

## Framework Agreement

Between the Jersey Care Commission and the  
Department for Strategic Policy, Planning and  
Performance

*15 May 2020*

### Terms used

Jersey Care Commission: the independent regulator of health and social care in Jersey, as established by the Regulation of Care (Jersey) Law 2014 (“The Law”).

Chair: the Chairman of the Commission, as established by the Law.

Chief Inspector: the post of Chief Inspector as established by the Commission and the most senior civil servant within the staff of the Commission.

Minister: the Minister with primary responsibility for the regulation of care as defined within the Law. This is currently the Chief Minister. This should be taken to also include any successor Minister to whom this official responsibility may be transferred.

Accountable Officer: the Government of Jersey officer accountable for the appropriate use of public funds, including the funding for Jersey Care Commission, 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). This should be taken to also include any successor departments or bodies.

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## Section 1: Introduction to the Framework Agreement

1. This Framework Agreement (“The Agreement”) has been jointly agreed by the Jersey Care Commission (“The Commission”) and the Department on behalf of the Minister.
2. The Agreement sets out for the benefit of the Commission, the Department and other interested parties:
  - a. the principles underlying the working relationship between the Commission and the Government of Jersey (GoJ);
  - b. matters relating to accountability, assurance, value and engagement;
  - c. arrangements with regard to the provision and management of resources;

The Agreement recognises the Commission’s statutory independence, along with the obligations placed upon the Department for ensuring the good governance of arms-length bodies.

3. The Agreement takes effect from the date on which it is signed by all relevant parties and replaces the Memorandum of Understanding (December 2018). The Agreement will be subject to a full review every two years. The formal review dates do not, however, preclude the Agreement being amended with the agreement of both the Department and the Commission in the intervening period.

The Agreement will be made available on both the Department’s and Commission’s websites.

4. The Agreement is subject to the provisions of the Regulation of Care (Jersey) Law 2014 (“The Law”) and legislation relevant to good governance in the public sector, including:
  - a. Public Records (Jersey) Law 2002
  - b. Employment of the States of Jersey Employees (Jersey) Law 2005
  - c. Freedom of Information (Jersey) Law 2011
  - d. Data Protection (Jersey) Law 2018
  - e. Public Finances (Jersey) Law 2019.

Amendments to any relevant legislation will take precedence over any part of the Agreement. The Agreement will not convey any legal powers or responsibilities.

### Independence of Jersey Care Commission

5. The Commission was established under the Article 35 of the Law as a body corporate with perpetual succession. The Commission is a States Body as defined by the Public Finances (Jersey) Law 2019, i.e. a committee or other body established by an Act of the States. The Commission is independent of the Minister for Health and Social Services, the Chief Minister and the States (Article 36).
6. As an independent body, the Commission must be free to carry out its responsibilities without impediment and in a timely manner, and that independence is characterised through behaviours, culture and identity. This includes, but is not limited, to:
  - a. independent decision making;

- b. the Commission determining its own constitution, values, priorities and working practices. These must, however, be in accordance with the Law and the Seven Principles of Public Life established by the UK Committee on Standards in Public Life;
- c. independence of voice and freedom to develop, without interference, partnerships with any stakeholders;
- d. the right to seek, without interference, engagement with the States Assembly Scrutiny function, States Members, regulatory bodies, Law Officers or other agencies/entities, or respond to requests for information, participation etc.; and
- e. determination of brand and identity (logo; branded web pages etc.).

#### Dispute Resolution Process

7. Where a dispute arises between the Department and the Commission, all efforts will be made to reach an agreed position without the need for further escalation. Should resolution not be achieved, then escalation will be undertaken to the next level of seniority in the Department, with the final level being that of the Chair of the Care Commission in consultation with the Accountable Officer. If an agreed outcome cannot be achieved at this level then an independent third party arbiter may be engaged whose decision will be binding on both parties within the confines of the law.

## Section 2: Good Practice Principles

8. Four key principles<sup>1</sup> underpin the partnership between the Department and the Commission. Both partners to this Agreement will pay heed to these principles in all 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").

<b>Purpose</b>	<p>Partnerships work well when the purpose, objectives and roles of arm's-length bodies are mutually understood; reviewed on a regular basis; and clearly set out in relevant documents.</p> <p>There is absolute clarity about lines of accountability between departments and arm's-length bodies. In exercising statutory functions, arm's-length bodies have clarity about how their purpose and objectives align with those of departments.</p>
<b>Assurance</b>	<p>Partnerships work well when departments adopt a proportionate approach to assurance, based on arm's-length bodies' purpose and a mutual understanding of risk.</p> <p>Arm's-length bodies have robust governance arrangements in place; departments give arm's-length bodies the autonomy to deliver effectively. Management information exists to enable departments and arm's-length bodies to assess performance.</p>
<b>Value</b>	<p>Partnerships work well when departments and arm's-length bodies share skills and experience in order to enhance their impact and deliver more effectively. Arm's-length bodies are able to contribute to policy making and broader departmental priorities.</p> <p>There is a focus on innovation, and on how departments and arm's-length bodies work together to deliver value for money.</p>
<b>Engagement</b>	<p>Partnerships work well when relationships between departments and arm's-length bodies are open, honest, constructive and based on trust.</p> <p>There is mutual understanding about each other's objectives and clear expectations about the terms of engagement.</p>

<sup>1</sup> Four key principles are based on the UK Cabinet Office Code of Good Practice 2017: *Partnerships between departments and arm's length bodies*.

## Section 3: Purpose

### The Commission's vision, purpose and functions

9. Vision: Providing independent assurance, promoting best practice and improving health and social care outcomes for the people of Jersey.
10. The Commission's purpose is to:
  - a. provide the people of Jersey with independent assurance about the quality, safety and effectiveness of their health and social care services;
  - b. promote and support best practice in the delivery of health and social care by setting high standards and challenging poor performance; and
  - c. work with service users and their families and carers to improve their experience of health and social care and achieve better outcomes.
11. The Commission's functions are set out in the Law. These include:
  - a. discharging functions conferred on the Commission under the Law and any other enactment; and
  - b. any other function related to regulating any description of health and social care, as transferred to the Commission by Regulation.

### Role of Chair and Commissioners

12. The Chair and Commissioners will work together to uphold the vision and deliver the purpose and functions of the Commission, as set out in the Chair and Commissioners' role descriptions (Appendix 1). The Chair, in supporting delivery of the Commission's functions by the Commissioners will:
  - a. ensure that all Board members are fully briefed and receive appropriate training where required;
  - b. advise the Department of Board vacancies and, in conjunction with the Department and the Jersey Appointments Commission, undertake a recruitment process ;
  - c. assess the performance of individual Commissioners on an annual basis; and
  - d. make recommendations to the Minister with regard to re-appointment and/or removal from office.

### Government of Jersey's objectives and role in relation to the Commission

13. The Government of Jersey is committed to improving health and social care outcomes for people in Jersey. It seeks to ensure that:
  - a. people are provided with independent assurance about the quality, safety and effectiveness of island services via the Commission;
  - b. all providers deliver high standards of care and, where care is poor, this is readily identified in order that services can be supported to improve or is subject to appropriate interventions. This is in relation to services directly delivered by Government as well as other registered providers; and

- e. there is public confidence in the Commission, that it is seen as effective, relevant and provides value for money.

The Department's functions in relation to the Government of Jersey, the States Assembly and the people of Jersey

14. Ensuring that the right legal and policy framework is in place. The Department will be responsible for advising the Minister and the States Assembly on policy and legislation matters relating to the inspection and regulation of care. The Department will:
  - a. engage the Commission in this process, including seeking advice on Regulatory priorities; and
  - b. seek to secure the policy and law-drafting resources necessary to develop Regulations.
15. Supporting the Minister, in fulfilling their duties under the Law.
16. Supporting Ministers when being held to account by the States Assembly for the effectiveness and efficiency of the Commission in the fulfillment of their functions and exercise of their powers.
17. Supporting the States Assembly (as appropriate) in respecting, upholding and defending the independence of the Commission
18. Holding the Commission to account on behalf of the public of Jersey, to ensure the Commission is effective in the delivery of its statutory functions and provides value for money.
19. Supporting the States Employment Board (SEB), as required, regarding the remuneration and pension matters of officers working in the Commission.

The Department's functions in relation to the Commission

20. Overseeing the appointment of the Chair who in turn shall select and nominate Commissioners, in accordance with Schedule 2 of the Law. This includes matters relating to resignation and termination of appointments. The Department will work in accordance with those requirements and, at all points, in consultation with the Commission.
21. Ensuring the provision of adequate financial and other resources required to support the functioning of the Commission. The Department will:
  - a. work with the Treasury Department to ensure the provision of a core budget to the Commission;
  - b. post staff to the Commission and provide a HR framework for supporting staff appointed by the Commission; and
  - c. provide financial management and other agreed services to the Commission

## **Section 4: Assurance**

Introduction: Accountability and assurance

22. The establishment of an independent body does not relieve Government from its responsibility to ensure, on behalf of the public, that good governance is demonstrated, that effective internal control is in place and value for money is secured by that body. Likewise the Commission, as an

independent body - as opposed to a public authority - is not relieved from its responsibility to ensure that robust governance arrangements are in place.

