

Chief Minister



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Deborah McMillan  
Commissioner for Children and Young People  
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22 May 2020

Dear Commissioner

**Consultation requirement under Article 25 of the Commissioner for Children and Young People (Jersey) Law 2019 (the "2019 Law")**

In recent months Government colleagues and I have been committed to working to deliver an effective response to the Covid-19 pandemic. This has called for rapid policy decision making and the development of a number of emergency legislative measures. Though the Government's approach to tackling Covid-19 in Jersey, and the public's resilience, has enabled us to minimize the virus' immediate impact, there remains some distance to go before all aspects of life can return to normal. As a result, Government and the States will continue to be required to make difficult and complex policy decisions and associated legislative measures.

In responding to Covid-19, Government has remained mindful of its human rights obligations and has sought at all times to implement only those measures which are necessary and proportionate to the risks associated with the virus. I am fully aware of the essential role that Scrutiny and others perform in challenging the decisions made by Ministers at this time, on all matters, not least the rights of individuals. In particular, we, as a Council of Ministers, recognize the work which you, as Commissioner, continue to undertake to protect and promote the rights of children and young people.

There have been a number of propositions and measures discussed at a policy level and in the Assembly in respect of which you have submitted advice or recommendations from a children and young person's rights perspective. Your efforts to engage on these matters is vital and the advice you have provided has supported us to keep the interests of children and young people at the centre of our decision making. At the same time, it is appreciated that the pace at which policy decisions and legislative measures have been implemented has, on occasion, resulted in Ministers and policy officers being unable to pursue the level of consultation and engagement with stakeholders and the public as might otherwise be the case.

I am aware of your submissions to Scrutiny in recent weeks, for example in relation to legislation on the issue of mental health and capacity, and associated discussions with officers which have shown your frustration at the level and degree of engagement with you on matters you consider fall

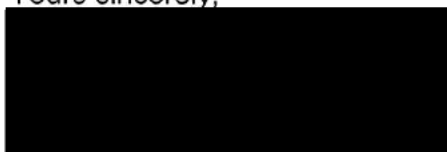
within your remit as Commissioner. It goes without saying that the Council of Ministers remains committed to fulfilling its pledge to "Put Children First", even during this unprecedented time, and to work constructively and effectively with you and other stakeholders toward achieving this. To this end, please accept my apologies on behalf of the Council of Ministers, which will echo those of ministerial colleagues in the Assembly in recent weeks, for any actions taken by Government which have contributed to your frustrations in this regard.

In view of recent events, I consider it essential that Ministers discuss with you how best we can work to ensure that your input as Commissioner is facilitated and supported throughout the policy and legislative process. Doing so will, I hope, address the frustrations experienced in recent weeks but, above all else, will enable Ministers to satisfy their consultation requirements under the 2019 Law. In particular, discussions would seek to address the requirement in Article 25 of the 2019 Law to consult with you on "*any proposals for the preparation of any enactment directly concerning children or young people*". In view of the express limitation in this provision to matters which *directly concern* children and young people, it would be useful to understand your expectations and preferences for consultation with a view to agreeing an operative approach to engaging in this regard. The intended outcome would be for you, as Commissioner, to continue to provide the much valued input on children's rights matters, and for Ministers to develop policy and associated legislative in an inclusive manner consistent with their legal obligations.

If you are in agreement I will instruct officers to arrange a meeting at a date and time convenient to you. I would suggest, at this stage, that the meeting involve the Children's Minister, supporting policy officers and relevant officers from your office. I would be happy for the meeting to include other parties, at your suggestion.

I look forward to hearing from you.

Yours sincerely,

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**Senator John Le Fondré**  
Chief Minister

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