

Legal questionnaire completed by Cains • September 2025

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Is this jurisdiction a European Union (EU) Member State or otherwise subject to EU laws/regulations (such as an overseas territory or department of an EU Member State)?

No

1. What laws and regulations contain legal definitions of the following terms or corresponding terms in your local jurisdiction (links to existing U.S. legal definitions are included, where relevant, as background for comparison – please include definitions of any corresponding terms in your jurisdiction):

a. child or minor (18 U.S.C. 2256(1), <https://www.law.cornell.edu/uscode/text/18/2256>)

The term “child” does not have a single or universal definition in Isle of Man law. The meaning of the term “child” varies depending upon the context and specific legislation in question. Examples include:

- **Children and Young Persons Act 2001**
The Children and Young Persons Act 2001 concerns, among other things, family law and the welfare of children. Within the Act, as defined under Section 102(1) of the Act, a “child” means a person under 18 years of age.
- **Education Act 2001**
The Education Act 2001 concerns education on the Isle of Man. Under section 23(1) of the Act (and taking the substantive element only), “compulsory school age” in any statutory provision within the Act means any age between 5 years and 16 years. As defined under section 59(1) of the Act, a “child” means a person who is not over compulsory school age.

For the purposes of certain criminal offences against children –

- **Sexual Offences and Obscene Publications Act 2021**
The Sexual Offences and Obscene Publications Act 2021 makes provision about sexual offences, their prevention and the protection of children from harm from other sexual acts. Under section 3(1) of the Act, “child” means a person under the age of 16 years, unless specified otherwise. The Act specifies different ages for certain offences.



By way of example, for offences concerning indecent photographs and prohibited images of children (Sections 71 to 80 of the Act), section 81(1) states that the “following subsections apply for the interpretation of sections 71 to 80.” At section 81(7), it states that “(7) “Child”, subject to subsection (10), means a person under the age of 18.” Therefore, the definition of “child” for the purposes of an offence will depend on the offence in question.

Children and Young Persons Act 2001

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2001/2001-0020/2001-0020_17.pdf

Education Act 2001:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2001/2001-0033/2001-0033_13.pdf

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

- b. **child sexual exploitation (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(9), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)**

Isle of Man law uses the term “sexual exploitation of children” rather than ‘child sexual exploitation’. Offences and statutory provisions relating to the “sexual exploitation of children” are contained in sections 49 to 53 of the Sexual Offences and Obscene Publications Act 2021. As these sections are under the division of the Act (Division 11) entitled “sexual exploitation of children”, they are the sole focus of this part of the response. As ‘child sexual exploitation’ can cover several acts or offences under Isle of Man law, other sections which could be construed as ‘child sexual exploitation’ but equally fall under their own distinct section of this response are covered in their respective section.

Sections 50 to 52 (detailed below) concern offences to which the interpretation in section 53 applies. Sexual exploitation is defined in section 53(1) of the Sexual Offences and Obscene Publications Act 2021:

Section 53(1)

For the purposes of sections 50 to 52, a person (B) is sexually exploited if –

- (a) on at least one occasion and whether or not compelled to do so, B offers or provides sexual services to another person in return for payment or a promise of payment to B or a third person; or
- (b) an indecent image of B is recorded or streamed or otherwise transmitted; and “**sexual exploitation**” is to be interpreted accordingly.”

The offences contained within this division of the Act are summarised below.

- **Section 49 – Paying for sexual services of a child**
Section 49 of the Sexual Offences and Obscene Publications Act 2021 contains the offence of “paying for sexual services of a child”. Under section 49(3), it states that a “payment” means any financial advantage, including the discharge of an obligation to



pay or the provision of goods or services (including sexual services) gratuitously or at a discount. Section 49(1):

- (1) A person (A) commits an offence if –
 - (a) A intentionally obtains for himself or herself the sexual services of another person (B);
 - (b) before obtaining those services, A has made or promised payment for those services to B or a third person, or knows that another person has made or promised such a payment; and
 - (c) either –
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
 - (ii) B is under 13.

Under section 49(7), if the offence involved any of the factors listed in that subsection (e.g., penetration of the person the offence was against) then that subsection applies. The maximum penalty for this offence will depend on (1) the age of the person the offence was against, and (2) whether subsection (7) applies.

- **Section 50 – Causing or inciting sexual exploitation of a child**

Section 50 of the Sexual Offences and Obscene Publications Act 2021 contains the offence of “causing or inciting sexual exploitation of a child”. Section 50(1):

- (1) A person (A) commits an offence if –
 - (a) A intentionally causes or incites another person (B) to be sexually exploited, in any part of the world; and
 - (b) either –
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
 - (ii) B is under 13.

The maximum penalty for this offence is 14 years’ custody.

- **Section 51 – Controlling a child in relation to sexual exploitation**

Section 51 of the Sexual Offences and Obscene Publications Act 2021 contains the offence of “controlling a child in relation to sexual exploitation”. Section 51(1):

- (1) A person (A) commits an offence if –
 - (a) A intentionally controls any of the activities of another person (B) relating to B’s sexual exploitation in any part of the world; and
 - (b) either –
 - (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
 - (ii) B is under 13.

The maximum penalty for this offence is 14 years’ custody.

- **Section 52 – Arranging or facilitating sexual exploitation of a child**

Section 52 of the Sexual Offences and Obscene Publications Act 2021 contains the offence of “arranging or facilitating sexual exploitation of a child”. Section 52(1)

- (1) A person (A) commits an offence if –
 - (a) A intentionally arranges or facilitates the sexual exploitation in any part of the world of another person (B); and
 - (b) either –

- (i) B is under 18, and A does not reasonably believe that B is 18 or over; or
- (ii) B is under 13.

The maximum penalty for this offence is 14 years' custody.

c. sexually explicit conduct (18 U.S.C. 2256(2), <https://www.law.cornell.edu/uscode/text/18/2256>)

Although Isle of Man law does not use the term “sexually explicit conduct”, there are several offences that exist under Isle of Man law that would be captured under this category of offence. Relevant sexual offences are set out in Part 2 (i.e., sections 4 to 96) of the Sexual Offences and Obscene Publications Act 2021. In respect of sexually explicit conduct against children, the division of the Act (division 5) concerning “child sex offences” would fall under this term. Set out below are the offences:

- Section 12 – Sexual activity with a child
- Section 13 – Causing or inciting a child to engage in sexual activity
- Section 14 – Engaging in sexual activity in the presence of a child
- Section 15 – Causing a child to watch or listen to a sexual act
- Section 17 – Arranging or facilitating commission of a child sex offence
- Section 18 – Meeting a child following sexual grooming etc
- Section 19 – Sexual communication with a child

For interpretation of the term “sexual”, section 95 of the Act provides a general definition for interpretation of the term “sexual” within Part 2 of the Act. Section 95:

- (1) For the purposes of this Part, penetration, touching or any other activity is sexual if a reasonable person would consider that –
 - (a) whatever its circumstances or any person’s purpose in relation it, it is because of its nature sexual; or
 - (b) because of its nature it may be sexual and because of its circumstance or the purpose of any person in relation to it (or both) it is sexual.

For the offences listed above, the offence is complete where the child was under the age of 13, or where the child is under the age of 16 and the perpetrator did not reasonably believe that the child was 16 or over.

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

d. child sexual abuse (18 U.S.C. 2243(a), <https://www.law.cornell.edu/uscode/text/18/2243>)

The term “child sexual abuse” is not expressly defined under Isle of Man law; however, there are statutory provisions that address related concepts. The relevant provisions are found in the Sexual Offences and Obscene Publications Act 2021.



Section 87 of the Act contains a “duty to notify police of possible victims of child sexual abuse”. This is a duty for a person who works in a ‘regulated profession’ or works with children in a ‘regulated activity’ – for example, teaching. They have a duty to make a notification under that section (a “sexual abuse notification”) if, in the course of their work, the person discovers that a child appears to have been subject to an act which would constitute an offence under Part 2 of the Act (an “act of sexual abuse”). Part 2 of the Act (sections 4 to 96) contains ‘sexual offences.’

Using this definition, the scope of offences that can therefore be considered “child sexual abuse” is wide as it contains offences that can be committed against both children and adults. Although “child sexual abuse” is not used as a term of art within the legislation, listed below are offences that could be considered relevant (with reference to the division within Part 2, and the Section):

DIVISION 1 – RAPE

- Section 4 – Rape

DIVISION 2 – ASSAULT

- Section 5 – Assault by penetration
- Section 6 – Sexual assault

DIVISION 3 – CAUSING SEXUAL ACTIVITY WITHOUT CONSENT

- Section 7 – Causing a person to engage in sexual activity without consent

DIVISION 4 – RAPE AND OTHER OFFENCES AGAINST CHILDREN UNDER 13

- Section 8 – Rape of a child under 13
- Section 9 – Assault of a child under 13 by penetration
- Section 10 – Sexual assault of a child under 13
- Section 11 – Causing or inciting a child under 13 to engage in sexual activity

DIVISION 5 – CHILD SEX OFFENCES

- Section 12 – Sexual activity with a child
- Section 13 – Causing or inciting a child to engage in sexual activity
- Section 14 – Engaging in sexual activity in the presence of a child
- Section 15 – Causing a child to watch or listen to a sexual act
- Section 16 – Child sex offences committed by a child or young person
- Section 17 – Arranging or facilitating commission of a child sex offence
- Section 18 – Meeting a child following sexual grooming etc
- Section 19 – Sexual communication with a child

DIVISION 6 – ABUSE OF POSITION OF TRUST

- Section 20 – Abuse of position of trust: sexual activity with a child or vulnerable adult
- Section 21 – Abuse of position of trust: causing or inciting a child or vulnerable adult to engage in sexual activity
- Section 22 – Abuse of position of trust: sexual activity in the presence of a child or vulnerable adult
- Section 23 – Abuse of position of trust: causing a child or vulnerable adult to watch or listen to a sexual act



DIVISION 7 – FAMILIAL CHILD SEX OFFENCES

- Section 28 – Sexual activity with a child family member
- Section 29 – Inciting a child family member to engage in sexual activity

DIVISION 11 – SEXUAL EXPLOITATION OF CHILDREN

- Section 49 – Paying for sexual services of a child
- Section 50 – Causing or inciting sexual exploitation of a child
- Section 51 – Controlling a child in relation to sexual exploitation
- Section 52 – Arranging or facilitating sexual exploitation of a child

DIVISION 16 – INDECENT PHOTOGRAPHS AND PROHIBITED IMAGES OF CHILDREN

- Section 71 – Indecent photographs of children
- Section 72 – Prohibited images of children

DIVISION 17 – OTHER OFFENCES

- Section 82 – Exposure

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

- e. **child pornography or child sexual abuse material (CSAM) (18 U.S.C. 2256(8), <https://www.law.cornell.edu/uscode/text/18/2256>)**

Although the terms “child pornography” or “child sexual abuse material (CSAM)” are not expressly used in Isle of Man law, the Sexual Offences and Obscene Publications Act 2021 contains statutory provisions that address these issues. Isle of Man law has offences for “indecent photographs of children” and for “prohibited images of children”. These offences, contained within the above Act are stated (in truncated form for brevity) below.

