



JERSEY CHARITY
COMMISSIONER



Framework Agreement

Between the Jersey Charity Commissioner and the
Department for Strategic Policy, Planning and Performance

January 2021

Terms used

the Jersey Charity Commissioner: the independent regulator of charities in Jersey, as established by the Charities (Jersey) Law 2014.¹

Accountable Officer: the Government of Jersey officer accountable for the appropriate use of public funds, including the funding for the office of the Jersey Charity Commissioner, appointed in accordance with the Public Finances (Jersey) Law 2019. The term Accountable Officer, previously known as Accounting Officer, includes delegates appointed by the Accountable Officer.

Public Finances Manual: the manual issued under the Public Finances (Jersey) Law 2019. This term should also be read as referring to Financial Directions issued under the previous Public Finances Law.

Department: the Department for Strategic Policy, Planning and Performance within the Government of Jersey (GoJ). Note: the Department is subject to a Government wide transformation and so this should be taken to also include any successor bodies.

¹ https://www.jerseylaw.je/laws/enacted/Pages/L-41-2014.aspx#_Toc404004047

Section 1: Introduction to the Framework Agreement

- 1.1 This Framework Agreement (“The Agreement”) has been jointly agreed by the Jersey Charity Commissioner and the Department. The Agreement sets out:
 - a. principles underlying the working relationship between the Jersey Charity Commissioner and the Government of Jersey (GoJ);
 - b. arrangements to ensure that effective corporate governance arrangements are in place on both sides, supported by effective controls that ensure value for money;
 - c. arrangements with regard to the provision and management of resources; and
 - d. provides that these are in keeping with the Jersey Charity Commissioner’s independence and the obligations placed upon all public and statutory bodies for good governance.
- 1.2 The Agreement takes effect from 1 January 2021. The Agreement will be reviewed year by year. This does not, however, preclude the Agreement being amended with the agreement of both the Department and the Jersey Charity Commissioner in an intervening period.
- 1.3 The Agreement will be published on both the Department’s and the Jersey Charity Commissioner’s websites.
- 1.4 The Agreement is subject to the provisions of the Charities (Jersey) Law 2014 (“The Law”) and legislation relevant to good governance in the public and statutory sectors, including, as relevant or germane:
 - a. Data Protection (Jersey) Law 2018;
 - b. Public Finances (Jersey) Law 2019;
 - c. Employment of the States of Jersey Employees (Jersey) Law 2005.

Amendments to any relevant legislation will to the extent necessary, take precedence over any part of the Agreement. The Agreement does not create any powers or responsibilities.

Independence of the Jersey Charity Commissioner

- 1.5 To the extent that any States’ employee, while made available to the Commissioner, performs a function under the direction of the Commissioner, the employee is to be treated as a member of the Commissioner’s staff for the purposes of the Charities (Jersey) Law 2014.
- 1.6 The Jersey Charity Commissioner is independent of the States and the Chief Minister (Article 3, Section 2.2).
- 1.7 the Jersey Charity Commissioner is established as a body corporate with perpetual succession (Article 3).
- 1.8 The terms and conditions of the appointment of the Commissioner must not be construed so as to create a contract of employment or agency between the States, or the Minister, and the Commissioner.

Section 2: Good Practice Principles

- 2.1 Four principles underpin the working partnership between the Department and the Jersey Charity Commissioner. Both partners to this Agreement will seek to pay heed to these principles in their interactions and in communications with other parties. These principles mirror those of the UK Cabinet Office's Code of Good Practice relating to partnerships between departments and arms-length bodies (the "Code of Good Practice Principles"), though it is recognised that the Jersey Charity Commissioner is not an "arm's length body" but an independent creature of statute.

Purpose	Partnerships work well when the purpose, objectives and roles of each party are mutually understood; reviewed on a regular basis; and are clearly set out in relevant documents.
Assurance	Partnerships work well when each party adopt a proportionate approach to assurance, based on their purpose and a mutual understanding of risk.
Value	Partnerships work well when each party share skills and experience in order to enhance their impact, deliver more effectively and contribute to policy making. There is a focus on innovation, and on how each party work together to deliver value for money.
Engagement	Partnerships work well when relationships are open, honest, constructive and based on trust. There is mutual understanding about each other's objectives and clear expectations about the terms of engagement.

