Guernsey: Children Law Review

Report by Kathleen Marshall for the Scrutiny Committee of the States of Guernsey

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Scope of the Review

In January 2010, the Children Law (2008) came into force and reformed the law in Guernsey and Alderney, making profound changes affecting children, their families and the professionals who work within this area.

The Children Law made significant changes both to "private law" and "public law." "Private law" refers to disputes between individuals. In this context, this largely means separated parents. "Public law" refers to state support for, or intervention into, the lives of children and families, for example, where there are child protection concerns.

There were initial discussions about the scope of the Review and constitutional questions in relation to the interface with the court system. I have tried to achieve a sensible balance between respecting the independence of the court system and making comment relevant to its essential link with the implementation of the Law.

I have received welcome co-operation from professionals of the departments who are subject to the jurisdiction of the Scrutiny Committee, and from others who are not, such as the judiciary, the Children's Convenor and CYCT, advocates and voluntary organisations, and members of the public, all motivated by a concern to safeguard and promote the interests of children and young people.

My Approach to the Review

My approach to reviewing implementation of the Children Law was to gather what hard information existed, and to find out the experiences of a wide range of people. I started work in January 2015. I spent 18 days in Guernsey and one on Alderney, meeting professionals and members of the public, including parents and young people. A Call for Evidence produced responses from 24 individuals and eight agencies. I asked some agencies for further information.

General Conclusions

My general conclusion is that the Law itself has been widely welcomed, but there have been difficulties in implementation. I have however, recommended some changes to the Law in the light of experience since its introduction.

I make 21 recommendations. Nine relate to private law and focus on the Safeguarder Service, mediation, and support after a court case comes to an end. The remainder relate to public law. One of these is specific to Alderney.

Private Law

Most of the written submissions from members of the public related to their experience of the Safeguarder Service. The Call for Evidence was clear that the Review was not able to consider or investigate individual cases. However, the experience of service users had been highlighted in the Terms of Reference as something the Review should explore.

Some individuals reported that they would like to contribute their experience but were concerned about breaching legal requirements about confidentiality of court proceedings. It was a challenge to keep the discussions on a general level. The report makes a recommendation about re-assessing the proportionality of one of these court rules.

The concerns raised by clients of the Safeguarder Service related to: their perception of the power of Safeguarders and the difficulty of complaining when you feared this might adversely affect the recommendations they made to the court; complaints that Safeguarders "do not listen" to clients' concerns; allegations of gender bias particularly, but not exclusively, against men; concerns about the frequency and quality of contact with families; questions about training and accountability; confusion between the role of Safeguarders and social workers when both were involved in a case; and uncertainty about how to get support once a court case had closed and the Safeguarder's services were withdrawn.

The importance of avoiding recourse to the courts in family matters was highlighted by many of those I spoke to, including members of the public and professionals, with a consequent focus on the importance of promoting mediation as an alternative. The Safeguarder Service has made consistent attempts to promote mediation and has engaged the support of the court service and the legal profession, but referrals are still lower than had been hoped. I learned that cases going to court were often more complicated and expensive than under the old law. This was partly due to the fact that the Law had, rightly, extended the range of people who could become involved, for example, unmarried fathers and grandparents. Some of the added time and cost was due to other factors such as processes related to domestic abuse; a welcome focus, but one which all parties seemed to agree needed to be refined. My understanding is that the courts are doing this in response to developments in England.

My recommendations aim to increase the transparency and accountability of the Safeguarder Service. I recommend that an independent avenue for complaints be established, not just for the Safeguarder Services but for public services in general. I recommend that the service be subject to regular, external inspection. I also suggest that further consideration be given to a proposal that was contained in the consultation prior to enactment of the Law – that the Child, Youth and Community Tribunal might become involved in some private law cases. I recommend that legal aid be made available for mediation by Advocates in some cases, and that a resource should be provided to help children and families address problems that arise after a court case has ended.

Public Law

My general conclusion is that implementation of the public law parts of the Law is unfinished business. Much of the detail that was supposed to guide implementation of the Law, in terms of regulations and guidance, has not been produced. Lack of Guernsey-specific guidance has led social services staff to look to guidance from other parts of the UK and to use that as a basis for their own procedures. This has led to some difficulties because a feature of the Children Law was the establishment of the Child, Youth and Community Tribunal, based largely on the Scottish system, which has no equivalent in England. There is a high turnover of social services staff and they come mostly from England. This means that they start off with no understanding of the Tribunal system and, by the time they have learned something about it, they move on.

This situation is one of the reasons for difficulties that have arisen at the interfaces between the Tribunal system, child protection systems within social services, and plans for permanency in relation to children. However, I also conclude that the threshold conditions set out in the Law for referral to the Tribunal and for permanency are too similar and I recommend that the Law be amended to make a clearer distinction between them. This would also help address some of the distrust of social services reported by members of the public who contacted the Review. I recommend that law, guidance and practice recognise different stages of support and intervention so that families are clear about what is happening and what the consequences might be of agreeing to any particular course of action.

In order to address some of the issues of delay that have arisen within the Tribunal and related court processes, I recommend timescales for evidential hearings in court and a limitation on the numbers of interim care requirements that the Tribunal can make.

The States will soon publish its second Children and Young People's Plan, as required by the Children Law. I believe this will greatly help to move towards a more outcomes-based approach to service provision for children and families. It is widely recognised that this has been lacking up to this point. The Plan will go some way towards better implementation of the States' duty to provide services for children identified as "in need."

Deficiencies have also been acknowledged in relation to the identification of performance measures, and implementation of the duty on employees of the States to share information and work together. I refer to significant improvements on these matters since the Review started. I express support for these developments and focus my recommendations on what I identify as "added value" in terms of reinforcing the "compulsory" status of the Tribunal and ensuring that training and procedures recognise where the Tribunal fits into the Guernsey system.

I devote a section of the report to the island of Alderney. Service provision is always going to be difficult in such a small community. Another feature of small communities is the difficulty in maintaining confidentiality. I discuss the impact of this in presenting barriers to referring concerns related to child protection. I observe that there is very little confidence that child protection arrangements in Alderney are "robust." There are also issues about governance. The States of Alderney understand that they have a jurisdictional responsibility for the health and social services provided by Guernsey, but they have no means of satisfying themselves as to their adequacy. I was particularly concerned about the lack of options available to any child or young person in Alderney who might feel unsafe at home, and I makes some suggestions about this. I recommend that the States of Guernsey and Alderney work together to devise a strategy for the provision of services in Alderney, and that children and young people be involved in that process.

Conclusions and Recommendations

In sections 13 to 16 of the report, I answer the specific questions set out in the Terms of Reference. A full list of recommendations is set out in section 18.

1 Introduction

1.1 Background and Terms of Reference

On 2 October, 2014, the Scrutiny Committee of the States of Guernsey announced the launch of its review of the Children Law. The Background and Terms of Reference were set out as follows:

- In January 2010 two new Laws relating to children came into effect. One of these Laws (the Children (Guernsey and Alderney) Law, 2008: "the Children Law") reformed the law in Guernsey and Alderney relating to children, their families and the professionals who work within this area.
- The Children Law sets out the responsibilities of parents and others caring for children. It creates new obligations on the States to provide services for children in need to prevent them becoming children at risk and to intervene in defined circumstances where children require care, protection, guidance or control. It creates new duties on all individuals to share information and to work together. It also establishes the Child, Youth and Community Tribunal.
- In 2008 a differently constituted Scrutiny Committee in a previous States highlighted child protection as an area of policy worthy of review. The trigger for this identified at the time was a desire to learn from Guernsey's recent and historic experience. The Committee at that time proposed to commission an independent expert to review child protection services in Guernsey with the main focus of providing assurance that the systems for the protection of children were as robust as they could be and that service delivery was effective.
- In view of the impending implementation of the Children Law and following consultation with the Home Department, Education Department and the Health & Social Services Department, the Committee decided in 2009 to defer the review as it considered that it would be more meaningful to focus on testing the implementation and integration of the new processes and procedures introduced by the Children Law once these had a chance to 'bed in'.[1]
- The Children Law has now been in operation for over four years. Recently issues have been raised by elected representatives, the media and members of the public relating to the circumstances where States agencies and departments intervene in family lives.
- The Committee believes it is therefore prudent to review the impact of the Children Law in relation to the areas [of concern] identified above.

[1] Letter to Chair of the ICPC from Deputy Mary Lowe dated 19th March 2009.

Review Objective

To identify whether the policy objectives of the Children Law, in particular the aims of earlier, integrated and holistic intervention, have been achieved and to identify whether they have:

- Been effective in preventing children becoming children at risk;
- Resulted in a robust system for the protection of children; and
- Led to better outcomes for children and young people.

Review Scope

The Committee has identified the following areas for inclusion within the review:

Accountability and Governance

Are there appropriate arrangements in place for governance and quality assurance?

Is there appropriate independent oversight of arrangements for child protection?

Are there performance measures in place to assess the impact of changes introduced as a result of the Children Law?

Coordination:

Are States employees working together effectively to prevent children becoming children at risk?

Practice

Are services delivered in a timely and efficient manner?

Are existing services appropriate to meet the requirements of children and families?

How has the experience of service users changed since the implementation of the Children Law?

Have outcomes for children and families improved as a result of the implementation of the Children Law?

1.2 Independent Reviewer

In its media launch of the review, the Committee reported that, due to the specialist nature of this review and its sensitivities, the Committee had appointed an independent expert, Kathleen Marshall, to lead the review. Kathleen Marshall was the first Commissioner for Children and Young People in Scotland from 2004 to 2009, with extensive experience in the field of children's issues.

1.3 Methodology

a. Activities

I started work on the Review in January 2015 and made my first to visit to Guernsey in February. In preparing the report, I visited Guernsey six times for a total of 19 days, including one day in Alderney.

I had 45 meetings and a number of telephone conversations with representatives of more than 21 organisations or professional groups, including:

- Action for Children
- Advocates (9 in total)
- Alderney – various individuals and professionals
- Bailiff and Judiciary
- Citizens Advice Bureau
- Children's Convenor and the Chair of the Children's Convenor and Tribunal Board
- Deputies of the States of Deliberation
- Education Department
- Fostering Support Group
- Health and Social Services Department (HSSD)
- Home Department
- Islands Child Protection Committee (ICPC)
- Law Officers
- National Autistic Society
- Policy Council officers
- Safeguarder Services
- Safer Women's Refuge Board
- The Hub
- Wigwam (disability charity)
- Youth Commission
- Youth Justice

I met and spoke with 12 young people in three groups and had a telephone conversation with one other.

I visited:

- The Royal Court
- Perruque House HSSD office
- Swissville HSSD office
- Roseville HSSD premises, on two occasions, where I met parents, children and foster carers
- Le Carrefour children's home
- The Kindred Centre in Les Genats, where I met parents and children
- The CYCT premises
- Caritas Community Café
- A pre-school in Alderney
- Action for Children Drop-in

I devised questions for inclusion in the consultation on the Children and Young People's Plan.

I drafted an Ethics Strategy to shape the Call for Evidence which included the Review's approach to confidentiality.

The Call for Evidence was issued on 29 June with a closing date of 10 August, although submissions received after that date were also taken into account. Submissions were received from 24 individuals and eight agencies. The agencies were:

- Children's Convenor and the Children's Convenor and Tribunal Board
- Education Department
- Guernsey Citizens Advice Bureau
- HSSD and ICPC Joint Submission
- Home Department
- Housing Department
- Policy Council [in respect of Legal Aid]
- States of Alderney

Information in response to data requests was received from six agencies. The questions and extent of response are summarised in Appendix A.

I subsequently had eight meetings with individuals or couples. Three of these involved people who had previously made written submissions.

I read extensive documentation.

b. Scope

There was some initial discussion about the scope of the Review and whether the "political" scrutiny of a committee of the States could examine what was happening within the independent court system. However, it would have been impossible to assess the impact of the Law without some reference to associated court processes. I hope I have achieved a balance in this that is acceptable to all parties.

The list of meetings set out above shows that I spoke to many people, including the judiciary, the Children's Convenor and CYCT, advocates and voluntary organisations, who are not subject to the jurisdiction of the Scrutiny Committee. Their input has been invaluable in informing this report. I received a great deal of co-operation in undertaking this work and am appreciative of the willingness of parties to contribute in order to promote the interests of children.

The Call for Evidence made it clear I was unable to investigate individual cases. However, the Terms of Reference did refer to the experience of service users. I am grateful to those individuals who took the time to tell me of their experiences, even in the knowledge that it would not further their own case.

1.4 Format of the Report

I have structured this report around themes relating to the content of the Children Law starting with "private law", that relates to decisions made about children within the context of their families, usually when parents split up. I then move onto "public law" which involves state support for, and intervention into, the lives of families.

I have not attempted to address every provision of the Children Law, but only those that have been the subject of positive or negative comment in the evidence presented to me.

I have tried to use simple language where possible and have avoided making detailed legal references within the text, except where they are necessary as a focus for the discussion.

A glossary of terms and abbreviations used is set out in Appendix B. This also includes the full citation of legal sources referred to as well as an explanation of the references that follow the quotes from individuals.

I have made recommendations only when they seem to provide an opportunity for giving added value to ongoing work by agencies within Guernsey and Alderney. At other points, I have merely expressed support or given encouragement to developments that are already taking place. My recommendation appear at appropriate places within the text and are gathered together in section 18 of the report.

2 What the Law Aims to Achieve

The primary aims of the Children Law are to protect children from harm and promote their health, welfare and development. In pursuit of these aims, the Law sets out the duties of parents, other carers and the States. In particular, it recognises the status of unmarried fathers by setting out their rights. It also establishes the Child, Youth and Community Tribunal as a new mechanism for compulsory intervention into the lives of children and families where voluntary measures are not working.

The underlying principle of the Law is that the welfare of the child is paramount. The Law sets out a list of "child welfare principles" to guide public authorities when they are making decisions about children. These are:

(a) that a child's welfare is normally best served by being brought up within his own family and community,

(b) that, where it is not possible for a child to be brought up within his own family or community, his welfare is normally best served by maintenance of regular contact with his family and community,

(c) that no compulsory intervention shall be made in respect of a child, unless it is necessary for the effective provision to the child of care, protection, guidance or control,

(d) that any delay in determining a question about a child's upbringing is likely to be prejudicial to the child's welfare,

(e) that irrespective of age, development or ability, a child should be given an opportunity to express his wishes, feelings and views in all matters affecting him,

(f) that, except where it is shown to the contrary, it is presumed that a child is capable of forming a considered view from the age of 12 years,

(g) that a child in the care of the States is entitled to be provided with, and may expect to be subject to, insofar as is practicable, similar levels of care, protection, guidance and control as would be expected to be provided or exercised in respect of a child by reasonable parents,

(h) that in any case involving criminal activity, or the risk of criminal activity, by a child, the primary purpose of any compulsory intervention shall be the prevention of such activity in both the short and long terms,

(i) that it is expected that parents and any others responsible for a child's welfare will consult and co-operate with one another, and where possible resolve matters by agreement, in an atmosphere of openness and non-confrontation, with recourse to formal proceedings (whether court or tribunal) only as a last resort,

(j) that it is normally in the best interests of a child to have ongoing contact with both parents and it is the responsibility of the parents and any public authority to take reasonable steps to promote such contact, and

(k) that in determining any issue under this Law there shall be no discrimination by any public authority on the grounds of gender, marital status, ethnic or cultural origin, religion, disability, age or sexual orientation.

There is also a "child welfare checklist" which sets out a number of things that public authorities must take into account when they are making decisions about children:

(a) the child's wishes and feelings (in the context of his age and understanding),

(b) the age, gender, ethnicity, cultural background, language, religion and any other relevant characteristics of the child,

(c) any harm the child has suffered or is at risk of suffering,

(d) the child's physical, emotional and educational needs,

(e) how capable each of the parents (or any other person looking after or having parental responsibility for the child) is of meeting the child's needs,

(f) the importance and likely effect of contact between the child and his parents, siblings, relatives and any other people significant to the child, and

(g) the effect or likely effect of any change in the child's circumstances, including the effect of the child's removal from Guernsey or Alderney.

3 Family Matters – Private Law

3.1 Positive Comments

In general, the people I spoke to or who submitted written evidence, agreed that the provisions of the Law were excellent. It was helpful to have a definition of parental responsibility and a clearer understanding of the rights of unmarried fathers. It was a good thing that more people were able to ask for court orders, such as grandparents, who had previously had difficulty in getting involved.

3.2 Issues

The downside of this was that some cases were now more complex and expensive than before and took longer to resolve. Sometimes this was because of the extended pool of parties involved and the complexity of the issues. However, some of the delay and expense was felt to be avoidable. There was a lot of reference to the Practice Direction about domestic violence that was introduced in 2008, involving introduction of Finding of Fact Hearings by the courts in cases where domestic violence might be an issue. Whilst many welcomed the recognition of the importance of addressing this issue, the impact on legal aid expenses, for example, was significant, and many felt it lengthened proceedings considerably and heightened their adversarial nature. It is my understanding that the courts have recently taken note of a decision in England that adopts a more discerning approach to Finding of Fact Hearings, holding them only where they are likely to have a significant impact on the court's decisions.

Three family law issues featured prominently in the written evidence and the meetings with individuals: the Safeguarder Service, mediation and enforcement of court decisions.

3.3 Safeguarders

a. The role of Safeguarders

Before the Children Law of 2008, courts making decisions about children in private law matters were assisted by the Court Welfare Service, comprising one full-time and one part-time officers. Children involved in public law cases were assisted by Guardians ad Litem. The Children Law brought both of these functions together in a new Safeguarder Service.

The primary role of the Safeguarder in private law cases is to safeguard and promote the welfare of the child by giving advice to the court. The court can also ask Safeguarders to carry out other functions. An Ordinance of 2009 gives further detail about how the Safeguarder Service is to operate. It says that the Safeguarder's overriding duty is to promote the interests of the child throughout the proceedings, having regard to the child welfare principles and the child welfare checklist. The Safeguarder's specific duties include meeting the child and explaining their role in a way the child can understand, and ascertaining the child's wishes, feelings and views throughout the proceedings. The Safeguarder should also interview the mother and father, any other parties to the proceedings and anyone else the Safeguarder thinks will be able to help. The court can also ask or direct the Safeguarder to interview particular people. The Safeguarder must also inform the child of the content of reports made to the court, in a manner appropriate to the child's age and understanding, and inform the child of the outcome of the proceedings.

In some circumstances, a Safeguarder may be appointed to represent the child in proceedings. This may be alongside an Advocate. This situation is provided for by Rules of Court. The Rules also say that the court can appoint a Safeguarder at any stage in the proceedings, either generally or for a specific purpose.

Safeguarders should seek to promote agreement amongst the parties where that is in the best interests of the child, and may offer mediation.

b. Who provided information about Safeguarders

19 individuals expressed concerns about Safeguarders in written and/or oral evidence to the Review. Four of these submissions involved individuals from two families, so 17 cases were represented in that information.