- **Section 71 – Indecent photographs of children**

(1) Subject to sections 74 and 75, it is an offence for a person –

- (a) to have any indecent photograph or pseudo-photograph of a child in his or her possession;
- (b) to take, or permit to be taken or to make, any indecent photograph or pseudo-photograph of a child; or
- (c) to distribute or show such an indecent photograph or pseudo-photograph; or
- (d) to have in his or her possession such an indecent photograph or pseudo-photograph, with a view to its being distributed or shown by himself, herself or others; or
- (e) to publish or cause to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such an indecent photograph or pseudo-photograph, or intends to do so.

The maximum penalty for an offence under subsection (1)(a) is 5 years’ custody. The maximum penalty for an offence under this section (other than subsection (1)(a)) is 10 years’ custody.

- **Section 72 – Prohibited images of children**

- (1) Subject to sections 74 and 75, it is an offence for a person –
 - (a) to have a prohibited image of a child in his or her possession;
 - (b) to take, or permit to be taken or to make, any prohibited image of a child;
 - (c) to distribute or show such prohibited images;
 - (d) to have in his or her possession such prohibited images, with a view to their being distributed or shown by himself, herself or others; or
 - (e) to publish or cause to be published any advertisement likely to be understood as conveying that the advertiser distributes or shows such prohibited images, or intends to do so.
- (2) A prohibited image is an image which –
 - (a) is pornographic;
 - (b) falls within subsection (6); and
 - (c) is grossly offensive, disgusting or otherwise of an obscene character.
- (3) An image is “pornographic” if it is of such a nature that it must reasonably be assumed to have been produced solely or principally for the purpose of sexual arousal.
- (4) Where (as found in the person’s possession) an image forms part of a series of images, the question whether the image is of such a nature as is mentioned in subsection (3) is to be determined by reference to–
 - (d) the image itself; and
 - (e) (if the series of images is such as to be capable of providing a context for the image) the context in which it occurs in the series of images.*

[* Note: this is explained by subsection (5).]

[...]

- (6) An image falls within this subsection if it –
 - (a) is an image which focuses solely or principally on a child’s genitals or anal region; or
 - (b) portrays any of the acts mentioned in subsection (7).
- (7) Those acts are –
 - (a) the performance by a person of an act of intercourse or oral sex with or in the presence of a child; or
 - (b) an act of masturbation by, of, involving or in the presence of a child;
 - (c) an act which involves penetration of the vagina or anus of a child with a part of a person’s body or with anything else;
 - (d) an act of penetration, in the presence of a child, of the vagina or anus of a person with a part of a person’s body or with anything else;
 - (e) the performance by a child of an act of intercourse or oral sex with an animal (whether dead or alive or imaginary);
 - (f) the performance by a person of an act of intercourse or oral sex with an animal (whether dead or alive or imaginary) in the presence of a child.

The maximum penalty for an offence under subsection (1)(a) is 5 years’ custody. The maximum penalty for an offence under this section (other than subsection (1)(a)) is 10 years’ custody.

Sexual Offences and Obscene Publications Act 2021:
https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf



- f. **computer-generated images or videos of child pornography or CSAM (created by artificial intelligence or morphed) (18 U.S.C. 2256(8) & (9), <https://www.law.cornell.edu/uscode/text/18/2256>)**

Computer-generated images or videos of child pornography or CSAM are material that would be captured by the Sexual Offences and Obscene Publications Act 2021. The relevant offences are those described above in 1(e), section 71 (indecent photographs of children) and section 72 (prohibited images of children). Section 81 of the Act provides for interpretation of sections 71 to 80 of the Act. Of note are those provisions relating to sections 71 and 72.

- Section 71 – Indecent photographs of children

It is important to first note that, as per section 81(10), if the impression conveyed by the indecent photograph is that it is of a child, then the indecent photograph is to be treated as an indecent photograph of a child, despite the fact that some of the physical characteristics shown are not those of a child – section 81(10).

As provided for in section 71, the offence includes both photographs and ‘pseudo-photographs’. A ‘pseudo-photograph’ is defined in section 81(8) as meaning an “image, whether made by computer-graphics or otherwise howsoever, which appears to be a photograph”.

As stated in section 81(9), an ‘indecent pseudo-photograph’ includes (a) a copy of an indecent pseudo-photograph, and (b) data stored on a computer disc or by other electronic means which is capable of conversion into an indecent pseudo-photograph.

References to an ‘indecent photograph’ also include, as per section 81(2), an indecent film, a copy of an indecent photograph or film, and an indecent photograph comprised in a film. The term “film” includes any form of video-recording – section 81(6). This would therefore capture any videos (including AI-generated content). Furthermore, references to an indecent pseudo-photograph also include a pseudo-photograph of an imaginary person, or imaginary child – section 81(13) and (14).