Section 3: Governance and accountability

- 3.1 The office of the Jersey Charity Commissioner, as an independent body, is responsible for ensuring that robust governance arrangements are in place. However, the establishment of an independent body does not relieve the Government from its responsibility to ensure, on behalf of the public, that good governance is demonstrated, that effective internal control is in place and that value for money is secured by that body.
- 3.2 The accountability and assurance arrangements set out in this Framework Agreement are intended to reflect the Code of Good Practice Principles (as noted above) and accord with the requirements of the Public Finances Manual. They reflect an approach to accountability and assurance that is proportionate and based on a mutual understanding of the Jersey Charity Commissioner's purpose and of associated risk.
- 3.3 The Department will seek to ensure that, wherever possible, officers involved in developing policy are different from those monitoring the relationship with the Jersey Charity Commissioner.

The Jersey Charity Commissioner

- 3.5 the Jersey Charity Commissioner is required by Law to seek to act in a way that protects public trust and confidence in registered charities and to:
- (a) administer the charity test, and to operate the charity register
 - (b) supervise the compliance of charity governors with their duties;
 - (c) seek to enforce the requirements of Part 6 of the Law, as to use of terms restricted by or under that Part
 - (d) publish and maintain guidance on the operation of this Law, including guidance on the duties of governors and guidance on the charity test
 - (e) assist other persons (including the Attorney General, the court, the Bailiff, the Comptroller and the JFSC) to discharge, in relation to registered charities and entities with charitable purposes, any function of such a person under any enactment or law, particularly by giving information about registered charities and other entities
 - (f) generally encourage, facilitate and monitor compliance of registered charities with this Law and any enactment under [this] Law.
- 3.6 The Jersey Charity Commissioner may give evidence to committees or panels of the States Assembly, including the Public Accounts Committee.

Department's functions in relation to the Jersey Charity Commissioner

- 3.7 The Government of Jersey must keep proper accounts and records on behalf of the Charity Commissioner; and prepare accounts in respect of each financial year.
- 3.8 Supporting the States Employment Board (SEB), as required, regarding the remuneration and pension matters of officers working for the Jersey Charity Commissioner.

- 3.9 Ensuring the provision of adequate financial and other resources required to support the functioning of the office of the Jersey Charity Commissioner. The Department will:
- a. work with the Treasury Department to ensure the provision of a core budget to the Jersey Charity Commissioner;
 - b. make available to the Jersey Charity Commissioner such number and descriptions of staff as the Minister considers are required for the proper and effective discharge of the Commissioner's functions and provide a HR framework for supporting staff appointed by the Jersey Charity Commissioner;
 - c. provide financial management and other agreed services to the Jersey Charity Commissioner.
- 3.10 Where the Jersey Charity Commissioner requires additional resources, the Head of the Charity Commissioner's Office should prepare a business case for consideration by the Jersey Charity Commissioner and the Accountable Officer
- 3.11 The Commissioner may advise the Minister as to the nature of charities in Jersey and as to the merits of any proposal for further regulation of charities.
- 3.12 The Department will support the States Assembly (as appropriate) in respecting, upholding and defending the independence of the Jersey Charity Commissioner; and in holding the Jersey Charity Commissioner to account on behalf of the public of Jersey, to ensure the Jersey Charity Commissioner is effective in the delivery of her or his functions and provides value for money.

Accountable Officer's functions in relation to the Jersey Charity Commissioner

Finances and Risk

- 3.13 The Accountable Officer is accountable for the public funds which flow from the Government to the Jersey Charity Commissioner. The Accountable Officer will delegate management of these funds to the Jersey Charity Commissioner in accordance with the Department's scheme of delegation.

The Jersey Charity Commissioner will ensure that the standard of financial management complies with the provisions of the Public Finances Law and Public Finances Manual. Where a deviation from the requirements of the Manual may be required by the Jersey Charity Commissioner, the decision and rationale should be documented .

- 3.14 The Jersey Charity Commissioner must ensure that an appropriate approach to risk management is followed and that systems are in place to identify and manage these risks.
- 3.15 The Jersey Charity Commissioner should ensure compliance with the requirements of the States' insurance policy, including any reporting requirements.
- 3.16 The Accountable Officer will be generally available for consultation, but in periods of absence (such as annual leave) will ensure that there is another senior officer who can act on her or his behalf.

3.17 The Accountable Officer will require assurance from the Jersey Charity Commissioner regarding financial propriety and regularity, that funds are used economically, efficiently and effectively, that there is effective stewardship of any assets controlled or safeguarded, and that appropriate systems are in place to identify and manage risks. The Jersey Charity Commissioner will be required to complete an Annual Financial Assurance Statement.

Staff

3.18 The Accountable Officer is accountable for ensuring that the Jersey Charity Commissioner's staff, who are SEB employees, are appointed and managed by the Jersey Charity Commissioner in accordance with SEB codes, policies and procedures. The Jersey Charity Commissioner will appoint and manage those staff in accordance with the relevant SEB policies and procedures.

Strategic

3.19 The Accountable Officer is responsible for providing assurance that the Strategic Priorities of the Government of Jersey in relation to the Jersey Charity Commissioner are being achieved.

3.20 The Jersey Charity Commissioner will prepare and publish a report on the activities of the Commissioner in each calendar year and provide the Minister with the report as soon as practicable after the end of the year to which the report relates, but in no case later than 4 months after the end of that year. The Minister must lay a copy of the report so provided before the States as soon as practicable after the Minister receives the report.

3.21 The Minister may terminate the appointment of a person as the Commissioner if that person has been absent from her or his duties for a period longer than 4 consecutive weeks, has become bankrupt, is incapacitated by illness or is otherwise unable or unfit to discharge the functions of the Commissioner.

3.22 In the event that the Charity Commissioner has concerns about the Accountable Officer, with regard to the support provided to the office of the Jersey Charity Commissioner, or to upholding the terms of this Framework Agreement, they should report those concerns to the Principle Accountable Officer, having first informed the Accountable Officer of their intention to do so.

Other governance matters

Register of gifts, hospitality and private interests

3.23 the Jersey Charity Commissioner must set up and maintain a gifts, hospitality and private interests register which must be publicly available. The Jersey Charity Commissioner's staff must record any gifts, hospitality or private interests on that register. The Jersey Charity Commissioner's staff, as SEB employees, must also comply with relevant requirements relating

to the recording of gifts, hospitality or private interests. The Accountable Officer must take steps to be satisfied that the register is operated effectively.

Complaints policy and management

3.23 The Jersey Charity Commissioner must put in place a complaints policy and procedure for managing complaints about the Jersey Charity Commissioner's staff. The policy must be publicly available. The Jersey Charity Commissioner must consult the Accountable Officer about the draft policy prior to publication. The Accountable Officer must take steps to be satisfied that the policy and procedure are sufficiently robust and operate effectively. The Jersey Charity Commissioner's Annual Report must include information about complaints management.

Data Protection

3.24 The Charity Commissioner is responsible for ensuring compliance with the Data Protection (Jersey) Law 2018 (DP). The Charity Commissioner is required to:

- a. register with the Information Commissioner as a Controller;
- b. manage data in accordance with the DP law;
- c. respond to Subject Access Requests in accordance with the DP law.

3.25 The Department is required to ensure that:

- a. training is provided to staff working for the Jersey Charity Commissioner, along with day-to-day guidance and support on matters relating to DP;
- b. the Jersey Charity Commissioner has the necessary facilities to manage DP requirements (for example, locked cabinets).

Section 4: Engagement

4.1 The Jersey Charity Commissioner and Government will engage with each other in a manner which is open, honest and constructive. They will work to ensure a mutual understanding of each other's objectives. This engagement will include advice to Ministers, annual meetings and Annual Reporting.

4.2 The Charity Commissioner and the Accountable Officer will engage with each other regarding all relevant matters affecting the work of the Jersey Charity Commissioner, as and when these matters arise, to ensure they are aware of any significant issues and that there are no surprises. This may include consulting the Jersey Charity Commissioner about emerging relevant policy and legislation matters or proposed changes to GoJ service provision.

Regular meetings

- 4.3 The Accountable Officer will meet formally on a 6-monthly and a 12-monthly basis with the Charity Commissioner. Those meetings may be cancelled if both the Charity Commissioner and the Accountable Officer agree they are not required. Minutes will be taken of these formal meetings.
- 4.4 This does not preclude other meetings taking place between reporting periods to discuss concerns or matters arising. These meetings can be at the behest of the Charity Commissioner or the Accountable Officer. Neither the Charity Commissioner nor the Accountable Officer will decline to meet if the other party wishes to meet, albeit meeting times and dates will need to be mutually agreed.

Dispute Resolution Process

- 4.5 Where a dispute arises between the Department and the Charity Commissioner then all efforts should be made to reach an agreed position without the need for further escalation. Should resolution not be achieved, then escalation should be undertaken to the next level of seniority in the Department with the final level being that of the Accountable Officer. Concerns regarding the Charity Commissioner or the Accounting Officer should be handled as noted in Section 3, above.

