

Women's **Policy Group NI**

WPG NI Response to Proposals to Criminalise Sexually Explicit Deepfakes Images

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1. Introduction:

The Women's Policy Group (WPG) is a group of policy experts and practitioners who advocate collectively for women and girls by promoting gender equality through an intersectional feminist lens. We challenge systemic injustice and discrimination affecting women and girls by informing society and influencing policy and law. Our work is informed by women and girls' lived experiences and rooted in international human rights law.

The WPG is made up of women from trade unions, grassroots women's organisations, women's networks, feminist campaigning organisations, LGBTQ+ organisations, migrant groups, support service providers, NGOs, human rights and equality organisations and individuals. Over the years this important network has ensured there is good communication between politicians, policy makers and women's organisations on the ground. The WPG is endorsed as a coalition of expert voices that advocates for women in Northern Ireland on a policy level.

If you have any questions or queries about this response, or would like to discuss this evidence further with the WPG, please contact Elaine Crory, Women's Sector Lobbyist at elaine.crory@wrda.net

This response was prepared by the following WPG members:

- Elaine Crory – Women's Resource and Development Agency
- Meghan Hoyt - Women's Resource and Development Agency
- Karen Devlin - Women's Aid Federation NI
- Aoife Clements - 50:50 NI

Please note that this response also includes evidence from other WPG work, compiled by a range of WPG members, and not all member organisations have specific policy positions on all the areas covered in this response.

1.1 Endorsements

The WPG would like to endorse the response submitted to this call for evidence by Women's Aid Federation NI

2. Past Consultations Responses, Evidence Submissions and Briefings:

The WPG has published a wide range of evidence through various evidence submissions, public consultation responses and specific briefings on issues relating to the Criminalisation of Sexually Explicit Deepfake Images . Responses made by the WPG, and some of our members, in relation to these issues include:

Primary Research:

- WPG NI Primary Research (2023) into VAWG in Northern Ireland (Attitudes and Reporting VAWG)¹
- WPG NI Primary Research (2022) into VAWG in Northern Ireland (Scope, scale and prevalence of VAWG)²
- WPG NI Primary Research (2021) on the impact of the pandemic on women and girls in Northern Ireland³

Consultation Responses:

- WPG NI (2024) Response to the Domestic Abuse (Safe Leave) Consultation⁴
- WPG NI (2024) Response to the PPS Policy on Prosecuting Stalking⁵
- WPG NI (2024) Response to the PSNI Race and Ethnicity Action Plan 2025-27 Consultation⁶
- WPG NI (2024) Response to Foundational Review of Civil Legal Services⁷

¹ WPG, After Violence: Attitudes and Reporting Violence Against Women & Girls, December 2023, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/670e4ef2026b2340fa37ce9c/1728990964409/After-Violence-WPG-Research-Report.pdf>

² WPG, VAWG Research Report, April 2022, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/670e4f84d42c6b61fc438595/1728991115380/WPG-VAWG-Research-Report.pdf>

³ WPG, Putting Women's Voices at the Core: Primary Research on the impact of the pandemic on women and girls in Northern Ireland, 2021, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/670e4fa25395b9257019ffe1/1728991140105/WPG-Feminist-Recovery-Plan-Research-Report-Womens-Voices-at-the-Core.pdf>

⁴ WPG, Response to Domestic Abuse (Safe Leave) consultation, 2024, Available at: <https://shorturl.at/e83Pa>

⁵ WPG, Response to PPS Policy on Prosecuting Stalking, 2024, Available at: <https://shorturl.at/G16D3>

⁶ WPG, Response to [PSNI+Race+and+Ethnicity+Action+Plan+\(1\).pdf](#)

⁷ WPG, Response to [Review+of+Civil+Legal+Services+\(1\).pdf](#)

- WPG NI (2024) Response to DoJ's Calls for Views on a Victim and Witness Strategy⁸
- WPG NI (2023) Response to Westminster Women & Equalities Committee Inquiry into the Escalation of VAWG⁹
- WPG NI (2003) Response to the PPS Policy for Prosecuting Cases of Domestic Abuse¹⁰
- WPG NI (2021) Response to Protection from Stalking Bill¹¹
- WPG NI (2023) Response to the Department of Justice (DoJ)/ Department of Health (DoH) Draft Domestic and Sexual Abuse Strategy¹²
- WPG NI (2021) Evidence submission on DoJ Justice (Sexual Exploitation and Trafficking Victims) Bill¹³
- WPG NI (2022) Response to Home Affairs Inquiry into Spiking¹⁴
- WPG NI (2022) Response to Westminster Northern Ireland Affairs Committee Call for Evidence: The Effect of Paramilitaries on Society in Northern Ireland¹⁵
- WPG NI (2021) Response to Justice Committee Call for Evidence: Justice (Sexual Exploitation and Trafficking Victims) Bill¹⁶
- WPG NI (2021) Submission on the Safe Leave Bill¹⁷

⁸ WPG, Response to DOJ Calls for Views on a Victim and Witness Strategy, Available at: [WPG+NI+Response+to+Department+of+Justice+Call+for+Views+on+a+Victim+and+Witness+Strategy.pdf](https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e32101372f24a7e61158/1729159970336/WPG-Response-to-DoJ-Calls-for-Views-on-a-Victim-and-Witness-Strategy.pdf)

⁹ WPG, Response to the Inquiry on the Escalation of VAWG, 2023, Available at: <https://shorturl.at/PNGPI>

¹⁰ WPG, Response to PPS Policy on Prosecuting Domestic Abuse, 2023. Available at: <https://shorturl.at/dQtz6>

¹¹ WPG, Joint Evidence Submission on the Protection from Stalking Bill, 2021. Available at: <https://shorturl.at/JFQdG>

¹² WPG, Response to DoJ and DoH Draft Domestic and Sexual Abuse Strategy, 2023, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e32101372f24a7e61158/1729159970336/WPG-Response-to-DSA-Strategy-.pdf>

¹³ WPG, Evidence Submission on the Justice (Sexual Exploitation and Trafficking Victims) Bill, 2021, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e9948d3a52371156fb48/1729161620965/WPG-Written-Evidence-Submission-to-Justice-Sexual-Exploitation-and-Trafficking-Victims-Bill-24-September-2021-1.pdf>

¹⁴ WPG, Response to Home Affairs Inquiry into Spiking, 2022, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e8e998e4ee4b86ccf6c5/1729161449695/WPG-response-to-Spiking-Inquiry.pdf>

¹⁵ WPG Response to [WPG-NI-Response-to-Westminster-Northern-Ireland-Affairs-Committee-Call-for-Evidence.pdf](https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e32101372f24a7e61158/1729159970336/WPG-Response-to-Westminster-Northern-Ireland-Affairs-Committee-Call-for-Evidence.pdf)

¹⁶ WPG Response to [WPG-Written-Evidence-Submission-to-Justice-Sexual-Exploitation-and-Trafficking-Victims-Bill-24-September-2021-1.pdf](https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e9948d3a52371156fb48/1729161620965/WPG-Written-Evidence-Submission-to-Justice-Sexual-Exploitation-and-Trafficking-Victims-Bill-24-September-2021-1.pdf)

¹⁷ WPG, Submission on the Safe Leave Bill, 2021, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e91cfd976a6f41cabf7b/1729161500510/WPG-Response-to-Safe-Leave-Bill-Dec-21.pdf>

- WPG NI (2020) Evidence submission to the Justice Committee on the Domestic Abuse and Civil Proceedings Bill¹⁸
- WPG NI (2020) Response to the Independent Hate Crime Legislation Review Consultation¹⁹
- WPG NI (2021) Response to the Department of Justice Public Consultation on Enhancing Legal Protections for Victims of Domestic Abuse²⁰
- WPG NI (2021) Response to Private Members' Bill Consultation on Paid Domestic Abuse Leave²¹
- WPG NI (2021) Response to Department of Justice Public Consultation on Consent to Harm for Sexual Gratification: Not a Defence²²
- WPG NI (2023) Response to Consultation on TEO EVAWG Strategic Framework²³
- WPG NI (2023) Response to TEO Ending VAWG: Experiences and Attitudes of 16-year-olds in Northern Ireland report – Readership Survey²⁴
- 50:50 NI, Digital Threats to Democracy, Policy Paper²⁵

