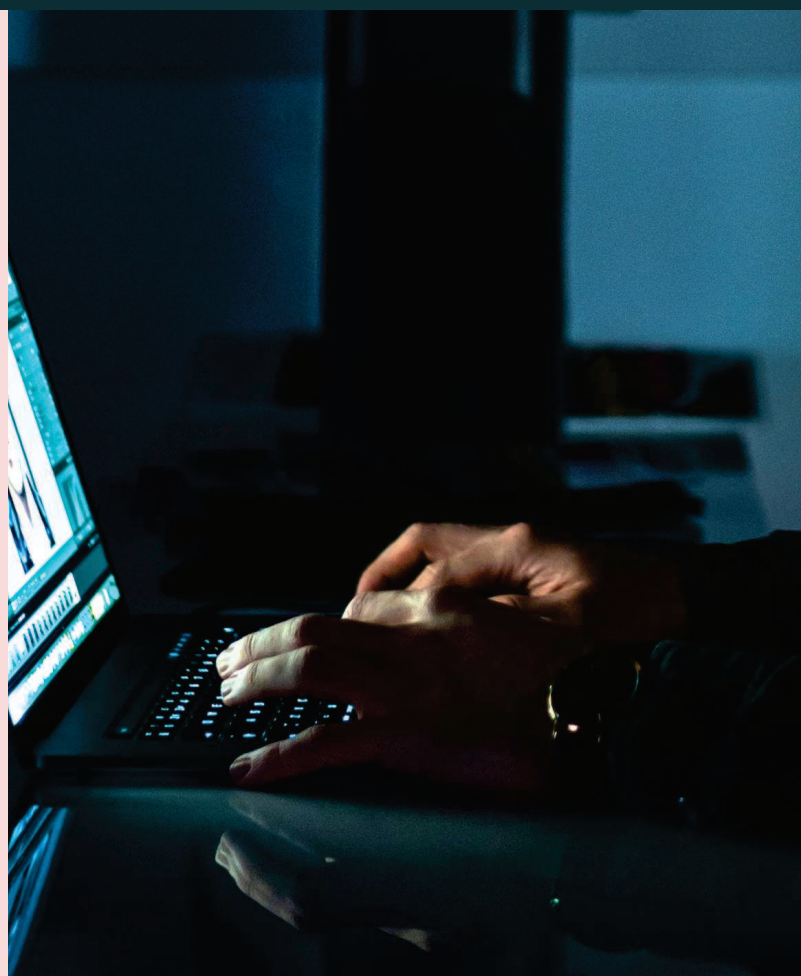


LEGAL GUIDE:

Understanding Online Child Exploitation Police Investigations

2024 – 2025

For those under Police investigation for online child sexual exploitation offences within the UK.



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For those under Police investigation for online child sexual exploitation offences within the UK.

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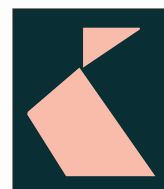
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Preface

This resource is written for those who have found themselves under Police investigation for online child sexual exploitation offences within the United Kingdom.



“I am a qualified Solicitor with over a decade of experience within the criminal justice system; specialising in providing trusted legal advice and representation in cases of online child sexual exploitation, particularly dedicated to helping you navigate this challenging journey with expertise and discretion.

If you find yourself reading this, it is possible that you are searching for answers, clarity, or a way forward in a situation fraught with grave consequences. Whether you are already navigating legal proceedings or contemplating how to manage each stage, understanding the legal landscape surrounding online child exploitation Police investigations is vital.

In the digital age, where connectivity and communication flourish, misconduct can also find its niche. As a result, online sexual offending is one area that draws a significant number of prosecutions. As someone who has represented numerous individuals under Police investigation for possession of indecent images, sexual communication with a child, arranging/facilitating the commission of a child sexual offence and other child exploitation offences, I understand the anxiety and often overwhelming feelings associated with these investigations. You may be wrestling with confusion, guilt, and uncertainty about your next steps.

For clarity, in legal proceedings, the term “*child sexual exploitation*” does not describe a single offence, but rather encompasses various forms of serious criminal conduct under a variety of legislation, each constituting individual offences.

This resource is purposefully designed to provide you with insights, knowledge, and a clear pathway through what typically unfolds before, during, and after a Police investigation in cases of this nature.

My goal is not to pass judgement, but to equip you with information that can be instrumental in your decision-making process when seeking legal representation. I invite you to explore this resource with an open mind and a willingness to understand the intricacies of online child exploitation Police investigations. It is an opportunity to gain perspective and, perhaps, to make informed choices moving forward.

Whilst society rightly condemns such offences, seeking information or assistance is an act of courage. This resource serves as your starting point; offering valuable insights and knowledge to navigate the legal and personal challenges you may be confronting.

I hope you find this resource beneficial during significant uncertainty.



Introduction

The evolution of digital technology and criminal exploitation started with the advent of the internet in the late 20th century.

Perpetrators of CSAM (Child Sexual Abuse Material) quickly capitalised on online platforms to distribute sexually explicit content involving children. The development of digital applications (apps) aimed at children on the internet began to gain significant traction in the late 2000s and early 2010s¹. This aligns with the time frame within which perpetrators began leveraging these platforms to contact and/or impersonate children, with the intent of gaining their trust and subjecting them to sexual exploitation.

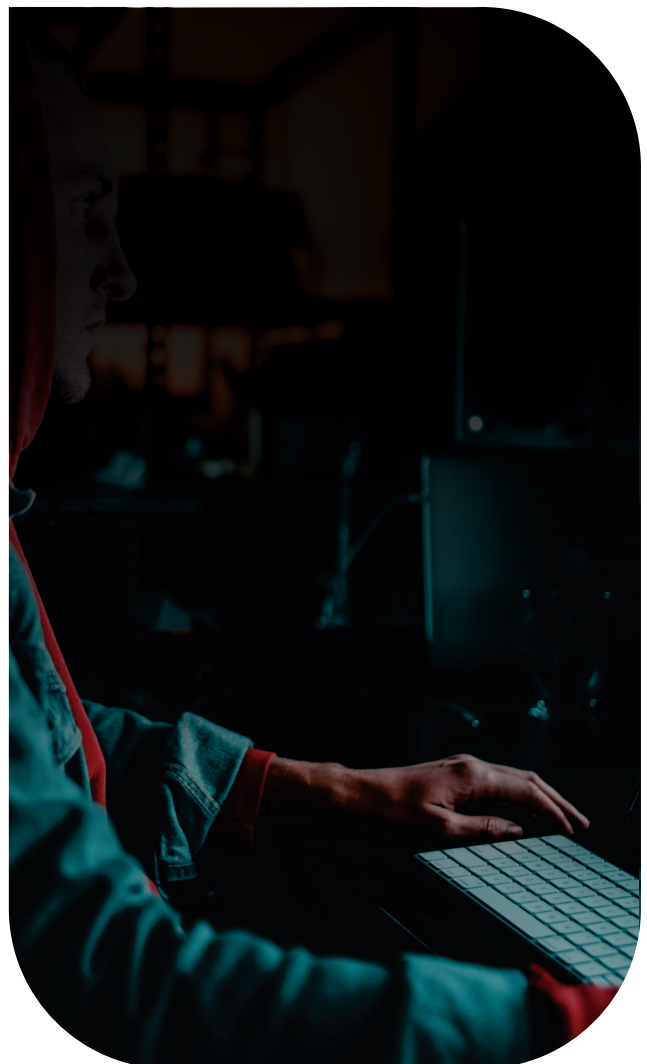
Contrary to what is commonly believed, material depicting child sexual abuse can be discovered within internet platforms across the UK and globally. This includes widely recognised social media platforms such as; KiK, Snapchat, Twitter, Instagram, Discord and Facebook². Furthermore, file-sharing platforms such as BitTorrent, eMule, and Dropbox, along with other communication applications like Telegram and WhatsApp, are filled with such content.

