



24th March 2020

Comment on Draft Covid-19 (Screening, Assessment and Isolation) (Jersey) Regulations 202-

The Government of Jersey is rightly taking urgent and extraordinary steps to support islanders through this time of uncertainty and to prevent and curtail the spread of COVID-19. It is important that we all work together to support each other through these trying times and recognise that our rights are interdependent and interrelated. Human rights must be at the centre of the efforts to best protect public health and welfare, particularly those in circumstances of vulnerability.

The actions provided for under these Regulations allow for significant interference with children's rights, and therefore must be only exercised strictly when necessary, proportionate and on a non-discriminatory basis.

The proposed Regulations allows authorised officers to direct or remove people to a place suitable for assessment or screening should they have reasonable grounds to suspect that they are potentially infectious if the officer finds it to be necessary and proportionate (a) in the interests of the person; (b) for the protection of other persons; or (c) for the maintenance of public health. I very much welcome the necessity and proportionality tests being on the face of the legislation, and would recommend that guidance for authorized officers around what would meet these tests is produced as a matter of urgency so as to protect children's rights and empower professionals to make decisions whilst weighing up proportionality arguments.

These necessity and proportionality tests are enshrined throughout the legislation, alongside an additional safeguard which requires a public health officer or the Medical Officer of Health to be consulted before decisions made under Regulations 5 and 6. This provides for more robust protections and for informed decisions to be made about the best interests of children in Jersey.

I welcome the additional protections that a power under Regulation 6(2)(d) or (e) or 7 may only be exercised in relation to a child in the presence of an individual who has responsibility for the child or an appropriate adult. I also welcome the limits on movement restrictions being set at 14 days, extendable by another 2 weeks. This strikes a balance between individuals liberty and the protection of the right to the highest standard of health, building in proportionate limits to allow for rights considerations to be made. Any restrictions imposed or orders made must be communicated clearly in accessible language, including through the use of a translator where necessary.

I very much welcome the right to review of decisions protected by Regulation 10 and would strongly recommend the addition of a requirement for this to be accessible to children and young people. I do support the addition in Regulation 9(6) that if a child has a right to a review, the right may be exercised by an individual who has responsibility for the child. The use of 'vexatious' is concerning, as the right to appeal decisions is an important safeguard on acts which restrict or intervene with children's rights, and so complaints should be investigated as a matter of course. I recognise that resources may become stretched, however rights are there to protect children and are just as necessary, if not more so, in times of crisis.

I welcome the inclusion of consideration of the wellbeing of individuals and their personal circumstances when deciding whether to make a requirement for an individual to remain at a specified place. This is especially important when considering that domestic abuse and violence may rise with people spending more time at home, which has been the case in China. It is therefore important that critical services to support those experiencing domestic violence are protected, and that the likely increase in demand for police is planned for accordingly. I ask that appropriate places of safety be made available to prevent children and families becoming homeless or indeed remaining trapped in an abusive environment. Children have the right to be kept safe from torture and cruel treatment, and to grow up in a safe and supportive environment.

I welcome the time limit of the legislation which expires on 30th September 2020 and would seek that the year 2020 is included on the face of the Regulations. I welcome powers to suspend the effects of the Regulations, but would seek to have a review period built into the legislation which would be informed by robust expert evidence to ensure that it is still necessary in a democratic society.