

ONLINE SEXUAL EXPLOITATION AND ABUSE IN THE UNITED KINGDOM



The United Kingdom (UK) is a key player in the fight against online child sexual exploitation and abuse. Their Tackling Child Sexual Abuse Strategy 2021 outlines the government's ambitious objectives to address all forms of child sexual abuse, prevent individuals from offending and re-offending, protect and safeguard children, and support all survivors. The UK has a number of laws that seek to address some forms of online sexual exploitation and abuse (OSEA) and hold perpetrators to account. Recently, the government published a Draft Online Safety Bill, which aims to establish a new regulatory framework to tackle harmful content online.

Despite all these measures to address OSEA, online abuse persists and has increased as more people interact online through the use of social media and smartphones. In 2020, the overall share of households in the UK that had access to the internet was 97 percent. This constituted an increase of 17 percent over the last 10 years.¹ Also increasing is violence against women and girls on the internet. Access to digital connectivity, camera-ready technology, and online anonymity make it easy to groom, recruit, and sexually exploit with impunity.

During the Covid-19 pandemic, black and minoritized women and non-binary people in the UK reported the biggest increase in online abuse, with 38 percent saying the pandemic led to increased online abuse.² Law enforcement reported a rise in online grooming and Child Sexual Abuse Material (CSAM)³, and the Internet Watch Foundation's 2020 report recorded that 11 to 13 year-old girls are increasingly at risk of online grooming and online sexual extortion and coercion.⁴

OSEA is part of the continuum of gender-based violence and is rooted in sex, gender, and intersecting inequalities and abuse of power that perpetuates women's and girls' subordination in society. Women are 27 times more likely to be harassed online than men, with 1 in 5 women in the UK having been subjected to online harassment or abuse.⁵ In the UK, online sexual abuse and exploitation of women and girls is compounded with multiple forms of discrimination intersecting with racism and homophobia.

Note: The information in this factsheet is largely derived from the report titled *Ending Online Sexual Exploitation and Abuse: A Call for International Standards*, published during November 2021. Please refer to the report for further information on these laws as well as a full list of recommendations. <https://www.equalitynow.org/endosea>.

1 <https://www.statista.com/statistics/275043/percentage-of-households-with-internet-access-in-the-uk-and-eu/>

2 <https://www.endviolenceagainstwomen.org.uk/experts-call-online-vawg-online-safety-bill/>

3 <https://www.iicsa.org.uk/reports>

4 Internet Watch Foundation (2020, April). Face The Facts. The Annual Report 2020. <https://www.iwf.org.uk/sites/default/files/inline-files/PDF%20of%20IWF%20Annual%20Report%202020%20FINAL%20reduced%20file%20size.pdf>

5 <https://www.amnesty.org.uk/online-abuse-women-widespread>



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LEGAL LANDSCAPE

Overview of International and Regional Treaties

The UK is a party to a number of international and regional treaties that provide for the rights of women and girls and for protection from sexual exploitation and abuse. Internationally, the UK has ratified:

- The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- The UN Convention on the Rights of the Child (CRC) and its Optional Protocol on the sale of children, child prostitution, and child pornography (the CRC Optional Protocol).
- The International Covenant on Civil and Political Rights (ICCPR).

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol).
- The International Labour Organization (ILO) Convention on the Worst Forms of Child Labour.

The UK has also ratified two relevant Council of Europe Conventions, namely the Convention on Cybercrimes (Budapest Convention) and the Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention).

Overview of Existing Laws Covering OSEA

Nationally, the UK has enacted a number of laws that are relevant in addressing OSEA. The main laws include:

- The Sexual Offences Act, which provides protection from sexual offenses, including rape, sexual assault, and causing a person to engage in sexual activity without consent and contains measures to protect from sexual harm.
- The Computer Misuse Act, which prohibits online sexual coercion and extortion, and threatening to disclose an intimate image may be an offense if the image is accessed through the unauthorized use of a person's phone or computer.
- The Theft Act, which makes it a criminal offense to make any unwarranted "demand with menaces" with a view to making gains or causing loss to another.⁶
- The Malicious Communications Act, which criminalizes the sending of communications "containing a message which is indecent or grossly offensive."⁷
- The Communications Act, which criminalizes sending messages, images, and electronic communications that are partly or wholly indecent or grossly offensive.⁸
- The Protection of Children Act⁹ and the Criminal Justice Act¹⁰, which criminalize the possession, taking, distributing, advertising, or showing of indecent photographs or pseudo-photographs of a child.
- The Criminal Justice and Courts Act, which provides a maximum of two years imprisonment for sharing a private sexual image without consent.

