



Language and Guidance around Online Offending



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Communication technology, such as smart phones and the internet, has become an integral part of our everyday lives, particularly for children and young people. This offers great opportunity, however we must remain aware of the dangers we may face online.

These dangers are as numerous and diverse as the threats we face in the physical world, therefore it is important that media outlets are equipped with the appropriate language when reporting cases of online abuse or crime.

This document provides guidance for media on the correct use of terminology when reporting items relating to e-safety and online dangers and offences.

Not all harmful online activities are criminal offences; however it is important that criminal behaviour and offending is recognised for what it is. Using the correct terminology and definitions will help to educate the public around what constitutes a criminal offence online and may help them to recognise it should they become a victim of this type of offending.

Cyber Bullying

The Northern Ireland Anti-Bullying Forum (NIABF) defines bullying as the repeated use of power, by one or more persons, intentionally to hurt, harm or adversely affect the rights and needs of another or others. Cyber bullying is bullying that takes place through the use of technology, such as smart phones or the internet.

It is important that cyber bullying is understood as a form of bullying behaviour, often mirroring experience in the physical world. The term should only be used to describe a situation that fits with this definition, and not as a general term when reporting an online incident involving a child or young person.

Cyber bullying, whilst it may be distressing and unpleasant for those involved, is not itself a criminal offence and it can be unhelpful to use this term to describe criminal offending which has taken place via the internet.

Trolling

Sometimes people post comments online which may be distasteful or upsetting, or express views which are inflammatory or unpopular. This practice is often referred to as 'trolling'. These views or comments are not necessarily criminal, however posts or messages which may be criminal will broadly fall under 6 categories:

1. Credible threats (to a person's life, safety or property)



2. Communications which target a specific individual – these may constitute harassment or stalking, which are discussed further below.
3. Communications which breach a court order (e.g. naming a person who has been protected by law such as a victim in a sexual case).
4. Communications with a child which are sexual in nature and may constitute one of the offences discussed above (online CSE).
5. Hate Crime Incidents - communications which involve abuse, threat or intimidation targeting an individual or a group and which are motivated by hostility, prejudice or hatred towards that individual or group's actual or perceived race; ethnicity; nationality; disability; sexual orientation; faith; religion or belief; gender; gender identity or age.
6. Communications which are grossly offensive, indecent, obscene, of a menacing character or false. Offences under this category would fall under section 127 of the Communications Act 2003 but these tend to have a very high test for prosecution so as to balance with rights to freedom of expression and information. The threshold required has been explained by former Director of Public Prosecutions for England and Wales, Keir Starmer QC: *“These are cases that can give rise to complex issues, but to avoid the potential chilling effect that might arise from high numbers of prosecutions in cases which a communication might be considered grossly offensive, we must recognise the fundamental right to freedom of expression and only proceed with prosecution when a communication is more than offensive, shocking or disturbing, even if distasteful or painful to those subjected to it.”*

It is important to remember that while there are certain similarities between cyber bullying and trolling, these are two separate and distinct behaviours.

Cyber Stalking and Harassment

Harassment is not specifically defined, however under the Protection from Harassment Order (NI) 1997 a person is prohibited from pursuing a course of conduct that causes alarm or distress or which causes another to fear violence and which the person knows or ought to know that such conduct amounts to harassment. A course of conduct is that which occurs on at least two occasions and can include email and social media communications – commonly referred to as ‘cyber-stalking’.

There is no legal definition for stalking in Northern Ireland and offences for this type of behaviour are dealt with under the harassment legislation.



Online Sexual Offences involving children (under 18)

A definition of Child Sexual Exploitation (CSE) has been agreed by the Safeguarding Board for Northern Ireland (SBNI) and its partner agencies under the CSE Knowledge Transfer Partnership NI. This definition is:

*“Child sexual exploitation is a form of sexual abuse in which a person(s) exploits, coerces and or manipulates a child or young person into engaging in some form of sexual activity in return for something the child needs or desires and/or for the gain of the person(s) perpetrating or facilitating the abuse”. **

Child Sexual Exploitation refers, not to the specific offence, but the context within which the offending occurs. **Online Child Sexual Exploitation** is the preferred term to cover a number of offences involving children which have a sexual context.

