

the **Howard League** for **Penal Reform**



## **Out of place: The policing and criminalisation of sexually exploited girls and young women**

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A report for the Howard League for Penal Reform by  
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## Preface

“The key to investigating something that is hidden is to believe it is there.”

**Police officer, Operation Diana, 2011**

The title of this report reflects the fact that we no longer have language with which to talk about girls and young women in prostitution. For reasons grounded in the laudable intention of protection we can now only refer to ‘commercially sexually exploited girls and young women’ or ‘girls and young women experiencing, or at risk of sexual exploitation’. Throughout the first decade of the millennium, young people’s involvement in prostitution was redefined as child abuse (for political and ideological reasons). To speak of girls and young women’s involvement in prostitution without also stating that they are emotionally, physically or economically coerced is now the same as saying “girls and young women’s involvement in their own abuse”. To state that they are involved in prostitution is regarded as a denial that they are being abused.

This change in language has impacted on the way that girls and young women’s sexual vulnerability is policed with quite specific effects. This report adopts language that is at odds with contemporary practices; it does so in order to draw subtle but very important distinctions between girls and young women who are disproportionately criminalised because of concerns about their vulnerability and young women involved in selling sex for money.

The following definitions are used in this report:

**Girls and young women:** Any girl or young woman under the age of 18 is legally considered to be a child. Children who are sexually exploited must always be treated as victims, never as criminals.

**Girls and young women in prostitution:** This term refers to girls and young women who for whatever reason and under whatever conditions, exchange sex for money or other direct economic benefits such as alcohol, drugs or accommodation.

**Commercially sexually exploited girls and young women:** This term refers to the legal category of girls and young women in prostitution and points to the criminal act committed by the adult individuals who pay for sex, organise for it to be bought and sold, or otherwise facilitate involvement in any form of prostitution as in the exchange of sex for money or other economic benefits.

**Girls and young women who are sexually exploited, or at risk of sexual exploitation:** This term refers to the categorisation used by statutory and non-statutory services and agencies when dealing with potentially vulnerable girls and young women. Girls and young women in prostitution may well form a key group within this category. There are a host of other girls and young women who come to the attention of the criminal justice system because of practitioner and police concern that they may be sexually vulnerable, rather than in prostitution per se.





## Executive summary

### Background

England and Wales have a victim and child-oriented approach to girls and young women's involvement in prostitution. Key policy documents instruct all agencies that sexual exploitation is a form of sexual abuse and that any interventions should be based on a child's needs. However, under the Policing and Crime Act 2010 a child can still be prosecuted for a variety of prostitution-related offences. This means that the victim and child-oriented approach to sexual exploitation is framed within a wider criminal justice approach that still retains the capacity to criminalise children as a result of their sexual exploitation.

At the same time, a shift in practice and policy no longer addresses the question of girls and young women's involvement in prostitution and instead only focuses on those who are sexually exploited or at risk of sexual exploitation. There is a general lack of understanding of the difference between girls in prostitution and girls who are in abusive or exploitative sexual relationships, or are 'sexually vulnerable' but who are not directly exchanging sex for money, drugs, alcohol or accommodation.

### Research aims

This research was commissioned to support the work of the Howard League for Penal Reform in 'stemming the flow' of girls into the criminal justice system.

The original aim of the research was to analyse the decision making processes of police, youth justice and non-statutory specialist sexual exploitation service providers in order to understand the social processes that contributed to the criminalisation (if any) of girls and young women in prostitution. It aimed to listen to the stories told by practitioners about their work and the girls and young women they worked with in order to:

- Understand how practitioners make decisions about whether or not to prosecute and use criminal justice sanctions against sexually exploited girls and young women.
- Identify any 'tipping points' (that is to say, when a series of small incidents reaches a point that triggers a more significant shift or change) in the criminalisation of sexually exploited girls and young women.

In actuality, the report is much more about the policing of girls and young women's vulnerability and the hidden ways in which those involved in prostitution and/or who are being sexually exploited are criminalised.

### Methodology

In order to address the research aims, two datasets were collected. The first was a national survey of individuals and organisations who were members of the National Working Group for Sexually Exploited Children and Young People.<sup>1</sup> The survey asked participants to describe local issues and focused on the links between sexual exploitation services and youth justice agencies.

<sup>1</sup> See [www.nationalworkinggroup.org](http://www.nationalworkinggroup.org)

The second dataset was a series of in-depth, detailed interviews with specialist services and police constabularies in three areas of England and Wales.

Both of these datasets were supplemented by Freedom of Information requests<sup>2</sup> which asked for records of proceedings of all those found guilty of soliciting and loitering for the purposes of prostitution by age from 1990 – 2011. The data was analysed thematically and the analysis was supported by a review of existing literature and policy documents.

### Key findings

- There is growing evidence that new strategies need to be developed to protect young women and girls from both commercial sexual exploitation (prostitution) and other forms of sexual exploitation e.g. girls who are sexually abused in what they believe to be ‘relationships’ with their exploiters, or who are sexually vulnerable but are not directly exchanging sex for money etc.
- England and Wales have tried to adopt a victim-oriented approach but this is undermined by the disjuncture between the law and policy. The Policing and Crime Act 2010 does not age-restrict prostitution-related offences which means that anyone over the age of criminal responsibility can be prosecuted for these; whereas key policy documents define sexual exploitation as a form of sexual abuse. Girls who are sexually exploited must always be treated as victims, never as criminals.
- Often girls and young women come to the attention of the authorities due to offences they have committed as a result of their sexual exploitation. Many girls use crime as a means to escape their exploiters or as a cry for help. Some use it as a way to express a sense of justice as they feel excluded from traditional mechanisms of justice. These girls are criminalised when they should be recognised as victims.
- Specialist services should be developed to provide appropriate support. These should be gender specific and should address commercial sexual exploitation and other forms of sexual exploitation separately.
- Links between agencies and youth justice need to be improved. Too often the youth justice system fails to recognise girls and young women as victims of sexual exploitation because existing legislation allows them to be punished for crimes committed as a result of it.
- Criminal justice agencies should be more sophisticated and child-centred in their approach to girls who come to their attention and should introduce more training to enable girls and young women to be referred to more appropriate services.

**Key recommendations**

- Remove the legal possibility of ever prosecuting a child for prostitution-related offences by providing clear guidance, removing the persistent returners' clause and age restricting any prostitution-related offence to those over the age of sexual consent (i.e. 16 years old).
- Clear guidance is required from central government to distinguish sexual exploitation from youth prostitution.
- Specific cross-governmental guidance is required to deal with supporting children and young women in prostitution through appropriate welfare and social support services. This should be distinct from the support and services offered for sexually exploited girls and young women.
- Develop formal police diversion schemes for girls and young women, particularly those charged with public order offences.
- Develop court diversion schemes for girls and young women whose offending is linked with either sexual exploitation or prostitution.
- Provide youth justice magistrates, solicitors and youth offending teams with high levels of appropriate training in the links between sexual exploitation, commercial sexual exploitation and children's involvement in prostitution.
- Provide clear guidance to youth justice agencies to ensure that specialist sexual exploitation service providers are consulted in the process of assessing risk of reoffending and the production of pre-sentence reports.



## Introduction

England and Wales have a victim and child-oriented approach to girls and young women's involvement in prostitution. The Sexual Offences Act 2003 and two key policy documents have framed this approach. *Safeguarding Children in Prostitution* (Department of Health and Home Office, 2000) and *Safeguarding Children and Young People from Sexual Exploitation* (Department of Children, Schools and Families (DCSF),<sup>3</sup> 2009) instruct all agencies that sexual exploitation is a form of sexual abuse and that any interventions should be based on a child's needs.

The Sexual Offences Act 2003 created a set of offences for dealing with the commercial sexual exploitation of anyone under the age of 18 years old. Yet, *Safeguarding Children and Young People from Sexual Exploitation* (DCSF, 2009) notes that a child (i.e. anyone over the age of 10 years) can still be prosecuted for a variety of prostitution-related offences, including persistently soliciting and loitering for the purposes of prostitution (see section 16 of the Policing and Crime Act 2010 which replaced section 1 of the Street Offences Act 1959).

For adults, persistence is demonstrated when two police officers bear witness to the activity and issue a non-statutory 'prostitutes' caution'. There is no similar guidance for young people, beyond the statement that:

*Although the offence remains available for under 18s, this guidance echoes the message included in the earlier version that the criminal law is rarely an effective or appropriate response to children and young people under the age of 18 found loitering or soliciting for the purposes of prostitution and that the responsibility for the sexual exploitation of children or young people lies with the abuser: either the person who pays for sex, in some way, or the person who grooms the child and/or organises the exploitation (DCSF, 2009).*

This has become known as the 'persistent returners' clause'. Although the clause states that criminalisation for prostitution-related offences is 'rarely an effective or appropriate response', it does not prohibit such a response. Therefore this clause permits law enforcement and criminal justice agencies to bring charges against children for prostitution-related offences (including persistently soliciting or loitering) on the basis that some might freely and knowingly be involved in exchanging sex for money. It means that the victim and child-oriented approach to sexual exploitation adopted by England and Wales is framed within a wider criminal justice approach that still retains the capacity to criminalise children as a result of their sexual exploitation.

### Aims of the research

Data on proceedings against those found guilty of persistently soliciting and loitering for prostitution provides only a partial picture of the criminalisation of sexually exploited girls and young women. A full understanding of the criminalisation of this group requires an examination of the links between

<sup>3</sup> Now incorporated into the Department of Education.

sexual exploitation and offending and consideration of the ways in which criminal justice agencies and sexual exploitation practitioners respond to girls and young women's sexual vulnerability.

The original aim of this research was to analyse the decision making processes of police, youth justice and non-statutory specialist sexual exploitation service providers in order to understand the social processes that contributed to the criminalisation (if any) of girls and young women in prostitution. Unexpectedly, since the last time such a study was undertaken, almost a decade ago, it is no longer possible to talk about girls or young women as being involved in prostitution, much less track the decision making processes regarding their criminalisation. This is not merely a semantic change. The change in language indicates a shift in practice and policy which no longer addresses the question of girls and young women's involvement in prostitution and instead only focuses on girls and young women who are sexually exploited or at risk of sexual exploitation. In short, there is a general lack of understanding of the difference between those in prostitution and those who are in abusive or exploitative sexual relationships, or are 'sexually vulnerable' but who are not directly exchanging sex for money, drugs, alcohol or accommodation.

While the original aim of this research project was to listen to the stories told by practitioners about their work and the girls and young women they worked with, in actuality the report is much more about the policing of girls and young women's vulnerability and the hidden ways in which those involved in prostitution and/or who are being sexually exploited are criminalised.

### **Methodology**

The study of decision making processes and the criminalisation of sexually exploited girls does not lend itself to any large-scale research. For that reason a two stage qualitative study was adopted.