Section 5: The arrangements

- 5.1 The Law requires the States to appoint a Charity Commissioner and such other officers as may be necessary to discharge their functions properly and effectively.
- 5.2 It is recognised, however, that the overhead costs associated with financial management, staff management and other services can prove disproportionately expensive for small entities. It is therefore agreed that the Department will provide a range of services to the Jersey Charity Commissioner including human resource, financial management, and other incidental services as agreed from time to time.
- 5.3 The arrangements set out below will be subject to review, as it is recognised that, over time, as the office of the Jersey Charity Commissioner evolves, it may be appropriate for the Jersey Charity Commissioner to exercise these functions directly, subject to demonstrating value for money and having the necessary funding to do so. The Commissioner is independent of the States and the Minister and as a corporation sole, such decisions will be a matter for the Commissioner

Staff resources and people management

- 5.5 The staff working for the Jersey Charity Commissioner will be appointed to the office of the Jersey Charity Commissioner but will be employed by the SEB. For all practical purposes, the effect of this arrangement will be that staff are posted to the office of the Jersey Charity Commissioner and will be referred to as *the Jersey Charity Commissioner's staff*.

- 5.6 The terms and conditions of employment of the Jersey Charity Commissioner's staff will be SEB standard terms and conditions, including matters relating to pension, pay and associated pay increments, flexibility working policies etc. Staff will be paid via standard GoJ payroll arrangements.
- 5.7 There will be no changes to staff's terms and conditions of employment, except where those changes are in accordance with SEB policy. Where the SEB is undertaking any review or restructuring of its employees' terms and conditions of employment, the Jersey Charity Commissioner's staff will be subject to the review on the same basis as all other SEB employees.
- 5.8 Any changes to terms of employment will need to be provided for in the Jersey Charity Commissioner's budget (for example, annual pay increments). The Treasury Department will make financial provision for those changes in accordance with Schedule 1 article 4 of the Charities (Jersey) Law 2014.
- 5.9 New staff will be recruited under SEB civil service recruitment policies.
- a. All new or amended job descriptions will be subject to SEB job evaluation processes. Prior to evaluation, those job descriptions will be approved by the Charity Commissioner and the Accountable Officer.
 - b. For all the Jersey Charity Commissioner's staff, the Charity Commissioner will chair the appointments panel. In accordance with SEB policy, the panel will include a Government authorised recruitment officer. The Charity Commissioner will also determine the other officers/third parties to be involved in the recruitment process.
- 5.10 In the event that the Jersey Appointments Commission (JAC) determines that the appointment falls within their areas of responsibility, a JAC representative will participate in the interview panel.
- 5.11 The Charity Commissioner will provide direction and supervision on all matters relating to the work of the office of the Jersey Charity Commissioner.
- 5.12 The Charity Commissioner will provide line management, support and supervision to staff; they will do so in accordance with relevant GoJ and SEB corporate policies and directions.
- 5.13 The Charity Commissioner will provide a six-monthly report to the Accountable Officer. This may take the form of a meeting or a written report. This reporting line is not for directing or ensuring oversight of the work of the Charity Commissioner officers or the Jersey Charity Commissioner. It is for the purposes of providing assurance of:
- management of SEB employees in accordance with SEB corporate policies;
 - compliance with principles of GoJ financial management;
 - compliance with relevant legislation regulating good governance in the public sector.

- 5.14 The Charity Commissioner will advise the Accountable Officer of any concerns about the performance or wellbeing of the Jersey Charity Commissioner's staff in order that the Charity Commissioner and the Accountable Officer can jointly ensure that those concerns are managed in accordance with GoJ and SEB corporate policy and in accordance with the law.
- 5.15 In the event that action needs to be taken with regard to a member of the Jersey Charity Commissioner's staff (disciplinary, performance, attendance), this will be undertaken, in accordance with SEB policy, by the Charity Commissioner.
- 5.16 Nothing in the above paragraphs precludes the Charity Commissioner or the Jersey Charity Commissioner's staff from reporting any concerns about the performance and wellbeing of the Charity Commissioner or the Jersey Charity Commissioner's staff to the Accountable Officer or another appropriate GoJ staff member in accordance with GoJ whistleblowing policy.

Public funds

- 5.17 Confirmation of the core budget beyond the end of each annual budgeting cycle is subject to Assembly approval of the next budget. As with all public funding, confirmation of the core budget is subject to States Assembly approval of each annual budget and no monies can be guaranteed beyond the annual budget cycle.
- 5.18 Any inflationary or pay award budget uplifts decided by the Assembly will be applied to the core budget for the Jersey Charity Commissioner, except for where the Assembly decide otherwise.

