

Written evidence from Professor Clare McGlynn, Durham University [IIA0015]

Published evidence submitted by Professor McGlynn to this inquiry.

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Evidence on Statutory Time Limits in cases of Image Based Sexual Abuse

Context: The statutory time limits for prosecutions

1. Where an offence is summary only (before the magistrates' courts), there is a statutory time limit of 6 months within which a prosecution must be brought. This is set out in section 127(1) of the Magistrates' Court Act 1980.

The application of time limits to image based abuse offences

2. The offence of sharing non-consensual intimate images, amended in the Online Safety Act 2023, is a summary only offence. This means that the statutory time limit will apply.
3. The creation offence that is currently progressing through Parliament is also due to be a summary offence.
4. The Government has also proposed a revised taking offence which will also be summary (as well as more serious offences).

Many victims do not know they have been victimised within 6 months

5. The problem with the statutory time limit is that many victims of image-based abuse do not become aware of the abuse until after 6 months. It is not unusual for women and girls to find out about the abuse many months, even years, after material has been taken and/or shared online without their consent. This is particularly where material is taken/ shared/ created on online forums or shared in private groups.
6. Accordingly, if the statutory time limit remains in place for these offences, many victims will be denied justice. While there are more serious offences to which the time limits do not apply, we know from experience of the previous offences that these are difficult to prosecute due to the lack of evidence around motivations. Those offences therefore will only be available to a small number of victims.

Evidence from #NotYourPorn

7. This issue was first brought to my attention by survivor-activists from the organisation #NotYourPorn which supports survivors and advocates for better laws and policies to prevent and reduce the harms of image based sexual abuse. There are survivors in that group who did not become aware of the abuse until after 6 months.

Time limits now included in the Data (use and access) Bill

8. Following contact with #NotYourPorn, I drafted a new provision to be included in the amendments being put forward by Baroness Owen in the Data (use and access) Bill. This provision read:
9. *'In relation to section 127(1) of the Magistrates' Court Act 1980 (limitation of time) the date on which the "matter of complaint" arose will be taken as the date on which B becomes aware that an offence under this section may have been committed.'*
10. The aim of this provision is to ensure that the time limit only starts running when the victim becomes aware of the abuse.

Government agrees to extending the time limit - with constraints

11. The Government has accepted the need to reform the applicability of the time limit in these cases.¹ However, thus far, my understanding is that it is proposed that the time limit starts running from

when the police are made aware of abuse, rather than the victim. While an extension of the time limit is welcome, this will not provide the redress for all victims that is required.

12. It is very easy to imagine a scenario in which the police become aware of possible abuse but fail to identify and/or notify the victim, and/or fail to take the necessary action within the time scale required.

Change for all taking/sharing/creating offences

13. While the Government has committed to introducing some form of extension of time limits for the creation of sexually explicit deepfakes offence, it has yet to do so in relation to the taking offence. It will be vital that the time limit is extended for all the image based abuse offences.

¹ Lord Ponsonby, House of Lords, 5 February 2025: [https://hansard.parliament.uk/Lords/2025-02-05/debates/9103AF53-5257-437F-84B0-01E483443B39/Data\(UseAndAccess\)Bill\(HL\)](https://hansard.parliament.uk/Lords/2025-02-05/debates/9103AF53-5257-437F-84B0-01E483443B39/Data(UseAndAccess)Bill(HL))