

DSL Forum November 2017

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- ❑ Modern day slavery – April McCoig TVP
 - ❑ Exclusions - Carlie Higton
 - ❑ Responding to incidents of youth produced sexual imagery.
 - ❑ Training, who, what and when.

Responding to incidents of youth produced sexual images.

The term “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

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).

The Law

Specifically:

- ❑ It is an offence to possess, distribute, show and make indecent images of children. (anyone under 18)

Criminalisation of children

- ❑ The law criminalising indecent images of children was created long before mass adoption of the internet, mobiles and digital photography. It was also created to protect children and young people from adults seeking to sexually abuse them or gain pleasure from their sexual abuse. It was not intended to criminalise children.
- ❑ Despite this, young people who share sexual images of themselves or peers are breaking the law.

Criminalisation of children

- Whilst young people creating and sharing sexual imagery 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 or safeguarding, not criminalisation.

Police response

- ❑ The National Police Chiefs Council (NPCC) has made clear that incidents involving youth produced sexual imagery should primarily be treated as safeguarding issues.
- ❑ Schools may respond to incidents without involving the police. Advice on the circumstances in which this would be appropriate can be found in Section 2 of guidance.
- ❑ Even when the police are involved, however, a criminal justice response and formal sanction against a young person would only be considered proportionate in certain circumstances.

Crime recording

- ❑ Where the police are notified of incidents of youth produced sexual imagery they are obliged, under the Home Office Counting Rules and National Crime Recording Standards, to record the incident on their crime systems. The incident will be listed as a 'crime' and the young person involved will be listed as a 'suspect.'
- ❑ *This is not the same as having a criminal record.*

Outcome 21

- ❑ Every 'crime' recorded on police systems has to be assigned an outcome from a predefined list of outcome codes. As of January 2016 the Home Office launched a new outcome code (Outcome 21) to help formalise the discretion available to the police when handling crimes such as youth produced sexual imagery.
- ❑ This means that even though a young person has broken the law and the police could provide evidence that they have done so, the police can record that they chose not to take further action as it was not in the public interest.

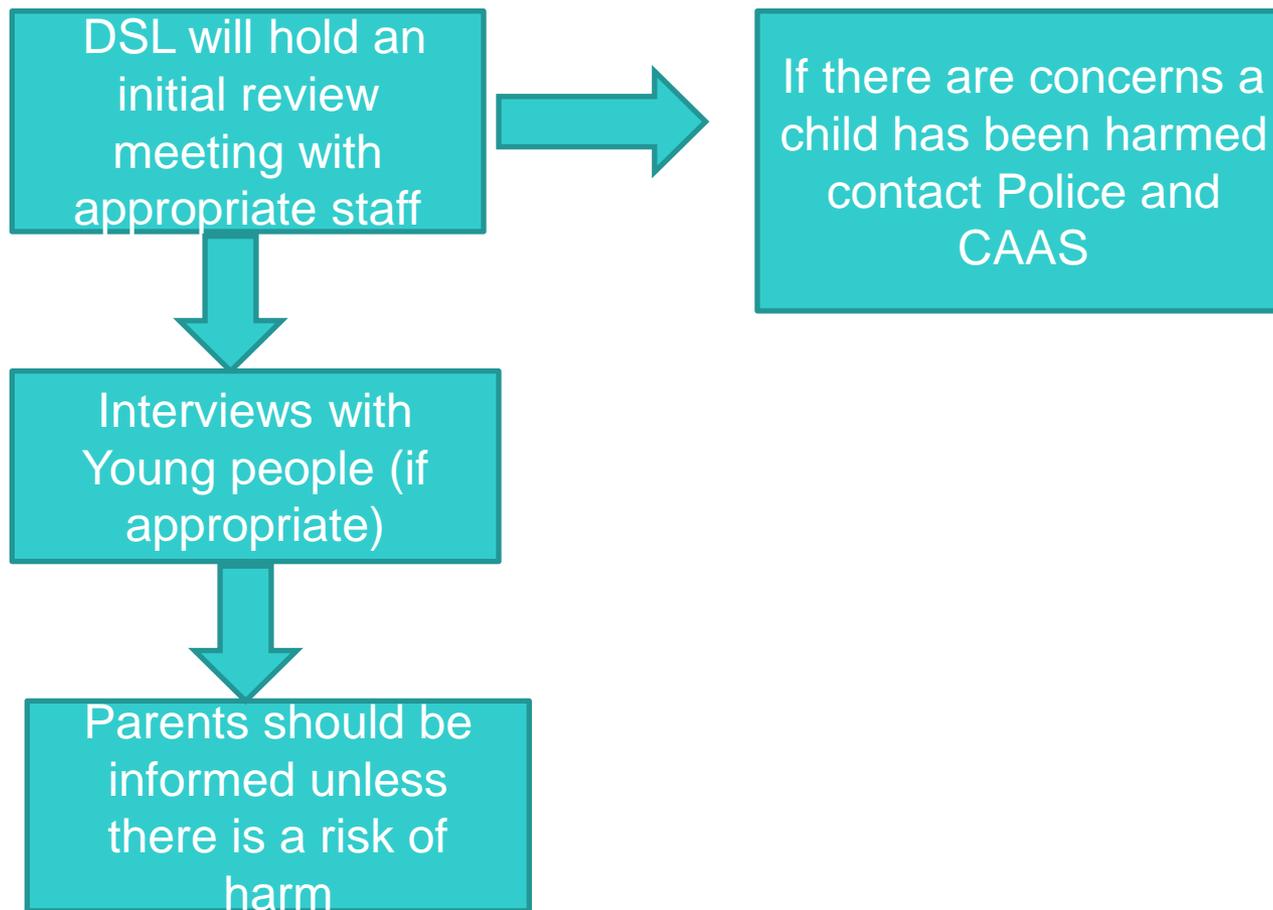
DBS

- ❑ 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, a decision to disclose information on a DBS certificate is made on the basis of whether that information is relevant to the risk an individual might pose to children, young people or vulnerable adults.

Procedures

- ❑ All members of staff (including non teaching staff) should be made aware of how to recognise and report Youth produced sexual imagery to the DSL.

Handling Incidents



Initial review meeting

The initial review meeting should consider the initial evidence and aim to establish:

- ❑ Whether there is an immediate risk to a young person or young people
- ❑ If a referral should be made to the police and/or children's social care
- ❑ If it is necessary to view the imagery in order to safeguard the young person – in most cases, imagery should not be viewed
- ❑ What further information is required to decide on the best response
- ❑ Whether the imagery has been shared widely and via what services and/or platforms. This may be unknown.
- ❑ Whether immediate action should be taken to delete or remove images from devices or online services
- ❑ Any relevant facts about the young people involved which would influence risk assessment
- ❑ If there is a need to contact another school, college, setting or individual
- ❑ Whether to contact parents or carers of the pupils involved - in most cases parents should be involved

When to make a referral

An immediate referral to police and/or children's social care¹⁷ should be made if at this initial stage if:

- ❑ The incident involves an adult
- ❑ There is reason to believe that a young person has been coerced, blackmailed or groomed, or if there are concerns about their capacity to consent (for example owing to special educational needs)
- ❑ What you know about the imagery suggests the content depicts sexual acts which are unusual for the young person's developmental stage, or are violent
- ❑ The imagery involves sexual acts and any pupil in the imagery is under 13
- ❑ You have reason to believe a pupil is at immediate risk of harm owing to the sharing of the imagery, for example, the young person is presenting as suicidal or self-harming

Adults should not View images

- ❑ Adults should not view youth produced sexual images unless there is a good and clear reason to do so.
- ❑ The decision to view imagery should be based on the professional judgement of the DSL and should always comply with the child protection policy and procedures of the school or college. Imagery should never be viewed if the act of viewing will cause significant distress or harm to the pupil.

If it is necessary to view the imagery then the DSL should:

- ❑ Never copy, print or share the imagery; this is illegal.
- ❑ Discuss the decision with the Headteacher.
- ❑ Ensure viewing is undertaken by the DSL or another member of the safeguarding team with delegated authority from the Headteacher.
- ❑ Ensure viewing takes place with another member of staff present in the room, ideally the Headteacher or a member of the senior leadership team. This staff member does not need to view the images.
- ❑ Wherever possible ensure viewing takes place on school or college premises, ideally in the Headteacher or a member of the senior leadership team's office.
- ❑ Ensure wherever possible that images are viewed by a staff member of the same sex as the young person in the imagery.
- ❑ Record the viewing of the imagery in the school's safeguarding records including who was present, why the image was viewed and any subsequent actions. Ensure this is signed and dated and meets the wider standards set out by Ofsted for recording safeguarding incidents.

- ❑ Further details on searching, deleting and confiscating devices can be found in the DfE Searching, Screening and Confiscation advice (note this advice is for schools only).

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Deletion of images

- ❑ If the school has decided that other agencies do not need to be involved, then consideration should be given to deleting imagery from devices and online services to limit any further sharing of the imagery.
- ❑ The Searching, Screening and Confiscation advice highlights that schools have the power to search pupils for devices, search data on devices and delete youth produced sexual imagery.

Guidance

- ❑ The Education Act 2011 amended the power in the Education Act 1996 to provide that when an electronic device, such as a mobile phone, has been seized, a teacher who has been formally authorised by the headteacher can examine data or files, and delete these, where there is good reason to do so. This power applies to all schools and there is no need to have parental consent to search through a young person's mobile phone.
- ❑ If during a search a teacher finds material which concerns them and they reasonably suspect the material has been or could be used to cause harm or commit an offence, they can decide whether they should delete the material or retain it as evidence of a criminal offence or a breach of school discipline. They can also decide whether the material is of such seriousness that the police need to be involved.