¹⁸ WPG, Evidence Submission on the Domestic Abuse and Civil Proceedings Bill, 2020, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710edce69b64b7cbd549298/1729162703498/WPG-NI-Evidence-Submission-to-Justice-Committee-05.06.20.pdf>

¹⁹ WPG, Response to Independent Hate Crime Legislation Review, 2020, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710ede26e933355007bda88/1729162723542/WPG-Hate-Crime-Consultation-Review-Response-30.04.20-Updated-1.pdf>

²⁰ WPG, Response to Enhancing Legal Protections for Victims of Domestic Abuse, 2021, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710eb59655fed282e0c65b7/1729162073654/WPG-Response-on-Enhancing-Legal-Protections-for-Victims-of-Domestic-Abuse-Public-Consultation.pdf>

²¹ WPG, Response to PMB on Paid Domestic Abuse Leave, 2021, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710ed1001372f24a7e7f322/1729162513555/WPG-Response-to-PMB-Consultation-Paid-Domestic-Abuse-Leave-Jan-21.pdf>

²² WPG, Response to Consent to Harm for Sexual Gratification: Not a Defence, 2021, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710ed2a51c40b4e736cff00/1729162538565/Consent-to-harm-for-sexual-gratification-not-a-defence-by-WPG.pdf>

²³ WPG, Response to TEO Consultation on the EVAWG Strategic Framework, 2023, Available at: static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/670ff87ad000a105f576ebb8/1729099898816/WPG-Response-to-TEO-EVAWG-Framework.pdf

²⁴ WPG, Response to EVAWG Readership Survey, 2023, Available at: <https://static1.squarespace.com/static/66c475c740e7194ba8ee6a81/t/6710e42a5c814b1b733d85af/1729160235263/WPG-Response-TEO-VAWG-Research-Report-1.pdf>

²⁵ <https://5050ni.com/wp-content/uploads/2025/09/digital-threats-to-democracy.pdf>

3. General Comments on the Criminalisation of Sexually Explicit Deepfake Images Consultation

The WPG welcomes this consultation and the Minister's commitment to recognising the growing issue of image-based sexual abuse (IBSA) generally, and Deepfakes specifically. The WPG acknowledges the work done by the Minister to criminalise upskirting, downblousing, and cyberflashing.

The WPG has a few general comments:

Language: The term 'deepfake' is not the preferred term - intimate digital forgeries has been suggested

More than law: Tackling this issue will require more than laws. The WPG would like to see a cross-departmental approach to ending IBSA. This could involve bedding actions into upcoming Action Plans that flow from the EAWG and DVSA Strategies that ensure that public knowledge of the issue is more widespread, that appropriate support is available and that the relevant support workers have the expertise and training to help appropriately, etc.

Motivating Factors: limiting the motivating factors of these offences to 'humiliation, alarm or distress' OR 'sexual gratification' fails to understand the 'breadth of motivating factors'.²⁶ Research suggests that motivations can include: harm, sexual gratification, 'lad culture', control, attention, jealousy, 'prank', entitlement, misogyny, financial gain, and social capital.²⁷ It is important to accurately reflect these interconnected and potentially overlapping motivations in order to convey the true scope of the offence. An alternative approach is to have a strict liability approach, an approach that's appeal is understandable in its simplicity, however we believe that it is important to understand the motivations in order to correctly understand the nature of these crimes and to therefore design appropriate supports for its victims / survivors. As such, we urge the Department for Justice to examine closely the academic research on this topic and to expand the range of possible motivations to reflect this.

