



**Law  
Commission**  
Reforming the law

# **Intimate image abuse consultation**

## **Defence roundtable**

**22 March 2021**

**@Law\_Commission**

**[www.lawcom.gov.uk](http://www.lawcom.gov.uk)**

The Law Commission is a statutory independent body created by the Law Commissions Act 1965 to keep the law of England and Wales under review and to recommend reform where it is needed.

The aim of the Commission is to ensure that the law is fair, modern, simple and cost-effective.



## Reviewing the law on the taking, making and sharing of intimate images without consent

- Consultation paper published on 25 February 2021
- Consultation period runs to 27 May 2021
- Consultation paper, summary and how to respond available at <https://www.lawcom.gov.uk/project/taking-making-and-sharing-intimate-images-without-consent/>
- Next steps: we will analyse consultation responses and report to Parliament with recommendations for reform by the end of 2021



## 1. Base offence

- taking or sharing intimate image without consent

## 2. More serious offence

- taking or sharing intimate image without consent with intent to humiliate, alarm or distress person depicted

## 3. Another more serious offence

- taking or sharing intimate image without consent with intent to obtain sexual gratification

## 4. Threatening to share an intimate image



It is an offence for a person (D) intentionally to take or share an “intimate” (sexual, nude, semi-nude or private) image of someone else (V) if—

- a) V does not consent; and
- b) D does not reasonably believe that V consents.



## More serious offence: Humiliate, alarm or distress

It is an offence for a person (D ) intentionally to take or share an “intimate” (sexual, nude, semi-nude or private) image of another person (V) if—

- a) V does not consent; and
- b) D does so with the intention of humiliating, alarming or distressing V.



## More serious offence: Sexual gratification

It is an offence for a person (D ) intentionally to take or share an “intimate” (sexual, nude, semi-nude or private) image of another person (V) if—

- a) V does not consent;
- b) D does not reasonably believe that V consents;  
and
- c) D does so with the intention that they or a third person will, for the purpose of obtaining sexual gratification, look at the image.



It is an offence for a person (D) to threaten to share an intimate image of another person (V), where—

- a) D intends to cause V to fear that the threat will be carried out; or
- b) D is reckless as to whether V will fear that the threat will be carried out.





- Automatic lifetime anonymity for victims
- Special measures at trial for victims
- Notification requirements
  - will apply automatically for the intent to obtain sexual gratification offence when an appropriate seriousness threshold is met
- Sexual Harm Prevention Orders
  - will be available where it is considered necessary to protect the public, or particular members of the public from sexual harm



Non-exhaustive list applies to the base offence only:

- (1) taking or sharing D reasonably believes is necessary for the purpose of preventing, detecting, investigating or prosecuting crime;
- (2) taking or sharing D reasonably believes is necessary for the purpose of legal proceedings;
- (3) sharing D reasonably believes is necessary for the administration of justice;
- (4) taking or sharing for a genuine medical, scientific or educational purpose; and
- (5) taking or sharing in the public interest.



**“Image”** = photographs and videos.

**“Intimate”** = sexual, nude, semi-nude and private.



## Definition of sexual, nude, semi-nude and private

**“Sexual”** something that a reasonable person would consider to be sexual because of its nature; or taken as a whole, is such that a reasonable person would consider it to be sexual.

**“Nude” and “Semi-nude”** images of a person’s genitals, buttocks or breasts, whether exposed or covered with anything worn as underwear, or images of a person’s partially exposed breasts, taken down their top.

**“Private”** includes images of people using the toilet. Asking for views on images of changing, showering or bathing where not otherwise nude or semi-nude.



### Altered images

- Included in definition of “intimate image” for sharing and threat offences.

### Images considered intimate within particular religious groups

- Asking for consultees’ views on whether and to what extent such images should be included in intimate image offences.
- Such images would only be included where the perpetrator was aware the image would be considered intimate by the person depicted.

We provisionally propose that where an intimate image is *taken or shared* without consent and:

- a) the intimate image is taken in a place to which members of the public have access (whether or not by payment of a fee); and
- b) the victim is, or D reasonably believes the victim is, voluntarily engaging in a sexual or private act, or is voluntarily nude or semi-nude.

Under these circumstances, D has not committed an offence unless V has a reasonable expectation of privacy in relation to the taking of the image.



## Public element tests: Images previously shared in public

We provisionally propose that where an intimate image has been shared without consent and:

- a) the intimate image has, or D reasonably believes that the intimate image has, previously been shared in a place (whether offline or online) to which members of the public have access (whether or not by payment of a fee), and
- b) either the person depicted in the image consented to that previous sharing, or D reasonably believes that the person depicted consented to that previous sharing.

Under these circumstances, D has not committed an offence.



## For further information contact:

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