

STATES OF JERSEY



Jersey

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

**Lodged au Greffe on 3rd October 2022
by the Minister for Children and Education
Earliest date for debate: 22nd November 2022**

STATES GREFFE



Jersey

DRAFT CHILDREN AND YOUNG PEOPLE (AMENDMENT) (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 (Amendment) (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy I. Gardiner of St. Helier North**
Minister for Children and Education

Dated: 29th September 2022

REPORT

1. Introduction and background

The [Children and Young People \(Jersey\) Law 2022](#) was passed by the States Assembly on 8th February 2022 on the understanding that the Minister for Children and Education ensures that the wording of paragraph (4) of Article 5 (arrangements to safeguard the welfare of children and young people) is corrected prior to the Law coming into force, as the lodged Law contained a drafting error in Article 5(4).

The draft Children and Young People (Amendment) Law 202- (the “draft Amendment Law”) will achieve that correction and make the correct provision for the intended policy on information sharing.

2. Summary of the draft Amendment Law

The Children and Young People (Jersey) Law 2022 (the “Law”) provides for arrangements for co-operation and information sharing under Articles 4 (co-operation to promote wellbeing), Article 5 (arrangements to safeguard the welfare of children and young people) and Article 28 (collaborative working among corporate parents) –

- between the responsible Ministers and relevant providers (both terms are defined in Article 1 of the Law);
- between safeguarding partners (defined in Article 5 of the Law) and relevant providers; and
- between corporate parents (listed in the Schedule to the Law).

However, due to an error when passed, the wording of Article 5(4) of the Law did not support the intended policy outcome, which was to allow the appropriate sharing of information between safeguarding partners and relevant providers.

The draft Amendment Law will have the effect of ensuring that the wording of these provisions in the Law achieves the intended policy when it is enacted.

3. Provisions of the draft Amendment Law by Article

3.1 Article 1: Amendment of the Children and Young People (Jersey) Law 2022

The draft Amendment Law is to make provision to amend the Law.

3.2 Article 2: Article 4 of the Law (co-operation to promote wellbeing) amended

The Law places a duty 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. This includes a requirement to make arrangements for the sharing of information between the responsible Ministers and relevant providers.

This Article of the draft Amendment Law will replace paragraphs (4) and (5) of Article 4 of the Law, insert a new paragraph (6) and renumber and rationalise the other related paragraphs to ensure, without changing the policy intent, that they are consistent with the other re-cast information sharing provisions.

3.3 Article 3: Article 5 of the Law (arrangements to safeguard the welfare of children and young people) amended

Under the Article 5 of the Law safeguarding partners must make arrangements to enable themselves and relevant providers to discharge their functions having regard to the need to safeguard the welfare of children or young people; and to work together effectively when they are discharging functions for the purposes of safeguarding the welfare of children or young people.

The arrangements that they must make include arrangements for information sharing. This Article of the draft Amendment Law amends Article 5 of the Law by replacing paragraph (4) to ensure the policy intent of facilitating the appropriate sharing of information is achieved. Some other minor wording amendments that do not materially change the meaning of this Article are also made.

3.4 Article 4: Article 28 of the Law (collaborative working among corporate parents) amended

Article 28 of the Law places a duty on corporate parents to collaborate with each other when exercising their corporate parenting responsibilities or any other functions under Part 6 of the Law where they consider that doing so would safeguard the welfare or promote the wellbeing of children in care and care leavers. This includes a requirement to make arrangements for the sharing of information.

Article 4 of the draft Amendment Law will replace paragraphs (2), (3), (4) and (5) of Article 28 of the Children and Young People (Jersey) Law 2022 in order to ensure, without changing the policy intent, that they are consistent with the other recast information sharing provisions.

3.5 Article 5: Citation and commencement

This Article allows for citation and commencement of the draft Amendment Law immediately upon the coming into force of the Law. This means that the Law will come into force in its amended form.

4. Financial and manpower implications

There are no financial and manpower implications arising from this amendment.

5. Human Rights Statement

No human rights notes are included in this proposition as the Law Officers have confirmed that the draft Children and Young People (Amendment) (Jersey) Law 202-raises no issues of compliance with the European Convention on Human Rights.

EXPLANATORY NOTE

The Children and Young People (Amendment) (Jersey) Law 202- (the “Amendment Law”), if passed, would amend the Children and Young People (Jersey) Law 2022 (the “Law”). The amendments are twofold. Firstly, to correct an error in Article 5 (arrangements to safeguard the welfare of children and young people) of the Law which presently prevents the sharing of information for the purposes of safeguarding the welfare of children or young people. Secondly, to recast analogous information sharing provisions contained in Articles 4 (co-operation to promote wellbeing) and 28 (collaborative working among corporate parents) of the Law so that the language of all 3 of these information sharing provisions is consistent.

The Amendment Law comes into force immediately upon the coming into force of the Law.



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Jersey

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

A LAW to amend the [Children and Young People \(Jersey\) Law 2022](#).

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His 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 His Most Excellent Majesty in Council, have adopted the following Law –

1 Amendment of the Children and Young People (Jersey) Law 2022

This Law amends the [Children and Young People \(Jersey\) Law 2022](#).

2 Article 4 (co-operation to promote wellbeing) amended

In Article 4 –

(a) for paragraphs (4) and (5) there is substituted –

“(4) Arrangements under this Article must include arrangements for the sharing of information between the responsible Ministers and relevant providers.

(5) Any information shared under those arrangements must be obtained in the course of discharging functions in relation to children or young people whether those functions are conferred under any enactment, or otherwise.”;

(b) After paragraph (5) there is inserted –

“(6) Arrangements for the sharing of information must not –

(a) require the sharing of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings; or

(b) prevent the sharing of information if that claim is waived.”;

(c) existing paragraph (6) is renumbered as paragraph (7), and in that renumbered paragraph “(a) and (b)” is deleted;

- (d) existing paragraphs (7), (8) and (9) are respectively renumbered as paragraphs (8), (9) and (10).

3 Article 5 (arrangements to safeguard the welfare of children and young people) amended

In Article 5 –

- (a) in paragraph (2)(b) “when they are discharging functions” is deleted;
- (b) in paragraph (3)(e) for “as to the disclosure of” there is substituted “for the sharing of”;
- (c) for paragraph (4) there is substituted –
 - “(4) With regard to the arrangements referred to in paragraph (3)(e) –
 - (a) any information shared under those arrangements must be –
 - (i) obtained in the course of discharging functions, and
 - (ii) shared for the purposes of safeguarding the welfare of children or young people; and
 - (b) those arrangements must not –
 - (i) require the sharing of information in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or
 - (ii) prevent the sharing of information if that claim is waived.”;
- (d) in paragraph (5) “(a)” is deleted;
- (e) in paragraph (13), for the definition “functions” there is substituted –
 - ““functions” means any functions discharged in relation to children or young people whether those functions are conferred under any enactment, or otherwise;”.

4 Article 28 (collaborative working among corporate parents) amended

For Article 28(2), (3), (4) and (5) there is substituted –

- “(2) Collaboration may include –
 - (a) 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) Any information that is shared –
 - (a) must be obtained by corporate parents in the course of discharging their functions in relation to the individuals to

whom this Part applies whether those functions are conferred under any enactment, or otherwise; and

- (b) must not be information in respect of which a claim to legal professional privilege could be maintained in legal proceedings, unless that claim is waived.
- (4) For the avoidance of doubt, paragraph (3) does not derogate from the requirements of the Data Protection Law.
 - (5) 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 Citation and commencement

This Law may be cited as the Children and Young People (Amendment) (Jersey) Law 202- and comes into force immediately upon the coming into force of the [Children and Young People \(Jersey\) Law 2022](#).