

Minutes

Meeting title:	Jersey Care Commission Board		
Meeting date and time:	Wednesday 15 November 2023, 9:00 am to 13:15 pm		
Meeting location:	1st Floor, Capital House. 8 Church Street and via Teams		
Meeting chair:	Glenn Houston (GH) Chair		
Those present:	Lesley Bratch (LB) Kathryn Chamberlain (KC) Jackie Hall (JH) Noreen Kent (NK) Angela Parry (AP) Gordon Pownall (GP)	Commissioner Commissioner Commissioner Commissioner Commissioner Commissioner	
Attendees:	Becky Sherrington (CI) Mark Silver (MS) Alaistair Jerrom-Smith (AJS) Francis Walker (FW) Valter Fernandes (VF) Catia Magalhaes (CF) Lisa Phillips (LP) Sandra Damiao (SD)	Chief Inspector Head of Business and Performance Project Manager (Item 8) Policy Lead (Item 10) Principal Standards Officer (Item 11) Regulation Officer (Observer) Executive Assistant – Minute taker Administrator	
Apologies:			

Documents presented:	 Agenda Draft Minutes of Board meeting (13 September 2023) Chair's Report Chief Inspector's Report Finance Report Review of Inspection Policy Draft Business Plan and Strategic Objectives Registry Project Presentation Risk Register (3 papers) Project Plan and First Draft of Standards for Services New to Regulation Forward Look
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PART A - PUBLIC SESSION

1. Welcome, Apologies and Declarations of Interest

The Chair welcomed everyone to the November Board meeting.

Catia Magalhaes (CM), Regulation Officer, introduced herself and outlined her previous background and experience to the Board.

The Chair thanked all involved in the September Board Workshop, in particular Sebastian Perez (SP) for the preparation and facilitation of the workshop.

There were no new declarations of interest to note.

Lesley Bratch (LB) proposed, and Jackie Hall (JH) seconded.

2. Minutes of the last meeting and Matters Arising

The minutes of the previous meeting (13 September) were discussed and approved.

Action 1 Review of consistency across the Scheme of Delegation and amendments recommended.

Noted as completed.

Action 2 A review of Legislation and Standards to establish if the registered manager is required to inform people who use services of any enforcement action taken.

The Chief Inspector (CI) updated the Board, noting the action as completed, as the Law has been checked; the responsibility is with the Commission to publish any enforcement/discretionary conditions.

Action 3 Review of consistency across the Complaints Policy and amendments recommended.

Noted as completed.

Action 4: A copy of the press release is to be shared with Commissioners by email

Noted as completed.

The Chair requested two items to be added to the Forward Look. The House Style Guide for February and the review of the Scheme of Delegation for September 2024.

3. The Chair's Report

The Chair presented his report, Document 3, and highlighted the following:

The Chair confirmed that following a meeting with the Minister on November 6, the Minister had approved a second three-year term for Noreen Kent, Angela Parry (AP), and Jackie Hall (JH). The Chair requested an updated profile from each Commissioner to inform the Ministerial Decision.

The Strategic, Policy, Planning and Performance (SPPP) Quarter 4 meeting took place on November 14. The minutes of the Q3 meeting have been approved and will be shared with Commissioners via Teams.

Dates have been scheduled for SPPP quarterly meetings for next year; the dates will be shared with Commissioners, should they wish to join a meeting.

The Government of Jersey had commissioned an ethical review of the proposals for assisted dying. The report, dated November 2023, is available on the GoJ website. The CI had attended a ministerial briefing and updated the Board accordingly. Three ethicists (from the UK) had led the external review as the strategy was driven by policy writers, as opposed to anyone with ethical experience. The CI raised the question, could a registered care provider be a conscientious objector? It was the view of the independent experts that care providers should be able to declare themselves as conscientious objectors and not participate.

AP noted that any provider that intends not to facilitate assisted dying should make this clear in its literature so that the public can make an informed choice as to whether the service is the right one for them.

The Chair noted that the Manx Government is working towards implementing a similar provision within its jurisdiction.

Proposed amendments to the Law on the registration of health and social care professionals has been prepared for consideration by the Minister of Health. The proposal incorporates a twelve-week public consultation to commence at the end of November 2023 to bring existing legislation into a single statute governing the professional registration of all health and social care professionals in Jersey. The Commission may respond to the public consultation as a corporate body. The draft response will be shared at the next Board meeting in February 2024.

The in-year costs of the professional registration project were discussed. It was agreed that as the Commission has a forecast underspend, the 2023 project costs would be covered within budget.

Regulatory matters were discussed with Tom Walker (TW) and TW was made aware of recent and proposed developments in the Commission's Governance framework.

4. The Chief Inspectors Report

The Chief Inspector (CI) presented Document 4.

There have been two major incidents in Jersey since the last Board meeting, the gas shut-off and the storm that had impacted the care sector and the team. These events had provided an opportunity to test the Island's Business Continuity Plan, which was noted to be working well, as is the working relationship between the Commission and the Government.

The CI has been liaising with the GoJ's major incident team, raising the Commission's profile and ensuring that the care sector's voice is heard.

The CI reported on one new complaint about the Commission since the last Board. In March last year, the Commission had received a concern about a registered care provider. The Commission had advised the complainant that the matter should be taken up directly with the care provider, and provided an assurance that complaints management is reviewed by regulation officers during planned inspections. When the inspection report was published, this specific complaint was not referenced. The Deputy Chief Inspector (DCI) had met with the complainant and had apologised if the expectation was that the complaint would be referenced in the report. The DCI is supporting the complainant in pursuing the matter with the provider.

The CI updated the Board on workforce developments. Two new regulation officers have recently joined the Commission, one with experience in the care sector and governance, and another with a social work background, including experience in the areas of deprivation of liberty and mental capacity.

A member of the administrative support team has resigned and will be leaving the Island. A recruitment process is on-going to find a replacement. The Chair noted the Commission's thanks, appreciation and best wishes for the future.

The CI updated the Board on the 'Away Day' held on November 8, which was a team development event that involved a communication style analysis and a colorworks profile.

The Project Manager continues working on the digital project, and the Commission continues to work with external consultants to prepare for inspections of Children's Social Care.

Once a month, the team reviews inspection progress and can confirm that the planned programme is on target to be completed by year end. The CI thanked Sandra Damiao (SD) for developing the dashboards.

Preliminary activities for children's services inspections have been a positive experience and the Child and Adolescent Mental Health Service inspection in

October was well supported by the Royal College of Psychiatrists. The inspection report is expected to be published in January.

The CI meets weekly with the communications team to discuss the social media plan and any emerging issues. The most significant media event since the last Board is the 'Care Conversations' piece, a series of videos on social media, and an accompanying article in the press. The Chair thanked all those involved in the Care Conversations social media posts and videos.

The Commission is working with the communications team (Switch Communications) to plan for the hospital inspection and to manage public expectations. There will be a public consultation for the proposed amendments to the Regulation of Care (Jersey) Law 2014 and the associated Regulations.

The results of the Picker Survey have been shared with providers and the findings will be published in the inspection reports.

The Commission has been working with an external consultant to conduct a thematic review of the inspection reports of children's homes. It is intended that this review will be published in an integrated report at the end of the year, or the beginning of next year. It was noted that the intention of the thematic review was to look at the quality of existing provision, rather than sufficiency and capacity. The Commission may, however, make strategic recommendations that could impact on future models of care provision. NK noted that the Excellence and Care website for Healthcare Improvement Scotland includes a dashboard around capacity and workforce and how it impacts care. NK to share the link with the CI.

The existing piercing and tattooing 'Code of Practice' is being reviewed and a revised version will go out for a targeted consultation.

The Commission is due to host a webinar session with the Office of the Information Commissioner regarding data protection, scheduled for November 23.

5. The Financial Report

The CI continues to meet once a month with the Finance Business Partner.

