**Image-based sexual abuse: Legislative and Policing Responses**

**Abstract**

Twenty-eight in depth interviews were conducted with victims, stakeholders, and criminal justice staff to investigate legislative and policing responses to image-based sexual abuse (IBSA) in England and Wales. The research identifies fundamental failures within these responses and therefore calls for urgent change. Findings indicate that victims face fundamental prosecution barriers due to various limitations within the law as well as police failure to implement victim’s rights and provide a sense of procedural justice. This article therefore makes recommendations for stakeholder-informed legislative and policing reform.

**Key Words**

Image-based sexual abuse, revenge pornography, legislation, policing, criminal justice, procedural justice

**Introduction**

In recent years, an exponential growth in technology, particularly easy access to smart phones and the internet, has increased the likelihood of sexual victimisation (Patel and Roesch, 2022). Increased connectivity allows sexual violence to occur more easily, instantaneously, and on a much larger scale (Huber, 2022a). Image-based sexual abuse (IBSA) is a prime example of how technology has increased vulnerability to sexual abuse. For example, the ease in which images can be obtained, the speed in which they can be shared, and the size of the audience once images are shared have all increased (Huber, 2022a; Jane, 2017; Powell, et al, 2018). As a result, it is estimated that one in ten people are subject to some form of IBSA (Henry et al., 2017). Whilst the term IBSA encompasses a wide range of behaviours referring to the taking, making, and sharing of sexual images (Law Commission, 2021; McGlynn et al., 2017), for the purposes of this article IBSA specifically refers to the non-consensual *sharing* of sexual images.

The impacts of IBSA are now well known:victims suffer from nervousness, anxiety, depression, paranoia, self-harm, isolation, loneliness, suicide, shame, humiliation, reputational damage, occupational issues, and special restrictions (Cyber Civil Rights, 2014; Huber, 2022a; McGlynn et al., 2019). Literature also highlights that the online nature of this victimisation can exacerbate feelings of shame, vulnerabilities to further abuse, and fears of reoccurring victimisation (Franks, 2014; Henry and Powell, 2016; Short et al., 2017). In recognition of these harms, in April 2015, Section 33 of the Criminal Justice and Courts Act criminalised the “disclosing [of] private sexual photographs or films without the consent of an individual who appears in them and with intent to cause that individual distress” (*Criminal Justice and Courts Act, 2015*). The introduction of this legislation was a pivotal step in nature and impact of IBSA However, this legislation has faced heavy criticism for failing to represent and protect victims (McGlynn, *et al.,* 2019; McGlynn and Rackley, 2017; Powell and Henry, 2016). Furthermore, studies have suggested that police forces continue to fail in providing justice for victims, regardless of legislative support (McGlynn et al. 2019).

In comparison to research detailing the impact on victims, research examining legislation, and particularly policing, is much more limited. This article therefore presents one of the very few studies providing a detailed account of victim, stakeholder, and police officer experiences of legislative issues and policing responses. The article begins with an overview of current research investigating IBSA legislation and policing responses, and touches upon the need to consider the role of procedural justice in the IBSA context. After a summary of the research methods, it then outlines the research findings and provides a discussion on how the current responses are failing to provide victims with a sense of justice. Accordingly, this article puts forward vital recommendations to improve victims’ experiences of the criminal justice process and aid in their pursuit of justice.

**Limits of Image Based Sexual Abuse Law**

Before the criminalisation of IBSA in England and Wales, one of the most appropriate pieces of legislation to prosecute offenders was the *Malicious Communications Act 1998.* This outlaws communication which is perceived as “indecent, grossly offensive, poses a threat, or is false, with the intention to cause distress or anxiety to the victim”. However, this legislation failed to capture the complexity, seriousness, and impact of the offence. This is mostly because IBSA would not surface as a contemporary form of sexual abuse until over a decade later when Hunter Moore created the first ‘revenge pornography’ website in 2010 (Lee, 2012). In short, the legislation was simply not designed to respond to such issues. After 2010 the increased attention IBSA received from academics, support organisations, MPs, and the public resulted in calls for specific legislation (Bowcott, 2014, Kelsey 2015; Simpson, 2014), eventually introduced in 2015 under the Criminal Justice and Courts Act.

