



# BILLET D'ÉTAT

WEDNESDAY, 9th DECEMBER, 2015

XXIII  
2015

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# BILLET D'ÉTAT

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## TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

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I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **9th DECEMBER, 2015** at **9.30 a.m.**, to consider the items contained in this Billet d'État which have been submitted for debate.

R. J. COLLAS  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey

30<sup>th</sup> October 2015

**THE INCOME TAX (ZERO 10) (COMPANY HIGHER RATE) (AMENDMENT)  
(GUERNSEY) ORDINANCE, 2015**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Zero 10) (Company Higher Rate) (Amendment) (Guernsey) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

This Ordinance is made under The Income Tax (Guernsey) Law, 1975 and extends the company higher rate (20%) to two categories of income earned by companies currently taxed at the company standard rate (0%) with effect from the 1<sup>st</sup> January, 2016. The categories are -

- (a) income from gas and hydrocarbons business (which means the business of the importation and/or supply of gas or hydrocarbon oil in Guernsey, except where the business does not import the product and supplies it solely by means of a retail outlet from which it is sold directly to the public for use in motor vehicles or boats), and
- (b) income from large retail business (which means a retail business carried on in Guernsey the taxable profits of which in any year of charge exceed £500,000, with provision for the aggregation of the profits of associated companies and with an exception for a retail business more than 95% of the customers of which are outside Guernsey).

**THE INCOME TAX (TAX RELIEF ON INTEREST PAYMENTS) (GUERNSEY)  
(AMENDMENT) ORDINANCE, 2015**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Tax Relief on Interest Payments) (Guernsey) (Amendment) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

**EXPLANATORY MEMORANDUM**

This Ordinance is made under The Income Tax (Guernsey) Law, 1975, and amends The Income Tax (Tax Relief on Interest Payments) (Guernsey) Ordinance, 2007, so as to reduce progressively the maximum amount of tax relief available on interest payments on loans for the acquisition, construction, reconstruction or repair of the borrower's principal private residence from its current level of £15,000 (or £30,000 for a married couple). The reduction will take place over the years of charge 2016 to 2025, when the cap will be reduced to zero.

## **THE INCOME TAX (GUERNSEY) (AMENDMENT) ORDINANCE, 2015**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Income Tax (Guernsey) (Amendment) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

### **EXPLANATORY MEMORANDUM**

This Ordinance is made under The Income Tax (Guernsey) Law, 1975, ("the 1975 Law") and amends that Law so as to -

- (a) provide for the restriction of the married person's allowance to couples who married before the 1<sup>st</sup> January, 2016, (with necessary consequential amendments),
- (b) restrict the provision that treats the income of a married woman as that of the husband (except where separate assessment is elected) to persons who married before that date,
- (c) provide (in the new section 47AA of the 1975 Law) that two individuals of the same sex who have entered into a marriage or civil partnership shall be treated for the purposes of the Law in the same way as a husband and wife (and that references in the Law to a husband, wife, widow, spouse, marriage, etc, shall be construed accordingly), thus providing equivalence in tax treatment for same sex marriages and civil partnerships.

## **THE ELECTIONS ORDINANCE, 2015**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Elections Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

### **EXPLANATORY MEMORANDUM**

This Ordinance is made under The Reform (Guernsey) Law, 1948, and provides for the date for the General Election of People’s Deputies to be held in April 2016 to be 27<sup>th</sup> April, 2016. The Ordinance also provides for the Electoral Roll to be closed on 29<sup>th</sup> February, 2016, until the date of the Election, electoral expenditure to be limited to £2,300 and the opening hours of certain polling stations to commence at 8.00 a.m. as opposed to the usual 10.00 a.m.

## **THE SUNDAY TRADING (REPEAL) ORDINANCE, 2015**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Sunday Trading (Repeal) Ordinance, 2015”, and to direct that the same shall have effect as an Ordinance of the States.

### **EXPLANATORY MEMORANDUM**

This Ordinance is made under The Sunday Trading (Guernsey) Law, 1973, and repeals The Sunday Trading Ordinance, 2002, as amended, with effect on 11<sup>th</sup> December, 2015.

### ***ORDINANCE LAID BEFORE THE STATES***

## **THE BURUNDI (RESTRICTIVE MEASURES) (GUERNSEY) ORDINANCE, 2015**

In pursuance of the provisions of the proviso to Article 66 (3) of The Reform (Guernsey) Law, 1948, as amended, “The Burundi (Restrictive Measures) (Guernsey) Ordinance, 2015” made by the Legislation Select Committee on the 6<sup>th</sup> October, 2015, is laid before the States.

### **EXPLANATORY MEMORANDUM**

This Ordinance is made under The European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994, and, subject to certain modifications, gives effect in Guernsey to Council Regulation (EU) No. 1755/2015 of the 1<sup>st</sup> October, 2015, concerning restrictive measures against certain persons who are believed to be responsible for undermining democracy or obstructing the search for a political solution in Burundi.

The Ordinance was made by the Legislation Select Committee in exercise of its powers under Article 66(3) of The Reform (Guernsey) Law, 1948, and came into force on the 6<sup>th</sup> October, 2015. Under the proviso to Article 66(3) of The Reform (Guernsey) Law, 1948, the States of Deliberation have the power to annul the Ordinance.

***STATUTORY INSTRUMENTS LAID BEFORE THE STATES***

The States of Deliberation have the power to annul the Statutory Instruments detailed below.

**THE TRADE MARKS (CUSTOMS) (BAILIWICK OF GUERNSEY)  
REGULATIONS, 2015**

In pursuance of Sections 87 and 101 of The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006, “The Trade Marks (Customs) (Bailiwick of Guernsey) Regulations, 2015”, made by the Home Department on 5<sup>th</sup> October, 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the form in which notice is to be given by a proprietor or licensee of a registered trade mark under section 87 of The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006, requiring infringing goods, materials or articles to be treated as prohibited goods so that their importation, otherwise than by a person for his private and domestic use, is prohibited. The Regulations also make provision for fees payable in respect of such notice and require the giving of security and an indemnity for liability or expenses which might be incurred by the Chief Officer of Customs and Excise.

However, under s. 86(3) taken with 98(3) of the 2006 Ordinance, such a notice can only be given in respect of goods (including material or articles) that are not placed in, or expected to be placed in, *any* of the situations referred to in Article 1(1), in respect of which an application may be made under Article 3, of Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12<sup>th</sup> June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003.

These Regulations came into force on the 6<sup>th</sup> October, 2015.

**THE WATER CHARGES (AMENDMENT) REGULATIONS, 2015**

In pursuance of Section 5 of The Fees, Charges and Penalties (Guernsey) Law, 2007, “The Water Charges (Amendment) Regulations, 2015”, made by the Public Services Department on 1<sup>st</sup> October, 2015, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the charges which will be made for the supply of water for 2016. These Regulations come into force on 1<sup>st</sup> January, 2016.

**THE INCOME TAX (PENSIONS) (CONTRIBUTION LIMITS AND TAX-FREE LUMP SUMS) (AMENDMENT) (NO. 2) REGULATIONS, 2015**

In pursuance of Section 203 of The Income Tax (Guernsey) Law, 1975, as amended, “The Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) (Amendment) (No. 2) Regulations, 2015”, made by the Treasury and Resources Department on 21<sup>st</sup> September, 2015, are laid before the States.

**EXPLANATORY NOTE**

These Regulations amend The Income Tax (Pensions) (Contribution Limits and Tax-free Lump Sums) Regulations, 2010, so as to limit the amount of tax relief that may be claimed for the purposes of sections 36 and 157A(10) of The Income Tax (Guernsey) Law, 1975, (maximum allowance permitted in respect of contributions to an approved annuity scheme) and for the purposes of paragraph (b) of the proviso to section 151(1) of that Law (maximum deduction permitted in respect of contributions to an approved occupational pension scheme) to £50,000 in the aggregate. These Regulations come into operation on 1<sup>st</sup> January, 2016.

**THE WASTEWATER CHARGES (GUERNSEY) REGULATIONS, 2015**

In pursuance of Section 5 of The Fees, Charges and Penalties (Guernsey) Law, 2007, “The Wastewater Charges (Guernsey) Regulations, 2015”, made by the Public Services Department on 1<sup>st</sup> October, 2015, are laid before the States.

**EXPLANATORY NOTE**

These Regulations prescribe new wastewater charges and rates applying under The Wastewater Charges (Guernsey) Law, 2009 (“the 2009 Law”).

Under the provisions of section 12 of the 2009 Law, Charge B lapsed on the 1<sup>st</sup> April, 2015.

These Regulations will come into force on the 1<sup>st</sup> January, 2016.

**ELIZABETH COLLEGE BOARD OF DIRECTORS**

**NEW MEMBER**

The States are asked:-

VI.- To elect a member of the Elizabeth College Board of Directors to fill the vacancy which will arise on 5<sup>th</sup> January, 2016, by reason of the expiration of the term of office of Deputy Allister Langlois, who is not eligible for re-election.

**[N.B. Each year the States elect a Member of the Elizabeth College Board of Directors, who does not need to be a sitting Member of the States, to serve a six year term. The College Statutes include a provision at Statute 13 that any person having served in the office of Director shall not be qualified for re-appointment until after the expiration of twelve months from the time of his going out of office.]**

**[N.B. Rule 12 of The Constitution and Operation of States Departments and Committees states the following in regard to ‘*Nomination of Candidates for Election by the States*’ - ‘*Save in respect of the office of Chief Minister, persons shall be eligible for nomination from the floor of the Assembly on the day of election, but where a person nominated is not a sitting member of the States the proposer shall provide to Members of the States, no later than the start of the meeting at which the election is to be held, a full report in writing containing background information about the candidate, including a statement that the proposer had seen a Declaration of Interest from the candidate and was satisfied that there would be no conflict of interest if the candidate were appointed, or if there was potentially one it could be managed, the candidate’s willingness to seek election and the reasons for his name having been put forward. The Declaration in respect of the successful candidate shall be lodged with the Greffier and published by him as if the person concerned was subject to the provisions of Rule 23 of the Rules of Procedure of the States of Deliberation.*’]**

The following has been provided from the Clerk to the Elizabeth College Board of Directors:-

The Bailiff  
Bailiff’s Chambers  
The Royal Court House  
St Peter Port  
GY1 2NZ

22<sup>nd</sup> September 2015

Dear Sir

I am directed by the Elizabeth College Board of Directors to say that it would be grateful if you could request the States to appoint a member of the Board to replace Deputy Allister Langlois whose term of office expires on the 5<sup>th</sup> January, 2016, and who is not eligible for re-appointment.

Whilst nominations may be made by any Member of the States it has become the practice that one nomination is made on behalf of the Board. In considering this year’s nomination the Board’s Selection Sub-Committee considered the appropriate skills and experience of likely candidates, whilst also maintaining the balance across the Board. Noting the Board’s desire to have a sitting Deputy on the Board, and the timing of the election in April 2016, the Board actually considered the impact of the departing Director in January 2017, namely Mr John Perkins. He has brought a wealth of commercial, financial and managerial experience to the Board. It is anticipated that next year’s nomination will be a newly appointed Deputy.



Mr Mark Thompson will shortly be retiring from KPMG as the Chairman, Channel Islands. Educated in Guernsey at Vale School and Elizabeth College, and qualified as an accountant in 1987, he has been working in Guernsey since 1994, and has 31 years audit experience with KPMG. Married with 4 children his 3 sons have been educated at Hautes Capelles School and Elizabeth College, with 2 still at College. The Chairman and Sub-Committee feel very strongly that he brings considerable managerial and commercial experience to the Board, but also empathy as a parent. This nomination is coherent with the Board's clear vision of the balance and breadth that it is seeking in the longer term.

Mr Thompson has confirmed his great interest in this opportunity and is honoured for his name to be put forward to the States for consideration. His CV is attached and it is intended that his proposer in the States will be Deputy Allister Langlois, both the Deputy Chief Minister and the current Acting Chairman of the Board of Directors.

I trust this letter both sufficiently informs you and is compliant with Rule 12 of the Rules relating to the Constitution and Operation of States Departments and Committees.

Yours faithfully

Mike Spiller  
Clerk to the Board of Directors

**MR MARK THOMPSON**  
**MA Oxon, FCA (ICAEW), Member Institute of Directors**

Mark Thompson was educated at Vale School and Elizabeth College, then went on to study maths at Oxford University. He qualified as a Chartered Accountant with KPMG in London in 1987. His career with KPMG included experience in London (1984 to 1988 and 1991 to 1994) and Hong Kong (1988 to 1991).

Since returning to Guernsey in 1994 he has led audit engagements for a wide range of finance and non finance clients including the States of Guernsey (2001 to 2006). He was promoted to Managing Director of KPMG in Guernsey in 2005, and KPMG Channel Islands in 2007 where he was responsible for managing 240 staff. Since 2012 he has been Chairman of KPMG Channel Islands Limited.

Mark is a Director of Les Bourgs Hospice, a Trustee of KGV Playing Fields and a former Chairman of the Institute of Directors in Guernsey.

**[N.B. Deputy Langlois, who is proposing the candidate, has also confirmed that he has seen a Declaration of Interest from the candidate and is satisfied that there would be no conflict of interest if the candidate were appointed, or if there was potentially one it could be managed.]**

## POLICY COUNCIL

### SAME-SEX MARRIAGE

#### 1. Executive Summary

- 1.1. In 2006 the States of Guernsey considered a Requête (Billet d'État XVI, September 2006<sup>1</sup>), which directed the Policy Council “to initiate an investigation into the desirability of the enactment of legislation: (a) enabling people to enter into legally recognised and binding Civil Partnerships in Guernsey; (b) addressing all issues that might be associated with, or arise out of, the creation of such partnerships; and (c) enabling the recognition for the purpose of Guernsey law of similar Civil Partnership arrangements entered into under the law of other jurisdictions.”
- 1.2. As society and attitudes have advanced greatly since the initial Requête, the Policy Council has not limited its consideration solely to Civil Partnerships but has investigated various methods for achieving equality. This Policy Letter sets out the results of those investigations.
- 1.3. The legal recognition of same-sex partnerships is an important issue, and one which Guernsey must address if it is to be regarded as a jurisdiction that takes equality seriously. The issue of same-sex partnerships has been receiving increased worldwide attention following the Same-Sex Marriage Referendum in Ireland<sup>2</sup> and the U.S. Supreme Court Ruling<sup>3</sup> in 2015, which have both approved same-sex marriage in their respective countries. The introduction of same-sex marriage has also recently been approved in Jersey<sup>4</sup>, with legislation due before the States of Jersey in 2017. In light of these and other advances, the position in Guernsey has been assessed to investigate how equality can be achieved in the Island.
- 1.4. This report outlines the current system that governs marriage in Guernsey; the reasons why change is required; and the Policy Council's proposals for achieving equality between opposite-sex couples and same-sex couples.
- 1.5. The Policy Council has investigated achieving this by moving from the current system based on legislation developed from pre-1840 church practice and systems, to a modern, non-discriminatory, statutory approach which allows for the legal recognition of same-sex relationships, and offers such couples the same legal benefits and protections as are afforded to opposite-sex couples. This option was termed ‘Union Civile’ by the Policy Council.

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<sup>1</sup> Requête – Civil Partnerships, *Billet d'État XVI*, 27 September 2006, p.1754

<sup>2</sup> RTE News, 2015, *Ireland says Yes to same-sex marriage*, [online], available at: < <http://www.rte.ie/news/vote2015/2015/0523/703205-referendum-byelection/>>, [accessed 24 September 2015]

<sup>3</sup> *Obergefell, et al. v. Hodges, Director, Ohio Department of Health, et al.*, [2015], No. 14-556

<sup>4</sup> States of Jersey, *Public Business - Same-sex marriage, divorce and dissolution*, 22 September 2015, P.77/2015

- 1.6. If on the other hand the United Kingdom or Jersey model of same-sex marriage is adopted then this would not be the case, as the current system of marriage would be amended to allow for same-sex marriages to take place.
- 1.7. This report also provides analysis of the results of the public consultation that has been undertaken as part of this process, and the various options that have been considered. A full summary of the consultation document and the results can be found in the appendices (Appendix 1 and Appendix 2).
- 1.8. Based on this work, the Policy Council recommends the introduction of same-sex marriage.

## **PART 1 – Background and Principles**

### **2. Current arrangements in Guernsey**

- 2.1. At present, the only legal recognition of a committed relationship in Guernsey is through opposite-sex marriage.
- 2.2. There is no provision in any legislation which expressly prohibits marriage between same-sex couples, however under customary law and all enactments relating to marriage the assumption is that marriage can only take place between a man and a woman.
- 2.3. The current legislation governing formalities for marriage in Guernsey dates from 1919<sup>5</sup>, when an Order in Council was approved which brought the Bailiwick's laws on Births, Marriages and Deaths into line with English Acts of Parliament. This principal law has been added to and amended from time to time over the years.
- 2.4. Certain marriage procedures which are in place today, such as that marriage can take place in Anglican Churches by the reading of the Banns, or by Certificate of licence issued by the Ecclesiastical Court, date from an Order in Council of 1840<sup>6</sup>, which introduced the concept of civil marriage.
- 2.5. In order to marry, a person must be over the age of 18, or have parental consent if they are between the ages of 16 and 18. Nobody under the age of 16 can marry.
- 2.6. Other restrictions relating to marriage determine that a person cannot already be married, and must be a widow, widower or divorced if they have previously been married, before marrying again. Certain close relations are also prevented from marrying, including certain relations created through adoption.

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<sup>5</sup> Order in Council V, 1919, *Marriage Law, 1919*

<sup>6</sup> Order in Council I, 1840, *Marriage Law, 1940*

- 2.7. At present the solemnization of a marriage may only take place after the issue of either a Licence, Special Licence, or Certificate of the Registrar General. The notice period and residence period required before a licence is given vary according to type of licence that is required.
- 2.8. Notice of the marriage must be provided to the Registrar-General, with both parties to the marriage being required to attend. The exception to this is if the marriage takes place within a Church of England service, as the arrangements are then made by the priest of the church involved. The minister would also notify the Registrar-General of the marriage after it has taken place.
- 2.9. If a person is not ordinarily resident in Guernsey they will also need to be in Guernsey for at least 7 days before getting married. If they are not completing the required 7 days residence then they will need to obtain a certificate of no impediment confirming that they are free to marry, before giving notice of the marriage.
- 2.10. If one of the parties to the marriage is not a British Citizen, legislation in their country of origin should be observed as there may be provisions which might render a marriage in Guernsey null and void, if not followed. Emigration entry clearance may also be required prior to leaving their country of origin.
- 2.11. Whether the marriage is a religious or a civil ceremony, two witnesses aged 18 or over must attend the ceremony and sign the marriage register.
- 2.12. The current system only allows for recognition of same-sex partnerships in registered elsewhere in relation to certain pieces of legislation. It does not allow for the registration of same-sex relationships locally. For example, civil partnerships entered into in the United Kingdom, or overseas relationships recognised under The United Kingdom Civil Partnership 2004 Act, are recognised in Guernsey in relation to claims for financial provision and intestacy under The Inheritance (Guernsey) Law, 2011<sup>7</sup>.
- 2.13. The current Policy Letter does not seek to amend the current procedural formalities relating to marriage; however there are a number of issues relating to the 1919 law, including but not limited to notice periods and the time and place that a marriage can be solemnized, that which the Policy Council will seek to address at a later date.

### **3. Current issues with Guernsey's equality status**

- 3.1. One of the Social Policy Plan objectives, agreed by the States when considering the States Strategic Plan (Billet d'État XXVI, October 2009) is to "promote, and remove barriers to, social inclusion and social justice". As already mentioned, the States also agreed in 2006 to investigate Civil Partnerships. In order to

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<sup>7</sup> Order in Council XIII 2011, "Inheritance (Guernsey) Law, 2011", registered on the Records of the Island of Guernsey on the 5<sup>th</sup> December 2011

achieve these aims changes must be made to the current marriage legislation in the Island.

- 3.2. There is no specific legislative provision which prevents same-sex couples from entering into marriage. Current requirements for marriage (to be between a man and a woman) have arisen from customary law, from which all subsequent statutory provisions have assumed that the relationship can only exist between two people of the opposite sex. In 1866 in the case of *Hyde v Hyde*<sup>8</sup>, the judge formulated the common law definition of marriage, stating “I conceive that marriage, as understood in Christendom, may for this purpose be defined as the voluntary union for life of one man and one woman, to the exclusion of all others”, and it is this definition which has been much quoted over the years.
- 3.3. In light of recent advances in global recognition of same-sex relationships, it is considered that there is a risk to Guernsey’s international reputation if legislation is not approved which provides legal recognition for same-sex couples in committed relationships. England, Wales, Scotland and France already permit same-sex marriages, and they have also been approved in Ireland and Jersey, pending the introduction of legislation. As our close neighbours have approved same-sex marriage already, there is risk of Guernsey being out of step and perceived as being out of touch.
- 3.4. A further potentially negative issue concerning the current arrangements is that, by not allowing same-sex partnerships to be recognised locally, the States of Guernsey may be affecting opportunities to grow the tourist economy. The development of the Island’s weddings offer forms an initiative of the Commerce and Employment Department’s Action Plan for the Guernsey Tourism Strategic Plan 2015-2025<sup>9</sup>, and the lack of recognition for same-sex partnerships prevents this concept from being developed more fully, as only opposite-sex couples can choose Guernsey as a wedding venue.
- 3.5. Perhaps the most important recent development has been a provisional decision from the European Court of Human Rights regarding the lack of legal recognition for same-sex couples in Italy<sup>10</sup>. In July 2015 the Court judged that Italy had been in breach of Article 8 of the European Convention on Human Rights (the right to respect for private and family life) by not allowing same-sex couples to get married or enter into a civil union. It had failed to fulfil its positive obligation to ensure that the complainants had available a specific legal framework providing for the recognition and protection of their same-sex unions. This highlights that ‘doing nothing’ is not an option for Guernsey, where there is currently an absence of any form of recognition for same-sex couples. (See Appendix 3 for the full ruling).

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<sup>8</sup> *Hyde v Hyde and Woodmansee*, (1866), LR 1 P&D 130, 133

<sup>9</sup> Visit Guernsey & The Chamber of Commerce Tourism & Hospitality Sub-Group, 2015, *Guernsey Tourism Strategic Plan 2015-2025*, p.25

<sup>10</sup> *Oliari and Others v Italy*, Application Nos.18766/11, 21 March 2011, and 36030/11, 10 June 2011, [2015], Council of Europe: European Court of Human Rights, 21 July 2015

#### 4. Current arrangements elsewhere

- 4.1. As previously noted, global recognition of same-sex partnerships has greatly advanced since the original Requête laid before the States in 2006. As of September 2015, same-sex marriage had been introduced in 22 separate countries, although it has not yet come into force in three of these. Additionally, Jersey has approved the drafting of legislation to permit same-sex marriages from 2017.
- 4.2. Detailed research has highlighted that the vast majority of countries which have introduced legislation to achieve equality for same-sex couples have introduced either same-sex marriage or a form of civil partnership, which is available only to same-sex couples.
- 4.3. Worldwide, same-sex marriage has been legalised in a total of 20 countries, which includes the entirety of North America, several countries in South America and South Africa<sup>11</sup>; however a large number of African countries continue to criminalise homosexual acts<sup>12</sup>.
- 4.4. Recent advances have been made in Ireland in May 2015, where same-sex marriage was passed by 62% in a landmark referendum, this being the first time that same-sex marriage had been approved by a public vote. In June 2015, the U.S. Supreme Court also ruled that same-sex marriage is a Constitutional right that is protected across the country, so removing the ability of individual states to enforce bans on same-sex marriage.
- 4.5. Within Europe, same-sex marriage has been legalised, or will be legalised in the near future, in 13 different countries, and some form of same-sex union or Civil Partnership is legal in a further 11 countries<sup>13</sup>. These include the traditionally conservative countries of Spain and Portugal, and our close neighbours of the United Kingdom and France.
- 4.6. Since the introduction of The Marriage (Same Sex Couples) Act 2013 (“The Act”) in England and Wales, and the Marriage and Civil Partnership (Scotland) Act 2014, marriage has been available to same-sex couples in the same way that it is available to opposite-sex couples.

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<sup>11</sup> McCarthy.N., 2015, *The Countries Where Gay Marriage IS Legal [Map]*, Forbes/Business, [online], available at: <<http://www.forbes.com/sites#/sites/niallmccarthy/2015/06/29/the-countries-where-gay-marriage-is-legal-map/>>, [accessed 25 September 2015]

<sup>12</sup> Global Legal Research Directorate, 2014, *Laws on Homosexuality in African Nations*, [online], available at: <<http://www.loc.gov/law/help/criminal-laws-on-homosexuality/african-nations-laws.php>>, [accessed 25 September 2015]

<sup>13</sup> Pew Research Center, 2015, *Where Europe stands on gay marriage and civil unions*, [online], available at: <<http://www.pewresearch.org/fact-tank/2015/06/09/where-europe-stands-on-gay-marriage-and-civil-unions/>>, [accessed 25 September 2015]



- 4.7. The Act enables same-sex couples to be married in civil ceremonies and in religious ceremonies, provided that the religious organisation concerned has opted in to performing same-sex marriages according to its rites.
- 4.8. The Act in the United Kingdom does not compel religious organisations to conduct same-sex marriage ceremonies against their beliefs, and these organisations are protected from legal challenges if they do not wish to marry same-sex couples.
- 4.9. The Act also allows couples who are already in a Civil Partnership to convert this partnership to a marriage if they wish, and enables individuals who legally change their gender to do so without having to end their marriages<sup>14</sup>.
- 4.10. In September 2015, the States of Jersey agreed to the drafting of legislation that would allow same-sex marriages to take place by 2017. The law will in many ways mirror that of the United Kingdom, as it will allow same-sex couples to have either a civil or religious marriage but will include the same ‘opt-in’ clause for religious organisations, so protecting their rights to not conduct same-sex marriages if it goes against their religious beliefs<sup>15</sup>.

## **5. Religious Rights**

- 5.1. The Act in England and Wales protects religious organisations or representatives from being forced to conduct or participate in marriage ceremonies for same-sex couples. This position is already guaranteed under Article 9 of the European Convention on Human Rights, the right to freedom of thought, conscience and religion, and in Strasbourg case law.
- 5.2. The Act also contains a ‘quadruple lock’ of additional measures which puts this position utterly beyond doubt. The measures:
  - Explicitly state that no religious organisation, or individual minister, can be compelled to marry same-sex couples or to permit this to happen on their premises;
  - Provide an ‘opt-in’ system for religious organisations who wish to conduct marriages for same-sex couples;
  - Amend The Equality Act 2010 to reflect that no discrimination claims can be brought against religious organisations or individual ministers for refusing to marry a same-sex couple or allowing their premises to be used for this purpose; and

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<sup>14</sup> Government Equalities Office, 2014, *Marriage (Same Sex Couples: A Factsheet)*, [online], available at: <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/306000/140423\\_M\\_SSC\\_Act\\_factsheet\\_web\\_version\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306000/140423_M_SSC_Act_factsheet_web_version_.pdf)>, [accessed 25 September 2015]

<sup>15</sup> States of Jersey, *Public Business - Same-sex marriage, divorce and dissolution*, 22 September 2015, P.77/2015

- Ensure that the legislation will not affect the Canon law<sup>16</sup> of the Church of England or the Church in Wales.
- 5.3. Any legislation to introduce a legal recognition of same-sex partnerships in Guernsey should also include an ‘opt-in’ clause for religious organisations, similar to that in place in England and Wales and to the proposed legislation currently being drafted in Jersey, which will allow religious organisations and their representatives to continue to act in accordance with their doctrines and beliefs on this issue.
  - 5.4. The Church of England (Worship and Doctrine) Measure 1974 was extended to the Channel Islands, with some minor modifications, by The Church of England (Worship and Doctrine) Measure 1974 (Channel Islands) Order 1984. Any legislation may also include provision to ensure that it will not affect the Canon law of the Church of England as extended to Guernsey.
  - 5.5. A further issue that has been highlighted during the consultation process is the introduction of provisions for the Greffe with regards to the ‘conscientious objection’ of employees.
  - 5.6. As it is proposed that religious organisations would only perform same-sex ceremonies if they had opted in to doing so, the Greffe will be legally obliged to conduct ceremonies for same-sex couples.
  - 5.7. It is recognised, however, that some employees may object to performing such ceremonies based on their personal beliefs. As such it is proposed that the Greffe introduce a grandfathering arrangement for current employees, so that they are given the option to ‘opt-out’ of performing same-sex ceremonies because of any personally held beliefs. The organisation will, however, be legally obliged to carry out such ceremonies.

## **6. Dissolution of a Marriage**

- 6.1. The issues of adultery and non-consummation as grounds for divorce, or the dissolution of legal partnership, were both included in the public consultation that has informed this Policy Letter.
- 6.2. As this is a highly complex topic with many legal implications, the Policy Council recommends that the issue of adultery and non-consummation be considered in more depth at a later stage. For the time being, it is proposed that neither of these reasons will be considered as grounds for the dissolution of a same-sex partnership, mirroring the position that is currently in place in United Kingdom law.

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<sup>16</sup> Canon law is the body of laws and regulations made by ecclesiastical authority (Church leadership), for the government of a Christian organisation or church and its members. It is the internal ecclesiastical law which governs the Anglican Communion of churches.



- 6.3. The Policy Council recommends that a separate Policy Letter is brought to the States at a later date, which will address adultery and non-consummation as well as other options for the dissolution of a marriage.

## **7. Extension of legislation to Alderney and Sark**

- 7.1. Any legislation that is approved to allow for the legal recognition of same-sex partnerships as a result of this Policy Letter will apply only to Guernsey.
- 7.2. Once legislation has been adopted, the States of Alderney and the Chief Pleas in Sark will be consulted as to whether they would wish for any legislation permitting same-sex partnerships to be extended to these other Islands.

## **PART 2 - Consultation and Possible Options**

### **8. Consultation**

- 8.1. A public consultation was undertaken seeking Islanders' views on ways for the States to recognise all couples who want to formalise their commitment to each other, regardless of whether they are a same-sex or opposite-sex couple.
- 8.2. A copy of the consultation document is attached as Appendix 1. This was launched as an electronic survey and was also available as a paper copy which could be completed and returned to the Policy Council. The survey was widely publicised and was available for completion from 1<sup>st</sup> June until 13<sup>th</sup> July 2015.
- 8.3. 1,643 responses were received, of which 1,297 respondents completed the survey in its entirety. Detailed responses and comments have been quoted throughout this report in relevant sections. A full summary of the results can be found in Appendix 2.
- 8.4. The consultation looked at the high level principles rather than the detail of who should be undertaking the administration of same-sex partnerships, where this should occur, how any such arrangement might be dissolved or what implications there would be for people who are already married under current legislation.

### **9. Options**

- 9.1. The overriding objective of this research and report has been to introduce equality for same-sex couples in committed relationships. This aim was supported in the responses to the consultation, with 90% of respondents (1,200 out of 1,337 responses) agreeing or strongly agreeing with the principle that Guernsey should be seeking to achieve "a non-discriminatory equitable system for the legal recognition of committed couples".

- 9.2. In addition, 80% of respondents (1,068 out of 1,328 responses) agreed or strongly agreed with the principle of achieving “a single system available to everyone”, and 89% of respondents (1,195 out of 1,341 responses) agreed or strongly agreed with having “an opportunity for same-sex couples to have the same rights and responsibilities as currently exist for opposite-sex couples”.
- 9.3. A large majority of the comments<sup>17</sup> received in the consultation also highlighted the fact that, for many, the main aim is to achieve equality for both same-sex and opposite-sex couples, and that the way in which it is achieved is perhaps of less importance<sup>18</sup>:

Respondents commented:

*“At this point in time it is truly an embarrassment that Guernsey hasn't yet offered equal opportunities to those in committed homosexual relationships. A change is needed to promote equality of diversity, as well as encouraging an understanding of acceptance for all.”*

*“Same-sex couples should have the same rights as opposite-sex couples. Marriage is about "love and commitment", and this can happen regardless of gender...”*

- 9.4. These results, along with the fact that 78% of people (1,161 out of 1,488 responses) disagreed or strongly disagreed with maintaining the status quo, highlight that it is not an option for the States to do nothing, amplified above by the judgement of the European Court of Human Rights. As such, the viable options that were consulted on are set out below.

## 9.5. Civil Partnerships

- 9.5.1. Following the successful requête in 2006<sup>19</sup> the States agreed to investigate the introduction of Civil Partnerships; however by the time this work commenced in 2014 it was felt that Guernsey society, and global attitudes, had moved on. The Policy Council did not wish to bring in a system specifically for same-sex couples alone, but wanted a single, non-discriminatory, equitable system that would legally recognise a couple's committed relationship, regardless of whether they were a same-sex or opposite-sex couple.

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<sup>17</sup> The comments included in the paper are taken from written submissions to the public consultation. Comments have not been amended unless to correct spelling and punctuation for ease of reading, as auto-correct facilities were not available on the online survey. Where a comment has been abbreviated, this is indicated. Some respondents asked that their comments be anonymous, whilst others stated that they could be publicly attributed to them. All names have been withheld, however, in order to ensure that no-one is subject to negative feedback.

<sup>18</sup> 79 out of 168 comments which referenced 'equality' supported this view.

<sup>19</sup> Requête – Civil Partnerships, *Billet d'État XVI*, 27 September 2006, p.1754

- 9.5.2. Nevertheless, the option of introducing Civil Partnerships was included in the consultation. Of those responding, 47% of respondents (693 out of 1,488 responses) agreed or strongly agreed with the introduction of Civil Partnerships, compared with 35% (515 out of 1,488 responses) which disagreed or strongly disagreed with this option. This illustrates that there is not overwhelming support for the introduction of Civil Partnerships<sup>20</sup>:

Comments in favour

*"I believe same-sex couples should be allowed to marry in the eyes of Guernsey law with a Civil Partnership, to have equal rights to those who marry as man and wife, but to maintain the values of marriage and religious ceremonies so that both types of marriage are respected and accepted in society."*

*"...I support a civil partnership between two people of the same sex."*

*"I am fully supportive of the concept that no-one should be unfairly discriminated against, and would, as happily married heterosexual, fully support the introduction of Civil Partnerships as has been done elsewhere in the British Isles..."*

Comments against

*"...A Civil Partnership in the UK is seen to be less than married..."*

*"I am opposed to the concept of 'civil partnerships' as, although like a marriage, they are designed to specifically deny 'marriage' to a section of society..."*

- 9.5.3. For some respondents, the support expressed for this option might also have been an indication that this arrangement would be better than retaining the status quo. The introduction of Civil Partnerships was commented on in the consultation, with responses highlighting that although Civil Partnerships would be a step in the right direction, there are better ways to achieve equality<sup>21</sup>:

*"Bringing in Union Civile or Civil Partnerships is fine as an extra option [for both heterosexual and homosexual couples] but not as an alternative to non-religious marriage. Instead the States should offer marriage to same sex-couples in line with many other progressive communities."*

*"...I've agreed with Civil Partnerships only as an alternative to maintaining the status quo, but I am in favour of marriage equality/Union Civile over Civil Partnerships."*

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<sup>20</sup> 10 out of 20 comments specifically mentioning the option of introducing Civil Partnerships supported their introduction, and 7 out of 20 responses were strongly against the introduction of Civil Partnerships.

<sup>21</sup> 3 out of 20 responses which specifically mentioned the introduction of Civil Partnerships held this view.

*“...Since the States agreed to discuss Civil Partnerships 9 years ago the world has moved on, and Civil Partnerships were only ever a second-class intermediary step to avoid giving same-sex couples the same rights as opposite-sex couples. For this reason I hope they are not brought in for Guernsey...”*

- 9.5.4. Legal implications relating to the introduction of Civil Partnerships would be substantial, as although similar legislation already exists in both the United Kingdom and Jersey, a considerable amount of work would be required to implement any changes.
- 9.5.5. The United Kingdom Civil Partnerships Act 2004 is an expansive piece of legislation, owing to the fact that it creates a whole new structure, including procedures for creation and dissolution of civil partnerships, property and financial arrangements, parental responsibility and guardianship of children and recognition of overseas relationships. This would be very time-consuming and complex to adapt to our requirements. It would also require the creation of a new jurisdiction equivalent to that of the Matrimonial Causes Division which might have resource implications for the courts.
- 9.5.6. However, there would be further issues with the introduction of Civil Partnerships. While their introduction would go some way to providing legal recognition of same-sex relationships, it would not achieve the ‘single non-discriminatory equitable system’ which is the Policy Council’s overall aim. This is not least because, should legislation mirror that which exists in the United Kingdom and Jersey, then Civil Partnerships would be available only to same-sex couples. This would present a problem in that Civil Partnerships would not be available to opposite-sex couples and marriage would not be available to same-sex couples, so equality would not be achieved. Even if in Guernsey Civil Partnerships were opened up to all couples, which was considered in the United Kingdom and rejected after public consultation, there would not be equality if marriage was available only to opposite-sex couples.
- 9.5.7. Such lack of equality could prove to be a risk to Guernsey’s international reputation, as our close neighbours are achieving full equality through same-sex marriage. This could also negatively affect incoming tourism, as same-sex couples would not be able to have a marriage ceremony in the Island, whereas this would be possible in Jersey.
- 9.5.8. Whilst the introduction of Civil Partnerships would satisfy the judgement of the European Court of Human Rights in that it would provide legal recognition of same-sex relationships, the lack of equality that would remain between same-sex and opposite-sex couples is considered unacceptable and is therefore not the Policy Council’s recommended course of action.

## 9.6. Union Civile

- 9.6.1. A second option that was included in the consultation was the introduction of Union Civile, as a single, non-discriminatory, equitable system that would replace civil and religious marriage as the only legal recognition of a partnership for both same-sex and opposite sex couples. Any couple wishing to undertake a religious marriage ceremony would need to have a Union Civile ceremony either at the same time or before the religious ceremony, so that their partnership would be legally recognised.
- 9.6.2. It was considered that this option would provide a clear separation between the religious requirements of marriage and those of the state for recognising a partnership between two people.
- 9.6.3. In response to the option of introducing Union Civile 53% of respondents (788 responses out of 1,488) agreed or strongly agreed with the proposal, and 33% (490 responses out of 1,488) disagreed or strongly disagreed with the proposal.
- 9.6.4. Union Civile provoked a mixed response in the consultation, and the numerous comments that were received reflect this polarisation of views<sup>22</sup>:

### Comments in favour

*“Union Civile is not just about equality when it comes to marriage, it is about Guernsey becoming a fairer and more equal society. The Policy Council's proposals are a good step in this direction and have my full support”.*

*“Union Civile seems like a massive step forward for the rights of many Guernsey residents who up until now have suffered discrimination. Union Civile is a chance for Guernsey to go from lagging behind the rest of Europe on same-sex couple recognition to becoming a leader.”*

*“...The Union Civile idea, to separate the legal aspects of marriage from the religious and supply a fair and equal playing field for all, is a real step forward and a breath of fresh air. I commend the States of Guernsey for finding a way to both increase rights for all and withdraw from people's private and religious lives.”*

### Comments against

*“Marriage should describe the union of two consenting adults and the Government should not be interested in the sex of either party. Union Civile is an insult. Equal marriage should be the only option. Was it considered that the term marriage only be applied to non-religious couplings, with a "Religious Union" introduced for those who prefer a religious ceremony?”*

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<sup>22</sup> Of the 198 comments which referred to Union Civile, 31 were in favour of its introduction and 130 were against.

*“Inventing a new name to avoid 'marriage' will quickly look backward on the world stage, where equal marriage is the norm. There are many couples who married non-religiously who are called 'married', and the same term should apply to same-sex couples too. Avoiding the word because a small minority decide that it applies only to their religion is anachronistic and outdated. I guarantee that if you pick 'Union Civile' instead of 'equal marriage', people will still call themselves 'married' and you'll just have to change it to reflect how it is actually perceived in a few years anyway. Not allowing same-sex couples to use the term marriage, when non-religious ceremonies have for years, is in itself discriminatory and therefore does not address your stated goals.”*

*“I do not understand why Guernsey has come up with the 'third option' of a Union Civile when so many of the other jurisdictions which have changed regulations have simply extended marriage to same-sex couples. It seems needlessly complicated and could cause potential problems for both same- sex and heterosexual couples if they move away from Guernsey and want their unions recognised elsewhere. Marriage is a universally recognised union across all cultures and religions, and extending it to same- sex couples will be true equality.”*

- 9.6.5. The introduction of Union Civile as the sole legal recognition of partnerships in Guernsey would permit legal recognition of same-sex partnerships, and so would overcome the problems highlighted by the judgement of the European Court of Human Rights. However, such an approach is not without its problems. There would be substantial legal implications, not least because entirely new legislation would need to be drafted without the aid of looking to other countries to see how potential difficulties were approached. This process would take a significant amount of time and would need considerable resources to enable it to move forward.
- 9.6.6. Union Civile would also pose challenges with regard to international reputation and tourism. As explained earlier, the Commerce and Employment Department has highlighted that increasing the wedding products that are available on Island is a key aim in their Guernsey Tourism Strategic Plan 2015-2025, and in a written response to the Policy Council on 2<sup>nd</sup> July 2015 concern was expressed about the potential impact to tourism of no longer using the word ‘marriage’:

*“The Department is concerned that, should Guernsey discontinue use of words such as ‘matrimony’, ‘marriage’ and ‘wedding’ in place of a term such as ‘Union Civile’, associated products would be very difficult to market off-Island. Even if, in reality, a Union Civile would be no more difficult to enter into than a marriage and would be legally recognised in other jurisdictions on a par with marriage, the name itself might lead potential wedding tourists to doubt the institution’s legitimacy and question the reason for the difference in terminology. Any aspect of a product that alienates its potential customer is to be avoided it at all possible, and it is thought that the replacement of the term ‘marriage’ with ‘Union Civile’ would act as an alienation device. There is also*



*concern that, not only might the difference in terminology deter non-locals from choosing the Island as a wedding venue, locals might travel off-Island in order to be, what they perceive to be, “properly married”.*”

- 9.6.7. The concern about the loss of the term “marriage” was also highlighted in comments received during the public consultation<sup>23</sup>:

*“While I like the concept of Union Civile, is there a reason not to call the new Union Civile a 'Marriage Civile' (sic) other than fears that the religious on the island will get upset? Internationally the word 'marriage' is recognised, and avoiding using that word seems deliberately obfuscatory at best, and cowardly at worst.”*

*“I agree with the proposals for the separation of church and state in the matter of marriage, and in principle with the Union Civile proposals as a single means of recognising partnership between two people without regard for their sex. It strikes me, however, that to suggest that the word ‘marriage’ has inherently religious connotations is demonstrably fallacious - the word is used at present in Guernsey and elsewhere to describe both religious and civil ceremonies and many dictionaries of English, which reflect contemporary usage, include same-sex relationships in their definitions, but typically don't mention a religious aspect. If anything, perhaps leaving religious groups with a monopoly on the word ‘marriage’ is contrary to the laudable intentions of the Policy Council regarding equality, simplicity and fairness. Avoiding the term seems to me an unnecessary legal nicety which may well be ignored completely in everyday parlance.”*

*“The Union Civile proposal seems like a poor compromise. We should not be afraid to call it marriage, regardless of any objections from religious groups that are increasingly irrelevant in modern society. The legally recognised marriage can still be independent from religion as proposed, but we should not allow religion to control the meaning of that word. It will unnecessarily complicate international matters related to marriage if we use Union Civile, and it is unrealistic to expect it will be widely recognised by other countries.”*

*“Marriage is recognised worldwide; therefore having a separate legal status in Guernsey is ridiculous! Why can same-sex couples not be married? Why should it only be religious couples who are able to use this terminology? I agree that we need one system for all, however this should be titled ‘marriage’ and Guernsey should not be coming up with some exhausted system which is actually discriminating against same-sex couples! I am outraged at this proposal!”*

- 9.6.8. An important issue that has been highlighted, with regards to the possible introduction of Union Civile, is whether this new institution would be internationally recognised as being equal to marriage.

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<sup>23</sup> 30 out of 39 responses which referred to the use of the word ‘marriage’ supported this view.

9.6.9. In order better to understand this issue, the Policy Council sought advice from Professor Peter McEleavy, Professor of International Family Law at Dundee University, who was recommended to the Law Officers by the Ministry of Justice as being best placed to advise on the issues of international recognition and general implications of Union Civile (see Appendix 4 for the full Opinion).

9.6.10. Professor Peter McEleavy expressed concern regarding the possibility for Union Civile to be internationally recognised as marriage, explaining that:

*“The treatment of Union Civile outside of the jurisdiction would depend entirely on how the institution was classified in each individual legal system in which legal recognition was sought... Furthermore, the existence of Civil Union/Union Civile in several jurisdictions as an alternative to marriage may impede the recognition of a Guernsey Union Civile as an institution equivalent to marriage... The current treatment of marriage like institutions in certain jurisdictions suggests that in some legal systems Union Civile would at best be equated with a civil partnership, the precise status depending on the law of the State of recognition.”*

9.6.11. Professor Peter McEleavy also highlighted a potentially more significant problem with the possible introduction of Union Civile, in relation to the international recognition of opposite-sex relationships:

*“There is only a select number of legal systems in which it could be said with reasonable certainty that a Guernsey Union Civile would be fully recognised. Insofar as the institution would apply to same-sex couples its potential for recognition would likely differ little from same-sex marriage or other forms of partnership. The greatest risk surrounds its application to opposite-sex couples, for if the institution is not classified as marriage, then there is a risk that it would not be recognised at all in certain jurisdictions.”*

9.6.12. Whilst the introduction of Union Civile would create equality for same-sex and opposite-sex couples under Guernsey law, it is clear that there are potential new challenges which could be inadvertently created, which could have significant effects for opposite-sex couples who need to have their relationship legally recognised abroad, for example, for inheritance purposes.

9.6.13. As mentioned above, it would also create significant issues with regard to the drafting of legislation, as it would be substantially more complex to draft new legislation for Union Civile than it would be to link same-sex couples to the current legal system of marriage.



## 9.7. Same Sex Marriage

- 9.7.1. The third option for achieving equality included in the consultation paper was to extend the current laws governing marriage to allow same-sex couples to have a civil marriage ceremony that would provide legal recognition of their relationships. Similar civil registration requirements would apply as currently apply for a civil ceremony.
- 9.7.2. It is proposed that if same-sex marriage is introduced in Guernsey that any legislation would follow the legislation currently in place in England, Wales and Scotland. This would mean that initially there would not be full equality for same-sex couples, as adultery and non-consummation would not be recognised as grounds for the dissolution of a same-sex marriage. However the Policy Council is proposing that the current grounds for the dissolution of a marriage be looked at in greater detail at a later date, as set out in section 6 of this report.
- 9.7.3. In response to the option of extending civil marriage to same-sex couples, 71.5% of respondents (1,064 out of 1,488 responses) agreed or strongly agreed with the proposal – this was the most popular option in the consultation; however there were also some comments that showed opposition to the introduction of same-sex marriage<sup>24</sup>:

### Comments in favour

*“Marriage is the bedrock of our society. It should not be restricted to those with religious belief. People (whether in opposite or same-sex relationships) do not want a Union Civile - they wish to get married. The institution of marriage is internationally recognised and respected. All that is required in the interests of fairness and equality is that same-sex couples be permitted to have a civil marriage in the same way as opposite-sex couples. No other change is either necessary or desirable.”*

*“...My preference would always be to introduce same-sex marriage; this can then be either religious or civil as the case is for opposite-sex marriage...”*

*“Anything less than the full equality of marriage for same-sex couples on exactly the same basis as heterosexual couples would be a travesty and a disgrace to Guernsey.”*

### Comments against

*“Marriage should only ever be for the union of one man and one woman. Same-sex marriage is wrong and should never be allowed in Guernsey.”*

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<sup>24</sup> Of the 46 comments which referred specifically to same-sex marriage, 36 were in favour of its introduction and 6 were against.

*“I wish to uphold the Christian values on marriage that one man and one woman should enter into the marriage relationship for companionship and the procreation of children”.*

- 9.7.4. There were many comments in the consultation that were strongly in favour of introducing civil marriage for same-sex couples, and many respondents stressed that they do not believe that the word “marriage” has solely religious connotations in modern society<sup>25</sup>:

*“Same-sex couples should have the same rights as heterosexual couples. That this is even a point for debate is frightening. I do not agree that the use of the word ‘marriage’ causes confusion with a religious concept. Religious marriage and civil marriage can happily co-exist. I understand that the UK legislation makes it clear that religious bodies are not required to conduct same-sex marriages. Civil marriage should be available for heterosexual and same-sex couples. If civil marriage were available for all, I doubt there would even be a need for Civil Partnerships (although I would support their introduction if there was a need). Just making civil marriage available for all would surely be the option requiring fewer legislative amendments. Replacing marriage with a ‘Union Civile’ seems unnecessary and a bit of a red herring to the main mischief that needs to be addressed urgently - that is to say, the current unacceptable discrimination against same-sex couples.”*

*“I believe that all committed couples have a right to be married. Calling marriage something different simply segregates those who do not want a religious wedding. Weddings and marriage are more than legal or religious formalities and this option of getting married should be available and open to all. I would like the States of Guernsey to recognise that changing the name of marriage is a backward step and that all couples, same-sex or otherwise, deserve to be able to marry.”*

- 9.7.5. As explained in Section 3, the current system governing marriage in Guernsey is outdated, and so amending the legislation to permit same-sex civil marriage could be argued to bring this system up to date and into line with current attitudes within our society. As the comments gathered from the consultation have highlighted, achieving equality is the principal objective for many Islanders.
- 9.7.6. Legalising same-sex marriage would also enhance Guernsey’s international reputation, bringing it into line with our closest neighbours but also putting the Island at the forefront of the Lesbian, Gay Bisexual, Transgender, Questioning (“LGBTQ”) equality movement, as currently only 22 countries worldwide have legalised same-sex marriage.

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<sup>25</sup> 20 out of 39 responses which referred to the use of the word ‘marriage’ supported this view.

- 9.7.7. With regards to tourism, the legalisation of same-sex marriage could also provide a boost to the wedding tourism market as it may attract couples from the United Kingdom or further afield to choose Guernsey as their wedding destination. The Commerce and Employment Department also feels strongly that the retention of the word ‘marriage’ and the simplification and liberalisation of current procedural formalities would prove of significant value to the visitor economy. This would also satisfy the aims outlined in the Commerce and Employment and Chamber of Commerce Hospitality and Tourism sub-group’s joint Guernsey Tourism Strategic Plan 2015-2025. These considerations will be addressed in a future Policy Letter which will address process and procedures.
- 9.7.8. Should same-sex marriage be introduced in the Island, the States of Guernsey will fulfil the requirements that were set out in the decision of the European Court of Human Rights, as there will be a legal recognition of same-sex relationships which satisfies Article 8 of the European Convention on Human Rights, setting out the right to respect for private and family life.
- 9.7.9. As noted in paragraph 3.2, there is no express statutory provision in Guernsey or the United Kingdom which states that marriage must be between a man and a woman. As such, the legal drafting implications would be less onerous because, as in the United Kingdom, the principal legislation would be relatively simple in that it would not need to create a new regime in order to extend marriage to same-sex couples. All the consequences of marriage, as they presently arise for opposite-sex couples, would also apply to same-sex couples, although there would inevitably be consequential minor amendments to legislation in various areas which relate to married persons.

## **10. Preferred Option**

- 10.1. As set out in section 9 above, the Policy Council has considered a number of options to achieve equality for couples. Initially the preferred option seemed to be the introduction of Union Civile, and a minority of members still prefer this option. Whilst appreciating that it is in many ways a more radical solution, it more clearly separates the state from religion and provides greater grounds for equality.
- 10.2. The majority of Policy Council, however, now favours the extension of Civil Marriage to same-sex couples, as outlined above in section 9, as this is the simpler option and is based on similar systems already in place within neighbouring jurisdictions.
- 10.3. The Policy Council nevertheless unanimously agrees that further work will be necessary to address the issues and anomalies which have been highlighted in the consultation and work on Union Civile, and which will remain under a same-sex civil marriage system.

## **11. Enactment of Legislation**

- 11.1. The Law Officers have been consulted and advise that they have serious reservations about the advisability of replacing marriage with Union Civile, in particular because of the potential problems concerning international recognition of the status in other jurisdictions.
- 11.2. The Law Officers state that those reservations have been confirmed by the advice of Professor Peter McEleavy, an expert in the field of private international law, who concludes:

*“... the replacement of marriage with an alternative institution, which already exists in different forms elsewhere, alongside or in addition to marriage, is likely to present a significant evidential burden on parties if they seek to establish that it is equivalent to marriage. Recognition may be delayed and require expensive court proceedings. Moreover, it may take many years before all key jurisdictions take a position on the Guernsey Union Civile, thereby creating uncertainty.”*

## **12. Resources**

- 12.1. Other than the requirement for legal drafting work, there are no resource implications resulting from the approval of this Policy Letter.

## **13. Other matters**

- 13.1. The main priority of this work, as set out in paragraph 9.1, is to establish equality by providing the LGBTQ community in the Island with the ability to have relationships legally recognised, thus providing the same rights and responsibilities that are already available to opposite-sex married couples.
- 13.2. If agreement is given to the preferred option of same-sex marriage, legislation will be drafted to bring this option into force. A separate Policy Letter will be brought to the States to deal with the dissolution of marriage, as outlined in section 6.3, at a later date.
- 13.3. It has also been recognised that consideration will need to be given to the issue of gender recognition, with regard to the validity of marriage, should one person change their gender. Further work will be required and if agreement is given to the preferred option a separate Policy Letter will be brought to the States at a later date.
- 13.4. As explained in section 2, current marriage arrangements in Guernsey are based on the 1919 Marriage Law, which has been amended over many years. This law deals primarily with procedural formalities relating to marriage, such as notice periods, minimum periods of residence and the locations where marriage can

take place. In light of legalising same-sex partnerships, work will be undertaken to simplify the current system and a separate Policy Letter will be brought to the States at a later date.

#### **14. Recommendations**

##### **14.1. The States are asked:**

- i) to agree to the introduction of same-sex marriage;
- ii) to direct the preparation of such legislation as may be necessary to give effect to the introduction of same-sex marriage;
- iii) to note the extensive work that has been undertaken with regards to Union Civile, and to direct the Policy Council to monitor international developments on this topic; and
- iv) to direct the Policy Council to bring forward, in a timely manner, separate Policy Letters to address the issues raised by the work on Union Civile including the dissolution of legal partnerships, as set out in section 6; gender recognition, and procedural formalities relating to marriage.

J P Le Tocq  
Chief Minister

12<sup>th</sup> October 2015

A H Langlois  
Deputy Chief Minister

Y Burford  
P L Gillson  
S J Ogier

R W Sillars  
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**Appendix 1****Copy of the Union Civile Consultation****Union Civile Consultation****Introduction**

In September 2006 the States directed the Policy Council to investigate legislation which would enable people (including those in same sex relationships) to enter into civil partnerships in Guernsey.

There are a number of different solutions available globally to legally recognise a couple's commitment to each other. The Policy Council is seeking to find a simple and equitable solution for Guernsey.

This consultation paper provides a brief description of the current arrangements and explains why we need to change. There are a number of different solutions available and we want to hear your thoughts about those options.

The Policy Council has a preferred option, Union Civile, and as you work your way through the survey we will explain why we have this preference and ask you for your views on this option and the alternatives.

Your views on the extent that you agree or disagree with the statements, options and principles in this consultation will help the Policy Council, and ultimately the States, decide on a way forward.

Responses to the consultation will be analysed and will be published. If you do not want any of your responses to be published or quoted, other than as part of any statistical analysis, please make this clear on the last page of this survey.

If you have any queries or require the consultation in an alternative format please e-mail [unioncivile@gov.gg](mailto:unioncivile@gov.gg) or write to Union Civile, The Policy Council, Sir Charles Frossard House, La Charroterie, St Peter Port, Guernsey, GY1 1FH or phone Sir Charles Frossard House on 717000.

The survey has 14 screens, if you are filling it in on line, and should take around 15 minutes to complete. You do not have to complete all the questions, but we have asked that everyone completes all lines in question 3 so that we know your views on the options proposed.

### **The principles for change**

Thank you for sharing your views and taking the time to complete this survey.

We have used some general principles in our proposals for equality in the legal recognition of committed couples.

The Policy Council wants to promote a society that values equality, opposes all forms of discrimination and recognises diversity. A society based on fairness and equality, where every one of our citizens is treated with both dignity and respect, and which opposes discrimination.

The legal recognition of a relationship between two people is a political, social, human rights and civil rights issue, as well as a religious issue in many nations around the world, and debates continue to arise over whether same-sex couples should be allowed marriage, or instead be allowed to hold a different status, or be denied such rights.

The Policy Council believes that government should only be involved in matters relating to the protection of rights, such as inheritance, taxation, benefits, and next-of-kin and the prevention of discrimination. All couples whether same-sex or opposite-sex, should be in a position where their relationship can be legally recognised by the state.

The Policy Council believes there should only be one system to legally recognise a committed relationship in Guernsey and should be non-discriminatory providing equality for same-sex and opposite-sex couples. That is what it has called Union Civile.

We are also looking to ensure that it is clear what is required by the state for a relationship to be recognised and for any such requirements to be separate from any religious commitments a couple might choose to make.

### **The current system**

At present the legal recognition of a committed relationship in Guernsey is by religious marriage (in a church) or by civil marriage (in a civil ceremony conducted by H M Greffier in his role as Registrar-General or one of his Deputies).

Religious or civil marriage can only be between two people of the opposite sex.

A person must be over 18 to marry or have parental consent. In exceptional circumstances the Registrar-General can dispense with this consent, but no one under the age of 16 can marry.

To marry you cannot already be married; if you have been married before you must be divorced or be a widow/er to marry again. You cannot marry certain close relations, including certain adopted relations.

With marriage comes certain rights and responsibilities, such as: next of kin status; tax filing; inheritance; pensions; making medical decisions, including post-mortem organ donation; making funeral arrangements; status of children and family related rights; right to change surname; an expectation of consummation; duty to cohabit; etc.

**1. The current system, where only opposite-sex couple's commitment can be legally recognised, is not fair or equitable.**

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure

**Use of the word 'marriage'**

In England and Wales same-sex couples can have a civil marriage or a religious marriage where the religious organisation and religious official have agreed to marry same-sex couples. Civil Partnerships also remain an option for same-sex couples in these countries. Civil partners are also able to convert their partnership into a marriage if they want to.

The Policy Council wants to encourage a clear separation between the state and religion and it is concerned about the connotations in using the word "marriage" in the title of any new legal recognition of a couples relationship.

The Policy Council considers that the state should not be involved in someone's religious belief, other than to protect a person's religious freedom. Therefore any legally recognised partnership should be registered distinctly from any religious requirement, although one may happen directly after the other.

"Marriage" is a word that is recognised in other countries and international recognition of any future arrangements for Guernsey is being worked on.

**2. Religious marriage and the legal recognition by the state of a union between two people should have different names.**

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure



## **The options for change**

### **Option 1 - Civil Partnership**

In Jersey, England and Wales a civil partnership is a legal relationship which can be registered by two people of the same sex. Civil partnerships in these jurisdictions are only available for same-sex couples and are not possible for couples of the opposite sex.

A civil partnership is not the same as marriage although people in a civil partnership in the UK and Jersey have almost the same rights as married people.

There would be added complications to other legislation and policies and procedures by having more than one system for legally recognising a couple.

Civil partnership is not the Policy Council's preferred option.

### **Option 2 - Same Sex Civil Marriage**

Equal civil marriage would mean extending the existing civil marriage system to include same-sex couples. Certain rules would need to be changed, to accommodate same-sex couples, but otherwise similar civil registration requirements could apply as currently apply for a civil ceremony.

Equal civil marriage would be an entirely civil event with no religious element.

The word "marriage" has certain connotations for some where it is linked to religion and to recognising a commitment between a man and a woman.

Due to these connotations the Policy Council would prefer any new legal scheme to avoid using the word "marriage" in its title. This would also help provide a clear distinction between the state requirements and any religious or other requirements.

### **Option 3 - Union Civile**

Union Civile would legally recognise the partnerships between two people, whether they were the same-sex or opposite-sex.

It is proposed that this would be the only statutorily recognised form of partnership replacing the current arrangements for civil marriage and would need to be undertaken by everyone who wished their partnership to be legally recognised.

The Union Civile would mean that everyone wishing to undertake a religious marriage would also need to have a Union Civile either at the same time or before the religious marriage, so that their partnership could be legally recognised.

This would provide a clear separation between the religious requirements and those of the state for recognising a partnership between two people. This is the Policy Council's preferred option.

**3. For the following statement please provide an answer for each line.  
We should pursue the following:**

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure
Maintain status quo						
Introduce civil partnership for same-sex couples						
Introduce same sex marriage						
Introduce Union Civile						

**Conversion to a Union Civile**

If the States adopted Union Civile some people who have already entered into civil partnerships or other arrangements legally recognised elsewhere might want to convert to a Union Civile in Guernsey.

**4. Conversion to a Union Civile should be available from other legally recognised forms of partnerships.**

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure

**Dissolution of a Union Civile**

Currently married couples are able to cite adultery as sufficient evidence that the marriage has broken down irretrievably. Couples can also seek annulment on the grounds of non-consummation.

We believe that the state should not be concerned with sexual matters and therefore should not be interested in the consummation of any relationship or adultery.

This would mean that non-consummation or adultery would not, on their own, be grounds for a Union Civile to be dissolved. However, unreasonable behaviour would still be grounds for dissolution of a Union Civile and as such adultery and unfaithfulness would still be taken into account as evidence of that unreasonable behaviour.

Dissolution of a Union Civile, including other reasons for dissolution, will be considered in more detail depending on the results of this consultation.

**5. Union Civile should not be subject to dissolution on the grounds of "non-consummation".**

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure

**6. Adultery should not be given separate status in relation to the dissolution of a Union Civile.**

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure

**What are your views on the proposals?**

In making changes to how couples are legally recognised the Policy Council has considered the benefits of making that change. We are seeking your views on these benefits.

**7. We should be seeking to achieve the following:**

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure
A non-discriminatory equitable system for the legal						

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure
recognition of committed couples.						
A single system available to everyone						
An opportunity for same-sex couples to have the same rights and responsibilities as currently exist for opposite-sex couples.						
A single system of dissolution of a legally recognised relationship, where the state would not be concerned with non-consummation and would not be expressly concerned with adultery.						
A community/ society that is less						

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know / not sure
discriminatory and recognises diversity.						
Simplification of the current systems through the introduction of modern, equitable, non-discriminatory legislation, policies and practice.						

**Do you have any other comments that you would like to make?**

This is your opportunity to provide any other comments you might have.

**8. If you have any additional comments please use the space provided.**

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**General Questions**

We are asking some general questions about you which will help us understand if there are any patterns to the responses we get - for example, do women and men have the same views? Do working age people and people over retirement age have different views?

Please help us to analyse the responses by answering the following questions about yourself, or your organisation.

- 9. Are you responding as an official representative of an organisation or group? (If yes go directly to question 18 if you are completing a paper form.)**

Yes	No

**Tell us about yourself**

This information will remain private and confidential and will not be attributed to you as a named individual.

- 10. Where do you live?**

Guernsey, Herm & Jethou	Alderney	Sark & Brecqhou	Other

Other (please specify):

- 11. How old are you?**

Under 16		55 to 64	
16 to 17		65 to 74	
18 to 24		75 to 84	
25 to 34		85 and over	
35 to 44		Rather not say	
45 to 54			

- 12. What is your sex / gender identity?**

Female	
Male	
Transgender	
Other	
Rather not say	

- 13. How would you describe your sexuality?**

Heterosexual / Straight	
Bisexual	
Gay	

Lesbian	
Questioning	
Other	
Rather not say	

### **Tell us about your relationships**

We are interested to know if there is any difference in people's views depending on whether; they are in a relationship or not, they have previously been divorced or legally separated, and whether they are a parent (regardless of the age of the children).

#### **14. Please indicate which best describes your current relationship status.**

Married (opposite-sex)		In a relationship but not living together (opposite-sex)	
Married (same-sex)		In a relationship but not living together (same-sex)	
In a civil partnership (same-sex)		Not currently in a relationship	
Living together with an opposite-sex partner		Other	
Living together with a same-sex partner			

Other (please specify)

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#### **15. Are you currently engaged?**

Yes	No

#### **16. Are you or have you ever been divorced or legally separated?**

	Opposite-sex couple	Same-sex couple
Yes		
No		

**17. Are you a parent?**

Yes	No

**Tell us about your organisation or group**

This section need only be completed if you are responding as an official representative of an organisation or group. If you are not you can go to the last section.

We may want to contact your organisation in future and it would be useful to have contact details and the numbers of people you represent.

**18. What is the name of the organisation you represent?**


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**19. What are your organisation's contact details including email address?**


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**20. What statement best describes your organisation or group?**


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Thank you for completing this survey. You can input your answers on line at [gov.gg/unioncivile](http://gov.gg/unioncivile) where your responses will automatically be added to those already received. Alternatively please e-mail [union.civile@gov.gg](mailto:union.civile@gov.gg) attaching a copy of this completed form or send the completed form to Union Civile, The Policy Council, Sir Charles Frossard House La Charroterie, St Peter Port, Guernsey, GY1 1FH or phone Sir Charles Frossard House. You can also contact us on 717000 if you have any queries.

All the responses will be analysed and a summary will be published together with the Policy Council's response.

It is likely that this analysis will be published as part of a Policy Letter asking the States to consider proposals for changes to be made or to update the States.

All responses submitted will be carefully considered and used to formulate the Policy Council's proposals. Another, more detailed, consultation may take place before any recommendations are put to the States for consideration.

**21. Are you happy that any comments can be published?**

Yes, you can publish any comment and attribute it to me / my organisation	
Yes, you can publish any comment but not attribute it to me / my organisation	
No, I do not want any comments made public	



## **Appendix 2**

### **Summary of the Consultation Results**

The results included here are a synopsis of the responses that were received to the public consultation. The results have been constructed to show the question, the results of that question and, where comments have been made on that topic, a comment which reflects the majority response. As not all respondents provided their consent to their comments being made public, only a selection of individual comments is provided. Official representations made on behalf of organisations, which have provided their consent to publication, are provided after the results of the public consultation.

#### **Question 1**

The current system, where only opposite-sex couples' commitment can be legally recognised, is not fair or equitable.

<b>Answer Choice</b>	<b>Number of Respondents to Question</b>	<b>Percentage of Total Respondents</b>
Strongly agree	1190	74.42%
Agree	209	13.07%
Neither agree nor disagree	39	2.44%
Disagree	29	1.81%
Strongly disagree	128	8.01%
Don't know/not sure	4	0.25%
	1599	

*“What Guernsey needs is an equitable system whereby all people, regardless of their race, gender, religion, and sexual orientation, are treated the same. The fact that it is the year 2015 and we are still discussing whether we should have an equal system is nothing short of a travesty.”*

#### **Question 2**

Religious marriage and the legal recognition by the state of a union between two people should have different names.

<b>Answer Choice</b>	<b>Number of Respondents to Question</b>	<b>Percentage of Total Respondents</b>
Strongly agree	214	13.75%
Agree	203	13.05%
Neither agree nor disagree	227	14.59%
Disagree	293	18.83%
Strongly disagree	554	35.60%
Don't know/not sure	65	4.18%
	1556	

*“The word marriage is universally recognised and Union Civile is introducing a concept limited in its recognition. We already have marriage whether conducted in a civil or religious environment. I believe the word should continue as the commitment of all couples regardless of orientation. I do not believe that marriage is a term exclusively driven by religious commitment as it is a commitment by many already with no religious preferences of interest.”*

### Question 3

For the following statement please provide an answer for each line. We should pursue the following:

a) Maintain the status quo

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	134	9.01%
Agree	49	3.29%
Neither agree nor disagree	95	6.38%
Disagree	265	17.81%
Strongly disagree	896	60.22%
Don't know/not sure	49	3.29%
	1488	

*“The current system no longer fits with modern society. It has to change.”*

b) Introduce Civil Partnerships

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	368	24.73%
Agree	325	21.84%
Neither agree nor disagree	252	16.94%
Disagree	221	14.85%
Strongly disagree	294	19.76%
Don't know/not sure	28	1.88%
	1488	

*“...I've agreed with Civil Partnerships only as an alternative to maintaining the status quo, but I am in favour of marriage equality/Union Civile over Civil Partnerships.”*

## c) Introduce same-sex marriage

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	820	55.11%
Agree	244	16.40%
Neither agree nor disagree	104	6.99%
Disagree	84	5.65%
Strongly disagree	219	14.72%
Don't know/not sure	17	1.14%
	1488	

*“...My preference would always be to introduce same-sex marriage; this can then be either religious or civil as the case is for opposite-sex marriage...”*

## d) Introduce Union Civile

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	543	36.49%
Agree	245	16.47%
Neither agree nor disagree	153	10.28%
Disagree	155	10.42%
Strongly disagree	335	22.51%
Don't know/not sure	57	3.83%
	1488	

*“Union Civile seems like a massive step forward for the rights of many Guernsey residents who up until now have suffered discrimination. Union Civile is a chance for Guernsey to go from lagging behind the rest of Europe on same-sex couple recognition to becoming a leader.”*

Question 4

Conversion to a Union Civile should be available from other legally recognised forms of partnerships.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	626	44.02%
Agree	368	25.88%
Neither agree nor disagree	187	13.15%
Disagree	66	4.64%
Strongly disagree	102	7.17%
Don't know/not sure	73	5.13%
	1422	

Question 5

Union Civile should not be subject to dissolution on the grounds of “non-consummation”.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	353	25.84%
Agree	328	24.01%
Neither agree nor disagree	321	23.50%
Disagree	107	7.83%
Strongly disagree	127	9.30%
Don't know/not sure	130	9.52%
	1366	

*“...The move to get rid of the clauses about adultery and non-consummation is also hugely positive, as there are archaic, judgemental and reductive ways of approaching relationship breakdown...”*

Question 6

Adultery should not be given separate status in relation to the dissolution of a Union Civile.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	286	20.98%
Agree	294	21.57%
Neither agree nor disagree	290	21.28%
Disagree	174	12.77%
Strongly disagree	185	13.57%
Don't know/not sure	134	9.83%
	1363	

*“The questions on adultery being counted as grounds for separation were not clear, and it took a while to understand what was being asked (if it was understood at all). So to clarify, my view is that adultery should still be taken as ground to dissolve either a marriage or Union Civile/whatever we end up with...”*

Question 7

We should be seeking to achieve the following:

- a) A non-discriminatory, equitable system for the legal recognition of committed couples.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	1021	76.36%
Agree	179	13.39%
Neither agree nor disagree	40	2.99%
Disagree	25	1.87%
Strongly disagree	66	4.94%
Don't know/not sure	6	0.45%
	1337	

*“This is what Guernsey should be all about, fairness and equality across the board. I hope it doesn't stop here.”*

- b) A single system available to everyone.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	864	65.06%
Agree	204	15.36%
Neither agree nor disagree	90	6.78%
Disagree	60	4.52%
Strongly disagree	593	7.00%
Don't know/not sure	17	1.28%
	1328	

*“I am less bothered by the words used to name the partnership (i.e. civil “marriage” vs. Union Civile) than I am about having one system, open to all on equal terms.”*

- c) An opportunity for same-sex couples to have the same rights and responsibilities as currently exist for opposite-sex couples.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	1046	78.00%
Agree	149	11.11%
Neither agree nor disagree	24	1.79%
Disagree	30	2.24%
Strongly disagree	85	6.34%
Don't know/not sure	7	0.52%
	1341	

*“This is a great opportunity for Guernsey to show itself as a fair, open minded and forward thinking community. I see no reason whatsoever why same-sex couples should not have exactly the same rights as a man woman couple.”*

d) A single system of dissolution of a legally recognised relationship, where the state would not be concerned with non-consummation and would not be expressly concerned with adultery.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	502	37.83%
Agree	226	17.03%
Neither agree nor disagree	228	17.18%
Disagree	163	12.28%
Strongly disagree	141	10.63%
Don't know/not sure	67	5.05%
	1327	

*“...The intricacies of the marriage should be the exact same as that for heterosexual couples – i.e. grounds for dissolution should be precisely the same...”*

e) A community/society that is less discriminatory and recognises diversity.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	1029	77.14%
Agree	175	13.12%
Neither agree nor disagree	57	4.27%
Disagree	19	1.42%
Strongly disagree	47	3.52%
Don't know/not sure	7	0.52%
	1334	

*“Equality and social justice for all. Less discrimination and more understanding of other people's views lead to a more diverse society where people should have no fear because of their sexual orientation.”*

f) Simplification of the current systems through the introduction of modern, equitable, non-discriminatory legislation, policies and practice.

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Strongly agree	882	66.12%
Agree	233	17.47%
Neither agree nor disagree	85	6.37%
Disagree	32	2.40%
Strongly disagree	84	6.30%
Don't know/not sure	18	1.35%
	1334	

*“We fully agree that the new system should be simple and straightforward for all to understand and undertake...”*

#### Question 8

If you have any additional comments please use the space provided.

564 additional comments were received, of which a selection have been provided with the answers to the questions listed above.

#### Question 9

Are you responding as an official representative of an organisation or group?

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Yes	10	0.75%
No	1327	99.25%
	1337	

#### Question 10

Where do you live?

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Guernsey, Herm & Jethou	1223	93.5%
Alderney	4	0.31%
Sark & Brecqhou	2	0.15%
Other	79	6.04%
	1308	



Question 11

How old are you?

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Under 16	20	1.53%
16 to 17	38	2.91%
18 to 24	213	13.30%
25 to 34	327	25.02%
35 to 44	268	20.50%
45 to 54	239	18.29%
55 to 64	139	10.64%
65 to 74	40	3.06%
75 to 84	11	0.84%
85 and over	1	0.08%
Rather not say	11	0.84%
	1307	

Question 12

What is your sex/gender identity?

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Female	733	55.83%
Male	548	41.74%
Transgender	9	0.69%
Other	5	0.38%
Rather not say	18	1.37%
	1313	

Question 13

How would you describe your sexuality?

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Heterosexual/straight	995	75.44%
Bisexual	67	5.08%
Gay	129	9.78%
Lesbian	53	4.02%
Questioning	8	0.61%
Other	23	1.74%
Rather not say	44	3.34%
	1319	

Question 14

Please indicate which best describes your current relationship status.

<b>Answer Choice</b>	<b>Number of Respondents to Question</b>	<b>Percentage of Total Respondents</b>
Married (opposite-sex)	550	42.18%
Married (same-sex)	8	0.61%
In a Civil Partnership (same-sex)	18	1.38%
Living together with an opposite-sex partner	174	13.34%
Living together with a same-sex partner	84	6.44%
In a relationship but not living together (opposite-sex)	111	8.51%
In a relationship but not living together (same-sex)	35	2.68%
Not currently in a relationship	310	23.77%
Other	14	1.07%
	1304	

Question 15

Are you currently engaged?

<b>Answer Choice</b>	<b>Number of Respondents to Question</b>	<b>Percentage of Total Respondents</b>
Yes	77	6.34%
No	1138	93.66%
	1215	

Question 16

Are you, or have you ever been, divorced or legally separated?

<b>Answer Choice</b>	<b>Number of Respondents to Question</b>	<b>Percentage of Total Respondents</b>
Yes (opposite-sex couple)	169	86.22%
Yes (same-sex couple)	27	13.78%
<b>Total 'yes' responses</b>	196	
No (opposite-sex couple)	826	75.36%
No (same-sex couple)	270	24.64%
<b>Total 'no' responses</b>	1096	

Question 17

Are you a parent?

Answer Choice	Number of Respondents to Question	Percentage of Total Respondents
Yes	591	45.36%
No	712	54.64%
	1303	

**Official Representations from Organisations**Chamber of Commerce Tourism Sub Committee

- We fully agree that the new system should be simple and straightforward for all to understand and undertake. This includes inbound Marriage Tourism, which should be uncomplicated and approachable for those travelling from outside Guernsey.

Guernsey could then become not only fair and equitable in its approach to marriage, but could open up the possibility of becoming a tourist destination for marriages. There are destination hotels in the British Isles that have 200 weddings a year, many of which take place outside of the main tourist season.

Visit Guernsey and The Chamber of Commerce Tourism Sub Group Tourism Strategy Document states that Wedding Tourism is expected to generate between 3000-9000 visitors/£1.1m - £3.2m by 2025. Legislation changes creating simplicity, equity and greater secular venues for marriages would significantly benefit this objective.

- The word ‘Marriage’ should be maintained (whether a religious ceremony or a secular ceremony is conducted).

- There should only be one ceremony (whether a religious ceremony or a secular ceremony is conducted).

- A much greater number of secular venues should be licenced for the solemnization of marriages. Guernsey and Herm offer a potentially vast amount of desirable destinations for marriages to take place, not least private rooms in Hotels and on some of the glorious beaches of the Islands.

Liberate

Liberate is the first equality charity to represent the Lesbian, Gay, Bisexual, Transgender and Questioning community across the Channel Islands.

Our ethos reflects Article 1 of the United Nations Convention on Human Rights which states that “everyone is born free and equal in both dignity and rights”.

Unfortunately historical prejudices have become ingrained in many extant laws and policies within the Channel Islands, which have meant that the LGBTQ population does not enjoy the same rights afforded to others.

Liberate is pleased that the States of Guernsey Policy Council has taken this step towards ensuring a free and equal society in Guernsey, in which all citizens are treated fairly when it comes to marriage legislation – no-one left behind.

We support the mechanism of the Union Civile proposals but we do believe that there is a sincere wish by the majority of islanders to retain the word “marriage” within any new law. This we believe is not due necessarily to religious connotations that the word carries, but more in terms of it symbolising the ultimate bond between two people who love each other. We would therefore ask the States of Guernsey to consider using the Union Civile mechanism, which we believe to be one of the most progressive pieces of marital legislation in the world, but to retain the use of the word “marriage” which has significance both within religious and secular society.

#### The Wedding Fairy

Union Civile is not marriage. To remove the right of a non-religious couple, whether same-sex or mixed-sex, is discriminatory. Many couples have already been partners for many years, they want to become husband and wife or wife and wife – whatever. Wedding Tourism will be further damaged by the lack of Marriage, not enhanced. Why come to Guernsey for a ceremony that still does not marry you?

The long awaited overhaul of the current system, which includes improving where marriage can take place, extremely limited at present, when (no civil ceremonies on Saturdays is ludicrous) as well as who, should not even consider the backward step of Marriage only being available in Church.



# COMMERCE AND EMPLOYMENT

A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Our Ref:

Your Ref:

The Chief Minister  
Sir Charles Frossard House  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

## Commerce and Employment

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2 July 2015

Dear Chief Minister

**Re: Union Civile Consultation**

The Commerce and Employment Department would like to take the opportunity to respond to the Policy Council's consultation on Union Civile. It is felt that the concerns of the Department would be better conveyed through a letter such as this as opposed to through the completion of the structured survey.

The concerns of the Department stem largely from the potential effects of marriage legislation reform on the tourism and hospitality sector. As you can see in the extract appended to this response, the development of the Island's weddings offer forms an Action Plan under the Guernsey Tourism Strategic Plan 2015-2025. As such, the Department is very keen that any reform of marriage legislation should facilitate economic development opportunities arising principally out of wedding tourism and broadening the options for local residents who may wish, for instance, to use establishments in the visitor economy as the location of their ceremonies, to the potential advantage of local businesses.

The key benefits to the visitor economy of allowing local industry to compete for a segment of the available wedding market on an equal footing with other jurisdictions through changes to marriage legislation include:

- Direct financial benefits for those particular venues electing to specialise in hosting wedding ceremonies (i.e. and not exclusively 'after wedding' functions) – research indicates that there are premises in the UK that host weddings to the exclusion of all other types of guest, with some hosting in excess of 200 weddings each year.
  - Only a small number of venues across the Island may have the potential fully to exploit this opportunity, but there would be many establishments, not exclusively those offering accommodation, that could benefit to a greater or lesser degree from this additional revenue source.
- Indirect financial benefits via the financial "trickle down" effect for local businesses in catering, hospitality and other support areas (e.g. transport, retail, floral, event management, music and entertainment etc.).

Continuation ...../

- Providing revenue-generating opportunities outside of the peak season. In the UK, wedding tourism is well established as an all year round activity. Similar activity in Guernsey would help to sustain the local industry outside of the established season. It demonstrably generates longer term repeat business through anniversary visits, family holidays, and guests returning for longer stays.
- The augmentation of the local wedding market. The local wedding market would be strengthened as there would be increased opportunity for local people to arrange their wedding experience on-Island rather than elsewhere. The on-Island offer from local industry would develop as expertise and experience built.

We would also like to draw attention to particular areas of change which the reform of Guernsey's weddings legislation has the potential to bring about and which could most benefit the tourism and hospitality sector (whilst the Department considers that there are opportunities to modernise the current system independently of the review, to the advantage of the local economy, it is understood that the Policy Council does not intend to make discrete changes to the legislation outside of this review):

#### Residence and notice periods

At present, the requirements for non-Guernsey residents who wish to get married on the Island are onerous. The solemnization of a marriage in the Island of Guernsey may only take place after the issue of any one of the following:

- Licence
  - Person giving notice has been resident for 7 days prior to giving notice. 7 days after notice is given a licence is issued
- Special Licence
  - Person giving notice has been resident for one month prior to giving notice. One clear day after notice is given a special licence is issued
- Certificate of the Registrar General
  - Person giving notice has been resident for 7 days prior to giving notice. 21 days after notice is given a licence is issued

In order to enable non-locals (and in particular, tourists) easily to take advantage of any local weddings provision, the process for licence/certificate application and issue ideally should be simplified into a single system which would include short residency and notice periods. Whilst consideration would have to be given to the original purpose of such waiting periods, which was to, amongst other things, help in immigration control and the prevention of sham marriages, it must be accepted that society has changed significantly since the relevant legislation was drafted and people across the world are now extremely mobile in terms of ability to travel to holiday destinations and live in jurisdictions far from the places of their birth. It is no longer the case that such waiting periods are any more effective in achieving their aims than other measures that could be introduced.

Continuation ...../

**Summary** – The Commerce and Employment Department would like to express its support for the simplification of the requirements for the issuing of a marriage licence/certificate into a single system that would include short residency and notice periods.

*Terminology and use of the word “marriage”*

The consultation document states that:

*The Policy Council wants to encourage a clear separation between the state and religion and it is concerned about the connotations in using the word “marriage” in the title of any new legal recognition of a couple’s relationship.<sup>1</sup>*

The Department is concerned that, should Guernsey discontinue use of words such as “matrimony”, “marriage” and “wedding” in place of a term such as “Union Civile”, associated products would be very difficult to market off-Island. Even if, in reality, a Union Civile would be no more difficult to enter into than a marriage and would be legally recognised in other jurisdictions on a par with marriage, the name itself might lead potential wedding tourists to doubt the institution’s legitimacy and question the reason for the difference in terminology. Any aspect of a product that alienates its potential customer is to be avoided if at all possible, and it is thought that the replacement of the term “marriage” with “Union Civile” would act as an alienation device. There is also concern that, not only might the difference in terminology deter non-locals from choosing the Island as a venue, locals might travel off-Island in order to be, what they perceive to be, “properly married”.

**Summary** - The Commerce and Employment Department would like to express its support for the retention of the use of the word “marriage”.

*The need for more than one ceremony*

At present, all Anglican priests or vicars are given automatic Registrar status (through Ecclesiastic Law), meaning that the state’s requirement for civil marriage (i.e. the saying of the vows and signing of the register) can be conducted at the same time as the religious marriage in a Church. This is not the case for any other denomination or religion, meaning that anyone wishing to be married in a Non-Church of England religious institution would need to visit the Greffe at another time and sign the register, effectively having a separate Civil Marriage. An exception to this is that an application can be made to the Greffe to license a building whose primary use is religious worship for the solemnization of marriages. The building has to have been used by at least 20 people for religious worship for at least a year in order to be eligible. Once such a building is licensed, individuals can apply, with reference to that building, to be authorized to solemnize marriages.

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<sup>1</sup> Union Civile Consultation, Page 2



The Policy Council has proposed in its consultation paper that, in order to ensure a “clear separation between the religious requirements and those of the state for recognising a partnership between two people,”<sup>2</sup> a Union Civile system would dictate that:

*everyone wishing to undertake a religious marriage would also need to have a Union Civile either at the same time or before the religious marriage, so that their partnership could be legally recognised.*<sup>3</sup>

Serious concern has been expressed by the Chamber of Commerce Tourism and Hospitality Subgroup over the potential requirement for couples to have two separate ceremonies. It is likely that this would act as a deterrent to people, local or non-local, choosing to marry in the Island, be seen as an inconvenience and perceived as unnecessarily costing extra in terms of time and money. The Department shares the serious concerns of the Chamber Subgroup.

**Summary** - The Commerce and Employment Department would like to express its support for the introduction of a system whereby any state requirements could be fulfilled at the same time as religious requirements.

#### Licensing of a greater number of secular venues

The local tourism and hospitality industry considers the essential ingredient in creating the optimal conditions for the development of weddings provision is the licensing of a greater number of secular venues for the solemnization of marriages. This would result in greater choice of venue, outside of the current options which are the Greffe, St James, and private homes, and resultant spend in those venues, for example, hotels. The ability to solemnize marriages outdoors, subject to certain controls, would also be a great advantage to the industry and would provide an option not currently available in the UK (although Jersey is currently investigating the possibility of accommodating outdoor weddings).

**Summary** - The Commerce and Employment Department would like to express its support for the licensing of a greater number of secular venues for the solemnization of marriages.

In conclusion, whilst the Department is aware that the consultation document issued by the Policy Council addresses some of the highest-level issues relating to marriage reform and that the more practical details such as those that cause concern to the Department are anticipated to form the next stage of the Union Civil Working Party’s work, it was thought prudent to bring these issues to the attention of the Policy Council at this time, when more high level decisions are being made that could potentially affect more practical matters further down the line.

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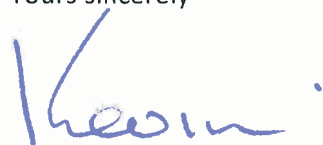
<sup>2</sup> Union Civile Consultation, Page 4

<sup>3</sup> Union Civile Consultation, Page 4

As stated above, the Department recognises that the Policy Council does not intend to make discrete changes to the legislation outside of this review, however, the Department would encourage the appropriate authorities to be open at all times to the potential to improve the current system to the advantage of the local economy.

The Department sincerely hopes that you will take its concerns into consideration.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Kevin', followed by a period.

Kevin A Stewart  
Minister

Enc      Extract from Tourism Strategy

## 2. STRENGTHEN THE ISLANDS' UNIQUE PRODUCT OFFERING

### MAIN FOCUS:

- Perception that there is not much to do on the island!
- Strong History and Heritage based attractions but other key areas are lacking – e.g. Family oriented attractions
- Feedback that it is relatively expensive to stay on the island
- Lack of events to rival other destinations
- Decline in Business visitors



ACTION PLAN	VALUE	COST	WHO	WHEN	PRIORITY
1 Improve quality and content of island events – Food, Heritage, Arts	3–9000 Vis's £1.1m – £3.2m	£100k – £1m	C&E, C&L, TG, CoC	2015	2
2 Develop and support family oriented attractions	3–9000 Vis's £1.1m – £3.2m	Over £1m	C&E, C&L, Planning, CoC	2015–16	2
3 Develop the Weddings Offering	3–9000 Vis's £1.1m – £3.2m	Up to £100k	C&E, Home, Planning, CoC	2016–17	2
4 Investigate the Conferencing and Meeting offering	3–9000 Vis's £1.1m – £3.2m	£100k – £1m	C&E, Planning, CoC	2015 – On-going	2
5 Re-visit Glamping & Camping offering	Up to 3000 Vis's Up to £1.1m	£100k – £1m	C&E, Planning / Environment, CoC	2015	3
6 Work to facilitate improvements to our Marina facilities	Up to 3000 Vis's Up to £1.1m	£100k – £1m	C&E, PSD, Environment, CoC	2015 – On-going	3
7 Work with Operators to improve package offering	3–9000 Vis's £1.1m – £3.2m	£100k – £1m	C&E, CoC	2015 – On-going	2

# Parish of Our Lady and the Saints of Guernsey

## Amphill House, Cordier Hill, St. Peter Port, Guernsey

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

21<sup>st</sup> July 2015

Dear Chief Minister

### **Union Civile Consultation.**

Recent developments regarding the proposed legislation concerning the 'Union Civile', have left members of the Roman Catholic Church in a state of unease and fear. These sentiments are caused by the fact that the community anticipates that this move to create a new status in law for both same-sex and heterosexual couples who wish to live formally together, will in time result in further legislation that will be used to oppress the rights of Catholics to practise their religious faith in true freedom and in accordance with the teaching tradition of the Church. The community does not feel that their fears are ungrounded and looks to the situations which have developed in the United Kingdom under British Law in recent months and years, whereby conscientious Christians have suffered at the hands of the legal authorities for upholding what they believe to be the principles of true religion. Our community is consoled by the Policy Council's declaration that the state '...should not be involved in someone's religious belief, other than to protect a person's religious freedom', yet it wonders whether, under pressure from various lobbies, the States will be able to guarantee our religious liberty.

The Catholic Church holds to its teaching that the committed, life-long union of a man and a woman which is open to the possibility of procreation, is the only type of union that should correctly enjoy recognition in both Civil and Canon Law, and that this is accomplished in the institution of marriage – marriage being a natural institution which is not the property of any religion or State.

The Catholic Church teaches that where bride and groom are both baptised, a natural marriage is also sacramental. In the case of marriages contracted between non-baptised couples, the marriage, whilst not sacramental, is completely valid - assuming, of course, that those who enter this state are free so to do. For this reason, the community notes that, thus far, the Policy Council has sought to avoid the title of 'marriage' to describe the commitment that couples would engage in under the new proposed legal arrangements, and this, from our point of view, is laudable.

Charity must be the hall-mark of those who profess the name of Christ, and while the Church is unable to sanction, by their nature, other types of union than that which is defined above, yet she seeks the well-being of all those in society at large. For this reason our community is grateful for the opportunity afforded to us to share in the consultation process.

The Catholic Church's point of view on the importance of the consummation of a marriage and the fidelity of the couple to one another in a permanent union is well-known, and so it will not come as a great surprise that our community expresses its concern also as regards the statement that '...the state should not be concerned with sexual matters and therefore should not be interested in the consummation of any relationship or adultery.' Would, under the new proposals, individuals who at present are unable to form unions because of their close blood relations [consanguinity], now be free to do so? If this were not to be the case, then there is an inconsistency with the above statement of the Policy Council.

What then would be the attitude with regard to incestuous relationships between consenting adults? Could one take a stand on consanguinity when considering a same-sex couple entering into a legally binding union under the new proposals, if conception of off-spring as a result of sexual intercourse – understood in its traditional sense – is impossible? It seems that the very survival and the flourishing of a people should be the concern of any government. It is always the hope that the next generation will assist the older one that has gone before, but its creation is brought about by those very 'sexual matters' of which the Policy Council declare they should not be concerned.

In addition to the above, our community are somewhat perplexed by the consultation document itself. As a way of promoting democracy and as an attempt to involve people in a true consultative process, it appears at first sight to be a worthy attempt.

Yet on closer examination, it was felt that the document was heavily weighed in favour of the outcome that the Policy Council wished to achieve, and that more thought should have been applied to its contents, in order to avoid discrepancies in logic which gave rise to the type of points mentioned above.

We understand that our particular point of view is less popular generally in an increasingly secular society. We hope, however, that resulting laws will not discriminate against the Catholic Community, which along with all those other religious denominations who meet in the name of Christ, have contributed so magnificently and consistently to the well-being of Guernsey.

*The Very Reverend Canon Michael Hore, Roman Catholic Dean of Guernsey*  
*The Reverend Paul Dwzig, Assistant Priest, Parish of Our Lady and the Saints*  
*of Guernsey*

*The Reverend Mark Leightley, Deacon, Parish of Our Lady and the Saints of*  
*Guernsey*

*The Very Reverend Canon Gerard Hetherington (Retired)*



# Guernsey Deanery

From the Office of the Vice Dean Revd Mike Keirle

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## TO THE CHIEF MINISTER: UNION CIVILE PROPOSALS

Dear Chief Minister

Thank you for the opportunity to respond to the proposed Union Civile legislation, shortly to be debated.

The Church of England is a broad church and so contains a wide variety of theological stances on the issue of human sexuality and marriage and the debates are well rehearsed, so I don't propose to repeat them.

The proposed Union Civile is, in many ways, a step away from those arguments towards a new approach to the recognition of same sex unions and an attempt to make a level playing field for all who come to have their relationship acknowledged and sanctioned by the state. However, in our view, the attempt to bring rights to those who feel the current system is unfair appears to be at the expense of the rights of others, who would like a full legal Christian marriage in Church. The current legislation, in our view, dilutes the institution of marriage in that Christian marriage would no longer be a legal entity and the ceremony that follows the Union Civile, would simply become the 'religious bit' afterwards. We feel strongly that this undermines Christian marriage as, technically, it would cease to exist. We are unclear where that leaves Church of England Clergy who are marriage officers.

A better argument and indeed a fairer system, would be to open the door to all who wish to marry, regardless of gender, with an opt out clause for those who, out of conscience or religious conviction, feel unable to marry people of the same sex. This is now the current system in the UK, with the 'quadruple lock' protection for religious groups.

On a further note regarding Union Civile, this creates some difficulty in the recognition of this proposed legislation by other jurisdictions and, indeed, could put Church of England Clergy in an invidious position where any "marriage" we conduct is not actually recognised by the mainland UK and our mother church. This could lead to the absurd situation of Clergy on the Island not being able to follow Church of England teaching and practice regarding marriage. Equally, as the definition of marriage now seems to be a fluid designation in many other countries, we find increasingly that marriages conducted in one jurisdiction are not recognised elsewhere. Couples, at the receiving end of a Union Civile in Guernsey, could find their relationship not being recognised outside of the Bailiwick.



We also have concerns over how Canon law might be interpreted should Union Civile be passed into legislation but we have not had the opportunity to explore this further with a legal team. Needless to say, these things are rarely simple and, again, Clergy could find themselves at odds with the teachings and practice of the Church of England through this rather 'bespoke' proposal.

We therefore feel that Union Civile creates further complication in an already complex legal position. It creates an anomalous position both for Clergy who, through the established church, are marriage officers and for couples whose union might not be recognised elsewhere.

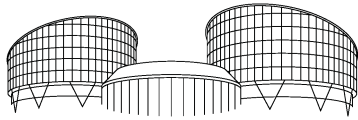
We therefore urge you to reconsider this legislation and to continue to allow those who come to the Church of England for their wedding, to be allowed to do so in its fullest capacity. If, in the future or in the upcoming debate, the States chooses to embrace a position similar to that of the UK, we would urge you to put in place similar protective measures for those, who out of religious conviction, feel that they cannot marry two people of the same sex.

We thank you for this opportunity to respond and we await the outcome of debate with interest and concern.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Keirle', written in a cursive style.

Rev Mike Keirle, Acting Dean



EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

**Press Release**  
issued by the Registrar of the Court

ECHR 254 (2015)  
21.07.2015

## Italy should introduce possibility of legal recognition for same-sex couples

In today's **Chamber judgment**<sup>1</sup> in the case of [Oliari and Others v. Italy](#) (application no. 18766/11 and 36030/11) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights.

The case concerned the complaint by three homosexual couples that under Italian legislation they do not have the possibility to get married or enter into any other type of civil union.

The Court considered that the legal protection currently available to same-sex couples in Italy – as was shown by the applicants' situation – did not only fail to provide for the core needs relevant to a couple in a stable committed relationship, but it was also not sufficiently reliable. A civil union or registered partnership would be the most appropriate way for same-sex couples like the applicants to have their relationship legally recognised. The Court pointed out, in particular, that there was a trend among Council of Europe member States towards legal recognition of same-sex couples – 24 out of the 47 member States having legislated in favour of such recognition – and that the Italian Constitutional Court had repeatedly called for such protection and recognition. Furthermore, according to recent surveys, a majority of the Italian population supported legal recognition of homosexual couples.

### Principal facts

The applicants are three homosexual couples: six Italian men who were born between 1959 and 1976 and live in Italy.

Mr Oliari and Mr A., who were in a committed stable relationship with each other, requested the Trent Commune Civil Status Office to issue their marriage banns in July 2008. Following the rejection of their request they challenged that decision before the Trent Tribunal, arguing that Italian law did not explicitly prohibit marriage between persons of the same sex and that even if that was the case, such a position would be unconstitutional. The Tribunal rejected their claim, noting that under the Civil Code one requirement for contracting marriage was that spouses be of the opposite sex. Following the applicants' appeal, the appeal court made a referral to the Constitutional Court with a view to their claims of unconstitutionality of the law in force. In April 2010, the Constitutional Court declared their constitutional challenge inadmissible, concluding that the right to marriage, as guaranteed by the Italian Constitution, did not extend to homosexual unions and was intended to refer to marriage in its traditional sense. At the same time, the court pointed out that it was for Parliament to regulate, in time and by the means and limits set by law, the juridical recognition of the rights and duties pertaining to same-sex couples. As a consequence of the Constitutional Court's judgment, the court of appeal rejected the applicants' claim in September 2010.

Mr Felicetti and Mr Zappa, who had been living together as a couple for more than five years, requested in February 2011 that their marriage banns be issued. In April 2011 their request was

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

rejected. They did not pursue any legal remedies, considering that they would not be effective, having regard to the Constitutional Court's judgment of April 2010 in the case of Mr Oliari and Mr A.

Mr Cippo and Mr Zaccheo, who also had been living together as a couple for a number of years, requested their marriage banns to be issued in November 2009. Their request being rejected, they challenged that decision before the Milan Tribunal, which rejected their claim in June 2010. They did not appeal further, considering that it would not be effective, having regard to the Constitutional Court's judgment of April 2010.

## Complaints, procedure and composition of the Court

All applicants complained that under Italian legislation they do not have the possibility to get married or enter into any other type of civil union, and that they are being discriminated against on the basis of their sexual orientation. They alleged violations of Article 8 (right to respect for private and family life) alone and Article 14 (prohibition of discrimination) in conjunction with Article 8, and of Article 12 (right to marry) alone and Article 14 (prohibition of discrimination) in conjunction with Article 12.

The applications were lodged with the European Court of Human Rights on 21 March and 10 June 2011 respectively.

The following organisations were given leave to intervene as third parties and submitted written observations (in accordance with Article 36 of the Convention): FIDH (*Fédération Internationale des ligues de Droit de l'Homme*), AIRE Centre (Advice on Individual Rights in Europe), ILGA-Europe (European Region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association), ECSOL (European Commission on Sexual Orientation Law), UFTDU (*Unione forense per la tutela dei diritti umani*) and LIDU (*Lega Italiana dei Diritti dell'Uomo*), jointly; Associazione Radicale Certi Diritti; and ECLJ (European Centre for Law and Justice).

Judgment was given by a Chamber of seven judges, composed as follows:

Päivi **Hirvelä** (Finland), *President*,  
 Guido **Raimondi** (Italy),  
 Ledi **Bianku** (Albania),  
 Nona **Tsotsoria** (Georgia),  
 Paul **Mahoney** (the United Kingdom),  
 Faris **Vehabović** (Bosnia and Herzegovina),  
 Yonko **Grozev** (Bulgaria),

and also Françoise **Elens-Passos**, *Section Registrar*.

## Decision of the Court

### Article 8

In previous cases, the Court had already found that the relationship of a cohabitating same-sex couple living in a stable de facto partnership fell within the notion of "family life" within the meaning of Article 8. It had also acknowledged that same-sex couples were in need of legal recognition and protection of their relationship.<sup>2</sup> That need had moreover been underlined in recommendations by the Parliamentary Assembly and the Committee of Ministers of the Council of Europe, inviting member States to consider providing same-sex couples with some form of legal recognition.

<sup>2</sup> *Schalk and Kopf v. Austria* (30141/04), Chamber judgment of 24 June 2010 and *Vallianatos and Others v. Greece* (29381/09), Grand Chamber judgment of 7 November 2013

The Court considered that the legal protection currently available in Italy to same-sex couples – as was shown by the applicants’ situation – not only failed to provide for the core needs relevant to a couple in a stable committed relationship, but it was also not sufficiently reliable. Where registration of same-sex unions with the local authorities was possible – only in a small share of municipalities in Italy – this had merely symbolic value, as it did not confer any rights on same-sex couples.

As regards the possibility, since December 2013, to enter into “cohabitation agreements”, such contracts were limited in scope. They failed to provide for some basic needs which were fundamental to the regulation of a relationship between a couple in a stable and committed relationship, such as mutual material support, maintenance obligations and inheritance rights. The fact that cohabitation agreements were open to any set of people who were cohabiting, such as friends, flatmates or carers, showed that those agreements did not primarily aim to protect couples. Furthermore, such a contract required the couple concerned to be cohabiting, whereas the Court had already accepted that the existence of a stable union between partners was independent of cohabitation, given that many couples – whether married or in a registered partnership – experienced periods during which they conducted their relationship at long distance, for example for professional reasons.

Furthermore, the Italian Government had not proven that the national courts could issue a statement of recognition of a partnership. Since the law explicitly provided for the recognition of a same-sex partner only in very limited circumstances, even the most basic issues arising in a relationship had to be determined judicially. The Court considered that the necessity to repeatedly refer to the courts in these matters, especially in an overburdened justice system such as the one in Italy, amounted to a significant hindrance to the applicants’ efforts to obtain respect for their private and family life.

It followed from this situation that there was a conflict between the social reality of the applicants, who for the most part lived their relationship openly in Italy, and the law, which gave them no official recognition. In the Court’s view, an obligation to provide for the recognition and protection of same-sex unions would not amount to any particular burden on the Italian State. In the absence of marriage, the option of a civil union or registered partnership would be the most appropriate way for same-sex couples like the applicants to have their relationship legally recognised.

The Court noted that there was a trend among Council of Europe member States towards legal recognition of same-sex couples, 24 out of the 47 member States having legislated in favour of such recognition.

The highest courts in Italy – notably the Constitutional Court in its April 2010 judgment in the case of Mr Oliari and Mr A. – had repeatedly pointed out the need for legislation to recognise and protect same-sex relationships. However, the Italian legislature had for a long time failed to take account of those pronouncements. The Court observed that such calls by the Italian courts moreover reflected the sentiments of a majority of the Italian population who, according to recent surveys, supported legal recognition of homosexual couples. The Italian Government had not denied the need for legal protection of such couples and had failed to point to any community interests justifying the current situation.

Concluding that there was no prevailing community interest against which to balance the applicants’ interest to have their relationships legally recognised, the Court found that Italy had failed to fulfil its obligation to ensure that the applicants had available a specific legal framework providing for the recognition and protection of their union. To find otherwise, the Court would have had to be unwilling to take note of the changing conditions in Italy and be reluctant to apply the Convention in a way which was practical and effective.

There had accordingly been a violation of Article 8.

Having regard to that finding, the Court considered it unnecessary to examine whether there had also been a violation of Article 14 in conjunction with Article 8.

### Other articles

As regards the complaint under Article 12 (right to marry) alone and in conjunction with Article 14, the Court had found, in previous cases, that Article 12 did not impose an obligation on States to grant a same-sex couple like the applicants access to marriage. It considered that despite the gradual evolution of States on the matter – today there were eleven member States of the Council of Europe to have recognised same-sex marriage – the findings reached in those previous cases remained pertinent. The Court accordingly declared the complaint under Article 12 alone and in conjunction with Article 14 inadmissible.

### Just satisfaction (Article 41)

The Court held that Italy was to pay each of the applicants 5,000 euros (EUR) in respect of non-pecuniary damage; it was to pay to Mr Oliari and Mr A. jointly EUR 4,000, and to Mr Felicetti, Mr Zappa, Mr Cippo and Mr Zaccheo jointly EUR 10,000 in respect of costs and expenses.

### Separate opinion

Judge Mahoney, joined by Judges Tsotsoria and Vehabović, expressed a concurring opinion, which is annexed to the judgment.

*The judgment is available only in English.*

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en) or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.

**IN THE MATTER OF****ISSUES CONCERNING PROPOSALS TO INTRODUCE "UNION CIVILE"  
IN THE ISLAND OF GUERNSEY**

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**OPINION**

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**1. Introduction**

- 1.1 I have been instructed by the Law Officers of the Crown of the Island of Guernsey to advise on the implications, primarily related to matters of private international law, were the institution of "Union Civile" to be introduced. The proposals of the States of Guernsey Policy Council are that "Union Civile" would replace marriage as the sole state-registered, permanent and exclusive relationship between two people on Guernsey. The proposed reform, in bringing about the replacement of marriage, would appear to be unprecedented, certainly in Europe, if not the world. Since the States of Guernsey would be at the vanguard of reform in matters of personal status there would inevitably be a high degree of uncertainty for many parties to a "Union Civile" as to whether and, if so, to what extent, their status would be afforded recognition elsewhere. This would only be resolved once foreign jurisdictions reached a settled position on the new institution, for whilst some States have enacted broadly constructed recognition rules, which focus on the nature of the institution and not its classification, most do not. Indeed, even within Europe many States do not recognize same-sex marriages or partnerships, or even opposite-sex partnerships.
- 1.2 In answering the questions asked reference will be made to a range of European and Commonwealth jurisdictions.

## 2. Recognition of Guernsey Marriages in Other Jurisdictions

“(a) *on what authority or basis a marriage entered into in Guernsey is recognised in other jurisdictions*”

2.1 In contrast to other areas of family law the recognition of marriages, both within Europe and internationally is essentially a matter for the national law of each State, whether that is statute based or though the common law. The one modern attempt to establish a global recognition regime, the Hague Convention of 14 March 1978 on Celebration and Recognition of the Validity of Marriages, was widely criticized<sup>1</sup> and has failed to gain meaningful support.<sup>2</sup>

2.2 The approach to recognition is different when compared to other areas of law because it is not a judgment from another jurisdiction which is at issue, but a status which can produce legal effects. Reference is therefore made to the choice of law rules concerning marriage, and in this regard is paid to both the marriage’s formal validity and to its substantive validity.

2.3 Recognition of a foreign marriage may arise in a variety of different areas of law, for example: to found an action for matrimonial relief and subsequent financial provision; in matters of succession; for fiscal purposes; for entitlement to residence under immigration rules; or social security entitlement.

### 2.4 *Formal Validity*

Matters of formal validity most obviously concern questions such as whether notice has to be given of the marriage and to whom, the form of the marriage ceremony, who can officiate, whether witnesses must be present, which documents require to be signed and by whom, and, whether proxies can represent one or both parties at the ceremony. It is generally accepted that the question whether a marriage is formally valid shall be determined by reference to the law of the place where the marriage was celebrated (*lex loci celebrationis*).

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<sup>1</sup> See for example: EM Clive, *The Law of Husband and Wife in Scotland*, (3rd ed.), 1992, p. 119.

<sup>2</sup> It has received only 6 signatures and has entered into force in only 3 of those States: Australia; Luxembourg and the Netherlands. See: [http://www.hcch.net/index\\_en.php?act=conventions.status&cid=88](http://www.hcch.net/index_en.php?act=conventions.status&cid=88)



## 2.5 *Substantive Validity*

This covers such matters as requirements concerning the essential validity of the marriage, i.e. consent to marry and physical capacity, as well as the acceptable degrees of affinity or consanguinity, the minimum age of the parties or indeed their sex.

2.6 Different approaches are used to designate the governing law to these matters. Some States will again apply the law of the place where the marriage was celebrated, others will apply the 'personal law' of the parties. The manner in which the personal law is designated also depends on the State in question, with common law States traditionally favouring the parties' domicile, and civil law States the law of the parties' nationality. Other alternatives that may be used include the law of the intended matrimonial home, the law of the territory with which the marriage has its most real and substantial connection, or in some States, the law of the parties common habitual residence, should one exist.

2.7 This brief summary shows how determining the substantive validity of a marriage can be complex, and that the outcome may vary depending on which choice of law rule is applied and what exceptions, if any, might be considered by the competent court. In practice however there are few reported cases in the United Kingdom jurisdictions each year concerning the validity of marriages. Those which have arisen most often concern unfamiliar forms of marriages undertaken in non-European States.<sup>3</sup> And so whilst court proceedings can be brought to prove the existence or non-existence of a marriage,<sup>4</sup> in most instances where the existence of a marriage is relevant, it will simply be a matter of proving that the marriage took place.

## 2.8 *Proof of Marriage*

In this each jurisdiction will have specific rules as to what needs to be proved. These may be quite limited. For example in England and Wales where an application is made for a matrimonial order or a civil

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<sup>3</sup> See for example: *K v A (Marriage: Validity)* [2014] EWHC 3850 (Fam.), [2015] 2 F.L.R. 461 (inter-faith marriage in Pakistan); *XCC v AA* [2012] EWHC 2183 (COP), [2013] 2 All E.R. 988 (Bangladeshi marriage, one party lacked capacity); *SH v NB* [2009] EWHC 3274 (Fam.); [2010] 1 F.L.R. 1927 (Pakistani marriage lack of consent); *Westminster City Council v C* [2008] EWCA Civ 198, [2009] Fam. 11 (Bangladeshi marriage, one party lacked capacity)

<sup>4</sup> In England & Wales see Family Law Act 1986, s.55(1)(a), (b), (c).



partnership order, and where the existence and validity of the marriage or civil partnership is not disputed, its validity will be proved by the application being accompanied by:

*“ (a) one of the following –*

*(i) a certificate of the marriage or civil partnership to which the application relates; issued under the law in force in the country where the marriage or civil partnership registration took place;*

*(ii) a similar document issued under the law in force in the country where the marriage or civil partnership registration took place; or*

*(iii) a certified copy of such a certificate or document obtained from the appropriate register office; and*

*(b) where the certificate, document or certified copy is not in English (or, where the court is in Wales, in Welsh), a translation of that document certified by a notary public or authenticated by a statement of truth.”<sup>5</sup>*

2.9 In general, a foreign marriage certificate could be admissible in England under the Civil Evidence Act 1995.<sup>6</sup>

2.10 The overall conclusion to be drawn is that whilst heterosexual marriage can mean different things in different legal systems - in most it is founded upon the principle of monogamy, but in some polygamy is permitted – it does create a universally understood status, even if it does not have the same meaning everywhere.

2.11 As the law of Guernsey stands at present there should ordinarily be nothing to prevent Guernsey marriages being recognized elsewhere.

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<sup>5</sup> Family Procedure Rules, Practice Direction 7a – Procedure for Applications in Matrimonial and Civil Partnership Proceedings, para.3.1.

<sup>6</sup> ss.7, 8. See *Dicey, Morris & Collins on the Conflict of Laws*, 17-041. A further avenue is through the doctrine of the presumption of marriage, see *Dicey, Morris & Collins on the Conflict of Laws*, 17-047-050.

### 3. Recognition of an English Same-sex Marriage Overseas

*“On what authority or basis a same-sex marriage entered into in England and Wales would be recognised in other jurisdictions, and to what extent”*

3.1 As of 1 September 2015, 18 States have opened marriage to couples of the same sex: Argentina (2010); Belgium (2003); Brazil (2013); Canada (2005); Denmark (2012, Greenland 2015); France (2013); Iceland (2010); Luxembourg (2014); The Netherlands (2000); New Zealand (2013); Norway (2009); Portugal (2010); South Africa (2006); Spain (2005); Sweden (2009); Uruguay (2013); United Kingdom (England / Wales 2013, Scotland 2014); United States (2015).<sup>7</sup> The implementation of legislation is pending in Finland (2015), and Ireland (2015).

3.2 As a completely new area of law, it was inevitable that States would develop rules to respond to national concerns and requirements. In some States same-sex marriage rules have been modeled on those applicable to opposite sex marriages, whilst in others separate, and different rules have been developed which take into account the reality that same-sex marriage is not a universally recognized institution.<sup>8</sup>

3.3 In certain jurisdictions marriage is restricted to certain categories of persons. Under Dutch law

*“A marriage is contracted:*

*a. if each of the prospective spouses meets the requirements for entering into a marriage set by Dutch law and one of them is exclusively or also of Dutch nationality or has his habitual residence in the Netherlands, or;*

*b. if each of the prospective spouses meets the requirements for entering into a marriage of the State of his nationality.”<sup>9</sup>*

3.4 English law has not sought to restrict the availability of same-sex marriage on the basis of habitual residence, nationality or domicile.<sup>10</sup>

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<sup>7</sup> <http://www.pewforum.org/2015/06/26/gay-marriage-around-the-world-2013/> Same-sex marriage is also available in some Mexican states.

<sup>8</sup> See generally R Virzo ‘The Law Applicable to the Formation of Same-Sex Partnerships and Marriages’ in *Same-Sex Couples before National, Supranational and International Jurisdictions* D. Gallo et al. (eds.) (Springer-Verlag, Berlin Heidelberg, 2014), pp. 343-357.

<sup>9</sup> Cf. Article 10:28 of the Dutch Civil Code: Recognition of the contracting of a marriage. Under Spanish law only persons habitually resident in Spain are allowed to marry there, Art. 40 and 57 of the Spanish Civil Code, see Virzo, p.351 *et seq.*

<sup>10</sup> Same-sex marriage is similarly unrestricted in other States. Virzo notes, at p.355, that “*the Norwegian Marriage Act provides that, in addition to Norwegian citizens, foreign nationals who are ‘lawfully’ (even if not ‘permanently’) resident in Norway may contract marriage.*”

But neither has it taken the extra step and explicitly disregarded the capacity of the parties to enter into a same-sex marriage under their personal (domiciliary) law as has happened elsewhere, for example Scotland<sup>11</sup> and Canada.<sup>12</sup>

- 3.5 S.11(1) of the Marriage (Same Sex Couples) Act 2013 provides that in the law of England and Wales, marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples. S.11(2) ensures that the law of England and Wales is to be interpreted as applying, where marriage is concerned, equally to same-sex and opposite-sex couples. This leads to the conclusion that the choice of law rules applicable to the substantive validity of an opposite sex marriage must apply equally to a same-sex marriage. This is further reinforced by the Government's Explanatory Notes to the Bill in respect of what became s.10, Extra-territorial matters: "*New and existing overseas same sex marriages which are valid as to capacity and form according to the relevant law will be recognised under the law of England and Wales from the date of implementation of the Bill when enacted.*"<sup>13</sup>
- 3.6 The designation of the relevant law is a matter which is not entirely free from doubt.<sup>14</sup> The starting point is that capacity is to be determined under the dual domicile rule, namely each spouse must have capacity, according to the law of his or her domicile at the time of

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<sup>11</sup> Cf. Marriage (Scotland) Act 1977, s.5(4), as amended by Marriage and Civil Partnership (Scotland) Act 2014, s.2. The amendment makes it clear that even if a same sex marriage would be void according to the law of the domicile of one (or both) of the parties, that is not a barrier to the parties entering into a same sex marriage in Scotland, see Explanatory Notes, para.11. Cf. Family Law (Scotland) Act 2006, s.38 as regards the recognition of overseas marriages.

<sup>12</sup> Civil Marriages Act 2005, s.5(1) "*A marriage that is performed in Canada and that would be valid in Canada if the spouses were domiciled in Canada is valid for the purposes of Canadian law even though either or both of the spouses do not, at the time of the marriage, have the capacity to enter into it under the law of their respective state of domicile.*"

<sup>13</sup> Under English law the validity of a civil partnerships registered in England does not consider foreign incapacities, only eligibility under the Civil Partnership Act 2004, s.4. See K Norrie 'Recognition of Foreign Relationships under the Civil Partnership Act 2004' (2006) 2 *J. Priv. Int. L.* 137 at 149. Cf. C Clarkson & J Hill *The Conflict of Laws* 4<sup>th</sup> ed. (OUP, Oxford, 2011) at 392 who argue that notwithstanding the silence of the 2004 Act, that the common law intended matrimonial home principle should be applied. However, as regards 'overseas relationships' English law requires that the parties had capacity under the law of the country where the relationship was registered (s.215(1)(a)), including its rules of private international law (s.212(2)).

<sup>14</sup> Joint Law Commissions, *Report on Choice of Law Rules in Marriage* (1987) Scot. Law Com. No. 105, para.2.14.

the ceremony to marry the other.<sup>15</sup> Given the limited number of legal systems which permit same-sex marriage a choice of law rule so referring to the parties personal law(s), whether domicile or nationality, is likely to limit the potential of the marriage to be substantively valid.<sup>16</sup>

3.7 There is however some support for alternative theories, namely that the parties' capacity to marry is determined by the law of their intended matrimonial home,<sup>17</sup> or by reference to the jurisdiction with which the marriage is adjudged to have its most substantial connection.<sup>18</sup> Were either of the alternative theories to be applied then the possibility of the marriage being substantively valid would be increased. Some recent support for the application of alternative theories can be derived from *obiter* comments of Wall and Thorpe LJ in *Westminster City Council v C*,<sup>19</sup> although this was not a case concerned with same-sex marriage. Wall LJ aligned departures from the dual domicile rule with upholding the principle of marriage,<sup>20</sup> and held that this may be appropriate when the marriage in question was one which, on grounds of public policy, English courts would think it right to uphold. He continued that to qualify for such treatment in English law a marriage must conform to English concepts of marriage.<sup>21</sup> Given that English law now accepts same-sex marriage, such reasoning could legitimately be extended to ensure the validity of such a marriage.

3.8 Notwithstanding the flexibility advocated in *Westminster City Council v C*, were it found that the parties to a same-sex marriage were not both domiciled in a State which permits same-sex marriage and were not intending to live in England, or another same-sex marriage State, or were not otherwise strongly connected to such a State, then the substantive validity of their marriage would still be at stake. However, the validity of the marriage, as a matter of English law, could still be upheld through an exception to the general choice of law rule.

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<sup>15</sup> *Brook v Brook* (1861) 9 HL Cas 193; *Pugh v Pugh* [1951] P 482; *Padolecchia v Padolecchia* [1968] P. 314, *Dicey Morris & Collins on the Conflict of Laws* 17R-057.

<sup>16</sup> *Wilkinson v Kitzinger* [2006] EWHC 2022 (Fam.), [2006] H.R.L.R. 1141, at [15], [129]. See generally Virzo, at 351 *et seq.*

<sup>17</sup> *Lawrence v Lawrence* [1985] F.L.R. 1097, at 1105D–1106C.

<sup>18</sup> *Vervaeke v Smith* [1983] A.C. 145, at 166D, *per* Lord Simon of Glaisdale.

<sup>19</sup> [2008] EWCA Civ 198, [2009] Fam. 11.

<sup>20</sup> See also at [29], *per* Thorpe LJ.

<sup>21</sup> At [90].

- 3.9 First, were one of the parties to be domiciled in England, then the incapacity under the domiciliary law of the other party would be disregarded were the parties to marry in England.<sup>22</sup>
- 3.10 Second, the incapacity under the domiciliary law might be disregarded on the basis that it was contrary to English public policy. Such an exception applies in other jurisdictions which permit same-sex marriage.<sup>23</sup>
- 3.11 Third, recognition might be deemed necessary to ensure compliance with the parties' rights under Art.8 ECHR.<sup>24</sup>
- 3.12 Whilst one might anticipate that the validity of a marriage would be an issue assessed as part of the pre-marriage process, a recent study has suggested that in many States this will not occur.<sup>25</sup> This is certainly the case in England where there is no investigation into possible impediments under foreign law.<sup>26</sup> Elsewhere, notably in two Scandinavian States, an absence of impediments must be shown, but the scope of these differs.<sup>27</sup> In Norway a foreign national, not permanently resident in the country, must present documentary proof from the authorities in his/her home country stating that there is nothing to prevent him/her from contracting a marriage in Norway or, if such documentary proof cannot be produced, the documentary proof

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<sup>22</sup> *Sottomayor v De Barros (No. 2)* (1879) 5 P.D. 94 *per* Sir James Hannen at p. 104.

<sup>23</sup> Virzo notes at p. 354, as regards Portugal, that whilst the national law of each spouse governs capacity to marry, if the foreign law in question prohibits same-sex marriages, the public policy exception set out in Art.22 of the Portuguese Civil Code will apply. A limited exception is found under Art.46(2) of the Belgian Code of Private International Law.

<sup>24</sup> See below.

<sup>25</sup> G Biagioni 'On Recognition of Foreign Same-Sex Marriages and Partnerships' in *Same-Sex Couples before National, Supranational and International Jurisdictions* D Gallo et al. (eds) (Springer-Verlag, Berlin Heidelberg, 2014), pp. 359-380, at p.363.

<sup>26</sup> Cf. Marriage Act 1949, ss.27, 28 and 28B. The final provision provides that a notice of marriage under s.27 must, in relation to each of the parties to the marriage, be accompanied by specified evidence as to: the person's name and surname; date of birth; place of residence; and nationality. Specified evidence must also be given as to whether the person has previously been married or formed a civil partnership; and if so, as to the ending of the marriage or civil partnership. No specific reference is made to capacity under the applicable choice of law rules.

<sup>27</sup> Provision is made under English law for the issuing of a certificate of no impediment where parties wish to undertake a marriage under foreign law, Consular Marriages and Marriages under Foreign Law (No. 2) Order 2014/3265, art.14, but this mechanism does not explicitly ensure that any impediment under a domiciliary law would be identified. Art.14(3)(b)(iii) simply provides that the party concerned "*believes there to be no impediment to the marriage such that the marriage would be void under section 1 of the Marriage Act 1949 or otherwise.*"

that he or she is not registered as married or a registered partner in his or her home country.<sup>28</sup> Whether this would extend to an assessment of the applicable choice of law rules is unclear, but in Sweden the matter is settled. There a prior inquiry into possible impediments is undertaken by the Swedish Tax Agency (Skatteverket). Where neither of the prospective spouses has a formal connection to the country, both must submit, inter alia, a certificate showing the applicable rules of law in each of their state of citizenship or residency and a certificate showing their marital status.<sup>29</sup> It is noted that under the law of Guernsey at present, the Registrar-General shall be bound to warn all parties giving notice of a marriage between foreigners or between persons other than British subjects that there may be laws of the foreign country, which, if not observed, would render the marriage null and void in the said country.<sup>30</sup>

3.13 An assessment of substantive validity will most commonly arise where one or both spouses seek to rely on their English same-sex marriage in a different jurisdiction.<sup>31</sup> The manner in which this assessment is made will depend on the law of the State of recognition and in this different approaches are employed. Some States will employ their own choice of law rules and assess validity in the light of the law(s) of domicile or nationality of the spouses, others will simply assess validity in the light of the law of the State of celebration. In the latter case, where an English same-sex marriage is concerned, this will involve the difficult task of evaluating the English private international law rules mentioned above.

### 3.14 Recognition

To evaluate the different approaches that might be employed to the recognition of an English same-sex marriage, a distinction will be drawn between those States which themselves allow same-sex marriage under their domestic law and those which do not. The latter category will then be sub-divided between States which make some provision for same-sex partnership, and those which do not.

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<sup>28</sup> ACT 1991-07-04 No. 47, The Marriage Act, s.7(h). The National Population Register or a Norwegian foreign service official who verify this information may however make an exception from the requirement when there are special reasons for doing so.

<sup>29</sup> <http://www.rfsl.se/?p=5852>

<sup>30</sup> 1919 Loi ayant rapport aux Mariages célébrés dans l'île de Guernesey et dans les îles d'Auregny et de Serk, Art.11.

<sup>31</sup> Biagioni, p.364.



### 3.15 *Recognition in a State which Permits Same-sex Marriage*

Where a State itself permits same-sex marriage under its domestic law, then there will be the greatest chance that foreign same-sex marriages will in turn be recognized.<sup>32</sup> However, this cannot be taken for granted, for it will still depend on the application of the private international law rules of the State of recognition. In practice the latter will most commonly come into play where it is in the interests of one of the parties to oppose recognition. An example is provided by a case in Ontario, Canada: *Application for Divorce of VM and LW*.<sup>33</sup>

3.16 The case involved two women who had married in Ontario in 2005 and who subsequently attempted to obtain a divorce from a Canadian court. The women resided in jurisdictions that did not recognize same-sex marriages (London and Florida), so they sought to apply jointly for a divorce in Canada. Among other arguments, they challenged the one-year residency requirement under Canada's Divorce Act as being unconstitutional because it operated to prevent them from obtaining a divorce anywhere and therefore violated the equality guarantee found in section 15 of the Canadian Charter of Rights and Freedoms. The Attorney General of Canada defended the constitutionality of the one-year residency requirement under the Divorce Act, but also argued that, under the principles of private international law, the women could not get divorced in any event because they were not legally married, even in Canada. This was because neither had the legal capacity to marry a person of the same sex under the laws of their respective domicile – Florida and the United Kingdom. As a result, their marriage was not legally valid under Canadian law.<sup>34</sup>

3.17 The outcome was an urgent legislative amendment to the Civil Marriage Act by the Civil Marriage of Non-residents Act, in February 2012. This now provides that where a marriage is performed in Canada and would be valid in Canada if the spouses were domiciled in Canada, it is valid for the purposes of Canadian law even though either or both of the spouses do not, at the time of the marriage, have

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<sup>32</sup> Most notably this should remove any challenge on the basis of such marriage being contrary to public policy.

<sup>33</sup> Made available in J McGregor, "Same-sex divorce options explored by Harper government," CBC News, 12 January 2012.

<sup>34</sup> Answer of the Attorney General of Canada to the Application for Divorce of V. M. and L. W., paras. 4–6, as made available in McGregor (2012).

the capacity to enter into it under the law of their respective state of domicile.<sup>35</sup>

3.18 It must be noted at the outset that there is currently very limited case law on the recognition of same-sex marriages. Furthermore the pace of change in this area means that the cases which exist can be overtaken quite rapidly by legislative developments.

3.19 It is not possible to provide a survey of the private international law rules of all States, but a representative sample has been compiled to enable credible analysis to be undertaken.

3.20 *Netherlands*<sup>36</sup>

Under Dutch law there is a presumption that if a marriage certificate has been issued by a competent authority then the marriage is valid.<sup>37</sup> If recognition is challenged then regard is not paid to the personal law(s) of the parties in determining whether or not to recognize the marriage, rather validity must be established under the law of the State where it took place or, if has become valid afterwards, according to the law of that State.<sup>38</sup> It is further specified that in assessing validity the word 'law' included rules of private international law of the State of marriage.<sup>39</sup> This means a Dutch court would have to consider the complicated, and uncertain, English choice of law rules to determine the validity of the English same-sex marriage. It will be recalled that this is a matter which is not free from doubt, certainly if neither party has an English domicile,<sup>40</sup> and one or more is domiciled in a jurisdiction which does not recognise such marriages.

3.21 *Belgium*

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<sup>35</sup> Civil Marriage Act, s.5(1). See JJ Bornheim 'Same-Sex Marriage in Canadian Private International Law' (2013) 51 *Alberta Law Review* 77.

<sup>36</sup> Translation of the Dutch Civil Code, Book 10, Private International Law is available at: <http://www.dutchcivillaw.com/civilcodebook01010.htm>

<sup>37</sup> Article 10:31(4). "A marriage is presumed to be valid if a marriage certificate has been issued by a competent authority."

<sup>38</sup> Article 10:31(1): "A marriage that is contracted outside the Netherlands and that is valid under the law of the State where it took place or that has become valid afterwards according to the law of that State, is recognised in the Netherlands as a valid marriage."

<sup>39</sup> Article 10:31(3). "For the purposes of paragraph 1 and 2, the word 'law' includes rules of private international law."

<sup>40</sup> *Sottomayor v De Barros* (No. 2) (1879) 5 P.D. 94.



Under Belgian law the position is slightly different in that the substantive validity is ordinarily determined by reference to the national law of the spouses at the time the marriage is celebrated.<sup>41</sup>

- 3.22 An exception is though made where the national law so designated prohibits same-sex marriage. In such instances the national law is not applied if one of the persons has the nationality of a State of which the law allows such marriage or has his habitual residence on the territory of such State.<sup>42</sup> This would most likely mean, for example, that were two Guernsey domiciliaries to celebrate a same-sex marriage in London and then to relocate from Guernsey to Belgium, then their marriage would not be recognized there.

### 3.23 *Norway*

Under Norwegian law<sup>43</sup> a foreign marriage shall be recognised if it has been validly contracted in the country of celebration. However, a marriage shall not be recognised if this would obviously be offensive to Norwegian public policy (*ordre public*). As regards the application of the *ordre public* reservation the leading commentary by Holmøy, Lødrup and Asland<sup>44</sup> notes that a relevant consideration would be where the parties had deliberately sought to circumvent the law of the country of their domicile.<sup>45</sup> This would mean that whilst in principle English same-sex marriages would be recognized in Norway, certain might not, if the parties were engaging in deliberate forum shopping – (marriage tourism).

### 3.24 *United States – New York*

The Marriage Equality Act, 2011, s.3 introduced a reform to the New York Domestic Relations Law to provide that “*a marriage that is otherwise valid shall be valid regardless of whether the parties to the marriage are of the same or different sex.*” However, even before this legislative reform New York courts had been prepared to recognise foreign same-

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<sup>41</sup> Art 46(1), Belgian Code of Private International Law.

<sup>42</sup> Art 46(2).

<sup>43</sup> ACT 1991-07-04 No. 47, The Marriage Act, s.18(a) <https://www.regjeringen.no/en/dokumenter/the-marriage-act/id448401/>

<sup>44</sup> V Holmøy, P Lødrup, J Asland *Ekteskapsloven med kommentarer*, Utgivelsesår, 2013, p.119.

<sup>45</sup> In continental European legal systems domicile has a meaning akin to habitual residence and is not to be confused with the English common law interpretation of the term.

sex marriages.<sup>46</sup> Whether the assessment of validity would involve consideration of the private international law rules of the state of celebration (*lex loci celebrationis*) is unclear.

### 3.25 *United States – District of Columbia*

Under the law of the District of Columbia, the validity of a marriage is determined by the law of the jurisdiction where the marriage was entered into.<sup>47</sup> The only exception is when the marriage is in violation of strong public policy of the District of Columbia.<sup>48</sup> The District of Columbia began recognizing as valid same-sex marriages entered into in other jurisdictions from 7 July 2009.<sup>49</sup> Accordingly, the recognition of same-sex marriages performed in other jurisdictions does not violate the public policy of the District.

3.26 The position in the United States as a whole must now be seen in the light of the Supreme Court ruling in *Obergefell v Hodges*,<sup>50</sup> where it was held by majority of 5-4 that same-sex couples had a constitutional right to marry, and that the right was protected under the 14th Amendment. Furthermore the majority held that “*there is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character.*” This ruling should facilitate the recognition of foreign same-sex marriages across the United States.<sup>51</sup>

### 3.27 *South Africa*

The Civil Union Act of 2006, which made provision for same-sex marriage in South Africa, does not include provisions on the recognition of foreign same-sex marriages. Under the common law the validity of a foreign marriage is determined in accordance with

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<sup>46</sup> *Matter of Ranftle*, 81 AD3d 566, 917 NYS2d 195, 2011 N.Y. App. Div. LEXIS 1336 (N.Y. App. Div. 1st Dep’t, 2011), discussed below. See also *Martinez v County of Monroe* 850 NYS 2d 740 (NY 2008).

<sup>47</sup> *McConnell v McConnell*, 99 F. Supp. 493, 494 (D.D.C. 1951); *Carr v Varr*, 82 F. Supp. 398 (D.D.C. 1949); *Gerardi v Gerardi*, 69 F. Supp. 296 (D.D.C. 1946).

<sup>48</sup> *Hitchens v. Hitchens*, 47 F. Supp. 73, 74 (D.D.C. 1942).

<sup>49</sup> s.1287a, Jury and Marriage Amendment Act of 2009, D.C. Code § 46-405.01 “*A marriage legally entered into in another jurisdiction between 2 persons of the same sex that is recognized as valid in that jurisdiction, that is not expressly prohibited . . . , and has not been deemed illegal . . . , shall be recognized as a marriage in the District.*”

<sup>50</sup> 192 L. Ed. 2d 609, 135 S Ct. 2584 (2015).

<sup>51</sup> Cf. United States Social Security Administration ruling: PR 05820.011 Florida, A. PR 15-170 Validity of Belgian Same-sex Marriage for Entitlement to Wife’s Insurance Benefits – Florida, available at: <https://secure.ssa.gov/poms.nsf/lnx/1505820011>

application of the principle of the *lex loci celebrationis*.<sup>52</sup> Therefore if the marriage is valid under the law of the place where celebrated, English law in the case of an English same-sex marriage, it will be recognized in South Africa, subject to the application of South African public policy. Whether a South African court would assess validity in the light of English private international law rules is uncertain. However a first instance court has recognized an English civil partnership, noting: “in light of the constitutionality of permanent same-sex relationships in our law, there can be no suggestion of legal repugnancy of an English same-sex civil partnership, or that it is *contra bonos mores*.”<sup>53</sup>

### 3.28 New Zealand

The recognition of foreign marriages in New Zealand is found in a mixture of statute and common law. But it would appear to be relatively untested, and there has as yet been no consideration of foreign same-sex marriages. The standard position appears to be that formal validity is governed by the *lex loci contractus*<sup>54</sup> and substantive validity by the ante-nuptial domicile of each party.<sup>55</sup> Consequently this could lead to an English same-sex marriage being refused recognition were one of the parties to be domiciled in a jurisdiction which did not permit same-sex marriages, unless such a law were to be disregarded on the basis of being contrary to New Zealand public policy.

- 3.29 The Marriage Act 1955 has been amended so that marriage means the union of two people, regardless of their sex, sexual orientation, or gender identity.<sup>56</sup> S.39 makes special provision for British consular and military marriages so that they shall be deemed always to have been as valid in New Zealand as if solemnised in New Zealand. And, of greater import, under s.40 marriages where at least one party is a citizen of a Commonwealth country or of the Republic of Ireland which are solemnised in a country other than the country of which the party is a citizen in accordance with a form authorised by the law of the country of which the party is a citizen shall be as valid in New Zealand as if solemnised in New Zealand in accordance with the 1955

<sup>52</sup> *Ngqobela v Sihele* (1893) 10 SC 346, at 352; *Seedat's Executors v The Master (Natal)* 1917 AD 302, at 307; *Friedman v Friedman's Executors* 1922 NPD 259.

<sup>53</sup> *Steyn v Steyn* (6427/2010) [2010] ZAWCHC 224, at [42].

<sup>54</sup> *Patel v Patel* (1982) 1 N.Z.F.L.R. 413.

<sup>55</sup> K Norrie 'Recognition of overseas same-sex relationships in New Zealand' (2009) 23 *New Zealand Universities Law Review* pp. 339-367.

<sup>56</sup> S.2(1).

Act. This could then apply, for example, to an English same-sex marriage involving two Irish citizens who subsequently moved to New Zealand.

### 3.30 *Canada*

The traditional position under Canadian law, as in England, is that in order for a marriage to be legally valid, the parties to the marriage must satisfy both the requirements of the law of the place where the marriage is celebrated (the *lex loci celebrationis*) with regard to the formal requirements, and the requirements of the law of domicile of the couple with regard to their legal capacity to marry one another.<sup>57</sup> However, it is said that there is also some support for the intended matrimonial home theory.<sup>58</sup> Whether this rule would now be interpreted in the light of the revised Civil Marriage Act, s.5(1) is unclear. But it is noteworthy that the corresponding statutory rule in Quebec, found in the Civil Code, has remained unchanged: "*marriage is governed with respect to its essential validity by the law applicable to the status of each of the intended spouses.*"<sup>59</sup>

3.31 **Conclusion** – this overview confirms that an English same-sex marriage will generally be recognized in the small number of States which permit same-sex marriage domestically, though if the parties have engaged in marriage tourism to avoid the effects of their personal laws, then recognition may not be granted.

### 3.32 *Recognition in a State which does not Permit Same-sex Marriage*

The majority of States do not permit same-sex marriage, but of these some permit some alternative form of institution for same-sex couples. This sub-category will therefore be treated first.

### 3.33 States which Permit some form of Same-sex partnership

In States which recognize some form of same-sex partnership, but not same-sex marriage, a central issue is whether this should, in an

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<sup>57</sup> *Schwebel v Ungar* (1964) 48 D.L.R. (2d) 644 (Sup Ct Can), affirming (1963) 42 D.L.R. (2d) 622 (Ont CA).

<sup>58</sup> S Pitel & N Rafferty *Conflict of Laws* (Irwin Law, Toronto, 2010), p.386, citing *Feiner v Demkowicz* (1973) 2 O.R. (2d) 121 (H.C.J.).

<sup>59</sup> Art 3088. "*Le mariage est régi, quant à ses conditions de fond, par la loi applicable à l'état de chacun des futurs époux. Il est régi, quant à ses conditions de forme, par la loi du lieu de sa célébration ou par la loi de l'État du domicile ou de la nationalité de l'un des époux.*" 1991, c. 64, a. 3089.

internationalist spirit indicate a preparedness to recognize an institution not available domestically, or conversely, whether the fact of creating an alternative institution for same-sex couples means that marriage should be treated solely as an opposite-sex institution.

### 3.34 *Northern Ireland*

Northern Ireland falls squarely into the latter camp. In contrast to the laws of England & Wales and Scotland, the law of Northern Ireland does not provide for same-sex marriage. The Marriage (Same Sex Couples) Act 2013, Schedule 2, Part 1, para.2 accordingly provides that *“a marriage of a same sex couple under the law of England and Wales is to be treated as a civil partnership formed under the law of England and Wales (and accordingly, the spouses are to be treated as civil partners).”*

### 3.35 *Switzerland*

Similarly, under Swiss law a marriage that was validly celebrated in a foreign country between persons of the same sex shall be recognized in Switzerland as a registered partnership.<sup>60</sup>

### 3.36 *Australia*

Under Australian law the position is currently different, in that there is no assimilation of the foreign institution, rather a same-sex marriage from England or elsewhere would simply not be recognized at all. Under domestic law a marriage can only be solemnised in Australia between a man and a woman. S.88EA of the Marriage Act 1961 further provides that a union solemnised in a foreign country between a same sex couple must not be recognised as a marriage in Australia.<sup>61</sup>

### 3.37 *United States – District of Columbia*

Reference should be made to the law of the District of Columbia, because the recognition of same-sex marriages entered into in other

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<sup>60</sup> Federal Act on Private International Law of 18 December 1987, Art.45(3) <https://www.admin.ch/opc/fr/classified-compilation/19870312/> “*Un mariage valablement célébré à l'étranger entre personnes du même sexe est reconnu en Suisse en tant que partenariat enregistré.*” Introduit par le ch. 17 de l'annexe à la LF du 18 juin 2004 sur le partenariat, en vigueur depuis le 1<sup>er</sup> janv. 2007 (RO 2005 5685; FF 2003 1192).

<sup>61</sup> An attempt to reverse this ban failed: Marriage Act Amendment (Recognition of Foreign Marriages for Same-Sex Couples) Bill 2013. See also Recognition of Foreign Marriages Bill 2014.

jurisdictions when started from 7 July 2009,<sup>62</sup> preceded the entry into force of the *Religious Freedom And Civil Marriage Equality Amendment Act 2009* to allow same-sex couples to marry in the district.<sup>63</sup>

### 3.38 *States which Do Not Permit any form of Same-sex partnership*

There are many States whose laws do not provide for registered partnerships. Even within the European Union these currently include: Bulgaria; Cyprus; Estonia; Italy; Latvia; Lithuania; Poland; Romania; Slovakia.<sup>64</sup> Within this category of States a further distinction can immediately be drawn between those States which simply do not permit any form of same-sex relationship and those which go further and have a constitutional prohibition of same sex relationships. The latter includes for example: Belarus; Bulgaria; Croatia; Hungary; Latvia; Lithuania; Moldova; Montenegro; Poland; Serbia; Slovakia; Ukraine. In such States public policy would militate against recognition of an English same-sex marriage, therefore the only avenue which could realistically yield a contrary outcome, where a Council of Europe Member States was implicated, would be were non-recognition to be challenged before the European Court of Human Rights on the basis that this would lead to a violation of the parties' rights under Art.8 ECHR.<sup>65</sup>

3.39 As regards other States, the absence of any domestic institution for same-sex couples may suggest an unwillingness to recognize foreign same-sex marriages and relationships, but as the case of New York shows, this cannot be excluded entirely.

### 3.40 *United States – New York*<sup>66</sup>

Reference should be made to New York because, as noted above, there had been a preparedness to recognize same-sex marriages even before

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<sup>62</sup> s.1287a, Jury and Marriage Amendment Act of 2009, D.C. Code § 46-405.01 "*A marriage legally entered into in another jurisdiction between 2 persons of the same sex that is recognized as valid in that jurisdiction, that is not expressly prohibited . . . , and has not been deemed illegal . . . , shall be recognized as a marriage in the District.*"

<sup>63</sup> 3 March 2010.

<sup>64</sup> [http://europa.eu/youreurope/citizens/family/couple/registered-partners/index\\_en.htm](http://europa.eu/youreurope/citizens/family/couple/registered-partners/index_en.htm)

<sup>65</sup> See below.

<sup>66</sup> Whilst there was no law allowing for same-sex partnerships prior to the enactment of the Marriage Equality Act, on 14 May 14 2008, New York State Governor David Paterson issued an Executive Directive requiring the State's agencies to recognize same-sex marriages that had been validly contracted in other jurisdictions, see *Matter of Ranftle*, 2013 N.Y. App. Div. LEXIS 4912 (N.Y. App. Div. 1st Dep't, July 2, 2013).

the passing of the Marriage Equality Act. In *Matter of Ranftle*<sup>67</sup> the Supreme Court of New York, Appellate Division, First Department recalled New York's long-settled marriage recognition rule which affords comity to out-of-state marriages and "*recognizes as valid a marriage considered valid in the place where celebrated.*"<sup>68</sup> The Court noted that the rule did not extend such recognition where the foreign marriage was "*contrary to the prohibitions of natural law or the express prohibitions of a statute.*"<sup>69</sup> But it held that same-sex marriage did not fall within either of these exceptions to the marriage recognition rule. It further held that the New York Legislature's failure to authorize same-sex couples to enter into marriage in New York or require recognition of validly performed out-of-state same-sex marriages, could not serve as an expression of public policy for the State. In the absence of an express statutory prohibition legislative action or inaction did not qualify as an exception to the marriage recognition rule.

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<sup>67</sup> 81 AD3d 566, 917 NYS2d 195, 2011 N.Y. App. Div. LEXIS 1336 (N.Y. App. Div. 1st Dep't, 2011),

<sup>68</sup> *Van Voorhis v Brintnall*, 86 NY 18, 25 [1881].

<sup>69</sup> *Moore v Hegeman*, 92 NY 521, 524 [1883].



#### 4. Union Civile

*“(c) to what extent, if any, does Counsel consider that “Union Civile” is capable of being recognised as a legal relationship corresponding to marriage, whether the Union is between –*

*(i) a couple of different sexes, or*

*(ii) a couple of the same sex,*

*(d) to what extent, if any, does Counsel consider that “Union Civile” is capable of being recognised as a legal relationship corresponding to a Civil Partnership, whether the Union is between –*

*(i) a couple of different sexes, or*

*(ii) a couple of the same sex.”*

4.1 In researching the present opinion no evidence has been uncovered indicating that any major western legal system has replaced marriage with an alternative institution, such as Union Civile. There are instances where an institution classified as Union Civile or Civil Union exist, but these exist either as an alternative to marriage, or, as an institution reserved for same-sex couples instead of marriage. In this sections Questions (c) and (d) are considered together.

#### 4.2 Existing Examples of Civil Union / Union Civile<sup>70</sup>

##### *Same-sex Only*

##### *Australia (Australian Capital Territory)*

Under the Civil Unions Act 2012, s.6(1) a ‘civil union’ is regarded as a legally recognised relationship, which is for same-sex couples only.<sup>71</sup> It is *“different to a marriage but is to be treated for all purposes under territory law in the same way as a marriage.”*<sup>72</sup>

<sup>70</sup> Some of these are identified in the Civil Partnership Act 2004, Sch.20, Para.1 as ‘Overseas Relationships’. The latter refers to: the Argentine (Autonomous City of Buenos Aires) and Ecuador, unión civil; the Quebec, union civile; as well as the New Zealand Hawaii, Illinois and New Jersey, civil union.

<sup>71</sup> s.7.

<sup>72</sup> s.6(2).



#### 4.3 *United States (Colorado and New Jersey)*

In the United States civil unions are now provided for under the laws of Colorado, Hawaii, Illinois and New Jersey, though each is quite different.

- 4.4 Under Colorado law<sup>73</sup> the institution is open only to same-sex couples and provides the same rights, benefits and protections and responsibilities as available to married persons under Colorado law. In New Jersey civil unions offer same-sex couples state-level spousal rights and responsibilities, but not federal protections.<sup>74</sup>

#### 4.5 *Same-sex or Opposite Sex*

##### *South Africa*

Under South African law Section 1 of the Act a "civil union" is defined as: "...the voluntary union of two persons who are both eighteen years of age or older, which is solemnised and registered by way of either a marriage or a civil partnership, in accordance with the procedures prescribed in this Act, to the exclusion, while it lasts, of all others..."<sup>75</sup> Parties, whether same-sex or opposite, sex have the choice as to which institution to choose, indeed under s.11(1) a marriage officer must enquire from the parties whether their civil union should be known as a marriage or a civil partnership. In the light of the above it is unsurprising that a civil union is intended to have all the ordinary consequences of a marriage otherwise concluded under the Marriage Act or Customary Marriages Act, save that it is not to be regarded as, or termed, a marriage under either of those Acts.<sup>76</sup>

#### 4.6 *New Zealand*

Under New Zealand Law<sup>77</sup> a 'Civil Union' may be entered into by couples of the same sex or by couples of different sexes. It creates an

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<sup>73</sup> Colo. Stat. Ann. § 14-15-104

[http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/35CE5FDC5F040FF487257A8C0050715D?open&file=011\\_enr.pdf](http://www.leg.state.co.us/clics/clics2013a/csl.nsf/fsbillcont3/35CE5FDC5F040FF487257A8C0050715D?open&file=011_enr.pdf)

<sup>74</sup> N.J. Stat. § 37:1-30;

<sup>75</sup> Civil Union Act 2004, s.1.

<sup>76</sup> s.13.

<sup>77</sup> Civil Union Act 2004.

institution which is distinct, but equivalent to marriage.<sup>78</sup> However, since same-sex marriage was made available to same-sex couples the number of civil unions contracted has become extremely small. In 2014 there were 23,023 opposite and same-sex marriages in New Zealand but only 63 opposite and same-sex civil unions.<sup>79</sup>

#### 4.7 *Canada (Quebec)*

In June 2002, the National Assembly of Québec passed the *Act instituting civil unions and establishing new rules of filiation*.<sup>80</sup> This created the institution of “union civile” allowing same-sex or opposite-sex couples to make a public commitment to live together and comply with the resulting rights and obligations. In terms of its form and legal consequences, a civil union is equivalent to a marriage, though there are certain differences concerning the age at which individuals may form a union and the process for dissolving the union. As in New Zealand the number of union civiles registered is minimal compared with the number of marriages. In 2014 there were 239 union civiles compared with 22 410 marriages.<sup>81</sup>

#### 4.8 *United States (Hawaii and Illinois)*

Under the law of Hawaii civil unions are open to opposite-sex and same-sex couples and the institution affords parties all the same rights, benefits, protections, and responsibilities under law as available to married spouses.<sup>82</sup> Under Illinois law same-sex and opposite-sex couples to enter into civil unions, but they only have some of the benefits available to married couples.<sup>83</sup>

#### 4.9 *Opposite-sex Only*

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<sup>78</sup> K Norrie ‘Recognition of overseas same-sex relationships in New Zealand’ (2009) 23 *New Zealand Universities Law Review* pp. 339-367.

<sup>79</sup> [http://www.stats.govt.nz/browse\\_for\\_stats/people\\_and\\_communities/marriages-civil-unions-and-divorces/CivilUnionsAndMarriages\\_HOTPJun15qtr.aspx](http://www.stats.govt.nz/browse_for_stats/people_and_communities/marriages-civil-unions-and-divorces/CivilUnionsAndMarriages_HOTPJun15qtr.aspx)

<sup>80</sup> <http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=5&file=2002C6A.PDF>

<sup>81</sup> <http://www.stat.gouv.qc.ca/docs-hmi/statistiques/population-demographie/bulletins/coupdœil-no41.pdf>

<sup>82</sup> Hawaii Revised Statutes, Chapter 572B; [http://www.capitol.hawaii.gov/session2011/bills/SB232\\_HD1\\_.pdf](http://www.capitol.hawaii.gov/session2011/bills/SB232_HD1_.pdf)

<sup>83</sup> Ill. Stat. ch. 750, § 75/10; Ill. Stat. ch. 750, § 75/20; Ill. Stat. ch. 750, § 75/65; <http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=096-1513>

### *Greece*

Law no. 3719/2008, entitled “Reforms concerning the family, children and society”, introduced an official form of partnership for unmarried couples called a “civil union”. The institution created rights and obligations in terms of property status, the financial relations within each couple and their inheritance rights. The institution was restricted to different-sex couples. The exclusion of same-sex couples from its scope was subsequently challenged before the European Court of Human Rights on the basis that the law introduced a difference in treatment based on the sexual orientation of the persons concerned.<sup>84</sup> The Grand Chamber found that the Greek Government did not offer convincing and weighty reasons justifying the exclusion, consequently there had been a violation of Article 14 of the Convention taken in conjunction with Article 8. Plans to extend civil partnerships to same-sex couples have not yet been realized.

#### 4.10 *Assessment*

The significance of these findings lie in the fact that were Guernsey to proceed with the proposed reforms, the treatment of Union Civile outside of the jurisdiction would depend entirely on how the institution was classified in each individual legal system in which recognition was sought. For example, in England and Wales the Argentine (Autonomous City of Buenos Aires) and Ecuador unión civil, the Quebec union civile, as well as the New Zealand Hawaii, Illinois and New Jersey civil union are all classified as specific overseas relationships<sup>85</sup> for the purposes of s.213 of the Civil Partnership Act and if recognized the parties are treated as having formed an English civil partnership.<sup>86</sup>

- 4.11 Furthermore the existence of Civil Union / Union Civile in several jurisdictions as an alternative to marriage may impede the recognition of a Guernsey Union Civile as an institution equivalent to marriage.
- 4.12 An additional factor that must be borne in mind is that whilst Union Civile would be the sole institution available in Guernsey from the date of the implementation of the new Act, the recognition of Guernsey marriages abroad would still be sought after that date, by opposite sex

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<sup>84</sup> *Vallianatos v Greece* (29381/09 and 32684/09) (2014) 59 E.H.R.R. 519 [GC].

<sup>85</sup> Schedule 20, para.1.

<sup>86</sup> s.215(1).

couples who had previously entered into a Guernsey marriage. This co-existence for the purpose of external recognition, would inevitably provide an additional element of complication.

#### **4.13 Scope for Recognition of a Future Guernsey Union Civile**

It has been extremely difficult to gauge how a new institution replacing marriage such as Union Civile, which is open to opposite-sex and same-sex couples, would be treated internationally. The law is often unclear or under-developed, and case law is extremely limited.

4.14 Assimilation of Union Civile with marriage, so that parties to the institution are not prejudiced outside of the jurisdiction, will depend on foreign legal systems looking at the substance of the institution and not merely its domestic classification. Instances have been found, from several jurisdictions, where such an approach has been employed. For example, there are some foreign judicial and administrative decisions whereby English civil partnerships have been treated for some or all purposes as a marriage in the State of recognition. This has thereby enabled the parties concerned to avail of social security benefits or indeed to petition for a divorce.

4.15 Were such an open approach to be applied generally then parties to a Union Civile would not be disadvantaged internationally. However, it is very likely that on the initial occasions that the issue of recognition arises for consideration in each foreign legal system, then the parties concerned could be faced with the expense and inconvenience of proving the equivalence of the status of their Union Civile.

4.16 The general application of an open approach to assimilation cannot though be guaranteed. The current treatment of marriage like institutions in certain jurisdictions would suggest that in some legal systems Union Civile would at best be equated with a civil partnership, the precise status depending on the law of the State of recognition. Examples will now be given.

#### **4.17 Adapted Recognition**

##### **Norway**

Consideration has previously been given to Norwegian law<sup>87</sup> on the recognition of foreign marriages. But s.18a of the Marriage Act also provides that a regulated form of cohabitation outside Norway that has primarily the same legal consequences as marriage in the country where it was contracted is recognised as a marriage in Norway when both parties have consented to this in writing.<sup>88</sup>

- 4.18 The terms of this provision mean that a Guernsey Union Civile, whether opposite-sex or same-sex would be recognised as a marriage in Norway.

#### 4.19 **Belgium**

The Belgian Private International Law Code (CODIP) contains rules pertaining to both marriage and registered cohabitation (“relation de vie commune”). According to Art 58 CODIP, a “registered cohabitation” is defined as a situation of cohabitation which has given rise to registration by a public authority and does not create between the cohabitants a link equivalent to marriage. It follows that, regardless of the label used, foreign registered partnerships/civil unions creating links that *are* equivalent to marriage are treated as marriages in Belgium<sup>89</sup>, provided marriage is not also available in the country of origin.<sup>90</sup>

- 4.20 The criteria regarding the equivalence to marriage are somewhat fluid, with the preparatory work to the CODIP referring exclusively to the comparative effects of marriage and the foreign registered cohabitation and the 2007 Circular interpreting the personal status provision of the CODIP<sup>91</sup> further referring to their formal and material validity requirements and the causes and consequences of their dissolution as well.

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<sup>87</sup> ACT 1991-07-04 No. 47, The Marriage Act, s.18(a) <https://www.regjeringen.no/en/dokumenter/the-marriage-act/id448401/>

<sup>88</sup> Furthermore the Ministry may by regulations lay down further provisions concerning the cases in which a regulated form of cohabitation outside Norway shall be deemed to have the same legal consequences as marriage in the country where it was contracted.

<sup>89</sup> C Barbé, ‘Le nouveau droit international privé belge’, *Journal des Tribunaux* 2005, pp. 188 ; I Curry Sumner, All is well that ends registered, doctoral thesis Utrecht 2005, p. 335

<sup>90</sup> JY Carlier, Le code belge de DIP, RCDIP 2005, p. 11 at para 33.

<sup>91</sup> Circulaire relative aux aspects de la loi du 16 juillet 2004 portant le Code de droit international privé concernant le statut personnel [http://www.ejustice.just.fgov.be/cgi\\_loi/loi\\_a1.pl?sql=%28text%20contains%20%28%27%27%29%29&language=fr&rech=1&tri=dd%20AS%20RANK&value=&table\\_name=loi&F=&cn=2004092331&caller=image\\_a1&fromtab=loi&la=F](http://www.ejustice.just.fgov.be/cgi_loi/loi_a1.pl?sql=%28text%20contains%20%28%27%27%29%29&language=fr&rech=1&tri=dd%20AS%20RANK&value=&table_name=loi&F=&cn=2004092331&caller=image_a1&fromtab=loi&la=F)

- 4.21 Nevertheless it would appear that a Guernsey Union Civile as conceived, whether same-sex or different-sex, would be treated as marriage in Belgium.

4.22 **Canada (Ontario)**

A clear example of adapted recognition is exhibited in the case of *Hincks v Gallardo*.<sup>92</sup> The parties, both Canadian citizens, had entered into a civil partnership in the United Kingdom in 2009 under the Civil Partnership Act 2004. They subsequently moved back to Ontario in 2010 and separated a year later. First Gallardo commenced an application in the Ontario Superior Court seeking a divorce and other relief under the federal Divorce Act and the Ontario provincial Family Law Act. He swore an affidavit in support of his application in which he stated that he had married Hincks in England in 2009. However, days after serving the application he discontinued it. Shortly thereafter Hincks brought an application where he sought similar relief but Gallardo then argued that the parties were not spouses under the relevant statutes and that Gallardo did not have any rights as a spouse. Hincks then sought a declaration that the parties' civil partnership constituted a "marriage" under the Civil Marriage Act.

- 4.23 The trial judge referred to private international law principles concerning the validity of marriage, but her primary reasoning concerned the equality guarantee in s.15 of the Canadian Charter of Rights and Freedoms. In particular, she indicated that the parties' civil partnership was a lawful union of two persons to the exclusion of all others, which appeared to fall into the definition of civil marriage under Canadian law. She held that the civil partnership was "a marriage in all but name," and the parties should not be penalized for not having married in the United Kingdom when that choice was not open to them. She found that the civil partnership met the statutory definition of marriage in Canada, and that it would be perpetuating the discrimination against them were their civil partnership not to be recognised as a marriage in Canada. The court thereby found the civil partnership to be a marriage under the Canadian Civil Marriage Act. The decision was subsequently affirmed on appeal.<sup>93</sup>

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<sup>92</sup> (2013), 273 C.R.R. (2d) 358, [2013] O.J. No. 69, 2013 CarswellOnt 109, 2013 ONSC 129.

<sup>93</sup> *Hincks v Gallardo* (2014), 2014 ONCA 494, 2014 CarswellOnt 8621.

- 4.24 The terms of this judgment would indicate that a Guernsey Union Civile would be recognised as a marriage in Ontario.

#### 4.25 United States (District of Columbia)

In a ruling of the United States Social Security Administration, a party to a valid English civil partnership was deemed to be married for the purposes of social security entitlement under the law of the District of Columbia.<sup>94</sup> In reaching this finding the tribunal considered the essential characteristics of a civil partnership. *"Although the claimant's relationship with the NH [social security number holder] would not be recognized as a valid marriage under the law of England and Wales, the claimant has the same status as a husband of the NH under the law of England and Wales. Thus the agency can deem the couple married for Title II purposes."*

#### 4.26 South Africa

In *Steyn v Steyn*<sup>95</sup> the High Court of South Africa was faced with a divorce petition filed by a party to an English civil partnership. The Court held that if the word "marriage" in Section 3 of the Divorce Act was read so as to include a reference to a lawful, registered same-sex union which had all the hallmarks of a heterosexual marriage under common law, save that it was not called a marriage, such a reading would protect and advance the relevant fundamental rights in the South African Constitution. It continued that given the purpose of the Divorce Act was to provide a statutory mechanism for the dissolution of marriages, and that South African same-sex unions were capable of dissolution thereunder, there did not appear to be any basis for distinguishing and excluding similar unions concluded outside of South Africa.

- 4.27 The Court held, at [51], that the word "marriage" in Section 3 of the Divorce Act must be read so as to include registered foreign same-sex marriages or civil unions/partnerships which were lawful in the country in which they were concluded. Therefore the civil partners were entitled to assert in a South African court that they were lawfully "married" for purposes of the application of the Divorce Act and to

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<sup>94</sup> PR 05830.300 London, England, A. PR 15-115 Validity of Civil Partnerships and Same-Sex Marriages Performed in England and Wales under District of Columbia Law, available at: <https://secure.ssa.gov/poms.nsf/lnx/1505830300>

<sup>95</sup> (6427/2010) [2010] ZAWCHC 224.



request the South African courts to dissolve their civil partnership in accordance with the provisions of Section 3 of the Divorce Act.

#### 4.28 **Assessment**

In each of these jurisdictions, where provision has been made for “adapted recognition” of marriage like institutions as marriage, marriage is open to same-sex as well as opposite-sex couples. In jurisdictions which do not permit same-sex marriage or indeed any form of same-sex partnership, then the potential for recognizing a future Guernsey Union Civile may differ depending on whether it involves same-sex or opposite sex parties. Furthermore, as previously noted, the classification of the Union Civile by the State of recognition will be of great significance, as many jurisdictions do not provide for the recognition of opposite-sex partnerships which do not amount to marriage. These issues will now be illustrated by several examples:

#### 4.29 **England & Wales**

There is currently no provision for the recognition of opposite-sex partnerships under English law. This is made clear by the ‘same-sex requirement in s.216 of the Civil Partnership Act 2004:

*“(1) Two people are not to be treated as having formed a civil partnership as a result of having registered an overseas relationship if, at the critical time, they were not of the same sex under United Kingdom law.”*

4.30 A challenge to the bar on opposite-sex partnerships under English law was this year declared inadmissible by the European Court of Human Rights.<sup>96</sup>

4.31 If a Guernsey Union Civile (opposite-sex or same-sex) were to be classified as a marriage for the purposes of English law, then subject to compliance with the standard choice of law rules, outlined above, the institution could be recognized. However, it cannot be said with certainty that a Guernsey Union Civile would be so classified. Indeed it has already been noted how various existing institutions called ‘civil union’ are classified as specific overseas relationships for the purposes of the Civil Partnership Act 2004. If the Guernsey Union Civile were to

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<sup>96</sup> *Ferguson & Others v United Kingdom*, Application 8254/11. See: <http://www.petertatchellfoundation.org/partnerships/european-court-rules-equal-love-case-inadmissible>



be so categorized, then the situation would arise whereby only a same-sex Guernsey Union Civile would be capable of having legal effect in the United Kingdom. The fact that marriage would no longer exist in Guernsey law may impact on the categorization of the Guernsey Union Civile, but again no definitive view can be reached on this point.

#### 4.32 Switzerland

Under Swiss law different-sex marriages validly concluded abroad are recognised in Switzerland, Art 45(1), Federal Act on Private International Law of 18 December 1987.<sup>97</sup> It will be recalled that same-sex marriages validly contracted abroad are recognised in Switzerland *as registered partnerships*, Art 45(3).

4.33 Chapter 3a of the Federal Act on Private International Law provides that the private international law rules regarding marriage are to be applied by analogy to registered partnerships unless otherwise stated: Art 65a.<sup>98</sup> Same-sex registered partnerships validly concluded abroad are thus recognised in Switzerland, Art 45(1) in conjunction with Art 65 a.

4.34 The situation of foreign different-sex registered partnerships is however unclear, as Switzerland only opens registered partnership to same-sex couples. The issue is one of characterisation: should such foreign unions be treated as marriages or as registered partnerships for the purposes of applying the relevant Swiss PIL provisions? Although the possibility to characterise foreign marriage-like heterosexual registered partnerships as marriages is debated, most legal authors propose the application *a pari* of the provisions of Chapter 3a (on registered partnerships) where the foreign legal partnership has marriage-like effects.<sup>99</sup>

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<sup>97</sup> See however Art 45(2): “If either prospective spouse is a Swiss national or if both prospective spouses have their domicile in Switzerland, a marriage celebrated in a foreign country shall be recognized, unless it was celebrated in a foreign country with the clear intent of avoiding the grounds of nullity provided for by Swiss law”.

<sup>98</sup> “The provisions of chapter 3 are to be applied by analogy to registered partnerships, except for Articles 43, paragraph 2.”

<sup>99</sup> Rapport du Conseil fédéral suite au Postulat Fehr (12.3607), Modernisation du droit de la famille, March 2015, p. 21 ad notam. See also M Montini, Premières expériences en rapport avec l'application de la loi fédérale sur le partenariat enregistré entre personnes de même sexe (2008), pp. 6-7, available at : <https://www.bj.admin.ch/dam/data/bj/gesellschaft/zivilstand/dokumentation/referate/ref2008-partg-ersterfahrungen-montini-f.pdf>

- 4.35 Under Swiss law as it stands presently, a Guernsey Union Civile in respect of a same-sex couple would be recognised as a registered partnership in Switzerland. The status afforded to an opposite-sex Union Civile is unclear, but it may also be recognised as a registered partnership.

#### 4.36 **France**

To assess how a Guernsey Union Civile might be received in France consideration must be given to the French rules on the recognition of marriages and partnerships.

- 4.37 In French domestic law both the institutions of marriage and registered partnership (PACS) are open to same-sex and different-sex couples, see Art 143<sup>100</sup> & Art 515-1<sup>101</sup> of the Civil code. Whilst the PACS was initially established as a 'weak' form of partnership displaying only limited characteristics of marriage, legislative reforms have brought it ever closer to marriage.<sup>102</sup> The fact that two such similar institutions co-exist in French substantive law is likely to have an impact on the way on which foreign unions may be characterised.

- 4.38 The Civil code contains some private international law provisions regarding the material and formal validity of marriage (Arts 202-1 and 202-2) and the validity, effects and conditions and effects of the dissolution of registered partnerships (Art 515-7-1).

#### 4.39 *Foreign Marriages*

Marriages celebrated abroad will be recognised if the conditions of Arts 202-1 and 202-2 of the Civil code are met.<sup>103</sup>

Art 202-1: *"The qualities and conditions necessary to be able to contract marriage are governed, for each spouse, by his personal law. Nevertheless, two persons of the same sex may contract marriage when, for at least one of them, either his personal law, or the law of the State within which he has his domicile or his residence, permits it."*

<sup>100</sup> "A marriage may be contracted by two persons of same sex or different sex".

<sup>101</sup> "A PACS is a contract concluded by two natural persons over 18 of different or same sex, with a view to organising their cohabitation".

<sup>102</sup> F Granet-Lembrechts & P Hilt, 'Dossier « mariage, PACS, concubinage : le guide » : Que choisir entre ces trois formes de conjugalité ? AJ Famille 2014, pp. 658 ff.

<sup>103</sup> P Hammje, '« mariage pour tous » et droit international privé ', R.C.D.I.P. 2013, pp. 773, at para.13.

*Art 202-2: "A marriage is validly celebrated if it has been celebrated according to the formalities contemplated by the law of the State within which the celebration has occurred".*

- 4.40 A foreign registered partnership will be recognised if the conditions of Art.515-7-1 are met:

*"The conditions of formation and the effects of a registered partnership as well as the causes and effects of its dissolution are subject to the material provisions of the State of the authority that proceeded to its registration."*

- 4.41 The central issue therefore is whether a Guernsey Union Civile would be characterised as a marriage or a registered partnership?
- 4.42 Prior to the entry into force of the French Act opening marriage to same-sex couples, and although academic literature was divided on this point, the French Ministry of Justice had expressly indicated that foreign same-sex marriages should be characterized as marriages for the purposes of private international law and could be declared valid in France, if the national laws of both spouses allowed same-sex marriages.<sup>104</sup>
- 4.43 Following the entry into force of the French Act opening marriage to same-sex couples, the French Ministry of Justice gave an official answer to a question from an elected representative as to the classification of a German *eingetragene Lebensgemeinschaft* (civil partnership) of a same-sex couple. Although the German partnership was marriage like, the couple could not be considered as married in France. Rather their partnership could be recognised as a partnership if the terms of Art 515-7-1 were satisfied. Furthermore if the parties wished to be married in France they would first have to dissolve their German *Lebensgemeinschaft* under the German procedure and then contract a new marriage in France.<sup>105</sup>
- 4.44 In the light of these official pronouncements, and given the limited differentiation between PACS and marriage in France, it is unclear whether a foreign marriage-like union that is not categorised as a

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<sup>104</sup> Rep. Min Justice n° 41533, JOAN Q 26.7.2005, p. 7437.

<sup>105</sup> Service central de l'état-civil (MAE/FAE/SAEJ/SCEC) et Direction de l'Union européenne/Sous-direction des politiques internes et des questions institutionnelles (MAE/DUE/INT), Réponse à une Question orale, 14.9.2013, pp. 12-13.

marriage domestically, such as the Guernsey Union Civile, would be classed as marriage in France. A valid Union Civile, whether same-sex or opposite-sex could certainly be recognised as a partnership in France.

#### 4.45 Germany

In Germany, two forms of union are available: marriage, which is open to opposite-sex couples only; and registered partnership (eingetragene Lebensgemeinschaft)<sup>106</sup> which is available exclusively to same-sex couples.

- 4.46 The civil code (BGB) does not expressly define marriage as being between a man and a woman<sup>107</sup> however the Bundesverfassungsgericht (constitutional court) historically, based on an analysis of Art 6 of the German constitution (GG), does.<sup>108</sup>
- 4.47 Apart from adoption, the eingetragene Lebensgemeinschaft is in all but name akin to marriage (same effects regarding name, property regime, maintenance, dissolution, succession etc).<sup>109</sup>
- 4.48 The German private international law code (EGBGB) devotes two separate provisions to marriage and registered partnership. Academic literature favours a strict distinction in private international law between heterosexual marriage and homosexual partnerships.<sup>110</sup>
- 4.49 As regards the reception of a future Guernsey Union Civile, the characterisation of a foreign relationship as marriage or registered partnership is not fully clarified in practice, although there appears to be a strong reliance on the criterion of sexual orientation of the spouses.
- 4.50 This is very clear regarding same-sex couples: according to the German case law, foreign same-sex marriages are recognized, by analogy, as

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<sup>106</sup> LPartG (Gesetz über die eingetragene Lebenspartnerschaft), Art 1.

<sup>107</sup> Art 1353(1) BGB simply provides: *“Die Ehe wird auf Lebenszeit geschlossen. Die Ehegatten sind einander zur ehelichen Lebensgemeinschaft verpflichtet; sie tragen füreinander Verantwortung.”*

<sup>108</sup> BVerf G 17.7.2002, 1 BvF 1/01, 1 BvF 2/01, BVerfGE 105, 313 <345> .

<sup>109</sup> UP Gruber, ‘Le mariage homosexuel et le droit international privé allemand’, *R.C.D.I.P.* 2013, 65 ff.

<sup>110</sup> Ibid.

registered partnerships under Art 17b EGBGB.<sup>111</sup> Consequently, this would be the outcome for a same-sex Union Civile. The position of foreign opposite-sex partnerships in general is currently controversial with some authors favouring the application of Art 17b and being treated as registered partnerships, while others plead in favour of an application of Art 13 and being treated like a marriage.<sup>112</sup> A definitive view cannot be given as to how an opposite-sex Union Civile would be recognised in Germany. But if the former interpretation were to be applied by courts in Germany in cases of heterosexual couples bound by a Guernsey Union Civile, this would be problematic where such couples wished to adopt a child. Under Art 17b (4) the effects of a life partnership registered abroad shall not exceed those arising under the provisions of the German Civil Code and the Registered Partnership Act,<sup>113</sup> and the latter Act does not currently permit adoption by registered partners together.

#### 4.51 *New Zealand*

Under the law of New Zealand the classification of a Guernsey Union Civile as a marriage (same-sex or opposite-sex) carries particular significance, because if it were not treated as a marriage then the institution would not be recognised at all, without legislative intervention. This is because only prescribed types of overseas relationships are recognised in New Zealand as civil unions.<sup>114</sup> To date only institutions from five different jurisdictions have been so specified: registered partnerships from Finland, life partnerships from Germany, civil partnerships from the United Kingdom, “domestic partnerships” from New Jersey and civil unions from Vermont.<sup>115</sup>

#### 4.52 **Conclusion**

The present review indicates that there is only a select number of legal systems in which it could be said with reasonable certainty that a

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<sup>111</sup> See the appellate court cases of OLG München 6.7.2011 & Zweibrücken 21.3.2011, Fam RZ 2011, 1526; VG Berlin 15. 6.2010, Az. 23 A 242.08

P Mankowski, Staundinger Kommentar (2010) V° Art 17b, para 22 ff.

<sup>112</sup> UP Gruber, cit.

<sup>113</sup> However, the Constitutional Court allows the adoption by one partner of a child already adopted by the other partner, BVerfG 19.2.2013, 1 BvL 1/11, 1 BvR 3247/09, FamRZ 2013.512.

<sup>114</sup> Civil Union Act 2004, s.35.

<sup>115</sup> Civil Unions (Recognised Overseas Relationships) Regulations 2005 (SR 2005/125). See generally K Norrie ‘Recognition of overseas same-sex relationships in New Zealand’ (2009) 23 *New Zealand Universities Law Review* pp. 339-367.

Guernsey Union Civile would be recognized fully. Insofar as the institution would apply to same-sex couples its potential for recognition would likely differ little from same-sex marriage or other forms of partnership. The greatest risk surrounds its application to opposite sex couples, for if the institution is not classified as marriage, then there is a risk that it would not be recognized at all in certain jurisdictions.

- 4.53 In all situations the replacement of marriage with an alternative institution, which already exists in different forms elsewhere, alongside or in addition to marriage, is likely to present a significant evidential burden on parties if they seek to establish that it is equivalent to marriage. Recognition may be delayed and required expensive court proceedings. Moreover, it may take many years before all key jurisdictions take a position on the Guernsey Union Civile, thereby creating significant uncertainty.

## 5. **Facilitating Recognition in Other Legal Systems**

*“(e) whether there is any provision which might be incorporated into legislation which might guarantee or encourage the recognition in countries outside Guernsey of the Union Civile relationship”*

- 5.1 To maximize the chances of a Union Civile being recognized and indeed being assimilated with marriage in other jurisdictions the Union Civile Certificate should explain that since date XX<sup>116</sup> Union Civile is the sole state-recognised, permanent and exclusive relationship between two people in Guernsey.
- 5.2 It could further be mentioned that civil marriages are no longer contracted on Guernsey from that date.

## 6. **Further Observations**

*“(f) whether Counsel has any further observations in relation to the matter of the recognition of Union Civile generally.”*

### 6.1 ***Capacity to Marry Overseas for Guernsey Domiciliaries***

A further issue which could arise indirectly from the proposed reforms is the impact they could possibly have on Guernsey domiciliaries seeking to marry abroad.

- 6.2 If capacity to marry under the private international law rules of the State of marriage refer back to the parties’ personal law, one or both of which is in Guernsey, could that capacity be said to exist if the institution of marriage no longer exists? One might hope that the matter would be resolved by considering capacity to enter into a Union Civile, but the issue could arise.

### 6.3 ***Clear Rules to Determine Capacity to Enter into a Union Civile***

It has been seen how a measure of uncertainty surrounds the choice of law rules for determining the substantive validity of a marriage under

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<sup>116</sup> The date on which Union Civile replaces marriage as the sole state-recognised, permanent and exclusive relationship between two people in Guernsey.



English law. If the institution of Union Civile is created then clear, statutory choice of law rules should be put in place.

#### 6.4 *European Convention on Human Rights*

It might be questioned whether the use of Union Civile in place of marriage could lead to a challenge that this was in breach of Art.12 ECHR:

*“Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.”*

- 6.5 However, as the proposed change is one of classification, which is moreover in pursuit of a legitimate aim, and since the institution would have identical legal consequences to marriage, it is difficult to envisage a challenge being upheld.
- 6.6 The greatest potential impact of the ECHR as regards a future Union Civile lies rather with regard to the recognition of the status created in other Council of Europe Member States. This derives from the reasoning employed in several decisions concerning the recognition of a status acquired elsewhere: *Wagner v Luxembourg*;<sup>117</sup> *Negrepontis-Giannisis v Greece*.<sup>118</sup>
- 6.7 In *Wagner* an enforceable Peruvian adoption order was denied enforcement in Luxembourg on the grounds that it did not comply with Luxembourg choice of law rules; the latter designated Luxembourg law, which in turn permitted adoption only by married couples. The strict application of the choice of law rules was held to be a violation of Article 8. The European Court of Human Rights, noting that the best interests of the child were paramount in such a case, held that the Luxembourg courts “*could not reasonably disregard the legal status validly created abroad and corresponding to a family life*”.
- 6.8 It has been argued that the protection of the right to family life under Art.8 ECHR is implicated if the relationship created by a foreign judgment “*corresponds to a social reality that the European Court is not*

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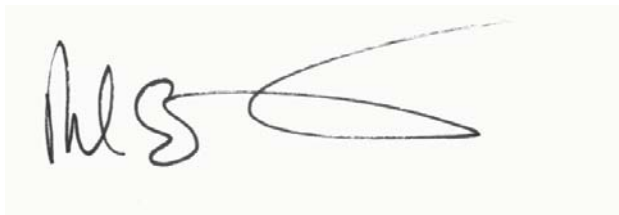
<sup>117</sup> [2007] ECHR 76240/01.

<sup>118</sup> [2011] ECHR 56759/08.



*prepared to disregard.”<sup>119</sup> This it is said, is subject to two preconditions: “(1) the parties must have acquired the family status in good faith under the foreign system, and (2) the parties’ expectation of stability regarding their status must have been a legitimate expectation. Legitimacy will normally depend upon the intensity of the links with the foreign legal system under which the status was acquired.”<sup>120</sup>*

- 6.9 Specific guidance as to how this reasoning might be applied to a foreign marriage will soon be forthcoming. An application pending before the Strasbourg Court concerns, *inter alia*, the refusal of the Italian authorities to register homosexual marriages contracted abroad.<sup>121</sup> Compliance with Article 8 could therefore provide an alternative mechanism by which recognition of a Guernsey Union Civile could be facilitated.



Professor Peter McEleavy  
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21 September 2015

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<sup>119</sup> P Kinsch ‘Enforcement as a Fundamental Right’ University of Luxembourg, Law Working Paper Series, 2014-07, available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2513307](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2513307)

<sup>120</sup> Ibid.

<sup>121</sup> *Orlandi and Others v Italy* (no. 26431/12).

**(N.B. As there are no resource implications in this report, the Treasury and Resources Department has no comments to make.)**

The States are asked to decide:-

VII.- Whether, after consideration of the Policy Letter dated 12<sup>th</sup> October, 2015, of the Policy Council, they are of the opinion:-

1. To agree to the introduction of same-sex marriage.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.
3. To note the extensive work that has been undertaken with regards to Union Civile, and to direct the Policy Council to monitor international developments on this topic.
4. To direct the Policy Council to bring forward, in a timely manner, separate Policy Letters to address the issues raised by the work on Union Civile including the dissolution of legal partnerships, as set out in section 6 of that Policy Letter; gender recognition, and procedural formalities relating to marriage.

## POLICY COUNCIL

### SAME-SEX MARRIAGE INHERITANCE RIGHTS

#### 1. Executive Summary

- 1.1 HM Procureur has written to the Policy Council to point out that United Kingdom legislation introducing same-sex marriages has created an anomaly in local inheritance legislation, which he recommends be remedied as soon as possible.
- 1.2 The Policy Council supports HM Procureur's recommendations, which would mean that the parties to a same-sex marriage, which fulfils other criteria such that it would be recognised under Guernsey law if it had been entered into by a man and a woman, would be treated as spouses for the purposes of The Inheritance (Guernsey) Law, 2011.
- 1.3 This does not affect the consideration of same-sex partnerships in Guernsey, which is a matter that is being presented separately in this December Billet d'État.

#### 2. Proposals from HM Procureur

- 2.1 HM Procureur has written to the Policy Council in the following terms:

*It has come to my attention that UK legislation introducing same-sex marriages has created an anomaly in local inheritance legislation which in my view should be remedied. I recommend that the Policy Council, as successor to the Inheritance Law Review Committee in overseeing such matters, should bring this matter to the States as soon as possible.*

*The Inheritance (Guernsey) Law, 2011 ("the 2011 Law"), which came into force on 2nd April 2012, introduced the principle of freedom of testamentary disposition, together with a scheme (family provision) enabling certain members of the family or dependants of a deceased person to make application to the court asking for provision to be made for them in the event that the will of the deceased, or the rules of intestacy if the deceased had not made a will, had failed to make reasonable provision for them. The Law also re-stated, with some modifications, the rules of intestacy. In relation to each of these matters, the 2011 Law enabled a person who was the civil partner of the deceased to be recognised for the purposes of making an application for family provision in the same way as a spouse; likewise, a person who was the civil partner of the deceased would be entitled to inherit a share of the estate of the deceased upon intestacy in the same way as if he or she had been married to the deceased.*

*It is not possible for same-sex couples to register a civil partnership in Guernsey and so the 2011 Law defined the expression by reference to civil partnerships registered, or recognised, in the United Kingdom. At that date, civil*

*partnership was the only means in the UK whereby a same-sex relationship could be legally recognised. Subsequently, by virtue of the Marriage (Same Sex Couples) Act 2013, marriage between persons of the same sex became legal. Civil partnership is still available to same-sex couples but those who have already registered a civil partnership now have the option to convert the relationship to one of marriage.*

*In consequence of the 2013 Act, there exists an anomaly in Guernsey's Inheritance Law. The customary interpretation of "marriage" is between a man and a woman. Accordingly, if a couple have been legally married in the United Kingdom or elsewhere but they are of the same sex as each other (or if civil partners have converted their civil partnership to a marriage), in the event of the death of one of them being domiciled, or owning real property, in Guernsey, the survivor will not be entitled to inherit (as a spouse) or make application for family provision (as a spouse) in the estate of their deceased same-sex spouse. Nor will they be regarded for the purposes of the 2011 Law as the civil partner of the deceased because they would not fall within the definition, not being registered, or recognised, as civil partners for the purposes of UK legislation.*

*This gives rise to the position that a same-sex couple living in Guernsey would be treated in the same way for inheritance purposes as a married opposite-sex couple if they had entered into a civil partnership in the UK or elsewhere; but if the same couple had entered into a valid marriage in the UK or elsewhere the survivor would have no right to benefit on intestacy nor to make any application for family provision. This also means that a couple who choose to exercise their right under the 2013 Act to convert their civil partnership to a marriage would, in so doing, lose their Guernsey inheritance rights.*

*It is suggested that this anomaly should be rectified by a simple amendment to the interpretation section of the 2011 Law (similar to that included in the recently-approved Inheritance (Alderney) Law) which would state that, for the purposes of the Inheritance Law, a marriage under the law of any country or territory is not prevented from being recognised only because it is the marriage of a same sex couple. This would mean that the parties to a same-sex marriage, which fulfils other criteria such that it would be recognised under Guernsey law if it had been entered into by a man and a woman, would be treated as spouses for the purposes of the Inheritance (Guernsey) Law, 2011.*

*I recommend that the Policy Council give consideration to this matter. I am aware that the question of formalising same-sex relationships is presently under consideration in Guernsey, but this discrete matter should in my view be treated separately from that general issue because of the real risk of injustice, particularly in the event of the intestate death of a local resident who is a party to a same-sex marriage, before the position is reformed.*

### 3. Resources

- 3.1 These proposals will not result in any additional expenditure by the States.

### 4. Good Governance Principles

- 4.1 The proposals in this Policy Letter are in accordance with the principles of Good Governance as outlined in Billet d'État IV 2011, particularly Principle 1: "*focusing on the organisation's purpose and on outcomes for citizens and service users*".

### 5. Recommendations

- 5.1 The Policy Council recommends the States:
1. to approve the proposals set out in the letter from HM Procureur reproduced at section 2 of this Policy Letter.
  2. to direct the amendment of The Inheritance (Guernsey) Law, 2011, necessary to give effect to the above recommendation.

J P Le Tocq  
Chief Minister

28<sup>th</sup> September 2015

A H Langlois  
Deputy Chief Minister

Y Burford  
P L Gillson  
S J Ogier

R W Sillars  
M G O'Hara  
K A Stewart

P A Luxon  
D B Jones  
G A St Pier

**(N.B. As there are no resource implications in this report, the Treasury and Resources Department has no comments to make.)**

The States are asked to decide:-

VIII.- Whether, after consideration of the Policy Letter dated 28<sup>th</sup> September, 2015, of the Policy Council, they are of the opinion:-

1. To approve the proposals set out in the letter from HM Procureur as reproduced at section 2 of that Policy Letter.
2. To direct the preparation of legislation to amend The Inheritance (Guernsey) Law, 2011 to give effect to the above recommendation.

## HOME DEPARTMENT

### DOMESTIC ABUSE STRATEGY FOR GUERNSEY AND ALDERNEY

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

7<sup>th</sup> October 2015

Dear Sir

#### **1. EXECUTIVE SUMMARY**

- 1.1 In 2009, the States of Guernsey adopted a Domestic Abuse Strategy (“the Strategy”) for Guernsey and Alderney with full funding being granted in 2011 for the period 2011-2014. Currently, the funding for the Strategy stands at £381,022 per annum.
- 1.2 The Strategy has enabled the States, and its partners in the third sector, to:
  - Put in place measures aimed at preventing abuse and violence from happening by changing the attitudes, values and structures that sustain gender inequality and violence. These include general raising of awareness of domestic abuse and, in particular, work in schools to build awareness of the issue and change attitudes.
  - Improve the criminal justice response through initiatives such as the development of Multi-Agency Risk Assessment Conferences (“MARAC”) and the development of an independent perpetrator programme.
  - Set up new services to provide support and assistance to Islanders affected by domestic abuse and their families whilst monitoring and evaluating existing services.
  - Encourage ‘partnership working’ in order to protect the safety of Islanders, to meet the States’ objectives to maintain a safe and healthy Guernsey and Alderney, and to assist its citizens in obtaining equality, social inclusion and social justice.

An update report on the progress made within the initial Strategy is included as Appendix One.



- 1.3 This Policy Letter proposes the continuation of the Strategy for the period 2016-2020, setting out key priorities for this period. It has been formulated and submitted by the Home Department following advice from the Domestic Abuse Strategy Advisory Group (“DASAG”) and three consultation exercises.
- 1.4 The vision of the Strategy incorporates:
- Consistent positive action from States’ departments and other agencies to tackle the issue;
  - The development of better, more equitable, accessible and effective service provision for individuals and families experiencing abuse;
  - Improved protection and support for victims and effective deterrents through holding abusers accountable for their behaviour and recommending potential changes to criminal and civil law where necessary.
- 1.5 The 2016-2020 Strategy aims to build upon the successes of the initial Strategy, focusing the efforts of government, public services, third sector and community partners to tackle domestic abuse in ways appropriate to Guernsey and Alderney, through the following priority areas:
- To provide early intervention services to encourage the disclosure of domestic abuse and guide victims to specialist services.
  - To address the needs of young people affected by domestic abuse, both those living with abuse in their family and those experiencing abuse in their own intimate relationships.
  - To put in place protocols to identify and address the needs of families / individuals who are experiencing a combination of domestic abuse, mental ill health and drug/ alcohol misuse. These issues when found together present a particular safeguarding risk for children and young people living within these households.
  - To ensure that the criminal justice response to domestic abuse is effective, victim-centred and that appropriate sanctions and sentencing options are available to the courts.
  - To improve data collection and performance monitoring processes in relation to domestic abuse in conjunction with other States’ strategies.
- 1.6 The proposed 2016-20 Strategy will align with the work of other States’ social policy developments such as the Criminal Justice Strategy, Disability and Inclusion Strategy, the draft Supported Living and Ageing Well Strategy (“SLAWS”), the Drug and Alcohol Strategy, the Sexual Health Strategy, the Corporate Housing Programme and the Children and Young People’s Plan to ensure that domestic abuse is highlighted and addressed.
- 1.7 Detailed research contained in this Policy Letter sets out the benefits of these initiatives. It also points out that spending relatively small amounts in relation to early intervention work, and therapeutic work with young people who have

experienced harm is likely to produce savings in the long term with regard to the costs of health, welfare and criminal justice.

- 1.8 In drafting the Strategy, the Department has been mindful of the constraints and financial pressures being placed on budgets across the States, and these financial constraints have been a primary consideration in the drafting of the Action Plan. Although the Department is not requesting an increase to the Domestic Abuse Strategy budget for 2016 and will seek, where possible to develop and improve service delivery through the reprioritisation of existing resources, the Department recognises that budgetary constraints are the greatest limitation in respect of the Strategy's further development over the next four years. The Department believes that additional allocated funding may prove necessary in order to support new services and will carefully review how this can be achieved in 2017. The additional funding is needed to meet demand for therapeutic work with children and young people recovering from abuse; to implement a pilot group work programme for young people experiencing domestic abuse and displaying harmful behaviour; and to ensure that the level of service provision in relation to work streams commissioned out to the third sector can be retained and to ensure that awareness raising and training around early intervention can be put in place.
- 1.9 Within the Policy Letter, there are several references to information and evidence from the United Kingdom. Although there is now much better collection of data locally in relation to domestic abuse, Guernsey is often reliant on United Kingdom evidence, research and best practice in order to help tackle the problem. Local data shows that, in relation to population size, the volume of domestic abuse reported to the Guernsey Police is around two thirds of the level reported to the Police in England and Wales. As local research indicates that only around 41% of incidents are actually reported to the Police - a percentage broadly similar to that reported in England and Wales, this may indicate that overall levels of domestic abuse occurring locally are now somewhat lower than in the United Kingdom. Nevertheless, the harm it creates and its associated costs is significant in many different ways.
- 1.10 Domestic abuse coupled with mental ill-health and substance misuse is a common feature where harm to children also occurs and is a key indicator of increased risk of harm to children and young people. This further demonstrates the importance and continuing need of an effective strategy which supports and coordinates important elements of work to address domestic abuse and the wider harm and costs it causes.
- 1.11 The incidence of high risk domestic abuse cases occurring locally, and the fact that the profile of abuse that this group of victims face appears to be often more severe than the United Kingdom benchmark, demonstrates the importance with which Guernsey needs to regard this issue.

## 2. INTRODUCTION

- 2.1 The initial Domestic Abuse Strategy was commissioned by the Policy Council in 2006 in order to tackle what had become a significant social problem in the Islands. A draft Strategy was developed during 2007-2008 and a consultation exercise was carried out in 2009.
- 2.2 In July 2009, the States approved a Domestic Abuse Strategy for Guernsey and Alderney for the period 2009-12 (Billet d'Etat XXI) but full funding was withheld until a subsequent States' Resolution in 2011 due to the prioritisation process within the States Strategic Plan. As a result, the period for the Strategy was extended to include 2011-14. At this time the Policy Council was directed to report to the States with a progress update, since the initial States' debate on the Strategy, however responsibility for the Strategy and its budget then moved to the Home Department, which has therefore produced the update report included as Appendix One of this report. An update report should have gone to the States' in 2014, however the high level of response to the survivor survey and consultation, and the consequent scale of the analysis involved, resulted in a delay. The Home Department has continued to fund and support the Strategy throughout 2015 in the interim.
- 2.3 The Strategy is cross-departmental and is overseen by a group of senior officers (DASAG) from the main social policy departments within the States. It is intended that voluntary sector representatives from relevant domestic abuse charities will also join the Advisory Group.
- 2.4 A Strategy Task Group was also set up in 2011 to ensure that the Strategy is embedded operationally. This Group meets quarterly to discuss best practice, share information and form smaller working parties to tackle specific work streams. The Task Group is made up of 35 representatives from relevant States departments and charities.
- 2.5 The Strategy concentrates on four key areas which are:
  - **Prevention:** preventing harmful activity from happening in the first place or from reoccurring;
  - **Protection & justice:** challenging harmful activity when it does happen and delivering appropriate justice and rehabilitation; and
  - **Provision of support:** improving service delivery and increasing safety of victims and their children;
  - **Partnerships:** ensuring that there is a co-ordinated community response to domestic abuse.
- 2.6 The vision of the Strategy incorporates:
  - A. **Consistent positive action from States' departments and other agencies, including:**

- A clear, unequivocal message that domestic abuse is a crime, is unacceptable and will not be tolerated;
- A consistent demonstration of the importance of interagency collaboration and interagency policy implementation including good information sharing;
- The provision of dedicated resources to address policy and practical issues;
- Research and replication of best practice, effective responses and interventions.

**B. The development of better, more equitable, accessible and effective service provision providing:**

- A co-ordinated network of services that meet the needs of all victims and their children;
- Protection and support for all victims who are experiencing domestic abuse and their children;
- Safe solutions for all victims and children escaping domestic abuse;
- Easily accessible information to ensure that help is available for any victim;
- Education and training both to help prevent domestic abuse and to identify it early and provide help and support.

**C. Improved protection and support for victims and effective deterrents through:**

- Holding abusers accountable for their behaviour;
- Recommending potential changes to criminal and civil law where necessary

### 3. CONTEXT

*Who are the victims of domestic abuse in the Islands?*

Many of the new services collect excellent data in relation to their service users, however, as domestic abuse is recognised as being an under reported crime, it is difficult to obtain an Island wide demographic breakdown of those experiencing abuse. A survey of survivors was carried out in 2014, and demographic information was collected within this, however, as participation in the survey was through self-selection, it should not be read as a prevalence survey.

*Age*

The local survey of survivors of domestic abuse showed that the greatest number of respondents were in the 25-34 age bracket (34%) followed by those in the 35-44 bracket (27%). The youngest respondent was 15 and the oldest 68 years old.

The age profile of high risk victims accessing the Independent Domestic Violence Advisory (“IDVA”) Service was younger than the national benchmark,

although there was also a higher proportion of clients aged over 60. The largest age group was 21-30 year olds, which accounted for half (50%) of clients.

### Gender

Within the recent survey of local domestic abuse survivors, 85% of respondents were female and 13% male. The remaining two percent did not wish to disclose their gender.

During 2014, the majority of victims who were classified as high risk were female (94%): 114 were female and 7 were male victims. There has been very little variation in this gender ratio since 2009 when data regarding high risk victims was first captured.

### Ethnicity and Nationality

In 2014, the vast majority (90%) of high risk cases were white British or Irish. Four clients were from other white backgrounds and one client was Asian. Approximately 13% of the refuge's clients last year were from Latvia, 4% were Portuguese. 70% were British, and around 13% were non-European Economic Area nationals.

### Disability

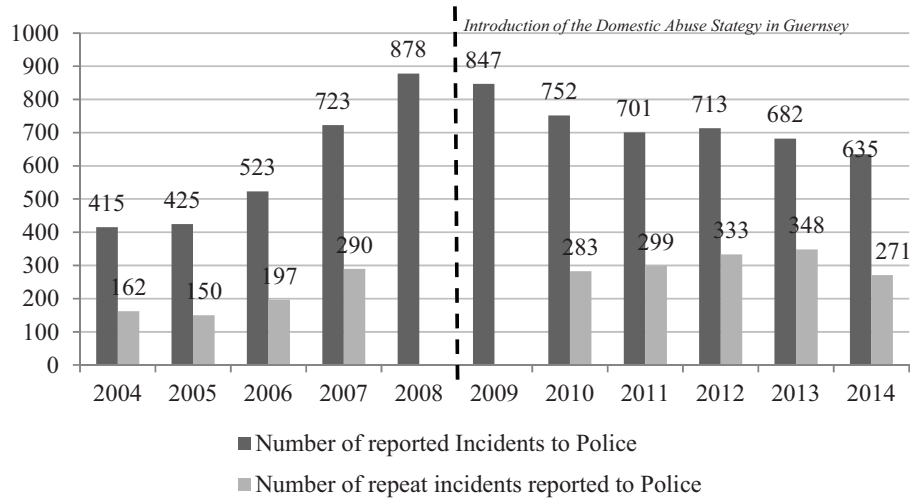
2 high risk domestic abuse victims described themselves as disabled. The local Domestic Abuse Survivors Survey indicated that 5% of respondents identified as disabled.

### Sexual Orientation

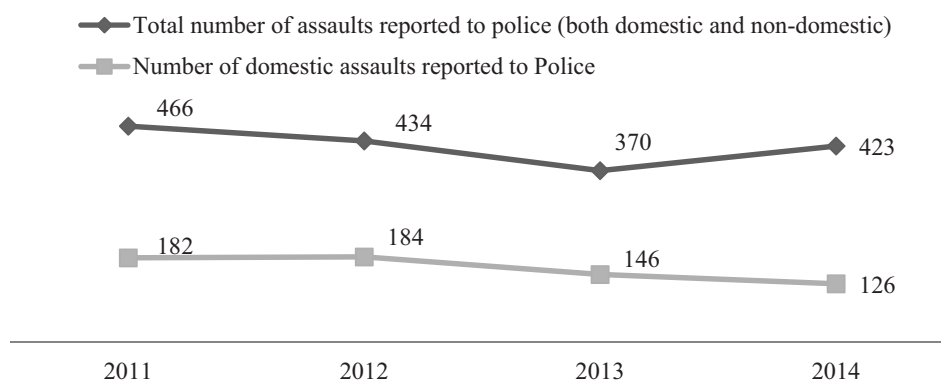
A recent survey of local people who had experienced domestic abuse showed that 9% of respondents identified as Lesbian, Gay, Bisexual and /or Transgender ("LGBT") (16).

### Scale of Domestic Abuse in Guernsey

- 3.1 Since year 2000 in the Islands, three out of four murders and one out of three manslaughter cases, i.e. four out of seven homicides (57%), have been domestic abuse related. The last domestic homicide occurred in 2004.
- 3.2 The Police were called out to 635 incidents of domestic abuse in 2014, which represents a fall of seven percent on the previous year's figures (682). This equates to around 12 incidents being reported every week.

**Figure 3.1: Local Reported Police Incidents**

- 3.3 This level of reporting represents a 53% increase since the statistics were first collated in 2004, when the annual number of reported incidents stood at 415 (eight per week). However, it is a 28% decrease in reporting since 2008, which was the year when the highest reported level of domestic abuse incidents was recorded, which was 878 incidents (17 incidents per week). The year that the Domestic Abuse Strategy commenced, 2009, was the year that reported incidents of domestic abuse began to fall.
- 3.4 A local survey of domestic abuse survivors carried out in 2014 showed that a higher percentage of victims experiencing domestic abuse in the past year were more likely to report it to the Police compared with those who experienced domestic abuse five or ten years earlier. It is hoped therefore that the fall in reporting can be equated to a general fall in the amount of domestic abuse occurring locally
- 3.5 In 2014 domestic abuse represented 30% of all reported violent crime taking place in the Islands, i.e. 126 of the 423 assaults reported to the police were domestic assaults: a 19% fall on the previous year (see graphs below).

**Figure 3.3: Total Number of Reported Assaults and Number of Domestic Assaults**

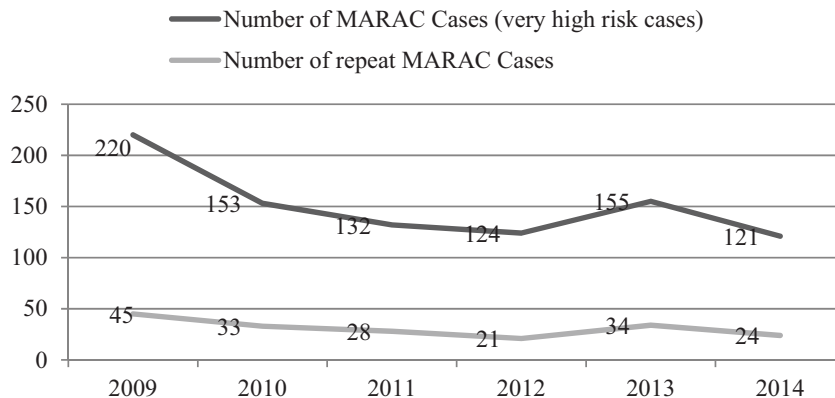
	2011	2012	2013	2014
Percentage of all local assaults that are domestic assaults	39%	42%	49%	30%

- 3.6 In terms of reporting abuse, it is positive to see the number increase in the short to medium term, then fall, as it has in the Bailiwick, as this indicates that victims have confidence in the Police who are the first contact point for many victims. Victims' perceptions of the effectiveness and responsiveness of Police has a major bearing on whether they are prepared to come forward to report and seek assistance for domestic abuse. How Police respond at the scene, investigate the matter and link the victim to other services affects the victim's immediate and longer term safety, and goes on to shape their experience of the criminal justice system. It is vital that victims have confidence in Police to respond appropriately.

#### High Risk Cases of Domestic Abuse in Guernsey

- 3.7 121 high risk cases of domestic abuse were discussed at MARACs in 2014. MARACs promote the safety of high risk victims through the sharing of relevant information about risk and putting in place actions and interventions to reduce that risk.

**Figure 3.4: MARAC Cases in Guernsey**



- 3.8 Based on the Islands' population size, the number of high risk cases is expected to be around 110 per year according to Safe Lives, the United Kingdom national charity that quality assures the MARAC process.
- 3.9 In 2009, the year that MARAC were implemented locally and the Strategy commenced, cases stood at double that figure, 220. Although a few of the cases discussed in the first year may have been inappropriate referrals, there has been a general downward trend in high risk cases, with MARAC cases standing at



121 in 2014. This indicates that there has been a big improvement in effective multi-agency working as a result of the Strategy and the MARAC process, which is vital to ensure the protection of victims and their children.

- 3.10 A United Kingdom national survey regarding the effectiveness of MARACs showed that the most common perceived barrier to success of MARAC was the small percentage of referrals to MARAC from non-Police agencies. The number of cases referred into the local MARAC by non-Police agencies increased from 1% in 2009 to 26% in the first quarter of 2015. National recommendations are for partner agencies to refer between 25-40% of all cases. This increase is very positive in that it shows that partner agencies are engaging well in the MARAC process and are referring clients in before their situation has reached the stage of Police involvement.
- 3.11 The local MARAC / IDVA process appears to be working extremely well. Last year, 85% of victims supported by an IDVA / MARAC stated that they felt safer at exit from the service, compared to 71% nationally. Quality of life improved for 90% of clients since they sought help, compared with around two-thirds nationally.

*Types of Incident Reported to Police where Domestic Abuse is Occurring*

- 3.12 The types of incidents reported to the Police included 43 public order harassment incidents, 13 property offences, ten telecommunications offences, eight breaches of injunctions and three threats to kill. 287 incidents of verbal abuse were recorded but these did not count as offences. There was a decrease in all types of incident in 2014, apart from telecommunications incidents.

	2011	2013	2014
Arson	2	0	0
Assault	184	146	126
Breach of injunction	23	10	8
Sexual Offences	6	3	2
Telecommunications	1	9	10
Threats to kill	10	8	3
Property Offences	33	23	13
Public Order	88	47	43
Murder	0	0	0
Attempted Murder	0	0	0
Witness Intimidation	0	0	1

*Comparisons with United Kingdom Domestic Abuse Statistics*

- 3.13 Relative to population size, the prevalence of domestic abuse incidence reported to the Guernsey Police is currently around two-thirds of the level of that reported in England and Wales. Locally, 140 of the 682 domestic abuse incidents

reported to the Police were recorded as crimes in 2013 (21% of all reported incidents). A higher percentage of incidents were classified as crimes in the United Kingdom (27% in the United Kingdom compared to 21% locally in 2013.) In 2014, this percentage fell to 19% locally (121 of 635 incidents); United Kingdom figures for this period were not available at the time of writing this Policy Letter.

- 3.14 Of the 140 local cases recorded as crimes in 2013, 75 were taken forward for prosecution. 58 of the cases taken forward for prosecution were successfully prosecuted (77%). In 2014, the number of cases taken forward for prosecution dropped to 45; however 80% (36) of these were successfully prosecuted.

### Safeguarding Children

- 3.15 Children were present at 209 domestic abuse incidents that the Police were called to in 2014. In the same period, 53% of children on the Child Protection Register had a 'known history of violence'<sup>1</sup> as a parenting factor (see table below). The number of children on the register has more than doubled since 2009. The child protection figures in the United Kingdom have also increased significantly. The general increase is viewed by experts as being linked to a heightened awareness of child abuse following the death of Baby Peter Connelly in 2008 (a case which became known in the United Kingdom media as "Baby P"), plus the impact of the recession on households leading to a marked rise in ill treatment of children.

Year	Number of Children on the Child Protection Register	Number of Children on Register where 'known history of violence' was a parenting factor	% of Children on Register where 'known history of violence' was a parenting factor
2009	63	32	51%
2010	87	43	49%
2011	82	33	40%
2012	95	45	47%
2013	111	54	49%
2014	137	73	53%

- 3.16 In 2014, violence as a parenting factor was the second most common reason for children to be on the Child Protection Register after problems with alcohol or drugs (see table overleaf).

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<sup>1</sup> The term 'known history of violence' refers to cases where there has been domestic abuse or violence within the household or there has been a violent offence against an adult. Although this does include a few cases where there has been stranger violence, the vast majority of cases within this category involve domestic abuse.

<b>Parental Factors contributing to the registration of children on Child Protection Register</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Problem alcohol /drugs	44	53	50	58	72	82
Mental health condition	40	48	45	44	67	68
Known history of violence	32	43	33	45	54	73
Care episode as child	22	38	23	29	28	37
Physical health condition	4	17	9	10	27	20
Abused as child	29	36	36	25	30	40
Learning disability	15	9	10	11	7	12
Physical disability						0
Sensory Impairment	3	0	2	0	0	0
History of abuse of children	16	28	25	26	21	27

- 3.17 Within the families supported by the IDVA Service in 2014 and discussed at the MARAC, there were 134 children living in, or regularly visiting, these high risk households.
- 3.18 In 2014, Health and Social Services Department's Children and Young People's Post Abuse Therapeutic Service ("PATs") received 50 referrals. 76% of these referrals (38 children) had domestic abuse as the referral criterion or domestic abuse in their history. At exit from the service, 81% of the young service users reported that the therapeutic service had significantly helped them.
- 3.19 Although it is by no means inevitable, for many children and young people exposed to domestic abuse, the abuse is normalised, and there is evidence to support the theory of intergenerational transmission of violence, i.e., that children who witness and experience violence are more likely to use or tolerate violence as adults. Evidence suggests that such children have difficulty forming healthy adult relationships as a result of an increased propensity for violence, antisocial behaviour and a lack of trust. Early intervention work, provided through individual and group therapy from skilled professionals can assist children in working through trauma and help to "break the cycle", i.e. stop the inter-generational repetition of domestic abuse.
- 3.20 At the end of 2014, 15 of the 50 children were still on the waiting list to access PATs. The work is often fairly lengthy due to the harm caused to children - 23 children referred into PATs in 2013 were still being worked with in 2014. Within PATs there are approximately two full time equivalent workers (working a total of 66 hours per week). The Strategy currently funds only ten of the 66 hours. As domestic abuse cases make up around 75% of the caseload, ideally, the Strategy should be funding more of this work. A request to increase the percentage of the service that is funded by the Strategy was received from

the Health and Social Services Department (“HSSD”) this year; however, there is no leeway in the Strategy budget to do this without cutting other work streams such as training or other posts. The 30% of unmet need would require an additional 20 hour post at a cost of approximately £30,000.

- 3.21 Since the Children & Young Person’s Independent Domestic Violence Advisor (“KIDVA”) commenced operations in October 2014 to July 2015, the service has supported 50 children & young people aged five to 18 who were living with domestic abuse. Support lasted, on average, five months. All clients received direct support with safety planning as well as practical assistance and advocacy. On exit from the service, there was a significant reduction in reports of self-harm, depression, and eating or sleeping problems and all service users said that they knew how to stay safe. There was a 56% reduction in the number of children and young people exposed to domestic abuse; a complete reduction in children and young people experiencing direct abuse by a family member; and a complete reduction in the children / young people demonstrating abusive behaviour themselves.

#### **4. WIDER IMPACTS OF DOMESTIC ABUSE**

- 4.1 Domestic abuse has been shown to have wide ranging and long-term social and financial implications. Young people affected by violence and abuse are likely to have lower school attendance rates and less likely to engage and do well in education. Children living in households where there is domestic abuse, mental health issues and alcohol or drug misuse present, are at particular risk of serious harm.
- 4.2 Domestic abuse is often at the root of families with complex needs who fit the criteria for what the United Kingdom Government has termed ‘troubled families’. These families face a range of problems, such as poor parenting, sexual abuse, teenage pregnancy, frequent Police call outs and educational failure. Although families with complex needs cost a great deal in terms of the amount of public services that they utilise, these resources are not necessarily helping to provide long term change. Around 88% of the funding spent each year on these families is being spent *reacting* to problems rather than solving them (£8billion out of £9 billion)<sup>2</sup>. The United Kingdom Government is therefore investing new resources under this programme to help find different ways of working to reduce costs and improve the effectiveness of interventions.

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<sup>2</sup> Department for Communities and Local Government analysis of estimated cross government spending on troubled families (2011)

- 4.3 In 2012, Louise Casey, Head of the Troubled Families Programme, published a report that identified a common theme: the most troubled families were living with domestic abuse or family violence (up to 79% in some authorities)<sup>3</sup>.
- 4.4 There are a number of similar families in Guernsey who have very complex needs and who access numerous services. Many of these families would benefit from input to support and turn around their lives by tackling the underlying root problems rather than the symptoms. The Children & Young People's Plan has identified 'Strengthening Families' as the local version of the United Kingdom's 'Troubled Families Programme'. 'Strengthening Families' will be a key objective of the Children and Young People's Plan and work on this issue in respect of families affected by domestic abuse will form part of this initiative.
- 4.5 Early intervention in relation to domestic abuse could also help reduce the number of people entering the criminal justice system. Links exist between experiencing or observing violence in childhood and future criminal and anti-social behaviour. A United Kingdom study showed that 41% of prisoners said that they had observed violence at home as a child<sup>4</sup>. Women offenders are far more likely to have experienced domestic and sexual violence than the general female population: evidence suggests that between 50% and 80% of women in prison have experienced domestic and/or sexual abuse<sup>5</sup>. In the long term, preventative work to combat domestic abuse is likely to produce cost savings in many areas, including the criminal justice system.
- 4.6 Difficult though it is to quantify, the cost of domestic abuse is very high, both in terms of human suffering and financial costs. In 2009, United Kingdom national costs were estimated to be over £1.5 billion per annum. If local costs are extrapolated from these, based on population size, they are estimated to be around £13 million per annum. The estimate set out in the table overleaf includes the cost of services, lost economic output and human and emotional costs. The estimated costs have dropped significantly since they were set out in the first Strategy. At that time they were estimated to be around £31 million. Explanation of how these figures have been calculated can be found in Appendix Three.

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<sup>3</sup> 4Children (March 2012) *The Enemy Within: 4 million reasons to tackle family conflict and family violence* [http://www.4children.org.uk/Files/8424c693-fa81-4bfe-a919-a01d0136d016/TheEnemyWithin\\_Report.pdf](http://www.4children.org.uk/Files/8424c693-fa81-4bfe-a919-a01d0136d016/TheEnemyWithin_Report.pdf)

<sup>4</sup> Williams, K, Papadopoulou, V and Booth, J (2012) *Prisoners' childhood and family backgrounds Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal cohort study of prisoners* Ministry of Justice Analytical Services, MOJ

<sup>5</sup> Corston, Jean (2007) *The Corston Report: A review of women with particular vulnerabilities in the criminal justice system* (London: Home Office); Hooper, C. (2003) *Abuse, interventions and women in prison: A literature review* (London: Home Office); Social Exclusion Task Force (May 2009) *Short study on women offenders* (London: Cabinet Office and Ministry of Justice) [http://www.cabinetoffice.gov.uk/media/209663/setf\\_shortstudy\\_womenoffenders.pdf](http://www.cabinetoffice.gov.uk/media/209663/setf_shortstudy_womenoffenders.pdf)

	UK Costs 2009	Estimated Guernsey Costs 2009
Criminal Justice Agencies	£1,261m	£1.03m
Health	£1,730m	£1.41m
Social Services	£283m	£0.23m
Housing and Refugees	£196m	£0.16m
Civil Legal Services	£387m	£0.31m
<b>Total Service Costs</b>	<b>£3,857m</b>	<b>£3.14m</b>
Lost economic output	£1,920m	£1.57m
Human and Emotional Costs	£9,954m	£8.13m
<b>Total Service, Employment &amp; Human Costs</b>	<b>£15,731m</b>	<b>£12.84m</b>

- 4.7 In sharp contrast to the significant cost of domestic abuse to the Islands, the level of direct investment in the prevention of domestic abuse and early intervention is low. Most of the funding in respect of domestic abuse is spent across universal and mainstream services and the criminal justice agencies, picking up the pieces after domestic abuse has happened, and responding to expensive high-risk cases. Only around £40,000 of Strategy funding is spent on preventative measures. This equates to around 10% of the Strategy budget, the majority of which is spent on services to protect victims, address harmful behaviour and repair the damage caused by domestic abuse. This means the prospects are lower than they could be of identifying and responding at an early stage to support and protect victims and to stop perpetrators abusing. Due to the success of the services that have been set up, and the vital work they do, funding cannot realistically be diverted from these into preventative measures without reducing services for high risk cases which then increases the risk for victims.
- 4.8 Within the 2016-2020 Strategy, more focus needs to be placed on prioritising investment in prevention and early intervention services, while maintaining the services which respond to crisis and high-risk circumstances.
- 4.9 A number of academic studies containing cost-benefit information on interventions to address or prevent domestic abuse in health and social care sectors showed that improved outcomes could be achieved with a minimal cost increase, and that the value of improved health through violence prevention outweighs net intervention costs, whether that be through the implementation of early intervention programmes or as a result of preventative measures<sup>6</sup>.

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<sup>6</sup> Gold, L., Norma, R., Devine, A., Feder G., Taft, A., & Hegarty, K. (2011). "Cost effectiveness of health- care interventions to address intimate partner violence: What do we know and what else should we look for?" Violence against Women 17.

- 4.10 Recent United Kingdom research carried out for the National Institute for Health and Care Excellence (“NICE”) shows that interventions for victims of abuse saves resources and improves victims’ quality of life<sup>7</sup>. NICE have also conducted an extensive review on domestic abuse<sup>8</sup>, and have published detailed guidance for everyone working in health and social care whose work brings them into contact with people who experience or perpetrate domestic violence and abuse. The recommendations include: the development of integrated care pathways; how to create environments which support safe and appropriate disclosure; improving access to services which improves a comprehensive referral pathway; and the provision of tailored services which take account of the needs of different population groups including those with existing mental health conditions.

## **5. DOMESTIC ABUSE STRATEGY – 2016-2020 CONSULTATION**

- 5.1 The Strategy for 2016-2020 (attached as Appendix Two) has been formulated by the Home Department following advice from DASAG and a comprehensive consultation process. Complex cross-cutting social policy issues such as domestic abuse, often require management actions which go beyond traditional approaches if they are to be tackled effectively, with joined up solutions being identified that take into account the local context. Having a cross-committee strategy with a steering group and an identified lead has really helped to facilitate co-operation and co-ordination amongst agencies, which in turn, has meant that it has been much easier for the Domestic Abuse Strategy to make a positive impact on the lives of those affected. It is imperative that all agencies working with families experiencing abuse continue to support the Strategy during the next five years so that outcomes for families affected are improved.
- 5.2 In preparing the 2016-2020 Strategy, the Department has undertaken three consultation exercises: an initial pre-consultation workshop with staff working with families experiencing domestic abuse; a survey of survivors of domestic abuse; and a public consultation on the resultant draft Strategy.
- 5.3 The Department recognises the importance of engaging with individuals and organisations across the Island in preparing social policy. It was very pleased by the number of people engaging in the consultation process who provided a great deal of useful feedback and a positive response to the resultant draft Strategy.

### *Stage 1: Staff Level Pre-Consultation Workshop*

- 5.4 Staff from States departments and charities attended the pre-consultation workshop which was used to gain feedback on the definition of domestic abuse, the strategic outcomes of the Strategy and the key priority areas for the next five

<sup>7</sup> NICE (2013) Economic analysis of interventions to reduce incidence and harm of domestic violence.

<sup>8</sup> British Columbia Centre of Excellence for Women’s Health, for NICE (2013) Review of Interventions to Identify, Prevent, Reduce and Respond to Domestic Violence; <https://www.nice.org.uk/guidance/ph50>



years. The feedback from this workshop was then prioritised by the DASAG within the Strategy Action Plan.

*Stage 2: Survivors' Survey*

- 5.5 A Survey of local survivors of domestic abuse was completed by 197 survivors. Extensive qualitative feedback was provided in relation to the response received by local services, the criminal justice response to domestic abuse and the perceived gaps in service provision. The results of this survey can be found on the States website at this link: <http://www.gov.gg/article/115291/Domestic-Abuse-Strategy-Policy-and-Research-Documents>
- 5.6 The key findings from the survey were as follows:
- The most common form of abuse experienced was emotional or psychological abuse such as being criticised and belittled, name calling and being accused of lying about the abuse. 173 respondents experienced this form of abuse (94% of those answering the question).
  - 132 respondents (71% of those answering the question) experienced physical abuse such as slapping, punching or strangling.
  - 129 said that they had been controlled in terms of who they were allowed to talk to, where they could go or what they could wear (70% of those answering the question).
  - 84 experienced financial abuse, such as having their money taken from them, or having no say in the financial decisions within their household (45%)
  - 74 were stalked or harassed (40%).
  - 62 experienced sexual abuse, being forced into sex acts against their will (34%).
  - 29 were abused through social media, receiving abusive posts on Facebook, being stalked online or having had intimate photographs shared online (16%).
  - Only 59 of 145 respondents answering the question stated that the domestic abuse had been reported to the Police (41%).
  - 46% of those who reported it to the Police said their abuser had been arrested (27 out of 59).
  - Out of the 27 arrested, 22 were taken to court (81%), with 14 of those being found guilty (64%).
- 5.7 Few of those experiencing domestic abuse had spoken to statutory or voluntary services about their situation. Police and health professionals were the agencies that the greatest number of survivors said that they had contacted. This indicates that more publicity is needed regarding the services and the type of support that the statutory and voluntary services are able to offer.
- 5.8 The main reasons given for not coming forward to seek support were feelings of shame and being concerned that they would not be believed. Many also said that at the time of the abuse, they did not understand that what they were

experiencing was actually domestic abuse. It is therefore vital that victims receive always positive and sensitive response from agency staff across all services when disclosing abuse, and that specialist domestic abuse agencies have the skills to carry out motivational work and actively impart knowledge about what domestic abuse is.

- 5.9 The types of support that would be used by the most respondents were phone line support and counselling. Female victims would most consider using counselling followed by helpline support and emotional support for children and young people. Counselling, phone line support and support in relation to parenting were the services that the greatest number of male survivors said they would use. Few male survivors envisaged accessing refuge support and sexual abuse services: three out of 12 male respondents answering the question stated that they would consider using refuge services (25%) compared to 75 of 102 female survivors answering the question (76%).
- 5.10 Recommendations from the survey findings that have been added to the Strategy Action Plan include:
- More publicity work to be carried out in the following areas:
    - Raising awareness with the public that domestic abuse rarely gets better without support, generally escalating in terms of frequency and severity over time.
    - Ensuring that the public is aware of what constitutes domestic abuse i.e. a pattern of controlling and coercive behaviour that encompasses far more than physical abuse.
    - Ensuring that survivors are provided with information about the financial support available in terms of benefits and allowances.
    - Raising awareness of the impact of domestic abuse on children and young people.
  - The Law Officers of the Crown and Guernsey Police continue to seek ‘evidence-led’ prosecutions where there is sufficient evidence to do so, adhering to national best practice.
  - To put in place measures to help increase the rate at which domestic abuse is reported and successfully prosecuted, taking on board the recommendations within the United Kingdom HM Inspectorate of Constabulary report ‘Everyone’s business: improving the Police response to domestic abuse, 2014.’
  - A Review of the local legislation and the criminal justice processes in relation to domestic abuse is carried out.

- Members of the local religious communities should be contacted to see if they would be interested in working with the Domestic Abuse Strategy to help create local guidance on domestic abuse.
- Specialist domestic abuse services obtain feedback from service users on an ongoing basis to inform their practice.
- As Health Professionals are the group most likely to be contacted regarding domestic abuse, a resource manual should be developed and published to assist health professionals in identifying and supporting victims of domestic abuse. Information about the MARAC process and the specialist domestic abuse services will be disseminated to Primary Care practices and other medical professionals on a regular basis in order to ensure that they are well equipped to support clients who are experiencing domestic abuse.
- In order to ensure that all relevant agencies are fully aware of the function of the MARAC, short 'taster' sessions will be offered to individual teams within the voluntary and statutory services to ensure that the process is clear, that agency staff understand the function of MARAC and how to refer clients in and to familiarise them with the operational and information sharing protocols. Safer LBG will also be rolling out more comprehensive one day training sessions on risk assessment in relation to domestic abuse for any staff who are likely to need to refer clients in to MARAC.
- Generic Services with a social agenda such as those provided by the Housing, Social Security and Health & Social Services Departments consider adopting 'minimum standards' in relation to early intervention which would include:
  - Displaying domestic abuse posters in all public areas
  - Providing domestic abuse information (leaflets, crisis cards for example)
  - Ensuring relevant staff receive domestic abuse training.
  - Displaying clear public information on their specific role and responsibilities in relation to domestic abuse.
- Consideration should be given to ensuring that the domestic abuse helpline is a 24 hour service rather than one operated during office hours.
- Work should be done to ensure that existing counselling services are accessible to people experiencing abuse and to identify if there are specific gaps in the type of counselling provided.
- The need for additional satellite refuge provision in relation to 'move on' accommodation from the refuge should be considered, particularly in relation to some of the groups who are currently unable to access the refuge

such as disabled people, male victims, survivors with older male children / large families.

- The levels of sexual abuse experienced both by survivors of domestic abuse and those experiencing sexual assault by strangers should be monitored to see whether sexual abuse services are needed locally.
- As the number of respondents within some minority groups was low, ex-service users from these groups should be sought to provide additional feedback within the next five years.
- To offer disability services domestic abuse awareness raising training in order to provide early intervention in relation to their service users.

#### Departmental Consultation

- 5.11 The HSSD and the Education Department have been consulted and are supportive of the 2016-2020 Strategy which is complementary to the actions being brought forward as part of the Children's and Young Peoples Plan.

#### Stage 3: Public Consultation on the draft Strategy

- 5.12 There was a good response to the public consultation on the draft Domestic Abuse Strategy 2016-2020, with 79 members of the public, seven charities, five States departments / agencies and one private sector organisation completing the online questionnaire. Letters were also received from the Education Department, Guernsey Police, Probation Service, Housing Department and Policy Council.
- 5.13 The majority of respondents were supportive of the Strategy. Comprehensive qualitative feedback was received. Many themes emerging from this tied in with the findings of the Survivors Survey and were translated into Strategy actions. Additional actions relating to the consultation include:
- To create a financial guide for victims of abuse.
  - To gather better data in relation to teenage pregnancy and sexual exploitation and domestic abuse.
  - To adopt a separate definition for children and young people and vulnerable adults.
  - To review domestic abuse victims' ability to access the necessary legal measures including access to legal aid.
  - To consult with Liberate regarding the information needs of the LGBT community.
  - To make links with the GSPCA to create a Strategy action relating to domestic abuse /animal abuse.

- To ensure that departments are responsible for the actions within the Strategy action plan instead of the DASAG, which would be responsible for the monitoring of these actions.

## **6. 2016-2020 STRATEGY**

- 6.1 The full 2016-2020 Domestic Abuse Strategy is detailed in Appendix Two. Key areas of focus for, and change in, the Strategy are described within this section.
- 6.2 The Strategy is fully aligned to the States' Strategic Plan ("SSP") and its objectives to maintain a safe and healthy Bailiwick and to afford its citizens equality, social inclusion and social justice.
- 6.3 The Domestic Abuse Strategy fits with many of the States' Social Policy Plan's general objectives including:
- An inclusive and caring society which supports communities, families and individuals;
  - A healthy society with safeguards for vulnerable people;
  - A safe and secure Bailiwick;
  - Greater equality, social inclusion and social justice.
- 6.4 One of the key themes within the Domestic Abuse Strategy for 2016-2020 is the need for more early intervention and preventative measures to help tackle domestic abuse. This aligns with specific objectives within the 2013 States' Social Policy Plan which are to focus on prevention, health improvement, protection and independence and to place stronger emphasis on prevention, pre-offending, rehabilitation and victim-centred services.
- 6.5 Domestic abuse is not just a criminal justice issue – it is also a human rights issue, a public health issue, a child protection issue, a mental health issue and a housing issue. As such, all relevant sectors need to play their part, including States' departments, community groups, employers, housing organisations and health organisations. The Strategy benefits from, and is reliant on, strong partnership working with the third (voluntary and community) sector, which is another objective of the current States' Social Policy Plan.

### *New Definition of Domestic Abuse*

- 6.6 While the vision of the Strategy remains unchanged, the definition of domestic abuse has been updated to mirror changes made in the United Kingdom to include specific reference to controlling and coercive behaviour. 94% of the Strategy consultation respondents agreed with the change of definition which is now:

*Any incident or pattern of incidents of controlling<sup>9</sup>, coercive<sup>10</sup> or threatening behaviour, violence or abuse between those who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse:*

- *psychological*
- *physical*
- *sexual*
- *financial*
- *emotional*

- 6.7 The changes were made as it has been widely understood for some time that coercive control is a core part of domestic abuse. As such, the extension does not represent a fundamental change in the definition. However it does highlight the importance of recognising coercive control as a complex pattern of overlapping and repeated abuse perpetrated within a context of power and control.
- 6.8 Without the inclusion of coercive control in the definition of domestic violence and abuse, there may be occasions where domestic abuse could be regarded as an isolated incident. As a result, it may be unclear to victims what counts as domestic violence and abuse – for example, it may be thought to include physical violence only. The first incident reported to the Police or other agencies is rarely the first incident to occur; in most cases people have been subject to violence and abuse on multiple occasions before they seek help.

#### Outcomes Focus within the New Strategy

- 6.9 The initial Strategy set out all the actions and work streams that were desirable in terms of services. Key performance indicators were based around outputs rather than outcomes, e.g. the number of individuals accessing a service, rather than the difference that that service made to the individual in terms of safety and wellbeing. This will change in the 2016-2020 Strategy, where the key outcomes will be:
- a) **An increase public and professional awareness of the prevalence and harm caused by domestic abuse and of the support services available.**
  - b) **An increase in the knowledge and skills of children, young people and adults about forming healthy relationships.**

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<sup>9</sup> Controlling behaviour is defined as a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

<sup>10</sup> Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

- c) **An increase in the safety of victims / survivors (adults and children).**
  - d) **A reduction in the risk of harm from perpetrators.**
  - e) **Ensuring that services are effective and responsive to the needs of victims / survivors of domestic abuse.**
  - f) **Ensuring that justice responses to domestic abuse are effective.**
- 6.10 These will be underpinned by Key Performance Indicators within both the Strategy and service level agreements relating to individual services, as shown in Appendix 2.

Priority Areas of Focus

- 6.11 The Strategy for 2016-2020 will have five priority areas of focus which are:
- 6.12 *Early intervention to encourage disclosure and signposting to specialist services.*
- 6.12.1 *In line with United Kingdom national policy, a large area of focus within the initial Strategy was to support a relatively small number of high risk cases through the MARAC and IDVA Service. Without doubt, these initiatives have saved lives, and will continue to do so, but more emphasis now needs to be placed on supporting lower risk individuals and families, putting in place early intervention initiatives before real harm is done.*
  - 6.12.2 *Many individuals are not reporting the abuse and are dealing with the problem with only informal support from family and friends. As a consequence, when the agencies do get involved, the families concerned have been living with domestic abuse for a significant period of time and the level of risk may have escalated.*
  - 6.12.3 *Interventions at the high-risk end of victimisation can be less successful because of the complexity of a high-risk individual's circumstances and far more expensive to deal with. Despite the difficulty of quantifying the impact of preventative work, best value in terms of service provision has to lie in prevention and early intervention, whilst ensuring that those who are suffering the worst violence receive a professional service.*
  - 6.12.4 *Health services spend more time dealing with the impact of domestic abuse than almost any other type of agency and they are often the first place a victim will disclose abuse. The response by health practitioners to victims, who can be isolated and fearful as a result of the abuse, is critical to their future wellbeing. However, some health practitioners have limited knowledge in how to identify or respond appropriately to domestic abuse victims, leading to increased risk for victims and children and a huge cost impact in terms of healthcare provision.*



- 6.12.5 All front-line health practitioners (and others in settings such as social housing agencies) need to be able to respond appropriately to individuals experiencing violence/abuse. In practice, this means ensuring that GPs, midwives, social workers, mental health staff and other front line workers - who see the early signs or receive the initial disclosures of domestic abuse, are able to identify abuse confidently and sensitively and have in place clear referral pathways to signpost those experiencing it to the relevant specialist services. Work in this area has already started to take place with the Drug & Alcohol Services which now incorporate routine enquiry into domestic abuse as part of their casework processes and it is hoped that further training and care pathways can be put in place with other agencies within the next few years.
- 6.12.6 An important development this year is the next Children & Young People's Plan for Guernsey and Alderney ("CYPP") which will cover the next six years. Within this, children living with domestic abuse have been identified as one of several groups of children classified as being 'in need'. The Domestic Abuse Strategy will ensure that it is closely aligned with the CYPP as it is developed and put into practice.
- 6.12.7 An initiative this year in terms of early intervention is the development of a local multi-agency support hub, or "MASH" which draws together staff from different agencies to consider children in need or at risk of harm. A high proportion of these families are experiencing domestic abuse.
- 6.12.8 The Strategy and action plan will also need to align with all agencies for which domestic abuse is a direct or indirect priority and work effectively with other strategies including the Criminal Justice Strategy, Mental Health Strategy, the Drug & Alcohol Strategy, the draft SLAWS, the Sexual Health Strategy and the Children & Young People's Plan.
- 6.13 *Addressing the needs of young people affected by domestic abuse, both those living with abuse in their family and those experiencing abuse in their own intimate relationships.*
- 6.13.1 Thus far, due to the Strategy budget being allocated to other areas of essential work, little intervention work has been carried out in relation to young people who are experiencing abuse in their own intimate relationships (both in relation to those who are being victimised and those who are displaying controlling and abusive behaviour).
- 6.13.2 Locally, the prevalence of domestic abuse in teenage relationships is apparent within Action for Children's ("AfC") clients. In 2014, 30 of AfC's male clients (29%) and 34 of their female clients (36%) disclosed some form of domestic abuse. 18 of their male clients (17%) and 15 of their female clients (16%) were known to have perpetrated abuse. In 2013, of the 42 young female parents AfC was working with, 20 were victims of domestic abuse, 19

had current or historical issues with alcohol and 13 had a care history of some sort. Of the 23 young male parents they were working with, 20 had some record of offending behaviour, 16 had current or a history of drug issues and 14 a current or history of alcohol issues.

- 6.13.3 It is often difficult to engage teenagers living with domestic abuse in one-to-one therapeutic work, and it has been shown that teenagers often benefit from working with peers who have been experiencing similar problems in group programmes. Evaluation of group work programmes has demonstrated effective outcomes. The groups can help young people feel less responsible for the violence and increase their self-esteem while learning about non-violent conflict, empathy, how to keep safe and examining the consequences of their own violent behaviour, and helping to prevent the inter-generational transmission of domestic abuse and violence. An example of one such programme which has been positively evaluated by Southampton University is the Hampton Trust's LINX Programme (details of this can be found in Appendix Five). It is hoped that a group work programme can be piloted locally, subject to additional funding being secured.
- 6.14 *Putting in place protocols to identify and address the needs of families / individuals who are experiencing a combination of domestic abuse, mental health and drug/alcohol misuse.*
- 6.14.1 The co-existence of domestic abuse, substance misuse and mental health issues was highlighted in Lord Laming's Review following the report into the death of 'Baby P'. A key recommendation from this report was that:
- 'The National Safeguarding Delivery Unit should urgently develop guidance on referral and assessment systems for children affected by domestic violence, adult mental health problems, and drugs and alcohol misuse using current best practice. This should be shared with local authorities, health and Police with an expectation that the assessment of risk and level of support given to such children will improve quickly and significantly in every Children's Trust'*<sup>11</sup>.
- 6.14.2 Guernsey Police officers reported that at 265 of the 635 incidents they were called out to in 2014, the perpetrator had been using alcohol and/or drugs (42% of incidents). Given the prevalence of mental ill health and substance misuse in the lives of local families that are discussed at MARAC, plus what is known of the impact of abuse on children's psychological development, it is important that further work is carried out to address the specific risks faced by children living in households where these issues are present.

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<sup>11</sup> Lord Laming. The Protection of Children in England: A Progress Report. London :The Stationery Office, 2009. [http://dera.ioe.ac.uk/8646/1/12\\_03\\_09\\_children.pdf](http://dera.ioe.ac.uk/8646/1/12_03_09_children.pdf)

- 6.14.3 Stronger links need to be made between those whose work it is to safeguard children and those who are working with high risk victims. Training is required on domestic abuse for mental health and substance misuse workers to encourage them to screen for domestic abuse; to ensure that they have a good understanding of the impact of domestic abuse in relation to the safeguarding of children and victims of abuse and the behaviour of perpetrators; and to ensure that staff are aware of where to signpost or refer victims and follow child protection procedures.
- 6.15 *Improving data collection and performance monitoring processes in relation to domestic abuse*
- 6.15.1 Although robust data collection systems have been put in place to monitor outcomes in relation to all the new commissioned third-sector services, there is still some difficulty in capturing data within many of the statutory services. A way needs to be found of joining the data up to track victims, children and perpetrators through the system to measure successes and issues within the domestic abuse partnership and its processes.
- 6.15.2 There needs to be a system of accountability developed which all partner agencies sign up to. It is hoped that within this lifetime of this 2016-2020 Strategy, all relevant agencies with a social policy agenda should be able to provide data that demonstrates the impact of domestic violence within their agency (it may not be necessary to introduce new datasets; many statutory services already possess data relating to this issue (e.g. Police, Probation, the IDVA Service). Agreed outcomes and indicators that establish their success should also be in place and a baseline number to all indicators, which can then lead to targets.
- 6.16 *Ensuring that the criminal justice response to domestic abuse is effective*
- 6.16.1 A great deal of important work has been carried out in relation to the Protection & Justice work streams, including the successful development of MARAC and an Independent Perpetrator Programme. Due to competing priorities in relation to the Domestic Abuse Strategy Coordinator's time, there has been a delay in the review of court processes that was an area of work set out and agreed by the Assembly in the initial 2011-2014 Strategy Action Plan.
- 6.16.2 Both the Survivors' Survey and the Strategy Consultation responses affirmed the need for a review of legislation relating to domestic abuse in light of numerous changes that have taken place in the United Kingdom in order to afford better protection to victims of domestic abuse. In relation to the prosecution of domestic abuse cases in the United Kingdom, the Crown Prosecution Service has introduced a structure to drive improved outcomes on prosecuting cases involving violence against women and girls with local areas held to account by the Director of Public Prosecutions.

- 6.16.3 Within the consultation questionnaire, the questions relating to the Law provided the greatest number of comments with 27 people providing qualitative feedback about whether protection in law was adequate and 38 respondents providing feedback on what could be done to strengthen it. 49% felt that the law did not provide sufficient protection and 37% were unsure.
- 6.16.4 The criminal justice response is therefore flagged as high priority area of work within the next phase of the Strategy which will also need to be carried out in close conjunction with important key but wholly independent stakeholders such as the Courts.

*Gender Neutrality*

- 6.17 Six respondents to the Domestic Abuse Strategy consultation felt that male and female domestic abuse is viewed and treated differently and that there was insufficient support provided for male victims. A couple of these respondents indicated that this did not just apply to Guernsey but was perceived as a bias embedded more broadly in public policy relating to domestic abuse.
- 6.18 DASAG and the Home Department feel that there is a need to raise awareness of the issue of male survivors amongst the public and practitioners; and to advertise services for male survivors more widely. It is, however, important to ensure that declarations of gender bias are not distorted as it is a fact that domestic abuse disproportionately affects women and children. Approximately 89% of victims who experience more than one incident of physical violence are female<sup>12</sup>, with women being more likely than men to experience multiple forms of abuse. Women are more likely to experience sexual abuse, or experience stalking and harassment post separation, hence the need for specific refuge provision for women.
- 6.19 Since 2010, there has been a policy shift in relation to domestic abuse in the United Kingdom with a move to a more gendered analysis of domestic abuse. This has been driven by respected international bodies such as the United Nations' General Assembly, the World Health Organisation and UNICEF. Within this policy shift, domestic abuse is viewed as part of a continuum of gender based violence, which is collectively referred to as 'Violence against Women and Girls' (sometimes abbreviated to "VAWG"). It covers a range of crimes including rape and sexual violence; stalking and harassment; commercial sexual exploitation including prostitution, pornography and trafficking; harmful practices such as Female Genital Mutilation, Forced Marriage and Crimes

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<sup>12</sup> Home Office Research Study 276, Domestic violence, sexual assault and stalking: findings from the British Crime Survey.

committed in the name of ‘honour’<sup>13</sup> (“HBV”); and sexual harassment in the workplace and public domain.

- 6.20 As a result a VAWG Strategy and Action Plan<sup>14</sup> has replaced national domestic abuse strategies in England, Wales and Northern Ireland, with the Home Secretary and Crown Prosecution Service<sup>15</sup> recognising that the gendered patterns and dynamics involved in domestic abuse need to be acknowledged and understood in order to provide an appropriate and effective service to victims and perpetrators of domestic abuse.
- 6.21 The 187 out of 194 countries worldwide that are signed up to the Convention on the Elimination of all Forms of Discrimination Against Women (“CEDAW”) are obligated to put in place a human rights based approach to address violence against women. Further information in relation to the national shift to a VAWG Strategy is attached as Appendix Four.
- 6.22 As with the Strategies for England, Wales and Northern Ireland, in 2008, the initial Domestic Abuse Strategy for Guernsey and Alderney was created as a gender neutral document. The Home Department is of the view that for the next five years at least, the Strategy should remain as a Domestic Abuse Strategy rather than becoming a VAWG Strategy, while at the same time, recognising that women and men’s experience of violence is intrinsically different and, as such, responses may need to be different.
- 6.23 In September 2003 (Billet d’Etat XXI, 2003 p. 1923) and July 2007 (Billet d’Etat XVIII, 2007) the States agreed to prioritise work to allow CEDAW to be extended to Guernsey and this work is ongoing. The need for a local VAWG Strategy should perhaps be reviewed at the point that CEDAW is extended to cover the Bailiwick.

#### *Other Issues Considered in the Formulation of the Strategy*

- 6.24 Several other themes emerged from the consultation feedback, which was too lengthy to include in full within this Policy Letter. Individual consultation responses have not been included here as much of it was very specific and personal which could potentially identify Islanders, many of whom were

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<sup>13</sup> “Honour based violence” or “violence committed in the name of ‘honour’ (HBV) are umbrella terms to encompass various offences covered by existing legislation. Honour based violence (HBV) can be described as a collection of practices, which are used to control behaviour within families or other social groups to protect perceived cultural and religious beliefs and/or honour. Such violence can occur when perpetrators perceive that a relative has shamed the family and/or community by breaking their honour code. HBV is a violation of human rights and may be a form of domestic and/or sexual violence. There is no honour or justification for abusing the human rights of others.

<sup>14</sup> Home Office (2010) *Call to End Violence to Women and Girls*. London: Home Office.

<sup>15</sup> Equality and Diversity Impact Assessment on the CPS Violence Against Women Strategy and Action Plan [http://www.cps.gov.uk/publications/equality/vaw/vaw\\_eia.html](http://www.cps.gov.uk/publications/equality/vaw/vaw_eia.html)

domestic abuse victims. The feedback has been shared with the agencies which it relates to.

- 6.25 Eight people referred to the negative impact of domestic abuse on children and young people and the importance of services to support these children. Specific issues regarding domestic abuse and young people included the impact of web pornography on the development of a good understanding of what a healthy relationship is; concerns around young people's use of social media to share inappropriate images, which could then be used to threaten, or humiliate a partner; and concerns about sexual violence and grooming and the links to teenage pregnancy. A great deal of education around domestic abuse is already provided for children and young people, but gaps in service provision and unmet need will be highlighted further on in this report.
- 6.26 Five people commented on the funding of the Strategy, stating that adequate funding was needed if it was to work. Two respondents that work for services commissioned by the Strategy said that they felt that the funding of their services needed to be uprated in line with RPI or RPIX if the charities concerned were to be able to continue to provide the same level of service over time.
- 6.27 The Housing Department highlighted that it had made offers of support in providing move on housing for domestic abuse victims exiting the refuge and other groups who could not be housed within the refuge such as large families, male victims and disabled victims. It has been agreed with Housing that the refuge will continue to monitor the level of need to ensure that the development of additional satellite refuge provision such as this is sustainable.
- 6.28 The fact that victims often stayed with perpetrators because they are financially dependent on them was highlighted by one respondent with several others having concerns about the accessibility of legal support. DASAG suggests that a financial guide along the lines of Refuge United Kingdom's guide should be created. This could include information on welfare benefits and allowances, legal aid, debt management and housing support.
- 6.29 The Guernsey Society for the Prevention of Cruelty to Animals highlighted the links between animal abuse and domestic abuse and offered to assist with a strategy in spotting related signs that could indicate domestic abuse in a household, offer practical assistance with pets of victims of abuse and ensuring that its staff received training in relation to domestic abuse. This has been included in the Action Plan as an action to investigate further.

## **7. FINANCES**

### *Financial Position of the Strategy*

- 7.1 The annual budgeted cost of the Domestic Abuse Strategy for 2015 was just over £381,000 including the transfer of the Social Security Department Refuge



Grant and the grant to the Supervised Contact Centre (previously held by HSSD).

7.2 It should be noted that although most of the new core services within the Strategy have been funded by the States and contracted out to charities, the demand for these services (particularly the IDVA Service) has grown which has meant that the agencies concerned have sought supplementary funding from charitable sources. This has added considerable value to the Strategy. Charitable sources of funding include:

- £73,230 over two years (2013/14) from the Lloyds Bank Foundation for the Channel Islands salary to cover the costs of the IDVA Service Administrator plus funding to continue to employ IDVA support staff.
- £84,210 over two years (2014/15) from BBC Children in Need to fund the pilot of a KIDVA. The Guernsey Community Foundation awarded Safer with a grant of £43,840 in 2015 to cover the wages of a short-term change management post and to set up a business intelligence system.

7.3 Most refuges in England and Wales obtain their core funding from a statutory funding source – the Supporting People fund - which provides funding for housing services for various groups of vulnerable adults. Locally around 50% of the Guernsey Women's Refuge's running costs are met by the States, with the refuge being reliant on fundraising and charitable grants to meet the £60,000 annual shortfall. In 2015 the refuge has received:

- £44,965 from the Lloyds Bank Foundation to cover the management costs at the refuge.
- The Association of Guernsey Charities provided a grant of £15,000 for refuge staffing.

The likelihood of ongoing funding being available from these sources is far from guaranteed, as the demand for grants from local charities increases each year. The rising costs to the domestic abuse charities and the lack of security around funding could lead to financial difficulties for these organisations by 2017 unless charitable grants are continued or alternative sources obtained.

7.4 The demand on the statutory services which are funded by the Strategy has also grown. As set out in paragraphs 3.19-3.21, the PATS, which is partially funded through the Strategy, has been unable to meet 30% of the demand for therapeutic work with children and young people recovering from abuse. A higher than estimated number of MARAC cases has also meant that the MARAC Administrator's hours have been increased from 12 to 16 hours per week in order to deal with the volume of work. Increased funding for the MARAC administrator post has resulted in a reduction in the Strategy's training budget.



Financial recommendations

- 7.5 Although there are many services and areas of work where an increase in budget would be desirable it is recognised that due to the current financial climate the Strategy must prioritise and mindful of the fiscal objective of a 'real terms freeze on aggregate States' revenue expenditure' the Department has decided not to request additional funding at this time. The Department will review how this can be achieved in 2017. In summary there are three areas where it is considered additional funding will be required in order to meet unmet need and gaps in provision.
- 7.5.1 During the first four years of the Strategy, incremental rises had been built into the Service Level Agreements for the tendered out services such as the IDVA Service, Education and Perpetrator Programmes to ensure that the services were able to increase staff wages and other costs in line with RPIX. In 2015, no increase in budget was provided. The States' funding for the Supervised Contact Centre, which transferred across to the Strategy from HSSD's Children & Young People's Plan Budget last year, has not been increased since the service was set up in 2009. To ensure that the service provision within the commissioned out services is not diminished, and to prevent the loss of staff, many of whom have had a great deal of training invested in them, it is imperative that there is some leeway in the Strategy budget to uplift service level agreements and to allow for changes in costs at the point of re-tendering (which is due to take place during the 2016-2020 period). The Strategy budgets for training and awareness raising also need to be increased to allow for the additional actions set out in the Strategy Action Plan relating to prevention and early intervention.
- 7.5.2 To address significant gaps in relation to important work required to support young people living with abuse and /or displaying harmful behaviour. This multi-agency work is likely to have significant benefits in relation to areas such as youth offending and adolescent mental health by building the resilience and self-esteem of young people who are affected by family violence, by building empathy and encouraging young people to look at the consequences of their violent behaviour. To provide early intervention work with young people living with domestic abuse, the Home Department would require funding for the development of a group work programme at an annual cost of £20,000. Details of this type of programme can be found in Appendix Five (LINX Programme).
- 7.5.3 In order to address unmet need within the PATS the Home Department would require an additional £33,000 per annum to provide an additional 20 hours of therapeutic work each week. The Service currently has unmet need of around 30%. If we are to ensure all children and young people affected by domestic abuse have access to specialist services that can help repair the harm caused to them, there will be a need to expand PATS. Employing an additional part time member of staff would allow the service to offer intensive therapeutic

support to the 15-20 children and young people per year who are unable to access the service due to the high level of demand for therapeutic support.

- 7.6 Retaining the budget at 2015 level of just over £381,000 is considered critical to maintain the existing tendered out services such as the IDVA Service, Perpetrator Programme, Education Programme, Refuge and Supervised Contact Service (providing that additional charitable funding can be obtained to top up many of the services). The existing budget also provides for the Domestic Abuse Strategy Co-ordinator, MARAC Administrator and one third of a social worker's post in relation to the PATS and a small budget for training and development, publicity and awareness and data collection/ ICT costs of £13,250.
- 7.7 In summary, the proposed/requested Strategy budget can be broken down as follows:

	<b>2015</b>	<b>2016</b>	<b>2017-2019</b>
<b>Home Department Budget for the Domestic Abuse Strategy</b>	<b>381,022</b>	<b>382,700</b>	<b>382,700</b>
<b>Additional Funding Requested</b>			
Group Work Programme			£20,000*
Additional funding for PATS			£33,000*
Provision for regular uplift of contracted out / re-tendered services (Refuge provision, IDVA Service, Perpetrator Programme, Education Work in Schools and Community, Supervised Contact Centre) plus the funding of awareness raising campaigns and training. The latter will be front loaded in the first two years to put in place additional training.			£20,000*
<b>Total</b>	<b>£381,022</b>	<b>£382,700</b>	<b>£455,700*</b>

**\*Subject to the Department finding a way in which to fund these new services from (para 7.5).**

## **8. LEGISLATIVE CHANGE**

- 8.1 In light of the consultation feedback regarding local legislation and court processes, the Home Department is keen to ensure that a review of the legislation relating to domestic abuse remains a priority within this next phase of the Strategy. This is likely to have some impact on the Law Officers of the Crown.

## **9. DEPARTMENTAL RESPONSIBILITIES**

- 9.1 The Action Plan itself documents all of the work streams linked to the Strategy, but an outline of the higher level overarching departmental responsibilities linked to the Domestic Abuse Strategy are set out overleaf:

Department	Actions
Education Department ( <i>Committee for Education, Sport &amp; Culture</i> )	<ul style="list-style-type: none"> <li>• Tackle bullying, including sexual bullying.</li> <li>• Ensure that Domestic Abuse Education Work streams are provided in all educational establishments in the Islands to promote healthy relationships and challenge attitudes that tolerate domestic abuse and gender inequality.</li> <li>• Ensure key staff within schools and education establishments attend domestic abuse training in order to help identify and support families and children living with abuse.</li> <li>• Display information relating to Domestic Abuse in schools and educational establishments.</li> </ul>
Home Department ( <i>Committee for Home Affairs</i> )	<ul style="list-style-type: none"> <li>• Ensuring that the Criminal Justice Response to domestic abuse is effective.</li> <li>• Display information relating to domestic abuse within the Department, e.g. posters, leaflets about domestic abuse services etc.</li> <li>• Ensure key staff within the Department attend domestic abuse training in order to help identify and support families and children living with abuse.</li> <li>• An increase in the reporting and detection of domestic abuse.</li> </ul>
Housing Department ( <i>Committee for Employment &amp; Social Security</i> )	<ul style="list-style-type: none"> <li>• Ensure appropriate immediate and long-term housing is available for victims of domestic abuse and violence.</li> <li>• Ensure relevant staff are adequately trained order to help identify and support families and children living with abuse.</li> <li>• Display information relating to domestic abuse within the Department, e.g. posters, leaflets about domestic abuse services etc.</li> </ul>
Health & Social Services Department ( <i>Committee for Health &amp; Social Care</i> )	<ul style="list-style-type: none"> <li>• Recognise domestic abuse and violence against women as a cultural determinant of health.</li> <li>• Ensure health and social care professionals are adequately trained regarding all forms of domestic abuse, provide guidance and ensure delivery against guidance.</li> <li>• Providing an effective immediate and long term health and welfare service for victims of abuse, including mental health care.</li> <li>• Display information relating to domestic abuse within the Department, e.g. posters, leaflets about domestic abuse services etc.</li> </ul>

Policy Council ( <i>Policy &amp; Resources Committee</i> )	<ul style="list-style-type: none"> <li>• Ensure that other cross-departmental Strategies link in with the Domestic Abuse Strategy</li> <li>• Recognise links between domestic abuse and poverty and social exclusion.</li> </ul>
Treasury & Resources Department ( <i>Policy &amp; Resources Committee</i> )	<ul style="list-style-type: none"> <li>• Ensure appropriate funding is in place in order to deliver the Domestic Abuse Strategy.</li> </ul>
Social Security Department ( <i>Committee for Employment, Housing &amp; Social Security</i> )	<ul style="list-style-type: none"> <li>• Ensure that domestic abuse victims are able to access all benefits that they are entitled to.</li> <li>• Provide a rent deposit scheme that is accessible to all victims of abuse who meet the threshold for supplementary benefit payments and the criteria of the scheme.</li> <li>• Ensure relevant staff are adequately trained order to help identify and support families and children living with abuse.</li> <li>• Display information relating to domestic abuse within the Department, e.g. posters, leaflets about domestic abuse services etc.</li> <li>• Ensure that there is adequate access to legal services including legal aid for victims of domestic abuse.</li> </ul>

## 10. CONCLUSION

- 10.1 Domestic abuse can have a devastating effect on the lives of individuals and their families. A co-ordinated multi agency approach to tackle domestic abuse within the community is fundamental to working towards the Government's vision of a safe and healthy society.
- 10.2 The Department believes that the meaningful, positive and enabling contribution which the Strategy makes to the Island, and the need for it to continue into the future, has been clearly evidenced through its success. It appears that victims have more confidence to report abuse to the Police; more agencies are asking their clients about abuse and referring them to MARAC and specialist services for support, therapy and advice; and reported domestic abuse incidents have been falling since 2009 - the year that the Domestic Abuse Strategy commenced.
- 10.3 Without its coordinated approach to service delivery, it is likely that the work of both States' departments and the third sector in this area would become disjointed leading to duplication in some areas and gaps in others and without dedicated funding, many services would struggle to continue which there would result in a much greater direct and indirect cost to the States of Guernsey.

- 10.4 Critical to the strategy's success is the continued commitment of other States' Departments, agencies and voluntary organisations working both individually but also through a multi-agency participative approach.
- 10.5 The Department will keep under review whether Guernsey should adopt VAWG Strategy (as referred to in paragraphs 6.19-6.23). It will also bring forward recommendations in relation to any necessary changes in legislation once a review of the Law relating to domestic abuse has been carried out.
- 10.6 There are many cost benefits to providing services and support to tackle domestic abuse and, in particular, far more work needs to be done to provide early intervention, so that generic services are able to identify and signpost those disclosing abuse to specialist services at a much earlier point.

## **11. RECOMMENDATIONS**

11.1 The Home Department recommends the States:

- i) Approve the Domestic Abuse Strategy for Guernsey and Alderney 2016-2020 at an annual cost of £382,700 thereby affirming the commitment of the States of Guernsey to tackling the issue of domestic abuse.
- ii) Direct the Home Department to report back to the States in 2020 with a progress report on the implementation of the Strategy for 2016-2020 together with proposals for the future.

Yours faithfully

P L Gillson  
Minister

F W Quin  
Deputy Minister

M J Fallaize  
M M Lowe  
A M Wilkie

Mr A L Ozanne  
Non-States Member

## APPENDIX ONE

### *Progress Update 2011-2014 Strategy*

One of the recommendations in the Policy Letter relating to the initial Domestic Abuse Strategy was for the Policy Council to report back to the States' with a progress update on the Strategy. As responsibility for the Strategy was transferred to the Home Department from the Policy Council, this update has been put together by the Home Department.

The Home Board is pleased with the progress that the Strategy has made since 2009. Many new initiatives have been put in place under the four key strands of the Strategy – Prevention; Protection & Justice; Provision of Support; and Partnership Working. Existing services are working together more effectively and key performance indicators and outcome measurements have been put in place. Although significant progress has been made, there is a great deal of work still to be carried out.

### **PREVENTION**

#### *Education work with Young People*

The Strategy's primary prevention education work streams were commissioned in 2011 with the tender being awarded to the Hampton Trust, a Southampton-based agency. The charity has over 18 years of experience providing domestic abuse services and other projects for vulnerable people throughout Hampshire, Isle of Wight, Gloucestershire, Devon and Jersey.

Domestic abuse education work in Guernsey and Alderney now takes place in all secondary schools at four key points in the curriculum: Year 7 (age 11/12), Year 9 (age 13/14), Year 11 (15/16) and post-16 education and training. The four modules build on each other incrementally covering issues such as:

- challenging assumptions about gender;
- managing feelings and accepting responsibility for one's own feelings and behaviour;
- understanding the difference between abusive and non-abusive relationships;
- understanding that domestic abuse is a crime; and
- providing information about where to seek help.

In addition to the work in schools, a part-time member of staff is employed to provide domestic abuse education in community settings such as youth clubs.

The education work has been very positively received by both pupils, teachers and parents and the Hampton Trust have put in place assessment cards at the start of this academic year in order to evaluate the impact of the lessons.

#### *Information*

Many new sources of information relating to domestic abuse have been created under the umbrella of the Strategy. These include:

- Inter-Agency Practice Guidance '*Safeguarding Children Affected by Domestic Abuse*' has been created for professionals. This guidance is available on the Government website<sup>16</sup>.
- An information booklet for parents and carers of children and young people was created by the Strategy Task Group in 2014 to highlight the impact of domestic abuse on children of different ages.
- A general information leaflet for members of the public has been created by Safer LGB, the local domestic abuse charity. The leaflets are in the process of being translated into Latvian, Portuguese and Polish.
- A leaflet explaining the Multi-Agency Risk Assessment Conference (MARAC) process for victims of domestic abuse was created by the Guernsey Police
- Leaflets and posters targeting perpetrators of domestic abuse have been created by the Hampton Trust which runs an independent perpetrator programme in Guernsey.
- Safer LBG has produced wallet sized safety cards for victims with useful numbers.
- Pens displaying the Hampton Trust Website link are provided to all school children receiving domestic abuse training. This provides information and advice about domestic abuse and local contact numbers.
- A new set of posters was created by Safer and the Domestic Abuse Strategy Task Group in 2014 for agency waiting rooms and public spaces. These raise awareness about male, same-sex, older and disabled victims.

### *Campaigns*

Several campaigns have been carried out:

- Safer collaborated with the Guernsey Football Club during the World Cup to promote a national Women's Aid's campaign set up with national footballing bodies to get across the message that violence against women always unacceptable and to provide positive role models to younger people in the community.
- Safer, the Guernsey Crime Prevention Panel and Guernsey CrimeStoppers in 2014 ran an online campaign 'We Won't Be Beaten' which was aimed at sports groups and businesses urging them to get behind the message that domestic abuse should not be tolerated.

### *Helpline*

The Domestic Abuse Forum Telephone Helpline provides support and advice to people experiencing domestic abuse plus their friends, family or professionals. It had been running since around 2004 but was moved to the Independent Domestic Violence Advisory Service in April 2013. All individuals experiencing abuse who contact the phone line are now risk assessed in

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<sup>16</sup> <http://www.gov.gg/domestic-abuse>



order to establish the current level of danger and a package of support is put in place and calls have increased significantly in the last couple of years. It is hoped that the line operating hours can be extended within the next couple of years.

#### *Domestic Abuse and the impact on Employment*

The States of Guernsey as an employer has a domestic abuse policy in place since 2008. This will be updated later this year. Safer LBG has a template domestic abuse policy for businesses to adapt; its will be offering presentations on the impact of domestic abuse in the workplace to businesses.

### **PROTECTION & JUSTICE**

This Key Area covers the criminal justice elements of the Strategy. Whilst there have been no new domestic homicides in Guernsey since the Strategy was set up, domestic abuse continues to represent a high percentage of all reported violent crime in the Islands (30% in 2014). It is a safeguarding issue for children and vulnerable adults.

Domestic abuse is a crime with one of the highest rates of repeat victimisation. It is also vastly under-reported: a recent local domestic abuse survey indicated that around 40% of victims reported the abuse to the Guernsey Police, though a higher proportion of those who had experienced the domestic abuse recently reported the abuse than those who had experienced the abuse more than ten years ago.

Although the criminal justice system is a key route for reducing domestic abuse it has inherent challenges in terms of the dynamics and context of domestic abuse and standard legal evidential requirements. These challenges have necessitated good multi-agency working to support victims.

#### *Multi-Agency Risk Assessment Conferences (MARAC)*

A MARAC is a one off meeting whereby those at the highest level of risk of homicide or serious injury are discussed and new interventions agreed in order to reduce that risk. Describing a person as being ‘high risk’ is a relatively new way of classifying victims, it relates to the risk of serious harm and homicide, being defined as ‘a risk which is life threatening and/or traumatic, and from which recovery, whether physical or psychological, can be expected to be difficult or impossible<sup>17</sup>. MARACs have evidenced significant improvements in the safety of victims and their children through sharing information, identifying risks and mitigating these risks through the creation of a multi-agency action plan in respect of each case discussed.

#### *Independent Perpetrator Programme and Integrated Support Service for Victims*

An independently run perpetrator programme with an integrated support service for victims was commissioned in 2011. Previously, the Probation Service ran a programme for perpetrators who had been mandated by the Court to attend a programme. There was a gap in relation to those perpetrators who had not been through the criminal justice system.

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<sup>17</sup> Offender Assessment System definition used by Multi-Agency Public Protection Arrangement (MAPPA) Responsible Authorities.

The tender was won by the Hampton Trust, a UK based charity which is accredited to meet the nationally recognised standards for their perpetrator programme, ADAPT. Two part time staff assess perpetrators and provide support and feedback to their partners. Several sessional workers have been trained to run the 30 week rolling programme which some of the Probation Officers also help facilitate. (Further details of the Programme can be found in Appendix Two.)

For those perpetrators who attend ADAPT, the outcomes have been very positive, however, not enough perpetrators are accessing the service which will be reviewed in the next five years. In most cases, those who are Court mandated do attend, but the vast majority of perpetrators are not reaching Court. Many of those who do not reach the criminal justice system do not appear to accept that their behaviour is abusive, which is a precondition of attending the programme.

#### *Police Action to Tackle Domestic Abuse*

The local Police response to domestic abuse has improved markedly in the last ten years. Many positive steps have been taken. These include:

- Having a ‘positive arrest policy’ in place (see Appendix Five).
- Training to help identify and deal with domestic abuse is integrated into initial Police training.
- Risk assessments are carried out by front line officers every time there is a Police call out to a domestic incident.
- All front line staff wear body cameras when they attend incidents in order to capture evidence to support domestic abuse prosecutions. During UK trials the cameras are said to have illustrated their potential to reduce complaints and increase the number of early guilty pleas, helping to speed up the justice process.
- Specifically trained officers are deployed by the Public Protection Unit to help coordinate law enforcement action including a Domestic Abuse officer and a MARAC/ Child Protection Officer.
- Work is also underway to use the latest IT methods to disseminate to all operational staff national best practice and Force policy, in a way that tests understanding.

### **PROVISION OF SUPPORT**

This Key Area covers support services to assist victims, perpetrators and children affected by domestic abuse. Several new services have been commissioned by the Strategy since 2009.

#### *Independent Domestic Violence Advocacy (IDVA) Service*

IDVA Services intensively support the highest risk victims of domestic abuse in order to increase their safety. A definition of independent advocacy is given in Appendix Five.

A tender exercise was carried out in 2010. Family Matters, a UK based charity, was commissioned to run the service. This was launched in 2011 with 2 part time IDVAs (1 full time equivalent) being appointed and undertaking the national IDVA training program. Although the Service was well-utilised, an independent review of the Service by CAADA suggested that it would be better managed on-Island in order to ensure that issues specific to the Islands were recognised and tackled. Safer LBG (previously known as Options: the Guernsey Domestic Abuse Forum) agreed to take over the management of the IDVA Service at the beginning of 2013. Managing the service on Island meant that some of the management and travel costs could be transferred to provide more front-line worker hours, increasing the number of front line staff from

1 to 1.5 full time equivalents. Additional funding for front line staff time and administrative support is currently provided through the Lloyds Foundation (Channel Islands) due to a high level of demand for the service.

At the point of exit from the service, 46% of clients reported no abuse in the past month and the physical and sexual violence had ceased for virtually all clients (shown in the graph below). Stalking and harassment was a particular problem for local victims and this was much harder to tackle, probably due the fact that it is much more difficult for victims to avoid their abuser in a small island.

*Post-Abuse Therapeutic Service for Children (funded through the Children & Young People's Plan and the Domestic Abuse Strategy)*

The Post Abuse Therapeutic Service (PATs) within HSSD provides children and young people (aged four to 18) with opportunities to process the abuse that has happened to them and work to change any distorted thoughts, negative feelings and inappropriate coping behaviours. Although some of the changes can be immediate, the aim is to affect long term change which will impact on the rest of their childhood and help them fulfil their potential as adults. The work carried out is often lengthy due to the level of harm caused to children by living with abuse or neglect and the impact of the therapeutic work has been very positive according to the feedback from service users and their parents.

*Children & Young People's IDVA*

Funding had originally been allocated within the Strategy for a post to support children and young people who were living with domestic abuse who did not meet the threshold for child protection but were still in need of support. Due to a shortfall in funding at the Guernsey Women's Refuge, it was decided that this funding should be re-allocated to the Refuge. Funding for the work with children was therefore sought by Safer LBG from BBC Children in Need. A grant was awarded for a two year pilot of this post.

Funding commenced in May 2014, with the service becoming operational in October 2014. The post holder works closely with the IDVA Service and HSSD Children's Services, supporting both children who are deemed to be 'in need' as a consequence of domestic abuse in their parents' relationship or young people who are experiencing domestic abuse within their own intimate relationships. Outcomes in relation to the service are extremely positive.

*Supervised Contact Centre*

When a parent applies for contact with his (or her) children following a separation where domestic abuse has taken place, a finding of fact hearing takes place to consider all the evidence before any decision about contact is made by the court. A Safeguarder will be asked to prepare a welfare report, after talking, separately, to the alleged perpetrator, victim and the children. The purpose of this report is to advise the court on the children's best interests, and to make recommendations on whether or not there should be contact, and the extent and nature of contact. When families have a Court Order for supervised visits and exchanges and/or are referred by a Safeguarder or Social Worker, arrangements will be made for children to have contact with the adult they are separated from. The contact is supervised by fully trained Contact Supervisors who will prepare a report after each session for the referring Safeguarder or Social Worker. Having supervised contact sessions available locally is a requirement of the Children Law.

The Supervised Contact Centre, a local charity, funded by the Strategy, runs eight supervised contact sessions per week. There is sometimes a waiting list for places due to high demand for contact.

#### *Refuge*

A service level agreement was put in place between the Domestic Abuse Strategy and the Guernsey Women's Refuge Ltd in May 2014. Funds which had been previously been allocated to provide support for children and young people was reprioritised within the Strategy to provide a grant in order to support the refuge. The refuge grant previously disbursed by the Social Security Department was also transferred to the Home Department. The refuge services are in the process of being amalgamated with the Independent Domestic Violence Advisory Services. The refuge currently provides 5 rooms for women and their children. The lease on the property is due to end in 2018 so alternative property will need to be found in the next couple of years.

#### *Rent Deposit Scheme*

A rent deposit scheme was put in place in 2012 to assist survivors of abuse who need to find alternative accommodation and do not have sufficient funds for a deposit. This has a two tier approach: people with income below the supplementary benefit threshold are able to access the scheme via SSD; those who have income above the threshold, but have insufficient savings to afford a deposit, can obtain a loan through a funding pot held by Treasury & Resources for the Strategy.

### **PARTNERSHIP WORKING**

The partnerships area of the Strategy focuses on the need for an effective coordinated response to domestic abuse across the Islands. This requires a workable structure for coordination and delivery of the domestic abuse strategic action plan across the statutory and voluntary sectors. It also focuses on recording of domestic abuse against minimum data sets and compliance with statutory, legislative and good practice requirements in relation to domestic abuse / safeguarding children. Multi-Agency training around domestic abuse also fits within this area.

The following policies and initiatives have been set up in relation to this pillar of the Strategy:

#### *Information Sharing*

An information sharing protocol has been set up in relation to the Multi-Agency Risk Assessment Conferences (MARAC)

A SharePoint site set up for professionals involved in the Strategy Task Group to share best practice and other policy documents.

#### *Training*

Training demonstrates a continuing commitment to real institutional and cultural change. Many staff have received specialist training in the areas shown below, but more training is required over the next five years, especially within generic services, to allow front line staff to identify and signpost victims to specialist services.

- Domestic abuse and its impact on mental health (2011)
- Identifying and Managing Risks training (2011, 2012 & 2013)
- Engaging, motivating and working with survivors of domestic abuse (2013).
- Diversity training: domestic abuse in harder to reach groups (2013).
- The impact of domestic abuse on children (2012 & 13).
- MARAC Champions training (2013).
- MARAC Refresher Training (2014).
- Refuge Staff Training – working with victims of abuse; case management; risk assessment & safety planning; working with clients with complex needs; supporting children & young people; parenting and children in the context of domestic abuse; and volunteer training (2014 and 2015)
- Safer Domestic Abuse Awareness Multi-Agency Training for Professionals (this is run 4 times a year for groups of up to 25 delegates). The impact of domestic abuse on children (This is a new session which has been developed in 2014 targeting pre-school and nursery staff).
- The Domestic Abuse Strategy and Safer ran a series of twilight multi-agency workshops titled *'understanding traumatised and maltreated children: core concepts'* in 2015. Due to the high level of demand, the series of workshops are being held again commencing in September and November 2015.
- A conference on the topic of families with complex needs (experiencing domestic abuse, mental health and drug & alcohol misuse) is planned in conjunction with Safer and the Drug & Alcohol Strategy in late 2015 or 2016.

#### *Service Reviews*

##### MARAC Quality Assurance Review (2012)

This assessed the local process and provided an action plan to strengthen the MARAC. The assessment was generally very positive estimating that the net savings to the Bailiwick as a result of having the MARAC in place was around £450,000 per annum<sup>18</sup>.

The review identified several areas for improvement, with an important recommendation being that more agencies should be identifying domestic abuse and to referring their service users in to MARAC. At this time, the Guernsey Police were referring in around 81% of all MARAC cases with other agencies referring in only 19% of cases.

The other main area of criticism was that certain core agencies were not always attending MARAC. This has improved since the review, but there are still key agencies who seldom attend. The review will be repeated in 2016/17.

##### IDVA Service Review (2012)

This assessed how the new Independent Domestic Abuse Service which was set up mid-2011) was operating. The review showed that the service was supporting victims well, but would benefit from on-Island management (the initial management tender was awarded to a non-local charity).

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<sup>18</sup> This calculated the estimated change in costs to local services before and after MARAC using the assumptions set out in "Saving Lives, Saving Money"

### Independent Review of the Guernsey Women's Refuge (GWR) (2013)

A review of the GWR resulted in a SLA being drawn up between the Home Department in 2014 and the refuge with additional funding being provided for refuge services. The Service has since amalgamated with Safer and a programme of change management is currently being implemented. A review will be carried out again in 2017/18 in order to measure progress.

### *Data Collection*

Good data collection is vital in relation to ensuring victim safety and measuring the efficacy of services. The following have been put in place to collect robust data:

- All new services commissioned by the Strategy collect and analyse data to ensure that their services are operating effectively.
- The IDVA Service is benchmarked against UK standards with all the advisors receiving extensive training on the National training programme.
- The local ADAPT Programme is linked to a nationally recognised data collection programme for perpetrator programmes.
- The local MARAC captures data in order to benchmark local progress against the UK.

### *Joint Working*

A Strategy Task Group was set up in 2011 to improve communication between agencies; share best practice and initiate joint working.

Joint actions between agencies regularly take place as part of the MARAC action planning process.



## *Domestic Abuse Strategy 2016-2020*





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## STATES STRATEGIC PLAN

The Domestic Abuse Strategy is a delivery programme within the States Strategic Plan. The framework of the States Strategic Plan is shown below at Figure 1.

**Figure 1:**

PURPOSE	To enable the States to decide what they want to achieve over the medium to long-term and how they will manage or influence the use of Island resources to pursue those objectives.			
AIMS	To focus government and public services on protecting and improving quality of life of Islanders, the Island’s economic future, and the Island’s environment, unique cultural identity and rich heritage.			
COMMUNITY OUTCOMES	Fiscal & Economic	We have sustainable long term finances and programmes	We have a balanced, internationally competitive, high value economy	We have a skilled, sustainable and competitive workforce
	Social	We have a social environment and culture where there is active and engaged citizenship	We have equality of opportunity, social inclusion and social justice	As individuals we take personal responsibility and adopt healthy lifestyles
	Environmental	We adapt to climate change	We manage our carbon footprint and reduce energy consumption	Our countryside, marine and wildlife are protected and preserved

## PROGRAMME SUMMARY OVERVIEW

<b>Programme Name</b>	Domestic Abuse Strategy
<b>Period covered</b>	2016 - 2020
<b>Programme Authors</b>	Domestic Abuse Strategy Advisory Group
<b>Political sponsors</b>	Home Department
<b>Related strategies</b>	<p>Criminal Justice Strategy</p> <p>Children &amp; Young People's Plan (Health &amp; Social Services)</p> <p>Drug &amp; Alcohol Strategy (Home)</p> <p>Disability &amp; Inclusion Strategy (Policy Council)</p> <p>Mental Health &amp; Wellbeing Strategy (Health &amp; Social Services)</p> <p>Sexual Health Strategy (Health &amp; Social Services)</p> <p>Supported Living and Ageing Well Strategy (Policy Council)</p>
<b>Review periods</b>	<p>Annual monitoring of key performance indicators</p> <p>Annual formal review of objectives and Action Plan</p> <p>5 year review of strategic commitments</p>
<b>Relevant other documents that should be accessed when reading this document</b>	<p><i>Domestic Abuse Strategy 2009-2012</i>, Billet d'Etat XXI, July 2009</p> <p><i>Policy Council States Strategic Plan debate</i>. Includes Policy Council's case for partial funding of the Domestic Abuse Strategy, Billet d'Etat XXVI, October 2009</p> <p><i>Policy Council States Strategic Plan debate, 2010</i>. Includes Policy Council's case for full funding of the domestic abuse Strategy, Billet d'Etat XIX, September 2010</p> <p><i>Policy Council - States Strategic Plan 2010-2015</i>. Includes <i>Home Department case for development of a Criminal Justice Strategy</i>. Billet D'État XIX 2010.</p> <p><i>Criminal Justice Strategy</i>, Billet d'Etat XI, May 2012</p> <p><i>Mental Health and Wellbeing Strategy (HSSD)</i></p> <p><i>Sexual Health Strategy (HSSD)</i></p> <p><i>Supported Housing Strategy (Housing)</i></p> <p><i>Offender Management Strategy (Home)</i></p> <p><i>Restorative Justice Strategy (Home)</i></p> <p><i>Disability &amp; Inclusion Strategy (HSSD)</i></p> <p><i>Today's Learners Tomorrows World (Education)</i></p> <p>Draft Supported Living and Ageing Well Strategy (Policy Council)</p> <p>Children and Young Peoples Plan (HSSD)</p> <p>The Equality and Rights Programme (Policy Council)</p> <p>Working with the Third Sector (Policy Council)</p>

**1.****PURPOSE OF THIS DOCUMENT****1.1**

The purpose of this document is to outline a strategy for tackling domestic abuse in Guernsey and Alderney for the years 2016-2020.

**1.2**

In this document you can expect to find:

The Strategy's Statement of Purpose, its Vision, objectives and the outcomes that the agencies and departments, both voluntary and statutory, collectively aspire to achieve and the strategic commitments that drive us all towards achieving these outcomes;

Identification of where the Domestic Abuse Strategy sits within the States Strategic Plan;

Identification of areas requiring appropriate attention and action in the period 2016-2020, as based on existing evidence and professional judgement;

Identification of what will be done, by whom and with whom;

Identification of where we wish to be within -  
the short-term (a 2 year period);  
the medium-term (a 5 year period);

How we will know we have got there.

## **2. DEVELOPERS OF THIS DOCUMENT**

**2.1** This document has been produced by the Domestic Abuse Strategy Advisory Group, with input from the Strategy Task Group, its working parties and key stakeholders. The Strategy Advisory Group is comprised of representation from:

Education Department;  
 Guernsey Police;  
 Guernsey Probation Service;  
 Home Department;  
 Housing Department;  
 HSSD Children's Services;  
 Office of the Children's Convenor;  
 Policy Council;  
 Safeguarder Service;  
 Social Security Department.

These organisations work in conjunction with the many third sector organisations.

**2.2** The production of this document, and the contribution of resources to support the Strategy's development and ongoing maintenance, is sponsored by the States of Guernsey Home Department.

### **3. FOREWORD FROM THE DOMESTIC ABUSE STRATEGY ADVISORY GROUP**

**3.1** This is the second edition of the Domestic Abuse Strategy for Guernsey and Alderney providing a framework around which both statutory and voluntary agencies will continue to work together over the next five years to reduce the incidence and impact of domestic abuse.

**3.2** Domestic Abuse is devastating for all victims and their children as it can cause lasting damage to physical health, mental health and emotional well-being as well as financial and social consequences. It is unacceptable within our community and must be challenged. Domestic abuse causes physical damage ranging from death in extreme cases to miscarriages, broken limbs, and cuts and bruises and can also have a long-term impact on mental health including post-traumatic stress disorder, depression, anxiety and suicidal thoughts and behaviour.

**3.3** In the current economic climate, there is an indisputable business case for preventing domestic abuse. It was estimated in initial local Strategy, that the cost of domestic abuse was around £31 million per annum. This included £4.2 million total service costs in relation to health and social services, criminal justice agencies, housing and civil legal costs. It also included £3.6 million in lost economic output, and £23 million in relation to human and emotional costs.

The UK 2004 research on which these costs were extrapolated was revised in 2009 in order to take into account the decrease in the rate of domestic abuse; greater use of public services by victims of domestic abuse, as a result of their development; and technical adjustments due to inflation and to growth in GDP. Based on these changes, and a fall in the amount of domestic abuse occurring locally, the cost of domestic abuse locally, extrapolated from the UK research is estimated to be around £12.8m per annum. This includes £3.14 million total service costs in relation to health and social services, criminal justice agencies, housing and civil legal costs. It also includes £1.57 million in lost economic output, and £8.13 million in relation to human and emotional costs.

There is no doubt that the benefits of preventing this social problem occurring in the first place and intervening early where it is already happening will far outweigh the costs of tackling the consequences of domestic abuse.

**3.4** The Strategy sets out clearly what the Advisory Group intends to do to address domestic abuse in the form of a coordinated response; to support those experiencing and witnessing domestic abuse, children affected by domestic abuse and those perpetrating domestic abuse, with implementation plans designed to achieve the aims of this strategy. It provides clear and measureable targets that will be performance

	managed for the life of the Strategy.
<b>3.5</b>	Domestic abuse is unacceptable within our community and must be challenged through the provision of accessible and consistent domestic abuse services across the Islands, and a joined up response to tackling the issue.
<b>Domestic Abuse Strategy Advisory Group May 2014</b>	



# STRATEGIC FRAMEWORK

4.	STRATEGIC FRAMEWORK OVERVIEW
4.1	<div data-bbox="336 398 555 465">States Strategic Plan</div> <div data-bbox="624 398 1390 689"> <p>The Domestic Abuse Strategy is a delivery programme within the States Strategic Plan. Figure 1 on page 4 outlines the States Strategic Plan's purpose and aims, and also the social policy, financial and environmental outcomes that it seeks to achieve. Figure 2 on page 11 outlines the framework of the Domestic Abuse Strategy and identifies the social policy outcomes to which it aligns.</p> </div>
4.2	<div data-bbox="336 745 467 813">Strategy Purpose</div> <div data-bbox="624 745 1369 880"> <p>The purpose of the Strategy is <i>"to focus government, public services and voluntary agencies on the coordinated and effective delivery of services geared towards tackling domestic abuse."</i> (see Fig.2).</p> </div>
4.3	<div data-bbox="336 936 536 1070">Strategy Definition of Domestic Abuse</div> <div data-bbox="624 936 1390 2040"> <p>Within the Strategy, domestic abuse is defined as:</p> <p><i>Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse:</i></p> <ul style="list-style-type: none"> <li><i>psychological</i></li> <li><i>physical</i></li> <li><i>sexual</i></li> <li><i>financial</i></li> <li><i>emotional</i></li> </ul> <p>Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.</p> <p>Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.</p> <p>The definition is an inclusive stand-alone definition intended solely for the delivery purpose of this Strategy. It is not a legal definition. We also recognise</p> </div>

		that some organisations providing services for victims/survivors and perpetrators of domestic abuse may have their own definitions in order to aid them in the delivery of their specific services to their service-users.
<b>4.3</b>	<b>Strategy Vision</b>	<p>The vision of the Strategy incorporates:</p> <ol style="list-style-type: none"> <li>1. Consistent positive action from States Departments and other agencies, including: <ul style="list-style-type: none"> <li>– A clear, unequivocal message that domestic abuse is a crime, is unacceptable and will not be tolerated;</li> <li>– A consistent demonstration of the importance of interagency collaboration and interagency policy implementation including good information sharing;</li> <li>– The provision of dedicated resources to address policy and practical issues;</li> <li>– Research and replication of best practice, effective responses and interventions.</li> </ul> </li> <li>2. The development of better, more equitable, accessible and effective service provision providing: <ul style="list-style-type: none"> <li>– A co-ordinated network of services that meet the needs of all victims and their children;</li> <li>– Appropriate protection and support for all victims and their children who are experiencing domestic abuse;</li> <li>– Appropriate safe solutions for all victims and children escaping domestic abuse;</li> <li>– Easily accessible information to ensure that help is available for any victim;</li> <li>– Education and training both to help prevent domestic abuse and to identify it early and provide help and support.</li> </ul> </li> <li>3. Improved protection and support for victims and effective deterrents through: <ul style="list-style-type: none"> <li>- Holding abusers accountable for their behaviour;</li> <li>- Recommending changes to the criminal and civil law where necessary.</li> </ul> </li> </ol>

<b>4.4</b>	<b>Outcomes</b>	Our outcomes are the value that our services contribute to the lives of Islanders (both those individuals and families where domestic abuse has taken place, and the community at large). Put more simply, our outcomes are the <i>effect</i> that our services have in relation to individuals experiencing or perpetrating domestic abuse.
<b>4.5</b>	<b>Priority Areas of Focus</b>	Our priority areas of focus are those areas that, on the basis of relevant evidence and professional judgement, we will concentrate our efforts. These areas are broken down into specific objectives as shown in our Action Plan.
<b>4.6</b>	<b>Strategic Commitments</b>	Our strategic commitments drive us towards the delivery of our outcomes. These strategic commitments were set within the initial Strategy and have been developed further on the basis of consultation. See Appendix 1 for a full list of consultees.
<b>4.7</b>	<b>Objectives</b>	Our objectives, or what we are actually going to do, are shown within our action plan which covers the period 2016 - 2020 and encompasses short term objectives (2yrs), medium term objectives (5yrs), all of which contribute to the achievement of our outcomes.
<b>4.8</b>	<b>Key Performance Indicators</b>	It is not enough to know where we are going, we need to also define how we will know we have got there. We have put key performance indicators against our outcomes in order to give us broad indications of success in this very complex and fluid area of social policy. Further detail about our key performance indicators is provided on page 15.

## Domestic Abuse Strategy Framework

COMMUNITY OUTCOMES	<p>We have a social environment and culture where there is active and engaged citizenship</p> <p>We have equality of opportunity, social inclusion and social justice</p> <p>As individuals we take personal responsibility and adopt healthy lifestyles</p>		
STRATEGY PURPOSE	To focus government and public services on the coordinated and effective delivery of services geared towards tackling domestic abuse.		
VISION	Our vision is to meet the needs of all victims who experience abuse through the development of better, more equitable, accessible and effective services; and on working towards the development of a society in which domestic violence and abuse is		
STRATEGIC OUTCOMES	1 An increase in public and professional awareness of the prevalence and harm caused by domestic abuse and of the support services available	2 An increase in the Knowledge and skills of children, young people and adults about domestic abuse and healthy relationships	3 A reduction in the risk of harm from perpetrators
	4 An increase in the safety of victims/survivors (adults and children)	5 Services meet the needs of victims/survivors of domestic abuse	6 Justine responses to domestic abuse are effective
PRIORITY AREAS OF FOCUS	Address the needs of young people affected by domestic abuse, both those living with abuse in their family and those experiencing abuse in their own intimate relationships		Put in place protocols to identify and address the needs of families/individuals who are experiencing a combination of domestic abuse, mental health and drug/alcohol misuse
	Improve data collection and performance monitoring processes in relation to domestic abuse	Early intervention to encourage disclosure and signposting to specialist services	Review Criminal Justice System processes and response to domestic abuse
STRATEGIC COMMITMENTS	<b>PARTNERSHIPS</b> Ensure that a co-ordinated community response to domestic abuse is in place	<b>PREVENTION</b> Prevent harmful activity from happening in the first place or prevent it from happening again	<b>PROTECTION &amp; JUSTICE (challenge)</b> Challenge harmful activity when it does happen and deliver appropriate justice and rehabilitation
	<b>PROVISION OF SUPPORT (restore)</b> Improve service delivery and increase safety of victims and their children		
	<b>RISK MANAGEMENT</b> Manage risks at all points		
	<b>VICTIM FOCUS</b> Support victims & witnesses at all points of their engagement with the criminal justice system and reduce repeat victimisation		
	<b>COMMUNICATION</b> Proactively engage with the local community so that the Strategy is reflective of and responsive to the concerns of a diverse community		
	<b>EQUALITY</b> Have equality of access to justice, including physical access, and anti-discriminatory practices		
KEY ENABLERS	<b>EFFECTIVE PROCESSES</b> Enhance existing work-flow processes and data-capture and sharing practice. Agreed recording & reporting of DV within & across partner agencies		
	<b>GOVERNANCE</b> Have collective investment of expertise so as to ensure that the right organisations are involved at the right time		
	<b>EVIDENCE</b> Facilitate evidence-based decision-making		

## **OUTCOMES FRAMEWORK AND KEY PERFORMANCE INDICATORS**

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<b>5.</b>	<b>OUTCOMES FRAMEWORK</b>
<b>5.1</b>	Measuring outcomes is the only way we can be sure that changes are taking place for those experiencing abuse. Local domestic abuse services which receive public funds should focus on delivering the following outcomes framework in order to reduce and prevent domestic abuse and to help remedy the damage caused.
<b>5.2</b>	The outcomes set out below in 6.3 should inform future work and help to identify what improvements are required in the responses to domestic abuse by local services. Incorporating the desired outcomes into a multi-agency Action Plan will ensure accountability and encourage improved performance.
<b>5.3</b>	<p><b>An increase in public and professional awareness of the prevalence and harm caused by domestic abuse and of the support services available</b> through partnership working, awareness raising and challenging inaction by individuals, communities and organisations.</p> <p><b>An increase in the knowledge and skills of children, young people and adults about forming healthy relationships</b>, through prevention education and learning, so that they are better equipped to form relationships based on equality and respect, mutual understanding and shared power.</p> <p><b>An increase in the safety of survivors (adults and children)</b> based on an approach that maximises safe choices available and reduces the harm caused.</p> <p><b>A reduction in the risk of harm from perpetrators</b> through holding abusers accountable for their behaviour in such a way that reduces risk and which not only acts as a future deterrent for them, but also as a deterrent to potential abusers.</p> <p><b>Services meet the needs of victims / survivors of domestic abuse</b> through ensuring that victims are involved and consulted on the development of specialist domestic abuse services, service outcomes are monitored and service standards are met.</p> <p><b>Justice responses to domestic abuse are effective</b> through holding perpetrators to account for their behaviour, ensuring that the local legislation is robust, and encouraging more victims to seek help from the Police and criminal justice system whilst receiving the level of support necessary to pursue their complaint without withdrawing from the court process.</p>

**6.****KEY PERFORMANCE INDICATORS****6.1**

It is important that we monitor the Strategy on an ongoing basis in order to assess how we are performing against our outcomes. We have therefore put some key performance indicators against our outcomes. We will monitor the results on a 6 monthly basis and formally review and publish results on an annual basis. Individual domestic abuse services will also have their own more detailed sets of KPIs and indicators

**6.2**

Consideration has been given as to what our KPIs should be in order to give us the broadest of indications of the success of our efforts to achieve them. Some are linked to the UK KPIs in order, where possible, to draw comparisons. However in such a small jurisdiction, in this complex area of social policy we have to acknowledge that there is no single key performance indicator that is definitive in tackling domestic abuse and there is no perfect formula for calculating the information we need. We must therefore agree what the best formula is in order to consistently provide data that will be of value to us, whilst at the same time being aware of the limitations of that data. For this reason, the figures produced against our key performance indicators should never be read or interpreted in isolation from the essential commentary that will always accompany our annual update report.

**6.3**











The data gathered can give us a broad indication of how successful our efforts are, and help us to make evidence-based decisions on what to do so as to achieve our outcomes and, ultimately, our vision to *“meet the needs of all victims who experience abuse through the development of better, more equitable, accessible and effective services; and on working towards the development of a society in which domestic violence and abuse is unacceptable and will not be tolerated.”*



**Outcome 1**

***An increase public and professional awareness of the prevalence and harm caused by domestic abuse and of the support services available.***

Positive and respectful community attitudes are critical to survivors of domestic abuse and their children living free from abuse and violence in safe communities. Research shows that social norms, attitudes and beliefs contribute to all forms of violence, particularly violence against women, whether it is emotional, psychological, economic, physical or sexual violence. These beliefs can result in violence and abuse being justified, excused or hidden from view.





<b>KPI</b>	<b>Indicator</b>	<b>2014</b>	<b>Short-term desired direction of travel</b>	<b>Medium-term desired direction of travel</b>	<b>Data Source</b>	<b>Frequency of Measure</b>
1.1	Percentage of people who view domestic abuse as being socially unacceptable (National KPI)	Commencing 2016			Home Dept. Crime & Justice Survey	Every 2 years
1.2	Percentage of people who view domestic abuse as being a problem locally.	Commencing 2016			Home Dept. Crime & Justice Survey	Every 2 years
1.3	Number of community organisations displaying information about domestic abuse	Commencing 2016			Specialist DV Agency Statistics	Annual
1.4	Number of employers adopting workplace policies on domestic abuse	Commencing 2016			Survey	Every 5 years
1.5	Number of local agencies adopting domestic abuse care pathways.	Commencing 2016			All health and social care agencies	Annual





**Outcome 2*****An increase in the knowledge and skills of children, young people and adults about domestic abuse and forming healthy relationships***

Education represents the principal mechanism by which society is able to influence future generations. Prevention work with children and young people is not just about changing attitudes and influencing behaviour, although that is its main focus. In raising the issues, it also produces a need to support children and young people who may have been abused themselves or witnessed abuse within their parents' relationship, or may be experiencing abuse in their own relationships.

Key to the delivery of domestic abuse education approach is linking schools into the external specialist agencies able to meet the continuing professional development needs of school staff and to contribute to the holistic support of children, young people and their families. Proceeding from the bottom-line value of respect, domestic abuse prevention education initiatives focus on attaining equality and respect for everyone whilst acknowledging gender inequality and making the links to other forms of violence reduction in areas such as racism, homophobia and bullying.

Education work is also frequently needed for survivors of abuse who may not always recognise the patterns of behaviour associated with domestic abuse. Individual and group sessions can help provide survivors of domestic abuse with the knowledge to better understand and deal with their experiences, reinforcing coping skills, self-esteem and health and wellbeing on a long term basis and helping to prevent the situation for recurring.







<b>KPI</b>	<b>Indicator</b>	<b>2014</b>	<b>Short-term desired direction of travel</b>	<b>Medium-term desired direction of travel</b>	<b>Data Source</b>	<b>Frequency of Measure</b>
2.1	Number of young people receiving domestic abuse lessons in schools, other educational establishments and the community.	Commencing 2016			Hampton Trust	6 monthly
2.2	% of young people receiving domestic abuse education who had an increased level of understanding of domestic abuse	Commencing 2016			Hampton Trust	6 monthly















	following the lessons.					
2.3	% of young people receiving DA lessons who said that they would be able to seek help about domestic abuse following the lessons.	Commencing 2016			Hampton Trust	6 monthly
2.4	Number of individuals using the specialist domestic abuse services who have an increased level of understanding about the dynamics of domestic abuse following 1-2-1 or group work input.	Commencing 2016			IDVA Service, Refuge, Women's Safety Worker.	6 monthly

**Outcome 3*****An increase in the safety of victims / survivors (adults and children).***

Every attempt must be made to ensure that there are no gaps in services and that all those who disclose domestic abuse are provided with the options for safety. Victims of abuse come into contact with a variety of public services, so it is vital that all statutory and voluntary agencies with a social agenda are aware of the specialist support services available and that there are routine enquiry procedures across agencies to improve identification of cases and clear pathways in place for referring and signposting those who have been identified.

Domestic abuse is also a significant issue to children and young people living in households where abuse is taking place. Research clearly shows that children experiencing domestic abuse are negatively affected in every aspect of their functioning: safety, health and wellbeing, emotional development, school attendance and achievement. It may also impact on economic well-being in later life.

<b>KPI</b>	<b>Indicator</b>	<b>2014</b>	<b>Short-term desired direction of travel</b>	<b>Medium-term desired direction of travel</b>	<b>Data Source</b>	
3.1	Number and % of victims who feel safer after receiving support from specialist DV services in relation to domestic abuse.	Commencing 2016			IDVA Service, Refuge, Hampton Trust	6 monthly
3.2	Number and % of clients exiting specialist DV services who report a complete cessation of all types of abuse	Commencing 2016			IDVA Service, Refuge, Hampton Trust	6 monthly
3.3	Number and % of clients whose level of abuse at exit from specialist DV services had decreased.	Commencing 2016			IDVA Service, Refuge, Hampton Trust	6 monthly

3.4	The number of refuge places per 10,000 population (National KPI) <sup>19</sup>	0.79			Women's Refuge	Annual
3.5	Number of children who live in high risk households	134			MARAC data	Annual
3.6	Number / % of children on child protection register where violence is a parenting factor	673 (53%)			Islands Child Protection Committee	Annual
3.7	Number and % of children & Young People who feel safer as a result of support from a Children's IDVA	Commencing 2016			Safer LBG	6 monthly
3.8	Number and % of children and Young People who felt that the input from PATS <sup>20</sup> was beneficial.	Commencing 2016			PATS	6 monthly
3.9	Number and % of children discussed at MASH where there are Domestic Abuse Issues	Commencing 2016			MASH	6 monthly
3.10	Number and % of children presenting with Domestic abuse issues at MASH who receive a service	Commencing 2016			MASH	6 monthly









<sup>19</sup> 1 refuge bed space per ten thousand population is a national indicator being the level of provision recommended by the Government Select Committee on Domestic Violence.

<sup>20</sup> The Children & Young People's Post Abuse Therapeutic Service.

**Outcome 4*****A reduction in the risk of harm from perpetrators.***

It is more likely that abusers who either do not seek help voluntarily or who are not prosecuted will continue to offend. Abusers who do not seek help but who are not convicted or brought to justice often go on to re-victimise or move on to a new victim, unless they can receive support to change their behaviour.

There is clearly a need to make sure more offenders are brought to justice, but also a need to ensure that those perpetrators who are not involved in the CJS are encouraged to access safe and effective interventions.

<b>KPI</b>	<b>Indicator</b>	<b>2013</b>	<b>Short-term desired direction of travel</b>	<b>Medium term desired direction of travel</b>	<b>Data Source</b>	<b>Frequency of Measure</b>
4.1	Number and % of perpetrators successfully completing the ADAPT programme	Commencing 2016			Hampton Trust	Annual
4.2	Number and % of offenders that do not come to the attention of the Police in relation to domestic abuse 6 months after completing ADAPT	Commencing 2016			Hampton Trust	Annual
4.3	Number and % of offenders that do not commit further DA offences 6 months after completing ADAPT	Commencing 2016			Hampton Trust	Annual
4.4	% of repeat MARAC cases being discussed <sup>21</sup>	20%			MARAC	Annual





<sup>21</sup> KPI4.4 the Repeat MARAC cases should be between 28-40%.

**Outcome 5*****Services meet the needs of victims / survivors of domestic abuse.***

Both specialist and mainstream services are critical to helping survivors of domestic abuse to escape abuse and rebuild their lives. The support required needs to be holistic and services need to ensure that they have the capacity to support a variety of service users including vulnerable service users with complex needs.





Services supporting survivors of violence and abuse must be flexible in meeting the diverse needs of their clients, including older victims of domestic abuse, children, teenagers, those with disabilities, LGBT victims and those from culturally and linguistically diverse backgrounds.

Services should strive to provide a 'first door approach' which means that for people who have experienced domestic abuse their first point of contact should provide professional, non-judgmental and compassionate assistance with good referral pathways and improved collaboration between services to ensure that victims do not have to repeat their stories or be shunted from pillar to post.

<b>KPI</b>	<b>Indicator</b>	<b>2013</b>	<b>Short-term desired direction of travel</b>	<b>Medium-term desired direction of travel</b>	<b>Data Source</b>	<b>Frequency of Measure</b>
5.1	Number and % of victims who expressed satisfaction with the support and assistance that they received from all services in relation to domestic abuse <sup>22</sup> .	53%			Home Department Service Satisfaction Survey	Every 3 years
5.2	Overall % of survivors surveyed who state that they have contacted services in relation to domestic	15%			Home Department Service Satisfaction Survey	Every 3 years

<sup>22</sup> KPIs 5.1 and 5.2 represent an average percentage in relation to all services listed in the survey including generic services such as health, housing, Children's Services, CAB and the specialist services such as Refuge, IDVA Service and Police.



	abuse.					
5.4	Effective referral pathways measured by the number of referrals picked up by the specialist services from outside agencies.	Commencing 2016			Hampton Trust, IDVA Service, Refuge data	Annual
5.5	Percentage of MARAC Cases referred in by partner agencies other than the Police <sup>23</sup>	22%			Police data	Annual







<sup>23</sup> Percentage of MARAC Cases referred in by agencies other than the police should be between 25-40%.

**Outcome 6*****Justice responses are effective.***

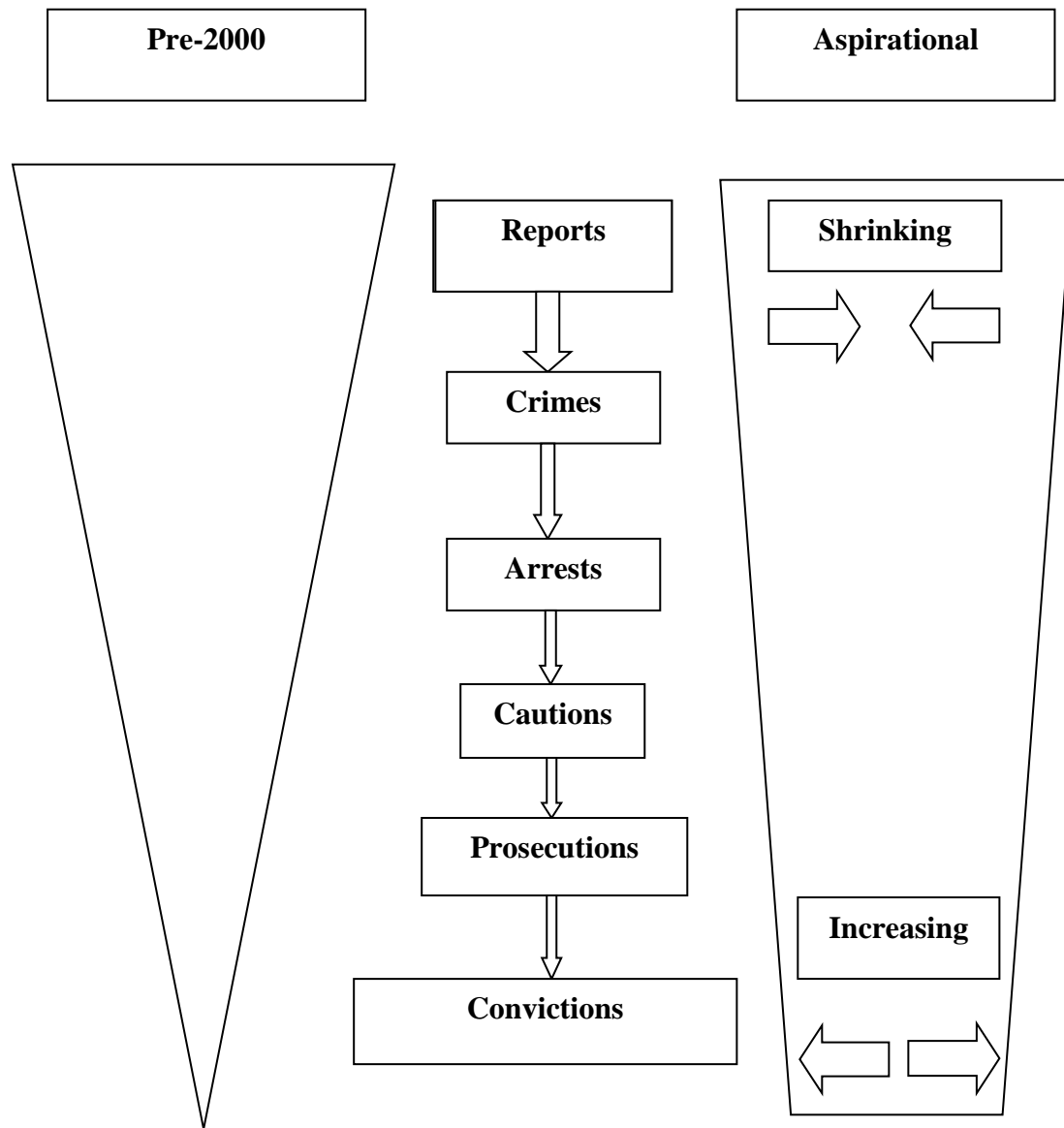
There is no specific offence of 'domestic abuse' in criminal law, there are however many offences that may incorporate aspects of domestic abuse i.e. assault, false imprisonment, harassment, rape, criminal damage, attempted murder. Not all forms of domestic abuse are illegal e.g. some forms of emotional violence, however the impact of these forms of abuse can cause serious and lasting effects on victims and children. Whether the criminal law can protect victims or not is therefore dependent on the particular circumstances of the abuse and the responses of criminal justice agencies.

The criminal justice system has an important role to play in preventing and challenging domestic abuse. National attention within the past decade has focused on encouraging more victims to seek help from the Police and the criminal justice system and on encouraging this system to provide a better response for them and their children when they do. This has led to significant changes in legislation and in the criminal justice system agencies response to domestic abuse in terms of improvements in policy and practice.

The key performance indicators for this outcome will therefore aim to ensure that the justice response is sensitive to the needs of victims in order to encourage more victims to come forward and report the abuse, and continue to pursue their complaint through the court process without withdrawing from the case. They will also measure the success of criminal proceedings.

<b>KPI</b>	<b>Indicator</b>	<b>2013</b>	<b>Short-term desired direction of travel</b>	<b>Medium-term desired direction of travel</b>	<b>Data Source</b>	<b>Frequency of Measure</b>
6.1	Increase in % of domestic abuse incidents which result in detection.	Commencing 2016			Police / Court data	Annual
6.2	Increase in % of detected cases being prosecuted, where it is appropriate to do so.	Commencing 2016			Police / Court data	Annual
6.3	An increase in the level of confidence victims have in the justice system	Commencing 2016			Home Dept. Service Satisfaction Survey	Every 3 years

**Figure 3: Domestic Violence: From Reports to Convictions within the Criminal Justice System<sup>24</sup>**



<sup>24</sup> This diagram has been adapted from 'Standing Together Against Domestic Violence: In Search of Excellence' [http://www.standingtogether.org.uk/fileadmin/user\\_upload/standingUpload/Publications/HOP\\_-\\_guidance-final\\_July\\_2011.pdf](http://www.standingtogether.org.uk/fileadmin/user_upload/standingUpload/Publications/HOP_-_guidance-final_July_2011.pdf)

## **GOVERNANCE**

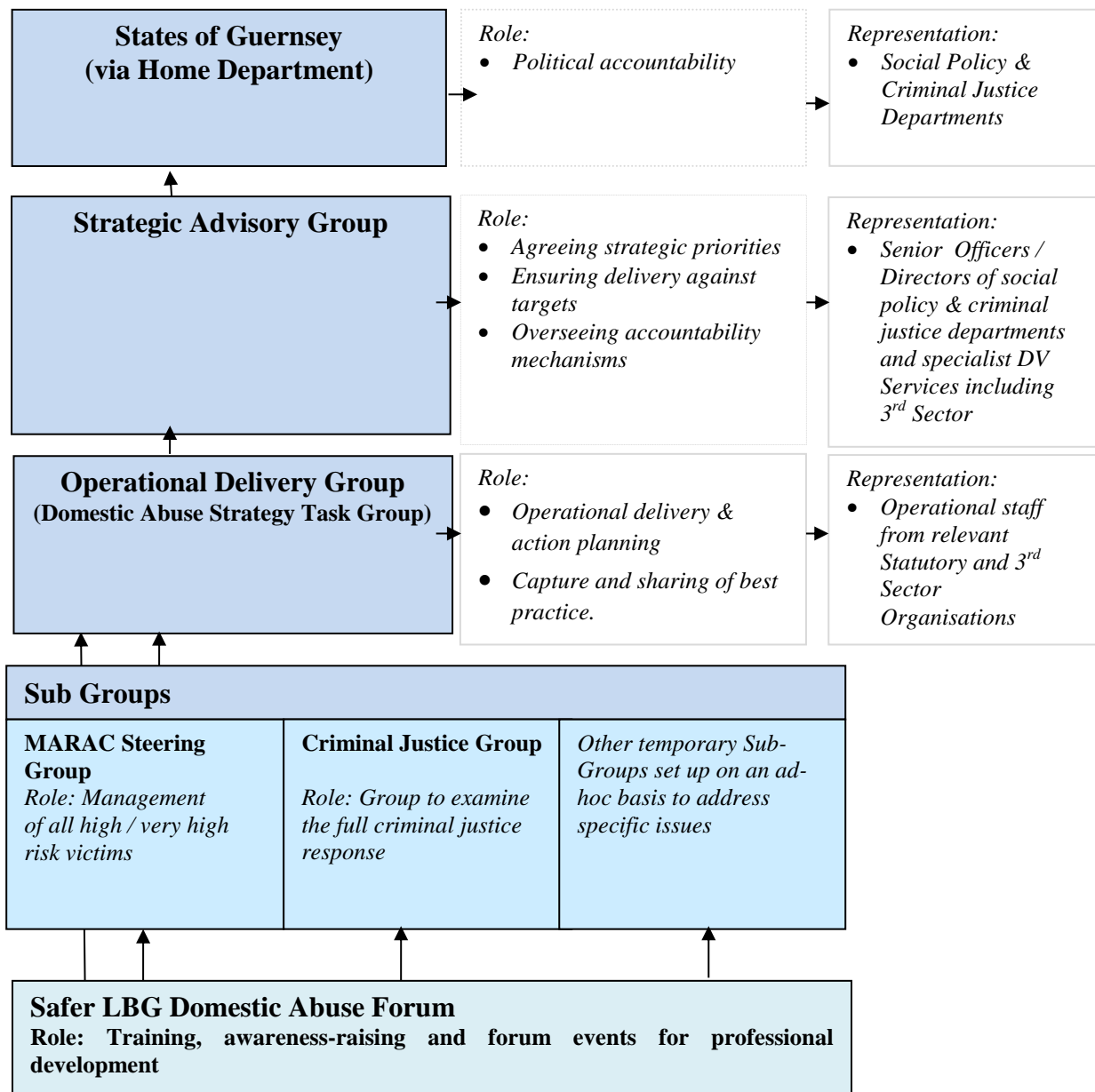
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## 7. DOMESTIC ABUSE STRATEGY PARTNERSHIP STRUCTURE

**7.1** The Domestic Abuse Strategy is situated within the Home Department, but also crosses all Departments involved with social policy. Beneath the main Advisory Group a number of sub-forums operate to support the Strategy's development. An overview of these Groups is provided in Figure 4, and each is comprised of membership from relevant organisations and has its own Terms of Reference.

**7.2** The right representation at the right level is vital. To allow productivity, defined purpose and delivery, limits must be placed on membership, while nevertheless ensuring that individuals involved disseminate relevant information across their agency. Representatives must commit to reporting to the wider agency structures, even if the representative's expertise lies within a discrete area of the organisation.

**Figure 4**



## Figure 5: 2016-2020 Framework for Service Delivery

The Strategy has adopted the UK Home Office Coordinated Community Response which recognises the cross-cutting nature of domestic abuse and illustrates the necessary agency inter-relationships that are required to deal effectively and safely with its effects. Integral to this model is the need to reflect the level of severity of cases and the type of intervention required from Tier 1 (Universal) to Tier 4 (Acute).

### **Tier 4: Acute / Restorative – risk of death or serious harm**

MARAC / MAPPA arrangements  
Police intervention-arrest, investigate, charge perpetrator.  
Legal Protection – criminal and family courts  
Child and adult protection intervention.  
Refuge emergency accommodation.

### **Tier 3: Complex - Adults and children whose lives are seriously disrupted by domestic abuse.**

**Co-existing substance misuse and /or mental health issues. Pregnancy. Victim has no recourse to public funds.**

MARAC / MAPPA  
Housing options- refuge  
Sexual Assault Services  
police intervention-arrest, investigate, charge perpetrator.  
Criminal Court; Legal advice / Protection  
Probation 1-2-1 work; Perpetrator Programmes/Women's Safety Worker  
Drug & Alcohol Services; Counselling and Psychology services;  
Mental Health Services  
CAMHS; Post Abuse therapeutic Services for children; Supervised Contact;  
Forced Marriage, Female Genital Mutilation

### **Tier 2: Vulnerable - Adults and children who are vulnerable as a result of abuse. Violent/ abusive incidents occurring, but not at a 'serious' level of risk / not actively seeking help / wants relationship to continue. Victims from diverse community or has additional needs with limited access to services.**

Advocacy Services – information, safety planning and support.  
Police response to 999 calls.  
Information about services /options available; Health Visiting / Positive Parenting Courses  
Assessment of needs identified within universal services – health, education, early years, housing,  
Supported Contact; Support and advice from specialist domestic abuse voluntary sector services

### **Tier 1: All Families / Universal**

Universal Services - promote awareness	Domestic Abuse Education in schools and community
Primary Prevention campaigns / media	Children's Services - identification
Public information directories / websites.	DV Forum events, media awareness, training
Health Screening / identification	Housing services / tenancy agreements
Domestic Abuse Employment/HR Policies	

<b>8.</b>	<b>STRATEGY TIME-FRAMES &amp; REVIEW PERIODS</b>
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<b>8.1</b>	The Strategy runs on a 5-year rolling programme. What this means is that every year we will review and refresh our Action Plan so that it always looks 5yrs into the future. By reviewing the Strategy in this way we can be sure that we are routinely assessing our objectives and making sure that they remain both valid and responsive to the needs of our community.
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<b>8.2</b>	Our Action Plan, which is revised annually, is made up of a series of objectives that will be achieved across the short and medium term. Long term objectives are those achieved through preventative measures, such as education work within schools, which may take a generation to achieve.
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	<b>Short-term</b>	Short-term objectives are those that will be achieved within a 2 year period.
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	<b>Medium-term</b>	Medium-term objectives are those that will be achieved within a 5 year period.
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## APPENDIX THREE

*The Cost of Domestic Abuse*

Difficult though it is to quantify, the cost of domestic abuse is very high, both in terms of human suffering and financial costs.

*A Framework for costs of Domestic Abuse*

1. **Direct tangible costs** are actual expenses paid, representing real money spent. These costs can be estimated through measuring the goods and services consumed and multiplying them by their unit cost. They also include expenditure on prevention and service provision across sectors, including justice, health, social services and education.
2. **Indirect tangible costs** have a monetary value in the economy but are measured as a loss of potential. An example is lower profits resulting from reduced productivity. These costs are measurable, although this involves estimating opportunity costs rather than actual expenditures.
3. **Direct intangible costs** result directly from the violent act but have no monetary value. Examples are pain and suffering. These costs may be approximated by quality or value of life measures, although there is some debate as to whether or not it is appropriate.
4. **Indirect intangible costs** result indirectly from the violence, and have no monetary value. An example is the negative psychosocial effect on children who witness abuse and violence.

Frameworks conceptualise the cost of domestic abuse by who bears the cost, i.e. the individual, household, community, business, government or society as a whole. The figure below provides an overview of the types of costs that may accrue to particular groups:

Individual	Business	Government	Society
Medical expenses; Property damage; Lost income from reduced productivity; Lost leisure time; Lost household production; Physical injury; Disability; Mental health problems; Premature mortality.	Reduced Productivity; Reduced revenue; Increased costs; Reduced access to human capital.	Health care; Social services; Policing and justice; Housing Costs; Civil and Legal Costs; Reduced tax revenue.	Reduced household income; Reduced lifetime earnings; Lower economic growth.

A national study in 2004 conducted for the UK Government's Women and Equality Unit by Sylvia Walby<sup>25</sup> estimated that the cost of domestic abuse in England and Wales to be £22.869 billion.

It is impossible to put a hard figure on the total overall cost annually to the local community because cases related to domestic violence and their associated costs are not currently tracked by the Guernsey Police, Courts, Health and Social Services Department, housing agencies etc.

Based on the UK research, the following table sets out the estimated cost of domestic abuse in England and Wales to individual services, economic output and the *human and emotional costs*<sup>26</sup>. Guernsey figures were extrapolated for the initial Strategy based on the local population figures.

	UK costs (2004)	Estimated Guernsey Costs (2004)
Criminal Justice Agencies, e.g. Police, Probation, Prison	£1, 123, 414, 700	£1, 376, 500
Health	£1, 347, 655, 700	£1, 651, 300
Mental Health	£194, 415, 900	£238, 200
Social Services	£251, 857, 000	£308, 600
Housing and Refuge services	£174, 532, 500	£213, 900
Civil and Legal Costs	£344, 646, 400	£422, 300
<b>Sub Total of all Service Costs</b>	<b>£3, 436, 522, 200</b>	<b>£4, 210, 800</b>
Lost Economic Output	£2, 951, 587, 000	£3, 616, 600
Human and Emotional Costs	£18, 873, 808, 300	£23, 126, 100
<b>Total Service, Employment &amp; Human Costs</b>	<b>£25, 261, 917, 500</b>	<b>£30, 953, 500</b>

The UK research was updated in 2009 and there were significant changes to the estimates, based on:

- a decrease in the rate of domestic violence;
- greater use of public services by victims of domestic violence, as a result of their development; and
- technical adjustments due to inflation and to growth in GDP.

<sup>25</sup> Walby, S , (2004) The Cost of Domestic Violence

<sup>26</sup> Sylvia Walby states that "The inclusion of human and emotional costs ...[are] based on the notion that people would pay something in order not to suffer the human and emotional costs of being injured. They are included following the practice of the Department for Transport and the Home Office. The Department of Transport developed its research programme to estimate the cost of injuries in order to identify the full cost of road traffic accidents as part of their cost-benefit analysis of whether building a new road was appropriate or not. The Home Office followed this methodology in estimating the cost of crime. It might be considered that if it is appropriate to include human and emotional costs in decisions on whether or not to fund the building of new roads, it is appropriate to include them in decisions on to whether or not to fund policies to reduce and eliminate domestic violence."

Walby states that although a decrease in the incidence of domestic abuse may be expected to lead to a decrease in engagement with domestic abuse services, this has not been the case. The British Crime Survey found that in 2001/2 only 35% of domestic violence incidents were reported to the Police; by 2008/09 this had risen to 47%. She asserts that the Police and criminal justice system were “probably spending about the same level of time and resource on domestic violence in 2008/09 as they did in 2001/02 as a consequence of these contrary trends in ‘real’ rate of the violence and the propensity to report and use services.”

The increase in Police reporting (as a proportion of total prevalence) in turn drove an increase in the use of public services, the cost of which increased by 26% between 2001/02 and 2008/09 despite the prevalence of domestic abuse falling by more than half over the same period. This increase in the use of services may have contributed to the reduction in the overall incidence of domestic abuse, by reducing repeat victimisation. Correspondingly, there was a reduction in the losses to economic output (which fell by 30%, from £2.7 billion in 2001/02 to £1.9 billion in 2008/09), and a very substantial decrease in human and emotional costs (from £17.1 billion in 2001/02 to 10.0 billion in 2008/09).

Based on the UK research update, local costs have been loosely estimated based on the same assumptions as the earlier research, i.e. it has been extrapolated based on the relative population of Guernsey and Alderney in relation to England and Wales. The other assumptions made in the calculations below are that the prevalence of domestic abuse incidence reported to the local Police is currently around two-thirds of the level of that reported in England and Wales, therefore calculations have been reduced accordingly by one-third.

	<b>UK Costs 2009</b>	<b>Estimated Guernsey Costs 2009</b>
Criminal Justice Agencies	£1261m	£1.03m
Health	£1730m	£1.41m
Social Services	£283m	£0.23m
Housing and Refuges	£196m	£0.16m
Civil Legal Services	£387m	£0.31m
<b>Total Service Costs</b>	<b>£3857m</b>	<b>£3.14m</b>
Lost economic output	£1920m	£1.57m
Human and Emotional Costs	£9954m	£8.13m
<b>Total Service, Employment &amp; Human Costs</b>	<b>£1,573m</b>	<b>£12.84m</b>

## APPENDIX FOUR

### *A UK National Policy Shift in Relation to Domestic Abuse*

During the period between 1997 and 2010, the main focus of policy and legislation on domestic violence in the UK was on putting in place initiatives linked to prevention, protection and justice and the provision of support for victims of domestic abuse, to be implemented by partnerships of service providers at both local and national levels. In formulating policy, England, Wales and Northern Ireland defined domestic violence in a gender-neutral way, while Scotland defined domestic abuse as being gender based – males perpetrating abuse and violence on women, as distinct from ‘partner abuse’ which can involve either or both partners using violence within the relationship.

Gendered analysis of domestic abuse informs the discourse and consensus of many international organisations including the UN General Assembly, the World Health Organisation and UNICEF. These organisations view violence against women as being prevalent, systemic and rooted in long-standing inequality between men and women, which if not dealt with, will continue to deter the social and economic progress of women and girls. Domestic abuse is viewed both a cause and a consequence of women’s inequality in society.

Since 2010, there has been an increased focus on the gendered nature of domestic abuse within England, Wales and Northern Ireland<sup>27</sup>, with links being made to other forms of violence against women and girls. The various forms of gender-based violence are collectively referred to as ‘Violence against Women and Girls’ (sometimes abbreviated to ‘VAWG’) and cover a range of crime types, including rape and sexual violence; stalking and harassment; commercial sexual exploitation including prostitution, pornography and trafficking; harmful practices such as Female Genital Mutilation, Forced Marriage and ‘honour’ based crimes (HBV); and sexual harassment in the workplace and public sphere.

As a result, VAWG Strategies<sup>28</sup> have replaced national domestic abuse strategies, with the Home Secretary and Crown Prosecution Service<sup>29</sup> recognising that the gendered patterns and dynamics involved in domestic abuse need to be acknowledged and understood in order to provide an appropriate and effective service to victims of domestic abuse.

Many actions taken as part of the response to VAWG crime types will be applicable to men and boys because policies and procedures should provide protection and redress to all victim/survivors.

The UK ‘Violence against Women and Girls Action Plan’, which was last updated in March 2014, identifies the critical role of partnership working to tackle domestic abuse.

<sup>27</sup> It should be noted that the strategic approach in Scotland has always been gender specific.

<sup>28</sup> Home Office (2010) *Call to End Violence to Women and Girls*. London: Home Office.

<sup>29</sup> Equality and Diversity Impact Assessment on the CPS Violence Against Women Strategy and Action Plan [http://www.cps.gov.uk/publications/equality/vaw/vaw\\_eia.html](http://www.cps.gov.uk/publications/equality/vaw/vaw_eia.html)

Research in England and Wales into gender and domestic violence perpetrators found that women and men have considerably different experiences of domestic abuse which encompass the following important distinctions<sup>30</sup>:

- A vastly greater number of incidents of domestic abuse were attributed to men, as either sole or dual perpetrators;
- The severity and intensity of violence and abusive behaviours from the men was much more extreme than from women perpetrating on men;
- The physical and emotional impacts on female victims were significantly greater than on male victims;
- Women's use of violence has been found in a number of studies to be defensive or retaliatory rather than initiating (a term known as 'violent resistance' by researchers);
- Women were more likely to use weapons, often in order to protect themselves;
- Men are significantly more likely to be repeat perpetrators, with 83% of those surveyed having at least 2 incidents recorded against them (one had 52 incidents), and nearly two-thirds (62%) of women recorded as perpetrators having only once incident recorded;
- Men's violence creates a context of fear and control, which is not usually the case for women perpetrators.

Work with Men and Boys is included within the UK VAWG Strategy as it is felt that a gendered analysis provides an understanding of what these crime types mean for men and boys, including why the majority of those who perpetrate violence and abuse are men, how the experience of being a male victim/survivor or witness can be different, as well as the best ways to provide help and support.

The pattern and severity of domestic abuse for women and men is very different, and therefore the services required to support survivors of different genders need to reflect this. It is certainly the case that some men are victims of domestic violence, and that governments have a duty to ensure that these victims have access to support, protection and justice. Therefore the application of gendered analysis around the use of services by women and men is vital to establish their differing needs, and enable sensible decisions to be taken that are of benefit to both genders, and also to ensure the most efficient use of public funds.

Safety from domestic abuse, sexual assault, or assistance with the criminal justice system should be gender-blind with anyone who needs help being able to access it. However, in terms of putting in place preventative measures, a gendered understanding of domestic abuse is vital. If gender is taken out of the equation and not discussed, progress will not be made in understanding and preventing domestic abuse and sexual violence.

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<sup>30</sup> Johnson, M. P. (2006) Conflict and Control: Gender Symmetry and Asymmetry in Domestic Violence. Hester, M 2013, 'Who does what to whom? Gender and domestic violence perpetrators in English police records'. European Journal of Criminology, vol 10., pp. 623-637 <http://www.nr-foundation.org.uk/downloads/Who-Does-What-to-Whom.pdf>

### *Adopting a Human Rights-based Approach*

Violence against women and girls is a human rights violation. The Equality and Human Rights Commission has also recognised that violence against women is one of the most serious forms of gender inequality and has urged public bodies to take action in this field. Under the Human Rights Act 1998, all public bodies have an obligation to protect the human rights of individuals and to ensure that their human rights are not being violated. The articles of the Universal Declaration of Human Rights most relevant to protect victims of domestic abuse are:

- Article 2: Right to life;
- Article 3: Right to be free from torture, inhumane and degrading treatment;
- Article 8: Right to family and private life, which extends to physical and psychological integrity.

As a human rights issue enshrined in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), it should be recognized that domestic abuse violates the principle of equality between men and women and continues to exist because of this inequality. As such, approaching violence against women from a rights perspective requires that gender inequality is addressed as a root cause, and that women's rights and freedoms with regard to CEDAW are upheld.

States signed up to CEDAW are obligated to promote and protect these human rights and all interventions should be designed and implemented with this understanding. A human rights-based approach requires developing the capacities of 'duty-bearers', or those responsible for implementing the law (e.g. justice, security/Police, health and education personnel, among others) on human rights and gender and on what these mean and how they can be applied in the context of violence against women. In practical terms, examples include:

- Ensuring that health care providers uphold a woman's right to make her own decisions related to reporting abuse or taking legal or any other action.
- Ensuring that Police understand that it is their duty (at the request of the woman) to intervene in domestic abuse situations, even when there are no witnesses to the abuse.
- Ensuring that justice procedures (e.g. the type of evidence that is/is not allowed in cases of sexual abuse; the statute of limitations for filing a case, etc.) take into account the gender-based nature of this crime and the fact that women survivors face stigma and discrimination that may deter them from reporting or filing a case immediately.
- Ensuring women's safety, confidentiality and anonymity at all times.

A human rights-based approach also requires developing the capacities of 'rights holders' (i.e. women and girls), so that they are enabled to exercise their rights. In practical terms, examples include:

- Ensuring services are available, accessible and known to women and girls.
- Implementing awareness-raising campaigns on zero tolerance for violence to reduce stigma and change attitudes that tolerate this human rights violation.
- Engaging with customary, traditional and religious leaders (who ascribe to human rights and gender equality) to reach underserved populations, such as the elderly, women with disabilities, immigrants and ethnic minorities, with whom they often have contact.

In 2015, the British government was criticised by the UN special rapporteur on violence against women, Rashida Manjoo. Her report, following on from a fact finding visit in 2014, stated that although the UK has made the issue a policy priority, there was a *“lack of a consistent and coherent human-rights based approach in the government’s response to violence against women and girls”*.

The report also warned that the government’s austerity measures had already had a “regressive” impact on initiatives designed to tackle the problem. *“Austerity measures are having an effect on the provision of services to address violence against women, as well as other cross-cutting issues affecting women such as poverty and unemployment,”* says the report.

The report stated that there was an “excellent policy framework” created by the home secretary for responding to violence against women and girls, and a number of changes to legislation would have a positive impact.

In response, the Home Office said: *“We have made protecting women and girls and supporting victims and survivors a key priority. We have criminalised domestic abuse and forced marriage, introduced ‘Clare’s Law’ and domestic violence protection orders, created two stalking offences, introduced FGM protection orders, passed a landmark modern slavery act to protect victims of slavery, ring-fenced £40m for services to protect women and girls and allocated a further £10m specifically for refuge provision... The government has made sure legal aid is available for victims of domestic violence who need it.”*

Several of the issues covered by the UK VAWG Action Plan are not known to be particular social problems locally, i.e. prostitution, gang-associated girls and young women, forced marriage and female genital mutilation (FGM). As Guernsey becomes more ethnically diverse, action may be required by the States to combat attitudes which condone practices such as FGM.

Substantially more funds would be required to put in place many of the action areas carried out within UK VAWG Strategy, for instance, in putting in place sexual violence services such as Sexual Assault Referral Centres and employing an Independent Sexual Violence Advisor. While it is known that sexual abuse frequently takes place in relation to women experiencing domestic abuse, at present, little is known about the prevalence of wider sexual abuse and harassment within the Bailiwick and more research needs to be done in this area in order to gain a better understanding. For the next few years, where need is identified, funding permitting, similar actions to those included in the UK VAWG Action Plan can be incorporated into the Domestic Abuse Strategy Action Plan.



## APPENDIX FIVE

***Service, project and activity glossary / descriptions relating to  
the Domestic Abuse Strategy & Action Plan***

**ADAPT (Accredited Domestic Abuse Prevention Training)**

The Independent Perpetrator Programme in Guernsey is known as ADAPT. The management of the programme is contracted out to the Hampton Trust, which is a specialist domestic abuse charity based in Southampton. ADAPT is a 30 week rolling programme that consists of five modules which are:

1. Physical Abuse
2. Sexual Respect
3. Emotional Abuse
4. Domestic Abuse and Children
5. Rebuilding Trust and Respect

**CARA**

A project in Hampshire (Project CARA: Cautioning and Relationship Abuse) was set up to study the effect of early intervention. Where an offender admits a minor domestic violence offence and a risk assessment form shows a victim to be low-risk, the Police can offer the offender a caution on the condition that a series of workshops is attended to resolve personal issues and to help the individual understand the impact of the impact of his or her behaviour on the spouse and children. Initial results from the first twelve months of the project show that those who attended the workshops were 46 per cent less likely to re-offend.

**Children & Young People's Post Abuse Therapeutic Service (PATs)**

The Children & Young People's Post Abuse Therapeutic Service was set up by HSSD in 2011. The service provides children and young people with opportunities to process the abuse that has happened to them and work to change any distorted thoughts, negative feelings and inappropriate coping behaviours. The Domestic Abuse Strategy part-funds one of the posts within the Service.

**Children & Young People's Domestic Violence Advisor (CYPDVA)**

A 2 year pilot programme to support children and young people living with domestic abuse commenced in June 2014. Charitable funding was obtained from BBC Children in Need to run this project. The post holder works closely with HSSD Children's Services supporting both children who have experienced domestic abuse in their parents' relationship, or young people who are experiencing domestic abuse within their own intimate relationships.

In the UK, The Department for Education recently awarded funding to deliver a new Young People's Programme. This has been designed in response to the recent extension of the definition of domestic abuse to include 16 and 17 year olds. The Local CYPDVA has attended the national training programme.

CYPDVAs are responsible for holding a caseload of children and young people who are experiencing serious harm from interpersonal violence and children in need who are recovering from the impact of domestic abuse. This activity is supported by co-ordination with other social care practitioners, access to regular case supervision, support to make all professional judgements with multi-disciplinary input.

**Civil Proceedings**

These are non-criminal proceedings that take place in the Court. Applications for domestic violence injunctions, divorce proceedings, child contact and residence are all examples of civil proceedings.

**Coordinated Community Response**

Domestic abuse is a complex social problem affecting the whole of society. The outcomes are the responsibility of all agencies with a remit for health, social care and crime. It damages families and the education of our children; it affects businesses and employers, and increases the demand for housing. Agencies and organisations are often dealing with the same problem from different angles with different responsibilities for intervention and are seeking different outcomes. In the middle of this complexity are the victims and the children who have often received little support or conflicting advice and may even be seen as culpable because they have not seen their own way out of the abusive relationship.

To provide victims with a better response and increase their chances of escaping harm, the need to weave a unified effort within the local community and services is apparent. The 'Coordinated Community Response' was initially developed in Duluth, Minnesota. Partners there believed that the coordination of local services would greatly improve the success of the response to domestic abuse, both to keep victims and children safe, and to hold perpetrators to account. It became apparent that when local responses to the disclosure of domestic abuse were consistent and when people and organisations were held accountable, the response improved.

**Counter-Allegations**

Police, prosecutors and specialist domestic abuse agencies may often be presented with conflicting accounts of the domestic abuse incident, with each party claiming to be the victim. The defendant may make a counter-allegation of abuse or violence, or argue that s/he acted in self defence, making it difficult to identify and distinguish between the victim and offender. The victim may also have acted in retaliation, which may add to the complexity of the incident. Where there is uncertainty, further information should be sought from the Police to help clarify the situation as soon as possible.

In cases where a counter allegation has been made, Police officers should conduct an immediate further investigation at the scene (or as soon as is practicable) to attempt to establish the primary aggressor and to assess whether the 'primary' victim may have been justified in using a reasonable level of force to defend themselves or another person, such as a child.

**DARE (Domestic Abuse Relationship Education)**

Hampton Trust DARE Team's primary aim is to raise awareness of domestic abuse & healthy relationships amongst young people in Guernsey and Alderney.

The Schools Education Worker provides consistent and structured domestic abuse educational lessons to all year 7 (age 11-12), 9 (age 13-14) & 11 (age 15-16) PSHE classes in all schools. Sessions are also provided in the post-16 setting where lessons are customised for groups. The Community Education Worker provides semi-structured and tailor-made domestic abuse workshops in other youth settings.

**Domestic Violence Disclosure Scheme (Clare's Law)**

The domestic violence disclosure scheme will be implemented across England and Wales from 8 March 2014. This follows the successful conclusion of a 1 year pilot in the Greater Manchester, Nottinghamshire, West Mercia and Wiltshire force areas.

***Right to ask***

Under the scheme an individual can ask Police to check whether a new or existing partner has a violent past. This is the 'right to ask'. If records show that an individual may be at risk of domestic violence from a partner, the Police will consider disclosing the information. A disclosure can be made if it is legal, proportionate and necessary to do so.

***Right to know***

This enables an agency to apply for a disclosure if the agency believes that an individual is at risk of domestic violence from their partner. Again, the Police can release information if it is lawful, necessary and proportionate to do so.

Guernsey Police have been using the *Right to Know* in relation to high risk cases, particularly those where children are living in the household, for some time. Consideration will now be given locally to implementing the *Right to Ask*.

**EPIC** (Education, Prevention, Intervention in the Community). This is a project that has been very successful in Wales. It puts a package of support around the whole family (including the perpetrator) consisting of:

- EIP (Early Intervention Programme) – intensive, contract based couples & family work;
- Men's group – for those men seeking help / being prepared for the independent perpetrator programme;
- Pattern changing – a CBT based programme aimed at helping women to take control of their own lives and make more informed decisions;
- CYPP (children & young person's programme) – providing 1-1 support, STAR (Safety Training & Respect) programme and small group work.

**Family Violence**

Family violence is broader than domestic abuse. It is considered to be any form of abuse, mistreatment or neglect that a child or adult experiences from a family member, or from someone with whom they have an intimate relationship. It includes adolescent violence against parents and siblings including any physical, emotional, psychological or financial act that makes the victim (the parent) feel threatened, intimidated or controlled. Violence by young people with a disability towards their parents is also a concern for some families.

**Homicide**

Homicide comprises a range of offences including - murder and attempted murder, making threats to kill, manslaughter, conspiring or soliciting to commit murder and causing death by dangerous driving.

**Independent Domestic Violence Advocacy (IDVA) Service**

Independent advocacy involves the professional provision of advice, information and support to survivors of intimate partner violence living in the community about the range, effectiveness and suitability of options to improve their safety and that of their children. This advice must be based on a thorough understanding and assessment of risk and its management, where possible as part of a multi-agency risk management strategy or MARAC

process. An independent advocate provides this service both at the point of crisis and in relation to medium-term safety and support. The work of such advocates has clear and measurable outcomes in terms of improved safety and a reduction in repeat offences. The advocate also helps to ensure that all agencies involved in an individual case fulfil their obligations.

Advocacy differs from outreach and resettlement support work in that it is based on risk assessment rather than on need. As such, advocacy is complementary to these services rather than an alternative or duplication.

### **Injunctions and Orders for Domestic Protection under the Guernsey and Alderney Law**

#### **Guernsey Legislation**

An injunction is a court order that requires someone to do or not to do something in order to protect a victim. There are three main types of injunctions/orders available under the Guernsey Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 and the Protection from Harassment (Bailiwick of Guernsey) Law, 2005;. These are Domestic Violence Orders, Restraining Orders and Removal Orders.

- **Domestic Violence Orders** usually state that the perpetrator is not to molest or threaten; leave or not enter home; permit partner or child to enter or remain in home; or to avoid doing something.
- **Restraining Orders** prohibit a person from doing any specified thing, for the purpose of protecting victim or restraining the person from pursuing any conduct which amounts to harassment
- **Removal Orders prevent a person** taking a child out of Bailiwick except by leave.

#### **Power of Arrest**

This can be attached to an order and will give the Police power to arrest the perpetrator if he or she breaks the order.

#### **Alderney Legislation**

In 2014, the States of Alderney approved "The Separation, Maintenance and Affiliation Proceedings (Alderney) (Amendment) Law, 2014" in order to introduce Domestic Violence Injunctions (DVI). The Separation, Maintenance and Affiliation Proceedings (Alderney) Law allows the Court of Alderney to deal with judicial separations and financial provision for spouses and children, but had not included DVIs.

The Court of Alderney has granted DVIs in the past on the basis that it has an 'inherent jurisdiction' to protect members of the community from all types of violence, however there was no legal means to attach a power of arrest to such orders. This legislation was introduced in 2015.

The changes will allow the Police to arrest for a breach of an order and bring the person before the Court within 24 hours of arrest. This will give immediate protection for the victim rather than the current lengthy process before the Civil Court. The legislation also covers same-sex couples.

**Integrated Court**

An Integrated Court is one which co-ordinates court action for families affected by domestic violence by bringing related cases involving the same family into one court. It provides complete information about family issues to aid judicial decision-making and attaches comprehensive resources and services to one court to address the multiple needs of these families. It is designed to promote:

- informed judicial decision-making, based on current and comprehensive information, on all issues involving the family
- protection of the rights of the litigant
- victim safety through the elimination of conflicting orders and careful monitoring of compliance
- consistent handling of all matters relating to the same family through the allocation of a single judge to each family
- efficient use of court resources, reduced number of appearances, speedier dispositions through consolidation of court operations through one courtroom
- links with social services, independent advocates and other resources to comprehensively address the needs of all family members
- a co-ordinated response and collaboration among criminal justice and child welfare agencies and community-based groups
- increased confidence in the court system by reducing inefficiency for litigants and duplicative functions for court systems

See also **Specialist Domestic Violence Court** below.

**Independent Perpetrator Programme and Integrated Safety Worker**

(see **ADAPT** above)

**IRIS**

IRIS, is a project which was piloted in GP surgeries in Bristol and London and is now spreading nationwide. IRIS is a collaboration between primary care and third sector organisations specialising in DVA. An advocate educator is linked to general practices and based in a local specialist DVA service. The advocate educator works in partnership with a local clinical lead to co-deliver the training to practices. Core areas of the programme are training and education, clinical enquiry, care pathways and an enhanced referral pathway to specialist domestic abuse services.

**LINX**

LINX is a 12 week single gender group based programme run by the Hampton Trust. It is aimed at young people aged 12 – 18 years of age showing escalating signs of challenging behaviour. The programme was developed by young people for young people and is based on building empathy.

Over the past three years, LINX has been rolled out across Devon, Gloucestershire, Hampshire and the Isle of Wight to nearly one thousand young people exposed to domestic abuse. Independent research from the University of Southampton, has shown statistically significant evidence of a reduction in violent behaviour, an increase in educational engagement and an increase in self-esteem. Young people were able to make the links between their early experiences and their current behaviour and show positive outcomes from attending LINX.

The programme has been delivered in secure units, schools, and youth offending teams.

Hampton Trust are currently working with Kingston prison to train to prisoners serving life sentences to deliver the programme to young people at risk of custodial sentences. LINX has won several national awards such as a Youth Justice Award and a Howard League award for young people. It is hoped that the programme can be piloted in Guernsey if funding is found. <http://www.hamptontrust.org.uk/our-programmes/linx/>

#### **Multi-Agency Risk Assessment Conferences (MARAC)**

The Guernsey MARAC aims to:

- Share information to increase the safety, health and well-being of victim/survivors – adults and their children;
- Determine whether the alleged perpetrator poses a significant risk to any particular individual or to the general community;
- Construct jointly and implement a risk management plan that provides professional support to all those at risk and that reduces the risk of harm;
- Reduce repeat victimisation;
- Improve agency accountability; and
- Improve support for staff involved in high-risk domestic abuse cases.

The MARAC Administrator post which is vital to the functioning of the MARAC is funded through the Domestic Abuse Strategy.

#### **No Prosecution**

Those cases where the Law Officers of the Crown's decision is not to prosecute, for evidential or public interest reasons.

#### **Police Positive Action / Positive Arrest Policy**

This is a policy adopted by the Police to make clear their commitment to improving victim safety. Where a power of arrest exists, officers would normally be expected to exercise this power. If an arrest is not made, for whatever reason, officers are still expected to take steps to reduce the risk of further assaults and to record their reasons for not making an arrest.

#### **Refuge Provision**

Refuge-based services are one of the key elements of a package of specialist help offering emergency and temporary accommodation, advocacy and support to individuals escaping abuse. Priority areas of work for refuges are:

- Access to high quality, good value refuge accommodation and relevant housing related support services;
- Information and advice being accessible to enable victims to recognise that they are affected by domestic violence or abuse, to know where to go for help and is appropriate and accessible to meet victims' diverse needs;
- Access to information and awareness raising programmes to assist with moving on to abuse free lives, e.g. pattern changing programmes or survivor groups;
- Support to prevent homelessness e.g. tenancy liaison, assistance with rent deposit schemes;
- Provision of outreach, resettlement and floating support.

#### **Respect**

Respect is a National Practitioners' Network of professionals working with perpetrators across the UK. Respect Accreditation is the national bench mark for the provision of quality interventions with men who use violence against their female partners. The Respect

Standard sets out all the requirements good quality domestic violence prevention services need to meet to become accredited. The Hampton Trust <b>ADAPT</b> Programme is Respect Accredited.
<p><b>Safe Lives (formerly known as CAADA)</b></p> <p>Safe Lives is a national charity supporting a multi-agency and risk-led response to domestic abuse. It provides practical help to support professionals and organisations working with domestic abuse victims. Its mission is to help create a consistent, professional and effective response to all survivors of domestic violence in the UK,. It aims to achieve this through the creation of a strong infrastructure for the advocacy sector in particular and other domestic violence professionals in general.</p> <p>The Guernsey MARAC and IDVA Services have both been quality assured by CAADA.</p>
<p><b>Safer LBG</b></p> <p>Safer LBG is a Guernsey Charity that was originally set up in 2001 as Options the Guernsey Domestic Abuse Forum. Safer has two main aims:</p> <ul style="list-style-type: none"> <li>• The prevention of domestic abuse;</li> <li>• The protection of individuals who have experienced domestic abuse.</li> </ul> <p>Safer currently manages the IDVA Service and refuge and runs the local domestic abuse helpline.</p>
<p><b>Safety planning</b></p> <p>This is a way of working with victims that does not presume that either they have separated from the abuser, or that separation creates safety. It recognises the victim's own agency in managing and coping with violence and abuse, but at the same time attempts to move victims on from reactive, short-term management to pro-active longer term planning. The method is quite simple, involving recording all the forms of violence and abuse victims have experienced, their frequency, and whether assaults are increasing and/or becoming more dangerous. Assessment involves working with victims to get a sense of their current level of risk and then exploring their options. The goal is to enable victims to shift from reacting to events as they happen, to anticipating and planning ahead; extending their coping strategies, especially ways they could take more control.</p>
<p><b>Specialist Domestic Violence Courts (SDVCs)</b></p> <p>This can include one or both of the following:</p> <ul style="list-style-type: none"> <li>• <i>Clustering</i> – all cases are grouped into one court session to deal with pre-trial hearings, bail variation, pleas, pre-trial reviews, pre-sentence reports, and sentencing. Some cluster courts also hear trials in a specific domestic violence session;</li> <li>• <i>Fast-tracking</i> – specific pre-trial review sessions are allocated for domestic violence, with one in four court slots allocated to domestic violence for all further hearings/trials.</li> </ul> <p>A specialist or fast-track court procedure for dealing with domestic abuse cases deals solely with criminal, adult proceedings. The Strategy will investigate whether aspects of good practice from the SDVCs could be adopted locally.</p> <p>See also <b>Integrated Court</b> above.</p>
<p><b>Evidence-Led Prosecutions</b></p> <p>It is not only difficult for victims of domestic and sexual violence (DSVA) to report what is</p>



happening but it can also be a very harrowing process for victims to go to court to give evidence against the perpetrator. Generally, victims want the abuse to stop and are uninterested in a prosecution or conviction. Nonetheless perpetrators should be exposed, brought to Court and rehabilitated or deterred. Many will be serial perpetrators unless they are stopped, so victimless prosecutions, which allow the Police and prosecution to continue to prosecute a case if there is sufficient evidence to do so, once a victim has withdrawn, although difficult, can be in the public interest.

Protocols are currently being developed in areas of the UK around evidence-led, or 'victimless' prosecutions between Chief Constables and the Crown Prosecution Service (CPS). This will define the preferred standard for corroborative evidence in all DSVAs and is intended to support the joint CPS and Police strategy for improving investigation and prosecution.

### **Glossary of Abbreviations**

<b>BME</b>	Black and Minority Ethnic
<b>CAADA</b>	Coordinated Action Against Domestic Abuse (now known as Safe Lives)
<b>CPS</b>	Crown Prosecution Service
<b>FGM</b>	Female Genital Mutilation
<b>HBV</b>	Honour based violence
<b>IDVA</b>	Independent Domestic Violence Adviser
<b>ISVA</b>	Independent Sexual Violence Adviser
<b>KIDVA</b>	Children & Young People's Independent Domestic Violence Adviser
<b>LGBT</b>	Lesbian, Gay, Bisexual and Transgender
<b>MARAC</b>	Multi Agency Risk Assessment Conference
<b>PATS</b>	Post Abuse Therapeutic Service for Children and Young People (HSSD)
<b>RIC</b>	Risk Indicator Checklist
<b>SARC</b>	Sexual Assault Referral Centre
<b>SDVC</b>	Specialist Domestic Violence Court
<b>VAWG</b>	Violence Against Women and Girls



## APPENDIX SIX

### *Strategy Consultees*

**Draft Strategy consultation was advertised on the gov.gg website and also sent to:**

Education Department  
The Greffe  
HSSD  
Housing Department  
Police  
Probation Service  
Prison  
SSD  
The Office of the Children's Convenor  
Action for Children  
Drug Concern  
Guernsey Women's Aid  
The Hampton Trust  
Health Information Exchange  
Maison Saint Pierre  
Philippi Counselling  
Relate  
Safer  
Victim Support

**Respondents were:**

**Organisations**

Police  
Housing Department  
Policy Council  
Education Department  
Probation Service  
HSSD  
Action for Children  
GSPCA  
Safer  
Relate, Guernsey  
The Hampton Trust  
Health Information Exchange  
Catalyst  
Liberate CI

**Individuals**

Ann Battye  
Elis Bebb  
Chris Beeching  
Geoff Chapman  
Vicky Le Tissier  
Kevin McGoldrick  
Kerry Gallienne  
Julie Hughes  
Jennifer Meeks  
Steven Scott  
Sarah Jane Snowdon  
68 additional members of the public  
who wished to remain anonymous.

**(N.B. The Treasury and Resources Department notes that the Home Department is planning to fund the resource requirements relating to the Domestic Abuse Strategy from within its existing cash limit. The Treasury and Resources Department notes that commercial sector financial support has been utilised in previous years and, although the total for 2016 is not confirmed in the Policy Letter, it has concerns with regards to the impact on the Strategy if commercial funding support were to be reduced or removed. The Treasury and Resources Department also notes that there are potential resource requirements highlighted for 2017- 2020 and it is expected that no further funding requirements are committed to without, as the Policy Letter states, ‘finding a way in which to fund these new services from’. It is also expected that any such funding requirements are met through a strategic prioritised reallocation of existing resources by reducing some current services which are considered to be of lower priority.)**

**(N.B. The continued development of the Domestic Abuse Strategy is significant for the Islands on many levels and key to both the social and economic objectives of the States Strategic Plan. Individuals experiencing Domestic Abuse who are otherwise socially disadvantaged (through disability, sexual orientation etc.) must be adequately supported through effective partnership working. Pursuing a well-evidenced preventative approach and supporting children and young people who have experienced domestic abuse will help to avoid significant future human and financial cost.**

**The Policy Council, therefore, supports the ongoing Strategy; however, the Policy Letter highlights a number of concerns which the Policy Council is clear must be addressed as part of the programmes of service transformation and public service reform. In particular:**

- That where services are being run by third sector organisations there are issues about their level of funding and resourcing to meet continuing unmet need. This emphasises the imperative for changes in public sector service delivery so that reform dividends can be generated to ensure that where services are commissioned from the third sector they are adequately resourced.**
- The need for improvements in data collection, monitoring and reporting within the public sector.**

**The Domestic Abuse Strategy also references several other key Strategies, including the Children and Young People’s Plan; the Supported Living and Ageing Well Strategy; the Mental Health and Wellbeing Strategy; the Equality and Rights Programme (including the Disability and Inclusion Strategy); the Criminal Justice Strategy; the Drug and Alcohol Strategy; and the Sexual Health Strategy. Closer and more effective coordination in the ongoing development and implementation of all these strategies will be necessary going forward, in order for the full benefits of this social policy work to be realised.)**

The States are asked to decide:-

IX.- Whether, after consideration of the Policy Letter dated 7<sup>th</sup> October, 2015, of the Home Department, they are of the opinion:-

1. To approve the Domestic Abuse Strategy for Guernsey and Alderney 2016-2020 at an annual cost of £382,700 thereby affirming the commitment of the States of Guernsey to tackling the issue of domestic abuse.
2. To direct the Home Department to report back to the States in 2020 with a progress report on the implementation of the Strategy for 2016-2020 together with proposals for the future.

**COMMERCE AND EMPLOYMENT DEPARTMENT****EXTENSION OF THE AVIATION REGISTRY TO PERMIT COMMERCIAL  
OPERATIONS BY GUERNSEY-REGISTERED AIRCRAFT**

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

3<sup>rd</sup> September 2015

Dear Sir

**1. Executive Summary**

- 1.1 This Policy Letter provides an update on the Commerce and Employment Department's Aviation Registry ("the Aviation Registry") and proposes some amendments to the current legislation to widen the scope of the Aviation Registry to include commercial aircraft and an extension of an international Convention as a result of this. The Policy Letter has been prepared in consultation with SGI Aviation ("SGI"), the strategic and technical partner that operates the Aviation Registry. It is important to note that the Registry is a commercial operation financially independent from the States.
- 1.2 Initially a decision was taken not to permit commercial operation by Guernsey registered aircraft. This was driven by a number of factors; a need to demonstrate that the Aviation Registry could be effectively managed prior to embarking on the more complex regulatory areas and an initial assessment of market conditions that supported focussing on the business jet market. Over the past year the Aviation Registry has been operated in a robust and effective manner. It has also become clear that the business jet market is more difficult to penetrate than had originally been envisaged – both in terms of the strength of competition and the requirements of potential customers.
- 1.3 With this in mind, the Aircraft Registrar has worked with SGI to retarget the Aviation Registry to appeal to business rather than private clients (i.e. companies either operating or leasing aircraft rather than private owners – although the latter remains a revenue stream). As noted below, this has met with considerable success in the aircraft leasing market. The logical next step is to develop a full commercial offering. This is fully in line with the Economic Development Framework in expanding the services that Guernsey is able to offer and in further developing the Aviation Registry's technical expertise. From a position of some 32% behind revenue target for 2014, the project is now 10% ahead of the business plan target for 2015 with almost double the volume.

- 1.4 It is important to note that the financial risk for the Aviation Registry falls on the Registry partner SGI and the proposals outlined herein do not require States funding beyond making the required amendments to legislation. No additional States resources are required.
- 1.5 It is also important to note that there is a “last resort” liability for the States. This is described in detail below, but in essence relates to situations where an accident occurs and a subsequent investigation is required. We carry substantial insurance for this eventuality, as well as for any failures in our regulatory oversight, however it is important to note that there is a deductible on our cover. However, the proposed expansion of the Aviation Registry to include commercial carriage does not increase the currently existing risk, as demonstrated by the fact that insurers do not initially intend to increase the premium as a result. It is also important to note that air operators will be required to hold their own substantial insurance cover.

## **2. The Aviation Registry - Benefits to Guernsey**

- 2.1 There are three distinct benefits to Guernsey – we provide regulatory oversight to local aircraft owners, channel aviation business to local financial and legal companies and provide employment on the island. All of the development cost for this is borne by the technical partner SGI, at no direct financial risk to the States.
- 2.2 Today the Aviation Registry provides an alternative jurisdiction for aircraft owners, many of whom are Guernsey residents that appreciate having a local service rather than dealing with overseas authorities. At present this is restricted to private aircraft; the proposal is to extend this in future to commercial aircraft. As stated in the submitted report, this was not contemplated when the Aviation Registry was started – with eighteen months of operating experience it is felt that the project has reached a sufficient stage of maturity and it is clear that this will be a major draw for potential clients. In time this could include Aurigny, utilizing regulatory staff based in Guernsey (rather than the United Kingdom as at present).
- 2.3 Registration of aircraft requires significant legal and financial formalities. The local legal and fiduciary community benefits from this today both directly and indirectly. Expansion of the Aviation Registry can only lead to further opportunities.
- 2.4 As noted, SGI already employs one full-time technical specialist in Guernsey. As the Aviation Registry expands at least one further locally-based member of staff will be required. Clients wishing to register aircraft in Guernsey for commercial air transport will be required to demonstrate that operational control is based here, creating further direct employment with associated secondary benefits.

### **3. Background**

- 3.1 On 1st November 2012, the States resolved to approve the drafting of the legislation as set out in the report of Commerce and Employment dated 7<sup>th</sup> August 2012 in October 2012 Billet XXI<sup>1</sup>, namely: the amendment of The Aviation (Bailiwick of Guernsey) Law, 2008; The Air Navigation (Bailiwick of Guernsey) Law, 2012; and The Aviation Registry (Guernsey) Law, 2013. Together, these three pieces of legislation permitted the creation and establishment of the Aviation Registry (commercially known as “2-REG”).
- 3.2 In particular, The Air Navigation (Bailiwick of Guernsey) Law, 2012 prescribes the operational requirements for aircraft operating in the Bailiwick and The Aviation Registry (Guernsey) Law, 2013 permits aircraft and engines to be registered on the Guernsey Aviation Register. However, as noted in paragraph 5.2 of the August 2012 report<sup>1</sup>, the legislation did not permit the registration of commercial aircraft. In particular, the report stated that "...any potential expansion to commercial aircraft may be dealt with by way of future primary legislation, should that ever be considered to be desirable".
- 3.3 Following the successful launch of the aircraft registry in December 2013, the Aircraft Registrar has been working with the Aviation Registry partner SGI to identify opportunities and ways to develop the Aviation Registry and continue to expand the client base and offering. One of the ways to do this would be to create the possibility to operate aircraft commercially on 2-REG. At present, as noted above, the law precludes this.
- 3.4 This Policy Letter explains the Aviation Registry's strategy, the licensing of commercial air operations, issues of regulatory competence and liability, and details the necessary amendments to the existing legislation.

### **4. The Aviation Registry's Strategy**

- 4.1 The aircraft registry project was originally envisaged to target the business jet market, whilst at the same time providing some services to the local general aviation community, mainly for smaller aircraft. Whilst there has been some interest from business jet owners, the Aviation Registry faces a highly competitive market with established leaders in the Cayman Islands, Bermuda and (most notably) the Isle of Man: together these jurisdictions have around a thousand registered aircraft. Hence during the second half of 2014 the Aircraft Registrar and SGI sought to change the focus of the Aviation Registry and diversify both the offering and the client base. Since then the Aviation Registry has mainly dealt with aircraft lessors, catering for the “off-lease” market with this providing a steady and reliable source of income. Revenues are now in line with the business

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<sup>1</sup> Article 5 of Billet d'État No. XXI October 2012 - Commerce and Employment Department - Aircraft Registry, p. 2060.

plan. Although the raw target for the number of registrations is not being met, the revenues arising from dealing with larger airliners has compensated for this, as registry charges are determined by tonnage (the workload being broadly the same regardless of aircraft size).

- 4.2 In dialogue with the lessors it became clear that there is an opening for a reliable independent registry that would permit aircraft to be operated commercially. It is this opening that the Aviation Registry is seeking to exploit, although the potential market is much wider than simply aircraft lessors and following analysis of the requirements by SGI, it is believed that it will be possible to offer a range of commercial products that will significantly extend the client base for the Aviation Registry. At a recent trade show<sup>2</sup> several operators of business aircraft indicated to 2-REG that they would consider moving aircraft to the Guernsey Aviation Registry if the restriction on commercial operation were lifted. The aim is to offer flexible and innovative solutions to these clients that are not presently available elsewhere. These are discussed in section 5 below.
- 4.3 In parallel with this the Aviation Registry has also been approached by a number of stakeholders exploring the feasibility of establishing “air-taxi” operations to and from the Bailiwick. Such flights require – in most cases – the operator to obtain an Air Operator's Certificate.

## **5. The Licensing of Commercial Air Operations**

- 5.1 Commercial air operations are licensed by issue of an Air Operator's Certificate (“AOC”). International aviation law imposes a number of requirements that must be met for aircraft to be operated commercially for the purpose of carrying fare-paying passengers. These are broken down into technical and operational matters. The requirements for airworthiness – ensuring that the aircraft themselves are safe to be flown – are common to all aircraft and the Aviation Registry already manages this in a competent and effective manner. In addition, there are a number of requirements that operators must satisfy to demonstrate corporate competency in terms of procedures, staffing, crewing and insurance to make sure that they demonstrate the level of organisation and skill expected by fare-paying passengers. Where a carrier demonstrates an appropriate level of proficiency an AOC may be awarded.
- 5.2 There are a number of national and international requirements governing the issue of AOCs. At the broadest level the subject is covered by the International Civil Aviation Organization (“ICAO”) under Annex 6 of the 1944 Chicago Convention, which requirements extend to Guernsey. The European Aviation Safety Agency (“EASA”) sets the requirements at a European level, albeit these requirements do not extend to Guernsey; in turn the United Kingdom Civil Aviation Authority

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<sup>2</sup> EBACE 2015 <http://ebace.aero/>



(“CAA”) provides State oversight for the United Kingdom in implementing the EASA and ICAO rules. It is intended to bring Guernsey into line with the ICAO requirements but to allow a degree of flexibility should a client wish to work to the EASA standards – see below.

- 5.3 Some of the Aviation Registry’s competitors also offer AOCs. Most recently San Marino issued its first AOC with Bermuda and Cayman also well established in this market. It is proposed that Guernsey will offer a traditional route to AOC issue as found elsewhere, but with two more novel approaches based upon the “validation” concept that has been established for airworthiness. Market research suggests that this will be of particular interest to operators of larger business jets who make their aircraft available to commercial charter operators on an ad-hoc basis.

## **6. Issues of Regulatory Competence and Liability**

- 6.1 For the commercial air carriers. There is a complex international framework that covers air carrier liability. The principal liability for death, injury and loss arising out of an air accident falls upon the operator of the aircraft. The current international standard is the Montreal Convention 1999 (the Convention for the Unification of Certain Rules for International Carriage by Air), which has not yet been extended to Guernsey; although it is provisionally set out in Part IV of The Aviation (Bailiwick of Guernsey) Law, 2008, this has not yet been brought into force. It is therefore recommended that the United Kingdom be asked to extend this to Guernsey and that Part IV of the Aviation Law then be brought into force.
- 6.2 For the Registry. The Aviation Registry has residual or contingent liability in the event of regulatory failure (that is a failure to properly exercise a duty of care in respect of those on board an aircraft and to persons and property on the ground). The Aviation Registry already has a strong system in place to ensure airworthiness; through SGI this will be extended to ensure that the Director of Civil Aviation (“DCA”) has robust and effective flight operations oversight with appropriate expertise and procedures. The DCA has confirmed with the Aviation Registry’s insurers that there is sufficient liability cover in place for the additional offerings.
- 6.3 For the States. The Aviation Registry carries the responsibility to investigate air accidents involving Guernsey registered aircraft. Should a carrier’s insurance not operate, the cost of investigating such accidents would normally fall to the States; however, the Aviation Registry has in place cover for accident investigation for Guernsey-registered aircraft. The current policy includes cover for commercial air transport aircraft, initially with no increase in premium. This may increase in future should a significant expansion in operations occur, but in any case the increase will be recovered from industry through fees charged. The policy excess is expected to remain (as now) at £200,000 in any claim and in the annual



aggregate. There is no change to the arrangements for aircraft accident investigations within the Bailiwick, which remain a matter for the Bailiff under The Civil Aviation (Investigation of Accidents) (Guernsey) Order 1972 (as amended).

- 6.4 There is clearly also a wider reputational issue. Commercial operations carry a higher profile and any incident is likely to attract significant media attention that may not arise for private aircraft. The Aviation Registry have a fully competent, mature and expert partner in SGI: their management of the Aviation Registry largely mitigates any reputational risk. The DCA is in regular dialogue with SGI and provides oversight and assurance to the States.

## **7. Legislative Changes**

- 7.1 At present there is a restriction in The Aviation Registry (Bailiwick of Guernsey) Law, 2013 that prevents aircraft registered here being operated for commercial air transport (save in the course of certain State activities) as a result of the Resolution of the States of 1<sup>st</sup> November 2012, the measure is a standard feature of fledgling registries and is intended to ensure a step by step approach is taken. The Aviation Registry has now been operating successfully for over a year and the Aircraft Registrar believes that the time has come for the restriction to be removed together with an administrative redrafting of this section of the law. Therefore if this report is approved, the restriction on the registration of commercial aircraft in the Aviation Registry Law should be removed and such amendment as necessary made to permit the registration of aircraft in Guernsey in accordance with international standards as set out in the Convention on International Civil Aviation. Further, following the extension of the Cape Town Convention to Guernsey, it would be useful to create a power to amend by regulations to ensure that the implementing legislation stays up to date with international practice.
- 7.2 There will also be an amendment required to The Air Navigation (Bailiwick of Guernsey) Law, 2012 that:
- i. provides the DCA with statutory powers to produce standards and requirements for the issue of an AOC, the DCA proposes to require compliance with the ICAO rules in the Bailiwick to ensure consistency with our other aviation legislation;
  - ii. introduces all other requirements necessary to meet the international obligations imposed upon a territory with a commercial aircraft registry, including airworthiness, personnel licensing and operations provisions, in order that the United Kingdom authorities can be satisfied that they will meet their obligations as the State of Registry under the International Convention on Civil Aviation;

- iii. permits the DCA to accept international certifications that comply with ICAO standards;
- iv. contain such other provisions as are necessary, including consequential, ancillary or incidental provisions required as a result of the extension of the Aviation Registry, including penalties, offences, removal from the Aviation Register, making of appeals, service of documents, certification and the amendment of the existing legislation.

## **8. Resources**

- 8.1 Other than those required for the legislative re-drafting no additional States resources are required or requested.

## **9. Consultation**

- 9.1 The Department has consulted widely with the local finance and aviation communities on the principle of the extension of the Aviation Register.
- 9.2 Alderney and Sark have been consulted regarding the Bailiwick aspects of the proposed changes and have raised no objections.
- 9.3 The Law Officers have been consulted regarding this proposal and have raised no issues.

## **10. Recommendations**

- 10.1 The Commerce and Employment Department asks the States to approve:
  - (i) To seek the extension of the Montreal Convention 1999 (the Convention for the Unification of Certain Rules for International Carriage by Air) to Guernsey and;
  - (ii) The drafting of the legislation as set out in paragraph 7 of this report.

Yours faithfully

K A Stewart  
Minister

A H Brouard  
Deputy Minister

D de G De Lisle  
G M Collins  
L S Trott

Advocate T M Carey  
Non-States Member

**(N.B. Having considered the Policy Letter, the Treasury and Resources Department raised a number of commercial and technical queries and concerns with the Commerce and Employment Department. In particular, the Department wished to understand in more detail the financial position and forecasts for the Aircraft Registry, the resultant benefits for the States (through royalties) and Guernsey generally (through related employment and professional services), and any liability that might fall to the States should risks materialise, particularly in relation to insurance arrangements.**

**Following a detailed briefing by the Commerce and Employment Department, including input from the Director of Civil Aviation, SGI Aviation and the Law Officers' Chambers, the Treasury and Resources Department is now satisfied that these proposals will not have any adverse resource implications for the States and should result in net benefits. The Treasury and Resources Department therefore supports the proposals within the Policy Letter.)**

**(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)**

The States are asked to decide:-

X.- Whether, after consideration of the Policy Letter dated 3<sup>rd</sup> September, 2015, of the Commerce and Employment Department, they are of the opinion:-

1. To seek the extension of the Montreal Convention 1999 (the Convention for the Unification of Certain Rules for International Carriage by Air) to Guernsey.
2. To approve the drafting of the legislation as set out in paragraph 7 of that Policy Letter.

## TREASURY AND RESOURCES DEPARTMENT

### GUERNSEY ELECTRICITY LIMITED – ANNUAL REPORT AND ACCOUNTS

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

26<sup>th</sup> August 2015

Dear Sir

#### **Executive Summary**

1. The Annual Report and Accounts of Guernsey Electricity Limited are hereby presented to the States.

#### **Guernsey Electricity – Annual Report and Accounts**

2. Under the terms of section 8 of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, the Department is required to submit Guernsey Electricity's Annual Report and Accounts to the States for their consideration.
3. Guernsey Electricity's Annual Report and Accounts for the year ended 31<sup>st</sup> March, 2015, are therefore appended to this Policy Letter.
4. The Company made a loss on ordinary activities before taxation of £2,073,000 for the year ended 31<sup>st</sup> March, 2015, compared to a loss of £231,000 for the previous year. As a consequence, no dividend will be payable in 2015.

#### **Resources**

5. There are no additional financial or staff resource implications for the States associated with the recommendations set out in this Policy Letter.

#### **Recommendation**

6. The Treasury and Resources Department recommends the States:
  - (i) To note the Annual Report and Accounts for Guernsey Electricity Limited for the year-ending 31<sup>st</sup> March, 2015.

Yours faithfully

G A St Pier Minister	J Kuttelwascher Deputy Minister	A H Adam	R A Perrot	A Spruce	Mr J Hollis (Non-States Member)
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**Guernsey Electricity Limited**

**Report and financial statements**

**31 March 2015**

# Guernsey Electricity Limited

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# Guernsey Electricity Limited

## Directors, officers and professional advisers

<b>Directors:</b>	Advocate IH Beattie	(non-executive chairman)
	AM Bates	(managing,-chief executive officer from 1 January 2015)
	DS Hipple	(finance) resigned 31 March 2015
	JPC Turner	(chief financial officer from 11 June 2015)
	RW Beebe	(operations) resigned 26 February 2015
	S-A David	(corporate strategy,- asset management from 10 February 2015)
	MJ Mann	(non-executive) retired 1 July 2014
	RP Lawrence	(non-executive)
	IA Hardman	(non-executive)
	RJ Dutnall	(non-executive)
	CM Holmes	(non-executive)

**Secretary:** SB Pattimore

**Bankers:** Barclays Bank Plc  
PO Box 41  
Le Marchant House  
St Peter Port  
Guernsey  
GY1 3BE

HSBC Bank Plc  
Arnold House  
St Julians Avenue  
St Peter Port  
Guernsey  
GY1 3AT

**Legal advisers:** Mourant Ozannes  
1 Le Marchant Street  
St Peter Port  
Guernsey  
GY1 4HP

**Independent auditor:** KPMG Channel Islands Limited  
Glategny Court  
Glategny Esplanade  
St Peter Port  
Guernsey  
GY1 1WR

**Registered office:** PO Box 4  
Electricity House  
North Side  
Vale  
Guernsey  
GY1 3AD

**Company number:** 38692

# Guernsey Electricity Limited

## Chairman's statement

The 2014/15 financial year has been a very positive year for Guernsey Electricity despite being extremely challenging. In spite of a number of critical operational issues the company is moving forward towards its goal of secure, reliable, sustainable and affordable electricity supplies for the Island.

Further deterioration of the subsea cable between Guernsey and Jersey created real concern regarding the reliability of the cable, and a decision to carry out a preventative repair was made late last year. The loss of the cable in an unplanned way as was seen in 2012 would have resulted in significant disruption and cost, to our customers and the Island, and the Board and shareholder deemed this to be an unacceptable risk to our stakeholders. The repair was undertaken successfully, on time and on budget. Testing of the cable after the repair has shown the repair to be wholly successful and a fully operational cable, with no restrictions, allows the organisation to focus on planning for the future.

Whilst carrying out this major repair to the cable, our dedicated staff were able to continue to deliver electricity supplies and a high quality service to our customers. Completing this repair was an important step in ensuring the continued security of imported supplies.

Working with our colleagues at Jersey Electricity, I am pleased to report that we have been able to commission a new cable between Jersey and France. This additional cable, known as Normandie 3, will provide us with access to a higher level of imports which should enable us to meet almost all of the Island's demand without having to use our on-island generators. Our plans now are directed to delivering increased resilience of imported supplies and we will be making proposals to our shareholder this year to support further investment. It is critical that we install a second cable to Guernsey, preferably direct from France.

The company has begun a business review to ensure that it continues to be as efficient and effective as possible. This will lead to changes but the Board is certain that this is in the best interests of the company and its customers.

I shall be retiring as chairman in July 2015. I have served as a director since 1<sup>st</sup> August 2002 and was appointed chairman following the tragic death of Ken Gregson on 16<sup>th</sup> March 2011. I have been proud to have served Guernsey Electricity and in turn its shareholder the States of Guernsey during that time. I leave safe in the knowledge that the company is well placed to deal with the many exciting challenges and opportunities in future years.

Ian Hardman, who has been a director since 2011, will become chairman upon my retirement.

There are a number of changes to the Board which I would like to note. David Hipple, our finance director, left the board on 31 March and Bob Beebe, our operations director, left the Board on 26 February. David has returned to England to mix retirement with consultancy work and Bob is retiring from the company this year after 25 years' service. I would like to thank them both for their commitment to the company. Julian Turner, who joined us on 1 May 2015, was appointed to the Board as Chief Financial Officer on 11 June 2015.

The success of this year could not be achieved without the continued loyalty and commitment of our dedicated staff and I would like to take this opportunity to thank them for their support.



# Guernsey Electricity Limited

## Chief executive officer's report

### Overview

This has been another eventful and challenging year for Guernsey Electricity.

The year commenced with significant concerns relating to the security of imported electricity and the subsequent impact of required on-island operational activities on our neighbours. Fortunately the year ended with a successful repair to the subsea cable with no further issues apparent and the successful commissioning of additional electricity import capacity to the Channel Islands significantly reducing the requirements for on-island generation.

To achieve this, the strategic focus of the business remained on how we could secure and increase electricity importation capacity to Guernsey. We also ensured the organisation had all the required information and evidence to take the optimal strategic decisions for our customers and the Island. We obtained approval to fund a replacement importation cable between Guernsey and Jersey if required and also continued to investigate and analyse the reliability issues with the existing subsea cable. In addition, increased levels of importation capacity were obtained by our joint investment in a further connection between France and Jersey, which enables Guernsey Electricity to import more electricity than ever before.

Unfortunately, continued testing of the existing Guernsey-Jersey cable, GJ1, during the year, revealed further failure of some of the fibre optics. This was the same symptom which ultimately led to the complete failure of the power cable in 2012. Therefore, to mitigate the risk of complete failure and facilitate greater understanding of the failure mechanism we decided to carry out a preventative repair in January 2015. This was carried out successfully and we only needed to have the cable out of service for a period of less than four weeks. Our forensic analysis has subsequently revealed that the power cable would inevitably have failed within a very short period of time. A repair after a failure would have led to the cable being out of service for at least 3 months. More importantly, our testing since re-energising the cable has revealed no further reliability issues of concern. This new information and the improved reliability allowed us to reconsider our approach to the next new subsea cable to Guernsey. In accordance with our importation strategy we are now progressing with the business case for a direct connection to France as well as maintaining the option for the replacement of the existing connection to Jersey.

In financial terms, the cable repair had a net cost to Guernsey Electricity (after deducting the contribution from Jersey Electricity who are part owners of the cable) of £3.5m. The repair cost was substantially lower than in 2012 due to the company having a power cable maintenance agreement which allowed beneficial commercial terms for the repair to be negotiated. The forensic analysis carried out after the repair shows that the cable had to be repaired and therefore the cost mitigated future higher repair costs, however this has resulted in an overall loss before tax for the year of £2.1m. In spite of this, we are pleased to report that we have once again been able to hold our tariffs at the levels that were set more than two years ago in October 2012. The successful repair does mean that the Island is now importing substantial amounts of electricity, and subject to there being no further issues with this cable, or other material adverse events, our financial performance should improve next year.

### Business Performance

Due to our concerns in respect of the importation cable which limited the amount of electricity it was possible to import, and because we carried out the repair in January this year, our actual import level of electricity has been significantly lower than we had planned. As a result whilst the level was higher than the last two previous years we only imported 218,002 MWh, which represents just 58% (41% last year and 28% the year before) of our total supply to the Island. Whilst this is an improvement on previous years we had planned for imports to meet 75% of our supply and less imported power has further adversely affected our financial performance.

# Guernsey Electricity Limited

## Chief executive officer's report – continued

In terms of the operational impact of these issues we have had to utilise the power station for more on-island generation than had been originally planned and whilst carrying out the repairs to the GJ1 cable earlier this year, it was necessary for us to generate on-island to meet all of our customers' electricity needs. This required us to run engines 24 hours a day for the period of the cable outage. We remain very conscious of the impact this has on some of our neighbours who live close to the power station site.

Another factor affecting the financial performance was the mild weather over the year. 2014 was the mildest year on record. There were no particularly cold spells and the winter was once again quite mild, although slightly colder than the previous winter. The result is that we have seen a 4.9% reduction in electricity usage by our customers which has led to a reduction in electricity sales of £2.4m compared to budget.

Whilst focusing on the critical infrastructure issues we also recognise that we have to ensure that we continue to provide an affordable electricity supply to our customers. We have therefore begun a fundamental review of our activities to ensure that as a business we are fit for the future and able to provide services in the most efficient and effective way. We commissioned a business wide performance review which will make some major changes to our operations and will also ensure that we become more strongly focussed on our customers and how to optimise the investment in, and performance of, our assets. This business performance review will lead to improvements but unfortunately will lead to some job losses across the company. It is a step we have to go through to improve our company for the future.

In spite of the issues with our import cable, I am pleased to report that customers, both domestic and commercial, only experienced 31.6 minutes loss of supply on average compared to 37.2 minutes lost during the previous financial year. The risk mitigation and standby procedures we have introduced, and which we continually monitor, have enabled us to continue to meet customers' demands for electricity supply.

In April, the States of Guernsey voted to remove Guernsey Electricity, together with the Post Office, from price regulation by CICRA. As a company wholly owned by the States, this form of independent regulation added no value and imposed an additional unacceptable cost and time burden on the company. The removal of regulation of course does not allow the company to operate unchecked in the future though. The Treasury and Resources Department, through a Supervisory Sub-Committee will exercise greater control over the company as its shareholder. It will do so in the interest of all stakeholders and will approve any significant changes to the company's operations, including future price changes, in advance of them taking place.

### Major Projects

In October 2014, along with our partners in the Channel Islands Electricity Grid (CIEG), Jersey Electricity, we commissioned and began using a second cable between Jersey and France, called Normandie 3 (N3). This provides Guernsey with an extra 24 MW of entitled import capacity and moving forward, this should allow us to import almost all of Guernsey's power needs other than during the coldest parts of the winter. It means that as long as the cables operate successfully we will be able to minimise the amount of on-island generation and consequently minimise the impact of our power station activities on our neighbours and the wider community. Of course it is critical for us to install a second import cable to the Island to enhance the security and resilience of our imports and this is why the work on the project to provide a second cable connection to the Island is a priority for us.

This year we have continued to work on ensuring that our newest generator, the medium speed diesel engine, 2D, operates as effectively as possible. Working with the supplier and Environmental Health, we have successfully carried out a number of improvements to further reduce its noise during operation. This engine has as minimal impact as possible on our neighbours and is the quietest engine in our fleet.

# Guernsey Electricity Limited

## Chief executive officer's report - continued

### Financial Performance

The last year has seen a significant improvement in the company's trading performance although the overall results show an operating loss of £2.4m compared with an operating loss of £0.3m the previous year. Before the cost of the cable repair is factored in, the current year shows an operating profit of £1.1m compared to last year's loss. The improvement has come from lower costs and in particular the increase in imports from 41% last year to 58% this year. Our costs therefore, show a reduction in generation expenditure and an increase in lower priced imports, however due to the restrictions in our import capacity it has still been necessary to generate locally to meet 42% of customer demand.

Overall loss before tax was £2.1m, compared to a prior year loss of £0.2m. The results reflect an excellent performance given the operational difficulties and the £3.5m cost of the cable repair, and show the progress that the company is making.

The company continues to benefit from a strong balance sheet with our fixed asset base of £115.1m increasing by £2.8m from the previous year, the largest change being the completion of our investment in the Normandie 3 (N3) cable from Jersey to France.

The net cash outflow for the year of £1.1m compared with £10.7m in the previous year is largely attributable to a reduction in net capital expenditure to £8.9m from £18.7m the prior year. This was due principally to the majority of the capital investment in the N3 cable being incurred in the previous year. Cash inflow from operating activities of £7.6m remained in line with the prior year.

At the year-end we had net debt of £2.9m compared to £1.8m last year. This comprised £6.0m loans and closing cash balances of £3.1m; these amounts include balances held with the States of Guernsey of £2.5m (2014: £3.5m).

Shareholder's funds have decreased by £4.5m, from £96.4m to £91.9m. This was a result of £1.8m of post-tax losses for the year and the actuarial loss in the pension scheme, net of the movement in deferred tax relating to the pension deficit of £2.7m.

The net pension deficit after deferred tax, reported under Financial Reporting Standard 17 ("FRS 17") Retirement Benefits, has increased from £18.1m to £22.3m. This contrasts with the Actuarial Valuation of the fund which was completed in 2014 (up to 31 December 2013) which showed a surplus of £3.4m. These two valuations are prepared on different bases for different purposes. The Actuarial Valuation uses best estimates of long term future returns and scheme costs and liabilities to determine the required level of future contributions. The accounting valuation used in these accounts is prepared under accounting standard FRS17. It is completely prescriptive in respect of the basis of valuation and does not take account of anything other than current values. The company is part of the States of Guernsey Pension Scheme and we await the outcome of the current changes proposed for the States' Public Servants Pension Scheme; we support the position that the scheme as it currently stands is no longer affordable or sustainable.

# Guernsey Electricity Limited

## Chief executive officer's report - continued

### **The Team**

This has been a difficult year for Guernsey Electricity. External pressures and events and internal changes are challenging. However, I would like to thank all of the staff for continuing to operate professionally, and remaining loyal and committed to the company. I would also like to record recognition of the key role the chairman has played in providing significant guidance to the Board in dealing with the challenges faced by the company over what has been a demanding period. Ian is retiring from the Board with these challenges clearly understood and the future strategy for the business embedded in our long term plans.

I would stress that the company and its employees remain dedicated to providing a high level of service to its customers and that we will continue to deal with the challenges we face whilst striving to improve what we do in the future.

### **The Future**

For Guernsey Electricity, the strategic and operational focus of our activities continues to be the delivery of a reliable, efficient and affordable electricity service to our customers. While 2014/15 has seen large fluctuations in the market price of oil, it remains clear that the most economically and environmentally favourable way to supply our customers is undoubtedly through imports from France. While we have only one cable with which to import power there will continue to be risks to delivering supplies through import. So our strategy has prioritised a second connection to the Island preferably via a direct link to France, and we are working hard to deliver this although it will be late this decade before this second connection will be in place. Therefore we have to be in a position to generate locally to meet the whole Island's demand if necessary.

A key challenge for the company is that even with a robust and resilient cable network in place we are required to maintain an on-island generation facility under the N-2 security of supply standard as recently confirmed by the States of Guernsey. This standard requires Guernsey Electricity to ensure sufficient on-island generation capacity to meet maximum demand in the event of the loss of its two largest sources of supply. So as well as working to deliver the project for the second cable, we also need to ensure that we have a plan in place to replace some of the older engines in our fleet.

Guernsey is a small Island with only 30,000 customers. Given the size of the capital investments described above we need to do everything we can to ensure our prices continue to be affordable. We will continue to drive through our business transformation programme to deliver this. We are also committed to ensuring we understand customers' needs and expectations and will continue to improve the service we provide and the way in which we communicate with customers.

# Guernsey Electricity Limited

## Directors' report

The directors present their report and the audited financial statements for the year ended 31 March 2015. These comprise the profit and loss account, statement of total recognised gains and losses, balance sheet, cash flow statement and notes to the financial statements set out on pages 22 to 38.

### Incorporation

Guernsey Electricity Limited ("the company") was incorporated on 24 August 2001.

### Principal activities

The principal activities of the company are the generation, importation and distribution of electricity and the sale of associated goods and services.

### Customers

The number of customers as at 31 March 2015 is 30,077 (2014: 29,812).

### Units

Importation through the cable link between Guernsey, Jersey and the European grid provided 58% (2014: 41%) of the Island's electricity needs in the year ended 31 March 2015 and 42% (2014: 59%) was generated on the Island, as shown by the units analysis below:

	2015	2014
Units imported MWh	218,002	155,964
Units generated MWh	<u>156,856</u>	<u>227,057</u>
<b>Total units imported/generated MWh</b>	<b><u>374,858</u></b>	<b><u>383,021</u></b>

### Average price

The average price per kWh sold in the year ended 31 March 2015 was 15.10 pence (2014: 14.92 pence) and this change was primarily as a result of the change in the mix of sales during the year driven largely by weather patterns.

### Reliability

The reliability of Guernsey Electricity's supply is measured by minutes lost per customer. Power outages can be caused by failures of generators, the distribution network or the cable link. Customers lost nil minutes due to generation/importation activity (2014: 10.80 minutes) and 31.55 minutes were lost per customer in respect of distribution (2014: 26.35 minutes).

### Directors and their interests

The directors of the company, who served during the year and to date, are as detailed on page 1. The directors have no beneficial interests in the shares of the company.

# Guernsey Electricity Limited

## Directors' report - continued

### **Disclosure of Information to auditor**

The directors who held office at the date of approval of this directors' report confirm that, so far as they are each aware, there is no relevant audit information of which the company's auditor is unaware; and each director has taken all the steps that he ought to have taken as a director to make himself aware of any relevant audit information and to establish that the company's auditor is aware of that information.

### **Auditor**

A resolution for the appointment of an auditor will be proposed at the forthcoming Annual General Meeting.

For and on behalf of the Board of Directors

**IH Beattie**

**AM Bates**

*Directors*

2015

# Guernsey Electricity Limited

## Corporate governance

Guernsey Electricity's corporate governance arrangements are based on the proportionate and relevant application of good practice principles in corporate governance and predominantly those contained within the UK Corporate Governance Code published in September 2014.

### Directors

In accordance with The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, as amended, the non-executive directors are appointed by the States of Guernsey on the nomination of the States of Guernsey Advisory & Finance Committee, now the Treasury & Resources Department. The first executive directors were appointed by the Advisory & Finance Committee after consultation with the non-executive directors. Further appointments of executive directors are made by the company's Board of Directors.

The Board's role is to provide entrepreneurial leadership of the company within a prudent framework of risk management and internal control. The Board is responsible for setting and implementing strategy, allocating the necessary human and financial resources to meet the company's objectives and monitoring the performance of management against those objectives. The Board is collectively accountable for the success of the company, sets its values and standards and takes decisions objectively in the interests of the company, its shareholders and other stakeholders.

Non-executive directors help to develop and challenge the company's strategy. They evaluate the performance of management and monitor the reporting of performance. They consider the integrity of financial information and the strength of financial controls and risk management systems. They oversee executive remuneration and play the main role in the appointment, removal and succession planning for executive directors.

There is a Memorandum of Understanding between the shareholder and the company setting out matters which can be dealt with by the company and those which should be referred back to it. Matters referred to the Board are governed by a scheme of delegated authorities that provides the framework for the decisions to be taken by the Board, those which must be referred back to the shareholder and those which can be delegated to Sub-Committees of the Board or senior management.

There were 12 Board meetings held during 2014/15. If a Board member cannot attend a meeting, they receive a copy of the agenda and the accompanying papers in advance of the meeting and are able to comment on the matters to be discussed.

The names of directors and the membership of the Board Sub-Committees are set out in the sections below. The Board Sub-Committees have authority to make decisions according to their terms of reference.

### Chairman and Chief Executive

Guernsey Electricity has a non-executive chairman and a chief executive officer. There is a clear division of responsibilities between the two positions with the chairman responsible for the running of the Board and the chief executive officer responsible for the running of the company's business.

Ian Beattie spends on average 1 day per week in his role as chairman. The Board consider that he has no other external directorships which make conflicting demands on his time as chairman.

Robert Lawrence is the deputy chairman appointed by the Board.



# Guernsey Electricity Limited

## Corporate governance - continued

### **Board balance and independence**

Throughout the year the company has had a balance of independent non-executive directors on the Board who ensure that no one person has disproportionate influence. There are currently five non-executive directors and three executive directors on the Board.

All of the non-executive directors bring with them significant commercial experience from different industries, which ensures that there is an appropriate balance of skills on the Board.

### **Appointments to the Board**

During 2014/15, Martyn Mann, Bob Beebe and David Hipple resigned from the Board.

Recommendations for appointments to the Board are the responsibility of the Remuneration & Nominations Sub-Committee. The appointment of non-executive directors is made by resolution of the States of Deliberation. All Board appointments are made in accordance with the provisions of the States Trading Companies (Bailiwick of Guernsey) Ordinance 2001 and the company's Articles of Incorporation.

### **Information and professional development**

For each scheduled Board meeting the chairman and the Company Secretary ensure that the directors receive a copy of the agenda for the meeting, company financial, strategic and operating information and information on any other matter which is to be referred to the Board for consideration. The directors also have access to the Company Secretary for any further information they require. In the months where there is no scheduled Board meeting, the directors receive the prior month and cumulative company financial and operating information.

All newly appointed directors participate in an internal induction programme that introduces the director to the company and key stakeholders.

The Company Secretary, who is appointed by the Board is responsible for facilitating compliance with Board procedures. This includes recording any concerns relating to the running of the company or proposed actions arising there from, that are expressed by a director in a Board meeting. The Company Secretary is also secretary to all of the Board's Sub-Committees. The Company Secretary is available to give ongoing advice to all directors on Board procedures and corporate governance matters.



# Guernsey Electricity Limited

## Corporate governance - continued

### Attendance at Board meetings

Attendance during the year for Board meetings is given in the table below:

Director	Meetings Attended/Total Meetings Held
IH Beattie	12/12
AM Bates	12/12*
DS Hipple	12/12
RW Beebe	11/11
S-A David	12/12
RP Lawrence	12/12
IA Hardman	10/12
RJ Dutnall	9/12
CM Holmes	10/12
MJ Mann	1/1

\*Denotes attendance for part of one meeting.

### Performance evaluation

The Board undergoes an annual evaluation of its performance. The last assessment was for the period up to 31 March 2014 and the next assessment is currently taking place. The evaluation consists of an internally produced confidential questionnaire, which is independently assessed by the Company Secretary who then prepares a report for consideration by the Board. The Board completed further training on corporate governance as an outcome of the evaluation process.

### Election and re-election of directors

Guernsey Electricity's Articles of Incorporation require that non-executive directors retire by rotation but provide that they are eligible for re-election. Non-executive directors are submitted for re-election in accordance with the principles agreed with the company's shareholder. Non-executive directors serve the company under letters of appointment, which are generally for an initial three year term.

### Remuneration

The Board recognises the importance of executive directors' remuneration in recruiting, retaining and motivating the individuals concerned. Executive directors' remuneration consists of basic salary, benefits in kind, bonus and retirement benefits. Fees for the chairman and non-executive directors are determined by the Treasury & Resources Department.

# Guernsey Electricity Limited

## Corporate governance - continued

### Remuneration (continued)

The Remuneration & Nominations Sub-Committee, which is chaired by Ian Hardman, consists solely of a minimum of two non-executive directors and determines remuneration levels and specific packages appropriate for each executive director, taking into account the executive director and senior management remuneration policy as agreed from time to time by the Board. No director is permitted to be involved in deciding the amount of his or her own remuneration. The Remuneration & Nominations Sub-Committee considers that the policy and procedures in place provide a level of remuneration for the directors which is both appropriate for the individuals concerned and in the best interests of the shareholder.

The Remuneration & Nominations Sub-Committee is also tasked with considering the balance of the Board, director and senior management job descriptions and objective criteria for Board appointments and succession planning.

### Accountability and Audit

#### Financial reporting

The company has a comprehensive system for reporting the financial performance of the company and each of its business units. Management and the Board of Directors review these monthly. The financial statements for the accounting period ending on the accounting reference date of 31 March are reviewed and signed on behalf of the Board of Directors, and will be presented to the shareholder at the forthcoming annual general meeting.

#### Internal control and risk management

During 2014/15 the executive team continued to identify, monitor and review the risks facing the business, so as to be able to put into place and maintain robust controls and actions to manage them. The Board is updated regularly on risk matters. The risk management process was the responsibility of the Finance Director during the year and will be the responsibility of the Chief Financial Officer going forward.

All directors are responsible for establishing and maintaining an effective system of internal control. Whilst all elements of risk cannot be eliminated, the system aims to identify, assess, prioritise and where possible, mitigate the company's risks. Although no system of internal control can provide absolute assurance against material misstatement or loss, the company's systems are designed with the purpose of providing the Board with reasonable assurance that assets are safeguarded, transactions are properly authorised and recorded and that material errors and irregularities are either prevented or detected within a timely period.

The Board obtains its assurance on the effectiveness of the system of internal control from a variety of sources, including internal audit, regular updates on risk management and internal control, health and safety, monthly management information and representations from the executive team.

Internal audit has a continuing role in monitoring and reporting on business risks. This service continues to be provided by Baker Tilley (formerly RSM Tenon), a leading entity in providing such services. The Chief Financial Officer, in association with Baker Tilley, reports on all internal audit work in accordance with the plan approved by the Audit & Risk Sub-Committee. Specialist engineering audits complement this, again as approved by the Audit & Risk Sub-Committee.

The company has established controls and procedures over the security of data held on IT systems and has in place comprehensive disaster recovery arrangements. These arrangements are tested regularly and reviewed by independent consultants.

# Guernsey Electricity Limited

## Corporate governance - continued

### **Audit & Risk Sub-Committee and auditor**

The purpose of the Audit & Risk Sub-Committee is to assist the Board of Directors of Guernsey Electricity Limited in the effective discharge of the Board's responsibilities for risk management, financial reporting and internal control in order to ensure high standards of probity and good corporate governance. In doing so, the Audit & Risk Sub-Committee is required to act independently of the executive and seek to safeguard the interest of the company shareholder. There were seven Audit & Risk Sub-Committee meetings in the year.

The Board has delegated responsibility to the Audit & Risk Sub-Committee for reviewing the effectiveness of the system of internal control and compliance, accurate external financial reporting, fulfilling its obligations under the law. Whilst the Sub-Committee has no executive powers, it has wide ranging terms of reference and reports to the Board on a regular basis. It is empowered to make recommendations to the Board where such are considered necessary to ensure the proportionate and relevant application of good practice principles in corporate governance and the management of the company's relationship with the company's external auditor.

The Audit & Risk Sub-Committee members comprise non-executive directors. Robert Lawrence is the chairman of the Audit & Risk Sub-Committee and the Board is satisfied that the Sub-Committee has through its membership, access to recent and relevant experience to enable the duties of the Sub-Committee to be fully discharged.

The Audit & Risk Sub-Committee meets at least once a year with representatives of the company's external auditor.

The membership of this Sub-Committee during the financial year was as follows:

Chairman: RP Lawrence

Members: IH Beattie

RJ Dutnall

CM Holmes (until 14 August 2014)

### **Sub-Committees of the Board and main terms of reference**

In addition to regular scheduled Board meetings, the company operates through Board Sub-Committees, of which the main terms of reference are set out below (except the Audit & Risk Sub-Committee which is outlined above).

# Guernsey Electricity Limited

## Corporate governance – continued

### Remuneration & Nominations Sub-Committee

Ian Hardman is the chairman of the Remuneration & Nominations Sub-Committee.

The purpose of the Remuneration & Nominations Sub-Committee is to assist the Board in the effective discharge of its responsibilities for the remuneration and other employment conditions of executive directors and senior management and to act as a Nominations Sub-Committee as the need arises. There were eight Remuneration & Nominations Sub-Committee meetings held in the year.

In deciding the remuneration and other employment conditions of executive directors, the Sub-Committee acts independently of the executive and seek to safeguard the interests of the company's shareholder.

In respect of remuneration matters the Sub-Committee's responsibilities include:

- The determination, maintenance, and development of documentation, detailing broad company policy and clear, formal and transparent procedures in regard to remuneration and performance related issues in respect of executive and senior management remuneration, bonus and performance matters. This is done on behalf of the Board and all significant policy and procedural changes in relation to remuneration matters must be approved by the whole Board.
- The determination of the remuneration and other employment conditions of executive directors and senior management (including contractual issues) with the objective of ensuring that executive directors and senior management are provided with appropriate incentives which will encourage enhanced performance and that they are competitively, fairly and responsibly rewarded for their individual contributions to the company's overall performance.

In respect of nomination matters, the main terms of reference of this Sub-Committee are to review regularly the structure, size and composition of the Board and to make recommendations on the role and nomination of directors for appointment to the Board and holders of any executive office.

The membership of this Sub-Committee during the financial year was as follows.

Chairman: IA Hardman

Members: IH Beattie

RJ Dutnall

CM Holmes

### Land & Property Sub-Committee

David Hipple was chairman of the Land & Property Sub-Committee until 31 March 2015. The main terms of reference for this Committee are to review and approve all routine property transactions undertaken by the company up to a limit set by the Board and to undertake such other tasks relating to land and property as directed by the Board. This Sub-Committee comprises the chairman of the Board together with all of the executive directors. There were seven Land & Property Sub-Committee meetings held in the year.

# Guernsey Electricity Limited

## Corporate governance - continued

### **Relations with the shareholder**

The company's issued share capital is wholly owned by the States of Guernsey. The States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, as amended, provided for the States of Guernsey Advisory & Finance Committee (now Treasury & Resources Department) to undertake, on behalf of the States, the role of shareholder. In accordance therewith, the share certificates for the whole issued share capital are held equally in the names of the Minister and Deputy Minister of the Treasury & Resources Department, in trust, as nominees, on behalf of the States of Guernsey. Provision is also in place for the States to give guidance to the Treasury & Resources Department on the policies it wishes to be pursued in fulfilling this role. Each year, the company submits its forward plan to the Treasury & Resources Department. In addition, the company has signed a Memorandum of Understanding with the States' shareholder representative concerning the manner in which the company and its shareholder's representatives will interact in respect of stewardship and corporate governance matters generally.

# Guernsey Electricity Limited

## Statement of directors' responsibilities

The directors are responsible for preparing the Directors' Report and the financial statements in accordance with applicable law and regulations.

Company law requires the directors to prepare financial statements for each financial year. Under that law, they have elected to prepare the financial statements in accordance with UK Accounting Standards and applicable law.

The financial statements are required by law to give a true and fair view of the state of affairs of the company and of the profit or loss of the company for that period.

In preparing these financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis, unless it is inappropriate to presume that the company will continue in business.

The directors are responsible for keeping proper accounting records which disclose, with reasonable accuracy at any time, the financial position of the company and to enable them to ensure that the financial statements comply with the Companies (Guernsey) Law, 2008. They have general responsibility for taking such steps as are reasonably open to them to safeguard the assets of the company and to prevent and detect fraud and other irregularities.

## **Independent auditor's report to the members of Guernsey Electricity Limited**

We have audited the financial statements of Guernsey Electricity Limited (the "Company") for the year ended 31 March 2015 which comprise the balance sheet, profit and loss account, statement of total recognised gains and losses, the cash flow statement, and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards.

This report is made solely to the Company's members, as a body, in accordance with section 262 of the Companies (Guernsey) Law, 2008. Our audit work has been undertaken so that we might state to the Company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's members as a body, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of directors and auditor**

As explained more fully in the Statement of Directors' Responsibilities set out on page 16, the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's (APB's) Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Board of Directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### **Opinion on financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the Company's affairs as at 31 March 2015 and of its loss for the year then ended;
- are in accordance with United Kingdom Accounting Standards; and
- comply with the Companies (Guernsey) Law, 2008.

### **Matters on which we are required to report by exception**

We have nothing to report in respect of the following matters where the Companies (Guernsey) Law, 2008 requires us to report to you if, in our opinion:

- the Company has not kept proper accounting records; or
- the financial statements are not in agreement with the accounting records; or
- we have not received all the information and explanations, which to the best of our knowledge and belief are necessary for the purpose of our audit.

KPMG Channel Islands Limited  
 Chartered Accountants  
 St Peter Port  
 Guernsey

# Guernsey Electricity Limited

## Profit and loss account for the year ended 31 March 2015

	<i>Note</i>	<b>2015 £'000</b>	<b>2014 £'000</b>
<b>Turnover</b>	<i>2</i>	<b>55,618</b>	55,895
<b>Cost of sales</b>		<b><u>(43,343)</u></b>	<b><u>(43,928)</u></b>
<b>Gross profit</b>		<b>12,275</b>	11,967
<b>Net operating expenses</b>		<b><u>(14,468)</u></b>	<b><u>(12,222)</u></b>
<b>Operating loss</b>	<i>3</i>	<b>(2,193)</b>	(255)
Loss on disposal of assets		<b><u>(179)</u></b>	<b><u>(88)</u></b>
<b>Loss on ordinary activities before interest, other finance cost and other income</b>		<b>(2,372)</b>	(343)
Interest receivable	<i>4</i>	<b>314</b>	402
Interest payable	<i>4</i>	<b>(230)</b>	(82)
Other finance income/(cost)		<b>215</b>	(208)
		<b>_____</b>	<b>_____</b>
<b>Loss on ordinary activities before taxation</b>		<b>(2,073)</b>	(231)
Taxation	<i>5</i>	<b><u>208</u></b>	<b><u>37</u></b>
<b>Loss for the financial year after taxation</b>		<b><u>(1,865)</u></b>	<b><u>(194)</u></b>

All activities derive from continuing operations.

The notes on pages 22 to 38 form an integral part of these financial statements.



# Guernsey Electricity Limited

## Statement of total recognised gains and losses for the year ended 31 March 2015

	<i>Note</i>	<b>2015 £'000</b>	2014 £'000
Loss for the financial year		<b>(1,865)</b>	(194)
Actuarial loss recognised in the pension scheme	22	<b>(3,230)</b>	(2,298)
Movement on deferred tax relating to pension deficit	13	<b>563</b>	443
		<hr/>	<hr/>
<b>Total recognised loss for the year</b>		<b><u>(4,532)</u></b>	<b><u>(2,049)</u></b>

The notes on pages 22 to 38 form an integral part of these financial statements.

# Guernsey Electricity Limited

## Balance sheet

at 31 March 2015

	<i>Note</i>	<b>2015</b> <b>£'000</b>	2014 £'000
<b>Tangible fixed assets</b>	7	<b><u>115,109</u></b>	<u>112,300</u>
<b>Current assets</b>			
Stocks and work in progress	8	5,748	6,385
Debtors and prepayments	9	12,534	11,714
Balances with States Treasury	10	2,489	3,510
Cash at bank and in hand		<u>626</u>	<u>734</u>
		<b><u>21,397</u></b>	<u>22,343</u>
<b>Creditors: amounts falling due within one year</b>	11	<b><u>(11,718)</u></b>	<u>(9,260)</u>
<b>Net current assets</b>		<b><u>9,679</u></b>	<u>13,083</u>
<b>Total assets less current liabilities</b>		<b>124,788</b>	125,383
<b>Creditors: amounts falling due after more than one year</b>	12	<b>(10,232)</b>	(10,159)
<b>Provision for liabilities and charges</b>	13	<b>(372)</b>	(750)
<b>Net pension deficit</b>	22	<b><u>(22,306)</u></b>	<u>(18,064)</u>
<b>Net assets including pension deficit</b>		<b><u>91,878</u></b>	<u>96,410</u>
<b>Share capital</b>	14	<b>109,209</b>	109,209
<b>Reserves</b>	18	<b><u>(17,331)</u></b>	<u>(12,799)</u>
<b>Shareholders' funds</b>	19	<b><u>91,878</u></b>	<u>96,410</u>

The financial statements on pages 18 to 38 were approved by the Board of Directors on

2015.

Signed on behalf of the Board of Directors

**IH Beattie**

**AM Bates**

*Directors*

The notes on pages 22 to 38 form an integral part of these financial statements.

# Guernsey Electricity Limited

## Cash flow statement for the year ended 31 March 2015

	<i>Note</i>	<b>2015</b> <b>£'000</b>	<b>2014</b> <b>£'000</b>
<b>Net cash inflow from operating activities</b>	<i>15</i>	<u><b>7,637</b></u>	<u><b>7,669</b></u>
<b>Returns on investments and servicing of finance</b>			
Interest received		<b>320</b>	389
Interest paid		<u><b>(231)</b></u>	<u>(44)</u>
<b>Net cash inflow from returns on investments and servicing of finance</b>		<u><b>89</b></u>	<u><b>345</b></u>
<b>Capital expenditure and financial investment</b>			
Payments to acquire tangible fixed assets		<b>(9,167)</b>	(19,076)
Proceeds of disposal of tangible fixed assets		<b>23</b>	12
Customers' contributions towards capital expenditure		<u><b>289</b></u>	<u><b>316</b></u>
<b>Net cash outflow from capital expenditure and financial investment</b>		<u><b>(8,855)</b></u>	<u><b>(18,748)</b></u>
<b>Net cash outflow before use of liquid resources and financing</b>		<u><b>(1,129)</b></u>	<u><b>(10,734)</b></u>
<b>Management of liquid resources</b>			
Net cash movements with States Treasury		<u><b>(1,021)</b></u>	<u><b>(836)</b></u>
<b>Financing</b>			
Amounts drawn under medium term credit facility	<i>12</i>	<u><b>-</b></u>	<u><b>(6,000)</b></u>
<b>Decrease in cash</b>	<i>16 &amp; 17</i>	<u><b>(108)</b></u>	<u><b>(3,898)</b></u>
<b>Net cash outflow</b>		<u><b>(1,129)</b></u>	<u><b>(10,734)</b></u>

Movements in balances with States Treasury and the other income are deemed liquid resources in accordance with Financial Reporting Standard 1, "Cash Flow Statements", ("FRS1") (as revised).

The notes on pages 22 to 38 form an integral part of these financial statements.

# Guernsey Electricity Limited

## Notes to the financial statements

*Year ended 31 March 2015*

### 1. Principal accounting policies

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the company's financial statements:

#### *Basis of preparation*

The financial statements have been prepared under the historical cost convention, they give a true and fair view, have been prepared in accordance with UK GAAP and are in compliance with the Companies (Guernsey) Law, 2008.

#### *Transfer of undertaking*

The company was established in accordance with the provisions of the States Trading Companies (Bailiwick of Guernsey) Law 2001 (Commencement) Ordinance and the States Trading Companies (Bailiwick of Guernsey) Ordinance 2001 to take over the generation, importation and distribution of electricity previously carried out by the States of Guernsey Electricity Board with effect from 1 February 2002.

#### *Sales of electricity*

Sales of electricity are accounted for on an accruals basis and include the estimated value of unbilled units at the year end. The unbilled units are valued at current tariff rates.

#### *Hire purchase*

The company provides hire purchase facilities on the provision of goods and services ancillary to the principal activities of the company. The sales value is included in turnover at the inception of the hire purchase transaction and interest is included in interest receivable over the finance period of the transaction.

#### *Interest*

Interest receivable and payable are accounted for on an accruals basis.

#### *Deferred income*

Customers' contributions towards capital expenditure are credited in equal annual amounts to the profit and loss account over the estimated life of the assets to which they relate.

#### *Tangible fixed assets and depreciation*

Tangible fixed assets are stated at cost less depreciation. Assets transferred from the States of Guernsey Electricity Board as at 1 February 2002 are being depreciated over their residual estimated useful lives from that date applying the periods noted below.

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 1. Principal accounting policies - continued

#### *Tangible fixed assets and depreciation - continued*

Depreciation is calculated so as to write off the cost of tangible fixed assets over the period of their estimated useful lives using the straight line method. The estimated life of each class of fixed asset is set out below. Depreciation commences in the year of acquisition, or on completion of construction. Any shortfall of depreciation arising on the disposal, or write-off, of fixed assets is charged to the disposals account and any proceeds arising from the disposal are credited to that account. Land is not depreciated. The estimated lives are as shown below:

	Estimated life in years
Buildings	40
Buildings Equipment	10
Cable Link	25 – 30
Plant and machinery - Generation	25 – 35
- Distribution	35
- Street Lights	20
Distribution network comprising:	
Distributors	35
Meters	5 – 15
Cyclocontrol receivers	5
Motor vehicles	5
Furniture and equipment	3 – 10
Minor plant	5 – 10

#### *Stocks and work in progress*

Stocks and work in progress are valued at the lower of cost and net realisable value. In respect of goods held for resale, a provision is made based on the time elapsed since the goods were purchased. Provision is made for other stocks relating to strategic plant, based upon the remaining useful economic life of the assets to which they relate.

#### *Leases*

Operating lease rentals are charged to profit and loss in equal annual amounts over the lease term.

#### *Deferred taxation*

Provision for deferred tax is made in full on timing differences which result in an obligation at the balance sheet date to pay tax at a future date, at rates expected to apply when they crystallise, based on current tax rates and laws. Deferred tax assets are only recognised to the extent that it is regarded as more likely than not that they will be recovered. The pension scheme deficit shown in the accounts is net of the deferred tax asset. Deferred tax assets and liabilities are not discounted.

# Guernsey Electricity Limited

## Notes to the financial statements - continued

*Year ended 31 March 2015*

### 1. Principal accounting policies - continued

#### *Foreign exchange*

Transactions denominated in foreign currencies are translated into sterling at the rates ruling at the dates of the transactions. Monetary assets and liabilities denominated in foreign currencies at the balance sheet date are translated at the rates ruling at that date. Foreign currency profits and losses are dealt with in the profit and loss account.

#### *Financial instruments*

The company enters into forward exchange contracts to mitigate the risk of fluctuations in the currency rate between the Euro and the Pound Sterling in meeting its financial obligations for the import of electricity units from the European grid and on major infrastructure projects. Gains and losses on these contracts are deferred and recognised in the profit and loss account only when the delayed transaction has itself been reflected in the company's account. The company does not hold, or issue, financial instruments for speculative purposes. The company also hedges against the fluctuation in the price of heavy fuel oil, including the movement in the US Dollar, which is inherent in the pricing. Gains and losses are recognised in the profit and loss account when realised.

#### *Pension costs*

The employees' pension scheme is a defined benefits scheme. The company applies Financial Reporting Standard 17, "Post retirement benefits", ("FRS17"). In so doing, current service cost and any past service cost is charged to the profit and loss account, together with finance costs/income for the scheme which are charged/credited to the profit and loss account. The difference between the expected and actual actuarial gains and losses are charged to the statement of total recognised gains and losses. Full actuarial valuations are carried out on a triennial basis and annual updates are carried out to disclose the values and assumptions in accordance with FRS17.

#### *Joint Arrangements*

The Channel Islands Electricity Grid Limited is a Joint Arrangement between Jersey Electricity plc and Guernsey Electricity Limited who each own an equal 50% shareholding. The company was formed to manage the project and the ongoing operation of the cable link between Guernsey, Jersey and France. In accordance with Financial Reporting Standard 9, "Associates and Joint Ventures", ("FRS9"), these financial statements include the company's entitlement to the assets, liabilities, cash flows and the shared items of this Joint Arrangement where the company's entitlements are fully determined by contracts with the other party to the Joint Arrangement.

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 2. Turnover

	2015 £'000	2014 £'000
Sales of electricity	52,328	52,526
Other sales	<u>3,290</u>	<u>3,369</u>
	<u>55,618</u>	<u>55,895</u>

All sales of electricity arise from customers in the Island of Guernsey. Other sales are made to customers throughout the Bailiwick of Guernsey. As stated in the accounting policy for sales of electricity, each year an estimate of the unbilled units as at 31 March is determined.

### 3. Operating Loss

*Operating loss is after charging / (crediting):*

	2015 £'000	2014 £'000
Depreciation (note 7)	6,176	5,598
Rentals under operating leases	13	12
Auditor's remuneration - statutory audit	35	41
- non-audit services	-	15
Bad debts	46	25
Director fees, salaries and other benefits	1,148	774
Regulatory costs - external	25	75
- internal	12	19
Other operating income	<u>(617)</u>	<u>(619)</u>

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 4. Interest

	2015 £'000	2014 £'000
Interest receivable:		
Deposits with banks and States Treasury	173	266
Hire purchase	<u>141</u>	<u>136</u>
	<u>314</u>	<u>402</u>
Interest payable:		
Medium term credit facility	229	81
Other interest payable	<u>1</u>	<u>1</u>
	<u>230</u>	<u>82</u>

### 5. Taxation

The company's profits, or losses, from the activities subject to licence from the Guernsey Competition and Regulatory Authority will be chargeable to tax at the company higher rate of 20%, as will rental income from Guernsey properties. For all other company activities, the company standard rate of 0% is applicable. The tax adjusted profits of the company have been determined so that the appropriate amounts are taxed at the applicable rate.

The basis of assessment to Guernsey tax continues to be on an actual current year basis. The assessable profits for the current year have been offset against the unrelieved trading losses and excess capital allowances carried forward from prior years. Consequently, all tax is deferred and there is no tax payable for the current year.



# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 5. Taxation - continued

Deferred tax in the financial statements is measured at the actual tax rates that are expected to apply to the income in the periods in which the timing differences are expected to reverse. Various rates of income tax are applied depending on the activity of the company. The rate applied in relation to the company's activities is a combination of the company standard rate and the company higher rate. Deferred tax has been provided on timing differences depending on which rate they are expected to reverse out in the future. Where deferred tax balances relate to items which may be taxed at either 20% or 0% a blended rate of 17.4254% (2014: 19.2811%) has been used to provide for deferred tax. The blended rate has been calculated by reference to the company's effective rate of tax in the year ended 31 March 2015.

The deferred tax credit in the profit and loss account for the year is:

	2015 £'000	2014 £'000
Timing differences on capital allowances and depreciation	534	252
Short term timing differences (pension)	170	(168)
Short term timing differences (other)	15	(22)
Movement on unrelieved trading losses	<u>(927)</u>	<u>(99)</u>
	<u><u>(208)</u></u>	<u><u>(37)</u></u>

### 6. Dividend

No dividend is proposed for the year. At the 2014 Annual General Meeting, the company proposed a dividend in specie to its shareholder out of the profits it made during 2011/12. It proposed to transfer the ownership of Tidal and Bathymetry Data that it had built up to its shareholder. Consequently, a resolution was signed by the shareholder on 7 October 2014 and as this data has a zero net book value, it was subsequently transferred for this amount.

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 7. Tangible fixed assets

	1 April 2014 £'000	Additions £'000	Written off/ disposals £'000	31 March 2015 £'000
<i>Cost</i>				
Land and buildings	30,885	232	-	<b>31,117</b>
Cable link	43,206	6,217	234	<b>49,189</b>
Plant and machinery:				
Generation	47,642	311	-	<b>47,953</b>
Distribution	12,637	348	-	<b>12,985</b>
Distribution network	32,743	1,406	230	<b>33,919</b>
Motor vehicles, furniture and equipment, minor plant	<u>5,560</u>	<u>673</u>	<u>124</u>	<u><b>6,109</b></u>
	<u>172,673</u>	<u>9,187</u>	<u>588</u>	<u><b>181,272</b></u>
	1 April 2014 £'000	Charge for the year £'000	Written off/ disposals £'000	31 March 2015 £'000
<i>Depreciation</i>				
Land and buildings	10,194	831	-	<b>11,025</b>
Cable link	14,948	1,404	131	<b>16,221</b>
Plant and machinery:				
Generation	18,481	1,925	-	<b>20,406</b>
Distribution	3,054	364	-	<b>3,418</b>
Distribution network	9,890	1,213	135	<b>10,968</b>
Motor vehicles, furniture and equipment, minor plant	<u>3,806</u>	<u>439</u>	<u>120</u>	<u><b>4,125</b></u>
	<u>60,373</u>	<u>6,176</u>	<u>386</u>	<u><b>66,163</b></u>
<b>Net book value</b>	<u>112,300</u>			<u><b>115,109</b></u>

Included above are assets in the course of construction of £4,875,000 (2014: £16,739,000), which are not depreciated.

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 8. Stocks and work in progress

	2015	2014
	£'000	£'000
Fuel stocks	3,182	4,190
Purchased goods for resale	267	329
Provision	<u>(6)</u>	<u>(7)</u>
Other stocks	3,956	3,612
Provision	<u>(1,895)</u>	<u>(1,865)</u>
Work in progress	<u>244</u>	<u>126</u>
	<u>5,748</u>	<u>6,385</u>

### 9. Debtors and prepayments

	2015	2014
	£'000	£'000
Estimated value of unbilled units	7,389	6,512
Customer accounts outstanding	3,748	3,708
Other debtors	964	1,108
Prepayments	<u>433</u>	<u>386</u>
	<u>12,534</u>	<u>11,714</u>

Included in "Customer accounts outstanding" is an amount totalling £323,000 (2014: £306,000) due after more than one year.

### 10. Balances with States Treasury

The Treasury Department of the States of Guernsey is engaged to invest the company's liquid funds in excess of its daily requirements.

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 11. Creditors: amounts falling due within one year

	2015 £'000	2014 £'000
Trade creditors	3,157	1,786
Customer payments received in advance	6,650	5,638
Employee taxes and Social Security	163	165
Deferred income	161	154
Accruals and other creditors	<u>1,587</u>	<u>1,517</u>
	<u>11,718</u>	<u>9,260</u>

The company has a £1,000,000 overdraft facility with Barclays Bank Plc (2014: £1,000,000), and interest is payable quarterly at 1.75% over UK base rate. This facility is unsecured, is repayable on demand and is reviewed and approved by the Board annually. The States of Guernsey, by way of resolution at its meeting on 15 December 2011, authorised the Treasury & Resources Department to make an overdraft facility of £5m available to the company for a four year period from 1 January 2012 with interest payable at the States Treasury rate. As at 31 March 2015, £Nil was drawn on either overdraft facility (2014: £Nil).

### 12. Creditors: amounts falling due after more than one year

	2015 £'000	2014 £'000
Deferred income	4,232	4,159
Amount drawn under medium term credit facility	<u>6,000</u>	<u>6,000</u>
	<u>10,232</u>	<u>10,159</u>

The company entered into a five year, £20m revolving credit loan facility with HSBC to finance its share of the cost of the "Normandie 3" project relating to the installation of a new sub-sea cable interconnector between Jersey and France. The facility is guaranteed by the States of Guernsey and a facility charge payable to the States of Guernsey of 0.50% is levied on the value of the amount drawn down for the term of the loan. The loan incorporates an option to increase the credit facility to £30m for the purpose of the future financing of the company's share of the "Normandie 1" project which will see an overlay of the failed "EDF1" cable between Jersey and France. During the year, the company utilised £Nil of the loan (2014: £6m).

### 13. Provision for liabilities and charges

	2015 £'000	2014 £'000
Deferred taxation:		
Balance at 1 April	(3,565)	(3,085)
Profit and loss account credit	(208)	(37)
Statement of total recognised gains and losses	<u>(563)</u>	<u>(443)</u>
<b>Balance at 31 March</b>	<b><u>(4,336)</u></b>	<b><u>(3,565)</u></b>
Which comprises:		
Capital allowances in excess of depreciation	8,395	7,861
Short-term timing differences (other)	(200)	(215)
Unrelieved trading loss for tax purposes	<u>(7,823)</u>	<u>(6,896)</u>
Provision for liabilities and charges	<u>372</u>	<u>750</u>
<b>Deferred tax asset on pension deficit (note 22)</b>	<b><u>(4,708)</u></b>	<b><u>(4,315)</u></b>

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 14. Share capital

	2015 £'000	2014 £'000
<i>Authorised:</i>		
125,000,000 ordinary shares of £1 each	<u>125,000</u>	<u>125,000</u>
<i>Issued and fully paid:</i>		
109,208,844 ordinary shares of £1 each	<u>109,209</u>	<u>109,209</u>

Two shares were issued on formation of the company and the remaining 109,208,842 shares were issued to equate to the consideration of £109,208,844 for the net assets acquired by the company from the States of Guernsey with effect from 1 February 2002.

### 15. Reconciliation of operating loss to net cash inflow from operating activities

	2015 £'000	2014 £'000
Operating loss	(2,193)	(255)
Depreciation charge	6,176	5,598
Pension current service cost	2,258	2,082
Pension past service cost	396	-
Pension losses on curtailments	8	-
Employer's pension cash contributions	(1,042)	(1,092)
Deferred income	(161)	(154)
Decrease in stocks and work in progress	637	851
(Increase)/decrease in debtors and prepayments	(827)	825
Increase/(decrease) in creditors	<u>2,385</u>	<u>(186)</u>
	<u>7,637</u>	<u>7,669</u>

### 16. Reconciliation of net cash flow to movement in net debt

	2015 £'000	2014 £'000
Decrease in cash in the year	(108)	(3,898)
Cash used to decrease liquid resources	(1,021)	(836)
Amount drawn under medium term credit facility	<u>-</u>	<u>(6,000)</u>
Change in net funds	(1,129)	(10,734)
Net (debt)/funds at 1 April	<u>(1,756)</u>	<u>8,978</u>
<b>Net debt at 31 March</b>	<u><b>(2,885)</b></u>	<u><b>(1,756)</b></u>

### 17. Analysis of changes in net debt

	At 1 April 2014 £'000	Cash flows £'000	At 31 March 2015 £'000
Cash at bank and in hand	734	(108)	626
Balances with States Treasury	3,510	(1,021)	2,489
Credit facility due after one year	<u>(6,000)</u>	<u>-</u>	<u>(6,000)</u>
	<u>(1,756)</u>	<u>(1,129)</u>	<u>(2,885)</u>

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 18. Reserves

	2015 £'000	2014 £'000
Balance at 1 April brought forward	(12,799)	(10,750)
Loss for the financial year	(1,865)	(194)
Actuarial loss recognised in the pension scheme, net of movement in deferred tax relating to pension deficit	(2,667)	(1,855)
	<hr/>	<hr/>
Balance at 31 March carried forward	<u>(17,331)</u>	<u>(12,799)</u>

### 19. Reconciliation of movements in shareholders' funds

	2015 £'000	2014 £'000
Shareholders' funds at 1 April brought forward	96,410	98,459
Loss for the financial year	(1,865)	(194)
Actuarial loss recognised in the pension scheme, net of movement in deferred tax relating to pension deficit	(2,667)	(1,855)
	<hr/>	<hr/>
<b>Shareholders' funds at 31 March</b>	<b><u>91,878</u></b>	<b><u>96,410</u></b>

### 20. Commitments

Capital commitments, for which no provision has been made in these financial statements, amounted to £4,006,000 as at 31 March 2015 (2014: £11,615,000). These relate to outstanding commitments on capital projects across a range of asset categories.

#### *Cable link commitments*

For the import of power from the European Grid, the company has a contract with Electricite de France ("EdF"). The existing electricity import contract with EdF is effective for a 10 year period which commenced from 1 January 2013. The related transmission agreement with Réseau de transport d'électricité ("Rte") also commenced from 1 January 2013. Under the import contract, there is a take or pay commitment, whereby the company is jointly and severally liable, along with the Channel Islands Electricity Grid Limited ("CIEG") and Jersey Electricity plc, for a block of power over the term of the contract. The price at which the take or pay block is charged increases annually over the period of the contract and for calendar year 2016 this equates to a total commitment of €9.4m (2015: €8.7m) for Guernsey Electricity Limited.

#### *Operating lease commitments*

Commitments to make payments during the next year in respect of an operating lease are as follows:

	2015 £'000	2014 £'000
<i>Land and Buildings</i>		
Lease which expires:		
Within one year	13	13
Within two to five years	-	-

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 21. Financial instruments

#### (a) Import Financial Hedge

Import contracts with EdF and RTE are denominated in Euros. The company manages the currency risk through derivative contracts. The company has purchased and written options which have the economic effect of committing it to purchase Euro at contracted rates with the option to purchase additional Euro should exchange rates move against the company as follows:

	2015		2014	
	€'000	£'000	€'000	£'000
Committed purchase of Euro	9,660	7,349	3,850	3,281
Options for additional purchases	<u>4,140</u>	<u>3,149</u>	<u>1,650</u>	<u>1,406</u>
Contracts to purchase Euro	<u>13,800</u>	<u>10,498</u>	<u>5,500</u>	<u>4,687</u>

The options will be exercised if the exchange rate falls below the relevant strike prices which range from 1.1980 to 1.3665. The Sterling/Euro rate at 31 March 2015 was 1.3802 (2014: 1.2098).

The fair value of these options which has not been recognised in the balance sheet is a liability of £295,000 (2014: £98,000).

#### (b) On-island Generation Financial Hedge

The company has no financial hedges on the commodity price of heavy fuel oil used for its on-island generation. The prior year financial statements reported financial hedges on heavy fuel oil totalling £9.1m comprising 23,000 metric tonnes at an average price of £397.15/metric tonne for 2014/15.

#### (c) Interest Rate Cap

The company has entered into an interest rate cap to hedge part of the interest rate risk associated with the £20m revolving credit facility. An interest rate cap of 3% has been applied to a notional amount of £8.4m and is referenced against the three month sterling LIBOR rate. The valuation of this instrument as at 31 March 2015 was £9,000 (2014: £52,000).

# Guernsey Electricity Limited

## Notes to the financial statements - continued

*Year ended 31 March 2015*

### 22. Pension Scheme

#### **Employee benefit obligations for Guernsey Electricity Limited**

The employees of the company are members of the States of Guernsey Public Servants Pension Scheme (PSPS). This is a defined benefits pension scheme funded by contributions from both employer and employee to the PSPS at rates which are determined on the basis of independent actuarial advice, and which are calculated to spread the expected cost of benefits payable to employees over the period of those employees' expected service lives.

As the PSPS is a multi entity arrangement, the States of Guernsey contracted the Scheme's qualified independent actuaries to identify the actuarial account for each entity and, therefore, the value of the pension fund assets and liabilities attributable to this company. The triennial valuation at 31 December 2013 recommended the decrease of employer's contribution from 14.6% to 11.5% from 1 April 2015 and this was approved by the States of Guernsey. The value of these employer contributions to the Fund from 1 April 2015 to 31 March 2016 are estimated at £1,178,000.

Due to a redundancy, in accordance with the Rules of the PSPS which apply to Guernsey Electricity Limited, an employee has become entitled to the early payment of unreduced benefits based on enhanced service. As the standard member and employer contribution make provision for only the benefit payable from normal pension age based on actual service, a payment of £343,000 has to be paid into the Fund in order to fund for this additional benefit. It is expected that after a period of less than three financial years, the company would have paid less in respect of the employee than it would had no redundancy been made.

#### **Description of the Guernsey Electricity Limited Actuarial Account of the States of Guernsey Superannuation Fund ("the Fund")**

The Fund is a funded defined benefit arrangement which provides retirement benefits based on final pensionable salary.

The company recognises the requirements of Financial Reporting Standard 17 ("FRS17") Retirement Benefits on the following basis:

The valuation used for FRS17 disclosures has been based on a full assessment of the liabilities of the Fund. The present values of the defined benefit obligation, the related current service cost and any past service costs (if applicable) were measured using the projected unit method.



# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 22. Pension Scheme - continued

The amounts recognised in the balance sheet are as follows:

	2015 £'000	2014 £'000
Fair value of Fund assets	54,889	50,611
Present value of funded obligations	<u>(81,903)</u>	<u>(72,990)</u>
Deficit in scheme	<u>(27,014)</u>	<u>(22,379)</u>
Related deferred tax asset	<u>4,708</u>	<u>4,315</u>
Net pension liability	<u>(22,306)</u>	<u>(18,064)</u>

The amounts recognised in the profit and loss account are as follows:

	2015 £'000	2014 £'000
Current service cost	2,258	2,082
Interest on obligation	3,099	2,973
Expected return on Fund assets	(3,314)	(2,765)
Past service cost	396	-
Losses on curtailments	<u>8</u>	<u>-</u>
Expense recognised in the profit and loss account	<u>2,447</u>	<u>2,290</u>
Actual return on Fund assets	<u>4,648</u>	<u>2,814</u>

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 22. Pension Scheme - continued

Changes in the present value of the defined benefit obligation are as follows:

	2015	2014
	£'000	£'000
Opening defined benefit obligation	72,990	66,863
Service cost	2,258	2,082
Interest cost	3,099	2,973
Contributions by members	470	493
Actuarial losses	4,564	2,347
Past service cost	396	-
Losses on curtailments	8	-
Benefits paid	<u>(1,882)</u>	<u>(1,768)</u>
Closing defined benefit obligation	<u>81,903</u>	<u>72,990</u>

Changes in the fair value of Fund assets are as follows:

	2015	2014
	£'000	£'000
Opening fair value of Fund assets	50,611	47,981
Expected return	3,314	2,765
Actuarial gains	1,334	48
Contributions by employer	1,042	1,092
Contributions by members	470	493
Benefits paid	<u>(1,882)</u>	<u>(1,768)</u>
Closing fair value of Fund assets	<u>54,889</u>	<u>50,611</u>

Analysis of amounts recognised in the statement of total recognised gains and losses (STRGL):

	2015	2014
	£'000	£'000
Total actuarial losses	<u>(3,230)</u>	<u>(2,298)</u>
Total loss recognised in STRGL	<u>(3,230)</u>	<u>(2,298)</u>
Cumulative amount of loss recognised in STRGL	<u>(27,243)</u>	<u>(24,013)</u>

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 22. Pension Scheme - continued

The major categories of Fund assets as a percentage of the total Fund assets are as follows:

	2015 %	2014 %
Equities	76	70
Gilts	1	3
Corporate bonds	14	14
Property	7	9
Other assets	2	4

Principal actuarial assumptions at the balance sheet date (expressed as weighted averages where applicable):

	31 March 2015 % p.a.	31 March 2014 % p.a.
Discount rate	3.3	4.3
Expected return on Fund assets at 31 March (for following year)	N/A	6.6
Rate of increase in pensionable salaries	3.85	4.35
Rate of increase in deferred pensions	3.1	3.6
Rate of increase in pensions in payment	3.1	3.6

### Mortality Assumptions

The mortality assumptions are based on standard mortality tables, which allow for future mortality improvements. The assumptions are that a member aged 65 will live, on average, until age 86, if they are male, and until age 89, if female. For a member currently aged 45, the assumptions are that, if they attain age 65, they will live on average until age 88, if they are male, and until age 91, if female.

### Expected rate of return for 2015/16

The Financial Reporting Council has issued a revised accounting standard, Financial Reporting Standard 102 ("FRS102"). Section 28 of this standard will replace the current FRS17 standard for financial years' beginning on or after 1 January 2015. Under FRS102, the "expected return on assets" and "interest cost" items of the pension cost are combined into a single item called the "Net interest on the net defined benefit liability/(asset)". This item will be calculated by reference to the discount rate and so, effectively, the expected return on assets assumption is equal to the discount rate, meaning a separate assumption is no longer required.

# Guernsey Electricity Limited

## Notes to the financial statements - continued

Year ended 31 March 2015

### 22. Pension Scheme - continued

Amounts for the current and previous periods are as follows:

	2015	2014	2013	2012	2011
	£'000	£'000	£'000	£'000	£'000
Defined benefit obligation	<b>81,903</b>	72,990	66,863	59,615	51,521
Fund assets	<b>54,889</b>	50,611	47,981	43,184	42,756
Deficit	<b>(27,014)</b>	(22,379)	(18,882)	(16,431)	(8,765)
Experience gains / (losses) on Fund assets	<b>1,334</b>	48	2,198	(2,620)	1,860
Experience gains / (losses) on Fund liabilities	<b>1,890</b>	(15)	28	932	504
Change in assumptions underlying the Present value of Fund liabilities	<b>(6,454)</b>	(2,332)	(3,766)	(5,530)	2,835
Total Experience (losses) / gains on Fund liabilities	<b>(4,564)</b>	(2,347)	(3,738)	(4,598)	3,338

The balance sheet position in respect of the Actuarial Account has worsened mainly due to the effect of the economic assumptions derived from the market.

### 23. Statement of control

The company is wholly owned and ultimately controlled by the States of Guernsey.

### 24. Related party transactions

There are no disclosable related party transactions in this financial year. Of the company's annual income and expenditure, less than 20% of their respective value is due to transactions with other States entities.

**(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)**

The States are asked to decide:-

XI.- Whether, after consideration of the Policy Letter dated 26<sup>th</sup> August, 2015, of the Treasury and Resources Department, they are of the opinion to note the Annual Report and Accounts for Guernsey Electricity Limited for the year-ending 31<sup>st</sup> March, 2015.

**TREASURY AND RESOURCES DEPARTMENT**

**GUERNSEY POST LIMITED – ANNUAL REPORT AND ACCOUNTS**

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

8<sup>th</sup> September 2015

Dear Sir

**Executive Summary**

1. The Annual Report and Accounts of Guernsey Post Limited are hereby presented to the States.

**Guernsey Post – Annual Report and Accounts**

2. Under the terms of section 8 of the States Trading Companies (Bailiwick of Guernsey) Ordinance, 2001, the Department is required to submit Guernsey Post's Annual Report and Accounts to the States for their consideration.
3. Guernsey Post's Annual Report and Accounts for the year ended 31<sup>st</sup> March, 2015, are therefore appended to this Policy Letter.
4. The Company made a profit on ordinary activities before taxation of £985,000 for the year ended 31<sup>st</sup> March, 2015, compared to a profit of £1,084,000 for the previous year.

**Resources**

5. There are no additional financial or staff resource implications for the States associated with the recommendations set out in this Policy Letter.

**Recommendation**

6. The Treasury and Resources Department recommends the States:
  - (i) To note the Annual Report and Accounts for Guernsey Post Limited for the year-ending 31<sup>st</sup> March, 2015.

Yours faithfully

G A St Pier	J Kuttelwascher	A H Adam	R A Perrot	A Spruce	Mr J Hollis
Minister	Deputy Minister				(Non-States Member)



Annual Report and Financial Statements  
for the year ended 31 March 2015

**GUERNSEY  
POST** 

## CORPORATE DETAILS

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**Directors:**

Dudley R Jehan (Chairman)  
 Boley Smillie (Chief Executive)  
 Steve Sheridan (Finance)  
 Steve Hannon (Non-Executive)  
 Andrew Duquemin (Non-Executive)  
 Stuart Le Maitre (Non-Executive)  
 Simon Milsted (Non-Executive)

**Auditors:**

KPMG Channel Islands Limited  
 Chartered Accountants  
 Glatigny Court  
 Glatigny Esplanade  
 St Peter Port  
 GUERNSEY  
 GY1 1WR

**Actuaries:**

BWCI Consulting Limited  
 Actuaries and Consultants  
 PO Box 68  
 Albert House  
 South Esplanade  
 St Peter Port  
 GUERNSEY  
 GY1 3BY

**Registered office:**

Envoy House  
 La Vrangue  
 St Peter Port  
 GUERNSEY  
 GY1 1AA

Grefe Registration Number: 38693

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## ANNUAL REPORT 2015



# CHAIRMAN'S STATEMENT

*In my last full year as Chairman of the Guernsey Post Board, I am delighted to present our annual results which has seen continued profitability, notwithstanding a most hostile trading environment and a period in which we have seen a number of major customers leave our island.*

To ensure the Company's success, we continue to adapt to the challenging conditions facing the postal industry by seeking efficiencies and focusing on enhancements to our services. Core letter volumes continue to decline, which, when combined with the volatility of bulk mail, has a significant and to some degree unpredictable impact on our overall revenue.

The threatening commercial outlook that continues to face the company is more fully described in our Business Review on page 6 of these financial statements.

Revenue decline has only been partly offset by the growth of internet shopping and the associated increase in parcel volume. The business needs to continue to seek for further significant efficiencies. These changes will continue to be felt right across the business and I would like to thank our staff for their continued loyalty and commitment in this endeavour.



## INVESTORS IN PEOPLE

Guernsey Post has been awarded the Investors in People Gold standard once again this year, remaining one of the top 7% of accredited organisations across the UK.

Investors in People is the UK's leading accreditation for business improvement through people management and provides a wealth of resources for businesses to innovate, improve and grow, with a focus on good people making great business.

We are extremely pleased to have received the highest accreditation for this internationally recognised award. It acknowledges the continued hard work that has taken place right across the business to improve the way we work. Given the challenges currently facing the postal industry, the award also reflects our ability to successfully adapt to change and a determination to continuously develop the business.

## PENSION

In light of the significant financial uncertainty and an FRS17 deficit which has increased by a staggering 49% to £25.1m in the last year alone, the Board has opened its own negotiations with its workforce in respect of reform of the final salary pension scheme. Guernsey Post employees are members of the States of Guernsey Public Sector Pension Scheme, a legacy dating back to before the commercialisation of the business in 2001. The pension scheme offers employees a defined benefit, linked to final salary, which is widely considered to be unaffordable and unsustainable.

The pension deficit is overshadowing what are very positive trading results for the business, achieved in difficult circumstances. The imperative for change, driven by issues beyond our control is now so great that the Board does not believe, under any circumstances, it can wait for the outcome of any mediation or legal resolution between the States of Guernsey Public Sector Remuneration Committee and their respective Trade Unions.

*To ensure the Company's success, we continue to adapt to the challenging conditions facing the postal industry by seeking efficiencies and focusing on enhancements to our services.*

## CHAIRMAN'S STATEMENT

## DIVIDEND

As a consequence of the impact on the balance sheet of the increasing FRS17 pension deficit and the associated open ended obligations, the Board is not currently recommending an ordinary dividend. The Board will, however, be keeping the position under review pending resolution of the pension reform review.

## SHAREHOLDER

I am pleased to note that the regulatory regime, introduced in 2001, has been reviewed by the States of Guernsey and a more appropriate approach has now been agreed. In recent years, the market in which we have been trading has changed significantly and the former regulatory model was no longer fit for purpose. Indeed, the Channel Islands Competition and Regulatory Authority (CICRA) had already removed price controls after acknowledging that significant changes in the postal market meant that they were no longer warranted.

In conjunction with these regulatory changes, my Board agreed a Memorandum of Understanding (MOU) with our Shareholder outlining objectives and key performance indicators. The MOU focuses on our strategy to continue to deliver cost-effective and innovative services that operate efficiently and responsibly in the best interests of the community. The objectives include:

- Guaranteed customer service standards;
- A requirement to undertake periodic reviews of efficiency;
- A requirement to maintain the Universal Service Obligation (USO).

## THE BOARD

There have been no personnel changes to the Board over the last twelve months but this annual report will represent my last as Chairman and Non-Executive Director of Guernsey Post. I have very much enjoyed my time with the Company, a time which has been both challenging and rewarding.

In handing over responsibilities to my successor, Andrew Duquemin, I do so in the knowledge that the Board has a robust strategic plan in place and a clear understanding of the actions and initiatives that will be required over the coming years in order to ensure sustainable success.



D R Jehan, *Chairman*  
July 2015



Guernsey Post have been awarded the Investors in People Gold in 2015

# Business Review for the Year

## OUR RESULTS

We are pleased to report that our financial and business performance over the last year has again been strong, despite the difficult trading conditions within the postal industry. As has been the case in recent years, the significant volume fluctuations and changing customer demands continue to drive the need for our progressive restructuring, which has been the key to our success.

Once again, we are grateful to the team at Guernsey Post for their hard work and dedication, all of which has been fundamental in achieving our results.

## PROFIT AND LOSS

**Operating profit** for the year was £0.4m, representing an improvement of £0.1m on the previous year. It should be noted that associated FRS17 pension costs have increased by a further £0.3m during the year. On a like for like basis, actual operating performance has, therefore, seen an improvement of £0.4m.

**Pre-tax profit** for the year was £1.0m, which was down £0.1m on prior year. A reduction of £0.6m in investment returns on our balance held within the States of Guernsey Cash and Investment Pool is a key contributor to this reduction.

**Turnover** for the year was £33.6m, which represented an increase of £0.4m (2%) on prior year.

**Expenditure** for the year was £33.2m, an increase of £0.3m in the year.

Direct costs associated with servicing our revenue streams have decreased by 0.6% to £18.0m during the year, representing a cost reduction to the business of £0.1m. This is particularly pleasing against the backdrop of net revenue growth in the year and is a demonstration of the ongoing operational and price controls in place within the business. Gross Profit for the year was £15.6m, an improvement of £0.5m and up 3.6% on the prior year.

Staff expenditure for the year was £10.6m, an increase of 3% on prior year and is, in part, reflective of the ongoing cost involved in servicing the growth in on-island parcel deliveries. The average number of full-time equivalent employees increased marginally during the year to 225.

Operating expenditure remained in line with prior year at £3.0m, despite an increase of £0.3m in the FRS17 pension charge. On a like for like basis, when excluding pension charges and the profit and loss the sale of fixed assets, operating expenditure saw a decrease of £0.1m, a demonstration that discretionary expenditure continues to be tightly controlled.

The business has an ongoing commitment to identifying and delivering cost savings across all areas of the operation. Numerous building related capital projects, some already implemented and others scheduled for later this year, will further support this commitment.

“*The business has an ongoing commitment to identifying and delivering cost savings across all areas of the operation.*”

## BALANCE SHEET

Shareholders' funds decreased significantly by £7.1m from £11.3m to £4.2m. The primary driver being a further £8.3m widening of the net pension scheme deficit under FRS17. The gross pension scheme deficit, as reported under FRS17, now stands at £25.1m. An important financial factor underlying this change is the relationship between the corporate bond based discount rate, which has fallen in the year and resulted in an increase in the associated scheme liability. This continues to be the case despite fair investment performance of the fund assets, ongoing employee contributions and higher than required contributions by the Company.

Aside from FRS17, the Company does continue to operate with a strong Balance Sheet and a healthy liquidity position. At the year end, the Company reported a cash balance of £11.5m and £3.3m of current assets, supported by a £12.8m fixed asset base. Current liabilities were £3.4m.

## CASHFLOW STATEMENT

The Company consumed £0.5m of cash during the year, decreasing its cash reserves to £11.5m.

Operating cashflow contributed £1m in the year, with the Company again making strong profits before major non-cash items such as depreciation, amortisation and FRS17 adjustments.

Capital expenditure for the year was £1.0m. The primary investment being the final instalment of £0.8m on the Company's new sortation machines. In addition, the Company invested a further £0.2m, both as part of its ongoing vehicle fleet replacement programme and in a number of building related infrastructure improvements.

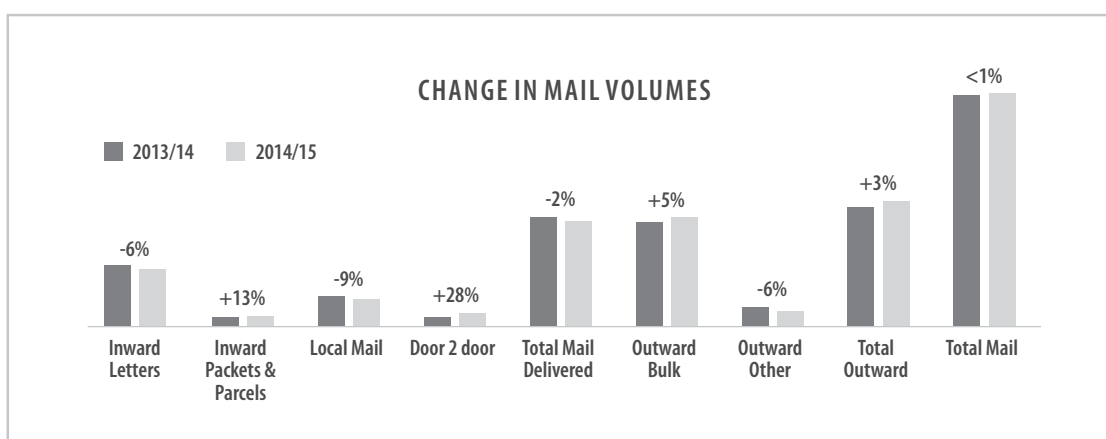
Interest income receipts were £0.6m lower than prior year at £0.3m as a result of decreased yields on funds placed within the States of Guernsey Cash and Investment Pool. A dividend of £0.75m was paid during the year.

## OPERATIONAL SUMMARY

Total number of mail items handled during the year was around 44m, which represents a marginal increase on the prior year.

Total mail delivered was down 2% on prior year and impacted by the ongoing decline seen in inward letters and local mail volumes, which were down 6% and 9%, respectively. This was offset by another year of strong growth in our inward packets and parcel volumes, which were up 13% on prior year. Our Door2Door delivery product also performed very well in the year, with a 28% increase seen in the number of items delivered when compared to prior year.

Outward Bulk volumes also showed some growth during the year, up 5% on 2013/14.



## QUALITY OF SERVICE

Illustrated below is our Quality of Service performance against the targets set by the Channel Islands Competition and Regulatory Authority (CICRA). It is worthy of note that our delivery standards over the past three years in all areas of mail have seen an improvement, with only mail posted in the UK for delivery in Guernsey falling just short of the targets set by CICRA for this year. All other mail delivery targets exceed the regulator target and are a demonstration of our continued commitment to ensuring the timely delivery of mail across our network.

	2012/2013	2013/2014	2014/2015	Regulator Target
<b>LOCALLY POSTED MAIL</b>				
Delivered Locally	93%	97%	98%	95%
Delivered in Jersey	73%	82%	85%	82%
Delivered in UK	83%	86%	86%	82%
<b>MAIL POSTED OUTSIDE OF GUERNSEY, AND DELIVERED IN GUERNSEY</b>				
Posted in Jersey	69%	81%	88%	82%
Posted in UK	73%	71%	81%	82%

## BUSINESS REVIEW continued

### BUSINESS UNIT PERFORMANCE

#### BULK MAIL

Revenues continue to be a key contributor to our overall business performance, contributing over £17m of total revenue and has seen a further 2% increase in the year.

It was with disappointment to note that two of our key account customers have decided to relocate their fulfilment operations to the UK. The relocation of both companies will be virtually complete by the end of the first quarter of the 2015/16 financial year, the impact of which will likely see our bulk mail revenue fall by 15%. Volumes from our other bulk mail customers continue to grow.

#### INBOUND MAIL

Revenues of £7.6m have continued to enjoy solid growth, with an increase of 6% on prior year. This strong performance is directly aligned to the ongoing increase in the delivery of packet and parcel volumes, linked to the continued growth in internet shopping.

#### OUTBOUND MAIL

Revenues of £5.4m are down 10% in the year. An ongoing decline in traditional mail volumes, with close to double digit percentage reductions when compared with prior year.

#### PHILATELIC

The Business Unit has again performed well over the year delivering an operating profit of £0.2m with a turnover of £1.0m.

As in recent years, the Philatelic team have focused on producing a high quality product with a strong emphasis on innovation. In May 2014, Guernsey was the fourth Postal Administration in the world to issue a stamp celebrating the hobby of Postcrossing, which promotes the sending and receiving of postcards. Its online community has over half a million members and, since its creation in 2008, over 30 million 'Postcrossing' postcards have been sent. Many members of the Postcrossing community are also avid stamp collectors.

The second Guernsey Marine Life issue saw further use of augmented reality technology, allowing the images on stamps to come to life by scanning the stamps with application based software for smartphones and tablets.

In February 2015, Guernsey launched its own Post & Go stamps in conjunction with Royal Mail. This is a label based product which bears a unique serial number on each label. The product has attracted significant interest from existing Royal Mail Post & Go collectors and sales to date have been promising. Sales through the World Online Philatelic Agency (WOPA) have continued to increase and represents sales channel.

#### FINANCIAL SERVICES

We were delighted to launch a new partnership in Sark with NatWest Bank, enabling the provision of banking services at our

Sub Post Office. This enhancement to our range of services is very much consistent with our ongoing strategy to develop the use of the wider Sub Post Office network.

Our foreign exchange business, Batif, has had an excellent year with underlying profit up 40%. The improvement in performance is almost entirely attributable to the relative strength of the Pound against the Euro, although internal efficiencies have resulted in a reduction in operating costs.

#### OUTLOOK

Inevitably, the consequences of the loss of bulk mail customers and the increasing pension obligations will have a significant and negative impact on our financial performance. As such, the Board is anticipating an operating loss in the next financial year but is determined to ensure the negative financial impact is offset with further restructuring of the business.

A key priority for the Board over the coming year will be the reform of the Final Salary Pension Scheme. The Company's employees are members of the States of Guernsey Public Sector Pension Scheme (PSPS). The Company's Board, Employees and the associated Trade Unions have no involvement in the management of the current scheme, thereby compounding the current issues. It is worthy of note that the deficit position has now more than doubled in size in the past three years from £11.6m in 2013 to £25.1m in 2015.

Whilst our actual cash obligation to pay into the pension scheme is not directly determined in the short term by the outcome of the FRS17 valuation, the Board continues to be deeply concerned with the increasing size of this deficit, the uncertain and open ended nature of this liability and the ultimate strain on the financial position of the business. Furthermore, the more immediate and short term impact of the existing scheme on Company profitability is a cause for concern, with total pension related cost expected to be around £3.8m for the following financial year, a rise of £1.9m.

The Board had anticipated changes proposed by the States of Guernsey as part of a wider reform of the Public Sector Pension Scheme would have been agreed and implemented long before now. This not being the case and with no certainty in terms of timescales for a resolution, or indeed any guarantee that the eventual outcome will be suitable for Guernsey Post, the Board has opened its own reform negotiations with its Trade Unions.

We have continued to experience significant shifts in our core volumes. Whilst letter mail continues to decline, for the most part due to electronic substitution, the growth of parcel mail continues to accelerate. The movement in volume is driving a significant restructure of our operations, which will be completed over the coming twelve months. This change will involve the consolidation of our letter and parcel delivery network, significant investment in a fit for purpose delivery fleet and improvements to our quality of service.

The Board is optimistic about the delivery of these initiatives and will continue to focus on the delivery of the Company strategy, securing the long-term sustainability of the Universal Service Obligation and meeting the objectives of our Shareholder.





# Corporate Social Responsibility / Environment Report

Year on year, Guernsey Post strives to maintain a consistent approach to community affairs, charity fundraising and to providing the best working solutions for environmental issues.

Over 13 charities benefited in some form or other from initiatives organised by employees. Running, cycling, fishing and cake baking are just a few ways in which postal workers help to raise awareness of community projects, charities or club fundraising. Guernsey Post gives an extra boost to all these efforts by supplying financial assistance (most commonly on a matched fund raising basis), or by giving time for employees to achieve their events.



Along with the many community projects undertaken, our postal workers often help out on a day to day basis with the general public. Replacing flat tyres, rehoming lost dogs and helping to move items for a customer are just a few of the helpful incidents in a postie's day.

Joining forces with charities, such as the Guernsey Voluntary Service, we also help spread a little Christmas cheer. The Meals on Wheels customers once again had the opportunity to send their Christmas cards to their friends and family within the Bailiwick free of charge.

**A few charities that have benefited over the last 12 months include:-**

Guernsey Foster & Adoption, Race for Life, Les Bourgs Hospice, Sarnia Rescue, MUG, DiGeorge Syndrome, Charity Horse Show for EGS, MIND, Red Nose Day, Bulstrode House

**“The replacement of our old lighting system was a major project. New LED lighting, which uses up to 60% less energy and provides better quality light, has been fitted throughout the first floor and the ground floor offices of Envoy House, saving a minimum of 44,500 kWh per year.”**

The continuing challenge for companies to improve the impact of their operations on the local and global environment is firmly established in our Environment Policy.

Along with the more commonly and regularly recycled goods, such as paper and cardboard, we recycled a large number of old florescent tubes to the UK with the plastic and metal fittings being sent to a local centre.

The replacement of our old lighting system was a major project. New LED lighting, which uses up to 60% less energy and provides better quality light, has been fitted throughout the first floor and the ground floor offices of Envoy House, saving a minimum of 44,500 kWh per year.

By continuing and completing the lighting replacement project, the aim for the coming year is to make further savings and, on completion, a total minimum saving of 200,000 kWh of electricity per year will be achieved. This equates to approximately 102 tonnes of CO<sup>2</sup>.

**Commonly recycled material:**

Non confidential paper, Magazines, Shredded confidential paper, Cardboard, Plastics, Polystyrene, Glass, Metal

## BOARD PROFILE



**Dudley Jehan**  
CHAIRMAN

Born and educated in Guernsey, Dudley Jehan trained as a Meteorologist with the Air Ministry, working at Heathrow and Guernsey Airports before joining the British Antarctic Survey in 1960. During his four-year posting he was appointed Base Commander Halley and was awarded a Polar Medal by Her Majesty the Queen for outstanding contribution to science and discovery.

On returning to Guernsey he began a career in commerce, retiring in 2003 as Chief Executive of the Norman Piette Group of eight Channel Island

trading companies serving the construction and home improvement sectors. He remains NP Group's Chairman today.

He was appointed the first Chairman of Guernsey Telecoms Limited, has held a number of non-executive directorships and has been a non-States Member for over 25 years. He is currently a member of the Housing Department.



**Boley Smillie**  
CHIEF EXECUTIVE

Born and raised in Guernsey, Boley Smillie joined Guernsey Post in 1991 straight from his secondary education at La Mare de Carteret School. The subsequent twenty three years have seen him gain a wide range of experience in different roles, rising through the ranks of the Company. Initially employed as a clerical assistant he moved to Customer Services, then on to Logistics before being promoted to Head of Letters and Parcels in 2004. He became Operations Director in 2007 and

an Executive Director in April 2010. In July 2010 he was appointed interim Chief Executive before taking the role on a permanent basis in September 2010.

During this time he has added to his hands on experience by undertaking a number of professional qualifications, including certificates in marketing and business and finance.

Most recently he was awarded the certificate in Company direction from the Institute of Directors.



**Steve Sheridan**  
FINANCE DIRECTOR

Steve Sheridan was born and educated in Nottingham, before work opportunities brought him to Guernsey in 1993.

He has over 20 years' experience in accountancy and financial control, holding a number of senior roles for a variety of firms within Insurance, Fiduciary, Retail and the Banking industries. He qualified in 2004 before joining All in Black as their Financial Controller and General Manager. During his time in this role, he was successful in creating an effective management reporting solution for the business, out of which a number of key rationalisation initiatives were undertaken.

His next role took him to Credit Suisse, where he

held a variety of positions, one of which was part of a project team tasked to ensure the successful deployment of their Financial Accounting function to its offices in India. More latterly Steve was employed within the Private Banking and Asset Management Division where he held the position of Head of Financial Management for the Channel Islands.

Steve brings with him a wealth of accountancy and financial control knowledge as well as a strong commercial acumen.

Steve was appointed Finance Director with Guernsey Post in early 2014.



**Steve Hannon**  
NON-EXECUTIVE

Steve Hannon has over 40 years' experience in the postal industry. For the majority of that time he worked for Royal Mail where he managed several multi million pound, high profile national projects including the introduction of postal automation, a new rail, road and air network, rationalising and revamping London's mail centre infrastructure and planning the nationwide introduction of the single letter delivery.

He also spent a two-year period as a divisional General Manager responsible for a workforce of 13,000 people and an annual budget of £400m. During this time he covered the complete range of management functions embracing sales, customer

services, finance, human resources, planning and operations.

Since leaving Royal Mail in 2003 he has undertaken consultancy work in the postal field and became a director of Postal and Logistics Consulting Worldwide. He was appointed Chief Executive of the Company in 2008.

Between July 2006 and February 2007 he undertook the role of Interim Chief Executive of Guernsey Post.

## BOARD PROFILE



**Andrew Duquemin**  
NON-EXECUTIVE

Andrew Duquemin has a degree in Accounting and Finance and qualified as a Chartered Accountant in 1983. He has extensive experience in the listing of companies on both the London Stock Exchange and The Channel Islands Stock Exchange. He is also a director of Corporate Consultants Limited, a Guernsey based consultancy business that has provided corporate finance and management consultancy services since 1991.

He is Chairman of Elysium Fund Management Limited, a Company providing fund management, administration and corporate finance services to a range of funds and trading companies.

Elysium was formed in October 2006 to complete the management buyout of the business of Collins Stewart Fund Management Limited, a Guernsey registered Company and wholly owned subsidiary of Collins Stewart Tullett plc, where Andrew was managing director.

Andrew sits on the boards of several local trading companies, a London-based investment bank and a recently formed P2P business. He is also a Fellow of the Chartered Institute for Securities & Investment and holds the advanced diploma in Corporate Finance.



**Stuart Le Maitre**  
NON-EXECUTIVE

Stuart Le Maitre was born and educated in Guernsey. Following a brief period of employment at the Guernsey Post Office, he studied in Bristol and obtained a degree in Education and a post graduate qualification in Careers Guidance. He held a senior position in the Careers Service at Buckinghamshire County Council for five years before returning to join the Civil Service in Guernsey, and held senior positions for the next 20 years.

During this time, his responsibilities included the development and oversight of departments responsible for industrial relations and employment legislation, trading standards and consumer affairs, health and safety in the work place and initiatives to support the development of the non-finance sector of the Island's

economy. Having worked on the development of the regulatory framework for the Bailiwick of Guernsey and the establishment of the Office of Utility Regulation, he was also involved in the commercialisation of the States' Trading Utilities.

On leaving the Civil Service, Stuart undertook a variety of consultancy assignments and in 2006 was appointed as Chief Operating Officer with responsibility for the set up phase of new local mobile telephone Company. More recently he held the position of Chief Executive of the Medical Specialist Group in Guernsey until he resigned from this post in June 2013. He has recently taken up the position of Junior Constable for the Vale Parish and holds other local board positions.



**Simon Milsted**  
NON-EXECUTIVE

On qualification as a Chartered Accountant in 1982, Simon Milsted joined the London City office of Price Waterhouse, during which time he was engaged on a series of special assignments for the Bank of England. Two consecutive assignments took him to the West Country, following which he moved his young family westwards transferring permanently to Price Waterhouse's Bristol office. In 1988, Simon co-founded an independent firm of Chartered Accountants that soon became one of the fastest growing and most well respected independent firm of advisers in the South West, bringing a high level of specialist and consulting advice to the owner-managed business community across the region.

In 1995, Simon invested in and became non-

executive chairman of the BSI Group, a business process outsource specialist in the business travel sector, which became the European leader in its field. Simon has held office as Regional President of the Institute of Chartered Accountants in England and Wales, sat on a number of Government sponsored business support bodies and was a governor and non-executive treasurer of a leading South West public school.

Since his move to Guernsey in 2010, Simon has pursued an active engagement with businesses and not for profit organisations on the Island both in an advisory capacity and as principal.



# Corporate Governance Report

## COMPLIANCE

The Combined Code on Corporate Governance 2006 (the Code) outlines the main principles and provisions that companies should adopt in relation to corporate governance. This report describes Guernsey Post's compliance with the Code. Guernsey Post is committed to the development of a sustainable and profitable business that benefits all stakeholders, which includes achieving the highest standards of corporate governance for our Shareholder, the States of Guernsey.

Guernsey Post has signed a Memorandum of Understanding with the Treasury & Resources Department that sets out the rights, expectations and duties of both parties and includes the requirement to comply with best practice on corporate governance. Guernsey Post has continued to work on its corporate governance programme during the financial year ending 31 March 2015, and the achievements are summarised in this report.

## THE BOARD

### DIRECTORS

The Board's role is to provide entrepreneurial leadership of the Company within a prudent and effective framework of risk management and internal control. The Board is responsible for setting and implementing strategy, allocating the necessary human and financial resources to meet the Company's objectives and monitoring the performance of management against those objectives. The Board is collectively accountable for the success of the Company, sets its values and standards and takes decisions objectively in the interests of the Company, its Shareholder and other stakeholders.

Non-executive directors help to develop and challenge the Company's strategy. They evaluate the performance of management and monitor the reporting of performance. They consider the integrity of financial information and the strength of financial controls and risk management systems. They oversee executive remuneration and play the main role in the appointment, removal and succession planning for executive directors.

Matters referred to the Board are governed by a scheme of delegated authorities that provides the framework for the decisions to be taken by the Board, those which must be referred back to our Shareholder and those which can be delegated to Committees of the Board or senior management.

There were nine board meetings held during 2014/15. If a Board member cannot attend a meeting, he or she receives a copy of the agenda and the accompanying papers in advance of the meeting and is invited to comment on the matters to be discussed.

The names of the members of the Board Committees are set out on pages 11-12, together with details of their background. The Board Committees have authority to make decisions according to their terms of reference.

### CHAIRMAN AND CHIEF EXECUTIVE

Guernsey Post has a non-executive Chairman and a Chief Executive. There is a clear division of responsibility between the two positions, with the Chairman responsible for the running of the Board and the Chief Executive responsible for the running of the Company's business.

Dudley Jehan spends, on average, one day per week in his role as Chairman. He is also Chairman of the Norman Piette Group. The Board considers that his external directorships do not make conflicting demands on his time as Chairman.

Andrew Duquemin is the senior independent director and is available to talk to our Shareholder, if it has any issues or concerns.

### BOARD BALANCE AND INDEPENDENCE

Throughout the year the Company has had a balance of independent non-executive directors on the Board, who ensure that no one person has disproportionate influence. All the non-executive directors bring with them significant commercial experience from different industries, which ensures that there is an appropriate balance of skills on the Board.

There are currently five non-executive directors and two executive directors on the Board.

## APPOINTMENTS TO THE BOARD

Recommendations for appointments to the Board are the responsibility of the Nominations Committee. The appointment of non-executive directors has to be ratified by the States of Deliberation.

The Nominations Committee meets quarterly to consider the balance of the Board, job descriptions and objective criteria for board appointments and succession planning.

## INFORMATION AND PROFESSIONAL DEVELOPMENT

For each scheduled board meeting, the Chairman and the Company Secretary ensure that, during the week before the meeting, the directors receive a copy of the agenda for the meeting, financial, strategic and operating information and information on any other matter which is to be referred to the Board for consideration. The directors also have access to the Company Secretary for any further information they require. In the months where there is no scheduled board meeting, the directors receive the prior month and cumulative Company financial and operating information.

All newly appointed directors participate in an extensive internal induction programme that introduces the director to the Company and includes visits to key stakeholders. The Company Secretary gives guidance on board procedures and corporate governance.

The Company Secretary, who is appointed by the Board and is also the Finance Director and an Executive Director, is responsible for ensuring compliance with board procedures. This includes recording any concerns relating to the running of the Company, or proposed actions arising there from that are expressed by a director in a board meeting. The Company Secretary is also secretary to the Remuneration and Nomination Committees. The Company Secretary is available to give ongoing advice to all directors on board procedures, corporate governance and regulatory compliance.

## CORPORATE GOVERNANCE REPORT

### ATTENDANCE AT BOARD AND BOARD COMMITTEE MEETINGS

Attendance during the year for all board and board committee meetings is given in the table below:

ATTENDANCE AT BOARD COMMITTEE MEETINGS (A)				
	Board	Audit Committee	Nominations Committee	Remuneration Committee
Dudley Jehan	8/9			
Boley Smillie	9/9			
Stephen Sheridan	9/9			
Steve Hannon	6/9		4/4	4/4
Andrew Duquemin	9/9	2/2		
Simon Milsted	8/9	2/2		
Stuart Le Maitre	7/9		4/4	4/4

(A) The first figure represents attendance and the second figure the possible number of meetings e.g. 7/9 represents attendance at 7 out of a possible 9 meetings. Where a director stepped down from the Board, or a Board Committee, during the year, or was appointed during the year, only meetings before stepping down or after the date of appointment are shown.

### PERFORMANCE EVALUATION

The Board undergoes an annual evaluation of its performance. The evaluation consists of a confidential questionnaire, which is independently assessed, and a report that is then submitted to the Board, followed by an open discussion facilitated by the Chairman.

### ELECTION AND RE-ELECTION OF DIRECTORS

Guernsey Post Limited's articles state that a non-executive director should be proposed for re-election if he or she has been appointed to the Board since the date of the last AGM, or proposed for re-election if he or she has held office more than three years at the date of the notice convening the next AGM. The Board ensures that each non-executive director submits himself or herself for re-election by Shareholder at least every three years.

Non-executive directors serve the Company under letters of appointment, which are generally for an initial three year term. Their appointment is also ratified by the States of Deliberation.

In accordance with the Articles of Association D R Jehan is due to retire as Chairman of the Board of Directors and does not offer himself up for re-election. S Milsted is due to retire by rotation and

being eligible offers himself for re election at the forthcoming AGM.

### REMUNERATION

The Board recognises the importance of executive directors' remuneration in recruiting, retaining and motivating the individuals concerned. Executive directors' remuneration consists of basic salary, benefits in kind, bonus and retirement benefits. Fees for the Chairman and non-executive directors are determined by the Treasury & Resources Department.

The Remuneration Committee, which is chaired by Stuart Le Maitre, consists of two non-executive directors and determines remuneration levels and specific packages appropriate for each executive director, taking into account the Group's annual salary negotiations. No director is permitted to be present when his own remuneration is being discussed, or to vote on his own remuneration. The Remuneration Committee considers that the procedures in place provide a level of remuneration for the directors which is both appropriate for the individuals concerned and in the best interests of the Shareholder.

### ACCOUNTABILITY AND AUDIT

#### FINANCIAL REPORTING

The intention of the Annual Report is to provide a clear assessment of the performance and prospects of Guernsey Post Limited. The Company has a comprehensive system for reporting financial results to the Board. An annual budget is prepared and presented to the Board for approval. During the year, monthly management accounts, including balance sheet, cash flow and capital expenditure reporting, are prepared with a comparison against budget and prior year. Forecasts are revised quarterly in the light of this comparison and are also reviewed by the Board.

#### INTERNAL CONTROL AND RISK MANAGEMENT

All directors are responsible for establishing and maintaining an effective system of internal control. Whilst all elements of risk cannot be eliminated, the system aims to identify, assess, prioritise and where possible, mitigate the Company's risks. Although no system of internal control can provide absolute assurance against material misstatement or loss, the Company's systems are designed to provide the Board with reasonable assurance that assets are safeguarded, transactions are properly authorised and recorded and that material errors and irregularities are either prevented or detected within a timely period.

In 2012, the Audit Committee considered the need for an internal audit function and concluded that the financial position, size and complexity of the Company could not justify the expense, which the Board ratified. The Board is happy to continue relying on the strength of the internal control environment through updates on risk management and internal control, health and safety reports, AML and CFT compliance, monthly management information and representations from the Executive Team.

## CORPORATE GOVERNANCE REPORT CONTINUED

### AUDIT COMMITTEE AND AUDITOR

The Board has delegated responsibility to the Audit Committee for reviewing an effective system of internal control and compliance, accurate external financial reporting, fulfilling its obligations under the law and the Code, and managing the Company's relationship with the Company's external auditor. The Committee members comprise independent non-executive directors. Andrew Duquemin, who is a qualified accountant, was appointed as the chairman of the Audit Committee and the Board is satisfied that Andrew has recent and relevant financial experience to enable the duties of the Committee to be fully discharged. Simon Milsted is the other member of the Audit Committee. Simon is a qualified accountant with wide experience of owning and managing trading companies.

The Audit Committee most recently went out to tender for the Company's external auditors during 2012/13 and following a rigorous process, the Audit Committee recommended the re-appointment of KPMG on a rolling one-year basis, which was ratified by the Board and the Shareholder and which will continue for 2015/16.

The Committee meets once a year with representatives of the Company's external auditor, and the Chief Executive and the Finance Director also attend the meetings.

### SHAREHOLDER RELATIONS

The Board believes that good communication with the Shareholder is a priority. There are regular meetings between the Chief Executive and the Finance Director of Guernsey Post, and the Chief Officer and Chief Accountant of Treasury & Resources. The Company presents its strategic plan to our Shareholder for approval every year.

The Chairman and senior independent director are available to meet with our Shareholder should there be unresolved matters that our Shareholder believes should be brought to its attention. The Executive Team and the non-executive directors meet with our Shareholder at the AGM.

The date of the AGM is agreed with our Shareholder and ten days working notice is given. The AGM is chaired by Guernsey Post, with presentations made by the Executive Team to facilitate awareness of

the Company's activities and its financial performance. Our Shareholder is given the opportunity to ask questions of the Board and the Chairman of each board committee during the AGM.

### COMMITTEES OF THE BOARD AND MAIN TERMS OF REFERENCE

In addition to regular scheduled board meetings, the Company operates through various board committees, of which the membership and main terms of reference are set out below (except the Audit Committee which is outlined above).

Stuart Le Maitre is the Chairman of the Nominations Committee, supported by Steve Hannon. The main terms of reference of this Committee are to review regularly the structure, size and composition of the Board and to make recommendations on the role and nomination of directors for appointment to the Board, Board Committees and as holders of any executive office. The Committee met four times in 2014/15 and all members of the Committee were present.

Stuart Le Maitre is also the Chairman of the Remuneration Committee, supported by Steve Hannon. The main terms of reference of this Committee are to determine and agree with the Board the remuneration policy for the Company's Executive Team, to approve the design of, and determine targets for, any performance related pay schemes operated by the Company and to determine the policy for, and scope of, pension arrangements for each executive director. The Committee met four times in 2014/15 and all members of the Committee were present.

Andrew Duquemin is the Chairman of the Pensions Committee, supported by Simon Milsted, the Chief Executive and the Finance Director. The main terms of reference of this Committee are to review and make recommendations to the Board on the Company's retirement and post-retirement benefit arrangements, including the control and funding of such arrangements. Given the importance and scale of the pension issues facing the Company, the full Board considered regularly the pension scheme arrangements at its meetings, and the Pension Committee advised the Board on the development of strategic options to reorganise the pension scheme given the likely increase in its cost, and the uncertainty it creates for the Company.

## DIRECTOR'S REPORT

### DIRECTORS' REPORT

The directors present their annual report together with the financial statements for the year ended 31 March 2015.

### PRINCIPAL ACTIVITIES

The Company's principal activity is the provision of a postal service for the Bailiwick of Guernsey through a postal network and retail counter operation in accordance with the licence awarded to it by the Channel Islands Competition and Regulatory Authority (formerly the Office of Utility Regulation). The Company also markets its postage stamps and other philatelic products to stamp collectors worldwide.

### SIGNIFICANT EVENTS

The final quarter of the financial year has seen the Company receive notice that two of its key customers will cease trading in Guernsey. The loss of these customers will have a material impact on Guernsey Post Limited's performance for the year ended 31st March 2016. The Board of Guernsey Post is taking steps to ensure the Company can continue to make operating profits beyond the next financial year, through a combination of further operational efficiency measures, pension reform, tariff changes and new business opportunities.

### RESULTS

The results for the year are shown in the profit and loss account on page 15 (\*23).

### DIVIDEND

The directors recommend a dividend of £Nil for the financial year (2014: £750,000).

### FIXED ASSETS

Fixed asset movements for the year are disclosed in note 7 to the financial statements.

### DIRECTORS

The directors of the Company, who served throughout the year and at the date of this report, were as follows:

D R Jehan  
B Smillie  
S Sheridan  
S Hannon  
A Duquemin  
S Le Maitre  
S Milsted

No director has an interest either beneficially or non beneficially in any shares of the Company (2014: no interest beneficially or non beneficially).

In accordance with the Articles of Association D R Jehan is due to retire as Chairman of the Board of Directors and does not offer himself up for re-election. S Milsted is due to retire by rotation and being eligible offers himself for re election at the forthcoming AGM.

### STATEMENT OF DIRECTORS' RESPONSIBILITIES

The directors are responsible for preparing the Directors' Report and the financial statements in accordance with applicable law and regulations.

Company law requires the directors to prepare financial statements for each financial year. Under that law they have elected to prepare the financial statements in accordance with United Kingdom Accounting Standards and applicable law.

The financial statements are required by law to give a true and fair view of the state of affairs of the Company and of the profit or loss of the Company for that period.

In preparing these financial statements, the directors are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates which are reasonable and prudent;
- state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis, unless it is inappropriate to presume that the Company will continue in business.

The directors are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Company and to enable them to ensure that the financial statements comply with the Companies (Guernsey) Law, 2008 and the Post Office (Guernsey) Law 1969. They have general responsibility for taking such steps as are reasonably open to them to safeguard the assets of the Company and to prevent and detect fraud and other irregularities.

### DISCLOSURE OF INFORMATION TO AUDITORS

The directors who held office at the date of approval of this Directors' Report confirm that, so far as they are each aware, there is no relevant information of which the Company's auditors are unaware; and each director has taken all the steps that he ought to have taken as a director to make himself aware of any relevant audit information and to establish that the Company's auditors are aware of that information.

### AUDITORS

KPMG Channel Islands Limited has expressed their willingness to continue in office as auditors and a resolution to reappoint them will be proposed at the forthcoming Annual General Meeting.



B Smillie  
Chief Executive



D R Jehan  
Chairman

## INDEPENDENT AUDITOR'S REPORT



Gategny Court, Gategny Esplanade  
St Peter Port, Guernsey, GY1 1WR

### INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF GUERNSEY POST LIMITED

We have audited the financial statements of Guernsey Post Limited (the "Company") for the year ended 31 March 2015, which comprise the Profit and Loss Account, the Statement of Total Recognised Gains and Losses, the Balance Sheet, the Cash Flow Statement and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards.

This report is made solely to the Company's members, as a body, in accordance with section 262 of the Companies (Guernsey) Law, 2008 and section 10(1) of the Post Office (Guernsey) Law, 1969. Our audit work has been undertaken so that we might state to the Company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's members as a body, for our audit work, for this report, or for the opinions we have formed.

### RESPECTIVE RESPONSIBILITIES OF DIRECTORS AND AUDITOR

As explained more fully in the Statement of Directors' Responsibilities set out on page 13 (\*19-20), the directors are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's (APB's) Ethical Standards for Auditors.

### SCOPE OF THE AUDIT OF THE FINANCIAL STATEMENTS

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Company's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Board of Directors; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements and to identify any information that is apparently materially incorrect based on, or materially inconsistent with, the knowledge acquired by us in the course of performing the audit. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

### OPINION ON FINANCIAL STATEMENTS

In our opinion the financial statements:

- give a true and fair view of the state of the Company's affairs as at 31 March 2015 and of its profit for the year then ended;
- are in accordance with United Kingdom Accounting Standards; and
- comply with the Companies (Guernsey) Law, 2008.

### MATTERS ON WHICH WE ARE REQUIRED TO REPORT

#### BY EXCEPTION

We have nothing to report in respect of the following matters where the Companies (Guernsey) Law, 2008 requires us to report to you if, in our opinion:

- the Company has not kept proper accounting records; or
- the financial statements are not in agreement with the accounting records; or
- we have not received all the information and explanations, which to the best of our knowledge and belief are necessary for the purpose of our audit.

KPMG Channel Islands Limited  
Chartered Accountants

## FINANCIAL STATEMENTS

## PROFIT AND LOSS ACCOUNT

For the year ended 31 March 2015

	Notes	31 March 2015 £'000	31 March 2014 £'000
<b>Income</b>		<b>33,580</b>	33,140
<b>Expenditure</b>		<b>(33,227)</b>	(32,889)
<b>Operating Profit</b>	2	<b>353</b>	251
<b>Other income</b>			
Interest receivable	3	<b>349</b>	899
Rent receivable		<b>117</b>	87
<b>Profit on ordinary activities before net gain / (loss) on pension scheme</b>		<b>819</b>	1,237
<b>Net gain / (loss) on pension scheme</b>		<b>166</b>	(153)
<b>Profit on ordinary activities before taxation</b>		<b>985</b>	1,084
<b>Taxation credit</b>	4	<b>170</b>	86
<b>Profit for the financial year</b>		<b>1,155</b>	1,170

## STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES

For the year ended 31 March 2015

	Notes	31 March 2015 £'000	31 March 2014 £'000
Profit for the financial year		<b>1,155</b>	1,170
Actuarial loss gain recognised in the pension scheme	17	<b>(9,400)</b>	(2,232)
Unrealised gain on revaluation of investment properties	8	-	140
Increase in deferred tax asset on actuarial gains and losses	12	<b>1,880</b>	446
<b>Total recognised (losses) and gains relating to the year</b>		<b>(6,365)</b>	(476)

### All activities derive from continuing operations

The notes on pages 18 to 30 (\*26 to 45) form an integral part of these financial statements.

\*These page numbers refer to the original Financial Statements document approved by the auditors.



## FINANCIAL STATEMENTS

## BALANCE SHEET

As at 31 March 2015

	Notes	31 March 2015 £'000	31 March 2014 £'000
<b>Fixed assets</b>			
Intangible assets	6	161	215
Tangible assets	7	11,558	11,394
Investment properties	8	1,040	1,040
Investment in subsidiaries	9	-	-
		<b>12,759</b>	12,649
<b>Non Current Assets</b>			
Deferred tax		148	141
<b>Current assets</b>			
Stock		215	169
Debtors	10	3,077	3,296
Cash at bank and in hand	16	11,485	11,994
		<b>14,777</b>	15,459
<b>Creditors: Amounts falling due within one year</b>	<b>11</b>	<b>(3,392)</b>	<b>(5,126)</b>
<b>Net current assets</b>		<b>11,385</b>	<b>10,333</b>
<b>Total assets less current liabilities</b>		<b>24,292</b>	23,123
<b>Net pension liability</b>	17	<b>(20,116)</b>	(11,832)
<b>Net assets including pension liability</b>		<b>4,176</b>	<b>11,291</b>
<b>Capital and reserves</b>			
Share Capital	13	13,886	13,886
Profit and loss account	14	(9,835)	(2,720)
Revaluation reserve	14	125	125
<b>Shareholders' funds</b>	15	<b>4,176</b>	11,291

The financial statements were approved by the Board of Directors and authorised for issue on 7th August 2015.

They were signed on its behalf by:



**B Smillie**  
Chief Executive



**DR Jehan**  
Chairman

The notes on pages 18 to 30 (\*26 to 45) form an integral part of these financial statements.

\*These page numbers refer to the original Financial Statements document approved by the auditors.

## FINANCIAL STATEMENTS

## CASH FLOW STATEMENT

For the year ended 31 March 2015

	Notes	31 March 2015 £'000	31 March 2014 £'000
<b>Net cash inflow from operating activities</b>	16	<b>957</b>	3,517
<b>Returns on investments and servicing of finance</b>			
Interest received		<b>284</b>	872
Rent received		<b>117</b>	106
<b>Net cash inflow from returns on investments and servicing of finance</b>		<b>401</b>	978
<b>Taxation</b>		<b>(90)</b>	(88)
<b>Capital Expenditure</b>			
Purchase of fixed assets		<b>(1,031)</b>	(1,110)
Sale of fixed assets		<b>4</b>	-
<b>Net cash outflow from capital expenditure</b>		<b>(1,027)</b>	(1,110)
<b>Repurchase of share capital</b>	13	-	(3,500)
<b>Dividend paid</b>	5	<b>(750)</b>	(139)
<b>Decrease in cash</b>	16	<b>(509)</b>	<b>(342)</b>

The notes on pages 18 to 30 (\*26 to 45) form an integral part of these financial statements.

\*These page numbers refer to the original Financial Statements document approved by the auditors.



## FINANCIAL STATEMENTS

# NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015

### 1. STATEMENT OF ACCOUNTING POLICIES

The following accounting policies have been applied consistently in dealing with items which are considered material in relation to the Company's financial statements.

#### Basis of preparation

The financial statements give a true and fair view, have been prepared in accordance with applicable United Kingdom Accounting Standards and are in compliance with the Companies (Guernsey) Law, 2008.

The financial statements have been prepared under the historical cost convention, modified to include the revaluation of freehold investment properties.

#### Income

Sales of stamps and the crediting of franking machines are accounted for on a receipt of funds basis. All other income is accounted for on an accruals basis.

#### Expenses

Postal operations expenses are charged as incurred. No provision is made for any charges which may be incurred in handling or delivering mail in respect of stamps and franking machine credits sold but unused at the balance sheet date.

#### Deferred Taxation

Provision for deferred taxation is made in full on timing differences which result in an obligation at the balance sheet date to pay tax at a future date, at rates expected to apply when they crystallise based on current tax rates and laws. Deferred tax assets are only recognised to the extent that it is regarded as more likely than not that they will be recovered. Deferred tax assets and liabilities are not discounted. The pension scheme deficit shown in the balance sheet is net of the deferred tax asset.

#### Pension costs

The amount charged to the profit and loss account is the estimated regular cost of providing the benefits accrued in the year, adjusted to reflect variations from that cost. Such variations are charged or credited to the profit and loss account as a constant percentage of payroll over the estimated remaining working life of the scheme members. The scheme is funded with assets of the scheme held separately from those of the Company.

The employees' pension scheme is a defined benefit scheme. The Company applies Financial Reporting Standard 17, "Retirement Benefits" ("FRS 17"). In accordance with FRS 17 current service costs and any post service costs are charged to the profit and loss account, together with the finance costs and income for the scheme. Actuarial gains and losses are recognised in full in the statement of total recognised gains and losses for the period in which they occur. Pension scheme assets are measured using market values for quoted securities, the current bid price is taken as market value. Pension scheme liabilities are measured using the projected unit credit method, with an actuarial valuation being carried out each year at the balance sheet date. The retirement benefit deficit in the scheme, net of the related deferred tax asset, is recognised as net pension liability in the balance sheet.

#### Dividends

Dividends are accounted for when they are paid.

#### Stock

The cost of definitive stamps, including the non-value indicator self-stick range, is written off over the expected sales life of each type of stamp, which is unlikely to exceed three years. Commemorative stamp costs are fully written off in the year of issue.

Other stocks are valued at the lower of cost and net realisable value.

#### Intangible assets - goodwill

Goodwill arising on the acquisition of businesses, representing any excess of the fair value of the consideration given over the fair value of the identifiable assets and liabilities acquired, is capitalised and written off on a straight line basis over its useful economic life, which is ten years. An impairment review is carried out every year and any necessary provision made.

#### Tangible fixed assets

Tangible fixed assets are stated at cost less depreciation. Depreciation is provided on all tangible fixed assets, other than freehold land, at rates calculated to write off the cost of each asset on a straight-line basis over its expected useful economic life. A full year's depreciation is charged in the year of acquisition.

	Estimated life in years	Depreciation %per annum
Freehold land	N/A	Nil
Freehold buildings	30-50	2-3.3
Plant and equipment	15	6.67
Leasehold improvements	8	12.5
Furniture and fittings, office equipment and postal machinery	3-13	7.7-33.3
Transport	5	20

#### Investment Properties

A full external valuation is obtained at least every five years with an interim external valuation in year 3. Interim valuations in years 1, 2 and 4 may be carried out if the directors consider it is likely that there has been a material change in value. Revaluation surpluses or deficits on individual properties are transferred to the revaluation reserve. Depreciation is not provided in respect of freehold investment properties.

#### Investment in subsidiaries

The investment in subsidiaries is stated at cost. The subsidiaries have not been consolidated on the basis that they are dormant, and non-consolidation does not have a material impact on these financial statements.

#### Foreign currency

Foreign currency held in German and Dutch bank accounts is translated at the exchange rate prevailing at the balance sheet date. Gains or losses are taken to the Profit and Loss account at the time of translation. All foreign trading transactions are translated into sterling using the prevailing rate on the date of the transaction.

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

### 2. Operating profit

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
Operating profit is stated after charging:		
Staff costs	<b>10,580</b>	10,316
Auditors' remuneration		
Audit fees	<b>33</b>	33
Other services	<b>6</b>	-
Amortisation of goodwill	<b>54</b>	54
Directors' remuneration	<b>386</b>	317
(Profit)/Loss on disposal of fixed assets	<b>(4)</b>	140
Depreciation of tangible fixed assets	<b>867</b>	828

### Average full time equivalent employee numbers for the period were as follows:

	<b>31 March 2015</b>	31 March 2014
Operational staff including postmen and women, post office counter staff and philatelic production staff	<b>177</b>	175
All other staff	<b>48</b>	47
Total	<b>225</b>	222

### 3. Interest receivable

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
States Treasury	<b>347</b>	893
Other	<b>2</b>	6
	<b>349</b>	899

## FINANCIAL STATEMENTS

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

## 4. Taxation

	Notes	31 March 2015 £'000	31 March 2014 £'000
Current year tax		16	101
Prior year tax		12	4
Deferred tax credit for the year	12	(198)	(191)
		(170)	(86)

Guernsey Post Limited as a Guernsey Utility Company regulated by the Channel Islands Competition and Regulatory Authority (CICRA) is subject to the standard rate of income tax of 20% on its regulated income and 0% on its non regulated income. The basis of assessment to Guernsey tax continues to be on actual current year basis.

The actual tax credit differs from the expected tax charge computed by applying the standard rate of Guernsey income tax of 20% as follows:

	31 March 2015 £'000	31 March 2014 £'000
Profit on ordinary activities before taxation	985	1,084
Tax at 20%	197	217
<b>Effects of adjusting items:</b>		
Timing differences	18	25
Sundry adjustment to prior years' tax	12	4
Disallowed expenses	13	44
Rate differences on current tax	(403)	(381)
Adjustment for pension costs	191	196
Current tax charge	28	105
Deferred tax - pension deficit	(191)	(196)
Deferred tax - timing differences	(7)	5
Profit and loss taxation credit	(170)	(86)

## 5. Dividends on equity shares

Amounts recognised as distribution to equity holders in the period.

	31 March 2015 £'000	31 March 2014 £'000
Final dividend for the year ended 31 March 2014 of 0.005p (31 March 2013 0.008p)	750	139

The board is proposing a final dividend of £Nil of pre-tax profit for the year ended 31 March 2015. (2014: £750k).

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

### 6. Intangible assets - Goodwill

	£'000
<b>Cost</b>	
At 1 April 2014 & 31 March 2015	543
<b>Amortisation</b>	
At 1 April 2014	328
Charge for the year	54
<b>At 31 March 2014</b>	<b>382</b>
<b>Net book value</b>	
At 31 March 2013	215
<b>At 31 March 2014</b>	<b>161</b>

The goodwill arose on the acquisition of the trade and net assets of BATIF Bureau de Change Limited in 2008.

## FINANCIAL STATEMENTS

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

## 7. Tangible fixed assets

	1 April 2014 £'000	Additions £'000	Written off / disposals / transfers £'000	31 March 2015 £'000
<b>Cost</b>				
Freehold land	2,505	-	-	<b>2,505</b>
Freehold buildings	8,615	50	-	<b>8,665</b>
Plant and equipment	2,662	-	-	<b>2,662</b>
Leasehold improvements	394	-	-	<b>394</b>
Furniture and fittings	341	66	(1)	<b>406</b>
Office equipment	1,026	84	(4)	<b>1,106</b>
Postal machinery	1,479	750	-	<b>2,229</b>
Transport	1,037	81	(11)	<b>1,107</b>
	18,059	1,031	(16)	<b>19,074</b>
<b>Depreciation</b>				
Freehold land	-	-	-	-
Freehold buildings	1,949	178	-	<b>2,127</b>
Plant and equipment	2,024	255	-	<b>2,279</b>
Leasehold improvements	287	50	-	<b>337</b>
Furniture and fittings	194	27	(1)	<b>220</b>
Office equipment	800	89	(4)	<b>885</b>
Postal machinery	498	202	-	<b>700</b>
Transport	913	66	(11)	<b>968</b>
	6,665	867	(16)	<b>7,516</b>
<b>Net book value</b>	11,394			<b>11,558</b>

Freehold land with a value of £2,505,000 (2014: £2,505,000) is not depreciated.

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

### 8. Investment properties

	<b>Market Value 31 March 2015 £'000</b>	Market Value 31 March 2014 £'000
At 1 April 2014	<b>1,040</b>	900
Revaluations during the period	-	140
At 31 March 2015	<b>1,040</b>	1,040

Investment properties, which are all freehold, have been valued on an open market existing use basis at 4 April 2014 by Watts & Co Limited. This year, the directors are of the opinion that it is unlikely there has been any material change in the valuation of the property. Such properties are not depreciated.

### 9. Investment in subsidiaries

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
BATIF Bureau de Change Limited	-	-
	-	-

On 1 April 2008 the Company acquired 100% of the issued share capital of BATIF Bureau de Change Limited, which consists of 100 fully paid up £1 shares. Upon acquisition, the trade and net assets of BATIF Bureau de Change Limited were transferred to Guernsey Post Limited and BATIF Bureau de Change Limited changed to a dormant company. Guernsey Post Limited pays the administration costs for this company.

### 10. Debtors

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
Trade debtors	<b>2,853</b>	2,827
Less: Provision for bad debt	<b>(38)</b>	(42)
Other debtors	<b>16</b>	24
Prepayment and accrued income	<b>181</b>	426
Interest receivable	<b>65</b>	61
	<b>3,077</b>	3,296

## FINANCIAL STATEMENTS

### NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

#### 11. Creditors

	31 March 2015 £'000	31 March 2014 £'000
<b>Amounts falling due within one year</b>		
Trade creditors	1,686	1,905
Other creditors	1,175	2,681
Accruals and deferred income	472	418
Rental income paid in advance	32	33
Taxation payable	27	89
	<b>3,392</b>	<b>5,126</b>

#### 12. Non Current assets - Deferred Tax

	Deferred taxation - Accelerated Capital Allowances £'000	Deferred taxation - Pension Deficit/surplus £'000	Total £'000
At 1 April 2014	141	2,957	<b>3,098</b>
Charged to statement of total recognised gains and losses	-	1,880	<b>1,880</b>
Debit/(credit) to profit and loss account	7	191	<b>198</b>
At 31 March 2015	148	5,028	<b>5,176</b>

Deferred tax in the financial statements is measured at the actual tax rates that are expected to apply to the income in the periods in which the timing differences are expected to reverse. As a Guernsey Utility Company regulated by CICRA, Guernsey Post Limited is subject to tax at 20% on its regulated income and 0% on its non-regulated income.

The provision for liabilities and charges in the balance sheet excludes the deferred tax asset of £5.028m relating to the pension scheme deficit. The pension scheme deficit in the balance sheet is shown net of this deferred tax asset.

#### 13. Share capital

	31 March 2015 £'000	31 March 2014 £'000
<b>Authorised</b>		
40,000,000 ordinary shares of £1 each	<b>40,000</b>	40,000
<b>Allotted, called-up and fully-paid</b>		
13,886,000 ordinary shares of £1 each (2014: 13,886,000)		
Opening share capital at 1 April 2014	<b>13,886</b>	17,386
Repurchase of share capital	-	(3,500)
As at 31 March 2015	<b>13,886</b>	13,886

100% of the shares of the Company are owned beneficially by the States of Guernsey.

On 4 June 2013, the Board approved the re-purchase and subsequent cancellation of £3.5m of its share capital as a means of returning surplus cash to its Shareholder.

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

### 14. Reserves

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
<b>Profit and loss account</b>		
Opening reserves at 1 April 2014	<b>(2,720)</b>	(1,965)
Retained profit for the year	<b>1,155</b>	1,170
Actuarial loss for the year, net of movement in deferred tax	<b>(7,520)</b>	(1,786)
Dividend paid	<b>(750)</b>	(139)
As at 31 March 2015	<b>(9,835)</b>	(2,720)
<b>Revaluation reserve</b>		
	<b>31 March 2015 £'000</b>	31 March 2014 £'000
Opening reserves at 1 April 2014	<b>125</b>	(15)
Unrealised gain on revaluation of investment properties	-	140
As at 31 March 2015	<b>125</b>	125

### 15. Reconciliation of movement in shareholders' funds

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
Profit for the financial year	<b>1,155</b>	1,170
Actuarial loss recognised in the pension scheme	<b>(9,400)</b>	(2,232)
Increase in deferred tax asset on actuarial gains and losses	<b>1,880</b>	446
Repurchase of share capital	-	(3,500)
Unrealised gain on revaluation of property	-	140
Dividend paid on equity shares	<b>(750)</b>	(139)
Net reduction in shareholders' funds	<b>(7,115)</b>	(4,115)
Opening shareholders' funds	<b>11,291</b>	15,406
Closing shareholders' funds	<b>4,176</b>	11,291



## FINANCIAL STATEMENTS

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

## 16. Reconciliation of operating profit to net cash inflow from operating activities

	31 March 2015 £'000	31 March 2014 £'000
<b>Operating profit</b>	<b>353</b>	251
Depreciation charges	<b>867</b>	828
Amortisation	<b>54</b>	54
Net pension scheme service costs	<b>1,120</b>	827
Increase in stock	<b>(47)</b>	(14)
Decrease / (Increase) in debtors	<b>252</b>	(838)
(Profit) / Loss on disposal of fixed assets	<b>(4)</b>	140
(Decrease) / Increase in creditors	<b>(1,638)</b>	2,269
<b>Net cash inflow from operating activities</b>	<b>957</b>	3,517

## Reconciliation of net cash inflow to movement in net funds

	31 March 2015 £'000	31 March 2014 £'000
Decrease in cash balances	<b>(509)</b>	(342)
Net funds at 1 April 2014	<b>11,994</b>	12,336
<b>Net funds at 31 March 2015</b>	<b>11,485</b>	11,994

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

### 17. Pension Fund

Employees of the Company, where they are eligible and have chosen to join, are members of the States of Guernsey Superannuation Scheme. This is a defined benefit pension scheme funded by contributions from both employer and employees at rates which are determined periodically on the basis of actuarial advice, and which are calculated to spread the expected costs of benefits payable to employees over the period of these employees' expected service lives. The assets of the scheme are held by the States of Guernsey and the ultimate liability to pay out any pension when it is realised lies also with the States should the Company be unable to meet its funding commitments.

The scheme has established differing terms for those who joined before 1st January 2008 and those who joined after. For pre-2008 members of the scheme the employee is entitled to a retirement benefit of 1/80th of final salary for each year of membership of the scheme up to a maximum of 45 years on reaching 65 years of age. Additionally a lump-sum payment is paid based on 3/80th of final salary for each year of employment. For members who joined after 1 January 2008 the benefit entitlement accrues at 1/60th of final salary but no lump sum automatically accrues. A lump sum is achievable by commuting part of the pension entitlement. The take up of this commutation into lump sum cannot be known but an assumption based on a prudent forecast has been adopted. This assumes that a 75% commutation will be requested by members. The scheme is a funded scheme. The most recent actuarial update of scheme assets and the present value of the defined benefit obligation was carried out at 31 March 2015 by Mrs D Simon, Fellow of the Institute of Actuaries.

The valuation used for FRS17 disclosures has been based on a full assessment of the liabilities of the Fund. The present values of the defined benefit obligation, the related current service cost and any past service costs (if applicable) were measured using the projected unit method.

The amounts recognised in the Balance Sheet are as follows:

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
Fair value of Fund Assets	<b>39,826</b>	36,012
Present value of funded obligations	<b>(64,970)</b>	(50,801)
Deficit in the scheme	<b>(25,144)</b>	(14,789)
Related deferred tax asset	<b>5,028</b>	2,957
Net pension liability	<b>(20,116)</b>	(11,832)
Amounts in the Balance Sheet		
Assets	-	-
Liabilities	<b>(20,116)</b>	(11,832)
Net pension liability	<b>(20,116)</b>	(11,832)

The amounts recognised in the Profit and Loss account are as follows:

Current service cost	<b>2,115</b>	1,792
Interest on obligation	<b>2,213</b>	2,093
Expected return on Fund assets	<b>(2,379)</b>	(1,940)
Expense recognised in the Profit and Loss	<b>1,949</b>	1,945
Actual return on Fund assets	<b>3,466</b>	2,230

## FINANCIAL STATEMENTS

### NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

#### 17. Pension fund - continued

Changes in the present value of the defined benefit obligation are as follows:

	31 March 2015 £'000	31 March 2014 £'000
Opening defined benefit obligation	50,801	44,972
Service cost	2,115	1,792
Interest cost	2,213	2,093
Contributions by members	432	418
Actuarial losses	10,489	2,522
Benefits paid	(1,080)	(996)
Closing defined benefit obligation	64,970	50,801

Changes in the fair value of Fund assets are as follows:

	31 March 2015 £'000	31 March 2014 £'000
Opening fair value of Fund assets	36,012	33,395
Expected return	2,379	1,940
Actuarial gains	1,087	290
Contributions by employer	996	965
Contributions by members	432	418
Benefits paid	(1,080)	(996)
Closing fair value of Fund assets	39,826	36,012

Analysis of amounts recognised in statement of total recognised gains and losses

	31 March 2015 £'000	31 March 2014 £'000
Total Actuarial losses	(9,400)	(2,232)
Total losses in statement of total recognised gains and losses	(9,400)	(2,232)
Cumulative amount of losses recognised in statement of total recognised gains and losses	(17,587)	(8,187)

Guernsey Post expects to contribute £1,046,000 to the Fund from 1 April 2015 to 31 March 2016.

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

### 17. Pension fund - continued

The major categories of Fund assets as a percentage of the total Fund assets are as follows:

	<b>31 March 2015</b>	31 March 2014
	<b>%</b>	<b>%</b>
Equities	<b>76</b>	70
Gilts	<b>1</b>	3
Corporate Bonds	<b>14</b>	14
Other Assets	<b>7</b>	9
Property	<b>2</b>	4

Principal actuarial assumptions at the Balance Sheet date (expressed as weighted averages (where applicable)) are as follows:

	<b>31 March 2015</b>	31 March 2014
	<b>% pa</b>	<b>% pa</b>
Discount rate	<b>3.3</b>	4.4
Expected return on Fund assets at 31 March (for following year)	<b>N/A</b>	6.6
Rate of increase in pensionable salaries	<b>4.15</b>	4.45
Rate of increase in deferred pensions	<b>3.4</b>	3.7
Rate of increase in pensions in payment	<b>3.4</b>	3.7

### Mortality Assumptions

The mortality assumptions are based on standard mortality tables which allow for future mortality improvements. The assumptions are that a member aged 65 will live on average until age 87 if they are male, and until age 90 if female. For a member currently aged 45 the assumptions are that, if they attain age 65, they will live on average until age 89 if they are male, and until age 92 if female.

Under the new FRS102 reporting requirements, effective from 1st April 2015, the "expected return on fund assets" and "interest cost" items of the pension cost are combined into a single item called "Net interest on the net defined benefit liability/(asset)". This item will be calculated by reference to the discount rate and so, effectively, the expected return on fund assets assumption is equal to the discount rate, meaning a separate assumption will no longer be required.

### Description of the basis used to determine the expected rate of return on the assets

The Employer adopts a building block approach in determining the expected rate of return on the Fund's assets. Historic markets are studied and assets with high volatility are assumed to generate higher returns consistent with widely accepted capital market principles.

Each different asset class is given a different expected rate of return. The overall rate of return is then derived by aggregating the expected return for each asset class over the actual asset allocation for the Fund at the disclosure year end.

Amounts for the current and previous periods are as follows:

	<b>31 March 2015</b>	31 March 2014	31 March 2013	31 March 2012	31 March 2011
	<b>£'000</b>	£'000	£'000	£'000	£'000
Defined benefit obligation	<b>64,970</b>	50,801	44,972	42,107	36,895
Fund Assets	<b>39,826</b>	36,012	33,395	29,882	29,101
Deficit	<b>(25,144)</b>	(14,789)	(11,577)	(12,225)	(7,794)
Experience Gains/(losses) on Fund assets	<b>1,087</b>	290	1,379	(1,940)	1,252
Experience Gains/(Losses) on Fund liabilities	<b>1,128</b>	1,537	202	1,913	312

## NOTES TO THE FINANCIAL STATEMENTS year ended 31 March 2015 (continued)

### 18. Financial commitments

#### Capital commitments are as follows:

	<b>31 March 2015 £'000</b>	31 March 2014 £'000
Sortation machine	-	762

#### Annual commitments under non-cancellable operating leases are as follows:

	<b>31 March 2015 Land and buildings £'000</b>	31 March 2014 Land and buildings £'000
Expiry date		
- within one year	<b>11</b>	-
- between two and five years	<b>70</b>	81
- after five years	<b>8</b>	8
	<b>89</b>	89

Leases of land and buildings are subject to rent reviews at specified intervals and provide for the lessee to pay all insurance, maintenance and repair costs.

### 19. Statement of control

The Company is wholly owned and ultimately controlled by the States of Guernsey.

### 20. Related party transactions

Through the normal course of its business activity the Company both purchases and provides services to its shareholder or entities under the controlling influence of the shareholder body. These entities include States Trading Companies, companies whose equity is wholly owned by the States, States Departments and Committees operated by the States. All such transactions have been on an arm's length basis. The total value of the sales for the year ended 31 March 2015 amount to 2.0% of total turnover (2014: 1.9%). The total value of purchases for the year amounted to 2.6% of total expenses (2014: 2.2% (restated)).

The States also provides, through its Treasury and Resources Department, management of the Company's liquid funds in excess of short term needs. At 31 March 2015, the balance held was £9,405,248 (2014: £10,137,433).



**Guernsey Post Limited**

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INVESTOR IN PEOPLE

**(N.B. The Policy Council supports the proposals in this Policy Letter and confirms that it complies with the Principles of Good Governance as defined in Billet d'État IV of 2011.)**

The States are asked to decide:-

XII.- Whether, after consideration of the Policy Letter dated 8<sup>th</sup> September, 2015, of the Treasury and Resources Department, they are of the opinion to note the Annual Report and Accounts for Guernsey Post Limited for the year-ending 31<sup>st</sup> March, 2015.

**APPENDIX****COMMERCE AND EMPLOYMENT DEPARTMENT****PUBLIC TRUSTEE ANNUAL REPORT AND AUDITED ACCOUNTS 2014**

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

17<sup>th</sup> September 2015

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in section 6(1) that the Commerce and Employment Department is required to submit the report and accounts to the States of Guernsey on the exercise of the Public Trustee's functions for the preceding year.

I am pleased to enclose a copy of her report and audited accounts for the year ended 31 December 2014.

Section 6 of the Law also provides that the Department may, at the same time, submit its own report commenting on the activities of the Public Trustee during this period.

The Department does not wish to add further comments on the activities of the Public Trustee.

I should be grateful if you would arrange to publish this submission as an Appendix to the next available Billet.

Yours faithfully

Kevin A Stewart  
Minister



**REPORT OF THE PUBLIC TRUSTEE  
TO THE DEPARTMENT OF COMMERCE AND EMPLOYMENT  
FOR THE YEAR ENDED 31 DECEMBER 2014**

**Introduction**

1. Under Section 6(1) of The Public Trustee (Bailiwick of Guernsey) Law, 2002 (“the Law”), the Public Trustee is required in each calendar year to submit to the Department of Commerce and Employment a report on the exercise of his or her functions in the preceding year together with the audited accounts of the Office of the Public Trustee.

**Appointments and Assets held in Trust**

2. There were no appointments of the Public Trustee to act as trustee during 2014, nor were there instances where the Public Trustee ceased to act as trustee. At the end of 2014, the Public Trustee remained as trustee of twelve trusts. Seven of the twelve trusts are considered dormant and have been archived as they do not appear to hold any assets. It has not been possible to make contact with the Settlers, Beneficiaries etc.
3. Although it is difficult to place an accurate value on many of the assets held in trust, it is estimated that the combined value of the remaining five trusts is in the region of £9 million.
4. On 31 July 2015, Bordeaux Services (Guernsey) Ltd was placed into Administration by the Royal Court at the request of the Guernsey Financial Services Commission. The Public Trustee was appointed by the Royal Court to act as Trustee of all trusts where Bordeaux Services (Guernsey) Ltd had been acting as at that date. As a result, the Public Trustee has been appointed to act as trustee on seven trusts, at least three of which will be terminating in the near future. The remaining four should be able to be transferred to other service providers within the next few months.

**Accounts and Auditors’ Report**

5. The accounts of the Office of the Public Trustee for the year to 31 December 2014 together with the Auditors’ report thereon, accompany this report.
6. Work levels during the year were lower than in 2013. As in previous years, two interrelated trusts continue to present significant difficulties and account for the bulk of the trust and company administration fees (£41,847) charged during the year by professional providers of trust services working on behalf of the Public Trustee.
7. These fees together with the Public Trustee’s own charges make up the Trustee fees of £48,210 charged to the trusts.

8. Delays continue to be experienced in recovering amounts due to the Office of the Public Trustee due to the lack of liquid assets in the trusts concerned. However, there are other trust assets the value of which can be realised, although the process of doing so is proving protracted.
9. Overall, the cost of the Office of the Public Trustee to the States, as measured by the grant received from the States increased marginally from £10,712 in 2013 to £10,941 in 2014.

### **General**

10. A potential issue has been identified in relation to the underlying corporate entities owned by the trusts to which the Public Trustee has been appointed. The Law does not specifically state that the Public Trustee is able to act as a director of corporate entities and as a consequence appoints external service providers to do so. As noted below, the Public Trustee is primarily a trustee of last resort and it is possible that the corporate entities held by the trusts may be experiencing difficulties including legal action and insolvency issues. As a result, it may be difficult or impossible to locate service providers willing or able to act in these cases. Advice is in the process of being obtained from the Law Officers to establish whether a change to the Law is required to enable the Public Trustee to be appointed.

### **Conclusion**

11. As pointed out in previous reports, the Public Trustee is primarily a trustee of last resort and experience has shown that appointments are usually made to problematic trusts where other professional trustees are unable or unwilling to act. That and the fact that the Public Trustee may not, under the Law, charge fees to any individual trust in excess of actual costs incurred in administering it, mean that there are inevitable implications for costs.
12. However, the general low level of appointments to act as trustee since the Office of the Public Trustee was established in 2004 is a positive factor in this respect may also be taken as an indication of the continuing good health and conduct of the trust industry in the Bailiwick.

**Catherine Rowe**  
**Public Trustee**  
**Bailiwick of Guernsey**

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF ACCOUNT

31ST DECEMBER, 2014

LINCE SALISBURY

Chartered Accountants

Avenue House,

St. Julian's Avenue,

St. Peter Port,

GUERNSEY

OFFICE OF THE PUBLIC TRUSTEE

**Office holder**

The position of Public Trustee at the year end was held by:

Mrs C. Rowe

On 1st June, 2014, Mr D. Trestain resigned from the position and Mrs C. Rowe was appointed.

**Statement of responsibilities for the preparation of financial statements**

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of The Office of the Public Trustee. She is responsible for selecting suitable accounting policies and, in preparing the statement of account the Public Trustee is expected to:

- \* apply suitable accounting policies on a consistent basis;
- \* make judgements and estimates that are reasonable and prudent;
- \* state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the accounts; and
- \* prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The Public Trustee acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of The Office of the Public Trustee.

It is the responsibility of The Office of the Public Trustee to identify and install a system of internal controls, including financial controls, which is adequate for its own purposes. Thus The Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Public Trustee reports that so far as she is aware there is no relevant audit information of which the auditors are unaware and that she has taken all steps to make herself aware of such audit information and to establish that the auditors are aware of that information.

## INDEPENDENT AUDITOR'S REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE

We have audited the financial statements of The Office of Public Trustee for the year ended 31st December, 2014 on pages 3 to 5 which have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice, under the historical cost convention and the accounting policies set out on page 5.

This report is made solely to The Office of Public Trustee. Our audit work has been undertaken so that we might state to you those matters we are required to state in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than The Office of Public Trustee for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of The Office and Auditors**

As explained in the Statement of Responsibilities the Public Trustee is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards of Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to The Office's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Public Trustee; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Public Trustee's Report to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

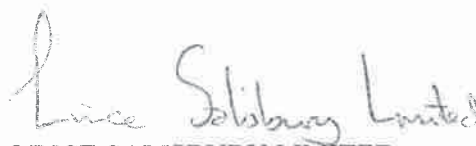
### **Opinion on the financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of The Office's affairs as at 31st December, 2014 and of its result for the year then ended,
- have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice,
- the financial statements have been properly prepared in accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002.

2nd September 2015

Avenue House,  
St. Julian's Avenue,  
St. Peter Port,  
GUERNSEY

  
LINCE SALISBURY LIMITED  
CHARTERED ACCOUNTANTS

OFFICE OF THE PUBLIC TRUSTEE  
INCOME AND EXPENDITURE ACCOUNT  
FOR THE YEAR ENDED 31st DECEMBER, 2014

	Note	2014	2013
		£	£
Income	1		
Grant from States of Guernsey	1, 3	10,941	10,713
Trustee fees		<u>48,210</u>	<u>77,688</u>
		59,151	88,401
Expenditure	1		
Audit fees		3,100	4,850
Bank charges		62	60
Office administration		1,249	902
Public Trustee remuneration		11,251	10,344
Movement in provision for doubtful debts		2,079	-
Trust and company administration fees		<u>41,847</u>	<u>71,273</u>
		(59,588)	(87,429)
Operating (deficit)/surplus before tax		(437)	972
Tax	2	-	-
(Deficit)/Surplus for the year		<u>£(437)</u>	<u>£972</u>

OFFICE OF THE PUBLIC TRUSTEEBALANCE SHEET AT 31st DECEMBER, 2014

	Note	2014 £	2013 £
Current assets			
Debtors		334,788	290,149
Bank		<u>14,409</u>	<u>15,332</u>
		<u>349,197</u>	<u>305,481</u>
Current liabilities			
Potential liability - grants	3	314,001	268,252
Accruals	3	3,990	4,476
Creditors	3	<u>20,787</u>	<u>21,897</u>
		<u>338,778</u>	<u>294,625</u>
Net assets		<u>£10,419</u>	<u>£10,856</u>
Funded by:			
The Public Trustee Fund	4	<u>£10,419</u>	<u>£10,856</u>

The balance sheet was approved on 2<sup>nd</sup> September 2015



C. Rowe  
Public Trustee

OFFICE OF THE PUBLIC TRUSTEE  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED 31ST DECEMBER, 2014

1. ACCOUNTING POLICIES

Historical Cost Convention

The statement of account is prepared under the historical cost convention and in accordance with UK applicable accounting standards.

Grants

Grants from the States of Guernsey Commerce and Employment Department are included on a received basis. Grants have been recognised as revenue items where they are not expected to become repayable to the States of Guernsey. Where grants have been received and a corresponding debtor is considered recoverable from the underlying client the potential liability has been recognised.

Other income and expenditure

Other income and expenditure is included on an accruals basis.

2. TAXATION

The Office of the Public Trustee is not subject to States of Guernsey Income Tax.

3. CREDITORS AND ACCRUALS

	2014	2013
	<u>£</u>	<u>£</u>
<u>Creditors</u>		
Professional trust administration fees and Deputy Trustee charges from Commerce & Employment Department	£ 20,787	£ 21,897
	<hr/>	<hr/>
<u>Accruals</u>		
Audit fee	3,450	4,300
Public Trustee	535	171
Bank charges	5	5
	<hr/>	<hr/>
	£ 3,990	£ 4,476
	<hr/>	<hr/>
<u>Potential Liabilities - Grants</u>		
Grants from States of Guernsey	£ 314,001	£ 268,252
	<hr/>	<hr/>

The Grant from the States of Guernsey is paid in accordance with section 8 of The Public Trustee (Bailiwick of Guernsey) Law, 2002. Any amounts paid by the States of Guernsey to cover expenditure that are subsequently recouped from the structures within the responsibility of the Public Trustee become repayable to States of Guernsey. The potential liability due to the States of Guernsey represents the debts the Public Trustee expects to be recoverable from those structures. Disclosing this amount separately on the balance sheet reflects the understanding of the contingent nature of the corresponding debtor.

4. THE PUBLIC TRUSTEE FUND

	2014	2013
	<u>£</u>	<u>£</u>
Balance brought forward	10,856	9,884
(Deficit)/Surplus for year	(437)	972
	<hr/>	<hr/>
Balance carried forward	£10,419	£10,856
	<hr/>	<hr/>