

Upskirting

Helping officers and staff to understand the impact of upskirting on victims and how to respond effectively.

5 mins read

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Upskirting is the act of operating equipment or recording an image from underneath a person's clothing without their consent or reasonable belief in their consent. This can occur anywhere, for example:

- on public transport
- on escalators or stairs
- at schools or public events

Sexual Offences Act 2003, s 67(a)

Victims of upskirting can experience significant and enduring emotional distress. Section 1 of the [Voyeurism \(Offences\) Act 2019](#) came into effect on 12 April 2019 in England and Wales. It inserts two offences into the [Sexual Offences Act 2003, s 67\(a\)](#), criminalising certain acts of voyeurism. The offences are subject to a two year maximum prison sentence.

Voyeurism (Offences) Act 2019

[Voyeurism \(Offences\) Act 2019](#), s 67a (1) states that a person commits an offence if they operate equipment beneath the clothing of another person (without that person's consent or a reasonable belief in their consent), with the intention of enabling themselves or another person to observe the person's genitals, buttocks or underwear in circumstances where they would otherwise not be visible, and this is done for sexual gratification or to cause humiliation, distress or alarm.

[Voyeurism \(Offences\) Act 2019](#), s 67a (2) states that a person commits an offence if they record an image beneath the clothing of another person (without that person's consent or a reasonable belief in their consent) that is of the person's genitals, buttocks or underwear and this is done in circumstances where another person will look at the image for sexual gratification or to cause humiliation, distress or alarm.

The offences are triable either way and subject to a two year maximum prison sentence. Where committed for the purposes of obtaining sexual gratification and the relevant condition is satisfied, the offender will automatically be made the subject of notification requirements and so become a registered sex offender.

Section 67 allows for acts that are:

- carried out in a private place without a view of the public, for example, a school
- carried out when other persons are not present, for example, an empty train carriage

Case studies

Example 1

Multiple witnesses noticed an individual following a woman closely around the supermarket. When she stopped to pick up her shopping, they got onto their knees and photographed up her skirt. She wasn't aware of this happening. One of the witnesses informed the security guard and the individual admitted their actions. The victim was shaken up by the experience, and the offender was arrested.

The offender could be charged with the Sexual Offences Act 2003, s 67(a)(1) or (2).

Example 2

A woman went to a police station after finding that the memory card of her partner's camera contained videos. The videos had been recorded up the skirts of students as they climbed the staircases leading to a local station. The victims were unaware this had happened, and although there were many potential witnesses present, none of them had seen the acts take place. The suspect was arrested.

The suspect could be charged with the Sexual Offences Act 2003, s 67(a)(1) or (2).

Example 3

A man on a train carriage was positioning his bag underneath the skirt of the only other passenger. No witnesses observed this act, but the passenger felt the bag brush against her leg and realised it was wide open and that a mobile phone inside it was recording a video. The victim informed the police and, following his arrest, they discovered hundreds of upskirting videos on the device. Many

of the videos were taken of teenage girls.

The perpetrator could be charged with the Sexual Offences Act 2003, s 67(a)(1) or (2). He could also be given a sexual risk order for five years to place further prohibitions on his behaviour.

Investigative process

Officers will take positive action, and this type of behaviour should be investigated in the same way as any other offence. Due regard should be given to the use of technology as an enabler for this or similar offences.

Officers should consider examining various devices held by the suspect. Such offences may have a profound impact on victims, so officers will ensure that they are signposted to relevant services, for example, Safeline.

Outcome 21

There may be certain cases for which it is not in the public interest to charge someone with s 67(a) of the Sexual Offences Act 2003. This might include, for example, some cases of children and young people 'messing about'.

In January 2016, the Home Office launched outcome 21. This outcome code allows the police to record a crime as having happened but for no formal criminal justice action to be taken. This allows forces to resolve crimes with the appropriate contextual factors in a proportionate and effective way.

It is important to consider the use of this outcome code on a case-by-case basis. It will not apply to all instances involving children and young people and it may infrequently apply to instances involving adults. It is likely that forces will want decisions about the use of outcome 21 in these circumstances to be reviewed by a suitably senior and/or experienced officer.

You can also read guidance on [responding to the taking or sharing of nude and semi-nude images by young people](#).

Other relevant offences

Sometimes, behaviour of this type may fall outside of the Sexual Offences Act 2003, s 67(a) so it is essential that you consider if other offences may have been committed.

These could include, for example:

- assault
- Public Order Act offences
- stalking or harassment

They may also include [**offences under Sexual Offences Act 2003, s 66\(a\) or \(b\).**](#)

Tags

Violence against women and girls Stalking or harassment