

## Consultation Response, Children and Young People (Jersey) Law, April 2023

The Consultation Summary Report for the Children and Young People Law Statutory Guidance collates the responses from their feedback survey and children and young people consultations. There is mention of written responses being received and the report states that *'Both survey and written responses have been reviewed and summaries of these responses are set out below according to the section of guidance to which the responses relate.'* However, there is no reference to the questions and concerns posed in the written response from Jersey Cares and Jersey Child Care Trust within the report.

### 1. Basing elements of the Law on equivalent legislation in England and Scotland

England and Scotland have recently concluded reviews of their care systems because they are unfit for purpose. They do not routinely keep children safe and enable them to thrive, often doing the opposite.

The section for education seems based on English law. The section on Corporate Parenting is based on Scotland, as is the section on continuing care which makes provisions for children to remain in their foster or children's home.

*Why then is the Jersey law based on the status quo in England and Scotland?*

*Why is the law on education based on English law, given the poor education outcomes for children in care in England?<sup>1</sup>*

*What work has been undertaken to evaluate the efficacy of the legislation in Scotland and England to ensure it is best practice and enables the changes this Government wishes to see for Jersey children and families? Where it has been found wanting, what groundwork has been laid in the Jersey law to ensure we do not encounter the same issues?*

**This has not been addressed in the consultation report.**

### 2. Children in need

#### a. Duty to children in need

In the Jersey Law these children are described as children with a 'health and development need'. We have been told by officers this is a more inclusive definition than the English comparable definition. Under this part of the law there is a duty for assessments to be carried out, however the wellbeing plan would be considered 'opt-in' at this level.<sup>2</sup>

*Our questions are the duty of the Minister appears to be to 'carry out an assessment' but not to create or deliver on a plan – how does this ensure the Minister is held to account for supporting children in need and how does this ensure that children are safe and enabled to thrive?*

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<sup>1</sup> The 'Attainment 8' score in England measures pupils' results in 8 GCSE-level qualifications. In the 2020-2021 academic year the national average score was 50.9 out of 90.0. For [children in care in England](#) in the same year the average score was 23.2, less than half of the national average.

<sup>2</sup> [Children and Young People \(Jersey\) Law 2022 PART 4 - Provision of services for children with health or development needs](#)



*Our concern is that if the Minister's only duty is to assess, this may well not lead to any action to protect children and enable them to thrive. The Care Inquiry was clear that plans without action have been a common detrimental feature of Jersey's care system. This could lead to children becoming or remaining at risk and invisible. Jersey Cares has learnt from advocacy and Jersey Child Care Trust from their work with families that many people feel if they had received help earlier, their problems would not have escalated.*

*One of the pledges under Putting Children First is to provide integrated support for families that need extra help caring for their children.<sup>3</sup> This is undermined by the lack of statutory duty to act beyond an assessment.*

**This has not been addressed in the consultation report.**

#### **b. Wellbeing assessments for children in need**

Wellbeing assessments at the 'health and development need' (children in need) level seem complex and unclear. It appears to rely on a 'relevant provider' as the closest person to the young person to conduct a wellbeing assessment and bring together professionals. They may have neither the information, capacity nor skill set to do this. Our concern therefore is that children will be neither protected nor enabled to thrive.

There is also a lack of standardisation, with relevant providers being asked to use professional judgement to determine the depth and focus of the wellbeing assessment. Given that this will be a large undertaking for a provider, we question whether all relevant providers will be able to effectively facilitate this.

Jersey Child Care Trust note the vast difference in the level of knowledge, skills and training amongst those working and providing services to children and families in the early years. Examples include a day nursery practitioner, childminder or someone running a Parent and toddler group.

**Relevant feedback from others which has been included in the report:**

- **Guidance for practitioners on how to access services is missing from the Working Together in Jersey section.**

*Response in the report: It is important that practitioners are clear on what services are available and how these are accessed. This is beyond the scope of Statutory Guidance, but other means such as agency/organisation specific operational procedures and training may be useful in communicating this information.*

- **There needs to be more clarity around collaborating and planning to respond to wellbeing needs - specifically how information, records and other assessments are requested from other relevant providers to inform a wellbeing assessment.**

*No response given.*

- **There needs to be more clarity around the use of relevant providers' professional judgement to determine the depth and focus of a wellbeing assessment.**

*No response given.*

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<sup>3</sup> Putting Children First pledges in the Children and Young People Plan 2019-2023



### 3. Clarity of wellbeing indicators

Jersey Cares has asked policy officers for clarification on the wellbeing assessment and have been pointed back to the wellbeing indicators.<sup>4</sup> There are brief descriptions of each indicator within the guidance, however, these do not seem clear enough for universal use.

