



Jersey Care
Commission

Constitution

July 2022

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1. INTRODUCTION

Purpose of this document

This document sets out the legal and administrative framework in which the Jersey Care Commission (the Commission) operates and how the Commission will conduct its business.

It is a public document, published on the Commission's website. It is also intended to be a working document, evolving as the Commission develops. It will be reviewed on a biannual basis.

Vision

Providing independent assurance, promoting best practice and improving health and social care outcomes for the people of Jersey.

Purpose

We were appointed as a Health and Social Care Commission to:

- provide the people of Jersey with independent assurance about the quality, safety and effectiveness of their health and social care services
- promote and support best practice in the delivery of health and social care by setting high standards and challenging poor performance
- work with service users, families and carers to improve their experiences of health and social care and to achieve better outcomes.
- register a range of health and social care professionals and take steps to assure ourselves and the people of Jersey that all registered professionals are fit to practise.

Values

The Commission's work is founded on our core values of:

- **A person centred approach** – we put the needs and the voices of people using health and social care services at the heart of everything we do
- **Integrity** – we are objective and impartial in our dealings with people and organisations
- **Openness and accountability** – we act fairly and transparently, and are responsible for our actions
- **Efficiency and excellence** – we strive to continually improve and provide the best possible quality and value from our work

- **Engagement** – we work together with, and seek the views of, those using, providing, funding and planning health and social care services in developing all aspects of our work.

The Commission endorses the Seven Principles of Public Life ('the Nolan Principles'), established by the UK Committee on Standards in Public Life, namely Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership (see Annex 1 for the full text).

Whilst the Commission affords equal weight to each of the Seven Principles, it has paid particular attention to the principle of Openness in determining how it conducts its business.

Who we are

The Commission was established under Part 7, (Article 35) of the Regulation of Care (Jersey) Law 2014. This makes provision for a Health and Social Care Commission to be set up, specifies how Commissioners are appointed and sets out our duties and responsibilities.

The Commission is a body corporate with perpetual succession, independent of the Minister for the Environment, the Chief Minister, and the Government of Jersey. We are funded partly by the Government of Jersey, with the remaining costs raised through registration fees paid by providers.

The Commission, as an independent entity, must be free to carry out its responsibilities without impediment and in a timely manner. Our independence is characterised through our behaviours, culture, and identity, including: -

- a. Independent decision making
- b. The Commission determining its own constitution, values, priorities and working practices
- c. Independence of voice and freedom to develop, without interference, engagement with the States Scrutiny function, States members, other regulatory bodies, Law Officers, other agencies / entities, and
- d. Determination of brand and identity

The work of the Commission is overseen by a Board of Commissioners. One is a Jersey resident and an experienced carer. The others live off Island and have relevant skills and experience in the fields of health, social care, regulation and inspection, relevant research, and public service.

The core Team consists of a Chief Inspector, a Deputy Chief Inspector a Head of Business and Performance, Regulation Officers and Administrative Support staff.

What we do

We regulate and inspect services for both adults and children, provided by the Government of Jersey, parishes, private providers, and the voluntary sector to ensure that people receive high quality and safe care.

The services we regulate include, but will not be limited to, care homes providing nursing and personal care, or personal support for people with a range of health and social care needs, care provided to people in their own homes, adult day care services and residential and other services for children and young people.

The 2014 Law allows the Minister for the Environment to transfer existing health and social care regulatory functions to the Commission. We are therefore also responsible for:

- registering health and social care professionals and
- protecting the public from infection risks by regulating piercing and tattooing businesses.
- registering and inspecting premises where lasers are used for cosmetic purposes.
- registering and inspecting Yellow Fever centres.

The extent of our regulatory oversight will expand over time to include services delivered in hospital as well as the community, including social services and mental health services for both adults and children.

The 2014 Law permits the Commission to extend its remit in providing scrutiny and promoting the quality of care in Jersey. We may be requested by the Chief Minister, the Minister for the Environment or the Minister for Health and Social Services to prepare and provide a report upon any aspect of health or social care, but the Commission may act independently to prepare and publish a report on aspects of health and social care, as we think fit.

How we function

We adopt Right-touch regulation principles identified by the Better Regulation Executive and the Professional Standards Authority of:

- **Proportionality:** regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised
- **Consistency:** rules and standards must be joined up and implemented fairly
- **Targeting:** regulation should be focused on the problem and minimise side effects

- **Transparency:** regulators should be open, and keep regulations simple and user friendly
- **Accountability:** regulators must be able to justify decisions and be subject to public scrutiny
- **Agility:** regulation must look forward and be able to adapt to anticipate change.

