

Legal questionnaire completed by Appleby (Jersey) LLP • October 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>)

There is no single definition of “child” under Jersey law. However, for the purpose of child sexual exploitation, Article 1(1) of the Sexual Offences (Jersey) Law 2018 (the “**Sexual Offences Law**”), defines a “child” as someone 17 years of age or younger.

Under Article 1 of the Age of Majority (Jersey) Law 1999, the age of majority is 18 years of age.

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>)

There is no single definition or universal use of the term “child sexual exploitation” in Jersey law.

However, Article 17(1) of the Sexual Offences Law, makes it an offence (liable to 14 years in prison and a fine), if a person intentionally in relation to a child:

- causes or incites the sexual exploitation of a child in any part of the world;
- controls any of the activities of the child relating to the child’s sexual exploitation in any part of the world; or
- arranges or facilitates the child’s sexual exploitation in any part of the world.

Article 17(2) of the Sexual Offences Law states that a child is “sexually exploited” if either:

- an indecent photograph of a child is recorded;
- a photograph of a child is recorded when the defendant knows or intends that it will be used to make an indecent pseudo-photograph or indecent or prohibited image; or



- the child performs, or offers to perform, a sexual act for another person (whether the defendant or someone else) and payment is made or promised in return for that act.

The terms used above are further explained in the definition of child pornography and child sexual abuse material (**CSAM**) at 1(e) below.

For certain offences Article 22(4) of the Sexual Offences Law states that “exploitative conduct” may include the following:

- (a) the use of force, threats (whether or not relating to violence) or any other form of coercion; or
- (b) the practice of any form of deception.

Under Article 1(2) of the Sexual Offences Law, a “sexual” act (including penetration, touching or communication) is considered sexual for the purpose of the law “if a reasonable person would, in all the circumstances of the case, consider it to be sexual”. Touching for this purpose would also include ejaculating or emitting bodily fluids onto another person, such as urine, faeces, saliva or semen.

Furthermore, the States of Jersey Police service provides the following definition for the term “child sexual exploitation”:

“Child sexual exploitation involves situations, contexts or relationships in which a person under 18 is given something, such as food, accommodation, drugs, alcohol, cigarettes, affection, gifts or money in return for performing sexual activities or having sexual activities performed on them. It can also involve violence, coercion and intimidation, with threats of physical harm or humiliation.”

The offences listed under the definitions of sexually explicit conduct and child sexual abuse below may also be considered to be within the definition of child sexual exploitation under Jersey law.

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

The phrase “sexually explicit conduct” is not specifically defined or expressly used in Jersey Law. However, the Sexual Offences Law lists numerous offences that would be considered relevant to this term.

Causing or inciting a sexual act with a young child (Article 10 of the Sexual Offences Law)

An adult commits an offence, liable to 14 years imprisonment and a fine, if he or she intentionally causes or incites a child aged 12 or younger to engage in a sexual act. Where the act specifically involves the following, the defendant is liable to life imprisonment and a fine:

- penetration of the child’s anus or vagina;
- penetration of the child’s mouth with a person’s penis;
- penetration of a person’s anus or vagina with a part of the child’s body or by the child with anything else; or
- penetration of a person’s mouth with the child’s penis.



Causing a child to watch or be present during a sexual act (Article 14 of the Sexual Offences Law)

An adult commits an offence if the adult intentionally engages in a sexual act for the purposes of sexual gratification or to cause humiliation, distress or alarm where a child aged 15 years or younger is present or is in a place from which the adult can be observed. An adult also commits an offence if they intentionally cause a child aged 15 years or younger to watch a third person engaging in a sexual act or look at an image of any person engaging in an act for the purposes of sexual gratification or to cause humiliation or distress.

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

The phrase “child sexual abuse” is not specifically defined or expressly used in Jersey Law. However, the Sexual Offences Law lists numerous offences which would be considered relevant to this term.

Penile penetration, sexual penetration or sexual touching of a young child (Article 9 of the Sexual Offences Law)

- An adult commits an offence if the adult intentionally penetrates the vagina, anus or mouth of a child aged 12 or younger with the adult’s penis.
- An adult commits an offence if the adult intentionally penetrates the vagina or anus of a child aged 12 or younger with a part of the adult’s body or with anything else and the penetration is sexual.

Both of these offences are liable to life imprisonment and a fine.

In the context of sexual touching an adult commits an offence, and is liable to imprisonment for 14 years and to a fine, if the adult intentionally touches a child aged 12 or younger and the touching is sexual.

Unlawful sexual intercourse with, sexual penetration of or sexual touching of an older child (Article 11 of the Sexual Offences Law)

- An adult commits an offence if the adult intentionally penetrates the vagina, anus or mouth of another person with the adult’s penis and the other person is aged 13, 14 or 15.
- An adult commits an offence if the adult intentionally penetrates the vagina or anus of another person with a part of the adult’s body or with anything else, the penetration is sexual and the other person is aged 13, 14 or 15.
- An adult commits an offence if the adult intentionally touches another person; the touching is sexual and the other person is aged 13, 14 or 15.

An adult guilty of an offence under this article is liable to imprisonment for 10 years and to a fine.

It is a defence, in relation to each of the offences under this Article, for the defendant to show that the defendant reasonably believed that the other person was aged 16 or older.

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



There is no specific definition of the terms child pornography or CSAM in Jersey law. However, the Protection of Children (Jersey) Law 1994 and the Sexual Offences Law both include similar terminology.

The Protection of Children Law

Indecent photographs or pseudo-photographs of children (Article 2)

Under Article 2 of the Protection of Children Law, it is an offence for a person to take, permit to be taken, or make, any indecent photograph or pseudo-photograph of a child.

Article 1 of the Protection of Children Law defines a “pseudo-photograph” as an image that is not, but appears to, be a photograph. The article defines an “image” as a moving or still image (including a still image captured by any means from a moving image), whether produced by recording or by computer graphics or otherwise. It also includes data (stored by any means) that is capable of conversion into such an image.

If an individual distributes, shows, possesses in order to distribute or show, or publishes advertisements that imply the intention to show these images, they are also guilty of an offence. A person who is guilty of these offences is liable to 5 years imprisonment and a fine (Article 2(3) of the Protection of Children Law).

If an individual distributes, shows or has these images in their possession to distribute or show, or publishes advertisements that imply that these images are available to be distributed or shown, the individual is also guilty of an offence. A person guilty of these offences shall be liable to imprisonment for a term of 10 years and a fine. An individual is also guilty of an offence under this article if they have in their possession these indecent photographs or pseudo-photographs, liable to imprisonment for a term of 5 years and a fine (Article 2 of the Protection of Children Law).

Making, possessing, distributing or showing a prohibited image of a child (Article 2C)

Under Article 2C(4) of the Protection of Children Law, a person commits an offence if an individual makes a prohibited image of a child or has such an image in his or her possession. A person who is guilty of this offence is liable to 3 years imprisonment and a fine. If an individual distributes, shows, or possesses in order to distribute or show, or publishes advertisements that imply the intention to show these images, they are also guilty of an offence. A person who is guilty of these offences is liable to 5 years imprisonment and a fine. (Article 2C(5) of the Protection of Children Law).

A “prohibited image” is defined in Article 2B of the Protection of Children Law as an image that is non-photographic, is pornographic, is grossly offensive, disgusting or otherwise obscene and focuses solely or principally on a child’s penis or vagina, or on the region of a child’s anus, or focuses on masturbation or certain acts of penetration involving a child (which includes oral, anal and vaginal penetration, and penetration by either a person or an animal).

For the purpose of the definition of a prohibited image, it is irrelevant whether the person or animal depicted in the image is dead, alive or imaginary. (Article 2B(8)(b) of the Protection of Children Law).

The Sexual Offences Law

As further explained at 1(b) (*child sexual exploitation*) above, the Sexual Offences Law considers a child to be “sexually exploited” if either an indecent photograph of a child is recorded; or a photograph of a child is recorded when the defendant knows or intends that it will be used to make an indecent pseudo-photograph or indecent or prohibited image. The definitions are the same as in the Protection of Children Law.

- 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>)**

As further explained at 1(e) above, Article 2 of the Protection of Children Law does not differentiate between a photograph and a “pseudo-photograph”. A pseudo-photograph is an image which appears to be a photograph but is not. This includes images, either moving or still, that are created “by computer graphics or otherwise”. We consider that this would include AI created or morphed pseudo-photographs of children. It also includes data (stored by any means) that is capable of conversion into such an image.

Article 17 of the Sexual Offences Law further states that it is an offence where a photograph of a child is recorded where the defendant knows or intends that it will be used to make an indecent pseudo-photograph or prohibited image. This would include where a standard or non-sexually explicit photograph of a child is taken and then AI or computer software is used to transform this into an indecent or prohibited image.

- 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>)**

“Sexual grooming of a child” is defined in the Sexual Offences Law under Article 15:

Sexual grooming of a child

An adult commits an offence and is liable to imprisonment for up to 10 years and a fine if, after meeting or communicating (by any means) with a person on at least one prior occasion, they intentionally meet or travel with the intention of meeting that other person anywhere in the world, with the intention of engaging in an act (either during or after the meeting) that would involve committing a relevant offence against the other person; and the other person is aged 15 or younger.

Relevant offences for Article 15 of the Sexual Offences Law include (but are not limited to):

- any offence under the Sexual Offences Law;
- a customary law offence of indecent assault or indecent exposure;
- an offence under Article 2 of the Protection of Children Law; and

- the aiding, abetting, counselling or procuring of any of the above.

It is a further offence under Article 15(5) of the Sexual Offences Law, liable to imprisonment for up to 5 years and a fine, for an adult to intentionally communicate with another person by any means, whether in Jersey or elsewhere, for the purpose of sexual gratification. This communication must be sexual or encourage the other person to make sexual communication, and the other person must be aged 15 or younger.

It is a defence under Article 15 of the Sexual Offences Law to show that the defendant reasonably believed the other person was aged 16 or older, provided that the other person was in actuality at least 13 years old.

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

Articles 9, 11 and 13 of the Sexual Offences Law in their entirety make it an offence for a person (including either a child or an adult) to have penetrative sex (either vaginally, anally or orally) with a person under the age of 16.

Under Article 18 of the Sexual Offences Law, it is an offence for an adult to engage in a sexual act with a child aged 16 or 17 where the adult is in a “position of trust”.

Positions of trust under Article 18 of the Sexual Offences Law

Article 19 of the Sexual Offences Law considers an adult to be in a position of trust in relation to a child if one or more of the five following conditions are met:

1. the adult is looking after any children (whether or not including the child in question) in certain premises, including:
 - a. in the following premises, if the child in question is accommodated, housed or attends those particular premises or any other premises of the same type in Jersey:
 - i. a children’s home;
 - ii. a nursing home or hospital;
 - iii. a school;
 - iv. any other institution where a child may be detained under a court order or enactment; or
 - b. within the meaning of Schedule 1 of the Regulation of Care (Jersey) Law 2014:
 - i. a child contact centre;
 - ii. a residential family centre service; or
 - iii. a young person’s mental health service.
2. the adult is looking after the child on an individual basis in contexts such as providing education or training, coaching for sports or hobbies, fulfilling requirements imposed by a court, or exercising functions under a care or supervision order;
3. the adult regularly has unsupervised contact with the child in various professional or official capacities, such as in the exercise of functions of the Minister for Children and Families under certain laws, providing secure accommodation, or reporting to the court on the child’s welfare;



4. the adult is an officer in an administration of the States for which the Minister for Children and Families is assigned responsibility and the adult advises or looks after the child on an individual basis; or
 5. the adult is appointed as the child's guardian or *tuteur* under the Children (Jersey) Law 2002.
- 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>)**

Sextortion is not a specific offence in Jersey. However, the act of possessing indecent photographs or pseudo-photographs, or prohibited images of a child is within itself an offence as discussed at 1(e) above.

Furthermore, any sexual acts between an adult and a child would be subject to the previously listed offences prohibiting certain sexual acts between adults and children (whether entered into under coercion or otherwise), including Article 10 of the Sexual Offences Law which makes it an offence to perform a sexual act with a child aged 12 or younger (including sexual touching, as defined in 1(b)), and Articles 9, 11 and 13 of the Sexual Offences Law which make it an offence to have penetrative sex of any form with a child under the age of 16.

Where the defendant is not attempting to 'sextort' sexual favours (for example, the defendant is attempting to extort money or non-sexual favours or is being generally threatening or abusive), the law is less clear-cut. The customary law offence of blackmail would be the most applicable offence in this case.

Customary law offence of Blackmail

Under Jersey law, blackmail is a customary law offence, meaning the offence derives from case law and precedent rather than statute. Where "sextortion" is used by a defendant to extort money from a child, we would consider this to come under the customary law offence of "demanding money with menaces" (AG v Sangster and Sangster 2001/247A) which can include demanding money through blackmail (including threatening to share or publish CSAM material or material which could threaten to undermine someone's social status).

Resources:

- AG v Sangster and Sangster 2001/247A
[https://www.jerseylaw.je/judgments/unreported/Pages/\[2001\]247A.aspx](https://www.jerseylaw.je/judgments/unreported/Pages/[2001]247A.aspx)
- States of Jersey Police: Advice - What is child sexual exploitation?
<https://www.jersey.police.je/s/topic/0TOJ70000008OXzOAM/child-sexual-exploitation>
- The Age of Majority (Jersey) Law 1999
https://www.jerseylaw.je/laws/current/l_26_1999
- The Protection of Children (Jersey) Law 1994
https://www.jerseylaw.je/laws/annotated/Pages/08.790_RevisedEdition_1January2013_Annotated.aspx
- The Regulation of Care (Jersey) Law 2014
https://www.jerseylaw.je/laws/current/l_42_2014

- The Sexual Offences (Jersey) Law 2018
https://www.jerseylaw.je/laws/current/I_20_2018

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

There are no regulatory requirements or official recommendations in Jersey that require Online Platforms to review, screen, moderate or detect content to identify child pornography or CSAM content.

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

There are no regulatory requirements or official recommendations in Jersey that require Online Platforms to review, screen, moderate, or detect content to identify enticement, grooming, or sextortion of a child.

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

In Jersey, there is no legislation which mandates reporting child pornography, CSAM, enticement, grooming or sextortion that an Online Platform becomes aware of or is notified about on their systems to a law enforcement or government agency, or non-governmental organisation.

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

Article 3 of the Interpretation (Jersey) Law 1954 clarifies that reference to a “person” within Jersey legislation includes reference to a body corporate (unless contrary intention appears).

This means that any Article in either the Protection of Children Law or Sexual Offences Law that refers to a person can be read to include reference to a body corporate.

As discussed above, Article 2 and 2C of the Protection of Children Law make it an offence for a person (including a body corporate) to show or distribute photographs, pseudo-photographs or prohibited images of children. This legislation legally obliges an Online Platform to remove any child pornography or CSAM content of which they became aware or risk being liable to committing a continuing offence.

As discussed previously, Article 15 of the Sexual Offences Law makes it an offence to sexually groom a child aged 15 or younger. Article 15(3)(g) of the Sexual Offences Law makes it an offence to aid, abet, counsel or procure the offence of sexually grooming a child. Where an Online Platform becomes aware of content which might put children at risk of



grooming, to not remove this may be considered to be aiding and abetting the offence of sexual grooming of a child, which under Article 1 of the Criminal Offences (Jersey) Law 2009 (the **Criminal Offences Law**) means the person is guilty of an offence and is liable to the same penalty as a person would be for the statutory offence.

Article 2 of the same law explicitly states that where an offence is committed by a body corporate or by a limited liability partnership and it is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of:

(a) a person who is a director, manager, secretary or other similar officer of the body corporate, or a partner of the partnership; or

(b) a person purporting to act in any such capacity,

then the person is also guilty of the offence and is liable in the same manner as the body corporate or the partnership to the penalty provided for the offence. Furthermore, where the affairs of a body corporate are managed by its members, Article 2 of the law applies in relation to acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

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

There are no regulatory requirements or official recommendations in Jersey that require Online Platforms to review content by human moderators to screen or moderate for child pornography or CSAM.

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

Please see the answer for 2(d) above. These provisions would apply equally regardless of how the Online Platform became aware of the offensive material.

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.

There are no regulatory requirements or official recommendations in Jersey that require Online Platforms to use any specific technology to detect, remove, block, or take down any child pornography, CSAM, enticement, grooming, or sextortion.

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.?

The above provisions are applied equally to all Online Platforms, assuming that they are considered to be a “body corporate” under Article 3 of the Interpretation (Jersey) Law 1954. These provisions would therefore apply to platforms such as Meta, Instagram, or others which are set up and operated by corporate bodies. Where an Online Platform is not a body corporate the position is less clear-cut but individuals that run such websites or platforms may still be subject to the same provisions by virtue of them being a natural person under the law. As stated in 2(d) above, where a statutory offence committed by either a body corporate or a limited liability partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of a director, manager, secretary or other similar officer of the body corporate, or a partner of the partnership or another person purporting to act in any such capacity, Article 2 of the Criminal Offences (Jersey) Law 2009 states that they will also be guilty of an offence.

Resources:

- Criminal Offences (Jersey) Law 2009
https://www.jerseylaw.je/laws/current/l_24_2009
- The Interpretation (Jersey) Law 1954
https://www.jerseylaw.je/laws/current/l_17_1954
- The Sexual Offences (Jersey) Law 2018
https://www.jerseylaw.je/laws/current/l_20_2018

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?

Jersey does not have any legislation or official recommendations requiring the verification of a user’s age before allowing the user access to an online platform.

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?

There is no legal requirement or official recommendation in Jersey for an Online Platform to implement any method to obtain parental consent before a child uses its services.

However, under the Data Protection (Jersey) Law 2018 (the **Data Protection Law**), a child under the age of 13 cannot give valid consent to the processing of their personal data by an Online Platform that is a data controller under that law; a person with parental responsibility must give consent on their behalf (Article 11(4) of the Data Protection Law). Under the Data Protection Law, data controllers have an obligation to demonstrate that they are in compliance with the data protection requirements and principles of the law and must ensure that appropriate safeguards for the rights of the data subjects are put in place by design and by default (Article 6 of the Data Protection Law).

Guidance on how a data controller may implement these principles are set out in Article 15 of the Data Protection Law. Although there are no specific recommendations or requirements listed, the article states that:

- A controller must, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures that are designed to –
 - implement the data protection principles in an effective manner; and

- integrate the necessary safeguards into the processing to meet the requirements of the Data Protection Law and protect the rights of data subjects.
- In determining whether or not a measure is appropriate for the purposes of the Data Protection Law, regard must be had to the state of technological development, the cost of implementation and the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for rights and freedoms of natural persons posed by the processing.

Therefore, where an Online Platform will be collecting the personal data of a child under the age of 13 (such as a social media platform which collects or uses names, email addresses, phone numbers, photographs or other personal data), it will need the consent of a person with parental responsibility. Where an Online Platform is in breach of this law, they will be subject to certain sanctions, including a reprimand, a warning that the recipient has or is likely to process data in a way which is unlawful, or an order. According to Article 25 of the Data Protection Authority (Jersey) Law 2018, an order may include an order to:

- (a) bring specified processing operations into compliance with the Data Protection Law, or take any other specified action required to comply with that law, in a manner and within a period specified in the order;
- (b) notify a data subject of any personal data breach;
- (c) comply with a request made by the data subject to exercise a data subject right;
- (d) rectify or erase personal data in accordance with Article 31 or 32 of the Data Protection Law;
- (e) restrict or limit the recipient's processing operations, which may include –
 - i. temporarily restricting processing operations in accordance with Article 33 of the Data Protection Law,
 - ii. ceasing all processing operations for a specified period or until a specified action is taken, or
 - iii. suspending any transfers of personal data to a recipient in any other jurisdiction; and
- (f) notify persons to whom the personal data has been disclosed of the rectification, erasure or temporary restriction on processing, in accordance with Articles 31 to 33 of the Data Protection Law.

A data subject who considers that the transparency and subject rights provisions of the Data Protection Law have been or will be contravened, may bring proceedings against the controller responsible for the contravention in the Royal Court under Article 68 of the Data Protection Law and will be entitled to compensation where they have suffered loss, damage or distress by reason of such contravention (under Article 69 of the Data Protection Law).

Resources:

- The Data Protection (Jersey) Law 2018
https://www.jerseylaw.je/laws/current/L_3_2018
- The Data Protection Authority (Jersey) Law 2018
https://www.jerseylaw.je/laws/current/L_4_2018

- 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:**

Yes.

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

Online Platforms are liable for committing a continuing offence if they knowingly show or distribute, or fail to remove when made aware of, child pornography or CSAM.

As discussed in 2(d) above, where an Online Platform is liable for committing an offence, they can be charged under the Protection of Children or Sexual Offences Law in the same way as a natural person. Where it is the body corporate that is committing an offence, such as the distribution of CSAM, they would be liable to a fine under the relevant article of the law, which for the distribution of CSAM would be Article 2 and 2C of the Protection of Children Law and/or Article 17 of the Sexual Offences Law.

Under Article 2 of the Criminal Offences Law, where the offence committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of:

- a. a person who is a director, manager, secretary or other similar officer of the body corporate, or a partner of the partnership; or
- b. a person purporting to act in any such capacity,

then this person would also be guilty of the relevant offence in the same way as the body corporate and treated as liable for the offence in the same manner as would a natural person committing the offence.

The remedies for this offence would be the same as the available remedies where the offence is committed by a natural person, which would include additional compensation that may be provided under Article 2 of the Criminal Justice (Compensation Orders) (Jersey) Law 1994 (please see 5(e) below).

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

Please see the answer to 2(d) above. Online Platforms are liable for committing a continuing offence if they fail to remove child pornography or CSAM when they were made aware of it.

It is a defence under Article 2(6)(b) of the Protection of Children Law where a person shows or distributes child pornography or CSAM that he or she had not seen the photographs or pseudo-photographs and did not know, nor had any cause to suspect, them to be indecent. However, as discussed at 5(a) above, as soon as the Online Platform is made aware of the child pornography or CSAM they would be guilty of an offence under the Sexual Offences Law and/or the Protection of Children Law, and would be obligated to remove the pornography or other imagery from their servers.

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

Please see the answer to 2(d) above. Online Platforms are liable for committing a continuing offence if they fail to remove child pornography or CSAM when they were made aware of it.



Given that the showing or distribution of child pornography or CSAM would be a criminal offence on the part of the Online Platform, an injunction would not be considered appropriate as it is a remedy for civil offences.

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?

Under Article 11 of the Sex Offenders (Jersey) Law 2010, the Attorney General may apply to the Royal Court for an order (a “child protection order”) in respect of a person aged 15 or over (the defendant), who has committed a relevant act and as a result it is believed that it is necessary for the order to be made in order to protect the child.

Relevant acts for the purpose of the article include:

- engaging in a sexual activity involving a child or in the presence of a child;
- causing or inciting a child to watch a person engaging in a sexual activity or to look at a moving or still image that is sexual;
- giving a child anything that relates to a sexual activity or contains a reference to such activity; or
- communicating with a child, where any part of the communication is sexual.

A child protection order prohibits the defendant from doing anything described in the order and has effect for a fixed period (not less than two years) specified in the order or until further order.

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?

Under Article 2 of the Criminal Justice (Compensation Orders) (Jersey) Law 1994 (the **Criminal Justice Law**), a court by or before which a person is convicted of an offence, instead of or in addition to dealing with the person in any other way, may, on application or otherwise, make an order (a “compensation order”) requiring the person to pay compensation for any personal injury, loss or damage resulting from that offence. A compensation order shall be of such amount that the court considers appropriate.

Article 2 of the Criminal Justice Law grants the court discretion to, in addition to any listed penalty such as imprisonment or a fine, order additional compensation to a victim of crime (including violent or sexual crimes) where the court considers they have suffered personal injury, loss or damage.

Separately a child may also bring a civil action for damages (via a guardian) against the perpetrator of a sexual crime to seek financial damages. Possible heads of claim in this case would include personal injury, breach of privacy or emotional distress. (Article 3(4) of the Criminal Justice Law)

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?



The Government of Jersey provides or funds various services and schemes in connection with their efforts to provide support for children and adults that have suffered from sexual assault or abuse (often in collaboration with charities or other organisations). These include:

- “Victims First Jersey” which is a free independent and confidential service supporting victims and witnesses of crime in Jersey.
- “Dewberry House Sexual Assault Referral Centre” which is a centre for people who have been raped or sexually assaulted in Jersey. Dewberry House provides a comprehensive and coordinated forensic, counselling and aftercare service to men, women and children living in Jersey who have experienced rape or sexual assault, whether this has happened recently or in the past.
- “Children and Families Hub” which provides information, advice and support for families and young people. The hub also responds to any safeguarding concerns a person may have for a child or young person.
- “Jersey Domestic Abuse Support” which is an independent service developed to protect and support the victims of domestic abuse and sexual violence.

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

The “Victim and Witness Charter” (the **Charter**) provided by Victims First Jersey is a charter setting out the standards of care for victims and witnesses within the criminal justice system in Jersey. Numerous criminal justice agencies have committed to support the Charter which includes the States of Jersey Police, the Law Officers’ Department, The Judicial Greffe (Magistrate’s, Youth and Royal Court), the Viscount’s Department and the States of Jersey Prison Service.

Under the Charter, a victim is entitled access to information as to how their case is progressing from the police and other criminal justice agencies, including support and assistance in matters such as seeking compensation.

Furthermore, under the Charter, the police shall keep the victim regularly updated on progress during the investigation, including being informed of the conclusion of the investigation and whether the defendant has been charged, released on bail to attend court and what relevant bail conditions apply, or whether the defendant has been held in custody.

Resources:

- Children and Families Hub
<https://www.gov.je/Caring/ChildrenAndFamiliesHub/Pages/ChildrenAndFamiliesHubHomepage.aspx>
- Criminal Justice (Compensation Orders) (Jersey) Law 199
https://www.jerseylaw.je/laws/current/L_4_1994
- Dewberry House S.A.R.C, Jersey
<https://www.dewberryhouse.je/>
- Jersey Domestic Abuse Support
<https://www.jdas.je/>
- Sex Offenders (Jersey) Law 2010
https://www.jerseylaw.je/laws/current/L_18_2010
- The Sexual Offenders (Jersey) Law 2018
https://www.jerseylaw.je/laws/current/L_20_2018



- The Victims and Witness Charter
<https://www.victimsfirst.je/media/1008/victims-charter-final.pdf>
- Victims First Jersey
<https://www.victimsfirst.je/>

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?

There are no legal requirements or official recommendations in Jersey that require Online Platforms to incorporate “Safety by Design” measures.

- i. If so, must these steps be taken before the launch of an Online Platform?**
- ii. If so, if an Online Platform has already been in public use, when must they have incorporated “Safety by Design” measures?**
- iii. For each of 6(a)(i) or (ii) above, please describe the legal requirement or recommendation.**

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”?

Not applicable.