23. The accountability and assurance arrangements set out in this Framework Agreement are intended to reflect the Code of Good Practice Principles and accord with the Government of Jersey's Public Finances Manual 2019. They reflect an approach to accountability and assurance that is proportionate and based on a mutual understanding of the Commission's purpose and of associated risk.

#### Accountability and assurance framework

24. Those arrangements are set with the following accountability framework:

- a. The Minister is accountable to the States Assembly and the public for the performance of the Commission.
- b. The Commission is accountable to the Minister for its performance. The Minister will require assurance of:
  - i. the Commission's performance; and
  - ii. standards of health and social care provision in Jersey.
- c. Assurance as to the Commission's performance will be provided by the Commission and the Accountable Officer.
- d. Assurance as to standards of health and social care provision will be provided by the Commission.
- e. The Accountable Officer is accountable for the public funds which flow from the Government to the Commission.
- f. The Accountable Officer will require assurance from the Commission about performance and value for money. The Accountable Officer, in turn, is required to provide assurance to the Treasury about value for money and for ensuring compliance with the Public Finances Law and Public Finances Manual.
- g. The Minister, in consultation with the Principal Accountable Officer, will hold the Accountable Officer to account for the Department's work to support the Commission and to uphold the terms of this Framework Agreement.

#### Responsibilities of the Accountable Officer and the Commission

##### *Strategic and operational performance*

25. Assurance as to the Commission's performance will be provided by the Accountable Officer and the Commission.
26. The Accountable Officer will provide assurance within Government as to the performance of the Commission and demonstrate the link to corporate and departmental objectives. The Commission will support the provision of this assurance.
27. The Accountable Officer will provide assurance as to:
- a. achievement of the objectives of the Government of Jersey in relation to the Commission, as set out in Section 3 above; and
  - b. good governance and value for money.



28. The Commission will prepare an annual Operational Business Plan that reports on performance against the previous year's objectives and targets and sets out objectives, targets and key performance indicators for the coming year for discussion and agreement with the Accountable Officer.
29. The Accountable Officer will ensure that objectives, targets and key performance indicators are in place to enable effective performance management.

### *Finances and Risk*

30. The Accountable Officer is accountable for the public funds which flow from the Government to the Commission. The Accountable Officer will delegate management of these funds to the Chief Inspector in accordance with the Department's scheme of delegation.
31. The Chief Inspector 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 Commission, the decision and rationale should be documented and appropriate approval obtained from the Accountable Officer.
32. The Accountable Officer will require assurance from the Commission 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.
33. The Chief Inspector will be required to complete an Annual Financial Assurance Statement which should be approved by the Commission
34. The Accountable Officer and Chief Inspector must ensure that an appropriate approach to risk management is followed by the Commission and that systems are in place to identify and manage these risks.
35. The Accountable Officer and Chief Inspector should ensure compliance with the requirements of the Government of Jersey's insurance policy, including any reporting requirements.
36. 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 their behalf.

### *Staff*

37. Commission staff are accountable to the Commission for their performance. The Commission will appoint and manage those staff in accordance with the relevant Government and States Employment Board (SEB) policies and procedures.
38. The Accountable Officer will ensure that Commission staff, who are SEB employees, are appointed and managed by the Commission in accordance with SEB codes, policies and procedures.

### *Performance of the Chair and the Accountable Officer*

39. Assurance as to the performance of the Chair as a senior public office holder will be provided by the Accountable Officer on the basis of an annual appraisal.
40. In the event that the Accountable Officer has concerns about the capability of the Chair to discharge their functions, or concerns about their conduct or behaviour, the Accountable Officer may recommend to the Minister that the Minister commissions a review of the Chair's performance, or an investigation of any matter, having first informed the Chair of their intention to do so.
41. In the event that the Chair has concerns about the Accountable Officer, with regard to the support provided to the Commission, or to upholding the terms of this Framework Agreement, they should report those concerns to the Principal Accountable Officer, having first informed the Accountable Officer of their intention to do so.

### *Register of gifts, hospitality and private interests*

42. The Commission must set up and maintain a gifts, hospitality and private interests register which must be publicly available. The Chair and the Commissioners must record any gifts, hospitality or private interests on that register. Commission staff, as SEB employees, must also comply with relevant requirements relating to the recording of gifts, hospitality or private interests.
43. The Accountable Officer must take steps to be satisfied that the register is operated effectively.

