

# Risk Assessment and Management of Individuals Convicted of a Sexual Offence in the UK

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## Abstract

*The UK has seen changes in sexual abuse policy and practice over the last 10 - 15 years that have been driven by austerity, risk management, public protection and the socio-political climate; these changes have been problematic and challenging as well as positive and proactive. In recent years there has been an increasing move amongst professionals, practitioners and policy makers stating to think of sexual abuse as more than just a criminal justice issue, but reframing it as a public health and criminal justice issue; although this has not filtered down to the public and the media yet. This article will look at the current status of sexual abuse policy and practice in the UK, what has changed, its impact and where it is moving in the future.*

*Key words: sexual abuse, public health, policy, risk management, UK*

The UK, although one country, has three different legal and criminal justice jurisdictions (England and Wales; Scotland; Northern Ireland) which all have slight variations, in how they manage perpetrators of sexual abuse. Sexual Abuse is a major socio-political issue in the UK that has been growing in the political, public sphere since the late 1980's. Generally, speaking sexual abuse in the UK is conceptualised as a public protection and risk management issue, with preventing re-offending and sex offender management being its main drivers. Over the last 10 years, or so, we have seen a spike in reporting, recording, prosecution and sentencing of perpetrators of sexual abuse as a result of a number of factors, including, increased social and traditional media reporting; increased visibility of the offences; increased trust in the criminal justice system to take victims seriously and respond appropriately; the impact of celebrity cases as well as historical cases and investigations; and related government policies, practices and strategies (see McCartan & Kemshall, 2017, and Kemshall and McCartan, 2017 for a larger discussion). This has resulted in increased pressure on the current offender management systems across the UK which are already under strain as a result of cuts in funding and re-organisation. Given this changing context, this piece will not only discuss the current practices in sex offender risk assessment and management in the UK, but also consider future issues and debates.

## Attitudes to Sexual Abuse in the UK

Attitudes to individuals convicted of a sexual offence in the UK are similar to those of other westernised, northern hemisphere countries, especially, Canada, Ireland, Australia and New Zealand. The UK public tend to believe in punitive responses to crime in general and sexual abuse specifically; call for stricter as well as more restrictive policies in respect to sexual abuse; have conflicting ideas of whether treatment/rehabilitation works with perpetrators of sexual abuse; and don't believe that individuals convicted of a sexual offence can manage their own behaviours appropriately (see McCartan, 2004, 2010 & Harper & Hogue, 2014 for more details). In addition,

there is a paradoxical view in the UK to the effectiveness and coherence of the management of individuals convicted of a sexual offence by professionals, where the public do not necessarily trust the professionals that work with offenders to do their jobs properly but at the same time do not necessarily know what professionals do (McCartan, 2013). This can be exemplified by the recent case of John Worboys where the parole board agreed that he could be released early but did not justify their decision and then when there was public outcry this decision was reversed leading to high level resignations (see this overview from The Guardian for more information). A lot of these public beliefs, as demonstrated via Social Learning Theory, come from a range of sources including personal experience and/or the experience of others through personal relationships or the media. While sexual abuse is not a taboo topic in the UK and it is discussed nationally as well as personally, it is still a topic that has myths and misconceptions attached to it relating to the perpetrator as well as the victim.

## What is Offender Management Like in the UK?

Across the UK, offender management is seen through the lens of risk management, public protection and safeguarding. The aim of offender management is to reduce re-offending, to promote desistance in offenders and to keep the public as well as communities safe. Therefore the role of the main criminal justice agencies (police, probation and prison service) is ultimately safeguarding. This means that the criminal justice system in the UK is invested in punishment, rehabilitation and integration back into the community. As a consequence of these offender management policies and practices it means that it is offender centric, buying into a "what works" ideology. Risk management means, therefore, understanding the offenders risk of re-offending, their level of dangerousness and the outcomes of their re-offending (if it was to happen); which means that the system is cautious, bureaucratic and risk averse.

