



## Section 6D (Staffordshire) Section D03 (Stoke-on-Trent)

# Responding to Sexting (Youth Produced Sexual Imagery): Guidance for Professionals

This guidance applies to all agencies working with children and young people and includes (but is not limited to) schools, early years settings, youth hubs, libraries, early help and preventative services.

### What is 'Sexting'?

- Youth Produced Sexual Imagery (YPSI or "Sexting") can be defined as images or videos generated by children under the age of 18 that are of a sexual nature or are considered to be indecent. These images may be shared between children and young people and/or adults via a mobile phone, webcam, handheld device or website/app.
- 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).
- It is a crime for a person aged 18 years or over who intentionally communicate with a child under 16 (who the adult does not reasonably believe to be 16 or over), if the communication is sexual or if it is intended to elicit from the child a communication which is sexual. The offence is only committed if the adult acts for the purpose of obtaining sexual gratification. (Sexual Offences Act 2003, at section 15A).
- Professionals should be aware the prosecution or criminalisation of children for taking indecent images of themselves and sharing them should be avoided where possible.

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.

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).

'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 or magistrate to decide based on what is the recognised standard of propriety. If imagery contains a naked young person, a topless girl, and/ or displays genitals or sex acts, including masturbation, then it will be considered indecent. Indecent images may also include overtly sexual images of young people in their underwear.

The phrase 'Youth Produced Sexual Imagery' is now used instead of 'sexting.' To describe 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

### **Before making a judgement the following should always be considered:-**

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-(Exchange of images within a relationship):** 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 - (Exchanges between partners that are shared with peers outside the relationship):** 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 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 – (Exchanges between people who are not yet in a relationship):** 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 under the age of 13 years, 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 Abuse, Child Sexual Exploitation and/or children who display sexually harmful behaviour. The wider contextual information will also need to be considered. Please refer to Appendix 6Da Responding to sexual imagery flow chart and 6Db national decision making model.

### Aggravated ‘Sexting’

These incidents involve additional criminal or abusive elements beyond the creation, sending or possession of indecent/sexual images. This may include the involvement of adults, for example soliciting indecent/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 of 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 – (Adults perpetrating abuse)** - An adult (aged 18 or over) has developed an exploitive relationship with and/or coerced a child (17 or under) to share indecent images thus committing criminal offences. **The images are generally, but not always, solicited by the adult offender(s).** For example a 16 year old is coerced into sharing sexualised images of themselves with a 25 year old.
- **Youth Only: Intent to Harm – (Peer on Peer abuse)** - 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 old 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” without understanding the implications of this.

Aggravated cases should be discussed with specialist children’s services and/or the police. Please refer to Appendix 6Da Responding to sexual imagery flow chart and 6Db national decision making model. .

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. To support this professionals are recommended to discuss their concerns with their agency designated/named safeguarding lead.

<b>Key questions should include:</b>	
<b>What is already known about the child(ren) or young people involved?</b>	<ul style="list-style-type: none"> <li>• Age of child(ren) or young people</li> <li>• Previous/current agency involvement</li> <li>• Vulnerability e.g. special educational needs, child in care etc.?</li> <li>• Immediate risk of harm</li> <li>• Multiple incidents</li> </ul>
<b>How has the imagery been shared?</b>	<ul style="list-style-type: none"> <li>• Public or private</li> <li>• Apps/services involved</li> </ul>
<b>What do we know about the intent or motivation behind creating or sharing the imagery?</b>	<ul style="list-style-type: none"> <li>• Adult involvement</li> <li>• Coercion or blackmail</li> <li>• Ability to “consent”</li> <li>• Image is extreme or violent</li> </ul>
<b>What is the impact on the child(ren) or young people involved?</b>	<ul style="list-style-type: none"> <li>• Emotional impact</li> <li>• Criminal consequences</li> <li>• Potential long term impact</li> </ul>

## Initial response

When an incident involving youth produced sexual imagery comes to a school or college's attention:

- The incident should be referred to the Safeguarding Lead as soon as possible
- The Safeguarding Lead should hold an initial review meeting with appropriate school staff
- 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 should be made to children's social care and/or the police immediately.

Please refer to **Appendix 6Da** Responding to sexual imagery flow chart and 6Db national decision making model..

## Assessing the risks

The circumstances of incidents can vary widely. If at the initial review stage a decision has been made not to refer to police and/or children's social care, the Safeguarding Lead should conduct a further review (including an interview with the young people involved) to establish the facts and assess the risks.

