

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**28<sup>th</sup> September 2022**

**Proposition No. P.2022/74**

**Committee for Health & Social Care**

**Review of the Children Law and Outcomes**

**AMENDMENT**

Proposed by: Deputy P J Roffey

Seconded by: Deputy Y Burford

1. To delete proposition 8 and substitute therefor:

- “8. To direct that the Law should be amended to clarify that a care requirement or interim care requirement made by the Tribunal shall have no effect insofar as inconsistent with the terms of any interim community parenting order in place for the time being.”

**Rule 4(1) Information**

- a) The proposition contributes to the States objectives and policy plans set out in the GWP 2021-2025 relating to young people and improvements to the Children Law and the family justice system.
- b) Consultation has been undertaken with the Committee for Health and Social Care and the Children and Young People’s Board.
- c) The proposition has been submitted to His Majesty’s Procureur for advice on any legal or constitutional implications.
- d) It is not considered that there will be any significant financial implications of carrying this proposal into effect.

**Explanatory Note**

It is important that decision making takes place in the right forum at the right time and that concurrent proceedings are avoided whenever unnecessary. Managing the interface between

proceedings focused on short-term intervention and proceedings for permanent alternative care is difficult in every jurisdiction. Inevitably decision-making on those cases that fall close to that intersection provide the greatest challenge.

While it is important to avoid unnecessary concurrent proceedings it is also important to ensure that matters can be progressed without delay. One of the strengths of the approach introduced by the 2008 Law was that all matters in relation to a child can be dealt with in the one forum (the Child, Youth and Community Tribunal) at the same time avoiding the need for multiple proceedings. The proposal to amend the threshold for the community parenting order has the potential to increase the number of matters dealt with by the court where there are concerns about the care being received by the child. As a consequence, there will be more cases where both the court and Tribunal will be involved at the same time (paragraph 6.28 of the Policy Letter states that the Tribunal is to be permitted to continue to deal with matters unrelated to the substantive application to court such as offending or school attendance matters).

Proposition 8 therefore has the potential to lead to additional tensions and confusion between the role of the court and the Tribunal as determining when a matter is related or unrelated to the substantive application to Court may not always be clear. This amendment would minimise that risk. Ensuring that the court's decision-making takes precedence without causing unintended consequences could be achieved more simply by clarifying in law that any order made by the Tribunal would have no legal effect insofar as it is inconsistent with any interim community parenting order in place for the time being. This would provide a legal bedrock for effective and child-centred multi-agency practice and ensure that the Tribunal is able to progress matters in relation to the child when it is in the interests of the child to do so.