The Safeguarder Service provided the Review with Annual Reports from 2010 to 2013 and other data. The Annual Report for 2014 was not yet available, but the service provided some statistics for that period. The Home Department's submission to the Review also included information about the Safeguarder Service. I received copies of the minutes of the Safeguarder Service Advisory Committee. I had two meetings with senior personnel from the service and the Home Department. One of these was attended by the Chair of the Safeguarder Service Advisory Committee.

Other professionals made comments in the course of my meetings with them. During my outreach work, I met a few individuals who had experience as clients of the Safeguarder Service.

c. What people said about Safeguarders

My attention was drawn to the criticism of the Safeguarder Service expressed in both print and social media. Much of what was said there was reflected in both the written and oral submissions to the Review.

It has to be acknowledged that those who express their views to the media and to reviews such as this are more likely to have had negative than positive experiences. Some professionals have suggested to me that Safeguarders are scapegoated because it is easier for unsatisfied parties to criticise them than other parts of the system. In my outreach visits to family projects, I met some individuals, male and female, who reported both positive and negative experiences of the service. It was often the case that individuals who had worked with more than one Safeguarder reported both good and bad experiences.

> *It was only when the Safeguarder noticed what was really going on that things began to change. [Int. 6]*

The service was also widely praised by other stakeholders who commented on its professionalism and objectivity. However, this does not mean that the criticisms can be ignored. Critical voices must be allowed to surface, must be taken seriously, explored and given a response.[2] The criticisms expressed to me included the following.

Safeguarders were regarded as people with **power**. Although their role is advisory, it was acknowledged by all that courts take Safeguarders reports very seriously and rarely depart from them. In some cases, their power is more clearly displayed, when the court makes orders that contact with children is to be agreed with the Safeguarder.

> *Safeguarders hold the power. Courts tend to leave it up to the Safeguarder. They make the decisions and report back to the court. [Int. 4]*

For clients of the service, the perceived power of Safeguarders means they are wary of making complaints as they feel this will work against them.

> *A lot of people are not happy but will not come forward because they are afraid of losing it all. [Int. 1]*

[2] The Safeguarder Service has commented: "When the social media began to surface the Home Department Minister wrote to the organisers offering a meeting with the Home Department to give the opportunity for their voices to be heard. Although this offer was welcomed on the social media site the offer was not taken up."

Some of those who are critical of the service believe that there must be hundreds of complaints. In fact, there are very few formal complaints against Safeguarders. This is discussed further in paragraph d below.

A common comment was that Safeguarders "**do not listen**."

> *We have raised concerns on numerous occasions with the safeguarders … but still it all falls on deaf ears. [SI/24]*
>
> *This service needs full investigation and have to learn to listen to their clients and learn how to work with them rather than against them … All services working with children, need to be a lot more user friendly, to listen and not judge. [SI/12]*
>
> *They need training – to listen to both sides. She was listening – but not really. She brushed off my concerns, then said, "Is that it then?" as if she was keen to get me out of the meeting. [Int. 3]*

In some cases, a complaint about not listening may be about not having your concerns taken on board. It could indicate either a need for training in listening skills or in ensuring that all sides of the argument are fully expressed in the Safeguarder's report.

Some individuals questioned whether Safeguarders had received any **training** for the job and whether there was any **consistency** in their approach. They believed Safeguarders based their recommendations on their own personal **values** rather than any objective standards.

> *Should the safeguarder have so much power? By this I mean they seem to be able to make decisions based on their opinions even when other professionals hold different opinions. [SI/19]*
>
> *Safeguarders act on the basis of their own personal values. They have their own agenda. [Int. 2]*

There was a recurring comment that the whole system, including the Safeguarder Service, was **biased** against men – and this was often expressed very forcefully. A number of men felt particularly aggrieved by what they perceived as gender-biased responses to allegations of domestic abuse.

When premises and literature display images either totally or mainly of females, this can make men feel excluded. Currently, the Safeguarder service is wholly staffed by women, although it has employed men in the past and some of the external Safeguarders it uses are male. Some thought there should be an effort to employ more males, but others said this would not make much difference.

At least two individuals expressed the opinion that, in their cases, the service was biased against the woman *[Int. 3 and SI/19].* Professionals who had witnessed or participated in court proceedings advised that they had seen no bias against men, although one individual said his Advocate had advised against a particular course of action on the ground that, as a man, he would not succeed *[Int. 7].*

One of the child welfare principles in the Children Law is about the avoidance of discrimination on a number of grounds, including gender. The court system does not collect data that would indicate whether any change in the gender characteristics of court orders had followed on from implementation of the Children Law.

The fact that Safeguarders all have a **social work background** also attracted comment, with the implication that they were trained to deal with families with problems. One individual commented:

> *We had a normal family life. We just got divorced. [Int. 2]*

The **frequency and quality of contact** with families was another recurring issue. Some asked how a recommendation could be made on the basis of one or two short visits, or without consulting extended family members, including grandparents.[3]

> *The facts are shocking on how a safeguarder can override a mother's genuine concern for her son on an observation by [the Safeguarder] for one hour concludes her decision that his father is a responsible parent! [SI/1]*
>
> *I see a lot of [child] and [mother] together. In spite of this, I have not been involved in any discussion with the safeguarder service of any sort since [over a year ago]. [SI/19]*

Some recognised the **resource pressures** on the service and considered that might be an explanation for the time they had to wait to get a Safeguarder appointed and the frequency of contact. The possibility of **conflicts of interest** within a small, island community was also regularly raised and this was acknowledged by the service which engaged external Safeguarders when this appeared to be an issue.

Some individuals explained how **confusing** the system had seemed, especially after an allegation of abuse.

> *Neither of us really understood the system … It seemed PPU and … Children's services were more involved than [the Safeguarder] regarding contact with*

[3] The Safeguarder Service has commented: "Safeguarders would always seek to meet relevant members of the child's extended family if asked to do so or if they identified anyone relevant to the assessment of the child's best interest."

> *[child] now. Nothing was made very clear. … It may be the case that when Children Services get involved the Safeguarding Service take a back seat. [SI/8]*

One individual submission made the following recommendation:

> *Clearly defined boundaries and responsibilities of the various agencies involved. After countless visits and phone calls with all the agencies, we were never sure on the boundaries and responsibilities between F.P.T., Safeguarders and SS. [SI/22]*

Despite the fact that some had found the intervention by the service to be unhelpful, there were other comments about the impact of its sudden **withdrawal** at the conclusion of the proceedings, with families left not knowing where to turn when problems arose. This is addressed further below at 3.6 in relation to enforcement of decisions.

d. Complaints and accountability

The number of formal **complaints** received by the Safeguarder Service is very small. According to the service's Annual Reports, and other information provided to the Review, there was one complaint in 2010, none reported in 2011, two in 2012, three in 2013, five in 2014 and two up to the 20th August, 2015. This totals 13, which is significantly less than the number of concerns (19) expressed to the Review.

The complaints procedure is set out in the Compliments, Concerns and Complaints leaflet available on the service's website. Clients are invited to tell the Safeguarder or the Head of Safeguarder Services if they have a concern or complaint. They can do this by phone or letter. Formal complaints must be in writing. Complaints about staff of the service should be sent to the Head of the Service, who will discuss it with the member of staff concerned. The client will receive an acknowledgement within 5 days and a written reply within 28 days. Where the complaint is about the Head of the Service, or a client is not satisfied with the Head of Service's response to a complaint, they can write to the Chief Officer of Probation who is an employee of the Home Department.

The leaflet makes it clear that, while the service can rectify written mistakes, such as names, dates or other factual information, other concerns about the content of the Safeguarder's report should be raised with the court by the client or their Advocate.

A number of individuals commented on the fact that the complaint had to be directed in the first instance to the personnel of this very small agency.[4] One individual said he had considered making a formal complaint but didn't want to prejudice the case. He wouldn't have had faith in the system or the complaints procedure. If there had been an independent body to take complaints to, he would have done so. He said it would need to be an outside organisation *[Int. 6].* Another said he had written a complaint but didn't send it because he might have to come back to court. He too commented on the need for an independent body for complaints *[Int. 7].* One person said he had "more or less" made a complaint, which raises the issue of what constitutes a formal complaint and whether and how "informal" complaints are recorded *[Int. 4].*

The issue of the **accountability** of Safeguarders was the subject of some uncertainty. Two individuals had discovered that there was a Safeguarder Service Advisory Committee and that it had a role in monitoring the effectiveness of the services provided by Safeguarders. They had found it difficult to find out details of the committee, how it worked and how it could be contacted. They doubted whether the committee actually existed.

e. Information from the Safeguarder Service

As well as listing the numbers of complaints, the **Annual Reports** record attempts by the service to obtain **feedback** from both service users and partner agencies. The 2010 Annual Report identifies as a strategic priority: "To listen to, learn from and involve our Service Users." There is a consistently expressed aim to get better feedback from clients, including children.

Service users are encouraged to fill in feedback forms when a case is closed, but very few do so. Figures in the reports show that nine were received in 2011 and seven in 2012. The Annual Reports generally observe that comments by service users tend to be positive or negative depending on how the client feels about the final court decisions. The 2013 Annual Report said the service would be reviewing its methods of getting feedback. Customer feedback featured prominently in a new performance management framework introduced in 2015.

[4] The Safeguarder Service has commented: "The Head of the Safeguarder Service does try to engage quickly and at the lowest possible level to resolve any problems that may be identified. In most cases issues are resolved to everyone's satisfaction in a timely manner so that the process can continue."

The 2012 Annual Report gives more detail about agency and client feedback than other annual reports. The agency feedback is generally very positive. I set out below the full text relating to the feedback from clients, as reported in the Annual Report, in order to show the range and focus of responses:

> *Thanks again for all your help and support while it was all going on.*
>
> *I would like to thank you once again for all you have done in trying to get us all "wearing the same hats in the same room."*
>
> *I found the process was child-focused for the predecessor safeguarder, but biased towards the mother for the successor [Safeguarder].*
>
> *I feel that there is a need for the Safeguarder Services to consider increasing men's representation.*
>
> *Sometimes I would feel safe with the knowledge that I was being listened to. However as I later found out to my child's detriment, I was not actually being understood.*
>
> *The first session was very helpful and gave me hope. The second and third sessions were unhelpful and they further damaged the relationship I had with my ex-partner. Concerns for my child's well-being were not being heard. I felt the mediators were biased towards my ex-partner and were only concerned to fulfil his wants.*
>
> *I requested overnight assessments several times. My requests were ignored. After 18 months and on the final court hearing day the Safeguarder office confirmed that the reason for not providing an overnight assessment was because it has never been requested or done before. No recommendations were ever given as to how to resolve my child's screams and sleepless nights after contact.*
>
> *Still not entirely clear [as to objectives]. If it was to protect the children you failed.*
>
> *Too slow. Too wishy-washy. Too many safeguarder changes.*
>
> *Long periods of inactivity. No proper conclusions or reports until the very end.*
>
> *Broadly yes [satisfied with outcome] but took too long and too much toll on children.*
>
> *Overall an ordeal that served the mother rather than the children.*
>
> *Xxxx is an amazing safeguarder. I couldn't have wished for better.*
>
> *Mediators were very friendly and welcoming. Process is a million times better than advocates + court. Thank you for helping me through the process.*

Feedback from partner agencies is sought via questionnaires. In 2010, the number of returns is not recorded, but the responses were characterised as positive with regard to the service's professionalism. There were some comments about delays due to the fact that the service was short-staffed. In 2011, six agencies were sent forms but only two replied and both of these were positive but with similar comments about the impact of the shortage of staff. In 2012, questionnaires to six agencies resulted in positive feedback from five, alongside a number of very positive quotes and the usual comments about lack of resources causing delay.

Staff shortages were described as "significant" in the 2010 Report and for the first half of 2011. The service was fully staffed in 2012 and in 2013, apart from one vacancy during the first quarter of 2013, although there was also some impact due to sickness absence.

The Service records **statistics** relating to case numbers, court appearances, closed cases and mediation and introduced a new IT system in 2014. The 2010 Annual Report notes that demand in that year was 89% higher than in 2008. The number of active cases then rose steadily from 206 in 2010 to 258 in 2013. In 2014, it fell to 241. It is suggested that the 2014 figure may have been affected by the change in collation of data.

The 2012 Annual Report referred to a training day that had been held to identify **key performance targets (KPTs)**. It noted that the service continues to work towards integrating them into processes. This was identified as a priority for 2013. The 2013 Annual Report noted that the Service was continuing to make progress in relation to integrating KPTs. This would be assisted by the forthcoming IT changes. At a meeting with representatives of the Service on 24 September 2015, I was given a paper setting out Key Performance Measures which, I was advised, would shortly be placed on the website.

Another source of information is the documentation relating to the **Safeguarder Service Advisory Committee.** The Committee was established by the 2009 Ordinance. It is responsible for advising on policies and procedures in relation to the service's functions, and in relation to the performance of those functions by Safeguarders. It must ensure arrangements are in place for monitoring the effectiveness of the services provided by Safeguarders, and advising on any other matters brought to its attention. Its statutory membership includes nominees of the Royal Court, the Home Department, the Education Department, the HSSD, the States of Alderney and the Children's Convenor. The Head of Safeguarder Services is an ex officio member (with restricted voting rights), and other members can be appointed by the Committee. The minutes indicate that additional members include the Legal Aid Administrator, the Children's Lawyer from the Law Officers of the Crown, an Advocate and a representative of the voluntary sector. A member of the judiciary attends on occasion.

At a meeting with representatives of the Safeguarder Service, the Home Department and the Chair of the Advisory Committee, the Chair noted that there was some confusion around the role of the Committee. While its statutory responsibility included monitoring effectiveness, responsibility for delivery lay with the Home Department. Legal advice had confirmed that, from a management perspective, the Head of Safeguarder Services was accountable to the Home Department rather than the Advisory Committee.

In 2010, the committee met four times and it has met three times during each year since then. At each meeting, the committee receives a report from the Head of Safeguarder Services. Standing items in the report include staffing, workloads, mediation, liaison with other agencies, training and future developments. The minutes of the Committee show some discussion around these issues and other matters such as the service's Annual Report, premises and the name of the service.

In March 2013, the report submitted by the Head of Safeguarder Services referred to **negative public and media attention** in relation to the service and the impact this had on staff. It reported the action that had been taken in order to manage the negative publicity and inform politicians and the public about the role of the Safeguarder. The minute notes a discussion around potential breaches of confidentiality as a result of the publicity and an action point about reminding press and politicians about the rules relating to publicly identifying people, including children.

The minute of 12 June, 2013, again refers to the negative publicity and potential breach of confidentiality. It notes that "Deputies' queries can take up disproportionate amounts of time, and cause stress for workers." The report by the Head of Safeguarder Services comments, "This does cause additional anxiety for Safeguarders who are already, rightly, held to account by the Court, Clients and Advocates." It is suggested that some at least of the publicity is based on "a misunderstanding and confusion in the minds of the public and the Press between the Safeguarder role and the role of Child Protection Services." Previous minutes had noted the service's work to draft a Private Law Protocol to enable the courts to request a report from HSSD when they were involved with a family. This had been identified as a priority for 2012 but was still work in progress in 2013. I have been advised that it was put in place in 2014 and is now in use by all family courts.

The potential for confusion between the roles of different services is verified by the quotes set out above from service users. As far back as November 2011, the Head of Safeguarder Services had reported that the **name** of the service risked potential confusion with the adult Safeguarding service. In June 2013, reference was made to a media report headed, "Safeguarders do no such thing." The report of the Head of Safeguarder Services comments:

> *It is not the role of the Safeguarder to "Safeguard" in the way suggested in the letter, this would be the role of HSSD. I am of the view that there needs to be a name change which prevents this level of dichotomy between expectation and service delivery. The name which most aptly describes the majority of the work undertaken by the Service would be Guernsey Court Advisory Service.*

The issue of the name then appears regularly in the papers, culminating in a report presented to the Committee in June 2014. This recapped earlier discussions and introduced an additional reason for changing the name:

> *More recently, new clients have expressed their concern regarding family and friends' reaction to their working with the Safeguarder Service. There is a perception that it is for child protection reasons.*

In February 2015, a change of name to Family Proceedings Advisory Service was agreed in principle, subject to legal advice and discussions with the Children's Convenor. The timing of the change has been a subject of discussion and it has not yet been actioned. The Home Department's submission to the Review noted that the name "Safeguarder" would continue to be used for those appointed by the Convenor or Tribunal, although this will be phased out over time.

Given the concerns expressed by some individuals about the consistency of reports by Safeguarders and the values upon which recommendations were based, I asked for copies of any guidance or template for their reports. I was sent a number of **templates** including that for family law cases which is reproduced as Appendix C. This includes space for setting out each party's views and the occasions on which the Safeguarder met them. The child welfare checklist is also included to elicit observations from the Safeguarder. In principle, this should facilitate decisions based upon the values underpinning the Children Law, although there will inevitably be an element of personal judgment. The template does not include the list of child welfare principles.

I asked the Safeguarder Service about their meetings with the children who are the subjects of the process. This information is not explicit on the template. I was advised that it would be very unusual for a Safeguarder not to meet the child and, if this was the case, there would be a specific reason for it. The service does not collate statistics on this but Safeguarders say they usually meet the child at least three times, once with either parent and, if age appropriate, on their own.

My understanding from those I spoke to is that the Safeguarder's report is rigorously interrogated in court. A number of people raised the issue of "litigants in person," where an individual conducts their own case in court without the assistance of an Advocate. There is an impression that, as in other jurisdictions, the number of litigants in person is increasing although no-one was able to supply figures to substantiate this. It may be more difficult for such parties to question a report by a professional about themselves. I was advised that the courts tended to offer every assistance, but that this could also have the effect of lengthening the proceedings.

f. Conclusions and recommendations (Safeguarders)

There may be a case for expanding the skill base of Safeguarders beyond those with a social work background. This was discussed by the Safeguarder Service Advisory Committee on 30 June 2010.

Recommendation 1: Consideration should be given to extending recruitment of Safeguarders beyond the social work profession.

Safeguarders receive considerable amounts of ongoing training, including on matters such as Parental Alienation Syndrome. Transparency on this might reassure some clients. Transparency generally would be improved by publication of the minutes of the Safeguarder Service Advisory Committee which contains information about training.

Recommendation 2: The minutes of the Safeguarder Service Advisory Committee should be published on the Service's website. This would include information about the training received by Safeguarders.

Whilst there is a strong perception amongst some individuals of a gender bias, particularly against men, it is not possible to substantiate this. Nevertheless, there may be merit in highlighting the child welfare principle relating to avoidance of discrimination which includes reference to gender. Child welfare principles relevant to private law cases could be included in the template for the Safeguarder reports to ensure that they are kept in mind.

Recommendation 3: The template for the Safeguarders' reports should list the relevant child welfare principles as a point of reference.