### *Complaints policy and management*

44. The Commission must put in place a complaints policy and procedure for managing complaints about the performance of the Commission, including complaints about Commission staff or about the Chair and/or Commissioners. The policy must be publicly available.
45. The Accountable Officer must be satisfied that the policy and procedure are sufficiently robust and operate effectively.
46. The Commission must:
  - a. consult the Accountable Officer about the draft policy prior to publication;
  - b. include information about complaints management in its Annual Report.
47. In the event that the Minister receives a complaint about the Commission, the Accountable Officer will inform the Commission about the complaint, will engage with the Commission in any necessary investigation of the complaint and will notify the Commission of any response issued to the complainant.

### *Data Protection*

48. The Chief Inspector is responsible for ensuring compliance with the Data Protection (Jersey) Law 2018 (DP). The Chief Inspector is required to:
  - a. register with the Information Commissioner as a Controller;
  - b. manage data in accordance with the DP law; and

- c. respond to Subject Access Requests in accordance with the DP law.

49. The Department is required to ensure that:

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

#### *Freedom of Information*

50. The Commission is not currently a scheduled public authority for the purposes of the Freedom of Information (Jersey) Law 2011. However, the Commission will respond to any Freedom of Information (FOI) requests, in the interests of transparency, as if it were a scheduled public authority. Any FOI requests directed to the Commission will be answered by the Commission. When the FOI response is issued, this will be copied to the Accountable Officer, for information only.

51. Where a FOI request is directed towards the Government but relates in some way to the Commission, the Accountable Officer will ensure that the Commission is consulted on the draft response before it is issued.

#### *Responsibilities of the Commission: standards of health and social care provision in Jersey*

52. In accordance with Article 43 of the Law the Commission will prepare and publish an Annual Report, which will be formally presented to the States Assembly by the Minister.

53. In addition, the Commission may, as per Article 38 of the 2014 Law:

- a. prepare and publish, as it thinks fit, a report on any aspect of health and social care;
- b. publish information or give advice, as it thinks fit, regarding any aspect of the 2014 Law and associated regulations or any other matter relating to the functions of the Commission.

54. Where the Commission does not have sufficient monies to undertake those reports, the Commission should prepare a business case for consideration by the Accountable Officer.

55. The Commission will, when requested by the Minister, prepare a report on any aspect of health and social care as requested by the Minister and submit that report to the Minister. Where the Minister makes any such request, the Accountable Officer will work to ensure the provision of the monies and resources required to do so. Any such report will be the property of the Commission and the Commission will determine matters relating to publication.

56. The Commission may, as it thinks fit, contract a third party to prepare any such report including undertaking any associated investigation or review.

## **Section 5: Value**

57. The Department and the Commission will work in partnership, sharing skills and experience in order to enhance impact and deliver more effectively. The Department will work to ensure that the Commission can contribute to policy making and broader Government priorities. The Commission

will work to ensure relevant Departmental policy and operational officers are afforded opportunities to learn from, and contribute to, the Commission's work.

#### Key performance indicators

58. The annual Operational Business Plan (see para 4.9 above) will include key performance indicators that work to demonstrate the value delivered. This may include indicators in relation to providers inspected; providers supported to implement improvements; complaints received and responded to etc.

#### Legislation and Policy Development

59. The Department, under the policy direction of the Minister, is responsible for the development of Regulations under the Law and for resourcing the development of those Regulations.

60. In accordance with the Law, the Minister must consult the Commission on the preparation of Regulations or other health and social care enactments (Article 39).

61. Where the Commission identifies a deficit in Regulations, or where the Commission does not agree with proposed Regulations or law changes, the Commission may publicly state its case. It is understood that Commission staff will play a role in developing the Commission's position, even where that position is contrary to Ministerial policy.

62. It is anticipated that the Commission will inform the Minister, where the Commission believes that:

- a. there is insufficient progress in the development of Regulations, or
- b. the consultation and development process is flawed.

63. The Commission must, however, discharge its statutory functions in a fair and impartial manner.

64. The Department will ensure that, wherever possible, officers involved in developing policy are different from those tasked with monitoring the relationship with the Commission.

### **Section 6: Engagement**

65. The Commission 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 regular meetings, annual meetings and Annual Reporting.

66. The Chair and Chief Inspector of the Commission and the Accountable Officer will engage with each other regarding all relevant matters affecting the work of the Commission, 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 Commission about emerging relevant policy and legislation matters or proposed changes to Government service provision.

#### Regular meetings

67. The Accountable Officer will meet formally on a 6-monthly and a 12-monthly basis with the Chair and Chief Inspector. Those meetings may be cancelled if both the Chair and Accountable officer agree they are not required. Minutes will be taken of these formal meetings.

