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Briefing Note

Police Action in Response to Youth Produced Sexual Imagery (‘Sexting’)

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Police Action in Response to Youth Produced Sexual Imagery ('Sexting') – briefing note

Overview

1. This briefing note seeks to support law enforcement professionals to respond in a proportionate way to reports of children (under 18 year olds) possessing, sharing or generating indecent imagery of themselves or other children. This activity may constitute an indecent image offence and be illegal under the Protection of Children Act 1978 and Criminal Justice Act 1998.
2. Most offences involving sexual activity with children will require a full criminal investigative response, for example in the presence of exploitation, coercion, a profit motive or adults as perpetrators. Offences involving self-generated images or images obtained with consent by other children may be dealt with differently. Forces may, for example, consider that suitably experienced first responders, safer school officers or neighbourhood teams can provide an appropriate response, thereby avoiding stigmatising children or causing them unnecessary fears and concerns. The recently introduced 'outcome 21' (see section 20) provides for forces to resolve crimes with the appropriate contextual factors in a proportionate and effective way.
3. In deciding whether criminal justice processes are necessary and proportionate, forces will wish to consider the long-term impact of investigation and prosecution, such as labelling a child a 'sex offender' and potential disclosure as part of a Disclosure and Barring Service (DBS) process. Chief constables have discretion to consider whether behaviour covered in this paper should be disclosed on a DBS enhanced check, as for other non-conviction information (see section 22).
4. Police need to work with schools to educate children on the risks of exchanging imagery, to engage as appropriate during investigations, and understand schools' powers to delete images.

Scope and related material

5. This briefing uses the term 'youth produced sexual imagery' to describe young people (under 18) sharing indecent images, stills or videos, of themselves or of others (i.e. of others under 18). Other terms do not have firm definitions - some children believe 'sexting' means sending flirty written texts and describe the sharing of images as sending 'nudes' and many parents are unsure of what is illegal. Three per cent of 11-16 year olds surveyed by NSPCC reported taking fully naked pictures of themselves, with a smaller proportion reporting sharing the image.¹
6. Youth produced sexual imagery can range from consensual sharing to exploitation. Criminal investigation and prosecution for the image offences listed in this briefing will be appropriate in

¹ Martellozzo et al (2016) <https://www.nspcc.org.uk/globalassets/documents/research-reports/mdx-nspcc-occ-pornography-report-final.pdf>

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the presence of aggravating features such as exploitation, coercion, a profit motive or adults as perpetrators as these would constitute Child Sexual Abuse (CSA).

7. This briefing focusses on the initial response to a report of youth produced sexual imagery and what a proportionate response might be within the bounds of the law, should the making / sharing of the imagery not involve aggravating factors.
8. This briefing has been developed in parallel with new UK Council for Child Internet Safety (UKCCIS) advice for schools in England on how they should risk assess, use their discretionary powers to search, seize, view and delete content from mobile phones² and when/ how to engage with the police on this issue. This advice can be downloaded from [here](#). Police should engage with schools to provide advice and information during investigations, and to educate children on the risks of exchanging imagery. Educational messages should highlight that once an image has been shared, its use is out of control. A list of resources can be found in Appendix A.

Initial police action

9. All reported offences of youth produced sexual imagery must be recorded as a crime in line with Home Office Counting Rules (HOCR).
10. At the point of report it is vital to ascertain whether any aggravating features (e.g. adult involved, presence of violence) and/or known vulnerabilities are present and check the welfare of relevant parties. Advice should be given which enables the effective safeguarding of persons affected (e.g. where further advice / support can be found³) and which also ensures they do not do anything which in effect could result in them breaking the law such as taking a copy of the imagery on their own device.
11. Background checks should be run regarding the victim(s), perpetrator(s) and location(s) (where relevant). This should include all police systems (including national (PNC/ PND) and where possible those belonging to partners (e.g. via a Multi-Agency Safeguarding Hub (MASH) or equivalent). Where a multi-agency meeting is planned, or where there will be a discussion with the various parties directly involved, such as the children and/or their parents/carers, these checks should ideally take place prior to any meeting. Safeguarding concerns may require immediate action and this may prevent checks being undertaken in advance.
12. Where significant risks are identified or any of the involved children are found to be subject to ongoing child protection activity (e.g. in care or on a child protection plan) there is likely to be a requirement for a child protection referral and/ or a strategy meeting. This should help develop measures to effectively safeguard the child and ensure relevant duties of care are followed.

