

Jersey Charity Commissioner

Annual Report for 2020

Jersey Charity Commissioner's Annual Report 2020, published on 30 April 2020
and provided to the Minister for him to lay it before the States
under Schedule 1 (Article 3) 4(10) of the Charities (Jersey) Law 2014.

This report is available at www.charitycommissioner.je



Any enquiries regarding this report should be sent to [**info@charitycommissioner.je**](mailto:info@charitycommissioner.je)

R.79/2021

Headlines for 2020

- **421 charities on the register (431 at 30 April 2021)**
- **21 of those in the restricted section of the register, the remainder being in the public part**
- **121 newly registered during 2020**
- **48 applications for registration withdrawn in total (36 during 2020)**
- **assets of registered charities of about £600 million**
- **annual spending of registered charities around £125 million**
- **median assets of registered charities (cash and valued assets) about £54,000 (average £1.5 million)**
- **median expenditure of registered charities about £37,000 (average £297,000)**
- **around 1700 people serving as charity governors**
- **annual running cost of the Charity Commissioner's office (including maintaining the Register) £0.2 million**

Introduction

1. Under the Charities (Jersey) Law 2014 (“the Law”), I am required to publish an annual report on my work as Commissioner. I must also provide the Minister with a copy of it within four months of the end of the year to which it relates; I have done that. He or she must lay that copy before the States as soon as practicable after having received it. The Minister may give me directions as to the content and form of the report but has not done so.

2. In this report I use the first person both in the singular and plural. Where I employ the latter it is because I am overtly referencing the collective view of myself and my esteemed colleagues, Richard Jouault and Nicky Martini, without whose sterling work and contribution to our counsels the efficacy of the Commissioner’s jurisdiction would be pretty well at naught. I should add that both removed to work of national importance for the first few months of 2020’s trouble but that they nonetheless kept the office going with but a few delays and excursions.

3. The report is in two sections. The first is a retrospective on 2020, with some reflections and thoughts on the principal issues and considerations. The second is a more detailed look at activity and performance in 2020, also summarising our expenditure for the year.

4. For ease of reference, the charity test in the Law is that all the purposes of an entity must be charitable purposes and that, in giving effect to those purposes, it must provide or intend to provide public benefit to a reasonable degree. The Law describes fifteen charitable purposes and allows for other purposes reasonably analogous to those. It also specifies certain rules regarding public benefit which, in essence, derive from the English common law of charity and to which I must have regard in determining the charity test. These mainly concern the avoidance of private, as opposed to public, benefit and ensuring that potential public benefit is not outweighed by potential or actual public ‘disbenefit’. This is all spelled out in my Guidance Note 2 which, along with other guidance on the operation of the Law, can be found at www.charitycommissioner.je.

5. At the heart of the registration process is the need for me to approve an entity’s registered public benefit statement, which describes what it is that the entity does or will do to give effect to what it was set up to do: the delivery of public benefit. All such statements are available to view on the register, along with other germane information such as the names of governors, and they must be refreshed annually with a narrative on how things have gone in the preceding period. Upon registration, public benefit statements have the effect of creating a public benefit duty upon charity governors, who must act in a manner consistent with them.

6. The Law gives me a range of powers and duties including the maintenance of the charity register and to help me to seek to ensure that registered charities continue to meet the charity test. It requires me, especially, to seek to act, in performing my functions, in a way that, so far as reasonably practicable, protects public trust and confidence in registered charities. I regard that as the key principle that we must always strive to follow, which must never be taken for granted.

2020 in Retrospect

7. 2020 marked the concluding phase of determining the initial wave of applications for registration from existing Jersey entities which had begun in 2018, the Law having come into force. At the end of the year there were 421 Jersey charities on the register, 121 of which were registered during the year. By 31 December 2020 we had received a total of 513 applications for registration of which 48 were subsequently withdrawn and a number put on hold in agreement with those concerned. As at the date of this report, 29 April 2021, the number on the register had risen to 431. I have not, so far, rejected any applications but would probably have had to do so for some had they not been withdrawn.

8. To say the least, 2020 was, for well-known reasons, a less than easy year, and by the same token a curious one, too. Undaunted by odds, however, many Jersey charities, as ever, did a lot of good things to help and support citizens in abnormal times and shewed good drive, resilience and innovatory behaviour in so doing when much normal fund-raising activity had had to be put on hold. New or novel ways of raising money or obtaining other forms of support were sometimes found. While the activities of many were perforce cribbed for much of the year, as happened with so many businesses of all kinds, it was equally evident that others were far from enervated. This was good to observe.

9. We sought to do our bit by being relaxed about, for example, reporting deadlines and methods for holding annual meetings, issuing guidance on these things in spring 2020 when it was becoming clear that practical difficulties were likely to mount because of the situation in the country. No great problems emerged from any of this but we shall get a better sense of the impact of the year's happenings across the whole range of organisations only from this year's round of annual returns.

10. While a good number of registered charities were constrained during 2020 from doing much, but a few failed to last the course for one reason or another, therefore seeking deregistration. I would hesitate in saying that this was, in each case, due only, or even primarily, to the wider situation but, to a degree, the latter was obviously something of an exacerbescence, perhaps influencing some charity governors – but only a few - as to their ability or will to pick up the reins again afterwards. The scheme of the Law in a deregistration is that any remaining monies must be paid away in support of related charitable activity. I have to approve whatever is proposed. In some cases, so does the court. Monies, once charitable, must stay that way. Things having still been cabined in the first part of 2021, it would not be wholly surprising if the prospect of a few deregistrations was seen by some as prodromic. My own view is to doubt such a view. I expect that in a year's time I shall have to report maybe a dozen or so deregistrations and a 'failure' rate of a relative handful a year may more likely just be happenstance. Businesses fail all the time, for all sorts of reasons.

11. More certain in my mind at this stage is that, as time goes by and we see a reversion to normalcy, we come to perceive a need for fresh thinking about the overall financial and operational resilience of registered charities in Jersey. Many of them are small in the scheme of things, or even very small, just like Jersey itself in the wider world, and many are not that well-resourced despite every effort of trustees, volunteers, staff and donors.

Our charity sector is, to a very large extent, one of micro businesses, facing all the same pressures as that whole group, whether economic or from regulation or market complexity imposed by rule makers, public or private. And the giving market is obviously competitive, as are some charities themselves which seek their outcomes in similar or adjacent spaces in such a small place. I think it would be wrong not to expect change resulting from such facts and forces, even though it would probably be a gradual process. The question for discussion is whether there is any worth in trying to anticipate the impact of such change, or otherwise aiming to avert the underlying uncertainty. There probably is. One place to start might be to look with fresh eyes at how the government and ministry relate to registered charities and charity generally, including its substantial transfers of taxpayers' funds for commissioned services or other activity. The same may go for the parishes, where it does not always seem to be crystal clear why one entity is supported by ratepayers but another not.

12. The data we now have about registered charities is worth a moment's pause for thought. Intrinsicness for public policy apart, for the first time we are provided with some reasonably rich data with which to begin to illustrate aspects of the structure, nature and financial standing of the whole charity sector and its standing in the economy, the which has hitherto been quite well hidden, or even neither observable nor perceptible at all. I say 'begin' because there is certainly further to go with the analysis. Eventually, it will, I hope, be evidentiary for quantifying the importance and value of the charity sector in the whole community of Jersey, for so long a known unknown, so to speak. The first fruits of this data, duly aggregated, are plucked in this report.

13. A few examples give an indication of what we can now begin to know:

- **there are upwards of about 1700 citizens serving as governors of one or more registered charities.** There are about 80,000 citizens aged between 20 and 80, to which demographic cohort I suspect most charity governors belong. So, broadly speaking, one in 50 serves as a governor. My guess is that that proportion rises quite a bit as one moves up the age range. This is a very significant volunteer army whose huge endeavour and added value to the polity one senses has not much been remarked before. (Knowing more precisely about the quantum of voluntary work undertaken on behalf of or through registered charities is equally important to be cognised but will have to wait for the moment.)
- **median annual expenditure by registered charities is around £37,000.** Average expenditure is, not surprisingly, rather higher: around £300,000. That comprises a range from under £100 in the first decile to over £2 million in the tenth. The charity sector is, to a large but not total extent, a world of micro businesses, which is the main reason why the impact of uncertainty upon it is potentially such a significant risk
- **average cash in hand and valued assets of registered charities at the end of 2020 was about £1.5 million** but in this instance, too, the median is unsurprisingly very much lower – about £54,000 – the average numbers being affected by a few significant outliers. Notwithstanding, that average represents around £600 million of assets across both those registered in the general and

restricted sections of the register. There is quite a sharp difference here between general and restricted registrations – see the more detailed data later in this report. This data excludes unvalued assets such as churches or many community buildings

- **some 278 of our registered charities operate only in Jersey.** Another 58 operate in both Jersey and the United Kingdom. 19 operate in the UK and overseas. 30 operate only overseas. A further 38 do not record a specific geographical area of operation usually because they have no limit
- **aggregate annual expenditure in Jersey by registered charities is about £90 million.** (This figure needs a slight health warning since it will double count some grants made by registered charities to other registered charities and it will also include taxpayers' funds used by the government to pay for commissioned services

The figures remain somewhat broad but the point that emerges is that here is no exility. Rather, we see a 'horizontal' sector of the economy of substantial size, driven quite heavily by giving and voluntary labour. And that's not counting the value of public benefit delivered, which in many cases may be transformational even though not so easily reflected in 'GVA'. We shall be working during 2021 on seeking to refine the robustness of the aggregate data now revealed to us, when we shall also hopefully be able to see how far, if at all, things in 2020 may have been aberrant.

14. Most initial registration work having been concluded our attention has now more strongly turned to annual returns. All registered charities must submit a return once a year. This is not only the principal means by which the information in the register is to be kept up to date but also the way we can aim to ensure that the charity test continues to be met by any given entity. For it has to be remembered that the test is not a once-off affair, like, say, a driving test or a business name registration. Charity governors take on a public benefit duty upon their organisation's registration and that is continuant. They may not deviate from their pursuit of exclusively charitable purposes the which are given effect through the delivery of public benefit to a reasonable degree, and they must act in good faith under the Law or other governing laws as the case may be. Requisite for each annual return is a narrative statement that must set out, reasonably succinctly but certainly pellucidly, what a registered charity has done in the year past to deliver its objects. I must approve those narratives before they are placed on the public register. In this way people may know whether what is said on the tin, so to speak, is being done, and we shall best be able to secure through our intervention or office that public trust and confidence in registered charities is protected. All the narratives are readily available on the register and, little by little, through exhortation rather than regulation, we shall aim to make all of them approachable, comprehensible and informative.

15. The annual returns will thus become our principal regulatory tool and the main routine source of contact with our registrants. Dealing with all the returns to the standard warranted by the underpinning statutory duties, and in order to keep the register pristine, is going to be quite demanding. We are giving some thought at present to the

best way of managing the process for, like so many charities, ours is a micro business, too. We must, for instance, take special care where monies are spent overseas and also look with great care at activity among the 20 or so restricted section entities. Annual returns are also a vehicle for data transfer, and I expect it may soon be meet to look at what further information could readily and without burthen be provided to help build a comprehensive and authoritative view of things. Items possibly on the agenda might include basic environmental reporting, quantum of taxpayers' funds received, numbers of paid staff and volunteers, and so on. Such data aggregated into a composite picture of the charity sector, updated yearly, would, I believe, be valuable for everyone in ensuring quantified recognition of the important place of registered charities in our civil society and economy.

16. Other aspects of our workload are developing. I would single out:

- **a slow but steady continuing flow of applications for registration**, mostly from newly-formed entities. Experience is suggesting that a fair number of these may not be straightforward to resolve. One senses, for instance, some pushing at the somewhat eludible boundary between charity and philanthropy (which latter may or may not be charitable depending on purpose); and the bringing forward of some structures wherein private benefit, charity's main enemy, may lurk too heavily. There seems, though, to be little doubt that a driver here is the cachet of the 'Jersey Registered Charity' brand, a cachet that seems to offer some concrete benefits in certain other countries especially as 'beneficial ownership' rules come into play in financial services markets worldwide
- **some emerging issues and pressures in our domestic market as between the mandates of the Charities Law and the Trusts Law** with respect to charitable trusts made under the latter. This is possibly arcane and not exoteric, but is, equally, not unimportant, relating to the power in Art.43 of the Law for the Trusts (Jersey) Law to be consequentially amended by regulations, essentially to bring the charity test within its scheme. I think it is an area of public policy where benefits and obligations need to be carefully matched. I anticipate that I expect to have to take a considered view on this, during the course of 2021, from the perspective of my duties under the Law
- **an increase in general enquiries by charity governors**, covering a wide range of things from how to prepare an annual return to their comportment on subjects such as unusual or exceptional items of expenditure or the way to run an annual meeting. This is a very encouraging trend because it reveals how seriously governors are, generally, taking their roles. I suspect a good outcome should be our preparing a comprehensive charity governors handbook for all those 1700 to have to hand. But we have not the resource to do that at this time so for now we shall go on little by little, proffering advice on best practice to the best of our ability

- **a slight increase in complaints and whistleblowing in relation to registered charities:** the number of formal complaints remains small but the few that we have had all have elements of seriousness, some particularly so, with distinctions to be drawn, perhaps, between, first, those involving beneficiaries or potential beneficiaries of charities; secondly, those involving paid staff, where it may be that charity governors have failed to observe, or even properly comprehended, best and lawful employment practice; and thirdly, complaints from donors or other third parties about what a registered charity may, or may not, be doing or deviating from its purposes. None has so far required any formal action on the Commissioner's part but I envision that that may not necessarily continue to be the case

- **the beginnings of good collaborative working with other regulators** such as the Information Commissioner and 'multi-agency' boards like the Safeguarding Partnership Board to assess and respond to risks in charities. Work is also undertaken with the appropriate authorities on tackling fraud, financial crime and to counter terrorist financing and money laundering. This will be built upon in the coming year through guidance to help enable charity governors to run their organisations well

17. I certainly recognise that the past few years have marked a fair change for Jersey charities and the individuals who give them life. We want to put on record how unfailingly civil, constructive and forthcoming have been the responses to all the questions and requests for information it has often been necessary for us to ask or make, often on difficult or sensitive points, in order to ensure that I have been in a position to determine the charity test correctly. I think this stems from a broad consensus that the scheme of regulation introduced by the Law has been a good thing, whose purpose of protecting public trust and confidence in registered charities not only assists the public at large in decisions about giving which it chooses or wishes to make but also supports the entities themselves through an enswathement of legitimacy and transparency, whose offering the Law provides. But there does, of course, remain much more work to do to make sure that the regulatory regime now in place works credibly and well, to the benefit of all concerned.

2020 at a glance



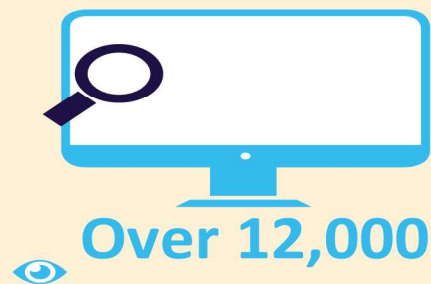
The charity sector regulated

Total charity assets regulated



Charities on the register

421



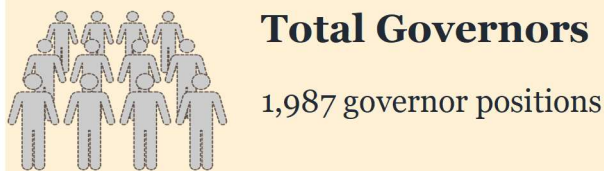
Visitors to our website and online register of charities

+ 121

New registered charities during the year

- 48

Charity applications withdrawn by the applicant



Customer complaints

8

Complaints received about registered charities



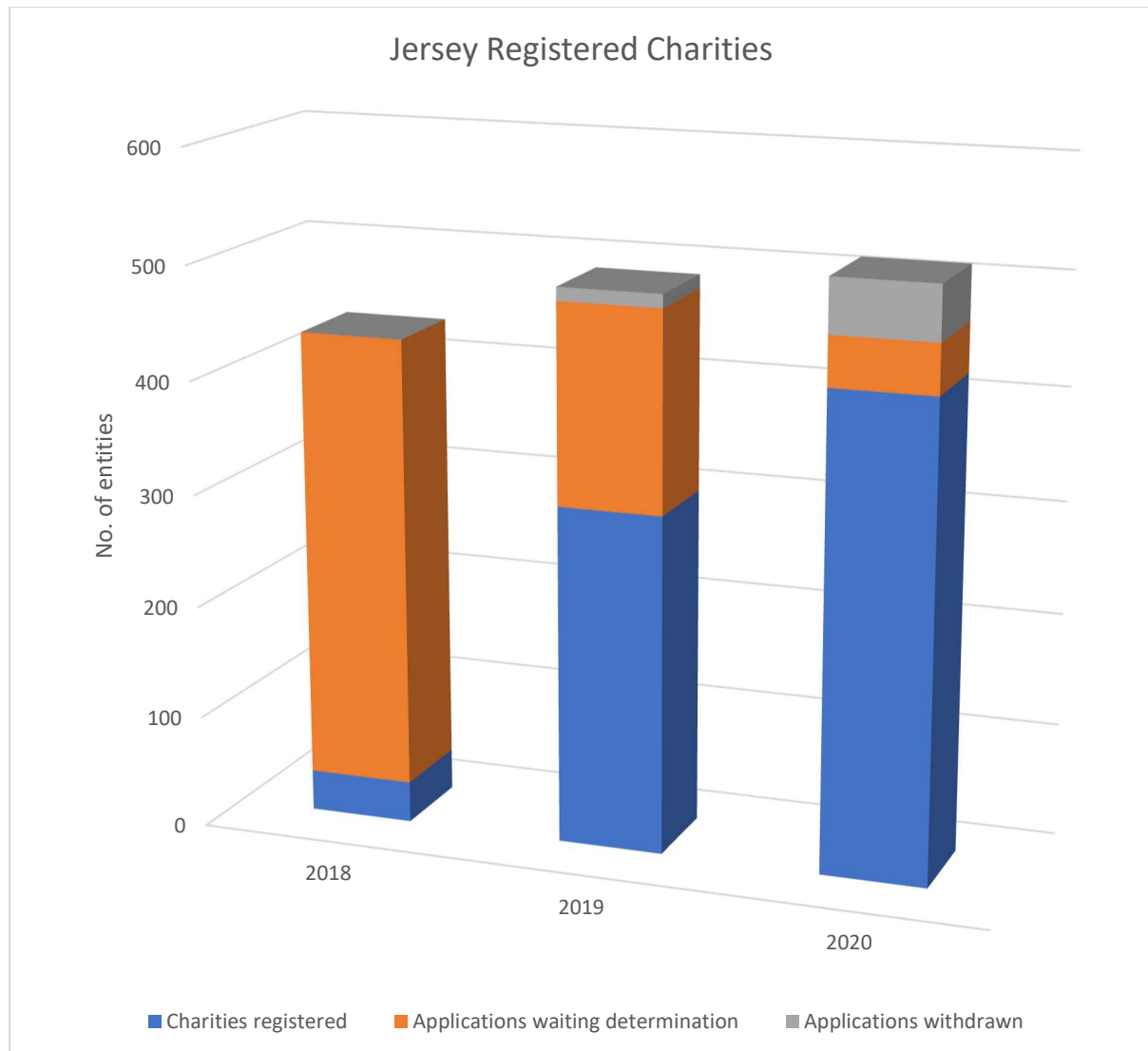
Commission expenditure

£

£202K

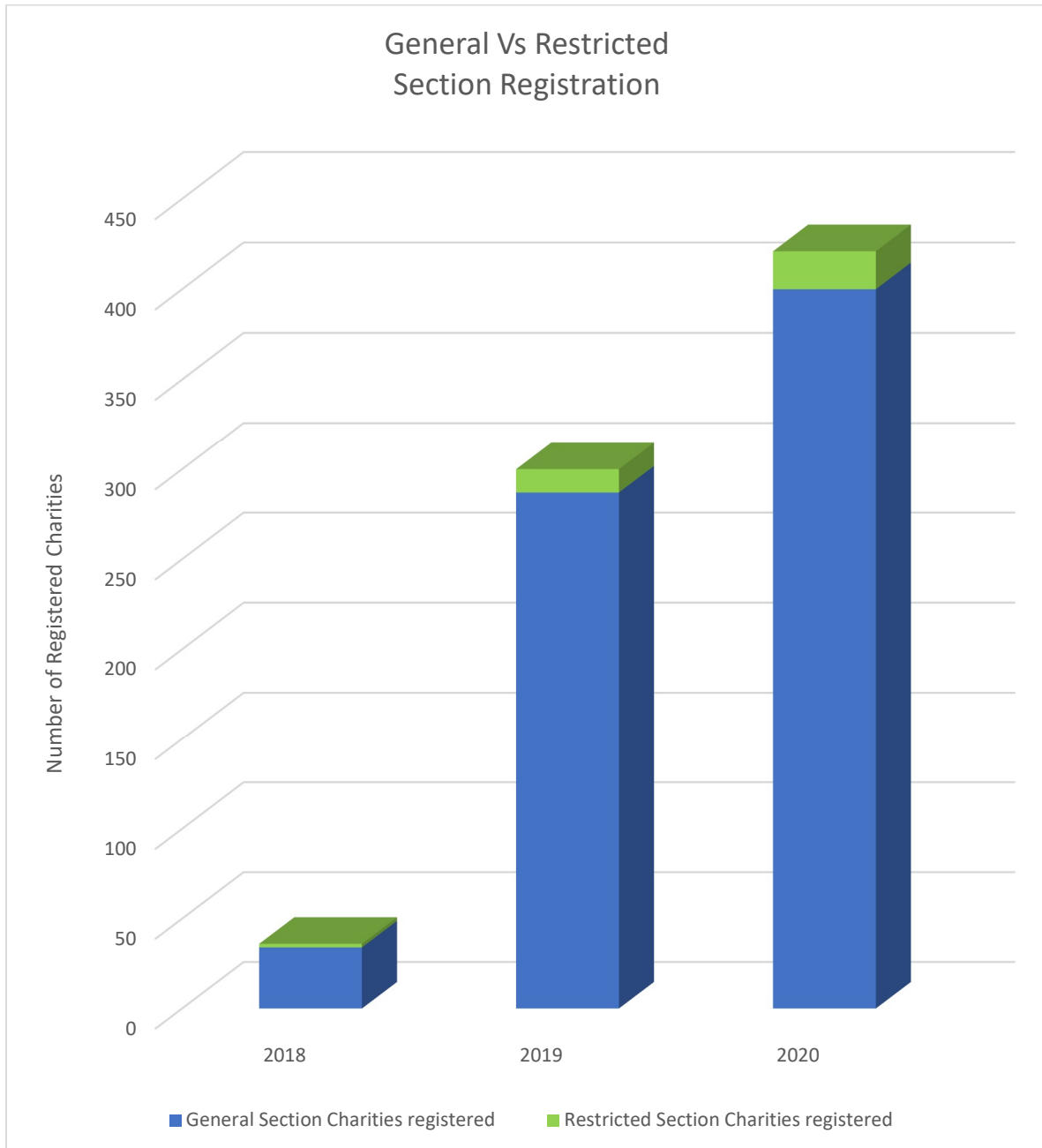
Registration

18. The online registration system, having gone live in May 2018, continued to receive applications for registration throughout 2020. By 31 December 2020, 513 applications had been received, the first 434 of which, however, had been received in 2018, mostly in the last two months of that year.



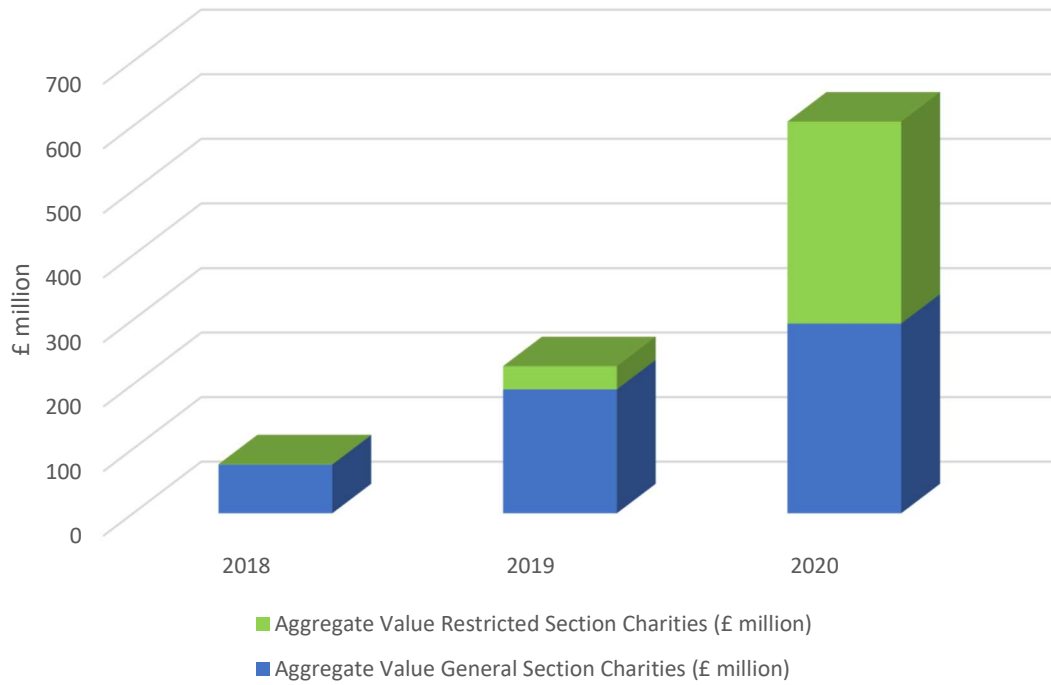
19. By the end of 2020, 421 charities had been registered, an increase of 121 on the end 2019 figure. No application at that point had been rejected for failure to meet the charity test although a total of 48 had been withdrawn following discussion with the applicant. (36 withdrawn in 2020 and 12 in the previous year). A small number of original applications remain undetermined, dialogue continuing with the applicants concerned.

20. Of the 421 applications approved for registration, 400 were included in the general section of the register and 21 in the restricted section. The criterion for the latter is that they do not and may not solicit donations from the general public.

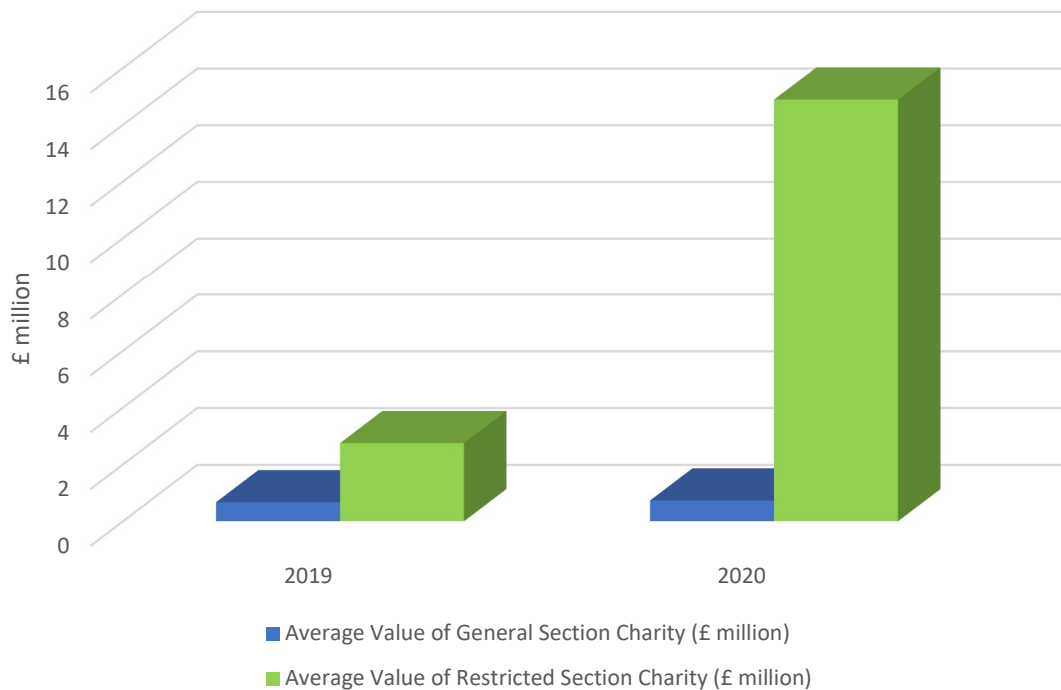


21. Looking at the 421 registered charities, as at 31 December 2020, the total value of the current and fixed assets held by them, broadly at the point of registration, and by reference to the core financial information provided either with applications or latest annual returns, was reported as being, in aggregate, some £607 million (2019: £228 million). This significant increase in asset value in 2020 was due in considerable part to new registrations in the restricted section of the register. The average value of assets held by each restricted charity in 2020 was about £15 million (2019: £2.75 million) compared with around £0.75 million for general section entities (2019: £0.67 million).

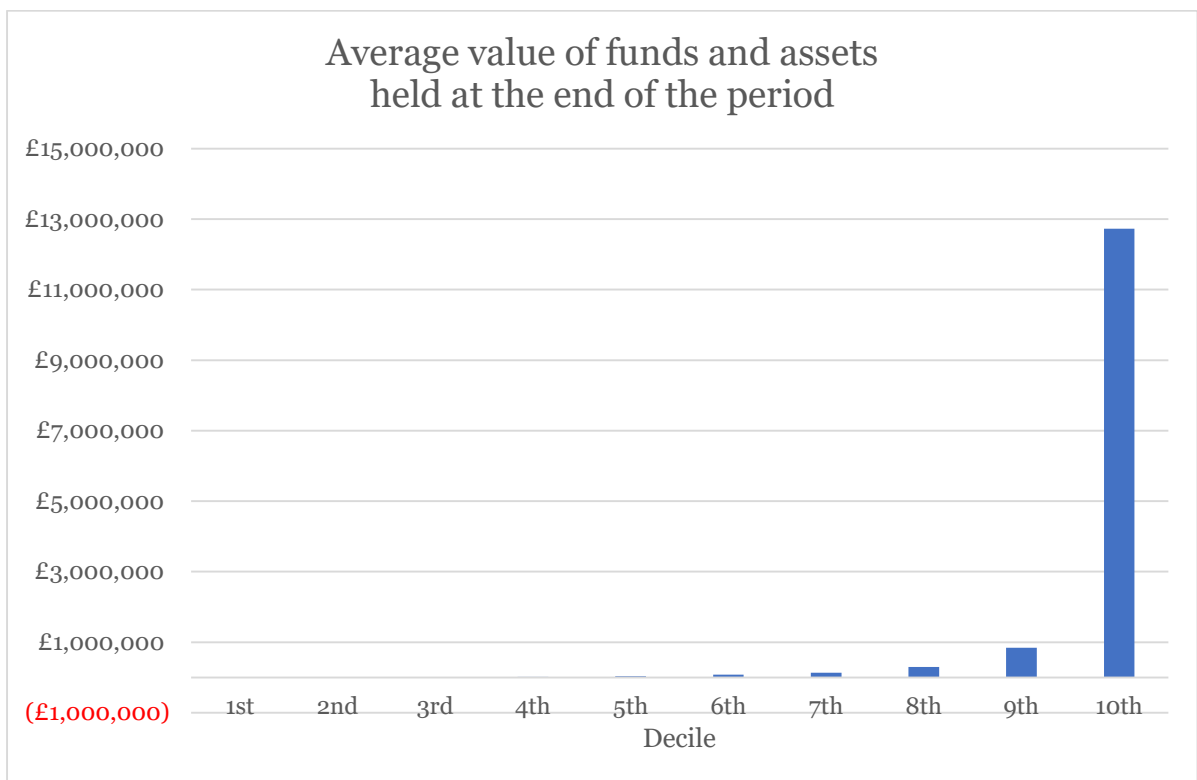
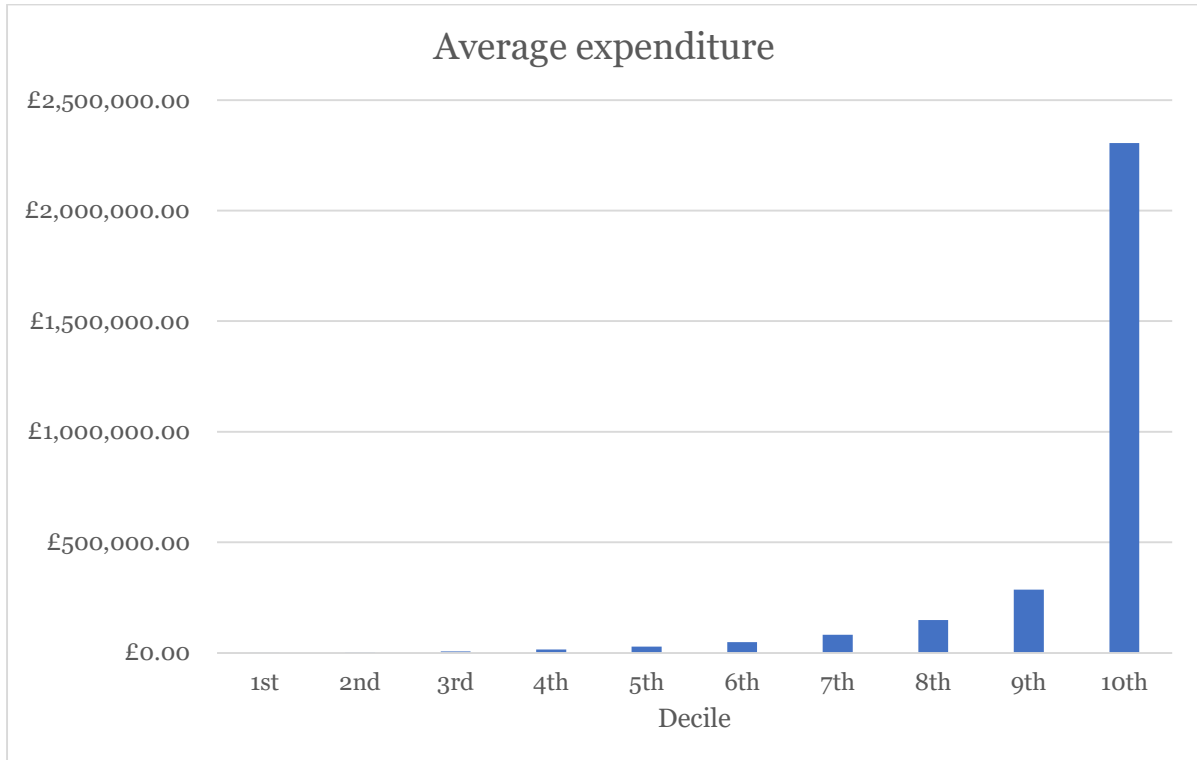
Aggregate value of all assets held by Registered Jersey Charities (£ million)



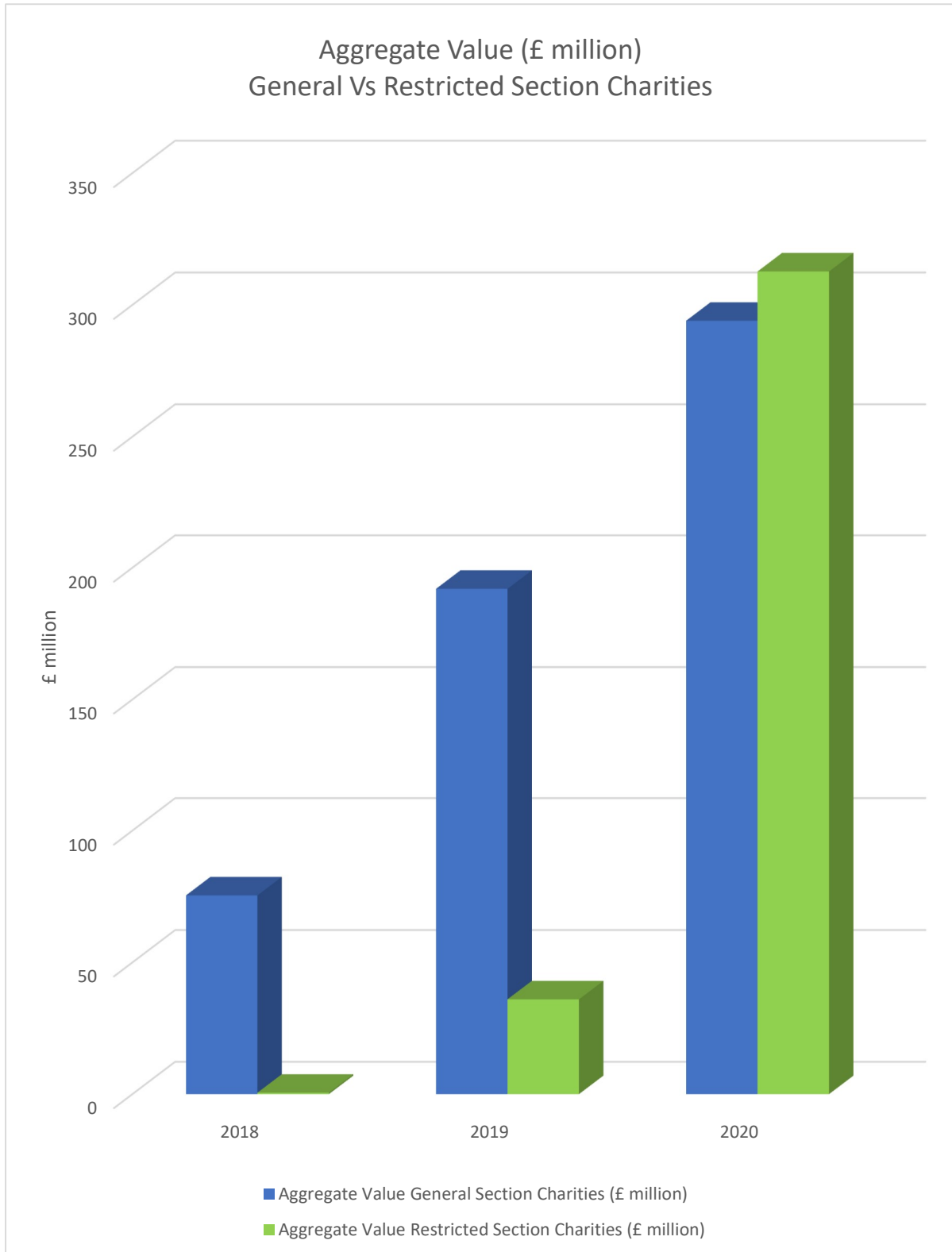
Average value of assets held by Registered Jersey Charities (£ million)



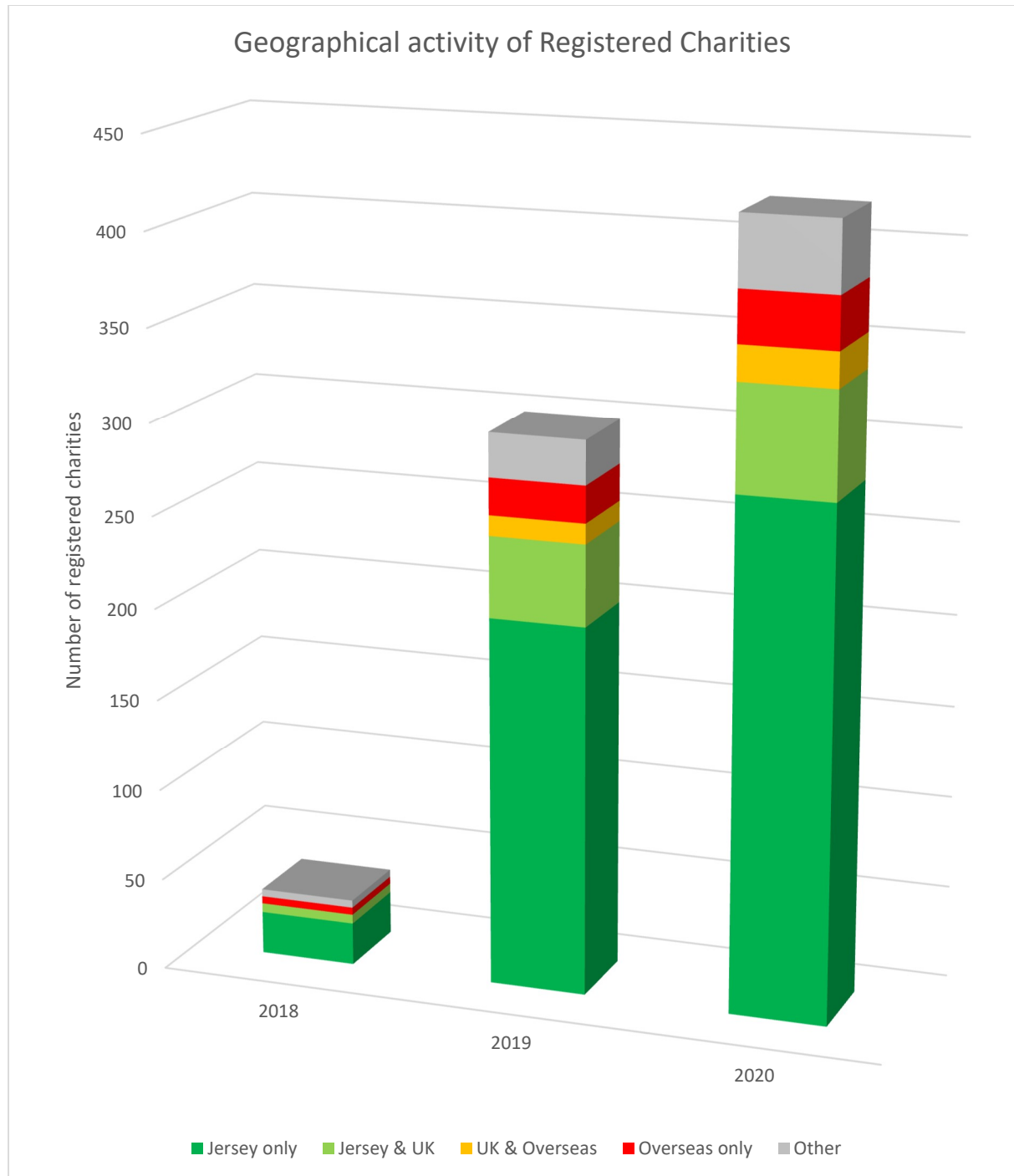
22. Registered charities come in all shapes and sizes and, taken together, dispose of considerable funds. It should be remarked in passing that a number of larger restricted charities (which, so to qualify, do not solicit donations from the general public) in fact disburse some of their resources among smaller charities. There may therefore be some double counting in any such estimates.



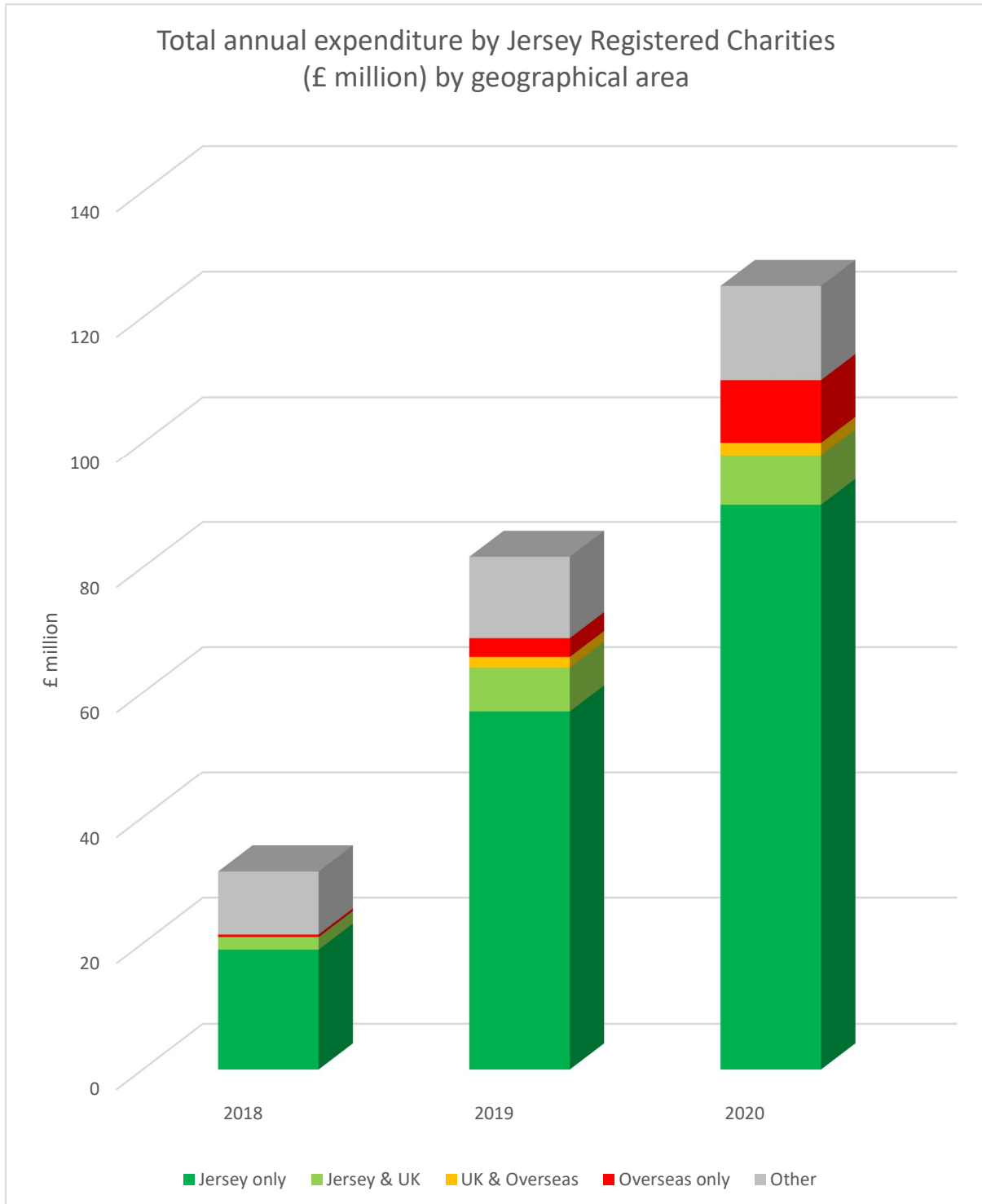
23. The 21 restricted registered charities held approximately £ 312.7 million as at 31 December 2020 (2019: £36 million). The 400 general section charities held assets with an approximate value of £294 million (2019: £192 million).



24. The impact of this growth is not felt only at home. While most Jersey Registered Charities carry out their charitable activities within Jersey, their global reach is increasing each year as shown by the yellow and red bars in the diagram below. The charities included in the grey bars, described as “other” in the diagrams below tend to operate across all geographical categories.

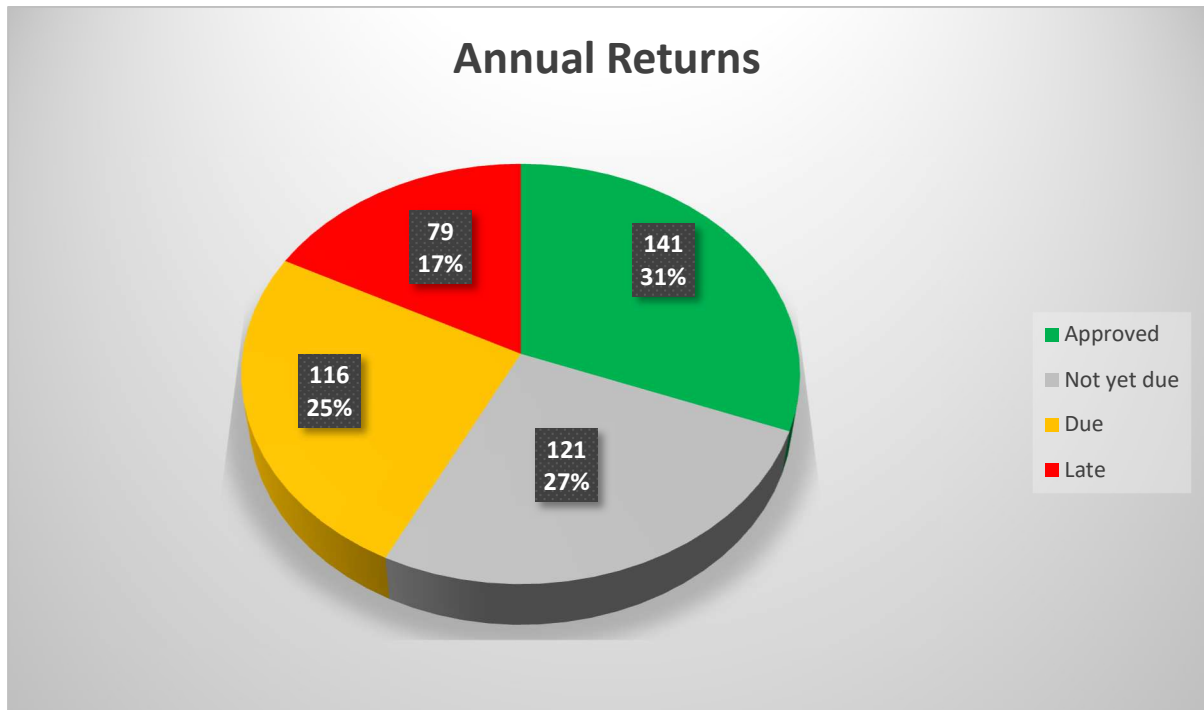


25. The lion's share of charitable expenditure recorded by charities in their previous 12-month period was accordingly focussed on Jersey activities with some £90 million of the total expenditure of £125 million being spent in Jersey.



Annual Returns

26. For those charities already registered in 2018 and 2019, annual returns were requested and by the end of 2020, 141 such returns had been validated and uploaded to the public register. A smaller number (79) were late, which was not unexpected because of the general situation and not inherently problematical



Resources

27. The Law provides that no charge shall be levied on any person applying for registration or wishing to consult the public part of the register.

The Minister is required to provide such accommodation and equipment as he or she thinks is necessary for the proper and effective discharge of the Commissioner's functions; and the cost of this, and staff, is to be met from the public purse.

Expenditure for 2020 was £202,097, with the most of that coming not from taxpayers but from the Jersey Reclaim Fund, where proceeds due under the Dormant Bank Accounts (Jersey) Law 2017 are held. This arrangement was mandated by the legislature as part of that law. The following table summarises the outturn for 2020.

Cost	2020	Comments
Charity Commissioner - fees	£45,500	£10,000 relate to 2019 activity and £35,500 relate to 2020 activity

Charity Commissioner staff <ul style="list-style-type: none"> • 1 fte Executive Officer • 1 fte Administration Officer • Hired services 	£104,022	Executive Officer from April; Administration Officer from March (including salary, pension, social security) Salary + agency fee for temporary assistant to expedite application processing
Office Premises	£15,443	
Other Overheads Including: stationery telephone cleaning electricity	£4,766 [including £197 £1,223 £2,511 £835]	
IT costs including Registry development, Website hosting (annual fee), support and platform licence	£32,348	
TOTAL	£202,097	