

# Governance and Accountability of Independent Bodies and Office Holders

## Project Specification

### Background

There are a range of public sector activities, including those of a regulatory, audit, oversight or challenge nature, that, by their nature, need to operate with an element of independence from the Government of Jersey.

The constitutional arrangements for the bodies established by the States Assembly to undertake these type of activities differ. For example, they are variously performed by:

- separately constituted bodies outside the States of Jersey, some funded by grants from the Government of Jersey and others by levies
- independent office holders within the States of Jersey operating through non-ministerial departments with separate revenue heads of expenditure in the Government Plan
- separately constituted bodies within the States of Jersey without separate revenue heads of expenditure in the Government Plan; and
- independent office holders within the States of Jersey without separate revenue heads of expenditure in the Government Plan.

A list of such bodies is included in the Appendix to this project specification.

These bodies and office holders are subject to a variety of arrangements for governance and accountability including in relation to:

- funding, including maintenance of reserves
- financial control, including the application of the Public Finances Manual
- employment of staff

- use of Government of Jersey support services, including for finance, IT, estates and human resources
- oversight by an Audit Committee or equivalent
- internal and external audit; and
- the content and publication of annual reports and accounts.

The arrangements have developed organically without an overarching framework for determining the governance and accountability arrangements for such bodies and office holders.

My predecessor and I have issued reports touching on aspects of the governance and accountability arrangements for such bodies and office holders:

- *Non-Ministerial Departments* (December 2019)
- *Governance: A Thinkpiece* (December 2019)
- *Annual Reporting* (August 2020)
- *Public Audit in Jersey: A Thinkpiece* (January 2021); and
- *Annual Reporting* (November 2021).

## The Functions of the Comptroller and Auditor General (C&AG)

Article 11 of the Comptroller and Auditor General (Jersey) Law 2014 requires the C&AG to:

- provide the States with independent assurance that the public finances of Jersey are being regulated, controlled, supervised and accounted for in accordance with the Public Finances (Jersey) Law 2005
- consider and report to the States on:
  - the effectiveness of internal controls of the States, States funded bodies and funds
  - the economy, efficiency and effectiveness in the way the States, States funded bodies and funds use their resources; and
  - the general corporate governance arrangements of the States, States funded bodies and funds; and

- make recommendations to bring about improvement where improvement is needed.

Article 13 of the Comptroller and Auditor General (Jersey) Law 2014 empowers the Comptroller and Auditor General to report on the following matters in respect of bodies established by an enactment or an Act of the States of Jersey where the establishing enactment or Act provides for audit other than by the Comptroller and Auditor General:

- the body's accounts
- the body's general corporate governance arrangements
- the effectiveness of the body's internal controls and of the internal auditing of those controls;
- whether the body's resources are being used economically, efficiently and effectively; and
- action required to bring about improvement where improvement is necessary.

## Objectives of this review

The review will:

- establish the differences in arrangements for governance and accountability of independent bodies and officers, including in relation to:
  - funding, including maintenance of reserves
  - financial control, including the application of the Public Finances Manual
  - employment of staff
  - use of Government of Jersey support services, including for finance, IT, estates and human resources
  - oversight by an Audit Committee or equivalent
  - internal and external audit; and
  - the content and publication of annual reports and accounts.
- determine the extent to which there is evidence of clear justifications for such differences; and

- consider the extent to which it might be possible to establish an overarching framework for the governance and accountability of independent bodies and officers.

The output from the review will be a Thinkpiece designed to stimulate thought and debate.

## Scope

The review will cover independent bodies and officer holders established by the States of Jersey that undertake independent activities, including those of a regulatory, audit, oversight and challenge nature but excluding those undertaking judicial activities or otherwise involved in the administration of justice.

The review does not extend to:

- States-controlled companies; or
- States-aided independent bodies in receipt of grant funding.

A list is included in the Appendix to this Project Specification.

## Approach

The review will involve:

- desk based research
- a structured questionnaire to independent bodies and office holders with supplementary enquiries of such bodies and office holders; and
- interviews with key officers within the States of Jersey.

The review will commence in July 2022.

The detailed work will be undertaken by the Deputy C&AG.

## Independent Bodies and Office Holders

Independent Body or Office Holder	Enactment establishing
Commissioner for Children and Young People	Article 3, Commissioner for Children and Young People (Jersey) Law 2019
Competition Regulatory Authority	Article 2, Competition Regulatory Authority (Jersey) Law 2001
Comptroller and Auditor General	Article 2, Comptroller and Auditor General (Jersey) Law 2014
Data Protection Authority	Article 2, Data Protection Authority (Jersey) Law 2018
Director of Civil Aviation	Article 2, Civil Aviation (Jersey) Law 2018
Financial Services Commission	Article 2, Financial Services Commission (Jersey) Law 1998
Gambling Commission	Article 2, Gambling Commission (Jersey) Law 2010
Health and Social Care Commission	Article 35, Regulation of Care (Jersey) Law 2014
Independent Prison Monitoring Board	Regulation 2, Prison (Independent Prison Monitoring Board) (Jersey) Regulations 2017
Jersey Appointments Commission	Article 17, Employment of States of Jersey Employees (Jersey) Law 2005 <sup>1</sup>
Jersey Charity Commissioner	Article 3, Charities (Jersey) Law 2014

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<sup>1</sup> In 2021 the Government of Jersey consulted on proposals to replace the Jersey Appointments Commission with a new Public Appointments Commission. No legislation has yet been adopted by the States Assembly.

Independent Body or Office Holder	Enactment establishing
Jersey Police Complaints Authority <sup>2</sup>	Article 2, Police (Complaints and Discipline) (Jersey) Law 1999
Office of the Financial Services Ombudsman	Article 2, Financial Services Ombudsman (Jersey) Law 2014
Official Analyst	Article 2, Food Safety (Jersey) Law 1966 <sup>3</sup>
Police Authority	Article 4, States of Jersey Police Force Law 2012
Statistics Jersey	Article 2, Statistics and Census (Jersey) Law 2018 <sup>4</sup>

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<sup>2</sup> The Draft Police (Complaints and Conduct) (Jersey) Law 202- would, if it is adopted and receives the Royal Sanction, rename the Authority as the Jersey Police Complaints Commission and makes significant changes to the arrangements for handling complaints

<sup>3</sup> The Draft Official Analyst (Jersey) Law 202- would, if it receives the Royal Sanction, make significant changes to the governance and accountability arrangements for the Official Analyst.

<sup>4</sup> In 2021 the Government of Jersey proposed amendments to the Statistics and Census (Jersey) Law 2018. No amendments have yet been made.



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