

## **Accountability of the Children’s Commissioner**

1. A key policy consideration in determining measures of accountability applicable to the Children’s Commissioner has been seeking compliance with international standards for National Human Rights Institutions (“NHRIs”) (i.e. Paris Principles, UN Committee on the Rights of the Child General Comment No.2, and the European Network of Ombudspersons for Children Standards). Alongside this there is a requirement to ensure effective governance and accountability to government for responsible use of public funds.
2. NHRIs established in accordance with international standards occupy what is recognised as a “unique and...awkward position within the state” as they are independent from government but also accountable to them for their governance. These accountability relationships are always challenging – the government has a legitimate concern in ensuring that NHRIs are accountable for spending public money, but those accountability measures should not interfere in the operational independence of the body, i.e. legitimate financial autonomy.
3. The Children’s Commissioner is subject to several accountability and governance measures, under the Law and operationally.

### *Statutory arrangements*

4. The presentation by NHRIs of annual reports to its Government is regarded as the “first layer of accountability, or formal accountability” of these bodies. This should enable Government to engage in a discussion about the rights issues raised in these reports and review the work of the body in question. This layer of accountability is reflected in the Commissioner for Children and Young People (Jersey) Law 2019 in that the Children’s Commissioner must present to the States an annual report on the discharge of the Commissioner’s functions during the financial year (see Article 23). The annual report must include:
  - a review of issues identified by the Children’s Commissioner in the reporting year as being relevant to children and young people
  - a review of the functions discharged in the financial year
  - any recommendations by the Children’s Commissioner arising out of the functions discharged
  - an overview of work to be undertaken by the Children’s Commissioner in the year following, including the strategy for involving children and young people in the work of the Children’s Commissioner
  - the accounts of the Office for that period
5. Under the Law the Children’s Commissioner must, in respect of each four-year period of the eight-year term, prepare and publish a strategic plan proposing how the Children’s Commissioner intends to perform his/her statutory functions during that period. The rationale for a strategic plan is, in part, a means of the Children’s Commissioner’s accounting to the public, including children and young people. A public facing plan will enable the public to be informed about the intended priorities of the Children’s Commissioner over that period. In addition, the Children’s Commissioner will present the plan to the States for information.
6. Accountability to the general public, and in particular children and young people, is considered to be a further layer of accountability. The Children’s Commissioner must publish any reports produced by the Commissioner on the exercise of its functions (Article 21(1)(b)), including reports into investigations (in the case of reports into individual investigations the

Commissioner may decide against publication if the Commissioner reasonably considers it inappropriate to do so in the circumstances (see Article 17(4)). Moreover, the Children's Commissioner is required to take reasonable steps to involve children and young people in the work of the Commissioner (Article 6) and must, where appropriate, ensure that reports, documents and information are presented in a child-friendly manner (Article 24(5)).

7. The Children's Commissioner is required to appoint an advisory panel (Article 26) and a youth advisory panel (Article 27), whose role it is to provide advice to the Children's Commissioner on the discharge of its functions and assist in the preparation of the strategic plan and annual reports; the terms of reference and procedures of these panels must be published following consultation with the Chief Minister and the president of the Chairman's Committee.
8. In addition the Children's Commissioner is also required to appoint an audit and risk advisory panel ("ARAP") (see Article 27) whose function it is to ensure that arrangements have been put in place to ensure that the office of the Children's Commissioner is properly managed and governed. The panel will be appointed in a similar manner to the advisory and youth panels under the Law in accordance with terms of reference which are to be published by the Children's Commissioner having consulted with the Chief Minister and the president of the Chairman's Committee. In addition, the Chairman of the Public Accounts Committee will also be consulted, this is intended to reflect the specific accountability and governance remit of the ARAP and the need for input from PAC as to the sufficiency of the Commissioner's proposed procedures. It should be noted that the appointment of such a panel is not required under international standards nor is it a feature of other UK children's commissioner legislation. It is, however, acknowledged to be an important measure of reassurance as to the accountability of the Children's Commissioner in the present context.
9. The Children's Commissioner is required to keep proper accounts and records in respect of each financial year (Schedule, paragraph 13). The Commissioner may appoint auditors to audit the accounts of the Office in accordance with generally accepted accounting principles.

#### *Operational arrangements*

10. As a publicly funded independent body the Children's Commissioner will be required to comply with principles of financial directions as to the responsible use of public funds made under the Public Finances (Jersey) Law 2005.
11. The Children's Commissioner will also align its governance conduct to the States of Jersey Code of Conduct, which implements core standards for the conduct of individuals in public life otherwise known as the Nolan principles.
12. Risk is managed on through our risk register identifying risks and setting our mitigating actions. Our management of risk will be subject to internal Government of Jersey audit.
13. Financial management is based on the framework agreement within a clear set of financial procedures. Regular budget monitoring and reporting takes place with our finance business partner. Comparison of spend against budget is assessed quarterly. Internal auditors will assess our budgetary control.
14. Policies are in place for whistleblowing, antifraud, code of conduct and complaints and are on a schedule for review.

15. The Office of the Children’s Commissioner is in receipt of public funds, and therefore the Commissioner is committed to implementing rigorous and transparent accountability and decision-making systems. The governance framework comprises the systems, processes and values by which the organisation is directed and controlled. These arrangements are firmly rooted in ‘The Good Governance for Public Services’ and the ‘International Framework: Good Governance in the Public Sector’. It also draws on elements from the ‘UK Corporate Governance Code’. It builds on the Nolan Principles for the conduct of individuals in public life by setting out six core principles of good governance for public service organisations. The diagram below sets out details of the accountability and governance framework.

### Accountability & Governance Framework

