

Serious Crime Act 2015

Fact sheet: Offence of sexual communication with a child

Background

1. In 2014 the National Society for the Prevention of Cruelty to Children (NSPCC) ran a campaign which suggested that a new offence was needed to target paedophiles who communicate sexually with a child. The Government considered the proposal and, at the WePROTECT summit in December 2014, the Prime Minister announced the intention to create a new offence in response to the campaign.

Current law

2. Sexual offences against children are sickening crimes and it is vital to protect victims. There are robust laws in place to deal with much of this abhorrent behaviour, enabling the prosecution of individuals for a range of existing offences, depending on the circumstances.
3. For example, sections 8 and 10 of the Sexual Offences Act 2003 make it an offence to cause or incite a child under 13 or 16 respectively to engage in sexual activity. These offences carry a maximum 14 year sentence. They could, depending upon the circumstances, apply where a communication with a child (whether sexual or not) could be shown to have caused or incited some kind of sexual activity by the child including, for example, naked or semi-naked posing. However, these offences are unlikely to apply if a communication (for example, in the form of an e-mail or a text message) sent to a child contains sexual content but does not in any way ask the child to engage in sexual activity.
4. Section 127 of the Communications Act 2003 makes it an offence to send a message by means of a public electronic communications network (including the internet) if its content is grossly offensive, indecent, obscene or menacing. Depending on the content of the message, this offence could apply where sexual messages or messages seeking a sexual response are sent to a child by some form of electronic communication, such as text, e-mail or phone (although it would not cover non-electronic written messages or verbal communication, or electronic messages sent by a private network such as a school intranet). This offence is not a sexual offence and does not automatically attract sex offender registration. It would not be appropriate to change that position as the offence also criminalises behaviour that may not be sexual.
5. The publication of sexual material to a child or children may, depending on the content and circumstances, amount to an offence under the Obscene Publications Act 1959. This offence attracts a maximum five year prison sentence. It does not attract automatic sex offender registration as it can be committed through the dissemination of material which is not of a sexual nature.

Creation of a new offence

6. The UK's laws to protect children are robust and respected across the world. But it is vital to remain responsive to changes and developments. This is particularly relevant to changes in technology and communications, which along with bringing major benefits to society, have given potential offenders new ways of contacting children to encourage or prepare acts of abuse.
7. Section 67 of the Serious Crime Act 2015 creates a new offence of sexual communication with a child which will help ensure that young people are fully protected by the law and allow the authorities to intervene earlier to prevent more serious offending against children.
8. The new offence criminalises a person aged 18 years or over who communicates with a child under 16 (who the adult does not reasonably believe to be 16 or over), if the communication is sexual or if it is intended to elicit from the child a communication which is sexual.
9. The offence applies only where the defendant can be shown to have acted for the purpose of obtaining sexual gratification. Ordinary social or educational interactions between children and adults, or communications between young people themselves, will not be caught by the offence.
10. The offence extends to England and Wales and is subject to a two year maximum prison sentence.

Ministry of Justice
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