- Section 72 – Prohibited images of children

A “prohibited image” has the meaning given in section 72 of the Act – section 81(11). As detailed above in 1(e), a prohibited image must be pornographic (section 72(3) to (5)), must fall within section 72(6), and must be grossly offensive, disgusting or otherwise of an obscene character.

As per section 81(12), “image” does not include an indecent photograph, or indecent pseudo-photograph, of a child. As per section 81(13), references to a prohibited image include a prohibited image of an imaginary person. As per section 81(14), references to a prohibited image include a prohibited image of an imaginary child.

As above with respect to indecent photographs, for a prohibited image, as per section 81(10) of the Act, if the impression conveyed by the prohibited image is that it is of a child, then the prohibited image is to be treated as a prohibited image, despite the fact

that some of the physical characteristics shown are not those of a child. This means that section 72 does capture those images that are generated by artificial intelligence or morphed.

For the avoidance of doubt, section 96 contains provisions for the interpretation of Part 2 – section 96(1). Under section 96(4), the word “image” includes: (a) a moving or still image (produced by any means); (b) a three-dimensional image; or (c) data (stored, transmitted or received by any means) which is capable of conversion into an image within paragraph (a) or (b). Furthermore, under section 96(5), it states that “references to an image of a person include references to an image of an imaginary person”. This means that under Isle of Man law, AI generated or morphed images will be captured for the purposes of the above offences.

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

- g. enticement or grooming (encouraging, persuading, or coercing a child to engage in sexual activity or to create child pornography or CSAM) (18 U.S.C. 2422(b), <https://www.law.cornell.edu/uscode/text/18/2422>)**

There are several offences that exist under Isle of Man law that would capture activity described as enticement or grooming. Relevant sexual offences are set out in Part 2 (i.e., sections 4 to 96) of the Sexual Offences and Obscene Publications Act 2021. In respect to enticement or grooming of children, see the following offences:

DIVISION 5 – CHILD SEX OFFENCES

- Section 13 – Causing or inciting a child to engage in sexual activity
- Section 14 – Engaging in sexual activity in the presence of a child
- Section 15 – Causing a child to watch or listen to a sexual act
- Section 17 – Arranging or facilitating commission of a child sex offence
- Section 18 – Meeting a child following sexual grooming etc
- Section 19 – Sexual communication with a child.

As stated at 1(c) above, the interpretation of the term “sexual” is defined by reference to s. 95 of the Act. For the offences listed above, the offence is complete where the child was under the age of 13, or where the child is under the age of 16 and the perpetrator did not reasonably believe that the child was 16 or over.

DIVISION 6 – ABUSE OF POSITION OF TRUST

- Section 20 – Abuse of position of trust: sexual activity with a child or vulnerable adult
- Section 21 – Abuse of position of trust: causing or inciting a child or vulnerable adult to engage in sexual activity
- Section 22 – Abuse of position of trust: sexual activity in the presence of a child or vulnerable adult
- Abuse of position of trust: causing a child or vulnerable adult to watch or listen to a sexual act
- Section 23 – Offences committed by a child or young person: meeting a child following sexual grooming etc, sexual communications with a child and offences when

in a position of trust

A “position of trust” should be understood by reference to section 24 of the Act. As stated in that section, for the purposes of the offences in sections 20 to 23, a person (A) is in a position of trust in relation to another person (B) whom is under the age of 18 or vulnerable adult, applies if, A:

- (a) is responsible for or in a position of authority towards B;
- (b) is a person with whom B is in a relationship of dependency; or
- (c) is in a relationship with B that is exploitative of B.

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

h. legal age of consent for sexual activity – are there laws and regulations, if so, what ages are specified?

Isle of Man law does not expressly state an age of consent. However, it can be generally understood as being 16 years of age, but subject to enhanced protections.

For the purposes of Part 2 of the Sexual Offences and Obscene Publications Act 2021 which concerns sexual offences, the meaning of “consent” is defined under section 91: “... a person consents if he or she agrees by choice and has the freedom and capacity to make that choice”. A “child” under the Act is defined as being a person under the age of 16 years. Sexual activity with a person under 16 years of age is criminalised (e.g., s. 12 of the Act).

There are specific carve outs above the age of 16. For example, where an offence includes an accused who is in a position of trust, sexual activity with a person under the age of 18 is an offence – see sections 20 to 25 of the Act (as detailed in 1(g) above). This raised threshold is also present for “familial offences” – see, for example, sections 28 and 29 of the Act.

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

i. Sextortion (extorting money or sexual favors from a child by threatening to share sexually explicit, child pornography or CSAM images of the child) (Missing Children’s Assistance Act of 2023, Section 2, (a)(1)(8), <https://www.congress.gov/118/bills/s2051/BILLS-118s2051es.pdf>)

Although the term “sextortion” is not used in Isle of Man law, the Sexual Offences and Obscene Publications Act 2021 recognises offences that could be considered sextortion. As detailed at 1(b) above, the offences contained within Division 11 of the Act concerning the “sexual exploitation of children” would apply. The term “sexual exploitation” is defined under section 53 of the Act:

- (1) For the purposes of sections 50 to 52, a person (B) is sexually exploited if –



- (a) on at least one occasion and whether or not compelled to do so, B offers or provides sexual services to another person in return for payment or a promise of payment to B or a third person; or
- (b) an indecent image of B is recorded or streamed or otherwise transmitted; and “**sexual exploitation**” is to be interpreted accordingly.

The following offences (which are detailed at 1(b) above) may apply:

- Section 50 – Causing or inciting sexual exploitation of a child
- Section 51 – Controlling a child in relation to sexual exploitation
- Section 52 – Arranging or facilitating sexual exploitation of a child.

There is a further offence of threatening to record or distribute an intimate image under section 115 of the Act. The Act contains offences concerning “image based sexual abuse”. These offences and provisions are found under Part 6 of the Act, “Voyeurism and Image Based Sexual Abuse” (sections 111 to 119). Section 115 is an offence that can be committed against both children and adults.

- **Section 115 – Threatening to record or distribute intimate image**
 - (1) A person (A) commits an offence if A threatens to record an intimate image of another person (B) –
 - (a) without the consent of B; and
 - (b) intending to cause B to fear that the threat will be carried out.
 - (2) A person (A) commits an offence if A threatens to distribute an intimate image of another person (B) –
 - (a) without the consent of B; and
 - (b) intending to cause B to fear that the threat will be carried out.
 - (3) A threat may be made by any conduct, and may be explicit or implicit and conditional or unconditional.
 - (4) A person may threaten to distribute an image whether or not the image exists.

The maximum penalty for this offence is 3 years’ custody.

Section 119 of the Act provides for interpretation of sections 111 to 118. Provided below are key definitions in relation to those sections, and in particular, section 115 of the Act:

- Distribute – “includes –
 - (a) send, supply, exhibit, transmit or communicate to another person; or
 - (b) publish or otherwise make available for viewing or access by another person, whether in person or by electronic, digital or any other means including streaming”.
- Engaged in a private act – “means –
 - (a) in a state of undress;
 - (b) using the toilet, showering or bathing;
 - (c) engaged in a sexual act of a kind not ordinarily done in public; or
 - (d) engaged in any other similar activity”.
- Image – “means a still or moving image, whether or not altered”.
- Intimate image – “means –
 - (a) an image of a person’s private parts, or of a person engaged in a private act, in circumstances in which a reasonable person would reasonably expect to be afforded privacy; or
 - (b) an image that has been altered to appear to show a person’s private parts, or a

person engaged in a private act, in circumstances in which a reasonable person would reasonably expect to be afforded privacy”.

- Private parts – “means a person’s genital area, anal area or breasts, whether bare or covered by underwear”.

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

2. Please explain any legal or regulatory requirement or recommendation for Online Platforms to undertake any of the following activities on their systems to protect children online from sexual exploitation:

a. review, screen, moderate, or detect content to identify child pornography or CSAM content

In Isle of Man law, there exists no specific legal, regulatory requirement or recommendation for Online Platforms to review, screen, moderate, or detect content to identify child pornography or CSAM content.

Under the Sexual Offences and Obscene Publications Act 2021, although online platforms (which fall under the definition of “information society services” within the Schedule 1 of the Act) enjoy a general exception to proceedings being issued against them under sections 71 (indecent photographs of children) and 72 (prohibited images of children) of the Act, proceedings may be issued against a non-Island service provider if the test (the “derogation condition”) at Schedule 1, paragraph 3 is met. This requires that the issuing of proceedings would, among other things, be necessary for the purposes of the public interest objective, which means “the pursuit of public policy”.

An Online Platform may enjoy an exception under paras. 4 to 6 of Schedule 1, by which they cannot be guilty of an offence. Paragraph 4 concerns an exception for “mere conduits” which will not be outlined in this response. Of relevance to Online Providers are the exceptions as set out in paragraphs 5 and 6 of Schedule 1. They are as follows:

- Exception for caching – sch. 1, paragraph 5.

This exception is in relation to service providers that ‘cache’ data, or as stated in para. 5(1), it applies “where an information society service consists in the transmission in a communication network provided by a recipient of the service”.

Under paragraph 5(2) it states:

- (2) The service provider is not capable of being guilty of an offence under section 71, 72 or 100 in respect of the automatic, intermediate and temporary storage of information so provided, if –
 - (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request; and
 - (b) the condition in sub-paragraph (3) is satisfied.

The condition under sub-paragraph (3) is as follows:

- (3) The condition is that the service provider –
 - (a) does not modify the information;
 - (b) complies with any conditions attached to having access to the information; and
 - (c) (where sub-paragraph (4) applies) expeditiously removes the information or disables access to it.

The condition under sub-paragraph (4) is as follows:

- (4) This sub-paragraph applies if the service provider obtains actual knowledge that –
 - (a) the information at the initial source of the transmission has been removed from the network;
 - (b) access to it has been disabled; or
 - (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to, the information.

Therefore, where a service provider obtains actual knowledge as provided for by sub-paragraph (4) above, unless the service provider removes the content, the exception may not apply and they could be subject to proceedings.

- Exception for hosting – sch. 1, paragraph 6.

