

Recent Relevant Legislation and Government Guidance

Appendix 4 of House of Bishops' Policy 2004 (and updated for the purposes of this Policy)

Recent legislation

Police Act 1997

This legislation set out the structure of the Criminal Records Bureau (CRB).

Sex Offenders Act 1997

This legislation set up the Sex Offenders Register, although the Act was repealed by the Sexual Offences Act 2003 and provision relating to the Sex Offenders Register was replaced in the 2003 Act.

Data Protection Act 1998

This Act extends the rights of individuals to have access to personal information held about them on computer or paper records. There are exceptions to these rights in limited circumstances, including where the information is held for the purposes of preventing or detecting crime.

Human Rights Act 1998

This Act provides that UK legislation must be construed in accordance with the European Convention on Human Rights. The Convention includes rights to respect private and family life and also a right not to be harmed or tortured.

Protection of Children Act 1999

This Act re-structured the Department of Health Consultancy List, setting up the Protection of Children Act List (POCALS). It also amended the Police Act 1997 so that the CRB can use information from POCALS and the Department for Education and Skills (DfES)' List 99 in CRB disclosures.

Criminal Justice and Court Services Act 2000

This Act allows courts to impose orders disqualifying people from working with children following certain convictions. It is an offence knowingly to seek work with children if disqualified, and also an offence knowingly to recruit or permit a disqualified person to work with children.

Sexual Offences (Amendment) Act 2000

This Act equalized the age of consent at sixteen for both heterosexual and homosexual activity. It also provided extra protection for young people aged sixteen and seventeen who have sexual relationships with people in positions of responsibility.

Sexual Offences Act 2003¹

This legislation reviewed sexual offences legislation by providing a clear, coherent and effective set of laws that increases protection, enables the appropriate punishment of abusers and ensures the law is fair and non-discriminatory. The points that are relevant to the safeguarding of children include:

- Children under thirteen will not be capable in law of giving consent to any form of sexual activity. Any intercourse with a child under thirteen will be charged as rape.
- A range of new offences designed to tackle all inappropriate sexual activity, including a new offence of causing a child to engage in sexual activity – which captures behaviour such as inappropriately persuading children to undress.

¹ see www.legislation.hmsso.gov.uk for full text

- A new grooming offence based on meeting a child with the intention of committing a sexual offence, and a civil order applying both to the internet and off-line grooming, which enables restrictions to be placed on people displaying inappropriate sexual behaviour before an offence is committed.
- New offences with severe penalties against those who sexually exploit children for their own gain. The new offences relating to sexual exploitation of a child protect children up to the age of eighteen. The Act covers a range of activity including: buying the sexual services of a child, causing or encouraging children into sexual exploitation, facilitating the sexual exploitation of a child and controlling the activities of a child involved in prostitution or pornography.
- Maximum penalties for sexual offences against children and vulnerable people have been raised to reflect the severity of these crimes. Any offence involving penetration against a child under thirteen, or a person who lacks the capacity to consent, will attract a life sentence.

Government guidance

Working Together to Safeguard Children (1999)

Department of Health/Home Office/Department of Education and Skills inter-agency guidance to safeguard and promote the welfare of children.

Caring for young people and the vulnerable (1999)

Home Office guidance for preventing the abuse of trust by people in positions of responsibility with sixteen- and seventeen-year-olds and vulnerable adults.

Complex Child Abuse Investigations: inter-agency issues (2002.)

This Home Office guidance includes advice on sharing information during investigations.

What to do if you are worried a child is being abused (2003)

Recent governmental guidance on inter-agency co-operation to supplement *Working together to safeguard children*. This guidance advises people making referrals and includes an appendix on information sharing.