



Children, Education and Home Affairs Scrutiny Panel

Online Safety for Children in Jersey

**Witnesses: The Minister for Justice and Home
Affairs, The Minister for Children and Families and
The Minister for Sustainable Economic
Development**

Friday, 4th October 2024

Panel:

Deputy C.D. Curtis of St. Helier Central (Chair)

Connétable M. Labey of Grouville (Vice-Chair)

Deputy B.B. de S.V.M. Porée of St. Helier South

Deputy H.M. Miles of St. Brelade

Witnesses:

Deputy M.R. Le Hegarat of St. Helier North, The Minister for Justice and Home Affairs

Connétable R.P. Vibert of St. Peter, The Minister for Children and Families

Deputy K.F. Morel of St. John, St. Lawrence and Trinity, The Minister for Sustainable Economic
Development

Ms. C. Hacquoil, Policy Lead for Violence Against Women and Girls

Mr. K. Posner, Director for Improvement and Transformation

Ms. E. Blampied, Senior Policy Officer, Digital Economy

[14:31]

Deputy C.D. Curtis of St. Helier Central (Chair):

Welcome to this hearing of the Children, Education and Home Affairs Scrutiny Panel. Today is 4th October and this is a special hearing on online safety. I would like to draw everyone's attention to the following. This hearing will be filmed and streamed live. The recording and transcript will be published afterwards on the State's Assembly website. All electronic devices, including mobile phones, should be switched to silent. We will start with introductions. I am Deputy Catherine Curtis, I am chair of the panel.

Connétable M. Labey of Grouville (Vice-Chair):

My name is Mark Labey, Connétable of Grouville, and I am vice-chair of the panel.

Deputy B.B. de S.V.M. Porée of St. Helier South:

My name is Deputy Porée, and I am a panel member.

Deputy H.M. Miles of St. Brelade:

I am Deputy Helen Miles, and I am a panel member.

The Minister for Justice and Home Affairs:

Deputy Mary Le Hegarat, Minister for Justice and Home Affairs.

Policy Lead for Violence Against Women and Girls:

Charley Hacquoil, policy lead for Violence Against Women and Girls.

The Minister for Children and Families:

Constable Richard Vibert, Minister for Children and Families.

Director for Improvement and Transformation:

I am Keith Posner, director for Improvement and Transformation.

The Minister for Sustainable Economic Development:

Deputy Kirsten Morel, Minister for Sustainable Economic Development.

Senior Policy Officer, Digital Economy:

Elisabeth Blampied, Senior Policy Officer in the Digital Economy.

Deputy C.D. Curtis:

Okay, that is great.

The Minister for Sustainable Economic Development:

Just to say we have Christoph as well, Christoph Riedmann.

The Minister for Children and Families:

And Andrew Heaven.

Deputy C.D. Curtis:

Yes, I was going to say, if anyone comes up to the table to speak, if they say their names. So we have 1½ hours for this hearing. So, thank you, everyone. If I start with questions. Firstly, there is a question to each Minister. Please could you briefly explain what your position is on the policy of online safety, with particular reference to online safety for children. I do not know who wants to start.

The Minister for Justice and Home Affairs:

I can start if you want. Obviously the Violence Against Women and Girls Taskforce recommendation is in relation to this particular area, and the Government of Jersey has committed funding to invest in a comprehensive and ongoing programme of learning and development in order to strengthen the capacity of a range of services to effectively support victims and respond to online and technology-facilitated abuse. This will cover both adults and children. We are in the process of commissioning the Refuge Technology-Facilitated Abuse Team in the U.K. (United Kingdom) to carry out this work as this agency is the only specialist service in the U.K. that directly supports victims facing complex technology-facilitated abuse concerns. Work will begin in quarter one of 2025 and run for 2 years. The aim of this work is to build on-Island capacity to respond to these forms of abuse rather than to create a dependency on off-Island expertise. Officers are still in the process of scoping which services will be offered the training but at this stage we can confirm that it will be made available to the States of Jersey Police, school safeguarding Leeds, social care services for children and adults, Jersey Domestic Abuse Service, Dewberry House Sexual Assault Referral Centre and also F.R.E.E.D.A. (Free from Domestic Abuse).

Deputy C.D. Curtis:

Okay, so can I say that this is about illegal harms to do specifically with violence against women and girls?

The Minister for Justice and Home Affairs:

Yes.

The Connétable of Grouville:

Chair, may I ask the Minister, could you just repeat the name of the organisation that is doing the review please so I can put that down, because I missed that?

The Minister for Justice and Home Affairs:

Well, it is the commissioning; the Refuge Technology-Facilitated Abuse Team. Sorry about that Constable, I have tongue-tied words sometimes.

The Connétable of Grouville:

Thank you very much.

The Minister for Children and Families:

Right, okay, I can go next. C.Y.P.E.S. (Children, Young People, Education and Skills) has its own online safety policy. The purpose of the online safety policy is to highlight in schools, Youth Services, C.A.M.H.S. (Child and Adolescent Mental Health Services) and other parts of our organisation good practice in keeping young people safe online in what is a technologically quite complex world. The policy is aimed at all, as I have said, but I think crucially the thrust of it comes through the schools. It is based on the underlying principles of the U.N.C.R.C. (United Nations Convention on the Rights of the Child). Our Keeping Children Safe in Education policy, and that is the main thrust of the project, identifies the need to keep children safe online and highlights the importance of filtering and monitoring content. It also includes significant staff training. This policy sets out the expectations of schools to keep children safe and covers conduct of staff, internet filtering, blocking, and monitoring. Within the monitoring, we are looking for key words that might come up. Those are reported through the headteachers each day. They also look for not just individual schools but whether those words are coming up across groups of schools, which would be a more significant problem. We also cover social media use, cyberbullying, self-harm, radicalisation, sexting, 18-plus content, illegal content, images and data protection. In other areas, such as C.A.M.H.S., there are perhaps slightly more specialist services to cater for that but they cover the same areas. All schools must adhere to the policy. That is a given. They then filter that through to children in education, often via online links and written policy. I can look at one in particular, their online safety policy contained within the school's overarching safeguarding and child protection policy, and you would find that that aligns with our own policy. The aim of this helps students and staff through educational and professional learning. Again, it is the use of filtering and monitoring, encouraging students and staff to report anything they encounter online which concerns them, encouraging wherever possible students and staff not to engage in inappropriate activities, and that is quite important. It is not just the children, but it is the staff as well. Encourage students and staff to communicate appropriately, using only school email addresses to communicate with students. If we move away from schools for a minute, we can look at, for instance, what the Youth Service do. The Youth Service go out to schools themselves, and they have presentations which cover staying safe online at home, how to change privacy settings, how to turn off your location, sexting, cyberbullying, and those are also available to parents. Those can be found through the Y.E.S. website, that is the Youth Enquiry

Service. Also, they cover those children who are part of the youth clubs. These are covered in specific presentations within the youth clubs themselves. We do our maximum to alert children to the problems, to encourage parents to be responsible, schools to be responsible. I could go on, but I think I will stop there.

Deputy C.D. Curtis:

Thanks, and this is mainly then about awareness and responsibility of the schools, the users themselves and the parents and the awareness around that then?

The Minister for Children and Families:

I should say we have ... as we are corporate parents, within our children's home we have a filtering and monitoring service and there are quite strict rules if anyone is found to have broken those. I mean they may be slightly more strict than some parents would keep, but we have fairly strict rules about that within the children's homes as well.

Deputy C.D. Curtis:

So can I just ask one question then? Does ensuring online safety for children, as you are the Minister for Children and Families, do you think that that requires a legislative approach from Government?

The Minister for Children and Families:

Legislation is useful as a tool. Would it make any difference today if the legislation was there? I do not think it would change our approach. I think that our approach is extremely good, despite the fact that legislation is not here. When it gets there, it is a tool that might allow us to request certain content to be blocked. There is actually quite a bit of criticism about the U.K. online law that has recently been introduced, in that it really started looking at inappropriate content and then spread out into a number of other areas. The belief is that it has become so complex that it is difficult to enforce in some cases. I think we need to avoid that. I am wholly supportive - and you will hear from the Minister for Sustainable Economic Development - of a local law. This is a fast-changing world, and legislation has to be able to keep up to it. If we had been part of U.K. legislation, it would be impossible to change it without going to the U.K. first. So I am wholly supportive of a local law.

Deputy C.D. Curtis:

Thank you.

