

To: SOCIAL WORK (OPERATIONS AND SERVICES) SUB COMMITTEE		Subject: CONSULTATION RESPONSE TO THE HOME OFFICE / SCOTTISH EXECUTIVE ON THE POSSESSION OF EXTREME PORNOGRAPHIC MATERIAL
From: DIRECTOR OF SOCIAL WORK		
Date: 6 DECEMBER 2005	Ref: KG	

1. PURPOSE OF REPORT / INTRODUCTION

To advise Committee of the response prepared by North Lanarkshire Council in relation to the Home Office / Scottish Executive's consultation paper on the possession of extreme pornographic material, and to seek homologation of the response (appendix 1).

2. BACKGROUND

- 2.1 Following the killing of a woman whose murderer had been accessing extreme pornographic websites, the Home Office and Scottish Executive issued a consultation paper to examine the issues and outline a range of potential options about how to address this issue in the future.
- 2.2 The consultation seeks views on proposals to make illegal a limited range of pornographic material involving adults in an effort to mirror arrangements already in place in respect of children.
- 2.3 The consultation period ends on 2 December 2005 and views are to be returned (in -Scotland) to the Justice Department, Scottish Executive.

3. PROPOSALS / CONSIDERATIONS

- 3.1 The proposals contained within the consultation paper are based on :
 - A desire to protect those who participate in the creation of sexual material containing violence, cruelty or degradation who may be the victim of crime in the making of the material, whether or not they notionally or genuinely consent to take part.
 - A desire to protect society, particularly children, from exposure to such material, to which access can no longer be reliably controlled through legislation dealing with publication and distribution and which may encourage interest in violent or aberrant sexual activity.

3.2 Any new offence, which could result from this paper, would only apply to pornographic material containing explicit actual scenes or realistic depictions of:

- Intercourse or oral sex with an animal
- Sexual interference with a human corpse
- Serious violence in a sexual context
- Serious sexual violence

3.3 The report covers various areas and poses several question. The areas addressed are:

- Recent consideration of the current legislation
- Possession of indecent photographs and pseudo-photographs of children
- Evidence of harm
- The proposals
- Penalties
- International position
- Human rights considerations

3.4 The areas for comment focus on the following points:

- whether existing legislation is sufficiently robust
- the nature of harm and the content of the pornographic material
- options for penalties

3.5 The response from North Lanarkshire Council answers the questions posed by the report and is attached as an appendix.

4. FINANCIAL / PERSONNEL / LEGAL / POLICY IMPLICATIONS

4.1 Presently, there are no immediate implications as this is a consultation paper. However, if such recommendations are accepted on the basis outlined herein, there will be a potential substantial increase in workloads for, primarily, Justice Services. This is on the basis that over the last few years there has been a substantial increase in the number of internet-related offences in relation to child pornography and if the same model of policing occurs with extreme pornography (as outlined in 3.1), i.e. specific national and international Police operations (e.g. Operation Ore and Operation Falcon), the resource implication are significant.

5. RECOMMENDATIONS

5.1 That the Committee note the content of the consultation paper and homologate the responses to the consultation paper.



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Director of Social Work
November 2005

For further information on this report please contact Jim Scullion, Service Manager, Justice (Tel: 01698 332040) or Keith Gardner, Senior Officer, High Risk Offenders (Tel: 01698 01698 332598)

1. Do you think the challenge posed by the Internet in this area requires the law to be strengthened?

RESPONSE

Yes. The legislation is currently vague in relation to such materials and to have specific offences would allow those involved in the Justice system to prosecute more effectively and give better focus to any ongoing interventions thereafter.

It also ensures that those involved in such serious and concerning offences are properly targeted and dealt with, as the legislation currently in force does not address these relevant issues in relation to modern and developing technologies.

2. In the absence of conclusive research results as to its possible negative effects, do you think that there is some pornographic material, which is so degrading, violent or aberrant that it should not be tolerated?

RESPONSE

There are clearly materials available that may well have a corrupting influence on those already predisposed to such behaviours. In looking at other areas offending, the use of pornographic materials is already considered to be a central part of what motivates a number of men to offend.

The materials described are, by nature, repugnant to the vast majority of the public, but it is the usage of the materials by offenders – or potential offenders – that give cause for concern. The more an individual accesses such materials, the more desensitised he becomes to the abusive nature of them and the closer to offending he moves.

In light of this, there is a strong element of protection in restricting people from accessing and possessing such materials.

3. Do you agree with the list set out in paragraph 39?

Paragraph 39 of the consultation document lists the following as potential areas of offence:

- i) Intercourse or oral sex with an animal
- ii) Sexual interference with a human corpse
- iii) Serious violence in a sexual context
- iv) Serious sexual violence

RESPONSE

North Lanarkshire Council agrees with the areas identified in this list.

4. Do you believe there is any justification for being in possession of such material?

RESPONSE

Apart from those involved in legitimate research in this field (i.e. ethical, recognised and accredited research), there can be no justification for being possession of such materials.

5. Which option do you prefer?

RESPONSE

Option 3

6. Why do you think this option is the best?

RESPONSE

Option 3 creates a new free-standing offence that makes detection and prosecution easier. It also addresses the human rights issue (under Article 8) that other forms of pornography have become more acceptable in the mainstream, but clearly outlines that the materials in paragraph 39 are considered to be unacceptable in any form in our society.

7. Which penalty option do you prefer?

RESPONSE

The proposed second option would bring the penalties for possession of these materials into line with current arrangements for the possession of other illegal materials, such as child pornography