

Children's Commissioner for England

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Schedule – Children's Commissioner for England

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TO

Establish a Children's Commissioner for England; to make provision for the Commissioner's duties including monitoring complaints procedures for children, overseeing arrangements for children's advocacy, monitoring legislation to ensure that the needs of children are taken into account, overseeing child death reviews and carrying out inquiries into major child abuse cases and child deaths; and to make provision to ensure that the work of the Commissioner is compatible with the UN Convention on the Rights of the Child.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Children's Commissioner for England

- (1) There shall be an Office of the Children's Commissioner for England.
- (2) The Schedule shall have effect with respect to the Children's Commissioner for England ("the Commissioner").

2 Review and monitoring of arrangements

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- (1) The Commissioner may review and monitor the operations of arrangements falling within subsections (2), (3) or (4) for the purpose of ascertaining whether, and to what extent, those arrangements are effective in safeguarding and promoting the rights and welfare of children to whom this Act applies.
- (2) The arrangements falling within this subsection are the arrangements made by providers of regulated children's services in England, or by the Secretary of State, for dealing with complaints or representations in respect of such services made by or on behalf of children to whom this Act applies. 10
- (3) The arrangements falling within this subsection are the arrangements made by providers of regulated children's services in England, or by the Secretary of 15

State, for ensuring that proper action is taken in response to any disclosure of information which reasonably suggests –

- (a) that a criminal offence has been committed;
 - (b) that a person has failed to comply with any legal obligation to which he is subject; 5
 - (c) that the health and safety of any person have been endangered; or
 - (d) that information reasonably suggesting that any matter falling within one of the preceding paragraphs has been deliberately concealed, in the course of or in connection with the provision of such services.
- (4) The arrangements falling within this subsection are the arrangements made (whether by providers of regulated children's services in England, or by the Secretary of State, or by any other person) for making persons available – 10
- (a) to represent the views and wishes of children to whom this Act applies; or
 - (b) to provide such children with advice and support of any prescribed kind. 15
- (5) Regulations may confer power on the Commissioner to require prescribed persons to provide any information that the Commissioner considers it necessary or expedient to have for the purposes of his functions under this section. 20

3 Examination of cases

- (1) Regulations may make provision for the examination by the Commissioner of the cases of particular children to whom this Act applies.
- (2) The regulations may include provision about – 25
- (a) the types of case which may be examined;
 - (b) the circumstances in which an examination may be made;
 - (c) the procedure for conducting an examination, including provision about representation of parties; and
 - (d) the publication of reports following an examination.
- (3) The regulations may make provision for – 30
- (a) requiring persons to provide the Commissioner with information; or
 - (b) requiring persons who hold or are accountable for information to provide the Commissioner with explanations or other assistance, for the purposes of an examination or for the purposes of determining whether or not any recommendation made in a report following an examination has been complied with. 35
- (4) For the purposes mentioned in subsection (3), the Commissioner shall have the same powers as the High Court in respect of – 40
- (a) the attendance and examination of witnesses (including the administration of oaths and affirmations and the examination of witnesses abroad); and
 - (b) the provision of information.
- (5) No person shall be compelled for the purposes mentioned in subsection (3) to give any evidence or provide any information that he could not be compelled to give or provide in civil proceedings before the High Court. 45

- (6) *The regulations may make provision for the payment by the Commissioner of sums in respect of expenses or allowances to persons who attend or provide information for the purposes mentioned in subsection (3).*

4 Expenses

Any expenditure incurred by the Secretary of State by virtue of this Act shall be paid out of money provided by Parliament. 5

5 Regulations

- (1) Any power to make regulations under this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament. 10

6 Short title, commencement and extent

- (1) This Act may be cited as the Children's Commissioner for England Act 2003.
- (2) This Act shall come into force one year after it has received Royal Assent.
- (3) This Act extends to England only. 15

SCHEDULE

Section 1

CHILDREN'S COMMISSIONER FOR ENGLAND

Status

- 1 (1) The Commissioner shall be a corporation sole.
- (2) The Commissioner shall not be regarded as a servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Commissioner's property shall not be regarded as property of, or held on behalf of, the Crown. 5

Appointment and tenure of office

- 2 Regulations may make provision as to— 10
- (a) the appointment of the Commissioner (including any conditions to be fulfilled for appointment);
- (b) the filling of vacancies in the office of Commissioner; and
- (c) the tenure of office of the Commissioner (including the circumstances in which he ceases to hold office or may be removed or suspended from office). 15

Remuneration

- 3 *The Secretary of State shall—*
- (a) *pay the Commissioner such remuneration and allowances; and*
- (b) *pay or make provision for the payment of such pension or gratuities in respect of him,* 20
- as may be provided for under the terms of his appointment.*

Staff

- 4 (1) The Commissioner may appoint such staff (one of whom shall be appointed as Deputy Commissioner) as he considers necessary to assist him in the exercise of his functions. 25
- (2) During any vacancy in the office of Commissioner or at any time when the Commissioner is for any reason unable to act, the Deputy Commissioner shall exercise the Commissioner's functions; and any property or rights vested in the Commissioner may accordingly be dealt with by the Deputy Commissioner as if vested in him. 30

General powers

- 5 (1) Subject to any directions given by the Secretary of State, the Commissioner may do anything which appears to him to be necessary or expedient for the purpose of, or in connection with, the exercise of his functions. 35
- (2) That shall include, in particular—

- (a) co-operating with other public authorities in the United Kingdom;
- (b) acquiring and disposing of land and other property; and
- (c) entering into contracts.

Accounts and reports

- 6 (1) The Commissioner shall keep proper accounting records. 5
- (2) The Commissioner shall prepare accounts for each financial year in such form as the Secretary of State may with the consent of the Treasury determine.
- 7 Regulations may provide for the Commissioner to make periodic or other reports to the Secretary of State relating to the exercise of his functions and may require the reports to be published in the manner required by the regulations. 10

Accounting officer

- 8 (1) The accounting officer for the Commissioner's Office shall be the Commissioner. 15
- (2) But where –
- (a) the Commissioner is incapable of discharging his responsibilities as accounting officer; or
 - (b) the office of Commissioner is vacant (and there is no acting Commissioner),
- the Treasury may designate a member of the Commissioner's staff to be the accounting officer for so long as the conditions in sub-paragraph (a) or (b) above apply. 20
- (3) The accounting officer for the Commissioner shall have, in relation to the accounts of the Commissioner and the finances of the Commissioner's Office, the responsibilities which are from time to time specified by the Treasury. 25
- (4) In this paragraph, references to responsibilities include, in particular, responsibilities –
- (a) in relation to the signing of accounts; 30
 - (b) for the propriety and regularity of the finances of the Commissioner's Office; and
 - (c) for the economy, efficiency and effectiveness with which the resources of the Commissioner's Office are used.
- (5) The responsibilities which may be specified under this paragraph include responsibilities owed to the House of Commons or its Committee of Public Accounts. 35
- (6) In this paragraph and paragraph 9 “the Commissioner's Office” means the Commissioner and the members of his staff.

Examinations by the Comptroller and Auditor General 40

- 9 For the purpose of enabling him to carry out examinations into, and report to Parliament on, the finances of the Commissioner's Office, the Comptroller and Auditor General –

- (a) shall have a right of access at all reasonable times to all such documents in the custody or under the control of the Commissioner, as he may reasonably require for that purpose; and
- (b) shall be entitled to require from any person holding or accountable for any of those documents any assistance, information or explanation which he reasonably thinks necessary for that purpose.

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Payments

- 10 *The Secretary of State may make payments to the Commissioner of such amounts, at such times and on such conditions (if any) as the Secretary of State considers appropriate.*

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General

- 11 In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (certain disqualifying offices), the following entries are inserted at the appropriate places –
 “Children's Commissioner for England.”
 “Member of the staff of the Children's Commissioner for England.”
- 12 In the Northern Ireland Assembly Disqualification Act 1975, the same entries as are set out in paragraph 11 are inserted at the appropriate places in Part III of Schedule 1.
- 13 Regulations may provide that the office of Children's Commissioner for England shall be added to the list of “Offices” in Schedule 1 to the Superannuation Act 1972 (offices etc. to which section 1 of that Act applies).

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Presented by Mr Paul Burstow.

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