

# STATES OF JERSEY



Jersey

## DRAFT CHILDREN AND YOUNG PEOPLE (JERSEY) LAW 202-

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Lodged au Greffe on 6th December 2021  
by the Minister for Children and Education  
Earliest date for debate: 18th January 2022

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STATES GREFFE





Jersey

## **DRAFT CHILDREN AND YOUNG PEOPLE (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Children and Education has made the following statement –

In the view of the Minister for Children and Education, the provisions of the Draft Children and Young People (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy S.M. Wickenden of St. Helier**  
*Minister for Children and Education*

Dated: 3rd December 2021



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## REPORT

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### 1. Introduction

This draft Children and Young People (Jersey) Law 202- (the “draft Law”) will act to strengthen strategic planning for children and young people and introduce specific measures to promote the wellbeing of and safeguard children and young people, particularly the most vulnerable.

Key areas of the draft Law include:

- provisions that provide a gateway to early help when it is required through arrangements for wellbeing assessments;
- a duty on the Minister for Children and Education (the “Minister”) to assess the needs of children with health or development needs, children in care and care leavers along with a general duty on the Minister to provide a range and level of services appropriate to meet the assessed needs of these groups of children and care leavers;
- a duty on the responsible Ministers<sup>1</sup> to make arrangements to promote co-operation to promote wellbeing and to publish a children and young people’s strategic plan;
- a duty on the safeguarding partners<sup>2</sup> to make arrangements for safeguarding and to review child deaths;
- a range of measures concerning the wellbeing of children in care and care leavers, including corporate parenting and a framework of support for children in care and care leavers;
- a requirement on the Minister to make arrangements for independent advocacy for certain groups and establish a procedure for complaints and representation;
- extensive provision for the publication of statutory guidance throughout the draft Law to provide further detail and interpretation as to the requirements of the draft Law in terms of operational practice. This will be supplemented by training.

#### 1.1 Background

The 2017 Independent Jersey Care Inquiry Report<sup>3</sup> (the “Care Inquiry”) found that the Government of Jersey had failed to keep step with legislative developments made elsewhere in respect of children, for example in the UK and elsewhere. In its response the Government of Jersey made a commitment to update its legislative framework. This draft Law represents a significant update to the existing legislative framework to support children and young people in Jersey.

The draft Law is intended to have a direct positive impact on the lives of children. It sets out a legal framework and series of new arrangements to promote wellbeing and safeguard the welfare of children.

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<sup>1</sup> Any reference in the draft Law to responsible Ministers means the Minister for Children and Education, Minister for Health and Social Services, the Minister for Home Affairs and the Minister for Housing and Communities.

<sup>2</sup> The safeguarding partners are defined in the draft Law and include the chief officers of the administrations of the States for which the responsible Ministers are each respectively assigned responsibility (apart from the Minister for Housing and Communities), the Chief Executive Officer and the Chief of Police.

<sup>3</sup> <http://www.jerseycareinquiry.org/final-report>

The policy ambition underpinning the draft Law is consistent with this Government’s strategic policy direction whilst also meeting broader government commitments made in the:

- Common Strategic Policy 2018–2022
- Government Plan 2020–2023; 2021–2024
- Pledge to Jersey’s Children and Young People 2018
- Children and Young People’s Plan 2019–2023
- State Party Report to the United Nations Committee on the Rights of the Child
- Response to the Independent Jersey Care Inquiry Report 2017
- Response to the Independent Jersey Care Inquiry Report: Two Year Review 2019
- Care Commission Independent Inspection Report 2019
- Plan for Jersey Children’s Social Care Service 2021–2023.

## 1.2 Legislative developments in the UK

When the Children Act 1989<sup>4</sup> (the “1989 Act”) was introduced it established the legislative framework for the current child protection system in England and Wales. It brought together and reformed much of the law governing parents’ rights and responsibilities towards their children (the “private law”) and the law governing the intervention of public authorities in the lives of children (the “public law”). In Scotland the Children (Scotland) Act 1995<sup>5</sup> (the “1995 Act”) established the legislative framework for the current child protection systems in Scotland. It has many of the same features as the 1989 Act although the children’s hearing system is unique to Scotland<sup>6</sup>.

Since the 1989 and 1995 Acts were passed, children’s policy and law has continued to develop in the UK, with further divergence since devolution.

In England there has been a raft of other legislation to boost child protection including the Children Act 2004<sup>7</sup>, which encourages partnerships between agencies and creates more accountability, by placing a duty on local authorities to appoint children’s services members who are ultimately accountable for the delivery of services and placing a duty on local authorities and their partners to co-operate in safeguarding and promoting the wellbeing of children and young people. More recently the Children and Social Work Act 2017<sup>8</sup> included new safeguarding arrangements and extended care leaver provision further.

In Scotland the Children and Young People (Scotland) Act 2014<sup>9</sup> improved and extended the care leaver provisions, placed elements of the Scottish approach to support for children and young people’s wellbeing and also made a broad range of bodies statutory corporate parents and gave them associated duties and responsibilities. It also made new provision for integrated children’s services planning, repealing the previous 1995 Act provision in this regard.

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<sup>4</sup> <https://www.legislation.gov.uk/ukpga/1989/41/contents>

<sup>5</sup> <https://www.legislation.gov.uk/ukpga/1995/36/contents>

<sup>6</sup> Children and young people who commit offences, and children and young people who need care and protection, are supported through the same system.

<sup>7</sup> <https://www.legislation.gov.uk/ukpga/2004/31/contents>

<sup>8</sup> <https://www.legislation.gov.uk/ukpga/2017/16/contents>

<sup>9</sup> <https://www.legislation.gov.uk/asp/2014/8/contents>

### 1.3 The current legislative situation in Jersey

The primary piece of legislation in Jersey that relates to the support and protection of children is the Children (Jersey) Law 2002<sup>10</sup> (the “2002 Law”). The 2002 Law was based closely on the structure and content of the 1989 Act as that Act was drafted at the time. However, the 2002 Law was not drafted to contain many of the major provisions that existed even then in respect of statutory services for children and families or for children in care and care leavers.

There is currently no statutory requirement for the assessment of children’s needs for support or intervention before there is ‘reasonable cause to suspect that a child is suffering or likely to suffer significant harm’ under the child protection provisions in Part 5 of the 2002 Law.

There are currently some operational services to support children and families prior to this ‘significant harm’ threshold but they have no statutory underpinning. The absence of legislative underpinning for preventative services has contributed to interventions arriving too late and where they do happen, they are applied inconsistently. This inconsistent service provision has been compounded by the absence of a legal duty on providers of services for children to co-operate.

The historic balance of services with less emphasis on early support and prevention has also contributed to the numbers of children coming into care. An unclear legal requirement for assessment, care planning and services for children in care and for those leaving care has also meant that many children in care and leaving care have had poor experiences which has a major impact on their quality of life and opportunities.

In 2017 the Independent Care Inquiry found that a further contributing factor is the lack of paramountcy given to children which is reflected in poorly defined corporate parenting role for government and the wider public authorities – there is currently no legislation conferring corporate Parenting duties and responsibilities on the public authority. Following the Care Inquiry, a recommendation was made to formally establish the role of corporate parent.

The Independent Jersey Care Inquiry also said that it “it is essential that there is a clear means for looked after children to raise complaints and receive a response from those responsible for their care”. The two-year review and report by the Care Inquiry Panel in 2019 found that this remains “particularly important because we consistently heard from a range of people, including young people and their families, that they found it difficult to raise concerns and complaints about health and social services with the relevant authorities and that where they did succeed in accessing the system, they often did not receive a timely or meaningful response. Ensuring that young people and their families can raise matters of concern, with confidence that they will receive a timely response, is essential to building confidence in services. It also allows services to have a continual eye to improvement”.

### 1.4 Development of the draft Law and consultation

The policy development process for the draft Law has involved stakeholder engagement including practitioners, the general public, children and young people.

Prior to a formal public consultation, development of the proposals included:

- consideration of relevant recent independent report findings;
- evidence on effective ways to protect and support children and young people;

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<sup>10</sup> <https://www.jerseylaw.je/laws/current/Pages/12.200.aspx>

- local and national information on outcomes;
- informal meetings and discussions with local children’s practitioners;
- meetings with Government counterparts in Scotland;
- consideration of views expressed by children and young people.

For the formal consultation<sup>11</sup>, a number of individuals and organisations (Government of Jersey, voluntary and community, the Children’s Commissioner) who had been highlighted as key stakeholders during the scoping stage were contacted either directly by letter and email or through an existing forum. These agencies and individuals were offered and given one to one briefings, presentations and discussion meetings as appropriate, and members were also encouraged to make submissions to the written consultation.

Secondly, a programme of engagement with children and young people was arranged. Approximately 125 children and young people between the ages of 10 and 25 contributed in small groups or individually across a variety of youth projects, through the Princes Trust Programme, the School Council Network and through Jersey Cares.

Thirdly a broader public consultation on the proposals ran from 5th December 2019 until 26th February 2020. People were asked to respond via an online surveyor invited to comment in writing by letter or email. In total, thirty-eight completed responses were received via the online survey and five e-mail responses were received. There were also two-drop-in sessions at the Jersey library during 2020, which were attended by a variety of people.

The input from consultees helped inform the development of the draft Law and associated practice guidance. The consultation summary report was published in April 2020<sup>12</sup>.

## 1.5 Summary of the draft Law

**Overriding objective:** The overriding objective of the draft Law is to promote, safeguard and support the wellbeing of children and young people in Jersey. When carrying out functions under the draft Law, a broad range of key roles and entities must have regard to the overriding objective and four principles founded in the United Nations Convention on the Rights of the Child (UNCRC). The term children and young people in the draft Law applies to all children up to the age of 18. Where young people are referred to, this means young people who are aged 18 up to (but not including) the age of 25 and are care leavers or who have a disability.

The provisions of the draft Law, along with guidance and training to support implementation and provide further interpretation as to the requirements of the draft Law will help strengthen existing children’s legislation and support good practice across the children’s workforce by underpinning earlier assessment, support and intervention to promote and protect children and young people’s wellbeing.

**Supporting wellbeing:** The provisions of the draft Law are intended to work with the existing child protection provisions under Part 4 and Part 5 of the [Children \(Jersey\) Law 2002](#). This is about supporting children to thrive and develop their potential: most children will thrive with support from their family and family networks, but some children’s needs will be supported from outside their family and for a very small number

<sup>11</sup> <https://www.gov.je/Government/Consultations/pages/childrenslawreform.aspx>

<sup>12</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/C%20Children%27s%20Law%20reform%20consultation%20summary.pdf>

this will be very intensive support. The promotion and assessment of wellbeing will drive the provision of support to all children regardless of the setting that the child is in. The draft Law makes provision for the assessment of children's wellbeing and for wellbeing plans for individual children where they either have an assessed wellbeing need or an assessed health or development need.

A new general duty on the Minister to safeguard and promote the welfare of children with a health or development need<sup>13</sup> by providing a range and level of services appropriate to those children's needs will help ensure that the right services are available to them.

**Working together:** Firstly, to promote co-operation between service providers there is a new duty placed on the 'responsible ministers' to make arrangements to promote co-operation between themselves and relevant providers<sup>14</sup> to promote the wellbeing of children and young people.

Secondly, the draft Law will formalise and modernise child safeguarding arrangements and the joint agency working that has already been established in Jersey in respect of children through the Safeguarding Partnership Board. Under the draft Law safeguarding partners must make arrangements, of which there are a number of specified elements, for ensuring that they and relevant providers discharge their functions in relation to children or young people with regard to the need to safeguard and promote the welfare of children and young people and to work together in safeguarding and promoting the welfare of children and young people.

The draft Law also sets out a framework for strategic planning for children and young people's services in Jersey over a recurring cyclical four-year period, which is intended to tie in with the Common Strategic Policy and Government Plan cycle.

**Corporate Parenting:** This part of the draft Law applies to looked after children and care leavers and makes explicit the previously implicit understanding that when a child or young person comes into care the Government becomes their corporate parent. This should continue as they leave care and transition to adulthood. The provisions define the corporate parenting duties and responsibilities and set out who the corporate parents are. The public authority corporate parents named in the Schedule along with early years and educational settings and a small number of arms-length or funded bodies together provide a well-rounded and broad perspective across the key domains of wellbeing. In addition, a framework for collaboration between the named corporate parents in respect of planning, reviewing and reporting is set up. Monitoring and review will be driven by the formation in law of a Corporate Parenting Board. The strategic consideration of the needs of this group of children and young people will be augmented by further provisions on the detail of support to be provided to children in care and care leavers through a published 'local offer'.

**New statutory measures and support for looked after children and care leavers:** These will be introduced through duties imposed on the Minister for Children and Education. As with children with a health or development need, the Minister will have a general duty to provide children who are looked after and care leavers with a range and level of services appropriate to their needs. This will include a virtual school head and a personal advisor for each care leaver up to the age of 25, as well as new 'staying put' arrangements to ease the transition from care to independent living between the age

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<sup>13</sup> A child has a health or development need if it appears that they need additional services to maintain or achieve a reasonable level health and development. Specifically the draft Law refers to children with a disability, children affected by the disability of someone in the family, children who have been in specialist inpatient mental health provision and children who have been assessed by a probation officer as needing further assessment to determine if they would benefit from additional services or support.

<sup>14</sup> "relevant provider" means a provider of services for children or young people or a provider of related services.

of 18 and 21. The draft Law makes it clear that the services provided to the individual child or care leaver will be on the basis of their individual wellbeing assessment. The existing assessment, planning and review cycle for children in care and for care leavers becomes statutory, and the existing Independent Reviewing Officer function also becomes statutory to provide a robust oversight of looked after children's care planning.

**Independent advocacy and complaints:** Lastly the draft Law enables the States to make Regulations to require the Minister to make reasonable arrangements to make provision for independent advocacy. The appointment of independent advocates is to act in relation to, and on behalf of children with a health or development need, children in care and care leavers in respect of certain functions under the draft Law and this may be extended to other groups of people if they are later identified in the Regulations. Under this Part, the Minister must also establish a procedure for considering representations and complaints made to the Minister about the discharge of functions under Parts 4, 5 and 7 of the draft Law and also provides scope for including aspects of the [Children \(Jersey\) Law 2002](#) and the [Adoption \(Jersey\) Law 1961](#).

## 2 Provisions of the draft Law by part

### 2.1 Part 1 Interpretation and overriding objective (Articles 1–2)

The draft Law is to make provision to promote, safeguard and support the wellbeing of children and young people, and for connected purposes.

This part provides a number of definitions that are used throughout the draft Law.

Except where specified the draft Law applies to all children up to the age of 18 and where young people are referred to it means young people who are aged 18 up to (but not including) the age of 25 and are care leavers or who have a disability.

Health and development are defined in a broad and holistic way with development (in the context of children) including behavioural, emotional, intellectual, mental, moral, physical, spiritual, or social development and “health” meaning physical or mental health.

The draft Law provides for a new definition of care leaver which means an individual aged 16 up to (but not including) the age of 25, and who has been looked after by the Minister for a minimum period of 13 weeks, whether in aggregate or consecutively, from the age of 14 up to (but not including) the age of 18 and provides for exceptions or additions by order to be made to this should the need arise.

Services for children or young people means any service or support which is provided exclusively or mainly to, or for the benefit of, children or young people which, in the case of children, means all children regardless of whether or not they are looked after by the Minister; or have needs of a particular type, such as a disability related need, or a need for additional support in learning. Related service means any services or support which are not exclusively provided to, or for the benefit of, children or young people but which nonetheless are capable of having a significant effect on their wellbeing.

It was also intended that four key UNCRC principles should be embedded in the draft Law. This reflects the Government commitment to continue to implement the United Nations Convention on the Right of the Child (UNCRC) following its extension to Jersey in 2014.

This has been provided for in respect of an overriding objective in the draft Law to promote and support the wellbeing, and safeguard the welfare, of children and young people. When carrying out functions under the law the responsible Ministers and the

other corporate parents, safeguarding partners and relevant providers<sup>15</sup> must have regard to the overriding objective and to principles founded in the four general UNCRC principles which are to:

- take all appropriate measures to ensure that children and young people are protected against all forms of unlawful discrimination;
- have the best interests of children and young people as a primary consideration;
- have regard to the views of children and young people on all matters affecting them, with due allowance being made for age and maturity;
- promote the health and development of children and young people.

## **2.2 Part 2 Arrangements to Promote Wellbeing and Safeguard Welfare of Children and Young People (Articles 3–6)**

The principal policy ambition is to improve the wellbeing of all children and young people in Jersey, and this is the central theme of the draft Law. The draft Law introduces and describes a model of wellbeing and the assessment of wellbeing in terms of a set of eight holistic indicators. Assessment of wellbeing requires a consideration of to what extent is the child or young person is Safe; Healthy; Achieving; Nurtured; Active; Respected; Responsible and Included.

The support offered to children and young people through the draft Law is based on the established idea of a ‘continuum of need’ with the intention of a common approach to the assessment of need and the delivery of services through a wellbeing lens for all children and young people. The provisions of this draft Law are intended to work with the existing child protection provisions under Part 4 and Part 5 of the 2002 Law. The primary objective is to support a child to thrive and develop their potential: most children will thrive with support from their family and family networks but what supports some children’s needs will be from outside their family and for a very small number this will be very intensive support.

In order to assess children’s wellbeing needs effectively and deliver services to meet children’s needs in a timely way it is essential that joint working is established and maintained. The draft Law introduces two areas of co-operation.

Firstly, there is a duty placed on responsible Ministers to make such arrangements as they consider appropriate to promote co-operation between themselves and relevant providers to promote the wellbeing of children and young people. The arrangements need to be made with regard to the importance of the role of parents and other people caring for children and young people in promoting their wellbeing and with regard to any guidance issued under the provisions of this part.

Secondly, this part formalises, updates and consolidates child safeguarding arrangements and the joint agency working that has already been established in Jersey in respect of children, which for the last seven years has been through the (non-statutory) Safeguarding Partnership Board. The Safeguarding Partnership Board currently has responsibility for promoting understanding of safeguarding, helping agencies to work together to safeguard children and monitoring how effectively agencies are working together to keep children safe in Jersey. This is overseen by an independent chair.

Under the draft Law the safeguarding partners identified in this part must make arrangements, of which there are a number of specified elements, for ensuring that their functions and those of relevant providers in relation to children and young people are

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<sup>15</sup> “relevant provider” means a provider of services for children or young people or a provider of related services.

carried out with regard to the need to safeguard and promote the welfare of children and young people and to work together when safeguarding and promoting the welfare of children and young people. Independent, practice focused scrutiny of the effectiveness of the arrangements is also provided for under the draft provisions.

The draft Law also allows the Minister to issue guidance that will provide further detail for the safeguarding partners and relevant providers what this means in practice and also puts in place a framework for annual reporting.

Lastly the draft Law makes provision for the statutory review and analysis of child deaths, putting the current arrangements on a statutory footing.

### **2.3 Part 3 Strategic plan in respect of Children and Young People (Articles 7–12)**

This series of Articles in the draft Law sets out a framework for strategic planning for children and young people in Jersey over a recurring cyclical four-year period, which is intended to tie in with the Government Plan cycle.

In the draft Law the responsible Ministers are required to prepare and publish a children and young people's strategic plan for each four-year period which needs to be developed in consultation with appropriate people which may include children, young people and parents. As soon as practicable after the end of each period the Ministers must also report on to what extent the plan has achieved the aims and present the report to the States.

The aims of the strategic plan are set out and are framed around the provision of integrated and efficient services for children and young people that safeguards, supports and promotes the wellbeing of children and young people and is being based as far as possible on prevention.

As there is already a children's plan in place the draft Law has drawn on experiences of producing and implementing the plan. To this end the responsible Ministers and relevant providers must, so far as reasonably practicable, co-operate with each other to provide services for children or young people in accordance with that plan and relevant providers must have regard to any guidance published by the responsible Ministers in connection with the delivery of services set out in the plan. This approach is also supported by the duty to co-operate introduced in Part 2 of the draft Law.

Lastly the draft law makes clear that children, young people and families need to know about the services provided and so the responsible Ministers and the relevant providers must publish details on services they may provide at the beginning of each year.

### **2.4 Part 4 Provision of Services for Children with a Health or Development Need (Articles 13–15)**

In Part 4 the draft Law makes provision for the small number of children and young people who require targeted support to help meet their 'health or development needs'. This is an increased level of need than what has been termed more broadly in Part 5 as a child's 'wellbeing needs'. It is not that the draft Law is moving away from framing these needs in terms of wellbeing, but this is to distinguish the more specialist types of assessment and services that may be required if earlier interventions are not having the intended effect or if some children face greater challenges in order to access the opportunities for health or development which are of course fundamental components of wellbeing.

Under Part 4 a child has a health or development need if they need additional specialised services to achieve, maintain or avoid impairment of a reasonable level health and development. Specifically, the draft Law refers to children with a disability, children affected by the disability of someone in the family and children who are receiving specialist inpatient mental health provision. Assessments by probation in connection with a parish hall enquiry are also considered as relevant in considering if a child has a health or development need<sup>16</sup>.

This ‘health or development’ threshold is an established concept<sup>17</sup> and has been part of the legal framework in UK law and children’s social work for many years through the Children Act 1989<sup>18</sup> and the Children (Scotland) Act 1995<sup>19</sup>. A legal duty to cater for this vulnerable group of children has been absent up to this point in legislation in Jersey and the draft Law rights this situation. The Jersey definition however also accounts for a broader range of children and young people who are locally known as often requiring more targeted support but who have previously been inconsistently provided for.

The emphasis in this part of the law is on children and parents engaging and collaborating with support services and having joint influence into what that support might entail. Until efforts to work with the family collaboratively have been exhausted and there is ‘reasonable cause to suspect that a child is suffering or is likely to suffer significant harm’ there is a presumption that the assessment and support being offered is on an opt in basis and that service provision and data sharing will be based on informed consent from children and families.

Also in Part 4 the Minister has a general duty to provide, in so far as reasonably practicable, a range and level of services appropriate to meet the needs of children assessed as having health or development needs and the Minister may also make arrangements with other providers in order to do this. Additional measures specifically address the provision of services for children affected by disability, including a requirement to provide assistance to people who are caring for children with disabilities and there is a Regulation making power to make further provision in this regard.

## **2.5 Part 5 Wellbeing Plan (Articles 16–23)**

Part 5 makes provision for the assessment of children with a wellbeing need and for wellbeing plans for individual children where there is either an assessed wellbeing need or an assessed health or development need. Equivalent measures for looked after children and for care leavers are contained in Part 7.

These individual wellbeing plans are designed to formalise and codify the planning and review cycle in respect of targeted interventions that are put in place to meet individual children’s needs in cases where it is agreed by the family, the child and the Minister that it would be beneficial for the family support and universal services available to the child to be augmented by a plan specifying the additional targeted support required to meet the assessed need.

The plan will provide a record of progress against the wellbeing and/or health or development goals which will provide information about how effective the support being given is.

Articles 17 and 18 sets out the process for accessing a wellbeing assessment and entitlement to a wellbeing plan which varies as to whether the child is assessed at the

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<sup>16</sup> Article 3(5).

<sup>17</sup> As ‘Child in Need’.

<sup>18</sup> <https://www.legislation.gov.uk/ukpga/1989/41/contents>

<sup>19</sup> <https://www.legislation.gov.uk/ukpga/1995/36/contents>

present time as have a wellbeing need or if they are considered to be in the smaller group of children assessed to have a health or development need.

Articles 19 to 22 provide detail in respect of the content of the plan, the preparation of the plan, the delivery of the plan and the management and review of the plan.

Article 23 Provides for guidance by the Minister on the information which should or shouldn't be contained in the plan and on the form, preparation and management of plans.

## **2.6 Part 6 Corporate Parenting (Articles 24–34)**

Part 6 applies to looked after children and care leavers and makes explicit the previously implicit understanding that when a child or young person comes into care the Government becomes their corporate parent. This should continue as they leave care and transition to adulthood.

Just like any good parent a corporate parent will plan to meet the child and young person's needs and promote their physical, emotional, spiritual, social and educational development.

The provisions in the draft Law also allow for further guidance on what this means in practice for corporate parents to be issued by the corporate parenting board.

The provisions in Part 6 define corporate parenting duties and responsibilities. In addition, it sets up a framework for collaboration between the named corporate parents in respect of planning, reviewing and reporting to ensure that the process has opportunities for learning and improvement as well as accountability.

This monitoring and review will be driven by the establishment of a statutory corporate parenting board. The corporate parenting board's principal function is to monitor and review the discharge of corporate parenting responsibilities and other functions of corporate parents under this Part.

A key part of improving outcomes for this vulnerable group of children and young people is to take this more strategic and joined up approach to their needs. A requirement for corporate parents to publish information about any services they offer (if any) to this group of children and young people will form part of the local offer referred to in section 1.5 of this Report in conjunction with services provided to children in care and care leavers by the Minister under Part 7.

## **2.7 Part 7 Support for Looked After Children and Care Leavers (Articles 35–40)**

Part 7 imposes duties on the Minister in respect of looked after children and care leavers.

It is intended that the provisions here are to be supported in practice by statutory guidance, and the Minister is given additional duties to publish statutory guidance under this part.

As with the support delivered to children in Parts 4 and 5, the support for children in care and care leavers in Part 7 is to be delivered through the same principles of wellbeing assessment, planning and review which is set out in Article 36.

In order to promote the health and development of children in care and care leavers under Article 36 the Minister has a duty to cause a wellbeing assessment of each looked after child and care leaver with reference to the wellbeing indicators. This assessment should determine their wellbeing needs (including their health or development needs) and any targeted interventions it would be appropriate to provide to meet those needs,

and this is to be set out in a wellbeing plan. Targeted interventions will be detailed in the wellbeing plan along with the manner they are to be provided, by whom and the outcome each targeted intervention it is intended to effect. Timescales for review are also to be contained in the plan and also the arrangements for taking account of the child or care leavers views.

It is intended that these provisions are augmented through the guidance provisions in Article 37, which the Minister must issue and may include the management, form, process and arrangements in respect of the wellbeing plan; guidance as to the content of the plan; guidance on assessing progress against the outcomes and on reviewing and recording the plan.

Article 38 also makes explicit a general duty on the Minister to provide a range and level of services appropriate to meet the assessed wellbeing needs of looked after children, with a view to preparing such children for when they cease to be looked after, and care leavers up to the age of 25.

Articles 39 and 40 require the assignment of a personal advisor for each child transitioning out of care up to the age of 25 and impose a duty on the Minister to maintain a staying put arrangement for any eligible care leaver up to the age of 22 which will allow a gradual transition from being looked after to independent living.

## **2.8 Part 8 Miscellaneous provisions in respect of looked after children (Articles 41–43)**

Here further requirements on the Minister are introduced in respect of looked after children. Firstly, the Minister must appoint a person to promote the educational achievement of looked after children – which will formalise the role known as the virtual school head. Secondly a requirement to appoint an independent reviewing officer for each looked after child is introduced, along with measures relating to their role, appointment and qualifications. Thirdly a duty to review the case of each looked after child is imposed on the Minister, which must be in accordance with a published policy in respect of this review process.