Some examples of this would be:

- Making, possession or distribution of Indecent Images of Children (under 18s)
- Sexual grooming (under 16s) – where someone uses the internet to build an emotional connection to a child or young people, to gain their trust, for the purposes of sexual abuse.
- Causing or inciting a child to engage in sexual activity (under 16s)
- Engaging in sexual activity in the presence of a child (under 16s)
- Causing a child to watch a sexual act (under 16s)

Note- the term ‘child pornography’ is not an appropriate term and should not be used to describe indecent images of children. The correct term to use is ‘images of child sexual abuse’.

A child who has been a victim of sexual grooming may meet with an offender and become the victim of contact sexual offences such as rape, sexual assault or sexual activity with a child. These offences should be recognised as **child sexual abuse** or **child sexual exploitation**.

‘Sexting’ has become increasingly prevalent over the last number of years. This is when someone sends or receives a sexually explicit text, image or video on their mobile phone, computer or tablet. It can include sexual chat or requests for pictures/images of a sexual nature.

It is important to note that it is a crime to possess, take, make, distribute or show anyone an indecent or abuse image of a child or young person under 18 years of age.

Many children and young people (under 18) participate in ‘sexting’ and may take and send photographs/images of themselves to other young people (under 18) without realising that they are committing an offence. The laws in respect of indecent images of children are designed to protect children and young people (under 18) and incidents of ‘sexting’ self-generated images between similarly aged children and



young people without malice or coercion are dealt with on a safeguarding basis whereby support and education is offered.

Cases where a child (under 18) has been coerced into sending sexual photographs of themselves or have been blackmailed with the threat of release of such photographs are the victims of online child sexual exploitation.

*For further information on Child Sexual Exploitation please see the Professional Information Guide issued by Safeguarding Board for Northern Ireland, October 2014 and available via www.safeguardingni.org

Blackmail

The most prevalent form of blackmail online is webcam blackmail. In this type of crime an attacker will engage with a victim using online applications or social media. Through conversation the attacker lures the victim into taking their clothes off either in front of their computer web-cam or in front of the camera on their mobile device. Quite often the victim will be enticed into performing an intimate act. The attacker can use pre-recorded web-cam footage to disguise their identity while appearing to be genuinely engaged in conversation; "to appear legitimate" to the victim. The attacker secretly records this interaction and will then make a threat to post the recording onto a public website and/or show it to the victims' contacts, friends or family, unless a substantial sum of money is paid.

The offence is blackmail however if the victim is a child then there may be further offences involved constituting online Child Sexual Exploitation.

Fraud

Action Fraud summarises fraud as being: *'when trickery is used to gain a dishonest advantage, which is often financial, over another person'*.

It involves a dishonest representation made to another person for gain or to cause the victim loss. It can include failure to disclose information or abuse of position.

There are a number of online activities which can constitute fraud.

These include the use of 'phishing messages' purporting to be from genuine sources and seeking personal information such as bank account or card details or passwords. Once obtained, these details are then used to commit fraud crimes such as bank fraud or identity theft.

They can also include 'advance fee' frauds where victims are asked to pay a sum of money up front for good, services or financial gains that do not materialise or 'dating' fraud whereby a victim is manipulated by someone they have met online, sometimes on dating websites, into making payments to that person.



These are only some of the examples of fraudulent offences which are conducted via the internet.

Action Fraud is the central point of contact for information about fraud and financially motivated internet crime and have a reporting facility on their website www.actionfraud.police.uk

Additionally further advice or guidance is always available via PSNI by using the non-emergency 101 number.

Online Sexual Offences involving adults

While this document focuses on children and young people, it is important to remember that adults also remain aware of the dangers they face online.

Adults (over 18) who are capable of consenting to sexual activity do not have the same levels of protections as children and young people; however, there are a number of online offences which are relevant to adults.

Legislation has been implemented in England and Wales in relation to so called 'revenge porn'. This is now covered by section 33 of Criminal Justice and Courts Act 2015 under the disclosure of private sexual photographs and films with intent to cause distress. This legislation is not currently in force in Northern Ireland; however there are plans for this to be introduced soon.

Adults (over 18) who have been the victim of the unwanted release or disclosure of sexual photographs or images may have some recourse under harassment or blackmail legislation (discussed below) but there is no specific protection under NI law for this type of behaviour.