When assessing the risks the following should be considered:

- Why was the imagery shared? Was the young person 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 pupil in the imagery?
- Are there any adults involved in the sharing of imagery?
- What is the impact on the pupils involved?
- Do the pupils involved have additional vulnerabilities?
- Does the young person understand consent?
- Has the young person taken part in this kind of activity before?
- Has the imagery been shared on social media or anywhere else online? If so, what steps have been taken to contain the spread of the imagery?

Safeguarding Leads should always use their professional judgement in conjunction with their colleagues to assess incidents and seek advice from the Education Safeguarding Advice Service if unsure.

***NB: professionals must not print, forward, distribute or save any images or content believed to be an indecent image.***

## Informing parents (or carers)

Parents (or carers) should be informed and involved in the process at an early stage unless informing the parent will put the young person at risk of harm. Any decision not to inform the parents would generally be made in conjunction with other services such as children's social care and/or the police, who would take the lead in deciding when the parents should be informed.

## Securing and handing over devices to the police

If any devices need to be seized and passed onto the police then the device(s) should be confiscated and the police should be called. The device should be turned off and placed under lock and key until the police are able to come and retrieve it.

## Searching devices, viewing and deleting imagery

### Viewing the imagery

Adults should **not** view youth produced sexual imagery unless there is good and clear reason to do so. Wherever possible responses to incidents should be based on what Safeguarding leads have been told about the content of the imagery.

The decision to view imagery should be based on the professional judgement of the Safeguarding lead and should always comply with the child protection policy and procedures of the school or college. Imagery should never be viewed if the act of viewing will cause significant distress or harm to the pupil.

If a decision is made to view imagery the Safeguarding lead would need to be satisfied that viewing:

- Is the only way to make a decision about whether to involve other agencies (i.e. it is not possible to establish the facts from the young people involved)
- Is necessary to report the image to a website, app or suitable reporting agency to have it taken down, or to support the young person or parent in making a report
- Is unavoidable because a pupil has presented an image directly to a staff member or the imagery has been found on a school device or network

If it is necessary to view the imagery then the Safeguarding leads should:

- Ensure wherever possible that images are viewed by a staff member of the same sex as the young person in the imagery
- Never copy, print or share the imagery; this is illegal.
- Discuss the decision with the Safeguarding Lead.
- Ensure viewing is undertaken by the Safeguarding leads or another member of the safeguarding team with delegated authority from the Headteacher if in schools.
- Ensure viewing takes place with another member of staff present in the room, ideally the Safeguarding Lead or a member of the senior leadership team. This staff member does not need to view the images.
- Wherever possible ensure viewing takes place on school or college premises, ideally in the Safeguarding Lead or a member of the senior leadership team's office.

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- Record the viewing of the imagery in the school's safeguarding records including who was present, why the image was viewed and any subsequent actions. Ensure this is signed and dated and recorded as a safeguarding incident.

Further details on searching, deleting and confiscating devices can be found in the DfE Searching, Screening and Confiscation advice (note this advice is for schools only).

## Deletion of images

If the school has decided that other agencies do not need to be involved, then consideration should be given to deleting imagery from devices and online services to limit any further sharing of the imagery.

The Searching, Screening and Confiscation advice highlights that schools have the power to search pupils for devices, search data on devices and delete youth produced sexual imagery.

The Education Act 2011 amended the power in the Education Act 1996 to provide that when an electronic device, such as a mobile phone, has been seized, a teacher who has been formally authorised by the head teacher can examine data or files, and delete these, where there is good reason to do so. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone.

If during a search a teacher finds material which concerns them and they reasonably suspect the material has been or could be used to cause harm or commit an offence, they can decide whether they should delete the material or retain it as evidence of a criminal offence or a breach of school discipline. They can also decide whether the material is of such seriousness that the police need to be involved.

It is recommended that in most cases young people are asked to delete imagery and to confirm that they have deleted the imagery. Young people should be given a deadline for deletion across all devices, online storage or social media sites.

## Interviewing and talking to the young person/people involved

Once a school has assessed a young person as not at immediate risk, it may be necessary to have a conversation with them and decide the best course of action. If possible, the safeguarding lead should carry out this conversation. However, if the young person feels more comfortable talking to a different teacher, this should be facilitated where possible.

## **Responding to Sexting (Youth Produced Sexual Imagery):** **Case Study Examples**

### **Case study A:- Children and young people aged 13-18**

Two children, both aged 15, were in a relationship for the past month. The boy asked the girl for “sexy” pictures and she sent him a single topless photo. Afterwards the girl was worried that he might share the photo so she shared her concerns with her friends. Her friends then told their form tutor who spoke with the school safeguarding lead.

