



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

Our governance procedures have been seen by the Chief Internal Auditor and previous Comptroller and Auditor General and neither of them have expressed any concerns. Indeed, our accountability and governance framework, and the framework agreement with the Government, was recognised as good practice. The Office has 3 independent Advisory Panels, including an Audit and Risk Advisory Panel, and importantly we have a Young Advisory Panel made up of children and young people in Jersey who guide the work of the Office. These mechanisms bring together a blend of legal, accounting and child's rights expertise and experiences to embed a child rights-based approach both structurally and in practice.

We have a duty to lodge annual reports covering the work of the Children's Commissioner, as well as plans for future work, which is subject to scrutiny and debate. We also have the duty to publish this annual report in a child friendly format, as well as to publish annual accounts and to lodge this with the States Assembly as an additional scrutiny mechanism, and so a further report on finances would appear to be a duplication of work. There are therefore already a number of avenues for public scrutiny, including scrutiny of the work of the office and its finances, which have been designed to embed children's rights protections throughout.

As a National Human Rights Institution, the Office occupies a distinct space unlike any other on island. As has been noted in international research, "there is an inherent tension related to an institution's independence and its existence as a public body." It is imperative that the Office of the Children's Commissioner maintains its independence as per the Paris Principles. The Principles establish core features of a National Human Rights Institution (NHRI) which includes that there must be access to adequate funding "in order to be independent of the Government and not be subjected to financial control which might affect its independence".

The link between finances and independence is reiterated in General Comment No. 2 issued by the United Nations Committee on the Rights of the Child, which focusses on the role of Children's Commissioners. The design of the accountability mechanisms for the Office, including the financial arrangements were therefore carefully considered when it was created. Indeed, in the law drafting documents for the creation of the Children's Commissioner (Jersey) Law 2019, it states clearly that:

"In relation to auditing of accounts, the intention is that there should not be a mandatory obligation or requirement on the Jersey Commissioner to have accounts audited annually, or for those accounts to be audited in a particular manner. The intention is that the Jersey Commissioner's accounts should be audited at the discretion of the Jersey Commissioner, and on such basis as the Jersey Commissioner considers fit. In practice, this may mean that the accounts will be audited as part of the irregular independent audit review".

This is reflected in the Schedule to the Children's Commissioner Jersey Law 2019 in 14(2) which provides that "The Commissioner may, on such basis as the Commissioner determines, appoint auditors –

(a) qualified to be recognised auditors in accordance with Article 112 of the Companies (Jersey) Law 1991;

(b) to audit the accounts of the office in accordance with generally accepted accounting principles and show a true and fair view of the profit or loss of the office for the financial year in question and of the state of the office's affairs at the end of that year."

The proposals therefore appear to be an unnecessary change to the very recent law, which was written following significant debate, research and consideration. We would question why this change is being sought, and how it is envisaged that this would interface without our other accountability mechanisms to ensure that any assessments over the effectiveness of the work are grounded in children's rights and international learning.

To conclude, we believe that our existing accountability mechanisms which were carefully designed and brought into law 12 months ago ensure transparency and provide for scrutiny on financial and indeed operational decisions. International learning has shown the 'elusiveness' of cost-effective indicators for NHRIs and we are concerned as to how assessments on what is economic, efficient and effective would be carried out.

As the global study concludes, children's ombudsmen are a very peculiar entity: an independent human rights institution but also a public body. Being a public body does mean that at least some rules governing public sector do relate to it too and we accept that.

Nevertheless, it is felt that it is unnecessary that the Commissioner for Children and Young People (Jersey) Law 2019 position around audit may be changed so soon after I become a statutory body. I therefore conclude that I do not support the changes proposed.