



Consultation on regulations under the Limited Liability Companies (Jersey) Law 2018

Summary

The Limited Liability Companies (Jersey) Law 2018 (the “LLC Law”) was adopted by the States Assembly in September 2018. Since that date, work has been ongoing to identify the necessary consequential amendments to existing legislation and the additional requirements to ensure that when the LLC Law comes into force the limited liability company is a commercially viable product within the appropriate regulatory space. This consultation paper seeks views on draft regulations prepared under the LLC Law.

Date published: 2 September 2020

Closing date: 2 October 2020

Supporting documents attached:

1. Draft Limited Liability Companies (Consequential Amendments) (Jersey) Regulations 202-
2. Draft Limited Liability Companies (Winding Up and Dissolution) (Jersey) Regulations 202-
3. Draft Limited Liability Companies (General Provisions) (Jersey) Regulations 202-

How we will use your information

The information you provide will be processed in compliance with the Data Protection (Jersey) Law 2018 for the purposes of this consultation. For more information, please read our privacy notice at the end of this document.

The Government of Jersey may quote or publish responses to this consultation including (*send to other interested parties on request, send to the Scrutiny Office, quote in a published report, report in the media, published on www.gov.je, list on a consultation summary etc.*) but will not publish the names and addresses of individuals without consent. Confidential responses will still be included in any summary of statistical information received and views expressed. Under the Freedom of Information (Jersey) Law 2011, information submitted to this consultation may be released if a Freedom of Information request requires it, but no personal data may be released.

Do you give permission for your comments to be quoted?

1. No
2. Yes, anonymously
3. Yes, attributed

Name to attribute comments to:

Organisation to attribute comments to, if applicable:

Ways to respond

Helen De La Cour

Lead Policy Adviser | Financial Services | Chief Executive's Office

Email: H.DeLaCour@gov.je

Alternatively, Jersey Finance will be collating an industry response and these responses should be sent to:

Lisa Springate

Head of Legal and Technical | Jersey Finance Limited

Email: lisa.springate@jerseyfinance.je

INTRODUCTION

The LLC Law was adopted by the States Assembly in September 2018, and, subject to the introduction of a suitable regulatory regime and other administrative requirements, paves the way for the establishment of limited liability companies (“LLCs”) in Jersey once brought into force.

LLCs are hybrid vehicles, combining some of the features of companies with some of the features of partnerships and have a particular prevalence in the United States. The LLC Law was introduced with a view to Jersey becoming an increasingly attractive jurisdiction for US business, as well as catering to the growing US market more generally.

The LLC Law provided a framework on which to build subordinate legislation to ensure the Jersey LLC is operational and marketable. Since the introduction of the LLC Law in 2018, work has been undertaken with the Jersey Financial Services Commission (the “Commission”) and the Jersey Finance LLC Working Group (the “Working Group”) on the LLC Law and subordinate legislation to ensure that when brought into force, the Jersey LLC is an attractive and familiar product to US businesses which operates within Jersey’s respected regulatory framework.

Following consultation with the Commission and the Working Group, a series of draft regulations have been produced to accommodate LLCs for use by the financial services industry. Those regulations are now the subject of this consultation. There are three sets of regulations and this consultation is divided into three parts, considering each of the regulations separately. We would welcome responses to the questions posed in this consultation and on the draft regulations more generally.

PART ONE: DRAFT LIMITED LIABILITY COMPANIES (CONSEQUENTIAL AMENDMENTS) (JERSEY) REGULATIONS 202-

The Draft Limited Liability Companies (Consequential Amendments) (Jersey) Regulations 202- (the “Consequential Regulations”) seek to amend a significant amount of existing legislation, relevant to the financial services industry, so as to bring LLCs into the scope of the regulatory framework.

The consequential amendments largely introduce a definition of an LLC into existing legislative instruments and expand the provisions to apply to LLCs. This ensures that LLCs are brought within the regulatory space through, for example, amendments to the Control of Borrowing Law and Order and that LLCs are not misused for purposes of money laundering and terrorist financing.

It is an agreed policy position that series (Article 12 LLC Law) will not be brought into force on initial launch of the LLC Law. We will continue to monitor the position with the Working Group and the Commission to enable us to bring the relevant provisions in at an appropriate time. Government notes that the Cayman and Bermuda LLC legislation does not make provision for series to be created. We do not consider the decision not to introduce series at this time to be detrimental to the successful launch of LLCs.

A number of the consequential amendments are more substantive and arise from policy decisions as to their use at this time. The full details of the amendments can be found in the Consequential Regulations and we set out the more substantive provisions below.

Control of Borrowing (Jersey) Law 1947 (the “COB Law”) and the Control of Borrowing (Jersey) Order 1958 (“COBO”)

LLCs are intended to be brought into regulatory scope through amendments to the COB Law, COBO and the Financial Services (Jersey) Law 1998.

Amendments to the COB Law and COBO ensure that an LLC cannot issue LLC interests or securities without the consent of the Commission. The consent of the Commission will also be required to issue a prospectus.

The amendments to the COB Law and COBO intend to bring LLCs in line with provisions in respect of companies.

Collective Investment Funds (Jersey) Law 1988 (the “CIF Law”)

Following discussions with the Commission and the LLC Working Group the policy position at this time has been adopted that LLCs shall not be permitted to carry on business as a collective investment fund (“CIF”). This reflects the position adopted for limited liability partnerships (“LLPs”). We will continue to monitor the position with industry and the Commission and will engage in further consultation should the position change.

Bankruptcy (Désastre) (Jersey) Law 1990 (the “Bankruptcy Law”)

Amendments are proposed to the Bankruptcy Law to permit declarations that the property of an LLC is *en désastre* and to bring those managing an LLC into scope of the offence provisions.

Powers of Attorney (Jersey) Law 1995 (the “PoA Law”)

LLCs have separate legal personality but are not body corporates. LLCs are able to enter into contracts in their own right. The PoA Law provides for body corporates executing powers of attorney but does not contemplate vehicles that have separate legal personality that are not body corporates. An amendment is therefore proposed to the PoA Law to permit LLCs to execute powers of attorney. Government recognises that there are other vehicles with separate legal personality that should also be permitted to execute powers of attorney. Although the regulation making power of the LLC Law is insufficient to address requirements for other vehicles, wider amendments are being made to the PoA Law and will be consulted on in due course.

Financial Services (Jersey) Law 1998 (the “Financial Services Law”) and exemptions

The intention is to ensure that provision of certain services to an LLC and certain activities of an LLC are brought into scope of the Financial Services Law and therefore regulated. This includes acting or fulfilling the function or arranging for another person to act or fulfil the function of a member or manager of an LLC. Amendments are also proposed to the exemption Orders made under the Financial Services Law to permit LLCs to rely on the equivalent exemptions permitted for companies.

The current amendments to the Financial Services (Jersey) Law do not include amendments to allow an LLC manager to conduct alternative investment fund services business (AIFSB). This would not prevent use of the sub-threshold AIF provisions by an LLC.

Such amendments can be introduced now or in the future if there is demand. We will continue to consider the position with the Working Group and Commission, however, in order to help guide thinking we would appreciate views on whether there would be demand for an LLC manager to conduct AIFSB.

PART ONE: QUESTIONS

- 1. Please provide any comments in relation to the Consequential Regulations.**
- 2. Do you consider any further consequential amendments are required to ensure the successful launch of the Jersey LLC? If yes, please provide details.**
- 3. Have you received any enquiries into an LLC manager conducting AIFSB? Please provide any details.**

PART TWO: LIMITED LIABILITY COMPANIES (WINDING UP AND DISSOLUTION) (JERSEY) REGULATIONS 202-

The Limited Liability Companies (Winding Up and Dissolution) (Jersey) Regulations 2020- (the “Winding Up Regulations”) set out the grounds on which an LLC may be dissolved or wound up and the procedures for doing so. Having considered the unique features of an LLC with the Working Group and the Commission, a corporate approach to the winding up and dissolution of LLCs has been adopted, akin to the provisions found in the Companies (Jersey) Law 1991 (the “Companies Law”) at Part 21. To assist with cross-referencing, we have included references to the relevant Article of the Companies Law in the title to each Regulation in the Winding Up Regulations.

