



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Justice (No. 2) Bill: Ineqe Group

5 November 2015

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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Sammy Douglas
Mr Paul Frew
Mr Seán Lynch
Mr Alban Maginness
Ms Bronwyn McGahan
Mr Patsy McGlone
Mr Edwin Poots

Witnesses:

Mr Jim Gamble Ineqe Group

The Chairperson (Mr Ross): Jim, you are very welcome.

Mr Jim Gamble (Ineqe Group): Thank you, Chair.

The Chairperson (Mr Ross): Thank you again for your contribution at the conference. It was very good. We received very positive feedback about your contribution and the conference generally, so I really appreciate it. Today, we are following up on one of the themes that you explored in that conference around legislative changes. In your own time, please brief us on the suggestions that you have. We will open it up to members' questions afterwards.

Mr Gamble: Thank you. I will try to be concise to leave more time for questions. There are, basically, two amendments to existing laws that I am proposing in the creation of a new offence — *[Interruption.]*

Mr McGlone: Sorry. Excuse me. Sorry about that.

Mr Gamble: Technology plays a part from the beginning, which is always good.

The new offence is masquerading. The first and most pressing is the one that you, Chair, touched on at the event that we both spoke at. I have been lobbying for it for some time; it relates to amending the Protection of Children (Northern Ireland) Order 1978, as amended by the Sexual Offences (Northern Ireland) Order 2008. It deals with the phenomenon of sexting. Everyone in the room will be familiar with it. In the paper that I will submit later, I will provide credible contemporary research and

evidence that highlights the breadth, depth and scale of the issue and the fact that young people now see it as a normal behaviour.

Anyone here who has worked in the field of child protection will know that early help and intervention with children is critical. The problem with this piece of legislation is that it criminalises a child who has taken and shared an image of themselves. Children do that because they lack maturity and judgement and they make mistakes — the mistakes that many of us would have made in days gone by but were not captured in the digital manner that today's society has to deal with. In essence, I am recognising, as a child protection professional, having talked to many of my colleagues in the safeguarding community, that the current law discourages children and young people from coming forward quickly when they have foolishly shared an image of themselves with another and fear that that may be shared. The child — the person under 18 — who has taken an image of themselves can be helped only when they come forward and tell someone. At the moment, when they go online and google what they have done, they will find that they have committed a criminal offence. They will find lots of material that will highlight the fact that they may well be held to account for that, including being placed on the sex offenders register. All of those things compound the fear and trauma that a child experiences at that time.

I am not ignoring the fact that there are occasions when some children will share an image with another and the other child will then share that image when the relationship ends. Say a 13-year-old girl shares an image with a 15-year-old boy and perhaps feels pressured to maintain the relationship, and, when the relationship breaks down, the 15-year-old boy maliciously shares that image. Of course, in those circumstances, there needs to be a criminal investigation because of the malicious intent.

Before I move on to the first proposal itself, I recognise that the PSNI, in line with most other UK police forces, has policies that are particularly aimed at balancing the law and practice in a child-focused manner. However, as I have intimated, children do not read police policy; they go to Google. When they go on Google, they will see the plethora of cases that relate to this. My proposal in this regard is that a child or young person under the age of 18 who takes, makes, shows, distributes or possesses an image of themselves will commit no criminal offence, thereby decriminalising this particular issue and encouraging children who find themselves in a difficult time and place in circumstances of crisis to come forward and talk to someone sooner and removing what I and many others see as being an inhibition to that.

Secondly, in the case of a child or young person under the age of 18 who takes, makes, shows, distributes or possesses an image of another child under the age of 18 and, with malicious intent, shares that image, they should be considered to have committed a criminal offence, which should be investigated. The differentiator is, "Because I'm young — I'm under 18 — and I lack maturity, I share an image of myself", then there should be no criminal offence. If they are the recipient of that image and are under 18 and they maliciously share it with all their friends because the relationship has broken down, of course that should be a criminal offence that should be investigated.