## **2.9 Part 9 Independent Advocates and Complaints (Articles 44–45)**

Part 9 of the draft Law gives a power to the States to make Regulations to require the Minister to make reasonable arrangements to make provision for independent advocacy for children who have a health or development need, children who are looked after and for care leavers. The appointment of independent advocates is to act in relation to, and on behalf of, children and care leavers in the first instance and this may be extended to other groups of people if they are later identified in Regulations.

The draft provisions also set out a range of elements the regulations on independent advocacy might include such as the appointment of advocates and their role, conduct and powers. Further provision in respect of their role may include matters relating to the help to be given to children and care leavers in obtaining information about, and understanding applicable and relevant provisions of this Law, with particular regard to the rights of children and care leavers under it; help to be given to children and care leavers as to the proper exercise of those rights; and help to be given to children and care leavers who make, or intend to make any complaints or other representations under the complaints procedure under the proposed complaints mechanism in this part.

Under this Part the Minister must also establish and publish a written procedure for considering representations and complaints made to the Minister about the discharge of functions in respect of children and care leavers under Parts 4, 5 and 7 of the draft Law

and also provides scope for including aspects of the [Children \(Jersey\) Law 2002](#) and the [Adoption \(Jersey\) Law 1961](#).

### **2.10 Part 10 Closing Provisions (Articles 46–48)**

This part makes provision for transitional, consequential, incidental, supplementary or savings provisions, for amendments to the [Children \(Jersey\) Law 2002](#) and for citation and commencement.

### **2.11 Schedule**

The Schedule contains the named corporate parents.

## **3 Financial and manpower implications**

The financial and manpower implications have been set out and approved by the Assembly in their Government Plan 2021-2024.

## **4 Human Rights Statement**

The notes on the human rights aspects of the draft Law in the **Appendix** to this report have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

**APPENDIX TO REPORT****Human Rights Notes on the Draft Children and Young People (Jersey) Law 202-**

These Notes have been prepared in respect of the Draft Children and Young People (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

The draft Law, if passed, would make provision to promote and support the wellbeing, and safeguard the welfare, of children and young people including, in particular, the provision of services or support to meet the assessed wellbeing or health or development needs of children in care, or young people leaving care.

The draft Law is considered to engage Article 8 ECHR, the right to private life, primarily. The provisions which engage Article 8 ECHR are, in general terms, those which provide for the disclosure, provision or sharing of information by or to persons on whom the draft Law places statutory duties or functions, such as the responsible Ministers, relevant providers and corporate parents.

The provisions of the draft Law which engage Article 8 ECHR in this way are: the power for arrangements to be made by responsible Ministers as to the disclosure of information relating to children and young people<sup>20</sup>; the power for safeguarding partners to make arrangements as to the disclosure of information between safeguarding partners and relevant providers<sup>21</sup>; the power for safeguarding partners to request a person to provide information as to child deaths<sup>22</sup>; permissive provision for information sharing in collaborative working between corporate parents<sup>23</sup>; and, the power for the States to make regulations which would enable provision to be made for independent advocates to require disclosure, and inspection of, records relating to a child or care leaver<sup>24</sup>.

Article 8 ECHR provides that interferences in private life, such as powers or measures for the disclosure of personal information or data, must be in accordance with the law, pursue a legitimate aim and be ‘necessary in a democratic society’. ‘Necessity’ has been taken to mean there is a pressing social need, the reasons for any interferences are both relevant and sufficient and involves a test of proportionality in assessing whether the relationship between the action taken and the aim of the intervention is acceptable.

In the main, the provisions that engage Article 8 ECHR in the draft Law, mentioned in paragraph 6, are permissive in nature. They provide for measures that the draft Law would permit to be done or would require to be implemented by specified persons. Such provisions do not present in themselves a direct interference with the Article 8 ECHR rights of children and young people. Rather, it will be the measures required or permitted to be implemented under these provisions, for example arrangements made by safeguarding partners or Regulations made by the States, that would directly engage Article 8 ECHR issues and would, therefore, need to be actioned or made in a way that is compatible with the ECHR.

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<sup>20</sup> Article 4(4).

<sup>21</sup> Article 5(3)(e).

<sup>22</sup> Article 6(7).

<sup>23</sup> Article 28(2)(a).

<sup>24</sup> Article 44(5)(d).

The aim of the draft Law can clearly be said to be the protection of health (wellbeing of children and young people) and there is a recognised and continuing social need to improve the lives of children and young people in Jersey. As such, the draft Law is capable of being deemed to be a necessary measure in pursuit of a legitimate aim. In terms of proportionality, the draft Law contains several features which should operate to ensure that measures made or implemented under the information provisions highlighted in paragraph 5 are capable of being deemed, in principle, as compatible with the ECHR.

In the case of requirements on responsible Ministers and safeguarding partners to make arrangements for, inter alia, the disclosure of information relating to children and young people<sup>25</sup>, the intended measures are framed in a way which should ensure the extent of disclosure and the way disclosure is made remains proportionate. The draft Law specifies the purpose of disclosure<sup>26</sup> and between whom disclosure can be made, and as regards safeguarding partner arrangements, there is a requirement that safeguarding partners and relevant providers act in accordance with the arrangements<sup>27</sup>. It is also clear in these provisions that arrangements which may permit disclosure do not derogate from the requirements of the [Data Protection \(Jersey\) Law 2018](#) (the “2018 Law”)<sup>28</sup>.

In the case of information sharing by corporate parents pursuant to collaborative working under Part 6 of the draft Law<sup>29</sup>, there are similar provisions which would frame the exercise of the information sharing power: the purpose for which information may be shared is specified<sup>30</sup>, there are limits on the type of information which may be shared<sup>31</sup>, and there is a non-derogation statement as regards the 2018 Law<sup>32</sup> and provision ensuring information sharing is done within data protection principles and guidance<sup>33</sup>. In the case of the regulation making power for independent advocates in Part 9, the power to make provision for information gathering is framed clearly by the purpose for which such powers are permitted to be exercised<sup>34</sup>, and the regulations will be required to clearly specify the role and conduct of independent advocates<sup>35</sup>. Finally, in the case of the power for safeguarding partners to require persons to provide specified information<sup>36</sup>, the power is specified to be for the purpose of reviewing child deaths and is contained by an explicit requirement that information obtained is not used for any other purpose<sup>37</sup>.

In sum, the framework of these provisions should operate to frame measures implemented under the draft Law in a proportionate way, that is therefore compatible with Article 8 ECHR. The implementation of those measures will also be the responsibility of public authorities who must act lawfully by the Human Rights (Jersey) Law 2000, that is, in a way which is compatible with the ECHR.

No other Articles of the ECHR are considered to be substantively engaged by the draft Law.

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<sup>25</sup> Article 4(4) and Article 5(3)(e), respectively.

<sup>26</sup> See, for example, Article 4(1) and (2).

<sup>27</sup> Article 5(6).

<sup>28</sup> See Article 4(6) for example.

<sup>29</sup> See Article 28.

<sup>30</sup> Article 28(1).

<sup>31</sup> Article 28(3).

<sup>32</sup> Article 28(5).

<sup>33</sup> Article 28(4).

<sup>34</sup> Article 44(5)(d) and 44(3)(f).

<sup>35</sup> Article 44(2).

<sup>36</sup> Article 6(7).

<sup>37</sup> Article 6(8).

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## EXPLANATORY NOTE

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This draft Law, if passed, will make provision to promote and support the wellbeing, and safeguard the welfare, of children and young people including, in particular, the provision of services or support to meet the assessed wellbeing or health or development needs of children in care, or young people leaving care.

*Part 1* contains the interpretation provision and the Law's overriding objective (*Articles 1* and *2*).

*Article 1* contains the definitions of certain words and expressions that are used throughout the Law. In particular "responsible Ministers" means the Minister for Children and Education (the "Minister"), Minister for Health and Social Services, Minister for Home Affairs and Minister for Housing and Communities.

*Article 2* sets out the Law's overriding objective which is to promote and support the wellbeing, and safeguard the welfare, of children and young people (as defined in *Article 1(1)*). This Article requires the responsible Ministers, corporate parents, safeguarding partners and relevant providers (all defined in *Article 1(1)*), when discharging functions under this Law, to have regard to the overriding objective and other matters which are founded on certain key principles set out in the United Nations Convention on the Rights of the Child. This Article also makes it clear that this Law does not provide a gateway to entitlements, services or any form of benefits for which provision is made under other enactments.

*Part 2* contains provisions regarding arrangements to promote and support the wellbeing, and safeguard the welfare, of children and young people (*Articles 3* to *6*).

*Article 3* sets out the matters to be taken into account whenever a person under this Law is to assess a child or care leaver's wellbeing ("wellbeing assessment"). Those matters are referred to in the Law as the "wellbeing indicators". This Article also requires the Minister to publish guidance for persons who are carrying out wellbeing assessments about the use of the wellbeing indicators, and what constitutes relevant material for the purposes of a wellbeing assessment. Those persons are required to have regard to the guidance.

*Article 4* requires the responsible Ministers to make arrangements to promote co-operation between themselves and relevant providers with a view to promoting the wellbeing of children and young people by reference to the wellbeing indicators. The arrangements must include arrangements regarding the mutual disclosure of information obtained in the course of discharging functions in relation to children or young people. The responsible Ministers may issue guidance for the purposes of promoting all-round co-operation and any such guidance must be had regard to.

*Article 5* requires safeguarding partners (as listed in *Article 5(1)*) and relevant providers to make arrangements to ensure, that when discharging their functions in relation to children or young people, they work together effectively and they have regard to the need to safeguard the welfare of the children and young people. Those arrangements must include the matters set out in *Article 5(3)* e.g. identifying and responding to children and young people whose welfare appears to need safeguarding; procuring professional advice on safeguarding; and arranging for scrutiny by an independent person of the effectiveness of the arrangements. The safeguarding partners must publish their arrangements and have regard to any guidance published by the Minister for the purposes of this Article or for the purposes of functions under Part 4 (care and supervision) and Part 5 (protection of children) of the Children (Jersey) Law 2002 ("Children Law"). The safeguarding partners must also publish a report once a year on

how they have discharged their arrangements, and how effective those arrangements have been.

*Article 6* requires safeguarding partners to make arrangements for the review of child deaths in Jersey and for the analysis of information about those deaths. Safeguarding partners must occasionally prepare and publish a report on what they have done as a result of the arrangements under this Article and how effective the arrangements have been in practice.

*Part 3* contains provisions regarding the production of a children and young people's strategic plan (*Articles 7 to 12*).

*Article 7* requires the responsible Ministers to prepare and publish a strategic plan setting out their plans for the provision of services for children and young people, starting with the 4 year period that begins on 1st January of the year following the commencement of this Law.

*Article 8* sets out the aims of the strategic plan.

*Article 9* requires the responsible Ministers and relevant providers, so far as is reasonably practicable, to co-operate with each other to provide services for children or young people in accordance with the strategic plan.

*Article 10* requires the responsible Ministers to publish and present a report to the States on the extent to which the strategic plan's aims have been achieved.

*Article 11* requires relevant providers to have regard to any guidance published by the responsible Ministers in connection with the delivery of services for children or young people as set out in the strategic plan.

*Article 12* requires the responsible Ministers and relevant providers to publish, at the beginning of each year, details of the services they may provide to children, young people and their families.

*Part 4* contains provisions regarding the provision of services for children with a health or development need (*Articles 13 to 15*).

*Article 13* states that the provisions under *Part 4* only apply in respect of children who are not looked after by the Minister but who have a health or development need as defined in this Article. This Article further provides that the Minister must cause a wellbeing assessment to be made of a child who appears to have a health or development need.

*Article 14* confers a general duty on the Minister to provide, in so far as is reasonably practicable, a range and level of services appropriate to meet the needs of children under *Part 4* who are assessed, under *Article 13*, as having a health or development need. The Minister must, so far as is consistent with the general duty, promote the upbringing of such children by their families. Services may include providing assistance in kind or cash. But any such assistance may be subject to conditions, including its repayment.

*Article 15* makes provision concerning the design of services to be provided by the Minister in respect of disabled children with a health or development need, or children with a health or development need who have a disabled family member. The States may make Regulations to make further provision in respect of the design of services to facilitate breaks for carers of disabled children.

*Part 5* contains provisions regarding a child's wellbeing assessment and plan (*Articles 16 to 23*).

*Article 16* provides that *Part 5* does not apply to looked after children.

*Article 17* provides that a child, the child's parents or a relevant provider can request a wellbeing assessment (as defined in *Article 1(1)*) if the child appears to have a wellbeing

need (also defined in *Article 1(1)*). This Article further provides that if the wellbeing assessment confirms that the child has a wellbeing need that is not capable of being met other than through a targeted intervention (as defined in *Article 1(1)*), and the child's parent and any relevant provider that is known to the child agree that a wellbeing plan (also defined in *Article 1(1)*) is required to facilitate the provision of a targeted intervention to address that child's wellbeing need, the child is entitled to a wellbeing plan.

*Article 18* provides that a child who is assessed as having a health or development need is entitled to a wellbeing plan if that child's parents and the Minister agree that a wellbeing plan is required to facilitate the provision of targeted intervention to address and improve that child's health or development.

*Article 19* sets out what a wellbeing plan must contain, including the targeted intervention to be provided and the relevant provider who has agreed to provide it.

*Article 20* provides for the appointment of a person whose functions are to prepare, manage and co-ordinate the wellbeing plan.

*Article 21* requires a relevant provider, so far as is reasonably practicable, to provide, in accordance with the wellbeing plan, any targeted intervention contained in the plan, and secure that any third party who is providing the targeted intervention on the relevant provider's behalf provides it in accordance with the plan.

*Article 22* requires the person appointed under *Article 20* to keep the wellbeing plan under review and to amend or revise it following consultation with the relevant provider of any targeted intervention, the child and the child's parents and other persons the appointed person considers appropriate.

*Article 23* requires the Minister to publish guidance on the content, form, preparation and management of wellbeing plans which relevant providers and appointed persons must have regard to.

*Part 6* contains provisions regarding corporate parenting (*Articles 24 to 34*).

*Article 24* states that *Part 6* applies to looked after children, care leavers and certain descriptions of young people as may be specified in an Order made by the Minister.

*Article 25* introduces the Schedule which lists persons who are corporate parents and provides that the Schedule may be amended by Order. No Order may be made without a corporate parent's, or proposed corporate parent's consent, or in order to make a Non-Ministerial Department, such as the Law Officers Department, a corporate parent.

*Article 26* sets out the general duties of corporate parents referred to under this Part as "corporate parenting responsibilities". These duties include being alert to matters which, or which might, adversely affect wellbeing, and assessing the needs of children and care leavers for the services and support provided by corporate parents.

*Article 27* requires a corporate parent, in consultation with other corporate parents, to prepare and publish a plan on how it proposes to exercise its corporate parenting responsibilities, and to keep the plan under review.

*Article 28* requires corporate parents to work collaboratively with each other in so far as is reasonably practicable when exercising their corporate parenting responsibilities, where doing so would safeguard the welfare or promote the wellbeing of individuals to whom *Part 6* applies. This Article also gives examples of what collaborative working may include, such as providing advice or assistance, co-ordinating activities or funding activities jointly.

*Article 29* requires corporate parents to publish information about the services they offer and sets out a list of examples of such services. The published information must be periodically updated, reviewed and consulted upon at least every 4 years.

*Article 30* requires corporate parents to publish reports on how they have exercised their corporate parenting responsibilities, their functions under *Articles 27* and *28* and other functions under *Part 6*.

*Article 31* provides for the establishment of the corporate parenting board (the “board”) and its main function which is to monitor and review the discharge of corporate parenting responsibilities and other functions of corporate parents under *Part 6*. This Article also provides for the board’s membership, the conduct of its business and publication and reporting requirements.

*Article 32* requires the responsible Ministers to determine and publish the criteria and other matters relating to the appointment of the members of the board who represent looked after children, care leavers or other young people, and voluntary bodies.

*Article 33* requires corporate parents to provide the board with such information as the board may reasonably require about how the corporate parent is exercising its corporate parenting responsibilities and functions under *Part 6*.

*Article 34* requires the board to issue consulted upon guidance to corporate parents about their corporate parenting functions, and corporate parents must have regard to that guidance. This Article also sets out matters that may be contained within that guidance.

*Part 7* contains provisions regarding support for looked after children and care leavers (*Articles 35* to *40*).

*Article 35* states that *Part 7* applies to looked after children and care leavers and sets out several definitions for words or expressions used in this Part. In particular, the definition “wellbeing needs” in *Article 35(2)* includes health or development needs. This Article also requires the Minister to consult upon, and publish any guidance issued under the provisions of this Part and gives the States power to make Regulations to make further provision as to the discharge of functions under this Part.

*Article 36* requires the Minister to cause a wellbeing assessment to be carried out in respect of each child the Minister is looking after, and each care leaver, with a view to determining the wellbeing needs (if any) of that individual, and the services that would be appropriate for the Minister to provide to meet the individual’s wellbeing needs. If the wellbeing assessment confirms that the individual in question has a wellbeing need, the Minister is then required to cause a wellbeing plan to be prepared in respect of that individual. This Article also provides for the content of the wellbeing plan, including details of any targeted intervention, staying put arrangement under *Article 40* or an alternative arrangement, and for the plan’s review.

*Article 37* requires the Minister to issue guidance in relation to wellbeing assessments and plans and sets out what may be contained in that guidance.

*Article 38* confers a general duty on the Minister to provide a range and level of services appropriate to meet the assessed wellbeing needs of looked after children and care leavers. This includes providing advice and assistance with a view to preparing a looked after child for when that child is no longer looked after. Services may include giving assistance in kind or in cash.

*Article 39* requires the Minister to arrange for a personal adviser to be assigned to all looked after children who have reached the age of 14, care leavers under the age of 22 and any care leavers aged 22 up to, but not including, age 25 who have requested that a personal adviser remain assigned to them. This Article also sets out the functions of a personal adviser.

*Article 40* requires the Minister to maintain a staying put arrangement in respect of any eligible care leaver. A care leaver is only eligible for such an arrangement if that individual is aged 18 but under the age of 22. A staying put arrangement is an arrangement whereby the Minister must, subject to a number of exceptions set out in *Article 40(6)*, provide an eligible care leaver with the same or comparable accommodation as was being provided to that individual immediately before ceasing to be looked after. If the individual is not entitled to a staying put arrangement by reason of one of the exceptions, that individual's wellbeing plan must determine an alternative arrangement. This Article also provides for when the Minister's duty to maintain a staying put arrangement ceases to have effect.

*Part 8* contains miscellaneous provisions in respect of looked after children (*Articles 41 to 43*).

*Article 41* requires the Minister to promote the educational achievement of looked after children by appointing an individual for the purpose of discharging the Minister's duty under this Article. That individual must be a States' employee. The Minister may, by Order, prescribe the appointed individual's experience or qualifications and functions.

*Article 42* requires the Minister to review the case of each looked after child in accordance with the policy published under *Article 43* and to appoint an individual as the independent reviewing officer for a looked after child's case. This Article also sets out who is not eligible for appointment as an independent reviewing officer, and the functions of an independent reviewing officer.

*Article 43* requires the Minister to prepare and implement a written policy regarding when and the manner in which the Minister is to review looked after children's cases.

*Part 9* contains provisions regarding independent advocates and complaints (*Articles 44 and 45*).

*Article 44* is a power for the States to make Regulations requiring the Minister to make arrangements for the provision of an independent advocacy service whereby independent advocates are appointed to act on behalf of children with a health or development need, looked after children, care leavers and other people as the Regulations may specify, such as parents or other people who have parental responsibility for a child.

*Article 45* requires the Minister to establish a complaints procedure to deal with complaints or representations about the discharge of such functions under this Law, the Children Law, the Adoption (Jersey) Law 1961 or any other enactment in respect of children or care leavers, as are specified in the complaints procedure.

*Part 10* contains closing provisions (*Articles 46 to 48*).

*Article 46* is a standard general provision in relation to powers to make Orders or Regulations under this Law.

*Article 47* makes 3 consequential amendments to the Children Law, the effect of which is to signpost that the provision of services for looked after children and care leavers now falls within the scope of this Law rather than the Children Law. Substituted Article 21 of the Children Law removes references to looked after children so that it is now only concerned with the provision of assistance to individuals who, as children, were not looked after by the Minister but were accommodated in a children's home or in foster care under private or voluntary arrangements.

*Article 48* provides for the title by which this Law may be cited and for it to come into force on a day to be specified by Act of the States.





Jersey

## DRAFT CHILDREN AND YOUNG PEOPLE (JERSEY) LAW 202-

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Jersey

## DRAFT CHILDREN AND YOUNG PEOPLE (JERSEY) LAW 202-

A **LAW** to make provision to promote and support the wellbeing, and safeguard the welfare, of children and young people, and for connected purposes.

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<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of Her Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

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### PART 1

#### INTERPRETATION AND OVERRIDING OBJECTIVE

##### 1 Interpretation

(1) In this Law –

“administration of the States” has the definition given in the Employment of States Employees Law;

“appointed person” means a person appointed under Article 20(1) to prepare a wellbeing plan in respect of a child entitled to a wellbeing plan under Article 17 or 18;

“care leaver” means –

- (a) subject to paragraph (2), an individual aged 16 up to (but not including) the age of 25 who has been looked after by the Minister for a minimum period of 13 weeks, whether in aggregate or consecutively, from the age of 14 up to (but not including) the age of 18; or
- (b) an individual who is of such description as the Minister may by Order specify, and who at any time before the age of 18 was looked after by the Minister but ceased to be so looked after before that age;

“chief officer” means the senior States’ employee of a department or unit of administration established on behalf of the States;

“children” means individuals who have not reached the age of 18;

“children and young people services” means the function discharged in respect of children and young people by the administration of the States for which the Minister is assigned responsibility;

“Children Law” means the [Children \(Jersey\) Law 2002](#);

“Commissioner” has the definition given in the [Commissioner for Children and Young People \(Jersey\) Law 2019](#);

“corporate parents” means the persons listed, or described, in the table in the Schedule;

“corporate parenting board” is construed in accordance with Article 31;

“corporate parenting responsibilities” means the duties conferred on a corporate parent by Article 26(1);

“Court” means the Royal Court;

“Data Protection Authority” means the Authority of that name established under Article 2(1) of the Data Protection Authority Law;

“Data Protection Authority Law” means the [Data Protection Authority \(Jersey\) Law 2018](#);

“Data Protection Law” means the [Data Protection \(Jersey\) Law 2018](#);

“Departments of the Judiciary Law” means the [Departments of the Judiciary and the Legislature \(Jersey\) Law 1965](#);

“development” includes behavioural, emotional, intellectual, mental, moral, physical, spiritual, and social development;

“disability” means –

- (a) a disability that is a protected characteristic under paragraph 8 (disability) of Schedule 1 (protected characteristics) to the [Discrimination \(Jersey\) Law 2013](#); or
- (b) a “learning disability” or “mental disorder” as defined in the Mental Health Law;

“Education Law” means the [Education \(Jersey\) Law 1999](#);

“Employment of States Employees Law” means the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#);

“family” includes any individual who is a parent of a child and any other individual with whom the child is living;

“health” means physical or mental health;

“Health and Social Care Commission” means the Commission of that name established under Article 35 of the [Regulation of Care \(Jersey\) Law 2014](#);

“health or development need”, in relation to a child, is construed in accordance with Article 13;

“independent reviewing officer” means the person appointed under Article 42;

“Jersey Probation and Aftercare Service” means the unit of administration, operating independently of the States, responsible for probation officers;

“looked after by the Minister” is construed in accordance with Article 1A of the Children Law;

“looked after children” means children looked after by the Minister;

“Mental Health Law” means the [Mental Health \(Jersey\) Law 2016](#);

“Minister” means the Minister for Children and Education;

“parent” has the definition given in the Children Law and includes any individual –

- (a) who has acquired parental responsibility in respect of a child by virtue of an order made by the Court under the Children Law; or
- (b) who is a child’s guardian appointed under Article 7 of that Law;

“prescribed” means prescribed by Order of the Minister;

“probation officer” means a *délégué* as defined in the [Loi \(1937\) sur l’atténuation des peines et sur la mise en liberté surveillée](#);

“publish” means publish online or in any other manner appearing to the person publishing to be likely to bring the matter published to the attention of those whom it concerns;

“related services” means any services or support which are not exclusively provided to, or for the benefit of, children or young people but which nonetheless are capable of having a significant effect on the wellbeing of children or young people;

“relevant provider” means a provider of services for children or young people or a provider of related services;

“responsible Ministers” means the Minister, Minister for Health and Social Services, Minister for Home Affairs and Minister for Housing and Communities;

“safeguarding partners” means the people listed in Article 5(1);

“services for children or young people” means any service or support which is provided exclusively or mainly to, or for the benefit of, children or young people which, in the case of children, means all children regardless of whether or not they –

- (a) are looked after by the Minister; or
- (b) have needs of a particular type, such as a disability-related need, or a need for additional support in learning;

“States” means the States of Jersey constituted under Article 2 of the [States of Jersey Law 2005](#);

“States’ employee” is construed in accordance with Article 2 of the Employment of States Employees Law;

“strategic plan” is construed in accordance with Article 7 and includes a revised strategic plan prepared and published under Article 7(4);

“targeted intervention” is a service which –

- (a) is provided by a relevant provider;
- (b) is directed, in so far as is reasonably practicable, at meeting the needs of children or young people whose needs are not capable of being met, or met fully, by the services which are provided generally to children or young people by a relevant provider; and

- (c) includes services provided by a third party under arrangements made by that relevant provider;
- “wellbeing assessment” is an assessment of a child or care leaver for the purposes of Article 3(1);
- “wellbeing indicators” means the indicators listed in Article 3(2);
- “wellbeing need”, in relation to a child or young person, means that the child’s or young person’s wellbeing is, or is at risk of being, adversely affected by any matter;
- “wellbeing plan” means the plan referred to in Part 5 prepared in respect of a child under that Part or, the plan referred to in Part 7 prepared in respect of a looked after child or care leaver under that Part;
- “young people” means individuals who are aged 18 up to (but not including) the age of 25 and who –
- (a) are care leavers; or
  - (b) have a disability.
- (2) The Minister may, by Order, provide for the making of exceptions from sub-paragraph (a) of the definition “care leaver”.
- (3) Any reference in this Law to a report being presented to the States means that the report is presented in accordance with such procedures as may be provided by the standing orders of the States of Jersey.
- (4) The Minister may by Order amend the definitions or other provisions in this Article.

