

Sexual Offences

Rape

Other Sexual Offences

Rape

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Sexual Offences

HISTORIC SEXUAL OFFENCES

In May 2004 the Sexual Offences Act 2003 became law and repealed much of the previous legislation. Whilst it is not possible to prosecute offenders under the new legislation for offences committed before the new act became law, the Home Office require Police to record crime, for statistical purposes, under the new legislation. Where previously recorded offences under the old legislation are assigned outcomes, forces should return the outcome information as if recorded under the new legislation. For example a buggery outcome would now be shown as the relevant rape clear up.

RECORDING AGE RELATED OFFENCES - WILLING PARTICIPATION

These offences are where the person aged 13, 14 or 15 is a willing participant to the sexual behaviour. The offences are non-gender-specific so can be committed by males and females on males and females.

Police should only record offences in the following circumstances:

- A parent or guardian reports the matter to police, or
- A person in the relationship reports the matter to police, or
- Where a multi-agency panel refers a case to police.
- For penetration offences only, where a 3rd party refers the matter to police where the points to prove to evidence the offence are made out.

19C Rape of a Female aged 16 and over Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

19/8 Rape of a female aged 16 or over.
(V) *Sexual Offences Act 2003 Sec 1(pt).*

19/12 Attempted rape of a female aged 16 or over.
(V) *Sexual Offences Act 2003 Sec 1(pt).*

DEFINITION - LEGAL: RAPE

SEXUAL OFFENCES ACT 2003 SEC 1

1 (1) "A person 'A' commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person 'B' with his penis, (b) 'B' does not consent to the penetration, and (c) 'A' does not reasonably believe that 'B' consents."

RECORDING PRACTICE; RAPE AND SEXUAL ASSAULT REFERRALS

Reports of rape via 'Third Parties' (as specified in NCRS paragraphs 3.6i or ii) or from Sexual Assault Referral Centres (SARCs): A report of rape must be **recorded as a crime** in the following instances:

- The victim provides personal details and seeks a police investigation; or
- The victim (whether anonymous or not) provides details of the Report to be passed to the police but decides not to pursue the case; or
- The victim undergoes a forensic examination with samples submitted to the police for analysis (whether or not personal details are passed to the police); or
- The report is received from a parent, carer or professional third party and there is no reason to doubt the veracity of their report.

A report of rape received from a third party (other than specified in NCRS paragraphs 3.6i or ii) and including reports from SARCs must be recorded as a **Reported Incident of Rape (Classification N100)** in the following instances:

- The victim does not seek a police investigation but is happy for some depersonalised data to be passed to the police **for intelligence purposes**; or
- The victim wishes to remain anonymous and does not want details of the allegation passed to police (if any information at all received by police); or
- The victim undergoes a forensic examination and samples are frozen at the SARC in case the victim decides to pursue the case at a later date (forensic samples are not passed to the police).

19C Rape of a Female aged 16 and over Counting Rules (1 of 5)

GENERAL RULE: ONE CRIME FOR EACH PERSON WHO HAS PENETRATED THE VICTIM.

Example 1: A man forces a woman to have vaginal intercourse without her consent.

One crime (class 19C).

Example 2: A man has anal intercourse with a drunken woman friend who states that she did not consent to this.

One crime (class 19C).

Example 3: A man forces a woman to perform oral sex on him against her will.

One crime (class 19C).

APPLICATION OF THE RULE

In all cases the recording of rape will be on a per offender basis. One crime is to be recorded for each person who has penetrated the victim, irrespective of any considerations.

Example 1: Two men at a party push a woman in to a bedroom and both then rape her.

Two crimes (class 19C)

Example 2: A man at a party forces a woman into a bedroom and rapes her. Another man sees the offender leave the bedroom, enters the bedroom and rapes the same victim.

Two crimes (class 19C).

Example 3: Two women are raped by a group of four men.

Eight crimes (class 19C) One crime for each offender and victim penetrated (class 19C)

Attempted Rape: one crime for each victim per offender.

Example 1: A man attempts to rape three women and succeeds with a fourth.

Four crimes (class 19C) (three attempts and one substantive).

Consent

Where the issue is over consent, the NCRS victim focussed approach should be taken and a rape offence should be recorded.

Example 1: A woman reports that whilst drunk at a party she believes she had vaginal/anal/oral intercourse and that there was no way that she would have consented to this. A suspect is traced and stated she consented.

One crime (class 19C).

Example 2: As above, but she states that she does not want police to investigate the matter.

One crime (class 19C).

19C Rape of a Female aged 16 and over Counting Rules (2 of 5)

APPLICATION OF THE RULE (continued)

Example 3: As example 1 above, following a full investigation it is later established that the victim had in fact consented.

The 'cancellation' principles can be applied to the recorded offence.

Crimes in More Than One Force: see also General Rules Section G.

Example 1: A man is arrested for rape and admits raping three other women in different parts of the country. The victims have not previously reported these crimes.

Each force to record the rapes committed in their area (class 19C) on victim confirmation.

Example 2: A woman reports that the same man has raped her on three separate occasions in three different force areas.

One crime (class 19C) recorded by the force area covering the most recent offence.

Example 3: (i) Whilst reporting a sexual assault in Force A the victim states that the suspect raped her previously in Force B area but she does not want police to investigate this. Police are satisfied that it is more likely than not that the rape took place.

One crime (class 19C) recorded in Force B.

(ii) Subsequently Force A investigates and charges the suspect for the sexual assault in their force. There are no charges in relation to the rape.

Force A can record one crime (class 20A) and assign an outcome under the Principal Crime Rule. The Rape remains recorded in Force B.

Finished Incident: see also General Rules Section E.

Example 1: A woman has been raped by the same man on numerous occasions over several years, and she reports it for the first time.

One crime (class 19C).

Principal Crime: see also General Rules Section F and Annex C. Only homicide and attempted murder should be recorded instead of rape.

Example 1: A man rapes and attempts to murder a woman.

One crime (class 2).

Example 2: A man rapes and intentionally commits GBH on a woman.

One crime (class 19C).

19C Rape of a Female aged 16 and over Counting Rules (3 of 5)

Principal Crime (continued)

Example 3: A man rapes and robs a woman.

One crime (class 19C).

Where the woman believes that she has been penetrated but is unsure with what, there is a presumption that it will be with a penis unless there is clear evidence that this is not the case.

Example 1: A woman makes a complaint that she has been date raped. She believes that her vagina has been penetrated but she can not provide any further details surrounding the assault.

One crime (class 19C).

Following investigation into the offence it is established that a physical object was used and there was no penile penetration.

The FCR can reclassify the recorded rape to one crime (class 20A) (assault by penetration).

Example 2: A woman is accosted at a party and pushed onto a bed by a suspect. Her trousers are removed and she feels her anus being penetrated. She pushes the suspect off her and discovers that the suspect is a female.

One crime (class 20A) (assault by penetration).

Timing of Recording: see also General Rules Section A.

A rape should be recorded as soon as the reporting officer is satisfied that it is more likely than not that a crime has been committed.

Example 1: A woman reports to police that she has been raped. Police investigations into the offence the next day establish from the victim that this was consensual intercourse and there was no rape committed.

One crime (class 19C) having been recorded can then be cancelled under General Rules Section C.

Example 2: A woman reports that she believes that last night at a pub, her drink had been spiked with a drug and she had been raped. She can provide some details of the events of the evening leading up to when she believes that she was drugged, but is unclear about anything else afterwards. She states that she woke up at home feeling unusual and believes that she has had vaginal intercourse.

One crime (class 19C).

Example 3: A woman reports in the current year that she was raped three years ago.

One crime (class 19C) (within the current year total).

19C Rape of a Female aged 16 and over Counting Rules (4 of 5)

Whether to record: see also General Rules Section A.

Sexual Assault Referral Centres (SARCS)

Example 1: A woman attends a SARC and reports having been raped. She provides personal details and is happy for the SARC to forward all details to the police for a full investigation.

One crime (class 19C).

Example 2: A woman attends a SARC and provides details of her rape. She wishes to remain anonymous but is happy for the SARC to contact the police for an investigation into the offence. She later decides she does not wish to pursue the allegation.

One crime (class 19C).

Example 3: A woman attends a SARC and provides details of her rape ordeal. She wishes to remain anonymous and does not seek any police investigation. She is happy for the SARC to pass some depersonalised data to the police for intelligence purposes.

Record a Reported Incident of Rape (Classification N100) but do not record a crime.

Example 4: Police receive for analysis from a Prostitutes Care Association a number of samples taken during a forensic examination of one of their members following a rape allegation. There are no further details of the victim, who has consented to the samples being sent to police.

One crime (class 19C).

When To Record: see also General Rules Section A.

Attempted rape

Every allegation of attempted rape should be viewed on its own merits to determine if the act is 'more than merely preparatory.'

"If there is evidence from which the necessary intent can be inferred and if there were acts that a jury could regard as more than merely preparatory, then the offence of attempted rape can be committed.

It is therefore not necessary to prove that the defendant had actually reached the stage of attempting physical penetration of the vagina to achieve a successful prosecution for rape." (Attorney General's Reference 1 of 1992, PNLD ref no C258).

19C Rape of a Female aged 16 and over Counting Rules (5 of 5)

When To Record: Attempted rape (continued)

The following examples have been prepared to provide guidance:

Example 1: A man grabs hold of a woman in an alleyway and pushes her to the ground on some wasteland. He then removes her trousers and pants, undoes his trousers and exposes his erect penis. He then forces the woman's legs apart before being disturbed and departing from the scene.

One crime (19C) (attempted rape).

Example 2: A man grabs hold of a woman in an alleyway and pushes her to the ground on some wasteland. He is arrested by police before any further actions take place and admits that he intended to rape the victim.

One crime (class 19C) - the suspect has provided the intent.

Example 3: A man has accosted a woman and demanded oral sex. She has refused. He has then exposed his erect penis, grabbed hold of her head and thrust his penis towards her mouth. She has moved her head preventing any penetration.

One crime (19C) (attempted rape).

Example 4: A woman is engaging in some heavy petting with her boyfriend. Both are naked. He then asks for sexual intercourse. She says no but he lies on top of her and tries to push her legs apart. She clamps her legs together preventing any further contact.

One crime (19C) (attempted rape).

19D Rape of a Female Child under 16 Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

19/7 Rape of a female aged under 16.
(V) *Sexual Offences Act 2003 Sec 1(pt).*

19/11 Attempted rape of a female aged under 16.
(V) *Sexual Offences Act 2003 Sec 1(pt).*

DEFINITION - LEGAL: RAPE

SEXUAL OFFENCES ACT 2003 SEC 1

1 (1) "A person 'A' commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person 'B' with his penis, (b) 'B' does not consent to the penetration, and (c) 'A' does not reasonably believe that 'B' consents."

RECORDING PRACTICE: RAPE AND SEXUAL ASSAULT REFERRALS

Reports of rape via 'Third Parties' (as specified in NCRS paragraphs 3.6i or ii) or from Sexual Assault Referral Centres (SARCs): A report of rape must be **recorded as a crime** in the following instances:

- The victim provides personal details and seeks a police investigation; or
- The victim (whether anonymous or not) provides details of the Report to be passed to the police but decides not to pursue the case; or
- The victim undergoes a forensic examination with samples submitted to the police for analysis (whether or not personal details are passed to the police); or
- The report is received from a parent, carer or professional third party and there is no reason to doubt the veracity of their report.

