Written evidence submitted by the Children’s Society

Introduction
The Children’s Society is a national charity that runs local projects to support children and young people who are at risk of exploitation or harm, living in care or let down by the systems meant to protect them. In 2014/15 we supported over 34,000 children and young people.

The Children’s Society is a leading voluntary sector organisation providing support for young people affected by child sexual exploitation (CSE). We deliver direct services in 16 projects that cover 25 local authority areas across England. Last year through our programmes we worked with 696 young people affected by child sexual exploitation- 261 of them were aged 16 and 17, and 123 were over the age of 18.

Our response is based on our recent report on young people who are at risk of sexual exploitation, Old Enough to Know Better? (published November 2015). The report is based on Freedom of Information Requests to police forces in England about recorded sexual offences against young people aged 16 and 17, police responses to them, and on learning from our practice with this very vulnerable group of young people.

The Children’s Society welcomes the Committee’s decision to examine whether further measures are necessary, including legal reforms, to assist those involved in prostitution to exit from it, increase the extent to which exploiters are held to account, as well as examine the implementation of the Modern Slavery Act 2015. Based on our research and direct work with young people in this area, we would like the committee to give separate consideration to 16-17 year olds who have experienced sexual exploitation and support them as they transition to adulthood.

1. Summary of key points and recommendations

1.1. From our work with vulnerable children and young people we know that they can become victims of child exploitation in different ways, from being introduced into situations of sexual exploitation by a person who they believe to be their ‘boyfriend’ to being exploited in gangs, through online grooming, or by being introduced to or made dependent on drugs and alcohol. Whatever the way into sexual exploitation, these young people are very vulnerable and require help to exit situations of sexual exploitation and transition to adulthood in a positive way.

1.2. Last year through the Serious Crime Act 2015 criminal offences that previously were related to child prostitution and pornography under the Sexual Offences Act 2003 were renamed as offences of sexual exploitation. Children under the age of 18 are vulnerable to sexual exploitation and should be protected from predatory individuals seeking to exploit them. We believe that the protection response to 16 and 17 year olds who are victims of child sexual exploitation needs to be strengthened and that they should be offered more support as they transition to adulthood to enable them to move on and stay safe from people who target them for exploitation. We believe the following changes will help improve the protection of vulnerable 16 and 17 year olds who are targeted for sexual exploitation.
1.3. The government should publish statistics on how many children aged under 16, and separately children aged 16-17, have been victims of sexual offences, in particular offences of child sexual exploitation and how many of the cases resulted in successful prosecution. Such a review of data would help identify where changes in practice and law are needed to protect children more effectively and to prosecute adults exploiting them. The data on sexual offending against children aged 16 and 17 should not be subsumed within data on adults as is currently the case.

1.4. We believe that the Government should amend the legislation to ensure that perpetrators of sexual exploitation offences against 16 and 17 year olds do not receive shorter sentences and to send a clear signal that sexual exploitation of 16 and 17 year olds is a serious crime.

1.5. The Government and the police should develop a national system for flagging children at risk of sexual exploitation/victims of sexual exploitation to ensure that practice is consistent across all areas and that these young people are supported as they move to adulthood.

1.6. The Government should develop guidance for the police and local authorities on how young people identified as being victims of CSE, or at risk of CSE, prior to turning 18, should be responded to after they turn 18. This should include guidance to the police on how to respond to young adults who are found to be offering sex services in community or online, especially if they were formerly known as young people at risk of CSE, to ensure that they receive all the support they need.

1.7. The government should amend the definitive Sentencing Guidelines on Sexual Offences to include vulnerability due to the victim being a child aged 16 or 17 as an aggravating factor for offences of rape or sexual assaults.

1.8. Recently, through the Serious Crime Act 2015, changes have been made to create an offence of coercive and controlling behaviour in intimate and family relationships to protect vulnerable individuals in situations of domestic violence which includes those of 16 and 17 years old who are in such situations. Similar changes are needed to recognise that 16 and 17 year olds can be coerced and controlled either through drugs or alcohol or through fear and for the purposes of sexual abuse.

