

GUIDANCE FOR POLICE OFFICERS AND STAFF WHEN DEALING WITH REPORTS OF SEXTING.

This Cheshire guidance should be read in conjunction with the official ['Briefing Note'](#) produced for the Police Service which has been published by the College of Policing. This Cheshire document will allow officers to be able to apply a proportionate and appropriate response to each reported case.

The 'Briefing Note' has been developed in parallel with new UK Council for Child Internet Safety (UKCCIS) advice for schools in England. The UKCCIS document advises schools on how they should risk assess, use their discretionary powers to search, seize, view and delete content from mobile phones and when / how to engage with the police on this issue.

[Sexting in schools and colleges, UKCCIS pdf](#)

Both of the above guidance documents refer to the practice as 'Youth Produced Sexual Imagery'. For the purpose of this Cheshire Guidance, this practice is referred to as 'Sexting'.

Sexting is sending, receiving, or forwarding sexually explicit messages, photographs or images, primarily between mobile phones, although it may also include the use of a computer or **ANY** digital device. Sexual chat or requests for photographs/ images of a sexual nature is also included. The classification of any resulting crime will be different based on the age of the child concerned.

Definition of 'sexting'

There is no clear definition of 'sexting'.

Professionals **consider** sexting to be:

Sending or posting sexually suggestive images, including nude or semi-nude photographs, via mobiles or over the Internet.

Young people **are more likely** to interpret sexting to be:

Writing & sharing explicit messages with people they know.

Many parents **think** of sexting as:

Flirty or sexual text messages rather than images.

Experimental Vs Aggravating circumstances

Experimental circumstances:

Youths sending, receiving or forwarding sexually explicit messages, photographs or images of themselves:

- To share with established boy or girlfriends
- To create romantic interest in another youth
- For reasons such as attention seeking

In these circumstances, it is recognised that there is no criminal element (and certainly no criminal intent) beyond the creation and sending of the images/ messages and no apparent malice or lack of willing participation. (*Reprinted from Wolak and Finkelhor 'Sexting: a Typology' March 2011*).

Aggravating circumstances:

- Sexting involving criminal or abusive elements beyond the creation of an image/ message
- Criminal / abusive behaviour by adults and / or minors involves:
 - Sexual abuse
 - Incitement / Coercion
 - Grooming
 - Extortion / Blackmail
 - Threats
 - Malicious conduct arising from personal conflicts
 - Creation / sending / showing of images without the knowledge or against the will of a minor who was pictured.

(This is not an exhaustive list)

Criminalisation of Children:

Young people who share sexual photographs, images and messages with their peers are breaking the law; **however we should not unnecessarily criminalise children.**

Children with a criminal record face stigma and discrimination in accessing education, training, employment, travel and housing and these obstacles can follow a child into adulthood.

Whilst young people creating and sharing sexual photographs, images and messages can be very risky, it is often the result of young people's natural curiosity about sex and their exploration of relationships. Often, young people need education, support and safeguarding, not criminalisation.

Steps to take in the case of an incident reported direct to the police. The Police response:

The reasons for treating incidents of sexting on an individual basis is so that children are not unnecessarily criminalised for what may be deemed to be non-aggravated, experimental behaviour.

All reported **offences** of “sexting” must be recorded as a crime in line with Home Office Counting Rules (HOCR). *See Crime recording.*

At the time of reporting it is imperative to ascertain whether any aggravating features and / or known vulnerabilities are present and check the welfare of relevant parties.

At this stage officers need to establish if the reported incident involves experimental or aggravating factors. This will then determine the direction of the investigation.

Checks on all police systems should be conducted regarding the victim(s), perpetrator(s) and locations. Where a multi-agency meeting is planned, or where there will be a discussion with the various parties directly involved, such as the children and / or their parents / carers, these checks should ideally take place prior to any meeting. Safeguarding concerns may require immediate action and this may prevent checks being undertaken in advance.

Where significant risks are identified or any of the involved children are found to be subject to ongoing child protection activity (in care or on a child protection plan) there is likely to be a requirement for a child protection referral and/or a strategy meeting.

Where there are no aggravating features regarding Sexting, it may be appropriate to take an approach that is supportive of the children involved. Decisions on the appropriate approach should be underpinned by careful assessment of the facts of the case.

Investigation:

- When collecting initial accounts it is important that care is taken and the needs of the children affected are considered.
- During the investigation it may become necessary to seize electronic devices (i.e. phones, tablets, computers etc...) in order to progress inquiries and inform safeguarding decisions.

- Initially opportunities to preserve and protect evidence (e.g.: securing electronic devices without making full seizure of the device) whilst gathering initial accounts should be considered (e.g.: liaising with school and utilising their powers of seizure).
- Decision making around seizure needs to be reflective of the National Decision Model (NDM) process and carefully considered and documented.
- Following careful assessment, those believed to be involved in EXPERIMENTAL incidents (e.g. the sharing is believed to be consensual / age appropriate) should not have their device seized as a matter of routine. If Outcome 21 utilised, appropriate advice should be given to remove and delete images/ photographs/ messages from their devices, as outlined in the College of Police briefing note (link attached).
- In relation to AGGRAVATED incidents, the devices used or owned by the person (s) believed to have shared without consent or who may have exploited the other party should be seized where possible.
- For AGGRAVATED incidents the child victim / reporting person may need to be formally interviewed in accordance with Achieving Best Evidence.
- Current and future welfare of the child should be assessed and any concerns identified relating to them potentially coming to harm (self-harm or suicidal thoughts) should be subject to immediate child protection referral or a more immediate intervention as appropriate.
- Once an account has been obtained the child and their parents/carers should be notified as to the next steps of the investigation, be allowed time to ask any questions relating to the process and be signposted towards services for further advice and support.
- **Ensure that a VPA is submitted for ALL Experimental AND Aggravated incidents.**
- Children engaging in 'sexting' are more vulnerable to Child Sexual Exploitation and as such a CSE Screening Tool must be completed in ALL cases.

It is worth noting that if an image has been uploaded online, many social media and messaging apps have self-reporting mechanisms which may be the fastest way to remove it.

SEXTING

Ascertain full circumstances

Aggravated

Criminal or abusive elements - Adult involvement or criminal or abusive behaviour by minors such as sexual abuse, extortion, threats, malicious conduct arising from personal conflicts.

Experimental

Youths sending, receiving or forwarding sexually explicit messages, photographs or images of themselves: 1) to share with established boy or girlfriends 2) To create romantic interest in another youth 3) For reasons such as attention seeking(no criminal element/ intent)

All checks on Police systems to be conducted, to identify any significant risks.

INVESTIGATION

Ensure the needs of the Victim are considered.

The devices used or owned by the person(s) believed to have shared without consent or who may have exploited the other party should be seized where possible.

It is not necessary to seize their devices. Appropriate advice should be given to remove and delete images/photographs/messages from their devices.

The child victim / reporting person may need to be formally interviewed in accordance with Achieving Best Evidence

Current & future welfare of the child should be assessed.

The Child's welfare will be assessed. Any concerns should be subject to immediate child protection referral.

Once the account has been obtained, the child & their parents or carers should be informed with a full explanation and outcome.

Once an account has been obtained the child / parents or carers should be notified as to the next steps of the investigation.

Ensure Signposting to other services for further advice and support.

Ensure that a VPA is submitted for BOTH Experimental AND Aggravated.

A CSE Screening Tool must be completed in ALL cases.

Outcome 21

Outcome 21 allows us to close crimes where the offender is known but NFA is being taken because it's not in the public interest. This has been introduced primarily for occasions such as young teenagers' sexting each other. ***Outcome 21 should be carefully and appropriately used and it is intended to prevent criminalising young people and create disproportionate problems for them later in life.***