

**East Renfrewshire
Child Protection Committee**

**Multi – Agency Summary Guidance for
Practitioners & Managers**



**Information about “Sexting”
(including risk assessment tool for young
people engaged in potentially harmful sexting
in schools)**

Working Together to Keep Our Children Safe

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1. Introduction

- 1.1** Sexting involves the sharing of images and video between young people and/or adults. These images can be shared in a variety of different ways, including on mobile phones, tablets and websites and sometimes with people they do not know. Sexting can cause considerable distress to young people as images can be widely shared causing a sense of humiliation, shame and bullying.

2.1 Definition of Sexting

There are a number of definitions of sexting but for the purposes of this guidance sexting 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 or website with people they may not even know.

Often, incidents of sexting are not clear-cut or isolated; agencies and schools may encounter a variety of scenarios.

- 2.2** There are many benefits for children and young people who use online activity to document their lives. However, children and young people sometimes fail to recognise the implications of sharing things online in the way they might offline. Research by the Pew Centre in America in 2010 states “kids sext to show off, to entice someone, to show interest in someone or to prove commitment”¹.

This may be true but the consequences of sexting can be devastating for young people. In extreme cases it can result in suicide or a criminal record, isolation and vulnerability. Young people can end up being criminalised for sharing an apparently innocent image which may have, in fact, been created for exploitative reasons. Distributing or sharing an indecent image is an offence under 52 (1) b of the Civic Government (Scotland) Act 1982 (as amended by the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005).

The social and psychological effects on young people can be significant and it is not uncommon for the victim to be expelled, move school or to suffer paranoia and become very isolated. It is essential that agencies and schools handle these incidents as carefully as possible and offer support to all parties involved whilst abiding by the law. Schools will also want to take as many preventative measures as they can to educate young people about the risks and to support them in maintaining a healthy digital footprint.

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Because of the prevalence of sexting young people are not always aware that their actions are illegal. In fact, sexting as a term is not something that is recognised by young people and the 'cultural norms' for adults can be somewhat different. However, in the context of the law it is an illegal activity and young people must be made aware of this.

- 2.3** This East Renfrewshire Child Protection Committee guidance should be read in conjunction with the National Guidance for Child Protection in Scotland 2014 which details the role of all agencies in protecting children and young people from harm. www.scotland.gov.uk/Publications/2010/12/09134441/0

- 2.4** The *Getting it right for every child* approach ensures that *anyone* providing that support puts the child or young person – and their family – at the centre.

Getting it right for every child is important for everyone who works with children and young people – as well as many people who work with adults who look after children. Practitioners need to work together to support families, and where appropriate, take early action at the first signs of any difficulty – rather than only getting involved when a situation has already reached crisis point.

The GIRFEC approach is incorporated into the working practices of all people working with children, young people and their families in Scotland.

- 2.5** The National Guidance for Child Protection in Scotland 2014 states “Children and young people need to understand the risks the internet and mobile technology can pose so that they can make sensible and informed choices. Practitioners and carers need to support young people to use the internet and mobile technology responsibly, and know how to respond when something goes wrong.”

3. Scope

- 3.1** This guidance is relevant for all staff working with children and young people across all services including those working in adult services with those individuals who may be a parent or carer. It aims to provide guidance and advice for practitioners across all agencies on how to respond when sexting is a concern.

4. The Law

- 4.1** It is important to be aware that young people involved in sharing sexual videos and pictures may be committing an offence. The sale, publication and possession of indecent images of children under the age of 18 is prohibited by Section 52 and Section 52A of the Civic Government (Scotland) Act 1982 (as amended by the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005).

- 4.2** Any decision to charge individuals for such offences is a matter for the Procurator Fiscal's service, and they would need to consider if it is in the public interest to prosecute children. Children and young people need to be aware that they may be breaking the law. Even if an investigation does not lead to prosecution,

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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 offensive or inappropriate images.

The decision to criminalise children and young people for sending these kinds of images is a little unclear and it is worth discussing the issues with your local police force.

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 agency, you will want to consider the implications of passing an incident over to the police, it is not the responsibility of an agency to make decisions about the seriousness of the matter. Clearly, if it is a case that involves an adult, the process and potential outcome will be very different. What you will need to consider is how to manage the outcome and process: there may well be child protection procedures that your agency needs to follow and issues to manage in terms of staff, children and the wider community.