## **2 Overriding objective of Law**

- (1) The overriding objective of this Law is to promote and support the wellbeing, and safeguard the welfare, of children and young people.
- (2) In discharging functions under this Law the persons set out in paragraph (3) must –
  - (a) have regard to the overriding objective;
  - (b) take all appropriate measures to ensure that children and young people are protected against all forms of unlawful discrimination;
  - (c) have the best interests of children and young people as a primary consideration;
  - (d) have regard to the views of children and young people on all matters affecting them, with due allowance being made for age and maturity; and
  - (e) promote the health and development of children and young people.
- (3) The duties in paragraph (2) apply to –
  - (a) the responsible Ministers and all the other corporate parents;
  - (b) safeguarding partners; and
  - (c) relevant providers.
- (4) The Minister may publish guidance in connection with the discharge of the duties under paragraph (2), or where Regulations are made for the purposes set out in paragraph (6).

- (5) Before publishing guidance, or revised guidance, the Minister must consult the Commissioner.
- (6) Where functions in respect of children or young people are conferred on persons under other enactments, the States may, by Regulations, amend any of those enactments for the purposes of –
  - (a) applying the terms of the overriding objective and the requirement to have regard to it, to the discharge of those functions by those persons under that enactment; or
  - (b) conferring all or any of the duties listed in paragraph (2)(b) to (e) on those persons when discharging their functions under that enactment.
- (7) Nothing in this Law affects the operation of, or derogates from, the provisions of any other enactment concerning the determination of a status in respect of, or claim to, any entitlement, service, provision or benefit of any nature.

## PART 2

### ARRANGEMENTS TO PROMOTE AND SUPPORT WELLBEING AND SAFEGUARD WELFARE OF CHILDREN AND YOUNG PEOPLE

#### **3 Wellbeing assessment and indicators**

- (1) This Article applies where a person is to assess whether the wellbeing of a child or care leaver is being or would be –
  - (a) promoted;
  - (b) safeguarded;
  - (c) supported; or
  - (d) affected.
- (2) The person is to assess the wellbeing of the child or care leaver by reference to the extent to which the child or care leaver is or, as the case may be, would be –
  - (a) safe;
  - (b) healthy;
  - (c) achieving;
  - (d) nurtured;
  - (e) active;
  - (f) respected;
  - (g) responsible; and
  - (h) included.
- (3) An assessment of a child or care leaver for the purposes of paragraph (1) is referred to in this Law as a wellbeing assessment.
- (4) The Minister must publish guidance –
  - (a) on how the wellbeing indicators, are to be used when carrying out a wellbeing assessment; and

- (b) on the material (in addition to that mentioned in paragraph (5)) or other information which may be relevant for the purposes of a wellbeing assessment.
- (5) A probation officer's assessment of a child or care leaver carried out in connection with a parish hall inquiry into an allegation that an offence has been committed by that child or care leaver is relevant material to be taken into account for the purposes of a wellbeing assessment.
- (6) A person carrying out a wellbeing assessment must have regard to the guidance published under paragraph (4).
- (7) Before publishing guidance or revised guidance, the Minister must consult –
  - (a) relevant providers;
  - (b) the Commissioner;
  - (c) the Health and Social Care Commission; and
  - (d) such other persons as the Minister considers appropriate.
- (8) Subject to paragraph (9), the States may by Regulations modify the wellbeing indicators.
- (9) Before lodging Regulations under paragraph (8), the Minister must publish proposals to modify the wellbeing indicators and take account of any representations received in respect those proposals.

#### **4 Co-operation to promote wellbeing**

- (1) The responsible Ministers must make such arrangements as they consider appropriate to promote co-operation between themselves and relevant providers.
- (2) The arrangements must be made with a view to promoting the wellbeing of children and young people by reference to the wellbeing indicators.
- (3) In making arrangements under this Article, the responsible Ministers must have regard to the importance of parents and other people caring for children or young people in promoting their wellbeing.
- (4) Arrangements under this Article must include arrangements as to the disclosure of information between the responsible Ministers and relevant providers, provided that any disclosure under those arrangements –
  - (a) relates to information obtained in the course of discharging functions in relation to children or young people whether under any enactment conferring functions in relation to children or young people, or otherwise; and
  - (b) is ancillary to the discharge of functions mentioned in sub-paragraph (a), or for the purposes of securing co-operation with a view to promoting the wellbeing of children and young people.
- (5) Arrangements as to the disclosure of information in paragraph (4) must not require the disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or prevent any such disclosure if that claim is waived.
- (6) For the avoidance of doubt, paragraph (4)(a) and (b) does not derogate from the requirements of the Data Protection Law.

- (7) Relevant providers and responsible Ministers must have regard to any guidance published by the responsible Ministers for the purposes of promoting co-operation amongst themselves, and promoting the wellbeing of children and young people.
- (8) Before publishing guidance or revised guidance, the responsible Ministers must consult the Commissioner and such other persons as the responsible Ministers consider appropriate.
- (9) Guidance includes any guidance or code of practice on data protection endorsed by the Data Protection Authority in the discharge of its functions under Article 11(1)(d) or (j) of the Data Protection Authority Law.

## **5 Arrangements to safeguard the welfare of children and young people**

- (1) The following people are safeguarding partners –
  - (a) the Chief Executive Officer within the meaning of Article 3 of the Employment of States Employees Law;
  - (b) the chief officers of the administrations of the States for which the responsible Ministers (apart from the Minister for Housing and Communities) are each respectively assigned responsibility; and
  - (c) the Chief Officer of the States of Jersey Police Force.
- (2) Safeguarding partners must, after consulting such persons as they consider appropriate, make such arrangements as are reasonably practicable to enable safeguarding partners and relevant providers –
  - (a) to discharge their functions having regard to the need to safeguard the welfare of children or young people; and
  - (b) to work together effectively when they are discharging functions for the purposes of safeguarding the welfare of children or young people.
- (3) Safeguarding partners must ensure that the arrangements under paragraph (2) include –
  - (a) arrangements to identify and respond to children or young people whose welfare appears to need safeguarding;
  - (b) arrangements for planning, reviewing and improving arrangements to safeguard the welfare of children or young people;
  - (c) arrangements for procuring professional advice on safeguarding the welfare of children or young people;
  - (d) arrangements for reviewing and learning from serious child safeguarding cases;
  - (e) arrangements as to the disclosure of information between safeguarding partners and relevant providers; and
  - (f) arrangements for scrutiny by an independent person of the effectiveness of the arrangements (other than the scrutiny of arrangements referred to in this sub-paragraph).
- (4) Arrangements under paragraph (3)(e) must not –
  - (a) permit the disclosure of information that –

- (i) relates to information obtained in the course of discharging functions which are for the purpose of safeguarding the welfare and promoting the wellbeing of children or young people, or
    - (ii) is ancillary to the discharge of functions mentioned in clause (i) or for the purposes of working together as mentioned in paragraph (2)(b); or
  - (b) require the disclosure of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or prevent any such disclosure if that claim is waived.
- (5) For the avoidance of doubt, paragraph (4)(a) does not derogate from the requirements of the Data Protection Law.
- (6) Safeguarding partners and relevant providers must act in accordance with the arrangements made under paragraph (2) and have regard to any guidance published by the Minister for the purposes of this Article.
- (7) Guidance under this Article may include –
- (a) guidance as to good practice in the discharge of safeguarding functions under Part 4 (care and supervision) and Part 5 (protection of children) of the Children Law; and
  - (b) any guidance or code of practice on data protection endorsed by the Data Protection Authority in the discharge of its functions under Article 11(1)(d) or (j) of the Data Protection Authority Law.
- (8) Before publishing guidance or revised guidance, the Minister must consult the Commissioner and such other persons as the Minister considers appropriate.
- (9) Safeguarding partners must publish the arrangements made under paragraph (2) not later than 6 months after they are made.
- (10) At least once in every 12 month period safeguarding partners must collectively prepare a report on –
- (a) what they and relevant providers have done as a result of the arrangements; and
  - (b) how effective the arrangements have been in practice.
- (11) A report prepared under paragraph (10) must be reviewed by an independent person mentioned in paragraph (3)(f).
- (12) The responsible Ministers must take into account the review by independent person under paragraph (11), before publishing and presenting the report to the States not later than 6 months after the end of the 12 month period to which the report relates.
- (13) In this Article –
- “functions” means any functions discharged in respect of children or young people by safeguarding partners and relevant providers;
  - “serious child safeguarding cases” means cases in which –
- (a) abuse or neglect of a child is known or suspected by a safeguarding partner or relevant provider; and
  - (b) the child has died or been seriously harmed;

“serious harm” includes serious or long-term impairment of mental health or intellectual, emotional, social or behavioural development.

## **6 Review of child deaths**

- (1) Safeguarding partners must make arrangements for the review of each death of a child normally resident in Jersey.
- (2) Safeguarding partners may also, if they consider it appropriate, make arrangements for the review of the death of a child not normally resident in Jersey at the time of death.
- (3) Safeguarding partners must make arrangements for the analysis of information about deaths reviewed under this Article.
- (4) The purposes of a review or analysis under this Article are –
  - (a) to identify any matters relating to the death of a child that are relevant to the welfare of children or to public health and safety; and
  - (b) to consider whether it would be appropriate for anyone to take action in relation to any matters identified.
- (5) Where safeguarding partners consider that it would be appropriate for a person to take action as mentioned in paragraph (4)(b), they must inform that person.
- (6) Safeguarding partners must, at such intervals as they consider appropriate, prepare and publish a report on –
  - (a) what they have done as a result of the arrangements under this Article; and
  - (b) how effective the arrangements have been in practice.
- (7) Safeguarding partners may, for the purpose of enabling or assisting the performance of functions under this Article, request a person to provide the information specified in the request.
- (8) Safeguarding partners must not use information, received in response to a request, for any purpose other than for the purpose mentioned in paragraph (7).
- (9) For the avoidance of doubt, a person who provides information in response to a request under paragraph (7) is not required to disclose or produce any information or documents which the person would, in an action before the Court, be entitled to refuse to disclose on grounds of legal professional privilege.
- (10) Safeguarding partners must have regard to any guidance issued by the Minister in connection with their functions under this Article.

### PART 3

#### STRATEGIC PLAN IN RESPECT OF CHILDREN AND YOUNG PEOPLE

#### **7 Requirement to prepare strategic plan in respect of children and young people**

- (1) In each 4 year period, the responsible Ministers must prepare and publish a strategic plan in respect of children and young people (“strategic plan”).
- (2) The strategic plan must set out the responsible Ministers’ strategic plans for the provision, over the 4 year period, of services for children and young people with a view to securing the achievement of the aims set out in Article 8.
- (3) The strategic plan must be developed in consultation with such persons as the responsible Ministers consider appropriate, which must include children, young people and parents.
- (4) The responsible Ministers must keep the strategic plan under review and may in consequence prepare and publish a revised strategic plan.
- (5) In this Article and in Article 10, “4 year period” means –
  - (a) the period of 4 years beginning with 1st January of the year following the commencement of this Law; and
  - (b) each subsequent period of 4 years.

#### **8 Aims of strategic plan**

- (1) The aims of the strategic plan are –
  - (a) that services for children and young people are provided in a way which –
    - (i) safeguards, supports and promotes their wellbeing,
    - (ii) ensures that any action to meet their wellbeing needs is taken at the earliest appropriate time and that, where appropriate, action is taken to prevent wellbeing needs from arising,
    - (iii) is integrated from the point of view of recipients, and
    - (iv) constitutes the best use of available resources; and
  - (b) that related services are provided in a way which, so far as is consistent with the objects and proper delivery of the service concerned, safeguards, supports and promotes the wellbeing of children and young people.
- (2) In paragraph (1)(a)(iii), services are integrated from the point of view of recipients if the providers of services for children and young people co-operate with each other to ensure services are planned and delivered in a co-ordinated way which best meets the needs of the recipient children and young people and their parents.

## **9 Implementation of strategic plan**

During the period to which a strategic plan relates, the responsible Ministers and relevant providers must, so far as is reasonably practicable, co-operate with each other to provide services for children or young people in accordance with that plan.

## **10 Reporting on strategic plan**

As soon as practicable after the end of the 4 year period (as defined in Article 7(5)) to which the strategic plan relates, the responsible Ministers must –

- (a) publish a report on the extent to which the strategic plan has achieved the aims set out in Article 8; and
- (b) present that report to the States.

## **11 Guidance in relation to planning the delivery of services for children and young people**

- (1) Relevant providers must have regard to any guidance published by the responsible Ministers in connection with the delivery of services for children or young people set out in the strategic plan.
- (2) Before publishing guidance or revised guidance, the responsible Ministers must consult –
  - (a) relevant providers;
  - (b) the Commissioner; and
  - (c) such other persons as the responsible Ministers consider appropriate.

## **12 Requirement to publish information about the provision of services**

The responsible Ministers and relevant providers must, at the beginning of each year, publish details of the services they may provide to children, young people and their families.

# **PART 4**

## **PROVISION OF SERVICES FOR CHILDREN WITH HEALTH OR DEVELOPMENT NEEDS**

### **13 Children with a health or development need**

- (1) This Part applies to a child with a health or development need and who is not looked after by the Minister (see Part 7 as to the Minister's duties in relation to looked after children).
- (2) A child has a health or development need if –
  - (a) any of the matters in paragraph (4) apply to the child; or

- (b) the child is an in-patient at a hospital or an approved establishment for the purpose of receiving treatment in respect of the child's mental health.
- (3) If a child has a health or development need, the Minister must cause a wellbeing assessment to be made of that child's health or development.
- (4) The matters referred to in paragraph (2)(a) are –
  - (a) the child is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable level of health or development without the provision of services by the Minister under this Part;
  - (b) the child's health or development is likely to be significantly impaired, or further impaired, without the provision to that child of those services; or
  - (c) where applicable, the child's disability or the disability of any other person living with the child is adversely affecting the child's health or development.
- (5) In paragraph (2)(b), "approved establishment" has the definition given in the Mental Health Law.