While it is true that the official role of the Safeguarder is advisory, it is understandable that clients view Safeguarders as powerful figures. The Safeguarder Service has had a longstanding commitment to obtaining feedback from service users but this has proved problematic. It is my view that, where concerns have been expressed to the service, either through the feedback process or through formal complaints, they have been too readily dismissed as the understandable dissatisfaction of unsuccessful parties. When negative publicity appeared in 2013, the concern of the service and the Safeguarder Service Advisory Committee was for the impact on staff. This is certainly legitimate, but at no time does there appear to have been a discussion about whether any of the criticisms, in feedback, complaints or the media, were justified. They were characterised as relating to outcome rather than process. But some of those manifest even in the 2012 Annual Report were clearly about process.

Clients are wary of raising complaints in case it affects the service's view of them and ultimately their case. Frustrated clients, who feel they are not being heard, sometimes get angry. This can be intimidating for staff. It was concerning to read references to cases where external appointments had been made because the situation was too threatening for a resident Safeguarder to take the case.[5] I do not under-estimate the challenges faced by Safeguarders operating within this small community in such a highly charged environment. But this heightened emotion also has implications for the client. As one man reported:

> *When blokes get angry, people dismiss them. [Int. 7]*

[5] The Safeguarder Service advises that risk is currently mitigated through liaison with police and multiagency forums, and the few external appointments that have been made recently have been justified by a need to ensure impartiality in the light of close relationships on the island.

It is important to hold onto the understanding that even angry people sometimes have a point, and sometimes their experience of the process may have contributed to their anger.

The lack of an independent avenue of complaint and clear, external accountability, leads clients to express their concerns to politicians and the media. The response of the service and the Advisory Committee has focussed on the need to change the name of the service. Whilst there may be some benefit in this, especially if clients are concerned about an assumed link with child protection concerns, this cannot be regarded as the source of the problem or the remedy for it.

I am going to make a recommendation about independent avenues of complaint, but this is part of a bigger picture and is addressed later in this report at 14.8. This will have implications for the accountability dimension (if any) of the Safeguarder Service Advisory Committee. At this point, I will focus on a commitment expressed in the Vision of the Safeguarder Service as set out in its Annual Reports, that is, that it is "open to external inspection." It is not clear that any such inspection has taken place. An external inspection process that includes access to confidential documents and reports would be able to explore concerns, reassure clients and underpin the confidence and morale of staff. This would be facilitated by the Performance Management Measures recently introduced.

Recommendation 4: The Safeguarder Service should be subject to regular external inspection.

Finally, while the staffing situation appears to have stabilised in terms of its current complement, it is notable from the Annual Reports that there are longstanding commitments that have proved difficult to progress, such as the establishment of a separated parents' information programme, which has appeared as a strategic priority in each Annual Report since 2010, but did not start until 2014.[6] The Annual Report for 2013 refers to several pieces of work as "continuing". The Safeguarder Service has an invaluable role to play and it is important that staff feel supported and resourced to make progress.

Recommendation 5: The Home Department should review the staffing, resources and expectations of the Safeguarder Service to ensure that it is equipped to fulfil its responsibilities.

[6] The 2014 Annual Report was not available at the time of writing this report. The Safeguarder Service advises that this programme, called "Children First" in Guernsey has been running since the beginning of 2014. It is delivered in partnership with a third sector provider, the Child Contact Centre.

3.4 Mediation

a. Mediators

Safeguarders are required to seek to promote agreement amongst the parties where that is in the best interests of the child, and may offer mediation. This is set out in the Ordinance of 2009. The mediation service is provided free of charge. All Safeguarders are trained as mediators but would not act as Safeguarder and mediator in the same case. A bank of independent mediators is also available. Mediation is also available from Advocates.

b. Safeguarder mediation

The Annual Reports of the Safeguarder Service and the minutes of the Advisory Committee show the service's clear commitment to promoting mediation and its frustration where its efforts to do so meet with obstacles. This has sometimes been due to staff shortages within the service but, despite the expressed intentions of all parties, including the judiciary and the Advocates from the Family Bar, there has also been difficulty in facilitating referrals from Advocates and the court system early enough to be effective. If mediation does not start before the first court hearing, positions can become entrenched.

Data provided by the service show that there were 12 mediation referrals in 2010, increasing to 22 in 2011 and 31 in 2012. In 2013, the number decreased to 24 but rose again to 32 in 2014. In 2014, 44% of the referrals came from the Magistrates Court, a further 44% from the Royal Court, 9% from the Greffe and 3% from Advocates.

Statistics for 2014 show the outcomes of mediation as: 40% transferred to Safeguarder (and therefore entering the court process), 35% closed after mediation (and therefore successfully diverted from court), 22.5% closed with no involvement (i.e., the parties came to agreement themselves) and 2.5% ongoing.

My understanding, from discussions with the Safeguarder Service, is that the voice of children is not regularly taken into account in the mediation process. The Safeguarder Service advises: "All Safeguarder mediators are trained in direct consultation with children although they focus on helping the parents come to their own resolution for their children."

c. Mediation by Advocates

Private mediation is available from Advocates through Mediation Guernsey, but this is not funded by legal aid.

d. The impact of mediation

The Home Department's submission to the Review commented:

> *The Law encourages mediation at all suitable points in the family court process to move away from the adversarial court based system and divert separating parents from the court process wherever possible. Since the implementation of the new law all Safeguarders have been trained in mediation and continuing work is being done with the Greffe and Courts to divert cases at the earliest point possible. The number of mediation cases is steadily rising but there is little evidence as yet that the service is reducing the volume of contested cases coming before the courts. Initial statistics indicate that most referrals for mediation come from the courts which refer for mediation prior to position statements being filed.*
>
> *Unresolved enduring conflict between parents is inconsistent with the welfare of children, and the Safeguarder Service is committed to use of mediation wherever possible. However the number and scale of deeply intractable private law cases, some going on for several months if not years has not seemed to fundamentally change since the inception of the new law. Factors independent of the new law such as Practice Direction 6 (regarding parental access where there is domestic abuse alleged in private law cases) has had an impact on the duration of private law cases. Safeguarder investigations have to await finding of fact hearings which are dependent upon court and judicial availability.*

This information is concerning as it indicates barriers to implementation of some of the important child welfare principles underpinning the law, i.e., that any delay is likely to be prejudicial to a child's welfare, and the expectation that parents will co-operate to resolve matters by agreement with recourse to formal proceedings only as a last resort.

One individual reported that, after protracted court proceedings:

> *Mediation worked at the end. It has to be the way forward. [Int. 4]*

Two individuals whose court processes had started before the introduction of the Children Law said they always advised others to keep their case out of court if possible. They added:

> *Getting people to focus on the interests of the child is not going to work until parents can actually talk to each other. [Int. 1]*
>
> *I was so new to the process. When you get involved, you believe people are there to help you, but they're not – they're just there to make reports to the court. It's not about the children – more about the court. [Int. 8]*

A small group of young people I spoke to agreed that court should be a last resort. They said it was important to get children's views, but added:

> *Young children's views can be manipulated. Parents use children as weapons – they give them gifts. You should try to get the child's views really early before parents manipulate them.*

e. Conclusions and recommendations (mediation)

Progress has been made in introducing mediation and associated procedures aimed at referring parties before positions become entrenched at court. However, further effort is required to encourage early referrals for mediation.

Every support should be given to the Safeguarder Service to pursue its longstanding commitment to receiving early referral, particularly from the Greffe and from Advocates.

There may be situations in which the Safeguarder Service is either unable to provide mediation services or the relationships between the client and the Service make this problematic. Clients should not feel inhibited from approaching other sources of mediation for financial reasons.

Recommendation 6: Consideration should be given to providing legal aid for mediation by suitably trained Advocates in appropriate circumstances.

The Child Welfare Principles state:

> *(e) that irrespective of age, development or ability, a child should be given an opportunity to express his wishes, feelings and views in all matters affecting him.*

My understanding is that children's views are not regularly sought within the mediation process. While this is a sensitive task, UK agencies have experience of doing this which could be accessed to inform developments in Guernsey and Alderney.

Recommendation 7: The Safeguarder Service should seek to embed within its mediation service the principle of taking account of the wishes, feelings and views of children.

3.5 Involvement of the Child, Youth and Community Tribunal

The Home Department's submission commented:

> *In the consultation phase of the new Law there was tentative reference to some private law disputes being brought into the tribunal system, thus moving away from the adversarial court system. Disputed matters of fact would still have to be heard in a legal setting but the Safeguarder Service would welcome further investigation into some private law disputes around arrangements for children having at least an option of being heard within the lay tribunal system.*

The tribunal system referred to is the Child, Youth and Community Tribunal which is described later in this report at 5.2.

The idea of having some private law cases heard by the Tribunal was not specifically referred to in submissions to this Review from individuals, or meetings with them, although two did make relevant comments. One referred to the "danger" of concentrating too much power in the hands of one person and another said that it might be better to be able to discuss issues with a panel. *[Ints. 1 and 2]*.

Some cases already end up operating across both the court and Tribunal processes and this can result in a profusion of meetings and also some confusion. A care requirement from a Tribunal temporarily takes precedence over a residence or contact order from a court in private proceedings. It was also reported that the Finding of Fact hearings in private law proceedings can sometimes disclose welfare issues that it would be appropriate for the Tribunal to consider.

The consultation paper, "Children and Private Law" that preceded the Children Law recommended that what emerged as the Child, Youth and Community Tribunal should be able to hear at least some private law disputes:

> *On a pilot basis. This could begin with disagreements about the amount and/ or terms of contact (access) (although probably not to cases where the principle of direct contact is not accepted).*

The Children's Convenor commented, in discussion, that she would not be averse to considering this possibility.

a. Conclusions and recommendation (CYCT)

There appears to be some support for re-visiting the proposal that the Tribunal could have some involvement in selected private law cases. Consideration would have to be given as to whether a new ground for referral was required. There would also be a need to revisit the additional threshold condition in Section 35(1)(a) of the Law, that is that, "there is, or appears to be, no person able and willing to exercise parental responsibility in such a manner as to provide the child with adequate care, protection, guidance or control." Later in this report, at 5.3c, I suggest other reasons why this threshold condition should be reconsidered.

Recommendation 8: Consideration should be given as to whether the Child, Youth and Community Tribunal should have a role to play in some private law disputes about children.

3.6 Enforcement of court decisions

There was general agreement that the Children Law of 2008 was a good law based on sound principles. However, it will have good outcomes only if it can be put into effect. Five individuals commented on lack of enforcement of contact orders *[SI/3, SI/10, SI/18/, SI/24 and Int. 8]*, for example:

> *[The father] has breached court orders on several occasions and nothing happens. [SI/24]*
>
> *The court order meant nothing. [SI/10]*
>
> *After three months, arrangements became difficult. Safeguarders said they couldn't do anything, nor could police. They said I would have to go back to court. I had been browbeaten and financially crippled. I felt I couldn't take it anymore. [Int. 8]*

The Guernsey Citizens Advice Bureau, in their submission to the Review, advised:

> *The number of cases where problems remained after the Court hearing is substantial. The greatest number of these cases was where the issue was in relation to a court order that was now being ignored or disputed notably*
>
> 1. *Maintenance payments decisions not being maintained (often through change of circumstances)*
> 2. *Access rights decisions not being followed*
> 3. *Related decisions still being outstanding (maintenance, custody, access, parental responsibility etc.)*

The issue of enforcement of maintenance payments was also raised by an individual who considered that these should be administered, distributed and collected by the state. *[SI/7]*

The consultation paper, Children and Private Law, listed the limited possibilities for enforcement before the enactment of the Children Law:

- Penalties for contempt in the Royal Court;
- Imprisonment for refusing to allow contact in the Magistrates Court; and
- Imprisonment or fine for unlawful removal from the jurisdiction.

The Billet that preceded the Law's enactment referred to the "delicate and difficult matter" of enforcing court orders in family cases, when the usual mechanisms open to the court (especially imprisonment) can alienate the child and impact on the child's welfare. It proposed a "staged enforcement of private law (especially contact) orders, initially targeted at compliance through agreement, as a result of mediation and education, moving to fines and imprisonment in exceptional circumstances and as a last resort."

The Law makes provision for a variety of enforcement measures. In particular, it allows the court to attach a penal notice to any order made under the Children Law. Failure to comply constitutes contempt of court, punishable by a fine or a period of custody up to six months and/ or payment of compensation to any person who has suffered financial loss as a result of the contempt. The court may make it a condition of any order that a surety or bond is provided for such amount as the court determines. The court also has power to direct any person to disclose the whereabouts of the child or any relevant information. Failure to comply can result in arrest, custody and a charge of contempt of court. A person who intentionally or recklessly gives misleading information is also liable to fine and/ or imprisonment for up to five years.

The Greffe does not collate information on enforcement provisions, so it was not possible to identify how often they were applied for or used. Information from the court suggests that penal notices are used and it is likely that their availability makes a difference. They do not get feedback to say that it does not. An Advocate suggested there might be more recourse to enforcement if a community sentence was available as an alternative to imprisonment.

It has been suggested that family court decisions should be routinely reviewed to see if they are working. I put this suggestion to a small group of young people who strongly opposed it.

> *It would be bad if there was a fixed review after, say, six months. It would cause panic.*

The young people did believe, however, that there was a need for more support for children after the split-up. One gave an example of a parent who restricted the child's activities out of fear that, if anything happened, it would affect custody. They said it would be good if there was a place young people could go to for support.

a. Conclusions and recommendations (enforcement of court decisions)

There is no easy answer to the issue of enforcement. There will be cases in which the full force of the courts will be appropriate. It is better to try to avoid difficulties arising in the first place with an emphasis on mediation and agreement. It would be sensible to have some source of advice and assistance when problems arise after a case has been closed and the support of Safeguarders has disappeared. This could also be helpful to children and young people who could be helped to approach such a service through more general youth advocacy services.

Recommendation 9: Consideration should be given to providing a resource for helping parents and children to resolve difficulties that have arisen after the court case has ended.

4 State Support and Intervention

4.1 Description of categories

The law provides for varying degrees of support and intervention in the lives of children, with a corresponding spectrum of impacts on the rights and responsibilities of children and their parents or carers.

In this section of the report, I will set out a brief description of the categories of service provision or care included in the Children Law and the impact of each on parental responsibilities and rights. The aim is to set out the "big picture" that will act as a point of reference for the discussions that follow. I set these out in what is, in my view, the order of increasing intervention in family life.

a. Universal services

The overriding aim of the Law is to protect children from harm and to promote their health, welfare and development. This applies to all children under the age of 18. HSSD have to prepare regular plans that set out strategies to deliver the services required to achieve this aim. When the States have approved the plan, each of its Departments will be under a duty to take reasonable steps to implement it. The second Children and Young People's Plan, for the period 2016 – 2022, is currently being finalised.

"Universal services" are generally understood to include health visiting, school nursing and education, which are available to all children free of charge. Universal services do not take away any rights or responsibilities from children and families but arguably give them additional rights to appropriate services.

b. Children in Need

A child is "in need" if the child or their family needs "additional services" (other than those normally provided by the States) in order to achieve or maintain a reasonable standard of health or development. A child is also "in need" if he or she is disabled or is likely to be adversely affected by the disability or illness of a parent or other family member unless additional services are provided. Importantly, the Law says the States have a *duty* to provide services to any child in need. This should be directed towards keeping the child with his or her family and preventing the child becoming a "child at risk", that is, one who may require "compulsory intervention" by the States.

The 2009 Ordinance requires the States to "take reasonable steps to identify the extent to which there are children in need in Guernsey and Alderney." States Departments must also publish information about their services for children in need and take reasonable steps to ensure this information is accessible by those who may benefit from these services.

As with universal services, being identified as a "child in need" does not take away any rights or responsibilities from children and families but gives them additional rights to appropriate services.

c. Voluntary care

HSSD has a duty to provide accommodation for children in certain circumstances, or to arrange for such provision. This is commonly referred to as "voluntary care." The Law said the details of this duty would be set out in regulations, but **no such regulations have been published**. It is my understanding that, in the absence of regulation, HSSD staff tend to refer to UK regulations and guidance.

The accommodation provided could be with foster carers or in a residential facility, but other options with family members would also be possible. If a child is provided with accommodation for a continuous period of more than 24 hours, then he or she is legally in the care of HSSD but HSSD does not have any parental responsibility. Nevertheless, the Law recognises that being in care imposes certain duties on the States. These were to be spelled out in regulations, but **no such regulations have been published.**

In other jurisdictions, being in voluntary care would not detract from the rights or responsibilities of parents, although there may be some restrictions that follow from it. For example, in Scotland, once a child has been in voluntary care for a period of six months, parents must give 14 days' notice of their intention to remove the child. This is a safeguard for the child to avoid abrupt removal to unknown circumstances in cases where they may have been accommodated for a significant period. There are **no such regulations** or safeguards in Guernsey.

Neither are there any regulations in relation to provision for care leavers for whom the States have a duty to provide services.

d. Child protection processes

If concerns are raised about a child, this may result in a multi-agency child protection conference and the formulation of a child protection plan. This is a practical arrangement that is not regulated by the Children Law. It does not in itself take away any rights or responsibilities from children or parents. However, if there is insufficient progress, the child may be identified as a child "at risk" and referred to the Children's Convenor with a view to consideration of compulsory measures.

e. Emergency protection

There are three mechanisms for protecting a child in an emergency and these have varying impacts on the rights and responsibilities of children and parents.

Emergency Child Protection Order (ECPO)

Where a child is suffering serious harm, or is at imminent risk of suffering such harm, HSSD can apply to the court for an Emergency Child Protection Order (ECPO). This allows them to take the child away, with the assistance of the police if necessary, and to keep the child in approved accommodation. An ECPO can also prohibit removal of a child from any place (such as a hospital). The Order lasts for a maximum of 8 days, but the Children's Convenor or the court can order the child's release before that. The Convenor is notified of all ECPOs and must consider them in the same way as any referral. If the Convenor decides that compulsory measures may be required, she must refer the matter to the Child, Youth and Community Tribunal (CYCT). This is usually preceded by a Convenor's meeting which has a number of important functions. The Convenor is required, where possible, to give at least seven days' notice of each of these events.

A child subject to an ECPO is technically in the care of HSSD. The Law specifically states that HSSD will have some parental responsibility but it will be limited to what is necessary to safeguard the welfare of the child for the duration of the order. This should be of short duration pending further decisions of the Convenor, the court or the CYCT.

Exclusion order

The grounds for an exclusion order are the same as for an ECPO. HSSD can apply for this order to exclude a named person from the child's family home, and the court can grant it if it believes this would better safeguard the child's welfare than removing the child. It is possible to make an interim order to last until the named person can be given the opportunity to be heard. A number of ancillary orders can be made, e.g., excluding the named person from a defined area within which the family home is situated and regulating contact with the child. A power of arrest may be attached.

An exclusion order or interim order can have effect for such period as the court thinks fit subject to a maximum of 12 months.

HSSD must notify the Convenor of the making of an exclusion order. The Convenor must respond in the same way as she would to the making of an ECPO.