Paragraph 6 concerns an ‘exception for hosting’. The following sets out the entirety of the paragraph from para. 6(1) to para. 6(3):

- (1) A service provider is not capable of being guilty of an offence under section 71, 72 or 100 in respect of anything done in the course of providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if –
 - (a) the service provider had no actual knowledge when the information was provided that it contained offending material; or
 - (b) on obtaining actual knowledge that the information contained offending material, the service provider expeditiously removed the information or disabled access to it.
- (2) “Offending material” means material the possession of which constitutes an offence under section 71, 72 or 100, as the case may be.
- (3) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Therefore, provided that a service provider had no actual knowledge, or on obtaining actual knowledge that the information contained offending material they expeditiously removed the information or disabled access to it, they will not be guilty of an offence.

With a view to the above exceptions, an Online Platform may seek to implement appropriate safeguards and mechanisms to ensure compliance with the conditions as stated under



Schedule 1 of the Act. Where an Online Platform does not comply with the conditions, they could have proceedings issued against them and the exceptions may not apply.

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

b. review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child

No specific legal, regulatory requirement or recommendation exists in Isle of Man law for Online Platforms to review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child. However, a platform may choose to do so to ensure that the Online Platform complies with the exceptions in Schedule 1 of the Sexual Offences and Obscene Publications Act 2021 as noted at 2(a) above.

c. report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization

No specific legal, regulatory requirement or recommendation exists in Isle of Man law for Online Platforms to report child pornography, CSAM, enticement, grooming, or sextortion that they become aware of or are notified about on their systems to a law enforcement or government agency or nongovernmental organization. However, a platform may choose to do so to ensure that the Online Platform complies with the exceptions in Schedule 1 of the Sexual Offences and Obscene Publications Act 2021 as noted at 2(a) above.

d. remove or take down any child pornography, CSAM, enticement, grooming, or sextortion that they identify, become aware of, or are notified about

No specific legal, regulatory requirement or recommendation exists in Isle of Man law for Online Platforms to use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion. However, a platform may choose to do so to ensure that the Online Platform complies with the exceptions in Schedule 1 of the Sexual Offences and Obscene Publications Act 2021 as noted at 2(a) above.

e. review content by human moderators to screen or moderate for child pornography or CSAM

No specific legal, regulatory requirement or recommendation exists in Isle of Man law for Online Platforms to review content by human moderators to screen or moderate for child pornography or CSAM. However, a platform may choose to do so to ensure that the Online Platform complies with the exceptions in Schedule 1 of the Sexual Offences and Obscene Publications Act 2021 as noted at 2(a) above.

f. remove child pornography, CSAM, enticement, grooming, or sextortion from their systems when notified of its presence by a victim, nongovernmental organization, law enforcement, or government agency



No specific legal, regulatory requirement or recommendation exists in Isle of Man law for Online Platforms to remove child pornography, CSAM, enticement, grooming, or sextortion from their systems. However, a platform may choose to do so to ensure that the Online Platform complies with the exceptions in Schedule 1 of the Sexual Offences and Obscene Publications Act 2021 as noted at 2(a) above.

- g. use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion, including:**
- i. “Hashing technology”** (<https://www.thorn.org/blog/hashing-detect-child-sex-abuse-imagery/>). Many Online Platforms hash and tag images and videos of child pornography or CSAM and then use hashing technology to scan content on their systems to detect the distribution of child pornography or CSAM online so it can be removed.
 - ii. Artificial intelligence or machine learning tools to detect the presence of child pornography, CSAM, enticement, grooming, or sextortion.**

No specific legal, regulatory requirement or recommendation exists in Isle of Man law for Online Platforms to use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion. However, a platform may choose to do so to ensure that the Online Platform complies with the exceptions in Schedule 1 of the Sexual Offences and Obscene Publications Act 2021 as noted at 2(a) above.

- h. if the applicable laws or regulations require some, but not all, Online Platforms to perform any of the above activities, describe how the differing requirements apply. For example, are differences based on the number of online users, types of services offered, etc.?**

There exist no differing requirements under Isle of Man law.

- 3. Are Online Platforms legally required or recommended to implement any method to verify the age of a user before allowing access to an online platform?**

The Isle of Man does not have any general legislation requiring or recommending Online Platforms to implement any method of age verification for users before they access an online platform.

However, if a platform engages in certain activities – e.g., the sale of liquor – they may choose to use age verification checks to ensure legal compliance and avoid potential offences.

- 4. Are Online Platforms legally required or recommended to implement any method to obtain parental consent before a child uses the services of such Online Platforms?**

Under Isle of Man law, where an Online Platform engages in activity that requires the processing of a child’s personal data, they are legally required to obtain the authorisation or consent of the person(s) that hold parental responsibility over the child.

The relevant legislation are as follows:

- (a) Data Protection (Application of GDPR) Order 2018 (the “Applied GDPR”); and
- (b) GDPR and LED Implementing Regulations 2018.

Under the GDPR and LED Implementing Regulations 2018, Regulation 11, references to “child” within the Applied GDPR are to be read as references to “13 years”.

Under Article 6(1)(a) of the Applied GDPR concerning the lawfulness of processing, the processing shall be lawful only if the data subject has given consent to the processing of his or her personal data for one or more specific purposes.

Article 6 – lawfulness of processing

1. Processing shall be lawful only if and to the extent that at least one of the following applies:
 - (a) the data subject has given consent to the processing of his or her personal data for one or more specific purposes;

Under Article 8(1) of the Applied GDPR, where point (a) of Article 6(1) applies, where the child is under age of 13, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child.