² DFE (2014) Searching, screening and confiscation. Advice for head teachers, school staff and governing bodies. Powers to search are set out in the Education Act 1996.

³ See appendix A

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13. Most offences involving sexual activity connected to children will raise significant safeguarding concerns. In youth produced sexual imagery cases where there are no aggravating features, it may be appropriate to take an approach that is supportive of the children involved, rather than a criminal process. Decisions on the appropriate approach should be underpinned by careful assessment of the facts of the case: the presence of any aggravating features; the backgrounds of the children involved; and the views of significant stakeholders (such as parents/carers and the children's teachers).

Investigation

14. When collecting initial accounts it is important that care is taken and the needs of the children affected are considered. In deciding whether criminal justice processes are necessary and proportionate, forces will wish to consider the long-term impact of investigation and prosecution, such as labelling a child a 'sex offender' and the potential for disclosure as part of a Disclosure and Barring Service (DBS) process.
15. During investigation it may become necessary to seize electronic storage devices (e.g. phones) in order to progress inquiries and inform safeguarding decisions. Initially opportunities to preserve and protect evidence (e.g. securing electronic devices without making full seizure of the device) whilst gathering initial accounts should be considered (e.g. liaising with school and utilising their powers of seizure). Decision making around seizure ultimately needs to be reflective of the National Decision Model (NDM) process and carefully considered and documented. After careful assessment, those believed to be at lower risk (e.g. the sharing is believed to be consensual/ age appropriate) should not have their device seized as a matter of routine and other options maybe available to preserve evidence which do not include seizure of a device. This may include the use of a body worn camera to take a still of the sexual imagery. In higher risk cases the devices used or owned by the person(s) believed to have shared without consent or who may have exploited the other party should, where possible, be targeted and seized.
16. In higher risk cases (e.g. consent is not present or aggravating factors identified) the child victim/instigator may need to be formally interviewed (i.e. ABE interview).
17. The current and future welfare of the child should be assessed and any concerns identified relating to them potentially coming to harm (e.g. self-harm or suicidal thoughts) should be subject to immediate child protection referral or a more immediate intervention as appropriate. Once an account has been obtained the child and their parents or carers should be notified as to the next likely steps of the investigation, be allowed time to ask any questions relating to the process and be signposted towards services and other resources for further advice and support. Written information regarding contact person details and support resources should also be provided to the child and parent or carer.
18. Where an image has been uploaded online, many social media and messaging apps have self-reporting mechanisms which may be the fastest way to remove it. A list of other reporting mechanisms for law enforcement can be found in Appendix B.

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Crime outcome code

19. HOCR requires each crime to be allocated an outcome from a menu of predefined codes. In January 2016, the Home Office launched outcome 21 which states:

‘Further investigation, resulting from the crime report, which could provide evidence sufficient to support formal action being taken against the suspect is not in the public interest – police decision.’

This outcome code allows the police to record a crime as having happened but for no formal criminal justice action to be taken as it is not considered to be in the public interest to do so.

20. Outcome 21 may be considered the most appropriate resolution in youth produced sexual imagery cases where the making and sharing is considered non-abusive and there is **no evidence** of exploitation, grooming, profit motive, malicious intent (e.g. extensive or inappropriate sharing (e.g. uploading onto a pornographic website) or it being persistent behaviour. Where these factors are present, outcome 21 would not apply.
21. It is likely that forces will want decisions about the use of outcome 21 in these circumstances to be reviewed by a suitably senior and/or experienced officer.
22. Once an appropriate outcome has been decided it is vital that this is clearly communicated to the persons affected, their parents or carers and school where appropriate. This should also explain the immediate and longer term implications as this is a common concern cited by those being investigated and their parents or carers. Should a person receive a caution (including a youth caution) or conviction, disclosure on a DBS certificate is mandatory. Non conviction information can only be included on an enhanced criminal record check and it is for a chief officer to consider what information should be included based on relevance. The discretion on whether to disclose non-conviction information rests with each chief constable managing the process. Therefore, no guarantee can or should be provided that this information would not be released. However, in the event that outcome 21 is utilised the following text may be given in writing, the principles of which explained to them in person:

You/Your child has been recorded on police systems against (add crime type) in line with Home Office crime recording rules. After consideration of all relevant factors, a decision has been made that no further action will be taken by the police in this instance.

******* has not been convicted or cautioned for any offence connected with this investigation.**

In the event that a future ‘Enhanced Disclosure and Barring Service’ (DBS) check is required it is unlikely that this record will be disclosed unless you/your child are investigated or have further action taken against you/them in the future which could suggest a relevant pattern of behaviour.

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Any decision to disclose will be made by the chief police officer dealing with the request, based on all factors and information available at the time of the decision.

Dealing with images when outcome 21 is used

23. In the event that a case is considered low risk, devices were not seized and outcome 21 utilised, a clear direction should be provided to the person in possession of any copies of any indecent images to delete them and prove they have done so. It may be possible, for their school to utilise their powers to seize, view and delete content.
24. Should a device seized by police be found to contain youth produced sexual imagery it is unlikely that the device could be returned unless the imagery was, for example, solely of the owner of the phone in question. This is because it is difficult to remove all image traces from electronic devices and it is possible that returning a device could be interpreted as supplying an indecent image of a child. Chief officers may consider that a decision to return a device should require managerial (e.g. superintendent) sign off.
25. The Child Abuse Image Database (CAID) is a national repository for Indecent Images of Children (IIOC) and can be accessed by all High Tech Crime Units. The records of images held on the database are shared with major technology companies to prevent their re-circulation on the internet. Officers seizing images which have been shared beyond the control of the child should liaise with their High Tech Crime Unit to enable the images to be added to the CAID. This will enable future investigations should the image be discovered in connection with other crimes.
26. A child contact with police form should also be raised to notify partners of the incident and ensure effective information sharing.

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Appendix A - Resources and support⁴

In addition to any Local Safeguarding Children Board resources, the following resources can be used to support parents and children with sexting. They should be included on police and school websites:

Helplines and reporting

- Children can talk to a ChildLine counsellor 24 hours a day about anything that is worrying them by ringing 0800 11 11 or in an online chat at <http://www.childline.org.uk/Talk/Chat/Pages/OnlineChat.aspx>
- If parents or carers are concerned that their child is being contacted by adults as a result of having shared sexual imagery they should report to NCA-CEOP at www.ceop.police.uk/safety-centre
- ChildLine and the Internet Watch Foundation have partnered to help children get sexual or naked images removed from the internet. More information is available at <http://www.childline.org.uk/explore/onlinesafety/pages/sexting.aspx>
- If parents and carers are concerned about their child, they can contact the NSPCC Helpline by ringing 0808 800 5000, by emailing help@nspcc.org.uk , or by texting 88858. They can also ring the Online Safety Helpline by ringing 0808 800 5002.
- Further advice in relation to a sexting matter can be sought from the Marie Collins Foundation (MCF) by ringing 01765 688827 or by emailing info@mariecollinsfoundation.org.uk

Advice and information for parents

- The NSPCC has information and advice about sexting available on its website: <https://www.nspcc.org.uk/preventing-abuse/keeping-children-safe/sexting/1>
- NCA-CEOP has produced a film resource for parents and carers to help them prevent their children coming to harm through sharing sexual imagery: <https://www.thinkuknow.co.uk/parents/articles/Nude-selfies-a-parentsguide/>
- Childnet have information and advice about sexting available on its website: <http://www.childnet.com/parentsand-carers/hot-topics/sexting>

⁴ Sourced from linked UKCCIS schools advice on sexting produced in consultation with this advice https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551575/6.243_9_KG_NCA_Sexting_in_Schools_WEB__1_.PDF

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- Parent Info (www.parentinfo.org) provides information and advice to parents from expert organisations on topics ranging from sex and relationships, mental health and online safety. This includes content on sexting.
- The UK Safer Internet Centre have produced checklists for parents on using social networks safely www.saferinternet.org.uk/checklists

Resources parents could highlight to their children

- ChildLine have created Zip-It, an app that provides witty comebacks in order to help young person say no to requests for naked images - <https://www.childline.org.uk/Play/GetInvolved/Pages/sexting-zipit-app.aspx>
- There is information on the ChildLine website for young people about sexting: <https://childline.org.uk/info-advice/bullying-abuse-safety/online-mobile-safety/sexting/>
- The Safer Internet Centre has produced resources called 'So You Got Naked Online' which help young people to handle incidents of sexting - <http://childnetsic.s3.amazonaws.com/ufiles/Files%202015/SYGNO%20Booklet%20-%20version%20%20May%202015.pdf>

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Appendix B – How to remove imagery online⁵

Each provider will have a different approach to dealing with requests for the removal of content and the speed of response. More information can be found on individual providers' websites where they should make public their terms of service and process for reporting. The quickest way to remove content is often though for the person who posted it to take it down themselves.