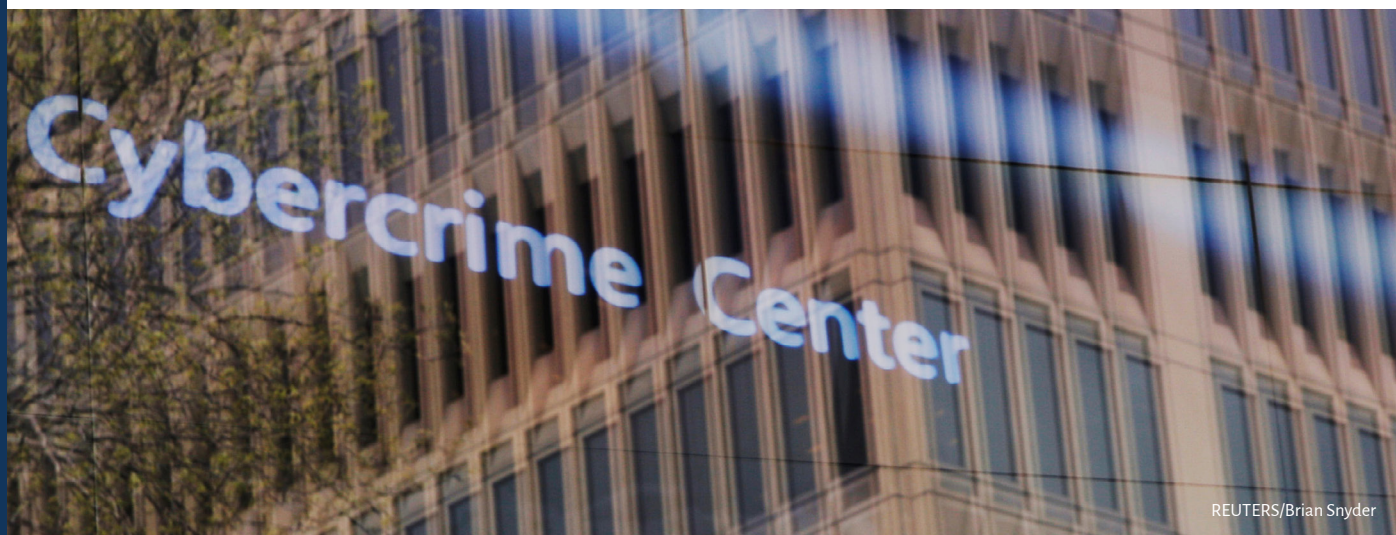
⁶ Article 21 of the Theft Act, 1986

⁷ Section 1 of the Malicious Communications Act, 1988

⁸ Section 368E(3) (za) of the Communications Act, 2003

⁹ Section 1 of the Protection of Children Act, 1978

¹⁰ Section 160 of the Criminal Justice Act, 1988



REUTERS/Brian Snyder

GAPS IN LAW

Despite the UK's efforts to act against OSEA, existing law does not adequately address its different forms or impacts, leaving gaps in legal protection against this abuse. The government's Draft Online Safety Bill does not recognize online violence against women and girls, which would include online sexual exploitation and abuse, as a specific harm under the Bill. While the Bill seeks to protect children from online sexual exploitation and abuse, there is a gap regarding protection of adults.



Online Grooming and Solicitation for Sexual Exploitation and Abuse

Under Section 15A of the Sexual Offences Act, it is an offense for a person aged 18 and above to communicate with a child for the purpose of obtaining sexual gratification or encouraging the child to “make a communication that is sexual.” Although this provision may be applied to online offenses, liability requires proving that the adult established contact to meet the child for the purpose of committing a sexual offense and took steps to physically meet the child.

The Sexual Offences Act does not reflect how current technology is used. Camera-ready laptops and phones make it unnecessary for an offender to physically meet someone to abuse them. The Act also does not protect adults who may also be vulnerable to online grooming or exploited children once they become adults, given the long-term nature of online grooming.

Online Sexual Coercion and Extortion

In the UK (England and Wales), prosecutors can use the general blackmail legislation in the form of the Theft Act, together with the Computer Misuse Act, to prosecute online sexual coercion and extortion. Under the Theft Act, it is a criminal offense to make any unwarranted “demand with menaces” with a view to making gains or causing loss to another. Furthermore, threatening to disclose an intimate image may be an offense under the Computer Misuse Act 1990 if the image is accessed via unauthorized use of a person's phone or computer. However, there is no national law that specifically addresses online sexual coercion or extortion. A law specific to this type of OSEA would be able to take into account the sexual nature of the offense, which is not addressed in current laws enforced against offenders.

