

ANNUAL OPERATIONAL AND FINANCIAL CAPABILITY ASSESSMENT – ARM’S LENGTH ORGANISATIONS

*Name of Arm’s Length Organisation: **Office of the Children’s Commissioner for Jersey***

*In respect to award year: **2020***

Part 1.

1. Background on the organisation:

The Children’s Commissioner was appointed in January 2018 initially in shadow form. The statutory role began on 30th July 2019 and the term of office is 8 years from that date. Her primary function is to promote and protect the rights of children and young people.

The Children’s Commissioner is established under Paragraph 1 of the Commissioner for Children and Young People (Jersey) Law 2019 as a corporation sole. The Commissioner is independent of the Chief Minister, the States Assembly, the Chief Executive Officer or any other person. She must act independently and in a manner free from direct or indirect influence, and the States must respect, uphold and defend her independence. As an independent entity, the Office of the Children’s Commissioner must be free to carry out its responsibilities without impediment and in a timely manner and that independence is characterised through behaviours, culture and identity.

As SEB employees, the Children’s Commissioner’s team adhere to relevant corporate policies where the Commissioner has chosen to make use of those services, and the Department retains a duty of care for the team. The funding arrangements are through fully delegated budget transfer rather than a Grant through a Framework Agreement, and the Office of the Children’s Commissioner is viewed as an Arm’s Length Function of the Department. Accordingly, during 2019, a Framework Agreement was developed, to reflect the respective responsibilities and governance arrangements, including the delegated authority from the Director General, as Accountable Officer for the Department, to the Children’s Commissioner. During 2019, all staff were provided with access to GoJ intranet through a laptop based in the Office, which contains all applicable corporate policies, templates, guidance etc regarding their employment and the associated duty of care. However, closure of the Office due to Covid-19 restrictions has meant that the staff have not been able to regularly access the GOJ intranet which is a concern. The Commissioner would prefer that they all could access on their own laptops through a swivel account.

The core budget for the Children’s Commissioner in the year under review was £738k (including pay awards). The year-end actual was £714k. The £23k budget underspend recorded in 2020 was due to the impact of the coronavirus pandemic mainly on travel and professional fees.

The Children’s Commissioner has demonstrated robust and effective control over all elements of governance, including budgets and expenditure, risk management and information governance.

The Children’s Commissioner, along with the respective leads of other Arm’s Length Functions, should join the Department’s Governance Board each quarter, but owing to Covid disruption this was not possible in 2020. This is usually in addition to the quarterly meetings held with the Director General and Head of

Governance, and any other meetings, communications or joint working throughout the year – for example, on refreshing governance plans / activities as central guidance develops, and to communicate / escalate key risks.

2. Description of the services to be supported by the funding:

The Children’s Commissioner’s budget comprises both pay and non-pay. The expenditure is determined by the commitments made in the four-year strategic plan and in the yearly operational plan.

Business Unit	Funding £’000 in 2020	Services
DKE110	738	Delivering the functions of the Commissioner for Children and Young People (Jersey) Law 2019

3A. Consideration of how the funding will help achieve The States Assembly’s strategic objectives.

The Children’s Commissioner’s objectives are clearly set out in the statutory four-year plan.

<https://www.childcomjersey.org.je/media/1157/our-plan.pdf>

The work of the Children’s Commissioner is integral to the Council of Minister’s Priority 1 - Putting children first

After consideration, does this support the States Assembly’s strategic objectives?

Yes

3B. Consideration of whether funding the organisation is the most appropriate mode for delivering Government of Jersey policies and strategic objectives.

Funding the Office of the Commissioner for Children and Young People is determined in legislation – Schedule, Part 9: *The States must ensure that the Commissioner is provided with such financial and administrative resource...so as to enable the Commissioner to discharge his or her functions under the Law.*

The Commissioner has chosen to operate a hosted model whereby the Office is hosted by a Government Department. The Government determines this to be an ‘Arm’s Length Function’ arrangement, whereby the team is employed through the SEB, and is considered at the moment to be the most cost effective mode of delivery; the team are able to benefit from a range of chosen GoJ ‘back office’ functions and equally has chosen not make use of other Government services e.g. IT.

At the time of this consideration is the organisation the most appropriate mode of delivering the strategic objectives?

Yes, subject to ongoing review by the Commissioner and the Commissioner’s Advisory Panels

Further actions required:

As detailed in 1, regular engagement will continue to build relationships. Quarterly meetings will be scheduled for 2021, which will also include the Treasury Business Partner in order to ensure ongoing, effective financial planning.

The Department will continue to support the Children’s Commissioner, for example by providing independent, certified staff to assist in recruitment activities.

The Department will also seek to continue to ensure that the work of the Children’s Commissioner is considered in all aspects of strategic policy, planning and performance. In early 2020 the Department produced guidance for Government relating to the need to consult with the Children’s Commissioner. During 2020, 31 formal advice notes and briefings were prepared for Ministers and policy officers.