Financial management support

- 5.19 The Charity Commissioner will comply with principles of good financial management practice and the requirements of the Public Finances Manual. A Finance Business Partner, and dedicated staff, will have oversight of the budget and will provide monthly income and expenditure reports to the Charity Commissioner for review and action where necessary.
- 5.24 The Accountable Officer will delegate day-to-day management of the Jersey Charity Commissioner's funds to the Charity Commissioner in accordance with the Public Finances Manual and the Department's scheme of delegation.
- 5.25 Income and expenditure will, however, be subject to review by the Accountable Officer, as part of the Accountable Officer's overall responsibility for the Department's heads of expenditure.
- 5.26 Budget forecasts will be agreed at the beginning of each financial year with the Charity Commissioner. The Charity Commissioner will determine areas of expenditure in accordance with annual priorities. The Charity Commissioner cannot commit to any new expenditure unless it can be met from within the Jersey Charity Commissioner's available funds or from an additional recurring or non-recurring allocation. Any proposed increase to the Jersey Charity

Commissioner's funds will require the submission of a costed business case, prepared by the Charity Commissioner and approved by the Accountable Officer.

- 5.27 Overspends: the Jersey Charity Commissioner should not overspend on her or his budget. In the event of unforeseeable events giving rise to overspends, the Accountable Officer should be informed and the Finance Business Partner will provide assistance to manage overspends.
- 5.28 Underspends: the Finance Business Partner will provide assistance with the management of underspends.
- 5.29 When procuring supplies or services from a third party, raising or paying invoices, the Jersey Charity Commissioner will, unless otherwise agreed with the Accountable Officer, use GoJ supplier systems (for example, Supply Jersey) and act in accordance with procurement guidance. Where the Jersey Charity Commissioner wishes to deviate from this course, the Accountable Officer will consider any proposals for providing appropriate exemptions. In the event the Jersey Charity Commissioner does not use GoJ suppliers, the Jersey Charity Commissioner will need to demonstrate best value decisions.

IT services and support

- 5.30 The Department will ensure that the Jersey Charity Commissioner has access to appropriate IT hardware, software and services. This will be arranged via the Government of Jersey Modernisation & Digital team or third party providers in agreement with the Modernisation & Digital team, as per standard GoJ accommodation arrangements, and should be proportionate to the Jersey Charity Commissioner's requirements.
- 5.31 Any use of or access to GoJ equipment/systems will be in accordance with GoJ policies and procedures.

Accommodation

- 5.32 The Department will ensure that the Jersey Charity Commissioner has access to appropriate office accommodation. This accommodation will be arranged via Jersey Property Holdings (JPH) or third party providers in agreement with JPH, as per standard GoJ accommodation arrangements, and should be proportionate to the Jersey Charity Commission's requirements.
- 5.33 Provision should be made in the Jersey Charity Commissioner's budget for fixtures and fittings.

Legal advice

- 5.34 The Jersey Charity Commissioner will have access to legal advice from the Government of Jersey Law Officers or third party providers in agreement with the LOD. This should be proportionate to the Jersey Charity Commissioner's requirements.
- 5.35 The Jersey Charity Commissioner will notify the Accountable Officer when it becomes involved in a civil action. If, as a result of that action, the Jersey Charity Commissioner is ordered to pay

the other party's legal costs, the Jersey Charity Commissioner will meet the costs from the Office's financial resources. Where those resources are not sufficient, the Jersey Charity Commissioner will notify the Accountable Officer at the earliest opportunity.

Indemnity

- 5.36 The Government of Jersey Liability Insurance including Officials' Indemnity, extends to provide indemnity to the Jersey Charity Commissioner subject to the policy terms and conditions.

Signatories to Framework Agreement

Charity Commissioner

Name: John Mills

A handwritten signature in black ink that reads "John F. Mills". The signature is written in a cursive style with a long horizontal flourish at the end.

Signature

Date 9/10/21

Accountable Officer, Department for Strategic Policy and Performance

Name: Mr Thomas Walker

Signature

A handwritten signature in blue ink that reads "T. Walker". The signature is written in a cursive style with a long horizontal flourish at the end.

Date 08.10.21

Endorsed by Chief Minister, Government of Jersey

Name: Senator John Le Fondré

Signature

Date: