

‘Sexting’ and youth produced sexual imagery

WHAT IS ‘SEXTING’ and ‘YOUTH PRODUCED SEXUAL IMAGERY’?

Many young people understand ‘sexting’ to mean:

- sending, receiving or posting sexually suggestive images, including nude or semi-nude photographs, via the internet.
- writing and sharing ‘flirty’, sexual and/or explicit messages via the internet (with or without images)

Creating and sharing sexual photos and videos of under-18s is illegal, and therefore causes the greatest complexity for the College when responding. It also presents a range of risks which need careful management. Therefore, in the interest of clarity, this document will refer to ‘youth produced sexual imagery’ because:

- ‘youth produced’ includes children (under 18) sharing images that they, or another child, 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.

Youth produced sexual imagery includes the following:

- A child creates and shares sexual imagery of themselves with a peer (also under the age of 18)
- A child shares sexual imagery created by another child with a peer (also under the age of 18) or an adult
- A child is in possession of sexual imagery created by another child.

Youth produced sexual imagery does not include the following:

- The sharing of sexual imagery of children by adults (this constitutes child sexual abuse and the College must inform the police when made aware of this)
- Children sharing adult pornography or exchanging sexual texts which do not contain imagery (this should be addressed in line with the College Behaviour Management Policy, ICT Policy and other aspects of the Safeguarding Policy)
- Sexual imagery downloaded from the internet by a child (should be addressed as above)
- Sexual imagery downloaded from the internet by a child and shared with a peer (also under the age of 18) or an adult (should be addressed as above).

Some of the legalities of sexting are outlined in Appendix I of this document.

Sexting, including the sharing of youth produced sexual imagery, is one of a number of risk-taking behaviours associated with the use of digital devices, social media and the internet. It is accepted that young people experiment and challenge boundaries, and therefore the risks associated with online activities can never be completely eliminated. However, St Dunstan's Education Foundation takes a proactive approach to e-safety to help students understand, assess, manage and avoid the risks associated with online activity. The Foundation recognises its duty of care to its pupils who do find themselves involved in such activity as well as its responsibility to report such behaviours where legal or safeguarding boundaries are crossed.

There are many different contexts in which youth produced sexual imagery is shared by children (see Appendix II) and it is likely that no two cases will be the same. Although each case will be considered on its own merit, St Dunstan's Education Foundation must apply a consistent approach when dealing with sexting incidents to help protect pupils and the Foundation. The DSL must be informed of any sexting incidents, who will consider the range of contributory factors in each case in order to determine an appropriate and proportionate response.

STEPS TO TAKE IN THE EVENT OF AN INCIDENT

Step 1 – Disclosure by a student or other person

Sexting disclosures should follow the normal Foundation Safeguarding Procedures (see Safeguarding Policy).

A pupil will likely be very distressed, especially if the image has been circulated widely and if they don't know who has shared it, seen it or where it has ended up. They will need pastoral support during the disclosure and after the event. They may even need immediate protection or a referral to police or social services; parents should be informed as soon as possible (police advice permitting). It is critical that the DSL is informed as soon as possible after the disclosure.

The DSL will consider the following questions to help them decide on the best course of action:

- Is the pupil disclosing about themselves receiving an image, sending an image or sharing an image?
- If an image is involved, is it a sexual image?
- How widely has the image and/or text been shared and is the device in their possession?
- Does the pupil need immediate support and/or protection?
- Are there other pupils and/or young people involved?
- Do they know where the image has ended up?

Step 2 – Searching a device: what are the rules?

Please refer to the Foundation's Search and Confiscation Policy which is based on the most current government advice (*Searching, Screening and Confiscation: Advice for Headteachers, School Staff and Governing Bodies, Department for Education, 2015*).

The policy allows for a device to be examined, confiscated and securely stored if there is reason to believe it contains indecent images or pornography. When searching a mobile device, the following conditions must apply:

- The action is in accordance with the Foundation’s Safeguarding and Searching and Confiscation Policies.
- The search is conducted either by the Headmaster or a person authorised by him (normally the DSL) and one other person, normally a member of the Safeguarding Team.

If any sexual images of a young person are found, the DSL will discuss this with the Police.

The Association of Chief Police Officers (ACPO) advise that as a general rule, it will almost always be proportionate to refer any incident involving ‘aggravated’ sharing of images to the Police, whereas purely ‘experimental’ conduct may be proportionately dealt with without such referral, most particularly if it involves the young person sharing images of themselves.

‘Experimental conduct’ commonly refers to that shared between two individuals (e.g., girlfriend and boyfriend) with no intention to publish the images further (see Appendix II). Coercion is not a feature of such conduct, neither are requests for images sent from one person to multiple other young persons.

Any conduct involving, or possibly involving, the knowledge or participation of adults should always be referred to the Police.

If an ‘experimental incident’ is not referred to the Police, the reasons for this should be recorded on MyConcern as a Safeguarding incident.

Always put the young person first. **Do not search the device if this will cause additional stress to the pupil/person whose image has been distributed.** Instead, rely on the description by the young person, secure the device and contact the Police. EXCEPTION: search may proceed if there is clear evidence to suggest not to do so would impede a police inquiry.

Never...

- ✗ Search a mobile device without express permission from the Headmaster or DSL
- ✗ Print out any material for evidence
- ✗ Move any material from one storage device to another

Always...

- ✓ Inform the DSL as soon as possible after disclosure
- ✓ Record the incident, following normal Reporting and Disclosure procedures
- ✓ Act in accordance with the Foundation Safeguarding and Search and Confiscation procedures

Step 3 – What to do and not do with the image

If the image has been shared across personal mobile devices:

- Confiscate and secure the device(s). Close down or switch off the device as soon as possible to prevent evidence from being removed remotely.
- DO NOT VIEW THE IMAGE(S) unless there is a clear reason to do so, and then only with an additional adult present following the conditions of search outlined above.
- Do not send, share or save the image(s) anywhere
- Do not allow pupils to do any of the above.

If the image has been shared across a school network, a website or a social network:

- Block the network to all users and isolate the image(s)
- Do not send or print the image(s)
- Do not move the material from one place to another
- Do not view the image(s) outside of the protocols of this policy

Step 4 – Who should deal with the incident

Often, the first port of call for a student is a class teacher. Regardless of who the initial disclosure is made to, she/he must act in accordance with the Foundation Safeguarding and Child Protection Policy, ensuring the DSL is informed immediately.

The DSL should always record the incident. The Headmaster should also always be informed – usually by the DSL. There may be instances where the image needs to be viewed and this should be done in accordance with protocols.

Step 5 – Deciding on a response

There may be many reasons why a pupil has engaged in sexting – it may be a romantic/sexual exploration scenario or it may be due to coercion.

It is important to remember that it won't always be appropriate to inform the police; this will depend on the nature of the incident (see Appendix I). However, as a Foundation it is important that incidents are consistently recorded. It may also be necessary to assist the young person in removing the image from a website or elsewhere.

If sexual images of a child are found:

- Act in accordance with the Foundation Safeguarding Policy, i.e., inform the DSL
- Store the device securely, having shut it down first
- The DSL will carry out a risk assessment in relation to the young person (using Appendices II and III for support)
- The DSL will contact the Police (if appropriate), and may refer the incident to the Local Multi-Agency Safeguarding Hub (MASH). Young people who have engaged in 'experimental sexting' will normally be referred to the Local MASH for support and guidance. Those who are felt to be victims of sexting

will also be referred to the Local MASH at a point where the Police feel that this will not impede an investigation

- The DSL, in consultation with other Pastoral support team members, will put the necessary safeguards in place for the pupil, e.g. they may need counselling or immediate protection
- The DSL will inform parents and/or carers about the incident and how it is being managed

Step 6 – Containment and Prevention

The young people involved in sexting may be left feeling sensitive and vulnerable for some time. They will require monitoring by and support from their Pastoral teams.

Where cases of sexting become widespread or there is thought to be the possibility of contagion, then the Foundation will reinforce the need for safer online behaviour using a variety of resources (see Appendix III)

The Foundation Staff may need to be informed on incidents (keeping confidentiality high) and should be prepared to act if the issue is continued or referred to by other pupils.

Creating a supportive environment for students in relation to the incident is very important. Preventative educational programmes on sexting can be found on CEOP's advice-giving website (www.thinkuknow.co.uk).

APPENDIX I – THE LEGAL POSITION

Young people involved in sharing sexual videos and pictures may be committing a criminal offence. Specifically, crimes involving indecent photographs (including pseudo images) of a person under 18 years of age fall under Section 1 of the Protection of Children Act 1978 and Section 160 Criminal Justice Act 1988. Under this legislation it is a crime to:

- Take an indecent photograph or allow an indecent photograph to be taken
- Make an indecent photograph (this includes downloading or opening an image that has been sent via email)
- Distribute or show such an image
- Possess with the intention of distributing images
- Advertise; and
- Possess such images

While any decision to charge individuals for such offences is a matter for the Crown Prosecution Service, it is unlikely to be considered in the public interest to prosecute children. However, children need to be aware that they may be breaking the law. Although unlikely to be prosecuted, the Police may visit children and young people who send or possess images and on some occasions media equipment could be removed. This is more likely if they have distributed images.

The decision to criminalise children and young people for sending these kinds of images is a little unclear and may depend on local strategies. However, the current Association of Chief Police Officers (ACPO) position is that:

‘ACPO does not support the prosecution or criminalisation of children for taking indecent images of themselves and sharing them. Being prosecuted through the criminal justice system is likely to be upsetting and distressing for children especially if they are convicted and punished. The label of sex offender that would be applied to a child or young person convicted of such offences is regrettable, unjust and clearly detrimental to their future health and wellbeing.’

However, there are cases in which children and young people have been convicted and sent to prison. The important thing to remember is that whilst, as a Foundation, we will want to consider the implications of reporting an incident to the police, it is not our responsibility to make decisions about the seriousness of the matter; that responsibility lies with the Police and the CPS; hence the requirement for the school to refer.

ANW

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APPENDIX II – DIFFERENT LEVELS OF SEXTING

The following is adapted from Wolak and Finkelhor *Sexting: a Typology* March 2011.

<p>Aggravated incidents involving criminal or abusive elements beyond the creation, sending or possession of youth-produced sexual images</p>	<p>Adult offenders develop relationships with and seduce underage teenagers, in criminal sex offences even without the added element of youth-produced images. Victims may be family friends, relatives, community members or contacted via the Internet. The youth produced sexual images generally, but not always, are solicited by the adult offenders.</p> <p>Youth Only: Intent to Harm cases that:</p> <ul style="list-style-type: none"> • arise from interpersonal conflict such as break-ups and fights among friends • involve criminal or abusive conduct such as blackmail, threats or deception • involve criminal sexual abuse or exploitation by juvenile offenders. <p>Youth Only: Reckless Misuse no intent to harm but images are taken or sent without the knowing 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 malicious episodes.</p>
<p>Experimental incidents involve the creation and sending of youth produced sexual images, with no adult involvement, no apparent intent to harm or reckless misuse.</p>	<p>Romantic episodes in which young people in ongoing relationships make images for themselves or each other, and images were not intended to be distributed beyond the pair.</p> <p>Sexual Attention Seeking in which images are made and sent between or among young people who were not known to be romantic partners, or where one youngster takes pictures and sends them to many others or posts them online, presumably to draw sexual attention.</p> <p>Other: cases that do not appear to have aggravating elements, like adult involvement, malicious motives or reckless misuse, 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 (age 9 or younger) who did not appear to have sexual motives.</p>

APPENDIX III – SEXTING RESPONSE PROCESS FOR PROFESSIONALS

This flowchart is adapted from ‘Medway Local Authority Response Process for Professionals’ and can help the DSL to make a decision about next steps.