Furthermore, under Article 8(2), it requires that the controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.

Article 8 – Conditions applicable to child’s consent in relation to information society services

1. Where point (a) of Article 6(1) applies, in relation to the offer of information society services directly to a child, the processing of the personal data of a child shall be lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing shall be lawful only if and to the extent that consent is given or authorised by the holder of parental responsibility over the child. Member States (including, for the purposes of this Article, the Island) may provide by law for a lower age for those purposes provided that such lower age is not below 13 years.
2. The controller shall make reasonable efforts to verify in such cases that consent is given or authorised by the holder of parental responsibility over the child, taking into consideration available technology.

...

With respect to the meaning of “controller”, this is defined by Article 4(7) of the Applied GDPR:

‘controller’ means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Manx law, the controller or the specific criteria for its nomination may be provided for by Union or Manx law

The term “parental responsibility” should be understood by reference to the definition provided in section 2 of the Children and Young Persons Act 2001.

The Applied GDPR: https://legislation.gov.im/cms/images/LEGISLATION/SUBORDINATE/2018/2018-0143/2018-0143_2.pdf

GDPR and LED Implementing Regulations 2018:
<https://legislation.gov.im/cms/images/LEGISLATION/SUBORDINATE/2018/2018-0145/2018->

[0145_10.pdf](#)

Children and Young Persons Act 2001:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2001/2001-0020/2001-0020_17.pdf

5. Are there legal remedies for children who have been victimized by online child sexual exploitation? This may include children who are victimized by the distribution of child pornography or CSAM imagery in which they are depicted, or children victimized by enticement, grooming or sextortion. If such legal remedies exist, do they include:

a. The ability to stop the publication of the pornography or CSAM imagery by the Online Platform?

There exist no victim-specific legal remedies in Isle of Man law for a child to stop the publication by an Online Platform of the pornography or CSAM imagery in which they are depicted. However, as noted at 2(a) above, the exceptions which apply to service providers only applies insofar as they comply with removal requests (e.g., by court order) or upon becoming aware (i.e. having actual knowledge) of the offending material in their systems, they remove it. Where an Online Platform does not meet the conditions for an exception, they may be liable to have proceedings issued against them. This may be accomplished by means such as reporting the matter to the police or through reports to the Online Platform.

b. An obligation on the part of the Online Platform to take active steps to remove the pornography or other imagery from their servers?

No specific obligation in Isle of Man law is placed on the part of Online Platforms to take active steps to remove the pornography or other imagery from their servers. However, as noted at 2(a) above, the exceptions which apply to service providers only applies insofar as they comply with removal requests (e.g., by court order) or upon becoming aware (i.e. having actual knowledge) of the offending material in their systems, they remove it. Where an Online Platform does not meet the conditions of an exception, they may be liable to have proceedings issued against them.

c. An ability to get an injunction or other court order against the Online Platform to stop them from publishing the pornography or imagery?

Under Section 42 of the High Court Act 1991, the Isle of Man High Court has the power to grant an injunction (whether interlocutory or final) in all cases where it appears to the court to be just and convenient to do so. Furthermore, under section 56B of the High Court Act 1991, the High Court has the power to grant interim relief (which includes an injunction) where proceedings have been or are to be commenced in a country or territory outside of the Isle of Man. The claimant can therefore seek an injunction from the High Court, but the availability of such relief would depend on the facts and the court's discretion.

Where a court finds a person guilty under section 113, 114 or 115 of the Sexual Offences and Obscene Publications Act 2021, under section 116 of the Act, a court may order rectification. An order for rectification requires the guilty person to take reasonable actions to "remove, delete or destroy any intimate image". Section 116(1) concerns the actions that are required for a person found guilty of an offence under section 113 (recording intimate image without



consent) or section 114 (distributing intimate image). Section 116(2) concerns the actions that are required for a person found guilty of an offence under 115 (threatening to record or distribute an intimate image). A person who without reasonable excuse, contravenes a rectification order commits an offence with a maximum penalty of 12 months' custody.

As noted at 2(a) above, the exceptions which apply to service providers only applies insofar as they comply with removal requests (e.g., by court order) or upon becoming aware (i.e. having actual knowledge) of the offending material in their systems, they remove it. Where an Online Platform does not meet the conditions of an exception, they may be liable to have proceedings issued against them.

High Court Act 1991:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1991/1991-0012/1991-0012_7.pdf

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

d. A protective order or other court order that prohibits the person who posts the pornography or imagery from doing so in the future on the same or other Online Platform?

Isle of Man law allows for the making of 'sexual harm prevention orders' and 'sexual risk orders' under the Sexual Offences and Obscene Publications Act 2021. The provisions concerning these types of orders can be found in Part 10 of the Act (sections 181 to 203 of the Act).

- Sexual Harm Prevention Orders

A sexual harm prevention order ("SHPO") may be made by the court when dealing with a person (the "defendant") for an offence under Schedule 3 (detailed below) or other reasons as set out in section 181(2) or on an application by the Chief Constable to a court of summary jurisdiction (pursuant to sections 181(4) or (5)) where the defendant is a "qualifying offender" as defined under sections 182(3) and (4) of the Act. As per section 183(1) of the Act, an SHPO prohibits a defendant from "doing anything described in the order". The only prohibitions that may be included in an SHPO are those that, as per section 183(4), are necessary for the purpose of protecting the public or any particular members of the public from sexual harm from a defendant, or protecting children or vulnerable adults generally, or particular children or vulnerable adults, from sexual harm from the defendant outside the Island.