- Stage 1 comprised of a national survey of agencies known to work with or provide specialist services for sexually exploited girls and young women.
- Stage 2 comprised of in-depth interviews in three areas of the country where agencies were dealing with problems of sexual exploitation, as indicated in the findings of the national survey.

The purpose of the national survey was twofold. Firstly, through asking practitioners about their experiences of working with sexual exploitation in their locality, the survey became a mechanism to identify three areas of the country where agencies were dealing with the problems of sexual exploitation, and more particularly, were working directly with sexually exploited girls. Secondly, the survey was a means by which inferences could be drawn about the extent of the 'known' problem of sexual exploitation and by which the multi-agency partnerships of quite different agencies could be mapped out.

The survey was conducted using two different survey tools: one for criminal justice agencies, including the police and youth justice services and one for specialist services or welfare agencies working with sexual exploitation and/or prostitution. Both survey tools were piloted and refined.

The survey was administered electronically through the National Working Group for Sexually Exploited Children and Young People (NWG)<sup>4</sup> using an online survey tool. Respondents were invited to suggest other individuals and organisations who

were not members of the NWG, but whose expertise and experience were relevant, to take part. The response rate was good, in that nearly 70 per cent of the members of the NWG completed the survey. That said, only 51 agencies from across the UK were represented. The process of administering the survey provided a critical source of information that helped shape the methodology for the next stage of the research. As a result of the survey, individuals from organisations across the country provided information about their locality, the nature and extent of sexual exploitation in their area, the challenges and difficulties faced by the girls and young women and about the multi-agency relationships they formed (or not).

The in-depth interviews from three areas of the country conducted for stage 2 of the research provide the bulk of the data for this project. Each area was chosen to reflect one of the key findings from the national survey. Due to the lack of national consistency in services and provision for sexually exploited girls and young women, often different agencies lead in determining the nature of the provision and service in any one particular area. One site was chosen because there was an innovative intelligence-led policing operation in which sexual exploitation was being used as a means to police organised crime (Operation Diana). The second site was chosen because it had been subject to a serious case review some years earlier and had experienced substantial media attention from a more recent high-profile case. The final site was chosen because it had a substantially longer history of multi-agency work between a voluntary sector specialist service and the police.

In each research site access was negotiated through key gatekeepers in the police, social services and/or sexual exploitation services. Initial contact was made to map out the services and/or provision in the area in order to establish who to interview. From there, snowball sampling was used. In practice this meant that (i) only those with practical knowledge were interviewed and (ii) a fairly comprehensive picture of the working relationships and issues in the locality could be established.

In order to address the aims of the project, it was critical to understand what the local issues of sexual exploitation were. For example:

- What were the issues for the girls and young women?
- How did the police, criminal justice agencies and practitioners come to understand what it was they were trying to achieve? Did it help?
- What were the constraints and difficulties that the police and practitioners encountered?
- What were some of the unintended consequences of their work?

As a result of the snowball sampling, all those with specialist expertise who wanted to be interviewed were interviewed, and were also invited to suggest others that would be relevant to interview. One of the unexpected findings of the project was that there are far fewer services and individuals with expertise in working with sexually exploited girls and young women than was first anticipated (see Phoenix, 2003).

In each of the localities there were less than 15 individuals from across police, youth justice, social services and specialist services that had a specific remit to do direct work with sexually exploited girls.

Interviews all followed broadly similar lines. Interviewees were asked to talk about 'typical' cases in their area: what they saw as the differences between prostitution and sexual exploitation; what they thought the problems were that generated sexual exploitation; what criteria they used to assess any specific case or course of action. During the course of the interviews, respondents were encouraged to talk freely and openly about specific cases and the frustrations or otherwise that they experienced in trying to work with or achieve specific outcomes for individuals involved.

All the interviews were tape-recorded using a digital recorder. Interviewees were given full information about the research project and the assurances of confidentiality and anonymity as per standard ethical research guidelines. Prior to conducting the fieldwork for this project, the proposal and outline methodology were submitted to both Durham University's and the Howard League's ethics committees for approval.

A key aspect of the initial research project was interviewing the girls and young women themselves. This did not prove possible for reasons that could not have been anticipated at the planning stage of this project. Firstly, the project started in January 2011, seven months after the new Coalition Government was elected and just as the cuts to the public sector were beginning to be felt. In practice this meant that the key gatekeepers (voluntary sector specialist sexual exploitation services) were experiencing profound funding crises resulting in redundancies and the withdrawal of services in two of the three research sites and increased workloads in the third. These organisations were therefore unable to commit the time and resources required to identify willing respondents, broker the introductions and assist in the interviewing process. Secondly, despite the high level of media and public interest in sexual exploitation and the packaging of it as an increasing social problem, the number of girls and young women coming to the attention of services is relatively small in comparison with other groups of vulnerable young people. In a context of cuts to funding, police, criminal justice and the third sector organisations working with sexually exploited girls and young women found themselves in a defensive position in terms of 'justifying' the continued investment in their work. This meant that organisations were understandably cautious about exposing the actual numbers they worked with.

In order to ensure that the research aims were achieved in the absence of interviews with girls and young women, interviewees were asked questions about the outcomes of various criminal justice or welfare-based interventions for specific individuals both historically and currently.



# 1 The extent and prevalence of youth prostitution and sexual exploitation

This opening chapter aims to dispel many of the myths that circulate about the extent and prevalence of youth prostitution and sexual violence. It provides an examination of media and public discussions about extent and prevalence and a brief analysis of the official statistics relevant to sexual exploitation. Despite what is stated in public discussions, there are very few prosecutions and convictions against individuals for offences related to the sexual exploitation of children. There are no reliable sources of information about the extent and prevalence of the sexual exploitation of girls and young women.

## **The spread of sexual exploitation: Media and political claims**

Much is currently made of the 'crisis' that exists with regards to the sexual exploitation of girls and young women and their commercialisation, commodification and sexualisation (Boyles, 2008; Chase and Statham, 2005; Hughes, 2002; Ashenden, 2003). In all cases, the message is: there is more of it than we realise, it is getting worse and something must be done about it before we lose an entire generation to this problem.

Reliable statistics on the extent of sexual exploitation or commercial sexual exploitation do not exist. There are no national datasets or official statistics that would indicate how many girls and young women are being sexually exploited. Instead, there is a proliferation of reports from researchers, campaigning groups, children's charities and other NGOs that are often discussed in the media and referred to by politicians as though they are reliable sources of information about extent and prevalence. They promote the view that the problem is large and growing. For instance, Barnardo's stated that nearly 6,000 victims of sexual exploitation were identified by the police last year alone and that this represented an increase of over 1,000 more than the year before (Bradford, 2011). Child Exploitation and Online Protection Centres (CEOPs) stated that in the year 2010–11, as a direct result of their work, 414 children were the subject of safeguarding procedures, 513 arrests were made and 141 high-risk sexual offence networks were disrupted (CEOPs, 2011).

Across most of these reports, a similar introductory statement is made: 'the girls and young women that we know are being sexually exploited only represent the tip of the iceberg'. The most common theme is that (regardless of the actual numbers) our capacity and ability to protect girls and young women from sexual exploitation is in crisis (Ashenden, 2003); that new and different forms of sexual exploitation are coming to light on an almost daily basis and that all of this is occurring against a backdrop marked by a profound sexualisation of girls and young women (Papadoulous, 2010).

As evidence of this, commentators regularly point to:

- Internal and external trafficking for sexual exploitation in which children are moved around the UK and/or across the globe for the purposes of being sexually exploited (Melrose and Barrett, 2004; Scott and Harper, 2006; Stacey, 2009).
- The fact that boys and young men are also being sexually exploited and trafficked (Palmer, 2001; Melrose, 2002; Chase and Statham, 2005).
- The fact that sexual exploitation occurs through increasingly organised groups of men operating within a specific locality or across regions and countries (Chase and Statham, 2005; Harris and Robinson, 2007; Stacey, 2009).
- The use of the internet to groom and sexually exploit children (Hughes, 2002; Davidson and Martellozzo, 2008; Gillespie, 2008).
- Social networking sites are identified as particularly problematic with more and more children and young people accessing them without appropriate parental control or knowledge (Leary, 2008).
- The extent to which sexual violence and exploitation mark the everyday lives of girls and young women in gang-related areas of London (Firman, 2011).
- Places thought of previously as safe as being increasingly risky for girls and young women, such as residential and supported accommodation (Brodie et al, 2011).
- The lack of anti-sexual exploitation initiatives in particular regions or places, which make them safe havens for those who would sexually exploit girls and young women, such as tourist destinations abroad or, indeed, even Scotland (Easton and Matthews, 2012).

Together these reports paint a very grim picture of the routine lives of many girls and young women; preyed on by an almost endless variety of older boys and men for sexual gratification, status, money, drugs or simply a vent for their sexual deviation.

Yet, at the same time official statistics showing the level of prosecution and convictions for offences relating to sexual exploitation remain extremely low. The two key offences are: sexual grooming and abuse of a child through prostitution or pornography.

**Table 1: Charges for offences relating to sexual exploitation of children**

	2004–5	2005–6	2006–7	2007–8	2008–9	2009–10	2010–11
<b>Abuse of a child through prostitution</b>	99	124	101	108	116	134	152
<b>Sexual grooming</b>	186	237	322	274	313	397	310

Source: Home Office – A Summary of Recorded Crime 2002–3 to 2010–11.

portrayed in the media and public discussion as an increasing, alarming problem in need of urgent attention from criminal justice, welfare and third sector agencies. This is a perception which has potent political power in the regulation and policing of girls and women's lives.

Charges for trafficking provide perhaps the most illuminative illustration of this. In 2010–11, there were less than 100 charges for trafficking for sexual exploitation (compared to 21 in 2004–5, the first year the offence was introduced) and this was despite several extremely high-profile, expensive and extensive policing operations as well as the prior establishment of the UK Human Trafficking Centre. The potent political power created by the perception of a growing problem of sexual exploitation (in this case trafficking) was exposed in 2009 when an investigative journalist working for *The Guardian* broke the story that the UK's largest investigation into the trafficking of children and adults into prostitution (Operation Pentameter) failed to identify a single victim. This was despite several raids on established brothels and the fact that the investigation involved every police force in the country and several government departments and specialist services.