Whilst criminalisation has led to an increase in the number of police reports (Halliday, 2015; Nelson, 2022), research suggests that legislation is still not fit for purpose. It is not within the remit of this paper to discuss every issue, however there are number of legislative aspects which are commonly identified as particularly problematic. Firstly, the requirement that to secure a prosecution, the perpetrators intention to cause distress must be proved. The Crown Prosecution Service (2022) states that those who re-post images on social media or distribute images without the knowledge that the subjects’ consent is absent will not face charges. Whilst this may be an attempt to prevent overcriminalisation of those who may get inadvertently caught up on social media, academics and stakeholders continue to stress a wide range of motivations which fall outside of the law’s remit. This includes the sharing images for fun, sexual gratification, social status and peer networking (Henry and Flynn; Huber 2022b; 2019; Langlois and Slane 2017; Law Commission, 2021; Uhl *et al*. 2017). This means that in many instances prosecution is not a viable option on account of the fact that images are often not shared with the purpose of causing harm but instead for personal gain.

Secondly, that prosecution is dependent on the images shared meeting the legal definition of ‘private and sexual materials’. ‘Private’ images are defined as images which show ‘something that is not of a kind ordinarily seen in public’. ‘Sexual’ images are defined as the exposure of the genitals or pubic area, ‘something that a reasonable person would consider to be sexual because of its nature’ or ‘content, taken as a whole, is such that a reasonable person would consider it to be sexual’ (*Criminal Justice and Courts Act, 2015*). Research suggests that there are many harmful image sharing contexts which are not captured within this definition. This includes cultural or religious contexts, for example a Muslim woman without her hijab, and images digitally altered such as deepfake images (Huber, 2018; Law Commission, 2021).

Thirdly there has been heavy criticism over IBSA not being legally considered a sexual offence. McGlynn (2016) points out numerous reasons as to why this is unjustified. Firstly, not only do these images tend to be sexual in nature but they often end up in sexual contexts, such as pornography websites. Secondly, the abuse is often sexual in nature, with women often suffering from threats of sexual violence once images are shared online. Finally, this type of victimisation harms sexual freedom and autonomy because it prevents people from freely taking sexual images without fear of distribution, causing self-censorship. One of the most pressing consequences of IBSA not being considered a sexual offence is that victims are not automatically granted anonymity within the criminal justice system (Law Commission, 2022).

**Problematic Policing: Police Responses to Image Based Sexual Abuse**

Literature suggests that policing responses to IBSA are generally inadequate and that some of the issues reflect broader challenges in responding to cybercrime. For example, Henry et al., (2018) examined policing responses to IBSA in Australia. They found that police officers were often not able to respond to IBSA appropriately and struggled with, identifying offenders, obtaining evidence, navigating different policing jurisdictions, and overcoming the lack of co-operation from service providers. In addition to the practicalities of policing forms of online crime, Franks (2011) points to the tendency for perceptions of crime to be associated with physical or emotional harm committed in the offline context, and that online crime is often dismissed as unreal. This explanation goes some way in explaining why when women have reported online abuse to the police they have been advised to “simply take a little break from the Internet” (Jane, 2017:4). This approach is mirrored in policing responses to IBSA. For example, McGlynn *et al.* (2019) found that very few victims are having a positive experience when reporting due to the police lacking legislative knowledge and appropriate investigatory skills. Police also tended to dismiss the seriousness of cases and displayed victim blaming attitudes. These findings support the argument that in addition to the practicalities of policing online crime, victims of sexual abuse continue to face policing responses which suggest victim precipitation and an expectation that victims resolve the problem by implementing protective strategies (Jane, 2017).

Understanding interactions between victims and criminal justice agencies is imperative because these experiences often underpin victims’ perceptions of the criminal justice process, not just the outcome of their cases (Johnson, 2017; Mawby and Walklate, 1994). Thus far, there is only one study within the UK which has touched upon these interactions, McGlynn et al’s. (2019) interviews with victims identified how victim blaming, and a lack of support to navigate the criminal justice system left victims deeply unsatisfied with their experiences. Whilst their research does not specify a focus on procedural justice, it is the only study which begins to touch upon the more detailed and procedural aspects of victims’ experiences. Procedural justice refers to whether decisions by those in authority are fair (Lind and Tyler 1988). Providing victims with procedural justice has been argued to reduce victim trauma particularly in sexual assault cases. Being treated by police in ways which acknowledge harm, validates experiences, allows victims to express emotions, and ensures victims are treated as human beings can provide a sense of closure and empowerment which is not reliant on the outcome of their cases (Elliott, 2014; Johnson, 2017).