School response:

- The safeguarding lead spoke with the girl and then the boy. Both pupils confirmed there had not been any sexual activity between them. There were not any wider safeguarding concerns about either pupil. There was no evidence that the image had been shared by the boy and he offered to delete the image from his device.
- Both pupils were spoken with by the safeguarding lead who advised them on the potential impact of taking and sharing youth produced sexual imagery both criminally and emotionally. The safeguarding lead worked with both pupils to help them come up with an agreed plan to inform their parents. The school safeguarding lead documented the incident and as well as the actions taken in the children’s safeguarding records.

### **Case study B:- Children aged under 13**

A class teacher found a naked photo of a child (boy, aged 11) on a school tablet. The child said that he had been using the tablet with two other children during lunchtime and they dared him to take a picture of his bottom.

School response:

- The school had no other safeguarding concerns about the children or their families. The school safeguarding lead spoke with the local authority education safeguarding team and subsequently accessed the local safeguarding board’s guidance regarding underage sexual activity. This tool indicated that the behaviour was likely to be inappropriate but did not meet the threshold for a referral to children’s social care.
- The school safeguarding lead spoke with the children involved and their parents and advised them on the situation and possible consequences including possible police and social care involvement. The children were sanctioned in school for their behaviour and the parents were fully supportive of the school’s approach.
- All members of staff were provided with updated online safety training and a reminder of the school online safety and acceptable use policy to ensure that children were not left unsupervised with school tablets. The school documented the incident and the actions taken in the children’s safeguarding records.



## Case study C:- Child aged 16 years

A 16 year old boy has disclosed to staff that he has recently spilt up with his 16 year old girlfriend and he has been told by friends at school that she has forwarded private pictures of him to her friend because he ended the relationship.

School response:

- The school safeguarding lead spoke with the 16 year old girl who denied forwarding any images and refused to hand over her phone. There have been no wider safeguarding concerns about either young person.
- The school safeguarding lead spoke with the local authority education safeguarding team, who indicated that the behaviour could be construed as reckless misuse as oppose to any deliberate intention to harm and therefore may or may not meet the threshold for a referral to children's social care.
- There was no evidence that the image had been shared by the girl who has refused to hand her device to anyone.
- The school safeguarding lead spoke with the parents of the young people involved and advised them on the situation and possible consequences including possible police and social care involvement.
- The school safeguarding lead documented the incident and as well as the actions taken in the children's safeguarding records

## **Resources and support**

In addition to any Local Safeguarding Children Board resources, the following resources can be used to support parents and children with sexting. They can be included on school and other agencies 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](http://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](mailto: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](mailto:info@mariecollinsfoundation.org.uk)

- Further details on searching, deleting and confiscating devices can be found in the DfE Searching, Screening and Confiscation advice (note this advice is for schools only) <https://www.gov.uk/government/publications/searching-screening-and-confiscation>

### **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>
- Parent Info ([www.parentinfo.org](http://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](http://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%202%20May%202015.pdf>

**Staffordshire County Council First Response Service:- 0800 1313 126**

Open: Monday - Thursday 8:30am - 5:00pm

Friday 8:30am - 4:30pm

E-mail: [FirstR@staffordshire.gov.uk](mailto:FirstR@staffordshire.gov.uk)

**Emergency Duty Service:**

(Out of Hours Service)

Telephone: 0345 604 2886

Mobile: 07815 492613

**Education Safeguarding Advisory Service (ESAS)**

Telephone: **01785 895836**

Email: [esas@staffordshire.gov.uk](mailto:esas@staffordshire.gov.uk)

(Monday to Thursday 8.30am to 5pm and Friday 8.30am to 4.30pm)

**Stoke-on-Trent Safeguarding Referral Team:- 01782 235100**

Open: Monday - Thursday 8:30am - 5:00pm

Friday 8:30am - 4:30pm

E-mail [SRT.Referrals@stoke.gov.uk](mailto:SRT.Referrals@stoke.gov.uk)

**Emergency Duty Team:**

(Out of Hours Team)

Telephone: 01782 234234

**Dawn Casewell??**

The referral **must** be followed up in writing using a [Multi Agency Referral Form \(MARF\)](#) **within 48 hrs**

**Staffordshire Police:**

Telephone: 101 and ask for **M.A.S.H. (Multi Agency Safeguarding Hub)**

Outside of MASH hours, report to the Area Communications Room

**In an emergency always call 999**