Coherent law: Currently criminalisation of IBSA is occurring in a clearly well-intentioned but piecemeal and reactionary fashion. While the WPG is pleased to see attempts to keep pace with technological developments in this area, we suggest the creation of a standalone Image-Based Sexual Abuse Act, which would bring together the different forms of IBSA, making the law easier to access and understand, harmonise the approach to these offences and signal the importance of

²⁶ Rackely *et al.* (2021) 'Seeking Justice and Redress for Victims and Survivors of Image Based Sexual Abuse' *Feminist Legal Studies*. Vol: 29 p. 303.

²⁷ Ibid, p305.

understanding and tackling this growing form of sexual abuse. Ideally, a public information campaign should accompany this or any relevant legislation, to ensure that victims know that help and redress is available and as a preventative approach.

Misogyny as a driver for this crime type: the WPG understands that the legislation in this instance and in many others must be gender neutral, but this should be understood as mainly a problem driven by misogyny. That understanding should be built into any training and/or expert support that flows from the introduction of the legislation. Both on this island²⁸ and elsewhere²⁹, there have been many cases involving widespread public sharing of intimate images which may include deepfakes, and the context of these allows us to see clearly that misogyny is the motivation. Naming it is part of the effort to tackle it. Our colleagues at the Women's Aid Federation are clear that perpetrators of Domestic Abuse use IBSA and the threat of IBSA as an extension of control. We need to future proof this and ensure that we do our best to ensure that technology does not outpace legislation any more than cannot be avoided, so this legislation needs to be robust in its understanding that it is a heavily gendered behaviour.

IBSA's role in so-called Honour Based Abuse: There is also a very real potential for IBSA including deepfakes to lead to or contribute to so-called Honour Based Abuse, an image that may not be real can be used to harm a woman's standing in her family and may result in harm being carried out against the victim from their own family or community. A culturally competent law should be capable of reflecting this and will make an effort to reach into communities where this can be an issue.

Please Note: This section is informed by the research of Coumilah Manjoo on Honour-Based Abuse in Northern Ireland compared to the rest of the United Kingdom. This research relates to how Inter-Faith, Inter-Racial and Cross-Cultural Marriages can provide additional challenges, including disapproval from families and communities, associations of shame, and the potential for honour-based abuse or violence (HBA/HBV). HBA/HBV is not an attribute to any specific culture, faith or religion³⁰.

Honour-based abuse (HBA) is a prevalent issue that is often misunderstood in Northern Ireland. While gender-based violence is usually described as violence that is directed at a woman because she is a woman or violence that affects women

²⁸ <https://www.rte.ie/news/crime/2020/1120/1179446-images/>

²⁹ <https://www.bbc.co.uk/news/articles/ce874j4ye3no>

³⁰ Manjoo, C. (2018) "'Shame' and 'Honour': Comparison of the Prevalence of 'Honour'-Based Abuse/Violence in Northern Ireland and the Rest of the United Kingdom', Queen's University Belfast.

disproportionately³¹, HBA is often described as the violence predominantly inflicted on women who are thought to have brought shame and dishonour to their family through actual or perceived immoral behaviour³².

In the UK, there is no specific offence of “honour-based crime”. Instead, HBA is used as an umbrella term to cover various offences covered by existing legislation (although most of this legislation does not apply to Northern Ireland)³³. The Crown Prosecution Services describe HBA as relating to a collection of practices which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour³⁴. Such behaviour can occur when perpetrators perceive that a relative has shamed the family and/or community by breaking their honour code.

HBA can take place in many forms such as (but not limited to): threatening behaviour, assault, rape, kidnap, abduction, forced abortion, forced marriage, threats to kill and false imprisonment. Worryingly, the UK is considered one of the worst areas within Europe with almost 3000 ‘honour’ attacks per year and 12 ‘honour’ killings per year³⁵.

