



Home Office

Government response to the Children Outside the UK Phase 2 report by the Independent Inquiry into Child Sexual Abuse

January 2021



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Introduction

1. Child sexual abuse (CSA) is a borderless crime. We know offenders are increasingly targeting children in other countries, including by travelling abroad to abuse them. The Government is very grateful to the Inquiry for its Children Outside the UK report and the insight it provides.
2. The Government is committed to protecting children from sexual abuse and exploitation, not just in the UK, but across the world. The Home Office works with a range of partners to disrupt those who travel overseas to abuse children and bring justice to victims and survivors. This includes close collaboration with the international community to facilitate a coordinated and effective response to CSA, including through our Home Office leadership in the Five Country Ministerial and the WePROTECT Global Alliance and wider work with a range of multilateral discussions and organisations.
3. In recognition of the changing nature and scale of CSA, the Government will shortly be publishing a landmark cross-government Tackling Child Sexual Abuse Strategy. This first-of-its-kind strategy will set out the Government's whole system approach to tackling CSA in all its forms, including working internationally to prevent CSA and tackle transnational child sex offenders.
4. The Strategy is part of, and captures, a wider package of work to improve the management of sex offenders, including by strengthening existing civil orders and reviewing the police-led management of sex offenders in the community under the Multi-Agency Public Protection Arrangements.
5. The Government's response to each is set out below in turn.

Recommendation 1: National plan of action

The Home Office should coordinate the development of a national plan of action addressing child sexual abuse and exploitation overseas by UK nationals and residents of England and Wales, involving input from all lead governmental agencies in the field.

6. The Home Office will implement this recommendation as part of the UK Government's soon-to-be published Tackling Child Sexual Abuse Strategy, referred to in paragraphs 3 and 4. The Strategy will set out our national plan of action for tackling transnational child sex offenders (TCSOs). This action plan will build on measures outlined in the Strategy to prevent offending abroad, recognising that offenders are increasingly taking advantage of areas with weaker children protection systems, law enforcement responses, or infrastructure and control. The action plan will also supplement the steps we are taking to strengthen the available civil orders for managing registered sex offenders and high-risk individuals, as well as broader improvements to the offender management regime and multi-agency working.
7. The action plan will outline further activity to tackle the specific threat posed by TCSOs, including: building our understanding of transnational child sex offending through collaboration with the National Crime Agency (NCA), intelligence community and third sector; commissioning the NCA to produce a list of high-risk countries where children overseas are considered to be at risk of sexual abuse and exploitation from UK nationals and residents, and; where appropriate, deploying the tools available to law enforcement agencies to bring TCSOs to justice. More detail on the specific actions will be provided in the published Strategy. The Strategy will also set out the governance structures to support implementation and hold the system to account.

Recommendation 2: Civil orders – list of countries

The Home Office should bring forward legislation providing for the establishment and maintenance by the National Crime Agency of a list of countries where children are considered to be at high risk of sexual abuse and exploitation from overseas offenders. This list should be kept under regular review.

The list of countries should be made available to the police, and used routinely to help identify whether a person who has been charged with sexual offences against a child poses a risk to children overseas based on their travel history and/or plans. If the person is considered to pose a risk of sexual harm to children overseas, the police should submit an application for a foreign travel restriction order under the Sexual Offences Act 2003.

The list of countries should be admissible in court, and used when considering whether a foreign travel restriction order should be made under the Sexual Offences Act 2003 and if so, to which countries it should apply.

8. The Home Office fully accepts the Inquiry's recommendation and will bring forward the necessary legislation to give effect to this recommendation when parliamentary time allows. To deliver on this recommendation, the Home Office has commissioned the NCA to produce a list of countries where children overseas are considered to be at high risk of sexual abuse and exploitation from UK nationals and residents. The list will be made available to the police, the NCA and the courts to assist them in considering whether a prohibition on foreign travel is necessary as part of a Sexual Harm Prevention Order or Sexual Risk Order.
9. This recommendation will support the wider processes in place to manage the risk posed by registered sex offenders (RSOs) in the community. All RSOs in England and Wales are subject to notification requirements and must notify the police of any travel abroad, including a range of details in connection with this travel. These details enable the police to assess the risk and further consider whether a foreign travel prohibition via a civil order would be appropriate and disseminate information about foreign travel with international law enforcement partners in other countries where it is proportionate and necessary to do so.
10. We will continue to update the Inquiry on the progress of this recommendation.

Recommendation 3: Disclosure and barring – extending the geographical reach of the Disclosure and Barring Service scheme

The Home Office should introduce legislation permitting the Disclosure and Barring Service to provide enhanced certificates to UK nationals and residents of England and Wales applying for (i) work or volunteering with UK-based organisations, where the recruitment decision is taken outside the UK or (ii) work or volunteering with organisations based outside the UK, in each case where the work or volunteering would be a regulated activity if in the UK.