Essentially, though, sexting is classed as illegal as it constitutes sharing and/or possessing an indecent image of a child.

5. Prevalence

5.1 Sexting is a relatively recent phenomenon; however, with the growth of mobile phone ownership among young people (41% of 12-15 year olds have a smartphone ²) there has been an increase in the number of young people sharing and receiving images.

Statistics from the children's charity Beatbullying ³ suggest the following:

- Over one third (38%) had received a sexually explicit text or email – 36% of males and 39% of females;
- Over a quarter (25%) had received an offensive sexual image;
- 85% knew the identity of the aggressor ;
- The majority were peers and only 2% indicated that it was an adult ;
- Just under a third (29%) have been chatting online when someone started to talk to them about sexual things;
- 6% had received a message or image on the subject of sex which subsequently made them feel uncomfortable or upset ;
- Over half of teachers (54%) were aware of pupils creating and sharing sexually explicit messages and images via the internet or mobile.

5.2 More recent qualitative research from the NSPCC⁴ suggests that sexting reinforces some of the negative social stereotypes about the relationships

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between boys and girls. Boys gain kudos from having sexually provocative images of girls on their phones whereas the same is not true for girls:

'We found considerable evidence of an age old double standard, where sexually active boys are admired and rated, while sexually active girls are denigrated, shamed and described as sluts'

A recent report by the Child Exploitation and Online Protection Centre (CEOP): '*Threat Assessment of Child Sexual Exploitation and Abuse – June 2012*' highlights the increase in 'user generated indecent imagery'. They identify that they have seen a marked increase in the number of reports where young teenagers appear to have taken still or video indecent imagery of themselves and then shared this online.

They highlight the following platforms as a place where young people are likely to share these images:

- **Live one-to-one video chat on web sites;**
- **Video chat via instant messaging applications;**
- **Files sent by email to another person;**
- **Files uploaded to public video hosting web sites;**
- **Files being sent as attachments during online chat sessions;**
- **Files used as profile images or posted on social networking sites;**

5.3 The research highlights that sexting is something that young people engage in regardless of the adults that surround them. There is a need for schools to develop a strong educational programme that supports prevention but we cannot ignore some of the 'cultural norms' that are developing around this kind of behaviour. As with all aspects of children's safety, there is no single solution.

Though most incidents of sexting take place outside of the school on personal devices, the consequences and behaviours 'migrate' back into school. Beatbullying's research in both 2009 and 2012 highlighted that most online bullying took place between young people who knew one another in the offline world - the two are transient places for social interaction, consequently the actions of young people are brought to bear in all of their environments.

6. The risks to children and young people

6.1 Sexting is a behaviour that young people often engage in without understanding the full consequences. It is essential, therefore, that they understand the legal implications and the impact on others.

The initial risk posed by sexting primarily comes from peers, friends and others in their social network rather than from strangers or adults. Once images are in the public domain, young people may then be subjected to additional risks.

It is also important to recognise that sexting does not refer to one single activity: it can have multiple facets and activities, be connected to sexual pleasure and be linked to a 'normal' part of sexual development; however, something that transpires online can quickly spiral out of control as it becomes freely available in the public domain. It can then be transferred, forwarded, downloaded, uploaded and shared.

'Recent evidence suggests that girls are more adversely affected by the risks than boys – it is not a gender neutral practice, it's something that is shaped by pre-existing gender dynamics and reinforced through the use of the technology.'

NSPCC – Children, Young People and Sexting May 2012

Young people are also essentially taking risks with their futures. Increasingly employers, universities and colleges are doing 'digital digging' – they are looking at profiles, searching for names and asking questions about the online profile of potential recruits.

Children can also be criminalised for incidents of sexting (see Section 4.1) Though unusual, there is a risk that sharing, possession and uploading of an indecent image can result in a young person being prosecuted under the Civic Government (Scotland) Act 1982.

It can also significantly affect the mental health and social interactions of young people. Once the image is in the public domain, it is difficult for to control, to know who has seen it and what they have done with it. This can lead to feelings of paranoia and isolation at a time when teenagers need to build up their self-esteem during a crucial stage of their development.

The risks to victims, bystanders and perpetrators are different but all three contain a degree of risk that can leave a young person in a vulnerable state and can significantly affect their future.

7. How to respond to an incident of sexting

- 7.1** Your agency child protection policy, protocol or guidance should outline what to do relating to any form of disclosure from a child or young person. Sexting disclosures should follow the normal child protection procedures. A child or young person is likely to be very distressed especially if the image has been circulated widely and they don't know who has shared it, seen it or where this has ended up. They may need pastoral support from school both during and after the disclosure. They may even need immediate protection or a referral to the named person.

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

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- Is the child 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 agency child protection policies and practices being followed?
- 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 child/young person need immediate support and or protection?
- Are there other students and or young people involved?
- Do they know where the image has ended up?

This situation will need to be handled very sensitively. Whatever the nature of the incident, ensure child protection policies and practices are adhered to.

8. Should all incidents of sexting be treated in the same way?

8.1

One of the challenges for agencies is dealing appropriately with sexting scenarios. Recent research by the NSPCC identifies that sexting does not refer to any one particular activity; rather, it can be a variety of different activities motivated by a variety of different situations.

David Finkelhor, 2011, the American sociologist, and Janis Wolak conducted a review of over 550 sexting cases in the US from a national survey of law enforcement agencies. All of the cases which involved youth produced sexual images. These were defined in American law as '*images of minors created by minors that could qualify as child pornography under applicable criminal statutes*'.

Broadly, Finkelhor defined them into two categories: Aggravated and Experimental

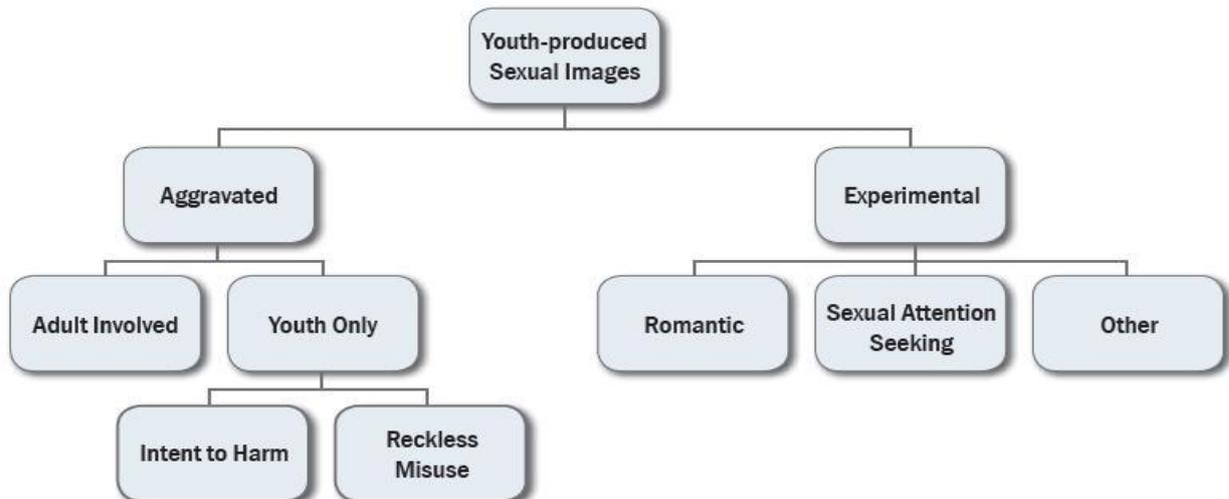
Aggravated incidents of sexting involved criminal or abusive elements beyond the creation of an image. These included further elements, adult involvement or criminal or abusive behaviour by minors such as sexual abuse, extortion, threats, malicious conduct arising from personal conflicts, or creation or sending or showing of images without the knowledge or against the will of a minor who was pictured.

Experimental incidents of sexting involved youths taking pictures of themselves to share with established boy or girlfriends, to create romantic interest in other youth, or for reasons such as attention seeking. There was no criminal element (and certainly no criminal intent) beyond the creation and sending of the images and no

apparent malice or lack of willing participation.

Reprinted from Wolak and Finkelhor 'Sexting: a Typology' March 2011

The intention of the typology is to help 'codify' some of the diversity and explain the aims and motivations behind some of the behaviours. There is recognition in Finkelhor and Womak's work in the diversity of the situations and even within the typologies. Anyone dealing with incidents of sexting, therefore, needs to understand the circumstances as this may well influence how the issue is dealt with in the context of the school, the individual and the police, see flowchart below for further information.