68. These meetings do not preclude other meetings taking place during the year between the Commission and the Minister to discuss/report concerns or matters arising which could, for example, relate to care standards, breaches of this Agreement, or matters relating to the performance of the Commission. These meetings can be at the behest of the Minister (or representatives of the Minister) or at the behest of the Chair. Neither the Minister nor the Chair will decline to meet, albeit meeting times and dates will need to be mutually agreed.
69. Communications between the Commission and the Minister shall normally be through the Chair, with the Chair ensuring that all other Commissioners are kept informed of such communications.
70. In exceptional circumstances, Commissioners may communicate directly with the Minister or the Accountable Officer and shall advise the Chair in advance of their intention to do so.
71. The Accountable Officer should be informed in advance of all planned or proposed meetings.

#### Annual Report to the Assembly

72. In accordance with Article 43 of the Law, the Commission will prepare and publish an annual report. This will be formally presented to the States Assembly by the Minister.
73. The annual report is to provide assurance as to the standards of health and social care in Jersey and to inform the public of the Commission's work and activities over the proceeding 12 month period. It should set out:
- a. how the Commission has discharged its function during the year;
  - b. matters relating to the standards of health and social care provision in Jersey;
  - c. recommendations for actions to be taken to help improve standards of care; and
  - d. recommendations for actions to be taken to support the Commission in its work.
74. Prior to presentation to the States Assembly, the Minister will hold an annual meeting with the Chair to discuss the content of the annual report. The Commission may, as it thinks fit, hold a meeting with all Assembly members to discuss the contents of the annual report to the Assembly.
75. The Chair, Commissioners or any of the staff of the Commission may be called to report on the Commission's performance or give evidence to committees or panels of the States Assembly, including the Public Accounts Committee.

## Annex 1 : The arrangements

1. The Law provides the Commission with the vires to directly employ officers and agents and to contract directly with Commissioners (Schedule 2, item 9). The Law also places a responsibility on the Commission to keep account of its own financial resources (those resources being any fees paid to the Commission and any grant paid to the Commission by the States) (Schedule 2, items 11 and 12).
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. In the case of the Commission, these costs would necessitate an increase in fees, over and above the increase required to fulfil the regulatory requirements of the Commission.
3. It is therefore agreed that the Department will provide a range of services to the Commission including human resource, financial management, and other incidental services as agreed from time to time.
4. The arrangements set out below will be subject to review, as it is recognised that, over time, as the Commission evolves, it may be deemed appropriate for the Commission to exercise on its own behalf the powers provided under Articles 8, 9 and 12 (Schedule 2) of the Regulation of Care (Jersey) Law 2014.

### Staff resources and people management

5. The staff working for the Commission will be appointed to the Commission but will be employed by the SEB. For all practical purposes, the effect of this arrangement will be that staff are posted to the Commission and will be referred to as Commission staff.
6. The terms and conditions of employment of Commission staff will be SEB standard terms and conditions, including matters relating to pension, pay and associated pay increments, flexible working policies etc. Staff will be paid via standard Government of Jersey payroll arrangements.
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, Commission staff will be subject to the review on the same basis as all other SEB employees.
8. Any changes to terms of employment will need to be provided for in the Commission budget (for example, annual pay increments). Where the Treasury Department makes financial provision for those changes via an uplift to Government core budgets, that uplift will be reflected in the core funding provided to the Commission. Where no financial provision is made by the Treasury Department, additional costs will need to be met either through fee increases approved in accordance with the provisions of Article 31 of the Regulation of Care (Jersey) Law 2014, or through efficiencies in the Commission's budget.
9. New staff will be recruited under SEB civil service recruitment policies.
10. 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 Chief Inspector and the Accountable Officer.

11. For all Commission staff, the Chair or Chief Inspector will chair the appointments panel. In accordance with SEB policy, the panel will include a Government authorised recruitment officer. The chair of the appointments panel will also determine the other officers/third parties to be involved in the recruitment process in accordance with the SEB policy.
12. 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.
13. The Chair will provide direction and supervision on all matters relating to the work of the Commission. In doing so, the Commission will be:
  - a. cognisant of their independence; and
  - b. cognisant of the requirement placed on their staff to operate in accordance with relevant GoJ and SEB corporate policies and directions.
14. The Chief Inspector will provide line management, support and supervision to staff; they will do so in accordance with relevant GoJ and SEB corporate policies and directions.
15. The Chair and Chief Inspector 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 Commission. It is for the purposes of providing assurance of:
  - a. management of SEB employees in accordance with SEB corporate policies;
  - b. compliance with principles of GoJ financial management; and
  - c. compliance with relevant legislation regulating good governance in the public sector.

All monitoring reports submitted to the Accountable Officer will be tabled at the Board meeting immediately following the date of submission.
16. The Chief Inspector will advise the Accountable Officer of any concerns about the performance or wellbeing of the Commission staff in order that the Chief Inspector 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.
17. In the event that action needs to be taken with regard to a member of Commission staff (conduct, performance, attendance, etc.), this will be undertaken, in accordance with SEB policy, by the Chief Inspector.
18. Nothing in the above paragraphs precludes the Chair or Commission staff from reporting any concerns about the performance or wellbeing of the Chair, Commissioners or Commission staff to the Accountable Officer or another appropriate GoJ staff member, or from following the GoJ whistleblowing policy.

#### Public funds

19. The Public Finances Law requires the Council of Ministers to propose a Government Plan, setting out income and expenditure plan for the States Assembly to decide upon. A Government Plan will usually be lodged by the Council of Ministers in the summer and considered by the Assembly in late Autumn/Winter of the year proceeding the start of the new Government Plan period.
20. 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.

21. Any inflationary or pay award budget uplifts decided by the Assembly will be applied to the core budget for Jersey Care Commission, except for where the Assembly decide otherwise. The core budget will not be exempt from any decision to apply efficiency targets across the whole Government of Jersey budget.
22. The Accountable Officer will consult the Commission regarding anticipated resources requirements in advance of the Council of Ministers submitting a proposed Government Plan to the Assembly. This is in addition to the 6 and 12 monthly reporting meetings (see above) being used to consider budget matters, or to consider business cases relating to any proposed uplift in the core budget for the Commission.

### Fee income

23. The Law provides for a number of different fees. These include:
  - a. fees associated with making an initial application for registration as a provider or a manager (Article 4);
  - b. an annual fee for continued registration (Article 9);
  - c. fees associated with applying for a variation on conditions of registration (Article 17); and
  - d. miscellaneous fees including for replacement registration certificates (Article 8) and for provision of paper copies of Commission report (Article 38).
24. The Law sets out that those fees may be prescribed by the Minister or by the Commission. It has been jointly agreed by the Government of Jersey and the Commission that the Minister will prescribe those fees via an Order at the point at which the Law came into force. That Order, prescribing fees, will normally be subject to an annual inflationary increase of 2.5% on 5 January of each year.
25. The decision that the Minister will prescribe fees, as opposed to the Commission directly setting fees, will be subject to annual review at the point at which the Accountable Officer formally consults the Commission on indicative annual budgets. Any changes in fees or the arrangements associated with the setting of fees will be subject to stakeholder consultation (except in relation to annual inflationary uplift).
26. It is the responsibility of the Accountable Officer to ensure the Commission represents value for money. To this end the Accountable Officer will scrutinise fee levels and fee income and recommend any necessary adjustments. Where the Accountable Officer has concerns relating to fee income, the Accountable Officer will inform the Chair and may report those concerns to the Treasurer of the States and the Comptroller and Auditor General.

### Financial management support

27. The Treasury Department will provide a finance management service to the Commission, including in relation to core budget (Commission funds).
28. All Commission staff will comply with principles of good financial management practice and the requirements of the Public Finances Manual 2019. A Finance Business Partner and dedicated staff, will have oversight of the budget and will provide monthly income and expenditure reports to the Commission for review and action where necessary.



29. The Accountable Officer will delegate day-to-day management of Commission funds to the Chief Inspector in accordance with the Public Finances Manual and the Department's scheme of delegation.
30. Income and expenditure will, however, be subject to review by the Accountable Officer, in order to help assess value for money as part of the Accountable Officer's overall responsibility for the Department's heads of expenditure.
31. Budget forecasts will be agreed at the beginning of each financial year with the Commission. The Commission will determine areas of expenditure in accordance with annual priorities. The Commission cannot commit to any new expenditure unless it can be met from within allocated funds, or from an additional recurring or non-recurring allocation approved by the Accountable Officer. Any proposed increase to Commission funds will require a costed business case, prepared by the Chief Inspector on behalf of the Commission and approved by the Accountable Officer.
32. Overspends: the Commission should not overspend on its 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.
33. Underspends: the Finance Business Partner will provide assistance with the management of underspends. No roll-overs of funding can be guaranteed, as all are subject to Treasury Department approval.
34. When procuring supplies or services from a third party, raising or paying invoices, the Commission 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 Commission wishes to deviate from this course, the Accountable Officer will consider any proposals for providing appropriate exemptions. In the event the Commission does not use GoJ suppliers, the Commission will need to demonstrate best value decisions.