4. Consideration of the organisation’s performance under existing funding arrangements

Have all material prior year contractual obligations of the organisation, due to date and in respect to Government of Jersey funding, either been satisfactorily complied with or alternatively actively considered, documented and waived?	Yes	Comments: where there has been need for exemptions they have been sought and granted.
Have all relevant Government of Jersey propositions been adhered to?	Yes	Comments: N/A
Does the assessment of Key Performance Indicators (KPIs) and Operational Performance Reporting demonstrate performance of services in line with expectations? <i>(Responsible Officer’s latest periodic analysis of KPIs should be separately document and appended to this assessment.)</i>	Yes	Comments: the Commissioner will publish an annual report in line with statutory obligations.
Does the assessment of Key Performance Indicators (KPIs) and Operational Performance Reporting demonstrate value for money? <i>(Should a separate consideration of value for money have been undertaken then it should be appended to this assessment.)</i>	Yes	Comments: as above.

5. Consideration of the funding requirements and business plan:		
The annual budget is linked to the Island Priorities and the KPI's and objectives set by the Children's Commissioner in her operational plan.		
Is funding budgeted for by the department?	Yes	Comments: core budget continues into 2020 and beyond.
Has the applicant fully explored all other funding options?	Yes	Comments: Charitable funding was sought for 2020 but the charity withdrew the allocation due to pressures on Covid-19.
Does the applicant require public funding in order to meet the business plan?	Yes	Comments: during 2020 the GoJ budget is the only source of income and it is the duty of the GoJ to provide that funding.
Have all business plans included a financial summary / cash flow?	N/A	Comments: no business plans were submitted in 2020. The business plan submitted in 2019 covered 2020.
Can the proposed funding be clearly identified within the financial summary and business plan?	Yes	Comments: N/A
Have the most recent financial accounts (quarterly management accounts) been obtained and considered alongside the 3-year financial summary?	Yes	Comments: 2020 out-turn income and expenditure is available from the Treasury Business Partner, who has supported the Children's Commissioner from quarter 2 of 2020.
Does the organisation have sufficient financial resources, when considered in conjunction with the proposed grant, to demonstrate its ability to meet its financial obligations for the foreseeable future (i.e. the next 12 months)?	Yes	Comments: N/A
All financials should be considered by the Treasury Business Partner and their comments addressed. Has this review been performed, and their comments addressed to their satisfaction?	Yes	Comments: the Treasury Business Partner has supported the Commissioner from quarter 2 of 2020.

6. Review of year end unspent award monies / working capital reserves		
What is the value of unspent funding award monies at year end?		£23k
If different from the above, confirm the total value of working capital at yearend (current assets less current liabilities and less restricted funds and agreed 'special reserves').		N/A
Following review of both departmental policy on carry forwards and contractual obligations do any actions need to be taken (including repayments / confirmation that repayment is either not required or has been actively waived)? Ensure that any such actions have been sanctioned by the Accountable Officer.	No	Note: carry forward of underspends is no longer permissible. The Audit and Risk Advisory Panel consider this a business risk and does not enable the building up of reserves.
Actions required: N/A		

7. Organisation's structure and board composition:

As at 1 January 2021, the Children's Commissioner is supported by a staff team of:

- Communications Officer
- Case Worker Officer
- Senior Case Work Officer
- Participation Officer
- Executive Assistant.

A Child Rights Officer and Child Rights Team Manager are seconded to the team and are fully funded by CYPES.

Additional resources are commissioned to fulfil specific functions and/or provide subject matter expertise for example legal advice. These appointments are within core budget.

The Children's Commissioner has also appointed:

- An advisory panel consisting of persons who represent a broad range of interests, to provide the Commissioner with advice and assistance
- An audit and risk advisory panel, to provide advice and assistance on the use of resources, the management of risk and governance matters
- A 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. The age range of the youth panel has been reduced and the number of young people involved has increased both in numbers and diversity.

Are there any concerns regarding the probity or composition of the board?	N/A	Comments: the Children's Commissioner is not required to appoint a Board. Accountability and Governance is overseen by the Audit and Risk Advisory Panel as set out in the Law.
Are there any concerns regarding due process of appointments of board members from the perspective of States Propositions, or States of Jersey reputational considerations?	N/A	Comments: there is no Board. Recruitment to the Panel has been discussed with the Chair of Jersey Appointments Commission and is in line with agreed governance procedures.
Are there any direct or perceived conflicts of interest between the management / board of the ALO and the Government of Jersey / the department?	No	Comments: the Children's Commissioner is independent and established in law as a corporation sole. Staff from the Department do not participate in operational decision making.

8. Organisational Governance Considerations:

Detail what information has been obtained in respect to understanding the organisation's governance arrangements and how comfort has been obtained:

During 2019 a number of governance documents and processes were developed, which continue to support the work of the Commissioner:

- Health, safety and wellbeing policy

- Risk Register
- Information governance plan
- Business continuity plan
- Information Asset Register
- Retention Schedule
- Framework agreement.

In 2020, reporting documents were produced to time:

- Year-end statement
- Annual Report.

The above documents have been produced with expert input, for example from the GoJ Data Protection Officer and Central Data Protection Unit.

Having obtained and considered the organisation's governance and controls framework, are the organisation's controls appropriate (given its size and structure) to ensure that public funds are spent in a proper manner and for the purposes intended?	Yes	Comments: Head of Governance and others across GoJ will continue to advise the Children's Commissioner as and when required.
Having obtained and considered a copy of the organisation's latest risk register and, for established organisations, its in-year risk management reporting are risks being appropriately managed?	Yes	Comments: these are overseen by the Audit and Risk Assurance Panel.
For established organisations, having obtained and considered the organisation's latest Statement of Internal Control/Annual Governance Statement does this support the assertion that the organisation is appropriately managed and controlled?	Yes	Comments: these are overseen by the Audit and Risk Assurance Panel.

Part 1 sign off:

Finance team sign off:

The finance team have reviewed the financial information provided by the organisation and are **satisfied** that all matters raised by the finance team in relation to their review have been satisfactorily addressed.

Signature: 	Date: 18 February 2021	Print name and position Tracy Duncan – Head of Finance Business Partnering
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Part 1 Responsible Officer sign off:

After consideration of all the above matters the funding proposals are **recommended** for approval.

Signature: 	Date: 12 February 2021	Print name and position Deborah McMillan – Children’s Commissioner for Jersey
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Part 1 Delegated Governance Officer sign off:

Confirming that this checklist has been satisfactorily completed and that all questions raised have been satisfactorily answered / resolved (n.b. this is not an affirmation or recommendation of the decisions / comments made by the Responsible Officer).

Signature: 	Date: 24 February 2021	Print Name Tom Walker – Director General
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Part 2: The Funding Agreement

Only complete this Part having first completed Part 1

9. Consideration of the draft Funding Agreement and SLA:		
<i>Are the following matters included within the Funding Agreement and SLA</i>		
Until introduction of new FD, all matters noted in Section 2.2.1 of Financial Direction 5.5.	Yes	Comments: as reflected in the framework agreement.
The purpose of the funding and the expectations of use.	N/A	Comments: provision of adequate resources to meet statutory functions and deliver four year plan.
The States / Departmental policy objectives / strategy that the funding is directly linked to.	N/A	Comments: CSP Priority 1 – Putting Children First, as reflected in the Government Plan.
The value of the funding approved by the States, including payment date information.	N/A	Comments: as per Government Plan.
The period over which the funding relates.	N/A	Comments: as per the Government Plan.
The Financial Reporting requirements. (Departmental requirement that quarterly management accounts to be provided within 2 months of calendar quarter end & Audited financial statements to be provided within 6 months of year end.)	Yes	Comments: as per legislation and framework agreement.
Monitoring and reporting requirements (risk registers / risk management reporting, copies of non-confidential minutes of Board of Directors or Trustees meetings, operational performance reporting, analysis of performance against targets and KPIs to be reported on a quarterly basis with information to be provided within two months of quarter end).	Yes	Comments: as per legislation, internal governance arrangements within the Office of the Children’s Commissioner and the framework agreement.
A statement on the consequences of failure to provide reporting information to the States, i.e. the discontinuation of further funding.	N/A	Comments: statutory reporting requirements, with funding required by law.
A statement on access arrangements to the accounting records of the ALO that requires access to be given to States’ staff, including Comptroller and Auditor General staff.	Yes	Comments: as per legislation and framework agreement.
Details of any States’ representation on decision making forums.	N/A	Comments: Children’s Commissioner is independent and so there is no such States’ representation.

The need for the States to be acknowledged for its support on all publicity material relating to the project / service.	N/A	Comments: Children's Commissioner is independent and must be perceived as such.
Clarification of procedures for cancelling the SLA/Funding Agreement and sanctions for non/substandard performance.	N/A	Comments: funding required by law.
Key performance indicators, targets and service level requirements, sufficient for the department to both measure performance and demonstrate value for money.	Yes	Comments: as per framework agreement.
Requirement to maintain robust governance and controls.	Yes	Comments: as per framework agreement.
Requirement to provide a Statement of Internal Control / Annual Governance Statement	Yes	Comments: as per framework agreement.

Part 2 Responsible Officer sign off:

After consideration of all the above matters the funding proposals are recommended for approval.		
Signature: 	Date: 12 February 2021	Print name and position Deborah McMillan – Children's Commissioner for Jersey

Part 2 Delegated Governance Officer sign off:

Confirming that this checklist has been satisfactorily completed and that all questions raised have been satisfactorily answered / resolved (n.b. this is not an affirmation or recommendation of the decisions / comments made by the Responsible Officer).		
Signature: 	Date: 24 February 2021	Print Name Tom Walker – Director General

Accounting Officer sign off:

After consideration of all the above matters and following the recommendation of the Responsible Officer, the funding proposals are in principal **recommended** for approval subject to any comments and/or further actions noted below.

Signature:	Date:	Name and position
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The above decision is based on the following comments / actions: