



14 March 2019

Dear Deputy Ward

Draft Commissioner for Children and Young People (Jersey) Law 201-

Thank you for the opportunity for Brightly, formerly Brig-y-Don Children's Charity, to contribute to this important review regarding the powers in the Draft Commissioner for Children and Young People (Jersey) Law 201-

I note that the focus of the review is Article 8 regarding the Children Commissioners powers to request and receive information.

Firstly, having read the submission from Mr. Bruce Adamson, who is the Children and Young People's Commissioner for Scotland, we would like it noted that we concur with all that he says.

Furthermore, we wish to record the following points:

1. Although paragraph 44 appears to provide freedom for the Commissioner to request information this freedom is then diluted in paragraph 45 - 47
2. We are concerned that using the Freedom of Information (Jersey) Law 2011 as a barrier to requesting information significantly weakens the Commissioner's role and powers, indeed this caveat gives the Commissioner no more power to request information than that available to a lay person.
3. Paragraph 47 of the draft legislation further weakens the power and role of the Commissioner, as the majority, if not all, of the unspecified enactments will have been drafted pre the existence of a Children's Commissioner in Jersey and pre the existing Jersey Discrimination Legislation.
4. Both the Independent Jersey Care Inquiry (2017) and the Jersey Care Commission's inspection of Children's Service's (2018), undertaken by Ofsted, made it clear that 'enactments' which would serve to protect children may not be clear, followed through on or indeed exist. Where they do exist, they may take second place to a protectionist culture and the interests of 'powerful silos'.

The Independent Jersey Care Inquiry listed failings relevant in this regard, including:

- Failure to have in place an adequate legislative framework that prioritises the welfare of children in need or at risk. While the States of Jersey has always been able to provide sufficient resources to keep pace with developments in international financial law, Jersey's childcare legislation has lagged behind other jurisdictions in the developed world – often by decades.
- Failure to establish a culture of openness and transparency, leading to a perception, at least, of collusion and cover-up. Jersey's culture has not encouraged the reporting of poor and abusive practice. At times, efforts to protect the island's reputation and international standing have led to insufficient acknowledgement of the gravity of the Island's failings and the egregious nature of some of the abuses perpetrated on children in its care. Such attitudes have fostered the suspicion, within parts of the community, that most politicians and States employees cannot be trusted and that abusive practices have been covered up. It was clear that these are not only 'historic failings'.

The 2018 Inspection of Children's Services undertaken by the Jersey Care Commission identified:

- The need for improvement in the way the States fulfils its duty to look after the children in its care; ensuring their rights and entitlements are realised). They stated that these rights and entitlements and, most importantly, the responsibility of the States as these children's corporate parent, are not as clear as they need to be.

5. Paragraph 48 seems to be devoid of any sensible meaning.

Best regards



Steve Harvey

Chief Executive, Brightly