Additionally, perpetrators can obtain more extreme child abuse material through the dark web, including images which are unlikely to be found via traditional search engines. *(The mentioned sites and apps are not an exhaustive list).*

Adults who have a sexual interest in children are called paedophiles. The term is used to describe persons who have a sexual attraction towards children, regardless of whether they act on those feelings. However, acting on these feelings in any way, including seeking child abuse material is illegal and will cause serious harm to children.

It is difficult to accurately estimate the number of paedophiles in the UK, as many individuals will not

be known to the authorities. However, according to the NCA National Strategic Assessment (NSA) 2023, it is estimated that there are between 680,000 and 830,000 UK based adult offenders who pose varying degrees of risk to children³.



A Freedom of Information request, published in May 2021, showed there were officially 95,844 people on the sex offenders register in England and Wales⁴. *(For clarity, individuals on the sex offenders register have been convicted for a variety of specified sexual offences).*

The motivation behind sexually exploiting a child is difficult to understand and complex in nature, but it seems that sexual gratification serves as the main driving factor.

Motives for obtaining this material may include a need for power or superiority, and/or an attempt to escape from reality. Additionally, historical sexual abuse, trauma, pornography addiction and mental health issues are often factors to be taken into consideration.

Given the nature of these offences, the wider public will not extend any empathy to perpetrators, as child sexual exploitation evoke strong emotions and cause immeasurable harm.

These offences have a profound impact on victims and communities, making it difficult for society to separate the offence from the individual. This underscores the importance of education and awareness. Also, understanding the complexities surrounding offences of this nature can help support prevention efforts, encourage rehabilitation where appropriate, and ensure better protection for vulnerable children.

The information provided within this resource is intended to assist in your understanding of this area of the law. The primary aim is for the reader to have a clear understanding of what to expect at each stage of the Police investigation: from its initiation, through the investigation itself, to its eventual conclusion.

This resource is not an exhaustive legal text, but a brief introduction; aimed at aiding your search for relevant information.

“In my experience as a Criminal Defence Solicitor, I have represented dozens of suspects who have been accused of offences relating to online child exploitation.

The Law

In the UK, a child is legally defined as an individual below 18 years of age.

The Court of Appeal case, *R v Land [1998]*, offers a thorough explanation of the purpose behind legislation concerning child exploitation offences, particularly those involving indecent images, which can be summarised as follows:

“The object is to protect children from exploitation and degradation. Potential damage to the child occurs when he or she is posed or pictured indecently, and whenever such an event occurs the child is being exploited. It is the demand for such material which leads to the exploitation of children and the purpose of the legislation is to reduce, indeed as far as possible to eliminate, trade in or possession of it. At the same time statutory defences provide a framework protecting from conviction those whose possession of such material is not prurient.”

An “indecent photographic image” is a legal term which describes a sexual image of a child⁵. The decision as to whether an image is indecent will be obvious in most circumstances. However, if it is disputed, the matter of what is considered indecent will be for a court to decide.

In summary, an indecent image can include:

- Images of children who are nude or partially clothed.
- Images of children posing in a sexual way.
- Images of children engaging in sexual activity, either with another child, an adult or animal.
- Images of children masturbating.

The UK has several laws that criminalise the possession of indecent images/child sexual abuse material (CSAM) aka “child porn” and sexual communication offences.

- **The Protection of Children Act 1978⁶** makes it a criminal offence to take, make, distribute, produce or possess indecent photographs or pseudo-photographs of children.
- **The Criminal Justice Act 1988⁷** also makes it an offence to possess an indecent photograph or pseudo-photograph of a child.
- **The Coroners and Justice Act 2009⁸** created the offence of possession of a prohibited image of a child. This offence is targeted at non-photographic images; this includes computer-generated images (CGI’s), AI, cartoons, manga images and drawings.
- **The Sexual Offences Act 2003** further criminalises sexual communication with a child, causing a child to engage in sexual activity, arranging/facilitating the commission of a child sex offence, meeting a child following sexual grooming and other types of sexual child exploitation both in person and online.

Law Enforcement

The Police are developing more sophisticated ways to identify those who are online exploiting children.

They work closely with other law enforcement agencies such as the National Crime Agency (NCA) and the Child Exploitation and Online Protection Centre (CEOP) to tackle this area of crime.

The Police use a combination of technological and conventional investigative techniques to identify perpetrators who seek Child Sexual Abuse Material (CSAM) of and from children. Some examples of how they investigate include:

Online Surveillance

The Police monitor online activity to track down individuals who share or download illegal material through peer-to-peer networks, file-sharing websites, social media, and other online platforms. They often 'hang out' on several platforms using specialist officers as child decoys to monitor and apprehend suspects.

Internet Service Providers (ISPs)

ISPs are required by law to block access to websites hosting indecent images. ISPs are required to keep a record of customer internet activity for at least a year which includes websites visited and search terms. Law enforcement agencies can request access to these records and use them to identify those who may have viewed indecent images of children. Further, ISPs commonly make referrals to law enforcement agencies of any accounts they identify CSAM being downloaded or distributed.

Many ISPs collaborate with organisations such as the Internet Watch Foundation (IWF) to proactively detect and remove harmful online content.

Data Analysis

Law enforcement agencies use specialised software, analytical tools to identify patterns of criminal activity including the distribution of CSAM.

Digital Forensics

The Police use digital forensics to examine computers, smartphones, and other electronic devices to discover, recover and analyse evidence of illegal digital activity.

Tip-offs and Intelligence

The Police receive tip-offs and intelligence from members of the public which may include vigilante groups and other law enforcement agencies, both nationally and internationally. Social media and file sharing platforms use advanced algorithms and content moderation teams to identify and remove explicit or inappropriate content involving children. These platforms also make Police referrals regarding any illegal activity which violates their community guidelines. In addition, many platforms employ technologies which helps to identify known CSAM by comparing content to a database of previously flagged images.

The Knock

Once the Police identify there has been a potential offence committed, they will pay the suspected perpetrator a visit at their address, under a warrant.

The knock from law enforcement can be a pivotal moment for suspects, especially those who have knowingly accessed CSAM as it marks the commencement of a potentially lengthy criminal investigation.

These investigations trigger various emotions such as shock, fear, anxiety, shame, and guilt. Interestingly, some suspects who repeatedly view illicit content may experience an odd sense of relief, seeing arrest as an intervention to halt their offending cycle. It is safe to say that the Police visit is a continuous source of anxiety for suspects before and during the investigation.

The Police will visit the suspect's address to initiate their inquiry. The approach they employ varies depending on the location in the UK, as there is currently no formal Police national protocol to follow. Factors such as the severity of the suspected offence, the suspect's background, and any potential risks to public safety may influence how the investigation is conducted.

The timing and method of the visit can also depend on the resources available to the local Police force and the urgency of the investigation.

The Police may; (1) arrest the suspect for a subsequent Police interview, or (2) seize electronic devices believed to be linked to the offence(s) and then invite the suspect to the Police station for a voluntary interview at a later date (once the devices have been forensically examined), which may take some time.