The Minister for Sustainable Economic Development:

As Minister for Sustainable Economic Development, I have responsibilities which, in one sense, you could term around are about the infrastructure of the internet, and I undertake those responsibilities principally through the Telecommunications Law. But also, it is about the safety of users, and

particularly about the privacy of users. I undertake that through the Jersey Data Protection Authority Law, and the Jersey Data Protection law. Those are the main tools that I have at my disposal at the moment. We are developing the cyber security law, and that will also have an impact here, particularly where systems have been breached and potentially harmful content forced into a system through that route. There is a potential role for cyber security as well. From the perspective of the internet itself, it is a really important balance. As a matter of policy, effectively we want to see a free internet, free for expression, but we also want to see a safe internet, and that is where I try to strike that balance through particularly those 2 laws at the moment, the Telecommunications Law and the Data Protection Authority Law. It is that free and safe internet that is the balance we are trying to achieve and trying to strike.

Deputy C.D. Curtis:

If I can follow up with some questions, if that is okay. The panel understands that Jersey was given the option of a permissive extent clause in the U.K.'s Online Safety Act but that Ministers decided against using this option. Could you explain the work that was undertaken to assess that decision?

The Minister for Sustainable Economic Development:

Yes, the draft law, so this is presented to me as Minister for Economic Development in November 2022, I believe it was. I stand to be corrected on that, but I believe it was November 2022. The draft law at that point, which is what I was asked to decide upon, had been carefully examined by officers and an analysis had been undertaken on that and presented to me. As a result of that analysis, I felt that a permissive extent clause would not have been appropriate for Jersey for a number of reasons. One reason is quite simply that we are here as the States of Jersey to legislate for the Island of Jersey. It is not for the U.K. to legislate for the Island of Jersey. Really importantly as well, as the Connétable has just mentioned, when we bring in a law to Jersey through a permissive extent clause, we have no method of amending that law in the future.

[14:45]

Technology is very fast changing and we would have been bringing in a law that Islanders would not have been able to amend or change for the purposes of our Island. On top of that, at that point in time in November 2022, and I believe it still carries through to today, the law that was in draft form in the U.K. - I am afraid I will call it - was a poor law. It was a poor law for a number of reasons. It is now being presented as a 300-page law. Quite simply, and I believe even Ofcom have said this, large laws tend to be ... the more complex a law, the less easily enforceable a law is, and the U.K. has presented an incredibly complex law that Ofcom itself, as the delivery partner for that law, has said it is going to be very difficult for it to enforce. It included terms at the time - and this was really important in November 2022 - it was actually, I believe, trying to make an offence of creating legal

but harmful material. A new offence under the case of being legal but harmful, I think, was changing the idea of you are guilty of something or you are not guilty of something. They were trying to find a middle third way, which I felt was abhorrent in terms of our concept of how law works and would be deeply inappropriate for Islanders. Effectively, they could have been found guilty under laws in another jurisdiction. I do not think that would have effectively been appropriate for Islanders. They have maintained that idea of legal but harmful not as an offence, but as characteristics of content on the internet. But Ofcom itself has said that it is very difficult to understand what legal but harmful means. It has said that it is vague, that Ofcom will find it very, very hard to pin down what "legal but harmful" means. It has the potential, as a term, to create censorship. In fact, I believe we have even seen this in some of the prosecutions we have seen in the U.K. recently. Not directly related to this, but how laws which are aimed to protect can actually be used against freedom of speech and against perfectly reasonable behaviour, just because it is politically inappropriate or people see it as politically inappropriate. That is something which worried me a great deal. So from vagueness to complexity, to creation of new concepts within law that did not exist before, as well as the fundamental inability of Islanders to affect that law, were we to accept that law on to the books in Jersey, the inability to amend it, I felt that it would not be appropriate for the Island to have a permissive extent clause because we can and should legislate for ourselves. That is exactly what we are aiming to do. Then we will have a law in Jersey, or several laws in Jersey, aiming to protect Islanders from inappropriate and dangerous content on the internet and we will be able to change that, make sure it keeps up with technology long into the future. That is what the States of Jersey is for. The States of Jersey is not there just to take what the U.K. creates and bring it into our books where we have no ability to change it in the future.

Deputy C.D. Curtis:

We will come back to you a bit later to ask about the laws that you might plan.

The Minister for Sustainable Economic Development:

Absolutely.

Deputy C.D. Curtis:

Going back to the permissive extent clause, can you describe the advice that you received? I know you have already mentioned officers' work; was there any independent research or legal advice or anything like that?

The Minister for Sustainable Economic Development:

This is 2 years ago now, I doubt there was independent research. I believe we probably did have legal advice. There was legal advice at the time.

Deputy C.D. Curtis:

Okay, legal advice and officer work.

The Minister for Sustainable Economic Development:

Yes.

Deputy C.D. Curtis:

What consultation or discussion did you have with other Ministers in Government about making this decision?

The Minister for Sustainable Economic Development:

I did not, I was asked to make this decision on my own.

Deputy C.D. Curtis:

Would there not normally be a discussion with other Ministers around something that might affect the welfare of children?

The Minister for Sustainable Economic Development:

It was not suggested to me at the time and because I felt that Jersey ... and it is a point of principle. Jersey is here to legislate for itself. We are not here just to take the U.K.'s laws and put them on our books. From my perspective, the important thing was that Jersey works to legislate on this, and I spoke to the then Minister for Home Affairs, Deputy Miles, and made it very clear at the time that we would be very happy to work with this and make sure we get the laws on to Jersey's books as appropriate, but laws which are proportionate. The U.K. has created a law for 65 million people and over-complexified it, and Jersey is 100,000 people. There are different routes and we are now seeing around the world, whether it is from the E.U. to Australia, different laws which take different approaches to protect their citizens, and they are approaches which I would say are much more appropriate for Jersey. To be honest, the U.K. could probably have learned from those.

Deputy C.D. Curtis:

So you did not consult with the Minister for Children and Families at the time?

The Minister for Sustainable Economic Development:

No, I did not.

Deputy C.D. Curtis:

Okay. How was the decision recorded? Was it in the minutes of a formal meeting or a Ministerial Decision?

The Minister for Sustainable Economic Development:

It is not a Ministerial Decision, but it was recorded in minutes. It was recorded in the officer's report at the time.

Deputy C.D. Curtis:

So would other States Members have been aware of this decision?

The Minister for Sustainable Economic Development:

No.

Deputy C.D. Curtis:

Was the decision informed by any impact assessment undertaken to consider child rights?

The Minister for Sustainable Economic Development:

No.

Deputy C.D. Curtis:

Because the U.N.C.R.C. requires the best interests of the child are top priority in decisions that affect them. It was not?

The Minister for Sustainable Economic Development:

No.

Deputy C.D. Curtis:

That is my questions ...

The Minister for Sustainable Economic Development:

I think it is really important to understand this is not a Ministerial Decision in terms of what is Jersey doing or not doing. This is do we want to make it possible for a U.K. law to be brought into Jersey law and the decision was no, we better make our own law. It is a much better and appropriate way to do it. That way, making that law, you have Ministers with regard to children's rights, Children's Services, as well as the Minister for Justice and Home Affairs, with regard to security of the Island, are entirely consulted in the making of these new laws.

Deputy C.D. Curtis:

We have got some more questions, but before we move on to your questions, Mark, did anyone on the panel want to ask anything around these points right now or we just move on?

Deputy H.M. Miles:

Could I just ask: were you acting in support of officer advice or against officer advice?

The Minister for Sustainable Economic Development:

Neither. I was asked for my opinion. I think the question was: do you want to have a permissive extent clause in there? I do not believe officers gave me a view either way.

Deputy H.M. Miles:

So there was no view either way from officers?

The Minister for Sustainable Economic Development:

I will ask ... Elisabeth was there at the time, but I do not believe there was a view at the time.

Senior Policy Officer, Digital Economy:

We presented the impact of what the U.K. at that time was doing. So this was following on from officer conversations with D.C.M.S. (Department for Culture, Media and Sport), the U.K. department that was building the Online Safety Bill; we have been having ongoing updates from them since 2019. Then at the point when D.C.M.S. were asking whether we were going to require a P.E.C. (permissive extent clause) for inclusion for Jersey, we worked with our Law Officers' Department to understand the impact of what a P.E.C. would be and we would then extend it into Jersey. We presented to the Minister the options and had several discussions with the law officers about the scope and scale of what the U.K. Bill was trying to do, what powers it was passing on to Ofcom, and how that would then be a challenge for Jersey.

