



Children's Commissioner for Jersey
Promoting and Protecting Children's Rights

Framework Agreement

Between the Office of the Children's Commissioner for Jersey
and the Department for Strategic Policy, Performance and
Population

July 2019

Terms used

Children's Commissioner: the Commissioner for Children and Young People, as established by the Commissioner for Children and Young People (Jersey) Law 2019. Unless otherwise stated, all references to the Commissioner also relate to the Office of the Children's Commissioner for Jersey (OCCJ).

Accountable Officer: the Government of Jersey officer accountable for the appropriate use of public funds, including the funding for the OCCJ, appointed in accordance with the Public Finances (Jersey) Law 2019. The term Accountable Officer, previously known as Accounting Officer, includes delegates appointed by the Accountable Officer.

Public Finances Manual: the manual issued under the Public Finances (Jersey) Law 2019. This term should also be read as referring to Financial Directions issued under the previous Public Finances Law.

Department: the Department for Strategic Policy, Performance and Population within the Government of Jersey (GoJ). Note: the Department is subject to a Government wide transformation and so this should be taken to also include any successor bodies.

Section 1: Introduction to the Framework Agreement

- 1.1 This Framework Agreement (“The Agreement”) has been jointly agreed by the Children’s Commissioner and the Department. The Agreement sets out:
 - a. the principles underlying the working relationship between the Children’s Commissioner and the Government of Jersey (GoJ);
 - b. arrangements to ensure that effective corporate governance arrangements are in place, supported by effective internal controls that demonstrate value for money;
 - c. arrangements with regard to the provision and management of resources; and
 - d. provides that these are in fulfilment of the statutory remit to ensure the Commissioner’s independence and the obligations placed upon the Department for the good governance of arms-length bodies.
- 1.2 The Agreement takes effect from the coming into force of the Commissioner for Children and Young People (Jersey) Law 2019 in July 2019. The Agreement will be subject to a full review one year and three years from the date on which the Law comes into effect. The formal review dates do not, however, preclude the Agreement being amended with the agreement of both the Department and the Children’s Commissioner in the intervening period.
- 1.3 The Agreement document will be made available on both the Department’s and the Commissioner’s websites.
- 1.4 The Agreement is subject to the provisions of the Commissioner for Children and Young People (Jersey) Law 2019 (“The Law”) and legislation relevant to good governance in the public sector, including:
 - a. Data Protection (Jersey) Law 2018;
 - b. Public Records (Jersey) Law 2002;
 - c. Freedom of Information (Jersey) Law 2011;
 - d. Public Finances (Jersey) Law 2019;
 - e. Employment of the States of Jersey Employees (Jersey) Law 2005.

Amendments to any relevant legislation will take precedence over any part of the Agreement. The Agreement will not convey any legal powers or responsibilities.

Independence of the Children’s Commissioner

- 1.5 The primary function of the Commissioner is to promote and protect the rights of children and young people (Article 4 of the Law). It is for the Commissioner to determine what activities to undertake in carrying out their primary function, taking account of the general functions set out in the Law (Article 5), and the powers contained within.
- 1.6 The Children’s Commissioner is independent of Ministers, the States Assembly, the Chief Executive Officer or any other person. The Commissioner must act independently and in a manner free from direct or indirect influence, and the States must respect, uphold and defend

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the independence of the Children’s Commissioner (Paragraph 2 of the Schedule to the Law). The Children’s Commissioner is established as a corporation sole (Paragraph 1).

Section 2: Good Practice Principles

2.1 Four key principles¹ underpin the partnership between the Department and the Children’s Commissioner. Both partners to this Agreement will pay heed to these principles in all their interactions and in communications with other parties. These principles mirror those of the UK Cabinet Office’s Code of Good Practice relating to partnerships between departments and arms-length bodies (the “Code of Good Practice Principles”).

Purpose	<p>Partnerships work well when the purpose, objectives and roles of arm’s-length bodies are mutually understood; reviewed on a regular basis; and clearly set out in relevant documents.</p> <p>There is absolute clarity about lines of accountability between departments and arm’s-length bodies. In exercising statutory functions, arm’s-length bodies have clarity about how their purpose and objectives align with those of departments.</p>
Assurance	<p>Partnerships work well when departments adopt a proportionate approach to assurance, based on arm’s-length bodies’ purpose and a mutual understanding of risk.</p> <p>Arm’s-length bodies have robust governance arrangements in place; departments give arm’s-length bodies the autonomy to deliver effectively. Management information exists to enable departments and arm’s-length bodies to assess performance.</p>
Value	<p>Partnerships work well when departments and arm’s-length bodies share skills and experience in order to enhance their impact and deliver more effectively. Arm’s-length bodies are able to contribute to policy making and broader departmental priorities.</p> <p>There is a focus on innovation, and on how departments and arm’s-length bodies work together to deliver value for money.</p>
Engagement	<p>Partnerships work well when relationships between departments and arm’s-length bodies are open, honest, constructive and based on trust.</p> <p>There is mutual understanding about each other’s objectives and clear expectations about the terms of engagement.</p>

¹ Four key principles are based on the UK Cabinet Office Code of Good Practice 2017: *Partnerships between departments and arm’s length bodies*.

Section 3: Governance and accountability

- 3.1 The establishment of an independent body does not relieve the Government from its responsibility to ensure, on behalf of the public, that good governance is demonstrated, that effective internal control is in place and that value for money is secured by that body. Likewise the Children's Commissioner, as an independent body, is not relieved from its responsibility to ensure that robust governance arrangements are in place.
- 3.2 The accountability and assurance arrangements set out in this Framework Agreement are intended to reflect the Code of Good Practice Principles (as noted above) and accord with the requirements of the Public Finances Manual. They reflect an approach to accountability and assurance that is proportionate and based on a mutual understanding of the Children's Commissioner's purpose and of associated risk.
- 3.3 The Department will seek to ensure that, wherever possible, officers involved in developing policy are different from those tasked with monitoring the relationship with the Children's Commissioner.

Children's Commissioner

- 3.4 The Children's Commissioner must appoint the following panels, as required by the Law:
 - a. **advisory panel**, consisting of persons who represent a broad range of interests, to provide the Commissioner with advice and assistance (Article 26).
 - b. **audit and risk advisory panel**, to provide advice and assistance on the use of resources, the management of risk and governance matters (Article 27).
 - c. **youth advisory panel**, which may advise the Commissioner on the preparation of the strategic plan and Annual Report and give its views to the Chief Minister (Article 28).
- 3.5 Details regarding these panels, including their respective Terms of Reference, will be published on the Commissioner's web site.
- 3.6 The Commissioner must prepare and present to the States Assembly a four year Strategic Plan (Article 22).
- 3.7 The Commissioner must keep proper accounts and records; and prepare accounts in respect of each financial year (Paragraph 13).
- 3.8 The Commissioner must provide an Annual Report to the States Assembly (Article 23).
- 3.9 The Commissioner may be called to report on the OCCJ's performance or give evidence to committees or panels of the States Assembly, including the Public Accounts Committee.

Department's functions in relation to Children's Commissioner

- 3.10 Supporting the Chief Minister and (as appropriate) the President of the Chairmen's Committee of the States Assembly, in fulfilling their duties under the Law, including receiving reports of formal investigations (Article 17), being consulted on matters relating to the Commissioner's panels (Articles 26, 27, 28), and the appointment and termination of the Commissioner (Paragraphs 4, 6 and 7)
- 3.11 Supporting the States Employment Board (SEB), as required, regarding the Commissioner's remuneration and pension matters (Paragraph 8).
- 3.12 Ensuring the provision of adequate financial and other resources required to support the functioning of the Children's Commissioner (Paragraph 9). The Department will:
- a. work with the Treasury Department to ensure the provision of a core budget to the Children's Commissioner;
 - b. post staff to the Children's Commissioner and provide a HR framework for supporting staff appointed by the Children's Commissioner;
 - c. provide financial management and other agreed services to the Children's Commissioner.
- 3.13 Where the Children's Commissioner requires additional resources, the Commissioner should prepare a business case for consideration by the Accountable Officer.
- 3.14 Supporting the Minister for Children and Housing in working positively with the Children's Commissioner to promote the well-being of children.
- 3.15 Supporting Ministers when being held to account by the States Assembly for the effectiveness and efficiency of the Children's Commissioner in the fulfillment of their functions and exercise of their powers.
- 3.16 Supporting the States Assembly (as appropriate) in respecting, upholding and defending the independence of the Commissioner (Paragraph 2); and in holding the Children's Commissioner to account on behalf of the public of Jersey, to ensure the Children's Commissioner is effective in the delivery of their functions and provides value for money.