The basis of the first proposal is to decriminalise it, to encourage children and young people to come forward. Having worked in this field for a long time, and having engaged most recently with St Joseph's in Donaghmore and talked to the teachers and staff there, I know that Ronan Hughes's parents are contemplating what has happened. I know that, from talking to the headmistress, they are thinking about a legacy and what can be done to bring something good from the terrible ordeal that they experienced. Ironically, Ronan did all the right things: he came forward, he spoke to his mum and dad, and they engaged the police. Without going further into that, there are many other cases where children today are sitting in fear, not coming forward. I know of cases in the past where they did not come forward for fear of prosecution. I mention Ronan simply to say that I would like the Committee for Justice to consider what a positive legacy might come out of the tragedy if we were able to lead the UK and Ireland in amending a law that inhibits young people from getting help when they need it.

The second proposal deals with the fact that there is a range of statutory provision through the Malicious Communications Act and, indeed, the Protection from Harassment Order that looks at stalking and harassment in the online and offline environments. That has been made more complex by technology and by the ability of people to hide their true identity and to create multiple accounts. The former DPP in the UK, Sir Keir Starmer, as he now is, reviewed the law on malicious communications and stalking and harassment. He said, with regard to malicious communications, that he did not want to chill free speech by having too zealot-like an approach to the application of the Malicious Communications Act, or the Malicious Communications Order as it is in Northern Ireland,

and that when considering whether prosecution should take place there would therefore have to be a very high standard for it to be considered in the public interest.

Whilst I agree with that, I think that the situation that we find ourselves in today means that we have to consider how we might chill the propensity of individuals to use the anonymity that they can create online, and the multiple accounts that they can create, to further isolate and intimidate a particular target. We might want to chill their ability to bully, intimidate and harass others online. This is not simply aimed at children; it is also aimed at vulnerable adults and people in the public eye, who are targeted time and time again by individuals hiding behind the anonymity that the Internet provides. They operate in a way that allows them to exaggerate the number of people targeting the potential victim. From that point of view, I am suggesting that the Committee consider looking at the Protection from Harassment Order and, in doing so, consider whether or not it would be possible to recognise the aggravated features when people take advantage of the Internet.

My proposal is to amend the legislation to recognise the aggravated impact when an individual or individuals use the anonymity provided by the Internet, and/or the ability to create multiple online accounts, to harass another person. This would provide for a greater sentence for aggravated offences. Of course, there is precedent for this in the law on sectarianism, racism, and other offences. I will not go into detail on the definition of aggravation in 'Black's Law Dictionary' at this stage, but I will include it in the written submission to follow.

In short, we need to recognise that times and technologies have changed. A good analogy is provided by road traffic accidents. In 1931, the number of deaths was 114. The offences were furious driving and furious riding. There were few vehicles on the road. Now, with many millions more vehicles on the road, there were 56 deaths in 2013. That is too many, but not as many as you might expect, because we adapted and changed the legislation to meet the changes in technology — the advancement in motor vehicles that enabled them to go faster and carry more people — and the development of roads. This is no different on the information superhighway. We recently changed the law to recognise that using a mobile phone while driving is dangerous. This would simply be adapting the law in an environment where we get very little joy from the criminal justice system.

There are so many people involved in trolling online. The most reported issue — *[Interruption.]* The most engaged issue with ChildLine, in 2014, was children and young people phoning about trolling — anonymous bullying, intimidation and harassment online. All we would be doing is providing a heftier and more severe sentence for those people who are cowardly enough to use that anonymity to attack young people and vulnerable adults. This is not an attack on anonymity per se. Anyone can go online and be anonymous, and I think that it is right that some people can, especially in regimes where they fear the intrusive nature of the state. I can, however, see no justification for deliberately constructing an anonymous identity and building multiple anonymous identities to attack another person.

