

Staff Guidance around Sexting. January 2017

Defining 'sexting' Whilst professionals refer to the issue as 'sexting' 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 young people are asked 'What does sexting mean to you?' they are more likely to interpret sexting as 'writing and sharing explicit messages with people they know'. Similarly, many parents think of sexting as flirty or sexual text messages rather than images. This advice only covers the sharing of sexual imagery by young people. Creating and sharing sexual photos and videos of under-18s is illegal and therefore causes the greatest complexity for schools and other agencies when responding. It also presents a range of risks which need careful management. On this basis this advice introduces the phrase 'youth produced sexual imagery' and uses 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 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 (and this is what is meant by reference to imagery throughout the document). The types of incidents which this advice covers 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

This advice does not cover:

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

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 18 which is 'indecent' is illegal. This includes imagery of yourself if you are under 18. The relevant legislation is contained in the Protection of Children Act 1978 (England and Wales) as amended in the Sexual Offences Act 2003 (England and Wales). Specifically:

- It is an offence to possess, distribute, show and make indecent images of children.
- The Sexual Offences Act 2003 (England and Wales) defines a child, for the purposes of indecent images, as anyone under the age of 18. '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, magistrate or District Judge to decide based on what is the recognised standard of propriety.¹³ For most purposes, 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.

Initial response: Keeping Children Safe in Education statutory guidance sets out that all schools should have an effective child protection policy. Youth produced sexual imagery and a school's approach to it should be reflected in the policy. All incidents involving youth produced sexual imagery should be responded to in line with the school's safeguarding and child protection policy. When an incident involving youth produced sexual imagery comes to a school or college's attention:

- The incident should be referred to the DSL as soon as possible
- The DSL should hold an initial review meeting with appropriate school staff

- There should be subsequent interviews with the young people involved (if appropriate)
- 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.