#### **14 Requirement to provide services for children with a health or development need**

- (1) For the purposes of fulfilling the duty in Article 2(2)(e), it is the Minister's general duty to provide, in so far as is reasonably practicable, a range and level of services appropriate to meet the health or development needs of children under this Part who are assessed under Article 13 as having a health or development need.
- (2) So far as is consistent with that duty, the Minister must promote the upbringing of such children by their families.
- (3) Any service provided by the Minister in the discharge of functions conferred under this Article may be provided for the family of that child or for any member of that child's family.
- (4) Before determining what, if any, services to provide for a child whose wellbeing assessment under Article 13 confirms that the child has a health or development need, the Minister must, so far as is reasonably practicable and consistent with the child's welfare –
  - (a) ascertain the child's wishes and feelings regarding the provision of those services; and
  - (b) give due consideration (having regard to the child's age and maturity) to any of the child's ascertainable wishes and feelings.
- (5) The Minister may make arrangements with relevant providers to provide services, on the Minister's behalf, to children who have a health or development need.
- (6) The provision of services may include giving assistance in kind or in cash ("assistance").
- (7) Assistance may be unconditional or subject to conditions as to the repayment of the assistance or of its value (in whole or in part), but no

individual is liable to make any repayment of assistance or of its value at any time when that individual is in receipt of income support under the [Income Support \(Jersey\) Law 2007](#).

- (8) Before giving any assistance or imposing any conditions, the Minister must have regard to –
- (a) the means of the child concerned and of each of the child's parents; and
  - (b) whether the giving of assistance would avoid the Minister being caused greater expense in the giving of assistance in another form, or where probable aggravation of the child's, the child's family's need, would cause greater expense to the Minister on a later occasion.

## **15 Services provided to children affected by disability**

- (1) Services provided under Article 14 to a disabled child, or to a child whose health or development is adversely affected by the disability of any other individual in the child's family, must be designed –
- (a) to minimise the effect –
    - (i) on any disabled child, of his or her disability, and
    - (ii) on any child who is adversely affected by the disability of any other individual in the child's family, of that other individual's disability;
  - (b) to give the children mentioned in sub-paragraph (a) the opportunity to lead lives which are as normal as possible; and
  - (c) to assist individuals who provide care for such children to continue to do so, or to do so more effectively, by giving them breaks from caring.
- (2) The States may by Regulations make provision for the purposes of paragraph (1)(c) in respect of the design of services to facilitate breaks for carers of disabled children.

## **PART 5**

### **WELLBEING ASSESSMENT AND PLAN**

## **16 Application of Part**

This Part does not apply to looked after children (see Part 7 as to the Minister's duties in relation to looked after children).

## **17 Wellbeing assessment and plan for child with a wellbeing need**

- (1) If it appears to any of the persons listed in paragraph (3) that a child has a wellbeing need, the person in question may request the relevant provider that is best known to the child to carry out a wellbeing assessment of the child.

- (2) A wellbeing assessment request under paragraph (1) may be refused if the relevant provider concerned can show good reason not to make the wellbeing assessment.
- (3) The following persons may request a wellbeing assessment –
  - (a) the child concerned;
  - (b) the child’s parents;
  - (c) any other relevant provider known to the child.
- (4) A child is entitled to a wellbeing plan if –
  - (a) the wellbeing assessment confirms that the child has a wellbeing need;
  - (b) paragraph (5) applies; and
  - (c) the child’s parent and a relevant provider that is known to the child agree that a wellbeing plan is required to facilitate the provision of targeted intervention to address that child’s wellbeing need.
- (5) This paragraph applies if –
  - (a) the wellbeing need is not capable of being met, or fully met, by the taking of action other than targeted intervention in relation to the child; and
  - (b) the wellbeing need, or the remainder of the need, is capable of being met, or met to some extent, by one or more targeted interventions in relation to the child.

## **18 Wellbeing plan for child with a health or development need**

A child is entitled to a wellbeing plan if –

- (a) a wellbeing assessment of that child under Article 13(3) establishes that the child has a health or development need; and
- (b) the child’s parents and the Minister agree that a wellbeing plan is required to facilitate the provision of targeted intervention to address and improve that child’s health or development.

## **19 Content of wellbeing plan**

- (1) A wellbeing plan must state –
  - (a) the child’s assessed –
    - (i) wellbeing need, or
    - (ii) health or development need;
  - (b) in relation to a child with a disability who has reached the age of 14, that child’s assessed projected long-term wellbeing, health or development needs from the age of 18 up to (but not including) the age of 25;
  - (c) the targeted intervention which is required to be provided in relation to the child; and
  - (d) in relation to each targeted intervention –

- (i) the relevant provider that is to provide the targeted intervention,
  - (ii) the manner in which the targeted intervention is to be provided, and
  - (iii) the outcome in relation to the child's assessed wellbeing, health or development need which the targeted intervention is intended to achieve.
- (2) Before including targeted intervention in a wellbeing plan, the appointed person must obtain the agreement of the relevant provider that would provide the targeted intervention, or under whose arrangements the intervention would be provided.

## **20 Preparation of wellbeing plan**

- (1) Where a child requires a wellbeing plan the relevant provider, or the Minister, as the case may be, must appoint a person ("appointed person") to prepare the plan as soon as is reasonably practicable.
- (2) The appointed person is responsible for managing and co-ordinating the wellbeing plan.
- (3) In preparing the wellbeing plan the appointed person must consult and, in so far as is reasonably practicable, ascertain and have regard to the views of –
  - (a) the child;
  - (b) the child's parents; and
  - (c) such other persons as the appointed person considers appropriate.
- (4) In having regard to the views of the child, the appointed person must take account of the child's age and maturity.

## **21 Delivery of wellbeing plan**

A relevant provider must, so far as is reasonably practicable and as long as the relevant provider considers that it would not adversely affect the wellbeing, health or development of the child –

- (a) provide, in accordance with the wellbeing plan, any targeted intervention contained in that plan; and
- (b) ensure that any targeted intervention which is to be provided by a third person, under arrangements made by the provider, is provided in accordance with the plan.

## **22 Review of wellbeing plan**

- (1) The appointed person in respect of a wellbeing plan is to keep under review whether –
  - (a) the assessed wellbeing, health or development need of the child set out in the plan is still accurate;
  - (b) each targeted intervention or the manner of its provision is still appropriate;

- (c) the outcome of the plan has been achieved; and
  - (d) the management of the plan should transfer to another appointed person.
- (2) In reviewing a wellbeing plan, the appointed person –
- (a) must consult each relevant provider to which paragraph (3) applies; and
  - (b) must, so far as is reasonably practicable, ascertain and have regard to the views of –
    - (i) the child, taking into account the child’s age and maturity,
    - (ii) the child’s parents, and
    - (iii) such other persons as the appointed person considers appropriate.
- (3) This paragraph applies to a relevant provider if –
- (a) that provider is providing the targeted intervention contained in the wellbeing plan; or
  - (b) the targeted intervention contained in the wellbeing plan is being provided by a third person under arrangements made by the provider.
- (4) The appointed person may in consequence of the review –
- (a) amend the wellbeing plan to revise –
    - (i) the wellbeing, development or health need of the child,
    - (ii) with the relevant provider’s agreement, the targeted intervention,
    - (iii) the manner in which the targeted intervention is required to be provided, or
    - (iv) the outcome which the plan is intended to achieve;
  - (b) transfer the management of the wellbeing plan to another appointed person; or
  - (c) end the wellbeing plan.

### **23 Guidance on wellbeing plans**

- (1) In relation to wellbeing plans under this Part, the Minister must publish guidance as to –
- (a) information to be contained in the plan;
  - (b) the form and preparation of the plan;
  - (c) the management of the plan, including –
    - (i) when and how the plan is to be reviewed in accordance with Article 22(1),
    - (ii) who is to be the appointed person in respect of the plan,
    - (iii) when and to whom management of the plan is to or may transfer under Article 22(4)(b),
    - (iv) when and how any new targeted intervention may be included in the plan,

- (v) the keeping, disclosure and destruction of plans.
- (2) A relevant provider and appointed person must have regard to the guidance published under this Article.
- (3) Before publishing guidance or revised guidance, the Minister must consult –
  - (a) relevant providers;
  - (b) the Commissioner; and
  - (c) such other persons as the Minister considers appropriate.

## **PART 6**

### **CORPORATE PARENTING**

#### **24 Application of Part**

This Part applies to individuals who are –

- (a) looked after children;
- (b) care leavers; and
- (c) young people of such description as the Minister may by Order specify.

#### **25 Corporate parents**

- (1) The persons listed, or described, in the table in the Schedule are corporate parents.
- (2) Subject to paragraph (3), the Minister may, by Order, amend the Schedule –
  - (a) after consulting any corporate parent the Minister proposes to remove from the table in the Schedule, or any person the Minister proposes to make a corporate parent and add to the table in the Schedule; or
  - (b) where a corporate parent listed in column 3 of the table changes their name.
- (3) No Order under this Article may be made –
  - (a) without a corporate parent's or proposed corporate parent's consent; or
  - (b) for the purposes of adding to the table in the Schedule a Department or officer referred to in Article 1, or a principal officer referred to in Article 2, of the Departments of the Judiciary Law.
- (4) Where paragraph (2)(b) applies, the corporate parent must notify the Minister of the name-change not less than 6 weeks before the change is to take effect.

## **26 Corporate parenting responsibilities**

- (1) In respect of the individuals to whom this Part applies, it is the general duty of every corporate parent, in so far as is consistent with the proper discharge of that corporate parent's other functions –
  - (a) to be alert to matters which, or which might, adversely affect the wellbeing of those individuals;
  - (b) to assess the needs of those individuals for the services and support the corporate parent provides;
  - (c) to promote the interests of those individuals;
  - (d) to seek to provide those individuals with opportunities to participate in activities designed to promote their wellbeing;
  - (e) to take such action as the corporate parent considers appropriate to help those individuals –
    - (i) to access the opportunities provided under sub-paragraph (d), and
    - (ii) to make use of services and access the support that is offered under Article 29; and
  - (f) to take such other action as the corporate parent considers appropriate for the purposes of improving the way in which the corporate parent discharges its functions in relation to those individuals.
- (2) The States may by Regulations –
  - (a) amend paragraph (1) to confer, remove or vary a duty on corporate parents; or
  - (b) provide that paragraph (1) is to be read, in relation to a particular corporate parent or corporate parents of a particular description, with a modification conferring, removing or varying a duty.

## **27 Planning by corporate parents**

- (1) A corporate parent must –
  - (a) prepare a plan for how it proposes to discharge its corporate parenting responsibilities; and
  - (b) keep the plan under review.
- (2) Before preparing or revising a plan, a corporate parent must consult such other corporate parents, and such other persons, as it considers appropriate.
- (3) A corporate parent must publish its plan and any revised plan and, in particular, plans may be published either separately, or as part of, any other plan or document.

## **28 Collaborative working among corporate parents**

- (1) Corporate parents must, in so far as is reasonably practicable, collaborate with each other when exercising their corporate parenting responsibilities or any other functions under this Part where they consider that doing so

would safeguard the welfare or promote the wellbeing of the individuals to whom this Part applies.

- (2) Such collaboration may include –
  - (a) subject to paragraphs (3) and (4), sharing information;
  - (b) providing advice or assistance;
  - (c) co-ordinating activities (and seeking to prevent unnecessary duplication);
  - (d) sharing responsibility for action;
  - (e) funding activities jointly;
  - (f) discharging functions under this Part jointly (for example, by publishing a joint plan or joint report).
- (3) Corporate parents must not share information in relation to particular individuals to whom this Part applies unless the information –
  - (a) it is obtained in the course of discharging functions in relation to those particular individuals whether under any enactment conferring functions in relation to looked after children, care leavers or young people, or otherwise;
  - (b) it is ancillary to the discharge of functions mentioned in subparagraph (a), or for the purposes of promoting collaboration in accordance with paragraph (1); and
  - (c) it does not relate to any information in respect of which a claim to legal professional privilege could be maintained in legal proceedings, unless such a claim is waived.
- (4) Corporate parents must have regard to any guidance or code of practice published by the Minister on information sharing and data protection, and endorsed by the Data Protection Authority in the discharge of its functions under Article 11(1)(d) or (j) of the Data Protection Authority Law.
- (5) For the avoidance of doubt, paragraph (3) does not derogate from the requirements of the Data Protection Law.

## **29 Services offered by corporate parents**

- (1) A corporate parent must publish information about the services it offers (if any), including any services that may assist care leavers in, or in preparing for, adulthood and independent living.
- (2) For the purposes of paragraph (1), services offered include services relating to –
  - (a) health and wellbeing;
  - (b) education and training;
  - (c) finance and employment;
  - (d) accommodation and housing;
  - (e) relationships and participation in society.
- (3) In relation to the published information referred to in paragraph (1), a corporate parent must –

- (a) periodically update the information and, in any event, review it not less than every 4 years; and
  - (b) before publishing the information (or any updated version of it), consult with the corporate parenting board and any other person the corporate parent considers appropriate, including looked after children and care leavers.
- (4) In this Article, “services” includes advice, guidance or assistance which may be in kind.

### **30 Reports by corporate parents**

- (1) A corporate parent must, not less than every 4 years, publish a report on how it has discharged –
- (a) its corporate parenting responsibilities;
  - (b) its planning and collaborating functions under Articles 27 and 28; and
  - (c) its other functions under this Part.
- (2) Reports may, in particular, include information about –
- (a) standards of performance; and
  - (b) the outcomes achieved under this Part.
- (3) Reports must be published and, in particular, reports may be published either separately, or as part of, any other report or document.

