

# FALLING SHORT: DEMAND-SIDE SENTENCING FOR ONLINE SEXUAL EXPLOITATION OF CHILDREN

Composite Case Review, Analysis, and  
Recommendations for the United Kingdom

October 2020



IJM

A product of



## Center to End Online Sexual Exploitation of Children

[endosec@ijm.org](mailto:endosec@ijm.org)

### Contact Information

For more information, please contact:

**John Tanagho**

*Director, IJM's Center to End Online Sexual Exploitation of Children*  
[jtanagho@ijm.org](mailto:jtanagho@ijm.org)

**Brandon Kaopuiki**

*Technical Advisor, IJM Global Hub Against Online Sexual Exploitation of Children*  
[bkaopuiki@ijm.org](mailto:bkaopuiki@ijm.org)

IJM is available for and interested in providing further consultation to demand and source-side governments about online sexual exploitation of children and recommendations to combat it. Such consultation can be provided confidentially, if necessary, and without cost.

---

Acknowledgements: IJM would like to thank and acknowledge the following for providing input and feedback to the paper: Iain Drennan, Executive Director, WePROTECT Global Alliance; Sara Carnegie, Legal Projects Director, International Bar Association; Donald Findlater, Director, The Lucy Faithfull Foundation; Ollie Simpson, Policy Advisor, The Office of The Sentencing Council; Raveena Jawanda, Policy Officer, Bail, Sentencing and Release Policy Unit, Ministry of Justice; Louise Gleich, Human Trafficking Senior Policy Officer, Care; Dylan Moses, Rosie Naylor and Annabel Goulding, K&L Gates UK; International Justice Mission UK.

Special thanks to Julienne Daly (IJM Legal Fellow) for leading the research and writing for this project.

# Contents

Foreword.....	3
About International Justice Mission.....	6
UK Government Actions Against Online Sexual Exploitation of Children.....	7
Key Definitions .....	7
Summary of Findings .....	8
Key Findings .....	9
Summary of Recommendations.....	10
I. Background: Demand-Side Offenders Fuel OSEC Globally .....	12
A. Trafficking to Produce New Child Sexual Exploitation Materials is a ‘Supply and Demand’ Crime Driven by Paying Sex Offenders .....	12
B. Livestreaming Child Sexual Exploitation Grows, Exacerbated by the COVID-19 Pandemic .....	13
C. OSEC Severely Harms Victims: In Their Own Words .....	15
II. The Scope and Summary: Cases Reveal A Trend of Low Sentences for UK OSEC and CSEM Offenders.....	16
A. The Scope: A Review of 15 OSEC and CSEM Cases .....	16
B. The Summary: UK Sentences Fall Short of the Gravity of OSEC and CSEM Offending.....	17
III. UK Sex Offender Case Studies.....	19
A. Demand-Side Livestreaming of Filipino Children .....	21
B. Demand-Side Livestreaming or CSEM Video Production of UK Children .....	26
C. UK Source-Side Livestreaming In-person Abusers/Sellers .....	27
D. UK CSEM Cases Reviewed .....	29
IV. Discussion and Analysis.....	32
A. UK Livestream Offending .....	32
B. CSEM Offending: Lower Sentencing Guidelines Promote Non-Custodial Sentences .....	34
C. CSEM Offence Sentences Must Consider the Dual Offending Risk .....	35
D. Conclusion .....	35
V. IJM Recommendations .....	36
VI. Final Remarks .....	44
Annex A: Survivors Speak Out About Demand-Side Offenders .....	45
Annex B: Proposed Sentencing Guideline Amendments .....	51
Annex C: Preliminary Note on Rehabilitation.....	54

# Foreword



In the last 23 years, International Justice Mission (IJM) has supported governments and other NGOs in rescuing and safeguarding over 53,000 people from slavery and other forms of exploitation and violence. As a survivor-centred organization, we have journeyed with our partners and thousands of children, women, and men in their pursuit for justice and restoration. These journeys are linked, with the fair resolution of court cases often facilitating restoration.

Since 2011, my IJM colleagues and I have seen first-hand the devastation caused by Online Sexual Exploitation of Children (OSEC), a form of modern slavery spreading globally. We have also seen the fruit of an effective justice system response to bring rescue, restoration, and justice for survivors in the Philippines and to restrain the hands of abusers both in-country and online.

Today, IJM calls attention to the severe harm that livestreamed child sexual abuse and the production of new child sexual abuse materials causes young girls and boys around the world. We sound the alarm for the urgent need to provide **justice** for these survivors and protect other children from ongoing abuse by **restraining** child sex offenders in demand-side nations.

Right now, there is a growing **global demand** by offenders for new child sexual abuse materials. That demand translates into more children trafficked, sexually abused, and exploited to create livestreams, videos, and photos of their most traumatizing hours of life.

At the same time, a **global demand** exists for survivors to be seen and heard, for their experiences to be known and validated. The global frustration with impunity is matched by an urgent desire to ensure that those who abuse their power are held accountable.

Yet today, impunity is rife for child sex offenders who sexually abuse and exploit children from the comfort of their homes by paying for and directing the livestreamed sexual abuse of children in the Philippines and other source countries. These “demand-side” offenders are fuelling modern slavery.

## **It is time to replace that impunity with accountability.**

This report highlights the need to hold demand-side offenders accountable for the severe harm they cause victims—vulnerable children at home and abroad—and to provide justice to survivors of online and in-person sex offences. While it examines cases and sentences involving UK offenders, it serves as an opportunity for all demand-side nations to review their sentencing schemes for livestreamed child sexual abuse offences.

The end of impunity requires effective law enforcement to increase the certainty of punishment and deter offenders. Sentencing that fits the crime, disrupts criminal conduct, and restrains offenders from **harming even more children** is also critical.

While stronger sentencing is not a panacea for violent crime, it serves significant purposes. Appropriately strong sentences provide justice for survivors. They serve as an official government acknowledgement of the harm done to the victims. When demand-side sex offender sentences barely reach a few years, that low sentence further harms survivors by belittling their suffering. Indeed, low sentences undermine the gravity of serious sex offences, messaging to survivors that their harms are not seen, their voices not heard, their abuse not punished.



Through this report, IJM seeks to elevate and make heard the voices of Filipino livestreamed sexual abuse survivors. None of us have walked in the shoes of a survivor, and no one knows better the harm demand-side sex offenders cause or the detrimental impact of low sentences on survivors. For that reason, Annex A includes the hand-written and translated statements of ten survivors eager to share with the UK Government and the world the harm demand-side offenders caused them and their critical perspectives on punishment and sentencing.

Legislators, prosecutors, and judges in demand-side nations need to be extremely clear about what online sexual exploitation of children is and who is responsible for it. Online sex offenders direct and cause live sexual abuse by paying and instructing in-person traffickers to violate young children of specific ages, at specific times, in specific ways. They produce child sexual abuse materials every time they watch and record the new abuse from the comfort of their homes. And they engage in human trafficking remotely by conspiring with in-person traffickers to sexually exploit children through sale after sale.

Plainly put, demand-side sex offenders are **the minds and money** behind the most horrific child abuse imaginable.

While every member of the tech sector, including industry giants like Microsoft, Facebook, and Google have their own critical role in tackling this uniquely tech-facilitated crime,<sup>1</sup> demand-side countries should invest political capital to transform their side of the equation. It is time to heed the appeal of former Philippine Senator Loren Legarda to amend the “lenient sentences that their laws mete upon those who prey on Filipino children... raise the penalties to lower the demand and reflect the true nature of the crime in your respective countries. Truly, this [is] one of the worst forms of violence against women and children...”<sup>2</sup>

Indeed, to protect children globally from violent harm, we should do that and so much more.



**John Tanagho**  
*Director, Center to End Online Sexual Exploitation of Children*  
International Justice Mission

# Foreword



When I became Home Secretary in 2018, I was warned about the toll the darker elements of my portfolio would take. Of these, I assumed that dealing with terrorists would weigh the most heavily on me.

I was mistaken. My first visit to the National Crime Agency brought home the full horror of online sexual exploitation of children (OSEC) and made clear that an epidemic of abuse is taking place.

While OSEC can take many forms, one that really turned my stomach was livestreamed abuse. Specialist NCA officers told me how British child sexual offenders hire traffickers in countries such as the Philippines to provide children for them to violate via a video link.

They told me how these offenders choose the age, gender, and hair colour of the child they wanted to see being harmed. How they issue specific instructions, direct their own films and produce photos to be disseminated for the gratification of others online. How they continue to commit these crimes from the comfort of their own home, largely undetected, right here in the UK.

This is not a niche issue. OSEC has become one of the fastest growing forms of sexual abuse and livestreaming (as a whole) is projected to account for a staggering 13% of internet video traffic by 2021. The UK has won the undesirable accolade of being the third largest consumer of child sexual exploitation material. This year, the NCA estimated that there are at least 300,000 in the UK who pose a sexual threat to children online.

That's why during my time at the Home Office, I made tackling online child abuse one of my top priorities. I published the Online Harms White Paper, designed to make the UK the safest place in the world to be online. I helped found the Philippine Internet Crimes Against Children Centre and hosted a hackathon to develop new tools capable of disrupting abuse online. I substantially increased funding for our front-line agencies and upgraded the resources they had at their disposal.

Despite this and the excellent work that Priti Patel and her team have done since, it's all too clear that the threat posed by child abusers continues to escalate and evolve. We can do more. There is, rightly, a great deal of attention on the exploitation and abuse of vulnerable children living in communities across the UK. It's not clear to me why British sexual offenders choosing to abuse by proxy should be treated with any less seriousness. They are just as complicit in the harm caused. Morally, it's my view that they may as well have been in the room when their instructions were acted out on an innocent child.

For that reason, it's unacceptable that child abusers such as Andrew W., Andrew L. and James A. were handed such lenient sentences. For directing the livestream abuse of a nine-year-old girl and other children, Andrew W. will spend 1 year 7 months behind bars. Longer sentences have been given for possession of Class C drugs such as tranquilisers.

Inadequate sentences such as these undermine the seriousness of child sexual abuse offences and fail to deliver the justice that victims deserve. They hinder efforts to deter future offending, both by the convicted and other child sexual abusers. That's why this report from International Justice Mission is so important. If we want to tackle this issue, the punishment must fit the crime.

**The Rt Hon Sajid Javid MP**  
Former UK Home Secretary

# About International Justice Mission

International Justice Mission (IJM) is a global organization that protects people in poverty from violence. **IJM and our partners are helping local authorities protect more than 400 million people from violence.** As the largest anti-slavery organization in the world, IJM partners with local authorities in 21 program offices in 13 countries to combat slavery, violence against women and children, and other forms of abuse against people who are poor. Our model works side-by-side with local authorities and governments to rescue and restore survivors, hold perpetrators accountable in local courts, and strengthen the public justice system so it can better protect people from violence. This model is replicable and has worked to reduce modern day slavery and violence in programs against commercial sexual exploitation of children, among others.

Learn more at [IJM.org](https://www.ijm.org).



As an NGO working directly with survivors, IJM brings a unique voice to the discussion on the convergence between modern slavery and online sexual exploitation of children. Since 2011, IJM has partnered with the Philippine Government, international law enforcement, and NGOs to combat the trafficking of children by adults to create new child sexual exploitation materials, especially via livestream video, for paying sex offenders abroad. As of October 2020, IJM has supported dedicated law enforcement partners in the Philippines in 210 operations, leading to the rescue of 687 victims or at-risk individuals, the arrest of 263 suspected traffickers, and the conviction of 94 perpetrators, with prosecutions ongoing. According to an IJM-led OSEC study, released in May 2020, 64% of Philippine law enforcement operations from 2011-2017 were initiated by a foreign law enforcement referral,<sup>3</sup> reflecting the global nature of the crime and the effectiveness of law enforcement collaboration and referral sharing between demand and source countries.

In 2020, IJM expanded our programming by launching **IJM's Center to End Online Sexual Exploitation of Children**. The Center partners with governments, industries, NGOs, and other stakeholders to expose, neutralize, and deter online sexual exploitation of children around the world. Leveraging practices proven effective in IJM's ongoing program against OSEC in the Philippines, the Center helps (1) improve technology and financial sector detection and reporting of livestreaming child sexual exploitation, (2) strengthen international collaboration in law enforcement and prosecution, and (3) support effective justice system (law enforcement, prosecution, and aftercare) responses in source and demand-side countries, resulting in sustainable protection for children and accountability for perpetrators.

# UK Government Actions Against Online Sexual Exploitation of Children

The UK Government is among the world leaders in combatting various forms of OSEC both at home and abroad. Some of those significant contributions include:

- Launching the WePROTECT Global Alliance;
- Providing, through the National Crime Agency (NCA), equipment, training, case referrals, and other partnership to Philippine law enforcement as a founding member of the Philippine Internet Crimes Against Children Center (PICACC);<sup>4</sup>
- Investing £40 million in the Global Partnership to End Violence Against Children;
- Safeguarding 8,329 children and arresting 7,212 perpetrators in relation to online child sexual abuse (during a 12-month period ending March 2020);<sup>5</sup> and
- Sponsoring the Independent Inquiry into Child Sexual Abuse and publishing the Online Harms White Paper.<sup>6</sup>

Through this report, IJM aims to provide OSEC and CSEM offender case studies, analyses, and recommendations relevant to the UK's already robust efforts to end online child sexual abuse and exploitation, including through the NCA and local police units. IJM seeks to provide the perspective of an NGO with experience dating to 2011 working “in the trenches” with Philippine Government, international law enforcement, and NGO partners, to support investigations, prosecutions, and social service delivery to survivors of livestreamed child sexual abuse and exploitation in the Philippines.

## Key Definitions

**Online Sexual Exploitation of Children (OSEC).** The trafficking of children to create new child sexual exploitation material, including through livestreaming, for demand-side sex offenders who pay for, direct, and view the abuse online.

**Child Sexual Exploitation Material (CSEM).** Any visual or audio representation of minors under the age of 18 engaged in sexual activity or of minors engaging in lewd or erotic behaviour that is recorded, produced and/or published to arouse the viewer's sexual interest.

**Demand-Side Offender.** Any person who pays for, directs, and/or views child sexual abuse or exploitation online, including in livestreaming. Demand-side offenders in OSEC cases actively participate in the repeated sexual abuse of children by requesting or dictating specific abuse acts in advance or in real-time as it occurs via livestream.

**In-person Trafficker.** Any person who sexually abuses or exploits a child by creating and selling new CSEM to demand-side offenders. Because that conduct is a trafficking offence in the Philippines, this report uses the term “OSEC trafficker” or “in-person trafficker.”



# Summary of Findings

IJM’s Composite Case Review found a trend of low sentences for UK offenders who paid for, directed, and consumed live sexual abuse and exploitation of Filipino children. These are not image offenders—they are remote abusers and exploiters fuelling modern slavery.

An offence’s gravity is often reflected in the maximum penalty a government prescribes through legislation. UK laws against OSEC offending are serious, holding maximum penalties of 10 to 14 years imprisonment. Yet, while most of the offenders in this Review were convicted of multiple counts of serious offences, they each received a sentence less than half the maximum sentence for *one count*.

## **UK offenders who directed and paid for livestreamed sexual abuse of Filipino children will serve on average only two years, four months in prison.<sup>7</sup>**

Moreover, UK offenders who directed and paid for livestreamed sexual abuse of Filipino children received sentences roughly half those of offenders with UK victims. Meanwhile, these same demand-side offenders who directed the abuse of Filipino children received sentences nowhere near those of in-person UK contact offenders, even though the resulting harm is equal and even though law enforcement and judges agree demand-side offenders “cause” in-person sexual abuse.

This UK trend of low sentences for demand-side offenders may not be isolated. The [WePROTECT Global Alliance 2019 Threat Assessment](#) observed a trend of low sentences for demand-side offenders across jurisdictions that “**undermine the gravity of their serious, repeated and sometimes violent**” child exploitation and abuse offences.<sup>8</sup> While UK sentences for drug and firearms traffickers can be counted by decades,<sup>9</sup> sentences for those who cause and pay for the sexual abuse of toddlers and other vulnerable, young children are counted in a few years. That is not justice.

Moreover, half of UK offenders who possessed and distributed the worst category of child sexual exploitation material received non-custodial sentences, while the average prison period for reviewed CSEM offenders was only ten and a half months. IJM acknowledges that judges weigh many considerations at sentencing, such as totality and mitigation. Still, with numerous serious offences involving a course of conduct of repeated, premeditated offending severely harming young victims, these low sentences fail to deliver justice to survivors, punish offenders, and change society’s appreciation for these offences (i.e. change societal norms). As such, these sentences fall short of the expectations of abuse survivors, UK citizens, and the global community.

# Key Findings

1

UK offenders who directed and paid for livestreamed child sexual abuse of Filipino children will serve on average only two years, four months in prison (pre-licence).

2

Scotland, Canada, Australia, and Sweden punish sex offenders who direct livestreamed child sexual abuse on par with contact offending; the UK should do likewise.

3

While UK laws against livestreamed child sexual abuse have maximum penalties of 10 to 14 years in prison, offenders convicted with multiple counts received sentences well below the maximum for one count.

4

UK sentencing guidelines have limited culpability and aggravating factors that reflect livestreaming child sexual abuse crimes, contributing to low starting point considerations.

5

UK offender sentences for livestreaming sexual abuse of children overseas are substantially lower than sentences for victimizing UK children.

6

UK offenders reviewed in this report who possessed or distributed large amounts of child sexual exploitation materials (CSEM) will serve on average only ten and a half months in prison (pre-licence).

7

Half of UK offenders reviewed in this report who possessed or distributed large amounts of CSEM served no time in prison.

# Summary of Recommendations

Sentencing for demand-side online sexual exploitation of children offenders can be strengthened to better reflect the gravity and nature of the crime; provide justice for survivors; and sufficiently disrupt and restrain current and future offending. IJM offers the following recommendations:

## 1. Amend Sentencing Guidelines and Legislation to Better Reflect the Exploitative Nature of OSEC Crimes and the Severe Harm Caused to Victims.

- Engage the Sentencing Council to discuss identified issues in sentencing guidelines, including adding culpability and aggravation factors to better appreciate OSEC crimes (Annex B recommends 16 additional factors of culpability and aggravation across sexual offences and sexual exploitation guidelines)
- Ensure livestreaming “demand-side” sex offenders are treated on par with in-person sex offenders.
- Amend sexual offences legislation to better capture OSEC crimes
- Broaden language of the Modern Slavery Act 2015 to reflect UK-ratified international instruments.

## 2. Prosecute and Convict OSEC Offenders under Child Sexual Exploitation Offences within the Sexual Offences Act 2003.

Convicting offenders for sexual exploitation charges will likely result in appropriately strong sentences due to the higher sentencing ranges under the sentencing guidelines. None of the offenders included in this Review were convicted of sexual exploitation charges. It is unknown if the offenders were charged with such offences and later pled to lesser offences.

## 3. Amplify the Experience of Survivors at Sentencing.

Increase judicial awareness of victim impact through i) the consistent use of assessments and reports by social workers and psychologists at sentencing; ii) direct and/or proxy victim impact statements (Annex A), including recorded statements for foreign victims; iii) and viewing digital evidence samples at sentencing.

## 4. Judiciary and Prosecution Utilize Mechanisms for Victim Financial Compensation.

Explore all options to collaborate with foreign jurisdictions to compile necessary information for judicial compensation orders.

## 5. Institute Mandatory Parole Review for All UK OSEC and CSEM Sex Offenders.

While addressing the issue of lower sentencing, make parole review mandatory for all OSEC or CSEM offenders: currently, all offenders are *automatically* released after serving half of their sentence, unless they have extended determinate sentences.

## 6. Develop Non-Justice System Forms of Prevention and Improve Rehabilitation.

Increasing the certainty of punishment can deter offenders and prevent offending. Still, further measures are needed to identify sexually motivated offender progression factors and implement additional prevention measures. For instance, research the impact of over-exposure and habituation to hardcore pornography leading to CSEM offending. Prevention and rehabilitation are complementary measures to restrain and disrupt demand; they are not, however, substitutes for fair and appropriately strong sentences commensurate to the gravity of the offence that obtain justice for survivors.

## 7. Further Evaluate the Extent of the Low Sentencing Trend.

The Ministry of Justice, or other appropriate parties, should review jurisprudence, sentencing remarks, and other data not publicly available, to glean a clearer view of factors considered in the sentencing of OSEC (especially livestreaming) and CSEM offenders.

## 8. Promote the Unduly Lenient Sentencing Scheme.

Publicize its availability so the public and child protection civil society stakeholders can highlight unduly lenient sentences for the Attorney-General's consideration, in line with law and public values.

## 9. Scotland and Northern Ireland Proactively Assess OSEC, CSEM Legislation and Sentencing.

IJM recommends the Parliaments of Scotland and Northern Ireland review their sexual offences and sexual exploitation legislation, CSEM legislation, and any existing cases to see if similar issues as addressed in this paper have arisen or may arise.

### SENTENCES THAT FIT THE CRIME WILL:

**End impunity** for demand-side sex offenders

**Provide justice** for survivors

**Protect children** globally from online sexual exploitation by disrupting and restraining offenders

**Change societal norms** by reflecting the gravity of OSEC and severe harm done to victims



## I. BACKGROUND: DEMAND-SIDE OFFENDERS FUEL OSEC GLOBALLY

### A. Trafficking to Produce New Child Sexual Exploitation Materials is a ‘Supply and Demand’ Crime Driven by Paying Sex Offenders

Online sex offending against children has many different forms, including possession or distribution of previously produced CSEM, enticing children to “self-produce” new CSEM, grooming children for later contact abuse, and more. Supporting an end to all forms of online sexual exploitation of children, IJM has to date focused on protecting children exploited by traffickers who create new CSEM, especially via live streaming video, to satisfy the online demand of child sex offenders. That form of abuse is what “OSEC” refers to for purposes of this paper.

The OSEC *modus operandi* is as simple as it is brutal. Child sex offenders from around the world seek out traffickers online in countries like the Philippines, paying them to livestream sexual abuse and exploitation of specific children in specific ways as directed by the remote offender in real time. In IJM’s casework experience from 2011 to 2020, demand-side offenders use popular internet platforms with live video and chat functions to issue these graphic and specific abuse instructions. This sexual abuse is livestreamed for the offender’s sexual consumption on a “pay-per-view” basis and documented in photos and videos.

Demand-side offenders often are from developed countries such as the US, UK, Australia, and Western European/Nordic countries. In the over 250 cases IJM has worked on, the abuse suffered by children at the behest of these offenders is *rarely limited* to erotic displays: It usually includes forcible sexual penetration constituting rape in the Philippines and other jurisdictions. Children are forced to engage in sex acts with other children, sexually abused by an adult, and sometimes harmed in other degrading ways, such as in bestiality. According to IJM’s casework data in the Philippines, over 50% of victims are only 12 years-old or younger, including over 100 victims who were 6 years-old or younger at the time of rescue.

Demand-side government officials must reckon with the reality that online sex offenders incite in-person abuse and commit it by proxy, and thus, must be found legally responsible for it.<sup>10</sup> In the landmark case of *UK v Charnley* [2011], Lord Justice Moses rightly identified the issue, stating:

**It’s plain that offenders like these, obsessed with the opportunity, so easily on payment, to obtain their own sexual gratification at the cost of the terrible abuse of these children, need to be deterred.<sup>11</sup>**

In a different part of the Commonwealth also tackling the problem of demand-side OSEC offending,<sup>12</sup> a life-long veteran in combating abuse online, Detective Inspector Jon Rouse, stated of an offender, “[he] may as well have been in the room with the kids. The fact he was seeing it in the virtual world is irrelevant...what happened to those kids happened because of him.”<sup>13</sup> In summary, demand-side sex offenders are proliferating a criminal industry by **commissioning, directing, and producing** *new* CSEM from the comfort of their homes.

In legal terms, OSEC conduct constitutes child abuse, cybercrime, and “child pornography”<sup>14</sup> offences under Philippine law. It also constitutes a trafficking-in-persons offence and carries a maximum penalty of life in prison (the first 90 convicted Filipino OSEC traffickers in IJM-supported prosecutions received sentences of 20 years on average). From IJM’s perspective, both criminals are engaging in human trafficking—the demand-side sex offender doing it remotely and “by proxy” in conspiracy with the in-person trafficker. In some cases, the in-person trafficker is like the “agent” doing the dirty work of the demand-side offender “principal.” Either way, the two criminals conspire together to commercially sexually exploit children to create new CSEM for the in-person trafficker’s financial gain and the remote trafficker’s sexual pleasure.

Moreover, this livestreamed abuse and new CSEM rarely remain with the paying offender. Instead, as ECPAT International notes, recorded livestreaming may be “substantially adding to the volume of child sexual abuse

materials...available on the web as a whole.”<sup>15</sup> While exemplary organizations like Internet Watch Foundation (IWF) and others work painstakingly to remove CSEM from the internet, IJM seeks to prevent the production of that CSEM in the first place. Unless we can seal the dam, children will continue drowning in a deluge of child sexual abuse and CSEM online.

And while IJM has done that primarily at the source-side by supporting the Philippine Government, in collaboration with foreign law enforcement, to rescue victims and hold in-person traffickers accountable through arrest and prosecution, OSEC remains a global crime requiring a global response. OSEC is a major criminal and social problem with unlimited growth potential globally, affecting an unknown number of vulnerable children in nations with still developing victim identification and protection capabilities. While the Philippines is considered a global hotspot for commercial CSEM production, cases have also, to a much lesser degree, been identified in other nations, including Thailand, India, and Romania, to name a few.

**Notably, combatting the growing global crime of OSEC, including in livestreaming, is required for the global community to achieve UN Sustainable Development Goal 16.2 to “[e]nd abuse, exploitation, trafficking and all forms of violence against and torture of children.”<sup>16</sup>**

OSEC is no stranger to the UK. The NCA’s most recent intelligence shows there are at least “300,000 people in the UK who pose a sexual threat to children.”<sup>17</sup> According to the UK Independent Inquiry into child sexual abuse, the UK is the third largest global consumer of livestreamed abuse.<sup>18</sup> The scale of the demand-side is indeed far-reaching and the UK is one of several countries trying to curb OSEC demand.

In Germany, after identifying some 70 suspects engaged in a “paedophile network”, North Rhine-Westphalia Justice Minister, Peter Biesenbach, stated there is a reckoning with the extent of child abuse on the internet.<sup>19</sup> The recent conviction of German national Dennis S. for abusing his toddler son and producing CSEM starkly highlighted this harm.<sup>20</sup> As part of Germany’s reckoning, they are realizing their OSEC and CSEM legislative frameworks could be improved to strengthen sentences and restrain demand.<sup>21</sup>

Similarly, a study by the Australian Institute of Criminology found that 256 Australians spent more than \$1.3 million over 13 years to commission and watch live streamed child sexual abuse of Filipino children.<sup>22</sup> In light of that study and a report that 39% of convicted sex offenders in Australia evade jail time entirely,<sup>23</sup> the Australian Government recently amended child sex offences legislation to better capture OSEC crimes, increase penalties, and introduce mandatory sentences for OSEC and CSEM offending.<sup>24</sup>

## **B. Livestreaming Child Sexual Exploitation Grows, Exacerbated by the COVID-19 Pandemic**

There is a growing global demand by sex offenders for new child sexual exploitation materials, including in livestreaming. “Livestreaming of child sexual exploitation for payment” has increased in recent years, according to INTERPOL, while the WePROTECT Global Alliance reports that livestreaming (as a whole) is expected to account for 13% of internet video traffic by 2021.<sup>25</sup> The NCA also considers livestreamed child sexual abuse “one of the emerging threats” to children today.<sup>26</sup>

During the pandemic, governments and partners around the world are reporting a surge in violence against women and children, including online, exacerbating the vulnerability of children. COVID-19 lockdowns created the perfect storm for increases in OSEC, which is a crime of opportunity for traffickers. Moreover, quarantined child sex offenders are spending more time online and vulnerable children are also confined at home, often with their traffickers.

