

**WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS
BY DEPUTY J.M. MAÇON OF ST. SAVIOUR
ANSWER TO BE TABLED ON TUESDAY 29th JANUARY 2019**

Question

In light of the e-petition regarding the sentencing of child sex offenders, will the Minister be looking to change the relevant legislation to allow for different categories of offences and the application of different sentences to such offences, as is the case in other jurisdictions such as the U.K. (where possession, creation and distribution of material are treated differently); and if not, will the Minister explain why not?

Answer

In respect of the sentencing of 'image' offences, the Protection of Children (Jersey) Law 1994 is drafted in line with equivalent provisions in England and Wales and provides that the potential crimes in Jersey consist of –

1. Taking or making images, or permitting them to be taken or made
2. Distributing or showing images
3. Possessing images with intent to distribute or show them
4. Advertising that suggests these images may be distributed or shown

All of these offences have a penalty of up to ten years in prison.

5. Possessing such images

This has a penalty of up to five years in prison.

In England and Wales, offences equivalent to Numbers 1 to 4 above are found in the Protection of Children Act 1978, with the same ten-year maximum penalty. Offence number 5 lies in the Criminal Justice Act 1998, with the same five-year penalty.

While the maximum penalty is the same in both jurisdictions, the Attorney General has said in his response to the relevant petition that penalties applied by Jersey Courts are *'significantly more severe than those which would be imposed in England and Wales for similar offences'*.

The UK Sentencing Council's *'Sexual Offences Definitive Guideline'* provides that images can be graded from A (most serious) to C (least serious). This guidance emerged in 2014 to replace an earlier 1-5 numbering system. Both of these systems are based on the underlying 'COPINE' scale (an acronym for 'Combating Paedophile Information Networks in Europe').

Rather than rely on sentencing guidelines, for which there is no mechanism in Jersey, our Courts simply apply the COPINE scale directly to determine the severity of sentence.

In summary, Jersey distinguishes between the images offences in the same way as England and Wales, with the same maximum penalties in law, the analysis of 'seriousness' is based on the same underlying value system (although expressed differently) and in general a more severe sentencing regime is applied by the Jersey Courts to all such offences.