1.9. The government is currently consulting on the revised definition of child sexual exploitation that recognises that all children under the age of 18 can be coerced into sexual exploitation. The new definition is going to be included into the statutory Working Together guidance. While this is a welcome step, we believe that professionals need better guidance on how to protect 16 and 17 year olds targeted for sexual exploitation and explain the differences in legal provisions for children under the age of 16 and children aged 16 and 17 that are related to the age of consent.
1.10. The law should be amended to enable police to use Child Abduction Warning Notices in cases of vulnerable 16 and 17 year olds being targeted for sexual exploitation.

1.11. We believe that the law needs to change to give victims of sexual abuse the right to access therapeutic support.

1.12. The government should introduce victims’ legislation to ensure that the principle outlined in the EU Victims Directive that came into force in November 2015 are enshrined in the law and are implemented in relation to children and young people who are victims of sexual exploitation.

2. Young victims of sexual exploitation offences previously recorded as ‘abuse of child through prostitution and pornography’ offences

2.1. From our work with vulnerable children and young people we know that they can become victims of child exploitation in different ways, from being introduced into situations of sexual exploitation by a person who they believe to be their ‘boyfriend’ to being exploited in gangs, through online grooming or by being introduced to or made dependent on drugs and alcohol. Whatever the way into sexual exploitation, these young people are very vulnerable and require help to exit situations of sexual exploitation and transition to adulthood in a positive way.

2.2. Last year through the Serious Crime Act 2015, criminal offences under the Sexual Offences Act 2003 related to child prostitution and pornography were renamed into offences of sexual exploitation. The Children’s Society welcomed this change and indeed it is a change that we have been calling for since the publication of our Game’s Up report in 1995, which first looked into experiences of children cautioned by the police for involvement in child prostitution. We also welcome that the Serious Crime Act 2015 amended Section 1 of the Street Offences Act 1959 making it no longer possible to prosecute children for what was defined in the law as ‘loitering and soliciting for the purposes of prostitution’.

2.3. Although these changes send a clear message that children under the age of 18 are vulnerable to sexual exploitation and should be protected from predatory individuals seeking to exploit them, we believe that the protection response to 16 and 17 year olds who are victims of child sexual exploitation needs to be strengthened and that they should be offered more support as they transition to adulthood to enable them to move on and stay safe from people who target them for exploitation.

3. Data on sexual offences and outcomes of investigations and prosecutions in cases where the victim is aged 16 and 17

3.1. Young people aged 16 and 17 are recognised as children under the Children Act 1989 with relevant regulations and guidance. However, in sexual offence legislation related to sexual exploitation of children, formerly known as offences related to child prostitution and pornography, including offences under Sections 47, 48 and 49, they are seen as different to young people under the age of 16, as they can give consent to sexual relationships. It makes responding, investigating
and prosecuting cases of sexual exploitation against this age group very difficult. Despite the increased profile and focus on child sexual exploitation, the number of prosecutions for the offences of sexual exploitation of children under the age of 18 remains low. There is no data readily available on the number of prosecutions for sexual exploitation crimes under Section 47, 48 and 49 of the Sexual Offences Act 2003 where the victim is aged 16 and 17. Our search of official statistics showed that in the last three years (2012, 2013, 2014) there were 312 prosecutions for the abuse of children through prostitution and pornography (for children of all ages). 200 of them resulted in convictions. It is not known how many of these cases were where the victims were aged 16 and 17.

3.2. This number of convictions for abuse of children through prostitution and pornography seems particularly low considering that the number of children affected by this horrible crime is likely to be much higher. Although there is no comprehensive statistical information available on the number of children exploited, data that is available points to higher numbers. For example, our Freedom of Information requests to police forces in England revealed that in the last 12 months, across the 17 police forces that could provide an answer to this question, there were 370 recorded offences of sexual exploitation or child prostitution or pornography where the victim’s age was recorded as 16 or 17. Numbers varied considerably from one police force area to another. Another example as recent as 2012 is the APPG report on children missing from care which reported that Ofsted received 631 notifications of a child living in a care home involved in child prostitution.

3.3. It is also worth considering that in the past when police could caution children for involvement in prostitution the level of cautioning of children for their involvement in prostitution was higher than the number of current convictions of perpetrators of crimes of sexual exploitation of children. For example, 5 years prior to The Children’s Society’s publication of The Game’s Up report in 1995, 1,862 convictions were secured against young people under the age of 18 for involvement in prostitution offences, with 80% of those convictions secured against young people aged 16 and 17.

3.4. In our view the lack of data and scrutiny concerning the recording of crimes of child sexual exploitation, and of child abuse through prostitution and pornography, right up to the investigation process and prosecution, acts as a barrier, stopping adolescents approaching adulthood who are targeted for sexual exploitation getting the support and protection they need to exit situations of sexual exploitation. The lack of data and lack of scrutiny of responses also means that the barriers which prohibit bringing perpetrators to justice are not fully understood and addressed. The lack of data is particularly pronounced for children aged 16 and 17 and often the number of sexual offences committed against them gets subsumed within the data on adults, and therefore the true scale of sexual offending against this age group remains hidden.

3.5. **Recommendation:** The government should publish statistics on how many children aged under-16 and separately children aged 16-17 have been victims of sexual offences, in particular offences of child sexual exploitation and how many of these cases resulted in successful prosecution. Such a review of data would help
identify where changes in practice and law are needed to protect children and more effectively prosecute adults exploiting them. The data on sexual offending against children aged 16 and 17 should not be subsumed within data on adults.

4. Bringing perpetrators to justice: Sentencing for offences of sexual exploitation against children aged 16 and 17

4.1. Under the Sexual Offences Act 2003 young people aged 16 and 17 are seen differently from young people under the age of 16. For example, young people aged 16 and 17 are recognised as children if they are victims of sexual exploitation related offences, (what used to be child prostitution and pornography offences prior to amendments introduced by the Serious Crime Act 2015,) as well as for offences of sexual abuse in families and sexual abuse by a person in a position of trust. For other offences, such as grooming offence or rape and sexual assaults, young people aged 16 and 17 are not seen as children, because legally they are able to give consent to sexual relationships.

4.2. The law also envisages sentences of different length for offences of sexual exploitation where the victim is aged 16 and 17. A person found guilty of sexual exploitation related offences in cases where the victim is aged 16 or 17 will incur shorter sentence (up to 7 years imprisonment maximum) than in cases where the age of victim is under the age of 13 (life imprisonment) or between the ages of 13 and 16 (up to 14 years imprisonment).

4.3. This is at odds with approaches to sentencing for other sexual offences or exploitation offense. For example, the Modern Slavery Act 2015 envisages life imprisonment for the offence of exploitation (which will apply to adults and in cases of sexual exploitation). Yet for offences of rape or sexual assault there is no additional recognition of the age of a victim in the Definitive Sentencing Guidelines on Sexual Offences. The guidelines do not include vulnerability due to the victim being under the age of 18 as increasing the harm factor caused by the offence, nor the culpability of the offender. Nor is it included as an aggravating factor. Therefore, those convicted of these horrible crimes against children aged 16 and 17 may not get a sentence reflecting the seriousness of their crime due to a victim being a child. In this context the shorter length of sentences for offences of sexual exploitation (previously child prostitution and pornography related offences) against young people aged 16 and 17 sends the wrong message that these crimes are not as serious if the victim's age is 16 and 17. This message impacts on how professionals safeguard children aged 16 and 17 and also how 16 and 17 years olds are viewed by those who choose to target them for sexual exploitation.

4.4. **Recommendation:** We believe that the Government should amend the legislation to ensure that perpetrators of sexual exploitation offences against 16 and 17 year olds do not receive shorter sentences and to send a clear signal that sexual exploitation of 16 and 17 year olds is a serious crime.

4.5. We are also aware that in some cases of sexual exploitation the perpetrators are prosecuted for offences of rape or sexual assaults rather than sexual exploitation, depending on what evidence there is for prosecution, therefore it is important that
sentencing for rape and sexual assaults against 16 and 17 year old reflects their vulnerability as children.

4.6. **Recommendation**: The definitive Sentencing Guidelines on Sexual Offences should be amended to include vulnerability due to the victim being a child aged 16 or 17 as an aggravating factor for offences of rape or sexual assaults.

5. The use of alcohol and drugs as well as fear or intimidation to coerce young people aged 16 and 17 to submit to sexual acts.

5.1. Many 16 and 17 year olds who are coerced into sexual exploitation are coerced to submit to sexual acts through fear, imbalance of power or long-term use of drugs and alcohol. In our *Old enough to know better report?*, out of 30 cases of young people reviewed 19 demonstrated the link between sexual offences and substance misuse. A recent report from Public Health England\(^1\) states that 12% of females aged 9 to 17 who access drug and alcohol specialist services report being affected by child sexual exploitation. The young people aged 15 to 17 represent the highest numbers of those affected.

5.2. The law addresses to an extent the link between drug and alcohol and sexual offending and recognises that where the victim was incapacitated at the time of the sexual offence that consent could not have been given. The legal definition of consent does not recognise that the consent can be impaired if the young person is groomed through alcohol or drugs or under the influence of substances. The definition does state though that ‘a person consents if he or she agrees by choice, and has the freedom and capacity to make that choice’.

5.3. The law does not recognise though that in many cases where children under the age of 18 become victims of sexual offences they are coerced into submission to sexual acts by perpetrators who supply young people with drugs and alcohol or who young people are scared of. Their capacity to consent is impaired through imbalance of power between a child and a perpetrator, and a young person’s use and/or dependency on drugs or alcohol prior to offence. Even though the law is clear that sale and consumption of alcohol from licenced premises and from licenced vendors as far as under 18s are concerned is prohibited, the law does not specifically address that 16 and 17 year olds, particularly vulnerable 16 and 17 year olds, can be coerced to submit to their own sexual abuse through adults supplying them with alcohol on private premises.

5.4. Although drugs and alcohol are often used to groom young people, young people themselves are not able to recognise that predatory individuals supplying them with drugs or alcohol are doing so to gain their trust and manipulate young people into sexual activity. Many young people believe that their use of drug and alcohol and sexual abuse are not related and that they are able to exercise control in both instances. These are recognised features of research into young people’s responses to the trauma of sexual abuse – that often the young person will normalise the experience and develop a belief that it is their choice.

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5.5. The working together guidance recognises that all young people under the age of 18 can be groomed for sexual abuse and exploitation. But it is not reflected in any way in the criminal law.

5.6. **Recommendation:** Recently through the Serious Crime Act 2015 changes have been made to create an offence of coercive and controlling behaviour in intimate and family relationships to protect vulnerable individuals in situation of domestic violence which can apply to young people aged 16 and 17 who are in situation of domestic violence. Similar changes are needed to recognise that 16 and 17 year olds can be coerced and controlled either through drugs or alcohol or through fear and for the purposes of sexual abuse.

6. **Responses and support for 16 and 17 year olds who are sexually exploited**

6.1. Interviews with practitioners undertaken for ‘Old enough to know better?’ demonstrate the variety of methods children’s social services use to safeguard and support young people at risk of child sexual exploitation. These can vary from options like support workers offered under section 17 of the Children Act 1989 to child protection plans or even taking a young person into care under section 20, or 31 of the Children Act 1989. There is no consistent approach and the effectiveness of these interventions varies across the country. The current system with its emphasis on family intervention does not always respond well to issues faced by older teenagers who often face risks that are outside the familial environment.

6.2. In relation to 16 and 17 year olds who experience sexual exploitation the issue is further complicated by the ability of this age group to give consent to sexual relationships. ‘The Old Enough to Know Better?’ report shows that many young people who are targeted for exploitation at the age of 16 and 17 have been vulnerable through earlier adolescent years and become very difficult to engage at the age of 16 and 17: they may find it difficult to make disclosure and they may even believe that they gave consent, particularly if they have also taken drugs or alcohol from a person who exploits them.

