

Cross Party Group on Children and Young People

Wednesday 15 September 2015

Committee Room 1, The Scottish Parliament

Minute of Meeting

Chair: Mark McDonald MSP

Panel: The Rt Hon Frank Mulholland QC (Lord Advocate), Christina McKelvie MSP (Convenor of the European and External Relations Committee), Dr Rachel Happer (NHS Lothian CAMHS Sexual Trauma Team), Lorraine Glass (Partnership Manager, RespectMe).

Attendees: Roderick Campbell MSP, Alison Johnstone MSP, Julian Dawydiak, Garry McGregor, Maria Jackson, Annie McGovern, Mig Coupe, Aileen Bracken, Alison Wales, Rachel Happer, Kim Hartley, Jane Wright, Natalie Innes, Sam Davidson, John Wallace, Carla Brown, Gillian Meens, Martin Lahiffe, Claire Hunter, Sarah McEnhill, Gill Westwood, Linda Bailey, Ruth Spence, Roslyn Neely. Nicola Vantoch-Wood, Elaine Leith, Heather Robertson, Amy Woodhouse, Lorraine Glass, Susan Fraser.

Secretariat: Cllr Lewis Ritchie (Children in Scotland), Sarah Paterson (YouthLink Scotland)

Apologies: Helen Davies, Sara Lurie, Kathleen Deacon, Kay Steven

Introduction

The Chair opened the meeting by welcoming attendees and introducing the subject of discussion, highlighting how important the issue of sharing illicit images without consent has become – particularly for children and young people.

The Chair noted the consultation arising from the publication of *Equally Safe: Scotland's strategy for preventing and eradicating violence against women*, and the legislative proposals contained within, which would make it an offence in Scots law to share illicit images without consent.

The Chair offered a short biography of the panel members, and introduced the first speaker, The Rt Hon Frank Mulholland QC, Lord Advocate of Scotland.

Frank Mulholland PC QC: The Lord Advocate explained why he felt that the time had come to legislate in this area. A number of high profile cases had exposed the limitations with the law in its current form.

While a number of civil remedies exist to provide justice for victims, and the criminal law contains a number of offences that can and are utilised by prosecutors, the Lord Advocate explained the difficulties in attempting to shoehorn the offence into existing legislation.

The Lord Advocate highlighted the fact that as a result of technological advancements and the fact that now almost everyone has a mobile phone, the prevalence of this type of offence has increased, but the law has failed to keep pace with technological development, and was now inadequate.

The Lord Advocate stressed his disappointment with the fact that the phrase 'revenge porn' is commonly used to describe the offence, where "intimate image abuse" would be more accurate.

The new offence should not be restricted to images, but encompass all relevant types of media, including video images and sound files.

The key issue of the offence is consent – it is the non-consensual sharing of the images that is the problem, and not per se the content or context of the images.

There is precedence set in an 18th century law that related to the non-consensual sharing of intimate letters and personal correspondence, therefore the mens rea for the offence is a concept long established in Scots law.

The Lord Advocate highlighted the fact that evidence suggests that it is women who by some distance are most likely to be victims of such a crime, although there is a significant degree of under reporting.

As such, it is incredibly important that organisations such as those represented on the CPG do everything possible to raise awareness and say that this conduct is unacceptable.

Guidance is being published in order to assist police and prosecutors, while prompt action will be taken to ensure that the public are offered the legislative protection they need through the Abusive Behaviour and Sexual Harm Bill—this is an issue taken very seriously by the Lord Advocate's office and will be pursued with alacrity.

Christina McKelvie MSP: Ms McKelvie started by explaining the fact that this issue was personal to her, as the son of a close friend had been affected. This experience brought the issue home to her, and made her determined to take action.

Christina explained how she has been at the forefront of pushing the debate forward in Scotland. She tabled a motion in the Scottish Parliament in 2013 which received cross party support. Christina also secured a member's debate on the subject which was well attended and featured speakers from across the political divide. This debate was picked up in the media and raised the issues prominence in the public sphere.

Despite the debate and media attention, Christina felt that many did not understand the issues.

Revenge porn is just as abusive as any other kind of domestic violence. It is an act that is exploitative, cruel, malicious and damaging to its victims. Young people have committed suicide as a result of it; others have faced a life where they lose their jobs and are outcasts.

Decades ago, violent domestic abuse wasn't talked about or recognised. Women walked into doors or fell downstairs. Things have moved on although there are still, sadly, people in abusive relationships who are too frightened to come forward.

