Children's Law Reform

Consultation summary April 2020

Contents

Consultation summary April 2020	1
Executive Summary	2
Introduction	2
About the Consultation	3
Formal consultation process	3
Summary of responses	4
Online consultation	4
Embedding wellbeing in policy and practice	5
Establishing Corporate Parenting in policy and practice	6
People working together	9
The right to express views freely	11
Children's Commissioner and Safeguarding Partnership Board response	12
Engagement with children and young people	13
What does wellbeing mean to you?	13
What can be done to increase children and young people's wellbeing?	14
Wellbeing indicators	15
Conclusions and next steps	16
Appendix 1 Policy development activity prior to the consultation	17
Appendix 2 Engagement content for children and young people	17

Executive Summary

The Children's Law reform public consultation ran for 12 weeks between 5th December 2019 and 26 February 2020.

The aim of the consultation was to seek Islanders' views on the principles that will inform a number of amendments to the Children (Jersey) Law, 2002.

These proposed new legal provisions are part of the Children's Legislation Transformation Programme, which is composed of a wide range of areas of policy and legislation for development that have a shared ambition of improving outcomes for children and families.

The proposed amendments include a framework for early intervention based on wellbeing alongside a greater emphasis on integrated service planning and corporate responsibilities, including corporate parenting.

Consultation activities included targeted face to face and group engagement with young people, meetings with and briefings provided to representative practitioners in the children's workforce from the Government of Jersey and the third sector, an online public consultation and two public drop-in sessions at Jersey library.

The online consultation was composed of the following themes:

- Embedding wellbeing in policy and practice
- Establishing corporate parenting in policy and practice
- People working together
- Children's experience and perspective

The over-arching message that emerged from the consultation was that broadly, consultees, including children and young people, are welcoming of the policy proposals.

Expressed reservations fell mainly into two themes. The first broad theme was that the proposals were not detailed enough and it was therefore difficult for consultees to determine how they might work on practice and how effective they would be. This will be mitigated by ongoing dialogue with key stakeholders as the project moves through law drafting and the detail is worked up.

The second theme concerned delivery rather than the principle of the amendment or the soundness of the practice the amendment will be designed to underpin. A number of consultees expressed doubts that the needed resources would be made available to really meet the needs of children and families. Some respondents also expressed a lack of trust that services had the commitment to work together and with children and families. The law is intended to underpin good practice, but it is recognised that ongoing service development and improvement also needs to continue in parallel.

This feedback and ongoing dialogue with key stakeholders will be used to inform the drafting of the amendments to the Children (Jersey) Law 2002. The amendments are due to be drafted by December 2020 and presented to the States Assembly soon after.

Introduction

The Independent Jersey Care Inquiry found that the Government of Jersey had failed to keep step with many of the legislative developments made elsewhere, for example in the UK¹.

In December 2018 the Minister for Children announced the Children's Legislation Transformation Programme² (CLTP), which covers thirty-nine different areas of policy development and proposes wideranging changes to policy and law that has a shared ambition of improving outcomes for children. The policy proposals that are being consulted on under the mantle of the 'Children's Law Reform' are several of

¹ Independent Jersey Care Inquiry, Report of the IJCI, Vol.3, p.59, paragraph 13.31

² Children's Legislation Transformation Programme Published Dec 20, 2018 - The Minister for **Children** and Housing, Senator Sam Mézec

the high priority components of the CLTP in Phase 1. The proposed amendments are consistent with the current Government's strategic policy direction, whilst also enabling additional broader government commitments³.

At the moment the Children (Jersey) Law 2002, which is the primary law that relates to the protection and support of children in Jersey, does not contain statutory provision for the assessment of need and the provision of support to children and families before the point at which there is 'reasonable cause to suspect that a child is suffering or likely to suffer significant harm'.

What this has meant in practice is that support in response to the needs of children and families has sometimes been inconsistent or has arrived too late. The absence of a duty on relevant services to cooperate and a poorly defined and delivered corporate parenting role for government and wider public authorities has also contributed to some poor outcomes for children and families.

A preferred model is based on providing help where it is needed at an earlier stage and on the presumption that children, families and public bodies will, wherever possible, work together to understand, assess and meet the wellbeing needs of children. The aim of the proposed law amendment will be to strengthen the regulatory framework in order to help to underpin this 'right help right time' ethos across the children's workforce, including children's social care. The law is intended to underpin good practice, it is recognised that service development and improvement also needs to continue in parallel.

The proposals also recognise in particular the wellbeing needs of children and young people in care and leaving care. Where children require the Government to become their parent, a clear framework of corporate parenting duties, including published entitlements for children in care and for care leavers, will ensure that wellbeing needs are identified and met. This entitlement is designed to address the known issues that can improve outcomes for children with care experience.

When placed in Law the policy proposals will also strengthen integrated planning and service delivery by bringing forward a duty on Government and key partners to work together to plan and deliver services for children. Public bodies will be required to make arrangements to promote wellbeing and to safeguard children and integrated planning and delivery will also be required by corporate parents.

About the Consultation

The aim of the consultation was to seek Islanders', views on the foundation principles that will inform the amendments to the Children (Jersey) Law, 2002.

Prior to the formal public consultation, development of the proposals over the preceding 12 months included⁴:

- · Consideration of relevant recent independent report findings;
- Local and national evidence on effective ways to protect and support children and young people:
- Local and national information on outcomes;
- Informal meetings and discussions with local children's practitioners;
- · Meetings with Government counterparts in Scotland; and
- Consideration of views expressed by children and young people.

Formal consultation process

Firstly a number of individuals and organisations (Government of Jersey, voluntary and community) who had been highlighted as key stakeholders during the scoping stage were contacted either directly by letter and email or through an existing forum⁵. These agencies and individuals were offered and given one to one

³ Common Strategic Policy 2018-2022; Government Plan (2020-2023); Pledge to Jersey's Children and Young People (2018); Children and Young People's Plan 2019-2023; United Nations Convention on the Rights of the Child (UNCRC); Independent Jersey Care Inquiry Report (2017); Independent Jersey Care Inquiry Report: Two Year Review (2019); Care Commission Independent Inspection Report (2019); Children and Young People Education and Skills – Target Operating Model consultation.

⁴ Appendix 1 Policy development activity prior to the

for example the Safeguarding Partnership Board, The Children's Voluntary Sector Cluster and the Best Start Partnership.

briefings, presentations and discussion meetings as appropriate and members were also encouraged to make submissions to the written consultation.

Secondly, a programme of engagement with children and young people was arranged, mostly facilitated by Jersey Youth Service but also through the School Council Network. A policy officer went out and met a range of children and young people between the ages of 10 and 25, and also had an informal meeting with some people with care experience, which was arranged by Jersey Cares.

Approximately 125 children and young people were given the opportunity to contribute in small groups or individually across a variety of youth projects, through the Princes Trust Programme, the School Council Network and through Jersey Cares. Participation at the engagement events with young people was voluntary so not all of the children and young people submitted responses or chose to engage. The questions and supporting information used in the engagement with children and young people are shown in Appendix 2.

Thirdly a broader public consultation on the proposals ran from 5th December 2019 until 26 February 2020. People were asked to respond via an online survey⁶ or invited to comment in writing by letter or email. In total, thirty-eight completed responses were received via the online survey and five e-mail responses were received. There were also two-drop in sessions at the Jersey library during January, which were attended by a variety of people.

The input from consultees will help inform the development of the draft law and associated practice guidance.

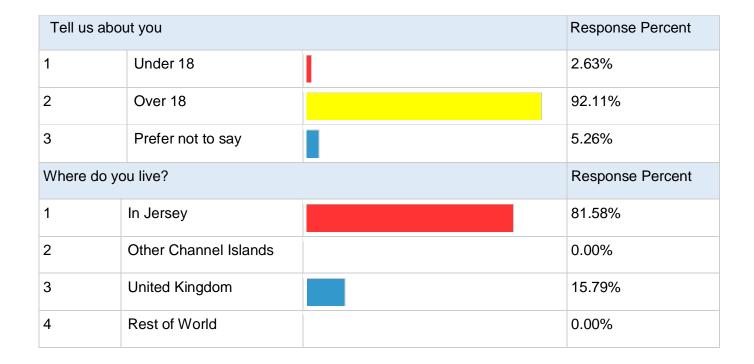
Summary of responses

Online consultation

This section sets out a summary of the key points that emerged from the online survey,

The first set of questions in the online consultation were to enable identification of the characteristics of responders.

Who responded to the consultation?



Tell us ab	Tell us about you Response Percent		
5	Prefer not to say		2.63%
Do any of	the following describe you? F	Please select all that apply.	Response Percent
1	I am a member of the States Assembly		0.00%
2	I work for the Government of Jersey		45.71%
3	I work or volunteer for / am responding on behalf of, an organisation which provides services for children, young people and families		20.00%
4	I work / volunteer directly with children and young people		17.14%
5	I have care experience		8.57%
6	I am a child's parent, carer or guardian		42.86%
7	I am a child or young person		0.00%

The majority of respondents were adult Jersey residents. Government of Jersey workers and parent, carers or guardians of children were all represented. Responses were also received from the broader children's volunteering community/workforce. The absence of children or young people responding was expected, which was why a separate engagement process was designed for this group.

Embedding wellbeing in policy and practice

The next section related to the proposal to take a wellbeing approach to all children, with 'Early Help' being based on children's wellbeing needs.

To what extent do you agree that wellbeing (as described above) is a helpful model to underpin provision of the right help at the right time?			Response Percent
1	Strongly Agree		34.29%
2	Agree		45.71%
3	No opinion/don't know		5.71%
4	Disagree		8.57%
5	Strongly Disagree		5.71%

	To what extent do you agree that wellbeing (as described above) is a helpful model to underpin provision of the right help at the right time? Response Percent			
How much do you agree that providing support for children based on their wellbeing needs will mean that children and families get the help they need?			Response Percent	
1	Strongly Agree		39.39%	
2	Agree		36.36%	
3	No opinion/don't know		18.18%	
4	Disagree		6.06%	
5	Strongly Disagree		0.00%	

Three quarters of respondents agreed or strongly agreed that wellbeing was a helpful model. Just under 20% were not sure. The reservations expressed in comments seemed not to relate so much to the approach but were more centred on concerns about delivery. Timeliness of help, adequate resourcing, services being joined up (e.g. children's social care and education), and services being responsive to the views of the child and parents/carers were all given as perceived issues that had got in the way of good practice in the past and may do in the future if change was not embedded culturally.

"It depends on services being available immediately they are required, problems can escalate very quickly and services are not always available to everyone at the right time. This will need significant resource - money and staff".

"The theory is good but children could be supported in Jersey in this way under the current system if there was a will and inclination at all levels to do so".

"It is not clear what difference a re-statement of clearly sensible and positive provision for children will produce. It is resources and a will to provide these things for all children which is needed. No-one would dispute what children need. The problem is around providing the resources, the care and the love that is often missing".

"You need an entirely separate wellbeing wheel for 'Education' particularly for children with SEN".

"The problem is assessment. The process at present lacks transparency and accountability to the parents or child.... There is plenty of discussion about involving parents, but the reality is that the system thinks it knows best".

The views expressed by the minority who felt it wasn't a helpful model included questions about the somewhat subjective nature of wellbeing, concern about a lack of engagement with parents or independent oversight, and also concerns about heavy-handedness or intrusion on family life.

"Children should not be subjected to routine assessment when there are no concerns about their wellbeing"

"Well-being is a useful shared language but we must consider the ethical implications of net widening. We should be clear about the point at which the state must intervene to protect children".

Establishing Corporate Parenting in policy and practice

The next section set out new the principle of placing corporate parenting on a statutory footing. It also covered the framework for supporting children in care and care leavers, through proposing key areas of support, on which a published entitlement would be built.

Entitlen	Entitlements for children in care and care leavers.			
leavers	posed that the key elements of sup are identified in the Law. The detai ed entitlement that must address al	Response Percent		
include	Please indicate against the following list which areas of support should be included (choose as many as you wish). If you believe that something has been missed please tick other and briefly specify what that is.			
1	Health and development		90.00%	
2	Relationships and social life		83.33%	
3	Finances and money		86.67%	
4	Accommodation and home life		93.33%	
5	Education, training and employment		96.67%	
6	Staying safe		90.00%	
7	Rights and participation		90.00%	
8	Other (please specify):		16.67%	

There was a very high level of support for all of the proposed elements of support for children in care and care leavers.

"As one of the most vulnerable groups in our society, usually having suffered abuse and neglect, they should be entitled to all the support they need from all public bodies to enable them to thrive."

Comments in respect of rights and participation and measurements of success related to making sure the views of children and young people were listened to.

"C&YP should also have access to Advocacy"

"Children and Young People should determine effectiveness"

Additional measures to improve young people in care's educational participation and outcomes were also proposed.

"The Virtual School Head for CLA role should be on this list. Educational outcomes are too important to leave to chance and based on previous outcomes for CLA, this needs to change."

	t extent do you agree with the princ s being specified in the Law, who ar	Response Percent	
1	Strongly Agree		40.00%
2	Agree		40.00%
3	No opinion/ don't know		16.67%
4	Disagree		0.00%

To what extent do you agree with the principle of a named list of Corporate Parents being specified in the Law, who are drawn from the Public Authority?		Response Percent	
5	Strongly disagree		3.33%

	The following are the proposed duties of a Corporate Parent. Indicate those you agree with.		
1	To be alert to matters which, or which might, adversely affect the wellbeing of looked after children and care leavers		89.66%
2	To assess the needs of those children and young people for the services and support it provides		86.21%
3	To promote the interests of those children and young people		93.10%
4	To seek to provide looked after children and care leavers with opportunities to participate in activities designed to promote their wellbeing		86.21%
5	To take action to help looked after children and care leavers		86.21%
6	To take any other action it considers appropriate for the purpose of improving the way in which it exercises it's functions in relation to looked after children and care leavers		75.86%

Impact of the Corporate Parenting proposals. How effective do you think that the Corporate Parenting proposals will be in having a positive impact on the lives of children and young people in care and leaving care?				
1	Very effective		37.50%	
2	Quite effective		28.13%	
3	Unsure / no opinion		34.38%	
4	Not effective		0.00%	
5	Not at all effective		0.00%	

In relation to corporate parenting in law, overall 80% strongly agreed or agreed with the principle of a named list of corporate parents being drawn from public authorities. However, comments were mainly focused on the central position and role of the States and Government of Jersey.

[&]quot;The States of Jersey is the corporate parent of all children in care in Jersey. The States (or Government) is responsible for the health welfare and well-being of all the children in the care of the state".

"Children are removed from the care of their parents in the name of the Minister for Children so he is the embodiment of the corporate parent but it is the state who is responsible. Those responsibilities and duties are undertaken on behalf of the state by its employees. The Minister (and the Government) is vicariously responsible for the actions (and frequently inactions) of those employees. The Minister and the Government should not be able to abdicate responsibility for corporate parenting".

Over 85% supported the corporate parenting duties. One duty, the 'any other action duty' was slightly less well supported (75%). One respondent suggested a duty for different corporate parents to work together, which it is planned will be covered in the joint planning, delivery and reporting requirements.

"The duties need to include collaboration between corporate parents. Services need to be flexible and responsive".

Overall, two thirds of respondents thought that the corporate parenting proposals would be quite effective or very effective. No-one selected not effective or not at all effective.

There was also a reminder that better early support links to this area of work in that it can avoid the need to take children into the care of the state, and that long terms costs should be considered when resourcing early help.

"Corporate parenting should not be necessary if a child's natural parents or wider family were properly supported to care for her. Care, support and resources need to be provided to all families and potential families to prevent children losing their families. Full consideration must be given to the losses caused to children when they are taken from their birth families".

People working together

Throughout the consultation the need for services to work together was mentioned in respondents' comments. This was identified in the scoping stage hence the range of options that were suggested in this section, including a duty to co-operate, a duty to make arrangements to safeguard, requirements in relation to service provision and a duty to report on progress against outcomes.

Tick the proposals that you agree are needed to facilitate more effective joint working and service delivery.		Response Percent	
1	For government and relevant partners to make arrangements to co-operate to promote children's wellbeing and to safeguard children in Jersey		72.41%
2	For government and relevant partners to co-operate to promote children's wellbeing and to safeguard children in Jersey		89.66%
3	For government and relevant partners to plan together for the delivery of services for children		82.76%
4	For government and relevant partners to provide services to meet the assessed wellbeing needs of children		86.21%

	k the proposals that you agree are need vice delivery.	ded to facilitate more effective joint working and	Response Percent
5	For government and relevant partners to publish information about the services provided to meet need		89.66%
6	For government and relevant partners to report on progress made on meeting the needs of children and improving outcomes		86.21%
7	For the Government to publish guidance on how practice should be standardised under the Law		72.41%
8	Other (please specify):		24.14%

Comments could be classified under several topic areas.

The role and format of guidance:

"Organisations already have a duty to work together to safeguard children under the principles of the UK Gov 'Working Together to Safeguard Children 2018' document".

Do you have any comments about the proposals to facilitate integrated planning and joint working?

"Jersey version of 'Working Together"

"Each child is different - if rules are too prescriptive, the process may become both less suitable for the child, and unnecessarily complex/expensive/relevant"

Involving children and families:

"Children, young people and their families should be involved in the design, development and delivery of services".

"Co-production is key to improving outcomes".

"For the government and relevant partners to have equal power when deciding the assessed wellbeing needs of children and to include the voice of the child".

"I think that all departments need to work together. Too often you hear one department say that it doesn't matter what a different department or the children themselves have to say, they are going to make their own decision".

Planning and Resourcing:

"We recommend that all public bodies and third sector agencies are brought together in partnership to jointly assess needs of Jersey children and young people, map services, jointly identify gaps and work collaboratively to address gaps".

"Integrated planning and joint working should be firmly based on a foundation of a preventative approach through universal services".

"It is not policy or law that is stopping integrated planning it is having funding in separate silos, it is not looking long term, it is having short term budgets and insufficient will to provide properly for children".

"For too long Jersey has not given priority to children and families. Put the resources in and there will be improvement all round. We are a small wealthy island with many caring people and organisations. It should be possible to have the best resources in the world for our children".

Linking activity to outcomes:

"All departments need to be working together for the good of the children, not for egos or statistics".

"It is not clear that there is focus on outcomes and achievement - it often appears that focus is on being seen to assess, to report, and there is less or no objective focus on whether the outcomes are acceptable. Often expectations are set at a low level so as to not ""fail"", rather than set at ambitious levels".

Some respondents commented that they found the wording of the questions in this section caused a degree of confusion but notwithstanding that there appears to be solid support for the principle of 'working together' provisions being introduced in Law.

The right to express views freely

These questions concerned the right to independent advocacy.

Children should be given the right to independent advocacy Please tick the statements that you agree with			Response Percent
1	When they are making, or wishing to make their views or feelings known to Government about matters that affect them		88.89%
2	When they wish to make a representation about a decision made or an action proposed or taken under the law		88.89%
3	Other (please specify):		33.33%

Children should be given a right to independent advocacy when they are: Please tick the statements that you agree with			Response Percent
1	Assessed as having a health or development need		85.71%
2	Living in Care		89.29%
3	Leaving Care		89.29%
4	Other (please specify):		46.43%

This set of questions drew the largest number of comments. Overall there was very clear support for giving children a right to independent advocacy.

A significant proportion of respondents thought that provision should include all of the specified circumstances and conditions and go beyond the provision suggested.

"Advocacy for parents and children when they have been suspended/excluded/child protection conferences"

[&]quot;Any other occasion where a decision is made about their lives".

[&]quot;Please, please include parents in this. We meet so many parents who are desperately trying to advocate for their children"

"There should be an independent appeals panel, such as employment tribunals etc not a States department."

"All children who are in need, especially those living in foster care or care homes should have regular contact with people who can advocate on their behalf. Independent Reviewing Officers should be able to ensure care plans are being followed and progressed".

"Children should be given the right to independent advocacy - full stop. Not qualified".

"What about C&YP whose first language isn't English?"

"Children should also have the right to independent advocacy when they are assessed as having an educational need"

'All Children should be given a right to independent advocacy when needed and when they have something to say'.

"When they are a child in need/young Carer".

"Anytime that a child feels that they require an advocate. The model of advocacy is also an important issue and should be explored to ensure the models used are appropriate".

"All children might need help"

"Don't simply define e.g. enter care - make it unconditional".

Children's Commissioner and Safeguarding Partnership Board response

Two e-mailed consultation responses were received by the Children's Policy Team.

The first response was received from the Safeguarding Partnership Board. The Safeguarding Partnership Board is the form that 'safeguarding arrangements' take in Jersey, but is not currently underpinned in Law. The full SPB response can be accessed below.



SPB Childrens Law Reform Response.pc

The Children's Commissioner also submitted a response by e-mail. The Commissioners full response can be accessed below.



Children's Commissioner respo

The Commissioners report concluded:

"We strongly support the shift towards integrated and effective services to support children and young peoples' wellbeing, alongside the move to put early intervention on a statutory footing.

"We welcome the Government's efforts to better support care experienced young people in particular through the establishment of a corporate parenting duty, and to involve them in shaping the support offered".

"We recommend strengthening rights protections through a clear articulation of children's rights under the UNCRC and linking to work to implement a Due Regard duty in order to support the Government's aims and mainstream children's rights protections in Jersey".

Engagement with children and young people

The materials used for the engagement with children and young people are shown in Appendix 2 Appendix 2 Engagement content for children and young people

What does wellbeing mean to you?

A word cloud showing a visual representation of the children and young people's responses is shown below.

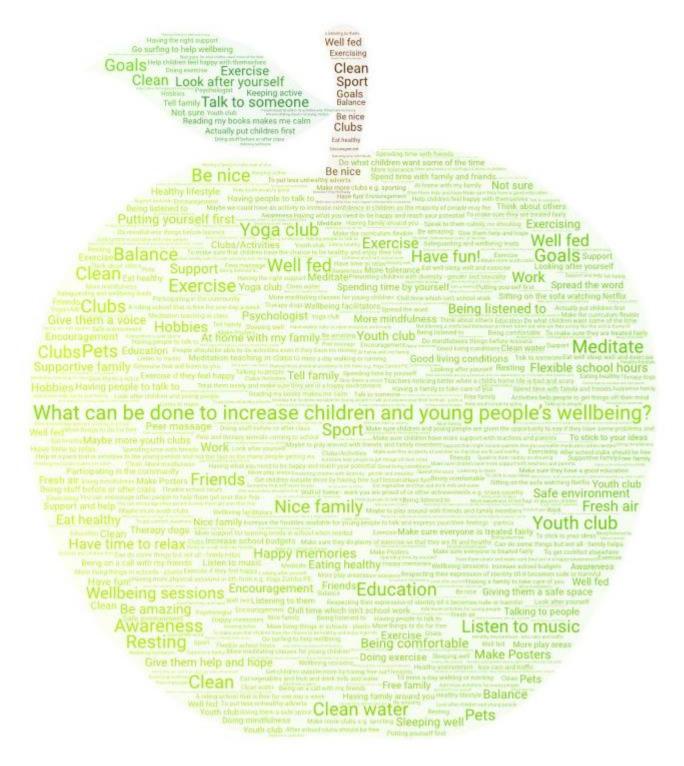


The majority of young people who responded were familiar with the concept of wellbeing including a clear understanding that wellbeing is made up of quite a mix of factors including mental, emotional and physical.

Key themes that came up repeatedly included health, activities and sport, eating and being well, having fun things to do and time to relax, the importance of the support and people that they have in their lives from places like school and youth club, and the absolutely central position of friends and family.

What can be done to increase children and young people's wellbeing?

A word cloud showing a visual representation of the children and young people's responses is shown below.

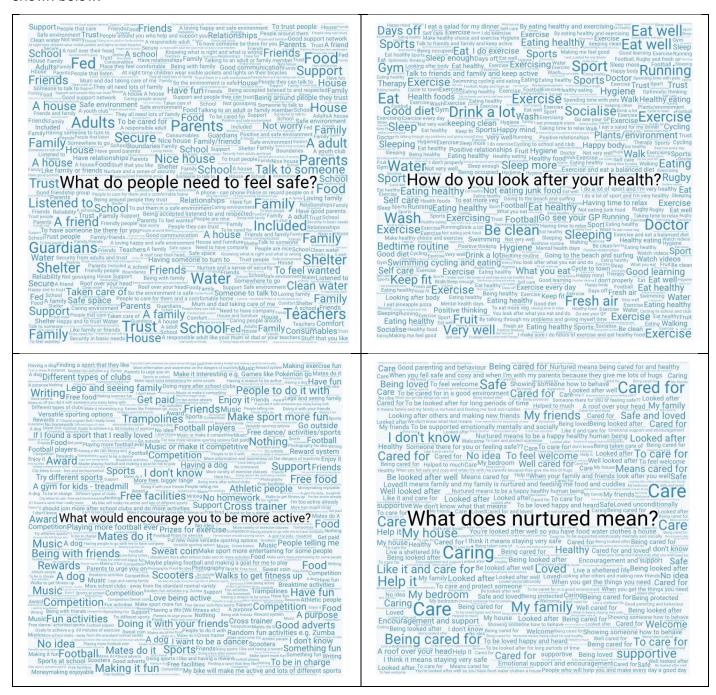


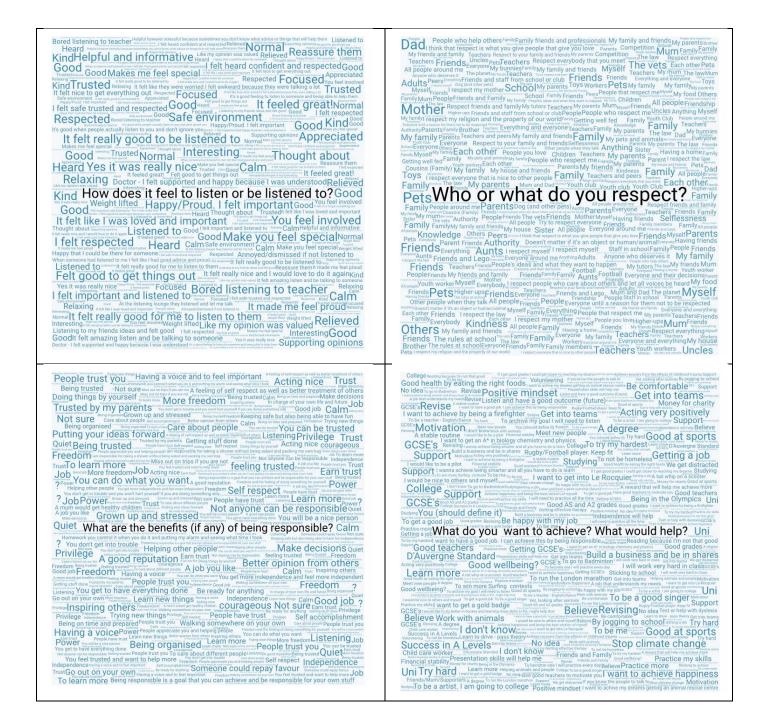
The children and young people who responded had lots of ideas on what helps promote wellbeing. Some of the answers were personal and some were given from a more universal perspective, but many featured the importance of family, friends and harmonious relationships.

Wellbeing indicators

The children and young people were also asked if they would like to consider 8 questions that relate to the proposed wellbeing indicators – Safe, Healthy, Active, Nurtured, Achieving, Responsible, Responsible, Included.

Word and phrase clouds showing a visual representation of the children and young people's responses is shown below.





Conclusions and next steps

The feedback gathered during this consultation will be used to inform the next steps, first of which will be that the Minister for Children and Housing will issue instructions to proceed to law drafting.

During the law drafting process the policy officer will work with the law draftsperson to place the policy into a draft amendment to the Children (Jersey) Law, 2002. It is anticipated that a working group will be formed between officers of Strategic Policy, Planning and Performance (SPPP), Children, Young People, Education and Skills (CYPES) and partners to work on an updated Jersey version of the 'Working Together' guidance document. Other consultees and working partners will be asked to provide further comment and feedback on the law and the operational landscape as drafts are produced and the detail is worked up.

This feedback and ongoing dialogue with key stakeholders will also be used to inform the drafting of the amendments to the Children (Jersey) Law 2002. The amendments are due to be drafted by December 2020 and presented to the States Assembly soon after although it is possible that this could be subject to some extension into Q 1 2021.

Appendix 1 Policy development activity prior to the consultation

Policy Development Activity / Milestones	Date	
Desk based research and evidence gathering	Nov - Dec 2018	
Exploratory discussions with stakeholders	Dec 2019 - Feb 2020	
Policy options papers presented to Children's Legislation	Mar 2019; May 2019;	
Programme Board	June 2019	
Consolidated policy position paper presented to Children's	August 2019	
Legislation Programme Board		
Early briefing Office of the Children's Commissioner	September 2019	
Early Directions Ministerial Briefing	October 2019	
Fact finding visit with representatives of Scottish Government	October 2019	
Practitioner workshop 1	October 2019	
Practitioner workshop 2	October 2019	
Final policy position paper presented to Children's Legislation	November 2019	
Programme Board		
Policy paper presented to CSB	November 2019	
Public Consultation including consultation with children and young	December 2019 –	
people and people with care experience	February 2020	

Appendix 2 Engagement content for children and young people

The materials that were used at the engagement events are shown below. The scene and context was set with some broader explanations of how the legislation and their engagement fitted into the bigger picture of Government activity and children's lives.





A stronger Children's Law to:

- Support and improve the wellbeing of all children in Jersey
- Ensure children and young people get help with their wellbeing when they need it
- Place Corporate Parenting roles and duties in law
- Provide children and young people in care, and care leavers with support for their wellbeing needs
- Make sure everyone who supports children and young people works together
- Help children and young people get the chance to say what they think







Material that specifically related to corporate parenting was discussed with the group at Jersey Cares, which they chose to focus on in discussions on content prior to the event:

