
STATES OF JERSEY



STATES OF JERSEY LAW 2005: DELEGATION OF FUNCTIONS – MINISTER FOR HEALTH AND SOCIAL SERVICES – MENTAL HEALTH SERVICES – JUNE 2019

**Presented to the States on 25th June 2019
by the Minister for Health and Social Services**

STATES GREFFE

REPORT

On 21st June 2019, the Minister for Health and Social Services made a Ministerial Decision delegating certain of his functions under Articles 28, 30 and 30A of the [States of Jersey Law 2005](#) (see Decision reference MD-HSS-2019-0027, available at www.gov.je).

Article 28 of the States of Jersey Law 2005 permits a Minister to delegate, wholly or partly, functions to an Assistant Minister or an officer.

The Law states, *inter alia* –

“28 Power of Minister to delegate functions

- (1) A Minister may delegate, wholly or partly, functions conferred upon or vested in the Minister by or under this Law or any other enactment or any enactment of the United Kingdom having effect in Jersey, to –
 - (a) one of his or her Assistant Ministers;
 - (b) an officer.
- (1A) A Minister shall not delegate to an Assistant Minister any function the delegation of which is wholly prohibited by an enactment.
- (1B) Where a Minister delegates to an Assistant Minister a power to make an enactment, paragraphs (4) and (5) of Article 26 shall apply to the making of an enactment by the Assistant Minister, in exercise of the delegated power, as they would apply to the making of the enactment by the Minister.
- (2) A Minister shall not delegate to an officer –
 - (a) any power to make an enactment;
 - (b) any power to decide an appeal under an enactment;
 - (c) any function the delegation of which is prohibited wholly, or to an officer, by an enactment.
- (3) The delegation of functions by a Minister under this Article shall not prevent the Minister exercising those functions personally.
- (4) Where any licence, permit or authorization is granted in purported exercise of functions delegated under paragraph (1), no criminal proceedings shall lie against any person for any act done, or omitted to be done, in good faith and in accordance with the terms of the licence, permit or authorization, by reason that the functions had not been delegated, or that any requirement attached to the delegation of the functions had not been complied with.
- (5) In this Article –

“Minister” includes the Chief Minister;

“officer” means a States’ employee within the meaning of the Employment of States of Jersey Employees (Jersey) Law 2005 and includes a member of the States of Jersey Police Force and an officer appointed under paragraph 1(1) of Part 1 of Schedule 2 to the Immigration Act 1971 as extended to Jersey by the Immigration (Jersey) Order 1993.

- (6) The States may by Regulations amend the definition “officer” in paragraph (5).”

“30 Ministerial delegations to be presented to States

- (1) A Minister who delegates functions under Article 28 shall present to the States a report specifying the functions delegated and to whom.
- (2) A Minister shall not be required to present a report under paragraph (1) where the delegation is so immediate and of such brief duration that it is not practicable to present the report before the delegation ends.

30A List of delegations to be published

- (1) The Chief Minister shall cause to be established, maintained and published a consolidated list of –
- (a) the functions for the time being discharged by the Chief Minister and by each Minister;
- (b) the functions for the time being delegated by the Chief Minister and each Minister under Article 28, and to whom.
- (2) The list shall also specify which Minister is discharging, for the time being, the functions of another Minister under Article 27(1) or (2).
- (3) The information described in paragraph (1)(b) or (2) is not required to be incorporated in the list where the period for which the delegation has effect or for which one Minister’s functions are being discharged by another is so immediate and of such brief duration that it is not practicable to amend and publish the list to incorporate the information before the end of the period.
- (4) It shall be sufficient if the list is published on a website.”

The terms of the delegations, and the legislation under which those delegations were made, were recorded in a Report attached to the Ministerial Decision, as shown below –

The Minister for Health and Social Services has delegated the political oversight responsibilities for Mental Health Services to Senator S.W. Pallett, in his role as an Assistant Minister for Health and Social Services.

The scope of delegation covers all areas relating to Mental Health Services, including strategic planning, operational delivery, and management of the associated workforce. In relation to his specific area of responsibility only, Senator Pallett would also be able to lodge propositions, make statements and respond to ministerial questions. He would also be able to sign Ministerial Decisions relating to the business areas under these responsibilities.

Responsibility would extend specifically to the following –

- ❖ Refreshing the mental health strategy
- ❖ Refreshing the suicide prevention framework
- ❖ Developing a well-being strategy

- ❖ Developing a dementia strategy
- ❖ Providing political oversight as a member of the Mental Health Improvement Board
- ❖ Overseeing the recruitment, retention and training programmes of the associated workforce
- ❖ Ensuring development and co-production of mental health and well-being services with all stakeholders, including third sector partners and G.P.s
- ❖ Considering applications under the [Mental Health \(Jersey\) Law 2016](#) and making associated Ministerial Decisions
- ❖ Overseeing the transition arrangements for CAMHS and ensuring the smooth working of ongoing liaison between HCS and CYPES in relation to CAMHS
- ❖ Overseeing the provision and refurbishment of mental health estate facilities (subject to the Minister retaining responsibility in relation to point 1 below)
- ❖ Promoting good mental health and well-being generally in all areas of Government policy and in Island life
- ❖ Dealing with Ministerial questions and enquiries made by States Members, media or the Public
- ❖ Dealing with Scrutiny enquiries and answering related questions at Scrutiny hearings.

The Minister for Health and Social Services retains political oversight for all Health and Community Services business, and therefore would expect to be fully briefed on developments in these delegated areas. He would propose to specifically reserve decision-making powers in 2 areas that relate to the delegated responsibility –

- (1) The location of mental health estate facilities where considered in conjunction with the future Hospital.
- (2) Ongoing reviews of mental health and capacity legislation and the continuing implementation of that legislation.