Sharing private moments with a partner isn't offensive – making them public without your knowledge is – and secondly to encourage more victims to come forward and tell their stories so that more people understand what is going on and just how abusive it is.

However, this is not just about exes, it is a wide issue which can involve friends, bullies, dares and bets.

The recent Channel Four documentary on revenge porn highlighted some of these issues, especially the intimidation, harassment and abuse that often takes place once an image goes viral online.

The key question for her is, how do we support victims, encourage reporting and bring perpetrators to justice?

Christina and colleagues in parliament such as Jackie Baillie MSP and Alison Johnstone MSP, will continue to work hand in hand to promote understanding and action on this issue.

Lorraine Glass: Lorraine began by telling everyone about RespectMe's remit to promote a positive, practical and realistic approach to improving the life experiences of children and young people who are affected by bullying, and noted that their work seeks to influence behaviour, culture and attitude towards bullying behaviour.

Lorraine explained that bullying consists of both behaviour and actions, always in the context of relationships. In the context of 'cyber bullying' the concern is that once images are out there, they have a permanence and are difficult to remove. Once they are 'out there' there can be serious emotional consequences to the young victim - perceived differences are a major cause of bullying behaviour, the same is true of the online world.

The online world is hugely important to children and young people, and is regarded by young people as a distinct 'place' – encroachment into this place by bullies can have a serious detrimental emotional impact, and is of great concern to Respectme.

Over the process of a number of years, Respectme has been exploring how to repair the damage that has been inflicted on children and young people who have been affected by bullying.

Respectme is concerned that the phrases 'sexual bullying' and 'revenge porn' do not accurately describe the offence, or do justice to the impact felt by victims. Lorraine feels that 'sexual assault' is a more apt description.

Lorraine would like to see an adequate explanation of the difference between bullying and sexual assault given in Scottish Government guidance.

Dr Rachel Happer: Dr Happer began by introducing her role as a clinical psychologist with 14 years' experience in clinical practice since her graduation from the University of Glasgow. Throughout that time she has focused on abuse and trauma, in particular with an adolescent population and is responsible for supporting children and young people who have been affected by sexual abuse.

She has a professional interest in how the internet is increasingly being used as a tool to inflict sexual assault, as well as the forum where sexual trauma takes place.

The problem is complex and multifaceted. Sexual bullying can take place in a number of different situations and across several different types of relationship. The range of situations where the offence can be perpetrated poses difficulties for those with responsibility for supporting children and young people. Schools, for example, can struggle to find the right response when they are made aware that this activity has taken place, at a party for example.

Grooming is also a serious problem. Research shows that victims tend to be older, pursued specifically for sexual activity.

One of the big challenges is that exploring and being inquisitive about one's sexuality is such a big part of normal sexual development. What are the safe contexts where one can share sexual images with a partner, for example?

Much more education in schools is necessary.

As it is not feasible to monitor a young person's internet use, we need to take a broad approach to tackling the problem. Most of all, we need to encourage children and young people to look after themselves online, and to seek the right help when required.

Developmentally, the brain is not sufficiently developed to make the correct decisions when posed with so many complicated emotional choices. We need to support children and make sure they get the help and protection that they need.

Questions from the floor

Helen Davis (West Lothian Youth Action Project) – West Lothian Youth Action Project support children and young people aged 11 to 21. Their experience of this issue has proved that education has a vital role to play, but peer-to-peer support through befriending can have a hugely positive impact as well.

Gareth Brown (Scottish Youth Parliament). Personal, Social, Health and Economic education provision is poor across Scotland. It should be supported by national guidance.

One concern is the criminalisation of young people who are engaged in sexual activity. What will be done to ensure that children aren't needlessly criminalised?

FM: We want people to come forward when they have concerns. People should not be afraid to do this, as we have robust policies in place to ensure that prosecution only takes place when there are genuine concerns that need to be investigated.

Elaine Neath (Circle) – There must be a broad response. Our clients face stigma because of the fact that they are parents who are addicted to drugs. Relationship based discussions are very powerful, and the provision of family support workers is particularly helpful. This would also be true where children were victims of the sharing of illicit images without consent.

Panel – Agrees

Alison Wales (NSPCC Scotland) – Our research proves that this is becoming a part of sexual activity and expression among children and young people. There is an expectation, and a pressure among young people who are beginning to be sexually active that this is the norm. Drew attention to “Share Aware” campaign.

Chair – Drew meeting to a close, thanked panel for their participation and noted the date of the next meeting as Wednesday 18 November.