

10. Online sexual harassment and the law

Some incidents of online sexual harassment can break the law. Context is key in every situation and it is crucial this is taken into consideration when responding. If involved, the police should determine the response on a case by case basis.

Even though some laws may apply in some cases, every instance of online sexual harassment is unacceptable and should not be tolerated, or accepted as an inevitable part of 'being a teenager.'

Further guidance on when a school/setting should involve the police in incidents of sexual harassment can be found in the [Department for Education's Sexual violence and sexual harassment between children in schools and colleges advice \(2018\)](#).

Some of the laws below may be relevant when considering instances of online sexual harassment.

The term 'child' refers to any person aged 17 or under.

[Communications Act 2003](#)

This Act covers all forms and types of public communication. With regards to online behaviour, it covers the sending of grossly offensive, obscene, menacing or indecent communications and any communication that causes needless anxiety or contains false accusation.

[Protection from Harassment Act 1997](#)

This includes criminal and civil provision for harassment (incidents that have happened repeatedly, i.e. on more than two occasions). It also provides a more serious offence of someone causing another person to fear, on at least two occasions, that violence will be used against them. Stalking, including cyberstalking, is covered.

[The Computer Misuse Act 1990](#)

This Act criminalises the impersonation or theft of someone else's identity online. This means that creating a fake account in the name of a peer is technically against the law.

[Equality Act 2010](#)

This Act states that it is against the law to discriminate against anyone on the ground of protected characteristics. These include disability, gender, gender reassignment (when a person undergoes a full or partial process – social or medical – for the purposes of reassigning their sex), race, (including colour, nationality, ethnic or national origin), religion, or belief, sex and sexual orientation.

Hate crimes and hate speech: If a crime is committed against someone because of their religion, race, sexual orientation or disability, this is classified as a hate crime. Hate speech is defined as expressions of hatred and threats directed at a person or a group of people on account of that person's colour, race, nationality, ethnic or national origin, religion or sexual orientation. Hate crimes should be reported to True Vision- www.report-it.org.uk.

[The Malicious Communications Act 1998](#)

This Act covers the sending of grossly offensive or threatening letters, electronic communications or any other form of message with the intention of causing harm, stress or anxiety.

[Sexual Offences Act 2003](#)

This Act covers the prevention and protection of children from harm due to sexual offences. The term 'sexual offences' describes offences including, but not limited to, rape, sexual assault, causing sexual activity without consent, child sex offences including grooming, abuse of position of trust, offences against persons with a mental disorder impeding choice, voyeurism offences including recording sexually intrusive images under someone's clothing and indecent photographs of children.

[Protection of Children Act 1978 – England and Wales](#)

[Civic Government \(Scotland\) Act 1982 – Scotland](#)

[Protection of Children \(Northern Ireland\) Order 1978](#)

These Acts criminalise the taking, creating, showing, distributing, possessing and publishing of indecent photographs of children (people under the age of 18).

[Section 33 of the Criminal Justice and Courts Act 2015 – England and Wales](#)

This Act states that it is against the law to disclose private sexual photographs or films of someone else without their consent, with the intent to cause distress. This is sometimes referred to in the media as 'revenge pornography.' Where the images may have been taken when the victim was under 18, prosecutors will consider offences under the Protection of Children Act.

[Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016:](#)

This Act criminalises abusive behaviour and sexual harm, including disclosing or threatening to disclose an intimate photograph or film of someone else without their consent, with the intent to cause distress. This is sometimes referred to in the media as 'revenge pornography.'

[Section 51 of the Justice Act \(Northern Ireland\) 2016](#)

This Act states that it is against the law to disclose private sexual photographs or films of someone else without their consent, with the intent to cause distress. This is sometimes referred to in the media as 'revenge pornography.'



Outcome 21 Guidance

As of January 2016 the Home Office launched a new outcome code (Outcome 21) to help formalise the discretion available to the police when handling crimes such as youth produced sexual imagery (sexting). The College of Policing has produced guidance to advise forces on how to respond to and record cases of sexting between those aged under 18. If the making and sharing of images is considered non-abusive and there is no evidence of further criminal activity (e.g. exploitation, grooming) or evidence of it being persistent behaviour, Outcome 21 can be applied. The child's involvement would be recorded on police systems, but as it has been decided that further investigation in order to pursue further formal action is not in the public interest, no further police action would be taken. In the event of a future 'Enhanced Disclosure and Barring Service' (DBS) check, it would be unlikely that this record would be disclosed.

See the [College of Policing's Briefing Note](#) for more information.

For more information on how to handle reports of sexting within educational settings see the [UKCCIS Sexting in schools and colleges guidance](#).

11. Glossary

AirDrop: A feature of Apple products (e.g. iPad, iPhone) that lets users share files wirelessly. Although the user needs to click 'accept' to receive files, a preview of the file will appear on the device of the person receiving it. AirDrop can be used between any Apple device in range that has Bluetooth turned on.

Bait-out page: A website or social media profile dedicated to sharing gossip or images of individuals within a local community, e.g. a particular school in order to shame them, or 'bait them out.' The gossip and images are sometimes of a sexual nature. Sometimes access to these websites or profiles is denied unless a user offers a piece of gossip or an image in exchange for access.

Bluetooth: Short-range wireless technology that can connect mobile phones, laptops, tablets etc.

Bystander: A young person who witnesses any online sexual harassment or online bullying.

Consent: An agreement made by someone with the freedom and ability to decide something.

dm: Direct message. A private message sent via social media platforms or games.

Group chat: A messaging group consisting of 3 or more people. These can be people who already know each other or include people who don't know each other but who have been added by a contact they already know. In situations such as this, members' phone numbers and profile pictures can often be visible to the whole group, including anyone they do not know.

Harmful sexual behaviour: Sexual behaviours expressed by children and young people under the age of 18 years old that are developmentally inappropriate, may be harmful towards themselves or others, or be abusive towards another child, young person or adult (NSPCC, 2016).

Indirect: A form of bullying whereby someone posts an indirect comment about someone but doesn't name them. Although this comment could be intended for anyone, those who understand the context behind it know who it is written about, but it is difficult to prove. Examples could be "I hate people who complain if they post a nude and don't expect to get hassle for it."

LGBT+: Refers to people who identify as Lesbian, Gay, Bisexual, Transgender/Transsexual plus. The "plus" is inclusive of other groups, such as asexual, intersex, queer, questioning, etc.