

# Brexit Readiness

Brexit Review Panel

26th March 2019

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States of Jersey  
States Assembly



États de Jersey  
Assemblée des États



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## Chairman's Foreword

It is unfortunate that, to date, the only result of the Brexit referendum has been an ongoing state of uncertainty - one that is doing untold damage to the UK economically, socially and politically.

It is against this backdrop that the Government of Jersey has had to make its own preparations for Brexit and whilst acknowledging that Jersey has never been a full member of the European Union and so should not be harmed extensively by the consequences of Brexit, Jersey's government has quite appropriately adopted the precautionary principle and attempted to plan for the worst case scenario – a no deal exit from the EU.

Since being reconvened following the island's general election in May, the Brexit Review Panel has focused its work on exploring, with a view to understanding and assessing, the government's preparations for a "Day One No Deal" scenario.

### **Striking the right balance**

Overall, we have found that the government's preparations have struck the right balance between understanding the risks presented by Brexit and preparing for them in a manner that does not create excessive costs or disruption to existing ways of working. It is, however, undeniable that Brexit; a scheme in which islanders have had no say, has already cost Jersey millions of pounds of taxpayers' money. If the UK does eventually leave the EU with a deal, some of this money and the preparations it has paid for will go to waste, but the Panel was pleased to see that the island's government has tried to ensure that the potential for such waste is minimised.

The government itself has made some decisions which will affect us long into the future. Perhaps the most notable of these is the decision to have the Vienna Convention extended to Jersey, and as a result, all motor vehicles will be subject to regular road worthiness testing. Personally, I took an alternative view to the government but the States Assembly supported this decision, believing it necessary for islanders to maintain free circulation of their vehicles on Europe's roads.

Whilst the Panel has, in the round, found the government's preparations to be adequate, there are areas that remain unresolved. As yet, we do not know if Jersey's fishing and aquaculture industries will be able to unload their goods in the nearby ports of St Malo or Granville in the event of a no-deal Brexit. There is no doubt that this is an unsatisfactory situation, but we are reliant on decisions made by France in order to resolve it and the island's government has shown to the panel that it is engaging as best it can with the French authorities on this matter.

Similarly, decisions being taken in France in the event of no deal, mean that the transport of pets to Europe will likely become more onerous and costly for islanders. This is deeply unfortunate but the Panel is satisfied that it is an issue that lies beyond the jurisdiction of Jersey's government.

### **Lessons for the future**

The deep uncertainty caused by the UK government's handling of its departure from the EU has served as an important reminder of Jersey's island status and our reliance on robust and resilient supply lines.

Brexit preparations have shown that we are highly dependent on the UK for the food, medicines and other goods that support us in our everyday lives. This is a reality that the

island's government has not been able to change in the time since the referendum and to that extent, whilst preparations have been made to deal with unwanted disruption to freight deliveries in the event of no deal, by highlighting our dependence on fragile supply lines, Brexit may serve to encourage the island, its government and businesses to look to build alternative supply routes because it has highlighted the fact that the UK is not as dependent a partner as we have often liked to think.

On behalf of the Panel, I would like to thank all of the government departments that we have worked with, for their openness in dealing with us. Naturally some of the information we have received has had to remain confidential but that has not stopped the government sharing information crucial to the Panel's work. Most particularly, the External Relations Department has taken the time to accommodate the Panel's work despite itself being busy with coordination of the island's Brexit preparations.

As Chair of the Brexit Review Panel, I would personally like to thank the Scrutiny Officers who have supported us and helped ensure that we have received the information we need to produce this report. I'd also like to thank my fellow Panel members for their expertise, interest and motivation, all of which ensured the right questions were asked and the most pressing matters raised with government ministers and officers.

Even now, as we publish this report, there is still no certainty about the way in which the UK will leave the EU. As this report shows, despite that uncertainty, islanders can be certain that their government has worked hard and continues to work hard to ensure that Jersey is well prepared to deal with every eventuality.

A stylized, handwritten signature in black ink, appearing to read 'K Morel'.

**Deputy Kirsten Morel**

**Chairman, Brexit Review Panel**

## Executive Summary

Following the decision made by the British public in the 2016 EU Referendum and the triggering of Article 50 of the Lisbon Treaty on the 29th March 2017, the United Kingdom is expected to leave the European Union on the 29th March 2019<sup>1</sup>. This will end Jersey's membership of components of the European Union (the Customs Union and *de facto* membership of the Single Market for Goods), and is implemented by the European Union (Repeal and Amendment) (Jersey) Law 2018.

As of writing, it is unknown whether the UK will exit the EU with or without a deal, nor what the consequential implications for Jersey will be. We have undertaken scrutiny of the various preparations made by the Government of Jersey for Brexit, including contingency plans for a "Day 1 No-Deal" scenario. This has included obtaining a range of evidence from ministers and their respective departments, as well as holding hearings with the Ministers for External Relations, Health & Social Services, and Home Affairs.

This report covers a number of areas that will be affected by Brexit, and which the Government of Jersey has prepared for. These consist of Medicine, Food, Fisheries, Animals, Financial Services, Transport, Immigration, and the Settled Status Scheme for EU Citizens currently living in Jersey. Furthermore, this report follows on from the Comments Papers presented in November and December 2018 on the adoption of the Vienna Convention, the UK-Jersey Customs Union, and the Sanctions Law. We have also scrutinised the legislative changes and use of Ministerial Orders enacted by the Government to prepare for Brexit.

Our report makes a number of findings in relation to the Government's preparations for Brexit. We did not consider it necessary or appropriate to make any recommendations to the Government. Overall, we have found that the government's preparations have struck the right balance between understanding the risks presented by Brexit and preparing for them in an effective and efficient manner.

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<sup>1</sup> On the evening of the 21<sup>st</sup> March 2019, EU leaders [agreed to delay](#) the Article 50 process beyond the 29<sup>th</sup> March. If Prime Minister Theresa May's deal is approved by the House of Commons on the week of the 25<sup>th</sup> March, then the UK will be offered an extension until the 22<sup>nd</sup> May. If the deal is not approved, the EU will back a shorter delay until the 12<sup>th</sup> April. However, at the time of publication, neither of these extensions have been granted, and the current *de jure* Brexit date remains the 29<sup>th</sup> March 2019. This is the case as of writing on the 22<sup>nd</sup> March 2019. Given the current political volatility and unpredictable nature of this issue, it is possible that neither of these offers for extension will come into effect, or that a longer extension is obtained, either through negotiation or through the revocation of Article 50.



## Findings and Recommendations

1. **FINDING 1** – Based on the information received and presented to the Panel, the Panel is reassured that contingency plans are in place for a No-Deal Brexit.
2. **RECOMMENDATION 1** – To ensure the government remains flexible in its response to a No-Deal Brexit, in the weeks following such an event, the Brexit Ministerial Group should, at a minimum, meet on a weekly basis in order to maintain constant assessment of the effects of a No-Deal on Jersey. The frequency of meeting should be adjusted to the severity of events. Particular attention should be paid to the resilience of supply lines for food, medicines and equipment needed by the Health Department, as well as business supplies and everyday goods.
3. **FINDING 2** – In the event of a No-Deal Brexit, Jersey will be able to continue to access the UK NHS supply chain for medicines.
4. **FINDING 3** – Work is taking place to support and protect the island's fisheries industry, including in the event of a No-Deal Brexit. The evidence indicates that the Island's fishing industry could be at risk in the event of a no deal Brexit, if appropriate border inspection posts are not installed in St Malo and Granville.
5. **FINDING 4** – The Panel has been assured by ministers and officials that plans are in place to ensure continuity of food supplies after Brexit. However, the Panel is aware that advice to stockpile limited amounts may be challenging for families on low income.
6. **RECOMMENDATION 2** – In the event of a No-Deal Brexit, the Minister for Economic Development, Tourism, Sport and Culture and the Minister for External Relations should continue to work with the European and French authorities to ensure Jersey's fisheries and aquaculture industries can continue to export to France with as little disruption as possible.
7. **FINDING 5** – The Panel is satisfied that no significant disruption to ferry or air travel is expected following Brexit.
8. **FINDING 6** – With regard to ensuring the continued success of Jersey's financial services industry, increased bi-lateral engagement with the European Union has been an appropriate response to Brexit.
9. **FINDING 7** – The Panel reviewed all Brexit related legislation lodged for debate by the Assembly.
10. **FINDING 8** - The Panel has made arrangements with the relevant ministers to review all Ministerial Orders in relation to Brexit.
11. **FINDING 9** – The Government has stated that extension of the Vienna convention to Jersey is necessary to ensure Jersey motorists can continue to drive in Europe after Brexit.
12. **FINDING 10** – The Panel was told that the island will work with other Common Travel Areas (UK, Eire & Crown Dependencies) to maintain robust immigration controls with regard to all passengers arriving from outside the CTA.
13. **FINDING 11** – Jersey authorities rely on UK intelligence agencies for accessing European intelligence. Measures have been taken to ensure that intelligence moving between Europe and Jersey remains unimpeded.

14. **FINDING 12** – The Panel was satisfied that the collection of further biometric information (beyond photographs) relating to the Settled Status Scheme will require approval from the States Assembly.



## Introduction

15. The Brexit Review Panel has undertaken legislative scrutiny of the preparations made by the Government of Jersey for the United Kingdom's departure from the European Union (henceforth referred to as "Brexit"), following the UK electorate voting to leave the EU on the 23rd June 2016.
16. Jersey's membership of components of the European Union (the Customs Union and *de facto* membership of the Single Market for goods) follows from the UK's membership of the EU, under [Protocol 3 of the UK Treaty of Ascension 1972](#), with provisions made by the [European Communities \(Jersey Law\) 1973](#), and later restated in [Article 355 of the Treaty of Lisbon](#).
17. Following the triggering of Article 50 of the Lisbon Treaty on the 29th March 2017 by the UK Prime Minister, and as ratified in the [European Union \(Repeal and Amendment\) \(Jersey\) Law 2018](#), the UK is, subject to any extension or other alterations, still due to leave the European Union on the 29th March 2019<sup>2</sup>.
18. The structure of the Panel's work is unusual, in that some work has been performed by standing panels, such as the Environment, Housing & Infrastructure Scrutiny Panel, which scrutinised the introduction of regulations that would make the island compatible with the Vienna Convention on Road Traffic. The Education & Home Affairs Panel has reviewed the Regulations put forward by the Minister for Home Affairs to extend the access to biometric data for the Settled Status Scheme.
19. The Panel wrote to the Minsters for Treasury & Resources, Environment, Home Affairs, and Health & Social Services, as well as the Chief Minister, to gain an understanding of the current preparations for Brexit being put in place by the Government of Jersey. The Panel held three public hearings (one with the Minister for Health & Social Services, another with the Minister for External Relations, and one with the Minister for Home Affairs) and received six briefings.

## General Background

20. The Brexit Review Panel was established as a continuation of the review of the Government of Jersey's Brexit position, first established in June 2017.
21. The Panel received a total of six briefings from ministers and officers, outlining the Brexit Customs Arrangements, Readiness Plans, Legislation, Sanctions, and the Vienna Convention on Road Traffic, between July 2018 and February 2019.
22. Alongside these briefings, the Panel examined confidential Brexit readiness plans (classified as 'Official – Sensitive') from Government departments to gain a clear understanding of the work undertaken by each Department whilst preparing for Brexit.
23. The Panel also held public hearings with the Ministers for External Relations, Health & Social Services and Justice and Home Affairs between January and March 2019.

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<sup>2</sup> See footnote 1.

## Contingency Planning for No-Deal Brexit

### Evidence Accumulated

24. The Panel has obtained a range of evidence in regards to Contingency Planning for a No-Deal Brexit. This has included a briefing from relevant officers on 30th November 2018. As previously noted, the Panel received confidential readiness plans from Government departments outlining their plans for a No-Deal Brexit, but owing to the sensitive nature of the information disclosed within the documents, the Panel is unable to refer to any detail within this evidence in public.
25. The Panel also wrote to the Ministers for Environment, Home Affairs, Treasury & Resources and External Relations, to obtain further information on their respective plans for Brexit, including their work towards preparing for a No-Deal Brexit. The responses are published on the States Assembly website.
26. The Panel was briefed on 30th November 2018 regarding the contingency planning for a Day 1 No Deal (e.g., March 30th in the event of the UK leaving the EU without an agreed deal and therefore not possessing trade agreements or similar political infrastructure).
27. In a letter to the Panel from the Minister for External Relations and Minister for Economic Development dated 15th January 2019, the Panel was informed that “the Government of Jersey has now published over 100 Technical Notices, advising business and individuals on contingency preparations on topics ranging from passports, to pets and to patents.”<sup>3</sup>
28. The Panel was briefed on the island’s contingency plans for fuel supplies and other critical national infrastructure (CNI) after Brexit. Much of the detail of this is sensitive and only accessible to specific named persons, but the Panel was reassured that plans are in place.
29. **FINDING 1** – Based on the information received and presented to the Panel, the Panel is reassured that contingency plans are in place for a No-Deal Brexit.
30. **RECOMMENDATION 1** – To ensure the government remains flexible in its response to a No-Deal Brexit, in the weeks following such an event, the Brexit Ministerial Group should, at a minimum, meet on a weekly basis in order to maintain constant assessment of the effects of a No-Deal on Jersey. The frequency of meeting should be adjusted to the severity of events. Particular attention should be paid to the resilience of supply lines for food, medicines and equipment needed by the Health Department, as well as business supplies and everyday goods.

### Medicine

31. The Panel organised a public hearing with the Minister for Health & Social Services on Monday 4th February 2019, to gain a clearer insight into the situation regarding the supply of medicines to Jersey in the event of a No-Deal Brexit.
32. During the hearing, Jersey’s Chief Pharmacist outlined the UK’s Department of Health and Social Care plans whereby they have asked pharmaceutical manufacturers to hold an additional supply of 6 weeks of medicines to provide resilience in the supply chain.<sup>4</sup> Jersey forms part of the UK supply chain, and will be able to access those stockpiles in the same way that any hospital or community pharmacy would do in the UK. In addition to the above

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<sup>3</sup> [Letter from the Minister for External Relations and Minister for Economic Development, p. 1](#)

<sup>4</sup> [Public hearing with the Minister for Health and Social Services, p. 4](#)

regarding medicines, the Hospital also has up to 6 weeks stock of medical and surgical supplies.<sup>5</sup>

33. The Chief Pharmacist noted that there are "always ongoing supply problems with medicines"<sup>6</sup>, unrelated to Brexit which are managed in the normal way with pharmacists working with GP colleagues and patients to source alternative medicines using different supply routes, if needed. It was noted that the "biggest risk"<sup>7</sup> to Health in the event of a No-Deal Brexit was supply chain vulnerability.
34. The Chief Pharmacist further noted that the advice they have received is to not stockpile medicines, as it could compromise the integrity of the current supply chain and make shortages worse. The UK Government has liaised with the pharmaceutical industry and undertaken a line-by-line analysis of stock availability in the UK.<sup>8</sup> The Jersey General Hospital also carries a certain amount of stock to take account of events such as winter pressures.
35. **FINDING 2** – In the event of a No-Deal Brexit, Jersey will be able to continue to access the UK NHS supply chain for medicines.

## Food and Fisheries

36. The Panel received a briefing on future customs arrangements on 6th September 2018. The Panel understands that the Customs Agreement with the UK allows for a tariff and friction-free area for goods, based on a common rulebook. After Brexit, the [EU-UK future relationship white paper](#) outlines a similar relationship, but with the UK able to apply different tariffs on third country goods destined to remain in the UK.
37. This should allow the passage of goods to continue largely uninterrupted, due to the vast majority of goods being brought into Jersey arriving from the UK. The majority of goods imported into Jersey come from the UK, which is also Jersey's export destination. However, the majority of fisheries produce is exported to France.<sup>9</sup>
38. In private briefings with ministers and officials, the Panel has been assured that plans are in place to ensure continuity of food supplies and to ensure that mitigations are put in place in order to cope with any short-term disruption.
39. The Panel was also briefed confidentially on the island's emergency planning around a Day 1 No Deal.
40. The Panel wrote to the Minister for the Environment on 25th January in relation to fisheries preparation, and received a confidential response on 4th February 2019.
41. Although the Minister's response is confidential, it provided a detailed explanation of work taking place to support and protect the island's fishing industry, particularly in a no-deal scenario, for example around the designation of St Malo as a Border Inspection Post to carry out checks on animals and animal products in time for 29th March.

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<sup>5</sup> [Public hearing with the Minister for Health and Social Services, p. 4](#)

<sup>6</sup> [Public hearing with the Minister for Health and Social Services, p. 5](#)

<sup>7</sup> [Public hearing with the Minister for Health and Social Services, p. 8](#)

<sup>8</sup> [Public hearing with the Minister for Health and Social Services, p. 11](#)

<sup>9</sup> [Brexit Information Report, 27th June 2016, pp. 9 - 11](#)

42. We also asked the Minister for External Relations about this in a public hearing on 18th January and he told us that:

“It is clear that we are included in that transition period and it is clear that we are included in the political declaration which will be negotiated in a future economic partnership between the U.K. and the E.U. (European Union). The difficulties, of course, arise if there is no deal...”<sup>10</sup>

“...we have been working closely with our Channel Islands colleagues, closely with our colleagues in the Department for Exiting the European Union and D.E.F.R.A. (Department for Environment, Food and Rural Affairs), and we, of course, have been working closely with our French counterparts as well.”<sup>11</sup>

“So, the issue for landing is about European border inspection posts and St. Malo is not currently a European border inspection post. The case has been made. We know that there was a commercial operator on Island earlier this week who gave an indication about that, but it is important that we await the official confirmation from the French authorities because from our perspective it is good news if there is to be a border inspection post there and the signs are positive, but it needs to have the technical capability to be able to land shellfish because that is what currently happens, when they go across into St. Malo. So, that continues to be a work in progress, but I expect formal notification in the coming weeks and clarification about what technical capabilities that border inspection post will have.”<sup>12</sup>

43. The issue concerning food supplies was further raised at the Public Hearing with the Minister for External Relations on the 18th January 2019. Although advice may be given to stock up on food in the lead up to Brexit, it was noted by the Deputy of St Martin, appearing at the Hearing alongside the External Relations Minister that:

“we are very aware that some people would struggle to do that. It is all very well giving the advice to do some small amount of stockpiling, but you just need to be aware that there are people out there who may not be able to afford to cope in that way. As the Minister says, we are quite conscious of making sure that any effect of Brexit is looked at.”<sup>13 14</sup>

44. **FINDING 3** – Work is taking place to support and protect the island’s fisheries industry, including in the event of a No-Deal Brexit. The evidence indicates that the island’s fishing industry could be at risk in the event of a no deal Brexit, if appropriate border inspection posts are not installed in St Malo and Granville.
45. **FINDING 4** – The Panel has been assured by ministers and officials that plans are in place to ensure continuity of food supplies after Brexit. However, the Panel is aware that advice to stockpile limited amounts may be challenging for families on low income.
46. **RECOMMENDATION 2** - In the event of a No Deal Brexit, the Minister for Economic Development, Tourism, Sport and Culture and the Minister for External Relations should

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<sup>10</sup> [Public hearing with the Minister for External Relations, p. 9](#)

<sup>11</sup> [Public hearing with the Minister for External Relations, p. 9](#)

<sup>12</sup> [Public hearing with the Minister for External Relations, p. 10](#)

<sup>13</sup> [Public hearing with the Minister for External Relations, p. 32](#)

<sup>14</sup> [The Panel notes a recent States question on this matter asked by Deputy Rob Ward of the Chief Minister, regarding whether the Government planned to assist those on low incomes in stocking up for Brexit.](#)

continue to work with the European and French authorities to ensure Jersey's fisheries and aquaculture industries can continue to export to France with as little disruption as possible.

## Travel Arrangements and Animals

47. The [European Union \(United Kingdom Exit – Animal Health and Welfare\) \(Jersey\) Regulations](#) allows for amendments to be made to affected legislation to guarantee essential control arrangements. This allows essential control arrangements to be maintained with the EU changes after Brexit, thereby continuing market access for Jersey exports.
48. In the Panel's hearing with the Minister for External Relations on the 18th January, the Principal External Relations Officer noted that the Government had published "101 technical notices which go into detail on some of the impacts for pets or other animal movements and other checks."<sup>15</sup>
49. The Panel notes that the Technical Notices outline that Jersey's situation is similar to that set out in the [UK's Technical Notices](#), as Jersey is included as part of the UK for the import/export of animals, and/or uses UK equivalent processes.<sup>16</sup>
50. The UK Technical Notice outlines that unless there is a deal pet dogs, cats, and ferrets require a total preparation period for pet travel to an EU country after Brexit of up to four months.<sup>17</sup>
51. In the event of a Day 1 No-Deal scenario, arrangements will depend on the UK-EU arrangements post-Brexit and Jersey's subsequent arrangement with the UK.
52. The Panel received a briefing on travel contingency plans and is satisfied that no significant disruption to ferry or air travel is expected following Brexit.
53. **FINDING 5** – The Panel is satisfied that no significant disruption to ferry or air travel is expected following Brexit.

## Financial Services

54. In a public hearing with the Minister for External Relations on the 18th January, the Panel asked the Minister about the level of engagement with the financial services industry in relation to Brexit.
55. The Minister confirmed that, because Jersey already exists outside of the EU for services, there were a "number of tax information exchange agreements in place"<sup>18</sup> and that Jersey was "already developing our double taxation treaty agreements."<sup>19</sup> The Minister also explained that "...financial services have been looking much more about our bilateral

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<sup>15</sup> [Public hearing with the Minister for External Relations, p. 32](#)

<sup>16</sup> [UK Brexit Technical Notice: Importing animals and animal products if there's no Brexit deal, Government of Jersey Response](#)

<sup>17</sup> [Department for Environment, Food & Rural Affairs and Animal and Plant Health Pet Travel to Europe After Brexit Guidance, 6 November 2018](#)

<sup>18</sup> [Public hearing with the Minister for External Relations, p. 15](#)

<sup>19</sup> [Public hearing with the Minister for External Relations, p. 15](#)

engagement with Europe and the code of conduct work around taxation”, although firms with UK parents would of course be looking at what happened in the UK.

56. **FINDING 6** – With regard to ensuring the continued success of Jersey’s financial services industry, increased bi-lateral engagement with the European Union has been an appropriate response to Brexit.

#### Legislative changes and use of Ministerial Orders

57. The Panel has reviewed all legislative changes lodged by ministers in regards to Brexit. So far, the Panel has reviewed 9 sets of Regulations to prepare for potential Brexit-related scenarios and update Jersey’s legislation so it is compatible with a post-Brexit environment.<sup>20</sup>
58. This includes basic administrative functions, such as removing or amending reference to “the European Union” and acknowledging the United Kingdom’s new, third-party status in European affairs.
59. The Panel identified at an early stage that the use of Ministerial Orders, while justified in the context of a changeable situation and because Jersey’s position is dependent on events in the UK, presented a risk of legal changes being made without adequate scrutiny. The Panel asked ministers and officials to be proactive in providing it with copies of all Ministerial Orders prior to them being signed, together with appropriate briefing papers.
60. The Panel has received a number of briefings from ministers and officers regarding the use of Ministerial Orders. This included descriptions of individual orders, their likely impact and reasons for their use.
61. The Draft Immigration (Relevant Biometric Information) (Jersey) Regulations 201- (P.12/2019) were reviewed by the Panel on 15th February 2019. This is outlined in the final section of the Report.

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<sup>20</sup> Regulations Scrutinised:

1. [European Union \(United Kingdom Exit – Miscellaneous Amendments\) \(Jersey\) Regulations \(P.148/2018\)](#)
2. [Draft European Union \(United Kingdom Exit – Animal Health and Welfare\) \(Jersey\) Regulations \(P.9/2019\)](#)
3. [Draft European Union \(Amendment – Withdrawal Agreement\) \(Jersey\) Regulations \(P.10/2019\)](#)
4. [Draft European Union \(Financial Services – Miscellaneous Amendments\) \(Jersey\) Regulations \(P.11/2019\)](#)
5. [Immigration \(Relevant Biometric Information\) \(Jersey\) Regulations \(P.12/2019\)](#)
6. [Draft European Union \(Wines, Spirits, Milk and Dairies – Savings\) \(Jersey\) Regulations \(P.14/2019\)](#)
7. [Draft European Union \(United Kingdom Exit – Alternative Investment Funds\) \(Jersey\) Regulations \(P.15/2019\)](#)
8. [Draft Restriction on Smoking \(Warning Notices\) \(Amendment for UK Exit from EU\) \(Jersey\) Regulations \(P.16/2019\)](#)
9. [Draft European Union \(Financial Services – Miscellaneous Amendments\) \(Jersey\) Regulations \(P.11/2019\): amendment](#)



62. **FINDING 7** – The Panel reviewed all Brexit related legislation lodged for debate by the Assembly.
63. **FINDING 8** - The Panel has made arrangements with the relevant ministers to review all Ministerial Orders in relation to Brexit.

## Customs and Sanctions legislation

64. Between October and December 2018, the Panel reviewed the Draft EU Legislation (Customs Union, Imports and Export Control) (Jersey) Regulations 201- ([P.120/2018](#)) and the Draft Sanctions and Asset-Freezing (Jersey) Law 201- ([P.119/2018](#)), both lodged by the Minister for External Relations to prepare the island for Brexit. The Environment, Housing and Infrastructure Panel also began a review of the Draft Road Traffic and Vehicles (Vienna Convention – Miscellaneous Amendments) (Jersey) Regulations 201- ([P.109/2018](#)), which were lodged by the Minister for Infrastructure on the 26th September 2018.
65. The Panel received regular briefings from ministers and officials regarding both propositions, and conducted a hearing with the Minister for External Relations.
66. The Panel published Comments Papers on P.119 and P.120. The Panel was satisfied with the level of engagement by ministers and officials throughout the scrutiny process for each piece of legislation. The Panel was content with each piece of legislation without the need for more detailed review or amendments.

### Vienna Convention ([P.109/2018](#))

67. The Draft Road Traffic and Vehicles (Vienna Convention – Miscellaneous Amendments) (Jersey) Regulations 201- (henceforth “the regulations”) were lodged on the 26th September 2018 by the Minister for Infrastructure and approved by the States Assembly on 20th November 2018.
68. Regardless of the success of the UK Government’s agreement and introduction of a transition period as it leaves the EU, it is unclear whether arrangements will be in place regarding road traffic for Jersey residents driving abroad. In the absence of clarity, the Government believed it was necessary for the island to introduce the appropriate arrangements to enable Jersey motorists and their vehicles to circulate freely within the EU.
69. It was agreed by the Panel that further work on the Vienna Convention would be undertaken by the Environment, Housing & Infrastructure Scrutiny Panel.
70. The Environment, Housing & Infrastructure Panel delivered a Comments Paper to the States Assembly on 19th November 2018, highlighting that:

“Following a detailed investigation within the short and limited timescale available, the Panel is satisfied that no option other than contracting to Vienna would *entirely*



guarantee that Jersey motorists would be able to circulate across all of Europe post-Brexit.”<sup>21</sup>

71. Even if the UK Government can agree a transition period until the end of 2020, it remains unclear how road traffic arrangements will be dealt with during this time. In the absence of such clarity, the Government believes that Jersey needs to ensure appropriate arrangements are in place to enable Jersey motorists and their vehicles to circulate freely within the EU.
72. **FINDING 9** – The Government has stated that extension of the Vienna convention to Jersey is necessary to ensure Jersey motorists can continue to drive in Europe after Brexit.

### Immigration & EU Settled Status Scheme

73. Following the UK’s decision to leave the EU, the current immigration regime in both the UK and Jersey will change. All EU citizens living in the UK (including the Channel Islands and Isle of Man) will lose the immediate guarantee of residency provided through the EU Free Movement Directive.
74. The [Jersey EU Settlement Scheme](#) is designed to grant EU citizens living in the island the opportunity to register for ‘settled status’, allowing them to continue living and working in Jersey after Brexit. The scheme operates in alignment with the UK’s EU Settlement Scheme. The cut-off point for eligibility is the 31 December 2020.
75. Family members of EU Citizens (e.g. spouses) who are themselves neither British nor from the EU need to apply. The same applies for EU citizens who have already acquired permanent residence, although EU Citizens who hold indefinite leave to remain are not required to apply for the scheme, they would benefit from being able to be absent from the UK and Islands for up to five consecutive years without losing their status. Close family members will be able to join EU citizens in the island. Applicants of 16 years of age and older must complete their own application.
76. Settled Status will be granted to successful applicants who have been continuously living in Jersey for a total of five years or more by 31 December 2020, allowing them to continue to live and work in Jersey. They will also be able to apply for British nationality.
77. Pre-Settled status will be granted to applicants who fulfil the requirements of the application but have been living in Jersey for less than five years at the time of application and must apply. After they have completed five years residence they can then apply for settled status.
78. Applications for Settled Status require a social security number and a valid passport/national ID card. All applications must be completed through an online form using a computer, laptop or smartphone. The application can also be completed at the Customer and Local Services department at La Motte Street. This will then lead to an appointment with a caseworker to provide and process applicants’ identity documents.

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<sup>21</sup> [Draft Road Traffic and Vehicles \(Vienna Convention – Miscellaneous Amendments\) \(Jersey\) Regulations 201- \(P.109/2018\): Comments, p.8](#)

79. Guidance has been translated into 25 languages, alongside English, and case studies have been provided on the [Gov.je website](#) to give applicants a clearer sense of the applications process and eligibility criteria.
80. The proposed application fee was removed on 21st January 2019, following the UK Government's decision to remove the application fee from its own Settled Status Scheme. The Settled Status scheme in the UK was £65 for adults and £32.50 for children per application; in Jersey it was proposed to be £25 for adults and £12.50 for children.
81. The Panel wrote to the Minister for Home Affairs on the 20th December 2018 to enquire about the nature of the Common Travel Area post-Brexit and related concerns; it received a reply from him on the 9th January 2019.<sup>22</sup>
82. The Minister outlined that Jersey will “work closely with other CTA [UK, Eire, & Crown Dependencies] jurisdictions in order to maintain a robust immigration control to all passengers arriving from outside the CTA.”<sup>23</sup>
83. The Minister noted “a recent increase of migrants attempting to enter the UK illegally using small craft to cross the Channel,” and, although this has not extended to Jersey, the Jersey Customs & Immigration Service has plans in place to deal with such incidents.<sup>24</sup>
84. The letter outlined the following regarding the sharing of intelligence between European and Jersey agencies after Brexit:

“Intelligence moving between Europe and Jersey passes via UK intelligence agencies. The UK Intelligence services have made it clear that they wish to maintain the links they currently have with their European counterparts after Brexit. The Brexit Team has a dedicated resource that is in close and frequent liaison with the relevant agencies in the UK to ensure Jersey will benefit, and be included, in any intelligence sharing arrangements that are agreed post Brexit. In preparation for a no deal scenario the UK have set up the International Crime Coordination Centre, which will provide support on a policing function basis and will be available to all Police Forces, including Jersey. It will cover matters including manhunts, missing people/property, police cooperation and judicial cooperation.”

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85. **FINDING 10** – The Panel was told that the island will work with other Common Travel Areas (UK, Eire & Crown Dependencies) to maintain robust immigration controls with regard to all passengers arriving from outside the CTA.
86. **FINDING 11** – Jersey authorities rely on UK intelligence agencies for accessing European intelligence. Measures have been taken to ensure that intelligence moving between Europe and Jersey remains unimpeded.

## Biometric Information

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<sup>22</sup> [Letter from the Minister for Home Affairs, 9th January 2019](#)

<sup>23</sup> [Letter from the Minister for Home Affairs, 9th January 2019, p.1](#)

<sup>24</sup> [Letter from the Minister for Home Affairs, 9th January 2019, p.1](#)

<sup>25</sup> [Letter from the Minister for Home Affairs, 9th January 2019, p.2](#)

87. On 29th January 2019, the Draft Immigration (Relevant Biometric Information) (Jersey) Regulations 201- ([P.12/2019](#)) (hereafter “the Regulations”) was lodged in the States Assembly by the Minister for Home Affairs, and debated on 12th March. This sets out the potential need for applicants to Jersey’s Settled Status Scheme to provide a photograph of themselves with their application. The Panel received a briefing on the Regulations from officers from the Customs and Immigration Service and Law Officers’ Department on the 15th February 2019.
88. The Regulations confine the photograph to that of the applicant’s face and provide the legal authority for an immigration officer, and other authorised Officers, to make this requirement.
89. If an individual does not comply with the outlined Regulations, their application to the EU Settlement Status Scheme may be treated as invalid.
90. These Regulations apply through the United Kingdom’s [Nationality, Immigration and Asylum Act 2002](#), which has been modified and extended to Jersey by the [Immigration \(Biometric Information\) \(Jersey\) Order 2018](#).
91. The Panel understands that any further biometric information other than a photograph of a person’s face would require new Regulations and approval from the States Assembly before it could be implemented.
92. **FINDING 10** – The Panel was satisfied that the collection of further biometric information (beyond photographs) relating to the Settled Status Scheme will require approval from the States Assembly.

## Appendix

### Brexit Review Panel

Deputy Kirsten Morel – Chairman



Deputy David Johnson, St. Mary – Vice Chairman



Senator Sarah Ferguson



Senator Kristina Moore



Connétable Mike Jackson, St. Brelade



Deputy Mike Higgins, St. Helier No. 3



Deputy Robert Ward, St. Helier No. 2



## Terms of Reference

1. To review legislative changes as a result of the European Union (Repeal and Amendment) (Jersey) Law 2018.
2. To review new legislation introduced, arising from the process of the United Kingdom leaving the European Union.
3. To identify and examine the overall policy of the Council of Ministers in relation to Brexit and the negotiating strategy in relation to Jersey's position with both the United Kingdom and European Union.
4. To consider the adequacy of the contingency plans of the Council of Ministers to ensure continuity after Brexit of vital services for islanders such as travel, health care and medicines and energy.
5. To examine and review the policy of the Council of Ministers in relation to the six identified priority areas, these being:
  - Financial Services
  - Agriculture and Fisheries
  - Customs Union
  - Immigration
  - Transport
  - Communications
6. To consider the potential opportunities for Jersey which might arise from Brexit.
7. To review matters arising from the ongoing negotiation of the United Kingdom's departure from the European Union, including the implications of a hard Brexit.

## Public Hearings

The Panel held three public hearings as part of the review:

- Public Hearing with the Minister for External Relations on [18th January 2019](#);
- Public Hearing with the Minister for Health & Social Security on [4th February 2019](#);
- Public Hearing with the Minister for Home Affairs on [5th March 2019](#).

Transcripts for the public hearings can be accessed via the States Assembly [website](#).

Webcasts for the public hearings can be accessed via the [States Assembly webcast site](#).







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