



Guernsey Financial
Services Commission

Skilled Person Explanatory Note

Background

As per the Financial Services Commission (Bailiwick of Guernsey) Law 1987, two of the Commission's general functions are to *'take steps as the Commission considers necessary for the effective supervision of finance business in the Bailiwick'* and *'to enable any person to whom it has delegated power to carry out its functions or exercise any of its powers'*. The legal basis of the term 'skilled persons' (as laid out in the relevant sections of the supervisory laws)¹ enables the Commission to make such an appointment, *'if it considers necessary or desirable to do so in the interests of the public, or the reputation of the Bailiwick as a finance centre, or for the purpose of the performance of its functions'*.

Why may the Commission appoint a Skilled Person?

The appointment of a Skilled Person is a powerful regulatory tool which is used proportionately to enable the Commission to achieve its supervisory objectives; to mitigate and manage, prudential, conduct or financial crime risks. There are a wide range of briefs with which appointees may be tasked such as drawing on specialist technical expertise, determining adherence to the Handbook on Countering Financial Crime and Terrorist Financing through the review of customer files, remediating issues with deficient policies and procedures or simply understanding why issues or crystallised risks have occurred.

What is the difference between a Skilled Person, a third-party appointment, and an inspector?

A Skilled Person may be appointed by or at the direction of the Commission under the supervisory laws and will investigate and report directly to the Commission. This differs from a third-party appointee who is engaged directly by and reports to a licensee, albeit often as a result of a Commission Risk Mitigation Programme. An inspector is appointed under the Enforcement Powers Law. Our laws set out that the inspected person² or the relevant person³ will pay for the costs, fees and expenses of the appointment. Where a Skilled Person is appointed, this is likely to be an indicator of the strength of the Commission's supervisory concerns, retaining greater oversight and direction of this process when compared to the appointment of a third party.

How does the Skilled Person process work?

The Commission may appoint a Skilled Person for several reasons and there is no one factor or circumstance that always leads the Commission to do so. For example, the appointment may stem from findings from an onsite visit, a licensee's failure to adequately complete existing Risk Mitigation Programmes or the identification of adverse intelligence supported by evidence of adverse risk indicators. The Commission will detail the concerns or issues that require further attention in writing together with the opportunities for the licensee to make representations or appeal before progressing with the Skilled Person appointment. In determining who the Skilled Person shall be, the Commission generally conducts a tender process and the appointee must demonstrate that they commit to the relevant legal requirements.

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¹ Section 38 - Protection of Investors (Bailiwick of Guernsey) Law, 2020; Section 27 - Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2020; Section 29 - Banking Supervision (Bailiwick of Guernsey) Law, 2020; Section 68A - Insurance Business (Bailiwick of Guernsey) Law, 2002; Section 45A - Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002; Section 54 - Lending, Credit and Finance (Bailiwick of Guernsey) Law, 2022

² In the case of the appointment of a Skilled Person under the supervisory Laws

³ In the case of the appointment of an Inspector under the Financial Services Business (Enforcement Powers) Bailiwick of Guernsey Law 2022 (section 8(9))