In April 2020, the NCA predicted a rise in online child sexual abuse during the COVID-19 pandemic,<sup>27</sup> while the WePROTECT Global Alliance’s Intelligence Brief indicated the “highly probable” increase.<sup>28</sup> As the data show, those predictions are substantiated, and there has never been a more urgent time to strengthen systems that protect children from OSEC. For instance, the eSafety Commissioner, Australia’s national independent

regulator for online safety, recorded an 86-percent increase in image-based abuse reported to its office over the three weeks preceding April 9, 2020.<sup>29</sup> The Australian Federal Police (AFP) and the Australian Center to Counter Child Exploitation (ACCCE) observed the emergence of child abuse forums established as a result of COVID-19 stay-at-home measures.<sup>30</sup> Moreover, they learned about child sexual abuse sites crashing due to the increased volume of traffic.<sup>31</sup> In April, May and June 2020, reports to the ACCCE increased by 122% compared to the same period last year.<sup>32</sup> And in September 2020, INTERPOL reported that the demand for livestreamed child sexual exploitation “is likely to rise as travel restrictions remain in place.”<sup>33</sup>

Similarly, European data and investigations reveal that demand-side child sex offenders pose a significant and growing threat to children globally and must be restrained through improved private industry detection, the certainty of punishment, international law enforcement collaboration, and appropriately strong sentencing. For example, in March 2020, Europol reported significant increases in CSEM downloading in Spain and attempts to access CSEM websites in Denmark; closer to home, IWF reports at least 8.8 million attempts by UK internet users to access videos and images of children suffering sexual abuse during lockdown.<sup>34</sup>

Shockingly, in July 2020, Germany reported a “30,000 suspect” investigation<sup>35</sup> involving CSEM production and sharing, leading to the largest such prosecution<sup>36</sup> in German history involving child victims as young as three months old. And in July 2020, Europol announced a “massive investigation” in Italy combating online child sexual abuse.<sup>37</sup>

As law enforcement and judges have acknowledged, there is a clear link between CSEM offences and OSEC. Because OSEC is a global crime of supply and demand, the increased demand in CSEM can easily lead to increases in new sex offending against children to meet that demand. In their *Exploiting Isolation* report released in June, Europol states:

**The demand for such [CSAM] material perpetuates the ongoing abuse of children by [offenders] and others. It is likely that the increase in the circulation of online CSAM in recent weeks will continue to feed the cycle of physical sexual abuse of children and their victimisation in real life and online.**

This is particularly so because offender forums often require the production of “never before seen” CSEM, motivating new victimization of children.<sup>38</sup>

Furthermore, a July 2020 report by the Organization for Security and Co-operation in Europe’s Office for Democratic Institutions and Human Rights and UN Women noted an increased number of reports of child abuse during the period of COVID-19 emergency measures, including new ways to sexually exploit and abuse children, such as the livestreaming of child sexual abuse.<sup>39</sup> The report also acknowledged isolation with potential perpetrators as an additional risk factor for children to become trafficking victims, especially for the purpose of sexual exploitation.

In the Philippines, trafficking children to create new CSEM has continued during the pandemic, as has the collective response. During the first few months of the lockdown, collaborations among domestic and foreign law enforcement, in partnership with IJM, led to 20 Philippine law enforcement-led operations that rescued and safeguarded 76 victims and at-risk individuals, and arrested 16 suspected OSEC traffickers. In one such case, 15 victims—13 of whom are minors—were safeguarded during an operation in Mindanao.<sup>40</sup> The Philippine Department of Justice, for its part, secured 14 convictions against OSEC traffickers through e-promulgations or judgment hearings during the lockdown as of October 10, 2020.

Finally, in the midst of all these increased reports of CSEM distribution and disturbing cases of child sexual abuse to create new CSEM, the true increase in the incidence of OSEC remains unknown. The reality is, to our knowledge, electronic service providers are not currently detecting livestreamed abuse or production of new CSEM,<sup>41</sup> while financial sector entities (i.e. money transfer agencies, clearing/correspondent banks) are generally not detecting and reporting suspicious financial transactions involving child sexual exploitation. It is therefore difficult to measure the increase in the actual incidence of OSEC as a result of the COVID-19 crisis. Still, NGOs, global law enforcement, and government officials remain deeply concerned about increases in reports and other indicators of the increased threat of OSEC during the pandemic.

Although other areas of life may have ground to a halt, OSEC offending is ramping up—and so too must the fight against it. The all-too-perfect conditions mean there are vulnerable children who urgently need protection from online sex offenders taking advantage of this opportune time. The UK Government's opportunity to address weak sentencing for child sex offenders comes at a critical time; the need to adequately disrupt and restrain offenders has never been greater.

*COVID-19 May Impact Sentencing.* IJM also note that the UK may be facing the problem of overcrowded prisons. With some arguing that imprisonment is used as crime's cure-all, governments have been urged to invest in alternative interventions, including rehabilitation and prevention (see Recommendation 6 and Annex C). Certainly, governments should assess who is in prison and what crimes warrant longer or shorter prison sentences. It is IJM's argument that while rehabilitation and prevention measures require further investment and political will, it is critical to protecting children in the UK and abroad that OSEC and CSEM offences be considered crimes warranting serious imprisonment periods.

The COVID-19 pandemic may also impact sentencing. While social distancing requirements exist, the UK Government may face increased pressure for non-custodial sentencing. While this is understandable, it should not serve a reason to neglect restraining dangerous offenders, nor deprive survivors of justice. With offending on the rise, it is a critical time for governments to be strong in their message to offenders and society that child sex offences are serious and will not be punished lightly. This Review shows that OSEC and CSEM crimes are abhorrent, yet often receive sentences that do not fit the crime.

**IJM advocates for sentences that are commensurate to the gravity of OSEC offences and the severe harm done to victims.**

It is worth noting that IJM is not advocating for a “lock them up and throw away the key” approach. That would be unsustainable and fail to appreciate the benefits of offender management and rehabilitation, along with non-justice system preventions. While the latter interventions are critical and can be effective, they are not inconsistent with appropriately strong sentences that give survivors justice, restrain and disrupt offenders, and potentially change societal norms.

### **C. OSEC Severely Harms Victims: In Their Own Words**

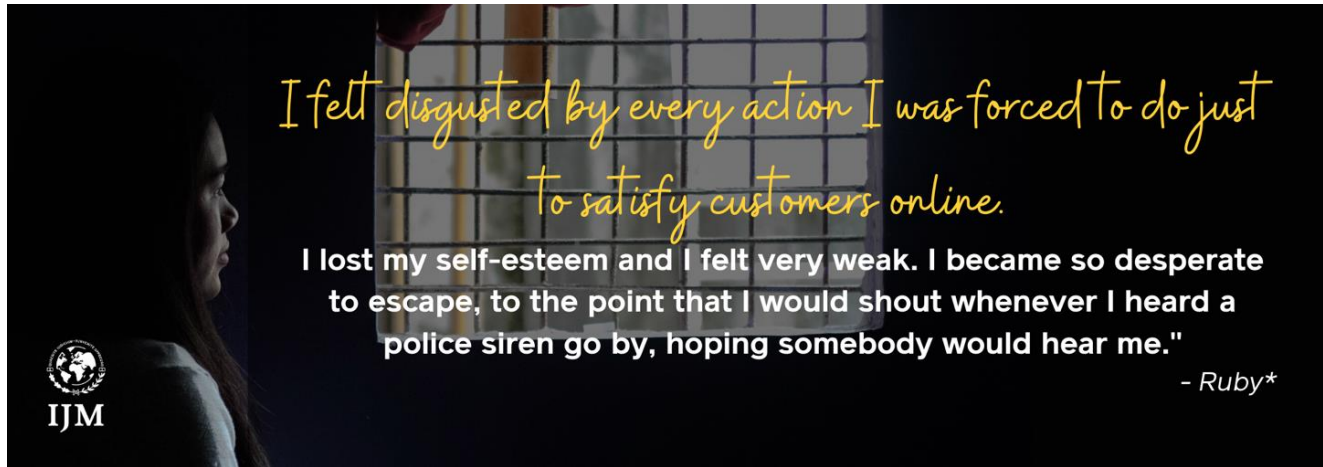
The UK Independent Inquiry into Child Sexual Abuse recognized that the “[live streaming] of child sexual abuse is one of the most harmful forms of abuse that is affecting children today.”<sup>42</sup> Indeed, IJM's social services support for hundreds of OSEC survivors reveals that OSEC offending has a profoundly devastating impact on survivors who often experience depression, anxiety, and decreased attachment and trust in adults and caregivers. And when the victims are very young, they often do not understand that they have been abused, so their perception of sexuality and their body can be skewed.

As described in IJM's OSEC Study, “[s]urvivors of child sexual abuse often experience complex trauma, which describes both exposure to multiple traumatic events (abuse, neglect, etc.) and the wide-ranging, long-term impact of this exposure. Complex trauma can impact a child's development and wellbeing, including cognition, physical health, and the ability to form secure caregiver attachments and healthy peer relationships.”<sup>43</sup> Another layer of trauma is the guilt and shame felt by children coerced or forced to engage



in sex acts with other children, including siblings. In some cases, survivors test positive for sexually transmitted diseases (STDs) caused by the abuse they endured in OSEC. OSEC survivors are starting to speak out about the reality of OSEC, and the results of the abuse, as reflecting in Annex A of this paper.

One survivor from the Philippines, **Ruby**,\* was 16 years old when she was enslaved in a “cybersex den”—forced by her trafficker to perform sexual acts in front of a camera for paying sex offenders online.<sup>44</sup> Reflecting on her abuse in OSEC, Ruby says:



 [Click the icon to listen to Ruby tell her story to the BBC during a 2020 media interview.](#)

Similarly, Marj\* was first exploited online at the age of 13 by her friend’s older sister. The act of forcing her to take explicit pictures was horrible enough, but as Marj shared with IJM, “...that **abuse**, I did not expect that it would **spread**. That it would be **sent to other people**.” Online sex offenders create the demand that causes and perpetuates the abuse of Ruby and Marj and other real victims for their own sexual gratification, both during the livestream and later when they share the videos and photos of the abuse.<sup>45</sup>

“**The effects for such acts are severely painful for victims like me. I hope that UK would implement the longer prison time.**” – L\*, 16 years old

**I want the sentencing increases because their abuse has destroyed many children’s identities.**” – J\*, 14 years old.

**They destroyed our innocence. It’s not possible to let go of the things they did to us.**” – A\*, 12 years old

”

To hear voices and experiences of OSEC survivors, along with their critical perspectives on demand-side sentencing, please see Annex A: Survivors Speak Out About Demand-Side Offenders. IJM offers Recommendation 3 for judges to receive statements at sentencing from survivors, proxy victim impact statements, or from professionals to adequately appreciate the severe harm caused by the offenders. Otherwise, child survivors who cannot walk into a UK courtroom are silenced by the justice system. For prosecutors and courts, Annex A can serve as proxy victim impact statements for sentencing purposes.

## II. THE SCOPE AND SUMMARY: CASES REVEAL A TREND OF LOW SENTENCES FOR UK OSEC AND CSEM OFFENDERS

### A. The Scope: A Review of 15 OSEC and CSEM Cases

This Review was prepared to provide examples of demand-side offending for the UK Government, including Members of Parliament. Cases were identified based on a review of published news articles, several with a

connection to Philippines OSEC cases. This Review is not a comprehensive study of all UK livestreaming exploitation cases—as some may be unreported—and Recommendation 7 encourages further research.

This Review examines the offences and sentences in 15 cases involving offenders in England and Wales. Subsequently, this Review focuses on the criminal jurisdiction of England and Wales, highlighting legislation and practices relevant to the 15 cases. Because Scotland only recently saw its first OSEC conviction and sentence, that is not included as a case study but is discussed within the Review. Northern Ireland has not had any publicly reported OSEC convictions at the time of writing. Scottish and Northern Ireland audiences may still benefit from this Review (see Recommendation 9), even though parallel legislation and processes are not directly mentioned.

The CSEM offending cases are not exhaustive; IJM identified very serious cases reflecting an extended course of conduct—they show that the worst CSEM offenders still receive low sentences, and some do not serve a day in prison. For the OSEC cases, IJM only found four reported cases of England and Wales offenders convicted for livestreaming child sexual abuse from the Philippines. It is possible there are more, but they simply were not covered by media. Considering the UK is the third largest consumer of livestreamed child sexual abuse, it raises questions: were any other offenders convicted for this form of OSEC? What were the sentences for those offenders?

## **B. The Summary: UK Sentences Fall Short of the Gravity of OSEC and CSEM Offending**

A comprehensive approach to countering online sex offending and protecting children requires: i) better prevention, detection, and reporting methods by technology and financial sectors, ii) increased certainty of punishment and deterrence through law enforcement in source and demand-side nations, iii) stronger sentencing, and iv) robust offender prevention, rehabilitation, and management. Doing so will protect children the world over—both overseas and in the UK—from in-person and online sexual harms.

As this Review makes clear, the measures of accountability for UK demand-side offenders are lopsided—both OSEC and CSEM offenders receive low sentences, ranging from non-custodial to a few years in prison. Offenders who directed and paid for livestreamed sexual abuse of children residing overseas (i.e. Filipino children) received sentences roughly half of i) UK offenders who did the same to UK children and ii) UK hands-on sex offenders identified in this Review. In addition to examining OSEC offences, this Review includes CSEM possession and distribution.

The global CSEM problem is a pandemic at a breaking point.<sup>46</sup> In 2018, technology companies reported a record 45 million online photos and videos of child abuse, with 69 million reported in 2019.<sup>47</sup> The National Center of Missing and Exploited Children reported processing over 150 million images and videos through its Child Recognition and Identification System.<sup>48</sup> And the sheer volume is not the only worrying aspect: According to a report from the Canadian Centre for Child Protection, “59.72% of the abuse acts against babies and toddlers involved explicit sexual activity/assaults and extreme sexual assaults.”<sup>49</sup>

This paper looks at CSEM offending because of its close relationship with OSEC: When sexual abuse is livestreamed, it is often recorded and turned into videos and photos that are proliferated and distributed online. Possessing and distributing CSEM fuels demand for new materials, feeding into the demand for further OSEC offending. As Home Affairs Commissioner Ylva Johansson of the European Commission recently said of CSEM rings: “The price of admission to these groups is new, unseen child sex abuse material. That fuels demand. That fuels abuse. The more viewers there are, the more abuse will be committed.”<sup>50</sup>

Through the following case studies, IJM has observed a trend of low sentences for both OSEC and CSEM offenders in the UK. This trend is part of a wider observed trend that, according to UK-based, WePROTECT Global Alliance, appears to:

- 1) Undermine the gravity of the serious, repeated, and sometimes violent child sexual abuse and exploitation offences
- 2) Fail to provide justice for vulnerable victims, including from poor developing world nations
- 3) Fail to sufficiently restrain these offenders
- 4) Be less likely to disrupt or deter the offender population.<sup>51</sup>

These low sentences are handed down despite time consuming, complex, and resource-intensive investigations by UK and other law enforcement in demand-side and source countries, particularly against livestreaming offenders. The low sentencing trend is inconsistent with the WePROTECT Global Alliance Model National Response (Preventing and Tackling Child Sexual Exploitation and Abuse). Capability 5, concerning judiciary and prosecutors, is defined to include that the:

**Judiciary understand the risk posed by child sexual offenders and the gravity of the crime and sentence accordingly within the parameters established by relevant national legislation.<sup>52</sup>**

This trend of low sentences may undercut efforts by the WePROTECT Global Alliance, the UK Government, and other public and private stakeholders to end child sexual exploitation online, which is the stated goal. Moreover, sentences for demand-side offenders are out of step with other UK penalties. For instance, while UK sentences for drug and firearms traffickers can sometimes be counted by decades,<sup>53</sup> UK sentences for those who cause and pay for child sexual abuse of Filipino children are counted in months or a few years.

Accordingly, this paper argues for stronger sentences for four reasons:

- 1) **End impunity** for demand-side sex offenders
- 2) **Provide justice** for OSEC survivors
- 3) **Protect children** globally from OSEC by disrupting and restraining offenders, and to
- 4) **Change societal norms** by reflecting the gravity of OSEC and severe harm done to victims

While some offenders may be deterred by longer sentences, this paper does not argue for stronger sentences *primarily* to deter offenders; that is more aptly the job of the *certainty* of punishment and offender awareness of that certainty.<sup>54</sup> Moreover, IJM appreciates that sentencing includes different considerations, some of which are outside the scope of this paper. IJM advocates for a conversation on whether UK sentences truly reflect the gravity and restrain the atrocity that is OSEC. To end OSEC, impunity must end globally by restraining and bringing to justice both child sex offenders in demand countries and traffickers in source countries. The growing threat of livestreamed child sexual abuse during the COVID-19 pandemic highlights the urgency of ensuring that offenders driving this abuse by paying for and directing specific abuse acts be punished, disrupted, restrained, and deterred.

### III. UK SEX OFFENDER CASE STUDIES

Listed here are commonly prosecuted UK offences for OSEC and CSEM crimes per this paper’s case studies. The Child Abuse Image Database (CAID)<sup>55</sup> categorizes CSEM as follows: Category A material is the most serious, involving penetrative, sadistic or bestiality acts on a child; Category B involves non-penetrative sexual activity; and Category C materials are indecent images that fall in neither Category A nor B.<sup>56</sup>

OFFENCES	LEGISLATION	MAXIMUM PENALTY	SENTENCING RANGE <sup>57</sup>
Making <sup>58</sup> and possessing <sup>59</sup> indecent images of children	<a href="#">Protection of Children Act 1978</a>	10 Years	Community Order to 9 years custody
Distribution of indecent images	<a href="#">Protection of Children Act 1978</a>	10 Years	Community Order to 5 years custody
Causing or inciting a child to engage in sexual activity	<a href="#">Sexual Offences Act 2003</a>	Age 13+: 14 years Below 13: Life imprisonment if penetrative activity	One to 17 years
Arranging or facilitating commission of child sex offence	<a href="#">Sexual Offences Act 2003</a>	14 Years	Community order to 10 years custody
Sexual assault of a child under 13	<a href="#">Sexual Offences Act 2003</a>	14 Years	Community order to 9 years

Below are 15 case studies involving UK offenders detailing facts of offending and sentencing.<sup>60</sup> A sentence given for multiple offences is determined by different factors: mitigation, reduction due to plea, and concurrency and totality principles. Because of these factors, an offender’s prison sentence is never the total of the maximum penalties for all his crimes. Still, maximum penalties as prescribed by law reflect and symbolize an offence’s gravity. Offender sentences in these case studies are so low that they fail to reflect offence gravity under UK law.

*Non-prison portion of sentence (released on licence).* The total years in a sentence is the determinate prison sentence<sup>61</sup> and represents the maximum time an offender could spend in prison. The offender will not spend that whole time in prison, however,<sup>62</sup> because for a standard determinate sentence, an offender will be released automatically halfway through.<sup>63</sup> Upon release, the offender is ‘on licence’—effectively, under supervision<sup>64</sup> and subject to recall for breach of licence conditions for the remaining term of the sentence. For the types of offences discussed in this Review, if a sentence is over four years, the court may impose an extended determinate sentence.<sup>65</sup> If a judge imposes an extended sentence, the offender will spend 2/3rds of the sentence in prison, after which the Parole Board considers whether they are released. Once released, they are on licence subject to recall both to the end of the custodial period and a further period that the court sets. Parole Board review is only necessary for extended determinate sentences.<sup>66</sup> The offenders here (except for Andrew L. and James J.) received standard determinate sentences and will be released after half of their sentence without Parole Board consideration.

*Sexual Harm Prevention Orders and Sex Offenders Register.*<sup>67</sup> Where reported, this Review indicates an offender’s sexual harm prevention order (SHPO) and sex offender register. When released from prison, offenders must comply with prohibitions and notification requirements of the SHPO, usually for at least 5 years. SHPOs that include a foreign travel prohibition are indicated below; such bans last 5 years. While most specific SHPO conditions are not publicly available, prohibitions are wide-ranging<sup>68</sup> and tailored to case facts.<sup>69</sup> Where reported, we have included prohibitions, notably internet-usage limitations.<sup>70</sup> Currently, judges have discretion in setting SHPO terms depending on specific case facts.<sup>71</sup> IJM encourages the Government to assess and then promote widespread use of those terms proven to result in effective offender management and rehabilitation.



## CASE REVIEW SENTENCING SUMMARY

UK Offender	Max. penalties of committed offences	Number of Offences (not including counts)	Sentence	Prison Period (pre-licence)
<b>Demand-Side Livestreaming of Filipino Children</b>				
Andrew W.	10 - 14 years	3	3 years, 2 months	1 year, 7 months
Andrew L.	10 - 14 years	4	4 years, 8 months	3 years (upon Parole Board review)
James A.	10 - 14 years	3	5 years	2 years, 6 months
				<b>Average: 2 years, 4 months</b>
<b>Demand-Side Livestreaming and In-person Abuse of Filipino Children</b>				
Alain C.	10 - 14 years	4	18 years <sup>72</sup>	9 years
<b>Demand-Side Livestreaming or CSEM Video Production of UK Children</b>				
Dean P.	10 years	4	11 years	5 years, 6 months
James J.	10 - 14 years	4	Life Imprisonment	6 years, 8 months (upon Parole Board review)
				<b>Average: 6 years, 1 month</b>
<b>UK Source-Side Livestreaming In-person Abusers</b>				
Christine C.	10 - 14 years	2	6 years	3 years
Kristy K.	10 - 14 years	5	9 years, 4 months	4 years, 8 months
Jodie L.	10 - 14 years	7	12 years, 4 months	6 years, 2 months
				<b>Average: 4 years, 6 months</b>
<b>CSEM Offences</b>				
Robert L.	10 years	2	2-year community order	No prison time
Ethan C.	10 years	1	9 months, suspended for 18 months	No prison time
Richard T.	10 years	2	2-year suspended sentence	No prison time
Haitch M.	10 years	2	4 years (originally 20 months) <sup>73</sup>	2 years (after resentencing by appeals court)
Aron S.	5-10 years	4	3 years	1 year, 6 months
Richard A.	5-10 years	At least 4	3 years, 6 months	1 year, 9 months
				<b>Average: 10.5 months</b>

“

*Let's be really clear: somebody going online and using their credit card to direct the abuse of a child in the Philippines should be locked up, categorically.*

*- Chief Constable Simon Bailey QPM*

”

## A. Demand-Side Livestreaming of Filipino Children

The following four cases are typical OSEC cases where UK demand-side offenders paid and instructed Filipino traffickers to sexually abuse or exploit children in livestreams and to produce new CSEM. The last case, Alain C., is distinct because he sexually abused children in-person in the Philippines for several years prior to becoming a “demand-side” offender upon returning to the UK; hence, his longer sentence.

### ANDREW W.

70 years old

Andrew W. paid a Filipino trafficker for livestreamed sexual abuse of children. Communicating over Skype, for two and a half years starting in 2015, he made 49 payments totalling £8,584 to direct livestream abuse of a nine-year-old girl and other children. Travel records show that he travelled to the Philippines in 2016. In October 2017, NCA arrested him at London Heathrow Airport. In 2018, after an NCA referral, Philippine law enforcement arrested the Filipino trafficker and rescued 3 boys and 3 girls (ages 3, 4, 9, 10, 12, 14), in an IJM-supported case. Five of the victims were the in-person trafficker’s children.

Gary Fennelly, NCA senior investigating officer said: “Andrew [W.] was directly responsible for the soul-destroying abuse of children thousands of miles away from him. He thought he could get away with abusing Filipino children from the comfort of his own home.”<sup>74</sup> In April 2019, Andrew W. pled guilty to three charges, including arranging the commission of a child sex offence. Defence said Andrew W. started offending after his wife passed, resulting in loneliness that ‘sucked him into’ online abuse. Defence emphasized his long list of military achievements and personal sacrifice.<sup>75</sup>

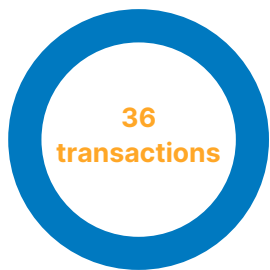
Judge Nicolas Ainley said: “I am well aware of the service dedicated to this country but children, wherever they are in the world, need to be protected from this type of activity.”<sup>76</sup> Andrew W. will serve only 1 year, 7 months in prison, less time than he spent sexually exploiting Filipino children (2 years, 6 months). The in-person trafficker who livestreamed abuse at Andrew W.’s instruction and payments was sentenced to life in prison and fined 2 million pesos for four counts of trafficking in persons.<sup>77</sup>



UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Andrew W.	3 counts	Making and possessing indecent images of children	10 years	3 years, 2 months	1 year, 7 months
	2 counts	Attempting to cause or incite a child under 13 and 16, respectively, to engage in sexual activity	14 years		
	Unknown	Arranging or facilitating the commission of a child sex offence	14 years	Sex Offenders Register indefinitely	



**ANDREW L.**  
56 years old



UK police arrested Andrew L. in March 2018. Communicating through Skype, he had requested and paid mothers in the Philippines to provide CSEM of their daughters and relatives ages 5 to 12 years old. He also requested that these young children have sex with adult males but there is no evidence this happened.

According to Andrew L.'s World Remit account, he made 36 transactions overseas totalling around £2,000 from December 2015 to July 2018. Police retrieved one Category A image, one Category B image, and 129 Category C images on his devices. There was evidence he distributed three Category C images. **Some of the evidence was lost because Andrew L. remotely controlled his devices to delete material.**

To Andrew L., Judge Nicholas Dean QC remarked, "[You] systematically targeted women in the Philippines to have access to children. They were susceptible to the offers you were making. This entrenched pattern of behaviour was entirely deliberate and predatory...You represent a high risk of causing serious harm to children because of the predatory and manipulative aspects of your behaviour."<sup>78</sup>

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison period (pre-licence)
Andrew L.	2 counts	Arranging or facilitating sexual exploitation of a child under 13 by recording indecent images of children between 8 and 12 years	14 years	4 years, 8 months	3 years (upon Parole Board review)
	Unknown	Recording indecent images of children under 13	10 years	Indefinite sexual harm prevention order	
	3 counts	Making indecent images of children	10 years	Sex Offenders Register for life	
	Unknown	Distributing indecent images of children	10 years		



## JAMES A.

42 years old

James A.<sup>79</sup> sent at least 15 money transfers to Filipino in-person traffickers from August 2017 to 2018 for livestream videos of children being sexually abused and exploited. He shared his preferences for younger girls with traffickers. He asked one trafficker for pictures of her 12-year-old daughter, which she sent. She also told James A. about her other daughters, aged nine, six and four. They discussed how he would travel to the Philippines and he explicitly shared how he would like to abuse the 4-year-old girl.

In a conversation with another trafficker, James A. stated he wanted to have sex with the trafficker's 7 and 11-year-old daughters. He directed them to pose for photographs. NCA found that he tried to arrange travel to the Philippines with traffickers over Skype and WhatsApp, so he could sexually abuse girls in person. There was evidence James A. requested a 10-year-old girl to send him images of herself posing and asked to meet her. His phone also contained child sexual abuse images. One of James A.'s in-person traffickers is on trial in the Philippines for human trafficking charges that carry a penalty of life imprisonment.<sup>80</sup>

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison period (pre-licence)
James A.	1 count	Arranging/Facilitating the commission of a child sex offence	14 years	5 years	2 years, 6 months
	3 counts	Attempting to cause/incite a girl under 13 to engage in sexual activity	14 years	5-year Sexual harm prevention order including worldwide travel ban	
	1 count	Making an indecent image of a child	10 years	Sex Offender Register for life	



## ALAIN C.

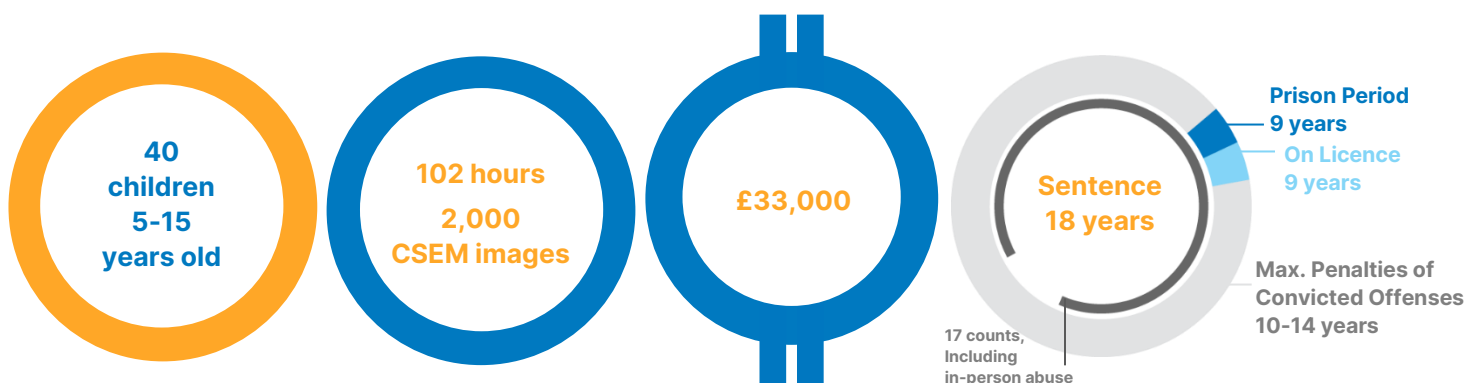
39 years old

Alain C.<sup>81</sup> lived in the Philippines from 2008-2012. Evidence from his devices showed that while in the Philippines, he, along with a Filipino trafficker named Jessa\*, sexually abused a female infant, photographing the act as it took place. Alain C. returned to the UK and continued to sexually abuse no less than 40 Filipino children 5 to 15 years old through livestream video calls. On his computer, police discovered 102 hours of recorded livestream sexual abuse footage of 46 different Filipino children. His collection of 2,000 images of CSEM included penetrative acts, with and without objects. Footage and chat records reveal Alain C. issued specific and graphic abuse instructions to the traffickers.

At sentencing, the Exeter Crown Court stated Alain C.’s behaviour was “**abhorrent**” and “**some of the worst [they] had ever come across.**”<sup>82</sup> Over the course of 10 years, Alain C. paid £33,000 to a total of 15 individuals in the Philippines. Jessa\* received £11,000 to procure children as young as four and film their rape and abuse. Some of the victims were the trafficker’s own children or her sister’s. Jessa is standing trial in the Philippines for human trafficking offences, which carry a penalty of life imprisonment.<sup>83</sup>

The case against Jessa began with an NCA referral to the Philippine National Bureau of Investigation’s Anti-Human Trafficking Division (NBI-AHTRAD). She was arrested on February 23, 2018, and six minor female victims were rescued (ages 4, 7, 9, 11, 12 and 17). Jessa was exploiting these girls not only for Alain C. but for other online offenders as well. A referral out of the Jessa case resulted in the arrest of another UK offender.<sup>84</sup>

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison period (pre-licence)
Alain C.	2 counts	Sexual assault of a child under 13	14 years	18 years	9 years
	7 counts	Making and possessing indecent images of children	10 years		
	5 counts	Causing or inciting a child to engage in sexual activity	14 years		
	3 counts	Attempting to arrange/arranging or facilitating the commission of a child sex offence	14 years		







“I almost died  
but no one  
helped me.”

- Jessa's 7-year-old female victim, as she disclosed her abuse and the online sexual abuse of her 4-year-old sister.

## B. Demand-Side Livestreaming or CSEM Video Production of UK Children

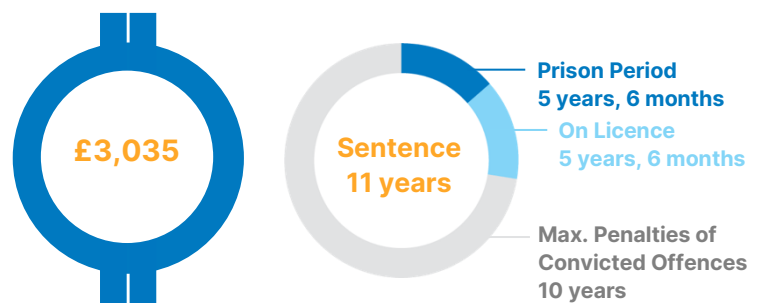
The following case studies involve livestreaming or child sexual abuse video production with UK nationals as both the remote and in-person offenders, both sexually abusing children in-person (supply) and paying for, directing, and consuming the abuse (demand). These cases are included here because these offenders received sentences that are much longer than for UK offenders who livestreamed sexual abuse of Filipino children.

### DEAN P.

30 years old

Dean P.<sup>85</sup> connected with Christine C. and Jodie L. through an adult services website. He paid the former £2,285 to stream footage of herself sexually abusing a young girl at least ten different times over three years at his specific instruction. He paid the latter £750 to see her sexually abuse young children at different times over a year. Dean P. was first arrested in October 2018, after the NCA arrested Jodie L. Dean P. had received ten electronic files from Jodie L., one of which showed her sexually abusing a young girl. NCA re-arrested Dean P. in May 2019, after further evidence was found on his personal hard drive. This was evidence of his crimes with Christine C., including a 10-minute long video of her sexually abusing a young girl. He admitted to 11 charges.

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Dean P. (11 charges; charges and counts unknown)	Unknown	Distribution of indecent images of a child	10 years	11 years	5 years, 6 months
	Unknown	Making indecent photographs	10 years		
	Unknown	Sexual assault of 2 children under 13	14 years		
	Unknown	Conspiracy to sexually assault 2 children under 13	14 years <sup>86</sup>		



### JAMES J.

36 years old

36-year-old James J.<sup>87</sup> directed women in the UK to record themselves sexually abusing children in the UK and send the videos to him, showing victims distressed and crying. He discussed with in-person abuser Kristy K. in online bondage and sadomasochism chatrooms his sexual interest in children and threats to ‘fully rape’ them.

Investigating officer DC Karl Brett said: “[James J.] is a dangerous man who coerced these women to carry out this abuse for his own gratification...He managed to convince them to engage in these heinous crimes which were committed against young children and the trauma caused to these children cannot be underestimated.”<sup>88</sup> Judge David Griffith-Jones QC told James J, “You were instrumental in making [the abuse] happen... You were the directing mind in relation to the infliction of this appalling abuse.”<sup>89</sup> James J. admitted 14 offences occurring in 2017 and 2018 and was sentenced to life imprisonment,<sup>90</sup> eligible for parole after 6 years, 8 months.

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
James J.	8 counts	Aiding, abetting, causing or inciting a child to engage in sexual activity	14 years	Life Sentence	6 years, 8 months (upon Parole Board review)
	1 count	Aiding and abetting sexual assault of a child	10 years		
	3 counts	Making indecent images of children	10 years		
	2 counts	Distributing indecent images of children	10 years		

### C. UK Source-Side Livestreaming In-person Abusers/Sellers

The following three case studies involve livestreaming child sexual abuse with UK nationals as both the remote and in-person offenders, both sexually abusing children in-person (supply) and paying for, directing, and consuming the abuse (demand). These cases are included here because these offenders received sentences approximately twice as long as UK offenders who livestreamed sexual abuse of Filipino children.

#### CHRISTINE C.

33 years old

Christine C.<sup>91</sup> received £2,285 from Dean P. for sexually abusing a young girl on at least ten different dates over three years and livestreaming that abuse to Dean P. over Skype. Christine C. admitted distributing Category A and B livestream videos, including footage where she exposed children to viewing penetrative sexual activity. “These were horrendous crimes that [Christine C.] carried out for money,” said Matt Hall NCA Operations Manager.

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Christine C.	2 counts	Causing or inciting a child to engage in sexual activity	14 years	6 years	3 years
	2 counts	Distributing indecent images of children	10 years	Sex Offenders Register for life	



#### KRISTY K.

26 years old

Kristy K.<sup>92</sup> sexually abused children in person, recorded the abuse, and sent the videos to James J. – all at his direction. Some videos showed the victim distressed and crying. Their conversations included threats to ‘fully rape’ children. Kristy K. admitted 15 offences, was sentenced to 9 years and 4 months, and received a SHPO.

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Kristy K.	6 counts	Causing or inciting a child to engage in sexual activity	10 years	9 years, 4 months	4 years, 8 months
	4 counts	Taking indecent photographs of a child	10 years		
	3 counts	Distributing indecent photographs of a child	10 years		
	1 count	Engaging in sexual activity in the presence of a child	10 years		
	1 count	Sexual Assault of a child	10-14 years <sup>93</sup>		

## JODIE L. 30 years old

Using the handle “DevilB\*\*\*\*666,” Jodie L.<sup>94</sup> advertised child sexual abuse over webcam on an adult sex services website. Jodie L. livestreamed the sexual abuse of children to other offenders in exchange for money, including Dean P. She pled guilty to conspiring to sexually assault a 13-year-old boy and sexually assaulting a young girl. She also admitted to “sexual activity” with a boy under 13-years-old and publishing an obscene article describing child rape. Jodie L. was in Cyprus at the time of her offending. Eight out of the nine charged offences came under Section 72 of the Sexual Offences Act 2003, which allows British Nationals to be prosecuted in the UK for offences committed overseas. Despite Jodie L.’s offending occurring internationally while living in Cyprus, NCA coordinated with Cyprus police leading to her arrest and deportation. NCA Operations Manager Jason Booth said “[h]er crimes are utterly abhorrent and are one of many examples the NCA is seeing of worsening cyber-enabled child sexual offending. The NCA knows that the scale and severity of offending against children are worsening.”

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Jodie L. (9 charges; all charges and counts unknown)	Unknown	Publishing advertisements offering child sex abuse videos	10 years	12 years, 4 months	6 years, 2 months
	Unknown	Publishing obscene articles	10 years		
	Unknown	Distributing indecent photographs of a child	10 years		
	Unknown	Causing a child to engage in sexual activity	14 years		
	Unknown	Conspiracy to sexually assault	10 years		
	Unknown	Sexual Assault	10 years		
	Unknown	Conspiracy to sexually assault two children under 13	14 years <sup>95</sup>		



## D. UK CSEM Cases Reviewed

These cases can be classified as CSEM possession and distribution. Offenders were charged with ‘making indecent images’ because the UK legal definition of ‘making’ includes downloading CSEM.<sup>96</sup> These cases are included in this paper principally on OSEC because CSEM offences fuel the demand for new sexual abuse of children to create new materials.

### ROBERT L. 62 years old

Robert L. possessed 339 CSEM videos and images, including of children as young as 5-years-old. Judge Neil Flewitt said, “Some of these images were depicting the most unpleasant forms of abuse against children. I want you to understand the seriousness of your offending, because in each and every one of those images is an abused child. *The reason these children are abused is because there is a market for these images, created by people like you who view this type of material.*”<sup>97</sup> Robert L.<sup>98</sup> was spared a prison sentence, ordered to do 120 hours of unpaid work, and given a two-year community order with a 30-day rehabilitation activity requirement. He was given a five-year sexual harm prevention order and required to comply with prohibitions on interactions with persons under 16, as well as internet use restrictions for five years. He is registered as a sex offender for life.

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Robert L.	4 counts	Making indecent images of children	10 years	2-year community order	No imprisonment
	Unknown	Possessing indecent images	5-10 years <sup>99</sup>	Sexual harm prevention order 5 years Sex Offender Register for life	

### ETHAN C. 20 years old

In August 2018, NCA arrested Ethan C.<sup>100</sup> during a dark web investigation. Investigators found 45,651 deleted child abuse images – 36,186 of which were in the worst level: Category A. Along with the dark web, Ethan C. used other techniques to hide his identity. In January 2020, he pled guilty to three counts of making<sup>101</sup> indecent images of children – 26,186 Category A; 8,831 Category B; and 634 Category C.

Judge Paul Watson QC remarked, “[The pictures] are deplorable. ‘Sometimes it’s thought by people who download and create images of this kind that this is somehow a victimless crime. It, of course, isn’t. These are real children who have been subjected to real and the most vile abuse, so that images can be created and distributed to people who wish to download them... The extent of the abuse and degradation of these children is almost unimaginable... *And it’s people like you who download and create images like this, who perpetuate this disgusting industry.*”<sup>102</sup>

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Ethan C.	3 counts	Making indecent images of children	10 years	9 months, suspended for 18 months Sexual harm prevention order 5 years Sex Offender Register 5 years (ends March 2025)	No imprisonment



## RICHARD T. 57 years old

Richard T.<sup>103</sup> received a suspended sentence for his online offending that exposed years of contact offending. The NCA found him viewing child abuse videos in an online conferencing room. NCA officers retrieved 158 indecent images of children, including 38 Category A, from his home. They also found online chats where he admitted to sexually abusing a boy and a home-made video he filmed of his partner abusing a young teenage boy.

After Richard T. was convicted of his online offending, two victims came forward to report past contact abuse. In December 2019, at trial, a court convicted him of 14 counts of child sex offences for repeatedly abusing two boys under 16-years-old for seven years. He was sentenced to 21 years. NCA operations manager Graham Ellis said: **“This is a deeply harrowing case ... that shows to anyone who doubts it that there is a clear link between offenders like [Richard T.] viewing abuse images and carrying out actual sexual abuse.”**<sup>104</sup>

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Richard T.	Unknown	Encouraging the distribution of indecent images	10 years	2-year suspended sentence	No imprisonment for CSEM offending
	Unknown	Making indecent images of children	10 years		

## HAITCH M. 38 years old

In December 2018, Haitch M.<sup>105</sup> was arrested after a search warrant revealed he downloaded over 2,000 indecent images of children, including 680 Category A. They featured children as young as 12-months old. After being released under investigation, in an online chatroom using the handle “UK Perv,” Haitch M. began offering an online 'streaming service' to his CSEM collection to other child sex offenders for a monthly subscription of £10. **His collection included sexual torture videos of babies and toddlers.**

NCA operations manager Hazel Stewart said: **“A team of officers viewed, assessed and graded the material [Haitch M.] sold access to, and all noted that this is some of the most horrific and disturbing content they’ve ever seen in many years investigating child sexual abuse.”** Police had already arrested him previously on unrelated CSEM charges in 2018, but he was released on investigation. Stewart also stated: **“[Haitch M.] posed a very real and dangerous threat to children...Not only was he viewing and profiteering from indecent images of children, he was also harbouring thoughts of committing rape and murder...The NCA knows there is a direct link between offenders looking at abuse images and going on to commit even more severe acts.”**

While the defence argued that Haitch M. had mental health issues, Judge Elizabeth Nicholls stated there **“does not seem to be a correlation between the offences and [defendant’s] mental health.”**<sup>106</sup> The court of appeals increased his sentence from 20 months to 4 years through the Unduly Lenient Sentencing Scheme.<sup>107</sup>

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Haitch M.	3 counts	Making indecent images of children	10 years	4 years (originally 20 months)	2 years (after resentencing)
	2 counts	Distributing indecent images	10 years	Sexual harm prevention order with limitations on computer and internet Sex Offender Register 10 years	

## ARON S.

37 years old

NCA found Aron S.<sup>108</sup> through a 2017 investigation into a chat room where he and an Israeli man shared indecent images of children. A search warrant was executed in September 2017, particularly because Aron S. was a martial arts teacher with access to children. NCA found Aron S. in possession of 11 Category A images, one Category B video, and 27 Category C images, along with an extreme pornographic bestiality image not involving children. Judge David Potter stated: **"These images are revolting and disgusting. You did find them arousing in your own sexual perversion. These are very serious offences [sic]. So serious that only an immediate custodial sentence is appropriate."**<sup>109</sup>

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Aron S.	3 counts	Making indecent images of children	10 years	3 years	1 year, 6 months
	Unknown	Distributing indecent images of children	10 years	Sex Offender Register for life	
	Unknown	Making an indecent image	10 years	Sexual harm prevention order for 10 years	
	Unknown	Failing to disclose access to an encrypted device	2 or 5 years <sup>110</sup>		

## RICHARD A.

37 years old

Richard A.<sup>111</sup> possessed 1,648 CSEM photos and videos, including 716 Category A, 588 Category B, and 344 Category C. Evidence showed he watched an online video of a man raping a boy and offered to swap videos with other offenders. Content was found on both his personal and work devices. He was arrested and bailed in February 2017. NCA operations manager Graham Ellis said Richard A. was known to have been visiting online conference rooms to watch child abuse since November 2015. "Even when he had been arrested and was on bail he continued to offend," he said. "Every time footage is replayed or an image reshared, that child is revictimised. There is no greater priority for us than protecting children."

In March 2018, NCA, investigating an online conferencing room used to stream child abuse, rearrested Richard A. who was using the handle "FitPrvUK" and "TabBoy." He pled guilty to 22 charges, was jailed for 1 year, 9 months, put on the sex offenders register indefinitely and given a sexual harm prevention order restricting internet use.

UK Offender	Counts	Offence	Maximum Penalty	Sentence	Prison Period (pre-licence)
Richard A. (22 charges: all charges and counts unknown)	Unknown	Making indecent images of children	10 years	3 years, 6 months	1 year, 9 months
	Unknown	Possessing extreme pornographic images	5-10 years <sup>112</sup>	Sex Offender Register indefinitely	
	Unknown	Possessing class-A drugs	7 years or fine <sup>113</sup>	Sexual harm prevention order restricting use of internet	
	Unknown	Intentionally encouraging or assisting the commission of an offence	Same as primary offence attached to <sup>114</sup>		

## IV. DISCUSSION AND ANALYSIS

### A. UK Livestream Offending

*1. UK OSEC Demand-Side Sentences Fail to Reflect Offence Gravity.* Collectively, Andrew W., James A., and Andrew L. were convicted of nine counts each holding a 14-year maximum sentence. But even the aggregate total of their sentences does not reach one maximum penalty prescribed for a single count. Considering the numerous serious counts convicted and the alarming facts of repeated and premeditated offending – including severe harm caused to victims – the question arises: how grave must offending be to warrant even close to a maximum penalty? How many more children must be abused? How many more thousands of British pounds paid over how many years to direct and livestream the sexual abuse of 9-year-olds and other children?

The judiciary's difficult role in weighing considerations is appreciated, but this sentencing trend indicates courts are not fully appreciating the gravity of OSEC offending and victim harm. These low sentences are furthered weakened by parole laws that automatically release most offenders, including Andrew W., halfway through the sentence. An offender serving a prison period *less than the time he abused children* sends a message that his offending was not serious; that the abuse inflicted on the victim is not serious. And that message is simply untrue.

Considering that UK law enforcement and Judge Nicolas Ainley said that Andrew W. was “directly responsible” for the abuse his victims suffered by paying for and directing it, his prison period of 1 year, 7 months is unduly lenient. UK offenders directing the livestreaming abuse of overseas children are not receiving sentences that reflect the gravity of their crimes under UK law. Subsequently, those sentences are inadequate to punish, disrupt, and restrain these offenders while giving survivors the justice they deserve.

*2. UK Livestreaming Offenders Should Be Treated On-Par with In-Person Sex Offenders.*

Further, UK offenders who directed and livestreamed child sexual abuse of Filipino children received a much lower sentence than hands-on offenders in this review. Other jurisdictions—including Scotland, Canada, Australia, and Sweden—punish “online” sex offenders equal to in-person, contact sex offenders. In 2019, in Scotland's first OSEC conviction, the sentencing judge proclaimed that the offender should not be sentenced differently from an in-person sexual abuse offender. **He further stated that the involvement of Filipino traffickers as third-party abusers doing the offenders' bidding merits an even more substantial period of imprisonment:**

I propose to sentence you on no different basis that if you had undertaken the sexual abuse in person...What you actually did, by involving proxy third-party abusers, merits an even more substantial period of imprisonment.<sup>115</sup>

The offender, Matthew B., was sentenced to an extended sentence of 15 years, with custodial time of 9 years; lowered from 12, due to his plea.<sup>116</sup>

Similarly, in the Commonwealth jurisdiction of Australia, the defendant in *DPP (Cth) v Beattie* [2017]<sup>117</sup> was an OSEC offender who paid Philippine traffickers to sexually abuse children for Beattie's viewing over livestream. The court stated that although an offence “causing a child to engage in sexual activity” does not include any actual contact by the offender, it still has the same moral culpability as that of an actual contact offence because of similar maximum penalties.<sup>118</sup>

The Canadian appellate case of *R v Chicoine* [2019]<sup>119</sup> went so far as to hold that the trial judge erred in Chicoine's sentencing by concluding the defendant had “not engaged in hands-on sexual offending of children”.<sup>120</sup>

Mr. Chicoine’s offending equated to actual “hands-on” sexual offending for sentencing purposes. Further, Mr. Chicoine was actively engaged in the online sexual assault of children. The fact he directed such assaults through telecommunication does not detract, in any way, from his direct involvement in the sexual assaults committed. He was present in real time and directed and orchestrated the assaults. In my view, his conduct equated to “hands-on” sexual offending. Advances in technology give new meaning to that concept and courts must adjust to that changing reality.<sup>121</sup>

This was a primary reason why Canadian prosecutors argued Chicoine’s original 12-year sentence was “not proportionate to the gravity of the offence and the degree of responsibility of [Chicoine]”.<sup>122</sup> Agreeing with the Crown the appellate court increased Chicoine’s sentence to 15 years imprisonment. In doing so, Canadian jurisprudence affirms that but for online sex offenders directing child sexual abuse, that child would not be exploited in that specific instance.

Finally, a Swedish appellate court set a “bold new precedent by upgrading more than a dozen of [the defendant’s] convictions to rape” solely based on his online interactions.<sup>123</sup> The court upheld original rape convictions and added several more by upgrading previous charges. This decision affirms that online, “proxy” offending should be taken as seriously as in-person abuse,<sup>124</sup> a significant milestone for a country whose citizens are directing and paying for livestreamed sexual abuse of Filipino children, according to IJM’s OSEC study.<sup>125</sup>

UK precedent exists for holding online sex offenders on par with in-person offenders. Lord Justice Moses in the OSEC case of *UK v Charnley* [2011], observed:<sup>126</sup>

In the Court’s view, the level of sentencing was wholly inadequate and did not meet the gravity of the offences or reflect the fact that the victims were young and vulnerable children. The fact [the children] were on the other side of the world was no mitigation. It is indeed an aggravation. No doubt the offender thought he could more easily escape detection by committing the offences by a payment on a credit card than if he had dared to be present and commit these offences within this country. There would be a public outcry if the children had come from the United Kingdom and a sentence of no more than five years’ imprisonment had been passed.<sup>127</sup>

It appears that in 2019, UK offenders who prey on children in countries such as the Philippines can still obtain sentences less than five years. Further, compare this to the recent August 2020 case of James J.<sup>128</sup> For directing the recorded sexual abuse of children in the UK, he was sentenced to life after pleading guilty to:

- 6 counts of causing or inciting a child to engage in sexual activity
- 4 counts of taking indecent photographs of a child (139 photos)
- 3 counts of distributing indecent photographs

The judge ruled that James J. would have to serve six years and eight months before parole eligibility. Obviously, there may be many factors that contributed to James J.’s life sentence, compared to the substantially shorter total sentences (prison and licence) for Andrew W. (3 years, 2 months), Andrew L (4 years, 8 months), and James A. (5 years). The specific facts of offending may be different. It may also be because it is easier for law enforcement and prosecution to obtain evidence in cases where the children are abused in the UK, compared to overseas. Better access to evidence may also result in a high number of charges, contributing to the longer sentence. UK law enforcement through the NCA can utilize the Philippine Internet Crimes Against Children Center (PICACC) to maximize collaboration for evidence sharing.

As IJM is merely in a speculative position, it urges the UK Government to examine this disparity in sentences between demand-side offenders of Filipino victims (average prison period of 2 years, 4 months) and demand-side offenders of UK victims (average prison period of 6 years, 1 month) for what appears to be similar offending.

*3. Child Sexual Exploitation Offences Were Not Utilized.* None of the OSEC offenders in this Review were convicted with the criminal acts under Section 48-50 of the Sexual Offences Act 2003 (England and Wales), concerning child sexual exploitation. Whether they were charged initially with these offences but pled to lesser ones is unknown. These offences explicitly state that it is a crime to sexually exploit someone ‘anywhere in the world’<sup>129</sup> and define a sexually exploited person under Section 51 to include someone who has offered or provided sexual services to another in return for payment or promise of payment to a third person, or someone who has an ‘indecent image’ of themselves streamed or otherwise transmitted. On the face of this legislation, typical OSEC offending as shared in this Review is captured by this law.

In fact, the Policing and Crime Act 2017 amended Section 50 of the Sexual Offences Act to include the act of livestreaming in the definition of ‘sexual exploitation’.<sup>130</sup> The UK Home Office stated that this inclusion will “better protect children and young people from sexual exploitation by ensuring that relevant offences in the Sexual Offences Act 2003 cover the live streaming of images of child sex abuse.”<sup>131</sup> Given the reported facts of these cases, one would expect the demand-side OSEC offenders to have been charged with a sexual exploitation offence (discussed further, Recommendation 2). Granted, some of the offending may have occurred before the effectivity of the Policing and Crime Act 2017. Perhaps the lack of available, admissible evidence contributed to charging decisions.

Both ‘child sex offences’ (the type of offences charged in the case studies) and ‘sexual exploitation of children’ offences hold the same statutory maximum penalty of 14-years. However, under the sentencing guidelines ‘child sex offences’ have a sentencing range of low-level community order to 10-years imprisonment,<sup>132</sup> whereas ‘sexual exploitation of children’ offences have a sentencing range of high-level community order to 13-years imprisonment.<sup>133</sup> Offenders convicted under sexual exploitation offences may receive a higher sentence because of the higher sentencing ranges.

## **B. CSEM Offending: Lower Sentencing Guidelines Promote Non-Custodial Sentences**

“

*Every online offender we identify represents a potential offline risk.  
Viewing sick images or videos can be just the start of an escalating pattern of abuse.  
- The Rt Hon Sajid Javid MP, former UK Home Secretary<sup>134</sup>*

”

Although CSEM offences are distinct from OSEC, they play a significant role in perpetuating OSEC demand. While the indecent image offending in these cases carries a maximum penalty of 10 years, the result is still low sentences. This is attributed to lenient sentencing guidelines. Because most of these offenders were charged with “making” offences, they are entitled to a sentencing range of a medium-level community order to 3 years custody. For the “distribution of images” offence, the sentence ranges from high-level community order to 5 years. Production of images is the most severe, carrying a sentencing range of 1 to 9 years custody.<sup>135</sup> Therefore, the sentences seem in accordance with the guidelines. The sentencing guidelines – especially pertaining to making offences – may not adequately reflect the gravity of the offences.

For instance, Haitch M. possessed 680 Category A images and videos, including *sexual torture of babies and toddlers*. The NCA called his collection one of the worst they had ever seen. He was originally sentenced to a mere 20 months in prison before the Attorney-General successfully appealed the sentence as unduly lenient.<sup>136</sup> Despite possessing over 26,000 materials that involved either penetrative, sadistic, or bestial acts done to a child, Ethan C. was originally given a suspended sentence, meaning he would not serve a day in prison.



Judge Paul Watson QC, the judge who sentenced Ethan C. underscored the fact that these are not victimless crimes:

These are real children who have been subjected to real and the most vile abuse...the extent of the abuse and degradation of these children is almost unimaginable.<sup>137</sup>

He also stated that it is people who download such images that “perpetuate this disgusting industry.” The sentence does not reflect these sentiments. The judge claimed that the humiliation of being prosecuted and the shame from the offender’s family would form part of the punishment, implying that this would be enough. However, punishment is only one purpose of sentencing; others include restraining offenders and providing justice for the victims. Such consideration appears to undermine the gravity of the offence and fails to serve the purposes of sentencing of providing an official government acknowledgement of the harm caused to the victims by the offender.

### **C. CSEM Offence Sentences Must Consider the Dual Offending Risk**

Some may argue that online offenders do not pose a “real-world” threat to children, but nothing could be further from the truth. The UK should assess whether sentencing guidelines effectively restrain CSEM offenders because of the prevalence of “dual offending” where those who view and possess CSEM also harm children in person, like Richard T. did.

For instance, according to IJM’s study (released in May 2020) on OSEC in the Philippines, 9% of the online sex offenders identified in law enforcement case files were known to have traveled to the Philippines to abuse children in-person.<sup>138</sup> According to the World Childhood Foundation, “various studies showed that between 60% and 86% of people who view child sexual abuse images also commit other forms of sexual abuse against children.”<sup>139</sup> A Swedish report showed that in 48% of the cases in which a person is found guilty of the possession of “child pornography,” the person is also found guilty of other types of child sexual abuse.<sup>140</sup> Further, an Australian study found possible escalation—when the offenders were involved in networking—from passive participation, to the production of CSEM, and to contact sexual offending against children.<sup>141</sup>

Perhaps, then, the option of a community order or suspended sentence is inadequate. Australian appellate courts, for example, are now settled that unless exceptional circumstances exist, a sentence involving an immediate term of imprisonment is ordinarily warranted.<sup>142</sup> Governments like the UK should be clear that when they restrain (and rehabilitate) offenders for engaging in online sex offences, they may also be protecting UK children from in-person abuse. Given this, the UK should reassess whether the sentencing range for “making” and “possession” offences adequately disrupt and restrain offenders.

### **D. Conclusion**

Based on this Review of UK OSEC and CSEM sentencing trends, IJM advocates for higher determinate sentences and extended determinate sentences so that offenders serve at least two-thirds of their sentence in prison. This is, first and foremost, to provide justice to survivors and acknowledge the severe gravity of these offences. IJM acknowledges that release on licence and sexual harm prevention orders are also important interventions. While they provide a level of accountability, they cannot provide justice and protection for vulnerable children that a prison sentence commensurate to the crime provides. Moreover, because online child sex crimes are easy to commit and very difficult to detect, they mask the true extent of re-offending. Higher sentences also ensure that an offender’s licence period is longer. Subsequently, stronger sentences will help restrain and disrupt demand, while supporting offender management upon release.

## V. IJM RECOMMENDATIONS

The following recommendations are based on the conclusion that higher or extended determinate sentences are needed to provide justice to survivors; reflect the gravity of OSEC and CSEM crimes; and better disrupt and restrain OSEC and CSEM offending. They are formulated to address possible reasons for the trend observed in this paper. Strengthening sentences extends beyond raising imprisonment and licence periods; it also means ensuring compensation mechanisms for survivors and addressing offender rehabilitation and prevention. For this reason, the following recommendations also explore such issues.

**1 Amend Sentencing Guidelines and Legislation to Better Reflect the Exploitative Nature of OSEC Crimes and the Severe Harm Caused to Victims.** From these case studies, it appears common practice for offenders to be charged and/or convicted with sexual offences. However, existing sexual offences and their sentencing guidelines do not *directly* hold sex offenders accountable for **driving** and **directing** the production of abusive and exploitative materials. In response, new statutory provisions or aggravating factors should be developed to better reflect OSEC crimes.

A. *Amend Sexual Offences Sentencing Guidelines to Include OSEC-Specific Factors of Culpability and Aggravation (see Annex B).* When assessing the culpability of the crime “inciting a child to engage in sexual activity,” courts can assess whether the offender was commercially exploiting or commercially motivated in committing the crime.<sup>143</sup> Courts can consider if the offender profited from the crime; however, *payment* for the abuse is not considered as a culpability factor. Thus, courts may not appreciate the full extent of the offender’s role as a “buyer” causing child sexual abuse by paying for livestreams.

While not earning money, demand-side offenders exploit the financial disparity between them and source-side traffickers to abuse children by offering money. The offenders abuse their financial power to produce CSEM.<sup>144</sup> Because the guidelines only cover commercial exploitation or motivation, they exclude this exploitative nature of the offence. The guidelines should be amended to add a new aggravating factor to capture the exploitative nature of OSEC demand-side offending.

Courts should also be obliged to consider the livestream of abuse as an aggravating factor because it is harder to detect and involves repeated abuse of children. Recording abuse should be another aggravating factor because livestreaming leads to new CSEM materials flooding the already inundated online collection, causing child exploitation for years on end. Granted, the recording of abuse may be captured under a charge of producing CSEM; however, the livestream aspect may only be caught by an offence of “making,” which includes ephemeral viewing of CSEM.

Yet under current guidelines, “making” offences have the lowest sentencing range: medium-level community order to 3-years custody. This is backwards because livestreaming of the crime does not diminish offending; it aggravates it. Livestream increases the offender’s anonymity, making it easier for them to escape detection and act with impunity. Moreover, because the abuse is ephemeral, children are repeatedly abused to create the “product” anew for each offender, each time. Thus, it is inappropriate for this crime to be considered under a “making” offence. Instead, it should expressly be an aggravating factor in the Sentencing Guidelines under relevant sexual offences, so judges can consider sentences for higher range offending.

Additionally, courts are not obliged to consider the significance of the offender seeking a child in a foreign country, like the Philippines, which, as mentioned in *UK v Charnley*,<sup>145</sup> was an aggravation. This is because, as the Court stated, there is a degree of anonymity in the act – perhaps the belief on the offender’s part that children are easier to access and abuse online than in person. Sentencing guidelines do state that “[f]or offences involving significant commercial exploitation and/or an international element, it may, in the interests of justice, be appropriate to increase a sentence to a point above category range.”<sup>146</sup> In the absence of obligatory language and the trend of weak sentences, this guideline is unutilized. Stronger guideline

language will ensure that courts increase sentences above category range, or at least change the presumptive starting point for OSEC offences.

Exploiting children in developing countries should be considered an aggravation because offenders avoid the expense and risk of travelling to the Philippines or having a child trafficked to the UK. The UK Government should not allow offenders to circumvent culpability of paying for and directing the trafficking and sexual abuse of children from the comfort of their homes.

These issues relevant to sentencing guidelines should be explored further, with possible solutions, in dialogue with the Sentencing Council and other parties. Guidelines create consistency amongst courts,<sup>147</sup> but they are not necessarily the arbiters of whether sentences provide justice for victims and appropriately reflect offence gravity. Thus, civil society and child protection organizations like IJM, the Marie Collins Foundation, and others may provide constructive input on sentencing guidelines.

- B. *Create New Offences to Capture OSEC Crimes and Supplement Current Sexual Offences Legislation.* The Sexual Offences Act 2003 contains child sexual exploitation offences, but it is uncertain if they are charged for the OSEC-offending in this Review. If prosecutors find that sexual exploitation offences are not suitable for charging typical OSEC-offending, IJM proposes creating new offences that fully reflect the OSEC crime.

For example, the Australian Criminal Code<sup>148</sup> provides offences for crimes committed against children outside of Australia to capture typical OSEC offending. Section 272.9(2) criminalizes causing a child to engage in activity in the defendant's presence (including via electronic communication) and carries a 20-year maximum penalty. This is the same penalty as Section 272.9(1)—the in-person offence of engaging in sexual activity with a child outside Australia. Further, recent Criminal Code amendments<sup>149</sup> clarifying notes affirmed that causing a child to engage in sexual activity with a defendant via electronic communication falls under the definition of "engaging in sexual activity." A defendant is, therefore, considered to be engaging in sexual activity with a child whether remotely or in-person.<sup>150</sup> The Code treats a person who watches a livestream of child sexual abuse the same as a person who commits in-person child sexual abuse.<sup>151</sup> As such, it brings sex offending into the online era where offenders can abuse children much easier than in person.

Additionally, these amendments criminalize "grooming" of a person to make it easier to engage in sexual activity with a child outside Australia<sup>152</sup> to capture a typical OSEC scenario where offenders send traffickers money for food and medication to facilitate the commission of OSEC. The offence therefore captures and appreciates the demand-side offender's exploitative conduct, carrying a 15-year maximum penalty.

“

*“I welcome this report and the emphasis it places on offenders being prosecuted using offences under the Modern Slavery Act 2015. We repeatedly see alternative offences being used which fail to call out serious offending for what it is - human trafficking and exploitation. The most recent data for England and Wales shows that the number of prosecutions under the Act fell to just 67 in 2019/2020. This is of great concern.*

*Perpetrators of exploitation and abuse must be prosecuted as Parliament intended under the Modern Slavery Act. Until we see this happening, offenders will continue to see the rewards as high and the risks as low, and justice will not be done for the most vulnerable children in our society and around the world.”*

*- Dame Sara Thornton, Independent Anti-Slavery Commissioner*

”

C. *Amend Modern Slavery Act 2015 (MSA) to Reflect Obligations in UK-ratified International Instruments.* A central international instrument on trafficking and modern slavery is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the “Palermo Protocol”).<sup>153</sup> The UK opted into Directive 2011/36/EU of the European Parliament and of the Council on preventing and combatting trafficking in human beings and protecting its victims,<sup>154</sup> which adopts and expands the Palermo Protocol definition. Accordingly, the Directive incites its Member States to ensure the following intentional acts are punishable:

The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.<sup>155</sup>

OSEC crimes fit this definition of human trafficking and modern slavery. For example, OSEC crimes committed in the Philippines are considered trafficking, as Philippine anti-trafficking laws have largely adopted the Palermo Protocol definition.<sup>156</sup> A person who recruits or offers a child for the purpose of sexual exploitation (i.e. livestream or recorded abuse in CSEM) has trafficked that child. But so is the person who procures, gives payment to achieve that abuse, and “uses” children to create CSEM.

Demand-side offenders, like their supply-side counterparts, are traffickers under the Palermo Protocol. In fact, in Norway an OSEC demand-side sex offender was already convicted under both sexual offences and human trafficking legislation and sentenced to 16-years in prison.<sup>157</sup> As demonstrated throughout this paper and case studies, demand-side offenders are the money and minds behind the abuse, collaborating and conspiring with supply-side offenders to *recruit* children into the creation of livestream or recorded CSEM for their own sexual gratification. Demand-side offenders abuse their financial power by “giving” payments to achieve the in-person trafficker’s control above victims for the purpose of exploitation, fitting the Palermo Protocol definition.

Moreover, the International Labour Organization Worst Forms of Child Labour Convention 1999 (No. 182) includes “**the use, procuring or offering a child for prostitution, for the production of pornography or for pornographic purposes**” as a worst form of child labour.<sup>158</sup> The UK ratified this convention on 22 March 2000.<sup>159</sup> Again, demand-side offender conduct falls squarely here as those who “use” and “procure” children to produce CSEM.

[Trafficking Under MSA.](#) The MSA criminalizes trafficking in the UK but may not fully reflect the nature of trafficking in the Palermo Protocol and ILO definition. For example, an MSA trafficking offence appears to require “travel”. CPS commentary states that trafficking primarily, if not only, concerns transporting victims for exploitation into the UK, to other countries, or within any country. Prosecutorial guidelines discourage prosecutors from pursuing trafficking charges without evidence of physical transportation.<sup>160</sup>

An offender who recruits a child through a supply-side trafficker for OSEC may not be charged with trafficking since no ‘travel’ is necessary. But the requirement of ‘travel’ is nowhere in the definition at the UN Convention or European Parliament Directive level. The UK Government should examine, and if necessary, broaden MSA anti-trafficking provisions to capture different types of “trafficking”, especially when OSEC offenders are circumventing “travel” through internet communication. The MSA should not allow offenders to circumvent the risk and costs of a trafficking offence by committing the abuse online.

[Slavery, Servitude, Forced or Compulsory Labour Under MSA.](#) MSA Section 1 provides for the offence of slavery, servitude, forced or compulsory labour. Section 1(4) provides the circumstances where the court may determine a person is a victim of forced or compulsory labour, including when they are sexually exploited.

Under Section 3(3), sexual exploitation includes indecent image offences and other sexual offences that currently capture OSEC and other OSEC-related offending. It is a form of forced or compulsory labour when children are forced to engage in sex acts or sexually abused in livestream “sex shows” at the behest of a paying UK offender who often directs specific acts of abuse (“labour”).

The option to charge conspiracy to Section 1 offences could also be explored, without any legislative amendment, if not already best practice. This is because the demand-side offender is conspiring with the in-person trafficker trafficking the children for commercial sexual exploitation online. If the demand-side offender had flown to the Philippines and put the child in front of a livestream himself, he would be charged with trafficking. It should be no different that he accomplished the same exploitative servitude and labour by proxy—by paying and directing another to do his dirty work.

[Survivor Compensation Under the MSA](#). The MSA gives courts the power to make reparation orders, requiring offenders to pay compensation to victims. This is important for the strengthening of sentences as it helps achieve greater justice for OSEC survivors, making the sentence “restorative” (see Recommendation 4).

**2** [Prosecute and Convict OSEC Offenders under Child Sexual Exploitation Offences within the Sexual Offences Act 2003](#). This paper observed that offenders engaging in typical OSEC offending were not convicted under sexual exploitation offences. Charging child sex offences over sexual exploitation offences may contribute to lower sentencing. Section 48-50 offences were amended with OSEC offending in mind because they better reflect the nature of OSEC crimes as they capture the exploitation. They punish the offender for the act of paying, either to the victim or a third person, for livestream abuse.<sup>161</sup> This is not considered under child sex offences. Charging offenders for child sex offences does not appreciate the gravity of the offending, because the exploitative nature is not considered nor condemned.

IJM recommends dialogue to understand why these OSEC offenders were not convicted under sexual exploitation laws—and if that is common practice. For now, IJM offers the following discussion points:

*A. Amend Sexual Exploitation Sentencing Guidelines.* As discussed above, child sex offence sentencing guidelines do not include culpability and aggravation factors that effectively consider the exploitative nature of OSEC crimes (i.e. payment, coercive control over third party, grooming; see Annex B). This means that the nature of the crime is not fully appreciated or condemned.

Conversely, sexual exploitation offence sentencing guidelines articulate high-level offending. For instance, Category 1 harms include abduction, violence, and sustained psychological abuse. Culpability A involves a detailed list of factors, including directing abuse for significant commercial exploitation, drugs and alcohol, limitation of freedom, etc. The standard set by Culpability B is “close involvement with inciting, controlling, arranging, or facilitating sexual exploitation of a child” (where offender’s involvement is not a result of coercion).

Typical OSEC offending with international victims may fall into Category 2, Culpability B. However, “close involvement” may not reflect a typical OSEC situation where the offender is not closely involved but is directing the abuse. On the other hand, the offending might not be as serious as factors presented in Culpability A. Therefore, sexual exploitation sentencing guidelines do not appear to accommodate a typical OSEC crime either.

The guidelines’ lack of appreciation for typical OSEC offences may also be deterring prosecutors from charging sexual exploitation offences. As the guidelines only particularise instances of high-level offending, prosecutors may be unsure how a judge will apply the guidelines. Prosecutors will not be able to estimate



sentences with the same confidence they can for child sexual offences and may opt to charge the latter. If this is the case, the guidelines are preventing sexual exploitation legislation from doing its intended job of protecting children from livestream abuse.

- B. Plea Bargaining.* Another possible reason offenders were not convicted and sentenced for sexual exploitation offences is if they were charged with sex offences under a plea. Although they have the same maximum penalties under statute, sex offence sentencing range guidelines have lower starting points and a lower overall range. Similarly, the streaming indecent image part of the offending may have been charged with a sexual exploitation offence, but as an indecent image offence has a lower maximum penalty of 10-years, there may have been an agreement to plea down from the sexual exploitation offence.

IJM recognizes that plea bargaining is a legitimate practice. Convicting and sentencing OSEC demand-side offenders under child sex offences does not penalize and condemn the crime's exploitative nature or reflect the offence gravity. If child sex offences sentencing guidelines are amended to include aggravating factors of exploitation, then even under a plea, the offending may be appreciated by the court and duly condemned.

**3 Amplify the Experience of Survivors at Sentencing.** Amplifying survivor voice is a critical principle in achieving justice. Australian and Canadian courts suggest that judges sentence differently when provided insight into victim impact through, for example, impact statements, reports from social service professionals, and viewing a sample of evidence.

To level the playing field between defendants and survivors, justice system officials should incorporate survivor voice in court proceedings. During trial and at sentencing, the defendant is humanized as the judge sees him or her in person, listens and takes into account the defendant's personal mitigating circumstances: 'the defendant was deeply depressed after the loss of his wife', 'he came from a neglectful household'. These circumstances bear on sentencing. Yet, no such opportunity exists for OSEC and CSEM survivors. While judges can appreciate the harm done to victims generally, there is no substitute for understanding the victim's personal circumstances.

- A. Professional Reports at Sentencing (Objective Experience).* In IJM's casework experience, upon rescue, a victim receives assessments by a social worker or psychologist. Victims commonly participate in psychological and other treatment. Professional reports can provide an objective view of a particular victim's circumstances, amplifying their experience in criminal proceedings. Prosecutors and law enforcement are encouraged to inquire with relevant foreign law enforcement and/or post-rescue care providers if such reports exist for their case. This option is optimal when a child cannot provide an impact statement directly due to age or risk of re-traumatization.

- B. Victim Impact Statements (Subjective Experience).* While victim impact statements are widely used in UK proceedings, they may be harder to gather in cases involving overseas victims. In the UK, survivors may personally read aloud their impact statements in court. These statements, whether written, recorded or given through live videoconference, are critical to provide survivors the chance to be humanised and share their individual circumstances with the judge. Where appropriate, and where the victim is willing, prosecutors may wish to coordinate with the PICACC for cases with a Philippine connection, to ensure Filipino victims are given a chance to share their experience in Court.

IJM has also helped foreign law enforcement in other jurisdictions record interviews of Philippine victims for demand-side trials. Should a case resolve through plea without the opportunity to show the interview, the recording should still be shown at sentencing if it contains relevant disclosures.

- C. Proxy Victim Impact Statements.* The difficulty of identifying known victims in CSEM possession cases may be one reason sentences are low, because Courts cannot hear survivor voice to appreciate the harm offenders

cause. Even though judges comment that CSEM possession cases are not victimless crimes, perhaps the lack of a victim's point of view still results in "inaccurate appreciation" of that victimisation. To overcome this challenge, Canada allows for the presentation of a statement made by an individual on a community's behalf. These statements serve as proxy victim impact statements and Canadian Courts have employed them with great endorsement:

The "Phoenix 11" statement was prepared collectively by a group of 11 Canadian survivors of child sexual abuse. Their statement was prepared to reflect the perspective of the broader community of all affected victims of such child sexual abuse because the 11 members of the group are all members of that broader community. Among the messages conveyed by this statement:

- a. "We are some of the children who are seen in those pictures and videos, and we are the ones who are struggling to survive our victimization every single day;"
- b. "It both saddens and angers us that there are people who take pleasure from looking at our sexual abuse imagery ... that there are people who claim not to understand that we are real people, with real feelings, and with real lives that have been taken from us;"
- c. "the images and videos of our child sexual abuse are permanent markers of the most painful and traumatic experiences of our lives. It is a constant barrier to us healing and moving on with our life. The mere existence of our imagery is enough to invoke feelings of intense fear in each and every one of us;" and
- d. "we keep being abused over and over by people who watch, seek out, and keep imagery of children being sexually abused."

**I have no hesitation in concluding that these powerful statements are a fair representation of the very real pain and suffering that child pornography – its production, possession and distribution – inflicts upon those who have the highest claim to society's solicitude and protection: our children.<sup>162</sup>**

There is provision for such statements within the Canadian Criminal Code, and judges have discretion to admit and attribute weight to such evidence. If this practice does not exist in the UK, prosecutors may explore their admissibility at sentencing and policymakers consider following Canada's lead in creating a statutory provision for their use. Courts may use Annex A of this paper as a starter for proxy victim impact statements for livestreamed sexual exploitation offences.

*D. Viewing Digital Evidence at Sentencing.* It is IJM's understanding that to mitigate re-exploitation of victims and preserve the mental health of the courts, UK judges are not required to view digital evidence at sentencing. Instead, judges are given a description of the evidence based on CAID categorization (categories A, B and C). In cases with voluminous explicit evidence—as is typical of CSEM offences—judges are given descriptions of samples from each category.

IJM supports the consideration for the well-being of all parties. However, not viewing any of the graphic evidence in CSEM cases may lead to an under appreciation of the harm done to victims. For example, while arguing why an initial sentence for OSEC offending was too low, Basten JA in the Australian case of *Beattie* outlines the importance for judges to view a victim's experience:

There is a real risk that the true impact of the offending on the victims, being children overseas (in this case in the Philippines), is underestimated. Of course, it is true that the criminal courts do not usually see graphic depictions of the sexual offending. That too, however, may result in an inaccurate appreciation of the effect of the offending on the victim. However, the court usually has a victim impact statement, which provides some reflection of the effect of the offending. That is not so in the present case.<sup>163</sup>

The UK Government may have a unique opportunity to compare sentences before and after CAID. This may result in an objective determination of whether the viewing of graphic depictions leads to stronger sentences.

**4 Judiciary and Prosecution Utilize Mechanisms for Victim Financial Compensation.** Strengthening sentences against demand-side offenders also includes bolstering justice for victims through compensation. The UK has multiple compensation mechanisms for victims of crime in general, most notably:

- Compensation orders
- Victim Surcharge
- Compensation via the Criminal Injuries Compensation Authority
- Reparation orders under the MSA

The Victim Surcharge funds services that are based in the UK, so it is uncertain whether these can be accessed by foreign victims. Similarly, the Criminal Injuries Compensation Authority only awards compensation where incident occurred in England, Scotland, or Wales, with certain residency or nationality requirements, meaning victims from nations like the Philippines cannot pursue these mechanisms.

The most likely compensatory measure open to foreign victims is compensation orders. Courts are empowered to make compensation orders to compensate a victim for any personal injury, loss or damage resulting from the offence. A court must also consider making a compensation order in any case where it is empowered to do so.<sup>164</sup>

IJM has supported US demand-side criminal cases resulting in monetary restitution for survivors. In *United States v Sara*,<sup>165</sup> defendant pled guilty to attempted coercion and enticement of a minor, including viewing livestreams depicting minors engaged in sexually explicit conduct. He was sentenced to 14-years imprisonment and ordered to pay \$8,000 USD to the two victims – \$4,000 USD each. The FBI requested IJM to send estimations of restitution by considering medical expenses, lost income, counselling, and logistical expenses.

Public reporting on the UK cases in this paper did not include mention of compensation orders. The Government, including prosecutors, should engage with the judiciary to explore options for international collaboration for compensation orders. IJM's Center to End OSEC may be able to aid cases with a Philippine connection. Finally, courts can also make reparation orders under the MSA for offenders to pay directly to victims, contributing to reasons why MSA provisions should be broadened (see Recommendation 1). As of December 2017, no reparation orders have been made under the MSA.<sup>166</sup>

**5 Institute Mandatory Parole Review for All UK OSEC and CSEM Sex Offenders.** IJM recommends that all OSEC and CSEM offenders undergo a mandatory Parole Board review before release on licence. Currently, UK offenders given a determinate sentence are released on licence halfway through their sentence with no Parole Board review required. Parole Board review is currently only applicable to offenders with extended determinate sentences. This policy is particularly concerning in OSEC and CSEM cases, as it reduces already low prison sentences and fails to assess the offender's threat to society or risk of re-offending. While offenders may have no criminal record, facts routinely reveal they abused children for years before being caught. Given these

factors of long periods of hidden offending, it is appropriate that offenders undergo mandatory Parole Board review before release to assess risk.

**6 Develop Non-Justice System Forms of Prevention and Improve Rehabilitation.** In our programs, IJM has seen that increasing the certainty of arrest and punishment serves to deter some offenders and prevent future crime. IJM further recognizes that offender rehabilitation and other prevention measures as critical to supporting criminal justice system responses. According to some studies, one in ten of those released from prison and back into the community will go on to commit another sexual offence.<sup>167</sup> An important note as sex offences—especially OSEC—are largely hidden crimes. Offender management and rehabilitation is thus central to prevent re-offending.

An HM Inspectorate Report found that current rehabilitation frameworks were not effectively supporting and rehabilitating sex offenders and, thus, failing to protect the public and address licence violations.<sup>168</sup> While there may be success for some programs,<sup>169</sup> it appears the rehabilitation process is still in an exploratory phase, requiring further investment, which IJM supports (See Annex C: *Preliminary Note on Rehabilitation*).

In the meantime, OSEC and CSEM offenders must be restrained effectively to protect children in both the UK and overseas. Rehabilitation and prevention measures are *complementary to*, but not a substitute for, holding perpetrators accountable and giving justice to survivors. That an offender *can* be rehabilitated is not reason to give him impunity for the severe harm he already caused, leaving survivors empty-handed in their pursuit of justice.

IJM also encourages addressing push factors, including over-exposure to hardcore (and often violent) adult pornography online by boys and men. Speaking on an Internet Watch Foundation podcast, Chief Constable Simon Bailey (National Police Chief's Council lead on child protection) discussed the growing number of 18-26-year old British men seeking CSEM. He argued that these are not typical paedophiles, but individuals over-exposed to hardcore pornography, leading to habituations and searching out CSEM to gratify themselves. "[T]he challenge is getting worse," he remarked.<sup>170</sup> The Lucy Faithfull Foundation further stated that only 15-20% of offenders they work with are paedophiles in that prepubescent children are their primary sexual interest. The others follow the pattern described by Bailey.<sup>171</sup>

IJM acknowledges the UK Government's Online Harms White Paper that seeks to limit minors' exposure to harmful content, including hardcore pornography through Online Harms legislation. Given the urgency of the situation as shared above by those in the online child protection field, IJM advocates for research into demand-side offender progressions, and development of further preventative and rehabilitative measures.

**7 Further Evaluate the Extent of the Low Sentencing Trend.** IJM advocates that the Ministry of Justice, or other appropriate bodies, conduct evaluation of *all* UK OSEC (i.e. livestreaming) cases with access to full sentencing remarks, jurisprudence, and other data not publicly available. This way, the UK Government sees a clearer picture into the extent of this trend along with factors courts are considering resulting in inappropriately low sentences. This, in turn, can help develop additional pointed strategies to address factors that contribute to weak sentences.

**8 Promote the Unduly Lenient Sentencing Scheme.** IJM commends the UK Government's initiative of the Unduly Lenient Sentencing Scheme, where members of the public may refer to the Office of the Attorney-General sentences that appear unduly lenient.<sup>172</sup> Its application was successful in the cited Haitch M. case: the CSEM-offender's original 20-month sentence was increased to 4-years. The Government is encouraged to promote the availability of the scheme for the public and child protection civil society stakeholders.



**9** **Scotland and Northern Ireland Proactively Assess OSEC, CSEM Legislation and Sentencing.** IJM recommends the Scottish and Northern Irish Parliaments review their own sexual offences/sexual exploitation legislation, CSEM legislation, and any existing cases to see if similar issues have arisen or may arise. IJM did not identify publicly reported Northern Ireland OSEC cases and only one Scotland case heralded as its first OSEC conviction. Matthew B. received an extended sentence of 15 years for five charges under the Sexual Offences (Scotland) Act 2009. He pled guilty to conspiracy to commit a serious sexual offence and inciting sexual offences.<sup>173</sup> He was also charged with a CSEM offence. He will serve nine years in prison, reduced from 12, due to early pleas, and be eligible to apply for release on licence after a period of 6 years.<sup>174</sup>

This case sets Scotland jurisprudence on prison sentences for OSEC offenders, while also affirming that OSEC is proxy in-person abuse. Judge Lord Arthurson commented, “I propose to sentence you on no different basis that if you had undertaken the sexual abuse in person...What you actually did, by involving proxy third-party abusers, merits an even more substantial period of imprisonment.”<sup>175</sup> IJM encourages the three jurisdictions to learn from each other’s experiences in OSEC and CSEM cases.

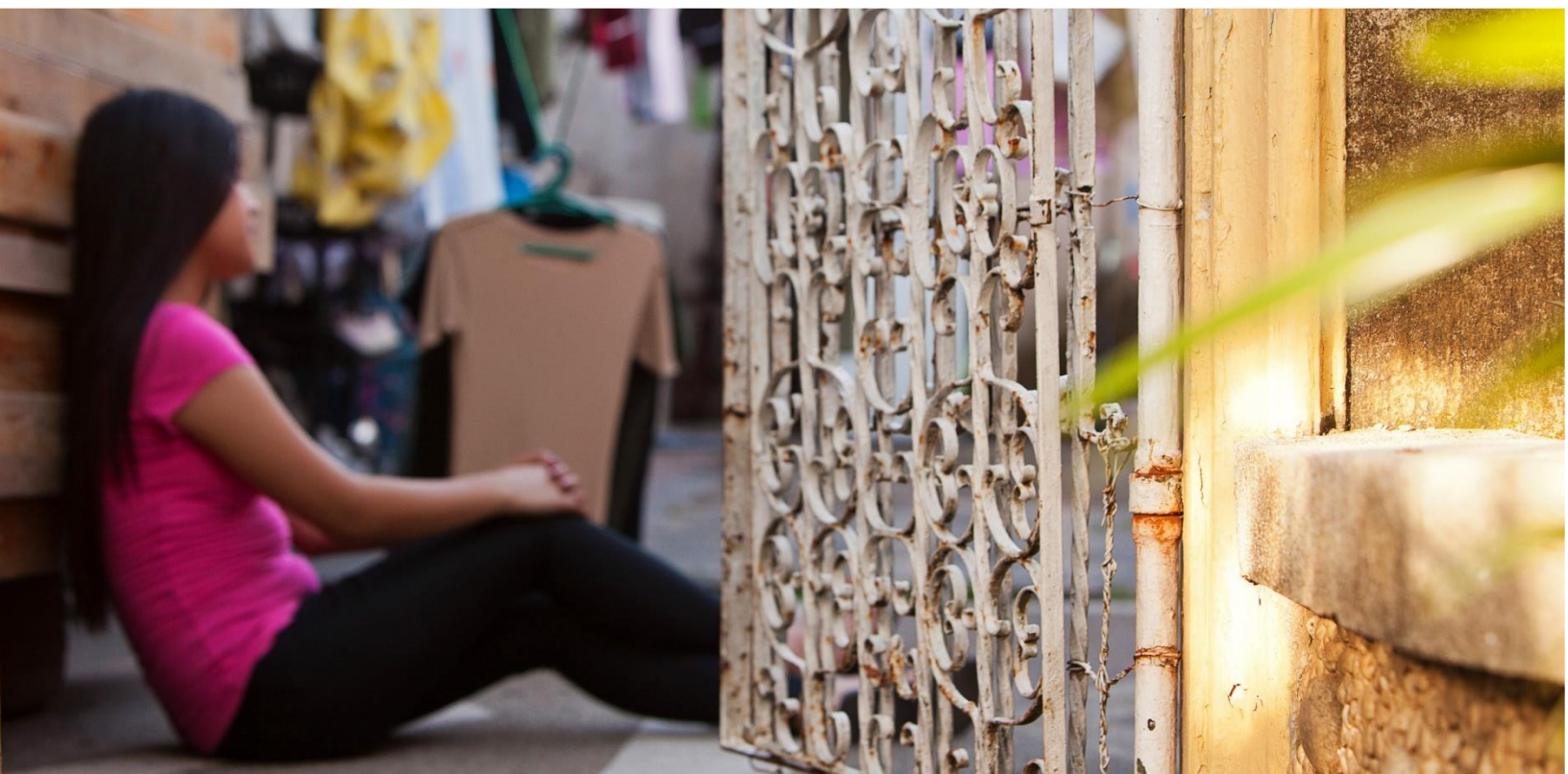
## VI. FINAL REMARKS

IJM appreciates that sentencing is a complex issue with many contributing factors: guideline ranges, concurrent and totality sentencing principles, pleas, mitigating factors, and others. Because OSEC is a global crime of supply and demand, protecting children requires demand-side governments doing everything possible to ensure OSEC offenders cannot offend with impunity and are held accountable. All should ensure offenders receive sentences that adequately reflect the gravity of their crime against children, disrupt and restrain their offending, while providing true justice to survivors like those who shared their voices in Annex A:

“

*“OSEC offenders deserve to be penalized longer than 2 years for doing a hideous crime. We victims experienced traumatic effects from the past - that deserves justice.” - L\* 14 years old*

”



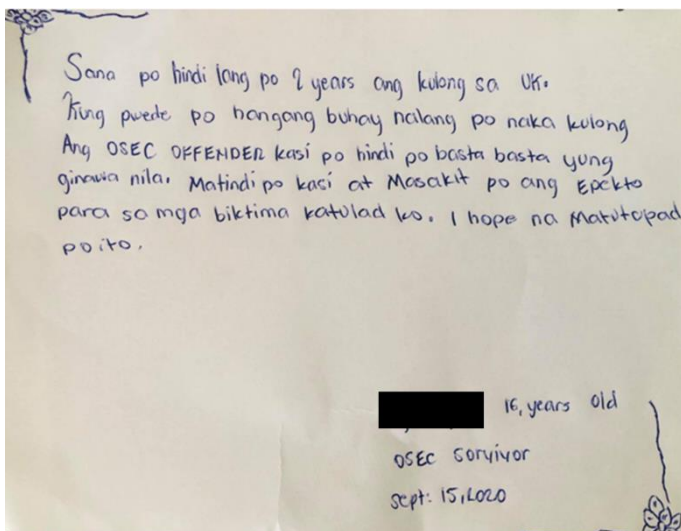


# Annex A: Survivors Speak Out About Demand-Side Offenders

We shared the paper’s key findings with OSEC survivors that IJM and our aftercare partners have served on their restoration journey. They sent their thoughts and suggestions to us. We have compiled their messages below. These are not edited to honour survivor voices and experiences. This feedback was elicited in a trauma-informed process by local social service professionals.

Survivors have unique experience *and* expertise to offer. They can share about the nature of the exploitation, the factors that enable it to thrive, the criminals who profit from it, and the solutions that will stop it. Survivors perspectives, like those captured below, are critical for both the protection and restoration that must exist to promote safe communities and individual healing. Courts may find these statements helpful to use as proxy victim impact statements for sentencing purposes, especially in cases where victims cannot be identified.

*Trigger warning: Some of statements contain sensitive sexual wordings. Please read with caution.*

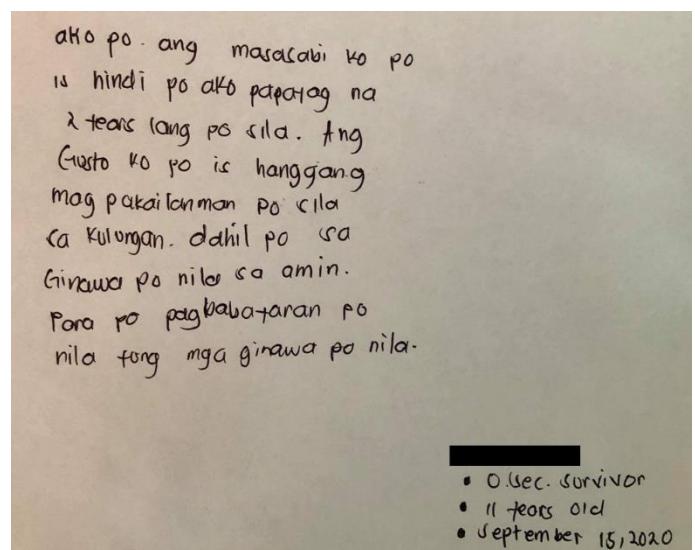


“I hope UK’s sentencing for OSEC offenders isn’t just 2 years. OSEC offenders should be imprisoned for life because what they did shouldn’t be taken lightly. The effects for such acts are severely painful for victims like me. I hope that UK would implement the longer prison time.”

– L\*, 16 years old | Age at time of abuse: 6-10 years old

“I won’t accept two years imprisonment for OSEC offenders. I want them to rot in jail and pay for what they’ve done to us.”

– S\*, 11 years old | Age at time of abuse: 6-7 years old



Hindi po ako pumapayag sa mababang sentensya ng UK. dahil pwede itong mag-dala ng takot sa kabataan. na ang kanilang taglaya ay mabilis lamang. For me UK OSEC offenders deserve life sentence. dahil sinira nila yung pagka-tao ng mga kabataan.

16 years old  
OSEC SURVIVOR

“I don’t agree with two years of imprisonment for OSEC offenders because their short imprisonment could bring fear for survivors. All offenders deserve life imprisonment because they destroyed lives of children.” – C\*, 16 years old | Age at time of abuse: 8-11 years old

“I do not agree with the low sentencing given to OSEC offenders; I’d like for it to be longer for them to pay for all their sins. I want the sentencing increases because their abuse has destroyed many children’s identities.” – J\*, 14 years old | Age at time of abuse: 7-9 years old

NO: \_\_\_\_\_  
DATE: Sept. 15, 2020

hind po ako pumapayag sa mababang ang sentensya sa UK OSEC offenders, dahil gusto ko po tumagal muna sila sa kulungan at para pag bayaran ang mga kasalanan nila. Gusto ko na mababa ang sentensya nila dahil sinira nila yung pag ka tao ang mga bata na nabuse nila

- J [redacted]  
14 years old  
OSEC SURVIVOR

UK OSEC offenders deserve to be penalized longer than 2 years, for doing a hideous crime. we, victims, experienced traumatic effects from the past. that deserves justice.

OSEC SURVIVORS  
- L [redacted] 14 y/o

“OSEC offenders deserve to be penalized longer than 2 years for doing a hideous crime. We victims experienced traumatic effects from the past - that deserves justice.”

-L\* 14 years old | Age at time of abuse: 6-10 years old

“I will not accept two years imprisonment for OSEC offenders because they abused and took us away from our families, and this should not be taken lightly. They destroyed our innocence. It’s not possible to let go of the things they did to us.” – A\*, 12 years old | Age at time of abuse: 5-6 years old

Hinding hindi ako pumapayag na 2years lang sila makulong sa UK. Kasi di basta basta yung ginawa nila Saamin at Malayo kami sa Kanya Kanya Nating Pamilya. Sinira nila yung pagkaka-tao ng mga bata, hiding hindi namin pwedeng palagasin yung ginawa nila Saamin.

- A [redacted], 12 years Old  
OSEC SURVIVORS

They entered into the dark decision so they must face the consequence. But it must be in a life time imprisonment, so to exchange their enjoyment they must suffer the consequence for what they have done.

They ruined a child's life so they must pay for it based on the law. If someone did this to you or to your child of course you will not let that not to get punished because they deserve to be punished but not just for a short term or temporary but in a life sentence.

Dapat lang maparusahan sila ng matindi dahil sa ginawa nila because they chose it sa buhay nila kahit alam nila it's against the law. Kayo sana pagdating sa batas ipairal ang tama at patas dahil kung short punishment lang there are possibilities na ulitin nila ulit ang pang-aabuso kasi mababa lang ang sentensiya at patuloy parin dadlami ang mabibiktima.

#DSEC OFFENDER

Dsec Survivor

“They entered into this dark decision so they must face the consequence, but the consequence should be life imprisonment. They enjoyed what they did, so they should suffer the consequences for what they've done. They ruined a child's life so they must pay for it based on the law.

If someone did this to you or to your child, of course, you will not let that not get punished because they deserve to be punished but not just for a short term or temporary but in a life sentence.

It is only right to punish them severely because they knowingly did it even if it is against the law. So, I hope that the law would allow justice and fairness to prevail because a few years in prison opens possibilities for them to abuse again and many more will become victims of abuse.”

- C\*, 19 years old | Age at time of abuse: 9-14 years old



Ako po ay biktima ng human trafficking at cybersex online. Ako po ay pinaghuhubad sa harap ng camera habang may foreigner na nanonood at nag uutos kung anu ang mga gagawin. Kung minsan ako ay pinapartner sa hayop katulad ng aso at pinapagawa ng malalawang bagay.

Bilang isang babae na naging biktima ng ganitong krimen gusto kong mabigyan ng parusa ang gumawa nito sakin at pati rin sa ibang kababaihan o kabataan na tulad ko na paulit ulit inaabuso ng walang kalaban laban ng mga foreigner.

Nais ko din na maparusahan ang mga nagbebenta ng mga malalawang picture ng kabataan online.

Ako po ay humihingi ng tulong para mapanagot ang may mga sala at bigyan ng parusa para sa mga kabataan na inaabuso tulad ko. Hindi mababayaran ng 5 taon o 10 taon na pagkakakulong ang ginagawang pang aabuso ng mga foreigner sa mga kabataan o kababaihan tulad ko sila ay dapat na makulong ng walang piyansa ng hindi na sila makapang abuso pa sa iba.

-A\* 23 taong gulang

"I am a victim of online sexual exploitation. I was asked to strip in front of the camera while a foreigner watches and dictates my next actions. Sometimes, they force me to have sex with animals like dogs and made to do other obscene acts.

As a female victim, I want my abusers to be punished for what they did to other women and youth, who, like me, were repeatedly and helplessly abused by foreigners.

I also want those who sell exploitation and explicit materials of children to be punished.

I am asking for your help to hold these people accountable for their crimes of abuse against the children who have been abused just as I was. Five to 10 years of imprisonment is not enough payment for the abuse these foreigners did to youths or women like me. They should be imprisoned without bail to prevent them from abusing more people." - A\*, 23 years old | Age at time of abuse: 14-18 years old

Sana po hindi mangyari o di mabigyan ng mababang sentence ang mga foreigner na gumagawa ng OSEC sa mga kabataan. Sa mas mahabang sentence mas maiwasan o matitigil ang pang aabuso nila sa mga bata at sa mga batang nabibiktima nila tulad ko. Ang aming kasiyahan na mga biktima ay pag napagbayaran nila Ang kanilang kasalanan sa pamamagitan ng mahabang sentence at para matutu at marealize nil ana mali ang ginawa nila sa amin, sa aming murang edad.

\*N, 21 years old

"I hope that foreigners who commit OSEC won't be given only a few years of imprisonment. It's in long years of imprisonment that we can prevent or stop their abuses to children like me. Our comfort as victims comes from knowing that our abusers are paying for their crimes through grave penalty. Through this, they can learn and realize that what they did to us in our young age was wrong." - N\*, 21 years old | Age at time of abuse: 12-15 years old

" Dapat sa mga nang-aabuso ng mga batang walang ka alam-alam sa ginagawa nila o mga batang walang kamuwang-muwang na kayang pagsamantalahan ng sinu man, dapat lamang na makulong sila ng panghabang buhay. Dapat silang mag bayad sa mga ginagawa nilang kabastusan(krimen)... Dahil binibilog nila ang mga ulo ng mga bata kaya madali Lang itong pumagag sa Mga gustong ipagawa sa kanila.... Dpat lamang managot sila sa batas.. Hindi dapat manaig ang kasamaan ng mga walang Hiyang (banyagang) gumagawa ng kabastusan (sexual exploitation). Dapat sa Kanila masintensyahan ng pang habang buhay na pagkakulong ... May mga gumagawa na hindi takot, hangat hindi sila nahuhuli o nakukulong. Kapag hindi sila takot ay maaring marami pa ang mabibiktimgang mga batang wala kaalam alam sa ginagawa (inosente). Kapag maraming patunay o ebidensya na ang isang banyaga o tao (siya ay gumawa ng) ay nakagawa ng kamalian dapat hindi (na sila) ito pwedeng makapagpiyansa o makakalabas pa. (ng Hindi) at dapat sila mananagot sa batas.....

"It serves right for people who abuse innocent children to be imprisoned for life. They should pay for their immoral acts. They manipulated children to agree with their every command. They should be held accountable to the law. These shameless acts by these foreigners should not prevail. They should be sentenced to life in prison. It's not until they are caught and imprisoned that they start to fear doing the crime. And when they aren't afraid of the law, the number of innocent child victims might increase. If there are hard evidence presented against a foreigner or any person who has committed a crime of abuse, they should be imprisoned with no chance for bail or parole. They should be held accountable to the law." – S\*, 20 years old | Age at time of abuse: 13-15 years old

"It is unfair that the local perpetrators are serving bigger sentences than these foreign perpetrators wherein fact they are the cause why there's a demand for this kind of abuse. Learning about how short and less the sentences that the foreign perpetrators served, it is unfair. The victims and I as a survivor of the abuse is disheartened to know about this fact. The victims suffer, whether they are rescued or not, we all suffered from the abuse we experience from these foreign perpetrator[s] who gave the demand in abusing children online.

It is better for the judges to hear the voice of the survivors and how the victims suffered from these foreign perpetrators.

I hope there will be a change. I hope justice will be served faster. I hope more survivor will be able to receive help, from the therapy, education, and her other needs.

Asking our opinion about this issue (key findings) is very helpful for us to know that there are action steps taken in ensuring that foreign perpetrators will be held accountable on the crime they committed.

I hope and pray that this paper will become successful. That more victims and survivors will be helped. That the UK government will hear our plea.

I am very glad that IJM thought of the needs of their clients. I hope the UK government will hear what is better for the survivors' needs. So glad to hear the findings and recommendations. It's really helpful for us, the survivors, as we deserve to get the justice from the abuse, we had to endure from these foreigner perpetrators." - J\*, 25 years old | Age at time of abuse: 10-17 years old



“It’s unfair. It’s unfair because they are the ones who demand on what they want to see on the pictures and the videos. It is unfair to the victims but also to local facilitator of the abuse. They are serving long years of imprisonment but the foreigners who gave the demand only serve less sentence. These foreigner perpetrators must also serve the same length of penalty that they deserve. These foreigners are the ones asking and giving the demand. If only they didn’t give the demand, the abuse shall not happen.

The foreigner perpetrator shall pay the moral damages or restitution to their victims. The restitution and compensation to the victims can help in paying for their therapy or educational needs.

This step of IJM in doing this paper is very helpful and hopefully the recommendations will be realized most specially the part about restitution and compensation to the victims.” – C\*, 21 years old | Age at time of abuse: 12 years old

---

“Even if it’s just a photo or a video or livestream, both the facilitator and the foreigner perpetrator shall serve the same sentence in doing the abuse to their victims. Both of them participate on the abuse, both of them commit the mistake, both of them shall suffer the consequence of their actions. Because both of them benefit from the mistake they committed.

For me, this is really a good recommendation (referring to giving compensation & restitution to the victims) because the abuse affects not just the whole family but more specially the emotional wellbeing of the victims. The victim must continue on her studies and avail therapy which is not always free. There are also medical needs that is expensive. If they cannot serve the same number of years that a local perpetrator has to suffer in prison, they have to at least pay for all the damage they’ve done to the child victims and to the whole family that was impacted a lot and suffered from the abuse that happened. The abuse is the start of all the misery that a child victim has to suffer. The foreigner perpetrator has to feel the gravity and consequence of the abuse they committed.

Hopefully, this paper will proceed and be able to reach the proper authority who can take an action to give justice to the victims of these foreigner abusers.” – C\*, 21 years old | Age at time of abuse: 12 years old

---

“It should be fair. But I think, the foreigner perpetrator who gave the demand must have bigger penalty or sentence as he was the one giving the instructions. If the perpetrator here in our country serves at least 15 years, it must be the same with the foreigners who gave the demand for the abuse to happen.

I agree that the foreigner perpetrator must pay for the damage they’ve done to their victims and to the families that they destroy. Our lives were changed because of the abuse. The ones who gave the demand have only to suffer by serving their sentence. But for their victims and their families, especially those traumatized have to undergo therapy. The victims suffered as well as their families.

Hopefully, this paper will be approved. That we will be heard. At least, this will benefit not just us but also the child victims that will be rescued in the future.” – C\*, 19 years old | Age at time of abuse: 17 years old

# Annex B: Proposed Sentencing Guideline Amendments

OFFENCE	SENTENCING GUIDELINES RECOMMENDED AMENDMENT
<p><b>Making, possessing, distributing, and producing indecent images of children</b></p>	<ul style="list-style-type: none"> <li>Expressly include that recording livestream child sexual abuse or exploitation should be considered production of indecent images for purposes of sentencing, even if charged under a making offence.</li> </ul>
<p><b>Causing or inciting a child to engage in sexual activity</b></p> <p><b>Facilitating the commission of child sex offence<sup>176</sup></b></p>	<ul style="list-style-type: none"> <li><i>Original language:</i> “For offences involving significant commercial exploitation and/or an international element, it may, in the interests of justice, be appropriate to increase sentence to a point above the category range”</li> <li><i>Change to:</i> “For offences involving commercial exploitation and/or an international element, when in the interests of justice, increase sentence to a point above the category range.”</li> </ul>
	<p>Additional culpability A factors:</p> <ul style="list-style-type: none"> <li>Payment or other consideration exchanged to victim or third party for sexual activity</li> <li>Grooming behaviour used upon third party to make it easier to access child for sexual activity</li> <li>More than one instance</li> </ul>
	<p>Additional aggravating factors:</p> <ul style="list-style-type: none"> <li>Online element in offending</li> <li>“Location of offence” changed to “Location of offence (especially if in foreign jurisdiction)”</li> <li>Number of instances</li> <li>Number of victims</li> <li>Amount paid for sexual activity, including aggregate</li> </ul>
<p><b>Sexual exploitation offences<sup>177</sup></b></p>	<p>Additional culpability B factors:</p> <ul style="list-style-type: none"> <li>Directing or organizing sexual exploitation of a child</li> <li>Payment or other consideration exchanged to victim or third-party to cause, incite, arrange, or facilitate exploitation</li> <li>Grooming behaviour used upon third party to make it easier to access child to cause, incite, arrange, or facilitate exploitation</li> </ul>
	<p>Additional aggravating factors</p> <ul style="list-style-type: none"> <li>Offender involved third party who has relationship with child</li> <li>Online/Remote element of offending</li> <li>Number of victims</li> <li>Number of instances</li> <li>Payment (incentivizing abuse)</li> </ul>

## Proposed Guideline Amendments Example: Andrew W.

IJM is in a speculative position in terms of the evidence to make out certain culpability factors, and aggravating and mitigating circumstances; thus, the following example is merely *based* on Andrew W.'s offending. But IJM believes it is a fair assumption the court started with relatively low starting points within the sentencing guideline rubric, and this example helps to illustrate why this may be the case. It also shows the difference the proposed guidelines above could make in achieving sentences that better contemplate the nature of OSEC offending.

Andrew W. was charged with the following:

- making and possession of CSEM (10-year max. penalty; 3 counts)
- attempting to cause or incite a child under 13 and 16 (14-year max. penalty; 2 counts)
- arranging or facilitating the commission of a child sex offence (14-year max. penalty).

Andrew W. was sentenced to **3 years and 2 months**.

USING EXISTING GUIDELINES	USING PROPOSED ADDITIONS TO GUIDELINES
<b>MAKING AND POSSESSION</b>	
<p>Existing guidelines:</p> <ul style="list-style-type: none"> <li>• 'Making and possession' is less serious offending in comparison to distribution and production.</li> <li>• Presume image involve non-penetrative offending therefore Category B</li> </ul> <p><b>26 week's custody starting point.</b></p> <p>Aggravating factors:</p> <ul style="list-style-type: none"> <li>• Age of children</li> <li>• Period over which images were possessed</li> <li>• Collection includes moving images</li> <li>• Active involvement in a network</li> </ul>	<p>Proposed guidelines:</p> <ul style="list-style-type: none"> <li>• Livestream considered as producing CSEM, not 'making'</li> </ul> <p><b>Starting point changes from 1 year to 6 years</b></p> <p>Aggravating factors:</p> <ul style="list-style-type: none"> <li>• Age of children</li> <li>• Period over which images were possessed</li> <li>• Collection includes moving images</li> <li>• Active involvement in a network</li> </ul>
<b>ATTEMPTING TO CAUSE OR INCITE A CHILD UNDER 13 AND 16 ARRANGING OR FACILITATING THE COMMISSION OF A CHILD SEX OFFENCE</b>	
<p>Existing guidelines:</p> <ul style="list-style-type: none"> <li>• The specific harm done to the victims is unknown, but for the purposes of this exercise, assume Category 2 harm (non-penetrative sexual activity, nudity) was present.</li> <li>• Culpability factors apparently present upon available facts can be under culpability A <ul style="list-style-type: none"> <li>○ Offender acts with others to commit offence</li> <li>○ Sexual images of victims recorded, solicited, shared</li> <li>○ Significant disparity in age</li> </ul> </li> </ul> <p><b>Three year starting point.</b></p>	<p>Proposed guidelines:</p> <ul style="list-style-type: none"> <li>• The specific harm done to the victims is unknown, but for the purposes of this exercise, assume Category 2 harm (non-penetrative sexual activity, nudity) was present.</li> <li>• Culpability factors apparently present upon available facts can be under culpability A <ul style="list-style-type: none"> <li>- Offender acts with others to commit offence</li> <li>- Sexual images of victims recorded, solicited, shared</li> <li>- Significant disparity in age</li> <li>- Offender paid to cause or incite child/as part of arrangement of child sex offence</li> <li>- Grooming behaviour used upon third party to make access to child(ren) easier</li> <li>- More than one instance</li> </ul> </li> </ul> <p><b>Still three-year starting point.</b></p>

- Aggravating factors:
- Period over which offence committed

- Aggravating factors:
- Period over which offence committed
  - **Online element**
  - **Number of instances**
  - **Number of victims**
  - **Child victim from overseas in developing country**

**POSSIBLE MITIGATING CIRCUMSTANCES**

- No previous convictions
- Remorse
- Prior good character
- Plea reduction (25%)

- No previous convictions
- Remorse
- Prior good character
- Plea reduction (25%)

**Actual sentence: 3 years and 2 months**

**6-9 year starting point (before aggravating/mitigating factors/plea reduction)**

- In terms of the possession offence, considering ‘livestreaming’ as production—especially in the case where there is evidence of direction on the demand-side offender’s part— dramatically raises the starting point.
- While causing or inciting a child to engage in sexual activity/arranging or facilitating commission of child sex offence may still have a three-year starting point as there is no issue with culpability factors here, the additional three aggravating factors may produce a higher sentence.
- An additional note on overlapping offending: directing the livestream of abuse does not necessarily overlap with additional activity that can make up a causing/inciting/arranging charge (i.e. grooming behaviour, correspondence with third party to have easier access to child for sexual activity).

# Annex C: Preliminary Note on Rehabilitation

## Summary

- 1.1 The UK Government's emphasis on the rehabilitation of child sex offenders is based on a wider culture of the rehabilitation of prisoners. This is largely founded on the doctrine that most prisoners will re-enter society at some stage and if they are only punished without effective treatment, they will still pose a threat to society once they re-enter civilian life.
- 1.2 This note considers why the UK Government has adopted this approach to rehabilitation, the issues surrounding the rehabilitation of prisoners, the types of programmes used to rehabilitate offenders, and potential success stories. One of the primary takeaways from our research is that for rehabilitation to be effective it needs to be tailored specifically to the individual offender in question rather than adopting a generalised approach for all offenders.
- 1.3 Effective strategies include the use of structured interventions to address offending behaviour such as developing personal strengths, setting positive goals for the future, and making the link between offenders' attitudes, thinking and behaviour and their offending. Such effective strategies also need to be accompanied by a coordinated approach across the bodies that provide rehabilitation, a useful example is through the Circles of Support and Accountability scheme which is outlined further below.

## UK Policy on Rehabilitation – An Introduction

- 2.1 British government policy surrounding the rehabilitation of offenders dates to 1779 when the government passed the Penitentiary Act, which made the rehabilitation of criminals a function of all prisons. Whilst incarceration remains a central form of punishment in the UK's criminal justice system, the emphasis on correction rather than outright punishment has steadily increased.
- 2.2 The UK's policy towards the rehabilitation of sexual offenders, including those who have offended against children, is focused around a wider culture of rehabilitation. This focus was outlined in a Ministry of Justice paper "Transforming Rehabilitation: A Strategy for Reform" in May 2013<sup>178</sup>. In the paper, the Secretary of State for Justice (at the time Chris Grayling) outlined that the Government should ensure that those who break the law "are not only punished, but also receive *mentoring and rehabilitation support to get their lives back on track so they do not commit crime again*" (italics added for emphasis) and to support offenders as they move "through the prison gate."
- 2.3 The techniques used to rehabilitate offenders range from educational and vocational training to help the offender learn skills for use once they return to society, to psychological rehabilitation. Rehabilitation takes place both inside prison and once an offender is released, often through resettlement programmes. In these circumstances, help often continues to be provided by the probation services and other agencies to assist the safe transition of offenders back into the community. Certain research has shown that intervention with people with sexual convictions appears to be more effective in a community environment than in prison, which has led to a call for better community reintegration and rehabilitation.<sup>179</sup>
- 2.4 With regard to sexual offences against children, there are a number of factors that may impact whether an individual could re-offend, including social and emotional isolation, emotional immaturity and general problems relating to interactions with others. A report published by HM Inspectorate of Probation and HM Inspectorate of Prisons on male sexual offenders (the "HM Inspectorate Report")<sup>180</sup> found that the National Probation Service (the "NPS")<sup>181</sup> struggled to understand, support and ultimately rehabilitate sexual offenders and this in turn was failing to protect the public and to address probation violations. The NPS is one of the primary bodies responsible for the rehabilitation of child sex



offenders once they leave prison. As such, the HM Inspectorate Report determined that significant improvement is needed to ensure that sexual offenders are managed effectively in prison and in the community.

2.5 The HM Inspectorate Report focused on male sexual offenders against children and does not comment on female offenders. Given that the majority of child sexual abuse cases are conducted by male perpetrators we believe the information provided by the memo is still highly relevant.

2.6 Please also note that the HM Inspectorate Report and the following facts and figures used concern sexual offenders in general, unless stated otherwise, and do not tend to differentiate between types of sexual offences but rather consider sexual offences holistically (including offences against children). However, we still consider the information pertinent:

- According to a UK Prison Population Briefing Paper published on 3 July 2020<sup>182</sup> approximately 15% of the UK prison population, or over 12,750 prisoners, have sexual convictions, this number includes offenders who have committed offences against children.
- The NSPCC (a UK charity focused on child abuse) states that they are unable to give an exact figure on the number of children who have experienced sexual abuse in the UK due to the nature of the abuse often being hidden from view. However, using available sources including services that work with children and previous research the NSPCC estimates that around 1 in 20 children in the UK have been sexually abused (although the number may be as high as 1 in 10).<sup>183</sup>
- The NSPCC also reports that in the UK the number of sexual offences recorded against children in 2017/2018 was around 60,000.<sup>184</sup>
- As of March 2018, around 60,000 individuals were listed on the Sex Offenders' Register ("SOR") the SOR includes people who have offended after the register was introduced in 1997 and currently live in the UK. The SOR is a register containing details of individuals convicted, cautioned or released from prison for a sexual offence against children or adults since 1997. Multi-Agency Public Protection Arrangements (MAPPA) is a well-resourced program, where police, probation and prison services work together with other agencies to monitor released offenders on the SOR, and manage their integration back into the community. Many different agencies, such as social, health, job services, local housing and education providers, have a duty to cooperate in the MAPPA process<sup>185</sup>.
- These figures do not include the thousands of others who have committed sexual offences against children before 1997 and those thought to be under investigation for committing a sexual offence against a child.
- Crucially, according to some studies<sup>186</sup> it estimated that around one in ten of those released from prison and back into the community will go on to commit another sexual offence (whether this be against a child or otherwise). Considering that child sexual abuse is hidden, underreported, and difficult to detect, the true number of reoffending is likely higher.

## Issues surrounding rehabilitation

3.1 The focus of the British government's policy in rehabilitating child sexual offenders considers both the custodial stage, but also the reintegration of offenders into society upon release. The HM Inspectorate Report highlighted a number of evidence-based issues concerning the current approach to rehabilitation, and we have set out the main issues below.

### 3.2 Misunderstanding of rehabilitation theories and methods to use

- The HM Inspectorate Report found that current accredited programmes for sexual offenders are underused in the community and in prisons. The HM Inspectorate Report also found that the theories

providing the platform for effective rehabilitation are not sufficiently understood by staff and the prescribed methods are not used well in practice.

- Such theories include those surrounding desistance (how people with a previous pattern of offending come to abstain from crime). In terms of poor methodology, the report highlights the misunderstanding of NPS staff of the level of risk ascribed to sexual offenders and ensuring an adequate review of said risk level by the NPS. The report also highlights the misgivings of rehabilitation staff (NPS employees among others) in ensuring changes in the risk levels of offenders are identified at an early stage.

### **3.3 Poor coordination across rehabilitation groups**

- At a national level, there are a number of different teams and boards responsible for a variety of strands of work with sexual offenders. The HMPPS (HM Prison and Probation and Prison Service) includes the HM Prison Service and the NPS. Although under the same umbrella system, the cooperation of these different groups can result in difficulty in determining how responsibility for strategic initiatives is formally communicated across groups. However, at the local level, police, probation, prisons and many other agencies and services have a duty to co-operate under MAPPA, who oversees co-ordination (see above at 2.6).

### **3.4 Generalised rather than tailored rehabilitation strategies and poor training**

- The poor coordination across rehabilitation groups may translate into poor training of staff, and the HM Inspectorate Report notes that certain trainee probation officers felt their training was insufficient for them to work effectively with sexual offenders.
- The HM Inspectorate Report also found an over-reliance on the use of accredited and generalised programmes for managing convicted sexual offenders in prison including relating to education, work or training which were noted as helpful but not enough in the sense of reducing the risk of harm of said offenders in the future.
- Instead the report encouraged a more tailored strategy to each individual including the use of structured interventions to address offending behaviour such as developing personal strengths, setting positive goals for the future and making the link between offenders' attitudes, thinking and behaviour and their offending.
- The HM Inspectorate Report highlighted that offender supervisors and custody probation officers had little time to deliver structured individual work aimed at reducing risk of harm and likelihood of reoffending. Most uniformed and non-operational offender supervisors did not have any specific training to undertake such work. Case records, examined as part of the report, showed too little work taking place with those not suitable for programmes, with little work aimed at motivating the prisoner and little focus on reinforcing the lessons learned on accredited programmes.
- However, in terms of good practice the HM Inspectorate Report praises an example in Newcastle where a North-East division of the NPS was in the process of launching a web-based package of information and guidance for staff who work with sexual offenders to act as a 'one-stop shop' to provide all information in one easy to use portal. This was praised as a better alternative than leaving NPS officers feeling inundated with information and guidance on the rehabilitation of such offenders.

### 3.5 Lack of suitable accommodation to house released offenders

- The HM Inspectorate Report also highlights the widespread problem with the lack of suitable accommodation for prisoners released from custody. Given the increase in the number of men convicted of sexual offences, the report determined that there are insufficient places in approved premises for all of them to be housed on release. HMI Probation's recent inspection of the role and use of approved premises concluded that there was an estimated shortfall of 25 per cent.
- Three of the five prisons that were visited in the make-up of the HM Inspectorate Report remarked that there was a shortage of approved premises places to house offenders and that some referrals had been made so near to release that a place was not yet available. Further, the report highlights that there were too few places for offenders with social care or disability needs. Finding care homes to manage the release of men with high-level social care needs was a growing problem, particularly given the ageing population in prison.
- The rehousing of offenders is often a useful way to integrate sexual offenders back into society, provided it is accompanied by an appropriate monitoring regime so that offenders do not become isolated and resort to old habits.

### 3.6 Other reports - public antipathy towards rehabilitation

- Although not mentioned extensively in the HM Inspectorate Report another issue with rehabilitation that appeared regularly in our research was the view of the general public to punish, rather than help child sex offenders. The perception of the public is often that once somebody is a sex offender that individual will always be a sex offender, and therefore they should be reprimanded without any rehabilitation, as the provision of treatment is often seen as a "soft" approach to punishment.
- Given the heinous nature of such crimes this view is entirely understandable, however as pointed out in the research, child sex offenders will serve finitely termed sentences and will therefore re-enter society at some stage. Therefore, it seems logical to rehabilitate these offenders (and effectively manage them upon release) to minimize their risk to society once they return to civilian life *after ensuring that they serve an appropriate sentence commensurate to the gravity of their offences*.
- Moreover, some research has shown that prisons with a more therapeutic climate are more likely to help those with sexual convictions address their offending behaviour and make personal changes which could reduce reoffending.<sup>187</sup>

### 3.7 Other reports - failure of previous schemes

- The HM Inspectorate Report briefly mentions that there has been a notable failure with previous sex offender treatment programmes which may have even led to more reoffending, and we also identified this trend in our own research.
- The previous programme used to rehabilitate sex offenders was the Core Sex Offender Treatment Programme ("SOTP"). The scheme attempted to challenge the behaviour of male sex offenders with psychological techniques to change their thinking. The scheme was first approved in 1992 and eventually disbanded in 2017.
- A study by the Ministry of Justice on the SOTP programme determined that "More treated sex offenders committed at least one sexual re-offence [excluding breach of conditions of release] during the follow-up period when compared with the matched comparison offenders (10% compared

with 8%)," i.e. those on the SOTP programme were more likely or at least equally likely to commit an offence than those not on the scheme.<sup>188</sup>

- Some of the criticisms levelled at the SOTP programme included suggestions that group treatment normalises the behaviour of the individual. When information was shared, individuals' behaviour may not be seen as wrong or different but could at worst even lead to contacts being shared. Another criticism was that the scheme had become too generic and was based around a "detailed manual" rather than being tailored to each individual offender.<sup>189</sup>
- The review by the Ministry of Justice and accompanying criticisms led to the scrapping of the SOTP programme in March 2017 and it was replaced by the Kaizen and Horizon Programmes.

## **Kaizen and horizon programmes**

4.1 As part of their licence conditions, sex offenders may have to participate in sex offender work programmes. These programmes look at the causes of offending and how to avoid offending behaviour. Participation may last from a few months to a year or more. Normally, it would not be advisable to attend these courses if the defendant is maintaining innocence, and the defendant would be asked to obtain legal advice before signing up to such a programme.

4.2 However as previously mentioned, in March 2017, the SOTP Programme was abolished and new offender behaviour courses were introduced which are suitable for people maintaining their innocence because they do not require an admission of guilt. All individuals in the UK convicted of a sexual offence who have been designated as medium risk or high/very high risk of reoffending now have to do one of the below two programmes. In summary, the Horizon programme is aimed at medium-risk offenders aiming to teach offenders to manage their unhealthy sexual thoughts and behaviours and the Kaizen programme is focused on the higher risk offenders. These programmes are explained in more detail below:

- **Horizon**

- (i) This is a new programme for men over 18 who have been assessed as medium risk and have been convicted of a sexual offence. The programme can be delivered in both custodial and community sites. It lasts for a total of 60 hours and uses an integrated model of change to provide a bio-psycho-social explanation of sexual offending. It targets issues of problem-solving, self-regulation, relationships, sexual attitudes, and behaviours.
- (ii) In 2019, the Ministry of Justice commissioned a process study of the Horizon Programme<sup>190</sup>, receiving feedback from both group participants and staff. The key findings of this report were broadly positive, and completion rates for the Horizon programme were high, with 83% of those who started the programme completing it (90% completion in custody sites and 75% completion in community sites).
- (iii) According to the study, group members identified that they had increased confidence, greater assertiveness, increased problem-solving skills and improved relationships following completion of the programme. However, the pitch of the programme was felt to be inconsistent in places, with probation staff particularly concerned about men who had committed internet related offences.

- **Kaizen**

- (iv) This is a new programme for adult males who are assessed as high or very high risk. It is for people who have been convicted of violent or sexual offences. There are no official publications on this programme but the Ministry of Justice disclosed various details of the programme pursuant to a freedom of information request (FOIR) dated 3 February 2020<sup>191</sup>.
- (v) The programme was awarded accreditation and introduced to the prison estate in 2017. As of 20 February 2020, the Kaizen programme was implemented in 11 prisons across the UK. The programme is delivered by a multi-disciplinary team, including psychology staff, prison officer specialists and general directly employed facilitator grade staff.
- (vi) All individuals who facilitate the delivery of Kaizen must have completed a 5-day Kaizen-specific training course. The response to FOIR reports that the initial feedback from staff and participants have been positive, but there is limited disclosure on the detail of feedback.

4.3 Both Kaizen and Horizon include the ‘New Me MOT’ as part of their accreditation. The ‘New Me MOT’ is a toolkit that can be used by probation officers to provide ongoing support to those who complete the programmes. It is grounded in both the principles of effective probation supervision and in the need to offer attendees the opportunity to consolidate their learning and generalise this to other contexts.

4.4 The Horizon and Kaizen programmes are not available to low risk offenders. There is no mandatory rehabilitation programme designed specifically for women.

## Other sources of support

5.1 While Kaizen and Horizon programmes are mandatory for individuals with medium or high/very high risk of reoffending, there are a growing number of other sources of support for those arrested for sexual offences, those convicted, and for former prisoners actively seeking rehabilitation. For instance, The Lucy Faithfull Foundation (LFF), a child protection charity dedicated to preventing child sexual abuse, works with people who have sexually harmed or fear they might harm a child. Their Inform + psychoeducational programme is run from centres of population across the UK, including in Epsom, Surrey. Specifically designed for CSEM offenders, it has seen over 3,000 participants since 2007. A companion programme, Inform, is for wives and other family members of these offenders, addressing their support needs and, as appropriate, helping them play their part in the rehabilitation story. Another companion programme is Inform YP, for under 21’s involved in online offending. As well as providing a range of publications on child sexual abuse prevention, LFF also runs Stop It Now! UK and Ireland. Stop It Now! comprises both a child sexual abuse prevention campaign and a telephone helpline for adults concerned to prevent child sexual abuse, including those concerned about their sexual behaviour towards children.<sup>192</sup> It’s self-help website for those concerned about their own online behaviour of viewing indecent images of children (CSEM) received over 200,000 unique UK visitors in 2019/20.

5.2 Other rehabilitation and treatment programmes include Safer Living Foundation, StopSO, Merseyside Forensic Service and Bracton Clinic.

## Potential success stories of rehabilitation

6.1 When communicating with the press or giving interviews, sexual offenders who are looking to re-integrate back into society will often use a different name to protect their identity and that of their family. The following examples use these pseudonyms and provide evidence of offenders who have



“successfully” gone through rehabilitation. However, the “success” of such rehabilitation is obviously dependent on the listed offenders not reoffending which may not always be the case. Ongoing offender management or support to not reoffend is critical.

- **Ed - article by ITV News 3 April 2018<sup>193</sup>**

- (i) Ed is a convicted sex offender who viewed and downloaded thousands of images of child abuse. He received a community service sentence after he was caught with 27,000 images of child abuse on his computer.
- (ii) He voluntarily signed up to specialist therapy designed to rehabilitate sex offenders and subsequently stated he was now confident he would not reoffend.
- (iii) In his interview, Ed stated that “I feel I’m being probably better equipped to avoid re-offending through this community order with the additional support of the rehabilitation programmes.” He also stated, “I can’t in my deepest heart imagine ever getting close to viewing these images again.”

- **Mike - article by the Guardian 1 March 2015<sup>194</sup>**

- (i) Mike is a convicted sex offender who served a 10-year jail sentence for abuse he carried out within his family.
- (ii) Mike was based at HMP Whatton in Nottinghamshire where all inmates are convicted sex offenders. He was later served by the Safer Living Foundation who were working at the facility with a new approach to rehabilitation, working with probation staff, academics from Nottingham Trent University, the police and Circles UK (a charity organisation).
- (iii) Circles UK has had particular success and as of 2015, it had produced an 83% reduction in reoffending rates among the sex offenders it took on.
- (iv) Mike applauded the Circles of Support and Accountability scheme that he participated in via the two charities. The scheme consisted of four or five trained volunteers, with professional supervision, who met regularly with Mike to hold him to account for his behaviour and to support his reintegration back into society. He had to provide a detailed explanation of his behaviour including difficult personal questions. This tough approach was accompanied by encouragement to join in with activities to increase his societal involvement including attending art galleries, the British library and going for coffee all with the volunteers’ accompaniment.
- (v) On his experience with the charities and the rehabilitation process, Mike remarked “I can’t express how valuable that has been for me”.

# End notes

<sup>1</sup> Technology Coalition, 'The Technology Coalition announces Project Protect', 10 June 2020,

<<https://www.technologycoalition.org/2020/05/28/a-plan-to-combat-online-child-sexual-abuse/>>

See also Technology Coalition, 'Voluntary Principles to Counter Online Child Sexual Exploitation and Abuse', 5 March 2020,

<<https://www.technologycoalition.org/2020/03/01/technology-coalition-statement-on-the-voluntary-principles/>>.

IJM also supports the UK Independent Inquiry's recommendation to pass online harms legislation and establish an independent regulator to enforce compliance. Independent Inquiry Child Sexual Abuse, 'The Internet', (Investigation Report, March 2020), 84-92.

<<https://www.iicsa.org.uk/key-documents/17805/view/internet-investigation-report-march-2020.pdf>>;

See also BBC News, 'Record number of online child abuse logged by police' (online) 2 September 2020. <<https://www.bbc.com/cdn.ampproject.org/c/s/www.bbc.com/news/amp/technology-54005520>>.

<sup>2</sup> Philippine Senator Loren Legarda, 'Privilege Speech of Senator Legarda Ending Online Sexual Exploitation of Children', (Speech delivered at 18<sup>th</sup> Congress, Senate of the Philippines, Senate Session Hall, 14 March 2018)

<[https://www.senate.gov.ph/press\\_release/2018/0314\\_legardal.asp](https://www.senate.gov.ph/press_release/2018/0314_legardal.asp)>.

<sup>3</sup> International Justice Mission, 'Online Sexual Exploitation of Children in the Philippines: Analysis and Recommendations for Governments, Industry, and Civil Society', (Report, 5 May 2020), 12. <[https://www.ijm.org/documents/studies/Final-Public-Full-Report-5\\_20\\_2020.pdf](https://www.ijm.org/documents/studies/Final-Public-Full-Report-5_20_2020.pdf)>.

<sup>4</sup> The PICACC, a model for an enhanced global response against OSEC, is a cooperation among local and international law enforcement, namely the Philippine National Police's Women and Children Protection Center (PNP-WCPC), the National Bureau of Investigation's Anti-Human-Trafficking Division (NBI-AHTRAD), the Australian Federal Police (AFP), and the United Kingdom National Crime Agency (UK NCA); in partnership with the non-government organization, International Justice Mission (IJM). In its first year, the PICACC had 41 operations leading to the rescue of 136 victims and children-at-risk of OSEC and the arrest of 41 suspected OSEC in-person traffickers.

Australian Federal Police, 'PICACC celebrates first year; firm in its resolve to end OSEC', (Media Release, 11 March 2020). <<https://www.afp.gov.au/news-media/media-releases/picacc-celebrates-first-year-firm-its-resolve-end-osec>>.

<sup>5</sup> National Crime Agency Communication, 10 July 2020.

<sup>6</sup> Department for Digital, Culture, Media and Sport, Home Office, 'Online Harms White Paper', (White Paper, UK Government, 12 February 2020). <<https://www.gov.uk/government/consultations/online-harms-white-paper>>.

<sup>7</sup> This number was calculated using sentences of UK livestreaming offenders with international victims. Alain C. was excluded because his offending involved four years of in-person sexual abuse of children in the Philippines, thus accounting for his longer sentence.

<sup>8</sup> WeProtect Global Alliance, 'Threat Assessment 2019', (Report, WePROTECT Global Alliance) 37.

<<https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5deecb0fc4c5ef23016423cf/1575930642519/FINAL+-+Global+Threat+Assessment.pdf>>.

<sup>9</sup> See e.g. Drug traffickers, 10 to 27-year sentences: Shropshire Star, 'Drug gang members who supplied cocaine worth £70m jailed for 11 years', (online) 15 January 2020. <<https://www.shropshirestar.com/news/uk-news/2020/01/15/drugs-gang-members-who-supplied-cocaine-worth-70m-jailed-for-11-years/>>;

See also: Gun smuggler 30 year sentence: BBC News UK, 'Harry Shilling: UK gun smuggler jailed for 30 years', (online) 3 June 2016.

<<https://www.bbc.com/news/uk-36446462>>;

See also: Gun trafficker, 30 year sentence: Steven Morris, 'Antique gun dealer jailed supplying gangsters Paul Edmunds', The Guardian (online) 21 December 2017. <<https://www.theguardian.com/uk-news/2017/dec/21/antique-gun-dealer-jailed-supplying-gangsters-paul-edmunds>>;

See also: Drug smuggler, 10 year sentence: Conrad Duncan, 'Man jailed for 10 years after UK's largest residential seizure of MDMA and crystal meth, police say', Independent (online) 10 July 2020. <<https://www.independent.co.uk/news/uk/crime/uk-crime-drug-seizure-mdma-crystal-meth-metropolitan-police-patrick-scotland-a9612746.html>>;

Gun smugglers, 14 years to 21 years and 8 month sentence: BBC UK, 'Gang who imported blank guns and converted them jailed', 2 July 2018.

<<https://www.bbc.com/news/uk-england-birmingham-44681864>>.

<sup>10</sup> WeProtect Global Alliance, 'Threat Assessment 2019', (Report, WePROTECT Global Alliance), 37.

<<https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5deecb0fc4c5ef23016423cf/1575930642519/FINAL+-+Global+Threat+Assessment.pdf>>.

<sup>11</sup> 1 Cr App R (S) 58.

<sup>12</sup> See below n 22-24.

<sup>13</sup> Lindsay Murdoch, 'Children as young as two rescued from Philippines cybersex abuse dens', The Sydney Morning Herald, (online), 3 June 2017.

<<https://www.smh.com.au/world/children-as-young-as-two-rescued-from-philippine-cybersex-abuse-dens-20170603-gwjmg5.html>>. At the time, Rouse was Head of Australia's Taskforce Argos out of Queensland Police; he now serves as Manager Operations – Victim Identification – Training for the Australian Centre to Counter Child Exploitation (ACCCE).

<sup>14</sup> *The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, also known as the Luxembourg Guidelines, prescribes the use of the term "child sexual abuse material" or "child sexual exploitation material" instead of "child pornography," except when referencing the name of statute. Sexualized material that depicts or otherwise represents children is a representation, and a form, of child sexual abuse and should not be described as "pornography."

<sup>15</sup> Andrea Varrella, 'Live Streaming of Child Sexual Abuse: Background, Legislative Frameworks and the Experience of the Philippines' (2017) 12 ECPAT Journal 47, 49.

<sup>16</sup> United Nations, 'Sustainable Development Goals, Goal 16: Promote just, peaceful and inclusive societies'.

<<https://www.un.org/sustainabledevelopment/peace-justice/>>

<sup>17</sup> Jamie Grierson and Sally Weale, 'NCA predicts rise in online child sexual abuse during coronavirus pandemic', The Guardian, (online), 3 April 2020. <<https://www.theguardian.com/society/2020/apr/03/nca-predicts-rise-in-online-child-sexual-abuse-during-coronavirus-pandemic>>.

<sup>18</sup> According to Chief Constable Simon Bailey, the National Police Chiefs' Council (NPCC) Lead for Child Protection and Abuse Investigations, the UK is "the third greatest consumer in the world of the live streaming of abuse.": see below n 171 and accompanying text. See also Independent Inquiry Child Sexual Abuse, 'The Internet', (Investigation Report, March 2020), 74. <<https://www.iicsa.org.uk/key-documents/17805/view/internet-investigation-report-march-2020.pdf>>. The Inquiry also noted it is very familiar with the commercial livestreaming of abuse for payment, particularly from Southeast Asia.

<sup>19</sup> Deutsche Welle, 'Police in Germany investigate 30,000 potential suspects in pedophile probe', (online) 29 June 2020. <<https://amp.dw.com/en/germany-investigating-30000-potential-suspects-in-pedophile-probe/a-53984249>>.

<sup>20</sup> SunStar, 'Collaboration leads to German child sex offender's arrest, conviction' (online) 8 July 2020.

<<https://www.sunstar.com.ph/article/1862883/Network/Local-News/Collaboration-leads-to-German-child-sex-offenders-arrest-conviction>>. Dennis received 5-years imprisonment, with previous custodial time for other CSEM offending.

<sup>21</sup> Associated Press, 'Germany plans to toughen child abuse laws', The Seattle Times (online) 1 July 2020. <<https://www.seattletimes.com/nation-world/world/germany-plans-to-toughen-child-abuse-laws/>>.

<sup>22</sup> Rick Brown, et al., 'Australians who view live streaming of child sexual abuse: An analysis of financial transactions', (Research paper, No. 589 in Trends and issues in crime and criminal justice, Australian Institute of Criminology, 19 February 2020); see also, Matthew Doran, '256 Australians spend more than \$1.3million watching child sexual abuse online', ABC Live Blog (online), 19 February 2020. <<https://www.abc.net.au/news/2020-02-19/australians-paying-to-watch-child-sex-abuse-online/11979844>>.

<sup>23</sup> Paul Karp, 'Labour waves through bill creating mandatory minimum sentences for child sexual abuse offences', The Guardian, (online), 16 June 2020. <<https://www.theguardian.com/australia-news/2020/jun/16/labor-waves-through-bill-creating-mandatory-minimum-sentences-for-child-sexual-abuse-offences>>.

<sup>24</sup> In response, the Australian Government passed the Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2019 (Cth) introducing: new offences, better encapsulating OSEC offending; increased penalties; and mandatory minimums (see [IJM AU summary here](#)); See also International Justice Mission Australia, below n 151.

<sup>25</sup> INTERPOL, *Threats and Trends Child Sexual Exploitation and Abuse COVID-19 Impact*, (Report, September 2020) 13. Access here:

<<https://www.interpol.int/en/News-and-Events/News/2020/INTERPOL-report-highlights-impact-of-COVID-19-on-child-sexual-abuse>>.

WeProtect Global Alliance, *Threat Assessment 2018*, (Report, WePROTECT Global Alliance) 8.

<[https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5a83272c8165f5d2a348426d/1518544686414/6.4159\\_WeProtect+GA+report.pdf](https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5a83272c8165f5d2a348426d/1518544686414/6.4159_WeProtect+GA+report.pdf)> See also the Virtual Global Taskforce, 'Online Child Sexual Exploitation: Environmental Scan Unclassified Version 2019' (Report, Virtual Global Taskforce) 18. <[http://virtualglobaltaskforce.com/wp-content/uploads/2020/02/2019-Virtual-Global-Taskforce-Environmental-Scan\\_Unclassi.pdf](http://virtualglobaltaskforce.com/wp-content/uploads/2020/02/2019-Virtual-Global-Taskforce-Environmental-Scan_Unclassi.pdf)>.

<sup>26</sup> Independent Inquiry Child Sexual Abuse, 'The Internet', (Investigation Report, March 2020), 74. <<https://www.iicsa.org.uk/key-documents/17805/view/internet-investigation-report-march-2020.pdf>>.

<sup>27</sup> National Crime Agency, 'Law enforcement in coronavirus online safety push as National Crime Agency reveals 300,000 in UK pose sexual threat to children', (Online article, April 2020). <<https://www.nationalcrimeagency.gov.uk/news/onlinesafetyathome>>.

<sup>28</sup> WePROTECT Global Alliance, 'Impact of COVID-19 on Online Child Sexual Exploitation', (Intelligence Brief, 13 April 2020).

<<https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/5ebc58d038eb072b909874ca/1589401809129/Impact+of+COVID-19+on+Online+Child+Sexual+Exploitation.pdf>>.

<sup>29</sup> Shalailah Medora, 'eSafety office records 340% spike in complaints as coronavirus impacts online behaviour' ABC: Triple J Hack (online) 22 April 2020. <<https://www.abc.net.au/triplej/programs/hack/complaints-esafety-increase-341-percent-because-coronavirus/12174654>>.

<sup>30</sup> Australian Federal Police, 'Predators exploiting kids online during virus second wave' (Media Release, 21 July 2020).

<<https://www.afp.gov.au/news-media/media-releases/predators-exploiting-kids-online-during-virus-second-wave>>.

<sup>31</sup> Meagan Dillon, 'Child exploitation websites 'crashing' during coronavirus amid sharp rise in reported abuse', ABC News, (online), 20 May 2020.

<<https://www.abc.net.au/news/2020-05-20/afp-concerned-by-child-exploitation-spike-amid-coronavirus/12265544>>.

<sup>32</sup> Australian Federal Police, above n 30.

<sup>33</sup> INTERPOL, above n. 25.

<sup>34</sup> Europol, 'Catching the Virus' (Press Release, 3 April 2020). <<https://www.europol.europa.eu/newsroom/news/catching-virus>>.

IWF, Millions of attempts to access child sexual abuse online during lockdown' (20 May 2020) <<https://www.iwf.org.uk/news/millions-of-attempts-to-access-child-sexual-abuse-online-during-lockdown>>.

<sup>35</sup> BBC News, 'Germany investigates 30,000 suspects over paedophile network' (online) 29 June 2020. <<https://www.bbc.com/news/world-europe-53224444>>.

<sup>36</sup> BBC News, 'Major child sexual abuse trial begins in Germany', (online) 17 Aug 2020. <<https://www.bbc.com/news/world-europe-53813249>>.

<sup>37</sup> Europol, 'Massive Investigation in Italy Combatting Online Child Sexual Abuse' (Press Release, 8 July 2020).

<<https://www.bbc.com/news/world-europe-53813249>>.

<sup>38</sup> Europol, 'Exploiting Isolation: Offenders and Victims of Online Child Sexual Abuse During the COVID-19 Pandemic', (Report, 19 June 2020) 4. <<https://www.europol.europa.eu/publications-documents/exploiting-isolation-offenders-and-victims-of-online-child-sexual-abuse-during-covid-19-pandemic>>.

<sup>39</sup> OSCE, 'Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic' (Office for Democratic Institutions and Human Rights, Report, 30 July 2020) <<https://www.osce.org/odihr/human-trafficking-COVID-19-report>>.

<sup>40</sup> PBGEN Alessandro Abella and Evelyn Pingul, 'PICACC Press Release: 13 children and 2 adults in Bislig City rescued from online sexual exploitation, 5 traffickers arrested.' IJM OSEC News (online) 24 August 2020. <<https://osec.ijm.org/news/?p=772>>.

<sup>41</sup> Michael H. Keller and Gabriel J. X. Dance, 'The Internet Is Overrun with Images of Child Sexual Abuse. What Went Wrong?', *The New York Times*, (online), 29 Sept 2019. <<https://www.nytimes.com/interactive/2019/09/28/us/child-sex-abuse.html>>; "Child Abusers Run Rampant as Tech Companies Look the Other Way", *The New York Times*, (online), 9 November 2019.

<<https://www.nytimes.com/interactive/2019/11/09/us/internet-child-sex-abuse.html>>: These articles brought public attention to what industry, law enforcement, and involved NGOs have long know: major tech platforms detect and report an enormous volume of CSEM, yet relatively little is being done to detect and report CSEM closer to its source, where the criminal depictions are first created through the abuse and exploitation of live child victims in OSEC.

<sup>42</sup> Independent Inquiry Child Sexual Abuse, 'The Internet', (Investigation Report, March 2020), 78. <<https://www.iicsa.org.uk/key-documents/17805/view/internet-investigation-report-march-2020.pdf>>.

<sup>43</sup> International Justice Mission, above n 3.

<sup>44</sup> Names marked with an asterisk are pseudonyms. Seeking her independence and an opportunity to make her mark on the world, Ruby was recruited for a job by someone she had come to know through social media messaging. The job offered her was in a computer shop and with it would come the opportunity to go to school, visit home, and money. It was all a lie. Instead, she was trapped in a house -- a cybersex den with a guard and enslaved with no way of escaping. IJM was able to help Philippine authorities pinpoint her location and rescue her alongside five other girls. Today, Ruby is free, safe and advocates on behalf of those who are in similar situations. ([Listen to Ruby's story here](#)).

<sup>45</sup> With separated parents and a grandmother who recently died, Marj was largely left alone at her house. She was first exploited when she was 13 years old. An older sister of a friend, another victim, invited Marj into her house to take photos and in time told her to take her clothes off. This abuse lasted for two years; she was rescued with 11 other children and one adult victim. Marj is now free and committed to going to college to pursue a career in social work so she can help other victims like her.

<sup>46</sup> Keller and Dance, Above n 41.

<sup>47</sup> Ibid.

<sup>48</sup> ECPAT International, 'Emerging Global Threats Related to the Sexual Exploitation of Children Online'. (Briefing Paper, 6 June 2017).

<<https://www.ecpat.org/wp-content/uploads/2018/08/Briefing-Paper-Emerging-Issues-and-Global-Threats-Children-online-06.06.17.pdf>>.

<sup>49</sup> Canadian Centre for Child Protection, 'Child Sexual Abuse Images on the Internet: A CyberTip.ca Analysis – Summary of Key Findings', (Report, January 2016). <[https://www.protectchildren.ca/pdfs/CTIP\\_CSAResearchReport\\_Summary\\_2016\\_en.pdf](https://www.protectchildren.ca/pdfs/CTIP_CSAResearchReport_Summary_2016_en.pdf)>; See also INTERPOL, 'INTERPOL network identifies 10,000 child sexual abuse victims', (News Report, 9 January 2017). <<https://www.interpol.int/en/News-and-Events/News/2017/INTERPOL-network-identifies-10-000-child-sexual-abuse-victims>>.

<sup>50</sup> 'Speech by Commissioner Johannsen at a webinar on 'Preventing and combating child sexual abuse & exploitation towards and EU response' (9 June 2020) <[https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/speech-commissioner-johansson-webinar-preventing-and-combating-child-sexual-abuse-exploitation\\_en](https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/speech-commissioner-johansson-webinar-preventing-and-combating-child-sexual-abuse-exploitation_en)>.

<sup>51</sup> WePROTECT Global Alliance, above n 8, 36-37.

<sup>52</sup> WePROTECT Global Alliance, 'Preventing and Tackling Child Sexual Exploitation and Abuse (CSEA): A Model National Response', (Report, WePROTECT, November 2016), 11.

<<https://static1.squarespace.com/static/5630f48de4b00a75476ecf0a/t/582ba50bc534a51764e8a4ec/1549388168335/WePROTECT+Global+Alliance+Model+National+Response+Guidance.pdf>>.

<sup>53</sup> Articles on drug and firearms trafficking, above n 9.

<sup>54</sup> See Daniel S. Nagin, 'Deterrence in the Twenty-First Century' (2013) 42 *Crime and Justice in America: 1975-2025*; See also Raymond Paternoster, 'How Much Do We Really Know about Criminal Deterrence?' (2010) 100.3 *Journal of Criminal Law and Criminology* 765-824.

<sup>55</sup> See Home Office, 'The Child Abuse Image Database' (Report, May 2018).

<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/759328/CAID\\_Brochure\\_May\\_2018\\_for\\_gov\\_uk.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759328/CAID_Brochure_May_2018_for_gov_uk.pdf)>.

<sup>56</sup> Sentencing Council UK, *Possession of indecent photograph of child*, <<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/possession-of-indecent-photograph-of-child/>>.

<sup>57</sup> Sentencing Council UK, 'Sexual Offences Definitive Guideline' (Guideline, effective 1 April 2014). <<https://www.sentencingcouncil.org.uk/wp-content/uploads/Sexual-offences-definitive-guideline-Web.pdf>>; Sentencing Council UK, *Possession of indecent photograph of child*, <<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/possession-of-indecent-photograph-of-child/>>; Sentencing Council UK, *Sexual Activity with a child/Causing or inciting a child to engage in sexual activity*,

<<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/sexual-activity-with-a-child/>>; Sentencing Council UK, *Sexual assault of a child under 13*, <<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/sexual-assault-of-a-child-under-13/>>.

<sup>58</sup> The charge of making is also interpreted to cover opening attachments to emails and downloading or viewing images on the internet. However, in terms of sentencing, it should be treated as possession. See Sentencing CPS, *Indecent and Prohibited Images of Children*, <<https://www.cps.gov.uk/legal-guidance/indecent-and-prohibited-images-children>>; See also Sentencing Council UK, 'Sexual Offences Definitive Guideline', (Guideline, effective 1 April 2014). <<https://www.sentencingcouncil.org.uk/wp-content/uploads/Sexual-offences-definitive-guideline-Web.pdf>>.

<sup>59</sup> There is also an alternative possession charge available under s 160 of the Criminal Justice Act 1988, that has a 5-year statutory maximum. However, from the sources available, the cases here only involved charges of possession under the Protection of Children Act.

<sup>60</sup> All names and photos of offenders are publicly available, sourced from UK Law Enforcement and public media outlets. Only first name, last initial are used, while faces are blurred. The use of offender faces is meant to show that offenders come from all walks of life.



<sup>61</sup> See Sentencing Council UK, *Determinate prison sentence*, <<https://www.sentencingcouncil.org.uk/about-sentencing/types-of-sentence/determinate-prison-sentences/>>.

<sup>62</sup> Ibid.

<sup>63</sup> Criminal Justice Act 2003 (England and Wales), section 244.

<sup>64</sup> The Criminal Justice Act 2003 provides for the establishment of Multi-Agency Public Protection Arrangements (MAPPA) within England and Wales. MAPPA is a process where police, probation and prison services work together with other agencies to manage the risk of releasing offenders back into the community. Many different agencies, such as social, health, job services, local housing and education providers, have a duty to cooperate in the MAPPA process; see Multi-Agency Public Protection Arrangements, *How does MAPPA work?*, <<https://mappa.justice.gov.uk/connect.ti/MAPPA/view?objectID=5681072>>; see North Yorkshire Police, *Read about how we manage sexual and violent offenders to protect you #Behindthescenes*, 1 October 2018. <<https://northyorkshire.police.uk/news/read-about-how-we-manage-sexual-and-violent-offenders-to-protect-you-behindthescenes/>>.

<sup>65</sup> Criminal Justice Act 2003, section 246A; Extended determinate sentences are available for determinate sentences below 4-years if the offender has certain relevant previous convictions. For conditions determining when extended sentences available, see section 226A(1) <<https://www.legislation.gov.uk/ukpga/2003/44/section/226A>>.

<sup>66</sup> GOV.UK, *Getting Parole*, <<https://www.gov.uk/getting-parole>>.

<sup>67</sup> Sexual Risk Orders are also available under the Sexual Offences Act 2003. They are a helpful tool as they can be sought by law enforcement when there is not enough evidence to charge for an offence. However, as they do not appear in our current case studies and are not part of the court's discretion at sentencing, they are not discussed.

<sup>68</sup> UK Home Office, *Guidance on Part 2 of the Sexual Offences Act 2003*, (Guidance Report, UK Government, September 2018), <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/755142/11.18guidanceonpart2ofthesexualoffencesact2003.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/755142/11.18guidanceonpart2ofthesexualoffencesact2003.pdf)>.

<sup>69</sup> R v Smith and Ors [2011] EWCA Crim 1722.

<sup>70</sup> According to Stop It Now, some internet limitations include no internet access without computer monitoring software installed and no deleting of internet history: Stop It Now, *Being Subject to a Sexual Harm Prevention Order*, <<https://www.stopitnow.org.uk/concerned-about-your-own-thoughts-or-behaviour/concerned-about-use-of-the-internet/get-the-facts/consequences/being-subject-to-a-sexual-harm-prevention-order-shpo/>>.

<sup>71</sup> Sentencing Council. 22. *Sexual Harm Prevention Orders*. <<https://www.sentencingcouncil.org.uk/explanatory-material/magistrates-court/item/ancillary-orders/22-sexual-harm-prevention-orders/>>.

<sup>72</sup> Alain C. was found guilty of abusing children in-person for a number of years, accounting for a drastically higher sentence.

<sup>73</sup> Haitch M. was resentenced by the court of appeals to 4 years through the Unduly Lenient Sentencing Scheme: See National Crime Agency, 'Convicted paedophile with horrendous catalogue of abuse images has jail term increased', (Press Release, 18 June 2020). <<https://nationalcrimeagency.gov.uk/news/convicted-paedophile-with-horrendous-catalogue-of-abuse-images-has-jail-term-increased>>.

Under the UK's automatic parole scheme, Haitch M. will be release after serving only 24 months.

<sup>74</sup> BBC UK, 'Andrew W. jailed for Philippines child abuse', (online), 22 May 2019. <<https://www.bbc.com/news/uk-england-hampshire-48367917>>.

<sup>75</sup> Jon Sharman, 'Andrew W: Disgraced army colonel jailed after instructing women on how to abuse their children over webcam', *Independent*, (online), 22 May 2019. <<https://www.independent.co.uk/news/uk/crime/andrew-whiddett-jailed-army-colonel-child-sexual-abuse-webcam-a8925086.html>>

<sup>76</sup> Previous good character and exemplary conduct can be a mitigating factor (see <https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child/>), which the sentencing judge appeared to reject. However, from publicly available sources it is unclear what aggravating and mitigating factors the judge considered. Andrew W.'s age, at 70, was most likely a mitigating consideration. Even in light of this, given the facts of his offending and numerous serious offences, a sentence 11-years below maximum penalty with a pre-parole period less than the amount of time he abused children is gravely concerning.

<sup>77</sup> One qualified trafficking offence has a sentence of life imprisonment. See: Sunstar Cebu, 'Online trafficker sentenced to life imprisonment in Butuan City', (online), 29 January 2020. <<https://www.sunstar.com.ph/article/1841985>>.

<sup>78</sup> James Hockaday, 'Paedophile paid Filipino mums for pictures of naked daughter jailed', *Metro UK* (online) 29 July 2019.

<<https://metro.co.uk/2019/07/29/paedophile-paid-filipino-mums-pictures-naked-daughters-jailed-10482444/>>.

<sup>79</sup> National Crime Agency, 'Five years in jail and worldwide travel ban for British teacher who wanted to abuse young Filipino children', (Press Release). <<https://www.nationalcrimeagency.gov.uk/news/five-years-in-jail-and-worldwide-travel-ban-for-british-teacher-who-wanted-to-abuse-young-filipino-children>> (Accessed May 2020).

<sup>80</sup> IJM Philippines case files.

<sup>81</sup> Annie Kelly, 'The California policeman helping the Philippines tackle child abuse', *The Guardian International Edition*, (online), 8 October 2018. <<https://www.theguardian.com/global-development/2018/oct/08/californian-policeman-helping-philippines-tackle-online-child-abuse-international-justice-mission>>; Carl Eve, 'How police caged sick paedophile who paid women to abuse toddlers as he watched online', *Plymouth Live*, (online), 15 October 2018. <<https://www.plymouthherald.co.uk/news/plymouth-news/how-police-caged-sick-paedophile-2111252>>.

<sup>82</sup> Ibid.

<sup>83</sup> IJM Philippines case files.

<sup>84</sup> Ibid.

<sup>85</sup> Ben Eccleston, 'Pervert who paid women to sexually abuse children online is jailed for over a decade', *Coventry Live*, (online), 8 November 2019. <<https://www.coventrytelegraph.net/news/local-news/dean-petley-leamington-jailed-17227217>>; BBC West Midlands, 'Dean P. paid women to abuse children online', (online), 9 October 2019. <<https://www.bbc.com/news/uk-england-coventry-warwickshire-49976157>>; Jane Tyler,



'Perverter Dean P., 30, facing jail for paying women to watch them abuse children online', Birmingham Live, (online), 8 October 2019. <<https://www.birminghammail.co.uk/news/midlands-news/pervert-dean-petley-30-facing-17049702>>.

<sup>86</sup> Sentence of conspiracy should not exceed maximum term of imprisonment for relevant offence, i.e. sexual assault: Commonwealth Prosecution Service, *Inchoate offences*, <<https://www.cps.gov.uk/legal-guidance/inchoate-offences>>.

<sup>87</sup> Ellie Cambridge, 'Sick Abuse Evil Female child abuser filmed herself assaulting kids on Whatsapp for sick paedo who asked her to', *The Sun* (online) 15 April 2020. <<https://www.thesun.co.uk/news/11400598/female-child-abuser-whatsapp-assaulting-children/>>; Laura Hartley, 'Dangerous child sex offender who persuaded women to abuse kids is jailed for life', *KentLive* (online) 14 August 2020. <<https://www.kentlive.news/news/kent-news/dangerous-child-sex-offender-who-4427429>>; Sian Elvin, 'Sex offender, 36, jailed for life for encouraging women to abuse children', *Metro* (online) 15 August 2020. <<https://metro.co.uk/2020/08/15/sex-offender-36-jailed-life-encouraging-women-abuse-children-13132864/>>; The Canadian, 'Pedophile jailed for life after 'manipulating' women into filming abusing children' (online) 14 August 2020. <<https://thecanadian.news/2020/08/14/pedophile-jailed-for-life-after-manipulating-women-into-filming-abusing-children/>>; Brinkwire, 'Pedophile jailed for life after 'manipulating' women into filming abusing children' (online) 18 August 2020, <<https://en.brinkwire.com/news/paedophile-jailed-for-life-after-manipulating-women-into-filming-themselves-abusing-children/>>.

<sup>88</sup> Paul Hooper, 'Paedophile from Dorchester jailed after manipulating Tunbridge Wells and Greenhithe women into carrying out sex acts on children' *Kent Online* (online) 14 August 2020. <<https://www.kentonline.co.uk/tunbridge-wells/news/paedophile-jailed-for-life-232198/>>.

<sup>89</sup> The women Jewell coerced faced less severe sentences, showing the Court recognized the overarching authority offenders like Jewell hold – but for his manipulation and direction, the children may not have been abused: The Canadian, 'Pedophile jailed for life after 'manipulating' women into filming abusing children' (online) 14 August 2020. <<https://thecanadian.news/2020/08/14/pedophile-jailed-for-life-after-manipulating-women-into-filming-abusing-children/>>; Brinkwire, 'Paedophile jailed for life after 'manipulating' women into filming themselves abusing children' (online) 18 August 2020. <<https://en.brinkwire.com/news/paedophile-jailed-for-life-after-manipulating-women-into-filming-themselves-abusing-children/>>.

<sup>90</sup> Life sentences are different from determinate and extended determinate sentences in that the judge has discretion when prisoner is eligible to apply for parole. In determinate sentences, the offender serves half of the sentence in prison before automatic release on licence, while in extended determinate sentences, the offender is eligible to apply for parole at the 2/3 point. Sentencing Council UK, 'Life Sentences', <<https://www.sentencingcouncil.org.uk/about-sentencing/types-of-sentence/life-sentences/>>; Gov.UK, 'Types of prison sentences', <<https://www.gov.uk/types-of-prison-sentence/life-sentences>>.

<sup>91</sup> National Crime Agency, 'British woman jailed for live streaming sexual abuse for almost three years', (Press Release, 7 December 2019). <<https://www.nationalcrimeagency.gov.uk/news/british-woman-jailed-for-live-streaming-child-sexual-abuse-for-almost-three-years>> (Accessed May 2020), <<https://www.wired-gov.net/wg/news.nsf/articles/British+woman+jailed+for+livestreaming+child+sexual+abuse+for+almost+three+years+10122019102000?open#:~:text=A%20British%20woman%20who%20was,30%2C%20the%20harrowing%20abuse%20footage>>; Stephen Wynn-Davies, 'Bexhill woman jailed for live streaming online child sexual abuse', *Bexhill-on-Sea Observer*, (online), 9 December 2019. <<https://www.bexhillobserver.net/news/crime/bexhill-woman-jailed-live-streaming-child-sexual-abuse-2500218>>; Elisa Menendez, 'Woman who abused young girl on camera for thousands of pounds jailed', *Metro*, (online), 7 December 2019. <<https://metro.co.uk/2019/12/07/woman-abused-young-girl-camera-thousands-pounds-jailed-11407168/>>; Shingi Marariki, 'Christine C. streamed abuse of girl live', *The Times*, (online), 10 November 2019. <<https://www.thetimes.co.uk/article/christine-callaghan-streamed-abuse-of-girl-live-rbj6b8jqb>>; Harry Bullmore, 'Christine C., Sussex, filmed sexual abuse of girl on Skype', *The Argus*, (online), 11 November 2019. <<https://www.theargus.co.uk/news/18027194.christine-callaghan-sussex-filmed-sexual-abuse-girl-skype/>>; For similar offending, see also Martin Fricker, 'Teacher William Hanna jailed for sexually assaulting girl in attacks broadcast live online', *Mirror* (online) 18 June 2013. <<https://www.mirror.co.uk/news/uk-news/teacher-william-hanna-jailed-sexually-1959406>> and Nick McCarthy and Ross McCarthy, 'Teacher filmed sick hotel sex with girl of 15', *Birmingham Live* (online) 18 June 2013. <<https://www.birminghammail.co.uk/news/local-news/teacher-william-hanna-filmed-sick-4389384>>.

<sup>92</sup> Andy Robinson, 'Paedophile Kristy K. jailed after phone repairer came across her videos of child sex abuse' *KentLive* (online) 1 February 2019. <<https://www.kentlive.news/news/kent-news/paedophile-kristy-kimber-jailed-after-2497608>>; Mary Harris, 'Further revelations over Tunbridge Wells pervert Kristy K. found with child sex abuse videos', *KentLive* (online) 6 February 2019. <<https://www.kentlive.news/news/kent-news/further-revelations-over-tunbridge-wells-2514823>>; See also articles for offender James J., above n 89-90. A second woman was handed a 14-month sentence, suspended for 18 months, in July 2019 after admitting seven child sex offences at Woolwich Crown Court: Sian Elvin, 'Sex offender, 36, jailed for life for encouraging women to abuse children', *Metro* (online) 15 August 2020. <<https://metro.co.uk/2020/08/15/sex-offender-36-jailed-life-encouraging-women-abuse-children-13132864/>>.

<sup>93</sup> Unknown if child is under or over 13 (10 years for over; 14 years for under).

<sup>94</sup> NCA, 'Woman who calls herself 'devil bitch 666' jailed for overseas online child sex offences', *WiredGov* (online) 30 August 2019. <<https://www.wired-gov.net/wg/news.nsf/articles/Woman+who+called+herself+devil+bitch+666+jailed+for+overseas+online+child+sex+offences+30082019111500?open>>; BBC Yorkshire, 'Huddersfield woman jailed for abusing children for money online', (online), 28 August 2019. <>; ITV, 'Woman who sexually abused children online has been jailed', (online), 28 August 2019. <<https://www.itv.com/news/calendar/2019-08-28/woman-who-sexually-abused-children-online-has-been-jailed/>>; James Rodger, 'Depraved woman Jodie L. calling herself Devil B\*\*\*h 666 sexually abused children for money', *Birmingham Live*, (online), 28 August 2019. <<https://www.birminghammail.co.uk/news/midlands-news/depraved-woman-jodie-little-calling-16831109>>; Richard Hartley-Parkinson, 'Female paedophile who called herself devil bitch 666 is jailed for 12 years', *Metro*, (online), 29 August 2019. <<https://metro.co.uk/2019/08/29/paedophile-jodie-little-called-devil-bitch-666-jailed-12-years-10648770/>> <<https://www.bbc.com/news/uk-england-leeds-49499781>>; ITV, 'Woman who sexually abused children online has been jailed',

(online), 28 August 2019. <<https://www.itv.com/news/calendar/2019-08-28/woman-who-sexually-abused-children-online-has-been-jailed/>>; James Rodger, 'Depraved woman Jodie L. calling herself Devil B\*\*\*h 666 sexually abused children for money', Birmingham Live, (online), 28 August 2019. <<https://www.birminghammail.co.uk/news/midlands-news/depraved-woman-jodie-little-calling-16831109>>; Richard Hartley-Parkinson, 'Female paedophile who called herself devil bitch 666 is jailed for 12 years', Metro, (online), 29 August 2019. <<https://metro.co.uk/2019/08/29/paedophile-jodie-little-called-devil-bitch-666-jailed-12-years-10648770/>>.

<sup>95</sup> Sentence of conspiracy should not exceed maximum term of imprisonment for relevant offence, i.e. sexual assault: Commonwealth Prosecution Service, *Inchoate offences*, <<https://www.cps.gov.uk/legal-guidance/inchoate-offences>>.

<sup>96</sup> Sentencing Council, *Possession of indecent photograph of child/indecent photographs of children*, <<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/possession-of-indecent-photograph-of-child/>>.

<sup>97</sup> Adam Everett, 'Robert L. had hundreds of indecent images of children', Warrington Guardian, (online), 17 April 2019, <<https://www.warringtonguardian.co.uk/news/17576546.raid-finds-hundreds-of-images/>>.

<sup>98</sup> Ibid.

<sup>99</sup> It is not publicly reported whether possession was charged under the Criminal Justice Act 1988 with 5-year penalty, or under Protection of Children Act 1978 with 10-year penalty.

<sup>100</sup> National Crime Agency, 'Dark web offender made more than 45,000 child abuse images', (Press Release, 16 March 2020) <<https://www.nationalcrimeagency.gov.uk/news/dark-web-offender-made-more-than-45-000-child-abuse-images>>, <<https://www.wired-gov.net/wg/news.nsf/articles/Dark+web+offender+made+more+than+45000+child+abuse+images+17032020082000?open>> (Accessed May 2020).

<sup>101</sup> How images were made, whether live stream recording or otherwise, is unknown.

<sup>102</sup> Gareth Lightfoot, 'Sex offender amassed more than 45,000 images of children subjected to 'most vile abuse'', Teesside Live, (online), 17 March 2020. <<https://www.gazettelive.co.uk/news/teesside-news/sex-offender-amassed-more-45000-17934278>>.

<sup>103</sup> James Robinson, 'Richard T. and Mark M. jailed for child sex abuse', The Daily Echo, (online), 13 December 2019. <<https://www.dailyecho.co.uk/news/18099573.richard-townsend-mark-metcalf-jailed-child-sex-abuse/>>; Ben Fishwick, 'Hampshire paedophile jailed for 23 years for abusing three children – and his partner is jailed for seven years', Portsmouth, (online), 12 December 2019. <<https://www.portsmouth.co.uk/news/crime/hampshire-paedophile-jailed-23-years-abusing-three-children-and-his-partner-jailed-seven-years-1339693>>.

<sup>104</sup> National Crime Agency, 'Convicted online child sex offender jailed for 23 years for abusing three victims', (Press Release, 12 December 2019). <<https://www.nationalcrimeagency.gov.uk/news/convicted-online-child-sex-offender-jailed-for-23-years-for-abusing-three-victims>> (Accessed May 2020), <<https://www.wired-gov.net/wg/news.nsf/articles/Convicted+online+child+sex+offender+jailed+for+23+years+for+abusing+three+victims+13122019131500?open>>.

<sup>105</sup> National Crime Agency, 'Man sentenced over some of the worst child abuse content NCA investigators have ever seen', (Press Release, 16 April 2020). <<https://www.nationalcrimeagency.gov.uk/news/man-sentenced-over-some-of-the-worst-child-abuse-content-nca-investigators-have-ever-seen>> (Accessed May 2020); Andrew Bardsley, 'Salford man advertised £10-a-month streaming service for sick child abuse images', Manchester Evening News, (online), 16 April 2020. <<https://www.manchestereveningnews.co.uk/news/greater-manchester-news/haitch-macklin-salford-manchester-court-18097085>>.

<sup>106</sup> Andrew Bardsley, 'Salford man advertised £10-a-month streaming service for sick child abuse images', Manchester Evening News, (online), 16 April 2020. <<https://www.manchestereveningnews.co.uk/news/greater-manchester-news/haitch-macklin-salford-manchester-court-18097085>>; Despite the rejection of mental health as a mitigating factor, Haitch M. was still originally sentenced to 20 months, cf. discussion at above n 77.

<sup>107</sup> Above n. 73.

<sup>108</sup> National Crime Agency, 'Martial arts teacher jailed for making and distributing child sexual abuse images', (Press Release, 26 November 2019). <<https://www.nationalcrimeagency.gov.uk/news/martial-arts-teacher-jailed-for-making-and-distributing-child-sexual-abuse-images>> (Accessed May 2020), <<https://www.wired-gov.net/wg/news.nsf/articles/Martial+arts+teacher+jailed+for+making+and+distributing+child+sexual+abuse+images+27112019131500?open>>.

<sup>109</sup> Aban Quaynor, 'Accrington martial arts instructor jailed over child sex abuse images', Lancashire Telegraph, (online), 26 November 2019. <<https://www.lancashiretelegraph.co.uk/news/18061385.accrington-martial-arts-instructor-jailed-child-sex-abuse-images/>>.

<sup>110</sup> Failure to disclose incurs penalty of 2 years in regular cases or 5 years in national security cases: See Regulation of Investigatory Powers Act 2000, c. 23, § 53; See Senior Foreign Law Specialist Clare Feikert-Ahalt, *Government Access to Encrypted Communications: United Kingdom*, May 2016, The Library of Congress, <<https://www.loc.gov/law/help/encrypted-communications/united-kingdom.php>>.

<sup>111</sup> National Crime Agency, 'Civil servant continued to offend while on bail for child sexual abuse offences', (Press Release, 10 December 2019). <<https://www.nationalcrimeagency.gov.uk/news/civil-servant-continued-to-offend-while-on-bail-for-child-sexual-abuse-offences>> (Accessed May 2020), <<https://www.wired-gov.net/wg/news.nsf/articles/Civil+servant+continued+to+offend+while+on+bail+for+child+sexual+abuse+offences+11122019141500?open>>; Lizzie Dearden, 'Paedophile drug user was hired by NHS trust after being sacked by government press office', *Independent*, (online), 10 December 2019. <<https://www.independent.co.uk/news/uk/crime/richard-arcari-paedophile-drugs-nhs-grenfell-kensington-chelsea-press-a9241206.html>>; Jim Dunton, 'Former Defra civil servant jailed over child sexual abuse images', (12 December 2019), Civil Service World, <<https://www.civilserviceworld.com/articles/news/former-defra-civil-servant-jailed-over-child-sexual-abuse-images>>; Tristan Kirk, 'Former government press officer jailed over child abuse images', *Evening Standard*, (online), 11 December 2019. <<https://www.standard.co.uk/news/crime/richard-arcari-government-national-crime-agency-a4310411.html>>; Riley Krause, 'Clapham man

continued to offend while on bail for child sexual abuse offences', *Wandsworth Times*, (online), 11 December 2019.

<<https://www.wandsworthguardian.co.uk/news/18092490.clapham-man-continued-offend-bail-child-sexual-abuse-offences/>>.

<sup>112</sup> It is not publicly reported whether the possession was charged under the Criminal Justice Act 1988 with 5-year penalty, or under Protection of Children Act 1978 with 10-year penalty.

<sup>113</sup> UK Government, *Drugs Penalties*, <<https://www.gov.uk/penalties-drug-possession-dealing>>.

<sup>114</sup> Primary offence unknown.

<sup>115</sup> Rebecca Gray, Horror Home Inside lair of Ayrshire paedophile who paid 93p to watch young girl abused live online – with chilling pictures of teddy bear, baby oil and girl's hair bobbles, *The Scottish Sun* (online) 26 July 2019.

<<https://www.thescottishsun.co.uk/news/4527952/matthew-bell-irvine-ayrshire-paedophile-child-abuse-jailed-home/>>.

<sup>116</sup> Peter Davidson, 'Vile Scots paedophile caged after paying woman 93p to sexually abuse kid while he watched on Skype', *Daily Record* (online) 25 July 2019. <<https://www.dailyrecord.co.uk/news/scottish-news/vile-scots-paedophile-caged-after-18774071>>.

<sup>117</sup> NSWCCA 301.

<sup>118</sup> *DPP (Cth) v Beattie* [2017] NSWCCA 301, [25] and [128]; cf. *Rivo v The Queen* [2012] VSCA 117.

<sup>119</sup> SKCA 104.

<sup>120</sup> *Ibid* at 29 [101].

<sup>121</sup> *Ibid* at 30, 31 [101].

<sup>122</sup> SOOToday, Global News, 'Appeal Court increases sentence for child pornographer Philip Chicoine' (online) 16 October 2019.

<<https://www.sootoday.com/global-news/appeal-court-increases-sentence-for-child-pornographer-philip-chicoine-1752188>>.

<sup>123</sup> Michelle McQuigge, 'Swedish man found guilty of 'online' rape has convictions upgraded', *The Canadian Press: Global News*, (online), 18 April 2018. <<https://globalnews.ca/news/4153203/swedish-man-guilty-online-rape-convictions-upgraded/>>.

<sup>124</sup> *Ibid*. Despite the Swedish Court's positive development in the concept of online offending, the offender's original sentence of 10-years remained unchanged on appeal.

<sup>125</sup> International Justice Mission, above n 3.

<sup>126</sup> 1 Cr App R (S) 58.

<sup>127</sup> In this case, the offender was sentenced to 5 years in prison for causing a child under 13 to engage in sexual activity involving penetration and offences where offender commissioned child abuse he viewed via live stream. The appellate court increased the sentence to 12 years.

<sup>128</sup> See James J. case study above n 87-90.

<sup>129</sup> Sexual Offences Act 2003 (England and Wales), Section 48 – Causing or inciting sexual exploitation of a child; Section 49 – controlling a child in relation to sexual exploitation; Section 50 – Arranging or facilitating sexual exploitation of a child.

<sup>130</sup> Sexual Offences Act 2003 (England and Wales), section 51; see Ministry of Justice, *Policing and Crime Bill*, (Factsheet, July 2016) <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/537284/Factsheet\\_22\\_-\\_Live\\_streaming.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/537284/Factsheet_22_-_Live_streaming.pdf)>.

<sup>131</sup> UK Government, *Policing and Crime Act*, <<https://www.gov.uk/government/collections/policing-and-crime-bill>>

<sup>132</sup> Sentencing Council UK, *Sexual activity with a child / Causing or inciting a child to engage in sexual activity*,

<<https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child/>>.

<sup>133</sup> Sentencing Council UK, *Causing or inciting sexual exploitation of a child / Controlling a child in relation to sexual exploitation / Arranging or facilitating sexual exploitation of a child*, <<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/causing-or-inciting-sexual-exploitation-of-a-child/>>

<sup>134</sup> Sajid Javid, 'Tackling child sexual abuse online and offline' (Speech delivered at the National Society for the Prevention of Cruelty to Children's "How Safe Are Our Children?" Conference, 25 June 2019). <<https://www.gov.uk/government/speeches/tackling-child-sexual-abuse-online-and-offline>>.

<sup>135</sup> Sentencing Council UK, 'Sexual Offences Definitive Guideline', see above n 56-58.

<sup>136</sup> Haitch M. was resentenced by the court of appeals to 4 years through the Unduly Lenient Sentencing Scheme, see above n 108.

<sup>137</sup> Gareth Lightfoot, above n 103.

<sup>138</sup> International Justice Mission, above n 3.

<sup>139</sup> World Childhood Foundation, Sweden, *ANOVA – Prevent\_ It*, <<https://childhood.org/this-is-childhood/projects/prevent-it/>>; See also "The vast majority – a staggering 85 percent – have become hands-on abusers", Child Rescue Coalition, *The Issue*, <<https://childrescuecoalition.org/the-issue/>>.

<sup>140</sup> *Ibid*; World Childhood Foundation also writes "Becoming part of a network and gaining access to abuse images often requires the contribution of new material. This increases the risk significantly that a person will go from consuming child sexual abuse material online to also committing child sexual abuse offline and creating their own material for distribution."

<sup>141</sup> Virtual Global Taskforce, above n 25, 17; See also 22 of same report: "70% of responding countries to the Global Alliance Threat Assessment 2018 questionnaire uncovered previously undisclosed child sexual abuse contact offences, and 72% encountered offenders who had a prior conviction for a child sexual abuse contact offence."

<sup>142</sup> *R v Jongasma* [2004] VSCA 218; 150 A Crim R 386 at 395 [14]; *Hill v Western Australia* [2009] WASCA 4 at [28]; *R v Booth* [2009] NSWCCA 89 at [48]; *R v Sykes* [2009] QCA 267 at [24]; *DPP v Groube* [2010] VSCA 150 at [24]; *DPP (Cth) v D'Alessandro* [2010] VSCA 60; 26 VR 477 at 483-4 [21]; *Director of Public Prosecutions (Cth) v Guest* [2014] VSCA 29 at [23]-[24]; *DPP v Smith* [2010] VSCA 215 at [23], [26]-[29].

<sup>143</sup> UK Sentencing Council, *Sexual activity with a child*, <<https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child/>>.



<sup>144</sup> See cases Andrew W., Alain C.; See also Chicoine case, above n 120-123: CTV News, 'Chicoine paid \$23K for child porn; 'most depraved collection I've seen,' investigator says', (online), 19 June 2017. <<https://saskatoon.ctvnews.ca/chicoine-paid-23k-for-child-porn-most-depraved-collection-i-ve-seen-investigator-says-1.3467080>>; See also Australian case of Johnathan Doig: Jesse Doresett, 'Green candidate who ran against Prime Minister at 2019 election charged with child sex offences', ABC News, (online), 14 June 2020. <<https://www.abc.net.au/news/2020-06-10/greens-candidate-jonathan-doig-chaged-with-child-sex-offences/12338828>>.

<sup>145</sup> [2011] 1 Cr App R (S) 58.

<sup>146</sup> UK Sentencing Council, *Sexual activity with a child/Causing or inciting a child to engage in sexual activity*, <<https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child/>>.

<sup>147</sup> Sentencing Council, *About Guidelines*, <<https://www.sentencingcouncil.org.uk/about-sentencing/about-guidelines/>>.

<sup>148</sup> Criminal Code Act 1995 (Cth).

<sup>149</sup> Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Bill 2019 (Cth), see above n 24.

<sup>150</sup> See International Justice Mission Australia, 'Summary and Commentary: Crimes Legislation Amendment (Sexual Crimes Against Children and Community Protection Measures) Act 2020, (Summary, 26 June 2020), <<https://ijm.org.au/wp-content/uploads/2020/06/2020.06.26-Summary-Crimes-Legislation-Amendment.pdf>>.

<sup>151</sup> International Justice Mission Australia, 'New Australian law to aid in global fight against the online sexual exploitation of children', (Media Release, 25 June 2020), <<https://ijm.org.au/news/media-release-new-australian-law-to-aid-in-global-fight-against-the-online-sexual-exploitation-of-children/>>.

<sup>152</sup> Section 272.15A.

<sup>153</sup> UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, GA Res 55/25, 15 November 2000. <<https://www.refworld.org/docid/4720706c0.html>>.

<sup>154</sup> Council Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA [2011] OJ L 101/1.

<sup>155</sup> *Ibid*, art 2(1).

<sup>156</sup> Republic Act 9208 as amended by Republic Act 10364 definition of trafficking reads: Sec. 3 (a) "Trafficking in Persons – refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs." <<https://www.officialgazette.gov.ph/2013/02/06/republic-act-no-10364/>>.

<sup>157</sup> In Norway, a demand-side offender was convicted of both sexual offences and human trafficking: SunStar, 'Tell it to SunStar: Norwegian men convicted for Osec', (online) 7 March 2020. <<https://www.sunstar.com.ph/article/1847426?fbclid=IwAR3nTPPbmVOSF8r1xAo4DKefG4b4ZykqLOIzoH1bHkWOs3r8YRsEdx1y4Sg>>.

<sup>158</sup> International Programme on the Elimination of Child Labour (IPEC), 'Commercial sexual exploitation of children and adolescents The ILO's response', (Working Paper, International Labour Organisation, 1 November 2008). <[https://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_9150/lang-en/index.htm#:~:text=Commercial%20sexual%20exploitation%20of%20children%20and%20adolescents%20%2D%20The%20ILO's%20response,-This%20brochure%20explains&text=It%20describes%20the%20principle%20characteristics,a%20powerful%20tool%20against%20CSEC.](https://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_9150/lang-en/index.htm#:~:text=Commercial%20sexual%20exploitation%20of%20children%20and%20adolescents%20%2D%20The%20ILO's%20response,-This%20brochure%20explains&text=It%20describes%20the%20principle%20characteristics,a%20powerful%20tool%20against%20CSEC.)>.

<sup>159</sup> The National Archives, 'Background', Modern Slavery Act 2015 Explanatory Notes, <<https://www.legislation.gov.uk/ukpga/2015/30/notes/division/3>>.

<sup>160</sup> "Where there is no evidence of movement (for trafficking) for child sexual exploitation, there are a wide range of offences to tackle sexual exploitation of children under the Sexual Offences Act 2003. *Attempts to shoehorn conduct into related offences of human trafficking or slavery can sometimes derail cases, particularly in cases of child sexual exploitation.* Although the trafficking offences can be used, they are not necessarily central to the case. Other alternative serious sexual offences involving the exploitation of children may be more accurate to actual offending and easier to explain, particularly to juries. These offences allow for substantial penalties." Commonwealth Prosecution Service, Human trafficking, smuggling and slavery, <<https://www.cps.gov.uk/legal-guidance/human-trafficking-smuggling-and-slavery>>.

<sup>161</sup> Sexual Offences Act 2003 (England and Wales), section 51.

<sup>162</sup> R v Jonat 2019 ONSC 1633, S. F. Dunphy J at [54]-[55]; see also R v JA 2019 MBQB 112, [24]-[29].

<sup>163</sup> DPP (Cth) v Beattie [2017] NSWCCA 301, [6].

<sup>164</sup> Section 130(2A), Powers of Criminal Courts (Sentencing) Act 2000

<sup>165</sup> Case No. 1:17-cr-54, District Court, E.D. Virginia.

<sup>166</sup> (Data accurate as of December 2017) Independent Review of the Modern Slavery Act, (Report, March 2019) para 3.1. <[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/903566/Independent\\_MSA\\_Review\\_Report\\_4\\_-\\_Legal\\_Application\\_2\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903566/Independent_MSA_Review_Report_4_-_Legal_Application_2_.pdf)>.

<sup>167</sup> R. Karl Hanson and Monique T. Bussiere, 'Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies' [1998] 66.2 Journal of Consulting and Clinical Psychology 348-362. <<https://www.childabuseroyalcommission.gov.au/sites/default/files/EXH.015.022.0031.pdf>>.

<sup>168</sup> HM Inspectorate of Probation and HM Inspectorate of Prisons, 'Management and supervision of men convicted of sexual offences', (Report, January 2019). <<https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/01/Management-and-Supervision-of-men-convicted-of-sexual-offences-2.pdf>>.

<sup>169</sup> The HM Inspectorate Report praises an example in Newcastle: Ibid, 23.

<sup>170</sup> Internet Watch Foundation, Pixels from a Crime Scene: Fears new generation of young British men is driving demand for videos and images of child sexual abuse, 12 April 2020, <<https://www.iwf.org.uk/news/pixels-from-a-crime-scene-fears-new-generation-of-young-british-men-driving-demand-for-videos>>.

<sup>171</sup> 'If you're watching, you're an offender', *Pixels from a Crime Scene* (Podcast), (Internet Watch Foundation, 12 April 2020) <<https://www.iwf.org.uk/what-we-do/why-we-exist/podcast>>. Developing forms of prevention and rehabilitation will involve understanding the offending and offenders. This Canadian Study examines the motivational pathways leading to the viewing of CSEM to make interventions designed for CSEM viewers more efficient and accessible: Natasha Knack, et al, 'Motivational pathways underlying the onset and maintenance of viewing child pornography on the Internet', *Behavioural Science Law* 2020:1-17. <<https://doi.org/10.1002/bsl.2450>>.

<sup>172</sup> UK Parliament, *Constituency Casework: Unduly Lenient Sentencing Scheme*, <<https://commonslibrary.parliament.uk/unduly-lenient-sentencing-scheme/>>; GOV.UK, *Ask for a Crown Court sentence to be reviewed*, <<https://www.gov.uk/ask-crown-court-sentence-review>>.

<sup>173</sup> Peter Davidson, 'Vile Scots paedo caged after paying woman 93p to sexually abuse kid while he watched on Skype', *Daily Record* (online) 25 July 2019. <<https://www.dailyrecord.co.uk/news/scottish-news/vile-scots-paedo-caged-after-18774071>>.

<sup>174</sup> Rebecca Gray, 'Horror Home Inside lair of Ayrshire paedo who paid 93p to watch young girl abused live online – with chilling pictures of teddy bear, baby oil and girl's hair bobbles', *The Scottish Sun* (online) 26 July 2019. <<https://www.thescottishsun.co.uk/news/4527952/matthew-bell-irvine-ayrshire-paedophile-child-abuse-jailed-home/>>.

<sup>175</sup> Ibid.

<sup>176</sup> UK Sentencing Council, *Sexual activity with a child/Causing or inciting a child to engage in sexual activity*, <<https://www.sentencingcouncil.org.uk/offences/crown-court/item/sexual-activity-with-a-child/>>.

<sup>177</sup> Sentencing Council UK, *Causing or inciting sexual exploitation of a child / Controlling a child in relation to sexual exploitation / Arranging or facilitating sexual exploitation of a child*, <<https://www.sentencingcouncil.org.uk/offences/magistrates-court/item/causing-or-inciting-sexual-exploitation-of-a-child/>>

<sup>178</sup> Ministry of Justice, 'Transforming Rehabilitation, A Strategy for Reform', (Response to Consultation, May 2013)

<<https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation/results/transforming-rehabilitation-response.pdf>>.

<sup>179</sup> Martin Schmucker and Friedrich Losel, 'The effects of sexual offender treatment on recidivism: an international meta-analysis of sound quality evaluations' 2015 *Journal of Experimental Criminology* 11, 597-630. <<https://link.springer.com/article/10.1007/s11292-015-9241-z>>.

<sup>180</sup> HM Inspectorate of Probation and HM Inspectorate of Prisons, 'Management and supervision of men convicted of sexual offences', (Report, January 2019). <<https://www.justiceinspectorates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2019/01/Management-and-Supervision-of-men-convicted-of-sexual-offences-2.pdf>>.

<sup>181</sup> The National Probation Service is a statutory criminal justice service that supervises high-risk offenders released into the community. Such high-risk offenders include those that have committed sexual offences against children.

<sup>182</sup> Georgina Sturge, 'UK Prison Population Statistics', (Briefing Paper, Number CBP-04334, 3 July 2020).

<<https://commonslibrary.parliament.uk/research-briefings/sn04334/>>.

<sup>183</sup> NSPCC, 'Statistics briefing: child sexual abuse', (Briefing, April 2019), <<https://learning.nspcc.org.uk/media/1710/statistics-briefing-child-sexual-abuse.pdf>>; CSA Centre UK also states Prevalence studies in England and Wales suggest that some 15% of girls and 5% of boys experience some form of sexual abuse before the age of 16: CSA Centre UK, 'Measuring the scale and changing nature of child sexual abuse, Analysis of 2017/18 official and agency data' (Report, July 2019) <<https://www.csacentre.org.uk/documents/scale-and-nature-update-2019/>>.

<sup>184</sup> Ibid.

<sup>185</sup> See Multi-Agency Public Protection Arrangements, *How does MAPPA work?*,

<<https://mappa.justice.gov.uk/connect.ti/MAPPA/view?objectID=5681072>>.

<sup>186</sup> R. Karl Hanson and Monique T. Bussiere, 'Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies' [1998] 66.2 *Journal of Consulting and Clinical Psychology* 348-362. <<https://www.childabuseroyalcommission.gov.au/sites/default/files/EXH.015.022.0031.pdf>>.

<sup>187</sup> Gunda Woessner and Andreas Schwedler, 'Correctional Treatment of Sexual and Violent Offenders: Therapeutic Change, Prison, Climate and Recidivism' [2014] *Criminal Justice and Behaviour* 41.7, 862-879. <<https://journals.sagepub.com/doi/abs/10.1177/0093854813520544>>.

<sup>188</sup> Aiden Mews et al., 'Impact Evaluation of the prison-based Core Sex Offender Treatment Programme', (Report, Ministry of Justice, 2017).

<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/623876/sotp-report-web-pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/623876/sotp-report-web-pdf)>.

<sup>189</sup> But see Theresa A. Gannon et al, 'Does specialized psychological treatment for offending reduce recidivism? A meta-analysis examining staff and program variables as predictors of treatment effectiveness' (2019) *Clinical Psychology Review*.

<[https://www.researchgate.net/publication/334119028\\_Does\\_specialized\\_psychological\\_treatment\\_for\\_offending\\_reduce\\_recidivism\\_A\\_meta-analysis\\_examining\\_staff\\_and\\_program\\_variables\\_as\\_predictors\\_of\\_treatment\\_effectiveness](https://www.researchgate.net/publication/334119028_Does_specialized_psychological_treatment_for_offending_reduce_recidivism_A_meta-analysis_examining_staff_and_program_variables_as_predictors_of_treatment_effectiveness)>.

<sup>190</sup> Keely Wilkinson and Beverly Powis, 'A Process Study of the Horizon Program' (Ministry of Justice, Analytical Summary, 2019).

<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/769540/process-study-horizon-programme.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/769540/process-study-horizon-programme.pdf)>.

<sup>191</sup> Letter from HMPPS Briefing and Correspondence Team to Amanda Ridyard, 18 February 2020.

<[https://www.whatdotheyknow.com/request/641881/response/1528616/attach/3/Amanda%20Ridyard%20FOI%20200203005%20Response.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/641881/response/1528616/attach/3/Amanda%20Ridyard%20FOI%20200203005%20Response.pdf?cookie_passthrough=1)>.

<sup>192</sup> Stop It Now!, *The Lucy Faithfull Foundation*, <[https://www.stopitnow.org.uk/how-we-prevent-child-sexual-abuse/the-lucy-faithfull-foundation/?gclid=EA1aI0obChMI\\_7S8IMvK6wIVB-ztCh0qJAYvEAAAYASAAEgJcc\\_D\\_BwE](https://www.stopitnow.org.uk/how-we-prevent-child-sexual-abuse/the-lucy-faithfull-foundation/?gclid=EA1aI0obChMI_7S8IMvK6wIVB-ztCh0qJAYvEAAAYASAAEgJcc_D_BwE)>.

<sup>193</sup> Sejal Karia, 'I can't imagine viewing those images again': Sex offender tells ITV News of rehabilitation therapy', *ITV News* (online) 2 April 2018. <<https://www.itv.com/news/2018-04-03/uks-top-child-protection-officer-says-online-sex-offenders-can-be-rehabilitated-instead-of-jailed>>.



<sup>194</sup> Peter Stanford, *Their crimes revoke repulsion but it is our duty to rehabilitate sex offenders*, The Guardian (online) 1 March 2015. <<https://www.theguardian.com/society/2015/mar/01/sex-offenders-rehabilitation>>.



**IJM**