

Appendix C – Relevant Criminal Offences Relating to Online Communications

- ❖ Sexual communication with a child - Section 67 of the Serious Crime Act 2015 inserts the new offence into the Sexual Offences Act 2003 ("the Act") (at section 15A). It:
 - criminalises a person aged 18 years or over who intentionally communicates with a child under 16 (who the adult does not reasonably believe to be 16 or over), for the purpose of obtaining sexual gratification, where the communication is either (a) sexual; or (b) intended to elicit from the child a communication which is sexual. A communication is defined as sexual if any part of it relates to sexual activity or where a reasonable person would, in all the circumstances, consider it to be sexual.
 - applies whether or not the child communicated with the adult and irrespective of the way the communication was made - for example, it applies to oral communications and written notes as well as to e-mails and text messages.
- ❖ Causing or inciting a child to engage in sexual activity - Sections 8 and 10 of the Act make it an offence to cause or incite a child under 13 or 16 respectively to engage in sexual activity. These offences could, depending on the circumstances, apply to a communication with a child (whether sexual or not), but only where the communication could be shown to have caused or incited some kind of sexual activity by the child.
- ❖ Meeting a Child Following sexual grooming - This offence is designed to protect children from both in person and online grooming. It is set out in Section 15 of the Act. It applies to communication with a child (whether sexual or not), but only where the adult (a) intends to commit a sexual offence against that child; and (b) meets the child, travels with the intention of meeting or arranges to meet, or the child travels to meet the adult. These requirements do not apply to the new offence.
- ❖ Improper electronic communications - Section 127 of the Communications Act 2003 makes it an offence to send a message by means of a public electronic communications network (including phone calls, text messages and emails) if its content is grossly offensive, indecent, obscene or menacing. Depending on the content, this offence could apply where sexual messages are sent to a child 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.
- ❖ Publishing obscene material - 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.
- ❖ Taking, distributing, or possessing indecent images of a child – These offences are set out in the Protection of Children Act 1978 and the Criminal Justice Act 1988. They can be useful in cases where an adult has persuaded children to share indecent images of themselves, but would not apply to an adult sending an indecent
- ❖ Sending offensive messages - Section 1 of the Malicious Communications Act 1988 prohibits the sending of an electronic communication which is indecent, grossly offensive, or which is false, or which the sender believes to be false if, the purpose or one of the purposes of the sender is to cause distress or anxiety to the recipient