

Tackling Sexual Grooming conference
Westminster, London, 29th September 2003

The Sexual Offences Bill: Progress and the Future

Keynote Speech by Will Gardner, Research and Policy Manager, Childnet International

Today I have been asked to talk about 'Grooming' and the new offence of Grooming in relation to the Internet and new technologies. The new offence of 'Grooming' covers the offline as well as the online world, and though the Clause was born from Home Office Task Force on Internet Safety, the Offence is technologically neutral.

Today I will talk about grooming in relation to the interactive areas of the Internet which puts children in touch with people they do not know. The media have commonly focussed on Chatrooms, but it is worth remembering that it is possible to make contact with people you do not know online over a variety of different services popular with children, such as Instant Messenger, Peer2Peer, and online games for example, and both over the fixed Internet and increasingly via mobile phone.

These interactive areas of the Internet are very attractive to children. They offer a much more active media experience compared to the passive media experience of radio, TV and to a lesser degree to surfing the Net. These interactive areas are exciting, fast moving, fun, and offer the user the ability of being anonymous and being whoever they want to be. Chatting online is extremely popular with children and it is clear that there can be very real entertainment and educational benefits in instantaneous communication between young people.

I will outline the need for the new 'Grooming' offence, and talk through the Patrick Green case, the first case in the UK of a child being sexually abused by an adult following an initial contact in a chatroom. I will also mention Childnet's response to this case.

I will outline what the new offence is and how the new offence will work, giving real examples of cases that would be covered by the offence and mentioning also the use of Sting operations by law enforcement. I will also talk about how other countries are using legislation to counter the threat posed to children by adults seeking to lure them into sexual relations over the Internet.

Then I will finish by talking about the continued need for vigilance, particularly in relation to the changing face of the technology, and the need for a

continuous process of awareness-raising amongst parents, teachers and children themselves.

All this in half an hour!

The need for the Grooming Offence:

Internet chat can be used in creative ways to connect children together. However, there are dangers for children using chat unsupervised, where they are in contact with people they do not know. Some adults have used it as a means of seeking to strike up sexual relationships with young teenagers or children. Paedophiles have recognised the opportunity the Internet affords them to contact children at a safe distance, building up a relationship with them for the sole purpose of persuading them into sexual activity. There have been cases worldwide of children being contacted in interactive areas of the Internet, such as chatrooms, by adults and then manipulated over a period of time – usually over increasingly private and personal communication media, such as private chat, instant messenger, e-mail and mobile phone - to agree to an offline meeting where they have been sexually abused. The techniques which sex offenders use to entice children into sexual activity are known as ‘grooming’.

The Patrick Green case

The origins for our proposing a grooming offence came from an e-mail received by Nigel Williams, the Chief Executive of Childnet, in the summer of the year 2000.

It read:

My daughter was contacted starting in February this year by a paedophile whilst using a chat room. He quickly moved to e-mail and shortly afterwards sent her pornography, purporting to be pictures of himself. My daughter was just 12 at this time.

After grooming her for some weeks, he made telephone contact and eventually persuaded her to miss school and meet him.

In total, he met her five times and took her back to his flat where she was sexually abused...

... I have worked in the computer industry for 18 years, latterly with the Internet, and had no idea what went on in these chat rooms. Surely there is some regulatory body that can make the ISPs monitor at least the teenage chat rooms to make sure kids aren't in danger....

Perhaps you can offer some guidance?"

The e-mail was from the father of the girl victim of Patrick Green, the first case in the UK of a child being sexually abused by an adult following an initial contact in a chatroom.

Patrick Green, a 33 year-old clerk, had made contact with the girl in a teenage Internet Chat Room. The initial contact led to e-mails every day over a two-month period and then to regular conversations on a mobile phone. In this way the girl was groomed from this initial Chat Room contact to the point where she actually met Green offline, and thus also to the point where she was sexually assaulted.

After the initial contact through a Chat Room, through a clever and relentless process of manipulation via e-mail and then mobile phone, Green convinced the girl that he was in love with her. The girl initially resisted Green's requests for a meeting but finally acquiesced to meet in a public place. Green arrived by car, identified himself to his victim and drove her to his flat many miles away where he began a series of indecent assaults.

After four meetings in quick succession, the increasingly confused girl broke down and told everything to her mother. Her parents were shocked and immediately informed the police. Some days elapsed before Green was arrested, and, pending further investigation and the result of the laboratory analysis of his computer, he was released on bail.

Within days he had used the computer at his place of work to contact another underage girl and, using similar tactics, drove hundreds of miles across the country to Cumbria to commit a similar assault. Green's work colleagues discovered some disturbing e-mails and tipped off the police who mounted a surveillance operation and rearrested him, just as the next young victim was getting into his car.

Patrick Green was sentenced to 5 years imprisonment on 24 October 2000 for sexual assault and possession of child pornography. Incidentally he was released in 2002.

Childnet's response

I will briefly talk through our response to this e-mail and this case.

We, with the full support of and working closely with the family, launched the chatdanger website. The purpose of the website in the words of the family was " to ensure that some good comes from this tragic episode by raising awareness of the potential dangers of the Internet, particularly Chat rooms".

The website is a resource for children and parents, which informs on the potential dangers in Internet chatrooms and advises on how to keep safe while chatting. The family in this case very bravely wanted to use their tragic situation to highlight the dangers and make other parents and children aware. Their story is told on the chatdanger website, www.chatdanger.com.

At the time of the sentencing of Patrick Green there was great media attention on this case. Nigel Williams, the Chief Executive of Childnet acted as the

spokesperson for the family and used this opportunity to help raise awareness about the issue of online safety.

On the chatdanger website we made some recommendations that industry should review their existing policies and procedures with regard to chatroom safety. We also recommended that Government review the law to ensure that they can prosecute offenders for seeking to lure children in chat rooms with the purpose of sexual exploitation, and that police can carry out Sting operations online. In pursuit of these recommendations, we worked with the MP of the family in raising several parliamentary questions, and arranged a visit from the then Home Office Minister Charles Clarke with the family of the victim. We submitted a paper to the Home Office at the Minister's request making the case for a change in the law with regard to online grooming. In addition, Childnet have been active members of the Home Office Task Force on Internet safety. Childnet have been actively involved in the sub-group of this Task Force focussing on the criminal law since 2001 working on adding this new criminal offence.

The new 'Grooming Offence'

The new Grooming offence as contained in the Sexual Offences Bill is designed to catch those who undertake a course of conduct with a child leading to a meeting where the adult intends to engage in sexual activity with the child.

The new 'grooming' offence is designed to step in, in order to protect children **before** they come to any physical or sexual harm, ie it will enable action to be taken before any sexual activity takes place when it is clear this is what the adult intends. One can see in a number of situations that I will describe that predators who targeted children and had actually met children with the clear intention of abusing them were not prosecuted.

These examples are of kinds of cases that will be covered by the grooming offence:

Situation A - Milton Keynes

In April 2000, a thirteen-year-old girl met a '15 year-old' boy in an Internet Chat Room. Their online relationship developed and the girl arranged to meet the boy. Very wisely the girl had told her mother who decided to tag along to the rendezvous. Instead of a fifteen-year-old boy, awaiting the girl was a forty-seven-year-old man who had travelled all the way from Newcastle to Milton Keynes to meet the girl. The man was arrested but was released later without charge.

Situation B – Crewe

The Crewe incident is similar to what took place in Milton Keynes. A thirteen-year-old-girl met a 'friend' in an Internet Chat Room who said he was 'fifteen'. Chatting on the Internet moved on to text-messaging and then mobile phone calls, and the young girl declared that she was 'in love' with this 'boy'. In the course of their conversations he admitted that he was '27'. Luckily, the parents found out a meeting was being planned and contacted the police, and the police continued the messaging to the point of the meeting. The police were lying in wait for him when he turned up to meet the girl. He was thirty-eight years-old, and he had £250 cash and a palm-sized computer with him that had lists of young children aged between six and sixteen, with their contact details, in addition to lists of numerous child sex websites. This man was released without charge.

Situation C - Cumbria

This is the case where Patrick Green was re-arrested when a girl was getting into his car mentioned earlier, a situation for which he was not charged, even though police found various items like condoms in a hotel room where he intended to take the girl.

These three examples are situations where a child has been groomed by an adult to the point of an offline meeting with clear sexual intent and the police have only stepped in to release the man in each case without charge. The new Clause 17 would provide adequate grounds for charging the men in these cases, and removing the threat of 3 men that clearly posed a danger to children.

There are two different issues that the new offence of grooming will address, which are currently not covered by the current form of UK law.

The new grooming offence will address the situation before an offline offence has been committed, ie before the child was abused offline. For example where the family have evidence that their child is being groomed and inform the police who may bring the predator to a meeting and charge him. This would have enabled charges to be brought against the men in the three examples I have just given.

The second issue concerns the situation after an offline offence has been committed. For example, the family discover that an offence has taken place and have e-mail evidence. This was actually what happened in the Patrick Green case, when an offence had clearly been committed. The girl had told her parents what had happened and the father of the girl had access to the e-mails, over 55 of them, which had many sexual references. But the police were focussed on the offline sexual offences and were concerned that they needed to prove these. Naturally the father was extremely concerned that Green was going to try to meet the girl again, and he was urging them to

charge Green and to use the fifty-odd e-mails he had as evidence. The police, however, felt they needed more time to collect the evidence for the offline sexual offence and only arrested him a few days later.

