



Referring a child to the Children's Reporter

with concerns of criminal exploitation

Developed
in partnership
with



This practice note has been jointly written by Action for Children and the Children and Young People's Centre for Justice (CYCJ). It features valued guidance and input from the Scottish Children's Reporters Administration (SCRA) and the Crown Office Procurator Fiscal Service (COPFS).



The Children and Young People's Centre for Justice (CYCJ) works towards ensuring that Scotland's approach to children and young people in conflict with the law is rights-respecting, contributing to better outcomes for our children, young people and communities.

Safe and happy childhood

Action for Children is driven by love. We take action so children don't miss out on a safe and happy childhood. We have thousands of people working on the ground, giving children and young people the protection and practical help they urgently need. And we campaign tirelessly for lasting change.



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The United Nations Convention on the Rights of the Child refers to anyone under 18 as a child. However, those we've consulted prefer to be called 'young people'. That's why we use this language in case studies or quotes but refer to 'children' elsewhere.



Context – The criminal exploitation of children



Children who are criminally exploited are victims of child abuse.

Their involvement in criminal activity is often the result of coercion, manipulation or control by people who choose to exploit children to avoid being detected by the authorities.

Children can be exploited to carry out a range of acts which may bring them into conflict with the law. The harm resulting from these actions happens across a continuum. This may include harm to the child from others – as well as harm to others from aspects of the child's behaviour. These often happen at the same time.



This continuum of harm results in children commonly experiencing physical, emotional and sexual abuse, with families also affected. Children will rarely recognise themselves as victims and may express and/or be seen as making choices. This is a core feature of exploitation. It's not a reason to avoid referring a child to the Children's Reporter.

Where possible, make every effort to avoid criminalising children – recognise they legally cannot consent to their own exploitation.



You should make a referral when...

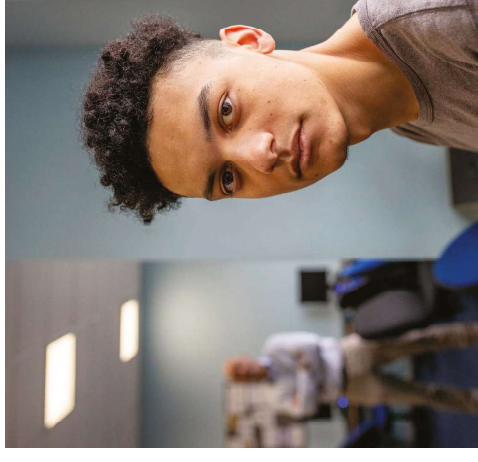
A referral to the Children's Reporter should be considered if you believe a child needs protection, guidance, treatment of control – and that a Compulsory Supervision Order (CSO) may be necessary to protect them. This includes situations where a child may be at risk of, or affected by, criminal exploitation. Or where their behaviour is a cause or consequence of that harm. Practitioners don't need to be certain a child is being criminally exploited. Just concerned enough that the child may need legal protection or support.

The following behaviours aren't exhaustive. Their presence should never be viewed in isolation or assumed to be a free choice. Instead, they must trigger exploration of possible exploitation, even where a child appears willing, complicit or benefits from the actions.

The focus should be on understanding why the behaviour is happening, not just what the behaviour is, and whether exploitation could be influencing the child's decisions or actions.

Referrals should be considered where there's evidence or concern a child is:

- Being coerced or manipulated into criminal activity (for example, drug offences, theft, robbery, violence).
- Being coerced or manipulated into activity that enables crime. For example carrying large amounts of money, watching houses used for drug dealing, holding SIM cards used for county lines activity.
- Controlled by adults or peers through threats, debt bondage (when a child is forced to do things because they're in debt), or being 'looked after' in exchange for illegal activity.
- At risk of causing harm to another person as a cause or direct consequence of their own exploitation.
- Frequently missing from home or care, especially in connection with places or people linked to exploitation.
- In possession of unexplained money, phones or goods.
- Showing sudden changes in behaviour, school attendance, or peer group without clear explanation.



You can find more detailed indicators and guidance in *Scotland's Framework for Practice and Criminal Exploitation: Practitioner Guidance*

practitioner guidance – gov.scot

Scotland's Framework for Practice was published in June 2025. It was co-written by Action for Children and the Children and Young People's Centre for Justice (CYC). It's a practical resource to support practice when dealing with the criminal exploitation of children.

It should be consulted when preparing an assessment on:

- Whether a child should be referred to the Children's Reporter.
- What relevant information will inform decision making and reflect the exploitation experienced by the child.

The framework emphasises the importance of:

- Early identification using the vulnerabilities and indicators listed in the framework, or the criminal exploitation screening tool.
- Multi-agency collaboration to assess risk and determine whether a referral is appropriate.
- Making sure the child's and family's voice and lived experience are central to the process.





Referral to the Reporter

Reporter's choice of ground when arranging a children's hearing

It's important that children, young people and their families are supported to understand the concerns and reasons why referrals have been made.

Practitioners making referrals to the Reporter must clearly outline why they believe exploitation is a concern. They should ensure the Reporter has all available information to make informed decisions. This reduces the unnecessary criminalisation of exploited children and supports use of the most appropriate grounds.



