

**Friday 6 June 2025 – Cardin Pasturel**

To: Scrutiny Communications <[Scrutiny@gov.je](mailto:Scrutiny@gov.je)>

Subject: Online Harms Review

I am writing to express serious concerns about the implications of the UK's Online Safety Act 2023 (OSA) for free speech in Jersey and to urge the States of Jersey to maintain independence from this legislation. While the OSA aims to address online harms, its framework poses significant risks to freedom of expression, a cornerstone of democratic societies like ours. Below, I outline key reasons why Jersey should distance itself from the Act to safeguard free speech for its residents.

1. **Vague Definitions Threaten Legitimate Speech**

The OSA's ambiguous definitions of "legal but harmful" content create a framework where regulators, such as Ofcom, can subjectively interpret what constitutes harm. This vagueness risks over-censorship of lawful speech, including political dissent, controversial opinions, or minority viewpoints. For Jersey, adopting such a framework could suppress open discourse, stifling the island's vibrant community dialogue and undermining its democratic values.

2. **Regulatory Overreach and Government Influence**

The OSA grants Ofcom extensive powers to enforce content moderation, including fines up to 10% of a platform's global revenue and potential imprisonment for non-compliant executives. Furthermore, Section 44 allows the UK Secretary of State to direct Ofcom's policies for reasons of "public policy" or "national security." This opens the door to politicized censorship, where government priorities could override free expression. Jersey, as a self-governing jurisdiction, must avoid aligning with a system that risks centralized control over online speech, which could conflict with our commitment to local autonomy and free debate.

3. **Threats to Privacy and Encryption**

Section 122 of the OSA mandates scanning for child sexual abuse material, even in end-to-end encrypted communications, potentially requiring client-side scanning that undermines user privacy. Tech companies like WhatsApp and Signal have warned this could lead to mass surveillance, threatening the security of Jersey residents' private communications. Protecting privacy is essential to free speech, as individuals must feel safe to express themselves without fear of government monitoring. Jersey should prioritize robust digital privacy standards over adopting the OSA's invasive measures.

4. **Chilling Effect on Platforms and Users**

The OSA's severe penalties incentivize platforms to over-censor content to avoid regulatory repercussions, creating a "chilling effect" that suppresses lawful speech. This could disproportionately impact Jersey residents, limiting their ability to engage in open discussions on global platforms. By distancing itself from the OSA, Jersey can foster an environment where platforms and users feel confident to express diverse views without fear of arbitrary censorship.

5. **Preserving Jersey's Unique Identity and Autonomy**

Jersey's status as a Crown Dependency allows us to craft policies that reflect our values and priorities. Adopting the OSA would tie Jersey to a UK framework that critics, including privacy advocates and tech firms, warn could set a precedent for global censorship. By maintaining independence, Jersey can develop tailored online safety measures that protect residents without compromising free speech or aligning with a one-size-fits-all approach that may not suit our community.

**Recommendation:** Jersey should explicitly reject alignment with the UK's Online Safety Act and instead develop a localized framework that balances online safety with robust protections for free expression and privacy. This could involve consulting with tech experts, civil liberties groups, and residents to ensure policies reflect Jersey's commitment to openness and autonomy. By taking this stand, Jersey can set a global example as a jurisdiction that champions free speech in the digital age. I urge you to consider these points and prioritize Jersey's independence from the OSA to protect our residents' fundamental rights. I am happy to discuss this further or provide additional evidence to support this position.

Yours sincerely,  
Cardin Pasturel