

**3. Sexual Offences and Obscene Publications Bill 2019 –
Second Reading approved**

Miss August-Hanson to move:

That the Sexual Offences and Obscene Publications Bill 2019 be read a second time.

1250 **The President:** We turn now to Item 3 on our Order Paper, which is the Sexual Offences and Obscene Publications Bill 2019 for Second Reading and clauses.

I call on the mover, the Hon. Member, Miss August-Hanson to move the Second Reading stage.

Miss August-Hanson.

1255 **Miss August-Hanson:** Thank you, Mr President.

In moving the Second Reading of this Bill I propose again to outline the principles behind it and address some of the issues mentioned by Members during the First Reading last week.

1260 The Bill before this Council is based substantially on the United Kingdom's Sexual Offences Act 2003. It draws on other elements of UK legislation addressing sexual offences, obscene publications and indecent advertisements. This is for two reasons: (1) it is important that our criminal legislation corresponds with that of the UK, simply for the practical reason that sometimes sexual offences can cross borders, and their detection and prosecution involves multiple jurisdictions. Our most likely jurisdiction obviously is the UK.

1265 Secondly, it is always good to draw on experience and the expertise of other jurisdictions rather than to look to reinvent the wheel with some difficulty, as you will know in other areas of legislating. We have also drawn on legislation in other Commonwealth jurisdictions; for example, our provisions dealing with image-based abuse, such as that known popularly in the press as 'upskirting' and revenge porn have been based on New South Wales, Australia. It also repeals and replaces the Obscene Publications and Indecent Advertisements Act 1907.

1270 With new technologies the ability to produce and share indecent images is greater than ever. There is now a real crossover into sexual offences, especially in relation to indecent images of children and other forms of extreme pornography. Often these images depict graphic sexual offences and can encourage their commission. The Bill deals with developments in technology so as to deal not just with the physical possession of an indecent or obscene image, but also with images that are streamed. In a real sense, the Bill has had to redefine what it means to 'possess' an image.

1275 Several important principles behind the Bill include the use of more modern language; for example, in the current Sexual Offences Act there are very outdated and indeed, for our times, offensive references to people and this kind of language is now unacceptable. There are currently four Acts of Tynwald dealing in whole or in part with sexual offences, obscene implications and indecent advertisements, as you will know from the First Reading. It was considered appropriate not just to modernise the language and ensure that all kinds of offences that can be committed in the 21st century are covered, but also that all of these provisions should be consolidated into one piece of legislation, into one Act. In this form the legislation will be easier, hopefully, for people to access so that they know what the law is and it is easily and clearly readable.

1280 As a matter of principle it was also felt that this Bill was the right means by which we could legislate to provide automatic pardons for those convicted of historic homosexual offences; and, on request, apply for any extant record of any caution or sentence in relation to that offence to be removed.

1290 In updating the legislation, and following other jurisdictions, the Bill deals more fully with the issue of consent, through clauses 91 to 94; and in Part 8 of the Bill, comprising clauses 139 to 146, addresses the principle that all parties in sexual offences cases should have the right to

1295 anonymity. This should include a person who is a suspect under the investigation through a conviction, as well as the victim.

A third key belief is that we need a modern, up-to-date Bill in a consolidated and accessible form to address the particular and serious harm brought about by sexual offences and related obscenity and decency in image-based views.

1300 Turning to issues raised by Members during the First Reading I will start, if I may, with the issue of anonymity raised by Mrs Sharpe. It is incumbent upon me to put across the views of the Department which recognises that the balance between the freedom of the press and personal privacy is one which needs some constant review. I reiterate in this Chamber what was said in the other place, that the intention to grant anonymity for those suspected of committing sexual offences should not be seen in any way to support the erroneous myth that victims make false
1305 allegations of rape. In a very comprehensive 2012 report of over 5,651 prosecutions brought for rape, the Crown Prosecution Service of England and Wales found that only 35 cases had been malicious.

The reality is that only around 15% of those who experience sexual violence report it to the Police; and that conviction rates for rape are far lower than any other crimes. It is the hope of
1310 the Department that greater anonymity will encourage more victims to come forward to seek justice.