The then Home Secretary, Jacqui Smith, claimed that Operation Pentameter had been a tremendous success and its operational head, Tim Brain, said that the operation had seriously disrupted the organised crime network that trafficked girls and women into prostitution. Operation Pentameter was credited with 528 arrests. However, internal reports indicated that 10 of the 55 police forces in the country found no one to arrest; 122 of the 528 arrests were incorrectly recorded; of the remaining 406 arrests, 230 were of women, 153 were released before the success of the operation was announced and of those 153, 106 were released without charge. The remaining 47 were released following caution or charged with minor offences. Excluding the 153 who were released, the remaining 253 were not accused of trafficking, but rather 73 were charged with immigration breaches and 76 with non-trafficking offences including drugs offences and management of a brothel. In the end, only 96 people were arrested for trafficking offences; only 67 were charged, 22 prosecuted and only 15 men and women were convicted (Guardian, 2009). To put this into context, there were 822 raids on brothels, flats and parlours across the UK during that time period. In other words, the most significant impact of Operation Pentameter was the disruption of women's (often legal) sex work.

*The Guardian* report on Operation Pentameter raised serious questions about the claims made (by politicians, the media, campaigning groups and indeed researchers) about the sexual exploitation of girls and young women in the UK. For despite what is stated, there is no robust methodology for quantifying the extent of sexual exploitation in the UK or, more narrowly, for quantifying the numbers of girls and young women that are commercially sexually exploited. NGOs and third sector welfare and children's organisations operate with extremely broad definitions of sexual exploitation (any and all sexual activity is marked by some type of exploitation) whereas the legal definition is much narrower and pertains specifically to prostitution and/or pornography. Organisational definitions of sexual exploitation adopted by NGOs and welfare services may not distinguish between different sexual offences (rape, sexual

abuse, abuse of trust or commercial sexual exploitation) and instead count the girls and young women that they work with or with whom they are familiar, who may have experienced many or indeed all these forms of sexual violence, as being sexually exploited and/or at risk of sexual exploitation.

In relation to research reports, statements are often made about the ‘hidden’ nature of the problem and methodologies are adopted which infer the extent of the problem by asking practitioners and professionals about how many referrals have been made to their organisation, including referrals of girls and young women considered to be ‘at risk’ of sexual exploitation. From these figures, researchers have then drawn conclusions about the nature and extent of sexual exploitation in any one particular locality – even though many of the sexual exploitation specialist services might include girls who have a number of the ‘risk factors’ associated with sexual exploitation but who have not been exploited (hence the very high figures reported by Barnardo’s (Barnardo’s, 2012)).

**Official statistics on prostitution-related offences**

Whilst it is not possible to attain any robust figures about the extent of sexual exploitation in the UK, or about the numbers of girls and young women who are being sexually exploited, it is possible to know how many are being prosecuted for prostitution-related offences. Between 1989 and 1995, there were nearly 4,000 cautions or convictions of those under the age of 18 years old for soliciting or loitering for the purposes of prostitution (Ayres and Barratt, 2000). What these statistics do not reveal is that most of those cautions and convictions were of those aged 15 years old and older. Over the same period there were just short of 10,000 cautions or convictions of those aged 18 and older. However, by the mid-1990s, the rate of prosecutions against adults was beginning to significantly decline and by the end of that decade there were fewer than 30 per cent of the prosecutions that had occurred a decade earlier.

**Table 2: Charges for soliciting or loitering for the purposes of prostitution and for sexual exploitation of adults in prostitution from 2000–10**

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>Soliciting</b>	1028	1655	2111	1944	1821	1640	1290	1216	1071	1190	826
<b>Exploitation of adults</b>	129	129	127	186	117	153	190	185	173	148	153

Source: Offences recorded by the police in England and Wales by offence and police force area from 1990 to 2010–11.

Over the last two decades there has been an even more dramatic decline in charges and convictions for soliciting or loitering for the purposes of prostitution against those under the age of 18 years old. Interestingly, the

decline started before the introduction of *Safeguarding Children in Prostitution* (Department of Health and Home Office, 2000 (see Table 3).

**Table 3: Number of defendants aged under 18 proceeded against at magistrates' courts and found guilty at all courts for the offence of persistently loitering or soliciting for the purposes of prostitution 1990–2010**

	Proceedings	Found guilty
1990	402	376
1991	344	325
1992	287	251
1993	140	106
1994	147	141
1995	212	105
1996	188	179
1997	135	152
1998	61	111
1999	45	39
2000	14	23
2001	15	7
2002	4	6
2003	7	3
2004	1	3
2005	-	1
2006	3	-
2007	-	1
2008	1	1
2009	-	-
2010	1	1

Source: Home Office Freedom of Information Request (Freedom of Information Act, 2000).  
Ref: 74339-05912. Date retrieved: 2 February 2012

It would be tempting to draw the following conclusions from the dramatic decline in prosecutions and convictions for prostitution-related offences: (i) that there are substantially less girls, young women and adults involved in prostitution now compared to the late 1990s in the UK and; (ii) that, as per government policy, girls and young women are not being criminalised for their involvement in prostitution. However, neither of these conclusions can be supported.

### **Contextualising the statistics**

Over the last two decades there has been a significant shift in the organisation of prostitution and in particular, with the advent of the internet and mobile and

smart phones, there has been a move away from street-based sex work towards indoor and more casual forms of sex work. There has been a rise in the number of women working from the privacy (and safety) of their own homes, selling sexual experiences via webcams or using social networking sites and dedicated websites that function, at least in part, to put potential purchasers in contact with sellers. There has also been a growth in sexual health outreach services that work with those involved in the sex industry to ensure good sexual health and to support individuals to 'exit' prostitution where appropriate and necessary.

At the same time, many constabularies across the country have closed their dedicated vice squads or units (Matthews, 2005). Wider reform to policy (Home Office, 2006) has brought about structural changes to outreach organisations as funding streams have moved from the Department of Health (via HIV and AIDS prevention work) to the Home Office (for the purposes of crime prevention and reducing prostitution). This has resulted in the reduction of the visibility of prostitution and hence the criminalisation of sex workers – selling sex is not an offence in the UK, but soliciting and loitering in a public place are. In other words, the dramatic decline in prosecutions for soliciting and loitering for the purposes of prostitution is more likely to be attributed to the combined effects of changes in the way prostitution is organised and a shift from formal policing of street-based prostitution through arrest and prosecution, towards informal policing and diversion through third sector welfare-based organisations.

There are two important implications that can be drawn from this discussion about the criminalisation and treatment of girls and young women in prostitution. Firstly, that the commercial sexual exploitation of girls and young women has also shifted from the streets to a more indoor-based, casual form of prostitution. Interview data collected in the course of this study indicated that this is the case, with a popular social networking site being used by young women to actively solicit men for the purposes of exchanging sex for money. Secondly, it cannot be inferred that girls and young women are not being criminalised for offences related to either commercial sexual exploitation or sexual exploitation more broadly. All that can be stated is that girls and young women are no longer charged with offences relating to soliciting and loitering in a public place for the purposes of prostitution. Although these girls and young women are not being criminalised for prostitution-related offences, they are often subjected to much greater levels of criminalisation for behaviour that is a direct result of their sexual exploitation.

Clearly, there are no reliable statistics to assess the prevalence or extent of girls and young women's involvement in prostitution or their sexual exploitation. There is also a substantial difference between the official statistics for charges pertaining to the commercial sexual exploitation of girls and young women and the reports by the media, policing organisations and NGOs. This may be because sexual exploitation, as a policing issue, has a

tremendous political potency, as demonstrated by the realities underneath the hype about Operation Pentameter. The gap between the political and popular perception and any robust evidence may also be caused by the way media reports and organisations infer the extent and prevalence of sexual exploitation.

Confusion about the size of the problem of sexual exploitation is exacerbated by the ways in which formal prostitution markets have changed over the last decade. In other words, young women and girls' involvement in prostitution and their sexual exploitation is less likely to occur on the streets or in visible public places. This means:

- If there is a growing problem of sexual exploitation and involvement in prostitution, then there may also be a growing 'justice' problem as there have never been more than 160 charges per annum against individuals for commercially sexually exploiting children since the introduction of the Sexual Offences Act 2003. This raises questions about whether girls and young women in prostitution or sexually exploited girls and young women are able to access appropriate social and welfare support and protection from the police.
- Despite the dramatic decline over the last two decades in the criminalisation of children (those aged under 18) for the prostitution-related offences of soliciting and loitering, it is not possible to claim that girls and young women in prostitution are not criminalised. In short, all that can be said is that they are not criminalised for soliciting and loitering.





## 2 Policy context

This chapter provides an overview of the relevant policies that shape the responses of agencies to girls and young women in prostitution and to sexually exploited girls and young women. It describes the legal and policy context that permits children to be charged, prosecuted and punished for prostitution-related offences and the disjuncture that exists between legal and policy definitions of sexual exploitation. The chapter also introduces a question about the effect of such policies: namely that in an effort to address sexual exploitation and vulnerability, young women's right to sexual privacy may be compromised.

### Legal framework

'Sexual exploitation' is a very recent phenomenon. Its policy origins are rooted in the commission that was established by New Labour to review sexual offences (Home Office, 2000). The then Home Office Minister, David Blunkett, wrote on the state of statute on sexual offences at the time:

*It is a patchwork quilt of provisions ancient and modern that works because people make it do so, not because there is a coherence and structure. Some is quite new – the definition of rape for example was last changed in 1994. But much is old, dating from nineteenth century laws that codified the common law of the time, and reflected the social attitudes and roles of men and women of the time. With the advent of a new century and the incorporation of the European Convention of Human Rights into our law, the time was right to take a fresh look at the law to see that it meets the need of the country today (Home Office, 2000).*

The Sexual Offences Review Commission's report, *Setting the Boundaries* (Home Office, 2000) contained a number of recommendations which were brought together in the Sexual Offences Act 2003. Until this Act, the Sexual Offences Act 1956 and the Street Offences Act 1959 provided the framework for England and Wales' response to prostitution.<sup>5</sup> Neither of these Acts distinguished between children and adults in prostitution, although section 28 of the Sexual Offences Act 1956 made it illegal to cause or encourage the prostitution of a girl under the age of 16 years old. It was the view of the Commission that the framework provided by these two Acts was inadequate only inasmuch as it provided insufficient protections for 16 and 17 year olds (legally defined as children), against adults causing them harm through prostitution.

Further, the Commission was concerned that the only person who could be prosecuted was the individual that encouraged the prostitution and not the individual that paid for sex. Instead the Commission recommended that the law should be changed so the protection of children was not left to more general offences, and that it should be changed in a way that did not restrict young people from consensual sexual activity. In framing their recommendations, they opted for the term 'commercial sexual exploitation' and defined it as meaning specifically, prostitution and the making of

<sup>5</sup> England and Wales has a long tradition of negative regulationism in regards to prostitution – selling sex has never been illegal, although many of the activities that surround the sale of sex are illegal, such as soliciting and loitering in a public place for the purposes of prostitution, or brothel keeping. See Phoenix (2001) chapter 2 for a full description of the historical framework of prostitution related laws in the UK.

pornography for gain and delineated these activities from a more general notion of 'sexual exploitation for personal gratification' as this was covered by other recommendations. The commission's recommendations were adopted and form the basis of sections 47–50 of the Sexual Offences Act 2003.

### **Policy framework**

If the legal boundaries were set within the Sexual Offences Act 2003, the practice boundaries have been set within a very different framework. The original guidance, *Safeguarding Children in Prostitution* (Department of Health, 2002) is best characterised by a position paper in which the government redefined what the problem of children being in prostitution was and what should be done about it. It stated that prostitution was a form of sexual abuse and that children could not consent to their own abuse. In terms of practice, the document obliged criminal justice, child protection and child welfare agencies to work together to protect (i.e. not prosecute) children in prostitution and to prosecute those who abused them. As noted in the introduction, there was one exception. It claimed that in some instances, children chose to be involved in prostitution and that criminal justice sanctions against children and young people in prostitution were appropriate in the case of those who persistently and voluntarily returned to prostitution.

In August 2009, the government published its comprehensive guidance on the issue of children, young people and sexual exploitation which brought together the array of different protocols, guidance and strategies from the last ten years. *Safeguarding Children and Young People from Sexual Exploitation: Supplementary Guidance to Working Together to Safeguard Children* (DCSF, 2009) adopted a very broad definition of sexual exploitation, in contrast to the specific definition recommended by the Sexual Offences Review Commission and the Sexual Offences Act 2003.

*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' (e.g. 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.*

This document intended to help practitioners identify and work with the full range of experiences that children and young people might have in relation to the exchange of sex for something else. Unlike the law however, the focus was not on prostitution per se, although the guidance made clear that the expanded definition encompassed prostitution.

The broader focus was significant. In shifting the definition away from commercial sexual exploitation, this policy directed police, criminal justice and other practitioners' concerns to the sexual relationships of young people. The key point is not the question of whether or not girls and young women are exploited, are in prostitution or suffer at the hands of those who exploit them – all of this occurs. The point is that what the law is attempting to regulate and what policy is attempting to regulate are now two quite different things: prostitution or the commercial sexual exploitation of girls and young women on the one hand and exploitative sexual relationships and sexual vulnerability on the other.

This split between law and policy demonstrates the changing ways in which politicians and practitioners have grappled with the issues, and can be traced simply through the language that has been used. Since the late 1990s nomenclature has changed from 'youth prostitution', to 'children abused in prostitution', to 'commercial sexual exploitation of children', to 'sexual exploitation of children'. These changes in terminology are a result of changes in the way that politicians, policy makers and practitioners think, highlighting an ideological shift regarding the issue of 'consent'.

The Children's Society was fundamental in shaping this shift in thinking in their publication *The Game's Up: Redefining Child Prostitution* (Lee and O'Brien, 1995) which was rapidly followed by Barnardo's *Whose Daughter Next?* (Barnardo's, 1998). Together, these documents pointed out the legal anomaly of prosecuting and convicting girls under the age of sexual consent with any prostitution-related offence. They also made the case that most, if not all, girls and young women who were in prostitution were (i) exceptionally vulnerable and (ii) exploited, as in taken advantage of, by older men for sexual gratification or pecuniary gain.

The implication was clear: children in prostitution needed to fall within child protection legislation and policy frameworks. As the policies developed, specialist services were established and provided (in the first instance, training for the police, other criminal justice agencies and social services). By 2003, there were 43 specialist services covering the 13 major conurbations in England, Wales and Scotland (Phoenix, 2003). An unintended consequence of the establishment of so many specialist service providers in such a short period of time (three years) was that there was a rapid accumulation of information about the backgrounds of the girls and young women and the circumstances that surrounded their involvement in prostitution. This information soon found its way back to local authorities and police constabularies. The key debate of these years questioned whether even referring to girls or young women as being 'in prostitution' implied a level of consent and thereby stopped organisations and individuals from recognising the harm and abuse that the girls were experiencing. This provided the key ideological condition and cultural driver for the shift in language.

Unlike other areas of criminal justice policy, language is of fundamental importance in ensuring justice for girls and young women in prostitution, because with each shift in language, the actual girls and young women

included in the victim-oriented approach differ and change. 'Children abused through prostitution' refers to a group of girls and young women who are, in effect, a subgroup of all those individuals involved in prostitution. 'Children who are commercially sexually exploited' broadens that group to include children abused through pornography. 'Sexually exploited girls and young women' refers to any girls and young women whose sexual experiences are marked by any type of exploitative relationship and/or who are 'vulnerable' to such experiences.

Policies on sexual exploitation now focus more on vulnerable girls and young women's sexuality and sexual relationships rather than their involvement in prostitution or their commercial sexual exploitation. This is partly attributable to the way that the victim-orientation, underpinning the legal changes in the Sexual Offences Act 2003, has been translated into a set of policy guidelines which are framed within child protection models of practice and working.

There is now substantial difference between the laws under which individuals who exploit girls and young women can be prosecuted and the guidance which governs how criminal justice, statutory welfare and third sector organisations operate. This may help to account for the apparent under-protection of sexually exploited girls and young women and those involved in prostitution.

Although the aim of ensuring that vulnerable girls and young women are protected is difficult to argue against, policies that focus on sexual relationships that are exploitative rather than the exchange of sex for money, drive criminal justice, statutory welfare and third sector organisations into policing young women's (not young men's) sexual lives and their public social lives. This raises questions about protecting young women's sexual privacy and sexual rights.

### 3 Mapping multi-agency partnerships

It is critical to know what services, agencies and multi-agency partnerships exist in order to understand the policing and criminalisation of girls and young women in prostitution and/or sexually exploited girls and young women. This chapter provides a description of those agencies, what they provide and what relationships exist. It focuses on two main areas of service provision: sexual exploitation services and youth justice.

#### **Specialist sexual exploitation services**

It has been more than ten years since *Safeguarding Children in Prostitution* (DSCF, 2009) was published. At the same time that government produced guidance and strategies; local authorities, statutory agencies and children's charities worked together to create service level agreements, multi-agency partnerships, multi-agency protocols and multi-agency fora for dealing with youth prostitution and sexual exploitation in their local areas. Services and practices were developed largely in relation to local context, funding arrangements and needs, but broad trends and patterns are discernible.

Most of the UK's specialist projects and services for sexually exploited children have been developed by The Children's Society, Barnardo's, the local police or local social services. In 2011 there were a total of 35 third sector specialist services covering England, Scotland, Wales and Northern Ireland. 21 of these were connected with Barnardo's and the other 14 with The Children's Society, the NSPCC or independent organisations. In comparison, in August 2004 there were 43 such specialist services (Phoenix, 2003). These non-statutory specialist services need to be distinguished from statutory specialist teams who are comprised of individuals all working from a statutory agency within a local authority and who come together specifically to work with girls and women in prostitution or who are being sexually exploited. *Safeguarding Children Involved in Prostitution* (Department of Health and Home Office, 2000) obliged every local authority to have some such team – even if it is only one or two members of staff who have an interest or have been trained to work with this group of girls and young women.

The key difference between the statutory and non-statutory specialist services or teams is that whilst the statutory teams will have legal responsibilities concerning investigation, reporting and leading on child protection or criminal justice issues, non-statutory specialist teams are often the individuals who work most closely with the girls and young women. Non-statutory specialist teams, whilst working within the same legal and policy framework, do not have the same sets of legal liabilities nor do they necessarily juggle the same diversity of case work.

Barnardo's is the major provider of non-statutory specialist services for sexually exploited children and young people, but not all Barnardo's projects are organised in the same way or offer the same thing. For instance, Barnardo's Seraf covers all of Wales and offers intensive support to those who are being sexually exploited and/or at risk of sexual exploitation; targets

awareness-raising; offers prevention work in schools; a risk assessment framework resource pack; training for professionals working in multi-agency partnerships and consultations regarding specific cases. Barnardo's SECOS covers the north east of England, and is a much larger organisation. It provides a one-stop day support service; an outreach service; an arts and activities service; vulnerable adults case work; drop-in; a drugs and alcohol service; a missing from home service; a service for young men and boys; a policy and practice development service and a training service. Barnardo's Young Women's Project based in London covers four local authorities and offers a one-to-one service for girls and young women up to the age of 18 years old. It provides practical help; social care; health and educational services as well as helping to raise awareness of sexual exploitation in its area. It is certainly the case that non-Barnardo's projects are characterised by the same degree of variability in terms of services, geographical coverage and provision. At a national level, there is a high degree of variability of services offered. With that, there is also a high degree of variability in multi-agency partnerships and how specialist services feed into the decision making of statutory bodies, police and criminal and youth justice.

### **Multi-agency partnerships and links with youth justice and police**

The results of the national survey undertaken as part of this research indicated that only a minority of areas of the country were well-served by youth justice services that work closely with specialist sexual exploitation services. There were only three non-statutory specialist services that reported close multi-agency arrangements with their local youth justice service. The majority of statutory specialist services noted that the link they had with police and/or youth justice services was because they were all part of the local safeguarding panels. There were no statutory or non-statutory specialist agencies who reported that they had no connection with police or youth justice services.

Notwithstanding evidence of the existence of multi-agency partnerships between non-statutory or statutory specialist teams, the nature of such partnerships was also variable, as are their functions. The majority of the respondents noted that the primary function was information sharing. When asked about what that meant, statutory partners were clear: it was about each of the partners sharing relevant information that might help with on-going police investigations against sexually predatory boys and men or to enable the statutory agencies to ensure the best possible outcome for the girls or young women.

Even where multi-agency fora exist and where there was a high level of co-operation between criminal justice, youth justice and non-statutory specialist services or statutory specialist teams, there was little consistency about what this meant in practice. Information sharing was often exclusively focused on the girls and young women's sexual exploitation and not their criminalisation for other offences, such as public order offences, anti-social behaviour, shoplifting, assault, etc. Moreover, only two non-statutory services reported being able to provide input into youth court pre-sentence reports; input which might, vitally, put the offending behaviour of the girls or young women into a particular context. As one practitioner explained when asked how many times she had input into a pre-sentence report:

*Say I've done 30 specialist referrals in a six week period. I might be able to pick one of them from the Youth Offending Service... it's very rare, especially as I work with many who have had custodial sentences.*

*(Practitioner, special exploitation service)*

The nature, and arguably the importance, of close multi-agency partnerships is exemplified above. One practitioner described the change from working in a non-statutory young person's drugs and alcohol service to working within a specialist sexual exploitation service:

*We've had one example of offering input into a PSR [pre-sentence report]. Fortunately, it was possible because we had strong links with the youth justice service in that area. It was quite a culture shock coming here, where we rarely get to feed into those reports.*

*(Practitioner, sexual exploitation service)*

Another practitioner commented:

*Very rarely does the sexual exploitation come up in a PSR unless you've got a skilled youth offending officer who has the skill and is proactive enough to make contact with our team...and say, "is this person known to you?"*

*(Practitioner, sexual exploitation service)*

The national survey results indicated that most, if not all of the girls and young women that specialist teams and services worked with engaged in some type of offending behaviour and faced criminalisation as a result. This was often for public order offences, anti-social behaviour, theft, shoplifting and other low level property offences. Therefore, the issue of how specialist services (which arguably have the most detailed and in-depth knowledge about any particular girls or young woman's situation) feed into and out of the standard processes of criminal justice decision making is vital.

