

Sexting and the Law



What is “Sexting”?

“Sexting” is when someone sends or receives a sexually explicit text, image or video on their mobile phone, computer or tablet. This can include sexual chat or requests for pictures/images of a sexual nature. Young people may refer to these as “sending nudies” or other colloquial expressions.

Is sexting illegal?

This all depends on what the image is or what the chat involves as well as who it is sent between. However it is a crime to possess, take, make or distribute as well as show anyone an indecent or abuse image of a child or young person whom is under the age of 18 years. Always remember that while the age of consent is 16, the relevant age in relation to indecent images is 18.

What if a child (under the age of 18) takes a sexually explicit image of themselves?

The child has committed an offence by making and possessing that image. If the child then sends the image to another person then a further offence has been committed by distributing the image. The person who receives the image will also be liable for an offence of possessing the image.

If it's sexually explicit text/chat between children:

There still may be a possible offence occurred but in these cases the exact detail and nature of the chat will be considered. In general sexual references would not necessarily be regarded as an offence but chat/text that encourages a child to engage in sexual activity or to make or distribute sexual images of themselves or another child should be reported to local police for further guidance. Do not delete or alter the material in any way.

If it's a sexually explicit image of an adult or sexually explicit text/chat sent from an adult to a child (this includes requesting pictures or images of a sexual nature from a child under 18):

If so a possible offence may have occurred. Do not delete or alter the material in any way.

If it's a sexually explicit image of a child (under the age of 18):

If so then you should contact the local police on 101 for advice and guidance. Do not delete the image and under no circumstances should you save the image, send it to anyone else or show it any other person as you may be committing an offence.

If it's a sexually explicit picture/image of an adult or sexually explicit text/chat and has been sent between adults:

No sexual offence has occurred however if the picture/image/text/chat is unwanted then other offences can be considered such as harassment or blackmail. Do not delete or alter the material in any way.

If it's a sexually explicit image of an adult and sent between children:

If so, then no sexual offence has occurred however it may be appropriate to speak to Social Services for further advice and guidance.

Please be aware that while offences may technically have been committed by child/children involved, the matter will be dealt with in a sensitive matter and all circumstances will be considered. In particular the differences in the ages of the children will be taken into consideration.

IF YOU ARE IN ANY DOUBT - ALWAYS CONTACT POLICE ON 101 FOR FURTHER ADVICE AND GUIDANCE.

Protection of Children Act 1978 (section 1) - it is an offence to make or be in possession of indecent images of children.

Abusive Behaviour & Sexual Harm (Scotland) Act 2016 - it an offence for the non-consensual sharing of, or threatening to share, private and intimate images.



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