Awareness for HBA is low in Northern Ireland compared to the rest of the UK and it could be argued that it was deprioritised due to ongoing issues relating to the aftermath of the conflict. However, rather than dismissing HBA as an issue that isn’t as prevalent in Northern Ireland, an understanding of the unique manifestations of HBA within Northern Ireland must be developed, particularly in how cultural and religious beliefs and the prevalence of paramilitaries can also contribute to HBA. A 2016 report on ‘Intimate Partner Violence in Conflict and Post Conflict Societies,’³⁶ in collaboration with Women’s Aid, highlights **several examples of domestic violence and abuse being perpetuated due to links with paramilitarism and their values, community attitudes and traditional religious belief.**

³¹ The Committee on the elimination of discrimination against women, 'General Recommendations Adopted by the Committee on the Elimination of Discrimination against Women' (OHCHR 1992) <https://bit.ly/3d6U8SQ>

³² HASP – Honour Ambassadors against Shame Practices, 'Honour Related Violence in the United Kingdom' (HASP – Honour Ambassadors against Shame Practices 2017) 2-90.

³³ Crown Prosecution Service, 'Honour Based Violence and Forced Marriage', <https://bit.ly/3d6tYik>

³⁴ Ibid, n362.

³⁵ European Parliament, 'Briefing European Parliamentary Research Service' (European Parliament 2015) 4.

³⁶ Jessica Leigh Doyle and Monica McWilliams, 'Intimate Partner Violence In Conflict And Post-Conflict Societies' (Political Settlements Research Programme (PSRP) 2018) 1-120.

The lack of understanding or discussion of the 'honour' element of this form of domestic violence will enable this form of abuse to continue as root causes and societal attitudes are not addressed. Further, failing to recognise the 'honour' element of abuse can further prevent victims from speaking up about the abuse they have endured³⁷

Women in politics and the threat to democracy: Deepfake images have been used as a tool to harass, humiliate and carry out misogynistic violence against women in politics in Northern Ireland³⁸. During the most recent NI Assembly Election, at least two women running for election experienced this form of online violence.

The issue of online violence against women in politics and, in particular, violent forms of this, like the creation and distribution of explicit deepfake images, is a huge barrier that prevents many women from stepping into elected politics. Studies have shown that in the UK, a significant proportion of politically engaged young women say that the threat of online violence is an issue they would consider when deciding whether or not to run for election.

In Northern Ireland, the Good Friday Agreement enshrines the right to equal participation in politics. It is internationally recognised that women's political participation is vital to creating and maintaining peace. Women in politics are much better collaborators than their male peers. As a result, they have much better success at working across party lines, reaching consensus, and forming coalitions than men in politics. Therefore, legislation such as this is significant to upholding democracy and peace in Northern Ireland, a responsibility the NI executive has to defend.

This type of violence against women in public life is highly gendered and serves the purpose of upholding male dominance in politics and excluding women from political power. It is therefore a hugely gendered issue, and the Department of Justice should consider this. The implications that the use of deepfake images to carry out online violence can have on the democracy and stability of Northern Ireland are of vital importance, and therefore, the Department of Justice should consider whether, in cases where the victim is a woman in elected office or running for election, this could possibly be an aggravating factor to the offence. Due to the wider impacts these

³⁷ See more in relation to a case involving an elderly woman who spent her life in a mother and baby institution and the impact this had on her long-term: Patsy McGarry, 'Magdalene Laundries: 'I Often Wondered Why Were They So Cruel'' Irish Times (2018) <https://bit.ly/3d7phom>

³⁸ 50:50 NI, Digital Threats to Democracy, Policy Paper, <https://5050ni.com/wp-content/uploads/2025/09/digital-threats-to-democracy.pdf>

offences have on democracy, stability, peace and the public interest in Northern Ireland.

4. Response to Consultation Questions

Questions 1 to 6 relate to Chapter 4 of the consultation: Proposals to make it an offence to create, or request the creation of, a sexually explicit deepfake image

Q.1 Do you agree with the proposal to legislate to criminalise the creation, or requesting the creation, of a sexually explicit deepfake image, without the consent of the person depicted in the image, or a reasonable belief in their consent, with the intention of causing humiliation, alarm or distress to the person depicted in the image?

☒ Yes however as outlined above, this is insufficient in terms of the motivations that animate these crimes.

☐ No

Q.2 Do you agree with the proposal to legislate to criminalise the creation, or requesting the creation of, a sexually explicit deepfake image, without the consent of the person to be depicted in the image, or a reasonable belief in their consent, for the purposes of sexual gratification?

☒ Yes however as outlined above, this is insufficient in terms of the motivations that animate these crimes.

☐ No

Q.3 Do you agree with the proposal that the creation, and requesting the creation, of sexually explicit deepfake images should be hybrid offences?

☒ Yes, although with very serious caveats.

☐ No

This is important for flexibility in determining the seriousness of the offence. It means it can be tried in a magistrates or a crown court. With this said, we have seen recent legislation creating critical offences which cause enormous harm to survivors and which can be heard either in the magistrates or crown court at the discretion of the PPS, such as non-fatal strangulation, and it is not necessarily clear that this discretion is being used as intended. The reality of the situation that we are in is that delays to have cases heard at crown court are very long and growing, and that hearing cases in the magistrate's court is faster and cheaper. This is an important consideration, but it is not a consideration that takes into account the seriousness of the offences and the depth of harm caused.

If this is to be a hybrid offence it must include a detailed outline of how such an offence ought to be assessed by the PPS in order to provide a practical guide, as well as reassurance to the public and to victims that this concern is being taken on board. The Department must be clear as to how each offence will be assessed. The view of the WPG is that the critical factor is the harm done to the victim and not, for example, the level of explicitness of the image created. Explicitness is subjective and depends on lots of things, for example a person's religious practice. The assessment also must not be assessed only on how widely it is spread; the harm can be enormous even if only a small number of people see the image, but those people are critical in the survivor's life, for example an employer, a child, a parent, etc.

The Department should also take care to make sure that we have the technical ability and skills within the PSNI to be able to prove that the person who made the image is the one responsible, to track down the creators of images that have been widely circulated, and so on. Without detailed knowledge, as this technical skill may already exist, there may be a need for additional resource to the PSNI, PPS and perhaps also the courts themselves, in order to ensure that they can enact this law.

Q.4 Do you agree with the inclusion of motivations in the offences, bearing in mind that where the offence is proved to have been committed for the purposes of sexual gratification, the offender will be subject to risk management measures such as the sex offender notification requirements?

☒ Yes

☐ No

We know that the benefit of monitoring these offenders is significant, that escalation is common, and that sentences in other types of VAWG offences are often predicated on whether or not the offender has a history of offending. As such we support the

goals of listing motivations within the legislation. However, as we have argued above, the list of motivations needs to be expanded, limiting the motivating factors of these offences to 'humiliation, alarm or distress' OR 'sexual gratification' fails to understand the 'breadth of motivating factors'.³⁹ Research suggests that motivations can include: harm, sexual gratification, 'lad culture', control, attention, jealousy, 'prank', entitlement, misogyny, financial gain, and social capital.⁴⁰ It is important to accurately reflect these interconnected and potentially overlapping motivations in order to convey the true scope of the offence.

Alongside this, we need a thorough education piece. We currently have sexual offences on the books that are welcome and essential, but they are not taken as seriously or well understood by the legal system or by the public, for example up skirting and downblousing. There is work to do to ensure that these pieces of legislation are meaningful, and the same applies here.

Q.5 Do you agree with the proposal to include the element of recklessness in the offences?

☒ Yes

☐ No

It is important that this element is included and that the accompanying education piece communicates to offenders or potential offenders that when they are reckless rather than deliberate about the harm that they cause they still bear responsibility for that harm.

The WPG understands the desire not to over-criminalise young boys but for every one of those boys a victim, overwhelmingly a girl or a woman, is created. In reality there is not a problem of boys being over criminalised with regard to up skirting etc, but there is a problem of girls and women being over victimised. These are, as we have said, heavily gendered crimes and it is important that the Department understands this.

Q.6 Do you agree with the penalties proposed for the offences which are:

- **on summary conviction, imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;**

³⁹ Rackely *et al.* (2021) 'Seeking Justice and Redress for Victims and Survivors of Image Based Sexual Abuse' *Feminist Legal Studies*. Vol: 29 p. 303.

⁴⁰ Ibid, p305.

- **on conviction on indictment, imprisonment for a term not exceeding two years.**

☐ Yes

☒ No

We urge the Department to take a stronger approach on this. As such we support following the Scottish approach; up to 12 months on summary conviction, or five years on conviction.

These offences are serious and can really damage a survivor. A deepfake image can damage their relationships and prospects long into the future. The potential punishment should reflect this.

If you have answered 'No' to any of the questions above, please provide some details below on the reasons why you do not support the proposal/s.

Questions 7 to 14 relate to Chapter 5 of the consultation: proposals to make it an offence to share, or threaten to share, a sexually explicit deepfake image

Q.7 Do you agree with the proposal to legislate to criminalise intentionally sharing a sexually explicit deepfake image without consent, or a reasonable belief in consent, with the intention of causing humiliation, alarm or distress to the person depicted in the image?

☒ Yes

☐ No

Q.8 Do you agree with the proposal to legislate to criminalise intentionally sharing a sexually explicit deepfake image without consent, or a reasonable belief in consent, for the purposes of sexual gratification?

☒ Yes

☐ No

Q.9 Do you agree with the inclusion of motivations in these offences, bearing in mind that where the offence is proved to have been committed for the

purposes of sexual gratification, the offender will be subject to risk management measures such as the sex offender notification requirements?

☒ Yes

☐ No

Q.10 Do you agree with the proposal to legislate to criminalise threatening to share a sexually explicit deepfake image?

☒ Yes

☐ No

Q.11 Do you agree with the proposal to include the intention to cause fear or distress in this offence?

☒ Yes

☐ No

Q.12 Do you agree with the proposal to include a recklessness element in the offences?

☒ Yes

☐ No

Q.13 Do you agree with the proposal that these should be hybrid offences?

☒ Yes

☐ No

Q.14 Do you agree with the penalties proposed for the offences which are:

- on summary conviction, imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both;
- on conviction on indictment, imprisonment for a term not exceeding two years.

Yes

☒ No

If you have answered 'No' to any of the questions above, please provide some details on the reasons why you do not support the proposal/s.

Regarding motivations: these possibilities are insufficient for the nature of these offences. Limiting the motivating factors of these offences to 'humiliation, alarm or distress' OR 'sexual gratification' fails to understand the 'breadth of motivating factors'.⁴¹ Research suggests that motivations can include: harm, sexual gratification, 'lad culture', control, attention, jealousy, 'prank', entitlement, misogyny, financial gain, and social capital.⁴² It is important to accurately reflect these interconnected and potentially overlapping motivations in order to convey the true scope of the offence.

Regarding sentencing: We urge the Department to take a stronger approach on this. As such we support following the Scottish approach; up to 12 months on summary conviction, or five years on conviction.

These offences are serious and can really damage a survivor. A deepfake image can damage their relationships and prospects long into the future. The potential punishment should reflect this.

5. Additional Comments

To conclude, we welcome the efforts of the Minister and the Department to tackle this issue. This is an offence that can and does damage survivors' lives long into the future and has the effect of chilling public and even private spaces for women and girls.

However, we urge the Department to reconsider their sentencing proposals as the proposed sentences are insufficient. We also urge reconsideration of the potential motivations, and to follow the evidence in this regard.

ENDS

⁴¹ Rackely *et al.* (2021) 'Seeking Justice and Redress for Victims and Survivors of Image Based Sexual Abuse' *Feminist Legal Studies*. Vol: 29 p. 303.

⁴² *Ibid*, p305.

For any questions or queries relating to this submission, please contact:

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