



Revenge Pornography

Briefing Note - May 2015

The purpose of this briefing note is to highlight new legislation or practice to officers and staff who are involved in this area of policing. This advice reflects recent changes in legislation, and Authorised Professional Practice (APP) has been updated to include this advice at <https://www.app.college.police.uk/app-content/investigations/linked-reference-material/>

Introduction

Revenge pornography is defined by the Ministry of Justice as:

sharing of private, sexual materials, either photos or videos, of another person without their consent and with the purpose of causing embarrassment or distress.

The images may sometimes be accompanied by personal information about the victim(s), including their name, address and links to their social media profiles.

Victims may have voluntarily passed self-taken images to the perpetrator, eg, as a 'selfie' or by 'sexting' images during the course of a relationship. The perpetrator subsequently uses that image for malicious purposes.

Alternatively, images may have been obtained through coercion and the offender has sought to use the image(s) as a means of control.

There are currently a number of Acts containing offences that may be relevant to this behaviour, including, but not limited to:

- [Protection from Harassment Act 1997](#)
- [Protection of Children Act 1978](#)
- [Communications Act 2003](#)
- [Malicious Communications Act 1988.](#)

The offence

The Criminal Justice and Courts Act 2015 (the Act) creates a specific offence of disclosing private sexual photographs and films with intent to cause distress (often referred to as 'revenge pornography'). The Act makes it easier to prosecute both online **and** offline

offences, including uploading images onto the internet, sharing by text and e-mail, or showing someone a physical or electronic image.

[Section 33 of the Act](#) makes it a criminal offence to disclose private photographs or film which show people engaged in sexual activity or depicted in a sexual way (including where their genitals are exposed), where what is shown would not usually be seen in public. For the offence to be committed, the disclosure must take place without the consent of at least one of those featured in the disclosed picture and with the intention of causing that person distress.

The new offence came into force **13 April 2015** and can only be committed if the disclosure took place on or after this date.

Definitions

Sections 34 and 35 of the Act provide a number of definitions for clarity:

Disclose (section 34(2) and (3))

Something is [disclosed](#) if it is given, shown or made available by any means.

This applies irrespective of whether it is given, shown or made available for financial or other reward, or whether it has previously been given, shown or made available to a particular individual.

Photograph or film (section 34 (4), (5) or (6))

This is a still or moving image, originally captured by [photography or filming](#). Filming means making a recording on any medium from which a moving image may be produced. A photograph or film can be in any form that appears to, or in fact does, consist of, or include, one or more photographed or filmed images. For example, negative versions, or any data stored by any means capable of being converted into a photograph or film.

It also includes photographed or filmed images that have been altered in any way (eg, by combining two or more images or by combining a photograph or film image with something else through, for example, the use of a computer programme, splicing or superimposing).

Private (section 35 (2))

A photograph or film is [private](#) if it shows something of a kind not ordinarily seen in public.

Sexual (section 35 (3), (4) and (5))

A photograph or film will be deemed [sexual](#) if it shows all or part of an individual's exposed genitals or pubic area. It will also be sexual if an element, or the content as a whole is such that a reasonable person would consider it to be sexual because of its nature.

An altered image will not be private or sexual if:

- it does not consist of, or include, an image that is itself private or sexual
- it is only private or sexual by virtue of the alteration or combination (eg, a non-private or non-sexual photograph or film has been altered or combined to make it private or sexual, or placed next to another photograph or film in a way that the whole appears to be private and sexual)
- it only shows the victim as part of, or with whatever makes the image private or sexual, eg, a non-private and non-sexual image of the victim has been merged with a sexual photograph or film that did not originally feature the victim.

CPS guidance

The CPS has also updated its [guidance](#) to reflect the change in legislation.

If an allegation of revenge pornography is identified, investigators should consult their local CPS prosecutor for advice at an early stage of the investigation to determine the most appropriate offence.

Conviction under the new offence will attract a maximum sentence of two years, or a fine, or both.

Further information

[Ministry of Justice \(2014\) Revenge Porn – The Facts](#)

[APP on Indecent Images of Children](#)

[APP on Child Sexual Exploitation](#)

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