



Office of the Children's Commissioner for Jersey: Response to the Children, Education and Home Affairs Scrutiny Panel Violence Against Women and Girls Legislation Review

About the Office of the Children's Commissioner for Jersey

1. Established by the Commissioner for Children and Young People (Jersey) Law 2019, the Children's Commissioner for Jersey is the independent holder of the public office responsible for promoting and protecting the rights of all children and young people in Jersey who are:
 - Under the age of 18;
 - Under the age of 25, if they have a disability, have been care experienced or have been sentenced, or held in custody, under the Young Offenders Law;
 - Placed off-island for their care or treatment.

Introduction

2. The Office of the Children's Commissioner for Jersey (OCCJ) welcomes the opportunity to submit this evidence to the Children, Education and Home Affairs Scrutiny Panel's review of the Violence Against Women and Girls (VAWG) legislation. As a jurisdiction that has committed to upholding children's rights, Jersey has a duty to ensure that legal and policy frameworks adequately protect all children who are disproportionately affected by the harms associated with VAWG.
3. The OCCJ met with policy officials and was briefed on the five draft Laws that form part of the Government's legislative response to VAWG, namely:
 - (i) Draft Harassment and Stalking (Jersey) Law 202-
 - (ii) Draft Domestic Abuse (Jersey) Amendment Law 202-
 - (iii) Draft Sexual Offences (Jersey) Amendment Law 202-
 - (iv) Draft Crime (Public Order) (Jersey) Amendment Law No.2 Law 202-
 - (v) Draft Crime (Strangulation) (Jersey) Law 202-
4. During this process, the OCCJ provided advice, raised specific queries, and made recommendations in relation to the rights of children impacted by the legislation.

5. The remainder of this submission sets out the main children's rights engaged in relation to VAWG, before outlining the OCCJ's overarching views and more specific concerns with regard to the draft legislation.

Children's Rights and Violence Against Women and Girls

6. VAWG must be understood fundamentally as a human rights issue. It engages the most basic rights protected in domestic and international law including the rights to life, bodily integrity, dignity, equality and freedom from inhumane and degrading treatment.
7. VAWG is also unequivocally a children's rights issue. Children can be direct victims of these types of violence and behaviour or indirect victims as witnesses; in both cases, VAWG has profound and lasting impacts on their wellbeing and development. The harms associated with such violence also engage core rights under the United Nations Convention on the Rights of the Child (UNCRC); these include:
 - Article 2: Non-discrimination - All children, regardless of background, must have equal access to protection from violence and discrimination, which includes safeguarding them from harms associated with VAWG.
 - Article 3: Best interests of the child- The best interests of the child must be a primary consideration in all decisions and actions that affect children.
 - Article 6: Life, survival, and development- Every child has the right to life. Governments must do all they can to ensure that children survive and develop to their full potential.
 - Article 12: Right to be heard - Children must have a say in decisions affecting their experiences.
 - Article 19: Protection from violence, abuse and neglect- Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.
 - Article 24: Right to health- Every child has the right to the best possible health.
 - Article 34: Sexual Exploitation- Governments must protect children from all forms of sexual abuse and exploitation.

- Article 35: Abduction, sale and trafficking- Governments must protect children from being abducted, sold or moved illegally to a different place in or outside their country for the purpose of exploitation.
 - Article 36: Other forms of exploitation- Governments must protect children from all other forms of exploitation.
 - Article 37: Inhumane treatment and detention- Children must not be tortured, sentenced to the death penalty or suffer other cruel or degrading treatment or punishment. Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible. They must be treated with respect and care and be able to keep in contact with their family. Children must not be put in prison with adults.
 - Article 40: Juvenile justice - A child accused or guilty of breaking the law must be treated with dignity and respect. They have the right to legal assistance and a fair trial that takes account of their age. Governments must set a minimum age for children to be tried in a criminal court and manage a justice system that enables children who have been in conflict with the law to reintegrate into society.
8. The Committee on the Rights of the Child (the Committee) also published its General Comment No. 25 in 2021.¹ This clarifies that children's rights apply fully in the digital environment and that states have obligations to ensure children are protected, empowered, and able to enjoy their rights online. This is particularly important given that many experiences of VAWG are carried out online, including behaviours such as, but not limited to, online sexual harassment, online stalking, and intimate image abuse.
9. In addition, under the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, which Jersey has also ratified, states are required to ensure that they take measures to prevent online sexual abuse and exploitation of children.²
10. The OCCJ notes that the Government of Jersey has stated its intention to pursue ratification of the Council of Europe's Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention), the leading international human

¹ General comment No. 25 (2021) on children's rights in relation to the digital environment. United Nations. [Link](#)

² Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. 2000. United Nation. [Link](#)

rights treaty on preventing and combating violence against women and girls. This commitment is very much welcomed, and the development of this legislation represents an important step in Jersey's journey toward meeting the Convention's requirements.³

11. When considered alongside Jersey's obligations under the UNCRC, progress towards compliance with the Istanbul Convention helps to establish a strong international framework within which these reforms are being developed. Embedding these standards will support the meaningful protection and realisation of the rights of women, girls, and all children within Jersey's legal system.

