
Report To:	Inverclyde Community Health & Care Partnership Sub-Committee	Date: 13 January 2011
Report By:	Corporate Director Inverclyde Community Health & Care Partnership	Report No: CHCP/02/2011/SMcA/AM
Contact Officer:	Head of Children & Criminal Justice Service	Contact No: 01475 714006
Subject:	Sexual Offences (Scotland) Act 2009	

1.0 PURPOSE

- 1.1 The purpose of this report is to advise the Sub-Committee of the commencement of the Sexual Offences (Scotland) Act 2009.

2.0 SUMMARY

- 2.1 The intention of the Sexual Offences (Scotland) Act 2009, is to modernise Scottish Justice in two areas of sexual offences by bringing together common law and statutory provision into a single coherent legal framework.
- 2.2 Key aims of the act are to modernise legislation in respect of the crime of rape and to strengthen the protection of children and vulnerable groups by introducing statutory protective offences that safeguard children and the disabled.

3.0 RECOMMENDATION

- 3.1 Members of the Sub-Committee are asked to note the introduction of the above act.
- 3.2 Progress with regard to the effects and implementation of the act should be remitted to the Public Protection Fora of the CHCP for action and subsequent report back to committee.

Robert Murphy
Corporate Director Inverclyde Community Health & Care Partnership

4.0 BACKGROUND

- 4.1 The Sexual Offences (Scotland) Act provides a statutory framework for sexual offences in Scots law. The Act repeals the common law offences of rape, sodomy and clandestine injury to women and a number of statutory sexual offences in addition to creating new statutory offences relating to sexual conduct, in particular where that takes place without consent.
- 4.2 The Act creates new statutory offences of rape, sexual assault by penetration, sexual assault, sexual coercion, coercing a person to be present during sexual activity, coercing a person to look at an image of sexual activity, communicating indecently, sexual exposure, voyeurism and administering a substance for a sexual purpose.
- 4.3 The Act also creates new “protective offences” which criminalise sexual activity with a person whose capacity to consent to sexual activity be it either entirely absent or not fully formed either because of their age or because of vulnerability.
- 4.4 Separate “protective” offences are provided for in respect of sexual activity with young children (under the age of 13) and older children (from 13 to age 15).
- 4.5 In addition, the Act makes it an offence of “abuse of position of trust” for a person in a position of trust to engage in sexual activity with that child or person.
- 4.6 The impact of implementing the act in this early phase of commencement will rest mainly with partners in the Police and the Crown Prosecution Service.
- 4.7 The legislation being implemented however contains detailed changes in respect of sexual offences that are applicable across the range of the CHCP’s responsibilities. The CHCP will require to monitor the implementation of the Act and to assess the impact on service provision across the broad range of services.
- 4.8 In the short term the CHCP’s public protection responsibilities require to asses what, if any, action may be necessary to support the implementation of the Act.

5.0 PROPOSAL

- 5.1 The impact of the implementation of this legislation should be considered by the collective fora responsible for public protection across the CHCP, in particular the child protection committee, the adult protection committee and the MAPPA.
- 5.2 It is likely that wider Council, NHS GG & C and other partner agencies will have a contribution in respect of the implementation of this legislation. It is proposed however that this be addressed with the already established multi agency public protection fora.

6.0 IMPLICATIONS

6.1 Legal:

None.

6.2 Finance: None.

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments

6.3 Personnel:

None.

6.4 Equalities:

An equalities impact assessment will be an integral aspect of any implementation issues identified.

7.0 CONSULTATION

7.1 Legal Services have been advised of the content of this report.

