One minute guide

Serious Crime Act - Protection of Children

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What is the Serious Crime Act?

The Serious Crime Act became law on 3 March 2015. It included new powers to pursue, disrupt and bring to justice people involved in serious and organised crime and gang-related activity. The law applies to England and Wales only.

The Serious Crime Act consists of six parts:
1. Proceeds of crime
2. Computer misuse
3. Organised, serious and gang-related crime
4. Seizure and forfeiture of drug-cutting agents
5. Protection of children and others
6. Miscellaneous and general.

This guide covers section 5 of the Act, the protection of children and others. For further information on the other sections, please see the Home Office website.

What does Section 5 say about the protection of children?

Section 5 of the Act made a number of changes to criminal law to enhance the protection of children from cruelty and abuse. Key changes in section 5 include:

Definition of child cruelty - The Act amended the definition of child cruelty in the 1933 Children and Young Person's Act to explicitly reference actions likely to cause psychological suffering or injury as well as physical harm, and to state that ill-treatment can be non-physical as well as physical. This is significant, as national data suggests that emotional abuse is recorded as a specific concern for over a third of children on a child protection plan.

Updated language relating to child sexual exploitation - The Act amended the language in the Sexual Offences Act (2003), to recognise children as victims of and not participants in exploitation. It removes the terms 'child prostitute', 'child prostitution' and 'child pornography', recognising these as terms which imply that children are complicit in their own exploitation.

Sexual communication with a child - The Act created a new offence of communicating with a child under 16 for the purpose of obtaining sexual gratification. This is where the communication is sexual, or if it is intended to elicit from the child a communication which is sexual. The offence carries an automatic requirement to be registered on the sex offenders register.

Guidance on child sexual abuse - The Act introduced a new offence criminalising the possession of advice or guidance on abusing children sexually. Such documents are commonly referred to as 'paedophile manuals', which can include detailed advice on grooming, offending and avoiding capture. There are already offences relating to producing and distributing such documents, and the Act extended this to possession.

Domestic abuse—the Act addresses domestic abuse by criminalising patterns of repeated or continuous coercive or controlling behaviour where perpetrated against an intimate partner or family member, causing victims to feel fear, alarm or distress.

The Act also includes a number of new provisions relating to **Female Genital Mutilation (FGM)** - these are considered in more detail on the next page.

What does the Act say about Female Genital Mutilation (FGM)?

FGM has been a specific criminal offence since 1985, with legislation updated in 2003. The Serious Crime Act further strengthened provisions against FGM in a number of ways:

Extending protection to more young women - the 2003 Act only covered victims or perpetrators who are either UK nationals or permanent UK residents. The 2015 Act extended this to cover those who are 'habitually resident' (i.e. on short, temporary stays) in the UK, including students, refugees and illegal immigrants who could not previously be protected/ prosecuted under the 2003 Act.

Anonymity for victims - The 2015 Act introduced lifelong anonymity for alleged FGM victims, and is modeled on legislation providing the same for rape victims. It prohibits the publication of any information, in print, broadcast or social media, which would be likely to lead members of the public to identify an alleged victim.

Duty to protect - The 2015 Act provided for a new offence for those responsible for girls under the age of 16 if they fail to protect them from FGM. A 'responsible' person will have parental responsibility for the individual, and frequent contact with them. A local authority which has assumed parental responsibility for a looked after child could fall within this scope and therefore be liable.

FGM Protection Orders - The 2015 Act enabled the high court or family courts to make a protection order for individuals who are victims of or at risk of FGM; similar to forced marriage protection orders. Victims or relevant third parties, which can include local authorities, can apply for the orders, which may include requiring a person to surrender their passport and other such prohibitions and restrictions as the court considers appropriate.

Mandatory duty to notify the police - The 2015 Act placed a duty on practitioners in regulated professions (health, teaching and social work) to notify the police when they identify that an act of FGM appears to have been carried out on a girl under the age of 18. This applies in cases where the victim discloses the offence to the practitioner or where the practitioner has observed physical signs of FGM. Failing to comply with the duty will be dealt with via existing disciplinary measures, which may include referral to the professional regulator.

What do practitioners need to do and how can they find out more?

Practitioners should make themselves aware of their responsibilities under the Serious Crime Act 2015 and carry out any duties to act.

To help them with this, they can read the Act in full here or read a fact sheet giving an overview of the Serious Crime Act 2015 and also one on Female Genital Mutilation.

In addition to the duty to notify the police when an act of FGM has been identified (by regulated professions), if any practitioner becomes aware of a risk to a child they must contact Children's Services Duty and Advice Team.

Duty and Advice Team tel: 0113 3760336 (out of hours tel: 0113 5356000)

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