



Royal St Helena Police Department Ascension Island Detachment

## Policy on Sexual Communication with a Child

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## Background

1. AIG has a constitutional duty to ensure that adequate safeguarding measures are in place to protect children, and more broadly that suitable laws are in place to allow authorities to prevent, and respond as necessary to, threats to public safety.

## Context

2. In July 2022, the Sexual (Communication with a child) Offences Ordinance 2022 was introduced into law in St Helena. This served to prohibit communication with a child for sexual gratification and any matters connected therewith or incidental thereto.
3. Following the introduction of this legislation, a review was undertaken in Ascension to assess legal provision relating to this issue.
4. Whilst some provision exists through the Sexual Offences Act 2003<sup>1</sup>, with similar offences in Ascension previously being charged under section 10 (causing or inciting a child to engage in sexual activity), these provisions are poorly suited to addressing matters such as these. The relevant amendments to the Sexual Offences Act, via section 67 of the Serious Crime Act 2015, do not apply in Ascension.
5. It is therefore prudent to create a new offence of sexual communication with a child which will help ensure that young people are fully protected by the law and allow the authorities to intervene earlier to prevent more serious offending against children from occurring.
6. This new offence criminalises a person aged 18 years or over who communicates with a child under 16 (who the adult does not reasonably believe to be 16 or over), if the communication is sexual or if it is intended to elicit from the child a communication which is sexual.
7. The offence applies only where the defendant can be shown to have acted for the purpose to obtaining sexual gratification. Ordinary social or educational interactions between children and adults, or communication between young people themselves, will not be caught by the offence.

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<sup>1</sup> Applicable to Ascension Island via the English Law (Application) Ordinance, 2005( St Helena)

## Issue

- Both public protection and the safeguarding of young persons are key constitutional duties of the government. It is therefore necessary to have a policy in place that works to prevent sexual communication with children from occurring, and provides a basis for similar legislative provision to enforce such a policy.

## Principles and Objectives

- Each child has a right to live free from abuse, harm and neglect.
- Communication will be considered sexual if they are of sexual nature or intended to be sexual in nature.
- The overriding principle of applying this policy is that of proportionate and effective child safeguarding.

## Application of Policy

- This policy applies to anyone in Ascension or anyone communicating with a child in Ascension.

## Sexual Communication

- A communication will be considered sexual if:
  - Any part of the communication relates to sexual activity;
  - A reasonable person would, in all the circumstances but regardless of any person's purpose, consider any part of the communication to be sexual.

## Offences

- Given the serious nature of this issue it is necessary to ensure that appropriate offences exist to deter persons from engaging in such behaviour and to enforce the provisions of the policy.
- A person aged 18 years or over (A) will therefore be considered to have committed an offence if they communicate with a child (B), and:
  - The communication is sexual;
  - The communication is intended to encourage the child (B) to make, whether to A or to another, a communication that is sexual;
  - The child (B) is under 16 and A does not reasonably believe that B is aged 16 or over.
- Anyone found guilty of contravening any of the relevant provisions of the corresponding legislation to this policy will commit an offence, with a penalty of imprisonment for a term of two years.

## Further powers to make regulations

- In order to ensure that the AIG retains scope to fulfil its constitutional duties with regard to safeguarding and public safety, powers will be provided to the Governor to make regulations necessary or convenient under the corresponding legislation.