

Best practice for partner agencies when suspecting indecent images of children material

Section 1 of the Protection of Children Act 1978 creates various offences regarding the taking, making or distributing of indecent photographs (or pseudo-photographs) of a child. It is an offence for a person to:

- (a) to take, or permit to be taken, or to make, any indecent photograph or pseudo-photograph of a child, or
- (b) to distribute or show such indecent photographs or pseudo-photographs; or
- (c) to have in his/her possession such indecent photographs or pseudo-photographs, with a view to their being distributed or shown by him/herself or others. Or
- (d) to publish or cause to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such indecent photographs or pseudo-photographs or intends to do so.

There is a 'defence' to (b) and (c) above where proceedings may not take place if the person can prove

- (a) that he/her had a legitimate reason for distributing or showing the photographs or pseudo-photographs or (as the case may be) having them in his/her possession; or
- (b) that he/her had not him/herself seen the photographs or pseudo-photographs and did not know, nor had any cause to suspect, them to be indecent.

When acting in the best interest of a child, the above should all be considered to ensure an individual does not commit the offence, or find themselves in a difficult position. Only Police Officers have a seizure power to retrieve evidence, and as such statutory body staff may commit an offence. Certainly, if knowing that they are taking possession of a device or item which has indecent images on, even for the reason of keeping it safe, would commit an offence and not be able to use the lawful defence under 2(b) because they know they are taking hold of the item and the images are indecent and that is the reason they have it.

The best practice is to ring the police on 101, ideally without the person who has the device knowing, to explain the circumstances and to request a Police Officer to either come and seize the device if it is soon to be destroyed, or to inform the Police about suspicions of the offence in general. If this is not possible then while accepting that it is a difficult decision, the staff member should not take possession of the device if they suspect there to be indecent images on there. If they have cause to take it for another legitimate reason, then that is their decision, but not for the indecent images.

If a member of school staff finds a pornographic image, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable.

Advice for schools:



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