Accountable Officer's functions in relation to the Children's Commissioner

Finances and Risk

- 3.17 The Accountable Officer is accountable for the public funds which flow from the Government to the Children's Commissioner. The Accountable Officer will delegate management of these funds to the Children's Commissioner in accordance with the Department's scheme of delegation.
- 3.18 The Children's Commissioner will ensure that the standard of financial management complies with the provisions of the Public Finances Law and Public Finances Manual. Where a deviation from the requirements of the Manual may be required by the Children's Commissioner, the

decision and rationale should be documented and appropriate approval obtained from the Accountable Officer.

- 3.19 The Accountable Officer must ensure that an appropriate approach to risk management is followed by the Children's Commissioner and that systems are in place to identify and manage these risks.
- 3.20 The Accountable Officer and the Children's Commissioner should ensure compliance with the requirements of the States' insurance policy, including any reporting requirements.
- 3.21 The Accountable Officer will be generally available for consultation, but in periods of absence (such as annual leave) will ensure that there is another senior officer who can act on their behalf.
- 3.22 The Accountable Officer will require assurance from the Children's Commissioner regarding financial propriety and regularity, that funds are used economically, efficiently and effectively, that there is effective stewardship of any assets controlled or safeguarded, and that appropriate systems are in place to identify and manage risks. The Children's Commissioner will be required to complete an Annual Financial Assurance Statement.

Staff

- 3.23 The Accountable Officer is accountable for ensuring that the Children's Commissioner staff, who are SEB employees, are appointed and managed by the Children's Commissioner in accordance with SEB codes, policies and procedures. The Children's Commissioner will appoint and manage those staff in accordance with the relevant SEB policies and procedures.

Strategic

- 3.24 The Accountable Officer is responsible for providing assurance that the Strategic Priorities of the Government of Jersey in relation to the OCCJ are being achieved. The Accountable Officer must ensure that targets are set with regard to the OCCJ to enable effective performance management. In addition to the Strategic Plan and Annual Report required by the Law (Articles 22 and 23), the Children's Commissioner will prepare an annual Operational Plan that sets out key targets and milestones for the year. The Law requires that the Annual Report includes an overview of the work to be undertaken by the Commissioner in the next year. The Accountable Officer will be required to provide assurance within Government as to the OCCJ performance and the Children's Commissioner will support the provision of this assurance.
- 3.25 Assurance as to the Children's Commissioner's personal performance as a senior public office holder will be provided by the Children's Commissioner and the Accountable Officer.
- 3.26 In the event that the Accountable Officer has concerns about the capability of the Children's Commissioner to discharge their functions, or concerns about their conduct or behavior, the Accountable Officer may recommend to the Chief Minister that the Chief Minister commissions a review of the Children's Commissioner, or an investigation of any matter, having first informed the Children's Commissioner of the intention to do so.

3.27 In the event that the Children's Commissioner has concerns about the Accountable Officer, with regard to the support provided to the Children's Commissioner, or to upholding the terms of this Framework Agreement, they should report those concerns to the Principle Accountable Officer, having first informed the Accountable Officer of their intention to do so.

Other governance matters

Register of gifts, hospitality and private interests

3.28 The Children's Commissioner must set up and maintain a gifts, hospitality and private interests register which must be publicly available. The Children's Commissioner and staff must record any gifts, hospitality or private interests on that register. Commissioner staff, as SEB employees, must also comply with relevant requirements relating to the recording of gifts, hospitality or private interests. The Accountable Officer must take steps to be satisfied that the register is operated effectively.