My third and final proposal is to introduce a law to deal with masquerading. I talked to a journalist about this earlier today and said that if I went online as an adult and masqueraded as a 16- or 17-year-old for the purpose of talking to a 13-year-old, that should be illegal. They thought that it was already illegal, as many people do. Of course, it is not. The offence of grooming, which involves engaging a child for the purpose of getting them to come to a place to meet you for a sexual encounter, has a number of constituent elements that have to be met. You also have to prove the person's intent at the time, which is very difficult. What I am proposing — it is not something that has come to me overnight; it is something that I looked at during my time in the Child Exploitation and Online Protection Centre (CEOP) and with the Virtual Global Taskforce, when we considered how we could deal with the volume of these crimes and simplify them — is to create a law on masquerading. Simply put, where a person, 18 years or older, pretended online to be a person below that age and engaged with a child, knowing or believing them to be a child, they would commit an offence, unless they had lawful excuse or lawful authority. The question that I pose is this: why would a 50-year-old man pretend to be 13 to talk to a 13-year-old girl? If you can think of a good reason for that, then it is a good point for us to relate to; but the lawful excuse is important, because if you are a mother and your daughter is receiving inappropriate texts from someone who says that they are 16 or 17, you may want to be her for a time to monitor those texts and engage.

This is not a simple draconian measure. It is a measure that deals with the practicalities of the fact that people go online. It is like a seat belt. You either have it on or do not. If you pretend to be 13 and engage with someone you know or believe to be that age, you are guilty of an offence, and the burden of proof for a lawful excuse, similar to being drunk in charge of a motor vehicle or possession of an offensive weapon in a public place, would shift to the accused. The lawful authority aspect would mean that, of course, the police could continue to go online and pretend to be a child when

working under cover and that others with a justifiable lawful authority could continue to do so. You would only be preventing those individuals who were engaging children with no lawful excuse or authority. Finally, this is straightforward. If you arrested a man today — or a woman — if you arrested a person today who had been reported for pretending to be a 16-year-old talking to a 15-year-old, what do you think that you would find on their computer, on their DVDs, or on the hard drives that they had hidden around their house? I am willing to bet that, in nearly all those cases, you would find additional evidence.

Those are the three focused proposals that I have made. We have evidence, statistics, and case studies that I will provide in the follow-up document, which you can consider much more slowly. I am happy to take any questions.

The Chairperson (Mr Ross): Thank you for that presentation and for the paper that you provided, the one-page paper. It is succinct and simple. I wish that everyone could provide a one-page paper as clear as that.

One of the things that we said, when we held the conference, was that we wanted not only to highlight the issues but to look for practical outcomes, and I think that this is where there could be practical outcomes. One of the messages that, I think, were important, particularly for young people, in the section that you addressed, was that all hope is not lost. If images of you do appear online, there are ways of removing them or making it more difficult for them to be seen. You talked about whether the law was actually deterring people from coming forward.

You mentioned the fact that the PSNI's role is to balance the law in practice. The Public Prosecution Service (PPS) may say to us, "Look, this law is on the statute book, but the public interest test would mean that we would never charge anybody." Do you have any knowledge of how many young people have ever been charged for sending sexualised photographs in a consensual arrangement?

Mr Gamble: I do not have statistics on that, but we will take that question away and come back with what we can find. Recently, in the north of England, the crime that a young boy committed was recorded against him. Most of you will have heard that on the news, if you have an interest in this area. His girlfriend had shared an image with him. We have lots of examples of those cases. I say lots, but we have a handful. Ultimately, the issue is not even necessarily those young people who are prosecuted. If you go online and type into Google, for example, "Teachers fired for inappropriate use of social media", you will get about 60 million responses in less than half a second. I am sure that if you type these things in, you will get the same number of responses. When a child is in the moment of crisis, if they need help and do not want to talk to mum and dad, their carer or some other adult or teacher, they go to Google. When they google, you can be sure that they will find that case in northern England. They will find information on Nottinghamshire Police's latest or most recent initiative, when they wrote home to everyone and highlighted the fact that you are committing a criminal offence if you share an image of yourself and that, if you are over 10 years of age and are convicted of that, you could go onto the sex offenders register. All that has the impact of nullifying the best intentions of policy and of the Public Prosecution Service and others, because it is what children perceive and believe at the time. I believe that we will not be able to find substantial statistics because children do not come forward. I will bet that there were a lot of sleepless nights in Northern Ireland following Ronan's case, when children who had shared images suddenly began to reflect on what they had done. Based on studies that we will quote from Birmingham and elsewhere, that has a negative psychological impact on children and young people.

The Chairperson (Mr Ross): As you know, I am sympathetic to what you are suggesting. I wonder whether parents would think that the law, with the way it is at the minute, could act as a deterrent to their 13-, 14- or 15-year-old sending pictures. How do we convince parents out there who think that the law is a deterrent that changing the law or decriminalising will not lead to more children thinking it is acceptable to send pictures or being coerced or pressurised by boyfriends or girlfriends to send pictures?

Mr Gamble: In a case where their child has shared the image, I have not come across a set of circumstances — I have dealt with thousands of these cases — where a parent has said, "I want my child prosecuted". They generally want the child whom their child shared the image with held to account for maliciously sharing it. We are pushing at an open door. No parent wants to see young boys or girls criminalised by a mistake brought about by their tender years. They will want to see individuals, including other children, who have created harm through malicious intent held to account, and that should be done in a proportionate and legal way. I do not believe that we will have difficulty if

we articulate this to parents in the way that we have by breaking it into two: sharing an image of yourself; and sharing an image of another with malicious intent.

The Chairperson (Mr Ross): On the second proposal around harassment and the whole area of cyberbullying, I have contacted the police and the Minister on that issue to see whether they believe that new legislation is required, and both said that they think there is adequate legislation on the statute book at the moment. You quoted some of the legislation. I presume that your view is that it is wholly inadequate and that police and law enforcement have not been able to clamp down on incidents of cyberbullying.

Mr Gamble: I have been the Association of Chief Police Officers' lead on child protection. I have chaired the Virtual Global Taskforce, which involves the United States, Canada, Australia, Interpol and Europol. I have been doing this since 2004, and I am on the record as saying that I do not believe that we need new legislation for all these issues and that, most often, we need new thinking. However, there are certain aspects about the technology itself, the way young people use it, and the way predators and bullies will hide behind the anonymity that mean that we cannot continue to pretend that the legislation that we have deals with it. The Protection from Harassment Act is the primary vehicle for people who become involved in a course of conduct that distresses another person and where they should have known that the other person would be distressed. The fact of the matter is that the problem is not with the legislation per se; it is with the ability of others to investigate, identify, locate and hold to account the person who has done it when they use anonymity. In the absence of being able to do that, we need to be able to ratchet up the aggravated factor so that we deter a lot of people from going online to do it. We do not see prosecutions. That is if the law is adequate: my challenge back to the police and the Public Prosecution Service is this, "Show me the convictions", because I can go online today or tomorrow and I will identify people, some within this room and some without, some who have not got the benefit of the support that people here may have, some children and young people, who are being habitually bullied and harassed online. However, there is no prosecution unless you are a celebrity; unless you are so high in the public eye that it is in everybody's interest to track down the perpetrator immediately.

I totally refute this. I do not believe that the law, as currently configured, and the policies as currently applied, work. Otherwise, we would have evidence of a substantial number of individuals being prosecuted for harassment. By virtue of the fact that people are using anonymity, the police will say that they cannot reconcile things with Twitter and that they cannot identify who the people are. Ultimately, when people are using multiple accounts, it is not that difficult to identify them. It just requires a resource.

The Chairperson (Mr Ross): Your three proposals for legislative change are relatively modest, but could make a significant, positive impact. Are you aware of any other jurisdictions around Europe where they have made similar sort of legislative changes? Has there been an impact?