The impact of the exclusion order is to restrict the rights of the adult considered to pose a threat to the child.

Police protection

The grounds for taking a child into police protection are similar to those for an ECPO or exclusion order, with just a slight difference in wording.

If a police officer has reasonable cause to believe that this threshold is met, he may, without warrant, enter any premises and/ or remove the child to a place of safety. If the child is already in a safe place (such as a hospital) the police officer can take reasonable steps to prevent the child's removal from it.

A child may be kept in police protection for a maximum of 24 hours. No other detail is given in the Law. There is a power to make regulations but **no such regulations have been published.**

As with the ECPO, this has a short term impact on the rights and responsibilities of parents and children which may be extended by the initiation of CYCT proceedings.

f. Care requirement

A care requirement can be imposed by the CYCT where it has concluded that a child needs compulsory measures in the form of supervisory care by the States. Its purpose is to protect the child and promote his or her health, welfare and development, and to assist parents or carers to provide adequate care, protection, guidance or control. A care requirement lasts for a maximum of one year but may be renewed. It imposes a duty on HSSD and anyone else specified in the associated child's plan to take steps to ensure that the specified services are provided and that the conditions in the requirement are fulfilled. Interim care requirements can be made for periods not exceeding 28 days.

The CYCT can attach whatever conditions to the care requirement it considers necessary, including: where or with whom the child shall or shall not live (including placement out of Guernsey and Alderney); who the child shall or shall not have contact with, and the circumstances of that contact.

A care requirement may involve minimal intrusion in family life, where, for example, the child remains at home, but it has potential to have a very significant impact on the rights of parents and children, for the benefit of the child. Its impact depends on the conditions attached to the requirement and will vary from case to case.

All children subject to a care requirement are legally in the care of HSSD, even if they still live at home with their parents. The implications of this are not clear because of the **lack of the promised regulations on children in care.** A care requirement gives HSSD limited parental responsibility, sufficient to give effect to the terms and conditions of the requirement.

The character of this intervention by the CYCT is always intended to be temporary. Its purpose is to assist the parents with a view to returning to a situation in which there is minimal or no intrusion on family life. In this respect it can be regarded as a vote of confidence in the parents to the extent that it is believed that, after a period of compulsion, they will be able to increase the level of care and protection they provide for their child. In this respect, it differs from the provisions relating to permanency.

g. Permanency

A Community Parenting Order (CPO) has the more radical effect of granting parental responsibility to HSSD, with a few limitations. It can be made on the application of HSSD where the conditions for compulsion exist *and* there is believed to be no reasonable prospect of the parents or any other family member being able and willing to provide adequate care, protection, guidance and control. It can also be made with the consent of those with parental responsibility, or in situations where these individuals cannot be found or are incapable of giving consent. HSSD has a responsibility to arrange for contact between the child and his or her former carers and other significant persons except in defined circumstances relating to the child's welfare. The court can regulate or even prohibit contact on the application of family members, other significant people or HSSD. On other matters, HSSD can determine to what extent, if any, those individuals with parental responsibility can exercise it. The limitations on the parental responsibility extended to HSSD are that HSSD cannot change a child's name or religion, remove the child from Guernsey and Alderney or consent to the child's marriage or adoption.

The CPO lasts until the child marries or reaches the age of 18 but it can also be discharged by the court on the application of HSSD, the child or other specified persons.

A more radical mechanism for permanency is the adoption order which deprives the parents or former carers of parental responsibility and transfers it to the adoptive parents. Adoption is regulated by a separate law.

4.2 My approach to issues about state support and intervention

During the course of the Review, many issues were raised about state support and intervention. However, even since I started work on the Review in January this year, there have been significant developments that must be taken into account.

Following on from significant staffing and management changes within HSSD, the new Chief Officer commissioned a Service Diagnostic Report in respect of children's social care services in Guernsey and Alderney. The report was written by Ruby Parry and published in May and it contains much that is relevant to the Scrutiny Committee Review. The content of the report informed the formal submission made by HSSD and the Islands Child Protection Committee (ICPC) to the Review.

At the same time, work was proceeding on developing a new Children and Young People's Plan to cover the period 2016 – 2022. This involved consultation with stakeholders, including the public and children and young people. In order to avoid duplication and confusion, it was agreed that some of the questions this Review was interested in would be contained within the consultation for the Children and Young People's Plan. At the time of writing, the revised Plan has not been published but I have seen a reasonably developed version of it.

There have also been changes to the structure and operation of the Islands Child Protection Committee (ICPC), which appear to have been welcomed by stakeholders.

Both the Diagnostic Report and the emerging Children and Young People's Plan are substantial documents. I do not intend to repeat the information contained within them. My approach will be to refer to these documents when they contain information relevant to the Review and to focus my report on issues that give "added value" as well as conclusions and recommendations arising from my assessment of all three documents.

4.3 Summary of issues about state support and intervention

This section of the report sets out briefly the main issues that have been reported to me in connection with the implementation of the Children Law. Some of these are already being addressed. Later sections of the report will address those issues that I believe need further work and in relation to which I make recommendations.

a. Universal Services

Issues raised in the course of the Review included: the general lack of access to free health care and a view that there are limited opportunities for appropriate education for young people with disabilities and those on the autistic spectrum. These issues are relevant to some of the priority outcomes identified in the draft Children and Young People Plan: "Healthy and Active" and "Achieving Individual and Economic Potential" and can be addressed within that framework.

Particular issues arose in relation to Alderney where the size of the population could not support resident services. In particular, young people explained how their education choices were affected by the requirement to move to Guernsey for an academic education if they passed the Eleven Plus exam. I was told that some chose not to sit the exam or not to take up a place because they did not want to have to move away and stay with a host family. Some thought a boarding house would be a more attractive option, where they could live with their friends. I am aware that there is a current review of education that may address these issues.

b. Children in Need

The 2009 Ordinance requires the States to take reasonable steps to identify the extent to which there are children in need in Guernsey and Alderney. States Departments must publish information about their services for children in need and take reasonable steps to ensure this information is accessible by those who may benefit from these services.

I was advised that there was currently insufficient information to estimate the number of children in need in Guernsey and Alderney. Nor was there an accessible list of services for children in need. A number of those I spoke to, professionals and members of the public, referred to the lack of a central source of information about services. There was also a significant amount of comment on the lack of services for children in need.

HSSD and ICPC's submission to the Review commented:

> *The resource issues extend to the States of Guernsey's ability to resource the implications of full enactment, for example in relation to the provision of services to children in need, including those with disabilities and to care leavers.*

The draft Children and Young People's Plan, in response to consultation responses, takes the approach of integrating the category of "children in need" into a wider group on the basis that the legal category is too narrow. This could be helpful so long as it does not obscure the legal responsibilities towards those children with the greatest needs.

I met a group of young people who were members of the Youth Commission's Youth Forum and I presented them with a number of fictional scenarios for comment. Two of these related to children in need. This is how they responded.

Scenario 1: Henry is eight years old. He lives alone with his mother. She has a drug problem and is unable to look after him properly.

- What kind of support do Henry and his Mum need?
- Do you think they would get the help they need in Guernsey?

The young people said this was a common scenario. Mum needed practical help once or twice a week – to help Henry get to school. Probably Henry would be the one who would have to say what was happening to get the help. Mum would be afraid to ask in case her child got taken away and she got sent to jail. She would need reassurance about this. The young people thought they themselves would be able to seek help – they would go to the Hub (a Barnardo's project located in Guernsey). They are confident about the Hub's confidentiality policies. But a child aged eight would not know where to go for help.

Scenario 2: Mary is twelve years old and lives with her mother and stepfather. She stays out late at night and sometimes comes home drunk.

- What kind of support do Mary and her family need?
- Do you think they would get the help they need in Guernsey?

The young people believed that the parents would be more worried about this than Mary. There was not enough support for parents. There should be classes on how to deal with this and set boundaries. The situation shows a lack of respect on both sides – parent and child – that needs to be addressed. Children at school have assemblies and The Hub. Parents don't have that. There is not enough early intervention and support.

The young people's comments illuminate some of the issues about services for children in need and will be referred to again later in this report at 16.2.

I **conclude** that the legal duties to identify the extent of children in need and to publish information about services for them have not been fulfilled.

Recommendation 10: The States should take steps to ensure fulfilment of the legal duties to identify the extent to which there are children in need, and to publish information about services for them.

c. Voluntary care

There was some concern about the manner in which parents were asked to sign their children into voluntary care. Some parents said that they had done so on the understanding that it would be short term and that the children would be returned. Subsequent events led the families to believe that social services had a different agenda from the start. *[SI/4, SI/9]*

In August this year, the Law Officers worked with the Department to issue a Briefing Note about Voluntary Accommodation. This drew attention to recent case law in Guernsey and England. It advised HSSD to use care to ensure that voluntary accommodation was provided only in appropriate cases and with the informed consent of those who had the actual capacity to give consent.

d. Emergency protection

There was concern that Emergency Child Protection Orders (ECPOs) were not being used often enough because of difficulties in establishing the "imminent" nature of the risk of serious harm to the child, leading social services to look to the CYCT as the mechanism for removing the child from home. This was inappropriate as the timescales for the Tribunal process did not envisage its use for emergency protection.

I have been advised that there have been recent positive developments about this with a successful application for an ECPO setting a precedent for a more helpful interpretation of "imminent."

e. The interaction of child protection processes, care requirements and permanency

This was the most critical issue arising with regard to implementation of the Children Law.

It is clear from the HSSD Diagnostic Report that social services experience the introduction of the CYCT as an added layer causing a duplication of work and delay in progressing cases. Families too are confused by the multiplicity of meetings of various kinds and their sometimes conflicting decisions *[SI/20].* This is addressed in greater detail in section 5 below.

f. Power and complaints

Some users of social care services viewed social workers as people with power and, like the clients of the Safeguarder Service, they believed this made it difficult to challenge their views or assessments.

> *Whenever we challenged the social worker or the Safeguarder, we were told we were not co-operating. [SI/9]*

Some individuals who wrote to or spoke to me said they felt bullied [*SI/4, SI/12, PI/1]*, browbeaten *[SI/9]* or treated like naughty school children *(SI/22].* Social workers were described as "rude" *[SI/8, SI/9],* disrespectful *[SI/4]* or not appreciative of the feelings of parents or children *[SI/13].* For example, where investigations of allegations of abuse seem to have been dropped by social services but with no formal closure or notification to the family so that they felt left in limbo with no sense of closure *[SI/13].* I was also advised of a case in which a social worker insisted on discussing private business with a client in a public environment.

I was told, more than once, of a meeting at which a social worker advised those present that the service "never makes mistakes." *[SP/1, SI/9]*

The issues of power and complaints is discussed later in this report at 14.6.

g. Enforcement and claiming rights

The first barrier to claiming rights is ignorance of their existence. Some of those I heard from were unaware that the Children Law had put the States under an obligation to provide services for children in need, including disabled children. The Citizens Advice Bureau (CAB) and the Guernsey Legal Aid Service both advised that there was a general lack of knowledge about the law and, apart from the CAB, a lack of sources of advice and information about it. Even if an individual knows that rights exist on paper, it can be difficult to claim them.

Some believed that the Law was weak as regards enforcement mechanisms, pointing out, for example, that there was no equivalent in the Guernsey Law to the Scottish provision that allows a legal challenge against departments that are not fulfilling their obligations to provide services. *[SI/11]*

There was a further barrier to accessing information and support in respect that those who were going through a court process felt unable to discuss their case and their concerns with others (including this Review) for fear of being held in contempt of court. These issues are discussed later in this report at 14.7.

5 Interacting Processes

5.1 The problem

The submission from HSSD and ICPC summarises one view of the situation:

> *There is concern that the introduction of the Convenor and CYCT system (or our interpretation of how it should operate) has inadvertently increased the time taken to resolve cases for children and families.*

The HSSD Diagnostic Report went into greater detail:

> *Significant resources were expended on creating the new Children Law, but this investment was not extended to the implementation of the law in 2010. Combined with a lack of strategic leadership, the result is a very high degree of duplication of work within social care, and "mutual suspicion" between Children's Social Care and the Tribunal process. Families are subjected to duplicate and parallel processes and children are not always well protected, particularly those who are suffering neglect. …*
>
> *Thresholds for referral to the Convenor and the CYCT are also not well understood in relation to children in need of protection … There is also a contradiction in the practice engendered by the application of a Children's Law which is based on, but not wholly similar to, the Scottish hearings system, together with internal practice and policy guidance and procedures within Children's Social Care and the child protection system which reflect the English procedures, and which are still required in the Royal Court.*
>
> *This has resulted in duplication of processes within AIT which overwhelms workers with administrative work and takes them away from direct work with children and families. The Tribunal system also requires repeated appearances every 28 days for many children, which increases bureaucracy and adds little for children who are also subject to child protection registration.*

The submission from the Children's Convenor and Board commented on:

> *… some duplication and tensions around the interface and interplay between proceedings in the Tribunal and the Court. This may in part be as a result of the fact that a number of the referrals we receive could have been made considerably earlier in the life of the child and in the life of the presenting difficulties. Some cases have therefore transitioned to the Court before the conclusion of Tribunal proceedings as the need to consider more permanent measures of intervention have become apparent and therefore both proceedings are on occasion running in tandem.*

5.2 The CYCT: background and ethos

The CYCT is based on, but not identical to, the Scottish Children's Hearing System which was introduced to Scotland by a 1968 law. Since then the system has evolved in response to changing circumstances, understandings and influences, including the need to take account of human rights. The Scottish system was the brainchild of the Kilbrandon Committee which was set up to consider the law relating to the treatment of young offenders and children in need of care and protection. The basic philosophy of Kilbrandon has endured throughout these decades of development. The principles underlying the system are:

- whether they require care or have offended, children or young people in trouble have similar needs and those needs should be met through a single system;
- a preventive approach, involving early identification and diagnosis of problems, is essential;
- once the facts of the case have been established, the focus of the hearing should be on the best means of meeting the child or young person's needs;
- in deciding how a child or young person's needs should be met, his or her welfare throughout childhood should be the paramount consideration;
- the child or young person's family and its circumstances should be integral to the discussion about how best to meet his or her needs;
- compulsory measures of care should be applied only where the child or young person's welfare cannot be secured through voluntary arrangements;
- through the appointment of lay panel members, the child or young person's local community should participate in decisions about children or young people.[7]

The two basic premises underlying the system were articulated by a leading Scottish commentator:

> *First, it is assumed that a child who has committed an offence, though culpable, is just as much in need of protection, guidance, care and control as is the child against whom an offence has been committed …*
>
> *Secondly, it is recognised that a court of law, with its adversarial traditions, procedures and atmosphere, may well be an appropriate forum to resolve disputes of fact but is a singularly inappropriate forum for determining, in a welfare context, what if any form of protection, guidance, treatment or control an individual child needs. The child's needs can best be determined by*

[7] http://www.chscotland.gov.uk/the-childrens-hearings-system/background/

a relatively informal but carefully structured discussion involving the child and the child's primary carers.[8]

The submission to the Review from the Children's Convenor and Board explains the background to the introduction of the CYCT to Guernsey and Alderney:

The Board came into existence in 2008 in advance of the Law coming into force. The Convenor was appointed in February 2009. The Chair and Deputy Chair of the Board were both involved in the development of the policy that led to the Law. …

When updating or making new law Guernsey had generally followed English law and adopted a simplified or abridged version of their Acts of Parliament. On this occasion the government department responsible for reviewing and updating the law decided that they did not want to merely adopt a simplified version of the 1989 English Children Act. They recognized that, in this particular area, a law that works well in one country can give rise to difficulties if transplanted wholesale into a different culture. A legal consultant from England (Ruth Bowen) was employed and a wide ranging and comprehensive review was undertaken. This review took the opportunity to look at a variety of legal systems around the world with a view to creating a law that was tailored to the particular circumstances of the Bailiwick of Guernsey. Following the review one system stood out as a possible solution for public law cases and cases involving juvenile crime - the Children's Hearings system ("the CHS") in Scotland. Extensive consultation took place on the proposed and preferred options following this review. The Billet and consultation documents outline the range of professionals from both Guernsey and other jurisdictions who were consulted and/or contributed to the discussions and developments. These included Alan Miller, then Principal Reporter of the Scottish Children's Reporter Administration; Joy Gilles, then Scottish Children's Panel Training Organiser; Boyd McAdam from the Scottish Executive; and Lord Justice Ryder, then Judge of the High Court in England. All of these individuals remained involved in a consultancy capacity for a number of months post implementation of the Law.

Why was the CYCT seen as the right approach for the Bailiwick of Guernsey? The consultation documents and the Billet indicate that the following were key factors in this decision;

- *A desire to create a holistic welfare based approach to responding to concerns relating to children.*

[8] Kenneth McK Norrie, *Children's Hearings in Scotland* (3rd Edn.) published in 2013 by W Green, Edinburgh.

- *A desire to extend the range of measures available to deal with young people involved in criminal activity and the ability to more effectively target the causes of crime.*
- *A belief that community involvement was an important factor in decision making.*
- *Involving children and families more effectively in the decision making process was essential to bring about genuine change that families had some ownership of.*
- *Reducing the burden on the Courts both in terms of time and costs.*
- *The CHS had been able to withstand the test of time with its foundation principles remaining intact.*
- *The CHS had been able to adapt to changing social and political climates during this time.*
- *Passionate support for the underlying philosophy of the CHS was still very much in evidence in Scotland.*
- *The CHS works equally well in the small island communities of Scotland as it does in the large urban cities.*

The submission emphasises that the Scottish system was not adopted in its entirety, but amendments and improvements were made to suit the circumstances of Guernsey.

The submission notes that, whilst a great deal of effort was put into consultation and primary legislation (the Children Law), the Children Law Project that was responsible for full implementation of the Law was closed before all of the objectives had been met, although a Post Implementation Group was established and chaired by HSSD. It was anticipated that the outstanding actions would be incorporated into the normal business of the relevant agencies. This included the secondary legislation which would have set out the detail on a number of important matters, some of which has never emerged and has already been highlighted in this report. The submission comments:

> *With the benefit of hindsight it was perhaps premature to close the project in advance of all aspects of the project being fully implemented. The project closure coincided with the retirement of the Chief Officer at HSSD and with the start of significant financial pressures arising within this Department. His successor made a number of changes to the operational structures within the Department and as a result some of those individuals who had held key roles in implementing and overseeing the project moved to other areas of responsibility. In addition the roles of the various consultants who had supported the project for a number of years were brought to an end.*

I **conclude** from this that there is agreement that the lack of secondary legislation, guidance and training for new staff has impeded the effective integration of the Convenor and Tribunal system into the Guernsey landscape. I am advised that there has been neither the funding nor the personnel to take these matters forward. The situation is exacerbated by the rapid turnover of social work staff, mostly from England, who have no prior experience of this kind of system. In the absence of detailed regulation and guidance they understandably look to what they see as the English equivalent and follow English practice.