Complaints policy and management

3.23 The Children's Commissioner must put in place a complaints policy and procedure for managing complaints about the Children's Commissioner, staff and Panel members. The policy must be publicly available. The Children's Commissioner must consult the Accountable Officer about the draft policy prior to publication. The Accountable Officer must take steps to be satisfied that the policy and procedure are sufficiently robust and operate effectively. The OCCJ Annual Report must include information about complaints management.

Data Protection

3.24 The Children's Commissioner is responsible for ensuring compliance with the Data Protection (Jersey) Law 2018 (DP). The Children's Commissioner is required to:

- a. register with the Information Commissioner as a Controller;
- b. manage data in accordance with the DP law;
- c. respond to Subject Access Requests in accordance with the DP law.

3.25 The Department is required to ensure that:

- a. training is provided to staff working in the OCCJ, along with day-to-day guidance and support on matters relating to DP;
- b. the OCCJ has the necessary facilities to manage DP requirements (for example, locked cabinets).

Freedom of Information

3.26 The Children's Commissioner is a scheduled public authority for the purposes of the Freedom of Information (Jersey) Law 2011. FOI requests directed to the OCCJ will be answered by the

Children's Commissioner. When the FOI response is issued, this will be copied to the Accountable Officer, for information only. Where an FOI request is directed towards the Government but relates in some way to the Children's Commissioner, the Accountable Officer will ensure that the Children's Commissioner is consulted on the draft response before it is issued.

Section 4: Engagement

- 4.1 The Children's Commissioner and Government will engage with each other in a manner which is open, honest and constructive. They will work to ensure a mutual understanding of each other's objectives. This engagement will include regular meetings, annual meetings and Annual Reporting.
- 4.2 The Children's Commissioner and the Accountable Officer will also engage with each other regarding all relevant matters affecting the work of the Children's Commissioner, as and when these matters arise, to ensure they are aware of any significant issues and that there are no surprises. This may include consulting the Children's Commissioner about emerging relevant policy and legislation matters or proposed changes to GoJ service provision.

Regular meetings

- 4.3 The Accountable Officer will meet formally on a 6-monthly and a 12-monthly basis with the Children's Commissioner. Those meetings may be cancelled if both the Commissioner and the Accountable Officer agree they are not required. Minutes will be taken of these formal meetings.
- 4.4 This does not preclude other meetings taking place between reporting periods to discuss concerns or matters arising. These meetings can be at the behest of the Children's Commissioner or the Accountable Officer. Neither the Children's Commissioner nor the Accountable Officer will decline to meet if the other party wishes to meet, albeit meeting times and dates will need to be mutually agreed.

Dispute Resolution Process

- 4.5 Where a dispute arises between the Department and the Children's Commissioner then all efforts should be made to reach an agreed position without the need for further escalation. Should resolution not be achieved, then escalation should be undertaken to the next level of seniority in the Department with the final level being that of the Accountable Officer. Concerns regarding the Children's Commissioner or the Accounting Officer should be handled as noted in Section 3, above.

Section 5: The arrangements

- 5.1 The Law requires the States to provide the Commissioner with the resources to enable the Commissioner to discharge their functions properly and effectively (Paragraph 9).

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- 5.2 The Law also provides the Children's Commissioner with the vires to directly engage and remunerate their own advisers and services (Paragraph 10).
- 5.3 It is recognised, however, that the overhead costs associated with financial management, staff management and other services can prove disproportionately expensive for small entities. It is therefore agreed that the Department will provide a range of services to Children's Commissioner including human resource, financial management, and other incidental services as agreed from time to time.
- 5.4 The arrangements set out below will be subject to review, as it is recognised that, over time, as the OCCJ evolves, it may be deemed appropriate for the Children's Commissioner to exercise these functions directly, subject to demonstrating value for money and having the necessary funding to do so.

Staff resources and people management

- 5.5 The staff working for Children's Commissioner will be appointed to the Children's Commissioner but will be employed by the SEB. For all practical purposes, the effect of this arrangement will be that staff are posted to Children's Commissioner and will be referred to as *Commissioner's staff*.
- 5.6 The terms and conditions of employment of the Commissioner's staff will be SEB standard terms and conditions, including matters relating to pension, pay and associated pay increments, flexibility working policies etc. Staff will be paid via standard GoJ payroll arrangements.
- 5.7 There will be no changes to staff's terms and conditions of employment, except where those changes are in accordance with SEB policy. Where the SEB is undertaking any review or restructuring of its employees' terms and conditions of employment, the Commissioner's staff will be subject to the review on the same basis as all other SEB employees.
- 5.8 Any changes to terms of employment will need to be provided for in the Children's Commissioner budget (for example, annual pay increments). Where the Treasury Department makes financial provision for those changes via an uplift to Government core budgets, that uplift will be reflected in the core funding provided to the Children's Commissioner. Where no financial provision is made by the Treasury Department, additional costs will need to be met through efficiency savings in the Children's Commissioner's expenditure.
- 5.9 New staff will be recruited under SEB civil service recruitment policies.
- a. All new or amended job descriptions will be subject to SEB job evaluation processes. Prior to evaluation, those job descriptions will be approved by the Children's Commissioner and the Accountable Officer.
 - b. For all Commissioner's staff, the Children's Commissioner will chair the appointments panel. In accordance with SEB policy, the panel will include a Government authorised recruitment officer. The Children's Commissioner will also determine the other officers/third parties to be involved in the recruitment process, including young people.

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- 5.10 In the event that the Jersey Appointments Commission (JAC) determines that the appointment falls within their areas of responsibility, a JAC representative will participate in the interview panel.
- 5.11 The Children's Commissioner will provide direction and supervision on all matters relating to the work of Children's Commissioner. In doing so, the Children's Commissioner will be:
- a. cognisant of their respective executive and non-executive roles;
 - b. cognisant of the requirement placed on the Commissioner's staff to operate in accordance with relevant GoJ and SEB corporate policies and directions.
- 5.12 The Children's Commissioner will provide line management, support and supervision to staff; they will do so in accordance with relevant GoJ and SEB corporate policies and directions.
- 5.13 The Children's Commissioner will provide a six-monthly report to the Accountable Officer. This may take the form of a meeting or a written report. This reporting line is not for directing or ensuring oversight of the work of the officers or Children's Commissioner. It is for the purposes of providing assurance of:
- management of SEB employees in accordance with SEB corporate policies;
 - compliance with principles of GoJ financial management;
 - compliance with relevant legislation regulating good governance in the public sector.
- 5.14 The Children's Commissioner will advise the Accountable Officer of any concerns about the performance or wellbeing of the Commissioner's staff in order that the Children's Commissioner and the Accountable Officer can jointly ensure that those concerns are managed in accordance with GoJ and SEB corporate policy and in accordance with the law.
- 5.15 In the event that action needs to be taken with regard to a member of the Commissioner's staff (disciplinary, performance, attendance), this will be undertaken, in accordance with SEB policy, by the Children's Commissioner.
- 5.16 Nothing in the above paragraphs precludes the Children's Commissioner or Commissioner's staff from reporting any concerns about the performance and wellbeing of the Children's Commissioner or the Commissioner's staff to the Accountable Officer or another appropriate GoJ staff member in accordance with GoJ whistleblowing policy.

Public funds

- 5.17 The Public Finances Law requires the Council of Ministers to propose a Government Plan, setting out income and expenditure, to the States Assembly to decide upon. A Government Plan will usually be lodged by the Council of Ministers in the summer and considered by the Assembly in late Autumn of the year proceeding the start of the new Government Plan period.

- 5.18 Confirmation of the core budget beyond the end of each annual budgeting cycle is subject to Assembly approval of the next budget. As with all public funding, confirmation of the core budget is subject to States Assembly approval of each annual budget and no monies can be guaranteed beyond the annual budget cycle.
- 5.19 Any inflationary or pay award budget uplifts decided by the Assembly will be applied to the core budget for the Children's Commissioner, except for where the Assembly decide otherwise. The core budget will not be exempt from any decision to apply savings targets across the whole GoJ budget.
- 5.20 The Accountable Officer will consult the Children's Commissioner regarding anticipated resources requirements in advance of the Council of Ministers submitting a proposed Government Plan.
- 5.21 This is in addition to the 6 and 12 monthly reporting meetings (see above) being used to:
- consider budget matters;
 - consider business cases relating to any proposed uplift in the core budget provided to the Children's Commissioner.