The Proposed VAWG Legislation

12. Collectively, the five draft Laws that were presented to the OCCJ for consultation represent a significant strengthening of Jersey's legal framework for protecting children from violence, abuse, and exploitation: closing longstanding protection gaps and improving alignment with the UNCRC and the standards required for extension of the Istanbul Convention.
13. Across all five pieces of legislation, the OCCJ welcomes the enhanced protection they offer for several key UNCRC rights. In particular, the reforms strengthen children's right to protection from all forms of violence (Article 19), their right to privacy (Article 16), their right to safety and development (Article 6), and their right to have their best interests considered (Article 3).
14. The legislation also has positive implications for children's right to education (Article 28) and right to recovery and reintegration (Article 39) by reducing exposure to abusive environments, recognising the severe emotional harm caused by domestic abuse, strangulation, stalking, and intimate image abuse, and enabling earlier intervention to restore stability in children's lives. Measures such as Emergency Barring Orders, Stalking Protection Orders, and standalone offences allow for more timely protection, which can mitigate trauma and improve long-term outcomes for children and young people in Jersey.
15. However, alongside these positive developments, the OCCJ has identified potential risks and concerns which must be addressed to fully protect children's rights. These concerns

³ Violence Against Women and Girls Taskforce Report. 2023. VAWG Taskforce Jersey. Recommendation 1. [Link](#)

relate mainly to the treatment of children who may subject to these laws where they are alleged to have engaged in the behaviours outlined in the proposed laws.

Youth justice safeguards and court jurisdiction

16. At the time of briefing, the OCCJ noted that the drafts of the Harassment and Stalking (Jersey) Law 202– and the draft Domestic Abuse (Jersey) Amendment Law 202– omitted explicit reference to the Youth Court in dealing with matters relating to children and young people. The OCCJ felt this was a missed opportunity to build in child-centred safeguards and provisions to the legislation, in line with the principles of the Youth Justice Roadmap⁴.
17. The OCCJ therefore welcomes the inclusion, in the current version of the draft Domestic Abuse (Jersey) Amendment Law 202–, of the amendment to Article 26(3) of the Criminal Justice (Young Offenders) (Jersey) Law 2014. This now enables the Youth Court to exercise equivalent powers to the Magistrate's Court for these offences. This helps ensure that children are dealt with in developmentally appropriate settings consistent with Articles 37 and 40 of the UNCRC.

Risk of unintended criminalisation

18. The OCCJ has some concerns about the potential risk of criminalisation of children under various aspects of the draft legislation, specifically in relation to the suite of pre-conviction orders such as Stalking Protection Orders (SPOs), Emergency Barring Notices (EBNs), and Emergency Barring Orders (EBOs) which are to be introduced.
19. It is recognised that these measures are of particular importance in securing compliance with the Istanbul Convention and, therefore, are to be welcomed. However, the ability for these to be applied to children from the age of 16, notwithstanding the fact that this is higher than in the UK's Protection from Harassment Act 1997, where orders may apply to children as young as 10, raises concern.
20. The application of these orders to children risks drawing them prematurely into the formal criminal justice system. The breach of an order is a criminal offence, meaning that behaviour leading to the breach, which can sometimes be rooted in immaturity, trauma or unmet

⁴ Reimagining Youth Justice: A Child-First Roadmap for Jersey 2025 – 2030. Building a Safer Community, Government of Jersey. [Link](#)

welfare needs, could escalate into prosecution or even detention. As such our view is that the application of these orders to children should be approached very cautiously.

21. The Office also has particular concerns about the potential for unintended criminalisation of children in relation to:

- offences within the Draft Sexual Offences (Jersey) Amendment Law 202–, such as sharing intimate images - behaviours which children may engage in, especially online; and
- the broadening of the “threats” offence to include threats to commit serious sexual offences under the Draft Crime (Public Order) (Jersey) Amendment Law 202–

22. While the OCCJ notes in the statement in the CRIA accompanying the Draft Crime (Public Order) (Jersey) Amendment Law 202–, that the policy intent is not to criminalise children and to take age into account when sentencing, policy intent alone does not guarantee protection in practice. Without clear legal provisions or guidance, there is limited assurance that children will be consistently safeguarded across proceedings.

23. To mitigate these risks, the OCCJ suggests that guidance, including a directive from the Attorney General, should be developed in relation to how children will be dealt with where they are subject to the draft Laws. Such guidance should aim to help ensure that professionals interpret and apply the VAWG legislation in a child-centred and proportionate manner. Such guidance should align with the principles of the BASC Youth Justice Roadmap, which emphasises UNCRC compliance and a child-first approach.⁵

Summary

24. Overall, the OCCJ recognises the draft Laws as a major advancement in Jersey’s approach to preventing violence against women, girls, and children. They collectively modernise Jersey’s response to stalking, harassment, domestic abuse, image-based sexual abuse, sexual threats, and strangulation, all of which are behaviours which cause profound harm to children’s wellbeing and development.

25. With the addition of robust, clear, and child-centred guidance, to ensure that children are not unduly criminalised, these reforms will place Jersey in a strong position to uphold its

⁵ Reimagining Youth Justice: A Child-First Roadmap for Jersey 2025 – 2030. Building a Safer Community, Government of Jersey. [Link](#)



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obligations under the UNCRC and ensure that all children, whether victims or those that have committed an offence, are treated in a manner which respects, protects and fulfils their rights.

Office of the Children's Commissioner

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