

**2. Sexual Offences and Obscene Publications Bill 2019 –  
Third Reading approved as amended; Bill passed**

Miss August-Hanson to move:

*That the Sexual Offences and Obscene Publications Bill 2019 be read for the third time and do pass.*

**The President:** Item 2 on our Order Paper is to consider the Third Reading of the Sexual  
15 Offences and Obscene Publications Bill 2019. To that we have a concatenated list of six  
amendments. Once the Bill has been moved and seconded, we will work systematically through  
those amendments and then continue with the Third Reading debate.

So with that, I will call the mover, Hon. Member of Council, Miss August-Hanson to move.

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

I hope Members will bear with me this morning. I am somewhat out of breath!

The Sexual Offences and Obscene Publications Bill, the Justice Reform Bill that is on the way,  
the Council of Ministers (Amendment) Act, the Domestic Abuse Act – it feels quite incredible to  
say that actually, the Domestic Abuse Act – a culture change that is very much on the horizon  
25 still.

The Sexual Offences and Obscene Publications Bill and its sister Bills redress a power  
imbalance: an imbalance between victims of abuse and those who commit these offences. I am  
not moving this Bill here for Third Reading for myself or for the Department of Home Affairs or  
Legislative Council or Tynwald. I move this large, complex, detailed Bill, which updates our  
30 existing laws and addresses that imbalance of power for every victim who has been failed by a  
system in the last 28 years that we have, both Government and Tynwald, neglected to protect  
with modern, intelligent, sensible law.

Through preparing this Bill for Third Reading, the people have spoken loudly. It is time for us  
to act.

35 I have met so many incredible people over the past few months, as lobby campaigns ensued  
across the Island and on social media, and over the past two and a half years that I have been  
working on this legislation with the Department of Home Affairs. So many people have been  
victim to these crimes, so many strong people that I am very proud to know and trust.

40 Since beginning my work on this legislation, my friends, my family and people that I now  
come to call friends have shared their stories with me regarding sex offences and obscene  
publications. It has been a frightening and humbling experience that I will never forget.

In moving the Third Reading of the Bill today, I am conscious that it has been subject to a  
detailed review and a considerable debate in this Chamber. I am very proud of Legislative  
Council for the work that has been done on this Bill.

45 I am not going to make a very long speech at Third Reading, because I did open with a very  
long and detailed First Reading speech, as I am sure everybody remembers. We have had a  
Second Reading outlining the broad principles behind the Bill and we have gone through all the  
clauses with careful scrutiny, debated these numerous amendments to get to this point.

50 As well as Members in here, I would also like to thank the civil servants who have worked  
weekends and well into the night to bring this legislation to you in the form that you see it now. I  
would like to thank the drafters for their diligence. This Bill has been checked, second checked  
and checked again by our drafting team – one that I am proud to work alongside.

55 Touching on the amendments made to the Bill during the clauses stage and, indeed, into  
today itself, I would like to thank all Members for the time that they have spent scrutinising the  
Bill and working with the Department and legislative drafters to form the proposed  
amendments. My hon. colleague, Mrs Lord-Brennan, introduced amendments that ensure that  
issues such as upskirting and downblousing were covered by this legislation, suggesting

amendments here today that I support wholeheartedly as we tie up our work in this place and ask the other place to consider our arguments for change.

60 Mrs Poole-Wilson has been diligent as ever, and I will be supporting her amendment to provide additional protection to vulnerable people in this Bill. Her scrutiny has been of incredible assistance to the Department of Home Affairs and I thank the Members of this Chamber for that. I thank you personally for that.

65 I would like to thank also Mr Henderson for his very intelligent tidying of clause 88 bringing greater equality to the clause on conversion therapy.

It was the case in the other place that Part 8 of the Bill concerning the anonymity of victims, defendants and witnesses led to lengthy debate here, and I have referred to, before, the Minister for Home Affairs, Bill Malarkey, who believed that this level of anonymity was important in order to maintain as a reality in people's minds that a person is innocent until  
70 proven guilty. This has left so many Members on the fence, both here and in another place. People have changed their minds and changed them again.

