

## Scrutiny Review – What protection do children in Jersey have from online harms?

Submission to Scrutiny Panel – Children, Education and Home Affairs.

April 2025

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This Review comes at a critical time for children and young people, and for all of us in the community. The Panel is to be commended for prioritising this issue. I hope the below comments are helpful.

The UK Children's Commissioner describes a 'crisis in childhood'<sup>1</sup> and recently published survey results that showed online harms as among headteachers' biggest concerns<sup>2</sup>.

Our own Children's Commissioner talks of the 'urgent need for targeted intervention' in her Submission to this Review.

We have, as adults in recent years, largely existed in a world disconnected from, and unaware of, the reality of the digital world for children and young people. That is, at least in part, because the digital world feels intangible and ephemeral, and if we cannot see something, we find it hard to engage with or challenge it. That is changing. We are getting better at understanding the way in which certain aspects of the digital world are impacting some of the most vulnerable and easily influenced members of our community. Data is very much a tangible and physical thing, impacting people as well as the environment.

Living and parenting in Jersey has always offered a largely safe and beautiful environment. But the digital world knows no geographical boundaries and our children and young people are exposed to, and at risk from, the same harms as every other 'connected' person across the globe. The statistics about access to harmful content (violence, pornography, misogyny etc.) are freely available (and horrific), as are the statistics about poor mental health in our young people (equally horrific). These must give us pause for thought. They must make us want to double down on doing all we can to ensure an environment in which everyone, but particularly the young, are able to thrive – not *in spite* of that environment, but *because* of it. There is a difference.

We should be in no doubt that we are in the midst of a public health emergency. Unlike other emergencies, this one is mostly hidden. Hidden from parents and carers, hidden

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<sup>1</sup> <https://www.childrenscommissioner.gov.uk/blog/press-notice-crisis-in-childhood-warns-childrens-commissioner-as-she-hosts-inaugural-festival-of-childhood-calling-on-decision-makers-to-listen-to-children/>

<sup>2</sup> <https://www.childrenscommissioner.gov.uk/statement/press-notice-most-headteachers-restrict-mobile-phones-in-school-hours-but-major-new-survey-shows-online-harms-still-among-their-biggest-concerns/>

from teachers and schools, hidden from law enforcement, and hidden from society. It is incumbent upon us all to bring the problem into the open. Only then will we be able to see with clear eyes the scale of what we are dealing with.

Rarely a week goes by without a headline about teenage mental health, self-harm, suicide, extremism, pornography, bullying, sextortion, eating disorders, sexual violence, violence against teachers, mis/disinformation etc. (the list is much longer). These things are not separate from the issues being explored by your Review, they are all linked by a common thread. These things, of course, pose risks to adults, but brain development during adolescence makes young people particularly susceptible and vulnerable.

The Terms of Reference of the Review list the areas of consideration. The list essentially reflects the whole of society. That is as it should be because this is a whole society issue and must be approached as such.

General Comment 25<sup>3</sup> highlights the critical need to encompass the cross-cutting consequences of the digital environment for children's rights. A government body should be identified that is mandated to coordinate policies, guidelines and programmes relating to children's rights among central government departments and the various levels of government. Such a national coordination mechanism should engage with schools and the information and communications technology sector and cooperate with businesses, civil society, academia and organizations to realize children's rights in relation to the digital environment at the cross-sectoral, national, regional and local levels. It should draw on technological and other relevant expertise within and beyond government, as needed, and be independently evaluated for its effectiveness in meeting its obligations.

When deliberating these matters, we should be clear about the distinction between different elements, particularly when referring to 'smart phones', the internet, and social media. It is easy to conflate these things, but they are different, and therefore pose very different questions for us in the context of considering online harms.

It is encouraging to see the engagement with this issue in the submissions made and I have read them with interest, using some of the points raised to inform my comments. I hope more are received, including from law enforcement, public health, teachers, and the Information Commissioner. Ensuring such engagement can support the coordinated approach set out above.

#### Official Scrutiny Correspondence

*Letter - Minister for Sustainable Economic Development to CEHA (Online Harms) - 31 March 2025*

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<sup>3</sup> <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>

When making reference to data protection legislation it is important to reference Article 4 (application) and Article 1 (specifically the definition of ‘information society service’) of the Data Protection (Jersey) Law 2018. We must avoid seeking/taking/giving comfort where the reality is complex and often less than comforting.