The Minister for Sustainable Economic Development:

Was there a time frame at the time?

Senior Policy Officer, Digital Economy:

At the point, yes, D.C.M.S. required a response on the P.E.C. within ... I cannot remember the exact timeframe, but it would have been 6 to 8 weeks.

Deputy H.M. Miles:

I am just interested in your view as well about permissive extent clauses in general, because actually we do have permissive extent clauses.

The Minister for Sustainable Economic Development:

That is correct.

Deputy H.M. Miles:

We have it in the Nationality Act.

The Minister for Sustainable Economic Development:

That is correct.

Deputy H.M. Miles:

And we have it in the Safeguarding Vulnerable Groups Act. Certainly it is my understanding that evidently you are not implementing the U.K. rule without the authority of the Assembly ...

The Minister for Sustainable Economic Development:

That is correct.

Deputy H.M. Miles:

... because it has to be discussed, it has to be debated in the Assembly. There are examples where the U.K. ... we have done that. I am also interested in the view that it is very difficult to change that.

The Minister for Sustainable Economic Development:

Well we cannot. We have no ability as an Island to amend a U.K. law. So if we, by extension of a U.K. law, bring it into Jersey law, we cannot then amend it.

Deputy H.M. Miles:

But any updates from the U.K., again, we have a choice about whether to implement them using permissive extent laws. I think the point is that permissive extent laws is not an automatic extent to Jersey. It is an option.

The Minister for Sustainable Economic Development:

It is an option, but it is one that I believe that enables us to fall back far too easily on to U.K. law rather than actually thinking for ourselves.

Deputy C.D. Curtis:

If I could just add a couple of points for anyone who might be listening. The Isle of Man, and I think Guernsey, have agreed to adopt the permissive extent clause.

The Minister for Sustainable Economic Development:

That is correct, yes.

Deputy C.D. Curtis:

So Jersey is in an unusual position there. Just for me to say one thing about the Online Safety Act in the U.K. Phase one is expected to happen, or to start in early 2025, where Parliament will finalise the illegal harms codes. This is mainly about sexual abuse of children online. Phase 2 will be about protecting children from harm, and this is the suicide, self-harm, porn and violence against women and girls, so just to add a little bit of information there. Mark, did you want to go on with your question?

The Connétable of Grouville:

Yes, thank, you.

The Minister for Sustainable Economic Development:

If I could just say, all of those things can be dealt with within Jersey's own laws.

The Connétable of Grouville:

Thank you, Minister. What evidence do you have that domestic legislation is the best route forward? I think that there are many topics that surround this but my initial concern was how long it is going to take. But can you also tell us about any research that was undertaken that supported that decision?

The Minister for Sustainable Economic Development:

I have just explained what was ... if you do not mind, I have just explained to Deputy Curtis what was undertaken by officers and then presented to me. But I believe that in Jersey, we are an Island community of 100,000 people, we are best placed to understand which laws and how we should create laws for ourselves. The U.K.'s position certainly at the time in 2022, and I believe this has come through to the actual law that was being implemented on books, was one of a very confused over-large extensive law that is incredibly difficult to enforce. It is a maxim among many legislators that no law is better than bad law, and I believe that the U.K. has brought in bad law in that respect, and the fact that Ofcom is very diplomatically pointing out the troubles with that law I believe gives credence to that view.

The Connétable of Grouville:

But having then decided not to pursue the permissive extent clause, has that initiated work on our legislation?

The Minister for Sustainable Economic Development:

We are absolutely working on the legislation both through the Telecommunications Law and the Data Protection Law. I know that the Minister for Justice and Home Affairs is working on the Sexual Offences Law.

Deputy C.D. Curtis:

Can I just add something there, Mark? Will that cover protecting children from harm such as suicide, self-harm and having to give their age verification on porn sites?

The Minister for Sustainable Economic Development:

Those are all things which can be dealt with within our laws.

Deputy C.D. Curtis:

Has that started already, that work?

The Minister for Sustainable Economic Development:

The work has begun on those laws, yes. Full stop. I could not say, because I am not the Minister for Justice and Home Affairs, so I cannot speak for the Home Affairs side of things, but we are looking at all these aspects.

Deputy C.D. Curtis:

Maybe the Minister for Justice and Home Affairs could tell us.

The Minister for Justice and Home Affairs:

In relation to the domestic legislation obviously there is the Telecommunications Law, although that does not necessarily fit all of the criteria of what you are talking about, but what you are talking about here does not actually fit within the scope and it may be that there are different elements, as we move forward, in relation to different areas that we will be looking at in relation to legislation. But what you are talking about, that is not within the scope of what I have here.

Deputy C.D. Curtis:

So there is not any work started on these?

Policy Lead for Violence Against Women and Girls:

If I may, so there were 2 recommendations from the Violence Against Women and Girls report that related to online safety, and that was strengthening legislation in the areas of intimate image abuse and cyberstalking, which a whole host of work is coming through on. I think we have specific questions about that later. Then there was a separate recommendation around the regulation of

online platforms, which I think was a particular development in the Online Safety Act that was significant, and that work is going on. I do not know if you would like to speak to that.

Senior Policy Officer, Digital Economy:

So, yes, based on that work, the 2 sets of work are happening in tandem via criminal offences to cover digital offences that are being worked on by Justice and Home Affairs, and the Department for the Economy is taking on the enforcement aspect. We have been doing the research in that area. There are questions on it later. We have been looking at other jurisdictions and what online safety or similar online safety Bills have been passed. Those laws are new and upcoming so we are learning as other jurisdictions are learning and, as we will go through later in a different question, there are different ways that we can enforce and regulate online harms. Different jurisdictions have taken or different nation states are taking different approaches, so we are looking at what works, how it works, the speed at which it works and we are gathering that evidence in the background now to present to the Minister options that will be suitable and proportionate to Jersey and, at that moment in time, we will share those with the Minister for Justice and Home affairs and the Minister for Children and Families to ensure that what is proposed and what is taken forward is acceptable to all.

Deputy C.D. Curtis:

Great. Do you have a timeline for that work?

Senior Policy Officer, Digital Economy:

We are aiming to send our initial proposals to the Minister for a first review in November and then, depending on the feedback received there, we should have something to share more broadly with the wider Ministers in early 2025.

[15:00]

The Connétable of Grouville:

You have spoken about regulation and enforcement. What options are there to enact those to the regulation or enforcement of our own legislation?

The Minister for Sustainable Economic Development:

We have obviously the data protection. The Office of the Information Commissioner is probably the primary route from which we can engage with the major platforms around the world and there is also the cyber security centre, which has recently been set up, and have a cyber security law and that can, as I said, speak to the side where there are particular breaches with regard to ... into their harms as well. Then the Telecommunications Law which is dealt through, I think, just through the Law

Office as opposed to any other regulator and the J.C.R.A. (Jersey Competition Regulatory Authority). But I foresee that the Office of the Information Commissioner being the likely main vanguard of enforcement.

The Connétable of Grouville:

Clearly the U.K. has Ofcom.

The Minister for Sustainable Economic Development:

Yes.

The Connétable of Grouville:

For 63 million people in the U.K. that is quite fundable but do you think those officers will be able to cope with the sort of levels of complaint that come in?

The Minister for Sustainable Economic Development:

With 100,000 people in Jersey, yes. Sorry, but it must also be said that when any law has been brought in, a good example is we have recently in the States voted through the telecommunications security laws and that places extra responsibility on the Jersey Competition Regulatory Authority. As a result of that extra responsibility, my department is providing greater funding to enable them to undertake the role that that new law creates. A new law that put more responsibility on to any authority, whether it is the Office of Information Commissioner or any other, would likely also need to be followed by funding to enable that enforcement to take place. When I say “yes”, I do not mean yes to they are set up to do it. I mean yes, it is incumbent on the department to ensure they are in a place to be able to enforce the laws that we ask them to enforce.

The Connétable of Grouville:

One of our principal concerns is - a jurisdiction of our size - are they going to listen to us? I mean platforms like Facebook, are we going to have any impact on them at all?

The Minister for Sustainable Economic Development:

Facebook will be here next month in Jersey because the Office of the Information Commissioner is undertaking a global privacy forum which Meta, as the owners of Facebook, are taking part in. So, yes, I do believe that ... because, again, you must also think about the devolved nature of these global multinationals. So the data protection officer or registrar for Meta on Facebook is in Ireland. So we would deal through ... our Office of the Information Commissioner would deal with that through the Irish office. That would be the case for many of those multinational platforms that have their main data protection registrar in Ireland, as I understand it. That would be the conduit through which they do it. It is not a case of trying to find a phone number in Seattle or San Francisco. There are

routes through which these legal authorities, which the Office of the Information Commissioner is, are able to work through those routes, and they will. Again, I do not think it is right to think just because we are small we are unable to do these things. We absolutely can.

The Connétable of Grouville:

I like your confidence. In a quarterly public hearing with the panel on 22nd August, when referencing online stalking in the digital space the director for Justice Policy highlighted that negotiating power is weak when it comes to multinational entities, as we have just mentioned. Can you address that position and is it a concern for any of you?

The Minister for Sustainable Economic Development:

I just did address that position.

The Minister for Children and Families:

The enforcement clearly is not my area. However, do I think that having entered into the ... if we entered into legislation through a permissive extent clause, that we would be in any better position? I do not think we would be. We are 100,000 people and the U.K. is 65 million. Ofcom of course is a U.K. regulator. The Channel Islands is not part of that. To what extent would Ofcom react? I am not convinced that we would be in any better position. I think direct contact with the entity and the regulator who controls them by Jersey is probably a far better approach.

The Minister for Sustainable Economic Development:

If I may, to reiterate his point, Ofcom is not accountable to anybody in Jersey. Ofcom has already talked about itself being overwhelmed by the amount of work it is going to have to do. I believe it has had to hire hundreds of staff in order to deal with this new law.

The Minister for Children and Families:

Three hundred.

The Minister for Sustainable Economic Development:

There you go. Any Islander who then went via Ofcom to raise a complaint, if Ofcom did not deal with that complaint the Islander would have no recourse. Whereas the authorities in Jersey are accountable to Islanders in Jersey through Ministers and directly.

Deputy C.D. Curtis:

Can I just ask then, have you looked at what the Isle of Man and Guernsey plans to do about whether they use Ofcom or not?

The Minister for Sustainable Economic Development:

I have not.

The Minister for Children and Families:

Well they have no option but to use Ofcom because Ofcom is designated within the law. There is nothing in the law about Guernsey or Isle of Man regulators. Ofcom is the designated body, so they have no option.

The Minister for Sustainable Economic Development:

If Ofcom is not performing, no Islander would have an ability to hold that to account. Whereas they absolutely would have the ability to hold both the Government in Jersey and various authorities, whether it is the Office of the Information Commissioner or any other, they have the ability to hold those authorities to account for inaction if they felt that was the case.

Deputy C.D. Curtis:

I am aware that in Ireland, for example, which also has their Online Safety Act, that they have actually gone through quite a number of prosecutions.

The Minister for Sustainable Economic Development:

Absolutely, but that is perhaps why Ireland's law may be better than the U.K. law. This is part of what Elisabeth was saying about looking at global options and the examples from around the world. Because I do not believe the U.K. has set off on the right path on this, or the best path. We can look at other places; Australia I know is coming out very strongly as a law which looks really quite good. Possibly the Irish one does as well. We can look at them and model our own law based on what they are doing, rather than just taking what the U.K. did. It moved really fast, the U.K., on this law, but it did not necessarily ... by seeking speed, it may not have got the quality that it needs.

The Minister for Children and Families:

The Irish law will be based on the E.U. regulations that were issued. It has to be. Those are different from the U.K. Online Safety Law. They are considerably different from the approach taken by the U.K. I am not surprised that Ireland perhaps have had some success because they are based on different principles.

Deputy C.D. Curtis:

I think our concern as a panel is around whether Jersey children are left exposed because nearly everywhere else seems to be having this online safety and legislation.

The Minister for Sustainable Economic Development:

When we say “everywhere else”, what are we talking about? Because I have a funny feeling a minority of global countries ...

Deputy C.D. Curtis:

Different states of the U.S.A. (United States of America), European Union, Australia, New Zealand, Ireland and the U.K.

The Minister for Children and Families:

I do not think all ... no, the E.U. has issued regulations but not every country has put that into domestic legislation yet.

The Minister for Sustainable Economic Development:

And I do not know that they are ...

The Minister for Children and Families:

They are no closer probably than we are.

The Minister for Sustainable Economic Development:

I do not know that Guernsey or the Isle of Man have enacted ...

Deputy B.B. de S.V.M. Porée:

One at a time please.

Deputy C.D. Curtis:

We are just trying to hold a hearing. Mark, have you finished your questions?

The Connétable of Grouville:

Yes, thank you.

Deputy B.B. de S.V.M. Porée:

I am going to ask this question maybe to the Minister for Justice and Home Affairs to begin with. Can you please tell us about any work that the Government has done to assess our best to safeguard children and young people on online space from your own capacity, please?

The Minister for Justice and Home Affairs:

Okay, obviously in relation to the development of legislation in the space of following the Violence Against Women and Girls, recommendation 10 talks about online platforms in relation to how to protect their users. As previously highlighted, we are looking at all available solutions to provide the

regulations of online platforms in relation to how they can protect users and remove unlawful content. This approach allows us to draw on best practices and make a law that is appropriate and proportionate for Jersey, which obviously has already been discussed, to enable the fast removal of unlawful content affecting our citizens. This legal area is new and fast-moving for all jurisdictions around the world and we can today see how the respective laws from around the world perform in relation to this practice. There is another recommendation, as in number 11, and the task force recommended that the Government of Jersey should strengthen legislation to address online and technology-facilitated abuse. Officers are currently working on this legislation drafting instructions for the following legislative developments, which are anticipated to be finalised by January 2025. That will be the amendment to the Sexual Offences Law 2018; strengthening legislation to address the act of taking an intimate image of someone without their consent; creating a new offence of distributing an intimate image of someone without their consent, this will include sexually explicit deep fakes; creating a new offence of threatening to distribute an intimate image of someone; create a new offence to address the act of cyberflashing, the act of sending a person an unsolicited intimate image; introducing legislation to address the creation of sexually explicit deep fakes without consent of the person depicted; introducing additional protections for victims on intimate image abuse through the creation of a new expedited process whereby a person whose intimate images have been distributed without their consent or who has received a threat of distribution can quickly seek a court order to stop and prevent the spread of those images. We will obviously also be introducing a new stalking law, a new piece of legislation to addressing stalking will be introduced. We recognise that perpetrators of stalking often use both online and offline tactics and we will ensure cyberstalking behaviours are captured under the piece of legislation in addition to more traditional forms of stalking. I think there is lots and lots of legislation that will be coming through within the next period of time, and a lot of that is looking to go for drafting in January.

Deputy B.B. de S.V.M. Porée:

So would you say those are coming out of the risks that have been identified by your piece of work?

The Minister for Justice and Home Affairs:

Yes. Obviously as well, there is a piece of work that will need to be done as one of the recommendations so that part of this ... there is now guidance on forms of online and technology-facilitated abuse published on the online and technology-facilitated abuse gov.je and that will cover a summary of what online abuse means; a summary of what types of online abuse are illegal in Jersey; information on how to report online abuse to the States of Jersey Police; information on where to access support for victims of this type of abuse; information and advice on how to get intimate images removed from the platforms; information on how to secure technology against cyber spyware and stalkerware; and a glossary of terms relating to online and technology-facilitated abuse.

Deputy B.B. de S.V.M. Porée:

So a very wide piece of work. May I just ask you, in all the information you have provided me, if any assessment has been done on the children's rights, under the U.N. (United Nations) Convention? Have you done the C.R.I.A. (Child Rights Impact Assessment) on that particular piece of work? Would you be considering that?

Policy Lead for Violence Against Women and Girls:

Yes, so my understanding is that all C.S.P. (Common Strategic Policy) objectives for Government have been subject to a C.R.I.A., so the overall violence against women and girls workstream has been assessed with a C.R.I.A. and then we are still scoping and researching the legislative drafting instructions currently. But as we go through that process a C.R.I.A. will be conducted.

The Minister for Justice and Home Affairs:

Every single piece of new legislation will have to have a C.R.I.A. attached to it.

Deputy B.B. de S.V.M. Porée:

Just for the purpose of the hearing, thank you for that. I appreciate it. Can I ask the Minister for Children and Families the same thing in terms of your department, what particular work have you done to assess our best to safeguard the children and young people in online spaces, your particular department?

The Minister for Children and Families:

Okay, yes I can do that. What I was about to say was that of course some of this is very much in the area of the Minister for Education and Lifelong Learning, and while I can touch on some things that have happened in schools, I cannot go into great detail on those. But I can say that within the schools, obviously we have already mentioned about the electronic means we have of looking at content and keywords, but also there has been work with parents, and parental engagement is extremely important. That has been carried out by schools' leadership teams in some cases.

[15:15]

I know that we are about to actually hear from Victoria College quite shortly about a parental safeguarding seminar. Things that have been covered with parents are things like how social media works.

Deputy C.D. Curtis:

We already had a public hearing questions and answers with the Minister for Education and Lifelong Learning so he has given us quite a lot of information about what is happening from the schools, so perhaps if you could just tell us a little bit about ,,,

The Minister for Children and Families:

Right, but we did not know that.

Deputy C.D. Curtis:

Do you have anything ...

The Minister for Children and Families:

Because we actually specifically asked him what he had covered with you, but I will move on to the things that we do because you have asked the question now. Our duties and responsibilities are really covered ... the Children and Young People's (Jersey) Law 2022 sets out the key people and Ministers responsible for safeguarding children, their legal requirements, and they do not distinguish between online and offline harms. That is quite important. We have safeguarding partners and we work with the Safeguarding Partnership Board, also the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children), for developing and delivering children's safeguarding arrangements within their services. The Safeguarding Partnership website contains the key policies and procedures to support all those working in services to continue to safeguard. The Safeguarding Partnership also provides the key point of contacts to escalate and raise concerns for both professionals and members of the community, including children. We have got multi-agency safeguarding as well. During 2024, there was new practice guidance regarding online abuse and exploitation.

Deputy B.B. de S.V.M. Porée:

Would you just mind to mention one or 2 multi-agencies involved?

The Minister for Children and Families:

Well, I have mentioned one already, which is the N.S.P.C.C. We have got other things, such as the Brook Traffic Light Tool, which was launched in January 2024. We have 15 professionals from various partnerships trained as trainers to understand harmful behaviour and sexual behaviour. Then those have gone on to give ... to direct that information to groups of professionals in Jersey.

Deputy B.B. de S.V.M. Porée:

Within your piece of work, what would you say have been the major risks that have been identified?

The Minister for Children and Families:

I think major risks, there is just not ... we have not just got online risks. We are quite familiar, I think, with the online risks and what is out there and how we have to protect children, but there is a lot more going on out there potentially with adults grooming children, children being pulled into either sexual or drug-related activity. Those are all ... I put those on a par with online safety.

Deputy B.B. de S.V.M. Porée:

Thank you, Minister. I think that is enough for now. So if I can just ask the next question, and that will be for the Minister for Sustainable Economic Development. Can the Minister please tell us, has any work been done on the digital economy area of responsibility to examine safeguarding vulnerable people, including children in online spaces? You may have touched on some of those areas but, for the purpose of the questions, if you could just give us an answer, that would be great. Thank you.

The Minister for Sustainable Economic Development:

A lot of the work that we do as a department is done through the Data Protection Authority and the Data Protection Authority itself, so it is not so much done directly by us but through the Data Protection Authority. They have a huge educational awareness programme. In 2023, they delivered personal information safety sessions to more than 2,500 young people with 1,671 individuals attending Jersey Office of the Information Commissioner events. That is the main conduit through which we engage young people in understanding the importance of their privacy and safety online. Is there anything else from your perspective in the digital economy, wider programme? I think that is the main area.

Senior Policy Officer, Digital Economy:

No, only to touch on through the digital economy strategy developing skills for life in the digital arena is a key element of that. We are working very closely with our site's counterparts and the Minister is working very closely with the Minister for Education and Lifelong Learning in this area to ensure that the programme of work is complementary to the work that J.O.I.C. (Jersey Office of the Information Commissioner) is doing is implemented and embedded in schools, both from primary and secondary. Then once you leave schools, there is a programme of education still accessible to ensure Jersey's citizens remain up to date in their digital skills, especially as it is a fast-changing policy area. So we need to make sure that true life learning is captured. We are working actively on that with relevant colleagues and sites.

Deputy B.B. de S.V.M. Porée:

Thank you for that. Again, another question for the Minister, if possible. Has the Government of Jersey undertaken any assessment of existing legislation? I know you have talked at length how

you feel Jersey is going to do their own legislation, and happy to do so, but how far did you went out to make that decision? Did you assess any other legislations in place prior to?

The Minister for Sustainable Economic Development:

Can I ask, I am sorry, just to clarify: are you asking a very similar question to the one Deputy Curtis asked earlier, or are you asking a different question about where we are now, as opposed to where we were in 2022?

Deputy C.D. Curtis:

It is a different question.

The Minister for Sustainable Economic Development:

You are talking about now as opposed to 2022?

Deputy B.B. de S.V.M. Porée:

Yes.

The Minister for Sustainable Economic Development:

That is really what I wanted to check, thank you.

Deputy C.D. Curtis:

It is a question about assessment of existing legislation.

The Minister for Sustainable Economic Development:

Yes, that is part of the work we are currently undertaking. So, I mentioned Australia, Ireland, the E.U.; these are areas that we are looking at.

Deputy C.D. Curtis:

For existing legislation here as well, whether it is sufficient.

The Minister for Sustainable Economic Development:

Absolutely, that is part of it. Sorry, I also answered the question to you about existing legislation out there. The hand suggested that. We are both looking at our existing legislation and understanding what it can do and what perhaps it does not do. One of the things, for instance, in the Telecommunications Law is it is not ... it does not have any provision for anonymity for complainants. That is something which I think is quite important to address. We are looking at our own existing laws, understanding their strengths and weaknesses, but also a review of laws outside, and the chair alluded to a lot of them just a few minutes ago. They are laws that we are looking at to

understand what, from those laws, should we be modelling on and what should we not be modelling on?

Deputy B.B. de S.V.M. Porée:

Thank you for that. We just really want to know how you are planning to go ahead and how you are managing the portfolio. Would you say the anonymity is like the next step that you found there is a kind of weakness when you just use the word “anonymity”.

The Minister for Sustainable Economic Development:

Yes, that is a weakness. There will be others. The laws that we have at the moment, both the Data Protection Law and the Telecommunications Law, where they have been really helpful, is that they have been designed, and certainly the Telecommunications Law and its more recent amendments, to cope with the ongoing technological revolution, for want of a better a word. Technology is constantly changing and particularly I think it is Article 51 where it has been designed specifically to cope with future technological changes as best it can without having to go back and always change a lot. That is a potential strength there. That is also one of the things that I think is a strength about us designing our own legislation is that we can make sure that it is fit for the future and is not ... and there is an art to that.

Deputy B.B. de S.V.M. Porée:

That may be part of my next question to you. Can you tell us if you have got ... what is your next step in terms of the planned work you are doing in this area?

The Minister for Sustainable Economic Development:

The next steps are basically for ... so officers are doing that work that I have outlined. They will be coming to me in the next couple of months to effectively give me an options paper as to next steps forward and that is exactly what we can start sharing. Then we can start sharing with the Scrutiny Panel where we are going with that. Those are the next steps, and they are imminent, which I think is really important.

Deputy B.B. de S.V.M. Porée:

We look forward to that. Thank you. Sorry, did you want to come in?

Deputy C.D. Curtis:

No.

Deputy B.B. de S.V.M. Porée:

Okay, thank you. So my other question, again, it could be to either the Minister, maybe give the Minister for Justice and Home Affairs an opportunity with regards to the protection against cyberbullying and threatening messages that are in the current Telecommunications Law. Can you advise the panel how this is enforced? If you have got an enforcement ...

The Minister for Justice and Home Affairs:

Sorry, can you repeat? I do not know what you are asking there.

Deputy B.B. de S.V.M. Porée:

I will reread the question. With regards to the protections against cyberbullying and threatening messages, they are in the current Telecommunications Law, can you please advise the panel how this is enforced?

The Minister for Justice and Home Affairs:

If somebody has got threatening messages then those matters would be reported to the States of Jersey Police and that information and evidence would be provided. I think it is important that we do encourage people ... the legislation might not be perfect but it is still important to actually make those complaints and provide that data. In relation to the recommendations under the Violence Against Women and Girls there were 2 recommendations - 3 and 24 - because the Ministers ... so basically we have committed to developing a centralised database on violence against women and girls in Jersey. As part of the requirements of that database, data on incidents of online and technology-facilitated abuse incidents will be collected, in particular the data on non-consensual intimate image abuse, cyberbullying, cyberstalking, online gender-based hate speech and cyberharassment will be collected. I think what is important, until we have got all of these pieces of information gathered and all of this work done to improve our legislation on this topic, I think it is still important that people report those offences, because even, as I said, the law is not perfect, it is still an opportunity for us to be able to gather that information so we actually do get a clear picture. Obviously hopefully we will be able to deal with any suspects that come out from that. So it is still important that people do report it even though, as we say, that the Telecommunications Law is not perfect.

Deputy B.B. de S.V.M. Porée:

In terms of cases, are you in a position to share any data about the numbers that have been reported to the police at this moment in time?

Policy Lead for Violence Against Women and Girls:

No. So the first round of reporting on the centralised dataset will be in the first quarter of next year for the last quarter of this year, and where we will be in a place and obviously as that dataset

progresses and becomes more rich we will be able to track trends over the year and understand patterns better.

Deputy B.B. de S.V.M. Porée:

Could we maybe be kept in the loop when you get that data so it will help us to understand?

Policy Lead for Violence Against Women and Girls:

Absolutely.

Deputy B.B. de S.V.M. Porée:

Thank you, that is good. I am not going to ask you any further questions about data but I will ask you: what are the enforcement challenges of the Telecommunications Law presently? Is there any at all, as you see it?

The Minister for Justice and Home Affairs:

I think the thing is, is that there is no ... the unusual thing about the telecoms law, it comes under Article 51, which is improper use of telecommunication systems. It is used as a catchall for these forms of abuse in lieu of a purpose-built framework, which would better reflect any advances in modern technology. So of course this legislation has been used for text messages and obviously was used for abusive phone calls, annoying phone calls, particular stalking-type of offences. As I said, moreover as this offence does not sit with the Sexual Offences Law, as Deputy Morel said, there is no protection of somebody in relation to this case and their anonymity if it went to court. So I think that is the sort of challenges with it, if you like.

Deputy B.B. de S.V.M. Porée:

And that includes no specific protection for children and young people, would you say?

The Minister for Justice and Home Affairs:

The court case in relation to children and young people would be different anyway because you would obviously seek to get those protections of a young person not being identified of course. A young person would not be identified. Like you would not have a young person identified as a suspect, but in relation to sexual offences, the legislation makes it quite clear that you do not name the victims. But of course, in relation to these type of offences, because of the law, that would not be that criteria. But nothing would stop you actually asking the court if that was possible because you have got those sort of facilities to do that.

[15:30]

But this is where the law does lack, is from that point of view.

The Minister for Sustainable Economic Development:

I must say that is something that I am really keen to address and that can be addressed in the Telecommunications Law, the issue around anonymity .

Deputy B.B. de S.V.M. Porée:

I would say that is very important.

The Minister for Sustainable Economic Development:

Absolutely.

Deputy B.B. de S.V.M. Porée:

If Jersey is to make their own laws, you need to make sure that is paramount on top of your priority, if I can say that.

The Minister for Sustainable Economic Development:

I completely agree. Whenever anything with a sexual element to it, or even bullying where there is no sexual element to it, where you have clearly got this kind of imbalance, significant imbalance of power and someone has been victimised usually, I think it is really important that the complainant is able to benefit from that anonymity otherwise they just will not come forward or they are much less likely to come forward.

Deputy B.B. de S.V.M. Porée:

Thank you. Maybe I will just let Charley share something with us.

Policy Lead for Violence Against Women and Girls:

I would just like to add that obviously because the misuse of telecommunication system offence is not a sexual offence under the Sex Offences Law, it also means that perpetrators of that type of abuse are not subject to the same measures that they would be under the Sex Offences Law. You are not going to be put on a register. I do not think that the gravity of what you have done is recognised in current legislation and all of our intimate image abuse offences will be inserted into the Sexual Offences Law, so we will be resolving that issue.

Deputy B.B. de S.V.M. Porée:

So, I suppose that is a weakness in itself and needs to be addressed. Thank you. I will leave it for now.

Deputy H.M. Miles:

Thank you. Lots of talk about U.K. Online Safety Act and E.U. Digital Services Act ...

The Minister for Sustainable Economic Development:

I am Minister for neither.

Deputy H.M. Miles:

You are Minister for neither.

The Minister for Sustainable Economic Development:

For neither of them. It is relevant. I do not know them in and out.

Deputy H.M. Miles:

The question is going to be, and I think you will find this relevant to you, is whether because we have not adopted elements of the U.K. Online Safety Act, for all the reasons that you have articulated, and clearly the same thing for the E.U. Digital Services Act, is there a risk that Jersey-based users could be classed as a “rest of the world” category when accessing certain websites? So, for example, it might mean that they see a different version of the site where factors such as age restrictive measures, for example, will not apply?

The Minister for Sustainable Economic Development:

I genuinely do not know is the answer to that. I am afraid I have to, yes.

Deputy H.M. Miles:

Do you think there is a risk because we are kind of sat outside of the U.K.’s system, sat outside of the E.U. that we are just treated in this “rest of the world” category?

The Minister for Sustainable Economic Development:

I do not think there has to be that risk because, again, you can draft your laws to reflect principles within other laws, so Jersey, for instance, has plenty ... even following Brexit, we have plenty of laws, including the Data Protection Law, which are designed on the principles of the E.U. Data Protection Directive and as a result of that we are very similar, very compliant and have the same kind of ...

Deputy H.M. Miles:

A lot of work had to go into align the 2.

The Minister for Sustainable Economic Development:

Yes, and so by aligning to certain principles, it would reduce the risk of that a great deal and so I think that can be worked around if that is a risk.

Deputy H.M. Miles:

Is there any work being done to test that understanding of what the impact is going to be of the implementation?

The Minister for Sustainable Economic Development:

Good question. Again, I do not know the answer, but we can make sure we get an answer to that, as in during the course of our work.

Deputy H.M. Miles:

We have touched on some of this earlier, but just to clarify really, the U.K. Online Safety Act is introducing some new offences, content that promotes self-harm. What is Jersey's position on this? You talked earlier about the difference between stuff being illegal and creating offences for stuff that is not illegal. I guess it is the same principle, so how will our legislation cope with material that promotes self-harm or promotes facilitating suicide, revenge porn, et cetera?

The Minister for Sustainable Economic Development:

Suicide and things like this. Absolutely. No, this was in response to the question the chair asked earlier. These are things that we will look at to see how we can ensure that laws do cover those things, but it is too early to say at this moment how it will do that because I will be receiving that work in November, and it will be then that I will be able to answer that question more fully. I cannot answer that right now; it is too early.

Deputy H.M. Miles:

I think we will be interested, will we not, in the fullness of time about the kind of consequential amendments to other laws as a result of this and I guess we are not going to know that until we have got the law drafting back.

The Minister for Sustainable Economic Development:

That is correct.

Deputy H.M. Miles:

Okay. So, I know you said earlier that you were expecting the policy stuff to be ready in quarter one next year. Is it realistic to suggest that we will have legislation in place during this term?

The Minister for Sustainable Economic Development:

I would like to think when it comes to amendments to existing laws that that can be done more quickly, but I also know from my previous experience in the last term of office that when you get into that final year effectively there is a strong focus on what is going through legislative drafting, and I believe it is probably led by the Chief Minister. Priorities are chosen and so this is why, when it came to the triannual regulations, I kept citing the fact that I have no control over law drafting to know whether something will get through or not. I do know from my experience in the last Assembly that as you get into that final year, I believe, it is the Chief Minister will be taking a view as to which elements of law he wishes to take over from this side of the election. So, it is really difficult to know that, I am afraid.

Deputy H.M. Miles:

My next questions were going to be clarification of a few technical aspects, but I do appreciate the policy is early in development so perhaps we could ask those at a later date; particularly interested about where the responsibility for regulation sits at each of the stages of creating content, uploading, et cetera, but I guess one of the questions - and you have touched on it before - but again, how are we going to ensure that the protection is about freedom of speech and rights to access information from the media are going to be balanced?

The Minister for Sustainable Economic Development:

All I can do is give my guarantee as Minister that I will always seek to ensure that there is some freedom of speech, but we have to protect people. When I say "some freedom of speech", I think it is really interesting that the idea of freedom of speech can be taken to such an extreme that it becomes almost abusive in itself. I would say that you can see that in some of the more extreme content that you see on Twitter, so not sexual content particularly or even terrorism content but some of the political ... I am thinking U.S. election-type content that there is ... with freedom of speech comes responsibility and that is how you balance it. There are responsibilities with our freedom of speech, and I will always ... because I believe the need for freedom of speech in a free and democratic society but I absolutely truly believe that you have to balance that responsibility. The laws will show what those responsibilities are. I think all of us as ... when we become elected for the first time, as citizens we suddenly become very aware of what our speech can do and we learn through our periods in office and so I think I am probably talking to a group of people who understand that centre of responsibility, but I do know there are people who I might believe take the idea of freedom of speech to an extreme and they effectively forget that that comes with responsibility.

Deputy H.M. Miles:

I mean do you think that a protection for vulnerable children in particular should trump freedom of speech? Excuse the pun.

The Minister for Sustainable Economic Development:

Well, yes, to some extent it already does in the sense that we do not name people underage and so I think that is a really ... and very few people would question that as a principle and yet that is a slight infringement on the freedom of speech because it is saying to you or me: "You cannot name that person." So, I think it is already an accepted principle that when it comes to children, particularly vulnerable children, these freedoms can be ...

Deputy H.M. Miles:

Upheld.

The Minister for Sustainable Economic Development:

... tempered, yes.

Deputy H.M. Miles:

Thank you.

Deputy C.D. Curtis:

I will go to this question for the Minister for Children and Families. Please could you confirm what the Government of Jersey as a whole organisation considers its duties **[Interruption]** ...

The Minister for Sustainable Economic Development:

Somebody's pencil case.

Deputy C.D. Curtis:

Yes, so please could you confirm what the Government of Jersey as a whole organisation considers its duties, responsibilities or legal obligations to be with regard to safeguarding welfare of children and young people in online and digital spaces?

The Minister for Children and Families:

Right. So, I think I mentioned before this is covered in the Children and Young People Law 2022 and it sets out our legal responsibilities. We are accountable for developing and delivering children safeguarding arrangements. We are responsible for their safety, and we have ... I spoke earlier about things; set up the Safeguarding Partnership Board on which there are a number of Ministers. I think there is a Ministerial Safeguarding Board, is there not? So, I do not know what to say beyond what I perhaps have already said.

Deputy C.D. Curtis:

Okay. Well, I could define it a bit more. So, for example, around international agreements, physical commitments, does the Government of Jersey under that law have responsibility for considering children?

The Minister for Children and Families:

I think in all instances they have responsibilities for considering children. I said that is one of our key responsibilities and I would like to think that every Minister considers those when, for instance, we look at treaties with other countries and other international agreements. Whether I am consulted, I suspect that in some cases I am not because there will be confidentiality around those agreements which perhaps prevents that, but I would like to think that individual Ministers - given that it is outlined in law - know what their responsibilities are.

Deputy C.D. Curtis:

Okay. Does either of the other Ministers want to add anything on that point or not?

The Minister for Sustainable Economic Development:

No, other than ... well, yes, I guess because I am about to speak. Yes, in the sense that I think what this law does is it really, particularly from an Economic Development Department perspective, it brings us into close contact with Justice and Home Affairs and also with Children's Services and the Education Department as well and so, from my perspective, as we develop this, we absolutely have to do it hand in hand with those departments.

Deputy C.D. Curtis:

A sort of cross-Ministerial ...

The Minister for Sustainable Economic Development:

Exactly.

The Minister for Justice and Home Affairs:

I think that is right. I think it is a piece of legislation that is important of protecting children but also the wider community and vulnerable people as well.

Deputy C.D. Curtis:

Okay.

The Minister for Children and Families:

I am trying to think of some instances where we have been ... we have been consulted on some legislation and I am just trying to think of those instances but certainly some Ministers are doing that.

Deputy C.D. Curtis:

All right. Okay. In fact, my next question, I think, you have all answered it already really which was about your duties as a responsible Minister under the Children and Young People Law. So, I think it is Deputy Porée to ask the next question.

Deputy B.B. de S.V.M. Porée:

Yes, my question will be towards the Minister for Justice and Home Affairs and, again, I believe the Minister for Justice and Home Affairs has touched that about the V.A.W.G. (Violence Against Women and Girls). I am going to ask you maybe slightly a bit in more detail, so how is this legislation being developed in response to the Violence Against Women and Girls Taskforce report recommendations?

The Minister for Justice and Home Affairs:

As I have already said, there is a whole suite of legislation that is being worked on which I have already mentioned in this panel. Most of the drafting will go to the law drafters at the beginning of January 2025. This legislation - the violence against women and girls - is a C.S.P. so basically this legislation will be pushed forward and continue throughout 2025 and 2026. So, that is the priority, is all of this legislation, and obviously that will include all of what we have talked about today.

Deputy B.B. de S.V.M. Porée:

Okay, and do you feel that there is any crossover with our V.A.W.G. report and the protection - again, that U.K. Online Safety Act offences, the E.U. Digital Services Act or the Online and Media Act - do you find there have been crossovers?

Policy Lead for Violence Against Women and Girls:

Yes, so in terms of how we have designed our legislation, we have taken a look particularly at Commonwealth jurisdictions because they have got the legislative frameworks that are most comparable. So, with a view to England and Wales, we have looked at the Online Safety Act particularly around introducing offences of distributing an intimate image without consent, threatening to distribute an intimate image without consent, making sure that those offences capture sexually explicit deepfakes as well as authentic images. Then there is also the Criminal Justice Bill which seeks to criminalise taking an intimate image without consent and also, they announced an intention to create an offence of creating a sexually explicit deepfake. Now, that is a really hard thing to regulate because you cannot necessarily control what people do, photoshop at home for example, but what you can address are the different applications that are advertised and A.I. (artificial intelligence) software that is targeted at people being able to create those deepfakes. So,

we will be looking into that, and we will be following along with the measures that are introduced in the U.K. to understand what approach they take.

[15:45]

We have also been guided by the legislation in Australia, so broadly aligned again with the Online Safety Act, both New South Wales, Victoria and Queensland have brought in offences around recording without consent, distributing without consent or threatening to distribute and we have looked at the civil justice approaches that have been taken in both Australia and British Columbia in Canada around being able to have an intimate image removed from a platform or ordering an individual to delete it from their devices if they have either distributed it without consent or if they have threatened to do so. Importantly, what we are exploring at the moment is the ability to do that pre-conviction so that you do not have to wait and have that delayed process where something might still be up and still being distributed but that can happen in a much more expedited way.

Deputy B.B. de S.V.M. Porée:

Okay. Thank you. So, would you say that this law drafting or can you tell me if the work with that law drafting includes any specific instructions about children's rights?

Policy Lead for Violence Against Women and Girls:

Yes, so it definitely will. So, something that we are absolutely minded to be aware of, obviously a big issue in the online safety space for young people, is self-generated images and we are looking to protect young people from that. We are not seeking to criminalise young people that might have made a mistake and that will be a big consideration as we draft these, particularly the sexual offences.

Deputy B.B. de S.V.M. Porée:

Thank you.

Deputy C.D. Curtis:

Mark, I think we have not got the time left and I think your questions might be good as written ones, so I am wondering if we could skip to Helen's on number 16 and I know we have covered it a little bit but just to ask that question a bit more.

Deputy H.M. Miles:

Yes, this is to the Minister for Sustainable Economic Development. It is just questions around whether Government has assessed whether there is a risk to Jersey being used as a jurisdiction to

avoid the online safety regulations elsewhere and how that has been taken into account with the policy development.

The Minister for Sustainable Economic Development:

I do not believe we have made that assessment yet, but it is something that I am personally aware of and would absolutely not want to see happen. This is not a place where we would want to have people using in any way the Island for those purposes, so again, that is something that we should make sure is dealt with in the law and you do that by making it clear that in Jersey if you are doing X or Y, you will be prosecuted. You will be caught and prosecuted and that is how you do that. So, that is why it is really important that we do have these laws in place. I think it is also important that Ofcom itself does not do criminal prosecutions and could not in Jersey particularly either, so from that perspective it would not be convictions against someone.

Senior Policy Officer, Digital Economy:

Sorry, can I add to that? In the research that we have been doing also just recently, I do not know if you are aware of what happened in Brazil when Brazil banned X from all citizens? So, it required its 22,000 telecoms operators to ban access to X but it also made it a criminal offence to use V.P.N.s (virtual private network), which are the workaround for citizens to access something that is banned in their country. So, we are seeing these new ideas come and develop through policy and then to legal standing, so we are taking those learnings and drawing them down into what we can then use.

Deputy H.M. Miles:

I guess the question is the interregnum, is it not, between the existence of the Online Safety Act in the U.K. and the time it is going to take for us to get up to speed with our own legislation, whether we are keeping ...

The Minister for Sustainable Economic Development:

If the Online Safety Act was a good law, I would perhaps agree but the Online Safety Act, as we made clear, there are very little in the way of prosecutions or even enforcement going on at the moment.

Deputy H.M. Miles:

But nonetheless, are we thinking about what we are going to do between those 2 periods of time?

The Minister for Sustainable Economic Development:

Yes, I think that is something we should look at. I agree.

Deputy H.M. Miles:

The reputational value.

The Minister for Sustainable Economic Development:

Absolutely, we do not want that happening in Jersey and I do think in the interregnum we have laws which are off-putting from that perspective anyway. There are laws which ... and I believe we discussed this perhaps a year or so ago. They are not ideal, but they do provide means for prosecution.

Deputy B.B. de S.V.M. Porée:

Another question for you, Minister. So has the Government undertaken any consultation or received any representations from external parties or, say, industries, with regards to the Government's digital policy?

The Minister for Sustainable Economic Development:

For digital policy, yes. We do regular consultation, both with industry and certainly in developing a digital economy strategy. We have done that absolutely in consultation with a wide variety of stakeholders.

Deputy B.B. de S.V.M. Porée:

Okay, that is good. Would introducing online safety regulations impact the local digital industry or other sectors of the local economy, do you think?

The Minister for Sustainable Economic Development:

I do not believe it will. I believe we have a very legitimate set of industries in Jersey. I do not know or have heard of any which are pushing the limits in terms of the type of content that we are talking about in this hearing and if we were to find that out, I would be really disappointed but - touch wood - effectively I do not believe we are seen as a jurisdiction. I mean that is similar to Deputy Miles' concerns and I think we have to be alive to those concerns. To my knowledge, to date, we are not a jurisdiction where that happens, but we need to make sure law ...

Deputy B.B. de S.V.M. Porée:

Okay, so that is reassuring anyway but ...

The Minister for Sustainable Economic Development:

Absolutely, but we also need to make sure laws ... make sure it does not happen into the future.

Deputy B.B. de S.V.M. Porée:

Yes, not just for now but moving forward.

The Minister for Sustainable Economic Development:

Precisely.

Deputy B.B. de S.V.M. Porée:

Okay, I have got another one. Lucky one. Okay, so again, Minister, this question is for you. Are there any plans for the Government of Jersey to produce an internet safety strategy or similar strategy?

The Minister for Sustainable Economic Development:

I believe there is and so, yes, we have some way to go on it and to some extent the work which the Data Protection Authority is already undertaking forms part of that, so this is something that I think we ... effectively, we are thinking about at the moment and it is too early, I think, to say much about it but it is a place we need to go. It would be multi-Ministerial, again, similar to this but I do not think there is a particular workstream on that at the moment.

Deputy B.B. de S.V.M. Porée:

But maybe you can just give the panel an insight if your strategy will by any means overlap, say, the cyber security focus and the protection information and data and systems security. Do you think you will create your own?

The Minister for Sustainable Economic Development:

My own what, sorry?

The Connétable of Grouville:

Strategy.

The Minister for Sustainable Economic Development:

Oh, strategy. So, I think this is a cross-government piece of work. It is not just a Department for the Economy piece of work so I do not believe we have started work on that, and so I think it is a question of: is this something we should do and work on? But it would have to be together.

Senior Policy Officer, Digital Economy:

But the Minister is working on - through his Assistant Minister - a cyber security strategy to update the cyber security strategy from 2017 to bring it in place with the modern era and in line with the future and the single economic strategy and the digital economy strategy. So, those are in place. We already work closely with our Office of the Information Commissioner and the awareness raising that he has, and data protection remit that he has got on there. So, yes, as the Minister says, we

will be bringing all the bodies together across Ministerial portfolios to understand what the need is to do in this space.

Deputy B.B. de S.V.M. Porée:

We may be able to pick up in a bit more information further down the line, if that is okay?

The Minister for Sustainable Economic Development:

If I may, I think the issue is there is work going on out there at the moment and whether it is happening in schools, directly through the Education Department or whether it is happening through the Data Protection Authority and other such as Cyber Security Centre, there is a lot of work around internet safety going on but what we do not have is that single documented strategy for putting it all together, and I think it is a really good idea for us to look at that.

Deputy B.B. de S.V.M. Porée:

Thank you, and again, just for the purpose of the hearing, so Minister, do you think that there should be a specific separate internet safety strategy for Jersey?

The Minister for Sustainable Economic Development:

I just said I think that is a good idea.

Deputy B.B. de S.V.M. Porée:

Good. I wanted you to say it. Thank you. Okay.

Deputy C.D. Curtis:

Okay, so I will just have a sort of concluding question of each Minister to contribute. So, please could you confirm what the Government of Jersey will do with regards to online safety for children. So, what action is required next for that to happen, who will take that action and when will the action be taken? So, the next step for each of you, please.

The Minister for Sustainable Economic Development:

If you want to start at this end, just as we are? So, as we said, I will be receiving options and documents next ... we are in October, so next month and then that will obviously be choosing options and taking those forward, developing and drafting ... what is the word? Law drafting instructions to take from there as well as consultation because I think consultation is a really important part of this. So, we will have the options coming through and, as I said, from that point we will have something that we can start beginning to show to Scrutiny more clearly, and that will then have to go through consultation, law drafting and take it out with legal changes at the end.

Deputy C.D. Curtis:

Okay. Thank you.

The Minister for Children and Families:

Right. It is hard to remember the question.

The Minister for Sustainable Economic Development:

What are the next steps.

The Minister for Children and Families:

What are the next steps. Well, next steps, yes.

Deputy C.D. Curtis:

What action next, who will take that action and when will that action be taken?

The Minister for Children and Families:

Well, I think currently we are within the confines of the existing laws. We are taking all the necessary action, but the next step is consultation about the new law and ensuring that it does protect our children. So, that is working with the Minister for Sustainable Economic Development's Ministry, and that would be my next steps.

The Minister for Justice and Home Affairs:

Obviously, we have got a suite of legislation to deliver in the next 18 months. As I said, that legislation will go to law drafting. Once the law is drafted and brought before the States then obviously there will be a programme of training to all of the stakeholders, parties to that, from the States of Jersey Police, Children's Services, et cetera. All of that training will be provided and any guidance that is necessary going on to the website. Obviously, the police website, some of that has already gone on the site as to what is relevant to what offences, what people need to do and what sort of agencies they can go to in relation to support as well, so all of that will be in that training coming up to June 2026.

The Minister for Sustainable Economic Development:

Can I just add something? Sorry, it was just to say that I think ... and I genuinely do not know what the Education Department is doing in this area and it might be doing a lot - I do not know - but I think one of the areas when it comes to protecting children is obviously to help parents understand how they can keep their children safe and so I believe, again, the Data Protection Authority does do work in that area. But a lot of the work is also aimed at children themselves and so if we were to come up with an internet safety strategy, I think one of the key elements of that would be helping parents

understand. I speak as a parent who has obviously been trying to navigate this field as a parent myself and it is not necessarily very easy especially with technology moving all the time, so you know whereas I had Facebook, my daughter has TikTok, if you know what I mean, and as a parent you are just not as *au fait* with these things. So, I think parents have got to be a key element of it as well.

Director for Improvement and Transformation:

Increasing training and increasing education.

Deputy B.B. de S.V.M. Porée:

That seems to be the opinion of the Minister for Education and Lifelong Learning.

Deputy C.D. Curtis:

Well, he has spoken to us about that, and we can put all that information together.

Deputy B.B. de S.V.M. Porée:

Yes, parents' education.

The Minister for Sustainable Economic Development:

But I say that without trying to say it is all on ... I am not in any way saying it is all on the parents. I am saying that is a part of the whole puzzle that we must not miss out.

Deputy B.B. de S.V.M. Porée:

Of course.

Deputy C.D. Curtis:

I think we have just about come to the end of our hearing. So, unless anyone has got anything else to add, we can bring it to an end. So, thank you very much, everyone. It has been really interesting. Thank you very much.

[15:58]