

YOUTH-PRODUCED SEXUAL IMAGERY POLICY

Also known as 'Sexting'

This policy is linked to the school's Safeguarding and Child Protection policies.

INTRODUCTION

Youth-produced sexual imagery is imagery that is being created by under 18s themselves and involves 'sexual imaging', still photographs, 'sexting', video, and streaming. Sexual content is different to indecent - indecent is subjective and has no specific definition in UK law. 'Sexual imaging' is one of several 'risk-taking' behaviours associated with the use of digital devices, social media or the internet. It is accepted that young people experiment and challenge boundaries and therefore the risks associated with 'online' activity can never be completely eliminated. However, Phoenix Academy takes a pro-active approach in its ICT and Enrichment programmes to help students to understand, assess, manage and avoid the risks associated with 'online activity'. The school recognises its duty of care to its young people 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 several definitions of 'sexual imaging' and 'sexting' but for the purposes of this policy sexual imaging is simply defined as images or videos generated by children under the age of 18, or of children under the age of 18 that are of a sexual nature or are indecent.

These images are shared between young people and/or adults via a mobile phone, handheld device, computer, 'tablet' or website with people they may not even know.

There are many different types of sexual imaging (see Supplement 2) and it is likely that no two cases will be the same. It is necessary to carefully consider each case on its own merit. However, it is important that Phoenix Academy applies a consistent approach when dealing with an incident to help protect young people and the school, and the response should always be guided by the 'principle of proportionality'. The primary concern at all times should be the welfare and protection of the young people involved. For this reason, the Designated Safeguarding Lead (or Headteacher in the absence of the DSL) needs to be informed of any 'sexual imaging' incidents. The range of contributory factors in each case also needs to be considered in order to determine an appropriate and proportionate response. All colleagues are expected to be aware of this policy.

The decisions made by the Designated Safeguarding Lead will be guided by a pathway found at: [http://www.msca.org.uk/pdf/Annex%201-Sexual imaging%20FEB13%20\(2\).pdf](http://www.msca.org.uk/pdf/Annex%201-Sexual%20imaging%20FEB13%20(2).pdf)

THE LAW

Making, possessing, and distributing any imagery of someone under 18 which is indecent is illegal. This includes imagery of taken by someone of themselves if they are under 18.

Indecent is not definitively defined in law, but images are likely to be considered indecent if they depict:

- a naked young person
- a topless girl
- an image which displays genitals, and
- sex acts including masturbation.

- indecent images may also include overtly sexual images of young people in their underwear

These laws weren't created to criminalise young people but to protect them. Although sharing sexual images of themselves is illegal and risky, it is often the result of curiosity and exploration. Young people need education, support, and safeguarding, not criminalisation.

The National Police Chiefs' Council (NPCC) is clear that "youth-produced sexual imagery should be primarily treated as a safeguarding issue."

Schools may respond to incidents without involving the police. (However, in some circumstances, the police must always be involved.) Images may be deleted, and incident managed in school by using a risk-based approach.

STEPS TO TAKE IN THE CASE OF AN INCIDENT

STEP 1 - DISCLOSURE BY A STUDENT

Sexual imaging disclosures should follow the normal safeguarding practices and protocols (see Safeguarding Policy).

A student is likely to 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).

The following questions will help decide upon the best course of action:

- Is the student disclosing about themselves receiving an image, sending an image or sharing an image?
- What sort of image is it? Is it potentially illegal or is it inappropriate?
- Are the school child protection and safeguarding policies and practices being followed?
- For this reason, a member of the Safeguarding team should be involved as soon as possible.
- How widely has the image been shared and is the device in their possession?
- Is it a school device or a personal device?
- Does the student need immediate support and/or protection?
- Are there other students and/or young people involved?
- Do they know where the image has ended up?

Assessing the risks once the images have been shared

- Has it been shared with the knowledge of the young person?
- Are adults involved in the sharing?
- Was there pressure to make the image?
- What is the impact on those involved?
- Does the child or children have additional vulnerabilities?
- Has the child taken part in producing sexual imagery before?

STEP 2 - SEARCHING A DEVICE – WHAT ARE THE RULES?

Please refer to the school's Search and Confiscation Policy which is based on the most current legislation: The 2011 Education Act.

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

- The action is in accordance with the school's policies regarding Safeguarding and Searching and Confiscation.
- The search is conducted either by the head teacher or a person authorised by them (or Deputy Head or Designated Safeguarding Lead) and one other person
- A member of the safeguarding team should normally be present
- The search should normally be conducted by a member of the same gender as the person being searched. However, if the image being searched for is likely to be of a different gender to the person 'in possession' then the device should only be viewed by a member of the same gender as the person whose image it is.

If any illegal images of a young person are found the Safeguarding Team will discuss this with the Police (see Appendices 1, 2 and 3).

The Association of Chief Police Officers (ACPO) advise that as a 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 Supplement 2). 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 in the school's 'Safeguarding Incidents Log'.

Always put the young person first. Do not search the device if this will cause additional stress to the student/person whose image has been distributed. Instead rely on the description by the young person, secure the advice and contact the Police.

Never:

- Search a mobile device even in response to an allegation or disclosure if this is likely to cause additional stress to the student/young person UNLESS there is clear evidence to suggest not to do so would impede a police inquiry.
- View the image unless it is unavoidable. Instead, respond to what you have been told the image contains.
- Copy, print or share any material for evidence (it is illegal)
- Move any material from one storage device to another
- Discuss with parents, unless there is an issue where that's not possible

Always:

- Refer to the Designated Safeguarding Lead, who is able to take any necessary strategic decisions.
- If it is felt necessary to view the image, discuss with the Headteacher or DSL first, and view with another member of staff present
- Record the fact that the images were viewed along with reasons and who was present. Sign and date.
- Record the incident. The Safeguarding Team employ a systematic approach to the recording of all safeguarding issues
- Act in accordance with school safeguarding search and confiscation policies and procedures
- Contact social care or the police if there is any concern that the young person is at risk of harm

If there is an indecent image of a child on a website or a social networking site then the Safeguarding Team will report the image to the site hosting it. Under normal circumstances the team would follow the reporting procedures on the respective website; however, in the case of a sexual imaging incident involving a child or young person where it may be felt that they may be at risk of abuse then the team will report the incident directly to CEOP: www.ceop.police.uk/ceop-report, so that law enforcement can make an assessment, expedite the case with the relevant provider and ensure that appropriate action is taken to safeguard the child.

Once the DSL has enough information, the decision should be made whether to deal with the matter in school or refer it to the police/social care. All information and decision-making should be recorded in line with school policy. If the incident has been dealt with in school, a further review should be held to assess risks.

The DSL should always refer to the police or social care if incident involves:

- an adult
- coercion, blackmail, or grooming
- concerns about capacity to consent, [e.g., SEN]
- images show atypical sexual behaviour for the child's developmental stage
- violent acts are depicted
- image shows sex acts and includes a child under 13
- a young person at risk of immediate harm because of the disclosure (for example, self-harm or suicide)

STEP 3 - WHAT TO DO AND NOT DO WITH THE IMAGE

If the image has been shared across a personal mobile device:

Always

- Confiscate and secure the device(s). Close down or switch the device off as soon as possible. This may prevent anyone removing evidence 'remotely'.

Never

- View the image unless there is a clear reason to do so or view it without an additional adult present (this additional person does not need to view the image and certainly should not do so if they are of a different gender to the person whose image has been shared). The viewing of an image should only be done to establish that there has been an incident which requires further action.

- Send, share or save the image anywhere (**this is illegal**)
- Allow students to do any of the above

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

Always

- Block the network to all users and isolate the image

Never

- Send or print the image
- Move the material from one place to another
- View the image outside of the protocols in the school's safeguarding and child protection policies and procedures.

Deleting images (from devices and social media)

If the school decides that involving other agencies is not necessary, consideration should be given to deleting the images.

It is recommended that pupils are asked to delete the images themselves and confirm they have done so. This should be recorded, signed, and dated.

Any refusal to delete the images should be treated seriously, reminding the pupil that possession is unlawful.

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 school safeguarding and/or child protection policy, ensuring that a member of the Safeguarding Team and a senior member of staff are involved in dealing with the incident.

The Designated Safeguarding Lead should always record the incident. The Headteacher 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 and only if unavoidable.

STEP 5 - DECIDING ON A RESPONSE

There may be many reasons why a student has engaged in sexual imaging – 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 Supplement 1 for definitions). However, as a school 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 indecent images of a young person are found:

- Act in accordance with the Safeguarding policy i.e. inform the Safeguarding Team
- Store the device securely
- The Safeguarding Team should carry out a risk assessment in relation to the young person (Use Appendices 2 and 3 for support)
- The Safeguarding Team will make a referral if needed
- The Safeguarding Team will contact the police (if appropriate). Referrals may be made to Social Care but where a crime may have thought to have taken place the police are the first port of call. Young persons who have engaged in 'experimental sexual imaging' which is contained between two persons will be referred to Social Care for support and

guidance. Those who are felt to be victims of 'sexual imaging' will also be referred to Social Care at a point where the police feel that this will not impede an investigation.

- The young person's Supervisor will put the necessary safeguards in place for the student, e.g. they may need counselling support or immediate protection.
- Inform parents and/or carers about the incident and how it is being managed.

STEP 6 - CONTAINMENT AND PREVENTION

The young persons involved in 'sexual imaging' may be left feeling sensitive and vulnerable for some time. They will require monitoring by and support from their Guidance/Pastoral teams.

Where cases of 'sexual imaging' become widespread or there is thought to be the possibility of contagion then the school will reinforce the need for safer 'online' behaviour using a variety of resources (see [http://www.mscb.org.uk/pdf/Annex%201-Sexual imaging%20FEB13%20\(2\).pdf](http://www.mscb.org.uk/pdf/Annex%201-Sexual%20imaging%20FEB13%20(2).pdf)).

Other staff may need to be informed of incidents and should be prepared to act if the issue is continued or referred to by other students. The school, its students and parents should be on high alert, challenging behaviour and ensuring that the victim is well cared for and protected.

The students' parents should usually be told what has happened so that they can keep a watchful eye over the young person especially when they are online at home.

STEP 7 - REVIEW OUTCOMES AND PROCEDURES WITH THE AIM OF PREVENTING FUTURE INCIDENTS

The frequency or severity of such incidents may be such that the school will need to review its approach. Where this is the case Phoenix Academy will do the following:

- ensure that key policies e.g. Safeguarding, Anti- Bullying, Authorised User Policies are still relevant and can meet emerging issues.
- ensure that the school's infrastructure and technologies are robust enough to meet new challenges.
- ensure that both adults and young persons are alerted to the issues such as safety mechanisms, support mechanisms and the legal implications of such behaviour.
- use the Ofsted framework for Behaviour and Safety as a benchmark to test the strength of the school's approach.

Sexual imaging incidents relate to self-generated images on personally-owned devices, generally outside of school. Phoenix Academy will adopt preventative education strategies for its young people and put in place appropriate staff training to identify and manage incidents. The following are resources currently available:

- CEOP resources at www.thinkuknow.co.uk. There is a film called Exposed and accompanying lesson plans for 11-16-year olds.
- The children's charity Childnet www.childnet-int.org have developed a drama for secondary school-aged children on the issue of sexual imaging.
- The Southwest Grid for Learning have developed a resource for young people: 'So you got naked online' which supports them in knowing what to do if things have gone wrong online. This may be found at: <https://swgfl.org.uk/products-services/online-safety/resources/so-you-got-naked-online/>

YOUTH-PRODUCED SEXUAL IMAGERY POLICY - SUPPLEMENT 1

THE LEGAL POSITION

It is important to be aware that 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, children and young people who send or possess images may be visited by police 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 school, we will want to consider the implications of reporting an incident over 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.

In summary sexual imaging is classed as illegal as it constitutes sharing and/or possessing an indecent image of a child.

YOUTH-PRODUCED SEXUAL IMAGERY POLICY - SUPPLEMENT 2

DIFFERENT LEVELS OF SEXUAL IMAGING

The following is adapted from Wolak and Finkelhor '*Sexual imaging: A Typology*'. March 2011

Aggravated incidents involving criminal or abusive elements beyond the creation, sending or possession of youth-produced sexual images

- **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.
- **Youth Only: Intent to Harm** cases that:
 - 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.
- **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.

Experimental incidents involve the creation and sending of youth-produced sexual images, with no adult involvement, no apparent intent to harm or reckless misuse.

- **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.
- **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.
- **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.