



Case L-012

Strategic Review of Postal Services: Final Decision

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1. Executive summary

- 1.1 This document is the Jersey Competition Regulatory Authority (**the Authority**)’s non-statutory Final Decision (**Final Decision**) for the Strategic Review of Postal Services (**Strategic Review**). It follows the non-statutory Draft Decision published in July 2023 and has been issued alongside statutory Initial Notices (see documents JCRA 24/02 (**Jersey Post Initial Notice**) and JCRA 24/03 (**Hi-speed Freight Initial Notice**)). The Authority has also issued its Reflections on the Strategic Review (document JCRA 24/04 (**Thinkpiece**)), setting the scene for future work and challenges facing the postal sector which sit outside the scope of the Strategic Review.
- 1.2 Postal services play a key role in society and almost everyone in Jersey interacts with postal services on a regular basis. Individuals and households benefit from being able to receive online shopping items, important medical correspondence but also through being able to send cards, gifts and other correspondence to friends and relatives. Certain businesses also rely on the post to send orders to their consumers in Jersey and beyond.
- 1.3 The Authority’s role in postal services is defined in the Postal Services (Jersey) Law 2004 (**the Law**). The Law empowers the Authority to license companies providing postal services in Jersey.¹ The Authority’s primary duty is to ensure that demanded postal services are provided both within Jersey, and between Jersey and the rest of the world. Alongside this primary duty the Authority has a number of other duties, including, but not limited to, acting in the interests of consumers, ensuring the efficiency of postal services and ensuring prices are reasonable.
- 1.4 The Authority’s goal is to deliver effective supervision of postal services. This Strategic Review was launched in the context of a period of significant change in the postal market and the Strategic Review has been framed in this context, with the aim of ensuring effective regulation on a forward looking basis.
- 1.5 The decisions in this document cover the two Licensees:
 - Jersey Post Limited (**Jersey Post**), which holds a Class II Licence from the Authority. As part of the Class II Licence Jersey Post delivers the universal service obligation (**USO**) for Jersey; and
 - Hi-speed Freight Services Limited (**Hi-speed Freight**), which holds a Class I Licence from the Authority for a limited outbound international service for a small set of business customers.
- 1.6 Accompanying this Final Decision and separate Initial Notice documents are non-confidential versions of responses to the Draft Decision. In total three responses were received: from HubEurope, Jersey Consumer Council and Jersey Post. An overview of the responses and the Authority analysis undertaken in response to them is provided in this document.

¹ Note, the regulatory regime directly or indirectly affects letters and packages weighing 20 kilograms or less which are conveyed or to be conveyed by a postal operator. With respect to parcels, only those weighing 20 kg or less fall within the definition of a postal service and there is no requirement to hold a licence for providers of inbound parcel services on a commercial contract direct with a supplier. This means most parcel delivery is not subject to any licensing requirements and there are many different parcel delivery operators in Jersey.

1.7 A summary of the key elements of this Final Decision and where further detail on them can be found is set out in Table 1, which is structured to align with the four policy areas covered in the Strategic Review.

Table 1: Overview of the Final Decision

Area	Final Decision	Further detail
Updating the regulatory framework	<ul style="list-style-type: none"> • The Authority recommends Government updates the 2004 Law to bring it into line with recognised international principles. This update would likely consider, among other areas, the value of services which should be exempt from regulation, the role of regulation with respect to parcels and the expectations around consumer protection. • The Authority recommends Government develops a Postal Policy to provide clarity on its objectives for the sector. This will help ensure Government’s wider strategic goals and vision for this vital sector are captured and, ultimately, will support the continued sustainability of this important sector. • The Authority will keep the existing Licensing approach but make minor updates to Licence Conditions to reflect the conclusions of the Strategic Review. These are reflected in the proposed licences issued alongside the respective Initial Notices for Jersey Post and Hi-Speed Freight. • Jersey Post shall set up a User Council for Postal Services to provide a consumer voice for post, especially in the context of future service changes. This requirement is reflected in the proposed Jersey Post Licence issued alongside the Jersey Post Initial Notice. • Greater reporting will be required from Jersey Post to ensure the Authority has more effective oversight. This includes providing specific financial and volume data and supporting data on the sustainability of the USO. This requirement is reflected in the proposed Direction set out in chapter 4 of the Jersey Post Initial Notice. <p>Note, to further support the first two decisions in this area, the Authority has issued a Thinkpiece alongside this document and will be writing to Government with respect to the recommendations.</p>	Chapter 3 (this document), Jersey Post Initial Notice, Thinkpiece
Safeguarding universal service provision	<ul style="list-style-type: none"> • The current definition of the USO in the proposed Jersey Post Licence is being maintained, although the Authority recognises the USO will come under increasing pressure and has therefore set out a clear process for future changes. • Future changes to the USO should be informed by an understanding of the net cost of the USO (i.e. the benefits and costs to Jersey Post of the USO). The calculation of the net cost, when required, will be the responsibility of Jersey Post as set out in the proposed Jersey Post Licence. This will be estimated either using the ‘commercial approach’ or an alternative approach, agreed following consultation with the Authority on the appropriate mechanism to be used. • Significant changes to the USO, that go beyond the guidance issued by Government, would require Government to lead on policy. Smaller changes would be subject to consultation and in both cases it is expected 	Chapter 4 (this document), Jersey Post Initial Notice, Thinkpiece

	engagement would take place with the User Council and wider stakeholders.	
Meeting consumer obligations	<ul style="list-style-type: none"> • The Authority will implement a refined quality of service regime by issuing the proposed Direction to Jersey Post as set out in chapter 5 of the Jersey Post Initial Notice. • The regime will include transit targets for Jersey to Jersey, Jersey to UK and UK to Jersey. The targets are a mix of day of dispatch and day of receipt targets. Binding quality targets have been set where appropriate, with some areas subject to monitoring and reporting. A sampling approach will be used to measure the targets, completed independently, and overseen by Jersey Post. • Additional quality reporting to be provided on consumer satisfaction, complaints and refunds. • Reporting to be on an annual basis between January to November (December to be excluded as peak month). A narrative report is to be supplied to the Authority every year for review before being published. 	Chapter 5 (this document), Jersey Post Initial Notice
Class I Licences	<ul style="list-style-type: none"> • In line with the Authority's proportionate regulatory approach the Authority will maintain the broad existing framework, with the current protections for the Class II Licensee. • Minor updates will be made to reflect market developments, including the removal of the potential for the USO funding and the introduction of formal reporting requirements, which are set out in the Hi-speed Freight Initial Notice. 	Chapter 6 (this document), Hi-speed Freight Initial Notice

1.8 While this Final Decision is the concluding step of the non-statutory process, before carrying out certain regulatory functions, the appropriate Jersey statutory process must be followed. A decision to implement the full set of proposals requires the exercise of specified regulatory functions pursuant to the Law. Therefore, the statutory process, in the form of Initial Notices for each Licensee, has been issued alongside this Final Decision and this marks the next and final step in the Strategic Review. The Authority expects this process to conclude in the first quarter of 2024.

1.9 Further, as set out in this Final Decision, a number of the issues facing the postal sector sit outside the remit of the Authority and the scope of the Strategic Review. Nevertheless, recognising the importance of these challenges in framing future changes to the Law and Government Policy the Authority has published a Thinkpiece capturing its reflections on the Strategic Review. This publication aims to support the delivery of both an updated Law and a Postal Policy in the near future, which will help ensure Government's wider strategic goals and vision for this vital sector are captured and, ultimately, will support the continued sustainability of this important sector, to deliver greater prosperity, security and opportunities for Islanders.

2. Introduction

2.1 This chapter covers the:

- Background to the Final Decision;
- Strategic Review process; and
- Structure of this document.

Background to the Final Decision

2.2 In October 2022, the Authority issued a call for information for the Strategic Review and an accompanying initial consumer survey. Both of these closed in January 2023.

2.3 Following the call for information, the Authority appointed Copenhagen Economics, which has expertise in applied economics in the postal sector, to support the Strategic Review. Using its experience working with regulators and private sector clients globally, Copenhagen Economics has contributed invaluable input to the process, providing advice on regulatory practice in the Jersey context.

2.4 Complementing this advice, the Authority also commissioned independent consumer research from 4insight, summarised in Box 1 below. This captured both qualitative and quantitative aspects of the Jersey postal market and provided a wealth of information on which aspects of the service Jersey consumers particularly value.

Box 1: Summary of consumer research

Qualitative findings included participants sending and receiving parcels more frequently than letters and clear positive associations with customer service experiences. Speed of delivery was perceived as inextricably linked to consistency of delivery. Participants perceived costs as reasonable when sending locally in Jersey, however outbound post to other destinations was seen as overly expensive.

Building upon these insights, quantitative findings show that the majority of respondents receive between one and six letters in an average week and send under three letters in an average month, with 33% sending no letters each month. For parcels, 65% of respondents had their last parcel delivered by Jersey Post and nearly half estimate they receive between one and two parcels in an average week.

Respondents expect to receive fewer letters but about the same amount or more parcels in three years' time. Echoing findings from the qualitative research, reliability was perceived as the most important need for parcels. Through attitudinal statements, 96% of respondents agreed that they value postal delivery to their door. Customer service rated highest and cost lowest for experiences for both letters and parcels. A high portion of respondents value customer service and postal delivery to their door. The full consumer research can be accessed from the following link: [Postal services report - 4insight](#).

2.5 The consumer research was also complemented by research into different regulatory approaches, such as those adopted in the regulation of Royal Mail by the Office of

Communications in the United Kingdom, alongside broader case studies and analysis of market dynamics, including pricing.²

- 2.6 On pricing, the Authority considered Jersey Post's tariffs against alternative jurisdictions - for example the United Kingdom, which showed that Jersey Post has lower pricing than Royal Mail on around half of all their mail formats. Although not fully comparable due to their different product mixes, a number of Jersey Post prices were also lower than comparable Guernsey Post options. This was consistent with the research which found that consumers were broadly happy with letter pricing, while less satisfied with parcel pricing.
- 2.7 The Authority also carried out multiple engagement sessions with Jersey Post. In particular, a site visit helped provide perspectives of the opportunities and challenges Jersey Post faces. This was further supported by information requests to better understand Jersey Post's business. A similar process was also undertaken with the other licensee, Hi-speed Freight.
- 2.8 This work was consolidated into the Draft Decision issued in July 2023. This was open for Consultation until September 2023. In total three responses were received, from HubEurope, Jersey Consumer Council and Jersey Post. The conclusion of this consultation process is presented in this document, the non-statutory Final Decision.

Strategic Review process

- 2.9 The Authority's approach to consultations was set out in an Information Note in July 2018.³ The Information Note outlines the process to be undertaken before carrying out certain regulatory functions in accordance with the relevant statutory process.
- 2.10 Under the process the first stage is non-statutory. The non-statutory process consists of a Call for Information, a Draft Decision and a Final Decision. As set out in the section above, the Authority has carried out the non-statutory process for the Strategic Review and this document represents the conclusion of the non-statutory stage.
- 2.11 Before carrying out certain regulatory functions, following the non-statutory process the appropriate Jersey statutory process is followed. A decision to grant a Licence and issue Directions on an undertaking is the exercise of a specified regulatory function pursuant to the Law. Therefore the statutory process, in the form of an Initial Notice, has to be followed and these have been issued alongside this Final Decision for each Licensee.
- 2.12 As set out in the Initial Notices, written representations to the exercise of this specified regulatory function may be made. If representations are received regarding the proposed exercise of such function, the Authority will consider them and will decide:
 - not to exercise such function;
 - to issue a new Initial Notice; or
 - to issue a Final Notice confirming the function.

² Note, the Authority does not directly regulate Jersey Post's prices as this regulation was removed in 2012 given increasing consumer substitution to electronic forms of communication. Price notifications are still received and considered within the Authority's duty to ensure prices are reasonable.

³ [Regulatory Consultation Process, Information Note](#)

Structure of the document

2.13 This document broadly follows the structure of the Draft Decision and is organised as follows:

- Updating the regulatory framework (chapter 3);
- Safeguarding universal service provision (chapter 4);
- Meeting consumer expectations (chapter 5);
- Approach to Class I Licences (chapter 6); and
- Final Decision (chapter 7).

2.14 Within chapters 3 to 6 a consistent approach is adopted to the different sections, where each section refers to an element of the Draft Decision - for example the approach to meeting consumer expectations. The structure is as follows:

- Draft Decision proposals;
- Draft Decision responses;
- Authority analysis; and
- Authority conclusion.

2.15 Chapter 7 then brings together the conclusions of chapters 3 to 6 in the form of a Final Decision.

2.16 Note that this document does not repeat all the background to the market and the Authority's role in it that were set out in the Draft Decision, for example this includes a full discussion of the legal and licensing framework. Consistent with this the full reasoning for the proposals set out in the Draft Decision is also not included, though a high level summary is provided within each section and cross-reference is made to additional analysis and information where relevant.

3. Updating the regulatory framework

3.1 This chapter refers to chapter 6 of the Draft Decision where the Authority set out proposals designed to ensure the regulatory framework remains relevant, effective, and fit for purpose. The Authority proposed to:

- Recommend that Government updates to the Law;
- Recommend that Government develops a Postal Policy;
- Keep the existing Licensing approach, with minor Licence updates to reflect the Strategic Review;
- Introduce a User Council for Postal Services; and
- Introduce greater reporting from Jersey Post, including financial data.

Draft Decision proposals

3.2 The relevant context for the Authority's proposals in this area were identified as the Law, with further detail set out in Postal Services (International) (Jersey) Order 2005. It was noted that at the present time there is no Government Postal Policy.

3.3 The Draft Decision set out the Authority's view that the Law needs to be updated to bring it into line with international principles. It was noted that the scale and scope of this is for Government to consider, however, at a minimum, changes are required to ensure regulation does not fall away by default and thought needs to be given to the role of consumer protection and to the treatment of parcel operators.

3.4 The Draft Decision also noted that a number of reports had identified the need for a Postal Policy, but as of yet no policy has been developed. Therefore, it was proposed to recommend that a Policy is developed by Government to ensure a common position between Government (as both policymaker and shareholder), regulator and industry that would enable the identification of a clear vision for postal services.

3.5 With respect to the Licence, the Draft Decision set out the Authority's view that the broad framework is well established and proportionate and therefore will only require minor updates. These updates would ensure the Licence going forwards reflects the conclusions of the Strategic Review.

3.6 The Draft Decision also set out a proposal for Jersey Post to establish a User Council. This reflected the importance of postal services for consumers, the role of such bodies in other jurisdictions and the expectation that the importance of good quality customer engagement will only increase. It was noted that the User Council would be set up and run by Jersey Post.

3.7 On reporting, the Draft Decision set out the need to strengthen the reporting requirements on Jersey Post, both as reflection of the obligations the Authority is under and consistent with best practice in this area internationally. Therefore, alongside the requirements already present in the Licence it was proposed to add additional reporting requirements, including specific financial data and supporting data on the USO.

- 3.8 Question 1 of the Draft Decision sought respondents' views on the Authority's proposals for updating the regulatory framework.

Draft Decision responses

- 3.9 In its response, Jersey Post set out the wider context for its role in the Jersey economy and the challenges it now faces. This includes its role as a major responsible employer, the delivery of the USO, the impact of competition and the challenges posed by running a postal network on an small island. .
- 3.10 With respect to question 1, Jersey Post set out its view that the current licensing system should continue, and that a review would involve a disproportionately high effort relative to the likely outcome.
- 3.11 In terms of the proposed reporting, Jersey Post noted it is unclear what constitutes a universal service obligation so proposes to provide information by format i.e. letters, large letters, packets and parcels. On the proposed reporting requirements, it was noted that the financial statements are approved in May, so May would be a more appropriate target date for annual data. Jersey Post also note that some information, such as 'Cash Headroom' and 'Viability Statement' have the same purpose so only the latter should be provided.
- 3.12 On the User Council, Jersey Post agreed with the proposal for this to be set up to 'put consumers at the heart of how we run our business.' It was suggested that an independent, credible, Island-wide body, such as Citizens Advice or the Jersey Consumer Council sponsors the set up of such a body to ensure it represents the different needs of postal consumers.
- 3.13 HubEurope's response set out its concern that the Strategic Review has been superseded by events and will not deliver benefits to the Jersey postal sector. In particular, the removal of the mail plane (in August 2023) is a key change which means the fall in public satisfaction has not been captured by the Strategic Review. Given this, HubEurope set out a view that if the Authority was aware of the mail planes removal at any point during the review, it should have been halted. The response notes that if the Authority was not aware then this raises questions about Jersey Post's reporting requirements and licence compliance.
- 3.14 The Jersey Consumer Council's response focused on the proposal for a User Council which was strongly supported. It was stated that membership of the group should reflect local circumstances and challenges, and that the chair of this should be independent and not represent particular customers or organisations. While willing to take part in the group, the Jersey Consumer Council noted it would be unable to host it, due to lack of resources.
- 3.15 With respect to the User Council's role, the Jersey Consumer Council explained that key changes that will affect local postal services should be discussed with the user group initially, and that for major decisions, some kind of consultation process should complement a piece of public engagement work. To avoid it becoming a 'tick-box' exercise, the response notes the importance of the User Council being supported by the Authority, in particular with respect to its recommendations. There was also a desire for it to have the remit to review decisions up to 12 months after they have been made, this is to ensure the full impact of changes is satisfactorily understood.

Authority analysis

3.16 In this section the Authority sets out its analysis of the responses to the Draft Decision covering:

- The Law and Government Policy;
- Postal Service Licences;
- User Council; and
- Reporting requirements.

The Law and Government Policy

3.17 The Authority acknowledges the wider challenges set out by Jersey Post in its response. This is consistent with the significant engagement held with Jersey Post over the course of the consultation. Ultimately, a number of these issues sit outside the remit of the Authority and the scope of the Strategic Review. Nevertheless, recognising the importance of these challenges in framing future changes to the Law and Government Policy, the Authority has published its Thinkpiece capturing its reflections on the Strategic Review alongside this Final Decision.

3.18 The Thinkpiece includes a discussion of:

- The value of postal services to Jersey;
- Maintaining the relevance of regulation;
- The role of competition;
- Supporting island resilience; and
- Next steps.

3.19 In publishing the Thinkpiece, the Authority is encouraging the Government in the near future to update the 2004 Law to bring it into line with recognised international principles. For example, this would likely consider the value of services which should be exempt from regulation, the role of regulation with respect to parcels and the expectations around consumer protection. Other areas include the powers available to the regulator to hold operators to account. Alongside this, Government action is required to make appropriate amendments to supporting policies - in particular, through the delivery of a Postal Policy.

3.20 Delivering both the update to the Law and the Postal Policy will help ensure Government's wider strategic goals and vision for this vital sector are captured and ultimately, will support the continued sustainability of this important sector, allowing it to deliver greater prosperity, security, and opportunities for Islanders.

3.21 With respect to HubEurope's response, the Authority does not accept that the removal of the mail plane means that the Strategic Review has been superseded. The Authority noted in the Draft Decision that:

'In May 2023, Royal Mail issued a consultation considering changes to Royal Mail's operational relationship with the postal authorities of the Crown Dependencies. This included the potential removal of the mail plane servicing Jersey. In July 2023, it was announced that the mail plane was being removed from August 2023. Reflecting this development, in forming the policy

proposals the Authority considered the potential implications of this change for postal services on Jersey.’ Paragraph 3.20

3.22 The Authority also notes that it has had significant correspondence with HubEurope over the summer of 2023 on the removal of the mail plane. This engagement further noted that:

- The Licence to Jersey Post includes a USO to provide certain services. The USO does not prescribe either the method of delivery employed by Jersey Post nor require a ‘next day delivery’ service;
- It is for Jersey Post, and not the Authority, to decide on operational matters and how it meets the terms of the USO; and
- The consultation and decision to withdraw the mail plane was led by Royal Mail, over which the Authority has no power.

3.23 With respect to the wider points noted around reporting and licence compliance, the Authority considers the strengthening of reporting set out in the Draft Decision, is a proportionate increase in the oversight of Jersey Post.

Postal Service Licences

3.24 The Authority notes there is broad agreement to maintain the existing licencing framework. The proposed Licences for Jersey Post and Hi-speed Freight, with minor amendments to reflect the conclusions of the review, have been published alongside the respective Initial Notices.

User Council

3.25 The Authority notes the broad support from both Jersey Post and the Jersey Consumer Council for the User Council. The Authority notes similar bodies have been employed in different contexts and jurisdictions, and they can act as an effective means of engagement, creating a bridge between the postal operator and its customers, especially when supported by an arms-length organisation.

3.26 The Authority would support the User Council, where required, but sees the User Council’s key role as providing independent (from the Authority) challenge to Jersey Post and assurance to the Authority on the quality of Jersey Post’s consumer engagement.

3.27 To support this, the Authority would expect the User Council to be set up by Jersey Post with a clear terms of reference - for example defining its operational role. The requirement for Jersey Post to set up the User Council is reflected in the proposed Jersey Post Licence issued alongside the Jersey Post Initial Notice.

3.28 Consistent with best practice elsewhere, the Authority would not expect the User Council to have operational decision making powers, as these are best held by Jersey Post. Further given the future potential pressures faced by postal services, the Authority’s view is that the User Council should be forward looking and not focused on previous decisions.

Reporting requirements

3.29 The Authority notes that Jersey Post’s response aligns with the Authority’s findings, and the Authority welcomes Jersey Post’s open approach to further reporting. With respect to the proposed amendments:

- The Authority notes the concern around the USO definition, which is discussed further in chapter 4. The Jersey Post proposal to report by product is aligned with the Authority's expectation;
- The date for submission of financial data has been changed to the end of May to align with the Jersey Post Board's internal management cycle; and
- The Authority agrees that the requirement for Cash Headroom has been requested for the same purpose as the USO Viability Statement. To avoid unnecessary duplications the requirement has been removed.

Authority conclusion

3.30 In light of the analysis in the Draft Decision and stakeholder responses, the Authority has decided the following steps should be taken to update the regulatory framework:

- The Authority recommends Government updates the 2004 Law to bring it into line with recognised international principles. This update would likely consider, among other areas, the value of services which should be exempt from regulation, the role of regulation with respect to parcels and the expectations around consumer protection;
- The Authority recommends Government develops a Postal Policy to provide clarity on its objectives for the sector. This will help ensure Government's wider strategic goals and vision for this vital sector are captured and will, ultimately, support the continued sustainability of this important sector;
- The Authority will keep the existing Licensing approach but make minor updates to Licence Conditions to reflect the conclusions of the Strategic Review. These are reflected in the proposed licences issued alongside the respective Initial Notices for Jersey Post and Hi-Speed Freight;
- Jersey Post shall set up a User Council for Postal Services, to provide a consumer voice for post, especially in the context of future service changes. This requirement is reflected in the proposed Jersey Post Licence issued alongside the Jersey Post Initial Notice; and
- Greater reporting will be required from Jersey Post to the Authority to ensure effective oversight. This includes providing specific financial and volume data and supporting data on the sustainability of the USO. This requirement is reflected in the proposed Direction on reporting set out in chapter 4 of the Jersey Post Initial Notice.

3.31 To further support the first two decisions, the Authority has issued a Thinkpiece alongside this document and will be writing to Government with respect to the recommendations.

4. Safeguarding universal service provision

4.1 This chapter refers to chapter 7 of the Draft Decision, where the Authority set out proposals designed to safeguard universal service provision. The Authority proposed the following:

- To maintain the definition of the USO as defined in the current Licence;
- To estimate the net cost of the USO (i.e. impact of the USO on the profits of Jersey Post) using the 'commercial approach'. This approach is aligned to best international practice and incorporates both the costs and benefits of USO status; and
- Future changes to the scope of the USO should be driven by an understanding of the net cost of the USO. Changes would be subject to Consultation and it is expected engagement would take place with the User Council and wider stakeholders, including Government.

Draft Decision proposals

4.2 The Draft Decision set out the Authority's proposal that the definition of the USO would remain as defined in Condition 12.3 of the existing Licence. This proposal was consistent with the consumer research which showed a relatively high satisfaction with postal services and did not identify areas where potential clarification of the definition would be in the interests of consumers. It was also consistent with current practice and evidence that the USO, as defined, is not constraining Jersey Post's business.

4.3 The Authority also proposed that future changes to the USO would be subject to an understanding of the net cost (i.e. taking into account both the costs and benefits) of the USO, estimated using the 'commercial approach'. The Draft Decision explained the approach and noted that it is important to calculate the net cost of the USO using an appropriate method as if the net cost is calculated incorrectly, it would distort any decisions made about changing the USO.

4.4 With respect to future changes, the Draft Decision set out the Authority's proposal that any future changes to the USO, should, if required, be proposed by Jersey Post. These would draw on its net cost estimate. There is an expectation that this process would help identify changes to the USO which could reduce the financial burden. In the first instance these changes should be tested with the proposed Jersey Post User Council. Any changes would also be subject to a consultation process and would, for example, require the Authority to undertake the appropriate statutory steps or extensive consultation in the case of major changes.

4.5 Question 2 of the Draft Decision sought respondents' views on the Authority's proposals for safeguarding universal service provision.

Draft Decision responses

4.6 The introduction to the Jersey Post response sets out that 'it is now time to review the USO in line with the changing business and market requirements to check whether regulation is still fit for purpose and linked to what the Government wants'.

4.7 However, with respect to question 2, this point is not further elaborated on. Instead a focus of Jersey Post's response is on potential issues with the 'commercial approach' being used to calculate the net cost of the USO. In particular Jersey Post notes:

1. The difficulty in building a counterfactual against which to assess the net cost;
2. There is a lack of clarity on the appropriate modelling approach, whether it should be 'scorched node' i.e. what the network would look like if the USO was removed from the current operations or 'scorched earth' i.e. what the network would look like if you started with no network and then had to build out to meet the USO;
3. The approach does not take into account how competing postal operators might react to Jersey Post operating without a USO;
4. The more relevant focus should be on the costs of elements of the USO rather than the USO as a whole, as this is a more tractable problem; and
5. There is an interrelationship between the USO and quality of service targets and given this the Authority should consider how these two regulatory requirements interact.

4.8 Given these points Jersey Post suggest the Authority's analysis should consider the following aspects:

1. The potential for Jersey Post to be unprofitable not due to the USO, but due to the general decline in the postal sector. Jersey Post further noted that the parallel example in the UK is the Post Office, which is being provided with a subsidy;
2. That the Authority's proposed approach might miss specific aspects of the USO, which impose a disproportionate cost on Jersey Post, and so should still be relaxed;
3. That it will be important to capture both the positive and negative externalities of the USO service; and
4. There are elements of the USO which are not clearly defined, which makes it difficult to define the net cost of such restrictions.

4.9 Jersey Consumer Council did not specifically comment on the question 2 but noted its disappointment with the recent decision to close four post offices in Co-op stores. The response notes that this will have a negative impact on many Islanders, especially those who do not have access to the internet or modern technology and therefore rely on physical post offices.

Authority analysis

4.10 In this section the Authority sets out its analysis of the responses to the Draft Decision covering:

- The definition of the USO;
- The net cost of the USO; and
- Changes to the USO.

The definition of the USO

- 4.11 The definition of the USO is of key importance because it sets the minimum level of postal service provision for all Islanders. The Authority notes the comment in Jersey Post's introduction to its response about the need to review the USO, and that no further detail was provided on what aspects should be reviewed.
- 4.12 As set out in the Draft Decision a detailed consideration was given to whether the USO was still appropriate. This considered consumer research, approaches in alternative jurisdictions and Jersey Post's own proposals for change expressed through the call for information, noting:
- The consumer research, which showed a relatively high satisfaction with postal services;
 - The approaches in alternative jurisdictions highlighted that often the USO is heavily prescribed. For example, in the UK, Royal Mail is subject to a comprehensive order of 14 pages, which includes significant detail on the services and products that should be delivered and it is unclear if such an approach would benefit either Jersey Post or local consumers.
 - All the potential changes identified by Jersey Post in their call for information response, which are (1) an introduction in the choice of mail routes to the Island; (2) alignment to the ferry route, with subsequent realignment of collections to ensure mail can be dispatched on the evening ferry; and (3) to limit the next day service to local mail only, were able to be accommodated within the current definition of the USO.
- 4.13 Consistent with this analysis and the operational flexibility offered, the Authority considers that based on the evidence presented as part of the Strategic Review the current definition is robust and appropriate. Nevertheless, the Authority does recognise that given the ongoing changes forecast in the postal sector, together with the changing needs of the consumer, the USO will come under increasing pressure.
- 4.14 Therefore, the Authority has given greater consideration to the requirements it is under, in particular expectations set by Government. Notably, under the Law the Authority has been issued with Directions and Guidance as to its role.⁴ The Box below sets out the guidance provided to the Authority with respect to postal services with a focus on what the expectations are with respect to demanded postal services.

Box 2: Written Guidance about Demanded Postal Services

There is written guidance which sets out the expectations for demanded postal services. For example with respect to Local to Local Delivery and Local Collection the Authority shall have regard to the following expectations:

- (a) At least one delivery of relevant postal packets (being, for these purposes, postal packets whose weight does not exceed 20Kg and whose dimensions fall within the minimum and maximum limits laid down in the Universal Postal Union Convention and Postal Parcels Agreement) posted in Jersey should be made on each of not less than five working days each week to each delivery point (being, for these purposes, the home or premises of every

⁴ [Postal Services \(Jersey\) Law 2004: Directions and Guidance to the JCRA under Article 9 \(February 2005\)](#)

individual or other person in Jersey or to such identifiable points for the delivery of relevant postal packets as the Authority may decide).

(b) At least one collection of relevant postal packets should be made on each of not less than five days each week from each access point (being, for these purposes, any facility provided for the purpose of receiving relevant postal packets of all kinds) and from each post-box (being, for these purposes, any facility provided for the purpose of receiving relevant postal packets of a class appropriate for that facility).

(c) Collections at one or more access points or post-boxes, on a district basis, should be made at latest times that will enable relevant postal packets to access key delivery and transport connections.

Further guidance is provided with respect to access points and post-boxes, uniform prices, relevant postal packets posted outside Jersey, relevant postal packets posted in Jersey and additional postal services.

- 4.15 This Guidance is incorporated into the existing definition of the USO, for example the five day a week expectation and shapes the Authority's approach to the USO (and the regulation of postal services in general). The impact of this Guidance on potential future changes to the USO is discussed further below under 'Changes to the USO'.
- 4.16 With respect to the Jersey Consumer Council's comments, the Authority notes that the USO does not prescribe a set level of post office provision. The Authority notes that Jersey Post have undergone a process to try and secure alternative vendors. Further consideration on what constitutes a reasonable level of access is an issue which could be considered in the development of the Government's Postal Policy.

The net cost of the USO

- 4.17 The USO may entail both benefits and costs to the universal service provider. The concept of the 'net cost of the USO' captures the net result of such benefits and costs. In other words, the net cost of the USO is the difference in the operator's actual profit and its profit in a hypothetical scenario in an absence of the USO. This concept is used to both evaluate whether the USO poses unfair financial burden on the universal services provider and also evaluate the economic rationale for changing the USO.
- 4.18 The Authority notes Jersey Post has significant concerns around the use of the 'commercial approach' to estimate the net cost of the USO. The Authority notes that the proposed approach is consistent with best practice and extensively used in other jurisdictions, in particular in the European Union, as it is consistent with the EU Postal Services Directive. For example, since 2019 USO net costs have been calculated in almost half of the EU Member States, with the 'commercial approach' being the most commonly used approach.⁵
- 4.19 With respect to the specific concerns raised about the 'commercial approach' (paragraph 4.7, bullets 1 to 5), the Authority notes:
1. The counterfactual is a situation where no USO exists and Jersey Post would need to assess which elements of its service provision and network it would change or remove in a

⁵ See discussion in section 2.5.2 of: [Copenhagen Economics report, 'Main Developments in the Postal Sector'](#)

counterfactual scenario in the absence of USO requirements. The Authority notes this can be a challenging conceptual exercise but also that there is significant precedent that can be drawn from to help inform the exercise.⁶ Further, the Authority notes that the requirement to estimate the net cost will be by exception (to inform changes to the USO), as opposed to an ongoing or annual requirement;

2. As noted above, the approach has been well used in many jurisdictions and the Authority would expect it will build on practice elsewhere in the postal sector and to be involved in the design of the model. Further, the Authority notes, that Jersey Post, in its own work to understand its value as an operator, is also likely to have ready access to much of the information required;
3. By its design, the approach is not intended to be an analysis of full postal markets for a long time horizon. It does not demand dynamic market modelling although consideration can be given for how competitors may respond;
4. The net cost approach can be employed to reveal which elements of the USO impose a burdensome constraint on the operator, and to assess the removal of one or more elements. It is a flexible approach, used in many European jurisdictions to assess some or all elements of a USO; and
5. The Authority notes the interrelationship between the USO and quality of service targets. As set out in the Draft Decision, the refined quality of service targets have been designed to be consistent with the existing USO. The Authority accepts that if there is material change to the USO, the quality of service regime may also need to be amended and this requires the appropriate process to be followed.

4.20 Further, with respect to the additional points raised by Jersey Post (paragraph 4.8, bullets 1-4), the Authority notes:

1. The 'commercial approach' aims to identify the financial burden imposed on the operator solely by the USO given the market conditions at hand. The net cost approach can be employed regardless of whether the postal market is declining or growing. It is possible some elements of the USO are not commercially viable in either context. The Authority notes that consistent with best practice and to avoid market distortions, 'compensation' for the USO should only be considered for the financial burden of the USO, not for unprofitable non-USO activities and that any decision on compensation will be a matter for Government.

The Draft Decision noted that in Europe a key driver of compensation for the USO provider has been the estimation of the net cost of the USO. With respect to compensation the Draft Decision noted:

'If there was to be a scenario where compensation was requested (i.e. potential changes to the USO were either not sufficient to reduce the financial burden, or not viable from a consumer service perspective), this would be a matter for Government. It is outside the remit

⁶ A good example of the conceptual framework and challenges that need to be considered are set out in the a report by Copenhagen Economics for Iceland Post. See [Report on the USO net cost in Iceland \(CE\)](#)

of the Authority, who nevertheless would be available to provide advice, within its remit as the Postal Services regulator.’ paragraph 7.29;

2. The Authority’s view is that Jersey Post is best placed to ascertain which elements of the USO are most expensive or least commercially viable, and calculate the anticipated benefits of removing those accordingly. As set out below the Authority will be providing Jersey Post flexibility on the approach it takes to estimating the net cost, to ensure specific aspects are not missed. Though it should be noted, whichever approach to calculating the net cost is adopted, the Authority would expect clear documentation to be provided to ensure transparency;
 3. The Authority agrees it is important to capture both the positive and negative externalities of the USO and this is inherent in the net cost approach. The net cost approach captures both tangible (money) and intangible outcomes (positive public perception) of servicing the USO. It is in fact recommended that intangible benefits, and more specifically externalities, are taken into account when assessing an element of, or the entire, USO; and
 4. On the definition of the USO, the Authority notes the benefits the high level definition offers and considers that Jersey Post can make appropriate assumptions on what is and what is outside the scope. This would be within the existing Guidance- for example as set out in Box 2 and precedent.
- 4.21 Given the level of concern expressed by Jersey Post and consistent with a proportionate regulatory approach, the Authority is keen to ensure there is flexibility to the approach to estimating the net cost. Therefore while the proposed Licence references the ‘commercial approach’, in line with the best practice set out above and in the Draft Decision, flexibility is maintained for Jersey Post to apply a different approach following consultation with the Authority.⁷
- 4.22 The Authority’s view is that this approach helps set the expectation for understanding the costs and benefits of the USO, while maintaining the flexibility to respond to local circumstances. It is also flexible to future changes in best practice.

Changes to the USO

- 4.23 The Authority recognises that given the ongoing changes forecast in the postal sector, together with the changing needs of the consumer, the USO will come under increasing pressure. As a starting point, the Authority’s view is that any change to the USO needs to be evidence-based and informed by an understanding of the costs and benefits of the USO. Moreover, any change will have to be within the guidance set by the Government with respect to demanded postal services (Box 2).
- 4.24 Given this, it is likely that Government will need to lead on any significant future changes to the USO that depart from the guidance provided to the Authority, which, for example, calls for a five day a week service. Considerations for how this review process could take place may form

⁷ The revised condition clarifies that *“The determination of net cost shall be made by the Licensee either using the ‘commercial approach’ or an alternative approach, agreed following consultation with the JCRA, on the appropriate mechanism to be used”*.

part of a Government Postal Policy. Smaller changes, within the guidance, would be able to be progressed by the Authority in line with the required non-statutory and statutory steps set out in the Draft Decision.⁸

Authority conclusion

4.25 In light of the analysis in the Draft Decision and stakeholder responses, the Authority has decided the following steps should be taken to safeguard universal service provision:

- The current definition of the USO in the proposed Jersey Post Licence is being maintained, although the Authority recognises the USO will come under increasing pressure and has set out a clear process for considering potential future changes;
- Any future changes to the USO should be informed by an understanding of the net cost of the USO (i.e. the benefits and costs to Jersey Post of the USO). The calculation of the net cost, when required, will be the responsibility of Jersey Post as set out in the proposed Jersey Post Licence. This will be estimated either using the 'commercial approach' or an alternative approach, agreed following consultation with the Authority on the appropriate mechanism to be used; and
- Significant changes to the USO beyond the guidance issued by Government, would require Government to lead on policy. Smaller changes would be subject to consultation and in both cases it is expected engagement would take place with the User Council and wider stakeholders.

⁸ See paragraphs 7.30 to 7.33

5. Meeting consumer expectations

5.1 This chapter refers to chapter 8 of the Draft Decision in which the Authority set out proposals for a refined quality of service regime, designed to meet consumer expectations. The Authority proposed to implement a refined quality of service regime, with a focus on transit targets for Jersey to Jersey, Jersey to UK and UK to Jersey.

Draft Decision proposals

5.2 The Draft Decision set out the proposed refined quality of service regime, with an expectation that the new regime would be in place from March 2024. The proposals drew on a consideration of regulatory best practice, insights from the consumer survey, Jersey Post's performance against the current targets; and operational constraints.

5.3 One area of proposed change was in the definitions used, with a proposed move away from the use of 'J' and 'D' targets and to the plain English equivalents instead. This was to help ensure better understanding of the targets, both within the industry and by wider stakeholders and to support future consumer messaging about this area.

5.4 In addition to this, it was proposed to simplify and streamline the transit targets, with a focus on the areas over which Jersey Post has direct control i.e. once mail is received and where there is material consumer use, i.e. it was proposed Guernsey targets were removed on this basis. The proposed targets are summarised below:

- With respect to Jersey services, binding targets for day of dispatch. This target is complemented by measuring Jersey Post's performance once local mail is received at its main sorting centre at Rue des Pres, through binding targets for day of receipt;
- For outbound UK mail, binding targets apply to Jersey Post's performance once UK mail has arrived at its main sorting centre. This measure now focuses on the speed at which it is cleared for onward transit to the UK. Similarly, for inward mail this measures the speed at which it is cleared for delivery to each postal address; and
- Recognising the importance of the UK mail link, Jersey Post would continue to monitor performance from a day of dispatch perspective, but this would not be subject to a binding target.

5.5 The Draft Decision also set out the proposed reporting approach. This built on current practice and included additional metrics such as consumer satisfaction and complaints, which help provide a more complete overview of Jersey Post's performance. As with current practice it was proposed that the results would be on an annual basis and published on the Authority's website.

5.6 Question 3 of the Draft Decision sought respondents' agreement with the Authority's proposals for a refined quality of service regime.

Draft Decision responses

5.7 In its response, Jersey Post indicated they fully agree with the refined quality of service approach. It was noted that prior to implementation they would welcome further discussion on

the measurement methods for some of the targets as it is important that the methodology for measuring must include an element of independent data collection and self-measurement.

- 5.8 The Jersey Consumer Council did not directly comment on the targets but noted that their Council members have expressed disappointment and concern about the evolution of postal services on the Island during 2023. Examples are cited of complaints they have received from the public, many concerned with the length of time it takes to receive letters to their Jersey address. In particular a focus of concern is with regards to first class mail, where customers have experienced a decrease in service quality.

Authority analysis

- 5.9 The Authority notes the points raised by Jersey Post in response to question 3. Further engagement has been held with Jersey Post and further detail has been provided on the measurement approaches. The Authority expects Jersey Post will have the necessary infrastructure in place to implement the new quality of service regime from March 2024.
- 5.10 With respect to the Jersey Consumer Council comments, the Authority is aware of the disruption created by the move from the mail plane to bringing mail by sea. In particular, over the summer of 2023 this created significant delays in mail, predominantly driven by issues for which Royal Mail were responsible.
- 5.11 As indicated by recent media coverage there has been improvement in this area⁹ and the Authority expects this performance to be reflected in the quality of service reporting for the current regime (to be published in 2024). Moreover, with a move to the refined regime, the Authority and stakeholders will still be able to understand performance of the UK link, with reporting maintained in this area. This will help both incentivise performance and inform public debate.
- 5.12 With respect to first class mail, the Authority notes the USO does not require a 'next day delivery' service. Consistent with this, Jersey Post does not operate a distinct first/second class set of services and 'first' class mail is a Royal Mail product. The Authority's view is that the proposed targets will help ensure mail is delivered as promptly as possible. For example UK mail targets have been set at day of receipt + 1. This means mail will be processed and cleared to a delivery officer on the next day after receipt from the UK.

Authority conclusion

- 5.13 In light of the analysis in the Draft Decision and stakeholder responses, the Authority has decided to implement a refined quality of service regime. The requirements to be as follows:
- The Authority will implement a refined quality of service regime by issuing the proposed Direction to Jersey Post as set out in chapter 5 of the Jersey Post Initial Notice;
 - The regime will include transit targets for Jersey to Jersey, Jersey to UK and UK to Jersey. The targets are a mix of day of dispatch and day of receipt targets. Binding quality targets

⁹ For example see: <https://jerseyeveningpost.com/news/2023/09/06/royal-mail-service-has-improved-say-jersey-post/>

have been set where appropriate, with some areas subject to monitoring and reporting. A sampling approach will be used to measure the targets, completed independently, and overseen by Jersey Pos;

- Additional quality reporting to be provided on consumer satisfaction, complaints and refunds; and.
- Reporting to be on an annual basis, from January to November (December to be excluded as peak month). A narrative report is to be supplied to the Authority every year for review before publication by Jersey Post.

6. Approach to Class I Licences

6.1 This chapter refers to Annex 1 of the Draft Decision where the Authority set out proposals for the approach to Class I Licences. The Authority proposed to maintain the existing framework, with the current protections for the Class II Licensee, in line with the Authority's proportionate regulatory approach.

Draft Decision proposals

6.2 The Draft Decision set out the Authority's view that the current Class I licence framework is fit for purpose, and proportionate to both the scale of any potential Jersey operation and regulatory burden. Therefore, it is proposed to maintain the broad framework, with restrictions maintained to ensure the Class II licence holder is not disadvantaged. These restrictions include geographical, customer and revenue restrictions and have been in place for several years.

6.3 It was noted that the current Licence has provision for Class I Licensees to provide for funding of the USO. However, given there is only one Class I Licensee, the clause for contributing to funding of the USO is unlikely to ever be enacted and it was proposed to remove it. This was in light of the wider issues around the USO discussed in the Draft Decision.

6.4 Consistent with the broader work on updating the regulatory framework, the Draft Decision also set out that more formal annual reporting requirements would be implemented for the existing Class I Licensee, Hi-speed Freight, with a focus on demonstrating compliance. It was noted this would be annual and include data on mail volumes, revenue and quality of service.

6.5 Question 5 of the Draft Decision asked if respondents agree with the Authority's proposals for Class I Licences.

Draft Decision responses

6.6 In its response, Jersey Post stated that it is in full agreement with the updated approach. No other respondents raised any issues with the proposed approach.

Authority analysis

6.7 All respondents to the Draft Decision were supportive of the Authority's proposals for Class I Licences.

Authority conclusion

6.8 In light of the analysis in the Draft Decision and stakeholder responses, the Authority has decided the following steps should be taken with respect to Class I Licences:

- In line with the Authority's proportionate regulatory approach the Authority will maintain the broad existing framework, with the current protections for the Class II Licensee; and
- Minor updates will be made to reflect market developments, including the removal of the potential for the USO funding and the introduction of formal reporting requirements which are set out in the Hi-speed Freight Initial Notice.

7. Final Decision

7.1 This chapter sets out the Authority's Final Decision on each element of the Strategic Review. Where required, these are implemented in the Initial Notices and accompanying proposed Licences, that are issued alongside this document. For areas requiring Government action, the Authority will be writing to Government to make its recommendations.

Updating the regulatory framework

7.2 With respect to updating the regulatory framework:

- The Authority recommends Government updates the 2004 Law to bring it into line with recognised international principles. This update would likely consider, among other areas, the value of services which should be exempt from regulation, the role of regulation with respect to parcels and the expectations around consumer protection;
- The Authority recommends Government develops a Postal Policy to provide clarity on its objectives for the sector. This will help ensure Government's wider strategic goals and vision for this vital sector are captured and ultimately, will support its sustainability;
- The Authority will keep the existing Licensing approach but make minor updates to Licence Conditions reflecting the conclusions of the Strategic Review. These are contained in the proposed licences issued alongside the respective Initial Notices for Jersey Post and Hi-Speed Freight;
- Jersey Post shall set up a User Council for Postal Services, to provide a consumer voice for post, especially in the context of future service changes. This requirement is contained in the proposed Jersey Post Licence issued alongside the Jersey Post Initial Notice; and
- Greater reporting will be required from Jersey Post to the Authority to ensure effective oversight. This includes including specific financial and volume data and supporting data on the sustainability of the USO. This requirement is contained in the proposed Direction set out in chapter 4 of the Jersey Post Initial Notice.

7.3 To further support the first two decisions in this area, the Authority has issued a Thinkpiece alongside this document and will be writing to Government with respect to the recommendations contained in this document.

Safeguarding universal service provision

7.4 With respect to safeguarding universal service provision:

- The current definition of the USO in the proposed Jersey Post Licence is being maintained, albeit the Authority recognises the USO will come under increasing pressure and has set out a clear process for future changes;
- Future changes to the USO should be informed by an understanding of the net cost of the USO (i.e. the benefits and costs to Jersey Post of the USO). The calculation of the net cost, when required, will be the responsibility of Jersey Post as set out in the proposed Jersey Post Licence. This will be estimated either using the 'commercial approach' or an

alternative approach, agreed following consultation with the Authority on the appropriate mechanism to be used; and

- Significant changes to the USO, which go beyond the guidance issued by Government, would require Government to lead on policy. Smaller changes would be subject to consultation and in both cases it is expected engagement would take place with the User Council and wider stakeholders.

Meeting consumer expectations

7.5 With respect to meeting consumer expectations:

- The Authority will implement a refined quality of service regime by issuing the proposed Direction to Jersey Post as set out in chapter 5 of the Jersey Post Initial Notice;
- The regime will include transit targets for Jersey to Jersey, Jersey to UK and UK to Jersey. The targets are a mix of day of dispatch and day of receipt targets. Binding quality targets have been set where appropriate, with some areas subject to monitoring and reporting. A sampling approach will be used to measure the targets, completed independently, and overseen by Jersey Post;
- Additional quality reporting to be provided on consumer satisfaction, complaints and refunds; and
- Reporting to be on an annual basis, from January to November (December to be excluded as a peak month). A narrative report is to be supplied to the Authority every year for review before being published.

Class I Licences

7.6 With respect to Class I Licences:

- In line with the Authority's proportionate regulatory approach the Authority will maintain the broad existing framework, with the current protections for the Class II Licensee; and
- Minor updates will be made to reflect market developments, including the removal of the potential for the USO funding and the introduction of formal reporting requirements which are set out in the Hi-speed Freight Initial Notice..