



c/o Hon. Secretary

Three Corners

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Mr Matt Thomas

Chief Executive Officer

Ports of Jersey

St Peter

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BY EMAIL

Thursday 7 December 2023

Dear Mr Thomas

We are writing to you on behalf of our members, in response to your communication on 24 November regarding the annual fees increase.

Jersey is an island state, and owning a boat and using it to go fishing, head to the Minquiers or Les Ecrehous, another bay, or to one of the sister islands, or even across to France, has always been an integral part of Jersey life. A significant proportion of the population own or have access to a private boat. We estimate that there are around 1,800 boats in the 4 marinas in St Helier, and the various harbours and moorings across the island.

The harbours and mooring fields are an amenity of the island, which were owned by the people of Jersey after being gifted by the Crown in June 2015. These were transferred to PoJ following the Air and Sea Ports (Incorporation) (Jersey) Act 2015. This Act specified that PoJ was the custodian of the harbours. As part of the public consultation process ahead of the incorporation of PoJ, representations were made by PoJ that, under their Public Service Obligations, they would "...protect the interests of the various clubs and associations who are very important to the future prosperity and customer base of Ports". This was stated to be a core pillar of the PoJ approach to Corporate Social Responsibility.

The Jersey boat owner community accepted, albeit reluctantly, the increase in fees of 10.4 % for 2023, the implementation of which was deferred by PoJ for two months to 1 March. There is a strongly held feeling in the community that a further increase of 11.1% from 1 January 2024 is a step too far.

All recognise that we are in inflationary times, and many of the drivers of inflation are due to global factors. However, it is the belief of the boat owning community that PoJ are exploiting the situation unreasonably to our detriment.

It is acknowledged that PoJ have the authority to increase fees by a maximum of RPI plus 1% under the Long Term Pricing Framework direction from the Jersey Competition Regulatory Authority (JCRA). This is, however, a maximum, not a target or requirement. There are a number of separate and distinct reasons why we believe that a lower increase in berthing and marina fees is appropriate for 2024 :-

1. headline inflation (RPI) and underlying inflation (RPI(Y)) have broadly tracked each other for many years, but have sharply diverged over the last year. RPI has surged due to the steep increase in mortgage costs, whereas, as RPI(Y) excludes housing costs, it has trended lower. RPI for Sept 2023 is 10.1%, RPI(Y) is 5.3%. Almost half of the inflation figure used for the fee increase is attributable to the rise in housing costs due to the spike in mortgage interest rates. Housing costs have no bearing on the provision of marina services, and RPI September 2023 is a statistical anomaly for PoJ fee guideline purposes. It is our view that you should have used your discretion to use RPI(Y) as your reference inflation rate when setting the 2024 fees.

We note that PoJ proposed the use of RPI(Y) in early consultation with the Jersey Competition Regulatory Authority (JCRA) in respect of the fee review in 2018. Refer appendix 1 for historic rates.

2. The implementation date of 1 January, following the previous deferred date for the 2023 increase to 1 March, means that marina fees will have risen 24% from January to January as a result of compounding and the impact of GST. This is manifestly unreasonable. In our view, the government has a responsibility to act to bring down inflation, not fuel it, and as an agent of government, PoJ has a role in holding increases to below inflation.
3. PoJ seek to justify another year of steep increases by referencing the need to recover revenues following the pandemic. Marina revenues were protected during the pandemic, as our boats all had to stay on their moorings. We recognise visiting yacht numbers were reduced but these are only a small portion of marina revenues. 2022 marina revenues show an increase over pre-pandemic levels and we expect 2023 results when published will show another substantial increase. This justification for increasing fees for boat owners simply does not stack up.

Refer Appendix 2 for historic revenues

4. PoJ also reference the need for investment in capital projects as justification for a large increase in fees. The significant capital sums required for both replacing existing infrastructure and 'masterplans' relate to the airport and the commercial areas of the port. Private boat owners will see little if any benefit - indeed a loss of utility and function is more likely as the port is reorganised for commercial activity. We acknowledge that the pontoons were replaced in Town marina in 2022, but this was like-for-like replacement of assets at the end of their useful life, and saw no increase in capacity or function for marina users.
5. The boat owning community has endeavoured to engage with Harbours through periodic meetings. Though cordial, we have been disappointed there is an established pattern of no action being taken in respect of reported problems and requests for improvements. Long standing issues, for example the gauges and lights at Elizabeth Marina, the mooring chains in Gorey or the dredging of St Aubins, are still awaiting resolution. It has also become apparent that the numbers of complaints reported in your

performance measures supplied to JCRA is significantly lower than the expressions of dissatisfaction our members have reported to marinas and harbours management.

6. PoJ have not increased fees for professional fishing boats (a decision we support), and have indicated that some businesses have specific agreements on fees. It would appear that the major commercial users of the port and airport may not be facing fee increases of the same level. It leads to the conclusion that the private boat owners using the amenity of the harbours are being unfairly treated through a disproportionate impact of fee increases. Marinas accounts for less than 10% of the business of PoJ and yet fees are being increased for private boat owners at a higher rate to offset revenue shortfalls and the funding of capital projects in commercial areas.
7. The annual revenues generated by the berthing fees for local boats are 'guesstimated' (without access to PoJ books) at around £4m. The actual amount of revenue that would be forsaken by PoJ if fees were increased by 5% rather than 11.1% is estimated at around £250k. To put this into context, it is less than two days revenue of PoJ. A fair rate of fee increase for local boat owners would have no discernable adverse impact on the financial resources of PoJ.

The community of boat owners are locked into PoJ moorings and berths – there are no other berthing options for the vast majority of our boat owners, who live locally. Unlike some other products and services for which a consumer has a choice to either continue or stop using, we need to continue berthing our boats. Some may wish to sell their boats because of escalating costs, but that is not an easy or quick process.

As part of our response to this fee increase, the Jersey boat owning community has engaged with JCRA. We acknowledge PoJ have acted within their authority under the fee framework, and there do not appear to be grounds for a referral to JCRA specifically on the rate of fee increase. However, if it transpires that the private boat owners have been treated unfairly in relation to other customers, for example commercial customers whose fees have not been increased at the same rate, or that complaints have been under-reported, there is scope for raising an issue with JCRA under Guideline 5 – Abuse of a dominant position.

We recognise there have been inflationary pressures in all economies, that PoJ needs a strategy to regenerate the port and airport, and that the pandemic had an adverse impact on PoJ, (as it did on businesses, individuals and communities around the world). An increase in fees of this level will fuel inflationary pressures on the island at a time when underlying inflation is falling sharply.

It is our belief that PoJ is abusing its dominant power in the final year of the JCRA pricing framework by using a statistical anomaly to levy unfair and unjustifiable fee increases. We do not accept the reasons given for the increase as being fair to our group of users of PoJ services, but instead constitutes a cross-subsidisation of other parts of PoJ. We also note this increase has the benefit to PoJ of inflating the starting point for the fee framework for the next 5 year review period.

In addition, we believe that the announcement of this decision at the end of November, only 5 weeks before it comes into force (and when 2 of those 5 weeks will be disrupted by seasonal festivities and large numbers of stakeholders on holiday) is designed to block dialogue and consultation, and as such, further evidence of abuse of a dominant position.

We request that PoJ revisit this decision and :

1. Defer the fee increase to 1 March 2024
  - so we are not subject to two, inflation-exceeding increases in one twelve month period
  - to enable a consultation with affected boat owners and dialogue with the JCRA,

2. Limit the fee increase to 5.3%, being underlying inflation to September 2023 (RPI(Y))

In view of the close proximity to the implementation date for planned fee increase, we request a response from you by Friday 15 December.

We have copied this letter to Jersey Competition Regulatory Authority for their information, as they requested.

Yours Sincerely

## **St Helier Boat Owners Association**

Cc Jenny Marek-Murray, CFO Ports of Jersey

Cc Jersey Competition Regulatory Authority

## Appendix 1

### Jersey inflation

Figures for Jersey inflation are produced quarterly by Statistics Jersey. Because of the significant distorting effect of housing costs on the index, and the fact the measure is used across such a breadth of different purposes, Statistics Jersey produce three different RPIs relevant to this subject:

- all-items RPI (the 'headline' rate)
- RPI (X), which excludes the effect of changes in housing costs (a composite of mortgage and rent inflationary factors)
- RPI (Y), which excludes both housing costs and indirect taxes

Statistics Jersey describe RPI(Y) as 'underlying inflation'.

The UK equivalent, called CPI (consumer price index), is widely used in indexing adjustments.

	2023	2022	2021	2020	2019	2018	2017
	%	%	%	%	%	%	%
RPI September	10.1	10.4	2.9	0.9	2.7	4.3	3.1
RPI (X) September	5.4	8.0	2.7	1.3	2.6	3.8	3.4
RPI (Y) September	5.3	8.2	2.7	1.0	2.5	3.8	3.3

Source - Statistics Jersey web page

As the table shows, these indices are very closely aligned for the period 2017 through 2021. Sometimes RPI is slightly higher than RPI(Y), sometimes slightly lower. Indeed this alignment continues as you go back further. At the time of the pricing review and direction with JRCA, it is apparent that they were considered almost interchangeable. There were discussions (evidenced in the Pricing Review on the JRCA website) about whether RPI or RPI (Y) should form the basis for pricing framework. The planning work for the pricing framework assumed inflation of 3% pa over the 5 year period of the framework.

It is somewhat ironic that PoJ proposed to the JCRA in 2018 was that RPI(Y) should be used, and only at the last moment switched to supporting RPI.

As all will be aware, inflation rose sharply in 2022 due to the Ukraine war, and then the increases in interest rates in 2023 to tackle this inflation worked through sharply into housing costs, although falling across non-interest rate linked categories. Inflation and interest continues to fall in Q4 2023 and are forecast to fall further into 2024.

UK CPI stood at 6.7% at the end of September 2023 (c.f. Jersey RPI(Y) of 5.3%) and is forecast to fall to 4.5% at the end of 2023 (source – Jersey Fiscal Policy Panel report November 2023). Jersey RPI(Y) should follow similar trends.

Cumulative increases in fees of 25% in the light of the underlying rate of inflation and the direction of travel of the rate of inflation is inappropriate. Fee increases of 11.1% on 1 January 2024 when the actual underlying rate of inflation is likely to be 4-4.5% is simply an abuse of power. It will add to inflationary pressures on the island when the Government, and its agencies and corporate bodies, should be acting to reduce inflationary pressures.

## Appendix 2

### Ports of Jersey financial reports

	<b>2023</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>	<b>£m</b>
Marina revenues	n/a	4.3	3.9	3.8	4.0	3.5
Total PoJ revenues	n/a	45.5	36.2	36.2	48.7	47.6
Net Profit/(loss)	n/a	3.4	(5.0)	(5.9)	5.3	5.6

Source PoJ annual report

Whilst 2023 figures are not available to the public, they will be known to management given we are 11 months into the year. We anticipate that marina revenues will be around £5.0m based on 2022 numbers, fee uplift and increased numbers of visitors.

We are not in a position to project total PoJ revenues or net profit, but would expect them to exceed 2018 and 2019 figures.

It is clear that marinas contributes less than 10% of PoJ revenues, and the impact of the difference between the proposed 11.1% increase and a more reasonable increase of say 5%, would reflect about £250,000. This is pretty immaterial in the overall impact on PoJ overall revenue terms, indeed it is less than the salary of the CEO.

The headline we draw is that is simply not true to say it is necessary to increase berthing and mooring fees to recover to pre-pandemic levels. The provision of berthing and mooring to the local boat owning population has continued to grow its revenue, it has already recovered to be ahead of pre-pandemic levels, and is likely to be well ahead of that for 2023. It is completely inappropriate to try to use this customer group to cross- subsidise the commercial business of the airport and harbour.

Assuming total marinas revenue is around £5m for 2023, which figure includes the hoist, boat park, visiting yachts fees, and fishing boats, the core annual berthing fees are likely to be in the range £3.5-4m. This means the revenue generated by the 11.1% uplift is likely to be in the range £390k to £445k. Assume a midpoint of say £425k. Limiting the fee increase to 5% would have an adverse impact of revenue of around £235k.