### **31 Corporate parenting board**

- (1) There is established a corporate parenting board (the “board”) whose principal function is to monitor and review the discharge of corporate parenting responsibilities and other functions of corporate parents under this Part.
- (2) The board may discharge such other functions as appear to it to be calculated to facilitate, or are incidental or conducive to the discharge of, its principal function and other functions conferred under this Part.
- (3) The board is to be composed of –
- (a) the responsible Ministers;
  - (b) a member of the Comité des Connétables nominated by the Comité;
  - (c) subject to Article 32 –
    - (i) 2 children representing looked after children,
    - (ii) 2 young people representing care leavers or young people specified under Article 24(1)(c), and
    - (iii) 2 people each representing a different voluntary body.
- (4) The board may meet for the conduct of business, adjourn and otherwise regulate its meetings as it thinks fit, but subject to the following –
- (a) the board must meet at least 4 times a year;

- (b) the Minister must chair the board's meetings, but if the Minister is not present at a meeting, those present must nominate another responsible Minister to chair that meeting;
  - (c) a quorum must be formed by the attendance of at least 3 members of the board who are also members of the States;
  - (d) the board may invite the attendance of any person at any meeting of the board, as the board determines.
- (5) For the purposes of paragraph (4), the board may meet remotely by any means of technology and includes the attendance remotely of any person invited under paragraph (4)(d).
- (6) The Council of Ministers must support the board in the provision of such administrative resources, advice and other support as the board requires to enable it to discharge its functions properly and effectively.
- (7) The board must publish –
- (a) its terms of reference;
  - (b) the names of its members, apart from the members referred to in paragraph (3)(c)(i) and (ii);
  - (c) in the case of the members representing voluntary bodies, details of the voluntary bodies each member represents; and
  - (d) its agendas and minutes.
- (8) The board must publish any revisions or changes to the items referred to in paragraph (6)(a) to (c) as soon as possible after those revisions or changes have occurred.
- (9) The board must, not later than 6 months after the beginning of every year, publish a report setting out how it has discharged its functions in the previous year.
- (10) The States may by Regulations amend this Article and Articles 32 to 34 for the purpose of making further provision about the board and its functions.

### **32 Appointment of representatives to the corporate parenting board**

The responsible Ministers must determine and publish –

- (a) the criteria and process for appointment to the corporate parenting board of the people referred to in Article 31(3)(c); and
- (b) the terms and conditions, including length of appointment, applying in respect of an appointment.

### **33 Duty to provide information to the corporate parenting board**

- (1) A corporate parent must provide the corporate parenting board with such information as the board may reasonably require, either on request or at agreed intervals, about how the corporate parent is –
- (a) exercising its corporate parenting responsibilities;
  - (b) planning, collaborating and reporting under Articles 27, 28 and 30;
- or

- (c) otherwise discharging functions under this Part, provided that information does not relate to any information in respect of which a claim to legal professional privilege could be maintained in legal proceedings, unless such a claim is waived.
- (2) Information which is required may, in particular, include information about –
  - (a) standards of performance; and
  - (b) the outcomes achieved under this Part.

### **34 Guidance on corporate parenting**

- (1) The corporate parenting board must issue guidance to corporate parents about their corporate parenting functions and corporate parents must have regard to that guidance.
- (2) Guidance may, in particular, include advice or information about –
  - (a) how corporate parents are expected to –
    - (i) promote awareness of their corporate parenting responsibilities,
    - (ii) plan, review, collaborate and report under Articles 27, 28 and 30, and
    - (iii) otherwise discharge functions under this Part; and
  - (b) outcomes which corporate parents should seek to achieve in discharging functions under this Part.
- (3) Before issuing or revising guidance, the corporate parenting board must consult –
  - (a) corporate parents;
  - (b) the Commissioner; and
  - (c) such other persons as the board considers appropriate.

## **PART 7**

### **SUPPORT FOR LOOKED AFTER CHILDREN AND CARE LEAVERS**

### **35 Application, interpretation and general provisions as to guidance and Regulations**

- (1) This Part applies to looked after children and care leavers.
- (2) In this Part –
  - “assessed wellbeing needs” in respect of a child or care leaver, means that child’s or care leaver’s wellbeing needs as assessed by a wellbeing assessment carried out under this Part;
  - “eligible care leaver” is construed in accordance with Article 40;
  - “guidance” means any guidance, including revised guidance, issued by the Minister under this Part;
  - “staying put arrangement” is construed in accordance with Article 40;

- “wellbeing needs” includes health or development needs;
- “wellbeing plan” means the wellbeing plan prepared under Article 36.
- (3) Before the Minister publishes guidance the Minister must first consult –
    - (a) the persons referred to in paragraph (4);
    - (b) the corporate parenting board;
    - (c) looked after children and care leavers;
    - (d) the Commissioner;
    - (e) the Health and Social Care Commission; and
    - (f) such other persons as the Minister considers appropriate.
  - (4) Except where expressly provided otherwise, the following persons must have regard to guidance in so far as it is relevant to the discharge of that person’s functions in relation to looked after children or care leavers under this Part –
    - (a) children and young people services;
    - (b) relevant providers; and
    - (c) persons providing services for or on behalf of relevant providers or the Minister.
  - (5) Guidance must contain advice as to when it may not be appropriate to follow the guidance and may include guidance on exceptions or variations which may be applied in particular cases if it is in the best interests of the looked after child or care leaver to do so.
  - (6) The States may, if the States consider it necessary or expedient to do so, by Regulations amend this Part for the purposes of making further provision in respect of the discharge of functions under this Part.

### **36 Wellbeing assessment, plan and review**

- (1) For the purposes of fulfilling the duty in Article 2(2)(e), the Minister must cause a wellbeing assessment to be carried out in respect of each looked after child and care leaver with a view to determining –
  - (a) the wellbeing needs (if any) of that individual; and
  - (b) the targeted intervention (if any) that would be appropriate for the Minister to provide to meet the individual’s assessed wellbeing needs.
- (2) A wellbeing assessment must be carried out as soon as is reasonably practicable –
  - (a) after a child becomes looked after by the Minister;
  - (b) in respect of a child who is looked after by the Minister on, or before, the commencement of this Law, after the commencement of this Law; or
  - (c) after an individual is identified as a care leaver.
- (3) If the wellbeing assessment confirms that the looked after child or care leaver has a wellbeing need the Minister must, as soon as possible, cause a wellbeing plan to be prepared in respect of that looked after child or care leaver.

- (4) Subject to any guidance issued under Article 37, in preparing the wellbeing plan the Minister must consult and, in so far as is reasonably practicable, ascertain and have regard to the views of the child or care leaver.
- (5) In having regard to the views of any child, the Minister must take account of the child's age and maturity.
- (6) A wellbeing plan must –
  - (a) contain a statement addressing each of the wellbeing indicators set out in Article 3(2);
  - (b) contain a statement of –
    - (i) assessed wellbeing needs,
    - (ii) any targeted intervention required to meet those needs, and
    - (iii) the staying put arrangement or, in respect of an eligible care leaver falling under Article 40(6), any alternative arrangement; and
  - (c) if targeted intervention is required –
    - (i) identify the relevant provider that has given their agreement, subject to paragraph (7), to provide the targeted intervention,
    - (ii) state the manner in which the targeted intervention is to be provided,
    - (iii) state the outcome the targeted intervention is intended to achieve, and
    - (iv) set and review timescales to assess progress towards achieving the intended outcome.
- (7) The relevant provider must, so far as is reasonably practicable and as long as the relevant provider considers that it would not adversely affect the wellbeing, health or development of the looked after child or care leaver –
  - (a) provide the targeted intervention contained in the statement mentioned in paragraph (6)(b)(ii); and
  - (b) ensure that any targeted intervention which is to be provided by a third person, under arrangements made by the provider, is provided in accordance with the plan.
- (8) In the case of a looked after child aged 14 or over, the wellbeing plan must include details of the preparations for the child ceasing to be looked after, including for any staying put arrangement.
- (9) The wellbeing plan may contain such other matters as the guidance provides under Article 37.
- (10) The Minister must –
  - (a) cause the wellbeing plan to be reviewed at regular intervals and, subject to sub-paragraph (b), revised if necessary; and
  - (b) if it is reasonably practicable, ensure that no significant change is made to the wellbeing plan until any proposed change has first been considered at a review.

**37 Guidance in respect of functions under Article 36**

- (1) The Minister must issue guidance in relation to wellbeing assessments which may include –
  - (a) guidance about the management, form and process of, and arrangements for, the assessment of the current and future wellbeing needs of looked after children and care leavers;
  - (b) guidance about evaluating and recording the findings of wellbeing assessments; and
  - (c) guidance on any other matter the Minister considers necessary.
- (2) The Minister must issue guidance in relation to wellbeing plans which may include –
  - (a) guidance about the management and form of, and process and arrangements in respect of, the wellbeing plan;
  - (b) guidance as to the content of the plan including the following matters as to the looked after child's or care leaver's –
    - (i) accommodation and housing,
    - (ii) health care,
    - (iii) education, training and employment,
    - (iv) social, emotional and behavioural development,
    - (v) social presentation, practical and self-care skills,
    - (vi) finances,
    - (vii) identity and belonging, and
    - (viii) relationships and family contact;
  - (c) guidance about enabling the looked after child or care leaver to participate in the development of the plan taking into account the child's or care leaver's wishes and views and the views of such other people as may be specified in the guidance;
  - (d) guidance on contingency plans for action to be taken in the event that the plan ceases to be effective for any reason;
  - (e) guidance on –
    - (i) assessing progress against the outcomes the plan is expected to achieve, and
    - (ii) reviewing and recording the plan; and
  - (f) guidance on any other matter the Minister considers necessary.

**38 Provision of services for looked after children and care leavers**

- (1) For the purposes of fulfilling the duties in Article 2(2)(d) and (e), it is the Minister's general duty to provide, in so far as is reasonably practicable, a range and level of services appropriate to meet the assessed wellbeing needs of –
  - (a) looked after children, taking account of their wishes and feelings, with a view to preparing such children for when they cease to be looked after; and
  - (b) care leavers taking account of their wishes and feelings.

- (2) Services provided under paragraph (1) may include –
  - (a) services that are provided to children with a health or development need or services provided generally to children by a relevant provider; and
  - (b) giving assistance in kind or in cash.
- (3) The Minister may make arrangements with relevant providers to provide services on the Minister's behalf.
- (4) The Minister may also make arrangements with other corporate parents in respect of services offered under Article 29.

### **39 Personal advisers**

- (1) The Minister must arrange for a personal adviser to be assigned to –
  - (a) every looked after child as soon as possible after that child's 14th birthday;
  - (b) every care leaver under the age of 22; and
  - (c) any care leaver who has reached the age of 22 but is under the age of 25 and who has requested a personal adviser to remain assigned.
- (2) Where a personal adviser remains assigned under paragraph (1)(c), the care leaver may at any time request that the personal adviser ceases to remain so assigned.
- (3) A personal adviser has the following functions in relation to a looked after child or care leaver, as the case may be –
  - (a) to provide advice (including practical advice) and support;
  - (b) where applicable, to participate in the wellbeing assessment and the preparation of the wellbeing plan;
  - (c) to participate in reviews of the wellbeing plan;
  - (d) to liaise with such other persons as the wellbeing plan requires in the implementation of the plan;
  - (e) to co-ordinate the provision of services mentioned in the wellbeing plan and to take reasonable steps to enable the looked after child or care leaver to make use of those services;
  - (f) to remain informed about the looked after child's or care leaver's progress and wellbeing;
  - (g) to keep in regular contact with the looked after child or, subject to sub-paragraph (h), care leaver;
  - (h) in the case of a care leaver who is under the age of 22, to keep in contact with the care leaver, in so far as is reasonably practicable, on at least an annual basis even if the care leaver –
    - (i) no longer requires any services mentioned in the care leaver's wellbeing plan, or
    - (ii) no longer lives in Jersey; and
  - (i) to keep a written record of contacts with, and of services provided to, the looked after child or care leaver.
- (4) A personal adviser must –

- (a) perform such other functions as may be prescribed; and
- (b) have regard to any guidance issued by the Minister in relation to the personal adviser's functions under this Article.

#### **40 Staying put arrangements**

- (1) Subject to paragraphs (6) and (8), the Minister must maintain a staying put arrangement in respect of any eligible care leaver.
- (2) An eligible care leaver is an individual –
  - (a) who has attained the age of 18 but is under the age of 22; and
  - (b) who otherwise meets the definition “care leaver”.
- (3) A staying put arrangement is an arrangement whereby the Minister must, subject to the wellbeing assessment, provide an eligible care leaver with the same, or comparable, accommodation as was being provided immediately before the eligible care leaver ceased to be looked after by the Minister.
- (4) The details of the arrangement must be set out in the wellbeing plan.
- (5) The Minister must –
  - (a) monitor the staying put arrangement to ensure that it meets the eligible care leaver's wellbeing needs as determined by the wellbeing assessment; and
  - (b) provide such advice, guidance or assistance as is in accordance with the wellbeing plan, and as is necessary to support the eligible care leaver in the staying put arrangement.
- (6) The duty under paragraph (1) does not apply if –
  - (a) the accommodation the eligible care leaver was in immediately before the eligible care leaver ceased to be looked after by the Minister –
    - (i) was secure accommodation,
    - (ii) was a young offender institution or the prison,
    - (iii) was a placement as defined in the [Children \(Placement\) \(Jersey\) Regulations 2005](#), and the person with whom the care leaver was placed has indicated to the Minister that they are unable or unwilling to continue to provide the placement, or
    - (iv) was accommodation in a children's home and the registered person in respect of the children's home cannot continue to accommodate the eligible care leaver in the home because to do so would cause the registered person to fail to comply with his or her conditions of registration; or
  - (b) the wellbeing assessment determines that a staying put arrangement would not meet the eligible care leaver's wellbeing needs.
- (7) Where the duty under paragraph (1) does not apply in respect of an eligible care leaver falling under paragraph (6), the wellbeing plan must determine an alternative arrangement that would meet the eligible care leaver's wellbeing needs.
- (8) The duty under paragraph (1) ceases –

- (a) when the eligible care leaver reaches the age of 22; or
  - (b) if the eligible care leaver no longer wishes to continue with the staying put arrangement.
- (9) In this Article –
- “children’s home” has the definition given in the Children Law;
  - “conditions of registration” means any discretionary conditions of registration imposed under Article 12 of the Regulation of Care Law or any conditions imposed in accordance with Regulations made under Article 11(3) of that Law;
  - “prison” means HMP La Moye;
  - “registered person” has the definition given in the Regulation of Care Law;
  - “Regulation of Care Law” means the [Regulation of Care \(Jersey\) Law 2014](#);
  - “secure accommodation” has the definition given in the Children Law;
  - “young offender institution” has the definition given in the Young Offenders Law;
  - “Young Offenders Law” means the [Criminal Justice \(Young Offenders\) \(Jersey\) Law 2014](#).

## PART 8

### MISCELLANEOUS PROVISIONS IN RESPECT OF LOOKED AFTER CHILDREN

#### **41 Minister’s duty to promote educational achievement**

- (1) The Minister must promote the educational achievement of looked after children.
- (2) The Minister must appoint at least one individual for the purpose of discharging the duty under paragraph (1).
- (3) An individual appointed under this Article must –
  - (a) be a States’ employee who has such experience or qualifications in the delivery of education as may be prescribed;
  - (b) perform such functions as may be prescribed; and
  - (c) have regard to any guidance that may be issued by the Minister in relation to the discharge of any prescribed functions and the promotion of the Minister’s duty under this Article.

#### **42 Review of looked after children’s cases and appointment of independent reviewing officers**

- (1) The Minister must review the case of each looked after child in accordance with the policy published under Article 43.
- (2) The review must take place as soon as possible after the date on which the looked after child becomes looked after, and thereafter at such regular intervals as the policy must specify.

- (3) Subject to paragraphs (6) and (7), the Minister must appoint an individual as the independent reviewing officer for a looked after child's case.
- (4) The initial appointment under paragraph (3) must be made before the child's case is first reviewed.
- (5) If a vacancy arises in respect of a child's case, the Minister must make another appointment as soon as is practicable.
- (6) The independent reviewing officer must be a social worker who has sufficient relevant social work experience with children and families to perform the functions of an independent reviewing officer in an independent manner and having regard to the looked after child's best interests.
- (7) The Minister must not appoint any of the following as the independent reviewing officer –
  - (a) an individual involved in preparing the looked after child's wellbeing plan or the management of the child's case;
  - (b) the looked after child's personal adviser;
  - (c) an individual with management responsibilities in relation to an individual mentioned in sub-paragraph (a) or (b); or
  - (d) an individual with control over the resources allocated to the case.
- (8) The independent reviewing officer must in relation to each looked after child's case the officer is assigned to –
  - (a) monitor the performance of the Minister's functions under this Law and the Children Law;
  - (b) participate in case reviews;
  - (c) ensure that any ascertained wishes and feelings of the looked after child concerned are given due consideration by the Minister;
  - (d) perform any other prescribed function; and
  - (e) have regard to any guidance issued by the Minister in relation to the officer's functions under this Article.
- (9) If the independent reviewing officer considers it appropriate to do so, the looked after child's case may be referred by that officer to the chief officer for children and young people services.
- (10) In this Article "social worker" means a person registered to engage in that registrable occupation (as defined in the Health Care Registration (Jersey) Law 1995).

#### **43 Minister's policy on reviewing looked after children's cases**

- (1) The Minister must prepare, publish and implement a written policy regarding when and the manner in which the Minister is to review looked after children's cases under Article 42.
- (2) The Minister must provide a copy of the policy to –
  - (a) the looked after child, unless it would not be appropriate to do so having regard to the child's age and maturity;
  - (b) the looked after child's parents;
  - (c) any other person whose views the Minister considers to be relevant.

**PART 9****INDEPENDENT ADVOCATES AND COMPLAINTS****44 Independent advocates**

- (1) The States may make Regulations requiring the Minister to appoint independent advocates to act in relation to, and on behalf of –
  - (a) children with a health or development need;
  - (b) looked after children;
  - (c) care leavers; and
  - (d) such other people as Regulations under paragraph (6) may specify.
- (2) Regulations under this Article may require the Minister to make reasonable arrangements –
  - (a) for the appointment of independent advocates in accordance with further provision to be made by the Regulations of the kind described in paragraph (3)(a) to (e); and
  - (b) as to the role and conduct of independent advocates, in accordance with provision to be made by the Regulations of the kind described in paragraphs (3)(f), (4) and (5).
- (3) Regulations under this Article may, in particular, make provision including provision as to –
  - (a) the qualifications required of an individual to be appointed;
  - (b) the circumstances in which an individual may act as described in paragraph (1);
  - (c) the procedure for appointment and terms and conditions of appointment;
  - (d) the circumstances in which the appointment may end or be terminated and the formalities for doing so;
  - (e) the steps to be taken to ensure that children and care leavers are aware of the availability of the services of independent advocates; and
  - (f) matters in which independent advocates may help children and care leavers, and the powers which they may discharge for the purpose of giving such help.
- (4) Matters for the purpose of paragraph (3)(f) may include in particular –
  - (a) help to be given to children and care leavers in obtaining information about, and understanding applicable and relevant provisions of, this Law with particular regard to the rights of those children and care leavers under it;
  - (b) help to be given to children and care leavers as to the proper exercise of those rights; and
  - (c) help to be given to children and care leavers who make, or intend to make, any complaints or other representations under the procedure referred to in Article 45.
- (5) Powers for the purpose of paragraph (3)(f) may include in particular –

- (a) the power to visit and interview a child or care leaver in private;
  - (b) the power to visit and interview any person professionally concerned with the child or care leaver;
  - (c) the power to represent a child or care leaver who makes any complaint or other representations under the procedure referred to in Article 45; or
  - (d) the power to require disclosure and inspection of records relating to a child or care leaver, and the circumstances and manner of the exercise of such power (including, for the avoidance of doubt, provision as to circumstances in which a child or care leaver may object to disclosure).
- (6) The States may by Regulations make reasonable arrangements as to the role and conduct of independent advocates in relation to people specified in those Regulations, including provision as to –
- (a) the steps to be taken to ensure those people are aware of the availability of the services of independent advocates; and
  - (b) matters in which independent advocates may help those people and the powers which they may exercise for the purpose of giving such help.
- (7) Powers for the purpose of paragraph (6)(b) may include in particular –
- (a) the power to visit and interview those people;
  - (b) the power to visit and interview any person professionally concerned with those people; or
  - (c) the power to represent any such people who make any complaint or other representations under the procedure referred to in Article 45.
- (8) In this Article –
- “children” means the individuals referred to in paragraph (1)(a) and (b);
- “independent” means independent of any other persons involved in a professional or personal capacity with the child or care leaver.

#### **45 Procedure for complaints or representations**

- (1) The Minister must establish a written procedure (“procedure”) for considering and resolving complaints or representations made to the Minister about –
- (a) the discharge of specified functions in respect of children and care leavers conferred on any person under Parts 4, 5, 7 and 8; and
  - (b) the discharge –
    - (i) of the Minister’s specified functions under Part 3 (Ministerial support for children and families), Part 4 (care and supervision) and Part 5 (protection of children) of the Children Law,
    - (ii) of specified functions conferred on any person under the [Adoption \(Jersey\) Law 1961](#), and
    - (iii) of such other specified functions in respect of children or care leavers discharged by the Minister, or other specified person,

- whether those functions are conferred under this Law or under any other enactment.
- (2) The duty to establish the procedure does not extend to decisions of the Court or Law Officers Department.
- (3) The procedure must, in particular, provide –
- (a) for complaints or representations which cannot be considered;
  - (b) subject to paragraph (4)(a), for who may make complaints or representations, and when;
  - (c) for an opportunity for informal resolution of a complaint at an early stage;
  - (d) that no person who is the subject of a complaint takes part in its consideration other than, if the Minister considers it appropriate, at the informal resolution stage only; and
  - (e) for complaints or representations to be made by –
    - (i) an independent advocate appointed in accordance with Regulations made Article 44, or
    - (ii) any other person acting on behalf of a child or care leaver.
- (4) The Minister must –
- (a) ensure that children and care leavers are enabled to make a complaint or representation and are not subject to any reprisal; and
  - (b) make a written record of any complaint or representation, the action taken in response to it, and the outcome of any informal resolution or investigation.
- (5) The Minister must publish the procedure, review it annually, and publish it when revised.
- (6) In this Article –
- “children” means all children;
  - “complaint” means a statement in writing (including in electronic form) which is made by a child or care leaver or any other person specified in the procedure, expressing dissatisfaction or disquiet about an act done by or on behalf of the Minister or any other person specified in the procedure in relation to a child or care leaver;
  - “Law Officers Department” is construed in accordance with Article 1(1)(b) of the Departments of the Judiciary Law;
  - “representation” may include a complaint, or may be a statement, enquiry or comment which requires a response;
  - “specified” means specified in the procedure.
- (7) In the definition “complaint”, an act may include the standard of any service provided.

## PART 10

### CLOSING PROVISIONS

#### 46 Regulations and Orders

- (1) The States may, by Regulations, amend any enactment including this Law for the purposes of making such transitional, consequential, incidental, supplementary or savings provisions as appear to the States to be necessary or expedient in consequence of any provision made by or under this Law.
- (2) A power under this Law to amend, by Order or Regulations, any provision of this Law includes the power to make such transitional, consequential, incidental or supplementary amendments to any other provision of this Law as appear to the Minister or States (as the case may be) to be necessary or expedient.
- (3) A power under this Law to make an Order or Regulations for purposes other than under paragraph (1) or (2) includes the power to make such transitional, consequential, incidental, supplementary or savings provisions as appear to the Minister or the States (as the case may be) to be necessary or expedient for the purposes of the Order or Regulations.

#### 47 Children Law amended

- (1) In Article 17 (provision of accommodation for children: general) of the Children Law, in paragraph (5), for “under 21” there is substituted “under 22”.
- (2) In Article 19 (general duty of Minister in relation to children the Minister looks after) of the Children Law, for paragraph (1) there is substituted –  
“**(1)** Where the Minister is looking after any child, the Minister shall –
  - (a) promote and support the child’s wellbeing, and safeguard the child’s welfare; and
  - (b) provide that child with such services as the child requires in accordance with Part 7 of the Children and Young People (Jersey) Law 202-.”
- (3) For Article 21 (advice and assistance for certain children) of the Children Law there is substituted –

#### **“21 Advice and assistance for certain individuals and notification to be given in respect of children leaving certain accommodation after age 16**

- (1) Paragraph (2) applies in respect of an individual who has reached the age of 18 but is under the age of 22 who, at any time between the ages of 16 and 18, was –
  - (a) accommodated by or on behalf of a voluntary organisation;
  - (b) accommodated in a hospital, nursing home or in any home consisting of a care home service or any nursing home for a

- consecutive period of at least 3 months (whether or not this period began before the individual reached the age of 16); or
- (c) a privately fostered child.
- (2) Paragraph (3) applies where an individual described in paragraph (1) has asked the Minister for assistance and –
- (a) that individual appears to the Minister to need advice and to be befriended; or
  - (b) the Minister is satisfied that the person who was looking after the individual concerned does not have the necessary facilities for advising or befriending that individual.
- (3) Where this paragraph applies, the Minister may advise and befriend the individual concerned and may give that individual assistance which may be in kind or in cash.
- (4) Paragraph (5) applies in respect of a child who is accommodated –
- (a) by a voluntary organisation or in a children’s home; or
  - (b) in any home consisting of a care home service or any nursing home, for a consecutive period of at least 3 months.
- (5) Where a child described in paragraph (4) ceases to be so accommodated after reaching the age of 16, the organisation, or person carrying on the home which was accommodating the child, must inform the Minister.”.

#### **48 Citation and commencement**

This Law may be cited as the Children and Young People (Jersey) Law 202- and comes into force on a day to be specified by the States by Act.

**SCHEDULE**

(Article 25)

**CORPORATE PARENTS**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Public Authorities</b>	<b>Schools, Nursery Schools and Day Care Accommodation</b>	<b>Bodies operating at arm's length from the States including any such bodies in receipt of funding or grants from the States</b>
The Chief Minister and Ministers	Provided schools listed in Schedule 1 to the Education Law	Andium Homes Limited
A department or unit of administration established on behalf of the States	Non-provided schools (as defined in the Education Law) registered under Article 40 of that Education Law	Family Nursing and Home Care (Jersey) Incorporated
The parishes	Nursery schools (as defined in the Education Law) established and maintained by the Minister under Article 8 of that Law	Jersey Sport Limited
The States of Jersey Police Force (referred to in Article 2 of the <a href="#">States of Jersey Police Force Law 2012</a> )		The Jersey Arts Trust
The Jersey Probation and Aftercare Service		