

# STATES OF JERSEY



## **DRAFT CHILDREN AND YOUNG PEOPLE (INDEPENDENT ADVOCATES) (JERSEY) REGULATIONS 202- (P.87/2024) – CHILDREN’S RIGHTS IMPACT ASSESSMENT**

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**Presented to the States on 16th December 2024  
by the Minister for Children and Families**

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**STATES GREFFE**

## CHILDREN'S RIGHTS IMPACT ASSESSMENT (CRIA)

### PART 1: SCREENING

Name and title of Duty Bearer:	Minister for Children and Families
Type of Duty Bearer: (Minister, Elected Member or States Assembly Body)	Elected Member
Assessment completed by (if not completed by duty bearer):	
Date:	12.12.2024

1) Name and brief description of the proposed decision

The subject of your CRIA may be a proposed law, policy or proposition and in accordance with the Law is referred to in this template as the '**decision**'

- What is the problem or issue the decision is trying to address?
- Do children experience this problem differently from adults?

In 2021, the Children's Commissioner published a review of independent advocacy in Jersey. The review recommended expanding access to free, rights-based independent advocacy for all children and young people who need it, supported by legal provisions.

Parents and carers are usually a child or young person's informal advocates as and when it is needed. Looked after children, care leavers, children in need, children on protection plans may not have the same access to this support from family members. Evidence from care experienced groups show that navigating complex systems and services is a challenge; made even more important as many vulnerable children depend on these systems and services throughout their childhood. For these groups of children and young people it is vital that they have consistent access to independent services who they can trust and rely on to ensure their voice is heard.

An independent professional advocate is a paid, trained person who is qualified to help children and young people have their voice heard.

The Children and Young People (Jersey) Law 2022 (the "Law") was agreed by the States Assembly in February 2022. The Law enables the Minister for Children and Families to bring forward regulations relating to the appointment, remit, role, conduct and powers of independent advocates.

The Minister for Children and Families is committed to implementing regulations along with a Code of Practice that will grant statutory rights to independent advocacy for specific vulnerable groups of children and young people. These regulations aim to standardise advocacy services across the island, ensuring that all qualifying individuals receive consistent and high-quality support. By creating a uniform approach, the plan seeks to protect the rights and interests of vulnerable children and young people, and ensure their voices are effectively heard in decisions that affect them.

<p>Since this proposition focuses on delivering independent advocacy services to certain children and young people, its impact will differ for them compared to adults.</p>
<p>2) Which groups of children and young people are likely to be affected? Groups of children could include early years, primary or secondary education; young adults; children with additional learning needs; disabled children; children living in poverty; children from particular ethnic backgrounds; migrants; refugees; care experienced children and LGBTQ+ children</p>
<ul style="list-style-type: none"> <li>• Children with a health or development need - as referred to Article 44(1)(a) of the CYP Law, who are entitled to a wellbeing plan under Article 18 of the CYP Law;</li> <li>• Looked after children - as referred to in Article 44(1)(b) of the CYP Law</li> <li>• Care leavers - as referred to in Article 44(1)(c) of the CYP Law</li> <li>• Children who are the subject of arrangements to safeguard their welfare under Article 5 of the CYP Law</li> </ul>
<p>3) What is the likely impact of the proposed decision on children and on their rights?</p> <ul style="list-style-type: none"> <li>• Identify any potential positive OR negative impacts and include indirect impacts on children and their rights as described in the UNCRC</li> <li>• Will different groups of children be affected differently by this decision?</li> </ul>
<p>If the States approve the Regulations, the most significant impact of this proposal will be enhancing access to independent advocacy services for the specified groups of children and young people. This will promote the voice and inclusion of those children and young people in decision making about matters that directly affect them.</p> <p>While not all vulnerable groups of children and young people are currently eligible for independent advocacy under the Regulations, this decision reflects a strategic focus on addressing the most pressing needs within available resources. By prioritising these groups, the policy aims to build a strong foundation for statutory provision. Looking ahead, there are plans to expand the scope of services to include additional qualifying groups as resources allow.</p>
<p>4) Is a full Children’s Rights Impact Assessment required? If you have identified impacts on children and their rights, a full CRIA should be completed. If no impacts are identified then a Full CRIA is not required, but please explain your rationale and how you reached this conclusion</p>
<p>Yes, a full child rights impact assessment (CRIA) is required. Conducting a CRIA will help decision-makers ensure that the choice to offer independent advocacy to eligible children and young people considers a wide range of children's rights.</p>

If screening determines that a full CRIA is needed, complete Part 2

## Part 2: FULL CHILDREN’S RIGHTS IMPACT ASSESSMENT

5) What will be the impacts (positive or negative) of the proposed decision on children’s rights?

For each of the UNCRC articles described below, click to identify any that may be relevant

Category	UNCRC Article	Impact?	
		YES	NO
Guiding Principles	Non-discrimination ( <a href="#">Art 2</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Best interests of the Child ( <a href="#">Art 3</a> ) to be a top priority	<input type="checkbox"/>	<input type="checkbox"/>
	Right to Life survival and development ( <a href="#">Art 6</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Respect for the child’s views ( <a href="#">Art 12</a> )	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Civil Rights & Freedoms	Right to birth registration, name and nationality ( <a href="#">Art 7</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Right to an identity ( <a href="#">Art 8</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Freedom of expression ( <a href="#">Art 13</a> )	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Freedom of thought, conscience, and religion ( <a href="#">Art 14</a> ) Every child has the right to think and believe what they choose	<input type="checkbox"/>	<input type="checkbox"/>
	Freedom of association ( <a href="#">Art 15</a> ) Every child has the right to meet with other children and to join groups and organisations	<input type="checkbox"/>	<input type="checkbox"/>
	Right to Privacy ( <a href="#">Art 16</a> ) including family and home life	<input type="checkbox"/>	<input type="checkbox"/>
	Access to information from the media ( <a href="#">Art 17</a> ) Right to access reliable information from a variety of sources, in a format that children can understand	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Protection against torture or other cruel, degrading or inhumane treatment or punishment ( <a href="#">Art 37(a)</a> )	<input type="checkbox"/>	<input type="checkbox"/>
Family Environment and Alternative Care	Respect for the responsibilities, rights and duties of parents (or where applicable, extended family or community) to guide their child as they grow up ( <a href="#">Art 5</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Responsibilities of both parents in the upbringing and development of their child ( <a href="#">Art 18</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Children must not be separated from their parents against their will unless it is in their best interests ( <a href="#">Art 9</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Family reunification ( <a href="#">Art 10</a> )	<input type="checkbox"/>	<input type="checkbox"/>

	Abduction and non-return of children abroad ( <a href="#">Art 11</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Right to a standard of living that is good enough to meet the child's physical and social needs and support their development ( <a href="#">Art 27</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Special protection for children unable to live with their family ( <a href="#">Art 20</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Best interests of the child in the context of Adoption ( <a href="#">Art 21</a> )	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Review of treatment whilst in care ( <a href="#">Art 25</a> ) If a child has been placed away from home for the purpose of care or protection (for example, with a foster family or in hospital), they have the right to a regular review of their treatment, the way they are cared for and their wider circumstances.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Protection from violence, abuse or neglect ( <a href="#">Art 19</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Recovery from trauma and reintegration ( <a href="#">Art 39</a> ) 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.	<input type="checkbox"/>	<input type="checkbox"/>
Basic Health and Welfare	Rights of disabled children ( <a href="#">Art 23</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Right to health and health services ( <a href="#">Art 24</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Right to social security ( <a href="#">Art 26</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Right to adequate standard of living ( <a href="#">Art 27</a> )	<input type="checkbox"/>	<input type="checkbox"/>
Education, Leisure and Cultural Activities	Right to education ( <a href="#">Art 28</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Goals of education ( <a href="#">Art 29</a> ) Education must develop every child's personality, talents and abilities to the full	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Leisure, play and culture ( <a href="#">Art 31</a> ) Every child has the right to relax, play and take part in cultural and artistic activities	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Special Protection Measures	Special protection for refugee children ( <a href="#">Art 22</a> )	<input type="checkbox"/>	<input type="checkbox"/>
	Children and armed conflict ( <a href="#">Art 38</a> and <a href="#">Optional Protocol #1</a> ) Governments must do everything they can to protect and care for children affected by war and armed conflict.	<input type="checkbox"/>	<input type="checkbox"/>
	Children and juvenile justice ( <a href="#">Art 40</a> ) Right to be treated with dignity and respect, right to legal assistance and a fair trial that takes account of age.	<input type="checkbox"/>	<input type="checkbox"/>

Inhumane treatment and detention ( <a href="#">Art 37 (b)-(d)</a> ) Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible.	<input type="checkbox"/>	<input type="checkbox"/>
Recovery from trauma and reintegration ( <a href="#">Art 39</a> ) 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	<input type="checkbox"/>	<input type="checkbox"/>
Child labour and right to be protected from economic exploitation ( <a href="#">Art 32</a> )	<input type="checkbox"/>	<input type="checkbox"/>
Drug abuse ( <a href="#">Art 33</a> )	<input type="checkbox"/>	<input type="checkbox"/>
Sexual exploitation ( <a href="#">Art 34</a> )	<input type="checkbox"/>	<input type="checkbox"/>
Abduction, sale and trafficking of children ( <a href="#">Art 35</a> )	<input type="checkbox"/>	<input type="checkbox"/>
Protection from other forms of exploitation including for political activities, by the media or for medical research ( <a href="#">Art 36</a> )	<input type="checkbox"/>	<input type="checkbox"/>
Children belonging to a minority or an indigenous group ( <a href="#">Art 30</a> )	<input type="checkbox"/>	<input type="checkbox"/>
<a href="#">Optional Protocol</a> on the sale of children, child prostitution and child pornography	<input type="checkbox"/>	<input type="checkbox"/>
<a href="#">Optional protocol</a> on the involvement of children in armed conflict	<input type="checkbox"/>	<input type="checkbox"/>

6) Information and research What evidence has been used to inform your assessment?		
Evidence collected (include links to relevant publications)	What did the evidence tell you?	What are the data gaps, if any?
[JERSEY] <a href="#">20210702-occ-jersey-advocacy-report-issued-final.pdf (childcomjersey.org.je)</a> <a href="#">8445-cco-ipas-report-summary-aw.pdf (childcomjersey.org.je)</a>	In 2021, the Children’s Commissioner released an independent review of advocacy services in Jersey. The review recommended expanding access to rights-based independent	Overall, there appears to be a lack of data in: <ul style="list-style-type: none"><li>• <b>Quality of Services:</b> A lack of comprehensive evaluations on the quality and consistency of advocacy services across</li></ul>

	<p>advocacy for all children and young people who need it, emphasising the importance of a legal framework for these services.</p>	<p>different regions, making it difficult to assess best practices.</p>
<p>[ENGLAND]</p> <p><a href="#">5414-DfES-AdvocacyServices.txt (publishing.service.gov.uk)</a></p>	<p>England has regulations for independent advocacy for children, primarily established under the Children Act 1989. This legislation mandates that local authorities provide independent advocacy services for specific groups, including looked after children, care leavers, and children in need, particularly when they are making complaints or representations about services.</p> <p>The regulations outline the responsibilities</p>	<ul style="list-style-type: none"> <li> <p><b>Feedback Mechanisms</b>: Insufficient mechanisms for collecting and analysing feedback from children about their advocacy experiences, which could inform improvements and best practices.</p> </li> <li> <p><b>Systematic Barriers</b>: Limited information on barriers children face in accessing independent advocacy, such as geographic, cultural, or systemic obstacles.</p> </li> </ul>

	<p>s of local authorities and ensure that children are informed about their right to access advocacy.</p>
<p>[SCOTLAND]</p> <p><a href="http://www.gov.scot">Keeping The Promise to our children, young people and families (www.gov.scot)</a></p> <p><a href="http://legislation.gov.uk">The Children’s Hearings (Scotland) Act 2011 (Children’s Advocacy Services) Regulations 2020 (legislation.gov.uk)</a></p>	<p>The Scottish Government's 2014 guidance highlights the importance of advocacy for children interacting with services like health and education. Previously, only children with mental disorders and those contesting educational decisions had statutory advocacy rights. New Advocacy Regulations under the Children’s Hearings (Scotland) Act 2011 now provide for advocacy when a child faces risks such as parental neglect. A specialist advocacy</p>



	<p>service is being developed, informed by a National Practice Model from 2020.</p> <p>Furthermore, following the Independent Care Review and "the Promise," the government plans to ensure that all care-experienced children and their families have access to independent advocacy by 2024, focusing on child-centred legal support.</p>
<p>[WALES]</p> <p><a href="https://gov.wales/sites/default/files/publications/2019-12/social-services-and--well-being-wales-act-2014-part-10-code-of-practice-advocacy.pdf">gov.wales/sites/default/files/publications/2019-12/social-services-and--well-being-wales-act-2014-part-10-code-of-practice-advocacy.pdf</a></p> <p><a href="#">Statutory Guidance - Advocacy Services (gov.wales)</a></p>	<p>In Wales, independent advocacy for children is governed by the <i>Social Services and Well-being (Wales) Act 2014</i>, which guarantees children and young people's access to advocacy services, especially regarding care, support, and decision-</p>

	<p>making. Children have the right to independent advocacy when they are looked after by the local authority, in need of care, or undergoing assessments. To enhance advocacy, the Welsh Government introduced a Code of Practice in 2019, aligned with regulations under the <i>Regulation and Inspection of Social Care Act 2016</i> that set requirements for advocacy service providers.</p>	
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<p>7) Engagement with children What groups of children and young people (or those who speak on their behalf, such as social workers, teachers or youth workers) have been directly or indirectly involved in developing the decision?</p>		
Groups consulted	How they were involved	What were the findings?
<p>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.</p>	<p>Barnardo's Jersey facilitated this engagement.</p>	<p>Independent advocates helped them maintain consistent contact with their families, secure the necessary diagnosis at school, and, overall, provided a much-needed opportunity for someone to finally listen to them.</p>

		The feedback indicated that having a clear understanding of what independent advocacy entails and the processes involved would be very helpful.
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8) Assessing Impact on children’s rights Based on the information collected and analysed above, what likely impact will the proposed decision have on the specific children’s rights identified in question 5)?		
Relevant UNCRC Articles (rights) identified in Q5	Describe the positive or negative impacts on these rights	Which group(s) of children are likely to be affected?
<p>Article 12: The right of the child to express their views freely in matters affecting them, and for those views to be given due weight.</p> <p>Article 3: The principle that the best interests of the child must be a primary consideration in all actions concerning them.</p> <p>Article 13: The right to freedom of expression, including the right to seek, receive, and impart information and ideas.</p> <p>Article 17: The right to access information that is important for their well-being and development.</p> <p>Article 29: The right to education aimed at developing the child's personality, talents, and mental and physical abilities to their fullest potential, which includes understanding their rights.</p>	<p>Empowerment and Voice (Article 12): Advocates empower children to express their views and ensure these opinions are heard and considered in decision-making processes. This fosters confidence and reinforces their right to participate actively.</p> <p>Best Interests (Article 3): Advocates help ensure that the best interests of the child are prioritised in various situations, from education to social services, leading to more supportive and tailored decisions.</p> <p>Freedom of Expression (Article 13): Independent advocacy encourages children to share their thoughts and feelings openly, promoting a culture where their voices are valued and respected, thereby enhancing their freedom of expression.</p> <p>Access to Information (Article 17): Advocates provide children with the information they need about their rights and</p>	<ul style="list-style-type: none"> <li>• Children with a health or development need - as referred to Article 44(1)(a) of the CYP Law, who are entitled to a wellbeing plan under Article 18 of the CYP Law;</li> <li>• Looked after children - as referred to in Article 44(1)(b) of the CYP Law</li> <li>• Care leavers - as referred to in Article 44(1)(c) of the CYP Law</li> <li>• Children who are the subject of arrangements to safeguard their welfare under Article 5 of the CYP Law</li> </ul>

<p>Article 31: The right to play and engage in recreational activities, which can be facilitated through advocacy.</p>	<p>available services, helping them navigate complex systems and empowering them to make informed choices.</p> <p>Educational Support (Article 29): Advocacy can lead to better educational outcomes by helping children secure necessary resources and support, such as special diagnoses or accommodations, fostering an environment where they can thrive academically.</p> <p>Recreational Engagement (Article 31): Advocates can also support children's right to play and engage in recreational activities by ensuring that they have access to safe environments and opportunities for leisure, contributing to their overall well-being.</p>	
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- 9) Weighing positive and negative impacts
- If a negative impact is identified for any area of rights or any group of children and young people, what options are there to modify the proposed decision to mitigate the impact?
  - Could any positive impacts be enhanced?

Regulation 10 ensures protections for qualifying individuals if an independent advocate is removed or ends their contract.

The Minister or advocacy service provider must, considering the individual’s age and maturity, make reasonable efforts to inform them about the new advocate who will be taking over. The qualifying individual should also be notified as soon as possible after:

(a) the termination notice has been given under Regulation 8, or

(b) the independent advocate has ended the contract.

10) Conclusions

In summary, what are your key findings on the impact of the proposed decision on the rights of Jersey children?

Independent advocacy regulations for children and young people align closely with the UN Convention on the Rights of the Child (UNCRC) by promoting children's rights to participation, protection, and empowerment. Here's a brief summary:

1. **Voice and Participation:** These regulations support Article 12 of the UNCRC, which states that children have the right to express their views in matters affecting them.
2. **Protection of Rights:** They help safeguard children's rights and interests, reinforcing Article 3, which emphasises the best interests of the child.
3. **Access to Information:** Independent advocates ensure that children have access to the information they need to understand their rights and the processes affecting them, aligning with Article 17.
4. **Support in Advocacy:** They provide children with resources and support to advocate for themselves, fostering agency and empowerment, as highlighted in various articles of the UNCRC.