Crimes have developed due to advances in technology, the use of mobile phones and cameras. It is right that our legislation reflects technological advances. The landscape has changed. Therefore I understand Mrs Caine MHK for Garff's interest in this area and that of Mrs  
75 Sharpe, our colleague here. There is a wider policy debate that is yet to be had by the directly elected House of Keys as to whether a person is innocent until proven guilty in the eyes of the public or there is a policy of open justice, and to how far one extends into the other. That is across our criminal justice system and in our community, considering its size. I believe that policy debate needs to be had and needed to have happened some time ago, but it is not too late.

80 As has been highlighted in a number of high-profile cases, the permanence and stigma, in our modern world, of allegations, thanks to social media and the internet, can very rarely be set straight where a person is acquitted of an offence. It is an area that does need greater thought. It is a complex subject, and I am grateful to the Members of Council and the officers of the Department for putting forward arguments, and counter-arguments as well, to ensure that this was thoroughly debated.

85 I believe that here we have a very good piece of legislation which has benefited from some considerable examination, both in the other place and in Council, and I am happy with the discussions leading to the amendments that have been made.

Mr President, it has been my privilege to move this piece of Manx legislation that seeks to rationalise and modernise our legislation, so it better protects our community from harm and sets a high penalty for those who might do harm to that community. All that remains for me to do is to thank Mr Henderson, Mr Mercer and Mrs Maska for seconding the Bill at various times, and to thank all Hon. Members for their contributions, their consideration and their genuine interest in this matter.

95 Mr President, I beg to move that the Sexual Offences and Obscene Publications Bill be read for the third time and do pass back to the House of Keys to consider Council's amendments.

**The President:** Thank you.  
Hon. Member, Mr Mercer.

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**Mr Mercer:** Thank you, Mr President.  
I beg to second and reserve my remarks.

**The President:** Thank you.

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The Reading having been moved and seconded, we will proceed with consideration of the amendments. The first of those is the amendment to clause 19 in the name of Mrs Lord-Brennan. Thank you.

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

110 If the role of law is to protect the vulnerable in society, then there can be no more important  
section of our society to protect than our children. In moving the amendment to clause 19, I ask  
Members to support the maximum penalty for sexual communication with a child rising from  
two years, as presently provided in the Bill, to five years.

115 Mr President, it is important to recognise that sexual communication with a child can be the  
non-contact gateway offence, foreshadowing more serious abuse and offences. It is also  
behaviour of that nature which can see children victimised and exploited by perpetrators, by not  
only predatory behaviour but by subtle coercion. I therefore welcome very much Department  
support for this amendment and thank the Minister for Home Affairs and the departmental  
Member in the other place.

120 I beg to move the amendment standing in my name:

*Amendment to clause 19*

*1. Page 63, line 5, for '2 years custody' substitute «5 years' custody».*

**The President:** Thank you.

Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.

125 I beg to second this amendment brought forward by my hon. colleague, Mrs Lord-Brennan,  
and in doing so, I would like to express my full support for this amendment.

Thank you, Mr President.

**The President:** Mr Henderson.

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**Mr Henderson:** Eaghtyrane, I would just like to add my support too, because it is very  
important that we recognise the severity of what has been described by the Hon. Member,  
Mrs Lord-Brennan. Personally, if I had my way I would certainly increase it further, but we have  
what we have and I am fully supportive.

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**The President:** Thank you.

Mrs Lord-Brennan, do you wish to reply?

**Mrs Lord-Brennan:** Mr President, no, I just wish to move the amendment in my name.

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Thank you.

**The President:** Thank you.

I put to Council the amendment to clause 19: those in favour, say aye; against, no. The ayes  
have it. The ayes have it.

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Now, the amendment to clause 24, and I call Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

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As Hon. Members will be aware, the question of the position of 16- and 17-year-olds is a  
matter that has been a subject of debate in this Council and in another place during the passage  
of this Bill, and it was in revisiting that issue that prompted me to suggest the amendment  
before you today, which I understand is supported by the Department.

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Clause 24 appears in Division 6 of the Bill, which is about abuse of trust. The concept of  
position of trust in that Division of the Bill is defined more broadly than specific roles and  
positions, because it includes the situation where A is in a relationship with B that is exploitative  
of B.

It is also clear in this Division that the Bill regards a child as being anybody under 18. My  
concern, however, Hon. Members, was to make sure that in looking at that group of under-18-

160 year-olds, we do also make sure that the Bill fully takes account of a child's vulnerability which might put them at risk, more so perhaps than a 16- or 17-year-old in particular who does not have that vulnerability.

165 So the amendment before you adds in a new factor, if you like, to clause 24(3) – a factor that would allow the court, when looking at a series of issues, to infer whether a relationship is in fact exploitative of a child. The amendment before you allows for the court to expressly take into account the child's vulnerability in the same way that we allow for an adult – someone over 18 – to have that vulnerability taken into account.

170 I have previously circulated to Members a scenario which perhaps gives some colour to why I was concerned about this and for the record, I do think it is worth making clear the sort of scenario that I had in my mind that the clause or the amendment seeks to address. That is the example of a vulnerable 16- or 17-year-old who, via a dating app, might be exploited by another. Perhaps there would be a very short-term series of encounters in this sort of situation, perhaps only by exchange of messages, before the two individuals meet and there would be a fleeting sexual encounter. My concern would be that where a 16- or 17-year-old had apparently *willingly* gone on such a date and *willingly* exchanged messages with another older person and then willingly met that other person and experienced a sexual encounter, but due to their 175 vulnerability they perhaps did not fully appreciate or were properly able to consent to that sexual encounter, then is the clause as previously drafted strong enough to take into account that young person's vulnerability?

180 My concern in particular is that a defence might well make a great deal of the apparent willingness of the young person throughout the build-up to the sexual encounter. They might argue the age difference was not excessive, the child was 16 or 17 and therefore knew what they were getting into, there was an exchange of explicit messages that was consensual and that the individual A did not exert control or influence; it was, in fact, consensual. My concern is that without more to make it clear, as we do with adults, that the court should take full account of the vulnerability of somebody under 18, then it would not be given due weight in any 185 subsequent prosecution.

That is my rationale for the amendment. I am very grateful for the officers in the Department and the drafter and the mover for their full consideration and discussion of this and for their support. So I would like to move the amendment standing in my name:

*Amendment to clause 24*

*2. Page 66, line 6, after subsection (3)(c) insert –*

*«(d) the degree of B's vulnerability in any case where B is under the age of 18 and his or her ability to protect himself or herself from physical or psychological harm is significantly impaired through physical or mental disability or illness, through intellectual, physiological or psychiatric impairment or otherwise;».*

*Renumber the following paragraphs accordingly.*

190 **The President:** Mrs Lord-Brennan.

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

I would like to second the amendment from Mrs Poole-Wilson. I think it is a worthwhile addition for clarity and to take account of the situations for 16- and 17-year-olds, to appreciate the nuances around that.

195 Thank you.

**The President:** Thank you.  
Yes, Mr Greenhill.

200 **Mr Greenhill:** I would like to thank Mrs Poole-Wilson for bringing this amendment. I fully support it and thank you for your excellent description of the elements around that.  
Thank you.

**The President:** Thank you.  
205 Mrs Poole-Wilson.

**Mrs Poole-Wilson:** No, nothing further, thank you, Mr President.

**The President:** Thank you.  
210 I put to Council the amendment to clause 24. Those in favour, say aye; against, no. The ayes have it. The ayes have it.  
We turn now to the amendment to clause 87. Again, I call Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President.  
215 The amendment tabled to clause 87 removes an exclusion to the duty to notify Police of possible victims of child sexual abuse. This loophole, Mr President, if I can put it in that way, currently provides that a section 87 duty does not apply, and I quote:

if the person making the notification has reason to believe that another person in a regulated profession has previously made a child sexual abuse notification in connection with the same act of sexual abuse...

Mr President, I would put it to the Council that this should be removed, via my amendment, so that the duty is clear and unfettered and any doubt removed.  
220 I beg to move:

*Amendment to clause 87*

*3. Page 105, lines 6 to 13, substitute —*

*«(5) The duty outlined in this section does not apply so long as, in relation to the discovered act of sexual abuse, that person complies with a safeguarding policy prescribed for the purposes of this section in regulations made by the Department.».*

**The President:** Thank you.  
Mrs Sharpe.

**Mrs Sharpe:** Thank you, Mr President.  
225 I beg to second and in doing so, I would like to thank the Hon. Member for identifying this 'loophole', as she refers to it. I am in full support, and I would urge Hon. Members to vote for this amendment.

**The President:** Thank you.  
230 Yes, Miss August-Hanson.

**Miss August-Hanson:** Thank you, Mr President.  
Just a short addition to this: I cannot recommend enough that Members support this. I think that it is incredibly important that the duty to notify is taken extremely seriously, and I thank  
235 Mrs Lord-Brennan for bringing this amendment.  
Thank you, Mr President.

**The President:** Thank you.  
240 Mrs Lord-Brennan.

**Mrs Lord-Brennan:** Thank you, Mr President. I beg to move.

**The President:** Thank you.

I put to Council the amendment to clause 87. Those in favour, say aye; against, no. The ayes  
245 have it. The ayes have it.

We turn now to the fourth amendment on the list: omission of clause 40. I call on Mrs Sharpe  
to move.

**Mrs Sharpe:** Thank you, Mr President.

I will not be moving the amendments in my name, Mr President, but with your permission, I  
250 would like to put on record my thinking behind these amendments and explain why I am not  
moving them.

**The President:** If Council is content? [*It was agreed.*] Thank you.

**Mrs Sharpe:** Thank you, Mr President.

So these amendments refer to clause 140, anonymity of suspects and defendants alleged to  
255 have committed certain offences, which is found in Part 8 of the Bill entitled, 'Anonymity of  
victims and others'.

I am not seeking to move these amendments, even though I am gravely troubled by clause  
260 140. So to put on record why I am not moving them, firstly, when I explained my misgivings  
about this clause to Hon. Members from another place, very recently, and asked them whether  
they might potentially consider an amendment to clause 140, the majority indicated that they  
would not. Five Hon. Members from another place indicated that they would support an  
amendment; three indicated they would welcome an amendment in order to have the  
265 opportunity for further debate on the subject of anonymity, but would not necessarily support  
an amendment; and seven said they definitely would oppose an amendment. So there is no  
getting away from the fact that the majority of Hon. Members in the directly elected Branch do  
not wish at the moment to consider an amendment to clause 140, and I respect the will of the  
Keys in that regard.

270 Secondly, I would need the agreement of six of my hon. colleagues in Council in order to  
move an amendment, and I already know that I do not quite have six, especially as this  
amendment has already been rejected in this Hon. Chamber, so I do respect the opinion of my  
hon. colleagues.

275 Nevertheless, I would still like to outline the issues that I have, because I do feel that they still  
sympathise with these issues, and I do think that this is a subject to which we as Members will  
be returning in future.

So my first issue is that the public were never consulted on whether they might like current  
legislation appertaining to anonymity in sexual offence cases reversing. The Department of  
Home Affairs asked in its consultation whether the public agreed that anonymity of defendants  
280 could be extended *in some cases*. This is not the same as asking, 'Do you agree that *all* alleged  
sexual offenders should remain anonymous unless eventually found guilty?'

My second point is that currently our open judicial system has evolved in tandem with our  
free press. Clause 140, as it stands, restricts current press freedom in the case of only the  
offences covered in this Bill. Are we to start amending various Acts which cover various crimes  
285 and introduce various press restrictions in future? It would be unworkable. We need at some  
point in the near future to decide on what the traditional media are free to report on or not.

To take this wider, we need to decide when it comes to the courts what social media can  
report on or not, and that means what the public can report on or not – or post or not?

290 My third point is that clause 140, as it stands, means that media laws in the Isle of Man will  
be out of kilter with those in the UK. Therefore the identity of a defendant will be able to be

published by the UK media, but not the Isle of Man media. I believe the public will not like this disparity and that it will lead to accusations against Government of trying to hush things up.

295 Fourthly, most defendants in sexual abuse cases are convicted not because of evidence from one witness but because of patterns of evidence which are revealed when multiple witnesses come forward. If the media cannot reveal the identity of a defendant, then it is likely that other witnesses will not be goaded into coming forward.

300 My fifth point is that although clause 140 provides a backstop, in that a judge may decide that a defendant's anonymity should be lifted because it is thought by the Constabulary that there may be other victims out there, neither the Police nor the judge can ever know *for sure* that there are no other victims out there. Therefore, the argument can be made that perhaps we should be erring on the side of caution and sticking to the current rules. That is, you can be named, but if a judge wishes to keep the defendant anonymous, then they can.

305 Having said all that, I do understand the arguments which were put forward during the clauses stage in another place. Living cheek by jowl as we do in our small community, it must be unimaginably awful to be wrongly accused of a sexual crime, even if you are eventually found not guilty, because your reputation would be forever tarnished.

310 I have been speaking with the Hon. Member for Douglas East, Mrs Barber, who described to me how difficult it is for people who have sexually offended to be rehabilitated, because everyone knows what they have done. Sexual offenders feel that they will never be given a second chance to reform.

315 Thinking further about Mrs Barber's opinion, I began to wonder whether if the identity of sexual offenders was never revealed – although I do not know how you would keep it a secret, but if it was *never* revealed – would more sexual offenders be successfully rehabilitated? In other words, if we were kinder to abusers – I suppose ultimately what I mean is that if, as a society, we could forgive sexual offenders – would it mean that they would not go on to abuse more people and, because most abusers have themselves been abused, eventually would the numbers of sexual offences committed in our society diminish?

320 I do not know the answers to these questions, Mr President, but I feel discussion is needed. I have been speaking with the Hon. Member for Douglas East, Mr Robertshaw, who now will not have the opportunity in another place to voice his thoughts on this topic, so I am sure he will not mind my repeating them here. His ultimate belief is that everyone is innocent until proven guilty. Therefore, he believes no defendant of any crime at all should have their identity revealed, either in the traditional media or via social media, unless proven guilty.

325 So this clause 140 has been troubling me, Mr President, and I hope I have managed to lay out clearly my misgivings. I would like to apologise to Hon. Members for not having brought forward an amendment earlier. I do not feel, especially as my amendments do not have support of the Department, that I necessarily brought them forward early enough for Hon. Members to really have a good think about them. So I would like to apologise to Hon. Members for that.

330 On balance, though, I would not like my opinion of this clause to take away the immense relief I feel on this Bill having reached the Third Reading, and the gratitude I feel towards all the officers in the Department who have worked so hard on this Bill, together with the late Bill Malarkey and the mover, the now Minister for Education, Sport and Culture, the Hon. Dr Alex Allinson. I would also like to extend my sincere thanks to my hon. colleagues for their research and their considered input; and to my hon. friend, Miss August-Hanson for the dedication that she has shown over the past two and a half years to this Bill.

335 Thank you, Mr President.

**The President:** Thank you, Hon. Member.

Mrs Lord-Brennan.

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**Mrs Lord-Brennan:** Thank you, Mr President, and I thank Mrs Sharpe for outlining, once again, her concerns behind clause 140 and also this stage that she has felt that she has been able to get things to today.

345 It feels to me essentially that this is a matter that needs fuller policy thought around it, which needs to be resolved and looked at not only by this place. I think that, given that it is potentially an unresolved matter where further thought needs to happen, perhaps there might be an opportunity in future Bills to address that. But I think she has done the right thing today. I do not think that we are ready or minded to support now an amendment that was previously not supported in this place, and I say that having seconded and supported Mrs Sharpe in that.

350 So I would put out a call, I guess, for a bit more thought, a bit more engagement, more thought-out, developed policy on this and some consensus around how this matter is dealt with, with Tynwald in conjunction with the other place.

Thank you, Mr President.

355 **The President:** Yes, Mrs Maska.

**Mrs Maska:** Thank you, Mr President.

360 Just a brief word: thank you to Mrs Sharpe for being so generous in her explanation of why she has made the decision not to move this amendment today. I think it is the right decision. As the hon. mover, Miss August-Hanson, outlined to us, to actually name an accused who is then proven innocent would put an undue stigma and stain their good name in a way that is very difficult to remove in the modern landscape that we now have, especially with social media.

365 People seem to think that they have a right to say anything and I think in naming someone, whether it be formally, being the community that we have, the word sometimes gets out there. But I agree with my hon. colleague, Mrs Lord-Brennan, that this does need consideration in the future as to how we do treat this whole subject. But I do thank the Hon. Mrs Sharpe for her explanation.

Thank you, Mr President.

370 **The President:** Thank you.  
Mrs Poole-Wilson.

375 **Mrs Poole-Wilson:** Yes, thank you, Mr President, and I also thank Mrs Sharpe for that explanation. I think she has raised a significant point which extends beyond this Bill. I recognise – I think that she has taken the right decision in the present circumstances not to move the amendment – but what strikes me is something that the Lord Bishop has referenced before, that just because there is a minority that is concerned or a minority would support an amendment, it does not mean that it should not be properly debated and considered, and I do feel that this is a wider debate.

380 I have a particular concern, for example, about young people under 18 who are accused of crimes, who *are* protected from being named, but unfortunately the impact of social media means at the moment that there is a lot of comment on social media that actually does identify young individuals. So there is a much broader policy question here that absolutely merits proper consideration, scrutiny and discussion.

385 Thank you, Mr President.

**The President:** Thank you.  
Lord Bishop.

390 **The Lord Bishop:** Thank you, Mr President.

I, too, would just like to thank the Hon. Member for those reflections and thoughts, and to say that I would concur that the correct decision has been made.

395 The Hon. Member left us with a very poignant question, I think, which is perhaps one of the  
root questions around crime and punishment – that is to say, whether, in dealing kindly, as you  
put it, or leniently perhaps, one is actually able to reduce the criminal impulse in longer-term  
influence and effect. I think none of us will know the answer to that question, but that is one of  
those deep philosophical questions underneath it, into which perhaps further research could be  
taken when we come back to this question another time, as in one form or another, we surely  
will.

400 Thank you, Mr President.

**The President:** Thank you, sir.

Mrs Sharpe, would you wish to respond to this particular part of the debate? You do not have  
to!

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**Mrs Sharpe:** Thank you, Mr President.

I would just like to say thank you to my colleagues for their comments. I know they agree that  
there does need to be a lot more thought around what this amendment raises, and I am sure it  
is something that we will be coming back to in the future.

410 Thank you, Mr President.

**The President:** Thank you, Hon. Member.

We move now to the fifth amendment and that is substitution of clause 144. I call again  
Mrs Sharpe, please.

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**Mrs Sharpe:** Thank you, Mr President.

I will not be moving this amendment.

**The President:** Thank you.

420 We turn then to amendment 6, which is an amendment to clause 145.

**Mrs Sharpe:** Thank you, Mr President.

I will not be moving this amendment.

425 **The President:** And amendments 7 and 8 similarly are consequential.

**Mrs Sharpe:** That is right, Mr President.

**The President:** Thank you very much.

430 That is fine. Having considered the amendments, the Bill is open for wider discussion at its  
Third Reading stage, if you wish.

Mrs Lord-Brennan.

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

435 In reflecting back to my original concerns around the Bill, I felt that certainly something that  
Legislative Council has concerned itself with has been the matter of ages. In fact, I think it was a  
specific request that was flagged with us one way or another to give some thought and  
consideration of that, so I felt it appropriate to convey to the Council some of the points that I  
had originally raised at First Reading, that I now feel that they are fine in the Bill, and the reasons  
440 for that.

Certainly some of the remarks that initially did relate to the balance that we have to strike  
between legislating for sexual behaviour in relation to teenagers, and specifically our need to  
find a way to protect the vulnerable from abuse, while at the same time not unnecessarily  
criminalising normal teenage behaviour, and certainly a number of us have reached out to

445 understand on what basis prosecutions would be pursued, in broad guidance, general terms. Of course, the point that I take comfort from is that even though offences may well end up being committed and they are laid out in law as being relevant for the younger age brackets, of course, the public interest would have to apply, in which case that would have to take account of matters – the context, if you like – around that behaviour.

450 I think that in terms of the sort of factors that are taken into account further afield in the UK, when I have been looking at this, whether it is the relevant age of the parties, the parity between the parties regarding sexual, physical, emotional and educational development, the relationship between those parties and what is in the best interests of the welfare of the complainant and the defendant. These are all things that will be especially taken into account where it is the younger age bracket, to assess whether this is about normal teenage sexual behaviour.

455 I think, in that, another point that we were very aware of is that much of this is around education, and that is something that features specifically in the prosecution guidance which exists in the UK, which I am going to talk a little bit about now.

460 It says that:

In addition, it is not in the public interest to prosecute children who are of the same or similar age and understanding that engage in sexual activity, where the activity is truly consensual for both parties and there are no aggravating features, such as coercion or corruption. In such cases, protection will normally be best achieved by providing education for the children and young people and providing them and their families with access to advisory and counselling services.'

And that, it states there, is the intention of Parliament – of course, they are talking about Westminster there.

465 So I just wanted to convey, that is how I have settled my mind here, that we have a good balance here for protection and also not seeking to overly criminalise normal teenage sexual behaviour.

I will close my comments on that and, finally, I would very much like to thank Miss August-Hanson, for steering this modernising and much-needed piece of legislation through Council; not only that, but really facilitating in every way she possibly could, along with the Department of Home Affairs for the opportunity for proper consideration and improvements in this Branch. I commend her, and I thank her very much. I think that the improvements that we have been able to achieve here will make a real difference on the ground, as it were.

470 Thank you very much, Mr President.

**The President:** Thank you.

475 Mrs Poole-Wilson.

**Mrs Poole-Wilson:** Thank you, Mr President.

I would like to echo what Mrs Lord-Brennan has just said. I will not repeat it, but I think the points that she has made are very important.

480 I recognise that in another place a number of questions were asked and there was specific direction to this Council to look further at some of them. I would like to reassure Members in another place that that work has been undertaken. There were some technical points which I know Hon. Members of the Council have gone back to the mover and the Department of Home Affairs to double-check on and seek clarity, and those questions have been answered satisfactorily. I, too, would like to thank the mover very much for her diligence and hard work and willingness to engage with all Members of Council in their questions and points, along with the officers and the drafter.

485 One thing that I would like to put on the record at this stage is that we are modernising our legislation, which is quite right, but actually the world moves fast and the modernising legislation we are now bringing forward is based on UK legislation, which is already nearly 20

years in being, and so I would say that, in common with Mrs Lord-Brennan, people like the Director of Prosecutions have been enormously helpful in explaining what the policy approach is to considering different circumstances and whether a prosecution would be in the public interest; but there is also an important feedback loop here, where if we do become aware that  
495 there are gaps in our legislative provision, particularly when it comes to the vulnerability of young people, that line between normal teenage sexual behaviour, which we would all agree we do not want to criminalise, but also making sure there is appropriate protection for those who need protection, then the feedback loop is important so that we can act in a timely way to update our legislation further as needed.

500 Thank you, Mr President.

**The President:** I call on the mover to reply, Miss August-Hanson.

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

505 I will make this very brief. I agree with absolutely every word that Mrs Lord-Brennan and Mrs Poole-Wilson have just had to say. I thank them, though, for what they have said. It has been a lot of hard work on the part of an awful lot of people, and some of those have been a little bit under-resourced over at the Department of Home Affairs, and they have worked extremely hard to try to make up for that.

510 The ages: I think that Mrs Lord-Brennan has made this point with domestic abuse as well as with sexual offences and obscene publications, and we have all talked about this a number of times, whether it be in this place, in another place and in Tynwald. We have talked about this being the foundation stone, and we have talked about there being a strategy that needs to follow, good policy and guidance that need to follow, and that needing to be interlinked  
515 throughout the Departments that are involved in various areas of this. I think it is incredibly important that the Departments that are involved with these pieces of social legislation work closely together, to make sure that we get this right; in places, we have not in the past. It is time to build on the culture change, above and beyond what we have now legislated for, should the House agree with, quite frankly, the absolute above-and-beyond amount of scrutiny that has  
520 happened in this place.

I am really very proud to be part of this Legislative Council and to work alongside Members who have got this level of interest in legislation, as I do myself, and I am very proud to work alongside all of you. Mrs Poole-Wilson is quite right, all Members in here have been picking up on the various aspects that have been highlighted by Keys and then have taken that one step  
525 further and given a very detailed review of this Bill.

I would also like to thank the Director of Prosecutions as well for her very helpful support. Obviously she has had to be very careful of a line not to be crossed, and she has done that in a very professional manner, and I have a great deal of respect for her.

530 Mrs Poole-Wilson also makes mention of the feedback loop, and I hope that down the line we will not be waiting another 28 years to look at sex offences and obscene publications, and we will not be waiting a long time either for the Domestic Abuse Act, to see some post-legislative scrutiny in this place, another place or in Tynwald. I am very hopeful for that. I think that it will be extraordinarily valuable and it will teach those who need it, to read, learn and take notice a great deal.

535 Again, I would like to thank every Member of this Council, and again I would like to say that good work has been done here.

Thank you, Mr President.

**The President:** Thank you, Hon. Members.

540 I put now to Council the question that this Bill do pass. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

545 Thank you, Hon. Members. That concludes the business of Council for this morning. May I say that the Council has demonstrated that they have performed a very thorough revision and consideration of this particular piece of legislation, and I, too, would like to congratulate the mover and all Members for a good job – a very good job.

Council will now stand adjourned until our next sitting, 3rd November.

*The Council adjourned 11.15 a.m.*