While companies have directors responsible for the management, LLCs may appoint a manager, or the management of the LLC may vest in the members. To accommodate this nuance, a definition of “manager” has been inserted into the Winding Up Regulations (Regulation 1).

The winding up procedures under the Companies Law require resolutions and special resolutions. These terms are not adopted under the LLC Law, which instead require consents or approvals. To reflect this, a definition of “approval” is also included at Regulation 1.

Under the Winding Up Regulations, the winding up of an LLC may occur:

- a. On the expiration of a certain period;
- b. On just and equitable grounds by the court;
- c. Summarily on the filing of a statement of solvency;
- d. In a creditors’ winding up on approval by the members.

Summary winding up

A summary winding up may be commenced by an LLC, except where a declaration has been made under the Bankruptcy Law. It applies to an LLC with:

- a. No liabilities;
- b. Liabilities that have fallen due or that will fall due within 6 months and the LLC is able to discharge those duties; or
- c. Liabilities that will fall due later than 6 months after the commencement of the winding up, that the LLC will be able to discharge.

In a summary winding up, the managers of the LLC are required to file a statement of solvency with the registrar, which has been approved by the members of the LLC.

The managers of an LLC may appoint a liquidator for the purposes of a summary winding up. If a liquidator is appointed, the managers cease to be authorised to exercise their powers and the powers instead vest in the liquidator.

Distribution of assets of the LLC is addressed in Regulation 8. Following the discharge of liabilities (if any) and the distribution of the assets of the LLC, the managers or liquidator of the LLC must file a signed statement with the registrar. It is an offence to sign a statement without reasonable grounds for making the statement.

Where, after the commencement of a summary winding up, it appears to the liquidator or manager(s) that the LLC will be unable to discharge its liabilities, that opinion must be recorded and notice that a meeting shall take place in Jersey must be given to the LLC's creditors, the registrar and published in the Jersey Gazette. The winding up shall no longer proceed as a summary winding up and shall instead proceed as a creditors' winding up under Part 3 of the Winding Up Regulations.

Creditors' winding up

Under Part 3, an LLC, except an LLC in respect of which a declaration has been made under the Bankruptcy Law, may, with the approval of its members commence a creditors' winding up.

Once a creditors' winding up has commenced any transfer of LLC interests (unless made with the sanction of the liquidator or under Part 7 of the Security Interests (Jersey) Law 2012) or alteration of the status of the LLC members is void.

An LLC in a creditors' winding up is required to:

- a. Give notice to its creditors of a meeting;
- b. Nominate a liquidator;
- c. Provide information about the affairs of the LLC to the creditors at no charge, prior to the meeting.

Where a creditors' winding up has commenced but a liquidator has not yet been appointed, the manager(s) of the LLC must not exercise their powers except with sanction of the Court, to comply with Regulation 16 or to protect the assets of the LLC.

The Winding Up Regulations also allow for the appointment of a liquidation committee, which may consist of no more than 5 persons. The role of the liquidation committee includes sanctioning the liquidator's decision to pay classes of creditors in full and compromising claims by or against the LLC and agreeing the remuneration of the liquidator.

The liquidator is permitted to disclaim any onerous property and contract leases. In order to do so, the liquidator must give notice to any person having interest in the property on contract lease within 6 months of the commencement of the creditors' winding up.

It is permitted, either immediately before the commencement of a creditors' winding up or during the course of the winding up, for the LLC and its creditors to enter into an arrangement where it is approved by the members of the LLC and if 75% of the creditors in number and value vote to support the resolution.

Creditors of LLCs are permitted to vote at meetings of which they have been given notice. The value of a creditors' vote will be calculated on the basis of the debt owed to the creditor at the commencement of the winding up. Where a creditor's debt is for an unliquidated amount, or the value of the debt has not been ascertained, the creditor is not automatically entitled to vote, however, the chairperson of the meeting may attribute a minimum value to the debt, which entitles the creditor to a vote.

Where a creditors' winding up continues for more than 12 months, the liquidator is required to call a meeting of the members and lay a report before the meeting, setting out details of the winding up during the preceding year.

A creditors' winding up may be terminated on application to court by the liquidator, if the members approve the making of the application. The court is required to refuse the application unless it is satisfied that the LLC can discharge its liabilities in full and as they fall due.

Once the affairs of the LLC are wound up under this Part, the liquidator is required to prepare an account of the winding up and call meetings of the members and creditors for the purpose of laying the account before the meetings. Within 7 days of those meetings, the liquidator must provide a return to the registrar confirming the meetings have taken place.

The costs of a creditors' winding up, including remuneration of a liquidator are payable out of the assets of the LLC and take priority over other claims.

Transactions at an undervalue and giving of preferences

The Winding Up Regulations make provision for the Court to take steps where an LLC has entered into a transaction at an undervalue (within the 5 years immediately preceding the commencement of the winding up) or an LLC has given preference to another person (within the 12 months immediately preceding the commencement of the winding up). The Court may make orders including the transfer of property, release or discharge security given by the LLC and require a person to pay in respect of a benefit they received from the LLC.

Applications to court

The Winding Up Regulations provide the mechanism for the liquidator to apply to the court for an order:

- a. Where there has been wrongful or fraudulent trading by the LLC;
- b. Where the LLC appears to have entered into an extortionate credit transaction; and
- c. For delivery of LLC property to the liquidator.

As the equivalent position of a director in a company, a manager or former manager of an LLC who knew (or was reckless) as to whether there was reasonable prospect of avoiding a creditors' winding up may be held personally responsible for all or any of the debts of the LLC, unless the manager or former manager took reasonable steps to minimise the potential loss to the LLC's creditors.

In addition, persons who were knowingly parties to business of the LLC carried on with the intent to defraud creditors, may, on application to the Court by the liquidator, be liable to make contributions to the LLC's assets.

Where an LLC has entered into a transaction for the provision of credit within 3 years ending on the date of the commencement of the creditors' winding up, the Court may make an order that the transactions were extortionate and may set aside the whole or part of a transaction, vary the terms of the transaction, require the a party to the transaction to make payment to the liquidator, require the surrender of LLC property held as security or direct accounts to be taken between any persons.

A liquidator can also apply to court for the delivery of property or records in the possession of another, that the LLC (in a creditors' winding up) appears to be entitled to.

Cooperation, misconduct and records

The Winding Up Regulations impose a duty on members, managers and secretaries and those that have held those roles in the 12 months prior to the commencement of the creditors' winding up to cooperate with a liquidator by:

- a. Providing information about the LLC that is reasonably required by the liquidator;
- b. Attending on the liquidator at reasonable times after being provided with reasonable notice;
- c. Notifying the liquidator of any change in the person's address, employment or name.

The Winding Up Regulations require a liquidator to report to the Attorney General, where it appears to the liquidator or the court that:

- a. The LLC being wound up has committed a criminal offence;
- b. A person has committed a criminal offence in relation to the LLC being wound up; or
- c. The conduct of a manager being wound up justifies applying for a disqualification order against the manager.

The Attorney General may refer such a report to the Minister or the Commission for further enquiry.

While the full inspector regime in the Companies Law has not been applied in relation to LLCs due to the more flexible nature of the LLC, the Minister or the Commission may require any person they believe to be in possession of any information relevant to the further enquiry to provide such information.

It is an offence to fail to comply with a request by the Minister or the Commission.

Liquidators

The Winding Up Regulations provide for the qualifications of a liquidator, which mirror the provisions in the Companies (General Provisions) (Jersey) Order 2002.

Liquidators are entitled to be remunerated and the Winding Up Regulations provide for the removal and resignation of a liquidator.

It is a criminal offence to seek inducement to be appointed as a liquidator of an LLC.

Miscellaneous

Part 6 of the Winding Up Regulations set out miscellaneous provisions including:

- a. Provisions in respect of referring matters to court for determination;
- b. Enforcement of a manager or liquidator's duty to make a return; and
- c. Requirement to disclose that the LLC is in liquidation in correspondence and documents.

It also makes provision for past and present members of the LLC to contribute to the LLCs assets to an amount sufficient for payment of its liabilities. Any contribution of a past or present member shall

not exceed any amount unpaid on an LLC interest or the amount the member had undertaken to contribute to the assets of the LLC, should it be wound up.

Penalty provisions are also introduced, which are aligned to the corresponding penalties under the Companies Law.

Consequential amendments

A number of consequential amendments are required to existing enactments to extend their application to LLCs.

The Interpretation (Jersey) Law 1954 is amended to extend the definition of bankruptcy to include the winding up of an LLC in a creditors' winding up.

The Proceeds of Crime (Jersey) Law 1999 is amended to extend "insolvency services" to include services provided by a liquidator appointed under the Winding Up Regulations.

PART TWO: QUESTIONS

- 4. Do you agree with the commercial approach adopted in respect of the winding up and dissolution of Jersey LLCs? If not, please provide further comment.**
- 5. Do you consider it necessary and/or appropriate to extend the full inspector regime of the Companies Law to LLCs? Please provide details.**
- 6. Please provide any general comments in relation to the Winding Up Regulations.**

PART THREE: LIMITED LIABILITY COMPANIES (GENERAL PROVISIONS) (JERSEY) REGULATIONS 202-

It is anticipated that LLCs may be used as special purpose vehicles (SPVs) or security issuing vehicles. As such, provisions under the Companies (General Provisions) (Jersey) Order 2002 are extended to a degree to LLCs. The Limited Liability Companies (General Provisions) (Jersey) Regulations 202- (the “General Provisions Regulations”) make provision in respect of:

- a. Disqualifications;
- b. Accounts and audit;
- c. Circulation of prospectuses by an LLC;
- d. Takeovers of LLCs;
- e. Compromises and arrangements;
- f. Mergers and demergers;
- g. Continuance; and
- h. Offences.

Members and managers

The General Provisions Regulations provide that a person under the age of 18 or a person lacking in capacity may not be a member or a manager of an LLC.

In addition, the General Provisions Regulations expressly prohibit a body corporate from being a manager of an LLC unless it is registered under the Financial Services Law for that purpose and the body corporate from having a director that is a body corporate. This reflects the position in the Companies Law in respect of directors. We will continue to consider this provision with the Commission and the Working Group but would also welcome views on the impact of this requirement and whether an alternative approach may be preferable.

An incorporated limited partnership, separate limited partnership and a limited liability partnership is not permitted to be a manager of an LLC.

Disqualification

To ensure protection for investors and that LLCs are properly managed by appropriate persons, the General Provisions Regulations allow for the disqualification of persons from being managers of an LLC. Disqualification also extends to prohibit persons disqualified as a manager from being a member of an LLC where there is no manager appointed. This reflects that where a manager is not appointed under the LLC Law the management of the LLC vests in the members of the LLC.

Accounts and audit

Except for LLCs that are market traded or making a public offer, an LLC will not be required to appoint an auditor or have its accounts audited.

All LLCs are required to keep sufficient accounting records to show the LLCs transactions, reflecting the position under the Companies Law.

The principles of the Companies (GAAP) (Jersey) Order 2010 are extended to market traded LLCs and accounts prepared by non-market traded LLCs are required to be prepared in accordance with generally accepted accounting principles.

Prospectuses

The provisions of the Companies (General Provisions) (Jersey) Order 2002 in respect of prospectuses are extended to LLCs, with appropriate amendments to provide for the unique features of an LLCs. Further, to ensure adequate consumer protection and responsibility within the LLC, an LLC is not permitted to circulate a prospectus unless it has appointed a manager.

A prospectus must not be circulated by an LLC, unless:

- a. It contains the information specified in Part 1 of Schedule 1 to the General Provisions Regulations;
- b. It contains the statements specified in Part 2 of Schedule 1 to the General Provisions Regulations;
- c. The LLC has delivered to the registrar:
 - i. A copy of the prospectus signed by or on behalf of all the managers of the LLC;
 - ii. A signed copy of any report included or attached to the prospectus and
 - iii. Any other particulars that the registrar may require.

It is a criminal offence to circulate a prospectus that does not comply with these provisions.

Persons who agree to acquire an LLC interest and suffer a loss as a result of a misleading or untrue statement in the prospectus, or due to the omission of a material fact are entitled to compensation.

Takeovers

The General Provisions Regulations permit the acquisition of an LLC interests through takeovers and schemes of arrangement. The provisions reflect those in the Companies Law, with relevant LLC specific terminology.

Although the Panel on Takeovers and Mergers (the "Panel") is appointed in respect of takeovers of Jersey companies, the Panel has declined jurisdiction in respect of LLCs at this time.

Mergers and demergers

Provisions in respect of mergers and demergers of LLCs are provided for in the General Provisions Regulations. The provisions correspond with those found at Part 18B of the Companies Law and the Companies (Demerger) (Jersey) Regulations 2018, with the inclusion of appropriate terminology for LLCs.

Continuance

It is intended that foreign bodies may be permitted to migrate to Jersey under the continuance provisions of the General Provisions Regulations. In addition, a Jersey LLC may seek to migrate to another jurisdiction, where it is permitted under the laws of that jurisdiction.

Continuances are not permitted where, for example, the body seeking to continue is in bankruptcy or equivalent proceedings. Consent of the Commission will be required for the continuance of an LLC. This is addressed in the Consequential Regulations through amendments to COBO and the COB Law.

Annual return/fee

The provisions in respect of annual returns/annual administration fees have not been applied to LLCs. This is because the recently adopted Financial Services (Disclosure and Provision of Information) (Jersey) Law 202- makes provision for LLCs (amongst other entities) to submit an annual confirmation statement to the registrar with the relevant fee.

PART THREE: QUESTIONS

- 7. Please provide any general comments in relation to the General Provisions Regulations.**
- 8. Please provide comments on the requirement that if a body corporate is to be a manager of an LLC, it must be registered under the Financial Services Law.**
- 9. Do you consider it appropriate to limit the merging or demerging of a Jersey LLC in any way? Please provide details.**
- 10. Do you consider it appropriate to limit the continuance of LLCs into or out of Jersey in any way? Please provide details.**
- 11. Have you received any enquiries into the continuance of LLCs in Jersey? Please provide any details.**
- 12. Do you consider any further provisions should be extended to LLCs? Please provide details.**

PART FOUR: GENERAL

The Government of Jersey continues to work with the Commission and the Working Group to ensure that the necessary legislative provisions are in place to ensure the launch of a successful, appropriately regulated product in Jersey. In order to do so, Government is seeking views from industry on the anticipated use of the Jersey LLC. We appreciate the commercial sensitivity of this request and will ensure any responses in this respect are handled appropriately.

In addition, during the work on the draft regulations implementing the LLC Law, the Government of Jersey has engaged with industry representatives including the Fiscal Strategy Group (FSG) hosted by Jersey Finance, to finalise the domestic tax treatment of LLCs. While the intention was originally to reflect the US position that LLCs could elect their tax treatment in Jersey, it was apparent that this would not impact how a Jersey LLC was treated for tax purposes in the US (or other jurisdictions). It is therefore intended that regulations will be brought forward to provide that LLCs will be transparent from a domestic perspective.

PART FOUR: QUESTIONS

13. Have you received any enquiries into establishing LLCs?

14. If yes, are you able to provide details of the number of enquiries and nature? Please provide any further information in respect of such enquiries.

CONCLUSION

Subject to responses received to this consultation paper, Government intends to lodge the Regulations in Q4 2020 for debate by the States Assembly at the next available sitting.

Additional work in relation to amendments required in respect of taxation and substance is being undertaken by the relevant department.

SUMMARY OF QUESTIONS

Part one	
1.	Please provide any comments in relation to the Consequential Regulations.
2.	Do you consider any further consequential amendments are required to ensure the successful launch of the Jersey LLC? If yes, please provide details.
3.	Have you received any enquiries into an LLC manager conducting AIFSB? Please provide any details.
Part two	
4.	Do you agree with the commercial approach adopted in respect of the winding up and dissolution of Jersey LLCs? If not, please provide further comment.
5.	Do you consider it necessary and/or appropriate to extend the full inspector regime of the Companies Law to LLCs? Please provide details.
6.	Please provide any general comments in relation to the Winding Up Regulations.
Part three	
7.	Please provide any general comments in relation to the General Provisions Regulations.
8.	Please provide comments on the requirement that if a body corporate is to be a manager of an LLC, it must be registered under the Financial Services Law.
9.	Do you consider it appropriate to limit the merging or demerging of a Jersey LLC in any way? Please provide details.
10.	Do you consider it appropriate to limit the continuance of LLCs into or out of Jersey in any way? Please provide details.
11.	Have you received any enquiries into the continuance of LLCs in Jersey? Please provide any details.
12.	Do you consider any further provisions should be extended to LLCs? Please provide details.
Part four	
13.	Have you received any enquiries into establishing LLCs?
14.	If yes, are you able to provide details of the number of enquiries and nature? Please provide any further information in respect of such enquiries.

Data Protection (Jersey) Law 2018 Privacy Notice

How will we use the information about you?

We will use the information you provide in a manner that conforms to the Data Protection (Jersey) Law 2018.

We will endeavour to keep your information accurate and up to date and not keep it for longer than is necessary. In some instances the law sets the length of time information has to be kept. Please ask to see our retention schedules for more detail about how long we retain your information.

We may not be able to provide you with a service unless we have enough information or your permission to use that information.

We will not pass any personal data on to anyone outside of the States of Jersey, other than those who either process information on our behalf, or because of a legal requirement, and we will only do so, where possible, after we have ensured that sufficient steps have been taken by the recipient to protect your personal data.

We will not disclose any information that you provide 'in confidence', to anyone else without your permission, except in the few situations where disclosure is required by law, or where we have good reason to believe that failing to share the information would put someone else at risk. You will be told about this unless there are exceptional reasons not to do so.

We do not process your information overseas using web services that are hosted outside the European Economic Area.

Data Sharing

We may need to pass your information to other States of Jersey (SOJ) departments or organisations to fulfil your request for a service. These departments and organisations are obliged to keep your details securely, and only use your information for the purposes of processing your service request.

We may disclose information to other departments where it is necessary, either to comply with a legal obligation, or where permitted under other legislation. Examples of this include, but are not limited to: where the disclosure is necessary for the purposes of the prevention and/or detection of crime; for the purposes of meeting statutory obligations; or to prevent risk of harm to an individual, etc.

At no time will your information be passed to organisations for marketing or sales purposes or for any commercial use without your prior express consent.

Your rights

You can ask us to stop processing your information

You have the right to request that we stop processing your personal data in relation to any of our services. However, this may cause delays or prevent us delivering a service to you. Where possible we will seek to comply with your request but we may be required to hold or process information to comply with a legal requirement.

You can withdraw your consent to the processing of your information

In the few instances when you have given your consent to process your information, you have the right to withdraw your consent to the further processing of your personal data. However, this may cause delays or prevent us delivering a service to you. We will always seek to comply with your request but we may be required to hold or process your information in order to comply with a legal requirement.

You can ask us to correct or amend your information

You have the right to challenge the accuracy of the information we hold about you and request that it is corrected where necessary. We will seek to ensure that corrections are made not only to the data that we hold but also any data held by other organisations/parties that process data on our behalf.

You request that the processing of your personal data is restricted

You have the right to request that we restrict the processing of your personal information. You can exercise this right in instances where you believe the information being processed is inaccurate, out of date, or there are no legitimate grounds for the processing. We will always seek to comply with your request but we may be required to continue to process your information in order to comply with a legal requirement.

You can ask us for a copy of the information we hold about you

You are legally entitled to request a list of, or a copy of any information that we hold about you. However where our records are not held in a way that easily identifies you, for example a land registry, we may not be able to provide you with a copy of your information, although we will do everything we can to comply with your request.

You can ask us:

- to stop processing your information
- to correct or amend your information
- for a copy of the information we hold about you.

You can also:

- request that the processing of your personal data is restricted
- withdraw your consent to the processing of your information.

You can complain to us about the way your information is being used by contacting us at dataprotection2018@gov.ie alternatively you can complain to the Information Commissioner by emailing enquiries@dataci.org.

