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DEWAN RAKYAT YANG KEEMPAT BELAS
PENGKAL KELIMA**



LAPORAN JAWATANKUASA PILIHAN KHAS

**JAWATANKUASA PILIHAN KHAS HAL EHWAL WANITA DAN
KANAK-KANAK DAN PEMBANGUNAN SOSIAL**

**LAPORAN LAWATAN KERJA JAWATANKUASA PILIHAN KHAS HAL
EHWAL WANITA DAN KANAK-KANAK DAN PEMBANGUNAN
SOSIAL KE LONDON, UNITED KINGDOM PADA 23 – 26 MEI 2022**

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BAHAGIAN I

PENGENALAN

Latar Belakang

Jawatankuasa Pilihan Khas (JKPK) Hal Ehwal Wanita, Kanak-kanak dan Pembangunan Sosial disertai oleh beberapa agensi seperti Kementerian Dalam Negeri (KDN), Kementerian Kesihatan Malaysia (KKM), Polis Diraja Malaysia (PDRM), Jabatan Kebajikan Masyarakat (JKM), Mahkamah, Suruhanjaya Hak Asasi Manusia (SUHAKAM), *United Nations Children's Fund* (UNICEF) dan *Child Rights Innovation and Betterment* (CRIB) telah mengadakan lawatan kerja ke London, United Kingdom pada 23 hingga 26 Mei 2022. Laporan oleh delegasi yang menyertai lawatan ini adalah dilampirkan. Senarai delegasi seperti di Lampiran A.

United Kingdom dipilih sebagai lokasi lawatan kerja kerana prosedur kerja yang dilakukan dalam usaha melindungi dan membantu kanak-kanak yang berdepan dengan konflik undang-undang adalah sangat holistik dan signifikan. United Kingdom telah melakukan usaha sama dengan beberapa agensi seperti *National Crime Agency* (NCA), *Child Exploitation and Protection Centre* (CEOP) dan lain-lain agensi kerajaan serta pertubuhan bukan kerajaan (NGO) dari dalam atau luar negara untuk membela dan memberi perlindungan kepada kanak-kanak yang menjadi mangsa penderaan seksual. Usaha sama ini bukan sahaja memberi manfaat kepada kanak-kanak di United Kingdom, malahan juga kanak-kanak dari negara luar. Di samping itu, penggubalan Akta Keadilan Belia dan Keterangan Jenayah 1999 (*The Youth Justice and Criminal Evidence Act 1999 – YJCEA*) memberi impak positif kepada saksi kanak-kanak yang memberi keterangan dalam prosiding jenayah. Pelaksanaan Akta ini berjaya meminimalkan perasaan trauma dalam kalangan kanak-kanak yang sedang menjalani proses perbicaraan di mahkamah. Di samping itu, United Kingdom juga mempunyai amalan terbaik dalam mengendalikan kanak-kanak yang terlibat dengan jenayah berulang melalui intervensi berteraskan masyarakat serta program kekeluargaan.

Selaras dengan usaha Malaysia untuk melakukan reformasi terhadap sistem keadilan kanak-kanak, lawatan kerja ini membuka ruang kepada delegasi untuk meneroka kewajaran penambahbaikan dilakukan terhadap sistem perundangan sedia ada. Perkongsian dan pembelajaran yang diperolehi melalui lawatan kerja ini diharapkan dapat menyumbang kepada percambahan idea bagi memperkasa reformasi yang dilakukan Malaysia terhadap sistem keadilan jenayah kanak-kanak. Terutamanya dalam menyantuni mangsa atau saksi kanak-kanak yang terlibat dengan kes penderaan. Reformasi yang dilakukan diharapkan dapat membantu mangsa atau saksi kanak-kanak daripada mengalami trauma berpanjangan akibat terpaksa melalui proses perbicaraan yang berpanjangan, berulang-ulang dan sistem kehakiman yang bersifat tidak mesra kanak-kanak.

Objektif

Lawatan ini menyasarkan untuk memberi pendedahan kepada delegasi berkaitan peranan semak dan imbang yang dimainkan oleh Jawatankuasa Pilihan Khas di Parlimen United Kingdom. Inisiatif ini adalah selaras dengan usaha Parlimen Malaysia untuk melakukan penambahbaikan terhadap fungsi dan peranan Jawatankuasa Pilihan Khas di Parlimen Malaysia. Selain itu, lawatan kerja ini juga bertujuan meneliti sistem sokongan yang ditubuhkan oleh United Kingdom dalam memastikan mangsa kanak-kanak yang berdepan dengan kes penderaan mendapat pembelaan yang sewajarnya. Pada masa yang sama, lawatan ini juga bertujuan memberi pemahaman kepada delegasi berkaitan praktis dan amalan yang dilakukan oleh United Kingdom dalam menyelaraskan hubungan di antara agensi, menambah baik sistem perundangan, dan menggubal polisi agar dapat memberi lebih perlindungan kepada kanak-kanak. Melalui lawatan ini juga, delegasi diharapkan dapat meneroka pelbagai mekanisma dan inisiatif yang diwujudkan oleh United Kingdom untuk memberi perlindungan secara holistik kepada mangsa atau saksi.

BAHAGIAN II

LAPORAN PROGRAM

Di sepanjang lawatan ini, delegasi telah mengadakan mesyuarat dan lawatan ke Parlimen United Kingdom, *National Crime Agency*, *Internet Watch Foundation*, *We Protect Alliance*, *Victim Support United Kingdom*, *Old Bailey Central Criminal Courts*, *The Lighthouse* (Rumah Kanak-kanak), *Barristers*, *Crown Prosecution Services*, Polis Metropolitan London dan *Youth Justice Board*. Senarai penuh program seperti di Lampiran B. Pemerhatian utama daripada lawatan kerja yang dilakukan adalah seperti berikut:

i. Lawatan ke *House of Lords* dan *House of Commons*, Parlimen United Kingdom.

Delegasi diberi penerangan berkaitan peranan JPKK dalam sistem Westminster. Antaranya membincangkan keberkesanan JPKK memainkan peranan semak dan imbang terhadap eksekutif. Penerangan juga menyentuh aspek budaya dan bagaimana untuk mendapatkan sokongan merentasi parti secara sebulat suara terhadap syor yang dibentangkan oleh Jawatankuasa.

Pada sesi pembentangan oleh CPA, delegasi diberi pendedahan berkaitan bagaimana untuk mengekalkan momentum keberkesanan Jawatankuasa dalam keadaan kecelaruan politik. Dalam sesi ini, delegasi diberi penerangan berkaitan kepentingan *standing orders* dan mekanisma semak imbang yang lain dalam memastikan Jawatankuasa dapat terus mapan dan berdaya tahan.

Pertemuan secara bersemuka bersama YB. Tim Loughton (Ahli Parlimen), Mark Earl (*Committee Operations Manager responsible for safeguarding and witness support*), dan Elektra Garvie Adams (*Second Clerk of the Home Affairs Committee*) telah memberi perkongsian yang sangat signifikan berkaitan pengalaman melakukan libat urus dengan pelbagai peringkat saksi. Dalam pertemuan ini, delegasi telah diberi pendedahan berkaitan proses dan prosedur sesi libat urus bersama golongan rentan, saksi kanak-kanak dan masyarakat awam. Terutamanya dalam mendapatkan maklum balas daripada mangsa atau saksi, supaya maklumat dapat diterjemah sebagai bukti untuk menyokong syor dan rumusan dikemukakan oleh Jawatankuasa.



Sesi perbincangan bersama YB. Tim Loughton, *House of Commons*, Mark Earl, *Committee Operations Manager* dan Elektra Garvie Adams, *Second Clerk, Home Affairs Committee* pada 23 Mei 2022.



Lawatan ke *Westminster Hall*, Parlimen United Kingdom pada 23 Mei 2022

ii. Lawatan ke *National Crime Agency's Headquarters, Internet Watch Foundation* dan *We Protect Alliance*

Pada hari kedua, delegasi dibahagikan kepada dua kumpulan, iaitu Kumpulan A1 dan A2. Oleh kerana organisasi yang dilawati telah menghadkan jumlah pelawat, hanya sepuluh delegasi dipilih untuk menyertai setiap kumpulan. Delegasi dipilih berdasarkan bidang kepakaran dan agensi yang diwakili mereka. Laporan berkaitan lawatan ke *National Crime Agency's Headquarters, Internet Watch Foundation* dan *We Protect Alliance* tidak dapat disertakan kerana Setiausaha Delegasi menyertai Kumpulan A2.



Delegasi yang menyertai lawatan ke *National Crime Agency's Headquarters, Internet Watch Foundation* dan *We Protect Alliance* di Citadel Place, Tinworth Street London pada 24 Mei 2022.

iii. Lawatan ke Office of National Statistics & Inclusive Data Taskforce

Delegasi telah diberi penerangan berkaitan bidang tugas yang dilakukan oleh *Office of National Statistics (ONS) & Inclusive Data Taskforce*. ONS adalah pengeluar data statistik terbesar di United Kingdom. Antaranya, ONS telah mengeluarkan data dan statistik berkaitan kanak-kanak rentan yang meliputi perkara seperti kebajikan sosial, kemurungan dan kesepian yang dihadapi mereka.

Sebagai sebuah organisasi yang bersifat *independence*, maklumat yang dihasilkan oleh ONS adalah bebas daripada pengaruh politik atau mana-mana pihak. Proses pengumpulan data oleh ONS disokong oleh akta yang menetapkan setiap maklumat yang diminta mesti dikeluarkan oleh mana-mana pihak. Namun demikian, hasil pengumpulan dan penganalisaan data hanya disalurkan ke sekitar England dan tidak meliputi kawasan lain di United Kingdom. Hasil kajian yang dikeluarkan oleh ONS menjadi asas kepada proses penambahbaikan dan penggubalan polisi yang ingin dilaksanakan oleh mana-mana jabatan atau agensi. Lawatan ke ONS hanya disertai oleh delegasi yang menyertai Kumpulan A2.



Delegasi diberi penerangan berkaitan proses kerja *Office of National Statistics & Inclusive Data Taskforce* pada 24 Mei 2022



Penyampaian cenderamata dari Parlimen Malaysia kepada *Office of National Statistics & Inclusive Data Taskforce* oleh YB. Ahmad Tarmizi Sulaiman, Ahli Parlimen Sik pada 24 Mei 2022.

iv. Lawatan ke *Victim Support United Kingdom*

Victim Support (VS) ialah sebuah badan amal yang bersifat *independence*. VS ditubuhkan bertujuan memberi khidmat sokongan secara percuma kepada mangsa jenayah dan trauma di England dan Wales. VS menyediakan tenaga pakar untuk membantu memulihkan mangsa yang terkesan akibat penderaan agar dapat menjalani kehidupan seharian dengan baik. Selain kanak-kanak dan orang muda, VS juga membantu wanita yang terkesan dengan pelbagai perlakuan jenayah seperti penderaan rumah tangga, penderaan seksual, *hate crime*, kes bunuh, dan juga individu yang mengalami depresi dan insiden cubaan membunuh diri

Di samping itu, VS juga menyediakan perkhidmatan sokongan kepada saksi muda, bermula daripada sebelum proses perbicaraan dilakukan di mahkamah sehingga ke peringkat akhir. Malahan, VS juga terlibat dalam proses merangka draf *Victims Bill* yang kini dalam proses pengubalan. Lawatan ke VS disertai oleh kesemua delegasi kecuali Ahli Parlimen Lembah Pantai dan Ahli Parlimen Kuantan.



YB Dato' Sri Azalina Othman Said bersama Jeffrey DeMarco, Penolong Pengarah *Victim Support* dan petugas sokongan pada 24 Mei 2022



Delegasi yang menyertai sesi bersama *Victim Support* United Kingdom di Whitecross Studios, Barner Street London pada 24 Mei 2022.

v. Sesi Jaringan Sosial dan Minum Petang

JKPK Hal Ehwal Wanita, Kanak-kanak dan Pembangunan Sosial telah mengadakan majlis jaringan sosial dan minum petang di Marlborough Suite, Hyatt Regency London. Majlis yang dihadiri seramai lebih 50 orang jemputan ini diadakan bertujuan memperkasa hubungan antara delegasi dan para jemputan yang mewakili pelbagai agensi dan NGO berkaitan kanak-kanak. Antara tetamu undangan yang hadir ialah Pesuruhjaya Tinggi dan pegawai dari kedutaan Malaysia di United Kingdom, Eimear Timmons dan Dr. Laura Smith dari *The Lighthouse*, *Detective Constable* Elly Mitchell dan *Detective Constable* Arran Barnes dari Polis Metropolitan, Poppy Jafrato dan Louise Attrill dari *Central Criminal Court*, dan Naomi Barnard dari *Women Budget Group*. Penganjuran majlis minum petang ini berjaya memperkukuh hubungan jaringan sosial antara delegasi dan tetamu undangan yang hadir pada petang itu.



Sesi jaringan sosial dalam majlis minum petang di Marlborough Suite, Hyatt Regency pada 24 Mei 2022.

vi. **Perbincangan Meja Bulat Mengenai Mangsa Kanak-kanak dan Saksi Dalam Sistem Keadilan**

Sistem keadilan di England dan Wales memperuntukkan hak kepada pesalah kanak-kanak untuk mendapat *Special Measures*, tanpa mengira sama ada kanak-kanak tersebut adalah saksi, mangsa ataupun pesalah. Kesemua saksi yang berumur 18 tahun dan ke bawah semasa sesi pendengaran dan rakaman video dijalankan adalah berhak untuk mendapat *Special Measures*. Berbeda dengan sistem keadilan di England dan Wales, Akta Keterangan Saksi Kanak-kanak Malaysia 2007 [Akta 676] memperuntukkan Mekanisma Khas (*Special Measures*) hanya kepada mangsa kanak-kanak dan kanak-kanak yang berumur di bawah 16 tahun. Namun begitu, Seksyen 2 Akta 676 mengecualikan kanak-kanak yang dituduh melakukan kesalahan daripada diberi *Special Measures*. Malaysia juga menetapkan agar keterangan yang diberi oleh saksi di bawah umur 16 tahun mendapat pengesahan terlebih dahulu.

Sementara itu, *The Youth Justice and Criminal Evidence Act* (YJCEA) 1999 memperuntukkan bantuan diberi kepada saksi kanak-kanak, termasuk juga saksi orang kurang upaya (OKU) ketika mereka memberi keterangan dalam proses perbicaraan di mahkamah. Seksyen 28 dalam Akta ini memperuntukkan agar rakaman video dibuat atas keterangan pemeriksaan utama, pemeriksaan balas dan pemeriksaan semula sebagai bukti perbicaraan. Peruntukan yang bersifat mesra kanak-kanak ini membolehkan perbicaraan dijalankan tanpa kehadiran mangsa dan saksi di mahkamah. Akta ini bukan sahaja membantu saksi atau mangsa yang mengalami trauma atau gangguan mental untuk memberi keterangan dengan baik, malahan dapat memastikan hak mereka di sisi undang-undang mendapat pembelaan yang adil. YJCEA juga memperuntukkan penggunaan perantara saksi (*Intermediaries for Justice*) untuk membantu kanak-kanak atau orang dewasa yang mengalami masalah pembelajaran, kecacatan dan gangguan mental atau fizikal.



Pembentangan berkaitan sistem keadilan United Kingdom oleh YAA Patricia Lees, *Crown Court Judge* pada 24 Mei 2022.



Delegasi Malaysia bersama YAA. Patricia Lees, *Crown Court Judge* dan Allison Hunter QC pada mesyuarat meja bulat yang diadakan di Spencer Suite, Hyatt Regency London pada 24 Mei 2022.



Penyampaian cenderamata oleh YB. Dato' Sri Azalina Othman Said kepada YAA. Patricia Lees, *Crown Court Judge* pada 24 Mei 2022.



Perbincangan antara YB. Dato' Sri Azalina Othman Said, YB. Ahmad Fahmi Mohamed Fadzil, YB. Hannah Yeoh, dan YB. Alice Lau Kiong Yieng pada 24 Mei 2022

vii. Lawatan ke Old Bailey dan Mesyuarat Bersama Perkhidmatan Pendakwaan, Polis Metropolitan London dan Majlis Keadilan Orang Muda

Delegasi telah dibawa ke Old Bailey, London untuk mendapat pendedahan berkaitan bidang tugas Polis Metropolitan London, Perkhidmatan Pendakwaan dan Majlis Keadilan Orang Muda. Secara tidak rasminya, Perkhidmatan Polis Metropolitan London juga dikenali sebagai *Met Police*, *The Met*, *Scotland Yard*, atau *Yard* yang telah beroperasi sejak tahun 1892 lagi. Polis Metropolitan bertanggungjawab untuk mengawal kejadian jenayah dan menguatkuasakan undang-undang di sekitar Greater London. Met Police adalah sebuah perkhidmatan polis yang terbesar di United Kingdom dan juga dunia. Bersesuaian dengan tanggungjawab yang digalas untuk mengekang peningkatan kadar jenayah yang berlaku di Greater London, Met Police mengguna pakai peruntukan yang termaktub dalam Seksyen 28 YJCEA 1999 dalam menyantuni kanak-kanak yang menjadi mangsa atau saksi perbuatan jenayah. Polis Metropolitan juga terikat dengan peruntukan yang ditetapkan melalui: i) *The young witness protocols*; ii) *The Victim's Code*, dan iii) *The 12 Rights*.



Pembentangan oleh Polis Metropolitan London kepada delegasi pada 25 Mei 2022



Lawatan ke Old Bailey Central Criminal Courts pada 25 Mei 2022

viii. Lawatan ke *The Lighthouse*

The Lighthouse menawarkan ruang yang selamat untuk kanak-kanak dan mangsa penderaan berlingkung atau mendapatkan rawatan agar dapat pulih dari trauma yang dialami mereka. Lighthouse memberi khidmat sokongan kepada kanak-kanak, orang muda, wanita dan keluarga yang memerlukan bantuan sokongan untuk memulakan kehidupan baru selepas mengalami penderaan. Di sini, mangsa diberi ruang dan peluang yang selesa untuk berkongsi pengalaman pahit mereka. Persekitaran yang kondusif yang ditawarkan oleh Lighthouse membuatkan mangsa berasa didengari dan selesa meluahkan segala masalah.

Selain bantuan khidmat nasihat, Lighthouse juga menyediakan khidmat guaman, doktor, jururawat, dan ahli psikologi yang ditawarkan secara percuma. Persekitaran yang bersifat mesra kanak-kanak atau mangsa, membuatkan pengumpulan bukti untuk dikemukakan kepada pihak mahkamah dapat dilakukan dengan efisien. Setiap mangsa disantuni secara profesional oleh petugas yang berkepakaran dalam bidang berkaitan kanak-kanak, kesihatan, penjagaan sosial, terapeutik dan jenayah.

Konsep ini meminimalkan jangka masa pengumpulan maklumat kerana mangsa tidak perlu pergi ke agensi yang berbeza untuk mendapatkan khidmat nasihat. Secara khususnya, Lighthouse berfungsi secara:

- Membenarkan kanak-kanak berkongsi pengalaman traumatik mengikut cara kanak-kanak;
- Memastikan kanak-kanak yakin bahawa mereka didengari;
- Menyediakan kursus *psychoeducation* kepada ibu bapa mangsa kanak-kanak;
- Mempunyai dua peranan unik, iaitu sebagai pegawai perhubungan penjagaan sosial dan pegawai perhubungan polis;
- Menyediakan sokongan emosi kepada mangsa kanak-kanak dan keluarga, dan
- Membantu menjayakan proses sistem keadilan jenayah yang terbaik.

Pada asasnya, Lighthouse menawarkan perkhidmatan yang hampir sama seperti *One Stop Crisis Centre* yang ditubuhkan di setiap hospital di seluruh Malaysia.



Lawatan JKPK Hal Ehwal Wanita, Kanak-kanak dan Pembangunan Sosial ke The Lighthouse pada 25 Mei 2022



Salah sebuah ruang kaunseling yang disediakan *The Lighthouse*



Penerangan oleh Eimear Timmons, Pengurus Perkhidmatan Interim, *The Lighthouse* pada 25 Mei 2022



Delegasi yang menyertai lawatan ke The Lighthouse pada 26 Mei 2022

ix. Majlis Penutup

Sebagai mengakhiri lawatan kerja yang dijalankan, satu majlis penutup telah dianjurkan di *Halia Restaurant* yang bertempat di Prince's Square, London pada 26 Mei 2022. Dalam majlis ini, YB Dato' Sri Azalina Othman Said, Pengerusi JKPK Hal Ehwal Wanita, Kanak-kanak dan Pembangunan Sosial telah menyampaikan penghargaan beliau kepada setiap delegasi yang menyertai lawatan kerja ini. Setiap delegasi diberi ruang untuk menyatakan pandangan dan pendapat mereka berkaitan pengetahuan dan pembelajaran yang diperolehi di sepanjang lawatan kerja ini.



Majlis Penutup yang diadakan di *Halia Restaurant* pada 26 Mei 2022

BAHAGIAN III

PEMERHATIAN DAN SYOR JAWATANKUASA

- i. Sistem jawatankuasa telah dipraktikkan oleh United Kingdom sejak tahun 1979 lagi, melalui *Standing Orders* 152 yang diperuntukkan oleh House of Commons. Oleh itu, JKPK di Parlimen United Kingdom berfungsi dengan efisien sebagai mekanisma semak dan imbang terhadap perkara yang diputuskan oleh kerajaan. Kemampuan JKPK United Kingdom untuk berfungsi dengan baik disokong kukuh oleh sistem sokongan yang disediakan Parlimen United Kingdom. Sistem sokongan ini meliputi kekuatan sumber manusia (tenaga pakar, staf sokongan, setiausaha) dan juga peruntukan kewangan yang mencukupi. Setiap JKPK diperuntukkan staf sokongan khas yang terdiri daripada setiausaha, pegawai penyelidik, media dan staf sokongan lainnya. Hal ini membolehkan setiap JKPK berfungsi dengan berkesan dan efisien.

- ii. Selain *The Lighthouse* dan *Victims Support*, terdapat pelbagai lagi NGO di United Kingdom yang giat memperjuangkan hak dan kebajikan kanak-kanak. Gerak kerja NGO ini mendapat sokongan penuh daripada ahli masyarakat dan aktivis kanak-kanak yang sentiasa bersedia untuk menyumbang tenaga dan masa dalam membantu kanak-kanak yang mengalami penderaan dan jenayah. Penubuhan *The Lighthouse* juga ditunjangi sokongan kuat oleh Pesuruhjaya Kanak-kanak England. Bagi mengangkat isu kanak-kanak, *The Lighthouse* banyak menerbitkan bahan siaran seperti di pautan berikut <https://m.youtube.com/watch?v=3i0Wu4feX7g&feature=youtu.be>

- iii. Pengendalian kes berkaitan kanak-kanak mendapat kerja sama holistik pelbagai agensi bertanggungjawab seperti mahkamah, institusi pendidikan, institusi keselamatan dan institusi keselamatan siber. Malah, United Kingdom menubuhkan *Child Exploitation and Online Protection Centre* (CEOP) untuk menangani perlakuan jenayah seksual dan eksploitasi kanak-kanak. CEOP bekerjasama erat dengan NGO di seluruh United Kingdom dan negara luar untuk mengenalpasti dan menyelaras aktiviti yang mengancam kanak-kanak.

CADANGAN PENAMBAHBAIKAN

Berdasarkan lawatan-lawatan delegasi seperti yang diperincikan dalam agenda lawatan sambal belajar (**Lampiran B**), Jawatankuasa Pilihan Khas Hal Ehwal Wanita, Kanak-kanak dan Pembangunan Sosial, Jawatankuasa bersetuju dan mengesyorkan bahawa satu Pelan Hala Tuju (*Roadmap For Strenghtening Support for Child Victims and Witnesses in the Criminal Justice System: 2022-2027*) (**Lampiran L**), serta satu Laporan Hasil dan Cadangan Tindakan (*INTER PARES Partnership with the House of Representatives of Malaysia (Dewan Rakyat), Study visit to the Italian Chamber of Deputies: Outcome Report And Proposed Actions*) (**Lampiran M**) dibentangkan dalam Mesyuarat Kedua Penggal Kelima Parlimen Keempat Belas (2022) dalam Majlis Mesyuarat Dewan Rakyat. Merujuk kepada Pelan Hala Tuju tersebut, antara perkara-perkara yang disyorkan untuk diberi keutamaan adalah:


1. Jawatankuasa bersetuju dan mengesyorkan supaya pengurusan (penyiasatan, temu bual, bukti forensik dan perbicaraan) kanak-kanak yang terlibat dengan kes jenayah seksual diperkasa. Usaha ini melibatkan latihan yang berterusan, sistematik dan berkala dilakukan secara bersepadu melibatkan kementerian dan agensi yang menguruskan kanak-kanak yang terlibat dengan jenayah seksual dengan memberi perhatian kepada perkara yang berikut:
 - i. Jawatankuasa bersetuju dan mengesyorkan untuk membangunkan *specialist certification course* yang berfokus mengendalikan kes jenayah seksual dalam kalangan kanak-kanak yang melibatkan perkara seperti penyiasatan, perbicaraan, perundangan, kaunseling dan apa-apa perkara yang berkaitan.
 - ii. Jawatankuasa bersetuju dan mengesyorkan bahawa mandatori bagi pegawai D11, pasukan SCAN, pengamal undang-undang, Timbalan Pendakwa dan Pegawai Undang-Undang yang bertugas di Mahkamah Khas dan diiktiraf sebagai pakar kanak-kanak untuk menduduki kursus kelayakan terlebih dahulu.

- iii. Menambah jumlah Mahkamah Khas Jenayah Seksual Kanak-kanak, dengan dilengkapi perkakasan teknikal yang mencukupi, tenaga pakar (pembantu perundangan, pembantu pelindung, hakim yang secara khususnya pakar dalam mengendalikan kanak-kanak, dan lain-lain tenaga pakar).
 - iv. Melantik hakim Mahkamah Sesyen yang berkepakaran dan Timbalan Pendakwaraya (DPP) untuk mengendalikan kes jenayah seksual kanak-kanak di daerah yang tidak mempunyai Mahkamah Khas.
 - v. Menyemak dan mengkaji semula polisi berkaitan pertukaran dan kenaikan pangkat pegawai kehakiman, DPP dan pegawai D11 untuk memastikan agar pegawai yang berkepakaran dalam mengendalikan kes kanak-kanak dikekalkan bagi tempoh masa tertentu, dan digantikan dengan pegawai yang mempunyai pengalaman dan kepakaran yang sama.
 - vi. Melakukan advokasi bersama Majlis Peguam Malaysia bagi menjalani *Continuing Legal Education* (CLE) untuk mempelajari pendekatan yang lebih efektif dan beretika dalam menyantuni mangsa/saksi.
2. Jawatankuasa bersetuju dan mengesyorkan penambahbaikan dibuat terhadap proses pengendalian kanak-kanak yang terlibat dengan kes jenayah seksual melalui:
- i. Menambah kapasiti kumpulan D11 ke setiap zon untuk memperluas capaian perkhidmatan.
 - ii. Mengaudit dan menambah baik perkakasan rakaman video dan penyiasatan digital D11 untuk memastikan setiap kenyataan yang dibuat oleh mangsa dapat dirakam dengan baik dan berkualiti bagi membolehkan bukti disimpan dan disampaikan dengan betul ketika proses perbicaraan berjalan.

- iii. Memastikan agar kenyataan yang dibuat oleh mangsa direkod oleh tenaga pakar dari kumpulan D11 sahaja, iaitu anggota yang benar-benar berkepakaran dan berkelayakan untuk menemubual kanak-kanak.
 - iv. Menambah baik koordinasi antara D11, JKM, Jabatan Kesihatan dan lain-lain tenaga pakar dalam bidang kaunseling/psikologi kanak-kanak yang dapat memberi sokongan moral dan meminimakan perasaan trauma serta tekanan yang dihadapi mangsa ketika dalam proses soal siasat.
 - v. Memperluas dan memperkasa kolaborasi dengan pengamal undang-undang antarabangsa (di *National Crime Agency (NCA)* United Kingdom, *Federal Bureau of Investigation (FBI)* di Amerika Syarikat) untuk berkongsi kepakaran dan inteligensia dalam menangani ancaman dan trend terkini yang melibatkan perbuatan eksploitasi dan penderaan seksual secara dalam talian.
3. Jawatankuasa bersetuju dan mengesyorkan agar kanak-kanak mendapat akses kepada sistem sokongan yang ada di sepanjang tempoh perbicaraan berjalan. Sistem sokongan sedia ada perlu ditambah baik melalui perkara yang berikut:
- i. Menubuhkan kumpulan kerja antara agensi yang melibatkan (KPWKM, JKM, D11, Hakim, AGC, Majlis Peguam, Pesuruhjaya Kanak-kanak, NGO dan lain-lain agensi yang berkaitan) untuk mengkaji semula model sistem sokongan bagi mangsa/saksi yang diguna pakai oleh negara luar bagi membentuk sebuah model yang boleh diguna pakai di negara ini.
 - ii. Memperkenalkan satu model baru yang lebih komprehensif dalam aspek pengurusan dan penyampaian Perkhidmatan Sokongan Saksi yang melibatkan kanak-kanak dan golongan rentan. Setiap mahkamah hendaklah mempunyai bilik Perkhidmatan Sokongan Saksi.
 - iii. Mendapatkan peruntukan kewangan daripada syarikat korporat melalui dana Tanggungjawab Sosial Korporat (CSR).

- iv. Mengemukakan cadangan untuk memilih, melatih dan mengakreditasi individu yang bersesuaian dan berkelayakan sebagai *Registered Witness Intermediaries* bagi membantu saksi kanak-kanak memberi keterangan kepada pihak polis, peguam dan di mahkamah.
4. Jawatankuasa bersetuju dan mengesyorkan agar proses perbicaraan yang dijalankan hendaklah dilakukan tanpa memberi penekanan ke atas kanak-kanak dan dibuat dalam suasana yang menggalakkan kanak-kanak untuk memberi keterangan dengan berkesan. Jawatankuasa mengesyorkan untuk memberi perhatian kepada perkara yang berikut:
 - i. Mengemukakan *Practice Direction* berkaitan pengurusan dan perbicaraan kes jenayah seksual kanak-kanak, termasuklah amalan pengurusan kes dan persidangan pra-bicara, agar kes berkaitan kanak-kanak diberi keutamaan dan dapat diselesaikan dalam tempoh yang segera. Hal ini termasuklah menyelaraskan amalan pemakaian persidangan pra-bicara sebagai panduan untuk mengenalpasti bagaimana kanak-kanak akan memberi keterangan.
 - ii. Memastikan lebih banyak Mahkamah dilengkapi perkakasan yang membolehkan kanak-kanak memberi keterangan dari luar mahkamah dengan menggunakan pautan audio-video.
5. Jawatankuasa bersetuju dan mengesyorkan agar koordinasi dan pengurusan maklumat antara agensi kerajaan diperkukuh dengan memberi perhatian kepada perkara yang berikut:
 - i. Mengkaji dan memperbaharui SOP bagi *Cases Involving Sexual Offences against Children (2017)* bersesuaian dengan konteks semasa.
 - ii. Membangunkan program latihan yang melibatkan pelbagai agensi kerajaan untuk menambah baik koordinasi dan memastikan bentuk sokongan yang diberi kepada mangsa dilakukan secara selaras dan konsisten.

- iii. Membentuk kumpulan kerja untuk mengkaji Model Barnabus/*Lighthouse* dan mencadangkan agar model ini diguna pakai di Malaysia.
- iv. Memperkasa usaha pengumpulan dan perkongsian maklumat berkaitan mangsa/saksi kanak-kanak dalam sistem perundangan dan menambah baik usaha untuk menganalisa data/statistik bagi membolehkan tindakan susulan dilakukan.
- v. Menetapkan key performance index (KPI) bagi Mahkamah, DPP dan PDRM dalam memantau kes-kes yang sedang menjalani proses perbicaraan di mahkamah bagi mengelakkan berlakunya kelewatan dalam menyelesaikan mana-mana kes.
- vi. Jawatankuasa bersetuju dan mengesyorkan agar kerangka perundangan berkaitan mangsa/saksi kanak-kanak dikaji semula dan diperkasa untuk memberi lebih perlindungan kepada kanak-kanak melalui sistem perundangan.
- vii. Jawatankuasa bersetuju memasukkan Pelan Hala Tuju Untuk Mengukuhkan Sokongan Bagi Mangsa dan Saksi Kanak-kanak dalam Sistem keadilan Jenayah: 2022 – 2027 sebagai sebahagian daripada penyata Jawatankuasa Hal Ehwal Wanita, Kanak-kanak dan Pembangunan Sosial seperti yang berikut:



PELAN HALA TUJU UNTUK
MENGUKUHKAN SOKONGAN
UNTUK MANGSA DAN SAKSI
KANAK-KANAK DALAM
SISTEM KEADILAN JENAYAH:
2022-2027

Jawatankuasa Pilihan Khas Hal Ehwal
Wanita dan Kanak-Kanak dan
Pembangunan Sosial



SENARAI SINGKATAN

Singkatan	Definisi
Akta 26	Akta Bantuan Guaman 1971 [Akta 26]
Akta 611	Akta Kanak-Kanak 2001 [Akta 611]
Akta 676	Akta Keterangan Saksi Kanak-Kanak 2007 [Akta 676]
Akta 792	Akta Kesalahan-Kesalahan Seksual Terhadap Kanak-Kanak 2017 [Akta 792]
CSEA	<i>Child Sexual Exploitation and Abuse</i>
CSO	<i>Civil Society Organisation</i>
CSR	<i>Corporate Social Responsibility</i>
D11	Bahagian Siasatan Seksual, Penderaan dan Kanak-kanak (D11), Jabatan Siasatan Jenayah Polis Diraja Malaysia (PDRM)
FBI	<i>Federal Bureau of Investigation, United States Department of Justice</i>
JBG	Jabatan Bantuan Guaman, Bahagian Hal Ehwal Undang-Undang (BHEUU),
JKM	Jabatan Kebajikan Masyarakat,
JPN	Jabatan Peguam Negara
KKM	Kementerian Kesihatan Malaysia
KPWKM	Kementerian Pembangunan Wanita, Keluarga Dan Masyarakat
MAMPU	<i>The Malaysian Administrative Modernisation and Management Planning Unit, Jabatan Perdana Menteri</i>
MAPO	Majlis Antipemerdagangan Orang dan Anti-penyeludupan Migran
NCA	<i>National Crime Agency, United Kingdom</i>
NGOs	<i>Non-Governmental Organisations</i>
OCC	<i>Office of the Children's Commissioner, Human Rights Commission of Malaysia (SUHAKAM)</i>
OSCC	Pusat Krisis Bersepadu, Kementerian Kesihatan Malaysia
PDRM	Polis Diraja Malaysia
SCAN Team	Pasukan Penderaan dan Pengabaian Kanak-kanak Yang Disyaki, Kementerian Kesihatan Malaysia
VAS	<i>Victim Assistance Service</i>
WSS	<i>Witness Support Service</i>
WSSP	<i>Witness Support Service Programme, Jabatan Kebajikan Masyarakat, Kementerian Pembangunan Wanita, Keluarga Dan Masyarakat</i>

PENGENALAN

Dalam beberapa tahun kebelakangan ini, kerajaan Malaysia telah mencapai kemajuan yang ketara dalam mengukuhkan perlindungan kanak-kanak daripada semua bentuk keganasan seksual dan menangani ancaman yang timbul terhadap kanak-kanak dalam persekitaran dalam talian:

- Akta Kesalahan Seksual Terhadap Kanak-Kanak 2017 [Akta 792] telah meningkatkan perlindungan undang-undang kanak-kanak daripada semua bentuk keganasan seksual dan penderaan dalam talian dengan ketara;
- Akta Keterangan Saksi Kanak-kanak 2007 [Akta 676] memperuntukkan langkah khas untuk membantu kanak-kanak di bawah umur 16 tahun memberikan keterangan di mahkamah, termasuk menggunakan rakaman video saksi kanak-kanak sebagai keterangan pemeriksaan utama, keterangan melalui pautan langsung, skrin, pendamping guaman, dan penggunaan perantara;
- Prosedur Operasi Standard Khas Antara Agensi bagi Kes Melibatkan Kesalahan Seksual Terhadap Kanak-Kanak di Malaysia telah diperkenalkan pada 2017;
- mangsa kanak-kanak menerima intervensi khusus daripada pasukan Pasukan Penderaan dan Pengabaian Kanak-kanak Yang Disyaki (SCAN) berasaskan hospital dan Pusat Krisis Seheni Bersepadu (OSCC), Polis Diraja Malaysia (PDRM) D11 (Siasatan Seksual, Keganasan Rumah Tangga dan Penderaan Kanak-kanak) dan Pusat Temuduga Kanak-Kanak, dan Mahkamah Khas Jenayah Seksual Terhadap Kanak-Kanak di Putrajaya dan Kuching; dan
- sokongan tersedia untuk kanak-kanak dan keluarga mereka sepanjang proses keadilan jenayah daripada Program Perkhidmatan Sokongan Saksi (WSSP) Jabatan Kebajikan Masyarakat (JKM), Pakar Bantuan Mangsa MAPO (untuk mangsa pemerdagangan), dan pendamping guaman.

Walau bagaimanapun, beberapa jurang dan cabaran utama yang menghalang pelaksanaan inisiatif-inisiatif secara penuh dan berkesan telah dikenal pasti:

- kekurangan latihan yang mendalam dan seragam untuk semua yang terlibat dalam mengendalikan mangsa kanak-kanak;
- kakitangan yang kerap dan penggiliran pakar terlatih, sebagai contoh penyiasat D11, pakar SCAN (termasuk pakar perubatan khusus) menyukarkan pengekalan kepakaran yang diperlukan untuk menguruskan kes kanak-kanak dengan berkesan;
- pilihan untuk menggunakan rakaman video saksi kanak-kanak sebagai keterangan di mahkamah kadangkala tidak dapat dilaksanakan kerana kekurangan peralatan rakaman video di balai polis (terutamanya di daerah yang lebih kecil), kualiti rakaman video yang rendah, atau kekurangan latihan pakar untuk polis yang memberikan keterangan yang diambil dalam rakaman tidak boleh diterima oleh mahkamah;

- D11 tidak mempunyai teknologi terkini, peralatan dan kemahiran teknikal yang penting untuk pengumpulan bukti digital yang berkesan dan seiring dengan inovasi teknologi dan trend jenayah yang berkaitan dengan penderaan dalam talian terhadap kanak-kanak;
- kekurangan penyelarasan antara agensi yang berkesan menyebabkan pegawai D11 terpaksa menjalankan pelbagai tugas dan mengambil peranan agensi lain, seperti menyediakan sokongan emosi, pertolongan cemas psiko-sosial, kaunseling dan sokongan saksi;
- Program Khidmat Sokongan Saksi di bawah JKM kurang dibiayai dan kurang digunakan kerana Pendakwa tidak mengetahui kemungkinan untuk mereka merujuk kepada yang sesuai kepada WSSP;
- Pendamping Guaman tidak selalu tersedia (terutamanya di kawasan luar bandar) dan Akta Bantuan Guaman 1971 [*Akta 26*] tidak mempunyai ketetapan yang jelas mengenai pengecualian yuran dan sumbangan untuk perkhidmatan pendamping guaman;
- dana terhad yang diperuntukkan untuk kemudahan dan peralatan di bilik saksi kanak-kanak di mahkamah;
- mereka yang terlibat dalam prosiding mahkamah tidak sensitif kepada fakta bahawa saksi utama adalah seorang kanak-kanak, dan persidangan pra-perbicaraan pada masa ini tidak digunakan untuk menetapkan "peraturan asas" tentang bagaimana seseorang kanak-kanak itu akan disoal siasat;
- kemudahan langsung atau persidangan video tidak tersedia di semua mahkamah; dan
- kekurangan pengantara yang berkelayakan. Jurubahasa mahkamah pada masa ini berfungsi sebagai pengantara tetapi mereka tidak mempunyai kelayakan dan latihan dalam teknik komunikasi dengan kanak-kanak, terutamanya kanak-kanak kecil dan saksi kanak-kanak yang kurang upaya atau gangguan yang menjejaskan komunikasi (contohnya gangguan spektrum autisme).

Melalui lawatan sambil belajar ke England baru-baru ini (Mei 2022) yang dianjurkan oleh Jawatankuasa Pilihan Khas Hal Ehwal Wanita Dan Kanak-Kanak Dan Pembangunan Sosial, beberapa amalan terbaik telah dikenal pasti untuk diterima pakai oleh Malaysia untuk meningkatkan keberkesanan dan keberkesanan kanak-kanak dalam prosiding jenayah yang melibatkan mangsa dan saksi kanak-kanak. Pelan Hala Tuju (*Roadmap*) ini menyediakan cadangan untuk rancangan lima (5) tahun untuk mencapai hasil utama berikut:

1. Pengkhususan yang dipertingkatkan dalam mengendalikan kes kanak-kanak

Pengkhususan dalam mengendalikan kes kanak-kanak akan dipertingkatkan dengan menetapkan pakar-pakar pegawai kehakiman dan timbalan pendakwa raya untuk ditugaskan dalam semua mangsa/saksi kanak-kanak, dan dengan memperluaskan

bilangan Mahkamah Khas Jenayah Kanak-kanak. Di samping itu, semua pakar pegawai kehakiman, timbalan pendakwa raya, pegawai D11, ahli pasukan SCAN, dan pendamping guaman yang ditetapkan akan dikehendaki menamatkan kursus latihan sijil standard.

Kursus latihan sijil ini akan dimasukkan dalam program latihan yang sedia ada di setiap agensi, ditawarkan secara tetap, dan disesuaikan dengan pengetahuan, sikap dan kemahiran yang diperlukan untuk memenuhi peranan masing-masing (contohnya D11 dalam Temuduga Penyiasatan dan pengumpulan bukti digital dan pasukan SCAN dalam pemeriksaan perubatan forensik) dengan cara yang berkesan dan sensitif kanak-kanak.

Dasar pemindahan dan penggiliran akan disemak semula untuk menambah baik pengekalan pakar terlatih, dan untuk memastikan bahawa apabila pakar dipindahkan, mereka digantikan oleh pegawai lain yang telah menamatkan kursus sijil pakar. Walaupun latihan standard tidak boleh diwajibkan kepada peguam bela, kerajaan akan bekerjasama dengan Majlis Peguam Malaysia untuk mempromosikan peluang pendidikan undang-undang berterusan untuk mewakili anak guam mereka dan memeriksa balas kanak-kanak secara beretika dan sensitif kanak-kanak.

2. Siasatan yang berkesan dan sensitif kanak-kanak terhadap jenayah kanak-kanak

Keupayaan D11 untuk menyiasat jenayah kanak-kanak akan diperkukuh dengan memperluaskan bilangan unit D11, melengkapkan mereka dengan alat dan sumber yang dikemas kini untuk mengumpul bukti digital dan menyiasat penderaan dalam talian, dan meningkatkan keupayaan mereka untuk menemu bual kanak-kanak dan menghasilkan kenyataan rakaman video berkualiti tinggi yang boleh digunakan di mahkamah.

Model semasa yang digunakan oleh D11 untuk menyediakan kaunseling dan sokongan psikologi kepada kanak-kanak semasa proses penyiasatan akan dikaji semula dengan tujuan untuk kemampanan dan mengurangkan pertindihan usaha, termasuk pilihan untuk melibatkan pakar sedia ada dalam kaunseling/psikologi kanak-kanak dari JKM, Jabatan Kesihatan dan NGO untuk membantu D11 semasa menemu bual kanak-kanak.

3. Peningkatan akses kepada sokongan dan bantuan untuk kanak-kanak sepanjang proses keadilan jenayah

Di bawah Akta Kanak-Kanak 2001 [Akta 611], Pelindung JKM mempunyai tanggungjawab utama untuk menilai risiko dan keperluan mangsa kanak-kanak dan menyelaraskan sokongan yang sewajarnya kepada kanak-kanak dan keluarganya

(contohnya pemeriksaan perubatan, sokongan psiko-sosial, kaunseling, penjagaan alternatif, dan sebagainya). Sebagai tambahan kepada intervensi perlindungan kanak-kanak teras ini (yang berada di luar skop Pelan Hala Tuju ini), mangsa dan saksi kanak-kanak juga memerlukan sokongan untuk mengambil bahagian secara berkesan dalam proses keadilan jenayah, termasuk seseorang untuk memberikan: penjelasan ringkas tentang proses jenayah dan peranan mereka dalamnya; kemas kini berkala tentang perkembangan kes; penyediaan pra-perbincangan dan lawatan suai kenal ke bilik mahkamah; iringan dan sokongan emosi semasa perbincangan; bantuan dalam melengkapkan kenyataan kesan mangsa; dan taklimat selepas perbincangan. Di peringkat global, sokongan ini biasanya disediakan oleh Penyokong Mangsa/Saksi yang terlatih (kakitangan atau sukarelawan), yang mempunyai hubungan rapat dengan agensi dalam sistem keadilan.