11. The Government shares the Inquiry's concerns that effective protections should be in place for children abroad. Criminal record checks are an important part of these protections and the Government wants to ensure that overseas employers are able to access the information that they need when recruiting UK residents to work with children.
12. Under current arrangements, individuals applying to work in a school or organisation outside the UK where they will be in regular contact with children can apply for an International Child Protection Certificate (ICPC). This is produced by ACRO Criminal Records Office (a national policing unit which provides criminal records information services to policing bodies and individuals) in conjunction with the National Crime Agency (NCA). The ICPC details the individual's criminal record history in the UK and any relevant information or intelligence on police databases which the NCA deems appropriate for disclosure.
13. The Government has considered carefully the Inquiry's recommendation which for overseas employers would replace the ICPC with the Enhanced Certificate currently issued by the Disclosure and Barring Service in England and Wales in respect of regulated activity. While the Government agrees with the Inquiry that overseas employers should be able to access criminal records information as effectively and straightforwardly as possible, it is not persuaded that this would be the effect of this recommendation.
14. The information provided on an ICPC is broadly similar to that provided on an Enhanced Certificate, albeit without a check of the Children's Barred List. In

practice the majority¹ of individuals on the DBS's Children's Barred List have a record of convictions, cautions and police intelligence, which can be shared with prospective overseas employers through the ICPC. In other words, although the fact that an individual has been barred will not be disclosed on an ICPC, the information which led to their being barred will in most cases have been recorded by the police so can be disclosed.

15. Extending the availability of the Enhanced Certificate abroad would also require overseas employers to assess whether the work for which they are recruiting meets the definition of regulated activity for England and Wales as set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006. The ICPC sits outside the domestic statutory disclosure framework and disclosure of information is based on police common law powers. The only criterion which needs to be met in order to obtain an ICPC is that the work in question is in a school or organisation outside the UK which involves regular contact with children. Given that the scheme needs to apply to a range of situations in any country across the world, this simpler test is likely to be much easier for foreign employers to apply in practice.

16. The ICPC is well recognised and used internationally. Between 1 October 2019 and 30 September 2020, there were 10,903 ICPC application requests and 700 new organisations added to the ICPC records. Each month, ICPC applications are processed in an average of around 60 countries within a broader subset of over 130 countries on the ICPC's records. The Inquiry itself commented that no other country operates such a scheme. The Government notes the concerns expressed by the Inquiry that the differences between the ICPC and DBS create a lack of clarity for employers but thinks that the most effective way of addressing this is to build on the existing system.

17. The Government will continue to work with ACRO to publicise the existence of the ICPC (see recommendation 5 below) and to improve employers' understanding of it and when it can be used, particularly in the aid sector through existing channels.

¹ DBS figures show that, of the 11,185 individuals added to the Children's Barred list between April 2016 and March 2019, only 359 (3.2%) had no criminal record of any type

Recommendation 4: Disclosure and barring – extending the mandatory nature of disclosure and barring

The Home Office should introduce legislation making it mandatory for:

- a. all UK nationals and residents of England and Wales to provide a prospective employer overseas with an enhanced DBS certificate before undertaking work with children overseas which if in the UK would be a regulated activity and
- b. UK government departments and agencies to require their overseas partners to ensure that UK nationals and residents of England and Wales obtain an enhanced DBS certificate before undertaking work with children overseas which if in the UK would be a regulated activity.

18. We have considered carefully the recommendation to introduce legislation to make it mandatory for UK nationals and residents of England and Wales to provide prospective employers with an enhanced DBS certificate before undertaking work overseas which would be regulated activity if it took place in the UK. As indicated above, the Government recognises the value of any employer being able to use criminal record information as part of their recruitment process and is committed to ensuring that overseas employers are able to access the information they need when making recruitment decisions in respect of UK residents.

19. However, although this recommendation envisages placing the legal obligation on UK nationals, it would in effect amount to the UK Government legislating in respect of employment practices in foreign countries. Foreign employers have to work within their own domestic disclosure regimes which are very different across the world, where they exist, and this recommendation would require foreign partners to undertake checks as if they were in England and Wales, with no regard for their domestic requirements. Such an approach would require extraterritorial legislation, compliance with which would be almost impossible to monitor and subsequently very difficult to enforce. We do not consider that such an approach would be effective in increasing safeguarding in other countries.

20. As indicated above, we will continue to publicise the existence of the ICPC to workers and employers and through the ongoing work of FCDO to improve safeguarding standards across the aid sector

21. As far as the second part of the Inquiry's recommendation is concerned, we recognise the need for Government bodies to take reasonable steps to ensure that overseas partners have robust safeguarding policies and that those partners carry out all appropriate criminal records checks, along with broader recruitment checks such as references. FCDO is working on three initiatives to strengthen the employment cycle across the aid sector that aim to prevent individuals with a known history of misconduct from working in the sector, regardless of their nationality. Together, they will help employers make better informed hiring decisions and prevent perpetrators moving around undetected:

- **Project Soteria** uses INTERPOL's tools and services to better coordinate international law enforcement to limit access to jobs in the aid sector for sexual offenders;
- **The Misconduct Disclosure Scheme** provides a framework for organisations to legally share information about a past employee's history of sexual misconduct at work; and
- **The Aid Worker Registration Scheme** will provide employers with a trusted source of evidence about a potential employee's identity and past work history, closing the loop on those who lie or omit information about where they have worked in the past.

Recommendation 5: Disclosure and barring – guidance

The Home Office should ensure explanatory guidance is issued, providing clarity to recruiting organisations and individuals concerning the use of the Disclosure and Barring Service scheme for work and volunteering outside the UK.

22. The DBS currently signposts applicants to the ICPC if their work abroad makes them ineligible for DBS certificates. **The Home Office will work with the DBS to ensure that this message is reinforced in their guidance and the use of ICPCs is encouraged, as part of wider safeguarding policies and practices, where applicable.**