A report of rape received from a third party (other than specified in NCRS paragraphs 3.6i or ii) and including reports from SARCs must be recorded as a **Reported Incident of Rape (Classification N100)** in the following instances:

- The victim does not seek a police investigation but is happy for some depersonalised data to be passed to the police **for intelligence purposes**; or
- The victim wishes to remain anonymous and does not want details of the allegation passed to police (if any information at all received by police); or
- The victim undergoes a forensic examination and samples are frozen at the SARC in case the victim decides to pursue the case at a later date (forensic samples are not passed to the police).

19D Rape of a Female Child under 16 Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH PERSON WHO HAS PENETRATED THE VICTIM.

Please see 19C Counting Rules for guidance in classification under this section. Classification 19D applies to rape and attempted rape offences where at the time of the offence the victim was aged 13, 14 or 15 years old.

APPLICATION OF THE RULE

Where a rape is recorded under this section and the investigation reveals that the victim was a willing participant and therefore the offence of rape is not made out, the FCR should reclassify the recorded offence to an offence under class 22B (Sexual Activity involving a child under 16).

Example 1: A 15 year old girl reports to police that she was raped at a party by a 16 year old boy. A rape is recorded under class 19D. Following investigation it is established that the victim had willingly had sex with this boy at the party. She had reported a rape to police because her parents had found out.

The FCR should reclassify the recorded crime (class 19D) to one crime (class 22B).

19E Rape of a Female Child under 13 Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

19/16 Rape of a female child under 13 by a male.
(V) *Sexual Offences Act 2003 Sec 5(pt).*

19/18 Attempted rape of a female child under 13
(V) by a male.
Sexual Offences Act 2003 Sec 5(pt).

DEFINITION - LEGAL: RAPE

SEXUAL OFFENCES ACT 2003 SEC 5

"A person commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person with his penis, and (b) the other person is under 13."

NOTE: Being a willing participant is not an issue with this offence. The offence is complete with penetration if the girl is under 13 years of age.

RECORDING PRACTICE: RAPE AND SEXUAL ASSAULT REFERRALS

Reports of rape via 'Third Parties' (as specified in NCRS paragraphs 3.6i or ii) or from Sexual Assault Referral Centres (SARCs): A report of rape must be recorded as a crime in the following instances:

- The victim provides personal details and seeks a police investigation; or
- The victim (whether anonymous or not) provides details of the Report to be passed to the police but decides not to pursue the case; or
- The victim undergoes a forensic examination with samples submitted to the police for analysis (whether or not personal details are passed to the police); or
- The report is received from a parent, carer or professional third party and there is no reason to doubt the veracity of their report.

A report of rape received from a third party (other than specified in NCRS paragraphs 3.6i or ii) and including reports from SARCs must be recorded as a Reported Incident of Rape (Classification N100) in the following instances:

- The victim does not seek a police investigation but is happy for some depersonalised data to be passed to the police **for intelligence purposes**; or
- The victim wishes to remain anonymous and does not want details of the allegation passed to police (if any information at all received by police); or
- The victim undergoes a forensic examination and samples are frozen at the SARC in case the victim decides to pursue the case at a later date (forensic samples are not passed to the police).

19E Rape of a Female Child under 13 Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH PERSON WHO HAS PENETRATED THE VICTIM.

Please see 19C Counting Rules for guidance in classification under this section. Classification 19E applies to rape and attempted rape offences where at the time of the offence the victim was under 13 years of age.

APPLICATION OF THE RULE

Example 1: A male aged 15 years has consensual intercourse with a female under the age of 13.

One crime (class 19E). The offence is complete with penetration regardless of being a willing participant.

Example 2: A 12 year old girl willingly performs oral sex on her boyfriend.

One crime (class 19E). The offence is complete with penetration regardless of being a willing participant.

19F Rape of a Male aged 16 and over Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

19/10 Rape of a male aged 16 or over.
(V) *Sexual Offences Act 2003 Sec 1 (pt).*

19/14 Attempted rape of a male aged 16 or over.
(V) *Sexual Offences Act 2003 Sec 1 (pt).*

DEFINITION – LEGAL: RAPE

SEXUAL OFFENCES ACT 2003 SEC 1

1 (1) "A person 'A' commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person 'B' with his penis, (b) 'B' does not consent to the penetration, and (c) 'A' does not reasonably believe that 'B' consents."

RECORDING PRACTICE: RAPE AND SEXUAL ASSAULT REFERRALS

Reports of rape via 'Third Parties' (as specified in NCRS paragraphs 3.6i or ii) or from Sexual Assault Referral Centres (SARCs): A report of rape must be **recorded as a crime** in the following instances:

- The victim provides personal details and seeks a police investigation; or
- The victim (whether anonymous or not) provides details of the Report to be passed to the police but decides not to pursue the case; or
- The victim undergoes a forensic examination with samples submitted to the police for analysis (whether or not personal details are passed to the police); or
- The report is received from a parent, carer or professional third party and there is no reason to doubt the veracity of their report.

A report of rape received from a third party (other than specified in NCRS paragraphs 3.6i or ii) and including reports from SARCs must be recorded as a **Reported Incident of Rape (Classification N100)** in the following instances:

- The victim does not seek a police investigation but is happy for some depersonalised data to be passed to the police **for intelligence purposes**; or
- The victim wishes to remain anonymous and does not want details of the allegation passed to police (if any information at all received by police); or
- The victim undergoes a forensic examination and samples are frozen at the SARC in case the victim decides to pursue the case at a later date (forensic samples are not passed to the police).

19F Rape of a Male aged 16 and over Counting Rules (1 of 5)

GENERAL RULE: ONE CRIME FOR EACH PERSON WHO HAS PENETRATED THE VICTIM.

Example 1: A man forces a man to have anal intercourse without his consent.

One crime (class 19F).

Example 2: A man forces a man to perform oral sex on him against his will.

One crime (class 19F).

APPLICATION OF THE RULE

In all cases the recording of rape will be on a per offender basis. One crime is to be recorded for each person who has penetrated the victim, irrespective of any considerations.

Example 1: Two men at a party push a man into a room and both then rape him.

Two crimes (class 19F)

Example 2: A man at a party is forced to have anal sex against his will by one suspect. Later on another male enters the room and forces him to perform oral sex on him.

Two crimes (class 19F).

Example 3. Two men are grabbed by a group of four men who force them into a garage and take it in turns to rape both victims.

Eight crimes (class 19F). One crime for each offender and victim penetrated.

Attempted Rape: one crime for each victim per offender

Example 1: A man attempts to rape three men and succeeds with a fourth.

Four crimes (class 19F) (three attempts and one substantive).

Consent

Where the issue is over consent, the NCRS victim-focussed approach should be taken and a rape offence should be recorded.

Example 1: A man reports that whilst drunk at a party he believes he had anal/oral intercourse and that there was no way that he would have consented to this. A suspect is traced and stated he consented.

One crime (class 19F).

Example 2: As above, but he states that he does not want police to investigate the matter.

One crime (class 19F).

Example 3: As example 1 above, following a full investigation it is later established that the victim had in fact consented.

One crime (class 19F) having been recorded can then be cancelled.

19F Rape of a Male aged 16 and over Counting Rules (2 of 5)

Crimes in More than one Force: see also General Rules Section G.

Example 1: A man is arrested for rape and admits raping three other men in different force areas. These crimes have not previously been reported to police.

Each force to record the rapes committed in their area (class 19F) on victim confirmation.

Example 2: A man reports that the same male in three different force areas has raped him on three separate occasions.

One crime (class 19F) recorded by the force area covering the most recent offence.

Example 3: (i) A victim who is reporting a sexual assault in Force A, confirms that the suspect had previously raped him in Force Area B but he does not wish police to investigate this. Police are satisfied it is more likely than not that the rape took place.

One crime (class 19F) recorded in Force B.

(ii) Subsequently Force A investigate and charge the suspect for the sexual assault in their force. There are no charges in relation to the rape.

Force A can record one crime (class 17A) and assign an outcome under the Principal Crime Rule. The rape remains recorded in Force B.

Finished Incident: see also General Rules Section E.

Example 1: A man has been raped by another man on numerous occasions over several years, and he reports it for the first time.

One crime (class 19F).

Principal Crime: see also General Rules Section F & Annex C.

Only homicide and attempted murder should be recorded instead of rape.

Example 1: A man rapes and attempts to murder another man.

One crime (class 2).

Example 2: A man rapes and intentionally commits GBH on another man.

One crime (class 19F).

Example 3: A man rapes and robs another man.

One crime (class 19F).

19F Rape of a Male aged 16 and over Counting Rules (3 of 5)

Principal Crime (continued)

Where the man believes that he has been penetrated but is unsure with what, there is a presumption that it will be with a penis unless there is clear evidence that this is not the case.

Example 1: A man makes a complaint that he has been date raped. He believes that his anus has been penetrated but he can not provide any further details surrounding the assault.

One crime (class 19F).

Following investigation into the offence it is established that a physical object was used and there was no penile penetration.

The FCR can reclassify the recorded rape to one crime (class 17A) (assault by penetration).

Example 2: A man is accosted at a party and pushed onto a bed by a suspect. His trousers are removed and he feels his anus being penetrated. He pushes the suspect off him and discovers that the suspect is a fully clothed female.

One crime (class 17A) (assault by penetration).

Timing of Recording: see also General Rules Section A.

A rape should be recorded as soon as the reporting officer is satisfied that it is more likely than not that a crime has been committed.

Example 1: A man reports to police that he has been raped. Police investigations into the offence the next day establish from the victim that this was consensual intercourse and there was no rape committed.

One crime (class 19F) having been recorded can then be cancelled.

Example 2: A man reports that he believes that last night at a pub his drink had been spiked with a drug and he had been raped. He can provide some details of the events of the evening leading up to when he believes that he was drugged, but is unclear about anything else. He woke up at his flat feeling unusual and believes that he has had anal intercourse.

One crime (class 19F).

Example 3: A man reports in the current year that he was raped three years ago.

One crime (class 19C) (within the current year total).

19F Rape of a Male aged 16 and over Counting Rules (4 of 5)

Whether to record: Sexual Assault Referral Centres (SARCS) see also General Rules Section A.

- Example 1: A man attends a SARC and reports having been raped. He provides personal details and is happy for the SARC to forward all details to the Police for a full investigation.
- One crime (class 19F).*
- Example 2: A man attends a SARC and provides details of his rape ordeal. He wishes to remain anonymous but is happy for the SARC to contact the police for an investigation into the offence. He later decides he does not wish to pursue the allegation.
- One crime (class 19F).*
- Example 3: A man attends a SARC and provides details of his rape. He wishes to remain anonymous and does not seek any police investigation. He is happy for the SARC to pass some depersonalised data to the police for intelligence purposes.
- Record a Reported Incident of Rape (Classification N100) but do not record a crime.*
- Example 4: Police receive for analysis from a Prostitutes Care Association a number of samples taken during a forensic examination of one of their members following a rape allegation. There are no further details of the victim, who has consented to the samples being sent to police.
- One crime (class 19F).*

When to record: Attempted Rape

Every allegation of attempted rape should be viewed on its own merits to determine if the act is 'more than merely preparatory.'