Decision making should reflect growing understanding of child exploitation. Multi-agency partners should recognise how exploitation functions, how it presents, and make sure responses address harm and promote children's wellbeing, addressing the cause not the symptom.

If the Reporter decides to arrange a children's hearing, they'll select the ground that best reflects concerns for the child's welfare, based on the available facts and assessments leading to their decision.

Reporters have been provided with key messages as reflected in *The Jay Review of Criminally Exploited Children*.¹ Where the main concern is that the child is the victim of criminal exploitation (subject to the necessary evidence being available) the most appropriate ground is likely to be section s67 2(e):

"The child is being, or is likely to be, exposed to persons whose conduct is (or has been) such that it is likely that (i) the child will be abused or harmed, or (ii) the child's health, safety or development will be seriously adversely affected."

Whatever ground the Reporter chooses, the hearing has a broader responsibility to take account of the child's wider needs, giving most consideration to their welfare. This means practitioners' assessments are crucial to inform decision making. They must always consider whether consensual support is appropriate or a compulsory order is required.

Reporters should continue to get advice and information on criminal exploitation to strengthen decision making and make sure the grounds used reflect increased understanding of harm and exploitation. To enable a more informed and consistent response the Scottish Children's Reporter Administration (SCRA) now uses the definition of criminal exploitation in *the Jay Review*:

"The criminal exploitation of children occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child into criminal activity. The victim may have been criminally exploited even if the activity appears consensual."

This definition helps practitioners better understand the context of a child's behaviour. It reinforces the importance of responding through a child protection, rather than justice-led, approach.

Recognising criminally exploited children may not readily accept these grounds is important. Their denial or reluctance must not be a barrier to protection. It's the responsibility of services to evidence concern and not depend on the child's disclosure or agreement. Where possible, referral should be supported by a detailed assessment. Or highlighting credible indicators that exploitation may be a concern and compulsory measures are needed for protection.

¹ The Jay Review of Criminally Exploited Children | Action For Children



Completing a referral to the Children's Reporter for a child who's been criminally exploited

When making a referral to the Children's Reporter agencies must provide clear, contextualised information that outlines:

- Indicators of exploitation.
- The impact it has had on the child's behaviour and actions.
- Information around what voluntary support has been offered and whether it's sufficient.
- Whether a compulsory order may be needed to protect them.



A child-first approach is essential.

Particularly where a child's behaviour may cause harm to others and is itself a direct cause or consequence of being harmed through exploitation. Referrals should reflect both the need for protection and the complexity of the child's experiences, avoiding language that implies choice or blame.

Assessments must also consider what's required to:

- Reduce current risk of harm in a way that's proportionate, protective and upholds rights.
- Prevent further or repeated exploitation.

Utilising statutory measures for children who are victims of exploitation

A children's hearing may make a Compulsory Supervision Order (CSO) or, where no CSO is currently in place, an Interim Compulsory Supervision Order (ICSO).

Various conditions can be made in these orders.

These can include living arrangements and engaging with services. Contact, or non-contact, with certain people could be recommended to protect and meet the needs of the child. If applied appropriately, these measures could be used to protect children from the harm caused by criminal exploitation.

The Children (Care and Justice) (Scotland) Act 2024 includes specific measures that can be included in a CSO and ICSO. For example, prohibiting the child from entering a place, or communicating with someone. But it's already possible for these kinds of measures to be included through the Children's Hearing (Scotland) Act 2011 – so they can be actively considered.

Restrictions such as limiting a child's movements or contacts may seem contradictory in the context of a child victim. It must be clear how they can be used as part of a wraparound proportionate, rights-based response that can flex as needed. It must also sit alongside direct action against exploiters, and the spaces children are being exploited.

These actions must not be punitive but instead aimed at:

- Disrupting the power and control of exploiters.
- Reducing exposure to harm.
- Creating safety and stability for the child to recover from exploitation.

A criminally exploited child will often be forced to continue engaging in illegal activity while services try to protect them. Plus, exploiters will often adapt how and what the child is required to do in response to any restrictions and services' involvement. The child will likely continue to be coerced/forced to carry out acts of violence against others, or other actions, and live in fear of repercussions if they don't comply.

It's unlikely a child will acknowledge their exploitation, since the psychological effect of the grooming process often leads them to feel they're part of something. The risk of repercussions for them, their family and others will be used as leverage to hold them in the cycle of exploitation and prevent them from sharing details that could expose the exploiter and their activity. So, it's agencies' responsibility to consider measures that may address the complex dilemma of holding and reducing the current and future risk of harm.

This protection must always be paired with active efforts to identify, disrupt and hold exploiters accountable through robust partnership with police, criminal justice and safeguarding partners.



Practitioners should continue to review and monitor progress, considering the impact of exploitation and the associated risks. They should make sure Reporters and review hearings have updated and current information. This recognises exploitation is likely to continue after a child is placed on a CSO and the time required to address the complexity, and reduce the level, of harm children are experiencing.

Once fully implemented, the measures above will be specified in legislation through the Children (Care and Justice) (Scotland) Act 2024.

