Economy

Ferry Concession Agreement

Explanatory Note

OCTOBER 2025

Introduction

In December 2024, the Government of Jersey ("GoJ") selected DFDS to provide lifeline passenger and freight ferry services to Jersey, and this new partnership was formalised in January 2025 through the signing of a concession agreement. This followed a period of activity dating back to the COVID-19 pandemic where GoJ worked with professional advisors (legal and financial advisory) together with expert advisors in ship brokerage and modal freight to identify strategic options for delivery of long-term sea connectivity.

During market testing and subsequent open tender process, the marketplace responded to the specific tender requirements and established a qualitative and quantitative offer to the Government of Jersey. Amongst other factors, this set a price for the services under competitive market conditions and in a manner that demonstrated financial resilience and investment capacity throughout the life of the contract.

The concession agreement governs the relationship between DFDS, GoJ and the Harbour sets out how DFDS is broadly expected to deliver services for passengers and freight. Aside from the Concession Agreement evolving into a more contemporary form of contract than the legacy operating agreement, additional safeguards were incorporated in light of difficulties encountered with the legacy operator, most notably during its acute financial difficulties.

The new concession agreement is for a 20-year term. A contract of a longer duration was requested by both bidders citing the need for certainty of tenure to support the level of capital investment that would be necessary.

The agreement outlines the minimum services that DFDS needs to provide for passengers and freight, and it is also designed to get the best for islanders and Jersey's economy. It contains levers which incentivise good performance from DFDS, but also the ability for Jersey to ensure improvements if they are necessary. These were not facets of Jersey's contractual relationship with its ferry operators previously.

The agreement contains 56 Clauses and 21 accompanying Schedules. Clauses are the main areas of agreement and the Schedules supplement the contract with specific direction around details like technical requirements, pricing lists, project milestones. However, the concession agreement is not an operating or commercial manual that dictates how DFDS delivers each component of its services or the choices it should make as a company.

As an island, ferry services touch everyone's lives in Jersey – whether as passengers or consumers in the shops. That is why the Government of Jersey recognises that there is a legitimate interest in the public knowing more about the Agreement between it, as the island authority, and DFDS. Some elements of the Concession Agreement are straightforward and self-explanatory. There are, however, some areas where we offer a greater explanation for the existence and relevance of a particular Clause or Schedule in order to promote the best possible understanding.

In places, the Government has redacted certain parts which might contain an individual's personal information, where information has been supplied in confidence, or where it is sensitive to DFDS's commercial interests. These areas, and the reasons for the redactions, are explained further.

The redacted concession agreement is available on gov.je/FerryConcession

Exclusivity (Clause 4)

The modest market size for sea connectivity necessitates the award of contract to a single operator. This exclusivity creates a sustainable platform for year-round services and for the ferry operator's business to remain investable for the duration of the Concession Agreement. This will ensure financial resilience and a capacity for growth in Jersey, and fleet renewal by DFDS.

As set out in Jersey's 2025 Sea Transport Policy, access to Elizabeth Harbour for roll-on/roll off passenger (Ropax) ferry operators is conferred through the issuance of ramp licences by the Harbourmaster. The policy further states that the Harbourmaster may grant exclusive access to a Ropax ferry operator. This is the case for DFDS since the company commenced operations in March 2025.

The Sea Transport Policy allows the Harbourmaster to issue further ramp licences to other Ropax Ferry Operators for the fulfilment of inter-island sailings between Jersey and the Bailiwick of Guernsey only. Smaller, foot passenger-only ferries, or Lift On / Lift Off (LOLO) freight vessels are not covered within the scope of the policy.

This schedule differs from the operating agreement the with previous operator. The 2014 Agreement set a so-called "high barrier to entry" meaning that a second Ropax operator could, theoretically, gain access to the harbour provided it fulfilled passenger and freight services to the same standard as the incumbent Operator.

Mobilisation and transition (Clause 6)

This section refers to the time between the concession agreement being signed, then the start of DFDS's full services in March 2025.

Transition is the process of moving from Condor Ferries Ltd, to DFDS, in a smooth and seamless way. This process was supported through a working group involving Government of Jersey and Ports of Jersey Ltd.

In the short window between January and March 2025, DFDS were asked to ready their fleet and operations from the commencement dates.

Within Schedule 5, the mobilisation fleet is outlined. This means the set of vessels that DFDS will use for first years of the Concession Agreement. It contains named RoRo (freight), Ropax (Freight and passenger), and high-speed crafts that will be used in the first three years of the Agreement. Critically in the case of DFDS, they were obliged to name an initial fleet that did not include vessels owned by Condor given the material uncertainty of if and when those vessels would be available even if deemed surplus to the future operating needs of Condor.

It is worth noting the "Arrow" has already been replaced with the "Caesarea Trader" as the principal freight vessel. This enhances freight resilience given greater capacity and speed of the Caesarea Trader.

Ferry Services (Clause 7)

'Ferry Services' simply means the provision of passenger and freight sailings between the UK and Jersey (known as the northern route) and between Jersey and France (known as the southern route).

Service standards within the schedule refer to all the domestic and international maritime laws that DFDS must comply with, the Key Performance Indicators (KPIs) agreed with GOJ around factors such as punctuality and customer satisfaction. Separate to the publication of the agreement, the Government is committed to publishing relevant performance data going forward to ensure public transparency.

A three-yearly Comprehensive Service Review will take place to make sure that passenger and freight service levels are where they need to be in terms of capacity. Any changes to the provision of services, dependent on need, can be made at this point.

The schedule also makes provision for capacity increases in freight sailings if there are significant indications that freight looks likely to exceed the current level of capacity being provided.

Vessels (Clause 8)

This Clause deals with all the maritime laws that each vessel in DFDS's fleet must comply with. The schedule also covers the actions that DFDS must take with regard to maintaining its vessels and providing alternative capacity if, for a variety of reasons, its usual fleet becomes unavailable.

Schedule 5 outlines the mobilisation fleet being used by DFDS, including the RoRo, Ropax, and High-Speed vessels.

Schedule 11 outlines the steps DFDS must take with regard to both the proactive and reactive maintenance of its fleet, and how it must deal with any disruption that maintenance needs might cause to passenger and freight services.

Following the mobilisation period, Schedule 12 outlines the Vessel Investment Plan, during which the Mobilisation Fleet (outlined above) will be replaced by new vessels.

Sailing schedule (Clause 9)

The Minimum Service Requirements ("MSR") detail the absolute minimum schedules to be provided by the Operator. This provides the Operator with discretion to run additional sailings where commercially viable and recognises they are better placed than the Government of Jersey to match demand with capacity through discussion with stakeholders.

Schedule 1 provides a more detailed breakdown of the Minimum Service Requirements (MSRs) that DFDS must fulfil each week.

The section also details the steps that the operator must take if it needs to, for any variety of good reasons, amend the schedule during a particular season.

Schedule 6 shows an *indicative* sailing schedule for 2025. The principal reason for having this in the Concession Agreement was to show that the DFDS could realistically make their services deliverable from the commencement date. However, the 2025 schedules were ultimately adapted in line with port de-conflictions, stakeholder feedback and operational practicalities.

Access to ferry services marketing plan and promotion of competition (Clause 14)

This section binds the operator to marketing its passenger and freight services in an open and competitive way, and in a manner that does not constrict consumer choice (be that in either the passenger or freight sectors).

A section is redacted in accordance with Freedom of Information (Jersey) Law 2011 Article 33 (commercial interests).

With reference to marketing plans, ***Schedule 7*** provides a detailed description of the expectations around how DFDS should market and promote its products and services, and how it should partner with other organisations to achieve success with its marketing activities.

Performance standards and performance bond (Clause 16)

This section deals with how the Concession Agreement is designed to incentivise good, and sanction poor, operator performance. This is done through a Concession Fee and a separate Performance Bond.

The Concession Fee is a new feature to the Concession Agreement vs the legacy Operating Agreement. The Government of Jersey did not wish to levy a fixed annual fee irrespective of any other factor as this would have the effect of taxing the contract at a cost to be recovered within the fare structure. Instead, the Concession Fee is a sum that is ordinarily payable but can then be reduced, potentially to zero, through compliant delivery of the KPIs and so acts as an incentive mechanism.

The Performance Bond is a significantly larger sum of money that is guaranteed by DFDS' bankers in favour of the Government of Jersey. This is renewed annually, must be topped up if called and must remain available for the duration of the contract. If DFDS' performance consistently falls short of agreed expectations, Jersey can draw down on the bond and make sure that the money goes towards whatever improvements might be necessary to getting the service back up to standard. Fundamentally, this allows for recovery of costs incurred by the Government of Jersey in the event of the Operator's failure to perform the contract as obligated.

The previous Operating Agreement did not incorporate a Concession Fee or Performance Bond and the inclusion of both elements in this Concession Agreement significantly strengthens incentive to good performance and cost of non-performance.

The amounts of both the Concession Fee and Performance Bond are redacted under Freedom of Information (Jersey) Law 2011 Article 33 (commercial interests)

Relief Event (Clause 17)

A relief event is a situation or occurrence which impacts on DFDS's services but is outside their control. Most commonly, this might be because of bad weather. However, Relief Events could be political (such as situations in other countries) or public (such as port worker strikes or pandemics).

In these instances, DFDS are relieved of elements of their KPIs because they reasonably cannot perform to agreed standards.

However, the section also deals with what DFDS must do if it encounters, or anticipates, a Relief Event – and, importantly, how it must help its customers who are impacted.

Operator Pricing (Clause 20)

This clause broadly sets out that DFDS is free to set passenger and freight pricing as long as it is lawful and in-line with Schedule 3.

Schedule 3 gives a much more detailed breakdown of how passenger pricing can be set:

1. It sets the maximum amount that DFDS can charge under a range of categories in Year 1
2. It determines the amount by which these maximum fares can increase each year
3. If DFDS wants to introduce a new passenger fare category, it details the steps that DFDS must take to introduce this fare category and integrate it into the overall scheme

Importantly, Schedule 3 also introduces the requirement to report on the Mean Average Fare under each category. This gives all partners insight into what passengers are actually paying per category. This was not a requirement under the operating agreement with the previous operator, and was introduced so that consumer pricing experiences can be more accurately tracked.

To support the long-term financial sustainability of the Operator as a private sector counterparty and its capacity to invest as contracted into the fleet and services, Schedule 3 does give DFDS certain rights to raise fares outside of the agreed

framework if they are not making an adequate Return on Invested Capital (ROIC). However, these circumstances, and the processes by which ROIC is calculated, are carefully outlined and would only be viewed as extenuating. DFDS must also meticulously report on its ROIC for these reasons.

The framework for Freight Pricing is also outlined in Schedule 3. Broadly, prices are charged per lane meter of freight at a fixed price. The flat rate card was introduced for transparency and to ensure a level playing field for freight customers. As previously stated, the Operator has been granted exclusivity in provision of the ferry service and there is no economic argument for the Operator to discount freight rates in favour of any single customer. Furthermore, discount in favour of one party would require a premium to be paid by other parties such that the Operator can meet the necessary yield on freight margins. When considering the application of a flat rate the Government of Jersey observed that freight demand is set by the end consumer rather than intermediate elements of the freight supply chain such as freight forwarders, wholesalers or retailers.

Additional surcharges applicable to freight customers are also outlined in Schedule 3 where they could be forecast as a fixed, rather than variable, sum.

Some sections are redacted and considered absolutely exempt under the Freedom of Information (Jersey) Law 2011, Article 26 (information supplied in confidence) and / or qualified exempt under Article 33 (commercial interests).

Concession Fee and other amounts payable to the island authority (Clause 21)

The reasons for having a Concession Fee are outlined above i.e. to incentivise good Operator performance.

The amount that DFDS must pay towards the Concession Fee is redacted under the Freedom of Information (Jersey) Law 2011 Article 33 (commercial interests).

Employee Provision (Clause 28)

It was recognised at various points of the previous Operating Agreement that the legacy operator did not consistently provide staff at port terminals during times of delay and cancellation. This section requires DFDS to make sure their entire operation is fully staffed, that their staff are properly trained, and that they fulfil their work to the highest standards whether at sea or on land.
It is linked to the next Clause around ensuring compliance with international standards and laws, including for people and employees.

The Clause also contains a provision for Jersey to demand the removal, and replacement, of staff who do not perform to these standards.

Compliance with law and mandatory policies (Clause 29)

In addition to the all the domestic and international maritime laws that DFDS must comply with, this section deals with other areas of domestic law and policy which DFDS must adhere to. This is because, in addition to providing good ferry services, the Concession Agreement seeks to make DFDS a good, and lawful, corporate citizen in Jersey too.

This Clause underscores the need for ferry services to be provided on an ethical, safe and inclusive basis.

Remediation Plan (Clause 32)

This section deals with the processes that could take place if services or performance drop below a standard that qualifies as a default against the Concession Agreement obligations.

If the Government of Jersey and / or Harbour Master considers that these issues are able to be improved, it can request a Remediation Plan from DFDS. The request itself is known as a Remediation Notice.

A Remediation Plan would cover the steps that DFDS would take to get services or performance back to where they need to be. It must be agreed both by DFDS and the Government of Jersey and / or Harbour Master as the island authorities.

If a Remediation Plan cannot be agreed, or if it is agreed but its implementation is not successful at raising performance, both parties can then look towards terminating the contract.

Termination (Clause 33)

This section sets out the circumstances under which the Government of Jersey may terminate the contract with DFDS.
Broadly, these circumstances would exist where DFDS has consistently failed to deliver ferry services or not otherwise fulfilled the commercial, financial or operational requirements of the Concession Agreement – and where a Remediation Plan has failed to improve matters.

Assignment and other dealings (Clause 36)

This section prevents the Operator from assigning the contract e.g. to lenders in support of additional, potentially excessive, levels of debt, or delegating performance of the contract to a subsidiary entity other than with prior written consent. This is especially important when it comes to financial transparency and, ultimately, responsibilities for the fulfilment of the Concession Agreement. This provision was not a feature of the previous Operating Agreement and was considered a necessary area to safeguard.

This Clause also prevents delegation of the Concession Agreement obligations by the Operator to a subsidiary company. The Government of Jersey held material concern during the tender process over the scenario of a bidder using the parent company name but delegating operational delivery to a subsidiary company that may be more financially strained, less transparent and had the potential of being starved of parent company support at times of stress.

Confidentiality (Clause 39)

This section deals with both Jersey's and DFDS's responsibilities around confidentiality. Broadly, this means neither side may release information which is prejudicial or sensitive to the other.

In addition to DFDS's obligations, the Government of Jersey is bound by the Freedom of Information (Jersey) Law 2011. This sets out when the public agencies may release certain information publicly and, equally, when it may be withheld. Circumstances in which information must be withheld are known as "exemptions". Exemptions exist within the course of publishing this Concession Agreement.

Broadly, these might pertain to personal information (Article 25 of the Freedom of Information Law), where information has been supplied in confidence (Article 26) or where information is sensitive to Commercial Interests (Article 33).