In both scenarios, an investigation has the potential for prosecution based on any evidence found.

During the search of the suspect's premises, the Police may request all passcodes or PINs. Although under immense pressure, suspects can refuse to give any information relating to passcodes until they receive advice from their Solicitor.

The knock often leaves suspects and their families feeling shocked and isolated, as they fear social ostracism from those closest to them.



Arrest

Upon arrest, the suspect will be taken to their local Police station for an interview under caution.

The Police can hold a suspect for 24 hours without charge and the time limit can be extended in certain circumstances.

There are rules and procedures for Police arrests and interviews at the Police Station under the Police and Criminal Evidence Act 1984 (PACE). The most important rights that are given to all suspects include:

- 1** All suspects have the right to have free and independent legal advice whilst at the Police Station⁹.
- 2** A right to have someone informed of their whereabouts.
- 3** A right to read a copy of the PACE code of conduct.

It is advisable that a suspect uses a duty Solicitor if they do not have access to their own private Solicitor. Suspects can opt to change legal representation upon release if they are looking for specialised advice and support.



Caution Plus 3/ Voluntary Interview

'Caution Plus 3' refers to a voluntary Police interview with three key components: the Police caution, the right to free legal advice, and the suspect's ability to leave the Police station at any time.

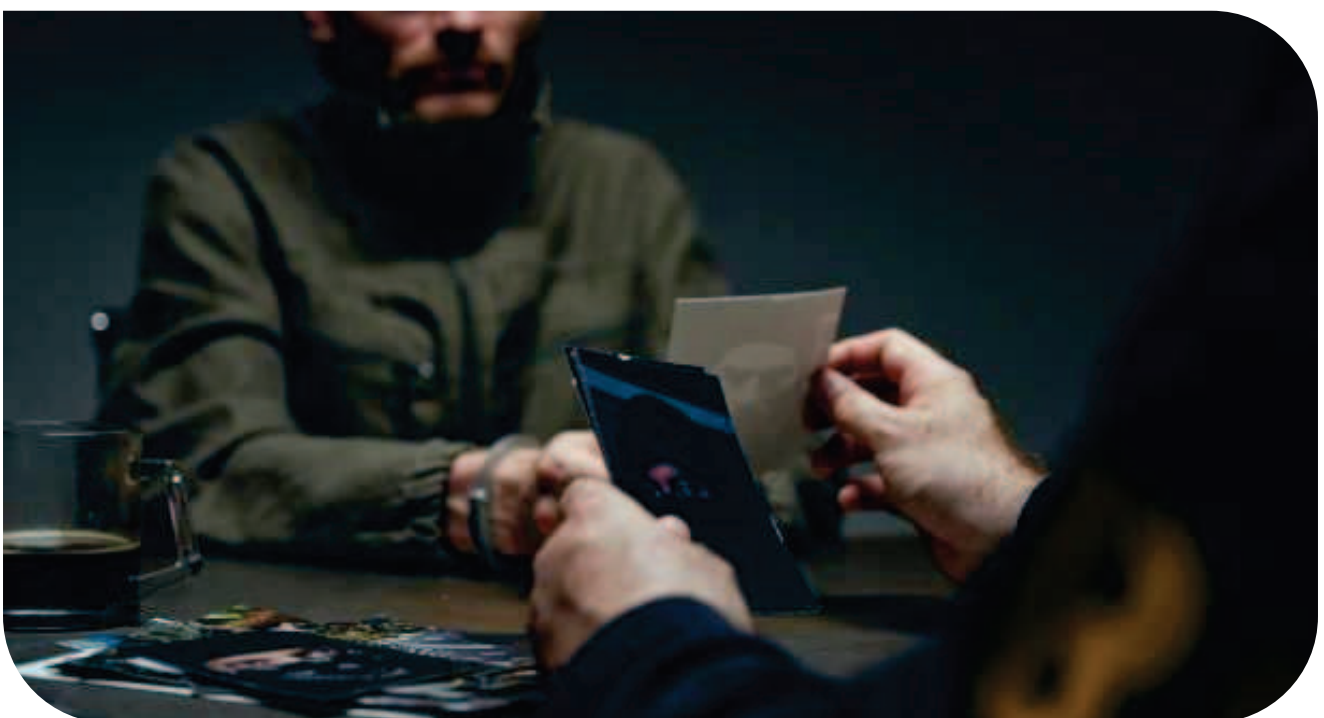
This process involves inviting an individual to the Police station as a suspect in a criminal investigation. Compliance is not optional. Unlike an arrest, the suspect is not taken into custody or placed in a Police cell.

As with an arrest, suspects have the right to legal representation, either through a free duty Solicitor or a Solicitor of their choice. However, it is strongly advised to retain an experienced Solicitor with expertise in the relevant area of law to advise on legal strategy, case preparation and representation.

A privately retained solicitor will request and review the disclosure¹⁰ before the interview, consult with the suspect, and accompany them to the Police station.

In summary, the suspect is entitled to the same rights as those suspects who have been arrested.

The key difference between a caution plus 3 interview and an interview conducted under arrest is that, during a voluntary interview, the suspect is technically free to leave at any time. However, should the suspect choose to leave or not comply, the Police may use their power of arrest to prevent them from leaving to complete the interview. Therefore, it is in the best interest of the suspect to attend the interview and stay for its duration to avoid being arrested.



The Police Interview: What To Expect

Whether it is an arrest or a caution plus 3 interview, the primary objective for the Police is to establish innocence or guilt relating to the offences to be investigated. Interviews relating to online child exploitation offences are specific. The Police aim to establish if the suspect is actively engaged in online child exploitation, their sexual attraction to children, and potential risk to any child, including their own children, if applicable.

Questioning will cover Police intelligence, device attribution", evidence discovered during searches, and early triage results from devices if available.

The Police will inquire about PINs and passcodes, any potential existing indecent images on devices, device usage which includes: websites visited, apps, search terms, any access to "dark web" browsers, and deletion software. They will also seek information regarding online chats and any involvement in child abuse groups.

The interview process can be highly stressful for suspects, who have the right not to answer questions at this early stage. Regardless of the suspect's responses, the Police will conduct a thorough investigation.



What Are The Police Looking For?

The Police are seeking evidence of possessing, making, distributing, or producing Child Sexual Abuse Material (CSAM).

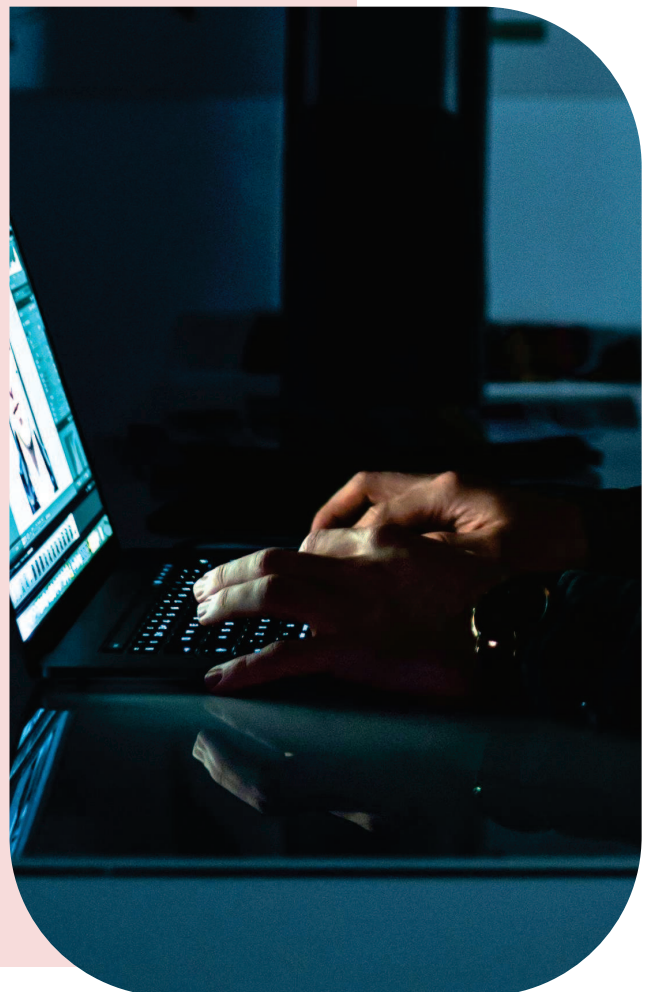
They are also looking for signs of sexual communication with children, grooming, arranging, or facilitating child sexual offences, and any other indications of child exploitation.