Whilst previous literature has proved imperative in uncovering some of the most pressing issues, much further exploration of criminal justice responses is needed, particularly victim accounts of interpersonal experiences with police officers, and victims’ perceptions on legislation and sentencing. The findings presented therefore not only reiterate previous arguments, identifying fundamental flaws within legislation and policing, but also provide a more granular understanding of victim’s experiences. It is also the first paper to consider the importance of procedural justice within the IBSA context and how this can be used to inform recommendations for a more effective criminal justice response.

**Methods**

The research aimed to understand IBSA victims’ experiences and perceptions on policing and legislative responses. In-depth, semi-structured interviews were undertaken in 2016/17 with women victims of IBSA (*n*= 17), stakeholders (who have professional experience working with victims of IBSA, i.e., organisation staff and lawyers) (*n* = 6) and criminal justice staff (*n* = 5) (four police officers and one crown prosecutor). Whilst the purpose of the research was to place primary emphasis on victims’ voices, stakeholders and police officers provided broader perspectives on key issues and allowed for sampling triangulation, increasing validity (Creswell and Creswell, 2018).

Victims were recruited through several avenues including gatekeepers, namely the Revenge Porn Helpline and Merseyside Domestic Violence Service (n=11), snowball sampling (n=1) and convenience sampling (n=5). Stakeholders and police were recruited via purposive and snowball sampling to ensure interviewees had specialist knowledge and experience. Interviews were digitally recorded to increase the accuracy of transcriptions (Gray, 2018) and then downloaded into NVivo. The transcripts were coded inductively and thematically. Each line of the transcripts was coded, and as the data analysis progressed, themes which occurred most frequently were identified as key themes.

**The Law and Criminal Justice Provisions: Failing to Account for Women’s Experiences**

Findings highlight four significant flaws within the current legislation causing difficulties for victims seeking criminal justice. Firstly, the sample contained two cases involving the distribution of images which are not legally considered sexual material. One was a photoshopping incident where non-sexual images were altered to make them sexual. The other involved a Muslim woman having five images of her without her hijab uploaded to Facebook. Whilst these images are not legally considered ‘sexual’, the distribution was still damaging. When detailing the impact of victimisation on their everyday lives, their experiences aligned with the experiences of those victims who had images shared which would be classed as ‘sexual material’ (see Huber, 2022a). Stakeholders also described their experiences with similar cases:

The law describes [sexual content] as like, nipples, genitalia, sexual acts but... I wish it would be redefined … cos, say people from Muslim communities, the impacts are just as bad, if not worse, of someone in a bra, or with shoulders out. We’re so limited in the fact that we get calls from women that are frightened of honour-based killings, of ostracization, when there’s them in a bra. To me I’m just like, oh yeah that’s just a bra. Actually, no, it’s not to them, it’s just as bad as sex. So, that to me is revenge pornography because it’s got the same repercussions, someone’s had the same drive, it’s the same motivations … We had a girl saying, “only a t-shirt.” She was like, “this is terrible my dad is going to beat me for this picture,” and you just think that’s someone’s arms, that’s my everyday but for her that’s as bad as me being naked online (Stakeholder Three).

Secondly, the legislation requires the prosecution to prove that the defendant acted with the intention to cause distress (Ministry of Justice, 2015). Stakeholders argued that this causes fundamental barriers to prosecution.

The intent to cause distress causes a lot of issues, a lot of the time [you can’t] show that someone’s gonna cause distress. One time a man sent it to her work and all her workmates through email, and [the police] said, “well there is no intent to cause distress.” Well, what else could it be? (Stakeholder Three).

Four of the six stakeholders strongly argued that any reasonable person would know that distress would be caused, even if they did not know the full extent of the harm caused by their actions. However, lawyers within the sample stressed the importance of the clause to prevent overcriminalisation. Therefore, they suggested amending rather than removing it.

I wonder whether there should be two offences that, the one that’s you shared the images with the intention to cause that person distress and then something which is much more like harassment, you knew or ought to have known that it would cause them distress or something in there that’s a bracket lower (Stakeholder Two).

The suggestion of a tiered system was also identified by a police officer.

Actually, the other issue, legally, was the intent. I think intent to cause harm or distress because in this case, and I guess in others, it was a little bit, “well I didn’t mean to do that, I didn’t mean to, I didn’t have the intent.” Any offence where you’ve got to prove intent means that you’ve got to prove what someone was thinking at the time and that can be tricky... In some cases, for murder or something you’ve got intent, you can be intent on doing it or you can be reckless, and recklessness can be proved, so you’ve got intent and then recklessness. Whereas this, you’ve got intent or nothing. So, if we can’t prove the intent, as in really prove the intent to a criminal standard, you haven’t got the offence (Police Officer Two).

Thirdly, with IBSA not being legally considered a sexual offence, victims are not automatically granted anonymity during the criminal justice process, and this was identified as a common reason for under-reporting

The whole point of this is that they feel exposed, shamed, and humiliated. So, why would you put yourself through that again, just at the point when actually you might be able to put it behind you because actually, by the time it comes to court … Somebody yesterday said, “if I do go to court, will I be anonymous?” Well, I had to say, “no, I’m afraid you just won’t, you know, they won’t announce your name but it will be there in record, the press might use it, they might not.” …Anonymity would be really important (Stakeholder Five).

When victims were asked whether they thought anonymity would be important there was a mixture of responses.

You know what, actually, I wouldn’t have, I don’t think I’d have anonymity cos I’d like to have a voice. I think the reason I’d keep myself anonymous is if the pictures were still live, you know (Victim Two).

I think it should be the same as like, you know sex offences, the same as rape and that, they have anonymity don’t they. So, I wouldn’t want like the media or like my name or anything put in the media, anything like that…. Then people can go online and obviously look for their pictures and that will make it worse so I definitely think there should be anonymity (Victim Eight).

Lastly, concerning the sentencing guidelines, many of the women felt that the two-year maximum sentence that IBSA carries was not proportionate to the harm inflicted. Some suggested that a two-year sentence should be the minimum and/or that the maximum should be at least five years.

We all know now with good behaviour you get half of that, that’s ridiculous. At the end of the day that person could come out in six months and the video could still be on the Internet. Remember once it’s out there on the Internet it will forever be there, what is two years? I would literally say about six years, … because somebody could lose a life because of that. Why should somebody do six months or nine months because of a video they’ve recorded and destroyed somebody’s life, they’ve lost their life, they’ve lost their money, they’ve lost so many people in their life. Why should somebody go through that and then the next six months they see that same person who videoed them (Victim Seven).

The women’s perceptions of the sentencing guidelines are somewhat expected given they are living with the consequences of victimisation. However, the sentiment that sentencing guidelines were not reflective of the harm caused was also confirmed by the stakeholders.

The maximum sentence is two years which doesn’t really place it in the category of a serious offence that a lot of people think it should be. You naturally judge an offence of how serious it is by the maximum sentence people could get... Maybe have two years for, if you did have a harassment style, known or ought to have known it’s going to have caused distress maybe that would be one that was nearer two-year maximum and then something that was higher than that, I suppose five or seven years (Stakeholder Two).

Although stakeholders and victims were calling for sentencing which more appropriately reflected the severity of the offence, some stakeholders were keen to highlight how custodial sentences may not be the most effective response.

I also have views about prison and does prison work? Well it doesn’t always, and for this sort of offence is it the right place, is that the right way to deal with this? I don’t really know, but our prison system is not brilliant. Suspended sentences often do work quite well because as long as you give a lengthy period for the suspension it’s hanging over people and you can build in all sorts of other things. We probably need more in terms of rehabilitation and domestic abuse work, something that can be operated by probation as part of your suspended sentence and then you get the best of both worlds, than just a community penalty (Stakeholder Five).

**Interpersonal Responses: Are Police Forces Upholding Victim’s Rights and Interests?**

Eleven of the 17 victims interviewed reported their experiences to the police, however, this this propensity to report is unlikely to be replicated amongst the general population because the Revenge Porn Helpline were asked to focus upon recruiting participants who had contacted the police. Of the eight women recruited independently from the helpline, only two reported their experiences to the police.