The late Minister for Home Affairs, Bill Malarkey, believed passionately that this level of anonymity was important in order to maintain as a reality in people's minds, that the person is innocent until proven guilty, and would highlight the stigma and the permanence. In our modern
1315 world of allegations very rarely is the internet record set straight where a person is acquitted of an offence. The now Minister for the Department maintains that view firmly and indeed it was strongly supported by the elected Chamber, as we know, when that Chamber decisively rejected a move to amend the anonymity provisions. Nevertheless, this is an important matter and very worthy of full and open debate in such a manner as Members of *this* Chamber may determine
1320 when the relevant clauses are considered. It is recognised that there are diverse views on the matter.

Mrs Poole-Wilson referred to the notification requirements set out in Part 10 of the Bill. And, whilst these follow the UK Sexual Offences Act 2003, the practical effect of these requirements is that persons will continue to be subject to notification requirements as they were and are
1325 under the Island's current body of sexual offences legislation. But the system works well in assisting the constabulary at present to keep the public safe, and will continue to do so under this Bill in the event that it becomes an Act. The Department is not aware of any difficulties or inadequacies at present in our current notification regime and anticipates that will continue into the future.

1330 Part 10 of the Bill also contains provisions about sexual harm prevention orders and sexual risk orders. In practice, these are current sexual offences prevention orders and risk of sexual harm orders, under a different name, slightly adjusted. So again it is not anticipated that there will be any significant difference in the protection afforded to the public, except in one matter: currently, a court may make a sexual offences prevention order at the time of sentencing but
1335 circumstances can change, not least where a person is sentenced to a term of custody.

What the Department has done is – sorry, forgive me, I have got a lump in my throat – to make provision in clause 184 for the Chief Constable, and the defendant or a probation officer, to apply to the appropriate court prior to the person's release from custody for an order varying or discharging the sexual harm prevention order. This means that an order made at the time of
1340 sentencing for the protection of the public can be updated to fit what may be changed circumstances at the time of the person's release.

Mrs Lord-Brennan noted that this is a very large Bill with a *great* many offences. The Department believes it has included all of the, regrettably, many and varied ways it is possible for one or more persons to abuse others; and it has set out the appropriate offence and penalty.
1345 However, offences and the means to commit offences, or the concerns of the public, are

evolving. The Department nevertheless trusts that after full and appropriate scrutiny this Chamber will feel the right offences and penalties have been enshrined in the Bill and the right balance struck. Similarly, that the ages stipulated within the Bill as they apply to offences, the penalties are correctly and appropriately set out.

1350 Mr President, I have outlined the principles behind the Bill and I hope addressed the main matters raised during the First Reading, but happy to address any others that my colleagues on Council may have. I now beg to move that this Bill be read for the second time.

The President: May I have a seconder?

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Mr Henderson: Yes, Eaghtyrane.

I am just having problems connecting the microphone up there.

Yes, I beg to second, sir, and reserve my remarks.

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The President: Thank you, Mr Henderson.

Hon. Member of Council, Mrs Poole-Wilson.

Mrs Poole-Wilson: Thank you, Mr President; and I thank the mover for responding to the matters raised at the First Reading on this important Bill.

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It is not my intention to reiterate points made at the First Reading. I think one question I would ask, and I expect there will not be an answer today, which I understand, but in relation to the anonymity provisions in the Bill I just wondered what consideration has been given to the practical implications of clause 144 of the Bill, which is of course the power to displace anonymity for defendants in certain circumstances.

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I suppose what I am thinking is, based on our past experience, the experience of the constabulary and the prosecution, for example, what proportion of matters that arise in the courts that are relevant to this Bill, might be subject to applications for anonymity to be lifted pursuant to clause 144? An example comes to mind that only happened in the Island last year of an individual who was named in the press and facing certain charges, and by virtue of the fact that that individual was named a further victim came forward and that indeed assisted in the prosecution case.

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So my point being really that, whilst the balance for privacy for an individual charged with certain offences might be one that we should absolutely take into account in a small community, the other side of the coin is not only open justice but the possibility that naming a defendant after charge might lead to other individuals coming forward and might be very pertinent to the prosecution of the case. And if we are likely to have a number of cases coming forward where there will be applications to lift anonymity, will that in effect potentially make it make it worse, I suppose, for defendants in the Isle of Man if they are named in those particular circumstances?

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So I would just look for a bit of comment on that please from the mover; if not today, then when she has had an opportunity to consult with those who are likely to make orders or requests under clause 144.

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I think the second thing I would just like to highlight at Second Reading is obviously this is a very complex Bill, and it did undergo a huge amount of close scrutiny and amendment in another place. But at Third Reading some questions remained, particularly as to how the Bill deals with young people, 16- to 18-year-olds. And this Council also had questions about this group in the context of domestic abuse legislation. I believe we must strive to get these things correct and to find the best means, certainly in this Bill, of protecting our young people; and, in terms of certain behaviours, trying to educate them and divert them away from such behaviours before we are at the point of criminalising them.

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I would really like to thank the mover for being alive to this need for considered scrutiny of the detail of this Bill; and I believe her proposal which is on the Order Paper today to delay clauses to allow for this detailed analysis is welcome.

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1400 So I would like to support the Second Reading today and I look forward to working on the detail of this Bill with the mover and the drafters, so we can produce modern and up-to-date legislation in this area that is in step with the world in which we live, and strikes the appropriate balance regarding protection and education, particularly for our young people.

Thank you, Mr President.

The President: Thank you.

1405 Now, Miss August-Hanson, I can give you the opportunity to deal with these points now; you may wish to do so? You may find it easier than dealing with it while winding up at the end.

Miss August-Hanson?

1410 **Miss August-Hanson:** No, actually I am okay to wind up at the end. It might help if there are common issues that I might be able to deal with as a whole, if that is all right? But I will address Mrs Poole-Wilson's concerns as best I can in this sitting and then with further information that might follow.

The President: That is fine.

1415 Mrs Sharpe, Hon. Member.

Mrs Sharpe: Thank you, Mr President.

1420 I would like to thank the hon. mover, Miss August-Hanson, and the various officers at the Department of Home Affairs for the rationale behind this broad-reaching Bill which is much needed in order to reflect relatively recent moral, ethical and technological changes in our society.

I would also like to thank the hon. mover and the officers for supplying answers to questions I raised last week in relation to Part 8. And I do also welcome the opportunity for further thought by the delaying of clauses, because I think that is going to be really useful.

1425 In terms of anonymity for alleged perpetrators of sexual offences, I absolutely do understand how devastating it would be for a person who is accused of a sexual offence, even if they are found to be innocent, to continue living in our tight-knit communities. However, I think it is still worth pointing out at this stage that even though we live in a tight-knit community, the system of justice which has evolved in our society is one of *open* justice. The public are allowed to attend court and the press are allowed to report who is up in court and for what reason.

1430 Would it make any practical sense, I wonder, for an alleged perpetrator of a sexual crime to remain anonymous in the press whilst the public can still attend court and see the alleged perpetrator? The public could reveal the alleged perpetrator's name on social media and the public could still gossip – and gossip, as we are aware, spreads like wildfire in the Island. I would ask: is it not better to have factual reporting on a case carried out, as it is currently by the press who are, after all, officially regulated?

1435 In terms of our own media's views on this, I had a mixed response when I contacted them. One radio station absolutely supports Part 8 as it stands, because it is concerned that when an alleged offender is named in the media this can have a devastating effect on that person's life. Another radio station, although sympathetic to the potential effects on an alleged perpetrator's reputation, concluded that from what they had observed social media is to blame for the instant spread of negative gossip, and wondered whether this is a good enough reason to change the law.

1440 The Hon. Member, Mrs Poole-Wilson, in relation to clause 144 pointed out that recently a further victim of a sex offender came forward after reading the press coverage of an earlier court appearance. It is true that the Bill before us does allow a judge the right to lift anonymity in order to allow other victims to come forward. But I would ask: how certain can a judge or the constabulary ever be that there are, or there are not, other victims out there? And if Part 8 remains as it is, how will we ever be sure?

1450 Currently if an alleged perpetrator is found to be innocent by a jury, or the case collapses,
then the media will report that at the earliest possible opportunity. And, as we have just heard
from Mrs Poole-Wilson, there was an example on the Island recently where an alleged
1455 perpetrator of a sexual offence was found to be innocent due to lack of evidence, but who
nonetheless felt that their life had been ruined. Apparently questions then began to be asked on
social media as to whether alleged perpetrators should be given anonymity, and perhaps that is
why we are seeing Part 8 as it stands today. However, it is also argued by some that the issue
was the fact that the case was allowed to proceed at all, as it was later found there was not
enough evidence; rather than the issue being the original naming of the person in the press *per*
se.

1460 Is it the case, I would ask, that the Department has discovered that the majority of the people
in the Isle of Man want to see alleged perpetrators of these specific crimes having anonymity
extended to them? How many people out of 80-odd thousand have actually said that this is
what they want?

I still stand by the point I made last week that society evolves. What is generally regarded as
1465 abhorrent changes from decade to decade and generation to generation. Are we to insert,
piecemeal, anonymity clauses into every forthcoming piece of legislation which society has now
decided is beyond the pale? There will be little bits all over the place. Currently, the media is free
to report what they are allowed to by law, until the existing contempt of court rules apply. In
other words, anything can be reported until the moment of arrest, at which point the case
1470 becomes *sub judice*. At that point, a person accused cannot be named until they appear in court
and normal reporting applies. Over many years this system has provided the delicate balance
between the media's freedom to report and safeguarding the interests of the accused.

It should be noted, as the Hon. Member herself pointed out in her introduction today, that
1475 some cases of sexual offences do cross borders. So in my opinion if Part 8 passes as it stands, the
Isle of Man would be out of kilter with the UK, so an alleged perpetrator could still be named in
the UK press, even if not in the Isle of Man. As in the UK, in the Isle of Man we have a system of
public justice and it has to be carried out in public for the system to work properly. Of course it
might be, as I suggested last week, that our society has come to the position where it believes
any alleged perpetrator of *any* crime should remain anonymous until proven guilty.

1480 It might be, equally, that our society has decided that the delicate balance between the
media's freedom to report and safeguarding the interests of the accused, needs to be
thoroughly examined. If this is the case, perhaps now is the time to have that discussion with the
public? Perhaps it is time to look at our current legislation in this area. But I stand by my
argument that that is a debate for a different day and a different Bill.

1485 Thank you.

The President: Hon. Member, Mrs Lord-Brennan.

Mrs Lord-Brennan: Thank you, Mr President; and thanks very much to the mover.

1490 I have been looking further at some particular elements which I may take forward before we
get to the next stage. But firstly, to comment about the matter to do with consent.

I appreciate that there are quite a few clauses as to the meaning of consent for the purposes
of Part 2. But in looking at clause 92 which is about the evidential presumptions, I have some
concerns about this area and I think it presents an evidential challenge to the point I would like
1495 to highlight. I need to look at it in more detail, but what I have highlighted to Council is that
where it says:

... the complainant is to be taken not to have consented to the relevant act unless sufficient evidence is adduced
to raise an issue as to whether he or she consented ...

So it is about evidence as to whether there was consent.

1500 I just think that is really challenging, given some of the things that we are talking about here, and I just think there is a difficulty. So I think we might need to look at that because I do not think it is enough just to say consent is required, consent is covered. What we are dealing with is human sexual relationships ... I really just worry that it is not as clear-cut as the Bill would perhaps like things to be. And also on that point, I am not quite sure who has to give consent. I just worry that it might cause problems.

1505 Some of the points that have come to mind to do with whether it is a threat to publish an image is an offence, I have been looking at some of the wording in the Bill and I think that quite a lot of it is to do with threats to *distribute* – and I am going to probably pick up with the drafters as to whether there should be more of a tie-in with a threat to publish particular images. I think that is worthy of looking at.

1510 I have a query that I would be glad if the mover could get back to me on, which in looking at clause 115, and really Part 6, which I understand is really to do with matters such as upskirting and revenge pornography, I want to check and we all need to be sure that these are offences that would apply online. I am struggling to find in the Bill actually, and maybe I have just missed it, the elements which are definitely going to hold up where it is happening online or on the internet, as opposed to real life or other forms of publication. So I think we need to be absolutely settled on that.

1515 I think that is it for now. But I am just concerned about this matter of consent, freely consenting and the evidential side of that. I just wonder if we are trying to actually make it too complicated. I know it is a difficult area.

Thank you, Mr President.

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The President: Hon. Member of Council, Mrs Maska.

Mrs Maska: Thank you, Mr President.

1525 I welcome this important and long-awaited Bill and I thank the mover for all the hard work that she has put into it. I will be brief; I just have one or two matters to raise.

1530 I feel that the progress of this Bill and its eventual implementation is going to be even more important as we start to emerge from the COVID lockdown situation. As has been stated at other briefings, and in another place, we are almost certainly going to be facing a greater level of problems regarding mental health, domestic abuse and child abuse; and, unfortunately, greater levels of offences that might in due course be covered by this Bill. So, consequently, the importance of having the necessary powers and legislation in place to address what seem to be very hidden, dark crimes, some of which do not come to light at all, the importance that we can actually take the necessary measures to protect families and other members of society against this is vitally important.

1535 I also note that the Department, under clause 87(2)(a) can consider adding other regulated professions to the schedule that is listed there. In my experience, the work of housing inspectors and officers can often raise concerns and suspicions that sometimes when they are visiting properties, all may not be quite right. With a right of access, I think the training and the ability for such a body of professionals could also be considered in terms of alerting scenarios where these dark, hidden crimes may be going on but which do not or may not come to light.

1540 I would also like to know what time scale might be envisaged regarding guidance and training that would cover the important work that will ensue from this legislation. It is going to be important that if we are to protect our society properly, not just in our local sense but in a much more global sense as well, then the support mechanisms and structures need to be in place that we can deal with and that people can turn to as these complex and sensitive issues become more in evidence.

1545 I will welcome the Second Reading of this Bill, today.

Thank you, Mr President.

1550 **The President:** The Lord Bishop.

The Lord Bishop: Thank you, Mr President.

I, too, welcome the Second Reading of the Bill and I express thanks and appreciation to the hon. mover and to everyone who has worked on the Bill.

1555 It strikes me that in this Bill we have some really quite significant issues at stake on the relationship, for example, between principle and practice, between that which is relative and that which is absolute. Hon. Member, Mrs Sharpe is quite right that a society does evolve and its perception of things evolves; but different things evolve and develop at different times.

1560 I think my concern would be, as we look through the clauses of this Bill, just to ensure that we do not make ourselves liable to what I would call 'slippage' between principle and practice. So, for example, there will be much to say about the freedom of the press and there will be much to say about how things are reported. But the idea, for example, that one might waive anonymity as a means of inviting others to come forward, strikes me as a risk and a concern. Those two things, I would suggest, should be separated out, that the principle of anonymity remains separate from the possible ways of inviting others to come forward, which would perhaps take the form of a deliberate invitation at a later stage.

I think my other concern simply would be around the implications not just of social media but of technology and of artificial intelligence, as players within this particular area; and for us to identify quite clearly where we see individual responsibility lying, as well as social responsibility.

1570 So, to conclude my remarks, Mr President, I welcome very much the Second Reading of this Bill which I see as being one of the most challenging and demanding and substantial pieces of legislation to come to us, precisely because of the issues it raises around individual and social responsibility and freedom.

Thank you, Mr President.

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The President: Now, does any other Hon. Member wish to speak before I call on the mover to reply to the debate? In that case, I invite Miss August-Hanson to reply to the debate on the Second Reading.

1580 **Miss August-Hanson:** Thank you very much, Mr President.

I will do the very best that I can. But if I do not pick anything up then, please, if Members would kindly send me an email or let me know; I am more than happy to help them out wherever I can. This is a very challenging and demanding piece of legislation, as the Lord Bishop states.

1585 So just addressing Mrs Poole-Wilson's concerns first, in relation to clause 144, I think we can probably elaborate a bit more on this in the clauses stage and perhaps I might be able to help Mrs Poole-Wilson, or have answered many of her questions before that point. But essentially it is important to note that there is still an enablement for defendants to be named, and other victims or witnesses to come forward. But there is an enablement in that, which I mentioned at
1590 First Reading. It is very, very important to protect the victim and others who may be at risk from the suspect.

I think a few Members have made mention of the anonymity provisions. It was the sincere intention of the Department to just keep in mind that the individuals are innocent until proven guilty. It is simply the concern of the Department that with sexual offences there seems to be far more of an interest in defendants of sexual offences, and far more damage that might be done
1595 to those that perhaps are found to be innocent of any offences.

It is a concern. I think perhaps that will be interesting to bear out over the course of the next couple of weeks if there are any questions, perhaps then there might be a need by which we might go into the subject a little bit more and understand it perhaps a little bit better before we
1600 get to clauses stage.

1605 The issue of the 16- to 18-year-olds is actually insoluble. We looked at codifying issues to do with the 16- to 18-year-olds along the Australian lines. But their law was quite complex and it is much easier to rely on the good sense, I suppose, of the Isle of Man Constabulary in relation to that particular issue. That was the thought process by the Department, to take some level of advice as to how things have actually been worked out in practice, and anonymity to suspects requiring to be lifted where there is evidence of witnesses or victims.

1610 It is seen by the Chief Constable that there are sufficient measures already provided for within the Bill; and not only that, but in their own current practices for them to be able to lift it where there is evidence of other victims or witnesses that might come forward. In some cases the suspect is just that, but there is a real fear that victims may not come forward if a suspect is named, so to have lifted that anonymity for public protection is actually there and available within the legislation already.

1615 Mrs Sharpe pointed out about social media. That is a very, very salient point, I believe. Social media is not well-regulated anywhere in the world but it certainly is a concern here on the Isle of Man, and as we all know there are a number of individuals who are very, very active on social media and very political on social media. So it is a concern, but there are no current provisions in place at present to try and regulate what does go on social media. So you do have a fair point there, Mrs Sharpe.

1620 How certain can a judge or the Police be that there are other victims out there? Well, the Police have intelligence that is delivered to them; and so in terms of the case being brought forward and the defendants being acquitted, it is a good point, but it is one for prosecutors to ensure that they check their evidence.

So we do not see at all that anonymity would be extended in any other subject areas. Sexual offences are particularly serious incidents, and do affect individuals quite deeply.

1625 Part 8 sets us apart from the UK. Yes, you are right. But the intention was to make laws for our own people relating to the jurisdiction that we live in, and the size of the jurisdiction that we live in, that you made mention of. Is it right for our community? Is it right for the *size* of our community?

1630 Clause 92 follows the UK and many others, such as Australia. So Mrs Lord-Brennan is right: consensus is a really, really challenging issue. I think it would be quite important perhaps that Mrs Lord-Brennan has conversations with the Department relating to this, off-line. I think if she can come up with something that might perhaps improve the wording, I think that would be quite welcomed.

1635 Regarding image-based abuse, it is exceptionally important that we get those clauses right, these are drafted based on Australia and New South Wales. So online physical is not necessarily prescribed, it is made as broad and as open as possible to include *any* method of abuse. That is the intention.

1640 Internet image distribution is in clause 119 regarding digital, electronic and other means, though. There are a lot of things that need to be covered that will flow into guidance and training here, and I think that the more you spend time with this piece of legislation the more that you realise exactly how much it is a significant piece of legislation. There is so much about those consent ages; there is so much about this that is new and is updated and modernised. And a lot of it – individual aspects like upskirting, like revenge porn and some of these popular terms that are used to describe image-based abuse ... Each of these individual areas will need guidance and will need that level of training.

1645 Mrs Maska is quite right with the situation that we are in presently, coronavirus really has exacerbated existing issues within the community in relation to some of these areas of abuse, whether it be domestic abuse or sexual offences; and we have no understanding – as has been mentioned on so many occasions – what the extent of that actually may be. So it is really important that we get this right.

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In relation to the regulated professions, the housing inspectors and officers, she makes a fair point there in terms of rights of access. I think with guidance and training in relation to those protocols, it is absolutely imperative that those are bang on.

1655 The Lord Bishop says 'principle and practice'. This legislation, the entire time, going through from one clause to the next and from one draft to the next of this piece of legislation, that was consistently the balance: what is right in principle, and what is the balance between principles and practice?

1660 You stated, Lord Bishop, concern in relation to that anonymity. Again, I think that we are all aware of what the Department's position is. We are aware of what Members' positions are in relation to this. And if there is some compromise that perhaps Members might be able to find that will suit both sides and that will solve the problem, by all means I am very willing to hear it – very, very willing indeed to hear it.

I believe Mrs Lord-Brennan would like to interject.

1665 **Mrs Lord-Brennan:** If that is acceptable for the mover and if it is permitted by the President?

Miss August-Hanson: Of course.

The President: Yes. Mrs Lord-Brennan.

1670 **Mrs Lord-Brennan:** Thank you, Mr President.

1675 I just wanted to pick up on some of the comments that the mover had made to paint the picture when she was talking about the 16- to-17-year-olds. The point about the Police effectively having a judgement on things and the role of the Police, and also we have heard a lot about training and guidance. I absolutely agree with what the Lord Bishop has said – this is really important, what we are looking at here.

1680 But I just think we really need to be mindful of what our job is – and I am sure everybody is. Our job is to make the law, and it is the job of the Police to enforce it. So in carrying out our function we cannot always be thinking, 'Well, that's fine because it is going to be solved by guidance or training'. Or, 'Well, it's fine because that's what the Police say they need'.

We have a duty that is to deliberate on this and set the framework for these things. So I just do not want to hear the reliance on guidance too much in all this. I think we need to try and get it right as far as we can in the legislative framework.

Thank you, I just wanted to make that comment.

1685 **The President:** Miss August-Hanson.

Miss August-Hanson: I would like to say that I agree with Mrs Lord-Brennan entirely on that point. And I do not think this would be the only area that perhaps this subject matter relates to.

1690 In relation to the 16- to-18-year-olds, Tynwald makes the laws and the Police enforce them. But in relation to this particular Bill it was quite important to perhaps listen to what the Constabulary had to say, which does not necessarily come directly from the Chief Constable and his thoughts and his feelings, but also from those on the ground – just trying to make them as realistic as can be enforced, and to leave some level of sense-making to them as they are delivering and enacting this legislation on the ground as they need to, and as they see fit. And they are obviously going to have to deal with this as well.

1695 So how is that going to fit into their practice and how is it going to change their practice; and in what ways do they need training and in what ways do they need guidance? I do believe that Mrs Lord-Brennan is quite right to point that out because I think that we do have this conversation quite frequently about what the Constabulary may or may not need, and I think that it is up to Tynwald, very much so. I do believe the saying that it is up to Tynwald to set that standard by which they then interpret. So, yes.

1705 Just coming back to the rounding-up. A very quick point, I suppose, just to make – and just for the record, by the way Mrs Lord-Brennan it was the Australian legislation which was too complex around the 16- to-18-year-olds and it essentially prompted the Department to look to the community in what we currently have at the moment, and what it would be nice to have.

1710 But back to the Lord Bishop and, yes, principle and practice. It is consistent throughout the Bill going from draft to draft and going from clause to clause, that balance that needed to be struck. Yes, it is kind of concerning and I understand that the Bill itself is challenging in so many different areas. It challenges your thought processes and challenges that balance that needs to be struck between the rights of victims, and in some areas the rights of defendants. And, in terms of that, should we leave it to the justice system to make that decision before the information is then able to be distributed, or do we allow that to take place beforehand? Or is it even in our gift to allow that to take place?

1715 These, I think, are subjects that are very, very wide subject areas. It is a very big piece of legislation and there is not an army of officers working on guidance and policy, there are two people in the Department that are working on that and they have done the very best that they can. But I would hope that Members, if they have any concerns in relation to one of these areas, these very, very important areas, that they would get in contact with myself or with the Department, and I hope that I might be able to answer any further questions that they may have.

1720 Thank you, Mr President.

The President: Hon. Members, the motion is that the Bill be read for the second time. I take it you are in favour, but if there be any dissent please indicate this now.

1725 No dissent. The ayes have it. The ayes have it.