



BILLET D'ÉTAT

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HOUSING DEPARTMENT

HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994 VARIATION TO THE HOUSING REGISTER

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

6th December 2011

Dear Sir

1. Executive Summary

The purpose of this report is to seek approval for the preparation of an Ordinance (under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994) to amend the Housing Register to facilitate the inscription of three dwellings to be created on the site of the former Randall's Brewery at Les Vauxlaurens, St Peter Port (known as 1 St Julian's Avenue), in Part A of the Housing Register (i.e. on to the 'Open Market').

2. Background

On 14 March 2001, the States approved proposals from the then Housing Authority for the inclusion of Open Market accommodation in prestigious or important developments¹.

The proposals were summarised in that States Report as follows:

1. *The policy would not apply to small one-off sites or single dwellings.*
2. *It can apply to sites:*
 - *which are part of a Mixed Use Redevelopment Area (MURA) and where the overall number of new dwellings in the MURA is likely to be in excess of 100; and/or*
 - *where there are other strategic issues.*

¹ Billet d'Etat III 2001 page 188 refers.

3. *In return for each dwelling to be inscribed, one existing dwelling must be deleted from Part A of the Housing Register.*
4. *Neither the dwelling to be deleted nor that to be inscribed will have to meet any specific size or rateable value criteria. It will simply be a numerical exchange, albeit that the Authority will have to approve the specific dwelling which is to be inscribed or deleted.*
5. *The dwelling to be deleted must be unoccupied, or occupied by an unrestricted qualified resident, at the time of the application to delete the inscription. The fact that the dwelling is the subject of an application for the deletion of the inscription from the Housing Register under this policy would not be regarded as a reason which, of itself, would justify the grant of a housing licence to an occupier or former occupier.*
6. *The number of dwellings which can be inscribed on a one to one exchange basis will be limited to one third of the total number of dwellings in the development or a maximum of eight dwellings whichever is the lesser.*

Note: for the purposes of the above policy statement the words 'site' in number 2 and 'development' in number 6, mean that an owner will only be eligible for one such concession in respect of parcels of adjacent land in his ownership in the MURA. The owner would not be able to increase the number of dwellings beyond the eight or one-third mentioned in number 6 by phasing the site development or by transferring land to an associate company.

3. The former Randall's Brewery Site, Les Vauxlaurens (1 St Julian's Avenue))

Vauxlaurens Property Holdings Limited has been given planning permission by the Environment Department² to provide 32 residential units on the site of the former Randall's Brewery at 1, St Julian's Avenue, St Peter Port. It has requested that three of these new dwellings be inscribed in Part A of the Housing Register under the terms of the policy referred to above (hereafter referred to as 'the policy').

As the site in question is not situated within a MURA development, the Housing Department has required the developer to set out, in accordance with the second part of point 2 of the policy, the 'strategic issues' associated with the development of this site.

In this regard, the developer has confirmed that of the 32 dwellings to be created on the site, nine will be have one bedroom; 21 will have two bedrooms; and two will have three bedrooms. As such, the developer asserts - and the Housing Department agrees - that the units being created on this site are, in the main, the type of dwellings identified by the most recent States of Guernsey Housing Needs Survey³ as being most in

² Environment Department Planning Permission reference FULL/2010/2084 refers.

³ Billet d'Etat XXV 2007 page 2401 refers.

demand; that is to say, dwellings most suited for occupation by single people or couples without dependants.

Furthermore, the developer has also confirmed that, in all new build areas, the dwellings created on this site will incorporate the 16 design criteria of the Lifetime Homes Standards⁴ such that they can be adapted, if necessary, to meet the changing needs of those occupying them. With this in mind, the developer asserts that some of the new dwellings are likely to be attractive to retirees looking to downsize thus freeing up under occupied family homes elsewhere in the Island; a key strategic issue identified in the Corporate Housing Programme to cope with the Island's ageing population⁵. Overall, 25 of the new dwellings will comply with all 16 of the design criteria, with the remaining seven dwellings complying with 13 of the criteria.

The Developer has also confirmed that work on the site is likely to require over 100 employees to be engaged over a two-year period, thus providing employment opportunities within the Island at a time when the economy will benefit from construction projects of this nature.

Given these 'strategic issues', it is the opinion of the Housing Department that the proposed development of the former Randall's Brewery site meets the criteria of point 2 of the policy such that, provided that the developer arranges for three dwellings to be deleted from Part A of the Housing Register at the request of the owners, three of the 32 new dwellings in the development should be made eligible for inscription in the Housing Register.

4. Provisions of the Law

Since the commencement of the Housing (Control of Occupation) (Guernsey) Law, 1982, the Housing Register has been closed for new inscriptions by the Housing Department (section 30 of the current Law refers).

However, section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, provides that the States may, by Ordinance, permit the Department to inscribe any dwelling in Part A or Part B of the Housing Register.

(It should be noted that, under the provisions of section 33 of the Housing (Control of Occupation) (Guernsey) Law, 1994, any dwelling which is deleted from the Register at the request of the owner cannot thereafter be re-inscribed in the Housing Register. Such a dwelling therefore becomes a permanent 'Local Market' dwelling.)

⁴ The concept of Lifetime Homes was championed by the Joseph Rowntree Foundation in the 1990s. The aim of the 16 design criteria is to ensure that new builds are designed so as to incorporate design features that will enable dwellings to be flexible and adaptable to meet the needs of residents at different stages of their lives. The Housing Department is strongly supportive of the application of these standards to all new build housing projects as a means of assisting Islanders to remain living in their own homes should their health and social care needs change as they get older. Further information can be found at www.lifetimehomes.org.uk.

⁵ Billet d'Etat XI 2010 page 686 refers.

5. Current Proposals

Although it is not in a MURA development, the developer of the former Randall's Brewery site has satisfied the Housing Department that there are 'strategic issues' associated with its development such that the transfer of Open Market inscriptions to three of the 32 dwellings to be created on this site is justified under the wider terms of section 2 of the policy.

The Housing Department is satisfied that the necessary planning permissions relating to this site have been granted by the Environment Department and that 32 new dwellings will be created, and that the majority of those dwellings will be built to Lifetime Homes Standards, thus 'future proofing' those dwellings so that they can readily be adapted to meet the changing needs of those wishing to occupy them.

The ratio of Open Market dwellings to Local Market dwellings proposed for this site is also well within the parameters set out at point 6 of the above policy (i.e. it is less than both: (i) one third of the dwellings proposed for the site; and (ii) the maximum permitted eight Open Market dwellings.)

It should also be remembered that, as per point 3 of the policy, for each dwelling to be added to the Housing Register, an Open Market dwelling elsewhere in the Island must be deleted from the Housing Register. As such, the Local Market will still gain 32 new dwellings overall, with 29 of those dwellings being on this site, and three being Open Market dwellings elsewhere in the Island that are deleted from the Housing Register and thus returned to the Local Market housing stock.

6. Consultation with the Law Officers of the Crown

The contents of this report have been discussed with the Law Officers of the Crown.

7. Principles of Good Governance

In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance as defined by the UK Independent Commission on Good Governance in Public Services (Billet d'Etat IV of 2011). The Department believes that, to the extent to which those principles apply to its contents, this Report complies with those principles.

8. Recommendations

The Housing Department recommends that the States agree that an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe individually in Part A of the Housing Register three apartments on the site known as 1 St Julian's Avenue, St Peter Port, (the former Randall's Brewery site) subject to: (a) application being made by the owners within 6 months from the commencement date of the Ordinance; and (b) three Open Market Part A dwellings located elsewhere in the Island first being deleted

from Part A of the Housing Register at the request of the owner of each of those dwellings.

Yours faithfully

D Jones
Minister

G Guille
(Deputy Minister)

G Dudley-Owen
S McManus
J Stephens
(States Members)

D Jehan
(Non States Member)

DRAFTING OF LEGISLATION

Assuming that the States of Deliberation resolves to permit the dwellings that are the subject of this report to be inscribed in the Housing Register, there will be a requirement to prepare an Ordinance as this is the only mechanism via which to achieve the necessary variation to the Housing Register.

The Ordinance is sufficiently 'standard' that, if necessary, it can readily be drafted by the Housing Department and then forwarded to the Law Officers of the Crown for checking and progressing.

If the Ordinance is not prepared in line with the recommendations contained in the attached report, it will not be possible to inscribe the dwellings in the Housing Register.

(NB The Policy Council has no comment on the proposals.)

(NB As there are no resource implications identified 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 Report dated 6th December, 2011, of the Housing Department, they are of the opinion:-

1. That an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe individually in Part A of the Housing Register three apartments on the site known as 1 St Julian's Avenue, St Peter Port, (the former Randall's Brewery site) subject to: (a) application being made by the owners within 6 months from the commencement date of the Ordinance; and (b) three Open Market Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

HOUSING DEPARTMENT

HOUSING (CONTROL OF OCCUPATION) (GUERNSEY) LAW, 1994 VARIATION TO THE HOUSING REGISTER

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

6th December 2011

Dear Sir

1. Executive Summary

The purpose of this report is to seek approval for the preparation of an Ordinance (under section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994) to amend the Housing Register to facilitate the inscription of the dwelling known as The Longfrie Inn, Route de Longfrie, St Pierre du Bois in Part B of the Housing Register (i.e. on to the 'Open Market'.)

2. Provisions of the Law

Since the commencement of the Housing (Control of Occupation) (Guernsey) Law, 1982, the Housing Register has been closed for new inscriptions by the Housing Department (section 30 of the current Law refers.)

However, section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, provides that the States may, by Ordinance, permit the Department to inscribe any dwelling in Part B of the Housing Register provided that on the date on which the application is made, the dwelling is, in the opinion of the Department, an hotel.

Section 71(1) of the Law defines an 'hotel' as:

"...a dwelling, other than a self-catering unit, in respect of which there is in force a boarding permit and which, in the opinion of the Authority, is being used for the business of providing sleeping accommodation for reward to tourists in accordance with the provisions of that permit."

3. History of the dwelling

The Longfrie Hotel (as it was then known) was first inscribed in the Part B Open Market Housing Register in March 1983. At that time, it was being operated as an hotel and there was in place a boarding permit in respect of it.

Between 1992 and 1994, the dwelling did not hold a boarding permit and, as it was being operated as a lodging house, it was, in accordance with the provisions of the Law in force at the time, inscribed in Part D of the Housing Register.

In 1994, having undergone a refurbishment resulting in the reinstatement of its boarding permit, the dwelling was, at the request of the then owner, transferred back to Part B of the Housing Register.

By 2006, it again became apparent that the dwelling was no longer being used as an hotel and it had reverted to use as a lodging house; however, under the provisions of the 1994 Law, it was no longer possible to transfer the dwelling from Part B to Part D of the Register and so, having served due notice of its intentions to the owner, the Department deleted the dwelling from the Housing Register, and thus it became a Local Market dwelling, albeit that, as a result of its ownership, the accommodation was not made generally available for occupation.

Most recently, the property was refurbished in 2010 and has since been operating as an hotel.

4. Current Proposals

There is, once again, a boarding permit in place in respect of The Longfrie Inn and it has been awarded a four star rating by Visit Guernsey.

As such, the Proprietor of The Longfrie Inn, with the full permission of the owner, has requested that the dwelling be inscribed in Part B of the Open Market Housing Register; that is to say the Part of the Housing Register that relates only to hotels.

In the opinion of the Department, the dwelling meets the criteria set out in the Housing Control Law such that it can be described as an hotel.

5. Consultation with the Law Officers of the Crown

The contents of this report have been discussed with the Law Officers of the Crown.

6. Principles of Good Governance

In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance as defined by the UK Independent Commission on Good Governance in Public Services (Billet d'Etat IV of 2011). The Department believes that, to the extent to which those principles apply to its contents, this Report complies with those principles.

7. Recommendations

In the light of all of the above, the Housing Department recommends that the Longfrie Inn, Route de Longfrie, St Pierre du Bois, should be inscribed in Part B of the Housing Register.

The Housing Department therefore recommends that the States agree that an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe this hotel in Part B of the Housing Register subject to application being made by the owners within 6 months from the commencement date of the Ordinance.

Yours faithfully

D Jones
Minister

G Guille
(Deputy Minister)

G Dudley-Owen
S McManus
J Stephens
(States Members)

D Jehan
(Non States Member)

DRAFTING OF LEGISLATION

Assuming that the States of Deliberation resolves to permit the dwelling that is the subject of this report to be inscribed in the Housing Register, there will be a requirement to prepare an Ordinance as this is the only mechanism via which to achieve the necessary variation to the Housing Register.

The Ordinance is sufficiently 'standard' that, if necessary, it can readily be drafted by the Housing Department and then forwarded to the Law Officers of the Crown for checking and progressing.

If the Ordinance is not prepared in line with the recommendations contained in the attached report, it will not be possible to inscribe the dwelling in the Housing Register.

(NB The Policy Council has no comment on the proposals.)

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

The States are asked to decide:-

IX.- Whether, after consideration of the Report dated 6th December, 2011, of the Housing Department, they are of the opinion:-

1. That that the Longfrie Inn, Route de Longfrie, St Pierre du Bois, should be inscribed in Part B of the Housing Register.
2. That an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe this hotel in Part B of the Housing Register subject to application being made by the owners within 6 months from the commencement date of the Ordinance.
3. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

ENVIRONMENT DEPARTMENT

EXTENSION OF PERIOD OF VALIDITY OF THE URBAN AREA PLAN (REVIEW NO. 1)

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

29th November 2011

Dear Sir

Executive Summary

1. The current Urban Area Plan (Review No.1) (UAP) was approved by the States in July 2002 (Billet d'Etat No. XVII of 2002) and was prepared under the *Island Development (Guernsey) Law, 1966 (as amended)* under which it had effect for a period of 5 years subject to extension by resolution of the States. In June 2007 the States resolved to extend the UAP until 31st December, 2010 (Billet d'Etat No. XVI of 2010).
2. In April, 2009, section 13 of the *Land Planning and Development (Plans) Ordinance, 2007* came into force. Under that provision a Plan or Local Planning Brief has effect for 10 years from the date of its adoption by the States subject to extension by resolution of the States. The Urban Area Plan and the Rural Area Plan (Review No. 1) (RAP) prepared under the 1966 Law are deemed to be Development Plans under the new Law. The UAP is, therefore, legally valid until the **31st July, 2012** but may be further extended by a resolution of the States, in which case it should have effect until the date specified in such resolution. The RAP is valid until the **2nd December, 2015**. The new validity dates following the coming into force of the 2007 Ordinance were noted by the States at its meeting of the 29th October, 2010 (Billet d'Etat No. XX of 2010).
3. In November, 2011, a revised Strategic Land Use Plan (SLUP) was adopted by the States of Deliberation (Billet d'Etat No. XIX of 2011); this provides the guiding principles upon which the Development Plans can be reviewed.

4. The purpose of this report is to extend the period of validity of the Urban Area Plan to the **2nd December, 2015** so as to harmonise with the expiry of the Rural Area Plan, which will enable a comprehensive review of both Development Plans to be undertaken.

Strategic Land Use Plan (SLUP)

5. The current Urban and Rural Area Plans were prepared in accordance with the former Strategic Land Use Plan (SLUP) which was approved by the States in July, 2007 as part of the Policy and Resource Plan (Billet d'Etat No. XVIII of 2007).
6. During the States debate on the adoption of the Rural Area Plan (Review No 1) in 2005, the need to review the island's spatial strategy (often known as the urban/rural split), which had in essence remained unchanged since 1990, was put forward and was confirmed in subsequent discussions on the SLUP in 2006. It was therefore proposed *inter alia* that further research should be undertaken to ascertain whether the Urban Area Plan could continue to accommodate the majority of new development over the medium to long term or whether there should be greater flexibility in the rural area to allow for further development. These discussions also prompted further investigations into key issues, some of which resulted in formal plan amendments (see Paragraph 13 below).
7. In 2008, under the auspices of the Strategic Land Planning Group (SLPG), the *Guernsey Tomorrow* initiative was launched; this involved extensive public engagement in the future spatial strategy options for the island. The outcome of this work has culminated in the approval of a revised Strategic Land Use Plan (SLUP) which was presented to the States in November (Billet d'Etat No. XIX of 2011). This forms part of the States' overarching Strategic Plan (SSP) and provides the necessary strategic policy framework to guide the emerging comprehensive review of the existing Development Plans.

Urban Area Plan (Review No.1) - Progress to date

8. The strength of the UAP is that it was constructed so as to be capable of responding to changing circumstances. Many of the policies of the Plan depend upon development proposals being able to demonstrate that they meet certain criteria. For example, the Plan aims to ensure that a two year provision for housing development is always effectively available. One of the housing policies then allows for proposals for housing to be considered on suitable sites within the Settlement Areas or on previously developed land subject to a Development Brief (if necessary) and meeting various criteria. This has enabled a large number of suitable sites to be brought forward for development on a flexible basis, making a valuable contribution to meeting the strategic housing target.

9. The Urban Area Plan has also been successful in allowing for area-based plans to come forward, effectively providing reserves of land for future development. For example, Mixed Use Redevelopment Areas (MURA's) at Glategny Esplanade and Le Bouet were both designated in the first Urban Area Plan (1995) in order to meet the anticipated requirement for modern purpose-built office space in St Peter Port, as part of sustainable mixed use development proposals. Both sites have now been substantially developed, fulfilling their potential by yielding over 50,000 sq. m of office floorspace, 15,000 sq. m of retail floorspace and over 250 new homes. It is envisaged that Le Bouet (Admiral Park) and Glategny MURA's will be built out and substantially completed within the next 2 years.
10. The Leale's Yard MURA at the Bridge is another major brownfield site opportunity offering substantial capacity for a mix of retail and residential use. It is anticipated that the development will yield almost 200 new homes of a variety of type, size and tenure and about 20,000 sq.m of new retail floorspace. About half of the site was granted outline permission in early 2011; hence there is still scope for further mixed use development on the site.
11. The Department's monitoring of the UAP enables it to demonstrate the Plan's effectiveness in a number of key areas. As mentioned above, the UAP aims to maintain a two year supply of land for housing developments to meet the strategic housing target of 300 housing units each year, 90% of which should ideally be accommodated within the urban area. Since the adoption of the Plan, monitoring data suggests that this target supply has been consistently met, though it is worth noting that the number of housing completions has been averaging less than 200 per year. Whilst the urban/rural split has tended towards a 75:25 ratio rather than the somewhat aspirational 90:10, it has not been necessary to release any of the five Housing Target Areas (HTA's) which were retained as strategic future housing land reserves. There is however, an outstanding workstream delegated to the Housing and Environment Departments to progress the release of one of the HTA's. This was delegated by States resolution (Billet d'Etat No. XI of 2010) and is likely to be progressed via a formal Plan Amendment.
12. In terms of industrial land within the urban area, the Key Industrial Areas at Pitronnerie Road, Longue Hougue, Monmains /La Hure Mare and Saltpans have safeguarded land for industry that requires large, purpose-built premises. With respect to the Saltpans Key Industrial Area, a Development Brief was adopted in August, 2007 to guide the future development of the 6 hectare (16 acre) employment site, which is a major asset to the Island's industrial base and has since received outline permission
13. The Plan has also been formally amended since its adoption in order to respond to changing circumstances. For example, in February, 2007, the Visitor Accommodation policies of the Plan were amended in response to a change of strategic direction on the visitor economy. In April, 2010, further amendments were approved to both the RAP and the UAP to respond to needs for low key industry and open yards and the UAP was amended to provide a policy gateway

for small-scale infrastructure and essential development. Therefore, the ability to bring forward plan amendments has allowed the Department to respond to emerging issues that require a shift in policy direction, keeping the UAP relevant to the strategic objectives of the time.

14. The UAP has also been successful in meeting its key environmental objectives. For example, one of the objectives of the UAP is to steer development toward brownfield sites and to avoid greenfield sites in the interests of conserving the quality of the urban environment. During the life of the Plan, about 95% of all new housing permissions within the urban area have related to brownfield land. Moreover, new industrial, storage, distribution and office developments have also occurred predominantly on brownfield sites.

Environmental Implications

15. There are no direct environmental implications arising from this report, but the extended validity of the Urban Area Plan will provide a continuing planning policy framework for determining planning applications in the urban area in an environmentally sustainable manner.

Legislative Implications

16. There is no requirement for new legislation as the legislation allows for the effective period of a development plan to be extended by resolution of the States.

Human Rights Compliance

17. There are no identified human rights implications arising from this report.

Financial and Resource Management

18. There are no identified financial or resource management implications arising from this report.

Governance

19. This report is required as valid Detailed Development Plans are required under the Section 8 of *The Land Planning and Development (Guernsey) Law 2005*. As the validity of the current Urban Area Plan is due to expire, an extension to the Plan is required under the Law.

Development Plan Review

20. The adoption of revised strategic land use policies, which will represent a new spatial strategy for the island, will enable the Department to undertake a comprehensive review of both the Rural and Urban Area Plans to reflect and accord with the revised SLUP. The Plan review process can take between 2-3

(NB The Policy Council has no comment on the proposals.)

(NB As there are no resource implications identified 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 Report dated 6th December, 2011, of the Housing Department, they are of the opinion:-

1. That an Ordinance be prepared, in accordance with section 52 of the Housing (Control of Occupation) (Guernsey) Law, 1994, to permit the Department to inscribe individually in Part A of the Housing Register three apartments on the site known as 1 St Julian's Avenue, St Peter Port, (the former Randall's Brewery site) subject to: (a) application being made by the owners within 6 months from the commencement date of the Ordinance; and (b) three Open Market Part A dwellings located elsewhere in the Island first being deleted from Part A of the Housing Register at the request of the owner of each of those dwellings.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

COMMERCE AND EMPLOYMENT DEPARTMENT

EU BATTERIES DIRECTIVE

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

6th December 2011

Dear Sir

1. Executive Summary

- 1.1. The UK's Batteries and Accumulators (Placing on the Market) Regulations 2008 came into force in the UK as of 26 September 2008. The UK Regulations implement in the UK the Internal Market provisions of the new European Union Directive on Batteries and Accumulators and Waste Batteries and Accumulators (2006/66/EC).
- 1.2. This Report recommends the States of Deliberation to direct the Law Officers of the Crown to prepare the necessary legislation under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994, to implement the provisions of Articles 4, 6, 11 and 21 of the EU Batteries and Accumulators and Waste Batteries and Accumulators Directive (EC2006/66/EC), by Ordinance.

2. Background

- 2.1. The UK's Batteries and Accumulators (Placing on the Market) Regulations 2008 (SI 2008 No. 2164; hereafter referred to as "the Regulations") came into force in the UK as of 26 September 2008.
- 2.2. The Regulations implement in the UK certain Internal Market provisions (sometimes referred to as Single Market provisions) of the European Parliament and Council Directive on Batteries and Accumulators and Waste Batteries and Accumulators 2006/66/EC (hereafter "the Directive").¹
- 2.3. The Directive's relevant provisions which are implemented by the UK Regulations are:

¹ Another set of UK Regulations, the Waste Batteries and Accumulators Regulations 2009 (SI 2009/890), transpose the provisions of the Batteries Directive which relate to the disposal and recycling of batteries. These provisions are not Internal Market requirements, and the UK has not made a request for these to be transposed by the States of Guernsey.

- 2.3.1. **Article 4 ('Prohibitions')** – restrictions on the use of mercury on all batteries and the use of cadmium in portable batteries, with certain exceptions;
 - 2.3.2. **Article 6 ('Placing on the Market')** – batteries that meet the product requirements of Articles 4 and 21 can be marketed in any European Union (EU) country;
 - 2.3.3. **Article 11 ('Removal of waste batteries and accumulators')** – the requirement that member States ensure that manufacturers design appliances in a way that spent batteries and accumulators can be readily removed, with certain exceptions; and
 - 2.3.4. **Article 21 ('Labelling')** – the requirement that batteries are labelled with: (i) the chemical symbols Hg, Pb or Cd, (ii) a crossed-out wheel bin and (iii) a capacity label.
- 2.4. This Directive replaces previous EU legislation on batteries (Directive 91/157/EEC). The main purpose of the new Directive is to help protect the environment, and to help ensure that the single European market functions properly and on a level playing field.
- 3. Request for Guernsey to implement relevant provisions of the EU Batteries Directive**
- 3.1. The States of Guernsey was initially asked by the Ministry of Justice ('MoJ') in March 2008 to consider giving effect to Article 4 ('Prohibitions') of the EU Batteries and Accumulators and Waste Batteries and Accumulators Directive, which deals with the makeup and contents of batteries which can be sold to consumers.
 - 3.2. In September 2008, the Commerce and Employment Department undertook a consultation exercise with local industry, to which three local businesses responded, none of whom expressed any significant concerns.
 - 3.3. The MoJ subsequently drew attention to further relevant Articles of the Directive for the States of Guernsey to consider giving effect to. The additional articles for consideration were: Article 6 ('Placing on the Market'); Article 11 ('Removal of waste batteries and accumulators'); and Article 21 ('Labelling').
 - 3.4. As the local industry had not been consulted on these additional articles, the Commerce and Employment Department reopened its consultation to seek comments on these additional regulations. There were no additional responses received.

4. Implementation of the Batteries Directive

- 4.1. The implementation of the provisions of the Batteries Directive by the Bailiwick of Guernsey would reduce the notional risk of the Bailiwick of Guernsey being used as a 'back door' into the Customs territory of the EU for the importation of potentially non-compliant batteries. It would also contribute to safeguarding the Bailiwick of Guernsey's reputation as a member of the Customs territory.
- 4.2. It is important to note that under Protocol 3 to the UK's 1972 Act of Accession to the European Community, the Bailiwick of Guernsey is subject to certain internal market provisions such as the free movement of goods.
- 4.3. Consequently, the Bailiwick of Guernsey is obliged to implement the provisions of Article 4 ('Prohibitions'), Article 6 ('Placing on the Market') and Article 21 ('Labelling') of the Directive, as these all appear to affect the free movement of goods within the Customs territory of the EU.
- 4.4. As for Article 11 ('Removal of waste batteries and accumulators'), this was adopted by the Council and the European Parliament as an Article 175 Environmental Protection Treaty Base and is arguably not a specific free movement of goods provision. Although there are currently no manufacturers of batteries in the Bailiwick, there are manufacturers of electronic devices containing batteries, a significant proportion of which are sold to UK and EU customers. Therefore, the implementation of Article 11 of the Directive is strongly recommended as it would provide for Bailiwick manufacturers to maintain equivalent standards with UK and EU manufacturers, with whom they are likely to compete for customers.

5. Corporate Governance

- 5.1 The Department believes that it has complied fully with the six principles of corporate governance in the preparation of this States Report.

6. Recommendation

- 6.1. The States of Deliberation are asked to direct the Law Officers of the Crown to prepare the necessary legislation under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994, to implement the provisions of Articles 4, 6, 11 and 21 of the EU Batteries and Accumulators and Waste Batteries and Accumulators Directive (EC2006/66/EC), by Ordinance.

Yours faithfully

C S McNulty Bauer
Minister

M Lainé
Deputy Minister

R Matthews
A Brouard
M Storey
States Members

P Mills
Non States Member

APPENDIX

DRAFTING OF LEGISLATION – PRIORITY RATING SCHEME STATES REPORT ON THE EU BATTERIES DIRECTIVE

Criterion 1 – Information justifying the need for legislation

Articles 4, 6 and 21 of the EU Directive on Batteries and Accumulators and Waste Batteries and Accumulators 2006/66/EC contain certain internal market provisions relating to the free movement of goods which should be implemented in accordance with the provisions of Protocol 3 to the UK's 1972 Act of Accession to the European Community.

The implementation of Article 11, whilst arguably not required under the provisions of Protocol 3, is nonetheless strongly recommended in order for Bailiwick manufacturers to maintain equivalent standards with UK and EU manufacturers, with whom they are likely to compete for customers.

The following stakeholders have been consulted:

- Local businesses (via the Confederation of Guernsey Industry, Chamber of Commerce, Institute of Directors and Young Business Group)
- Chief Pleas of Sark
- States of Alderney
- Guernsey Border Agency, Customs & Excise Division

Criterion 2 – Confirm how funding will be provided to carry out functions required by the new Law

It is intended that the Commerce and Employment Department's Trading Standards service will administer and enforce this legislation. This will initially require a limited amount of staff training, as well as the monitoring of batteries placed on the market by Bailiwick firms. This is not envisaged to have cost implications of any significance.

In due course, depending upon the level of compliance which is discovered through the monitoring work, there might be an occasional cost associated with sending batteries to specialist laboratories for their contents to be analysed. Although unlikely, in the event that there was a high level of non-compliance within a given year, a crude estimate of the cost of analysing a number of batteries would be in the region of £4,000. Any analysis costs would be funded from within existing budgets.

Criterion 3 – Explain the risks and benefits associated with enacting / not enacting the legislation**Benefits**

The implementation of the provisions of the Batteries Directive by the Bailiwick of Guernsey would reduce the notional risk of the Bailiwick of Guernsey being used as a 'back door' into the Customs territory of the EU for the importation of potentially non-compliant batteries. It would also contribute to safeguarding the Bailiwick of Guernsey's reputation as a member of the Customs territory.

Risks

No significant risks were identified.

Criterion 4 – Provide an estimated drafting time required to draw up the legislation

The legislation necessary to implement those provisions of the Directive proposed in the Report is not extensive (it is proposed to implement 4 articles only), and the drafting of the necessary Ordinance should not take longer than one day.

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

(NB The Policy Council has no comment on the proposals.)

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 6th December, 2011, of the Commerce and Employment Department, they are of the opinion:-

1. To direct the Law Officers of the Crown to prepare the necessary legislation under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994, to implement the provisions of Articles 4, 6, 11 and 21 of the EU Batteries and Accumulators and Waste Batteries and Accumulators Directive (EC2006/66/EC), by Ordinance.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

PUBLIC SERVICES DEPARTMENT

GUERNSEY HARBOURS – CRANE AND QUAY STRATEGY

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

7th December 2011

Dear Sir

1. Executive Summary

- 1.1. In July 2008 (Billet d'État XI, 2008 refers) the States agreed that the Public Services Department should progress the Future Crane and Quay Strategy, and should seek tenders for works required at St Peter Port Harbour in order to secure the viability of the Lo-Lo freight operation until at least 2029.
- 1.2. This report explains the work that has taken place since then to ensure that the recommended course of action is supported by a sound business case and is therefore a good value for money solution for the community.
- 1.3. Previous reports detailing import forecasts have been revisited to ensure that the recommended solution is sufficiently robust to serve the Island for the medium to long term without being more than is required. The report looks at the analysis that has been done in this respect and sets out the ways in which the success of the project can be determined and measured.
- 1.4. The report goes on to detail the tendering process that has been followed in accordance with States rules and concludes by seeking States' approval of a capital vote of £13,675,000 for the purchase of two new cranes; the refurbishment of Berths 4, 6, and the Knuckle; and the replacement of Berth 5 at St Peter Port Harbour, as approved by the States of Deliberation at its meeting held in July 2008.
- 1.5. The report also seeks States' approval to appoint the following firms as the preferred contractors.

Table 1.1 – List of Preferred Contractors

Contract	Contractor	Tender sum (£'000)
Berths 4, 6 and the Knuckle	Concrete Repairs Ltd.	3,559
Berth 5 and Freight Yard	Dawson WAM	1,305
Cranes (sterling equivalent at €1.15/£1)	Gottwald Port Technology	4,033
TOTAL		8,897

2. Background

2.1 At its meeting in July 2008, the States considered a report from the Public Services Department entitled “Guernsey Harbours - Future Crane and Quay Strategy” (Billet D’État XI, 2008).

2.2 As a result the States resolved as follows:

“a) To note this report.

b) To direct the Public Services Department to progress the Future Crane and Quay Strategy, including the necessary remedial works to the quay infrastructure, which are essential for the long-term viability of the Harbour and of the Bailiwick in general.

c) To direct the Public Services Department to report back to the States once tenders for the above works have been received.”

2.3 The States subsequently reiterated its desire for this project to proceed in May 2009 (Billet D’État IX, 2009), as part of the Capital Prioritisation debate, when the project was categorised as a Priority 1 proposal. The best estimate for the project cost at this time was £10m (at 2008 prices).

3. Project rationale and brief

3.1 Overview

3.1.1 As outlined in the above-mentioned States Report of 2008, the ports infrastructure is of vital strategic importance to the Bailiwick, with 98% of all material items being imported and exported via the harbours. Over 25% of freight through St Peter Port Harbour is handled by the existing cranes on Berths 4, 5 and 6.

3.1.2 The St Peter Port Harbour cranes are therefore an essential component in dealing with this throughput. The cranes have exceeded their working life, have become almost impossible to repair at a viable cost and cannot be relied upon to remain operational even in the short-term.

- 3.13 The effect of non-delivery of freight would be recognised within a very short space of time by the Guernsey public and would have a significant impact on daily life. The efficient operation of the cranes is key to many aspects of island life and it has been assessed by the Department's consultants, Halcrow, that several hundred million pounds worth of goods are imported through St Peter Port Harbour each year. (Estimating Tax Sensitivity of Harbour Transited Goods and Harbour Users, 2010.) This report can be found under the Guernsey Harbours section at www.gov.gg/publicservices.
- 3.14 The aim of this project is to provide a Lift On – Lift Off (Lo-Lo) freight handling facility to deal with the volumes of this type of freight anticipated up until at least 2029.
- 3.15 This will be done by purchasing two mobile harbour cranes to replace four of the existing cranes and also repairing the concrete structures on Berths 4 and 6, and replacing and upgrading the concrete structure on Berth 5. The layout of the freight yard will also be revised to maximise the number of available ground slots for the storage of containers by storing them in the most efficient manner.

3.2 **Replacing the cranes**

- 3.2.1 The St Peter Port Harbour cranes have been well maintained and are in generally good structural condition, considering their ages, which range from 35 to 60 years old. However, the four cranes on Berths 4 and 5 have gone beyond the end of their useful lives, and have become increasingly expensive to maintain. Parts are extremely difficult to source, and, in spite of electrical refurbishment carried out to various degrees on all of the cranes, reliability and availability are not of the standard expected of a commercial harbour and will continue to decline further in the years to come. The savings in maintenance costs are detailed in Appendix 6 of this report, which examines the present and future financial costs that are impacted upon by this project.
- 3.2.2 Consequently, given that the maintenance of Lo-Lo capacity at St Peter Port Harbour is essential, for reasons that are explained in this report, there was no option but to replace the cranes. Having made this decision, the Department then had to consider various options to determine the optimum replacements.
- 3.2.3 It was determined that two new cranes are sufficient to replace the existing four and optimally service the area in question, if the current volume of imports does not grow significantly beyond the levels currently predicted. These levels are outlined in the next section of the report.

- 3.2.4 The recommended option of mobile harbour cranes is the most economical and flexible solution. Modern harbour cranes can operate much faster than the older cranes, which leads to improved operating efficiencies. The new cranes can operate up to 50% faster than the existing derrick, which is primarily due to automatic gear selection dependent on sensed weight and the ability to adjust and level a weight once lifted. The actual numbers of lifts will not change, but the 'per lift' working time will be reduced. It is estimated that this will increase efficiency by 30 to 50%. Therefore, the speed of clearance of the working area will improve, which offers the opportunity to improve ship turn-round time.
- 3.2.5 Most importantly, moving away from the fixed columns and bases required by the existing crane allows the freight yard to be used in a much more efficient manner as the removal of pedestal and rail mounted cranes creates additional freight/container storage areas. The required ground slots can be arranged more efficiently and typically within the reach of the replacement cranes, allowing containers to be handled direct from ship to stack.
- 3.2.6 At present, the arrangement of ground slots is variable depending on the amount and type of freight that needs to be stored on any given day. The highest number of ground slots available in the freight yard at any one time is 72. This will increase to 110 following this project.
- 3.2.7 The cranes at St Sampson's Harbour date from 1986, are lightly used, well maintained, and have a reasonable life expectancy; therefore they were not considered for replacement.

3.3 **The importance of the berths to Guernsey**

- 3.3.1 Although the driver for this project is the need to replace the cranes they cannot be considered in isolation, as the structure on which they sit, i.e. berths 4, 5 and 6, is equally important. In order to recognise the importance of these berths and their operations, it is beneficial to understand how they fit within Guernsey Harbours' operations.

Cargo types

- 3.3.2 There are two categories of cargo which are accommodated at the Lo-Lo berths. These are Unitised Cargo and General Cargo.
- 3.3.3 Unitised Cargo (UC) comprises Roll-on Roll-off (Ro-Ro) and Lo-Lo freight. UC is freight which is carried aboard a vessel on standardised pallets or containers. This type of cargo is handled solely at St Peter Port Harbour. There has been a consistent trend in the increase of both imported and exported UC in the past ten years.

- 3.3.4 General Cargo (GC) is the method by which the majority of freight was traditionally transported. GC is handled at both St Sampson's and St Peter Port Harbours. There has been a steady shift away from this method of shipping towards UC, as the standardisation of shipping containers allows for greater efficiency. However, it should be noted that whilst its proportion of total freight decreases, the actual amount of GC received at St Peter Port Harbour is still increasing, from 8,240 tonnes in 2001 to 11,554 tonnes in 2008.
- 3.3.5 The fluctuations in annual freight trade tonnages are shown below. Units are denominated in tonnes. The Compound Annual Growth Rate or Cumulative Average Growth Rate (CAGR) can then be calculated which shows the year-on-year growth rate over a specified period of time. From this calculation it is possible to see how the market has changed over a set period of time. Growth over the period from 2001 to 2008 was relatively low at just over 0.8%.

Table 3.1 – Fluctuations in Annual Freight Trade Tonnages

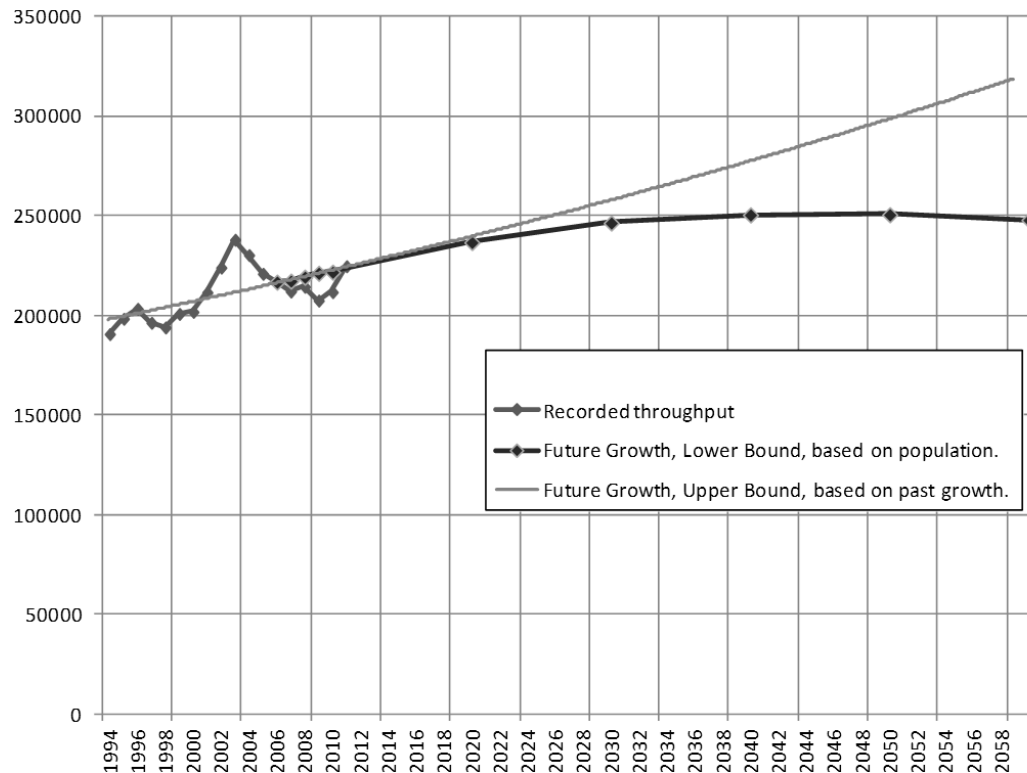
	2001	2002	2003	2004	2005	2006	2007	2008	CAGR
Total Throughput	211,712	224,167	238,122	230,425	221,051	216,871	212,132	214,556	0.84%
Import	176,869	185,882	200,814	193,240	186,978	182,736	179,138	180,135	0.84%
Export	34,843	38,285	37,308	37,185	34,073	34,036	32,918	34,345	0.81%

- 3.3.6 Lo-Lo traffic has represented an increasing proportion of freight entering and exiting the island in recent years. During the period between 2001 and 2011 inclusive, the proportion of Lo-Lo freight increased by 5%. Details are shown in Table 3.2; however, the middle years have been removed to show only the contrast between the historic and most recent data.

Table 3.2 – Lo-Lo and Ro-Ro Throughput, and Market Share

Commodity description	2001	2002	2003		2008	2009	2010	2011 (projected from end Sept)	CAGR
Lo-Lo Throughput	42,099	48,342	53,535		57,844	51,718	49,801	55,741	2.85%
Ro-Ro Throughput	169,613	175,825	184,587		156,712	155,900	162,060	169,105	-0.03%
Total Throughput	211,712	224,167	238,122		214,556	207,618	211,861	224,846	0.60%
Market Share Lo-Lo	20%	22%	22%		27%	25%	24%	25%	
Market Share Ro-Ro	80%	78%	78%		73%	75%	76%	75%	

- 3.3.7 The estimated upper and lower limits for future cargo throughput at St. Peter Port Harbour are shown in Figure 3.1. These predictions are for average throughput and it is quite possible that individual years will have throughputs outside the upper and lower predictions. Nonetheless, the average throughput is expected to be between these figures. The upper limit is obtained by continuing to apply the historic annual increase to the current throughput whilst the lower limit relates throughput directly to projected population.



**Figure 3.1 Estimate of future cargo throughput demand
(Upper and lower bounds of projected growth)**

- 3.3.8 The predictions extend to 2059 for combined Lo-Lo and Ro-Ro freight. The proposed cranes will have the capacity to handle the Lo-Lo volumes associated with the upper limit predictions across the berths, although the current area behind the berths for storage of containers and Ro-Ro freight is likely to be inadequate for these volumes. Even the lower limit projection gives a peak freight throughput larger than Guernsey Harbours currently handles.
- 3.3.9 Population projections are taken from the Policy Council Report 'Guernsey Annual Population Bulletin 2010'.

3.4 **Should Guernsey move to Ro-Ro?**

- 3.4.1 Guernsey cannot simply move to delivery by Ro-Ro, as routine cargoes in commercial quantities cannot be delivered by Ro-Ro and it must also be recognised that in Alderney and Sark freight delivery is exclusively reliant on Lo-Lo. Hence, as a very minimum, crane capability is required for these services.
- 3.4.2 If Lo-Lo facilities were to cease, the additional consequential and immediate 33% increase in required Ro-Ro volume would significantly exceed the capacity of the existing vessels, meaning that shipping companies could be forced to consider acquiring additional vessels for this purpose, the cost of which would be passed on to Islanders.
- 3.4.3 If Guernsey were to see a consequential increase in traffic using the Ro-Ro ramps because of a reduction in Lo-Lo it would accelerate wear and tear on this piece of infrastructure. In addition, there would also be a conflict with Jersey over freight allocations because each vessel has a finite amount of freight space, which is currently allocated in a 60%/40% split to Jersey and Guernsey respectively. Day to day island activities could well become affected.
- 3.4.4 In addition, commercial quantities of cargoes classified under the International Maritime Dangerous Goods Code cannot be carried on passenger carrying vessels under any circumstances. Neither can they be handled in Portsmouth, by reason of laws associated with the presence of the Naval Dockyard. This excludes Ro-Ro as an option, along with non-passenger carrying vessels operating from Portsmouth.
- 3.4.5 The above demonstrates that any developments at St Peter Port Harbour have to take into consideration this steady growth in the total amount of General Cargo and of Unitised Cargo.

3.5 **The problems caused by limited space**

- 3.5.1 The finite amount of space at St Peter Port Harbour means that the land available for freight operations is barely workable. Rent is charged for all freight stored at St Peter Port Harbour in an attempt to keep freight storage to a minimum and to encourage companies to make their own storage arrangements.
- 3.5.2 As detailed earlier, the Future Harbour Requirements Study highlights the fact that Guernsey's requirement for space for freight operators has not yet peaked and estimates that for the lower bound scenario, cargo demand will not peak for another thirty years.

- 3.5.3 Recent trends suggest that there will continue to be a decrease in Ro-Ro and an increase in Lo-Lo freight. The problem arises that unlike Ro-Ro freight, which can be driven straight off in an accompanying trailer, Lo-Lo freight has to be processed and stored before being moved on elsewhere. This requires space and whilst there are currently 72 spaces for freight storage the data indicates that this will not suffice to accommodate the anticipated growth of trade within Guernsey Harbours. The solution to this will fit in with the long-term strategy for Guernsey Harbours and be the first part of a phased redevelopment of St Peter Port Harbour.
- 3.5.4 There is also a substantive Health and Safety aspect, which will only be mitigated when the new cranes are fully operational. Guernsey Harbours have been working around the congestion but have not been able to address the problem fully owing to a lack of available land. In the longer term, the States of Guernsey will need to develop a strategy for coping with the predicted increased demand for Lo-Lo and Ro-Ro freight operations.
- 3.5.5 However, even if freight levels were to remain static there would still be a need to rearrange the Lo-Lo handling space available to ensure the safety of operations. At present the arrangements rely on extensive co-operation between competing shipping companies. The introduction of safer handling methods; the enhanced arrangement of ground slots through the more efficient stacking of containers; and the removal of the derrick crane structures will bring about improvements in this respect.
- 3.5.6 This project will start this process, although it is recognised that further strategic planning is necessary. To this end, work has commenced on the drafting of a Ports Master Plan, which will project the future ports requirements for Guernsey. This detailed document should be complete by late 2012 but, given the operational risks associated with the St Peter Port Harbour cranes, this project could not be delayed until the plan was finished. The Department is, however, satisfied that none of the proposals herein will be incompatible with long-term plans.
- 3.5.7 The problem of space will become more acute during this project and will necessitate the temporary taking over of nearby land, if the project is to proceed successfully. The land identified is at the North Beach Car Park and a full appraisal of the reasons why use of this land is unavoidable is included in section 9 of this report.

The importance of refurbishing the three berths

- 3.5.8 Cranes and their operation depend on the strength of the supporting structures for their load carrying capacity. In the case of St Peter Port Harbour, these are Berths 4, 5 and 6, which provide the facilities for the import and export of all

Guernsey's Lo-Lo freight. (A diagram showing the location of the berths is attached at Appendix 2.)

- 3.5.9 A summary of the condition of the berths and recommendations for their repair can be found in the previous States Report on this subject in Billet D'État XI, 2008. Further details can also be found in the Halcrow Report "Future Use of Berths 4, 5 & 6", which is available on the States website: www.gov.gg/publicservices.
- 3.5.10 The berths need to be refurbished to give them an extended lease of life and to ensure that they are fit for purpose to take the new mobile cranes. Three berths are required to allow Guernsey Harbours to meet the Bailiwick's needs.
- 3.5.11 Berth 4 is the preferred Lo-Lo berth and therefore the preferred berth. However, it has been established that the number of occasions where it has been necessary to utilise both berths 4 and 5 simultaneously was sufficiently frequent to warrant provision of two fully functioning berths as a minimum.
- 3.5.12 No comparable commercial harbour would rely on only one Lo-Lo berth and it would not be acceptable for Guernsey to be relying on one berth as a long-term strategy because the risk would outweigh any cost saving.
- 3.5.13 Provision of only a single berth, like a single crane, was considered to represent an unnecessary exposure to single point failure, and an economically inappropriate risk.
- 3.5.14 It is recognised that Berth 5 has operational limitations caused by water depth and length restrictions and there are no other realistic alternatives. Hence the Island is already not fully resilient for Lo-Lo; for example, if Berth 4 became unusable for a period of time.
- 3.5.15 No 6 Berth has the least flexibility of the berths, as it has limited depth of water and minimal shore access. It is unsuitable for use by anything other than those vessels loading for Sark or Herm. However, the Harbour Master states that it must be retained because the land area at Berth 6 is a location where Sark cargoes can be separated from Alderney and UK cargoes. This operation is different from the handling of Unitised Cargo and not suitable for unloading by the new cranes, which is why a portal crane is being retained. To provide an example, these cranes are designed to lift the weight of the Sark boat and not boxes of confectionery.
- 3.5.16 Loss of this land area would cause further congestion at St Peter Port Harbour because the work would have to be done on Berth 4 or 5, which would add an additional layer of complication arising from the existing unsatisfactory multiple utilisation of space for cargo handling.

- 3.5.17 Berth 6 also provides the only means of access to the operationally vital Signal Station, without which safe management of harbour entry, exit and operations would be very difficult. It is the equivalent of an airport's control tower and because of the technology needed to support it, its relocation would require the construction of a new Signal Station and be considerably more expensive than refurbishing Berth 6.
- 3.5.18 Berth 6 also strengthens the outer sea wall, which acts as a breakwater sheltering St Peter Port Harbour. Even if Berth 6 were not refurbished, the project would need to engineer the retention of the sea wall because it performs a vital marine function in providing substantive weather protection for the whole of the main harbour. Along with the other berths, it contributes to the income that is generated by the most significant revenue streams, including Ro-Ro, freight income, fishing, and local and visiting marina dues.
- 3.5.19 The New Jetty Berths 1 and 2 could not service the Island's Lo-Lo needs because they do not have the required structural capacity to handle safely the weights of Lo-Lo cargo; they have no cranes and such arrangements would be incompatible with the requirement to handle passengers.
- 3.5.20 This project cannot reduce the available space by reducing the number of berths. The freight area would become even more confined because, as outlined earlier, freight amounts are increasing and the loss of a berth would further decrease the area available for safe operation.

4. Options for meeting Guernsey Harbour's strategic needs

- 4.1 A number of options for meeting Guernsey Harbour's needs were considered during the assessment of this project. These have been measured against the need for the project and more specifically the critical success factors listed on the next page that were identified in the early stages of the project's life.

In summary these are shown in table 4.1.

Table 4.1 – Options Analysis

Option considered	Outcome	Reason
Do nothing	Rejected	Does not satisfy Critical Success Factors (see below). The cranes and berth structures need work to ensure a reliable Lo-Lo facility.
Source similar cranes	Rejected	Cranes of the existing type are no longer manufactured and would not be preferred due to the adverse affect of their support columns on the layout and use of the freight yard. Crane selection is covered in Section 4 of the Future Use of Berths 4, 5 & 6 report and includes consideration of harbour mobiles; rail mounted portal cranes; a bespoke derrick crane to replace the existing, and a pedestal crane using the existing derrick concrete columns and foundations.
Acquire new cranes but do no berth work	Rejected	The berth structures have insufficient strength to support planned loads. Even if bespoke derrick cranes were acquired the decks at Berths 5 and 6 would continue to deteriorate and be able to accept lower and lower loads until the decision was taken to either repair or replace the decks.
Repair existing berths and provide new cranes	Recommended Solution	Satisfies the Critical Success Factors. Further details in Section 5.
Rely on Ro-Ro freight only	Rejected	This was explored fully and the conclusion was that there was no realistic possibility of Lo-Lo volumes collapsing or all existing Lo-Lo imports being suitable for transfer to a Ro-Ro service.
Lo-Lo at St Sampson	Considered	Considered in Future Harbour Requirements Study. Currently discounted on the basis of the time it would take to prepare a Lo-Lo facility at a new port and also the predicted cost of a new facility.
Only refurbish 2 berths	Considered	This matter was considered by the Department but it was decided to retain Berth 6 because whilst money could be initially saved, it would expedite the need for the States to find increased space for freight operations in the near future. There would also be significant cost in relocating the Signal Station and retaining the sea wall, without Berth 6 to support it.

5. Critical Success Factors

- 5.1 The Critical Success Factors (CSFs) can most concisely be summarised as securing a reliable long term solution for the handling and storage of essential maritime commercial trade without significant disruption to existing freight traffic and commerce.
- 5.2 This project is dependent upon essential areas of activity that must be performed well to ensure success, as shown in table 5.1.

Table 5.1 – Essential Areas of Activity to Ensure Success

Critical Success Factor	Description
<i>CSF1</i>	Reduced operating costs
<i>CSF2</i>	Maintain reliable Lo-Lo freight operations
<i>CSF3</i>	Extended operational life of the berths (incl. capacity)
<i>CSF4</i>	Lowest practical capital costs

- 5.3 Key Performance Indicators (KPIs) can be associated with each of the above CSFs. Monitoring these KPIs will help demonstrate that the objectives stated within this business case are met and allow early intervention should performance of a KPI not achieve the specified target.
- 5.4 KPIs and proposals for monitoring them are detailed in table 5.2.

Table 5.2 – Key Performance Indicators & Monitoring Proposals

CSF	KPI	Monitoring
<p>CSF 1 – Reduced operating and maintenance costs</p> <p>Savings should be made in parts and consumables as well as staff costs relating to maintenance, crane drivers and staff assisting in the loading/unloading of containers.</p>	<p>KPI 1a Crane operating costs (excluding maintenance). Target: £50,000 / annum less than existing.</p> <p>KPI 1b Crane maintenance costs. Target: £20,000 / annum less than existing.</p>	<p>The measured costs in these areas can be compared with previous costs.</p>
<p>CSF 2 - Maintain reliable Lo-Lo freight operations</p> <p>The down time for the new cranes will be compared with the existing down time for each existing crane and should show a reduction. However, even this will not give an entirely accurate picture as the reliability of the existing cranes will continue to deteriorate if they are not replaced.</p>	<p>KPI 2a Downtime, defined as unavailability of cranes at the time of berthing. Target: Less than 5 vessel berthings per annum.</p>	<p>Data recording on the new cranes will be more sophisticated than for the existing cranes and figures for downtime, both planned and reactive maintenance and repair, will be recorded and compared with the data for the existing cranes.</p>

CSF (cont.)	KPI (cont.)	Monitoring (cont.)
<p>CSF 3 – Extended operational life of berths (including capacity)</p> <p>There are two elements to this CSF:</p> <p>a) <i>Structural life of the berths</i></p> <p>The installation of Impressed Current Cathodic Protection systems (ICCP) will both protect the repaired concrete structures from deterioration of embedded steel and the steel sheet piles from accelerated Low Water corrosion.</p>	<p>KPI 3a Record number of level adjustments to ICCP system / annum. This should decline over the first few years then stabilise. Target: Average of 0.25 adjustments per protected zone / annum.</p> <p>KPI 3b By recording reduction in anode dimensions, estimate annual loss of zinc anodes: Target: Will be advised by the chosen contractor based on the detailed design of system.</p>	<p>The monitoring of the long term performance of the structures is difficult to measure directly; however, indirect indications can be obtained from the performance of the ICCP system. Reference electrodes within the structure will allow testing, and if required, adjustment of the levels, along with confirmation that protection is being provided Monitoring will also occur by recording the consumption rate of zinc anodes.</p>

CSF (cont.)	KPI (cont.)	Monitoring (cont.)
<p><i>b) Capacity of the berths (throughput and storage behind the berths)</i></p> <p>Throughput onto/off vessels is to match the current combined performance of the cranes. The storage area, both in terms of the number of ground slots available, and the number that can be reached by the crane, can be measured and will be significantly improved by the proposed solution.</p> <p>This improved efficiency in the use of the freight yard will create more available space in the port secure area.</p>	<p>KPI 3c Record maximum loading / unloading rates over a 20 minute period. Target 10 movements.</p> <p>KPI 3d Record complaints from shipping companies relating to loading / unloading rates. Target : None</p>	<p>The performance of the port mobiles will be monitored by the unloading and loading times for visiting vessels. This is probably the main performance measure for the Guernsey Harbour's customers. The crane performance against the specification will also be checked although this is part of the commissioning and hand over tests. Health and Safety statistics should also be monitored for the operation of the overall Lo-Lo facility.</p>

CSF (cont.)	KPI (cont.)	Monitoring (cont.)
<p>CSF 4 – Lowest Practicable Capital Costs</p> <p>There are two elements to this CSF. Firstly ensuring that the scope of the project is controlled so that superfluous elements are not incorporated. Secondly, that the design, tendering and construction of the project results in the lowest practical capital costs.</p> <p>This acknowledges an implicit link with CSF1 with capital and operating costs being balanced to give lowest whole-life costs.</p>	<p>KPI 4a</p> <p>Control construction costs.</p> <p>Target: Final project costs to be within project budget.</p>	<p>The performance against the capital cost success factor can be measured by benchmarking against other projects and pre-tender estimates. There is always a difficulty in identifying similar projects and allowing for any additional costs for working on Island.</p> <p>The post-tender project estimate shows that the project estimate is now considerably below the pre-tender estimate which indicated that competitive tenders have been obtained.</p> <p>Monitoring of costs and scope will continue throughout the construction phase to ensure that costs are kept as low as practical.</p>

5.5 Risks of proceeding / not proceeding

- 5.5.1 The main risk of not proceeding is that one of the derrick cranes will suffer a terminal mechanical fault and that a breakdown and subsequent maintenance work on the remaining crane will lead to longer periods of time when there is a negligible Lo-Lo facility available in the Island.
- 5.5.2 In the longer term the ongoing deterioration of the concrete structures will lead to weight restrictions being imposed on the structures which are currently used for the storage of both Lo-Lo loads and Ro-Ro traffic. This will affect the operation of the port and require that additional port area is made available, meaning that Guernsey Harbours will need to take over part of the North Beach Car Park.
- 5.5.3 The risk presented by proceeding is that there will be a breakdown of a crane whilst the works are under way but this will always be the case and is reduced by undertaking the work promptly. The risk is also managed and reduced through the way the Department has scheduled the works.
- 5.5.4 A further risk is that the works cost more than expected if they are delayed. Again this is best managed by proceeding promptly. The condition of the concrete structures will continue to deteriorate and, at this stage in the economic cycle, the Department has received very competitive tender prices.

6. States Strategic Objectives

- 6.1 The Department develops policy in accordance with States Strategic Objectives and this project will be developed against a number of the 2010 States Objectives, principally under the heading of Economic and Fiscal Policy.
- 6.2 As highlighted in the “Project Rationale and Brief”, this section of St Peter Port Harbour is a vital piece of infrastructure that needs to be refurbished to improve operational efficiency, thereby meeting the States Objective of providing “Modern key strategic infrastructure, with public capital investment averaging 3% of GDP”.
- 6.3 The project is also relevant to:
- *“Maintenance and enhancement of Guernsey’s standing in the global community”.*
- 6.4 Failure of the existing infrastructure leading to an extended loss of Lo-Lo freight import and export handling facilities could cause reputational damage to the Island.
- *“Co-ordinated and cost-effective delivery of public services”*

- 6.5 Addressing the deterioration of the structures whilst they can still be repaired is more economic than waiting until their condition is so poor they need to be demolished and replaced. The operational and maintenance costs of the new cranes will also be lower than for the existing cranes.

- *“Conserve energy and switch to cleaner fuels”.*

- 6.6 The new cranes will be more efficient, thereby bringing about energy savings and offer the flexibility of being powered by either diesel or electricity, although it is unlikely that they will be powered solely by electricity in the foreseeable future.

7. The preferred solution

7.1 The Proposal

- 7.1.1 Condition assessments of the berths have identified a high number of areas where remedial work and future maintenance is required. The condition of the berths, especially the concrete structures, is poor with extensive corrosion of the embedded steel

- 7.1.2 Consequently, this proposal recommends the following work:

- Repair of reinforced concrete decking at Berth 4 including installation of Impressed Current Cathodic Protection (“ICCP”) system;
- Removal of existing concrete landing and an area of quay surfacing and replacing with a reinforced concrete suspended slab at Berth 5;
- Repair of concrete deck and landing stages at Berth 6 to include installation of ICCP system;
- Supply of two Mobile Harbour Cranes;
- Removal of two Derrick and two rail mounted Portal Cranes;
- Rearrangement of the freight yard to provide sufficient Ground Slots to meet the range of forecast demand over the next 20 years;
- Installation of new lighting to Berths 4 and 5 and the freight yard; and
- Installation of services from substation to new crane positions, lighting columns and reefers.

- 7.1.3 In addition the project has identified work which would not otherwise be carried out but is necessary to facilitate the work outlined above, namely the installation of revised service ducts for services currently crossing the freight yard.

7.2 Replacing the cranes

7.2.1 After establishing the need to replace the cranes, and looking at future Lo-Lo freight requirements, a comprehensive range of crane options was considered

7.2.2 The following crane types have been reviewed:

- Mobile Harbour Cranes
- Rail Mounted Portal Cranes
- Bespoke Derrick Cranes (to duplicate existing)
- Fixed Pedestal
- Telescopic Jib (Fixed or mobile)
- Combinations of types and sizes have also been reviewed.

7.2.3 The Department has required that the cranes be supplied with automated spreaders which allow the crane driver to attach, lift, lower, rotate and release containers without assistance.

7.2.4 The Department also examined the option of purchasing second-hand cranes but had to rule this out as the project will need the chassis of the cranes to be adapted to suit the load carrying capacity of Berth 4. This will require additional travel wheels and also that the spacing of the load spreading pads is a multiple of the spacing of the main beams underneath the Berth 4 slab. Consequently this option was ruled out as capital cost savings would be outweighed by reduced reliability, increased operational costs and difficulty in obtaining a warranty for the cranes.

7.2.5 It was concluded that harbour mobiles were the preferred option. It should be noted that the harbour mobiles are less expensive than the alternative rail-mounted cranes and will allow for a sufficient cargo storage area for the predicted growth identified in the market study.

7.2.6 This cost of purchasing two diesel-powered harbour mobile cranes is €4,356,659. (Based on Sterling equivalent of £3,788,400 at €1.15/£1 at the time of writing.)

Crane power

7.2.7 The existing derrick cranes are powered by electricity, one alternating current (AC) and the others direct current (DC). The new mobile harbour cranes can be supplied configured for diesel only, or diesel and electric (AC).

7.2.8 The States noted the Policy Council's Energy policy report in 2008, which includes the action point: to "switch progressively to clean renewable energy sources". The current source of this is "green" electricity from the cable link

with France but owing to an increase in energy costs and Guernsey Electricity's mandate to produce electricity at the lowest cost, on-Island generation has increased. The Guernsey Renewable Energy Commission report of October 2009 suggests that no energy from renewable sources will be available until at least 2014. However, it has been suggested that this date will not be met and that the generation of readily available "green" electricity is still a way off.

- 7.2.9 Given the uncertainty of when "green" electricity will be readily available; the costs associated with installation of the cables and installation; the additional costs for the crane to accommodate electricity; and the carbon footprint of the required infrastructure the Department considered it prudent to assess the options.

Electric options

- 7.2.10 To provide electricity to the crane locations on both berths 4 and 5 will require the installation of suitable supply cables and electrical equipment.
- 7.2.11 Low voltage (LV) supply was considered but the distance from the substation to the Berth 5 crane is too far to take this slightly cheaper option. The high voltage (HV) supply would also allow the movement of the substation away from the cranes in any future reorganisation of the freight yard and customs shed.

Port Infrastructure to support the powering of the cranes

- 7.2.12 There were three options for the port infrastructure that supports the new cranes.
- a) To install the necessary cables, switches, transformers and connectors necessary for the cranes to be electrically operated as part of the new/refurbishment works contracts
 - b) To install only ducts, cable trays, manholes and plinths necessary to install electric supply at a later date.
 - c) To leave the installation until the future when there is a firm commitment to power the cranes by electricity.
- 7.2.13 Option C would be unnecessarily disruptive as it would require areas of the berths to be closed off to allow installation causing disruption to port operations and cause damage to the surfacing, some of which is being replaced as part of the existing contracts. The total cost of installing the cables by this method would be significantly more than either of the other two alternatives.
- 7.2.14 The choice of whether to proceed with option A or B is inextricably linked to the chosen powering method for the cranes.