Mr Gamble: Australia was a member of the virtual global taskforce (VTG) and, in 2014, it amended the law — and I am referring to Victoria in Australia, as opposed to Australia as an entire territory — to decriminalise children showing images. I think it is too early to look at the outcomes of that, but we have engaged with them and are looking at some material to put in the paper for you.

The Chairperson (Mr Ross): Finally, before I open up the meeting to members, the Northern Ireland Human Rights Commission has made a proposal for an amendment to be made to the Justice (No. 2) Bill to create a new offence of disclosing private sexual photographs and films with intent to cause distress; not just with children, but for adults, around the whole revenge porn thing. Do you have any views on that? Would you welcome a new offence for that?

Mr Gamble: I believe that the revenge porn legislation is adequate to deal with issues where adults share images maliciously post-relationship. I suggest that when a young person shares those maliciously, we need to amend a different law, because we are dealing with under-18s. However, I would not want to oppose what the Human Rights Commission is saying, because I am not fully sighted on its proposals.

Mr Douglas: Jim, thanks for your presentation. I really enjoyed your presentation at W5: it was excellent.

The first paragraph talks about a child under 18 using these photographs with malicious intent. What do you mean by the word "malicious"? I was thinking about young people who mess about and have

got a girlfriend or boyfriend or whatever and do it for a bit of fun. Could that be classed as "malicious"?

Mr Gamble: Context is key. If you decide to go ahead with a consultation on this, it would be one of the areas you would want to detail.

Say I am 16 and my girlfriend sends me a picture. If I show it to my friends on the rugby team, would you say that that was malicious intent? I would. The definition we always apply when we are considering what is reasonable in law is this: "What would the man and woman on the back of the bus think? What would a reasonable person think?". If it was sent to me by my girlfriend unsolicited or was sent by mistake, and showed it to my mum or dad or my teacher and said, "Flip: have you seen this?", would that be malicious intent? No.

You have to look at context, and that is why I included the phrase "malicious intent". There is an intent to hurt; there is an intent not dissimilar to the revenge aspect in revenge porn, but this is keeping it simple. They have got an image of another person. Showing it to a large number of people is voyeurism anyway, but where you take it and show it to one person and say, "I do not know what to do about this." is different. If you take it to 20 people, or share it online with them, that is different. Of course, there will be occasions when a child will show it to somebody and say, "Look, I do not know what to do about this. I am really worried about her; I do not know who else she sent this to."

Mr Douglas: Say a young person was convicted of this, what sentence would be imposed by the courts? Would it be a custodial sentence?

Mr Gamble: There have been convictions in the United States, where they have very similar legislation. The greatest danger of conviction is inclusion on the sex offenders' register. If you were to receive a caution here for that, part of that caution is that you fully and freely admit your guilt, there would be a likelihood of a successful prosecution if they decided to do it, and you would then be placed on the sex offenders' register to manage your behaviour.

That is criminalising and stigmatising a child for an error of judgement around themselves, not a malicious act against another. If the Committee is able to push this, we would be the first in the UK and Ireland to create an environment where our children would be safer in coming forward and there would be no ambiguity around that. This is important.

Mr McGlone: Thanks very much indeed for that, and thank you for calling up to Donaghmore and speaking to Mrs Donnelly there. God knows that the family has come through total devastation with that.

How do you capture the international ones, the guys and gals who are behind the shield, extorting money and making all sorts of threats? We all get the emails that say your granny has done this, that or the other and you are owed about \$10 million dollars or whatever it might be, which is the simple stuff. You could just get away from that.

But, that level of extortion could be somewhere in mid-Africa. It may not be. They may well be using encrypted shields to give that type of fictitious identity or IP address. How do you get those guys? Have you any ideas how we can even set about getting them because they are just ghosts?