2. LEGISLATIVE FRAMEWORK

Regulation of Care (Jersey) Law 2014

The Commission was established by the Regulation of Care (Jersey) Law 2014 (the Law) which came into effect on 1 January 2019.

The Commission is independent of the Minister for the Environment, the Minister for Health and Social Services, the Chief Minister and the Government.

The Commission's general functions, powers and duties are set out in Part 7 of the Law. Schedule 2 sets out the detailed provisions in relation to the appointment, resources and funding of the Commission.

Constitution and composition

The Commission is a body corporate with perpetual succession.

The Law currently provides for the Commission to consist of not less than 4 and not more than 8 Commissioners. The Government may amend the minimum and maximum number of Commissioners.

Appointment of Chair and Commissioners

The Minister, after consulting with the Council of Ministers, selects and appoints the Chair of the Commission and decides the duration of the Chair's appointment.

The Chair selects and nominates the other Commissioners to the Minister, who makes the appointments and specifies the term of appointment, which shall be not less than 3 and not more than 5 years.

The Chair and the other Commissioners may be appointed more than once.

The Jersey Appointments Commission oversees the selections.

Detailed provisions in relation to resignation and termination of appointments are set out in Schedule 2 of the Law.

Delegation of functions

Schedule 2 of the Law empowers the Commission to delegate any of its functions, other than the power of delegation itself, to:

- The Chair
- One or more Commissioners
- A Committee comprised of at least one Commissioner and one or more employees or other persons appointed by the Commission
- An employee or other person appointed by the Commission.

Generally, the Commission may employ or appoint such officers, servants and agents as it considers necessary for the discharge of its functions.

Annual accounts and report

The Commission must keep proper accounts and proper records in relation to the accounts. As soon as possible, after the end of the financial year, the Commission must prepare accounts in respect of the financial year and a report on its operations during the year.

The Commission is required to publish the accounts and report and must submit a copy of them to the Minister for the Environment no later than six months after the end of the financial year. The Minister for the Environment must lay a copy of the accounts and report before the States Assembly.

The arrangements for auditing the Commission's accounts are set out in the Framework Agreement between the Commission and the Government of Jersey (see paragraph 3 below - Administrative Framework).

Additional regulatory functions of the Commission

Article 7 of the Law enables the Government by Regulations, lodged by the Minister for the Environment, to transfer to the Commission any function of regulating the provision of any description of health or social care.

The regulatory functions under the following legislation are transferred from the Minister for Health and Social Services to the Commission:

- Medical Practitioners (Registration) (Jersey) Law 1960
- Health Care (Registration) (Jersey) Law 1995
- Piercing and Tattooing (Jersey) Law 2002
- Medical Practitioners (Registration) (General Provisions) Order 2014
- Dentistry (Jersey) Law 2015
- Nursing Homes (Jersey) Law 1994
- Yellow Fever - International Health Regulations

Other legislation directly applicable to the Commission

- Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002
- Data Protection (Jersey) Law 2018
- Freedom of Information (Jersey) Law 2011

Other legislation relevant to the Commission's functions

- Food Hygiene (General Provisions) (Jersey) Order 1967
- Health and Safety at Work (Jersey) Law 1989
- Children (Jersey) Law 2002
- Fire Precautions (Designated Premises (Jersey) Regulations 2012
- Capacity and Self-Determination (Jersey) Law 2016
- Mental Health (Jersey) Law 2016
- Human Rights (Jersey) Law 2000
- Discrimination (Jersey) Law 2013
- Discrimination (Disability) (Jersey) Regulations 2018
- Public Finances (Jersey) Law 2019
- Companies (Jersey) Law 1991
- Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018
- Regulation of Care (Transfer of Functions) (Jersey) Regulations 2018

3. ADMINISTRATIVE FRAMEWORK

Key duties

The Minister for the Environment's formal letters of appointment require the Chair and Commissioners to work with each other, and executive officers, to deliver the key duties of the Commission, which are to:

- ensure that services are regulated and inspected in accordance with the law, in order that all service 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

Framework Agreement

The Commission has a Framework Agreement¹ with the Government of Jersey which sets out:

- the responsibilities of the Minister for the Environment, the Minister for Treasury and Resources in providing the necessary resources, services and support to the Commission to ensure its effective operation in accordance with the intentions of the Government.
- the Commission’s responsibilities in demonstrating its accountability to the Government and to the people of Jersey;
- Four key principles underpin the partnership between the Commission and the relevant Department (i.e. Strategic Policy, Planning and Performance). These principles mirror those of the UK Cabinet Office’s Code of Good Practice relating to departments and arms-length bodies (ALBs).

4. COMMISSION PROCEDURES

The Law empowers the Commission to determine its own procedures.

The Commission has determined the following in relation to the conduct of its meetings and its expectations of Commissioners and Commission staff.

Declaration of Interests and Register of Interests

All Commission staff and Commissioners will make a declaration of any relevant and material interests, pecuniary or otherwise, on appointment and at least annually. The declaration should be in respect of the interests of the Commissioner and their close family members.

The Commission will maintain a Register of Interests, which will be kept up to date by means of an annual review. The Register will be available to the public and published on the Commission’s website.

Declarations of interest will be a standing item on all Commission agendas and any such declarations will be recorded in the minutes of the meeting.

¹ <https://carecommission.je/wp-content/uploads/2020/08/Framework-agreement.pdf>

Meetings of the Commission:

Frequency of meetings

The Commission will meet at least four times a year. Additional meetings may be convened, as required, by the Chair.

Agenda planning and preparation of papers

The Chair will plan and determine the agendas, and supporting papers, for Commission meetings in consultation with the Chief Inspector.

A forward agenda plan ('Forward Look') will be a standing item on all Commission agendas as will the Integrated Risk Register, the Budget Summary, a report from each of the Chair and the Chief Inspector, and any project updates.

Agendas and supporting papers will be distributed no later than one week in advance of Commission meetings.

Publication of meeting times, agendas, papers and approved minutes

The Commission is mindful of the Principle that holders of public office should be as open as possible about all the decisions and actions they take and should only restrict information when demanded by the wider public interest.

The Commission is similarly mindful of the need to protect the confidentiality of the personal data that has been entrusted to it.

The dates and times of Commission meetings will be published on the website at least two weeks in advance of the meetings. Any proposed changes to confirmed meeting dates will be agreed in advance between the Chair and Commissioners.

Agendas, papers and approved minutes of the Commission's meetings will be published on the Commission's website, unless they are deemed by the Chair to be confidential.

The Chair may determine that any individual agenda item be treated as confidential. The presumption is that items will not be confidential unless this is a reasonable requirement. Reasonable requirements might include, but are not restricted to, matters involving sensitive personal data, commercially sensitive information, information provided under legal privilege or publication of which would be premature, or information that might prejudice another process.

Admission of the public and the press to meetings of the Commission

The Commission's business will be conducted in public, except where there is a reasonable requirement that specific matters need to be considered in private. This will be at the Chair's discretion.

The Chair will determine arrangements for admission and accommodation of any members of the public, and representatives of the press, at Board meetings. If meetings are held virtually, this will be announced in advance.

The Chair will ensure that the Board's business is conducted professionally and expeditiously, and the confidential nature of any business is respected, as required.

Staff of the Commission and representatives of external bodies may be invited to speak or to make presentations in accordance with matters listed on the agenda.

Members of the public in attendance at Board meetings may be invited, at the discretion of the Chair, to comment on any aspect of the business under consideration.

Any members of the public or representatives of the press attending a meeting of the Commission will be asked not to make their own recording of proceedings, other than in writing, or make any oral report of the proceedings as they take place, without the prior agreement of the Chair.

Attendance record of Commissioners

Attendance of Commissioners at Commission meetings will be recorded in the minutes of meetings and included in the Commission's Annual Report.

Quorum

A quorum of the Commission shall be:

- The Chair or his/her nominated deputy
- At least two other Commissioners.

A Commissioner who is not present in person at the meeting may participate in the meeting by telephone or video link and count towards the quorum.

Decision making

Wherever possible the Chair will attempt to reach decisions by consensus. If this is not possible matters will be settled by a simple majority of those Commissioners present. If the votes are equal, the Chair will have a casting vote.

5. MONITORING EFFECTIVENESS

The Commission will review its effectiveness annually.

6. REVIEW

The Commission will review this Constitution biannually.

ANNEX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE ('THE NOLAN PRINCIPLES')

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merits.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