They may be included within the CSOs/ICSOs and subsequently integrated into the child's plan by professionals as part of the recommendations to a hearing, when appropriate and proportionate:

- **Section 5** – CSOs with prohibitions, for example: preventing contact with named individuals known or suspected to be exploiters.
- **Section 6** – CSOs with a movement restriction condition, for example: to help break the link between the child and exploitation environments (will be de-coupled from secure care criteria).

All interventions must be trauma-informed, regularly reviewed and guided by the principle of minimum intervention. There needs to be an understanding of the impact and level of harm if the measures aren't implemented. All measures must be integrated in the child's plan and contribute to building capacity and strength within the child and their support systems to be sustainable beyond services' involvement.

Practitioner prompt: Are we using legal measures to protect the child and not to control them while also pursuing action against those responsible for the harm?



Recommendations to a children's hearing for compulsory measures of supervision for a child who is criminally exploited could include:

- Prohibiting contact with certain people to reduce exposure to exploiters.
- Mandated attendance at appointments with support services as required with recognition that exploited children will avoid engagement with services. Despite this, they require support and protection from services that can address vulnerabilities leading to exploitation.
- Measures to restrict and monitor movements, providing often much sought-after distance between children and their exploiter.
- In cases of threat of serious harm or threat to life, provision of alternative accommodation for their own protection.
- Measures like these would be used when other attempts to reduce risk and protect from exploitation have been limited in their success.

What are the implications of not complying with measures in a CSO?

Practitioners should be aware that children may be unable to fully comply with measures placed on them as part of a CSO because of their exploitation. It's important to understand this context and review how agencies can take responsibility for enabling the child to comply with the measures of the order.

These include:

- Considering the role of supporting agencies in addressing exploitation through disrupting perpetrators.
- Working with the child to understand the barriers to engagement – using contextual safeguarding methods to understand the areas of risk and protection.
- Calling a review hearing if the CSO is not being complied with – with clear assessment as to why this is the case. The child should not be held responsible for experiencing ongoing exploitation but supported to identify where they can be further protected/ supported.
- Being clear that CSO measures don't give the police any powers of arrest for failing to comply.

The review hearing will take a welfare-based approach in their decision making. There are no 'breach' proceedings leading to a punitive approach.

Considerations after a referral

No matter what the outcome of referral to SCRA support must be provided to the child and their family where there's an identified need. Multi-agency collaboration must make sure risk is managed and held among the partnership.

Practitioners should be actively alert to change in the presence or nature of exploitation as well escalating risk or harm with contingency plans in place to respond accordingly.



Jointly reported cases or cases reported to The Crown Office and Procurator Fiscal Service (COPFS) for 16-17-year-olds

When a child is jointly reported, to both the Children's Reporter and The Crown Office and Procurator Fiscal Service (COPFS), or solely reported to COPFS, the Lord Advocate's Instructions (2024) provide a clear framework for non-prosecution of victims of trafficking and exploitation.

Under Section 8 of the Human Trafficking and Exploitation (Scotland) Act 2015, prosecutors must apply these instructions and consider for all people reported to them if exploitation may be a factor.

Key legal principles:

- Neither children or adults can consent to their own exploitation. For children, there's no need to consider whether the child was compelled to commit the offence.
- The Lord Advocate is required to issue instructions to prosecutors on how to handle cases where a child (or adult) is suspected of committing an offence in the course of, or as a consequence of, human trafficking.
- Prosecuting a victim of trafficking or exploitation may be contrary to public interest, further traumatising the child and breach legal obligations under domestic and international law.
- Where there's credible and reliable information to support the fact that the child:
 - a) is a victim of human trafficking or exploitation and
 - b) the offending took place in the course of, or as a consequence of, being the victim of human trafficking or exploitation...
 ... then there's a strong presumption against prosecution of the child for that offence.

Conclusion – protection, not punishment



Criminal exploitation is a serious form of harm and abuse that requires a consistent, coordinated and rights-based response.

Recognising the signs of exploitation and responding appropriately is not the responsibility of any one agency. It is a shared multi-agency duty to protect children, uphold their rights and make sure their needs are met through protective legal measures where required.



It is everyone's responsibility to consider the possibility of criminal exploitation for every referral and throughout a child's involvement with the Reporter. When concerns about a child's needs, behaviours, or circumstances may be linked to exploitation, referral to the Reporter ensures a welfare-first approach is taken. This approach provides the necessary legal framework to safeguard the child, address harm and disrupt those who seek to exploit them.

This approach aligns with the principles of the UNCRC (Incorporation) (Scotland) Act 2024, the Children (Care and Justice) (Scotland) Act 2024 and Scotland's National Framework for Practice on Criminal Exploitation of Children.

The Jay Review of Criminally Exploited Children: Shattered Lives, Stolen Futures recommended a welfare-first approach should be taken in managing offences committed by exploited children. So any referral – whether to the Children's Reporter, jointly reported, or solely reported to COPFS – should embody this principle.



By working collaboratively, sharing information, and keeping exploitation in focus, practitioners can help make sure children receive protection, not punishment, for the abuse they've experienced.



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