Mr Gamble: Yes, but let me move it from Ronan's case to Daniel Perry, another case, in Scotland, because I am conscious of the freshness of Ronan's case with his mum and dad. That was a case where a young boy had gone online, been engaged in a similar circumstance, and became involved in swapping images.

When the threats came in, getting him to come forward soon was critical. That is where the legislation we are talking about comes into play, taking away any threat. When a child tries to negotiate their way out of it themselves, they get further and further into a crisis situation that they simply cannot manage.

The simple side of this — and I will come to your question and deal with it in detail — is that you want the child to come forward. Once the child has come forward, and this is detailed in our paper to you, it is then about how quickly you wrap the appropriate services around the family and the child, and how you target the offender.

We know that the offenders in the Scottish case were from the Philippines. We know that over 50 of them have now been identified because, in essence, this sextortion is about getting a young person to compromise themselves in circumstances where they are too afraid to tell anyone what they have done, and they will give you money. Money creates a trail; so in a case of sextortion, what you want to do is to encourage children to tell you as quickly as possible. You then adopt tactics that allow you to engage in their place, and then to look at how you can use the appetite for financial reward that the criminal will have — and I am being careful in what I say — to open an opportunity that you can exploit when they recover the cash. So, you create a number of opportunities, but that can be done only when the child comes through at the very earliest stage, when the perpetrator's confidence is still high that they are in control.

Mr McGlone: It is down to the money. Are you suggesting that there is a way to elicit a bit more detail from them to the point that they say, "We'll do a BACS bank transfer through an account", and you then get the details of that account and the relevant authorities kick in?

Mr Gamble: Let me put it like this: do you think that people who extort children because they shared an image are doing so because they want them to hurt themselves? The answer to that is "no", but that does not make them good people — they are doing it for money. So, if you say to them, "I've got £500 and I am going to send it to you today and I am going to talk to my granny and I'm going to get the rest of the money you want but it will take me until next month", do you think they are going to want the £500? Of course they are. They are going to want that and the promise of further money. So, it is by engaging.

There are a variety of techniques that were available to CEOP and are available to the police that allow these cases to be dealt with. The time to begin dealing with them is during the live aspect of the ongoing threat rather than, in the case I am citing from Scotland, in the aftermath of a young boy having taken his own life, because then, of course, everybody begins to close down. I am sure that law enforcement today wants to create a situation whereby everybody who goes online in an attempt to extort money from some young and vulnerable person does so unsure as to whether they are talking to that young person or an undercover law enforcement official. That is where we want to get to so that we can turn the tables on them.

The starting point has to be that you need to know that the threat with menaces has been made. You need to be able to protect the child and wrap around them therapeutic services, counter-suicide prevention strategies and the whole safeguarding community and you need to have an active — indeed, proactive — police investigation on the back end of that as if it were a real-world scenario.

Mr McGlone: Let us take the worst-case scenario — and this may or may not have been the case that we talked about — where these people are operating from another jurisdiction. They may have a legitimate bank account, or a dodgy one, whatever it might be. Let us say that they are in a jurisdiction where the authorities, including the police, are less approachable. What can you do about that?

Mr Gamble: There are a variety of tactics that I really would not want to get into. However, I have found that there are few places where you can hide in the world today. When you go online, you create a digital forensic trail that does not easily disappear. So, whether you are in Nigeria or the Philippines, most law enforcement communities will collaborate on child protection, more than on any other issue. I have worked in Cambodia and Vietnam. It does not mean that you will not have corrupt police officers; you have them in all parts of the world. However, in some cases, the context of poverty makes it a much greater risk. There are generally ways and means. When it is about money, it is about taking money out. That is ultimately about the reputation of the country, and I do not know any country today that wants to be classified as "paedophile central". In my experience, when we engaged most law-enforcement agencies in the right way, no matter where they were, they provided the right support. I know the work that CEOP and the National Crime Agency did in the case involving the Philippines with some of the local police forces and Police Scotland. It meant that they were able to identify and work with local policing to ensure that the investigation was pursued and ultimately some arrests were made.

