



GOVERNMENT OF GIBRALTAR
OFFICE OF THE MINISTER FOR JUSTICE
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“Mr Picardo’s Amendments to the Children Act Seriously Flawed” says Feetham.

The Minister for Justice Daniel Feetham has today described Mr Picardo’s proposed amendments to the Children Bill as “outdated, technically unsound and ill judged”.

They come seven months after the Government published the Children Bill as a White Paper on the 28 October and a copy was sent to the Opposition. Despite having a copy of the proposed Children Bill for seven months and the Opposition not having raised any of these issues. That in itself, of course, is not a reason why the Government would not have supported constructive amendments. However, if Mr Picardo is so serious in offering the Government an olive branch on a non-partisan basis he could have telephoned or written to the Minister beforehand.

Had he done so he would have been told that the Government is shortly to circulate an additional part to the Crimes Bill that incorporates all the relevant provisions from the UK Protection of Children Act 1978 including the latest amendments. These are additional to the computer misuse legislation. Mr. Picardo’s proposed amendments add nothing to the Government’s own legislation but contain very serious flaws because (amongst other things) he has left out important amendments made in the UK in 1988 and 2003.

For example, the UK Protection of Children Act was amended by the Criminal Justice Act 1988 and the Sexual Offences Act 2003. Mr Picardo has not included the exception for use of (inter alia) photographs in criminal proceedings which was added to the Protection of Children Act by the Sexual Offences Act 2003. This is an important provision to protect police officers and others investigating offences. Either Mr Picardo has not done his homework properly or this omission (on its own) shows the danger of hurriedly drafting amendments without carefully thinking about the consequences or having the global picture in mind.

Secondly, clause 1 of Mr Picardo’s proposed amendments merges and conflates possession of child pornography with taking, permitting, distributing etc (i.e. publication) of child pornography. In the UK these offences are dealt with in separate sections since the Criminal Justice Act 1988 amended the Protection of Children Act 1978. As a result of the confusion in his draft, clause 1(4) omits the defence in relation to simple possession that the photograph or pseudo-photograph was sent to the person without any prior request made by him or on his behalf and that he did not keep it for an unreasonable time.

These are but two of a long list of errors which we will deal with at committee stage and show precisely why these are not matters to be rushed.

Finally, we note that his amendments seek to increase sentencing powers in relation to a new offence of possession and publication of indecent photographs of children to 10 years. In the light of the fact that the Children Bill (and hence his potential amendments) will be brought to Parliament before his Private Members Bill, we do not understand the point of a Private Members Bill which is restricted solely to increasing the sentence on a publication offence. As we have said in our previous press release the legislative gap is in possession and downloading. To test the colour of Mr Picardo's olive branch, the Minister is prepared to meet Mr Picardo in order to discuss his amendments in the light of the Government's own legislative programme.