

Fact Sheet - Sexting (youth produced sexual imagery)¹

Defining Sexting

Many people working with young people consider sexting to be 'sending or posting sexually suggestive images, including nude or semi-nude photographs, via mobiles or over the Internet. Many parents think of sexting as flirty or sexual text messages rather than images. Young People however are more likely to interpret sexting as 'writing and sharing explicit messages with people they know'.

Sexting may be thought of as "youth produced sexual imagery" and refers to the type of incident in which:

- A person under the age of 18 creates and shares sexual imagery of themselves with a peer under the age of 18
- A person under the age of 18 shares sexual imagery created by another person under the age of 18 with a peer under the age of 18 or an adult
- A person under the age of 18 is in possession of sexual imagery created by another person under the age of 18

'Youth produced sexual imagery' best describes the practice because:

- 'Youth produced' includes young people sharing images that they, or another young person, have created of themselves.
- 'Sexual' is clearer than 'indecent.' A judgement of whether something is 'decent' is both a value judgement and dependent on context.
- 'Imagery' covers both still photos and moving videos

The sharing of sexual imagery of people under 18 by adults constitutes child sexual abuse and the Police and Diocesan Safeguarding Adviser should be informed immediately

Sexting and the Law

The relevant legislation is contained in the Protection of Children Act 1978 (England and Wales) as amended in the Sexual Offences Act 2003 (England and Wales).

If a child is under the age of 18, it is illegal for them to take a nude photo of themselves or a friend, as well as distributing them. Even though the age of sexual consent is 16, the Protection of Children Act means it is against the law for a child to share a sexual image, even if it is with someone who is also under the age of 18. Images covered under the law include, but are not limited to, naked pictures, topless photos of girls, genitals, masturbation, any sex acts and sexual images in underwear.

If it is found that a child under the age of 18 is in possession of any of these, has been sending them or taking these types of photos, the police can record it as a crime. However,

¹ Adapted from 'Sexting in Schools and Colleges: Responding to incidents and safeguarding young people 2016 and Safeguarding children from sexting: Virtual College'

since the start of 2016, the police can simply record the crime, but take no further action if it isn't in the public interest. This means that it is unlikely to show up in future records. This decision is totally at the discretion of the police, who will judge on a case by case basis.

'Indecent' is not defined in legislation. When cases are prosecuted, the question of whether any photograph of a child is indecent is for a jury, magistrate or District Judge to decide based on what is the recognised standard of propriety.

Responding to incidents involving youth produced sexual imagery

Refer the incident to the Diocesan Safeguarding Adviser as soon as possible. The Diocesan Safeguarding Adviser will ensure that parents should be informed at an early stage and involved in the process unless there is good reason to believe that involving parents would put the young person at risk of harm. At any point in the process if there is a concern a young person has been harmed or is at risk of harm a referral will be made to children's social care and/or the police immediately.

An immediate referral to police and/or children's social care will be made and if at the initial stage:

1. The incident involves an adult
2. There is reason to believe that a young person has been coerced, blackmailed or groomed, or if there are concerns about their capacity to consent (for example owing to learning difficulties)
3. What is known about the imagery suggests the content depicts sexual acts which are unusual for the young person's developmental stage, or are violent
4. The imagery involves sexual acts and any pupil in the imagery is under 13
5. There is reason to believe the young person is at immediate risk of harm owing to the sharing of the imagery, for example, the young person is presenting as suicidal or self-harming

If a young person has shared imagery consensually, such as when in a romantic relationship, or as a joke, and there is no intended malice, refer the matter to the Diocesan Safeguarding Adviser in the first instance and a decision will be made jointly about next steps. If a young person shares someone else's imagery without consent and with malicious intent, this will generally be referred to police and/or children's social care.