

MATTHEW GOULD
Statement No: 2
Exhibits: 0
Dated: 14 February 2019

INDEPENDENT INQUIRY INTO CHILD SEXUAL ABUSE (IICSA)

WITNESS STATEMENT
ON BEHALF OF THE MINISTRY OF JUSTICE

I, MATTHEW GOULD, of 102 Petty France, London SW1H 9AJ, will STATE as follows:

Introduction

1. I am duly authorised to make this statement on behalf of the Ministry of Justice (MoJ) to assist the Independent Inquiry into Child Sexual Abuse (the Inquiry). I am a senior Civil Servant currently employed by the Ministry of Justice. Since 1 April 2017 I have been Deputy Director of the Criminal Courts and Criminal Law Policy Unit. The Unit leads policy development on criminal court reform and domestic and international criminal law.
2. The contents of this statement are true to the best of my information and belief.
3. I make this statement in response to the letter dated 11 February 2019 from Martin Smith, Investigation Lawyer, and the enquiry below made by Chair of the Inquiry, Professor Alexis Jay OBE:

Given that the MOJ is the policy lead for section 72, please explain (i) why it does not collate data on how often section 72 is used and (ii) why it has not conducted any reviews on the efficacy of section 72 as a statutory provision?

4. This statement is made further to my earlier statement to the Inquiry of 9 January 2019.

Section 72 Sexual Offences Act 2003

5. The government is committed to ensuring we have a robust range of sexual offences available, with suitably severe penalties, to ensure that those who sexually abuse or exploit children are brought to justice.

6. Section 72 provides a broad enabling power for investigators and prosecutors, allowing them to pursue British nationals / residents who sexually exploit or abuse children under the age of 18 wherever in the world they commit these heinous acts. While, generally, government policy on extraterritorial jurisdiction is that criminal offending is best dealt with by the criminal justice system of the state where the offence occurred, the Act does allow for proceedings to be brought in England and Wales regardless of whether local prosecuting authorities have sought to bring action against them.
7. It would be a decision for the investigative and prosecuting authorities to decide whether it is appropriate to pursue a prosecution in each case: section 72 provides a broad power to pursue prosecutions if they decide that is the correct action.

(i) Collating data on the use of section 72

8. As set out above, section 72 does not contain any distinct offences in itself: it is an enabling power for prosecutors, allowing them to prosecute British nationals and residents who seek to sexually exploit or abuse those under the age of 18 anywhere in the world.
9. While the Ministry of Justice does collate information on the underlying offences covered by the prosecution powers set out in section 72, it would not be notified of the circumstances in which any of those offences was carried out. It would be for investigators and prosecutors to collate this information, as it is they who would be deploying, or relying on, the powers set out in section 72.

(ii) Efficacy of section 72

10. Section 72 contains a broad power for prosecutors to pursue British nationals who commit any act against a child under the age of 18 which would be a sexual offence under the law of England and Wales, wherever in the world they commit that offence, and regardless of whether local authorities have also sought to prosecute that behaviour. It provides a similarly broad power for prosecutors to pursue British residents where such an offence is also a criminal offence in the place which it is committed, i.e. the additional requirement of dual criminality.
11. While we do not routinely monitor the use of section 72 at the Ministry of Justice, that being a matter for the prosecution practitioners using it, we regularly engage with our colleagues across the criminal justice system and would respond to any concerns which the police or CPS raised in relation to the power within section 72. We are not aware of any such concerns having been raised.

12. While section 72 does not contain any substantive offences, the Ministry of Justice does seek to ensure that the offences covered by the prosecution power contained within it are working effectively and appropriately, again engaging with the CPS, police and others across the criminal justice system.

STATEMENT OF TRUTH

I believe the contents of this witness statement to be true.

Signed: 

Dated: 14 February 2019

Name: MATTHEW GOULD

Role: Deputy Director, Criminal Courts and Criminal Law Policy Unit.