

CRIMINAL JUSTICE AND COURTS BILL

Factsheet – Revenge Pornography

Background

1. The Government has looked carefully at the concerns raised by campaigners and Parliamentarians about the uploading or sharing of revenge pornography.

2. The Government has engaged with the public and a range of stakeholder groups about this issue and this has led us to conclude that a new criminal offence is the best way to ensure that this behaviour is effectively tackled by the criminal law. We are now creating a new criminal offence of disclosing private sexual images without consent and with intent to cause distress.

Creation of a new offence

3. There are a number of existing criminal offences that could apply to instances of revenge porn depending on the precise circumstances of the case. These include the offence of harassment under the Protection from Harassment Act 1997, offences that criminalise the making, dissemination or possession of indecent photographs of children and the offences contained in the Communications Act 2003 and the Malicious Communications Act 1988. However, we believe that creating a stand alone offence is the best way of effectively targeting this behaviour.

4. The new offence will criminalise the disclosure of photographs or films 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 picture disclosed and with the intention of causing that person distress.

5. The clause is drafted to ensure that those who disclose material for the purpose of preventing, detecting or investigating crime or who disclose it in the course of, or with a view to, the publication of journalistic material which he or she reasonably believed it would be in the public interest to publish will not commit an offence. Provision will also exclude from the ambit of the offence the disclosure of material that the defendant reasonably believed had been published for reward (such as commercial pornography) and which he or she had no reason to think was published without the consent of the individual concerned.

6. The focus of the offence is on photographic material (whether in still or moving form). The offence is drafted to ensure that it will apply to material which appears photographic and originates from a photograph or film recording even if it has been manipulated in some way. But the offence does not apply if it is only because of the manipulation that the film or photograph is private and sexual or if the intended victim is only depicted in a sexual way as a result of the manipulation.

7. The offence, which will extend to England and Wales, will be triable either way and punishable with a maximum custodial sentence of 2 years.

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