Recommendation 11: Funding and personnel should be provided to draft the secondary legislation and guidance required to fully implement the Children Law.

Recommendation 12: All current and new staff within HSSD should receive training on the Tribunal system and the role of the Convenor.

5.3 Particular issues

Having identified the issues broadly in terms of the barriers to fully integrating the CYCT system into Guernsey and Alderney and the problems this has caused, I will now turn to some of the particular issues that have arisen in relation to the status and operation of the Tribunal system, some of which may benefit from amendments to the Law.

a. Compulsion to attend

The Tribunal was set up to be the forum for deciding on compulsory measures of care that fall short of permanency. It can make far-reaching decisions about children and families. It seems strange that children and parents are not obliged to attend, as they are in Scotland, where children can be detained in order to be brought before the hearing and parents can be fined for non-attendance. Clearly, it is best to avoid resort to measures of enforcement, but the lack of compulsion to attend undermines the status of the Tribunal.

Recommendation 13: Children and those with parental responsibility should be required to attend meetings of the Tribunal unless excused from attendance.

b. Referral to the Convenor

Section 35(1) of the Law says the question of whether compulsory intervention may be needed arises if:

(a) there is, or appears to be, no person able and willing to exercise parental responsibility in such a manner as to provide the child with adequate care, protection, guidance or control, and

(b) at least one of a number of conditions listed in Section 35(2) is satisfied in respect of that child.

The listed conditions are: the actual or likely suffering by the child of significant impairment to health or development, or sexual or physical abuse; misuse of drugs or volatile substances; exposure to moral danger; violent or destructive behaviour that is likely to render the child a danger to himself or others; being beyond parental control; the commission of a criminal offence by a child aged 12 or over (the age of criminal responsibility) or similar behaviour by a child under 12; or failure to attend school without good reason.

Any person *may* refer the matter to the Convenor if they believe these trigger thresholds are met and they believe that compulsory measures may be necessary to secure the provision of adequate care, protection, guidance or control for the child. Section 25(12) of the 2009 Ordinance says that if the Department is satisfied that compulsory intervention *may* be necessary in respect of a child, it *must* refer the matter to the Children's Convenor. This applies even in the context of the new MASH arrangements (Multi Agency Support Hub). Police also have a duty to refer to the Convenor in respect of offences by children.

Recommendation 14: The legal duty to refer to the Convenor where the Department considers compulsory measures *may* be necessary should be emphasised in induction and training of HSSD staff.

c. Interface of CYCT and community parenting orders

As indicated at 5.1 above, there is concern about duplication or overlap between the work of the CYCT and the permanency-related work of the courts. Some of this may arise out of the way in which the law is written.

The focus of Tribunal is on temporary supervision with a view to rehabilitating the child with the family. However, section 35(1)(a) adds to the specific conditions for referral a requirement that, "there is, or appears to be, no person able and willing to exercise parental responsibility in such a manner as to provide the child with adequate care, protection, guidance or control." This condition sets a high bar and seems to be more relevant to a move towards making permanent care arrangements for a child. This condition could also make it more difficult for the Tribunal to get involved in cases early enough to make a difference.

At the other end of the scale, section 49(2)(a) of the Law sets out the grounds on which an application for a community parenting order may be granted without the consent of those with parental responsibility. These are:

- At least one of the conditions set out in section 35(2) is satisfied [the conditions for compulsory intervention by the Tribunal]; and

- There is no reasonable prospect of the child's parents or any other member of the child's family, being able and willing to provide adequate care, protection, guidance and control for the child.

It could be argued that the threshold conditions for the Tribunal and for the community parenting order have too much in common. Some of the disadvantages arising from this are:

- The condition about "no person able and willing …" provides an unnecessary extra hurdle for the Tribunal. It has the air of permanence and, I have been told, is difficult to explain to parents. The aim of focussing only on "necessary" intervention is already set out in the child welfare principles.
- The threshold condition for a CPO, that at least one of the grounds in section 35(2) is satisfied, leads some social workers to believe that they have to exhaust the Tribunal process before they can apply for a community parenting order, causing unnecessary delay.
- The linkage between the conditions for the Tribunal and the conditions for permanence can raise suspicions in the minds of families that the Tribunal process is a step towards permanence. I have been told that this makes them less likely to agree to the conditions, resulting in more delays because of the consequent need for recourse to the court to prove the facts.

My **conclusion** is that there is insufficient differentiation between the threshold conditions for the Tribunal and for the community parenting order. In cases where the best route for the child is permanence through a community parenting order (or adoption), this should go straight to the court without passing through the Tribunal. There will of course be situations where a case starts in the Tribunal and is later felt to be more appropriate for a community parenting order and vice-versa, but this dual process could be minimised.

Recommendation 15: Consideration should be given to clarifying the distinctive character of the Tribunal process and the community parenting order by rewording the threshold conditions for each.

Recommendation 16: HSSD should consider issuing guidance for staff, informed by legal advice, about the need for clarity about whether a case is aiming at rehabilitation or permanence and choice of the appropriate legal forum.

d. Interface of CYCT and child protection registration

The HSSD Diagnostic Report commented:

> *Children are often subject to both child protection registration and to CYCT processes, which can create conflict between the department and the Tribunal (as the latter does not always support the details of the child*

> *protection plan). The department has described this as high risk for children. The Tribunal convenor refutes this and points to evidence that no child has been harmed as a result of this and that the department sometimes fails either to fully evidence their concerns, or is not open to constructive challenge. The result can be that families are confused and refuse to cooperate with the child protection plan, but choose to cooperate instead with the Tribunal which has a legal basis for compulsion. Social workers then feel undermined. …*

The impact of this dual process will be lessened by the current work towards developing a single "child's plan" to be used in all processes. It may be that in some cases, it will be appropriate for the child to be de-registered when a care requirement is made, in others there may still be added value in the specific focus provided by registration. This could be decided on a case by case basis.

e. Interface of CYCT and private law processes

As indicated at 3.2 and 3.5 above, I was advised that one result of the Children Law was that private law cases tended to be more complex and to involve a larger pool of parties. There was increasing crossover between private law processes and the CYCT. A number of complicated situations flow from this.

Because a care requirement imposed by the Tribunal is designed as a temporary measure, it temporarily takes precedence over private law orders relating to residence or contact. This can tempt some to use the Tribunal as a method of "trumping" a decision by the court. Conversely, family members may be tempted to approach the courts for orders that will give them status within the Tribunal process.

Where a judge in a private law process considers there may be grounds for referral to the Convenor, permission may be given for the private law judgment to be shared with her. However, I am aware that family members can sometimes feel they have been prohibited by the court from making a referral to the Convenor and feel disempowered from protecting their children through this route. This is discussed later in this report at 14.7.

6 Enforcement of Care Requirements

6.1 What people have said

The Education Department's submission to the Review stated that:

> *Anecdotal evidence from Attendance Officers involved in School attendance cases heard by the CYPT [sic] is that this process is seen by most families who engage with it as a "soft option" and there are only a few cases where Tribunal involvement has had a significant sustained impact on attendance.*

Whilst this focuses on the condition about non-attendance at school, it does reflect a wider view expressed to me that the CYCT lacks the power to enforce its decisions, both in relation to children and families and in relation to partner agencies. One individual told me about their disappointment that the Tribunal system did not seem able to command access to Child and Adolescent Mental Health Services, which she had anticipated would have been a strength of the system. Another thought the Tribunal could do more to resolve housing difficulties when these presented a barrier to children living with family members. A number of professionals believed families felt free to ignore conditions attached to care requirements as there were no sanctions for this. This was also referred to in the submission from HSSD and ICPC.

6.2 Partner Agencies

Section 45 of the Law says:

> *Where a child is subject to a care requirement it shall be the duty of the Department, and any other person referred to in the child's plan, to give effect to the requirement by –*
>
> *a. The provision of such supervision, support and services as the child requires for his adequate care, protection, guidance and control, and*
>
> *b. The taking of such steps as are necessary to ensure that any conditions to which a care requirement is subject are observed.*

"Person" is defined widely by section 122 to include:

> *… an individual, any department of the States, any committee of the States of Alderney, a court, the Tribunal, any other public authority, and any other body or agency, whether or not incorporated.*

In principle, this imposes an obligation on all States departments and other public authorities to comply. What has been pointed out to me as a gap is that there is nothing equivalent to the provisions in Scotland to enforce that duty if authorities do not comply. Scottish law allows the officers of the children's hearings system to give notice to the local authority charged with implementing the order if they are in breach of the duties imposed upon them by the equivalent of a care requirement. The notice informs the authority that, unless they comply within 21 days, the court will be asked to enforce the authority's duty. It is no excuse for the authority to say it lacks the means to comply. If the court is approached, it may then require the authority to carry out its duty.[9]

The duties to comply with a care requirement are more widely framed in Guernsey than in Scotland. The Children's Convenor did not indicate that there were any problems with HSSD or other authorities failing to comply with the conditions of care requirements, so I make no recommendation on this. The Scottish approach may however be kept in mind should this become an issue. The comments made about enforcement may therefore arise from a feeling that the Tribunal system is not being as bold as some anticipated in requiring services from various sources.

6.3 Children and Families

At the extreme end, there are some consequences for children and families who fail to comply with the conditions of a care requirement. Section 92 of the Law authorises the court to make a Recovery Order where a child subject to a care requirement has been unlawfully taken away, or is being unlawfully kept away, from HSSD. Amongst other things, this requires disclosure of the child's whereabouts, authorises search of premises by "relevant persons" or the police, and removal of the child. Criminal offences associated with this scenario can lead to fines or imprisonment.

A recent amendment to that provision clarifies that a Recovery Order can remain in force for such period as the court may order (so long as the care requirement exists). It also authorises police officers to take similar action without the need for a court order.[10] This is helpful and will address some of the concerns about ability to enforce care requirements.

[9] Sections 146 to 148 of the Children's Hearings (Scotland) Act 2011.
[10] The Children (Guernsey and Alderney) (Amendment) Ordinance 2015.

Where non-compliance relates to issues other than the physical care of the child, the consequences of non-compliance are not explicit. From the point of view of the family, the implicit consequence is that the conditions of the care requirement might be changed to include removal of the child from home. Failure to comply might also lead to consideration of more far-reaching intervention in the form of a community parenting order. This is not a threat, but a possible consequence of what further action might be required in the interests of the child.

This is relevant to the discussion on explicitly staged intervention that takes place later in this report at 14.5.

7 Delay

7.1 The impact of delay

Avoidance of delay is one of the child welfare principles set out in the Law. It is generally acknowledged that the system has failed to deliver on this. There has been much discussion about where the blockages exist and a tendency for agencies to identify others as the cause.

The submission to the Review from HSSD and ICPC referred to the 2011 report of the Family Justice Review in England and Wales (The Norgrove Review) as a powerful analysis of the impact of delay on children.

7.2 CYCT and related court processes

As indicated above, the submission from HSSD and ICPC suggested that some of this delay has inadvertently been caused by the introduction of the Tribunal system. Some of this arises out of the "dual process" issues already discussed, but others are internal to the CYCT and associated court processes.

The Children's Convenor has undertaken an internal review to gain an understanding of the issues that contribute to the length of time to reach a final decision on cases referred to her. It concludes that the majority of cases are dealt with expeditiously. Those that take longer are complex cases where delays might occur at various stages and where the complexity might in some cases justify the additional time taken in the interests of due process and facilitating parental understanding of the issues. The internal review concludes:

> *The average time from referral to Convenor to final care requirement for the 41 children who were made subject to a care requirement during 2014 was 30 weeks. The shortest time was three weeks and the longest was 61 weeks. With the exception of one case all of those cases that took longer than 35 weeks were cases where the reasons for referral were not accepted initially by one or all of the parties and an application to the Juvenile Court was necessary. …*
>
> *The review identified that the delay in reaching a final decision for a child can occur at various stages of the proceedings and is not down to the actions of any one single organisation or agency.*

Delays may occur during the Convenor's investigation of a referral. This can be as a result of insufficient information provided by the referrer and the need to chase up information from various sources. Delays may also be caused by the time involved in social workers producing the child's plan, the efforts of the Convenor in trying to settle a matter without the need for an application to the court, and the processing of the case at court.

The Convenor's paper makes recommendations about streamlining processes for the Convenor's meeting and for the court process. It also suggests that only Advocates who have undertaken training on the Tribunal history, purpose and ethos should be able to apply for public funding for representation of parents and children within Tribunal proceedings.

My **conclusion** is that some of these causes of delay can best be resolved through discussion amongst the agencies involved and there appears to be willingness to progress these discussions in the interests of children and families. However, there might be benefit in introducing some timescales into the legislation to underpin the principle of avoidance of delay. Issues reported as of particular concern are: the time it takes to achieve the finding of facts at court when a condition for referral to the Tribunal has not been accepted by the child or family; and the consequent number of interim care requirements to which a child may be subject, which must be renewed every 28 days. There is precedent for such timescales in Scotland where legislation requires that an application to prove the facts must be heard not later than 28 days after it is lodged.[11] The Scottish courts also tend to take a more summary approach to these proceedings, relying on oral rather than written evidence. In Scotland, the equivalent of the interim care requirement may only be renewed twice by the children's hearing. So there will be a maximum of three such requirements each lasting for a maximum of 22 days.[12] Any further interim requirements would have to be made by the court.[13]

Recommendation 17: Consideration should be given to introducing timescales for finding of fact hearings at court in relation to disputed conditions for referral, and to limiting the number of times an interim care requirement can be renewed.

7.3 Community Parenting Orders

The HSSD and ICPC submission to the Review said:

> *Community Parenting Orders ('CPO's') are of a fundamentally different nature to the former 'Fit Person Orders' in Guernsey and Alderney in that an application is only made at such time as the Department has determined that there is no reasonable prospect of the child's parents, or any other member of the child's family, being able and willing, to provide adequate care, protection, guidance and control for the child. …*
>
> *Applications for CPO's are intended to be "front loaded" with the assessments having been concluded prior to application. Accordingly, it had been hoped*

[11] Section 101 of the Children's Hearings (Scotland) Act 2011.
[12] Sections 86, 95 and 96 of the Children's Hearings (Scotland) Act 2011, as amended by sections 86 and 87 of the Children and Young People (Scotland) Act 2014.
[13] Sections 98 and 99 of the Children's Hearings (Scotland) Act 2011.

> *that there would be a relatively short period between any application and a final hearing. One might reasonably envisage that cases might have a final hearing within approximately three months of an application, to give sufficient time for the parents to respond and a Safeguarder (court welfare officer) to undertake her enquires and reports.*
>
> *In practice, the duration of cases would appear to be broadly similar to the position prior to January 2010, with many cases having a final hearing six months or more from issuing with a twelve month delay not unusual (see case studies).*
>
> *Currently the waiting time to list a 5 day hearing (which would not be unusual) is five months. …*
>
> *Officers are of the view that there may need to be an amendment to the Law on the threshold for applying for a Community Parenting Order/Interim Community Parenting Order in order that such cases can get before the Court at an earlier stage. This would mean the removal of the requirement that all assessments need to be completed prior to the application so that the matter can be listed earlier – the expectation would still be that the assessments would be done in a timely manner but that this should not delay the determination of a hearing date (in so far it is a matter of getting into the queue). …*
>
> *The Department has also initiated discussions with stakeholders within the Family Justice System about what other action there might be to reduce delay in decision making for children. We have been encouraged by our discussions with the Greffier and the Bailiff in this regard, in that the court shares our concerns about delay and would welcome earlier applications for those children where there have been child protection concerns which we have assessed require the removal of those children from their families. We have yet to test this.*

It is encouraging to hear of ongoing discussions with the courts on this matter.

It has been suggested to me that an application for an interim community parenting order does not require the same level of detail as an application for a final order. The basis for this is the decision in the first Guernsey case dealing with the community parenting order provisions, where the Juvenile Court held that, while the legal test for a community parenting order and an interim order were the same on the face of the Law, the test to be applied for an interim order was whether there were "reasonable grounds for believing" that the threshold conditions applied.[14] This interpretation may address some of the concerns of HSSD about getting a case into court earlier and provide a helpful way forward.

[14] In the Matter of the S Children, Juvenile Court, March 19th, 2010.

8 Placement of Child out of the Jurisdiction

When I started work on this Review, I was aware of general concerns about off-island placements of children. Concern to minimise this was evident in the Billet that preceded the Law. The Law itself introduced several safeguards to ensure that such placements were appropriate and were independently monitored through notification to the Children's Convenor. Regulations in 2013 set out criteria to be applied when considering such a placement and established the Complex Needs Panel, to be run jointly by HSSD and the Education Department, to approve, monitor and review arrangements for such placements. It also set out an appeals process. I was advised that, when children are placed in the UK, the level of assessment of the placements is dependent upon the circumstances. Extended family placements will be subject to a "viability assessment" and some of these will proceed to full fostering assessments.

Despite the commitment to avoiding off-island placements, the ICPC's 2014 Annual Report comments:

> *20 per cent of looked after children are placed outside the jurisdiction which is not congruent with the principles of the Children Law.*

The HSSD Diagnostic report comments:

> *There are limited fostering options for young people and the size of the island and degree of expertise available means that young people with challenging or specialised needs end up being placed off island. This unfortunately has a high risk of breakdown (with 7 placement disruptions in the last year) and compromises the delivery of excellent social work support for children looked after and care leavers (simply because of the practical difficulties of living overseas.) …*
>
> *There are currently 72 children who are looked after in the public care, of whom 17 were placed off island at the time of the diagnostic. This has reduced from 25 off island placements. These children and young people are of particular concern from a service provision perspective: social workers have to plan well in advance because of travel requirements and are unable to meet with the child young person outside of these pre- arranged visits. …*
>
> *The size of the island means that children who are placed locally often meet their birth families in passing – at the shops or in the street - and carers can find this difficult. This is particularly an issue in adoption and there are careful matching considerations. Children can be placed off island if necessary, but there is a policy of keeping children on the island wherever possible, and adoption support is provided to families post adoption for as long as it is required, to assist the management of this.*

The HSSD Action Plan following on from the report recommends a review of residential provision and development of a model of service which engages other agencies and improves the quality of care and outcomes for young people, including reducing the need for off-island placements and repatriating children where possible. This would be developed as part of the new corporate parenting strategy.

The Draft Children and Young People's Plan comments on the problems faced by children placed off-island, categorising them as some of the most excluded children and makes a commitment to providing more services to allow more children to remain on-island.

My **conclusion** is that there is a clear commitment to reducing the need for off-island placements. This is acknowledged in the plans currently being developed and progressed.

9 Criminal Justice Issues

The Law adopted the approach to offending by children that had underpinned the Scottish system, that is, that whether the presenting scenario is that they require care or have offended, these children or young people have similar needs and those needs should be met through a single system.

Around the same time as the Children Law was enacted, the age of criminal responsibility was raised to 12 by the Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008. For young offenders aged 12 or over, it was envisaged that most cases would be taken out of the criminal justice arena and dealt with by the CYCT. The Juvenile Court would continue to deal with cases of serious and persistent offending and those traffic-related cases that might result in disqualification from driving. Some provisions of the new criminal law are addressed in this section of the report as they are relevant to assessment of whether the policy objectives of the Children Law have been achieved.

As regards the impact of the Law, Guernsey Police do not record the number of young people re-offending but were able to provide information about the number of young people under 18 who had been arrested in Guernsey since 2008:

Table 9-1: Arrests of young people under the age of 18

Year	Number of arrests	% of all arrests
2008	479	24
2009	609	29
2010	480	23
2011	380	20
2012	257	15
2013	224	15
2014	155	10
2015 (first 6 months)	177[15]	24

The Convenor provided the Review with some information in relating to re-offending, indicating that, while the figures were not validated, they seem to show that re-offending within a year in Guernsey (recidivism) sits at 19.5%, which compares favourably with England and Wales (35.5%) and Scotland (34.5%). Guernsey figures include traffic-related offences.

This information seems to indicate a positive impact of the Children Law.

[15] The Police indicated that this increase was due largely to multiple arrests of a very small number of young people.

Those in contact with the Review expressed a great deal of support for the Law's approach to young offenders and welcomed the effective de-criminalisation of young people. The Home Department's submission includes a comment from the Criminal Justice Strategy Co-ordinator:

> *From a Restorative Justice perspective, there has been significant improvement as a result of the Children's Law, allowing restorative interventions to be implemented much earlier, where there is family breakdown and conflict around welfare issues, as opposed to having to wait for a crime to be committed.*

Despite these positive comments, some commentators, including the Convenor and Board, expressed concern at the developing practice of including referrals to the Convenor in the information about offending history that is presented to courts dealing with criminal matters. This list includes offences that have been neither accepted by the young person nor tested by a Court. This could have human rights implications. I have had some communication with the Crown Advocate about this and it is a subject that would benefit from further discussion between the Crown Advocate and the Children's Convenor in order to develop a shared understanding.

The Convenor and Board's submission to the Review also expressed concern about the numbers of young people jointly reported to the Convenor and HM Procureur with a view to possible prosecution:

> *It is our view that the numbers of young people who are jointly reported are higher than we would have expected. It is our experience that it is often the children who have the highest needs and vulnerability that are retained by HMP for prosecution. We are currently undertaking some further more detailed analysis of our data to ascertain whether the evidence supports this view.*
>
> *We are concerned that young people who are considered to be persistent offenders (3 or more referrals within a period of one year) and/or commit serious offences can escalate to the criminal justice system and beyond very quickly.*

Figures to substantiate this concern are set out in the Convenor's Annual Report for 2014:

- *71% of the young people referred for the alleged commission of an offence were jointly reported to HM Procureur. This represents a further increase of 10% from the previous year.*
- *39% of the offence referrals relating to 35% of the young people referred on offence grounds were retained for prosecution or caution.*

Figures provided by the Crown Advocate show that, whilst the majority of joint referrals still relate to traffic offences, the recent increase has been in respect of other kinds of offences.

The Convenor and Board's submission concludes:

> *Whilst the new legislative provisions in Guernsey have delivered the original policy objectives in respect of youth justice we are of the view that there is a significant risk that this could be watered down by the working cultures of professionals, particularly when the previous systems and cultures relating to youth crime were based on the justice model of intervention.*

My **conclusion** is that the policy objectives of the Children Law have been largely met and widely welcomed but vigilance is required to ensure that they are not watered down by cultures and practices that act against it.

10 Restriction of Liberty

Children's liberty may be restricted in prison accommodation or in "secure accommodation" run by HSSD. My understanding is that the latter can accept children involved in the criminal justice system when they are on remand, but not after sentence.

The Home Department's submission to the Review included comment from the Probation Service:

> *The sanction of a custodial sentence is still available to the juvenile court in Guernsey on young people aged 14 and over and although this has been used sparingly it is observed that once a decision has been made to prosecute a young person under 18, the juvenile court is trapped between a justice and a welfare model, a situation which has not been fully addressed or resolved.*

The Criminal Justice Law of 2008 set out the principles that should guide public authorities when making decisions about offending by children. The principal consideration was to be the prevention of offending by the child in the long term and the short term. Other considerations to be taken into account included: the interests of victims, the welfare of the child, alternative means of dealing with the child insofar as that was consistent with the public interest, and the desirability of ensuring that the child "remains in the community so far as that is practicable and consonant with the need to ensure the safety of the public."

Figures obtained from Guernsey Prison show the breakdown of young people in the prison from 2008 to mid-2015.

Table 10-1: Under-18s in prison

Year	Number	Gender	Number of these that commenced with remand	Period of custody
2008	6	5M 1F		6 weeks to 7 months
2009	14	13M 1F	3	4 days to 6 months
2010	11	9M 2F	3	2 days to 5.5 years
2011	4	2M 2F	3	2 days to 8 weeks
2012	1	1M	1	3.5 years
2013	5	5M	3	1 day to 15 months
2014	6	6M	1	13 days to 2.5 years
2015 (first 6 months)	1	1F		22 days

Numbers seem to have dropped from a peak in 2009 and 2010, but the incarceration of children is still a matter of concern.

The submission from the Home Department included comment from Guernsey Prison about issues related to holding children in custody within prison facilities. This practice had attracted criticism from HM Prison Inspectorate (HMIP) and the European Committee for the Prevention of Torture. Following consultation, a plan was developed to provide separate accommodation for young people in custody at the Prison. This was regarded as the most realistic option for Guernsey but has not completely satisfied HMIP.

The submission provides information about agreements with HSSD and education about support for children in the prison. It adds that prison staff who have been appropriately trained in the care of young people will also support HSSD staff where a child is remanded to secure accommodation in the HSSD facility.

"Secure accommodation" is defined in the Children Law as accommodation, provided for the purpose of restricting the liberty of a child, which has been designated by the Department in accordance with regulations and meets the standards prescribed in them. It is therefore accommodation that is specifically designed for children. The relevant regulations provide that:

> *… a child placed in secure accommodation should receive in so far as is necessary, practicable and appropriate the same standard of care as a child otherwise in the care of the States.*

Only the Juvenile Court can make an order that a child should be kept in secure accommodation, although HSSD can authorise detention of a child for up to 72 hours in certain circumstances where they have parental responsibility or the child is subject to a care requirement. In both situations, the basic criteria to be met relate to the likelihood of the child absconding and suffering significant harm, or the likelihood of the child injuring himself or someone else if he is not held securely. Children in secure accommodation will include some whose vulnerability stems from other causes than offending, such as self-harm or exposing themselves to risk.

Figures obtained from HSSD show the pattern of detention in secure accommodation from 2008 to September 2015 as follows:

Table 10-2: Admissions to Secure Accommodation

Year	Number of admissions to secure accommodation	Number of these on Remand	Numbers of children to which these refer	Gender	Periods of detention
2008	0	0	0	0	0
2009	5	0	5	1M 4F	5 to 98 days

Year	Number of admissions to secure accommodation	Number of these on Remand	Numbers of children to which these refer	Gender	Periods of detention
2010	6	2	4	2M 2F	6 to 231 days
2011	2	0	1	1F	27 & 75 days
2012	1	0	1	1F	36 days
2013	2	1	2	1M 1F	4 to 87 days
2014	2	0	2	1M 1F	1 to 57 days
2015 (9 months)	3	1	2	1M 1F	0 – 51 days

Taken together, the figures relating to prison and secure accommodation show a decrease in the numbers of children whose liberty has been restricted since the introduction of the Law in 2010, although the figures are too small to draw conclusions.

It would be consistent with the principles of the Children Law and the Criminal Law of 2008 if the prosecution of child offenders and the restriction of their liberty, were kept to the minimum required to ensure their safety and that of members of the public and, in particular, that they be kept out of prison facilities. The Draft Children and Young People's Plan prioritises working towards fulfilment of the States' expressed commitment to signing up to the United Nations Convention on the Rights of the Child. This should provide a helpful focus for ensuring greater compliance with this and other international standards relating to restriction of the liberty of children.

11 Alderney

11.1 General information

Alderney forms part of the Bailiwick of Guernsey but has its own legislature and court system. The population of Guernsey in March 2014 was 62,711, including 11,550 under the age of 18. The population of Alderney in 2013 was 2,013, including 224 under-18s.[16] The population of Alderney is older on average that that in Guernsey and is believed to be declining. I was advised that the school numbers have decreased from around 180 in November 2010, to 130. The school can take children up to 16 years of age. If they pass the Eleven Plus and wish to attend grammar school, children have to go to Guernsey where they live with host families at the expense of their parents. HSSD's Family Placement Team manages the recruitment, training and support for the host families, including the matching of children to families and ongoing support to the placements. A young people's perspective on this has already been referred to at 4.3a above.

Alderney residents do not have residence or housing rights in Guernsey. This applies also to children who may have been born in Guernsey and lived there while attending secondary school.

11.2 Sources of information about Alderney

I made one visit to Alderney when I met a number of individuals and professionals working with and/ or for children and young people. I met or had telephone contact with the Head and Deputy Head of the school (the latter being also the designated member of staff for child protection) and others including the current social worker for Alderney with her manager. I also met a small group of young people. Many others with whom I had contact in Guernsey also spoke to me about their perspectives on Alderney. The States of Alderney made a written submission to the Review.

[16] Alderney Electronic Census Report referred to in ICPC Annual Report 2014.

11.3 Service provision

Because of its size, some basic services in Alderney, including health and social services, are designated as "transferred services" and provided by Guernsey. A health visitor/ school nurse visits every week. A social worker visits once per month and otherwise as required. The Youth Commission (a charity) has a resident youth worker in Alderney and a young person from Alderney sits on its Youth Forum. I was advised that the youth club run by the Youth Commission attracts 36 – 40 young people aged eight to twelve, and up to 19 aged twelve to sixteen. The Hub (a Barnardo's project based in Guernsey) has volunteers in Alderney and is hoping to develop its work there.

Those I spoke to understood the difficulties of accessing more specialist provision in Alderney, although some expressed the desire that some specialist services should visit more frequently. A few people mentioned the need for more family and parenting support but some doubted whether it would be taken up. In such a small community, I was told:

> *There is a fear that if you accept help, everyone will know about it.*

The problem of maintaining confidentiality coloured almost everything in Alderney. It is the downside of small community living, which also brings much benefit. I asked the young people what they thought were the best and worst things about living in Alderney. The best, they said, was the freedom and the beaches. The worst thing was rumours, because you can't hide anything.

11.4 Child protection

Many people spoke of the difficulties involved in identifying and reporting concerns about the well-being or safety of children in Alderney. It was feared that, if you made a referral to social services, it would be easy to identify who had made it and there would be repercussions. Sometimes that might be in the form of a breakdown in a relationship, personal or professional. I was given one example of what was felt to have been an unhelpful response from social services which reinforced the fear of reporting. On the other hand, the school reported the value they placed on the support they received from HSSD.

Some expressed doubt about whether members of the public would know who to refer to and how if they had a concern about a child.

> *Members of the public wouldn't have a clue who to report to. The surgery has leaflets on domestic abuse, but there is a need for more information.*

Because of the sensitivities, it is important that members of the public and professionals not only know who to report concerns to but know and trust that person and have confidence that their response will be helpful. There is a high turnover of social workers holding responsibility for Alderney. The current social worker has held that role only since March this year. She explained her attempts to establish a drop-in to make her face known and engender that trust. It had proved difficult to find the right premises. Forming relationships with children was also a challenge as there are no school lunches on the island so children go home and there is no time for a drop-in.

It is not possible to quantify the child protection issues arising in Alderney as HSSD do not keep separate statistics. When I asked those I met whether they had confidence that, in the words of the Terms of Reference of the Review, there was "a robust system for the protection of children" in Alderney, the answer was no, with very little hesitation. Sometimes it was proclaimed quite emphatically.

The school is the only embedded statutory service and plays a significant role in child protection. The member of staff with responsibility for child protection does undertake training but acknowledges that there are sometimes logistical barriers to attending training on Guernsey. This is important because the relative infrequency of child protection scenarios arising means that people in small and remote communities need even more training and support than their colleagues in more populated areas. Outside the school, others with formal and informal roles involving children expressed the view that, unless you were working with a larger organisation, such as the Youth Commission, accessing child protection training was very ad hoc and depended on personal contacts.

I asked where young people in Alderney would go if they had a problem. The young people I met identified the youth worker, the school and family friends. Adults also identified the youth worker as a primary support for young people. Some people referred to the existence of a "safe house" in Alderney where children could go without the knowledge of their parents. I asked others about this. A number of people had some knowledge but gave no detail and were not sure whether it still existed. There was a feeling that it was run or at least sanctioned by HSSD. However, this is not the case.

Whatever the history of the alleged "safe house", the discussions around it evidence a need on the island for some mechanism for a child or young person to take refuge when they feel unsafe at home. Many children and young people rarely leave the island. Some of those I spoke to left only on school trips every three years. The world outside is an unknown and it is expensive to get to it. Even if an older young person managed to make their way to Guernsey, they would have no right to stay there. I was told of the danger of such young people ending up "sofa-surfing" in Guernsey and possibly putting themselves at risk through dependence on relationships with unsuitable people.

11.5 Conclusions and recommendations (Alderney)

Alderney is a beautiful island and its residents, including young people, regard it as a safe place to grow up. Nevertheless, those I spoke to identified a need for a more robust framework for identifying, reporting and responding to child protection issues. The submission from the States of Alderney indicated that they felt unable to give an answer to the Review's questions about prevention, protection and better outcomes for children because current organisational and oversight structures did not facilitate this.

Some identification of child protection issues will come through young people themselves who need the opportunity to form trusting relationships with adults to whom they may disclose concerns. Further development of youth services on the island and the nurturing of volunteer support for young people will help promote this.

Adults who have contact with children and young people must be able to access training and support to identify and report any concerns. It might be helpful, for example, for the new MASH arrangements to make a specific commitment to involving people from Alderney, possibly through the use of video conferencing.

Members of the public need to know how to report any concerns, what will happen if they do, and to have confidence that the response of the authorities is going to be helpful.

Children and young people need to be able to access a safe space quickly and to have long term prospects of living safely within the Bailiwick. Accessing a safe place might involve legislating for provisions allowing a child to take refuge in a place of safety of their choice on the island, which is then notified to HSSD who can take appropriate action.[17] Longer term safety may involve extending more residence and housing rights in Guernsey to young people from Alderney.

[17] There was a provision about this in Scotland up until 1995 when it was repealed and replace by provision for setting up formal refuges.

Rather than making individual recommendations on these matters, it seems to me that it would be more effective if they were to be considered in the context of a broad-ranging strategy for the development of services in Alderney and the safeguarding of Alderney's children. Development of an appropriate strategy should involve the children and young people of Alderney who have valuable insights to contribute. Effective implementation of such a strategy could be supported by appointment of a dedicated co-ordinator. I have been advised that this approach has been effective in promoting implementation of the Domestic Violence Strategy.

Recommendation 18: The States of Guernsey and Alderney should consider working together to produce a strategy for the provision of services in Alderney to promote the well-being and protection of children and young people. Children and young people should be involved in the development of the strategy.

In the shorter term, I believe it is important to take steps to achieve stability in the role of social worker for Alderney and to engender confidence in that person's ability to respond sensitively and effectively to expressed concerns.

Recommendation 19: HSSD should consider identifying the post of Alderney social worker as a senior position, in order to promote stability of placement and engender familiarity and trust.

12 Sark

The island of Sark, with a population of around 600, is another part of the Bailiwick with its own legislature and courts. It is not covered by the Children Law of 2008 but I understand that it is working towards new children's legislation. Sark buys in some services from Guernsey.

I have had no specific discussions about issues relating to Sark, although some people have mentioned it to me. I would anticipate that some of the issues that have arisen in Alderney would also apply to Sark and express the hope that there will be progress in developing a new law and ensuring that there are sufficient services and mechanisms to promote the well-being and safety of the children of Sark.

13 Working Together

The Terms of Reference ask: Are States employees working together effectively to prevent children becoming children at risk?

The Children Law places a duty on employees of the States, and all other persons who work with children who may be in need or at risk, to take whatever action is required under the Law. Employees must share information to achieve this end and will be protected from allegations of illegality relating to this so long as they do so in good faith. It sets out the provisions for producing the Children and Young People's Plan and obliges each department of the States to implement it. It establishes the Islands Child Protection Committee (ICPC) whose principal aim is to co-ordinate the work of the agencies represented on it in order to safeguard and promote the welfare of children.[18]

A consistent theme arising from agencies that provided information to the Review was that, despite the good intentions of the Law, effective working together has been poor but has shown recent improvements. The **HSSD** Diagnostic Report commented that what effective joint working was taking place was the result of individual or team commitment rather than joint strategy or investment. Poor communication and co-ordination meant that some children were subject to multiple interventions and advice from different agencies.

Information from the **Education** Department was that the Law had been a catalyst, relatively recently, for better inter-agency working. It noted that there was still a lack of feedback from various processes to education.

The **Home** Department commented:

> *The Law is now really starting to facilitate joint working.*

Two recent developments were referred to as promoting better joint working: changes within the ICPC and the emergence of the Multi-Agency Support Hub (MASH).

[18] Sections 27 to 29 of the Children Law.

At strategic level, it was widely recognised, even by ICPC members, that the Committee was not functioning effectively. It had not yet established itself as an authoritative body and was unsure of its role, especially as it reports to a Chief Officers Child Protection Group which was established by Regulations. There was concern that this diluted the authority of the ICPC. The Committee had experienced difficulty in developing working relationships with other bodies that regarded the Committee's role as limited to child protection, whereas its statutory remit went beyond that to the promotion of welfare. The Committee itself recognised that it did not have the data that would inform its operations as, historically, there has been little emphasis on collecting data in Guernsey and Alderney. The HSSD Diagnostic Report concluded that there was no evidence that the ICPC was functioning well and holding professionals and agencies to account, although the Independent Chair was looking at options for improvement.

Recent changes to ICPC include the appointment of a new, independent, off-island Chair and a refocussing onto a more realistic set of priorities. The Committee's Annual Report for 2014 notes that its membership changed in 2014 and is continuing to evolve, with fewer, but more senior, representatives from the statutory agencies and representatives of the voluntary sector. The Committee started to collect some initial baseline data in 2014.

The involvement of the voluntary sector is particularly welcome and is an example of the increasing recognition of the important role it has to play.

The submission from the Home Department welcomed the recent appointment of an off-island Chair and proposed changes to the responsibility of the Committee with regard to the oversight, governance and quality assurance of child protection services. It added that the Home Department had assisted in the selection process for a new Children's Social Care Information Technology System which would further facilitate information-sharing and joint working.

At operational level, the recently introduced MASH was consistently referred to as a promising initiative that was already beginning to show results.

Information from HSSD explains:

> *The Multi-Agency Support Hub (MASH) was first implemented in March 2015 and is now the established gateway for referrals into Children's Social Care. All referrals into Children's Social Care services are discussed at the MASH meetings which are convened daily between 11am and 2pm at the Education Department.*

An HSSD report to the ICPC indicates that the MASH is proving highly successful in terms of information sharing and that considerable work has taken place in respect of the Team Around the Family (TAF) process and that of the Lead Professional, which are designed to ensure that families receive a seamless service from relevant agencies.

The submission from the Convenor and CYCT Board commented:

> *The development of the Multi Agency Support Hub is providing an opportunity for agencies to support children and families at an earlier stage. We are hopeful that this will also provide an opportunity to work with our partners to ensure that the threshold for compulsory intervention is better understood.*

The Criminal Justice Co-ordinator commented as part of the Home Department's submission:

> *From a co-ordination perspective there still seems to be a real difficulty in achieving true joined-up working which means that the right information is not shared at the right time. New initiatives such as MASH appear to have significantly helped to start to overcome these difficulties.*

The MASH is still in its early stages and there is still work to be done. The Housing Department noted in its submission:

> *Housing Department representatives are not always invited to case Conferences (despite having two members of staff trained in the required Child Protection Tier 2 qualification), even when housing is a key factor in the case. This hinders the ability of all the relevant information being considered and discussed at the same time by all interested parties.*

The Housing Department also commented on what it perceived as very slow reaction from HSSD to expressions of concern from housing staff about a child perceived to be at risk.

It might be helpful if representatives of the Housing Department were included in the MASH arrangements and other fora as appropriate. However, in general, I conclude that there are some very promising developments in the area of working together.

14 The Experience of Service Users

14.1 General comments

I have already integrated some comments from service users into the preceding sections of this report. In this section, I will draw together some of the themes and illuminate them with further quotations where appropriate.

As indicated at 3.3c above, it must be stated that those who approach a Review such as this are more likely to have had negative than positive experiences. It was during my proactive work, visiting projects and talking to people in the community that I came across a greater variety of responses with some individuals very appreciative of the support with which they were provided. This is in no way to undermine or under-estimate the importance of the more negative comments. I am grateful to all those who reported their difficult experiences to me. It is important to hear them and take them into account in order to improve services and processes.

Very few people had experience of systems, whether in private or public law, both before and after the implementation of the Children Law, so it is difficult to draw conclusions about the impact of the Law on service user experience. Where some had noticed a change, they said it would be difficult to attribute it to the Children Law because there were other factors that could also have contributed to this.

The on-line consultation on the Children and Young People Plan involved 355 people, including seven young people under the age of 18, and 20 aged 18 – 25, as well as 172 parents or guardians and 55 members of the public. The remainder were professionals, one politician and 13 whose status was unspecified. Only five responses came from Alderney. Of the total group of consultees, 60.6% said they were aware of the changes made by the Children Law. 45% believed that children and families were better supported as a result of the new Law. It is not clear whether these positive responses came from the families or from professionals.

14.2 Process Issues

Despite the lack of comparative data, it seems reasonable to assume that the duplication of process resulting from the difficulties in embedding the Tribunal system has impacted on service users. Head Teachers reported that families were saying there were too many meetings in overlapping processes. Others also commented on this. One individual spoke of a mother being “bombarded” with professionals and meetings. A family member pointed out the implications for the children:

> *Contact and professional meetings left the children with little time for homework and none for socializing. [SI/22]*

As regards the Tribunal process, the Home Department's submission included comment from the Safeguarder Service:

> *The Safeguarders noted that in their role of hearing and representing the wishes and feelings of the child in Tribunal proceedings, the children sometimes find the repeated reviews difficult to understand. Some children are reported by the Safeguarders to become disillusioned if their views are sought monthly with no opportunity to affect decisions prior to findings being made.*

Some individuals referred to the considerable number of hours a tribunal hearing might last and the numbers of people attending, which could be intimidating. This was not the experience of all clients. One parent who had experienced the systems before and after the Tribunal said she had felt able to speak at the Tribunal hearing and this had been a positive experience:

> *I never used to under the old system, but now I know I've got a voice. [C]*

The Convenor submitted information about the length of hearings, noting that the average length of time for a hearing in 2014 was 65 minutes, five minutes longer than the performance standard of 60 minutes. Some could be as short as five minutes and a few could be considerably longer, often where there were siblings or complex issues involved.

It is my view that some of these adverse experiences matters may be mitigated by the recommendations I have made in relation to the issue of dual processes.

14.3 Joined-up working

The lack of joined up working also had an impact on families. A parent commented:

> *When you get into the system there is a confusion of help: social worker, key worker, health visitor. They might say different things. As a single parent, you feel like a robot, trying to keep everybody happy. It needs streamlined. [C]*

Some individuals commented on the lack of a professional perspective on what joined-up working meant in relation to a child, for example, that health needs might require to be met before educational needs could be addressed. Parents were faced with having to work through different processes and appeals systems that did not connect with each other *[SI/15].*

I am encouraged by the potential for many of these matters to be addressed by the developments within HSSD, especially the MASH, and the child-centred focus of the draft Children and Young People's Plan.

14.4 Attitudes

A theme that recurred throughout the Review was the critical importance of the attitudes of professionals towards clients. I have already set out a number of comments from clients who reported feeling disrespected or "bullied" by professionals. In addition, a young person and an unrelated parent commented independently that, in their experience, social work always focussed on negative things and never made positive comments about their progress. They found this to be demoralising *[Int. 5 and C].*

On the positive side, my visits to family projects run by HSSD showed a completely different dynamic, in which parents felt valued by the workers and expressed their appreciation of the support the workers gave to them, sometimes in glowing terms. In some cases, parents reported a feeling of ownership of the project. It seemed a misnomer to call them "service users" as they regarded themselves as supporting the delivery of the services the project provided. There was a sense of pride in the project and in themselves.

I visited the Caritas Community Café in Guernsey where the Rev. Richard Bellinger spoke to me about the importance of "reciprocity" in human relationships, even professional ones. He observed that everyone has something to give and receive. Speaking of his own work in the cafe, he added:

> *We don't provide a service, we form relationships.*

It seemed to me that this kind of reciprocity was evident in the relationships in the family projects I visited and that this was a strength.

"Service users" may be suspicious of the power of professionals. Those who expressed critical views often spoke of their mistrust, accusing professionals of lying to them or misleading them. It seemed to them to be two-faced when professionals appeared to agree with them in private and then said something different in their reports or in court. This may be a result of professionals being reluctant to give clients bad news, or simply respecting the fact that, as the decision was not theirs but the courts, they should not lead clients to believe that the outcome was already determined.

Where there was criticism of social workers, it was sometimes vitriolic. Some spoke of a change of social worker marking a shift from a supportive to a more coercive relationship. This may have been a deliberate professional decision and one can understand the thinking behind it. However, relationships might be helped if there was greater clarity about **where compulsion lies** within the system. It does not reside within the authority of social workers but with the Tribunal and the courts. A greater appreciation of that by social workers and clients might take some of the heat out of these relationships. It will not be a panacea, as the criticism of the Safeguarder Service shows.

The HSSD Diagnostic Report commented:

> *Although professionals from all agencies are working with a large number of families with multiple problems over several generations and living in definable geographical locations, there are no multi-agency and community based initiatives aimed at addressing this in the long term.*

Against this background, I would encourage agencies to consider establishing community based initiatives that support families in a way that respects their dignity and encourages them to feel a sense of ownership, or at least contribution, to the service.

14.5 Clarity about consequences

There has been some discussion about the need for the child care system to be regarded as a "pathway" rather than a series of thresholds. It is my view that this is appropriate in terms of how agencies work together to provide services for children and families, however, when it comes to intervention into family life, a staged process rather than a seamless pathway is appropriate. Some clients spoke about how their case apparently drifted towards permanency. They thought they were agreeing to one thing and it became something else. There were pleas for greater openness about the consequences of the decisions clients might make.

In a more explicitly staged process, referral to the Convenor would be experienced by families as a significant step, and also the Convenor's decision to refer to a Tribunal. Clients should be clear that they are now entering the area of compulsion and what the consequences will be if they do not co-operate. It should also be made clear that this process is about rehabilitation rather than permanency. This should help clients to co-operate without the fear that their co-operation will actually make things worse for them by easing the pathway to permanency. Permanency is a separate process and clients should be clear about the point at which professionals start to work towards that as the preferred option for their family.

Greater clarity would be facilitated by the recommendations already made.

14.6 Concerns and complaints

Where service users are not satisfied with their experience, they should be able to raise concerns or make a complaint.

I have already discussed (at 3.3d above) the issue of complaints in relation to the Safeguarding Service. HSSD also supplied me with a copy of their complaints procedure. It is a long and complex document designed for staff and with an apparent emphasis on medical services. It sets out a two stage process, the first internal and the second involving reference to an independent panel in Jersey.

HSSD also publishes a "How are we doing?" leaflet aimed at service users that invites comments on services, whether they are "suggestions, compliments or complaints." If service users want to take a matter further, they are invited to write to the Chief Officer who will ask a manager to carry out an investigation and meet the complainant if appropriate.

I was advised that the numbers of formal complaints in relation to children's social care since 2009 is as follows:

Table 15-1: Complaints about children's social care

Year	Number
2009	6
2010	3
2011	2
2012	12
2013	16
2014	18
2015 (to 30 September)	7

I distinguish between the categories of "concern" and "complaint" because the word "complaint" can be threatening, not just to professionals who may be complained against, but to the service users. Given the service users' perceptions of the power of professionals, they may hesitate to make a complaint for fear of comeback. Making a formal complaint sounds like a very serious thing to do. It is my experience that service users often want to give careful consideration to the consequences of making a complaint before they do so. In order to do this, they need to have information about what will happen in response to their complaint. At the moment there are two documents, a public-facing, user-friendly one that gives very general information, and a professional-directed complex one that gives the detail of the process. There is no middle way. Rather than a third document, there may be advantages in having an independent person or body who can advise the client on what happens if they make a complaint and/or or helps them think through and work through the process of making a formal complaint as well as more informal alternatives. This could involve an independent service such as a clients' rights officer. But there may also be a case for devising an independent system for Guernsey as a whole, not just for HSSD but for others, including the Safeguarder Service.

One individual commented:

> *The complaints I have made have not been addressed, the issues are simply passed back to the same people who made the original decisions. Unsurprisingly they uphold their own decisions. [SI/15]*

At present, if a client is dissatisfied with the outcome of their complaint, they have the option of an expensive judicial review process or recourse to an Administrative Review by an Administrative Review Board (ARB) established by a law of 1986.[19] An element of independence is included in respect that no member of the Board should be a member of a Committee [or Department] which is in any way concerned with the complaint. However, my impression was that this procedure was not very well known and its formality might intimidate some service users. The Policy Council have advised that very few ARBs have taken place in the last few years. The level of formality is consistent with other Tribunals supported administratively by Policy Council staff, and there have been recent attempts to promote the process through the media. The Policy Council is looking to reform the ARB process and will be putting proposals to the States in March 2016 to that effect. The main aim is to make the process more independent of the Chief Executive. Related work includes an audit of customer complaints procedures across all departments. This will ensure that reference to the ARB process features on all the complaints procedure documents and further awareness is raised.

14.7 Sharing information from court proceedings

A particular issue that arose in the experience of service users related to Rules of Court about publicising or sharing information about court proceedings. There are a number of legal provisions relevant to this.

Section 115 of the Law prohibits publication of details identifying children involved in any proceedings (even as witnesses) under the Children Law in any relevant court or Tribunal or the Convenor's Meeting. Courts or Tribunals may dispense with this prohibition where it is in the interests of justice to do so. Publication in contravention of this prohibition could result in a fine and/ or imprisonment for up to two years. "Publish" is defined in section 122 of the Law as meaning, "to distribute, publicise or disseminate information by any medium, including by newspaper, by radio or television broadcast, or by the internet, and related expressions are to be construed accordingly."

Section 121 of the Law authorises the Royal Court to make Rules of Court for the purposes of the Law. Amongst the relevant subjects listed are, "ensuring the anonymity of children, and where appropriate the families of children, who may be involved in any family proceedings." The Family Proceedings (Guernsey and Alderney) Rules 2009 address this issue in Rules 33(4) and 58 to 60.

[19] The Administrative Decisions (Review) (Guernsey) Law, 1986. Information about this process is available on the States of Guernsey website: http://www.gov.gg/article/4704/Review-Boards-Administrative-Decisions

Rule 33(4) says that, without the leave of the court, documents filed or served in the course of proceedings shall not be disclosed to anyone who is not a party to the proceedings, with the exception of the Advocate or Safeguarder acting for a party and the Legal Aid Administrator.

Rule 58 says that "no person may *communicate* information relating to proceedings held in private to which these rules apply, whether or not such information is contained in a document filed with the relevant court, unless permitted to do so in accordance with this rule." The rule allows the court to give directions, regulating what information may be communicated, to whom and under what conditions.

Rule 59 says that "no part of any judgment" may be published except in accordance with any directions given by the court.

Rule 60 says, "An Act of Court evidencing a decision of a relevant court made in the course of any proceedings shall not be disclosed to any person not a party to those proceedings except to the extent permitted by direction of the relevant court."

Many of these provisions have equivalents in other jurisdictions. They have a clear and worthy purpose of protecting the privacy of parties, especially children. However, Rule 58 about communicating information seems to go further than other jurisdictions. Strictly speaking, it forbids parties from discussing the proceedings with family, friends or advisors from whom they may need personal support, understanding or advice. It also posed an obstacle to some individuals wishing to give information to the Review. Further, there was a suggestion that it might be understood as putting a barrier in the way of a party to court proceedings referring a concern about a child to the appropriate authorities. This may be an over-interpretation of the Rule, as section 36(4) of the Law says:

> *A notification, or referral, made in good faith under this section to the Children's Convenor is not to be taken to breach –*
>
> *(a) any restriction on the disclosure of information, or*
>
> *(b) any duty of confidentiality,*
>
> *however imposed or arising.*

It would be helpful if this provision could be given more publicity. There may also be merit in re-visiting the purpose and proportionality of Rule 58.

Recommendation 20: The Royal Court could be invited to consider the purpose and proportionality of Rule 58 (communication of information relating to private court proceedings) and comparison with other jurisdictions.

14.8 An independent complaints service?

A number of those I spoke to commented on the lack of an independent avenue for raising concerns or making complaints and suggested something like an ombudsman. There was a feeling that this would be particularly appropriate for a relatively small island community where, people, said, it was hard to raise issues both because of personal relationships and because, if it led to a difficult relationship with the professional complained about, there were few other people to turn to for that service.

There are a number of options to explore in this context. There could be a Children's Ombudsman or Commissioner who would also have a role in promoting the rights of children and informing policy. There are a number of models of this internationally to help shape something that is suitable for Guernsey and Alderney.[20] Another option is a general ombudsman's office that includes a senior person who specialises in children's issues.

An independent body on these lines could be identified as one to whom it would be legitimate for parties to court cases to express concerns and divulge information that would otherwise be forbidden by the Law and Rules set out above. It could also investigate complaints about the Safeguarder Service, with rights of access to confidential court-related information.

Recommendation 21: Consideration should be given to setting up an independent avenue of complaints, such as an ombudsman, who may also be able to inform policy development in relation to children and young people.

[20] See the website of ENOC: The European Network of Ombudspersons for Children at http://enoc.eu/

15 Accountability and Governance

15.1 General Comments

The Terms of Reference ask:

- Are there appropriate arrangements in place for governance and quality assurance?
- Is there appropriate independent oversight of arrangements for child protection?
- Are there performance measures in place to assess the impact of changes introduced as a result of the Children Law?

The simple answer to all of these questions is – no, although some agencies are more advanced than others.

As regards governance:

- I have already identified (in section 3.3) issues regarding accountability, governance and quality assurance in relation to the Safeguarder Service. I have made recommendations about this.
- I have referred (in section 13) to difficulties within the ICPC in terms of governance, and effective independent oversight and have noted that these are being addressed.
- HSSD has itself, through its Diagnostic Report, emphasised the deficiencies in relation to quality assurance and performance measurement and has set out an action plan to address them.
- The Children's Convenor has indicated that funding for Convenor and Tribunal services comes from the States and is administered through HSSD who have to approve the budget. Given that the Convenor is an independent holder of public office, this makes lines of accountability unclear.
- Further, the States of Alderney, in their submission to the review, pointed out that, while they themselves had a "jurisdictional responsibility" to the residents of Alderney for the quality and governance of the services provided by Guernsey, there were no service level agreements or agreed processes to monitor and report on the quality and standards of governance over these services. I would suggest that these matters could be addressed within the Strategic Plan for Alderney that I have recommended.

Specific answers to the questions listed above were given in some of the submissions provided by agencies.

15.2 Are there appropriate arrangements in place for governance and quality assurance?

The States of Alderney believed the answer was no, for the reasons already given.

The Education Department described its system with relation to child protection co-ordinators in schools, school inspections, and the departments; representation on ICPC. It referred to a recent audit of child protection in schools, the result of which was reported to ICPC. It considered that the recent appointment of a new independent chair and varied membership of ICPC presented the opportunity to develop quality assurance processes and good governance in this area.

15.3 Is there appropriate independent oversight of arrangements for child protection?

The States of Alderney identified here the slow co-ordination between agencies in response to specific cases of child protection.

The Education Department referred to inspection processes in schools and the role of the independent chair of ICPC.

15.4 Are there performance measures to assess the impact of changes introduced as a result of the Law?

The States of Alderney said the answer was no.

The Education Department noted the difficulties in attributing any changes to implementation of the Children Law but expressed the hope that heightened awareness of the importance of reference to data would have a positive impact.

The Children's Convenor said their database was still under development and, while it operated effectively as a case management tool, it was not able to provide extensive management and operational data. However, information collected on a spreadsheet currently provided the management and operational data required to deliver, review and monitor the service. The Convenor's Strategic Plan and Annual Report set out performance measures and targets.

As already indicated, the Safeguarder Service has recently introduced key performance measures.

16 Service Provision

The Terms of Reference ask:

- Are services delivered in a timely and efficient manner?
- Are existing services appropriate to meet the requirements of children and families?
- How has the experience of service users changed since the implementation of the Children Law?
- Have outcomes for children and families improved as a result of the implementation of the Children Law?

In this section of the report, I want to draw together some of the information already presented in order to formulate answers to these questions.

16.1 Are services delivered in a timely and efficient manner?

It is difficult to comment on this with any precision. Lack of data and performance measures leads to reliance on anecdotes and case studies.

In general, those I spoke to believed that there were insufficient services to promote early intervention and prevention and to support children in need. This was suggested as one of the reasons for the rise in child protection registrations evidenced in the ICPC Annual Report for 2014. It was suggested that children are kept on the register because of a lack of supporting services to step down to if they are de-registered. If that is the case, then it dilutes the significance of information about child protection registration and makes it difficult to assess what they might otherwise tell us about trends in child protection.

