**TERMS OF REFERENCE**

**Commonwealth Model Legislative Provisions on Abuse of Positions of Trust**

**Project Title:** Commonwealth Model Legislative Provisions on Abuse of Positions of Trust

**Project Description:** The Model Legislative Provisions on Abuse of Positions of Trust are intended to improve legal protections in positions of trust in Commonwealth countries.

**Post Title:** Legislative Drafting Consultant (Commonwealth Model Legislative Provisions on abuse of Positions of Trust).

**Duty station:** Home based

**Project Duration:** 1 week

**Period:** 23 June to 30 June 2022.

**Total Professional Fee:** Up to GBP £8,000 (VAT inclusive).

# Overview

The Commonwealth is a voluntary association of 54 independent sovereign states, which cooperate in the common interests of their citizens to further international understanding, development, and democracy. The Commonwealth’s membership has great diversity of economic strength, geography, and ethnicity, combined with a common heritage of values, language, institutions, and democratic traditions. The Commonwealth Secretariat is the principal intergovernmental body of the Commonwealth, responsible for progressing and achieving the shared goals of the association’s member governments in advancing democracy, development, and respect for diversity.

In 2020, UNICEF UK engaged DLA Piper UK LLP, an international law firm, to prepare a research report and draft principles for Model Legislation on Preventing Abuse of Positions of Trust. The latter is aimed at improving legal protections relating to positions of trust in Commonwealth countries.

In a number of Commonwealth jurisdictions, it is illegal for various groups of professionals such as teachers, care workers and youth justice staff to be involved in sexual activity with a child under 18 years of age who is under their supervision. This is referred to as an ‘abuse of a position of trust’. Existing legislation sets out what constitutes a criminal offence where sexual activity between minors and those in positions of trust takes place. However, in several Commonwealth countries, there are gaps in the scope of such legislation.

Following extensive research study to identify existing legislation that covers Positions of Trust (PoT) across the Commonwealth, the Commonwealth Secretariat created an Expert Working Group (EWG) to provide input on draft model provisions relating to positions of trust.

**Purpose of the assignment**

The Commonwealth Secretariat, in partnership with UNICEF UK and DLA Piper UK LLP, seeks a legislative drafting consultant to support the EWG in the delivery of Model Legislation on Preventing Abuse of Positions of Trust with a view to support the development and strengthening of relevant legislation across the Commonwealth.

**Specific tasks to be performed by the consultant**

Under the guidance and supervision of the Sport for Development and Peace Section of the Commonwealth Secretariat and supported by the Rule of Law Section, the consultant will:

* Review the draft principles and provide his/her own input into those draft principles as necessary.
* Review the collated feedback received from Commonwealth EWG members on the draft principles.
* Review the country level feedback on the draft principles as presented by the EWG members.
* Review the final round of comments and explanatory notes on the model legislative provisions provided by the EWG members, DLA Piper UK LLP and UNICEF UK.
* Also consider issues related to the scope of the legislation, such as:
  + Whether the scope relating to who the legislation is intended to protect is sufficiently broad?
  + What further roles/categories of persons in positions of trust, if any, the legislative provisions should include.
* The consultant's draft Model Legislative Provisions on PoT will be shared with the Commonwealth Sports Ministers at their meeting set for 27 July 2022.
* The consultant's draft Model Legislative Provisions on PoT will be shared with Commonwealth Law Ministers at their meeting in November 2022 prior to being published as a Commonwealth Model Law

The consultant shall keep in close contact with the Project Manager, Sport for Development and Peace (SDP) Lin Sambili at [l.sambili@commonwealth.int](mailto:l.sambili@commonwealth.int) throughout the consultancy.

**Expected measurable** **Outputs of the Project**

* Report on review of draft principles by **24 June 2022**
* Review the collated feedback received from Commonwealth EWG members on the draft principles **27 June 2022**
* Provide recommendations regarding what, if any, further principles should be reflected in the Model Legislative Provisions on Abuse of Positions of Trust by **28 June 2022**
* Produce a final consultancy report on the Model Legislative Provisions on Preventing Abuse of Positions of Trust by **30 June 2022.**

**Scope of services and deliverables**

To fulfil this assignment, the consultant will be required to deliver the following:

1. Written comments on the draft principles and feedback on the draft principles by EWG members from their Commonwealth member countries.
2. Provide draft explanatory notes, which include guidance as to how to integrate the provisions into domestic legislation.
3. Provide written comments regarding what, if any, further principles should be reflected in the Model Legislative Provisions on Abuse of Positions of Trust.
4. Also consider issues related to the scope of the legislation, such as:
   1. Whether the scope relating to who the legislation is intended to protect is sufficiently broad?
   2. What further roles/categories of persons in positions of trust, if any, the legislative provisions should include.
5. Submit final draft Model Legislative Provisions on Abuse of Positions of Trust model that can easily be adapted to the needs of different Commonwealth jurisdictions and ensure that the model provisions respect legislative drafting principles.

**Qualification and Skill Requirements**

***Expertise and experience:***

* A seasoned legal practitioner (at least 12 years’ experience) with an LLB degree. An LLM would be an added advantage.
* Substantial and demonstrable expertise in the interpretation of drafting instructions and formulating legislative provisions based on those instructions.
* Demonstrated experience and proven track record in drafting domestic and model legislation.
* Ability and experience in conducting comparative analysis and research.
* Extensive experience in research and analysis to produce case studies, insights, and reports for national, regional, or Commonwealth governments, regional organisations and intergovernmental institutions.

***Applicants should be able to demonstrate:***

* Proven ability to analyse and develop evidence-based, practice informed reports and documents for intergovernmental institutions.
* Ability to devise recommendations and develop insights adaptable to the draft principles in a diversity of contexts and challenges.
* Extremely strong research and legislative drafting skills.
* Experience relevant to developing and least developed country contexts.
* High-level written and visual communication.

**Administrative arrangements**

The assigned tasks are to be performed on a part-time, remote basis over a contract period 7 days.

The total budget payable under this contract will be up to £8,000 (including VAT and other charges). According to the Secretariat’s policy, the maximum daily rate payable is £500 per day. Payment will be made upon satisfactory completion of work signed off by the Commonwealth Secretariat and within 30 days of submission of the invoice.

Applicants should send a CV and a quote (including the number of consultancy days) to Lin Sambili, Project Manager, Sport for Development and Peace, at [l.sambili@commonwealth.int](mailto:l.sambili@commonwealth.int) before **10:00AM BST Thursday 22 June 2022**. Applicants must also list two referees who will be contacted by the Secretariat in case the applicant is shortlisted for the consultancy.

Evaluation will be based on competency and cost. Priority will be given to consultants that are Commonwealth citizens or entities registered in a Commonwealth country. The cover letter should show how the consultancy will be carried out to meet the specific objectives set out in the TOR. It should include a short statement of the candidate’s relevant expertise and experience along with the total bid amount, inclusive of all taxes and charges.

The consultant’s final report must be forwarded to the Secretariat no later than midnight on 30 June 2022.