9. Understanding the nature of sexting

Having considered a range of cases you may find that your reaction to incidents of 'sexting' is being challenged by the contributory factors that surround each case and that a 'one size fits all approach' may not work. For example, consider:

- the age and the developmental appropriateness of their actions: is the activity appropriate for their age group or is it extreme behaviour? Teenagers will experiment – but what about a younger child? Are you concerned that the behaviour is outside the norms?
- their background or context: have they suffered abuse? Are they a looked after child or a vulnerable child? Have they been involved in the criminal justice system? Could their actions have been influenced by the behaviour of influential adults?
- whether the child was willing or coerced: were they subjected to sexual coercion or bullying, or was the incident willingly entered into? Were adults involved?
- **the nature of image that was shared:** how provocative or explicit was it? Does it break the law, i.e. is it a child sex abuse image?
- **the level of dissemination:** how widely was the image shared and with whom? How was it passed around?
- **participant intent/motive:** was it simply a 'romantic' gesture? Or was there intent to harm another? What other motive might there be? Was there sexual attention seeking?
- **the wellbeing of those involved:** depending on the answers to some of the questions above, you should risk-assess the situation in order to work out whether you need to escalate the issue to protect those involved.
- **whether protection, education or counselling is required** related to the level of risk. Does what may be a silly juvenile incident warrant a criminal record?
- **urgency and timing:** again relevant to the level of risk - for example, an incident taking place last thing on a Friday may escalate over the weekend.
- **involvement of other agencies:** do you need to contact the senior management team at another agency/school if the sexting involves, or has disseminated to, children and young people there?

The purpose of these additional considerations is to identify the kind of support that may be required, such as:

- whether the young person needs protecting and if so, in what way;
- whether they, their parents and/or other children in school need educating about the risks and issues;
- whether the young person needs counselling support services or child protection input;

Essentially, every incident is unique and you will want to consider each one in context. There are certain steps that you should always take in order to ensure that you are abiding by the law. Appendix 1 explores some of the issues you will need to consider and the section below (*Dealing with an incident*) outlines the process you will want to take. Appendix 2 offers guidance for schools in assessing risk for children and young people engaged in potentially harmful sexting.

Sexting is a complicated and sensitive issue for all agencies– there is no single solution and the consequences for young people, their families and schools can be devastating.

How an agency handles these incidents presents specific challenges. New technologies offer great learning opportunities but the ease with which children and young people can share and upload images allow little time for consideration of the consequences of actions which may go hand in hand with adolescent development. There are preventative and reactive actions that can be taken by agencies and schools to support young people growing up in the digital world. We hope that this advice helps you to make effective decisions about the responses and actions you take in your school.

Remember

Always operate within the context of your own child protection and safeguarding procedure;

Always put the welfare of the young person first;

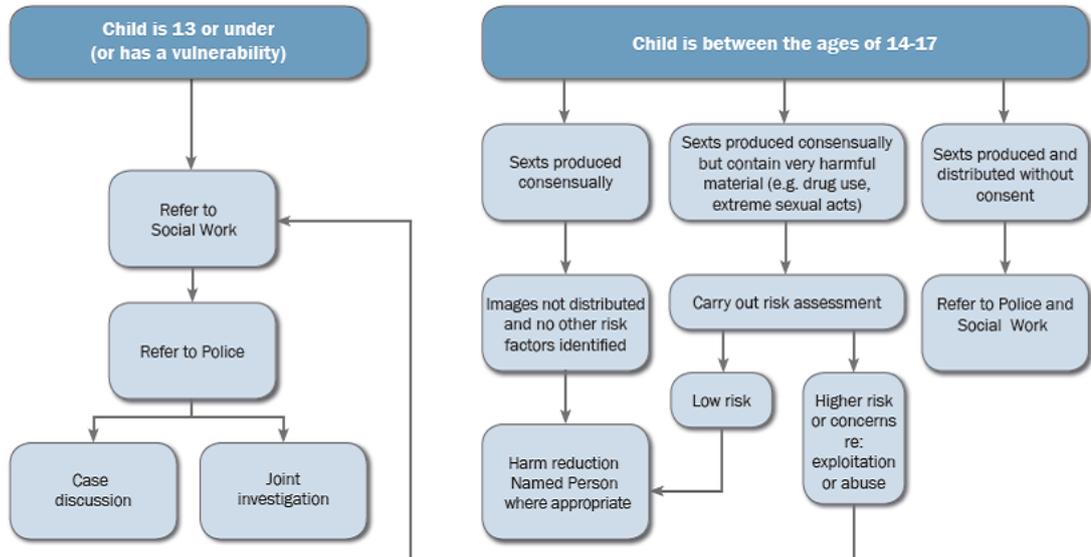
Raise awareness of the issue of sexting across the school;

Make sure that your policies, practices and procedures have been updated to reflect how you will handle and prevent incidents;

Ensure that you create an environment in your agency or school that is supportive for young people if an incident occurs so they know where to go.

