

Regarding Propositions p.26 and p.27, submitted to the States Assembly on 24th March, 2020: Draft Regulation of Care (Standards and Requirements) (Covid-19 -Temporary Amendments) (Jersey) Regulations 202-

‘For many children who were removed from home situations deemed harmful or unsatisfactory, the States of Jersey proved to be an ineffectual and neglectful substitute parent’. - Independent Jersey Care Inquiry (IJCI), 3rd July 2017

As a good corporate parent, we need to ensure that our children are supported to ensure they flourish regardless of their start in life (...) providing safe, stable and loving homes (...) We know that Jersey has had policy and legislation gaps for children in care, which are not acceptable for a Government and community that puts children first. – Senator Sam Mézec, Minister for Children, 14th January 2020

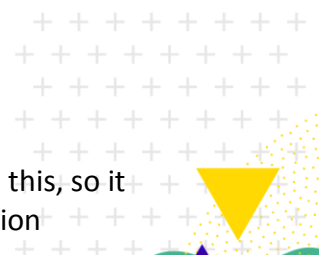
What is the problem?

On 24th March, 2020 the Chief Minister submitted the aforementioned propositions to the States Assembly. Much of the detail seems in contrary to policy commitments to children, the Government of Jersey’s response to the Independent Jersey Care Inquiry and the United Nations Convention on the Rights of the Child. Furthermore, to the best of our knowledge, none of these propositions have been developed in consultation with children and young people.

Jersey has a particular cultural context around the ‘care system’ as expressed extensively through the Independent Jersey Care Inquiry report. As far as the Propositions relate to regulation under the Jersey Care Commission, it is significant to note that these regulations have only been in place since January 2019. They aim to drive significant improvement in the care of children in Jersey: an area where there is universal acknowledgement that seismic failures, including in regulation and accountability, caused the safety, wellbeing and safeguarding of children to be severely compromised.

What are the key concerns?

Please forgive these being crudely laid out here. We have had 90 minutes to prep this, so it is not as complete as we would like. Please forgive the lack of specific differentiation between P.26 and P.27.





Lack of regulation for new provision

The amendments would exempt care home and adult day care facilities which are established after the outbreak of Covid-19 from the requirement to register with the Jersey Care Commission (JCC) and to be regulated under the 2014 Law'

Lack of requirement to follow regulation for existing provision

'The draft Regulations provide that the JCC must suspend conditions placed on service providers, if they inform the Commission that they are unable to meet their usual conditions of service as a result of Covid-19'

'Provisions will also allow the JCC to disapply Regulations which require workers to be suitably qualified in circumstances when staff are unavailable because they are suffering with Covid-19, and inexperienced, under-qualified staff are required to step in'

Lack of requirement for DBS checks

'Registered providers may need staff more quickly than DBS checks can be processed. In these cases, it would be unreasonable to penalise care providers, and it would be irresponsible to leave providers short-staffed.'

Lack of inspection by Jersey Care Commission for up to 2 years

Regulation 4 inserts Regulation 32A into the 2018 Regulations. This provides that the Commission need not comply with the requirement in Regulation 32(1) to carry out 12-monthly inspections of regulated activities if this is not possible due to Covid-19

Ability to employ people who are debarred from working with children due to criminal offenses

'The stipulation in Regulation 17 that a person is not a fit person if the person has been sentenced to imprisonment for certain offences, been convicted of an offence against a care receiver or is on a list of persons barred from working with children or vulnerable adults is also modified (by inserted Regulation 17A(4)). The stipulation is to apply only where the registered person, having made reasonable enquiries of the person, knows or has reason to suspect that this is the case'.

Length of time the impact of this temporary measure may impact children and young people

While the amend is only applicable until 30th September 2020, the decision to allow 2 years for Care Commission inspections, suggests its impact will be felt for much longer. In addition, as Children's Services is in the equivalent of special measures, and with the Care Inquiry and Ofsted findings, relaxing or not applying care standards and regulation is reckless and will leave children, young people and young adults without appropriate safeguards.

Absence of consultation with children, young people and young adults

Jersey's particular history (see appendix 2 – Care Inquiry Executive summary.



Policy, Guidelines and Pledges

The following recent policy does not allow for the actions detailed above:

Common Strategic Policy

We will put children first by protecting and supporting children (...) involving and engaging them in matters which affect their lives;

We will ensure that services for children are improved so that children are listened to, are safe, protected and flourish;

We have begun and will continue to improve the overall quality of care for our most vulnerable children;

Children will grow up safely, feeling part of a loving family and a community that cares.