POSSESSION is widely defined as essentially having access to or being able to retrieve an image. For example, an image that is saved in a particular place, physically or electronically and knowing the image is present.

MAKING an indecent image can be defined as an image on a device that exists because of an action, for example, the opening of an email or downloading an image from a website onto the device. A suspect may not have direct access to the image, but the image may be found on the device via a digital forensic analysis. The term "making" can be confusing. To be clear, it does not mean that the suspect has been physically present making or taking live indecent photos of children.

DISTRIBUTION is where a suspect shares, exposes or offers the indecent image for acquisition to another or possession with the view to distribute¹².

PRODUCTION is defined as the taking or making of any indecent image at source, for instance the original image.



Categorisation Of Images

Within the UK, Child Sexual Abuse Material (CSAM), is classified into levels of severity, ranging from Category A to Category C based on the level of harm and abuse depicted.

CATEGORY A

Are images involving penetrative sexual activity with a person under the age of 18 years old. Also, images involving sexual activity with an animal or sadism.

CATEGORY B

Are images involving any non-penetrative sexual activity of a person under the age of 18 years old.

CATEGORY C

Are images demonstrating sexual posing of any person under the age of 18 not falling within categories A or B.

PROHIBITED IMAGES

Prohibited images of a child is an offence targeted at pornographic, non-photographic images. This includes computer-generated images (CGI's): including cartoons, manga images, drawings and deep fakes. The law defines a 'pornographic image' as one which must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal.

It is important to understand that in cases involving CSAM, the circumstances in which the photograph was taken, and the original intention of the photographer are not relevant to the determination of whether the image is indecent. What matters is the content of the image itself and its potential to be categorised as indecent.



Sexual Communication

As previously stated, a child is defined as a person under the age of 18, but for the purpose of this offence, the age of relevance is under 16.

If an adult; for the purpose of sexual gratification; intentionally communicates with a person under the age of 16; who they did not reasonably believe to be over the age of 16, they have committed an offence under the Sexual Offences Act 2003¹³.



Sexual communication is defined as any form of interaction that involves sexual content or encourages sexual activity. In the UK, this applies to both online and offline interactions and encompasses various forms of communication, including written, verbal, and digital messages.

Under the section 15A of the Sexual Offences Act 2003, it is a criminal offence to *intentionally* communicate with a person under the age of 16 if the communication is sexual in nature. While a child is legally defined as anyone under 18, this offence specifically applies to those under 16 due to their heightened vulnerability. The law acknowledges that such communication can have significant negative impact on a child's mental and emotional well-being and is designed to protect them from exploitation and abuse.

Perpetrators who engage in online chat groups or other platforms with the intention of targeting underage children for sexual exploitation are committing a criminal offence under this legislation.

Law enforcement agencies, as well as vigilante groups, often assume the identity of children to apprehend offenders. Even if a suspect is communicating with a decoy rather than an actual child, they can still be prosecuted for attempting to engage in sexual communication¹⁴.

Several other offences may arise from sexual communication with a child, including:

- Causing or inciting a child to engage in sexual activity.
- Causing a child to watch or view sexual activity.
- Sexual exploitation and grooming.

Defences In Law

Below are common defences in law for possession of indecent images of children and sexual communication offences.

Suspects have the opportunity to present their defence at the earliest opportunity, typically during the initial Police interview. While many may choose to remain silent for strategic reasons, suspects and their Solicitor can request a second interview later in the investigation to advance their defence. In any event, the Police often invite suspects to an additional interview if illegal material is uncovered during the digital forensic analysis, giving suspects a chance to admit or deny the allegations.

It is essential to note that digital forensic laboratories use advanced software to recover deleted data, including images, search terms, websites visited, and conversations across platforms. Suspects should consider this when deciding if or how to advance their defence. As anything said will be used in evidence.

Legitimate Reason

This defence is often reserved for a person who has conducted genuine research. Although there is scepticism, each case will be assessed on its own facts and merits. There are also exemptions for professionals such as Police, GPs, or Lawyers in the course of their employment.

Lack of Awareness

This defence can be relied upon where the suspect had not seen the indecent image/pseudo photograph and did not know, nor had any cause to suspect the image to be indecent.

Unsolicited Images

This may occur if a suspect receives unsolicited images without any prior request made by them or on their behalf and that they did not keep it for an unreasonable time.

Marriage and other relationships

The suspect will have to prove that the photograph was of a child aged 16 or 17 and at the time of the conduct in question the person and the child were married or civil partners or lived together in an "enduring family relationship". In these circumstances, the image should be of the child alone or with the suspect but nobody else¹⁵.

Common defences in law for sexual communication offences include:

- A reasonable belief that the person with whom they were communicating was over the age of 16.
- The communication was not sexual or was not intended to encourage communication which was sexual.
- The communication with the child was not intentional or for the purposes of obtaining sexual gratification.



Post Interview: What Happens?

Following the Police interview, suspects are typically released from the Police station on bail for a duration spanning 28 days to 3 months, contingent on the offence and risk assessment. During this period, the Police forward seized devices to a digital laboratory.

(Please note that bail does not apply to suspects who were interviewed voluntarily under the caution plus 3 scheme. These suspects will be under investigation without being subject to conditions on their liberty).

After a Police interview, the Police will likely need to gather further evidence before making any decisions. In cases of online child exploitation, this is likely to involve a full examination of the suspect's devices, including, phones, computers, tablets, hard drives and USBs. This examination is usually undertaken by an external digital laboratory.

Investigations can often take a significant amount of time to conclude. Due to this, bail may be extended multiple times, with some suspects waiting a year or more for a resolution.

The delay occurs because digital forensics labs handle a large volume of cases and must prioritise them based on urgency and severity. While this waiting period is understandably distressing, it's crucial to recognise that the analysis of digital evidence is intricate and time-consuming. This often causes frustration, as suspects find themselves in limbo, unable to move forward while a potentially life-altering investigation remains unresolved.

During this time, it is crucial for suspects to stay in regular contact with their Solicitor, who can monitor the progress of the investigation and safeguard their rights. If a suspect does not have a Solicitor, it is advisable to seek legal advice. Legal representation may help expedite the process or, at the very least, keep the suspect informed about what to expect as the investigation progresses. Toward the end of the investigation, an additional Police interview is likely, as the Police will want to discuss any evidence uncovered by the digital forensic laboratory.

Additionally, this is a good time to reach out to support services and/or attend programs to address any offending behaviour; if applicable. Engagement with these services will help manage mental health concerns around the offence and participation will also be viewed positively if or when the case proceeds to court. Please see the '**Seeking Help**' section of this resource.

Police Bail

Police bail is a legal process that allows the release of a suspect from custody while the investigation into the alleged offence continues.

When a suspect is placed on Police bail, they are required to adhere to certain conditions and/or restrictions set by the Police. These conditions can vary depending on the circumstances of the case and the potential risks involved.

In cases involving Child Sexual Abuse Material (CSAM) or other child exploitation offences, typical bail conditions often include prohibiting unsupervised contact with children, restrictions on the use of social media apps, and periodic Police checks on electronic devices. Additionally, suspects may be required to live at a specific address if they usually reside with children. It is crucial that a Solicitor negotiates any bail conditions with the Police before the suspect's release from the Police custody, as modifying bail conditions after release can be difficult and time-consuming.

If bail is not deemed necessary, the Police have the option to release the suspect without bail while the

investigation continues. This process, known as being "Released Under Investigation" (RUI)¹⁶, means that the suspect is not bound by any formal restrictions, allowing them to resume their life without the conditions typically imposed by bail. However, it's important to understand that RUI status doesn't mean the investigation has ended. Police inquiries and evidence gathering will still be ongoing. Additionally, the suspect may be re-interviewed or summonsed to court at a later stage.

The Police have the authority to bail suspects from the Police station for up to 3 months. If more time is needed for the investigation, an officer of inspector rank or above can grant an additional 3 months, bringing the total bail period to 6 months. Should the investigation require further time beyond this, a superintendent or higher-ranking officer can extend the bail by another 3 months, up to a total of 9 months. If more time is still necessary after this period, the Police must apply to the court for any further bail extensions.

A Solicitor can submit representations to the Police or court at any time requesting variations to bail.



Pre-Charge Engagement

From the initiation of the investigation until the decision to proceed with any charges.

Pre-Charge Engagement offers a valuable mechanism for suspects and their Solicitors to collaborate with the Police in disproving the suspect's alleged participation in a criminal offence¹⁷.

Pre-Charge Engagement is a voluntary process which involves contributing further lines of inquiry, potentially including additional witnesses, video evidence, emails, message screenshots, and other pertinent leads that could provide an alternative perspective. A Solicitor manages the co-ordination and submission of this supplementary evidence, accompanied by a statement or a further interview that could be pivotal in exonerating the suspect.

Following the first Police interview and preceding any charges, it is an opportune moment for suspects to consider counselling or other forms of rehabilitation, which is particularly relevant in online child exploitation cases. This proactive step is especially pertinent, as it demonstrates to the Police and Crown Prosecution Service that the suspect is taking their behaviour seriously and could be a deciding factor on whether to charge.

In cases where a suspect experiences ongoing anxiety due to a Police investigation, it is highly recommended to engage a Solicitor. The Solicitor can serve as an intermediary between the suspect and the Police, helping to alleviate the suspect's anxiety. By having all inquiries routed through the Solicitor, the suspect can better manage their anxiety and stay informed on the progress of the investigation.

Instructing the right Solicitor at the early stages before charge can have a significant impact on the

outcome of the investigation. It could even lead to the suspect being offered a Police caution or refused charge due to insufficient evidence by not meeting the Crown Prosecution Services charging threshold test.

In online child exploitation investigations; following the digital analysis, if any illegal material is discovered, it is likely that the suspect will be invited for a second Police interview. This interview serves to comprehend the extent of the evidence. It is also the final chance to give an account, particularly if one was not given during the first interview. If no evidence is found the case will likely be refused charge (no further action).

Depending on the evidence, a second interview will provide a suitable opportunity to either lay the groundwork for admissions or present a defence. Where evidence is compelling, this is also a chance to express remorse, highlighting actions taken to address the offending behaviour.

Pre-Charge Engagement can serve various purposes in assisting a suspect. For instance, when a suspect is culpable, a Solicitor may compose a letter of representation to the Crown Prosecution Service, outlining reasons why the suspect should be considered for an alternative to court proceedings, such as a conditional caution. This could be particularly relevant when compelling mitigating factors exist, such as the suspect's age or mental health; substantiated by medical evidence, or a very low number of indecent images found¹⁸.

Following the interview, the case will be referred to the Crown Prosecution Service (CPS) for a charging decision.

CPS

The Crown Prosecution Service (CPS) is an independent public authority in the UK responsible for prosecuting criminal cases.

The primary role of the CPS is to ensure that cases are prosecuted fairly, effectively, and in the public interest.

The CPS follow a process when making a charging decision in criminal cases. The steps involved are:

1 Referral from Police
After the Police complete their investigation, they refer the case to the CPS¹⁹. The referral includes, witness statements, a summary of the suspect's interview, the forensic analysis report, representations from the suspect's Solicitor and other evidence collected by the Police.

2 Initial Review
CPS lawyers review the evidence and information provided by the Police. They assess the strength of the case and whether there is enough evidence (in their opinion) to proceed with criminal charges against the person(s) in question.

3 Evidential Stage
The CPS evaluates whether there is a realistic prospect of conviction based on the available evidence.

4 Public Interest Test
Even if there is enough evidence, the CPS must also consider whether it is in the public interest to proceed with the case. They weigh factors such as the seriousness of the offence, the impact on victims, the defendant's age and background, and any mitigating or aggravating circumstances.

5 Decision
Based on the evidential and public interest considerations, the CPS will make a decision.

- **Charge/Caution** - If there is sufficient evidence and it is in the public interest, charges will be brought against the suspect. The CPS can also decide if a Police caution is an appropriate outcome.
- **No Charge** - If there is insufficient evidence, or it is not in the public interest, no charges will be filed. Also known as "refused charge".
- **Further Investigation** - In some cases, the CPS may advise the Police to gather more evidence before a decision can be made.

6 Notification
The CPS communicate their decision to the Police, who then inform the suspect and any victims. If charges are filed, the suspect returns to the Police station to be formally charged. The suspect is provided with a charge sheet outlining the charges and the court date. If the suspect was interviewed under caution plus 3 or released under investigation (RUI), they will receive a summons in the post to attend court which will include the date, time and venue.

It is important to note that the role of the Crown Prosecution Service is to determine whether there is enough evidence to provide a realistic prospect of conviction, and whether it is in the public interest to prosecute. The ultimate decision in respect of outcomes rests with the courts.

Court Proceedings

Appearing in court can be an intimidating experience for suspects now designated as defendants.

The court process holds the potential to be life-altering, as the stakes are high for defendants who often have a lot to lose. Additionally, there is the matter of reputation at hand, as any conviction attaches a criminal record to one's name.

The following information is a broad outline of the court process. For more comprehensive details, it is advisable to consult with your Solicitor. They can offer insights tailored to your specific circumstances and guide you through the intricacies of the legal process.

First Appearance - The defendant appears at the Magistrates' Court for the first time after charge or summons. During the hearing, charges are read, and the defendant is likely to enter a plea of guilty or not guilty²⁰. If the defendant pleads guilty, it is likely that the case will be adjourned for the preparation of a pre-sentence report prior to a sentence hearing. If they plead not guilty, the case adjourned for a trial at a later date. Either way, if the case is serious or complex the Magistrates' Court may decline jurisdiction and the case may be sent to the Crown Court for trial or sentence. The venue of the next hearing will be a matter for the Magistrates' Court to decide after hearing submissions from both the prosecutor and defence advocate.