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Appendix 1 Sexting – response process for professionals



Appendix 2 Sexting in schools - Risk assessment tool for young people engaged in potentially harmful sexting (adapted from 'Sexting' in schools: advice and support around self-generated images, what to do and how to handle it)

Indicator of risk or harm	Factors to be considered	Concern Yes/No	Comments
The age of the child	Sexual activity at a young age is a very strong indicator that there are risks to the welfare of children, whether boy or girl, and possibly others. This is particularly relevant if one of the parties is pre-pubertal. Children under 13 cannot lawfully give consent to sexual activity and there is a presumption that they will be referred to children's social services.		
The level of maturity and understanding of the child	Is the child/young person competent to consent to the sexual activity? Is there a relationship of trust? A legal definition is provided at s5 (43) Sexual Offences (Scotland) Act 2009.		
The child's living circumstances or background	Has a child in need or referral of child protection concern ever been made on any party? Do cultural or religious beliefs have an impact on their circumstances and/or sharing information?		
Coercion or bribery	Has the child been encouraged to exchange sex for favours or other inducements such as supply of alcohol or substances? Is there evidence of persuasion, emotional blackmail, threats or use of pornography?		
Familial Child Sex Offences	At this stage of the assessment is any family member considered to be "a risk to children" or have convictions for sexual offences? Does the sexual partner fall within any of the following categories beyond the normal family relationships? Step-parent, foster parent, step sibling who live in the same household or have been regularly involved in caring for the child; or care workers such as nannies or au pairs if they live with or regularly care for the child.		

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Indicator of risk or harm	Factors to be considered	Concern Yes/No	Comments
Behaviour of the child	<p>Is the child withdrawn or anxious?</p> <p>Is there a pattern of 'casual' sexual relationships with different partners?</p> <p>Are there more than two other persons involved in the sexual activity?</p>		
The misuse of substances or alcohol as a disinhibitor	<p>The child or young person may be unaware or reluctant to acknowledge that alcohol or substances may be offered to facilitate sexual activity with them.</p> <p>The young person's own behaviour in misusing substances or alcohol may place the young person at increased risk of harm, as they may be unable to give informed consent.</p>		
Secrecy	<p>Has the sexual partner attempted to secure secrecy beyond what might be considered usual in a normal teenage relationship? Advice may need to be sought from a sexual health expert.</p>		
Power imbalance	<p>Is the relationship reasonably equal and consensual? Power imbalances can occur in many different forms including threats and aggression.</p> <p>Is there an age differential greater than 3 years?</p>		
Disability impeding choice	<p>Disabled children and young people are more likely to be abused than non-disabled children. However, disabled children and young people have a right to a private life, which should be respected. The Sexual Offences Act provides an offence of sexual activity against persons with a mental disorder impeding choice.</p>		

Further Resources

- Zipit Childline app designed to provide tools to defuse the pressures on young people to send an explicit image or video. Called 'Zipit', the free app offers witty images to send instead of explicit ones, advice for how to engage in safe chat, what to do if you feel threatened or if an image becomes public, and a direct link to call Childline. www.childline.org.uk/Play/GetInvolved/Pages/sexting-zipit-app.aspx
- 360 degrees safe is an online, interactive self review tool which allows schools to review their e-safety policy and practice. www.360safescotland.org.uk
- Respectme Scotland's Anti-bullying service. Information and advice on all aspects of bullying for practitioner's parents and pupils: www.respectme.org.uk
- Child Exploitation and Online Protection Service Centre (CEOP), UK police agency dedicated to protecting children from sexual abuse www.ceop.police.uk
- Think U Know, a website for young people and their parents/carers and teachers. Run by the Child Exploitation and Online Protection Centre (CEOP) www.thinkuknow.co.uk
- Childline is the UK's free, confidential helpline dedicated to children and young people www.childline.org.uk 0800 1111

References

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