Pledge to Jersey's Children and Young People

We will provide all children in our care with access to a safe, loving, secure home environment;

The test of whether standards are high enough is if we can say 'Yes' to the question: 'Would this be good enough for my child?'

Corporate Parenting in Jersey Children in Care and Care Leavers A Policy Framework October 2018

It is our vision that, where this is the case, we, as corporate parents, will put children at the centre of our thinking and will do everything we can to create a nurturing environment.

Jersey Children's Services Improvement plan (a 'child' for the purpose of this plan is aged up to 25)

Driver 4 – Placements - Services are wrapped around the child to minimise disruption and to ensure they have the best support needed to enable them to flourish.

Children will benefit from choice of placement which will meet their needs and will avoid unnecessary changes of placement.

Driver 5 - Children will benefit from children's service being held to account for delivering on its commitment to deliver high quality services

United Nations Convention on the Rights of the Child (UNCRC)

Article 25: The State should check up on the care, protection and health of children and young people when they're away from their families (UNCRC, Article 25)

Article 3: The best interests of the child must be a top priority in all decisions and actions that affect children

Article 27: Every child has the right to a standard of living that is good enough to meet their physical and social needs and support their development

Article 37: [Children] must be treated with respect and care



Article 39: Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life.

In summary, while we recognise the need for an agile response to a rapidly unfolding national crisis, we request that the above is given the most serious consideration, with the corporate parenting question 'would this be good enough for my child' forefront in our minds.

Yours sincerely,

Carly Glover
Chief Executive Officer, Jersey Cares

Appendices

Appendix 1

INDEPENDENT JERSEY CARE INQUIRY REPORT: IMPLEMENTATION OF RECOMMENDATIONS – lodged by the Greffe, 31st October, 2017

9. Recommendation 3 – Inspection of Services

Jersey should establish a truly independent inspection arrangements for its children's services, which will have confidence of children, staff and the wider public (IJCI: Executive Summary: Para. 13.11 p.58).

<i>Recommendation – Sub-heading</i>	<i>Extract</i>
Para. 13.19: p.54: Vol. 3 of 3: Recommendations and Appendices	<i>It is essential that service in Jersey are willing to open themselves fully to external scrutiny, in the interests of ensuring continuous improvement and development.</i>
Para. 13.20: p.54: Vol. 3 of 3: Recommendations and Appendices	<i>States commit to introducing an independent inspection regime for its Children's Services.</i>
Para. 13.21: p.55: Vol. 3 of 3: Recommendations and Appendices	<i>At first opportunity and in any event within 12 months of the date of publication of this</i>



Para. 13.22: p.55: Vol. 3 of 3: Recommendations and Appendices	<i>Once arrangements are in place, we recommend that Independent Visitors for Young People arrangement be terminated ... important to involve young people with care</i>
Para. 13.23: p.56: Vol. 3 of 3: Recommendations and Appendices	<i>Speedily establishing this triumvirate of Inspectorate, Commissioner and Children's Rights Officer would signify States' commitment to ensuring failures and</i>

3.8 IJCI Jersey's policy and practice in relation to the assessment and vetting of foster carers for decades lagged behind accepted good practice in the rest of the developed world, relying on minimal scrutiny and local knowledge.

3.20 For many years, once a child was in a residential establishment, little effort was made to determine how they were coping in that environment, or of how it was affecting them.

4.3 We found that there has long been in Jersey an absence of political and professional will to set or monitor standards of care, including aftercare, or to prioritise resourcing the care of the children for whom the state had parental responsibility.

4.47 In summary, over many decades, there were persistent failures in the governance, management and operation of children's homes in Jersey. Failings were at all levels: there was no political interest in defining and promoting standards of care and performance in residential care and no will to invest the resources required in child care services. Unsuitable people who were appointed to management roles, often on the basis of local connections, lacked the leadership skills to manage and raise practice standards and had little up-to-date knowledge of child care theory and practice. As a result, ill-suited carers continued to look after children in unsuitable facilities, using outdated practices. The consequences for the children in their care were devastating and, in many instances, lifelong. In Chapter 12, we set out the systemic failures that characterised residential care and the lessons to be learned.

5.11 We find that the corporate parent system largely failed because, as Deputy Pryke described to us, no one person or department wanted to take responsibility for anything.

12.3 (ii) Jersey's child care legislation has lagged behind other jurisdictions in the developed world – often by decades