

Sarah Owen MP
Chair
Women and Equalities Committee
House of Commons
London
SW1A 0AA

MoJ ref: Sub 120844

22 January 2025

Dear Sarah,

GOVERNMENT AMENDMENT AT REPORT STAGE: OFFENCES RELATING TO THE CREATION OF SEXUALLY EXPLICIT DEEPFAKE IMAGES IN THE DATA (USE AND ACCESS) BILL

I am pleased to be writing to let you know of an amendment we will be tabling to the Data (Use and Access) Bill today to tackle the creation of sexually explicit deepfake images. I am grateful to the Women and Equalities Committee for all their work to tackle non-consensual intimate image abuse.

The proliferation of sexually explicit deepfakes has grown at an alarming rate, causing devastating harm to victims, particularly women and girls who are often the target. That is why we made a commitment in our manifesto to do this. The creation of new offences will be central to our mission to halve violence against women. As a result of this change, vile perpetrators who create them could face prosecution.

We have previously set out that this measure would be in the Crime and Policing Bill. However, given the importance of the issue, we have moved quickly on this issue and tabled our own new offence to the Data (Use and Access) Bill at Report Stage.

Our provisions will create offences of intentionally creating a purported sexual image of another person (more commonly known as sexually explicit deepfakes) without that person's consent, where the image is created either for the purpose of sexual gratification and without reasonable belief in consent, or with the intent to humiliate, alarm or distress that person.

These offences criminalise the culpable creation of sexually explicit deepfakes. This includes making one for a joke to humiliate someone, or making one for sexual gratification. It captures the making of a range of sexual or explicit images, such as those that appear to show someone's genitals, or someone doing something sexual, or someone engaging in a sexual act.

We are all agreed on the need to provide the best possible protection to victims from this unacceptable behaviour. In designing this new offence, we have worked closely with the CPS to ensure that perpetrators can be prosecuted effectively.

We know that people can ask others to create a sexually explicit deepfake on their behalf. It will automatically be an offence to encourage or assist someone to commit this offence within England and Wales, through existing law in the Serious Crime Act 2007. Of course, we live in a digital age where people can easily ask someone in another jurisdiction to make the sexually explicit deepfake for them. We are tackling this issue in the Crime and Policing Bill, by conferring “extra-territorial jurisdiction” on the more serious offences of sharing an intimate image without consent. Applying “extra-territorial jurisdiction” in this way is something we do for the most serious offences in our criminal law. This change means that if you ask someone in another jurisdiction – regardless of where they are – to create a sexually explicit deepfake which they send back to you or share on online forums, they may be prosecuted for a sharing offence, and you may be prosecuted for encouraging or assisting a sharing offence.

We will also amend the Sentencing Code to ensure Courts have the power to order, upon conviction, that the offender be deprived of any images in respect of which they were convicted, as well as anything on which the images were stored (such as a computer or hard drive). The Courts already have this power in relation to offenders convicted of sharing intimate images (including deepfakes) without consent.

It is already an offence to share – or even threaten to share – a deepfake without consent. Together these measures ensure law enforcement can effectively tackle this degrading and abusive behaviour. They will offer victims the clear and comprehensive protection they deserve, where sexual images which appear to be of them have been created without their consent.

The criminal law protects our society from the most threatening and harmful behaviour, and those who are found to have broken it face serious punishment. However, this is only one part and one step in our plan to halve VAWG and root out misogyny. We need to address every aspect of the culture that is causing an epidemic of violence against women and girls, which is why we are working across all departments to change the culture and tackle misogyny across society.

We are very mindful that the technology in this area develops quickly, and this is a rapidly developing area of law. We will, of course, keep this new offence, and how it is working in practice, under review. We will also improve the criminal law in other areas, using the Crime and Policing Bill to repeal and replace two existing voyeurism offences with stronger alternatives. We also intend to introduce new offences to criminalise the installation of equipment which enables the taking of an intimate image without consent.

These new offences will prevent people being victimised online and with emerging technology. This government is clear that this demeaning and chauvinist behaviour must never become normalised, and as part of our Plan for Change we are bearing down on violence against women – whatever form it takes.

I hope that you will welcome these provisions, putting our manifesto commitment into effect to protect victims and wider society.

A handwritten signature in black ink, reading "Sarah Sackman". The signature is written in a cursive style with a long horizontal flourish at the end.

SARAH SACKMAN KC MP
Minister Of State