This was explained by a practitioner in the following way. She worked within an independent sexual exploitation service. She stated that girls and young women often made disclosures about what had happened to them and the circumstances immediately surrounding any particular offence, not when directly asked, but often when doing something altogether different, such as art work. The example she gave was that of 'Bethany'<sup>6</sup>, who at the age of 14 years old was having a sexual relationship with a much older man. He would give her cigarettes for sex as well as pay her compliments and 'romance' her. When he started seeing someone else, Bethany took a cricket bat to his car and was charged, prosecuted and punished for criminal damage. When arrested, she immediately pleaded guilty. On no occasion did she disclose to the police, the court or the youth justice workers that she was having a sexual relationship with the man. Reflecting on this, the practitioner was in two minds about whether a closer multi-agency partnership between her organisation and the police, the youth court and the youth justice service would help. Her concern was that disclosing the names and details of young women who were not in prostitution or were at risk of sexual exploitation to the police, the courts or the youth justice service, might simply compound the negative labels already attached to them.

Thus, whilst respecting the legal levels of thresholds around confidentiality, she was not keen to have too close a relationship with criminal justice partners.

One of the critical issues with regards to multi-agency partnerships between the statutory and non-statutory specialist teams and services, and police and youth justice services is that whilst information sharing might well place these girls and young women's offending into a context, the task of the courts and youth justice is to address the offending behaviour. As they are presently configured it is not possible for youth justice services to do anything other than refer the girls and women to specialist services for direct work. Similarly, it is not possible for the courts to do anything other than adjudicate and sentence, taking into account the mitigating circumstances surrounding the offence and the young person put before them. To use 'Bethany' as an example: even if the courts had known the background and circumstances that surrounded the criminal damage, such knowledge would not take away the fact that their task at that moment was to determine the appropriate disposal. In other words, although it might alter the disposal given, it would not necessarily result in a discharge, conditional or otherwise.

Whilst there is evidence of multi-agency partnerships between police, social services and non-statutory specialist services, there is little evidence of strong partnerships between non-statutory specialist services and youth justice services (such as youth offending teams or youth custody providers). There are notable exceptions to this general pattern, and those notable exceptions are almost always the result of a serious case review or high profile criminal cases which have raised questions about the functionality and fit of the multi-agency partnerships. The general lack of strong partnership between specialist services and youth justice has a profound impact. The context that surrounds young women's law breaking is not routinely and regularly taken into account by youth justice courts, nor is it taken into account by youth justice services when there are breach proceedings. It means that much of the work of youth justice services to reduce the girls and young women's risk of reoffending is possibly irrelevant because of a failure to provide appropriate support in relation to the exploitation they may be experiencing and/or their involvement in prostitution. Put simply, if youth justice services are unaware of a girl or young woman's sexual exploitation or her involvement in prostitution, then it is unlikely that she will be provided with relevant critical welfare support and guidance, including child protection.



## 4 Sexual exploitation and criminalisation: The policing of vulnerability

This chapter describes the links between crime and sexual exploitation. The first section suggests that sexually exploited girls and young women may be disproportionately criminalised. The second section looks at two of the key processes that might help explain this disproportionate criminalisation. This chapter suggests that it is the combination of the lack of appropriate support for girls and young women and the policing of girls and young women's vulnerability that provides the conditions for criminalisation.

### **Case study: Kim's story**

'Kim', who is now 18 years old, is one of the youngest of seven children and still lives in her family home. When Kim was 14 years old, her father and oldest brother were in prison. Kim's mother and older siblings were rarely at home. Kim started 'partying' with older boys and men, often staying out very late and seldom going to school. No one reported her missing from home despite the fact that she would often be gone until the very small hours of the morning. The school referred Kim to a specialist sexual exploitation service that started working with her on 'staying safe' and 'appropriate sexual relationships'. Her sexual exploitation case worker described her as "very difficult to engage" because at that time, she did not think there was anything wrong with what she was doing.

Her boyfriend would buy her alcohol, take her shopping and tell her he loved her. For Kim, this was the first time anyone paid attention to her. Kim's 'boyfriend' was 35 years old. The first time she got into trouble for breaking the law, Kim was 15 years old. Her neighbour accused her, on a popular social networking site, of being a 'slag' and Kim went to her house and got into a fight.

About a year later, when Kim was nearly 16 years old, she told the case worker that some time ago her boyfriend took her to a house in a neighbouring city to meet another man. That man took her shopping and wanted to have sex with her. Kim refused and she was raped. Although she told no one about the rape, Kim decided to stop seeing her boyfriend. She went back to partying, which meant hanging out with older boys, drinking, having a good time and exchanging sex for MDMA, MCAT, cannabis, or £5. She didn't think there was anything wrong with this.

By the time she was 18 years old, Kim was regularly exchanging sex for money, drugs and alcohol, had been raped several times by some of the older boys and men she partied with and by the 'friends' of her older boyfriends. She also had several prosecutions for being drunk and disorderly, for criminal damage (against the car of one of the men who raped her), was regularly fighting with other girls and continuously breached her youth justice orders. All of this was indirectly related to Kim's sexual exploitation. Throughout Kim's passage through youth justice, no one knew about her sexual exploitation.

### **Disproportionate criminalisation**

There have been no published comprehensive studies about the links between sexual exploitation and offending. Barnardo's has commissioned research to examine the links between sexual exploitation and youth justice. The (as yet unpublished) Barnardo's research was a large scale study and explored the links between childhood sexual exploitation and youth offending. That research indicated the following:

- That there is no clear causal link between child sexual exploitation and offending.
- That at the hypothetical level, there is a high degree of overlap between the risk factor that has been identified as relevant to sexual exploitation and to young people who find themselves in conflict with the law.
- That somewhere between 15 and 30 per cent of 'service users' (that is to say, sexually exploited children and young people) had case files that indicated that they had been convicted of an offence.
- That only 20 per cent of referrals came from youth offending services or the police.
- That of those children whose case files indicated that they had been convicted of an offence, in 66 per cent of cases, the offence was related to the young person's sexual exploitation.

The UCL Jill Dando Institute of Security and Crime Science was commissioned to write a briefing document on child sexual exploitation and youth offending for the Safe & Sound project<sup>7</sup> in Derby (Brayley and Cockbain, 2010). This briefing found that:

- Children referred to Safe & Sound had been convicted of an offence at a rate that was nearly double the national average (40 per cent as opposed to 25 per cent).
- The offences they were convicted of could be grouped as acquisitive, aggressive, escapist, sexual deviance or non-compliance with court orders.
- 69 per cent of the 1,586 total convictions of children and young people were for acquisitive and aggressive crimes (for instance shoplifting, burglary, assault, criminal damage) and 21 per cent were for non-compliance to court orders.
- Being criminalised for their offending behaviour whilst their exploiters remained unpunished for their crimes acted to deter the children and young people from reporting sexual exploitation.

One of the key findings from both these studies was that sexually exploited children share most (if not all) of the same risk factors and/or backgrounds of those who routinely come before the criminal justice system. That is to say, a significant proportion of both groups come from backgrounds marked by social and educational exclusion, familial conflict, experiences of local authority care and/or lack of parental support, mental health difficulties, and drug and alcohol misuse issues.

The key shortcoming of both studies is that they were framed by the question of the causal relationship between sexual exploitation and offending (i.e. does sexual exploitation 'cause' offending or does offending lead to sexual exploitation) and by the question of prevalence (i.e. whether sexually exploited children offend more or less than non-sexually exploited children). In practice this meant that both studies were unable to see one aspect of evidence that was presented to them: that sexually exploited girls and young women are routinely and disproportionately caught and convicted of crimes even in circumstances when those crimes are related to their sexual exploitation. For instance, the UCL briefing note reported that 40 per cent of the children referred to Safe & Sound had been convicted of an offence compared to 25 per cent of the national average. This statistic does not take into account gender differences, wherein roughly 15 per cent of known crime is committed by girls. Using this ratio, it is possible to speculate that sexually exploited girls and young women are being criminalised at a rate that is more than 2.5 times the national average.

Regardless of whether the interviewees for this project were non-statutory or statutory, police or welfare based, they had all noted the routine criminalisation of sexually exploited girls and young women. Indeed some of the most acutely angled critiques about the lack of multi-agency partnerships with youth justice services came from police, social workers and specialist service workers. One social worker talked about the inability of many of the girls and young women she dealt with (who were being sexually exploited) to be able to complete any court disposal, because they often did not have even their basic needs for security, safety and accommodation met. She talked about 'Jasmine', whose 'boyfriend' would not let her leave the house to see the youth offending team and was breached for non-compliance.

The social worker also talked about 'Gerrie' who was 15 years old and living in local authority care in a children's home from which she would frequently abscond and go missing. During this time Gerrie would exchange sex for money, drugs and cigarettes. In these periods Gerrie was charged with a public order offence for which she had a Youth Rehabilitation Order (YRO) from the youth court. The social worker stated:

*Even though they are being sexually exploited, [if they commit a crime] they have had their reprimand, they've had their final warning, and they've had their caution. The police's hands are tied.  
(Social worker)*

Gerrie was so destabilised as a result of her sexual exploitation that she found it exceptionally difficult to structure and organise her life in order to make the (infrequent) morning appointments with the youth justice service. The process of enforcement meant that she was eventually breached which in turn led to an increase in her levels of frustration and subsequently an increase in the amount of time she spent exchanging sex for money, drugs, alcohol or cigarettes.

Another practitioner from a different area of the country succinctly described a similar situation: "I've got one girl who has gone from a public order offence

to GBH in a matter of months” (practitioner, specialist exploitation service). One of the police officers connected to a proactive policing operation commented that girls and young women who are being sexually exploited and/or who are in prostitution are being criminalised because, at heart, they do not have the basic structures in their lives which every child needs. What he felt he was doing was criminalising them when what they actually needed was more appropriate support.

### **Sexual exploitation, prostitution and ‘crime’**

The findings of this study are broadly in line with the findings of the Barnardo’s and UCL studies, in that all three suggest there is a significant link between the involvement of girls and young women in prostitution or their sexual exploitation and crime. However one of the key findings of this study is that the nature of that link is not causal. It is contextual and shaped by the way that these girls and young women came to the attention of the police due to the ways in which they socialised or ‘hung out’ in public.