#### Accounts and audit

35. In accordance with paragraph 12, Schedule 2 of the Law, the Commission must keep proper accounts and records; and prepare accounts in respect of each financial year and a report on its operations during the year.
36. The Commission must submit a copy of its accounts and report to Chief Minister no later than 6 months after the end of the financial year; The Chief Minister must lay a copy of the accounts and report before the States.
37. The accounts of the Commission must be prepared in accordance with generally accepted accounting principles and show a true and fair view of the profit or loss of the Commission for the period and of the state of the Commission's affairs at the end of the period; and must be audited by auditors appointed in respect of each financial year by the Minister for Treasury and Resources and qualified for appointment as auditors of a company by virtue of Article 113 of the Companies (Jersey) Law 1991[16].

#### IT services and support

38. IT equipment/systems/licences used by the Professional and Care Regulation Team at the point at which the Law came into force will continue to be made available to Commission staff on the same terms and conditions:

- a. equipment/systems will remain the property of GoJ and will be allocated an asset number; and
  - b. where licences are funded via central GoJ IT budgets this will continue (except in the event that a decision is taken that no licences should be centrally funded). Where licences were funded from the Professional and Care Regulation Team this will continue.
39. Day-to-day IT support will be provided via GoJ IT helpdesk services and will be in accordance with the helpdesk's policies and standards applicable to Government departments.
40. GoJ IT support does not include the provision of new/additional IT or communications equipment or systems (including hardware, software, licences and system development) except where it falls within a Government wide equipment/systems/licences upgrade. In all other cases, new/additional hardware or software will need to be funded via the Commission's budget. Once hardware has been purchased it will, in most cases, be maintained and updated by GoJ IT services via IT services budget.
41. Any changes or upgrades to GoJ equipment/systems will need to be commissioned in accordance with GoJ policies and procedures.
42. The Commission may:
- a. request budget increases to fund new IT equipment/systems/licences as part of the budget planning processes; and
  - b. bid for any investment monies that are made available as part of e-government or associated initiatives.

Any requests will be assessed against the criteria applicable to Government departments.

#### Accommodation

43. The Department will ensure that the Commission has access to appropriate office accommodation. This accommodation will be provided and managed via Jersey Property Holdings (JPH) as per standard Government accommodation arrangements.
44. Provision will be made in the Jersey Care Commission's budget for rent, servicing and fixtures and fittings to be paid to JPH.
45. The accommodation to be provided will be determined and agreed between the Commission, the Department and JPH. It must be of a standard that meets the needs of the Commission and which would stand up to public scrutiny. The overall cost of the accommodation cannot be disproportionate to the Commission's requirements.
46. Where the Commission is accommodated in shared Government office facilities, the Commission's contribution towards shared facilities and services must be met from the Commission's budget. This includes, for example:
- a. equipment installation and upgrades (e.g. photocopiers; network routers); and
  - b. services (e.g. cleaning).

47. The proportion paid by the Commission towards shared services and facilities will be based on a pre-agreed funding formula.

#### Legal advice

48. The Attorney General is the prosecuting authority for the Island and will prosecute a provider if the evidential and public interest tests are met. The Law Officers' Department (the LOD) will provide all the associated legal advice and prepare the court documentation. There will be no cost to the Commission. The Commission will advise the Accountable Officer when it is referring criminal matters to the Attorney General for consideration.

49. The LOD will provide legal advice to the Commission where the Commission requires civil law advice in connection with its functions and powers. There will be no cost to the Commission. This arrangement will be kept under review and, in the event it is determined that the LOD does not have the capacity to provide such advice, the Commission will procure independent legal advice.

50. If the Commission is considering exercising its powers in relation to a Government service (for example, to deregister that service), the LOD will act as Government's legal advisors and the Commission will procure independent legal advice.

51. If the Commission is considering exercising its powers in relation to a non-Government provider, the Commission and the LOD will jointly consider whether the LOD can advise and represent the Commission. Factors for consideration will include capacity of the LOD and perceived independence (for example, where there is a commissioning relationship between the providers and the Government).

52. In any circumstance where the Commission requires independent legal advice:

- a. the LOD will assist to procure an appropriate arrangement with external lawyers to ensure best value for money;
- b. the Commission will meet the costs of this advice from its financial resources. Where those resources are not sufficient, the Commission will notify the Accountable Officer in advance of their intention to instruct legal advisors and of the anticipated cost. The Accountable Officer will meet the costs where the Accountable Officer is satisfied that the Commission has worked with the LOD to ensure best value.

53. In the event the Commission decides to take civil action against a provider, they must notify the Accountable Officer in advance. If, as a result of that action, the Commission is ordered to pay the provider's legal costs, the Commission will meet the costs from its financial resources. Where those resources are not sufficient, the Commission will notify the Accountable Officer. The Accountable Officer will meet the costs.

