficult to seek justice for this age group. Professional attitudes can perceive these young people as resilient when they are vulnerable, or as choosing to enter into these relationships, so they are not seen as child sexual exploitation victims. Interviews and case studies suggest that there is confusion on how consent is viewed in cases where a young person uses drugs and alcohol and relies on an adult for supply. Anecdotal evidence suggests that in some cases – including in some court cases – consent to use drugs and alcohol is viewed as consent to take part in sexual activity.

- Young people's access to therapeutic support is very patchy. We found evidence that vulnerable young people recovering from trauma were not able to access mental health support services because they were not considered stable enough to

engage, or because there were safeguarding agencies involved. Only 14% of trusts have procedures in place to ensure priority access to services for child victims of sexual abuse and exploitation.

- When 16 and 17 year olds do disclose abuse, the justice process can be both long and confusing. Analysis of case reports raises concerns about the large number of people involved, the long time it takes to progress the case and the lack of information and updates for young people on decisions made in the process.
- Young people's vulnerability does not stop at the age of 18 – yet many children's professionals stop being involved in their lives at this stage. Responses to our FOI request from the police forces ranged from stating that at the age of 18 the flag of child sexual exploitation is taken down as young people are no longer children and cannot be seen as being at risk of CSE, to those that continued the flag up until the level of risk was low. But very few could identify a clear vulnerable adult pathway that would be put in place instead.

Recommendations

In too many instances, 16 and 17 year olds do not have the same protections as younger children. In relation to child sexual exploitation, this can leave vulnerable older teenagers in grave danger, facing hidden abuse and harm. The Children's Society believes the Government has a crucial opportunity to make sure that all children and young people are no longer unseen and unprotected from child sexual exploitation, that they are recognised as victims, and that they get the protection and justice they deserve.

Our recommendations will benefit all children and young people, but they are aimed in particular at closing some of the gaps we have identified for young people aged 16 and 17, who currently linger in the grey area between childhood and adulthood, too easily falling through the cracks in protection and support.

Protection

- The Government should clarify that where the victim of a sexual offence is 16 or 17 this should always be considered an aggravating factor in the offence for sentencing purposes. The law should send a strong message that crimes against all children, including those aged 16 and 17, will not be tolerated.
- The Government should clarify that for prosecution and sentencing purposes, a young person's consent to take drugs and alcohol can never be viewed as consent to sexual acts.

- The Government should recognise that some vulnerable young people – including children in care, children recovering from trauma, and children with mental health problems or learning disabilities – are deliberately targeted, manipulated and coerced to consent to sexual acts by adults. Prosecution guidelines should clarify that vulnerabilities such as these should be considered when determining young people's capacity to consent. In cases of sexual offences, where a victim is in one of these groups, this should always be considered a further aggravating condition of the offence.
- The Government should raise the age for Child Abduction Warning Notices from 16 to 18 to ensure the police can intervene when vulnerable 16 and 17 year olds are targeted by predatory adults for the purposes of exploitation, either of a sexual or criminal nature. In particular, the use of CAWNs should be extended to cover vulnerable 16 and 17 year olds, including children looked after by local authorities where the parental responsibility remains with the parents, children recognised by the local authority as a 'child in need' and those living away from families because of risk of homelessness.
- The Government needs to revise the guidance on child sexual exploitation and make it statutory. The guidance should provide a clear explanation of what constitutes sexual

exploitation and grooming (particularly in the case of 16 and 17 year olds), provide clarity on how grooming and exploitation protections interact with the legal age of consent, and outline what safeguarding response should be expected.

Support

- We recommend that the Government should ensure that all victims of sexual crimes aged 16 or 17 have access to specialist therapeutic or mental health support.
- The Government – through the supplementary 'Working Together' guidance on child sexual exploitation – should define how young people who have been identified as at risk, or victims of, child sexual exploitation or sexual abuse should have a clear transition plan to enable them to access services for vulnerable adults when they turn 18 and ensure that they have their needs met and have continuous support needed to recover. This should include enabling a young person to develop a supportive relationship with a consistent professional through the transition process and beyond.
- Police, children's services, health and education staff should receive better initial and continuous development training on child sexual exploitation, the emotional impact it has on a child, and how to work with and support victims of child sexual abuse and exploitation. All services should be adequately resourced to respond

effectively to children who display indicators of sexual exploitation and ensure that they can provide consistent support for young people.

- We recommend that the Government introduces standard data collection on child victims of sexual crimes under the age of 18, to ensure that there are the same standards of flagging and identifying victims on all police systems, and that the progress of cases via the justice system – from the recording of crime to court proceedings – can be effectively monitored.

Participation

- We urge the Government to introduce victims' legislation to ensure that the principles outlined in the EU Victims Directive that comes into force on 16 November 2015 are enshrined in law and are implemented in relation to children and young people. It should introduce clear standards on how young victims of crimes of a sexual nature are kept informed about the progress of investigation and court processes.



About The Children's Society

It is a painful fact that many children and young people in Britain today are still suffering extreme hardship, abuse and neglect. Too often their problems are ignored and their voices unheard. Now it is time to listen and to act. The Children's Society is a national charity that runs local projects, helping children and young people when they are at their most vulnerable, and have nowhere left to turn. We also campaign for changes to laws affecting children and young people, to stop the mistakes of the past being repeated in the future. Our supporters around the country fund our services and join our campaigns to show children and young people they are on their side.

In 1995, The Children's Society published *The Game's Up*, one of the UK's first pieces of research highlighting the issue of child sexual exploitation (CSE). Since then The Children's Society has been a leading voluntary sector provider of support for young people affected by CSE. We now deliver direct services in 16 projects which cover 25 local authorities across England.

The Children's Society provides independent confidential services that offer a genuine alternative to statutory-based forms of support but at the same time work in partnership within multi-agency teams and other arrangements that allow delivery of high-quality services that secure positive outcomes for children, young people and their families.

In the last 12 months, through our programmes we worked with 696 young people affected by child sexual exploitation – 261 of them were aged 16 or 17 and 123 were over 18.

The internal stakeholder review of The Children's Society's child sexual exploitation services carried out by the University of Bedfordshire in 2015 stated that the following principles of our direct service:

'cohere strongly with the values/principles of practice identified by existing research as enabling effective support for young people affected by CSE:

- Relational: trustworthy, non-judgemental, reliable
- Holistic support: advocacy, strength-based, dual focus on protection and prosecution
- Access: perseverance, flexible provision, voluntary engagement
- Child-centred: inclusive, rights based, participatory
- Rights-based advocacy and participatory approaches.'

The range of direct CSE services delivered includes: awareness-raising, targeted support for individual young people, targeted work with groups of children at high risk, and support for parents. Those services have been organised around the following themes, which are now recognised in most strategies designed to tackle CSE:

- Prevent
- Protect
- Prosecute

The Children's Society service model adds a fourth 'P' – Participation. Our services are based on ensuring children and young people have a voice to ensure their views will shape the services and the ways in which practitioners engage with them.



Introduction

The true scale of sexual abuse and exploitation of children and young people is only now beginning to emerge. Recent cases all around the country make it clear that any child can be targeted and that abuse can take many forms: familial sexual abuse, the ‘boyfriend’ model, exploitation by groups and gangs, online and peer-on-peer.

Children of any age can be victims and need to be protected. But the limited data available indicates that teenagers, especially older teenagers, are at particularly high risk of sexual victimisation and exploitation by people outside their familial circles. Around 44% of the 16,500 young people who were identified as at risk of sexual exploitation by groups and gangs were aged 16 and 17.¹

New research from The Children’s Society indicates that across England and Wales, females aged 16 and 17 are at the highest risk of being a victim of a sexual offence compared to all adults over the age of 18, with nearly 1 in 10 (8.6%) reporting that they have been the victim of a sexual offence in the last year (based on the analysis of data from the Crime Survey for England and Wales). Furthermore, this analysis shows that as age increases into adulthood, the risk of victimisation reduces significantly. Our Seriously Awkward report published earlier this year explored some of the issues that may make older teenagers more vulnerable to exploitation.² Firstly, teenagers’ emotional, behavioural and decision-making abilities continue to develop during adolescence, making it an important period of growth.

But it is also a period of greater vulnerability, because different parts of the brain mature at different rates, which can lead to developmental imbalances and risk-taking behaviours during teenage years.³

Secondly, as older teenagers approach adulthood, adult supervision reduces. At the same time, older teenagers’ social networks and horizons can be expanding, so they can be exposed to more situations where they can be targeted by predatory individuals – including being targeted for sexual abuse and exploitation.

Our report particularly highlighted how teenagers aged 16 and 17 may feel under pressure to take part in ‘adult’ activities, and some reported taking part in activities that could place them at risk of harm. For example, 15% reported feeling under pressure to spend time with people they did not feel comfortable with, and the same number felt under pressure to attend parties where they did not feel comfortable. Nearly 1 in 10 (8%) also reported feeling under pressure to engage in sexual activity and 1 in 20 (6%) to send explicit pictures of themselves. While in relation to most activities the biggest pressure was coming from peers, worryingly nearly 4 in

10 (38%) of those young people who reported the pressure to take and send explicit pictures of themselves indicated this pressure came from contacts they met online.

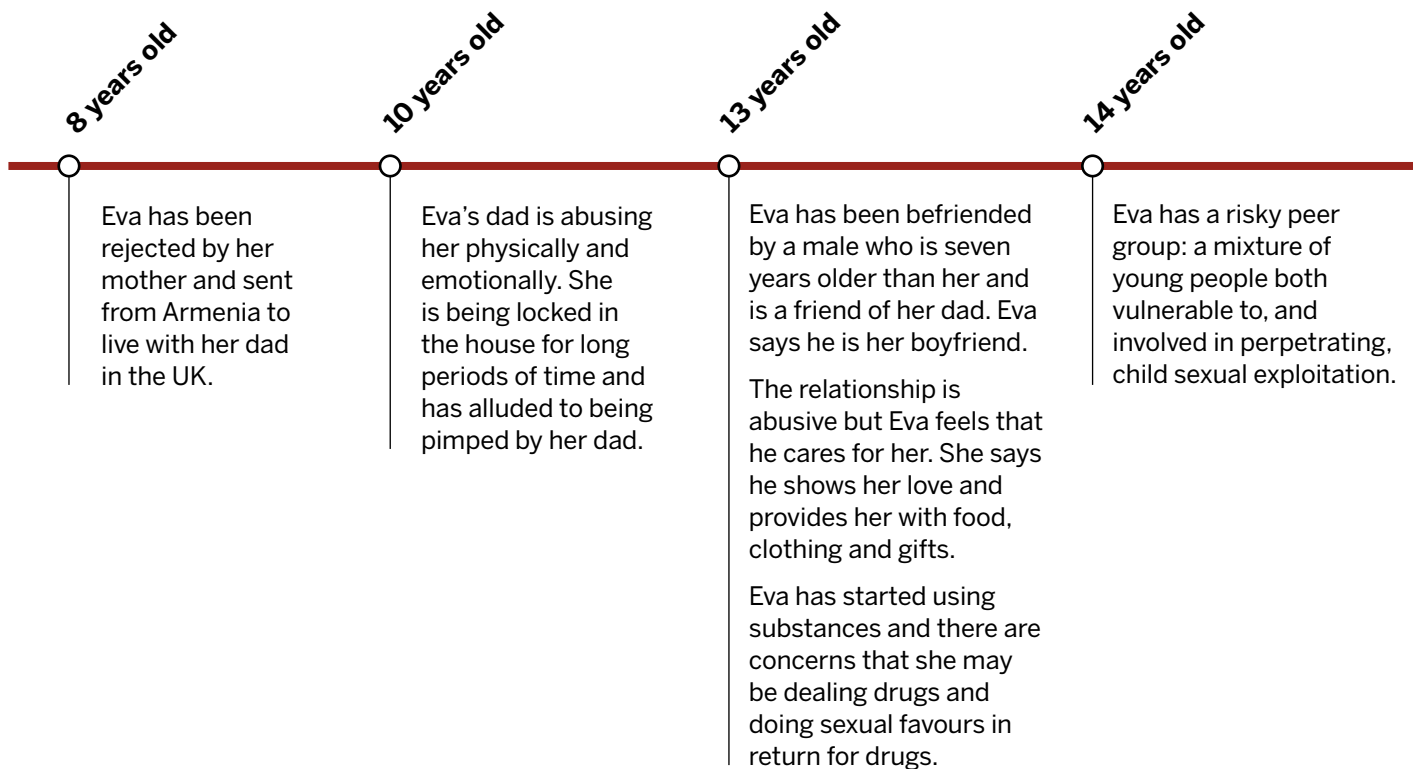
The Seriously Awkward report also confirmed what is known from other research: that during their teenage years many young people may be experimenting with alcohol and illegal substances. Worryingly, our poll suggested that 50% of 16 and 17 year olds were drinking alcohol, almost 1 in 10 reported taking illegal drugs, and around 6% reported taking legal highs. These statistics are self-reported and need further research to fully understand, but many of those who reported that they had taken part in these activities indicated that they did so without any pressure from anyone else.

Our report also highlighted that young people aged 16 and 17 who had previously experienced neglect, abuse or other traumatic events that impact on their development and mental health, were very likely at the age of 16 to become disengaged from support services.

Case study B (on page 20) demonstrates how this can happen.

Case study B: A journey of vulnerability

This case study is taken from interviews with practitioners about vulnerable 16 and 17 year olds they have supported. Names have been changed to preserve anonymity.





15 years old

Eva has been taken into care. She has been moved into a children's home but is continuing her relationship with the older male.

In time, Eva makes a disclosure to the staff in the children's home about the 'boyfriend', saying that he is violent, possessive and has made threats to kill her. The police are informed and the man is arrested and given a short prison sentence.

16 years old

Eva's placement in the children's home has broken down and she has moved to a new children's home.

Those trying to support Eva feel that they are starting to make progress now that the 'boyfriend' is in prison, but Eva feels guilty. As she cannot make contact with the 'boyfriend' things are starting to settle down. Eva is beginning to form good relationships with the staff in her new placement and at college.

17 years old

When Eva's 'boyfriend' comes out of prison she gets back into a relationship with him. Because of her age there is a perception that agencies consider the relationship with the 'boyfriend' as domestic abuse rather than child sexual exploitation, making it more difficult to protect her.

Eva has a social worker, but she hardly ever sees her and is not really getting any support. The children's home she is in leaves Eva to her own devices. There seems to be an attitude that 'she is 17 so she can look after herself', when in fact Eva has been robbed of her childhood.

Eva is using substances daily, she says it helps her block out the pain of her past and cope with the present. It's impacting on her attendance at college and she is at risk of being expelled. Eva's outlook now is that life is tainted, so she should just lead the life she currently has.

Eva now has a leaving care social worker and the plan is for her to live in her current placement until she is supported to move into independent living – but while she has a streetwise demeanour, her past experiences and her current exploitative relationship make Eva extremely vulnerable.

Eva needs support to build her self-esteem and awareness of her rights, so that she can exit the abusive relationship she is in. Therapeutic work and counselling might help Eva to understand the earlier traumas that she has been through.

'If Eva was 13 or 14 when she was admitted into care the agencies would have done more, but because she was 15 she did not get the intensive support that she needed. Ideally a foster placement would be better than a children's home, but social care will not put her in a placement at this time.'

Practitioner

In some cases young people tell us they feel they could no longer trust professionals due to their earlier negative experiences with different professionals in their lives. In other cases they may have learnt to normalise experiences of abuse as a way of dealing with the earlier trauma they experienced. Sometimes young people who have not experienced love and affection growing up mistakenly believe that their abusers are the only people who care about them. They believe themselves to be in relationships with their exploiters, so are unable to either identify abuse or make a disclosure to professionals.

From The Children's Society's notes:

'Whilst we were out I spoke to the young person about the concerns that had been highlighted about relationships between her and [her boyfriend]. Young person denied most of it and said that her boyfriend had only ever hit her once, he doesn't make her have sex with him and everything they do together she wants to do. Young person said whatever happens between her and her boyfriend is between them, as she is the only one that knows just how much he cares for her. Young person seemed to have lots of excuses for her boyfriend's behaviour and was angry when I told her that concerns will need to be shared with the police and social care.'

From The Children's Society's notes:

'I am really concerned about young person as I feel she will do anything to protect her boyfriend as she feels he has saved her from a harder life at home. She seems to not realise the way her boyfriend is behaving towards her puts her in just as much risk.'

Because of the impact abusive and exploitative relationships have on children and young people, child protection laws are very clear: the onus of identifying, disclosing and removing themselves from an abusive situation should never be on the child. It is the responsibility of professionals to ensure that all children and young people under the age of 18 are safe and protected.⁴

Unfortunately, the complex interaction between the child protection legislation and laws on sexual offences make that message less clear in relation to 16 and 17 year olds, sending inconsistent messages to professionals in children's services, police and the justice system. This messaging is further complicated by the legal age of consent to sexual activity being 16, meaning both victims and

those who should support them may not recognise exploitation is taking place. This may leave older teenagers not being regarded as victims and left without protection or support. The result is a failure to protect 16 and 17 year olds affected by sexual abuse and exploitation, allowing those who target them to walk away unchallenged and able to move on to their next victim.

around

1 in 10

16 and 17 year old
teenage girls said
they were a victim
of a sexual offence
last year.

1 in 4

prosecutions
of child sex
abuse cases are
unsuccessful.

8 in 10

cases of sexual
offences against
16 and 17 year olds
reported to the
police resulted in no
further action.

The police currently
lack the tools they
need to intervene
early to disrupt sexual
exploitation of
older teenagers.

‘She told me that she deserves everything she has experienced and that if she was successful with an overdose it would have been better for everyone.’

From The Children’s Society’s case notes

Chapter 1

**Legal frameworks on the protection of 16 and 17
year olds from sexual abuse and exploitation**

Sexual abuse and exploitation are horrible crimes that can have long-lasting detrimental impacts on children's health and well-being. All children should be given the protection they need from adults who target them for abuse. Appropriately, the Government has made a strong commitment to tackle the sexual abuse of children and given it the status of a national threat in the Strategic Policing Requirement, ensuring that this issue is prioritised in

each police force and in every area.⁵

The law defines a child as a person under the age of 18. The Children Act 1989 and all relevant regulations and guidance, including the United Nations Convention on the Rights of the Child, set out clearly that every person under the age of 18 is a child and therefore should be protected, and also place responsibility on local authorities,

police and other agencies to safeguard and protect all children below the age of 18 from risk of harm. Box A provides an overview of the legal frameworks that aim to protect children from abuse, including sexual abuse. While these frameworks are clear that protections should apply to everyone under the age of 18, other laws are inconsistent in relation to 16 and 17 year olds, leaving them unprotected in many cases.

Box A: Child protection legislation and guidance

	What protection is (or is not) offered to 16 and 17 year olds
United Nations Convention on the Rights of the Child	<ul style="list-style-type: none"> ■ Article 1: defines a child as below the age of 18, unless laws of a country define the age of adulthood as younger. The Committee on the Rights of the Child has encouraged all countries to review the age of adulthood to provide protection for all children up to 18. ■ Article 34: States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent: <ul style="list-style-type: none"> ■ (a) the inducement or coercion of a child to engage in any unlawful sexual activity; ■ (b) the exploitative use of children in prostitution or other unlawful sexual practices; ■ (c) the exploitative use of children in pornographic performances and materials. ■ Article 39: States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.
The Children Act 1989 The Working Together statutory guidance	<ul style="list-style-type: none"> ■ Defines a child as anyone who is under the age of 18. ■ Places 'a general duty on every local authority to safeguard and promote the welfare of children within their area who are in need'. ■ Places a duty on local authorities to investigate, where they are informed that a child who lives, or is found, in their area is suffering, or is likely to suffer, 'significant harm' and take them into care. ■ Allows for a young person up to the age of 18 to be placed in secure accommodation where it is believed that they are likely to cause significant harm to themselves or others.

Yet while safeguarding and child protection guidance clearly defines that all children below the age of 18 should be protected, the

legislation governing responses to crime differentiates between children of different ages. This leads to varying levels of

protection from exploitation, as set out in Box B.

Box B: Legal framework on responses to crimes of a sexual nature

Existing Laws	What protection is (or is not) offered to 16 and 17 year olds
The Criminal Law Amendment Act 1885	<ul style="list-style-type: none"> ■ Raised the age of consent to 16.
Sexual Offences Act 2003	<ul style="list-style-type: none"> ■ Stipulates that sexual offences committed against children under the age of 13 are always crimes and there is no defense of mistaken belief that the child was older. ■ Sexual offences against children aged 13 to 16 are crimes if a defendant could not reasonably believe that the child was older than 16. ■ Treats 16 and 17 year olds the same as adults for most sexual offences, apart from cases where offences were committed by a person in a position of trust (eg a relative or service provider such as a teacher or medical professional). ■ Prohibits taking and sharing of indecent photographs of 16 and 17 year olds. ■ Contains the offence of sexual exploitation of any person under the age of 18, where sexual services of a child are procured for a promise of payment – although conviction or indictment in cases of 16 and 17 year olds carries a shorter maximum term than for other age groups (seven years in comparison to 14 for those under the age of 16, and life in cases where the victim is under the age of 13). ■ Makes it an offence for an adult to contact a child under the age of 16 online and to travel to meet the child for sexual activity (grooming offence).
The Serious Crime Act 2015	<ul style="list-style-type: none"> ■ Created an offence of 'sexual communication with a child under the age of 16'. ■ Amended the Sexual Offences Act 2003 by renaming 'child prostitution and pornography' as 'child sexual exploitation'. A person is sexually exploited if: <ul style="list-style-type: none"> ■ (a) on at least one occasion, and whether or not compelled to do so, he or she offers or provides sexual services to another person in return for payment, or a promise of payment, to them or to a third person. Or ■ (b) an indecent image of them is recorded. ■ The sexual exploitation offence is applied to all children under the age of 18.
The Child Abduction Act 2004 The Children Act 1989	<ul style="list-style-type: none"> ■ Introduced Child Abduction Warning Notices (CAWNs) which can be used to disrupt contact between a vulnerable child and an adult where there are concerns that the child may be at risk of harm, sexual exploitation, involvement in crime, or there are other risks posed by an adult. All children under the age of 16 are protected from abduction. ■ Only permits the use of CAWNs for 16 and 17 year olds who are in the care of the local authority under Section 31, otherwise it depends on the majority of parental responsibility being with the local authority.
The Anti-Social Behaviour, Crime and Policing Act 2014	<ul style="list-style-type: none"> ■ Introduced Sexual Harm Prevention Orders/Sexual Risk Orders to protect all children under 18, and vulnerable adults, from harm and risk of sexual exploitation.

Variations in the law mean professionals do not always feel clear about what their response to young people aged 16 or 17 should be. In particular, the interaction between the legal age of consent and laws on sexual abuse and exploitation means 16 and 17 year olds do not have the same

protection as younger children. We see in our frontline work how these vulnerable teenagers are often not recognised as victims of exploitation, how professionals can be unsure or reluctant to intervene, and how the police can find it very difficult to bring perpetrators to justice. As a result,

16 and 17 year olds often fall through the cracks in services or become difficult to engage, and may eventually refuse to accept help.

1.1. Key issues that make joint working and progression of cases from identification to prosecution difficult

One of the key themes from interviews with practitioners from The Children's Society's specialist projects was the lack of real clarity across different services – such as children's services, police, education and health – of what child sexual exploitation, grooming and consent mean in cases of 16 and 17 year olds. Our practitioners reported that the lack of consistent definitions mean that 16 and 17 year olds are often not getting the response they need, or are getting different responses in different geographical areas.

Similar observations have been reported before:

*'There are several occasions in this report when children and/or professionals are said to be "confused" about the meaning of consent. This refers to young people, and professionals, failing to identify the circumstances under which a child (anyone under 18) was unable to consent freely to sexual activity – for example drunkenness, influence of drugs, threats of violence towards the young person or their family, grooming or a power imbalance between victim and perpetrators. This is why a 16 or 17 year old can be sexually exploited even though they are old enough to consent to sexual activity.'*⁶

Even in cases of sexual offences relating to children aged between 13 and 16, where the defendant can claim that they believed a child to be older, investigations and prosecutions are difficult.

*'Evidence from the police, both in written and oral sessions, stated that the requirement to prove that a defendant did not reasonably believe that the child is 16 or over acts as a significant barrier to investigation and prosecution. Indeed, one submission stated that "the phrase works exactly like a clause in the law specifically created to protect adults who wish to abuse children".'*⁷

The issue of consent in cases of 16 and 17 year olds is particularly unclear, since young people of this age can give consent to sexual relationships, but their age may mean they are not always able to identify abusive or exploitative sexual relationships. For example, research by the University of Bedfordshire highlighted that the vast majority of incidents of peer-on-peer sexual violence described to their researchers by young people (including many incidents of rape and other serious sexual assaults) were articulated not as crime, harm or victimisation, but as normal patterns of sexual activity. The research identified an increasing normalisation of sexual violence in adolescence, in which peer-on-peer sexual offending can be an unquestioned and unchallenged part of some young people's experiences of sex and relationships.⁸

Practitioners particularly highlighted the challenge of working in the context of the different definitions that are applied in the child protection system and the justice system.

Child sexual exploitation and grooming

The most widely used definition of child sexual exploitation that is used across all agencies responsible for safeguarding children is contained in supplementary non-statutory guidance to the statutory guidance on Working Together to Safeguard Children.

The supplementary guidance to Working Together to Safeguard Children defines CSE as:

'Sexual exploitation of children and young people under 18 involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive 'something' (eg food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money) as a result of them performing, and/or another or others performing on them, sexual activities.'

'Child sexual exploitation can occur through the use of technology without the child's immediate recognition; for example being persuaded to post sexual images on the internet/mobile phones without immediate payment or gain. In all cases, those exploiting the child/young person have power over them by virtue of their age, gender, intellect, physical strength and/or economic or other resources.'

'Violence, coercion and intimidation are common, involvement in exploitative relationships being characterised in the main by the child or young person's limited availability of choice resulting from their social/ economic and/or emotional vulnerability.'

The definition of child sexual exploitation under the Sexual Offences Act 2003, as amended by the Serious Crime Act 2015, states that:

A person is sexually exploited if:

(a) on at least one occasion, and whether or not compelled to do so, he or she offers or provides sexual services to another person in return for payment or a promise of payment to them or to a third person.

Or

(b) an indecent image of them is recorded.

This legal definition fails to recognise some crucial elements of child sexual exploitation, namely: power/coercion, making a young person believe that they exchange sex for affection, and the vulnerability of the victim.

The Sexual Offences Act 2003 also explains the offences of 'meeting a child following sexual grooming etc.' as a person aged 18 or over meeting or communicating with a child under the age of 16 once, then meeting or travelling to meet the child with intention to engage them in sexual activity.

This legal definition of grooming is helpful in cases where a young person is targeted on social media, and the number of prosecutions for grooming is growing.⁹ However, our practitioners were concerned that this definition does not reflect the grooming techniques used by perpetrators in cases of older teenagers, where they are offered free alcohol and drugs and coerced into sexual activities. This is one of the key themes arising from the analysis of cases from our direct work with young people, as described in Chapter 2 of this report.

**From interviews with
The Children's Society's
specialist staff:**

'When you're working with young people and seeing them day-to-day, grooming is grooming and it doesn't make any difference what age the young person

is. The law and what you see as professionals on the ground is very different. It can cause huge problems if you just stick to what the law says is grooming, having a cut-off point for older children means they're put at risk.'

Consent

The legal definition of consent, and how consent can be impaired if the young person is groomed through alcohol or drugs or under the influence of substances, is not reflected in the law. It is particularly difficult in the cases of 16 and 17 year olds who are legally allowed to consent but may be confused about the issue of consent themselves (confusion may be amplified because of childhood experiences or past trauma) or who may have taken alcohol and drugs voluntarily from a person who later abuses them sexually. The law does not reflect that children under the age of 18 are still vulnerable and should not be supplied with drugs and alcohol (see Box C on page 61 for an overview of the laws on drugs and alcohol).

Section 74 of the Sexual Offences Act 2003 simply defines consent as:

'A person consents if he or she agrees by choice, and has the freedom and capacity to make that choice.'

After setting out the definition in Section 74, the Sexual Offences Act 2003 goes on to set out some presumptions about consent and the circumstances in which the burden of proof is shifted to the defendant. It applies only where the defendant: used violence or the threat of violence; unlawfully detained the victim; where the victim was asleep or unconscious; where the victim was unable to communicate consent due to physical disability. Where these limited circumstances apply, the burden will be on the defendant to satisfy the judge that there is a real issue about consent, and that this is worth putting to the jury. If the judge does not think that there is a real issue, then they will direct the jury accordingly.¹⁰

Furthermore, regardless of other circumstances, Section 76 of the Act sets out that consent would not have been provided if the defendant intentionally deceived the complainant as to the nature or purpose of the relevant act, or the defendant intentionally induced the complainant to consent by impersonating a person known to the complainant. Only focusing on deception or impersonation creates a high barrier and places the onus on the victim to say consent was not given, which can be particularly difficult for 16 and 17 year old victims.

As far as alcohol is concerned, the prosecution guidelines cite the Bree judgement. The Bree judgment refers to loss of the capacity to consent and states that:

*'If, through drink (or for any other reason) the complainant has temporarily lost her capacity to choose whether to have intercourse on the relevant occasion, she is not consenting, and subject to questions about the defendant's state of mind, if intercourse takes place, this would be rape. However, where the complainant has voluntarily consumed even substantial quantities of alcohol, but nevertheless remains capable of choosing whether or not to have intercourse, and in drink agrees to do so, this would not be rape.'*¹¹

Even though the Crown Prosecution Service guidance on rape and sexual offences expands on the statutory definition as explained in the guidelines alongside, it still does not offer sufficient recognition of the vulnerability of a young person. Considering that the law defines a child as any person under the age of 18, we believe that in cases of sexual offences against children aged 16 and 17, the law should shift the burden of proof on the defendant; recognise that a child's use of alcohol should never be a factor to support that consent was given; and recognise that if the victim is aged 16 or 17, this should be seen as an aggravating factor for sentencing purposes.