Di Malaysia, perkhidmatan sokongan mangsa/saksi kini tersedia melalui Program Khidmat Sokongan Saksi JKM, pegawai penjagaan saksi D11, pegawai psikologi JPN dan Pakar Bantuan Mangsa MAPO (untuk mangsa pemerdagangan). Walau bagaimanapun, perkhidmatan masih kurang dibangunkan dan tidak tersedia secara konsisten kepada semua kanak-kanak yang memerlukannya. Berdasarkan inisiatif ini, pasukan petugas akan dibentuk untuk mengkaji amalan terbaik global dan mencadangkan model baharu untuk pengurusan dan penyampaian Perkhidmatan Sokongan Saksi kepada kanak-kanak dan mangsa dan saksi lain yang terdedah (contohnya mangsa dewasa pemerdagangan, penderaan seksual dan keganasan rumah tangga). Ini termasuk meneroka perkongsian diantara sektor awam-swasta dan pilihan pembiayaan lain.

Satu lagi strategi utama yang digunakan di peringkat global untuk membantu mangsa dan saksi kanak-kanak memberikan bukti terbaik mereka ialah menggunakan perantara terlatih. Peranan perantara adalah untuk menilai keperluan komunikasi kanak-kanak dan tahap perkembangan kognitif, untuk memberikan nasihat kepada polis dan mahkamah tentang cara terbaik untuk berkomunikasi dengan kanak-kanak (termasuk menangani sebarang keperluan khas yang mungkin ada pada kanak-kanak itu), dan untuk membantu dalam menyoal kanak-kanak tersebut semasa penyiasatan dan/atau di mahkamah.

Di negara lain, perantara adalah pakar dalam perkembangan dan komunikasi kanak-kanak, biasanya dengan kelayakan dalam patologi pertuturan, psikologi kanak-kanak, terapi atau pekerja sosial, dan telah menjalani latihan khusus untuk menjadi perantara. Di Malaysia, jurubahasa mahkamah pada masa kini berfungsi sebagai perantara tetapi mereka tidak mempunyai kelayakan dan latihan yang sesuai untuk berkomunikasi dengan kanak-kanak. Cadangan akan dirangka untuk mengukuhkan perkhidmatan perantara dengan mentakrifkan kelayakan yang diperlukan,

membangunkan latihan piawai, dan mewujudkan daftar pakar yang berkelayakan dan terlatih untuk melaksanakan fungsi ini.

4. Prosiding perbicaraan disesuaikan untuk mengurangkan kesusahan dan membantu kanak-kanak memberikan bukti terbaik mereka

Di peringkat global, terdapat pengakuan yang semakin meningkat bahawa proses perbicaraan lawan secara "*adversarial*" gagal untuk memastikan akses kepada keadilan untuk mangsa dan saksi kanak-kanak dan peralihan dalam budaya "*adversarial*" ruang mahkamah permusuhan adalah diperlukan untuk memastikan kanak-kanak dapat memberikan bukti terbaik mereka. Strategi utama yang digunakan di England dan negara undang-undang lain adalah untuk pegawai kehakiman menggunakan persidangan pra-perbicaraan untuk menetapkan "peraturan asas" tentang cara seorang saksi kanak-kanak akan memberikan keterangan.

Ini biasanya termasuk arahan tentang langkah khas yang akan digunakan untuk membantu kanak-kanak memberikan keterangan (pendamping guaman, skrin, pautan langsung dan lain-lain), dan arahan tentang tempoh penyoalan tanpa rehat yang akan dibenarkan, nada dan gaya penyoalan yang sesuai, dan bentuk penyoalan yang dilarang. Selain itu, United Kingdom juga telah memperkenalkan amalan pra-rakam sepuh untuk keterangan kanak-kanak (pemeriksaan, pemeriksaan balas, dan pemeriksaan semula) sebelum perbicaraan, supaya keterangan kanak-kanak itu dapat diperolehi sepenuhnya dalam masa yang lebih dekat dengan tarikh kejadian, sebelum ingatan mereka pudar, dan supaya kanak-kanak itu terhindar daripada tekanan tambahan daripada kelewatan perbicaraan, kehadiran mahkamah yang kerap, dan keperluan untuk memberi keterangan dalam perbicaraan dalam suasana bilik mahkamah yang formal.

Amalan terbaik global ini akan diperkenalkan di Malaysia dengan memperjuangkan agar Ketua Hakim Negara mengeluarkan Arahan Amalan mengenai pengurusan dan perbicaraan jenayah keganasan terhadap kanak-kanak, termasuk persidangan pra-perbicaraan mandatori dan amalan pengurusan kes untuk memastikan kes kanak-kanak diberi keutamaan dan selesai secepat mungkin. Persidangan pra-perbicaraan (diperuntukkan di bawah seksyen 172A Kanun Prosedur Jenayah (Akta 593)) akan digunakan untuk menetapkan "peraturan asas" tentang cara kanak-kanak itu akan memberi keterangan. Penggunaan langkah khas yang dimandatkan di bawah Akta 676 akan dipertingkatkan dengan melengkapkan mahkamah secara progresif dengan peralatan audio-video, dan merintis pra-rakaman keterangan penuh kanak-kanak (pemeriksaan, pemeriksaan balas dan pemeriksaan semula) sebelum ke mahkamah perbicaraan.

5. Penyelarasan antara agensi dan sistem pengurusan maklumat diperkukuhkan

Sistem semasa melibatkan banyak agensi dan jabatan yang berhubung dengan mangsa dan saksi kanak-kanak, sering bertindak secara silo dan bebas antara satu sama lain. Penyelarasan yang dipertingkatkan dalam pengurusan dan sokongan mangsa kanak-kanak adalah penting untuk memastikan keperluan keseluruhan kanak-kanak dipenuhi, dan untuk mengelakkan pertindihan yang tidak perlu serta penggunaan sumber yang tidak cekap.

Penyelarasan antara agensi dalam mengendalikan kes kanak-kanak pada masa ini dikawal oleh SOP bagi Kes Melibatkan Kesalahan Seksual Terhadap Kanak-kanak yang dikeluarkan pada 2017. Ini akan dikaji dan dikemas kini untuk mencerminkan amalan baharu yang diperkenalkan (contohnya pendengaran peraturan asas, penyokong mangsa, pengantara), dan untuk menangani kesesakan dan halangan kepada pelaksanaan yang berkesan. Kerjasama antara agensi juga akan dipertingkatkan melalui latihan pelbagai disiplin untuk JKM, PDRM, ahli Pasukan SCAN dan NGO.

Perubahan budaya juga diperlukan jika dasar didorong oleh penyelidikan dan dimaklumkan oleh asas bukti yang kukuh, kerana pada masa ini terdapat terlalu banyak sistem pengurusan data. Penyelidikan mengenai isu terbabit juga wujud, tetapi jarang dikongsi. Penetapan penunjuk prestasi utama dan pengumpulan, perkongsian dan analisis data yang lebih baik akan digunakan untuk memantau pengalaman kanak-kanak dengan lebih baik dalam sistem keadilan dan untuk memaklumkan pembaharuan yang berasaskan bukti.

Di samping itu, berdasarkan model *LightHouse* yang diperhatikan di England, Malaysia akan merintis pusat sehati "Barnahus" yang serupa dan menilai kemungkinan untuk memperluaskan model tersebut. Model "Barnahus" (Bahasa Iceland untuk "rumah untuk kanak-kanak") yang menjadi asas *LightHouse* telah diiktiraf secara global sebagai model perkhidmatan bersepadu yang mesra kanak-kanak, pelbagai disiplin dan bersepadu untuk bertindak balas terhadap mangsa keganasan kanak-kanak.

Barnahus menawarkan persekitaran yang mesra kanak-kanak dan selamat untuk kanak-kanak di mana pasukan pelbagai disiplin (polis, perkhidmatan perlindungan kanak-kanak dan pekerja perubatan dan kesihatan mental) bekerjasama di bawah satu bumbung untuk menyokong mangsa kanak-kanak. Mereka biasanya mempunyai ruang penerimaan tetamu dan menunggu yang mesra, bilik kaunseling persendirian, bilik mesyuarat untuk mesyuarat pasukan pelbagai disiplin dan persidangan kes antara agensi, bilik temu duga mesra kanak-kanak untuk menjalankan temu bual rakaman video, dan klinik perubatan/bilik pemeriksaan perubatan di tapak.

Rawatan perubatan dan pemeriksaan perubatan forensik secara amnya dijalankan di premis Barnahus, melainkan ia adalah kes mendesak atau rumit yang memerlukan intervensi khas di persekitaran hospital. Kanak-kanak itu juga ditemu bual di tapak oleh penemuduga terlatih khas, dengan profesional lain yang berkaitan memerhati dari bilik lain. Kenyataan kanak-kanak itu dirakam video dan kemudiannya boleh dikemukakan di mahkamah tanpa keperluan kanak-kanak tersebut menghadiri prosiding perbicaraan.

6. Rangka kerja undang-undang yang dipertingkatkan untuk perlindungan mangsa dan saksi kanak-kanak

Perlindungan kanak-kanak daripada semua bentuk keganasan akan dipertingkatkan dengan menyemak dan meminda Kanun Keseksaan, Akta 792 dan Akta 611 untuk menyelaraskan usia dewasa (*age of consent*) untuk kesalahan seksual dan untuk menangani jurang yang berkaitan dengan penderaan dalam talian dan eksploitasi seksual dan penderaan kanak-kanak (CSEA). Di samping itu, Akta Keselamatan Dalam Talian baharu diperlukan untuk mengawal tanggungjawab industri ICT untuk perlindungan dalam talian kanak-kanak dan untuk menyediakan pengeluaran notis alih keluar bagi kandungan penderaan seksual kanak-kanak.

Halangan-halangan yang menjejaskan pendakwaan jenayah terhadap kanak-kanak yang berkesan akan ditangani dengan meminda Akta 676 untuk melanjutkan langkah khas kepada kanak-kanak di bawah 18 tahun (bukannya 16 tahun), dan untuk menggubal amalan baharu yang diperkenalkan, seperti pendengaran peraturan asas. Undang-undang yang mengawal kecekapan dan saksi kanak-kanak, dan keperluan untuk pengesahan juga akan dikaji semula untuk menyelaraskan dengan piawai dan amalan antarabangsa di negara-negara *common law* yang lain. Akses kanak-kanak kepada pendamping guaman akan dipertingkatkan dengan meminda Akta 26 untuk memperuntukkan pengecualian yuran dan sumbangan untuk perkhidmatan ini.

Lampiran ini menggariskan tindakan utama yang diperlukan untuk mencapai matlamat-matlamat ini, serta agensi, sasaran dan jangka masa yang bertanggungjawab. Memandangkan setiap Negeri mempunyai kekuatan dan cabarannya sendiri, JKPK menyorkan agar perundingan pihak berkepentingan peringkat Negeri dilaksanakan dan rancangan dirangkakan untuk melaksanakan Pelan Hala Tuju ini, dengan memenuhi keperluan khusus masing-masing. Anggaran pembiayaan untuk aktiviti-aktiviti utama di bawah Pelan Hala Tuju ini juga diperlukan supaya agensi yang bertanggungjawab dapat memastikan peruntukan belanjawan tahunan yang mencukupi untuk pelaksanaan sepenuhnya.

**PETA JALAN UNTUK MENGUKUHKAN SOKONGAN UNTUK KANAK-KANAK MANGSA DAN SAKSI
DALAM SISTEM KEADILAN JENAYAH: 2022-2027**

Hasil / Tindakan	Agensi yang bertanggungjawab	Sasaran	Garis masa
1. Pengkhususan yang dipertingkatkan dalam mengendalikan kes kanak-kanak (penyiasatan, temu bual, keterangan forensik dan perbicaraan)			
1.1 Merangkakan kursus pensijilan pakar mengenai mangsa/saksi kanak-kanak untuk penyiasat, ahli pasukan SCAN, pendakwa raya, pendamping guaman, dan badan kehakiman, khusus untuk setiap fungsi mereka.	Badan Kehakiman, JPN, KKM, Maktab PDRM, JBG	Kursus sijil standard dirangkakan	Sebelum Q1 2023
1.2 Mewajibkan penamatan kursus pensijilan sebagai pra-syarat bagi semua pegawai D11, ahli pasukan SCAN, pendamping guaman, dan bagi timbalan pendakwa raya dan pegawai kehakiman yang ditugaskan di Mahkamah Khas atau yang dilantik sebagai pakar kanak-kanak.	Badan Kehakiman, JPN, KKM, PDRM, Maktab PDRM, JBG	Keperluan latihan mandatori diperkenalkan	Sebelum Q2 2023
1.3 Latihan pensijilan yang teratur dan sistematik dijalankan setiap tahun sebagai sebahagian daripada program latihan dan pensijilan dalam perkhidmatan setiap agensi.	Badan Kehakiman, JPN, KKM, Maktab PDRM, JBG	Kursus pensijilan ditawarkan setiap tahun untuk D11, timbalan pendakwa raya, pendamping guaman, hakim dan ahli pasukan SCAN	2023- 2027

<p>1.4 Memperluas bilangan Mahkamah Khas Jenayah Seksual terhadap Kanak-kanak, dengan alat teknikal yang mencukupi dan tenaga manusia (pendamping guaman, penyokong mangsa, hakim mahkamah khas yang dilantik, pakar timbalan pendakwa raya yang ditetapkan)</p>	<p>Badan Kehakiman, JPN</p>	<p>mahkamah tambahan ditubuhkan</p>	<p>Sebelum 2027</p>
<p>1.5 Di daerah tanpa Mahkamah Khas, pelantikan seorang Hakim Mahkamah Sesyen pakar dan pakar timbalan pendakwa raya untuk mengendalikan semua kes kesalahan seksual kanak-kanak.</p>	<p>Badan Kehakiman, JPN</p>	<p>Hakim pakar dan DPP yang ditetapkan di seluruh negara</p>	<p>Sebelum Q1 2023</p>
<p>1.6 Menyemak dan meneliti semula dasar pertukaran dan kenaikan pangkat semasa untuk pegawai kehakiman, pakar timbalan pendakwa raya, dan pegawai D11 untuk memastikan pakar kanak-kanak terlatih dikekalkan untuk tempoh minimum yang ditetapkan, dan digantikan oleh seseorang yang mempunyai pensijilan yang sesuai.</p>	<p>Badan Kehakiman, JPN, PDRM</p>	<p>Dasar pengekalan dilaksanakan</p>	<p>Sebelum akhir 2023</p>
<p>1.7 Advokasi dengan Majlis Peguam untuk menyediakan peluang Pendidikan Undang-undang Berterusan (CLE) kepada peguam pembelaan mengenai pendekatan yang berkesan dan beretika untuk pemeriksaan mangsa/saksi kanak-kanak, termasuk mematuhi keperluan “peraturan asas” baharu.</p>	<p>Majlis Peguam</p>	<p>CLE untuk peguam bela setiap tahun</p>	<p>2023-2027</p>

2. Siasatan yang berkesan dan sensitif kanak-kanak terhadap jenayah terhadap kanak-kanak

<p>2.1 Kembangkan D11 mengikut zon atau bahagian pentadbiran untuk menyediakan liputan geografi yang lebih luas.</p>	<p>PDRM</p>	<p>unit D11 baharu ditubuhkan</p>	<p>Sebelum 2024</p>
<p>2.2 Menjalankan audit untuk peralatan rakaman video D11 dan alat penyiasatan digital, dan menaik tarafkan peralatan mengikut keperluan untuk memastikan kapasiti untuk mengambil kenyataan rakaman video berkualiti tinggi daripada mangsa kanak-kanak dan untuk menangani jenayah dalam talian terhadap kanak-kanak.</p>	<p>PDRM</p>	<p>Peralatan yang dinaik taraf diperolehi</p>	<p>Sebelum Q1 2023</p>
<p>2.3 Memastikan kenyataan mangsa kanak-kanak hanya direkodkan oleh penyiasat D11 yang dilatih dan diperakui khas dalam menemu bual kanak-kanak.</p>	<p>PDRM</p>	<p>Semua mangsa kanak-kanak ditemu bual oleh pakar bertauliah</p>	<p>Sebelum akhir 2024</p>
<p>2.4 Meningkatkan penyelarasan antara D11 dan JKM, Jabatan Kesihatan dan pakar lain dalam kaunseling / psikologi kanak-kanak yang boleh menyokong kanak-kanak dan mengurangkan perasaan trauma dan tekanan kanak-kanak apabila ditemu bual oleh pihak polis.</p>	<p>PDRM, JKM, KKM, NGO</p>	<p>Semua mangsa kanak-kanak menerima sokongan psiko-sosial yang sesuai</p>	<p>Sebelum akhir 2024</p>
<p>2.5 Memperluas dan mengukuhkan kerjasama dengan agensi penguatkuasaan undang-undang antarabangsa (contohnya NCA di United Kingdom, FBI di Amerika Syarikat, Polis Persekutuan Australia) untuk berkongsi risikan dan kepakaran serta menjangka dan menangani ancaman dan trend yang muncul secara berkesan berhubung dengan penderaan dan eksploitasi seksual dalam talian.</p>	<p>PDRM</p>	<p>Perkongsian kecerdasan yang lebih baik</p>	<p>2022-2027</p>

3. Peningkatan akses kanak-kanak terhadap sokongan dan bantuan sepanjang proses keadilan jenayah

<p>3.1 Membentuk pasukan petugas antara agensi (dengan KPWK, JKM, MAPO (VAS), D11, Badan Kehakiman, JPN, Majlis Peguam, OCC dan NGO) untuk menyemak model Perkhidmatan Sokongan Mangsa/Saksi dari negara lain dan mencadangkan model yang sesuai untuk Malaysia.</p>	<p>KPWKM, JKM, MAPO, Badan Kehakiman, JPN, Majlis Peguam, D11, Pejabat Pesuruhjaya Kanak-Kanak (OCC), NGO</p>	<p>Cadangan dibangunkan dan diluluskan</p>	<p>Sebelum akhir 2023</p>
<p>3.2 Melaksanakan model baharu untuk pengurusan dan penyampaian Perkhidmatan Sokongan Saksi yang komprehensif kepada semua kanak-kanak dan saksi lain yang terdedah.</p>		<p>Model WSS dilaksanakan</p>	<p>Sebelum awal 2024</p>
<p>3.3 Mendapatkan sokongan pembiayaan daripada sektor korporat sebagai sebahagian daripada sumbangan mereka terhadap Tanggungjawab Sosial Korporat (CSR).</p>		<p>Sumbangan sektor korporat dijamin</p>	<p>Sebelum awal 2024</p>
<p>3.4 Menyediakan bilik WSS di semua bangunan mahkamah.</p>	<p>Badan kehakiman</p>	<p>Bilik WSS di semua mahkamah</p>	<p>Sebelum akhir 2025</p>
<p>3.5 Membangunkan cadangan untuk pemilihan, latihan dan akreditasi orang yang layak sebagai Perantara Saksi Berdaftar untuk membantu saksi kanak-kanak berkomunikasi dengan polis, peguam dan mahkamah.</p>	<p>Badan kehakiman</p>	<p>Cadangan diluluskan</p>	<p>Sebelum 2027</p>

4. Prosiding perbicaraan disesuaikan untuk mengurangkan kesusahan dan membantu kanak-kanak memberikan keterangan terbaik mereka

<p>4.1 Mengeluarkan Arahan Amalan mengenai pengurusan dan perbicaraan jenayah keganasan terhadap kanak-kanak, termasuk persidangan pra-perbicaraan mandatori dan amalan pengurusan kes bagi memastikan kes kanak-kanak diberi keutamaan dan diselesaikan secepat mungkin.</p>	<p>Ketua Hakim Negara</p>	<p>Arahan Amalan dikeluarkan</p>	<p>Sebelum akhir 2022</p>
<p>4.2 Seragamkan amalan menggunakan persidangan pra-percubaan untuk menetapkan "peraturan asas" untuk bagaimana kanak-kanak akan memberi keterangan.</p>	<p>Badan Kehakiman, JPN, Majlis Peguam</p>	<p>Peraturan asas diperkenalkan</p>	<p>Sebelum Q1 2023</p>
<p>4.3 Secara progresif, melengkapkan lebih banyak mahkamah, termasuk mahkamah litar (<i>circuit courts</i>), untuk membenarkan kanak-kanak memberi keterangan dari luar bilik mahkamah melalui pautan audio-video yang selamat.</p>	<p>Badan kehakiman</p>	<p>Semua mahkamah mempunyai akses kepada peralatan pautan langsung</p>	<p>Sebelum 2026</p>
<p>4.4 Merintis pra-rakaman keterangan kanak-kanak (peperiksaan, pemeriksaan balas dan pemeriksaan semula) sebelum prosiding mahkamah.</p>	<p>Badan Kehakiman, JPN, Majlis Peguam</p>	<p>Projek Perintis dimulakan</p>	<p>Sebelum Q1 2024</p>
<p>4.5 Mengeluarkan garis panduan hukuman untuk badan kehakiman mengenai jenayah keganasan terhadap kanak-kanak, terutamanya untuk CSEA, mengikut model UK</p>	<p>Badan Kehakiman, JPN, Majlis Peguam</p>	<p>Garis panduan hukuman dikeluarkan</p>	<p>Sebelum 2024</p>

5. Peningkatan penyelarasan antara agensi dan pengurusan maklumat			
5.1 Mengkaji dan mengemas kini SOP antara agensi untuk Kes Melibatkan Kesalahan Seksual Terhadap Kanak-Kanak (2017) untuk mengambil kira prosedur baharu yang diperkenalkan (contohnya pendengaran peraturan asas, sokongan mangsa, pengantara).	Badan Kehakiman, JPN, PDRM, OCC, Majlis Peguam, JKM, NGO	SOP yang disemak semula	Sebelum pertengahan 2023
5.2 Membangunkan latihan pelbagai agensi untuk JKM, PDRM, ahli pasukan SCAN, dan NGO untuk meningkatkan penyelarasan dan memastikan konsistensi dalam penyediaan sokongan kepada mangsa.	PDRM, JKM, KKM, NGO	Latihan pelbagai agensi tahunan	2023-2027
5.3 Menubuhkan pasukan petugas untuk menyelidik model <i>Barnahus/ LightHouse</i> dan menyediakan cadangan untuk mengguna pakai model serupa di Malaysia.	Badan Kehakiman, JPN, PDRM, OCC, JKM, KKM	Cadangan dibangunkan	Sebelum akhir 2024
5.4 Merintis model <i>Barnahus/ LightHouse</i> dan menilai kemungkinan untuk memperluaskan.	Badan Kehakiman, JPN, PDRM, OCC, JKM, KKM	Projek Perintis dimulakan	Sebelum 2026
5.5 Memperkukuh pengumpulan dan perkongsian data mengenai mangsa/saksi kanak-kanak dalam sistem keadilan dan meningkatkan analisis data/statistik untuk memaklumkan tindakan susulan.	MAMPU, Badan Kehakiman, timbalan pendakwa raya, PDRM, DOSM	Laporan tahunan mengenai mangsa/saksi kanak-kanak dalam sistem keadilan jenayah yang dihasilkan	2023-2027
5.6 Tetapkan indeks prestasi utama (KPI) untuk mahkamah, timbalan pendakwa raya dan PDRM untuk memantau penyelesaian kes mahkamah bagi memastikan kelewatan dapat diminimumkan.	Badan Kehakiman, DPP, PDRM	KPI ditetapkan	Sebelum akhir 2022

6. Rangka kerja undang-undang yang diperkukuhkan untuk perlindungan mangsa dan saksi kanak-kanak

<p>6.1 Mengkaji dan menyemak semula undang-undang mengenai kesalahan seksual terhadap kanak-kanak (Kanun Keseksaan, Akta 792, Akta 611) untuk menyelaraskan umur yang dibenarkan dan menangani jurang.</p>		<p>Rang Undang-undang diperkenalkan</p>	<p>Sebelum akhir 2023</p>
<p>6.2 Pindaan Akta 676 untuk melanjutkan langkah khas kepada kanak-kanak di bawah 18 tahun (bukannya 16 tahun), untuk menggubal perbicaraan "peraturan asas", untuk menentukan dengan lebih jelas siapa yang boleh menjadi perantara dan kelayakan dan latihan yang diperlukan, untuk memberi mahkamah lebih jelas kuasa untuk mengawal pemeriksaan balas kanak-kanak yang tidak sesuai, dan untuk membenarkan pra-rakaman penuh keterangan kanak-kanak (peperiksaan, pemeriksaan balas dan pemeriksaan semula) sebelum perbicaraan mahkamah, tertakluk kepada budi bicara Hakim.</p>		<p>Akta dipinda</p>	<p>Sebelum 2023</p>
<p>6.3 Semak dan pertimbangkan untuk mengemas kini atau memansuhkan peraturan keterangan seperti seksyen 133A Akta Keterangan 1950 [Akta 56].</p>		<p>Akta dipinda</p>	<p>Sebelum 2023</p>
<p>6.4 Pindaan Akta 26 untuk memperuntukkan pengecualian yuran dan caruman untuk perkhidmatan sahabat guaman.</p>		<p>Akta dipinda</p>	<p>Sebelum 2023</p>
<p>6.5 Draf Rang Undang-Undang Keselamatan Dalam Talian</p>		<p>Undang-undang diluluskan</p>	<p>Sebelum 2024</p>
<p>6.6 Membangunkan Kod Amalan untuk Mangsa Jenayah yang dimodelkan di United Kingdom</p>		<p>Kod Amalan diluluskan</p>	<p>Sebelum 2024</p>

BAHAGIAN IV

RUMUSAN JAWATANKUASA

Lawatan kerja ini merintis jalan kepada JKPK yang lain untuk meneroka pengalaman dan amalan terbaik negara luar dalam menangani isu yang diangkat oleh JKPK. Usaha yang dilakukan JKPK Hal Ehwal Wanita, Kanak-kanak dan Pembangunan Sosial wajar diberi penghargaan kerana memanfaatkan tempoh masa lawatan kerja dengan optimum untuk menyantuni isu permasalahan kanak-kanak yang menjadi mangsa penderaan dan berkonflik dengan undang-undang.

Sistem sokongan yang diperkenalkan United Kingdom nyata sekali berjaya memberi perlindungan secara holistik kepada mangsa dan saksi kepada kes penderaan. Malahan, sistem yang diguna pakai United Kingdom ini adalah selaras dengan Konvensyen Mengenai Hak Kanak-kanak (CRC). Lawatan kerja ini diharapkan dapat memberi percambahan idea kepada setiap delegasi untuk mempraktikkan amalan terbaik yang diterajui United Kingdom dalam menangani isu kanak-kanak yang mengalami penderaan.

SENARAI DELEGASI

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6. YB. Pn. Hannah Yeoh, Ahli Parlimen Segambut
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9. YBhg. Dato 'Haji Abdul Halim bin Haji Abdul Rahman Timbalan Ketua Setiausaha (Keselamatan), Kementerian Dalam Negeri
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12. Pn. Izyan Hazwani binti Ahmad, Ketua Penolong Setiausaha, Pejabat Pesuruhjaya Kanak-kanak, Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)
13. YA Pn. Evrol Mariette Peters, *Judicial Commissioner*, Mahkamah Tinggi Kuala Lumpur
14. YBhg. Datin Kunasundry a/p Marimuthu Hakim, Mahkamah Jenayah Seksual Kanak-kanak, Wilayah Persekutuan Kuala Lumpur dan Putrajaya
15. Pn. Elsie Primus, Hakim Mahkamah Sesyen, Kota Kinabalu, Sabah
16. SAC Mohamad Zainal bin Abdullah Ketua Penolong Pengarah (D5), Pendakwaan dan Undang-undang, Jabatan Siasatan Jenayah, Polis Diraja Malaysia
17. Supt. Wong Pooi Lin Penolong Pengarah (D 11), Jabatan Siasatan Jenayah Bukit Aman, Polis Diraja Malaysia

18. Puan Rozana Abdullah, Pegawai Penyelidik Parlimen
19. Pn. Mona Hanim binti Sheikh Mahmud, Pegawai Khas kepada YB Dato' Sri Azalina Othman Said
20. Cik Loh Jing Rou, Pegawai Khas kepada YB Dato' Sri Azalina Othman Said
21. Cik Selvi Supramaniam, Pakar Perlindungan Kanak-kanak, UNICEF
22. Cik Srividhyaya Ganapathy, *Child Rights Innovation and Betterment (CRIB)*

Day 1: Monday, 23/05/2022

Commonwealth Parliamentarian Association Programme (*Limited to Members of Parliament only)

0900		CPA UK staff will welcome delegates at the Portcullis House visitors entrance and accompany them to the CPA room.	
0920 1000	-	Tour of the Houses of Parliament The delegation will receive a tour of the historic Houses of Parliament buildings.	Westminster Hall
1000 1015	-	Tea & Coffee Break Tea and coffee will be served. Pre-assessment forms will be available for delegates to complete.	CPA Room
1015 1045	-	Official opening and welcome The session will formally welcome the delegation from the Parliament of Malaysia. There will be an introduction to the work of CPA UK and an overview of the programme. Delegates will share their learning objectives for the day. Speakers: Jon Davies, <i>Chief Executive of CPA UK</i>	CPA Room
1045 1145	-	Session 1: Effective Scrutiny by Select Committees This initial session will provide an overview of the role of Committees in the Westminster system. It will outline how Committees effectively scrutinise the executive and consider how to strengthen their impact. It will also cover Committee culture and cross-party consensus, as well as gaining wider house support on Committee recommendations. Speakers: TBC MP, House of Commons Baroness Manzila Uddin, <i>Member of the House of Lords with thematic interest in Women's Empowerment</i> Chloe Challender, <i>Clerk of the Women and Equalities Committee, House of Commons</i>	CPA Room
1145- 1200		Tea & Coffee Break	
1200- 1300		Session 2: Maintaining Committee Resilience and Momentum during Political Uncertainty	CPA Room

	<p>This session will provide an overview of how to maintain Committee momentum during political uncertainty. It will focus on the use of standing orders and other relevant mechanisms to ensure the resilience and sustainability of Committees.</p> <p>Speakers: TBC MP, House of Commons Judith Boyce, <i>Clerk of the Transport Committee, House of Commons</i></p>	
1300– 1400	LUNCH	CPA Room
1400– 1500	<p>Session 3: Lived Experience: Hearing from a Diverse Range of Witnesses</p> <p>This session will examine engaging with vulnerable and child witnesses during parliamentary inquiries. It will also cover engaging with civil society as representatives of victim survivors and how to secure a strong evidence base to inform conclusions and recommendations.</p> <p>Speakers: Tim Loughton MP, <i>Parliamentary Under-Secretary of State for Children and Families from 2010 to 2012, and twice served as the Acting Chairman of the Home Affairs Select Committee</i> Mark Earl, <i>Committee Operations Manager responsible for safeguarding and witness support</i> Kate Johal, <i>Committee Specialist on the Home Affairs Committee</i></p>	CPA Room
1500 – 1530	<p>Session 4: Feedback and Next Steps</p> <p>At the end of day three, delegates will reflect together on what they have learnt through the programme and consider what actions they may take as a result in the Parliament of Malaysia. Post-assessment forms will be completed.</p> <p>Speaker: Matthew Hamilton, Monitoring and Evaluation Manager</p>	CPA Room

Day 2 – Tuesday, 24/05/2022

Team A

Time	Activity	Speakers
08:30-09:00	Breakfast Briefing	
09:30-11:30	<p><u>Team A1</u></p> <p>1. Visit to National Crime Agency’s headquarters</p> <p>2. Meeting with Internet Watch Foundation</p> <p>3. Meeting with We Protect Alliance</p>	<p>1. Sarah Blight, NCA, Deputy Director, Child Sexual Abuse, Threat Leadership</p> <p>2. Sean Sutton, NCA, Head of Education and Partnerships, Threat Leadership</p> <p>3. Michael Tunks, IWF, Senior Policy and Public Affairs Manager</p> <p>4. Susie Hargreaves, IWF, CEO</p> <p>5. Abigail Fedorovsky, IWF, Policy and Public Affairs Officer</p> <p>6. Chloe Setter, We Protect, Head of Advocacy, Policy & Research</p> <p><u>Venue:</u> 1–6 Citadel Place, Tinworth Street, London SE11 5EF, United Kingdom.</p>
09:30-12:30	<p><u>Team A2</u></p> <p>Visit to Office of National Statistic</p>	<p>1. Inclusive Data Taskforce</p> <p>2. Kirsten Newton, Deputy Head of International Relation, Central Policy Secretariat</p> <p><u>Venue:</u> London offices of ONS, 1 Drummond Gate, Pimlico, SW1V 2QQ.</p>
12:30-13:30	Lunch	
14:00-16:00	Meeting with Victim Support UK	<p>Jeffrey DeMarco, Assistant Director - Knowledge and Insight</p> <p><u>Venue:</u> 2nd Floor, Whitecross Studios, 50 Banner Street, London, Greater London, EC1Y 8ST, United Kingdom</p>
16:30-18:30	Networking Tea Reception by PSSC	<p><u>Venue:</u> Hyatt Regency London - The Churchill, 30 Portman Square, London W1H 7BH, United Kingdom.</p>

Team A1

1. **Hon. Dato' Sri Azalina Othman Said**
Chairman of the PSSC

2. **Hon. Alice Lau**
Constituency of Lanang

3. **Justice Madam Evrol Marriette Peters**
Judge, High Court of Kuala Lumpur

4. **Madam Datin Kunasundry a/p Marimuthu**
Session Court Judge
Sexual Crime Court Against Children Putrajaya

5. **Madam Elsie Primus**
Sessions Court Judge at Kota Kinabalu Court, Sabah

6. **SAC Mohamad Zainal bin Abdullah**
Principal Assistant Director (D5), Prosecution / Legal Division, Criminal
Investigation Department

7. **Supt. Wong Pooi Lin**
Assistant Director Sexual, Women and Child Investigation Division (D11), Criminal
Investigation Department

8. **Ms. Srividhyaya Ganapathy**
Representatives of Civil Society Organisation

9. **Ms. Jing Rou Loh**
Officer to Hon. Dato' Sri Azalina

10. **Mdm. Izyan Hazwani binti Ahmad**
Principal Assistant Secretary, Office of the Children's Commissioner (OCC), Human
Rights Commission of Malaysia (SUHAKAM)

Team A2

1. **Hon. Ahmad Tarmizi**
Constituency of Sik
2. **Hon. Ahmad Fahmi Fadzil**
Constituency of Lembah Pantai
3. **Hon. Hannah Yeoh**
Constituency of Segambut
4. **Hon. Fuziah Salleh**
Constituency of Kuantan
5. **Dato' Haji Abdul Halim bin Haji Abdul Rahman**
Deputy Secretary General
6. **Mr. Asrul Shah bin Razali**
Principal Assistant Secretary
Crime and Terrorism Prevention Unit, Security Division
7. **Ms. Rozana Abdullah**
Secretary to the delegation
8. **Dr. Zakiah binti Mohd Said**
Family Health Development Division

Team B (Hon. Fuziah Salleh dan Hon. Fahmi Fadzil)

Time	Activity	Speakers
09:30 – 09:45	Arrivals	<u>Venue:</u> Westminster for Democracy Clive House, 70 Petty France, London SW1H 9EX, United Kingdom, Holyrood Room
09:45 – 10:00	Welcome from Anthony / Matthew + Introduction to WFD (WFD Malaysia introduction)	
10:15 – 11:15	Meeting with Theo Clarke MP, member of the Women and Equalities Committee.	Theo Clarke MP, member of the Women and Equalities Committee
11:15 – 12:30	Visit to Office of National Statistic	1. Inclusive Data Taskforce 2. Kirsten Newton, Deputy Head of International Relation, Central Policy Secretariat <u>Venue:</u> London offices of ONS, 1 Drummond Gate, Pimlico, SW1V 2QQ.
12:45 – 14:15	Lunch meeting with WFD UK: Regional Manager Matthew Hedges and Senior Manager Naomi Barnard, Janet Veitch WFD external consultant	
14:15 – 15:15	Meeting with Holly Dustin and Sarah Brader on Culture change and gender equality in Parliament	Holly Dustin, former Clerk of the Gender Committee from the Westminster, House of Commons and Sarah Brader, Director of Culture
15:15 – 16:15	Meeting with Ewan Devine-Kennedy, Equalities & Human Rights Commission (EHRC)	
16:30-18:30	Networking Tea Reception by PSSC	<u>Venue:</u> Hyatt Regency London - The Churchill, 30 Portman Square, London W1H 7BH, United Kingdom.

Day 3 – Wednesday, 25/05/2022

Team A

Time	Activity	Speakers
08:30– 09:00	Breakfast Briefing	
09:30- 12:30	Roundtable Discussion on Vulnerable Victim & Witnesses in the Justice System	<ol style="list-style-type: none"> 1. HHJ Patricia Lees, Crown Court Judge 2. Allison Hunter, QC <p><u>Venue:</u> Hyatt Regency London - The Churchill, 30 Portman Square, London W1H 7BH, United Kingdom.</p>
12:30- 13:30	Lunch	
14:00- 17:30	<ol style="list-style-type: none"> 1. Visit to Old Bailey 2. Meeting with Crown Prosecution Service 3. Meeting with Metropolitan Police London 4. Meeting with Youth Justice Board 	<ol style="list-style-type: none"> 1. Poppy Jafrato, CPS, Crown Court Manager 2. Hannah Kappler, CPS, Senior Policy Advisor – Victims and Witnesses, Strategy and Policy Directorate 3. Detective Inspector Neil Tovey, Met Police, Homicide 4. Detective Inspector Suzanne Soren, Met Police, Exploitation Unit 5. Acting Detective Inspector Jason Crinnion, Met Police, Homicide, Tier 5 interview advisor. 6. Detective Constable Arran Barnes, Met Police, Homicide, Tier 5 Interview advisor 7. Detective Constable Elly Mitchell, Met Police, Homicide, Child protection 8. Liz Westlund, Youth Justice Board, Head of London 9. Kelly Duggan, Youth Justice Board, Head of the Youth Justice Service in Tower Hamlets and City of London <p><u>Venue:</u> Old Bailey, London EC4M 7EH, United Kingdom</p>

Team B

Time	Activity	Speakers
13:00	Inter Pares Programme in Rome Parliament - Hon. Fuziah Salleh - Hon. Hannah Yeoh - Hon. Alice Lau	

Time	Activity	Speakers
09:30-12:30	Visit to the Light House	1. Eimear Timmons, Interim Service Manager, The Lighthouse 2. Dr Sara Lakin, Clinical Psychologist the Lighthouse 3. Amy Stelefox, Lighthouse practitioner, Case management team 4. Monique Joseph, Lighthouse practitioner, Case management team 5. Dr Leanne Ong, Clinical Psychologist at the Lighthouse 6. Candice Harris, Experienced Consultant <u>Venue:</u> The Light House, 7-8 Greenland Place, Camden Town, London, NW1 0AP
12:30-13:30	Lunch – Debrief Session	



**PENGERUSI JAWATANKUASA PILIHAN KHAS
HAL EHWAL WANITA DAN KANAK-KANAK DAN PEMBANGUNAN SOSIAL
MERANGKAP AHLI PARLIMEN PENERANG**

Pejabat Jawatankuasa Pilihan Khas
Jalan Parlimen
50680 KUALA LUMPUR

Telefon : 03- 2601 7175 / 03-2601 7102
Faks : 03- 2601 7161
e-mel : jpkp.dr@parlimen.gov.my

**Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan
*Child Victims and Witnesses in the Justice System***

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa Pilihan Khas
Wanita, Kanak-kanak dan Pembangunan Sosial 23-26 Mei 2022

Laporan Ringkas

Nama	1. DATO' HAJI ABDUL HALIM BIN HAJI ABDUL RAHMAN TIMBALAN KETUA SETIAUSAHA (KESELAMATAN) 2. ASRUL SHAH BIN RAZALI KETUA PENOLONG SETIAUSAHA KANAN BAHAGIAN KESELAMATAN
Kementerian/ Jabatan/ Agensi	KEMENTERIAN DALAM NEGERI
No. Telefon
E-mel
Tarikh Laporan	8 JUN 2022

Pemerhatian Utama daripada Lawatan Sambil Belajar

Office of National Statistics (ONS):

Tadbir urus ONS tidak diletakkan di bawah tanggungjawab mana-mana Menteri, justeru pelaksanaan tugas adalah lebih telus. Pegawai statistik juga ditempatkan di pelbagai jabatan bagi memudahkan penyelarasan data/statistik, suatu amalan yang boleh dipertimbangkan di Malaysia. Dalam konteks pengumpulan data/statistik, di bawah Akta Ekonomi Digital, terdapat seksyen tertentu yang membolehkan ONS mendapatkan data/statistik daripada jabatan/agensi dan jabatan/agensi wajib mengemukakan maklumat tersebut. ONS juga sedang menjalankan soal selidik

terhadap kanak-kanak yang merangkumi soalan bersesuaian dengan tahap pemikiran responden, iaitu golongan kanak-kanak.

Pihak ONS juga mewujudkan *Inclusive Data Task Force*, iaitu satu pasukan khas yang komited dalam memastikan penglibatan segenap lapisan masyarakat dalam mana-mana kajian. Tujuannya adalah bagi memastikan statistik yang diperolehi lebih jitu dan memberikan gambaran sebenar terhadap sesuatu situasi.

Victim Support UK:

Merupakan sebuah pertubuhan yang banyak memberikan bantuan dan pembelaan terhadap kanak-kanak yang menjadi mangsa jenayah terutama homisid, penderaan dan jenayah seksual. Mangsa dirujuk kepada pertubuhan yang diwujudkan oleh Ministry of Justice (MoJ) ini oleh agensi-agensi kerajaan. Perkhidmatan ini diberikan secara percuma kepada penduduk England dan Wales. Kaedah sokongan dan psikologi yang diberikan kepada mangsa adalah berdasarkan kepada modul-modul khusus yang dibangunkan dengan komprehensif melalui pelbagai pendekatan yang saintifik.

Roundtable Discussion on Vulnerable Victim & Witnesses in the Justice System:

Sesi perbincangan ini memberikan fokus kepada pengendalian mangsa atau saksi yang terdiri dari kanak-kanak dalam kes-kes jenayah. Hakim dari *Crown Court* dan seorang *Queen Counsel* (QC) telah berkongsi pengalaman serta maklumat mengenai amalan perundangan di United Kingdom serta perkongsian dalam beberapa kes yang melibatkan kanak-kanak sebagai mangsa atau saksi. Penggunaan sidang video, rakaman kenyataan saksi kanak-kanak tidak melebihi dua (2) kali serta pembentukan soalan yang diajukan kepada mangsa/saksi kanak-kanak merupakan perkara yang sangat menarik untuk diteliti dan diperkasakan di Malaysia.

Lawatan ke Old Bailey (*Criminal Court of Justice*):

Dalam beberapa siri taklimat oleh *Crown Prosecution Service*, *Metropolitan Police London* dan *Youth Justice Board*, terdapat pelbagai perkongsian mengenai amalan dalam sistem perundangan sama ada di mahkamah atau di pihak polis dalam mengendalikan kes-kes yang melibatkan kanak-kanak. Kaedah *Video Recording Interview* (VRI) bagi menjamin tahap psikologi dan kestabilan mental kanak-kanak yang terlibat dalam prosiding dilaksanakan. Selain itu, kaedah ini juga dilakukan untuk menjamin kerahsiaan saksi. Di United Kingdom juga diwujudkan *National Referral Mechanism* bagi memudahkan agensi merujuk mangsa/saksi kanak-kanak kepada agensi atau pertubuhan yang boleh memberikan perkhidmatan atau pembelaan yang sewajarnya kepada kanak-kanak berkaitan. Penggunaan dan perbezaan amalan terhadap *young people* sebagai mangsa dan *young people* sebagai saksi juga sesuatu yang sangat menarik untuk diaplikasikan dalam sistem perundangan di Malaysia.

Lawatan ke Light House:

Organisasi bukan kerajaan yang ditubuhkan di bawah *National Health Services* (NHS) ini terdiri dari 20 orang kakitangan yang memberikan perkhidmatan kepada hampir 1.5 juta penduduk di kawasan sekitar Camden. Pemilihan lokasi pejabat juga dibuat dengan penuh teliti yang mempertimbangkan kedudukan yang strategik yang mudah dicapai melalui pelbagai pengangkutan awam. Ini dilakukan bagi memudahkan kanak-kanak yang ingin hadir ke Light House bagi mendapatkan bantuan atau khidmat nasihat. Organisasi ini juga mempunyai keupayaan untuk menyelaraskan koordinasi di kalangan pelbagai agensi kerajaan seperti pihak polis, perkhidmatan psikiatri dan perkhidmatan kesihatan.

Lawatan kerja ini telah dapat memenuhi objektif lawatan iaitu:

- i. Mempelajari amalan terbaik bagi mangsa/saksi kanak-kanak atau kanak-kanak yang terlibat dalam konflik perundangan; dan
- ii. Mengetahui strategi bagi memperkasakan latihan dan pengkhususan di kalangan pengamal undang-undang iaitu hakim, pendakwaraya dan peguam bela.

Sumber Kuasa Undang-undang berkaitan dengan *Child Victims and Witnesses in the Justice System* (jika ada)

1. Akta Polis 1967 (Akta 344)
2. Kanun Keseksaan (Akta 574)
3. Kanun Tatacara Jenayah (Akta 593)
4. Akta Kanak-Kanak 2001 (Akta 611)
5. Akta Keganasan Rumah Tangga 1994 (Akta 521)
6. Akta Kesalahan-Kesalahan Seksual Terhadap Kanak-Kanak 2017 (Akta 792)
7. Akta Antipemerdagangan Orang dan Antipenyeludupan Migran 2007 (Akta 670)
8. Akta Mahkamah Juvana 1947 (Akta 90)
9. Akta Keterangan 1950 (Akta 56)
10. Akta Keterangan Saksi Kanak-kanak 2007 (Akta 676)
11. Akta Bantuan Guaman 1971 (Akta 26)
12. Akta Komunikasi dan Multimedia 1998 (Akta 588)

Garis Panduan Pelaksanaan Semasa berkaitan dengan Child Victims and Witnesses in the Justice System (jika ada, merujuk kepada Kementerian/ Jabatan/Agensi)

1. Arahan-Arahan Ketua Polis Negara/Timbangan ketua Polis Negara/Pengarah Jabatan Siasatan Jenayah
2. Arahan Ketua Pengarah Imigresen
3. Peraturan-Peraturan Penjara 2000

Cabaran Pelaksanaan

1. Penggunaan sidang video semasa sesi perbicaraan merupakan amalan yang boleh dilaksana dan telah sedia dilaksanakan. Namun, keperluan untuk mempertingkatkan kemudahan teknologi serta kaedah rakaman kenyataan saksi kanak-kanak yang tidak berulang-kali merupakan perkara yang boleh dipertimbangkan bagi memastikan tahap psikologi kanak-kanak tidak terganggu.
2. Selain itu, latihan berterusan kepada pengamal undang-undang termasuklah hakim, pendakwaraya dan peguam bela dalam kes-kes yang melibatkan kanak-kanak perlu dipertingkatkan dan dipelbagaikan. Perkongsian oleh hakim dan *Queen Counsel* mengenai kaedah pembentukan soalan yang akan dikemukakan kepada kanak-kanak, pemakaian pakaian yang sesuai serta penggunaan pelbagai peralatan yang bersesuaian merupakan perkara yang perlu dipelajari.
3. Pihak penguatkuasa juga tidak terkecuali untuk diberikan latihan berterusan dalam menangani kes-kes berkaitan kanak-kanak. Anjakan pemikiran seperti tidak mengambil mudah aduan gangguan seksual atau penderaan seksual perlu dilakukan. Kaedah temubual saksi atau mangsa kanak-kanak dalam kes-kes sebegini juga perlu ditambahbaik dan disesuaikan dengan kaedah psikologi dan

kaunseling yang bersesuaian. Justeru, koordinasi antara agensi yang berkepakaran seperti Jabatan Kebajikan Masyarakat, PDRM dan Jabatan Kesihatan perlu dilakukan. Ini bagi membolehkan pelbagai skim perkhidmatan dapat memberikan bantuan perkhidmatan kepada kanak-kanak tersebut, sebagaimana yang dilakukan oleh *Light House*.

4. Bagi isu pengumpulan data/statistik pula, penempatan pegawai statistik di kementerian/jabatan/agensi juga perlu dipertimbangkan, namun akan melibatkan kos berkaitan pewujudan jawatan baru.

Cadangan Penambahbaikan

1. Pegawai yang mengendalikan rakaman kenyataan saksi/mangsa khususnya berkaitan kanak-kanak seperti pegawai PDRM perlu dilatih atau dilengkapi dengan pelbagai kaedah psikologi terutama psikologi kanak-kanak dalam usaha mendapatkan keterangan yang tepat daripada saksi/mangsa.
2. Pusat Latihan Kepolisian PDRM perlu menyenaraikan dalam jadual pembelajaran atau dalam kurikulum latihan polis bagi membangunkan kesedaran berhubung dengan pengurusan mangsa dan saksi kanak-kanak dalam kes jenayah agar mengurangkan perasaan trauma dan tekanan apabila temubual oleh polis. Anjakan pemikiran seperti tidak mengambil mudah aduan gangguan seksual atau penderaan seksual perlu dilakukan. Kaedah temubual saksi atau mangsa kanak-kanak dalam kes-kes sebegini juga perlu ditambahbaik dan disesuaikan dengan kaedah psikologi dan kaunseling yang bersesuaian.
3. Kewujudan agensi seperti *Victim Support* di Malaysia (jika ada), mungkin tidak diketahui secara jelas di kalangan masyarakat. Namun peranan tersebut ada dilakukan oleh pelbagai agensi kerajaan namun tidak diselaraskan. Justeru, dalam perspektif ini, penyelarasan perlu dilakukan oleh Kementerian

Pembangunan Wanita dan Kebajikan Masyarakat (KPWKM) atau agensinya iaitu Jabatan Kebajikan Masyarakat (JKM) melalui kaedah pusat khidmat setempat (*one stop centre*) seperti Light House.

4. Sebagaimana yang dipelajari di ONS, penempatan pegawai statistik di kementerian/jabatan/agensi merupakan suatu inisiatif yang baik bagi memastikan penyelarasan statistik kepada agensi pusat iaitu Jabatan Perangkaan Malaysia. Selain itu, data/statistik yang dikeluarkan, perlu disertai dengan analisis yang membolehkan pihak berkepentingan mengambil tindakan yang tepat susulan data/statistik yang dikeluarkan. Sebarang kajian lapangan yang dibuat juga perlu lebih inklusif.
5. Penambahbaikan yang paling utama adalah latihan berterusan kepada pihak yang terlibat dalam *criminal justice system* bagi memastikan wujud kaedah pengendalian yang berbeza apabila melibatkan kes kanak-kanak. Pendekatan terhadap kanak-kanak perlu berbeza berbanding kaedah siasatan dan perundangan serta perbicaraan terhadap orang dewasa khususnya daripada aspek psikologi

Hal-hal Lain

Lawatan kerja ini sangat berfokus kepada pengendalian kanak-kanak dalam *criminal justice system*, justeru membolehkan peserta yang berkaitan terutama dalam bidang perundangan seperti hakim dan dalam bidang penguatkuasaan seperti PDRM mempelajari amalan terbaik agensi yang dilawati di United Kingdom.

Program lawatan kerja telah dirancang dengan baik oleh pihak urus setia. Sesi *pre-council* lawatan kerja sebelum ke UK, sesi *pre-council* lawatan kerja semasa di

UK dan sesi *de-briefing* yang dilakukan setelah selesai lawatan di UK membolehkan peserta lawatan memahami objektif lawatan dan berkongsi pandangan terhadap hasil lawatan kerja.

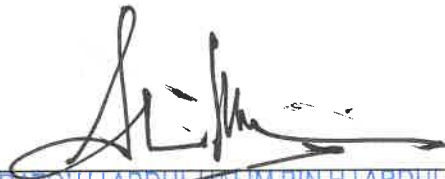
Disediakan:



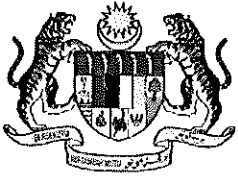
Nama:

Cop Rasmi: **ABDUL SHAH BIN RAZALI**
KETUA PENOLONG SETIAUSAHA
BAHAGIAN KESELAMATAN
KEMENTERIAN DALAM NEGERI

Disemak/ Disahkan:



Nama: **DATO' HJ ABDUL HALIM BIN HJ ABDUL RAHMAN**
Cop Rasmi: **TIMPALAN KETUA SETIAUSAHA (KESELAMATAN)**
KEMENTERIAN DALAM NEGERI



BAHAGIAN PEMBANGUNAN KESIHATAN KELUARGA
JABATAN KESIHATAN AWAM (*PUBLIC HEALTH DEPARTMENT*)
KEMENTERIAN KESIHATAN MALAYSIA
(*MINISTRY OF HEALTH, MALAYSIA*)
Aras 7 & 8, BLOK E10, Kompleks E
Pusat Pentadbiran Kerajaan Persekutuan
62590, Putrajaya.

LAMPIRAN D

Tel : 03-8883 3888
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Ruj. Kami : KKM.500-5/2/11 Jld. 3 (25)

Tarikh : 17 Jun 2022

Nurul Fadhilah Ibharm
Bahagian Perhubungan Antarabangsa dan Protokol | *International Relations and
Protocol Division*
Parlimen Malaysia

Puan,

**Lawatan Sambil Belajar Ke United Kingdom Untuk Jawatankuasa Pilihan Khas
Wanita, Kanak-Kanak Dan Pembangunan Sosial, 23-26 Mei 2022**

Dengan segala hormatnya merujuk kepada perkara seperti di atas.

2. Bersama-sama ini disertakan laporan bagi perkara diatas yang telah disediakan oleh Dr. Zakiah bt Mohd Said, Pakar Perubatan Kesihatan Awam, Bahagian Pembangunan Kesihatan Keluarga, Kementerian Kesihatan Malaysia yang telah sama-sama menyertai lawatan ini untuk makluman dan tindakan selanjutnya.

Sekian, terima kasih.

“WAWASAN KEMAKMURAN BERSAMA 2030”

“BERKHIDMAT UNTUK NEGARA”

Saya yang menjalankan amanah,

(DATO' DR. MOHAMED SAPIAN BIN MOHAMED) MMC 27276 NSR 127023

Pengarah
Bahagian Pembangunan Kesihatan Keluarga
Kementerian Kesihatan Malaysia

s/k:

Jing Rou Loh

Human Rights Officer to

YB Dato Seri Azalina Othman Said

**MANGSA KANAK-KANAK DAN SAKSI DALAM SISTEM KEADILAN
CHILD VICTIM AND WITNESSES IN THE JUSTICE SYSTEM**

Lawatan Sambil Belajar Ke United Kingdom Untuk Jawatankuasa Pilihan Khas Wanita, Kanak-Kanak Dan Pembangunan Sosial, 23-26 Mei 2022

Laporan Ringkas

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TARIKH LAPORAN	17 Jun 2022

Pemerhatian Utama Dari Lawatan Sambil Belajar

United Kingdom mempunyai sistem sokongan mangsa dan saksi kanak-kanak yang baik sepanjang proses perundangan. Ia bukan sahaja tentang kadar sabitan, sebaliknya apabila insiden sebegini terjadi kepada mana-mana kanak-kanak, mereka tahu bahawa sistem itu ada untuk menyokong mereka. Ini termasuklah *Victim Support Centre, Metropolitan Police London* dan *The Lighthouse* yang menjadi antara agensi yang bertanggungjawab dalam sistem sokongan ini

Lawatan ke *Office Of National Statistics (ONS) & Inclusive Data Taskforce* pula mendapati jabatan ini menjalankan analisa data mengikut keperluan spesifik agensi / jabatan. *ONS* adalah merupakan agensi yang *independence* yang akan mengeluarkan maklumat dan hasil analisa tanpa tekanan dari mana-mana pihak. Walaubagaimanapun, *ONS* bertanggungjawab untuk mengeluarkan hasil laporan di England sahaja dan tidak meliputi keseluruhan United Kingdom. Hasil laporan ini akan dijadikan asas kepada sebarang perubahan polisi yang ingin dijalankan oleh jabatan / agensi.

Sebagai peserta yang mewakili Kementerian Kesihatan Malaysia, kami mendapati lawatan ke *The Lighthouse* memberikan sedikit persamaan dengan fungsi kesihatan dalam kes penderaan seksual kanak-kanak di Malaysia. *One Stop Crisis Centre* adalah pusat sehati yang terdapat di seluruh hospital di Malaysia yang berperanan dalam memberikan bantuan kepada mangsa penderaan secara menyeluruh yang meliputi bantuan perubatan, sosial / keselamatan serta tempat perlindungan sementara. Terdapat beberapa perbezaan di antara kedua-dua sistem ini

	<i>The Light House</i>	<i>One Stop Crisis Centre (OSCC) Malaysia</i>
Tahun penubuhan	2018	1993
Objektif penubuhan	Pusat sehati bagi mangsa penderaan yang ingin mendapatkan intervensi lanjut seperti sokongan terapi, sokongan sosial, bantuan rawatan dan perkhidmatan kaunseling. <i>The Lighthouse</i> menjadi penghubung kepada perkhidmatan yang diperlukan.	Pusat sehati yang memberikan perkhidmatan yang komprehensif meliputi rawatan perubatan dari pelbagai disiplin klinikal, perkhidmatan sokongan sosial / keselamatan dan bantuan tempat perlindungan sementara. Di Malaysia, sebarang kes penderaan yang disyakki, (<i>medicolegal cases</i>) perlu dilaporkan kepada pihak berkuasa dan menjalani penilaian kesihatan dan perubatan sebelum tindakan perundangan selanjutnya.
Akses perkhidmatan	<i>North England</i>	Seluruh negeri, Malaysia
Perkhidmatan yang diberikan	<ul style="list-style-type: none"> - Penilaian kes dan menyediakan pelan pengendalian masalah (<i>care plan</i>) dengan <i>provider</i> yang terlibat - Saringan dan rawatan kesihatan - Khidmat nasihat / kaunseling - Perkhidmatan sokongan sosial - Menyediakan ruang / kawasan bagi aktiviti terapi - Rujukan ke hospital jika diperlukan - 	<ul style="list-style-type: none"> - Menyediakan perkhidmatan saringan dan pemeriksaan kesihatan secara holistik yang melibatkan pelbagai kepakaran klinikal - Menyediakan bahan bukti forensik - Melakukan penyiasatan perubatan seperti ujian makmal yang berkaitan - Menghubungi pihak polis bagi urusan proses perundangan - Menghubungi <i>NGO</i> yang berkaitan bagi urusan perlindungan sementara

		(melalui proses / SOP standard) - Rawatan susulan bagi mangsa penderaan
Peruntukan	Dari badan kerajaan seperti <i>Mayor's Office for Policing and Crime, NHS England</i> dan <i>the Department for Education</i> . Peruntukan ini adalah untuk tempoh tertentu berdasarkan terma kontrak peruntukan	- Kerajaan (Kementerian Kesihatan Malaysia) - Dibawah belanja mengurus sedia ada Kementerian bagi setiap tahun

Sumber Kuasa Undang-Undang Berkaitan Dengan Child Victims And Witnesses In The Justice System (Jika Ada)

Di bawah undang-undang Malaysia, **Akta Kanak-kanak 2001**, doktor, ahli keluarga dan penjaga kanak-kanak adalah tiga kumpulan yang dipertanggungjawabkan untuk melaporkan dengan segera jika mengesyaki kanak-kanak telah didera secara fizikal, atau emosi akibat dari penderaan yang teruk, pengabaian, terbiar atau terdedah, atau didera secara seksual kepada pegawai pelindung Jabatan Kebajikan Masyarakat (Jabatan Kebajikan Masyarakat).

Garis Panduan Pelaksanaan Semasa Berkaitan Dengan Childs Victim and Witnesses In The Justice System (Jika Ada Merujuk Berkaitan Dengan Kementerian / Agensi / Jabatan)

- Tiada

Cabaran pelaksanaan

- Kekurangan sumber manusia (kepakaran klinikal di hospital) yang menyebabkan kelewatan dalam pengurusan kes
- Kakitangan yang kerap bertukar dan memerlukan latihan yang berterusan

Cadangan penambahbaikan

- Latihan berterusan dengan komitmen bajet tahunan
- Memperluaskan akses bagi bantuan kepada mangsa penderaan kanak-kanak samada akses perubatan, sosial dan tempat perlindungan
- Kesedaran kepada masyarakat mengenai akses yang ada untuk mendapatkan bantuan jika mengalami / mendapat laporan kes penderaan kanak-kanak

Hal-hal lain

- Tiada

Disediakan oleh :



Dr Zakiah bt Mohd Said

Pakar Perubatan Kesihatan Awam

Bahagian Pembangunan Kesihatan Keluarga,

Kementerian Kesihatan Malaysia

16 Jun 2022

DR. ZAKIAH BINTI MOHD SAID (MMC 36215)
Ketua Penolong Pengarah Kanan UD56
Bahagian Pembangunan Kesihatan Keluarga
Kementerian Kesihatan Malaysia

Disemak/Disahkan oleh:



Dato' Dr Hj Mohamed Sopian bin Hj Mohamed

Pengarah

Bahagian Pembangunan Kesihatan Keluarga

Kementerian Kesihatan Malaysia

17 Jun 2022

Mangsa Kanak-kanak dan Saksi Dalam Sistem Keadilan
Child Victims and Witnesses in the Justice System

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa
Pilihan Khas Wanita, Kanak-kanak dan Pembangunan Sosial 23 – 26
Mei 2022

Laporan Ringkas

Nama : Mohd Azahari bin Mohd Daut
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Tarikh laporan : 7 Jun 2022

Pemerhatian Utama daripada Lawatan Sambil Belajar

- 1) Perkhidmatan sokongan mangsa dan saksi kanak-kanak di UK dilaksanakan oleh badan bebas yang memberikan perkhidmatan sokongan kepada mereka yang terjejas disebabkan oleh jenayah dan insiden traumatik di England dan Wales terutamanya golongan rentan termasuklah kanak-kanak.
- 2) *Victim Support* memberikan perkhidmatan untuk membantu, memulih dan memperkasakan mereka yang terkesan agar suara mereka didengari tidak kira sama ada mereka telah melaporkan jenayah itu kepada polis atau apabila ia berlaku dan selama mana ia diperlukan (*regardless of whether they have reported the crime to the police or when it occurred and for as long as it is needed*).
- 3) Badan ini memperoleh dana pengurusan daripada Pesuruhjaya Polis dan Jenayah (*Police and Crime Commissioners*) serta badan berkanun dan bukan berkanun lain.

- 4) Selain daripada dana tersebut, badan ini menjana pendapatan sendiri menerusi derma dan sumbangan rakan kongsi korporat, amanah dan yayasan amal serta badan pemberi geran lain bagi pelaksanaan projek dan program yang dilaksanakan.
- 5) Perkhidmatan sokongan diberikan oleh sukarelawan yang mahir daripada komuniti setempat.
- 6) Projek rintis *Lighthouse* dilihat mengintegrasikan semua perkhidmatan sokongan mangsa dan saksi terutamanya kepada kanak-kanak di bawah satu bumbung dengan menghimpunkan semua sukarelawan / petugas daripada pelbagai bidang kepakaran seperti pekerja sosial, psikologis dan jururawat.
- 7) Premis yang mesra kanak-kanak dengan pelbagai kemudahan yang kondusif dapat menjadikan kanak-kanak selesa dan tenteram seterusnya memudahkan proses membantu / sokongan kepada kanak-kanak oleh sukarelawan / petugas daripada pelbagai bidang disiplin.

Sumber kuasa undang-undang berkaitan dengan Child Victims and Witnesses in the Justice System (Jika ada)

- 1) Di Malaysia terdapat satu akta iaitu Akta Keterangan Saksi Kanak-kanak 2007 (Akta 676) yang berhubungan dengan pemberian keterangan oleh saksi kanak-kanak, dan mengenai perkara-perkara lain yang berkaitan dengannya.
- 2) Selain itu, Akta Kesalahan Jenayah Seksual Terhadap Kanak-kanak 2017 turut menyentuh berkaitan perkhidmatan sokongan kepada kanak-kanak di Malaysia.

Garis panduan pelaksanaan semasa berkaitan dengan Child Victims and Witnesses in the Justice System (jika ada, merujuk kepada Kementerian/ Jabatan Agensi)

Bagi menjamin kerjasama inter-agensi, satu dokumen kerjasama antara agensi bagi perkhidmatan sokongan saksi kanak-kanak telah dibangunkan pada tahun 2011 bagi menyokong dan membantu melaksanakan program kerja melibatkan :

- i) Bahagian Hal Ehwal Undang-undang (BHEUU), Jabatan Perdana Menteri.
- ii) Polis Diraja Malaysia.
- iii) Timbalan Pendakwa Raya.
- iv) Mahkamah.
- v) Jabatan Kebajikan Masyarakat.

Cabaran pelaksanaan

Antara cabaran Perkhidmatan Khidmat Sokongan Saksi Kanak-kanak (WSS) di Malaysia:

- i) Peruntukan kewangan yang terhad bagi pembayaran elaun petugas WSS yang di tempatkan di mahkamah.
- ii) Kadar pusing ganti (*turnover*) yang tinggi bagi petugas WSS memandangkan lantikan petugas adalah lantikan sementara – Tiada struktur perjawatan khusus bagi petugas WSS memandangkan perkhidmatan ini kurang digunakan / dipohon oleh pihak pendakwaan ataupun peguam.
- iii) Peruntukan kewangan yang terhad bagi penyediaan kemudahan dan kelengkapan bilik khidmat saksi kanak-kanak di mahkamah.
- iv) Ruangan di mahkamah yang terhad dan ada sesetengah mahkamah tiada ruangan bagi penyediaan bilik khidmat saksi kanak-kanak.

v) Kesedaran pihak pendakwaan untuk merujuk kes yang bersesuaian bagi perkhidmatan WSS.

Cadangan penambahbaikan

- 1) Tugas penyedia perkhidmatan sokongan mangsa (bagi golongan rentan termasuk kanak-kanak) dikendalikan oleh satu badan atau NGO bebas yang dipantau oleh kementerian / agensi kerajaan berkaitan.
- 2) Kementerian / agensi kerajaan berkaitan menyediakan dana pengoperasian dan logistik untuk tempoh 5 tahun dan akan dinilai bagi kesinambungan perkhidmatan seterusnya.
- 3) Sokongan dana juga dicadangkan menerusi sektor korporat sebagai salah satu tanggungjawab sosial (*Corporate Social Responsibility* (CSR).
- 4) Sokongan daripada pihak mahkamah bagi penyediaan bilik / ruang WSS di setiap mahkamah.
- 5) Pekerja sosial yang lebih profesional dapat disediakan bagi perkhidmatan sokongan kanak-kanak menerusi penggubalan Rang Undang-undang Profesion Sosial sebagai salah satu penyedia perkhidmatan dalam khidmat sokongan ini.
- 6) Pengintegrasian modul latihan dan pengisian intervensi serta SOP melibatkan pelbagai agensi seperti pihak mahkamah, JKM, PDRM, Suruhanjaya Kanak-kanak dan NGO berkaitan boleh dibangunkan bagi keseragaman perkhidmatan sokongan mangsa.
- 7) Perlu mengambil kira keperluan perkhidmatan sokongan bagi kanak-kanak dengan keperluan khas (Kanak-kanak OKU) memandangkan kanak-kanak daripada kategori ini turut terlibat sebagai saksi atau mangsa kes jenayah.

8) Mengambil kira Seksyen 28 Akta Keadilan Belia dan Keterangan Jenayah 1999 (*Section 28 of the Youth Justice and Criminal Evidence Act 1999, United Kingdom*) ianya membolehkan rakaman keterangan dan pemeriksaan balas sebelum perbicaraan, tertakluk kepada budi bicara kehakiman. Ia terpakai kepada pengadu yang terdedah kepada jenayah (biasanya dirujuk sebagai mangsa) dan saksi, tanpa mengira kesalahan, dan termasuk:

- i) Semua saksi kanak-kanak.
- ii) Mana-mana saksi yang kualiti keterangannya mungkin berkurangan disebabkan mereka:
 - a. Sedang mengalami gangguan mental.
 - b. Mempunyai gangguan kecerdasan dan fungsi sosial yang ketara
 - c. Mempunyai kecacatan fizikal atau mengalami gangguan fizikal.
- iii) Di UK, penyediaan perkhidmatan telah mendapat sokongan sepenuhnya oleh badan kehakiman, persatuan profesional undang-undang, dan perkhidmatan sokongan mangsa dan saksi.

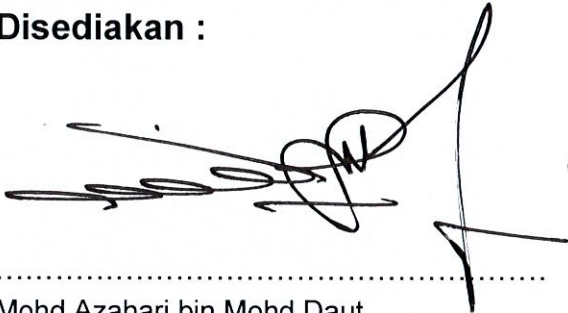
Hal-hal lain

- 1) Khidmat sokongan ini perlu dilaksanakan bagi memberikan perkhidmatan kepada kanak-kanak dan golongan rentan terutama kepada mereka yang menjadi mangsa dan saksi kes jenayah.
- 2) Menerusi perkhidmatan ini nanti, mangsa atau saksi akan

mendapat perkhidmatan pakar daripada petugas / sukarelawan dengan pelbagai disiplin termasuk pekerja sosial.

- 3) Perkhidmatan ini juga menyediakan akses kepada keadilan pemulihan serta menyampaikan sokongan pra-perbincaraan untuk saksi pendakwaan dan pembelaan.

Disediakan :



.....
Mohd Azahari bin Mohd Daut
Ketua Penolong Pengarah Kanan
Bahagian Perancangan dan Pembangunan
Jabatan Kebajikan Masyarakat

Tarikh : 14 / 6 / 2022 .

Disemak



.....
Cop rasmi: RBS MAHWATI BINTI ISHAK
Timbalan Ketua Pengarah (Strategik)
Jabatan Kebajikan Masyarakat
Malaysia

Tarikh : 16/6/2022

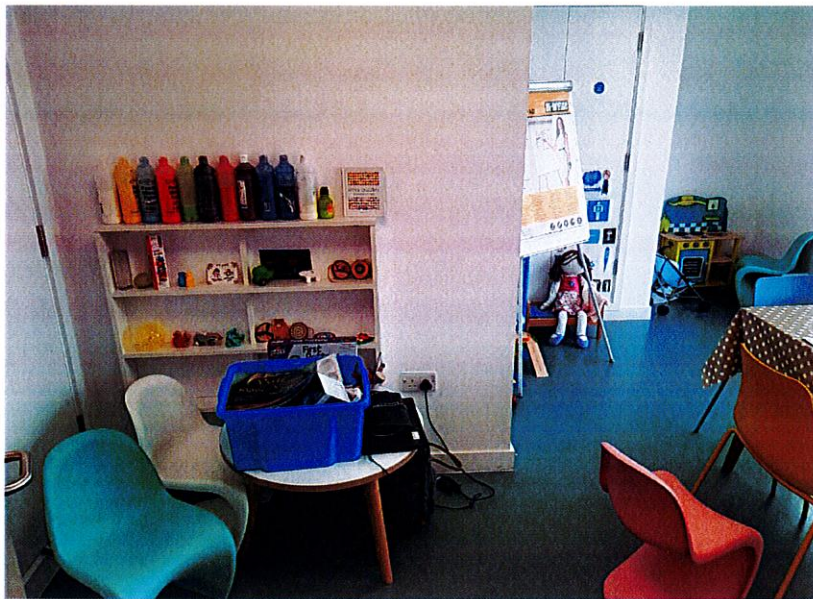
Gambar-gambar ruangan kanak-kanak di Lighthouse, Greenland Place, Camden Town, London yang boleh diwujudkan bagi perkhidmatan sokongan di Malaysia.



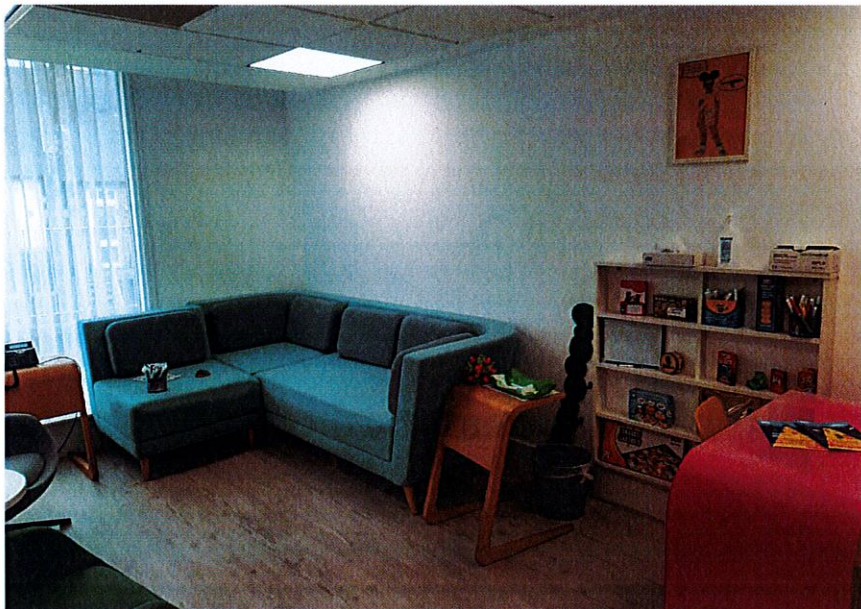
Bilik pemeriksaan dan rawatan kesihatan kanak-kanak



Ruang sesi bagi khidmat sokongan kanak-kanak



Ruang sesi bagi khidmat sokongan kanak-kanak





Ruangan bagi keselesaan emosi kanak-kanak



Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan
Childs Victims and Witnesses in the Justice System

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa Pilihan Khas Wanita,
 Kanak-kanak dan Pembangunan Sosial 23-26 Mei 2022

Laporan Ringkas

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Emel	-----
Tarikh Laporan	8 Jun 2022

Pemerhatian Utama daripada Lawatan Sambil Belajar

Lawatan ke National Crime Agency (NCA) dan mesyuarat bersama Internet Watch Foundation (IWF) dan We Protect Alliance

National Crime Agency (NCA)

1. Walaupun National Crime Agency (NCA) mempunyai bidang tugas yang hampir sama dengan Polis UK iaitu antara lain menangkap penjenayah yang melakukan jenayah penderaan seksual terhadap kanak-kanak (CSA) secara dalam talian, mereka berjaya menangani isu pertindihan bidang kerja. Mereka tidak mempunyai undang-undang spesifik yang menyatakan bidang tugas masing-masing. Walaubagaimanapun, secara umum, agensi mereka masing-masing maklum bahawa NCA menangani jenayah yang lebih serius seperti sindiket jenayah terancang dan apa-apa jenayah yang memberi ancaman kepada keselamatan negara UK, sementara Polis UK lebih bersifat tempatan dan berskala kecil.
2. Begitupun, sekiranya terdapat pertindihan bidang kerja, NCA dan Polis UK menangani isu secara administratif iaitu melalui perbincangan bersama.
3. Cabaran terbesar NCA adalah skala yakni jumlah penjenayah kes CSA secara dalam talian yang besar, di mana NCA perlu mengenalpasti bukti jenayah untuk mendakwa penjenayah. Justeru itu, NCA sedang mencari jalan untuk mengatasi kelompongan dalam sistem kerja mereka, dan mereka kini sedang dalam usaha membina kapasiti dalam bidang forensik digital.
4. NCA mempunyai rakan kongsi yang pelbagai dengan jaringan kerjasama yang kukuh untuk memastikan kelangsungan gerak kerja NCA dalam menjaga dan memelihara keselamatan kanak-kanak UK.
5. NCA mempunyai program pendidikan bernama "*Thinkuknow*". Sejak 2006,

“Thinkuknow” telah menyediakan pendidikan berhubung penderaan seksual dan eksploitasi seksual melalui *website* kepada kanak-kanak, orang muda, ibu bapa, penjaga, dan golongan professional yang bekerja dengan/untuk kanak-kanak.

6. NCA turut mempunyai unit khas yang bertanggungjawab mengurus/melayani keperluan kanak-kanak rentan seperti kanak-kanak kurang upaya.

Internet Watch Foundation (IWF)

7. Perbezaan terbesar antara Internet Watch Foundation (IWF) dengan NCA/Polis UK ialah NCA/Polis UK bertanggungjawab menangkap penjenayah CSA dan melindungi mangsa kanak-kanak, sementara IWF bertanggungjawab memadam kandungan CSA sama ada yang berbentuk gambar/ video di mana jua ia berada di dunia alam maya.
8. Bidang tugas di mana NCA/Polis UK bertindih dengan IWF ialah pada pengecaman mangsa kerana kedua agensi perlu mengecam mangsa CSA dan ia merisikokan mereka membuat kerja yang sama. Cuma skala kerja NCA/Polis adalah lebih besar berbanding IWF yang tertumpu kepada mengarahkan syarikat teknologi yang dilantik untuk memadam kandungan CSA dari internet.
9. IWF mempunyai Memorandum Persefahaman (MOU) bersama Majlis Ketua Polis Negara dan Pejabat Pendakwaan supaya kakitangan IWF dilindungi daripada pendakwaan, kerana terlibat mengurus bahan-bahan CSA.
10. IWF tidak hanya duduk diam, menunggu kes dirujuk kepada mereka. Sebaliknya mereka aktif mencari bahan-bahan CSA di internet dari seluruh dunia untuk dipadam.
11. IWF melaporkan 99% imej CSA menampilkan kanak-kanak perempuan – berlaku peningkatan dari tempoh 10 tahun lalu yang merekodkan sebanyak 65%.
12. Sejak 2 tahun lalu, IWF Reporting Portal London cuma menerima sejumlah 164 laporan dari IWF Reporting Portal Malaysia. Ia berlaku mungkin kerana masyarakat takut melapor jenayah CSA yang diketahui selain faktor kurang kesedaran hak kanak-kanak.

We Protect Alliance

13. Malaysia belum lagi menjadi sebahagian daripada gabungan We Protect Alliance. We Protect Alliance ialah organisasi bebas, yang dibiayai oleh Kerajaan UK. Misinya ialah untuk mengumpulkan kerajaan, sektor swasta, masyarakat sivil dan organisasi antarabangsa untuk membangunkan dasar dan penyelesaian untuk melindungi kanak-kanak daripada eksploitasi dan penderaan seksual dalam talian.
14. Antara kelebihan jika Malaysia menyertai gabungan ini ialah: (a) Malaysia akan menjadi sebahagian daripada gabungan global yang berbincang dan mencari penyelesaian untuk isu CSA; (b) Malaysia boleh mendengar perkongsian pengalaman oleh negara luar berhubung cara mereka menangani CSA dan bertukar-tukar pandangan berkenaan isu.

Mesyuarat bersama Victim Support UK (VS)

15. UK mempunyai banyak NGO/organisasi yang menyediakan sistem sokongan kepada mangsa dan saksi kanak-kanak yang terkesan akibat jenayah CSA, antaranya ialah Victim Support UK (VS).
16. VS menyediakan pelbagai perkhidmatan sokongan kepada kanak-kanak dan orang muda antaranya untuk kes jenayah pelbagai, penderaan rumah tangga, penderaan seksual, *hate crime*, keganasan remaja yang serius, kes bunuh, perkhidmatan kepada saksi muda dan depresi/tekanan perasaan akibat kes bunuh diri.
17. VS juga menyediakan sistem sokongan kepada saksi kanak-kanak ketika pendengaran

kes, sebelum perbicaraan, dan selepas perbicaraan di Mahkamah.

Perbincangan Meja Bulat berhubung Isu Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan

18. Terdapat jurang perbezaan antara undang-undang Malaysia dengan undang-undang England dan Wales dalam isu mangsa kanak-kanak dan saksi dalam sistem keadilan:
 - a) Malaysia masih memerlukan pengesahan keterangan saksi bawah 16 tahun bagi kes bukan seksual, manakala sebaliknya bagi England & Wales.
 - b) Terdapat Mekanisme Khas ("*Special Measures*") diperuntukkan dalam Akta Keterangan Saksi Kanak-Kanak Malaysia 2007 [Akta 676] bagi kanak-kanak yang memberi keterangan, namun ia terhad kepada kanak-kanak berumur di bawah 16 tahun dan mangsa kanak-kanak sahaja. Kanak-kanak yang dituduh melakukan kesalahan dikecualikan daripada "*Special Measures*" tersebut menurut Seksyen 2 Akta 676.
 - c) Sementara undang-undang di England & Wales tidak mengecualikan pesalah kanak-kanak untuk diberikan "*Special Measures*", yakni sama ada kanak-kanak merupakan mangsa, saksi atau pesalah, mereka berhak kepada "*Special Measures*". Selain itu, semua saksi berumur 18 tahun ke bawah pada masa pendengaran dan rakaman video adalah layak mendapat "*Special Measures*".
 - d) *The England & Wales Youth Justice and Criminal Evidence Act (YJCEA) 1999* memperuntukkan beberapa mekanisme yang sangat baik dan *child-friendly* untuk mendapatkan pembuktian daripada kanak-kanak berbanding Akta 676.
 - e) YJCEA adalah lebih menepati prinsip hak kanak-kanak seperti yang terkandung di dalam Konvensyen Mengenai Hak Kanak-kanak 1989 (CRC) berbanding Akta 676, kerana definisi umur kanak-kanak dalam YJCEA ialah 18 tahun ke bawah berbanding Akta 676 iaitu 16 tahun ke bawah.
 - f) Malaysia tidak mempunyai perundangan yang menampung keperluan Defendan rentan, sementara England dan Wales ada. Walaupun YJCEA 1999 tidak menyediakan peruntukan sebegitu untuk Defendan, Kaedah Prosedur Jenayah (Criminal Procedure Rules) England & Wales sekarang memperuntukkannya. UK bertegas bahawa perbicaraan yang adil mestilah tersedia untuk Defendan.
19. Perundangan Malaysia, dan England & Wales mempunyai matlamat yang sama iaitu komitmen untuk mengangkat hak asasi kanak-kanak dan falsafah dalam menangani kanak-kanak yang berkonflik dengan undang-undang sebagai 'kanak-kanak dahulu dan pesalah kemudian' (*children first and offenders second*). Oleh itu, kaedah yang bersesuaian hendaklah dilaksanakan di semua Mahkamah Bagi Kanak-kanak di Malaysia supaya matlamat di atas dapat dicapai.
20. Satu lokasi yang menyediakan ruang selamat dan mesra kanak-kanak untuk tujuan temubual kanak-kanak, supaya rakaman awal perbicaraan terhadap kanak-kanak tidak dibuat di Mahkamah, merupakan satu idea yang bagus untuk dilaksanakan.
21. Malaysia wajar menghapuskan keperluan pengesahan (*requirement of corroboration*) atau amaran terhadap kebolehpercayaan keterangan kanak-kanak sebelum pensabitan.

Lawatan ke Old Bailey, Mesyuarat bersama Perkhidmatan Pendakwaan, Polis Metropolitan London dan Majlis Keadilan Orang Muda

Polis Metropolitan London

22. Dahulunya dinamakan Perkhidmatan Polis Metropolitan (MPS) dan masih dikenali sebagai Polis Metropolitan (dan secara tidak rasmi sebagai *Met Police*, *The Met*, *Scotland Yard*, atau *Yard*), ialah pasukan polis wilayah yang bertanggungjawab untuk pencegahan jenayah dan penguatkuasaan undang-undang di Greater London.
23. *The Met* diasaskan pada tahun 1892 dan merupakan perkhidmatan polis terbesar di UK dan salah satu yang terbesar di dunia. Secara geografi, ia meliputi 609 batu persegi (0.6% daripada UK). Ia juga menyumbang 25% daripada bajet kepolisan negara dan 25% daripada pegawai polis UK
24. Apabila membuat siasatan/temubual bersama saksi rentan iaitu kanak-kanak, *The Met* akan melaksanakan "*Special Measures*" seperti yang diperuntukkan dalam Seksyen 28 YJCEA 1999. Polis UK juga akan mematuhi: (i) *The young witness protocols*; (ii) *The Victims' Code*; dan (iii) *The 12 Rights*.

Lawatan ke Lighthouse

25. *Lighthouse* ialah ruang selamat untuk kanak-kanak dan orang muda yang mengalami penderaan seksual. Ia adalah tempat di mana kanak-kanak, orang muda, dan keluarga berasa didengari dan diberi sokongan.
26. *Lighthouse* menyediakan ruang untuk kanak-kanak bercerita tentang apa yang telah berlaku terhadap diri mereka. Sekiranya kanak-kanak berasa takut atau bersendirian, pasukan *Lighthouse* akan membantu. *Lighthouse* menyediakan perkhidmatan peguam, doktor, jururawat, ahli psikologi secara percuma, dan memberi ruang pengumpulan bukti yang diambil dari keterangan kanak-kanak untuk dibawa ke Mahkamah dilaksanakan secara mesra kanak-kanak
27. *Lighthouse* mempunyai konsep yang unik kerana para profesional dari bidang kesihatan, penjagaan sosial, perkhidmatan terapeutik, dan polis semuanya ditempatkan bersama di bawah satu bumbung. Konsep ini memberi manfaat kepada kanak-kanak kerana kanak-kanak tidak perlu menceritakan kisah mereka berkali-kali kepada ramai profesional di agensi yang berbeza. Ia meminimumkan kelewatan masa dalam merujuk kanak-kanak ke agensi lain kerana semua orang berada di bangunan yang sama.
28. Sebagai penutup, *Lighthouse*:
 - (a) membenarkan kanak-kanak berkongsi pengalaman traumatik mengikut cara kanak-kanak;
 - (b) memastikan kanak-kanak yakin bahawa mereka didengari;
 - (c) menyediakan kursus *psycho-education* kepada ibu bapa mangsa kanak-kanak;
 - (d) mempunyai dua peranan unik, iaitu, sebagai pegawai perhubungan penjagaan sosial dan pegawai perhubungan polis;
 - (e) menyediakan sokongan emosi kepada mangsa kanak-kanak dan keluarga; dan
 - (f) membantu menjayakan proses sistem keadilan jenayah yang terbaik.

Sumber Kuasa Undang-undang berkaitan dengan *Childs Victims and Witnesses in the Justice System* (jika ada)

A. Isu Pendamping Guaman

1. Berdasarkan **Seksyen 29H Akta Bantuan Guaman 1971**, mangsa dan saksi kanak-kanak kes penderaan seksual layak membuat permohonan kepada Ketua Pengarah Bantuan Guaman bagi khidmat pendamping guaman.
2. Berdasarkan **Seksyen 29H (1)(b) Akta Bantuan Guaman 1971**, mangsa dan saksi kanak-kanak kes penderaan seksual layak membuat permohonan kepada Ketua Pengarah Bantuan Guaman bagi khidmat pendamping guaman jika mangsa masih seorang kanak-kanak pada masa prosiding dimulakan.

** Akta Bantuan Guaman (Pindaan) 2017 adalah dilampirkan*

B. Isu Bayaran Khidmat Pendamping Guaman.

1. Berdasarkan **Peraturan 3(1) dan Jadual Kedua, Peraturan-Peraturan Bantuan Guaman (Fi & Sumbangan) 2017**, khidmat pendamping guaman adalah bercaj dan ibu bapa atau penjaga kanak-kanak perlu membuat bayaran sumbangan kepada Jabatan Bantuan Guaman.

**Peraturan-Peraturan Bantuan Guaman (Fi & Sumbangan) 2017 adalah dilampirkan*

C. Kanak-kanak Mangsa Rogol dituduh di bawah Seksyen 302 KK

1. Berdasarkan **Seksyen 375(g) Kanun Keseksaan**, seorang perempuan bawah 16 tahun adalah dianggap tidak mampu untuk memberikan persetujuan untuk melakukan persetubuhan badan. Justeru, kanak-kanak yang berumur 15 tahun yang melakukan hubungan seksual adalah dianggap telah dirogol di sisi undang-undang.
2. Apabila kanak-kanak merupakan mangsa rogol, **Perkara 19 dan 34 CRC** terpakai di mana Malaysia selaku negara pihak kepada konvensyen hendaklah memberikan perlindungan kepada kanak-kanak yang merupakan mangsa eksploitasi seksual.

Garis Panduan Pelaksanaan Semasa berkaitan dengan *Childs Victims and Witnesses in the Justice System* (jika ada, merujuk kepada Kementerian/Jabatan/Agensi)

A. Isu Pendamping Guaman

1. SOP terkini dari Jabatan Bantuan Guaman ialah sekiranya pada waktu permohonan mangsa telah berusia melebihi 18 tahun, mangsa tidak lagi layak untuk diberikan khidmat pendamping guaman iaitu secara spesifiknya khidmat perwakilan mangsa di Mahkamah.

**SOP terkini oleh Jabatan Bantuan Guaman adalah dilampirkan*

B. Isu Bayaran Khidmat Pendamping Guaman

1. SOP terkini dari Jabatan Bantuan Guaman menyatakan pengecualian fi dan sumbangan khidmat pendamping guaman boleh diberikan dalam keadaan kes dirujuk oleh mana-mana Pegawai Pelindung yang dilantik melalui pemberitahuan dalam warta.

**rujuk SOP terkini oleh Jabatan Bantuan Guaman yang dilampirkan*

2. Kanak-kanak Mangsa Rogol dituduh di bawah Seksyen 302 KK

1. Merujuk kepada kes kanak-kanak perempuan Kemaman berumur 15 tahun yang didakwa membunuh bayi lelaki baru dilahirkannya pada awal Februari 2022, kanak-kanak telah dituduh di bawah Seksyen 302 Kanun Keseksaan.

Cabaran Pelaksanaan

A. Isu Pendamping Guaman

1. Jenayah penderaan seksual terhadap mangsa berlaku ketika mangsa masih kanak-kanak dan prosiding pendakwaan terhadap tertuduh juga dilaksanakan ketika mangsa masih kanak-kanak iaitu 17 tahun. Berdasarkan peruntukkan **Seksyen 29H (1)(b) Akta Bantuan Guaman 1971**, mangsa layak mendapatkan khidmat pendamping guaman kerana mangsa masih seorang kanak-kanak pada masa prosiding dimulakan. Justeru itu, adalah menghairankan bagaimana SOP terkini Jabatan Bantuan Guaman tidak selaras dengan peruntukan di dalam Akta Bantuan Guaman 1971.

B. Isu Bayaran Khidmat Pendamping Guaman

1. Tiada peruntukan dinyatakan dalam Akta Bantuan Guaman 1971 berhubung pengecualian fi dan sumbangan khidmat pendamping guaman dalam keadaan kes dirujuk oleh mana-mana Pegawai Pelindung yang dilantik melalui pemberitahuan dalam warta.

C. Kanak-kanak Mangsa Rogol dituduh di bawah Seksyen 302 KK

1. Bagi kes kanak-kanak perempuan Kemaman tersebut, Jabatan Peguam Negara memaklumkan mereka masih dalam peringkat menilai semula pertuduhan dan menekankan cabaran mereka ialah demi menjamin keadilan kepada semua pihak bukan sahaja melibatkan hak kanak-kanak tetapi hak masyarakat atau orang awam.

Cadangan Penambahbaikan kepada Jawatankuasa Pilihan Khas

A. Isu Pendamping Guaman

1. Syor supaya SOP oleh Jabatan Bantuan Guaman selaras dengan peruntukan di dalam Akta Bantuan Guaman 1971.
2. Sewajarnya khidmat pendamping guaman diberikan secara automatik kepada semua mangsa dan saksi kanak-kanak kes penderaan seksual dan perintah tersebut hendaklah terus diberikan Mahkamah sebaik pertuduhan dibacakan.

B. Isu Bayaran Khidmat Pendamping Guaman

1. Syor supaya pengecualian fi dan sumbangan dinyatakan di dalam Akta Bantuan Guaman 1971 supaya lebih ramai keluarga mangsa kurang berkemampuan akan

tampil memohon JKM merujuk kes ahli keluarga mereka kepada Jabatan Bantuan Guaman untuk khidmat pendamping guaman secara percuma.

C. Kanak-kanak Mangsa Rogol dituduh di bawah Seksyen 302 KK

1. Syor supaya bagi kes sebegini, mangsa tidak dituduh dengan hukuman membunuh. Hal ini kerana mendakwa kanak-kanak di bawah Seksyen 302 Kanun Keseksaan sedangkan kanak-kanak juga adalah mangsa merupakan satu tindakan yang bertentangan dengan CRC. '*Special Measures*' adalah terpakai dalam kes sebegini.

D. Keperluan Pindaan Undang-undang Malaysia

1. Syor pindaan dibuat ke atas Akta Keterangan Saksi Kanak-Kanak Malaysia 2007 [Akta 676] yang masih menuntut pengesahan keterangan saksi bawah 16 tahun bagi kes bukan seksual.
2. Syor pindaan ke atas Akta 676 supaya memperuntukkan Mekanisme Khas ("*Special Measures*") bagi kanak-kanak yang memberi keterangan, kepada kanak-kanak berumur di bawah 18 tahun dan untuk turut merangkumi pesalah kanak-kanak/defendan.
3. Akta 676 tidak wajar mengecualikan pesalah kanak-kanak untuk diberikan "*Special Measures*". Semua kanak-kanak sama ada mangsa, saksi atau pesalah berhak kepada "*Special Measures*". Pindaan juga perlu dibuat pada Akta 676 supaya semua saksi berumur 18 tahun ke bawah pada masa pendengaran dan rakaman video layak mendapat "*Special Measures*".
4. Akta 676 hendaklah dipinda supaya mempunyai peruntukan yang menyediakan mekanisme yang *child-friendly* untuk mendapatkan keterangan daripada kanak-kanak seperti The England & Wales Youth Justice and Criminal Evidence Act (YJCEA) 1999.
5. Syor supaya definisi kanak-kanak di dalam Akta 676 selaras dengan Konvensyen Mengenai Hak Kanak-kanak 1989 (CRC) iaitu umur kanak-kanak ialah 18 tahun ke bawah dan bukan 16 tahun ke bawah.
6. Keperluan untuk mewujudkan peruntukan dalam Kanun Tatacara Jenayah berhubung keperluan Defendan rentan (*vulnerable Defendant*). Penekanan bahawa perbicaraan yang adil mestilah tersedia untuk Defendan.

Cadangan Khusus Untuk Agensi

OCC mendapati bahawa Pejabat Pesuruhjaya Kanak-Kanak England merupakan salah satu agensi yang telah menyumbang kepada penubuhan *Lighthouse*, dan OCC merasakan OCC harus turut menyumbang memperkenalkan model Barnahus kepada rakyat Malaysia.

~~OCC merancang untuk menghubungi Mrs Emma dari *Lighthouse* untuk mendapatkan butiran lanjut bagaimana Pesuruhjaya Kanak-Kanak England telah membantu Mrs Emma untuk~~

OCC merancang untuk menghubungi Mrs Emma dari *Lighthouse* untuk mendapatkan butiran lanjut bagaimana Pesuruhjaya Kanak-Kanak England telah membantu Mrs Emma untuk menubuhkan *Lighthouse*.

OCC telah membuat pengesyoran kepada UNICEF untuk menghubungkan OCC dengan Pejabat Pesuruhjaya Kanak-kanak England dan pasukan Iceland untuk sesi perkongsian maya mengenai model Barnahus.

OCC ingin melihat bagaimana model Barhanus boleh dipandu di Malaysia dan disesuaikan dengan sistem perundangan Malaysia, untuk membantu meningkatkan kadar pendakwaan ke atas pesalah jenayah penderaan seksual terhadap kanak-kanak.

Disediakan:



Nama:

Cop Rasmi:

IZYAN HAZWANI BINTI AHMAD
Ketua Penolong Setiausaha
Pejabat Pesuruhjaya Kanak-Kanak
Suruhanjaya Hak Asasi Manusia Malaysia
(SUHAKAM)

Disemak/ Disahkan:



Nama:

Cop Rasmi:

DR.CHEAH SWEE NEO
Setiausaha
Suruhanjaya Hak Asasi Manusia Malaysia (SUHAKAM)



**PENGERUSI JAWATANKUASA PILIHAN KHAS
HAL EHWAL WANITA DAN KANAK-KANAK DAN PEMBANGUNAN SOSIAL
MERANGKAP AHLI PARLIMEN PENERANG**

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**Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan
*Child Victims and Witnesses in the Justice System***

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa Pilihan Khas
Wanita, Kanak-kanak dan Pembangunan Sosial 23-26 Mei 2022

Laporan Ringkas

Nama	SAC Mohamad Zainal B. Abdullah	SUPT Wong Pooi Lin
Jawatan	Ketua Penolong Pengarah Pendakwaan / Undang-Undang (D5)	Penolong Pengarah Bahagian Siasatan Wanita dan Kanak-kanak (D11)
Kementerian/	Kementerian Dalam Negeri	Kementerian Dalam Negeri
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Tarikh	08/06/2022	08/06/2022
Laporan		

Pemerhatian Utama daripada Lawatan Sambil Belajar

-Sila rujuk lampiran

Sumber Kuasa Undang-undang berkaitan dengan *Child Victims and Witnesses in the Justice System* (jika ada)

-Sila rujuk lampiran

Sila beri rujukan kepada peruntukan undang-undang yang berkaitan. Dokumen lampiran juga digalakkan.

Garis Panduan Pelaksanaan Semasa berkaitan dengan Child Victims and Witnesses in the Justice System (jika ada, merujuk kepada Kementerian/ Jabatan/Agensi)

-Sila rujuk lampiran

Sila rujuk kepada garis panduan atau "standard operating procedures" yang berkaitan. Dokumen lampiran digalakkan.

Cabaran Pelaksanaan

-Sila rujuk lampiran

Cadangan Penambahbaikan

-Sila rujuk lampiran

Cadangan khusus untuk Jawatankuasa Pilihan Khas dan cadangan khusus untuk agensi anda.

Hal-hal Lain


-Tiada

Disediakan:



Nama: WONG POOI LIN) SUPT
Cop Rasmi: Penolong Pengarah D11
Siasatan Seksual Wanita & Kanak-Kanak
Jabatan Siasatan Jenayah
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Disemak/ Disahkan:



Nama:
Cop Rasmi: 
(MOHAMAD ZAINAL BIN ABDULLAH) SAC
KETUA PENOLONG PENGARAH
BAHAGIAN PENDAKWAAN UNDANG-UNDANG (D5)
JABATAN SIASATAN JENAYAH
BUKIT AMAN

Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan

Child Victims and Witnesses in the Justice System

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa Pilihan Khas
Wanita, Kanak-Kanak dan Pembangunan Sosial 23-26 Mei 2022

(1) Pemerhatian Utama Daripada Lawatan Sambil Belajar

- 1.1. Sistem perlindungan kanak-kanak yang holistik di UK untuk mengenalpasti kanak-kanak yang berisiko dan berkemungkinan dcederakan dengan memberi bantuan dan perlindungan kepada kanak-kanak. Atas kerjasama pelbagai agensi (Exp. CEOP, NCA, NCMEC, IJM) termasuk agensi kerajaan/bukan kerajaan di dalam atau luar negara untuk mengambil tindakan mengesan, menyelamatkan, memberi perlindungan kepada kanak-kanak dan mencegah penderaan selanjutnya berlaku. Setiap agensi bertanggungjawab ke atas dasar dan undang-undang negara berkenaan pendidikan, kesihatan dan kebajikan sosial kanak-kanak yang menghadapi realiti dan cabaran pada masa hadapan.
- 1.2. Pihak penguatkuasa dan pelbagai agensi bekerjasama untuk menyediakan perkhidmatan bantuan awal sekiranya kanak-kanak dan keluarga mempunyai keperluan dan memastikan mereka akan mendapat manfaat daripada bantuan awal tersebut. Jika terdapat sebab munasabah untuk mengesyaki bahawa kanak-kanak itu menderita atau mungkin mengalami kemudaratan yang ketara, maka pihak polis akan menjalankan siasatan. Sekiranya ada keperluan, maka penilaian pakar selanjutnya untuk membantu pihak polis memutuskan tindakan selanjutnya yang perlu diambil.
- 1.3. Akta Keadilan Belia dan Keterangan Jenayah 1999 (*The Youth Justice and Criminal Evidence Act 1999 - YJCEA*) diperkenalkan di Negara UK bertujuan untuk membantu saksi kanak-kanak memberikan keterangan terbaik dalam prosiding jenayah. Ia akan menjadikan proses mahkamah kurang traumatik dengan mengadakan lawatan suai kenal di mahkamah, memberi keterangan melalui video-link. Ini bertujuan untuk mengurangkan tekanan dan perasaan trauma agar saksi kanak-kanak dapat memberikan keterangan dengan baik dan penuh keyakinan. YJCEA memastikan bantuan yang sepatutnya diberi kepada saksi kanak-kanak, termasuk juga saksi orang kurang upaya dari segi mental dan fizikal semasa memberi keterangan dalam prosiding jenayah .
- 1.4. Seksyen 28 YJCEA 1999 membolehkan rakaman video atas keterangan pemeriksaan utama (*examination-in chief*), pemeriksaan balas (*cross-examination*) dan juga pemeriksaan semula (*re-examination*) dalam prosiding jenayah. Keterangan ini kemudiannya dikemukakan sebagai bukti dalam perbicaraan untuk mengelakkan

mangsa dan saksi hadir sendiri di mahkamah. Seksyen ini terpakai kepada mangsa/saksi kanak-kanak kes jenayah, termasuk mana-mana saksi mengalami gangguan mental, kecacatan fizikal akan menyebabkan kualiti keterangannya berkurangan atau terjejas. Ia bukan sahaja dapat meminimumkan mangsa/saksi kanak-kanak dengan memberi keterangan terbaik, bahkan juga memastikan hak mereka terjamin untuk perbicaraan yang adil.

- 1.5. Merujuk peruntukan YJCLA 1999, penggunaan perantara Saksi (*Intermediaries For Justice*) adalah salah satu langkah khas yang disediakan untuk saksi kanak-kanak di bawah umur 18 tahun. Pegawai perantara saksi berdaftar dengan Kementerian Kehakiman setelah berjaya menamatkan latihan dan penilaian. Mereka memainkan peranan penting dengan menggunakan kepakaran, pengetahuan dan pengaruh untuk meningkatkan kesedaran tentang keperluan komunikasi mangsa / saksi yang berdepan konflik undang-undang. Pengantara saksi ialah profesional terlatih dengan kemahiran pakar dalam komunikasi. Pengantara saksi bertindak secara saksama dengan membantu berkomunikasi antara saksi dengan mahkamah, peguam dan polis. Program ini memperkenalkan penggunaan perantara saksi untuk membantu kanak-kanak termasuk orang dewasa yang berkeperluan dalam sistem keadilan jenayah. Seseorang saksi mungkin memerlukan bantuan Perantara Berdaftar disebabkan faktor umur, kelemahan pembelajaran, kecacatan atau gangguan mental atau fizikal. Dengan visi untuk membuka 'pintu yang boleh diakses' kepada keadilan; semua orang memahami soalan yang diajukan dan boleh memberitahu apa yang telah berlaku. Inisiatif ini membolehkan pegawai polis dan pendakwa raya mendapat bantuan dan sokongan profesional apabila diperlukan.
- 1.6. Kerajaan mewujudkan *Child Exploitation and Online Protection Centre (CEOP)* dan mengiktiraf keperluannya ke arah perlindungan kanak-kanak/golongan orang muda (sehingga umur 18 tahun) dalam era digital. Peranan CEOP adalah untuk menangani penderaan seksual dan eksploitasi kanak-kanak (CSA) dalam / luar talian. CEOP bekerjasama dengan rakan kongsi perlindungan kanak-kanak di seluruh UK dan luar negara untuk mengenalpasti ancaman utama kepada kanak-kanak dan menyelaras aktiviti menentang ancaman ini untuk membawa pesalah ke mahkamah.
- 1.7. Kerjasama antara pegawai penguatkuasa dengan pihak berkepentingan, institusi keselamatan siber, institusi pendidikan, pertubuhan bukan kerajaan (NGO), agensi kerajaan dan sektor swasta adalah mustahak bagi mencari kaedah terbaik dalam menangani jenayah CSA. Semua pihak harus memperkukuhkan kerjasama sedia ada dan mengenalpasti jurang yang ada untuk menambahbaikkan agendabagi menjaga keselamatan kanak-kanak serantau. Kerjasama ini akan mengeratkan lagi hubungan

agensi-agensi berkaitan dengan memberi pemahaman yang lebih mendalam. Selain daripada membangun dan mengekalkan perkongsian yang saling menguntungkan dengan pihak berkepentingan, ia juga dapat menjalankan inisiatif bersama dalam usaha memerangi jenayah CSA secara berkesan di rantau ini.

(2) Sumber kuasa Undang-Undang berkaitan dengan Child Victims and Witnesses in the Justice System (Jika ada)

- 2.1. Akta Polis 1967 (Akta 344)
- 2.2. Kanun Keseksaan (Akta 574)
- 2.3. Kanun Tatacara Jenayah (Akta 593)
- 2.4. Akta Kanak-Kanak 2001 (Akta 611)
- 2.5. Akta Keganasan Rumah Tangga 1994 (Akta 521)
- 2.6. Akta Kesalahan-Kesalahan Seksual Terhadap Kanak-Kanak 2017 (Akta 792)
- 2.7. Akta Antipemerdagangan Orang dan Antipenyeludupan Migran 2007 (Akta 670)
- 2.8. Akta Mahkamah Juvana 1947 (Akta 90)
- 2.9. Akta Keterangan 1950 (Akta 56)
- 2.10. Akta Keterangan Saksi Kanak-kanak 2007(Akta 676)
- 2.11. Akta Bantuan Guaman 1971 (Akta 26)
- 2.12. Akta Komunikasi dan Multimedia 1998 (Akta 588)
- 2.13. Hukuman Tetap Ketua Polis Negara (HTKPN)
- 2.14. Arahan-Arahan Ketua Polis Negara/Timbangan ketua Polis Negara/Pengarah Jabatan Siasatan Jenayah
- 2.15. Konvensyen Bangsa-Bangsa Bersatu Mengenai Hak Kanak-kanak atau Convention on Right of Children (CRC) United Nation

(3) Garis Panduan Pelaksanaan Semasa berkaitan dengan Child Victims and Witnesses in the Justice System (jika ada, merujuk kepada kementerian/Jabatan/Agensi)

- 3.1. Akta Kesalahan-Kesalahan Seksual terhadap Kanak-Kanak 2017 (Akta 792) yang telah berkuat kuasa pada 10 Julai 2017 serta penubuhan Mahkamah Jenayah Seksual Terhadap Kanak-Kanak pada 22 Jun 2017. Justeru, Garis Panduan Khas yang terpakai kepada semua pihak dalam pengendalian kes kesalahan seksual terhadap kanak-kanak telah digubal bagi memastikan matlamat serta tujuan Akta 792 dapat dicapai dengan lebih berkesan. Objektif Garis Panduan Khas ini dapat membantu mangsa/saksi Kanak-Kanak dan keluarga mereka secara khasnya serta orang awam secara amnya bermula dari peringkat aduan sehingga kes selesai dibicarakan.
- 3.2. Garis Panduan Khas ini terbahagi kepada 4 tajuk utama yang berikut:
 - 3.2.1 Tajuk 1: Penerimaan Laporan dan Siasatan.

Tajuk ini menerangkan dan memberi panduan kepada agensi yang terlibat berkaitan dengan kes kesalahan seksual terhadap Kanak-Kanak pada peringkat awal iaitu membuat dan menerima laporan serta menjalankan siasatan.
 - 3.2.2. Tajuk 2: Perbicaraan
Tajuk ini ialah mengenai tatacara pengendalian kes di Mahkamah Jenayah Seksual Terhadap Kanak-Kanak yang merangkumi keseluruhan proses mulai kes didaftar di Mahkamah sehingga kes tersebut selesai termasuk ciri-ciri khas dalam pengendalian saksi Kanak-Kanak bagi kes kesalahan seksual di Mahkamah semasa perbicaraan.
 - 3.3.3. Tajuk 3: Pengendalian Mangsa/Saksi Kanak-Kanak
Tajuk ini membincangkan mengenai pengendalian mangsa/saksi Kanak-Kanak di Mahkamah. Memandangkan mangsa/saksi Kanak-Kanak akan berhadapan dengan pelbagai pihak seperti Mahkamah, Polis Diraja Malaysia (PDRM), Timbalan Pendakwa Raya, Peguam, Jabatan Bantuan Guaman, Jabatan Kebajikan Masyarakat, Badan Bukan Kerajaan dan sebagainya selain pelaku sendiri, maka tajuk ini akan membincangkan dengan teliti bagaimana pihak-pihak tersebut mengendalikan mangsa/saksi Kanak-Kanak dari peringkat pra bicara sehingga hari perbicaraan mengikut peranan/tanggungjawab masing-masing.
 - 3.3.4. Tajuk 4: Khidmat Perlindungan dan Sokongan
Tajuk ini membincangkan mengenai khidmat perlindungan dan sokongan yang boleh diberikan oleh agensi-agensi yang terbabit dalam membantu mangsa/saksi

Kanak-Kanak. Khidmat ini akan diberikan sejurus selepas aduan diterima sehingga selesai perbicaraan.

Nota : Sesalinan Garis Panduan Khas Untuk Mengendalikan Kes Kesalahan Seksual

(4) Cabaran Pelaksanaan

- 4.1. Berikutan kompleksiti modus operandi jenayah eksploitasi seksual terhadap kanak-kanak di media sosia, pihak polis menemui kesukaran bagi memperolehi keterangan/bukti digital dengan menggunakan peralatan sedia ada tidak seiring dengan perkembangan inovasi teknologi dan trend jenayah semasa. Selain itu ada keperluan perkongsian pengalaman dan pengetahuan melalui jalinan kerjasama berterusan pelbagai agensi dari dalam dan luar negara bagi penyiasatan kes jenayah rentas sempadan seperti eksploitasi seksual dalam talian. Kemahiran dan kepakaran teknikal yang khusus amat diperlukan bagi pengumpulan keterangan digital kerana keterangan digital mudah hilang dan tercemar. Tambah lagi penggunaan teknologi simpanan data di server yang berpangkalan di luar negara menyumbang kepada kompleksiti dalam mengakses maklumat kerana ia melibatkan proses kerja yang panjang disebabkan keperluan kerjasama pelbagai agensi dari dalam dan luar negara serta kepelbagaian kepakaran.
- 4.2. Tugas risikan di internet terutamanya dark web lebih sukar berbanding tugas risikan secara tradisional, maka perlu menjalinkan kolaborasi dengan pelbagai agensi penguatkuasaan undang-undang antarabangsa seperti Federal Bureau of Investigation (FBI), Australia Federal Police (AFP), National Crimes Agency (NCA) dan lain-lain yang mempunyai kepakaran dalam membantu tugas risikan ini.
- 4.3. Keterangan mangsa dan saksi-saksi yang kukuh adalah penting bagi mengoptimumkan pendakwaan ke atas pelaku jenayah. Cabaran utama dalam proses merakam keterangan mangsa / saksi kanak-kanak disebabkan keupayaan mental dan fizikal seseorang kanak-kanak terbatas kerana faktor usia untuk memahami apa yang berlaku dan memberi respon balas dalam membantu siasatan. Walaupun pasukan PDRM telah menggunakan pendekatan yang khusus bagi merakam keterangan mangsa / saksi kanak-kanak dan orang kurang upaya dengan melalui kaedah rakaman video yang seiring dengan peruntukan undang-undang di bawah Akta Keterangan Saksi Kanak-Kanak 2007. Walau bagaimanapun, sebelum rakaman dibuat beberapa proses awal perlu dilakukan oleh pegawai terlatih yang mempunyai kepakaran dalam bidang psikologi kanak-kanak. Proses kerja rakaman ini mengambil masa yang lama dengan membina rapport dan memastikan mangsa / saksi dalam keadaan emosi yang stabil dan bersedia untuk memberi keterangan. Proses rakaman juga melibatkan beberapa pegawai yang mempunyai peranan dan tanggungjawab khusus iaitu pegawai perakam, pegawai temubual, pegawai psikologi dan jurubahasa jika perlu. Sebaik selesai rakaman pegawai perakam perlu menyediakan transkrip temubual yang dirakam dalam bahasa asal yang digunakan oleh saksi. Pegawai perakam dan pegawai temubual ini perlu menghadiri latihan

khusus dalam mengendalikan rakaman saksi kanak-kanak. Namun disebabkan kekangan perjawatan, pegawai terlatih ini terpaksa bertukar keluar daripada bahagian ini apabila terlibat dengan kenaikan pangkat atau pertukaran atas sebab-sebab tertentu. Oleh itu, kepakaran mereka tidak dapat dikekalkan untuk pengoperasian rakaman keterangan kanak-kanak dan amat merugikan pasukan kerana perlu melibatkan kos bagi melahirkan pegawai pengganti.

- 4.4. Pegawai Penyiasat bersifat '*multi-tasking*' dalam mengurus dan menangani kes-kes jenayah penderaan dan seksual terhadap wanita dan kanak-kanak. Selain daripada siasatan, pegawai polis juga perlu menyediakan program pencegahan jenayah seksual terhadap kanak-kanak dan program pendidikan kepada orang ramai melalui kempen kesedaran di peringkat sekolah, sektor awam, industri, institusi pengajian tinggi dan komuniti. Selain itu dengan bantuan pegawai kaunseling, pegawai polis juga perlu memberi sokongan emosi dan sokongan psikologi kepada mangsa traumatik, pertolongan cemas psikologi dan lain-lain sekiranya perlu semasa siasatan dijalankan.

(5) Cadangan Penambahbaikan

- 5.1. Kemajuan teknologi maklumat dan komunikasi mewujudkan dunia tanpa sempadan dalam komunikasi dan perhubungan. Bagi memperkasa kapasiti dan keupayaan penguatkuasaan undang-undang bagi menangani jenayah terhadap kanak-kanak dalam talian, penggunaan sistem berteknologi tinggi seiring dengan peredaran zaman termasuklah memberi latihan berterusan untuk melahirkan pegawai polis yang cekap dan berintegriti bukan sahaja meningkatkan penyampaian perkhidmatan kepolisan kepada masyarakat mahupun dapat mengharumkan nama pasukan PDRM.
- 5.2. Merujuk peruntukan undang-undang yang sedia ada di Malaysia, Undang-undang secara umumnya mengiktiraf kemampuan dan kredibiliti kanak-kanak memberikan keterangan dalam perbicaraan di mahkamah. Namun demikian, disebabkan faktor umur dan ketidakmatangan, kanak-kanak selalu berhadapan dengan pelbagai kesukaran dalam memberikan keterangan semasa perbicaraan sekali gus berkemungkinan menjejaskan sama ada kredibiliti ataupun nilai keterangan mereka dari sudut perundangan. Kaedah rakaman video yang digunakan sebagai keterangan pemeriksaan utama, pemeriksaan balas dan juga pemeriksaan semula dalam prosiding mahkamah di bawah **Seksyen 28 YJCEA 1999** merupakan prosedur terbaik dan perlu dicontohi. Ia bukan sahaja dapat mengurangkan trauma saksi kanak-kanak bahkan juga dapat memoptimumkan pendakwaan dengan tanpa kehadiran saksi kanak-kanak

di mahkamah sepanjang prosiding perbicaraan sehingga keputusan penghakiman dibuat seiring dengan seksyen 17 dan 18 AKSTK 2017 dimana keterangan kanak-kanak adalah kompeten dan tanpa keterangan sokongan.

- 5.3. Merujuk Barisan depan Pasukan PDRM masih belum ada satu pendekatan yang konsisten dalam pengurusan mangsa atau saksi kanak-kanak dalam semua kes jenayah terutamanya kes jenayah seksual terhadap kanak-kanak. Selain daripada mengenalpasti sensitiviti masyarakat berbilang kaum dan kepelbagaian budaya berdasarkan etnik, jantina, tahap pendidikan, barisan depan PDRM adalah perlu menyedari bahawa setiap mangsa adalah individu yang mempunyai keperluan dan kelemahan yang berbeza. Pusat Latihan Kepolisian PDRM perlu menyenaraikan dalam jadual pembelajaran atau dalam kurikulum latihan Polis bagi membangunkan kesedaran berhubung dengan pengurusan mangsa dan saksi kanak-kanak dalam kes jenayah agar mengurangkan perasaan trauma dan tekanan apabila temubual oleh polis.
- 5.4. Trend jenayah melibatkan internet, media sosial dan aplikasi digital menunjukkan ancaman jenayah yang kian berkembang dan memberi impak yang besar ke atas masyarakat dunia terutama kanak-kanak dan wanita. Bagi menangani jenayah penderaan dan eksploitasi seksual dalam talian, PDRM perlu menjalinkan kerjasama dengan pelbagai agensi kerajaan, termasuk NGO yang berkaitan untuk membangun pelan tindakan dan mekanisme untuk menambak SOP dan prosedur yang sedia ada bagi meningkatkan kesedaran masyarakat terhadap keselamatan dan kesejahteraan kanak-kanak di Malaysia. Pasukan PDRM dipertanggungjawab untuk berkoordinasi di antara pihak penguatkuasa, agensi kerajaan dan bukan kerajaan untuk memastikan mangsa kesalahan seksual kanak-kanak mendapat keadilan dan perlindungan yang sewajarnya.
- 5.5. Berbanding jenis jenayah lain, jenayah seksual terhadap Kanak-Kanak adalah bentuk kekejaman yang paling teruk kerana ia boleh memberi pelbagai kesan jangka pendek dan jangka panjang kepada seorang Kanak-Kanak. Ini merupakan suatu masalah atau isu masyarakat yang perlu ditangani secara holistik dan serius kerana kegagalan menanganinya maka hancurlah masa hadapan negara ini. Maka adalah perlu perkhidmatan seseorang Perantara Berdaftar Saksi (Intermediaries For Justice) berkepakaran dan berpengetahuan bagi membantu berkomunikasi antara saksi kanak-kanak dengan mahkamah, peguam dan polis. Langkah-langkah ini menjadi amalan baik berkaitan bekerja dengan kanak-kanak yang berdepan konflik undang-undang serta menambah baik pengalaman mangsa dan saksi kanak-kanak dalam proses keadilan jenayah.

- 5.6. Walaupun agensi penguatkuasaan undang-undang di Malaysia mempunyai kepakaran sendiri dalam bidang siasatan, risikan dan operasi pencegahan, namun dengan ditubuhkan agensi penguatkuasaan undang-undang lain (contohnya : NCA di United Kingdom, FBI di United State) agar seiring dengan negara lain dalam membendung jenayah seksual khususnya kepada golongan rentan wanita dan kanak-kanak. Ia boleh membangunkan dan menyampaikan keupayaan pakar bagi pihak penguatkuasa undang-undang untuk menjangka dan menangani secara berkesan ancaman dan trend yang muncul. Dengan memperluaskan kerjasama ini pihak polis dapat menyelamatkan beribu-ribu kanak-kanak dan orang muda bagi memastikan mereka selamat daripada penderaan dan eksploitasi seksual dalam talian.

6. Hal-Hal Lain.

-Tiada-



**PENGERUSI JAWATANKUASA PILIHAN KHAS
HAL EHWAL WANITA DAN KANAK-KANAK DAN PEMBANGUNAN SOSIAL
MERANGKAP AHLI PARLIMEN PENERANG**

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Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan *Child Victims and Witnesses in the Justice System*

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa Pilihan Khas
Wanita, Kanak-kanak dan Pembangunan Sosial 23-26 Mei 2022

Laporan Ringkas

Nama	Elsie Primus
Jawatan	Sessions Court Judge Sessions Court Kota Kinabalu Sabah
Kementerian/ Jabatan/ Agensi	Judiciary
No. Telefon	0882683005
Emel	elsieprimus@jkkk.gov.my
Tarikh Laporan	08.06.2022

Pemerhatian Utama daripada Lawatan Sambil Belajar

1. The use of pre-recorded evidence on children will ensure that the child witness does not have to narrate the incident repeatedly to the relevant agencies such as police, social workers and to the court. It minimises delay and preserve the best evidence of the child. Even if the case is ordered for a retrial by the appellant court for whatever reasons, the evidence does not need to be repeated.
2. Pre-trial recordings are conducted away from the court building.
3. An Intermediary in UK must be a certified / licensed intermediary as compared to an intermediary in Malaysia.
4. All witnesses under the age of 18 at the time of the hearing or video recording are eligible for special measures in UK Court as compared to child victim in Malaysia where special procedural protections is only available to children under the age of 16 as provided for under the Evidence of Child Witnesses Act 2007.

5. Corroboration of the evidence of a witness under the age 16 years is no longer required whereas corroboration of the evidence of a witness under 16 years is required in a non-sexual case in Malaysia.
6. Cross-examination of a witness, and any re-examination, to be recorded by means of a video recording. This is not available in Malaysia.
7. Visit to the Lighthouse is the highlight of my study visit to UK. Lighthouse is a multi- agency support centre for children and young people who are abused or who have experienced any form of exploitation. They are given support from the start, including medical inspection and advocacy. Therapeutic supports are also given to parents of these children and young people.

Sumber Kuasa Undang-undang berkaitan dengan *Child Victims and Witnesses in the Justice System* (jika ada)

1. Child Act 2001
2. Penal Code
3. Criminal Procedure Code
4. Evidence Act 1950
5. Evidence of Child Witnesses 2007
6. Sexual offences against Children Act 2017

Sila beri rujukan kepada peruntukan undang-undang yang berkaitan. Dokumen lampiran juga digalakkan.

Garis Panduan Pelaksanaan Semasa berkaitan dengan *Child Victims and Witnesses in the Justice System* (jika ada, merujuk kepada Kementerian/ Jabatan/Agensi)

Garis Panduan Khas Untuk Mengendalikan Kes Kesalahan Seksual Terhadap Kanak-Kanak Di Malaysia (hereinafter to be referred as "the said Guideline").

Sila rujuk kepada garis panduan atau "standard operating procedures" yang berkaitan. Dokumen lampiran digalakkan.

Cabaran Pelaksanaan

1. Page 20, No (2) (d) of the said Guideline states: -

"PDRM juga menyediakan khidmat kaunseling kepada pengadu/mangsa/saksi sebelum sesi temu bual dan semasa proses siasatan dibuat (sekiranya diperlukan). Khidmat Sokongan mangsa dan kaunseling

diberikan oleh pegawai psikologi dan penolong pegawai psikologi atau kaunselor yang berdaftar dari Unit Sokongan Mangsa, Bahagian Siasatan Seksual, Wanita dan Kanak-Kanak (D11)".

Observation: As D11 is only set up in Major Town such as Kota Kinabalu and Kuching, it may not be possible to provide a psychologist to offer counselling to victim / child witness in rural area such as Pitas, Kota Marudu etc.

2. Page 20, No (2) (e) of the said Guideline states: -

"PDRM memaklumkan pengadu/mangsa tentang perkhidmatan Pendamping Guaman (Legal Companion). Khidmat Pendamping Guaman diberikan oleh JBG kepada mangsa yang berumur di bawah 18 tahun pada masa perbicaraan".

Observation: Due to geographical location in Sabah & Sarawak, a legal Companion is not always available especially in a rural area.

3. Page 55 (i) of the said Guideline states: -

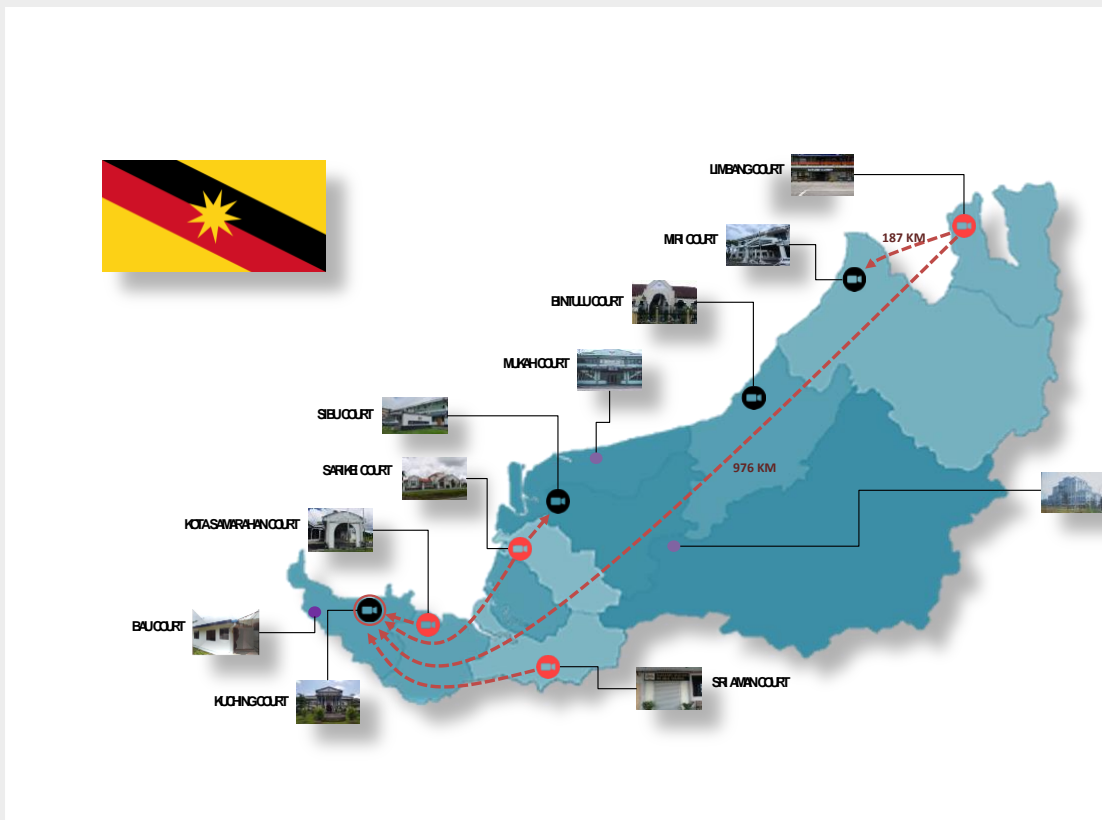
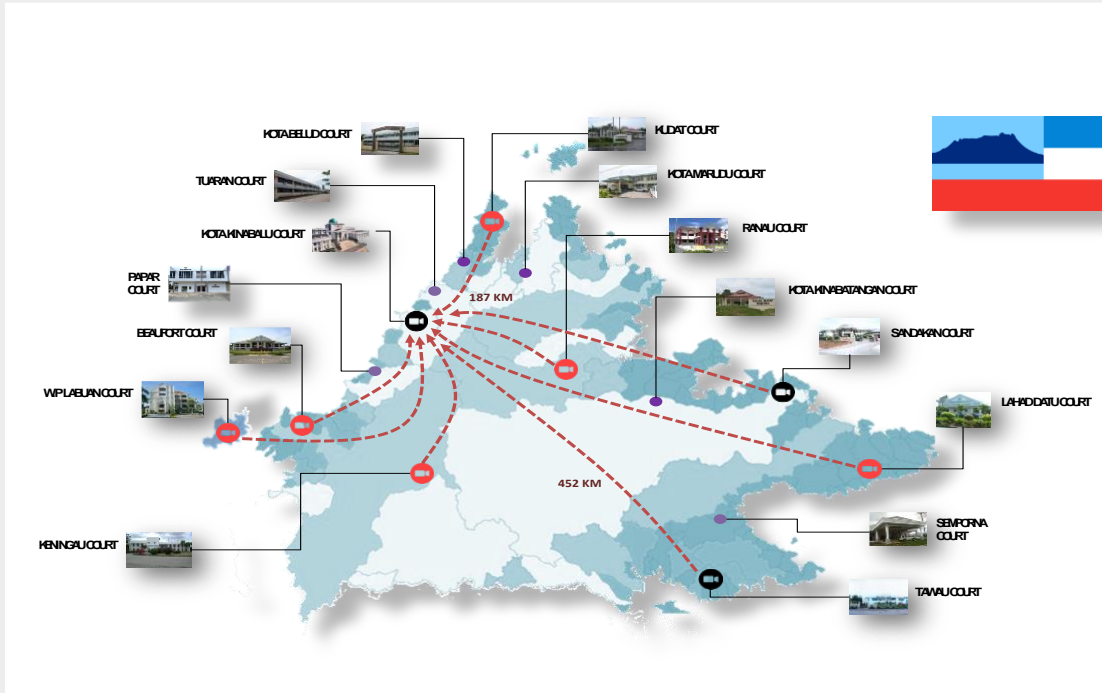
"Rakaman video mangsa/saksi kanak-kanak boleh dikemukakan sebagai gantikan kepada pemeriksaan utama menurut Akta Keterangan Saksi Kanak-Kanak 2007 (Akta 676)..."

Observation: Video recording of the oral evidence of the child witness in a form of an interview conducted between a police officer and the child witness is sometimes not used as evidence of examination-in-chief of the child witness due to the following reasons: -

- i) No proper video recording facility in the police station especially in a small district.
- ii) The low quality of the video recording.
- iii) Police officers are not properly trained to conduct the interview leading to inadmissibility of evidence taken during the interview.

Cadangan Penambahbaikan

1. Facility – Evidence by live link



- Most of the Courts in major town in Sabah and Sarawak are fully equipped with video link to allow a child witness to give evidence via live link. However, circuit courts such as Papar, Kota Kinabatangan, Kota Belud, Kota Marudu and Semporna for Sabah and Mukah, Kapit, Bau for Sarawak are not equipped with the same equipment and facility. Although the child witness would still be able to use the video link in the nearest court, it is hope that all circuits court in Sabah and Sarawak are also equipped with the such equipment and facility.

2. Capacity Building

D11

- PDRM has established D11 in each state in Malaysia. However, due to the geographical circumstances in Sabah and Sarawak, there is a need to establish D11 at least according to zones or administrative divisions for each state for example Kudat Division, West Coast Division, Interior Division, Sandakan Division and Tawau Division for Sabah.

Protection officer (Pegawai Pelindung) and Legal Companion

- Protection officer and Legal Companion should be given necessary and ongoing training in dealing with child witnesses.

Intermediary

Section 8 of the Evidence of Child Witness Act 2007 states as follows: -

" 8. Examination of child witness through intermediary

- (1) *Any examination of a child witness may be conducted through the Court or **an interpreter** or **any other person** authorized by the Court, acting as an intermediary, for the purposes of this section.*
- (2) *The function of an intermediary is to communicate –*
 - (a) *To the child witness, questions put to the child witness; and*
 - (b) *To any person asking such questions, the answers given by the child witness in reply to them.*

and to explain such questions or answers so far as necessary to enable them to be understood by the child witness.

- (3) *An intermediary shall not –*
- (a) prompt the child witness to answer any question.*
 - (b) influence the answers of the child witness; or*
 - (c) disrupt the questioning of the child witness”.*

- Section 8 above shows that the role and the various tasks of the intermediary is equally important as they aid in ensuring effective communication with vulnerable witnesses especially young children, child witness suffering from a disability or disorder affecting communication (autistic spectrum) during examination. However, some interpreters may face difficulties in communicating with vulnerable witnesses. Hence, appropriate training should be given to them to equip them with proper skills and knowledge as intermediary.
- It is necessary to define **“any other person”** in Section 8 to include among others psychologist, counsellor, teacher, nurse, etc as it is practiced in UK.

3. Law

- Amendments to the law is required to ensure that definitions are consistent. In some statues the word ‘child’ is used. In other statutes, ‘infant’ or even ‘young person’ is used.

4. Training to Judges and Prosecutors

- Judges and Prosecutors dealing with child witnesses should be given training before hearing and/or conducting such cases in Court.

Cadangan khusus untuk Jawatankuasa Pilihan Khas dan cadangan khusus untuk agensi anda.

Hal-hal Lain

1. Appointment of Sub-Committee in each state in Malaysia

-Agencies in each state have its own struggle and challenges. Hence, a sub-committee is necessary to ensure consultation is made with all important stakeholders in each state and to come up with recommendation to cater to the needs of each state in dealing with child victim and witnesses in the Justice System.

Disediakan:

t.t

Nama: ELSIE PRIMUS
SESSIONS COURT JUDGE
KOTA KINABALU SABAH
Cop Rasmi:

Disemak/ Disahkan:

t.t

Nama: NIXON KENNEDY KUMBONG
REGISTRAR OF THE HIGH COURT OF SABAH & SARAWAK
Cop Rasmi:



**PENGERUSI JAWATANKUASA PILIHAN KHAS
HAL EHWAL WANITA DAN KANAK-KANAK DAN PEMBANGUNAN SOSIAL
MERANGKAP AHLI PARLIMEN PENERANG**

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**Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan
*Child Victims and Witnesses in the Justice System***

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa Pilihan Khas
Wanita, Kanak-kanak dan Pembangunan Sosial 23-26 Mei 2022

Laporan Ringkas

Nama	Datin Kunasundary a/p Marimuthu
Jawatan	Hakim Mahkamah Sesyen / Jusa Khas C
Kementerian/ Jabatan/ Agensi	Jabatan Perdana Menteri Pejabat Ketua Pendaftar Mahkamah Persekutuan Malaysia Mahkamah Jenayah Seksual Terhadap Kanak-Kanak Putrajaya
No. Telefon	03-26017175 / 03-26017102
Emel	kunasundary@kehakiman.gov.my
Tarikh Laporan	

Pemerhatian Utama daripada Lawatan Sambil Belajar
Setiap agensi terlibat memberi keutamaan kepada kebajikan seseorang kanak-kanak sama ada kanak-kanak itu mangsa atau pesalah. Terdapat satu sistem menyeluruh di mana setiap agensi terlibat bekerjasama untuk memastikan kebajikan seseorang kanak-kanak tidak terabai.
Sumber Kuasa Undang-undang berkaitan dengan <i>Child Victims and Witnesses in the Justice System</i> (jika ada)
Di Malaysia: Akta Kanak-Kanak 2001 Akta Keterangan Saksi Kanak-Kanak 2007 Akta Kesalahan- Kesalahan Seksual Terhadap Kanak-Kanak 2017 Akta Keterangan 1950 Kanun Keseksaan
<i>Sila beri rujukan kepada peruntukan undang-undang yang berkaitan. Dokumen lampiran juga digalakkan.</i>

Garis Panduan Pelaksanaan Semasa berkaitan dengan Child Victims and Witnesses in the Justice System (jika ada, merujuk kepada Kementerian/ Jabatan/Agensi)

Garis Panduan Khas mengendalikan kes Kesalahan Seksual Terhadap Kanak-Kanak di Malaysia

Sila rujuk kepada garis panduan atau "standard operating procedures" yang berkaitan. Dokumen lampiran digalakkan.

Cabaran Pelaksanaan

- Tiada 'ground rules hearing'. Pihak terlibat dalam prosiding bicara tidak peka kepada hakikat bahawa saksi utama merupakan seorang kanak-kanak dan bukanlah seorang dewasa.
- Perbicaraan melibatkan kanak-kanak yang sangat muda mengambil waktu perbicaraan yang panjang disebabkan kanak-kanak tidak memberi keterangan dengan lancar.
- Kakitangan yang terlibat dengan pengendalian kanak-kanak tidak mempunyai training.

Cadangan Penambahbaikan

- Mengujudkan ground rules hearing seperti di U.K.
- Mengambil tindakan untuk memastikan pihak-pihak terlibat 'all stake holders' mematuhi garis panduan khas mengendalikan kes Kesalahan Seksual Terhadap Kanak-Kanak di Malaysia.
- Memberi kursus kepakaran kepada Hakim dalam mengendalikan kes melibatkan kanak-kanak.
- Memberi kursus kepakaran kepada jurubahasa-jurubahasa yang bertindak sebagai perantara di bawah 5.8 Akta Keterangan Saksi Kanak-Kanak 2007

Cadangan khusus untuk Jawatankuasa Pilihan Khas dan cadangan khusus untuk agensi anda.

Hal-hal Lain

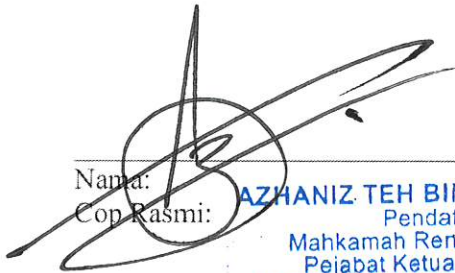
Pada hemat saya setiap pembaharuan hanya akan mencapai matlamatnya sekiranya setiap agensi yang terlibat bekerjasama demi memberi keutamaan kepada 'best interest of the child'.

Disediakan:



Nama: **DATIN KUNASUNDARY A/P MARIMUTHU**
Cop Rasmi: **HAKIM
MAHKAMAH JENAYAH SEKSUAL
TERHADAP KANAK-KANAK
PUTRAJAYA**

Disemak/ Disahkan:



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Mahkamah Rendah Malaya
Pejabat Ketua Pendaftar
Mahkamah Persekutuan Malaysia
Istana Kehakiman
PUTRAJAYA**

**REPORT ON WORKING VISIT
PARLIAMENTARY SPECIAL SELECT COMMITTEE
ON WOMEN AND CHILDREN AND SOCIAL
DEVELOPMENT
23 - 26 MAY 2022
LONDON, UNITED KINGDOM**

INTRODUCTION

[1] Twenty delegates from Malaysia were sent to London, United Kingdom to attend Working Visit Parliamentary Special Select Committee on Women and Children and Social Development. The Malaysian delegates were headed by Hon. Dato' Sri Azalina Othman Said, Chairperson PSSC, Constituency of Pengerang. Accommodation was provided at the Hyatt Regency London – The Churchill 30 Portman Square, London W1H 7BH, United Kingdom.

[2] **List of delegates:**

Parliament of Malaysia

(xvii) Hon. Dato' Sri Azalina Othman Said

- i. Chairperson PSSC
- ii. Constituency of Pengerang

(ii) Hon. Mr. Ahmad Tarmizi bin Sulaiman
Constituency of Sik

(iii) Hon. Fuziah binti Salleh
Constituency of Kuantan

(iv) Hon. Mr. Ahmad Fahmi bin Mohamed Fadzil
Constituency of Lembah Pantai

(v) Hon. Alice Lau Kiong Yieng
Constituency of Lanang

(vi) Hon. Hannah Yeoh
Constituency of Segambut

(vii) Ms. Loh Jing Rou
Research officer

Ministry of Health

(viii) Dr. Zakiah binti Mohd Said

Family Health Development Division

Department of Social Welfare, Ministry of Family and Community
Development

(ix) Mdm. Fatimah Zuraidah Salleh

Deputy Head Director (Operations)

Ministry of Home Affairs

(x) Dato' Haji Abdul Halim bin Haji Abdul Rahman

Deputy Secretary General

(xi) Mr. Asrul Shah bin Razali

Principal Assistant Secretary

Crime and Terrorism Prevention Unit, Security Division

Federal Court of Malaysia

(xii) Justice Madam Evrol Mariette Peters

Judge, High Court of Kuala Lumpur

(xiii) Madam Datin Kunasundry a/p Marimuthu

Session Court Judge

Sexual Crime Court Against Children Putrajaya

(xiv) Madam Elsie Primus

Sessions Court Judge at Kota Kinabalu Court, Sabah

Human Rights Commission of Malaysia (SUHAKAM)

(xv) Mdm. Izyan Hazwani binti Ahmad

Principal Assistant Secretary, Office of the Children's
Commissioner (OCC), Human Rights Commission of
Malaysia (SUHAKAM)

Malaysian Royal Police
(xvi) SAC Mohamad Zainal bin Abdullah

Principal Assistant Director (D5), Prosecution / Legal
Division, Criminal investigation Department

(xvii) Supt. Wong Pooi Lin

Assistant Director Sexual, Women and Child Investigation
Division (D11), Criminal Investigation Department

Other members and assistants to Hon. Dato' Sri Azalina Othman
Said

(xviii) Ms. Mona Hanim binti Sheikh Mahmud

Officer to the Special Advisor on Law and Human Rights
to the Prime Minister (Malaysia)

(xix) Ms. Sri Vidyha
CRIB

(xx) Ms. Selvi
UNICEF

[3] The objectives of the conference are to maintain good relations between the two (2) countries and Malaysia's commitment by sending a delegation on behalf of the Malaysian Judiciary as the Crown Court Judge, Crown Prosecution Service and London Metropolitan Police have agreed to brief and share good practices and experience in handling cases involving child victims and witnesses.

[4] The details in the following activity report were discussed:

ACTIVITY REPORT

Day 1: 23 May 2022 (Monday)

[5] Delegates were from the Malaysia Parliamentary Special Select Committee on Women and Children and Social Development and stakeholders from PDRM, JKM, KKM and the Judiciary, which comprised 3 groups, A1, A2 and B. Judges were placed in group A1. Briefing was conducted by Datuk Seri Azalina Othman and the roundup by Selvi from Unicef on site visits and talking points on law and policy.

Day 2: 24 May 2022 (Tuesday)

AM

[6] First half of the day - Judges in Team A1 visited the National Crime Agency to listen presentations on statistics. The speakers, Sarah Blight and Sean Sutton from the NCA, explained the preventive measures on sexual offenders and how to identify them before even they commit the crime. A lot had been invested into technology and manpower.

[7] Next, we had speakers from the Internet Watch Foundation, Susie Hargreaves who gave us an overview of how they monitor the open web for child pornography.

[8] Chloe Setter our third speaker from WeProtect gave us an insight into her organisation but her emphasis was getting Malaysia to sign up as a member.

[9] Takeaway for Malaysia: Level of awareness and non-legal support in Malaysia lacking, but may be due to lack of resources. Also the agencies are not centralised and this may create obstacles in knowledge-sharing.



Delegates at the NCA.

PM

[10] The afternoon session was held at the centre called VictimSupport and we were addressed by speakers Ben Donner and Jeffrey DeMarco. Again, their mission is laudable as they provide support to child victims/witnesses/ from, beginning to end. The challenge again is funding and resources.

[11] Takeaway for Malaysia: Level of awareness and non-legal support in Malaysia lacking, but may be due to lack of resources. Also, the agencies are not centralised and this may create obstacles in knowledge-sharing.



Delegates at the VictimSupport

Tea reception - Networking session.

[12] Discussion with the civil family court judge Justice Julien Foster, and criminal court judge specialising in sexual offences against child, Patricia Lees.

[13] Justice Julien Foster gave his account of how family judges conduct their cases, and the different terminologies used now to replace terminologies such as guardianship, custody, parents' rights, etc. Also explained how child and spouse abuse allegations are also rampant in civil cases, but that caution should be exercised since some have turned out to be false reports.



Delegates at the networking tea reception

Day 3: 25 May 2022 (Wednesday)

AM

[14] Talks by Judges Patricia Lees and Allison Hunter. Judge Patricia Lees spoke about the law and guidelines that they have in the UK on the admissibility of the evidence of child witnesses. Judge Allison Hunter who is a former crown prosecutor gave a case study on one of the recent cases in her court.

[15] During discussion, many issues were raised regarding the law in Malaysia and how much involvement they have in case management and laying out the ground rules.



Delegates at the discussion with the judges

PM

- [16]** Talk by the Metropolitan Police and Youth Justice Board at the Old Bailey's by Neil Tovey, Jason Crinnian Hannah Kappler, Liz Westland, Louise on investigative and pretrial issues.
- [17]** Reference was made to the Youth Justice and Criminal Evidence Act and the amendments that facilitate the giving of child evidence by prerecording it.
- [18]** Tour at the Old Bailey in the later part of the evening. The history of the building and its murals were narrated by one of their officers. We visited court 1, which is the most famous Court in the UK and a briefing was given by the court recorder.



Delegates at the Old Bailey

Day 4: 26 May 2022 (Wednesday)

AM

[19] Visit to the Lighthouse which is a support centre for children. This is a centre where the children who are abused are also given support from the start, including medical inspection. Doctors and lawyers are attached to this centre to provide assistance.



Delegates at the LIGHTHOUSE

PM

[20] Debriefing Lunch – Each agency provided their observation of the whole programme and addressed areas where they thought needed improvement.

CONCLUSION: FINDING AND RECOMMENDATIONS

[21] The team would like to record our thanks and appreciation to the Chief Justice of Malaysia and to the Chief Registrar of the Federal Court of Malaysia for giving us the opportunity to be involved in this conference.

[22] The team would also like to propose the following recommendations:

- a) Definitions must be consistent. In some statutes the word ‘child’ is used. In other statutes, ‘infant’ or even ‘young person’ is used. Some standardisation is required. Amendments to the law is required for this.
- b) Amendments to the law is required to render consistency for the age prescribed for child, which should also be consistent throughout all the statutes involving children such as
 - Adoption Act 1952
 - Law Reform Act 1976
 - Age of Majority Act
 - Sexual Offences Against Children Act 2017
 - Evidence of Child Witnesses Act 2007
 - Penal Code
 - Guardianship of Infants Act 1961
- c) Evidential rules such as section 133A of the Evidence Act needs to be relooked and perhaps repealed.

- d) Judges in civil court may need to be able to look at the evidence pending in a criminal court even if there is no conviction yet. Otherwise it could be difficult for family court judges who have to deal with interim custody applications. How much of weight should be given to the evidence pending in the criminal court.
- e) Judges must have an open mind to how children describe their experiences, and not expect them to describe things of situations as an adult would do. This is called the theory of imperfect description.
- f) Remote recording of evidence of children. This is already done in our local courts.
- g) Ground rules hearing to be conducted by judges. However, we do have case management where the judges could narrow issues, so that the impact of having to answer in court could be reduced. Lawyers representing litigants must also be sensitive to the fact that in cases involving children, it is not a matter of winning or losing the case but that it is a matter of deciding in the best interest of the children.
- h) In dealing with sexual cases involving child victim the Special Guideline issued by the Chief Registrar Office in the year 2017 must be adhered to by all stakeholders.
- i) Training for both criminal and family court judges is necessary. Certification courses are provided for judges who sit in such courts.
- j) Section 8 of the Evidence of Child Witness Act 2007 provides that examination of a child witness may be conducted through an interpreter as intermediary. However, some interpreters may face difficulties in communicating with vulnerable witness especially young children, child witness suffering from a disability or disorder affecting communication (autistic spectrum). Hence, proper training should be given to interpreters to equip them with proper skills and knowledge as intermediary.
- k) For standardisation, application for adoption should be filed at only one Court. Currently, application for adoption can either be filed in

the High Court or the Sessions Court, i.e code 34 for registration at the High Court and code 58 at the Sessions Court.

Prepared by:

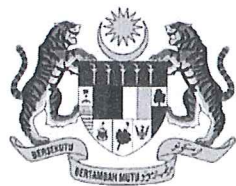
- (i) YA Madam Evrol Mariette Peters
Judge, High Court of Kuala Lumpur
- (ii) Madam Datin Kunasundry a/p Marimuthu
Session Court Judge
Sexual Crime Court Against Children Putrajaya
- (iii) Madam Elsie Primus
Sessions Court Judge at Kota Kinabalu Court, Sabah

APPENDIX 1

Bernama Report -May 28, 2022 6:24 PM

Panel plans roadmap to improve justice system for kids

<https://www.freemalaysiatoday.com/category/nation/2022/05/28/panel-plans-roadmap-to-improve-justice-system-for-kids/>



**PENGERUSI JAWATANKUASA PILIHAN KHAS
HAL EHWAL WANITA DAN KANAK-KANAK DAN PEMBANGUNAN SOSIAL
MERANGKAP AHLI PARLIMEN Pengerang**

LAMPIRAN J

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**Mangsa Kanak-Kanak dan Saksi Dalam Sistem Keadilan
*Child Victims and Witnesses in the Justice System***

Lawatan Sambil Belajar ke United Kingdom untuk Jawatankuasa Pilihan Khas
Wanita, Kanak-kanak dan Pembangunan Sosial 23-26 Mei 2022

Laporan Ringkas

Nama	HANNAH YEOH
Jawatan	AHLI PARLIMEN SEGAMPUT
Kementerian/ Jabatan/ Agensi	
No. Telefon	
Emel	
Tarikh Laporan	13 Jun 2022

Pemerhatian Utama daripada Lawatan Sambil Belajar

- Malaysia agak ketinggalan dalam aspek perlindungan kanak-kanak
- Tiada data yang menyeluruh kerana tiada agensi kanak-kanak yang khusus untuk mengkaji isu kanak-kanak
- Punca kuasa agensi khusus adalah starting point untuk mengumpul data. Engine room is missing.

Sumber Kuasa Undang-undang berkaitan dengan *Child Victims and Witnesses in the Justice System* (jika ada)

Sila beri rujukan kepada peruntukan undang-undang yang berkaitan. Dokumen lampiran juga digalakkan.

Garis Panduan Pelaksanaan Semasa berkaitan dengan Child Victims and Witnesses in the Justice System (jika ada, merujuk kepada Kementerian/ Jabatan/Agensi)

Sila rujuk kepada garis panduan atau "standard operating procedures" yang berkaitan. Dokumen lampiran digalakkan.

Cabaran Pelaksanaan

- Tiada agensi kanak-kanak bermaksud tiada hak ^{tiar} melindungi kanak-kanak.
- Tanpa hak tiar, tiada penyelesaian di dalam kerajaan untuk membawa bersama semua stakeholders dan kementerian untuk mencipta/membuat dasar baru kanak-kanak?
- Tiada bajet dan latihan khusus untuk semua yang terlibat.

Cadangan Penambahbaikan

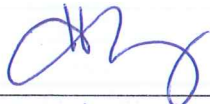
- Reriew semua undang-^{dan SOP mahkamah} yang agak ketinggalan dalam melindungi kanak-kanak.
- Kena ada secara sistematik - latihan berkala untuk pegawai perundangan, hakim, polis untuk menjayakan usaha membantu kanak-kanak.
- Perlu perkasakan MAHPU untuk bergerak bersama PDRM dalam membuat lebih banyak sistem pemantauan eg sex offenders registry.
- kaunseling/ bantuan gramau untuk kanak-kanak vs menjadi mangsa jenayah sehingga selesai kes.

Cadangan khusus untuk Jawatankuasa Pilihan Khas dan cadangan khusus untuk agensi anda.

Hal-hal Lain

- Uruskan latihan pakar luar negara untuk datang ke Malaysia - JKU, Hakim, MOH dan PDRM
- Segera penubuhan agensi kanal-kanal utk dapatkan bajet, tenaga kuz
- Mahkamah dan PDRM harus ada KPI untuk selesaikan aduan yg melibatkan kanal (pastikan tiada delay)
- MAMPU perlu diberi lebih banyak kuasa utk dapatkan data / kerjasama sama Kementerian

Disediakan:



Nama: HANNAH YEOH

Cop Rasmi:



Disemak/ Disahkan:

Nama:

Cop Rasmi:

Senarai Pautan Berkaitan Isu Kanak-kanak

1. *Advocay for Vulnerable People and Children: National Training Programme* melalui <https://www.icca.ac.uk/wp-content/uploads/2022/03/20-Principles-of-Questioning-2022.pdf>
2. *Special Measures* melalui <https://www.cps.gov.uk/legal-guidance/special-measures>
3. *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Guidance Using Special Measures* melalui https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1051269/achieving-best-evidence-criminal-proceedings.pdf
4. *Safeguarding Children as Victims and Witnesses* melalui <https://www.cps.gov.uk/legal-guidance/safeguarding-children-victims-and-witnesses>
5. *Code of Practice for Victims of Crime in England and Wales* melalui https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974376/victims-code-2020.pdf
6. *The Advocate's Gateway Toolkits* melalui <https://www.theadvocatesgateway.org/toolkits-1-1-1>
7. *The Advocate's Gateway: Ground rules hearings and the fair treatment of vulnerable people in court* melalui https://www.theadvocatesgateway.org/files/ugd/1074f0_846f9ab1f1e94dd7bd58bcc62f76ddb8.pdf
8. *The Witness Charter: Standards of care for witness in the criminal justice system* melalui https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/264627/witness-charter-nov13.pdf
9. *Trauma-informed practice* melalui <https://napac.org.uk/trauma-informed-practice-what-it-is-and-why-napac-supports-it/>
10. *England and Wales Court of Appeal (Criminal Division) Decisions* melalui <https://www.bailii.org/ew/cases/EWCA/Crim/2014/2064.html>
11. *How Young Is Too Young? The Evidence of Children Under Five in the English Criminal Justice System* melalui <https://triangle.org.uk/files/2017-05/-how-young-is-too-young-ruth-marchant-2013.pdf>

12. *Sexual Offences Definitive Guidelines* melalui
<https://www.sentencingcouncil.org.uk/wp-content/uploads/Sexual-offences-definitive-guideline-Web.pdf>

13. *Physical signs of child sexual abuse – evidence-based review* melalui
<https://www.rcpch.ac.uk/shop-publications/physical-signs-child-sexual-abuse-evidence-based-review>

**THE PARLIAMENTARY SPECIAL SELECT COMMITTEE ON WOMEN & CHILDREN
AFFAIRS AND SOCIAL DEVELOPMENT**

STUDY VISIT TO THE UK – 24th to 26th MAY 2022

CHILD VICTIMS AND WITNESSES IN THE UK JUSTICE SYSTEM

a report by
Srividhya Ganapathy
CRIB Foundation

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REPORT ON: CHILD VICTIMS AND WITNESSES IN THE UK JUSTICE SYSTEM

The Parliamentary Special Select Committee On Women & Children Affairs And Social Development made a Study Visit to the United Kingdom from 23rd to 26th May 2022. The delegation which was led by the Chairwoman of the Special Select Committee On Women And Children Affairs And Social Development YB. Dato' Sri Azalina Othman Said, Member of Parliament, Pengerang comprised of 5 Members of the Malaysian Parliament together with representatives from various agencies dealing with child protection in Malaysia (the full list of delegates ("the delegation") is attached to this Report as Attachment A).

This Report on the agencies that the delegation visited and spoke to, is prepared by Srividhya Ganapathy of CRIB Foundation who was a member of the delegation from 24th to 26th May 2022, for the purposes of recording the said Study Visit. To preserve the integrity of the matters seen and experienced during the 3 days of the said Study Visit, presentations have, where possible been recorded in verbatim. Please note that in addition to the matters recorded here, there was a technical briefing for the delegation on 23rd May 2022, a networking event on 24th May 2022 attended by some of the speakers and agencies we met and a technical debrief of the delegation on 26th May 2022.

24th May 2022
Day One

AGENCY:

THE NATIONAL CRIME AGENCY

The National Crime Agency (NCA) is a national law enforcement agency in the United Kingdom. It is the UK's lead agency against organised crime; human, weapon and drug trafficking; cybercrime; and economic crime that goes across regional and international borders; but it can be tasked to investigate any crime. [Their website](https://www.nationalcrimeagency.gov.uk/)¹ states that they lead the UK's fight to cut serious and organised crime and that they protect children from sexual exploitation and abuse by investigating and arresting child sex offenders, protecting and safeguarding victims, and educating children and young people, their parents, and the professionals who work with them, about the risks from online sexual abuse.

¹ <https://www.nationalcrimeagency.gov.uk/>

The NCA's presentation was conducted by Ms. Sarah Blight, NCA, Deputy Director, Child Sexual Abuse, Threat Leadership and Mr. Sean Sutton, NCA, Head of Education and Partnerships, Threat Leadership, who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

The work they do:

Working with law enforcement, industry and voluntary sector partners – both in the UK and abroad – is vital to our success in designing out preventable offending, protecting victims and bringing offenders to justice in this transnational threat area.

As part of our international efforts to tackle this global crime, we chair the Virtual Global Taskforce, an international alliance of dedicated law enforcement agencies working together to protect children all over the world.

The difference between the NCA and the police is that we have a national element, and our powers are wide ranging. We deal with serious organised crimes mainly. Child crimes. Borders. Drug trafficking, Child Sexual Abuse (CSA), corruption, firearms, serious and organised crimes. Human trafficking. Crimes where more than one county is involved. Police on the other hand is local.

Investment is made on complex capabilities within our team. When it comes to CSEA – a determination is made - what should local police do and what should we do. Deciding based on who has the best capabilities.

We have an international network. We also engage in capacity building, for example the Philippine Internet Crimes Against Children Center (PICAC). We fund to assist fighting online CSEA particularly. We are the UK repository to NECMAC from Washington.

We have a bureau that triage cases that come in and then we send off to local force. Regional crime if complex can be taken on by us if needed. We have a team that filters through the cases.

The CAID

An important resource for the NCA is the [UK Child Abuse Image Database \(CAID\)](#)². CAID was created to help identify and safeguard victims, make investigating child sexual exploitation and abuse faster and more effective, and support international efforts to remove CSE content from the internet. It now houses all CSE images UK Police Forces and the NCA encounter. Assessing case images against CAID helps analysts and investigators quickly understand which images are already known about, the categories of those images, and whether they contain an identified victim. Unknown images must receive three votes by qualified image analysts before being submitted to CAID with an allocated category. CAID is an ever-growing, invaluable, collaborative effort. It helps to streamline the investigation and prosecution of offenders, and more quickly identify and protect victims. The NCA can use hash searches to see if images are on CAID.

Images are graded and categorised according to severity/seriousness. The database on CAID is useful – what they do with hashing – grade and category are important.

CAID can help streamline the investigation and prosecution of offenders and protect children in a number of ways:

- (a) On-site triage or initial assessment at arrest with CAID hashes helps the police when they prioritise which of the suspect's devices need further analysis. This eases the burden on digital forensics teams.
- (b) CAID can help identify images of abuse on devices more quickly so that cases can start and evidence be presented sooner.
- (c) CAID helps identify victims more quickly by sharing images more easily between agencies and has helped the UK become a world leader, second now only to the US.
- (d) Hashes of images on CAID can be provided to communication service providers to help them in their efforts to remove these images from the Internet.

CSEA materials online

In 1 month – 600,000 people are searching on dark web for CSEA materials.

2

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759328/CAID_Brochure_May_2018_for_gov_uk.pdf

This year, the [National Strategic Assessment of Serious and Organised Crime](#)³ outlines our main focus of priority, which includes child sexual abuse and modern slavery and human trafficking. CSEA materials online fall within this.

We see more people severely harming children. Live streaming is hard for us. We know they have made a payment and watched something live. We don't have it as evidence since its live streaming.

We do disruptions. Pop ups on screen with partners – asking people looking for CSEA material if they need help

Our data shows that perpetrators support each other.

Some techniques we use – undercover online officers. Pretending to either be children or perpetrators. Online surveillance teams monitoring activities, tools and software. Tools that identify who is using the site. Service provider partnerships.

Policies & Budgets

What is the legislation that enables this work? We work very close with the Home Office. £22 million funding for CSA online for us.

In 2020, we were awarded more than £8 million as part of the Government's investment in the UK's fight against serious and organised crime. As part of the Police Transformation Fund (PTF), the Home Secretary had approved up to £70m in 2018/19 to boost law enforcement's capacity to deal with major threats.

The NCA-led projects that will receive funding include the National Economic Crime Centre (NECC), the National Assessment Centre (NAC) and the National Data Exploitation Centre (NDEC). The Joint Operations Team (JOT) – made up from NCA and GCHQ officers to tackle child sexual abuse and exploitation (CSAE) - will also receive money.

NDEC

Because volume is so big we need to know which to prioritise. With the [National Data Exploitation Capability](#)⁴ (NDEC) – all the data is in one center. NDEC is a strategic enabler

³ <https://nationalcrimeagency.gov.uk/who-we-are/publications/533-national-strategic-assessment-of-serious-and-organised-crime-2021/file>

⁴ <https://techmonitor.ai/technology/data/4000000-data-analytics>

for the development and deployment of data driven capabilities to help cut serious and organised crime (SOC). NDEC delivers data driven products and services that will underpin greater access to, and an understanding of, intelligence relating to SOC. Its technical teams comprise a range of multi-disciplinary delivery teams consisting of: data engineers, data scientists, software developers, business analysts, project managers, and, solution architects working alongside operational officers working alongside enterprise teams including enterprise design authority, assurance, security, live service/service wrap and architecture.

CEOP Command

[CEOP](#)⁵ is a command of the National Crime Agency and works to pursue and prosecute child sex offenders. CEOP works with child protection partners across the UK and overseas to identify the main threats to children and coordinates activity against these threats to bring offenders to account. We protect children from harm online and offline, directly through NCA led operations and in partnership with local and international agencies. Child protection is at the heart of everything we do and our approach is holistic. Law enforcement officers in CEOP and across the NCA work side by side with professionals from the wider child protection community and industry.

The lifeblood of the CEOP Command is intelligence - how offenders operate and think, how children and young people behave and how technological advances are developing - all are integral to what we are about and what we deliver.

CEOP can decide independently when to go after people. It was brought into NCA. They had responsibilities under the children's act, with wider safeguarding policies now.

CEOP education online provides resources for professionals, parents, carers and children. Our tool - [Thinkuknow](#)⁶ is very well received and has the capacity to train children on knowledge, skills and resilience making them safer online and ensuring they know how to seek help when they need it, parents & carers and professional's knowledge of online CSEA

[Click CEOP](#)⁷ is an online safety center for children and young persons to report directly to the NCA. We have a team of child protection people 24/7 to respond immediately. 600 reports a month. We triage to see if we should handle it or if we should send to the police. Naturally due to the demands on their resources, the police would respond slower.

⁵ <https://www.thinkuknow.co.uk/parents/who-are-we/>

⁶ <https://www.thinkuknow.co.uk/>

⁷ <https://www.ceop.police.uk/Safety-Centre/>

These are accessible even to children with disabilities. Now we are looking at reaching children who are difficult to access. Special educational needs children whether because of physical or cultural issues. Children in remote locations.

The 4 Pillars

In 2014, when NCA was launched, the UK also launched a [Strategy](#)⁸ to deal with the challenges we face from serious and organised crime.

The NCA's four main areas of activity/pillars:

Pursue - prosecuting and disrupting people engaged in serious and organised criminality;

Prevent - people from engaging in this activity or from committing crime;

Protect - the public from being victimised and/or revictimised increasing protection against organised crime; and

Prepare - law enforcement to anticipate and effectively deal with emerging threats

Information

Industry has a large role and big funds to assist us. Section 7 Crime and Courts Act 2013 is a broad information gateway. Subsection (1) authorises any person to disclose information to the NCA if the disclosure is made for the purposes of the exercise of any NCA function, and empowers us to ask companies for information under this Act. We can request data protection etc.

Different countries have different retention periods for data. For example, Holland's is less than 1 week. This is a challenge as information requests sometimes can take months to be processed by which time the data might be lost.

Challenges

Sentencing by the courts is an issue – we work very long on serious case – but courts don't take it seriously – we find courts sometimes give suspended sentences and restricted sentences like one phone cannot do certain things etc. But this is hard because it is very hard to monitor these people - there are so many of them, with access to so many devices and portals.

8

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/248645/Serious_and_Organised_Crime_Strategy.pdf

The DG of NCA has to sign off on requests to monitor individuals. We have to consider HR and right to privacy for online surveillance. Collective intrusion and the impact on people not actually involved in the crime.

Our biggest challenge is the scale. The gap. We know what we are doing in criminal justice but gap in digital training in frontline personnel. Building capacity needed.

We are working closely with govt to design new inventions at scale to disrupt offending. Not much we are able to do.

NATMEC reports 60% increase in CSEA materials online.

International co-operations

The NCA carries out capacity building programs other people.

The International child protection certificate – we have a program where we can certify whether someone who wants to work overseas in schools or churches etc, we can certify if that person is certified as on our database.

[Virtual Global Taskforce](#)⁹ (VGT) – international alliance of 12 dedicated law enforcement agencies and private sector partners working together to tackle the global threat from child sexual abuse. The NCA is the current chair of the VGT. The collaborative approach afforded by the VGT is absolutely crucial when the child sexual abuse threat is growing in severity and complexity, and through technology, is increasingly unconstrained by the location of offenders.

The VGT was established as a direct response to the rise in offenders targeting children all over the world through online social interactions, and travelling overseas to commit contact sexual abuse. Law enforcement agencies joined forces, working closely with non-governmental organisations and industry partners, to deliver a program of coordinated activity to help protect children online, no matter where they are in the world. Law enforcement members include the NCA, Royal Canadian Mounted Police, Australian Federal Police Force, New Zealand Police, Ministry of Interior UAE, Europol, Interpol, Dutch National Police and Korean National Police

⁹ <https://nationalcrimeagency.gov.uk/virtual-global-taskforce/>



We work closely with NGOs - Child Rescue Coalition and others.

We have also invested in putting some officers in the centre in US – that was helpful.

We also have partnerships with industry and charities. Especially tech companies & the gaming sectors. Social media, search engines, operating systems, infrastructure, communications service providers.

Our UK Child commissioner conducted surveys in 2021, and came out with a [Parents Guide: Talking to your child about online sexual harassment](#)¹⁰. This is helpful.

The Child Commissioner also launched the document [Online Safety Commission from Government: Our recommendations for making the online world safer for Children](#)¹¹ in March 2022.

24th May 2022
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¹⁰ <https://www.childrenscommissioner.gov.uk/report/talking-to-your-child-about-online-sexual-harassment-a-guide-for-parents/>

¹¹ <https://www.childrenscommissioner.gov.uk/report/online-safety-commission-from-government-our-recommendations-for-making-the-online-world-safer-for-children/>

AGENCY:

INTERNET WATCH FOUNDATION (IWF)

The IWF is an independent, non-profit charitable organisation working in partnership with a range of other organisations from the private, public and NGO sectors. IWF was set up in 1996 by the internet industry to provide an internet Hotline for the public and IT professionals to report potentially criminal online content within our remit and to be the 'notice and takedown' body for this content. Their Code of Practice details their role in these takedown procedures. Once informed, the host or internet service provider (ISP) is duty-bound under the E-Commerce Regulations (Liability of intermediary service providers) to quickly remove or disable access to the criminal content. IWF is made up of a team of over 70 diverse people working in a variety of disciplines including our front-line analysts and image classification assessors who spend each and every working day assessing images and videos of children suffering sexual abuse. [Their website](#) states “We work to stop the repeated victimisation of people abused in childhood, and make the internet a safer place, by identifying & removing global online child sexual abuse imagery”

The IWF's presentation was conducted by Ms. Suzy Hargreaves OBE, IWF CEO and Mr. Michael Tunks, IWF Senior Policy and Public Affairs Manager, who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

Police go after the bad guys. We go after removing images. Overlap on victim identification. We do specialist niche work in removing content as so long as the image is online is revictimised

We are independent of government & law enforcement but work closely with police

Our status as a relevant authority for reporting, assessing, and removing child sexual abuse material on the internet is recognised in a [Memorandum of Understanding](#)¹² between the Crown Prosecution Service (CPS) and the National Police Chief's Council (NPCC) - linked to Section 46 of the [Sexual Offences Act 2003](#)¹³.

¹² <https://www.cps.gov.uk/publication/memorandum-understanding-between-crown-prosecution-service-cps-and-national-police>

¹³ <https://www.legislation.gov.uk/ukpga/2003/42>

The IWF is a recognised Notice & Takedown body for the UK. Funded by internet industry not taxpayers. Pays for hotline and tech services. We can't handle this problem if we don't work with internet industry.

We don't need a court order if it is hosted in the UK. We talk to CEOP and ask if we can issue notice. Can remove within 2-3 hours within UK.

We don't work on dark web. Often images on dark web are hosted on open web.

We have counselling monthly, robust healthcare, screening before recruitment, lots of support for our people.

Legal Guidelines

Our analysts assess each report against legal guidelines.

- Legal guidelines for child sexual abuse content hosted anywhere in the world

[Protection of Children Act 1978 \(England and Wales\)¹⁴](#)

[Civic Government Act, 1982 \(Scotland\)¹⁵](#)

[Sexual Offences Act 2003: Key Changes \(England and Wales\)¹⁶](#)

[Memorandum of Understanding: Section 46 Sexual Offences Act 2003](#)

[Police and Justice Act 2006](#)

[Criminal Justice and Immigration Act 2008](#)

[Legal guidelines for hosting companies and their employees in Scotland](#)

[Crown Prosecution Service's guidance on indecent photographs of children](#)

[Non-Photographic Images of Children \(Prohibited Images of Children\)](#)

[Paedophile Manuals – Section 69 \(Page 18\)](#)

- Legal guidelines for non-photographic child sexual abuse content hosted in the UK

[Non-Photographic Images of Children \(Prohibited Images of Children\)](#)

[Coroners and Justice Act 2009¹⁷](#)

- Directive applicable to liability of Internet Service Providers

[Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market \('Directive on electronic commerce'\)¹⁸](#)

Method

¹⁴ <https://www.legislation.gov.uk/ukpga/1978/37>

¹⁵ <https://www.legislation.gov.uk/ukpga/1982/45/section/52>

¹⁶ <https://www.legislation.gov.uk/ukpga/2003/42>

¹⁷ <https://www.iwf.org.uk/about-us/how-we-assess-and-remove-content/our-mou-the-law-and-assessing-content/laws-for-npi-content/>

¹⁸ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000L0031:EN:HTML>

Each report we process is manually assessed by our highly trained analysts. Their assessments are accurate and trusted by the police and internet industry across the globe.

During the data collection period, our analysts were asked to specifically monitor reports for images or videos that clearly involved an adult woman (or women) engaged in the sexual abuse of children.

Given that one report might contain one, or many tens or hundreds of individual images and videos, one of our quality assurance team separated out all the individual images and videos of relevance to this study to perform the analysis and recorded 504 instances.

On 1 April 2014 the UK [Sentencing Council issued revised guidelines](#)¹⁹ for all sexual offences including those concerning indecent images of children. They simplified the images into three categories of seriousness:

- Category A: Images involving penetrative sexual activity; images involving sexual activity with an animal or sadism.
- Category B: Images involving non-penetrative sexual activity.
- Category C: Other indecent images not falling within categories A or B.

We recorded the age of the child victim in each image or video. Where more than one child appears, we recorded the age of the youngest child, falling within these categories: 0-2, 3-6, 7- 10, 11-13, 14-15, 16-17.

We also recorded the sex of the victim: Boy, girl, or both if the instance included a combination of male and female children.

A hash is a unique digital fingerprint, or label that identifies a picture of confirmed child sexual abuse. Our hashes are created in various formats (think of them like different languages) including PhotoDNA, SHA1, SHA256 and MD5.

By using our [Hash List](#)²⁰, tech companies can stop criminals from uploading, downloading, viewing, sharing or hosting known images and videos showing child sexual abuse. By the end of 2021, we had created 1,004,611 unique hashes to share with technology companies.

IWF Annual Report 2021

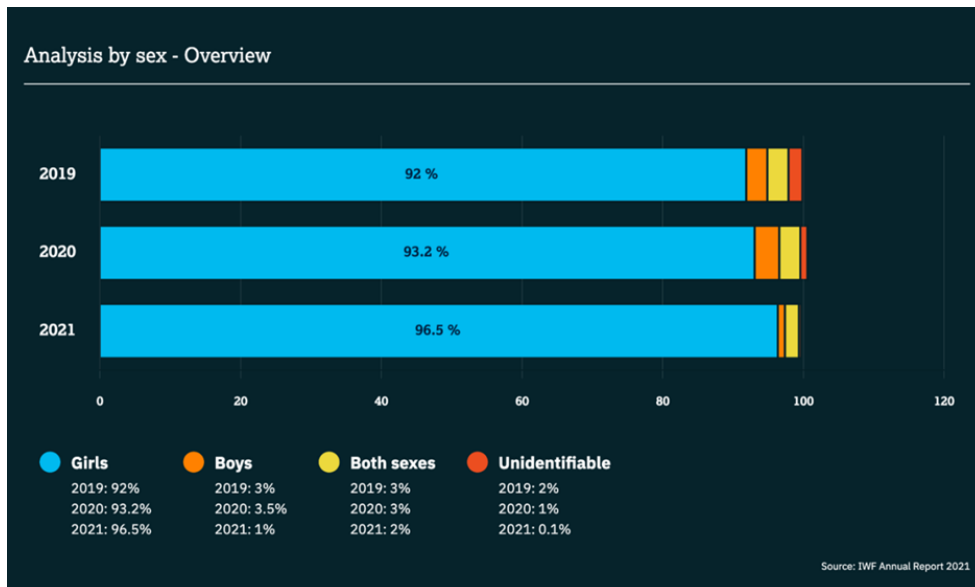
[Our Annual Report 2021](#)²¹ shows:

¹⁹ <https://www.sentencingcouncil.org.uk/publications/item/sexual-offences-definitive-guideline/>

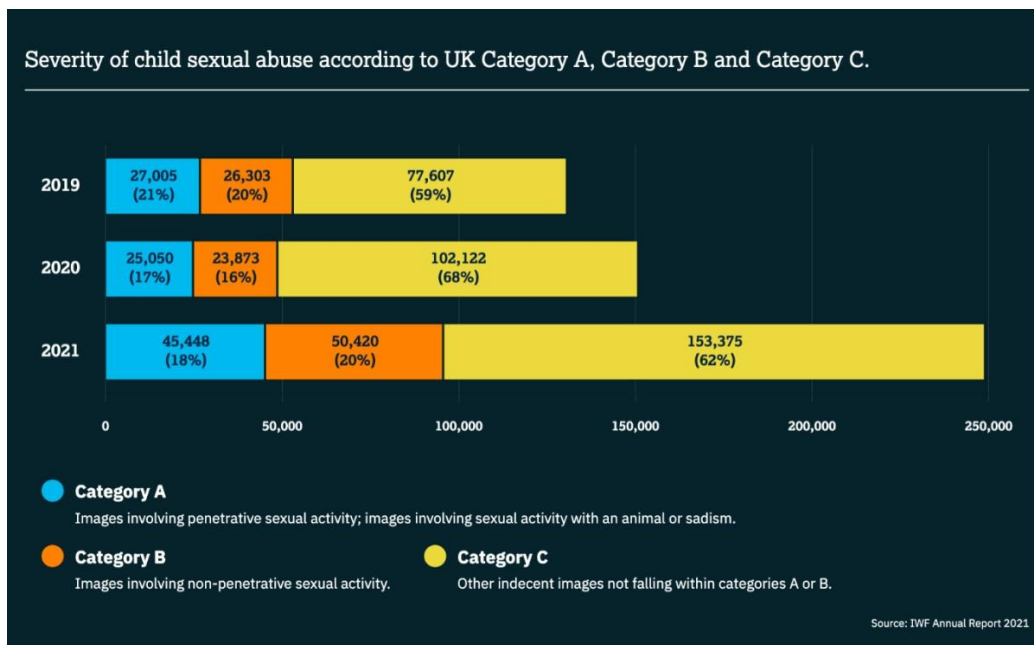
²⁰ <https://www.iwf.org.uk/our-technology/our-services/image-hash-list/>

²¹ <https://annualreport2021.iwf.org.uk/trends/>

- 361,062 reports assessed by human analysts. (If it's on our hash list it has to be assessed 3 times. Of these, we removed 252,194 images in 2021. **72% self-generated imagery. 97% of these were girls.**



Almost 7 in 10 instances of child sexual abuse involved 11-13 year olds. And when we see imagery of babies, toddlers and young children aged 6 and under, they are more likely to be suffering category A child sexual abuse over categories B, or C.



“Self-generated” child sexual abuse, where someone captures a recording via a phone or computer camera of children who are often alone in their bedrooms, is now the

predominant type of child sexual abuse imagery we're finding online – just over 7 in 10 reports include this type of content.

We continue to see an exponential increase in what is termed “self-generated” child sexual abuse content, created using webcams or smartphones and then shared online via a growing number of platforms. In some cases, children are groomed, deceived or extorted into producing and sharing a sexual image or video of themselves. The images and videos predominantly involve girls aged 11 to 13 years old, in their bedrooms or another room in a home setting. With much of the world subject to periods of lockdown at home due to COVID- 19, the volume of this kind of imagery has only grown.

- In 2021, 147,188 reports included an 11-13 year old girl, who had been captured in either still images or videos in this way.
- This represents 59% of all actioned reports and 81% of self-generated child sexual abuse reports.

Frequently, these child sexual abuse images and videos have been produced using live streaming services, then captured and distributed widely across other sites by offenders. Once captured, these images and videos can be recirculated for years after they were originally created.

- Of the 252,194 webpages actioned during 2021, almost three quarters (182,281 or 72%) were assessed as containing self-generated imagery. This is a 28 percentage point increase on 2020 when 44% of actioned reports (or 68,000) were self-generated.
- This represents a 168% increase from 2020 to 2021 in the proportion of actioned webpages displaying self-generated imagery.

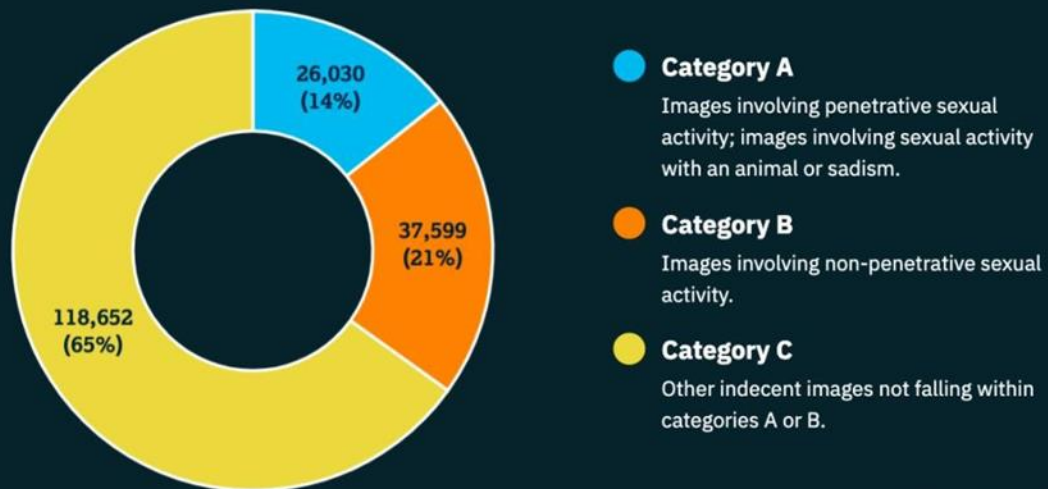
Our analysts noted a number of very young children, aged 3-6 years old being sexually abused in this way.

Biggest statistic increase is that of girls aged 11-13 year old self generating. 6 in 10 actioned reports specifically show the sexual abuse of an 11-13 year old girl who has been groomed, coerced or encouraged into sexual activities via a webcam. Sadly, we've seen instances of children aged 3-622 being contacted and abused in this way.

All this data is available on the IWF website

²² <https://annualreport2021.iwf.org.uk/trends/casestudy>

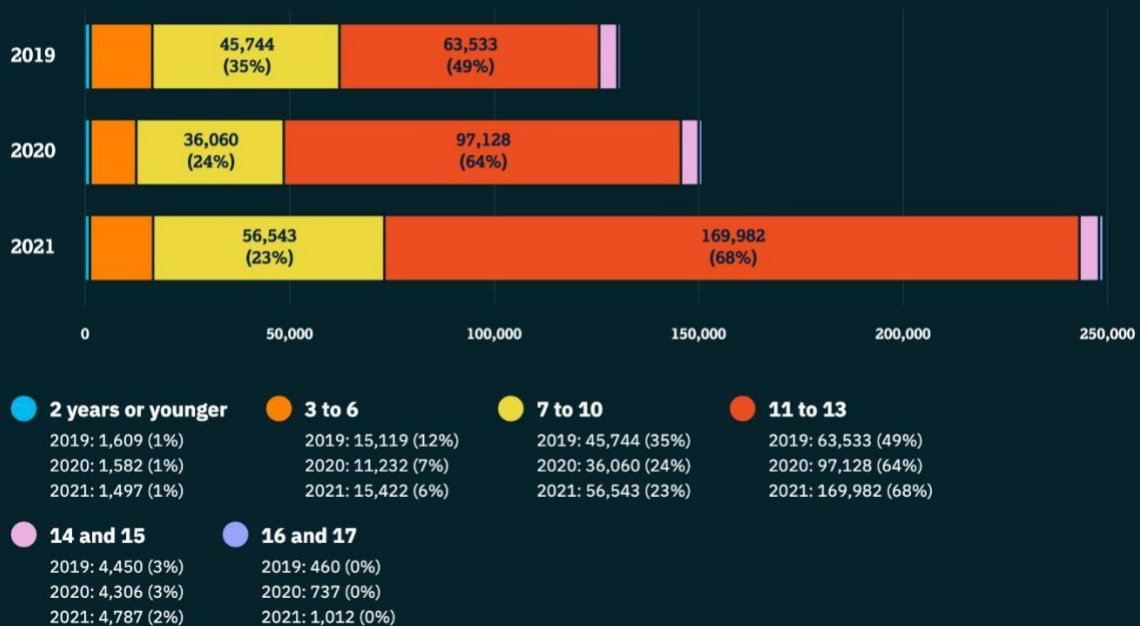
Self generated overview by severity



Source: IWF Annual Report 2021

For the first time we've looked at the prevalence of female offenders in the imagery that we see. We've seen how this imagery most often involves children aged 7-10 years old, and that boys are most often seen being abused by a female offender.

Age comparisons over the last 3 years



Source: IWF Annual Report 2021

What can we do about removing this content?

We are committed to playing our part globally in the removal of content.

We constantly innovate to achieve this. We've set up 49 Reporting Portals around the world as part of our work in partnership with the Global Fund to End Violence Against Children. This has enabled us to develop vital links with other NGOs, governments and police services globally to remove this content.

In the EU we work [closely](#)²³ with Europol and Interpol and the [Lanzarote Committee](#)²⁴ of the Council of Europe. Europol have produced a number of threat assessments which have referenced many similar trends we have identified including a rise in self-generated content.

As a key organisation within the [INHOPE network](#)²⁵ (International Association of Internet Hotlines) we work closely with all other INHOPE hotlines around the world to ensure that we alert our partners when we find child sexual abuse content hosted in their country. IWF Reporting Portals are included under the INHOPE umbrella.

Additionally, we “chase up” our partners if this criminal imagery is not removed quickly. Steps are taken where images can be removed without criminal charges being imposed

Co-operations/Collaborations

We worked with #GurlsOutLoud to educate girls on online CSEA, via [Youtube](#)²⁶ and [TikTok](#)²⁷ videos called “Block, Report, Tell Someone”

To support young people to remove sexual images of themselves online, the IWF and NSPCC have developed the Report Remove tool, in partnership with age verification app, Yoti. Report Remove can support a young person in reporting sexual images or videos shared online and enables them to get the image removed if it is illegal.

The NSPCC's Childline service ensures that the young person is safeguarded throughout the process and the IWF assesses the images:

1. Young people aged 13+ are first directed to Yoti to verify their age using ID (because our legal remit means we can only remove images of children).

²³ <https://www.europol.europa.eu/>

²⁴ <https://www.coe.int/en/web/children/lanzarote-committee>

²⁵ <https://www.inhope.org/EN?locale=en>

²⁶ https://youtu.be/HcwP6H_GVKE

²⁷ <https://www.tiktok.com/@monicageldart/video/6989254147207924997>

2. Once children have proved they are younger than 18, they are prompted to create a Childline account, which allows them to be safeguarded and supported throughout the process.
3. Young people are then taken to our dedicated IWF portal where they can securely upload images, videos or URLs (website addresses.)
4. Our IWF analysts assess the reported content and take action if it meets the threshold of illegality*. The content is given a unique digital fingerprint (a [hash](#)) which is then shared with internet companies to help prevent the imagery from being uploaded or redistributed online.
5. The outcome will be conveyed to Childline who will then contact the young person via their Childline account to keep them updated and offer further support.

This solution provides a child-centered approach to image removal which can be done entirely online. The young person does not need to tell anyone who they are (their ID is not linked to their report), they can make the report at any time, and further information and support is always available from the Childline website.

It took 3 years to get it up and running. With law enforcement and NECMAC. The process is child centered. No shame, no blame. Children can report remove if an image of themselves is reported. If it is an adult we don't deal with it. If a child is over the age of 13, they will need to provide age verification – different steps. If the child is under 13, there are different steps. The last thing we want is to criminalise children. We had 164 reports in under 2 years.

We would also like to look at strengthening our portal in Malaysia. Having someone to report is part of our initiative to support our countries initiative.

24th May 2022
Day One

AGENCY:

WEPROTECT GLOBAL ALLIANCE

WeProtect Global Alliance ²⁸brings together governments, the private sector, civil society and international organisations to develop policies and solutions to protect children from sexual exploitation and abuse online. The Alliance relaunched in 2020 as an independent organisation and is the combination of two initiatives: The European Commission and US

²⁸ <https://www.weprotect.org/>

Department of Justice's Global Alliance Against Child Sexual Abuse Online; and WePROTECT, established by the UK Government as a global multi-stakeholder response to combating online child sexual abuse. The Alliance brings together experts from government, the private sector and civil society to protect children from sexual exploitation and abuse online

WeProtect's presentation was conducted by Ms. Chloe Setter, WeProtect, Head of Advocacy, Policy & Research, who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

What we do:

Our ethos is to bring all stakeholders together to fight this fight on online CSEA. We are a very broad church. 98 governments. 55 tech companies. 70 CSO and 9 international organisations.

The regulation of online harms hasn't reached the same level of maturity as other sectors, such as finance or aviation. However, the increasing scale and complexity of child sexual abuse online has brought the debate around online safety laws to a new level of urgency. And it has led to different governments drafting new legislations tackling forms of abuse online, including child sexual abuse online.

Work on Legislation

Australia's 'Online Safety Act', which came into effect last January, was the first of its kind to be implemented. This new legislation makes Australia's existing laws for online safety more expansive and much stronger. They also have an E-safety commissioner. The European Union is currently working to publish soon a new law on child sexual abuse online. This new regulation intends to make identifying, reporting and removing child sexual abuse material mandatory. At the same time, the [Online Safety Bill](#)²⁹ is passing through the UK Parliament, which would introduce new rules for online platforms with user-generated content. The UK Commission has just published a new draft trying to hold tech companies to account

Tech companies currently all do voluntary work. We need legislation that mandates the work. We have a couple of things happening at our Summit in June 2022.

Our work

At the Abu-Dhabi Summit in 2015, governments and organisations agreed to establish and deliver, in their own countries, a coordinated national response to online child sexual

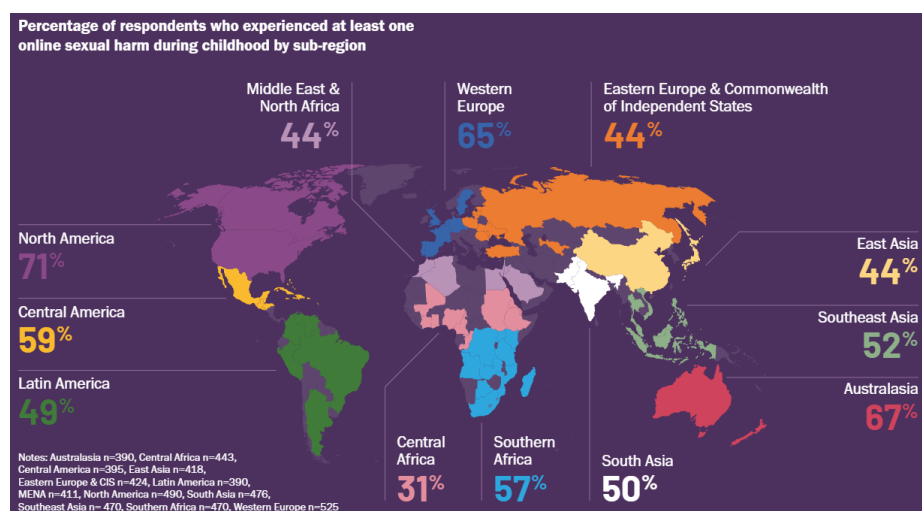
²⁹ <https://bills.parliament.uk/bills/3137>

exploitation, guided by the WeProtect Global Alliance Model National Response³⁰. Many countries use this as a national plan.

We come out with best practices, and worked together to come out with the Global Strategic Response: Eliminating Child Sexual Exploitation and Abuse Online³¹.

In October 2021, WeProtect Global Alliance released its Global Threat Assessment 2021³², an annual publication that details the threat of online child sexual abuse and exploitation. In this report, WeProtect spotlights the increasing rate of such abuse, along with the importance of preventing online violence before it happens – or from happening again. By drawing evidence from organizations across the ecosystem, the Global Threat Assessment indicates an increase in not just the volume of child sexual abuse material online, but also the sharing and distribution of such material, livestreaming for payment, and the incidence of online grooming.

WeProtect has collated valuable information, including trends from other organizations. From 2019 to 2020, the National Center for Missing & Exploited Children, for example, has seen a 106 per cent increase in reports from the public relating to online sexual exploitation, while the Internet Watch Foundation has seen a 77 per cent increase in child self-generated sexual material.



Importantly, the report also noted that online child sexual abuse is happening everywhere. Through a survey of over 5,300 18-20-year-olds who had regular access to the internet as children, WeProtect found that 57 per cent of girls and 48 per cent of boys

³⁰ <https://www.weprotect.org/wp-content/uploads/WePROTECT-Model-National-Response.pdf>

³¹ <https://www.weprotect.org/wp-content/uploads/WeProtectGA-Global-Strategic-Response-EN.pdf>

³² <https://www.weprotect.org/wp-content/uploads/Global-Threat-Assessment-2021.pdf>

had experienced at least one online sexual harm, with some regions – like North America, Australasia, and Western Europe – being even higher.

We also recently brought together a group of experts for a virtual roundtable to better understand how child trafficking for sexual purposes and child sexual exploitation and abuse online overlap; and to explore the opportunities, challenges, and implications of framing some online exploitation crimes as a form of trafficking³³.

We published the 2022 review report³⁴ on How the Model National Response framework is supporting national efforts to end child sexual exploitation and abuse online which will be launched next week. This report sets out how the WeProtect Global Alliance Model National Response framework is supporting national efforts to tackle this scourge.

The WeProtect Global Alliance and UNICEF worked together on this review, which captures an extensive body of experience across 42 countries. By documenting good practices and lessons learned, this report illustrates how, just over six years since its introduction, the Model National Response has become a key reference point to support the building of coordinated, comprehensive and multistakeholder national responses.

Five key priorities emerge from this review. These demand action from the Alliance, its membership and other stakeholders concerned with protecting children in the digital environment. Our transparency framework is also being launched.

We will also be launching a Global Taskforce (of Governments) on Child Sexual Abuse Online³⁵ to promote improved cooperation and collaboration among governments, global discussions and shared learning. The Global Taskforce, which is the first of its kind, will:

- (a) Develop and drive a global coordinated response to child sexual abuse online;
- (b) Secure engagement at national, regional and global levels;
- (c) Showcase progress and champion best / emerging practice;
- (d) Influence and contribute to key WeProtect Global Alliance products and membership commitments.

³³ <https://www.weprotect.org/library/framing-child-sexual-abuse-and-exploitation-online-as-a-form-of-human-trafficking-opportunities-challenges-and-implications/>

³⁴ <https://www.unicef.org/reports/framing-future>

³⁵ <https://www.weprotect.org/library/global-taskforce-on-child-sexual-abuse-online/>

The founding members of the Global Taskforce are:

The European Commission (Chair), African Union (Vice Chair), Australia, Belgium, Brazil, Cambodia, Canada, England and Wales, Finland, Ghana, Guatemala, Republic of Moldova, The Netherlands, New Zealand, North Macedonia, The Philippines, Sweden, The United Arab Emirates, The United States of America.

Membership of the Global Taskforce will be open to any WeProtect Global Alliance government member, of which there are currently 99. Meetings will take place at least twice per year; the inaugural meeting is expected to take place in October 2022.

In terms of the obligations for governments who join us – the country must endorse our membership, give us a main point of contact, which we update yearly. Membership is as much as you want out of the alliance. It can be passive. But we encourage taskforce membership etc. you get more out of it if involved. We have a lot of events, resources, capacity building and possible partnerships.

We encourage governments to participate in our bi annual reports. Opportunity to show case what you are doing and learn from other countries and connect with tech companies.

24th May 2022
Day One

AGENCY:

VICTIM SUPPORT UK

Victim Support is an independent charity dedicated to supporting victims of crime and traumatic incidents in England and Wales. They provide specialist help to support people to cope and recover to the point where they feel they are back on track with their lives. They support victims of sexual offences, children and young persons, and multi crime victims.

Victim Support UK's presentation was conducted by Jeffrey DeMarco, Assistant Director, Knowledge and Insight and Ben Donagh who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

What we do:

Our services help people affected by all types of crime and we provide free confidential support 24 hours a day, 365 days a year for people affected by crime and traumatic events — regardless of whether they have reported the crime to the police or when it occurred and for as long as it is needed.

Most of our services are delivered locally through skilled staff and volunteers who are deeply rooted in their communities. We adapt our services to meet local need and pride ourselves on being responsive to local demands. These services are closely linked into the National Homicide Service providing a dedicated, comprehensive service for those bereaved by murder and manslaughter and our national Supportline³⁶.

We are an independent charity and our unrivalled national overview gives us the ability to share best practice and innovate in our services as well as champion victims' rights from a strong evidence base

We have different internal experts, to best support victims. We currently operate in 25 out of 43 police force areas. We provide different types of support. Short to 6-8 weeks to 6 months of support. RPR – identify risk factors, look at protective factors and increase their resilience levels

Our strengths

1. We're independent

We are independent of the government, the police, local authorities and criminal justice system. You don't have to report a crime to the police to get our help.

2. We're free of charge

Our support services are free and continue for as long as you need our support.

3. We're confidential

Our service is confidential, and unless we believe there's a risk of harm or it's a legal requirement, we will always protect your confidentiality and not pass on your personal details or any other information that could identify you without your permission.

4. We're focused on support

As an organisation, victims are our only focus. Last year we were in contact with 730,515 victims of crime, offering information, advice and support. 803,975 people visited our

³⁶ <https://www.victimsupport.org.uk/>

website and our dedicated local teams provided specialist emotional and practical support to 112,586 victims.

5. We're specialists

Our teams of highly-trained staff and volunteers provide a wide range of specialist services that help people affected by all types of crime from burglary, hate crime, fraud and theft to domestic abuse, child sexual exploitation and terrorism.

We also run the National Homicide service providing a dedicated, comprehensive wrap-around service and vital independent voice for those bereaved by murder and manslaughter in England and Wales.

6. We're making a difference

Our expertise and experience are the reason why 85% of victims we helped last year felt better informed about support and the options open to them.

7. We're here for you 24/7

We're here for you 24 hours a day, 7 days a week, 365 days a year through our Supportline, through our live chat service and through My Support Space – a safe and secure online space where you can work through interactive guides to help you move forward after crime.

8. We are local

Our services are delivered locally through skilled staff and volunteers who are deeply rooted in these communities. We adapt our services to meet local needs and pride ourselves on being responsive to these needs and priorities.

We're here to help anyone affected by crime, not only those who experience it directly, but also their friends, family and any other people involved. It doesn't matter when the crime took place – you can get our support at any time, and for however long you need us.

We provide free and confidential support for people affected by crime and traumatic events – regardless of whether you have reported the crime to the police. If a victim says to us that they do not wish to report a crime, we do not pressure them and we continue to support them, as fundamentally we are there to assist and provide support to the victim.

The support services we offer are tailored to the needs of each person. These include:

Information and advice, immediate emotional and practical help, longer term emotional and practical help, advocacy, peer support and group work, restorative justice, personal safety services, help in navigating the criminal justice system.

Our teams of highly-trained staff and volunteers provide a wide range of specialist services that help people affected by all types of crime from burglary, hate crime, fraud and theft to domestic abuse, child sexual exploitation and terrorism.

We run the National Homicide service providing a dedicated, comprehensive wrap-around service and vital independent voice for those bereaved by murder and manslaughter in England and Wales.

We champion victims' rights and issues locally and nationally, working closely with policy-makers, commissioners, agencies in the criminal justice system, local government and other providers, partners and organisations.

The impact of crime can be life-changing so we are proud to provide long-term support to victims of crime and traumatic events for as long as we are needed, so together we can move beyond crime. The focus is purely on the victim.

25th May 2022

Day Two

Session:

ROUNDTABLE DISCUSSION ON VULNERABLE VICTIM & WITNESSES IN THE JUSTICE SYSTEM

HRH Patricia Lees

Her Honour Judge Patricia Lees sits as a judge on the South Eastern Circuit (equivalent to the District Court). Prior to her appointment as Circuit Judge, she was a barrister at 23 Essex Street, specialising in criminal litigation. Her Honour Judge Lees has extensive experience in all areas of criminal law, both prosecuting and defending, with particular expertise in cases involving sexual allegations. She is co-author with Elly Laws QC of the Sexual Offences Referencer: A Practitioner's Guide to Indictment and Sentencing. Judge Lees is the course director to train judges hearing sexual cases.

Allison Hunter QC

Allison Hunter QC is a leading criminal practitioner who defends and prosecutes the most serious, complex and high-profile cases involving matters of the utmost sensitivity, both at Crown Court and Appellate level. Allison not only appears in court but also regularly

provides early stage advice, and training across the profession on the questioning of vulnerable witnesses, myths & stereotypes and Disclosure including third party and digital communications. Allison frequently provides training in her areas of expertise to the profession generally and also to the Metropolitan Police on: Disclosure, Disclosure Management Documents; Group Offending; Covert Surveillance Evidence; Vulnerable Witnesses; ABE techniques; Anonymity, Hearsay and Bad Character. She has also been appointed as a Recorder of the Crown Court (North Eastern Circuit).

The Roundtable Discussion was led by HHJ Patricia Lees, Judge and Allison Hunter, QC, who started off with short presentations on the UK Court systems in prosecuting cases of Child Sexual Abuse.

Both Judge Lees and Ms. Hunter agreed that special measures had improved evidence-giving processes for child complainants, but they nonetheless noted considerable room for improvement. All delegates of the Study Visit attended this session, and participated by providing input on Malaysian systems and asking questions.

Judge Lees in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

Time for a young person/child seems longer. 6 months is a long time. We try to expedite the child's testimony, and record the child's entire testimony pre-trial. A big thing is you never need to repeat the child's evidence in the event of a re-trial .

We have a judicial college. Judges hearing sexual offences – must go for training every 3 years. It is structured compulsory training.

We've imposed training on everybody when we go into the courtroom involving children.

For advocates – we were trying to achieve a gold standard of training. It's important that we think about that because training is crucial. We impose the process and say this is how we do it. It was challenged at the beginning by advocates, but we just continued to enforce it.

Special measures

We have pre- trial case managements/hearing where special measures are directed.

The testimony of the child is usually entirely pre-recorded before the trial.

We ask the child if they are more comfortable with everyone in the same room or if they wish to testify remotely by video. On the occasions where the child is in the room with

everyone, we have found that barristers find it difficult to be horrible to a child sitting next to you.

We determine the timings for the child to give evidence.

The recording of evidence is usually done in half a day, and this is possible because of agreed questions.

We have children testify on Tuesdays in the morning rather than Monday afternoon – an example of the timing practicalities. We have found that teenagers especially, are better mid-morning.

We do not have children waiting outside court waiting for their turn. There's a video of a young man that shows the impact the delay has on him. Judge will send the link to this video.

We use intermediaries – usually they are trained in some field, for example speech therapists to facilitate communications with the child.

We have reports regularly on the issues faced.

We slow down. Speak slowly. Give frequent breaks. We help the child to follow what is happening.

The witnesses are provided familiarisation with the court room and the dock.

I highly recommend The Advocates Gateway³⁷ Toolkits³⁸. These are regularly updated. We require advocates to confirm that they have looked at the correct toolkit and that they will abide by it during the trial. The judge will confirm this during pre-trial case management. If the lawyer is behaving badly, the judges hold him right down and stop him.

Special measures must be extended to a child offender even if the victim is also child - the idea is to enable participation.

We have a witness profiler sometimes to advise us.

Remote location

We use a remote location to provide a place for pre-trial recordings.

We follow the Barnahus Model³⁹ like the Children's House Reykjavik⁴⁰, which is a Council of Europe-promoted model to address child sexual abuse by coordinating parallel criminal and social welfare investigations in a child-friendly and safe environment.

³⁷ <https://www.theadvocatesgateway.org/home>

³⁸ <https://www.theadvocatesgateway.org/toolkits-1-1-1>

³⁹ <https://www.barnahus.eu/en/>

⁴⁰ <https://www.coe.int/en/web/portal/-/20th-anniversary-of-children-s-houses-icelandic-model-to-counter-child-sexual-abuse-continues-inspiring-change-across-europe>

The first Barnahus (Children's House) was set up in Iceland in 1998. It brings under one roof all relevant professionals (the judge, the prosecutor, the police, social workers and medical professionals such as psychologists, forensic doctors) to obtain from the child victim of sexual abuse the necessary information for investigation and court proceedings, and to help the child by preventing re-traumatisation and providing support, including medical and therapeutic assistance. The Council of Europe has for many years promoted the Barnahus model as a good practice of setting up child-friendly multidisciplinary and interagency services. The effectiveness of the Barnahus model has been confirmed by the Council of Europe's expert body on prevention of sexual abuse and sexual exploitation of children, the Lanzarote Committee.

Pre-recorded testimony

The child's entire testimony is pre-recorded: examination in chief, cross-examination and re-examination. The person asking the child the questions is a psychologist. At the outset, we ensure questions can be understood.

The pre-recorded cross examination is done within a matter of weeks.

Barristers have questions that they give us. Agreed questions are asked. Once questions on the list are exhausted, there is a break. The psychologist goes back to lawyers and ask if any further questions. If because of an answer given the barrister wants to ask further questions – she must write it down and get permission from the judge to ask additional questions. Re-examination – the same process is followed. We take a break. The lawyer will write the questions down, show judges, and get it agreed. It is all done in a day.

The language used by the barrister is important, which is also why we look at the questions. One of our jobs as judges is to assess. The beauty of pre-recorded testimony is that it can be edited. There is an opportunity to ask further questions at court if for other witnesses (not a child) are coming to court. Because it is video recorded, it is transparent. Decisions are made on what questions can be asked. Only relevant things. Anything that can be agreed – will not be asked. No chat. Just go straight to it.

Training is given to judges to ensure that they can control barristers and the way to ask questions. We cross out questions that don't need to be asked etc. It's not a soft exercise. There must be a point to it. The identification of suspect(s) is done during police interview recording. It is never done in court. For evidence gathering purposes - the camera should be owned by the system to enable recording.

Section 28 recording

s.28 recording - We know what time child will arrive. They use a different door. They go straight to that room. We're led by them. Once child is ready. We go say hello. They are with mom and dad with court staff.

The police officer doesn't go in. An usher will tell the judge if there are any problems.

The parents will go out. No conversation with the parent(s) unless the child is in distress but usher will stay in the room. We go back to court room. Do the process. Then go back and say bye. Probably just the prosecutor and the judge in court.

Done within a certain number of weeks from case coming into the courts. Rigid timing wasn't working. So, we have same barrister doing groundwork and acting as the trial barrister. Disclosure should be sorted very quickly. Much less than 6 months. We try to finish the trial within 6 months.

In the case of a self-represented defendant – if there is a vulnerable witness – our 1999 Act allows court to impose that defendant is represented. They don't get free defence. Just someone else to ask questions. They don't make a speech etc. just ask questions. The victim or complainant does not get subjected to cross by the offender.

Corroboration

We've dispensed with the requirement for corroboration.

Leading from the top

In terms of objections taken on the process by barristers, and used as grounds of appeal, we lead from the top – our senior judiciary have to stand united to say this is not a ground for appeal. We got our senior judiciary on board from the beginning. I wouldn't engage with that process or even consider this as a ground of appeal. If the defence is changed then that is another way to attack the defendant.

If lawyer didn't ask competent questions – judicial discretion can be used to direct that further questions be asked. The way we do it – if there's a disclosure made later – for example the child lied at 5 and it is only now known to court – and lawyer says he wants to ask questions on it – we use judicial discretion to direct.

Judge Lees - I imposed the changes above in our courts before our legislation caught up. The changes were gradual, not only in investigation and judiciary.

We recognised the fact that witnesses aren't all the same. Children are not all the same.

Our system is flexible because it can be adapted every day to suit the needs of the child witness. Although legislated in 1999, only 2013 -3 courts pioneered. Now we have it in every court for all vulnerable witnesses. We achieved so many levels of training. Video

recording – training for interviews, police, to achieve the best evidence. It is not automatic.

Guidance

We issued statutory guidance. The Achieving Best Evidence (ABE) in Criminal Proceedings ⁴¹was originally published in 2002, when it replaced and extended the scope of the guidance set out in the Memorandum of Good Practice for Video-Recorded Interviews with Child Witnesses (Home Office, 1992). The second edition of the guidance was published in 2007, a third was published in 2011 and the fourth edition of ABE was published in January 2022. This guidance is online. In 2016, the Support for victims of modern slavery ⁴² guidance was published.

The ABE covers the interview process for child and adult victims and witnesses during a criminal investigation, the pre-trial preparation process and the support available to witnesses in court. The interview guidance set out in ABE includes video-recorded interviews with vulnerable and intimidated witnesses where the recording is intended to be played as evidence-in-chief in court. The ABE promotes a strong victim-centred and trauma-informed approach throughout the guidance.

The ACPO Good Practice Guide for Digital Evidence ⁴³guidance is published by the Association of Chief Police Officers to be circulated to and adopted by, Police Forces in England, Wales & Northern Ireland. The purpose of this document is to provide guidance not only to assist law enforcement but for all that assists in investigating cyber security incidents and crime. It is updated according to legislative and policy changes and republished as required, with the last update in 2011. Police training is provided for specialist police teams. When training is provided, there is an expected minimum commitment of 5 years for the trained police officer to remain in the unit.

The Crown Prosecution Service also have a series of prosecution guidance available on their website⁴⁴.

In conclusion

The system of having intermediaries, though introduced by legislation in 1999, was only implemented recently.

⁴¹ <https://www.gov.uk/government/publications/achieving-best-evidence-in-criminal-proceedings>

⁴² <https://www.gov.uk/government/publications/support-for-victims-of-human-trafficking>

⁴³ https://www.digital-detective.net/digital-forensics-documents/ACPO_Good_Practice_Guide_for_Digital_Evidence_v5.pdf

⁴⁴ <https://www.cps.gov.uk/prosecution-guidance>

I would recommend amending existing Acts to remove the requirement of corroboration or a warning as to the reliability of a child's evidence (before convicting) for children in all matters. I would also recommend legislative amendments that would enable pre-recorded testimony, and amendments to enable judge to allow remote recordings

I would advise this order of making change - Legislate, train stakeholders, set up measures then implement.

Groups of police officers came to us for training on how to carry out interview sessions. Judges trained police. CPS because they are aware of legislation, need to have an eye to success of case - they too have an ability to scrutinise the system - and come out with best practice

In the year 2020 - we had 4000 child abuse cases - 84% success rates, in cases where a charge is brought. Could be guilty plea. 1 in 60 sex abuse cases result in charges being brought. Once a charge is brought we have a much higher success rate. But lower rate to getting a case to trial.

I would recommend the book "The Physical Signs of Child Sexual Abuse⁴⁵" or more widely known as the Purple Book by the Royal College of Paediatric and Child Health (RCPH), in collaboration with the American Academy of Pediatrics (AAP), the Royal College of Physicians of London (RCP) and The Faculty of Forensic and Legal Medicine (FFLM). It sets out examples of how to ask questions. Gives literary advice on how to assess.

HRH Judge Lees - we can help you improve your systems and provide training etc.

Judge Lees's wishlist to improve UK systems:

1. get rid of juries for sexual offences, and replace with a panel which includes a judge and a psychologist
2. have more cameras for pre-recordings.
3. set up more of the barnhus model locations to enable remote locations recording
4. a system where a psychologist gives evidence before the trial on the demeanour of the witness

Ms. Allison Hunter QC in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered) and briefed us on a complex case she was handling as a crown prosecutor. She also spoke from the perspective of Crown Prosecution Services ("CPS"). (In the UK, private barristers can be appointed by CPS to act as prosecutors).

⁴⁵ <https://www.rcpch.ac.uk/shop-publications/physical-signs-child-sexual-abuse-evidence-based-review>

Background

In this ongoing case, there are 26 defendants. Familial sexual abuse. 7 victims. Youngest 18 months. Oldest 6 at the time.

When one of the children was brought to the hospital, her hymen was found to be intact but had an opaque area that was white but had not been seen by the leading paediatrician and the other doctors involved. None of them had seen this before. They collectively opined that it is a scar. They said indicative of injury from below and up.

Investigation came up because the 18-month-old came in with broken leg. The story from the parents didn't match. Doctors found that there were healed injuries also present. She was removed from her parents' care. Her brothers were also placed in foster care. The family had been under scrutiny of social care and education people.

The children were placed in 4 different foster families. Foster carers had to travel. So they needed emergency respite care. They then came into a private foster caring family. This family found that the children were behaving strangely. Some were exhibiting suicidal/depressive tendencies though very young.

After repeated therapy sessions, and more than a year after the private foster family took them on, a horrific story of familial abuse came out with more than 30 people within the family sexually abusing the children of the family. Only 26 people were charged as some of the others were found to have been victims themselves of sexual abuse.

Ms. Hunter then went on to tell us the story of how each child was counselled and interviewed, not so much with a justice perspective but more in an attempt to support and help the children who were clearly traumatised and damaged. The children started off not knowing that they had been abused and turned catatonic and/or suicidal when they finally realised that what had been done to them was wrong.

The very young girl child acted out how her grandfather raped her and drew pictures showing his "stick".

We used Achieving Best Evidence (ABE) interviews to effectively get a story out that could be put before the court. Many questions were asked by the delegates of Ms. Hunter at this point including how the 26 defendants were identified and how the charges were framed given the delay in discovery. AH explained that it took time and many sessions with the psychologists before a story could be put together from everything the children said. But the children's stories were consistent.

AH was involved from the very beginning including at the point where charges were framed. So, the charges were carefully crafted and did not have specific dates in them. Wider periods in charges.

A question was asked that the toolkits are just a guideline – Don't they have instances when lawyers argued against it saying it is not law?

AH: We engage senior judiciary – get them on board and get them to buy in. The toolkits are more than guidelines. Our criminal procedure rules refer to The Advocates Gateway. So it has become entrenched. It cannot be a ground of appeal. We can help to speak to your judges and train.

The Achieving Best Evidence (“ABE”) statement was tendered as hearsay in one child’s case because the paediatrician said the child could not take further cross because of trauma. It took 3.5 years to charge. Much later to head to trial. It was all done with the best interest of the child (provided the interest of the Defendant is not prejudiced).

Court intermediaries were appointed for the children to support them.

Things to change – 26 counsel didn’t have to ask questions. Should be 1 to 3 counsel asking agreed questions.

It was decided that they could not proceed without a break for 20 minutes. Allowed Brandon (one of the children) to set the pace.

Questions that could not be asked because of trauma to child were presented to the jury and they were informed that these are questions that the witnesses were challenged with.

The Defendants were assessed to see if they were also victims. The assessment was made before the decision to charge was made. Mother of children pleaded guilty but was found to be vulnerable. An intermediary was appointed for her.

Our judges train the police. The Bar trains ourselves. On best practice. Learning is taken from cases we have conducted. We will have judges., psychologists, myths and stereotypes. This training is compulsory for people who prosecute.

We have specialist police teams, and specialist prosecutors at particularly senior level. They will only instruct counsel who have been trained on their trainings and accredited.

Our training must be submitted to CPS for accreditation. Then training should be done every 4 years. Defence counsel don’t have accreditation or have to have training. But judge can direct that they have read the applicable toolkits.

25th May 2022

Day Two

Session:

THE OLD BAILEY

The delegates were given a tour of the Central Criminal Court of England and Wales, commonly referred to as the Old Bailey (after the street on which it stands). This is a

criminal court building in central London, one of several that house the Crown Court of England and Wales. The street outside follows the route of the ancient wall around the City of London, which was part of the fortification's bailey, hence the metonymic name.

The Old Bailey has been housed in a succession of court buildings on the street since the sixteenth century, when it was attached to the medieval Newgate gaol. The current main building block was completed in 1902, designed by Edward William Mountford; its architecture is recognised and protected as a Grade II* listed building. An extension South Block was constructed in 1972, over the former site of Newgate gaol which was demolished in 1904.

The Crown Court sitting in the Old Bailey hears major criminal cases from within Greater London. In exceptional cases, trials may be referred to the Old Bailey from other parts of England and Wales. As with most courts in England and Wales, trials at the Old Bailey are open to the public; however, they are subject to stringent security procedures.

The delegates were privileged to meet the Recorder of London, since 14 April 2020, HHJ Mark Lucraft. (The Recorder of London is an ancient legal office in the City of London. The Recorder of London is the senior Circuit Judge at the Central Criminal Court (the Old Bailey), hearing trials of criminal offences. The Recorder is appointed by the Crown on the recommendation of the City of London Corporation with the concurrence of the Lord Chancellor). He showed us the inside of a working courtroom, and gave us a brief address.

Following this tour, we were ushered into a meeting room within the Old Bailey to meet with the Crown Prosecution Service, the Metropolitan Police London and the Youth Justice Board.

AGENCY:

METROPOLITAN POLICE LONDON

With more than 43,000 officers and staff, the Met is the UK's largest police service and has 25% of the total police budget for England and Wales. As such, it requires considered structure and division of disciplines and skills; with the aim of maintaining a finely tuned, cohesive organisation.

The Metropolitan Police London's presentation was conducted by Detective Inspector Neil Tovey, Met Police, Homicide, Detective Inspector Suzanne Soren, Met Police,

Exploitation Unit, Acting Detective Inspector Jason Crinnion, Met Police, Homicide, Tier 5 interview advisor, Detective Constable Arran Barnes, Met Police, Homicide, Tier 5 Interview advisor and Detective Constable Elly Mitchell, Met Police, Homicide, Child protection, who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

Partnerships

We work closely with the National Crime Agency, the Crown Prosecution Service and others including charities that provide victim support like Victim Support UK. 25 years ago, we didn't have these partnerships. Then we realised that we're not the experts in everything.

Child victims

Last year 10% of children in UK were victims of crime.

Our officers are trained. The dept is charged for the officers training, meaning it comes out of the budget of that department. So the department will strive to ensure that the talent remains within their department – usually for at least 5 years.

As soon as children come into the police system, a report is generated which is available to all police. We are able to remove a child who is in need of protection within 96 hours, if we have reason.

Also social services come in, foster home placement etc. health service and schools are also involved. Visually recorded interviews. There is Guidance⁴⁶ in a number of papers by the Ministry of Justice.

The considerations we look at in interviewing a child should include:

- Timing and location
- The need for a registered intermediary
- Presence of a suitable adult
- Disabilities/special needs
- Age, gender, race, religion, trauma

⁴⁶ Inter alia found here <https://www.college.police.uk/guidance> and the acpo guidance stated in this document

There are ground rules and guidance is given to the person interviewed. The interviewer shouldn't interrupt their account. Maybe redirect if rambling but let them give their story. We now have mobile units that we can take into someone's house. They will find out cost for us.

Court Intermediaries are provided for under the Youth Justice And Criminal Evidence Act 1999

We have criteria we use to determine if the witness is vulnerable. The conditioning quality is if they are able to give evidence. If can, then they are not considered vulnerable. But a child is always a vulnerable witness.

Special measures we use include:

- s.28 recordings
- ground rules hearing
- witness anonymity

Witness anonymity is used to protect certain witnesses. Conditions – required to protect safety of witness, real harm to public interest, consistent with Defendant getting a fair trial, witness would not attend otherwise and can cause real harm to the public.

Police will put proposal forward, get CPS to agree and then apply to judge for permission. Even if there are 20 people working on a case only 2-3 may know the identity of the witness.

The police also released a position paper called the ACPO CPAI Lead's Position on Young People Who Post Self-Taken Indecent Images⁴⁷, where the police have agreed that ACPO does not support the prosecution or criminalisation of children for taking indecent images of themselves and sharing them, and recognises that being prosecuted through the criminal justice system is likely to be distressing and upsetting for children, especially if they are convicted and punished. The label of 'sex offender' that would be applied to a child or young person convicted of such offences is regrettable, unjust and clearly detrimental to their future health and wellbeing. The police considers that a safeguarding approach should be at the heart of any intervention.

The Met Police's briefing was heavy on slide presentations and overlapped with the roundtable briefing on vulnerable witnesses that we had that morning.

⁴⁷ <https://www.cardinalallen.co.uk/documents/safeguarding/safeguarding-acpo-lead-position-on-self-taken-images.pdf>

AGENCY:

CROWN PROSECUTION SERVICE

The Crown Prosecution Service (CPS) prosecutes criminal cases that have been investigated by the police and other investigative organisations in England and Wales. The CPS is independent, and make their decisions independently of the police and government.

The CPS's presentation was conducted by Ms. Poppy Jafrato, CPS, Crown Court Manager and Ms. Hannah Kappler, CPS, Senior Policy Advisor – Victims and Witnesses, Strategy and Policy Directorate, who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

The CPS's presentation was heavily reliant on slides, which they assured us they will share with participants.

The CPS

The DPP is the head of the Crown Prosecution Service (CPS), which is the principal public prosecution service for England and Wales. The Director of Public Prosecutions ("DPP") operates independently, under the superintendence of the Attorney General who is accountable to Parliament for the work of the CPS.

The Code for Crown Prosecutors ("the Code")⁴⁸ is issued by the DPP under section 10 of the Prosecution of Offences Act 1985.

The Code gives guidance to prosecutors on the general principles to be applied when making decisions about prosecutions. The Code is issued primarily for prosecutors in the CPS but other prosecutors follow the Code, either through convention or because they are required to do so by law. The CPS also issues guidance⁴⁹ on prosecutions to prosecutors and paralegal staff in relation to many criminal offences and procedural issues. This guidance is used to make decisions in criminal cases, in conjunction with the Code.

Child witnesses

⁴⁸ <https://www.cps.gov.uk/publication/code-crown-prosecutors>

⁴⁹ <https://www.cps.gov.uk/prosecution-guidance>

A study by Hamlyn et al (2004)⁵⁰ “*Are special measures working? Evidence from surveys of vulnerable and intimidated witnesses*” found that:

- 71% of young witnesses found being cross-examined upsetting
- 47% of vulnerable witnesses said they didn’t find the questions put to them clear or straightforward.

Our landmark case is R v Lubemba – “Advocates must adapt to the witness. Not the other way around.”

In R v B (2010), the Court of Appeal held: “the age of a witness is not determinative on their ability to give truthful and accurate evidence... However, children are not miniature adults ... and to be treated and judged for what they are”.

Many people giving evidence in a criminal case whether as a victim or as a witness for the prosecution or defence may require assistance and the court is required to take “every reasonable step” to encourage and facilitate the attendance of witnesses and to facilitate the participation of any person. The pre-trial and trial process should as far as necessary be adapted to meet those needs.

The Youth Justice and Criminal Evidence Act 1999⁵¹ provides special measures directions in case of vulnerable and intimidated witnesses. An interpreter is not a special measure – it is a right. Video recordings of testimony are sent for transcription by CPS.

The Code of Practice for Victims of Crime in England and Wales and supporting public information materials (“the Victims’ Code”) focuses on victims’ rights and sets out the minimum standard that organisations must provide to victims of crime. The Victim’s code contains 12 rights, and is fundamental to how we work.

CPS will pay for victims expenses including travel – plane taxis etc and have property returned

It is a specific criminal offence under the Sexual Offences Act 2003 to engage in sexual penetration with a child under the age of 13 “assault of a child under 13 by penetration”. Section 265 reads “A person commits an offence if he intentionally penetrates, with a part of his body or anything else, the vagina or anus of another person who is under 13, and the penetration is sexual. A person guilty of this offence is liable on conviction on indictment to imprisonment for life or shorter term.

We have a 75% conviction rate.

What happens if the victim or family withdraw the complaint? We have evidence led prosecution. Victimless prosecution, based on a discussion between the police and CPS. It can proceed.

⁵⁰ <https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.502.6514&rep=rep1&type=pdf>

⁵¹ <https://www.legislation.gov.uk/ukpga/1999/23/contents>

As for Victim impact statements, we now do one quite early on. Then we do one around the trial so we can capture the full trauma the victim faces. It is only read out in court prior to sentencing.

To a question of how does the CPS pay for the appointment of psychologists, therapists etc. - they answered that they are invoiced directly and they pay. The professionals employed are self-employed people and not employed by the government.

AGENCY:

YOUTH JUSTICE BOARD

The Youth Justice Board, for England and Wales is a non-departmental public body created by the Crime and Disorder Act 1998 to oversee the youth justice system for England and Wales. It is sponsored by the Ministry of Justice, and its Board members are appointed by the Secretary of State for Justice.

The Youth Justice Board's presentation was conducted by Ms. Liz Westlund, Youth Justice Board, Head of London and Ms. Kelly Duggan, Youth Justice Board, Head of the Youth Justice Service in Tower Hamlets and City of London – Victims and Witnesses, Strategy and Policy Directorate, who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

The YJB's presentation was heavily reliant on slides, which they assured us they will share with participants.

One of our resources is the Youth Advisory network⁵² – which is made up of children and young adults with experience of the justice system. The voices of children and young adults with relevant experience are crucial if we are to improve outcomes for children and influence the youth justice delivery landscape, and we work closely with them.

This group aims to understand their concerns, provide them with meaningful opportunities to influence the decisions that may affect them, ensure that their needs are integral to the development of services and planning. This group also helps children and young adults to develop new skills, share expertise and knowledge.

The YJB prepare reports for court – the crime, events behind it, who is this child, why did he land here?

The prisons are run by a separate agency, but we work with them, and even go on to discuss the education and welfare etc. of children and young persons in the justice system.

Those in justice systems are not always seen as victims.

⁵² <https://www.gov.uk/government/publications/how-to-join-a-youth-justice-forum/how-to-join-a-youth-justice-stakeholder-group>

The turnaround period for a trial is usually 182 days, but sometimes in special circumstances, it takes longer.

Handcuffs on children – a risk assessment is made by prison service. But we don't have laws saying no handcuffs on children.

Ground rules hearings will take place to determine special measures if a vulnerable witness is involved

A child Defendant can request for a court intermediary. They can ask to sit outside the dock, ask for simple language, ask for regular breaks etc.

We have Sentencing Guidelines⁵³ set out by the UK Sentencing Council – this is a valuable tool that judges will use when sentencing. It's a document that sets out guidelines for every offence, depending on the seriousness/severity of the offence. For child sexual abuse offences, there are different categories and levels of sentencing, depending on the crime.

Our interagency communication is good. We shoot messages to each other, and share information about the child. The CPS and courts have data sharing agreement. We can't access the police system. Similarly, they can't access our systems. At every stage, the witness has to agree to the disclosure. Everything is digital. The Court has a digital system – CMS – which is accessible to the courts, the police, CPS and the defence. We all have specific email addresses. An authentication process takes place.

26th May 2022

Day Three

AGENCY:

THE LIGHTHOUSE

The Lighthouse's presentation was conducted by:

1. Eimear Timmons, Interim Service Manager, The Lighthouse,
2. Dr Sara Lakin, Clinical Psychologist the Lighthouse,
3. Amy Stelefox, Lighthouse practitioner, Case management team,
4. Monique Joseph, Lighthouse practitioner, Case management team,
5. Dr Leanne Ong, Clinical Psychologist at the Lighthouse,
6. Candice Harris, Experienced Consultant,

⁵³ <https://www.sentencingcouncil.org.uk/>

7. Emma Harewood, The Lighthouse Strategic Lead,

who in summary, presented as follows (where it is possible, statements have been recorded in verbatim and presented here to preserve the messages delivered):

The Lighthouse⁵⁴ is a multi-agency service for children and young people in North London who have experienced any form of child sexual abuse, including exploitation. At The Lighthouse⁵⁵ we put the child at the centre, to make sure they have a safe place to recover at their own pace and rebuild their lives. We want children, young people and their families to receive the justice, support and therapy they need, in a timely manner, to move forward in their recovery from abuse. It offers a child-centred approach, providing guidance and support to help children and young people recover. It is the first service of its kind in the UK and has been funded as a national proof of concept of the Child House model based on the international 'Barnahus' model.

Unlike the Malaysian One Stop Crisis Center or SCAN in government hospitals, the Barnahus model is always located in a separate location from police or hospital locations to provide anonymity for child victims of sexual abuse. Medical, advocacy, social care, police, and therapeutic support are delivered in one location, providing a coordinated approach to supporting children and young people.

At The Lighthouse we know that any form of sexual abuse can affect children and young people in all kinds of ways. It can make them feel upset, confused or angry. But with the right support children and young people can recover. At The Lighthouse we want to make sure children recover from the upset that sexual abuse can cause. We focus on getting children and young people the right help at the right time, by putting all the services needed to respond to sexual abuse under one roof. Medical, advocacy, social care, police, and therapeutic support will be delivered from one place.

The Lighthouse services are provided by University College London Hospitals NHS Foundation Trust, the NHS, the Metropolitan Police of London, the Tavistock & Portman NHS Foundation Trust, Solace, Camden, Brandon Center and Respond.

The Lighthouse services are funded by the Home Office, NHS London, the Mayor of London, the Department of Education, Promise Barnahus Network and Morgan Stanley.

⁵⁴ <https://www.thelighthouse-london.org.uk/>

⁵⁵ <https://www.barnahus.eu/en/the-lighthouse-a-safe-space-for-child-sexual-abuse-victims-in-the-uk/>

Key findings from their 2019 Annual Report ⁵⁶include:

From the service users:

- Children, young people and parents/carers felt that their views and worries were
- taken very seriously and that they were listened to
- They found the environment welcoming and comfortable
- 100% of parents attended the parent psychoeducation course and one parent said
- "I'm not alone in this situation the session with C (adult survivor) was amazing. We were all mesmerized by her stories. She gave us hope."

From the data, in 2019

- There was a threefold increase in referrals compared with the CSA (child sexual
- abuse) hub – 363 referrals in the year
- Approximately 1 in 2 children and young people in NCL are now offered health and care support after reporting sexual offences, compared with 1 in 4 at the time of the London CSA pathway review in 2015
- 81% of children and young people referred were girls and 19% boys
- 12% of children and young people referred had a disability
- 85% of children and young people seen reported one or more vulnerability
- 53% of children and young people seen had a mental health condition
- The most common types of abuse that children and young people were referred following were intra familial (40%), peer on peer (21%) and extra familial (17%)
- Two thirds of the time there was a single alleged perpetrator
- 100 strategy meetings attended
- 41 consultations offered to local social workers and professional networks
- 59% of referrals progressed to an initial assessment – 25% of those remaining had an appointment scheduled in the next quarter, and those that did not were due to child or family declining or they did not meet our criteria

⁵⁶ <https://www.barnahus.eu/en/wp-content/uploads/2020/09/Lighthouse-Annual-Report-2019-web-version.pdf>

- Over half the children and young people accessed a combination of paediatrics and advocacy and at least one form of therapeutic support – with many accessing child and parent support individually

Our learning:

- Value of learning from local and national stakeholder visits
- Importance of maintaining an outward focus
- Developing partnerships needs to be at all levels and takes time and honesty

Every child or young person referred to the Lighthouse is offered a holistic initial assessment with the chance to meet the whole multi-disciplinary team. The appointments are child centred and at the initial appointment the child or young person is encouraged to direct the pace of the assessment. The team can include a consultant paediatrician, advocate, emotional health and wellbeing practitioner, clinical nurse specialist in sexual health and play specialist.

Sometimes prior to the child attending for an initial assessment the social care liaison officer and some of the team will offer a consultation to the referrer and the local network. This can be valuable in gathering background information so that we are more prepared when the child and family attend. This can reduce the amount of questions we need to ask the child and family, allowing more time in the assessment for the child and family to share their concerns and feelings. The initial assessment includes a medical and mental health assessment, as well as safeguarding the child and sometimes a medical examination, sexual health screening and treatment.

The team then recommends a package of support and interventions bespoke to each child and family:

- Consideration of any immediate child protection concerns
- Advocacy
- An assessment followed by counselling or psychological support for the child or young person
- Psychoeducational support for the wider family on an individual or in a group setting
- Medical follow up including, sexual health treatment, contraception and immunisations
- Where needed, referral on to other services such as domestic violence services or specialist child and adolescent mental health services (“CAMHS”)

Following an intense programme of training over 500 front line staff and team leaders in social care, education and the police, the Lighthouse received 363 referrals⁵⁷ in the first year of opening. This is significantly higher than the 118 referrals received by the CSA hub in North Central London, which in turn was higher than the baseline level of 60-80 referrals a year before the CSA Transformation Programme commenced in London.

Compared with the number of police reports for sexual offences in under 18 years olds, it can be seen that the number of Lighthouse referral rate ranges from 34 to 73% of the total number of sexual offences reported to the police in the borough in the same period (Oct 2018 – Sept 2019). This means approximately 1 in 2 children and young people in NCL are now offered health and care support after reporting sexual offences, compared with 1 in 4 at the time of the London CSA pathway review in 2015.

Not all of the children and young people referred to the Lighthouse progress to an Initial Assessment, with 214 out of the 363 (59%) being seen by the multi-agency Lighthouse team at assessment. In the first three months this was particularly low due to the 29 referrals in from CSA hub requiring ongoing support only and not another assessment. There is no significant difference in progression to assessments with the age of the child or young person.

Children and young people referred to the Lighthouse are offered an initial assessment with multi-agency team which can comprise a combination of a paediatrician, advocate and wellbeing practitioner, with the clinical nurse specialist and play specialist when needed. The wellbeing practitioner can be either a CAMHS practitioner or an NSPCC letting the future in (LTFI) practitioner.

After the initial assessment, the child or young person is then allocated to a health and wellbeing practitioner for an assessment of their therapeutic need and to ensure that they are ready for a therapeutic intervention. This therapy can include one to one work for the child or young person, as well as support for their parent/carer/wider family (one to one work or the parent education course). For this reason, most CYP and their families are allocated to services more than once, with one practitioner supporting the child and another supporting the parent.

Most children and young people are seen by a paediatrician at initial assessment (176 out of 214) and a quarter are supported by the clinical nurse specialist for sexual health, immunisations and contraception (44 out of 214). Sometimes the children see a paediatrician at assessment and then return some months later for further support –

Many children that attended for an IA were allocated to advocacy services (138 out of 214) to ensure the voice of the child is heard and the child and family are supported throughout the investigation and recovery journey. This can include support with managing issues at school, with friends, within the family and preparation and support throughout the police investigation and court process.

⁵⁷ <https://www.uclh.nhs.uk/our-services/find-service/children-and-young-peoples-services/lighthouse>

Children and their wider family have their therapeutic need assessed over a few sessions after the initial assessment, and then will be referred to the service that best meets their needs and those of their parents/family. This means a child will be supported by one service (CAMHS, LTFI or P&R) and their parent(s) or sibling(s) being supported by other practitioners, resulting in one child and family being allocated to multiple health and wellbeing practitioners. In 2018, 196 children and young people that attended for an IA went on to access 261 allocations of therapeutic support. This level of support and therapeutic work is much more intensive than first anticipated and requires multiple practitioners to allow for separation between streams of support.

Partnership working has developed at all levels. After initial difficulties with lack of understanding of each agency's culture, language and priorities; the senior leadership team implemented a number of changes including:

- respect and challenge in the daily allocation meetings
- weekly senior leadership team meeting
- monthly whole team meetings to discuss live issues and monthly team brief to enhance communication
- senior leads from partner agencies meeting for regular open and honest conversations to understand each other's organisations and viewpoints

The partnership agreement was developed and signed up to by all parties in the first few months of go-live. This is not a legally binding document but an agreed way of working. On top of this there are formal sub-contacting relationships between University College London Hospitals NHS Foundation Trust (UCLH) as lead provider and the sub-contracted partners: Tavistock & Portman, NHS Trust, NSPCC, Solace, Women's Aid, Brandon Centre and Respond. However, there is no formal contractual relationship between UCLH and the local authority and Met Police. This has not caused any difficulties to date, but formalising this relationship is recommended for the future.

The impact of the work on the staff working at the Lighthouse has been greater than first anticipated. In addition to the usual 1 to 1 supervision, the Lighthouse have also established group supervision fortnightly for the whole multi-disciplinary team, reflective practice sessions and weekly case review. There is also specific group supervision for the admin team, noting the impact of the role on their wellbeing. There is also a broader focus on wellbeing including: a social committee that coordinate staff events; employee of the month; and Wednesday afternoons set aside as non-clinical time for whole team training, team meeting or supervision.

Due to funding issues, and while the long-term funding of the Lighthouse is still to be agreed by the commissioners for our services, we have made the very difficult decision that we will temporarily close our waiting list for long-term therapy and advocacy services.

Our current services:

- full initial assessment with the Lighthouse team including health (medical) check and emotional wellbeing assessment
- advice about the criminal justice process from our advocates and police liaison officer
- health follow up that includes physical and sexual health (screening for STIs), immunisation, contraception, sleep and relaxation work
- short term support, sign-posting to useful services and resources
- consultation, training and/or support to local wellbeing practitioners, schools, or health, voluntary sector or social care
- where appropriate parents may be able to access individual sessions and/or access to a parent psycho-education course
- some young people may be able to access group work, if they are not within the time frame of a criminal justice process

Apart from their professionals who presented to us, we met their team, which includes the following:

The young person's advocate guides children and their families through their journey towards recovery. This helps make sure they receive all the support they need easily and quickly

A play specialist helps children prepare for the medical assessments with the paediatrician who is supported by a nurse.

A clinical psychologist can conduct the Achieving Best Evidence (ABE) interview, with support from a police officer. By putting the young person's emotional needs first we can help reduce re-traumatisation and gather the best evidence.

Children and young people can work with therapists who specialise in supporting children and young people who've experienced sexual abuse. The therapist will get to know them, listen to them and be there for a child every step of the way

Police liaison officers and social care liaison officers act as links, offering advice and liaison to local police, children's social care services and other professionals.

An NHS worker who is placed there by the NHS to provide support.

The Space

We set up the Lighthouse in our current location after careful consideration and research. We wanted somewhere neutral, which would not have any identification on the outside

– to ensure that children coming to the Lighthouse can avoid any stigma or disclosure of the child’s abuse to outsiders.

We made sure that the location is easily accessible and that we have major tube (underground rail) lines with stops close to us to enable children and families to travel to us easily. We have many children who after their first visit or so, come in on their own after school, using public transportation and this was a key factor in our planning and initial search for a suitable location. Our spaces are child friendly and functional. We have a room for the police to be stationed at, and another room to enable remote pre-recorded testimonies of children for court proceedings with cameras positioned at different angles including at lower heights so the entire proceedings are recorded. Sometimes during the recording process the child rolls on the floor or has a panic attack or acts bizarrely, and all of this is tendered to the court to enable the court to see the child’s demeanour and behaviour. There is sufficient space for the prosecutor and the judge (if necessary) to be stationed somewhere in the Lighthouse whilst the testimony is recorded.

We have various rooms for therapy and children who come in can pick which room they wish to have their session in – subject to availability. We have family rooms where parents can wait with their other children whilst sessions take place. We have a space where medical examinations can be carried out, and a play area.

As part of this visit, the delegates were given a tour of the Lighthouse to fully appreciate their set up and their child and family friendly spaces. Every aspect of each space seemed to serve a purpose, and was either comforting for a child or functional.

Their reception:



Their family room where families could wait whilst the child accessed the Lighthouse services:



Their nature room:



Their sky room:



Their activity room:



The waiting area:



The talking room:



Their medical room where doctors and play specialists can examine children:



The therapy room:



Here is a link to a film for young people about The Lighthouse:

<https://m.youtube.com/watch?v=3i0Wu4feX7g&feature=youtu.be>

It is to be noted that Ms. Emma Harewood has written a book called “The journey to the Lighthouse”⁵⁸ on her experiences in setting up the Lighthouse.

PERSONAL STATEMENT

It was a privilege to have participated in this Study Visit with the Parliamentary Special Select Committee On Women & Children Affairs And Social Development and the delegates from key agencies in Malaysia.

Throughout the 3 days of the Study Visit, and in all our interactions with multiple personnel from key agencies - we were overwhelmingly brought to realise that we need to make a decisive shift in the way that we treat children within our justice system, especially when they are victims of child sexual exploitation and abuse. The underlying message each agency gave us was that their systems are now child centered rather than justice centric.

Coming from the landscape of child protection in Malaysia, it was heartening to hear police, prosecutors and support agencies say that ultimately the best interest of the child is the paramount consideration – this is starkly different from our present system which is more focused on the number of convictions that are successfully made.

It was encouraging to hear that these developments in the UK system are relatively recent, as this leads me to strongly believe that we can emulate their innovations, best practices, tools and laws to strengthen our present justice system to better protect child victims and witnesses in the Malaysian courts. It was good to see that in some ways we have better systems than our UK counterparts, in that we are no longer encumbered a jury system and that we do have the Sexual Offences Against Children Act 2017 (“the SOACA”). Moving forward, we should take immediate steps to amend our laws to include some of the UK legislative innovations, including introducing laws to enable pre-recorded testimonies of vulnerable witnesses and remote recordings, and an Online Safety Act to mirror the UK Bill.

We should also immediately look at the documents created by the WeProtect Global Alliance with the view of:

⁵⁸ <https://www.amazon.co.uk/Journey-Lighthouse-holistic-children-experienced/dp/1916027644>

- (a) duplicating the Model National Response; and
- (b) duplicating the Global Strategic Response

And take serious measures to join and be active members of the WeProtect Global Alliance.

Two key considerations that the UK government has undertaken is to recognise that:

- (a) child sexual exploitation and abuse is harmful not only to the child victim, but has an impact on the nation and national resources, and that effective victim support and management can reduce the impact of these losses; and
- (b) child sexual exploitation and abuse is a form of human trafficking and modern slavery.

This realisation is long overdue in Malaysia, and needs to be legislated so that all our agencies dealing with children and/or trafficking relook the way they approach child sexual exploitation and abuse. In allocating and allowing government budgets/allocations in Malaysia, there is little or no consideration of these matters, and this translates to key support agencies/personnel such as D11 in PDRM and JKM not receiving sufficient budgets or fundings for victim support and training.

The data shared by the various agencies was astonishing to us, as here in Malaysia – one of the very real struggles in child protection is obtaining adequate disaggregated data from our agencies and ministries. Without real data, we cannot identify problems and if we fail to identify problems, we cannot work on solutions. It is recommended that we address this issue of data sharing and work collaboratively together to come out with a common database which is available to key agencies as well as publish data annually which is made available to the public. We should work together with our local universities and see if grants can be extended to these institutions to enable and initiate research on child sexual exploitation and abuse in Malaysia and matters related thereto, the protection of vulnerable witnesses, special measures and innovations for children in court as well as the experiences of children in the Malaysian justice system. A review of our present laws and systems in handling, managing and supporting victims of child sexual exploitation and abuse is also urgently required to enable us to address gaps and find solutions.

In my opinion it was important that apart from the lawmakers from both sides of the political divide, our key agencies and stakeholders were present for this Study Visit (with the notable exception of the Attorney General's Chambers and the Bar Council), as they could see at first hand how collaborations and inter agency and NGO partnerships can benefit each agencies core business and improve their delivery of essential services. Too often children in the Malaysian justice system are at a disadvantage because our agencies and ministries work in silos and independent of each other.

The number of guidance, guidelines and policies that have been issued also show the inter agency cooperation/collaboration – we would be well advised to not only replicate these documents but to also foster the relationships that have been built as a result of this Study Visit, to improve and better our systems.

The statement by every agency we met that every person who appears in court receives training which is accredited not only by their own bodies but also in collaboration with other agencies was repeated and reinforced again and again – and this must be a change that we must implement in our systems to ensure that all reforms that are undertaken are sustainable. It was encouraging that most of the UK counterparts who we visited during the Study Visit freely offered their assistance and support to us and in most cases expressed their willingness to collaborate with us and if necessary provide training for our stakeholders. We should, where possible, accept these offers of partnerships/collaborations to better our systems, learn from their experiences and benefit from workable researched training modules. To an extent such collaborations will help us to leap into making changes and reforms without having to reinvent the wheel.

It is felt that such reforms would not be sustainable if we do not also relook our National Policies on child protection and vulnerable victims to ensure reforms are factored into annual budgets, regardless of changes in leadership or government. We also need to foster our relationships and partnerships not just nationally (within the various ministries, agencies, NGOs and other stakeholders) but also internationally with the various organisations fighting against child sexual exploitation and abuse. Malaysia must not forget that in recent years, two of the biggest cases of child sexual predators⁵⁹ ⁶⁰caught internationally, operated within our shores – and that to date, no efforts have been made by the government to support the victims of these two monsters.

We must also look hard at our current policies when it comes to promotions and transfers and:

- (i) determine the value of each training that is provided to an officer;
- (ii) ensure that the said value attaches to the said officer and is taken into consideration when transfer/promotion decisions are made;
- (iii) capacity build with the view of creating specialists;

⁵⁹ McVeigh, K (2016). 'Richard Huckle given 22 life sentences for abuse of Malaysian children ,' The Guardian 10 June 2016. <https://www.theguardian.com/uk-news/2016/jun/06/richard-huckle-given-23-life-sentences-for-abusing-malaysian-children>

⁶⁰ <https://www.smh.com.au/world/asia/how-australian-police-tracked-one-of-world-s-most-wanted-paedophiles-to-borneo-20210831-p58nfe.html>

- (iv) review the current structures and policies in place for the transfer/promotion of officers to ensure that we do not lose valuable specialists or trainings.

By far, the most impactful agency visit was the one to the Lighthouse, where our delegates got to see exactly how the Barnahus model was implemented, and practiced – and how child victims and the families could be supported. The Lighthouse or Barnahus model is one that we must consider implementing in every district in Malaysia to ensure that all child victims of sexual offences are supported and assisted. It is to emphasised that although funded and supported by the NHS, the Lighthouse and the various Barnahus models implemented around the world differ materially from the OSCC and SCAN system currently in place in Malaysian hospitals – the key difference being the location which is neutral and not centered in any hospital or police station or facility and the fact that various agencies and professionals operate out of the same space to provide comprehensive support to the child victim.

We should also relook the relationships that the various agencies/ministries have with NGOs/charities and foster working partnerships and collaborations that can mutually benefit and enhance the work carried out, in supporting child victims and witnesses.

The biggest win for me personally was to see the change in perception in our delegates who having started the Study Visit saying that they were in the UK to see how to improve conviction rates, had clear shifts in thinking – and concluded that we need to do more to be more child centric and more supportive of the child victim. It is hoped that this change in thinking is brought back to their respective agencies, and that we see real sustainable changes and outcomes as a result of their learning during the Study Visit.

In conclusion, the lessons we learnt on the Study Visit were eye-opening and with a steep learning curve. It is hoped that we take these lessons and adapt them to our local systems, and foster these UK partnerships/collaborations for long term sustainable improvements and innovations to our systems in handling and managing child victims and witnesses in the Malaysian justice system. I attach herewith my recommendations following the Study Visit.

This report is prepared by,

Srividhya Ganapathy
CRIB Foundation
1st August 2022

List of Delegates

1. YB. Dato' Sri Azalina Othman Said
Chairwoman, Parliamentary Special Select Committee On Women And Children Affairs And Social Development, Member of Parliament, Pengerang
2. Mdm Mona Hanim binti Sheikh Mahmud
Special Officer to YB Dato Seri Azalina Othman, Special Advisor to Prime Minister (Law and Human Rights)
3. YB. Mr. Ahmad Tarmizi bin Sulaiman
Member of Parliament, Sik
4. YB. Mdm Alice Lau Kiong Yieng
Member of Parliament, Lanang
5. YB. Mdm Hannah Yeoh
Member of Parliament, Segambut
6. YBrs. Dr. Zakiah binti Mohd Said
Public Health Expert Physician, Ministry of Health
7. YBhg. Dato 'Haji Abdul Halim bin Haji Abdul Rahman
Deputy Secretary General (Security) , Ministry of Home Affairs
8. Mr. Asrul Shah bin Razali Chief Assistant
Secretary, Crime and Terrorism Unit, Security Division, Ministry of Home Affairs
9. Ms. Izyan Hazwani binti Ahmad
Principal Assistant Secretary, Office of the Child Commissioner, Human Rights Commission of Malaysia (SUHAKAM)
10. YA Mrs. Evrol Mariette Peters
Judicial Commissioner Kuala Lumpur High Court
11. YBhg. Datin Kunasundary a/p Marimuthu
Judge, Sessions Court for Sexual Offenses and Children, Federal Territory of Kuala Lumpur and Putrajaya
12. Mrs. Elsie Primus
Judge, Sessions Court Kota Kinabalu, Sabah
13. SAC Mohamad Zainal bin Abdullah
Principal Assistant Director (D5), Prosecution / Legal Division, Criminal investigation Department, Royal Malaysia Police
14. Supt. Wong Pooi Lin
Assistant Director Sexual, Women and Child Investigation Division (D11), Criminal Investigation Department, Royal Malaysia Police
15. Mdm Rozana Abdullah
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16. Ms Selvi Supramaniam
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17. Ms Srividhya Ganapathy
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18. Ms Loh Jing Rou
Researcher, Office of YB Dato Seri Azalina Othman Said
19. YB. Mdm Fuziah binti Salleh
Member of Parliament, Kuantan
20. YB. Mr. Ahmad Fahmi bin Mohamed Fadzil
Member of Parliament, Lembah Pantai

CHILD VICTIMS AND WITNESSES IN THE UK JUSTICE SYSTEM:

Recommendations by Srividhya Ganapathy,
CRIB Foundation

Recommendations

1. Policy & Law

- 1.1 Draft an Online Safety Bill (on the terms of the UK Online Safety Bill and the Australian Online Safety Act) to bring us in tandem with international standards and which will provide us with better powers over internet service providers, website owners and portals. Include a provision similar to the UK Section 7 Crime and Courts Act 2013 which provides an information gateway enabling law enforcement to ask companies for information, and enabling the issuance of takedown notices. In doing so, it is crucial that any laws relating to online child sexual abuse content (including the child pornography provisions in the SOACA) be harmonized with international standards, so that Malaysian law is consistent and comprehensive with international procedure for removing such content.
- 1.2 Amend the Evidence Act to remove the need for corroboration for “person of tender years” requirement in section 133A of the Evidence Act 1950
- 1.3 Amend the Criminal Procedure Code and the Evidence of the Child Witness Act 2007 to provide special measures to vulnerable and intimidated witnesses as set out in the UK Youth Justice and Criminal Evidence Act (1999), including allowing video recorded pre-trial cross examination as per section 28 of the Youth Justice and Criminal Evidence Act 1999, pre-trial ground rules hearings and victim support special measures.

- 1.4 A cultural change is required if policy is to become research-driven and informed by a strong evidence base. This needs to originate from government. Currently, there are too many silos where data or research exist but are not shared.
- 1.5 The Dasar Perlindungan Kanak-kanak provides that amongst the plans of actions is to “Meningkat dan memperluaskan perkhidmatan perlindungan dan kesihatan kepada mangsa dan keluarga.” This existing plan of action should be reviewed and immediate measures must be taken to increase the level of victim protection and support provided by all government departments and ministries in contact with victims of Child Sexual Exploitation and Abuse (“CSEA”) with the view of shifting our approach from a justice centred one to a victim centric system.
- 1.6 Recognise that our current systems involve the many agencies/departments in contact with victims of CSEA are acting in silos and independent of each other. We need to prepare a cohesive strategy/national plan of action for the handling, management and support of child victims of CSEA, to ensure that the child victim is prioritised in all operations.
- 1.7 Amend the policy binding law enforcement in Malaysia to recognise that online CSEA is a priority problem, which needs to be treated seriously and handled and managed with the view of safeguarding children, preventing the offence, pursuing offenders, educating children and the public and eradicating/removing images which are online.
- 1.8 Make policy changes to the National Child Policy and the policy binding law enforcement in Malaysia to recognise that online CSEA is a priority problem, which needs to be treated seriously and handled and managed with the view of safeguarding children, preventing the offence, pursuing offenders, educating children and the public and eradicating/removing images which are online.
- 1.9 Develop a Code of Practice for victims of crime modelled on the UK.
- 1.10 Collaborate with POJ, Bar Council & AGC to issue sentencing guidelines for judiciary, especially for CSEA cases, with a ranking system for the types of CSEA, as per the UK model.

2. Budgetary improvements/allocations

- 2.1 Ensure adequate budgetary provisions are made, to ensure on the ground training for frontliners accepting 1st information reports.
- 2.2 Address the gap in digital training and awareness of online CSEA in frontline personnel.
- 2.3 Ensure adequate budgetary provisions are made, to ensure on the ground training on the provisions (and protections) under the SOACA and awareness of online CSEA in prosecuting officers and magistrates, judicial officers and judges.
- 2.4 Allocate sufficient funds for capacity building, for the national lead agency dealing with online CSEA
- 2.5 Recognise that online CSEA is:
 - (a) a serious crime;
 - (b) is more trafficking and organised crime;
 - (c) involves more than 1 district or state, whereas police jurisdictions are local.
- 2.6 Move online CSEA away from D11 (which primarily deals with specific local offences dealing with women and children including child abuse, sexual crimes and domestic violence) to a Special Agency (or to the Serious Crimes Unit of PDRM) which has nationwide jurisdiction and powers, but is based in KL with complex capabilities within the team.
- 2.7 Ensure that investment is made to enhance complex capabilities within our team handling online CSEA.
- 2.8 Run public awareness programs Educate the public, school children and government employees on the harm and impact of CSEA. Run public campaigns particularly targeted at young men.

- 2.9 Provide the corporate sector with incentives for running similar awareness campaigns within their workforce.
- 2.10 Run campaigns to raise awareness that there is a provision on corporate liability within the SOACA, and that corporations could be penalised if found to have condoned or not reported CSEA.
- 2.11 Review the Garispanduan on SOAC with coordinating agencies/ministries, with the view of amending (if necessary) and formalising the Garispanduan to be binding on all coordinating agencies/ministries and actionable. Budgetary allocations should also be made towards printing sufficient copies of the Garispanduan.
- 2.12 Review Malaysia's retention period for data, and see if this can hinder law enforcement, since information requests sometimes can take months.
- 2.13 Create a Notice & Takedown body modelled on the IWF.
- 2.14 Appoint an E-safety Commissioner, as mentioned by WeProtect Alliance, and as created in Australia
- 2.15 Allocate funding to enable victim support, for example to pay for victims expenses including travel for testifying, investigation etc.
- 2.16 Train and recruit a team of professional intermediaries with social services/ counselling background, to provide victim support as per the UK Youth justice and criminal evidence act 1999
- 2.17 Impose training on everybody who goes into a courtroom involving children. Ensure that judges hearing sexual offences attend structured compulsory training every 3 years.
- 2.18 Duplicate the Lighthouse/Barnahaus Model/ Children's House Reykjavik, Iceland in every district in Malaysia, to provide a safe remote location for pre-trial recordings for remote evidence recording, and victim support.

3. Triage system

- 3.1 With the national lead agency on online CSEA - introduce a triage system for all reports/information received on CSEA, which filters and distributes to local police if necessary. When it comes to online CSEA – a determination should be made by the lead agency - what should local police do and what should the agency do. Determination should be based on who has the best capabilities.

4. Collaborations

- 4.1 Partner with international networks.
- 4.2 Think about multi agency cooperation
- 4.3 Ally/partner with NECMAC from Washington.
- 4.4 Join Weprotect Alliance Obligations and their taskforce membership. Participate in their bi annual reports, to show case what we are doing
- 4.5 Ask for capacity building by IWF to learn more about how can we improve our systems, relevant tools, provide disruptions, remove materials, collect and collate data.
- 4.6 Foster corporate sector and internet service provider partnerships. Partner with big industries who can play a large role and have big funds to assist us. Especially tech companies & gaming sectors. Social media, search engines, operating systems, infrastructure, communications service providers.
- 4.7 Enable collaborations between government and civil society organisations as part of the framework to support victims of CSEA, including providing capacity

building assistance to enable productive partnerships. A mindset shift is needed to view NGOs and CSOs as equal partners in the battle against online CSEA.

- 4.8 Improve the cooperation between organizations that issue international takedown notices.
- 4.9 Partner with NCMEC (National Centre for Missing and Exploited Children) in the US.

5. Innovations/Projects/Tools

- 5.1 Duplicate the [UK Child Abuse Image Database \(CAID\)](#)¹ database to assist enforcement agencies.
- 5.2 Duplicate CEOP which can decide independently when to go after people, with wide safeguarding policies.
- 5.3 Consider adopting the 4 pillars:
 - Pursue by disrupting criminal activity
 - Prevent offenders from committing crime
 - Protect the public from being victimised and/or revictimised
 - Prepare law enforcement to anticipate and effectively deal with emerging threats
- 5.4 Engage with D11 & AGC frontliners to ask them the challenges they face when dealing with online CSEA.
- 5.5 Engage with the Royal Australian police to ask them the challenges they faced in bringing attention to the Richard Huckle case and the Alladin Lanim case to Malaysian law enforcement. Report on this with a view of addressing the gaps.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/759328/CAID_Brochure_May_2018_for_gov_uk.pdf

- 5.6 Collaborate with POJ, Bar Council & AGC to set up a system of free trained legal representation to children in Malaysian courts.
- 5.7 Build capacity of judges, especially in terms of awareness of online CSEA and the SOACA.
- 5.8 Develop risk management strategies to provide organizations that issue takedown notices with coverage from legal risks associated with their actions
- 5.9 Duplicate CEOP education online – Thinkuknow - well received – capacity to train children on knowledge, skills and resilience making them safer online and ensuring they know how to seek help when they need it, parents & carers and professional’s knowledge of online CSEA
- 5.10 Develop a safety center modelled on Click CEOP – for children and young persons to report directly, with a team of child protection people 24/7 to respond immediately to complaints/calls received. With triage capabilities, and enough funding to raise public awareness about the existence of this service.
- 5.11 For CSEA cases, the hearing should be conducted by a panel which includes a judge and a psychologist
- 5.12 For every CSEA case, a psychologist report must be tendered before close of prosecution case.
- 5.13 Special measures must be extended to a child even if the victim is also child.
- 5.14 Pre-trial Ground rules hearings to be made compulsory for all cases involving children and vulnerable witnesses, where judge can give directions on special measures, look at cross-examination questions, set timings for child to give evidence, and rule on expedited hearings.
- 5.15 All CSEA hearings must be expedited with a 6 month timeline. Child’s evidence must be recorded as soon as possible and soon after pre-trial ground rules hearing.

- 5.16 Work with Bar Council to achieve a standard of training for lawyers defending in child sexual abuse matters.
- 5.17 Work with Bar Council to issue advocate gateway toolkits, modelling the UK toolkits. And issue follow up practice directions from POJ requiring advocates to confirm that they have looked at the correct toolkit and will abide by it.
- 5.18 Streamline Pre trial ground rules hearing so that special measures are directed prior to trial, including recording cross-examination within weeks of report being taken by police, and identifying suspect during police interview recording, and not in court.
- 5.19 Set up a Youth Advisory network – children & young adults with experience of the justice system, who can provide support to child victims and their families.

These recommendations have been prepared by,

Srividhya Ganapathy
CRIB Foundation
18th July 2022



ROADMAP FOR STRENGTHENING SUPPORT FOR CHILD VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM: 2022-2027

Parliamentary Special Select
Committee on Women, Children's
Affairs and Social Development



LIST OF ABBREVIATION

Abbreviation	Definition
AGC	Attorney General's Chambers
CSEA	Child Sexual Exploitation and Abuse
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
D11 unit	Sexual, Domestic Violence and Child Abuse Investigation unit, Royal Malaysian Police
DSW	Department of Social Welfare Malaysia, Ministry of Women, Family and Community Development
FBI	Federal Bureau of Investigation, United States Department of Justice
LAD	Legal Aid Department, Legal Affairs Division of the Prime Minister's Department
MAMPU	The Malaysian Administrative Modernisation and Management Planning Unit, Prime Minister's Department
MAPO	The Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants, Ministry of Home Affairs
MOH	Ministry of Health
MWFCD	Ministry of Women, Family and Community Development
NCA	National Crime Agency, United Kingdom
NGOs	Non -Governmental Organisations
OCC	Office of the Children's Commissioner, Human Rights Commission of Malaysia (SUHAKAM)
OSCC	One Stop Crisis Centre, Ministry of Health
RMP	Royal Malaysian Police
SCAN Team	Suspected Child Abuse and Neglect Team, Ministry of Health
SOAC	Sexual Offences against Children's Act 2017 [Act 792]
VAS	Victim Assistance Service
WSSP	Witness Support Service Programme, Department of Social Welfare Malaysia, Ministry of Women, Family and Community Development
WSS	Witness Support Service

INTRODUCTION

In recent years, the government of Malaysia has made significant progress in strengthening the protection of children from all forms of sexual violence and addressing emerging threats to children in the online environment:

- The Sexual Offences against Children Act 2017 (SOAC) has significantly improved the legal protection of children from all forms of sexual violence and online abuse;
- The Evidence of Child Witnesses Act 2007 provides for special measures to assist children under the age of 16 to give evidence in court, including using the child's video-recorded police interview as evidence-in-chief, testimony via live-link, screens, support person, and use of intermediaries;
- Inter-agency Special Standard Operating Procedures for Cases Involving Sexual Offences against Children in Malaysia were introduced in 2017;
- Child victims receive specialised interventions from hospital-based Suspected Child Abuse and Neglect (SCAN) teams and One-Stop Crises Centres (OSCC), Royal Malaysia Police (RMP) D11 (Sexual, Domestic Violence and Child Abuse Investigation) Unit and its Child Interview Centres, and Special Court for Sexual Crimes against Children in Putrajaya and Kuching; and
- Support is available for children and their families throughout the criminal justice process from the Department of Social Welfare (DSW) Witness Support Service Programme (WSSP), MAPO's Victim Assistance Specialist (for victims of trafficking), and legal companions.

However, a number of key gaps and challenges have been identified that hamper full and effective implementation of these initiatives:

- In-depth, standardised training for all those involved in handling child victims' cases is lacking;
- Frequent staff changes and rotation of trained specialist (e.g. D11 investigators, SCAN experts (including specialised physicians) makes it difficult to maintain the necessary expertise to manage children's cases effectively;
- The option to use the video recording of children's police interview as evidence in court is sometimes not feasible due to lack of video-recording equipment in police stations (particularly in smaller districts), the low quality of the video-recording, or lack of specialist training for the police leading to inadmissible evidence taken during the interview;
- D11 lacks updated technology, equipment and technical skills essential for effective digital evidence collection and to keep pace with technological innovation and criminal trends relating to online abuse of children;
- Lack of effective inter-agency coordination results in D11 officers having to multi-task and take on roles of other agencies, such as providing emotional support, psycho-social first aid, counselling and witness support;

- The Witness Support Service Programme under DSW is under-funded and under-utilised as Prosecutors are not aware that they may refer suitable cases to WSSP;
- Legal Companions are not always available (especially in a rural area) and the Legal Aid Act 1971 lacks clear stipulation regarding exemption of fees and contributions for the services of legal companions;
- Limited funds allocated for child witness room facilities and equipment in courts;
- Those involved in the court proceedings are not sensitive to the fact that the key witness is a child, and pre-trial conferences are not currently being used to set “ground rules” on how a child will be questioned;
- Live-link or video-conferencing facilities are not available in all courts;
- Lack of qualified intermediaries. Court interpreters currently function as intermediaries but lack qualifications and training in communicating with children, particularly young children and child witness with a disability or disorder affecting communication (e.g. autism spectrum disorder).

Through a recent (May 2022) study tour to England organised by the PSSC on Women, Children and Social Development, a number of promising practices were identified that could be adopted by Malaysia to improve the effectiveness and child-sensitivity of criminal proceedings involving child victims and witnesses. This Roadmap lays out recommendations for a five-year plan to achieve the following key outcomes:

1. Enhanced specialisation in handling children’s cases

Greater specialisation in handling children’s cases will be enhanced by designating specialist judicial officers and prosecutors to be assigned to all child victim / witness cases, and by expanding the number of Special Court for Sexual Crimes against Children. In addition, all designated specialist judicial officers, prosecutors, D11 officers, SCAN team members, and legal companions will be required to successfully complete a standard certificate training course. These certificate training courses will be embedded in each agency’s existing in-service training programmes, offered on a regular basis, and be tailored to the knowledge, attitudes and skills needed to fulfil their respective roles (for e.g. D11 In Investigative Interviews and digital evidence gathering and SCAN team In forensic medical examination) in an effective and child-sensitive manner. Transfer and rotation policies will be reviewed and revised to improve retention of trained specialists, and to ensure that when a specialist is transferred, they are replaced by another officer who has completed the specialist certificate course. Although similar training cannot be mandated for private defence lawyers, the government will collaborate with the Bar Council to promote continuing legal education opportunities on representing their clients and cross-examining children in an ethical and child-sensitive manner.

2. Effective and child-sensitive investigation of crimes against children

D11's capacity to investigate crimes against children will be strengthened by expanding the number of D11 units, equipping them with updated tools and resources to collect digital evidence and investigate online abuse, and enhancing their capacity to interview children and produce high-quality video-taped statements that can be used in court. The current model used by D11 to provide counselling and psychological support to children during the investigation process will be reviewed with a view to sustainability and reducing duplication of effort, including options for engaging existing experts in child counselling / psychology from DSW, health department and CSOs to assist D11 when interviewing children.

3. Children have improved access to support and assistance throughout the criminal justice process

Under the Child Act 2001, DSW Protectors have primary responsibility for assessing a child victim's risks and needs and coordinating appropriate support to the child and his or her family (e.g. medical examination, psych-social support, counselling, alternative care, etc.). In addition to these core child protection interventions (which are beyond the scope of this Roadmap), child victims and witnesses also require support to participate effectively in the criminal justice process, including someone to provide: simple explanations of the criminal process and their role in it; regular updates about the progress of the case; pre-trial preparation and familiarisation visits to the courtroom; accompaniment and emotional support at trial; assistance in completing a victim impact statement; and de-briefing after trial. Globally, this support is generally provided by trained Victim/Witness Supporters (staff or volunteers), attached to or with close links with the justice agencies.

In Malaysia, victim/witness support services are currently available through DSW's Witness Support Service Programme, D11 witness care officers, AGC psychology officer and the MAPO Victim Assistance Specialist (for victims of trafficking). However, services remain underdeveloped and are not consistently available to all children who need them. Building on these initiatives, a task force will be formed to review global best practices and propose a new model for the management and delivery of Witness Support Services to children and other vulnerable victims and witnesses (e.g. adult victims of trafficking, sexual abuse and domestic violence). This will include exploring public-private partnerships and other funding options.

Another key strategy used globally to help child victims and witnesses to give their best evidence is to use trained intermediaries. The role of intermediaries is to assess the child's communication needs and level of cognitive development, to provide advice to police and courts on the best way to communicate with the child (including addressing any special needs the child may have), and to assist in questioning the child during the investigation and/or in court. In other countries, intermediaries are

experts in child development and communication, typically with qualifications in speech pathology, child psychology, occupational therapy or social work, and undergo specialised training to be an intermediary. In Malaysia, court interpreters currently function as intermediaries but they lack appropriate qualifications and training in communicating with children. A proposal will be developed to strengthen intermediary services by defining required qualifications, developing standardised training, and creating a register of properly qualified and trained experts to perform this function.

4. Trial proceedings are adapted to reduce distress and help children to give their best evidence

Globally, there has been growing acknowledgement that the standard adversarial trial process is failing to ensure access to justice for child victims and witnesses and a shift in the general adversarial courtroom culture is needed to ensure that children are able to give their best evidence. A key strategy used in England and other common-law countries is for judicial officers to use pre-trial conferences to set “ground rules” for how a child witness will give evidence. This typically includes directions about what special measures will be used to assist the child to give evidence (support person, screen, live-link, etc), and directions on how long questioning will be permitted without a break, the appropriate tone and style of questioning, and prohibited forms of questioning. Additionally, England has also introduced the practice of fully pre-recording children’s evidence (examination, cross-examination, and re-examination) prior to trial, so that the child’s evidence can be fully captured closer to the date of the incident, before their memory fades, and so that the child is spared the added distress from long delays before trial, frequent court appearances, and having to testify at trial in a formal courtroom setting.

These global best practices will be introduced in Malaysia by advocating for the Chief Justice to issue a Practice Direction on management and trial of crimes of violence against children, including mandatory pre-trial conferences and case management practices to ensure that children’s cases are given priority and completed as quickly as possible. Pre-trial conferences (provided for under s.172A of the Criminal Procedure Code) will be used to set “ground rules” for how the child will testify. The use of special measures mandated under the Evidence of Child Witnesses Act will be enhanced by progressively equipping courts with audio-video equipment, and piloting the pre-recording of children’s full testimony (examination, cross-examination and re-examination) prior to court proceedings.

5. Inter-agency coordination and information management is strengthened

The current system involves many agencies and departments in contact with child victims and witness, often acting in silos and independent of each other. Enhanced coordination in management and support of child victims is crucial both to ensuring

that children's holistic needs are met, and to avoid unnecessary duplication and inefficient use of resources.

Inter-agency coordination in handling children's cases is currently governed by the SOPs for Cases Involving Sexual Offences against Children issued in 2017. These will be reviewed and updated to reflect the new practices being introduced (e.g. grounds rules hearings, victim supporters, intermediaries), and to address bottlenecks and barriers to effective implementation. Inter-agency cooperation will also be enhanced through multi-disciplinary training for DSW, RMP, SCAN Team members and NGOs.

A cultural change is also required if policy is to become research-driven and informed by a strong evidence base, as currently there are too many silos where data or research exist but are not shared. The setting of key performance indicators and improved collection, sharing and analysis of data will be used to better monitor children's experience in the justice system and to inform evidence-based reforms.

In addition, building on the Lighthouse model observed in England, Malaysia will pilot a similar "Barnahus" one-stop-shop and evaluate for possible scale-up. The "Barnahus" (Icelandic for "a house for children") model upon which the Lighthouse was based has been recognised globally as a leading child-friendly, multidisciplinary, integrated service model for responding to child victims of violence. Barnahus offers a child-friendly, safe environment for children where a multi-disciplinary team (police, child protective services, and medical and mental health workers) work together under one roof to support child victims. They typically have a welcoming reception and waiting area, private counselling rooms, a meeting room for multi-disciplinary team meetings and inter-agency case conferences, a child-friendly interview suite for conducting video-recorded interviews, and an on-site medical clinic / medical examination room. Medical treatment and forensic medical examinations are generally carried out in the Barnahus premises, unless it is an urgent or complicated case requiring special interventions at a hospital setting. The child is also interviewed on-site by a specially trained interviewer, with other relevant professionals observing from another room. The child's statement is video-recorded and can then be presented in court without the child needing to attend the trial proceedings.

6. Enhanced legal framework for the protection of child victims and witnesses

Protection of children from all forms of violence will be improved by reviewing and amending the Penal Code, SOAC and Child Act to harmonise age of consent for sexual offences and to address gaps in relation to online abuse and sexual exploitation and abuse of children (CSEA). In addition, a new Online Safety Act is needed to govern the responsibilities of the ICT industry for online protection of children and to provide for issuance of takedown notices for child sexual abuse content.

Barriers that hamper effective prosecution of crimes against children will be addressed by amending the Evidence of Child Witnesses Act to extend special measures to children under 18 (instead of 16), and to legislate new practices being introduced, such as ground rules hearings. Laws governing children's competence and witnesses and the requirement for corroboration will also be reviewed to align with international standards and practices in other common-law countries. Children's access to legal companions will be enhanced by amending the Legal Aid Act 1971 to provide for exemption of fees and contributions for this service.

The Annex outlines the key actions required to achieve these outcomes, as well as responsible agencies, targets and timeframes. Since each State has its own strengths and challenges, it is recommended that State-level stakeholder consultations be undertaken and plans developed to implement this Roadmap, catering to their specific needs. Key activities under the Roadmap will also be costed so that responsible agencies can ensure adequate annual budgetary allocations for full implementation.

ROADMAP FOR STRENGTHENING SUPPORT FOR CHILD VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM: 2022-2027

Outcome / Actions	Responsible agencies	Target	Timeline
1. Enhanced specialisation in handling children's cases (investigation, interviewing, forensic evidence and trial)			
1.1 Develop specialist certification courses on child victims/witnesses for investigators, SCAN team members, prosecutors, legal companions, and the judiciary, specific to each of their functions.	Judiciary, AGC, MOH, RMP Police College, Legal Aid Department (LAD),	Standard certificate courses developed	By Q1 2023
1.2 Require successful completion of the certification course as a mandatory pre-requisite for all D11 officers, SCAN team members, legal companions, and for DPP and judicial officers assigned to the Special Court or who are designated as children's specialist.	Judiciary, AGC, MOH, RMP, Police College, LAD,	Mandatory training requirement introduced	By Q2 2023
1.3 Regular, systematic certification training conducted annually as part of each agency's in-service training and certification programmes.	Judiciary, AGC, MOH, RMP, Police College, LAD,	Certification course offered annually for D11, DPP, legal companions, judges and SCAN team members	2023- 2027

<p>1.4 Expand the number of Special Court for Sexual Crimes against Children, with sufficient technical tools available and man-power (legal companions, victim supporter, designated special court judge, designated specialist DPP)</p>	<p>Judiciary, AGC</p>	<p>additional courts established</p>	<p>By 2027</p>
<p>1.5 In districts without a Special Court, designate a specialist Sessions court judge and DPP to handle all child sexual offences cases.</p>	<p>Judiciary, AGC</p>	<p>Specialist judges and DPP designated nationwide</p>	<p>By Q1 2023</p>
<p>1.6 Review and revise current transfer and promotion policies for judicial officers, DPP, and D11 officers to ensure that trained child specialists are retained for a minimum defined period, and are replaced by someone with appropriate certification.</p>	<p>Judiciary, AGC, RMP</p>	<p>Retention policy implemented</p>	<p>By end of 2023</p>
<p>1.7 Advocate with the Bar Council to provide Continuing Legal Education (CLE) opportunities for defence lawyers on effective and ethical approaches to examination of child victims/witnesses, including complying with new “ground rules” requirements.</p>	<p>Bar Council</p>	<p>CLE for defence lawyers annually</p>	<p>2023-2027</p>

2. Effective and child-sensitive investigation of crimes against children

2.1 Expand D11 according to zones or administrative divisions to provide greater geographical coverage.	RMP	new D11 units established	By 2024
2.2 Conduct an audit of D11 video-recording equipment and digital investigation tools, and upgrade as necessary to ensure capacity for taking high-quality video-recorded statements from child victims and to tackle online crimes against children.	RMP	Upgraded equipment procured	By Q1 2023
2.3 Ensure the statements of child victims are recorded only by a D11 investigator who is specially trained and certified in interviewing children.	RMP	All child victims interviewed by certified specialist	By end 2024
2.4 Improve coordination between D11 and DSW, health department and other experts in child counselling / psychology who can support the child and reduce the child's feelings of trauma and stress when interviewed by the police.	RMP, DSW, MOH, NGOs	All child victims receive appropriate psycho-social support	By end 2024
2.5 Expand and strengthen collaboration with international law enforcement agencies (e.g. NCA in the United Kingdom, FBI in the United States, Australian Federal Police) to share intelligence and expertise and effectively anticipate and address emerging threats and trends in relation to online sexual abuse and exploitation.	RMP	Improved intelligence sharing	2022-2027

3. Children have improved access to support and assistance throughout the criminal justice process

<p>3.1 Form an inter-agency task force (with the MWFCD, DSW, MAPO (VAS), D11, Judiciary, AGC, Bar Council, OCC and NGOs) to review Victim/Witness Support Service models from other countries and propose an appropriate model for Malaysia.</p>	<p>MWFCD, DSW, MAPO, Judiciary, AGC, Bar Council, D11, Office of the Children’s Commissioner (OCC), NGOs</p>	<p>Proposal developed and approved</p>	<p>By end 2023</p>
<p>3.2 Implement a new model for the management and delivery of comprehensive Witness Support Services to all children and other vulnerable witnesses.</p>		<p>WSS model implemented</p>	<p>By early 2024</p>
<p>3.3 Seek funding support from the corporate sector as part of their contribution towards Corporate Social Responsibility (CSR).</p>		<p>Corporate sector contributions secured</p>	<p>By early 2024</p>
<p>3.4 Make available a WSS room in all court buildings.</p>	<p>Judiciary</p>	<p>WSS rooms in all courts</p>	<p>By end 2025</p>
<p>3.5 Develop a proposal for selection, training and accreditation of appropriately qualified persons as Registered Witness Intermediaries to assist child witnesses to communicate with police, lawyers and the court.</p>	<p>Judiciary</p>	<p>Proposal approved</p>	<p>By 2027</p>

4. Trial proceedings are adapted to reduce distress and help children to give their best evidence

<p>4.1 Issue a Practice Direction on management and trial of crime of violence against children, including mandatory pre-trial conferences and case management practices to ensure that children’s cases are given priority and completed as quickly as possible.</p>	<p>Chief Justice</p>	<p>Practice Direction issued</p>	<p>By end 2022</p>
<p>4.2 Standardise the practice of using pre-trial conferences to set “ground rules” for how children will testify.</p>	<p>Judiciary, AGC, Bar Council</p>	<p>Ground rules introduced</p>	<p>By Q1 2023</p>
<p>4.3 Progressively equip more courts, including circuit courts, to allow children to testify from outside the courtroom via secure audio-video link.</p>	<p>Judiciary</p>	<p>All courts have access to live-link equipment</p>	<p>By 2026</p>
<p>4.4 Pilot the pre-recording of a child’s testimony (examination, cross-examination and re-examination) prior to court proceedings.</p>	<p>Judiciary, AGC, Bar Council</p>	<p>Pilot initiated</p>	<p>By Q1 2024</p>
<p>4.5 Issue sentencing guidelines for judiciary on crimes of violence against children, especially for CSEA, as per the UK model</p>	<p>Judiciary, AGC, Bar Council</p>	<p>Sentencing guidelines issued</p>	<p>By 2024</p>

5. Improved inter-agency coordination and information management

5.1 Review and update the inter-agency SOPs for Cases Involving Sexual Offences against Children (2017) to reflect new procedures introduced (e.g. ground rules hearings, victim support, intermediaries).	Judiciary, AGC, RMP, OCC, DSW defence counsel, NGOs	Revised SOPs	By mid- 2023
5.2 Develop multi-agency training for DSW, RMP, SCAN team members, and NGOs to improve coordination and ensure consistency in provision of support to victims.	RMP, DSW, MOH, NGOs	Annual multi-agency training	2023-2027
5.3 Establish a task force to research the Barnahus/ Lighthouse models and prepare a proposal for adopting a similar model in Malaysia.	Judiciary, AGC, RMP, OCC, DSW, MOH	Proposal developed	By end 2024
5.4 Pilot the Barnahus/ Lighthouse model and evaluate for possible scale-up.	Judiciary, AGC, RMP, OCC, DSW, MOH	Pilot initiated	By 2026
5.5 Strengthen collection and sharing of data on child victims/witnesses in the justice system and enhance analysis of data/statistics to inform follow-up action.	MAMPU, Judiciary, DPP, RMP, DOSM	Annual reports on child victims/ witnesses in the criminal justice system produced	2023-2027
5.6 Set key performance index (KPIs) for Courts, DPP and RMP to monitor conclusion of court cases to ensure unnecessary delays will be minimised.	Judiciary, DPP, RMP	KPIs set	By end 2022

6. Enhanced legal framework for the protection of child victims and witnesses

6.1 Review and revise laws on sexual offences against children (Penal Code, SOAC, Child Act) to harmonise age of consent and address gaps.		Bill introduced	By end 2023
6.2 Amend the Evidence of Child Witnesses Act to extend special measures to children under 18 (instead of 16), to legislate “ground rules” hearings, to more clearly define who can be an intermediary and the qualifications and training required, to give courts clearer authority to control inappropriate cross-examination of children, and to allow full pre-recording of a child’s testimony (examination, cross-examination and re-examination) prior to court proceedings, subject to the Judge’s discretion.		Act amended	By 2023
6.3 Review and consider updating or repealing evidential rules such as section 133A of the Evidence Act.		Act amended	By 2023
6.4 Amend the Legal Aid Act 1971 to provide for exemption of fees and contributions for the services of legal companions.		Act amended	By 2023
6.5 Draft an Online Safety Bill		Law passed	By 2024
6.6 Develop a Code of Practice for Victims of Crime modelled on the UK		Code of Practice approved	By 2024



INTER PARES Partnership with the House of Representatives of Malaysia (Dewan Rakyat)
Study visit to the Italian Chamber of Deputies
Thursday 26 May and Friday 27 May

OUTCOME REPORT AND PROPOSED ACTIONS

In June 2021 and April 2022 INTER PARES delivered two workshops on gender-sensitive scrutiny for MPs and staff from the House of Representatives of Malaysia (Dewan Rakyat) and the Special Select Committee on Women, Children, and Social Development.

In May 2022, INTER PARES facilitated a two-day exchange in Rome at the Italian Chamber of Deputies between the sub-committee on Gender-Responsive Budgeting and MPs and parliamentary staff from the Italian Chamber of Deputies and from the Irish Houses of the Oireachtas. This paper summarises the issues raised during the exchange and the actions discussed.

Aims and objectives

The overall aim of the exchange was to share experiences, ideas, challenges, and strategies for advancing gender equality through parliamentary work. The areas of focus for the exchanges were:

- Successful strategies to build a gender-sensitive parliament,
- How to leverage power as a parliamentarian to advance gender equality,
- Stories of how MPs have driven change internally and externally to advance gender equality, and
- The identification of short term opportunities and how to initiate and maintain long term transformation.

[Summary of programme can be found in Annex 1](#)

Action plan

During the day 2 planning session:

- Delegates shared their **key learnings from the UK and EU exchanges** during the week ([Annex B](#)), and
- Undertook a **SWOT analysis** of the current situation in Malaysia regarding the advancement of gender equality through parliamentary work ([Annex C](#)).

They also articulated **five actions for taking forward the gender-sensitive transformation of the Dewan Rakyat**:

1. Change Standing Orders to require committees to consider gender equality in their work
2. Conduct gender impact assessment of Bills
3. Create a new strategy for convincing sceptics about the benefits of advancing gender equality
4. Create a vision for advancing gender equality through parliamentary work
5. Undertake a gender-sensitive parliamentary assessment of the Dewan Rakyat

Each action is outlined in more detail below, alongside some suggestions for taking them forward:

1. Change Standing Orders to require committees to consider gender equality in their work

Delegates noted the importance of institutionalising gender-sensitive practices in parliamentary work, particularly in relation to oversight and law-making.

For example, the **Fiji Parliament's Standing Orders**¹ state:

"(2) Where a committee conducts an activity listed in clause (1)², the committee shall ensure that full consideration will be given to the principle of gender equality so as to ensure all matters are considered with regard to the impact and benefit on both men and women equally."

As a result of this clause, the Parliament developed a toolkit³ and delivered training to help MPs and staff fulfil its obligations. A 'gender data hub' is also hosted by the Parliament website⁴ to help MPs and staff find gender-disaggregated data. Most committee reports now include a 'gender analysis' section⁵, or gender is considered as part of the Sustainable Development Goals section.⁶

In Italy, the government is required by law 90 of 2016 to provide parliament with a gender budget report, which assesses the impacts of budgetary policy on women and men in terms of money, services, time, and unpaid work. The Economic Parliamentary Committee of the **Italian Chamber of Deputies** examines the gender budget report, by discussing the document and having a programme of hearings with gender experts and the Government.

Standing Orders can also be a tool to ensure gender-sensitive parliamentary transformation. For example, the **Scottish Parliament's Standing Orders**⁷ require that "nomination[s] must have regard to gender balance in the nominations of individuals for elections for membership of the Parliamentary corporation" (the board that oversees the operation of the parliament).

The **Irish Houses of Oireachtas** report of the Forum on a Family Friendly and Inclusive Parliament⁸ similarly recognised the power of Standing Orders in gender-sensitive parliamentary transformation. It recommended that "both Houses to assert a strong commitment to family friendly practices/sittings in the Standing Orders, and "Standing Orders to be gender-proofed at every revision." It also recommended that Standing Orders are amended to ensure that sitting times are organised on a family-friendly schedule (to fit around school times and holidays).

The **UK House of Commons Standing Orders**⁹ were amended following Professor Sarah Childs' gender audit¹⁰ to require the formation of a Women and Equalities Committee.

¹ Fiji Parliament (2019) [Standing Orders](#)

² Clause 1 includes activities such as scrutinising Bills and subordinate legislation, scrutinising government departments (through inquiries, hearings, recommendations etc.), considering petitions, and reviewing international treaties and conventions.

³ Fiji Parliament/UNDP (2017) [Scrutinising legislation from a gender perspective](#)

⁴ [Fiji Parliament gender data hub](#)

⁵ Example of such a report: Standing Committee On Natural Resources [Review Report Of The Consolidated 2016-2017, 2017- 2018, 2018-2019 Ministry Of Forestry Annual Reports](#)

⁶ Example of such a report: Standing Committee On Justice, Law And Human Rights [Report On The Review Of The Fiji Institute Of Chartered Accountants Bill 2021 \(Bill No. 35 Of 2021\)](#)

⁷ [Scottish Parliament Standing Orders](#) (May 2021)

⁸ Houses of the Oireachtas (2021) [Report of the Forum on a Family Friendly and Inclusive Parliament](#)

⁹ [UK House of Commons Standing Orders \(December 2021\)](#)

¹⁰ Childs, S (2016) [The Good Parliament](#)

Staff of the **Irish Houses of the Oireachtas** also shared their experiences of gender and equality budgeting. This process was initiated by the government, but the parliament also has access to the tax-benefit microsimulation model used, which is called Simulating Welfare and Income Tax Changes (SWITCH) to conduct their own analysis.¹¹

Suggested actions

- Members of the sub-committee to liaise with the Speaker about amending Standing Orders to institutionalise gender equality in parliamentary work, using examples from other countries.
- Parliamentary leadership to ensure that staff have the skills and resources to support committees to implement such requirements.
- INTER PARES to communicate with Irish colleagues about the possibility of accessing the SWITCH model.

2. Conduct gender impact assessment of Bills

The delegates heard about the **Italian Chamber of Deputies'** process of assessing the gender impact of Bills. This was instigated by Vice President Maria Edera Spadoni's parliamentary motion to request that "an experimental and selective provision be made in the documentation files prepared by the Research Service, on the draft legislation under consideration [by] the standing committees, to draw up a paragraph on gender impact analysis".

The Research Service now provides a gender impact analysis on all draft laws, on an experimental basis. An example of a gender impact analysis is provided at [Annex D](#).

The **Chilean Congress** is also considering introducing such a process. INTER PARES is supporting this, and has provided training on gender impact assessments of Bill, alongside a draft gender impact assessment template ([Annex E](#)).

Actions

- Dewan Rakyat to trial the use of the gender impact assessment template on specific Bills, with support from INTER PARES and ENGENDER.

3. Create a new strategy for convincing sceptics about the benefits of advancing gender equality

Delegates discussed the need to have clarity and consistency in the vision, messages, concepts, and terminology for the advancement of gender equality in Malaysia. It was suggested that using the lived experiences approach to convince sceptics (and getting men on board in particular) has been effective recently.

Actions

¹¹ ESRI, SWITCH model

- Through the committee, caucus or APPG, MPs convene a discussion among the gender equality advocacy community to agree a fresh approach strategy working towards gender equality in Malaysia.

4. Create a vision for advancing gender equality through parliamentary work

During the exchanges in the **UK** and **Italy**, delegates noted how powerful parliaments can be as institutions to drive forward gender equality. It was suggested that a network of decision-makers and advocates should create a vision for advancing gender equality through parliamentary work (including the actions listed above). It was also suggested that this network could collate all the existing documentation on this issue (for example the INTER PARES quick guide to gender-sensitive scrutiny¹² and the WFD manual for Malaysian MPs on gender-responsive budgeting.)¹³

Action

- Bring a collaborative network of decision-makers and advocates together to create a vision for the advancement of gender equality through parliamentary work. This could be done through the Special Select Committee, the APPG, caucus, or gender champions.
- Draw together and publish all existing documentation on the advancement of gender equality through parliamentary work, as a 'library' for MPs and staff.

5. Undertake a gender-sensitive parliamentary assessment of the Dewan Rakyat

Some of the delegates expressed an interest in conducting an audit/assessment of the gender-sensitivity of the Dewan Rakyat, similar to the **UK Parliament's** gender audit.¹⁴ This exercise could feed into the 'vision' for a gender-sensitive parliament outlined in action 4, and reflect the refreshed strategy outlined in action 3 (above).

Actions/options

There are two options for taking this action forward:

- **Option 1:** The Dewan Rakyat could use the [IPU's self-assessment tool](#) to assess its gender sensitivity, or
- **Option 2:** The IPU could be asked to conduct a gender-sensitive parliament assessment.

Option 1 would be quicker, but option 2 would be more independent. This could be done also in collaboration with INTER PARES and WFD.

¹² INTER PARES/ENGENDER (2021) [A quick guide to gender-sensitive scrutiny in Malaysia](#)

¹³ WFD (2022) [Gender responsive budgeting: a toolkit for Members of Parliament in Malaysia](#)

¹⁴ Childs, S (2016) [The Good Parliament](#)



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Annex A: Summary of study visit

Study Visit at the Italian Chamber of Deputies

Rome, Italy

Summary Report prepared by Omna Sreeni-Ong, ENGENDER

Following the June 2021 and April 2022 INTER PARES workshops with MPs and staff from the House of Representatives of Malaysia (Dewan Rakyat) and the special select committee on women, children and social development, INTER PARES | Parliaments in Partnership – EU Global Programme to Strengthen the Capacity of Parliaments facilitated a two-day exchange in Rome at the Italian Chamber of Deputies between the sub-committee on Gender-Responsive Budgeting and MPs and parliamentary staff from the Italian Chamber of Deputies and from the Irish Houses of the Oireachtas.

Aim and Objectives

The overall aim of the session was to share experiences, ideas, challenges, and strategies for advancing gender equality through parliamentary work. The areas of focus for the exchanges were:

- Successful strategies to build a gender-sensitive parliament,
- How to leverage power as a parliamentarian to advance gender equality,
- Stories of how MPs have driven change internally and externally to advance gender equality,
- Gender-disaggregated data and evidence, and
- The identification of short-term opportunities and how to initiate and maintain long term transformation.

Delegation

1. Hon Fuziah Salleh MP, Chair of the Sub-Committee on Gender Responsive Budgeting and Member of the Special Select Committee on Women, Children and Social Development, House of Representatives of Malaysia
2. Hon. Hannah Yeoh MP, Member of the Special Select Committee on Women, Children and Social Development, House of Representatives of Malaysia
3. Hon. Alice Lau MP, Member of the Special Select Committee on Women, Children and Social Development, House of Representatives of Malaysia
4. Noorzaleha Binti Wan Hasan, Parliamentary Researcher, House of Representatives of Malaysia
5. Annette Connolly, Director Parliamentary Budget Office, Irish Houses of the Oireachtas
6. Kieran Touhy, Head of Expenditure Policy Analysis, Parliamentary Budget Office, Irish Houses of the Oireachtas
7. Omna Sreeni-Ong, Founder & Principal Consultant, ENGENDER, Malaysia
8. Usha Sabanayagam, INTER PARES Country Representative, Malaysia
9. Hannah Johnson, INTER PARES Senior Gender Advisor
10. Ingrid Walker, Senior Programme Officer INTER PARES, International IDEA

Programme and Key Discussion Points

DAY 1 – Thursday 26 May, 2022		
Time (CEST)	Activity	Location
9 am	Meeting between Malaysian delegation and INTER PARES representatives	Hotel Clodio Via di Santa Lucia, 10, 00195 Roma
	The discussion focussed on the logistical arrangements of the trip.	
10 am	Meeting with Vice President Maria Edera Spadoni MP	Palazzo Montecitorio, Piazza di Monte Citorio, 00186 Roma
	<p>Attendees: The members of the delegation who attended the meeting were: Hon Fuziah Salleh, Hon Hannah Yeoh, Hon Alice Lau, Hannah Johnson and Ingrid Walker. Due to parliamentary covid protocols, the number of attendees was limited to five.</p> <p>Specific areas of interest:</p> <ul style="list-style-type: none"> • The Italian Chamber of Congress’s vision for a gender-sensitive parliament • How VP Spadoni initiated the gender impact analysis project and its outcomes • Challenges faced and strategies for overcoming them <p>Discussion highlights:</p> <ul style="list-style-type: none"> • Vice President Maria Edera Spadoni’s outlined her work around the parliamentary motion she spearheaded to request that “an experimental and selective provision be made in the documentation files prepared by the Research Service, on the draft legislation under consideration [by] the standing committees, to draw up a paragraph on gender impact analysis”. <p>The Research Service now provides a gender impact analysis on all draft laws, on an experimental basis</p> <p>Key Learning:</p> <ul style="list-style-type: none"> • Parliament can act independently of government to introduce gender impact assessment tools and advance a gender-sensitive parliament • Parliament can amend Standing Orders to introduce gender impact assessment 	
11 am	Session with Italian Chamber of Deputies Research Service on gender-disaggregated data and evidence	Palazzo Montecitorio Piazza di Monte Citorio, 00186 Roma
	Attendees:	

DAY 1 – Thursday 26 May, 2022

Time (CEST)	Activity	Location
	<p>Hon Fuziah Salleh, Hon Hannah Yeoh, Hon Alice Lau, Hannah Johnson, Ingrid Walker, Noorzaleha Wan Hasan, Usha Sabanayagam and Omna Sreeni-Ong</p> <p>Specific areas of interest:</p> <ul style="list-style-type: none"> • Strategies to improve gender-related data collection at government level • How to find and effectively use gender-related data and evidence at a parliamentary level • Mainstreaming gender budgeting across parliamentary committees and policy areas <p>Discussion highlights:</p> <ul style="list-style-type: none"> • Work Arrangements <ul style="list-style-type: none"> ○ Researchers specialize in specific areas (labour, GBV) ○ Weekly meetings to discuss areas of work / research ○ Research is conducted for all MPs/bills • Data <ul style="list-style-type: none"> ○ Face similar issues on lack of reliable data which is fragmented across agencies. ○ Data is collected from all published work • Gender Impact Assessment <ul style="list-style-type: none"> ○ A GIA is conducted for bills that will be tabled in Parliament. ○ Use a toolkit which provides step-by-step guidelines to conduct a GIA ○ The analysis is distributed via MP dossiers prior to parliament session. ○ Efficacy of their work - The research paper of this office provided legislators data/evidence to support the push for a stronger legislation for gender-based violence (GBV) in Dec 2021. <p>Key Learning:</p> <ol style="list-style-type: none"> 1. Significant role played by parliamentary researchers in providing gender responsive and evidence-based scrutiny to bills and support to MPs, thereby enhancing the efficacy of parliament debate. 2. The Research Service find that including a gender impact assessment provides greater insights on the issues which would have otherwise been overlooked. 	
1 pm	Lunch break	

DAY 1 – Thursday 26 May, 2022		
Time (CEST)	Activity	Location
2 pm	<p>Peer-to-peer exchange session on gender-responsive budgeting at the Irish Houses of the Oireachtas and at the Italian Chamber of Deputies</p> <ul style="list-style-type: none"> • Paola Bonacci, Head of the Budget Office, Italian Chamber of Deputies • Annette Connolly, Director Parliamentary Budget Office, Irish Houses of the Oireachtas • Hon Fuziah Salleh – progress on gender-responsive budgeting in Malaysia: challenges and opportunities 	<p>Palazzo Montecitorio Piazza di Monte Citorio, 00186 Roma</p>
	<p>Attendees: Hon Fuziah Salleh, Hon Hannah Yeoh, Hon Alice Lau, Hannah Johnson, Ingrid Walker, Noorzaleha Wan Hasan, Usha Sabanayagam and Omna Sreeni-Ong</p> <p>Specific areas of interest:</p> <ul style="list-style-type: none"> ○ Gender-responsive budgeting roadmap ○ Indicators and benchmarks for gathering gender data ○ How individual MPs can use their positions to drive change in laws, policies, and budgets from within parliament to advance gender equality ○ The roles and impact of women’s committees, caucuses, and other groups ○ The relationship with civil society <p>Discussion highlights: Italian Parliament Budget Office</p> <ul style="list-style-type: none"> ○ The Parliamentary Budget Office (PBO), an independent body established in 2014, is mandated to analyse and assess macroeconomic and fiscal forecasts by the government and verify compliance with national and European fiscal rules. The PBO contributes to ensuring the transparency and reliability of the public accounts at the service of Parliament and the general public. ○ The Office is one of the independent budget monitoring institutions recently established in numerous OECD countries and within the Italian Parliament it is among the few committees whose opinions carry particular weight to provide its opinion on the impact that a bill will have on the public finances and considering whether the bill fulfils the constitutional requirement to demonstrate how proposed new or increased spending will be funded. ○ Legislative mandate – GRB was mandated in 2017 with the amendment to Legislative Decree 90/2016 which amended Law 196/2009 on public accounting and finance by introducing in Art.38 – which instituted the adoption of gender budgeting for the differential impact assessment of 	

DAY 1 – Thursday 26 May, 2022

Time (CEST)	Activity	Location
	<p>budget policies on women and men in terms of money, services, unpaid time and work.¹⁵</p> <ul style="list-style-type: none"> ○ This resulted in the reclassification of all budget items from a gender lens in 2019 i.e. reporting on the expenditure of the State budget from a gender perspective involves a "reclassification" according to the following categories: ○ expenditures "aimed at reducing gender disparities" for measures directly related to or aimed at reducing gender inequalities or fostering equal opportunities; ○ "sensitive" expenditures that have, or could have, an indirect impact on inequalities between men and women; ○ "neutral" expenditure for measures that have no direct or indirect impact on gender. <p>The 2019 guidelines thereby strengthened and clarified the definitions underlying this expenditure reclassification, by better specifying sensitive expenditures.¹⁶</p> <p>Irish Parliament Budget Office</p> <ul style="list-style-type: none"> ○ Political Will <ul style="list-style-type: none"> ▪ government committed to "develop the process of budget and policy proofing as a means of advancing equality, reducing poverty. ○ Institutional Arrangements <ul style="list-style-type: none"> ▪ GRB is jointly led by Department of Equality and Public Expenditure & Reform. ▪ Parliamentary Committee of Budget Oversight ○ Capacity building preceded the institutionalisation of GRB. ○ Pilot programme was launched in 2018 with 6 departments. ○ Gender based target indicators integrated into the performance information of the Spending documentation. ○ Equality Budgeting Office set up in 2018 comprising multi-stakeholders. ○ Use of SWITCH: SWITCH is the main analytical tool (a micro-simulation model) used across Government to analyse the impact of Budget policies ○ Challenges (government system) <ul style="list-style-type: none"> ▪ Insufficient gender data ▪ Lacking leadership ▪ Legal mandate ▪ Conflicting priorities 	

¹⁵ Ministry of Foreign Affairs and International Cooperation, Italy Report to HRCC, 2019
<https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/ChangingWorldofWork/MemberStates/Italy/ItalyFINALITALYasofAugust272019.docx>

¹⁶ Global WPS, Global Gender Budget Report, 2019
<https://www.globalwps.org/data/ITA/files/2019%20Gender%20Budget%20Report.pdf>

DAY 1 – Thursday 26 May, 2022		
Time (CEST)	Activity	Location
	<ul style="list-style-type: none"> ○ Challenges (parliament committee) <ul style="list-style-type: none"> ▪ Lacking conceptual understanding of gender. <p>Key Learning:</p> <ul style="list-style-type: none"> ● Undertaking GRB through a pilot approach. ● Participatory (all stakeholders) approach to ensure uptake ● Using technology (App) to facilitate ease of analysis. 	
	Tour of the Italian Chamber of Deputies	Palazzo Montecitorio
	Dinner hosted by the Embassy of Malaysian Embassy to Italy	Court Delicati Restaurant Viale Aventino 39/41/43, 00153, Roma

DAY 2 – Thursday 27 May, 2022		
Time	Activity	Location
	<p>Planning session with INTER PARES team</p> <p>Attendees: Hon Fuziah Saleh, Hannah Johnson, Ingrid Walker, Noorzaleha Wan Hasan, Usha Sabanayagam and Omna Sreeni-Ong</p> <p>Agenda:</p> <ol style="list-style-type: none"> 1. Potential areas for immediate action and long-term opportunities 2. What resources, relationships, structures, skills, or processes are needed to advance the work of the Sub-Committee on Gender-Responsive Budgeting <p>Discussion: The delegates undertook a SWOT analysis to develop an approach and next steps.</p> <p>Proposed Lines of Action:</p> <ul style="list-style-type: none"> ● Change Standing Orders to require committees to consider gender equality in their work ● Conduct gender impact assessment of Bills ● Create a new strategy for convincing sceptics about the benefits of advancing gender equality 	Hotel Clodio Via di Santa Lucia, 10, 00195 Roma

	<ul style="list-style-type: none"> • Create a vision for advancing gender equality through parliamentary work • Undertake a gender-sensitive parliamentary assessment of the Dewan Rakyat 	
	<p>Session with Mrs Daniela Collesi, Lead Gender Expert of the Ministry of Economy and Finance</p>	<p>Palazzo Montecitorio (hybrid)</p>
	<p>Attendees:</p> <p>Specific areas of interest:</p> <ul style="list-style-type: none"> • Gender-disaggregated data and evidence • Data collection methodologies • Data Management <p>Discussion highlights:</p> <ul style="list-style-type: none"> • Gender Budgeting is mandated by law in 2009¹⁷ and further strengthened in 2018¹⁸. The provisions include: <ul style="list-style-type: none"> ○ evaluating the different impact of budget policies on men and women in terms of money, services, time and unpaid work; ○ redefining and reallocating resources, taking into account sustainable well-being indicators ○ special Committee should be established at the Ministry of Economy and Finance • Gender budget initiatives include: <ul style="list-style-type: none"> ○ Monitoring the gender gaps by indicators ○ Reclassification of expenditure from a gender perspective ○ Analysis of tax policies (evaluating redistributive impact of tax rates and analysis of recipients) ○ Positive steps taken by administrators to reduce gender inequality. ○ Gender culture training across all government ministries and agencies <p>Key Learning:</p> <ol style="list-style-type: none"> 1. There is political will and commitment to institute gender responsive budgeting 2. A systematic whole-of-government approach with clear steps and indicators to mainstream gender and monitor gender gaps. 	

¹⁷Italian Public Finance and Accounting Law (196/2009)

¹⁸ Legislative Decree 116 2018 art 8

Annex B: Key learnings from the UK and EU exchanges

Delegates were invited to share their key learnings from the exchanges. These were then grouped into themes.

1. Data and modelling

- Disaggregated data crucial to support effective debate and provide oversight of government policies
- Researchers have to be objective and focus on one specialisation
- Centralised agency to collate data generated by line ministries
- Data critical for the enforcement and monitoring of legislation

2. Networking and relationships

- Build a community of allies: champions within government, parliament, civil society, academia
- Convincing sceptics
- The use of agreed, common concepts and terminology
- Strategic approach to pushing agenda forward
- Create a network with other parliaments for sharing best practices (e.g. the Irish SWITCH model)

3. Standing Orders and legislative powers of committee

- All procedure must be properly stated in rules/laws
- The importance of regulatory support (Standing Orders)
- Support system for select committees (research)

4. Separation of powers

- Parliament/select committee must empower itself – not trying to do government's work
- Parliament impact analysis and government impact analysis serve different purposes
Gender informed budgeting v gender-responsive budgeting
-

5. Impact assessments

- Gender impact assessments aim to support more informed decisions
- Italian experience: gender impact assessment of Bills by parliament

6. Capacity building and resources

- Dedicated staff working on specific areas
- Technical expertise necessary

7. Monitoring and evaluation

- Importance of experimentation and learning/evolving

Annex C: SWOT analysis of the current situation in Malaysia regarding the advancement of gender equality through parliamentary work

Strengths	Opportunities
<ul style="list-style-type: none"> • Malaysia has ratified CEDAW, SDGs, the Istanbul convention and other key human rights international and regional conventions • Strong civil society • Parliamentary structures, such as the Special Select Committee • Historical and recent successes for gender equality • There is a growing receptivity/understanding to the concept of gender equality in parliament – younger MPs if elected, will bring in different perspectives • Collaboration in the sector has gradually improved • Parliament and government are well-equipped with existing documentation: toolkits, policies, and action plans 	<ul style="list-style-type: none"> • Turning intentions/commitments into practical action • Institutionalisation of gender mainstreaming in parliament • Standing Orders – opportunity to mainstream gender across committees • Gender impact assessment of Bills • Convincing Speaker on gender-sensitive transformation of parliament – argument that it leads to better informed and more effective decision-making • Gender champions in parliament, government and community • Networking and collaboration • Sceptics - changing the approach and narrative to elevate their understanding of gender by meeting them at where they are • Lived experiences approach aligns with MPs' representative functions
Weaknesses	Threats
<ul style="list-style-type: none"> • Reservations to international conventions (CEDAW, CRC, CRPD) and lack of commitment to implement them • Lack of effective implementation of policies and action plans • The lack of substantive conceptual understanding of gender equality • Political will • 12th Malaysia Plan – fundamental flaw in compartmentalising gender (mainstreaming) under women's issues. 	<ul style="list-style-type: none"> • Deep-rooted Fundamentalism/patriarchalism – backlash against progress on gender equality • Keeping momentum re: collaborative engagement, not losing current energy • Political and staffing turnover – maintaining and conveying institutional memory

Annex D: Italian Chamber of Deputies Research Service – gender impact analysis of a Bill

Gender impact analysis

The legislative proposal as a whole, addressing social and health care to combat inequality in access to LEA (i.e. the essential levels of care in Italy), aims to highlight vulnerable people with chronic and debilitating illnesses, fostering their potential, their families and the communities in which they live, and stimulating community welfare models.

It therefore appears likely to have an impact on gender inequality, since, in the family context, the care duties of vulnerable individuals are mostly placed on women, limiting their chances of accessing, continuing or progressing in the world of work.

On the basis of Censis data provided by the Ministry of Health (46th report — 2012), it is pointed out that women are predominantly carers, as 70% of cases take care of the fragile family member (sick, disabled or elderly).

In addition, the ISTAT survey on 'Health conditions and use of health services in Italy and the European Union' of 2015, carried out on the basis of questionnaires, showed that, on average, 16.4% of the population in Italy — around 8.5 million people, compared with an EU average of 15.6% — care for a person in need and that around 56.3% of these carers are women (4.8 million), the majority of whom are family members (85.4%, or 4 million women).

The figure of caregiver — recognised and defined by law for the first time in the 2018 Budget Law (Article 1, par. 254-256 of Law No 205 of 2017) — identifies the person responsible for another non-independent person, including a disabled person, who is taken care of in a household. It is the person who organises and defines the care needed by a person, including a joint person, and is generally a reference family member. It is distinct from the professional caregiver (or carer), represented by a family carer that is caring for the non autosufficient person, under direct or indirect verification by a member of the family.

For further details, please refer to the Dossier of the Research Service on [the role of caregiver in the Italian legal system](#).

In view of the classification based on gender budgeting, the scope of the proposed law falls within the scope of 'labour protection, social security and assistance', while the mode of intervention can be considered as 'positive action'. The measure is also predominantly classifiable as a regulatory and expenditure measure.

From the perspective of fragile actors, looking at the individual provisions, with reference to Articles 1 to 3, which define the purpose, characteristics and scope of individualised therapeutic projects to be funded by the health budget method, it should be noted that in the Gender Equality Index for Italy, 2020, EIGE (European Institute for Gender Equality) Italy has the highest score in the field of health (88.4 points out of 100), while the Gender Budget 2019 shows that healthy life expectancy, i.e. the average number of years an individual can expect to live in good health at birth, increased in 2019, but women reach the age of 57.5, about 2 years less than men. Even in the case of older people, taking into account unrestricted life expectancy in activities at 65 years, i.e. health status, the index is in favour of men (10 years for men and 9.8 years for women in 2018), despite the fact that life expectancy at 65 years is higher in absolute terms for women of 3.2 years in 2019 (22.5 years for women and 19.3 years for men).

The 2019 Gender Budget also shows that the standard acute hospitalisation rate has been decreasing in recent years for both genders, even if with a lower intensity for women. The annual value of the hospitalisation rate by gender shows higher values for this component in almost all regions, with very few

exceptions.

However, the distribution of the rate by age group shows that women use more hospital care than men in the age groups 15-24 and 25-44, which corresponds to the biologically procreative period for women. In the other age groups, the hospitalisation rate is higher for males. With regard to health risk factors (smoking, alcohol and sedentary health), unhealthy habits show a faster reduction for men when present, while compared to personal safety, women are the most at risk of domestic accidents (around 15.6 out of 1000 women had domestic accidents in 2019 compared to 9.2 men out of 1000). There are also more emotional, neurotic and depressive disorders among women, with one and a half times more female psychiatric service users than men.

With specific reference to the individualisation of the therapeutic project referred to in Article 4 of the draft law, we would point out that the 2020 ASVIS report highlights the need for the same anti-violence campaigns against women to promote the right to sexual and reproductive health, with more widespread interception of needs by the health system in the area, for example by means of consultations that are more accessible to girls and women with disabilities. Staff training should also be improved in order to ensure an intercultural and gender approach.

With regard to Article 5 of the proposal, which provides for the establishment of a Monitoring Centre on the experimental introduction of the health budget method for carrying out individualised rehabilitation therapeutic projects, we would point out that the Ministry of Health has for more than four years launched appropriate studies (Gender as a determinant of health) with regard to gender medicine to ensure equity and appropriateness in treatment. It deals with biological and socio-cultural differences between men and women and their influence on health and illness with a different weight to be quantified in the National Health Service.

Annex E: INTER PARES draft gender impact assessment template for Bills (with guidance)

1	Title of bill and summary of related documentation	
2	Purpose and aims: what is the stated purpose and aims of bill? Is the promotion of gender equality included as an aim/purpose? What are the existing gender equality objectives in this field?	
3	Language: does the bill use gender-neutral language, and only use gender-specific language when appropriate?	
4	Government gender impact assessment: has the government provided a gender impact assessment (GIA) of the bill?	If yes, go to 4. If no, go to 7.
5	GIA results: did the GIA identify any negative gender impacts of the bill? If so, how did it propose to mitigate them?	
6	Evidence: what evidence did the GIA use? Is it comprehensive? Is there any information missing?	
7	Consultation (government): were gender experts and organisations consulted by the government as part of the bill's drafting? Were women and men likely to be affected by the bill consulted during drafting?	
8	People affected: which groups of people will be affected by the bill? Is gender-disaggregated data available for the affected groups? Are women and men likely to be affected in different ways?	
9	Consultation (parliament): Which gender experts, organisations, and women/men with lived experience of this issue have been consulted by the parliament?	
10	Evidence: what were the main gender issues identified in the evidence gathering stage, relating to:	

	<ul style="list-style-type: none"> - the current gender-related situation in this area, and - the projected gender impacts of this bill. 	
11	<p>Negative impacts: what are the projected negative gender impacts of the bill?</p> <p>Has the government said how it will mitigate any negative gender impacts?</p>	
12	<p>Intersectionality: are women and men of different ages, disabilities, ethnicities, sexual orientations, geographic locations, or socio-economic backgrounds more likely to be affected by the bill?</p>	
13	<p>Gaps in evidence/information: what information is missing in relation to the gender impact of the bill?</p>	
14	<p>Implementation: is gender an issue in the proposed implementation of the law? Will women and men be involved in the enforcement and monitoring of it?</p>	
15	<p>Monitoring: does the bill include data collection or monitoring requirements to measure the actual impact on gender equality?</p>	
16	<p>Opportunities: have all opportunities been identified and taken to strengthen gender equality in the scope of the bill?</p>	
17	<p>Questions to ask: possible questions for MPs to ask when scrutinising the Minister on gender impact of the bill</p>	
18	<p>Options for change: possible amendments to remove/mitigate identified negative gender impacts.</p> <p>Possible recommendations for implementation of the law to address gender impacts.</p>	
19	<p>Overall: what is the overall gender impact of this bill as currently drafted?</p> <p>What would be the overall gender impact of the bill if changes were made?</p>	

Date completed	
Responsible department	
Review date (if relevant)	
Will this gender impact assessment be published?	

Guidance for completing the gender impact assessment

1	Title of bill and summary of related documentation	Write the title of the bill here, and list the related documentation
2	Purpose and aims: what is the stated purpose and aims of bill? Is the promotion of gender equality included as an aim/purpose? What are the existing gender equality objectives in this field?	Summarise the purpose of the bill and its aims. State whether gender equality is mentioned by the bill or documentation as a purpose or aim. List any gender equality objectives in this field.
3	Language: does the bill use gender-neutral language, and only use gender-specific language when appropriate?	Legislation should avoid gender-specific language such as 'man' when it means 'person', or 'chairman' when it means 'chair' etc. Gender-specific language should only be used when the provision specifically applies to women or men, for instance when relating to 'violence against women'.
4	Government gender impact assessment: has the government provided a gender impact assessment of the bill?	If yes, go to 4. If no, go to 7.
5	GIA results: did the GIA identify any negative gender impacts of the bill? If so, how did it propose to mitigate them?	Summarise the findings of the GIA, and proposed mitigations.
6	Evidence: what evidence did the GIA use? Is it comprehensive? Is there any information missing?	Summary of the evidence used by the government's gender impact assessment and anything that's missing.
7	Consultation (government): were gender experts and organisations consulted by the government as part of the bill's drafting? Were women and men likely to be affected by the bill consulted during drafting?	Summary of the government's consultations on the bill.
8	People affected: which groups of people will be affected by the bill?	Identify which groups will be most affected by the bill, and whether gender-disaggregated data on these groups of people is available.

	<p>Is gender-disaggregated data available for the affected groups?</p> <p>Are women and men likely to be affected in different ways?</p>	<p>Based on the evidence collected from research and consultations, summarise if it is likely that women and men will be affected by the bill in different ways. This could be due to different needs, experiences, cultural norms, or access to resources/information/education.</p> <p>Have any assumptions been made about the impact of the bill on women or men?</p> <p>Does the bill discriminate against women or men, either directly or indirectly?</p> <p>Consider direct and indirect impact:</p> <p>Direct impact: When regulating or affecting people's access to resources (grants, jobs, composition of committees, etc.). This has a direct and immediate effect on the status and position of women and men.</p> <p>Indirect impact: When planning measures that affect the provision of resources or services (procedure to qualify companies, regulation of environmental quality management of certain activities and facilities, incentives for certain projects, etc.), behind which there are people (managers, workers, users, etc.) as ultimate beneficiaries. Even though the policy is not directly targeted at them, they can be affected by it.</p>
9	<p>Consultation (parliament): Which gender experts, organisations, and women/men with lived experience of this issue have been consulted by the parliament?</p>	<p>List the gender experts, organisations and individuals consulted on this bill.</p>
10	<p>Evidence: what were the main gender issues identified in the evidence gathering stage, relating to:</p> <ul style="list-style-type: none"> - the current gender-related situation in this area, and - the projected gender impacts of this bill. 	<p>Summarise the main gender issues identified in the evidence, related to the current gender situation, and the projected gender impact of this bill.</p> <p>Consider existing inequalities between women and men in terms of:</p> <ul style="list-style-type: none"> - access to resources (work, money, power, health, well-being, security, knowledge/ education, mobility, time, and so on), and - in their exercise of fundamental rights (civil, social and political rights) on the basis of their sex, or - because of roles attributed to women and men (gender roles). <p>It is essential to take into account the following structures which sustain those inequalities:</p> <ul style="list-style-type: none"> - the division of labour by gender - the organisation of private life - the organisation of citizenship <p>Would this bill worsen, improve, or have no effect on existing inequalities? What evidence is there to support the conclusions?</p>

11	<p>Negative impacts: what are the projected negative gender impacts of the bill?</p> <p>Has the government said how it will mitigate any negative gender impacts?</p>	<p>List the projected negative impacts, and any action that the government has committed to taking to mitigate them.</p> <p>The EIGE state that a measure should be only considered as having a positive impact on gender equality if the elimination of existing gender gaps, or at least a significant reduction of them, is foreseen, for example if:</p> <ul style="list-style-type: none"> - it results in an increase in the representation of the under-represented gender in the area. In this sense, the expected result should be a balanced representation of women and men (no less than 40 % for each sex) or, temporarily, at least in proportion to their overall presence in the area. (participation) OR - if it equalises access to or control of resources. The EIGE state that “the aim is to analyse the access of women and men to essential resources such as education, employment, careers, health, time, money, power, information, new technologies, etc.
12	<p>Intersectionality: are women and men of different ages, disabilities, ethnicities, sexual orientations, geographic locations, or socio-economic backgrounds more likely to be affected by the bill?</p>	<p>Where disaggregated data is available, assess if particular groups of women or men are more likely than others to be affected by the bill</p>
13	<p>Gaps in evidence/information: what information is missing in relation to the gender impact of the bill?</p>	<p>Identify any gaps in evidence needed to undertake a comprehensive gender impact assessment of the bill.</p>
14	<p>Implementations: is gender an issue in the proposed implementation of the law? Will women and men be involved in the enforcement and monitoring of it?</p>	<p>Provide information about implementation of the bill, either from documentation or directly from the government, in relation to gender.</p>
15	<p>Monitoring: does the bill include data collection or monitoring requirements to measure the actual impact on gender equality?</p>	<p>Summarise if, and how, the bill will monitor its actual gender impact when implemented.</p>
16	<p>Opportunities: have all opportunities been identified and taken to strengthen gender equality in the scope of the bill?</p>	<p>Summarise if the gender impact assessment, research, evidence gathering, or oral hearings highlighted opportunities in this bill to advance gender equality.</p>
17	<p>Questions to ask: possible questions for MPs to ask when scrutinising the Minister on gender impact of the bill</p>	<p>List possible questions to ask the Minister, either in oral hearings, or in correspondence.</p> <p>This could include questions about how the government considered gender during the design of the bill, who it consulted, how it is planning to mitigate any identified negative gender impacts, or how it will monitor the actual gender impact of the bill.</p>

18	<p>Options for change: possible amendments to remove/mitigate identified negative gender impacts.</p> <p>Possible recommendations for implementation of the law to address gender impacts.</p>	<p>List possible amendments or changes to the plans for the bill's implementation that would mitigate negative gender impacts, or advance gender equality.</p> <p>General actions to reduce imbalances and inequalities and measures to promote gender equality could be related to:</p> <ul style="list-style-type: none"> - promoting the access of women in sectors where they are under-represented; - promoting the access of women to decision-making; - promoting the co-responsibility of public administration, companies and care work; - promoting the collection of gender statistics and research; - preventing gender-based violence; · promoting proactive actions to eradicate gender-based violence; - eliminating gender stereotypes and roles.
19	<p>Overall: what is the overall gender impact of this bill as currently drafted?</p> <p>What would be the overall gender impact of the bill if changes were made?</p>	<p>Make an assessment of the overall gender impact of this bill – is it likely to be positive, negative, or neutral?</p> <p>How could it be changed to ensure it has a positive gender impact?</p>

Sources:

European Institute for Gender Equality (EIGE) (2017) [Gender Impact Assessment Gender Mainstreaming Toolkit](#)

Equality Institute (Australia) (2021) [Gender impact assessment toolkit](#)

ECPRD (2021) [Gender impact assessment of legislation](#)

OSCE (2017) [Making Laws Work for Women and Men: A Practical Guide to Gender-Sensitive Legislation](#)