

## Serious Crime Act 2015

### Fact sheet: Clarifying and updating the criminal law on child cruelty

#### Background

1. Section 1 of the Children and Young Persons Act 1933 ("the 1933 Act") provides for an offence of child cruelty.
2. In April 2012, a charity, Action for Children, launched a campaign calling for reform of section 1 of the 1933 Act. Their key argument was that it was not fit for purpose for several reasons, in particular that it did not cover emotional harm.
3. In order to gauge views on how the law was operating and if there were any gaps, officials at the Ministry of Justice engaged with relevant experts in England and Wales. A Ministerial roundtable on this issue was also held in October 2013.
4. Some of those who responded to the Ministry of Justice expressed concern that the offence of child cruelty might currently be restricted to physical harm and that it might be helpful to include specifically non-physical suffering or injury in the legislation. Others suggested that some of the language in section 1 might be out of date.
5. The Government concluded that the law under section 1 could be made clearer, and updated. The changes now made by section 66 of the Act achieve this.

#### Current law

6. The offence in section 1 of the 1933 Act is committed where a person over the age of 16, who has responsibility for a child under that age, wilfully assaults, ill-treats, neglects, abandons, or exposes that child in a manner likely to cause 'unnecessary suffering or injury to health including any mental derangement'. Whilst the 'neglect' limb of the offence relates to the physical needs of the child, the Government believes that the other limbs of the offence (in particular ill-treatment) can relate to non-physical cruelty. In addition, the Crown Prosecution Service Legal Guidance<sup>1</sup> and the Sentencing Council guidelines<sup>2</sup> explicitly refer to psychological harm.
7. The Government was and remains of the view that section 1 of the 1933 Act is still effective in that it covers cruelty likely to cause non-physical as well as physical harm and the courts are able to interpret it appropriately. The Government nevertheless agreed that it would benefit from further clarity. Section 66 therefore clarifies and updates the law and modernises some of the language in section 1 of the 1933 Act.

#### Changes to the law

8. The effect of the changes made by section 66 is to:

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<sup>1</sup> CPS, Child Abuse: Guidance on Prosecuting cases of Child Abuse and Sentencing Manual: Cruelty to a Child, [http://www.cps.gov.uk/legal/s\\_to\\_u/sentencing\\_manual/cruelty\\_to\\_a\\_child/](http://www.cps.gov.uk/legal/s_to_u/sentencing_manual/cruelty_to_a_child/)

<sup>2</sup> [http://sentencingcouncil.judiciary.gov.uk/docs/web\\_Overarching\\_principles\\_assaults\\_on\\_children\\_and\\_cruelty\\_to\\_a\\_child.pdf](http://sentencingcouncil.judiciary.gov.uk/docs/web_Overarching_principles_assaults_on_children_and_cruelty_to_a_child.pdf)

- (a) make it absolutely clear that cruelty which causes psychological suffering or injury is covered under section 1 of the 1933 Act;
- (b) make it clear that the behaviour necessary to establish the ill-treatment limb of the offence can be non-physical;
- (c) modernise the language in section 1 by replacing outdated references to 'mental derangement' and 'misdemeanour'; and
- (d) amend section 1(2)(b) of the 1933 Act (on liability for neglect in circumstances where a child under the age of three is suffocated whilst in bed with a drunken person) to cover circumstances where the person is under the influence of 'prohibited drugs', and to change the reference to 'bed' to include any furniture or surface used for the purpose of sleeping.

**Ministry of Justice**  
**March 2015**