As part of ensuring fair treatment for victims, the Ministry of Justice (2020: 6) states that victims have the “right to be treated with respect, dignity, sensitivity, compassion and courtesy”. Only three women stated that they had received a response which met these entitlements, and in these instances, victims suggested that the response they received was influenced by factors other than being sexually victimised.

[The police officer] was a friend who come round and he just happened to have the authority to deal with that situation... I don’t think it’s the police in general that helped me, I think it was more knowing someone (Victim Four).

[The police] were amazingly sympathetic … I think my case is unusual as well because this came into the category of proper blackmail. So, I ended up with quite high-up police investigators working on it. I don’t know if that’s one of the reasons why I found that they were pulling out all the stops. I’ve had such a positive experience with the police... I appreciate that a lot of people haven’t (Victim Six).

Whilst the above experiences demonstrate that police forces can effectively responded to victims, the majority of victims (*n =* 8) did not receive similar responses.

I found it a bit embarrassing, and I felt like their attitude, they didn’t seem too bothered and that about it... they didn’t take it too seriously (Victim Eight).

The lady was very nice, she was really understanding but very, … cold in the way that “I can’t help you with this.”. And that devastated me, that made me even more upset because I thought they could have helped me (Victim Fourteen).

One victim’s experience highlighted a clear discrepancy between victim interests and police officer capabilities.

The police didn’t really know what to do and I felt as if they didn’t really care cos they were more wanting to get him arrested... they were more interested in what had happened and where to go from there rather than helping me to get rid of the images and that’s really upsetting when they tell you that (Victim Twelve).

The Code of Practice for Victims of Crime also states that victims “have the rightto be provided with updates on [their] case and to be told when important decisions are taken”, (Ministry of Justice; 2020:1) yet victims felt frustrated that the police were not keeping them up to date.

I had to kept pressing them, calling them up to say, “what’s going on?” She [the police officer] was never calling me (Victim Seven).

They’re not keeping me up to date, no. And we’re four weeks in since it happened (Victim Twelve).

In total, only one victim was happy with police communication whilst six felt that the police failed to keep them informed. Stakeholders also explained that police officers were seen to reinforce myths surrounding IBSA and that police officers knew very little about current legislation and the nature of the offence.

One woman had some hideous things shared and [the police]just said, “no, no it’s part of your divorce, just cos you got a messy divorce he’s allowed to do that, it’s not against the law” … a lot of the time police came back, “oh it’s not on social media, it’s not on Facebook, it’s not revenge pornography.” We’ve had a lady, her boyfriend printed off pictures and put them under every car in the street of her gym. And the police were like, “oh no that’s not revenge pornography.” Well it is. Even the police, they told people that “you can’t have revenge porn against you because this person’s not your ex-boyfriend” and that’s not the case .... We get so many complaints about that first call [to the police], people being put off, being upset. (Stakeholder Three).

Stakeholders stressed that victim-blaming was still a significant problem within policing responses. However, they did argue that since the introduction of the IBSA law, there had been a gradual reduction in cases of victim blaming.

Someone [a police officer] called someone a “silly girl”, I was livid (Stakeholder Three).

I mean, she [police officer] did say to me, “well you know now, you shouldn’t do it again,” and I was like, “yeah trust me I won’t” (Victim Five).

Although three of the criminal justice representatives stated that victim-blaming responses were not an issue within police forces, two of the officers did highlight the tendency for victim blaming responses to occur.

When cases come in there will be the same comments … “Oh why did she do that,” and a bit of, “oh God well for goodness sake why did you do that?” I think victim blaming is putting it quite harshly actually because I can certainly see how we can be perceived as [victim blaming]. Unless we’re really empathetic and listen throughout the whole process, it doesn’t take much for somebody to say, “what! Why on earth?” you know, the tone of voice, if they don’t moderate and just be more understanding in their tone of voice that could come over as victim blaming, it might just be a little bit of exasperation. So, I think that officers would have some of the same reactions as general members of the public around a little bit if exasperation about, or lack of understanding about why on earth would you do that. I wouldn’t characterise it as victim blaming (Police Officer Two).

[There are] oodles. Oodles [of instances of victim blaming]... And there’s no excuse for them, but it’s the easiest advice to give isn’t it? “Don’t send pictures.” That’s the easy bit of advice isn’t it, that’s why we still go into schools and I hate it you know, “don’t send pictures.” It doesn’t work like that but it’s the easy way out (Police Officer Four).

