



**CHILDREN 1<sup>ST</sup>**

# **Recommendations of the Scottish Law Commission Report on Rape and Sexual Offences**

**Response on behalf of ChildLine Scotland and  
CHILDREN 1<sup>st</sup>**

## **Recommendations of the Scottish Law Commission Report on Rape and Sexual Offences**

### **About ChildLine Scotland**

ChildLine Scotland is the free 24-hour helpline for any child with any problem. Last year, we provided a counselling service for around 35,000 children and young people who called us about a wide variety of issues including bullying, abuse and sexual health and wellbeing issues.

Sexual abuse<sup>1</sup> is consistently one of the most common problems that children call our service about. In the year 2006- 2007 over 2,800 children talked to volunteer counsellors about sexual abuse as their main problem. Despite increased public awareness of this issue and a far reaching review and reform of child protection services, the numbers of children calling ChildLine Scotland about sexual abuse over the last decade has remained fairly constant. In 2002, the Scottish Executive acknowledged ChildLine as a vital child protection service in Scotland today.

### **About CHILDREN 1<sup>ST</sup>**

For over 120 years CHILDREN 1<sup>ST</sup>, the Royal Scottish Society for Prevention of Cruelty to Children, has been working to give every child in Scotland a safe and secure childhood. We support families under stress, protect children from harm and neglect, help them recover from abuse and promote children's rights and interests. We provide 41 services in 23 local authority areas as well as six national services including ParentLine Scotland which is the free, national telephone helpline for parents and carers. ChildLine Scotland is operated by CHILDREN 1<sup>ST</sup> on behalf of the NSPCC.

Two types of CHILDREN 1<sup>ST</sup> services are of particular relevance to this response. Firstly, CHILDREN 1<sup>ST</sup> runs 8 abuse and trauma recovery services for children and young people. An example of one of these is services is the Fife Abuse Recovery Project which is located within a health care setting. Staff work within a multi-disciplinary team alongside clinical psychologists, a forensic psychologist and nurse therapists to provide a therapeutic support service for children and young people who have experienced sexual, physical or emotional abuse. This project is jointly funded by CHILDREN 1<sup>ST</sup> and Fife Primary Care Health Trust.

Secondly, the Chill Out Zone (or COZ for short) is CHILDREN 1<sup>ST</sup>'s Healthy Living Centre based in Bathgate. The centre provides a holistic early prevention service for young people in West Lothian aged 12-20. Dealing with a range of issues including physical, sexual and mental health, the centre is purpose built and includes a 'cyber café', a confidential counselling room, and a medical room. A combination of professionally trained staff and trained volunteer young people are on hand to talk to young people and point them in the right direction to the information and/or support service they need, often in relation to sexual activity and wellbeing. COZ is also a C-card distributor.

One of the fundamental aims of both ChildLine Scotland and CHILDREN 1<sup>ST</sup> is to make sure that young people's voices are heard in society, in policy-making and in practice. We greatly appreciate the opportunity to respond to this vital consultation and would like to stress that our response is on behalf of the children and young people we hear from. We also highlight that, whilst we appreciate the need for change in the law in this area, the law alone is not the answer

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<sup>1</sup> ChildLine defines sexual abuse in the following way: *sexual abuse involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is happening. The activities may involve coercion, physical contact, including non-contact activities such as involving children in looking at, or in the production of pornographic material or watching sexual activities, or encouraging children to behave in sexually inappropriate ways.*

for addressing many of the complex issues around young people's sexual wellbeing. We include comments within this paper on what should accompany any change in the law around sexual offences, and would welcome the opportunity to discuss these issues further.

## Part 2 – Consent

**5. Do you agree with the SLC's recommendation that – “There should be a non-exhaustive statutory list of factual situations which define when a person has not consented to sexual activity. The situations should include the following:**

**(a) where the person had taken or been given alcohol or other substances and as a result lacked the capacity to consent at the time of expressing or indicating consent unless consent had earlier been given to engaging in the activity in that condition.**

ChildLine Scotland and CHILDREN 1<sup>ST</sup> welcome the recommendation to define factual situations when a person has not consented to sexual activity and appreciate the imperative of including a situation involving intoxication. However, we are concerned that section 5 (a) as it is currently written may unintentionally impact on young people, whose 'decisions' to have early sex with other young people may involve heavy drinking and lack of clarity around consent.

