

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

Briefing for policy makers, September 2007

“States parties undertake to protect the child from all forms of sexual exploitation and sexual abuse”

(Article 34, UN Convention on the Rights of the Child)

Introduction

The new Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse is a welcome sign of commitment by European governments to doing more to tackle the problem of child sexual abuse. It is the first international Convention dedicated to addressing this issue.

The NSPCC considers that the Convention will help reinforce existing policies in this area, and contribute to building a common basis for joint action against abuse by European countries. It is hoped that it will support further improvements in the protection provided to children by European governments including the UK, and lead to more exchange of learning and expertise across borders.

However, the level of action agreed is low. Governments will need to go further than the minimum requirements set out in the Convention in order to make a real contribution to implementing children’s right to protection from abuse.

The Convention was adopted by the Council of Europe’s Committee of Ministers on 13th July 2007, following 10 months of negotiations. It will open for signature by governments on 25th October 2007¹.

What the Convention covers

The main aims of the Convention are to **prevent and combat** sexual exploitation and sexual abuse of children, and to protect the rights of child victims. It also aims to **promote national and international cooperation** against abuse.

The Convention lays down that governments should:

- take measures to **prevent abuse**, for example encouraging awareness of abuse among professionals working with children and educating children about abuse and how to protect themselves;
- implement measures to **protect and assist victims of abuse** including supporting telephone or internet helplines, ensuring confidentiality rules don’t

¹ A signature indicates an intention to implement the provisions of the Convention. Following signature, the Convention needs to be ratified by 5 countries in order to enter into force. Once a state has ratified it, it is obliged to respect the provisions of the Convention in its national laws and it will be monitored by a special Committee set up by the Council of Europe to see that the provisions are being applied.

prevent the reporting of abuse by professionals, and taking measures to assist the recovery of victims;

- take action to **deal with offenders**, for example providing intervention measures for offenders to minimise the risks of repeat offences;
- ensure that sexual abuse and exploitation of children are **criminalised and offenders are accorded appropriate punishment**. It sets out what acts must constitute a crime, for example sexual abuse, child prostitution and child pornography;
- ensure that offences are **investigated and prosecuted** in the correct manner, including for example always taking the best interests of the child into account in investigations and criminal proceedings;
- **collect and store information** about people convicted of child sexual offences, and ensure that this information can be shared with other states.

Strong points include:

- Recognition that most child sexual abuse is carried out by persons known to the child, such as family members
- Support must be provided to victims of abuse
- Measures should be offered for sex offenders to minimise the risks of re-offending
- Some recognition of the specific needs of children who sexually harm other children
- Where the age of a person is uncertain and there is a possibility it is a child, they should be treated as a child pending verification of age
- It must be ensured that people who have been convicted of sexual offences against children cannot get jobs which involve contact with children
- Countries must be able to punish offences committed overseas by their citizens, even if they are not an offence in the country where they were committed;
- There is clear recognition of the role of civil society in combating abuse

Weak points include:

- The Convention is generally vague and in many cases leaves the nature and extent of measures up to the state to decide. This means, for example, that low levels of support for victims of abuse, or failure to provide services for children who display sexually harmful behaviour, are unlikely to be seen as breaching the Convention
- Governments can decide not to criminalise downloading of child abuse images ('child pornography'), a big hindrance to efforts to combat this problem
- There is no agreement on an acceptable age of consent, which means that an act may be a crime in one country and not in another; this can make it harder to take action against crime at international level²

² As the Explanatory Report to the Convention recognises in relation to criminalisation of certain acts, 'This kind of harmonisation facilitates action against crime at national and international level, for several reasons. Firstly, harmonisation of States' domestic law is a way of avoiding a criminal preference for committing acts in a Party which previously had more lenient rules. Secondly, it becomes possible to promote the exchange of useful common data and experience. Shared definitions can also assist research and promote comparability of data at national and regional level, thus making it easier to gain

- Obligations around criminalisation of grooming ('solicitation of children for sexual purposes') leave loopholes which can lead to lack of clarity around what's allowed
- Self-regulation or co-regulation of the private sector is encouraged in relation to helping prevent child sexual abuse, rather than binding legislation; this relies on strong commitment from the private sector which may not always be the case
- Countries may delete criminal records of persons convicted of sexual offences against children, so they would not appear in pre-employment checks; there is also no obligation to check those who are working with children in a voluntary capacity
- States are only asked to 'encourage' the participation of children in developing policies, rather than being obliged to involve children in accordance with Article 12 of the UNCRC

What will the UK have to change to comply with the Convention?

The only change in legislation which will be needed is in relation to dual criminality. The UK should be able to convict a UK national for a crime committed overseas, which is a crime according to UK law, even if this is not a crime in the country where it was carried out. This will require amending section 72 of the Sexual Offences Act 2003.

What next?

The NSPCC urges governments to sign, ratify and implement fully the Convention as soon as possible. However, further work should be undertaken to develop greater understanding across Europe about the nature of child sexual abuse, and commitment to taking the necessary action to tackle it. This includes measures which support cross-border working - such as harmonisation of legal definitions - or where greater international cooperation is required, such as on identifying victims of child abuse images, and preventing unsuitable persons from working with children.

Links

Council of Europe [press release](#) about the Convention

To read the complete Convention [click here](#)

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an overall picture of crime. Lastly, international cooperation (in particular extradition and mutual legal assistance) is facilitated..'