

Cyberflashing: Recognising Harms, Reforming Laws

SUMMARY

Cyberflashing – typically where a man sends a penis image to a woman without her consent – is an alarmingly common practice which has been on the rise since the COVID-19 pandemic. It's also known as sending 'unsolicited dick pics'.

Many women experience this behaviour as a significant sexual violation and invasion of their privacy, similar to being 'flashed' in the street. Others talk about the humiliation felt and the ongoing impact on their daily lives.

But despite its seriousness, cyberflashing is often trivialised and it is not clearly against the criminal law in England and Wales. The law, therefore, is currently failing victim-survivors of cyberflashing and reform is urgently needed.

Other countries have criminalised cyberflashing. We must learn the lessons from elsewhere to make sure we get the law right first time and ensure effective and comprehensive legislation is developed which reflects victim-survivors' experiences.

Cyberflashing: Recognising Harms, Reforming Laws provides new in-depth analysis, understanding and insight into cyberflashing and how we should be reforming the criminal law. It focuses on women's experiences; as men's experiences differ and require separate study.



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co.uk/cyberflashing](https://bristoluniversitypress.co.uk/cyberflashing)

WHAT IS CYBERFLASHING?

Cyberflashing is the digital distribution of penis images or videos to another without their consent (also known as sending 'unsolicited dick pics'). It can be a one-off event of sexual exposure, or part of a course of abusive and harassing conduct. It can involve one or multiple images and videos. It is a form of sexual intrusion, similar to other forms of sexual violence and abuse.

Cyberflashing is perpetrated in many different ways. In public spaces and on public transport, women experience cyberflashing when men located nearby send penis images to women's mobile devices using technologies such as Bluetooth and AirDrop.

For example, Sophie was alone at a train station when she was approached by an unknown man who stood close by and sent her penis images:

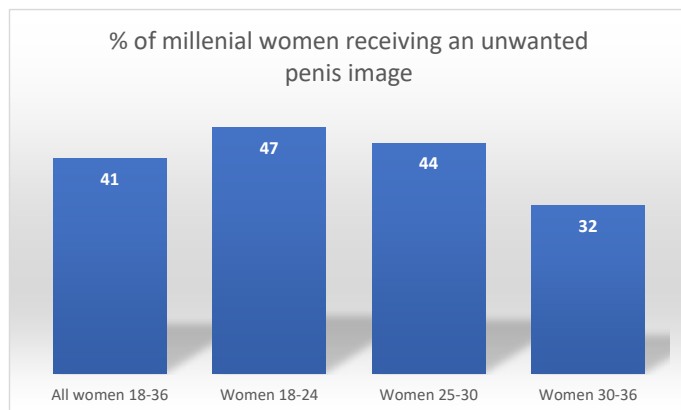
'I looked at his hands and they were shaking; his thumbs hovered over his phone waiting for my reaction. It was so intimidating. I was being targeted and it felt very personal.'

Cyberflashing is also an everyday experience for women when engaging with online dating, social media and other technologies; in both professional and personal capacities.

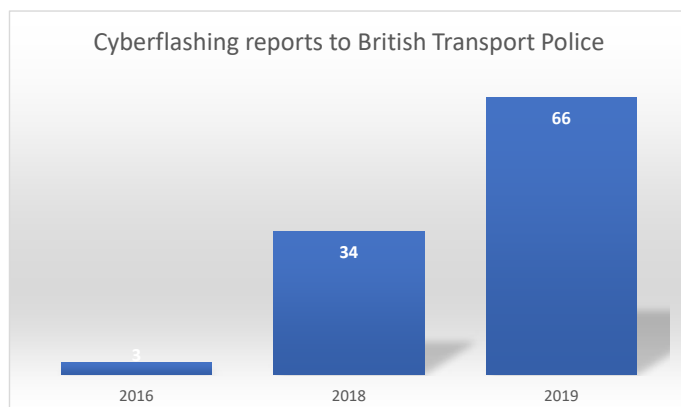
HOW COMMON IS CYBERFLASHING?

Cyberflashing is commonplace, with women, and particularly younger women, experiencing it most.

A 2018 YouGov survey found that 41% of millennial women (aged 18-36) had been sent an unsolicited penis image, rising to nearly half of women (47%) between 18-24 years old.



While only the 'tip of the iceberg', cyberflashing reports to British Transport Police are increasing, with 66 being made in 2019, compared to 34 the year before and only three in 2016 (Bowden 2020).





WHY DO MEN SEND UNSOLICITED PENIS IMAGES?

