



MCF Guide to Indecent Images of Children (IIOC) Legislation (England and Wales)

For full legal definitions and offence thresholds please refer to the specific act



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The main legislation and guidance surrounding IIOC:

- Protection of Children Act (1978), s.1 (Indecent photographs of children).
- Criminal Justice Act (1988), s.160 (Possession of indecent photograph of child)
- Sexual Offences Act (2003), s.47 - 50 (Sexual exploitation of children).
- Coroners and Justice Act (2009), s.62 (Possession of prohibited images of children)
- Serious Crime Act (2015), s.69. (Possession of guidance on abusing children sexually)
- Sexual Offences Act (2003), s.82 (Period of time an offender is required to be registered)
- Sentencing Guidelines Council categories of child sexual abuse images

Section 1 of the Protection of Children Act 1978 outlines:

It is an offence to take, permit to be taken, make, possess, show, distribute, or IIOC (anyone under the age of 18 years-old).

Further legislation expanded on the above to also include that it would be an offence if the indecent images are in the form of a tracing, drawing pseudo-photograph (image made by computer-graphics or otherwise which appears to be a photograph) or an electronic image.

The term 'making an indecent image of a child' can carry a maximum sentence of 10 years imprisonment. In addition to physically taking/ recording an indecent image of a child on a camera the term 'making' also applies to the following:

- Opening an attachment to an email containing an image
- Downloading an image from a website onto a computer screen
- Storing an image in a folder on a computer (depending on where an image is stored, could also apply to a possession charge under s. 160 Criminal Justice Act 1988)
- Accessing a pornographic website in which indecent images appeared by way of automatic "pop-up" mechanism.
- Printing images from the internet
- Live streaming sexual abuse online, either through Overseas Pay-per-View, Chat Rooms' or First Person Produced Imagery.

Sect 1A of this act allows children of 16 and over to possess images of each other if at the time they were obtained they were -

- a)** Married to each other (or civil partners), or
- b)** Living together as partners in an enduring family relationship.

**Section 160
of the Criminal
Justice Act of
1988 outlines:**

It is an offence to be in the possession of indecent photographs of children. This includes where the images are stored on a device where the suspect is able to access the image or are able to retrieve them.

This is an either way offence (can be heard either in Magistrates or Crown Court) and is punishable on conviction with a maximum of five years imprisonment.

**Sections
47 – 50 of
the Sexual
Offences Act
2003 outlines:**

Sections 47 to 50 relate to child sexual exploitation. In respect to section 48-50 the sex offences refers to sexual exploitation as occurring if on at least one occasion 'sexual services' occur and a form of payment occur. The 'payment' does not need to be financial but could also be the provision of goods or services either gratuitously or at a discount. The legislation is clear that this is regardless of the 'payment' being made to the child or another person.

This includes where an IIOC has been recorded, streamed or otherwise transmitted and the sexual exploitation is then accordingly interpreted.

**Section 62
of the Coroners
and Justice Act
2009 outlines:**

This legalisation created the offence of possession of a prohibited image of a child. These means non-photographic images, which includes computer-generated images (CGI's), cartoons, manga images and drawings.

This offence is punishable on conviction with a maximum of 3 years imprisonment.

**Section 69
of the Serious
Crime Act
2015 outlines:**

This offence relates to being "in possession of any item that contains advice or guidance about abusing children sexually". Sometimes referred to as a 'paedophile manual'. If an individual has any material which contains either advice or guidance about making indecent photographs of children IIOC, they will likely be committing an offence under this section.

It is an either way offence (can be heard either in Magistrates or Crown Court) which carries a maximum sentence of three years imprisonment and requires the Director of Public Prosecutions (DPPs) consent to prosecute.

**Section 82
of the Sexual
Offences Act
2003 outlines:**

Individuals convicted, cautioned or under a disability and to have done the act charged will be required to comply with the notification requirements set out in Part 2 of the Sexual Offences Act 2003. Under Section 82 of the Sexual Offences Act 2003 the table below sets out the time period an offender is required to comply with the notification. This is commonly known as the sex offenders' register.

Sentence	Adult	Juvenile (under 18)
Is sentenced to 30 months or more imprisonment (including life)	An indefinite period	An indefinite period
Is admitted to a hospital subject to a restriction order	An indefinite period	An indefinite period
Is sentenced to a imprisonment for a term of more than 6 months but less than 30 months	10 years	5 years
Is sentenced to imprisonment for 6 months or less	7 years	3 years 6 months
Is admitted to hospital without a restriction order	7 years	3 years and 6 months
Is cautioned	2 years	1 year
Is given a conditional discharge	The duration of the conditional discharge	The duration of the conditional discharge
Received any other disposal (e.g. a fine or community punishment)	5 years	2 years 6 months

Sentencing Guidelines Council - categories of child sexual abuse images:

When a defendant has been found to be in possession of IIOC, the court will categorise a simplified description of the type of abuse portrayed in the images into three categories of seriousness:

- **Category A** - Images involving penetrative sexual activity, sexual activity with an animal or sadism.
- **Category B** - Images involving non-penetrative sexual activity.
- **Category C** - Indecent images not falling within categories A or B



Other legal FAQ:

Q

Is it illegal to access the dark web?

A

No, accessing the dark web in itself is lawful however if you were to engage in criminal activity while on the dark web this would be illegal.

Q

If I was searching for Indecent images of children to help the police would I still be committing an offence?

A

Yes, regardless of the motivation, it is illegal to take, permit to be taken, make, possess, show, distribute, or advertise indecent images of children (anyone under the age of 18 years-old).

Q

If a person over 18 is sexually communicating with a child under 16, but they do not share images, is this an offence?

A

Yes - Serious Crime Act 2015, section 67 states that if the adult does not reasonably believe the child to be over 16 years old and communicates for sexual gratification then this would be an offence.



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