#### Indemnity

54. Article 40 of the Law limits the liability of the Commission. Furthermore, the Government's Liability Insurance programme, including Officials' Indemnity, will extend to provide indemnity to the Commissioners subject to the relevant policy terms and conditions.

# Appendix 1: Role descriptions for Chair and Commissioners

## Role description for Chair

The Chair will provide leadership and direction to the Commission in order to ensure the quality of regulated services in Jersey and deliver improved outcomes for service users. The Chair will also work to ensure the effective operation and performance of the Commission.

The Chair of the Commission will be required to:

- assemble an effective and complementary Board of Commissioners and encourage members to work together as a team
- in chairing the meetings of the Commission to set the agenda, style and tone of discussions to promote effective decision making and constructive debate
- listen sensitively to the views of others both inside and outside of the Commission
- provide leadership by maintaining a focus on strategy and performance. It is not the role of the Chair and Board members to have detailed involvement in the day to day management of the organisation
- work in partnership with the Chief Inspector to achieve the aims of the Commission. This includes providing challenge to the Chief Inspector whilst respecting executive responsibility and ensuring that the Chief Inspector's performance is formally reviewed annually
- in overseeing any organisational change, ensure this is done sensitively, effectively and in partnership
- ensure that the Commission delivers its key duties which include to:
- ensure that services are regulated and inspected in accordance with the law, in order that all services users and their families benefit from good quality services that meet their needs
- oversee a regulatory regime which supports continuous improvement, as opposed to one which focusses purely on compliance monitoring
- provide strategic direction including setting and monitoring operational objectives for the Commission taking into consideration the context and needs of the Island
- set and maintain the values for the organisation and ensure that its obligations to all stakeholders, including people who use services, are understood and met
- ensure that resources are allocated to strategic objectives
- ensure governance arrangements for the Commission's executive function are effective and kept under review
- ensure the highest levels of probity and integrity are upheld in the way the Commission carries out its functions
- promote best practice across the sectors it oversees.

## **Role description for Commissioners**

The Commissioners will be required to work with each other, the Chair and executive officers in order to:

- ensure that services are regulated and inspected in accordance with the law, in order that all services users and their families benefit from good quality services that meet their needs
- oversee a regulatory regime which supports continuous improvement, as opposed to one which focusses purely on compliance monitoring
- provide strategic direction and set operational objectives taking into consideration the context and needs of the Island
- provide strategic direction including setting and monitoring operational objectives for the Commission taking into consideration the context and needs of the Island
- set and maintain the values for the organisation and ensure that its obligations to all stakeholders, including people who use services are understood and met
- ensure that resources are allocated to strategic objectives
- ensure governance arrangements for the Commission's executive function are effective and kept under review
- ensure the highest levels of probity and integrity are upheld in the way the Commission carries out its functions
- promote best practice across the sectors it oversees.

## Appendix 2: Membership of the Commission

### Membership of the Commission

1. As per the 2014 Law the Commission is made up of Commissioners, none of whom will be States members or Government Officers.
2. The Accountable Officer is neither a member of the Commission (as per restrictions in the 2014 Law) nor shall they participate in any Commission decision making forum. The Accountable Officer may provide advice to help inform Commission or may comment on Commission decisions but, as an independent body, the Commission will make its own decisions.
3. The Accountable Officer, or any delegates of the Accountable Officer, may be invited to attend Commission meetings on an ad-hoc basis but only in an advisory or consultative capacity.
4. The Chief Inspector is not a member of the Commission. As an executive officer to the Commission, they will provide advice to help inform Commission decisions but shall not participate in any Commission decision making.
5. The Chief Inspector, as an executive officer of the Commission will uphold the decisions of the Commission, even where those decisions are at odds with States or Government of Jersey public policy, except for where they contradict the Public Finances Manual or States Employment Board policies and procedures. In the event that the Chief Inspector is instructed by the Commission to enact a decision or take any action which is contrary to those directions, policies or procedures the Chief Inspector must immediately inform the Accountable Officer. The Accountable Officer will determine what action to take, having first informed the Chair and the Chief Inspector of their intentions.

**Signatories to Framework Agreement**

Chair of the Jersey Care Commission

Name: Mr Glenn Houston

Signature



Date

18 May 2020

Accountable Officer, Department for Strategic Policy and Performance

Name: Mr Thomas Walker

Signature



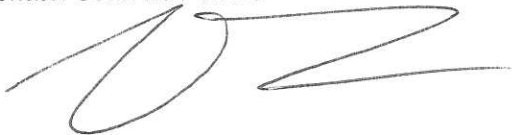
Date

18 May 2020

Endorsed by Chief Minister, Government of Jersey

Name: Senator John Le Fondré

Signature



Date:

