

# Jersey Charity Commissioner Annual Report for 2023

R.77/2024

Jersey Charity Commissioner's Annual Report for 2023, published on 18 April 2024 and provided to the Minister for it to be laid by him before the States pursuant to Schedule 1 of the Charities (Jersey) Law 2014.

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*protecting public trust and confidence  
in registered charities.....*

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## **Annexes for Reference:**

**(a) The Charity Test and the Commissioner's Main Duties**

**(b) The Statutory Charitable Purposes**

## **1. 2023 Key Facts (information correct as of 31 December 2023)**

- 474 charities on the register (2022: 457). 420 of those (89%) registered in the general section with the remaining 54 (11%) registered in the restricted section (27, 6%) and historic section (27, 6%) of the register (2022: 26 restricted, 20 historic)
- 17 charities newly registered during the year (2022: 14)
- 402 annual returns filed and validated during the year (2022: 400)
- 4 applications for registration withdrawn without formal determination (2022: 6; since inception in 2018: 70)
- 7 deregistrations in 2023 (2022: 14)
- no negative determinations of applications for registration, and no appeals to the Charity Tribunal (2018-2022: 0)
- estimated total assets of Jersey registered charities around £2.2 billion (2022: £2 billion). (Excludes 'hard to value' immoveables such as public buildings, artworks or museum pieces)
- median assets of Jersey registered charities (liquid funds, investments and valued assets) about £59,000, average assets around £4.6 million (2022: £54,000 and £4.4 million)
- estimated current spending of Jersey registered charities in 2023 of the order of £284 million (2022: £179 million). This includes spending by charities which give to other charities so there is some double counting
- median current spending of registered charities in 2023 about £33,000 and average about £600,000 (2022: median £31,000, average £390,000)
- running costs of the Charity Commissioner's office £0.236 million (2022: £0.178 million), (financed from the Jersey Reclaim Fund established under the Dormant Bank Accounts Law 2015)

## 2. Overview by the Charity Commissioner



1. Under the Charities (Jersey) Law 2014 (“the Law”), I am required to publish an annual report on my work as Commissioner, and provide the Minister with a copy of it within four months of the end of the year to which it relates. It is then her or his duty to lay the report before the States as soon as practicable after having received it. The Minister may give me directions as to the content and form of my annual report, but has not done so. I have, however, sought, as far as reasonably practicable for such a small Office as mine, to take account of guidelines for statutory annual reports issued by the Comptroller & Auditor General.

2. The first, most important, thing to say in this overview is that all those many citizens connected with charities in Jersey – whether as charity governors, paid staff or volunteers – deserve a great deal of approbation from the rest of us. I emphasise that. All those people comprise a significant cohort of our small population, several thousands strong, something that one tends to find is not always as well-known as it should be in our small society. Keeping charities going is obviously a challenge, not least since income streams are so often uncertain or variable, whether dependent on fund-raising, taxpayers monies, trading receipts or private donation – or all of those, in varying proportions. A good deal of the work – and just about all the governance – relies heavily on avocation by volunteers, and thus upon a great deal of personal drive, enthusiasm and commitment by many citizens who wish to seek to make a difference. From where I sit I can see the effort, hard work and sheer hustle, if that is the right word, which goes into their making so many of our charities work well in delivering their chosen public benefit. I can also see the acute financial pressures facing a number of charities, principally (but not solely) those delivering their public benefit through service provision, whether or not under contract or with grant aid from government or other grant-givers. Those pressures are clearly very real although not universal across the whole, large, cohort of charities now on our public register.

3. I now see more than 400 public benefit narratives annually, the which gives me, I believe, a firm foundation for the overall judgement I make above. Here and there is a little slippage on the charity test and maybe a slight want from the very highest standards of governance, just as might reasonably be expected amid any such large and diverse group of entities, whose fortunes naturally ebb and flow. But in the round it is not much and, where things may have diverged or fallen back a bit they are generally quite readily corrected through sensible dialogue with those concerned and then the proper action on their part. Egregious issues regarding the charity test are rare, parlousness as to finances obviously a little less so in hard times. The annual narratives which must accompany annual returns also reveal the sheer diversity of what charities are actually doing day by day in pursuit of their objects across a wide range of spheres. I rarely – in fact, I ought to say never - fail to be impressed by all this

endeavour on the part of so many good people, and that view is in no guise lessened if from time to time a little parrhesia comes from me about how I think the 'sector' in aggregate looks to be faring and whether there are things that might be made to go better. So, while problems and challenges must be noted and tackled, my starting-point is a big clap for Jersey registered charities, whose people strive to do many very good things.

4. The main focus in the initial two or three years from when registrations began in 2018 was obviously on the determination of many applications in accordance with the new statutory charity test. These were received mainly from established entities that had always regarded themselves as charitable but which were desirous or in need of confirmation of that through registration. As I have previously reported, that task took a little longer than expected (and towards the end was affected by the 'lockdown' from March 2020), but by and large it was reasonably straightforward even though all sorts of issues had to be resolved on the way – such as, for instance, the way objects were written and how sometimes they were not all exclusively charitable, inappropriate or unwieldy organisation structures or the need to disentangle 'ministerial' control (or its semblance) and remove undue private interests. Notwithstanding, in five years or so, we have got to having nearly 500 charities on the register, with no negative determinations along the way and only relatively few applications withdrawn or left on hold for one reason or another.

5. The quantum of new applications for registration is now much reduced, although the flow has certainly not ceased; in 2023 there were 17 new registrations, compared with 14 in 2022. Albeit as a generalisation, it seems to be, though, as if a fair few recent applications, relating to new entities, are seeming to tend towards being closer to the fringe of charity, so to speak, than to the mainstream of the charity test. This is most often by reason of, for example, a sense of private benefit beyond the purely incidental, purposes that are not straightforwardly or manifestly charitable, possible over-closeness to commercial sponsors, or potential undue restrictions on access to benefit – or, quite often, a combination of such things. These are issues that can be worked through well enough if inherent charitable objectives are clear and there is obvious purposefulness on the part of the principals concerned, and provided that the notion of charity as pointing to public not private benefit is properly understood. But we find that we are now seeming to be getting to a point where we may have to send some people empty away, whether with or without an entreaty to think quite afresh about how to go about meeting the charity test in achieving what they would like to do. I will not overstate this, but it has been instanced, and perhaps that is no great surprise as people generate ideas and plans for new initiatives. I think, though, that the messages it is our duty to convey about the nature and requirements of the charity test – especially its public benefit element – are pretty well understood once they are explained across a table. But maybe they need stronger reinforcement in the public arena.

6. By a not different token, there continue to be a number of deregistrations, although it is small in the context of the whole register. Perhaps there are just enough now to proffer an inkling of a trend which, again, ought not to be a matter of surprise in what is now a large and diverse group of entities, of all sizes. The detailed figures are shewn later in this report. There is clearly a range of reasons in play. First and foremost is what one might term the normal ups and downs in the economy. Several registered charities, just like many other businesses, found it hard to sustain operations during or as a result of the 'pandemic' (which officially ended in the world only at the beginning of 2023); some have found the same quite regardless of that. Times and circumstances change, and no doubt passions or energies wane or face diversion. Yet others have lost one or more key persons to the usual churn that is perhaps a particular

feature of an ‘island’ economy, persons whom there was not the ready ability, or perhaps the will, to replace: being a charity governor is indubitably a hard and responsible task, the more so when economic conditions are tough. Some other (now deregistered) charities were realistic in the face of a diminution of their markets for public benefit, want of donations or tightening of the availability of taxpayers funds for service contracts, normal fund-raising methods and outcomes having taken quite a hit during the ‘lockdown’ as well as being intrinsically demanding and relentless. I have to keep details of deregistered charities on the register for ten years, and differing stories can be spotted or be deducible there. Nothing special stands out at this stage, but it is something worth watching as time goes by to see if any particular reasons stand behind the decisions that are made.

7. The bulk of applications for registration having been approved, and the register being now fairly sizeable, a principal task for my Office has become the one of compliance, that is to say, compliance with the charity test, which is a continuant requirement for all registered charities, and the rules of law that govern, for example, such things as the behaviour of charity governors or the wrong titling of entities as registered charities when they are not. Compliance is a word which does not always excite appreciation but in our case it is the crucial component of aiming to ensure that public trust and confidence in registered charities is protected – my main general function under the Law. It is pleasing to say that, without any exception I can think of, our compliance role is understood and appreciated by charity governors, who are always responsive to any queries or requests for information from my Office. I sense a shared endeavour to seek to get this right, for the benefit of all. I hope our main contribution is to be reasonable and proportionate in making those asks that we must.

8. This compliance work has several aspects. First, charity governors themselves, or sometimes lawyers on their behalf, may contact the Office to ask pertinent questions about the correct approach to things having regard to their duties to act in the best interests of the entity and in a manner consistent with registered public benefit statements. This is wholly positive, and my Office and I do our best to advise promptly and sensibly, not only having regard to what the Law says about the charity test but also trying to seek to ensure that best practice is brought to bear on, for example, things like openness and transparency, careful cognition of a charity’s constitutional rules, proper use of charity assets (that is to say, averting improper use), and important matters of procedure such as contracting or addressing the needs of a diverse membership. These interactions, which are becoming more numerous as time goes by, are a really good way of assisting us to understand and keep in view pressures and issues raised by individual charities but which are not unlikely often to be of general application; and I am glad that charity governors, mindful of their duties, are not unkeen to raise things with us that may be vexatory or causing uncertainty.

9. Next, from time to time we receive communications from citizens that relate to the performance (or lack thereof) of charities. Some of these can be classed as complaints, and others, perhaps, as of lesser weight more akin to comments. That my staff and I must consider all these with care is a given, and we do. We can learn from all such missives. But relativities must also be weighed: a ‘complaint’, for example, may simply reflect one or a few persons’ view of things, which may not go to a general state of affairs, thus warranting caution on my part in responding to it. It should be remarked that the Law does not put a duty on me to consider ‘complaints’; it is left to my discretion. Time having gone by, the normal approach I have adopted regarding ‘complaints’, but without fettering my discretion, is to approach the matter firmly having regard to my general power to do anything that is calculated to facilitate the performance of my functions – that is to say, principally the upholding of the charity test as a

condition of any entity's registration, initial or continuant.

10. Thus all complaints about charities or similar communications from concerned or aggrieved citizens are in the first instance looked at carefully from the above perspective. We will then consider whether the complaint or comment touches on something where the Commissioner might or would properly be able to act meaningfully in restitution were he or she to pursue it, which, it should be said, is not a low bar. Other considerations to which I have regard in deciding whether to 'take on' a complaint include whether or not the governors of a charity have already addressed the subject matter of the complaint, and responded to the complainant, in a satisfactory manner (notwithstanding the likelihood that the outcome of any such will have failed to satisfy the latter); the locus standi of a complainant – is he or she someone who is appropriately involved with the charity as a current member of the entity, as a beneficiary or prospective beneficiary, as an employee, or as a significant donor, or is he or she but an interested bystander with an argument to make (or maybe an axe to grind)?; the extent to which a complaint is founded in evidence and not seemingly reliant but on hearsay; and whether a complaint goes to the heart of the charity test, any personal animosities put to one side. Also germane in certain situations is to see whether or not the constitution of a charity satisfactorily enables its insiders to invoke procedures by which they may seek to hold the charity's governors to account.

11. Such considerations, and there may well be others that arise in a given instance, are not mutually exclusive but all have a place, to a greater or lesser extent depending on circumstances, in my approach to deciding whether it would facilitate the exercise of my functions for my Office to 'accept' a complaint and investigate it. At the heart of this is that it is definitely not my role to seek to substitute my own view of some decision or policy for that of a charity itself, as properly developed and expressed, just because the outcome is not much liked by some; and this is especially the case where a complaint perhaps touches on matters of specialist or professional competence or skill. Of course, quite a lot of 'comments' and the like do not warrant extensive enquiry, nor would the same be much expected. The key is for us to be alert to genuine problems or shortcomings that may arise from comments or complaints raised by citizens, where intervention from a charity test perspective would or might be helpful to all concerned. On this we try hard to keep our antennas well extended.

12. The same goes for interventions we ourselves may initiate in response, say, to things heard on the wireless or seen in the newspaper. As one illustration of this, during 2023 I had occasion – after considerable inquiry - to issue a public statement critical of one particular registered charity that had divested itself of a substantial asset without having gone to market, so that it could not say whether or not it had obtained best value by the disposal of a charity asset. This came to my attention only through a report in the newspaper initiated by the charity itself. Obviously I could not row back the divestment but it was important to make the point that I considered the transaction had been badly handled by the charity, to which conclusion the charity was not a contrarian. In fact, the public response to this intervention served, I believe, well to justify the action taken. In another case we found clear evidence of a lack of best practice in the delivery of public benefit to potentially vulnerable clients where operating to the highest technical standards was a manifest imperative; and this case resulted in my first issuing of a formal 'required steps' notice under the Law. I think that this kind of active, although in truth pretty modest, intervention, is pretty critical for supporting the maintenance of public trust and confidence in registered charities, which is my principal duty, and it is good to know, I sense, that the approach commands a deal of support among charity ranks. For it is probably all too easy for the reputations of many charities to be tarred by but a handful, or less, of



wanting behaviours driven by a small few of their ilk. The thread by which, in any sector of the economy, reputation hangs is slender and, while it can stretch sometimes, if it breaks it is far from easy to mend.

13. Turning to another discrete area of work, we are becoming more involved in aspects of financial services regulation on whose efficacy and appropriateness Jersey so greatly depends for its prosperity. This has been driven by new legislation in 2023 on the oversight of non-profit organisations (NPOs), a cohort of entities which includes quite a number of registered charities, whose aim is to ensure that strong anti-money laundering arrangements are in place, and seen to be in place, for those NPOs which send moneys abroad. This legislation is administered by the Financial Services Commission and under it we now have a satisfactory information-sharing protocol agreed between our two organisations. One expects this particular strand of work to grow further in significance, not least perhaps in the light of the upcoming report by Moneyval on its inspection of Jersey's arrangements to counter 'money-laundering' and the like. It is of importance for us that we ensure that relevant registered charities are utterly alert to the requirements now educed in this new regulatory space.

14. A key objective of the regime for the regulation of charities which was advised to legislators in 2014 was to seek to increase knowledge and understanding of and about the charity sector in Jersey generally. The obtention at that point was quite a closed book. Through both the public register and the information we receive in annual returns, including accounts, the means is now in place to help facilitate that objective and gradually allow the accumulation of rich data. This is a bit of a journey, to be sure, furthermore blown off course somewhat by the lockdown in 2020-21, and we remain as yet in what one might term 'reasonable estimate' territory. But I do intend during 2024 to aim to seek to strengthen the reportage available to us in cooperation with a sample of larger registered charities. I am sure that this will prove to be of value and benefit to all in the longer run.

15. Aggregate data apart, the prospect was held out in 2014 when the draft Charities Law was on the table of widening by legislative act the information about individual charities to be made available on the register - to include, in particular, more substantial financial information than the rules currently allow. (The Law makes provision for this to be done, the course having first been chosen.) The most substantive change would be for charities' accounts to be placed on the register, year by year, as obtains in England (with an exception for small entities). This was postulated in 2014 in certain quarters but the prevailing view among decision makers and legislators at the time was that it would, perhaps, be a step too far in imposing a 'burden' on charities, the such implied by, for instance, requiring the filing of 'a lot of' information. One senses that this line of argument, at the time quite strongly put by several 'charity' voices, was not really tested either by the ministry or the legislature; indeed, a kind of presumption was put forward by a good number of people that many charities would not even have accounts (the Law thus mandating their submission to the Commissioner each year if any). Now, I would venture to say, any concern about burthen on the supply side, so to speak, probably, and probably rightly, takes a fairly distant second place to pressure for greater transparency on the demand side about entities that rely so heavily on public donations and, in a fair number of cases, significant taxpayers funds. And, it has to be said, so far there has not been a single applicant for registration which has not had accounts in one or other shape or form, which are fundamental for the good governance of any organisation. (I recall one excellent set immaculately written in copperplate on one side of foolscap, which told one more than many an accountant's formulation.)