Bail Decision - During the first appearance, the court decides whether the defendant should be granted bail or kept in custody until sentencing or the trial. Conditions of bail could be set, such as reporting to a police station or not contacting certain individuals²¹. Typically, if the defendant is subject to bail conditions upon charge, the conditions will usually remain until the conclusion of

the case. However, if the defendant attends court with no bail conditions, the court usually won't impose any additional conditions unless explicitly requested by the Crown Prosecution Service (CPS). Any application for bail conditions made by the CPS can be challenged by the defence advocate.

At the time of writing this resource, it is reasonable to say that most online child exploitation offences are sent to the Crown Court. This is due to the gravity of the offences, coupled with the greater sentencing authority of the Crown Court compared to the Magistrates' Court. There are two distinct paths that cases can take based on the defendant's plea:

Where a defendant pleads **not guilty** to the charges at the Magistrates' Court, the case is adjourned and listed for a Plea and Trial Preparation Hearing (PTPH) at the Crown Court. During the PTPH hearing, the defendant's plea is confirmed, and any preliminary issues are addressed. Please see "*Pre-Trial Preparations*" below. The objective is to establish the disputed matters and case management for the trial; set for a later date.

If the defendant **pleads guilty** to the offences at the first hearing, the court will adjourn for a sentencing hearing scheduled at a later date. If the Magistrates' Court deems its sentencing powers insufficient, the case will be transferred to the Crown Court, a process known as committal for sentence.

In some instances, the magistrates retain jurisdiction, and the sentencing hearing will remain in their court. The defence advocate should request a pre-sentence report to assist in determining an appropriate sentence at the next hearing, typically held 4 to 6 weeks after the initial court appearance.

Pre-Trial Preparations – During the period between the PTPH and the trial, both sides exchange evidence and witness statements. Legal arguments and applications may be made to determine what evidence can be presented during the trial.

Trial – If the defendant pleads not guilty, a trial is held before a judge and jury (in Crown Court). Both sides present their evidence, call witnesses, and make legal arguments. The Judge gives directions to the jury, and they decide whether the defendant is guilty or not guilty.

Verdict – The jury delivers a verdict. If the defendant is found guilty, a sentencing hearing is listed at a later date. If found not guilty, the defendant is acquitted and released.

Pre-Sentence Report – After entering a guilty plea or being found guilty after trial, the court will request a pre-sentence report which is tasked by the Probation Service. It is an important document prepared by a Probation Officer for the court before a defendant's sentencing hearing. Its purpose is to provide the court with comprehensive information about the defendant's background, explanation for offending, personal circumstances, and risk factors. This report aids the court in making a fair and informed sentencing decision. *I want to emphasise the critical significance of this report, as it is essential for defendants to be fully informed about its importance.*

The pre-sentence report assists the court in understanding the defendant's background, motivations, and potential for rehabilitation. This information helps the court determine an appropriate sentence that considers both the defendant's circumstances and sentencing options.

Sentencing – The court considers factors such as the severity of the offence, the defendant's criminal history, and any mitigating or aggravating

The Pre-Sentence Report typically includes:

- **Offence Analysis** - A summary of the offence committed by the defendant, including any explanation offered by the defendant during their Police interview.
- **Criminal History** - Information about the defendant's previous criminal convictions and any relevant prior behaviour.
- **Personal Background** - Details about the defendant's personal history, such as their family, education, employment, and living situation.
- **Mental Health and Substance Abuse** - If relevant, information about the defendant's mental health and substance abuse issues, as well as any available treatment history.
- **Risk Assessment** - An evaluation of the defendant's likelihood of reoffending and potential risks to the community.
- **Victim Impact** - If applicable, information about the impact of the offence on any victims, including any statements they may have provided.
- **Recommendations** - The Probation Officer will make a recommendation for a suitable sentence, which may include community-based penalties, rehabilitation programs, or custody.

circumstances. The defendant's Barrister will be advocating for the defendant to receive the best outcome in the circumstances by referring to sentencing guidelines, the pre-sentence report and any mitigating circumstances on the defendant's behalf.

Appeals – After conviction and sentence, either the prosecution or the defence can appeal any decision to the Court of Appeal if they believe there was an error in law or procedure.

Ancillary Orders²²

After being convicted of any sexual offence listed within Schedule 3 of the Sexual Offences Act 2003, the defendant is obligated to register on the sex offenders register.

This is also referred to as “Notification Requirements”²³. Registration is a distinct legal obligation that runs alongside any sentence that the defendant receives for the offence.

This compulsory registration is a vital aspect of the legal procedure, with the primary goal of enabling monitoring and upholding public safety in matters concerning sexual offences. It is important to note that this registration must be carried out by the defendant at the local Police station within three days of conviction. Also, if the Police/CPS decide that a Police caution is a suitable outcome after an investigation, notification requirements still apply.

Registered sex offenders (RSOs) are required to register their details in addition to notifying the Police of any alterations to their personal circumstances within specific time frames stipulated by law. This includes changes in address, opening new bank accounts, travel arrangements, having children staying over and other pertinent information. Failure to comply with notification requirements may trigger a subsequent investigation and potential conviction, with the possibility of facing a maximum penalty of up to 5 years of imprisonment. I will address the length of the Notification Requirements below.

For clarity, it is important to note that the sex offender's register is not a public register accessible to any person or member of the public. Access to the register is strictly controlled and limited to certain authorities and professionals within those authorities for the purposes of monitoring and safeguarding against risk in the community.

SEXUAL HARM PREVENTION ORDER (SHPO)

A Sexual Harm Prevention Order (SHPO), formerly known as a Sexual Offence Prevention Order (SOPO), is a legal order that can be sought by the prosecution or court following a conviction. This court issued order is not mandatory; it is a matter for the court to impose if it is satisfied that it is necessary to make such an order, for the purposes of protecting the public from sexual harm. The purpose of the SHPO is to impose various restrictions and prohibitions on the defendant for its designated duration to manage any potential risk of re-offending and risk of harm.

If the prosecution makes an application for such an order, it is important for a defendant to have a thorough discussion with their Solicitor regarding each prohibition outlined in a Sexual Harm Prevention Order (SHPO) before the order is granted. The implications of these prohibitions can extend to various aspects of a defendant's life, including employment and daily activities. Therefore, consulting with a Solicitor ensures that the defendant understands the potential impact of such an order and can address any concerns from the outset.

Negotiations with the prosecution or Court can also play a significant role in tailoring the SHPO to be proportionate and aligned with the specifics of the case. Should the court grant a SHPO, case law emphasises that they should be carefully drafted to match the facts of each case.

This ensures that the order is fair and proportionate, considering the defendant's rights and the goal of public protection.

Breaching the terms of a SHPO can have serious consequences, including further investigations and potential prosecution. Given the potential impact on a defendant's life, it's vital to seek legal advice to navigate the terms of the order prior to sentencing.

The duration of the notification requirements for a defendant usually aligns with the duration of any Sexual Harm Prevention Order (SHPO) imposed by the court²⁵. The length of time a defendant is required to adhere to the notification requirements depends on the type of sentence they receive. Below is an overview of the duration corresponding to different types of sentences:

- **Police Caution - Notification Requirements last for 2 years.**
- **Community Order - Notification Requirements last for 5 years.**
- **Suspended Sentence - (under 6 months) Notification Requirements extend to 7 years.**
- **Imprisonment and/or Suspended Sentence - (over 6 months but less than 30 months) - Notification Requirements last 10 years.**
- **Court Discretion - In certain cases, the court has the discretion to issue Notification Requirements until further order, meaning the duration may be indefinite.**

The alignment of the notification requirements with the SHPO are not always necessary. The court has discretion to grant a SHPO for a lesser period than the statutory notification requirements in particular cases.

SEXUAL RISK ORDER (SRO)

A Sexual Risk Order (SRO) is a civil order that can be applied for by the Police to the court in circumstances where there is evidence of "*an act of a sexual nature*" which could include any sexually concerning behaviour that poses a potential risk of harm.

Unlike Sexual Harm Prevention Orders (SHPOs), an SRO does not necessitate a conviction or caution. It is worth noting that SROs are often sought even when no formal prosecution has been initiated. These orders are designed to address and mitigate potential risks related to sexual behaviour that may not have led to prosecution but still warrant intervention for public safety reasons. For instance, the Police may seek an SRO based on a suspect's admissions of sexually risky behaviour during a Police interview, even if no evidence is found.

This underscores the critical importance of obtaining legal advice before participating in any Police interview to safeguard all legal rights and ensure any statements are properly represented.

The standard of proof for satisfying the court that a suspect has carried out an act of a sexual nature is at the civil standard (balance of probabilities)²⁴. If the court is convinced that, as a result of the defendant's actions, it is necessary to impose an order to protect the public from sexual harm, the order will be granted.

An SRO can prohibit the defendant from undertaking any activity described in the order, including foreign travel. The order specifies a fixed period of no less than 2 years, or until further order and may specify different periods for a variety of prohibitions.

The consequences of breaching an SRO are gravely significant. A breach of a SRO, without a reasonable excuse, constitutes a criminal offence. The penalties can reach a maximum of 5 years imprisonment.

“The Police may seek an SRO based on a suspect’s admissions of sexually risky behaviour during a police interview, even if no digital evidence is found and no criminal charges are brought”

Seeking Help

Facing accusations of online child sexual exploitation offences is an immensely stressful experience.

“I strongly discourage suspects or defendants from navigating this process alone. There is a wide range of dedicated support available to help individuals cope with and address these issues effectively. Seeking professional assistance and guidance can make a significant difference during difficult times. Also, addressing offending behaviour is also a mitigation point under the sentencing guidelines for possession of indecent images.

Many of my clients (and their families) have found valuable support from the organisations listed below. While there are numerous options, I encourage suspects and defendants to conduct their own research to identify the organisation that best aligns with their needs and situation. It is crucial to find the right fit for effective assistance and lifelong change.

GP

Your General Practitioner (GP) can play a crucial role during a crisis, especially when it comes to mental health and emotional well-being.

GPs can offer immediate assistance and support; they may not always have the expertise to provide long-term mental health care. However, for more specialised and intensive treatment, they can make referrals to mental health professionals with specific training in therapy or psychiatry. If you or someone you know is in a crisis, reaching out to a GP can be a crucial first step toward getting the help needed.

Lucy Faithfull

The Lucy Faithfull Foundation is a UK-wide charity dedicated solely to preventing child sexual abuse. However, where abuse has already occurred, they work with all those affected including adult male and female abusers; young people with harmful sexual behaviour; children with concerning sexual behaviours; victims of abuse and other family members. They also work in families and with adults and young people where there has been no abuse, to help them keep themselves and others as safe as possible. You can read more on their website.

www.lucyfaithfull.org.uk

Samaritans

The Samaritans are a well-known organisation that provides emotional support to individuals in times of distress, crisis, or when they need someone to talk to. They operate a 24/7 helpline that anyone can call if they need someone to talk to. This service is available for people experiencing emotional distress, loneliness, mental health challenges, or contemplating suicide.

Call **116 123** or visit www.samaritans.org

Safer Lives

Safer Lives provides specialist support to those who are being investigated for online and other sexual offences. They independently provide non-judgemental support, advice, and guidance, as well as specialist support, to better understand your situation and permanently change unwanted behaviours. For more information, please visit www.saferlives.com

Safer Living Foundation (SLF)

The Safer Living Foundation is a Charitable Incorporated Organisation that adopts a multi-agency approach with a strong research component. The SLF is focused on reducing sexual offending and re-offending through rehabilitative and preventative initiatives. Their objectives are to promote the protection of people from, and the prevention of, sexual crime and to promote the rehabilitation of persons who have committed or who are likely to commit sexual offences against others.

www.saferlivingfoundation.org

Stop It Now

“Stop It Now” is a child protection charity, working to prevent child sexual abuse. They campaign and raise awareness across the UK to help adults do their part to stop child sexual abuse by addressing personal, family and community concerns. They have a confidential helpline, live chat and secure messaging service for anyone with concerns about child sexual abuse and its prevention – whether they’re worried about their

own thoughts, feelings and behaviour, or about another adult or young person. Callers do not need to give identifying information, so can remain anonymous. Find out more on their website www.stopitnow.org.uk

The Knock Club

The Knock Club is a not-for-profit organisation working to help non-offending partners and other family members get through the very traumatic unexpected life-event of a partner, relative or loved one being investigated by the Police. They can be found at www.theknock.club

StopSO (Stop Sexual Offending)

StopSo is a charity registered with the Charity Commission of England and Wales. They have a UK-wide independent network of qualified and experienced professionals who are willing and trained to work with potential sex offenders, sex offenders and their families. These professionals are supervised and include psychologists, psychotherapists, and doctors. Find out more on their website www.stopso.org.uk

Talking Forward

Talking Forward is a charity founded in 2021. Their work is dedicated to providing support to partners, ex-partners, children, siblings and parents of adults who’ve offended online or using mobile technology. They provide a safe space, for those effected by “The Knock”, bringing people together who have experienced a similar trauma. They can be found at www.talkingforward.co.uk



FAQs

Should I retain a Solicitor?

Retaining a Solicitor during an investigation offers numerous advantages. Solicitors provide tailored legal guidance, safeguard your rights, and navigate legal complexities. We excel in evidence gathering, negotiation, and error prevention. Beyond legality, Solicitors prepare you for legal proceedings and offer crucial emotional support. The decision should be weighed against the allegations' seriousness, your financial situation, and the Solicitor's area of expertise. Seeking early legal advice empowers informed choices.

My world has fallen apart, I don't know what to do?

Police investigations around indecent images or other online sexual offences are life changing. It is fair to say that irrespective of the outcome, life will never be exactly the same as before. On a more positive note, it is an opportunity to tackle the causes of any offending behaviour to ensure that it does not happen again. I want to assure you that there is a life after an investigation or conviction. The organisations listed in this resource provide fantastic information and support.

Is there a deal to be done to make this go away?

The investigation phase focuses on gathering evidence, which is then reviewed by the Crown Prosecution Service (CPS) using specific criteria before any decisions are made. Based on my professional experience, in cases involving a small number of images, I have successfully submitted written representations to request alternative resolutions, such as a Conditional Caution, instead of formal charges. Additionally, I have achieved positive outcomes where charges were dropped ("refused charge") due to the minimal number of images and a strong defence presented during a 2nd police interview. There are many factors to consider, therefore, it's crucial to seek legal advice for an accurate assessment of your case and its possible outcome.

I am fearful for my future; will I be going to prison?

There are several important factors to consider, such as the specific details of your case, the strength of the evidence, adult or child gravity matrix and the sentencing guidelines for the offence. Penalties can vary significantly, especially where multiple offences are involved. While immediate custody is a possible outcome in some cases, alternatives like suspended sentences and community orders with rehabilitation programs are often considered. In fact, many of my clients have not been sentenced to immediate custody.

It's also important to remember that entering a guilty plea at the first court hearing can result in a one-third reduction of any potential sentence. The court will also consider any personal mitigation, such as your background, character, mental health or steps you've taken to address your offending behaviour, which may further reduce the sentence. Courts recognise the value of rehabilitation over punishment, particularly if the defendant is seen to be making genuine efforts to change.

To get a clear understanding of your situation and likely outcomes, I strongly encourage you to seek legal advice from a qualified professional who can provide you with a realistic and reassuring assessment. This can help to alleviate uncertainty and guide you through the process.

My therapist has told me that I will receive a suspended sentence, is that correct?

While therapists can offer valuable support and have experience in dealing with cases involving sexual offences, they are not legal professionals. Only a qualified Solicitor or Barrister has the expertise and access to all the relevant evidence and legal knowledge to provide accurate advice on your case.

It's important to rely on your legal team for any information regarding your investigation and potential sentence, as they will be fully informed of all aspects of your case and can provide the most accurate guidance. Your therapist's input is valuable for emotional and psychological support, but legal advice should always come from your Solicitor or Barrister. Solicitors often ask therapists to provide letters confirming that independent therapy has taken place which is extremely helpful.

I have children, will Social Services take my children away?

Social Services will be notified of any allegations, and they will most likely initiate a formal assessment. Typically, children are only removed from their parents' care where there is clear evidence of harm or a significant risk of harm. I strongly recommend that suspects seek independent advice from a family law practitioner in these circumstances. Furthermore, suspects should not enter into any agreements with Social Services or speak about the specifics of the criminal investigation with Social Services until they have received legal advice.

Will I lose my job?

The impact on your employment can vary depending on your industry. If you work in a field where you do not interact with vulnerable people, you may not be required to disclose an investigation or conviction to your employer. However, if you work in fields such as education or healthcare, you are likely to be required to disclose any investigation to your employer or professional body. Additionally, the Police might inform employers in regulated industries due to safeguarding concerns. Being under Police investigation could lead to suspension or other actions by your employer, depending on the investigation's outcome. For specific guidance, please refer to your employee handbook to understand if you need to disclose any arrests or convictions.

How long will this investigation take?

In my experience, it can typically take up to a year or in some cases even longer. Investigations into online child exploitation cases can indeed take a considerable amount of time. The complexities include, digital forensic analysis, evidence found on devices which may lead to other offences. This is amplified by the backlog of cases which most Police forces are facing. The timeline can vary depending on many factors including the area of the country the investigation is taking place and therefore managing expectations during this period is essential. It is challenging for both the individuals being investigated and their legal representatives, as uncertainty can be a source of stress. It is recommended that suspects make productive use of their time by engaging in rehabilitation activities.

I have suffered enough during this investigation, and I have lost everything. Will the Police think of that and consider dropping this case?

While your distress and losses during the investigation can be considered during the review process, the decision to proceed with a case is primarily based on evidential factors, as well as the public interest. While your emotional and personal difficulties are significant, the legal process will continue independently, and it is imperative to rely on legal advice and therapy to navigate this challenging situation.

The Police have bailed me away from home, when can I return?

The timing for your return home while on Police bail hinges on the imposed conditions and the nature of the allegations. If it relates to child safeguarding concerns, returning home may be challenging due to the priority placed on safeguarding. In cases solely involving possession of CSAM, negotiation with the police may be possible after 28 days when assessments have been undertaken. Seek advice from your Solicitor who can draft and submit written representations to the Police or court requesting a variation of bail conditions and/or removal of particular conditions.

The Police have taken my work devices, what shall I do?

You should notify the Police that the seized device is the property of your employer. The Police could triage the employment related device in-house to check for illegal material. I have found that the Police are co-operative when it comes to prioritising work-related devices.

Is there any possibility my case could be dropped?

The Police are often alerted to CSAM access through multiple channels, including referrals from internet service providers (ISPs) and algorithms used on social media platforms. Nevertheless, such information alone will not suffice to meet the criteria required for prosecution. It is worth noting that I've had cases where clients admit to prior CSAM access, yet the charges were eventually dropped due to the lack of substantial evidence on their devices.

Footnotes

1. Child Exploitation and Online Protection Centre (CEOP); The Way Forward (2010).
2. These companies state they are committed to eradicating the sexual exploitation of children by developing video-matching technologies and have signed up to <https://www.technologycoalition.org>
3. National Crime Agency; National Strategic Assessment (2023) <https://nationalcrimeagency.gov.uk/nsa-child-sexual-abuse>
4. Full Fact; Social Media (2021) <https://fullfact.org/online/sex-offenders-registry/>
5. An indecent photographic image includes videos imagery.
6. Section 1.
7. Section 160.
8. Section 62.
9. Please note: Legal advice provided whilst at the Police Station does not extend outside of the interview.
10. Disclosure is a written document given to the Solicitor by the Police which provides discretionary information about the offence which is to be investigated.
11. Device attribution establishes whether the device belongs to the suspect.
12. Distribution and production have greater sentencing consequences than possession only.
13. Section 15A.
14. Criminal Attempts Act 1981.
15. Section 1A Protection of Children Act 1978.
16. Section 34(1) PACE 1984, section 4.3 College of Policing, Pre-charge bail Statutory Guidance Consultation (2022).
17. Suspects and defendants benefit from the presumption of innocence. Therefore, the burden of proof belongs to the prosecution. However, a suspect can assist their own defence.
18. Number of images considered 'low' is a matter decided by the individual Police force and or the CPS.
19. Where there is insufficient evidence, cases are not always referred to the CPS, a police Detective Sergeant has the authority to refuse charge a case.
20. Defendants have the option to enter no plea in cases that are to be heard at the Crown Court.
21. Most defendants are given bail.
22. Ancillary Orders: As well as imposing a sentence, the judge or magistrates may also impose orders on the offenders. These are known as ancillary orders. Some ancillary orders are aimed at redressing the harm caused by an offender, such as compensation orders, serious crime prevention orders and sexual harm prevention orders.
23. [https://www.legislation.gov.uk/ukpga/2003/42/section/80#:~:text=80Persons%20becoming%20subject%20to%20notification%20requirements&text=\(d\)in%20England%20and%20Wales,as%20a%20%E2%80%9Crelevant%20offender%E2%80%9D](https://www.legislation.gov.uk/ukpga/2003/42/section/80#:~:text=80Persons%20becoming%20subject%20to%20notification%20requirements&text=(d)in%20England%20and%20Wales,as%20a%20%E2%80%9Crelevant%20offender%E2%80%9D)
24. Section 122A(6)(a) Sexual Offences Act 2003 <https://www.legislation.gov.uk/ukpga/2003/42/section/122A>

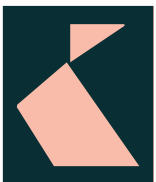
For those under Police investigation for online child sexual exploitation offences within the UK.

The information provided in this resource, "*Your Legal Guide: Understanding Online Child Exploitation*" by Kelly Blake Legal, is for general informational purposes only and does not constitute legal advice. While every effort has been made to ensure the accuracy of the information contained herein; laws, regulations and ancillary orders regarding child exploitation may change over time. Readers are encouraged to consult with a qualified legal professional for accurate and personalised legal advice. Kelly Blake Legal therefore does not accept any responsibility for any loss or damages incurred as a result of relying on the information provided in this resource. The contents should not be used as a substitute for professional legal advice.

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