Some submissions to the Review gave specific responses to this question:

- The States of Alderney identified the problem as lying with the time it takes for agencies to identify a co-ordinated response. Once that has been achieved, the course of action was said to be timely and efficient.
- The Education Department noted that the Schools Attendance Service and Educational Psychology Service collected data which indicated that their services were, on the whole, timely and efficient, but they also aimed for continual improvement.

16.2 Are existing services appropriate to meet the requirements of children and families?

It would be easier to assess this if there was greater feedback from children and families. However, as already discussed, there are barriers to obtaining this and agencies have found it difficult to access.

The 2014 Annual Report of the ICPC said that analysis of the child protection register had enabled them to identify parental risk factors that are most relevant to children. It referred to the "toxic trio" of parental mental health, substance misuse and domestic violence.

Some of what has been discussed elsewhere in the report of this Review is relevant to the answer to this question, for example, the need to provide more family support services that develop the confidence of children and families. Young people's comments on the scenario I presented to them (see 4.3b above) are also relevant. They identified parental drug misuse as a common issue. They commented that:

> *Mum would be afraid to ask in case her child got taken away and she got sent to jail. She would need reassurance about this.*

This reinforces the need for the kind of clear and staged intervention in family life already recommended.

The young people involved in this discussion appreciated the services offered by the Hub. This is a very welcome and relatively recent development in Guernsey.

As already discussed, there is a specific issue about access to services for children and families in Alderney. The States of Alderney considered that "It is evident from speaking to both recipients of the services and those who provide them that implementation of the Children Law did not fully assess the costs of an infrastructure to support the services."

The Education Department gave a number of examples of education services in this regard. It welcomed the framework of the Children and Young People's Plan to enable a Guernsey-wide perspective of what the requirements are and how best to address them collaboratively. I agree with that assessment of the potential of the Children and Young People's Plan.

16.3 How has the experience of service users changed since the implementation of the Children Law?

The States of Alderney commented that no formal structures exist for measuring the experience. It is purely anecdotal. They added that they had been unable to identify anyone who had experience of the same service both before and after the implementation of the Children Law.

The Education Department said there had undoubtedly been changes in the experience of service users but it was difficult to quantify whether this was due directly to the Children Law.

My work on this Review would corroborate both of these perspectives.

16.4 Have outcomes for children and families improved as a result of the implementation of the Children Law?

A consistent theme in my work on this Review has been the lack of information to measure outcomes. However this is beginning to change. A recent HSSD report to ICPC about the work of the MASH commented:

> *Outcomes and closure of circle*
>
> - *checking if work has been done – this is taking place within the MASH and is effective*
> - *effectiveness of outcome – further extensive work is taking place but further is required in respect of this issue*

The Safeguarder Services are introducing Key Performance Measures which include satisfaction rates in relation to service-users, including children.

The Children's Convenor records reasons for revocation of a care requirement, the most common being, "improvements made by parents."

The proposal to introduce a single Child's Plan to be used in all processes offers the potential for a greater focus on outcomes for children.

17 Children's Rights

Guernsey and Alderney have yet to sign up to the United Nations Convention on the Rights of the Child. The commitment to this in the Draft Children and Young People's Plan is encouraging, as is its commitment to facilitating the voices of children and young people both as individuals and as a group.

The rights of children and young people in care and leaving care require a particular emphasis. It is encouraging to hear of the HSSD's plans for a Corporate Parenting Board.

Children with disabilities need their rights reinforced. It was disappointing to hear from some parents that they were not aware that the Law imposed a duty on the States to provide services for children in need, including those with a disability. One parent who had identified this as a helpful development, reported that, while the Law had given some leverage, it was difficult to progress through to satisfactory outcomes in terms of service provision.

In these and other situations, the establishment of an ombudsman or commissioner with specific responsibility for promoting the rights of children and young people would be helpful. This could be linked to or integrated with the independent complaints mechanism already recommended. In a small jurisdiction such as Guernsey, it would be practical for this person to undertake investigations into particular cases.

18 General Conclusions and Summary of Recommendations

The Review Objective was identified in the Terms of Reference as follows:

> *To identify whether the policy objectives of the Children Law, in particular the aims of earlier, integrated and holistic intervention, have been achieved and to identify whether they have:*
>
> - *Been effective in preventing children becoming children at risk;*
> - *Resulted in a robust system for the protection of children; and*
> - *Led to better outcomes for children and young people.*

My general conclusion is that the Children Law has been widely welcomed as an excellent piece of legislation. However, in terms of implementation it is unfinished business. More needs to be done to provide the infrastructure of secondary legislation and guidance required to embed the law effectively in practice.

The lack of such infrastructure combined with the high turnover of social services staff has caused problems in implementation. The ethos of the CYCT is not fully understood. This situation is compounded by difficulties that have arisen at the interface of CYCT and other processes, specifically the child protection registration process and the provisions for permanence. This needs to be addressed and I have made some recommendations about this.

It is widely accepted within the Bailiwick that improvements are required in terms of governance, accountability and independent oversight. There have been some very promising developments in the past year. The lack of data collection and performance measures have made it difficult to conclude on whether outcomes for children have been improved by the Law. Similarly, in terms of working together, past deficiencies are widely acknowledged. There is now a feeling of confidence amongst professionals that the development of the MASH will help improve joint working with a consequent beneficial impact on the experience of service users. There is a spirit of optimism that should be supported.

As regards the private law provisions, once more the principles of the Law have been widely praised. Where there is dissatisfaction with practice, individuals have been frustrated in their ability to raise these and have them considered, both because of restrictions on sharing court-related information, and the lack of an independent body to hear their concerns or complaints. It is widely accepted that there should be a greater emphasis on mediation to avoid resort to adversarial court processes.[21]

My response to the particular questions set out in the Review Objective is:

- The aim of earlier, integrated and holistic intervention, has not yet been achieved.
- There is insufficient information to assess whether the measures that do exist have been effective in preventing children becoming children at risk. The increase in the number of child protection registrations may be due to other causes, such as the use of the system to access services that would be unavailable without that level of priority.
- Some expressed confidence in the child protection system in Guernsey whilst acknowledging the need for further improvements, for example in relation to the emergency protection of children. There was very little, if any, confidence that the system was robust in Alderney.
- There is insufficient evidence to assess whether the system has led to better outcomes for children and young people.

The following is a summary of my recommendations:

Recommendation 1: Consideration should be given to extending recruitment of Safeguarders beyond the social work profession.

Recommendation 2: The minutes of the Safeguarder Service Advisory Committee should be published on the Service's website. This would include information about the training received by Safeguarders.

Recommendation 3: The template for the Safeguarders' reports should list the relevant child welfare principles as a point of reference.

Recommendation 4: The Safeguarder Service should be subject to regular external inspection.

Recommendation 5: The Home Department should review the staffing, resources and expectations of the Safeguarder Service to ensure that it is equipped to fulfil its responsibilities.

[21] Another approach to mitigating the adversarial nature of court processes would be for Advocates to sign up to the ethos of the family law associations in the UK that commit to a non-confrontational approach to family problems. See http://www.resolution.org.uk/ and http://www.familylawassociation.org/

Recommendation 6: Consideration should be given to providing legal aid for mediation by suitably trained Advocates in appropriate circumstances.

Recommendation 7: The Safeguarder Service should seek to embed within its mediation service the principle of taking account of the wishes, feelings and views of children.

Recommendation 8: Consideration should be given as to whether the Child, Youth and Community Tribunal should have a role to play in some private law disputes about children.

Recommendation 9: Consideration should be given to providing a resource for helping parents and children to resolve difficulties that have arisen after the court case has ended.

Recommendation 10: The States should take steps to ensure fulfilment of the legal duties to identify the extent to which there are children in need, and to publish information about services for them.

Recommendation 11: Funding and personnel should be provided to draft the secondary legislation and guidance required to fully implement the Children Law.

Recommendation 12: All current and new staff within HSSD should receive training on the Tribunal system and the role of the Convenor.

Recommendation 13: Children and those with parental responsibility should be required to attend meetings of the Tribunal unless excused from attendance.

Recommendation 14: The legal duty to refer to the Convenor where the Department considers compulsory measures *may* be necessary should be emphasised in induction and training of HSSD staff.

Recommendation 15: Consideration should be given to clarifying the distinctive character of the Tribunal process and the community parenting order by rewording the threshold conditions for each.

Recommendation 16: HSSD should consider issuing guidance for staff, informed by legal advice, about the need for clarity about whether a case is aiming at rehabilitation or permanence and choice of the appropriate legal forum.

Recommendation 17: Consideration should be given to introducing timescales for finding of fact hearings at court in relation to disputed conditions for referral, and to limiting the number of times an interim care requirement can be renewed.

Recommendation 18: The States of Guernsey and Alderney should consider working together to produce a strategy for the provision of services in Alderney to promote the well-being and protection of children and young people. Children and young people should be involved in the development of the strategy.

Recommendation 19: HSSD should consider identifying the post of Alderney social worker as a senior position, in order to promote stability of placement and engender familiarity and trust.

Recommendation 20: The Royal Court could be invited to consider the purpose and proportionality of Rule 58 (communication of information relating to private court proceedings) and comparison with other jurisdictions

Recommendation 21: Consideration should be given to setting up an independent avenue of complaints, such as an ombudsman, who may also be able to inform policy development in relation to children and young people.

Appendix A: Data Requests

In addition to the Call for Evidence, specific data requests were sent to the Children's Convenor, the Greffiers for Guernsey and Alderney, Guernsey Legal Aid Administrator, Guernsey Police, Guernsey Prison, HSSD and Safeguarder Services.

The Greffiers of Guernsey and Alderney were unable to provide any formal statistics, but I had helpful meetings with them and the Bailiff which informed the content of the report.

Ref	Who	What	Provided	Partially Provided	Not Available
1	**Children's Convenor**	Numbers and sources of referrals to Convenor	x		
2		Numbers/ proportion of these referred to hearings	x		
3		Information about the cases not referred to hearings	x		
4		Numbers/ percentage of cases that follow from an ECPO	x		
5		Proportion of cases in which grounds not accepted and whether these relate to particular grounds	x		
6		Proportion of cases going before the Tribunal that result in a care requirement and any patterns around this	x		
7		Time intervals between different stages of the process	x		
8		Percentage of referrals to Convenor and to Tribunal in which the child is on the child protection register	x		
9		Length of time of hearings	x		
10		Percentage of cases in which children are present and any associated information re ages and the kinds of grounds. [Is this more likely for some grounds than others?]		x	
11		Percentage of cases in which one or both parents are present and any associated information re the kinds of grounds			x
12		Percentage of cases in which a Safeguarder is appointed	x		
13		Percentage of Tribunals in which an Advocate is present		x	
14		Any information about the percentage of those cases in which the Tribunal accepts the recommendation of the Safeguarder			x
15		Percentage of Tribunals in which the child and/ or family bring a supporter			x

Ref	Who	What	Provided	Partially Provided	Not Available
16		The numbers of cases before the Tribunal that result in a care requirement. Possible to disaggregate these by grounds? [Is there a pattern?]		x	
17		Information relevant to monitoring outcomes, especially at the end of a process when a case is discharged or a young person moves on as a result of their age		x	
18		Any information the Convenor has on re-offending rates	x		
19		Numbers of times parents or press have been excluded from the Tribunal		x	
20		Any information about repeat referrals regarding the same child or family. [Suggestion that a small number of families come back frequently.]			x
21		Types and numbers of notifications to the Convenor in terms of the Children Law	x		
22		Any information about the percentage of cases in which the Tribunal deviates for the HSSD Child's Plan		x	
23		Any statistics/ analysis re complaints/ feedback from service users	x		
24	**Guernsey Legal Aid Administrator**	Patterns in requests/ grants of legal aid re cases involving children from 2008 to present.	x		
25		Means test for legal aid in family law cases and how this has changed since 2008	x		
26	**Guernsey Police**	Use of new powers to enter premises and remove children. How often used?		x	
27		Number of children and young people arrested each year from 2008 to present.	x		
28		Any information on re-offending			x
29	**Guernsey Prison**	Numbers of children held in prison each year from 2008 till present, including ages, gender, length of sentence	x		
30	**HSSD**	Number of off-island placements each year since 2008			x
31		Numbers of children held in secure accommodation for each year since	x		

Ref	Who	What	Provided	Partially Provided	Not Available
		2008 and any information about their length of stay there			
32		Numbers of children compulsorily removed from their families each year since 2008			x
33		Any information about the numbers of children self-harming for each year since 2008			x
34		Estimated number of "children in need" in terms of the Children Law			x
35		Patterns of leaving care and provision of support for care leavers since 2008			x
36		Number of complaints since 2008	x		
37		Separate statistics relating to Alderney			x
38		Numbers of children and young people "accommodated" in terms of section 25 of the Children Law,			x
39	**Safeguarder Services**	Numbers and analysis of complaints or other feedback from forms	x		
40		Numbers of cases involving Safeguarders, any trends	x		
41		Percentage of cases in private and public law in which the Safeguarder's recommendation was accepted		x	
42		Percentage of cases in private and public law in which the Safeguarders talked to the child involved		x	

Appendix B: Glossary

Legal References:

Text	Full Citation
Children's Convenor Regulations 2010	Children (Children's Convenor) (Guernsey and Alderney) Regulations, 2010
Children Law	The Children (Guernsey and Alderney) Law, 2008
Criminal Justice Law of 2008	The Criminal Justice (Children and Juvenile Court Reform) (Bailiwick of Guernsey) Law, 2008
Ordinance of 2009	The Children (Miscellaneous Provisions) (Guernsey and Alderney) Ordinance, 2009
Practice Direction	Practice Direction 6/2008: Applications Relating to Children – Domestic Abuse and Harm
Regulations of 2013	Children (Placement out of the Jurisdiction) (Guernsey and Alderney) Regulations 2013
Rules of Court	The Family Proceedings (Guernsey and Alderney) Rules, 2009

Other References

Text	Full reference
AIT	Assessment and Intervention Team within HSSD
ARB	Administrative Review Board
Bailiff	A Crown Appointment: Presiding Officer of the Royal Court and senior judge
Bailiwick	The Bailiwick of Guernsey comprises the three separate jurisdictions of Guernsey, Alderney and Sark. The islands of Herm, Jethou and Lihou are part of Guernsey and the island of Brecqhou is part of Sark.
Billet	Billet D'Etat, Wednesday 27 October, 2004: Health and Social Services Department – Matters Affecting Children and Young People and Their Families
CAB	Guernsey Citizens Advice Bureau
CHS	Children's Hearings System in Scotland
CPO	Community parenting order
CYCT	Child, Youth and Community Tribunal
Care requirement	A compulsory measure that can be imposed by the CYCT
Children's Convenor	An independent holder of public office who is the gateway to the CYCT
Child at risk	Defined by section 23 of the Children Law.
Child in need	Defined by section 23 of the Children Law.
Child welfare checklist	Set out in section 4 of the Children Law 2008.
Child welfare principles	Set out in section 3 of the Children law 2008.
Convenor and Board	Children's Convenor and the Children's Convenor and Tribunal Board
ECPO	Emergency Child Protection Order
FPT	Family Partnership Team (within HSSD)
Finding of Fact	Two meanings: A court process to adjudicate on alleged facts relating to domestic abuse in terms of Practice Direction 6/2008 (see above); or A court process relation to the Child, Youth and Community Tribunal in which the court decides on the truth of the facts on which a referral to the Tribunal is based.
Greffe	The office of the Greffier – the clerk of courts - who also holds other functions

Text	Full reference
HMIP	Her Majesty's Inspectorate of Prisons for England and Wales
HSSD	Health and Social Services Department
ICPC	Islands Child Protection Committee
KPT	Key performance target
MASH	Multi Agency Support Hub
PPU	Guernsey Police Public Protection Unit
Private law	Defined in Appendix A to the Billet as: "disputes between private individuals (usually but not necessarily between separated parents).
Public authorities	Defined by section 122 of the Children Law 2008 with reference to the definition in section 6 of the Human Rights (Bailiwick of Guernsey) Law, 2000. This includes: a court or tribunal, and any person certain of whose functions are functions of a public nature. It does not include an Island legislature.
Public law	Defined in Appendix A to the Billet as follows: "Public law cases are where the state intervenes in the lives of children and their families. This is usually the Health and Social Services Department where there are child protection concerns but it may, for example, be the Education Department where a child is failing to attend school."
The Hub	A Barnardo's project located in Guernsey
Tribunal	The Child, Youth and Community Tribunal (CYCT)
Voluntary care	A popular term used to refer to children accommodated by HSSD under section 25 of the Children Law 2008.

Source of Quotations

Where quotations from members of the public are cited:

- "SI/" and "SP/" followed by numbers indicate written submissions;
- "Int." followed by a number refers to an interview; and
- "C" indicates a meeting in a community setting.

Appendix C: Template for Safeguarder Report (Private Law)

Safeguarder Services

Putting children and young people first

Safeguarder (Private Law) Court Report

The Children (Guernsey and Alderney) Law, 2008

Case No:

Safeguarder:

Interim Report Completed:

Interim Report Filing date:

Report Completed:

Report Filing date:

Final Hearing date:

This report has been prepared for the Court and is confidential

PARTIES TO THE PROCEEDINGS

Name	Relationship to child	DOB	Ethnic Origin

CHILD(REN) SUBJECT TO THE APPLICATION

Name	Gender	DOB	Age	Ethnic Origin

Child's Current Living Arrangements:

Child X lives with

Application before the Court:

An application was made

Current Court Orders:

On date

Safeguarder:

Biography of Safeguarder

SAFEGUARDER SERVICES
Guernsey Information Centre, North Esplanade,
St Peter Port GY1 2LQ
Telephone: 01481 743700
Email: safeguarderadmin@gov.gg

CONTENTS

1 Introduction:

1.1 This case was

2 Enquiries Undertaken:

Mr X	Father
Mrs X	Mother
Child X	Subject

3 Parties' Views

Applicant

3.1 I met Mrs X on

Respondents

3.2 I met Mr X on

4 Views of Other Significant Persons (Including Key Professionals)

4.1 .

5 Expert Reports & HSSD (Optional Paragraph – remove if not required)

5.1 .

6 Welfare Checklist

6.1 ***The age, gender, ethnicity, cultural background, language, religion and any other relevant characteristics of the child:***

6.2 ***Any harm the child/ren has suffered or is at risk of suffering:***

6.3 ***The child's physical, emotional and educational needs:***

6.4 ***How capable each of the child's parents (or any other person looking after or having parental responsibility for the child) is of meeting the child's needs:***

6.5 ***The importance and likely effect of contact between the child and his parents, siblings, relatives and any other people significant to the child:***

6.6 ***The effect or likely effect of any change in the child's circumstances, including the effect of the child's removal from Guernsey or Alderney:***

7 Conclusion & Analysis

7.1 This case

8 Recommendation

8.1 I would respectfully recommend

Author's Name

…… ……

Safeguarder **Countersigned by Head of Safeguarder Services**

……

Date