Due to such poor police responses, support organisations felt that they needed to ‘arm’ victims with information before they approached the police.

Coaching about how to approach the law has become a massive thing. So, what they’ll expect, to ring 101, the fact that it’s a call handler cos we just get so many complaints about that first call, people being put off, being upset. I coach people now like, “you’re gonna go to call handler,” cos those expectations really help and obviously I coach them about the laws, what they need to take. So, you’re literally arming them because you can’t stop an unsympathetic, ill-educated response from the police sometimes but you can arm a victim so they are confident enough to go there (Stakeholder Three).

This not only indicates a lack of knowledge on behalf of those receiving reports, but it also means that victims who do not seek support from lawyers or third sector organisations are more likely to receive inadequate responses from police officers if they are unable to identify the laws that apply to their own case.

Some of the victims highlighted the importance of having a female officer handling their cases. This came out during the interview process and therefore not all participants were asked how important this was. However, four women highlighted this issue.

I asked for it to be a woman when I phoned the 101 number.I said it needed to be a woman... I didn’t want to speak to a man about what had happened to me; I didn’t want a man seeing the images (Victim Twelve).

Due to inadequate police responses, stakeholders were adamant that police officers needed training to understand IBSA. All stakeholders and police officers interviewed stated that training should be aimed at frontline officers and call centre staff.

Definitely I think there could be more done in training police officers with how to deal with revenge porn victims. I think there is some kind of training going on somewhere which is great. But it’s the bobby on the street, you know, it’s all very well having these lovely sexual violence units and things like that but it’s the cop, the bobby that goes around straight away that needs to have the training on how to deal with it (Stakeholder Two).

There was a consensus amongst participants that one of the reasons police responses were inadequate was a lack of knowledge of the law as well as the need for victim awareness and evidence collection training.

There needs to a very basic understanding of what the law is because the police’s job is to implement the law and follow up if a crime has been committed. And it seems like a lot of police don’t know what the law is, which is a bit worrying really. So, there’s some fundamental training and awareness that needs to be done with the police, understand the law and understand the impact on victims and how serious it is and do something about it (Stakeholder Five).

The advice [from police to victim] should very much be to keep evidence you know, take screenshots of things…, retain as much evidence that you can. Greater training on how to download material quickly from phones and other things because, you know, people might also be reluctant to give up their phone… We need to have systems where it can be done almost instantaneously (Stakeholder Two).

The interviews conducted with police officers reflected the need for training in these areas. Police Officer Two stated that police officers are still primarily trained to police traditional crime which usually results in physical injury to the victim. Therefore, he argued that “psychological damage and injuries is quite difficult to get your head around and then deal with effectively.”

The findings also suggested some inconsistencies across police forces which was said to be impacted by the size and workload of each force. Police officers who worked in smaller police forces (equivalent to Shire police forces), and therefore dealt with fewer cases, demonstrated a better understanding of the effects of IBSA than the officers who belonged to larger forces (equivalent to Metropolitan police forces).

We’re a very small unit and we have benefit of time. Other police forces are probably inundated now. We don’t have that scale of work coming in, so we do have time. We have time to thoroughly investigate something, to spend loads of time with the victim, to go to court, to see it from A all the way through to Z. We can do it all. We’re privileged (Police Officer One).

Consequently, this police officer provided the following understanding of the impact of IBSA.

The victim was so traumatised it affected her life [from] the minute she woke up to the minute she went to bed. That is not worthy of caution, that isn’t a slap on the wrist. She was traumatised and still is... But it must be awful, you know. I think her social media, she’s not on as many sites now, it’s put her off. But why should it, you know, she’s a young girl that’s how that generation live don’t they? He’s [perpetrator] definitely restricted what she does, that’s wrong (Police Officer One).

Comparing this response to a police officer who worked within a larger police force, there was a significant difference in how much they understood the impacts of such victimisation. They stated that:

obviously, I haven’t discussed whether it’s had an impact on her life as in going out on dates and stuff, but I presume it probably has (Police Officer Three)

Therefore, stakeholders and some police officers, highlighted that training should include an understanding of the effects of IBSA to ensure that officers can be empathetic, and above all, understand the need for victims to be listened to. Furthermore, with the law having some substantial limitations, it is likely that even with training, a large proportion of victims will not receive the outcomes they want or be able to pursue their cases in criminal courts. In these instances, stakeholders emphasised the need for police officers’ attitudes towards victims to be more understanding and take the time to make victims feel heard, even if officers are limited regarding legislative responses.

It may be that we know there’s not going to be a massive outcome, won’t be a massive prison sentence, all they can do is give a caution, but for 10 minutes sitting with someone who’s been afraid and treated this badly, that attitude is everything. (Stakeholder Three).

**Making Change: Improving victim experiences**

The research findings suggest that victims’ experiences of the criminal justice system are poor. Whilst not generalisable, these findings mirror the those from other research in the area (see McGlynn, *et al.,* 2019; McGlynn and Rackley, 2017; Powell and Henry, 2016), suggesting that these experiences may be common amongst victims. The accounts indicate that significant changes need to be made to legislation and policing in order to ensure victims receive appropriate and effective responses.

With regards to legislation, victims face several barriers to qualify for inclusion within the law particularly due to legal definitions of private and sexual materials, and the requirement to prove intent to cause distress. At present, the law is failing to account for the varying contexts where image sharing is used as a form of abuse. Additionally, by failing to consider IBSA as a form of sexual violence and grant victims’ anonymity, the state is failing to consider the dangers posed to victims who come forward to the criminal justice system. Moreover, by failing to provide this provision for victims it suggests that IBSA is perceived as less serious than other sexual offences.

This research therefore suggests the following legislative changes as a move towards recognising the reality of victims’ experiences. Firstly, the legal definition of sexual material should also be broadened to include photoshopped and ‘deepfake’ images, as well at the further consideration of context in which images are shared and used. Secondly, there should be the introduction of a ‘recklessness’ or ‘negligence’ charge to lower the current threshold requiring intent to cause distress. Legally, recklessness refers to taking of unjustified or unreasonable risks whilst negligence refers to a failure to foresee a risk any reasonable person would (Monaghan, 2020). Thirdly, IBSA should be categorised as a sexual offence and victims should be given the *option* of anonymity. Being given the *choice and control* over anonymity is a vital part of the justice and empowerment process. Whilst it would be unreasonable to call for such changes solely based on this sample, previous research has identified that reforms of this kind are vitally important in ensuring that legislation is fit for purpose (Law Commission, 2021; McGlynn, 2016; McGlynn, *et al.* 2019).

With regards to sentencing, some participants felt that the current two-year maximum sentence should be used a *minimum* sentence and that the maximum penalty should be at least five years. Consultations with stakeholders carried out by the Law Commission (2022) confirms that in some instances, a higher sentence is needed to represent the seriousness of the offence (potentially a 3-year maximum for sentence where clear intent is found i.e., sexual gratification or intent to cause distress), although these sentencing guidelines do not entirely mirror participants views. This discrepancy could be explained

by the fact that those within consultations may be more aware of the fact that increasing sentencing does not always equate to victims achieving a sense of justice. Herman (2005) found that even when perpetrators of sexual assault received a custodial sentence, the lack of victim involvement in the process resulted in victims being dissatisfied with the outcome. McGlynn and Westmarland (2019) also identify the concept of kaleidoscopic justice, arguing that, from a victim perspective, it is important the abuser receives some kind consequence and accountability for their actions, victims’ experiences are believed and recognised, and that attempts to are made to reduce re-offending and protect potential future victims. Participants in this study clearly demonstrated the importance of these factors and therefore it may be more effective, for both victims and offenders, if sentences were accompanied by appropriate criminal justice support for victims and programme-based sentences based on accountability and rehabilitation.

With regards to policing, the data supports previous research which suggests that police forces are failing to meet the rights of victims, take due consideration of their interests, and are continuing to victim blame (Henry and Powell, 2016; McGlynn et al., 2019). Findings also suggest a discrepancy between victim interests and police officer capabilities as a lack of knowledge around victim rights and interests left victims without emotional and practical support. Victimological literature has previously raised this issue, highlighting how police culture emphasis on action has resulted in the side-lining of victim services and support (see Clevenger, 2015; Mawby and Walklate, 1994). Victims also felt that information and communication provided by police forces was insufficient, something that Shapland (1986) identified as one of the most critical reasons for victim dissatisfaction (see also Elliott et al., 2012). What is fundamentally problematic is that the importance of initial police responses and how they underpin victim’s experiences of the criminal justice process has been known for more than two decades (Walklate, 1994) and yet we continue to see inadequate and inappropriate responses to victims. Whilst these findings are therefore not new, they do suggest that in IBSA cases, outcomes and investigative work are not the defining factors shaping victims’ experiences of (in)justice. In short, procedural justice has a role to play in improving these victims’ experiences.

Procedural justice, or being treated fairly within the criminal justice system, leads to a belief in the legitimacy of authorities, reduces trauma, and encourages reporting, particularly in cases of sexual assault (Elliott et al., 2014; Graham et al., 2020; Stanek et al., 2022). Elliott’s (2014) explanation for this link is that being treated fairly conveys a message to victims that they are important, respected, and valued. It shows an acknowledgement that they deserve to be treated with dignity and encourages a sense of self-worth and self-esteem. This is particularly pertinent for victims who have been subject to sexual assault as this type of victimisation notably undermines these tenets. Particularly relevant to the data presented, are Elliott et al’s (2012: 444) findings in relation to the importance of police officers ‘[see]ing beyond the case’ and seeing victims as human beings. This involves three factors, (1) letting victims tell their story and express emotion, (2) allowing victims to choose between options, and (3) address the consequences of crime. This kind of approach alongside a greater adherence to victims’ rights would likely improve victims’ sense of procedural justice and therefore their experiences of the criminal justice process. The following practices would therefore contribute to improving victim experiences; (1) providing victims (or signposting them to) someone they can talk to even when prosecution is not viable, (2) giving victims the option of anonymity and speaking to an officer of the same gender, (3) keeping victims up to date with their cases, (4) improving consistency across police forces, and (5) at minimum, ensuring the victims code is adhered to as standard practice.

Findings also suggest a need for police training around which cases meet legal requirements, advising on image removal or signposting to relevant services, and digital data collection. Training in these areas may produce some positive results; once legal knowledge and practical skill sets are gained these can easily become ingrained within standard practice. However, the call for awareness training, may not yield the positive results expected by participants. For example, in the context of racism, Bowling et al. (2004) question the effectiveness of training due to its superficial nature and inability to provide any real value in practice. Stanko and Hohl (2018) further argue that increasing calls for police training on sexual violence, and the implementation of such training, has failed to provide any constructive change in policing responses. Alternatively, some literature suggests that a more collaborative approach to training and knowledge transfer may be a more effective way to influence change (Mimi, 2015). Carlton and Russell (2018) highlight the “inside/out” approach taken in some feminist anti-carceral work involving collaboration between stakeholders, legal advocates, and imprisoned women. It was found that collaborative networks operating inside *and* outside institutions were key to instigating change. Providing researchers and stakeholders with greater influence and collaborative opportunities with criminal justice staff could therefore provide more effective approach to reform.Whilst we are yet to see whether the report will instigate any legislative change, the recent Law Commission’s consultations with academics, organisations and victims has demonstrated a movement towards this approach (Law Commission, 2022). Taking this approach to inform policing will also be important as any legislative change will be futile if policing remains inadequate, and victims feel disregarded in the criminal justice process.

**Conclusion**

This article presents research which examined the appropriateness of current legislation and policing responses to IBSA. Interviews with victims, stakeholders, and police officers have highlighted failures with regards to both legislation and policing. Findings indicate that victims face fundamental prosecution barriers due to the plethora of limitations within the law which result in many contexts falling outside of the law’s remit. There is also a continued tendency for police officers to underestimate the seriousness of victim’s cases, and a failure of police officers to implement victims’ rights, ensure procedural justice, and recognise victim’s interests. Therefore, the research findings conclude that that the criminal justice system is fundamentally failing to provide justice for victims. To address this, this paper calls, and makes recommendations, for reform. This includes, firstly, legislative reform to recognise a wider range of cases, reduce the intent barrier, and consider sentencing responses which align with victims’ interpretations of justice.

Secondly, there must be reform to improve police knowledge and skills when investigating IBSA cases. There must also be an improvement in interpersonal responses through the granting of victims’ rights and recognition of their interests. This can be achieved through implementing police training, knowledge and skill whilst also allowing stakeholders to collaborate and influence best practice.

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