Financial management support

- 5.22 The Treasury Department will provide a finance management service to the Children's Commissioner, including in relation to core budget (*Commissioner funds*).
- 5.23 The OCCJ will comply with principles of good financial management practice and the requirements of the Public Finances Manual. A Finance Business Partner, and dedicated staff, will have oversight of the budget and will provide monthly income and expenditure reports to the Children's Commissioner for review and action where necessary.
- 5.24 The Accountable Officer will delegate day-to-day management of the Commissioner's funds to Children's Commissioner's in accordance with the Public Finances Manual and the Department's scheme of delegation.
- 5.25 Income and expenditure will, however, be subject to review by the Accountable Officer, as part of the Accountable Officer's overall responsibility for the Department's heads of expenditure.
- 5.26 Budget forecasts will be agreed at the beginning of each financial year with the Children's Commissioner. The Children's Commissioner will determine areas of expenditure in accordance with annual priorities. The Children's Commissioner cannot commit to any new expenditure unless it can be met from within the Children's Commissioner's available funds or from an additional recurring or non-recurring allocation approved by the Accountable Officer. Any proposed increase to the Commissioner's funds will require the submission of a costed business case, prepared by the Children's Commissioner and approved by the Accountable Officer.

- 5.27 Overspends: the Children's Commissioner should not overspend on its budget. In the event of unforeseeable events giving rise to overspends, the Accountable Officer should be informed and the Finance Business Partner will provide assistance to manage overspends.
- 5.28 Underspends: the Finance Business Partner will provide assistance with the management of underspends. No roll-overs of funding can be guaranteed, as all are subject to Treasury Department approval.
- 5.29 When procuring supplies or services from a third party, raising or paying invoices, the Children's Commissioner will, unless otherwise agreed with the Accountable Officer, use GoJ supplier systems (for example, Supply Jersey) and act in accordance with procurement guidance. Where the Children's Commissioner wishes to deviate from this course, the Accountable Officer will consider any proposals for providing appropriate exemptions. In the event the Children's Commissioner does not use GoJ suppliers, the Children's Commissioner will need to demonstrate best value decisions.

IT services and support

- 5.30 The Children's Commissioner has contracted independently for IT services.
- 5.31 Any use of or access to GoJ equipment/systems will be in accordance with GoJ policies and procedures.

Accommodation

- 5.32 The Department will ensure that the Children's Commissioner has access to appropriate office accommodation. This accommodation will be arranged via Jersey Property Holdings (JPH), as per standard GoJ accommodation arrangements, and should be proportionate to the Children's Commissioner's requirements.
- 5.33 Provision should be made in the Children's Commissioner's budget for rent, servicing and fixtures and fittings.

Legal advice

- 5.34 The Children's Commissioner has contracted independently for the provision of legal advice, in accordance with a procurement framework agreed by the Accountable Officer.
- 5.35 The Children's Commissioner will notify the Accountable Officer when it becomes involved in a civil action. If, as a result of that action, the Children's Commissioner is ordered to pay the other party's legal costs, the Children's Commissioner will meet the costs from its financial resources. Where those resources are not sufficient, the Children's Commissioner will notify the Accountable Officer at the earliest opportunity.
- 5.36 The Children's Commissioner will advise the Accountable Officer when it refers any criminal matters to the Attorney General for consideration.

Indemnity

5.37 The Law limits the liability of the Children's Commissioner with regard to legal action (Paragraph 12). Furthermore, the Government of Jersey Liability Insurance including Officials' Indemnity, which will extend to provide indemnity to the Children's Commissioner subject to the policy terms and conditions.

Signatories to Framework Agreement

Commissioner for Children and Young People

Name: Mrs Deborah McMillan

Signature

Date

Accountable Officer, Department for Strategic Policy and Performance

Name: Mr Thomas Walker

Signature

Date

Endorsed by Chief Minister, Government of Jersey

Name: Senator John Le Fondré

Signature

Date: