



# Public Consultation Summary

## Draft Children and Young People Independent Advocacy Regulations

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## 1. Consultation Background

### **The Consultation**

The consultation provided the opportunity for those who work with children and young people to review and comment on the proposed Independent Advocacy Regulations for Children and Young People.

The Government of Jersey also asked specific groups of children and young people who have used advocacy services or may be entitled to advocacy in the future. Their feedback will support those who work in the services that support the provision of advocacy to better understand what they need to do and how they need to do it.

### **The draft Children and Young People (Independent Advocates) (Jersey) Regulations 202- (the “Regulations”)**

The Children and Young People (Jersey) Law 2022 (the “new Law”) was agreed by the States Assembly in February 2022. The new Law came into effect on 26 March 2024. The overriding objective of the new Law is to promote and support the wellbeing of children and young people, and to safeguard their welfare. The new Law enables the Minister for Children and Families to bring forward Regulations relating to the appointment, remit, role, conduct and powers of independent advocates.

You can access the new Law via this link: [Children and Young People \(Jersey\) Law 2022 \(jerseylaw.je\)](https://www.jerseylaw.je/children-and-young-people-law-2022)

Independent professional advocacy can play a vital role in helping children and young people to:

- understand their rights.
- consider their choices and options.
- voice their opinions.

Independent advocates are an essential safeguard to ensure children and young people don't get overlooked and their voice is heard alongside professionals and other stakeholders. Article 12 (respect for the views of the child) of the United Nations Convention on the Rights of the Child states that when adults are making decisions that affect children, children have the right to express their views freely in all matters affecting them and to have these views given due weight in accordance with their age and maturity. Children must be given the opportunity to express their views in any judicial and administrative proceedings that affect them, either directly or with the help of a representative<sup>1</sup>.

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<sup>1</sup> GENERAL COMMENT No. 12 (2009) The right of the child to be heard <https://www2.ohchr.org/english/bodies/crc/docs/advanceversions/crc-c-gc-12.pdf>

These Regulations, if passed, will require the Minister for Children and Families (the “Minister”) to appoint independent advocates to provide advocacy services in relation to children with a health or development need, children looked after by the Minister, care leavers, children and young people who are subject to safeguarding arrangements, school children who have been suspended or expelled from school, and siblings and parents of certain specified children. The Regulations will also set out the functions of independent advocates.

## 2. Development of the Regulations

The development of the Regulations has progressed through the following phases:

### Phase 1: Initial Drafting (February - December 2023)

Policy Officers worked with the Legislative Drafting Office (the “LDO”) to develop the Regulations using research from other jurisdictions such as Scotland and Wales. They also considered the Mental Health (Independent Mental Health Advocates) (Jersey) Regulations 2018.

### Phase 2: Initial Mobilisation (September - December 2023)

Policy Officers met with various Government departments to ensure that all relevant stakeholders had been identified. Once identified, all key stakeholders were notified about the upcoming consultation. Policy Officers also met with the stakeholders who support the provision of independent advocacy for children and young people in Jersey, to communicate why the Government wanted their feedback and how it would be used.

### Phase 3: Development of the Regulations for consultation

The Regulations were opened to consultation between 18<sup>th</sup> December 2023 and 18<sup>th</sup> February 2024.

The consultation has now concluded, and a summary of responses is provided in this document.

The Regulations are being reviewed and, if necessary, re-drafted in response to feedback received from the consultation. In some cases, the feedback received relates to an area that is beyond the scope of the Regulations. For example, a resourcing issue or a matter for operational protocol.

## 3. Consultation Response

The consultation ran from 18 December 2023 until 18 February 2024. As of 18 February 2024, 16 survey responses and 3 written responses were received.

Survey respondents identified themselves as the following descriptions:

Answer Choices		Response Percent	Response Total
an advocacy professional		6.25%	< 5
a non-profit professional		31.25%	5
a public servant		56.25%	9
a parent of an individual who would benefit from receiving advocacy services		6.25%	< 5

Written responses have been reviewed and summaries of these responses are set out below according to the question to which the responses relate.

### Interpretation

#### **Q2: Are there any other terms in the Regulations that you believe should be defined?**

12.5% (n = < 5) of respondents to this question said 'yes' there are other terms they believe should be defined in the Regulations.

68.75% (n = 11) of respondents said 'no' there are no other terms that they believe should be defined in the Regulations. 18.75% (n = < 5) of respondents said they were unsure. Respondents listed the below terms and areas that they would like to be defined:

Feedback	Ministerial Response
Independent Advocate	Noted – Policy Officers will work with the LDO to include a definition of 'Independent Advocate'.
A list of the disabilities that qualifies someone to receive advocacy.	<a href="#">Statutory Guidance</a> issued under the new Law defines specific needs which categorise a child with a 'health or development need'. Additionally, the term "disability as defined in Article 1 of the new Law states that a disability is a protected characteristic under

	paragraph 8 (disability) of, and Schedule 1 (protected characteristics) to, the <a href="#">Discrimination (Jersey) Law 2013</a> ; or a 'learning disability' or 'mental disorder' as defined in the <a href="#">Mental Health (Jersey) Law 2016</a> .
'Advocacy Service Provider' to be extended to include that it is independent from Government and other providers of services for the qualifying individuals and employs Independent Advocates.	Noted - Policy Officers will work with the LDO to extend that the definition is structurally independent from the Government.

Requirement to appoint independent advocates in respect of qualifying people.

**Q4. Do you agree that the Regulations provide a clear explanation of who the qualifying people are?**

75% (n = 12) of respondents said 'yes', they do agree that the Regulations provide a clear explanation of who the qualifying people are. 6.25% (n = < 5) of respondents said they were 'unsure'. 18.75% (n = < 5) of respondents said 'no' they do not agree that the Regulations provide a clear explanation of who the qualifying people are. Respondents listed the below as areas that they would like to be explained further:

<b>Feedback</b>	<b>Ministerial Response</b>
The status of children and young people (including their parents) who are waiting for a neurodivergent diagnosis that would categorise them as a qualifying person. Specifically young people 18-25yrs.	<p>Children up to the age of 18yrs (and their parents in accordance with draft Regulation 2(2)(d)) who are waiting to obtain a neurodivergent diagnosis will be categorised as a qualifying person.</p> <p>The status of a young person who is waiting for a neurodivergent diagnosis will be determined if they fall within the following definition in Article 1(1) of the new Law and have arrangements in place to safeguard their welfare:</p> <p>"Young people" means individuals who are aged 18 up to (but not including) the age of 25 and who –</p> <ul style="list-style-type: none"> <li>(a) are care leavers; or</li> <li>(b) have a disability.</li> </ul> <p>As of now, the Regulations provide independent advocacy to the parents of certain groups of children only (those who have not reached the age of 18).</p>

<p>The definition of children whose welfare is being safeguarded.</p>	<p><a href="#">Statutory Guidance</a> issued under the new Law provides written guidance on safeguarding the welfare of children and young people.</p> <p>Additionally, Jersey's Safeguarding Partnership Board has published practice guidance (that aligns with the CYP Law) for improving outcomes for children through the early identification of need, risk, and vulnerability – <a href="#">found here</a>.</p>
<p>Clear examples of who the qualifying people are e.g. specific disabilities/health conditions/those who are in or have been in care.</p>	<p><a href="#">Statutory Guidance</a> issued under the new Law provides written guidance on:</p> <ul style="list-style-type: none"> <li>• who qualifies as a child with a health or development need.</li> <li>• who qualifies as a care leaver.</li> <li>• who qualifies as a looked after child.</li> <li>• what a disability is.</li> </ul>
<p>The qualifying status of young people with a disability once they turn 18yrs old.</p>	<p>Once a qualifying individual with a disability turns 18yrs old they will continue to have the entitlement to an Independent Advocate if they are a young person (an 18-25yr old who is either a care leaver or has a disability) who has arrangements in place to safeguard their welfare.</p> <p>Additionally, under the Mental Health (Jersey) Law 2016, if they are a qualifying patient, they will have access to an Independent Advocate.</p>
<p>The qualifying status of all children in conflict with the law.</p>	<p><a href="#">Statutory Guidance</a> issued under the new Law states that a 'looked after child' is a child or young person within the meaning of the Young Offenders Law who is required to be detained in custody on remand or following sentence under any provision of that Law, where the place of custody is:</p> <ul style="list-style-type: none"> <li>• secure accommodation</li> <li>• a young offender institution</li> <li>• the prison</li> </ul>
<p>The qualifying status of children and young people who have experience of</p>	

care and who do not qualify as 'looked after' or as a 'care leaver'.	At this point, the entitlement is currently based on children and young people who are classed as 'care leavers' or 'looked after children', not the wider group of care experienced people.
Clarification of why pupils from non-provided schools who are expelled or suspended do not receive access to independent advocacy.	Noted – Policy Officers will work with the LDO to ensure all schools will be in scope due to changing profile of need.

Arrangements in respect of the appointment of independent advocates

**Q6. Do you believe that these requirements help to ensure that the appointment process of an independent advocate is well-managed?**

87.5% (n = 14) of respondents said 'yes', they do believe that the requirements help to ensure that the appointment process is well-managed. 12.5% (n = < 5) of respondents said 'no' they do not believe that the requirements help to ensure that the appointment process is well-managed. Respondents listed the following aspects as possible issues:

<b>Feedback</b>	<b>Ministerial Response</b>
Ensuring that there would be no bias from the Minister when appointing someone/an organisation to provide advocacy services.	Future provision of independent advocacy will continue to be through a commissioned process which allows for transparency.
Lack of clarity regarding referral processes and when professionals are notified when a child or young person has an advocate appointed.	Operational procedures outlining the steps and responsibilities involved in the referral process between different services within the advocacy network are best placed in a code of practice.
A direct contractual relationship between the Government and an Independent Advocate compromises the psychological and structural independence of advocacy.	Future provision of independent advocacy will continue to be through a commissioned process. This will ensure that the quality of practice that will be set out in a future code of practice, will include general accountabilities for allocating public money for this activity.
The circumstances around the Minister directly appointing an Independent Advocate are not clear. The concern is that this could be interpreted to apply to a model in which Independent Advocates are also employees of the Government of	Noted - Policy Officers will work with the LDO to ensure that the Regulations reflect that by employing an Independent Advocate, this does not make them a government employee.

Jersey which would undermine the ethos of 'independent' advocacy.	
The criteria should be tightened to ensure that an Independent Advocate should be independent of the administration of the States in its entirety, rather than simply those areas that fall under the ambit of the Minister for Children.	Noted - Policy Officers will work with the LDO to ensure that the Regulations reflect clearly that an Independent Advocate should be independent of the administration of the States in its entirety.

Eligibility for appointment of independent advocates

**Q8. Do you believe that the eligibility criteria ensure that appointed independent advocates are suitable to champion the qualifying people?**

75% of respondents said 'yes' (n = 12) they do believe that the eligibility criteria ensure that appointed independent advocates are suitable to champion the qualifying people. 6.25% (n = < 5) said they were unsure. 18.75% (n = < 5) of respondents said 'no' they do not believe that the eligibility criteria ensure that appointed independent advocates are suitable to champion the qualifying people. Respondents listed the following as possible issues with the eligibility criteria:

<b>Feedback</b>	<b>Ministerial Response</b>
Safeguarding requirements	More details regarding safeguarding procedures that must be followed will be included in the Code of Practice.
An obligation to undertake ongoing continuing professional development.	The future Code of Practice will outline recommended procedures, best practices, and standards relating to ongoing continuing professional development where appropriate.
Lived experience to better understand the issues that the qualifying people face.	It is acknowledged that an Independent Advocate with lived experience could help understand the issues that a qualifying person faces from a personal perspective. The future Code of Practice will include additional characteristics that make a good Independent Advocate.
Lack of clear simple language describing the criteria for families and professionals.	The future Code of Practice will include simple language with detailed explanations, examples, and illustrations to assist in understanding and implementing the requirements effectively for families and professionals.

Requirements to have a good knowledge of Part 6 of the Children and Young People (Jersey) Law 2022 relating to Corporate Parenting.	Noted - Policy Officers will work with the LDO to include this as an eligibility criterion for the appointment of independent advocates.
Requirement to have a good knowledge of any other Human Rights Laws that relate to Jersey to ensure knowledge of all qualifying people United Nations Convention on the Rights of the Child applies to people under the age of 18 only.	Noted – Policy Officers will work with the LDO to include other legislation that may be relevant to the rights of the qualifying people above the age of 18yrs.
When advocating for infants, there should be a requirement for knowledge and skills around infant mental health and child development.	The future Code of Practice will include guidance on best practice for training, this will include training and development in skills and knowledge that help to advocate for infants.
Replace the words ‘autistic spectrum disorder’ with ‘neurodivergent’. Using this term is more inclusive and includes Autism, ADHD, OCD, Dyspraxia, Dyslexia, Dyscalculia, and Tourette’s.	Noted – Policy Officers will work with the LDO to replace ‘autistic spectrum disorder’ with ‘neurodivergent’.

*Duties of an independent advocate*

**Q10. Do you agree that the Regulations describe the duties of an independent advocate proportionately?**

81.25% (n = 13) of respondents said ‘yes’ that they agree that the Regulations describe the duties of an independent advocate proportionately. 18.75% (n = < 5) of respondents said ‘no’ they do not agree that the Regulations describe the duties of an independent advocate proportionately. Respondents listed the following key elements they felt missing from the duties:

<b>Feedback</b>	<b>Ministerial Response</b>
Independent Advocates should ensure that the views and personal data of those receiving advocacy are kept confidential unless there is a safeguarding concern. Additionally, the qualifying individuals should be made aware of this confidentiality.	<a href="#">Statutory Guidance issued under the new Law.</a> has a section on information sharing that Independent Advocates are expected to adhere to.
The provision of non-instructed advocacy to ensure inclusivity of infants, people with communication needs and people who have no capacity to direct an advocate.	The future Code of Practice will provide best practice guidelines on how to provide non-instructed advocacy, and a

	need for it to be included in the training of Independent Advocates.
Independent Advocates have a duty to follow Jersey Safeguarding Partnership Board Child Protection Procedures and Jersey Multi-Agency Adult Safeguarding Policy and Procedures Manual.	The future Code of Practice will outline recommended procedures, best practices, and standards to adhere to.
To ensure clarity, when the qualifying individual's welfare is put first, this shouldn't impact on representing their views even if these are contrary to their welfare. This does not relate to representing the views and wishes of the individual'	The future Code of Practice will outline situations where an Independent Advocate might not believe what the qualifying person believes is in their best interest, but it is still the duty of the Independent Advocate to act as their voice.

*Nature of advocacy services to be provided by independent advocates.*

**Q12. Do you agree that the Regulations cover the key elements of the nature of independent advocacy proportionately?**

93.75% of respondents said 'yes' (n = 15), they do agree that the Regulations cover the key elements of the nature of independent advocacy proportionately. 6.25% (n = < 5) of respondents said 'no' they do not agree that the Regulations cover the key elements of the nature of independent advocacy proportionately. Respondents listed the following as key elements they felt missing or incorrectly depicted when describing the nature of independent advocacy:

<b>Feedback</b>	<b>Ministerial Response</b>
Acting as the voice of the qualifying person in meetings.	Noted – Policy Officers will work with the LDO to reflect this.
The word 'interview' to be replaced with language that closer represents the practice of advocacy and avoids language which may be associated with interrogation or a clinical assessment.	Noted – Policy Officers will work with the LDO to clarify that the term 'interview' is not to be associated with interrogation or a clinical assessment.
During a consultation with a child, it is not expected that a parent to be present during a meeting (unless the child has made a request for the parent to be present).	Noted – Policy Officers will work with the LDO to reflect that a parent's presence is not expected.
Independent advocates to provide feedback to the qualifying individual following any advocacy and seek to understand their view about this feedback.	Best practice for advocacy provision will be outlined in the Code of Practice.  This will include feedback loops.

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Ending of services by independent advocates

**Q14. Do you have a clear understanding of the steps required to ending an independent advocacy service?**

87.5% of respondents said 'yes' (n = 14), they do have a clear understanding of the steps required to ending an independent advocacy service. 12.5% (n = < 5) of respondents said 'no' they do not have a clear understanding of the steps required to ending an independent advocacy service. Respondents listed the following as key elements they felt lacked clarity from the steps required to ending an independent advocacy service:

<b>Feedback</b>	<b>Ministerial Response</b>
Further clarity regarding what happens in situations where there is a need to end a service if there is a conflict of interest.	The Regulations are dealing with the practical arrangements for ending a service only. All the details of when the contract for services can be ended or terminated (for reasons other than those specified in Regulation) will be contained in the procurement and contract documentation.
Extending the ending of services for care leavers specifically from 90 days to 180 days to allow more time to help young people engage and build relationships with adult services.	The Minister is content that this duration is proportionate.
Clarity regarding 'qualifying' needed as this would be difficult for children and young people to understand (as well as some professionals).	Regulation 2 describes who qualifies for independent advocacy.

Termination of appointment of independent advocates

**Q16. Do you have a clear understanding of the steps required to terminate an independent advocacy service?**

94% (n = 15) of respondents said 'yes', they do have a clear understanding of the steps required to ending an independent advocacy service. 6% (n = 1) of respondents said 'no' they do not have a clear understanding of the steps required to ending an independent advocacy service. Respondents listed the following as key elements they felt lacked clarity from the steps required to terminate an independent advocacy service:

<b>Feedback</b>	<b>Ministerial Response</b>
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Clarification to ensure that terminations are in accordance with any contractual agreements that are in place with the advocacy provider.	Arrangements to terminate individual advocacy agreements with clients should be consistent with the regulations and the commissioned service level agreement.
Rationale behind the purpose of informing the Minister when an Advocacy Service Provider terminates the employment of an individual advocate.	The Advocacy Service Provider is delivering services funded by the Government of Jersey. As part of the contract monitoring process the Minister will need to be assured that service providers maintain the capacity and capability to deliver on their contracts for service.

### Code of Practice

The Minister has approved the development of a Code of Practice to compliment the Regulations that will provide detailed practical guidance on how to comply with the legal obligations outlined in the Regulations.

#### **Q18. I agree that a code of practice would be helpful for (more than one answer can be selected):**

- a) people who could benefit from independent advocacy so that they have a clear idea about what to expect from an independent advocacy organisation.  
**100% (n = 16) of respondents said 'yes', they agree.**
- b) independent advocacy organisations to support them in their working practice and to offer a means by which to evaluate their practice.  
**94% (n = 15) of respondents said 'yes', they agree.**
- c) those who commission, fund and regulate independent advocacy to ensure they have a clear understanding of what independent advocacy is, and how independent advocacy organisations should operate.  
**88% (n = 14) of respondents said 'yes', they agree.**

Additional written comments relating to the proposed Code of Practice:

<b>Additional Comments</b>	<b>Ministerial Response</b>
It is suggested that written guidance for professionals, parents and qualifying people which clearly states who is entitled and how they can access the entitlement.	Noted.

The code of practice should be easy to understand for all groups of stakeholders and be produced in several formats, including written, graphic, digital, and audio.	Noted – the Code of Practice will be communicated in various mediums to ensure it is understood by all key stakeholders.
The code of practice should be translated from English to other languages spoken by qualifying people.	Noted - the Code of Practice will be translated into other languages spoken by qualifying people.
It is suggested that the Regulations should be amended to put a duty on the Minister that they must issue a code of practice.	Noted – Policy Officers will work with the LDO to reflect this in the Regulations.

## Consultation Response for Children and Young People

The consultation for children and young people ran during February half term (2024). In total, six responses were received to the five questions asked. A summary of responses to questions posed is given below:

### Q1. What do you think makes a 'good Independent Advocate'?

- Somebody who you have a good relationship with
- Someone to trust and call on if needed when no one else is listening.
- Somebody who is on my side and listens to me and doesn't judge me like others do.
- Somebody who listens to me.

### Q2. When your Independent Advocate spoke for you, what did they do that was helpful?

- People finally listened to me, and I was given a diagnosis that now provides me with the essential support in school.
- They kept me up to date via email with summaries of my meetings so that I could add anything that I may have forgotten.
- They helped me and my dad to have contact again.
- My school stopped my additional support– my Independent Advocate helped me to get it back again.
- On my behalf they shared my difficulties in attending school and the lack of support that I had received.

### Q3. When your Independent Advocate spoke for you, what did they do that was unhelpful?

- They couldn't come to my assessment with me.

- I don't know because I wasn't at the meeting.
- They have always helped me and listened to me.

**Q4. Before deciding whether you want an Independent Advocate, what would you want to know?**

- Who they are and what they do (I thought everyone was from Children's Services)
- What does Independent Advocacy mean?
- Do I get to choose my own Independent Advocate?
- Why do they want to speak to me when I'm already speaking with a lot of people?
- I wasn't aware that I was going to be the 'boss' of an Independent Advocate and that they were only allowed to say what I wanted them to say.
- Is my information kept confidential?
- Who do they work for and what do they do?
- What does 'independent' mean?
- What decisions do they get to make about me?
- Who do they talk to about what I've said?

**Q5. How would you like to learn about independent advocacy and the people that work in it? (e.g. social media/Q&A workshops/school)**

- Social media (all six respondents agreed on this).