BILLET D'ÉTAT

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2015

WEDNESDAY, 25th NOVEMBER, 2015

STATES REVIEW COMMITTEE
THE ORGANISATION OF STATES AFFAIRS -
THIRD POLICY LETTER

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BILLET D'ÉTAT

TO
THE MEMBERS OF THE STATES
OF THE ISLAND OF GUERNSEY

I hereby give notice pursuant to Rule 1(3) of the Rules of Procedure of the States of Deliberation that the item contained in this Billet d'État which has been submitted for debate will be considered at the Meeting of the States of Deliberation already convened for **WEDNESDAY,** the **25th NOVEMBER, 2015.**

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

20th October 2015

STATES' REVIEW COMMITTEE

THE ORGANISATION OF STATES' AFFAIRS – THIRD POLICY LETTER

The Deputy Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

19th October, 2015

Dear Sir

Please find appended the third policy letter of the States' Review Committee.

I should be grateful if you would arrange for this policy letter to be submitted to the States for debate.

Yours faithfully

J P Le Tocq
Chairman

M J Fallaize
Vice Chairman

R Conder
M H Dorey
G A St Pier
T A Le Sueur OBE
C G L Smith

The Organisation of States' Affairs

States' Review Committee – Third Policy Letter

Submitted for debate by the States at their meeting in November, 2015

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1 EXECUTIVE SUMMARY

1.1 In July, 2014 and July, 2015, after a total of five days of debate, the States committed to significant organisational reforms to take effect in May, 2016.

1.2 A new senior committee – the Policy & Resources Committee – will *inter alia* bring together the co-ordination of policy and resources and external relations. For the first time the States will have an identifiable lead member able to focus on the Island's external relations. A new Scrutiny Management Committee will lead the scrutiny of policy, expenditure and legislation, mainly through panels drawing on a wider range of States' members and persons independent of the States. There will be many fewer policy-making committees but with broader policy responsibilities and a reduction in the number of committees overall. Certain operational functions will be overseen in a more focused way by two authorities and a board separate from policy-making committees. The number of People's Deputies will be reduced by 15% to 38.

1.3 In addition, expectations have been set down for improving the support available to committees and measures put in place to strengthen the accountability of senior officers to the committees they serve. There will be a new, less bureaucratic policy planning process and steps taken to strengthen committees' ownership of policies they propose to the States.

1.4 The purpose of these and other changes is to improve the Island's traditional committee system in order that it can better support the States in their most important objective: to serve the people of Guernsey now and in the future.

1.5 In this – its third – policy letter the States' Review Committee makes 15 recommendations (two of which between them have 32 sub-recommendations) which further develop the reforms agreed already.

1.6 In particular, these third stage proposals provide for the States to determine the final wording of the mandates of their committees in the new structure and the operational functions for which those committees will be accountable to the States; to consider further the details of the policy planning process which they have resolved to establish and the relationships which will exist between various of the new committees; and to make resolutions on certain ancillary issues.

2 INTRODUCTION

2.1 The States' Review Committee

2.1.1 On the 1st of December, 2011 22 States' members submitted a requête which asserted: *"[m]atters relating to governance have received considerable attention – at both a political and operational level – during the present States' term…it would be expedient in the next term of the States to examine without constraint whether there are any options for reform of the structure and functions of the [States] which might enable the progress made already in respect of good governance to be advanced further."*

2.1.2 On the 9th of March, 2012 the States approved the prayer of the requête by 41 votes to one and resolved to establish the States' Review Committee ("the Committee") to undertake a comprehensive review of the organisation of States' affairs and recommend any reforms considered necessary.

2.1.3 The Committee was constituted after the general election of 2012. The membership of the Committee is as follows: Deputy J P Le Tocq (chairman), Deputy M J Fallaize (vice-chairman), Deputy R Conder, Deputy M H Dorey, Deputy G A St Pier, Mr T A Le Sueur OBE and Mrs C G L Smith[1]. Between May, 2012 and March, 2014 the Committee was chaired by Deputy P A Harwood, who thereafter kindly agreed to continue attending meetings in an advisory, non-voting capacity.

2.2 The First Policy Letter

2.2.1 In the first instance the Committee examined the strengths and weaknesses of the present structure of the States, assisted by written and verbal submissions from a considerable number of people with direct experience of the States, including 39 of the 41 States' members who were not members of the Committee, former States' members, former Bailiffs and Law Officers, present and former senior civil servants and other persons who whether through their work or other endeavours had been close observers of the States. Members of the Committee met separately with 15 other committees of the States and the Committee's principal officer met separately with chief officers and others. The Committee also met several elected members and officers experienced in the politics and administration of the other Crown Dependencies, studied numerous earlier reports about the States and took into account public consultations undertaken during previous reviews.

[1] Mr Terry Le Sueur OBE was a member of the States of Jersey for 24 years, both before and after structural reforms of the States in 2005. Mr Le Sueur served as Jersey's chief minister before retiring in 2011. Mrs Claire Smith, a solicitor, was formerly a senior associate of Spicer & Partners Guernsey LLP, a principal associate of Eversheds LLP and is now a senior associate of Ogier Guernsey. Mrs Smith has extensive experience of public law and local government, including advising on the implementation of the Local Government Act, 2000. Mr Le Sueur and Mrs Smith were elected to the Committee by the States.

2.2.2 It was clear to the Committee that certain reforms introduced in 2004 had brought about change for the better. In particular, rationalisation in the constitution of the States and the number of States' committees removed some of the barriers to co-operation and provided opportunities for the public sector to be organised more efficiently; the broader mandates of some committees encouraged them to focus more on issues of policy; and electors had more equal representation in the States. The Committee wished these improvements to be protected.

2.2.3 Nonetheless, a substantial majority of submissions made to the Committee advocated material reform. Based on the many submissions received and its own observations, the Committee found that overall the present structure of the States cannot consistently provide for effective leadership, sound co-ordination of policies and resources and proportionate checks and balances; nor is it sufficiently flexible to adapt if and when circumstances change.

2.2.4 In its first policy letter[2], which was laid before the States in July, 2014, the Committee invited the States to make 'the binary choice' between substantially improving the committee system or adopting a ministerial system of government and offered its opinions on how each system would work in practice. The Committee unanimously recommended the improved committee system. After two days of debate the States approved the Committee's main proposals together with three amendments which the Committee did not oppose.

2.2.5 The resolutions made by the States in July, 2014 determined the overall future structure of the States, including:

- the continuation of the Island's committee system of administration;
- a senior committee of five States' members – the Policy & Resources Committee – to bring together the co-ordination of policy and resources and external relations;
- the President of the Policy & Resources Committee to be the Island's senior political office;
- no more than nine Principal Committees with a presumption in favour of further rationalisation, and a presumption in favour of all Principal Committees being served by five States' members, each led by a President of the Committee;
- a single Scrutiny Management Committee to lead the scrutiny of policy, expenditure and legislation, primarily through panels bringing together a range of States' members and persons independent of the States; and
- a presumption in favour of reducing the number of States' members.

[2] The first policy letter can be found in Billet d'État XIV of 2014.

2.2.6 The States directed the Committee to prepare a second policy letter to include further recommendations to enable the improved committee system to be introduced to coincide with the start of the next States' term in May, 2016.

2.3 The Second Policy Letter

2.3.1 The second policy letter was informed by the Committee's further deliberations between the summer of 2014 and the spring of 2015; the research and consultation referred to in paragraph 2.2.1, much of which related to matters which were always to be dealt with in the second stage of the review; comment obtained from public meetings and a public drop-in session held after the publication of the Committee's initial proposals; speeches made during the States' debate on the first policy letter; and a further round of consultation with States' members and some committees undertaken in the latter months of 2014.

2.3.2 The second policy letter developed further the reorganisation agreed last year *viz.* the Policy & Resources Committee; Principal Committees; the planning, development and co-ordination of policy; the Scrutiny Management Committee; other committees and authorities; the number of States' members etc. After three days of debate the States approved the Committee's main proposals together with seven amendments, all but one of which the Committee did not oppose.

2.3.3 The resolutions made by the States in July, 2015 determined in some detail the reorganisation of States' affairs which will come into effect on the 1st of May, 2016, including:

- the dissolution of all existing standing committees of the States;
- broadly the duties and powers of the new Policy & Resources Committee;
- the creation of six Principal Committees: Committee *for* Economic Development; Committee *for* Education, Sport & Culture; Committee *for* Employment & Social Security; Committee *for the* Environment & Infrastructure; Committee *for* Health & Social Care; and Committee *for* Home Affairs;
- the constitution, purpose and policy and advisory responsibilities of each of those Principal Committees;
- the constitution and broadly the duties and powers of the Scrutiny Management Committee; changes to emphasise its importance and impartiality; and a direction to the existing scrutiny committees to lay recommendations before the States by no later than February, 2016 in connection with *inter alia* strengthening the financial resources of the States' scrutiny function;
- the reconstitution of a small number of existing States' bodies, including the States' Assembly & Constitution Committee;
- the creation of a Passenger Transport Licensing Authority, Development & Planning Authority and States' Trading Supervisory Board;

- a reduction in the number of People's Deputies from 45 to 38;
- more flexibility for committees when delegating their functions;
- strengthening the accountability of senior officers to committees and requiring the views of a President of a Principal Committee to be considered by the Chief Executive and other senior officers when appointing and appraising senior staff in the service of that Committee;
- adoption of a States' Policy & Resource Plan as a vehicle for guiding the planning and co-ordination of the work of the States;
- flexibility for the Policy & Resources Committee to adapt nomenclature and appellations in connection with the external relations of the States;
- agreement that the new Policy & Resources Committee must reform the political arrangements of the States' role as an employer and also secure visible and demonstrable impartiality in statistics and research issued by the States;
- greater flexibility for the States to constitute committees in the future; and
- agreement that the new States' Assembly & Constitution Committee must carry out a comprehensive review of the electoral system and report to the States by no later than June, 2018.

2.3.4 The second policy letter also set out expectations for the practical application of the new structure of the States, including in relation to:

- strengthening committees' ownership of, and accountability for, policy;
- the relationship between the Policy & Resources Committee and Principal Committees;
- improving the support and resources available to the States' scrutiny function;
- strengthening civil service support available to committees in respect of the development of legislation and policy, the production of policy letters to the States, matters of procedure and interaction with other committees, the implementation of new or replacement policies and the management and delivery of public services; and
- the need in the future for the States to concern themselves with debating legislation, broad policies and priorities, items of significant expenditure and matters of major public interest and setting the framework in which the rest of the administration should operate; for the Policy & Resources Committee to concentrate on the co-ordination of policies and resources and representing the

Island in external affairs; for Principal Committees to focus on developing policy, advising the States on policy and overseeing and holding to account the delivery of services with a view to securing improved outcomes for the community; and for officers to run public services in accordance with policies set down by the States and their committees.

2.3.5 The changes agreed by the States over the past 18 months or so represent substantial reform of the committee system, but they are pragmatic and achievable. They respect and build upon existing strengths while seeking to address the most serious shortcomings in the present structure.

2.3.6 All organisational structures are imperfect: in no way does the Committee seek to suggest otherwise. Organisations are made up of people: their culture, conduct and personal relationships are hugely important in determining the effectiveness of any organisation. Governing effectively requires a combination of people with the right skills operating in a structure which allows them to make the most of those skills. However, the States have recognised that without organising their affairs more coherently the conditions will not exist for members and officers to administer the Island as competently and as effectively as possible, which ultimately must be the aim of the exercise.

2.3.7 The reforms agreed will – if implemented as the Committee envisages – provide conditions more conducive to effective leadership and the sound co-ordination of policies and resources; proportionate checks and balances; and sufficient flexibility to adapt if and when circumstances change.

2.4 The Third Policy Letter

2.4.1 In July the States noted that later in 2015 "*…the States' Review Committee will lay before the States further recommendations necessary to allow the improved committee system to be established… [and] the States' Assembly & Constitution Committee will lay before the States the recommendations necessary to amend the Rules of Procedure…etc. in order that they will be consistent with the improved committee system.*"

2.4.2 The recommendations of the States' Assembly & Constitution Committee will be published in a separate Billet d'État. This third policy letter of the States' Review Committee, meanwhile, provides for the States *inter alia* to determine the final wording of the mandates of their committees in the new structure; the operational functions for which those committees will be accountable to the States; to consider further the details of the policy planning process which they have resolved to establish; the relationships which will exist between various of the new committees; and to make resolutions on certain ancillary issues.

2.4.3 First, and in order to place the reorganisation of States' affairs in its proper context, section three of this policy letter revisits Guernsey's political system and specifically the role played by the States of Deliberation; and immediately thereafter there is a diagrammatic representation of the new committee structure agreed in July, which first appeared in the second policy letter.

2.4.4 The Committee's second policy letter and this third policy letter, and the resolutions made by the States on the second policy letter and the recommendations made in this third policy letter, are so closely linked – they are in effect two parts of the same body of work and set of proposals – that the second policy letter and the resolutions made thereon are reproduced in full in Appendix B and Appendix C to this policy letter. The Committee strongly advises that they should be read conjunctively.

2.5 The Unanimity of the Committee

2.5.1 In the past, committees established to undertake reviews of the structure of the States have generally been unable to reach consensus.

2.5.2 Significantly, as in the case of the first and second policy letters, the States' Review Committee is unanimous in its support for all of the recommendations contained in this third policy letter.

2.6 The Fourth Stage of the Review

2.6.1 The Committee is what is presently known as a Special States' Committee – in effect a task and finish committee rather than a standing committee. In the new States' structure such committees will be known as States' Investigation & Advisory Committees. The rules relating to these committees provide that they "…*shall continue in office until: (i) they have fulfilled their mandate, and (ii) any legislation designed to give effect to such [of their] recommendations as the States may have resolved to adopt has been presented to the States, approved, and where necessary registered."*

2.6.2 The legislation necessary to give effect both to the reforms agreed already and to the resolutions which the States make after consideration of this policy letter are due to be laid before the States at their February, 2016 meeting. In the meantime, the Committee will continue to oversee and advise upon the preparations which are being made – including significant reforms to the civil service – in order to ensure that the reorganisation of States' affairs can be introduced successfully to coincide with the start of the next States' term. With this in mind the Committee is working closely with the Chief Executive of the States and his senior colleagues. A recommendation is included in this policy letter to put beyond doubt that the Committee is responsible to the States for overseeing the preparations between now and May for the implementation of the new structure.

2.6.3 The scale of the reorganisation of States' affairs should not be under-estimated. Nor should there ever be any expectation that such significant reorganisation could be implemented without the risk of a few false steps along the way. Starting and finishing a major review of the States' structure, and implementing substantial reforms arising from that review, is an ambitious objective for a single States' term, but it is felt to be the only way of ever achieving lasting reform. Allowing the work to span more than one States' term would probably be the best way of encouraging a confused and incoherent approach to reform and in any event it would scarcely be viable to implement far-reaching change mid-term. Elements of the reorganisation will doubtless require refinement in the weeks and months immediately

following the general election and in this the Policy & Resources Committee will need to take the lead and to review the changes as it sees fit in the light of experience.

2.6.4 With that in mind, reference needs to be made to an extant States' resolution which directs that there shall be a comprehensive review of governance in the States carried out in the second half of 2016. This resolution was made in March, 2012 before the previous States established the States' Review Committee and the present States agreed to the package of reforms to be introduced in May, 2016. Clearly the 2012 resolution has been superseded by the changes agreed since then and for completeness a recommendation is made to rescind resolution 5 made on Article XVI of Billet d'État V of 2012.

2.6.5 At present it is considered unlikely that the Committee will need to lay any further policy letters or recommendations before the States, but if matters do arise which require the resolution of the States they will be brought in good time to be settled at or before the last meeting of the present States' term in March, 2016.

2.6.6 The firm intention is that the Committee, having fulfilled its mandate in a single States' term, will be dissolved at midnight on the 30th of April next year and will not form part of the new committee structure from the 1st of May. A recommendation to that effect is included in this policy letter.

3 GUERNSEY'S POLITICAL SYSTEM

3.1 The States of Deliberation Today

3.1.1 In almost all other parliamentary democracies the functions of government are allocated to representatives of the party or parties who, alone or in coalition, hold the most seats in parliament and they have the necessary authority for the formation of an executive or government. Policy is made by the government within a legislative and budgetary framework set by parliament.

3.1.2 Guernsey, however, does not have an executive in the conventional sense, i.e. as something distinct from, although accountable to, parliament. Instead, parliamentary and governing functions are fused in one body, the States of Deliberation. Therefore, Guernsey, almost uniquely, is governed not just through its parliament but by its parliament. This is crucial in understanding Guernsey's political system.

3.1.3 In practice, most day-to-day functions are carried out by committees of the States, each of which is independently responsible to the States of Deliberation. Committees of the States – individually or collectively – are in no way analogous to an executive or government. A committee is in effect an agent of the States of Guernsey exercising functions conferred on it by resolution of, or legislation approved by, the States of Deliberation.

3.1.4 The States of Deliberation:

- allocate the functions of government;
- carry out the functions of government which they have retained – for example, policy determination;
- debate and vote upon proposals to enact, amend or repeal legislation;
- debate and vote upon proposals for taxation and expenditure; and
- scrutinise and hold to account the policies, decisions and administration of those functions of government which they have allocated to their committees.

3.1.5 The involvement of the States as a parliament in determining policy and making 'executive' decisions results in much political and governmental business being carried out in open debate in public whereas in many other jurisdictions it would be dealt with in private by a distinct executive or government. In one respect this contributes positively to democracy, demonstrating open, plural debate and transparent decision-making. On the other hand, it can adversely affect perceptions of good governance.

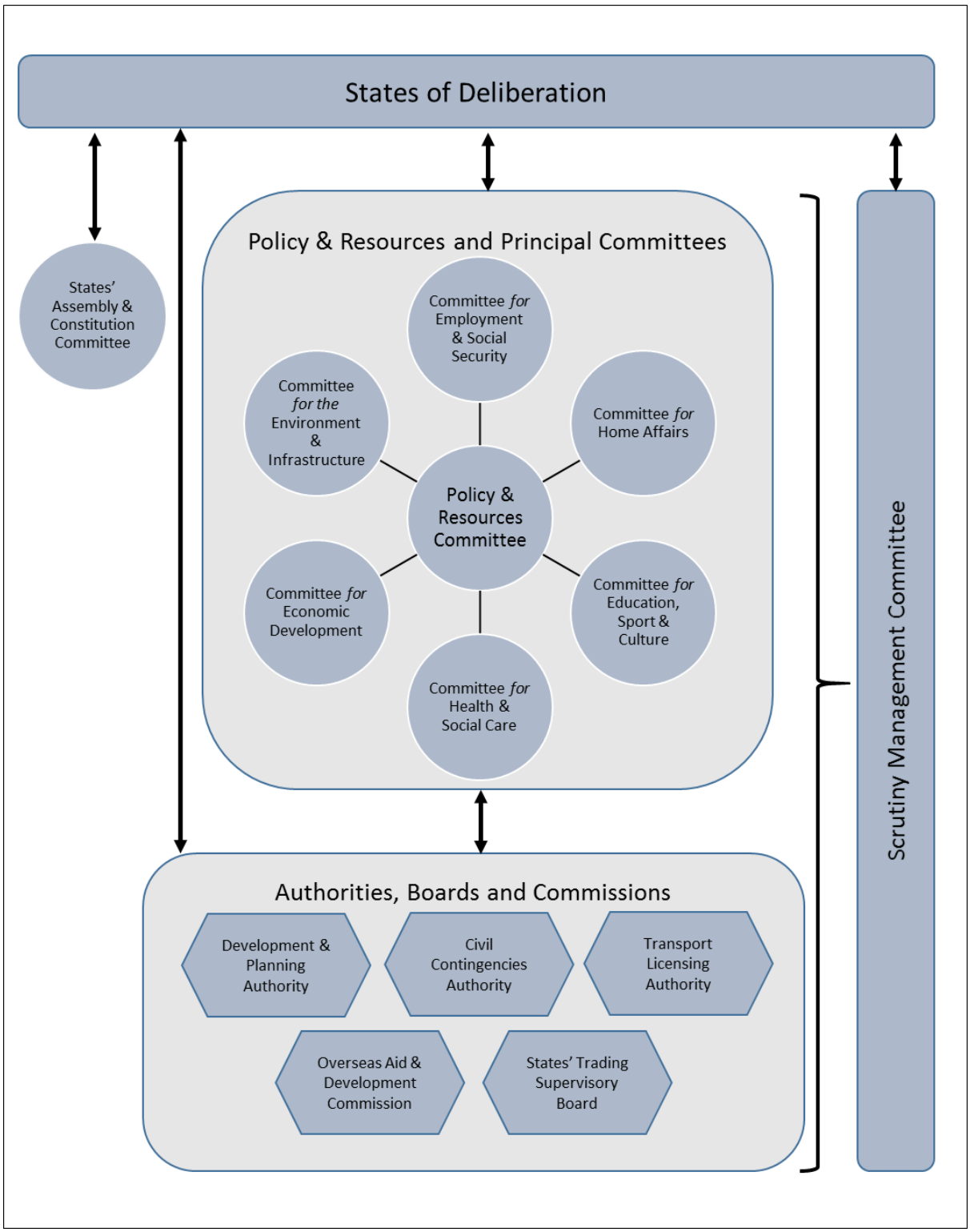
3.1.6 A further important aspect is that the States undertake functions and provide services which in larger jurisdictions would be found distributed between central, regional or local government and other bodies. In a relatively small jurisdiction with a very high degree of self-government this 'unitary' approach is cost-effective and logical. However, the concentration of such a broad range of responsibilities inevitably brings challenges both in terms of planning policy and delivering services.

3.2 The States of Deliberation in the Improved Committee System from 2016

3.2.1 While consultation undertaken by the Committee and the debate and resolutions made on its first and second policy letters indicated considerable support for reform, very little political and public appetite was expressed for discarding Guernsey's committee system of administration altogether.

3.2.2 What was proposed by the Committee and endorsed by the States reflected this desire for meaningful but measured change. The improved system endorsed by the States in 2014 and 2015 and developed further in this policy letter is emphatically a committee system of administration: it is based upon the Island being governed by the States through their committees. The essential role and functions of the States of Deliberation – including the primacy of the Assembly in determining policy – will remain unchanged.

3.2.3 A diagrammatic representation of the new committee structure is set out overleaf.


States of Deliberation
States' Assembly & Constitution Committee
Policy & Resources and Principal Committees
Committee for Employment & Social Security
Committee for the Environment & Infrastructure
Committee for Home Affairs
Policy & Resources Committee
Committee for Economic Development
Committee for Education, Sport & Culture
Committee for Health & Social Care
Authorities, Boards and Commissions
Development & Planning Authority
Civil Contingencies Authority
Transport Licensing Authority
Overseas Aid & Development Commission
States' Trading Supervisory Board
Scrutiny Management Committee

4 THE PRINCIPAL COMMITTEES

4.1 Format of Mandates

4.1.1 The States have resolved that from May, 2016 most policy-making, regulatory and public service functions shall be delegated to six Principal Committees:

- Committee *for* Economic Development;
- Committee *for* Education, Sport & Culture;
- Committee *for* Employment & Social Security;
- Committee *for the* Environment & Infrastructure;
- Committee *for* Health & Social Care; and
- Committee *for* Home Affairs.

4.1.2 The mandates, or terms of reference, of the predecessors of the Principal Committees are not as clear or consistent as ideally they should be. Some are extremely detailed; others are quite sparse. There are numerous oddities and omissions. Generally no distinction is made between a committee's policy, advisory and general responsibilities and operational functions for which it is nevertheless politically accountable.

4.1.3 In its second policy letter the Committee proposed that the mandates of Principal Committees should provide greater clarity and emphasise the broad purpose and policy and advisory responsibilities which should be the main focus of their attention. The States resolved that the mandates of Principal Committees should be divided into discrete sections as follows:

- title of the Principal Committee;
- constitution of the Principal Committee;
- purpose for which the Principal Committee exists; and
- policy, advisory and general responsibilities of the Principal Committee.

4.1.4 The States agreed the title, constitution, purpose and policy and advisory responsibilities of each of the six Principal Committees.

4.1.5 In this policy letter the Committee recommends making a few minor amendments to the wording of certain of the Principal Committees' mandates and also adding to all of them general responsibilities such as working with other committees, exercising powers and duties conferred by extant States' resolutions and safeguarding public funds. It is proposed that such general responsibilities, which attach not only to Principal Committees but to all States' committees, should in future be set out in an annex to committees' mandates and the mandates should be combined with the Rules of Procedure of the States and their committees in a single document.

4.1.6 The Committee has previously suggested the creation of "*…a comprehensive schedule stating which committee has political accountability for each of the operational functions and services across the States. No such schedule exists at present but the Committee believes it would aid clarity and accountability."* It is proposed that this schedule, too, should in future be set out in an annex to the committees' mandates, but it remains under construction and therefore has not been included in full in this policy letter. Nonetheless it is essential that at their November, 2015 meeting the States determine the allocation of operational functions to their new committees to the extent necessary to allow for the drafting of transfer of functions legislation, the reorganisation of staff and the reallocation of budgets and other resources in good time for the new States' structure to be operating efficiently from the 1st of May, 2016.

4.1.7 All of the work to the committees' mandates outlined in the foregoing paragraphs is drawn together in Appendix A to this policy letter. Appendix A contains the proposed mandates not only of the six Principal Committees but of all the committees of the States which will exist from the 1st of May, 2016. Attached to those mandates are two annexes: Annex One sets out the proposed general responsibilities of all committees; and Annex Two sets out the proposed transfer of operational functions from the present committees to their successor committees in the new structure. Annex Two will in time evolve into the comprehensive schedule of operational functions referred to in the preceding paragraph. It is recommended that the Policy & Resources Committee should compile this comprehensive schedule during 2016.

4.2 Committee *for* Economic Development

4.2.1 The States resolved that the constitution of the Committee *for* Economic Development shall be a President and four other States' members who shall be sitting members of the States and up to two non-voting members appointed by the Committee itself who shall not be members of the States.

4.2.2 The States agreed that the purpose of the Committee *for* Economic Development shall be to secure prosperity through the generation of wealth and the creation of the greatest number and widest range of employment opportunities possible by promoting and developing business, commerce and industry in all sectors of the economy.

4.2.3 The States agreed that the Committee *for* Economic Development shall be responsible for advising the States and developing and implementing policy in relation to: the promotion and development of all sectors of business, including construction, creative industries, digital, financial services, horticulture, intellectual property, manufacturing, media, retail and tourism; the reputation of the Island as a centre for commerce and industry; the promotion of air and sea links to and from the Bailiwick; inward investment at the corporate and individual level; the labour skills necessary to sustain economic prosperity; competition, innovation, diversification and regulation in the economy; and safeguarding living marine resources and the sustainable exploitation of those resources.

4.2.4 The agreed policy responsibilities of the Committee *for* Economic Development included the promotion, but not the provision, of air and sea links. This was an inadvertent omission which needs to be corrected. Its mandate in Appendix A now includes policy responsibility for the provision as well as the promotion of air and sea links.

4.2.5 The Committee had proposed that the Committee *for* Economic Development should be responsible for policy in connection with the regulation of financial services and for managing the States' relationship with the Guernsey Financial Services Commission. In the event the States resolved *"…in respect of the financial services sector and the States' relationship with the Guernsey Financial Services Commission that the Policy & Resources Committee shall be responsible for the matters currently within the mandate of the Policy Council, and the Committee for Economic Development shall be responsible for the matters currently within the mandate of the Commerce and Employment Department."* This decision of the States is reflected in the proposed mandate of the Policy & Resources Committee and the proposed allocation of operational functions in Appendix A and does not require amendment to the policy and advisory responsibilities already agreed for the Committee *for* Economic Development.

4.2.6 The second policy letter stated that *"[t]he Committee for Economic Development, rather than the Committee for Home Affairs, would be the most appropriate location for policy relating to broadcasting and the media"* but that was not expressed as clearly as it should have been in the agreed policy and advisory responsibilities of the Committee *for* Economic Development and therefore the Committee now recommends adding appropriate words to the mandate.

4.2.7 It is recommended that as a general rule, and in line with its purpose and policy and advisory responsibilities as previously agreed by the States, the Committee *for* Economic Development should be accountable to the States for the operational functions which are at present delegated to the Commerce and Employment Department.

4.2.8 Exceptions to this general rule, i.e. operational functions which in the opinion of the Committee should be delegated to a committee other than the Committee *for* Economic Development, should include the States' relationship with the Guernsey Training Agency, the offices of health and safety, the employment relations service, energy advisory services, agricultural and countryside services, the Guernsey Dairy, securing the supply of essential commodities, the offices of trading standards, consumer protection advice and the issuing of air route licences.

4.2.9 Additions to this general rule, i.e. other operational functions which in the opinion of the Committee should be delegated to the Committee *for* Economic Development, should include on-island products and services supporting tourism such as the Information Centre, the States' relationship with events groups such as Floral Guernsey and Taste Guernsey and television, radio and other broadcasting services.

4.2.10 The operational functions identified in the preceding paragraphs and in the equivalent paragraphs of the sections on other Principal Committees are examples, not exhaustive lists, of how it is proposed to transfer responsibilities from the present committees to their successor committees. The proposed general rules, exceptions and additions in respect of all

committees' operational functions are set out at Annex Two to the committees' mandates in Appendix A.

4.3 Committee *for* Education, Sport & Culture

4.3.1 The States resolved that the constitution of the Committee *for* Education, Sport & Culture shall be a President and four other States' members who shall be sitting members of the States and up to two non-voting members appointed by the Committee itself who shall not be members of the States.

4.3.2 The States agreed that the purpose of the Committee *for* Education, Sport & Culture shall be to encourage human development by maximising opportunities for participation and excellence through education, learning, sport and culture at every stage of life.

4.3.3 The States agreed that the Committee *for* Education, Sport & Culture shall be responsible for advising the States and developing and implementing policy in relation to: pre-, primary, secondary, further and higher education; apprenticeships; skills; lifelong learning; sport, leisure and recreation; youth affairs; the arts; libraries, museums, galleries and heritage; Island Archives; and civic celebrations and commemorations, including Liberation celebrations.

4.3.4 The word 'school' was inadvertently omitted immediately after the word 'pre-' and this needs to be corrected. For the avoidance of doubt, policy responsibility for historical and archaeological sites and Guernésiais are incorporated in the educational and heritage responsibilities in the preceding paragraph.

4.3.5 It is recommended that as a general rule, and in line with its purpose and policy and advisory responsibilities as previously agreed by the States, the Committee *for* Education, Sport & Culture should be accountable to the States for the operational functions which are at present delegated to the Culture and Leisure Department and the Education Department.

4.3.6 Exceptions to this general rule, i.e. operational functions which in the opinion of the Committee should be delegated to a committee other than the Committee *for* Education, Sport & Culture, should include on-island products and services supporting tourism such as the Information Centre, the States' relationship with events groups such as Floral Guernsey and Taste Guernsey, the bathing pools at La Vallette, management of public parks and the administration and promotion of the Channel Islands' lottery.

4.3.7 Additions to this general rule, i.e. other operational functions which in the opinion of the Committee should be delegated to the Committee *for* Education, Sport & Culture, should include the States' relationship with the Guernsey Training Agency, the Institute of Health & Social Care Studies and the operation of Island Archives.

4.4 Committee *for* Employment & Social Security

4.4.1 The States resolved that the constitution of the Committee *for* Employment & Social Security shall be a President and four other States' members who shall be sitting members of the States and up to two non-voting members appointed by the Committee itself who shall not be members of the States.

4.4.2 The States agreed that the purpose of the Committee *for* Employment & Social Security shall be to foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation.

4.4.3 The States agreed that the Committee *for* Employment & Social Security shall be responsible for advising the States and developing and implementing policy in relation to: financial and social hardship; social housing, including States' housing and the States' relationship with housing associations; supplementary benefit and housing benefit; social insurance; pensions; health insurance; long-term care insurance; social inclusion, including in relation to disability; the unemployed and the various initiatives to encourage employment and re-employment; labour market legislation and practices; health and safety in the workplace; industrial relations; and legal aid.

4.4.4 It is recommended that as a general rule, and in line with its purpose and policy and advisory responsibilities as previously agreed by the States, the Committee *for* Employment & Social Security should be accountable to the States for the operational functions which are at present delegated to the Housing Department and the Social Security Department.

4.4.5 Exceptions to this general rule, i.e. operational functions which in the opinion of the Committee should be delegated to a committee other than the Committee *for* Employment & Social Security, should include the administration of right to work legislation, housing controls and the open market register and domiciliary care services for the occupants of extra care housing.

4.4.6 Additions to this general rule, i.e. other operational functions which in the opinion of the Committee should be delegated to the Committee *for* Employment & Social Security, should include the offices of health and safety and the employment relations service.

4.5 Committee *for the* Environment & Infrastructure

4.5.1 The States resolved that the constitution of the Committee *for the* Environment & Infrastructure shall be a President and four other States' members who shall be sitting members of the States and up to two non-voting members appointed by the Committee itself who shall not be members of the States.

4.5.2 The States agreed that the purpose of the Committee *for the* Environment & Infrastructure shall be to protect and enhance the natural and physical environment and develop infrastructure in ways which are balanced and sustainable in order that present and future generations can live in a community which is clean, vibrant and prosperous.

4.5.3 The States agreed that the Committee *for the* Environment & Infrastructure shall be responsible for advising the States and developing and implementing policy in relation to: infrastructure, including but not limited to water, wastewater and the ports; spatial planning, including the Strategic Land Use Plan; climate change; protection and conservation of the natural environment; waste, water and stone reserves; energy, including renewable energy; solid waste; general (as distinct from exclusively social) housing; the coast and coastal defences; Alderney breakwater; traffic and transport; the road network; biodiversity; agriculture, animal health and welfare and the sustainability of food and farming; maritime affairs; and public parks.

4.5.4 Reference in the preceding paragraph to the ports included the airports in Guernsey and Alderney. However, representations received by the Committee suggest that it would be clearer if this was put beyond doubt by including the word 'airports' in the policy and advisory responsibilities of the Committee *for the* Environment & Infrastructure and this has been done in its mandate in Appendix A to the policy letter.

4.5.5 At the time of the second policy letter it was felt that it would not be possible for the statutory responsibilities in connection with formulating the Strategic Land Use Plan and presenting it to the States to be transferred to the Committee *for the* Environment & Infrastructure until some way into the 2016-20 States' term, but following advice from officers and the Law Officers of the Crown it is recommended that this work should be brought forward and the necessary legislative changes presented to the States at the same time as other items of legislation concerning the transfer of functions between committees. For the avoidance of doubt, and as set out in the second policy letter, the Policy & Resources Committee shall assume the responsibilities for certifying the Strategic Land Use Plan which are set out in section 5 of the Land Planning and Development (Guernsey) Law, 2005.

4.5.6 The second policy letter stated: *"Unlike social or partial ownership housing – which is an integral part of what might broadly be termed the welfare state and [will naturally become the responsibility of the Committee for Employment & Social Security] – general housing policy (e.g. the number and scale of new developments required across all tenures and the effects of taxation on the property market) has little to do with other forms of social assistance and support and much more to do with land and spatial planning and infrastructure. Therefore, it is proposed that the Committee for the Environment & Infrastructure should be made expressly responsible for general housing policy"*; and it will be noted that the agreed policy and advisory responsibilities of the Committee *for the* Environment & Infrastructure include the words *"general (as distinct from exclusively social) housing"*. On reflection, the words in parentheses do not provide as much clarity as ideally they should and therefore it is proposed to delete them and substitute therefore 'general housing policy in relation to land use, spatial planning and infrastructure'.

4.5.7 The importance of this responsibility in relation to the Island's general housing policies was thrown into sharp relief very recently when the States resolved to carry out "*…a broad-based review of the operation of the local housing market in Guernsey…including: identification and assessment of the factors which drive supply and demand…the factors influencing the prices of houses…a review of private sector rental costs…an assessment of how house purchases are financed by the average household [and] mortgage lending policies…"*. This work will need to be led by the Committee *for the* Environment & Infrastructure under its responsibility for general housing policy in relation to land use, spatial planning and infrastructure, though the advice of the Committee *for* Employment & Social Security will be important to the extent that the review examines the role of social housing.

4.5.8 It is recommended that as a general rule, and in line with its purpose and policy and advisory responsibilities as previously agreed by the States, the Committee *for the* Environment & Infrastructure should be accountable to the States for the operational functions which are at present delegated to the Environment Department and the Public Services Department.

4.5.9 Exceptions to this general rule, i.e. operational functions which in the opinion of the Committee should be delegated to a committee other than the Committee *for the* Environment & Infrastructure, should include all planning authority functions, building control functions, *salles publiques*, clearance of ruins and the management and operation of the States' trading concerns, in respect of which the States have agreed to establish the States' Trading Supervisory Board.

4.5.10 Additions to this general rule, i.e. other operational functions which in the opinion of the Committee should be delegated to the Committee *for the* Environment & Infrastructure, should include agricultural and countryside services, securing the supply of essential commodities, the bathing pools at La Vallette, management of public parks, and regulatory, advisory, administrative and appeals functions relating to land planning which are currently undertaken through the Policy Council.

4.5.11 The States have agreed to establish the Passenger Transport Licensing Authority[3]. At the time of the second policy letter it was envisaged that all operational functions relating to transport licensing would be transferred to the new Authority with effect from May, 2016. It is now felt that it would be wise for the new Authority immediately to assume responsibility for air route licensing only and then to adopt a phased approach to the transfer of other transport licensing functions, e.g. the licensing of road vehicles and passenger and commercial vessels, which in the meantime should fall within the operational functions of the Committee *for the* Environment & Infrastructure. The intention is that the new Authority should assume all transport licensing functions by the end of 2016.

[3] In section six of this policy letter there is a proposal to adopt the title Transport Licensing Authority instead of Passenger Transport Licensing Authority.

4.6 Committee *for* Health & Social Care

4.6.1 The States resolved that the constitution of the Committee *for* Health & Social Care shall be a President and four other States' members who shall be sitting members of the States and up to two non-voting members appointed by the Committee itself who shall not be members of the States.

4.6.2 The States agreed that the purpose of the Committee *for* Health & Social Care shall be to protect, promote and improve the health and well-being of individuals and the community.

4.6.3 The States agreed that the Committee *for* Health & Social Care shall be responsible for advising the States and developing and implementing policy in relation to: adult social care; the welfare and protection of children, young people and their families; the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions; mental health; care of the elderly; health promotion; environmental health; and public health.

4.6.4 It is recommended that as a general rule, and in line with its purpose and policy and advisory responsibilities as previously agreed by the States, the Committee *for* Health & Social Care should be accountable to the States for the operational functions which are at present delegated to the Health and Social Services Department.

4.6.5 Exceptions to this general rule, i.e. operational functions which in the opinion of the Committee should be delegated to a committee other than the Committee *for* Health & Social Care, should include the Institute of Health & Social Care Studies.

4.6.6 Additions to this general rule, i.e. other operational functions which in the opinion of the Committee should be delegated to the Committee *for* Health & Social Care, should include domiciliary care services for the occupants of extra care housing.

4.7 Committee *for* Home Affairs

4.7.1 The States resolved that the constitution of the Committee *for* Home Affairs shall be a President and four other States' members who shall be sitting members of the States and up to two non-voting members appointed by the Committee itself who shall not be members of the States.

4.7.2 The States agreed that the purpose of the Committee *for* Home Affairs shall be to support a high standard of living and quality of life by maintaining and promoting a safe, stable and equitable society which values public protection and justice and respects the rights, responsibilities and potential of every person.

4.7.3 The States agreed that the Committee *for* Home Affairs shall be responsible for advising the States and developing and implementing policy in relation to: crime prevention; law enforcement, including policing and customs; justice policy; the association between justice and social policy, for example domestic abuse and the misuse of drugs and alcohol; the new population management regime, once introduced; immigration; imprisonment, parole, probation and rehabilitation; fire, rescue and salvage; consumer protection and advice;

trading standards; data protection; emergency planning; civil defence; lotteries and gambling.

4.7.4 In the second policy letter it was stated: *"If, by the time of the Committee's third…policy letter later in the year, it appears unlikely that the States will legislate for the new population management regime to come into effect before the introduction of the improved committee system (i.e. May, 2016), the Committee will use that policy letter to make recommendations for the most appropriate interim arrangements for the governance of the outgoing housing control regime."*

4.7.5 It is now clear that the new population management regime will come into effect later than May, 2016. The Committee recommends adjusting the relevant section of the policy and advisory responsibilities of the Committee *for* Home Affairs in order to include the housing control and right to work regimes until they are replaced by the new population management regime: this is considered overwhelmingly to be the best option in order to assist the transition from the outgoing, housing-based regime to its population-based successor.

4.7.6 In the second policy letter it was also stated: *"At present, responsibilities relating to the organisation of general elections are divided between the Registrar-General of Electors, the Home Department and the States' Assembly & Constitution Committee. The Committee wishes to afford further consideration to whether to recommend any changes to these responsibilities to take effect after the 2016 general election, but is inclined to the view that these are common functions which might usefully be combined and which in the future might not fall to the…Committee for Home Affairs."*

4.7.7 Nothing in the intervening period has altered the Committee's initial inclination: the case is strong for drawing together these common functions and for allocating all responsibilities in connection with them to the States' Assembly & Constitution Committee. However, it is felt that the States' Assembly & Constitution Committee could more easily assume responsibility for the electoral roll if, as is desired by both the Home Department and the States' Assembly & Constitution Committee, the States introduced automatic registration (with appropriate rights to opt out), and therefore it is recommended that the merging at committee level of all election-related functions should be pursued alongside investigations regarding automatic registration, which are already under way. For the time being, the electoral roll should be included in the policy and advisory responsibilities of the Committee *for* Home Affairs.

4.7.8 It is recommended that as a general rule, and in line with its purpose and policy and advisory responsibilities as previously agreed by the States, the Committee *for* Home Affairs should be accountable to the States for the operational functions which are at present delegated to the Home Department.

4.7.9 Exceptions to this general rule, i.e. operational functions which in the opinion of the Committee should be delegated to a committee other than the Committee *for* Home Affairs, should include television, radio and other broadcasting services.

4.7.10 Additions to this general rule, i.e. other operational functions which in the opinion of the Committee should be delegated to the Committee *for* Home Affairs, should include the offices of trading standards, consumer protection advice and the administration of the housing control and right to work regimes.

5 THE POLICY & RESOURCES COMMITTEE

5.1 The Role of the Policy & Resources Committee

5.1.1 In 2014, after debate on the Committee's first policy letter, the States agreed the title, constitution and broadly the responsibilities of the Policy & Resources Committee, as follows:

> *"...in order to provide clear leadership through the co-ordination of policy and resources, there shall be a single senior committee, designated the Policy & Resources Committee, with the following main functions:*
>
> *a) policy co-ordination, including leading the policy planning process;*
> *b) allocation and management of resources, including the States' budget; and*
> *c) facilitating cross-committee policy development.*
>
> *"...the Policy & Resources Committee shall comprise five States' members, none of whom shall be members of the Principal Committees.*
>
> *"...President of the Policy & Resources Committee shall be the Island's senior political office.*
>
> *"...the Policy & Resources Committee shall have responsibility for external relations and constitutional affairs and the Committee shall delegate its President or one of its members as the States' lead member for external relations and constitutional affairs."*

5.1.2 After consideration of the Committee's second policy letter, the States agreed the role of the Policy & Resources Committee in more detail.

5.1.3 The States rejected the concept of a senior committee acting as not much more than a discussion forum for representatives of other committees and the more or less opposite concept of a senior committee developing all substantial policy and other committees, i.e. Principal Committees, becoming largely operational.

5.1.4 Rather, the States directed that the mandate of the Policy & Resources Committee should provide for a senior committee which the policy letter described in the following terms:

> *"The Policy & Resources Committee will be in a stronger position to offer leadership and co-ordination, but strictly within the Island's committee system. The authority of the States will be undiminished: major points of issue will still be resolved by the States. The Principal Committees will remain directly responsible to the States and have extensive policy-making responsibilities...*

"The Policy & Resources Committee will be expected to provide competent leadership, including setting the strategic policy agenda. However, within the overall policy framework and resource limits agreed by the States, Principal Committees must be allowed to carry out their mandated responsibilities without undue interference from what will invariably (if somewhat inaccurately) be perceived as 'the centre', and then must be robustly held to account for their performance…

"It is essential that the Policy & Resources Committee should concentrate on matters which have a direct bearing on the overall objectives of the States. The Policy & Resources Committee must not be allowed to become a forum for aimless discussion or for individual members to pursue specific policy or operational grievances.

"Although the Policy & Resources Committee will be primus inter pares, its influence will depend upon how successfully it develops its political standing and earns the respect of the States and other committees. This will require a collegiate, inclusive and thoughtful approach to leadership."

5.1.5 It was noted that "*…the proposed final wording of the mandate of the Policy & Resources Committee – in which will be set down its title, constitution and duties and powers – will be laid before the States in the third policy letter later this year*".

5.1.6 In the months since, the Committee has found no reason to recommend extending or constraining the remit which was envisaged for the Policy & Resources Committee – and this is reflected in the final wording of its mandate proposed in Appendix A. It is suggested that the mandate should split the main duties and powers of the Policy & Resources Committee into essentially four categories: leadership and co-ordination of the work of the States; fiscal policy, economic affairs and the financial and other resources of the States; external relations and international and constitutional affairs; and other matters which have been delegated to the Committee.

5.2 Leadership and Co-ordination of the Work of the States

5.2.1 The section of the proposed mandate of the Policy & Resources Committee which relates to leadership and co-ordination includes a duty to develop and promote the States' overall policy objectives and to lead the policy planning process as set out in the States' Rules of Procedure. These words reflect the important role of the Policy & Resources Committee as custodian of the new *Policy & Resource Plan* which the States have agreed to establish and which in the second policy letter was described in the following terms:

"The Policy & Resources Committee will need to develop and lead a policy and resource planning process which, unlike some of its recent predecessors, should be reasonably straightforward, flexible and un-bureaucratic. It will need to focus on significant policy matters and lay down a framework of overall policy assumptions in order to assist Principal Committees in the setting of their policies and priorities…

"…the Policy & Resource Plan…must not be allowed to become too lengthy or too complicated or mired in detail; it should not seek to include every possible service or activity

undertaken by the States and their committees; it should not be used as a pre-budget report; nor should it greatly constrain Principal Committees from managing their budgets and fulfilling their mandates. The Policy & Resource Plan should be seen as a means of strengthening leadership, co-ordination and accountability and not as an end in itself."

5.2.2 The second policy letter set out broadly how the new *Policy & Resource Plan* should be developed. Since then the Committee has formulated more detailed proposals for its practical application during the 2016-20 States' term. It is proposed to adopt the following timetable:

- quarter 1, 2016 – preparations are made to provide the new Policy & Resources Committee with the information and support it will need to develop and propose the States' overall policy objectives in a timely manner;

- March / April, 2016 – each of the existing committees is required to produce a handover document to apprise their successors of what are considered to be the main policy and operational challenges facing the committee in the next term;

- April / May, 2016 – general election of People's Deputies and elections of Presidents and members of committees of the States (*nota bene* the Policy & Resources Committee will be fully constituted by the 6th of May);

Policy & Resource Plan Phase 1

- May-August, 2016 – the Policy & Resources Committee develops a statement of overall policy objectives for the long term (say, 20 years) and medium term (say, three to five years) in connection with issues of strategic importance to the Island, e.g. fiscal and economic affairs, social affairs, the environment, population and external relations;

- October, 2016 – the States debate and make resolutions on their overall policy objectives;

Policy & Resource Plan Phase 2

- quarter 4, 2016 and quarters 1 and 2, 2017 – each Principal Committee develops a policy plan setting out its policies and priorities over the short and medium term to contribute to the agreed States' objectives and to fulfil the purpose and policy responsibilities which are set out in its mandate;

- quarter 4, 2016 and quarters 1 and 2, 2017 – alongside the work described in the preceding sub-paragraph, the Policy & Resources Committee works with Principal Committees to ensure that the policy plans are coordinated and consistent with the States' objectives and with each other, including identifying any conflicts and areas where prioritisation is necessary, and the Policy & Resources Committee promotes cross-committee working where policy areas span more than one Principal Committee, and the policy plans are then

submitted to the States by the Policy & Resources Committee, if necessary with committees' differences of opinion highlighted in order for the States to resolve the points at issue;

- June, 2017 – the States debate and make resolutions on the Principal Committees' policy plans and ultimately finalise the content of the *Policy & Resource Plan Phase 1* and *Phase 2*;

- June, 2018 and June, 2019 – every 12 months the Policy & Resources Committee re-submits the *Policy & Resource Plan* to the States together with commentary on overall progress from the Policy & Resources Committee, annual performance reports from the Principal Committees, commentary from the Scrutiny Management Committee and any proposals to amend the Policy & Resource Plan which are considered necessary – these are felt to be important steps in maintaining the relevance and credibility of the States' objectives and policy plans and in strengthening accountability for their delivery.

5.2.3 In its first policy letter the Committee stated:

> "*The development and implementation of policy are, in every sense, influenced by the absence of political parties and deputies being elected independently without committing themselves to party-based political manifestos… [i]n most western democracies politics is party-based and at an election the electorate votes for a slate of policies offered by political parties…in Guernsey, policy-making committees are created after an election and in most cases disparate groups of individuals are brought together to populate committees without any clear determination of their political views or anticipated programmes. The vast bulk of policy can be developed only after States' members have been elected.*"

5.2.4 Thus the absence of political parties militates against rapid policy change following general elections. This doubtless promotes stability and lowers the risk of inexperienced members making hurried decisions which later prove to have been imprudent. On the other hand it invariably disappoints any electors who have voted for certain candidates in the hope of provoking a radical and rapid change of direction in the States. It also raises the question of whether it would be in the interests of good government for States' terms to last for five, rather than four, years. The Committee recommends that this question be studied carefully by the States' Assembly & Constitution Committee as part of the comprehensive review of the electoral system which the States have already agreed it must carry out between May, 2016 and June, 2018 provided that it is understood that it would be quite undemocratic to extend the length of terms until after the 2020 general election.

5.2.5 The section of the proposed mandate of the Policy & Resources Committee which relates to leadership and co-ordination also includes a duty to submit annually to the States a report on progress against outstanding States' resolutions, which is felt to be key to strengthening the accountability to the States of their committees. The Committee also believes that the mandate of the Policy & Resources Committee should include a duty to submit annually to the States an order of priority for the drafting of significant items of legislation for the year

ahead, which, also as identified in the second policy letter, is an area of work which should properly involve the States more than they have been involved hitherto.

5.2.6 It is essential that in its mandate the Policy & Resources Committee should inherit from the Policy Council the power to examine issues which fall outside the mandates of other committees and the power to require any committee to examine any issue. Equally importantly, if not more so, the mandate of the Policy & Resources Committee must emphasise its duties in relation both to promoting and facilitating cross-committee policy development and to promoting and facilitating communication with and between Principal Committees, in accordance with what was envisaged in the following words of the second policy letter:

> *"Where there is a need to develop policy which engages the mandates of more than one Principal Committee, the Policy & Resources Committee should, where necessary, be empowered to bring together the relevant Principal Committees. In this way cross-committee work could be facilitated by the Policy & Resources Committee through a network of working parties involving the Principal Committees and members thereof. These cross-committee working parties should replace the concept of 'Policy Council sub-groups', about which…the Committee encountered much criticism.*
>
> *"Clearly, a most important component of the improved committee system will be the relationship between the Policy & Resources Committee and the Principal Committees. The Policy & Resources Committee will be able to fulfil its responsibilities of policy co-ordination only by working co-operatively and cohesively with the Principal Committees: frequent dialogue and regular meetings between the Committees will be essential and the mandate of the Policy & Resources Committee should require it to take the initiative in this respect."*

5.2.7 In line with the indicative duties and powers of the Policy & Resources Committee which were approved in principle by the States in July, the Policy & Resources Committee's proposed mandate includes allocating operational functions to committees, or transferring them between committees, without requiring the approval of the States provided that the allocation or transfer has the agreement of all committees concerned. However, it is recommended that this power should be withheld from the Policy & Resources Committee until after they have compiled the comprehensive schedule of committees' operational functions referred to in paragraph 4.1.7. It must be made clear that, even once the Policy & Resources Committee is able to take the lead in allocating or transferring operational functions, where agreement cannot be reached between the relevant committees the proposed allocation or transfer would need to be laid before the States for resolution. It must also be made clear that neither the mandates of committees of the States, i.e. what is set out in the main part of Appendix A to this policy letter, nor Annex One attached thereto could ever be amended without resolution of the States.

5.3 Fiscal Policy, Economic Affairs and the Financial and Other Resources of the States

5.3.1 The section of the proposed mandate of the Policy & Resources Committee which relates to fiscal policy, economic affairs and the financial and other resources of the States contains duties and powers which are already set out in the mandate of either the Treasury and

Resources Department or the Policy Council with the addition of one: recommending to the States annually the appointment of external auditors, which is felt essentially to be an executive function and which would sit more comfortably with the committee which is responsible for the Treasury and corporate services than with a committee of scrutiny, although of course there would be every opportunity for the Scrutiny Management Committee to scrutinise the recommended appointment before and during consideration of the matter by the States.

5.3.2 This section of the proposed mandate includes, among a long list of internal corporate services, policy responsibility for property. A later section of this policy letter includes a proposal for property services, which is an operational function, to transfer to the States' Trading Supervisory Board, but it is considered essential that at a policy level responsibility for States' property should rest with the Policy & Resources Committee.

5.3.3 It also includes certain duties and powers which the Committee has previously advised should, in its opinion, be transferred elsewhere, i.e. to other existing or new committees of the States, in the fullness of time, e.g. the role of the States as an employer and responsibilities in connection with the publication of statistics and research.

5.3.4 Decisions made in relation to the States' insurance funds – for example, the setting of contribution rates and the management of the funds – can have a considerable effect on the fiscal policies and finances of the States, but responsibility for the funds has always rested with the Social Security Department and its predecessors rather than with the Treasury & Resources Department and its predecessors. This division of responsibility will be retained at the inception of the new committee structure in May, 2016: the Treasury will fall under the remit of the Policy & Resources Committee and the insurance funds will fall under the remit of the Committee *for* Employment & Social Security. However, the Committee recommends that early in the life of the next States those two new Committees should jointly review the matter of political responsibility for the insurance funds and report to the States with recommendations either to retain the present allocation of responsibility or to adopt the alternative approach of the Policy & Resources Committee assuming responsibility for the setting of contribution rates and the management of the funds and the Committee *for* Employment & Social Security retaining responsibility for the setting of rates of benefit. An appropriate recommendation is included in this policy letter. For the avoidance of doubt, the funds concerned are the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-Term Care Insurance Fund.

5.4 External Relations and International and Constitutional Affairs

5.4.1 The section of the proposed mandate of the Policy & Resources Committee which relates to external relations and international and constitutional affairs contains duties and powers which are already set out in the mandate of the Policy Council with the addition of one: authorising the adaptation of titles and offices held within the States, which was agreed by the States after consideration of the second policy letter.

5.4.2 The requirement which will be placed upon the Policy & Resources Committee to designate its President or one of its members to be the States' lead member for external relations is

included in that part of the proposed mandate which sets down the constitution of the Committee. It should be emphasised that this requirement need in no way bring to an end the more collegiate approach that has been developed towards external relations during the present States' term, but rather seeks to ensure flexibility and resilience in external relations. It should be noted that although the Committee believes that the States' approach to external relations would benefit from the lead member appointing an advisory group, it remains of the opinion that the establishment, constitution and role of any such group are best left to the judgement of the Policy & Resources Committee rather than being laid down in its mandate.

5.4.3 It is proposed that the States' relationship with the parishes should be overseen by the senior committee of the States. This effectively represents the *status quo*. However, the Committee has written to the parishes to apologise – and now repeats its apology publicly and as a matter of record in a Billet d'État – for not having consulted with them on this matter when it had previously agreed to do so. This was a regrettable oversight. In its letter of apology to the parishes, the Committee has assured them that any representations any one or more of them may wish to make in connection with their relationship with the States would be welcomed during the period of preparation for the introduction of the new committee structure. The Committee acknowledges the role of the Policy Council's Douzaine Liaison Group and believes that it would most probably be of benefit to maintain an advisory group drawing together States' members and representatives of the parishes.

5.5 Other Considerations

5.5.1 At present, in a very limited number of areas, the Policy Council and the Treasury and Resources Department are seen to act as a check and balance to each other – for example, in authorising certain items of expenditure. After further consideration of this matter during the third stage of its review, the Committee has concluded that there are no ready means of replicating this in the reorganisation of the States agreed last year and earlier this year. The Committee sees this as a very minor disadvantage among many significant advantages of the reforms agreed. In any event the Policy & Resources Committee will at all times remain fully accountable to the States for the expenditure of any public funds entrusted to it. It is also open to examination by the Scrutiny Management Committee, which might, for example, decide to scrutinise every six or 12 months any variations in the budget of the Policy & Resources Committee.

5.5.2 It has been drawn to the Committee's attention that the Compulsory Acquisition of Land Law, 1949, as amended, will need to be further amended. Currently, in the event of a compulsory acquisition the decision-making body is the Treasury and Resources Department, unless it is the acquiring department, i.e. the department requesting the purchase of land, in which case the Policy Council becomes the decision-making body. As the Policy & Resources Committee will embrace the main responsibilities of the Policy Council and the Treasury and Resources Department, the Committee recommends that the Policy & Resources Committee should become the sole decision-making body under the Law and that the Law be amended accordingly. It is considered highly unlikely that the Policy & Resources Committee would find itself in the position of being the acquiring committee under the Law.

5.5.3 At present, the Policy Council is responsible for the preparation of the agenda for meetings of the States. The States' Assembly & Constitution Committee is proposing substantial reform of the rules which set out how the States manage their agenda, how policy letters and other papers are published and submitted to the States, how the senior committee comments on the proposals of other committees etc. The States' Assembly & Constitution Committee's proposals are contained in a separate Billet d'État. In the event that the States approve the proposals of the States' Assembly & Constitution Committee, the administrative functions relating to the publication of papers and the preparation of the agenda for States' meetings would be transferred to Her Majesty's Greffier. It would remain within the mandate of the States' Assembly & Constitution Committee to recommend any Rules of Procedure if it considered that additional rules would clarify or better support the administrative functions which would have been transferred to Her Majesty's Greffier. For the avoidance of doubt, the intention is that the Policy & Resources Committee should have the responsibility at committee level for proposing the items to be debated at any particular meeting of the States. The reforms envisaged are reflected in the proposed mandates and operational schedules in Appendix A to this policy letter. In the event that the States reject the proposals of the States' Assembly & Constitution Committee, both that Committee and the States' Review Committee would need to return to the States with fresh proposals because neither Committee is prepared to recommend the continuation of the present arrangements for how the States manage their agenda, how policy letters and other papers are published and submitted to the States, how the senior committee comments on the proposals of other committees etc.

6 OTHER COMMITTEES OF THE STATES AND NON-GOVERNMENTAL BODIES

6.1 Scrutiny Management Committee

6.1.1 After consideration of the Committee's first policy letter, the States agreed significant reforms to the arrangements at committee level for scrutinising the policies, services, expenditure etc. of committees of the States, which the second policy letter summarised in the following terms:

> *"The States resolved that with effect from May, 2016 – and in order to promote the co-ordination of scrutiny across the States – there will be a single Scrutiny Management Committee responsible to the States for the scrutiny of policy, finances and legislation. The single, smaller Scrutiny Management Committee will include States' members and members independent of the States.*
>
> *"The States agreed that the task of scrutinising policies and services, financial affairs and expenditure and legislation will in the main be carried out through scrutiny panels with the membership and operation of such panels determined with reference to the task in hand.*
>
> *"…the objective[s of reform include] strengthening scrutiny in the States and ensuring it is focused, proportionate and flexible, [making] the best use of the time of States' members and [permitting] the States to benefit from the involvement in the scrutiny process of a greater number of persons independent of the States."*

6.1.2 The States resolved that the constitution of the new, combined Scrutiny Management Committee – which will succeed three separate scrutiny committees: the Legislation Select Committee, the Public Accounts Committee and the Scrutiny Committee – shall be three States' members and two members independent of the States, all elected by the States.

6.1.3 Beyond setting down the constitution of the Scrutiny Management Committee and establishing that most of the work of scrutiny will be carried out by panels appointed for specific purposes and drawing together a much wider range of States' members and persons independent of the States, the Committee has been, and remains, reluctant to recommend imposing too many qualifications on how the Scrutiny Management Committee and its panels should operate, how many panels there should be, what and whom they should scrutinise, the length of time for which they should sit, the conditions under which they should take evidence etc. In its second policy letter the Committee stated: *"…the Scrutiny Management Committee should be empowered to shape scrutiny as it sees fit"*.

6.1.4 Consequently, the mandate of the Scrutiny Management Committee proposed in Appendix A to this policy letter is deliberately framed relatively broadly. In terms of envisaging what may be scrutinised in the fields of policy, services and the use of monies and other resources, the proposed mandate is less prescriptive than the mandates of the present scrutiny

committees. The proposed mandate highlights the role of formal scrutiny in holding policy-making committees to account for their performance against States' objectives and policy plans. It recognises the decided advantages in scrutiny having a strong public profile. It also emphasises that there should be strong links between what happens and what is decided in the States' Assembly and the activities of the States' committees and panels of scrutiny.

6.1.5 For reasons outlined in the second policy letter, the scrutiny of legislation requires slightly less flexible terms of reference, although the objective is maintained of drawing into scrutiny a wider range of States' members and persons independent of the States.

6.1.6 The Scrutiny Management Committee will be required to appoint a Legislation Review Panel to carry out the functions of legislative scrutiny which are set out in Article 66 of the Reform (Guernsey) Law, 1948, as amended. It is proposed that, in addition to its conventional scrutiny function, the Panel should inherit from the Legislation Select Committee the right to recommend any changes to legislation from which it believes the Island may benefit – indeed it is hoped that the Panel could in time significantly develop this 'law commission' role.

6.1.7 The Committee has long acknowledged that the prospects for success of scrutiny in the States are greatly influenced by the powers, resources and impartiality of scrutiny committees. The second policy letter identified several ways in which powers, resources and impartiality could be strengthened and the Committee supported a successful amendment which led to a resolution directing further work in this area to be carried out by the Public Accounts and Scrutiny Committees in advance of their dissolution. They are required to report to the States by no later than February, 2016 and the Committee looks forward to considering their proposals in the near future.

6.1.8 The proposed mandate of the Scrutiny Management Committee also includes that it shall advise the States when in its opinion circumstances justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended. This is in line with what was suggested in the Committee's first policy letter.

6.2 States' Trading Supervisory Board

6.2.1 In July, the States resolved to create the States' Trading Supervisory Board to provide focused political oversight of several of the commercial and trading activities which are undertaken by bodies in public ownership.

6.2.2 The Committee's second policy letter identified four incorporated companies which would benefit from "*…the creation on a more permanent and formal basis of a prominent 'shareholder resource' under the leadership of a separate committee of the States [i.e. the Board] with a mandate and constitution which are consistent with the need to balance political and commercial considerations"*: Cabernet Group, which is the holding company of Aurigny Air Services and Anglo Normandy Aero Engineering; Guernsey Electricity; Guernsey Post; and Jamesco 750, which operates the Island's two fuel ships, Sarnia Cherie and Sarnia Liberty.

6.2.3 The second policy letter then referred to *"several commercial or semi-commercial activities which the States carry out through distinct trading concerns…[t]he management and operation of…[which are], and would continue to be, provided through the civil service"*, noted that *"[t]he role of the various States' committees which have responsibility for such trading concerns is to act not as shareholder…but as if they were the board of directors"* and then concluded that *"[i]t would be inefficient and wasteful to assign the shareholder role in the incorporated companies to one committee of the States and the directorial role in the unincorporated trading concerns to separate committees of the States when the skills demanded are not dissimilar."* Five unincorporated trading concerns were identified as suitable candidates to come under the leadership of the Board: Guernsey Airport, which includes Alderney Airport; Guernsey Dairy; Guernsey Harbours; Guernsey Water; and States' Works.

6.2.4 The proposals, which were agreed by the States in full, also set out *"…that the constitution of the Board should allow for the recruitment of appropriate skills and experience and proper democratic oversight of publicly-owned companies and trading bodies"* by drawing together members of the States and persons independent of the States who ideally *"…have skills and experience in connection with corporate governance, board and shareholder responsibilities, strategic and operational benchmarking etc."* provided that at least the President and one other member of the Board should always be members of the States and at least two other members of the Board should not be members of the States, but all elected by the States.

6.2.5 The Committee believes that in the interests of democratic accountability there should be a specific rule attaching to the operation of the Board with regard to its quorum. It is recommended that the presence should be required at meetings of the Board of at least one of its members who is also a member of the States – and that otherwise the Board should be considered inquorate and unable to take decisions. It should be noted that, notwithstanding the previously-agreed and further proposed qualifications in the preceding sentences, the States have agreed that the exact constitution and the members of the Board should be determined by the States on a recommendation submitted by the Policy & Resources Committee.

6.2.6 After further consideration of the role of the Board and discussion with officers from various areas of the States, the Committee is now recommending that the Board should assume leadership for a further three discrete commercial or quasi-commercial activities carried out by the States.

6.2.7 The first of these is the Channel Islands' lottery, which was founded in 1975 following the merger of lotteries previously run separately by the States of Guernsey and the States of Jersey. Political responsibility for the lottery currently rests with the Culture and Leisure Department. It is not considered appropriate for the lottery to be transferred to that Department's successor Principal Committee, the Committee *for* Education, Sport & Culture. Initially the intention was to transfer the responsibility to the Committee *for* Home Affairs, but this would not be ideal because of that Committee's policy and regulatory responsibilities for gambling in all its forms. Clearly the lottery is a commercial enterprise. It is operated specifically to provide funds for local charities and the running of Beau Séjour Leisure Centre; and last year the States endorsed proposals which may in time result in the

generation of greater proceeds from the lottery. Therefore the Board would be well-placed to assume responsibility for the lottery.

6.2.8 The second additional responsibility which the Committee proposes to transfer to the Board is waste operations. The law creates a distinction between waste policy and waste operations: at present waste policies are the responsibility of the Environment Department whereas waste operations are the responsibility of the Public Services Department acting as the Waste Disposal Authority. This distinction at political level should be maintained, but from May, 2016 there will be a single Committee *for the* Environment & Infrastructure, broadly speaking in the place of the two aforementioned Departments. The Committee *for the* Environment & Infrastructure will be responsible for waste policies. For those very familiar with the nomenclature of the governance of solid waste in the States, this means that the role of the Waste Strategy Programme Board will be assumed by the Committee *for the* Environment & Infrastructure. In practice waste operations, as distinct from waste policies, are a quasi-commercial activity and there is now a solid waste trading account which enables the disposal of waste to be accounted for separately and transparently and provides a firmer basis for setting fees and charges in order fully to recover all costs incurred. As such it would be logical to transfer responsibility for waste operations (and only operations) to the Board and to make the Board the Waste Disposal Authority.

6.2.9 The third additional area of activity which the Committee wishes to transfer to the Board is really an extension of an activity which the States have already agreed to transfer to the Board. The Committee's second policy letter stated: *"It is further proposed – again with a view to drawing together broadly common functions – that the States' Trading Supervisory Board should be made responsible for the commercial elements of the States' property portfolio."* On reflection it is felt that there is nothing to be gained, and probably quite a lot to be lost, by splitting responsibilities at committee level for the oversight of property management. There is no question of transferring strategic policy responsibility to the Board – this is included in the proposed mandate of the Policy & Resources Committee. However, the Committee recommends that the Board should be politically responsible for the management and administration of property and real estate owned or leased by the States, whether considered fully commercial or less so, and the provision internally of advice on property matters and corporate engineering and architectural services, i.e. all of the operational functions of what is generally known as *States' Property Services*.

6.2.10 The Board will be required to ensure that each of the companies or trading concerns or operational units for which it is responsible delivers a level of financial return consistent with States' objectives (and that does not necessarily imply a positive return), operates services of a high quality which are responsive to their customers' needs and delivered cost effectively, and acts responsibly in the best interests of the community and in support of the States' social, environmental and fiscal objectives.

6.2.11 Clearly the role of the Board will differ in relation to the different status of the various companies and concerns for which it will be responsible. Each of the incorporated companies has its own separate legal personality and operates under the direction of a board of directors independent of the States – here the role of the Board, as it is of the Treasury and Resources Department at present, will be to execute the duties of shareholder on behalf of the States,

reviewing and scrutinising the companies' business strategies and monitoring their performance. In respect of the unincorporated trading concerns and other commercial or quasi-commercial activities, the Board will ensure that the assets and services are properly managed, operated and maintained with day-to-day operations delegated to civil servants. These distinct roles are identified separately in the proposed mandate of the Board in Appendix A to this policy letter.

6.2.12 It is important to note that in carrying out all these activities the Board will remain a committee of the States. It will report directly to the States, through its President, and will be fully accountable to the States. The President will be required to answer questions in the States. Members of the Board, like members of other committees of the States, will be elected by the States and could be removed by the States. It is the firm opinion of the Committee that accountability for the States' trading and commercial activities will be strengthened and not diminished.

6.2.13 The proposed mandate of the Board, if approved, would require it to carry out all of its work within a framework of policies, guidance and instructions laid down by the States and their relevant committees.

6.2.14 The second policy letter explained that *"[t]he Island's long-term policies in respect of, say, economic development, agriculture, water reserves and infrastructure would remain the responsibility of the relevant Principal Committees, and ultimately of the States, while the Board would have political leadership and oversight of the specific trading concerns, which would include their operational policies. For example, establishing a target to have a certain percentage of households connected to the public sewer by a certain year would be a matter of infrastructure policy and would be the responsibility of the Committee for the Environment & Infrastructure; whereas a decision by States' Works to bid for, say, parish refuse rounds would be a trading matter – or operational policy - and responsibility would rest with the States' Trading Supervisory Board."*

6.2.15 For instance, in setting objectives for Guernsey Electricity, the Board would be required to take into account the States' guidance to shareholders, the States' strategy for the future supply of electricity and any recommendations approved following the recent review of levels of investment return from the incorporated companies. In another example, the Committee *for* Economic Development may initiate policies in respect of economic development which impact upon the ports or the airport. Or the Committee *for* Home Affairs may initiate policies in respect of gambling control which impact upon the Channel Islands' lottery. In each case it would be for the Board, either through its shareholder supervisory role of the incorporated companies or through its direction of the unincorporated trading concerns, to ensure that the operations for which it is responsible respond appropriately. The Policy & Resources Committee, and where appropriate the States, will be responsible for determining policies in respect of the companies' levels of investment return, debt to equity ratio and dividend policy.

6.2.16 It is acknowledged that there may be occasions when the interests of two or more of the incorporated companies or trading concerns are not wholly aligned. Managing potential conflicts within mandates is not uncommon to committees of the States: for example, the

Committee *for* Employment & Social Security will have to balance social policy objectives in relation to workforce protection with economic policy objectives in relation to labour market flexibility; and the Committee *for the* Environment & Infrastructure will have to balance its responsibilities in relation to environmental protection with its responsibilities in relation to the Island's infrastructure. The challenges of the Board to reconcile competing interests will not be wholly dissimilar.

6.3 Transport Licensing Authority

6.3.1 The States resolved to establish the Passenger Transport Licensing Authority. In its second policy letter the Committee explained that the Authority's *"…raison d'être would be air route licensing, [but] it would seem sensible to extend the Authority's responsibilities to incorporate all forms of transport licensing, including in relation to public vehicles and vehicle and driver licensing in order that those regulatory functions could also more clearly be carried out with impartiality and at a distance from policy-making Principal Committees."*

6.3.2 The case put forward by the Committee and approved by the States remains valid. However, in the months since debate on its second policy letter, the Committee has come to see that it would be unreasonable, in view of the very extensive legislative changes which it would require, to continue to insist upon the transfer to the Authority immediately on the 1st of May next year of the transport-related regulatory functions which at present fall to the Environment Department.

6.3.3 As such, the Committee now recommends that at its inception the Authority should assume responsibility for air route licensing only and further recommends that the other transport-related regulatory functions should be transferred to it during the second half of 2016.

6.3.4 Also since debate on the second policy letter the Committee has identified regulatory transport functions which in time should undoubtedly become the responsibility of the Authority but which have nothing to do with the transport of passengers. Therefore, the Committee proposes that the word 'Passenger' be removed from its title and that instead it be constituted as the Transport Licensing Authority.

6.3.5 The Committee feels that the Transport Licensing Authority should have the option of appointing, if it so wishes, up to two non-voting members who shall not be members of the States, in addition to the five seats reserved for States' members. Again there is felt to be no persuasive reason to except the Authority from this facility and of course it should be noted that at present the Commerce and Employment Department and the Environment Department and the Public Services Department, all of which have regulatory transport functions of one sort or another, are free to appoint up to two non-voting members who shall not be members of the States.

6.4 Development & Planning Authority

6.4.1 The States resolved to establish the Development & Planning Authority to be responsible for land use policy through the production of development plans and other instruments and also for determining development applications of all kinds.

6.4.2 The proposed mandate of the Development & Planning Authority is as envisaged when the States agreed to establish it but with two additions. The first addition is that the constitution provides for the Authority to have the option of appointing, if it so wishes, up to two non-voting members who shall not be members of the States, in addition to the five seats reserved for States' members. There is felt to be no persuasive reason to except the Authority from this facility and of course it should be noted that at present the Environment Department, which is responsible for all of the matters which the States have agreed to transfer to the Authority, is free to appoint up to two non-voting members who shall not be members of the States. The second addition is that its duties and powers make reference to maintaining and keeping under review schemes of delegation for determining development control applications and for hearing in public applications which are referred to the elected members of the Authority.

6.5 States' Assembly & Constitution Committee

6.5.1 The States resolved that the States' Assembly & Constitution Committee shall be constituted as a committee of the States.

6.5.2 The proposed mandate of the States' Assembly & Constitution Committee is very much based on the mandate of the present committee of the same name.

6.6 Civil Contingencies Authority

6.6.1 The States resolved that the Civil Contingencies Authority shall continue to exercise the duties and powers conferred on it by extant legislation, including the Civil Contingencies (Bailiwick of Guernsey) Law, 2012.

6.6.2 The proposed mandate of the Authority would, if approved, constitute the Authority as a committee of the States, but other than that provides for no change save to reflect changes in nomenclature of the various committees and office holders linked to the Authority through its constitution.

6.7 Overseas Aid & Development Commission

6.7.1 The States resolved that the Overseas Aid & Development Commission shall be constituted as a committee of the States.

6.7.2 The proposed mandate of the Overseas Aid & Development Commission is essentially the same as the mandate of the present Overseas Aid Commission. The Committee recommended altering the title – and the States agreed – in order to emphasise the developmental projects to which the Commission contributes funds.

6.8 States' Investigation & Advisory Committees

6.8.1 Rule 18 of the rules relating to the constitution and operation of States' departments and committees provides for the establishment of task and finish committees to carry out particular but temporary pieces of work. At present there are the following Rule 18

committees: Constitutional Investigation Committee; Parochial Ecclesiastical Rates Review Committee; Social Welfare Benefits Investigation Committee; and States' Review Committee.

6.8.2 The States wished to retain the flexibility to establish such committees but approved a small change in their generic title from Special States' Committees, which is nebulous and provides no indication of their function, to States' Investigation & Advisory Committees, which more accurately describes the nature of the work in which they are almost always involved.

6.8.3 As a matter of formality a recommendation is included in this policy letter to dissolve the four aforementioned committees as Special States' Committees at midnight on the 30th of April next year, after which time that category of committee shall simply not exist.

6.8.4 The four committees are all at very different stages of their work. The Committee has formed no judgement about whether they should exist as separate committees beyond the life of the present States' term but is of the opinion that this is a matter upon which the States should be invited to make resolutions. As such, in addition to the recommendation formally to dissolve the four committees as Special States' Committees, it is recommended that each of the committees be directed to report to the States before the end of this term, in each case with a proposal either to constitute the committee as a States' Investigation & Advisory Committee with effect from the 1st of May, 2016 or, alternatively, not to constitute the committee as a States' Investigation & Advisory Committee provided that instead the States resolve which other committee is to assume any duties of the Special States' Committee which remain outstanding as at the 30th of April, 2016. The one exception is the States' Review Committee, which is using this policy letter to lay before the States the necessary recommendation in respect of itself.

6.9 Non-Governmental Bodies

6.9.1 The States resolved *"[t]o note the continuation…of the Elizabeth College Board of Directors, Ladies' College Board of Governors, Priaulx Library Council and Guille-Allès Library Council."*

6.9.2 For completeness the mandates of these four non-governmental bodies are included in Appendix A to this policy letter.

7 FINANCIAL AND LEGISLATIVE IMPLICATIONS

7.1 Rule 15(2)(a) of the States' Rules of Procedure

7.1.1 Rule 15(2)(a) of the Rules of Procedure of the States of Deliberation states:

> *"Every policy letter, requête, amendment or sursis laid before the States shall include or have appended to it an estimate of the financial implications to the States of carrying the proposal into effect."*

7.1.2 The Committee's second policy letter explained in some detail the financial implications of carrying into effect the proposed reorganisation of States' affairs. If approved, the recommendations in this policy letter would incur no additional expenditure to that set out in the second policy letter and approved by the States.

7.2 Legislation

7.2.1 The Committee provided at section 11 of its second policy letter a summary of the legislative implications of the recommendations proposed in that, and its first, policy letter. Several of the legislative amendments and proposals described in section 11 have been addressed by the provisions of the States (Reform) (Guernsey) Law, 2015 as approved by the States at their September meeting. That Projet has been transmitted for Royal Sanction and it is anticipated that Sanction will be granted and the relevant Order in Council returned for registration in Guernsey in good time for commencement by Ordinance by the 1st of May, 2016.

7.2.2 The bulk of the outstanding legislative matters that now require attention concerns preparation of a Transfer of Functions Ordinance under the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991 as described in section 11.1.6 of the second policy letter. Much work relating to the drafting of the Ordinance has already been undertaken as at the date of this letter and it is hoped that a final draft, based on the recommendations made in this letter and extant resolutions of the States, will be available for the States to approve at their February, 2016 meeting. During the course of the work relating to preparation of the Ordinance the opportunity will be taken, so far as time permits, to address anomalies in extant legislation relating to statutory functions in a manner that is consistent with the proposals made by the Committee and approved by the States relating to the reorganisation of States' affairs.

7.2.3 In addition to the Transfer of Functions Ordinance, having consulted with relevant officers of the States, the Committee recommends that the States' Trading Supervisory Board is designated as the Waste Disposal Authority ("WDA") for the purposes of the Environmental Pollution (Guernsey) Law, 2004. At present, the Public Services Department is so designated and it appears to the Committee that it is appropriate that the new Board is designated by

Ordinance under the Law in place of the Department with effect on the 1st of May, 2016. As WDA, the Board, in the discharge of its functions, will be obliged to comply with the Island Waste Disposal Plan and will have responsibility, amongst other things, for making arrangements for and ensuring the operation of Guernsey's public waste management system.

7.2.4 In section 11.1.7 of the second policy letter, it was noted that should the States approve the Committee's recommendation in connection with responsibility for the Strategic Land Use Plan (see section 8.8.21 of the second policy letter), it would be necessary to amend the Land Planning and Development (Guernsey) Law, 2005 once the new committee structure was in operation after May, 2016. Since approval of the propositions arising following consideration of the second policy letter and further consultation with relevant officers from the Policy Council and the Environment Department it is apparent that relevant amendments to the Law and associated legislation should preferably be made so as to come into effect on the 1st of May, 2016. In the circumstances the Committee is recommending that suitable legislative amendments are made to ensure, as far as possible, that with effect from the 1st of May, 2016 the statutory functions of the Strategic Land Planning Group under the Land Planning and Development (Guernsey) Law, 2005 are transferred to the new Committee *for the* Environment & Infrastructure.

7.2.5 Finally, for reasons set out in section 5.5.2 of this third policy letter, the Committee recommends that the Policy & Resources Committee should become the sole decision-making States' body under the Compulsory Acquisition of Land (Guernsey) Law, 1949 and that the Law should be amended accordingly.

8 RECOMMENDATIONS

The States' Review Committee recommends the States:

1. To agree the main part of Appendix A to this policy letter, entitled Mandates of Committees of the States with effect from the 1st of May, 2016, in relation to the final wording of the mandates of the following committees of the States (serial a to serial n) and non-governmental bodies (serial o to serial r):

   a) Policy & Resources Committee;
   b) Committee *for* Economic Development;
   c) Committee *for* Education, Sport & Culture;
   d) Committee *for* Employment & Social Security;
   e) Committee *for the* Environment & Infrastructure;
   f) Committee *for* Health & Social Care;
   g) Committee *for* Home Affairs;
   h) Civil Contingencies Authority;
   i) Development & Planning Authority;
   j) Overseas Aid & Development Commission;
   k) Scrutiny Management Committee;
   l) States' Assembly & Constitution Committee;
   m) States' Trading Supervisory Board;
   n) Transport Licensing Authority;
   o) Elizabeth College Board of Directors;
   p) Guille-Allès Library Council;
   q) Ladies' College Board of Governors;
   r) Priaulx Library Council.

2. To agree Annex One to the Mandates of Committees of the States in relation to committees' general responsibilities.

3. To agree Annex Two to the Mandates of Committees of the States in relation to the operational functions of the following committees of the States:

   a) Policy & Resources Committee;
   b) Committee *for* Economic Development;
   c) Committee *for* Education, Sport & Culture;
   d) Committee *for* Employment & Social Security;
   e) Committee *for the* Environment & Infrastructure;
   f) Committee *for* Health & Social Care;
   g) Committee *for* Home Affairs;
   h) Civil Contingencies Authority;
   i) Development & Planning Authority;

j) Overseas Aid & Development Commission;
k) Scrutiny Management Committee;
l) States' Assembly & Constitution Committee;
m) States' Trading Supervisory Board;
n) Transport Licensing Authority.

4. To agree that, as set out in paragraph 4.1.7 of this policy letter, the Policy & Resources Committee shall compile a comprehensive schedule of committees' operational functions and services which shall be inserted as a replacement Annex Two to the Mandates of Committees of the States by no later than the end of 2016.

5. To agree that, as set out in paragraph 4.5.11 of this policy letter, all relevant operational functions relating to transport licensing shall be transferred to the Transport Licensing Authority by no later than the end of 2016.

6. To agree that, as set out in section 6.8 of this policy letter, all Rule 18 Special States' Committees as presently constituted shall be dissolved from the 1st of May, 2016; and, also as set out in section 6.8 of this policy letter, to direct the Constitutional Investigation Committee, the Parochial Ecclesiastical Rates Review Committee and the Social Welfare Benefits Investigation Committee to report to the States by no later than their March, 2016 meeting, in each case with a proposal either to constitute the committee as a States' Investigation & Advisory Committee with effect from the 1st of May, 2016 or, alternatively, not to constitute the committee as a States' Investigation & Advisory Committee provided that instead the States resolve which other committee is to assume any duties of the Special States' Committee which remain outstanding.

7. To agree that the Policy & Resources Committee shall establish the policy and resource planning process set out in section 5.2 of this policy letter.

8. To agree that, as set out in paragraph 5.5.2 of this policy letter, the Policy & Resources Committee shall become the sole decision-making States' body under the Compulsory Acquisition of Land (Guernsey) Law, 1949, as amended and that the Law should be further amended accordingly.

9. To agree, as set out in paragraph 6.2.5 of this policy letter, that in order for a meeting of the States' Trading Supervisory Board to be quorate there must be present at the meeting at least one of the members of the Board who is a sitting member of the States.

10. To agree that, as set out in paragraph 5.2.4 of this policy letter, when the States' Assembly & Constitution Committee carries out a comprehensive review of the electoral system, as set out in Resolution 38 on Billet d'État XII of 2015, the Committee shall include in that review a study of whether it would be advantageous for the term of office of People's Deputies to be for five, rather than four, years provided that under no circumstances shall there be any extension of terms until after the 2020 general election.

11. To agree that, as set out in paragraph 2.6.2 of this policy letter, the States' Review Committee shall be responsible for overseeing preparations for the implementation of the

reorganisation of States' affairs until the Committee is dissolved at midnight on the 30th of April, 2016.

12. To agree that, as set out in paragraph 5.3.4 of this policy letter, the Policy & Resources Committee and the Committee *for* Employment & Social Security shall review the case for maintaining and the case for reforming the arrangements in relation to which committee of the States should have political responsibility for the States' insurance funds and shall jointly report to the States by May, 2017 setting out their findings and any recommendations considered necessary.

13. To note that, as set out in paragraph 2.6.5 of this policy letter, if further matters arise relating to the reorganisation of the States which require the resolution of the States they will be submitted in good time to be settled at or before the meeting of the States in March, 2016.

14. To rescind, as set out in paragraph 2.6.4 of this policy letter, Resolution 5 on Article XVI of Billet d'État V of 2012.

15. To direct the preparation of such legislation, as set out in section 7 of this policy letter, as may be necessary to give effect to the above decisions.

APPENDIX A

MANDATES OF COMMITTEES OF THE STATES WITH EFFECT FROM THE 1ST OF MAY, 2016

Order of Committees

Policy & Resources Committee

Committee *for* Economic Development

Committee *for* Education, Sport & Culture

Committee *for* Employment & Social Security

Committee *for the* Environment & Infrastructure

Committee *for* Health & Social Care

Committee *for* Home Affairs

Civil Contingencies Authority

Development & Planning Authority

Overseas Aid & Development Commission

Scrutiny Management Committee

States' Assembly & Constitution Committee

States' Trading Supervisory Board

Transport Licensing Authority

Elizabeth College Board of Directors (non-governmental body)

Guille – Allès Library Council (non-governmental body)

Ladies' College Board of Governors (non-governmental body)

Priaulx Library Council (non-governmental body)

Annex One to the Mandates of Committees of the States

Annex Two to the Mandates of Committees of the States – Schedule of Committees' Operational Functions

- **Title – Policy & Resources Committee**

Constituted as the Senior Committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Policy & Resources Committee shall be the President or a member of any of the six Principal Committees or the President or a member of the Scrutiny Management Committee or the President or a member of the Development & Planning Authority or the President or a member of the Transport Licensing Authority.

The Policy & Resources Committee shall designate its President or one of its members to be the States' lead member for external relations.

- **Duties & Powers**

To advise the States and to develop and implement policies and programmes relating to:

(a) leadership and co-ordination of the work of the States, which includes:

1. developing and promoting the States' overall policy objectives;
2. leading the policy planning process as set out in the States' Rules of Procedure;
3. promoting and facilitating cross-committee policy development;
4. advising, when necessary, on the implications of other committees' proposals, policies and activities and in particular whether they accord with States' objectives and policy plans;
5. advising other committees on the implications of policies which it is itself developing;
6. examining issues which expressly do not fall within the mandates of other committees;
7. requiring any committee to examine any issue whether within or extraneous to its mandate;
8. requiring, and monitoring, the implementation of extant States' resolutions;
9. submitting to the States annually a report on progress on outstanding States' resolutions;
10. initiating reviews in areas where it appears that performance could be improved;
11. recommending to the States the agenda items for future meetings of the States;
12. prioritising the States' legislative programme and submitting to the States annually an order of priority for the drafting of significant items of legislation for the year ahead;
13. enacting urgent legislation in accordance with Article 66 of the Reform Law;
14. advising on the allocation of policy responsibilities to committees;
15. allocating operational functions to committees, or transferring them between committees, as set out in Annex Two to the mandates of committees of the States, without requiring the approval of the States provided that the allocation or transfer has the agreement of all committees concerned and also provided that neither mandates of committees of the States nor Annex One attached thereto may be amended without resolution of the States and further provided that this power to allocate or transfer operational functions shall not have effect until such time as the Committee has approved a comprehensive schedule of committees' operational functions.

(b) fiscal policy, economic affairs and the financial and other resources of the States, which includes:

1. setting the framework for the planning, approval and control of public expenditure;
2. preparing the States' budget and submitting it to the States annually;
3. preparing the States' accounts and submitting them to the States annually;
4. monitoring financial performance against budgets;
5. advising, when necessary, on the financial implications of other committees' proposals, policies and activities;
6. raising and collecting taxes and revenues;
7. the States' Treasury functions, including authorising committees' borrowings and loans;
8. the role of the States as an employer;
9. policies on financial management, assets and corporate services, including information and communication technology, internal audit, risk management, the corporate identity and communications of the States, procurement, property, and statistics and research;
10. annually recommending the appointment of external auditors to the States.

(c) external relations and international and constitutional affairs, which includes:

1. the Island's constitutional position and the relationship with the Crown;
2. relations with the United Kingdom and other jurisdictions;
3. relations with the European Union and other supranational organisations;
4. relations with the other islands of the Bailiwick and the Island's parishes;
5. representing, or overseeing the representation of, and negotiating for, the Island;
6. executing and requesting the extension of international agreements to which the Island is invited to acquiesce;
7. the policy framework regarding overseas aid and development;
8. authorising for external relations purposes only the adaptation of titles and offices held within the States.

(d) other matters which have been delegated to the Committee, which include:

1. the policy framework for the regulation of financial services;
2. non-operational matters in an emergency to preserve life, wellbeing and law and order.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Policy & Resources Committee and which conferred functions on the former Policy Council and Treasury and Resources Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Committee *for* Economic Development**

Constituted as a Principal Committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Committee *for* Economic Development shall be the President or a member of the Policy & Resources Committee or the President of the Scrutiny Management Committee or the President or a member of the Transport Licensing Authority; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Purpose**

To secure prosperity through the generation of wealth and the creation of the greatest number and widest range of employment opportunities possible by promoting and developing business, commerce and industry in all sectors of the economy.

- **Responsibilities – Policy, Advisory & General**

To advise the States and to develop and implement policies on matters relating to its purpose, including:

1. the promotion and development of all sectors of business, including construction, creative industries, digital, financial services, horticulture, intellectual property, manufacturing, media, retail and tourism;
2. the reputation of the Island as a centre for commerce and industry;
3. securing the provision of, and promoting, air and sea links to and from the Bailiwick;
4. inward investment at the corporate and individual level;
5. the labour skills necessary to sustain economic prosperity;
6. competition, innovation, diversification and regulation in the economy;
7. broadcasting and the media;
8. safeguarding living marine resources and the sustainable exploitation of those resources.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Committee *for* Economic Development and which conferred functions on the former Commerce and Employment Department, Culture and Leisure Department and Home Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Committee *for* Education, Sport & Culture**

Constituted as a Principal Committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Committee *for* Education, Sport & Culture shall be the President or a member of the Policy & Resources Committee or the President of the Scrutiny Management Committee; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Purpose**

To encourage human development by maximising opportunities for participation and excellence through education, learning, sport and culture at every stage of life.

- **Responsibilities – Policy, Advisory & General**

To advise the States and to develop and implement policies on matters relating to its purpose, including:

1. pre-school, primary, secondary, further and higher education;
2. apprenticeships;
3. skills;
4. lifelong learning;
5. sport, leisure and recreation;
6. youth affairs;
7. the arts;
8. libraries, museums, galleries and heritage;
9. Island Archives;
10. civic celebrations and commemorations, including Liberation celebrations.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Committee *for* Education, Sport & Culture and which conferred functions on the former Commerce and Employment Department, Culture and Leisure Department, Education Department, Health and Social Services Department and Policy Council.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Committee *for* Employment & Social Security**

Constituted as a Principal Committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Committee *for* Employment & Social Security shall be the President or a member of the Policy & Resources Committee or the President of the Scrutiny Management Committee; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Purpose**

To foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation.

- **Responsibilities – Policy, Advisory & General**

To advise the States and to develop and implement policies on matters relating to its purpose, including:

1. financial and social hardship;
2. social housing, including States' housing and the States' relationship with housing associations;
3. supplementary benefit and housing benefit;
4. social insurance;
5. pensions;
6. health insurance;
7. long-term care insurance;
8. social inclusion, including in relation to disability;
9. the unemployed and the various initiatives to encourage employment and re-employment;
10. labour market legislation and practices;
11. health and safety in the workplace;
12. industrial relations;
13. legal aid.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Committee *for* Employment & Social Security and which conferred functions on the former Commerce and Employment Department, Housing Department, Policy Council and Social Security Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Committee *for the* Environment & Infrastructure**

Constituted as a Principal Committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Committee *for the* Environment & Infrastructure shall be the President or a member of the Policy & Resources Committee or the President of the Scrutiny Management Committee or the President or a member of the Development & Planning Authority or the President or a member of the Transport Licensing Authority; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Purpose**

To protect and enhance the natural and physical environment and develop infrastructure in ways which are balanced and sustainable in order that present and future generations can live in a community which is clean, vibrant and prosperous.

- **Responsibilities – Policy, Advisory & General**

To advise the States and to develop and implement policies on matters relating to its purpose, including:

1. infrastructure, including but not limited to water, wastewater, the ports and the airports;
2. spatial planning, including the Strategic Land Use Plan;
3. climate change;
4. protection and conservation of the natural environment;
5. waste, water and stone reserves;
6. energy, including renewable energy;
7. solid waste;
8. general housing policy in relation to land use, spatial planning and infrastructure;
9. the coast and coastal defences and the breakwater in Alderney;
10. traffic and transport;
11. the road network;
12. biodiversity;
13. agriculture, animal health and welfare and the sustainability of food and farming;
14. maritime affairs;
15. public parks;
16. security of supply of essential commodities.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Committee *for the* Environment & Infrastructure and which conferred functions on the former Commerce and Employment Department, Culture and Leisure Department, Environment Department, Policy Council and Public Services Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Committee *for* Health & Social Care**

Constituted as a Principal Committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Committee *for* Health & Social Care shall be the President or a member of the Policy & Resources Committee or the President of the Scrutiny Management Committee; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Purpose**

To protect, promote and improve the health and well-being of individuals and the community.

- **Responsibilities – Policy, Advisory & General**

To advise the States and to develop and implement policies on matters relating to its purpose, including:

1. adult social care;
2. the welfare and protection of children, young people and their families;
3. the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions;
4. mental health;
5. care of the elderly;
6. health promotion;
7. environmental health;
8. public health.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Committee *for* Health & Social Care and which conferred functions on the former Health and Social Services Department and Housing Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Committee *for* Home Affairs**

Constituted as a Principal Committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Committee *for* Home Affairs shall be the President or a member of the Policy & Resources Committee or the President of the Scrutiny Management Committee; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Purpose**

To support a high standard of living and quality of life by maintaining and promoting a safe, stable and equitable society which values public protection and justice and respects the rights, responsibilities and potential of every person.

- **Responsibilities – Policy, Advisory & General**

To advise the States and to develop and implement policies on matters relating to its purpose, including:

1. crime prevention;
2. law enforcement, including policing and customs;
3. justice policy;
4. the association between justice and social policy, for example domestic abuse and the misuse of drugs and alcohol;
5. the new population management regime, once introduced;
6. immigration and the housing control and right to work regimes;
7. imprisonment, parole, probation and rehabilitation;
8. fire, rescue and salvage;
9. consumer protection and advice;
10. trading standards;
11. data protection;
12. emergency planning;
13. civil defence;
14. lotteries and gambling;
15. the electoral roll.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Committee *for* Home Affairs and which conferred functions on the former Commerce and Employment Department, Home Department and Housing Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Civil Contingencies Authority**

Constituted with effect from the 4th of February, 2013 by the Civil Contingencies Law, 2012 (Commencement) (Bailiwick of Guernsey) Ordinance, 2013; and constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

The permanent members of the Authority are the holders of the following offices:

President of the Policy & Resources Committee, who is the Chairman of the Authority[4];
President of the Committee *for the* Environment & Infrastructure;
President of the Committee *for* Health & Social Care;
President of the Committee *for* Home Affairs[5].

- **Duties & Powers**

To carry out the functions set out in the Civil Contingencies Law, 2012.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Authority by way of extant legislation or resolutions of the States or which may be allocated to the Authority in Annex Two to the mandates of committees of the States.

[4] In the absence of the President of the Policy & Resources Committee, the Vice-President of the Policy & Resources Committee is the Chairman of the Authority; and in the absence of the President and Vice-President of the Policy & Resources Committee, a member of the Policy & Resources Committee nominated by the President is the Chairman of the Authority.

[5] In the absence of the President of a Principal Committee, the Vice-President of that Principal Committee is a member of the Authority; and in the absence of the President and Vice-President of a Principal Committee, a member of that Principal Committee nominated by the President is a member of the Authority.
See paragraph 1 of Schedule 1 to the Civil Contingencies (Bailiwick of Guernsey) Law, 2012.

- **Title – Development & Planning Authority**

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be sitting members of the States: provided that neither the President nor any member of the Development & Planning Authority shall be the President or a member of the Policy & Resources Committee or the President or a member of the Committee *for the* Environment & Infrastructure; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Duties & Powers**

To advise the States on land use policy and to develop and implement land use policies through development plans and any other relevant instruments.

To determine development applications of all kinds, including planning, building control, protected buildings and scheduled sites.

To maintain and keep under review schemes of delegation in order that only the most contentious or high profile or atypical development control applications are referred to the elected members of the Authority, and when they are so referred to ensure that they are heard at open planning meetings held in public.

To exercise powers and perform duties conferred on the Authority by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Development & Planning Authority and which conferred functions on the former Environment Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Authority by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Overseas Aid & Development Commission**

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President who shall be a member of the States and six members who need not be members of the States, all elected on the nomination of the Policy & Resources Committee.

- **Duties & Powers**

To distribute funds voted by the States for aid and development overseas by making contributions to on-going programmes and to emergency and disaster relief.

To develop programmes relating to the collection and distribution of funds involving the private sector.

To carry out the duties and powers above in accordance with policies set out by the Policy & Resources Committee.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Commission by way of extant legislation or resolutions of the States or which may be allocated to the Commission in Annex Two to the mandates of committees of the States.

- **Title – Scrutiny Management Committee**

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President who shall be a member of the States: provided that the President of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of any of the six Principal Committees; and two members who shall be members of the States: provided that a member of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of more than one of the six Principal Committees; and two voting members who shall not be members of the States and who shall be elected by the States.

- **Duties & Powers**

To lead and co-ordinate the scrutiny of committees of the States by reviewing and examining legislation, policies, services and the use of monies and other resources for which committees are responsible.

As far as is reasonably practicable, to appoint scrutiny panels (whether task and finish or standing panels) to carry out the work of reviewing and scrutinising committees' policies and services and their management of monies and other resources entrusted to them: provided that neither the President nor the members of the Policy & Resources Committee shall serve on such scrutiny panels and also provided that the Committee retains the power, if it so wishes, to carry out any review itself rather than through an appointed panel and also provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Committee and any panels it has appointed, including the content of any report issued under its name.

To appoint a Legislation Review Panel to carry out the functions of legislative scrutiny in Article 66 of the Reform Law and also to recommend any changes to legislation from which it believes the Island may benefit: provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Legislation Review Panel; and to constitute the Legislation Review Panel as follows: a President who shall be a member of the Scrutiny Management Committee and also a member of the States, a minimum of four other States' members, a minimum of two non-voting members who shall not be members of the States, and any number of additional and occasional non-voting members as the Scrutiny Management Committee sees fit for the purposes of review of any item of legislation or any other matter: provided that such additional and occasional non-voting members may or may not be members of the States and also provided that neither the President nor the members of the Policy & Resources Committee shall serve on the Legislation Review Panel.

To scrutinise any matter contained in a policy letter which has been referred to the Committee by resolution of the States in accordance with any terms set out in the resolution and to submit to the States its findings thereon within a period of time set out in the resolution, which findings, together with the original matter, shall be laid before the States.

To promote and facilitate the participation in scrutiny of the widest possible range of States' members and persons independent of the States.

When determining the subject of its reviews and examinations, to pay particular attention to the performance of committees in contributing to States' objectives and policy plans and to matters which are of substantial importance or of significant public interest.

To recognise that the carrying out of scrutiny in public where possible is likely to contribute positively to public perceptions of scrutiny.

To submit a report to the States annually which reviews the work of the Committee and its panels over the previous 12 months and which sets out the Committee's objectives and, to the extent that it is possible while retaining a flexible and responsive approach to scrutiny, an indicative programme of work over the next 12 months.

To represent the work of scrutiny in the States, and publicly to promote and champion the value of scrutiny.

To advise the States if and when in its opinion circumstances justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Scrutiny Management Committee and which conferred functions on the former Legislation Select Committee, Public Accounts Committee and Scrutiny Committee.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – States' Assembly & Constitution Committee**

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States.

- **Duties & Powers**

To advise the States and to develop and implement policies in relation to:

1. the constitutions of the States of Deliberation and the States of Election;
2. the procedures and practices of the States of Deliberation and committees of the States;
3. the practical functioning of the States of Deliberation and the States of Election;
4. the induction, on-going support and provision of facilities and equipment for States' members;
5. the broadcasting of proceedings of the States of Deliberation and States of Election;
6. elections to the office of People's Deputy;
7. matters concerning the propriety and conduct of States' members.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the States' Assembly & Constitution Committee and which conferred functions on the former States' Assembly & Constitution Committee which existed until the 30th of April, 2016.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – States' Trading Supervisory Board**

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

The constitution of the Board shall be determined by the States on a recommendation made by the Policy & Resources Committee: provided that the President of the Board shall be a member of the States, at least one other member of the Board shall be a member of the States and at least two other members of the Board shall not be members of the States and also provided that neither the President nor any member of the States' Trading Supervisory Board shall be the President or a member of the Transport Licensing Authority.

- **Duties & Powers**

Within a framework of policies, guidance and instructions of the States and any of their relevant committees, to:

(a) carry out the States' role as shareholder of any incorporated companies which are owned by the States and which the States have resolved to include in the mandate of the Board, which for the time being is the following:
   1. Cabernet Group;
   2. Guernsey Electricity;
   3. Guernsey Post;
   4. Jamesco 750.

(b) ensure the efficient management, operation and maintenance of any States' unincorporated trading concerns and commercial interests which the States have resolved to include in the mandate of the Board, which for the time being is the following:
   1. Channel Islands' lottery;
   2. Guernsey Airport, which includes Alderney Airport;
   3. Guernsey Dairy;
   4. Guernsey Harbours;
   5. Guernsey Water;
   6. Property and real estate owned or leased by the States;
   7. States' Works;
   8. States' corporate engineering and architectural services.

(c) be the Waste Disposal Authority.

To exercise powers and perform duties conferred on the Board by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the States' Trading Supervisory Board and which conferred functions on the former Commerce and Employment Department, Culture and Leisure Department, Public Services Department and Treasury and Resources Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Board by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the States.

- **Title – Transport Licensing Authority**

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the ** of November, 2015.

- **Constitution**

A President and four members who shall be members of the States: provided that neither the President nor any member of the Transport Licensing Authority shall be the President or a member of the Policy & Resources Committee or the President or a member of the Committee *for* Economic Development or the President or a member of the Committee *for the* Environment & Infrastructure or the President or a member of the States' Trading Supervisory Board; and up to two non-voting members appointed by the Committee who shall not be members of the States.

- **Duties & Powers**

To determine applications for air route licences and to carry out any other transport licensing and regulatory functions which the States may confer on it from time to time.

To exercise powers and perform duties conferred on the Authority by extant States' resolution, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Transport Licensing Authority and which conferred functions on the former Commerce and Employment Department.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Authority by way of extant legislation or resolutions of the States or which may be allocated to the Authority in Annex Two to the mandates of committees of the States.

- **Title – Elizabeth College Board of Directors**

Constituted by Order in Council registered on the 11th of January, 1853 and subsequently amended.

- **Constitution**

Nine Directors, including the Dean of Guernsey (*ex-officio*).

Two Directors shall be appointed by the Lieutenant-Governor to serve for six years.

Six Directors shall be appointed by the States, one every year; and each of them shall serve for six years from the 6th of January of the year of appointment.

Any person having served the office of Director shall not be qualified for re-appointment until after the expiration of twelve months from the time of going out of office.

Any new Director appointed by the States upon a casual vacancy shall serve only for the unexpired term of the Director's predecessor.

- **Duties & Powers**

General superintendence and management of the affairs of the College.

The duties and powers of the Directors are detailed in the above Order in Council.

- **<u>Title – Guille-Allès Library Council</u>**

Relationship with the States set out in resolutions of the States of the 25th of January, 1978, the 21st of June, 1978, and the 25th of January, 2012.

- **Constitution**

The Council shall include, *inter alia*:

One member of the States who is a member of the Committee *for* Education, Sport & Culture; and one other member of the States.

The terms of office of these members shall be coterminous with those of ordinary members of committees of the States.

- **Duties & Powers**

The administration of the Guille-Allès Library.

- **Title – Ladies' College Board of Governors**

Constituted by the Ladies' College (Guernsey) Law, 1962, as amended, and by resolutions of the States of the 28th of November, 1990.

- **Constitution**

A Chairman who shall be a member of the States.

Two governors who shall be appointed by the States.

Two governors who need not be members of the States who shall be nominated by the Committee *for* Education, Sport & Culture for election by the States.

Two governors who need not be members of the States who shall be nominated by the Chairman and the four aforementioned Governors for election by the States.

- **Duties & Powers**

The conduct of the College in accordance with the provisions of the Law.

- **<u>Title – Priaulx Library Council</u>**

Constituted by Article II of Billet d'État V of 1880.

- **Constitution**

Nine members, including two trustees appointed for life by the States, and two ordinary members appointed by the States.

One of the ordinary States-appointed members shall retire annually according to seniority.

Vacancies resulting from death or resignation shall be filled by the Council.

- **Duties & Powers**

The administration of the Priaulx Library.

Annex One to the Mandates of Committees of the States

A. General Responsibilities of the Policy & Resources Committee and all Principal Committees

1. to contribute to fulfilling the States' objectives and policy plans, including by supporting and participating in cross-committee work;

2. to monitor and report on policy outcomes in areas relating to its mandate;

3. to ensure that public funds and other resources are used to best advantage, including through co-operative and flexible working practices.

B. General Responsibilities of all Committees of the States

1. to exercise powers and perform duties conferred on the committee by extant legislation and by extant States' resolutions;

2. to be accountable to the States for all policies developed, actions taken and services delivered or overseen by the committee;

3. to be accountable to the States for the management and safeguarding of public funds and other resources entrusted to the committee;

4. in any policy letter submitted to the States to set out clearly how the proposals contained therein relate to the duties and powers or the purpose and policy responsibilities of the committee, how the proposals contribute to the States' objectives and policy plans and what joint working or consultation has taken place with other committees;

5. to act in accordance with the Rules of Procedure of the States and their committees;

6. to be aware of the powers, duties and limits of the committee's mandate and to respect and not to undermine the mandates of other committees of the States;

7. to be aware that a committee of the States is in effect an agent of the States of Guernsey exercising functions conferred on it by resolution of, or legislation approved by, the States of Deliberation; and as such to respect that, save in specific circumstances where legislation provides otherwise, the States may at any time they consider it desirable issue directions to a committee and that committee shall be expected to carry into effect any such directions irrespective of whether that committee or any of its individual members agree or disagree with such directions: provided that the rejection by the States of recommendations or advice of a committee shall not *ipso facto* require the resignation of that committee.

C. Reference to Enactments

1. unless otherwise provided, or the context requires otherwise, a reference to an enactment in the mandate of a committee is to be interpreted as a reference to the enactment as from time to time amended, re-enacted with or without modification, extended or applied.

Annex Two to the Mandates of Committees of the States

Schedule of Committees' Operational Functions

- **Policy & Resources Committee – Operational Functions**

The **Policy & Resources Committee** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Policy Council,** with the *exception* that the following operational functions will transfer:

to the **Committee *for* Education, Sport & Culture**
- Island Archives

to the **Committee *for* Employment & Social Security**
- Legal Aid

to the **Committee *for the* Environment & Infrastructure**
- Operational matters relating to the preparation of the States' Strategic Land Use Plan
- Regulatory, advisory, administrative and appeals functions relating to land planning other than those relating to certifying the States' Strategic Land Use Plan

to H M Greffier
- Administrative functions relating to the preparation and publication of the Agenda, Billets d'État and other accompanying papers for meetings of the States of Deliberation and the States of Election

(b) the **Treasury and Resources Department,** with the *exception* that the following operational functions will transfer:

to the **States' Trading Supervisory Board**
- Shareholder's functions and duties in respect of the States' trading companies
- Management of all States-owned and leased property and real estate including the provision of advice to the organisation on property matters and the provision of corporate engineering and architectural services

(c) the **Legislation Select Committee,** in relation to the following operational functions *only*:
- Advice and support in relation to legislative functions

(d) the **Public Accounts Committee,** in relation to the following operational functions *only*:
- Advice and support in relation to the appointment of external auditors and their remuneration

- **Committee *for* Economic Development – Operational Functions**

The **Committee *for* Economic Development** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Commerce and Employment Department**, with the *exception* that the following operational functions will transfer:

to the **Committee *for* Education, Sport and Culture**
- The Guernsey Training Agency

to the **Committee *for* Employment & Social Security**
- The offices of Health and Safety
- Employment Relations Service

to the **Committee *for the* Environment & Infrastructure**
- Agriculture, the rural environment, biodiversity and countryside management advisory services
- Farm loans scheme and farm management including dairy farm manure management plans
- Guernsey global breeding plan
- Animal communicable disease monitoring, animal health and welfare including import and export of live animals, vet licencing, the pet passport scheme and veterinary medicines
- Certification of meat imports and exports
- Provision of the slaughterhouse and incinerator
- Liaison with relevant regulatory and advisory bodies on environmental matters
- Security of supply of essential commodities including food, fuel and energy
- Energy advisory services, including in relation to renewable energy
- States' Vet

to the **Committee *for* Home Affairs**
- The offices of trading standards, and consumer protection advice

to the **Transport Licensing Authority**
- Issuing air route licences

to the **States' Trading Supervisory Board**
- Management of the Guernsey Dairy, including liaison with its stakeholders

(b) the **Culture and Leisure Department**, in relation to the following operational functions *only*:
- The Information Centre

(c) the **Home Department**, in relation to the following operational functions *only*:
- Broadcasting services

- **<u>Committee *for* Education, Sport & Culture – Operational Functions</u>**

The **Committee *for* Education, Sport & Culture** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Education Department**

(b) the **Culture and Leisure Department,** with the *exception* that the following operational functions will transfer:

to the **Committee *for* Economic Development**

- The Information Centre

to the **Committee *for the* Environment & Infrastructure**

- La Vallette Bathing Pools
- Management of public parks

to the **States' Trading Supervisory Board**

- Administration and promotion of the Channel Islands' lottery

(c) the **Commerce and Employment Department,** in relation to the following operational functions *only*:

- The Guernsey Training Agency

(d) the **Health and Social Services Department,** in relation to the following operational functions *only*:

- The Institute for Health and Social Care Studies

(e) the **Policy Council,** in relation to the following operational functions *only*:

- Island Archives

- **Committee *for* Employment & Social Security – Operational Functions**

The **Committee *for* Employment & Social Security** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Social Security Department**

(b) the **Housing Department,** with the exception that the following operational functions will transfer:

to the **Committee *for* Health & Social Care**

- Provision of domiciliary care services at Le Grand Courtil and La Nouvelle Maraitaine

to the **Committee *for* Home Affairs**

- Administration of the Housing Control and Right to Work Laws
- Administration of the Open Market Housing Register

(c) the **Commerce and Employment Department,** in relation to the following operational functions *only*:

- The offices of Health and Safety
- Employment Relations Service

(d) the **Policy Council,** in relation to the following operational functions *only*:

- Legal Aid

- **Committee *for the* Environment & Infrastructure – Operational Functions**

The **Committee *for the* Environment & Infrastructure** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Environment Department**, with the *exception* that the following operational functions will transfer:

to the **Development & Planning Authority**

- Operational functions arising out of planning legislation (except those that relate to planning inquiry administration), including –
  - Enforcing planning legislation
  - Operational functions relating to preparing development plans, subject plans, local planning briefs, guidance notes, development briefs and frameworks
  - Administering planning applications and pre-application advice requests
  - Making building regulations and Guernsey technical standards
  - Administering building regulation applications and pre-application advice requests
  - Conservation and design advice
  - Administering statutory registers of protected buildings and protected monuments
  - Administering tree protection orders and functions in relation to sites of special significance and conservation areas
  - Immunity certificates and property searches
- *Salles Publique*, public building and public entertainment inspection and licencing
- Clearance of ruins

(b) the **Public Services Department**, with the *exception* that the following operational functions will transfer:

to the **States' Trading Supervisory Board**

- Management of Guernsey and Alderney airports
- Management of St Peter Port and St Sampson's Harbours including:
  - Coast guard services
  - Guernsey register of British ships
  - Maritime safety including the investigation of marine accidents, provision of navigational aids, safety information and liaison with search and rescue services
  - Monitoring the compliance with international and local laws of all vessels in Bailiwick waters and control of shipping in Bailiwick waters, excluding receiver of wreck and responding to pollution at sea
  - Pilotage services
- Management of the collection, disposal and recovery of solid waste
- The Waste Disposal Authority
- Management of the public water supply and waste water disposal including:
  - Monitoring water catchment area for pollution and nutrient levels
  - Management of controlled streams
  - Collection and treatment of rainfall
  - Water pollution
- Management of a direct labour organisation and emergency works response team (States' Works)

(c) the **Commerce and Employment Department**, in relation to the following operational functions *only*:

- Agriculture, the rural environment, biodiversity and countryside management advisory services

- Farm loans scheme and farm management including the dairy farm manure management plans
- Guernsey global breeding plan
- Animal communicable disease monitoring, animal health and welfare including import and export of live animals, vet licencing, the pet passport scheme and veterinary medicines
- Certification of meat imports and exports
- Provision of the slaughterhouse and incinerator
- Liaison with relevant regulatory and advisory bodies on environmental matters
- Security of supply of essential commodities including food, fuel and energy
- Energy advisory services, including in relation to renewable energy
- States' Vet

(d) the **Culture and Leisure Department,** in relation to the following operational functions *only*:

- La Vallette Bathing Pools
- Management of public parks

(e) The **Policy Council,** in relation to the following operational functions *only*:

- Operational matters relating to the preparation of the States' Strategic Land Use Plan
- Regulatory, advisory, administrative and appeals functions relating to land planning other than those relating to certifying the States' Strategic Land Use Plan

- **<u>Committee *for* Health & Social Care – Operational Functions</u>**

The **Committee *for* Health & Social Care** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Health and Social Services Department,** with the *exception* that the following operational functions will transfer:

to the **Committee *for* Education, Sport and Culture**

- The Institute for Health and Social Care Studies

(b) the **Housing Department,** in relation to the following operational functions *only*:

- Provision of domiciliary care services at Le Grand Courtil and La Nouvelle Maraitaine.

- **<u>Committee *for* Home Affairs – Operational Functions</u>**

The **Committee *for* Home Affairs** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Home Department,** with the *exception* that the following operational functions will transfer:

to the **Committee *for* Economic Development**

- Broadcasting services

(b) the **Housing Department,** in relation to the following operational functions *only*:

- Administration of the Housing Control and Right to Work Laws
- Administration of the Open Market Housing Register

(c) the **Commerce and Employment Department,** in relation to the following operational functions *only*:

- The offices of trading standards, and consumer protection advice.

- **Civil Contingencies Authority – Operational Functions**

The **Civil Contingencies Authority** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by the **Civil Contingencies Authority.**

- **<u>Development & Planning Authority – Operational Functions</u>**

The **Development & Planning Authority** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by the **Environment Department** in relation to the following operational functions *only*:

- Operational functions arising out of planning legislation (except those that relate to planning inquiry administration), including:
  - Enforcing planning legislation
  - Operational functions relating to preparing development plans, subject plans, local planning briefs, guidance notes development briefs and frameworks
  - Administering planning applications and pre-application advice requests
  - Making building regulations and Guernsey technical standards
  - Administering building regulation applications and pre-application advice requests
  - Conservation and design advice
  - Administering statutory registers of protected buildings and protected monuments
  - Administering tree protection orders and functions in relation to sites of special significance and conservation areas
  - Immunity certificates and property searches
- *Salles Publique*, public building and public entertainment inspection and licencing
- Clearance of ruins

- **Overseas Aid & Development Commission – Operational Functions**

The **Overseas Aid & Development Commission** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by the **Overseas Aid Commission.**

- **<u>Scrutiny Management Committee – Operational Functions</u>**

The **Scrutiny Management Committee** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Public Accounts Committee,** except that the following operational functions will transfer:

to the **Policy & Resources Committee**

- Advice and support in relation to the appointment of external auditors and their remuneration

(b) the **Scrutiny Committee,**

(c) the **Legislation Select Committee,** except that the following operational functions will transfer:

to the **Policy & Resources Committee**

- Advice and support in relation to legislative functions

- **States' Assembly & Constitution Committee – Operational Functions**

The **States' Assembly & Constitution Committee** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by the **States' Assembly and Constitution Committee.**

- **States' Trading Supervisory Board – Operational Functions**

The **States' Trading Supervisory Board** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by:

(a) the **Public Services Department,** in relation to the following operational functions *only*:
- Management of Guernsey and Alderney airports
- Management of St Peter Port and St Sampson's Harbours including:
  - Coast guard services
  - Guernsey register of British ships.
  - Maritime safety including the investigation of marine accidents, provision of navigational aids, safety information and liaison with search and rescue services
  - Monitoring the compliance with international and local laws of all vessels in Bailiwick waters and control of shipping in Bailiwick waters, excluding receiver of wreck and responding to pollution at sea
  - Pilotage services
- Management of the collection, disposal and recovery of solid waste
- The Waste Disposal Authority
- Management of the public water supply and waste water disposal including:
  - Monitoring water catchment area for pollution & nutrient levels
  - Management of controlled streams
  - Collection and treatment of rainfall
  - Water pollution
- Management of a direct labour organisation and emergency works response team (States' Works)

(b) the **Commerce and Employment Department,** in relation to the following operational functions *only*:
- Management of the Guernsey Dairy including liaison with its stakeholders

(c) the **Culture and Leisure Department,** in relation to the following operational functions *only*:
- Administration and promotion of the Channel Islands' lottery

(d) the **Treasury and Resources Department,** in relation to the following operational functions *only*:
- Shareholder's functions and duties in respect of the States' trading companies
- Management and administration of all States-owned and leased property and real estate including the provision of advice to the organisation on property matters and the provision of corporate engineering and architectural services

- **Transport Licensing Authority – Operational Functions**

The **Transport Licensing Authority** shall deliver or oversee the delivery of those operational functions which immediately before the 1st of May, 2016 were delivered by the **Commerce & Employment Department** in relation to the regulation and licensing of transport services under the Air Transport Licensing (Guernsey) Law, 1995, including the issuing of air route licences.

APPENDIX B

RESOLUTIONS MADE BY THE STATES AFTER CONSIDERATION OF THE STATES' REVIEW COMMITTEE'S SECOND POLICY LETTER IN JULY, 2015

IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 9TH DAY OF JULY, 2015

Adjourned from the 7th and 8th July, 2015

The States resolved as follows concerning Billet d'État No XII dated 1st June 2015

STATES' REVIEW COMMITTEE

THE ORGANISATION OF STATES' AFFAIRS – SECOND POLICY LETTER

I.- After consideration of the Policy Letter dated 15th May 2015 of the States' Review Committee:-

1. To agree that, as set out in section 5.1 of that Policy Letter, the mandates of Principal Committees shall follow a consistent format and be divided into discrete sections as follows:

- title of the Principal Committee;
- constitution of the Principal Committee;
- purpose for which the Principal Committee exists; and
- policy, advisory and general responsibilities of the Principal Committee.

2. To agree that, as set out in section 5.3 of that Policy Letter, there shall be a Principal Committee entitled the Committee for Economic Development, which, as set out in section 6.1 of that Policy Letter, shall comprise five States' members and up to two non-States' members and which, as set out in section 5.4 of the Policy Letter, shall have the following purpose and policy and advisory responsibilities:

a) Purpose – to secure prosperity through the generation of wealth and the creation of the greatest number and widest range of employment opportunities possible by promoting and developing business, commerce and industry in all sectors of the economy;

b) Policy and advisory responsibilities – the promotion and development of all sectors of business, including construction, creative industries, digital, financial services, horticulture, intellectual property, manufacturing, media, retail and tourism; the reputation of the Island as a centre for commerce and industry; the promotion of air and sea links to and from the Bailiwick; inward investment at

the corporate and individual level; the labour skills necessary to sustain economic prosperity; competition, innovation, diversification and regulation in the economy; and safeguarding living marine resources and the sustainable exploitation of those resources.

2A. Notwithstanding paragraph 5.4.13 of that Policy Letter, to agree in respect of the financial services sector and the States' relationship with the Guernsey Financial Services Commission that the Policy & Resources Committee shall be responsible for the matters currently within the mandate of the Policy Council, and the Committee *for* Economic Development shall be responsible for the matters currently within the mandate of the Commerce and Employment Department.

3. To agree that, as set out in section 5.3 of that Policy Letter, there shall be a Principal Committee entitled the Committee for Education, Sport & Culture, which, as set out in section 6.1 of that Policy Letter, shall comprise five States' members and up to two non-States' members and which, as set out in section 5.5 of that Policy Letter, shall have the following purpose and policy and advisory responsibilities:

a) Purpose – to encourage human development by maximising opportunities for participation and excellence through education, learning, sport and culture at every stage of life;

b) Policy and advisory responsibilities – pre-, primary, secondary, further and higher education; apprenticeships; skills; lifelong learning; sport, leisure and recreation; youth affairs; the arts; libraries, museums, galleries and heritage; Island Archives; and civic celebrations and commemorations, including Liberation celebrations.

4. To agree that there shall be a Principal Committee entitled the Committee for Employment & Social Security, which, as set out in section 6.1 of that Policy Letter, shall comprise five States' members and up to two non-States' members and which, as set out in section 5.6 of that Policy Letter, shall have the following purpose and policy and advisory responsibilities:

a) Purpose – to foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation;

b) Policy and advisory responsibilities – financial and social hardship; social housing, including States' housing and the States' relationship with housing associations; supplementary benefit and housing benefit; social insurance; pensions; health insurance; long-term care insurance; social inclusion, including in relation to disability; the unemployed and the various initiatives to encourage employment and re-employment; labour market legislation and practices; health and safety in the workplace; industrial relations; and legal aid.

5. To agree that, as set out in section 5.3 of that Policy Letter, there shall be a Principal Committee entitled the Committee for the Environment & Infrastructure, which, as set

out in section 6.1 of that Policy Letter, shall comprise five States' members and up to two non-States' members and which, as set out in section 5.7 of that Policy Letter, shall have the following purpose and policy and advisory responsibilities:

a) Purpose – to protect and enhance the natural and physical environment and develop infrastructure in ways which are balanced and sustainable in order that present and future generations can live in a community which is clean, vibrant and prosperous;

b) Policy and advisory responsibilities – infrastructure, including but not limited to water, wastewater and the ports; spatial planning, including the Strategic Land Use Plan; climate change; protection and conservation of the natural environment; waste, water and stone reserves; energy, including renewable energy; solid waste; general (as distinct from exclusively social) housing; the coast and coastal defences; Alderney breakwater; traffic and transport; the road network; biodiversity; agriculture, animal health and welfare and the sustainability of food and farming; maritime affairs; and public parks.

6. To agree, that, as set out in section 5.3 of that Policy Letter, there shall be a Principal Committee entitled the Committee for Health & Social Care, which, as set out in section 6.1 of that Policy Letter, shall comprise five States' members and up to two non-States' members and which, as set out in section 5.8 of that Policy Letter, shall have the following purpose and policy and advisory responsibilities:

a) Purpose – to protect, promote and improve the health and well-being of individuals and the community;

b) Policy and advisory responsibilities – adult social care; the welfare and protection of children, young people and their families; the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions; mental health; care of the elderly; health promotion; environmental health; and public health.

7. To agree that, as set out in section 5.3 of that Policy Letter, there shall be a Principal Committee entitled the Committee for Home Affairs, which, as set out in section 6.1 of that Policy Letter, shall comprise five States' members and up to two non-States' members and which, as set out in section 5.9 of that Policy Letter, shall have the following purpose and policy and advisory responsibilities:

a) Purpose – to support a high standard of living and quality of life by maintaining and promoting a safe, stable and equitable society which values public protection and justice and respects the rights, responsibilities and potential of every person;

b) Policy and advisory responsibilities – crime prevention; law enforcement, including policing and customs; justice policy; the association between justice and social policy, for example domestic abuse and the misuse of drugs and alcohol; the new population management regime, once introduced; immigration; imprisonment, parole, probation and rehabilitation; fire, rescue

and salvage; consumer protection and advice; trading standards; data protection; emergency planning; civil defence; lotteries and gambling.

8. To agree that, as set out in section 6.2 of that Policy Letter, the arrangements which allow States' committees to delegate their functions should be made more permissive such that functions may be delegated to specific members of a committee or to other committees.

9. To agree that, as set out in section 6.4 of that Policy Letter, senior officer(s) of the States shall be accountable to any committee of the States which they serve in respect of policy direction.

10. To agree that, as set out in section 6.4 of that Policy Letter, if after the exhaustion of reasonable procedures a committee of the States makes a resolution to the effect that it has no confidence in a senior officer or senior officers serving it there shall be an expectation that the officer(s) will be transferred out of the service of that committee; and to agree that, as set out in section 6.4 of that Policy Letter, the Chief Executive and other senior officers must obtain the views of the president of a committee, and through him or her the members thereof, when appointing and appraising senior staff in the service of that committee.

11. To agree that the full mandate of the Policy & Resources Committee shall be based upon the duties and powers set out in section 7 of that Policy Letter.

12. To agree that the Policy & Resources Committee, once constituted in May, 2016, shall establish a policy and resource planning process through a Policy & Resource Plan, as set out in section 7.4 of that Policy Letter.

13. To agree that, as set out in section 7.5 of that Policy Letter, the Policy & Resources Committee may by resolution permit the adaptation of nomenclature and appellations in connection with the external relations and constitutional affairs of the States.

14. To agree that, as set out in section 7.6 of that Policy Letter, the Policy & Resources Committee, once constituted in May, 2016, shall, following examination of the issues, lay recommendations before the States to reform the political arrangements in connection with the States' role as an employer.

15. To agree that, as set out in section 7.6 of that Policy Letter, the Policy & Resources Committee, once constituted in May, 2016, shall, following examination of the issues, lay recommendations before the States to secure more visible and demonstrable impartiality in statistics and research issued by the States.

16. To agree that, as set out in section 8.2 of that Policy Letter, there shall be a Civil Contingencies Authority.

17. To agree that, as set out in section 8.3 of that Policy Letter, there shall be an Overseas Aid & Development Commission.

18. To agree that, as set out in section 8.4 of that Policy Letter, there shall be a States' Assembly & Constitution Committee.

19. To agree that, as set out in section 8.5 of that Policy Letter, Special States' Committees shall be known as States' Investigation & Advisory Committees.

20. To note the continuation, as set out in section 8.6 of that Policy Letter, of the Elizabeth College Board of Directors, Ladies' College Board of Governors, Priaulx Library Council and Guille-Allès Library Council.

21. To agree that there shall be a Passenger Transport Licensing Authority constituted as a committee of the States as set out in section 8.8 of that Policy Letter.

22. To agree that there shall be a Development & Planning Authority constituted as a committee of the States as set out in section 8.8 of that Policy Letter.

23. To agree that there shall be a States' Trading Supervisory Board constituted as a committee of the States as set out in section 8.9 of that Policy Letter, including that the States' Trading Supervisory Board shall take policy direction from the States and their relevant Principal Committees as set out in the first sentence of paragraph 8.9.23 of that Policy Letter.

24. To agree that, as set out in section 8.11 of that Policy Letter, the States should be free, if at any time they so wish, to constitute committees on which States' members are not in the majority but with the qualification that no person shall be the President of a States' committee unless he or she is an elected member of the States.

25. To agree that the full mandate of the Scrutiny Management Committee shall be based upon the duties and powers set out in section 9 of that Policy Letter.

26. To agree that, as set out in section 9.2 of that Policy Letter, the States shall elect to the Scrutiny Management Committee three States' members and two members independent of the States.

27. To agree that the arrangements in respect of precluding or not precluding members of the Scrutiny Management Committee from sitting on other States' committee shall be as set out in section 9.2 of that Policy Letter.

28. To agree, as set out in section 9.3 of that Policy Letter, that the Legislation Select Committee shall be dissolved; that the functions of the Legislation Select Committee (other than those arising under Article 66(3) of the Reform (Guernsey) Law, 1948) shall be transferred to the Scrutiny Management Committee with the intent that the functions arising under Articles 66(1) and (2) of the Reform (Guernsey) Law, 1948 shall be discharged by a standing Legislation Review Panel, as set out in paragraph 9.3.10 of that Policy Letter, for and on behalf of the Scrutiny Management Committee; and that the functions of the Legislation Select Committee arising under Article 66(3) of the Reform (Guernsey) Law, 1948 shall be transferred to the Policy & Resources Committee.

29. To agree that the Scrutiny and Public Accounts Committees shall, following examination of the issues, lay recommendations before the States no later than February 2016, in relation to the matters in paragraphs 9.4.3, 9.4.4, 9.4.5 and 9.4.9 of that Policy Letter.

30. To agree that, as set out in section 9.4 of that Policy Letter, the Scrutiny Management Committee shall be provided with accommodation, facilities and support staff independently from those provided to the Policy & Resources Committee and the Principal Committees, including removing the line management links between the States' Chief Executive and officers supporting the Scrutiny Management Committee.

31. To agree that, as set out in section 10.5 of that Policy Letter, the number of People's Deputies to be elected at the 2016 general election shall be 38; and to note that later in 2015 the States' Assembly & Constitution Committee will lay recommendations before the States regarding the allocation of those 38 seats between the electoral districts.

32. To agree that, as set out in section 10.10 of that Policy Letter, the States' Assembly & Constitution Committee shall enter into discussions with the Bailiff with regard to the seating arrangements in the Royal Court Chamber, taking into account any views on the matter expressed during the States' meeting.

33. To agree that all standing committees of the States as presently constituted shall be dissolved from May, 2016.

34. To agree that, as set out in section 11.2 of that Policy Letter, the Treasury & Resources Department shall be authorised to approve the use of up to £530,000 from the Transformation & Transition Fund to provide for the implementation of the improved committee system from May, 2016.

34A. To agree that the accounts of the improved committee system shall be prepared under recognised Accounting Standards and that the Treasury & Resources Department shall formally commence the phased implementation of recognised Accounting Standards, as resolved by the States in March 2012, with effect from 1 January 2016.

35. To note that, as set out in various sections of that Policy Letter, later in 2015 the States' Review Committee will lay before the States further recommendations necessary to allow the improved committee system to be established.

36. To note that, as set out in various sections of that Policy Letter, later in 2015 the States' Assembly & Constitution Committee will lay before the States the recommendations necessary to amend the Rules of Procedure and the Constitution and Operation of States' Departments and Committees etc. in order that they will be consistent with the improved committee system.

37. To direct the preparation of such legislation, as set out in section 11.1 of that Policy Letter and otherwise, as may be necessary to give effect to the above decisions.

38. To direct:

a) that starting in May 2016 the States' Assembly & Constitution Committee shall:

i. consider and investigate a range of workable methods of electing Peoples' Deputies, including the possibility of all or some Deputies being elected in a single electoral district; the possibility of all Deputies being elected in fewer districts than at present; and the option of single transferable votes for Guernsey elections;

ii. present that range of workable models to the States of Deliberation by no later than their meeting in June 2018, together with the Committee's recommendations;

iii. examine the merits and implications of any Resolutions made by the States after consideration of those recommendations being subject to endorsement in a public referendum; and, if thought appropriate, to include in the same policy letter further recommendations for the holding of such a referendum;

b) that the Committee shall consult with, and take evidence from, the widest possible range of persons from among the membership of the States, of Parliaments in other jurisdictions, those with expertise and experience of electoral processes in other jurisdictions, and the general public in Guernsey.

A. J. NICOLLE
HER MAJESTY'S DEPUTY GREFFIER

APPENDIX C

THE STATES' REVIEW COMMITTEE'S SECOND POLICY LETTER
LAID BEFORE THE STATES IN JULY, 2015

STATES' REVIEW COMMITTEE

THE ORGANISATION OF STATES' AFFAIRS – SECOND POLICY LETTER

The Deputy Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

15th May 2015

Dear Sir

Please find appended the second Policy Letter of the States' Review Committee.

I should be grateful if you would arrange for this Policy Letter to be submitted to the States for debate.

Yours faithfully

J P Le Tocq
Chairman

M J Fallaize
Vice-Chairman

R Conder
M H Dorey
G A St Pier
T A Le Sueur OBE
C G L Smith

The Organisation of States' Affairs

States' Review Committee – Second Policy Letter

Submitted for debate by the States on Tuesday the 7th of July, 2015

INDEX

1 EXECUTIVE SUMMARY

1.1 Last year the States committed to significant organisational reforms to take effect in May, 2016.

1.2 A new senior committee – the Policy & Resources Committee – will bring together the co-ordination of policy and resources and external relations. A new Scrutiny Management Committee will lead the scrutiny of policy, expenditure and legislation, mainly through panels drawing on a wider range of States' members and people independent of the States. Presumptions were established in favour of fewer committees with broader mandates and a reduction in the number of States' members.

1.3 The purpose of these and other changes is to improve the Island's traditional committee system in order that it can better support the States in their most important objective: to serve the people of Guernsey now and in the future.

1.4 In this policy letter the States' Review Committee makes 37 recommendations which further develop the changes agreed already.

1.5 These second stage proposals provide for substantial rationalisation of the committee structure and set out in more detail the duties and powers of the Policy & Resources Committee. They redefine the purpose, responsibilities and operation of committees, outline an improved policy and resource planning process and begin to address the need for greater ownership of policy in committees.

1.6 They establish better governance arrangements for certain specialised functions, including the States' shareholder interests and trading concerns and land planning and development control. They provide for more flexible and focused scrutiny of committees and begin to address the need to strengthen the impartiality, resources and powers of the Scrutiny Management Committee. They also allow for a measured reduction in the size of the States.

1.7 The proposals provide for matters to be dealt with at their appropriate level. The States must focus on debating legislation, broad policies and priorities, items of significant expenditure and matters of major public interest and setting the framework in which the rest of the administration should operate. The Policy & Resources Committee must concentrate on the co-ordination of policies and resources and representing the Island externally. There should be a smaller number of Principal Committees with broader portfolios. They must develop and advise the States on policy and review performance and budgets. They must also oversee and hold to account the delivery of services with

a view to securing improved outcomes for the community. Officers should run public services in accordance with policies set down by the States and their committees.

1.8 The reforms agreed by the States last year, and developed further in this policy letter, represent substantial reform of the committee system, but they are pragmatic and achievable.

1.9 If adopted as a package they should provide conditions more conducive to effective leadership and the sound co-ordination of policies and resources; proportionate checks and balances; and sufficient flexibility to adapt if and when circumstances change.

2 INTRODUCTION

2.1 The States' Review Committee

2.1.1 On the 1st of December, 2011 22 States' members submitted a requête which asserted: *"[m]atters relating to governance have received considerable attention – at both a political and operational level – during the present States' term…it would be expedient in the next term of the States to examine without constraint whether there are any options for reform of the structure and functions of the [States] which might enable the progress made already in respect of good governance to be advanced further."*

2.1.2 On the 9th of March, 2012 the States approved the prayer of the requête by 41 votes to one and resolved to establish the States' Review Committee ("the Committee") to undertake a comprehensive review of the organisation of States' affairs and recommend any reforms considered necessary.

2.1.3 The Committee was constituted after the general election of 2012. The membership of the Committee is as follows: Deputy J P Le Tocq (chairman), Deputy M J Fallaize (vice-chairman), Deputy R Conder, Deputy M H Dorey, Deputy G A St Pier, Mr T A Le Sueur OBE and Mrs C G L Smith[6]. Between May, 2012 and March, 2014 the Committee was chaired by Deputy P A Harwood, who thereafter kindly agreed to continue attending meetings in an advisory, non-voting capacity.

2.2 The First Policy Letter

2.2.1 In the first instance the Committee examined the strengths and weaknesses of the present structure of the States, assisted by written and verbal submissions from a considerable number of people with direct experience of the States, including 39 of the 41 States' members who were not members of the Committee, former States' members, former Bailiffs and Law Officers, present and former senior civil servants and other persons who whether through their work or other endeavours had been close observers of the States. Members of the Committee met separately with 15 other committees of the States and the Committee's Principal Officer met separately with chief officers and others. The Committee also met several elected members and

[6] Mr Terry Le Sueur OBE was a member of the States of Jersey for 24 years, both before and after structural reforms of the States in 2005. Mr Le Sueur served as Jersey's chief minister before retiring in 2011. Mrs Claire Smith, a solicitor, was formerly a senior associate of Spicer & Partners Guernsey LLP and is now a principal associate of Eversheds LLP. Mrs Smith has extensive experience of public law and local government, including advising on the implementation of the Local Government Act, 2000. Mr Le Sueur and Mrs Smith were elected to the Committee by the States.

officers experienced in the politics and administration of the other Crown Dependencies, studied numerous earlier reports about the States and took into account public consultations undertaken during previous reviews.

2.2.2 It was clear to the Committee that certain reforms introduced in 2004 had brought about change for the better. In particular, rationalisation in the constitution of the States and the number of States' committees removed some of the barriers to co-operation and provided opportunities for the public sector to be organised more efficiently; the broader mandates of some committees encouraged them to focus more on issues of policy; and electors had more equal representation in the States. The Committee wished these improvements to be protected.

2.2.3 Nonetheless, a substantial majority of submissions made to the Committee advocated material reform. Based on the many submissions received and its own observations, the Committee found that overall the present structure of the States cannot consistently provide for effective leadership, sound co-ordination of policies and resources and proportionate checks and balances; nor is it sufficiently flexible to adapt if and when circumstances changed.

2.2.4 In its first policy letter, which was laid before the States in July, 2014, the Committee invited the States to make 'the binary choice' between substantially improving the committee system or adopting a ministerial system of government and offered its opinions on how each system would work in practice. The Committee unanimously recommended the improved committee system.

2.2.5 During the States' debate no amendments were laid to adopt a ministerial system nor, indeed, to adopt a modified version of the present structure; and very little support was expressed for making no structural change at all.

2.2.6 After two days of debate the States approved the Committee's main proposals together with three amendments which the Committee did not oppose.

2.2.7 The resolutions made by the States in July, 2014 determined the overall future structure of the States, including:

- the continuation of the Island's committee system of administration;
- a senior committee of five States' members – the Policy & Resources Committee – to bring together the co-ordination of policy and resources and external relations;
- the President of the Policy & Resources Committee to be the Island's senior political office;

- no more than nine Principal Committees with a presumption in favour of further rationalisation, and a presumption in favour of all Principal Committees being served by five States' members, each led by a President of the Committee;

- a single Scrutiny Management Committee to lead the scrutiny of policy, expenditure and legislation, primarily through panels bringing together a range of States' members and persons independent of the States; and

- a presumption in favour of reducing the number of States' members.

2.2.8 The States directed the Committee to prepare a second policy letter to include further recommendations to enable the improved committee system to be introduced to coincide with the start of the next States' term in May, 2016.

2.3 The Second Policy Letter

2.3.1 This second policy letter is informed by the Committee's further deliberations over the past several months; the research and consultation referred to in paragraph 2.2.1, much of which related to matters which were always to be dealt with in the second stage of the review; comment obtained from public meetings and a public drop-in session held after the publication of the Committee's initial proposals; speeches made during the States' debate on the first policy letter; and a further round of consultation with States' members and some committees undertaken in the latter months of 2014.

2.3.2 First, in order to reacquaint readers with the detail of what has been agreed thus far, this policy letter explains why the role and powers of the States of Deliberation will remain unchanged and sets out a synopsis of the original case for the improved committee system endorsed by the States last year together with the resolutions made by the States. The first policy letter can be found in Billet d'État XIV of 2014.

2.3.3 This policy letter then develops further the reorganisation agreed last year *viz*. the Policy & Resources Committee; Principal Committees; the planning, development and co-ordination of policy; the Scrutiny Management Committee; other committees and authorities; the number of States' members etc. It also addresses the resource and legislative implications of the recommendations and outlines the further work which remains to be completed.

2.3.4 The changes agreed by the States last year, and developed further in this policy letter, represent substantial reform of the committee system, but they are pragmatic and achievable. They respect and build upon existing strengths while addressing the most serious shortcomings in the present States' structure.

2.3.5 The reforms, if adopted as a package, should provide conditions more conducive to effective leadership and the sound co-ordination of policies and resources; proportionate checks and balances; and sufficient flexibility to adapt if and when circumstances change.

2.3.6 The Committee understands well that Guernsey is unique politically and culturally. While it has been able to draw upon the experiences of other jurisdictions, the Committee does not favour simply trying to import what may be perceived to work well elsewhere. No administrative structure can be designed in the abstract. What is being proposed is appropriate for Guernsey.

2.3.7 All organisational structures are imperfect: in no way does the Committee seek to suggest otherwise. Organisations are made up of people: their culture, conduct and personal relationships are hugely important in determining the effectiveness of any organisation. Governing effectively requires a combination of people with the right skills operating in a structure which allows them to make the most of those skills. However, without organising their affairs more coherently, the conditions will not exist for States' members and officers to administer the Island as competently and as effectively as possible, which ultimately must be the aim of the exercise.

2.3.8 Throughout its review the Committee has recognised that the sole purpose of the States' structure must be to serve the people of Guernsey, both now and in the future. That is the overriding objective of the reforms directed by the States.

2.4 The Unanimity of the Committee

2.4.1 In the past, committees established to undertake reviews of the structure of the States have generally been unable to reach consensus.

2.4.2 Significantly, as in the case of the first policy letter, the members of the States' Review Committee are unanimous in their support for all of the recommendations contained in this second policy letter.

2.5 The Third Stage of the Review

2.5.1 Rule 18 of the rules relating to the Constitution and Operation of States' Departments and Committees states, *inter alia*:

"…Special States Committees (i.e. the members thereof) shall continue in office until: (i) they have fulfilled their mandate, and (ii) any legislation designed to give effect to such recommendations of the Special Committee as the States may have resolved to adopt has been presented to the States, approved, and where necessary registered."

2.5.2 It is anticipated that (ii) above will be complete by the end of 2015. In the meantime, any work which remains outstanding will need to be undertaken and presented to the States by the States' Review Committee and, in respect of some items, by the States' Assembly & Constitution Committee in order that all matters which require States' resolution can be settled by May, 2016.

3 GUERNSEY'S POLITICAL SYSTEM

3.1 The States of Deliberation Today

3.1.1 In almost all other parliamentary democracies the functions of government are allocated to representatives of the party or parties who, alone or in coalition, hold the most seats in parliament and they have the necessary authority for the formation of an executive or government. Policy is made by the government within a legislative and budgetary framework set by parliament.

3.1.2 Guernsey, however, does not have an executive or government in the conventional sense, i.e. as something distinct from, although accountable to, parliament. Instead, parliamentary and governing functions are fused in one body, the States of Deliberation. Therefore, Guernsey, almost uniquely, is governed not just through its parliament but by its parliament. This is crucial in understanding Guernsey's political system.

3.1.3 In practice, most day-to-day functions are carried out by committees of the States, each of which is independently responsible to the States of Deliberation. Committees of the States – individually or collectively – are in no way analogous to an executive or government. A committee is in effect an agent of the States of Guernsey exercising functions conferred on it by resolution of, or legislation approved by, the States of Deliberation.

3.1.4 The States of Deliberation:

- allocate the functions of government;
- carry out the functions of government which they have retained – for example, policy determination;
- debate and vote upon proposals to enact, amend or repeal legislation;
- debate and vote upon proposals for taxation and expenditure;
- scrutinise and hold to account the policies, decisions and administration of those functions of government which they have allocated to their committees.

3.1.5 The involvement of the States as a parliament in determining policy and making 'executive' decisions results in much political and governmental business being carried out in open debate in public whereas in many other jurisdictions it would be dealt with in private by a distinct executive or government. In one respect this contributes positively to democracy, demonstrating open, plural debate and transparent decision-making. On the other hand, it can adversely affect perceptions of good governance.

3.1.6 A further important aspect is that the States undertake functions and provide services which in larger jurisdictions would be found distributed between central, regional or local government and other bodies. In a relatively small jurisdiction with a very high degree of self-government this 'unitary' approach is cost-effective and logical. However, the concentration of such a broad range of responsibilities inevitably brings challenges both in terms of planning policy and delivering services.

3.2 The States of Deliberation in the Improved Committee System from 2016

3.2.1 While consultation undertaken by the Committee and the debate and resolutions made on its first policy letter indicated considerable support for reform, very little political and public appetite was expressed for discarding Guernsey's committee system of administration altogether.

3.2.2 What was proposed by the Committee and endorsed by the States reflected this desire for meaningful but measured change. The improved system endorsed by the States last year and developed further in this policy letter is emphatically a committee system of administration: it is based upon the Island being governed by the States through their committees. The essential role and functions of the States of Deliberation – including the primacy of the Assembly in determining policy – will remain unchanged.

3.3 The Procedures of the States of Deliberation

3.3.1 The Committee acknowledges the following extracts of a policy letter of the States' Assembly & Constitution Committee which was laid before the States earlier this year and which relate to further policy letters which that Committee intends to present to the States before the end of its term of office:

"…a separate policy letter…to be brought to the States in 2015 would deal with the convening of [States'] meetings, the procedure for the submission of policy letters and other reports, generally how the States manage and consider the business before them, and rules of debate, including inter alia whether there should be time limits on speeches or debates or limits on the numbers of speakers...hours of sitting, extensions and adjournments…[and] ability for the States to sit in committee.

"The Rules of Procedure have been altered to a greater or lesser extent at least once a year in the last decade. This has resulted in a document which fulfils its purpose but is not necessarily cohesive or logically structured…The Committee therefore intends…to carry out a complete review of the Rules with a view to considering whether they are all needed, a complete rearrangement to tidy them up, any consequential rewriting needed, and generally to put them in a more logical order. The Committee will also propose combining the Rules of Procedure and the Committee Rules and the Code of Conduct. The proposed rewording of the Rules, which of course will be presented to the States in the normal way, will be carried out so as to be fully consistent with the States' Review Committee's proposals…The intention is for the new structure of government to be accompanied with a clearer and more coherent set of rules governing the procedures of the States and their committees."

4 SYNOPSIS OF THE FIRST POLICY LETTER AND THE STATES' RESOLUTIONS OF 2014

4.1 Combining Responsibility for Policy and Resources

4.1.1 Policy and resources have an inextricable relationship: each is wholly dependent on the other. In the first stage of its review the Committee identified that the present States' structure militates against effective and co-ordinated policy and resource planning.

4.1.2 In a committee system of administration, in which ultimately each committee is independently responsible to the States, the complex task of planning and co-ordinating policy and resources is especially formidable when responsibility for policy co-ordination rests with one committee (Policy Council) and responsibility for resources, especially finance, rests with another committee (Treasury & Resources).

4.1.3 During the Committee's extensive consultation period, not a single respondent disputed the need for the States to elect from among their number a group of members to sit as a senior committee. Today the Policy Council is clearly meant to be the senior committee. However, this division of responsibility between two separate committees has created two centres of leadership and co-ordination, which is not conducive to the effective administration of the Island.

4.1.4 The Committee concluded – and the States agreed – that there was need for a single senior committee with responsibility for the States-wide planning and co-ordination of policy and resources: the Policy & Resources Committee.

4.1.5 In broad terms the Policy & Resources Committee will embrace and develop the main responsibilities for policy co-ordination, resource allocation and external and constitutional affairs which are currently divided between two committees (Policy Council and Treasury & Resources), but in order that the Policy & Resources Committee can remain focused on these matters it should not absorb numerous secondary responsibilities of the Policy Council and Treasury & Resources.

4.1.6 The Policy & Resources Committee will need to develop its political standing and earn the respect of the States, but it will start with several advantages: it will have responsibility for both component parts of the planning and co-ordination process – policy and resources; its mandate will be more tightly focused on those primary functions; as a result of other recommendations which the States approved last year its members will not be diverted by other major committee responsibilities; and, if the

recommendations in this policy letter are approved, it will need to co-ordinate between fewer other committees.

On the 9th of July, 2014 the States made the following resolution by 40 votes to six:

To agree that in order to provide clear leadership through the co-ordination of policy and resources, there shall be a single senior committee, designated the Policy & Resources Committee, with the following main functions:

a) policy co-ordination, including leading the policy planning process;

b) allocation and management of resources, including the States' budget;

4.2 Membership of the Policy & Resources Committee

4.2.1 The preponderance of submissions made to the Committee proposed that committees of five members generally functioned effectively, provided for a diverse range of opinion and avoided the possibility of tied votes. Today's senior committee, the Policy Council, has 11 members, which is too many to function effectively as a coherent body.

4.2.2 The Committee proposed – and the States agreed – that the Policy & Resources Committee should comprise five States' members led by the holder of the Island's senior political office.

4.2.3 For several reasons the *ex officio* constitution of the Policy Council was identified as a major weakness which it was suggested should not be replicated in the Policy & Resources Committee.

4.2.4 An *ex officio* constitution is inherently inflexible: the number or range of functions of other committees cannot be adjusted without also changing the size and profile of the membership of the senior committee. At present, either the number of departments is set according to what is considered to be the ideal number of members of the Policy Council, which is far from the most rational way of determining the appropriate number of departments, or else the number of members of the Policy Council arises, almost by accident, out of the number of departments. In future, as circumstances and challenges in the Island change, it may be necessary for the States to adjust their committees and they should be free to do so without also having to change the size and profile of the membership of the Policy & Resources Committee.

4.2.5 In order for the political heads of all Principal Committees also to be members of the Policy & Resources Committee it would be necessary to reduce the number of Principal Committees from 10 today (i.e. the 10 departments) to just four, which is simply not workable.

4.2.6 There is conflict in the role of a member of the Policy Council today. It is unclear whether a member's primary responsibility is to represent his or her own views or his or her department's views or to contribute to the development of a States-wide approach and then to ensure it is promulgated at the level of his or her department. Several present and former members of the Policy Council advised that the Committee's proposals should address that conflict.

4.2.7 Attendance at meetings of the Policy Council is constantly changing. In its first policy letter the Committee identified that in the six-month period ending the 31st of October, 2013 an average of 2.6 ministers were absent from each of the Policy Council's 16 meetings and in total 23 States' members – half the entire Assembly – attended its meetings. In the 12-month period to the 31st of October, 2014 Policy Council meetings were attended by a total of 25 States' members. Such absence of continuity in membership is not conducive to the work of a committee charged with leading the co-ordination of States' activities.

4.2.8 Membership of the Policy & Resources Committee, like membership of the Policy Council and Treasury & Resources today, will clearly require considerable commitment and it is doubtful that such commitment can be expected – at least not on a consistent basis – of the Presidents of busy Principal Committees with their own broad mandates. The Committee is of the opinion that the workload of a member of the Policy & Resources Committee should certainly be no more onerous than that of a member of the Policy Council and Treasury & Resources today.

4.2.9 The two roles – political head of a major committee on the one hand and policy co-ordinator on the other – require different skills and interests and it cannot be assumed that they will inevitably exist in the same members.

4.2.10 Accountability is a key consideration. When electing members to senior offices today the States may take into account the mandate of the Policy Council but essentially they are electing the political heads of each department in turn. Thus accountability in the Policy Council is severely compromised. The States cannot remove the Policy Council without simultaneously removing every department minister and thereby disrupting departments which may have had nothing to do with the events which provoked the removal of the Policy Council. In a committee system, this cannot be satisfactory.

4.2.11 The Committee suggested that accountability in the Policy & Resources Committee – and, as importantly, its own sense of accountability to the States – would be stronger if its members were elected expressly to be responsible for the mandate of that committee rather than becoming members of it on an *ex officio* basis through their responsibilities heading other committees.

4.2.12 Equally the Committee was mindful of the potential risk, not unfamiliar to the States, of the senior committee including the heads of some key committees but excluding the heads of others. The Policy & Resources Committee could quickly lose the confidence of other committees and the States if there was a perception that it was overly influenced by particular sectoral committee interests.

4.2.13 The Committee proposed – and the States agreed – that the efforts of the Policy & Resources Committee to manage States' finances and other resources, co-ordinate policy across the States and take responsibility for external relations would be aided greatly by its members being independent of the Principal (spending) Committees and therefore able genuinely to stand above sectoral interests and take, and be seen to be taking, a States-wide view.

4.2.14 An amendment was proposed by Deputy D J Duquemin recommending that in the second stage of its review the Committee should consider ways of securing for the Policy & Resources Committee *"…the requisite individual and collective skills and experience to provide clear leadership across the Committee's mandate…"* and investigate *"…the merits of the four ordinary members of the Committee each being designated as the States' lead member for one of the Committee's main functions…"*. The amendment was lost by 16 votes to 30.

On the 9th of July, 2014 the States made the following resolution *de vive voix*:

To agree that the Policy & Resources Committee shall comprise five States' members, none of whom shall be members of the Principal Committees.

4.3 The Island's Senior Political Office

4.3.1 A paradox was identified in the office of Chief Minister today: the separation of policy co-ordination and resources inhibits the capacity for the holder of that office to provide even the leadership expected in a committee system and yet the title implies that the office enjoys considerable political authority. It would be hard to conceive of a less logical arrangement. Unsurprisingly there is a wide disconnect in Guernsey

between what is generally expected of the person holding the title Chief Minister and the actual powers of the role.

4.3.2 The Committee's view was that the holder of the Island's senior political office should have the tools necessary to undertake the role expected of him or her and a title which genuinely reflects that role. This is the only rational approach.

4.3.3 The Committee suggested that allowing the holder of the Island's senior political office to lead a Policy & Resources Committee with combined responsibility for the planning and co-ordination of policy, the allocation of resources and external relations would enhance the capacity of the office-holder to provide leadership.

4.3.4 The Committee had a general and clear view regarding appellations: if the States wished to adopt a ministerial system of government the titles Minister and Chief Minister were entirely appropriate, but if the States rejected a ministerial system of government in favour of a committee system the titles Minister and Chief Minister could not be anything other than misleading and unhelpful.

4.3.5 Therefore, the Committee proposed – and the States agreed – that the Island's senior political office should be designated *President of the Policy & Resources Committee*. *President* has a very long political heritage in Guernsey, is not gender specific and accurately describes the presiding role expected of the political heads of committees.

> On the 9th of July, 2014 the States made the following resolution *de vive voix*:
>
> To agree that President of the Policy & Resources Committee shall be the Island's senior political office.

4.4 External Relations and Constitutional Affairs

4.4.1 In the field of external relations and constitutional affairs the Policy Council exercises an oversight role, largely through a sub-committee, and the policy agenda tends to be driven by a small number of elected members supported by a small team of advisors.

4.4.2 The nature of Guernsey's economy and the increasing inter-dependence of the modern world mean that the importance of relations with other jurisdictions is likely to grow rather than diminish if the Island's economic prosperity and self-government are to be maintained and strengthened. In referring to other jurisdictions, the Committee included Guernsey's much-valued relations with the other islands of the Bailiwick.

4.4.3 The Committee saw no merit in recommending that responsibility for external relations and constitutional affairs should fall to a separate States' committee distinct from the Policy & Resources Committee. This view was challenged by two almost identical amendments proposing the creation of a separate committee of the States – the External Relations and Constitutional Affairs Committee. The first amendment, proposed by Deputy M M Lowe, was defeated by 11 votes to 35; the second, proposed by Deputy D B Jones, was defeated by 10 votes to 35.

4.4.4 Nor did the Committee see any merit in recommending the creation of an office, independent of other offices and committees, to which would be elected a single individual member to assume responsibility for external relations on behalf of the States. This would be contrary to the committee system and leave the Island's external relations at risk in the event of the office holder being indisposed.

4.4.5 The Committee recommended – and the States agreed – that the most appropriate arrangement was for responsibility for external relations to sit with the Policy & Resources Committee and for that Committee to designate its President or one of its members to be the lead member for external relations.

4.4.6 The arrangement agreed by the States will ensure a prominent profile for external relations policy in the improved committee system from May, 2016. The member of the Policy & Resources Committee with the most appropriate skills and interests will be able to afford priority to the Island's external relations while still contributing to the other parts of the Committee's mandate. The designated member will be able to call upon other colleagues – for example, other members of the Policy & Resources Committee or the Presidents or other members of any of the Principal Committees – to support or deputise whenever particular circumstances require, thus allowing a collegiate approach to external relations to be maintained and ensuring that the States' capacity for external relations remains resilient.

On the 9th of July, 2014 the States made the following resolution *de vive voix*:

To agree that the Policy & Resources Committee shall have responsibility for external relations and constitutional affairs and the Committee shall designate its President or one of its members as the States' lead member for external relations and constitutional affairs.

4.5 Principal Committees: Number, Function and Membership

4.5.1 The Committee proposed – and the States agreed – that most of the policy-making, regulatory and public service functions of the States should be delegated to Principal Committees.

4.5.2 It was identified that the improved committee system would provide more flexibility in setting the number of such committees simply because, unlike in the present structure, the matter could be determined on its own merits without having any bearing on the size or profile of the senior committee.

4.5.3 The Committee acknowledged that there was quite considerable appetite for rationalising the number of Principal Committees with a view to encouraging focus on policy-making, aiding co-ordination between committees and obtaining efficiencies in bureaucracy.

4.5.4 Based on submissions received and its own initial consideration of the issues, the Committee had a general presumption in favour of rationalisation, but wished to use the second stage of its review to consider more fully how the States' many functions could best be allocated at committee level. The States supported this approach.

4.5.5 A small number of submissions received by the Committee proposed that all Principal Committees should comprise seven States' members. A slightly larger number of submissions, though still a minority of total submissions, proposed that some or all Principal Committees should comprise only three States' members. The preponderance of submissions, however, proposed that Principal Committees should comprise five States' members.

4.5.6 The Committee suggested that the size of the membership of a Principal Committee should be determined with reference to its range of functions, workload and likely number of sub-committees and in any event should properly balance democracy and efficiency, but that there should be a presumption in favour of Principal Committees containing five States' members. The States supported this approach.

On the 9th of July, 2014 the States made the following resolutions *de vive voix*:

To agree that most of the policy-making, regulatory and public service functions of the States shall be delegated to no more than nine Principal Committees, but when considering the precise allocation of such functions there shall be a general presumption in favour of rationalisation of committees where practicable.

To agree that each Principal Committee shall be led by a President of the Committee and the number of other members shall be determined with reference to the range of functions, the workload and the likely number of sub-committees, but there shall be a presumption in favour of Principal Committees containing five States' members unless there is a wide variance in the breadth of mandates among Principal Committees.

4.6 Scrutiny overview

4.6.1 In 2004 the States established two standing committees, Public Accounts and Scrutiny, to provide scrutiny of financial affairs and policy respectively. A third committee, Legislation Select, was reconstituted to provide scrutiny of legislation.

4.6.2 Scrutiny, oversight and accountability were recurring themes in submissions made to the Committee. It was clear that many members – including but not limited to those who have at one time or another been members of the scrutiny committees – felt strongly about scrutiny and wished to see its status and influence in the States strengthened. It was generally accepted that if the principles of good governance are to be fulfilled committees which make policy, spend public money and sponsor legislation must be open to scrutiny which is seen to be objective, transparent and credible.

4.6.3 In 2012 the Policy Council commissioned Ms Belinda Crowe to undertake a review of the States' scrutiny functions. In her report, Ms Crowe wrote:

"…the widely held view is that the three scrutiny committees were designed for a different system of government and little attention was paid to scrutiny at the time the reforms were introduced in 2004.

"The barriers to effective scrutiny in Guernsey go wider than the functions and operation of the scrutiny committees themselves…The problems are endemic and require systemic change…".

4.6.4 Most respondents who submitted views on scrutiny were supportive of many of Ms Crowe's main recommendations, especially the following: amalgamating the functions of the three scrutiny committees into a single committee; providing more flexibility for a greater range of persons – both from inside and outside the States – to participate in scrutiny reviews or projects; and improving the resources available to the States' scrutiny functions.

4.7 Combining and Co-ordinating Scrutiny

4.7.1 In 2004 the two new committees of scrutiny (Public Accounts and Scrutiny) were established in the same way as all other committees – standing committees with fixed membership, which was also very large: nine members sit on each committee. To the extent that their operation was considered at all, the expectation seems to have been that they would sit as conventional committees, but with mandates to scrutinise rather than develop policy.

4.7.2 The Committee concluded that the present arrangements are too rigid and inflexible and that the States would not make the most of scrutiny until they recognised that it is not always undertaken best through conventional standing States' committees with fixed membership.

4.7.3 The Committee proposed – and the States agreed – that the scrutiny functions should be overseen and directed by a single and smaller Scrutiny Management Committee and that the task of actually scrutinising the policies, expenditure and services of States' committees and of legislation should in the main be carried out through scrutiny panels with the membership of such panels determined with reference to the task in hand.

4.7.4 The central tasks of the Scrutiny Management Committee will be to: represent scrutiny in the States and publicly; ensure that the scrutiny of policy, finances and expenditure and legislation is co-ordinated; plan and publish an annual scrutiny programme; take responsibility for a combined budget for scrutiny; convene panels to undertake specific tasks and projects scrutinising policy, finances and expenditure and legislation; and assure the quality of scrutiny panels' reports.

4.7.5 The Scrutiny Management Committee will be elected by the States and fully accountable to them for everything done within the scrutiny set-up.

On the 9th of July, 2014 the States made the following resolution *de vive voix*:

To agree that there shall be a single Scrutiny Management Committee responsible to the States of Deliberation for the scrutiny of policy, finances and expenditure and legislation.

4.8 Membership of the Scrutiny Management Committee

4.8.1 The Committee recommended that the Scrutiny Management Committee should comprise two States' members and one non-States' member whose background and expertise were especially suited to assisting the States in the scrutiny of financial affairs.

4.8.2 The Committee envisaged that, alongside the independent member leading in the scrutiny of financial affairs, one of the two States' members would lead in the scrutiny of policy and services and the other would lead in the scrutiny of legislation. The members of the Scrutiny Management Committee would not just manage the process of scrutiny, but would also be actively involved in scrutinising – chairing or sitting on reviews.

4.8.3 The States approved an amendment proposed by Deputy R A Jones – which the Committee did not oppose – which supported the Committee's recommendation to combine States' members and independent members on the Scrutiny Management Committee but required its precise constitution to be deferred for further consideration.

4.8.4 The Committee also wished to study further the arguments for and against precluding dual membership of the Scrutiny Management Committee and the Policy & Resources Committee and the Principal Committees.

On the 9th of July, 2014 the States made the following resolution *de vive voix*:

To agree that the States shall elect to the Scrutiny Management Committee a combination of States' members and members independent of the States whose background and expertise are particularly well-suited to scrutiny, the number of which will be determined in stage two of the review with reference to the need to fulfil the full range of scrutiny functions in a way which is both democratic and efficient.

4.9 Scrutiny of Policy and Services

4.9.1 The scrutiny of policy is an inherently political task which, therefore, should ideally fall in the main to politicians, i.e. States' members, but there should be scope for persons independent of the States also to contribute to the scrutiny of policy.

4.9.2 The Committee proposed – and the States agreed – that when the Scrutiny Management Committee identifies the need to examine policy or services, it should appoint a 'task and finish' panel comprising in the main States' members suited to the scrutiny of that particular area of policy or service but who have no seats on any of the Principal Committees to come under scrutiny, supplemented if felt appropriate by persons independent of the States.

4.9.3 This arrangement has the potential to provide for many more States' members to become involved in specific scrutiny projects of interest without requiring them to sit on a conventional States' committee for a four-year term of office.

4.9.4 It is acknowledged that at first members may need to be encouraged to sit on such 'task and finish' panels for a review lasting between, say, a few weeks and a few months. Ultimately, if members do not embrace the work of scrutiny in sufficient number, the Scrutiny Management Committee would have to recruit to its panels more persons independent of the States. Either way, the arrangement agreed by the States is flexible enough to adapt.

4.10 Scrutiny of Finances and Expenditure

4.10.1 The scrutiny of finances and expenditure is not necessarily such a political task; indeed it is perhaps best when at least to some extent de-politicised. Hence the Committee's original proposal, subsequently amended, to reserve one of the seats on the Scrutiny Management Committee for a person independent of the States with skills relevant to the scrutiny of financial affairs, albeit the Committee did not feel that it was necessary in all circumstances to exclude States' members from participating in financial scrutiny.

4.10.2 The Committee proposed – and the States agreed – that the most effective and pragmatic arrangement in respect of the scrutiny of finances and expenditure would be for the Scrutiny Management Committee to maintain a panel of members independent of the States and well suited to the scrutiny of financial affairs and, when it identifies the need to examine a financial matter, to appoint a 'task and finish' panel drawn in the main from among the panel of members, supplemented if felt appropriate by States' members unconnected to the matters under scrutiny.

4.10.3 The States also approved an amendment proposed by Deputy H J R Soulsby – which the Committee did not oppose – which required the Committee to consider the

continuous nature of some of the tasks currently undertaken by the Public Accounts Committee and to make appropriate recommendations for the future management thereof.

4.11 Scrutiny of Legislation

4.11.1 When legislation is put before the States it is usually because the States have directed its preparation pursuant to an earlier decision to approve a policy and often there will have been considerable debate at the policy stage.

4.11.2 There is a significant check on the manner in which the States' powers to make primary legislation (*Projets de Loi*) are exercised: prior to Royal Sanction there is review of *Projets* by officials of Her Majesty's Government within the Ministry of Justice. In the opinion of some submissions made to the Committee, this contributes to the demonstration of good government to the outside world.

4.11.3 Royal Sanction review occurs only after a *Projet* has been approved by the States. It also applies only to *Projets* and not to Ordinances. The Committee recognises that examination of all draft legislation in advance of it being presented to the States remains an important part of the scrutiny process.

4.11.4 The Committee suggested that legislative scrutiny at committee level could not reasonably be undertaken by the sort of 'task and finish' panels recommended for the scrutiny of policy and services and finances and expenditure. Nonetheless the Committee wanted the scrutiny of legislation to be afforded greater flexibility, including the potential to benefit from the involvement of a greater range of persons, both from inside and outside the States.

4.11.5 The Committee proposed – and the States agreed – that the Scrutiny Management Committee should appoint a standing Legislation Review Panel to be chaired by the member of the Scrutiny Management Committee who leads in the scrutiny of legislation and with a membership which brings together a number of other States' members and a number of persons independent of the States with backgrounds and skills especially suited to the scrutiny of legislation.

4.11.6 The Legislation Review Panel – under delegated authority of the Scrutiny Management Committee – would absorb most of the tasks currently undertaken by the Legislation Select Committee with the exception of the making of urgent legislation, which is plainly not a scrutiny function.

On the 9th of July, 2014 the States made the following resolution *de vive voix*:

To agree that the Scrutiny Management Committee shall provide for structured and co-ordinated scrutiny of policy and services, financial affairs and expenditure and legislation by convening Scrutiny Panels along the following lines:

a) when the Scrutiny Management Committee identifies the need to undertake a review or examination of policy or services, it shall appoint a 'task and finish' group comprising in the main States' members especially suited to the scrutiny of that particular area of policy or service but who have no seats on any of the Principal Committees likely to come under scrutiny, supplemented if felt appropriate by persons independent of the States;

b) when the Scrutiny Management Committee identifies the need to undertake a review or examination of a financial matter, it shall appoint a 'task and finish' group drawn in the main from among a panel of members independent of the States who are especially suited to the scrutiny of financial affairs, supplemented if felt appropriate by States' members unconnected to the matters under scrutiny, but also to acknowledge that some tasks which are currently undertaken by the Public Accounts Committee require continuous scrutiny and will need to be organised and co-ordinated by the Scrutiny Management Committee on that basis and the most appropriate structure for fulfilling such functions will be determined in stage two of the review;

c) the Scrutiny Management Committee shall appoint a standing Legislation Review Panel to be chaired by the member of the Scrutiny Management Committee who leads in the scrutiny of legislation and with a membership which brings together a number of other States' members and a number of persons independent of the States with backgrounds and skills especially suited to the scrutiny of legislation.

4.12 Advantages of the Reforms of Scrutiny

4.12.1 The reorganisation of the scrutiny function as agreed by the States last summer can support a system of scrutiny which is focused, proportionate to the Island and sufficiently flexible to respond appropriately and, if necessary, promptly as and when matters arise which require some form of review or examination. It will make the best use of the time members are able to afford to scrutiny and permit the States to benefit from the involvement in the scrutiny process of a greater number of persons independent of the States. Such reforms will strengthen the States' scrutiny function

and enable it to serve both the States and the people of Guernsey as effectively as possible.

4.13 Powers, Resources and Impartiality

4.13.1 In addition, when the first policy letter was debated the States supported an amendment proposed by Deputy H J R Soulsby – which was not opposed by the Committee – to require the Committee in the second stage of its review to give further thought to strengthening the powers, resources and impartiality of the States' scrutiny function.

> On the 9th of July, 2014 the States made the following resolution *de vive voix*:
>
> To note that the effectiveness of the States' scrutiny function depends in part on the powers, resources and impartiality of the scrutiny committees and panels, and to direct that, prior to implementation of the improved committee system in 2016, the States' Review Committee shall propose to the States ways of strengthening the powers, resources and impartiality of the scrutiny committees and panels.

4.14 Number of States' Members

4.14.1 There are 47 voting members of the States of Deliberation: 45 people's deputies elected in seven districts in Guernsey and two Alderney Representatives.

4.14.2 A frequent observation made to the Committee was that the number of States' members might usefully be reduced.

4.14.3 This opinion appeared to be associated with a view that many more members than was the case until relatively recently are attending to States' work on something at least approaching a full-time basis. There was a view, quite widespread, that a reduction in the number of States' members would permit the business of the States to be carried out more efficiently and encourage members to focus on policy and strategy and the appropriate oversight of operational performance.

4.14.4 On the other hand, some respondents cautioned the Committee against recommending a reduction in the number of States' members. It was even suggested that any reduction at all would inevitably weaken democracy. Few convincing arguments were adduced to explain why that should be so if the States maintain a committee system in which no member is bound by collective responsibility and there

is no distinction between policy-making executive and scrutinising opposition, although it is readily accepted that a radical reduction in the number of members could distort the democratic balance with unforeseen consequences.

4.14.5 The Committee suggested that the primary consideration should be the number of members required to fulfil the States' full range of functions in a way which balances democracy and efficiency. The number of members should be determined by the structure of the States and not the other way around.

4.14.6 The Committee was of the view that the improved committee system which was approved by the States last year would require fewer than 47 members to fulfil the full range of States' functions in a way which would properly balance democracy and efficiency; and, therefore, the potential existed for at least a measure of reduction.

4.14.7 The Committee proposed – and the States agreed – that the size of the membership of the States should be examined more closely in the second stage of its review with reference to the considerations set out in paragraph 4.14.5, but that there should be a general presumption in favour of some reduction.

On the 9th of July, 2014 the States made the following resolution by 33 votes to 13:

To agree that the number of States' members shall be determined with reference only to the need to fulfil the full range of States' functions in a way which would properly balance democracy and efficiency, but when considering the precise number of States' members there shall be a general presumption in favour of some reduction.

4.15 Developing the 2014 States' Resolutions

4.15.1 The following several sections of the policy letter build upon the decisions made by the States in 2014 and present recommendations to allow the reorganisation of States' affairs to take effect in May, 2016, as directed by the States.

4.15.2 The least prescriptive of the 2014 resolutions concerned the new Principal Committees. Therefore, in the sections which follow, they are dealt with first. Section five recommends the titles and range of responsibilities of Principal Committees. Section six makes proposals in connection with the constitution and operation of Principal Committees.

4.15.3 Section seven further develops the role of the new Policy & Resources Committee.

4.15.4 Section eight makes recommendations in connection with the various other committees, authorities etc. of the States.

4.15.5 Section nine further develops the role of the new Scrutiny Management Committee.

4.15.6 Section 10 deals with the constitution of the States, e.g. the number of States' members and related issues.

4.15.7 Section 11 sets out the resource and legislative implications of the Committee's recommendations. The recommendations are in section 12.

4.15.8 There are three annexes to the policy letter. Annex one contains a letter from the Chairman of the States' Assembly & Constitution Committee in connection with electoral districts. Annex two assesses alternative options relating to the number and range of responsibilities of Principal Committees. Annex three lists submissions made to the Committee during the course of its review.

5 THE STRUCTURE OF PRINCIPAL COMMITTEES

5.1 The Format of Principal Committees' Mandates

5.1.1 The States have resolved that from May, 2016 most policy-making, regulatory and public service functions shall be delegated to *Principal Committees*.

5.1.2 At present, in addition to the Policy Council serving as the senior committee, there are ten such committees of the States: Commerce & Employment, Culture & Leisure, Education, Environment, Health & Social Services, Home, Housing, Public Services, Social Security and Treasury & Resources.

5.1.3 Their mandates are not as clear or consistent as ideally they should be. Some are extremely detailed; others are quite sparse. There are numerous oddities and omissions. Generally no distinction is made between a committee's policy, advisory and general responsibilities and operational functions for which it is nevertheless politically accountable.

5.1.4 Restructuring Principal Committees' mandates would not only provide greater clarity but also emphasise the broad purpose and policy responsibilities which should be the main focus of attention for Principal Committees.

5.1.5 The Committee proposes that the mandate of every Principal Committee should follow a consistent format and be divided into discrete sections, as follows:

1. The title of the Principal Committee;

2. The Constitution (i.e. membership) of the Principal Committee;

3. The purpose for which the Principal Committee exists; and

4. The policy, advisory and general responsibilities of the Principal Committee.

5.1.6 Once the States have made their resolutions on this policy letter, the Committee will use its final policy letter – to be laid before the States in the autumn – to present the committees' mandates in full to allow the States to finalise them in good time for them to have effect from May, 2016. This is fully consistent with the approach and timetable adopted during the last similar review some years ago when the mandates of committees were approved after a third policy letter around six months before the end of the States' term.

5.1.7 In addition, the third policy letter will set out a comprehensive schedule stating which committee has political accountability for each of the operational functions and services across the States. No such schedule exists at present but the Committee believes it would aid clarity and accountability. Members or officers who do not see mention in this policy letter of particular operational functions and services with which they are familiar can be confident that they will be included in the third policy letter. The Committee will work closely with officers in drawing up the schedule to ensure that all services and functions are allocated appropriately.

5.2 The Number of Principal Committees – a Continuum of Options

5.2.1 The decision of the States last year to combine responsibility for policy co-ordination and the allocation of resources in a single committee – the Policy & Resources Committee – automatically reduces the number of Principal Committees by one.

5.2.2 Many submissions made to the Committee favoured further rationalisation of the committee structure. This was reflected in debate on the first policy letter and the following States' resolution:

"…that most of the policy-making, regulatory and public service functions of the States shall be delegated to no more than nine Principal Committees, but when considering the precise allocation of such functions there shall be a general presumption in favour of rationalisation of committees where practicable."

5.2.3 In seeking to determine the appropriate number of Principal Committees and their range of responsibilities, rather than seeking an elusive perfect answer it is perhaps best to think in terms of a continuum of options from absolute rationalisation at one end (i.e. one single Principal Committee) to no further rationalisation at the other end (i.e. nine Principal Committees).

5.2.4 Towards one end of the continuum, a proposal was made for three Principal Committees: one for economic policy, one for environmental policy and one for social policy. The Committee believes that rationalisation to this extent would be unworkable. It would require the merging into a single social policy committee of most of the responsibilities which currently belong to six committees, including all of those with the largest budgets, creating by Guernsey standards a gargantuan portfolio of disparate interests which would quickly become unmanageable and would be out of all proportion to the mandates of other committees.

5.2.5 It was suggested to the Committee that it would be desirable to merge responsibility for health care, social services, social security and social housing. This would allow for a structure containing five Principal Committees. While acknowledging that there is some commonality between health and social care and social security and other forms

of social assistance, the Committee is of the opinion that at committee level responsibility for health and social care should not be merged with any other responsibilities. In the years ahead the challenges associated with political leadership of health and social care are likely to grow rather than diminish and they scarcely need to be supplemented with additional responsibilities.

5.2.6 The Committee was also encouraged to consider recommending five Principal Committees based around the following policy areas: commerce and industry; education; health and social care; social security and assistance; and all other policy areas in what was referred to as a 'general services committee'. The Committee cannot recommend the pooling of such disparate functions in a 'general services committee'.

5.2.7 These suggestions perhaps emphasise above all what the Committee has understood since the early stages of its review: there is a point beyond which rationalisation of the committee structure becomes not only illogical but also counter-productive. In framing its recommendations the Committee has scrupulously avoided reaching this point. The objective is purposeful but manageable streamlining of the committee structure.

5.2.8 At the other end of the continuum of options, a small number of respondents advocated that there should be no rationalisation of the committee structure.

5.2.9 While the States should not lightly dismiss the commitment and enthusiasm which some members attach to their work on committees which today have relatively narrow mandates and relatively modest budgets, the Committee could not reasonably follow suggestions to accept the *status quo* as a tenet for the rest of its review. The Committee forced itself to look past sectoral interests and make recommendations which it genuinely believes are in the best long-term interests of the States and the Island.

5.2.10 Rigidly maintaining nine Principal Committees, more or less in their present form, would do nothing to encourage focus on policy-making, aid policy co-ordination or obtain organisational and bureaucratic efficiencies. It would leave common responsibilities in separate committees for no discernible benefit. And it would not properly respect the States' resolution of 2014 directing the Committee to make a presumption in favour of further rationalisation.

5.2.11 The committee structure has experienced episodes of expansion and episodes of rationalisation. The first permanent States' committee – on main roads – was established in 1812. By 1900, the year in which the office of People's Deputy was created, there were 15 Executive Committees of the States, as they were then called, and a further eight with no executive functions or on which the States were represented. By 1940, immediately before the Occupation, there were 40 Executive Committees and a further 19 with no executive functions or on which the States were

represented. In the 1980s there were around 50 committees. For the past 25 years the States have been on an identifiable, if at times unsteady, journey towards greater rationalisation and streamlining of their committee structure.

5.2.12 In recent decades debates have been fought and lost for the retention of the Airport Council, Committee for the Destruction of Rats, Coast Defence Committee, Advertising the Island Committee, Natural Beauties Committee, Ancient Monuments Committee, Labour & Welfare Committee *et alia*. In the last years of the 20th century and early years of the 21st relatively small and discrete areas of responsibility were still overseen by separate committees – for example, the Committee for Agriculture, Island Police Committee, Probation Committee, Heritage Committee and Traffic Committee. On each and every occasion the arguments put to retain those committees followed the same theme; and a small number of respondents have put exactly the same arguments to this Committee.

5.2.13 It cannot sensibly be argued that policies relating to agriculture or policing or probation or heritage or traffic and transport have been neglected since being combined with other common responsibilities in slightly larger committees. In respect of some of those areas of policy the States have spent more time debating them since they were amalgamated with other functions than ever they did before.

5.2.14 It has been suggested that reducing the number of committees is futile if it results in the creation of a greater number of sub-committees. This argument should be resisted. It is far better for relatively common policy responsibilities to be grouped in one Principal Committee with a single reporting line to the States than for them to remain in several separate committees each independently responsible to the States. The former can only aid co-ordination while the latter can only work against it.

5.2.15 A further consideration is that in Guernsey's committee system relatively broad portfolios of responsibility can be shared more freely among several committee members. If the States have confidence in their committee system (and they should) and if the committee system is to be used to its maximum advantage, Guernsey should have more, not less, flexibility to streamline most policy, advisory and general responsibilities into fewer Principal Committees.

5.2.16 Nor would maintaining the *status quo* do much to provide for members to serve on a cross-section of Principal Committees. At present, around 80% of States' members serve on one department or none. Only one member among 47 serves on more than two departments. In order to promote membership of multiple Principal Committees as the norm, the number of Principal Committees would need not just to be maintained but increased substantially. Any advantage of doing so would be outweighed by significant disadvantages. Other proposals in this policy letter provide

for members to be involved in a cross-section of States' work without the disadvantages of a proliferation of Principal Committees.

5.2.17 Based on the submissions it received, its own research and the States' resolutions of 2014, the Committee reached the following conclusion: as long as committees are not created which have unmanageable portfolios, common policy responsibilities which might otherwise sit in separate committees generally benefit from being amalgamated under the leadership of slightly larger, more prominent and arguably more influential committees quite possibly with access to greater resources.

5.2.18 As such, the Committee proposes that common functions across the States should be grouped into fewer Principal Committees but that no Principal Committee should have a broader or more complex mandate, or a budget greater, than the largest committees in existence today.

5.2.19 In other words, the Committee rejects suggestions which fall at or towards either of the extreme ends of the continuum of options from absolute or aggressive rationalisation at one end to no or virtually no rationalisation at the other end and instead recommends an arrangement close to the mid-point of the continuum.

5.2.20 Although many submissions expressed support for rationalisation in terms of simply merging two or more existing committees, it is preferable to break down all of the existing committees into their constituent parts and then to assemble those parts more logically and coherently into fewer, broader 'groupings' consistent with the principles set out in the preceding paragraphs.

5.3 Recommendation for Six Principal Committees

5.3.1 The Committee recommends that most of the policy-making, regulatory and public service functions of the States should be grouped into six broad areas to form six new Principal Committees, as follows:

- Committee *for* Economic Development
- Committee *for* Education, Sport & Culture
- Committee *for* Employment, Housing & Social Security
- Committee *for the* Environment & Infrastructure
- Committee *for* Health & Social Care
- Committee *for* Home Affairs

5.3.2 This is a recommendation to maximise the benefits of streamlining the committee structure by coherently grouping together common policy responsibilities across the States while ensuring that Principal Committees' mandates are manageable. It creates

no great inequality in the complexity or range of responsibilities of Principal Committees, which is felt to be an advantage.

5.3.3 It provides for the number of States' committees directly and continuously involved in the development, co-ordination or scrutiny of policy to be reduced from 14 to eight – the Policy & Resources Committee and Scrutiny Management Committee (both as agreed by the States last year) and the six Principal Committees.

5.3.4 As a matter of style, 'Committee *for*…' is preferred for three reasons: first, historically it was an approach used often in Guernsey; second, it emphasises the purpose of a committee; and third, it distinguishes Principal Committees from the Policy & Resources Committee and other States' committees and bodies.

5.4 Committee *for* Economic Development

5.4.1 The future of the Bailiwick is heavily dependent upon the health of its economy. Securing prosperity through steady and consistent economic growth, stable inflation and low unemployment is a significant and enduring policy objective. Without a strong economy, employment opportunities will diminish and the revenue will not exist to support essential public and social services and infrastructure.

5.4.2 The proposed purpose of the Committee *for* Economic Development is to secure prosperity through the generation of wealth and the creation of the greatest number and widest range of employment opportunities possible by promoting and developing business, commerce and industry in all sectors of the economy.

5.4.3 The Committee recommends that the Committee *for* Economic Development should be responsible for developing policy and advising the States in relation to, *inter alia*: the promotion and development of all sectors of business, including construction, creative industries, digital, financial services, horticulture, intellectual property, manufacturing, media, retail and tourism; the reputation of the Island as a centre for commerce and industry; the promotion of air and sea links to and from the Bailiwick; inward investment at the corporate and individual level; the labour skills necessary to sustain economic prosperity; and competition, innovation, diversification and regulation in the economy.

5.4.4 Mandates of States' committees are often necessarily broad but several respondents to the Committee identified that, of all the committees in existence today, Commerce & Employment in particular has a smorgasbord of somewhat disparate responsibilities.

5.4.5 This may be tolerable if the responsibilities attached to economic development and job creation were not so significant and demanding – and they are likely to become more challenging in the years ahead.

5.4.6 The Committee is convinced that the proposed Committee *for* Economic Development must have a purer focus on its primary purpose without having a multitude of other responsibilities which, while very important in their own right, are related to that primary purpose only peripherally, if indeed at all. The Committee considers that all of the policy responsibilities of the Committee *for* Economic Development should be linked very clearly to the cause of economic development and job creation.

5.4.7 The Committee *for* Economic Development should be made more expressly responsible for the digital economy, inward investment and competition and innovation; and should assume responsibility for policy in connection with broadcasting and the media.

5.4.8 However, it is envisaged that the Committee *for* Economic Development would not be politically accountable for the Guernsey Dairy, a trading body for which alternative governance arrangements are proposed in section eight of the policy letter; nor for policy relating to employment practices or industrial relations or the minimum wage, which concern labour regulation rather than job creation *per se* and which the Committee suggests allocating to the proposed Committee *for* Employment, Housing & Social Security; nor for policy relating to consumer protection and trading standards, which are related rather more to public protection and rights and responsibilities than to economic development and sit more logically with the proposed Committee *for* Home Affairs; nor for policy relating to the sustainability of food, farming and marine resources, which sit more comfortably in the mandate of the proposed Committee *for the* Environment & Infrastructure.

5.4.9 A small number of respondents suggested that political responsibility for sport and / or culture could be combined with the economic development portfolio.

5.4.10 Experiences in other jurisdictions were studied. In Jersey, sport and culture have for some time been combined with the education portfolio but there may be a proposal to transfer them to the economic development portfolio. In the Isle of Man, cultural affairs are combined with the economic development portfolio already but sport is combined with the education portfolio. Several other jurisdictions combine sport and culture with education and youth affairs.

5.4.11 Sport plays a not insignificant role in the visitor economy, but at a policy level it is considered that the links between sport and education are especially strong. With regard to cultural affairs, the matter could reasonably be argued either way, but on balance it is considered that they, too, should be combined with the education portfolio. The case for doing so is explored more fully in section 5.5.

5.4.12 If, during debate, arguments are made to attach or re-attach to the economic development portfolio some of the responsibilities in paragraphs 5.4.8 to 5.4.11, the Committee trusts that the States will take into account the significance of the purpose of the proposed Committee *for* Economic Development, as set out in paragraph 5.4.2, and ensure that all of its policy responsibilities genuinely relate to that purpose.

5.4.13 A well-regulated financial services sector is essential to economic development. Regulation is carried out by a strong and firmly independent body, the Guernsey Financial Services Commission. It is proposed that the Committee *for* Economic Development should be responsible for policy in connection with the regulation of financial services and for managing the States' relationship with the Commission.

5.4.14 It is recommended that the Committee *for* Economic Development should be responsible for external transport links (i.e. air and sea links) insofar as they relate to economic development but should not be responsible for air route licensing, which is addressed further in section eight of this policy letter.

5.4.15 As is the case today, some responsibilities will inevitably relate to the mandates of more than one Principal Committee. The skills of the workforce are a good example. Policies and initiatives will need to be developed and overseen by the Committee *for* Economic Development and the Committee *for* Education, Sport & Culture working together. The former needs to identify and promote the skills necessary to sustain economic prosperity; the latter needs to ensure that those skills are instilled.

5.5 Committee *for* Education, Sport & Culture

5.5.1 Providing educational, cultural and sporting opportunities, and encouraging people of all ages to embrace those opportunities, are of paramount importance to the future of the Bailiwick's economy and the quality of life of its residents.

5.5.2 The proposed purpose of the Committee *for* Education, Sport & Culture is to encourage human development by maximising opportunities for participation and excellence through education, learning, sport and culture at every stage of life.

5.5.3 The Committee recommends that the Committee *for* Education, Sport & Culture should be responsible for developing policy and advising the States in relation to, *inter alia*: pre-, primary, secondary, further and higher education; apprenticeships; skills; lifelong learning; sport, leisure and recreation; youth affairs; the arts; libraries, museums, galleries and heritage; Island Archives; and civic celebrations and commemorations, including Liberation celebrations.

5.5.4 The relationship with schools and other institutions of learning is partly set out in the Education (Guernsey) Law, 1970, as amended. Successive committees have aspired to

reform of the Law[7], which *inter alia* obliges political members to become heavily involved in operational management. The reorganisation of States' affairs in 2016, and in particular the intention that Principal Committees should focus on their purpose and policy responsibilities, should provide fresh impetus to the case for a replacement Law.

5.5.5 The States have for decades maintained a separate committee with political responsibility for all aspects of education. The Committee sees no merit in dividing education responsibilities between separate committees – for example, it rejects suggestions that further and higher education should be moved to the Committee *for* Economic Development or that States-funded pre-school education, agreed by the States in 2014, should evolve under the auspices of the Committee *for* Health & Social Care.

5.5.6 A small number of respondents proposed amalgamating all children services with the education portfolio. An argument could be sustained that children services and education are broadly common responsibilities, but the Committee rejects combining them for two reasons: first, children services remain compatible with the rest of the health and social care portfolio; second, the Committee does not recommend combining education with children services *and* with sport and culture and believes the latter combination is more rational and pragmatic.

5.5.7 In paragraph 5.2.17 and 5.2.18 it is stated:

"Based on the submissions it received, its own research and the States' resolutions of 2014, the Committee reached the following conclusion: as long as committees are not created which have unmanageable portfolios, common functions which might otherwise sit in separate committees generally benefit from being amalgamated under the leadership of slightly larger, more prominent and arguably more influential committees quite possibly with access to greater resources.

[7] For example, in 2013, in a policy letter entitled *Today's Learners; Tomorrow's World*, the Education Department advised the States that *"[j]urisdictions which have successfully transformed their education systems have seen governmental authorities move their attention from the control of resources towards a focus on educational outcomes. This has been accompanied with increased decision-making and accountability being devolved to schools so that they can be more responsive to local needs than before…[it] means [m]ore school-level decision making within the context of a clear policy framework and strategic direction set at Education [Committee] level…[and the Committee focusing] more on the overall strategic and policy framework and holding schools to account for learner outcomes, moving away from day to day operational aspects of Guernsey's schools"*. Thus far the most prominent manifestation of such reform is the creation of a shadow board of directors for the College of Further Education and the intention to incorporate the College as a company limited by guarantee with political members of Education remaining responsible and accountable for further education policy. It is noted that these changes at the College may be a precursor to further devolution within the secondary and primary phases of education.

"As such, the Committee proposes that common functions across the States should be grouped into fewer Principal Committees but that no Principal Committee should have a broader or more complex mandate, or a budget greater, than the largest committees in existence today."

5.5.8 The links between education and sport are plain: many sports facilities are located on school sites; participation in sport, and often a love of sport, is fostered in young people in full-time education; and the Sports Commission undertakes some of its work through schools. The links between education and cultural participation, such as through museums, libraries, galleries and sites of historical importance, are scarcely any less evident: it is only through young people that cultural interest and identity will be preserved in the future; and cultural affairs are synonymous with lifelong learning. Indeed, the States' relationship with the Guille-Allès and Priaulx Libraries is already managed through Education today.

5.5.9 The evolution of the States' committee structure emphasises the links between education and sport.

5.5.10 By the 1960s the Education Council had a recognisable role in sport. It was the Council which in 1968 proposed the establishment of the States' Adult Sporting Needs Investigation Committee, which was led by the President of the Council and out of which eventually was born plans for the construction of Beau Séjour.

5.5.11 Cultural responsibilities were previously dispersed among several committees, including the Ancient Monuments Committee, Arts Committee, Gambling Control Committee and Heritage Committee before they were brought together a little over a decade ago (after the States rebuffed essentially the same proposal in 1988).

5.5.12 Merging sporting and cultural affairs with education – all broadly common functions of human development – may be perceived as a large step but, if so, it is on a familiar journey.

5.5.13 The Committee fully recognises the importance of providing education and promoting sport and the Island's unique cultural identity. Those objectives do not depend upon maintaining separate Principal Committees with the words 'culture' and 'leisure' or the word 'education' and nothing else in their titles. There are many States' functions which have been, and are, led competently without having required separate, distinct committees of the States. Distinctiveness and separation are no guarantee of prominence or success.

5.5.14 It is for these reasons that the Committee proposes that political responsibility for sport and culture and education should be brought together under the leadership of

a single, prominent Principal Committee – a new Committee *for* Education, Sport & Culture. For clarification, this would include political responsibility for Beau Séjour.

5.5.15 Change often begets uncertainty but the Committee believes this proposal should be embraced as an opportunity by members and officers who are committed to developing and advancing the education, sport and culture portfolios.

5.5.16 It must be emphasised that teams of officers who have established important relationships within the sport and culture and education portfolios would not need to interrupt those relationships as a result of their amalgamation. What is proposed is the drawing together of political responsibilities in a single Principal Committee. Officers would report to a new committee but the need for stability and continuity in service provision is well-recognised by the Committee, the States' Chief Executive and his colleagues.

5.5.17 Gambling responsibilities would not sit easily with education responsibilities. It is therefore proposed that the responsibilities which Culture & Leisure inherited from the old Gambling Control Committee should transfer to the Committee *for* Home Affairs, the predecessor of which already oversees some gambling functions. This transfer of gambling responsibilities would not *ipso facto* alter the important and long-standing link between the income from lotteries and scratch cards and the funding of Beau Séjour, which is a matter of States' policy.

5.5.18 It would be sensible to transfer political responsibility for public parks to the proposed Committee *for the* Environment & Infrastructure.

5.5.19 At present the Policy Council is responsible for the Island Archives Service, which among other roles is the custodian of official States' records. The links with heritage and cultural identity suggest that this policy responsibility, too, should transfer to the proposed Committee *for* Education, Sport & Culture, although this should be reviewed in the light of experience relatively early in the life of the next States.

5.5.20 The preceding section of the policy letter acknowledges that responsibilities for sport and / or culture could be allocated other than in the way proposed. If the States are invited to allocate those responsibilities in a different way, the Committee trusts that they will take into account that education, sport and some aspects of culture are also linked by the 'commission model'. The Guernsey Sports Commission was formed in 2004; the Guernsey Arts Commission was formed in 2008; and in 2013 youth services, traditionally undertaken directly by Education, was transferred to the newly-formed Youth Commission for Guernsey and Alderney.

5.5.21 The Committee sees great potential for the commission model to be supported and developed further in partnership with the proposed Committee *for* Education, Sport &

Culture. There is no reason why the Sports, Arts and Youth Commissions should not continue to grow and assume more independence and influence in their respective fields of interest and in the case of the former two the Committee believes this is more, rather than less, likely if political responsibility is assumed by the Committee *for* Education, Sport & Culture rather than remaining in a separate, much smaller States' committee.

5.6 Committee *for* Employment, Housing & Social Security

5.6.1 A modern system of social security should seek to alleviate hardship, extend opportunity and encourage responsibility in support of the twin objectives of social justice and economic security.

5.6.2 The proposed purpose of the Committee *for* Employment, Housing & Social Security is to foster a compassionate, cohesive and aspirational society in which responsibility is encouraged and individuals and families are supported through schemes of social protection relating to pensions, other contributory and non-contributory benefits, social housing, employment, re-employment and labour market legislation.

5.6.3 The Committee recommends that the Committee *for* Employment, Housing & Social Security should be responsible for developing policy and advising the States in relation to, *inter alia*: financial and social hardship; social housing, including States' housing and the States' relationship with housing associations; supplementary benefit and housing benefit; social insurance; pensions; health insurance; long-term care insurance; social inclusion, including in relation to disability; the unemployed and the various initiatives to encourage employment and re-employment; labour market legislation and practices; health and safety in the workplace; industrial relations; and legal aid.

5.6.4 Housing support – whether through States' social housing, housing associations or housing-related benefits – forms an essential part of the Island's network of schemes of social protection.

5.6.5 The links between housing support and other forms of social support are underlined by the on-going work of the Social Welfare Benefits Investigation Committee, which later this year will lay proposals before the States *"[t]o develop a single, comprehensive social welfare benefits model to replace the Supplementary Benefit (Guernsey) Law, 1971, as amended, and relevant aspects of the States' Housing (Tenancies, Rent and Rebate Scheme) (Guernsey) Law, 2004…"*. Political responsibility for the single model should logically rest with one Principal Committee.

5.6.6 It seems plain to the Committee that political responsibility for social housing, tenancy management and the States' relationship with housing associations should be brought

together with political responsibility for other forms of social support and protection – and that is what is proposed in the new Committee *for* Employment, Housing & Social Security.

5.6.7 The Committee fully recognises the importance of providing social security and social housing (and promoting and supporting other agencies and associations which provide social housing) but, as in the case of some other areas of policy, those objectives do not depend upon maintaining separate Principal Committees with the words 'social security' or the word 'housing' and nothing else in their titles. As stated in the previous section, distinctiveness and separation are no guarantee of prominence or success.

5.6.8 Other developments also need to be taken into account. The States have agreed to replace controls on the occupation of housing with a population management regime based upon employment and residency permits, which in section 5.9 it is proposed should be under the leadership of the Committee *for* Home Affairs; in recent years all social and partial ownership housing has been developed by the Guernsey Housing Association (supported by the States) rather than by the States directly; the Housing Department no longer manages residential homes; and it is proposed that general housing policy, because it is so linked to policies regarding land use and infrastructure, should be under the leadership of the proposed Committee *for the* Environment & Infrastructure. These are further reasons not to retain the housing and social security portfolios in separate committees.

5.6.9 The employment portfolio is already merged with others, but not as rationally as it might be.

5.6.10 Job creation and the promotion of a dynamic and responsive labour market fall very clearly into the proposed purpose and mandate of the Committee *for* Economic Development. Nothing proposed in this section alters that.

5.6.11 Other employment functions – for example, assistance finding employment and re-employment; promoting good employment practices; health and safety in the workplace; and other forms of labour protection such as the minimum wage – must be balanced with flexibility in the labour market and job creation, but essentially they, too, form part of the Island's network of schemes of social protection. Therefore it is proposed that at committee level such employment functions should be amalgamated with responsibility for other forms of social protection in the new Committee *for* Employment, Housing & Social Security.

5.6.12 Industrial relations policy could perhaps be argued either way, i.e. for responsibility to rest with the Committee *for* Economic Development or the Committee *for* Employment, Housing & Social Security. On balance it is considered preferable to keep

together under the leadership of a single political committee (the Committee *for* Employment, Housing & Social Security) as many as possible of the States' employment functions which are not directly related to the generation of wealth or job creation.

5.6.13 The Committee is also inclined to the view that there are links between legal aid and other forms of social protection and, therefore, to believe that policy responsibility for legal aid should sit with the proposed Committee *for* Employment, Housing & Social Security. Ultimately it may be wise to provide for oversight of legal aid, and other not dissimilar public functions, in a way which is genuinely independent of the States and the Committee believes this should be investigated in the next States' term. Of course in the meantime legal aid must continue to be administered very much at arm's length.

5.6.14 What is envisaged is the drawing together of broadly common functions of social cohesion – pensions and other contributory and non-contributory social benefits; social housing; assisting the unemployed; maximising opportunities for re-employment; the protection of labour etc. – under a single, prominent committee which has clear leadership of the States' social affairs agenda.

5.6.15 The drawing together of these common functions in a new Committee *for* Employment, Housing & Social Security would be consistent with the case for streamlining the committee structure and, moreover, is more likely to benefit than inhibit the co-ordination and advancement of common social policy.

5.6.16 A couple of points made earlier must be restated. Again the Committee believes its proposals should be embraced as an opportunity by members and officers who are committed to developing and advancing the social housing, employment and social security portfolios. The teams of officers who have established important relationships with, say, social housing tenants or housing associations or employee groups or supplementary beneficiaries need not interrupt those relationships as a result of the amalgamation of common social policy functions. Officers would report to a new committee but the need for stability and continuity in service provision is well-recognised by the Committee, the States' Chief Executive and his colleagues.

5.6.17 After formulating its proposal, the Committee noted that combining policy responsibility for common functions of social support is quite normal around the world – examples include Gibraltar, Northern Ireland, Australia, Iceland and Malta, to name but a few. Employment and social security responsibilities have been under single political leadership in Jersey for many years (in the committee system pre-2005 and in the ministerial system since then) and are also combined through the Department for Work & Pensions in the United Kingdom and in Quebec, Monaco and the Netherlands, again to name but a few.

5.7 Committee *for the* Environment & Infrastructure

5.7.1 Wise and sustainable management of the environment and development of infrastructure are essential if the Bailiwick is to remain an attractive place to live, work and bring up children.

5.7.2 The proposed purpose of the Committee *for the* Environment & Infrastructure is to protect and enhance the natural and physical environment and develop infrastructure in ways which are balanced and sustainable in order that present and future generations can live in a community which is clean, vibrant and prosperous.

5.7.3 The Committee recommends that the Committee *for the* Environment & Infrastructure should be responsible for developing policy and advising the States in relation to, *inter alia*: long-term infrastructure planning; spatial planning, including the Strategic Land Use Plan; climate change; protection and conservation of the natural environment; waste, water and stone reserves; energy, including renewable energy; solid waste; general (as distinct from exclusively social) housing; the coast and coastal defences; Alderney breakwater; traffic and transport; the road network; biodiversity; agriculture, animal health and welfare and the sustainability of food and farming; safeguarding living marine resources and the sustainable exploitation of those resources; maritime affairs; and public parks.

5.7.4 At present many of these policy responsibilities are divided between various committees, notably Commerce & Employment, Culture & Leisure, Environment, Policy Council and Public Services.

5.7.5 For example, transport (Environment) and the road network (Public Services); waste policy (Environment) and waste management and disposal (Public Services); the conservation and enhancement of the natural and semi-natural environment (Environment) and the safeguarding of living marine resources (Commerce & Employment); some aspects of energy policy (Policy Council), other aspects of energy policy (Environment) and still other aspects of energy policy (Commerce & Employment); some public parks (Culture & Leisure) and other public parks (Environment).

5.7.6 Dividing such policy responsibilities between several committees, each independently responsible to the States, is irrational in view of the critical importance of environmental and infrastructure policies to the Island's future.

5.7.7 Therefore, it is proposed that political responsibility for these broadly common portfolios should be brought together under the leadership of a single new Committee *for the* Environment & Infrastructure. This would contribute to the efficient

organisation of the States and encourage effective co-ordination and advancement of environmental and infrastructure policies.

5.7.8 The Committee may have been more circumspect about recommending the establishment of a Committee *for the* Environment & Infrastructure if at present, or at any time in the past, the States had maintained a separate committee with dedicated responsibilities for the natural and semi-natural environment. But the States have not; and many of the responsibilities of the present Environment Department – e.g. waste, energy, traffic, vehicle registration and driver licensing – rather belie the apparent environmental purity of its title. Resources applied to developing environmental policy are actually extremely limited.

5.7.9 All committees of the States inevitably work within the fiscal, economic, environmental and social policy parameters of the States – those parameters depend less upon the distinctive titles of committees and their range of responsibilities and more upon the prevailing political views and policy objectives of the elected parliament, i.e. the majority of the States.

5.7.10 Renewable energy is another example of the way in which some responsibilities inevitably relate to the mandates of more than one Principal Committee. Specialist skills are required to develop infrastructure which has the potential to be an environmental resource which contributes to economic development. The Committee is inclined to the view that the links are so close between renewable energy policy and energy policy more broadly, and if anything are likely to grow closer, that at committee level responsibility for them should be combined in the mandate of the Committee *for the* Environment & Infrastructure. Of course policy would need to be developed in conjunction with the Committee *for* Economic Development in particular.

5.7.11 On balance it is considered that agriculture and marine resources, although sectors of the economy in their own right, have more links to environmental policy. Therefore the proposed responsibilities of the Committee *for the* Environment & Infrastructure include *"…agriculture, animal health and welfare and the sustainability of food and farming [and] safeguarding living marine resources and the sustainable exploitation of those resources…"*.

5.7.12 Unlike social or partial ownership housing – which is an integral part of what might broadly be termed the welfare state and is addressed in section 5.6 – general housing policy (e.g. the number and scale of new developments required across all tenures and the effects of taxation on the property market) has little to do with other forms of social assistance and support and much more to do with land and spatial planning and infrastructure. Therefore, it is proposed that the Committee *for the* Environment & Infrastructure should be made expressly responsible for general housing policy.

5.7.13 It is recommended that the Committee *for the* Environment & Infrastructure should not be responsible for development control (e.g. planning applications). Further proposals in connection with development control are set out in section eight of this policy letter.

5.7.14 The Committee also proposes that the Committee *for the* Environment & Infrastructure should not have political responsibility for the States' unincorporated trading bodies, e.g. Guernsey Airport (including Alderney Airport), Guernsey Harbours, Guernsey Water and States' Works, for which a new governance structure is recommended in section eight of this policy letter.

5.7.15 The Committee *for the* Environment & Infrastructure would have a much stronger policy-making role, which for the sake of clarification would include leadership of the work associated at present with various Policy Council 'sub-groups' relating to environmental policy, energy policy and waste, water and stone policy as well as the statutory functions associated with the Strategic Land Use Plan.

5.7.16 The responsibilities of the Committee *for the* Environment & Infrastructure would be broad but no more onerous than those of several other proposed Principal Committees, not least because of the proposals for development control and the States' trading bodies to be transferred elsewhere within the States' structure.

5.7.17 After formulating its proposal for a new Committee *for the* Environment & Infrastructure, the Committee noted that environmental and infrastructure responsibilities are combined in the same government department in Luxembourg and the Netherlands. In 2014, Luxembourg was ranked second best and the Netherlands was ranked 11th best out of 178 countries in a joint Yale / Columbia University study of responses to high-priority environmental challenges. This year the Resource Renewal Institute advised: *"The Netherlands possesses one of the most advanced frameworks for achieving sustainability of any industrialized nation."*

5.8 Committee for Health & Social Care

5.8.1 Health and social care is of critical importance to everyone in the Bailiwick. For individuals and families, good health helps create freedom and opportunity. A healthy society is more likely to be prosperous, stable and strong. Everyone at some point requires health and social care and the aspiration is always to provide care professionally and compassionately.

5.8.2 The proposed purpose of the Committee *for* Health & Social Care is to protect, promote and improve the health and well-being of individuals and the community.

5.8.3 The Committee recommends that the Committee *for* Health & Social Care should be responsible for developing policy and advising the States in relation to, *inter alia*: adult social care; the welfare and protection of children, young people and their families; the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions; mental health; care of the elderly; health promotion; environmental health; and public health.

5.8.4 A small number of submissions made to the Committee suggested dividing political responsibility for health care and social services between two separate committees, i.e. a health committee and a separate social services committee.

5.8.5 This suggestion was afforded careful consideration but the Committee resolved not to make proposals along such lines. Dividing political responsibility for health and social care would inhibit rather than encourage co-ordination. It would result in common functions sitting in separate committees. It would also run counter to the consensus which has emerged in much of the developed world in support of integrating health and social care and risk unnecessarily fragmenting essential services which it is already challenging enough to 'join up'.

5.8.6 It is perhaps worth noting the experience in the Isle of Man. Prior to 2010, health and social care were the responsibility of one department, but in that year they were split between two departments only to be reunited under one department in 2014 owing to fears expressed in a paper which went before Tynwald that *"[t]he 2010 restructuring ha[d] created an organisational risk, which increases with the passage of time, of a potential divergence affecting the two independent departments, whereas close and effective working between them is essential"*. The Isle of Man now combines not only health and social care but also the social housing portfolio under the political leadership of a single department. This combination of responsibilities, while not recommended in the Guernsey context, does at least put into perspective claims that the health and social care portfolio by itself is too broad and needs to be split.

5.8.7 As far as adult social services are concerned, the Bailiwick's integrated arrangement at committee level has applied for very much longer than is often realised. Health care and adult social services were under the leadership of a single States' committee for many years before the last major reorganisation of States' affairs earlier this century. The Committee is of the opinion that it would be unwise to decouple them now.

5.8.8 Children services were led by a separate committee until 2004. The Committee received a small number of submissions advocating a different governance arrangement for policy relating to children, young people and families – either by combining such responsibilities with the education portfolio or by creating (or perhaps recreating) a separate committee exclusively for children services.

5.8.9 The Committee can see no reason why policy relating to children, young people and families should be served better by an education committee broadly set up as at present or by the proposed Committee *for* Education, Sport & Culture than it would be by the proposed Committee *for* Health & Social Care, not least because opportunities always exist to share good practice between the social services. Nor can the Committee justify the creation of an additional, separate Principal Committee with distinct responsibilities for children, young people and families. The Committee would not have baulked at laying such a recommendation before the States if it were likely to yield appreciable benefits, but instead the risks would seem to point towards the creation of new inefficiencies and inhibiting co-ordination between broadly common functions.

5.8.10 The Committee took the keenest interest in views expressed to it by members with previous experience serving on Health & Social Services. Strong views were expressed on both sides of the debate. Several advised against dividing political responsibility for health and social care, but a small number recommended the opposite.

5.8.11 At an operational level it is inevitable that children services will continue to be delivered under the auspices of more than one Principal Committee. This is the case today, as the Children and Young People's Plan makes clear, and no change is envisaged, including that the Committee *for* Health & Social Care should be legally responsible for the Plan. The Committee also notes that various reviews of children services which are on-going could lead to changes in how, and from where, such services are delivered. This strengthens the case for not making structural or organisational changes to children services prematurely and also to highlight the advantage of the Committee's recommendation to make a clearer distinction in Principal Committees' mandates between their policy and advisory and general responsibilities and the operational functions for which they are politically accountable. It is fully understood that accountability must be clear for services such as safeguarding and where the States are acting as the 'corporate parent'.

5.8.12 Even after streamlining the committee structure and reducing the number of Principal Committees to six, as proposed, the Committee *for* Health & Social Care, which is of course a more or less unamended successor to a present-day committee, would remain the largest committee measured by general revenue budget and would probably still have the most onerous responsibilities of all the Principal Committees.

5.8.13 This usefully puts into perspective the reasonable and achievable scale of the reforms recommended in this policy letter.

5.9 Committee *for* Home Affairs

5.9.1 The Bailiwick's economic prosperity, social well-being and community cohesion partly depend upon maintaining a safe, peaceful and stable community which respects the rule of law and individual and collective rights and responsibilities.

5.9.2 The proposed purpose of the Committee *for* Home Affairs is to support a high standard of living and quality of life by maintaining and promoting a safe, stable and equitable society which values public protection and justice and respects the rights, responsibilities and potential of every person.

5.9.3 The Committee recommends that the Committee *for* Home Affairs should be responsible for developing policy and advising the States in relation to, *inter alia*: crime prevention; law enforcement, including policing and customs; justice policy; the association between justice and social policy, for example domestic abuse and the misuse of drugs and alcohol; the new population management regime, once introduced; immigration; imprisonment, parole, probation and rehabilitation; fire, rescue and salvage; consumer protection and advice; trading standards; data protection; emergency planning; civil defence; lotteries and gambling.

5.9.4 In June, 2013, after consideration of a policy letter from the Policy Council regarding the establishment of a new population management regime to replace housing control legislation, the States directed the Committee to consider which committee of the States should in future have responsibility for the new regime, once it is introduced, i.e. responsibility for *"the development of policies which are of a level of detail so as not to require the approval of the States of Deliberation; the political oversight of the day-to-day administration of the regime; and the monitoring and publication of information concerning the size and make-up of the population [and for making recommendations to the States in connection with] the establishment of an Advisory Panel to provide independent advice in relation to population management policies…the terms of reference and membership of [which] shall be determined by the States of Deliberation only."*

5.9.5 The Committee considers it essential that population policy is not perceived as unbalanced, i.e. as driven exclusively by environmental *or* economic *or* social demands. For this reason the Committee considers that it would be unsatisfactory – and would quickly become problematic – for population policy to be absorbed by, for example, the Committee *for* Economic Development or the Committee *for the* Environment & Infrastructure or the Committee *for* Employment, Housing & Social Security. No such perceptions of imbalance need be attached to the Committee *for* Home Affairs, which in any event would naturally be responsible for immigration policy, which of course has an association with population policy. Population policy is also broadly congruent with those parts of the proposed purpose of the Committee *for* Home Affairs which

are concerned with a *"…stable and equitable society which…respects the rights, responsibilities and potential of every person"*. Therefore, the Committee *for* Home Affairs would be well-placed to assume responsibility for population policy and to be politically accountable for the new population management regime, once it is introduced.

5.9.6 If, by the time of the Committee's third and final policy letter later in the year, it appears unlikely that the States will legislate for the new population management regime to come into effect before the introduction of the improved committee system (i.e. May, 2016), the Committee will use that policy letter to make recommendations for the most appropriate interim arrangements for the governance of the outgoing housing control regime.

5.9.7 For the sake of clarification it is for the Policy Council, not for the Committee, to make recommendations in respect of how the day-to-day administration of the new population management regime should be undertaken, i.e. the possible role of a statutory official or panel and the relationship between any such official or panel and its 'parent' Principal Committee.

5.9.8 Many jurisdictions – though none of the Crown Dependencies – maintain departments of justice. Although the Committee sees no justification for the creation of a separate committee of the States, it does acknowledge that in recent years steps have been taken across the Crown Dependencies quite properly to clarify the fundamental importance to society of both the independence of the judiciary and the role of elected members in developing overall justice policy. In Guernsey, this was partly reflected in the development of a first criminal justice strategy, which covers the period 2013 to 2020.

5.9.9 The Committee considers that the Committee *for* Home Affairs should have clearer political responsibility for managing the States' links with the judicial system and for justice policy, which is always and necessarily developed in partnership with the Courts, Law Officers and other interested parties. When matters relating to the administration of justice fall into the political arena, as they inevitably do from time to time, and when justice policy is considered by the States, the lead role should be taken by the Committee *for* Home Affairs.

5.9.10 Consumer protection and trading standards are related rather more to public protection and rights and responsibilities than to economic development and, as such, policy responsibility for consumer protection and trading standards should sit with the Committee *for* Home Affairs rather than with the Committee *for* Economic Development. There are also links – through public protection and rights and responsibilities – between policies relating to consumer protection, trading standards

and data protection and political responsibility for the latter would in any event naturally fall to the Committee *for* Home Affairs.

5.9.11 The Committee *for* Home Affairs would inherit certain gambling control responsibilities. The lottery-related responsibilities of Culture & Leisure should also be transferred to the Committee *for* Home Affairs.

5.9.12 At present, responsibilities relating to the organisation of general elections are divided between the Registrar-General of Electors, the Home Department and the States' Assembly & Constitution Committee. The Committee wishes to afford further consideration to whether to recommend any changes to these responsibilities to take effect after the 2016 general election, but is inclined to the view that these are common functions which might usefully be combined and which in the future might not fall to the proposed Committee *for* Home Affairs.

5.9.13 The Committee *for* Economic Development, rather than the Committee *for* Home Affairs, would be the most appropriate location for policy relating to broadcasting and the media.

5.10 Conclusion – Recommendation for Six Principal Committees

5.10.1 The Committee's proposal for six Principal Committees is the most logical conclusion of the 2014 States' resolution which presumed in favour of rationalisation of the committee structure. It would encourage focus on policy-making, aid policy co-ordination and realise organisational and bureaucratic efficiencies. It represents purposeful but manageable streamlining of the committee structure.

6 THE CONSTITUTION AND OPERATION OF PRINCIPAL COMMITTEES

6.1 The Membership of Principal Committees

6.1.1 In the Committee's first policy letter it was stated:

"In many submissions it was held that three members [on each committee] would not provide for a sufficiently diverse range of opinion, seven members would be an unnecessary expansion and four or six members would create the possibility of tied votes."

6.1.2 After consideration of the Committee's first policy letter, the States resolved:

"[T]hat each Principal Committee shall be led by a President of the Committee and the number of other members shall be determined with reference to the range of functions, the workload and the likely number of sub-committees, but there shall be a presumption in favour of Principal Committees containing five States' members unless there is a wide variance in the breadth of mandates among the Principal Committees."

6.1.3 During debate the Committee undertook to reconsider the case for larger committees, but doing so has only fortified the Committee in its original view that the standard constitution of States' committees should provide for five States' members.

6.1.4 The Committee now makes a firm recommendation that there should be five States' members on every Principal Committee. Each Principal Committee should elect its own Vice-President, along the same lines as today.

6.1.5 The States have only very recently reconsidered, and made amendments to, the arrangements regarding the appointment of committee members who are not members of the States. There is no reason to recommend further changes: each Principal Committee should be permitted to appoint up to two non-voting members who are not members of the States.

6.2 The Approach of Principal Committees

6.2.1 It is essential to good government that matters should be dealt with at their appropriate level. The States should concern themselves with debating legislation, broad policies and priorities, items of significant expenditure and matters of major public interest and setting the framework in which the rest of the administration should

operate. Principal Committees should develop policy, advise the States on policy, review performance and budgets and oversee and hold to account the delivery of services with a view to securing improved outcomes for the community. The Policy & Resources Committee should concentrate on the co-ordination of policies and resources and representing the Island in external relations. Officers should run public services in accordance with policies set down by the States and their committees.

6.2.2 Generally the principle of subsidiarity should apply: as far as possible matters ought to be handled by the smallest, lowest or least centralised competent authority. This could be promoted through better use of schemes of delegation, but these should be flexible in order that Principal Committees are empowered and not constrained.

6.2.3 Within Principal Committees there are clearly some matters which should be dealt with at full committee, e.g. agreeing policy, items of significant expenditure within the context of the committee's overall budget, reviewing the performance of services and discussing items which will go before the States. Other matters might be delegated to the President of the committee, other members or officers.

6.2.4 Constitutionally all members of a committee are equal but it is widely recognised that the quality of a President can make or break a committee. Presidents of Principal Committees will inevitably be required to speak for a committee without it being practicable on every occasion to consult with every other member. Examples might include when speaking in the States, handling media inquiries, attending scrutiny hearings, replying to correspondence and setting meeting agendas. A scheme of delegation between a Principal Committee and its President could reduce any misunderstanding.

6.2.5 Where appropriate, Principal Committees should consider appointing 'lead members'. The concept of lead member provides for a degree of specialisation among members, for the work of a committee to be divided between members and for the States and the public to have an identifiable point of contact for each of the major areas of a committee's activities.

6.2.6 It is not hard to envisage areas which might be well-suited to such an approach – sport and culture, traffic and transport, the finance industry, energy policy, prison and probation, children services, tourism, social housing, employment affairs, to name but a few.

6.2.7 For example, the proposed Committee *for* Education, Sport & Culture might appoint one of its members to be the identifiable lead member for, say, the primary phase of education and culture; another for the secondary phase of education and youth affairs; another for higher and further education, skills and lifelong learning; and another for sport and the arts. The proposed Committee *for* Employment, Housing & Social

Security might appoint one of its members to be the identifiable lead member for, say, States' housing and the States' relationship with housing associations; another for social insurance; another for social assistance; and another for employment.

6.2.8 An albeit imperfect analogy could be drawn between 'lead members' and 'junior ministers' in ministerial systems of government, who take first line responsibility for particular areas within a department under the general direction of a minister or secretary of state (of course in Guernsey it would be under the general direction of a Principal Committee). This approach is also common in regional and local government elsewhere. For example, in Normandy, the *Conseil général de la Manche*, with which the Bailiwick's links are growing, maintains a committee for infrastructure, agriculture and economic development, which appoints lead members for, *inter alia*, tourism, transport and the ports, and roads and water.

6.2.9 This is not a new idea for Guernsey. The policy letter which prompted the structural changes earlier this century suggested that individual members of committees could:

"…take a special interest in a particular area such as tourism, agriculture, fisheries or finance and…be the spokesperson for technical and operational, as opposed to policy, issues.

"The [committee] would still operate by consensus…and all policy decisions would be taken by the members as a whole. The [President of the committee] would be the principal spokesperson on policy matters.

"Such an approach, which would not be entirely dissimilar from the process of being responsible for a particular portfolio, might provide members of [committees]…with a more significant and interesting 'job' dealing both with broad issues jointly with the other members and in developing a special knowledge and interest within their own portfolio."

6.2.10 In the years since, some committees have developed embryonic versions of this model; others have not. It should undoubtedly be left to Principal Committees to decide how best to carry out their responsibilities but generally broader mandates, as proposed, may allow the lead member model more space to flourish.

6.2.11 For the sake of members and officers, Principal Committees must not allow their agendas to become dominated by operational minutiae, but outside formal committee meetings lead members could provide both support of, and a useful check upon, particular functions or services. Appointing lead members through indicative schemes of delegation could contribute positively to the appropriate political oversight of services.

6.2.12 This is one way in which the committee system can be employed to its maximum advantage, making a virtue out of the number of members on a committee and their diverse skills and interests and ensuring that each of them is properly engaged in both policy development and operational oversight.

6.2.13 There is not a neat dividing line between policy and operations and anyone who suggests that Deputies should be completely detached from operational matters probably has little understanding of public expectations. Principal Committees will need to build up an understanding of the operational services for which they are accountable but they must not try to run them. Professional officers are paid to deliver public services; members are not. Schemes of delegation could help to clarify the appropriate spheres of responsibility for officers and members.

6.2.14 At present the functions of a committee must be either carried out by the committee itself or delegated to an officer responsible to it. In accordance with the foregoing paragraphs and in order to provide for as much flexibility as possible, which is one of the central objectives of the improved committee system, the Committee recommends that the arrangements which allow States' committees to delegate their functions should be made more permissive such that functions may be delegated to specific members of a committee or to other committees. This would require making legislative provision similar to that in respect of performance of functions by officers currently contained in the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991.

6.2.15 Very few submissions made to the Committee commented upon sub-committees set up under Rules 17 or 18 of the Constitution and Operation of States' Departments and Committees.

6.2.16 The exception was what have become known as 'Policy Council sub-groups', about which the Committee encountered much criticism. Of course last year the States resolved that with effect from May, 2016 the Council in its present form will be dissolved. Policy co-ordination will be subsumed by the new Policy & Resources Committee while some areas of policy development which may have been absorbed by sub-groups are expressly included within the proposed mandates of Principal Committees. Policy planning and policy development are addressed in section seven of this policy letter.

6.2.17 In respect of sub-committees of Principal Committees, it is not considered necessary to make any proposals for change: Principal Committees should have complete freedom to make use of them in the same way as today.

6.2.18 For the sake of clarification, the possibilities discussed above would in no way alter the fact that the full Principal Committee, as constituted by the States, must at all times

remain responsible or accountable for everything which falls within its mandate. This is an important principle of the committee system.

6.3 Ownership of Policy

6.3.1 In its first policy letter the Committee noted that collective responsibility in its conventional sense was unobtainable without the creation of an identifiable government distinct from parliament, but also stated:

"The emergence of dissent within a committee after its proposals have been submitted for debate by the States must be inimical to good governance and must undermine the proper expectation that a committee's proposals are 'owned' by the members of that committee. There is much evidence to suggest that committees are more effective when they are at least broadly united in their policy objectives.

"Therefore, even if policy development is not to be delegated to a government distinct from parliament and bound by collective responsibility, steps should still be taken to strengthen the ownership of policy by committees."

6.3.2 The Committee fully respects – and indeed endorses, in the context of the committee system of government – Rule 2(4) of the Rules of Procedure, which reads:

"Any States' member of a [d]epartment or [c]ommittee who dissents from all or some of the recommendations contained in a policy letter may deliver to the [d]epartment or [c]ommittee a minority report which shall be published as an annexe to the policy letter."

6.3.3 The sentiment expressed in the Committee's first policy letter and Rule 2(4) can easily co-exist as long as there is clarity and transparency. At the point of publication of a policy letter it should be clear whether the recommendations are supported unanimously or by a majority of the relevant committee(s). Otherwise the ownership of policy is weakened, accountability is compromised and arguably the committee system is damaged.

6.3.4 The Committee proposes that policy letters should include a statement clarifying whether each of the recommendations is supported unanimously or by a majority of the sponsoring committee(s); and, if the latter, it should be identified which member or members are not in support of which recommendations.

6.3.5 This approach respects members' independence while bringing greater clarity to the ownership of policy by committees of the States.

6.3.6 Over the years the number of days and hours of States' meetings have increased considerably. In the 1970s and early 1980s it is estimated that the States sat for

approximately 70 to 80 hours per year; in 1993 the States sat for 114 hours; in 2003 for 159 hours; and in 2013 for 168 hours. This represents an increase of nearly 50% in the past 20 years and quite possibly as much as 150% in the past 40 years.

6.3.7 There is no one single cause of this trend: it is influenced by the increasing number of members attending to States' work on something at least approaching a full-time basis, public and media interest in the proceedings of the States and the complexity and quantity of work.

6.3.8 There is some evidence to suggest that it may also be influenced by the propensity for committees to lay before the States matters which they might be empowered to resolve in committee. There is a balance to be struck: the Island's system of government makes the States pre-eminent in determining policy and States' committees must broadly be under the direction of the States, but equally the system functions best when led by strong, confident committees which do not at the first opportunity transfer ownership of policy to the States or baulk at fully exercising their mandates because doing so may lead to challenge in the States.

6.4 The Support of Principal Committees

6.4.1 The Committee has considerable respect and admiration for the many public servants who today provide, as their predecessors did in the past, much distinguished service to the States and their committees and, through them, to their Island.

6.4.2 A permanent, politically-impartial civil service exists to serve the elected States of the day while remaining sufficiently flexible to serve their successors. The civil service is bound by a code of conduct.

6.4.3 In every jurisdiction the relationship between elected members and civil servants is important. This is perhaps especially so in Guernsey, which has a very high degree of self-government but no political parties and no established culture of political association, think tanks, policy advisors etc. outside the States.

6.4.4 In serving Principal Committees the various roles of the civil service will include:

- advising and supporting Principal Committees on the development of legislation and policy, the production of policy letters to the States, matters of procedure, interaction with other committees etc.;

- implementing new or replacement policies and programmes agreed by the States and their Principal Committees;

- managing and delivering public services.

6.4.5 At present the general expectation is that each of these roles is performed by the senior-most civil servant in the service of each committee. He or she is expected at one and the same time to be chief executive, manager, policy advisor, political advisor and administrator. The modern demands of governing are making this 'jack of all trades' approach increasingly challenging.

6.4.6 There is a widely-held view, which appears to exist among senior civil servants nearly as much as it does among elected members, that there is scope for reform, improvement and greater consistency in the arrangements for serving committees.

6.4.7 Performance data should be freely available; papers should be clear and concise, showing options and making recommendations for action; members should receive their papers a reasonable period in advance; minutes and decisions lists should be concise and circulated within a few days of meetings; and the quality of policy letters must be improved. These should become standard expectations in the improved committee system.

6.4.8 Policy which is agreed should be implemented and policy which cannot be implemented – typically because of resource constraints – should not be agreed. This is not always the case at present: sometimes the enthusiasm of the States and their committees to make new policy exceeds the capacity to execute it.

6.4.9 In a democracy elected members must remain politically accountable for services of which they have oversight, but this should not preclude accountability in the civil service for decisions made demonstrably at an operational level.

6.4.10 It is critical that every Principal Committee should be well-supported by the civil service in each of the roles described in paragraph 6.4.4, if not necessarily always by the same officer(s). Officers must support and advise, but it is for elected members to determine policy. Rationalising the committee structure, as proposed in section five, can only aid these objectives: it is better to have fewer Principal Committees and to resource them properly than to spread finite resources thinly across more Principal Committees than are necessary.

6.4.11 Demands on States' committees and members have changed. States' meetings were not broadcast until the early 1980s; not 25 years ago the senior-most members of the States did not face the public at the ballot box; more recently still the ease of electronic communication has made Deputies and committees more accessible; and over this period of a single generation the media have tended to become more challenging, public expectation has grown, there is greater external interest in the Island's economic affairs and issues relating to human rights and governance have become much more prominent. In addition, since 2008, there has been greater pressure on States' finances

occasioned by the need to reform the company tax regime and then the global financial crisis.

6.4.12 In some areas, additional demands have exceeded the capacity to cope with them. The States' approach to communication, policy research and project management are but three examples.

6.4.13 Even with careful financial planning in the years ahead the States may not be able to afford, as they have not hitherto been able to afford, permanently to provide every committee with resources which it may truly need only during certain periods, e.g. when undertaking a large consultation exercise, sponsoring a policy letter in which there is considerable public interest or managing a major new project. Pursuing further just one of these examples, when the States or one of their committees are required to consider or decide upon a matter of change, restraint, major additional expense etc. which is of general public interest (and therefore media interest too) all too often the case for what the States or committees are doing or not doing is communicated inadequately, if indeed it is communicated at all, which inevitably affects public perception of, and ultimately public confidence in, the States.

6.4.14 Maintaining such resources in a 'centre of excellence' and deploying them to committees when necessary may well be the only credible and affordable way of ensuring there is adequate capacity across the States. The Committee strongly rejects fears that such an approach is somehow injurious to the committee system of administration, the survival and prosperity of which depends upon how well it can adapt to the modern challenges and demands facing the States.

6.4.15 What remains fundamental is that each Principal Committee is directly and independently responsible to the States and has the mandate – which is subservient only to the States – for the areas of policy and the services which the States have entrusted to it. This has always been the case, is now and will be in the improved committee system from May, 2016.

6.4.16 Clause 26 of The *States of Jersey Law, 2005*, as amended, makes senior officers "*…in any administration of the States for which a Minister is assigned responsibility…accountable to that Minister in respect of policy direction.*"

6.4.17 This is the way the Committee sees it in Guernsey – with the exception of committees in place of ministers – and to put that beyond doubt an appropriate recommendation is included at the end of this policy letter.

6.4.18 Conflicts in policy are to be resolved at the political level, initially between the Principal Committee(s) and the Policy & Resources Committee and, if necessary, ultimately by the States. Equally a senior officer must have the opportunity to raise through the Chief

Executive any occasion, however infrequent, when a Principal Committee may be directing the pursuit of policy which is contrary to States' resolutions.

6.4.19 The line management of senior civil servants is through the Chief Executive. The Committee has worked closely with successive Chief Executives. The Chief Executive is accountable for the performance of the civil service, including the distribution of its resources in order to serve the elected States and their committees. The Committee would strongly oppose any attempt to undo that.

6.4.20 The Committee has been advised that later this year the Policy Council will lay a policy letter before the States concerning reform of the civil service. That policy letter is not a part of this review of the political structure but the Committee has been assured that proposals within it will take account of the need for Principal Committees, and indeed the wider political structure, to be well-supported by the civil service.

6.4.21 In advance of that, the Committee proposes that from the inception of the improved committee system in May, 2016 more formal means should be established to provide for the President of a Principal Committee to convey to the Chief Executive that the committee is losing confidence in a senior officer or in the level of support it receives. In view of the need for impartiality in the civil service, it would not be appropriate for a Principal Committee or a President thereof to become embroiled in the performance management of individual civil servants, although in the case of very senior officers it is expected that the President of the Policy & Resources Committee would have a role to play. If, after the exhaustion of reasonable procedures, the Principal Committee still has no confidence in a senior officer there should be an expectation that the officer will be transferred out of the service of that Principal Committee. In addition, the Chief Executive and other senior officers must obtain the views of the President of a Principal Committee, and through them the members thereof, when appointing and appraising senior staff in the service of that Principal Committee.

6.4.22 In 2013 the States made a resolution which directed the Committee to *"make proposals designed to ensure that the structure of the civil service and the titles of officers (such as Chief Executive or States' Supervisor) are consistent with the organisation of States' affairs which the Committee will recommend be adopted with effect from 2016"*. The Committee believes that the foregoing paragraphs set out quite clearly how the States and their committees should expect to be supported by the civil service and beyond this the Committee sees no case to invite the States to direct any particular changes to the structure or titles of the civil service.

6.5 Principal Committees, the Administration and Nomenclature

6.5.1 In 2002 the States overwhelmingly rejected an amendment proposing the introduction of ministerial government in favour of retaining a committee system and then

paradoxically resolved to introduce the appellations 'Chief Minister' and 'Minister'. Two years earlier an independent panel of review had put forward several options for reform, including two in which *"government would be run on a departmental basis"* – the States rejected both and then paradoxically resolved to introduce the appellation 'department'. At the same time, and further borrowing from the language of Westminster, the word 'Select' was interposed between 'Legislation' and 'Committee'.

6.5.2 These are but three examples of why in its first policy letter the Committee noted that *"[g]enerally much of the nomenclature of the States appears to confuse rather than to clarify"*.

6.5.3 The resolutions which the States made last year regarding appellations will ensure that such inconsistencies are not carried into the new structure from May, 2016. The States approved what is emphatically a committee system of administration based on the Island being governed by the States through their committees – and usefully the States approved appellations which are consistent with the committee system.

6.5.4 Under the present arrangements, 'department' is perhaps especially ambiguous. Technically a department is the five political members (and any appointed non-voting members) elected to it by the States, but this is not a logical use of a word which is much more commonly employed to mean the permanent staff of a 'department'. This ambiguity is not simply an issue of style or presentation: it has the potential to weaken political accountability in the sense that every decision is made in the name of the department but the department is generally perceived to mean the officers. Indeed, it is not uncommon for members of a department to refer to a decision of 'the department' as if they were only loosely connected to it, if at all (e.g. *"that was not our decision; it was made by the department*") when the department *is* the members.

6.5.5 The introduction of Principal Committees will turn this on its head. Political accountability will be strengthened in the sense that every decision will be made in the name of the committee and inevitably the committee will be perceived to mean the five political members (and any appointed non-voting members) elected to it by the States. This is manifestly preferable to the present arrangements.

6.5.6 Removing the ambiguous and dual use of 'department' is also consistent with promoting greater flexibility in the civil service by challenging the (relatively recent) assumption that there must always be a one-to-one relationship between a political committee and its own dedicated and exclusive contingent of officers, albeit that it is well-recognised that every Principal Committee must be able to rely on at least some continuity and stability among its civil service support. It is noted that joint working could be promoted by co-locating committees which have a strong policy focus.

7 THE POLICY & RESOURCES COMMITTEE

7.1 The States' Resolutions of 2014

7.1.1 The resolutions made by the States last year in respect of the creation of the new Policy & Resources Committee were more extensive than the resolutions made in respect of Principal Committees.

7.1.2 The States agreed the title, constitution and broadly the purpose and responsibilities of the Policy & Resources Committee, as follows:

"…in order to provide clear leadership through the co-ordination of policy and resources, there shall be a single senior committee, designated the Policy & Resources Committee, with the following main functions:

a) policy co-ordination, including leading the policy planning process;
b) allocation and management of resources, including the States' budget; and
c) facilitating cross-committee policy development.

"…the Policy & Resources Committee shall comprise five States' members, none of whom shall be members of the Principal Committees.

"…President of the Policy & Resources Committee shall be the Island's senior political office.

"…the Policy & Resources Committee shall have responsibility for external relations and constitutional affairs and the Committee shall delegate its President or one of its members as the States' lead member for external relations and constitutional affairs."

7.1.3 This section of the policy letter develops these resolutions further and contains the necessary proposals to allow the States to determine in more detail both *what* the Policy & Resources Committee will do and *how* it will do it once it is established alongside the Principal Committees in May, 2016.

7.1.4 As in the case of the Principal Committees, the proposed final wording of the mandate of the Policy & Resources Committee – in which will be set down its title, constitution and duties and powers – will be laid before the States in the third policy letter later this year.

7.2 Misconceptions about the Policy & Resources Committee

7.2.1 First it is important to establish unequivocally what the Policy & Resources Committee is not.

7.2.2 In section four it is stated that *"[d]uring the Committee's extensive consultation period, not a single respondent disputed the need for the States to elect from among their number a group of members to sit as a senior committee."*

7.2.3 A few submissions envisaged a senior committee acting as not much more than a discussion forum, perhaps providing a platform for representatives of other major committees to discuss issues of common interest.

7.2.4 On the other hand a few submissions envisaged a senior committee developing all substantial policy and other committees, i.e. the Principal Committees, becoming largely operational.

7.2.5 The Committee's first policy letter emphatically rejected both of these approaches. The first approach would not provide for effective leadership and the sound co-ordination of policy and resources. The second approach would divide policy making from policy implementation, which would obscure accountability and emasculate the Principal Committees, on which the vast majority of States' members will sit, driving them inexorably into operational minutiae.

7.2.6 Furthermore, the Policy & Resources Committee should not simply be a merger of the current Policy Council and Treasury & Resources Department. It should not absorb all of their peripheral as well as central responsibilities. Nor should the Policy & Resources Committee be expected, simply on account of the impartiality of its membership, to act as a repository for functions which it may be considered convenient to remove from other committees.

7.3 The Duties, Powers and Confines of the Policy & Resources Committee

7.3.1 The resolutions made by the States last year endorsed the Committee's view that the Policy & Resources Committee should embrace and develop the main responsibilities of the Policy Council and Treasury & Resources.

7.3.2 As such, the Policy & Resources Committee will be responsible for co-ordinating the work of the States by leading the policy planning process, facilitating cross-committee policy development and advising the States on the proposals of Principal Committees; and for fiscal and economic affairs, the States' budget, corporate resources and external and constitutional affairs.

7.3.3 As stated in section four, the Policy & Resources Committee will start with several advantages over its immediate predecessors: it will have responsibility for both policy co-ordination and the allocation of resources; its mandate will be more tightly focused on its primary functions; as a result of other recommendations which the States approved last year its members will not be diverted by other major committee responsibilities; and, if the recommendations in this policy letter are approved, it will need to co-ordinate fewer other committees.

7.3.4 The Policy & Resources Committee will be in a stronger position to offer leadership and co-ordination, but strictly within the Island's committee system. The authority of the States will be undiminished: major points of issue will still be resolved by the States. The Principal Committees will remain directly responsible to the States and have extensive policy-making responsibilities, as proposed in section five.

7.3.5 The Policy & Resources Committee will be expected to provide competent leadership, including setting the strategic policy agenda. However, within the overall policy framework and resource limits agreed by the States, Principal Committees must be allowed to carry out their mandated responsibilities without undue interference from what will invariably (if somewhat inaccurately) be perceived as 'the centre', and then must be robustly held to account for their performance. A useful recent example of this was the acceleration of progress on the Financial Transformation Programme once political responsibility and accountability were devolved to departments.

7.3.6 Several submissions made to the Committee suggested that successive Policy Councils have too often immersed themselves in detail or in matters which clearly fall within the mandates of other committees. It is essential that the Policy & Resources Committee should concentrate on matters which have a direct bearing on the overall objectives of the States. The Policy & Resources Committee must not be allowed to become a forum for aimless discussion or for individual members to pursue specific policy or operational grievances.

7.3.7 Although the Policy & Resources Committee will be *primus inter pares*, its influence will depend upon how successfully it develops its political standing and earns the respect of the States and other committees. This will require a collegiate, inclusive and thoughtful approach to leadership.

7.4 Policy Planning, Co-ordination etc.

7.4.1 *Policy planning* is the integration of policies across the States and the reconciliation of policy objectives with the allocation of resources.

7.4.2 During the course of its review the Committee encountered much criticism of the States' repeated attempts to establish a credible States-wide process for planning and

co-ordinating policy and resources. Since the structural changes of 2004 there have been at least four attempts, none of which have worked satisfactorily.

7.4.3 The Policy & Resources Committee will need to develop and lead a policy and resource planning process which, unlike some of its recent predecessors, should be reasonably straightforward, flexible and un-bureaucratic. It will need to focus on significant policy matters and lay down a framework of overall policy assumptions in order to assist Principal Committees in the setting of their policies and priorities.

7.4.4 Recent plans have carried a multitude of titles. Since the purpose of any such plan is the effective co-ordination of policy and resources and since the process will be championed and led by the Policy & Resources Committee, the most appropriate title to adopt is *Policy & Resource Plan*.

7.4.5 The Committee recommends that the *Policy & Resource Plan* should be developed broadly along the following lines:

- initially the Policy & Resources Committee would propose to the States a statement of broad *States' objectives* for the long term (say, 20 years) and medium term (say, five years) in connection with fiscal and economic affairs, social affairs, the environment, population, external relations, human resources *et alia*;

- each of the six Principal Committees would then draw up *policy plans* setting out the policies and actions they intend to pursue over the short and medium term to fulfil the agreed *States' objectives*;

- the Policy & Resources Committee would work towards ensuring that the Principal Committees' *policy plans* are co-ordinated and consistent with the *States' objectives* and with each other, including identifying any conflicts and areas where prioritisation is necessary, before they are submitted to the States for debate and resolution;

- periodically – say, every 12 or 24 months – the Policy & Resources Committee would co-ordinate reviews of performance against the *States' objectives* and *policy plans* for submission to the States together with any amendments considered necessary.

7.4.6 The Committee makes no apology for reiterating that the *Policy & Resource Plan* must be reasonably straightforward, flexible and un-bureaucratic. It must not be allowed to become too lengthy or too complicated or mired in detail; it should not seek to include every possible service or activity undertaken by the States and their committees; it should not be used as a pre-budget report; nor should it greatly constrain Principal Committees from managing their budgets and fulfilling their mandates. The *Policy &*

Resource Plan should be seen as a means of strengthening leadership, co-ordination and accountability and not as an end in itself.

7.4.7 In 2012, the Scrutiny Committee published a discussion document entitled *Monitoring States' Resolutions*. It stated:

"A States' resolution is an important part of the democratic process. It is…an expression of the political will of the States…

"States' resolutions can therefore be used to hold [committees] to account. However, to do so they must be clear, unambiguous and accessible to all interested parties within and outside the States.

"The Scrutiny Committee has found that States' resolutions are frequently falling short of these criteria. In particular, there has not been any clear mechanism for ensuring that they are implemented."

7.4.8 It is proposed that the duties and powers of the Policy & Resources Committee should expressly include the monitoring of States' resolutions and advising the States on progress against them and that this should become a routine element of the policy and resource planning process. Without this, accountability is weakened.

7.4.9 The practice of commenting on other committees' policy letters should also be reformed. At present this policy advisory function (which sits with both the Policy Council and Treasury & Resources) is entangled with, and greatly influenced by, the purely administrative function of submitting and publishing items for the States, and in the opinion of the Committee they should be decoupled.

7.4.10 A policy letter from a Principal Committee should be required to set out clearly how the proposals contained therein relate to the purpose and policy responsibilities of the Principal Committee, how they contribute to the *States' objectives* and *policy plans* and what joint working or consultation has taken place with the Policy & Resources Committee and other relevant Principal Committees. Letters of comment from the Policy & Resources Committee should be restricted to the more substantial policy letters only and to advising the States on whether the proposals are consistent with the *States' objectives* and *policy plans*. All of this should be seen as part of the policy development process.

7.4.11 Once this policy development process is complete, policy letters should be published more or less immediately and thereafter submitted to the States. There needs to be more flexibility in setting the agenda for States' meetings and in any event the preparation of the agenda is not a function which needs to sit with the senior

committee. Proposals for reform of the process will be laid before the States later this year by the States' Assembly & Constitution Committee.

7.4.12 At present the Policy Council is *"responsible for requiring a department or committee to examine and report to the States or to the Policy Council on any matter which falls within the mandate of such a department or committee"* and has the authority of the States *"to examine and report to the States, or to require a department or committee…to examine and report to the States, or to the Policy Council, on any matter which falls outside the mandate of any department or committee"*. It is important that these powers of leadership and co-ordination should be transferred to the new Policy & Resources Committee; indeed the Committee is inclined to believe that, much more than its predecessors, the Council has held these powers too much in reserve. Nevertheless, there remains a major difference between on the one hand requiring another committee to investigate an area of policy and report its findings and on the other hand taking over the task from that other committee – what the Committee envisages is the former, not the latter.

7.4.13 Where there is a need to develop policy which engages the mandates of more than one Principal Committee, the Policy & Resources Committee should, where necessary, be empowered to bring together the relevant Principal Committees. In this way cross-committee work could be facilitated by the Policy & Resources Committee through a network of working parties involving the Principal Committees and members thereof. These cross-committee working parties should replace the concept of 'Policy Council sub-groups', about which, as stated in section 6.2, the Committee encountered much criticism.

7.4.14 Clearly, a most important component of the improved committee system will be the relationship between the Policy & Resources Committee and the Principal Committees. The Policy & Resources Committee will be able to fulfil its responsibilities of policy co-ordination only by working co-operatively and cohesively with the Principal Committees: frequent dialogue and regular meetings between the Committees will be essential and the mandate of the Policy & Resources Committee should require it to take the initiative in this respect.

7.4.15 The full mandate of the Policy & Resources Committee will need to encapsulate its relationship with the States and with the Principal Committees. If, following debate of this second policy letter, the Committee is of the opinion that further direction is required from the States on this point about relationships it will use its third policy letter to explore the relevant issues further and make any recommendations necessary.

7.5 External Relations and Constitutional Affairs

7.5.1 In the Committee's first policy letter it was stated:

"The nature of Guernsey's economy and the increasing inter-dependence of the modern world mean that the need for the States to apply resources – both time and money – to the Island's relations with other jurisdictions is likely to grow rather than diminish. The vast majority of submissions to the Committee which made reference to external relations recognised that they are an essential area of States' activity if the Island's economic prosperity and self-government are to be maintained and strengthened."

7.5.2 The decision of the States to delegate responsibility for external relations to the Policy & Resources Committee should ensure that the duty of protecting and promoting the Island's interests is afforded the necessary prominence in the new committee structure.

7.5.3 The duties and powers of the Policy & Resources Committee in this area will include managing the Island's relationships, and negotiating, with other jurisdictions and supranational organisations; speaking for the Island externally; considering international agreements to which the insular authorities have been invited to acquiesce; and overseeing the Island's much-valued relations with the other Islands of the Bailiwick, including the 'fiscal union' with Alderney. As normal, it will be confined to doing so within the boundaries of any policies laid down by the States, although in external relations it is usually considered judicious for any such boundaries to be drawn quite faintly in order that those with delegated responsibilities are able to respond to events with speed and agility.

7.5.4 The obligation laid down by the States for the Policy & Resources Committee to designate its President or one of its members as the States' lead member for external relations and constitutional affairs should ensure that these activities are afforded at least as much focus as has been the case hitherto and as much as is demanded in the future.

7.5.5 More recently a collegiate approach has been developed towards external relations. The resolutions made by the States allow for this approach to be maintained: responsibility for external relations will remain firmly within the whole of the Policy & Resources Committee and the member with designated responsibility will be free to call upon colleagues – whether other members of the Policy & Resources Committee or the Presidents of the Principal Committees or any other States' member – to take the lead or assist whenever particular circumstances require. This should ensure flexibility and resilience in external relations.

7.5.6 The Committee believes that the States' approach to external relations and constitutional affairs would be strengthened further by the designated lead member appointing an advisory group, which might include a number of States' members and perhaps even persons independent of the States with relevant expertise and experience. What is envisaged is a body not wholly dissimilar from the present External

Relations Group, which the Policy Council has chosen to maintain as a sub-committee. The establishment, constitution and role of any such group are best left to the judgement of the Policy & Resources Committee.

7.5.7 In section four of the policy letter it is stated:

"A paradox was identified in the office of Chief Minister today…Unsurprisingly there is a wide disconnect in Guernsey between what is generally expected of the person holding the title Chief Minister and the actual powers of the role…

"The Committee had a general and clear view regarding appellations: if the States wished to adopt a ministerial system of government the titles Minister and Chief Minister were entirely appropriate, but if the States rejected a ministerial system of government in favour of a committee system the titles Minister and Chief Minister could not be anything other than misleading and unhelpful.

"Therefore, the Committee proposed – and the States agreed – that the Island's senior political office should be designated President of the Policy & Resources Committee. President has a very long political heritage in Guernsey, is not gender specific and accurately describes the presiding role expected of the political heads of committees."

7.5.8 In its first policy letter the Committee undertook to consider whether there was a case for the States formally to lay down arrangements authorising the adaptation of nomenclature and appellations if and when the circumstances of external relations business so required.

7.5.9 There is a credible argument against adaptation, whether formally laid down by the States or not.

7.5.10 One of three overall aims of the States, as agreed in 2013, is *"to protect and improve…the Island's…unique cultural identity and rich heritage."* It could be argued that, having recently affirmed their support for the Island's committee system, the States should actively promote the characteristics and distinctiveness of that system.

7.5.11 In view of Guernsey's participation in organisations such as the British-Irish Council and the British-Irish Parliamentary Assembly, it is worth considering the case of Ireland. There the senior political office is the *Taoiseach* and it is frequently not adapted outside Ireland. For example, the communiqué of the most-recent summit of the British-Irish Council stated: *"The Irish Government delegation was led by An Taoiseach, Mr Enda Kenny TD."*

7.5.12 Nonetheless, adaptation of nomenclature and appellations is nothing new in Guernsey. Perhaps rather unfortunately given the Island's strong Norman heritage, a

previous States instituted a title – *Chief Minister* – which has no relevant meaning when translated into French and is therefore of no use, and is now not used, when dealing with the Island's nearest large neighbour. In another example, albeit non-political, the titles *Her Majesty's Procureur* and *Her Majesty's Comptroller* remain in common use locally and indeed are greatly valued for their historical significance, but when away from the Island the titles *Attorney-General* and *Solicitor-General* are sometimes used because they are more readily understood.

7.5.13 Such adaptation is not uncommon elsewhere. In Nordic countries the holder of the senior political office is known as *Statsminister*, but the title is adapted outside those countries. In Switzerland, where the executive is led not by a single office holder but by a seven-member *Federal Council*, the title *President of the Confederation*, which rotates annually among the seven members, is often adapted outside the country.

7.5.14 On balance the Committee proposes that the States should not prescriptively lay down any particular title(s) but rather should maximise the flexibility of its office holders to adapt titles in order that the Island is represented appropriately externally. Therefore, a recommendation is made to permit the Policy & Resources Committee, where necessary, to authorise the adaptation of appellations in connection with the external relations activities of the States. Examples of adaptation may include the use of *Premier Ministre de Guernesey*, which is an adapted title used by the States already; *Premier* or *Vice-Premier*, which are common designations in several British Overseas Territories, are equally applicable in English and French and do not immediately suggest that Guernsey has a ministerial system of government when plainly it does not and in peacetime never has; *Chief Minister*; *External Relations Minister et alia*. This proposal for flexibility would usefully formalise what is *de facto* the present arrangement. The Committee sees less need to provide for adaptation in the case of members elected to lead Principal Committees: use, where necessary, of, for example, *President, Health & Social Care* or *President, Economic Development* would be perfectly satisfactory.

7.5.15 In formulating this recommendation, other members of the Committee have paid particular regard to the views proffered by their Chairman, who is also the holder of the Island's most senior political office, and his immediate predecessor in that senior office, who sits with the Committee in a non-voting capacity.

7.5.16 The Policy Council is *"…responsible for [t]he policy for the future provision of aid overseas…"*. In view of the links between overseas aid and external affairs more broadly, it is proposed that this policy responsibility should be transferred to the new Policy & Resources Committee, albeit that the oversight of projects and distribution of aid should remain with a separate commission, which is recommended in section eight of this policy letter.

7.5.17 The Policy Council *"…advise[s] the States on matters relating to…the parishes…"*. The Committee will consult the parochial authorities before proposing the final mandates of committees in the autumn, but at this stage is minded to recommend that the States' important relationship with the parishes should be managed through the Policy & Resources Committee under its constitutional affairs remit. The Committee acknowledges the role of the Policy Council's Douzaine Liaison Group and believes that it would most probably be of benefit to maintain an advisory group drawing together States' members and representatives of the parishes.

7.6 Non-Finance Resources / Corporate Services

7.6.1 At present, the resources of the States which are not directly related to the treasury function – many of which might broadly fall under the description 'corporate services' – are the responsibility of either Treasury & Resources or the Policy Council.

7.6.2 The Committee proposes that the Policy & Resources Committee should assume responsibility for only certain of these functions and in some cases then only temporarily.

7.6.3 The States are the only shareholder in four incorporated commercial concerns: the Cabernet Group, Guernsey Electricity, Guernsey Post and Jamesco 750. The duties of the States as a shareholder are not directly related to co-ordinating policies and resources or facilitating cross-committee working or external relations and it is therefore recommended that these duties be excluded from the mandate of the Policy & Resources Committee. In any event the States' 'shareholder resource' would benefit from being further developed in a dedicated and focused way from outside the Policy & Resources Committee and an appropriate proposal to achieve this is set out in section eight of this policy letter.

7.6.4 The Committee makes exactly the same recommendation in respect of the commercial elements of the States' significant property portfolio: this function, too, should be led politically from outside the Policy & Resources Committee, as outlined in section eight.

7.6.5 The role of the States as an employer has over the years been the subject of several reviews and much debate.

7.6.6 In 2004 the employment functions of the States were divided – the Public Sector Remuneration Committee was made responsible for pay determination and the Policy Council for all other employment matters. This division was subsequently and predictably the subject of criticism in successive external reviews.

7.6.7 In 2007 the Policy Council commissioned Dr Graham Robinson to undertake a wide-ranging review of the role of the States as an employer. Four years later, reflecting on Dr Robinson's review, the Policy Council stated:

"He [Dr Robinson] concluded that there was a need to overcome the disconnection between the Policy Council's employment-related mandate and that of the Public Sector Remuneration Committee as the negotiator of pay and conditions for employees and this could be addressed by creating some form of 'Public Employment Board' (or States' Employment Board) that would bring together these two functions in one place.

"His view was that the Policy Council had such a wide portfolio that it was not easily able to focus on employment issues generally…".

7.6.8 In 2012 all employment functions were once again consolidated under the leadership of a single committee, but that committee was the Policy Council, in conflict with Dr Robinson's recommendations but in line with recommendations arising from a later Tribunal of Inquiry into an industrial dispute at the airport.

7.6.9 The Committee recommends that initially, i.e. from May, 2016, the Policy & Resources Committee should assume responsibility for all of the States' employment functions, including oversight of the role of Chief Executive and, through him, of the civil service generally, but this is not considered to be a particularly satisfactory or sensible long-term arrangement in view of the other broad responsibilities of the Policy & Resources Committee. Therefore, the Committee also recommends that the States direct the Policy & Resources Committee to set out proposals for a revised structure.

7.6.10 In its first policy letter the Committee stated:

"The Policy Council's mandate includes: 'The provision of corporate research programmes and the maintenance of corporate statistics including responsibility for population data.' The Committee places great weight on the requirement for statistics and research issued by the States not only to be, but also to be seen to be, entirely free of political influence. This objective may be assisted by removing responsibility for this function from the senior committee and instead appointing a States' Statistician as a statutory official."

7.6.11 The Committee regrets that in the time available it has been unable to develop this proposal further, but it remains committed to the principle, underpinned by legislation, of visible and demonstrable impartiality in statistics and research issued by the States and includes an appropriate recommendation.

7.6.12 In respect of other corporate resource functions – information technology, risk management, the corporate identity and communications of the States, procurement,

non-commercial aspects of property management *et alia* – the Committee received suggestions that they should be overseen by a separate corporate resources board.

7.6.13 Generally these are management or operational functions in respect of which policy direction needs to be set clearly but infrequently. The Committee does not believe that they require the establishment of a new and separate committee of the States. The Committee recommends that they should fall within the duties and powers of the Policy & Resources Committee, which may well oversee them through a sub-committee or a management board drawing together States' members and relevant senior officers.

7.7 Other Issues Relating to the Policy & Resources Committee

7.7.1 In section five of this policy letter it is stated that the third policy letter will set out for the first time a comprehensive schedule stating which committee has political accountability for each of the operational functions and services across the States. The States will be invited to approve the schedule in full. In order to maximise flexibility and better support co-ordination of the work of the States, it is proposed that in future, i.e. from May, 2016, the Policy & Resources Committee should be permitted to allocate to committees, or to transfer between committees, political accountability for operational functions and services – provided that the allocation or transfer has the agreement of all committees concerned. In the event of there not being agreement, the proposed allocation or transfer would need to be laid before the States for resolution.

7.7.2 In respect of lead members, the Committee is of the opinion that the proposals which it has made for the Principal Committees in section 6.2 should apply to the Policy & Resources Committee also: it should have the freedom to appoint lead members for particular sections of its mandate but the States should not require it to do so. Adopting a more prescriptive approach in this matter would first unnecessarily constrain the flexibility of the Policy & Resources Committee and second risk replicating the *ex officio* membership of the senior committee which the States have already recognised to be a disadvantage of the present structure. The Policy & Resources Committee should elect its own Vice-President, along the same lines as today.

7.7.3 At present the Legislation Select Committee has the power to order that any Ordinance *"…shall be operative either immediately or upon such future date as the Committee shall prescribe…"*, i.e. without the approval of the States, albeit that the States are notified – and may if they wish annul the Ordinance – as soon as practicable thereafter. In its first policy letter the Committee suggested that this power *"should be assumed by the Policy & Resources Committee because it is plainly not a scrutiny function"* and a recommendation is made to transfer this function. Irrespective of which committee has

such powers, it is important that the criteria governing their use and the occasions of their use should be published and readily accessible.

7.7.4 The Committee recommends that the Policy & Resources Committee should inherit from the Policy Council responsibility for the prioritisation of the States' legislative programme but also that every effort should be made to involve the States more in determining the order of priority of enactment, most probably through the *Policy & Resource Plan*.

7.7.5 It is considered important that the States' Chief Executive should be, and should be seen to be, taking an overview of the whole of the public sector and not overly associated with any one particular States' committee. It is therefore envisaged that he or she should not have responsibilities to advise or support the Policy & Resources Committee in particular over and above other States' committees.

7.7.6 In some areas the Policy Council and Treasury & Resources Department are seen to act as a check and balance to each other – for example the Council is *"responsible for sanctioning the recommendations of the Treasury & Resources Department in respect of the salaries affecting the posts of Lieutenant Governor, Bailiff, Deputy Bailiff, Judges of the Royal Court and of the Magistrate's Court and Law Officers of the Crown"*. In its third policy letter the Committee will make recommendations to ensure that in such circumstances good governance is protected after the establishment next May of the Policy & Resources Committee.

7.7.7 The observations and recommendations made by the Committee in sections 6.3 and 6.4 – in connection with Principal Committees' ownership of policy and support – should, where appropriate, apply to the Policy & Resources Committee.

7.7.8 The Committee envisages that the President of the Policy & Resources Committee should be elected first and should then have the first nomination rights in respect of the election of members of the Policy & Resources Committee. The Policy & Resources Committee should then have first nomination rights in respect of the election of Presidents of the Principal Committees. A President of a Principal Committee should have the right to make the first nominations in respect of the election of members of that Principal Committee. In every case, as today, alternative nominations from the floor should be permitted. However, no firm recommendations are made in respect of internal elections: it falls to the States' Assembly & Constitution Committee to report to the States in due course.

8 OTHER STATES' FUNCTIONS

8.1 Preface to Proposals

8.1.1 The rationalisation which the Committee advocates implies numerical reduction, which is proposed in the structure of Principal Committees in section five and in the number of States' members in section 10. Rationalisation also implies that functions should be undertaken in the correct place to maximise effectiveness and efficiency, i.e. doing the right things in the right manner for the benefit of the Island, and it is this latter objective which is addressed in this section.

8.1.2 In its first policy letter the Committee stated:

"Whichever political system the States believe is most appropriate for the Island, there will always be some functions of government which it is neither desirable nor practicable to allocate to what might be termed the 'core structure', by which is meant…the Policy & Resources Committee and the…Principal Committees."

8.1.3 First this section identifies those functions which are already undertaken by separate States' bodies and where the Committee proposes no change or virtually no change.

8.1.4 Second the Committee identifies a small number of statutory and trading functions for which it recommends different governance arrangements than apply at present.

8.1.5 With the exception of those in section 8.6, each of the proposed bodies would be a committee of the States; their constitutions and mandates would be determined by the States; their members would be elected by the States; and they would report directly to the States. In no way should they be considered subordinate to Principal Committees: it is simply that their responsibilities are of a different nature.

8.1.6 As in the case of the Principal Committees and the Policy & Resources Committee, the proposed final wording of the mandates of these other bodies – in which will be set down their titles, constitutions and duties and powers – will be laid before the States in the third policy letter later this year.

8.1.7 Unlike Principal Committees, the constitutions of these bodies will differ depending on their responsibilities. In each case there will be a President but the number of other members and those eligible for election will vary. Each of these bodies should elect their own Vice-Presidents, along the same lines as today.

8.1.8 The observations and recommendations made by the Committee in section 6.4 in connection with the support of Principal Committees should, where appropriate, apply to the bodies proposed in this section. It is fully recognised that securing appropriate, and in some cases specialist, staff would be as important for these bodies as it would be for the Principal Committees and the Policy & Resources Committee. In addition, the observations and recommendations made by the Committee in section 6.3 in connection with the ownership of policy should also apply to the bodies proposed in this section.

8.1.9 The arrangements for electing members of these bodies will need to be included in the policy letter regarding the Rules of Procedure etc. which the States' Assembly & Constitution Committee will lay before the States in due course.

8.1.10 The proposals in this section are equally valid irrespective of the number of Principal Committees and their range of responsibilities. These functions should be undertaken outside the Policy & Resources Committee, Principal Committees and Scrutiny Management Committee.

8.1.11 If the proposals in this section are approved together with those in section five, in total from May, 2016 there would be a reduction of around 25% in the number of permanent committees of the States.

8.1.12 This section does not refer to the new arrangements for scrutiny which were agreed by the States last year. They are developed further in section nine.

8.2 Civil Contingencies

8.2.1 At present, in an emergency, the Civil Contingencies Authority can take steps to secure the well-being of the Island. The Authority may, as a last resort, declare a state of emergency and make regulations in response to the emergency.

8.2.2 The Authority is a relatively new creation, albeit undertaking a long-established function, having been constituted with effect from February, 2013 by an Order in Council registered in November, 2012.

8.2.3 The Committee proposes that the Authority should continue to exercise the powers and duties conferred on it by extant legislation, including the Civil Contingencies (Bailiwick of Guernsey) Law, 2012.

8.2.4 The Committee also proposes no change in the constitution of the Authority, other than to reflect changes in the nomenclature of committees. It would be constituted as follows: the President of the Policy & Resources Committee, the President of the Committee *for* Home Affairs, the President of the Committee *for the* Environment &

Infrastructure and the President of the Committee *for* Health & Social Care with the same arrangements as apply at present with regard to deputising for those members if they are absent.

8.3 Overseas Aid & Development

8.3.1 The Overseas Aid Commission distributes money approved by the States for the purposes of overseas aid and development through grants and emergency and disaster relief and develops programmes relating to the collection and distribution of funds involving the private and voluntary sectors. The Committee proposes the continuation of the Commission.

8.3.2 The Committee also proposes a change to the title of the Commission from Overseas Aid Commission to Overseas Aid & Development Commission to reflect that a considerable proportion of the funds distributed by the Commission are in the cause of developing communities and infrastructure.

8.3.3 At present the Commission operates in accordance with policies set down by the Policy Council. In section seven the Committee proposes that the role of the Council in setting down such policies for the Commission should be subsumed by the Policy & Resources Committee because Overseas Aid and Development is linked to external affairs, for which the States have resolved to make the Policy & Resources Committee responsible, because Overseas Aid and Development is linked to external affairs, for which the States have resolved to make the Policy & Resources Committee responsible.

8.3.4 At present the Commission is chaired by a member of the Policy Council appointed by the Council and comprises six other members who need not be members of the States, elected by the States on the recommendation of the Council.

8.3.5 The Committee believes it would be advantageous for all members of the States to be eligible to serve as President of the Overseas Aid & Development Commission rather than requiring the holder of that office also to be a member of the Policy & Resources Committee. Indeed the Committee's presumption is that the post will not be held by a member of the Policy & Resources Committee. Other than that, it is not felt necessary to recommend any changes to the constitution of the Commission.

8.4 The States' Rules of Procedure etc.

8.4.1 The Committee proposes that the States' Assembly & Constitution Committee as presently constituted, i.e. with five members who must be members of the States, should continue to be responsible for advising the States in relation to the Rules of Procedure and practical functioning of the States and their committees, elections to

the office of People's Deputy, elections of members of committees, the code of conduct for members, induction and on-going support of States' members etc.

8.5 Committees of Investigation and Review

8.5.1 Rule 18 of the Constitution and Operation of States' Departments and Committees provides for the establishment of task and finish committees to carry out particular but temporary pieces of work. At present there are the following Rule 18 committees: Constitutional Investigation Committee, Parochial Ecclesiastical Rates Review Committee, Social Welfare Benefits Investigation Committee and States' Review Committee.

8.5.2 The Committee sees no need to remove or in any way constrain the flexibility of the States to establish such committees but proposes a small change in their generic title from Special States' Committees, which is rather nebulous and provides no indication of their function, to States' Investigation & Advisory Committees, which more accurately describes the nature of the work in which they are almost always involved.

8.6 Libraries and Grant-Funded Colleges

8.6.1 Various articles of legislation and States' resolutions provide for the States to have a role in the governance of the following: Elizabeth College Board of Directors; Guille-Allès Library Council; Ladies' College Board of Governors; and Priaulx Library Council. The Committee sees no need to propose any change to the present arrangements other than to reflect the change in the nomenclature of the Committee *for* Education, Sport & Culture, through which their relationship with the States is managed.

8.7 Transport Licensing

8.7.1 Submissions received by the Committee, including a persuasive letter from the then Deputy Chief Executive of the States, drew attention to the difficulty of avoiding a conflict which arises in the present mandate of Commerce & Employment: it is responsible for both developing policy and advising the States in relation to economic development, including external transport links, and for determining air route licence applications.

8.7.2 This arrangement has in the past been – and could be again in the future – vulnerable to perceptions of partiality and conflicts of interest, not least because of the States' ownership of a prominent local airline.

8.7.3 It also resulted in the members of Commerce & Employment understandably, but most unsatisfactorily, feeling unable to advise the States (and indeed withdrawing from the States) during a debate on the Island's air links despite some of the issues under

consideration being central to their mandate *viz. "…to be responsible for the promotion, provision and regulation of air and sea links to and from the Bailiwick…"*.

8.7.4 It is not always possible in a small jurisdiction to separate policy-making from matters of regulation and licensing. However, it is judicious to do so in certain circumstances and the Committee is keen to ensure that the weaknesses and risks identified in the foregoing paragraphs are not transferred into the improved committee system from May, 2016.

8.7.5 In the years ahead every effort should be made to reduce the potential for perceptions of partiality in the determination of air route licence applications and to allow the Committee *for* Economic Development to fulfil its primary roles of making policy and advising the States.

8.7.6 The Committee's first policy letter stated:

"The Committee is minded to recommend that policy responsibility for air links should sit with a Principal Committee but that the determination of individual airline licence applications should be delegated to a passenger transport licensing authority…".

8.7.7 This suggestion received no adverse comment at the time – nor has it since. The Committee now makes a firm recommendation that air route licensing should be the responsibility of a stand-alone Passenger Transport Licensing Authority. For clarification, the Authority would have no policy responsibilities. It is expected that the Authority would need to meet relatively infrequently.

8.7.8 Although its *raison d'être* would be air route licensing, it would seem sensible to extend the Authority's responsibilities to incorporate all forms of transport licensing, including in relation to public vehicles and vehicle and driver licensing in order that those regulatory functions could also more clearly be carried out with impartiality and at a distance from policy-making Principal Committees.

8.7.9 It is acknowledged that at present air route licensing is delegated to a three-member sub-committee of Commerce & Employment, but the total number of States' members of that Department available to carry out this responsibility is five. In order to ensure that the stand-alone Passenger Transport Licensing Authority is able to hear applications in a timely and efficient manner, it is recommended that its constitution should be five members of the States, albeit that its quorum (and the standard size of a licensing panel in any one case) should be three members.

8.7.10 In order further to strengthen perceptions of impartiality, it is recommended that members of the Committee *for* Economic Development, the Committee *for the*

Environment & Infrastructure and the Policy & Resources Committee should be precluded from sitting on the Passenger Transport Licensing Authority.

8.7.11 What is envisaged by the Committee should require no additional expenditure. The same work would be carried out but within a different political structure. There need be no dilution of the expertise which exists among officers in respect of transport matters.

8.8 Land Planning and Development Control

8.8.1 In the last States' term, the Strategic Land Planning Group identified three levels of land and spatial planning:

- level one – the Strategic Land Use Plan (for which at present a body exists in law, the Strategic Land Planning Group);
- level two – the Island Development Plan (which at present is the responsibility of the Environment Department);
- level three – development control, e.g. planning applications (which at present is the responsibility of the Environment Department).

8.8.2 The Policy Council is also involved. It determines the constitution of the Strategic Land Planning Group and on the publication of a draft Island Development Plan the Council must arrange for a planning inquiry overseen by independent planning inspectors.

8.8.3 The Environment Department's role in planning is set out in the following parts of its mandate: *"…[to] be responsible for spatial / land use policy…[and] the provision of an integrated land use planning system including the processing of all development applications of all kinds (planning, building control, protected buildings and scheduled sites)…"*. The Environment Department is also responsible for *"…advis[ing] the States on matters relating to environmental policy including transport, energy and waste policy…and policy for the conservation, enhancement and sustainable development of the natural and physical environment of the Island…[and] the management of the natural and semi-natural environment of States-owned land…"*.

8.8.4 This co-location of land planning functions and environmental, waste and transport policy etc. has been the subject of considerable debate over many years.

8.8.5 In 2008 a review of the Island's planning service was carried out by Mr Chris Shepley, a former chief planning inspector in the United Kingdom.

8.8.6 He recommended that *"the planning function should not report to a sectoral political [committee]"* and that Environment should lose its environmental responsibilities and be *"re-named 'planning' or 'planning and transport' and that it should be responsible for forward planning policy, development control, design and conservation and building control"*.

8.8.7 Later in 2008 members of Environment and the Strategic Land Planning Group discussed Mr Shepley's recommendation and *"in an informal show of hands, the majority of those present indicated that they would wish responsibility for planning and transport to remain within the Environment Department"*.

8.8.8 In 2010 the Strategic Land Planning Group, which by then had ceased to be a sub-committee of the Policy Council and was instead a statutory body, reconsidered the matter and advised that it now *"saw the merits in one committee having political responsibility for all three levels"* and expressed an *"in principle majority view that this committee should be the Policy Council"*.

8.8.9 In 2011 the Policy Council wrote to the Scrutiny Committee, which was monitoring progress made against the recommendations of Mr Shepley's review. The Council was *"of the opinion that there remains the need to address the position of the land use planning function within the States' government structure and that direct improvements in the interests of good governance can be achieved"*. Earlier the Council had advised that *"the location of the planning function within the States can most effectively be resolved within a wider review of the machinery of government"*.

8.8.10 After allowing for the proposed changes to committee nomenclature, maintaining the *status quo* would mean strategic land planning (i.e. the Strategic Land Use Plan) remaining under the auspices of a separate statutory body, the Strategic Land Planning Group, the constitution of which would become a matter for the Policy & Resources Committee, and detailed land use policy (i.e. the Island Development Plan) and development control (e.g. planning applications) being absorbed by the Committee *for the* Environment & Infrastructure.

8.8.11 As ever, the *status quo* has the advantage of familiarity. It would maintain the link which exists in people's minds between 'environment' and 'planning'. It would require no additional amendments in law. The *status quo* could be maintained perhaps without making the mandate of the proposed Committee *for the* Environment & Infrastructure unmanageable, although this is not certain.

8.8.12 However, the *status quo* has considerable weaknesses and risks. For example, it has in the past been – and could be again in the future – vulnerable to perceptions of partiality and conflicts of interest.

8.8.13 Mr Shepley, in proposing a separation of environmental policy from land use policy and development control, stated:

"I consistently picked up a message, both internally and externally, that the planning function had begun to lean in a particular direction. It was favouring environmental considerations above others. The perception is more important than the reality here…[p]lanning…needs to be, and to be seen to be, fair and impartial. Its special quality is that it can balance environmental, economic and social considerations in a fair and impartial way…[t]he issue which seems to be perceived in Guernsey is that Environment makes policy (and sometimes quite radical policy) which is (at least) thought to affect planning decisions. It is widely thought that environment is placed ahead of, for example, employment…[t]he simple aim is to remove planning from a position where it is, or is thought to be, biased in a particular direction."

8.8.14 In 2011, the Environment Department itself advised:

"…whilst the balance between environmental, social and economic considerations is currently being achieved well by the present [Department] and via the present delegation arrangements, in the absence of changes to the underlying structure within which the planning process is carried out perceptions concerning impartiality of the [Department] could potentially return as an issue in the future…".

8.8.15 This disadvantage would probably be exacerbated if the environmental and infrastructure portfolios were brought together in a single Principal Committee, as proposed.

8.8.16 The *status quo* could also encumber the Committee *for the* Environment & Infrastructure from fulfilling its primary policy-making and advisory roles. This happened in 2010 when the members of Environment, understandably fearing perceptions of conflict of interest in the event of a planning application, withdrew from a States' debate on a multi-million pound waste disposal project despite the issues under consideration being central to their mandate *viz. "[t]o advise the States on matters relating to environmental policy including…waste policy…"*.

8.8.17 In its first policy letter, the Committee gave a clear indication of its thinking when it suggested that *"…the determination of individual planning applications should be delegated to a planning authority"*. This suggestion received no adverse comment at the time – nor has it since.

8.8.18 The Committee now makes a firm recommendation that development control should be the responsibility of a stand-alone Development & Planning Authority.

8.8.19 The Development & Planning Authority would have no policy or operational responsibilities for environmental or infrastructure matters (or any other non-planning matters). In the future it is much less likely that perceptions of partiality could reoccur in the determination of planning applications. The Committee *for the* Environment & Infrastructure would be free in all circumstances to make policy and advise the States in relation to its environmental and infrastructure portfolios without the risk arising later of perceptions of conflicts of interest.

8.8.20 The Committee considered whether the Authority's role should be limited to development control only or extended to incorporate land use policy.

8.8.21 Strategic land planning has been partitioned since the Advisory & Finance Committee produced the first Strategic & Corporate Plan in 1990 and the Committee recognises that this partition is now widely regarded as forming a valuable 'check and balance' in the planning process. The Committee recommends that the proposed Development & Planning Authority should not be responsible for strategic land planning (level one). Instead the Committee recommends that the Committee *for the* Environment & Infrastructure should be responsible for strategic land planning through the Strategic Land Use Plan. The Policy & Resources Committee should be required to certify that the Plan is in accordance with the overall policy objectives of the States. This would require amendment to the Land Planning and Development (Guernsey) Law, 2005, which would be undertaken after May, 2016, once the new committee structure is in operation.

8.8.22 Where functions are quasi-judicial there is a case for creating as much distance as possible between policy-making and the determination of applications. An argument could be sustained – on grounds of good governance and perceptions of impartiality and objectivity – for erecting some distinction at committee level between land use policy and development control (levels two and three).

8.8.23 While acknowledging that such an arrangement could be made to work, senior officers with experience of planning cautioned the Committee against separating development control from land use policy, which they argued were very closely related.

8.8.24 In his report of 2008, Mr Shepley acknowledged that *"[t]here are arguments on both sides…"*, but he came down in favour of co-location, further stating:

"I think it is a mistake to break the links between policy and development decisions; the one feeds into the other and there should be close contact and liaison between the two sections…I think that a purely regulatory [d]ivision could become isolated from the policy mainstream and could be vulnerable to even more criticism that it was not reflecting the wishes of the States…".

8.8.25 On balance the Committee sees merit in co-locating land use policy and development control under the leadership of a single States' committee. Therefore, the Committee recommends that the proposed Development & Planning Authority should be responsible for both development control (e.g. determining planning applications) and land use policy through the production of the Island Development Plan.

8.8.26 As such, the Development & Planning Authority would have policy-making responsibilities. However, it would be fundamentally different in character to a Principal Committee. Principal Committees would have very broad mandates whereas the Authority would have a very narrow mandate. Principal Committees would be expected to advise the States on policy regularly whereas the Authority would only infrequently. The preponderance of the work of Principal Committees would be based on policy-making, reviewing performance and advising the States whereas the preponderance of the Authority's work would be regulatory and quasi-judicial. Principal Committees would be engaged in policy-making continuously whereas the Authority would produce an Island Development Plan only once every ten years – indeed, assuming the continuation of four-year States' terms, it is possible that two out of every three Authorities would not be involved in policy-making at all.

8.8.27 An argument could be made to constitute the Development & Planning Authority with a membership partly or wholly independent of the States. However, the Committee is mindful of experiences in other jurisdictions where constituting planning authorities in this way has not been overly successful because of perceptions of a lack of democratic accountability. Land planning inevitably has an especially high political profile in a relatively small Island where land is such a scarce resource.

8.8.28 The Committee proposes that the Development & Planning Authority should comprise five States' members elected by the States. In order to strengthen perceptions of impartiality, the Committee recommends that members of the Committee *for the* Environment & Infrastructure and the Policy & Resources Committee should be precluded from sitting on the proposed Development & Planning Authority.

8.8.29 Members of the Development & Planning Authority would continue to operate within well-developed schemes of delegation in order that only the most contentious or high-profile or atypical applications are referred 'upwards'. When they are, they should always be heard at open planning meetings, as at present.

8.8.30 The proposals in the foregoing paragraphs do not in any way weaken the legal framework which underpins planning policy and development control. The States would still need to approve a Strategic Land Use Plan before the formulation of an Island Development Plan; a draft Island Development Plan would still be subject to a planning inquiry; the Committee *for the* Environment & Infrastructure and the Development & Planning Authority would remain bound by planning law; and the

decisions of the Development & Planning Authority would be subject to appeal to the Planning Tribunal in exactly the same way as today.

8.8.31 The changes envisaged by the Committee should require no additional expenditure. The same work would be carried out but within a different political structure. There need be no dilution of the expertise which exists among officers in the planning division.

8.9 States' Commercial and Trading Activities

8.9.1 In 2010, during the life of the previous States, the Regulatory Policy Institute was invited to review the regulation of Guernsey's utilities. *Inter alia* the Institute was critical of the way in which Treasury & Resources carried out the role of shareholder in the States-owned utilities, Guernsey Electricity and Guernsey Post, which are both limited companies and, therefore, have legal personalities separate from the States.

8.9.2 The Institute stated:

"…the almost unanimous view of the people we spoke to was that the shareholder function was a fairly low priority for T&R, whose interests lay in broader concerns about the island's economy and taxation system. As one respondent succinctly put it, the main interest of T&R in the commercialised utilities was one of ensuring that the 'post was delivered and the lights were on', and that it was not particularly concerned with other aspects of GP's and GE's commercial operations, provided that they were not significantly loss making…

"The reluctance of T&R to get heavily involved in supervising the business strategies of commercialised, public enterprises is fully understandable: it is not an area of public policy in which a Treasury or Finance department of government would normally have particular expertise, or seek to get involved. T&R truly does have bigger fish to fry, particularly in the current economic climate.

"This, however, leaves some activities of the boards of public enterprises largely unsupervised…

"We also appreciate that, whilst the context is one in which political Deputies may be reluctant to be too involved in the oversight of the commercialised boards, it is nevertheless the case that, in normal circumstances, we would expect to see shareholders, and other investors, taking a more active and questioning role in matters of general business strategy".

8.9.3 In July, 2013 the Department set up a sub-committee as *"a more focused vehicle…to become a more active shareholder than perhaps in the past"* and the sub-committee

now supervises the States' shareholder role not only in Guernsey Electricity and Guernsey Post but also in two other States-owned limited companies: the Cabernet Group, which is the holding company of Aurigny Air Services and Anglo Normandy Aero Engineering, and Jamesco 750, which operates the Island's two fuel ships, Sarnia Cherie and Sarnia Liberty. The sub-committee comprises two States' members and three persons independent of the States, each of whom has considerable commercial experience.

8.9.4 In March, 2015, on the recommendation of Treasury & Resources and Commerce & Employment, the States directed *"…that Guernsey Electricity Limited and Guernsey Post Limited be made exempt from the licensing and regulation provisions within the respective electricity and postal laws by no later than 1st January, 2016"*. In the same policy letter the Departments were *"…conscious that the States' Review Committee will be considering future arrangements for the oversight and governance of the States' incorporated trading companies and its other trading entities. It is anticipated that the sub-committee model for the oversight of Guernsey Electricity and Guernsey Post that the Departments are proposing will evolve over time as part of the wider work being undertaken by the States' Review Committee"*.

8.9.5 The Committee recommends that the States' shareholder role in the aforementioned trading companies should not be subsumed by the new Policy & Resources Committee, which will need to remain focused on its central tasks. Nor would it be advisable to transfer this discrete, specialist responsibility to any of the six proposed Principal Committees.

8.9.6 Rather, the evolution which the Committee has in mind for the more active shareholder role now being pursued, for which there is clearly considerable support in the States, is the creation on a more permanent and formal basis of a prominent 'shareholder resource' under the leadership of a separate committee of the States – the States' Trading Supervisory Board – with a mandate and constitution which are consistent with the need to balance political and commercial considerations.

8.9.7 The proposal to create a dedicated States' Trading Supervisory Board is an opportunity to secure and build upon, not to depart from, the progress made hitherto.

8.9.8 The issued shares in the States' trading companies would continue to be held in trust for the States. For the time being, and subject to review in the life of the next States, the legal title to the shares would be held by the President and Vice-President of the States' Trading Supervisory Board. In the normal way of the States acting through their committees, the States would assign responsibility for their shareholder role to the States' Trading Supervisory Board.

8.9.9 In its shareholder role the Board would inherit from the sub-committee objectives which were laid out in the March, 2015 policy letter:

"[To] establish clear shareholder objectives for the companies and monitor their performance against appropriate industry benchmarks and quality standards to ensure that the businesses deliver cost-effective and innovative services which are responsive to their customers' needs and that they operate efficiently and responsibly in the best interests of the community…[and] seek value and an appropriate return that provides best value to the Guernsey economy…whilst striking a balance with the enabling rôle they play in supporting the Island and its social, economic and environmental objectives for the long-term benefit of the Island…

"As a public rather than private shareholder, the [States'] interests are not solely in the commercial success of the companies; they are also clearly focussed on protecting the interests of consumers and ensuring that the companies act in the best strategic interests of the Bailiwick of Guernsey.

"[The] rôle as shareholder…does not extend to assuming a hands-on rôle in managing the companies which, given their fiduciary responsibilities, should remain the responsibility of their respective Boards and executive management teams. Given the importance…of a clearly defined strategic plan, the sub-committee [or States' Trading Supervisory Board, as proposed] will commit significant time to reviewing, scrutinising, challenging and understanding their respective business strategies. On the assumption that [these strategies are endorsed] each company's Board of Directors will then be empowered to carry out the wishes of the shareholder without undue interference, political or otherwise."

8.9.10 Significantly, the Treasury & Resources Department is in agreement with the Committee's proposal that the States' shareholder responsibilities should in future be led through the proposed States' Trading Supervisory Board.

8.9.11 In line with the principle, which runs throughout this review, of combining broadly common functions under the leadership of single committees, it is proposed that the States' Trading Supervisory Board, if it is to be used to its maximum advantage, should also assume political leadership and oversight of certain other States' commercial interests and trading activities.

8.9.12 There are several commercial or semi-commercial activities which the States carry out through distinct trading concerns which nevertheless share the same legal personality as the States. The management and operation of these unincorporated trading concerns is, and would continue to be, provided through the civil service. The role of the various States' committees which have responsibility for such trading concerns is

to act not as shareholder in the way described in the foregoing paragraphs but as if they were the board of directors.

8.9.13 The Committee believes that political leadership and oversight of the following five unincorporated trading concerns should be transferred to the States' Trading Supervisory Board: Guernsey Airport, Guernsey Dairy, Guernsey Harbours, Guernsey Water and States' Works.

8.9.14 Guernsey Airport, which opened in 1939, states that it *"provides a vital gateway to and from the Island for nearly a million travellers every year"*. In 2009, York Aviation reported that Guernsey Airport "*supports 649 direct jobs and provides an income injection of £31.2 million into the Guernsey economy. However, it is clear that the main economic benefit comes from the contribution it makes to the connectedness of the Bailiwick as a place to live, work and visit.*" At present political responsibility for the Airport rests with the Public Services Department.

8.9.15 The Guernsey Dairy advises that it *"has 37 employees with an annual turnover in excess of £6million. The Dairy's statement of purpose is to provide a modern processing unit for the local dairy industry, [which] supplies a range of high-quality milk and milk products for local and export markets."* At present political responsibility for the Dairy rests with the Commerce & Employment Department.

8.9.16 Guernsey Harbours operates the ports of St. Peter Port and St. Sampson and has additional responsibilities in connection with search and rescue at sea and the licensing and control of commercial vessels in local waters and acts as the Guernsey Registrar of British Ships. Guernsey Harbours states that its *"primary aims are to provide commercial port facilities for use by both sea passengers and freight, to provide berthing and handling facilities for the local fishing fleet and provide berthing and marina facilities for local and visiting yachtsmen…In 2011, Guernsey Harbours dealt with 500,000+ sea passengers, 350,000+ tonnes of cargo and 115,000 vehicles. [There are] 1600 private boats moored throughout [the] marinas and [the harbours] play host to in excess of 10,500 visiting yachts and cruisers per year."* At present political responsibility for Guernsey Harbours rests with the Public Services Department.

8.9.17 Guernsey Water refers to itself as "*a trading entity with its own set of externally-audited accounts. Although under the [political leadership] of the Public Services Department…Guernsey Water is accountable for its actions, operations and resources…Guernsey Water deliver[s] to…customers clean water and wastewater services which focus on quality, reliability, consistency, value for money and sustainability.*"

8.9.18 States' Works promotes itself as *"…an independent trading body responsible to the States through the Public Services Department. [States' Works provides] the Island with an emergency response workforce which is trained, equipped and experienced for*

dealing with emergencies 24 hours a day, 365 days per year…[and] municipal and maintenance services to the States and private clients…[States' Works]…employs 235 staff…supported by a fleet of 150+ vehicles and associated plant/equipment. [States' Works] receives no direct funding or subsidy from the States [and] operate[s] an independent trading account from which all direct and capital expenditure is funded…[w]ith an annual turnover of over £14 million pounds."

8.9.19 There are, then, clear parallels between the States' incorporated companies and unincorporated trading concerns: they are funded in whole or in part by consumers; they are of a commercial, rather than a more conventional public service, character; they must be responsive to the demands of their customers; and they are expected to contribute to the States' economic, environmental and social objectives. It would be inefficient and wasteful to assign the shareholder role in the incorporated companies to one committee of the States and the directorial role in the unincorporated trading concerns to separate committees of the States when the skills demanded are not dissimilar.

8.9.20 Consolidating these broadly common responsibilities in a single committee is the best way to provide for the States to have focused political leadership and effective oversight of their trading concerns as part of the improved committee system from May, 2016.

8.9.21 This proposal in no way affects the legal status of any of the nine enterprises: Cabernet, Guernsey Electricity, Guernsey Post and Jamesco would remain incorporated and Guernsey Airport, Guernsey Dairy, Guernsey Harbours, Guernsey Water and States' Works would remain unincorporated (i.e. they would not be commercialised). It should be noted that over the years there has been little support in the States for commercialisation of the unincorporated enterprises and these proposals are fully consistent with that sentiment. All of the enterprises would remain wholly in public ownership.

8.9.22 Nor does the proposal imply an imperative of profit: the level of profit or subsidy of each company or trading concern would still be a policy decision for the States.

8.9.23 The Island's long-term policies in respect of, say, economic development, agriculture, water reserves and infrastructure would remain the responsibility of the relevant Principal Committees, and ultimately of the States, while the Board would have political leadership and oversight of the specific trading concerns, which would include their operational policies. For example, establishing a target to have a certain percentage of households connected to the public sewer by a certain year would be a matter of infrastructure policy and would be the responsibility of the Committee *for the* Environment & Infrastructure; whereas a decision by States' Works to bid for, say, parish refuse rounds would be a trading matter – or operational policy - and

responsibility would rest with the States' Trading Supervisory Board. It is recognised that the full mandate of the States' Trading Supervisory Board, to be presented in the third policy letter, will need very clearly to set out its duties, powers and confines and also encapsulate its relationship with the States, the Policy & Resources Committee and the Principal Committees.

8.9.24 It is further proposed – again with a view to drawing together broadly common functions – that the States' Trading Supervisory Board should be made responsible for the commercial elements of the States' property portfolio.

8.9.25 In future political leadership for other States' trading activities could be transferred to the States' Trading Supervisory Board, but this would be for the judgement of future administrations.

8.9.26 The constitution and responsibilities of the States' Trading Supervisory Board would be determined by the States. All of the members of the Board would be elected by the States. The Board would report directly to the States.

8.9.27 It is proposed that the constitution of the Board should allow for the recruitment of appropriate skills and experience and proper democratic oversight of publicly-owned companies and trading bodies. That balance can be achieved best by requiring the President to be a member of the States and then opening up the remaining seats to States' members and persons who are not States' members, but with the qualification that the Board should always include at least two States' members and at least two persons who are not members of the States. It is emphasised that these would be minimum requirements – for example, the States would prescribe no maximum on the number of States' members on the Board. It is expected that the members who were not also States' members – as is the case on the sub-committee today – would have skills and experience in connection with corporate governance, board and shareholder responsibilities, strategic and operational benchmarking etc. All of these persons would be voting members of the Board. It is proposed that the constitution of the Board and its members should be determined by the States on a proposition from the Policy & Resources Committee. The third policy letter will set out the necessary transitional arrangements for May, 2016.

8.10 Regulatory and Appeals Functions

8.10.1 Several of the proposed Principal Committees would be responsible for regulatory functions in one form or another. The Committee believes that in time there may be merit in drawing together under a single committee as many regulatory functions as possible, partly to promote consistency and good practice across regulatory functions and partly to allow Principal Committees to concentrate on their main responsibilities of making policy, advising the States and overseeing performance.

8.10.2 The Committee also believes that many of the appeals processes which have been set up over the years by the States and their committees might usefully be brought together under a single committee or administered more at arm's length.

8.11 Enabling Reforms

8.11.1 The States are constrained in their powers to establish, and delegate functions to, committees other than committees constituted mainly by members of the States.

8.11.2 The Committee recommends that the States' Committees (Constitution and Amendment) (Guernsey) Law, 1991 should be amended to allow the States, if at any time they so wish, to constitute committees on which States' members are not in the majority, but with the qualification that no person shall be elected as the President of a States' committee unless he or she is an elected member of the States. This would maximise the flexibility of the States to constitute committees as they see fit while protecting the accountability of committees to the States.

9 SCRUTINY IN THE STATES

9.1 The 2014 States' Resolutions

9.1.1 Last year the States made a series of resolutions which will change the structure, membership and operation of scrutiny as part of the improved committee system.

9.1.2 The States resolved that with effect from May, 2016 – and in order to promote the co-ordination of scrutiny across the States – there will be a single Scrutiny Management Committee responsible to the States for the scrutiny of policy, finances and legislation. The single, smaller Scrutiny Management Committee will include States' members and members independent of the States.

9.1.3 The States agreed that the task of scrutinising policies and services, financial affairs and expenditure and legislation will in the main be carried out through scrutiny panels with the membership and operation of such panels determined with reference to the task in hand.

9.1.4 The States also directed that before May, 2016 the Committee should recommend ways of strengthening the powers, resources and impartiality of the Scrutiny Management Committee and its panels.

9.1.5 This section of the policy letter builds upon these decisions and directions of last year and sets out the further recommendations necessary to fulfil the objective of strengthening scrutiny in the States and ensuring it is focused, proportionate and flexible, makes the best use of the time of States' members and permits the States to benefit from the involvement in the scrutiny process of a greater number of persons independent of the States.

9.1.6 As in the case of other committees, the proposed final wording of the mandate of the Scrutiny Management Committee – in which will be set down its title, constitution and duties and powers – will be laid before the States in the third policy letter later this year. It will be based very much on what was envisaged of it in the first policy letter: representing scrutiny in the States and publicly; ensuring that the scrutiny of policy, finances and expenditure and legislation is co-ordinated; planning and publishing an annual scrutiny programme; taking responsibility for a combined budget for scrutiny; convening panels to undertake specific tasks and projects scrutinising policy, finances and expenditure and legislation; and assuring the quality of scrutiny panels' reports.

9.2 Membership of the Scrutiny Management Committee

9.2.1 In its first policy letter the Committee proposed that the Scrutiny Management Committee should comprise two States' members and one member independent of the States with expertise in financial affairs. The notion of drawing together States' members and independent members was approved, but a successful amendment, which in the event the Committee did not oppose, deferred a decision on the exact constitution of the new Scrutiny Management Committee.

9.2.2 The Committee understands well the prevailing view in the States, which is that the membership of the Scrutiny Management Committee should be slightly broader than originally envisaged in order for it to be possible, even if it is not made obligatory, for each part of scrutiny – policy, financial affairs and legislation – to be led and promoted by an elected member of the States who is able to represent his or her sectoral scrutiny interest in the Assembly.

9.2.3 This can easily be achieved within the broad scrutiny structure agreed by the States last year and without in any way compromising its prospects for success.

9.2.4 After further discussion in recent months with past and present members of the scrutiny committees and others, the Committee recommends that the Scrutiny Management Committee should comprise a total of five members – three States' members and two members independent of the States, all to be voting members and to be chosen by the States in elections in which alternative candidates can be freely proposed. It is further recommended that the post of President of the Scrutiny Management Committee should always be held by an elected member of the States. The Scrutiny Management Committee should elect its own Vice-President along the same lines as today.

9.2.5 In its first policy letter, the Committee noted that it wished to study further the arguments for and against precluding dual membership of the Scrutiny Management Committee and the Policy & Resources Committee and the Principal Committees.

9.2.6 It is self-evident that the impartiality of scrutiny would be strengthened by precluding all members of the Scrutiny Management Committee from sitting on the Policy & Resources Committee and the Principal Committees.

9.2.7 However, at present, none of the three committees of scrutiny are chaired by a member who does not also sit on the equivalent of a Principal Committee. Indeed, if such a restriction was in place at present, 40 of the 45 People's Deputies would be disqualified from sitting on the Scrutiny Management Committee. Numerically the potential pool of candidates would be extremely restricted.

9.2.8 In practice imposing such restrictions on all members of the Scrutiny Management Committee would probably be counter-productive and deny it valuable and active members and consequently deny it the best chance of succeeding in the new States' structure. Impartiality would be secured but probably at the expense of stature and effectiveness.

9.2.9 The Committee is of the opinion that the President of the Scrutiny Management Committee should not be permitted to sit on the Policy & Resources Committee or the Principal Committees. On balance the Committee is of the opinion that the other two States' members on the Scrutiny Management Committee should be precluded from sitting on the Policy & Resources Committee but should be permitted to sit on one, but not more than one, of the Principal Committees.

9.2.10 The Committee anticipates that the Scrutiny Management Committee will wish to appoint one of its States' members as lead member for the scrutiny of policy and services, one of its States' members as lead member for the scrutiny of finances and one of its States' members as lead member for the scrutiny of legislation. As originally envisaged, the members of the Scrutiny Management Committee will not just manage the process of scrutiny, but will be actively involved in scrutinising – chairing or sitting on reviews. However, bearing in mind that the improved committee system wishes to promote greater flexibility, the Committee sees no need for the States to require the Scrutiny Management Committee to operate in exactly that way in all circumstances. The matter should instead be left to the judgement of the Scrutiny Management Committee.

9.2.11 As stated elsewhere in this policy letter, the arrangements for internal elections will be included in a policy letter which the States' Assembly & Constitution Committee will lay before the States in due course. The Committee hopes that the recommended order of elections will provide for the President and other members of the Scrutiny Management Committee to be elected immediately after the election of the President and members of the Policy & Resources Committee and the Presidents of Principal Committees but before the election of other members of Principal Committees. Electing members of the Scrutiny Management Committee earlier in the process would be counter-productive if those members were then to be precluded from sitting on other committees, but since such a restriction is not recommended it is felt that moving scrutiny elections higher up the agenda could assist in emphasising the importance of the scrutiny roles.

9.3 Scrutiny Panels

9.3.1 One of the most important objectives of the whole package of reforms promoted by the Committee is to increase flexibility across the States. Nowhere is this more important than in respect of scrutiny. Committees which have executive or regulatory

roles and which make policy and manage services often need to operate within a somewhat more prescribed framework, but the Scrutiny Management Committee, which has no such responsibilities, should take maximum advantage of its greater freedom and flexibility to work differently depending on the challenges of the time.

9.3.2 The Committee wishes to discourage the States from laying down too many rules and regulations about how the Scrutiny Management Committee should operate beyond the necessary but broad framework which was agreed following debate on the first policy letter.

9.3.3 The resolutions made last year established the concept of a combined Scrutiny Management Committee leading and co-ordinating the scrutiny of services and policies, finance and expenditure and legislation, in the main through panels which will draw together States' members and people independent of the States. Beyond that the Scrutiny Management Committee should be empowered to shape scrutiny as it sees fit. Of course, in line with the resolutions made last year, the Scrutiny Management Committee will at all times remain fully accountable to the States for everything done within the scrutiny set-up.

9.3.4 The Committee sees no need for the States to set down further rules in connection with, say, the membership of scrutiny panels or the subject areas they must examine or the length of time for which they must sit or the conditions under which they must take evidence etc. The resolutions made last year referred in particular to 'task and finish' groups or panels, but the intention is to define these very widely in the Scrutiny Management Committee's mandate in order that it can convene panels for both short- and longer-term work. There is not, and never has been, any intention rigidly to preclude the Scrutiny Management Committee from convening panels of a more continuous nature should it so wish.

9.3.5 The States have acknowledged that there may be elements of financial scrutiny in particular which require continuous attention. The Committee considers that it is wholly unnecessary rigidly to prescribe that the Scrutiny Management Committee must maintain a standing panel for those elements of financial scrutiny. Rather, the expectation is that they will be carried out by the Scrutiny Management Committee itself, which clearly will have the constitution and powers necessary to do justice to the task, but again the exact governance arrangements can quite satisfactorily be left to the judgement of the Scrutiny Management Committee.

9.3.6 What is scrutinised, as well as how scrutiny is to be organised, is a matter for the Scrutiny Management Committee. What is envisaged, however, is that the scrutiny of policy and services and finances and expenditure will be guided by the policy planning process set out in section 7.4 – that is to say, Principal Committees and, where appropriate, other committees should be scrutinised on the basis of how a particular

policy or service or budget is contributing to a committee's *policy plan* and, moreover, to the overall *States' objectives*.

9.3.7 The resolutions made last year acknowledged that legislative scrutiny cannot be addressed in quite the same way as scrutiny of policy and services and finances and expenditure. The scrutiny of legislation is itself a legislative function and the demonstration of thorough and rigorous scrutiny in committee is an important component of the Island's reputation for stable and respectable government.

9.3.8 The States have directed that the Scrutiny Management Committee must appoint a standing Legislation Review Panel which brings together a number of States' members and a number of persons independent of the States with backgrounds and skills especially suited to the scrutiny of legislation.

9.3.9 In order to effect this direction of the States, it is proposed that the statutory functions of the current Legislation Select Committee under Article 66 of the Reform (Guernsey) Law, 1948, i.e. the functions of reviewing draft legislation which a Law Officer of the Crown presents to it, will be transferred to the Scrutiny Management Committee as part of the various transfers of functions which will need to be made by Ordinance. The Scrutiny Management Committee, which is to be constituted as an ordinary standing committee of the States by resolution, will be directed by resolution to constitute the Legislation Review Panel as a standing sub-committee to discharge its legislative review functions.

9.3.10 It is recommended that the Scrutiny Management Committee shall make appointments to the Legislation Review Panel, as follows: a President, who shall be a member of the Scrutiny Management Committee and also a member of the States; a minimum of four other States' members; a minimum of two non-voting members who shall not be members of the States; and any number of additional and occasional non-voting members as the Scrutiny Management Committee sees fit for the purposes of review of any specific piece or type of legislation or any other legislative scrutiny purposes – and such additional and occasional non-voting members may or may not be members of the States but must not be members of the Policy & Resources Committee.

9.3.11 The Legislation Review Panel should, wherever possible, meet in public and have the power, explicitly expressed, to call in the President of a Principal Committee etc. (or his or her representative) whose proposed legislation is under scrutiny.

9.4 Powers, Resources and Impartiality

9.4.1 After debate on the first policy letter the States resolved *"[t]o note that the effectiveness of the States' scrutiny function depends in part on the powers, resources and impartiality*

of the scrutiny committees and panels, and to direct that, prior to implementation of the improved committee system in 2016, the States' Review Committee shall propose to the States ways of strengthening the powers, resources and impartiality of the scrutiny committees and panels." The intent of the States could not have been clearer and the Committee has developed its thoughts in this area accordingly.

9.4.2 The decisions made already by the States, and the further recommendations made in the foregoing paragraphs, provide for a scrutiny function with greater potential and capacity to ensure that committees of the States are held to account routinely and robustly. It is recognised, however, that *potential* and *capacity* are not the same as *powers*.

9.4.3 The Committee believes that the powers of the Scrutiny Management Committee would be strengthened by providing for it to compel witnesses to attend its panels and hearings and in respect of States' members and officers to include a requirement in their respective codes of conduct to attend if called to provide evidence.

9.4.4 The Committee believes that the powers of the Scrutiny Management Committee would be strengthened further by affording it the right to scrutinise, and to call in witnesses and evidence from, a greater range of organisations which are in receipt of public funds or which have been established by legislation and by extending rights of privilege to any person giving evidence to scrutiny panels and hearings.

9.4.5 The Committee believes that the powers of the Scrutiny Management Committee would be strengthened still further through the appointment of 'accounting officers' for each of the Principal Committees, who would be identifiably responsible for standards of probity in the management of public funds and could be held to account on that basis by the Scrutiny Management Committee.

9.4.6 The decisions of the States last year to amalgamate all scrutiny functions under the leadership of a single committee and to provide for a greater range of States' members and persons independent of the States to contribute to scrutiny will, as long as there is competent leadership from the Scrutiny Management Committee, enhance the breadth and depth of the human resources available for scrutiny.

9.4.7 The Scrutiny Management Committee will need to take the lead in maximising the human resources available to it by promoting the benefits of involvement in panels and hearings and by developing scrutiny-related skills among the widest possible pool of members and non-members. These responsibilities should feature clearly in the mandate of the Scrutiny Management Committee.

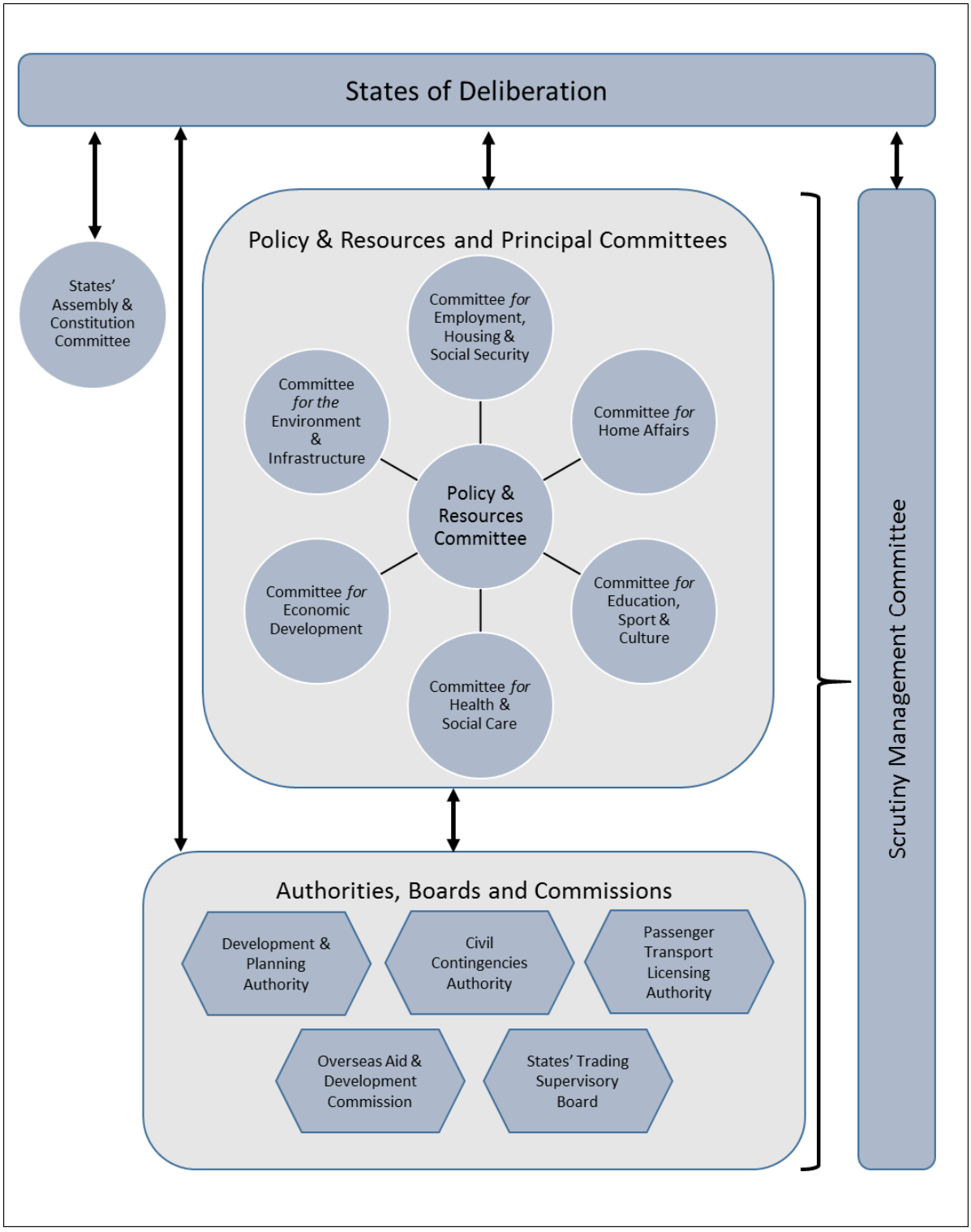
9.4.8 Strengthening resources still further would inevitably necessitate additional expenditure on staff, especially in the field of policy research.

9.4.9 It has long been recognised that the States' scrutiny function would benefit from additional resources, but the Committee does not have enough detailed knowledge to attempt to write the 2016 or 2017 budgets for the new Scrutiny Management Committee. The States need to debate the long-term funding (and expectations) of their scrutiny function as expeditiously as possible. An appropriate recommendation is included to make certain of such a debate at a time when it can be informed by evidence relating to the new scrutiny arrangements.

9.4.10 The proposal in paragraph 9.2.9 to preclude members of the Policy & Resources Committee and the Principal Committees from also serving as the President of the Scrutiny Management Committee will, if approved, be a small step towards demonstrating visible impartiality of scrutiny. If the States consider it essential to take the impartiality of membership further, they will have to decide by amendment either to preclude dual membership for all three States' members on the Scrutiny Management Committee or, alternatively, save for the President to constitute it entirely of persons independent of the States. For reasons explored earlier the Committee does not recommend either of those options.

9.4.11 A more pragmatic way of strengthening perceptions of impartiality would be to provide accommodation, facilities and support staff independently from those provided to the Policy & Resources Committee and the Principal Committees. At present this would mean providing accommodation away from Sir Charles Frossard House. It would also mean removing the line management links between the States' Chief Executive and officers supporting the Scrutiny Management Committee. The Committee recommends that these changes should take effect from May, 2016 or as soon as practicable thereafter.

Diagram of Proposed Committee Structure



10 THE CONSTITUTION OF THE STATES AND RELATED ISSUES

10.1 The 2014 States' Resolutions

10.1.1 There are 47 voting members of the States: 45 People's Deputies elected in seven districts in Guernsey and two Alderney Representatives. There are three *ex officio* members of the States who have no vote: the Presiding Officer (the Bailiff or the Deputy Bailiff), Her Majesty's Procureur and Her Majesty's Comptroller.

10.1.2 The Committee received many arguments, which were often put forcefully, both for and against a reduction in the number of Deputies. Those arguing for a reduction outweighed those arguing against by approximately three to one, albeit that not all respondents declared a view. The most common view heard by the Committee was that the number of Deputies should be reduced to somewhere between 35 and 40. A small number of respondents suggested a reduction to fewer than 35.

10.1.3 The Committee's first policy letter stated:

"The primary consideration should be the number of members required to fulfil the States' full range of functions in a way which balances democracy and efficiency. The number of members should be determined by the structure of the States and not the other way around.

"The Committee is of the view that in the improved committee system…fewer than 47 members would be required to fulfil the full range of States' functions in a way which would properly balance democracy and efficiency. Therefore, the potential exists for at least a measure of reduction.

"…before recommending a specific number of members, the Committee would need to examine the issue more closely in the second stage of its review, especially in light of the views expressed in debate on this first report…"

10.1.4 The States made the following resolution:

"To agree that the number of States' members shall be determined with reference only to the need to fulfil the full range of States' functions in a way which would properly balance democracy and efficiency, but when considering the precise number of States' members there shall be a general presumption in favour of some reduction."

10.2 The Evolving Constitution of the States

10.2.1 Some respondents to the Committee tended to see the present constitution of the States as a matter of high and enduring principle, but the evolution of the States over the past century or more indicates that there is no compelling reason in history for maintaining specifically 45 Deputies.

10.2.2 The office of Deputy was created by the *Loi relative à la Réforme des États de Délibération, 1899*. Initially there were nine Deputies, all elected on an island-wide (albeit substantially restricted) franchise. By 1921 there were 18 Deputies elected in five districts, but they were still heavily outnumbered in the States by Jurats (12), Rectors (10), Law Officers of the Crown (two) and representatives of the parishes (15), all under the presidency of the Bailiff.

10.2.3 The Reform (Guernsey) Law, 1948 created 33 Deputies, putting them in the majority for the first time; reduced to 10 the number of representatives of the parishes; established the office of *Conseiller "to ensure that the States should not at any moment, so far as we could avoid it, be overloaded with inexperienced men…[and to provide] for a stabilising influence in the hope that this would prevent decisions which would later be regretted being taken as a result of some passing mood…"*; set out that *Conseillers* should be elected not by universal suffrage but rather by the States of Election because *"[i]t would be very unfortunate if experienced men lost their seats simply because the electorate was ignorant of the services they had given to this Island"*; and removed the *ex officio* seats of the Jurats and Rectors.

10.2.4 Between 1948 and 1994 around 57% of the voting members of the States were elected directly by the people.

10.2.5 From 1994 the 12 *Conseillers* were elected on an island-wide franchise – it is only since then that there have been 45 members elected to the States directly by the people.

10.2.6 In 2000 the office of *Conseiller* was abolished and 12 Deputies' seats added instead. The total number of States' members remained at 57.

10.2.7 In 2004 the office of Douzaine Representative was abolished. On that occasion no Deputies seats were added in their place. The number of States' members was reduced to 47.

10.2.8 Clearly, then, the constitution of the States has changed considerably over time, including in both of the past two decades.

10.3 General Changes to the Role of States' Member

10.3.1 It is evident that the prevailing approach of Deputies to their work has also changed considerably over the past two or three decades. This has been influenced by several developments: society's expectations have changed; the economy is markedly different; there tends to be greater scrutiny of decisions and in some respects the volume of work may have increased and may also have become more complex.

10.3.2 This has been reflected in changes to remuneration. Generally what was at one time regarded primarily as compensation for time lost in employment outside of the States has become more akin to a salary (although for social insurance purposes Deputies are classed as self-employed) and many more Deputies than was the case until relatively recently are attending to States' work on something at least approaching a full-time basis and in some cases more than that.

10.3.3 This has no doubt contributed to what appears to be the prevailing view – both inside and outside the States – that Guernsey is over-governed and over-represented.

10.3.4 The Committee believes that the trend, which shows no sign of reversing, for more Deputies to attend to States' work on something at least approaching a full-time basis only strengthens the case in favour of reducing the number of Deputies.

10.4 Other Jurisdictions

10.4.1 Some submissions made to the Committee expressed support for reducing the number of States' members by comparing representation in Guernsey with representation in other jurisdictions.

10.4.2 The other Crown Dependencies are of a size and character comparable to Guernsey and also most of their members of parliament are elected as independents without party affiliation. In the Isle of Man, which has two houses, there are 35 members, which is one member for approximately every 2,500 people. In Jersey there are 49 members, which is one member for approximately every 2,000 people, although until a few months ago there were 53 members, which one member for approximately every 1,850 people. In Guernsey there is one Deputy for approximately every 1,400 people, albeit that in Guernsey the States tend to carry out a broader range of functions because there tend to be fewer devolved to a more local level or undertaken at arm's length.

10.4.3 Looking further afield, in Liechtenstein there is one member for approximately every 1,500 people; in Monaco one for approximately every 1,600 people; and in Bermuda one for approximately every 1,400 people.

10.4.4 The Committee freely acknowledges that some such comparisons have significant limitations: many other jurisdictions have political parties or bicameral parliaments or considerably smaller or larger electoral districts or different systems of government; larger jurisdictions obtain economies of scale which tend to result in their having fewer parliamentarians per capita (at least at a national level); and in any event there is no objective way of determining an ideal number of representatives per capita. For these reasons – and because what matters is not what works elsewhere but rather what works for the Bailiwick – the Committee advises against attaching too much importance to the number of elected members maintained in other jurisdictions.

10.4.5 Nonetheless, if nothing else, the figures in paragraphs 10.4.2 and 10.4.3 put into context some of the more extreme claims that any reduction at all in the number of States' members would imperil democracy in the Bailiwick.

10.4.6 If the recommendation in the next section is approved by the States, there would be one Deputy for approximately every 1,650 people.

10.5 Recommended Number of People's Deputies

10.5.1 The Committee was fortified in its general presumption in favour of reducing the size of the States by public and political debate surrounding the first policy letter, the convincing vote in favour of the proposition / resolution set out at paragraph 10.1.4 (which was 33 to 11, almost exactly in line with the balance of representations made to the Committee during consultation, as referred to in paragraph 10.1.2) and further discussion and research carried out since the first debate.

10.5.2 Having confirmed that the general presumption in favour of reduction remained valid, the Committee attempted to draw an objective conclusion about the most appropriate number of Deputies to recommend to the States. Each of the scenarios below could credibly be used as an objective basis for determining the appropriate number.

10.5.3 Scenario A assumes that the average number of committee seats per Deputy will remain unchanged.

10.5.4 At present, there are around 85 seats on permanent committees of the States, which means that on average a Deputy holds 1.89 seats. The proposals in this policy letter provide for around 60 seats on permanent committee of the States. Scenario A assumes that those seats are allocated on the basis of 1.89 per Deputy.

10.5.5 Scenario A provides for a total of around 32 Deputies.

10.5.6 Scenario B refines the calculation by drawing a distinction between on the one hand ministers and members of the Treasury & Resources Department and their effective

successors, i.e. members of the Policy & Resources Committee and Presidents of Principal Committees, and on the other hand all other Deputies.

10.5.7 At present, of the 11 ministers and four ordinary members of the Treasury & Resources Department, only one sits on another permanent States' committee. The other 30 Deputies sit on an average of exactly two permanent committees. Therefore, Scenario B assumes that the five members of the Policy & Resources Committee and the six Presidents of Principal Committees will not sit on other committees and allocates the remaining seats on the basis of two per Deputy.

10.5.8 Scenario B provides for around 36 Deputies.

10.5.9 Scenario C further refines the calculation by replicating the profile of membership of permanent committees in the present States.

10.5.10 Scenario C, like Scenario B, assumes that, like their predecessors, the five members of the Policy & Resources Committee and the six Presidents of Principal Committees will not sit on other committees. Scenario C allocates the other seats on the same basis as the allocation of other seats in the present States, which is as follows: 10% of other Deputies sit on four permanent committees; 13.33% sit on three; 46.67% sit on two; 23.33% sit on one; and 6.67% sit on no permanent committees.

10.5.11 Scenario C provides for around 38 Deputies.

10.5.12 Scenario D is based not on the allocation of seats in the present States but rather on what is perhaps a simplistic but not unreasonable judgement about how the allocation of seats may broadly be affected by the reorganisation of the committee structure. Scenario D assumes that the five members of the Policy & Resources Committee, the Presidents of Principal Committees and the members of the Scrutiny Management Committee will not sit on other committees and that the other approximately 46 seats will be allocated on the basis of two per Deputy (perhaps one Principal Committee seat and one other committee seat).

10.5.13 Scenario D provides for around 37 Deputies.

10.5.14 It should also be taken into account that membership of several of the aforementioned committees – certainly Principal Committees – will invariably bring with it seats on sub-committees, working parties, task and finish groups etc.

10.5.15 In addition, last year the States resolved that most of the work of the Scrutiny Management Committee would be undertaken through task and finish groups in which all, or at least most, members of the States would be expected to become involved from time to time.

10.5.16 As referred to in section eight, the States may also establish temporary investigation and advisory committees. At present there are four such committees of the States with a total of 22 seats for members of the States.

10.5.17 As well as responsibilities in connection with meetings of the States and membership of States' committees and panels, Deputies will of course maintain responsibilities for 'constituency' / case work.

10.5.18 Therefore the Committee is inclined towards the upper end of the range of numbers set out in Scenarios A to D.

10.5.19 The Committee recommends that the Reform (Guernsey) Law, 1948, as amended, be further amended to provide for 38 Deputies to be elected at the 2016 general election.

10.6 Response to Arguments Against Reduction

10.6.1 The Committee heard arguments that the number of States' members could not be reduced without an intolerable strain being placed upon those remaining. Supported by the evidence in the foregoing paragraphs, the Committee strongly rejects this argument in the context of its recommendation to reduce the number of Deputies from 45 to 38.

10.6.2 A more fundamental objection heard by the Committee was that any reduction in the number of States' members would inevitably weaken democracy. The Committee challenges this argument in paragraph 4.14.4, stating:

"Few convincing arguments were adduced to explain why that should be so if the States maintain a committee system in which no member is bound by collective responsibility and there is no distinction between policy-making executive and scrutinising opposition…".

10.6.3 As referred to earlier in this section, until 2004 there were 57 members of the States, 10 more than at present, and yet there is nothing to suggest that the Island somehow has less democracy now than it did then. This is not to appear complacent. Paragraph 4.14.4 concludes by *"…readily accept[ing] that a radical reduction in the number of members could distort the democratic balance with unforeseen consequences"*. However, the Committee's recommendation that there should be 38 Deputies represents a reduction which is pragmatic and measured, not radical.

10.6.4 It was suggested to the Committee that any reduction in the number of Deputies would invariably restrict opportunities to broaden the demographic profile of membership of the States. The gender imbalance in the present States is especially

troubling: in the late 1960s, 11% of Deputies were women; by the late 1980s, 27% of Deputies were women; today just 10.6% of Deputies are women. Nonetheless, when the size of the States was reduced in 2004 there was no effect whatsoever on the proportion of women members: they formed 19% of the States between 2000 and 2004 and still formed 19% between 2004 and 2008. In addition, some parliaments with far fewer seats have a much higher proportion of women members – for example, women hold fourteen of twenty-eight seats in Andorra (50%), fourteen of thirty-two seats in the Seychelles (44%) and seven of seventeen seats in the upper house in Antigua and Barbuda (41.2%). These differences are most likely related to social structures, culture and in some cases legislation linked to political parties and their candidates. There is no evidence to indicate that maintaining a higher number of Deputies than necessary would do anything to alter the demographic balance of the States nor is it a rational way of trying to achieve that objective.

10.6.5 The Committee was encouraged to consider arguments relating to checks and balances – what was sometimes referred to as the 'balance of power' – in the States, by which was meant the collective voting power of senior committees or holders of senior office relative to the collective voting power of other committees and other members.

10.6.6 This may be a slightly spurious point in a committee system of administration in which even members of the same committee, let alone other members of the States, are not bound by collective responsibility, but even if the point is held to be legitimate it is not a good reason to reject the Committee's recommendation to reduce the number of States' members to 38. Indeed, taken as a package, the Committee's proposals should, if anything, comfort those who are concerned with preventing real or perceived 'imbalances of power' in the States.

10.6.7 At present, the senior committee (the Policy Council) comprises 23.4% of the voting members of the States. From May, 2016 the senior committee (the Policy & Resources Committee) will comprise 12.5% of the voting members of the States, assuming a reduction in the number of Deputies to 38.

10.6.8 At present, ministers and deputy ministers comprise 44.7% of the voting members of the States. From May, 2016 the members of the Policy & Resources Committee and the Presidents and Vice-Presidents of the proposed Principal Committees would comprise 42.5% of the voting members of the States.

10.6.9 Assuming there are six Principal Committees, a Principal Committee laying proposals before the States with the unanimous support of its members and the support of every member of the Policy & Resources Committee and the President of every other Principal Committee would still be six votes short of a majority in the States. In

equivalent circumstances in the present committee structure, the sponsoring committee would be five votes short of a majority in the States.

10.6.10 These are good reasons to believe that the improved committee system, including the proposal to reduce the number of Deputies to 38, provides appropriate checks and balances in the proceedings of the States.

10.6.11 The recommendation of the Committee for 38 Deputies is based entirely on maintaining a proper balance between democracy and efficiency, as directed by States' resolution last year. The Committee sees no good reason to recommend a greater number of Deputies than objective analyses suggest will be required to maintain this balance and carry out the work of the States' committees.

10.7 The Allocation of Seats Between Electoral Districts

10.7.1 The Reform (Guernsey) Law, 1948, as amended, states that *"the allocation of numbers of Deputies shall be in accordance with the respective populations of the Districts"*.

10.7.2 The role of advising the States on elections to the office of Deputy, including the allocation of seats between electoral districts, falls to the States' Assembly & Constitution Committee, which will lay a policy letter before the States in September or October of this year further to the resolutions made by the States on this policy letter. Correspondence between the Committees in connection with this matter is set out at annex one of this policy letter.

10.8 The Representation of Alderney in the States

10.8.1 No change is proposed in respect of the representation of Alderney in the States.

10.8.2 Unlike the electoral districts in Guernsey, the representation of Alderney in the States is not determined with reference to population size. Alderney has been entitled to send two members to the States since *The States of Guernsey (Representation of Alderney Law), 1949*, which was superseded by a similar Law in 1978, during which time there have been considerable fluctuations, up and down, in the size of Alderney's population.

10.8.3 Alderney's representation by two members has its origins in the first days of the 'transferred services' for which Guernsey took responsibility in 1948 following an urgent enquiry by a Committee of the Privy Council into the difficulties of post-war reconstruction in Alderney. As such, the Committee is of the view that the representation of Alderney in the States is inextricably linked to the broader constitutional settlement between Guernsey and Alderney, which is well outside the scope of this review.

10.9 Various Roles of a States' Member

10.9.1 While it may not be possible to draw up a conventional job description for a Deputy, it should be possible to provide greater clarity about broadly what is expected in each of a Deputy's many roles, e.g. district deputy, committee member, scrutineer and parliamentarian. This could assist potential candidates for election and in time lead to members being offered a more structured approach to developing skills for their various roles. It could also assist independent panels established to review members' remuneration, especially in the case of the review which the Policy Council is obliged to arrange in advance of the change to the new and quite different committee structure next May.

10.9.2 The Committee intends to work with the States' Assembly & Constitution Committee to publish – and submit to the independent panel on remuneration – guidance on members' various roles and responsibilities in the new committee structure. It is recognised by both Committees, and indeed by the Registrar General of Electors, that every effort will need to be made to ensure that electors and prospective candidates are well informed about the restructuring of the States.

10.10 Seating in the Royal Court Chamber

10.10.1 Clearly the seating arrangements at States' meetings will need to be amended in light of the reorganisation of the committee structure agreed last July and further resolutions made on this policy letter.

10.10.2 The mandate of the States' Assembly & Constitution Committee includes responsibilities in connection with the practical functioning of the States. The Committee recommends that the States should direct the States' Assembly & Constitution Committee to enter into discussions with the Bailiff with regard to the seating arrangements which will apply with effect from May, 2016, taking into account any views on the matter expressed during debate on this policy letter.

10.10.3 The Committee's first policy letter stated:

"The Committee understands well that the physical co-location of the judicial and legislative 'branches' does not promote the principle of separation of powers. However, without some express direction from the States, the Committee cannot reasonably propose what could well be expensive proposals for relocating meetings of the States when there is absolutely no evidence that doing so would improve the structure and operation of the States."

10.10.4 However, it is to be hoped that, as soon as resources allow, improvements could be made to the ergonomics of the Royal Court Chamber. At present more than two-thirds of members have inadequate desk space and leg room and cannot enter or leave the Chamber without asking other members to move.

APPENDIX D

SUBMISSION MADE AT THE REQUEST OF THE
PANEL REVIEWING STATES' MEMBERS' REMUNERATION
BY THE STATES' REVIEW COMMITTEE
AND THE STATES' ASSEMBLY & CONSTITUTION COMMITTEE

Various Roles of a States' Member
September, 2015

1. Introduction

In its second policy letter concerning the reorganisation of States' affairs (Billet d'Etat XII of 2015), the States' Review Committee stated:

"While it may not be possible to draw up a conventional job description for a Deputy, it should be possible to provide greater clarity about broadly what is expected in each of a Deputy's many roles, e.g. district deputy, committee member, scrutineer and parliamentarian. This could assist potential candidates for election and in time lead to members being offered a more structured approach to developing skills for their various roles. It could also assist independent panels established to review members' remuneration, especially in the case of the review which the Policy Council is obliged to arrange in advance of the change to the new and quite different committee structure next May.

"The Committee intends to work with the States' Assembly & Constitution Committee to publish – and submit to the independent panel on remuneration – guidance on members' various roles and responsibilities in the new committee structure. It is recognised by both Committees, and indeed by the Home Department, that every effort will need to be made to ensure that electors and prospective candidates are well informed about the restructuring of the States."

The purpose of this memo is to assist the independent panel on remuneration in its understanding of the various roles and responsibilities of States' members.

2. Guernsey's Political System

First, by way of background, it is useful to draw attention to Guernsey's political system, which greatly affects the demands, expectations, challenges etc. of the island's politicians. The following is another extract of the States' Review Committee's second policy letter:

"*In almost all other parliamentary democracies the functions of government are allocated to representatives of the party or parties who, alone or in coalition, hold the most seats in parliament and they have the necessary authority for the formation of an executive or government. Policy is made by the government within a legislative and budgetary framework set by parliament.*

"Guernsey, however, does not have an executive or government in the conventional sense, i.e. as something distinct from, although accountable to, parliament. Instead, parliamentary and governing functions are fused in one body, the States of Deliberation. Therefore, Guernsey, almost uniquely, is governed not just through its parliament but by its parliament. This is crucial in understanding Guernsey's political system.

"In practice, most day-to-day functions are carried out by committees of the States, each of which is independently responsible to the States of Deliberation. Committees of the States – individually or collectively – are in no way analogous to an executive or government. A committee is in effect an agent of the States of Guernsey exercising functions conferred on it by resolution of, or legislation approved by, the States of Deliberation.

"The States of Deliberation:

- *allocate the functions of government;*
- *carry out the functions of government which they have retained – for example, policy determination;*
- *debate and vote upon proposals to enact, amend or repeal legislation;*
- *debate and vote upon proposals for taxation and expenditure;*
- *scrutinise and hold to account the policies, decisions and administration of those functions of government which they have allocated to their committees.*

"The involvement of the States as a parliament in determining policy and making 'executive' decisions results in much political and governmental business being carried out in open debate in public whereas in many other jurisdictions it would be dealt with in private by a distinct executive or government. In one respect this contributes positively to democracy, demonstrating open, plural debate and transparent decision-making. On the other hand, it can adversely affect perceptions of good governance.

"A further important aspect is that the States undertake functions and provide services which in larger jurisdictions would be found distributed between central, regional or local government and other bodies. In a relatively small jurisdiction with a very high degree of self-government this 'unitary' approach is cost-effective and logical. However, the concentration of such a broad range of responsibilities inevitably brings challenges both in terms of planning policy and delivering services.

***"**While consultation undertaken by the Committee and the debate and resolutions made on its first policy letter indicated considerable support for reform, very little political and public appetite was expressed for discarding Guernsey's committee system of administration altogether.*

"What was proposed by the Committee and endorsed by the States reflected this desire for meaningful but measured change. The improved system endorsed by the States last year and developed further in this policy letter is emphatically a committee system of administration: it is based upon the Island being governed by the States through their committees. The essential role and functions of the States of Deliberation – including the primacy of the Assembly in determining policy – will remain unchanged."

3. Broad Outline of Responsibilities

Broadly speaking, every People's Deputy has three roles:

- Member of the States of Deliberation

The activities of the States of Deliberation (generally referred to as simply "the States"), e.g. making legislation, debating policy and scrutinising committees, are set out above.

Legislation (projets de loi, ordinances and statutory instruments) and policy proposals (policy letters) are normally circulated to States' members around five weeks before the date of the States' meeting at which they are to be considered. Most months members can expect to receive legislation and policy letters running to the equivalent of around 300 to 400 pages of A4. Amendments, of which there are typically several each month, are circulated closer to the date of the meeting. There are few restrictions on speaking in the States and most members contribute to several debates each month – some make prepared speeches and others prefer to speak extemporaneously. Substantial matters are almost always settled by recorded votes, which are published soon after.

The States normally meet monthly, except in August. Meetings start on the last Wednesday of every month and, if necessary, continue on the Thursday and Friday of that week and occasionally, during periods of heavy business, resume two Wednesdays later for one, two or three days. Sitting hours are normally 09:30-12:30 and 14:30-17:30. In 2014, the States sat for 176 hours over 30.5 days. Members do not need permission to be absent; however, unlike most other parliaments, there is a general expectation that, notwithstanding short comfort breaks, members will attend all of every day that the States sit: for example, in the most-recent period for which statistics are available attendance at morning roll call was 97% and attendance for recorded votes (which are taken throughout the day, generally at short notice) was 95%. Preparation time for a States' meeting is dependent upon the complexity of the proposals before the States, how many items the member wishes to speak on and whether the member is proposing or seconding amendments. In any event preparation time frequently includes attending briefings organised by States' committees whose proposals are about to be debated and stakeholders and interest groups who are affected by the proposals. It seems doubtful that a member could be properly informed on every matter before a busy States' meeting without at least 20 hours' preparation time; for some preparation time will be double that.

In the absence of political parties, like-minded deputies will often work together on an issue-by-issue basis, especially leading up to States' debates on substantial items. This work can be time-consuming, not least because deputies collaborating independently of States' committees have no research support.

- Member of States' committees

States' committees develop policy, advise the States on policy, carry out or arrange to be carried out operational functions for which the States have made them responsible, and review performance and budgets with a view to securing improved outcomes for the community. Members of scrutiny committees concentrate on examining and challenging policy-making committees.

Currently members sit on between one (six members) and five (three members) committees. Workload varies greatly depending upon the number of committee memberships held, the portfolio of the committee and the number and activity of its sub-committees. Committees with broad portfolios typically meet at least once a fortnight – sometimes weekly – for half-a-day and there can be several sub-committee meetings each month. Papers, which can run to well over a hundred pages of A4, are typically circulated a few days' before meetings. These days less substantial committee business is often transacted electronically in between formal meetings.

Attendance at committee meetings is usually in excess of 90%. Excluding presidents of committees, membership of a committee could take up anything from around 10 hours a month to around 60 hours a month.

Notwithstanding the political system, as outlined in point 2 above, a committee president inevitably carries additional responsibilities, not least because he or she is seen as the public face of the committee. The States' Review Committee's second policy letter stated:

"Constitutionally all members of a committee are equal but it is widely recognised that the quality of a President can make or break a committee. Presidents of Principal Committees will inevitably be required to speak for a committee without it being practicable on every occasion to consult with every other member. Examples might include when speaking in the States, handling media inquiries, attending scrutiny hearings, replying to correspondence and setting meeting agendas."

The additional responsibilities of a committee president are often time-consuming, although this can vary considerably between presidents of different committees.

In practice it is the presidents of major committees who, since they hold the senior offices, have to take the greatest responsibility for the most difficult political judgements. This is especially true for committees with a high public profile, e.g. in the areas of education, health care, fiscal policy, policing and transport.

- Electoral district representative

It is clear that this element of a deputy's workload varies considerably depending upon his or her profile, interests and time available. Some deputies undertake 'constituency' work only or predominantly inside their own parish or district; others often undertake such work across the island. Members of the public in need of advice or support may approach a deputy face to face or by phone, e mail, social media etc. This work can range from asking questions in the States about matters raised by members of the public to advising parishioners on dealing with States' committees to representing parishioners' interests in quite complex cases regarding, say, access to social security benefits, housing, health care or education. In some parishes/districts there are surgeries, typically once a month, at which members of the public can raise matters of interest with their deputies. Deputies are also invited to parish douzaine meetings each month. It is estimated that a deputy's constituency workload ranges from a few hours a month to ten or more hours a week.

4. Other Considerations

A few deputies travel off-island frequently. They tend to fall into two groups: those holding the most senior posts, who lead the States' external relations activities, and those who play the most active roles in the Guernsey branch of the Commonwealth Parliamentary Association.

Deputies are expected to attend certain civic events. These duties are much greater for holders of the most senior posts than they are for other deputies.

The ease of electronic communication has undoubtedly placed additional demands on the time of States' members. It is now easier for civil servants and members of the public to contact their deputies and many who do expect a prompt response. A growing number of deputies are active participants on various social media forums and some of those who are not can face criticism for a perceived failure to engage by modern means.

A few deputies, most often those who lead high-profile committees, are often in demand for interviews by the conventional media, although even for the busiest it is doubtful that these commitments take up more than an hour or two a week. What has perhaps changed in recent years is the amount of time spent, including sometimes by deputies, contributing to media releases, the publication of consultation documents etc.

The second policy letter of the States' Review Committee set out some general changes to the role of States' member:

"It is evident that the prevailing approach of Deputies to their work has also changed considerably over the past two or three decades. This has been influenced by several developments: society's expectations have changed; the economy is markedly different; there tends to be greater scrutiny of decisions and in some respects the volume of work may have increased and may also have become more complex.

"This has been reflected in changes to remuneration. Generally what was at one time regarded primarily as compensation for time lost in employment outside of the States has become more akin to a salary (although for social insurance purposes Deputies are classed as self-employed) and many more Deputies than was the case until relatively recently are attending to States' work on something at least approaching a full-time basis and in some cases more than that."

It may be that this trend is also related to the uncertainty of a deputy's workload. The hours are not fixed or even very predictable. There are none of the defined boundaries common to an employee. Once elected, very few deputies are able to hold down a normal form of employment. Often the question is asked "Is being a deputy a full-time job?" but the more relevant question may be "Can a deputy realistically hold down another full-time job or even a part-time job with inflexible hours?" and the answer is almost certainly "no".

5. Changes Relating to the Reforms of the States' Review Committee

Last year the States committed to significant organisational reforms to take effect in May, 2016. They include the formation of a Policy & Resources Committee in place of the present Policy Council and

Treasury & Resources Department; the replacement of the ten departments with six Principal Committees; the establishment of a small number of authorities and boards; and substantial changes to the States' scrutiny function. The States' Review Committee's second policy letter explains, among other things, how the roles and responsibilities of various committees, and by extension the members of those committees, are expected to change from next May. The remuneration panel will doubtless be keen to familiarise itself with these changes. With this in mind, the States' Review Committee would be only too pleased to meet the panel during the second half of October as the panel begins to draw its proposals together.

(N.B. As there are no resource implications in this report, the Treasury and Resources Department has no comments to make.)

(N.B. The Policy Council acknowledges the detailed work undertaken by the States Review Committee in preparing this Policy Letter. The Policy Council supports the proposals put forward, the approval of which will give effect to the reforms of government previously agreed by the States.)

The States are asked to decide:-

I.- Whether, after consideration of the Policy Letter dated 19th October, 2015, of the States Review Committee, they are of the opinion:-

1. To agree the main part of Appendix A to that Policy Letter, entitled 'Mandates of Committees of the States with effect from the 1st of May, 2016', in relation to the final wording of the mandates of the following committees of the States (serial a to serial n) and non-governmental bodies (serial o to serial r):

    a) Policy & Resources Committee;
    b) Committee *for* Economic Development;
    c) Committee *for* Education, Sport & Culture;
    d) Committee *for* Employment & Social Security;
    e) Committee *for the* Environment & Infrastructure;
    f) Committee *for* Health & Social Care;
    g) Committee *for* Home Affairs;
    h) Civil Contingencies Authority;
    i) Development & Planning Authority;
    j) Overseas Aid & Development Commission;
    k) Scrutiny Management Committee;
    l) States' Assembly & Constitution Committee;
    m) States' Trading Supervisory Board;
    n) Transport Licensing Authority;
    o) Elizabeth College Board of Directors;
    p) Guille-Allès Library Council;
    q) Ladies' College Board of Governors;
    r) Priaulx Library Council.

2. To agree Annex One to the 'Mandates of Committees of the States with effect from the 1st of May, 2016' Appendix, in that Policy Letter, in relation to committees' general responsibilities.

3. To agree Annex Two to the 'Mandates of Committees of the States with effect from the 1st of May, 2016' Appendix , in that Policy Letter, in relation to the operational functions of the following committees of the States:

a) Policy & Resources Committee;
b) Committee *for* Economic Development;
c) Committee *for* Education, Sport & Culture;
d) Committee *for* Employment & Social Security;
e) Committee *for the* Environment & Infrastructure;
f) Committee *for* Health & Social Care;
g) Committee *for* Home Affairs;
h) Civil Contingencies Authority;
i) Development & Planning Authority;
j) Overseas Aid & Development Commission;
k) Scrutiny Management Committee;
l) States' Assembly & Constitution Committee;
m) States' Trading Supervisory Board;
n) Transport Licensing Authority.

4. To agree that, as set out in paragraph 4.1.7 of that Policy Letter, the Policy & Resources Committee shall compile a comprehensive schedule of committees' operational functions and services which shall be inserted as a replacement Annex Two to the 'Mandates of Committees of the States with effect from the 1st of May, 2016' Appendix, by no later than the end of 2016.

5. To agree that, as set out in paragraph 4.5.11 of that Policy Letter, all relevant operational functions relating to transport licensing shall be transferred to the Transport Licensing Authority by no later than the end of 2016.

6. To agree that, as set out in section 6.8 of that Policy Letter, all Rule 18 (of the Constitution and Operation of States Departments and Committees) Special States' Committees as presently constituted shall be dissolved from the 1st May, 2016; and, also as set out in section 6.8 of that Policy Letter, to direct the Constitutional Investigation Committee, the Parochial Ecclesiastical Rates Review Committee and the Social Welfare Benefits Investigation Committee to report to the States of Deliberation by no later than their March, 2016 meeting, in each case with a proposal either to constitute the committee as a States' Investigation & Advisory Committee with effect from the 1st May, 2016 or, alternatively, not to constitute the committee as a States' Investigation & Advisory Committee provided that instead the States resolve which other committee is to assume any duties of the Special States' Committee which remain outstanding.

7. To agree that the Policy & Resources Committee shall establish the policy and resource planning process set out in section 5.2 of that Policy Letter.

8. To agree that, as set out in paragraph 5.5.2 of that Policy Letter, the Policy & Resources Committee shall become the sole decision-making States' body under The Compulsory Acquisition of Land (Guernsey) Law, 1949, as amended, and that the Law should be further amended accordingly.

9. To agree, as set out in paragraph 6.2.5 of that Policy Letter, that in order for a meeting of the States' Trading Supervisory Board to be quorate there must be present at the meeting at least one of the members of the Board who is a sitting member of the States of Deliberation.

10. To agree that, as set out in paragraph 5.2.4 of that Policy Letter, when the States' Assembly & Constitution Committee carries out a comprehensive review of the electoral system, as set out in Resolution 38 on Billet d'État XII of 2015, the Committee shall include in that review a study of whether it would be advantageous for the terms of office of People's Deputies to be for five, rather than four, years provided that under no circumstances shall there be any extension of terms until after the 2020 general election.

11. To agree that, as set out in paragraph 2.6.2 of that Policy Letter, the States' Review Committee shall be responsible for overseeing preparations for the implementation of the reorganisation of States' affairs until the Committee is dissolved at midnight on the 30th April, 2016.

12. To agree that, as set out in paragraph 5.3.4 of that Policy Letter, the Policy & Resources Committee and the Committee *for* Employment & Social Security shall review the case for maintaining and the case for reforming the arrangements in relation to which committee of the States should have political responsibility for the States' insurance funds and shall jointly report to the States by May, 2017 setting out their findings and any recommendations considered necessary.

13. To note that, as set out in paragraph 2.6.5 of that Policy Letter, if further matters arise relating to the reorganisation of the States which require the resolution of the States they will be submitted in good time to be settled at or before the meeting of the States of Deliberation in March, 2016.

14. To rescind, as set out in paragraph 2.6.4 of that Policy Letter, Resolution 5 on Article XVI of Billet d'État V of 2012.

15. To direct the preparation of such legislation, as set out in section 7 of that Policy Letter, as may be necessary to give effect to the above decisions.