Clause 17 - the clause relating to the 'Grooming offence' - of the Sexual Offences Bill attempts to fill the current 'gap' in the law, enabling the law to step in before the physical harm and damage at the end of the grooming process has been wreaked on the child. Childnet believes this offence would provide a significant additional mechanism for law enforcement to act against those seeking to exploit children online. This would afford a much-needed degree of protection for the ever-growing numbers of children online.

How the offence would work:

We have seen that the new 'grooming' offence would enable the police to arrest the predator before the child was physically or sexually abused. The police would be empowered to make an arrest once the predator met, or travelled with the intention of meeting, a child under 16 with the intention of committing a sexual offence. The intent would be drawn from a course of conduct, either within the communication itself (and there must be two earlier communications) or other circumstances, such as going to the meeting with pornography, condoms or lubricants for example.

Some have argued that the new offence equates in some way to creating a thought crime. This is simply inaccurate, as it ignores the fact that the contacts and communication are linked incontrovertibly to arrangements for a meeting with the purpose of committing a sexual crime in order for the new grooming offence to have been committed.

The online nature of the communication between the suspect and the child can be very helpful for evidential purposes. Proving offline communication can be very difficult, and often comes down to taking one person's word against another's in the absence of witnesses, but in communication by e-mail, text message, voice message, instant messenger, and even chat, the possibility exists of the actual communication being recorded and kept. Records may exist in the victim's or the perpetrator's computers.

The new offence would enable law enforcement to become proactively involved in catching and deterring online predators. For example, where a predator has been grooming a child, but the child has told their parents, and the parents have contacted the police, the police can step in and continue the communication with the predator to the point where the predator arranges a meeting. The police can therefore ensure that they have got all the evidence they require from the communication before they agree to the meeting, where they would then arrest the predator.

The new offence would enable the type of operation that has been used to great effect in other parts of the world by law enforcement – covert sting operations. Covert sting operations in this context refer to the practice of police entering Internet chatrooms and pretending to be children – ironically a technique used by paedophiles at present to great advantage. To avoid defence pleas of enticement to commit a crime or entrapment, the police should only respond to invitations and offers made to them in these Chat Rooms and not take the initiative or approach someone they suspect of paedophile activities to arrange a meeting. The suspect should take the first step that leads to a criminal act.

The most readily obvious advantage of covert sting operations is that they allow the police to be proactive in their fight against online paedophiles. They enable the police to use the online predators most potent tool, anonymity, against them.

The advantages are more far-reaching than that. With the police on the end of, and able to monitor the entire grooming process they can be sure they possess all the necessary documentary evidence needed for successful prosecution.

The presence of covert sting operations on the Internet could have a powerful deterrent effect on any prospective online predators, as it would introduce an element of uncertainty into their online grooming activities which simply is not there at present. It is possible to see the immunity with which they currently feel on the Internet in the fact that they will very often be grooming several children simultaneously.

It seems readily apparent that covert sting operations add a valuable component to the protection of children. Internet users with legitimate reasons for communicating with and meeting children, eg counsellors, youth group workers, have no fear of such operations. The police could not act unless there was clear evidence of intent to commit a sexual offence at a meeting with the child.

Online grooming and the law elsewhere

Other countries have already taken steps to counter the grooming or luring of children for sexual purposes, both in terms of legislation and Sting operations. In the USA for example Federal Law states:

“Whoever knowingly persuades, induces, entices, or coerces” any child to engage in “any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined ...or imprisoned not more than 15 years, or both.”

US state law often goes further than this. For example, state law in Georgia states:

“It shall be unlawful for any person intentionally or wilfully to utilize a computer online service, Internet service, or local bulletin board service to seduce, solicit, lure or entice, or attempt to seduce, solicit, lure, or entice a child or another person believed by such a person to be a child, to commit sodomy or aggravated sodomy, child molestation or aggravated child molestation, enticing a child for indecent purposes, public indecency, or to engage in conduct that by its nature is an unlawful sexual offence against a child”.

The laws in the US have made it possible for people to be arrested and imprisoned before the offline offence is actually committed. Thus it seems that not only in theory but also in practise US law actually offers children a degree of protection that does not currently seem to be offered in the UK.

The Canadian Government introduced ‘luring’ legislation in March 2001, criminalizing electronic communication with a person believed to be a child for the purpose of facilitating the commission of sexual offences.

In Australia, criminal law is primarily an issue of state law¹. The Northern Territories, the Australian Capital Territory and Queensland have all introduced laws to counter the enticement, the intent to procure and using electronic media to encourage a child into a sexual act. In New South Wales a Task Force has been set up to look into legislation on this subject, and legislation for enticing children by online grooming to engage in a sexual act is something supported by the NSW Police.

New Zealand have been carrying out arrests in this area using covert sting operations, and although they have no luring or enticement type legislation, they have made arrests on charges of disorderly conduct and attempted sexual connection with a minor.

Other countries are considering the introduction of ‘Grooming’ type legislation.

The continuing need for vigilance

We do need to be aware also that although the introduction of the Grooming offence is a good and necessary step forward, this change in the law will not on its own make children safe. Sadly cases where children are hurt in this way will probably continue to happen. It seems that in the UK a case comes to the national attention every month or so, and it is true to say that these cases are not always making the national press anymore. According to NCH there have been at least 27 cases in the UK which have come to court of children being abused at a meeting stemming from an initial contact online.

On the chatdancer website there is a contact form, where visitors to the site can e-mail us at Childnet to ask questions, share their concerns and share their experiences of Internet chat. In three years we have received over 2500

¹ Criminal law is primarily an issue of state law unless there is a constitutional basis for the federal government to legislate and there would be no such basis in relation to Internet grooming.

e-mails via this website. Clearly this is an issue which raises the concerns of both parents and children.

Educating the public – raising awareness of the potential dangers.

It is important at this point to remember that the legislative response is but one arm of any Internet safety policy for children. In addition to a legal response, also required are practical responses from the Internet industry and law enforcement. And perhaps even the most significant of all of these responses are the awareness-raising programmes/campaigns to inform and educate parents and children about the issues of safety posed by the Internet and new technologies. Parents and teachers, in other words the gatekeepers of the Internet in so far as they control access, need to become familiar with the Internet and how their child is using it, and need to ensure their child knows how to keep safe online. Children need to be empowered to know how to stay in control of their online activities and know how to keep safe online.

The mobile phone issue and the Japanese experience

This awareness raising, as well as the industry responses, need to be continual as they are not finite activities, particularly given the continuing developments in technology and how these technologies are being used. The mobile phone provides a good example here.

The personal nature of the mobile phone has meant that it has featured in most, if not all, of the grooming cases in the UK as the technology used in the 'last phase' of the grooming process, making the child feel comfortable enough to come to a meeting and arranging the meeting itself. The privacy afforded by this medium and the guaranteed contact through it at almost any time make the mobile phone the 'ideal' technology for this. There have even been cases where the predator has sent the child credits for their phone (or indeed a handset itself) in order to maintain this personal and secret communication. In fact earlier this month it was reported that a girl was raped by a man she met on an Internet chat service accessed through her mobile phone, so the process of contact to meeting happened entirely over a mobile.

We are now seeing the Internet accessible from the mobile phone, the arrival of 3G. In Japan already there is almost saturation of the child market with Internet-enabled phones. And in Japan too one can also see situations where children have been sexually exploited and abused via the new technology². In Japan in the first 6 months of 2002 alone there were over 500 cases of

² Mobile phones were used in the overwhelming majority of 'Dating site' crime cases. One can see the increase in this with the technological advances, where in 2000 56.7% of cases involved the use of mobiles, in the first half of 2002 that figure rises to 95.6%. 96% (571 out of 595) of 'Dating site' case child victims in the first half of 2002 used mobile telephones. 97% (357 out of 368) of child prostitution victims used cellular telephones. Further details contained in the conference proceedings at footnote <http://www.childnet-int.org/downloads/tokyo%20conference%20proceedings.pdf>.

Japanese children being abused following contact on dating sites via 3G mobiles. Although there are some culturally specific factors that affect the number of cases involved, the attractions of the technology to those under 18 is clear, and likely to transfer to Europe.

Experience to date both with mobile involvement in child abuse cases originating on the fixed Internet, and the Japanese experience strongly suggest we should anticipate similar cases as children's use of new mobile interactive services grows.

Childnet believes that though the dangers faced by children accessing the Internet over a mobile platform are the same dangers as on the fixed Internet, (today we are talking of Contact, but there are also real dangers of Content and Commercialism), the Internet accessed via mobile phones is more dangerous than the fixed Internet because of the intrinsic nature of the mobile phone and its use. This increased risk is because

- Of the inherent difficulties of supervising access to the Internet via such a private and personal device. Parental supervision of children's accessing the Internet via their mobile is clearly not feasible given the mobility of the device, and its personal and private nature.
- the device by its very nature is always on, thus children are always reachable and therefore potentially always vulnerable. The 'always-on' nature of the mobile phone will not only make children always contactable and thus potentially more vulnerable, but it will also enable an impulsive behaviour which may put children at risk, particularly in the context of interactive services.

Childnet is also concerned at the prospect of any location-based services on mobiles, as clearly it would greatly impact on child safety if the person they were talking to was able to establish where the child was.

I hope I have helped to outline the issues relating to this new Offence of Grooming - where the offence has come from and why it is needed, how it will work and how it could work effectively, and also what else needs to be done. And I would like to thank you for listening.