The terms "sexual harm", "the public" and "child" are defined under section 182(1) of the Act. "Sexual harm" from a person means physical or psychological harm caused (a) by the person committing one or more offences listed in Schedule 3 or (b) (in the context of harm outside the Island) by the person doing, outside the Island, anything which would constitute an offence listed in Schedule 3 if done on the Island. A Schedule 3 offence includes, among others, most offences listed in Part 2 of the Act, some of which can be referred to at 1(d) above. The term "child" means a child under the age of 18. The term "the public" means the public in the Island.

When making an SHPO, the provisions of the Act give the court a broad discretion as to what may be included in the conditions and prohibitions of an order. This could therefore be used in practice to prevent a defendant from posting pornography or indecent imagery on the same or other online platforms, if the court considers such a prohibition to be necessary to prevent further sexual harm – see section 183(4) detailed above.

- **Sexual Risk Orders**

A sexual risk order (“SRO”) is a type of order detailed at sections 193 to 203 of the Act. An SRO is a type of order that may be applied for by the Chief Constable in respect of a person who has not necessarily been convicted of a sexual offence, but where the court is satisfied that the individual has carried out acts of a sexual nature and that it is necessary to make an order to protect the public from harm – sections 193(2) to (4).

Like an SHPO, an SRO may prohibit the defendant from “doing anything described in the order” (section 193(5)(a)) and the court must be satisfied that each prohibition is necessary for the same reasons as described above with an SHPO – see, section 193(7). Section 194 provides relevant definitions for interpretation of section 193 of the Act, and “child”, “harm”, and “the public” are defined. The terms “child” and “the public” have the same meaning as described above for an SHPO. The term “harm” is described as follows in section 194(1): “... “harm” from the defendant means physical or psychological harm caused by the defendant doing an act of a sexual nature”.

When making an SRO, the provisions of the Act give the court a broad discretion as to what may be included in the conditions and prohibitions of an order. This could therefore be used in practice to prevent a defendant from posting pornography or indecent imagery on the same or other online platforms, if the court considers such a prohibition to be necessary to prevent further sexual harm – see section 193(7).

The provisions in relation to the above orders are considerable and should be read in full for a complete understanding of their operation.

Sexual Offences and Obscene Publications Act 2021:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2021/2021-0010/2021-0010_1.pdf

e. the ability to seek financial damages or any sort of monetary recovery from an offender who has shared the child’s image or video, either in a civil or a criminal proceeding?

Instead of a specific remedy for such an offence, Isle of Man law more generally allows for the making of “compensation orders” in criminal proceedings.

Under Schedule 6, paragraph 1 of the Criminal Law Act 1981, the court may on an application or otherwise, make a compensation order requiring the person found guilty of an offence to pay compensation for any “personal injury, loss or damage resulting from that offence”. Where a compensation order is made by a court of summary jurisdiction (equivalent to magistrates), then the compensation to be paid shall not exceed £5,000.



It is also possible to seek damages through civil proceedings. However, it should be noted that Schedule 6, paragraph 12 of the Criminal Law Act 1981, contains provisions relating to the prevention of 'double recovery' in civil and criminal proceedings.

Criminal Law Act 1981:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1981/1981-0020/1981-0020_8.pdf

- f. **the ability to seek any other forms of victim compensation/recovery/services provided for under the law and/or by a government-funded source?**

Criminal Injuries Compensation Scheme

The Isle of Man's Criminal Injuries Compensation Scheme (the "Scheme") allows for a person with an injury directly attributable to a "crime of violence (including arson or poisoning)" to apply for and be awarded compensation. The relevant legislation for the Scheme includes The Criminal Injuries Compensation Scheme 1983 and The Criminal Injuries Compensation Scheme 2005.

The term "crime of violence" is not defined within the Scheme. However, a published note states that awards can be made to "recognise personal injury directly attributable [to]: ... acts of rape and other sexual offences". Further information on the Scheme and how it operates can be found on the following website:

<https://www.gov.im/categories/benefits-and-financial-support/criminal-injuries/>

Monetary Recovery from Offender

See also, 5(e) of this response in respect to monetary recovery from an offender.

- g. **notification to a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted?**

Isle of Man law does not contain any statutory requirement to notify a victim when an offender is arrested for distributing child pornography or CSAM in which the child is depicted.

6. **"Safety by Design" is defined as tools or processes that are built into an Online Platform to protect children by making it easier for the relevant Online Platform to detect or prevent the distribution of child pornography or CSAM.**

- a. **Are Online Platforms legally required to incorporate "Safety by Design" into their systems?**

The Isle of Man does not have any legal requirements or recommendations for Online Platforms to incorporate any "Safety by Design" tools or processes.

- i. **If so, must these steps be taken before the launch of an Online Platform?**

N/A



- ii. If so, if an Online Platform has already been in public use, when must they have incorporated “Safety be Design” measures?

N/A

- iii. For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.

N/A

- b. Please include information about the parameters for monitoring, management, and enforcement of any legal or regulatory requirements for the Online Platform’s incorporation of “Safety by Design”?

N/A