The CI presented Document 5 and provided an outline of income and expenditure for the year to date (October 2023) and highlighted:

- There is a cumulative underspend of £270k, due mainly to the phased recruitment plan.
- Income reported an overachievement of £19k (month 10).
- The income forecast variance reflects an overachievement of £16k at yearend.
- Non pay reported an underspend of £33k year to date, with an end of the year forecast of £44k. The underspend is driven by slippage in consultancy costs, noting there will be additional costs for independent consultants due in November and December.
- The in-year underspend mitigates the cost pressure of the registry software upgrade, which has risen to £120k.
- There is an increase in staff training costs.
- It was noted that the 2024 communications budget is stated as 'Editorial'.

The budget has increased and takes account of the additional roles required in 2024. Reduction on Non-Pay expenditure follows re-profiling of projected costs and accounting for the secondment of a standards writer within staffing / payroll.

Recruitment is ongoing for a part-time pharmacist role and an additional administrative officer.

Office space was briefly discussed; whilst the available space is sufficient to meet existing requirements the office may require reconfiguration to allow for additional staff.

6. Review of Inspection Policy

The CI presented document 6.

The CI noted that the policy outlines the inspection process overall, but is the first iteration of how the Commission operates as an inspectorate. Going forward, the Commission needs to consider how best to amalgamate three separate approaches into a single policy document. The Board noted that this is a significant piece of work that should be the agenda for a future Board workshop.

LB mentioned the reference to the term 'warrant card' and asked if this requires a review to make it less officious. Under 'Responsibilities' the policy should note that the DCI is accountable in the CI's absence.

The reference to the 'seizing of documents and other materials' was discussed. It was noted that a receipt should always be provided to the care provider, where this ever to occur. The CI will add this to the policy.

Kate Chamberlain (KC) noted that paragraph 12 states that the effectiveness of the policy will be monitored by Commissioners during scheduled Board meetings. This needs to be considered further, in particular, how this requirement will be addressed in a regular cycle going forward. It was noted that a front cover would be helpful to note feedback received for evidence of effectiveness.

The Chair asked if a reference should be made to the Regulation of Care Standards and Requirements, (Jersey) Regulations 2022. The CI Noted that each time the Regulation of Care Law is amended, the policy would require updating. This is to be reviewed during the workshop.

7. Update on Inspections of Social Work / Social Care Services for Children and Young People

The CI provided an update on the preparations for the inspections of children's services. The planning has been robust. Working with a project lead has been helpful in keeping within the project plan.

The first planned 'annual conversation' has occurred with the CI, the Chief Officer of Children's Services, the Regulation Officer and the Lead Inspector. The annual conversation allowed the service to present on areas they understood to be working well, and areas of vulnerability, and to discuss the basis of their self-evaluation. The annual conversation was a positive event and the outcome will be reflected in the inspection reports.

The Picker Survey of Family Nursing and Home Care (FNHC) and Children's Services has concluded. The uptake was high and the reports have been shared with the services.

There are specific leadership challenges within Children's Social Care at present, but this will not affect the timings of inspections.

8. Draft Business plan and Strategic Objectives

The Head of Business and Performance (MS) presented Document 7.

MS outlined the content of the draft three-year Business Plan 2024 – 2026.

MS has streamlined the strategic and business objectives and has referenced the links to the Commission's mission and vision.

Each objective has been given a short title, with a more detailed explanation of the intention.

The Business plan will return to the Board in February 2024 for further consideration and sign-off.

KC noted under Objective 2, 'Collaborate with Providers, Government and other stakeholders' that it should be clear that the Commission's role is both to regulate and inspect, and to drive improvements in outcomes and services.

GP noted that wording could be simplified to make it more accessible or palatable to the public. GP will share his specific comments with MS.

AP noted that outcomes are important as well as Key Performance Indicators (KPI's).

NK noted concerns regarding language surrounding the 'Encourage the development of the legislative framework to enable the direct provision of regulatory activities, including inspections, in other jurisdictions' under 'Collaborate with providers, government stakeholders'. The Chair commented that the intention is to amend the legislation to create opportunities, but does not commit the Commission to working in other jurisdictions until there is capacity and it is deemed in the Commission's best interests. The CI confirmed that if the legislation is amended it would create an opportunity for sharing and working with others, which may result in added value, rather than an over commitment.

The draft will be available in SharePoint and MS welcomes any further comments to be sent to him via email.

9. Registry Project Update

Alaistair Jerrom-Smith (AJS), Project Manager, presented Document 8.

AJS provided the Board with an overview of progress and highlighted key elements of the project approach:

- Move Public Registers to the Care Commission's Website
- Upgrade CRM to v9.2 (Cloud) to allow email to be sent automatically through the database, which reduces renewal workload for administrative staff and reduces the scope for error during the renewal process.
- Additional registration types for compliance with the proposed 2024 Law to be enacted.
- Online authentication and online forms which reduce identity fraud and misrepresentation, improves service end-user (public) safety and reduces risk of errors.
- Online payments which reduce workload for administrative staff on chasing payments / reconciling and ease of processing for the end user.

The Project remains 'green' and is forecast to remain green for the next two weeks (until the next Project Board Meeting). The budget was initially £200,000 and this has been revised down to £120,000.

AJS confirmed arrangements for user acceptance testing with the intention of going live in January 2024 in a phased process.

The Chair thanked AJS for the update and invited him to a Board meeting in May 2024 for a final report on the roll out of the new system.

10. Risk Update

The Head of Business and Performance presented Document 9 and provided the Board with an update on the risk register.

The risk numbering has been reviewed and re-structured:

• Risk 1/2023 Data Governance-proposed reduction in overall score to 6.

The areas of risk remaining are around lack of controls such as Roles Based Access, and slower than preferred progress on agreeing Memoranda of Understanding (MOU's). These areas will be reviewed in depth as part of the data governance review, but the overall risk is likely to be low, and is well mitigated. Full assurance will be provided once the review has been completed, but moderate assurance can now be provided.

• Risk 2/2023 Engagement Children's Services, propose to replace with new Risk 3/2023.

It is proposed that this risk is closed and replaced by a new risk focused on the rollout of inspections to areas new to regulation in 2023/2024. A draft proposed risk has been included in the register, Risk 3/2023 New proposed (redefined) risk- Delivery of inspection programme to areas new to regulation reduce the score to 6.

• Risk 4/2023 Fitness to Practise Process (FTP) & Risk 5/2023 Independent action pending FTP action from UK professional regulatory bodies, propose to replace with Risk 6/2023 UK professional regulatory bodies and Fitness to Practise (FTP) and reduce the score to 9.

In view of the resolution of the immediate issue regarding action by the Commission pending FTP action by a UK regulatory body, it is proposed these risks are rearticulated and refocused into a single risk.

• Risk 5/2023 Independent action pending Fitness to Practise action from UK professional regulatory bodies.

It is proposed to merge this risk with the risk 4/2023 and close this risk. New wording **Risk** 6/2023 New proposed risk UK professional regulatory bodies and Fitness to Practise (FTP)

Professionals undergoing FTP could be free to continue to practise without restrictions or with inadequate controls, potentially putting the public at risk. The rating of this new risk is assessed as Likelihood-Probable 3, (21-50%) Impact likely to be around Reputation 3, Medium, overall rating 9.

• 7/2023 New Risk-Representations

The risk could meet the definition of Likely to occur 4, (51-80%) will probably occur in most circumstances but not a persistent issue. However, it fits the definition of 3 Probable (21-50%). May occur at some time in the foreseeable future and recur occasionally. This would give an overall assessment of 12.

• 8/2023 New Risk-Development of new standards for hospital, ambulance, and adult mental health services

The Commission has experience of developing new Standards but this is a large piece of work with significant potential for reputational harm should substantial delays or issues occur. Overall risk is assessed as Likelihood 3 (21-50%) Probable, and Impact 3, Medium. Impacts are likely to be reputational, or to delivery of the Project and wider inspection programme. As such, this risk should be included on the Board's risk register with regular updates to provide assurance. Overall risk rating 9

• 9/2023 New Risk-Critical Incident role of the Commission

The Government owns the main risk. However, recent events show there is scope for fragmented or non-joined-up working which could result in vulnerable service users being placed at risk of harm. The most severe impacts on the well-being of service users are unlikely to be attributed to the Commission, nevertheless, there could be reputational impact that would affect the Commission. The Commission has already started taking mitigation action by discussing the issues with Government.

The Likelihood is assessed as 3 probable (21-50%) with Impact 3, Medium, short term or temporary reduction in stakeholder confidence.

- 10/2023 New Risk-Nonpayment of fees piercing and tattooing score 4 Likelihood, Unlikely (6-20%) 2, Impact, Minor 2, Overall 4, risk should be monitored but not expected to require Board intervention
 - 11/2023 Single Assurance Framework propose to close.

It was decided the current assessment of risk is correct, and this remains a medium (6), unlikely to require Board intervention but remaining in the monitored risk section. This is partly as any change in regulated sectors would take time, giving the Commission sufficient time to prepare for any changes and identify any additional required mitigation. However, the risk has been updated to better articulate the source of pressures on the Commission. Controls and actions were also reviewed and updated.

• 12/2023 Single/Business Assurance Framework

That this risk is now closed.

NK highlighted that consistency is required regarding language in the scoring being monitored by the Board, and a couple of typos were noted for correction.

Cyber security risks were briefly discussed. It was confirmed that Modernisation and Digital hold the primary risk. All staff are required to complete mandatory cyber risk training annually. This may need to be highlighted as a risk to the Commission going forward.

The new risk 7/2023 Representations was discussed further. It was noted that the Commission had received legal advice. This risk requires further consideration.

MS presented the Assurance Framework that has been recently developed and provided an assurance overview update. MS created a checklist with all information provided in one place. MS used the Government of Jersey Checklist and highlighted some items that were not relevant to the Commission. MS confirmed this is a work in progress as he intends to add evidence to the Framework.

MS provided an overview of the dashboards and invited views of the kind of information required for additional dashboards. KC noted that there were several repeated inspections, which may impact inspections for other services. The CI confirmed that capacity is currently monitored, is not a risk, and the inspection programme is on target.

The Chair thanked MS for his work on the Risk Register and for the initial draft of the Assurance Framework which will be further developed and presented to the Board for detailed consideration.

11. Discussion on the amendments or proposed amendments to the Regulation of Care Law

The Chair welcomed Francis Walker (FW) to the meeting.

FW updated the Board on the regulation of healthcare services.

- Amendments will be made to the Regulation of Care (Jersey) Law 2014 (the "2014 Law") to include hospital, ambulance and mental health services, subject to public consultation.
- Primary Law amendments to strengthen aspects of the Regulation of Care (Jersey) Law 2014.
- Existing legal requirements under the Regulation of Care (Standards and Requirements) (Jersey) Regulations 2018 (the "2018 Regulations") will be updated in preparation for regulating the new service categories.

The timetable for the Project was outlined as follows:

- March 2023: Law drafting instructions finalised.
- March 2023 to January 2024: Draft legislation developed.
- January to April 2024: Consultation on draft legislation.
- Q3 2024: Draft legislation lodged in the States Assembly for debate.
- Q3/4 2024: Draft legislation debated by the States Assembly.
- Q4 2024: Legislation comes into force.

FW confirmed to the Board the proposed amendments to the 2014 Law (Primary Law Amendments)

 Restrictions on who may apply to be a commissioner are restrictive as they are not time-limited – all restrictions will now be time-limited to 9 years.

- The disqualification for those who have worked in health or social care in the Isle of Man and Guernsey will be deleted.
- Currently, there are no final term limits for Commissioners and the Chair this will be amended to align with the Jersey Appointments Commission limits. All will be allowed to serve for a maximum of 9 years.
- Annual reports must be published in a timely fashion and conform with prevailing standards and requirements.
- The Commission must publish a strategic plan alongside its annual report, outlining the financial requirements for the next financial year, based on the previous year's performance and the expected programme of work in the year ahead.
- Annual accounts, which conform with the standards for the States accounts, must be included in the annual report.
- Annual accounts must be audited by an auditor appointed by the Comptroller &
 Auditor General, but, where the Commission's accounts are included in and audited
 as part of the States of Jersey's accounts, the Commission will not be required to
 appoint separate auditors.
- The Law will include a power for the Commission to provide services in other jurisdictions and to charge reasonable fees for those services.
- It is not proposed to change the current sanctions regime.
- It is not proposed to change the current provisions governing essential services. Under Article 22 of the Law, an essential service "means a regulated activity –
- (a) which is carried on by a Minister; and
- (b) which is not carried on by any other person."
 - The Commission would not be able to impose conditions restricting hospital or ambulance services provided by a minister.

There were brief discussions surrounding the Professional Registration Law Project. Project timetables were outlined:

12-week consultation November 2023.

Consultation report published March 2024.

Law drafting instructions approved May 2024.

Law lodged in the States Assembly for debate Q3 2025.

Law comes into force Q1 2026.

The Chair thanked FW for the presentation and for attending the meeting.

12. Project Plan and First Draft of Standards - New Regulation

The Chair welcomed Valter Fernandes (VF) to the meeting.

VF updated the Board on the work that has been undertaken to prepare for the inspection of the three new services, the Jersey General Hospital, Mental Health Services and Jersey Ambulance services.

Weekly meetings are scheduled with the dedicated Project Manager, dedicated administrative support and the team with the Cl's oversight.

The timeline represents the most important external dependency, which is the process of making amendments to the Regulation of Care Jersey Law 2014, which will take most of 2023 and 2024. The timeline was discussed.

- March 23 Law drafting instructions finalised.
- March -October 23 Draft legislation developed.
- Q1 24 Consultation of draft legislation.
- Q2 24 Draft legislation lodged in States Assembly for debate.
- Q2-Q3 24 -Draft legislation debated by States Assembly.
- Q4 24 Legislation comes into force.

The Commission will schedule meetings with care providers for further engagement, and in January 2025, the registration period will commence. A Standards and Inspection Handbook will be published, leading to the first inspection in or around September 2025.

A risk register for the Project was briefly discussed and has been mapped across to the Commission's main risk register.

The Service Level Agreement (SLA) with the Care Quality Commission (CQC) has been signed off by both organisations. CQC will support the Commission with inspections. The CQC has produced a Single Assessment Framework and the benefits of this approach were outlined.

The Commission's draft Standards are based on five key elements of care, similar to those proposed by the CQC. The 35 Standards underpin the five key elements and work is progressing on identifying the key lines of enquiry and evidence that will underpin the Standards and will help to inform decisions as to how compliance is being achieved, or not, across the services that are to be inspected.

VF proposed a strategic alignment for guiding principles: respect, voice, safety, choice and quality. There is an alignment between the guiding principles that inform the Standards and what is informing the Standards going forward. It was highlighted that the Commission's current guiding principles and values are equally important. JH asked that this be afforded further consideration, so that an inspection focus on service users experiences and opinions be retained as a key tenet of our approach.

The terms 'We' and 'I' were discussed within the Standards. The recommended approach is that the service providers need to own the Standards. Therefore, they are written in a 'We' format to evidence this. There are 'I' statements too in respect of service users' expectations.

The Chair pointed out that the Standards must reflect the Regulations, which is an important consideration in any escalation or enforcement action.

The draft Standards were discussed, and it was highlighted that they will require further consideration by Commissioners. The first draft will be shared with Commissioners for feedback and brought to the February Board for approval. It was confirmed that the intention is to have a single set of Standards covering the three areas new to regulation.

The Chair thanked VF for the presentation and his work on the Project.

	12.	Forward Look
The Chair noted items to be added to the Forward Look. The House Style Guide for February and the review of the Scheme of Delegation for September 2024.		The Chair noted items to be added to the Forward Look. The House Style Guide for February and the review of the Scheme of Delegation for September 2024.

JERSEY CARE COMMISSION Action Points

	Action Point	Owner	Status
1	The new risk '7/2023 Representations' requires further consideration to demonstrate a policy was followed and the rationale behind decision-making.	The Chair	Ongoing
2	Amendments noted for The Inspection Policy (to be reviewed in a Board workshop)	The Chief Inspector	Complete
3	Amendments noted for the risk register	Head of Business and Performance	Complete
4	First draft of Standards to be shared with the Board.	Valter Fernandes	Complete
5.	The Commission will consider whether to respond to the public consultation on professional regulation.	The Chair	Ongoing