There is a heavy focus on reactive steps (i.e. enforcement, take down requests etc) which is essential but must not detract from the need to prevent harms in the first place. Harms done to children in this context are very difficult (if not impossible) to undo. It would be unconscionable to have a strategic approach to road safety which involved simply investing in ambulances and paramedics. We need to approach these harms in exactly the same way.

Question 4 of the letter is important, but the response appears not to address the issue at hand.

Question 5 of the letter references ‘feedback’ and ‘input’. It would be helpful to have sight of all such information.

Question 6 of the letter asks for a copy of the analysis (used to inform the decision to reject the permissive extent of the UK’s Online Safety Act) but this does not appear to have been provided.

The answer provided to Question 7 of the letter talks of the (Online Safety) Act lacking the ‘adequacy and proportionality’ necessary for Jersey. It would be useful to have details of the consideration of these matters. (i.e. adequate and proportionate in relation to what, and how that was assessed and concluded on?)

The answer to Question 8 of the letter describes this as a ‘cross ministerial issue’. It is, and there should be a ‘whole Government’ vision and strategy.

Question 11 of the letter refers to ‘take down requests’, an area where a number of social media platforms have been criticised for slow response times (or failing to respond at all). It would be useful to have details of the number of such matters which have been raised with JOIC and the outcomes.

Further, that question makes reference to ‘structured relations’ between the regulator and ‘bigger tech companies’. It would be useful to understand better what form those relations take.

Question 14.a. of the letter is important but appears to remain unanswered.

Question 15 of the letter raises the critically important question of algorithms. We must be clear that social media is not the same as the internet. The business model of social media platforms is about ‘eyeballs’ and attention. They are addictive, they are programmed for engagement (not control), and they are full of hidden rewards, incentives and dark patterns. None of that is accidental, it is *by design*.

As an illustration, in 2017, a document was released that revealed how Facebook was offering advertisers the opportunity to target 13-17 year olds across its platforms (which includes Instagram), particularly during moments of ‘vulnerability’. This gives one small but significant insight into the way in which these platforms are run.

It is worth noting that there are two broad groups of people who do not allow their children to use social media – the product designers, and the product researchers.

It is the algorithms, the addiction, and the manipulation which are at the heart of the harms. With recent figures showing that AI fuelled bots make up over half of internet traffic, this is a problem that is growing rapidly.

*Letter - CEHA - Minister for Children and Families - 10 March 2025*

Question 1 of the letter asks for details of how policies are co-ordinated. Further to my earlier point, this is a critical question, but it does not appear to have been answered in respect of what actions/outcomes there are as a result of ‘sharing’ and ‘making connections’.

The letter highlights the importance of proactive government approach to the protection of children where they may be vulnerable (e.g. in care). We must be alive to the fact that the way in which some of the platforms work not only exploits existing vulnerabilities, but it also creates vulnerabilities where there may not have been any previously (e.g. a young person not considered to be vulnerable, living in a stable and loving home environment, but who is exposed to extreme violence or sexual content will be impacted.)

*Letter - CEHA - Minister for Justice and Home Affairs - 10 March 2025*

This letter highlights the enormous challenges of effective law enforcement in this area. We must take care not to take too much comfort from putting legislation in place. It won’t matter how well drafted and comprehensive a law is if it is unenforceable.

Further, it would be helpful to know the Jersey position in respect of the legal action currently being taken by Apple in an attempt to overturn a demand made by the UK government to view customer data. Specifically, whether the Advanced Data Protection tool will be removed for Jersey users. This is relevant for the community, but particularly for law enforcement and the data protection regulator, and I would expect statements to have been made.

*Letter - CEHA - Minister for Education and Lifelong Learning - 10 March 2025*

There is an opportunity for more consistency across schools in key areas highlighted in this letter, both in terms of collecting relevant data and statistics, and in fulfilling our

duties to children and young people. This should flow from a holistic vision and strategy in this area that cuts across all departments and sectors.

### General comments

The trajectory we are on is not a good one. There is a danger that we continue to normalise the risks and harms that are now so much a part of all our lives, particularly the lives of young people. But the trajectory is not set.

There is an urgent need for us all to better understand and respond to the reality of the digital experiences of our children and young people.