6.3. Practitioners interviewed for ‘Old enough to know better?’ showed that the lack of joint training focussed on definition of CSE, grooming and consent present a major barrier to agencies working together as these definitions differ depending on whether they are part of child protection responses or criminal justice responses.

6.4. **Recommendation:** The government is currently consulting on the revised definition of child sexual exploitation that recognises that all children under the age of 18 can be coerced into sexual exploitation. The new definition is going to be included into the statutory guidance. While this is a welcome step, we believe that professionals need better guidance on how to protect 16 and 17 year olds targeted for sexual exploitation and explain the differences in legal provisions for children under the age of 16 and children aged 16 and 17. We believe that the Working together guidance should specifically address responses to 16 and 17 year olds.

7. **Disruption of sexual exploitation of 16 and 17 year olds**
7.1. There are also differences in what tools are at police disposal to disrupt contact between adults and vulnerable 16 and 17 year olds targeted for sexual exploitation. For example, Child Abduction Warning Notices that can be used by the police to disrupt a contact between an adult posing risk to children and a vulnerable child cannot be applied in cases of 16 and 17 year olds, unless they are in the care of the local authority under section 31. Thus, this important tool that allows early intervention and disruption cannot be used to protect the majority of vulnerable young people aged 16 and 17.

7.2. The police can use Sexual Harm Prevention Orders and Sexual Risk Orders as disruption tools in case of sexual exploitation against all children under the age of 18. These orders are made by courts and can be used against persons who have either been convicted previously of sexual crimes or are known to pose as a risk of sexual harm. These orders came into force in March 2015 and there is not yet data available on how many orders were granted and how many were granted to protect children, and children aged 16 and 17 specifically. The Children’s Society’s ‘Old enough to know better?’ report could not find evidence suggesting that these orders are widely used to protect older teenagers from sexual exploitation.

7.3. The SROs differ from CAWNs as they can only be obtained on application to court and require higher evidential level of proof. While CAWNs allow speedier intervention. The guidance on Part 3 of the Sexual Offences Act 2003 recognises that and states:

’SROs and Child Abduction Warning Notices (CAWNs) are intended to be complementary. CAWNs are currently used by some forces as a deterrent for individuals thought to be grooming children. A CAWN is not statutory, and failure to comply with the conditions set out in one is not an offence. A CAWN can be issued as an early intervention to deter an individual from progressing towards more harmful behaviour. If they fail to comply with a CAWN and are judged by the police to pose a risk of harm, the police may decide to apply for an SRO which would carry the added deterrent of criminal sanctions if breached. Under these circumstances the individual’s failure to comply with the CAWN may be used as evidence in support of an application for an SRO.’

7.4. In the cases of vulnerable 16 and 17 year olds the Child Abduction Warning Notices cannot be applied for in advance unless they are in care of local authorities under Section 31 of the Children Act 1989, or subject of an emergency protection order; or in police protection. Most vulnerable young people aged 16-17 do not fall into either of these categories. For example, young people aged 16 and who reside in children’s homes, supported accommodation, or hostels, are looked after children under Section 20 of the Children Act 1989 and local authorities do not have full parental responsibility for them. Thus, CAWNs can not be applied to ensure early intervention and prevent young persons aged 16 and 17 being targeted for sexual exploitation. As a result, the police do not have the same early intervention mechanism to deter individuals from progressing towards more harmful behaviour if that behaviour is directed at vulnerable 16 and 17 year olds.
7.5. This is despite the evidence that teenagers aged 15 to 17 make up 36% of all missing persons reports made to the police and latest statistics from the Department for Education on looked after children missing or absent from placements states: 'The majority of the 6,110 children who were missing (just over half), or away from placement (half) were accommodated in secure units, children’s homes or hostels. This is largely due to the high proportion of children aged 16 years and over who are mostly placed in these accommodation settings. Nearly half of the missing incidents were for children aged 16 and over; the equivalent figure for children away from placement without authorisation was 58%'

7.6. Practitioners from The Children's Society commented that the police use a variety of disruption techniques, but that there is no standardised approach and that there has been little analysis of what works to disrupt exploitation. Police usually rely on the young person themselves; convincing them to remove themselves from dangerous situations and make disclosures of abuse to them. This puts the onus on the victim and given the vulnerability of children subjected to sexual exploitation puts them under undue strain.