"If there is evidence from which the necessary intent can be inferred and if there were acts that a jury could regard as more than merely preparatory, then the offence of attempted rape can be committed. It is therefore not necessary to prove that the defendant had actually reached the stage of attempting physical penetration of the vagina to achieve a successful prosecution for rape." (Attorney General's Reference 1 of 1992, PNLD ref no C258).

The following examples have been prepared to provide guidance:

- Example 1: A man grabs hold of a man in a park and pushes him to the ground in some woodland area. He then removes the victim's trousers and pants, undoes his trousers and exposes his erect penis. He then forces the man onto his stomach before being disturbed and departing from the scene.
- One crime (class 19F) (attempted rape).*

19F Rape of a Male aged 16 and over Counting Rules (5 of 5)

When to record: Attempted Rape (continued)

Example 2: A man grabs hold of a man in an alleyway and pushes him to the ground on some wasteland. He is arrested by police before any further actions take place and admits that he intended to rape the victim.

One crime (class 19F) the suspect has provided the intent.

Example 3: A man has accosted a man and demanded oral sex. He has refused. He has then exposed his erect penis, grabbed hold of the victim's head and thrust his penis towards his mouth. The victim has moved his head preventing any penetration.

One crime (class 19F) (attempted rape).

19G Rape of a Male Child under 16 Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

19/9 Rape of a male aged under 16.
(V) *Sexual Offences Act 2003 Sec 1 (pt).*

19/13 Attempted rape of a male aged under 16.
(V) *Sexual Offences Act 2003 Sec 1 (pt).*

DEFINITION - LEGAL: RAPE

SEXUAL OFFENCES ACT 2003 SEC 1

1 (1) "A person 'A' commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person 'B' with his penis, (b) 'B' does not consent to the penetration, and (c) 'A' does not reasonably believe that 'B' consents."

RECORDING PRACTICE: RAPE AND SEXUAL ASSAULT REFERRALS

Reports of rape via 'Third Parties' (as specified in NCRS paragraphs 3.6i or ii) or from Sexual Assault Referral Centres (SARCs): A report of rape must be recorded as a crime in the following instances:

- The victim provides personal details and seeks a police investigation; or
- The victim (whether anonymous or not) provides details of the Report to be passed to the police but decides not to pursue the case; or
- The victim undergoes a forensic examination with samples submitted to the police for analysis (whether or not personal details are passed to the police); or
- The report is received from a parent, carer or professional third party and there is no reason to doubt the veracity of their report.

A report of rape received from a third party (other than specified in NCRS paragraphs 3.6i or ii) and including reports from SARCs must be recorded as a Reported Incident of Rape (Classification N100) in the following instances:

- The victim does not seek a police investigation but is happy for some depersonalised data to be passed to the police **for intelligence purposes**; or
- The victim wishes to remain anonymous and does not want details of the allegation passed to police (if any information at all received by police); or
- The victim undergoes a forensic examination and samples are frozen at the SARC in case the victim decides to pursue the case at a later date (forensic samples are not passed to the police).

19G Rape of a Male Child under 16 Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH PERSON WHO HAS PENETRATED THE VICTIM.

Please see 19F Counting Rules for guidance in classification under this section. Classification 19G applies to rape and attempted rape offences where at the time of the offence the victim was aged 13, 14 or 15 years old.

APPLICATION OF THE RULE

Where a rape is recorded under class 19G and the investigation reveals that the victim was a willing participant and therefore the offence of rape is not made out, the FCR should reclassify the recorded offence to an offence under class 22B (Sexual Activity involving a Child under 16).

Example 1: A 15 year old boy reports to police that he was raped at a party by a 16 year old boy. A rape is recorded under class 19G. Following investigation it is established that the victim had willingly had sex with this boy at the party. He had reported a rape to police because his parents had found out.

The FCR should reclassify the recorded class 19G to an offence of class 22B.

19H Rape of a Male Child under 13 Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

19/17 Rape of a male child under 13 by a male.
(V) *Sexual Offences Act 2003 Sec 5(pt).*

19/19 Attempted rape of a male child under 13 by a male.
(V) *Sexual Offences Act 2003 Sec 5(pt).*

LEGAL - DEFINITION: RAPE OF A CHILD UNDER 13

SEXUAL OFFENCES ACT 2003 SEC 5

"A person commits an offence if (a) he intentionally penetrates the vagina, anus or mouth of another person with his penis, and (b) the other person is under 13."

NOTE: Being a willing participant is not an issue with this offence. The offence is complete with penetration if the boy is under 13 years of age.

RECORDING PRACTICE: RAPE AND SEXUAL ASSAULT REFERRALS

Reports of rape via 'Third Parties' (as specified in NCRS paragraphs 3.6i or ii) or from Sexual Assault Referral Centres (SARCs): A report of rape must be **recorded as a crime** in the following instances:

- The victim provides personal details and seeks a police investigation; or
- The victim (whether anonymous or not) provides details of the Report to be passed to the police but decides not to pursue the case; or
- The victim undergoes a forensic examination with samples submitted to the police for analysis (whether or not personal details are passed to the police); or
- The report is received from a parent, carer or professional third party and there is no reason to doubt the veracity of their report.

A report of rape received from a third party (other than specified in NCRS paragraphs 3.6i or ii) and including reports from SARCs must be recorded as a **Reported Incident of Rape (Classification N100)** in the following instances:

- The victim does not seek a police investigation but is happy for some depersonalised data to be passed to the police ***for intelligence purposes***; or
- The victim wishes to remain anonymous and does not want details of the allegation passed to police (if any information at all received by police); or
- The victim undergoes a forensic examination and samples are frozen at the SARC in case the victim decides to pursue the case at a later date (forensic samples are not passed to the police).

19H Rape of a Male Child under 13 Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH PERSON WHO HAS PENETRATED THE VICTIM.

Please see 19F Counting Rules for guidance in classification under this section. Classification 19H applies to rape and attempted rape offences where at the time of the offence the victim was under 13 of age.

APPLICATION OF THE RULE

Example 1: A boy under 13 years of age consents to anal intercourse from a 15 year old boy.

One crime (class 19H). The offence is complete with penetration regardless of being a willing participant.

Example 2: A 12 year old boy willingly performs oral sex on a 14 year old boy.

One crime (class 19H). The offence is complete with penetration regardless of being a willing participant.

Other Sexual Offences

- 17A** **Sexual Assault on a Male aged 13 and over**
- 17B** **Sexual Assault on a Male Child under 13**

- 20A** **Sexual Assault on a Female aged 13 and over**
- 20B** **Sexual Assault on a Female Child under 13**

- 21** **Sexual Activity involving a Child under 13**
- 22A** **Causing Sexual Activity without Consent**
- 22B** **Sexual Activity involving a Child under 16**

- 23** **Incest or Familial Sexual Offences**

- 70** **Sexual Activity etc with a Person with a Mental Disorder**

- 71** **Abuse of Children through Sexual Exploitation**

- 73** **Abuse of Position of Trust of a Sexual Nature**

- 88A** **Sexual Grooming**

- 88C** **Other Miscellaneous Sexual Offences**

- 88D** **Unnatural Sexual Offences**

- 88E** **Exposure and Voyeurism**

17A Sexual Assault on a Male aged 13 and over Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

17/13 Assault on a male by penetration.
(V) *Sexual Offences Act 2003 Sec 2.*

17/15 Sexual assault on a male.
(V) *Sexual Offences Act 2003 Sec 3.*

CLARIFICATION: SEXUAL ASSAULT OR CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

“Sexual Assault” is the sexual touching of a person without their consent.

“Sexual Activity without consent” is where a person is compelled against their will to perform a sexual activity.

DEFINITION - LEGAL: ASSAULT BY PENETRATION

SEXUAL OFFENCES ACT 2003 SEC 2

“A person ‘A’ commits an offence if - (a) he intentionally penetrates the vagina or anus of another person ‘B’ with a part of his body or anything else, (b) the penetration is sexual, (c) ‘B’ does not consent to the penetration, and (d) ‘A’ does not reasonably believe that ‘B’ consents.”

NOTE: The offence is non-gender-specific so can be committed by males and females.

DEFINITION – LEGAL: SEXUAL ASSAULT

SEXUAL OFFENCES ACT 2003 SEC 3

“A person ‘A’ commits an offence if - (a) he intentionally touches another person ‘B’, (b) the touching is sexual, (c) ‘B’ does not consent to the touching and (d) ‘A’ does not reasonably believe that ‘B’ consents.”

NOTE: The offence is non-gender-specific so can be committed by males and females.

17A Sexual Assault on a Male aged 13 and over Counting Rules (1 of 2)

GENERAL RULE: ONE CRIME FOR EACH MALE SEXUALLY ASSAULTED BY AN OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE 1: A man sexually assaults four other men.

Four crimes (class 17A).

APPLICATION OF THE RULE

Assault by penetration:

Where the man believes that he has been penetrated but is unsure with what, there is a presumption that it will be with a penis, unless there is clear evidence that this is not the case.

Example 1: (i) A man makes a complaint that he has been date raped. He believes that his anus has been penetrated but he can not provide any further details of the assault.

One crime (class 19F) (rape).

(ii) Following investigation into a video recording of the offence it is established that a physical object was used and there was no penile penetration.

The FCR can reclassify the recorded rape to one crime (class 17A) (assault by penetration).

Example 2: A man is accosted at a party and pushed onto a bed by a suspect. His trousers are removed and he feels his anus being penetrated. He pushes the suspect off him and discovers that the suspect is a fully clothed female.

One crime (class 17A) (assault by penetration).

Sexual assault by more than one offender:

If a victim was sexually assaulted by more than one offender, count crimes separately unless the offenders were acting together as a group.

Example 1: A man is sexually assaulted by a group of three men acting together.

One crime (class 17A).

Finished Incidents: see also General Rules Section E.

Example 1: A series of sexual assaults on a man by the same offender on numerous occasions over several years is reported for the first time.

One crime (class 17A).

17A Sexual Assault on a Male aged 13 and over Counting Rules (2 of 2)

Principal Crime: see also General Rules Section F and Annex C.

Rape is the principal crime over assault by penetration

Example 1: A man's anus is digitally penetrated against his will. He is then raped by the same offender.

One crime (class 19F).

Assault by penetration (Sexual Offences Act 2003 Sec 2) is the principal crime over Grievous Bodily Harm with intent (class 5D).

Example 1: During a sexual assault a man receives severe lacerations to his anus caused by a physical object being inserted.

One crime (class 17A) (assault on a male by penetration).

Sexual assault (Sexual Offences Act 2003 Sec 3) is the principal crime over assault with injury (class 8N) and assault without injury (class 105A).

Example 1: A man sexually assaults a man by grabbing hold of his testicles causing bruising.

One crime (class 17A) (sexual assault).

If the assault amounts to Grievous Bodily Harm with intent (class 5D) then this should be recorded.

NOTE: This does not apply to circumstances where the injury has been caused directly by penetration. A penetration offence should be recorded.

Example 1: During a sexual assault a man has been intentionally bitten on his penis requiring surgery at a hospital.

One crime (class 5D).

17B Sexual Assault on a Male Child under 13 Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

17/14 Assault of a male child under 13
(V) by penetration.
Sexual Offences Act 2003 Sec 6.

17/16 Sexual assault on a male child under 13.
(V) *Sexual Offences Act 2003 Sec 7.*

CLARIFICATION: SEXUAL ASSAULT OR CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

“Sexual assault” is the sexual touching of a person without their consent.

“Sexual Activity without consent” is where a person is compelled against their will to perform a sexual activity.

DEFINITION - LEGAL: ASSAULT BY PENETRATION

SEXUAL OFFENCES ACT 2003 SEC 6

“A person commits an offence if (a) he intentionally penetrates the anus of another person with any part of his body or anything else, (b) the penetration is sexual, and (c) the other person is under 13.”

NOTE: Being a willing participant is not an issue with this offence. The offence is complete with penetration if the boy is under 13 years of age.

The offence is non-gender-specific so can be committed by males and females.

DEFINITION - LEGAL: SEXUAL ASSAULT

SEXUAL OFFENCES ACT 2003 SEC 7

A person commits an offence if (a) he intentionally touches another person, (b) the touching is sexual, and the other person is under 13.

NOTE: Being a willing participant is not an issue with this offence. The offence is complete with sexual touching if the boy is under 13 years of age.

The offence is non-gender-specific so can be committed by males and females.

17B Sexual Assault on a Male Child under 13 Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH MALE CHILD SEXUALLY ASSAULTED BY AN OFFENDER OR GROUP OF OFFENDERS.

Please see 17A Counting Rules for guidance in classification under this section. Classification 17B applies to sexual assault offences where at the time of the offence the victim was under 13 years old.

APPLICATION OF THE RULE

Assault by penetration (Sexual Offences Act 2003 Sec 6)

Example 1: A male aged 15 years, during consensual heavy petting with a boy under the age of 13, digitally penetrates his anus.

One crime (class 17B). The offence is complete with penetration regardless of being a willing participant.

Example 2: A 13 year old girl digitally penetrates the anus of a 12 year old boy during sexual experimentation between friends.

One crime (class 17B). The offence is complete with penetration regardless of being a willing participant.

Example 3: A 14 year old boy penetrates the anus of a 12 year old boy with his penis during sexual experimentation between friends.

One crime (class 19H) (rape).

Sexual assault (Sexual Offences Act 2003 Sec 7 Offences ONLY).

Where the offender is under 18 years of age an offence under class 21 (Sexual Activity involving a child under 13) should be recorded (Sexual Offences Act 2003 Sec 9 and 13).

Example 1: A 17 year old male rubs the groin area of a 12 year old boy.

One crime (class 21).

Where the offender is 18 years of age or over then an offence under class 17B should be recorded.

Example 2: A 19 year old male rubs the groin area of a 12 year old boy.

One crime (class 17B).

If the age of the offender is unknown then record under class 17B.

20A Sexual Assault on a Female aged 13 or over Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

20/3 Assault on a female by penetration.
(V) *Sexual Offences Act 2003 Sec 2(pt).*

20/5 Sexual assault on a female.
(V) *Sexual Offences Act 2003 Sec 3(pt).*

CLARIFICATION- SEXUAL ASSAULT OR CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

“Sexual assault” is the sexual touching of a person without their consent.

“Sexual Activity without consent” is where a person is compelled against their will to perform a sexual activity

DEFINITION - LEGAL: ASSAULT BY PENETRATION

SEXUAL OFFENCES ACT 2003 SEC 2

“A person ‘A’ commits an offence if (a) he intentionally penetrates the vagina or anus of another person ‘B’ with a part of his body or anything else, (b) the penetration is sexual, (c) ‘B’ does not consent to the penetration and (d) ‘A’ does not reasonably believe that ‘B’ consents.”

NOTE: The offence is non-gender-specific so can be committed by males and females.

DEFINITION - LEGAL: SEXUAL ASSAULT

SEXUAL OFFENCES ACT 2003 SEC 3

“A person ‘A’ commits an offence if (a) he intentionally touches another person ‘B’, (b) the touching is sexual, (c) the person does not consent to the touching and (d) ‘A’ does not reasonably believe that ‘B’ consents.”

NOTE: The offence is non-gender-specific so can be committed by males and females.

20A Sexual Assault on a Female aged 13 or over Counting Rules (1 of 2)

GENERAL RULE: ONE CRIME FOR EACH WOMAN SEXUALLY ASSAULTED BY AN OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE 1: A man sexually assaults two women.

Two crimes (class 20A).

EXAMPLE 2: Thirteen unreported crimes of sexual assault on different victims were admitted by an offender during interview. Seven victims are identified and subsequent interviews confirm the crimes, but the remaining six are unknown.

Seven crimes (class 20A) (if not already recorded). An additional six crimes only on victim confirmation.

APPLICATION OF THE RULE

Assault by penetration

Where the woman believes that she has been penetrated but is unsure with what, there is a presumption that it will be with a penis, unless there is clear evidence that this is not the case. A rape should be recorded in these circumstances.

Example 1: A woman makes a complaint that she has been date raped. She believes that her vagina has been penetrated but she can not provide any further details of the assault.

One crime (class 19C).

Following investigation into a phone video of the offence it is established that a physical object was used and there was no penile penetration.

The FCR can reclassify the recorded rape to an offence of assault on a female by penetration (class 20A).

Example 2: A woman is accosted at a party and pushed onto a bed by a suspect. Her trousers are removed and she feels her anus being penetrated. She pushes the suspect off her and discovers that the suspect is a fully clothed female.

One crime of assault by penetration (class 20A).

Finished Incident: see also General Rules Section E.

Example 1: A series of sexual assaults by the same person on a girl on numerous occasions over several years is reported for the first time.

One crime (class 20A).

20A Sexual Assault on a Female aged 13 or over Counting Rules (2 of 2)

Principal Crime: see also General Rules Section F & Annex C.

Rape is the principal crime over assault by penetration.

Example 1: A woman is digitally penetrated against her will. She is then raped by the same offender.

One crime of rape (class 19C).

Assault by penetration (Sexual Offences Act 2003 Sec 2) is the principal crime over Grievous Bodily Harm with intent (class 5D).

Example 1: During a sexual assault a woman receives severe lacerations to her anus caused by a physical object being inserted.

One crime (class 20A)(assault by penetration).

Sexual assault (Sexual Offences Act 2003 Sec 3) is the principal crime over Assault with injury (class 8N) and assault without injury (class 105A).

Example 1: A man sexually assaults a woman by grabbing hold of her breasts causing bruising.

One crime (class 20A).

If the assault amounts to Grievous Bodily Harm with intent (class 5D) then this should be recorded.

NOTE: This does not apply to circumstances where the injury has been caused directly by penetration. A penetration offence should be recorded.

Example 1: During a sexual assault a woman has been deliberately and intentionally bitten a number of times on her breasts requiring surgery.

One crime (class 5D).

Example 2: A man leaves a pub and sees his ex girlfriend in the pub car park. He walks up to her and gives her a kiss on the cheek. They start talking and sit on a bench. He then puts his arm around her and when it strays to her breast she objects strongly. An argument starts and he says if I can't have you no one else can. It escalates further and he then quickly goes back to his car and takes out a Stanley knife. He approaches her and strikes her face with the knife causing a very serious wound and says "there, no one else will want you now".

One crime (class 5D).

20B Sexual Assault on a Female Child under 13 Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

20/4 Assault of a female child under 13
(V) by penetration.
Sexual Offences Act 2003 Sec 6(pt).

20/6 Sexual assault of a female child under 13.
(V) *Sexual Offences Act 2003 Sec7(pt).*

CLARIFICATION- SEXUAL ASSAULT OR CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

“Sexual assault” is the sexual touching of a person without their consent.

“Sexual Activity without consent” is where a person is compelled against their will to perform a sexual activity

DEFINITION - LEGAL: ASSAULT BY PENETRATION

SEXUAL OFFENCES ACT 2003 SEC 6

“A person commits an offence if - (a) he intentionally penetrates the vagina or anus of another person with any part of his body or anything else, (b) the penetration is sexual, and (c) the other person is under 13.”

NOTE: Being a willing participant is not an issue with this offence. The offence is complete with penetration if the girl is under 13 years of age.

The offence is non-gender-specific so can be committed by males and females.

DEFINITION – LEGAL: SEXUAL ASSAULT

SEXUAL OFFENCES ACT 2003 SEC 7

“A person ‘A’ commits an offence if - (a) he intentionally touches another person, (b) the touching is sexual, and (c) the other person is under 13.”

NOTE: Being a willing participant is not an issue with this offence. The offence is complete with sexual touching if the girl is under 13 years of age.

The offence is non-gender-specific so can be committed by males and females.

20B Sexual Assault on a Female Child under 13 Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH FEMALE CHILD SEXUALLY ASSAULTED BY AN OFFENDER OR GROUP OF OFFENDERS.

Please see 20A Counting Rules for guidance in classification under this section. Classification 20B applies to sexual assault offences where at the time of the offence the victim was under 13 years old.

APPLICATION OF THE RULE

Assault by penetration (Sexual Offences Act 2003 Sec 6)

Example 1: A male aged 15 years during consensual heavy petting with a female under the age of 13 digitally penetrates her vagina.

One crime (class 20B). The offence is complete with penetration regardless of being a willing participant.

Example 2: A 13 year old girl digitally penetrates the vagina of a 12 year old girl during sexual experimentation between friends.

One crime (class 20B). The offence is complete with penetration regardless of being a willing participant.

Example 3: A 14 year old boy penetrates the vagina of a 12 year old girl with his penis during sexual experimentation between friends.

One crime of rape (class 19E).

Sexual assault (Sexual Offences Act 2003 Sec 7)

Where the offender is aged less than 18 years of age an offence under class 21 (Sexual Activity involving a child under 13) should be recorded (Sexual Offences Act 2003 Secs 9 and 13).

Example 1: A 17 year old male rubs the breast of a 12 year old girl.

One crime (class 21).

Where the offender is 18 years of age or over then an offence under class 20B should be recorded.

Example 2: A 20 year old female rubs the breasts of a 12 year old girl.

One crime (class 20B).

If the age of the offender is unknown then record under class 20B.

21 Sexual Activity involving a Child under 13 Classification (1 of 3)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

- Causing or inciting a child under 13 to engage in sexual activity:
- 21/2 Female child - penetration
 - 21/3 Female child – no penetration
 - 21/4 Male child - penetration
 - 21/5 Male child – no penetration
 - (S/V) *Sexual Offences Act 2003 Sec 8.*
- 21/10 Engaging in sexual activity in the presence of a child under 13 by an offender over 18 years of age
(S/V) *Sexual Offences Act 2003 Sec 11.*
- 21/11 Causing a child under 13 to watch a sexual act by an offender over 18 years of age
(S/V) *Sexual Offences Act 2003 Sec 12.*
- Sexual activity with a child under 13 by an offender under 18 years of age:
- 21/12 Female child - penetration
 - 21/22 Female child – no penetration
 - 21/13 Male child - penetration
 - 21/23 Male child – no penetration
 - (S/V) *Sexual Offences Act 2003 Sec 13 (pt).*
- Causing or inciting a child under 13 to engage in sexual activity by an offender under 18 years of age:
- 21/14 Female child - penetration
 - 21/24 Female child – no penetration
 - 21/15 Male child - penetration
 - 21/25 Male child – no penetration
 - (S/V) *Sexual Offences Act 2003 Sec 13 (pt).*
- 21/16 Engaging in sexual activity in the presence of a child under 13 by an offender under 18 years of age
(S/V) *Sexual Offences Act 2003 Sec 13 (pt).*
- 21/17 Causing a child under 13 to watch a sexual act by an offender under 18 years of age
(S/V) *Sexual Offences Act 2003 Sec 13 (pt).*

21 Sexual Activity involving a Child under 13 Classification (2 of 3)

DEFINITION - LEGAL: CAUSING OR INCITING A CHILD UNDER 13 TO ENGAGE IN SEXUAL ACTIVITY

SEXUAL OFFENCES ACT 2003 SEC 8

where A “intentionally causes or incites another person B to engage in an activity, the activity is sexual, B is under 13”

SEXUAL OFFENCES ACT 2003 SEC 9

where “a person aged 18 or over (A) intentionally touches another person (B),the touching is sexual and B is under 13.”

SEXUAL OFFENCES ACT 2003 SEC 10

where “a person aged 18 or over (A) intentionally causes or incites another person B to engage in an activity, the activity is sexual, B is under 13”

SEXUAL OFFENCES ACT 2003 SEC 13

“A person under 18 commits an offence if he does anything which would be an offence under any of sections 9 or 10 if he were aged 18.”

NOTE: Being a willing participant is not an issue with these offences. The offence is complete where there is sexual activity if the child is under 13 years of age.

The offence is non-gender-specific so can be committed by males and females.

21 Sexual Activity involving a Child under 13 Classification (3 of 3)

RECORDING PRACTICE: CAUSING OR INCITING A CHILD UNDER 13 TO ENGAGE IN SEXUAL ACTIVITY

SEXUAL OFFENCES ACT 2003 SEC 10

Where the offender is under 18 years of age the offence should be recorded using the appropriate code (21/14, 21/15, 21/24 or 21/25) under classification 21 (Sexual Activity involving a Child under 13).

Where the offender is over 18 years of age an offence should be recorded using the appropriate code (21/2, 21/3, 21/4 or 21/5) (s8 SOA 2003) under classification 21 (Sexual Activity involving a Child under 13).

RECORDING PRACTICE: EXPOSURE TYPE OFFENCES

All exposure type offences should be recorded using the general rule of one crime for each offender or group of offenders regardless of the recorded crime sitting in a victim based class.

RECORDING PRACTICE: PRINCIPAL CRIME (see also General Rules Section F & Annex C)

Although specific offence codes have been assigned to all the offences contained in the Sexual Offences Act 2003, the Principal Crime Rule determines that the following codes will not be used for crime recording purposes: 21/6, 21/7, 21/18, 21/19, 21/8, 21/9, 21/20 and 21/21.

If the sexual activity involves penetration of the victim's vagina, anus or mouth with the offender's penis then the recorded crime is rape under classification 19E for a female or 19H for a male.

If the sexual activity involves penetration of the victims vagina, or anus with another body part or anything else (except penis) then the recorded crime is assault by penetration under Classification 20B for a female or 17B for a male.

The penetration offences within class 21 (Sexual Activity involving a Child under 13) are where the person under 13 has penetrated the suspect's vagina, anus or mouth.

RECORDING PRACTICE: SEXUAL ASSAULT OF A CHILD UNDER 13

SEXUAL OFFENCES ACT 2003 SEC 7

Where the offender is under 18 years of age an offence should be recorded under Classification 21 Sexual Activity involving a Child under 13, (21/12, 21/13, 21/22 or 21/23) (Sexual Offence Act 2003 sec 13)

Where the offender is over 18 years of age an offence should be recorded under Classification 17B (Sexual Assault on a Male Child) or 20B (Sexual Assault on a Female Child)

If the age of the offender is unknown then an offence should be recorded under Classification 17B (Sexual Assault on a Male Child under 13) or 20B (Sexual Assault on a Female Child under 13).

21 Sexual Activity involving a Child under 13 Counting Rules (1 of 2)

GENERAL RULE: ONE CRIME FOR EACH VICTIM OF AN OFFENDER OR GROUP OF OFFENDERS.

APPLICATION OF THE RULE

Causing or inciting a child under 13 to engage in sexual activity where the offender is over 18:

This offence is where the offender causes or incites another person, B, to engage in sexual activity where B is under 13 (Sexual Offences Act 2003 Sec 8) (Class 21/2 to 21/5).

Example 1: A woman forces a 12 year old male to masturbate in front of her.

One crime (class 21).

Example 2: A man performs oral sex on a 12 year old boy.

One crime (class 21).

Example 3: A man forces two 12 year old girls to strip naked for his own sexual gratification.

Two crimes (class 21).

Example 4: A man encourages a 12 year old girl to strip in front of a web cam whilst he watches her for his own sexual gratification.

One crime (class 21) Reported by the Force where the suspect is located if known or if unknown or abroad by the force where the victim is located.

Causing or inciting a child under 13 to engage in sexual activity where the offender is under 18:

Example 1: A 12 year old boy allows his 13 year old girlfriend to perform oral sex on him.

One crime (class 21).

Example 2: A 12 year old girl allows her 13 year old boyfriend to fondle her breasts.

One crime (class 21).

Engaging in sexual activity in the presence of a child under 13 or causing a child under 13 to watch a sexual act:

Example 1: A babysitter makes a 10 year old boy watch a pornographic DVD whilst babysitting.

One crime (class 21).

Example 2: A man in a swimming pool changing room, knowing that three ten year old boys are present, masturbates in front of them.

One crime (class 21) see recording practice: Exposure type offences class 88E.

21 Sexual Activity involving a Child under 13 Counting Rules (2 of 2)

APPLICATION OF THE RULE (continued)

Example 3: A 17 year old male rubs the groin area of a 12 year old boy
One crime (class 21).

Example 4: A 17 year old male rubs the breast of a 12 year old girl.
One crime (class 21).

Causing or inciting a child under 13 to engage in sexual activity:

Example 1: A 13 year old girl encourages her best friend also aged 13 years to perform oral sex on her 12 year old boyfriend.
One crime (class 21) the offenders are acting together.

Principal Crime: see also General Rules Section F & Annex C.

If the sexual activity involves penetration of the victim's vagina, anus or mouth with the offender's penis then the recorded crime is Rape under Class 19E for a female or 19H for a male.

If the sexual activity involves penetration of the victims vagina, or anus with another body part or anything else (except penis) then the recorded crime is assault by penetration under Class 20B for a female or 17B for a male.

The penetration offences within Class 21 (Sexual Activity involving a Child under 13) are where the person under 13 has penetrated the suspect's vagina, anus or mouth.

22A Causing Sexual Activity without Consent Classification (1 of 1)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

	Causing a person to engage in sexual activity without consent:
22/2	Female person
22/3	Male person
22/4	Female person – no penetration
22/5	Male person – no penetration
(S/V)	<i>Sexual Offences Act 2003 Sec 4.</i>

CLARIFICATION- SEXUAL ASSAULT OR CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

“Sexual assault” is the sexual touching of a person without their consent.

“Sexual Activity without consent” is where a person is compelled against their will to perform a sexual activity.

DEFINITION - LEGAL: CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

SEXUAL OFFENCES ACT 2003 SEC 4

“...where ‘A’ intentionally causes another person ‘B’ to engage in an activity, the activity is sexual, ‘B’ does not consent and ‘A’ does not reasonably believe that ‘B’ consents”.

The offence is non-gender-specific so can be committed by males and females.

22A Causing Sexual Activity without Consent Counting Rules (1 of 1)

GENERAL RULE: **ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.**

EXAMPLE 1: A woman coerces a male to have sexual intercourse with her against his will.

One crime (class 22A).

EXAMPLE 2: A man forces another man to allow him to perform oral sex on him against his will.

One crime (class 22A).

EXAMPLE 3: A man forces another man to masturbate in front of him.

One crime (class 22A).

22B Sexual Activity involving a Child under 16 Classification (1 of 2)

FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.

Sexual activity with a child under 16. <i>Sexual Offences Act 2003 Sec 9 (pt).¹ Sexual Offences Act 2003 Sec 13 (pt).²</i>				
Age of offender at time of offence	Penetration		No penetration	
	Female Victim	Male Victim	Female Victim	Male Victim
18 or over ¹	22/6 (S/V)	22/7 (S/V)	22/18 (S/V)	22/19 (S/V)
Under 18 ²	22/12 (S/V)	22/13 (S/V)	22/22 (S/V)	22/23 (S/V)

Causing or inciting a child under 16 to engage in sexual activity. <i>Sexual Offences Act 2003 Sec 10 (pt).³ Sexual Offences Act 2003 Sec 13 (pt).⁴</i>				
Age of offender at time of offence	Penetration		No penetration	
	Female Victim	Male Victim	Female Victim	Male Victim
18 or over ³	22/8 (S/V)	22/9 (S/V)	22/20 (S/V)	22/21 (S/V)
Under 18 ⁴	22/14 (S/V)	22/15 (S/V)	22/24 (S/V)	22/25 (S/V)

Engaging in sexual activity in the presence of a child under 16. <i>Sexual Offences Act 2003 Sec 11 (pt).⁵ Sexual Offences Act 2003 Sec 13 (pt).⁶</i>	
Offender aged 18 or over ⁵	Offender aged Under 18 ⁶
22/10 (S/V)	22/16 (S/V)

Causing a child under 16 to watch a sexual act. <i>Sexual Offences Act 2003 Sec 12 (pt).⁷ Sexual Offences Act 2003 Sec 13 (pt).⁸</i>	
Offender aged 18 or over ⁷	Offender aged Under 18 ⁸
22/11 (S/V)	22/17 (S/V)

22B Sexual Activity involving a Child under 16 Classification (2 of 2)

CLARIFICATION- SEXUAL ASSAULT OR CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

“Sexual assault” is the sexual touching of a person without their consent.

“Sexual Activity without consent” is where a person is compelled against their will to perform a sexual activity.

DEFINITION – LEGAL

SEXUAL OFFENCES ACT 2003 SEC 9

“... where a person aged 18 or over ‘A’ intentionally touches another person ‘B’, the touching is sexual and ‘B’ is under 16 and ‘A’ does not reasonably believe that ‘B’ is 16 or over.”

SEXUAL OFFENCES ACT 2003 SEC 10

“...where a person aged 18 or over ‘A’ intentionally causes or incites another person ‘B’ to engage in an activity, the activity is sexual, ‘B’ is under 16 and ‘A’ does not reasonably believe that ‘B’ is 16 or over.”

SEXUAL OFFENCES ACT 2003 SEC 13

“A person under 18 commits an offence if he does anything which would be an offence under any of sections 9 or 10 if he were aged 18.”

Note: These offences are non-gender-specific so can be committed by males and females.

22B Sexual Activity involving a Child under 16 Counting Rules (1 of 3)

GENERAL RULE: ONE CRIME FOR EACH RELATIONSHIP.

EXAMPLE 1: A 15 year old girl willingly has sexual intercourse with her 17 year old boyfriend.

One crime (class 22B – 22/12).

EXAMPLE 2: A 15 year old girl willingly allows her 16 year old girlfriend to perform oral sex on her.

One crime (class 22B – 22/22).

APPLICATION OF THE RULE

Sexual activity with a child under 16

These offences are where the person aged 13, 14 or 15 is a willing participant to the sexual behaviour. Where there is no consent then an offence under class 17, 19, 20, 21 or 22A should be recorded. The offence is non-gender-specific so can be committed by males and females.

Police should only record the above offences in the following circumstances:

- A parent or guardian reports the matter to police, or
- A person in the relationship reports the matter to police, or
- Where a multi-agency panel refers a case to police.
- For penetration offences only, where a third party refers the matter to police where the points to prove to evidence the offence are made out.

Example 1: The mother of a 15 year old girl reports to police that she has caught her daughter having sexual intercourse with her 17 year old boyfriend.

One crime (class 22B – 22/12).

Example 2: A 14 year old reports to police that she is worried that her 15 year old boyfriend's heavy petting involving digital penetration is going too far and she thinks that he now wants to have intercourse with her.

One crime (class 22B – 22/12).

Example 3: A 15 year old girl has run away with her 17 year old boyfriend. Following a lengthy missing person enquiry she is found and discovered to be six months pregnant. She refuses to assist police in any way.

One crime (class 22B – 22/12).

Example 4: A 15 year old girl and boy willingly perform mutual masturbation on each other. They are caught in the act by a parent of the boy who reports the matter to police.

One crime (class 22B – 22/23). (The parents have reported the matter to police).

22B Sexual Activity involving a Child under 16 Counting Rules (2 of 3)

APPLICATION OF THE RULE (continued).

Example 5: A 15 year old girl reports to police that she was raped at a party by a 16 year old boy. A rape is recorded under class 19D. Following investigation it is established that the victim had willingly had sex with this boy at the party. She had reported a rape to police because her parents had found out.

The FCR should reclassify the recorded class 19D to an offence of class 22B – 22/12.

Example 6: A 30 year old man independently encourages two 13 year old girls via a webcam to send photos of themselves naked to him. They individually take, and send pictures showing themselves naked.

Two crimes (class 22B – 22/20) and two crimes (class 86).

Offender aged 18 years or over who reasonably believes a person to be 16 or over.

Where a person (A) aged 18 years or over intentionally engages in sexual activity with a child (B) aged 13 years or over but under 16 a crime should be recorded under class 22B.

If following an investigation police are satisfied that (A) reasonably believed that (B) was aged 16 or over and:

- the belief is reasonable and appropriate in all the circumstances, and
- the decision is clearly documented and in an auditable form.

Whilst (A) will not be liable to prosecution; providing it can be shown that (B) was a willing party to the sexual activity an offence under class 22B is still made out.

Example 1: A 15 year old girl attends a party and shows everyone her social networking site page which clearly states she is 17 years old. During the party she tells an 18 year old male that she will drive him home after he has slept with her. During consensual sexual intercourse the girl's father discovers them in the act when he comes to take her home. He reports the matter to police who record an offence under crime classification 22B (22/06).

The subsequent investigation determines that the male reasonably believed that the girl was aged 16 or over. The details of the investigation are fully documented. The offence can be reclassified to class 22A 22/03 as the offence is committed by the girl when she instigates the sexual activity. This is providing that it can be shown that the male would not have consented to the act had he known her true age.

Finished Incident: see also General Rules Section E.

Example 1: Following her mother's complaint, a 15 year old girl admits to police that she has been having sexual intercourse with her boyfriend most weeks for the last year.

One crime (class 22B – 22/12 report by parent of the girl).

Example 2: Following her mother's complaint, a 15 year old girl admits to police that she has been having sexual intercourse with her boyfriend for the last two weeks. She also admits that she has had sexual intercourse with two other boys in the last six months.

Three crimes (class 22B – 22/12 report by parent of the girl).

22B Sexual Activity involving a Child under 16 Counting Rules (3 of 3)

APPLICATION OF THE RULE

Engaging in sexual activity in the presence of a child under 16 or causing a child under 16 to watch a sexual act: Count one crime for each victim.

Example 1: A babysitter makes a 14 year old boy watch a pornographic DVD whilst babysitting.

One crime (class 22B – 22/17).

Exposure type offences: All exposure type offences should be recorded using the general rule of one crime for each offender or group of offenders regardless of the recorded crime sitting in a victim based class.

Example 1: A man in a swimming pool changing room, knowing that three 13 year old boys are present, masturbates in front of them.

One crime (class 22B – 22/16). See class 88E Exposure type offences recording practice.

23 Incest or Familial Sexual Offences Classification (1 of 3)

**FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION,
RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.**

Sexual activity with a child family member. <i>Sexual Offences Act 2003 Sec 25.</i>				
Age of offender at time of offence	Victim aged 13-17		Victim Under 13	
	Female	Male	Female	Male
18 or over - penetration	23/4 (S/V)	23/5 (S/V)	23/14 (S/V)	23/15 (S/V)
18 or over - no penetration	23/22 (S/V)	23/23 (S/V)	23/24 (S/V)	23/25 (S/V)
Under 18 - penetration	23/32 (S/V)	23/33 (S/V)	23/30 (S/V)	23/31 (S/V)
Under 18 - no penetration	23/6 (S/V)	23/7 (S/V)	23/16 (S/V)	23/17 (S/V)

Inciting a child family member to engage in sexual activity. <i>Sexual Offences Act 2003 Sec 26.</i>				
Age of offender at time of offence	Victim aged 13-17		Victim Under 13	
	Female	Male	Female	Male
18 or over - penetration	23/8 (S/V)	23/9 (S/V)	23/18 (S/V)	23/19 (S/V)
18 or over - no penetration	23/26 (S/V)	23/27 (S/V)	23/28 (S/V)	23/29 (S/V)
Under 18 - penetration	23/36 (S/V)	23/37 (S/V)	23/34 (S/V)	23/35 (S/V)
Under 18 - no penetration	23/10 (S/V)	23/11 (S/V)	23/20 (S/V)	23/21 (S/V)

Sex with an adult relative. <i>Sexual Offences Act 2003 Sec 64.¹ Sexual Offences Act 2003 Sec 65.²</i>	
Penetration (Offender aged 16 or over relative aged 18 or over) ¹	Consenting to Penetration (Offender aged 16 or over relative aged 18 or over) ²
23/12 (S/V)	23/13 (S/V)

23 Incest or Familial Sexual Offences Classification (2 of 3)

DEFINITION-LEGAL: FAMILY RELATIONSHIPS

SEXUAL OFFENCES ACT 2003 SEC 27

- “(1) The relation of one person (A) to another (B) is within this section if—
- (a) it is within any of subsections (2) to (4), or
 - (b) it would be within one of those subsections but for section 67 of the Adoption and Children Act 2002 (c.38)(status conferred by adoption).
- (2) The relation of A to B is within this subsection if—
- (a) one of them is the other’s **parent, grandparent, brother, sister, half-brother, half-sister, aunt or uncle**, or
 - (b) A is or has been B’s **foster parent**.
- (3) The relation of A to B is within this subsection if A and B live **or have lived in the same household**, or A is or has been **regularly involved in caring for, training, supervising or being in sole charge of B**, and—
- (a) one of them is or has been the other’s **step-parent**,
 - (b) A and B are **cousins**,
 - (c) one of them is or has been the other’s **stepbrother or stepsister**, or
 - (d) the parent or present or former foster parent of one of them is or has been the other’s foster parent.
- (4) The relation of A to B is within this subsection if—
- (a) **A and B live in the same household**, and
 - (b) **A is regularly involved in caring for, training, supervising or being in sole charge of B**.
- (5) For the purposes of this section—
- (a) “aunt” means the sister or half-sister of a person’s parent, and “uncle” has a corresponding meaning;
 - (b) “cousin” means the child of an aunt or uncle;
 - (c) a person is a child’s foster parent if—
 - (i) he is a person with whom the child has been placed under section 23(2)(a) or 59(1)(a) of the Children Act 1989 (c. 41)(fostering for local authority or voluntary organisation), or
 - (ii) he fosters the child privately, within the meaning given by section 66(1)(b) of that Act;
 - (d) a person is another’s partner (whether they are of different sexes or the same sex) if they live together as partners in an enduring family relationship;
 - (e) “step-parent” includes a parent’s partner and “stepbrother” and “stepsister” include the child of a parent’s partner.”

RECORDING PRACTICE: PRINCIPAL CRIME (see also General Rules Section F and Annex C).

Although specific offence codes have been assigned to all the offences contained in the Sexual Offences Act 2003, the Principal Crime Rule determines that the following codes will not be used for crime recording purposes: 23/14, 23/15, 23/30 and 23/31.

Crimes under class 23 should only be recorded where both parties are willing participants to the acts taking part unless a crime under class 17, 19, 20, or 21 is made out in which case these should be recorded.

If the sexual activity involves penetration of a victim under 13 years old vagina, anus or mouth with the offenders penis then the recorded crime is rape under class 19E for a female or 19H for a male.

23 Incest or Familial Sexual Offences Classification (3 of 3)

RECORDING PRACTICE: PRINCIPAL CRIME (CONTINUED)

If the sexual activity involves penetration of a victim under 13 years old vagina, or anus with another body part or anything else (except penis) then the recorded crime is assault by penetration under class 20B for a female or 17B for a male.

Sex with an adult relative.

These offences are where the offender is aged 16 years or over and the relative is 18 years or over and is a willing participant to the sexual behaviour. Where there is no consent then an offence under class 17, 19, 20 or 22A should be recorded.

Note: The offence is non-gender-specific so can be committed by males and females.

Sexual activity with a child family member.

These offences are where the family member is under 18 years old and is a willing participant to the sexual behaviour. Where there is no consent then an offence under class 17, 19, 20, or 21 should be recorded. The offence is non-gender-specific so can be committed by males and females.

23 Incest or Familial Sexual Offences Counting Rules (1 of 2)

GENERAL RULE: ONE CRIME FOR EACH RELATIONSHIP BETWEEN OFFENDERS.

EXAMPLE 1: A 17 year old girl has regularly had sex with her father at their home and an uncle at his house.

Two crimes (class 23 – 23/4).

APPLICATION OF THE RULE

Example 1: A 12 year old girl has sexual intercourse with her 16 year old brother.

One crime (class 19E).

If a woman or girl/man or boy has incestuous sexual intercourse with more than one of her/his male/female relatives at the same time, count separate crimes.

Example 1: Three brothers over 18 years old have sex with their sister aged 16.

Three crimes (class 23 -23/4).

Example 2: Three sisters over 13 (but under 18) years old have sex with their brother aged 14 at his instigation.