## The Reality of Risk Assessment with Individuals Convicted of a Sexual Offence

The different parts of the UK have different approaches to risk assessment, which poses some real challenges around the movement of offenders from one jurisdiction to another. These differences include,

- In Northern Ireland they use the Assessment, Case management and Evaluation (ACE), Risk Matrix 2000, and the Stable and Acute risk assessment.
- In England and Wales they use the Offender Assessment System (OASyS), Risk Matrix 2000, Structured Assessment of Risk and Need (SARN) assessments.
- In Scotland they use the Level of Service/Case Management Inventory (LS/CMI); Stable and Acute 2007 (SA07); and the Risk Matrix 2000 (RM2000) [Scotland]

(For a further discussion of the utility, effectiveness and portability of Risk Assessment tools please see Wilson & Sandler, 2017)

In addition to these jurisdictional differences England and Wales have just seen the introduction of the Active Risk Management System (ARMS) (McNaughton & Webster, 2014). ARMS was developed in conjunction with the police in an attempt to develop a common risk management system that was practical, strengths based, focused on protective factors and simple to use (for more information please see McNaughton and Webster, 2014). The main driving force behind ARMS was that the frontline staff wanted a risk assessment system that they saw as flexible and fit for purpose that they could use in their day-to-day activities. The major criticism of a lot of previous

risk assessments is that they were too psychological and static in nature and not what police needed or wanted (Kewley, 2017). Research into the use of ARMS by the police has shown that they are able to effectively use it and that it enables them to adapt their offender management strategies better (McNaughton and Webster, 2014). Empowering users to be able to develop dynamic risk assessments using both risk and protective factors ARMS enables an individual's risk score to be increased or decreased and thus specific offender management plans to be tailored (McNaughton & Webster, 2014). The greater professional judgement afforded by ARMS and resultant flexibility in determining an offenders risk has led the College of Policing in the UK to recommend it as an approach that all police forces should use (College of Policing, 2014). Despite the apparent success of and institutional support for ARMS, there has been a sparsity of evaluative research that has examined the use of ARMs by the police. That which has been conducted and published (Kewley, 2017; McNaughton and Webster, 2014;) has found a number of issues related to its implementation including the length of time it took to complete, the desire for a more streamlined version or for it to be used less often, difficulty in rating certain factors, challenges in styles of questioning and levels of details required to complete assessments and issues of multi-agency access and use. This suggests that more research and evaluative work is needed to fully assess and understand the impact of ARMS for sex offender risk management in general and the policing of sex offenders in particular. What research does tell us however is that sex offender risk assessment in the UK is as an ongoing, multi-agency and flexible system which reinforces research from Canada that offenders levels of risk can change and therefore we have to be responsive to this (Hanson, Harris, Letourneau, Helmus & Thornton, 2017).

## **Treatment & Rehabilitation of Individuals Convicted of a Sexual Offence**

A recent report by the Ministry of Justice in the UK indicated that the treatment/rehabilitation of individuals convicted of a sexual offence was problematic, that it was not necessarily reducing reoffending and that it was not safeguarding the public effectively (Mews, Di Bella & Purver, 2017). While aspects of the outcomes of this study can be contested (i.e., that what was seen as an offence' was problematic) it has resulted in the abolishment of the "Sex Offender Treatment Programme" (SOTP) in the UK and the introduction of Horizon and Kaizen (McCartan & Prescott, 2017). All individuals in the UK convicted of a sexual offence who have been designated as medium risk (Horizon) or High/Very High risk (Kazien) of reoffending now have to do one of these two programmes, whereas individuals convicted of a sexual offence who are deemed to be Low risk continue to get no treatment. The two programmes are based on the different needs of the different risk levels of each offender and (new to UK programmes) enable deniers to be included;

- Kaizen is based upon Risk, Need and Responsivity; multidimensional views of needs and interventions to be holistic, therefore incorporating biological, psychological and social aspects; strengths based approaches; desistance; and adaptive, appropriate and easy to engage with approaches to learning.
- Horizon is based upon criminogenic needs and the recognition that sex offenders and non-sex offenders are similar and therefore addresses poor problem solving skills, poor self-regulation and relationship problems.

The challenge with Horizon and Kaizen is that they are evidence informed rather than evidence based and that neither has a research track record that shows effectiveness in their impact. Over the next couple of years we will start to see if these new approaches to sex offender treatment will be productive in improving risk management, reducing re-offending, improving public protection and

aiding in desistence.

## Risk Management Systems, Policies, and Practice

In the UK, within and across all three legal jurisdictions, the key words to the management of individuals convicted of a sexual offence are "Multi-agency" working. The UK has a strong history of multi-agency working in the management of individuals convicted of a sexual offence in the community post release.

The UK has a Violent and Sexual Offenders Register that was introduced in the early 2000's at the request of professionals who wanted to better understand the offenders that they had on license (Thomas, 2011). The register contains the details of anyone convicted, cautioned or released from prison for a sexual offence against a child or adult since its inception in September 1997 but is not retroactive, so does not include anyone convicted before 1997. The criteria for being placed on the sex offenders register in the UK is based on your sentence length at time of conviction and you do not go on to it until you are released into the community,

- a prison sentence of more than 30 months for sexual offending are placed on the register indefinitely
- a prison sentence of between six and 30 months remain on the register for 10 years, or five years if they are under 18
- a prison sentence of six months or less are placed on the register for seven years, or three and a half years if under 18
- a caution for a sexual offence are put on the register for two years, or one year if under 18.

Generally speaking although you come off the register your information is not deleted just in case you need to be placed back onto it at any point. While on the register the offender has to check in with the police on an annual basis to update all their relevant information (for more information on what that entails please see here - Prison reform Trust, 2015). In the early to mid-2000's a couple of high profile cases led to changes in registration and disclosure in England and Wales (then later in Scotland and Northern Ireland), with the Sarah Payne case leading to the eventual introduction of the Child Sexual Offender Disclosure Scheme (Kemshall et al, 2010) and the Holly and Jessica case leading to the introduction of a centralised police computer system for exchanging information across England called ViSOR (McCartan, Kemshall & Hoggett, 2017). These policies and practices (registration, limited disclosure and Visor) were designed with professional practice in mind and at time of conception designed to be based on the best evidence available. They reflected a need for professionals to work in tandem, share information and for public protection to be based on the principles of risk management. The development of the Child Sexual Offender Disclosure Scheme is a good example of evidence based policy and practice in the UK with the government not wanting to replicate the problematic policies from the USA, but rather build a bespoke model for the UK (Kemshall et al, 2010). However, a reliance on evidence based policy has not always dominated UK sex offender policy, the clearest example being the implementation of the polygraph which, despite conflicting outcomes from the research was introduced regardless (Gannon, Wood, Pina, Vasquez & Frasier, 2012).

The multiagency approach to the management of individuals convicted of a sexual offence is most clearly exemplified across the UK through Multi Agency Public Protection Arrangements (MAPPA) which has grown in volume and stature from the mid 1990's. MAPPA exists in some capacity in England and Wales (MAPPA report 2017), Scotland (MAPPA report, 2017) and in Northern Ireland (PPANI, 2017). At the core of MAPPA (or PPANI in Northern Ireland) is the idea that individuals are

managed better in the community, post-release, through multi-agency working, especially with higher risk offenders. This results in lower re-offending rates, greater public protection and clearer, agreed upon risk management plans. Multi Agency Public Protection Arrangements deal with three categories of offenders (sexual offenders, violent offenders and other violent offenders) in different ways depending on their risk. This results in offenders being assigned a category, Level 1 (ordinary agency administration), Level 2 (active multi-agency management) or Level 3 (active enhanced multi-agency management) risk (for more information on MAPPA criteria please see MAPPA, 2012x). Over the years the number of offenders managed by MAPPA has increased, linked to CJS policies and practices, with 76,794 MAPPA eligible offenders in England and Wales as of March 31<sup>st</sup> 2017. The majority (98%) of which were managed at Level 1, with 72% being Sexual Offenders, 27.6% Violent Offenders and less than 0.5% were Other Dangerous Offenders (i.e., terrorist, etc.) (MAPPA report, 2017). Across the UK, in all iterations of multi-agency working, there has been a steady increase in the numbers of sexual offenders and violent offenders being managed by MAPPA (For more information on MAPPA please see the annual reports and for a critique please see Kemshall and McCartan, 2014 as well as Corcoran and Weston, 2017).

The development of MAPPA, and related activities, across the UK highlights the importance of partnership and multi-agency working around individuals convicted of a sexual offence, another programme that also demonstrates this is Circles of Support and Accountability. The role of the community in the circle is to parallel statutory working and communicate information to the professional organisations that manage the offender (McCartan, 2016). It is a grassroots form of partnership working that has shown preliminary success internationally which emphasises collaboration, community engagement, partnership and collaboration between the public, stakeholders and the Criminal Justice System. Circles of Support and Accountability started in Canada in 1994 and then became an international phenomenon, with the UK being the first country to adopt it outside of Canada (for more on CoSA and its history please see Hanvey, Philpot & Wilson, 2011). The UK version of CoSA is based on the principles of risk management, public protection and multi-agency working; it is viewed as paralleling statutory working and is embedded within the criminal justice system. CoSA has become prominent in England, and to a lesser extent in Wales but not within Scotland or Northern Ireland, with a view to it reducing re-offending, enabling desistance and paralleling statutory working (McCartan, Kemshall et al, 2012; McCartan, 2016). As CoSA has evolved in the UK, the model has been adapted to work with female perpetrators of sexual abuse, online perpetrators, youth who perpetrate, perpetrators with learning difficulties and the families of perpetrators. With over 500 circles taking place in the UK and thousands of volunteers trained CoSA has helped to engage the community in the management of sexual abusers. Building from the UK model of CoSA we have started to see the development of similar delivery systems in Europe, Australia, New Zealand and Japan.

A multi-agency, integrated and collaborative approach to the management of individuals convicted of a sexual offence in the UK has resulted in a well-established risk management culture; however, this approach is not replicated in the prevention of sexual abuse. In the UK we need to get better at utilising multiagency working and co-ordinating professional knowledge to prevent sexual abuse in a pro-active fashion, rather than just using it to prevent re-offending (McCartan, Kemshall & Hoggett, 2017).

## **Prevention of Sexual Abuse**

Over the last five years in the UK there has been a growing understanding of the need for a new preventative approach to sexual abuse, in part fuelled by growing prosecution rates, austerity measures and a better understanding of perpetrators of sexual abuse. Research has indicated that the majority of sexual abusers are known to their victims at the time that the offence takes place,

that sexual abuse is situational/contextual, that most sexual abusers are unknown to the Criminal Justice System at time of conviction and that the majority of sexual abusers do not re-offend (for more information please see McCartan, Kemshall and Tabanick, 2015). The UK has introduced a range of new sexual abuse prevention models including the inform and inform plus programmes by the Lucy Faithful Foundation to reduce the viewing of online child sexual abuse imagery (Lucy Faithful Foundation, 2018, & Gillespie, Bailey, Squire, Carey, Eldridge & Beech, 2016), bystander engagement programmes at universities (Fenton, Mott, McCartan, and Rumney, 2014; the Pantosaurus app and educational resources by the (NSPCC, 2018) and an increase in media discussions as well as public engagement events (for a further discussion please see Tabachnick, McCartan and Jansen, 2016, & Tabachnick & McCartan, 2017).

## Conclusions

The risk assessment, management, treatment and integration of individuals convicted of a sexual offence in the UK is based entirely on the core principles of levels of risk, likelihood of reoffending and professional accountability. This means that it is guarded and bureaucratic in nature. The management of sexual offenders is a controversial issue in the UK in that it's always in the tabloid press (i.e., the Sun, The Daily Mail, The Daily Mirror, etc). Therefore, high profile (often problematic cases, like the John Worboys case) are often focused on rather than the successful daily management of thousands of other cases which in turn can undermine public support in the system; which is problematic. Therefore we need to empower the criminal justice system to better explain, justify and account for their working practices, and in turn enable us to use this knowledge in better preventing sexual abuse in the first place.

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