7.7. **Recommendation:** The law should be amended to enable police to use Child Abduction Warning Notices in cases of vulnerable 16 and 17 year olds being targeted for sexual exploitation.

8. **Supporting Victims**

8.1. Young people targeted for sexual exploitation need access to therapeutic support to enable them to recover and move on. In 9 out of 30 cases examined for *Old enough to know better?* there were mentions of young people needing intervention from mental health services because of concerns about their well-being, self-harming episodes, suicide attempts or even episodes of psychosis that required in-patient interventions. The remaining cases may not have specifically mentioned mental health services but referred to the young persons feeling low, depressed, anxious, fearful, or having flashbacks of their abuse.

8.2. Yet our *Access Denied* report as well as *Old enough to know better?* found access to therapeutic support for victims of sexual abuse or exploitation to be patchy across the country. Only 14% of Child and Adolescent Mental Health Services have in place procedures to prioritise access for victims of child sexual exploitation and in some areas these services are unwilling to support young people who are still receiving safeguarding services, going through legal proceedings, or not yet displaying the symptoms of a diagnosable clinical condition.

8.3. Worryingly, only 17 mental health trusts identify victims of abuse and CSE in their risk assessment policies when the patient does not turn up for an appointment, despite the growing understanding that those who have experienced sexual abuse and exploitation often find it difficult to stay engaged and continue with services. And only 11% of mental health trusts have victims of sexual abuse identified in their policies on transitioning between children’s and adults’ mental health
services.

8.4. CPS prosecution guidelines and the Victims’ code make it very clear that victims and witnesses need to be informed appropriately about the progress of the investigation and decisions made on the case, and that information given to them needs to be accessible and easy to understand. In practice this is not happening very often. Recent HMIC reports that victims of sexual abuse whose cases process through the criminal justice system do not always get the best support or information on the progress of the case, or of decisions made.

8.5. **Recommendation:** We believe that the law needs to change to give victims of sexual abuse the right to access therapeutic support.

8.6. **Recommendation:** The government should introduce victims’ legislation to ensure that the principle outlines in the EU Victims Directive that came into force in November 2015 are enshrined in the law and are implemented in relation to children and young people who are victims of sexual exploitation.

9. **Transition to adulthood**

9.1. Young people’s vulnerability does not stop at the age of 18. Yet many children’s professionals stop being involved in young person’s lives at this stage. Responses to our FOI request from the police forces ranged from stating that at the age of 18 the flag of child sexual exploitation was taken down as they were no longer children and cannot be seen as being at risk of child sexual exploitation, to stating that concerns continued to be flagged until the level of risk was low. But very few could identify a clear vulnerable adult pathway that would be put in place instead.

9.2. The FOI responses from the police and interviews with practitioners in our projects showed that the data on children flagged as being at risk of CSE is patchy and there is no consistent approach to recording and sharing this data. Of 30 responses, 6 police forces that provided information stated that 676 children are/or have been flagged, with 143 presently flagged in one police force that did not have breakdowns per year. A further 6 either do not record information this way or it is not easily retrievable. Three did not answer the question, and the remaining 15 forces refused.

9.3. **Recommendation:** the Government and the police should develop a national system for flagging children at risk of sexual exploitation/victims of sexual exploitation to ensure that practice is consistent across all areas and that these young people are supported as they move to adulthood.

9.4. **Recommendation:** The Government should develop guidance for the police and local authorities on how young people identified as being victims of CSE or at risk of CSE prior to turning 18 should be responded to after they turn 18. This should include guidance to the police on how to respond to young adults who are found to be offering sex services in community or online, especially if they are formerly known as young people as risk of CSE, to ensure that they receive the support they need.
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