The following provides an overview of the reporting functions provided by the main service providers:

Snapchat

Snapchat offers users the ability to share images/videos, which it calls 'snaps'. The snap is shared and then disappears after a few seconds. Snapchat also allows users to share Snapchat Stories: these are snaps that are shared in a sequence across a 24 hour period.

Snapchat provides a reporting function here: <https://support.snapchat.com/en-US/ca/abuse> .

Users are able to block other users.

WhatsApp

WhatsApp is a messaging service where users can share pictures, text or videos. These can be shared with one person or multiple users.

WhatsApp encourages users to report problematic content, however, they advise that they generally do not have the contents of messages available to them. This can limit their ability to verify the report and take action.

Please see instructions on how to report here:

<https://www.whatsapp.com/faq/en/general/21197244>

Users are able to block other users here: <https://www.whatsapp.com/faq/en/s60/21064391> .

Instagram

Instagram is a picture and video sharing app which allows users to share images, make comments and post messages. Instagram provides a reporting function here:

<https://help.instagram.com/443165679053819/>

Users are able to block other users.

⁵ Sourced from linked UKCCIS schools advice on sexting produced in consultation with this advice
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551575/6.243_9_KG_NCA_Sexting_in_Schools_WEB__1_.PDF

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Facebook

Facebook is a social network which allows users to create a profile, share images, videos and messages. Facebook provides a reporting function here:

- Social reporting - <https://www.facebook.com/help/128548343894719>

This offers users the ability to contact other users directly to ask them to take something down that does not necessarily breach Facebook's terms of service. In some cases the young person may not feel comfortable in contacting the person directly so they can use the report flow to enable another trusted person to help them – e.g. a teacher, friend, parent.

- Public reporting - <https://www.facebook.com/help/263149623790594/>

Users who do not have a Facebook account are able to report directly to Facebook using the link above and completing the form.

Users are able to block other users.

YouTube

YouTube allows users to watch, create and share videos. Users can create their own YouTube account, make playlists and create their own channel. Users are also able to comment on other users' channels.

YouTube provides a reporting function here: <https://support.google.com/youtube/answer/2802027>

Users can report an individual video, a channel or a comment on a video. Only account holders can make reports on YouTube.

Google

The "right to be forgotten" ruling allows the public to request the removal of search results that they feel link to outdated or irrelevant information about themselves on a country-by-country basis.

Users are able to complete a form to highlight what content they wish to be removed. Users have to specify why the content applies to them and why it is unlawful so the exact URLs relating to the search results need to be referenced. See

https://support.google.com/legal/contact/lr_eudpa?product=websearch.

A list of many other providers and links to their reporting functions can be found at the NSPCC's NetAware website: www.net-aware.org.uk.

Support services

If you need additional advice or support, the following organisations can assist:

- **Internet Watch Foundation**

In the event that a site has no reporting function and if the content is a sexual image of someone under 18 you can report it to the Internet Watch Foundation (IWF). Sexual images of anyone under

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18 are illegal and the IWF can work to get them removed from sites which do not have reporting procedures. Adults can report directly to the IWF here - www.iwf.org.uk . Young people can contact ChildLine who work in partnership with the IWF and will support young people through the process.

- **NCA-CEOP**

If you are concerned that a child is being sexually abused, exploited or groomed online you should report to NCA-CEOP www.ceop.police.uk/safety-centre .

- **NSPCC adults helpline:** 0808 800 5002

The NSPCC has partnered with O2 to offer direct support to parents and other adults on issues relating to online safety.

- **ChildLine:** www.childline.org.uk

ChildLine offers direct support to children and young people including issues relating to the sharing of sexual imagery.

- **Professionals Online Safety Helpline (POSH):**

<http://www.saferinternet.org.uk/about/helpline>

Tel: 0844 381 4772

The POSH helpline supports professionals with an online safety concern or an online safety concern for children in their care. Professionals are able to contact the helpline to resolve issues.