There is also an urgent need for a government-wide vision and strategy and for a consistent approach to resulting actions. All citizens enter into a social contract with their government and the protection of those most vulnerable is necessarily a key part of that contract. I am of the opinion that this is one of the most pressing social and cultural issues of our time and the actions we take, or neglect to take, will ripple forward for many years, and impact many people.

I would encourage clarity around the different areas of concern in this area. They include –

- Pupils use of phones at school.
- Internet access (on any device) by children and young people at school and at home.
- Social media access (on any device) by children and young people at school and at home.

These areas are of course related but should not be conflated. There are different questions and realities around risks and harms to be considered and responded to relating to each of them.

There should be a consistent approach to the issue of phones/devices in the classroom, because aside from the concerns around internet access and social media use, they risk being a significant distraction which impacts both teachers and other pupils.

As mentioned, this is linked to, but not the same as, questions of online activity, particularly around social media. For a strategy to genuinely and meaningfully connect with the issue of online harms, we must be clear eyed. A phone ban in schools will do little, if anything, to deal with those wider issues. We cannot (and must not) claim that, by not allowing children access to phones for certain limited hours in the day, this will protect them. This is a bigger issue which, as already highlighted, requires an Island-wide and government-wide response.

There is increasing and particular concern about children and young people using social media platforms. Our children and young people are becoming addicted and are being

manipulated *by design*. Their attention is being treated as a resource to be profited from. Can any of us think of another area of young people's lives where such risk, exploitation and harms are accepted? It is both morally and legally unacceptable for any of us, particularly the young, to be commodified, yet that is the business model we have allowed to dominate our lives.

We must take care when considering/describing the benefits and harms of the online world. It would be useful to have a more comprehensive discussion about the 'balance' that is so often spoken of between safety and freedoms (e.g. of expression) for children and young people, because surely we can have benefits *only* when we have safety.

We cannot enforce our way out of this. We need laws but we need more. We need collective action, and we need it to be ambitious, creative and impactful. The scale of the harms and the pace of continued developments mean that we cannot afford to sit and wait, either to see harms manifest themselves more profoundly and overtly, or to assess what others are doing about the challenge. The digital revolution is moving faster than norms, values, laws and research can keep up with. We are not a large jurisdiction. That means we have to face the reality of what enforcement outside of our borders looks like. It also means we can be nimble, and we can be responsive, but that requires us to be proactive, deliberate and thoughtful and to unite in a common aim.

Jersey also prides itself on its independence and this is an opportunity for us to be clear about what we want (and don't want) for our children and young people and to put that into action. In this, our children are not, as they are in so many other areas of their lives, protected from harms beyond our borders.

Digital literacy must be embedded into education from a very young age<sup>4</sup>, with tailored age-specific content delivered by professionals. Half an hour 'online safety' or PSHE every so often is simply not good enough. It smacks of box-ticking rather than meaningful engagement. We need to influence behaviour, and impact outcomes, not just raise awareness.

The submissions from parents highlight how desperate they are for leadership, support, and action. There is much talk of the need for parents to step up and take responsibility, but they cannot do so without broader support. Parents are completely over-faced. Rather than look to blame them, let's try and come together as a community to help empower them and protect children. There are lots of good people doing good things in this Island, but we have an opportunity to build a shared vision, one where we work collaboratively and consistently.

The burden of proof should not lie with those of us who seek to protect children from harm, it should lie with those who are building products which are being targeted at, and consumed by children to demonstrate and evidence that their products are safe. At the moment, that is not happening. Big tech has no incentive to move from the business model which has made them amongst the richest people/businesses on the planet.

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<sup>4</sup> <https://childrenoftherevolution.org.uk>

This is, without doubt, an enormous challenge for this government, as it is for all governments, but there is too much at stake for us to simply shrug our shoulders and say it is too difficult. If it hasn't happened already, a child living in Jersey will come to harm as a direct result of the online world they inhabit. My question for all of us, not only our government, is this – if (when?) that happens, will we be able to look that child's parents in the eye and say that we all did *everything* we could? Decisions taken, (and, crucially, *not* taken) will have enormous consequences for individuals and society for many years to come. History will judge us.

I wish the Panel every success with the Review and sincerely hope that it is the start of a new chapter of engagement and action for our Island.

Emma Martins