Child Sexual Abuse Material (CSAM)

In the UK (England and Wales), CSAM offenses can be prosecuted under the Malicious Communications Act, which criminalizes the sending of communications “containing a message which is indecent or grossly offensive.” The Communications Act also criminalizes sending messages, images, and electronic communications that are partly or wholly indecent or grossly offensive. Additionally, the Protection of Children Act and the Criminal Justice Act criminalize the possession, taking, distributing, advertising, or showing of indecent photographs or pseudo-photographs of a child.

One of the challenges the UK faces, like other countries, is addressing how to detect adolescent girls in CSAM on the internet. Automated tools that detect CSAM online and human reviewers cannot always be certain that images of girls who have reached puberty are not images of adults. The laws that address CSAM should include specific protections for adolescent girls.

Live-Streaming of Sexual Exploitation and Abuse

In the UK (England and Wales), courts have considered cases involving the live-streaming of sexually exploitative material to fall within the “making” of an indecent image under the Protection of Children Act and provisions in the Sexual Offences Act relating to child sexual offenses and abuse of a position of trust. Moreover, the Serious Crimes Act may encompass live-streaming if a person views live-streamed sexual abuse, and there is evidence they encouraged the commission of a sexual offense. The UK has successfully prosecuted individuals for live-streaming sexual abuse, including nationals who watched child abuse live-streamed from other countries.

A gap in the UK's law is that it does not include specific protections for adults. In addition, abused adolescent girls are likely falling through the cracks because the tools used to detect images and videos are not always able to determine the age of survivors. There are also no specific provisions to address the use of deepfakes in live-streaming.



Online Sex Trafficking

The UK's Modern Slavery Act stipulates in Section 3 that sexual exploitation involves the commission of an offense under Section 1(1)(a) of the Protection of Children's Act (indecent photographs of children) or under Part 1 of the Sexual Offences Act. Sexual exploitation in the Act is defined broadly and can be interpreted to refer to exploitation that takes place both online and in person. However, there are recommendations that the UK should amend the Act to more clearly reflect that a child is not able to consent to any element of their trafficking. This is especially important in the online world, where adolescent girls are particularly vulnerable to being groomed online and trafficked. In addition, the Act should be amended to specifically address the online and digital technology aspects of this crime.

Image-Based Sexual Abuse

Prosecution of this offense may come under the Communications Act, the Malicious Communications Act, and the Protection from Harassment Act. In England and Wales, the Criminal Justice and Courts Act creates a specific offense for someone to disclose private sexual photos and films. The Act requires proof of several elements: that there was sharing of a private sexual photograph or film; without the consent of the person depicted in the photograph or film; and with the intention of causing distress to the person depicted. The Act has resulted in prosecutions, but there are gaps because some aspects of the offense are not criminalized. For example, the Act does not criminalize threats to share sexual images or the production and sharing of technologically generated images depicting a known person, such as deepfakes. In addition, the Act does not take into account sharing where the motivation is other than causing distress, such as sharing with the intention of obtaining a profit or for entertainment.

Although image-based sexual abuse can also be addressed through takedown notices, i.e. when survivors request digital service providers and platforms to remove and stop further sharing of the images, this has not been helpful in all situations as service providers and platforms, which are designated as conduits of third-party content, are exempt from liability except in certain circumstances. This may be complicated by the fact different platforms have different standards.

KEY RECOMMENDATIONS

To better address OSEA, the UK Government should:

- Enact and implement laws that address the root causes of OSEA, in particular gender, sex-based discrimination and intersecting inequalities, and the proliferation of misogyny and abuse of power online.
- Ensure that laws and policies that address all forms and aspects of OSEA are enacted and implemented. They should align with international standards, where they exist, including providing for protection of vulnerable people. Laws should also consider the gendered, technological, and multi-jurisdictional nature and dimensions of OSEA.
- Ensure that OSEA is addressed in the proposed Online Safety Bill and that clarity is provided on the interaction between privacy and freedom of expression and safety and protection from abuse and harm online.
- Mandate digital service providers and platforms to implement clear policies and procedures relating to posting, sharing, and publication of OSEA material on their platforms and mandate penalties when they fail to comply with the law.
- Strengthen national institutions through provision of adequate resources to investigate and prosecute OSEA cases.
- Support survivors' access to the legal system, including through providing adequate funding to key institutions including law enforcement, child protection services, women's rights departments, and civil society organizations, with a goal of supporting investigation and prosecution of cases and support of survivors of OSEA.
- Support civil society initiatives to raise understanding of OSEA including information on how to identify violations and report to law enforcement and digital service providers and platforms.
- Promote and support efforts for a global response to OSEA including development of mechanisms to enhance international cooperation.