

# STATES OF JERSEY



Jersey

## **DRAFT CHILDREN AND YOUNG PEOPLE (INDEPENDENT ADVOCATES) (JERSEY) REGULATIONS 202-**

---

**Lodged au Greffe on 16th December 2024  
by the Minister for Children and Families  
Earliest date for debate: 4th February 2025**

---

**STATES GREFFE**

## REPORT

---

### Background

The [Children and Young People \(Jersey\) Law 2022](#) (the “CYP Law”), passed by the Assembly in February 2022, establishes a legal framework aimed at promoting the wellbeing and safeguarding the welfare of children and young people. A key element of the CYP Law is the introduction of the statutory role of the Independent Advocate (the “advocate”), a qualified practitioner defined in the draft Regulations, who will operate within the framework of this Law.

Article 44 of the CYP Law empowers the States to create Regulations that require the Minister for Children and Families (“the Minister”) to ensure the provision of an independent advocacy service. This provision guarantees that eligible individuals have access to independent advocacy, which is crucial for upholding their rights and amplifying their voices in matters that affect them. The advocacy service functions independently from government and other organisations, striving to represent these individuals effectively and impartially.

Currently, independent advocacy services for children and young people in Jersey are offered on a non-statutory basis. Although these services are available and government-supported, they are not legally mandated. Two organisations are currently commissioned to provide independent advocacy services for specific groups of vulnerable children and young people.

### Consultation

The draft Regulations were open for public consultation from December 23 to February 24. Key stakeholders in the independent advocacy sector, as well as professionals who support qualifying individuals, were directly invited to participate in the consultation. This approach ensured that the draft Regulations were well-informed and considered a broad range of perspectives.

Additionally, specific groups of children and young people, who have either experienced independent advocacy or could benefit from it in the future, were anonymously asked a series of questions about their experiences with independent advocacy. They were also asked how the service could be improved and what they would like to see in its provision. This process was facilitated by Barnardo’s Jersey.

Overall, the 16 survey responses and 3 written responses received during the public consultation expressed support for both the content and objectives of the draft Regulations. Common themes of feedback received included a need for further clarity on who the qualifying people are and what measures would be in place to safeguard the independence of advocacy services. In the [Consultation Summary Report](#), numerous queries were effectively addressed, with clear assurances that they will be well covered in the Code of Practice.

### The Regulations

The draft Regulations are designed to establish a framework for appointing independent advocates who will provide support and representation services. These advocates are specifically intended to support certain qualifying groups of children and young people who meet the criteria defined in Regulation 3 of the draft Regulations.

The rationale behind establishing statutory independent advocacy for children and young people in Jersey stems from the need to ensure children’s voices are heard in key decisions that affect their lives. This is consistent with the CYP Law emphasis on safeguarding children’s rights and promoting their welfare. Independent advocacy services are crucial in providing support for children to express their views, understand their rights, and navigate complex systems like

education and healthcare. This ensures children are not overlooked and can actively participate in decisions impacting them.

Key features of the Regulations include:

Eligible Groups: Under Article 44 of the CYP Law, the Minister is required to appoint independent advocates to support the following qualifying individuals:

- Children with a health or development need, as outlined in Article 44(1)(a) of the CYP Law, who are entitled to a wellbeing plan under Article 18 of the CYP Law.
- Looked after children, as referred to in Article 44(1)(b) of the CYP Law.
- Care leavers, as noted in Article 44(1)(c) of the CYP Law.
- Children subject to arrangements to safeguard their welfare, under Article 5 of the CYP Law.

Arrangements to promote Independent Advocacy: Under Regulation 2 of the draft Regulations, the Minister is required to take reasonable steps to ensure that qualifying individuals are made aware of the independent advocacy services available to them. The Minister and his officials can ensure that this information is readily accessible to children, young people, and their families through a variety of approaches. This may include:

- Distributing easy-to-understand informational materials in schools, community centres, and healthcare settings.
- Conducting awareness campaigns through social media platforms commonly used by children and young people.
- Partnering with organisations that work directly with children and families to disseminate information.

Scope of Advocacy Services: The advocacy services must include:

- (a) help to obtain information about, and to understand –
  - (i) the enactments that are relevant to qualifying individuals, and
  - (ii) the rights, if any, that qualifying individuals may exercise under those enactments;
- (b) help to enable qualifying individuals to express their views, wishes and feelings effectively in relation to the information provided under sub-paragraph (a);
- (c) help to enable qualifying individuals to exercise their rights, if any, under an enactment;
- (d) help to enable qualifying individuals to make a complaint or other representation under the procedure referred to in Article 45 of the Law, including representing qualifying individuals during the procedure.

Withdrawing advocacy Services: The qualifying individual must be informed as soon as reasonably practicable after (a) notice of the termination has been given under Regulation 8; or (b) the independent advocate has given notice of the termination of the contract for services.

### Code of Practice

All responses in the consultation showed strong support for the creation of a Code of Practice to accompany the draft Regulations. Based on this feedback, the Minister has approved its development<sup>1</sup>.

The Code provides clear practical guidance for meeting the legal obligations outlined in the draft Regulations, ensuring their consistent and effective implementation. It includes the following key elements:

- An explanation of what independent advocacy is and its importance for children and young people.
- Information on who qualifies for the statutory offer in Jersey as specified in the Regulations.
- A description of ‘non-instructed advocacy,’ including the relevant legal frameworks and decision-making processes to follow.
- Guidance on how to terminate the appointment of independent advocates and conclude the services they provide.
- Key principles that should guide the planning, commissioning, monitoring, and review of advocacy providers in Jersey.
- Eligibility criteria for Independent Advocates, outlining both essential requirements and desirable qualities.
- Guidance on how advocacy providers can support Independent Advocates.
- Information on situations in which an individual is not suitable to serve as an Independent Advocate.
- Guidance on managing conflicts of interest, addressing safeguarding concerns, and ensuring confidentiality in the practice of an Independent Advocate.

The Code will be published online once the Regulations come into effect.

### **Financial and staffing implications**

There are no immediate financial or workforce implications as a direct result of the making these Regulations.

The funding for the commissioned service of independent advocacy is included within the head of expenditure for CYPES and has already been agreed by the States Assembly as part of the Government Plan 2024 -27.

### **Children’s Rights Impact Assessment**

A Children’s Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly website.

---

<sup>1</sup> Under Regulation 10, it is proposed that Article 44 of the CYP Law is amended to show that the Minister ‘must’ issue a Code of Practice for the purposes of Independent Advocacy.

---

## EXPLANATORY NOTE

---

The Children and Young People (Independent Advocates) (Jersey) Regulations 202- (the “Regulations”), if passed, will require the Minister for Children and Families (the “Minister”) to appoint independent advocates to provide advocacy services in respect of children with a health or development need, children looked after by the Minister, care leavers and children who are subject to safeguarding arrangements (“qualifying individuals”). These Regulations also provide for the functions of independent advocates and amend Article 44 of the Children and Young People (Jersey) Law 2022 (the “Law”) to require the Minister to issue a code of practice in relation to independent advocates.

*Regulation 1* sets out the definitions of certain words and phrases used throughout the Regulations.

*Regulation 2* requires the Minister to make reasonable arrangements to bring the services of independent advocates to the attention of qualifying individuals.

*Regulation 3* requires the Minister to appoint independent advocates in accordance with *Regulation 4*.

*Regulation 4* provides that the Minister may appoint independent advocates under a contract for services or enter into an arrangement with a provider of independent advocacy services. This Regulation also sets out certain requirements in respect of appointments.

*Regulation 5* sets out the eligibility for appointment as an independent advocate. The independent advocate must have appropriate experience and training in advocacy and be an individual of integrity and good character. Other criteria for appointment may be set out in the code of practice issued by the Minister under Article 44 of the Law as amended by *Regulation 10*.

*Regulation 6* sets out the duties of the independent advocate, which include informing qualifying individuals of the nature of the free advocacy services that are available. Independent advocates are also required to have regard to the code of practice when exercising those duties.

*Regulation 7* sets out the nature of the advocacy services that will be provided to qualifying individuals including help to enable qualifying individuals to exercise their rights and to make complaints, and to represent qualifying individuals in the complaints procedure under Article 45 of the Law.

*Regulation 8* sets out the circumstances in which an independent advocate’s appointment must be terminated. The independent advocate must be given written notice of the reasons for, and the date of, the termination of their appointment.

*Regulation 9* sets out when an independent advocate must stop providing advocacy services to a qualifying individual.

*Regulation 10* provides that if an independent advocate has had their appointment terminated under *Regulation 8*, or if an independent advocate appointed under a contract for services decides to terminate the contract, the Minister or provider of the advocacy service must inform the qualifying individual, subject to their age and maturity, of the ending of the service provided by their independent advocate and give details of their replacement independent advocate.

*Regulation 11* amends Article 44 of the Law to require the Minister to issue a code of practice in relation to independent advocates. The definition of “independent” in the Law currently only applies in respect of an independent advocate’s independence from persons involved in a professional or personal capacity with children or care leavers. This Regulation expands the definition to so that the independent advocate must be independent of persons involved with any qualifying individual in a professional or personal capacity. The independent advocate must themselves also be professionally and personally unconnected with a qualifying individual.

*Regulation 12* gives the title of these Regulations and provides that they come into force on a day to be specified by the Minister by Order.



Jersey

## **DRAFT CHILDREN AND YOUNG PEOPLE (INDEPENDENT ADVOCATES) (JERSEY) REGULATIONS 202-**

### **Contents**

---

#### **Regulation**

1	Interpretation .....	8
2	Requirement to ensure awareness of services of independent advocates .....	8
3	Requirement to appoint independent advocate in respect of qualifying individuals...	8
4	Appointment of independent advocate .....	9
5	Qualification for appointment as independent advocate .....	9
6	Duties of independent advocate .....	9
7	Nature of advocacy services to be provided by independent advocate .....	10
8	Termination of appointment of independent advocate.....	11
9	Ending of services by independent advocate .....	11
10	Replacement of independent advocate .....	11
11	Amendment of Article 44 (independent advocates) of the Law .....	12
12	Citation and commencement .....	12



Jersey

# DRAFT CHILDREN AND YOUNG PEOPLE (INDEPENDENT ADVOCATES) (JERSEY) REGULATIONS 202-

*Made* [date to be inserted]

*Coming into force* [date to be inserted]

**THE STATES** make these Regulations under Articles 44 and 46 of the [Children and Young People \(Jersey\) Law 2022](#) –

## 1 Interpretation

In these Regulations –

“advocacy service provider” means a person (other than the Minister), including a voluntary organisation, who –

- (a) employs or engages people to provide services as independent advocates; and
- (b) is independent of any other persons involved in a professional or personal capacity with qualifying individuals;

“code of practice” means the code of practice issued under Article 44 of the Law;

“Law” means the [Children and Young People \(Jersey\) Law 2022](#);

“qualifying individuals” means the people listed in Regulation 3 in relation to whom, or on behalf of whom, independent advocates are appointed to act.

## 2 Requirement to ensure awareness of services of independent advocates

The Minister must make reasonable arrangements to ensure that qualifying individuals are aware of the availability of independent advocates’ services.

## 3 Requirement to appoint independent advocate in respect of qualifying individuals

- (1) The Minister must, in accordance with Regulation 4, appoint independent advocates to act in relation to, or on behalf of –
  - (a) children with a health or development need, who are entitled to a wellbeing plan under Article 18 of the Law;
  - (b) looked after children;
  - (c) care leavers; and



- (d) children who are the subject of arrangements to safeguard their welfare under Article 5 of the Law.

#### **4 Appointment of independent advocate**

- (1) The Minister may –
  - (a) appoint an independent advocate under a contract for services; or
  - (b) enter into an arrangement with an advocacy service provider.
- (2) An independent advocate does not become a States' employee when appointed by the Minister or by an advocacy service provider.
- (3) The Minister or advocacy service provider must not appoint a person to be an independent advocate unless the Minister or provider is satisfied that the person is eligible for appointment under Regulation 5.
- (4) The Minister or advocacy service provider must, as soon as reasonably practicable after an independent advocate has been appointed to act in relation to, or on behalf of, a qualifying individual, arrange for the independent advocate to be introduced to the qualifying individual.
- (5) The Minister or advocacy service provider must record when the introduction first takes place.
- (6) If the Minister enters into an arrangement with an advocacy service provider, the arrangement must include a requirement that the provider –
  - (a) complies with their obligations under these Regulations; and
  - (b) has regard to the code of practice.
- (7) An advocacy service provider who has entered into an arrangement with the Minister is entitled to fees, expenses and allowances connected with providing the advocacy service.

#### **5 Qualification for appointment as independent advocate**

- (1) A person is qualified for appointment as an independent advocate if the Minister or advocacy service provider is satisfied that the person –
  - (a) has appropriate experience and training in advocacy for qualifying individuals;
  - (b) is able to provide sufficient evidence of their integrity and good character, including an enhanced criminal record certificate;
  - (c) meets other qualification criteria, if any, set out in the code of practice.
- (2) In this Regulation “enhanced criminal record certificate” means a certificate issued under section 113B of the Police Act 1997 of the United Kingdom as extended to Jersey, with modifications, by the Police Act 1997 (Criminal Records) (Jersey) Order 2010 (S.I. 2010/765 of the United Kingdom).

#### **6 Duties of independent advocate**

- (1) An independent advocate must –
  - (a) advise a qualifying individual of the advocacy services that the independent advocate will provide to them under Regulation 7;

- (b) so far as reasonably practicable and having regard, if appropriate, to the qualifying individual's age and maturity, take steps to ensure that the qualifying individual understands –
    - (i) the nature of the advocacy services that are available,
    - (ii) that the services are provided free of charge, and
    - (iii) that there is no obligation to receive those services;
  - (c) so far as reasonably practicable and having regard, if appropriate, to the qualifying individual's age and maturity, take steps to ensure –
    - (i) that advocacy services are delivered in a timely manner,
    - (ii) that the qualifying individual is enabled to make their own choices or decisions, and to express their own views, wishes and feelings in relation to decisions that affect them, and
    - (iii) that the qualifying individual's consent is obtained, if required.
- (2) An independent advocate must have regard to the code of practice when exercising their duties under this Article.

## **7 Nature of advocacy services to be provided by independent advocate**

- (1) This Regulation sets out the advocacy services that will be provided by an independent advocate to a qualifying individual, so far as it is appropriate to do so in each qualifying individual's case and, having regard, if appropriate, to the individual's age and maturity.
- (2) An independent advocate, whether appointed by the Minister under a contract for services or by an advocacy service provider, must not charge a qualifying individual for the provision of advocacy services.
- (3) The advocacy services must include –
  - (a) help to obtain information about, and to understand –
    - (i) the enactments that are relevant to qualifying individuals, and
    - (ii) the rights, if any, that qualifying individuals may exercise under those enactments;
  - (b) help to enable qualifying individuals to express their views, wishes and feelings effectively in relation to the information provided under subparagraph (a);
  - (c) help to enable qualifying individuals to exercise their rights, if any, under an enactment;
  - (d) help to enable qualifying individuals to make a complaint or other representation under the procedure referred to in Article 45 of the Law, including representing qualifying individuals during the procedure.
- (4) For the purposes of providing help under paragraph (3), an independent advocate may, to the extent that it is reasonably practicable and appropriate to do so in each qualifying individual's case –
  - (a) speak on behalf of the qualifying individual at meetings; or
  - (b) consult a person who, to the independent advocate's knowledge or belief, is concerned with the qualifying individual in a professional capacity or in a supportive personal capacity.

- (5) Nothing in this Regulation allows the independent advocate to disclose personal information about the qualifying individual without their consent, in so far as it is possible to obtain that consent having regard to the qualifying individual's age and maturity.

## **8 Termination of appointment of independent advocate**

- (1) The Minister, or advocacy service provider, must terminate an independent advocate's appointment if they are satisfied that an independent advocate –
- (a) is no longer eligible for appointment under Regulation 5; or
  - (b) is failing to have regard to the code of practice as required under Regulation 6(2).
- (2) The Minister or advocacy service provider must, as soon as reasonably practicable, give the independent advocate notice in writing of the termination of their appointment, which must –
- (a) include the reasons for the termination; and
  - (b) specify the date on which the termination takes effect.
- (3) In the case of an advocacy service provider that terminates the appointment of an independent advocate, the provider must inform the Minister of the termination as soon as reasonably practicable after notice of it has been given.

## **9 Ending of services by independent advocate**

An independent advocate must stop providing advocacy services to a qualifying individual –

- (a) 90 days after the qualifying individual ceases to be a qualifying individual; or
- (b) on the date specified in the notice of termination of appointment given under Regulation 8.

## **10 Replacement of independent advocate**

- (1) This Article applies if –
- (a) the independent advocate's appointment is terminated under Regulation 8; or
  - (b) an independent advocate appointed by the Minister terminates the contract for services.
- (2) The Minister or advocacy service provider must, having regard to the qualifying individual's age and maturity, take all reasonable steps to inform the qualifying individual of the details of the replacement advocate who has been appointed to provide them with advocacy services.
- (3) The qualifying individual must be informed as soon as reasonably practicable after –
- (a) notice of the termination has been given under Regulation 8; or
  - (b) the independent advocate has given notice of the termination of the contract for services.

## 11 Amendment of Article 44 (independent advocates) of the Law

- (1) In Article 44(6) of the Law, for “The States may by Regulations” there is substituted “Regulations under this Article may require the Minister to”.
- (2) After Article 44(7) of the Law there is inserted –
  - (7A) The Minister must issue a code of practice for the purposes of this Article, which may, among other things, include –
    - (a) guidance for independent advocates as to the carrying out of their functions;
    - (b) eligibility criteria for the appointment of independent advocates;
    - (c) guidance about the termination of the appointment of, or ending of services provided by, independent advocates.
  - (7B) The Minister must publish the code of practice, review it periodically and publish it when revised.
  - (7C) Before issuing or revising a code of practice, the Minister must consult persons who appear to the Minister to have an interest.
- (3) In Article 44(8) for the definition “independent” there is substituted –

“independent”, in relation to an independent advocate, means a person who is –

  - (a) independent of persons involved in a professional or personal capacity with people specified in paragraph (1), or in Regulations under paragraph (6); and
  - (b) not in any way professionally or personally connected with people specified in paragraph (1) or in Regulations under paragraph (6).

## 12 Citation and commencement

These Regulations may be cited as the Children and Young People (Independent Advocates) (Jersey) Regulations 202- and come into force on a day to be specified by the Minister by Order.