The Crown Prosecution Service guidance on rape and sexual offences says consent must be considered in two stages:

'Whether a complainant had the capacity (ie the age and understanding) to make a choice about whether or not to take part in the sexual activity at the time in question. Whether he or she was in a position to make that choice freely, and was not constrained in any way. Assuming that the complainant had both the freedom and capacity to consent, the crucial question is whether the complainant agrees to the activity by choice.'

As such the issue of consent would be interpreted differently for young people under the age of 13, those under the age of 16 and everyone else above the age of 16.

The CPS guidance goes on to state that:

'The question of capacity to consent is particularly relevant when a complainant is intoxicated by alcohol or affected by drugs... [in cases involving intoxication] prosecutors should carefully consider whether the complainant has the capacity to consent, and ensure that the instructed advocate presents the Crown's case on this basis and, if necessary, reminds the trial judge of the need to assist the jury with the meaning of capacity.'

On advice to juries, the guidance simply says that:

'Juries must be told that the word should be given its ordinary meaning, and that there is a difference between "consent" and "submission".'

Our recent research on young people with learning disabilities affected by sexual exploitation highlighted a group of children who are particularly vulnerable to being exploited. But more broadly, this research also highlighted that there is a real lack of understanding of what true consent is – particularly where the young person does not have a formal diagnosis of a learning disability or only has a mild learning disability.

From The Children's Society's case notes:

'Concerns for young person over increase in physical injuries from the sexual exploitation and taking pictures. In my opinion it would seem that young person does not have an awareness that what the majority of men she meets are doing is inappropriate or criminal. [Police Officer] discussed that although she feels that the young person will be assessed as having capacity, she feels she does not have the capacity when her emotional/mental state is aroused.'

From The Children's Society's case notes:

'Young person was very upset when I arrived, she was feeling frustrated that she returned home from [name of place] straight into a capacity assessment. Young person said she felt like the lady doing the assessment was not believing her story. I stressed to young person that it was important that she knows that the professionals around her do not feel she is lying and believe that she is a victim of a horrible offence that she did not deserve. I said it was really important that she holds onto this throughout the lead up to court and during court. We discussed writing this on a card to remind her which she can keep throughout her court trial. Young person said that the lady kept referring to her as a "witness" and young person explained that she did not stand and watch what happened,

but that it happened to her. I explained to young person that this was court talk and that she is most definitely a victim but that she may be referred to as a witness at times.'

From The Children's Society's case notes:

'I explained that the young woman has currently been assessed as having capacity to consent. Police officer agreed it sounded like she was vulnerable and being targeted, but due to young woman not wanting to come forward, and due to her having capacity to consent, they are unable to do much at present.'

Our analysis of cases also shows the impact that relationships with abusers have on the young people who are sexually exploited. Even where the young person recognises that what they experienced was abusive behaviour and have felt a range of emotions – from shame to anger – in response to the abuse they experienced, there was also a feeling of attachment to the abuser, a level of loyalty and an inability (in some cases) to stop any further contact with the

person who caused the abuse.

These relationship characteristics are very similar to those seen in situations of domestic violence. Yet as practitioners from The Children's Society's projects observed in their interviews, the concept of coercive and controlling behaviour (and victims' responses to such behaviour) is much better understood in the context of domestic violence than in relationships between a young person and a person who has abused them. As noted by our practitioners, this can be a barrier to the successful prosecution of cases of child sexual exploitation.

The impact of public attitudes on how cases of sexual offences against 16 and 17 year olds are prosecuted

The impact of attitudes and the lack of consistency in how cases of rape and sexual assault are dealt with has been examined in a number of important reviews.^{12,13,14} They all point out that the justice system needs to improve in order to provide justice to victims of sexual offences, whether they are children or adults. However, there is not enough research available on how the attitudes of criminal justice professionals and jurors affect cases of sexual offences against children in general, and of 16 and 17 year olds in particular. This is an issue of great importance, as attitudes to children and teenagers will have great impact on decisions made at various stages of the justice process.

The Office for the Children's Commissioner's report noted:

*'When we consider CSE cases that have been successfully prosecuted, and are therefore in the public consciousness, older perpetrators tend to be involved. It is possible that enforcement agencies consider that consent is less likely to have been given when the age gap between victim and perpetrators is substantial. When there are smaller age gaps between victim and perpetrator – either because everyone involved was under the age of 18, or because the victim was 16 to 17 and the perpetrators were in their early 20s – it could be more difficult for agencies to prove a lack of consent by the victim.'*¹⁵

Ann Coffey MP also noted in her report:

*'Unless we get to a wider understanding of what a vulnerable person is, how a vulnerable person may behave in circumstances in which they have been sexually abused, and how that exploitation is taking advantage of vulnerable young women and girls in those circumstances, then clearly some young people will not have the protection of the criminal justice system. There is a public perception of a vulnerable child amplified by the media and conveyed in charity ads on posters. It shows small/crouched/wide-eyed/ needy children. The reality may be children and young people exhibiting behaviour that reflects the abuse they are experiencing – perhaps being angry and violent. To alter perceptions, there needs to be a better understanding of how vulnerability is exhibited, and we all have a role in this.'*¹⁶

Evidence from our practice suggests that a lack of understanding of what a vulnerable young person is, how vulnerability manifests itself in behaviour, why young people become victims of sexual abuse and how they find it difficult to remove themselves from situations of abuse, are not considered in reaching court judgements.

In recent years much progress has been made to reform the justice system to make it work better for vulnerable victims and witnesses, to educate legal professionals on issues of victims' vulnerabilities, and on the myths that surround sexual offences. The prosecution guidance has been amended to debunk the myths surrounding rape and sexual assault and the Crown Court Bench Book for prosecutors provides helpful advice to judges on how to instruct jurors in cases of sexual offences. Yet none of that advice focusses on 16 and 17 year old children or how they are often vulnerable and misunderstood due to their age or other vulnerabilities.^{17,18}

This is a significant gap that needs to be addressed. Currently, 16 and 17 year olds who experience sexual exploitation are too often overlooked – they are unseen as victims, unprotected by the law and unsupported by services. The evidence presented in the following chapters makes a strong case for the importance of reviewing how 16 and 17 year olds are treated in cases where they are subject to sexual abuse and exploitation.

From The Children's Society's case notes:

'Young person told me about some messages that her and a friend had received via Facebook instant message, which were extremely abusive. They included serious threats of both sexual and physical abuse. Young person showed me the messages as she had screen shot them. The person sending the message had told young person that he got her name from the CAMHS signing-in register.'

Chapter 2

The journey from identification to seeing justice done:
numbers of 16 and 17 year olds victimised through
sexual offences

Key messages:

- Compared to adults aged 18 and over, females aged 16 and 17 are the group at highest risk of becoming victims of sexual offence, with nearly 1 in 10 (8.6%) stating that they had experienced a sexual offence during the last 12 months.
- We estimate that across 39 police forces in England, the number of recorded sexual offences where the victim is aged 16 or 17 is around 4,900.
- 80% of cases of sexual offences committed against 16 and 17 year olds which were reported to the police resulted in No Further Action (based on FOI information from 22 police forces).
- These findings show that compared to older age groups, a higher proportion of young people aged 16 and 17 are reporting experiences of sexual assault, and that perpetrators of those crimes are left unchallenged and may continue to pose a threat to the same young person, or move on to new victims.
- Currently the data on 16 and 17 year olds who are victims of sexual offences is subsumed within adult data collection. The Ministry of Justice and Home Office should develop data collection that allows reporting of crimes experienced by victims, and outcomes reached, for victims of different ages.
- The Office for National Statistics should report separately on findings relating to 16 and 17 year olds who take part in the Crime Survey for England and Wales, in recognition of the evidence of the high levels of reported sexual offences experienced by this group.

From our own direct work with young people we know that older teenagers, including those aged 16 and 17, are at great risk of sexual victimisation. Research from other agencies confirms this.^{19,20,21,22}

With support from the Office for National Statistics, we have undertaken analysis of the data available on 16 and 17 year olds in the Crime Survey for England and Wales (previously only broken down for 16 to 19 year olds). This analysis identified that 16 and 17 year old females are the group at the highest risk of becoming a victim of sexual crimes – with nearly 1 in 10 (8.6%) reporting that they have experienced a sexual offence in the last 12 months. If these findings were reflected across the population, this would equate to around 50,000 16 and 17 year old girls who had experienced a sexual offence in the last year in England and Wales. See Graph 1.

Whilst this figure seems particularly high, it does seem to reflect evidence from recent cases of child sexual exploitation in different parts of the country, as well as recent reports from the Office of the Children's Commissioner, Ann Coffey MP's report on CSE in Greater Manchester and other local and national pieces of evidence.^{23,24,25,26}

From Ann Coffey MP's report on CSE in Greater Manchester:

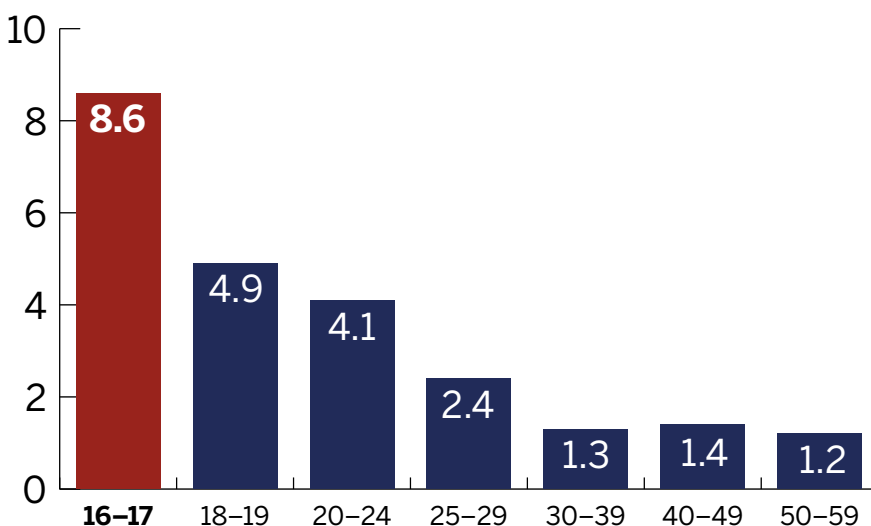
'Girls at one of the schools I visited talked about a worrying amount of unwanted attention and touching from men in the street and talked about sexual exploitation becoming the "social norm" in some areas.'

The 8.6% figure for 16 and 17 year old females who stated they had been victims of some form of sexual assault within the past year was drawn from the self-completion module of the Crime Survey of England and Wales (CSEW). In contrast, when they were asked as part of the face-to-face interview section of the CSEW if they had been victims of sexual assault within the past year, only 0.7% answered 'yes'. Whilst some of the difference

may be explained by variations in the wording of the questions, this discrepancy highlights an important methodological issue. Under-reporting of sexual abuse is a well-established phenomenon.²⁷ ²⁸ Self-completion forms allow victims of sexual abuse a level of privacy which, not surprisingly, makes disclosure less daunting than research methods which require them to reveal such sensitive information to an interviewer.

The Office for National Statistics reports based on the crime survey identified that over a quarter (28%) of females aged 16 to 59 who had experienced a sexual assault had not told anyone about the incident. One in seven (15%) had told the police about the incident, and all of these respondents had also told somebody else.²⁹

Graph 1: Percent within age groups of females who said they had been sexually assaulted (including attempts) in the past year. Data from 2013-14



Source: The Children's Society's analysis of data from Crime Survey for England and Wales, ONS

The same breakdown is not available for victims of sexual assaults who are aged 16 and 17. However, our analysis of ONS data did show that 50% of 16 and 17 year olds who reported experiencing sexual offences but did not tell the police, stated that they did not think these offences were worth reporting. The two other most frequently cited reasons for not reporting sexual abuse to the police were that they 'didn't want to go to court' and that they 'didn't want the person/people who committed the assault punished.'

This corresponds with what we see in our direct work with young people: many older teenagers we work with are not able to recognise when they are sexually exploited and therefore many would not report sexual offences to the police.

Because of the way the police record sexual offences reported by young people aged 16 or 17 (and the way the resulting statistics are published) it is impossible to build a complete picture of the scale of the problem.

The All Party Parliamentary Group for Victims and Witnesses of Crime noted in its recent report:

'It is difficult to ascertain the levels of recorded sexual offences against 16 and 17 year olds, due to the way in which statistics are published. With the exception of

*familial sexual offences, abuse of a position of trust and abuse of a child through prostitution or pornography (for which a total of 975 offences were recorded against under 18s in 2013/14), most sexual offending against children in the 16 to 17 year age range is subsumed within general adult sexual offending statistics that cover 16 to 59 year olds.'*³⁰

To establish the number of sexual offences reported to the police by 16 and 17 year olds in the last year, in August we sent Freedom of Information requests to 39 police forces in England asking for: the numbers of young people aged 16 or 17 who are flagged on police systems as being at risk of child sexual exploitation; the number of specific sexual offences recorded where the victim was aged 16 or 17, and the outcomes of investigations on crimes reported where the victim age was 16 or 17. We also asked whether a flag remains in place once a young person turns 18 and remains at risk.

Thirty police forces responded to our Freedom of Information requests, with the majority of them providing full or partial responses to our questions. The analysis of responses is presented later in this chapter.

2.1. Number of young people aged 16 and 17 years old identified as being at risk of child sexual exploitation

Of the 30 police forces which responded, only six provided the requested data on 16 and 17 year olds identified as being at risk of CSE. Across the six forces that did respond to this question, the total number of 16 and 17 year olds who were flagged on the police systems as being at risk of sexual exploitation was 819. Within these police forces, the numbers of 16 and 17 year olds flagged in this way ranged from 14 in one police force to 544 in another. This suggests huge variations in how children are being flagged as being at risk across the country.

Of the 24 police forces that did not provide an answer to this question, 15 refused on the grounds that providing this information could 'allow criminal networks to infer what level of resources were being allocated to this area of policing.' Four forces stated that they did not record information in this way, two stated that they considered the information exempt due to the retrieval costs, and three did not answer the question.

The lack of clear and consistent national and local data collection on the number of young people identified as at risk of sexual exploitation has been highlighted as an issue of concern before. For example, The Office for the Children's Commissioner identified 16,500 young people at risk of sexual exploitation by groups and gangs. Their report also noted that around 44% of 16,500 identified at risk were aged 16 or 17. In the OCC report around 2,750 young people were identified as victims of CSE.³¹

Consistent data gathering on children who are identified by different professionals as being at risk is very important for several reasons. Previous research shows that children and young people find it difficult to make a disclosure of crime, therefore the official statistics on crimes will not reflect the correct number of cases or the true scale of the problem.³²

Children who are identified as at risk of child sexual exploitation are often known to services for a variety of other reasons – they may be going missing regularly, can be at risk of homelessness, and may also be known to the police and other services as young people in trouble with the law. The analysis of cases from our practice presented in Chapter 3 confirms this. To ensure that these young people always receive an appropriate response, it is important that information is accurately gathered and shared by professionals.

Currently there is a real lack of consistent information collected on children in general and on 16 and 17 year olds in particular. For example, there is no single national database on children who go missing, despite the link between going missing and sexual exploitation. 15 to 17 year olds make up 36% of all reports of missing people made to the police. Recent statistics on children missing from care showed that over half of missing incidents and 58% of 'absent without authorisation' incidents for children in care were for children over the age of

16.³³ These statistics show the significant risks and vulnerabilities older teenagers face.

The data gathered by the Department for Education on children in need, children on child protection plans and looked-after children does not contain a separate category on child sexual exploitation. Data on 16 and 17 year olds who are at risk of homelessness is also not collected.

The research shows that factors such as going missing, or living away from their family in supported accommodation or hostels, can make young people vulnerable to sexual exploitation.³⁴ Without adequate data collection and data sharing between services, it is not possible to map out patterns of the risk of exploitation nationally and locally, and therefore impossible to go about a systematic and collective approach to tackling the issues.

Interviews with practitioners and analysis of case studies also highlighted the need for greater consistency in how data is collected and how information about individual children is shared. Practitioners highlighted a positive shift that has taken place in the last few years, both in attitudes to young people who experience sexual exploitation and abuse, and in the development of local policies and responses to these children. However, they also highlighted big variations in how these children are identified and what response they receive from different services – as discussed in Chapter 3.

2.2. Number of sexual offences reported to the police where the victim age was recorded as 16 or 17

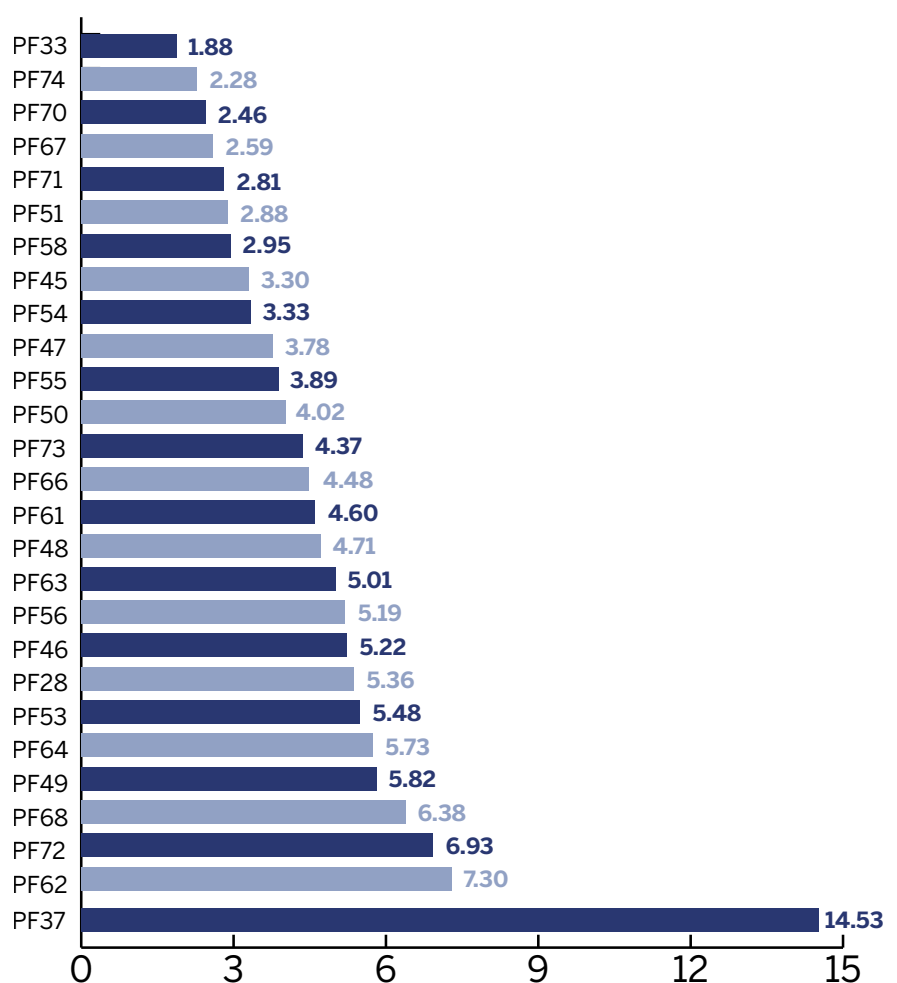
Thirty police forces responded to our Freedom of Information request about the number of crimes of a sexual nature recorded where the victim's age was 16 or 17. We asked police forces about the number of crimes reported in the following categories:

- Rape of a female
- Rape of a male
- Sexual assault on a female
- Sexual assault on a male
- Causing sexual activity without consent
- Sexual abuse by a person in a position of trust
- Familial child sexual offences
- Indecent photographs of children
- Abuse of a child through prostitution or pornography (changed to child sexual exploitation in the Serious Crime Act 2015)
- Trafficking into the UK for sexual exploitation
- Trafficking within the UK for sexual exploitation
- Offences against persons with a mental disorder impeding choice.

Based on Freedom of Information request responses, we estimate that across 39 police forces in England, the number of recorded crimes of a sexual nature where the victim is aged 16 or 17 is around 4,900. This number is likely to underestimate reported offences, since some reports may not result in a record of crime being created on the police database. It is also not likely to

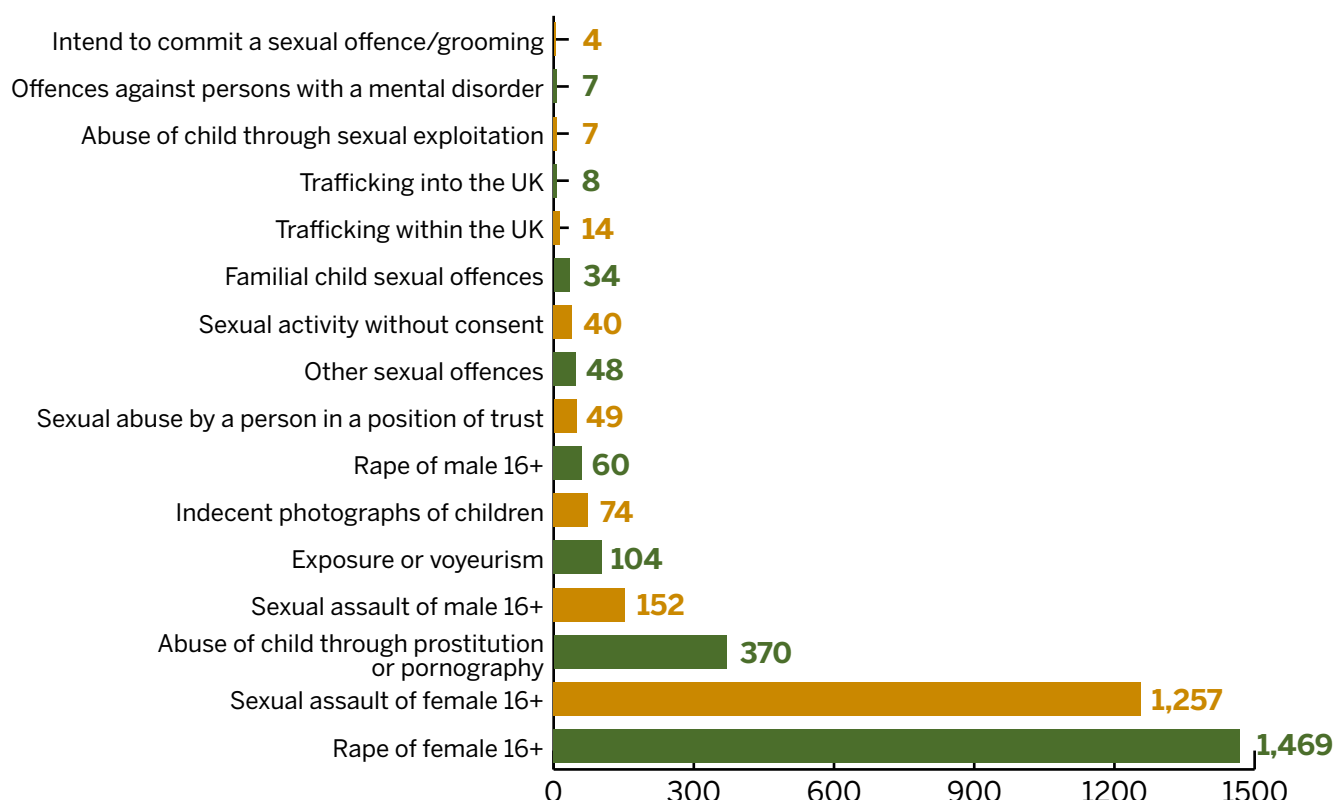
reflect the true scale of sexual offences against 16 and 17 year olds, due to them not reporting these crimes to the police – as discussed in the previous section. Our analysis of rates of sexual offences against children aged 16 and 17 shows big variations from one police force to another – as Graph 2 below illustrates.

Graph 2: Percentage of total sexual offences against 16 and 17 year olds per 1000 population reported by 28 Police Forces*



*The names of the police forces have been substituted with codes to keep the main focus of the report on the scale of sexual offending against children aged 16 and 17, not on the performances of individual police forces. Copies of this report with the police force names decoded will be sent to each police force and the policing lead on child sexual exploitation.

**Graph 3: Sexual offences against children aged 16 and 17:
Data from 25 police forces in England**



The data also shows that the crimes that 16 and 17 year olds most frequently report to the police are those of rape and sexual assault – as Graph 3 presents. These are important findings. In recent years there has been an increased focus on tackling child sexual exploitation, following the influential reports from the Office of the Children's Commissioner in England on child sexual exploitation in groups and gangs,³⁵ Professor Jay's report into child sexual exploitation in Rotherham³⁶ and a number of high profile court cases across the country – including in Rochdale, Oxford, Torbay and Telford. A number of national policies have been produced to outline what national and local government are planning to do to tackle sexual exploitation: the Tackling Child Sexual Exploitation Action Plan in 2011, the Sexual Violence against Children and Vulnerable

People Action Plan in 2013, the Sexual Violence against Children and Vulnerable People National Group Progress Report and Action Plan in 2015, and more recently Tackling Child Sexual Exploitation. The response includes focusing on better identification of children at risk, and ensuring that perpetrators targeting children are prosecuted for their crimes.

In terms of crime detection, the sexual exploitation of children – including those aged 16 and 17 – is legally defined by what was previously known as 'abuse of a child through prostitution and pornography'. Our findings show that for 16 and 17 year olds, rape and sexual assaults are the two most frequently recorded sexual offences (see Graph 3).

Yet under the Sexual Offences Act 2003, the rape and sexual assault of a 16 or 17 year old, whilst still considered a grave crime, will be

treated the same way as the rape or sexual assault of an adult. The law states that 16 and 17 year olds can give consent to sexual relationships, but does not in any way recognise their additional vulnerability to exploitation related to their age, lack of experience, or the high likelihood of them being in relationships with an imbalance of power.

Given the high number of 16 and 17 year olds who report these crimes (and the research indicating that these numbers are very likely to be under-reported, as discussed earlier in this report) and the vulnerability and lack of experience that 16 and 17 year olds have, these findings make a strong case for more detailed policies and responses relating to 16 and 17 year olds who experience sexual crimes.

2.3. Outcomes on sexual offences where the victim was aged 16 or 17 reported to the police

We asked police forces about the outcomes of investigations in relation to recorded sexual offences against children aged 16 and 17. We asked for information on how many cases recorded resulted in no further action, a caution or a charge/summons. Of the 30 police forces who responded, 22 answered this question. This data is included in Graph 4 below.

Only 13 of the police forces who responded provided data specifically categorised as 'No Further Action'. The remaining nine forces provided more detailed data relating to cases which had been closed and had not resulted in a charge/summons or caution/community resolution. This further breakdown of cases

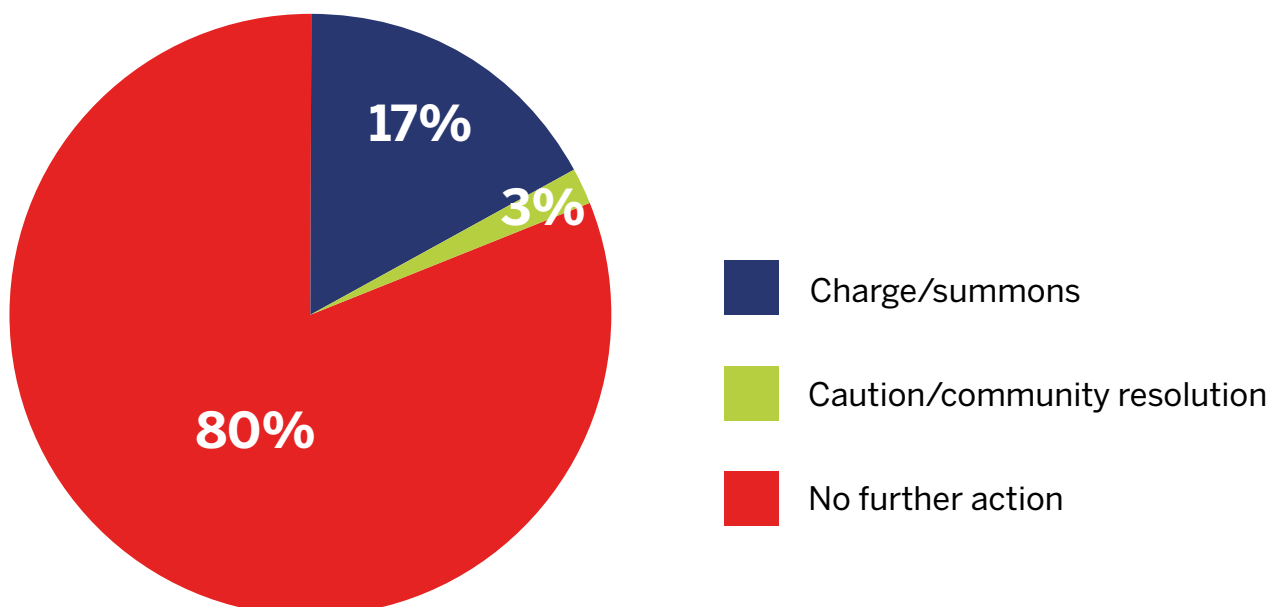
that did not result in charge/summons, caution/community resolution is detailed in Graph 5.

Whilst we recognise that bringing perpetrators to justice is not the only resolution in cases of sexual abuse and exploitation (and that in some cases this may not be in the best interest of the child involved) the data in Graph 4 demonstrates a shockingly low level of criminal justice responses to crimes of a sexual nature reported by 16 and 17 year olds.

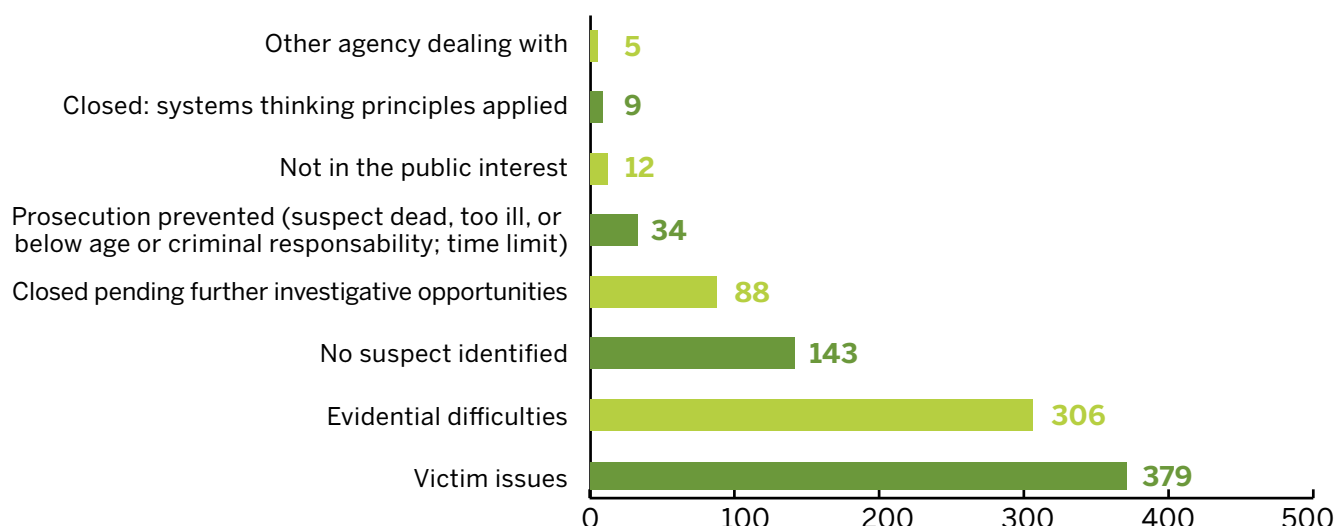
Responses as to why no further action was taken were broken down into distinct categories of which 'evidential difficulties' and 'victim issues' dominated (see Graph 5). Evidential difficulties included: the named suspect

was identified but there was insufficient evidence, victim support, or evidential difficulties prevent further action. Victim issues included: the named suspect being identified but the victim does not support further action; the named suspect was identified but the victim was unable to give evidence, and that the victim is unable to/declines to identify the suspect. It is an issue of concern that victim issues and evidential difficulties act as such a barrier to justice. It shows that more needs to be done to help shift the focus from the victim to the offender and enable young people to engage with the justice system. This has been flagged by research before.³⁷

Graph 4: Breakdown of outcomes of closed cases of sexual offences against 16 and 17 year olds: Data from 22 police forces in England



**Graph 5: Breakdown of specified reasons for 'No Further Action':
Data from 14 Police Forces in England**



From interviews with The Children's Society's specialist staff:

'I was told that she would not be seen as credible witness because when she was younger she disclosed abuse but then withdrew the statement.'

From interviews with The Children's Society's specialist staff:

'After young person's ABE interview, the police commented that she did not appear very emotional, they expected her to be quite tearful and sad and looking traumatised. What if she goes to court? She may not be believed, so the CPS will have to have a think. The young person is very resilient; you would never know that she was going through these horrendous things. Because of the way she coped in her ABE interview they question whether people would believe her.'

2.4. Responses to children involved in child sexual exploitation

Earlier this year the Serious Crime Act 2015 amended the Sexual Offences Act 2003 and renamed the offences related to ‘child prostitution and pornography’ as ‘child sexual exploitation’ (see Box C for definitions). The Serious Crime Act 2015 also amended Section 1 of the Street Offences Act 1959, making it no longer possible to prosecute children for what is defined in the law as ‘loitering and soliciting for the purposes of prostitution’.

These are changes that The Children’s Society had been campaigning for since 1995, when we published our first report *The Game’s Up*³⁸ and launched our first campaign calling for the decriminalisation of child prostitution. The changes that took place earlier this year are very much welcome.

Our *The Game’s Up* report showed that in the five years prior to the publication of that report (1989 to 1993) 1,862 convictions were secured against young people under the age of 18 for prostitution related offences, with 80% of those convictions secured against young people aged 16 and 17.

As recently as 2012, the APPG report on children missing from care stated that:

‘care staff are required to notify the placing authorities, the police and the local authority of involvement, or suspected involvement, of a child in the care home in prostitution. In the last five years Ofsted has received 631 notifications of these instances.’³⁹

In our current FOI request we also asked police forces whether in the last four quarters there had been any cautions issued to young people aged 16 and 17 under the 1959 Act. This would cover the period prior to the introduction of changes in the Serious Crime Act 2015. We also asked what policies and procedures the police have in place if they come across these young people on the street or under other circumstances.

The responses we received show that there is now much greater awareness and that children under 18 are no longer criminalised for their involvement in sexual exploitation. Only 12 police forces chose to respond to this question.

- Twelve forces reported that there had been no such cautions issued. One of the forces reporting zero cautions added that if there were such instances, the force’s Safeguarding Children from Abuse procedure would apply.
- One force did not provide a figure in answer to the question, but stated that such incidents were so rare that if the situation arose it would result in a multi-agency response involving adult services and health. An information-sharing meeting would take place, and information would be shared by children’s services.

The removal of the option to criminalise the behaviour of young people related to child sexual exploitation is a very positive development. But to make these changes truly beneficial for children under the age of 18, they must be underpinned with consistent guidance to all police forces and frontline professionals on how to respond to these children so that they are offered support when they come to the attention of police officers, whether on a street corner, in a hotel or online. These responses demonstrate inconsistency in how young people will be responded to across different parts of the country.

From The Children's Society's case notes:

'Young person has disclosed to me that the police have called her up and "called her a prostitute". She said that they have told her that they know she is a prostitute and working at [X], she will end up in prison like her mother and that she may have clients trying to call her. This is not appropriate language. Young person is a young woman who has been made vulnerable, therefore she cannot be involved in prostitution – but is being sexually exploited. It's a criminal offence under the Sexual Offences Act 2003 for an adult to pay for sexual services from someone under the age of 18, and payment is defined as discharge of an obligation or provision of services, not just as an exchange of money. I think it is paramount that young person is not giving the notion that she is making lifestyle "choices" to be sexually abused or "work as a prostitute" as there is no such thing as a "child prostitute". A child cannot be "a prostitute" because she/he is a victim of commercial sexual exploitation.'

2.5. Number and outcomes of prosecutions for sexual offences against children

Offences of sexual exploitation of children

The responses to our FOI request showed that across the 17 police forces that provided data for this question, there were 370 recorded cases of crimes of sexual exploitation where the victim's age was recorded as 16 or 17. Numbers varied considerably between areas, with 317 of the cases recorded by one police force.

Despite the increased profile of child sexual exploitation cases, the number of prosecutions for these crimes remains very low. There is no data readily available on the number of prosecutions for sexual exploitation crimes under Section 47, 48 or 49 of the Sexual Offences Act 2003 where the victim is aged 16 or 17.

Our search of official statistics showed that in the last three years (2012, 2013 and 2014) there were 312 prosecutions for the abuse of children through prostitution and pornography (all ages). Two hundred of them resulted in convictions.⁴⁰

Two hundred convictions for offences of sexual exploitation of children in three years seems low, particularly when compared to data from 20 years ago when our The Game's Up report showed that in the three years prior to the publication of that report the number of convictions secured against children for 'prostitution' behaviour reached almost 700.⁴¹

The difference is not likely to be due to a reduction in cases of children being sexually exploited. If anything, the recent cases show that the scale of the problem

is much larger than envisaged. But it does pose the question of whether the prosecution of adults committing sexual crimes against children is made more challenging by the lack of sufficient recognition in the law of the vulnerabilities of children up to the age of 18, related to their development and earlier experiences.

It may also be that in some cases prosecutions are happening for other offences, as it is difficult to provide sufficient evidence for sexual offences. For example, our practitioners mentioned cases where perpetrators were prosecuted for drug-related offences and as a result would not be registered as sex offenders. Or they may be prosecuted for separate offences of rape or sexual assault, which can also be problematic as these would not recognise abuse that was long-term and would have impacted on

a young person in a different way.

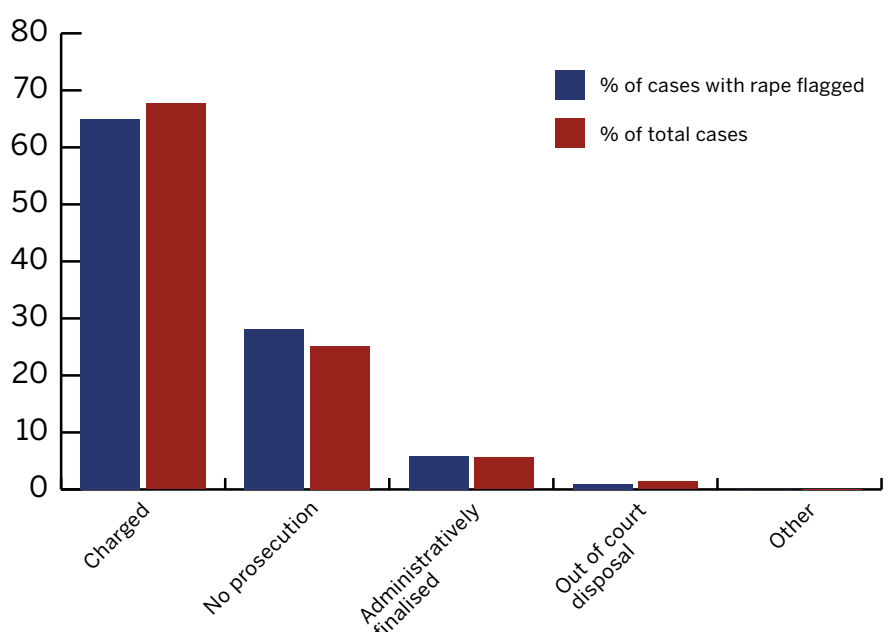
'I was pressurised to go to court. There needs to be a sexual exploitation law. My charge was for rape, this was the wrong charge. So many times it happened.'

Young person speaking to the parliamentary inquiry into the effectiveness of legislation for tackling child sexual exploitation

Number of prosecutions and successful outcomes for all sexual offences against children

Even where the decision is made to charge the perpetrator of a sexual offence, there is no guarantee that the prosecution will go ahead, or that it will result in a successful outcome.

Graph 6: Child abuse pre-charge decisions data



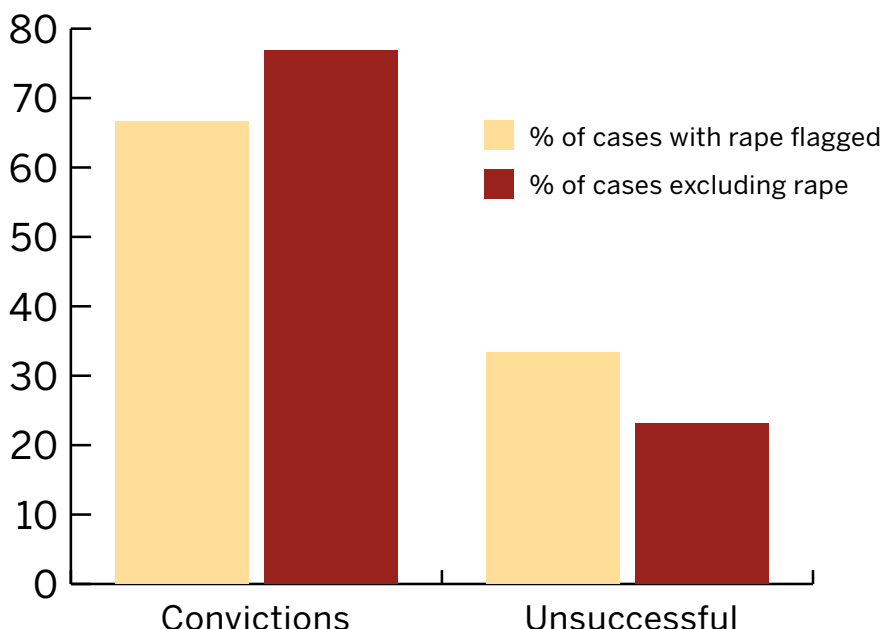
We sent a Freedom of Information request to the Crown Prosecution Service, asking for information in relation to prosecutions of sexual offences against children aged 16 and 17. The response we received stated that it is not possible to provide the number of cases prosecuted where the victim is aged 16 and 17 as the information is not easily retrievable. The Crown Prosecution Service did provide us with child abuse flagged prosecution data, specifically on child abuse data where rape was flagged. The data covers all cases where the victim was under 18. The number of prosecution decisions is counted in terms of the number of defendants.

The data on pre-charge decisions on child abuse flagged cases shows that there is very little variation in terms of decisions made between all child abuse sexual offences cases and those where rape is flagged, as Graph 6 shows.

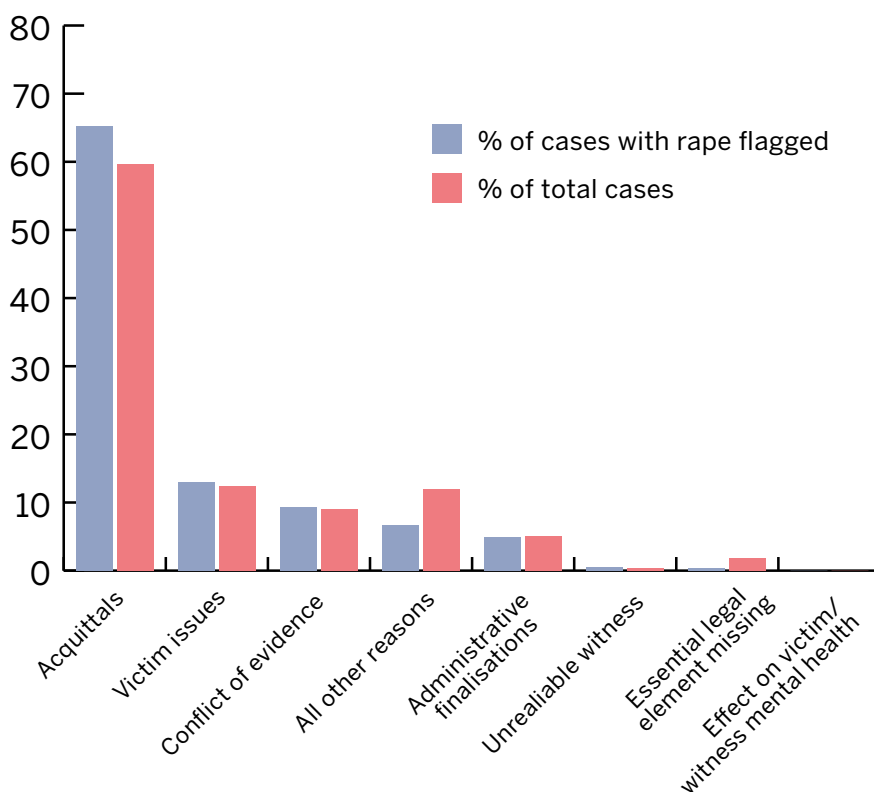
The data on child abuse sexual offences prosecutions shows a difference between all child abuse sexual offences and those cases where rape was flagged specifically – see Graph 7.

The data in Graph 8 shows it is more difficult to achieve a successful prosecution in sexual offences cases of under 18s where rape is flagged. There is a 10.2% difference between unsuccessful prosecutions in child sexual abuse prosecutions and child sexual abuse where rape is flagged. It also shows that the percentage of cases where the reason for unsuccessful prosecution is 'acquittals' is 5.5% higher for rape flagged cases.

Graph 7: Child abuse sexual offences prosecutions outcomes 2014–15



Graph 8: Reasons for unsuccessful prosecutions of child abuse sexual offences in 2014–15



2.6. Summing up the numbers

The data presented in this chapter shows that young people aged 16 and 17 who are victims of sexual offences may find it very difficult to bring the perpetrators of those crimes to justice. Firstly, many may fail to recognise the offence or find it difficult to report the offence to the police, or even anyone. Secondly, even where disclosure is made, only a small proportion of cases result in charges or other justice resolutions. Even at the prosecution stage, a significant number of cases are dropped before they reach the courtroom, or result in unsuccessful prosecutions.

These findings are very concerning. They show that a high proportion of young people aged 16 and 17 are reporting experience of sexual assaults, and that the perpetrators of those crimes are left unchallenged and may continue to pose a threat to the same young person, or move on to new victims.

The numbers of cases resulting in resolution via the justice system remain very low, despite changes introduced in 2013 with the new CPS guidance on prosecuting cases of sexual abuse and exploitation of children and vulnerable adults, and despite the recent focus on tackling child sexual abuse and exploitation at local and national levels.

In the next chapter, analysis of interviews with practitioners from The Children's Society's specialist projects – and case notes related to stories of 30 young people who were supported through these projects – helps shed light on the issues behind the statistics presented in this chapter.

Teenage girls aged 16 and 17 are more likely to report being a victim of a sexual offence than any other age group.

But they have less protection in law than younger children.

‘She said that she
never really spoke to
the other girls involved,
only one of her friends
who she went with.
She said that the girls
were all ages.’

From The Children’s Society’s case notes

Chapter 3

The journey of 16 and 17 year olds affected by sexual abuse, from identification to getting help: the stories and key themes from interviews with practitioners and case study analysis

Key messages:

- **Professionals have a lack of awareness and understanding of the needs of adolescents. Many professionals see adolescents as less in need of support in comparison to younger children, and also as more resilient and able to deal with troubles in their lives.**
- **Older teenagers – particularly those who have previously experienced abuse, neglect or been targeted for sexual exploitation at the age of 16 and 17 – deal with the trauma through normalising and internalising their experiences of abuse.**
- **Practitioners highlighted how the lack of joint training focussed on definitions of CSE, grooming and consent in cases of 16 and 17 year olds presented a major barrier to agencies working together.**
- **Of the cases we examined, only a small number had experienced all stages of the journey, from identification to witnessing justice done in the court room. Out of 30 cases only five had reached the stage where either the decision was made to prosecute the alleged perpetrator(s), or there had been a court hearing.**

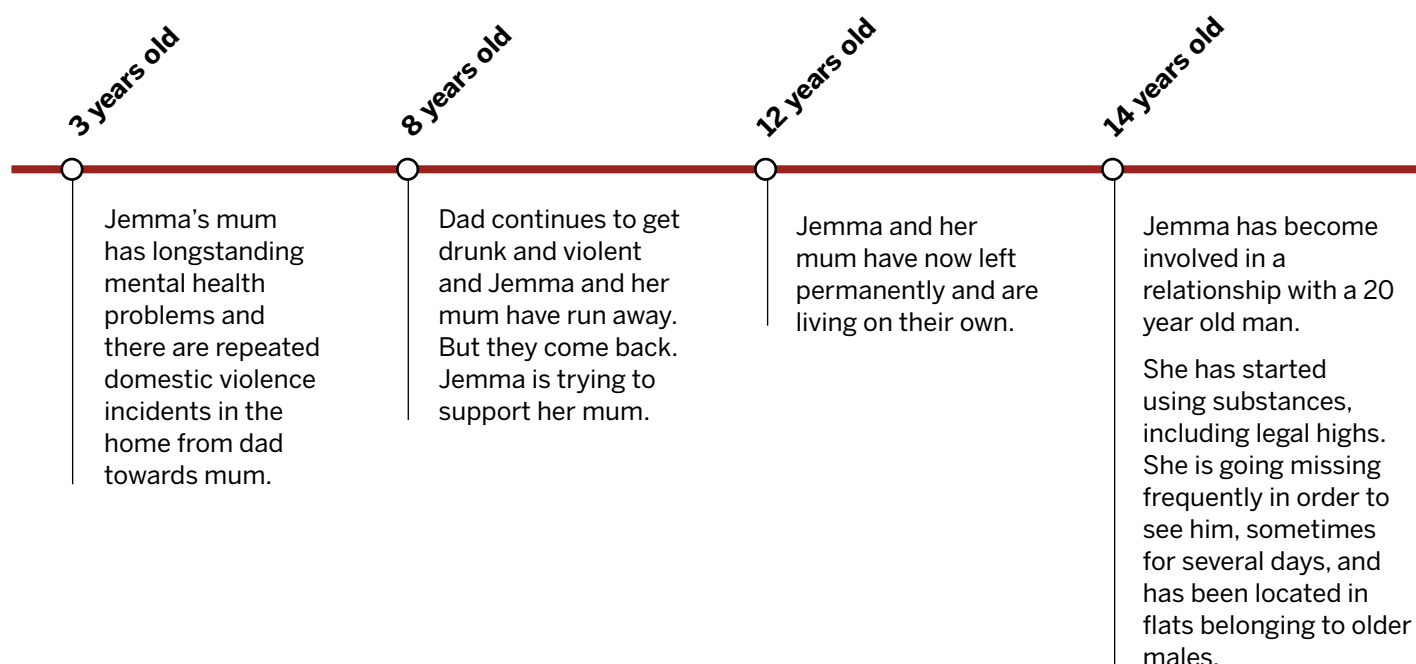
Through structured interviews with 10 practitioners from seven specialist projects for children affected by sexual exploitation and abuse, and through analysis of case notes related to 30 cases of young people aged 16 and 17 supported by our projects, we explored possible reasons for the picture presented by the statistics. Our goal was to identify gaps in responses and solutions to

enable more effective responses to sexual offences against children aged 16 or 17.

The interviews, which covered seven different geographical areas, explored the local processes in place to identify and respond to young people affected by CSE; disruption and child protection responses to young people aged 16 or 17;

and availability and access to therapeutic support for victims of CSE. Interviewees were also asked to identify gaps and make recommendations for change. The case studies focused on young people who experienced a range of sexual offences from familial sexual abuse, to online, 'boyfriend' model and commercial sexual exploitation.

Case study C: A journey of vulnerability



15 years old

Jemma has started getting into trouble at school. She has been turning up so her attendance is ok, but she is seen as a problem because she is often angry and staff find her behaviour challenging.

Initially, Jemma's mum has allowed Jemma's 'boyfriend' to live in the home, sharing a room with her.

Later, Jemma's family move her out of the area to live with another family member, but the arrangement doesn't last as Jemma has gravitated back to be with the 'boyfriend'.

A social worker has been assigned to Jemma and she has been placed on a child protection plan. Jemma is not happy as she feels her social worker is too dominant, always telling her what to do, and going behind her back.

16 years old

Things are a lot worse now Jemma is 16. She is even more reliant on substances and is treating increasing independence as a chance to spend more time with her 'boyfriend'. Her relationship with her mum has started to break down.

Jemma has started to self-harm and made a significant attempt to take her own life, saying that she does not want to go on.

Jemma's mum is trying to keep her safe, but is struggling. Jemma continues to be on a child protection plan because of the level of risk she faces, but she isn't happy about it.

Social care has started to try and bring in other services, for example an alcohol and drugs project. The social worker is trying to be really firm and has pushed and supported Jemma's mum to put sanctions in place – for example taking away her phone when needed, which has been really effective at cutting off unwanted communications.

The involvement of the drugs and alcohol service is a massive turning point. Jemma has built a good relationship with the worker, which has given her the confidence to access CAMHS. She has begun to trust professionals again and can now acknowledge the unhealthy aspects of the relationship she was in, and that she had been involved with people who were exploiting girls.

18 years old

Jemma is 18 now. She is growing in confidence, back in education and no longer using substances. She still struggles with relationships with males and recognises she will probably need mental health support – she is still coming to terms with a lot of the things that have happened to her.

The intensive and persistent support Jemma received at 16 made all the difference – showing how crucial it is that services and professionals stay the course with vulnerable 16 and 17 year olds, rather than stepping back or giving up when their behaviour becomes challenging and their risks are more acute.

3.1. Issues around identification of young people at risk of child sexual exploitation

Previous history

Of the 30 cases we examined, 17 were already known to professionals in statutory services as children in need, children on a child protection plan, or looked-after children prior to a child turning 16. This was either because of issues experienced within families – such as parental drug or alcohol use, parental involvement in crime, or domestic violence – or due to issues specific to the child, such as sexual abuse, mental health issues or self-harm. In other cases, the case notes did not contain any information suggesting that statutory services had been formally involved in the child's life prior to the child turning 16, although there were clear indicators that young people had experienced traumatic events prior to turning 16, for example bereavement or the break-up of the family.

The cases show that the young people did not always receive the support they needed in their earlier adolescent years, and that situations were allowed to escalate until they reached a crisis point at around the age of 16 or 17.

This corresponds with what we have found in our earlier research on vulnerable adolescents.⁴²

This once again highlights what we know from our earlier research: there is a lack of awareness and understanding of the needs of adolescents by professionals. Many professionals see adolescents as less in need of support in comparison to younger children, and also as

more resilient and able to deal with troubles in their lives.⁴³ This is a repeated observation coming from serious case reviews and reports into sexual exploitation.⁴⁴

This may also translate into societal attitudes to teenagers, and correspondingly impact on the outcomes of trials where jurors' decisions are influenced by their perceptions and attitudes – as discussed in the previous chapter.

Gender

Of the 30 cases we examined, 28 concerned girls and two concerned boys. This does not necessarily reflect the gender split we see in our practice – the data for the last 12 calendar months shows that around 27% of young people supported in our specialist CSE projects are boys.

It is therefore not possible to use the limited data we have to comment on how the response from professionals differs depending on the gender of a child.

However, the interviews with practitioners highlighted the need to draw attention to the specific issues faced by young males at risk of sexual exploitation. Practitioners highlighted that the issue of sexual exploitation is still widely seen as only relating to females, and that the number of referrals made to specialist projects increases when projects have delivered training to professionals from social care, education, health and the police on how boys are affected by CSE. This reflects earlier research on the subject.⁴⁵

Practitioners report that boys are also less likely to come forward and disclose abuse.

The data we received from the police forces in response to our Freedom of Information requests indicates that the number of males who disclose rape and sexual assaults to the police is significantly lower than the number of females – see Graph 9.

Referrals to specialist projects for young people aged 16 and 17

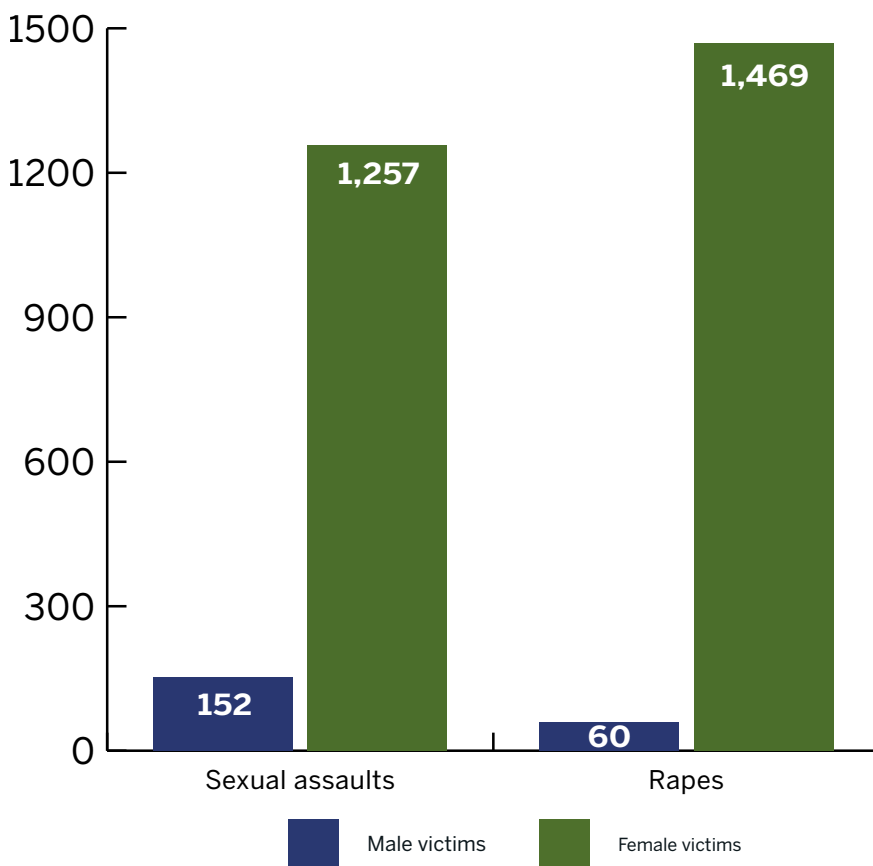
Our practitioners report that young people aged 16 and 17 come to the attention of services in similar ways to children under the age of 16. Schools and other educational establishments have been identified as playing a very important role in identifying young people at risk of CSE.

Concerns have been expressed for young people aged 16 and 17 who are not in education, as they are very likely to drop off the radar of services and are disproportionately likely to face crisis situations.

Referrals from the police linked to missing children reports were identified as another important source of information on children aged 16 and 17 who may be at risk.

In some areas our practitioners report well-established and well-functioning networks of professionals across the police, social care, mental health and voluntary sectors, who share information regularly and appropriately to identify young people at risk.

Graph 9: Sexual assaults and rapes against 16 and 17 year olds recorded by 25 police forces in England



From interviews with The Children's Society's specialist staff:

'CSE goes across the board. Most of the young people come to light because there are some other difficulties. In [name of place] the police have this analyst. This analyst is amazing. I call him an oracle. He is the most helpful person and he is the massive credit to [name of the area]. He will be able to update people across all services on hotspots, like the chicken shop or this place by the canal. If you hear the same place mentioned or the same park mentioned this will be instantly flagged with social workers and schools. If you hear the same address mentioned you refer it to him and he will look. It is very helpful and valuable to have.'

However, what became very clear from the interviews was that the success of such joint cooperation depends on personal relationships between individuals in the different agencies. Where such relationships do not exist, the ability to identify young people at risk is threatened.

Case notes indicated that two of the biggest barriers to successful joint working are problems with staffing levels and high turnover of staff, both of which cause disruption in communications between agencies and the young person.

Practitioners also highlighted how the lack of joint training focussed on definitions of CSE, grooming and consent in cases of 16 and 17 year olds presented a major barrier to agencies working together.

One of the issues highlighted was that whilst there may be good working relationships between different agencies, there is no clear mechanism in place – as well as a lack of services available – for young people to self-refer, or for adults from a child's family (or neighbours) to go to for advice if they are concerned about a young person. It was also highlighted that reports made by concerned members of the public about young people aged 16 or 17 were likely to be considered a low priority where there was no related crime report.

Young people identified through offending behaviour

Of all the cases we examined, only a small number had experienced all stages of the journey from identification to witnessing justice

done in the court room. Out of 30 cases, five have reached the stage where either the decision was made to prosecute the alleged perpetrator(s), or there has been a court hearing. In the remaining cases, no prospect of prosecution has been flagged. In an additional three cases, young people have had court experiences in the role of the defendant for drug-related offences or damage to person or property, which was also linked to their experiences of abuse.

Our practitioners report that older teenagers – particularly those who have previously experienced abuse and neglect as well as being targeted for sexual exploitation at the age of 16 and 17 – deal with their trauma by normalising and internalising their experiences of abuse. This can lead to self-harm, challenging behaviour and in some cases (specifically where abuse is linked to organised gangs or groups) can result in offending behaviour as well. As reported by our practitioners, older teenagers are also more likely to become involved in offending behaviour through the influence of people who exploit them sexually, eg by transporting and distributing drugs or by recruiting other young people into sexual exploitation.

Our practitioners report that in such cases, the youth justice response is much more clearly defined and the young person is punished for actions that fall within the definition of crime, while the response to them as victims of sexual exploitation is much less clear or consistent – or may be overlooked entirely. Such an approach makes the child much more vulnerable to further exploitation, as they are less likely to engage with professionals.

**From interviews with
The Children's Society's
specialist staff:**

'A young person used to go missing regularly and was at risk of CSE. The level of risk is really high. But she is involved in crime. A lot of the time people should stop and say "are you OK?", but she is on tag now so if she does get stopped it will be more about "why you are here /are you even supposed to be here?" and forget the vulnerability of the young person because of the offending behaviour. But that can be a massive risk of CSE as well. Police are quite focussed on crime and if the young person starts being the perpetrator of crime, this can take away from them being seen as victims.'

The case studies we explored showed that for some young people, the involvement of a Young Offenders' Team (YOT) can be a positive experience. This demonstrates how critically important it is that the youth justice response is focussed as much as possible on helping a young person deal with the underlying issues that led to their offending behaviour, and not just penalising them for criminal behaviour. Sadly, it also shows that in some cases a young

person only gets the support and response they need to deal with their exploitation after they take part in criminal behaviour.

Our practitioners also expressed concerns that older teenagers who experience abuse and exploitation – and as a result either begin to display sexually harmful behaviours or (as a survival strategy) start recruiting other young people into sexual exploitation – are again more likely to receive a punitive response, rather than get support to deal with the underlying causes of such behaviour.

Concerns were raised in interviews about the lack of therapeutic support for young people who display sexually harmful behaviour. The practitioners we interviewed work across 15 different local authorities. They reported an absence of clear referral pathways for young people to get assessment of their needs and to access therapeutic support to deal with their behaviour, or to help them recover from earlier abuse that was a contributory factor to the development of sexually harmful behaviours.

These findings from practitioners are confirmed by the limited available research on the subject.⁴⁶

With the increase in the number of cases of peer-on-peer sexual abuse, there is a clear need for decision-makers and commissioners of services to develop a response to young people that would best enable them to deal with underlying causes of such behaviour and prevent it escalating. This is an issue that requires further research.

3.2. Responses to young people at risk of child sexual exploitation when they are 16 and 17

Young people identified through offending behaviour

One of the key characteristics from the stories of the 30 young people we explored is that at the age of 16 and 17 they experience constant change. Many of them move from place to place. Those young people living at home move from one parent to another and back, move in with their friends or relatives, or have periods in supported accommodation.

Some young people become looked-after children or move into supported accommodation under arrangements that are not covered by Section 20 of the Children Act 1989. Others move to live with foster parents, or experience several foster or children's home placements.

The network of professionals in these young people's lives is also extensive. Graph 10 gives the breakdown of which services have been involved in the lives of all 30 young people whose case notes we explored.

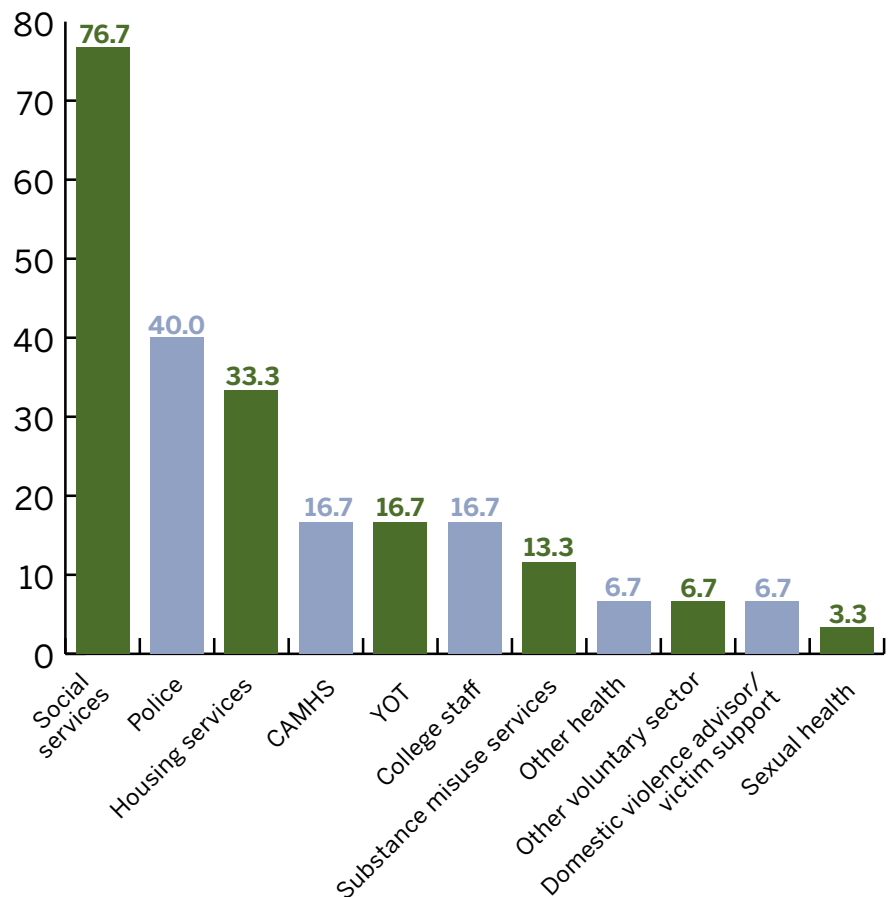
Quote from a young person recorded in case notes:

'At least you're on my side, everyone here is against me.'

From The Children's Society's case notes:

'YP said she wants to live by herself, she is sick of living under other people's rules, especially people who don't care for her or ask her how she is feeling.'

Graph 10: Percent of 16 and 17 year olds in the 30 case studies who were supported by various services



Case notes reflect how disruptive and upsetting changes can be for young people at a time when they feel overwhelmed by issues in their lives, and how change leads to them becoming disengaged and distrustful of the professionals they encounter. Often the changes appear to be driven by systems that clearly determine that children's professionals' involvement needs to finish by the age of 18. When young people reach 18, they often transition from children's to adult services, with a resulting change in professionals dealing with their case. Typically, the only exceptions are where the child's

needs are acute – as in the case of mental health services – or where the child has been in care and is entitled to leaving care support. In these cases some support may be provided beyond the age of 18.

Lack of tools to disrupt criminal activity and sexual exploitation

Interviews with practitioners suggested that the areas where they worked lack the necessary mechanisms for statutory agencies to use when a 16 or 17 year old is identified as being at risk of sexual exploitation.

The disruption tools that police currently have at their disposal

are Sexual Harm Prevention Orders and Sexual Risk Orders. We could not find any official data available on how often these are used overall, or how often they are used in cases of 16 and 17 year olds. Evidence from our practitioners suggests that there may be difficulties in applying them at the earlier stages where risk is identified but the evidential base is not yet strong enough to apply for orders. Additionally, since they are issued via a court, there are delays in how quickly they can be applied to disrupt risky or exploitative relationships.

Many children who are at risk of CSE go missing regularly, but the tool available to the police in cases where adults target missing children – Child Abduction Warning Notices (CAWNs) – is not available to the police in cases of 16 and 17 year olds who are not in care of local authority under Section 31 of the Children Act 1989 (full care order). Thus, the majority of vulnerable young people aged 16 and 17 – including those who are looked after by local authorities under Section 20 – cannot be protected. Our practitioners identified this as a big gap.

**From interview with
The Children's Society's
specialist staff:**

'Disruption measures – there aren't a great deal. We're hearing about young people at multi-agency meetings, but disruption is fairly limited. For 16 and 17

year olds, the police cannot use abduction orders. We have suggested the use of sexual harm prevention orders and sexual risk orders, but we do not know of any that have been used.'

Response to mental health issues

In nine out of the 30 cases we examined, there were mentions of young people needing intervention from mental health services because of concerns about their well-being, self-harming episodes, suicide attempts or even episodes of psychosis that required in-patient admissions. The remaining cases may not have specifically mentioned mental health services, but referred to the young person feeling low, depressed, anxious, fearful, or having flashbacks of their abuse.

Yet the case studies and interviews with practitioners highlight that there is a real postcode lottery in terms of the access to and availability of services for young people who have experienced sexual abuse. In some areas voluntary sector organisations like The Children's Society can refer young people directly to specialist mental health services. In other areas the expectation is that the referrals will have to be made by GPs.

**From interview with
The Children's Society's
specialist staff:**

'Our project can't make CAMHS referrals. It needs to be done through social workers or GPs. None of the young people we're working with are getting CAMHS support. Often the excuse is that the young person is too chaotic. One excuse was that "the young person's feeling and emotional health was a result of the situation they find themselves with". This is the case with all young people we work with, but only harder to engage with CAMHS once a young person nears adulthood.'

The commissioning landscape for mental health support services for young people is also complicated, with some services commissioned by Police and Crime Commissioners, and others through mental health trusts via CAMHS services. Some of the access is conditional on a young person having a diagnosed mental health illness; on being in a stable placement, or of first having a response from children's services.

From The Children's Society's case notes:

'Telephone call from [name of mental health service]. They advised that they wouldn't be picking up young person's referral as the risk posed does not meet their threshold. Young person has felt very low recently but advised staff from the [name of mental health service] that she doesn't have a "plan" to take her own life and currently she is feeling overwhelmed by recent events.'

Earlier this year we sent Freedom of Information requests to mental health trusts, focussing on how vulnerable groups of adolescents access specialist mental health services. The responses we received showed that 47% of mental health trusts specifically identify victims of sexual abuse in their referrals and initial assessments forms. But only 14% will mention them in policies on which groups can be offered fast-track access to services. Worryingly, only 17% identify them in their risk-assessment policies when the patient does not turn up for an appointment, despite our direct work with young people showing that those who have experienced sexual abuse and exploitation often find it difficult

Box C: Laws in relation to substance use:

Licensing Act 2003

The Police Reform and Social Responsibility Act 2011

Confiscation of Alcohol (Young Persons) Act 1997

The Misuse of Drugs Act 1971

The Anti-Social Behaviour, Crime and Policing Act 2014

The Children and Young Persons Act 1933

- Makes it illegal in the UK for a person under 18 to attempt to purchase alcohol, and for someone over the age of 18 to purchase alcohol for them.
- Places a legal duty on licensed premises to protect children from harm, so that they can be fined or closed down for selling alcohol to a person under 18.
- Allows 16 and 17 year olds to consume beer, wine or cider on licenced premises if part of a table meal and purchased by a person over 18.
- Gives the police powers to confiscate alcohol and move the person on, or take them home, if a person under 18 is found drinking in public. If the young person is caught with alcohol in public three times or more, they risk arrest, a social contract or a fine.
- Schools, sixth forms and the police have the right to confiscate legal highs from 16 and 17 year olds, while local authorities are able to ban legal highs from an area entirely.
- In addition to alcohol, it is illegal to sell cigarettes or tobacco products (including cigarette papers) to those under 18. However the law does not prohibit the use of tobacco products by 16 and 17 year olds.

to stay engaged and continue with services. Only 11% of mental health trusts have victims of sexual abuse specifically identified in their policies on transitioning between children's and adults' mental health services.⁴⁷

Support with substance misuse

In 19 of the cases we reviewed, young people who had experienced sexual abuse or exploitation were either taking drugs (including legal highs), drinking heavily, or both.

This finding does not come as a surprise, as it is known that drugs and alcohol are often used to groom young people for sexual exploitation, creating long-term dependency. Some young people will continue to use drugs and alcohol because they feel it helps them cope with the experiences of abuse.

Worryingly, case notes and interviews with practitioners highlight that young people do not always recognise that drugs

and alcohol are used to groom them for sexual acts. Many believe that their use of drugs and alcohol and their experiences of sexual abuse are not related, and hold the belief that they are able to exercise control in both instances. These are recognised features of research into young people's responses to the trauma of sexual abuse – that often the young person will normalise the experience and develop a belief that it is their choice. This becomes a coping mechanism in their response to sexual abuse.^{48,49,50}

From The Children's Society's case notes:

'[Young person who was sexually exploited] She said that she never really spoke to the other girls involved, only one of her friends who she went with. Young person said that the girls were all ages, but they didn't really speak to each other as they were usually off their heads on drugs.'

Young people's substance use is an issue of great concern. Previous research persistently points to a link between young people's alcohol consumption and being a victim of a sexual offence.^{51,52}

The law on young people and alcohol is quite clear as far as sale and consumption from licenced premises and from licenced

vendors are concerned. Box C explains what the law currently says about young people and substance use.

However, the supply of alcohol to young people in private homes is not prohibited. In cases where young people are targeted by adults for sexual activity they are often offered drugs or alcohol before being coerced into sexual activity in a private residence. As explained in Chapter 1, a young person voluntarily taking drugs and alcohol may be viewed as taking a step towards giving consent to sexual activity.

Transition to adulthood

The 30 cases we examined suggest that very few of the children who are at risk of child sexual exploitation, or who experience sexual exploitation at the age of 16 and 17, are entitled to leaving care support. In some of the cases the young person was subject to a 'child in need' plan or 'child protection' plan or a 'child at risk of sexual exploitation' plan that would not result in any entitlements for support when they turn 18.⁵³ The case studies also show that on some occasions, cases become closed to children's services once the referral is made to a voluntary sector organisation, and that there is very limited support offered.

From The Children's Society's case notes:

'Young person was keen to find out where she would be living when she was released from custody. [Social care staff] advised YP that they had applied to their panel for foster care for YP, however this had been refused and they were only going to offer bed and breakfast as accommodation until YP was 18 years old, then she would have to present as homeless and seek housing via this route. Young person was extremely upset at this prospect and advised everyone in the meeting that this was setting her up to fail. She was also concerned about her safety and well-being, particularly as she had just been recently interviewed in respect of an on-going investigation pertaining to CSE. She became increasingly agitated and angry during this meeting.'

We asked police forces about their policies on young people flagged on their systems as being at risk of sexual exploitation once they turn 18. We received responses to this question from 16 police forces. One force considered the information exempt; and two stated that this information was not held. The answers from the remaining forces revealed significant differences in how young people previously identified as children at risk of sexual exploitation are categorised and treated within the system once they turn 18. Some police forces report no set policy. The responses show there is much that could be gained from a consistent national policy to ensure there is appropriate transition planning in place for young people at risk of child sexual exploitation as they progress to adulthood. The range of responses we received is presented in Box D.

Box D: How police forces responded to FOI question on young people at risk of CSE turning 18

- Three forces describe dealing with young people in this situation on a case by case basis, with an emphasis on support and not on prosecution.
- One force refers young people to the Sexual Assault Risk Assessment Conference (SARAC).
- One force keeps young people on record and instigates multi-agency plans if considered necessary.
- One force creates a record on the Force Crime and Intelligence system. The information is retained and subject to regular review to ensure compliance with MOPI.
- One force stated that they had no formal policy, but young people remain on the multi-agency agenda until their risk is rated as low.
- One force stated that once they turn 18, young people are treated as adults.
- One force removes the 'at-risk' flag once the young person turns 18, but recommends a multi-agency approach and a path worker.
- One force continues to flag the young people as 'at-risk' until all services are exhausted. At that point the CSE police team continues to work with them, but the Social Services Leaving Team takes over case management.
- One force stated that the young people continue to be identified as 'at-risk'.
- One force did not specify what happened at 18, but stated that young people remained categorised as 'at-risk' unless they have been taken away from risk of CSE 'through their own doing or through multi-agency work/support pathways', but a PVP record would remain in existence.
- One force stated that if someone over the age of 18 is recorded as being a victim of crime/concern, then an intelligence search using force systems would identify their previous records and any concerns in relation to CSE.

Young people supported by
The Children's Society
defined child sexual
exploitation as:

**Someone taking advantage
of you sexually for their
own benefit. Through
threats, bribes, violence,
humiliation, or by telling
you that they love you, they
will have the power to get
you to do sexual things for
their own, or other people's,
benefit or enjoyment.**

‘The lady kept referring
to her as a “witness”
and the young person
explained that she did
not stand and watch –
it happened to her.’

From The Children’s Society’s case notes



Conclusions and recommended solutions

Young people in the cases we analysed for this report have dreams and aspirations – of being a history professor, training as a lawyer, working in the youth justice system and many more. But to enable them to achieve their aspirations, they first need help to survive and overcome the sexual abuse they experienced. In order for this to happen, services should be able to identify young people who are at risk, offer them consistent help, bring perpetrators to justice and help young people transition to adulthood.

The data we gathered for this report shows that 16 and 17 year olds are very vulnerable and can be targeted for sexual offences both because of their age and because of additional vulnerabilities – such as previous experiences of neglect and abuse, mental health issues or living away from their families. The experimentation with drugs and alcohol widespread amongst young people of this age – and problematic substance use among some vulnerable 16 and 17 year olds – is one of the key features in sexual offences against this group. So for various reasons, this age group is at high risk of sexual exploitation.

It is deeply concerning that the true scale of their victimisation is so difficult to establish through the data available – not just because under-reporting will mean these numbers are already only a partial reflection of the reality – but also because young people aged 16 and 17 are only partially represented in the data on sexual abuse of children, and most data on offences against them is completely subsumed in crime statistics on adults.

UK law recognises 16 and 17 year olds are still children. Because of the impact abusive and exploitative relationships have on

children and young people, child protection laws are very clear: the onus of identifying, disclosing and removing themselves from an abusive situation should never be on the child. It is the responsibility of professionals to ensure that all young people under the age of 18 are safe and protected.

Yet our laws on sexual offences make that message less clear in relation to 16 and 17 year olds, sending inconsistent messages to professionals in children's services, police and the justice system. The interaction between the legal age of consent and the statutory frameworks designed to protect children is complex. The result is a failure to protect 16 and 17 year olds affected by sexual abuse and exploitation, allowing those who target them to walk away unconvicted and able to move on to their next victim – as data received from the police and CPS confirms. The lack of available disruption mechanisms in relation to this age group means that where professionals identify the risk, they may be powerless to intervene until the risk substantially escalates or a disclosure is made.

The lack of real clarity across different services (such as children's services, police, education and health services)

and the Crown Prosecution Service on the definition of child sexual exploitation, grooming and consent in cases of 16 and 17 year olds, results in an incoherent response to this age group. It is particularly difficult in cases of 16 and 17 year olds who may be confused about the issue of consent themselves, and who may take alcohol and drugs voluntarily from a person who later abuses them sexually.

It seems perverse that on the one hand the law clearly states that 16 and 17 year olds should not be able to buy alcohol (rightly recognising the danger it poses to them) yet on the other hand, adults who supply alcohol and drugs to 16 and 17 year olds and use it to groom them for sex can often escape punishment by the law.

Considering that the law defines a child as any person under the age of 18, we believe that in cases of sexual offences against children aged 16 and 17, the law should recognise that a child's use of alcohol can never be seen as a factor in support of consent to sex being given. We believe that the age of a victim being 16 or 17 should be consistently recognised as an aggravating factor for sentencing purposes, and that this should be included in

sentencing guidelines.

In recent years much progress has been made to reform the justice system to make it work better for vulnerable victims and witnesses, and to educate legal professionals on the issues of vulnerabilities and myths that surround sexual offences. But as this report shows, this education and training remains insufficient where 16 and 17 year olds who are victims of sexual offences are concerned.

In June 2014, the CPS and police published their joint rape action plan under the new Director of Public Prosecutions, Alison Saunders. This built on work led by Sir Keir Starmer, and amongst other issues highlighted the need for a better understanding of consent. The action plan outlined the need for police and prosecutors to focus their cases on the behaviour of the accused and not the complainant, and identifies societal issues they believe feature generally in public attitudes to rape. It is important that taking this work forward, the particular issues facing 16 and 17 year old victims are addressed.

Considering the evidence presented in this report, we believe that the following recommendations should be implemented. National government, the criminal justice system and local agencies all have a crucial role to play to ensure 16 and 17 year old victims of child sexual exploitation are no longer unseen, unprotected and unsupported. These solutions will benefit all children and young people, but they are aimed in particular at closing some of the gaps we have identified for

young people aged 16 and 17, who currently linger in the grey area between childhood and adulthood, too easily falling through the cracks in protection and support.

Prevention

- Young people aged 16 and 17 should have improved access to information about what consent is and how to report sexual crimes. The Government should undertake a public campaign aimed specifically at older teenagers and their parents and families, working with local agencies and community organisations.

Data collection

- The data on sexual offending against children aged 16 and 17 should be reported separately and should not be subsumed within data on adults. The Ministry of Justice and Home Office should develop data collection that allows reporting of crimes experienced by victims, and outcomes achieved, to be broken down by age.
- The Office for National Statistics should report separately on findings in relation to 16 and 17 year olds who take part in the Crime Survey for England and Wales, in recognition of the evidence of the high levels of reported sexual offences experienced by this group.
- The Government should introduce standard data collection on child victims of sexual crimes under the age of 18, to ensure that there is consistency in flagging and identifying victims on all police

systems, and that the progress of cases via the justice system – from the recording of crime to court proceedings – can be effectively monitored.

Identification

- Local safeguarding children boards should coordinate joint training between all local agencies – such as police, children's services, CPS staff, health, education and other relevant local agencies with safeguarding responsibilities – on issues of consent, grooming, sexual exploitation and sexual offending against 16 and 17 year olds, to ensure coherent response.
- Local safeguarding children boards should also coordinate with local safeguarding adults boards to ensure effective strategies are in place to manage the transition to adulthood for the most vulnerable young people.
- Local safeguarding children boards should include data on rapes and sexual assaults against 16 and 17 year olds in their mapping of child sexual exploitation.
- The Government and the police should develop a national system for flagging children at risk of child sexual exploitation and abuse/victims of sexual offences, to ensure that practice is consistent across all areas.
- The Department for Education, jointly with the Home Office, should develop guidance on children who are flagged as victims of CSE and present as young offenders at the same time, to ensure that the

response to them as young offenders is not prioritised over a child protection response. The guidance should recognise that these children require therapeutic interventions.

Protection

- The Government should raise the age for Child Abduction Warning Notices from 16 to 18, to ensure the police can intervene where vulnerable 16 and 17 year olds are targeted by predatory adults for the purposes of exploitation, either of a sexual or criminal nature. In particular, the use of CAWNs should be extended to cover vulnerable 16 and 17 year olds, including children in care, children recognised by the local authority as a 'child in need' and those living away from families because of risk of homelessness.
- The Government should introduce a national register of missing people to ensure that young people who go missing from home can be more easily identified and protected from harm.
- The Government should revise the guidance on child sexual exploitation and make it statutory. The guidance should provide a clear explanation of what constitutes sexual exploitation and grooming, particularly in the case of 16 and 17 year olds. It should also provide clarity on how grooming and exploitation protections interact with the legal age of consent, and outline what safeguarding response should be expected. A common definition between criminal

law and child protection law should be considered to provide consistency.

Support

- The Government should ensure that all victims of sexual crimes aged 16 and 17 have access to specialist mental health support.
- As part of their Joint Strategic Needs Assessment, Health and Well-being Boards should assess the need for a range of therapeutic interventions - as recommended by NICE guidance for children who experienced trauma - and coordinate and advise on adequate commissioning of such services across health and police services.
- Through the supplementary Working Together guidance on child sexual exploitation, the Government should define how young people who have been identified as at risk, or victims of, child sexual exploitation or sexual abuse should be given a clear transition plan to enable them receive the support needed to recover when they turn 18.
- The College of Policing should give guidance to the police on how to respond to children identified in what were previously known as soliciting for prostitution situations (both in the community and online) to ensure that young people aged 16 and 17 are identified and responded to as children in need of protection. This should be part of training for all frontline police staff.

- Police, children's services and education staff should receive initial and continuous development training on child sexual exploitation, the emotional impact it has on a child, and how to work with and support victims of child sexual abuse and exploitation. All services should be adequately resourced to respond effectively to children who display indicators of sexual exploitation, and ensure that they can provide consistent support for young people.

Participation

- The Government should introduce victims' legislation to ensure that the principles outlined in the EU Victims Directive that comes into force on 16 November 2015 are enshrined in law and are implemented in relation to children and young people. It should introduce clear standards on how young victims of crimes of a sexual nature are kept informed about the progress of investigation and court processes.

Prosecution

- The Government should clarify that for sentencing purposes where the victim of a sexual offence is 16 or 17, this should always be considered an aggravating factor in the offence. The law should send a strong message that crimes against all children, including those aged 16 and 17, will not be tolerated.
- The Government should clarify that for prosecution and sentencing purposes a young person's consent to take drugs and alcohol can never be viewed as consent to sexual acts.
- The Government should recognise that some vulnerable young people – including children in care, children recovering from trauma, and children with mental health problems or learning disabilities – are deliberately targeted, manipulated and coerced to consent to sexual acts by adults. Prosecution guidelines should clarify that vulnerabilities such as these should be considered when determining young people's capacity to consent. In cases of sexual offences, where a victim is in one of these groups, this should always be considered a further aggravating condition of the offence.
- The Crown Prosecution Service should introduce further changes to guidance on prosecuting sexual offences cases to specifically include information on consent and 16 and 17 year olds.
- The Crown Court Bench Book for prosecutors should be amended to give advice to judges on how to instruct jurors in cases of sexual offences where the victim is 16 or 17, focussing on the vulnerabilities due to their age and the vulnerabilities recognised under child protection legislation. A focus on the vulnerabilities of 16 and 17 year old victims of sexual offences should also be made part of training for all legal staff.
- To help juries make sense of complex psychological issues surrounding experiences of sexual offences by children – and particularly young people aged 16 and 17 from vulnerable groups – the Government should consult on introducing an expert witness requirement to ensure that as part of the prosecution case, evidence is presented on how psychological trauma experienced by children may result in children appearing to give consent.*

From The Children's Society's case notes:

'Young person told me about an incident on the bus. One of young person's friends wrote young person's number onto the back of the seat "for a laugh". The next day they were on the bus and an elderly man was sat where the number was written. Young person's friend shouted out that young person's number was there. The elderly man started talking to the girls and they thought he was just a polite old man. Later that day young person received a phone call from the man saying it had been nice talking to her and asking questions. Young person felt this was weird and put the phone down. He then sent her a text saying similar things and then anonymous phone calls started coming.'

*This is in line with recommendations in relation to all rape cases made by Dame Elish Angiolini DBE QC in her Report of the Independent Review into the Investigation and Prosecution of Rape in London

Appendix 1

This work contains statistical data from ONS which is Crown copyright. The use of the ONS statistical data in this work does not imply the endorsement of the ONS in relation to the interpretation or analysis of the statistical data. This work uses research datasets which may not exactly reproduce National Statistics aggregates.

The 8.6% figure identifying females aged 16 or 17 as the group most at risk of being a victim of a sexual offence comes from analysis of data from the self-completion module of the Crime Survey for England and Wales 2013-14, using a variable accessed at the ONS Virtual Microdata Laboratory. This figure represents the weighted percentage (using the CSEW's 'c11indivwgt' weighting variable). The base number (unweighted) was 224.

The 0.7% figure for females aged 16 or 17 who stated that they had been sexually assaulted in the previous year comes from analysis of data from the face-to-face interviews of the CSEW 2013-14, and was accessed online via the UK Data Archive. This figure represents the weighted percentage (using the same weighting variable). The base number (unweighted) was 232.

The exact wording of the face-to-face question was: 'During the last 12 months, have you been sexually interfered with, assaulted or attacked, either by someone you knew or by a stranger?'

The exact wording of the self-completion module instructions and questions which were used to create the variable accessed at the ONS VML were:

'The next few questions are about sexual offences, which can affect both men and women. Although the questions may seem intrusive they are important in helping the Home Office to understand more about these types of crime. If the questions upset you in any way you can either ask the interviewer for help or pass over them by pressing "Don't wish to answer". However, we hope you will continue to the end. Please remember that all your answers are strictly confidential and your information will be grouped with others in a way that does not identify individuals.'

'You said someone has indecently exposed themselves to you (ie flashing) in a way that caused you fear, alarm or distress. Has anyone done this to you in the last 12 months?'

'You said someone has touched you in a sexual way (eg touching, grabbing, kissing or fondling), when you did not want it. Has anyone done this to you in the last 12 months?'

'In the last 12 months, has anyone ever penetrated your vagina or anus with an object (including their fingers) when you made it clear that you did not agree or when you were not capable of consent?'

'In the last 12 months, has anyone ever attempted to penetrate your vagina or anus with an object (including their fingers) when you made it clear that you did not agree or when you were not capable of consent?'

'In the last 12 months, has anyone ever penetrated your mouth, vagina or anus with their penis when you made it clear that you did not agree or when you were not capable of consent?'

'In the last 12 months, has anyone ever attempted to penetrate your mouth, vagina or anus with their penis when you made it clear that you did not agree or when you were not capable of consent?'

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Old enough to know better?

Why sexually exploited older teenagers are being overlooked

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It is a painful fact that many children and young people in Britain today are still suffering extreme hardship, abuse and neglect.

We work with some of the most vulnerable teenagers, facing issues like child sexual exploitation, family neglect, domestic abuse or mental health problems.

Help us change the law to protect 16 and 17 year olds from harm, abuse and neglect:

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Names used in this report have been changed to maintain anonymity. All photographs posed by models.