

Guidance for Staff at DA on 'Sexting'

BACKGROUND AND CONTEXT

What is Sexting?

Professionals refer to 'sexting' but there is no clear definition of 'sexting'. Many professionals consider sexting to be 'sending or posting sexually suggestive images, including nude or semi-nude photographs, via mobiles or over the internet'. Yet when learners are asked what it means they often say 'writing and sharing explicit messages with people they know'. Often parents think of sexting as flirty or sexual text messages rather than images.

These guidance notes only cover the sharing of sexual imagery by learners. Creating and sharing sexual photos and videos of under-18s is illegal and therefore causes the greatest complexity for us when faced with it. It also presents a range of risks which need careful management.

Therefore the police and other professionals are now referring to 'sexting' as **'youth produced sexual imagery'** and use this instead of 'sexting'. This is to ensure clarity about the issues this advice addresses.

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

- 'Youth produced' includes learners sharing images that they, or another learner, 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 (and this is what is meant by reference to imagery throughout these guidelines).

Some of the incidents we will cover are:

- 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.

These guidelines do not cover:

- The sharing of sexual imagery of people under 18 by adults as this constitutes child sexual abuse and we would inform the police.
- Learners under the age of 18 sharing adult pornography or exchanging sexual texts which don't contain imagery.

Why provide this guidance to staff?

The increase in the use of smartphones and the speed and ease of sharing imagery has caused concerns about learners producing and sharing sexual imagery of themselves. This can expose them to risks, particularly if the imagery is shared further, including embarrassment, bullying and increased vulnerability to sexual exploitation. Producing and sharing sexual images of under 18s is also illegal.

A 2016 NSPCC/Office of the Children's Commissioner England study found that just over one in ten boys and girls (13%) had taken topless pictures of themselves (around one in four of those were girls) and 3% had taken fully naked pictures. Of those who had taken sexual images, 55% had shared with others, 31% of this group had also shared the image with someone that they did not know.

The law

Much of the complexity in responding to youth produced sexual imagery is due to its legal status. Making, possessing and distributing any imagery of someone under the age of 18 which is 'indecent' is illegal. This includes imagery of yourself if you are under 18. (Protection of Children Act 1978 as amended in the Sexual Offences Act 2003).

Specifically:

- It is an offence to possess, distribute, show and make indecent images of children.
- The Sexual Offences Act 2003 defines a child, for the purposes of indecent images, as anyone under the age of 18.

Whether something is 'indecent' will be decided by a magistrate or District Judge but for most purposes if imagery contains a naked learner, a topless girl, and/or displays the genitals or sex acts or masturbation, then it will be considered indecent. It can also include overly sexual images of learners in their underwear.

The police response

The police do not want to criminalise learners and the law around this was written long before mass adoption of the internet, mobiles and digital photography. The police feel that youth produced sexual imagery should primarily be treated as a safeguarding issue.

The police do sometimes have to be involved especially to ensure that a thorough investigation takes place and in order to collect all the evidence, for example, through multi-agency checks. There are incidents which should always be reported to the police and the Safeguarding Team would assess this on a case by case basis.

The police can now record such incidents under **Outcome 21** which is a new outcome and states that the police can decide that taking formal action would not be in the public interest. It is not possible to categorically say that an incident of youth produced sexual imagery recorded on police systems with Outcome 21 would never be disclosed on a DBS certificate. However, police have the discretion to respond appropriately in cases of youth produced sexual imagery and to record incidents in a way which should not have a long term negative impact on learner.

HANDLING INCIDENTS

If a member of staff becomes aware of a case of youth produced sexual imagery these must be dealt with in line with the College's Safeguarding Procedure.

When an incident involving youth produced sexual imagery comes to a member of staff's attention:

- The incident should be referred to the Safeguarding Team (DSL, Duty officer, Personal supervisor) as soon as possible
- A member of the Safeguarding Team will hold an initial review meeting with relevant college staff
- There will then be subsequent interviews with the learner involved (if appropriate)
- Parents will be informed at an early stage and involved in the process unless there is good reason to believe that involving parents would put the learner at risk of harm
- At any point in the process if there is a concern a learner has been harmed or is at risk of harm a referral will be made to children's social care and/or the police immediately.

After these actions have been taken the Safeguarding Team will decide whether the situation needs to be referred or whether it can be handled in college with the learner being supported accordingly.

Viewing the imagery

Staff should **not** view youth produced sexual imagery unless there is a good and clear reason to do so. Wherever possible responses to incidents should be based on what the Safeguarding Team have been told about the content of the imagery. Viewing of the images would only be done in certain circumstances.

Staff should report all incidents to the Safeguarding Team and **must not view** any images themselves.

If it is decided that images need to be deleted from mobiles or other devices either those belonging to the student or the college then this decision must be made by the Lead Safeguarding Manager or appropriate member of SMT and noted on the safeguarding system. Wherever possible the learner involved will be asked to delete the imagery and confirm that they have done this.

Interviewing and talking to the learner involved

If possible a member of the Safeguarding Team should carry out a conversation with a learner regarding imagery. At this point it is important that the Safeguarding member of staff:

- Recognises the pressures that learners can be under to take part in sharing such imagery and, if relevant support the learner's parents to understand the wider issues and motivations around this.
- Remain solution-focussed and avoid questions such as 'why have you done this?' as this may prevent the learner from talking about what has happened.
- Reassure the learner that they are not alone and the college will do everything we can to help and support them.
- Helps the learner to understand what has happened by discussing the wider pressures they may face and the motivations of the person that sent on the imagery.
- Discusses issues of consent and trust within healthy relationships. Explain that it is not ok for someone to make them feel uncomfortable, to pressure them into doing things that they don't want to do, or to show them things that they are unhappy about. Let them know that they can speak to the Safeguarding Team if this ever happens.

The purpose of this conversation is to:

- Identify, **without looking**, what the image contains and whether anyone else has been involved.
- Find out who has seen or shared the image and how further distribution can be prevented.

Recording Incidents

All concerns from staff **must be followed up by an email to an appropriate member of the Safeguarding team (DSL, Personal Supervisors, Duty Officer or Head of Progress & Welfare)**. A member of the Safeguarding Team will then record their actions on the college safeguarding database. All actions and the reasons for those actions will be recorded.

Reporting youth produced sexual imagery online

Learners may need help and support with the removal of content (imagery and videos) from devices and social media, especially if they are distressed. Most online service providers offer a reporting function for account holders and some offer a public reporting function to enable a third party to make a report on behalf of the learner. Any actions such as this will be recorded on the safeguarding records for the college.

Resources and support

Learners can talk to a Child Line counsellor 24 hours a day about anything that is worrying them by ringing 0800 11 11.

Parents can contact CEOP at www.ceop.police.uk/safety-centre or NSPCC on 0808 800 5000.
