

## **Jersey Charity Commissioner**

### **Guidance on the Operation of the Charities (Jersey) Law 2014**

#### **Guidance Note 4: Annual Returns by Registered Charities**

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**Special Note (not part of the guidance): This Guidance Note reflects the various legal rules governing annual returns. The Commissioner fully and readily accepts that, given the present national emergency, it may be impossible or impracticable for governors of registered charities to comply with these rules, especially, but not necessarily solely, regarding timing requirements for annual returns. Please would governors of registered charities facing difficulties or challenges with this do their best to let the Commissioner's Office know by email or telephone. Things can be sorted out at the time by when we may pray that normalcy in affairs will have resumed.**

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#### **Introduction**

1. All charities registered in Jersey must submit an annual return to the Commissioner. This applies equally to those entered in the public part of the register and those entered in the restricted section.
2. Each registered charity will receive an automatic reminder from the Commissioner's Office on the anniversary of its date of registration. Its annual return must be received by the Commissioner within two months from that date.
3. If an annual return has not been submitted within that period, the Commissioner must put a 'late' flag against the charity's entry in the register. By the Commissioner's discretion, such flags will not be entered in the register where a registered charity has acted in line with the Special Note above.
4. An annual return must relate to the year that ends on the anniversary of the charity's registration, on which day the automatic reminder will be sent. The Commissioner may adjust this rule on application within the first year after registration. This might be desirable, for example, so that an annual return date would coincide, or follow soon after, the end of an accounting year. Registered charities wishing to avail themselves of this should contact the Commissioner's Office, which will treat it as a routine matter.
5. An annual return should normally be submitted electronically but may be written on paper and delivered to the Commissioner's Office by the due date.

## Information Requirements for Annual Returns

6. The information required for an annual return mirrors, to a considerable extent, that which would have already been provided with an application for registration. It is as follows, in respect of the most recently ended year:

- **updated core financial information** [see Guidance Note 3a, paragraph 35]. If you have any questions about this, please call the office.
- **the registered charity's most recent financial accounts**, if any. These are for review by the Commissioner and her or his retention on file, but are not for placing in the public register
- completion of **the governors section** of the return so that all information is up to date. This will be entered in the public part of the register, information in respect of restricted section charities being kept on file by the Commissioner
- **details of any payments made to governors or connected persons** during the year in question by or on behalf of the charity [see Guidance Note 3a, paragraph 40]. Any charity in doubt about the precise extent of this requirement should contact the Commissioner's office
- confirmation that **each governor** of the registered charity **has duly declared to it that no reportable matter arises in respect of her or him**, he or she having been notified that the annual return is in preparation [see Guidance Note 3a, paragraphs 45-46 and appendix 2]; and
- a **public benefit narrative statement**, about which see below.

## The Public Benefit Narrative Statement

7. The requirement for this as a key component of annual returns is at the heart of ensuring that the charity register remains up to date and genuinely informative for all who wish to consult it.

8. A registered charity is under a duty to provide public benefit in accordance with its registered public benefit statement. Governors of registered charities are under a duty to seek, in good faith, to ensure that their charities act in a manner consistent with their registered charitable purposes and with their registered public benefit statements.

9. The public benefit narrative statement is a statement, for entry in the public part of the register (a requirement applicable equally to both general and restricted section charities), of the manner in which, during the year in question, the charity claims to have complied (or failed to comply) with the public benefit duty described in the preceding paragraph. It must also cover any 'gap' period as described in paragraph 4 above that arises.

10. The Public Benefit Narrative Statement must be either approved or produced by the Commissioner.

11. The compound noun *narrative statement* is used in the Law for a purpose. A narration may be defined as an orderly account of a series of events and activities, and a *narrative* is simply a written version of the same. *Public benefit* is a benefit that, in a reasonable, unrestricted and non-discriminatory way, is available to people at large and from which they can benefit if that is what they choose or need. In broader measure it can normally be likened to benefit to the community, taking the ordinary sense of the latter word. Public benefit is explained more fully at Guidance Note 2, paragraphs 67-76, wherein the various legal rules obtained in support of, and surrounding, it are adduced. There is a separate qualifier in the Charities Law, *viz* that public benefit must be provided by a registered charity *to a reasonable degree*. An educement of this is provided at paragraphs 105-111 of the same Guidance Note. Governors of registered charities, in preparing or considering approval of public benefit narrative statements, are invited to refer to these various passages of guidance on the operation of the Law in order to refresh their minds about her or his charity's public benefit duty.

12. A *narrative statement* needs to relate, succinctly but effectually, what it is that the charity has done and achieved in the year in question, in pursuit of its purposes, in a way that can engage the public's attention and interest, as with any good narration or narrative. The register is not only charities' window on the world, in the form of the community of Jersey, but also that glass is for the public to look through the other way, the better to see if charities really are doing that which they say they will, and do, in providing public benefit. As time goes by, patterns, trends and histories will become discernible from successive of statements and the public register thus given its vividness as a place of assurance and record.

13. So the Commissioner will be keen to receive well-written, incisive *public benefit narrative statements*, as long or as short as they need to be, which truly help to explain the work and activity of all registered charities, expose the same to scrutiny and justify not only the claim of an individual registered charity to public support but also, in general, the sector's too.

14. Conversely, the Commissioner will make use of *narrative statements*, along with other annual return data, as a regulatory tool, a to help her or him to be sure that the public benefit duty of a registered charity is being met appropriately and to a *reasonable degree*. In some cases this may well entail challenge and constructive engagement with registered charities as to their performance in delivering the public benefit they said they would.

15. For the avoidance of doubt, the duty to submit a *public benefit narrative statement* applies equally to charities registered in the restricted part of the register, whose registered public benefit statement and annual *narrative statement* have to be placed in the public part of the register. Restricted charities should pay attention to seeking to ensure that their identities are not unclocked through loose or untoward usage in their statements.

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**Special Note (not part of the guidance): Over and above the general saving for abnormal times at the head of this Guidance Note, the Commissioner will take an appropriate view during 2020, and maybe also beyond then of the ability of registered charities to provide public benefit to a reasonable degree, for whatever reasonable reason, such as financial difficulty, or the absence or insufficiency of beneficiaries to benefit for economic or social policy reasons or special legal requirements. It will, though, be helpful for the record that registered charities make a point on this, if they will, in their narrative statements when it does become practicable in the light of circumstances for those to be submitted. The nature of such an approach as this will be kept under review during the emergency.**

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### **Preparation and Submission of an Annual Return**

16. Each registered charity will get an automatic reminder by email on the anniversary of its registration. This indicates exactly what information must be provided, and in what manner, together with details of how things should be 'uploaded'. In general, what is required should be straightforward to cognise, prepare and submit but if any charity governor has difficulty with any aspect of the process, or is unable to submit all requisite information in one go, please would he or she ring up, or send a message to, the Commissioner's office, whose staff will always be very content to advise and assist.

17. Please would charity governors note that for core financial information it is normally acceptable for this to be derived from the most recent accounts of the charity, though if it is possible to reference more recent financial materials, even if in final draft form, that would be better in ensuring that the register is as up to date as possible.

18. There is no set form for a *public benefit narrative statement*. Where registered charities produce (and maybe publish) an annual report and accounts it may well be a precis of the report or even the whole thing if that works. But in all cases charity governors are asked to look back to their registered statements of charitable purposes and public benefit as starting points for describing what their charities have done, or failed to do, to give effect to those. The same goes for the 'Delivery of Activities' section submitted with applications for registration. Doing this is sensible not only intrinsically but also because it is what the Commissioner will do in reviewing narrative statements for approval and entry in the register, in which he or she will be looking for assurance that public benefit has been provided as was intended upon registration or at the start of the given year.

19. It is perfectly in order for *narrative statements* to be factual, enumerating, perhaps, the number of people benefited, moneys expended, actions taken, and so on, but linked to the charity's objects. They need to be prose pieces of the kind that a governor, not wearing her charity hat, would care to read about another, and find interesting and informative. This is the charity's opportunity to put on record what it does and aims to do.

20. The same goes for things not done or achieved, or failures as well as successes. Not every plan succeeds, not everything works. The *narrative statement* will be the more effectual for its being said thus, and, indeed, this is a requirement of the Law [see the second parenthesis at paragraph 9 above].

21. Subject to the two Special Notes within this Guidance Note, the two months rule for submission of annual returns is a statutory requirement, as is the Commissioner's duty to enter a 'late' mark in the register. Egregious failure to submit an annual return may lead to regulatory action in the form of the Commissioner's issuing a 'required steps' notice, which would be a public statement whether or not a charity was registered in the general section of the register, since the failure, as a contravention of a prescribed matter in the Charities Law, would be a reportable matter thereunder. The Commissioner is keen to hope, and will seek to ensure, that such provisions will be far from commonly needed.

John Mills CBE  
Charity Commissioner  
23 March 2020

Relevant Measures:

Charities (Jersey) Law 2014  
Charities (Additional Information) (Jersey) Order 2018  
Charities (Timing of Annual Return) (Jersey) order 2019  
Charities (Additional Information) (Amendment) (Jersey) Order 2019