Mr McGlone: Is there any prime location for these people to operate from, where there is perhaps a laxity in the law, or where police officers are not as dedicated to pursuing criminals, where there may

be corruption or whatever? Is there any one location that is the prime location for these people to operate from?

Mr Gamble: In days gone by when there were locations which these individuals would favour, I have always resisted naming them because you do not want everybody who is involved in this moving to that location.

Mr McGlone: I know.

Mr Gamble: What I would say is that, if you are going to do this, you need to be in a location where you have good access to good technology. In the past, we talked about some locations and it was like going back 10 or 20 years to dial-up, so the threat did not manifest itself in quite the way people thought. That would be a question better posed in a private session, perhaps with the police. I would not want to name a jurisdiction in public session.

Mr McGlone: Thank you very much for that and for your work.

The Chairperson (Mr Ross): I gave Patsy a bit of latitude, but I would be grateful if we could stick to the specific recommendations. It is a very interesting topic, and one that engages all of us, but let us stick to the recommendations.

Mr Dickson: Again, thank you very much, Mr Gamble. I was very impressed with what we did at W5. It was a very interesting session.

On the number of issues that you are proposing to us, I was taken partly by the comment made by the Chair to you regarding young people under 18 sharing images of themselves and each other. I can see the argument of parents who say that there is a deterrent value in keeping it a criminal offence, yet there is the parent to whom the circumstance happens and who then pleads for nothing to happen to the child. That is a very difficult situation, and how people view those things is difficult when it comes to changing the law.

I think I probably come down on your side in respect of decriminalising this. Surely, however, it has to go hand in hand with educational support for all young people on the appropriateness of doing it. We know that it happens, and we know that it will happen. There is probably precious little we can do to stop it happening, but the more openly it is talked about, the more parents talk to their children about it, and the more that schools raise the issue, the less it becomes the thing to do. Unfortunately, something else usually does become the thing to do in this world. Alongside any legislative action we take, it is vitally important that the police and all the other agencies raise the profile by having a very open discussion about what you are doing. Do you agree?

Mr Gamble: I totally agree. My philosophy is that the best way to protect children is to educate and empower them so that they have the right information to make the right decisions. Generally, I find that children are very good at protecting their friends, but, in the heat of the moment, they are not always as good at protecting themselves. It is about educating them and creating a tyrant about the dangers of giving control of their image to somebody else. That is the deterrent factor. There are plenty of examples to give children on that.

Ultimately, the deterrent factor is the malicious intent element, in which the boy or girl who has fallen out with you wants to humiliate you because they are having a hard time with that.

Mr Dickson: On the malicious intent element, I entirely accept your argument about somebody sharing a photograph with the rugby team. But, sometimes, people can share photographs with their friends, and there is no malicious intent involved. Maybe they share it with one or two people — their girlfriend or boyfriend, or whatever it happens to be — and then it goes beyond that point. This is when it becomes malicious. They have shared it with someone else and have lost control of it at that stage.

Mr Gamble: That is why I used the phrase "malicious intent". That creates a point where the police have to prove, beyond reasonable doubt, that a person had a malicious intent. They would look at the person's conduct, their conduct after the event, whether they had lied about it, and how many people they had, in fact, shared it with.

I find it hard to imagine a circumstance that would not be considered malicious intent where, if you had been my girlfriend, I had got your image and shared it with three of my friends as opposed to seven. The bottom line is that we are talking about children who are in their bedrooms, pacing up and down on three or four square feet of carpet, with their hearts in their mouth and tears in their eyes, and cannot think. When they do think, they think, "I've broken the law". When they do think, they think about some of the messages they hear about what goes online staying online. Ultimately, that is why you have the levels of self-harm and, ultimately, worse.