Crane installation

7.2.15 There were three options for how to equip the new cranes:

1. To have the crane fully equipped to run off an HV supply.
2. To have cable trays, connections and the like installed in the crane so that HV is a relatively simple retrofit.
3. To have the crane supplied to be powered by diesel only.

7.2.16 The advantages of powering the cranes with an HV supply are explored in Table 7.1.

Table 7.1 – Advantages and Disadvantages (HV supply)

Advantages	Disadvantages
<ul style="list-style-type: none"> • If the ducts are installed as part of the proposed works disruption to both the port operations and the pavement structure will be minimised. • Electrical supply is consistent with States Energy Policy • Cranes in electrical operation will be quieter than diesel operation • Maintenance requirements for running by electric will be significantly less. • Option on fuel choice, this reduces the risk of the crane being out of operation during power cuts. • Reduced running costs. 	<ul style="list-style-type: none"> • Increased initial cost

Cost / Benefit

7.2.17 The crane suppliers have provided prices for full electrification and also for the option allowing easier electric retrofit.

7.2.18 The financial costs of installing HV supplies and having the HV equipment installed in the cranes as part of the existing Berths 4 5 & 6 project are explored in Section 16.10 of this report.

7.2.19 This financial analysis explores capital costs and the expected maintenance and operating costs for both diesel and electricity. However, these are only predictions, albeit based on experience of other cranes. The Department cannot

confidently predict the future diesel and electricity costs but it is likely that the relative costs will remain similar.

- 7.2.20 Based on this assumption the analysis, based on the Gottwald HK170 crane is that providing the cranes with both diesel and electric power will cost in the order of £90,000 / crane over a 20 year operational life. This costing is however remarkably sensitive to the Maximum Demand charges which are levied by GE for 5 months a year over winter. The estimate above allows for both cranes being simultaneously operated at maximum demand. If, during the 5 months over winter, maximum demand could be limited to one crane at a time electric cranes would each be £85,000 cheaper than diesel over a 20 year life.

Conclusion

- 7.2.21 Electrification, given some management of maximum demand use during the winter months, has a similar higher whole life cost to a diesel only solution. The operational advantages of running on electricity and having dual fuel ability support the selection of the electric dual fuel option albeit that it will incur additional capital expenditure.

7.3 Berths and quays

- 7.3.1 The cranes depend on the strength of their supporting structures for their load carrying capability. The choice of crane and the refurbishment of the harbour berths are therefore inextricably linked because the deployment of harbour mobiles at St Peter Port will need to be supported by the load bearing capacity of the quay structure.
- 7.3.2 A condition assessment of the berths was carried out and has identified a number of areas where remedial work and future monitoring and maintenance is required.
- 7.3.3 The basis for the proposed maintenance and repair is explained initially in the Future Use of Berths 4, 5 & 6 Report and summarised in the recommendations [FUB 2.9]. The actual specification of the work and quantification of the amount of work is based on as-built drawings, site observations and detailed and comprehensive investigations into both the condition of the structures and the ground.
- 7.3.4 To summarise, the concrete structures on Berths 4 and 6 are to be repaired whilst that on Berth 5 is to be replaced as part of an enlarged loading platform on which to place the Berth 5 mobile crane whilst it is operating.
- 7.3.5 Advantages of replace and repair are listed in Table 7.2.

Table 7.2 – Advantages of Replace and Repair

Repair	Replace
Less disruption	Gives opportunity to optimise the structure to suit future use
Usually a cheaper solution	
Some structural strength remains during the repair to resist berthing loads	

7.4 Repair to No. 4 Berth

- 7.4.1 Repair to the underside of the concrete deck where the reinforcement is starting to corrode is essential. This should be extended to those areas not currently showing sign of corrosion. The Halcrow report on Berths 4, 5, and 6 of 2008 describes repair options and methods.
- 7.4.2 The knuckle between Berths 4 and 5 requires repair and protection to reduce corrosion.
- 7.4.3 In summary, Berth 4 requires reinstatement work to regain the original design specification and would also benefit from the installation of a cathodic protection system which would prevent any further corrosion and extend the life of the structure. The cost for the works to Berth 4 and 6 is £3,559,000.

7.5 Replacement of No. 5 Berth

- 7.5.1 No. 5 Berth is largely an original blockwork gravity retaining wall with a landing stage at the middle of the berth. The paved area landward is heavily worn where settlement has occurred; however the quay wall is in good condition.
- 7.5.2 Berth 5 does not currently have sufficient capacity to support the loads associated with new mobile harbour cranes.
- 7.5.3 The contract for the work on Berth 5 is in two parts. The main part is the construction of a concrete slab supported on new piles founded on the underlying rock. This will require the demolition and removal of an existing slab over a landing jetty and also an area of ground slab. This piece of work is complicated by the need for the installation of new rotary bored piles.
- 7.5.4 The contract also includes the installation of manholes and ducts in which to install services to all three berths. The main risk for this work is the discovery of uncharted services.

7.6 Berth alignment

- 7.6.1 Three options for Berth 5 were reviewed in the Future Use of Berths 4, 5 & 6 Report and a fourth option was subsequently added in the Future Harbour

Requirements Study. The first two options retained the existing berthing line, whilst the third and fourth looked at advanced berthing lines, the first advancement sufficient to avoid a row of low level sheet piles at the toe of the existing masonry wall and the second to make Berth 5 a straight extension of Berth 4.

- 7.6.2 The minor advancement would remove current berth occupancy restrictions at low spring tides and give a small increase in container storage slots whilst the second would add a large area of suspended deck, for use as container storage, and also add an additional berth between the realigned 5 and existing Berth 6.
- 7.6.3 All three alignments are included within the FHR, [*FHR 5.1*]. Copies of the berth layouts are included in Figures 7.1, 7.2 and 7.3.

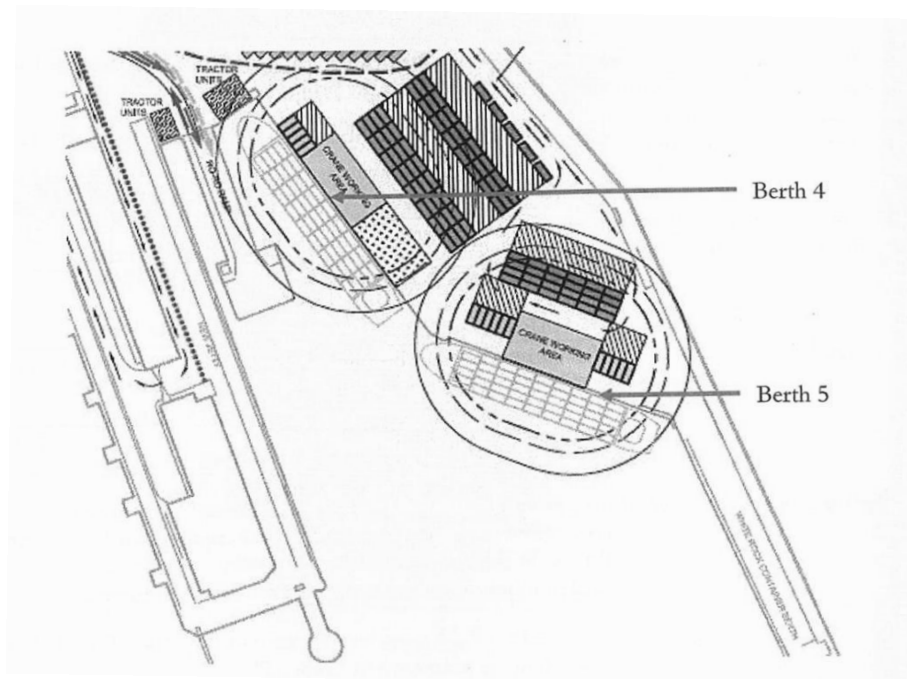


Figure 7.1 – Berth Layout, Alignment One

Table 7.3 - Cost estimates for maintaining Lo-Lo and Ro-Ro at St Peter Port Harbour

Description	Costs (£)			
	Option 1.1	Option 1.2	Option 1.3	Option 1.4
Berth 4, Knuckle and Berth 6 works	6,628,000	6,628,000	6,628,000	6,628,000
Berth 5	950,000	3,707,000	7,256,000	7,256,000
Landside works	5,331,750	5,331,750	5,331,750	14,041,100
Total:	12,909,750	15,666,750	19,215,750	27,925,100

7.64 Table 7.3 clearly demonstrates that option 1.1 is the cheapest.

7.65 Option 1.1 does not address the limited depth of water at Berth 5 which can affect occupancy at low spring tides. This is an existing restriction which has been managed in the past. The use of mobile harbour cranes should reduce the risk of this tidal restriction impacting operations. Currently if there is a breakdown of the Berth 4 derrick crane all vessels have to use berth 5 to unload medium weight loaded containers.

7.66 In the future a breakdown of the crane at 4, as long as it does not affect its mobility, could be managed by moving the Berth 5 crane onto 4.

7.7 Navigation

7.7.1 By not moving the existing berth lines the risk that adjustments to the berths could affect navigation is removed, although, this is not considered likely to be a problem.

7.8 Flexibility

7.8.1 Maintaining the existing berths does not rule out future realignment of the berths as a suspended slab deck could be constructed in front of Berth 5 but, whether the option 1.2 or 1.3 was followed, their primary justification would probably be to take increased vessel sizes as their costs when looked at in relation to the additional container area that they give is unlikely to compare well with the alternative option of moving the trailer storage area.

7.9 Safety and efficiency

7.9.1 The layout shown in 1.1 will allow the new cranes, with their automated spreaders, to lift containers off the vessels and place them into the slots behind the berth in one movement and without the level of stevedore assistance currently required.

7.9.2 Apart from the improved safety of operators from using the automated spreader there will also be improvements in efficiency as the number of steps is reduced and also a considerable reduction in staff requirements.

7.9.3 It can also be seen from the diagram how operating the two berths and two cranes allows the optimum container stacking over the whole freight yard. If a single berth was used then the area out of range of the crane on that berth would have to be stacked by forklift which is not as efficient.

7.9.4 The cost for the works to Berth 5 and the freight yard is £1,305,000.

7.10 **No. 6 Berth**

7.10.1 Berth 6 has a more limited use. It is primarily involved with the berthing of Sark boats and the storage and handling of General Cargo items for Sark. It also provides access to the Signal Station.

7.10.2 It is a gravity retaining blockwork structure. The fill behind the walls is of poor quality and is described on old drawings as 'rubbish filling', which is quarry rubble. There is severe cracking along the concrete floor of the lower landing level which would appear to have occurred a long time ago. There are no signs of recent movement.

7.10.3 The quay wall appears in good condition. The topsides show evidence of significant settlement at various locations, although none of it appears to be recent.

7.10.4 Corrosion to the supporting beams and columns needs to be arrested and concrete repairs carried out.

7.10.5 Berth 6 cannot be upgraded to have the strength required for passage of large mobile harbour cranes. The Department has decided to leave the portal crane on Berth 6 to manage the freight for that berth at the present time but remedial works will still be required.

7.10.6 The works proposed for Berth 6 are limited to the minimum required to maintain its long term use. This is the repair of the reinforced concrete structure. If this work is not done at some stage then the Sark operations will have to move to another berth. This may be manageable but the cargo handling processes are somewhat different to those on berths 4 and 5 which are dominated by 20ft containers. The Harbour Master has stated that Berth 6 needs to be retained if the efficiency of Berths 4 and 5 is to be maintained and not compromised. It will also allow it to operate efficiently, to retain storage space, and the safety of the Sark shipping operators, which operate a more manual handling approach to Lo-Lo cargo.

- 7.10.7 There are clear similarities between the repair work required at Berth 6 and that at Berth 4. The most effective way of carrying out these repairs is at the same time as Berth 4 where the mobilisation costs for concrete repair and the installation of CP systems can be shared between the two berths.

7.11 **Freight Yard**

- 7.11.1 Additional facilities, which are recommended for inclusion in the yard include;

- Lighting – to operate at two levels of illumination; for security and operation

- 7.11.2 Lighting is required to operate safely. It is currently fixed to the derrick cranes so new lighting columns will be needed to illuminate the yard. The facility to reduce light levels to the minimum required for security has immediate cost savings as well as reducing light overspill and the impact of the port on the St. Peter Port nightscape.

- Leaky container catchpits

- 7.11.3 St Peter Port Harbour does not currently have any “leaky container” pits. They serve two anti-pollution purposes, firstly to catch any leaks and secondly to securely hold the leaks until a disposal route can be agreed.

- 7.11.4 The provision of this facility would help contain and reduce the impact of any spill from a leaky container. This might be especially relevant should containerised waste be shipped through the port but, at a cost of £35,000 for two, it is considered prudent to construct these as part of the development.

- Reefer container connection points

- 7.11.5 There has been demand from shipping companies for reefer connections. These are for connecting refrigerated containers to the power. There is the potential for the demand for this facility to escalate once local customers know there is a reliable route for chilled containers. The current proposal is to install a single reefer point that could deal with up to four containers and to allow capacity within the infrastructure for the installation of further reefer points in the future.

7.12 **A summary of the benefits of this project**

- 7.12.1 The refurbishment of the Berths, replacement of the cranes and reorganisation of the freight yard will ensure that, with appropriate ongoing monitoring and maintenance, the facilities being upgraded within the project will service the Island’s needs for at least 20 years.

- 7.122 The strengthening of the Berths and installation of ICCP systems will ensure that the load bearing capacities of the structures are sufficient to meet the loads expected at the Berths both at present and projected for the next 50 years.
- 7.123 The proposed works will ensure that Berths 4 and 5 and the freight yard behind them will be able to meet operational requirements, including forecast freight increases, during the expected life of the structures set out by the project. If the Lo-Lo freight volumes increase towards the upper end of the forecast range then the area of the freight yard may have to increase.
- 7.124 The purchase of the new cranes will eliminate the current risks attributable to the current operation of, and reliance upon, obsolete equipment.
- 7.125 The replacement of the St Peter Port Harbour cranes and associated works to the quays, as set out in this report, are therefore considered to be essential for the long-term viability of the Harbour and of the Bailiwick in general.
- 7.126 The immediate benefits expected as a result of this project are;
- Reduced maintenance costs for the cranes;
 - Increased crane reliability;
 - Reduction in number of crane drivers needed;
 - Improved safety from using automated spreader to latch on to containers; (Currently operatives have to place hooks at each corner.)
 - Increased freight yard capacity, improved arrangement;
 - Reinstatement of design strength for berth structures at 4 & 6;
 - Improved load capacity at Berth 5;
 - Repair and control of Accelerated Low Water Corrosion to steel piles;
 - Increasing the remaining life of the structures at Berths 4, 5 and 6; and
 - Refurbished fender systems to Berths 4 & 5.

8. Programme

8.1 Phasing of works

- 8.1.1 The Berths 4, 5, and 6 refurbishment works are to be undertaken in phases to allow the import of freight to continue whilst the works are in progress. There will be a significant disruption to the port operations and consideration has been given to the best ways of mitigating this disruption. A phasing study has been undertaken and a preferred sequence has been determined.

- 8.1.2 The Project Programme can be found in Appendix 3. The project programme has to phase the three contracts. The plan, at the highest level is shown in table 8.1.

Table 8.1 – Project Plan at Highest Level

Work item	Lo-Lo facility available whilst work item is carried out:
Refurbish Berth 5 including installation of the crane slab. [contract 1]	Existing Berth 4 and associated derrick and portal cranes. Berth 5 Derrick crane provides some breakdown cover.
Land, erect and commission the first new crane at Berth 5. Dismantle Berth 5 Derrick and Portal cranes. [contract 2]	Existing Berth 4 and associated derrick and portal crane.
Refurbish Southern end of Berth 4. [contract 3]	New Berth 5 and mobile crane. Berth 4 derrick provides some breakdown cover
Land, erect and commission the new crane at Berth 4. Dismantle Berth 4 Derrick and Portal cranes. [contract 2]	New Berth 5 and mobile crane
Complete refurbishment of Berths 4 and 6 including commissioning of Cathodic Protection System. [contract 3]	New Berth 5 and mobile crane. Southern end of Berth 4 and berth 4 mobile crane provide breakdown cover
Project complete	Refurbished Berth 4 and new Berth 5 together with new harbour mobile cranes.

9. The need to relocate freight

9.1 Phasing of works

During the project to refurbish Berths 4, 5 and 6 at St Peter Port Harbour, construction works will necessitate the removal of some of the secure working area. Given that the area is already congested and at the very limits of safe working practices, it is inevitable that the Harbour will have to find space elsewhere in order to ensure continuity of port operations and to continue to comply with the requirements of the Department for Transport (DfT) Maritime Security's requirements.

- 9.2 At times, three contractors will be on site and this will make the total area available for handling cargo smaller, so that even with the existing co-operative working practices, it has been concluded that insufficient space will be available to safely work cargo within the constraints of the existing secure area. This will disrupt port operations, to varying degrees, for a period of up to three years.
- 9.3 A number of meetings were held to identify, assess and evaluate the various options available. The relevant stakeholders, particularly the Department of Transport (DfT) Maritime Security (formerly TRANSEC), the Guernsey Border Agency and Guernsey Commercial Port Users Association have considered the

available options and layouts in order to ensure that the contractual needs of the project can be reasonably met without compromising either the day to day port security or safety in operation of the working harbour.

9.4 Area required during project

- 9.4.1 The maximum area to be lost at any one time during the contract is 3,547m². The areas required for the works to progress safely during the project lifetime in terms of providing sufficient area for harbour operations has been calculated as 3,260m², which can be broken down as shown in table 9.1.

Table 9.1 – Areas for Works to Progress Safely

Area	m²
Approximate area of freight storage lost	2,600
Approximate area required for access road	460
Approximate area required for fencing, lighting etc	200
Approximate Total area required	3,260

- 9.4.2 The space chosen must be able to store thirty-six 14m unaccompanied Ro-Ro trailers, which will be stored in a herring bone pattern. The trailers will be delivered to the area as part of the unloading of Ro-Ro freight vessels. This is typically over a period of 1 hour starting at approximately 3am and 4pm each day. “Port tug” vehicles will be used to take the trailers to the park.
- 9.4.3 Given that there is no other area of this size in the confines of St Peter Port Harbour, particularly as the area would have to be sectioned off as a controlled area, it has been concluded that there is no option other than to use a section of the North Beach Car Park on a temporary basis for the duration of the project, which is anticipated to be 30 months. This area equates to 203 car parking spaces. A plan of the area in question is attached as Appendix 4.
- 9.4.4 In addition to the space required for the compound, there is, as mentioned above, the need to create an access road to replace the road that will no longer be accessible to traffic that runs along the back (eastern side) of the current car park. The need for continued commercial secure access to and from the annexed area makes public use of the existing eastern access road untenable for both traffic and pedestrian safety/security reasons. A temporary public footpath would need to be created to permit safe pedestrian access past the temporary area.
- 9.4.5 Although there will be times of day when the areas allocated will be relatively clear, the nature of Harbour operations, and the need to be able to meet unexpected space requirements, together with the necessity to provide a secure compound to comply with maritime security regulations and health and safety legislation require that the space is dedicated to freight storage.

9.4.6 It is recognised that the temporary loss of car parking occasioned by these essential works will have an impact on and be a significant inconvenience to many Islanders and businesses. The Department has therefore considered a number of options aimed at minimising that inconvenience.

9.5 Initial options considered

9.5.1 Table 9.2 shows a brief summary of the most realistic options considered by the Department.

Table 9.2 – Summary of Realistic Options

Option	Primary considerations	Reason for rejection
Assign spaces allocated for port users to general public	Impact on business (Harbours and users), cost	n/a – adopted
Reduction in areas set aside for boat lay-up adjacent to model yacht pond	Loss of income, inconvenience to boaters	n/a – adopted
Use of Cambridge Berth area	Impact on business, health and safety (“H&S”)	Heavily commercial area presents H&S risks
Use of East Arm	Business impact, H&S, accessibility	Not easily accessible, utilised by primary port users, space allocated to Airport 2040 project
Use of Fish Quay spaces	Impact on business, H&S	H&S risks are deemed too great
Implement Park and Ride at Val des Terres	Accessibility, environmental issues, cost	Cost – estimates range up to £500,000 for running service and preparing/reinstating site.
Use of an area of Beau Sejour car park	Distance from town, impact on Culture & Leisure business	Impact on Beau Sejour. Car park often full for events, etc.
Leasing of land elsewhere for Park and Ride Schemes	Availability of suitable premises, cost	Limited areas indentified. Areas would require significant investment to be suitable. £150,000 cost of operation.

9.6 Use of Harbour land

Having given careful consideration to the above options, the Department believes that it is necessary for the Harbours to try to replace as many spaces as possible without having a significant detrimental effect on Harbour operations or placing a disproportionate cost burden on the project. Use of Harbour land will provide the least cost option compared to all other options considered and have the least impact on the public, given the proximity of Harbour land to the likely destinations of those requiring the spaces that are required for the annex.

9.7 Spaces available

- 9.7.1 Around St Peter Port Harbour, Guernsey Harbours controls approximately 400 parking spaces. Many of these are subject to restrictions such as being positioned in restricted areas or where access is difficult. There are also a number which are provided under longstanding tenancy arrangements with port businesses. This limits the number which can be suitable to be used as public parking for the duration of the project.
- 9.7.2 For example, 117 spaces have been designated as having difficult access and have also been set aside for temporary storage use during the Airport 2040 project. A further 82 spaces have been discounted on Health and Safety grounds owing to the areas being heavily commercialised by harbour operations, such as on the Fish Quay.

9.8 Recommended spaces

- 9.8.1 Of the remaining spaces, it is considered that the following could, with careful management on the part of Guernsey Harbours, be allocated to public parking for the duration of the project.

Table 9.3 – Remaining Parking Spaces

Location	Spaces available	Type of space	Spaces suggested	Annual Loss of income (£)
Salerie Corner	6	Guernsey Boatowners' Association (GBA)	3	1,100
	5	Marine Traders	2	
Left Hand side of North Arm	12	Marine Traders	6	
	15	Port Permits	15	7,800
Right Hand side of North Arm	60	Port Permits	30	13,530
	6	Port Permits	2	2,080
New Jetty	7	GBA	7	3,210
Round Top	2	Marine Traders	2	
Crown Pier	11	Port Permits - Staff	6	
Albert Pier	3	Marine Traders	3	
Wave Wall Castle emplacement area by Fish Quay area	18	Port Permits	18	
	69	Fishermen	15	
Seasonal Boat Lay-up area Castle Emplacement	40	Seasonal Public parking	40	
Total spaces available			149	27,720

9.8.2 It should be noted that a proportion of income to Guernsey Harbours will be lost and this should be considered a cost to the project. However, this project cost is far less than any of the other options that were considered initially.

9.9 Degree of mitigation

9.9.1 Of the 203 spaces that the project is proposing to utilise for the temporary storage areas, the above solution provides 73% of the spaces lost to the public during the winter months and 54% in the summer months (owing to the Castle Emplacement spaces being available in the summer in normal conditions).

9.9.2 It should be noted that the 40 spaces at the Castle Emplacement are available during the summer but have been excluded from the calculation as they are effectively not “new” spaces. The option therefore still exists to designate the spaces for whatever time period the Environment Department would wish to recommend.

- 9.9.3 Whilst it is true that many of these spaces are being created by reallocating spaces currently taken by specific users rather than offering areas where no vehicles currently park, it must be remembered that the spaces being re-allocated are not in constant full-time use and, as such, the provision of these spaces should be a useful mitigation measure.
- 9.9.4 It should also be noted that the spaces identified above are indicative and it should not be considered that only these spaces in the exact configuration set out will provide the solution for the entire duration of the project. The Harbour reserves the right to change the exact spaces offered up, although it will always try to ensure that the maximum number of spaces is available. At times, for example, it is anticipated that some of the annexed area on the North Beach could be handed back for parking for a period, in which case these spaces would be used in addition to those given up that are ordinarily under Harbour control.

9.10 Conclusion

- 9.10.1 There is an essential requirement to provide additional storage for inbound freight for duration of the Berth 4, 5 & 6 Project. As stated above, it is clear that failure to achieve an appropriate standard of port security for this temporarily displaced freight, in compliance with international obligations could result in substantive disruption to routine schedules. Such disruption will result in significant additional cost in respect of freight, and delay to passengers.
- 9.10.2 It is with this compliance issue at the forefront that the Public Services Department has concluded that a section of the North Beach Car Park needs to be temporarily annexed to become part of the harbour secure area for the use of inbound freight. This option offers the least requirement for increased security with all outbound vehicles, containers and cars being able to be held prior to departure in the existing restricted area. This minimises project cost implications and also guarantees Guernsey Harbours' continued DfT/IMO Maritime Security accreditation, in itself a vital necessity to the Bailiwick logistical supply chain and safe, if not efficient, operation of the port.

10. Project Management

10.1 Project Monitoring

- 10.1.1 The Public Services Department recognises that major capital projects for which it is responsible need to be properly managed and controlled. Having agreed that the replacement of the cranes and the repair of their supporting structures are essential, the Department established a Project Board, which acted as a central point of contact with regard to the crane replacement project and provides regular reports and recommendations to the Department. The mandate and membership of the Project Board are attached.

11. Strategic risks

11.1 Project Monitoring

11.1.1 There are few strategic risks associated with completion of the project. These are limited to:

- Possible overrun of the project budget;
- Failure of either the structure of the berths or the crane(s) prior to completion;

11.2 Project Budget

11.2.1 The project budget is based on the tendered sums but the States retains some risks which could result in an increase in the final cost of the project. The identification, evaluation, mitigation and control of these risks are a key part of the management of this Project. The Project Board believes these risks have and will be controlled by the extensive survey work and site investigation already carried out to give the most accurate information on the condition of Berths 4 and 6 and the comprehensive supervision that the project is currently benefitting from and is proposed for the construction phase. Nonetheless an appropriate risk contingency needs to be allowed as, based on experience gained by the States on prior similar projects, some of these risks will arise. This risk contingency includes a particularly careful examination of the cost of any increase in concrete repair quantities and specific allowance has been made for this. However this, as is the same for any other project's risk contingency, does not guarantee that the total risks that arise will not exceed the risk contingency.

11.2.2 This project has also utilised guidance from the Office of Government Commerce (OGC) in regard to the final outturn cost of projects as compared with the budget estimates at any stage of the project. Records show that there is a tendency for the final outturn costs to exceed interim budgets. This variation has been titled 'Optimism Bias'. As the project gets closer to tender the Optimism Bias reduces however even after tender, for well managed projects with careful consideration of risk, the records show that a small optimism bias should be allowed. For a non-standard civil engineering project, which is the category this project falls into, the recommended allowance is 6%.

11.3 Failure of structure or cranes

As detailed above there is a risk that the existing structure, or more probably the cranes, will suffer a failure or deterioration that imposes weight limits or other restrictions on the operation of the Lo-Lo facility. The precautions to reduce this risk include proceeding with this project to refurbish the structures and replace the cranes and to continue the existing maintenance and repair activities in the interim.

12. Project dependencies

- 12.1 In 2007, the Future Use of Berths 4, 5 & 6 Report reviewed future cargo throughputs and operations which work was further developed by the Future Harbour Requirements Study in 2010. Further research, albeit with different aims, has been carried out in 2011, the results of which are reported in the Fisher Report on Commercialisation Options.
- 12.2 All have identified that the current proposed project is an integral part of the future overall development of the St Peter Port Harbour, both in terms of commercial opportunities and safe operation of the transit of goods and passengers.
- 12.3 The reports identify several projects that, whilst not dependent specifically on the completion of the works (i.e. requiring the berths' space), remain part of a bigger picture which relies on this project to facilitate movement of goods.
- 12.4 The future relocation of commercial port operations is a risk but a study carried out for Guernsey Harbours concluded that there were significant cost and navigational problems should Lo-Lo move from St. Peter Port although the mobile harbour cranes proposed could be moved to a new location, as discussed in the Future Harbour Requirements Study, 2010.

13. Gateway Reviews

- 13.1 In accordance with recommendations contained within Construction Codes of Practice, a Guernsey Gateway Review process has been undertaken on the project at critical stages to provide assurance that it continues to have merit and can progress through its stages.
- 13.2 The final Gateway Review is 'red' for a variety of reasons. Subsequent and significant action has been taken in recent weeks to seek to address the reasons for the "hold" status. A further Gateway Review Panel assessment has been made and notes that the Gateway 3 recommendations have been recognised and accepted and that the Panel are more reassured than they were at Gateway 3 on the likelihood of a successful outcome on this project
- 13.3 The Department has undertaken to resolve the remaining issues ahead of the consideration of this report by the States.

14. Risk Register

- 14.1 In planning the Future Crane and Quay Strategy, the Department has been conscious of other recent ports projects which, for various reasons, have not been completed on time and within budget. To protect against this, Halcrow and the Department have identified items of risk which were considered and closely monitored by the Project Board during the course of this project.

- 14.2 All risks have an associated cost which is built into the indicative budget for the project. Regular review of the risk register is carried out to help ensure that risks are identified and then managed either to reduce the probability of them occurring, to reduce their impact if they do and that the risks are placed with the party best placed to manage them.
- 14.3 This project has followed the United Kingdom Office of Government Commerce (OGC) advice on allowing for Optimism Bias in estimates as the project is developed. The advice for Non-Standard Civil Engineering projects with effective project and risk management is that 6% should be allowed at the time of Contract Award. This has therefore been applied to the tendered sums (in addition to identified risks in the risk register that form part of the contingency). This 6% has been incorporated into the contingency sum associated with the project and is detailed in the financial section of this report.

15. Consultation

- 15.1 Substantive useful and objective input was received from the Guernsey Commercial Port Users Association which has assisted in the resolution of many of the issues associated with delivering this project. Their assistance and co-operation will continue to be required while the works are ongoing.

16. Procurement

16.1 Tender Documents

- 16.1.1 Prior to the receipt of the tenders a tender evaluation methodology was agreed for each contract. The team from Halcrow undertook the tender reviews utilising specialist advice from their team as appropriate for each contract. Additional reviews of the tender submission were undertaken by representatives from the Guernsey Harbours, States Property Services and the Law Officers.
- 16.1.2 On receipt, the tenders for each contract were examined and scored by the Halcrow Evaluation Panel in order to rank the tenders. A draft report was produced for each contract. These recommended that clarifications be sought from some of the higher scoring companies and that Contractors' suggestions for cost savings were investigated. The draft reports were considered and agreed by the Project Board. For the crane tender the maintenance and warranty sections were scored by the Guernsey Harbours and the Law Officers respectively. During the next stage there were a number of tender clarifications issued and meetings were held with the highest scoring contractor for both the Berth 4 & 6 and Berth 5 contracts. The final reports recommended a preferred contractor or supplier for each of the contracts. These final reports included the results of reviews of potential cost savings and, where judged appropriate, led to revised tender sums.

- 16.1.3 It was agreed that tenderers would be asked to submit a commercial proposal (the cost submission) along with a quality submission.
- 16.1.4 The quality section is not primarily about the quality of the finished product since the specification, in most cases, set out the standard required. For a construction contract the quality assessment concentrates on the assessment of the contractor's proposals for carrying out the works. Put simply, the Department sought a contractor who demonstrated that it had understood the Department's requirements and had the methodology, skills, resources and programme to deliver it.
- 16.1.5 The Project Board agreed that the price/quality splits shown in table 16.1 be used on each aspect of the Project:

Table 16.1 – Price/Quality Splits

Contract	Quality	Price
Crane supply	60	40
Berth 5 reconstruction	60	40
Berths 4 & 6 refurbishment	70	30

- 16.1.6 The Engineering and Construction Contract with Bill of Quantities [ECC, Option B] was selected for the Berth 5 and Berth 4 and 6 contracts and the Supply Contract was chosen for the cranes. Berth 4 and 6 includes an element of Contractor's design, which relates to the Cathodic Protection (CP) system for the reinforced concrete structures.
- 16.1.7 Provision was also made that a contractor could have submitted competitive tenders for both the Berth 4 & 6 contract and the Berth 5 contract to allow it to offer a discount if it was awarded both contracts.
- 16.1.8 External consultants were appointed to provide specialist services in regard to the investigation of the future requirements for Lo-Lo, condition assessments of the cranes and structures, options for delivering a Lo-Lo facility, development of specifications and tender documents and evaluation of tenders.
- 16.1.9 Reports produced during the development of this project include;
- *Condition Assessment, August 2007*
 - *Future Use of Berths 4, 5 & 6, November 2007*
 - *Future Harbour Requirements Study, September 2010*
 - *Structural Investigation, October 2010*
 - *Factual Report on Ground Investigation, April 2010*

- *Desk Study for Potential Historic Munitions and Explosives of Concern Contamination, October 2009*

16.1.10 Following receipt and analysis of the pre-qualification questionnaires, tender documents were issued to five contractors for the Berth 4 & 6 contract, five for the Berth 5 contract and 2 suppliers for the crane contract.

16.2 Tender evaluation

16.2.1 Tenders were received from two contractors for Berth 4 & 6, four for Berth 5 and two for the cranes. The tenders were as follows:

Berth 4, 6 and the Knuckle

Table 16.2 – Tender Prices

Tenderer	Tender Price
Concrete Repairs Ltd.	£3,558,840.78
Freyssinet Ltd.	£5,464,896.00

16.2.2 The low number of returns was disappointing. Contractors who opted out quoted their lack of experience of this highly-skilled specific concrete repair technique, workload and the requirement to appoint a specialist sub contractor for the repair works.

Berth 5 and the Freight Yard

Table 16.3 – Tender Prices

Tenderer	Tender Price
Dawson WAM	£1,304,556.35
Geomarine Guernsey	£2,039,134.00
Lagan Construction	£1,762,759.29
Trant Construction	£1,683,883.57

Crane Supply

Table 16.4 – Tender Prices

Tenderer	Tender Price Option A1(a) + Option B1(a)	Tender Price Option A1(b) + Option B1(b)	Tender Price Option A1(c) + Option B1(c)
Liebherr	€4,886,159	€4,923,311	€5,273,455
Liebherr Alternative Crane	€4,081,159	€4,118,311	€4,468,455
Gottwald Port Technology	€4,299,659	€4,361,659	€4,577,659

16.23 Prior to the receipt of the tenders a Tender Evaluation Panel, and evaluation methodology, was agreed for each contract. Each Panel included representation from Guernsey Harbours, States Property Services and Halcrow.

16.24 On receipt the tenders for each contract were examined and scored by the Tender Evaluation Panel in order to rank the tenders. A draft report was produced for each contract. These recommended that clarifications be sought from some of the higher scoring companies and that Contractors' suggestions for cost savings are investigated. The draft reports were considered and agreed by the Project Board. During the next stage there were a number of tender clarifications issued and meetings were held with the highest scoring contractor for both the Berth 4 & 6, and Berth 5 contracts. The final reports recommended a preferred contractor or supplier for each of the contracts. These final reports included the results of reviews of potential cost savings and, where judged appropriate, led to revised tender sums.

16.3 Best and Final Offer for each contract

16.3.1 Following the above process, and financial checks on the preferred tenderers, the Department approved the selection of preferred contractors.

16.3.2 The principal contract costs of performing the works and the preferred contractor approved by the Public Services Department are as shown in table 16.5 (indicating preferred contractors only):

Table 16.5 – Principal Contract Costs

Contract	Contractor	Cost (£'000)
Berths 4, 6 and the Knuckle	Concrete Repairs Ltd.	3,559
Berth 5 and Freight Yard	Dawson WAM	1,305
Cranes (sterling equivalent at €1.15/£1)	Gottwald Port Technology	4,033
TOTAL		8,897

16.4 Financial and Resource Management

16.4.1 This project involves extensive refurbishment of berths and the acquisition and of two new Port Mobile Cranes. The project has gone out to tender so the costs included in this case are full tendered costs. This case examines the service, overall affordability and cost of the proposal over the life of the asset in question, and aims to answer the question 'how much will it cost?'

16.5 Summary of project costs

16.5.1 Table 16.6 below indicates the total project costs:

Table 16.6 – Total Project costs

Pre-tender costs incurred		£
Surveys	Ground investigation	354,363
	Structural investigation	171,371
Consultants' Fees	Halcrow Limited	800,000
Contingency and miscellaneous costs		56,500
		1,382,234
Post tender costs		
Contracts	Berths 4, 6 and Knuckle	3,558,841
	Berth 5 and freight yard	1,304,556
	Cranes (€4,637,659 @1.15)	4,032,747
	Other minor contracts	714,630
<i>Total contract spend</i>		<i>9,610,774</i>
Fees	Supervision	1,079,000
	Communications and other minor fees	135,000
<i>Total fees spend</i>		<i>1,209,000</i>
<i>Contingencies</i>	Risk register based	607,223
	OGC Optimism bias	533,769
	Concrete Repair quantities risk	327,000
<i>Total contingencies allowance</i>		<i>1,467,992</i>
<i>Total post tender costs</i>		12,292,766
Total estimated cost of project		13,675,000

16.6 Costs already incurred

- 16.6.1 At the time of writing, an approved budget of £1,382,000 has been allocated in accordance with the States of Guernsey Rules and Directives.
- 16.6.2 These sums have been allocated and consumed principally by the Project Consultants, Halcrow Limited, whose total cost before the project commences the construction phase is expected to be £800,000.
- 16.6.3 The other principal costs incurred to date on the project are shown in table 16.7.

Table 16.7 – Other Principal Costs Incurred

Company	Predicted final cost
Norwest Holst Soil Engineering (ground investigation)	£354,363
CRL Surveys Limited (structural investigation)	£171,371

16.7 Other project costs

16.7.1 Chief among the other costs associated with the project will be the supervision of the site and the contractors. This cost is anticipated at £1.08m. Modest other fees will be incurred to the amount of £135,000 and these will cover communications, project administration, meetings and other ad hoc costs.

16.8 Cash flow profile

16.8.1 The anticipated cash flow profile of the project is as shown in Table 16.8.

Table 16.8 – Anticipated Cash Flow Profile

Project costs					
	2011 £'000s	2012 £'000s	2013 £'000s	2014 £'000s	Total £'000s
Capital Costs					
Consultants	1,382	-	-	-	1,382
Berths 4, 6 and knuckle	-	600	1,900	1059	3,559
Berth 5 and freight yard	-	1,305	-	-	1,305
Crane installation	-	2,016	2,017	-	4,033
Minor contracts	-	290	250	174	714
Supervision	-	340	500	239	1,079
Other fees and costs	-	50	50	35	135
Contingencies	-	490	579	390	1,459
Total project costs	1,382	5,091	5,296	1,906	13,675

16.9 Assumptions made

16.9.1 As the majority of the costs associated with this project have already either been tendered or are fees based on a fixed percentage of the contract prices, there are no material assumptions that have been made.

16.9.2 Some costs have been estimated, as have the monetary value of the risk register. These are sufficiently detailed in the project management case (within the register itself).

16.10 Current and future costs and revenues

16.10.1 This project has attached to it certain financial benefits. Table 16.9 details the current income derived from the berths and Lo-Lo freight and the associated costs of the operations. It also estimates what the new costs will be once the project is complete. No allowance for inflation has been made. Forecast increases in freight have been included.

Table 16.9 – Current Income and Associated Costs of Operations

	Current Situation 2011 £'000	Future situation 2014 £'000	Future situation 2015 £'000	Future situation 2016 £'000	Future situation 2017 £'000	Future situation 2018 £'000
Lo-Lo - Incoming	371	430	451	474	498	523
Lo-Lo - Outgoing	37	43	45	47	49	51
Quay Space charges	3	7	7	8	8	9
	411	480	503	529	555	583
Staff Operations	320	357	269	282	295	309
Maintenance:						
Labour Old	43	15	16	17	18	19
Labour New	-	-	10	10	10	11
Materials	23	21	22	23	24	25
Finance crane (dep'n 20 years)	4	4	4	4	-	-
Finance berth (dep'n 50 years)	78	-	-	-	-	-
Finance crane (dep'n 25 years)	-	160	160	160	160	160
Finance berth (dep'n 50 years)	-	180	180	180	180	180
Electrical Old	9	4	4	4	4	4
Electrical New	-	45	45	45	45	45
Training	5	2	2	2	2	3
	482	788	712	727	738	756
Net profit/(loss) on ops	(71)	(308)	(209)	(198)	(183)	(173)
Asset value of cranes old	410	20	15	10	5	5
Asset value of cranes new	-	4,000	3,840	3,680	3,520	3,360
Asset value of freight berths	3,890	12,655	12,475	12,295	12,155	11,975
	4,300	16,675	16,330	15,985	15,680	15,340
Return On Investment (%)	(1.65)	(1.85)	(1.28)	(1.24)	(1.17)	(1.13)

- 16.10.2 It should be noted that the return on investment is negative, both currently and when the project is completed. Although this is not an ideal situation, it must be remembered that the purpose of the Harbours and in particular the operations of Berths 4, 5 and 6 and the cranes is not necessarily to maximise revenue, but to ensure the safe and efficient delivery of materials and goods to the island.
- 16.10.3 In addition, there is a stated objective that the Harbours of St Peter Port and St Sampson's combined generate a net profit of 5%. This is an objective that it has been able to make despite the contribution of the Berths function above.
- 16.10.4 The outer wall structure, of which the berths form an integral part, perform a vital marine function in providing substantive weather protection for the whole of the main harbour. Therefore, these berths contribute to the income that is generated by the most significant income stream of the harbours, including Ro-Ro, freight income, fishing, local and visiting marina dues.
- 16.10.5 The return on the investment made as a result of this project should therefore be read in the context of the overall return on the Harbour and also reflects the strategic necessity that the berths and the cranes represent.

17. Funding mechanism

- 17.1 In advance of appointing specialist consultants, the Public Services Department had recognised that major construction works costing multiple millions of pounds would be required. In this respect, it had provisionally estimated and set aside, a budget of £4million for these works to be funded from the Ports Holding Account.
- 17.2 As detailed in the 2008 States Report, it became clear that the cost would be significantly higher and the work would stretch over a longer period of time than estimated. The best estimate at 2008 prices for the cost for the work undertaken to Berths 4, 5, and 6, plus the purchase of two new cranes was £10million, which was noted by the States.
- 17.3 Since 2009, the Crane and Quays project has formed part of the States of Guernsey Capital Prioritisation process. The Project was accepted as a 'Priority 1' proposal with a reserve of £10 million set aside for the project.
- 17.4 Two external factors have influenced it in the intervening years. These are inflation which, at 3% per annum, has added about £1.6m and adverse changes to the Euro exchange rate which have increased the crane costs (which are quoted in Euros) by about £0.8m.
- 17.5 The nett effect of these external factors is that the project cost would have been expected to increase from £10,000,000 to £12,400,000.

- 17.6 The more efficient use of the freight park also allows for a higher income / m² although, as Guernsey Harbours have a monopoly on freight in and out of the Island, this will not increase income. However, it is indicative of more efficient use of the area available for storage at St Peter Port Harbour and will tend to delay any increase in the area required for port operations whether that be through reclamation or adjustment to the boundary between the port and the North Beach Car Park.
- 17.7 The funding for this project will be recovered from charges levied by Guernsey Harbours. Such charges will be reviewed and adjusted as necessary in future.

18. Housing licences

- 18.1 Any licence will only be issued if it can be demonstrated to the satisfaction of the Housing Department that there is no suitable local labour available. It is anticipated that a maximum of three essential licences may be required in respect of specialist staff and that several short-term licences may be needed to fill manpower shortages in certain areas. The Department will make every effort to ensure its contractor uses local labour wherever possible.

19. Environmental considerations

- 19.1 There are two main environmental considerations for this project.
1. Overall environmental impact of the project
 2. Specific environmental issue/concerns of the proposed works.
- 19.2 The first consideration required a submission to the Environment Department for an assessment of whether an Environmental Impact Assessment (EIA) screening needed to be carried out. The Environment Department determined that the project did not require an EIA to be undertaken.
- 19.3 With regard to the second consideration, the works are all within a working harbour and the proposals do not extend the area of the existing facilities. Consequently, there are few environmental issues to address in this context.
- 19.4 The works are to be carried out in a manner that mitigates the impact of the works on the environment. The contract documents specify the necessary requirements with regard to limiting environmental impact.
- 19.5 The pieces of work which could have an impact are the demolition of the existing landing stage on Berth 5 and the repairs to Berth 4/6 which also require more localised removal of the existing structure to facilitate the necessary repairs.
- 19.6 Under the specification for the works it is clearly defined that all debris must be removed from the site and disposed of at the appropriate site. Any material that

is not successfully contained must be retrieved by the contractor. Inspections will be carried out after the works to ensure that the debris is retrieved. The contractors will be putting in place methods for containing the debris including the by-products of the hydro demolition process.

- 19.7 The products proposed in the new works, primarily steel and concrete, are materials already commonly used in harbour environments.

20. Recommendations

- 20.1 The Public Services Department recommends the States:

- a) To approve the Crane and Quay Strategy as set out in this report.
- b) To approve the acceptance of the tenders from Concrete Repairs Ltd for Berths 4, 6, and the Knuckle, Dawson WAM for Berth 5 and the Freight Yard, and Gottwald Port Technology for the purchase of two mobile cranes.
- c) To approve a capital vote for the Crane and Quay Strategy of £13,675,000 charged to the accounts of the Harbour of St Peter Port.
- d) To authorise the Treasury and Resources Department to transfer a maximum sum of £13,675,000 from the Capital Reserve to the accounts of the Harbour of St Peter Port in respect of this project.

Yours faithfully

B M Flouquet
Minister

Other Members of the Department are:

S J Ogier, Deputy Minister
T M Le Pelley
A Spruce
J Kuttelwascher

Appendix 1**PRINCIPLES OF GOOD GOVERNANCE****Compliance with the Principles of Good Governance**

In accordance with Resolution VI of 2011 (Billet d'État IV, 2011 refers) this annex sets out the degree to which the Public Services Department considers that the Report complies with the six principles of good governance as detailed in the aforementioned Billet d'État.

Core Principle 1 – Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users.

The Department develops policy in accordance with States Strategic Objectives and this project has been developed against a number of the States Objectives. It will refurbish a vital piece of Guernsey's key infrastructure.

It includes the replacement of cranes, which have passed the end of their working life and refurbishing the berths to allow a more efficient transfer of freight at St Peter Port Harbour. This project fulfils an element of the Public Service Department's mandate and the outcome will produce a more efficient and safer working environment which will benefit the citizens and service users.

Core Principle 2 – Good governance means performing effectively in clearly defined functions and roles.

The project has progressed under the authority of the Chief Officer with the responsibility for achieving a successful outcome delegated to the Project Board in accordance with Prince2 principles. The contract will proceed to the construction phase under the control of the Project Manager assisted by the Project Team. This includes quantity surveying and design support provided by consultants. Each member of the Project Board and Project Team has a clearly defined role which is on record.

Core Principle 3 – Good governance means promoting good values for the whole organisation and demonstrating the values of good governance through behaviour.

The tender assessment was carried out by a Tender Panel comprising staff from the Treasury and Resources Department, Public Services Department and the Department's consultants. In this way expertise from across States Departments was combined and used to achieve good value for the States as an organisation.

Core Principle 4 – Good governance means taking informed, transparent decisions and managing risk.

The States of Guernsey has delegated to the Public Services Department the responsibility for the execution and delivery of the project. In turn, the Public Services

Department has set up the Project Board and Project Team to manage the project. All decisions are recorded in meeting minutes which have been available for inspection thus achieving transparency. The project risks have been logged and are being managed to ensure that adequate resources are available to cover problems which may arise.

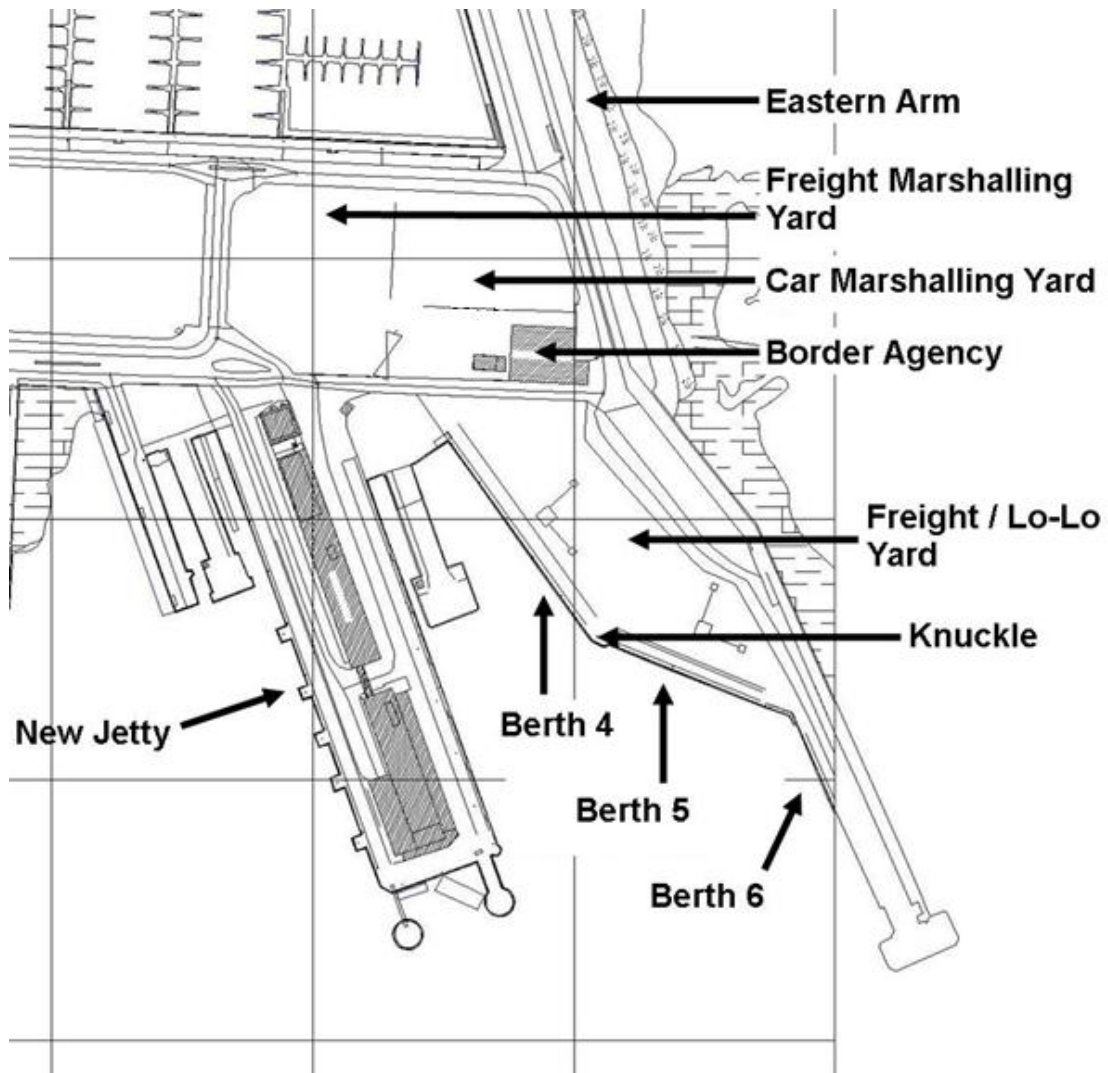
Core Principle 5 – Good governance means developing the capacity and capability of the governing body to be effective.

The opportunity for corporate capacity development was taken by involving engineers from the Treasury and Resources Department in the Tender Assessment Panel. This process required the detailed examination of tenderers proposals for this relatively complex project and would have broadened the experience of those involved.

Core Principle 6 – Good governance means engaging stakeholders and making accountability real.

Stakeholders including users at St Peter Port Harbour, the Environment Department, and the Guernsey Commercial Port Users Association have attended meetings to be given an explanation of the project and to be kept up to date with progress.

Accountability has been kept real by the Project Board being given a written mandate by the Public Services Department to be responsible for the successful delivery of the project. Success will be able to be measured against the Critical Success Factors for this project.

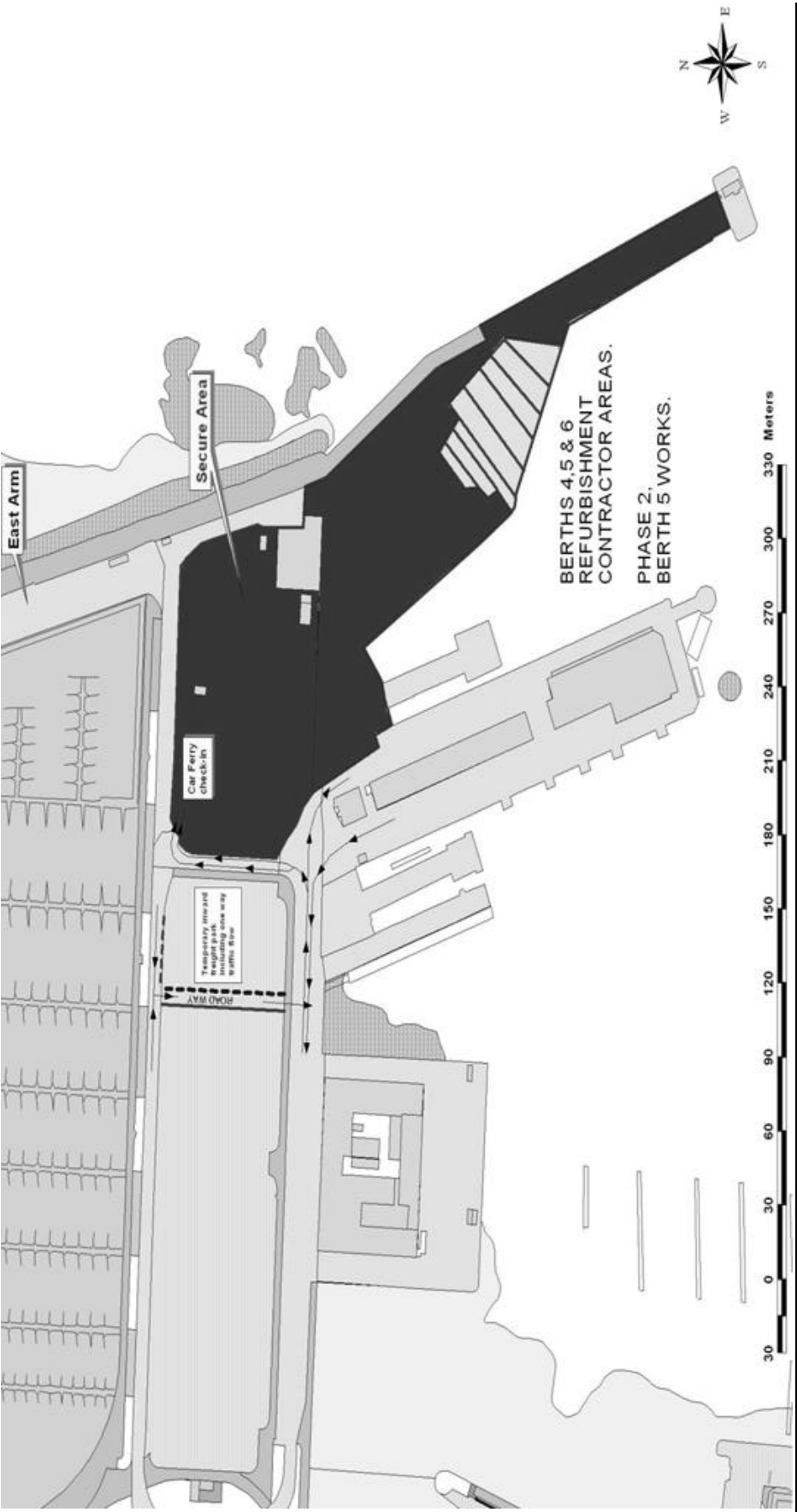
PLAN OF THE AREA OF WORKS

Appendix 3**PROJECT PROGRAMME**

Scope of Works	Commencement	Completion
Berth 5		
Phase 1	April 2012	July 2012
Phase 2/3	July 2012	November 2012
Crane A - Delivery/commissioning Removal of existing Cranes on berth 5	December 2012	February 2013
Berths 4/6		
Phase 1	March 2013	September 2013
Crane B - Delivery /commissioning Removal of existing cranes on berth 4	September 2013	November 2013
Phase 2	September 2013	February 2014
Phase 3	February 2014	July 2014
Commissioning of CP system	July 2014	August 2014

Appendix 4

PLAN OF THE AREA FOR RELOCATED FREIGHT



Appendix 5**PROJECT BOARD MANDATE****St Peter Port Harbour - Refurbishment of Berths 4, 5 and 6.****Function**

The Project Board is accountable to the Public Services Department for all aspects contributing to the successful outcome of the project. It is a decision making body not a discussion group.

Membership

- Minister, PSD – Deputy Bernard Flouquet
- Board Members, PSD – Deputy Tom Le Pelley & Alderney Representative William Walden (until December 2011)
- Board Member, Treasury and Resources Department – Deputy Roger Domaille
- Deputy Chief Officer, PSD
- Finance Director, PSD
- Harbourmaster, Guernsey Harbours
- Commercial Manager, Guernsey Harbours
- Project Services Manager, States Property Services
- Director, Commercial Law Department, St James Chambers

Project Scope

The scope of this project is to carry out essential refurbishment to the existing Berths 4, 5 and 6 in order to accommodate new cranes and to supply those cranes.

Authority

The Project Board members have the authority and responsibility to make decisions and provide commitment of resources (money, staff & equipment) to the project, as delegated by the Public Services Department and formally minuted. The limitations of that financial authority are defined by the project budget which shall be approved and confirmed by the Public Services Department.

The Project Board shall ensure that the project continues to represent value for money and follows a cost-conscious approach whilst balancing the needs of the business, the users and the States of Guernsey corporate objectives.

Role

The Project Board manages 'by exception' delegating the day-to-day running of the project to the Project Manager, who will liaise with the Deputy Chief Officer as client representative. The DCO will manage all client actions required to support the project.

A key role of the Project Board is project assurance and the Commercial Manager will lead this role.

Reporting

The Project Board shall report to the Public Services Department's Board.

Project Board members shall receive copies of the project manager's monthly progress reports. Any activities reported which a member or the project manager considers exceeds the tolerances delegated shall be raised with the Senior Responsible Officer, who may, dependent upon the significance of the issue with respect to agreed tolerances, convene a Project Board meeting to seek direction. All issues raised shall be shared with all Project Board members.

Main Responsibilities

Project Initiation

- Approve project start-up, business case, project brief & risk register
- Authorise the project - approve Project Execution Plan
- Approve detailed plan for Gateway reviews & funding requests to sponsoring Department board.
- Agree Project Manager's responsibilities, objectives and appointment
- Define and confirm project tolerances

Planning/ Development

- Ensure that the project remains on course to deliver the desired outcomes of the required quality to meet the requirements set out in the Business Case.
- Carry out Project Assurance role
- Give direction and guidance to the Project Manager including limits to delegated authority
- Re-evaluate project at end of each stage or following an Exception situation
- Approve detailed plan, commit to required resources and set tolerances for each stage
- Monitor all tolerances: time, cost, quality & risk
- Monitor external events which may affect the progress of the project and keep Project Manager informed
- Make decisions on project issues, such as changes or exception reports that are beyond the Project Manager's authority
- Liaise with Public Services Department (and other interested parties) on project progress

Project Closure

- Confirm that all products have been successfully delivered to the required quality
- Confirm operational and support groups are prepared to take responsibility for the project on completion, facilitate transition
- Bring project to a controlled close (or to premature close if Business Case is no longer valid)
- Approve Follow-on Action recommendations
- Agree schedule for Post Implementation Review (PiR)
- Authorise project closure

Specific Responsibilities

As well as the overall Project Board responsibilities, the individual members have specific responsibilities.

Meetings

Meeting frequency will be quarterly unless a stage boundary or exception dictates that decisions are required by the Project Board. The Project Director shall convene Project Board meetings.

Appendix 6**WHOLE LIFE COST OF THE ASSETS**

Below is a table that summarises the whole life costs of the preferred crane solution.

Assumptions	Operating hours of	2000	hours / annum
	Crane life of	20	years
	Staff cost of	30	£/hr
	HV tariff	0.127	£/kwhr
	HV peak demand charge	12.31	£/kw/month for 5 months a year
	Diesel	0.562	£/ litre
	Engine Oil	2.4	£/ litre
	EURO : POUND exch. Rate	1.1	euros to the pound

Capital Costs for two cranes				Electric	Diesel
11kV supply by GE				£55,000	
Port Infrastructure cable pillar				incl above £31,000	
HMK170E crane				€4,637,659	€4,356,659
Operating Costs for two cranes					
Unit				Electric	Diesel
rate					
£				Electric	Diesel
Electric	110	kW/hr average consumption	0.127	£1,117,600	
	143	kW peak demand	12.31	£352,066	
Diesel	35	l/hr average consumption	0.562		£1,573,600
engine oil	0.35	l/hr	2.4		£67,200
Maintenance Costs				Electric	Diesel
Engine oil changes. 2 per annum.					
	180	1 at 90l / change	2.4		£17,280
	18	hrs at 9 hours / change	30		£21,600
General engine maintenance					
	€1,150	Materials			€46,000
	70	hrs Labour	30		£84,000

Common Items				
€3,727	Materials		€149,080	€149,080
149	hrs Labour	30	£178,800	£178,800
Replacement Costs			Electric	Diesel
Annual - minor repair				
Diesel Engine				
€1,000	Materials			€40,000
15	hrs labour	30		£18,000
5 year planned work				
Common Items				
€16,180	Materials		€129,440	€129,440
165	hrs Labour	30	£39,600	£39,600
10 year planned work				
Engine overhaul				
€30,000	Materials			€120,000
100	hrs labour	30		£12,000
Common Items				
€36,271	Materials		€145,084	€145,084
215	hrs Labour	30	£25,800	£25,800
Total Costs for two cranes			Electric	Diesel
Euro items			€5,061,263	€4,986,263
Sterling items			£1,799,866	£2,037,880
Converting euros to pounds			£4,401,098	£4,335,881
Total whole life cost for 20 years			£6,200,964	£6,373,761
20 year whole life cost difference for Electric option			-£172,797	

Notes on the above figures:

1. All information on the table regarding consumption rates, material costs and labour rate are taken from a Gottwald Document “Lifetime running costs” which compare a diesel and electric HMK 170E Crane.
2. In practice, the diesel engine will be used to move the crane around; some servicing and maintenance will be required.
3. One of the key items is the maximum demand charge which is levied for 5 months during the winter.
4. Although there is information in the Gottwald documents regarding average demands the actual charge depends on the recorded maximum demand at the HV meter. The figure used in this illustration is the “Average Maximum” figure given for an 11kV HMK 170E Crane.
5. Maximum demand will depend on timing of use of all electrical items – and especially the simultaneous use of the port mobile cranes.
6. If it is unlikely that the cranes will be operating simultaneously then this can be halved.

(NB The Policy Council unanimously supports the proposals on the understanding that the Public Services Department has undertaken to resolve the remaining issues in regards to the Guernsey Gateway Review ahead of the consideration of the report by the States as stated in paragraph 13.3 of this Report.)

(NB The Treasury and Resources Department's comments are as follows:



Treasury and Resources
Sir Charles Frossard House
PO Box 43, La Charroterie
St Peter Port, Guernsey
GY1 1FH
Telephone +44 (0) 1481 717000
Facsimile +44 (0) 1481 717321
www.gov.gg

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

21st December 2011

Dear Chief Minister

PUBLIC SERVICES DEPARTMENT – GUERNSEY HARBOURS – CRANE AND QUAY STRATEGY

The Treasury and Resources Department recognises the need for the replacement of the cranes at St Peter Port Harbour and associated works required on Berths 4,5 and 6 and the proposed works are technically sound. It also recognises the need to commence this project as soon as possible as the failure of the existing cranes could cause significant problems importing goods into the Island.

After allowing for inflation and currency fluctuations affecting the purchase price of the new cranes the cost of the project is about £1million more than anticipated when the Capital Programme was approved by the States in 2009. The Treasury and Resources Department has updated the capital prioritisation funding model to include the revised cost and timing of this project and is satisfied that this project can proceed without affecting the other projects in the Capital Programme that are yet to commence.

This project has been subject to the Gateway Review process which provides assurance to all stakeholders that the project continues to have merit and that it can be justified on a 'business needs' basis with an assessment of the likely costs, risks and potential for success compared to the original brief.

Although the final Gateway Review was 'red' for a variety of reasons the Public Services Department has subsequently taken action to address a number of concerns raised by the Review Panel. The Treasury and Resources Department has concerns that the project has not yet obtained a 'green' status but is pleased to note that the Public Services Department has given an undertaking in its States Report that the remaining issues will be resolved ahead of the States debate.

The Treasury and Resources Department therefore supports the States Report subject to the Public Services Department, ahead of the States debate, satisfactorily resolving the outstanding issues raised by the Gateway Review Panel.

Yours sincerely



C N K Parkinson
Minister

The States are asked to decide:-

XII.- Whether, after consideration of the Report dated 7th December, 2011, of the Public Services Department, they are of the opinion:-

1. To approve the Crane and Quay Strategy as set out in this report.
2. To approve the acceptance of the tenders from Concrete Repairs Ltd for Berth 4 and 6, and the Knuckle, Dawson WAM for Berth 5 and the Freight Yard, and Gottwald Port Technology for the purchase of two mobile cranes.
3. To approve a capital vote for the Crane and Quay Strategy of £13,675,000 charged to the Accounts of the Harbour of St Peter Port.
4. To authorise the Treasury and Resources Department to transfer a maximum sum of £13,675,000 from the Capital Reserve to the accounts of the Harbour of St Peter Port in respect of this project.

PUBLIC ACCOUNTS COMMITTEE

RESCINDING RESOLUTION RE WALTERS REQUETE CONSTRUCTION OF THE NEW AIRPORT TERMINAL BUILDING

The Presiding Officer
The States of Guernsey
Royal Court House
St Peter Port
GY1 2PB

16th December 2011

Dear Sir

1. Executive Summary

- 1.1 The purpose of this Report is to seek agreement to rescind a 2004¹ Resolution of the States of Deliberation that requested the Public Accounts Committee (“the Committee”) to review the process leading to the award of the contract for construction of the new Airport Terminal Building.

2. Background

- 2.1 During the construction of the new Airport Terminal Building it was reported that some local firms were experiencing serious financial difficulties as a result of not being paid for work undertaken or services/materials supplied.
- 2.2 One of the subcontractors to the States appointed main contractor which was responsible for making the payments, itself experienced financial problems and later went into administration.
- 2.3 It was felt by a few States Members that as this was a States project, the Board responsible for the project ought to have ensured that the works were carried out by solvent contractors.
- 2.4 The States had a contract with a main contractor, which in turn had contracts with the subcontractors it appointed. Those subcontractors also then appointed secondary subcontractors where they deemed necessary. The States had no contractual arrangements with any of the subcontractors. Had the States interfered with the contractual arrangements between the main contractor and its subcontractors, or between those subcontractors and any of their subcontractors, the States could well have incurred legal problems.

¹ Billet d’État III, February 2004, pages 457-467.

2.5 In order to ensure that future States projects were carried out under strict financial regulation, in February 2004² the late former Deputy E.W. Walters and seven other Members submitted a Requête which proposed a review of the existing contract and changes to the financial conditions of contracts.

2.6 The States of Deliberation considered the Requête and resolved:

“to request the Public Accounts Committee (having taken advice from the Law Officers on the risk of prejudice to the States in any litigation or arbitration which may arise out of the project) to review, together with the States Treasurer, the process leading to the award by the States of the contract for construction of the new terminal building at the States Airport to Hochtief, with particular attention to the adequacy of any financial checks carried out on Hochtief on behalf of the States, and to report to the States thereon.”

2.6 At that time, the National Audit Office (“NAO”) was under contract to the Committee to conduct all reviews on its behalf. Although the NAO reviewed the historical files in order to commence a review, no report was forthcoming as any documents generated could have been ‘discoverable’ (ie, used in evidence) in any litigation that may have followed.

2.7 Settlement was reached with the contractors on 16 March 2007, at which time the NAO were in place to complete their work. However, on the advice of HM Procureur, because of possible action against the consultants directly employed by the States, this work was not carried out.

3. Review Update

3.1 The Committee has reported regularly since its first Annual Report in 2005³ that it would investigate further the overspend.

3.2 To date the Committee has been advised against carrying out this investigation due to the possible litigation, initially in relation to the contractors until settlement with them was reached in 2007 and, subsequently with the consultants involved in the contract.

3.3 Although communication between the Committee and the Public Services Department on this matter has continued, the Committee has been informed that there has been no further progress on the litigation/ mediation process. However, the matter remains ongoing and still is subject to confidentiality constraints arising from possible Court proceedings.

4. Developments

4.1 Since 2004, many lessons have been learnt from other projects and indeed the Committee itself has reviewed a substantial number of States capital projects including:

² Billet d’État III, Resolution 1 on Article XXI, March 2004.

³ Billet d’États XI, July 2005; XIII, July 2006; XX September 2007; VII May 2008; XXI Vol 2, July 2009; and XXI, December 2011.

- *Beau Sejour redevelopment*
- *St Sampson's Pumping Station and Fire main*
- *PEH Clinical Block*
- *Guernsey Integrated Social Security System*
- *Education Development Plan 1*

- 4.2 In June⁴ and September⁵ 2009 the States of Deliberation considered the capital programme and prioritisation process which introduced three gateway reviews (business justification, strategic fit and achievability and award decision).
- 4.3 The introduction of mandatory financial and resource management rules in November 2009⁶ encapsulated procedures for capital projects. Full financial checks, gateway and post implementation reviews now form part of the Construction Codes of Practices as mandatory directives accompanying the rules. Such a rigorous process means that it is not possible to progress to the next stage of a project unless a satisfactory standard of project and financial management has been reached.
- 4.4 It has become apparent to the Committee that the improvements in capital project and financial management already in place mean that to carry out this specific review as previously requested by the States would not provide value for money even when the legal constraints have been removed.

5. Conclusion

- 5.1 Pending conclusion of all legal action and with eight years already having passed since the Walters Requête was debated, the Committee still finds itself in the position of being unable to complete this review.
- 5.2 As a result of the progress made since the implementation of the States approved mandatory rules for the procurement of capital (and other) assets, the concerns raised by the Requête have lessened however, as with any project, a post implementation review will be required once the legal issues have been concluded.
- 5.3 The Committee's proposal to be relieved from the obligation to conduct the review requested in 2004 does not necessarily preclude a fuller review of the Airport Terminal Building development being undertaken by the Committee in the future should this thought to be of worth.
- 5.4 **Therefore, the Committee requests that the States rescind their earlier resolution that requested the Committee to review the process leading to the award of the contract for construction of the new Airport Terminal Building, with particular attention to the adequacy of any financial checks.**

⁴ Billet d'État IX, May 2009

⁵ Billet d'État XXVI, September 2009

⁶ Billet d'État XXXI, November 2009

6. Principles of Good Governance

The proposals made in this States Report are in accordance with the Principles of Good Governance as outlined in Billet d'État IV 2011, particularly Principle 4 "*taking informed, transparent decisions and managing risk*".

7. Consultation with the Chief Accountant and the Law Officers of the Crown

The contents of this report have been discussed and agreed with the Chief Accountant (as successor to the former office of States Treasurer) and the Law Officers of the Crown.

8. Need for Legislation

There is no requirement for legislation arising from this Report.

9. Recommendation

9.1 The Committee recommends the States:

"To rescind Resolution 1 on Article XXI of Billet d'État III of 2004".

Yours faithfully

Barry Paint
Vice Chairman

Public Accounts Committee:

Deputy Leon Gallienne (Chairman)
Deputy Barry Paint (Vice Chairman)
Deputy Mrs Jane Stephens
Deputy Martin Storey
Deputy Mike Garrett
Mr Michael Best
Mr Eifion Thomas
Mr Chris Bradshaw
Advocate Mark Helyar

Please note that due to conflicts of interest, the under mentioned Members of the Public Accounts Committee did not participate in the process leading to the production of this report:

Deputy Leon Gallienne	Reason: Signatory of the original Requête
Mr Michael Best	Reason: Former Vice President, Board of Administration

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 16th December 2011, of the Public Accounts Committee, they are of the opinion:-

1. To rescind Resolution 1 on Article XXI of Billet d'État III of 2004.

SCRUTINY COMMITTEE

SCRUTINY COMMITTEE 2011 PERFORMANCE REPORT

The Presiding Officer
The Bailiff's Chambers
Royal Court House
St Peter Port
Guernsey

9th December 2011

Dear Sir

1. Executive Summary

- 1.1. The Scrutiny Committee's Performance Report for the period between January and December 2011 is appended to this report. It documents the work undertaken by the Committee within this period and is the final performance report to be produced by the current Committee.

2. Introduction

- 2.1. In 2011, the Committee brought its in-depth reviews to a conclusion with a large volume of preparatory work and research culminating in detailed reports.
- 2.2. The Committee continued to scrutinise the reports contained in the States Billets d'État and make comments and recommendations to Departments and the States of Deliberation on matters such as whether adequate information had been provided and whether the propositions would give clear direction.

3. Work Programme in 2011

- 3.1. In its 2009 - 10 performance report, the Committee acknowledged that 2011 would be a challenging year for the Committee in which it intended to present a number of reports to the States. Limited resources were stretched further with the formation of the Joint Committees' Working Party on *Improving Governance* (para 3.12 refers).

- 3.2. A summary of the status of the Committee's major workstreams is listed below:

Guernsey's Planning Service: The 'Post-Shepley' Review Report
--

- 3.3. A review was carried out in 2008 on Guernsey's Planning Service by independent consultant Chris Shepley. The Committee carried out a follow-up to that review and reported in the May 2010 States Billet d'État on how the Policy Council and the Environment Department had responded to Shepley's recommendations and made recommendations of its own on how further progress could be made.
- 3.4. In line with the Committee's recommendations, the States of Deliberation directed:
- *"The Environment Department to report to the Scrutiny Committee by not later than December 2011 outlining a timetable for the implementation of the recommendations directed to it contained within the Review Report (as at pages 18 – 19 of Appendix One) and an update on progress."*
 - *"The Policy Council to report to the Scrutiny Committee by not later than December 2011, stating whether they have accepted or rejected the recommendations directed to it contained within the Review Report (as at page 18 of Appendix One) and where they have accepted the recommendations outlining a timetable for their implementation."*
- 3.5. The Committee will publish by March 2012 an update on actions taken by the Environment Department and the Policy Council.

School Exclusions and Disruptive Behaviour Review Report

- 3.6. The Committee agreed to assess the Education Department's "*Guidance and Procedures in Managing School Exclusions*" policy, together with other relevant policies and procedures, to consider their effectiveness in managing disruptive behaviour within the Bailiwick's schools under the Education Department's control.
- 3.7. Further to the hearings held with the Education Department in late 2010, the Committee embarked on an extensive public engagement exercise which concluded in March 2011.
- 3.8. The review report was approved by the full Committee in November 2011 and sent to the Education Department for comment. It will be published in the March 2012 Billet d'État.

Public Engagement Strategy and Report

- 3.9. The Committee published in October 2011 its 'Public Engagement Strategy' to develop guidelines to improve its processes for engaging the public in its business of holding departments to account for their performance.
- 3.10. Prior to assessing how other departments and committees engage with the public, the Committee felt developing its own strategy, and identifying best practice from other jurisdictions and engagement strategies, would enhance its ability to scrutinise current practices across the States of Guernsey.
- 3.11. In mid 2011, the Committee consulted with all departments and committees, and representatives of the media, to gain an insight into how effectively the States of Guernsey engages with the public. The results of this consultation will be included in a report which will be published in February 2012.

Joint Committees: Improving Governance in the States of Guernsey

- 3.12. In April 2011 the Joint Committees' Working Party¹ was formed to develop detailed proposals on how, in practical terms, the six Core Principles of good governance could be applied, and how compliance with them can be measured, within the context of Guernsey's system of government by committees and consensus.
- 3.13. As directed by States Resolution² the Joint Committees will be presenting their report to the March 2012 meeting of the States of Deliberation.

Staff Expenditure and Numbers Monitoring Report

- 3.14. The former Scrutiny Committee conducted a review into the Staff Number Limitation Policy and published its findings in February 2007³. As a result, the States directed the Treasury and Resources Department to report back with an alternative policy for controlling staffing numbers, taking into account the recommendations contained in the Scrutiny Review Report.
- 3.15. The Panel undertook research in 2011 to assess how the original recommendations made by the Committee have been implemented. In July 2011, it consulted with all departments and committees on their experience of the replacement Staff Number Limitation Policy.
- 3.16. The monitoring report on the replacement Staff Number Limitation Policy is being finalised and the Committee intends to publish it in early 2012.

¹ The Joint Committees' Working Party consisted of two members each from the Public Accounts, Scrutiny and States Assembly and Constitution Committees.

² Billet d'État IV March 2011

³ Billet d'État VI February 2007

Monitoring States Resolutions Review Report

- 3.17. There is currently no mechanism in place to allow an interested party to learn which States Resolutions have been fulfilled, and when, and which remain outstanding, and for what reason.
- 3.18. Work on Monitoring States Resolutions was postponed to prioritise other workstreams, most importantly to free up resources to support the Joint Committees' Working Party.
- 3.19. However, the Committee believes the monitoring of States' Resolutions would be improved through the production of a centralised database of all Resolutions. It will therefore draft a specification and costing for such a database in early 2012, and publish an interim report on the subject prior to the general election.

Additional workstreams

- 3.20. The Committee has continued to respond to topics of particular public interest as they have arisen. The additional workstreams undertaken by the Committee in 2011 are detailed in the appended report.

Monthly 'Billet Meetings'

- 3.21. The Committee has continued to hold meetings to examine each month's Billet d'État for 'scrutiny issues' such as "*are there any areas of policy that are inadequately addressed?*", "*has appropriate consultation taken place to reach the findings?*" and "*do the recommendations address the issues identified?*" A Panel of three Members meet in advance to identify potential scrutiny issues prior to presenting them to the monthly Committee Billet meeting for consideration. The purpose of this level of scrutiny is to increase the opportunities for the Committee to proactively comment on Departments' policies, and their development, prior to implementation and provide advice to the States of Deliberation accordingly.
- 3.22. In December 2010, the Committee resolved to invite the media to attend the Billet meetings to create a better understanding of the process of political scrutiny and enhance its openness and transparency. The first meeting to be attended by the media was on 16th March 2011.
- 3.23. In the absence of a Hansard, which the States has agreed to introduce as soon as possible, the Committee has published on its website a summary of the speeches made by members on its behalf in the States of Deliberation

4. Review of the Scrutiny Process

- 4.1. In the Public Accounts Committee's States Report⁴ entitled 'Governance in the States of Guernsey' it was suggested that:

"The powers, resources, mandates and effectiveness of the Scrutiny and Public Accounts Committees should be independently reviewed both as separate Committees and in terms of jointly providing a full scrutiny process on behalf of the States of Guernsey."

- 4.2. The Policy Council commissioned an independent reviewer to undertake this review, which commenced in December 2011. The Committee has contributed its views on the successes and challenges it has faced in carrying out its mandate and on the future of scrutiny. The final report is expected to be published before the end of this political term.

5. Principles of Good Governance

- 5.1. Page 49 of the appended performance report sets out how the Committee has taken into account the six core principles of good governance as defined by the UK Independent Commission on Good Governance in Public Service, adopted by the States of Deliberation in March 2011.

6. Conclusion

- 6.1. The Committee's Performance Report for 2011 demonstrates the breadth of work the Committee has undertaken this year and includes the completion of in-depth reviews, investigation of additional issues and monitoring and commenting on the monthly Billet d'État.
- 6.2. The Committee believes, as the end of its four-year term approaches, that it has, as far as possible, improved the profile and understanding of the work of the Committee. However, it is aware that further work is required to embed scrutiny into the Guernsey political culture, and therefore welcomes the current review of the scrutiny process.

⁴ Billet d'État IV March 2011

7. Recommendation

7.1. The Scrutiny Committee asks the States to:

- a) Note the Scrutiny Committee's 2011 performance report.

Yours faithfully

B L Brehaut
Chairman
Scrutiny Committee

Members of the Committee are

Deputy B L Brehaut (Chairman)
Deputy M J Fallaize (Vice Chairman)
Deputy M G G Garrett
Deputy J A B Gollop
Deputy J Kuttelwascher
Deputy R R Matthews
Deputy S J McManus
Deputy M P J Hadley
Deputy D de G De Lisle



SCRUTINY COMMITTEE

THE STATES OF GUERNSEY

2011

PERFORMANCE REPORT

December 2011

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CHAIRMAN'S FOREWORD

This is the last Performance Report from the current Scrutiny Committee which details what has been an extremely busy and demanding work programme. It also records the diverse nature of items considered by the Committee: from considering public engagement practices to examining the operation of the Planning Service.

The Report also gives you a flavour of what Scrutiny does within the States of Guernsey - examining the performance of departments in carrying out their executive functions. Scrutiny's relationship with the 'executive' will be considered in the Joint Committees' report on Governance. And it will be that dynamic that will no doubt be explored further by Ms Belinda Crowe as she begins her work independently to review the scrutiny committees.

I very much welcome this review; after all the scrutiny function is relatively new within our system and it would be foolish not to reflect on "how did we get here?" and "where do we need to go?". Any review would not be complete if it did not explore the relationship between the scrutiny function and the executive.

It would also be remiss of me not to remind the reader that the Scrutiny Committee has produced well written, detailed, researched, evidenced-based material with three staff. The Scrutiny Committee has tried over the past four years to raise both its profile and the impact of its work. The work of the Scrutiny Committee can be effective in dealing with departments early in the

process, rather than exposing the failings of Departments or Committees at a later stage.

Over the next four years the Committee will have to build on the foundations laid by its current members. Presently we have Billet Meetings open to the media but ultimately the aim must surely be to have more public review meetings. Scrutiny has led the way in trying to engage the public through social media such as Facebook and the Committee should always look at new and innovative ways to engage with all stakeholders in a meaningful manner.

There can be little doubt that the next four years will be as, if not more, demanding than the last; we must ensure that the Scrutiny Committee has the resource to meet those challenges: delivering effective scrutiny through public meetings, monitoring and continued comment in the Assembly.



OVERVIEW – JANUARY TO DECEMBER 2011

The Committee

- The **Performance Report** from May 2009 to December 2010 was debated by the States of Deliberation in May 2011.
- The Committee created its own **Public Engagement Strategy**, published in October 2011.
- The Committee has welcomed a **review of the ‘scrutiny’ function**, looking at the entire scrutiny function within the States of Guernsey, which commenced in December 2011.
- The Committee held an **‘Away Day’** in November 2011 to discuss how it could contribute to the review of the scrutiny function, and to reflect on the work of the Committee during this political term.
- The **School Exclusions and Disruptive Behaviour Review** report was completed in November 2011 and will be presented to the States of Deliberation in March 2012.
- The monitoring report on the replacement **Staff Number Limitation Policy** is being finalised and will be published by the Committee by April 2012.
- The Committee is nearing completion of its report on **Public Engagement in the States of Guernsey**. This will be appended to the Joint Committees Report presented to the States of Deliberation in March 2012.

Scrutiny Reviews

- The **Planning Service: ‘Post-Shepley’ Review** Report was presented to the States of Deliberation for debate in May 2011. The Committee will publish a progress report in early 2012, further to updates from the Policy Council and Environment Department.
- The Scrutiny Committee worked with the Public Accounts and the States Assembly and Constitution Committees to produce the **Improving Governance in the States of Guernsey** report which will
- A report on **Monitoring States Resolutions** is due to be published by the end of March 2012. The Committee will be drafting a specification and costing for a States Resolutions’ database in early 2012.

Billet d’État scrutiny

- The Committee has continued to hold monthly **‘Billet Meetings’** in 2011 in order to provide scrutiny to policy proposals coming forward. This has included speeches being made on behalf of the Committee in the States of Deliberation and questions being asked of departments.

- The Committee opened its Billet Meetings to the media to further increase the openness and transparency of the scrutiny process.
- The Committee commented on a number of reports:
 - Provision of a Learning and Skills Facility
 - States Trading Entities – A New Business Environment
 - Governance in the States of Guernsey
 - Provision of ‘Extra Care’ Housing at Maison Maritaine and Longue Rue
 - Sexual Offences
 - The Regulation of Aviation Security
 - Financial Transformation Programme – Review of Colleges Grant Aid and Subsidies
 - Benefit and Contribution Rates for 2012
 - Review of Utility Regulation
 - ‘Hansard’ Reports of the States of Deliberation
 - Developing SAP and Shared Services

Additional workstreams

- The Committee asked questions and wrote to departments on a number of additional workstreams which arose in 2011.

The subjects covered were:

- Financial Transformation Programme
- Governance issues arising from Housing and Health and Social Services Report on ‘Extra Care’ Housing
- The Older People’s Strategy
- Population and Migration
- Prioritisation of Legislation Process
- Routine Capital Allocations
- Fiscal Policy Panel
- The OCAS Policy
- The Electoral Roll
- La Gazette Officielle

Liaison with other jurisdictions

- Guernsey hosted the annual meeting of the ‘Committee Secretariat Network’ in June 2011. Staff representatives from nearly all of the Parliamentary Committees in Great Britain attended the two day conference to share experiences and discuss issues of mutual interest.

Managing Performance

- The Committee has continued to monitor the performance indicators it created in 2009 as one means of scrutinising its performance. This Report includes the data for indicators collected up to November 2011 (third quarter of 2011/2012).

ABOUT SCRUTINY

The Committee

The Committee comprises nine political members, including a Chairman and Vice-Chairman, who are elected representatives and serve a four year term.

The political membership of the Committee has not altered in the period January 2011 – December 2011.

Political Membership:

Chairman:

Deputy Barry Brehaut

Vice-Chairman:

Deputy Matt Fallaize

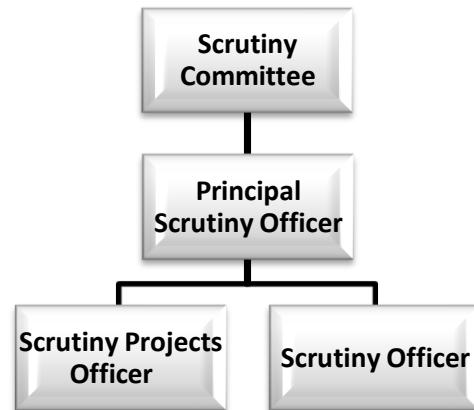
Members:

Deputy David De Lisle
Deputy Mike Garrett
Deputy John Gollop
Deputy Mike Hadley
Deputy Jan Kuttelwascher
Deputy Rhoderick Matthews
Deputy Sean McManus

Contact details

Scrutiny Committee
Sir Charles Frossard House
La Charroterie
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Guernsey
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Committee Structure in December 2011



Committee Staff in December 2011

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Scrutiny Projects Officer

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Scrutiny Officer

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Staff and Financial Report

£'000s	Authorised Budget 2011	Accounts 2010	Authorised Budget 2010
Staff	205	219	219
Supplies and Services	10	5	13
Consultant's Fees	0	0	9
Use of Unspent Balances	0	0	0
Total	215	224	241

The Accounts for 2011 will be presented to the States of Deliberation in May 2012, after the 2012 General Election, and will detail the Committee's 2011 actual spend.

Staffing changes:

During 2010 and 2011, the Committee employed additional staff, within its allocated cash limit, to ensure appropriate cover for extended leave. The Committee's staffing reduced from 4.47 FTE in December 2010 to 2.69 FTE at the end of 2011.

The Assistant Scrutiny Officer retired in March 2011 and the Graduate Officer placement ceased in September 2011.

COMMITTEE WORK PROGRAMME: 2011 - 2012

The Committee held a meeting in December 2010 to take a retrospective look at its work programme and to re-evaluate its priorities for its Forward Work Programme.

It concluded that there was an increasing role for Scrutiny in monitoring the effectiveness of policy in response to issues as they occurred. In particular, the Committee resolved that resources should be dedicated to scrutiny of the monthly Billet d'État.

In 2011, the Committee has sought to achieve the appropriate balance between scrutinising policy issues as they arise – in particular through considering the reports in the Billet d'États - alongside completing in-depth reviews.

Changes to the Forward Work Programme in 2011:

A significant impact on the Committee's work programme was the introduction of a new workstream further to the debate on the Public Accounts Committee's Report 'Governance in the States of Guernsey' in March 2011.

Further to a successful amendment – which directed the three Parliamentary Committees to bring forward proposals to improve governance in the States of Guernsey – a Joint Committees' Working Party was created.

The introduction of this workstream impacted upon the Committee's ability to meet the original timescales in its

existing work programme, which had to be adjusted accordingly. However, the Committee anticipates completing all of its current programme by the end of this term of office (April 2012).



The Forward Work Programme is updated quarterly and published in the section 'Work in progress' on www.gov.gg/scrutiny

THE PLANNING SERVICE: 'POST-SHEPLEY' REVIEW REPORT

The Committee presented its report on its 'Post-Shepley Review' of the Environment Department's planning service at the May 2011 meeting of the States of Deliberation.

Background to the review:

The Scrutiny Committee resolved to review the action taken by the Environment Department and the Policy Council in addressing the recommendations contained in Chris Shepley's 2008 Report, 'Review of Guernsey's Planning Service', specifically examining how the operational and structural recommendations had been considered, implemented or rejected, and the rationale for the decisions taken.

Report findings:

The report demonstrated the considerable progress the Environment Department had made against Shepley's recommendations. However, it found the governance recommendations Shepley had put forward for consideration by the Policy Council had not been resolved.

The Committee made ten recommendations as a result of its review, including requesting that the Policy Council re-examine the governance issues identified by Chris Shepley to consider whether, in 2011, they remained relevant.

Report to the States of Deliberation:

Further to a short debate on the report on May 27th 2011, the States of Deliberation:

- Noted the Committee's States Report, and the Committee's Review Report;
- Directed the Environment Department to report to the Committee by December 2011 outlining a timetable for the implementation of the recommendations directed to it and an update on progress;
- Directed the Policy Council to report to the Committee by December 2011, stating whether it had accepted or rejected the recommendations directed to it and where it had accepted the recommendations outlining a timetable for their implementation;
- Directed the Committee to publish an update on progress not later than March 2012.

The Committee wrote to the Department and the Policy Council in June 2011 further to the States debate, providing a pro-forma to be completed and returned by December 2011.

The Committee will publish a progress summary report by March 2012.

GOVERNANCE IN THE STATES OF GUERNSEY

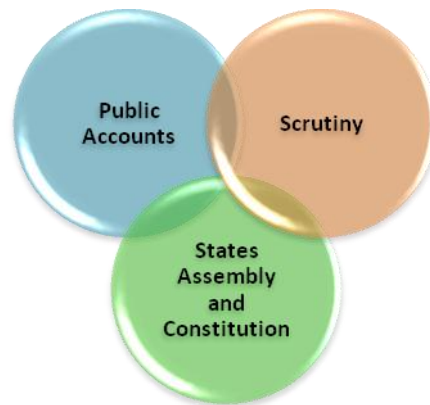
Background to the review:

The Public Accounts Committee (PAC) presented its 'Governance in the States of Guernsey' report to the States of Deliberation for debate in March 2011. *(See also the Committee's comments on this States Report detailed on p.20)*

Deputy Fallaize – the Committee's Vice-Chairman - placed an amendment to the report (as an independent member) to direct further work to take place to develop proposals on how the principles of good governance could be applied to Guernsey's system of government. This amendment was unanimously supported.

On 31st March 2011, the States of Deliberation resolved, inter alia:

"To direct the Public Accounts Committee, the Scrutiny Committee and the States Assembly and Constitution Committee, after consultation with the Policy Council, jointly to present to the March 2012 meeting of the States of Deliberation, or sooner if possible, a report containing detailed proposals on how in practical terms the six Core Principles of good governance can be applied, and how compliance with them can be measured, within the context of Guernsey's system of government by committees and consensus."



The formation of the Joint Committees' Working Party:

The three full Committees met in April 2011 to determine how they would undertake this work. This resulted in the formation of the Joint Committees' Working Party (JCWP) comprising:

- Deputy Matt Fallaize (Chairman) (Scrutiny)
- Deputy Mary Lowe (Vice-Chairman) (SACC)
- Deputy Leon Gallienne (PAC)
- Mr Mike Best (PAC)
- Deputy Sean McManus (Scrutiny)
- Deputy Shane Langlois (SACC)

The report includes a package of proposals to improve governance in the following areas:

- Clarity of purpose
- Organisation, functions and roles
- Policy-making, policy-planning and decision-making
- Capacity and capability
- Accountability and oversight
- Stakeholders, consultation and engagement
- Operational governance

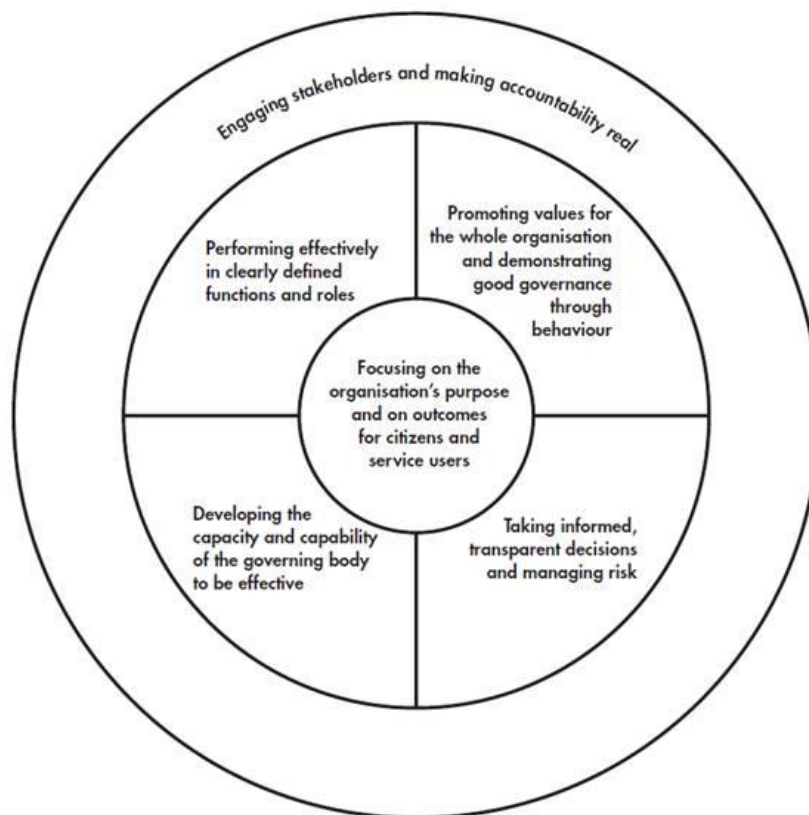
The report makes proposals for monitoring compliance with good governance in the new term.

The three Committees held joint meetings in December 2011 to discuss the report. The JCWP also sent a copy of the draft report to the Policy Council, in order to receive its feedback prior to finalising and approving the report.

The three Committees intend jointly to submit the report for debate at the March 2012 meeting of the States of Deliberation.

The Six Core Principles

(The Independent Commission on Good Governance in Public Services, 2004)



SCHOOL EXCLUSIONS AND DISRUPTIVE BEHAVIOUR



Background to the review:

The current 'Guidance and Procedures for Managing School Exclusions' policy was introduced by the Education Department in 2007 and revised in 2010. The Committee resolved to assess this policy, together with the Department's other relevant policies and procedures, to consider their effectiveness in managing disruptive behaviour within the Bailiwick's schools under the Education Department's control.

The review process:

Two review meetings were held in September 2010 where the nominated Scrutiny Panel questioned political and staff representatives from the Education Department on the behaviour management processes and provisions it has in place.

In order for the Committee to obtain a full picture of how effective these processes are in practice, it embarked on an extensive public engagement exercise which ran from October 2010 to March 2011.