One of the social conditions experienced by many sexually exploited girls and young women, and girls and young women in prostitution, is that they live their life in a manner that exposes them to a high level of public policing. Often not in school, not in training and not in employment, they spend much of their leisure time in public places – parks, streets, street corners, ‘hanging out’ in front of (or behind) fast-food restaurants and taxi offices. According to many of the practitioners and police interviewed for this study, this made the girls and young women vulnerable to boys and men who would later exploit them. In relation to parks, practitioners talked about the men in parks who gave girls and young women alcohol and drugs, convinced them to go to parties and got them in such a state that they did not realise, did not care or did not know that one or many of the men would then use them for sex. Other practitioners and police described more organised forms of sexual exploitation in which older men would actively ‘groom’ the girls and young women by pretending to ‘court’ or ‘woo’ them before having sex with them and their friends.

Practitioners and police also talked about how, when ‘hanging out’ in these locations, the girls would cause a public nuisance by being drunk, causing criminal damage (often outside fast food restaurants) and by arguing and fighting amongst themselves. The police involved in a proactive policing operation discussed the fact that when they saw instances like this, they would often pick the young women up and take them back to their residential care homes, families or foster placements. Other police officers who lacked training in sexual exploitation would normally arrest and charge. This is because involvement in prostitution or sexual exploitation is not a normal criterion used when these other officers operate their discretion or assess a situation. The sexual exploitation services regularly commented that the most common forms of criminalisation of the girls and young women that they worked with were public order offences related to being out on the streets. They also commented that any aggression was more often than not related to what was happening to them.

When asked to describe 'typical' events, one practitioner talked about how the younger girls would be highly competitive about the attention that they received from the older men who might be exploiting them. This might end up with scuffles and the police would get involved. Other typical scenarios described included how some of the older girls would be drunk and 'hanging out' and because a missing person report had been filed, would be approached by police officers to be taken home. At that point, the young women often got angry and expressive with that anger and would be arrested. Interestingly, the police from Operation Diana talked about other police officers making the decision to arrest as a means of dealing with girls and young women who they saw as just being troublesome. Each of the Operation Diana officers recounted what might be described as 'epiphany' moments when they realised that the girls and young women's behaviour was a result of the exploitation that they were experiencing and that the best course of action would be for police officers to use their discretion and not arrest.

It is necessary to distinguish between girls and young women in prostitution and girls and young women who are being or are at risk of being sexually exploited. The girls and young women described above tend to be sexually exploited rather than involved in prostitution. What the interview data pointed to was a complex relationship between practitioner and police perceptions of abnormal, dangerous, problematic leisure activities for girls and young women and sexually exploited girls and young women's disproportionate criminalisation.

Many of the girls and young women who come to the attention of sexual exploitation services and the police have difficulties with anger, aggression, depression, trusting statutory authorities and the like. This is very well documented (Cusick, 2002; Melrose and Barrett, 2004; Lowe and Pearce, 2006; Harris and Robinson, 2007). However, to account for the criminalisation of these girls and young women as being caused by these factors misses the broader context, and does not take into account how these girls and young women experience their leisure and social lives. Within the field of youth studies, there is a rich seam of literature that examines the issue of 'street life' from the perspective of the young people. 'Street life' refers to way in which young people 'hang out' in public places. For the most part, this literature focuses on boys and young men and is often not relevant to the experiences of girls and young women. It was this observation that lead McRobbie (1978) to argue that girls and young women were 'invisible' to researchers because they occupied a different space – the space of the bedroom. For her, girls and young women had a rich and vibrant youth subculture, but this was expressed and experienced indoors.

One of the defining characteristics of many of sexually exploited girls and young women and girls and young women in prostitution is that they live their leisure lives outdoors. This is not an uncommon characteristic of socially excluded young people as previous research has already shown. In an article that pulled together a range of different ethnographic research projects examining the 'transition' of young people into adulthood in the north east of England, MacDonald and Shildrick (2007) noted that for many socially excluded young people, a significant amount of their leisure time was spent socialising and 'hanging out' with other young people in the neighbourhoods in which they live, and that the gender segregation of leisure that marked the public leisure of boys and the bedroom culture of girls so characteristic of youth culture in the 1970s and 1980s no longer held true across most urban estates

in England. The 'street corner society' of youth culture is not new nor should it be seen solely in terms of the absence of leisure facilities in the locality. An extensive literature confirms that socially excluded young people are also excluded from youthful leisure. Put simply, many teenagers do not have the economic resource to buy into youthful consumer leisure culture such as city centre pubs and clubs, cinemas or sporting facilities such as bowling alleys. For those teenagers that have left school or are educationally disaffected (that is to say frequently truant, are excluded or have low or no educational qualifications) a key aspect of their day-to-day lives is simply filling time.

Youth studies literature also confirms that 'street corner society' is a normal part of being young and living on working class urban estates, that it is 'unremarkable [and provides] positive opportunit[ies] for unsupervised time away from adults, for the exploration of youth identities, for romantic relationships, for fun' (MacDonald and Shildrick, 2010). Others have discussed young people's choices to 'hang out' in public spaces as being shaped by the fact that public spaces are often the only real spaces that are available to many young people for 'informal interaction, away from parents and teachers, [that enables] significant aspects of young people's personal and social identities [to be] affirmed, contested, rehearsed and reworked' (Hall, 2010: 190).

This is never more the case than for those young people whose experiences have generated intense levels of disaffection and disengagement, such as sexually exploited girls and young women. For many, there is a high level of disaffection and disengagement with families (often because they are marked by conflict and low parental support); with providers of care (foster placements, care homes); because of issues of trust, particularly for those who have had previous experiences of sexual abuse and/or have made disclosures about abuse or exploitation and have experienced subsequent interventions in a punitive fashion (Cusick, 2002; Harris and Robinson, 2007; Brodie, Melrose, Pearce and Warrington, 2011). Against this backdrop, 'street corner society' takes on a different significance because it becomes, as MacDonald and Shildrick have indicated, one of the few spaces that allows the young to be with their peers in an unsupervised fashion. That 'street corner society' is contemporarily marked by drug and alcohol use as part of the leisure activity simply mirrors the experiences of other young people in, for instance, city centre pubs and clubs.

The way in which the public social life of teenagers is made sense of by police, by residents, and by governments sits at odds with the young people's own experience of it as 'normal'. It has been the cause of intense social concern and anxiety that has a long history and has found its most recent expression in the Anti-Social Behaviour and Respect Agendas of the New Labour Government (Pearson, 1983; Armitage, forthcoming). Such governmental concerns with working class youth, their 'unrespectable' leisure activities and their links with crime and nuisance have arguably lead to a decade marked by the deleterious intensification of the surveillance and criminalisation of young people (Scruton, 1997; McAra and McVie, 2005).

Practitioners from across all three research sites described assessing the risks of being sexually exploited in terms of girls or young women's visibility in public places. One police officer offered the following thoughts:

*The problem is that these kids lead such transient lives. A lot of them are nocturnal and they'll go missing all night and then sleep all day.*  
(Police officer)

A different police officer was more critical:

*We are here to protect the public, so if it's late at night, you would want to establish where a particular child is residing and take that child back to a safe place of residence.*  
(Police officer)

He also later stated that in some cases there was often no safe place to take children back to.

This is so much the case that many police constabularies in England and Wales are now using missing person reports and the visibility of girls and young women on the streets at night to trigger inquiries into whether there is sexual exploitation in their locality. What this means is that there is very little about any girls or young women's public social life that does not qualify as suspicious:

*We look at a number of factors when dealing with these young girls. We look at their vulnerabilities, like periods of going missing; the fact that they might have new mobile phones; new clothing; alcohol; older boyfriends; the use of the internet or frequent other 'known' places (of danger) to the police.*  
(Senior police officer)

The difficulty for police officers and practitioners is that new mobile phones, older boyfriends, the use of the internet, hanging out in public, drinking, new clothing and going missing are facets of the lives of many young women, not just the socially excluded or marginalised. Yet, in this case the dangers and difficulties that they face in their efforts to grow up become redefined as risk factors for sexual exploitation and as a result make these young women susceptible to police surveillance and intervention. Police officers and other practitioners are legally obliged to respond to what they perceive as vulnerability even if that response eventually leads to increased levels of criminalisation for anti-social behaviour and/or other public order offences (see also McAra and McVie, 2005).

For the police, the presence of girls and young women in what they understand as 'dangerous' places were markers for young women's vulnerability and most of the police who were interviewed were very frank about their role in policing that vulnerability. As one senior police officer stated:

*What we have here is a need to safeguard children who are absolutely determined not to be safeguarded.*  
(Senior police officer)

Ensuring that young vulnerable women are protected is very hard to argue against, but the issue here is not whether this group of young women is more or less vulnerable than other young women who the police do not come into contact with; the issue is that these young women come into closer contact with the police because they are understood as being out of place and vulnerable and because they come into closer contact, their misdeeds are more likely to result in arrest, charge and conviction. In short, the actions of the police to protect this group of girls and young women create the very conditions for their criminalisation.

Non-statutory specialist service practitioners had a slightly different way of making sense of the public visibility of girls and young women at night and of the need to intervene. For many of them, the relationship between being at risk of sexual exploitation, being sexually exploited and being in prostitution was simple. Girls and young women are categorised as 'at risk' because in their backgrounds they have a series of relevant risk factors. Being 'at risk' means that they are vulnerable to the grooming of older boys or men for sexual exploitation which would, if not identified, eventually lead them into more formalised prostitution. One practitioner described it in the following way:

*...groups of girls and their friends will often meet in town centres or parks late at night. This is where 'grooming' may take place as they are given alcohol and cannabis. Only later are they then taken off to parties for sex.*

*(Practitioner, sexual exploitation service)*

One practitioner recognised the problematic consequences of policing girls and young women's visible presence at night on the street in order to 'protect' them. It meant that young women were being treated differently from young men (whose public visibility was less concerning) and that there was little that could be done to stop young women going out and hanging out, "...apart from, in essence, physically tying them down" (practitioner, sexual exploitation service). She also noted that the difficult time period was when schools were closed.

Statutory and non-statutory agencies use the visibility of girls in public places as a proxy to police sexual exploitation (not prostitution). This style of policing has criminalising effects in that the less-than-law-abiding behaviour and activities of girls come to the attention of the police more readily and as a result police will often act to remove them from those places deemed dangerous. This means that girls and young women whose leisure activities and social lives take place outdoors and in public places are at far greater risk of being criminalised than their non-socially excluded or marginalised peers who have the resources to conduct their leisure and social lives away from the attention of the police. By regulating the public visibility of girls and young women deemed 'vulnerable', marginalised and socially excluded, they generally become the target of the criminalising effects of policies on sexual exploitation.



## 5 Sexual exploitation and criminalisation: Survival crime and crime as safety

This chapter describes two main links between sexual exploitation and prostitution and the law breaking of girls and young women. This chapter shows that disproportionate criminalisation of sexually exploited girls and young women and those in prostitution can be explained, at least in part, by the lack of appropriate welfare and social support and also by the ways in which the girls and women themselves find safety and security. What follows is framed almost exclusively by the survey and interview data from non-statutory practitioners and the in-depth knowledge they had of individual girls and young women as a result of the close one-to-one work.

Many girls and young women who are involved in prostitution (albeit in conditions of coercion) often offend as a means of surviving their situations and in a context where there is a lack of appropriate support. Practitioners from all three areas talked about the links between offending and sexual exploitation or prostitution as having two specific dimensions: firstly, many girls and young women offend as part of their sexual exploitation or prostitution and secondly, some girls and young women offend as an exit strategy, as a cry for help and as a means to access support, find safety or access justice for the crimes committed against them.

In the national survey completed for this research, practitioners indicated that the girls and young women they worked regularly broke the law. The in-depth interviews confirmed that for the most part, this was largely for public order offences, offences relating to drugs and alcohol abuse or offences relating to assault. Practitioners often described scenarios in which the girls and young women they worked with got into arguments and fights with each other in public places at night. They also said that the police officers called in to intervene had no training or understanding of sexual exploitation and therefore would treat the girls and young women as they would any other young person making a nuisance in public. As the police stated in the interviews, sexual exploitation is not normally a criterion used by regular beat officers when assessing a situation or operating their discretion.

Practitioners talked about the men who prostituted or exploited the girls and young women. These older boys and men (like the girls and young women) were part of larger social networks. One of the key dynamics in sexual exploitation and young women's involvement in prostitution is not naked coercion (as in the use of physical threats or violence). Rather, exploitation and prostitution take place within an affective 'relationship'. Occasionally the girls and young women would report that these boys and men were the first ones to show them affection. There has been nearly three decades of high quality ethnographic research which confirms that for many, their entrance into prostitution takes place within a social context marked by friendships with other girls and young women who themselves may be in prostitution or being

sexually exploited in 'relationships'. To recognise that these are 'relationships' is not to deny the abuse and exploitation that might occur within them. To not acknowledge this dimension to prostitution and sexual exploitation is to risk not seeing the links between many girls and young women's offending and their sexual exploitation.

'Cheryl's' story is a typical one. The practitioner that worked closely with her said that she had come from a background marked by her mother's alcoholism and her own truanting. At the age of 14 years old, she started hanging out with some older children outside in one of the local parks and was introduced to a group of older men. One of them 'courted' her, took her out for drives in his car, gave her cigarettes and alcohol and eventually started having sex with her. She liked him and thought he loved her. After a relatively short period of time, he asked her to have sex with one of his friends who gave her alcohol. For Cheryl, this was all part of what happened in her social network. It was a few months later that her 'boyfriend' took up with one of Cheryl's friends. When Cheryl found out she confronted her friend when they were all gathered outside one evening. She and the friend quarrelled. The quarrel led to an exchange of blows. The police were called and both friends were prosecuted for public order offences.

The practitioner stated:

*The sad thing is, if you pull up the ASBO records your argument will be, every time, that the statistics show that we arrest the victim... we arrest the victim in any other name.*  
(Social worker)

Another put it slightly differently:

*...the majority of what these young girls are policed for is anti-social behaviour. A lot of the time it is set up by those who are exploiting them.*  
(Outreach worker)

The practitioners also pointed out other aspects of girls and young women's law breaking. Many of the young women had alcohol misuse problems and would shoplift to get the alcohol they drank. Others shoplifted as a means of getting the consumer durables that they wanted. This level and type of offending is confirmed by the large scale unpublished Barnardo's study discussed in the previous chapter. It is perhaps unsurprising that many girls and young women involved in prostitution or who are sexually exploited come from many of the same types of backgrounds that structure the criminalisation of young people more generally. One practitioner explained it like this:

*For a lot of these kids, it's always about who they've associated with and the criminal activity they get involved in. So they are associated with gangs where they've been violent, or where there has been drug misuse or excessive alcohol from an early age.*  
(Practitioner, sexual exploitation service)

There are two connections between sexual exploitation and criminalisation that are unique: committing crime to find safety and committing crime to ensure justice. Practitioners in all three research sites discussed the creative ways in which girls and young women would attempt to ensure their own safety,

particularly when they were discussing one or two they had worked with whose experiences of prostitution and sexual exploitation were marked by coercion and sexual violence. In many instances, these young women did not necessarily talk about their exploitation or prostitution as being forced or coerced, instead they talked about “needing to have a break from it”, about it “doing their heads in”.

Two cases are illustrative of the way in which girls and young women might offend as a means to protect themselves. ‘Sammie’ (16 years old) had left home and moved into the house of a 29 year old man who was exploiting her (Fred). Their relationship was marked by violence and abuse. Fred would often have parties and Sammie would give his friends oral sex for money. Sammie was afraid of Fred and his temper. On one night, Fred came back to the house with several friends and told Sammie that she was to have sex with them all. Sammie refused and a fight ensued. In order to protect herself, Sammie ran out into the street and proceeded to make as much noise and commotion as possible; shouting, swearing, throwing stones at cars until one of the neighbours phoned the police. Although the practitioner was not exactly sure of the charge, she recounted that Sammie was arrested for something like a public order offence. When she and Sammie discussed the episode, Sammie talked about the fact that she knew if the police arrested her, she would not have to face a night of being raped by Fred’s friends. In this instance, public order offences and criminal damage became the way that Sammie was able to ensure her own safety.

‘Carmel’s’ story is similar. She too was being sexually exploited by an older man. She told her practitioner that she did not mind too much most of the time, but when he would bring his friends she often felt scared. One day, when she was at his house and several of his friends were there, he told her to go get a chicken and then cook it so that they could all eat. The practitioner described what happened next:

*She got to a stage where she was so desperate to exit [i.e. stop being exploited] that she walked into a supermarket and intentionally stole a frozen chicken... walked right up to the security guard with it.  
(Social worker)*

For both Sammie and Carmel, it was the lack of appropriate support from police and social welfare organisations that resulted in them breaking the law in order to be safe.

The second specific link between sexual exploitation, prostitution and criminalisation is the use of crime in order to express a sense of justice. ‘Rita’ provided one of the best practitioner examples of this link. Rita was 15 years old. She had been sexually abused by her stepfather as a young girl, had spent her early years in foster care and was then living in a children’s home. Rita was bright but had ‘behavioural difficulties’ that resulted in her exclusion from mainstream schooling. She was often disruptive and aggressive in school and at the children’s home. Rita was involved in prostitution and sold sex, mainly to the boys and men she knew and boys and men suggested to her by her boyfriend. One night, her boyfriend took her to a hotel so that she could

sell sex to a particular individual. However when she arrived, there were six men in the hotel room. They took turns anally raping her. When they were finished Rita's boyfriend drove her back to the children's home. She did not tell the staff in the children's home what had happened to her. Instead, three days later she smashed up her boyfriend's car and was eventually arrested and charged with criminal damage. The practitioner said that she only found out about it several months later when they were sitting together doing a craft project. Rita said, "It wasn't right what happened to me, was it?" The practitioner asked what happened and Rita told her. Other practitioners told similar tales, albeit punctuated with less extreme examples of sexual violence.

It is tempting to interpret stories like this as vigilantism, but to do so is to miss perhaps the single most important criminalising dynamic. Rita and other girls and young women like her inhabit a social context in which they are regularly underprotected from the crimes committed against them and so come to recognise their exclusion from mechanisms of justice. Leaving aside the types of sexual violence discussed above, providing justice for girls and young women who are being sexually exploited or prostituted is a complex matter. Often the police, social workers and sexual exploitation services will work closely together to bring prosecutions forward but these result in 'cracked cases' or decisions made by the Crown Prosecution Service (CPS) not to prosecute. Many of the police that were interviewed were very aware of this dynamic and they and the sexual exploitation practitioners talked about this at length.

*They [the girls and young women] aren't ever going to come across as likeable. These girls swear, kick, scream and shout. They are aggressive, they are volatile. It's challenging speaking to them. They just don't care. And if their case goes to court, it's a real game because they've got no prospects... no hope.*  
(Police officer)

*Taking the offenders to court is a real problem because they [the girls and young women] just aren't very likeable because their behaviour is so bad.*  
(Police officer)

*Sexually exploited young people don't have the support of the people around them. They don't have the support of the community because they are considered to be the little slags, tramps, trouble-makers. They've got society telling them they are no good and they behave accordingly.*  
(Social worker)

As one police officer put it:

*The main problem with the CPS prosecuting the offender of a sexually exploited victim is that the victim's history will portray her as a liar. CPS will say that is the kiss of death for a case.*  
(Police officer)

Another stated:

*... what someone writes in a child's notes one year can have dramatic consequences for the conviction of an offender years later.*  
(Police officer)

The concerns expressed by the sexual exploitation workers and police officers above are not new. Three decades of research on policing sexual violence has confirmed

that one of the factors that accounts for the very high attrition rate for rape is that at all points in the legal process, extra-legal factors become determining factors, especially gendered and normative assessments of the victim's status as blameworthy (or not) and as being a reputable woman (or not) (Brown and Walklate, 2011; Temkin, 2002). For sexually exploited girls and young women, this takes on a more particular dimension. Firstly, many of these girls and young women do not conform to the highly gendered stereotypes of victims of sexual violence and rape and have backgrounds that often mean they are perceived as not being credible witnesses to the crimes committed against them, as the quotations above indicate. Secondly, they do not conform to normative age-related stereotypes and especially the presumption of childhood sexual innocence:

*Sex for these girls isn't a huge thing anymore; they've lost their virginity early or been sexually abused at home. Pornography in the home, exposed to sex at a far younger age.*  
(Police officer)

There is another factor that helps to contextualise why sexually exploited girls and young women and those in prostitution find it difficult to access justice for the crimes committed against them. Practitioners and police working with them face an uphill struggle to get them to disclose the crimes committed against them. It often takes prolonged contact and patience:

*[It was a] three-hander rape, she would not go to bed. Turned the TV up to a hundred, and it was thumping. Swearing, screaming and just a barrage of abuse. But the carer in the home she was in commented that she was wincing whilst she was walking and so we needed to check she was alright...she told me to fuck off, I said if I have to come to her a hundred times I will.*  
(Police officer)

Fundamental to this process is gaining the trust of the girls and young women who more often than not have experienced the police as law enforcers. In order for the police to gain that trust they, along with sexual exploitation practitioners and social workers, have to invest time and energy in helping the girls and young women realise that what is happening to them is illegal, exploitative and that regardless of how they experience sexual exploitation or the benefits of their involvement in prostitution, they are victims. One of the police officers explained it this way:

*[We are] seeking out an underground form of abuse. Where the girls are often seen as having control, they have money, they are not keen to disclose. The attrition rate is high. What we are doing is a new avenue. Child protection. [But] the difference between child sexual abuse and child sexual exploitation is that child abuse victims are subservient. Sexually exploited girls tend to think they are in control of their lives. They think they are grown up. They'd never think they would be the ones to be found dead, in bed, choked on their own vomit. You have to spend a lot of time talking to them. Telling them that the implications of your behaviour are wrong/dangerous/exploitative. You shouldn't return to these activities; very difficult to change the mind-set of a child overnight.*  
(Police officer)

This police officer was later asked about how he got a sexually exploited young woman to disclose what was happening to her. He stated that it would take three or four visits and that during those visits he would offer her assurances that she wouldn't get into trouble. In this way the police officers working with Operation Diana were able to pass several cases on to the CPS.

The legal terrain into which these cases are transferred is far less clear cut than the practice terrain. This was recognised in each of the areas that took part in the interviews, as they all had a complex cases officer in the CPS that dealt with sexual exploitation. This was mainly because the realities of girls and young women's sexual exploitation and their involvement in prostitution do not easily map on to the legal definitions of rape, sexual assault or of commercial sexual exploitation. What this means in practice is simple: cases are often cracked or never proceed – often with profound implications for the girls and young women. One practitioner summed it up neatly:

*It's very hard for a young person to come forward...it's only when they know that they are safe that they will disclose any information. Like the victims of rape or sexual assault, when it comes to be squashed by the CPS, the child is left feeling very vulnerable...and exposed.  
(Senior practitioner, sexual exploitation service)*

It is important to note that all of this occurs against a backdrop in which many of these same girls and young women have had extensive histories of 'support' from social services, schools and other statutory agencies and have experienced that support as less than helpful.

There are specific links between sexual exploitation, involvement in prostitution and criminalisation driven by the girls and young women's desire to make themselves safe and access a form of justice. These links occur in a context where sexually exploited girls and young women and girls and young women in prostitution are underprotected for the crimes committed against them and have difficulty accessing appropriate support services and justice.

## 6 Discussion and recommendations

This chapter concludes this report by discussing political and practice changes that are needed to improve outcomes for sexually exploited girls and young women and reduce their levels of criminalisation.

### **Decriminalise childhood prostitution and differentiate childhood prostitution from sexual exploitation**

Legal children (i.e. those under the age of 18 years old) can still be criminalised for prostitution-related offences. *Safeguarding Children and Young People from Sexual Exploitation* (DCSF, 2009) provided the framework for a child protection model of intervention in the first instance. However, the ‘persistent returners’ clause’ means that if it is deemed that a child is involved in prostitution as a matter of choice, they can be criminalised for prostitution-related offences. Apart from creating a legal anomaly in which girls below the age of sexual consent can, in principle, be criminalised for a prostitution-related offence, the persistent returners’ clause unhelpfully focuses policing and practitioner attention on the issue of consent and coercion (see Phoenix, 2002a; Phoenix 2002b).

The experiences of girls and young women who are sexually exploited do not fit easily within stereotypical and common sense notions of consent (as in the ability to make a different choice) or coercion (as in the inability to act otherwise because of some external force or person). This has profound consequences on the way in which sexually exploited girls and young women are policed and their access to justice. If the persistent returners’ clause was removed and children’s involvement in prostitution was fully decriminalised it would create a framework for policing, practice and training which ensured that no child was ever criminalised for prostitution-related offences.

Guidance for police, statutory welfare agencies and third sector organisations on girls and young women’s involvement in prostitution that does not conflate it with sexual exploitation is required. The wider focus on sexual exploitation has resulted in (i) the disproportionate policing (and criminalisation) of socially excluded girls and young women and (ii) the loss of services and knowledge about the different experiences of girls and young women in prostitution. To counter this, specific guidance should be drafted that deals specifically with supporting girls and young women in prostitution through appropriate welfare and social support.

### **Specialist services for young women in prostitution**

In policy and practice it is now no longer possible to distinguish between girls and young women in prostitution and girls and young women who are being sexually exploited. Instead the trajectory of policy and practice has collapsed the distinction and treats both sets as though they are no different than other children experiencing childhood sexual abuse. Police and the practitioners often commented that the difficulties of working with and protecting these girls and young women from abuse stemmed from the fact that the climate in which prostitution and sexual exploitation occur is not the same context that surrounds other child victims. Similarly police and practitioners are working with

a very broad definition of sexual exploitation and in so doing are intervening in young women's sexual relationships where they are seen as dangerous or inappropriate. As practice has developed over the last decade, youth prostitution is being treated as though it is the same as sexual exploitation. Whilst sexual exploitation may well be one component, there are some fundamental differences, not least of which is the young person's own sense of agency.

Two decades of research has confirmed that many girls and young women become involved in prostitution for economic reasons i.e. in the context of poverty and social marginalisation, drug and alcohol problems and as a means of supporting themselves (Phoenix, 2010; Melrose 2010). This is not to deny that girls and young women in prostitution also experience highly exploitative relationships. It is simply to note that there are differences between sexual exploitation, as defined in policy, and their involvement in prostitution.

Whilst it is important to recognise the different life experiences, motivations and contexts of girls and young women in prostitution and sexually exploited girls and young women, it is fundamental to recognise their different needs. At the moment, sexual exploitation services and the police are only able to help sexually exploited girls and young women understand that they are vulnerable, to help them make different choices through direct work, and where appropriate to intervene to prosecute those who harm them. This may provide a level of appropriate support for girls who go to parties, get drunk and have sex with older boys or find themselves involved with men who are keen to exploit them for their own (and other's) sexual gratification. However, it is unlikely to provide the level of support needed for girls who are engaged in the direct exchange of sex for money, if only because there is an economic driver shaping their experiences not present for the others. It may be that the economic driver shapes the activities of individuals who exploit these girls and young women for their own pecuniary gain through (for instance), pimping them). It may be that the economic driver is the girls or young woman's own desire for financial stability and resources in the face of poverty and economic exclusion. To be clear: the needs of the 17 year old who exchanges sex for a wrap of heroin or £15 are not the same as the needs of the 14 year old who has sex with a 35 year old man she believes to be her boyfriend in a hotel for cigarettes.

Prior to the introduction of *Safeguarding Children in Prostitution* (Department of Health and Home Office, 2000), sexual health outreach services provided non-judgmental harm minimisation support for girls and young women in prostitution. In the years since the report was published, sexual health outreach projects have closed their young people's services as involvement in prostitution was redefined as a child protection issue and with that, the type and style of intervention has fundamentally changed.

At the time of writing, more than 20 per cent of the young people in England are unemployed (Rhodes, 2012). The Coalition Government is introducing policies aimed at reducing youth unemployment which ask employers to



give young people unpaid work experience in order to help them improve their employability. There are few, if any signs, that the economic prospects for young people are likely to improve. Against this, there have been deep biting cuts to the public sector, affecting young people in particular. Youth services are being closed down across the country. Third sector organisations are losing their funding and being forced to restructure and reduce. Young people's access to affordable independent housing is all but an illusion. In this context, it is critical to recognise key economic drivers and the way in which the force of necessity shapes the actions and needs of girls and young women in prostitution as opposed to sexually exploited young women and girls. In order to do so, it is critical that services are developed which take account of these different economic needs. Without these services in place it is likely that more girls and young women will be criminalised in their attempts to survive their economic and social marginalisation.

In order for this to happen, it is critical that further guidance ensuring that relevant and appropriate welfare and social support is provided for girls and young women in prostitution and that support is also developed for sexually exploited girls and young women.

### **Diversion schemes for sexually exploited girls and young women**

One of the key findings of this research has been the dislocation between mainstream youth justice services and specialist sexual exploitation services. Two significant markers of that dislocation are (i) claims made by specialist sexual exploitation services that they are rarely asked to provide input into pre-sentence reports, even when offending may be directly related to sexual exploitation and (ii) the fact that more often than not, referrals come through social services.

One way of joining sexual exploitation services with youth justice would be to pilot court diversion schemes for girls and young women whose offending is linked with sexual exploitation. In order to make such schemes possible, it would be necessary to provide youth justice magistrates, solicitors and youth offending teams with high levels of appropriate training. This would mean that rather than relying on chance disclosures or individual youth offending team workers' ability to recognise sexual exploitation, youth justice professionals would need to proactively engage with specialist services and provide a form of assessment which does not currently happen and which places girls and young women's law breaking into a wider context. Above all, it would require that youth justice professionals better understand the links between law breaking and sexual exploitation in order to deliver such court diversion schemes. Additionally, formal police diversion schemes should be introduced for girls and young women (particularly those facing public order offences) where the circumstances indicate that they are 'vulnerable'.

In order that such schemes are effective, it is critical that specialist sexual exploitation service providers should be consulted in the process of assessing the risk of reoffending and producing pre-sentence reports for girls and young women whose offending circumstances indicate that they may be sexually exploited.

## Recommendations

In order to improve outcomes for these girls and young women and reduce their levels of criminalisation, the following recommendations are made:

- Remove the legal possibility of ever prosecuting a child for prostitution-related offences by providing clear guidance, removing the persistent returners' clause and age restricting any prostitution-related offence to those over the age of sexual consent.
- Clear guidance is required from central government to distinguish sexual exploitation from youth prostitution.
- Specific cross-governmental guidance is required to deal with supporting girls and young women in prostitution through appropriate support services. This should be distinct from the services offered for sexually exploited girls and young women.
- Develop formal police diversion schemes for girls and young women, particularly those charged with public order offences.
- Develop court diversion schemes for girls and young women, particularly those whose offending is linked with either sexual exploitation or prostitution.
- Provide youth justice magistrates, solicitors and youth offending teams with high levels of appropriate training in the links between sexual exploitation, commercial sexual exploitation and girls and young women's involvement in prostitution.
- Provide clear guidance to youth justice agencies to ensure that specialist sexual exploitation service providers are consulted in the process of assessing risk of reoffending and the production of pre-sentence reports.

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Professor Jo Phoenix is the Dean for Queen's Campus at Durham University and holds a Chair in Criminology in the School of Applied Social Sciences. Jo's research is led by a deep concern to understand the experiences of vulnerable and marginalised groups of people and how social policy and criminal justice often seems to do little to alleviate their suffering. Her work is theoretically informed, empirical research and she has focused on two main areas: prostitution and youth justice. Jo has conducted studies into decision making in youth justice, risk and needs assessments of young lawbreakers, women's experiences of prostitution, the sexual exploitation of children and young people, prostitution policy reform, sexual regulation and social control, and the criminalisation of sexually exploited young people.



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