*Was drunk and had sex with boy. Think I might be pregnant. No condom. We were drunk. I am not drinking ever again. I am going to have an abortion if I am pregnant. (girl, aged 14)*

Thousands of young people talk to volunteer counsellors at ChildLine Scotland every year about sexual health and wellbeing issues including pregnancy. Recent research into these calls<sup>2</sup> confirms that alcohol is the most common contextual factor in young people's 'decision' to have unprotected sex. “In describing themselves as having been drunk or drinking when they had had sex it was apparent in most narratives that callers were indicating a loss of control that had caused them to have sex. The suggestion from this . . . was that young people did not think they would have had sex had they been sober”. The research also identified other important contextual factors which included being at parties (as well as being drunk) and feeling peer pressure to have sex. This is confirmed by research into the ChildLine UK database which found that alcohol was frequently cited as a factor associated with unprotected sex, whilst in more than 15% of calls that ChildLine receives about peer pressure are related to sex – and many young people said that they used alcohol to overcome their reluctance to become sexually active.<sup>3</sup>

Given the relationship between alcohol use and young people's sexual activity, confirmed in myriad research across Scotland and the UK<sup>4 5 6 7 8</sup>, we seek reassurance that inclusion of section 10 (1) as it is currently written will not inadvertently criminalise what appears to be widespread behaviour in many young people. It is also important that the way in which the law is understood by both young people and those who work with them does not unintentionally deter young people from accessing services. If young people or those who work with them were to believe that any consumption of alcohol leading to unintended sexual activity potentially constitutes rape, particularly if a young person regrets such sexual activity, then young people

<sup>2</sup> Children and young people's concerns about their sexual health and wellbeing. Centre for Research on Families and Relationships (CRFR), Edinburgh University. 2006.

<sup>3</sup> Alcohol and teenage sexual activity; ChildLine casenotes; 2005.

<sup>4</sup> Adolescents and Alcohol. Institute of Alcohol Studies, 2005.

<sup>5</sup> Alcohol and teenage pregnancy. DrugScope and Alcohol Concern. 2002

<sup>6</sup> Binge drinking and citizenship. DrugScope and Alcohol Concern. 2005

<sup>7</sup> Young People's Drinking. Alcohol Concern. 2004

<sup>8</sup> Teenage Pregnancy and Alcohol in rural areas. Coventry University. 2004

will not access crucial sexual health services. They will fear that raising concerns about their sexual activity may be defined as rape. Clarity of the legal wording to avoid such misunderstanding of its application is essential for young people's sexual wellbeing.

We recognise that the list set out in Paragraph 2.59; Draft Bill, section 10 is non-exhaustive. However we would also strongly recommend that the statutory list of factual situations where the person has not consented to sexual activity includes a category "where the person agreed or submitted to the act because he or she was subject to emotional or psychological abuse". Research into ChildLine Scotland caller databases reveals much about the strategies used by abusers to force or coerce the child or young person's participation in a sexual activity. For example, abusers manipulating callers to believe that the abuse was a game and that refusal of the child to comply would have various unrealistic 'consequences', or that the abuse constituted 'normal' behaviour in loving families. In having the child or young person believe the abuse to be normal, abusers were enabled to continue the abuse, sometimes over a long time.

### **Offences based on a protective principle**

**23. Do you agree with the SLC's recommendation that – "The law on sexual offences relating to children should not make any distinction in terms of the gender of the child, or of the perpetrator of such offences."?**

#### *Gender of the child*

Thousands of boys and girls call ChildLine Scotland every year because they are experiencing sexual abuse, often at the hands of the people who are supposed to love and protect them. ChildLine Scotland believes that every child has the right to a safe upbringing, free from abuse of any kind. Our aim is to offer support, advice and protection to any child or young person who needs it. Subsequently, we believe that any law on sexual offences which involves distinctions based on the gender of the child is in direct breach of children's rights.

We greatly welcome the SLC's recommendation to make the law gender neutral in this area and believe this change is urgently required to reflect the **right of all children** 'to be protected from all forms of physical or mental violence . . . including sexual abuse', as enshrined in the UN Convention on the Rights of the Child, ratified in Scotland and widely cited as informing modern child protection legislation, policy and practise.

#### *Gender of the perpetrator*

*Being sexually abused by his mum; as far back as he can remember she would touch him sexually/. Just thought it was normal, then later thought if he left it would get better but when turned 16 mum started to make him have sex with her; feels degraded by it (boy, aged 16)*

Although many more children and young people talk to ChildLine about abuse by men, the numbers who call about abuse by women is far from negligible. A recent study of calls to ChildLine Scotland about sexual abuse found that in a sample of 2,615 calls to the helpline about sexual abuse, where the gender of the perpetrator was known, 80% were male and 20% female. More boys, than girls, talked of abuse at the hands of women<sup>9</sup>.

One of the main reasons children and young people in this sample and across the board at ChildLine and in CHILDREN 1<sup>ST</sup> give for not telling anyone about sexual abuse is fear that they

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<sup>9</sup> Children and young people's concerns about their sexual health and well-being. ChildLine. 2006.

will not be believed. If children live in a society which supports the myth that females do not abuse – and this is reflected in law – this will surely contribute towards making it more difficult for children to come forward, be listened to and be protected.

**28. Do you agree with the SLC’s recommendation that - “There should be special provisions applying the law on sexual penetration and other sexual assaults and on coerced sexual activity to children aged between 13 and 16 where the conduct involves the consent of the child.”?**

ChildLine Scotland and CHILDREN 1<sup>ST</sup> strongly agree with this recommendation. A change in the law to remove these offences would mean, as far as we understand, that young people of these ages would be afforded *less* protection against sexual abuse by adults than they are under current laws.

Legislation is not created or ‘executed’ in a vacuum and it is vital to consider the reality of many young people’s real experiences of sexual abuse and violence at the hands of adults when making the law. The majority of children and young people calling ChildLine Scotland about sexual abuse are aged 12 – 15. The vast majority of these young people know their abuser, who is likely to be a member of their immediate or extended family, the partner of a parent or carer, a friend of the family/ known to the family, a neighbour. These are some of the most vulnerable children in our society who are far too often struggling to deal with their problems alone. Young people who call us about sexual abuse are likely to have a range of complex problems in their lives which arguably make them more vulnerable to exploitation. They are often struggling to cope with a range of associated problems such as very low self esteem, mental ill health, self harm, wider family relationship problems and many others. A recent study of long term callers to ChildLine showed that many of the callers who receive a regular, on-going counselling service are suffering from sexual abuse.<sup>10</sup> As noted above, research shows that abusers often use strategies such as describing sexual abuse as ‘normal’ or as a game. It may appear to the child or young person that they have at some level, consented to the abuse, but the abuse is extremely exploitative and damaging.

What ChildLine Scotland and CHILDREN 1<sup>ST</sup> hears from children and young people convinces us that **all children** – younger and older - need protection from this form of exploitation because in most cases, sex between adults and children will be of fundamental damage to children and young people.

**29. Do you agree with the SLC’s recommendation that – “The offences mentioned in recommendation 28 cannot be committed by a person who has not reached the age of 16.”?**

*My boyfriend wants to have sex with me. I don’t want to because I’m not ready. He said he would finish with me if I said no – I really like him (girl aged 13)*

Thousands of young people call ChildLine Scotland every year to talk about a wide range of sexual health and wellbeing issues including partner relationships and pregnancy. The average age of these young people is 14 for girls and 15 for boys. Many young callers have had sex or sexual activity, either as part of an on-going relationship or on a one off basis. Many more are thinking about having sex but for any number of reasons are uncertain or unhappy and have called to talk about it. ChildLine Scotland’s role is to listen to these young people’s concerns

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<sup>10</sup> *Can I talk to you again?: Restoring the emotional and mental wellbeing of children and young people.* ChildLine. 2005.

and offer them the help and support they need to make the right choices for them, in the context of their own lives.

Young people who call ChildLine Scotland are not necessarily representative of the young population in relation to sexual activity. However, it is clear from wider research<sup>11</sup> and from the experience of CHILDREN 1<sup>ST</sup> services that early sexual experience (before the age of 16) is widespread in the young population in Scotland today. Many young people then, have had and will continue to have sex, and whilst this may not always be in their best interests or based on any healthy choice, it should not be regarded in the law as a criminal offence. **Even within the parameters of the current system on the prosecution of children under 16, we cannot support the criminalisation of consensual sexual activity between two young people, and therefore welcome the SLC's recommendation.**

This does not mean, however, that we advocate early sexual experience in young people. We know from many of the young callers to ChildLine Scotland and from young people who access the Chill Out Zone service that their sexual experiences are *problematic*, not least because they sometimes have unintended consequences like pregnancy, but also because of the pressure that many young people can feel under to have sex before they are ready. In some cases young people clearly lack the information, support and personal skills to ensure that they are making healthy choices about sex. Far too often we hear from young people who are having sex for myriad bad reasons, including being pestered by partners, being drunk, being afraid of 'getting dumped', feeling like 'everyone else is doing it so you have to join in, feeling unloved and unwanted. In fact, whilst there can be a widely held perception that young people know more about sex than they ever did and are well equipped to negotiate relationships, we know at ChildLine Scotland and CHILDREN 1<sup>ST</sup> that for many young people this is simply not the case.

For these reasons, and in order that legislation does not inadvertently increase pressure on young people to have sex before they are ready, **ChildLine Scotland and CHILDREN 1<sup>ST</sup> very strongly advocate that the proposed legislative change is accompanied by a range of measures which will support young people's sexual health and wellbeing and help them develop the skills they need to make healthy choices.** At the very least, the change should be *preceded* by a clear sexual health standard for under 16s which outlines what all young people can expect when accessing any sexual health services and clarifies the responsibilities of services towards young people. Other vital measures include greater access to sexual health services for young people, particularly in rural areas; a national public information campaign on young people's right to confidentiality at GP; universal school nursing and/ or school counselling services; a mandatory sexual health and relationships curriculum and guidance for professionals on legal change.

More specifically in relation to recommendation 28, we are also concerned that the draft bill needs to state more clearly that the offences mentioned cannot be committed by a person who has not reached the age of 16 **only where there is free agreement of both young people and no co-ercion is involved.**

Unfortunately, ChildLine Scotland hears a great deal about young people's sexually aggressive behaviour. A recent study of ChildLine Scotland's database<sup>12</sup> found that whilst pressure from peers and partners to have sex were significant factors in young people's calls about relationships, smaller numbers of girls in particular were experiencing abuse from partners who were sometimes of a similar age. This is confirmed in a wider study of ChildLine's UK database,

<sup>11</sup> The average age of first sexual experience in Scotland has now fallen to 16, with a significant percentage of young people becoming sexually active before that age (29.7% of young men and 22.8% of young women<sup>11</sup>). These figures apply to intercourse

<sup>12</sup> Children and young people's concerns about their sexual health and wellbeing. CRFR. 2006.

which found that a significant number of young people called the helpline about sexually aggressive behaviour by other young people.<sup>13</sup>

ChildLine Scotland is at pains to highlight the problem of sexually aggressive behaviour in some young people for a number of reasons. We are concerned that the law should give an unambiguous message about co-erced sex, whether by adults or young people, and also that young people should fully understand their right to be protected in this area. We are also alarmed about the incidence of sexually aggressive behaviour in young people and concerned that it receives the attention it needs. We understand from our work with Child Protection Committees and with young offenders institutions that there is a dearth of intervention and treatment options in some local authority areas for young people displaying sexually aggressive behaviour. We strongly believe that the Children's Hearing System, with the vital back up of well resourced support services for referral, is the right mechanism within which to deal with these young people – many of whom may be likely to have significant social and emotional problems themselves.

**30. Do you agree with the SLC's recommendation that – “There should be a ground for referral of a child to a children's hearing that the child has engaged in sexual activity with another person or been subjected to sexual activity with another person.”?**

As detailed earlier in this response, ChildLine Scotland and CHILDREN 1<sup>ST</sup> are concerned that some young people under the age 16 are engaged in sexual activity that could be said to be 'consensual' but is in fact problematic. However, many types of pressure exerted by young people on each other in relationships would not meet the criteria of a criminal offence – but are extremely threatening or damaging to the young person involved and may indeed result in them having sexual activity that they do not want or 'freely consent' to.. We agree with the principle behind the amendment proposed in section 29 of the Draft Bill in order to deal with some of the aggressive behaviour by young people which may not otherwise be picked up or dealt with.

However, we have concerns that as currently drafted, recommendation 30 (relating to Draft Bill section 29) may have the unintended effect of making all sexual activity between under 16s an automatic ground for referral even where such activity was mutually consensual and non-exploitative. As the January 2006 discussion paper (number 131) points out, the average age of first sexual experience in Scotland has now fallen to 16, with a significant percentage of young people becoming sexually active before that age (29.7% of young men and 22.8% of young women<sup>14</sup>), with these figures applying to intercourse. Under recommendation 30 as it stands almost a third of young people under 16 could be referred to the children's hearings system, and the numbers could be significantly higher since the recommendation cites not just intercourse but 'sexual activity', thereby theoretically including healthy, explorative sexual behaviour between young people. There is a danger that professionals working with children and young people would feel compelled to interpret section 29 in a prescriptive manner i.e. *requiring* a referral under this new ground, in circumstances where they became aware of *any* kind of sexual activity between two persons under the age of 16.

It is important to highlight that the current wording of the referral ground would also severely compromise young people's right to confidentiality. Confidential services are crucial for ensuring that young people can access the information, support and advice that they need, and we know from our experience and from research that confidentiality is very important to young

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<sup>13</sup> Alcohol and teenage sexual activity. ChildLine 2005.

<sup>14</sup> Scottish sample of the National Survey of Sexual Attitudes and Lifestyles *from* National survey of sexual attitudes and lifestyles. Department of Health. 2002

people<sup>15</sup>. This importance was recognised in similar recent discussions that resulted in Part 3 of the Protection of Vulnerable Groups Bill being removed at Stage 3 in the Parliament. As currently worded, recommendation 30 would result in young people's confidentiality being breached unnecessarily because referrals would be made about all young people engaged in sexual activity.

ChildLine Scotland and CHILDREN 1<sup>ST</sup> appreciate that this is a complex area, and agree that there must be a means of ensuring that young people engaged in harmful sexual activity are given the care and protection that they need. **However, we cannot support the recommendation as it is currently expressed, and would welcome extensive further debate and discussion in how the law might be able to help protect children from exploitation by young people under 16** - without overloading the children's hearings system with cases involving normal, explorative behaviour between two consenting young people.

We strongly recommend that this ground for referral is accompanied by a review of children's services in this area and that Getting It Right For Every Child takes full account of what it would mean to add such a referral ground to the work of hearings. It is vital that any additional ground of referral is backed up by well-resourced support services, and that a much wider range of disposals is available for children's hearings, such as the provision of sexual health information and advice, counselling, treatment and other therapeutic services for the young person. We also suggest that consideration would need to be given to the considerable training needs of Children's Hearing panel members before grounds related to sexual activity could be added.

35. Do you agree with the SLC's recommendation that – **“There should be a defence to an offence involving sexual activity with an older child that the accused was less than two years older than the child or at some time earlier engaged in such activity and at that time was less than 2 years older than the child.”?**

ChildLine Scotland hears from young people up to and including the age of 18 and is aware that older and younger people are involved in sexual relationships. Indeed, many of the issues affecting 16 and 17 year olds around sexual health and wellbeing are similar to those affecting younger callers – and in many cases 16 and 17 year olds are no less confused and vulnerable than their younger counterparts. **In order to avoid criminalising older young people for what may be healthy, non-exploitative sexual activity, we support the recommendation around a two year age gap being a defence to an offence, albeit with reservations.**

These reservations lie mainly around the fact that the proposal seems overly arbitrary and not geared towards the individual circumstances of the particular young people involved. In some cases, it might be appropriate to defend a young person's right to chose (for example a 15 year old's right to chose to have a sexual relationship with another 15 year old or indeed an 18 ½ year old) – and the current proposals as they stand do not appear to support this right. Nevertheless, the extent to which we hear about young people's exploitation at the hands of adults convinces us that it is **imperative** for the law to give a clear and unequivocal message that sex between adults and children is wrong.

**36. But this defence does not apply to an offence involving penile penetration of an older child.**

Whilst we support the SLC's recommendation around the defence around a two year age gap, we are very concerned that introducing an element in the law which treats different kinds of

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<sup>15</sup> TASC Agency for Healthy Respect, In Confidence, 2004

sexual activity differently would be very confusing and unrealistic in practice. It is our understanding from the consultation that penile penetration for those under 16 years old would not be a criminal offence, but when a young person turns 16 years old, penile penetration with their partner would then become indefensible in the law. This would seem to be very problematic for how relationships between young people would work in practice, and would lead to considerable confusion around the law by young people and those who work with them.

**41. Do you agree with the SLC's recommendation that - "There should be offences which impose criminal liability on a person who has sexual activity with another person over whom he or she holds a position of trust."?**

As previously described in this response, the vast majority of children and young people who talk to ChildLine and CHILDREN 1<sup>ST</sup> abuse recovery services about abuse have been abused by those who should be caring for and protecting them: parents, step parents, professionals, carers, wider extended family. We therefore consider it essential that there continues to be offences prohibiting sexual activity between persons one of whom holds a position of trust over the other.

**Part 5 – Offences based on public morality**

**52. Do you agree with the SLCs recommendation that-**

**“(1) There should be an exclusion from liability for incitement or art and part involvement in any offence concerning sexual activity with a child or young person for persons providing counselling, support or treatment on matters of sexual health.**

*My boyfriend wants me to have sex with him. I'm not sure – I think it would make him happy but I'm scared I'll get used. I'm scared to get pregnant or a disease. (girl, aged 14)*

ChildLine provides an essential service in the area of sexual health and wellbeing, which young people in Scotland increasingly demonstrate they want and need. Calls to our service about sexual health in its broadest sense have increased steadily over the years and now represent one of the most common concerns expressed by children and young people on the helpline. ChildLine volunteers spend a significant amount of their time listening to young people's issues around sexual health and providing them with support, advice and at times protection. Helpline supervisors estimate that providing young people with information about sexual health services is one of the most common forms of signposting that volunteers do at ChildLine Scotland.

Staff in the CHILDREN 1<sup>ST</sup> Chill Out Zone also spend much of their time listening to young people about their sexual health, and this is a fundamental aspect of their support service. Their experience of working in a multi-agency setting has demonstrated the importance of all workers being able to support young people in relation to sexual health, without fearing adverse consequences for themselves.

An 'exclusion from liability' clause is therefore essential to avoid the risk of criminalizing our many volunteers and staff – and indeed the thousands of others out there - who provide young people with essential services in sexual health. ChildLine would also consider any aspect of the law which a) restricted the capacity of service providers to offer young people sexual health support services and b) deterred children from *seeking* help and support when they need it, to be extremely regressive and in fact dangerous. Accessing help and support not only helps young people make more informed decisions about their own sexual health and wellbeing, it is also crucial to the child protection agenda.

**53. Do you agree with the SLC's recommendation that – “Any existing common law offence relating to homosexual conduct should be abolished.”?**

*Thinks he is gay. Teased by people at school because of this. Wants to be like everyone else. Feels isolated and alone. People make fun of him. Call him gay boy. Feels different and stupid. Feels that to be gay is wrong. (Boy, aged 13)*

Calls about sexuality and sexual orientation form a significant minority of calls to ChildLine Scotland. Recent research into ChildLine Scotland caller databases in this area shows several important themes in these young people's experiences, including the following: young people calling about their sexual orientation are often ashamed and confused about the way they feel, with the majority understanding their sexual orientation to be 'wrong' or 'unacceptable'; young people tend to perceive that their significant others (e.g. peers and parents) will also feel this way and will be rejecting or angry if confided in; young people calling about their sexual orientation are far less likely to have confided in or received support from their peers than young people calling the helpline about wider issues, making this group of young people particularly isolated and vulnerable during adolescence<sup>16</sup>.

In house research into the experiences of boys calling ChildLine found that boys employ homophobic bullying far more than girls, with the term 'gay' consistently being used as a form of abuse in bullying behaviour between boys<sup>17</sup>.

ChildLine Scotland and CHILDREN 1<sup>ST</sup> consider it vital to young people's healthy mental, emotional and social development that society endeavours to address and eliminate the stigma surrounding sexual orientation. We strongly believe that existing common law offences relating to homosexual conduct should be abolished in order to underpin this desperately needed social change.

**71. Should the requirement of corroboration be removed for proof of sexual offences? If so, for which offences?**

The sexual abuse of children is, by its nature, highly secretive. Many children who call us have not told anybody about their experiences for a range of reasons, including fear of violence, fear of breaking up their family, feelings of personal 'responsibility' for the abuse, fear of not being believed. At least some of these feelings are deliberately engendered in children by abusers, who employ a range of 'strategies' to ensure the silence of the child and continued secrecy of the abuse. For these reasons and many others it may be particularly difficult to obtain corroboration where children have been abused.

We appreciate that corroboration does not always require direct eye witness evidence and can include other circumstantial evidence, such as forensic information. However it may be that the requirement of corroboration is narrowly interpreted, and results in more emphasis being placed on certain kinds of evidence than others. As members of the Justice for Children alliance, an alliance of individuals and organisations committed to a Scottish judicial system which protects children's best interests, we believe there is urgent need for a review of how cases of child sex abuse claims are dealt with by the judicial system including the need for corroborative evidence. Issues around widening the kinds of evidence that can be used as corroborative evidence in sexual crimes against children and young people also need to be considered.

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<sup>16</sup> Children and young people's concerns about their sexual health and well-being. CRFR. 2006.

<sup>17</sup>Boys Allowed. ChildLine. 2004.

We hope you find these comments useful. We would also like to express a strong interest in remaining involved in the consultative process around the draft legislation.

Yours sincerely,

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