Three crimes (class 23 – 23/32).

Example 3: A girl aged 18 years old has three in a bed sex with her father and uncle.

Two crimes (class 23 – 23/13).

A crime of inciting a girl under 16 to have incestuous sexual intercourse (class 23) should not be counted separately where the substantive crime is committed and the person inciting is present when the offence is committed. The offenders are acting together.

Example 1: A father incites his son to have sexual intercourse with his sister aged 15 years. They then both willingly have sexual intercourse in private in a bedroom.

Two crimes (class 23 – 23/8 and 23/32) One of incitement and one of familial sex.

Example 2: A father incites his son to have sexual intercourse with his sister aged 15 years. They then both willingly have sexual intercourse in front of him.

One crime (class 23 – 23/8) Acting together.

Example 3: A father incites his son to have sexual intercourse with his sister aged 15 years old. Just before the act is about to take place the girl says no and no act takes place.

One crime (class 23 – 23/8).

Finished Incident: see also General Rules Section E.

Example 1: A crime of incest between a father and daughter is reported to the police, and subsequent investigations show that this has occurred on numerous occasions over several years.

One crime (class 23 – offence according to age of daughter as victim).

23 Incest or Familial Sexual Offences Counting Rules (2 of 2)

Principal Crime: see General Rules Section F and Annex C.

If the sexual activity involves penetration of a victim under 13 years old vagina, anus or mouth with the offenders penis then the recorded crime is rape under Class 19E for a female or 19H for a male.

If the sexual activity involves penetration of a victim under 13 years old vagina, or anus with another body part or anything else (except penis) then the recorded crime is assault by penetration under class 20B for a female or 17B for a male.

Crimes under class 23 should only be recorded where both parties are willing participants to the acts taking part. If there is no consent, then a crime under class 17, 19, 20, or 21 should be recorded.

Example 1: A father forces his 16 year old daughter to have sexual intercourse with him.

One crime (class 19C) (rape).

Familial Child Sex Offences (Sec 25 and 26 SOA 2003) will be the principal crime over assault with injury (class 8N) and assault without injury (class 105A). If the assault amounts to Grievous Bodily Harm with Intent (Wounding class 5D) then this should be recorded.

Example 1: Police are called to the family home after the father has punched his 14 year old son in the head causing a bruised cheek. During the initial investigation it was apparent that he was punched because he had refused to masturbate his father. It was established that he had regularly masturbated his father over the last few weeks.

One crime (class 23 – 23/23).

70 Sexual Activity etc with a Person with a Mental Disorder Classification (1 of 1)

FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION, RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.

	Sexual activity with a person with a mental disorder impeding choice:	70/15	Engaging in sexual activity in the presence, procured by inducement, threat or deception or a person with mental disorder. <i>Sexual Offences Act 2003 Sec 36.</i>
70/1	Male person	(V)	
70/2	Female person		
70/3	Male person – no penetration		
70/4	Female person – no penetration	70/16	Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception. <i>Sexual Offences Act 2003 Sec 37.</i>
(V)	<i>Sexual Offences Act 2003 Sec 30.</i>	(V)	
	Causing or inciting a person with a mental disorder impeding choice to engage in sexual activity:		Care workers: Sexual activity with a person with a mental disorder:
70/5	Male person	70/17	Male person
70/6	Female person	70/18	Female person
70/7	Male person – no penetration	70/19	Male person - no penetration
70/8	Female person – no penetration	70/20	Female person - no penetration
(V)	<i>Sexual Offences Act 2003 Sec 31.</i>	(V)	<i>Sexual Offences Act 2003 Sec 38.</i>
70/9	Engaging in sexual activity in the presence of a person with a mental disorder impeding choice. <i>Sexual Offences Act 2003 Sec 32.</i>		Care workers: Causing or inciting sexual activity (person with a mental disorder):
(V)		70/21	Penetration
		70/22	No penetration
70/10	Causing a person with a mental disorder impeding choice to watch a sexual act. <i>Sexual Offences Act 2003 Sec 33.</i>	(V)	<i>Sexual Offences Act 2003 Sec 39.</i>
(V)		70/23	Care workers: Sexual activity in the presence of a person with a mental disorder. <i>Sexual Offences Act 2003 Sec 40.</i>
	Inducement, threat or deception to procure sexual activity with a person with a mental disorder:		
70/11	Penetration	70/24	Care workers: Causing a person with a mental disorder or learning disability to watch a sexual act. <i>Sexual Offences Act 2003 Sec 41.</i>
70/12	No penetration	(V)	
(V)	<i>Sexual Offences Act 2003 Sec 34.</i>		
	Causing a person with a mental disorder to engage in sexual activity by inducement, threat or deception:		
70/13	Penetration		
70/14	No penetration		
(V)	<i>Sexual Offences Act 2003 Sec 35.</i>		

DEFINITION - LEGAL: MENTAL DISORDER IMPEDING CHOICE

SEXUAL OFFENCES ACT 2003 SEC 30-33

“ ‘A’ commits an offence [against ‘B’] if ... ‘A’ knows or can be reasonably expected to know that ‘B’ has a mental disorder and that because of it or for a reason related to it ‘B’ is likely to be unable to refuse.”
‘B’ is unable to refuse if –

- (a) he lacks to capacity to choose whether to agree to engaging in the activity caused or incited ..., or
- (b) he is unable to communicate such a choice to ‘A’.”

70 Sexual Activity etc with a Person with a Mental Disorder

Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH VICTIM.

EXAMPLE 1: A man has sexual activity with three women with mental disorders impeding choice.

Three crimes (class 70).

APPLICATION OF THE RULE

A crime of causing or inciting a person with a mental disorder (impeding choice) to engage in sexual activity should not be counted separately where a third party commits the substantive sexual activity and the person inciting is present. The offenders are acting together.

Example 1: A care worker invites her boyfriend to the victim's room and encourages him to have sexual activity with the victim in front of her. Both are aware that the victim has a mental disorder impeding choice.

One crime (class 70). Acting together.

Example 2: A care worker invites her boyfriend to the victim's room having encouraged him to have sexual activity with the victim. Sexual activity takes place. The inciter is not present. Both are aware that the victim has a mental disorder impeding choice.

Two crimes (class 70). One of incitement and one of sexual activity.

Finished Incident: see General Rules Section E.

Example 1: A care worker has had sexual activity several times with a person under his care, who has a mental disorder impeding choice. All occurrences are reported to the police at the same time.

One crime (class 70).

Principal Crime: see General Rules Section F and Annex C.

Example 1: A person has sexual activity with a woman with a mental disorder (impeding choice) and steals from her person.

One crime (class 70).

71 Abuse of Children through Sexual Exploitation Classification (1 of 1)

FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION, RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.

71/1 (S/V)	Arranging or facilitating the commission of a child sex offence. <i>Sexual Offences Act 2003 Sec 14.</i>		Controlling a child subject to sexual exploitation:
	Paying for sexual service of a child:	71/9	Child 13-17
71/2	Female child under 13	71/12	Child under 13
71/3	Male child under 13	(S/V)	<i>Sexual Offences Act 2003 Sec 49.</i>
71/4	Female child under 16 – no penetration		Arranging or facilitating the sexual exploitation of a child:
71/5	Male child under 16 – no penetration	71/10	Child 13-17
71/14	Female child under 16	71/13	Child under 13
71/15	Male child under 16	(S/V)	<i>Sexual Offences Act 2003 Sec 50.</i>
71/6	Female child under 18		
71/7	Male child under 18		
(V)	<i>Sexual Offences Act 2003 Sec 47.</i>		
	Cause or inciting the sexual exploitation of a child:	71/16	Possess a paedophile manual.
71/8	Child 13-17	(S)	<i>Serious Crime Act 2015 Sec 69.</i>
71/11	Child under 13		
(V)	<i>Sexual Offences Act 2003 Sec 48.</i>		

71 Abuse of Children through Sexual Exploitation Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH CHILD.

EXAMPLE 1: A person pays for sexual services of two children.

Two crimes (class 71).

Finished Incident: see also General Rules Section E.

If a person controls the activities of a child prostitute or child involved in pornography on more than one occasion, one crime should be counted for each group of incidents separately reported to the police.

Example 1: A man is found to be controlling the activities of a child prostitute over several months and this is reported to the police for the first time.

One crime (class 71).

73 Abuse of Position of Trust of a Sexual Nature Classification (1 of 2)

FOR HISTORIC ALLEGATIONS COMMITTED UNDER PREVIOUS LEGISLATION, RECORD AND ASSIGN OUTCOME AS IF COMMITTED TODAY.

Abuse of position of trust: sexual activity with a child. <i>Sexual Offences Act 2003 Sec 16.</i>				
Age of offender at time of offence	Child aged 13-17		Child Under 13	
	Female	Male	Female	Male
18 or over	73/7 (V)	73/8 (V)	73/13 (V)	73/14 (V)
Under 18	n/a	n/a	n/a	n/a

Abuse of position of trust: causing or inciting a child to engage in sexual activity. <i>Sexual Offences Act 2003 Sec 17.</i>				
Age of offender at time of offence	Child aged 13-17		Child Under 13	
	Female	Male	Female	Male
18 or over	73/9 (V)	73/10 (V)	73/15 (V)	73/16 (V)
Under 18	n/a	n/a	n/a	n/a

Abuse of position of trust: sexual activity in presence of a child. <i>Sexual Offences Act 2003 Sec 18.</i>				
Age of offender at time of offence	Child aged 13-17		Child Under 13	
	Female	Male	Female	Male
18 or over	73/11 (V)	73/11 (V)	73/17 (V)	73/17 (V)
Under 18	n/a	n/a	n/a	n/a

Abuse of position of trust: causing a child to watch a sexual activity. <i>Sexual Offences Act 2003 Sec 19.</i>				
Age of offender at time of offence	Child aged 13-17		Child Under 13	
	Female	Male	Female	Male
18 or over	73/12 (V)	73/12 (V)	73/18 (V)	73/18 (V)
Under 18	n/a	n/a	n/a	n/a

73 Abuse of Position of Trust of a Sexual Nature Classification (2 of 2)

DEFINITION - LEGAL: POSITION OF TRUST

SEXUAL OFFENCES ACT 2003 SEC 21 (APPLIES TO SECS 16-19)

“A person aged 18 or over ‘A’ is in a position of trust in relation to a person under that age ‘B’ if any of the conditions below, or any specified by statutory instrument, is fulfilled.

- ‘A’ looks after persons under 18 detained in an institution by virtue of a court order or under an enactment; and ‘B’ is so detained in that institution.
- ‘A’ looks after persons under 18 who are resident in a home or other place in which: a) accommodation and maintenance are provided by an authority under Section 23(2) of the Children Act 1989 ..., or b) accommodation is provided by a voluntary organisation under Section 59(1) of that Act ...
- ‘A’ looks after persons under 18 who are accommodated and cared for in an institution which is: a) a hospital; b) an independent clinic; c) a care home, residential care home or private hospital; d) a community home, voluntary home or children’s home; e) a home provided under Section 82(5) of the Children Act 1989, or f) a residential family centre, and ‘B’ is accommodated and cared for in that institution.
- ‘A’ looks after persons under 18 who are receiving full-time education at an educational institution, and ‘B’ is receiving, and ‘A’ is not receiving, education at that institution.
- Any condition specified in an order made by the Secretary of State is met.”

RECORDING PRACTICE: ABUSE OF POSITION OF TRUST – AGE OF VICTIM

Because of the Principal Crime Rule offences should only be recorded under this section where the victim is aged 16 or 17 years of old. Where the victim is younger than this, the appropriate offence under the age related sections should be recorded instead.

These offences are where the person aged 16 or 17 is a willing participant to the sexual behaviour. Where there is no consent then an offence under class 17, 19, 20 or 22A should be recorded.

NOTE: The offence is non-gender-specific so can be committed by males and females.

73 Abuse of Position of Trust of a Sexual Nature Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH CHILD.

EXAMPLE 1: A teacher has sexual activity with two female pupils aged 17 in his class.

Two crimes (class 73/7).

APPLICATION OF THE RULE

A crime of abuse of position of trust by causing or inciting a child to engage in sexual activity should not be counted separately where a third party commits the substantive sexual activity and the person inciting is present. The offenders are acting together.

Example 1: A teacher allows one of her male 16 year old pupils to have sexual intercourse with her.

One crime (class 73/8).

Example 2: A teacher actively encourages another teacher to have intercourse with a 17 year old female student at school and sex takes place in front of her.

One crime (class 73/7). Offenders are acting together.

Example 3: A teacher actively encourages another teacher to have intercourse with a 17 year old male student away from school. Sex takes place in private away from school.

Two crimes - One of incitement (class 73/10) and one of abuse of trust (class 73/8).

Finished Incident: see General Rules Section E.

Example 1: A warder in a young persons' institution has had sexual activity several times with a female aged 16 detained in that institution. All occurrences are reported to the police at the same time.

One crime (class 73/7).

Principal Crime: see General Rules Section F and Annex C.

Example 1: A nurse has sexual activity with a male patient aged 16 and steals money from the patient's locker.

One crime (class 73/8).

88A Sexual Grooming Classification (1 of 1)

88/1 (V)	Meeting a female child following sexual grooming etc (Offender is aged 18 or over and victim is under 16). <i>Sexual Offences Act 2003 Sec 15.</i>	88/2 (V)	Meeting a male child following sexual grooming etc. (Offender is 18 or over and victim is under 16). <i>Sexual Offences Act 2003 Sec 15.</i>
71/17 (V)	Engage in sexual communication with a child. <i>Sexual Offences Act 2003 Sec 15A (1) and (3) as amended by Serious Crime Act 2015 Sec 67.</i> CJS Code: SX03224		

Commencement date: 3 April 2017

DEFINITION - LEGAL: MEETING A CHILD FOLLOWING SEXUAL GROOMING ETC

SEXUAL OFFENCES ACT 2003 SEC 15 as amended by the Criminal Justice and Courts Act 2015

“A person aged 18 or over ‘A’ commits an offence if:

- (a) having met or communicated with another person ‘B’ on one or more occasions, he -
 - (i) intentionally meets ‘B’, or
 - (ii) travels with the intention of meeting ‘B’ in any part of the world,
 - (iii) B travels with the intention of meeting A in any part of the world,
- (b) at the time, he intends to do anything to or in respect of ‘B’, during or after the meeting mentioned in paragraph (a) (i) to (iii) and in any part of the world, which if done will involve the commission by ‘A’ of a relevant offence,
- (c) ‘B’ is under 16, and
- (d) ‘A’ does not reasonably believe that ‘B’ is 16 or over.”

88A Sexual Grooming Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH CHILD.

EXAMPLE 1: A 60 year old male posted photographs of his teenage son on internet chat rooms and posed as his son. Following frequent internet chats with two 13 year old girls he encouraged them to travel to a London Station to meet him for sex.

Two crimes (class 88/1- 88A).

EXAMPLE 2: A sports coach arranges for his 14 year old star pupil to meet up for a winter training week in Spain with him. He is arrested at Heathrow in possession of condoms and lubricants which he admits were for a sexual use on his star pupil.

One crime (class 88/1 – 88A).

Principal crime: see General Rules Section F and Annex C.

If a person has sexual activity with a child following grooming, record the substantive sexual offence only.

Example 1: A 40 year old male posted photographs of his teenage son on internet chat rooms and posed as his son. Following frequent internet chats with two 13 year old girls he encouraged them to travel to a London Station to meet him for sex. He has sexual intercourse with one of them and is arrested meeting the other girl.

One crime (class 22/12 - 22B) and one crime (class 81/1 - 88A).

88C Other Miscellaneous Sexual Offences Classification (1 of 1)

88/5 Administering a substance with intent.
(V) *Sexual Offences Act 2003 Sec 61.*

88/6 Committing an offence with intent to
(V) commit a sexual offence.
Sexual Offences Act 2003 Sec 62.

88/7 Trespass with intent to commit a sexual
(V) offence.
Sexual Offences Act 2003 Sec 63.

88C Other Miscellaneous Sexual Offences Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH SPECIFIC INTENDED VICTIM.

EXAMPLE 1: A victim's drink has been spiked with intent to engage in sexual activity to which the victim does not consent.

One crime, class 88/5 (88C).

EXAMPLE 2: Police become aware during the course of a rape investigation that the suspect has also spiked the drinks of three other victims with intent to rape them.

Three crimes, class 88/5 (88C) on victim confirmation, in addition to the recorded rape 19C.

EXAMPLE 3: A person enters a tent on a campsite as a trespasser with intent to sexually assault the female camper when she returns.

One crime, class 88/7 (88C).

APPLICATION OF THE RULE

Administering poison with intent to injure or annoy:

If the intentions of the offender (e.g. in drink spiking) are sexual, record one crime of 88/5 (administering a substance with intent) under class 88C. If the intentions are unknown, record under class 8N (poisoning).

Example 1: A female's drink was spiked but the intentions of the offender, other than to annoy, are unknown.

One crime, class 8/2 (8N).

Committing an offence with intent to commit a sexual offence:

This offence should only be recorded where the substantive sexual offence has not been committed. Where it has been committed; the relevant sexual offence should be recorded.

Example 1: A man steals a quantity of condoms and lubricating jelly from a chemist shop with intent on raping a woman who is sunbathing in the garden of a neighbouring premises.

One crime, class 88/6 (88C) and one crime (class 46) shoplifting.

88D Unnatural Sexual Offences Classification (1 of 1)

88/3 Intercourse with an animal by a male.
(S/V) *Sexual Offences Act 2003 Sec 69 (1)(3).*

88/11 Sexual penetration of a corpse.
(S) *Sexual Offences Act 2003 Sec 70.*

88/4 Intercourse with an animal by a female.
(S/V) *Sexual Offences Act 2003 Sec 69(2)(3).*

88D Unnatural Sexual Offences Counting Rules (1 of 1)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE 1: Two men are seen by a farm worker engaged in sexual intercourse with a number of different farm animals.

One crime, class 88/3 (88D). The offenders are acting together.

APPLICATION OF THE RULE

Where these state-based offences are committed with another victim-based notifiable offence, count the other offence in addition to an offence under class 88D.

Example 1: Two offenders enter a funeral director's premises as trespassers and steal money. Forensic evidence shows that whilst in the premises both offenders have sexually penetrated a corpse.

One crime, class 30/1 (30A) and one crime, class 88/11 (88D). The offenders are acting together.

88E Exposure and Voyeurism Classification (1 of 1)

88/9 Exposure.
(V) *Sexual Offences Act 2003 Sec 66.*

88/10 Voyeurism
(V) *Sexual Offences Act 2003 Sec 67.*

DEFINITION – LEGAL: EXPOSURE

SEXUAL OFFENCES ACT 2003 SEC 66.

“A person commits an offence if –

- (a) he intentionally exposes his genitals, and
- (b) he intends that someone will see them and be caused alarm or distress.”

The term ‘genitals’ refers to male or female sexual organs and the offence can be committed by a male or female against a male or female.

RECORDING PRACTICE: EXPOSURE TYPE OFFENCES

All exposure type offences should be recorded using the general rule of one crime for each offender or group of offenders regardless of the recorded crime sitting in a victim based class.

88E Exposure and Voyeurism Counting Rules (1 of 2)

GENERAL RULE: ONE CRIME FOR EACH OFFENDER OR GROUP OF OFFENDERS.

EXAMPLE 1: A man exposes his person to three women. All are reported at the same time.

One crime, class 88/9 (88E).

EXAMPLE 2: A group of five people expose themselves at the same time.

One crime, class 88/9 (88E). The offenders are acting together.

EXAMPLE 3: A man is caught by police peering through a crack in a curtain, for his own gratification, observing a couple having sex in a motel room.

One crime, class 88/10 (88E).

APPLICATION OF THE RULE

Exposure type offences

All classes of crime where exposure type offences occur should be recorded using the general rule of one crime for each offender or group of offenders regardless of the class sitting in a victim based class

Example 1: A man in a swimming pool changing room, knowing that three ten year old boys are present, masturbates in front of them.

One crime, class 21/10.

Example 2: A man in a swimming pool changing room, knowing that three 13 year old boys are present, masturbates in front of them.

One crime, class 22/10 (22B)

Example 3: A man exposes himself to a nanny and her two ten year old charges and then masturbates in front of them.

One crime, Class 21/10.

Finished Incident: see also General Rules Section E.

Example 1: A man exposes himself, and the police are notified. He is cautioned by the police, but he is then reported for doing it again.

Two crimes, class 88/9 (88E).

88E Exposure and Voyeurism Counting Rules (2 of 2)

Principal Crime: see General Rules Section F and Annex C.

Any threat or attempt to combine the exposure with a sexual assault should be recorded as a sexual assault.

If the person exposed to is under 16 then an offence under class 21 or class 22B should be considered.

Example 1: A man exposes himself to a woman, and tries to sexually assault her.

One crime, class 20/5 (20A).

Where in exposure the offender is masturbating in a public place and two or more people could have witnessed the offence, an offence under Class 66 (66/21 - committing an act outraging public decency) should be recorded.

Example 1: A group of ladies are sitting in a park when their attention is drawn to a male who jumps out from a bush shouting at them. He is masturbating his exposed erect penis.

One crime, class 66/21.

Maximum Sentence - Sexual Offences						
Life	14 years	10 years	7 years	5 years	3 years	2 years
17/13-14	17/16	17/15	70/23-24	21/12-17	71/16	23/12,13
19/7-14	20/6	20/5	71/6,7	21/22-25		88/3-4
19/16-19	21/3,5-9	21/10-11		22/12-17		88/9-11
20/3-4	21/18-21	22/4,5,10,11		22/22-25		71/17
21/2,4	22/6-9	70/9-10		23/6-7		
22/2-3	22/18-21	70/15-16		23/10-11		
70/1,2,5,6	23/4,5	70/19,20,22		23/16,17,20, 21,32-37		
70/11,13	23/8-9	88/1-2, 5-7		73/7-18		
71/2-3	23/18,19					
	23/22-29					
	70/3,4,7,8					
	70/12,14					
	70/17-18,21					
	71/1,4,5					
	71/8-15					