

Appendix 1 – The LAW

The age of criminal responsibility in England and Wales is 10. It is worth noting the Crown Prosecution Service (CPS) [Guidelines on prosecuting cases involving communications sent via social media](#):

“The age and maturity of suspects should be given significant weight, particularly if they are under the age of 18 [...] Children may not appreciate the potential harm and seriousness of their communications and a prosecution is rarely likely to be in the public interest”.

For the purposes of this information, the term ‘child’ refers to any person aged 17 or under.

Some of the laws relevant to online sexual harassment include:

- [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](#): 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
- [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, and indecent photographs of children. This includes the amendment under the [Voyeurism \(Offences\) Act 2019](#) applying to England and Wales which covers ‘upskirting’.
- [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.
- [Protection of Children Act 1978 – England and Wales](#)
- [Civic Government \(Scotland\) Act 1982 – Scotland](#)
- [Protection of Children Act \(Northern Ireland\) Order 1978](#)

These Acts criminalise the taking, creating, showing, distributing, possessing and publishing any advertisement 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

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 school see the [UKCCIS Sexting in schools and colleges guidance](#).

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 1978.

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