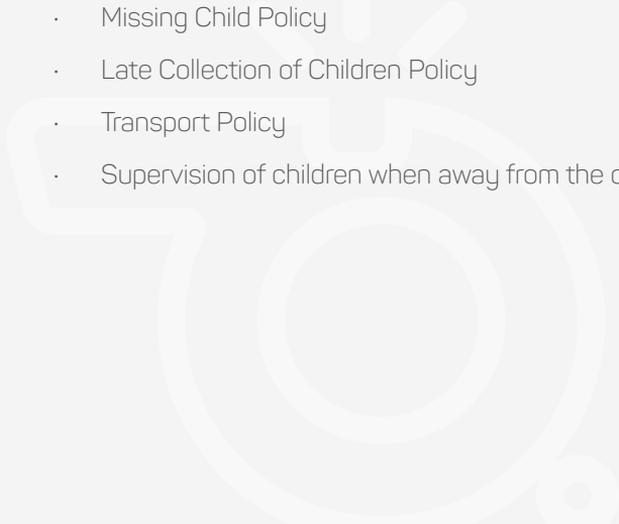




## SECTION 2.4

# Policies, Procedures and Guidance

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## Guidance on indecent/child abuse images of children

### Risks

Some children have tried and succeeded in taking images (video and still photographs) of other children in the process of changing, in changing villages or under/over changing cubicles. Some children, only known to each other through the sport have shared these indecent images with others. Indecent is not defined in legislation but can include an image of a child in a state of undress in the changing room.

These images can be used to isolate and embarrass a child amongst their peer groups, exploit them and in serious cases make demands of children to carry out acts against their wishes. Any use of these child abuse images, or indeed the threat of such, can have devastating consequences for any child. It can significantly affect the mental health and social interactions of children, including trust amongst a peer group. Once the image is in the public domain, it is difficult to control, to know who has seen it and what they have done with it. This can lead to feelings of paranoia and isolation at a time when teenagers in particular need to build up their self-esteem during a crucial stage of their development. The risks to victims, bystanders and perpetrators are different but all three contain a degree of risk that can leave a child in a vulnerable state and can significantly affect their future. It is vital that children understand the legal implications and the impact on others.

Swim England's evidence is consistent with earlier NSPCC research that girls are more adversely affected by the risks than boys – it is not a gender neutral practice.

### Criminal Acts

Under the Protection of Children Act 1978 and Criminal Justice Act 1988 it is a criminal offence to take, make, distribute (send), upload and/or possess any indecent image of a child

(including those taken/possessed by other under 18-year-olds). It is also an offence to request a child to take, make, distribute or upload such an image, or encourage another to commit an offence.

"Making" includes opening, accessing, downloading and storing online content. "Sharing" includes sending on an email, offering on a file share platform, uploading to a site that other people can access and possession with a view to distribute the image(s).

Under Section 67 of the Sexual Offences Act 2003 an offence of "voyeurism" is committed if a person for the purposes of their sexual gratification observes or films another without their consent.

Under the Malicious Communications Act 1988 it is an offence to send a message which is threatening, indecent, grossly offensive or false with intent to cause distress or anxiety.

Under the Voyeurism (Offences) Act 2019 the offence of "upskirting" refers to an individual whom without consent operates equipment or records an image beneath a person's clothing to observe their genitalia or buttocks, whether covered or uncovered by underwear garments.

The National Police Chiefs' Council (NPCC) does not support prosecutions of children for taking indecent images of themselves due to the detrimental effect this can have on them especially if they are convicted. The label sex offender would be applied to a child convicted of such offences and could be detrimental to their future health, wellbeing and affect their future employment. The NPCC position differs if a child takes indecent images of others.



## Types of criminal acts and course of action

All use of images as detailed above are criminal offences, and, if deemed to be an **“experimental”** act, then Children’s Social Care, the Multi Agency Safeguarding Hub (MASH) Team and Swim England Child Safeguarding Team should be advised. If the act is deemed to be **“aggravated”** then it must be reported to the police, Children’s Social Care and Swim England Child Safeguarding Team.

### Experimental

If the concern relates to a member of the organisation aged 13 or above who has voluntarily (with no suggestion of coercion/exploitation/threats, etc.) taken an indecent image of themselves, and then shared this with another individual they are in a relationship with, we will determine whether the act may be seen as experimental (e.g. for teenagers within a relationship this might not be seen as unusual behaviour).

In this case, parents/guardians should be informed that Swim England will not be referring the concern direct to police (in line with Child Exploitation and Online Protection Command (CEOP)/NPCC guidance), but will refer the matter to the relevant Children’s Social Care or the MASH Team, for assessment by them. This may be done without parental consent (for example, if it is a criminal offence which may lead to significant harm). This is to ensure that the professionals involved can make a suitable decision around supporting and guiding each child, based on any background information which will not be known to Swim England and to help parents/guardians manage that behaviour. Where both parties (sender/recipient) are at the same organisation, the Welfare Officers and other staff can also work with parents/guardians to monitor the children’s behaviour, to prevent recurrence, in the environment of the organisation.

The **request** to send an indecent image (child abuse image) is also an offence. If, however, a child aged 13 or over asks another child of the same age within a relationship context for such an image, without any of the following aggravating factors, then the matter will be referred in accordance with the previous paragraph.

### Aggravated

This term may be applied to any other situation not detailed above, such as incidents which include adult involvement and abusive or criminal behaviour by under 18s such as sexual abuse, extortion, threats or malicious conduct arising from personal conflicts. **It also includes the creation, showing or sharing of images without the knowledge, or against the will, of the individual who is pictured (e.g. taking images under/over cubicles).**

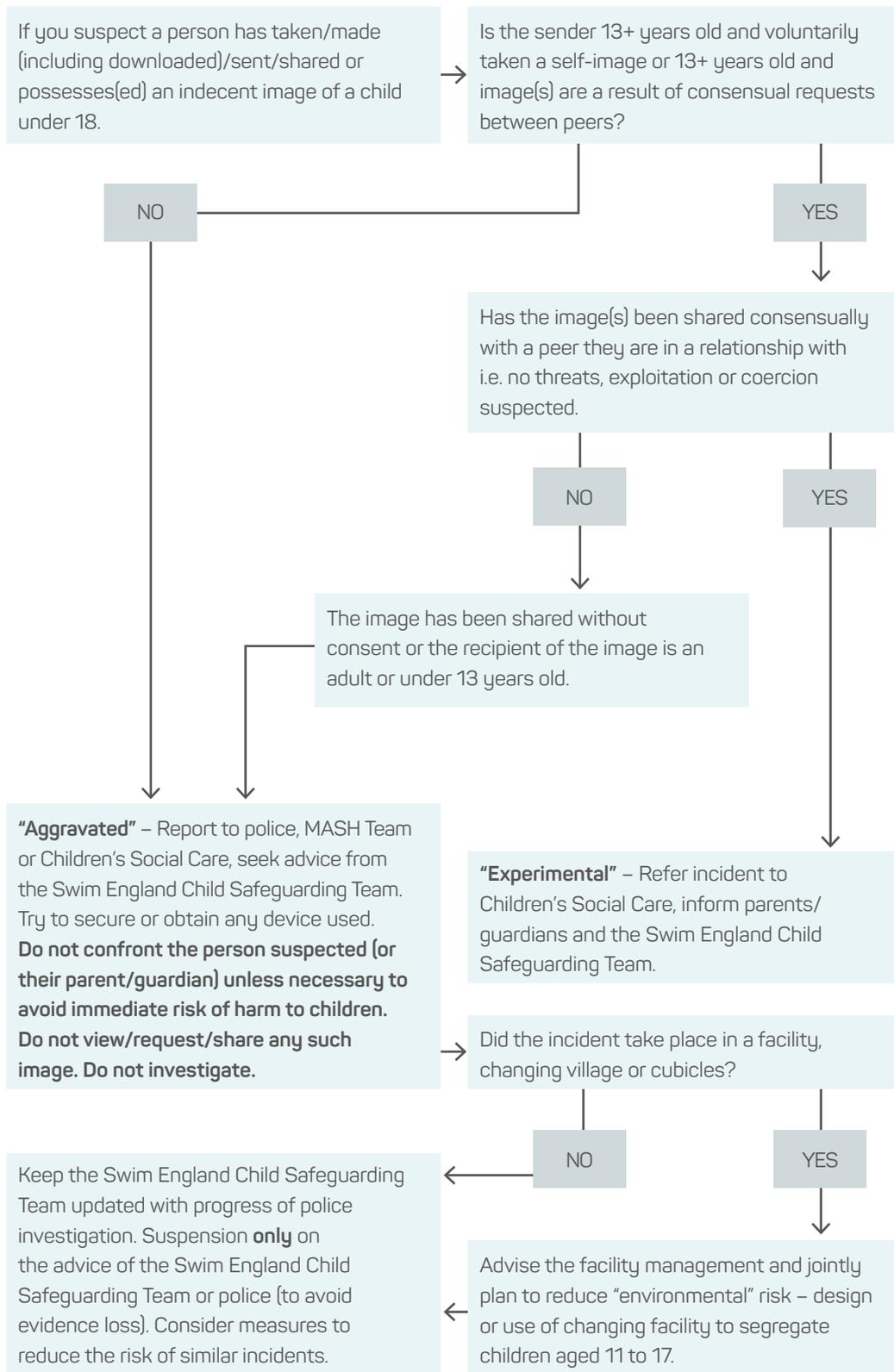
Aggravating factors to be considered also include:

- The age of the child (or children) involved.
- The circulation of images to peers, or with others they are not in a relationship with.
- The coercion or exploitation of a child by the use of rewards or threats to send/share the image.
- The number of “victims” or repeat behaviour by any party.
- The wording or language which accompanies the image.
- The explicit or depraved nature of images beyond “the norm”.
- Any other background information that may increase the risk of harm.

A **request** for an image under any of these circumstances can also be considered to be an **aggravated** act. In the case of an aggravated incident, the matter will be referred to police and the MASH Team or Children’s Social Care, by Welfare Officers or the Swim England Child Safeguarding Team, according to local arrangement.



## Indecent/child abuse images



## Action to be taken by the club

Safeguarding children is paramount, if there is a strong suspicion that a device may contain an indecent image of a child then we recommend:

**Do not directly confront/inform the person who is suspected of taking/possessing an image, or, if a child, their parent/guardian without seeking advice. The exception is if a child may be at risk of immediate harm, and confronting/informing the person would reduce that risk.**

Where the device is available, retain and secure the device, and follow the reporting procedures on pages 21-23. This includes reporting the act immediately to the police, if necessary, in order to secure evidence and/or protect a child from harm. You should also inform the Welfare Officer or Swim England Child Safeguarding Team.

**Never view, or show the image to another unless there is a clear reason to do so (e.g. police request), or send, print, share, move or save the image anywhere, or allow a child to view, send or share the image. Such action may amount to a criminal offence.**

If, for example, a child denies they have any such image on their device or refuses to hand over the device and you are confronting them shortly after the incident has allegedly taken place, they can be asked to produce the device ideally with two appropriate adults present. It is vital they do not get the opportunity to delete any images or data themselves.

Where the device is not available, or where an incident comes to light after the event, then an immediate referral should be made to the Welfare Officer and Swim England Child Safeguarding Team. If the incident takes place "out of hours", and there are concerns that the image has been, or will be shared, you should contact the police.

Keep any information limited to those who "need to know". Advise the Leisure Centre Duty Manager of the incident (if appropriate), if you are still at the location and the concern falls under the "aggravated" category above, you should contact the police.

Please note, a "device" can include mobile phones, tablets, laptops, desktop computers, any type of camera or video camera, or any type of technology capable of taking, sharing or storing images or video footage.

**Please remember that it is not the responsibility of members of the organisation to make decisions about the seriousness of the matter, nor to investigate this crime.**

## Prevention of incidents

There are several ways that an organisation can work to reduce the risk of an incident occurring, as detailed above and in the Changing Room Policy on pages 80-81.

The basis of this being clubs should try to segregate between children that are most likely to be at risk of offending; statistically teenage squads using village changing facilities, where use of devices cannot be monitored or easily observed.

Organisations will find excellent resources from the National Crime Agency's Child Exploitation and Online Protection Command (CEOP) (formerly the Child Exploitation and Online Protection Centre) and the NSPCC Share Aware Campaign. Further advice and club presentations can be sought from Swim England Child Safeguarding Team.

Further guidance is referenced at [gov.uk/government/publications/indecent-images-of-children-guidance-for-young-people/indecent-images-of-children-guidance-for-young-people](https://www.gov.uk/government/publications/indecent-images-of-children-guidance-for-young-people/indecent-images-of-children-guidance-for-young-people).

