

What is 'Sexting'?

There are a number of definitions of sexting but for the purpose of this briefing sexting is defined as:

'Creating and/ or sending on text, images or videos that are of a sexual nature or are indecent, by, to or of children under the age of 18.'

It is a crime to take, make, permit to take, distribute, show, possess, possess with intent to distribute, or to advertise indecent images of any person below the age of 18 (Crime and Justice Act 1988, section 160, Protection of Children Act, 1978, section 1,1,a).

Professionals should be aware the prosecution or criminalisation of children for taking indecent images of themselves and sharing them should be avoided where possible. Being prosecuted through the criminal justice system is likely to be upsetting and distressing for children and young people 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.

When should the guidance be used?

The guidance should be used to support risk assessment and management of sexting at a single and inter agency level, to generate responses that are proportionate to the individual situation and needs of the children and/ or young people involved.

Who it applies to:

This guidance applies to children and young people under the age of 18 and vulnerable adults.

Understanding sexting

Recent research by the NSPCC identifies that sexting does not refer to any one particular activity; rather, it can be a variety of different activities motivated by a variety of different situations.

Experimental 'Sexting'

These incidents involve children or young people creating and sharing sexual images without additional concerns regarding criminal behaviour (beyond the creation or sending of images), without apparent malice towards others and involves the willing participation of those young people who were pictured. They can be classified in the following way:

- **Romantic:** Young people in ongoing relationships, make images for themselves or each other, and the images are ***not intended to be distributed beyond the pair***. For example two 16 year olds are in relationship and are sharing sexual images which are not shared beyond their relationship.
- **Sexual Attention Seeking:** Cases in which images are made and ***sent between or amongst young people*** who were not known to be romantic partners, or where one young person takes pictures and sends them to many others or posts them online, presumably to draw sexual attention. For example a 13 year old shares a picture of their breasts to a 14 year old when “flirting” with them.
- **Other:** May include cases that do not appear to have aggravating elements but also do not fit into the Romantic or Attention Seeking sub-types. These involve either young people who take pictures of themselves for themselves (***no evidence of any sending or sharing or intent to do so***) or pre-adolescent children who did not appear to have sexual motives. For example an 11 year old taking pictures of their own genitals because they find it funny.

If children or young people engaging in experimental incidents are aged 12 or under, or are considered to be vulnerable, then existing Safeguarding Children Board procedures should be considered, including (but not limited to) underage sexual activity, Child Sexual Exploitation toolkit and/or children who display harmful behaviour. The wider contextual information will also need to be considered.

Aggravated ‘Sexting’

These incidents involve additional criminal or abusive elements beyond the creation, sending or possession of sexual images. This may include the involvement of adults, for example soliciting sexual images from children and young people, or other illegal adult involvement. It may also involve criminal or abusive behaviour by minors such as sexual abuse, extortion, deception or threats; malicious conduct arising from interpersonal conflicts; or creation or sending of images without the knowledge or against the will of those who were pictured. They can be classified in the following way:

- **Adult Involved.** An adult (aged 18 or over) has developed a relationship with and/or coerced a child (17 or under) in criminal sex offences. ***The images are generally, but not always, solicited by the adult offender(s)***. For example a 16 year old girl is coerced into sharing sexual images of herself with a 25 year old man.
- **Youth Only: Intent to Harm.** Sexual or indecent images which were created by young people (aged 13-17) as part of a consensual age appropriate relationship, which have ***then been shared with the intent to cause harm or distress***. Cases may arise from interpersonal conflict such as break-ups and fights among friends or partners, involve criminal or abusive conduct such as blackmail, threats or deception or involve criminal sexual abuse or exploitation by juvenile offenders

(aged 10-17). For example a 14 year shares naked pictures of an ex-partner for revenge.

- **Youth Only: Reckless Misuse.** Images are *taken, sent or shared by young people without the knowledge or willing participation of the young person who is pictured*. In these cases, pictures are taken or sent thoughtlessly or recklessly and a victim may have been harmed as a result, but the culpability appears somewhat less than in the intent to harm episodes. For example a 15 year old takes a photo of their friend topless whilst they are changing and shares it online as “a joke”.

Aggravated cases are likely to need to be discussed with specialist children’s services and/or the police. Use of Safeguarding board procedures for Child Sexual Exploitation, underage sexual activity and/or children who display Harmful Sexual Behaviour (HSB) may be required for referral to external agencies. Wider contextual information may also be asked for.

For young people aged 18+ professionals may need to be aware of the Criminal Justice and Courts Act 2015 which states that sexually explicit images or videos of adults sent without consent electronically, with the intent to cause distress, is illegal. This includes the sharing of images without consent both on and offline and includes the physical distribution of images. This is also known as “revenge pornography”.

Risk Management

It is expected that all agencies will exercise professional judgement regarding responding to sexting. It is a complicated and sensitive issue for all organisations working with children and young people and vulnerable adults.

When assessing the risks the following should be considered:

- Why was the imagery shared? Was the young person/ vulnerable adult coerced or put under pressure to produce the imagery?
- Who has shared the imagery? Where has the imagery been shared? Was it shared and received with the knowledge of the child/ vulnerable adult in the imagery?
- Are there any adults involved in the sharing of imagery?
- What was the impact on the person involved?
- Does the individual have additional vulnerabilities?
- Does the person involved understand consent?
- Has the person involved taken part in this kind of activity before?

Safeguarding boards suggest that professionals use the harmful sexualised behaviour tool, Child Sexual Exploitation toolkit and threshold document to inform this decision making; however other agency or risk management tools may be appropriate. To support this professionals are recommended to discuss their concerns with their agency designated/named safeguarding lead.

Any direct disclosure should be taken very seriously.

An immediate referral to the police/ social care should be made if at this initial stage:

1. The incident involves an adult
2. There is reason to believe that a young person/ vulnerable adult has been coerced, blackmailed or groomed, or if there are concerns about their capacity to consent
3. What you know 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 the child is under the age of 13.
5. You have reason to believe a child, young person or vulnerable adult is at immediate risk of harm owing to the sharing of imagery, for example the individual is presenting as suicidal or self-harming.

NB: professionals must not print, forward, distribute or save any images or content believed to be an indecent image unless Police advice has been given.

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With **all of us** in mind.