

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL  
BY DEPUTY R.S. KOVACS OF ST. SAVIOUR  
QUESTION SUBMITTED ON MONDAY 27th MARCH 2023  
ANSWER TO BE TABLED ON MONDAY 3rd APRIL 2023**

**Question**

Given that paragraph n (i), page 9, of the [Jersey Homes Trust Constitution](#) states it will “endeavour at all times to manage the affairs of the Trust in a manner consistent with the policies and requirements of the Minister for Housing of the States of Jersey in so far as these are consistent with the Objects of the Trust.” will H.M. Attorney General advise whether this means that the Minister for Housing and Communities could require the Trust to set property rents at a level he determines?

**Answer**

I do not consider that paragraph 6(n)(i) of the Trust’s constitution means that the Minister for Housing and Communities could require the Trust to set property rents at a level he determines for the following reasons.

The meaning of paragraph 6(n)(i) needs to be considered by construing the Trust’s constitution as a whole.

The most important part of the Trust’s constitution is its Objects. The Objects provide, *inter alia*, for the Trust to provide rented residential accommodation to persons in Jersey, in the Members’ “absolute discretion” (paragraphs 3(a)).

The Powers of the Trust enable Members to achieve the Trust’s Objects. The Powers provide, *inter alia*, for Members to “enter into and conduct leases, rental agreements, tenancies and licence agreements with such of those persons referred to in the Objects as the Members shall in their absolute discretion select and upon such terms and conditions as the Members shall in their absolute discretion think fit” (paragraph 4(e)). The Powers further provide for Members to “impose and collect rents... and any and all payments and charges payable by tenants and occupiers of the Trust Property under the terms of their lease, rental agreement, tenancy or licence agreement” (paragraph 4(i)).

Paragraph 6(n)(i) is contained in the “Management” section of the Trust’s constitution. That section concerns the management of the affairs of the Trust. This includes, for example, the appointment of the Chairman of the Trust, regulations governing the management and administration of the Trust, the recording of the Trusts proceedings and decisions, and the management of its accounts (paragraphs 6(a) to (m)).

The requirements specified in paragraph 6(n) is “subject always to the forgoing” and the requirement in paragraph 6(n)(i) is that Members of the Trust shall “endeavour” to manage the affairs of the Trust in a manner “consistent” with the policies and requirements of the Minister for Housing of the States of Jersey “in so far as these are consistent with the Objects of the Trust”.

Finally, the Members of the Trust owe a fiduciary duty to the beneficiaries of the Trust. This duty includes managing the Trust in such a way so as to ensure that its Objects can be achieved. In light of the Objects, this is likely to include, at the very least, maintaining the Trust’s assets. This may have a corresponding influence on the level of rent charged.