*Is the Government of Jersey confident that the use of these indicators in Scotland has driven positive changes in the lives of children and families? If the descriptions are not clear in the guidance, how will they be made clear in the provided training to ensure that the wellbeing indicators are used effectively and consistently?*

*This guidance is intended to be used by corporate parents and providers. It is concerning that there is a lack of clarity on what should be measured for each child and young person and to what end. The Children and Young People's Emotional Wellbeing and Mental Health Strategy 2022-2025 aims to ensure that everyone knows what good wellbeing and mental health is<sup>5</sup>, how can this be achieved if the guidance for professionals on the indicators of wellbeing are unclear?*

**This has not been addressed in the consultation report.**

### 4. Voices of children and young people

The strong and repeated emphasis on children and young people's voice in the guidance is positive, but this can only enable change if coupled with well-resourced and coherent policy and legislation. Through advocacy Jersey Cares frequently experience the lack of congruence when children and young people are heard and informed about their rights, but the lack of clarity, planning and resourcing in the 'system' means the process for any action to be taken for them to realise these rights or for their views to lead to a changed outcome is often extremely lengthy.

**This has not been addressed in the consultation report.**

### 5. Accountability

The Law does not appear to include any mechanisms of accountability. There is no reference to what happens if the Minister does not fulfil their duties in the Law.

In particular regard to the section on complaints, this seems to rely on the Minister holding the Minister to account.<sup>6</sup> The Independent Jersey Care Inquiry and subsequent reports highlight the lack of meaningful accountability as a key driver for the lack of improvement for children and families and the lack of safety in the system.

*The Scottish law on which the section on reporting is based mandates annual reporting, as is the English law. The Jersey law is every 4 years. Why is this? The Scottish law includes detail of what has to be in the report whereas the Jersey law doesn't. Why not? We are therefore concerned that this is not a robust enough area of the Law.*

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<sup>4</sup> [Children and Young People \(Jersey\) Law 2022 PART 2 - Wellbeing indicators](#)

<sup>5</sup> [Children and Young People's Emotional Wellbeing and Mental Health Strategy 2022-2025](#)

<sup>6</sup> [Children and Young People \(Jersey\) Law 2022 Article 45 - Procedure for complaints or representations](#)



*We hear often during advocacy about the importance of accountability and the ability to make complaints, receive an apology and see change as a result. In the proposed Government Plan 2023-2026, an objective by 2026 is to 'have restored trust and accountability in Government' - this objective is not being enabled by this legislation.*

**This has not been addressed in the consultation report.**

## **6. Definitions of care leavers**

This is defined in the law as per the English law, as someone who has been in the care of the Minister for 13 consecutive or aggregate weeks, from the age of 14 up to (but not including) the age of 18.

*We question why has Jersey adopted this definition and what analysis of the profile of people in care in Jersey has been undertaken to arrive at the conclusion that these children are those most in need of Government assistance aged 16-25? What analysis has been done of the English and Scottish Care Reviews currently underway to understand what their intention is in regard to this definition?*

**Relevant feedback from others which has been included in the report:**

- **One respondent asked why the UK definition for a care leaver isn't used [in the guidance].**

**Response in the report: The Statutory Guidance uses the definition of a care leaver provided in The Children and Young People (Jersey) Law 2022.**

**7. Overall length and clarity of the guidance** The purpose of the guidance is to guide practice, but it is nebulous. It is a large document at 137 pages which is difficult to navigate. It is not user-friendly and lacks clear definitions for important terms such as 'relevant provider'.

*The Independent Jersey Care Inquiry (IJCI) reported that Jersey was in the 1950's in terms of practice, had lost sight of what good looks like and it is recognised that a lack of clarity and strong planning for practice is a barrier to children being safe and thriving.<sup>7</sup> If the guidance is nebulous we fail to learn from the Care Inquiry and embed this lack of clarity.*

**Relevant feedback from others which has been included in the report:**

- **A number of respondents referenced the length of the guidance as a potential barrier to accessibility.**

**No response given.**

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<sup>7</sup> Independent Jersey Care Inquiry 2017 Executive Summary