We identify multiple, overlapping motivations for cyberflashing – there is rarely a single, clear motivation for this abuse:

'Transactional'

Men are hoping to either receive nude or sexual images in return, or to initiate sexual activity

Threatening, harassing and causing distress

Some perpetrators acknowledge they are hoping to shock and threaten women, inducing alarm and fear

Sexual gratification and exhibitionism

Like physical 'flashing', some men seek sexual arousal from exposing their penis to women without their consent

Underpinning all cyberflashing are problematic constructions of masculinity, entitlement and a desire to exercise power and control.

WHAT ARE THE HARMS OF CYBERFLASHING?

Fundamentally, cyberflashing is wrong no matter what because it is non-consensual sexual conduct which infringes our autonomy and privacy.

It can also have serious consequences which vary in nature across gender, race, ethnicity, sexuality, age, class and other social and cultural positions.

Sexual violation

'I felt super violated. It's a way of assaulting somebody without touching, of getting into my personal space without getting close' (Mallory)

Humiliation

'The truth is, no matter how strong I thought I was, he turned me, with a picture, into a weak person, feeling humiliated and with no ability to stand up for myself' (Janay)

Threat and fear: what might happen next?

'I felt vulnerable ... it was scary not knowing who it was ...that they might be looking at me or potentially follow me off the train' (Chloe)

'If a person feels justified in this behaviour, what else are they capable of?' (Joanna)

Impacts on everyday life

'I just hate the idea of turning my AirDrop on, even momentarily, and being bombarded again. I hate that men control how I behave' (Sophie)

'[Cyberflashing] is another example of women not being equal to men in public spaces... we can't walk home alone at night without fear of being raped... and now they're getting into our phones too' (Justina)



WHAT IS THE LAW IN ENGLAND AND WALES?

There is no criminal offence against sending unsolicited penis images. The laws on physical 'flashing' don't apply; and prosecutions using other offences like harassment have many hurdles, with prosecutions unlikely. Ultimately, the law has failed to keep pace with evolving technology and is letting victims down.

WHAT IS THE LAW IN OTHER COUNTRIES?

Some countries, like Scotland and Ireland, already have sexual offences legislation which is sufficiently broad to capture new forms of sexual violence like cyberflashing.

Other places, like Singapore and several US states, have recently introduced new criminal laws specifically targeting cyberflashing.

DO WE NEED A CRIMINAL LAW?

There are many benefits to adopting a criminal law, including that it would:

- make it clear cyberflashing is wrong and potentially harmful
- let victim-survivors know their experiences are understood and recognised
- facilitate successful prosecutions, by removing requirements to shoe-horn cyberflashing into other laws
- provide a positive foundation for education and prevention initiatives

HOW SHOULD WE REFORM THE CRIMINAL LAW?

Make it a sexual offence

Any new law must frame cyberflashing as a sexual offence, to recognise the nature and harms, to grant victims anonymity and protections in court, and to permit suitable sentencing options.

Focus on the core wrong of non-consent, not perpetrator motives

The wrong of cyberflashing is non-consensual conduct breaching sexual autonomy, regardless of the perpetrator's motives. Motive requirements invariably mean only some abuses are covered, denying some victims redress and make prosecutions less likely.

Cover all penis images

The law must cover all genital images, not only those of the perpetrator, as well as altered/fake images. Otherwise, the law will be practicably unenforceable.

Extend motives beyond direct intention to cause distress

If any law is to require specific motives, it is vital that this includes humiliation, as well as distress; and that the offence can be committed recklessly, so capturing perpetrators whose main aim is not to cause alarm, but they are nonetheless aware of this risk.

WHAT ABOUT A REVIEW OF ALL SEXUAL OFFENCES LEGISLATION?

Beyond a bespoke cyberflashing offence, we should consider a broader sexual offence encompassing cyberflashing, as well as a wider range of sexually intrusive practices.

Such reform should be considered as part of a wholesale review of sexual offence laws, examining the changing nature of perpetration, advancing technology and prevalence of online abuse.

WHAT ABOUT EDUCATION, PREVENTION AND SUPPORT FOR VICTIMS?

Law reform is only ever the first step and must be accompanied by effective awareness-raising campaigns and education initiatives.

Crucially, organisations supporting victim-survivors – including specialist organisations working with black and minoritised women whom we know experience higher levels of abuse – must be granted sustainable and sufficient resources to support victim-survivors.

FURTHER READING AND INFORMATION

Law Commission Consultation Response: our detailed response to the consultation on abusive communications and cyberflashing law reform is available [here](#).

Journal article: Clare McGlynn and Kelly Johnson, (2020) '[Criminalising Cyberflashing: options for law reform](#)' Journal of Criminal Law (open access)

Victim-survivor experiences: For further insight into how women experience cyberflashing, see [Sophie Gallagher](#)'s excellent journalism in the [Huffington Post](#) from where most of the victim quotes included here are taken.

YouGov (2018): '4 in 10 millenials have been sent an unsolicited penis photo', [available here](#).

Bowden (2020): 'Cyberflashing on trains 'largely unreported' despite rise incidents' YahooNews [available here](#)

SUPPORT SERVICES FOR VICTIM-SURVIVORS

Revenge Porn Helpline

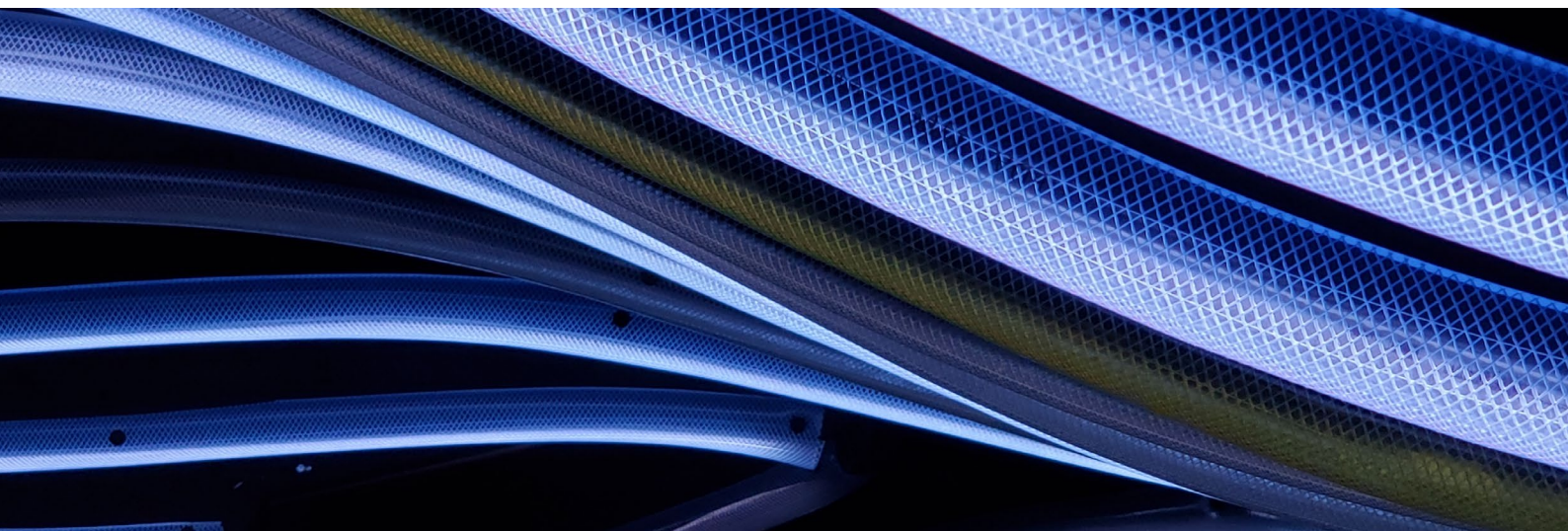
<http://www.revengepornhelpline.org.uk/>
help@revengepornhelpline.org.uk

Women's Aid

<http://www.womensaid.org.uk/information-support/>

Rape Crisis

<http://rapecrisis.org.uk/get-help/want-to-talk/>



ABOUT THE BOOK

Cyberflashing has been on the rise since the Covid-19 pandemic. Yet, despite its prevalence and significant harms, cyberflashing is not a criminal offence in England and Wales.

This crucial book provides new in-depth analysis, understanding and insight into the nature and harms of cyberflashing. The authors consider recently adopted laws in the US, Singapore and Scotland, and set out proposals to criminalise cyberflashing as a sexual offence in English law.

This unique and timely study presents the first comprehensive examination of cyberflashing and the need to reform the criminal law.

Cyberflashing by Clare McGlynn and Kelly Johnson is published by Bristol University Press, March 2021.

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About the authors





Professor Clare McGlynn QC (Hon) is Professor of Law at Durham University with over twenty years' experience influencing criminal law reform relating to sexual violence, image-based sexual abuse and pornography.
Clare.McGlynn@durham.ac.uk @McGlynnClare
www.ClareMcGlynn.com

Dr Kelly Johnson is an Assistant Professor in the Department of Sociology at Durham University with research expertise in sexual and domestic violence, most recently addressing image-based sexual abuse and policing domestic violence.
K.M.Johnson@durham.ac.uk @Kelly_MJohnson



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