16. The aim of including accounts on the public register of charities has not fallen from sight, though I cannot say I see it jumping off the current pages of either the ministry or the legislature. The implied transparency, of course, would be not just for the public at large vis-a-vis the charity sector, who are its main funders directly or indirectly, but also for charities themselves to be able to see how things go for their peers or competitors. Some, of course, already do publish their accounts and are very open about their affairs. It would naturally be possible to provide for appropriate exceptions, for example for charities in the restricted section of the register or to meet particular sensitivities, but in principle it seems to me that transparency of charity accounts, for all charities large or small, would be an act of enlightened public policy in keeping with the openness of the times. Perhaps a legislator, or a candidate at the next election, will decide to run with the idea, or perhaps not.

17. Regulation of charities is not an end in itself, but a proportionate means to protect public trust and confidence in them, on which charities absolutely depend, both in the general and the particular. Putting aside the argument about accounts, the level of transparency already achieved in five or six years is not only good in itself – or maybe one should say not bad - but also a most considerable advance over what went before, which was not much at all. And it has come to pass without, I believe, onerousness or burdensomeness. At least, if any burden is imposed by the requirements upon charities to demonstrate that they meet the charity test and to submit annual returns to show so and to set out how they have pursued their objects, it is well outweighed by the reputational and fiscal advantages of registration and the benefit to the public at large of the availability of better information about the charities people may choose to support or from whose activities they may seek to gain benefit. Charities also benefit from knowing, and being able to say, that they meet the charity test and are subject to the scheme of the Law, in a manner that is verified independently by a statutory office holder. It gives credibility to their status.

18. Indeed, pursuing the theme, in some applications for registration involving overseas activity the very point has been made that the ‘Jersey registered charity’ moniker is a badge or hallmark of value in certain important other countries, and something to be deliberately sought through application rather than merely regarded as an incidental post hoc benefit. In each such case, however global the reach of the entity, its ultimate governorship remains firmly fixed at St Helier. This outcome of policy was envisioned by thoughtful lawmakers a decade ago and continues to come to pass. While I do not have a specific duty to pursue the economic interests of Jersey, and meeting the charity test is what matters in each and every case, where those objectives coincide and can be sustained by correct regulation both on my part and others’, for sure there is, it seems to me, both economic and reputational benefit to be had, which should be seized.

19. It was also an objective a decade ago when the then draft Law was in preparation for policy-makers and citizens alike, and maybe legislators too, to be able to cognise the form and scale of the charity sector in Jersey rather better than up to then had generally been possible. That was a main reason for requiring applications for registration from all ‘existing’ entities, large or small, so that we could all get to know. (It was something that was not done at Scotland in 2005, so that the new charity regulator there was confronted by an enormous list of charities, ‘grandfathered’ to its new register, about most of which it knew nothing.) In Jersey’s case, however, the application process has facilitated the reverse: we know from the start, and know about, those which take their place on the register. That is a good outcome.

20. As I reported last year it still, however, remains lacunal to my mind that ‘charitable trusts’

made under the Trusts Law remain, by and large, esoteric and unilluminated, and perhaps not always, or even often, exclusively 'charitable' in the way the public at large would understand that term. (At least, no-one knows, and there is no test.) The problem, which is how I define it, has been reinforced by one or two recent court cases. It seems to me to be awry that such a small place as Jersey should have in law and practice two differing 'charity' regimes, one transparent and one opaque, when the essential tenets of the concept of charity in law are entirely singular and of long-standing: exclusively charitable purposes that must be for the public benefit, while excluding private benefit beyond the incidental. I do not doubt that it is a tricky matter. But it is a state of affairs to my mind hard to defend rationally from a public interest perspective, and which deserves the careful regard of policy-makers. I think from where I sit that something ought to be done, and I shall continue to seek to press that point. The heart of the matter is the significance of aiming to protect public trust and confidence in anything and everything that is permitted by law to intitle itself as charitable.

21. Reverting just to charities now registered under the Law, data of the kind presented in this report, together with all else we see, hear and know from public debate and press coverage, indicates, not unclearly, that registered charities make an immensely valuable contribution to civil society in Jersey. The same needs to be said of their contribution to the economy, but one fears that that is slightly foggier territory, pretty well uncategorised in official statistics. It seems to me that with the data we now possess the moment is opportune for some changes of approach so that we can see more clearly the impact of charitable endeavour in the labour market and charities' industry on measured GVA. Especially important here would be a methodology to show in national statistics the monetary effect of both the normally unpaid contributions of charity governors and volunteers, and the valuable paid work of charity employees. The cohort is, as I have already noted, some several thousands strong (including our current best estimate of about 1700 charity governors in Jersey), a sizeable component of the total workforce. We have had a constructive dialogue on this with the Government Statistician which I hope will prove to be fruitful, and during 2024 we shall be approaching a given cohort of (mainly larger) registered charities with the aim of getting a better understanding of the facts on their economic contributions in order to aid the necessary statistical analysis. These things take time to be frugiferous, not least any change of approach in official statistics, and we need to allow the impact on activity of the lockdown to get to be truly in the past, but I am optimistic about both making progress on this and seeing a worthwhile outcome that genuinely aids understanding of charities' economic contribution. It can only be in the interest of all charities as they compete for funds and public attention for their overall contribution to the economy of Jersey to be shewn in a suitably quantitative way.

22. Statistics, of course, can hide as much as they reveal. Plenty of challenges naturally remain. I have already referred to deregistrations as one possible exemplar of those. There were a range of reasons for the seven deregistrations in 2023, and although the effect of the late lockdown was not generally a stated reason it is hard to suspect other than that it was hovering somewhere in the background. In some cases, though, it was matters prosaic that drove decisions, such as loss of one key person, for whatever reason, who had been the driving force, or lack of funds. Charities in this regard are no different from any other businesses, save that they must be public not private facing, and it should be no surprise really that they rise and fall just like firms, for reasons great and small. But anyway 7 out of 474 is a failure rate of less than 1.5%.

23. When, however, I approve a deregistration I must also ensure that remaining moneys and assets remain in play for charitable use, usually through transfer to other registered charities

in a similar space. This I duly ensured in each case last year and means that any 'loss' from deregistration is in practice limited in the broader scheme of things. (The rule, set out in the Law but of some ancience in the common law of charity, is that an asset, once a charitable asset, must stay that way in whomsoever's hands. That is why the Commissioner is required to approve deregistrations.) It is fair to say that we should expect a continuing small stream of deregistrations as we go along (there have been a few more so far in 2024), not only where size or scale is maybe deficient but also where, for instance, objects have become harder to fulfil, whether through narrowness or changes in the market for public benefit, or maybe where it has proven hard to find successor governors; or simply because of things serendipitous, which one supposes are ever present.

24. Related to this point is the notion of mergers of registered charities. I have touched on this in earlier reports. To date this remains a rarity (and not just in Jersey) but one could envision a bit of change flowing from charities working in partnership with each other and coming to see the advantages of combination both for service delivery and economical administration. Donors, not excluding the ministry, might come to see things the same way, too. To illustrate the point (but only that), there are over 60 Jersey registered charities whose principal object is the advancement of health. It is hard not to presume that, as time goes by, there might not be a degree of common ground among at least some of them about the benefits of merger – benefits which could or should go through directly to better public benefit outcomes. The same view, who knows, could well emerge on the contract-giving side, which may simply be confused by the seeming plethora. Although not much seems ever to be said about this, in principle it surely ought to be one potential area for securance of operational efficiencies; seeing a lot of charity accounts, one is naturally struck by the quantum of ordinary overheads which have to be covered even before active public benefit begins. I intend in the coming year to seek to describe or quantify this from our datasets a little more precisely, if for no other reason but to help enable an informed debate to be had if there proved to be a demand for that. I appreciate, however, that any action on mergers, or other ways of sharing overheads, is a matter for charity governors themselves, or funders, not me, whose role would be but to facilitate change decided upon by others. It would be good, though, to get a sense of whether there is any real appetite among charities for contemplating this sort of change.

25. There were a few instances during the year, but only a few, where regulatory intervention by my Office was needed in some degree. This has usually, so far, been in 'soft' form; as already noted I had only one occasion in 2023 to use the powers given me under the Law to require a registered charity to do, or refrain from doing, certain things. Examples where some intervention has been warranted are instances where charities have sought to give money to individuals 'in need' when that is not within their constitutions or absent criteria that would aim to ensure that the benefit was genuinely available to the public at large; where there have been proposed or actual changes to charitable objects in constitutions without prior assent; and where it was not evident that charity governors were acting in their charities' best interests and in a manner consistent with registered public benefit statements. The latter is unsurprisingly mainly related to decisions about spending money or the buying and selling of assets. On the other hand, however, we have continued fairly regularly to receive requests for advice from charity governors about how they should best or most properly proceed in certain situations; such requests have usually not been hard to resolve and I judge that they are evidence of our regulatory mandate working as intended, with acceptance, and with but a light touch.

26. Complacency is invariably an enemy, whatever the sphere, and I eschew it, but from the

materials and information I see, and the contact I am fortunate to have with quite a lot of charity governors and staff, good people all, my judgement is that the overall position of the registered charity market is healthy and good, and I admire and congratulate all those who make and sustain its strength and vibrancy, who are almost always not undaunted by odds. Data presented in this report, especially on aggregate income, backs this up. The evidence for what is achieved is also increasingly there to see in the public register, as well as being thoroughly presented in the evening newspaper for a wide readership and in many well-written and approachable magazines, newsletters and reports. I have the confidence to say that public trust and confidence in registered charities is being protected, chiefly by the efforts of charities themselves, with just a little bit of regulatory push from the Commissioner on the side, as it were. The very few exceptions to this, some of which have come to public attention or which it has been my own duty to publicise, I think prove the rule.

27. I conclude this overview by thanking those in my small Office and other officials who have provided me during the year with excellent support and sage advice as well as, where necessary, important assistance on matters financial, legal and procedural. At the top of this list is Richard Jouault, who heads my Office and who is now a renowned expert on just about everything to do with registered charities in Jersey and their place in the wider scene. He is ably supported by Jayne Silver, who joined us during 2023, and who takes the lead on ensuring that the crucial task of approving annual returns (relentlessly, seven or eight a week) is carried out rigorously but fairly; and by Claire Dupoy who is with us for a year as a policy apprentice and who has turned her attention to a variety of broader issues on which we need to be alert and develop our expertise. It is a small team but a very good one, on whose competence, approachability and good humour I get excellent (but unsurprising) feedback from a variety of people who lead or run charities. I should also give special thanks to Patrick Hamon, Samuel Graves and Taye Le Monnier of the Law Officers Department for their excellent and cogent advice on all sorts of issues; and to Louise Richardson, who continues to be our supportive and ever helpful main point of contact at the ministry.

**John Mills CBE**  
**Jersey Charity Commissioner**  
**18 April 2024**

### **3. Performance Report by the Head of the Office of the Jersey Charity Commissioner**

28. 2023 finally saw the WHO declare the end of the COVID-19 pandemic. The impact on registered charities and their beneficiaries, after several obviously difficult years, is unlikely to be wholly evident for some time yet. Nearly half of all Jersey charities in the general section of the public register (42%) are small organisations with annual income of less than £25,000. Unsurprisingly, a goodly number found the restrictions on economic activity which began in 2020 impacted seriously on their scope and ability to raise sufficient funds to continue to keep their respective shows on the road.

29. The charities registered in the restricted section on the other hand, account for the majority of total income received in 2023. In order to be eligible to be registered in the restricted section, as well as meeting the charity test these charities must also meet the funding condition – that is to say, they may not seek donations from the general public. While being small in number (27 charities), the value of cash and assets held by restricted section charities continues to grow steadily year on year. By the end of 2023, it is estimated to be in the region of £1.8 billion. Restricted section charities represent just 6% of the total active charities on the public register yet hold 84% of the total value of the sector. By comparison, the general section of the public register represents 94% of all active charities but those hold but some 16% of the total cash and assets recorded. It is, however, important to note that the income figures cited above, and given in more detail later in this report, are indicative in the sense that they are derived from returns made throughout the year and not at one single date; but we judge that they offer reasonable evidence for the overall estimate.

30. The number of charities seeking deregistration halved in 2023 compared with the previous year (7 in 2023, 14 in 2022) and the number of new charities registered increased slightly (17 in 2023, 14 in 2022). It may be too early to say whether these indicators are grounds for cautious optimism that the sector is navigating the turbulent economic climate that has followed the pandemic.

31. In 2023, £2.8m of tax was repaid by Revenue Jersey to registered charities in respect of donations where tax refunds were claimed. This amount has fallen by around 33% since 2021. On the other hand, the net proceeds from Jersey sales of lottery tickets distributed to Jersey charities and good causes has risen from £633,458 in 2022 to £1,097,800.00 in 2023. One recognises that aggregate data masks the positions of individual entities and charities depend upon a wide variety of income sources but the overall picture reflected in the income distribution of charities in 2023 on page 28 of this report would suggest that charitable income has remained relatively steady over the last three years and is broadly in line with income trends of charities registered in England and Wales over the same period.

32. The Office of the Charity Commissioner returned to a full establishment of staff in 2023 and welcomed the additional resource provided by a policy apprentice on a one year secondment. This has enabled a number of initiatives that have been on hold due to limited resources to be developed and helped to ensure that work on aspects of regulatory compliance, including review and assessment of annual returns, has been sustained with timeliness. Over 400 annual returns were validated and some 12 investigations were undertaken in relation to registered charities and four concerning charitable organisations that were not registered but were arguably holding themselves out as if they were. Although almost all investigations have

resulted in practice improvement by mutual agreement, 2023 saw the first required steps notice served on a registered charity, in line with powers given to the Commissioner in the Charities Law. Such a notice, once served in writing on the charity, specifies the steps that need to be taken in a given time period to rectify an issue or problem; and notice of a notice is placed in the public register.

33. The Commissioner's website was refreshed in 2023 to enable the public to access the available resources more readily and the Commissioner published a number of media releases on this site [www.charitycommissioner.je](http://www.charitycommissioner.je). These included details of a memorandum of understanding with the Jersey Financial Services Commission (JFSC) establishing a framework under which both parties can exchange information to exercise their respective functions under the law, the conclusion and outcome of an investigation into the activity of a registered charity, and advice in relation to Russia's war on Ukraine and terrorist activity in and about the Levant and Arabian peninsula, and how charitable funds can best be directed safely and correctly in those bad circumstances. The Commissioner provided further advice to charity governors to remain vigilant to the possibility of being used or exploited by terrorist groups, terrorist supporters, and their seemingly legitimate front organisations, in order to obtain, store or move funds that may be used in further terrorist activity and not for charitable purposes. Vigilance on these things needs to be constant.

34. Last but not least, the independent assessment by Moneyval of Jersey's capability to combat financial crime was completed in 2023 and we look forward to the publication of the mutual evaluation report during 2024. The Office of the Jersey Charity Commissioner continues to work closely with the Jersey Financial Services Commission to support those charities that work overseas to ensure that the legislative and regulatory requirements for the prevention and detection of money laundering, the financing of terrorism, and the financing of proliferation are understood. The report will, we believe, provide firm evidence that Jersey registered charities and non-profit organisations comply with international standards for combatting financial crime, but it will no doubt include recommendations aimed at further improvement. We shall be communicating with the charities concerned as soon as we get to know.

**Richard L Jouault**  
**Head of the Office of the Jersey Charity Commissioner**  
**18 April 2024**

## Performance Analysis

35. Most applications for registration were received during 2018 when the online registration system first went live. Since then, there has been a steady rate of applications for registration of between 2 and 5 applications per month. By the end of 2023, there had been 598 applications submitted for registration as a Jersey charity, and 474 of those had been determined positively by the Commissioner and the entity duly registered. At the end of 2023, there were 54 applications pending determination, most being 'on hold' at the applicant's request or awaiting further information or amendment by the applicant at the Commissioner's request.

36. The bulk of initial registration work had been completed by the end of 2020 with the focus then shifting to the filing and validation of annual returns for the 400 or so charities registered at that point. Only 8 annual returns were filed and approved in 2019 but by the end of 2020 that had increased to 139. In 2021, a further 426 annual returns were filed and approved with some of the earliest registered charities on their third round of filing. By the end of 2023, a total of 1367 annual returns had been filed. This is how the public register is kept up to date.

37. The majority of charities (89%) are registered in the general section of the register with 420 general section charities being registered at the end of 2023. The restricted section, which may contain charities that do not solicit donations from the general public (although they can be in the public register if they prefer), is much smaller by number, with 27 registered charities at the end of 2023.

38. 2023 also saw a further 7 charities seeking deregistration bringing the total number of deregistrations since inception to 27. An entity having been approved by the Commissioner for deregistration, its details are removed to the historic section of the register, where they must be retained for ten years. The scheme in the Law for deregistration ensures that the assets of deregistered charities are maintained as charitable assets in perpetuity. Information is available in the public register as to how other charitable organisations have benefitted from the cessation of the 27 registered charities now recorded in the historic section of the register.

39. While no application has yet been rejected by the Commissioner, by the end of 2023 70 applications had been withdrawn by the applicant. In the majority of these cases, this had come about as a result of dialogue, sometimes lengthy, between the applicant and the Commissioner by which it had been ascertained that either the charity test was unlikely to be met absent considerable change or that the entity might be better placed to operate effectually without registration, perhaps as a social enterprise or other kind of not-for-profit organisation. In some instances, such dialogue has preceded a formal application and then averted the need for the same. A number of Jersey charitable trusts are included among the 70 withdrawals, but it should also be noted that a number of such trusts have also readily been approved for registration. The test for all applications is the same: they must, in an objective manner, meet the charity test.



	<b>2023</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
<i>Number of applications received in year</i>	33	20	32	24	55	434
<i>Total number of applications received by year end</i>	598	565	545	513	489	434
<i>Number of charities registered in year</i>	17	14	22	121	264	36
<i>Total number of charities registered by year end</i>	474	457	443	421	300	36
<i>Number of applications awaiting determination</i>	54	42	42	44	177	398
<i>Total number of charities registered in General Section</i>	420	411	414	400	287	34
<i>Total number of charities registered in Restricted Section</i>	27	26	23	21	13	2
<i>Total number of charities registered in Historic Section</i>	27	20	6	0	0	0
<i>Total number of applications withdrawn</i>	70	66	60	48	12	0

<i>Total number of applications rejected</i>	0	0	0	0	0	0
<i>Annual Returns filed and approved in year</i>	402	400	426	131	8	0
<i>Total number of Annual Returns filed and approved by year end</i>	1367	965	565	139	8	0
<i>Number of Required Steps Notices Served on Registered Charities</i>	1	0	0	0	0	0

## Financial performance

40. Resources for the Office of the Jersey Charity Commissioner were allocated from the Jersey Reclaim Fund, wherein proceeds due under the Dormant Bank Accounts (Jersey) Law 2017 are held. This is pursuant to Ministerial Decision [MD-CM-2023-866](#). Running costs for 2023 were £236,216 (2022: £178,000). The increase compared with 2022 resulted from the appointment to a post vacant in 2022 and the secondment of a policy apprentice, removal across the corridor to a slightly larger office (with the particular benefit for staff welfare of a window where there was none before) and requisite development of both the website and register.

## Website and Communications

41. During 2023 the charitycommissioner.je website was refreshed to enable users to navigate the available resources more easily and to improve the way information is displayed or may be found in the public register. As well as a number of items in the local media during the year, both the Commissioner and his Head of Office took part in several events and spoke in webinars on a range of governance issues, notably in relation to the implications for the registered charities sector arising from all the work being done at Jersey on counter-terrorist financing and tackling money laundering in respect of non-profit organisations.

## Digitalisation

42. We have invested in technology to enable the entire end to end process of application, registration, certification, and the filing of annual returns to be paperless for the end user and

completed entirely online. All our application and other processes are at no cost to the applicant. There is a back-up register together with other safeguards for security and privacy assurance. Our systems are working well and, we believe, helping to ensure that any 'burden' on charities arising from the regulatory requirements imposed upon them by the legislature is kept as low or straightforward as can be. All this said we are always dutifully alert to the need to keep technology requirements and arrangements under regular review, and because we are small we have the ability to be nimble if or when problems or new things come into play.

## **Other non-financial information**

43. No new regulations or orders under the Charities Law came to pass in 2023. The Non-Profit Organisations (Prescribed NPOs – Additional Obligations) (Jersey) Order 2022, however, came into force on 1 January 2023. This puts certain additional reporting obligations on those NPOs (including registered charities) that raise or disburse funds outside Jersey, England, Wales, and Scotland, and the two other Crown Dependencies. The purpose of these is to aim to ensure that the entities concerned have in place appropriate accounting systems and controls so that funds are fully accounted for and any risks of moneys being used to assist terrorism or the financing of terrorism, or for other types of crime, well mitigated. Approximately one third of Jersey registered charities carry on some element of their public benefit delivery other than in Jersey. To address the implications where their charitable activity results in their being within the scope of the new rules, we have developed a good working relationship with the Jersey Financial Services Commission, governed by a memorandum of understanding as to information-sharing, with the clear aim of ensuring not only speedy and effectual communication but also the least possible duplication of reportage for the charities affected.

## **Key risks**

44. The Office of the Jersey Charity Commissioner keeps main risks under regular review - that is to say, risks with the potential to have more than a marginal impact on the functioning of the Office including maintenance of the Public Register – together with prospective mitigations. The following are the key risk themes:

### People

- the risk of interruption arising from all staff members being indisposed or otherwise absent at the same time is mitigated by facilities for remote working. The Commissioner, whose appointment is part-time, is normally able to deal with all papers either remotely or at the office. The Department of Strategic Policy, Planning and Performance supports our policy apprentice.

### Finance

- the risks of having insufficient resources for the discharge of statutory responsibilities and inadequate information to manage budgets are mitigated by our carefully staying within agreed budgets agreed with officials of the ministry. Things are helped by our financing from the Reclaim Fund not being counted as public spending. During the year agreement was reached to secure funding from the Fund until at least 2027. Ministerial Decision MD-

## Technology

- It goes without saying that delivery of the public charity register function is reliant upon robust and secure technology. The risks associated with hacking or other aspects or evidence of failure are mitigated by independent technology support from a leading firm at St Helier which includes regular testing and software updates. Further registry developments were implemented in 2023 to improve resilience from cyberattacks, and to improve the user experience and registry functionality. Technology arrangements and performance is kept under almost continual review.

## Reputation

- the Commissioner's principal general duty is to seek to act in a way that protects public trust and confidence in registered charities. Any sense arising, from whatever quarter, that public trust and confidence in Jersey registered charities might be waning or otherwise under pressure, has the potential to affect not only the standing of charities in the community of the Island generally but also the reputation of the oversight regime to which charities are bound and the standing of the law which lies behind it. It can certainly be argued that the reputation of the charity sector, globally and certainly not just at Jersey, is quite capable of hanging by a few fairly slender threads liable to break if pulled too hard by bad actions, even if those are confined, maybe, to but one or a few entities or actors. The first and foremost mitigation for this is constant vigilance as to how charities are, in general performing in giving effect to their objects, and here our review of each and every annual return – around eight a week - is most important. We look not only at the requisite annual narratives touching on public benefit delivery in the year past but also accounts, and couple what we can learn from those with more general market intelligence. Things are greatly helped by charities themselves seeking advice and support on all sorts of issues perhaps vexing their governors, whether to do with money (both too little and, sometimes, too much) governance or people (members and trustees as well as the public at large as customer). A second mitigation in 2023 was a substantive assessment of all registered charities to seek to identify those likely to be at a higher risk of being misused for such nefast purposes such as fraud, money laundering or terrorist financing. The main test for this was to see whether public benefit was largely or wholly being delivered abroad, quite often in distant or 'high risk' lands. We are now developing a risk-based approach to the validation of annual returns so that we give enhanced oversight to those registered charities prospectively at higher risk in or from such spheres. This work has also helpfully led to greater contact with a variety of professional trustees at St Helier, who have been without exception alert to the need for such enhanced assurance whose securing is as much part of their own duties as it is ours. This is a set of relationships for us as regulator to value, and we hope and believe that that sentiment is reciprocated. Because, moreover, we are a small organisation, all the plates being juggled by just four people, we can respond to contact requests quickly and easily. We are equally becoming able through this work better to get to know the scope and scale of the charitable trusts sector, which, registered charity or no, is cabined by the NPO regime now firmly in place under the main auspice of the Financial Services Commission.

## **Priorities for 2024**

45. Looking ahead to the next period, our priorities are a mix of continuing to ensure delivery of the Commissioner's statutory functions – our core business – alongside needing to understand and act upon a range of new or enhanced pressures, sometimes if not always requiring or at least warranting a degree of new thinking:

- timely validation of all annual returns, subject to the risk considerations noted above. This is essential for the continuing integrity of the charity register as a free and valued source of up to date, accurate and useful information. But the volume is not small
- determination of applications for registration, both the small number of new ones to be expected and those still under consideration from previous years. In general, as noted elsewhere in this report, applications these days have, as a generalisation, become somewhat harder or more time-consuming to determine. We picked the low-hanging fruit some years ago and now we have to part often quite dense, harder to reach, foliage, in order to garner the next layer
- beginning to think about taking forward a review of the Commissioner's guidance on the charity test to reflect experience since it was issued in 2018 and the possible impact or effect of a few not insignificant cases decided by the Royal Court over the last five or six years. Any substantive revision of statutory guidance would be subject to public consultation
- refreshed guidance on the duties of charity governors and on certain other aspects of the Law, again to reflect experience and changes such as those regarding NPOs already mentioned. There is quite a bit to seek to capture in the guidance, for the benefit both of new applicants and entities already well registered (but which must keep on showing, year by year, how they continue meeting the charity test)
- getting a clear understanding of the constraints, if any, on the availability of banking arrangements in Jersey for registered charities and agreeing with the main banks suitable but authoritative guidance on the subject on which charities may draw in seeking to secure their needs. There will be progress to be reported on this soon
- working with the ministry to get into place proposals to extend the definition of misconduct/reportable matters in the Charities Law. The present rules focus almost entirely upon financial crime as the reason by which it may fall to certain persons to be excluded from charity governorship but do not include various other manifestly very bad behaviours or crimes that currently carry no disqualification weight at all. A careful broadening of the range of possible disqualifications, to reflect to a degree some of the kinds of thing that have been reported in the press about shortcomings in certain global UK charities, would seem to be desirable in order to protect public trust and confidence and make sure its slender thread does not come asunder

There are all sorts of other things, too, but those noted above stand out when viewed at the date of this report.

**John Mills CBE**

Jersey Charity Commissioner

## 4. Accountability Report

This part of the Annual Report is divided into three parts:

- Corporate Governance Report,
- Remuneration and Staff Report, and
- Annual Accounts.

### Corporate Governance Report

46. I was appointed as Commissioner in July 2017. My appointment was extended by the Minister for External Relations on 12 June 2020 for a second three-year term, and on the 26 June 2023 for a third three-year term with the support of the Assistant Chief Minister with responsibility for Financial Services following approval by the Jersey Appointments Commission. That term ends on 11 June 2026 (inclusive).

47. The Office maintains a register of interests for the Commissioner and staff and the Head of Office has responsibility for data protection. There were no personal data-related incidents during the year that would have needed to be reported to the Office of the Information Commissioner. No conflicts of interest were recorded.

### Remuneration and Staff Report

48. Schedule 1 of the 2014 Law provides that the Minister must make available to the Commissioner such number and descriptions of staff as the Minister considers are required for the proper and effective discharge of the Commissioner's functions.

49. During 2023, one full time and one part time person were in post in support of the Commissioner. They were:

The Head of Office, Richard Jouault Esq; and  
The Executive Assistant Ms. Jayne Silver [from April 2023]

50. Total staff costs, including on-costs, for 2023 were £134,840 (2022: £117,154<sup>1</sup>) Staff numbers are too low to permit the publication of more detail. The Commissioner's fees paid during 2023 were £42,037 (2022: £42,691) but some £6000 of this, paid in arrears, related to 2022.

51. The Office of the Charity Commissioner comprises a small team and outsources the provision of specialist technology advice and support to external contractors where this is more cost effective and effectual for the business than were we to have a dedicated in-house resource. In 2023, the cost of this outsourcing was £31,8742 (2021: £7,247), the which ensured high-grade technology to ensure all systems, but especially the public register, ran well.

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<sup>1</sup> One person left in May 2022 whose post remained vacant until year end

<sup>2</sup> 2023 included additional payments for website and registry upgrade

## Annual Accounts

52. 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, equipment and monies 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 (which, for this purpose, includes the Reclaim Fund).

53. Expenditure for 2023 was £236,216 (2022: £178,064), all coming 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 position for 2023.

Cost	Actual 2023	Actual 2022	Actual 2021	Actual 2020	Comments
Charity Commissioner fees	£42,037	£42,691	£18,000	£45,500	Commissioner fees for 2023 relate to 2023 invoices plus some of 2022 invoices (£6700 related to 2022.) The 2022 figure relates to some of 2022 and some of 2021 invoices
Charity Commissioner's staff 1 Executive Officer 1 Administration Officer 1 Policy Apprentice	£134,840	£117,154	£143,005	£104,022	Vacant Exec. Asst. Officer appointed April 2023. Policy Apprentice seconded to Office in September 2023. 2022 costs reflect Admin. Officer vacancy for part year.
Office Premises	£27,355	£10,740	£13,624	£15,443	Serviced premises includes cleaning, electricity, photocopying and telephone costs. Removed in 2023 to a slightly bigger room, importantly with a window.
Other Overheads Including: Stationery Telephone Cleaning Electricity	£70 £39	£232	£3,288	£4,766	
IT costs Includes Registry development, Website hosting, support and platform licence.	£31,874	£7,247	£32,348	£23,443	2023 included once-off payments for website and registry upgrades.
<b>TOTAL</b>	<b>£236,216</b>	<b>£178,064</b>	<b>£207,820</b>	<b>£201,661</b>	

## 5. Data about registered charities [current aggregate position in 2023 column]

	2023	2022	2021	2020	2019	2018
Cost of the Commissioner's Office	<b>£0.236m</b>	£0.178m	£0.2m	£0.2m	£0.136m	£0.148m
Indicative total value of assets held (all registered charities)	<b>£2,214m</b>	£2035m	£660m	£607m	£228m	£76m
Indicative total value of assets held (Restricted Section)	<b>£1,845m</b>	£1704m	£337m	£313m	£36m	£0.5m
Indicative total value of assets held (General Section)	<b>£368m</b>	£331m	£322m	£294m	£192m	£75m
Indicative average value of assets held (all charities)	<b>£4.6m</b>	£4.4m	£1.5m	£1.5m	£0.76m	£2.1m
Indicative average value of assets held (Restricted Section)	<b>£68.3m</b>	£65.5m	£14.6m	£15m	£2.75m	£0.27m
Indicative average value of assets held (General Section)	<b>£0.87m</b>	£0.8m	£0.78m	£0.75m	£0.67m	£2.6m



	<b>2023</b>	2022	2021	2020	2019	2018
Indicative median value of assets held (all registered charities)	<b>£59k</b>	£54k	£61k	£54k	N/R	N/R
Indicative median expenditure (all registered charities)	<b>£33k</b>	£31k	£35k	£37k	N/R	N/R
Indicative total expenditure (all registered charities)	<b>£284m</b>	£179m	£204m	£125m	£82m	£32m
Indicative total expenditure (Restricted Section)	<b>£146m</b>	£55m	£83m	£11m	£46m	£62K
Indicative total expenditure (General Section)	<b>£136m</b>	£123m	£120m	£115m	£36m	£32m
Indicative average expenditure (all charities)	<b>£0.6m</b>	£0.4m	£0.5m	£0.3m	£0.3m	£0.9m
Indicative average expenditure (Restricted Section)	<b>£5.4m</b>	£2.1m	£3.6m	£2.7m	£3.5m	£31k
Indicative average expenditure (General Section)	<b>£0.3m</b>	£0.3m	£0.3m	£0.3m	£0.1m	£0.1m

	<b>2023</b>	2022	2021	2020	2019	2018
Number of registered charities operating only in Jersey	<b>294</b>	298	337	278	201	23
Number of registered charities operating overseas (including UK)	<b>48</b>	30	47	28	20	4
Number of charities operating both in Jersey and overseas (including UK)	<b>105</b>	129	59	115	79	9
Indicative total expenditure of registered charities operating only in Jersey	<b>£107m</b>	£99m	£96m	£90m	£57m	£19m
Indicative total expenditure of charities operating only overseas	<b>£145m</b>	£53m	£96m	£10m	£3m	£0.4m
Indicative total expenditure of charities operating both in Jersey and overseas	<b>£32m</b>	£27m	£12m	£25m	£22m	£12m
Indicative total expenditure of all charities	<b>£284m</b>	£179m	£204m	£125m	£82m	£32m

Number of charities registered by statutory charitable purpose	2023	2022	2021	2020	2019	2018
(a) prevention or relief of poverty	48	51	46	44	33	4
(b) advancement of education	95	93	90	87	57	10
(c) advancement of religion	86	83	81	80	62	4
(d) advancement of health	67	68	67	64	45	11
(e) saving of lives	17	16	15	15	14	2
(f) advancement of citizenship or community development	96	94	90	83	62	7
(g) advancement of the arts, heritage, culture or science	46	45	44	41	32	5
(h) advancement of public participation in sport	29	26	25	21	12	2
(i) provision of recreational facilities for improving the conditions of life for those for whom the facilities are primarily intended	40	39	36	35	24	4

(j) advancement of human rights, conflict resolution or reconciliation	<b>16</b>	15	15	13	11	2
(k) promotion of religious or racial harmony	<b>6</b>	6	6	6	4	0
(l) promotion of equality and diversity	<b>27</b>	25	24	23	17	4
(m) advancement of environmental protection or improvement	<b>25</b>	23	22	22	17	7
(n) relief of those in need by reason of disadvantage	<b>115</b>	117	111	110	89	12
(o) advancement of animal welfare	<b>16</b>	14	14	14	11	4
(p) any purpose that may reasonably be regarded as analogous to any of the above (mostly those which give grants to other charities)	<b>59</b>	54	52	50	24	0

Total number of registered charities by legal entity	2023	2022	2021	2020	2019	2018
Jersey body corporate	12	10	8	7	6	1
Court-approved fideicommiss	16	16	17	16	9	0
Incorporated '1862' association	98	98	97	93	75	12
Jersey company	67	65	59	55	38	3
Jersey foundation	6	6	7	6	2	0
Jersey trust	83	79	77	73	42	4
Other (mostly unincorporated associations)	192	183	178	171	128	16
Total	474	457	443	421	300	36
Complaints received about registered charities	12	8	7	6	4	0
Complaints received about charitable organisations not registered	4	1	0	4	8	1
Total complaints received	16	9	7	10	12	1

Income band (£)	% Jersey charities (2023)	% Jersey charities (2022)	% Jersey charities (2021)	% Eng & Wales Charities (2023)	% Eng & Wales Charities (2022)	% Eng & Wales Charities (2021)
0-to-5k	19	24	20	34.17	37	36.02
5k-to-10k	9	9	9	9.96	9	10
10k-to-25k	14	11	12	15.42	15	16
25k-to-50k	11	13	13	9.25	9	9
50k-to-100k	13	13	13	8.73	9	9
100k-to-250k	14	13	14	9.87	9	9
250k-to-500k	5	6	7	4.73	5	4
500k-to-1m	5	5	5	2.98	3	3
1m-to-5m	6	4	5	3.33	3	3
5m-to-10m	1	1	1.4	0.7	0.6	0.6
Over 10m	0.9	0.5	0.5	0.87	0.8	0.8

## **Annex (a)**

### **A Summary of the Charity Test and the Charity Commissioner's Main Duties**

1. The Commissioner is established as a corporation sole, independent of both the ministry and the legislature. The general functions of the office are spelt out in the Charities Law, together with certain regulations and orders made under it. In summary, her or his main functions are to:

- determine the charity test for the purposes of registration and to ensure that meeting the charity test by registered entities is continuant
- maintain the charity register, which has three sections: the general, the restricted and the historic
- publish and maintain guidance on the operation of the Law
- supervise the compliance of charity governors with their duties. (The heart of those is that governors are to seek, in good faith, to ensure that their charities act in a manner consistent with their registered charitable purposes and registered public benefit statements. Charity governors are also bound by statutory duties applicable to trustees of trusts or directors of companies, or similar.)
- seek to ensure that the expression 'charity' is only used in respect of registered charities or UK charities operating at Jersey
- assist other persons (including the Attorney General, the court, the Bailiff, the Comptroller and the Financial Services Commission, and equivalent bodies in other lands) to discharge, in relation to registered charities and entities with charitable purposes, any function of such a person under any enactment or law
- generally encourage, facilitate and monitor compliance of registered charities with the Law; and
- do anything (other than acting as a governor of a charity or of an entity with charitable purposes) that is calculated to facilitate, or is conducive or incidental to, the performance of any of her or his functions.

2. The Commissioner may:

- provide information to the public about the system of registration of charities, including information about the difference between charities and bodies with charitable purposes, information about the advantages of donating to entities that are registered as charities, and information by way of model constitutions
- advise the Minister as to the nature of charities in Jersey and as to the merits of any proposal for further regulation of charities

3. In performing her or his functions, so far as appears to her or him to be reasonably practicable the Commissioner must seek to act in a way that protects public trust and confidence in registered charities, and which is compatible with the encouragement of all forms of charitable giving and voluntary participation in the work of registered charities. He should, however, act in a manner that is proportionate as to the burdens imposed on registered charities and which supports their development.

4. The charity test is met by an entity if

- i. all its purposes are charitable purposes, save for any purpose purely ancillary or incidental; and
- ii. in giving effect to those purposes (including any that are ancillary or incidental), it provides or intends to provide public benefit in Jersey or elsewhere to a reasonable degree.

5. Public benefit is not defined in the Law but the concept is deeply embedded in the common and customary law of charity. In essence:

- it is what charities do, and must do, in order to give effect to their objects; and they must do it to a reasonable degree (a notion illumined in the Commissioner's statutory guidance on the charity test)
- it must be available to the public at large, or a sufficient section of the same
- it is to be contrasted with private benefit, accruing (as an example) to the members of an entity themselves (or persons connected with or to them), and with any public disbenefit which may arise, in consequence of the entity's exercise of its functions
- where public benefit is, or is likely to be, provided to only a section of the public, there must be no undue restriction on the obtaining of the benefit, such as, for example, through excessive fees, or restrictive, opaque or capricious membership rules
- a section of the public may not be one particular natural person or a group of identified such persons, or a nexus of persons such as, say, the members of one family or the employees of a single firm
- and it is not to be presumed that any particular charitable purpose is for the public benefit. For the charity test to be met, and for it to continue to be met, delivery of public benefit to a reasonable degree has to be demonstrated in a manner sufficiently discernible, and the intent of it described in public benefit statements, approved by the Commissioner, that are placed on the public register for all to see. It is the duty of charity governors to seek to act in a manner consistent with their charity's public benefit statement

6. Any private benefit should be but incidental to the delivery of public benefit or no more than a side consequence, so to speak, of that delivery. The Law requires these possibly competing considerations to be weighed by the decision-maker, which for registration purposes is the Commissioner. (On the other hand, information about the public benefit to be delivered under the objects of a charitable trust formed under the Trusts (Jersey) Law 1984, where the Commissioner is not a decision-maker, and ditto about any public disbenefit arising from the exercise of its function, would not normally, or perhaps ever save were revelation to arise from a case before the court, be in the public domain or subject to regulatory avouchment. Thus there is no method in Jersey of establishing regulatory certainty in the public domain as to the charitable status of charitable trusts and their compliance or otherwise with the customary law rules of public benefit given effect in the law for registered charities, save, perhaps, for rare happenstance before the court.

7. The Law protects the noun charity, to the effect that, in essence, it may be utilised in Jersey to refer only to Jersey registered charities or charities registered in the UK that operate in Jersey. There is a power in the Law, not to date exercised, to extend such or similar protection by Regulations to the terms charitable and public benefit, and any related term, in relation to the soliciting of donations from the general public or any prescribed class of persons. The power includes scope for the object of policy to be attained by means of the Commissioner's



exercising her or his discretion.

8. Although it is not something referenced in the Law itself, the Commissioner's statutory guidance on the operation of the Charity Test seeks to educe the difference between charity and philanthropy. The latter term oft seems to be used somewhat loosely, as if to be wholly interchangeable with the former, but which it is not, or not necessarily, albeit no doubt mainly as an act of omission not commission. The key difference is that charity flows from, and depends upon, exclusively charitable purposes (see Annex (ii) below for the delineation of those). On the other hand, a philanthropic foundation, for instance, could have mixed purposes, both charitable and non-charitable, or a rather greater, perhaps a significant, element of private benefit in favour of a founder or member or those connected to them. An example of a non-charitable purpose might be, for instance, support for commercial businesses or support that focussed on an insufficient section of the public at large or on but a nexus of persons. Or else, public disbenefit from the exercise of its functions might be held or seen to outweigh the converse. In short, philanthropy can flourish outwith the confines of the charity test. It is important for the good governance of Jersey's scheme for the regulation of charities and for its accurate portrayal especially when the 'financial services industry' is being promoted (or is promoting it, the scheme of charity regulation itself) that this distinction is not only overtly cognised by promoters, but also wholly acknowledged for the instruction or edification of their audiences. It is the Commissioner's duty to be vigilant on this in order to meet her or his principal task of seeking to protect public trust and confidence in registered charities.

9. The Charity Test is described in detail in the Commissioner's Guidance Note 2, available of the Commissioner's website.

## **Annex (b)**

### **The Statutory Charitable Purposes [Charities (Jersey) Law 2014, Art.6]**

1. There are 15 statutory charitable purposes, together with a sixteenth which enables other purposes reasonably able to be regarded as analogous with the 15 to be brought into the list.

2. The list as given in Art.6(1) of the Law is as follows:

- (a) the prevention or relief of poverty
- (b) the advancement of education
- (c) the advancement of religion
- (d) the advancement of health
- (e) the saving of lives
- (f) the advancement of citizenship or community development
- (g) the advancement of the arts, heritage, culture or science
- (h) the advancement of public participation in sport
- (i) the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended
- (j) the advancement of human rights, conflict resolution or reconciliation
- (k) the promotion of religious or racial harmony
- (l) the promotion of equality and diversity
- (m) the advancement of environmental protection or improvement
- (n) the relief of those in need by reason of age, ill-health, disability, financial hardship or other disadvantage
- (o) the advancement of animal welfare
- (p) any other purpose that may reasonably be regarded as analogous to any of the purposes listed [above]

3. Art.6(2) qualifies the statutory purposes as follows:

- (d) includes the prevention or relief of sickness, disease or human suffering
- (f) includes rural or urban regeneration, and the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of registered charities
- (h) sport means sport that involves physical skill and exertion
- (i) applies only in relation to recreational facilities or activities that are primarily intended for persons who have need of them by reason of their age, ill-health, disability, financial hardship or other disadvantage, or which are available to members of the public at large or to male or female members of the public at large
- (n) includes relief given by the provision of accommodation or care; and for the purposes of (p), the advancement of any philosophical belief (whether or not involving belief in a god) is analogous to purpose (c)

4. The Commissioner has set out in statutory guidance two further analogous purposes under (p) that may reasonably be regarded as analogous with the statutory purposes:

- analogous with (f): providing financial or other kinds of support in advancement of any of

the statutory charitable purposes, including, but not confined to, providing such support to other registered charities; and

- also analogous with (f): promoting the effectiveness, welfare and standing in the community of Jersey of the Armed Forces of the Crown, including the Army Reserve, cadet forces and veterans

(Guidance Note 2 on the Charity Test, at paragraphs 54-58, refers.)

5. The most usual analogous purpose among Jersey registered charities is supporting other registered charities or charitable purposes. This readily covers a range of 'grant-givers'. The Commissioner has not to date been faced with having to decide whether any adscititious purpose under purpose (p) may reasonably be regarded as analogous to any of the statutory purposes.

6. The list of statutory purposes and qualifications in Art.6 of the Law is taken word for word from s.7(2)-(3) of the Charities and Trustee Investment (Scotland) Act 2005, save for the addition of the word registered in the first analogon at paragraph 4 above.

7. For comparison, there are a few differences between the Jersey (and Scottish) statutory purposes on the one hand and, on the other, those applicable in England and Wales, which are set out in s.3(1)-(2) of the Charities Act 2011. These differences are:

- apropos Jersey's purpose (h), the 2011 Act says advancement of amateur sport and that the word sport means sports or games which promote health by involving physical or mental skill or exertion. This is a considerably wider definition of sport for charity purposes than obtains in Jersey (or Scotland) and is the most significant differency between the two lists
- re Jersey's purpose (n), the 2011 Act adds *youth* to the given list
- in relation to Jersey's purpose analogous with purpose (f) concerning the Armed Forces, the 2011 Act provides for this sphere of charity a somewhat broader statutory purpose in its own right: *the promotion of the efficiency of the armed forces of the Crown or of the efficiency of the police, fire and rescue services or ambulance services*. The analogous purpose at Jersey, as it currently stands by virtue of the Commissioner's guidance (but only by that), does not include promoting the efficiency of the Police Force, Fire Brigade or Ambulance Service. To date, no issue about this has arisen for consideration or decision
- re Jersey's purpose (p), the 2011 Act references a number of *any other purposes*:
  - first, those purposes that are not within the list on the face of the statute but which are recognised as charitable purposes by virtue of s.5 of the Act (recreational and similar trusts, etc.) or under the law in force immediately before 1 April 2008. s.5 says, in essence, that it is charitable in England and Wales to provide, or assist in the provision of, facilities for recreation or other leisure-time occupation if the facilities are provided in the interests of social welfare. This is stated to apply in particular, subject to the social welfare condition, to village halls, community centres and women's institutes, and to the provision and maintenance of grounds and buildings to be used for the

purposes of recreation or leisure-time occupation; and it is extended to the provision of facilities for those purposes by the organising of any activity. (In principle, some of, but maybe not all, these kinds of considerations would in the Commissioner's view normally be able to be accommodated at Jersey under statutory purposes (f), (h) [as qualified] or (i)

- secondly, those purposes that may either be *analogous* to the main list in the statute or *within the spirit of* either any of those same purposes or the other recognised purposes; or
- thirdly, purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes which have been recognised under the law relating to charities.

8. The qualifications above perhaps lead to definitions of somewhat broader scope than the present obtention in Jersey. The Commissioner, however, has an appropriately reasonable degree of latitude under purpose (p) should the exercise of such be warranted. And in principle he has the scope to go further, should a valid need arise, but subject to consultation [paragraph 58 of Guidance Note 2 on the Charity Test refers].

9. One is thus left with sport as the one field of charitable purpose where there is a difference between the law in Jersey (and Scotland) and in England which by design is more than token. (It should be noted that the relevant Scottish purpose – the advancement of public participation in sport, the which is but physical - that was inducted unchanged into the Jersey Law resulted from an amendment made during the passage of the bill in the Scottish Parliament. The original draft was the advancement of amateur sport, as in England. The amendment was introduced by the Scottish ministry to meet backbench concern that amateur was an 'outdated' expression. By the same token, the inclusion of sport involving mental as opposed merely to physical exertion was justified by the ministers on the ground that the charitable purpose concerning sport should focus on 'healthy' activity. In 2014 there was no engagement on these particular subtleties when the draft Charities Law was being considered by the Jersey legislature).