

Responding to sexting – UKCCIS Guidance

In August 2016 the UK Council for Child Internet Safety (UKCCIS) published non-statutory guidance on managing incidents of sexting by under-18s.

There is no clear definition of 'sexting'. Instead, this document talks about 'youth-produced sexual imagery'. This is imagery that is being created by under 18s themselves and involves still photographs, video, and streaming. In the guidance, this content is described as sexual and not indecent. Indecent is subjective and has no specific definition in UK law.

Incidents covered by this guidance:

- Person under 18 creates a sexual image of themselves and shares it with another person under 18.
- A person under 18s shares an image of another under 18 with another person under 18 or an adult.
- A person under 18 is in possession of sexual imagery created by another person under 18.

Incidents not covered by this guidance:

- Under 18s sharing adult pornography.
- Under 18s sharing sexual texts without sexual imagery.
- Adults sharing sexual imagery of under 18s. (This is child sexual abuse and must always be reported to police.)

Response to incidents of youth produced sexual imagery

The response should be guided by the 'principle of proportionality'.

'The primary concern at all times should be the welfare and protection of the young people involved.' (Sexting in schools and colleges: responding to incidents and safeguarding young people (page 8))

The Law

Making, possessing, and distributing any imagery of someone under 18 which is indecent is illegal. This includes imagery of yourself if you're under 18.

Indecent is not definitively defined in law, but images are likely to be considered indecent if they depict:

- a naked young person
- a topless girl
- an image which displays genitals, and
- sex acts including masturbation.

Indecent images may also include overtly sexual images of young people in their underwear

These laws weren't created to criminalise young people but to protect them. Although sharing sexual images of themselves is illegal and risky, it is often the result of curiosity and exploration. Young people need education, support, and safeguarding, not criminalisation.

The National Police Chiefs' Council (NPCC) is clear that *“youth-produced sexual imagery should be primarily treated as a safeguarding issue.”*

Crime recording

When the police are notified about youth-produced sexual imagery, they must record this as a crime. The incident is listed as a crime, and the young person is the suspect. This is, however, not the same as a criminal record.

Every crime reported to the police must have an outcome code. The NPCC, Home Office and the DBS have agreed a new outcome code for youth-produced sexual imagery.

Outcome 21: This outcome code allows the police discretion not to take further action if it is not in the public interest, even though there is enough evidence to prosecute.

Using this outcome code is likely to mean the offence would not appear on a future Enhanced DBS check, although not impossible, as that disclosure is a risk-based decision. Schools can be assured that the police have the discretion they need not to adversely impact young people in the future.

Handling incidents

- Refer to the Safeguarding Officer
- Do not view the image unless it is avoidable
- Discuss with parents, unless there is an issue where that's not possible
- Any concern the young person is at risk of harm, contact social care or the police

Always refer to the police or social care if incident involves:

- an adult
- coercion, blackmail, or grooming
- concerns about capacity to consent, [e.g., SEN]
- images show atypical sexual behaviour for the child's developmental stage
- violent acts are depicted
- image shows sex acts and includes a child under 13
- a young person at risk of immediate harm as a result of the disclosure (for example, self-harm or suicide)

Once the Safeguarding Officer has enough information, the decision should be made to deal with the matter in within the organisation, refer it to the police or to social care. All information and decision-making should be recorded in line with the safeguarding policy. If the incident has been dealt within the organisation, a further review should be held to assess risks.

Assessing the risks once the images have been shared

- Has it been shared with the knowledge of the young person?
- Are adults involved in the sharing?
- Was there pressure to make the image?
- What is the impact on those involved?
- Does the child or children have additional vulnerabilities?
- Has the child taken part in producing sexual imagery before?

Viewing images

- Avoid viewing youth-produced sexual imagery. Instead, respond to what you have been told the image contains.
- If it is felt necessary to view, discuss with the head teacher first.
- Never copy, print, or share the image (it's illegal)
- View with another member of staff present
- Record the fact that the images were viewed along with reasons and who was present. Sign and date.

Deleting images (from devices and social media)

If the organisation has decided that involving other agencies is not necessary, consideration should be given to deleting the images. It is recommended that the child is asked to delete the images themselves and confirm they have done so. This should be recorded, signed, and dated. Any refusal to delete the images should be treated seriously, reminding the child that possession is unlawful.

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