

Revenge porn offences will be pursued



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According to recent reports, in the six months prior to April 2015, 14 police forces dealt with 139 cases of revenge porn, compared with 149 incidents recorded by eight police forces between January 2012 and June 2014.

Specific legislation was introduced to deal with these offences on 13 April 2015 by the Criminal Justice and Courts Act 2015 (CJCA 2015). Section 33(1) CJCA 2015 makes it an offence to disclose a private sexual photograph or film if the disclosure is made (a) without the consent of an individual who appears in the photograph or film, and (b) with the intention of causing that individual distress. It would not be an offence to disclose the photograph or film to the individual referred to in (a) and (b).

There are a number of defences within the legislation, including that a person is not to be taken to have disclosed a

photograph or film with the intention of causing distress merely because that was a natural and probable consequence of the disclosure (section 33(8)). A person discloses to another if, by any means, he or she gives or shows it to the person or makes it available to the person.

The definition of 'private' for these purposes is something not of a kind ordinarily seen in public, and it is 'sexual' if it shows all or part of an individual's exposed genitalia or pubic area or what a reasonable person would consider to be sexual. A person convicted under section 33 is liable to a term of imprisonment of up to two years. However, unlike the Sexual Offences Act 2003, there is no requirement to register on the sex offenders' register.

The increase in cases reported to the police could be a result of increased awareness and/or the police and Crown Prosecution Service (CPS) taking such matters more seriously. The Ministry of Justice launched its 'Be Aware B4 You Share' campaign prior to the introduction of the new legislation, advising victims to report the crime; encouraging potential perpetrators to consider the long-term impact on the victim; and warning that such behaviour is a crime.

Social media and the ubiquity of smartphones mean the phenomenon is more prevalent; no longer merely the

provocative selfies of naïve teenagers, but images shared between any couple, are becoming collateral. Internet security leader McAfee's study found one in ten ex-partners threatened to expose risqué photos online – a threat carried out 60 per cent of the time.

While some campaigners criticised the new offence as being too lenient, difficult to prove, and adding nothing to the existing legislation, the increase in the number of cases being prosecuted is a positive sign that these offences will be pursued. The first person to be convicted of this new offence is to be sentenced on 7 August 2015. It remains to be seen if the sentence handed down will have an impact on reducing these offences. **SJ**