Mr Dickson: That brings me to another question about that happening, Mr Gamble. I am no expert, but what responsibility is on social media to allow a period for the retraction of things that people have done? Is the internet so instant that there is never any chance of recovery?

Mr Gamble: Since my time outside the criminal justice infrastructure, I have been involved with Google and Twitter, for example. They have worked very hard, in a 24-hour cycle, to remove an image that has gone online by using photo DNA and hash technology. In the past, I have been quoted as being a critic of the internet industry; but a lot of the people involved have grown up. The staff and the owners have begun to age and mature and have children. I think that we are in a much stronger position now than we once were. Sometimes, we hide behind the bogeyman of the internet industry, but, as you touched on, parents, education and, not least, policing, have a responsibility.

Mr Dickson: Chair, I appreciate that we are pushed for time, but may I touch on aggravated impact? I appreciate that the bulk of what you are trying to achieve relates to young people, but the aggravated impact of harassment, or trolling — whatever the appropriate terminology — extends beyond young people. There will be people in this room who have suffered from it. I and at least one of my colleagues have suffered from it, and there seems to be minimal action that the police are willing to take or can take. So, where do we need the change in the law? As public representatives, we are all open to strong comment and criticism; but I do not believe that we are open to harassment, whether it is racial, sexual or even extreme political harassment.

Mr Gamble: You have basically reiterated the points I have made on that. My focus on the aggravated element of harassment is not focused on children. I mentioned trolling, but I believe that lots of people, including vulnerable adults and people who are less vulnerable, are intimidated and isolated.

We do not see enough prosecutions taking place, so I totally refute the position that the police and the Public Prosecution Service are taking in saying that the present powers are enough to deal with it. In the absence of sufficient resources — and I do not think that there are sufficient resources — we need to do something with the law so that, when we do catch the cowardly individuals who are hiding behind the easy ability to create an anonymous account for the purpose of attacking another person and persistently attacking them, there has to be an aggravated element that means that, when they are caught, they are sentenced in a manner that creates an active deterrent.

Take the example of an offensive weapon. If I go out now and have a machete with me, I will be stopped by the police and will have to prove that I have a reasonable excuse for having it or a lawful authority to have it. This is saying that, if you are going online and using the anonymity provided by the internet and you are caught, then unless you can give a reason for that, if you are committing all of the other constituent elements of the offence, you should suffer a much heavier penalty. Until we set a new standard, people will continue to bully, intimidate and harass as keyboard warriors because they feel that their identity is safe and that the consequence of being caught, if they are caught, is just the same.

Mr Dickson: Thank you very much. I appreciate that.

Mr Lynch: You mentioned Ronan's case, Jim. He did the right thing and said. Have you evidence of many people who are coming forward? Are there growing numbers of people coming forward? My local school was one of the schools that was up that day, and we got good feedback from it. I agree with what Stewart is saying that education is key here.

Mr Gamble: Education is key, and there are not substantial statistics to indicate the numbers of children coming forward. What we do have is substantial statistics that indicate the number of children involved in sexting, and we know that the CEOP very recently was telling us that there is at least one sexting incident a day. The problem is that we do not know what we do not know, and the law is configured in such a way as to inhibit children from coming forward. I think that, on this, the principle

has to be that the law is wrong. I was involved when we created the Sexual Offences Act 2003, which amended the age from 16 to 18. When we began looking at the internet and how we might deal with predators online, we did not understand it as well as we do today. The fact is that we became so seduced by trying to understand the technology that we failed to consider that the key issue was behaviour, and that, when you are dealing with children, it is the behaviour of children and young people. Therefore, configuring a law that was never designed to persecute a young person who has made a mistake was an error, and I think that, because of the unique nature of our Assembly Government and the speed and flexibility with which we can work, we have an opportunity to lead in this regard and to make a positive change that allows children, at least in our jurisdiction, to come forward without fear of being criminalised.

The Chairperson (Mr Ross): Thank you very much. I appreciate your time, and we will let you know how we get on with it.