The Committee wrote to every headteacher and teacher within the schools under the Department's control

to gain insight into their views of how disruptive behaviour is managed locally and the support provisions that are in place to assist them. The Committee also encouraged members of the public to complete a questionnaire or contact the Committee direct to share their views on this topic, together with consulting with relevant States Departments, the teaching unions and pre-schools.

The Committee was pleased to receive over 200 contributions as a result of this public engagement.

These results were collated and analysed to set out an overview of how effective respondents consider the Department's policies and processes to work in practice.

The Committee prepared a report setting out its findings and recommendations on the following main areas of focus:

- Schools' behaviour management policies;
- The support provisions in place to support these policies;
- The use of internal and external exclusions;

The report was completed and signed off by the Committee on 23rd November 2011. A copy was sent to the Education Department on 25th November 2011 for its formal comment.

The report will be presented to the States of Deliberation in the March 2012 Billet d'État.

STAFF NUMBERS AND EXPENDITURE

Background to the review:

The former Scrutiny Committee conducted a review into the Staff Number Limitation Policy (SNLP), and published its findings in February 2007.

The Scrutiny report to the States of Deliberation was agreed and the States directed the Treasury & Resources (T & R) Department to report to the States with an alternative policy for controlling staff numbers, taking into account the recommendations contained in the Scrutiny Review Report.

The States of Deliberation noted the Committee's intention to monitor the development and implementation of an alternative policy for controlling staff numbers.

The T&R Department presented its policy report entitled the 'Staff Number and Limitation Policy' in December 2007. The States of Deliberation approved proposals to replace the previous policy with a new policy based upon capping Departments' Revenue Budgets.

The review process:

The Committee identified issues regarding the 2009 Accounts and the monitoring and reporting of staff numbers and expenditure. The Committee corresponded with T&R to ascertain why the errors in the 2009 Accounts had occurred and to question the monitoring and reporting procedures in place.

In late 2010, the Committee nominated a specific panel to undertake the formal follow-up monitoring review.

The Panel initially assessed how the original recommendations made by the former Committee had been implemented.

When the States of Deliberation debated the Budget in late 2010, the Lead Member of the Panel, on behalf of the Committee, made critical observations on the problems with the Department's monitoring and reporting of the policy. A summary of this speech was subsequently published on the 'Scrutiny in the States' webpage.

The Panel then undertook further research and conducted detailed analysis on how staffing numbers and expenditure had been monitored and reported on since May 2008.

In July 2011, the Panel consulted with all departments and committees to learn of their experiences of the replacement policy.

The Committee will finalise the report after consulting with the Treasury and Resources Department, and will publish the monitoring report by April 2012.

PUBLIC ENGAGEMENT

Background to the review:

Two of the Scrutiny Committee's objectives, as set out in the States Strategic Plan, are:

- To encourage accessibility to and public participation in scrutiny;
- To reflect the concerns of the public and its communities.

The Committee resolved to develop its public engagement strategy.

The Committee noted the States of Guernsey does not have a corporate public engagement policy from which departments and committees can seek guidance when undertaking effective public engagement. The Committee resolved to monitor public engagement across the States of Guernsey as a whole and to seek to develop recommendations for improvement.

The review process:

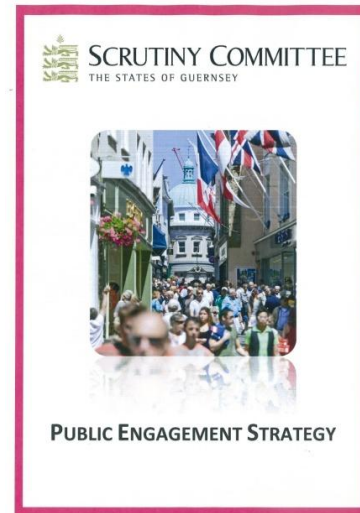
The Committee undertook desktop research, analysing engagement strategies from other jurisdictions and carried out a substantial literature review of engagement strategies and their practical application.

This research assisted the Committee in the first stage of its review – drafting the Committee's own public engagement strategy.

The second stage of the review considered the wider issue of how the States of Guernsey engages with the public and how it might improve its public engagement processes in the future.

The Scrutiny Committee Public Engagement Strategy:

The Committee's own engagement strategy was completed and published in October 2011.



How the States of Guernsey engages with the public:

The Committee consulted with all departments and committees in 2011 to learn more about the public engagement exercises they had undertaken since May 2008. It also consulted with the media to receive its feedback on how it perceives 'the States of Guernsey' engages.

The results of this consultation, and the research undertaken on public engagement theory, have been incorporated into a summary report.

The report will be published in February 2012 and will also be presented to the States of Deliberation in March 2012 as an appendix to the Joint Committees' governance report.

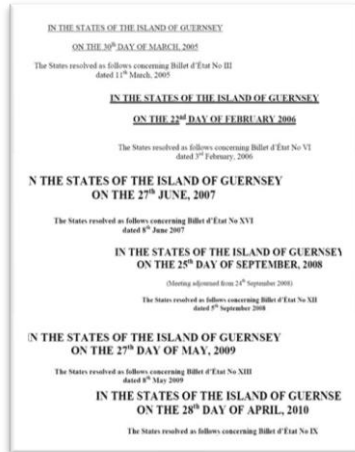
MONITORING STATES RESOLUTIONS

Background to the review:

When the States of Deliberation makes a formal decision on a proposal presented to it, the decision is known as a 'States Resolution'.

While Resolutions made by the States of Deliberation are published online and available in hard copy, there is currently no mechanism in place to allow an interested party to learn which Resolutions have been fulfilled and when, and which remain outstanding and for what reason.

The fulfilment of obligations that arise out of decisions of the States of Deliberation are of fundamental importance to the effectiveness and accountability of government.



The absence of an electronic database, or any formal annual reporting requirements on Resolutions, means it is difficult to achieve a clear overview of departments' and committees' progress in respect of directions of the States.

The review process:

The workstream was put on hold for a large part of 2011 due to other projects being given higher priority by the Committee.

However, from the work undertaken to date, the Committee has agreed the absence of an adequate mechanism to follow up States Resolutions is unacceptable.

It agreed that the monitoring of Resolutions would be improved by the creation of a centralised database of all Resolutions, detailing what action had been taken (and when) and providing explanations for any outstanding Resolutions.

The Committee agreed this was an important step in increasing the accountability and transparency of the States of Guernsey.

Further to its initial investigation, the Committee will be drafting a specification and costing for a database in early 2012, and will publish an interim report on the subject prior to April 2012.

SCRUTINY IN THE STATES

In 2011, the Committee continued its practice of holding meetings to examine each month's Billet d'État for scrutiny issues.



Media attendance at Billet Meetings:

In December 2010, the Committee agreed to open its Billet Meetings to the media to increase the openness and transparency of the scrutiny process. Representatives from the local media first attended the Billet Meeting in March 2011, and have continued to do so throughout the year.

In May 2011, the Committee made a public commitment in the States of Deliberation that, wherever practicable, the Committee would endeavour to advise a States department in advance on occasions when the Committee intends to comment critically about any aspect of that department's work and where that criticism was likely to be reported in the media.

Scrutiny Billet Panel:

Each month a Panel of three members meets to discuss the Billet and identify issues relevant to Scrutiny. The Panel presents its findings at monthly Committee Billet meetings. The Committee considers the Panel's recommendations and decides whether to pursue any issues further – either through corresponding with the Department or Committee or through a nominated member making a speech in the States of Deliberation on the Committee's behalf.

Speeches given in the States:

In the absence of Hansard in Guernsey (the official published report of debates in the parliament), the Committee has continued to publish summaries of each speech made on its behalf on the States of Guernsey website, www.gov.gg/scrutiny.

Scrutiny in the States		
In 2010, the Committee resumed the practice of holding meetings to examine each month's Billet for scrutiny issues.		
It was agreed that a rotating Panel of three members would be set up to take the lead in a monthly Committee Billet meeting dedicated to consideration of the Reports being presented to the States.		
The purpose of the meetings is to increase the opportunities for the Committee to proactively comment prior to policies being implemented, either by commenting in States' debates, asking questions of Departments or circulating the Committee's views to all Members and the public prior to the debate where time allows.		
In December 2010, the Committee agreed to open its Billet Meetings to the media to further increase the openness and transparency of the scrutiny process.		
A summary of the speeches made by Scrutiny in the States of Deliberation or actions taken by the Committee may be found by clicking on the report title in the below table.		
Disclaimer: The statements in this section summarise the comments made by a representative of the Scrutiny Committee in the States of Deliberation at the time of the debate on the Billet d'État. The date is shown at the end of each statement. The statements represent the majority view of the Committee at the time.		
2011		
Billet	Department/Committee	Report Title
XIII	Home Department	Sexual Offences
XIII	Commerce and Employment Department	The Regulation of Aviation Security
XIII	N / A	Record of Scrutiny Committee consideration of the Billet d'État 20 07 2011
XIII	Scrutiny Committee	Scrutiny Committee Performance Report
VII	Scrutiny Committee	Guernsey's Planning Service: Post-Shepley Review
VII	Housing Department and Health and Social Services Department	Provision of 'Extra Care' Housing at Mason Maritime and Longue Rue
IV	Public Accounts Committee	Governance in the States of Guernsey
3	Public Services Department	States Trading Entities - a New Business Environment
3	Home Department	Provision of a Learning and Skills Facility
2010		
Billet	Department/Committee	Report Title
XIV	Public Services Department	Recycling Target
XIV	Treasury and Resources Department	Budget

BILLET D'ÉTAT I – JANUARY 2011

Home Department – Provision of a Learning and Skills Facility



The Committee did not comment on the merits of extending education provision for prisoners, but raised concerns about the transparency and completeness of the decision-making process on the proposal to build a facility.

Evidence base for the proposal:

The Committee commented on the evidence-base provided for the proposal to build the facility. The Committee noted the proposal for the construction of a building to house workshops and classroom areas had arisen from the 2009 review of Guernsey Prison undertaken by a UK Prison Service Governor. While briefly mentioned in the report, the document was not publicly available, and the relevant evidence arising from that review was not clearly laid out in the report.

However, further to its interest in this matter, the Home Department provided the Committee with the relevant section of the 2009 review report relating to this specific proposal. The Committee believed it would have been useful for

the relevant sections of that report to have been appended or laid out within the report for members to consider as part of the evidence base.

The Committee also noted that the Department had not provided evidence of the other options it had considered prior to concluding that the construction of a facility was the most preferable choice. States Members had been left to assume that the Department did consider all potential options; however the report did not provide this information, which would have been useful in providing a complete picture of the need for the facility.

The Committee concluded that the information provided by the Department in the report was weak in enabling Members to make an evidenced-based decision on this proposal.

Relevant recommendations from Her Majesty's Chief Inspector of Prisons:

The Committee also noted that Her Majesty's Chief Inspector of Prisons had made 3 recommendations in 2005 that remained outstanding by the time of his next review in 2009. The Committee stated it would have been helpful in the report for the Department to have shown how it had specifically considered these recommendations, as they directly related to the report under consideration.

Performance Management:

The Committee felt the report lacked any indication of how the Department aimed to performance manage the facility in ensuring it would be effective in meeting the need for which it was

intended. It was concerned at the comment made at point 2.168 of Her Majesty's Chief Inspector of Prisons 2009 report where it stated *'Education was contracted out to the local college of further education, but the prison did not monitor the quality of this provision'*.

The Committee therefore recommended that the Department ensure there would be an appropriate system of performance management for the facility in place. This could include a commitment, if the proposed facility was agreed, for the Department to report back to the States once the facility had been in operation for a period of two or three years.

Capital Prioritisation:

The Committee had learnt that the Home Department had been advised by the Treasury and Resources Department it could fund the project through 'Routine Capital Expenditure' funds. This raised a simple but pertinent question for the Committee: What are the criteria for using and budgeting for routine capital expenditure?

The Committee considered that expenditure in the region of £400K on a facility which appeared to be an extension of services rather than maintenance of an existing service provision would not usually be regarded as 'routine'. There was no evidence to suggest that the existing provision of educational services in the prison would not continue without this facility.

The Committee noted that the T&R Department intended to *'review the process for routine capital allocations*


and report back in the 2012 Budget Report'. The Committee recommended that this included reviewing and publishing the criteria for using the routine capital allocations and the checks and balances for its budgeting and use.

BILLET D'ÉTAT I – JANUARY 2011

Public Services Department (PSD) – States Trading Entities – A New Business Environment

The States of Deliberation had been asked to decide whether, after consideration of the above report, it was of the opinion:

"to note the Public Services Department's ongoing evaluation of the options for changing the business environments of Guernsey Water, Guernsey Wastewater, Waste Services, Guernsey Harbours and Guernsey Airport and its intention to report to the States of Deliberation with its recommendations in due course".

		Vote Number 2011/02 Date of Vote: 26 th January 2011
Billet d'État:	I of 2011	
Article:	6	
Department/Committee:	Public Services Department	
Subject:	States Trading Entities – A New Business Environment	
Proposition:	1	
<i>To note the Public Services Department's ongoing evaluation of the options for changing the business environments of Guernsey Water, Guernsey Wastewater, Waste Services, Guernsey Harbours and Guernsey Airport and its intention to report to the States of Deliberation with its recommendations in due course.</i>		
CARRIED Pour: 35 Contre: 12 Abstained: 0 Not Present: 0		

One of the key principles identified early in the Committee's work monitoring States Resolutions was the need for Resolutions to have clear direction and as such be able to be held to account. In considering the report,

the Committee felt that this proposition failed on both these counts.

The Committee stated that whilst 'noting' a report could seem innocuous enough, it implied endorsement of the direction of travel, which in this case was the continuation of PSD's evaluation of options for "changing the business environment" of Guernsey Water, Guernsey Wastewater, Waste Services, Guernsey Harbours and Guernsey Airport.

The Committee felt this should have been made explicit in the proposition. It should also have been clear to States Members what they were supposed to do if they didn't agree with the allocation of further resources for PSD to continue. Members would know from clarification sought in a previous debate that a negative to the proposition, in other words opting not to note the report, should express this view to the Department. The Committee believed it to be woolly and unsatisfactory and confirmed the appropriateness of propositions to 'note' a report would be considered in its Monitoring States Resolutions Review.

The reader might have assumed that "changing the business environment" essentially meant commercialisation in line with the recommendations of the appended OUR review report.

The Committee was not convinced that the case had been made for implementation of the OUR recommendations at that time. It also noted that PSD had not referred to the Regulatory Policy Institute review of Guernsey's regulatory regime completed in October 2010, which

identified serious flaws with the regulatory regime in place for electricity and post. The same regime that the OUR suggested should be implemented for a merged entity of Guernsey Water and Waste Water Services.

The Terms of Reference for the OUR report and the quoted opportunity identified in the Fundamental Spending Review appeared to make the assumption that the benefits of commercialisation outweighed the disbenefits and accordingly PSD's consideration focused on how to make changes rather than making the case for why change was required. The Committee suggested that, for completeness, the PSD needed to re-visit and clearly set out the problems that it was seeking to resolve before considering possible solutions.

BILLET D'ÉTAT IV – MARCH 2011

Public Accounts Committee – Governance in the States of Guernsey

The PAC presented its 'Governance in the States of Guernsey' report to the States of Deliberation and asked it:

1. *To adopt the six Core Principles of good governance as determined by the UK Independent Commission on Good Governance in Public Services.*
2. *To direct the Policy Council, the Treasury and Resources Department, the States Assembly and Constitution Committee, the Public Accounts Committee and the Scrutiny Committee to have particular regard to that Report in discharging their respective mandates.*

3. *To direct the Public Accounts Committee and the Scrutiny Committee to monitor progress of Departments and Committees in conforming to the six Core Principles of good governance.*
4. *To direct the Policy Council when reviewing Reports received in accordance with Rule 2 (1) (a) of the Rules of Procedure of the States of Deliberation, to consider the degree to which a Department's proposals comply with the six Core Principles of good governance.*

In its deliberations, and in line with the continuing work on the 'Monitoring States Resolutions' review, the Committee focused initially on considering the four propositions contained within the report:



Proposition 1 recommended the States adopt the six Core Principles. The Committee believed simply adopting the principles would not ensure that they would actually be put into practice.

In Appendix 2, the PAC provided an explanation of how it thought the core and supporting principles could be applied in the Guernsey context. It had made only minor alternations to the application suggested in the UK Independent Commission's report. It was not evidenced that any critical analysis had been carried out of how these principles would be applied, or should be changed, to fit the 'Guernsey context'.

The Committee believed the direction provided to the listed parties from **Proposition 2** was vague. The PAC had asked those parties to '*have particular regard to that Report in discharging their mandates*'. The Committee believed it would be impossible to measure and monitor whether the listed parties had done so. There was no mechanism to report back or justify actions, or lack of action, arising from consideration of these suggestions.

Proposition 3 and 4 were also identified as vague. There was no clear direction provided on what form the Committees' monitoring should take or what actions needed to be monitored. The Committee questioned whether the Policy Council was clear how it would '*consider the degree to which a Department's proposals comply*' with the principles.

Implementation of future workstreams:

The Committee noted that the Public Accounts Committee indicated in paragraph 5.4 of its report that "*the resultant workstreams, whilst undertaken by separate Committees and Departments of the States, should be co-ordinated and embraced within the*

wider Transformation Programme led by the Policy Council". The Committee was disappointed that the report contained no indication of the Policy Council's views of that suggestion, to demonstrate the practicality or appropriateness of it, or how it would be achieved.

The Committee expressed concern that the propositions included in the Report did not themselves meet the principles of good governance as:

- they were not focused on outcomes;
- they did not clearly define responsibilities for taking the work forward; and
- there was no way of holding anyone to account for their implementation.

It also concluded that further work was required on Appendix 2, as a simple adaptation of the UK application of the principles did not work for Guernsey's system of government.

In consideration of the 'way forward' contained within the report, many of the suggestions were not yet in a form that they could be taken forward by the bodies they had been allocated to. For example:

- they required further clarification of the evidence base;
- where responsibility should lie;
- the practicalities of implementation.

The Committee stated during debate that the States and the public should have been clear at the report and debate stage what action would be taken further to the report. If they were not, the process lacked transparency. It felt all of the above were governance

issues that should have been resolved within the report.

The Committee stated its commitment to seeking to work closely with the PAC to constructively move forward and to discuss the issues raised, to ensure positive progress could be made.

The Committee gave a response to the specific suggestions and directions to it in the PAC Report.

Developments during the debate:

The propositions originally proposed by the Department were subject to amendment, unanimously passed, which resulted in the formation of the Joint Committees' Working Party, detailed in the review section of this report entitled 'Governance in the States of Guernsey' (page 11).

BILLET D'ÉTAT VIII –MAY 2011

Housing Department and Health and Social Services Department - Provision of 'Extra Care' Housing at Maison Maritime and Longue Rue

The Committee made the decision that it would focus on process and not comment on the model of care proposed, or the appropriateness of 'extra care' housing. Its comments included the strategic context of the proposals, resource implications, matters relating to governance and the policy development process.

Older People's Strategy:

The first issue the Committee raised in debate was in respect of the Older People's Strategy, which was expected to be presented to the States of

Deliberation in late 2011. It highlighted that while the Departments had stated that the proposals for the provision of 'extra care' housing were in "*accord with what the Strategy will recommend*", the Strategy had not been signed off by the States of Deliberation. It questioned whether the States of Deliberation was prepared to support proposals before it had considered the strategy out of which those proposals may have been expected to arise.

The Committee questioned what the impact of a six month delay to the report would have been, to enable the Older People's Strategy to be considered prior or even concurrently with the proposals.

The Capital Prioritisation Process:

The Committee commented regarding the capital prioritisation process, where all Departments have to submit their proposed capital projects to the Treasury and Resources Department to go through the States agreed prioritisation process.

It was highlighted that the three major capital projects that had been considered during the current States term had gone through various gateway reviews and a rigorous prioritisation process prior to final approval. It believed such a robust process was necessary to enable scarce resources be prioritised.

While the Committee accepted that the Corporate Housing Programme was currently outside of the capital prioritisation process, it used the example of the process to illustrate the delays other Departments faced in moving forward capital projects. It

again questioned what was so unique about the proposals put forward by Housing and HSSD that meant there could not be any deferral for them to go through the thorough process that other capital projects went through.

Joint Working and Political Ownership:

The Committee had noted the comments of the Housing Department, and the Policy Council, on the levels of joint working between the Housing and Health and Social Services Departments, and the Treasury & Resources and Social Security Departments.

In light of the States Report facing a sursis laid by the Deputy Minister of Health and Social Services and supported by four of the five members of the Health and Social Services Board and all five members of the Social Security Board, the Committee felt the claims of joint working appeared, at best, dubious. It questioned how claims of joint working could be sustained when it appeared that two of the four Departments involved in the policy development, including the co-sponsor of the report, sought to support the sursis.

The Committee questioned the political ownership of the policy development process and asked who the public, and the States, could hold accountable for the policy, if not the Health and Social Services Department. It felt there must have been some kind of failure somewhere within the Health and Social Services Department and it felt it was right that the Board should be held to account for that failure.

The Role of the Social Security Department:

The Committee had felt that central to the consideration of the report was the role of the Social Security Department as it had the key role in resolving the long-term funding financial implication of 'extra care' housing. The Committee had noted that the report did not contain a letter of comment from the Social Security Department and questioned why the co-sponsoring Departments had not sought to append a letter of comment from that Department in the report.

The Committee had identified gaps in the Report where it would have expected the Social Security Department to advise and comment, in particular on the various funding options that were available.

Sustainability of the long term funding model:

The Committee had noted that the Treasury & Resources Department indicated through its letter of comment, and comments subsequently made through the media by its Minister, that it was content to support the proposals prior to a strategic funding model being produced.

Commitment of future States to fund/prioritise social housing:

The Committee questioned the certainty of future funding, which in its letter of comment appended to the report the Treasury & Resources Department had stated the Board could not foresee circumstances in which any future States would fail to allocate adequate funds to facilitate the on-going provision and maintenance of social housing.

Review of the Corporate Housing Programme:

The Treasury & Resources Department's letter of comment proposed that a review of the Corporate Housing Programme should take place. The Committee had requested the Minister inform the Assembly what action would be taken against this proposal, as it felt this statement had been left without clear direction.

BILLET D'ÉTAT XIII – JULY 2011

Home Department – Sexual Offences

The Committee's interest in this subject dated back to 2010, when it had considered a statement from HM Procureur contained in a Report from the Home Department published in Billet d'État VI, March 2010: *"Bailiwick legislation in respect of sexual offences is the subject of an ongoing review, with the aim of introducing new sexual offences legislation that is up to date and comprehensive"*.

The Committee had written to the Home Department outlining that, whilst it had noted the Department was undertaking a review of the sexual offences legislation, it was not undertaking this work further to a direction from the States of Deliberation. It recommended that this work should be ratified under formal States Resolution so that the legislation could be taken into account as part of the Policy Council's prioritisation of legislation process. The Committee therefore welcomed the States Report.

During debate, the Committee sought clarification on a potential resourcing requirement issue identified in the

report. The report showed that the main resource requirements resulting from the legislation would be within the Guernsey Police Force and the Probation Service, and that these would be brought forward in a New Service Development Bid in the States Strategic Plan for 2013.

However, in addition to these resource requirements, within the “Monitoring and Management of Relevant Offenders” section of the Report, the Committee had noted that the Health and Social Services Department had *‘raised the possibility of potential future resource implications for their Department’*. The Committee felt there was a lack of information on what these resource requirements could be, what would determine the necessity for them or how the Department would prepare to meet them. The Committee therefore requested clarification from the Health and Social Services Department Minister on the Department’s potential resource requirements and how these would be identified and budgeted for, so that Members could be assured that any future resource requirements were being appropriately prepared for at this point in time.

BILLET D’ÉTAT XIII – JULY 2011

Commerce and Employment Department – The Regulation of Aviation Security

At its Billet Meeting on 20th July 2011, the Scrutiny Committee agreed to contact the Commerce and Employment Department in advance of the States of Deliberation meeting with questions on the above Report to enable the Minister

to provide clarification on these points in the speech introducing the proposals.

The questions posed by the Committee were as follows:

Justification and size of the role:

The Committee requested clarification on what the role of Aviation Security Regulator would include once established, and confirmation that the post was cost-effective. It also requested further detail on the job sizing undertaken by the Department in establishing the need for this role.

Implementation in other

Jurisdictions:

The Committee felt that the Report was light in relation to what other jurisdictions have in place to meet this standard. The Committee noted from the Report that the Isle of Man had decided to establish an aviation security regime. It requested further information on what this included and how it would be resourced in the Isle of Man.

Joint implementation with Jersey:

The favoured Option 3 put forward in the Report was a collaborative approach with Jersey in establishing a joint pan-Channel Island independent regulator. The Committee questioned why more detail on the negotiations in working towards this favoured option was not included in the Report. In particular, Members requested clarification on:

- What steps had been taken to negotiate with Jersey in relation to developing this Pan-Channel Island shared resource?

- What the barriers are to Option 3 being followed – why would the joint approach not be secured?
- What the next steps are in seeking to establish this shared role, and favoured option?

Incremental Impact on Passenger Charges:

The Committee raised the issue of the “Incremental Impact on Passenger Charges”, and the associated 4 pence charge, to fund the post of Aviation Security Regulator. It had noted that paragraph 6.1 of the Report stated “*It is anticipated that the increased cost will be met by a small increase in the Airport Passenger Charge levied by the Public Services Department*” but noted that the actual charge of 4 pence was not outlined in the main Report, only in Annex 1. It believed the 4 pence charge should have been included within the main Report considering the previous sensitivities regarding increasing passenger charges at the airport.

The Minister of the Commerce and Employment Department responded comprehensively to the points raised by the Committee in her introductory speech. Due to the length of the response, this has not been reprinted here, but may be found reproduced in full on the ‘*Scrutiny in the States*’ webpage.

BILLET D’ÉTAT XV – SEPTEMBER 2011

Policy Council - Financial Transformation Programme – Review of Colleges Grant Aid and Subsidies

The Committee noted that the Policy Council’s Report simply looked to make financial savings, without changing or examining the policy. The Report took the policy ‘as read’ and looked for efficiencies which could be made within it.

However, the Committee had referred back to the Annex to the Fundamental Spending Review, and noted that the two opportunities identified were as follows:

- To reduce or cease the subsidy paid to private schools; and
- To reduce the number of special places (scholarships) at the private schools.

The rationale provided for both these workstreams stated: “*There is no clear rationale for subsidising the colleges / college education*’.

The Committee felt the underlying principles for the policies were effectively challenged by the identification of these ‘opportunities’.

On considering the Report, the Committee felt there was no clarity in it on what the existing policies and their objectives were. Options for efficiencies would usually be evaluated in view of their fit with policy objectives. If those policy objectives were unclear, then one might expect a value for money review

to test their effectiveness. After setting out its stall in the Fundamental Spending Review to say that there was no rationale for current practice, the States was being offered options to retain those practices, albeit at a reduced cost.

Proposition 1 requested the States approve the continuation of States funding for Elizabeth College, the Ladies' College and Blanchelande College through a General Grant and full fees payments for special placeholders for a further seven years from 1st September 2012.

The Committee felt a proposal had been put forward, which would effectively bind the States of Guernsey to the same system for a further seven years, without providing States Members with the information and evidence necessary to consider performance against the policy that underpinned it.

BILLET D'ÉTAT XV – SEPTEMBER 2011

Social Security Department - Benefit and Contribution Rates for 2012

The Committee noted the findings of the actuarial reviews for the Guernsey Insurance Fund and the Long-term Care Insurance Fund, which showed that the current contribution rates were inadequate to finance those schemes in the long-term. It noted the sustainability of the funds remained insecure unless the States of Guernsey increased the contributions rates or decreased the benefits available.

The States Report explained that the Department had not brought forward

any proposals for a change to rates prior to the resolution of the second phase of Zero-10, at the request of the Policy Council's Fiscal and Economic Group.

The Committee noted that there was no indication when the second phase of the review might be resolved, although appreciated that developments in September with the Code of Conduct Group's Review could aid the Policy Council in providing further information.

During debate, the Committee asked the Policy Council when it estimated the second phase would be concluded.

It also asked the Social Security Department what risk assessment had taken place to determine how long the States of Guernsey could continue not taking definitive action to secure the sustainability of the funds. The Department had stated the financing of the Funds needed to be addressed "*with the minimum of further delay*".

Whilst noting the preference would be for the issue to be addressed either concurrently or after the review of company taxation had been completed, the Committee requested clarification on what action would be taken by the Department if the company taxation review was not completed promptly or in an acceptable timeframe. It questioned whether the Department would consider returning to the States with proposals to ensure the long-term sustainability of the funds in the absence of the company taxation review being resolved.

BILLET D'ÉTAT XV – SEPTEMBER 2011

Commerce and Employment Department – Review of Utility Regulation

Scrutiny of the regulatory regime

The Committee expressed its support for the Commerce and Employment Department's proposals to strengthen the ability of the States of Deliberation to provide effective oversight of the regulatory regime.

The Department had consulted the Committee on how scrutiny of the regulatory regime might be strengthened, as detailed in Section 7 of its States Report. The Committee was pleased to note that the Department had taken its views into account, by amending Recommendation 5 of its Report.

A key issue under consideration was how the States of Deliberation might most effectively hold to account the following bodies for their performance in providing a robust regulatory regime, good governance, and effective public service:

- Treasury and Resources – in representing the States' and fulfilling its obligations as shareholder;
- The OUR – as the Regulator, whose mandate and obligations are granted by the States of Deliberation;
- States Owned Enterprises Utilities Boards and Chief Executives

The Committee felt the reference in the report to a Select Committee system, as

in the U.K, was probably premature and the Committee would not wish to pre-empt the findings of the forthcoming review of the scrutiny function. It felt it was worth highlighting that it would be possible to provide scrutiny of the regulatory regime within the current structure and mandates of the scrutiny committees. Whilst neither the Public Accounts Committee nor the Scrutiny Committee could independently review the regulatory system, they could do so jointly or separately in part.

However, it highlighted a review of the scrutiny committees was due to be undertaken as a result of the recommendation in the Public Accounts Committee's March 2011 Governance report.

The Scrutiny Committee had suggested to the Department that the review's terms of reference should include consideration of the most appropriate mechanism for scrutiny of the regulatory regime and therefore supported the Department's Recommendation 5 which proposed this.

Shareholder accountability

The Committee noted the RPI report raised serious concerns about the effectiveness of the role of the shareholder, which is discharged by the Treasury and Resources Department on behalf of the States of Guernsey. It was pleased to note that there were recommendations actively to address this issue. The RPI report had suggested consideration of the creation of a 'shareholder resource' within the Treasury and Resources Department and in cooperation with Jersey. Report recommendation 4, if accepted would

direct the Policy Council to explore this further.

However, the Committee noted the Commerce and Employment Department's disappointment with the reluctance of the Treasury and Resources Department to pursue the option of a shareholder resource.

In light of the information being absent from the Report, the Committee requested the Minister of the Treasury and Resources Department explain during debate why the Department was apparently reluctant to pursue this option.

BILLET D'ÉTAT XV – OCTOBER 2011

States Assembly and Constitution Committee (SACC) - 'Hansard' Reports of the States of Deliberation

The Committee welcomed and supported the proposal put forward by the SACC to introduce a 'Hansard' report of all meetings of the States of Deliberation.

The Committee has long supported the concept of Hansard as an effective means of increasing transparency in the States of Guernsey. In its absence, the Committee set up a '*Scrutiny in the States*' webpage on the government website, in which summaries of statements made by the Committee in the States of Deliberation are published, to ensure they are accessible by the public post-debate.

The Committee felt the introduction of an accurate and independent account of the proceedings in the States of Deliberation would have numerous

benefits, some of which it outlined during debate.

In respect of public engagement, it was noted that access to States' debates by the general public was limited, with many members of the public unable to listen live to States debates during the day due to work and other commitments. Many people were therefore dependent on the media to learn what had been discussed in the States of Deliberation, which the Committee felt was unacceptable. It argued that Parliament has a duty to ensure its deliberations are easily accessible by the general public, to whom it is accountable, in the interests of providing open and transparent government.

The Committee welcomed the Treasury & Resources Department's investigations into the possibility of publishing audio files of recordings of States debates on the Internet, which would be a welcome change from members of the public having to request audio CD's from the Greffe at a cost. However, it echoed the views of SACC in stating the availability of audio files could not be considered as an acceptable substitute for a readily available written record.

The Committee acknowledged the engagement of the general public with politics and the decision-making process is a challenge for all jurisdictions. The ability of the public to read and assess the comments of and positions taken by their elected representatives would be a helpful aid to increasing engagement with and understanding of the political system. As a body, the States of Guernsey often

speaks of its commitment to being open, transparent and accessible. Only with the introduction of Hansard would it be on the right track to breaking down some perceptions of a closed system.

It also stated Hansard would be of great value to many parties – within the States and externally – in respect of interpreting the ‘intent’ or ‘spirit’ of Resolutions of the States. It would provide a convenient, searchable mechanism by which statements and commitments (which did not result in a States Resolution) can be examined. It will also help ensure either the correct interpretation of the proposals, or alternatively, provide evidence for challenge if a Department or Committee has not fulfilled the proposals appropriately.

BILLET D’ÉTAT XV – OCTOBER 2011

Treasury and Resources Department - Developing SAP and Shared Services

The Committee commented on the report in relation to its Staff Numbers and Expenditure Monitoring Review.

The report detailed the proposed development of the SAP system which intended (amongst other developments) to improve the quality of information available regarding staff numbers and costs, and increase the access to this information through improved reporting.

The Committee stated it believed the collection and publication of accurate information on staff numbers and costs was imperative in assessing whether

the States of Guernsey is achieving the agreed objectives of the replacement staff number limitation policy and providing appropriate monitoring of this information.

When questioned by the Committee in 2010 on the monitoring processes in place, the Department had stated that extraction of accurate relevant data from the payroll system was a time-consuming and labour-intensive process and there was only a limited amount of data that could feasibly be extracted. It advised that one of the workstreams within the Financial Transformation Programme was to develop SAP and ‘top of the wish list’ was a full HR module. The Committee noted that the report was, in part, a realisation of that ‘wish’.

The Committee commented that the production of more accurate staffing numbers and pay costs, and more effective reporting mechanisms, will have the benefit of the political boards and committees having a clearer picture of any changes, to facilitate appropriate political oversight and scrutiny. It will also enable the Treasury & Resources Department to undertake its monitoring role more effectively.

Since the problems identified in 2010 with the data collection and calculation processes, the Committee stated it had been pleased to note that the Treasury and Resources Department has been liaising with all departments and committees to seek to improve the existing processes.

The Committee stated the review panel had focused on staff information in respect of its monitoring of the policy

on the limitation of staff numbers and expenditure, but the implications of the project for better financial management was (of course) much broader than that and would be of particular interest to its sister Committee, Public Accounts, in scrutinising value for money.

The Committee stated SAP is a tool that promises to develop the capacity of the States to produce real time management information and in turn provide, and be held accountable for, more accurate performance information. Good news for managers in getting to grips with the performance of their departments; good news for transparency and the capacity for holding government to account.

ADDITIONAL WORKSTREAMS

FINANCIAL TRANSFORMATION PROGRAMME

The fourth States Resolution following consideration of the Treasury & Resources Department's report entitled 'Fundamental Spending Review', agreed on 24th September 2009, was:

"To direct the Policy Council to submit annual Reports to the States on the progress being made together with other relevant information in connection with the delivery of efficiency savings identified by Tribal Consulting Limited".

Further to consideration of the Budget at its meeting on 10th November 2010, the Committee had noted that the update on the Financial Transformation Programme (FTP) appeared at Appendix V of the Budget, and that this would fulfill the Resolution. However, the Committee highlighted that it could be difficult for members of the public in the future to locate the Policy Council's report, situated as it was as an appendix to the Budget produced by the Treasury & Resources Department.

On consideration of the report, the Scrutiny Committee made comments during the Budget debate, asking the People's Deputies the question: *'Is this what you expected from the FTP annual report?'*. The Committee's own view was that it had expected the report to summarise the information circulated previously, and inform Members and the public on what the programme had, and would, achieve. The Committee was of the view that the report did not achieve this.

The Committee was concerned that many members of the public, and States Members, had not been provided with the complete picture of how the FTP had been, and would be, progressed. There were 107 projects originally listed within the FTP with various start times. In the absence of the report providing a comprehensive update on the status of each, it believed it was difficult for interested parties to obtain an overarching view of the status of the programme.

The Committee was aware that there was a 'Financial Transformation Programme' page available on the States of Guernsey 'Intranet', accessible by staff. It believed there would be benefit in setting up a similar, stand-alone webpage on the States of Guernsey website for the programme, where the table listing the status of each project could be published to be viewed by the public.

In light of this, the Committee recommended, in February 2010:

- In future, the annual report is presented as a report in its own right, rather than being appended or included as part of another report.
- The Policy Council publish an update as soon as possible providing the status of each project in the FTP.

The Policy Council responded on 31st March 2011, stating it intended to present a detailed report on the progress made as part of the States

Strategic Plan. It confirmed that an updated table would be circulated to all States Members as soon as possible. This was circulated on 4th July 2011.

GOVERNANCE ISSUES ARISING FROM HOUSING/HSSD REPORT ON 'EXTRA CARE' HOUSING

The comments made by the Scrutiny Committee during the States of Deliberation debate on the "Provision of 'Extra Care' Housing at Maison Maritaine and Longue Rue" Report in May 2011 are detailed at pages 22- 24 of this Report.

Aside from the issues identified prior to the debate by the Committee, many comments and speeches made during debate provided further evidence of governance failings in the process leading to the publication of the States Report.

After the debate, the Committee decided to appoint a Panel to consider the lessons which could be learned from the governance failings in the project.

The 'Extra Care Housing' Governance Panel

The Panel reviewed comments made during the debate and the Committee wrote to the four Departments directed by Resolution to take the project forward. The Resolution stated as follows:

To direct that the revenue funding issues, identified in Section 10 of that Report, be addressed inter-departmentally between the Housing, Health and Social Services, Social Security and Treasury and

Resources Departments as part of the preparation of the robust business case to be presented to the latter department.

The Committee was interested to learn how this project would be taken forward, in particular to monitor whether lessons had been learnt for ensuring appropriate governance arrangements were in place to facilitate effective joint working.

The Treasury and Resources Department responded in August 2011 providing information regarding the composition, objectives and terms of reference of the 'Funding of Long-term Care Working Party'.

The Panel requested clarity on the priority being given, and potential clash between, the short-term objectives of the 'extra care' housing project and the identification of a strategy and funding model for all forms of long-term care provision.

The Chairman of the Funding of Long-term Care Working Party provided a breakdown of how the Party had interpreted the Resolutions of the States in setting its terms of reference. Given the lack of clarity in the debate, the Committee recommended that this explanation of how the States decision has been interpreted should be circulated to all States Members for information.

The Panel also questioned how conflict would be avoided between T&R members' and staff involvement in the Working Party's role in enabling the submission of a business case and T&R's role in assessing and approving that business case.

In the view of the Committee, good governance demands that there should be separation and distance between those responsible for compiling the business case and those who will judge the robustness and viability of that case. Failure to ensure objectivity in the assessment of the business case poses a risk to the Department and to the States.

The Committee requested an assurance that appropriate measures were in place to manage this risk.

At the time of writing, this matter is still ongoing. The Committee intends to publish a summary report detailing its findings in early 2012.

GUERNSEY'S OLDER PEOPLE'S STRATEGY

The status of the Guernsey Older People's Strategy was discussed during the May 2011 States of Deliberation Meeting, when the joint report from the Housing and Health and Social Services Departments entitled "Provision of 'Extra Care' Housing at Maison Maritaine and Longue Rue" was debated.

During the debate on the report, the Minister of the Health and Social Services Department stated that the Older People's Strategy would be finalised by the end of the year.

In light of the absence of the Older People's Strategy in the November and December Billet d'États, the Committee requested an update from the Departments on when the report would be finalised and presented to the States of Deliberation. It also requested that,

as part of the update, the Departments provide the reasons why the report would not be presented to the States in 2011.

At the time of writing this matter is still ongoing. The Committee will be publishing an update on progress once received.

POPULATION & MIGRATION

At its meeting in December 2010, the Committee resolved not to subject the topic of 'population and migration' to a separate review; it instead decided to continue to monitor the workstream, and to make comments and recommendations where appropriate.

Background

In 2008 the Policy Council established the Population Policy Group (PPG) which consisted of the Deputy Chief Minister, four other Ministers and a range of senior advisors. The Group was tasked by the Policy Council to develop options for a legal and administrative framework for a population management regime.

In January 2011, the PPG published its "Managing Guernsey's Population" public consultation.

'Managing Guernsey's Population' consultation

The Committee considered the consultation document as part of its monitoring and provided comments for the Group to consider.

In considering the consultation document, it did not comment on the

content, and did not feel it appropriate to respond to the consultation document questions, as the Committee's focus was on the process and policy formulation and not in supporting any particular policy option. The Committee made the following comments:

Population Policy Group (PPG) mandate

The Committee considered the consultation document against the mandate given to the PPG. The Committee noted that the remit and authority of the PPG was somewhat confused with:

- the mandate referring to the workstreams set out in Priority 5 of the now defunct Government Business Plan;
- there being extant Resolutions from Billet d'État IV 2007, with specific reference to sections 6 & 7 of the Policy Council's States Report entitled 'Guernsey's Strategic Population and Migration Policy'; and
- the updates provided in the 2009 and 2010 States Strategic Plans (SSP), which were noted by the States as appendices to the SSP reports.

The Committee had noted the PPG's update provided to the Committee in January 2009, which translated the Group's inherited responsibilities set out in the Government Business Plan as being, in simple terms, threefold: (1) monitoring of population numbers (2) oversight of the Workforce Development Plan and (3) review of population management policies.

The Committee also referred to the 2007 report strategic objectives, which were detailed under the headings of:

- maximising the employability of residents;
- encouraging locally qualified people to stay in/return to Guernsey;
- assessing possible additional controls on residency; and
- monitoring and evaluation.

The 2009 and 2010 SSP updates stated the PPG's overriding priority was to establish a new legal and administrative framework for the management of the population in Guernsey. The Committee noted the PPG had clearly taken its direction from the latter, noting its current remit as being *"to develop a mechanism which might enable the States to manage the size and make-up of the Island's population"*. However, the Committee was pleased to note that the consultation document also made reference to the wider policy context and the concurrent separate but related workstreams that derived from the other previously agreed strategic objectives.

Whilst the consultation document and the PPG's current stated objectives appeared to be consistent with the formerly approved strategic objectives and workstreams, these had not yet been consolidated to ensure clarity of purpose.

The Committee therefore recommended:

- The opportunity be taken when reporting back to the States to provide a clear explanation as to how the historical States' approved

objectives have been consolidated into current workstreams; and

- The mandate of the PPG be updated and published.

Consultation

The Committee noted the PPG's objectives for consultation, as set out in the consultation document, indicated the intention to get as wide a range of input as possible from the general public and that efforts had been made to make the consultation document more accessible to the general reader.

The Committee felt that, due to the length and relative complexity of the issue under consultation, it may have been that the majority of respondents would be interest groups or businesses rather than members of the general public. The Committee stated its Public Engagement Review Panel would be interested to learn whether the PPG managed to reach a wider audience through its consultation paper, or whether it found other methods of consultation more effective.

The Committee would expect, as perhaps the PPG had, that the general public would not be particularly engaged in the higher level policy issues, such as the legislative and policy framework. It sympathised with the difficulty in making such a weighty subject accessible without leaving out important information. The Committee felt that the public presentations had been useful to explain the issues to a wider audience, but believed the dates for these, with hindsight, should have been included in the public information leaflet.

Members felt that any change in the population management regime was likely to provoke uncertainty in the open housing market and Members felt that might have been addressed more sensitively by the PPG.

The Committee considered that general interest in this issue would broaden in the subsequent stages of policy development when specific proposals were drawn up and published.

Individuals would no doubt be clearer on how the proposals would affect them, and perhaps be more motivated to respond. The Committee identified that it would arguably be easier at that stage to engage a wider audience and consult on clearly defined and specific issues, which would be useful evidence in finalising the proposed mechanism for population management.

Given the importance and scope of the subject-matter, the Committee anticipated a States Report be debated under Rule 12(4) for the States of Deliberation to debate proposals in principle without amendment, to enable the Policy Council subsequently to return to the States of Deliberation with the more detailed proposals.

PRIORITISATION OF LEGISLATION PROCESS

As a majority, the Committee was supportive of the establishment of the advisory Prioritisation of Legislation Working Group (PLWG) in October 2010 and the proposed arrangement to prioritise the drafting of approved legislation as set out in the 2010 States Strategic Plan.

Both the current and former Scrutiny Committee had raised concerns

regarding the process of prioritising legislation and had questioned whether there was sufficient political direction given to the prioritisation process, or to assessing whether it was achievable. It subsequently resolved to monitor the new process as it evolved.

The Committee acknowledges that prioritising legislation is by no means a simple task, and that the process the PLWG oversees will continue to develop and be amended over time, through the feedback from, and experiences of, the Departments, Committees and the Law Officers of the Crown.

Billet d'État VII - May 2011

The Committee considered the Health and Social Services Department's report entitled *'Food Supplements, Nutritional Information and Health Claims'* at its meeting on 11th May 2011, and raised concerns regarding Proposition 3 of the report, which recommended the States:

'To acknowledge the adverse effect on the reputation of the States of Guernsey so that high priority is given to the drafting of the legislation'.

The Committee was interested in the PLWG's view on the inclusion of such a proposition as it was concerned about the impact the inclusion of this proposal could have on the prioritisation process. It questioned if such recommendations were appropriate or desirable and asked the Group what material impact and bearing, if any, such a Resolution if passed would have on the prioritisation process.

The Committee was concerned a trend could develop whereby prioritisation

was also recommended through resolution, out of context, and on a case by case basis, and that this could undermine the corporate prioritisation process.

These views were communicated to the PLWG, who subsequently advised the Policy Council. The Policy Council concluded:

"The Policy Council accepts that while there will be pieces of legislation which, from time to time sponsoring Departments may consider of paramount importance, nevertheless, there are considerable dangers in the States being asked to make a judgement on a single piece of legislation in isolation from the entire legislative programme and accordingly it would discourage this practice".

In July 2011, the Policy Council requested all Departments and Committees to take particular note of the above point.

Annex to the States Report

The Committee also questioned the scoring assigned in the annex, and felt it would be unclear to the reader what weight the scores had, and what brackets the scores fell in (e.g. low priority, medium etc.).

The Policy Council intends to review the current approach at the end of 2011 in relation to the scoring criteria for draft legislation. This will include considering the appropriateness of the use of the annex.

FISCAL POLICY PANEL

In April 2009, the States of Deliberation resolved to endorse and adopt the Fiscal Policy Framework, as set out in section 8 of the Policy Council's States Report. Section 8 of the report outlined that the overarching objective of the Fiscal Policy Framework was *"that fiscal policy should achieve the economic position of 'long run permanent balance'."* The framework to meet this states that:

"assuming a long run permanent balance position implies the acceptance of long run 'permanent', i.e. normal, levels for taxation and public spending including public sector capital investments...and that the assumed 'norms' for permanent capital expenditure and taxation to be 3.0% and 21% of gross domestic product respectively."

The Committee sought clarification from the Policy Council on a number of points in relation to the application of the Fiscal Policy Framework following its adoption.

The Budget Report and GDP in 2011

The 2009 Budget Report, the most recent year for which figures were available at the time of the Committee's consideration of this matter, outlined that Guernsey's GDP was £1.884billion, with a 1.75% forecast growth in GDP for 2011. Therefore, it was forecast that GDP would increase to £1.917billion in 2011.

Assuming that the component sources of capital expenditure are routine capital allocations and appropriations

from general revenue to the capital reserve, the 2011 Budget Report advises that £37.55million will be set aside for capital expenditure (£16.25million in routine capital allocations, including the Corporate Housing Programme, and £21.3million in appropriation from general revenue to the capital reserve).

Capital Expenditure Shortfall

As stated in the Fiscal Policy Framework, if a 'long run permanent balance' is to be met, capital expenditure should be equivalent to 3.0% of GDP. Therefore, based on the 2009 Budget Report GDP forecast for 2011, total capital expenditure in 2011 should be £57.51million.

However, instead only £37.55million has been committed to capital expenditure, which only equates to 1.96% of the forecasted 2011 GDP, not the agreed 3.0%. This represented a shortfall of almost £20million in meeting the Fiscal Policy Framework's commitment for capital expenditure.

In addition, the Committee noted that in the 2010 Fiscal Policy Panel report it was outlined that *"...the States' budget has rarely put aside sufficient to fund capital spending at or above 3% of GDP, nor are future plans sufficient."*

The Committee expressed concern that the Fiscal Policy Framework's permanent balance capital expenditure commitment was not being met and sought clarification on why the Framework's requirement for 'permanent balance', i.e. capital expenditure equating to 3.0% of GDP, is not being allocated and implemented

fully. The Committee also requested an overview of the plans the Policy Council had to fulfil this commitment in the future, together with an indication of the timescales involved to achieving this and when such proposals might be presented to the States of Deliberation.

Annual Report

The Fiscal Policy Framework outlined that an annual report would be published in conjunction with the Treasury and Resources budgetary forecasts to outline whether the policy was being conducted within the agreed framework. The Committee noted that the Policy Council established an independent Fiscal Policy Panel to undertake this review in 2010 and subsequently the Panel published its first report in December 2010.

It requested an update on the plans for 2011 and whether the independent Fiscal Policy Panel would produce the second annual report later in 2011.

The Policy Council responded as follows:

"The States Strategic Plan sets out a fiscal strategy to return the States to overall balance by 2014 (on present projections) through a strategy of expenditure restraint and through delivery of operational savings through the Financial Transformation Programme. Guernsey is fortunate in this regard, that unlike just about all Western economies, including the UK, Jersey and the Isle of Man, public service reductions and actual cuts are not being contemplated as part of the policy mix to return to a balanced budget position and removal of the structural deficit position

estimated to be around £20m after the introduction of zero/10 and the global downturn of 2008/09.

It is recognised that the present projected/planned capital allocations over the time horizon of the States Strategic Plan does not currently match the annual sums required to be consistent with the 3% target as set out in the Framework. This does need however, to be seen in the context of the slippage of the current capital programme. Actual capital expenditure (above non routine) funded from the capital reserve was actually just £5m in 2010 against a £20.6 transfer to the reserve. Somewhat ironically, the capital reserve balance increased over the course of the year.

This slippage has a cumulative (beneficial) effect and will in practice improve the balance position over the very near term horizon and reduces the urgency for addressing this issue. The current global economic outlook is very uncertain and despite Guernsey's fortunately robust economic performance over the last few years, it would be imprudent and premature to attempt to address this issue at this juncture, particularly as capital reserves are now larger at this current point than previously anticipated as a result in the slippage of the capital programme.

That is not to underplay the issue and one that requires constant monitoring and vigilance. Structural and permanent balance issues were most recently discussed at the Fiscal and Economic Policy Group at its last meeting.

...There will again be an independent report in 2011 on States fiscal conduct".

THE EDUCATION DEPARTMENT'S OCAS POLICY

The school a child attends in Guernsey is determined by the area they live in – known as the ‘catchment area’. There are defined catchment areas for Infant, Primary, Junior and Secondary Schools in Guernsey⁵. Details of the catchment areas may be found on the States of Guernsey Education Department’s website (www.education.gg).

The Education Department operates a policy for consideration of applications from parents who wish their children to attend a school outside of their catchment school. This is available on the ‘*Finding a School – Out of Catchment Places*’ section of the Department’s website.

The Committee received representations from members of the public regarding the Out of Catchment Area School (OCAS) Policy and subsequently wrote to the Education Department regarding the policy and its implementation.

The Education Department introduced a revised policy for 2011, so some of the difficulties experienced by applicants that the Committee had been informed of arose from the application of the former policy or during the transition to a new policy.

However, the Committee sought clarity from the Education Department on a number of issues and asked for assurances that the revised policy took into account the problems identified, and that these would be proactively addressed.

The Committee made comment and sought clarity on the following areas in respect of the policy:

- The legal basis of the Department’s decisions under the *Education (Guernsey) Law, 1970* in particular the application of Section 34;
- The link between the OCAS Policy and Voluntary Schools
- The decision making process (including the delegation of authority and timeliness of decision making);
- Handling of applications and customer service

A summary report of the Committee’s comments and the Department’s responses on the issues raised has been published and is available on the Committee’s website or on request from the Scrutiny office.

HOME DEPARTMENT: THE ELECTORAL ROLL

In June 2011, some Members received calls from members of the public asking how they could register to vote.

Members were subsequently unable to find any information on the States of Guernsey website on how to register. Only by referring to Billet d’État XXI of 2010, the Home Department’s ‘*Electoral*

⁵ Catchment areas do not effect fee-paying children at one of the grant-aided colleges (either at junior or senior level) or children at these colleges or the Grammar School by virtue of selection following 11+ exam results. Baptised Catholics may also attend the voluntary schools.

Roll' report, did the Committee learn that:

"Application forms are available at Sir Charles Frossard House, parochial offices and other public buildings. Forms are also sent out to members of the public on request. In addition, islanders may apply by sending their details to the Elections email address and in the run up to the General Election, a specific election website is established allowing islanders to submit their details onto a secure site".

The Committee was mindful that the creation of a new Electoral Roll, as agreed by the States of Deliberation in November 2010, would require all eligible individuals who wished to be able to vote in the 2012 General Election of People's Deputies to register and that a publicity campaign would be launched to attempt to engage and inform the public of this.

However, in the interim, the Committee believed information on registering to vote should be readily available and accessible online, and recommended that a holding page be created on the States of Guernsey website explaining how people could register in the interim.

It also recommended the location of information on the electoral roll should be reviewed, located as it was under 'Home Department – Central Services – Electoral Roll'. The Committee believed many members of the public may not realise that part of the responsibility for the electoral roll fell to the Home Department, or that it would be listed under 'Central Services'. In the absence of a credible search mechanism on the

government website, it was difficult to locate information on the electoral roll. The Committee believed this could be resolved by creating a 'quick link' or by placing the information in a more accessible location.

Given the recognised importance of encouraging enrolment on the electoral roll, the Committee considered the above recommendations to be 'quick wins' for improving access to information.

The Home Department welcomed the suggestions made by the Committee and arrangements were made for the additional information to be made available on the website in accordance with the Committee's recommendations.

THE POLICY COUNCIL: STATES OFFICIAL GAZETTE

In November 2011, the Policy Council presented its report 'States Official Gazette' to the States of Deliberation⁶. It stated:

"In February 2008 concern at the escalating costs to the States of placing Notices in La Gazette Officielle and recognition that a mechanism designed to meet the communication needs of the 19th Century was no longer appropriate, led to a States Resolution to prepare legislation to create a States Official Gazette published in electronic format."

The report explained the changes in circumstances since 2008 that had led the Policy Council to reconsider the

⁶ Billet d'État XIX 2011 – 'The States Official Gazette'

appropriateness of implementing the resolution.

The Policy Council had consulted with the Scrutiny Committee in early 2011 in respect of the work that the Committee was undertaking on public engagement and requested its views on the matter. The views of the Public Engagement Panel were submitted to the Policy Council in March 2011, and presented in the Policy Council's Report as follows:

Public Engagement

Given that the cost to the States of La Gazette Officielle Notices has reduced significantly from historic levels for the reasons set out above, the fundamental question remaining is whether moving to an electronic format for publication supported by notices in public buildings such as States Departments and Douzaine Rooms, will ensure that the majority of the public is better served than under the current arrangements. As the Scrutiny Committee is undertaking a Public Engagement Review, an objective of which is to assess the current effectiveness of public engagements by the States of Guernsey and identifying areas where public engagement processes could be improved, the Public Engagement Review Panel was asked for their views on moving to a States online Gazette.

The Panel considered that "relying on an electronic format only would not be appropriate for Notices aimed at informing a large percentage of the population and therefore universally rather than narrowly targeted" in explaining its reasons for its view, the Panel referred to the fact that the 2008

Report highlighted that "recent statistics indicated that over 70% of the Island's population have access to the internet at home". The Panel noted however that this excludes 30% of the population and gave no consideration to internet usage habits or what "access" consists of.

The Panel also based its conclusion on the fact that the Guernsey Press would appear to have a much wider reach than the internet. It is understood that the Guernsey Press claims 80% of the population read the newspaper with a 16,000 daily circulation and estimates that each copy is read 2.6 times. The Panel concluded, therefore, that an online Gazette might be useful as an additional rather than a replacement means of communication and its success could then be judged against La Gazette Officielle. It suggested that this might be reasonably reviewed when the new website is established.

On reflection, the Policy Council concurs with the view of the Panel and believes that to dispense with the publication of La Gazette Officielle in the Guernsey Press will indeed disadvantage a significant proportion of the population who neither choose nor are equipped to obtain public information via electronic means. In this respect the Policy Council recognises that as the generation for whom electronic means of communication are a normal part of everyday life get older the value of the current La Gazette Officielle may diminish but it believes that day is some years away.

Committee Secretariat Network (CSN)

The Committee Secretariat Network is a group which meets once a year, consisting of staff representatives from parliamentary select committees, including:

- The House of Commons
- The House of Lords
- London Assembly
- Guernsey
- Ireland
- Isle of Man
- Jersey
- Wales
- Northern Ireland
- Scotland

Feedback from the June Meeting:

The staff of the Committee found the June meeting extremely useful in learning about the experiences of other parliamentary committees on the aforementioned subjects.

2011 CSN Meeting:

Guernsey hosted the CSN meeting, on 23rd to 24th June 2011. Staff representatives met to discuss a variety of subjects, and to discuss strategies, successes and challenges in a large number of areas including:

- 
- Corporate Governance and 6 Core Principles of Good Governance
 - Recent developments on Parliamentary Privilege
 - Opportunities and challenges to the operation of committees
 - Performance Management / Success Criteria
 - Public engagement – strategies in place and lessons learned
 - Methods used to introduce changes in working practices
 - Technology used by the Committee
 - Atypical evidence sessions

Review of the scrutiny process

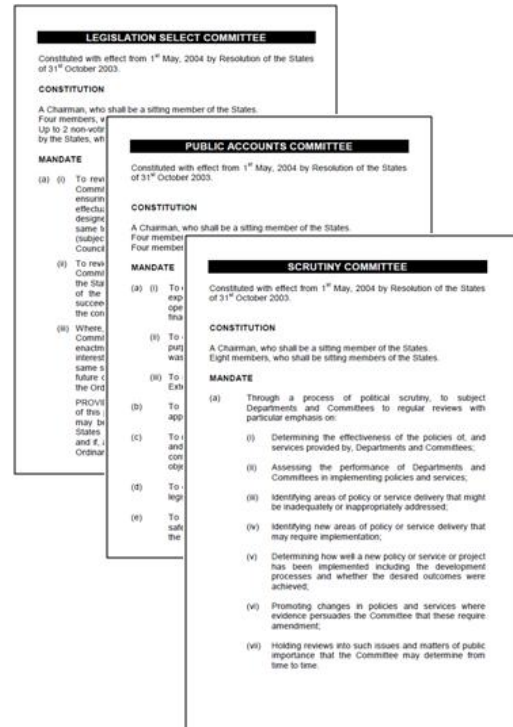
As aforementioned, the Public Accounts Committee (PAC) presented its 'Governance in the States of Guernsey' report to the States of Deliberation for debate in March 2011. One of the suggestions made was in respect of a review of the scrutiny process:

"The powers, resources, mandates and effectiveness of the Scrutiny and Public Accounts Committees should be independently reviewed both as separate Committees and in terms of jointly providing a full scrutiny process on behalf of the States of Guernsey."

The Committee supported the principle of carrying out a root and branch review of the effectiveness of its own work and that of the wider scrutiny process.

In August 2011, the Policy Council wrote to the Committee suggesting that there was merit in proceeding with such a review during the current term of government, undertaken by independent persons, and suggesting a draft terms of reference for the review.

The Committee requested the review should include the scrutiny function provided by the Legislation Select Committee ('the LSC'), to ensure the review covered all aspects of 'scrutiny' within the States of Guernsey, a recommendation which received support from the LSC, and as accepted by the Policy Council.



In respect of the timing of the review, further to discussion with the Policy Council, the Committee noted that the review was unlikely to commence much before the end of 2011, and that the reviewer would have the opportunity to take into account the findings of the JCWP.

The Committee held an 'away day' on 11th November 2011 to discuss how it could contribute to the review, and to discuss the Committee's purpose and its stakeholders, the value of the scrutiny function and whether it wished to put forward any proposals or recommendations for change.

The review formally commenced in December 2011, and the Committee has met with the reviewer to feedback its experiences.

Managing the Committee's Performance

The Committee developed performance indicators in October 2009 to measure its performance in:

- reflecting the concerns of, and engagement with, the public;
- delivering the 'critical friend' function to States' Departments and Committees;
- promoting its work through the media.

Performance indicators are just one means by which the Committee evaluates its performance. An 'action plan' and timetable has been formulated for each review undertaken, and the full Committee receives monthly 'review updates' at its meetings, where the Lead Member for each Panel provides an update on the work the Panel has undertaken, and outlines the next steps.

The Committee publishes its 'Forward Work Programme' on a quarterly basis, to inform stakeholders of the work it is undertaking.

The Committee also reports to the States of Deliberation with individual reviews and publishes its performance report for debate.

How scrutiny performance is managed in other jurisdictions:

In formulating performance indicators, the Committee was aware of the limitations of such indicators in measuring performance.

At the Committee Secretariat Meeting, staff representatives discussed what mechanisms jurisdictions use to establish performance.

It was roundly acknowledged that while useful to monitor how many recommendations made by Scrutiny are accepted, there are limitations to what this information can tell a Committee. Simply measuring recommendations accepted:

- gives no indication of the quality of the recommendations accepted;
- does not monitor the outcome of the recommendations;
- could distort the true picture as 'what you measure is what you get';
- could be counter to effective scrutiny.

It was noted that qualitative measurements such as peer reviews and stakeholder reviews can be an effective measure of performance. A balanced scorecard approach was also suggested as a potential measure.

The group noted there can be difficulties of defining 'good scrutiny' in the first place and subsequently measuring it. For example, the influence the scrutiny function can have is important but hard to quantify.

It was agreed measuring performance was important to the Committee in terms of assessing the impact of their work. It was noted external feedback was effective in this situation. The

importance of Committee 'self-scrutinising' was also discussed with an agreement that Committees needed to be more self-critical and self-reflective.

Other jurisdictions also monitored internet hits to assess the success of their websites in 'informing' stakeholders.

Future performance management:

The review of the scrutiny function includes within its scope: 'how to evaluate and measure success'. The Committee hopes that the reviewer will suggest proposals which can build upon the performance indicators in place to provide a more rounded view of the performance of the Committee in delivering its mandate.

Scrutiny Performance Indicators:

The performance indicators have continued to be monitored by the Committee on a quarterly basis.

1st Quarter: May to July
2nd Quarter: August to October
3rd Quarter: November to January
4th Quarter: February to April

The Committee is provided with regular update reports on the performance indicators with an accompanying commentary.

Reflecting the concerns of and engaging with the public:

PI 1a	The number of written representations received from members of the public or private organisations in relation to topics being considered by Scrutiny.				
	Quarter	1	2	3	4
	2011 - 2012	1	2	-	-
	2010 – 2011	2	18	194	34
	2009 – 2010	n/k	n/k	0	1

The purpose of this indicator is to ensure the Committee takes into account, where appropriate, the views of the public as part of the review process.

Since the Committee has started measuring performance through indicators, it has held only one major public consultation exercise, as part of the School Exclusions and Disruptive Behaviour Review. This accounts for the majority of submissions from the public in the 3rd and 4th quarter of 2010 – 2011.

This, alongside the strong response to the 'Investigating Vandalism' consultation, shows that when the Committee seeks the views of the public, it has had a good response.

Other written representations received include correspondence on the OCAS Policy, animal welfare legislation and public engagement.

The messaging mechanism on the Committee's Facebook page has been used by some members of the public to contact the Committee in a less formal manner.

The next Committee will need to consider what further steps it can take to encourage more stakeholders to proactively contact the Committee with issues they would like it to consider.

1(b)	The number of visits to the States' Scrutiny web-page			
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Quarter	1	2	3	4
2011 - 2012	21	7	-	-
2010 - 2011	80	26	38	47
2009 - 2010	28	26	18	36

The Committee's page on the States of Guernsey website only receives a small number of visitors. Further to liaison with its sister Committee, it is clear that the Public Accounts Committee's page also receives a low level of visits.

The limitations of the States of Guernsey website in operation up to December 2011 are well known – the site is inaccessible, non-user friendly and unappealing. The Committee hopes the introduction of the 'new' website will encourage more people to visit the website, and its webpage.

The Committee has sought to encourage further access to its work through setting up a 'Facebook' page. At the point of writing, the Committee has accumulated **312** friends (236 at end of December 2010). Since its initial launch, there has continued to be a steady stream of people 'befriending' Scrutiny Guernsey.

While difficult to quantify the impact of the Facebook page, using this form of social networking will have undoubtedly increased awareness of

some members of the community of the work of the Committee.

Provision of a 'Critical Friend' function to States' Departments:

As previously stated, the Committee is conscious of the difficulties in statistically determining the effectiveness of the scrutiny function.

As demonstrated in the 'Scrutiny in the States' section, the Committee has often raised points for consideration by States Members and departments on policy reports without making specific recommendations.

The Committee has monitored the number of recommendations it has formally made to departments and committees to assess whether these have been accepted.

2(a)	The number of scrutiny recommendations made to the States/ Departments
2(b)	The percentage of scrutiny recommendations accepted by the States/Departments

	Quarterly results			
11/12	1	2	3	4
2(a)	8	2	-	-
2(b)	100%	50%	-	-
10/11	1	2	3	4
2(a)	8	0	1	13
2(b)	100%	0	100%	62%
09/10	1	2	3	4
2(a)	n/k	52	0	0
2(b)	n/k	n/k	69%	0

The bulk of recommendations made by the Committee in 2009 – 10 were contained in the 'Investigating Vandalism' Report'.

The Committee made a number of recommendations as a result of its review of the Planning Service in the 'Post-Shepley Report' in 2010 - 11. It has also made recommendations on ad hoc workstreams, as detailed earlier in this report and in previous performance reports.

Engagement through the media:

The Committee monitors the coverage provided to press releases, comments and speeches made by Members to assess how the Committee engages through the media.

The indicator focuses on information that the Committee pro-actively places in the public domain, so therefore does not note every mention the Committee receives in the media.

1 (c)	The number of Scrutiny Media Releases / Committee Comments that are published /broadcast
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Quarter	1	2	3	4
2011 –12	9	6	-	-
2010 –11	5	9	13	16
2009 –10	n/k	n/k	n/k	25

SIX CORE PRINCIPLES OF GOOD GOVERNANCE

PERFORMANCE REPORT ADHERENCE TO PRINCIPLES OF GOOD GOVERNANCE

Core Principle 1: Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users

The Committee determined its work programme by prioritising proposed topics against a matrix of the perceived impact on the community and the value that the Committee might add in examining them. Ad-hoc topics are considered against the Committee's mandate.

Core Principle 2: Good governance means performing effectively in clearly defined functions and roles

The Committee operates against its mandate and 'Guide to Scrutiny in Guernsey'. The Guide sets out the Committee's agreed approach to its function and role. In choosing topics for scrutiny the Committee ensures the terms of reference for its reviews are published once formally agreed. Its subsequent review reports comprehensively detail the methodology used.

Core Principle 3: Good governance means promoting good values for the whole organisation and demonstrating the values of good governance through behaviour

In addition to being governed by the formal codes of conduct applicable to all States Members and separately to civil servants, the 'Guide to Scrutiny in Guernsey' defines the conduct required of Committee Members and the duties of Committee staff.

Core Principle 4: Good governance means taking informed, transparent decisions and managing risk

The Committee's recommendations are based on its analysis of the information it gathers through a range of mechanisms: correspondence, meetings and review hearings. Relevant correspondence, review hearing transcripts and the Committee's findings are published. Printed guides explaining the submission of evidence are available to anyone who is asked to give evidence to a review. A risk assessment of each proposed review is undertaken by the Committee, as shown on the published 'criteria for scrutiny subjects form'.

Core Principle 5: Good governance means developing the capacity and capability of the governing body to be effective

The Committee is mandated, through a process of political scrutiny, to subject Departments and Committees to regular reviews of policies or services and has made recommendations to improve the policies and services of government.

Core Principle 6: Good governance means engaging stakeholders and making accountability real

The Committee has sought to engage stakeholders through a variety of methods – press releases; reports; speeches in the States of Deliberation. It published its 'Public Engagement Strategy' in October 2011. The Committee also created a 'Facebook' page in 2010. In subjecting departments and committees to political scrutiny and publishing the results, the Committee strives to make accountability real.

Scrutiny Committee: Contact Details

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The Scrutiny Committee operates a Facebook account to improve its engagement with the public. Facebook members who wish to become a 'friend' of '[Scrutiny Guernsey](#)' will see news updates on the Committee's activities and receive invitations to events.

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The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 9th December 2011, of the Scrutiny Committee, they are of the opinion:-

1. To note the Scrutiny Committee's 2011 Performance Report.

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

THE REPAIR AND MAINTENANCE OF PAROCHIAL CHURCH PROPERTY

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

18th November 2011

Dear Sir

1. Executive Summary

- 1.1 This report outlines the detailed investigations undertaken by the Parochial Ecclesiastical Rates Review Committee (PERRC) and sets out its proposals in accordance with its mandate.

PERRC is a special States Committee set up by Resolution of the States on 29 June 2005.

- 1.2 Its mandate is:

“To investigate and report on the operation of the Loi Relative à La Taxation Paroissiale 1923, as amended, as to its church property aspects, with particular reference to the repair and maintenance of parochial church property, and alternative means of providing or securing the finance required to repair, maintain and support such property”.

- 1.3 Under the Loi Relative à La Taxation Paroissiale, 1923, as amended, (“the 1923 Law”), each parish in Guernsey pays for its parochial secular and ecclesiastical expenses through compulsory parish rates. Appendix 5 lists all the current secular and ecclesiastical charges on the rates.

- 1.4 It is important to note that PERRC’s mandate extends ***only to ecclesiastical expenses*** and not secular expenses. However, the 1923 Law does not differentiate between the two types of charges.

- 1.5 Paragraph 2.2 explains in detail the reasons why the States of Deliberation resolved to set PERRC the task of investigating these issues.

- 1.6 PERRC’s proposals focus primarily on the following main issues:

- (a) the ownership of Parochial Church Property¹ ;
 - (b) the ecclesiastical rates; and
 - (c) consequent minor changes to the 1923 Law and to The Parochial Taxation (Reserve Funds) (Guernsey) Law 1997 (“the reserve funds legislation”).
- 1.7 As regards alternative means of providing or securing the finance required to repair, maintain and support parochial church property, PERRC has investigated 4 possible alternative sources of funding².
- 1.8 In addition, PERRC is also of the view that there are opportunities for the ancient parish churches to be more widely used by the community, e.g. for secular events, by other Christian denominations³.
- 1.9 The Law Officers, both past and present, have provided advice to PERRC throughout its investigations and have also advised on this report and its recommendations.
- 1.10 In summary, PERRC’S proposals are as follows:

(A) The Ownership of Parochial Church Property –Rectories and Glebe Land and Management Boards⁴

- That, for the avoidance of doubt and to assist in the management of this property, ownership of eight of the ten rectories⁵ and glebe land should be statutorily vested in the constables, on behalf of the parishes.
- It does not propose at this time that ownership of the ten ancient parish churches and nine ancient parish churchyards be statutorily vested in the parishes.
- It is proposed that the necessary legislative changes to effect this should include provision for the eight parishes to rent or sell the rectories with the proceeds to be used at the discretion of the parish. This would enable the parish to use the funds as appropriate for repair and maintenance of the rectory or other ecclesiastical or secular property and related purposes including the repair and maintenance of the ancient parish church, its

¹ For the definition of Parochial Church Property see Glossary of Terms and Definitions in Appendix 3

² Please refer to section 3.14 for further detail.

³ See paragraphs 3.13.9 – 3.13.15 for further details on this issue.

⁴ For the definition of Parochial Church Property see Appendix 3

⁵ St Peter Port and the Vale are excepted as the Rectories in those parishes are owned by the Rector and Churchwardens.

churchyard and glebe land or any other connected purpose.

(B) Management Boards

- The introduction of a management board for each parish, comprising representatives of the parishioners and the Douzaine together with the rector and churchwardens, which would be responsible for advising parishioners on matters relating to the ancient parish churches and glebe land, but not the rectories, and for implementing decisions taken by the parishioners.

(C) Ecclesiastical Rates

- PERRC considers that the cost of the repair and maintenance of the rectories could continue to be met from parish rates or, if necessary, the parish reserve funds.
- PERRC notes that alternative funding would also be available, which could include income from the rent or sale of the rectories as referred to above.
- However, PERRC believes that the cost of the repair and maintenance of the ancient parish church, its churchyard and glebe land should continue to be met from the parish rates.
- The Law Officers have advised that the current funding arrangements for the repair and maintenance of parochial church property are human rights compliant.

(D) Minor Changes to the 1923 Law and to the Reserve Funds Legislation

- As a result of its investigations, PERRC has taken the opportunity to propose minor changes to the 1923 Law and to the reserve funds legislation. A detailed analysis of these changes is set out in section 4.4.

1.11 In this report there is specific reference to the church buildings and land, as well as the Church of England (usually as the occupier/user). For clarity of meaning and definitions of specific terms in this context, please refer to the glossary of terms and definitions in Appendix 3 of this report.

2. Background

2.1 Membership of the Committee and Acknowledgements

2.1.1 In 2005 the States elected Deputy D E Lewis as the first Chairman of PERRC and Deputies T M Le Pelley (subsequently elected by PERRC as its Vice-

Chairman), J A B Gollop, B R de Jersey and G Guille as Members. Deputy B M Flouquet was elected in 2007 to replace Deputy Guille.

- 2.1.2 Deputy Lewis chaired PERRC through a substantial part of its work. The Committee wishes to place on record its appreciation of former Deputy Lewis' leadership of PERRC and the contribution made by Deputies de Jersey and Guille.
- 2.1.3 Following the 2008 General Election the States elected Deputy Le Pelley as the new Chairman of PERRC and Deputy M M Lowe and Deputy S L Langlois in place of Mr B R de Jersey and Deputy Le Pelley as ordinary members. Deputy Gollop was subsequently elected by PERRC as its Vice-Chairman.
- 2.1.4 PERRC is grateful for the advice and assistance of Mr J N van Leuven, QC (when he was Her Majesty's Procureur) as well as that of Her Majesty's Procureur and other members of the Law Officers Chambers.
- 2.1.5 PERRC is also grateful to the Island Archivist for his research and input in this report in relation to the history of parochial funding.
- 2.1.6 PERRC acknowledges that input of the Dean of Guernsey, the Douzaines, the Guernsey Douzaine Council and the general public for participating in the early and recent consultation process.

2.2 Why was PERRC constituted?

- 2.2.1 PERRC was constituted as a result of a States Resolution on 29 June 2005, at the instigation of the Policy Council's States Report – Billet d'État IX of 2005. For ease of reference, this 2005 Report and its appendix are attached to this Report in Appendix 4.
- 2.2.2 The 2005 States Report explains that the former Procureur, Mr van Leuven had written to the Policy Council concerning the arrangements by which parish ratepayers were required to support 'church property', i.e. the ten ancient parish churches and rectories. This had arisen as a result of difficulties encountered by the Parish of Torteval to fund major repairs to Torteval Parish Church. In 2004, at the request of the Parish, the former Procureur was asked to advise the Parish and thereafter began an examination of the historical and legal issues pertaining to this issue.
- 2.2.3 The former Procureur had advised that the current parochial funding of the ten ancient parish churches and the parish rectories stemmed from the *Loi Relative à La Taxation Paroissiale, 1868*. It set up the legislative basis for Guernsey's parochial taxes, which met all ten parishes' ecclesiastical (and secular) expenses. Guernsey's 1868 Law meant that tax-paying parishioners had to contribute towards the repair and maintenance of the ancient parish churches and parish rectories, irrespective of their religious beliefs.

2.2.4 In 1920 the States resolved to introduce Island-wide income tax. As a result some secular expenses that had been met by the parishes fell to the States to meet. The States created a committee to consider replacing parochial taxation with a parochial rate for property owners. The States also created a second committee to consider the repair and maintenance of parochial church property, i.e. the ten ancient parish churches and parish rectories. Its report was considered by the States in December 1920 (Billet d'État XVII 1920). The 1920 report is included as part of the 2005 report (see Appendix 4). The States Resolutions deriving from the 1920 Report formed the basis of new parish rates legislation. A translation of the 1923 Law is included as Appendix 5. The 1923 Law includes a list of all the ecclesiastical and secular items that the current parochial rates system covers.

2.2.5 The Policy Council's 2005 States Report, whilst acknowledging that the parish churches were civic institutions as well as places of worship and of historical interest, also said that there were several issues that had led it to conclude that the time was right '*for a thorough investigation to be carried out into Guernsey's compulsory parochial church rates regime*'. The issues were:

- legal issues, such as bare title and beneficial ownership;
- issues of "*compulsion and conscience*";
- the possibility that in future parishioners might not agree to use parochial taxation to fund the repair and maintenance of parochial church property. This was a concern particularly if substantial sums were required for major repairs, as was anticipated in the case of Torteval Parish Church;
- human rights issues, i.e. whether it was acceptable under the European Convention on Human Rights to have a compulsory tax (the parochial rates) payable by all ratepayers (regardless of their beliefs) to maintain buildings used for Church of England worship.

2.2.6 The States of Deliberation therefore resolved to set up PERRC as a Special States Committee to investigate the matter.

3. Investigation

3.1 Communication and consultation

3.1.1 PERRC first met on 8 July 2005. Due to the complexity of the issues identified, Members agreed that a thorough investigation would be required before considering possible recommendations.

3.1.2 Members also recognised that communication and consultation would be an important facet of the Committee's work. PERRC's objectives were also to:

- raise public awareness of the parochial rates system in Guernsey;
- seek the views of the Parishes, the Guernsey Douzaine Council, the Dean of Guernsey and the local community on the proposal;
- engage with interested parties and keep them informed of the process.

3.1.3 In this context PERRC also agreed to contact and offer to meet every Douzaine, the Guernsey Douzaine Council⁶, and the Dean of Guernsey to (a) ask for their views, seek information and explain PERRC's findings during its investigations and (b) ask for their comments as PERRC neared the finalisation of its recommendations. A letter of comment from the Dean of Guernsey is attached at Appendix 7.

3.2. Parochial Owners' Rates - History

3.2.1 The age and origins of parochial taxation as a means of funding parochial church property are obscure. PERRC therefore asked the Island Archivist to investigate the history of parochial funding of the ancient parish churches and is grateful for his help and assistance.

3.2.2 The Island Archivist has suggested⁷ that the system of parochial taxation dates back to medieval times, when *trésors*⁸ were first named in the historical record. There is evidence from the fourteenth century to suggest that the costs of maintenance and upkeep of the ancient parish churches were jointly borne by the French Catholic Abbeys that were the patrons of Guernsey's churches and the respective parishioners, seemingly in the proportion of one-third to two-thirds. It may sometimes have been the case that part of the two-thirds parish contribution was even then funded by parochial taxation.

3.2.3 Late in the fourteenth century or early in the next, the possessions in Guernsey of the French Catholic Abbeys were seized by the English Crown. It appears that from then on Guernsey parishioners became, on the whole, solely liable for the costs of upkeep. Parochial taxation appears sometimes to have been levied to provide for this. Certainly by 1543 parish officers called '*vingteniers*' whose role was tax collection are recorded in Guernsey. There are also references to *trésors* being depleted in the Presbyterian period (1563-1662), even if at that stage it seems that these had been *diverted* from their use for ancient parish church upkeep. There is also a record of the payment for an ossuary (a place to keep bones) at St Peter Port funded by parochial taxation in 1608.

⁶ Then known as the Island Douzaine Council

⁷ In meetings with the Committee and also in an article published in "*The Jersey Law Review*" in 2005

⁸ A *trésor* is an historic parish fund with the Rector and churchwardens its custodians. Historically it was used for parish church maintenance & items for worship. In most, if not all, cases today the balance is insignificant.

- 3.2.4 Attempts were made to redirect the trésors back to maintaining the ancient parish churches. In 1662 an Order of Charles II required that the Governor assist the Dean in restoring the parochial trésors and that the Churchwardens should use the funds for the repair, maintenance and ornament of the (ancient parish) churches. However, the project appears to have failed because in 1677 the Dean drew royal attention to the fact that (ancient parish) churches still needed repair. Charles II therefore required the Royal Court to allow for *Remèdes*⁹ from the parishes to meet such needs. The wording suggests that there was already an established parochial tax regime in place. Certainly by the later seventeenth century parochial taxation included sums to meet the requirements of the churches, though for a long time taxes were not necessarily annual. Guernsey's parochial rates system was then formalised by the Law of 1868 from which the current system embodied in the 1923 Law derives.

3.3 Parochial Owners' Rates – Current System

- 3.3.1 Under the 1923 Law, each parish in Guernsey pays for its parochial secular and ecclesiastical expenses through its compulsory parish rates¹⁰. Appendix 5 lists all the current secular and ecclesiastical charges on the rates. PERRC's mandate covers only ecclesiastical expenses not secular expenses but the 1923 Law does not differentiate between the two types of costs.
- 3.3.2 Each year every parish proposes and seeks permission of its parishioners to raise parochial rates at two special parish meetings – one is the ecclesiastical meeting and the other is the secular meeting. The procedure for convening and running the parish meetings is laid down in an Order in Council of 1902 entitled “Loi Relative aux Assemblées Paroissiales” and is explained in the *Handbook for the Churchwardens of the Ancient Parishes of Guernsey* by D J Robilliard. Before the 1902 Law came into force the Rector of each parish was responsible for convening the parish meeting but subsequently parish business was divided between ecclesiastical and secular matters and so now the two separate meetings are convened.
- 3.3.3 Every parish's ecclesiastical budget requires approval by the parishioners and this is normally done at a public ecclesiastical meeting held between March and June. The Rector and Churchwardens convene the ecclesiastical meeting and place a notice in La Gazette Officielle inviting the parish's ratepayers and electors to attend. The notice also lists the proposed ecclesiastical budget. The ecclesiastical meeting covers several business matters but the key one, as far as PERRC's mandate is concerned, is the list of sums proposed by the Churchwardens to be levied by means of the Owners' Rate for the maintenance and upkeep of the parochial church property (i.e. the ecclesiastical rate).

⁹ A *remède* is permission to levy a rate. One is still required today in order for parishes to raise the parochial Owners' Rate.

¹⁰ Note paragraph 3.4.1

- 3.3.4 The Rector presides over the ecclesiastical business. When the ecclesiastical budget is discussed by the ecclesiastical meeting each budgeted item can be:
- approved.
 - reduced, i.e. a smaller sum can be agreed.
 - rejected, i.e. it cannot be included in the parochial ecclesiastical rate.
- 3.3.5 The ecclesiastical meeting cannot approve a higher sum than published before the meeting. If the meeting wants to increase an original budgeted figure then an extra ecclesiastical meeting has to be convened and advertised (in the statutory way) and the item is considered again. This allows any ratepayer or elector who did not attend the first ecclesiastical meeting to attend the second meeting to object to the proposed increase, if they wish. Once the ecclesiastical meeting approves a budget, it requests the Constables to apply to the Royal Court for a Remède to levy the sums involved.
- 3.3.6 It is normal, but not compulsory, for the secular meeting immediately to follow the ecclesiastical meeting (for the convenience of the ratepayers and electors who can attend both). The secular meeting is called by the Constables and the Douzaine, and ordinarily the Dean of the Douzaine presides. It is held to discuss secular matters, including the secular expenses that form the remaining part of the Owners' Rate. It is not possible for the secular meeting to alter the amounts agreed at the earlier ecclesiastical meeting for the ecclesiastical rates part of the Owners' Rate.
- 3.3.7 Once authorised by the Ratepayers and Electors, the Constables apply to the Royal Court to obtain a Remède to levy the Owners' Rate to cover the ecclesiastical and secular expenditure. It is possible for any ratepayer to attend the Royal Court to object to an item of ecclesiastical or secular expenditure, even if he/she raised an objection(s) at the parish meeting(s) and was defeated. In the event of an objection by a ratepayer, the Royal Court will only consider (1) whether the items have been agreed at the appropriate meeting by the parishioners and (2) whether that the expenditure fits into the categories listed in the 1923 Law (see Appendix 5 – Article 1). The Royal Court would not consider whether the sum(s) agreed by ratepayers and electors are reasonable or if the work is necessary. If the Royal Court confirms that the request meets the legal requirements then the Remède will be granted.
- 3.3.8 Once the Constables have obtained a Remède, they will collect the money by way of the Owners' Rate. The rate will normally be raised 6-10 weeks after the parish secular and ecclesiastical meetings. The Constables will pass the sum agreed for ecclesiastical purposes to the Churchwardens. This process may take until late summer/autumn.

3.4 Other Arrangements in respect of the Funding of the Ancient Parish Churches and Rectories

3.4.1 The Dean of Guernsey has pointed out that the parochial ecclesiastical rates do not cover *all* the costs of the parochial church property. The local church congregations also meet most of the running costs of the ten ancient parish churches (e.g. heating, electricity and 50% of the cleaning costs). Church congregations also usually meet all of the running costs and some of the internal refurbishment costs of the parish rectory (if it is used by the Rector).

3.4.2 PERRC's investigations have also revealed that there are four ancient parish rectories whose source of funding is different to the norm, i.e. not from the parochial ecclesiastical rates. These properties are the:

- *St Peter Port Rectory* – where the building is held in the name of the Rector and Churchwardens of the Town Church (in their capacity as church officers). The St Peter Port Douzaine had arranged that the parochial rates included the insurance of the parish rectory (given that the same insurance policy jointly covered the parish church). However, this temporary agreement ended in 2006 so that the ratepayers no longer meet any costs of the parish rectory.
- *Torteval Rectory* – the Church of England ecclesiastical parish is in *plurality*¹¹ with St Pierre du Bois and the Rector lives in the St Pierre du Bois Rectory. The Reverend Alwyn Binns was the last Rector to serve Torteval alone. When he retired in 1979 the Torteval rectory was found to be in need of substantial repair. As the property was no longer required to house a Rector it was let to the States Housing Authority at a nominal rent for a period of 25 years on condition that the States restore the building and convert it into six flats. The rectory was converted into flats and used for States tenants (usually from the south-western parishes). The lease ended in December 2009 when the property reverted to Torteval parish. During the term of this lease the Torteval ratepayers met none of the building's maintenance costs.
- *St Pierre du Bois Rectory* – since the ecclesiastical parish of St Pierre du Bois is in plurality with Torteval, part of the St Pierre du Bois Rectory's maintenance costs (approximately 30%) is met on behalf of Torteval by the Church of England congregations. This reduces the cost to the St Pierre du Bois ratepayers. In practice, *Torteval's share* of the St Pierre du Bois Rectory costs is met by the ten Church of England congregations of the ancient parishes. The congregations of the “new” ecclesiastical parishes make no contribution. The arrangement for Torteval's share to be paid by the other parishes ended in 2009.

¹¹ A *plurality* is, in ecclesiastical terms, when a Rector holds multiple benefices, e.g. being Rector of both Torteval and St Pierre du Bois.

- *Forest Rectory* – the incumbent of St Saviour’s is priest-in-charge of the Forest and lives in the St Saviour’s Parish Rectory, leaving the Forest Rectory vacant. As a result the Forest Rectory has been let on a full repairing lease to various third parties, leaving only the cost of the quinquennial (5 yearly) structural survey, organised by the Churchwardens, to be met by the parishioners through the parochial ecclesiastical rates. The St Saviour’s Rectory does not benefit from any funding from either the Forest Parish or from Guernsey’s other Church of England congregations. St Saviour’s Rectory’s upkeep and maintenance is therefore funded in the usual way, i.e. from the St Saviour’s ecclesiastical rates.

3.5 Ownership of Parochial Church Property

- 3.5.1 The ownership of parochial church property is a complex issue that has been interpreted differently over the years. The ten ancient parish churches have not always been used for Church of England worship. They have always been used according to the prevailing orthodoxy which, in various periods of history has been successively Roman Catholic, Calvinist and, since 1662, Church of England.
- 3.5.2 Some Douzaines, as well as the public, raised concerns with PERRC that the parish ratepayers were paying for the upkeep of buildings and land that did not belong to the parishioners. The implication was that the ten ancient parish churches (and other parochial church property) belonged to the Church of England who should therefore be responsible for all the costs.
- 3.5.3 The *submission*¹² of the Deanery of Guernsey to PERRC firmly rebutted the idea that the Church of England owned Guernsey’s parochial church property. The Deanery’s view was that the 1920 Report was an authoritative statement when it said that the parishioners of the 10 ancient parishes owned the ancient parish churches, parish rectories and glebe land. The Deanery submission quotes the 1920 Report “*Ownership usually implies responsibility, and so the Ecclesiastical system which has prevailed here from Norman times lays upon the parishioners who own the Church and Rectory the responsibility of keeping up the property which they own*”. It is clear that the Deanery does not assert that the Church of England is the owner of the parochial church property, and neither does it seek ownership or responsibility for the upkeep of the parochial church property in the future.
- 3.5.4 It could therefore seem that outright ownership of parochial church property rests with the parishes. The ownership issue, however, is still not that simple. PERRC is aware that the 1920 Report bases its presumption of ownership by the parishioners on authenticated *copies of medieval agreements*¹³ from 1368

¹² Dated 30th November 2005

¹³ Documents held at the Greffe (the original copies held at the Archives de la Manche at St. Lo were destroyed in 1944)

and 1369 involving the Vale and Castel parishes and their patron at the time - the Abbey of Mont St Michel. These documents were said to assign certain rentes in perpetuity to the “*Treasurers*” of the Castel and Vale ancient parish churches, on condition that the Abbey was released from its liability to a one third contribution to the upkeep of the churches forever. The 1920 Report assumed that (1) responsibility for upkeep meant ownership and (2) similar documents for the other eight ancient parishes had existed but had been lost.

3.5.5 The Island Archivist has cast some doubt on the interpretation made in the 1920 Report, saying that it:

- had assumed that the two agreements of the 1360s had amounted to the Abbey of Mont St Michel ceding ownership of the two parish churches to the parishioners of the Vale and Castel respectively, though the documents do not bear that out;
- had inferred from the two documents that Mont St Michel had made similar agreements with the parishioners of its other churches, when there is no substantial evidence of any such thing; and
- had further inferred that the owners of the other ancient parish churches (the Abbeys of Marmoutier and Blanchelande) had made similar agreements with their parishioners, for which there is no evidence whatsoever.

3.5.6 The Island Archivist suggests that it was not because of the two agreements of the 1360s that the three French Abbeys lost their interests in Guernsey. Instead it was because such interests devolved to the English Crown in the late fourteenth or early fifteenth century¹⁴. This meant that subsequently ownership of the churches vested in the Crown. Certainly the Crown, as successor to the French Abbeys, continued to enjoy parochial *tithes*¹⁵ that the Abbeys had once enjoyed. The Crown, as successor to the French Abbeys, through the Lieutenant-Governor and following consultation with the Bishop, the Dean and the Churchwardens continues to present priests to be instituted by the Dean as Rectors of the parishes.

3.5.7 The Island Archivist has also gone on to suggest, in a view supported by both the former Procureur and the current Procureur, that ownership of the ancient parish churches, in the sense of *bare title*, vests in the Crown but that the *beneficial ownership* or *enjoyment* is vested in the parish, which since the Middle Ages has had to pay two thirds, and later the whole, of the usual costs

¹⁴ The rights and properties of the Bishop and the French religious houses (the so called alien priories) were regularly taken “*into the king’s hand*” in times of war. At an indeterminate point, the confiscation became permanent (Source: The Government and Law of Guernsey Darryl Ogier 2005)

¹⁵ *Tithe* – a one tenth of something, such as income, paid in kind or in money form usually to support a religious organisation

of upkeep.

3.5.8 In conclusion, whatever the position regarding the legal ownership of the ancient parish churches, beneficial ownership is vested in the parish for the use and enjoyment of the parishioners.

3.5.9 The former Procureur's advice on this matter was that:

- the assumed ownership of the ancient churches by the Crown is merely legal, and beneficial ownership in every case remains with the parish, which for this purpose means the community of the parish taken as a whole, and not merely the congregation for the time being worshipping in the particular church;
- on any sale of church property, the funds derived would accrue to the benefit of the parish and be paid to the parochial officers for administration, the Crown disclaiming any beneficial interest in those funds;
- any sale of church property should be confirmed by Order in Council, if only because a purchaser would want the assurance of a statutorily confirmed title rather than a mere assertion of beneficial ownership by the parish.

3.5.10 The current ownership and system of maintenance of parochial church property results from a series of sometimes obscure, poorly documented historical changes. The 1920 Report that last reviewed the system for the repair and maintenance of parochial church property has hitherto been considered the authoritative guide. The report placed ownership of parochial church property with the parishes in full. However, the authors of the 1920 Report seem to have misinterpreted the ownership position of the ancient parish churches based on the two medieval agreements with the Vale and the Castel parishes. Despite this, the misinterpretation had little effect on the resulting 1923 Law on parochial taxation because the legislation largely codified the existing ancient custom.

3.5.11 In summary, the advice from the Procureur and the former Procureur is that *the Crown probably has bare title and the parishes certainly have beneficial ownership* of all ten of the ancient parish churches and the nine ancient parish churchyards.

3.5.12 PERRC also accepts that the Crown has no interest in eight of the parish rectories and the (various parcels of) glebe land, which are beneficially owned by the parishioners.

3.6 The Church of England in England and Guernsey

3.6.1 Guernsey has a unique civil administration and a special constitutional

relationship with the Crown. It is therefore not surprising that Guernsey's ecclesiastical constitution and consequent responsibility for the upkeep of parochial church property is also unique. It is important to understand the differences between Guernsey and England in this context.

- 3.6.2 The Church of England is the established church in England (i.e. it is officially recognised as a national institution) and has been since the 1500s. The first Act of Supremacy in November 1534 was an Act of the Parliament of England under King Henry VIII declaring that he was '*the only supreme head on earth of the Church in England*'. The second Act of Supremacy in 1559 was largely a re-statement of the original 1534 Act but with Queen Elizabeth I retitled the *Supreme Governor* of the Church of England and it applied more widely to "*...within this realm or within any other of your Majesty's dominions or countries ...*". The Act of Uniformity of 1559 set the order of prayer to be used in the English Book of Common Prayer and it extended "*within this realm of England, Wales, and the marches of the same, or other the queen's dominions*". However, despite both the 1559 Acts seeming to cover Guernsey, it was to be more than a century later before Guernsey was brought near to the Church of England¹⁶.
- 3.6.3 The Church of England in England has always had wide ranging legislative and judicial powers. Prior to 1919 all Church legislation was made by the UK Parliament. The Church Assembly (Powers) Act of 1919 gave powers to the Church Assembly to approve Measures. The General Synod inherited those powers in 1970. The Church of England also formerly had power over matters such as marriage and divorce law, wills, etc. The Church of England in England still has its own judicial branch, known as the Ecclesiastical Courts, but today these courts deal with a smaller range of issues to do with church property and the clergy.
- 3.6.4 Guernsey enjoys a high degree of self-determination because of the Island's history. Guernsey's civil administration is unique: the States of Deliberation have wide powers to raise taxation, determine expenditure and pass legislation. Historically the links between the Church of England and the local government in Guernsey have also been strong. The Rectors played an important part in Guernsey's civil administration until recent times, e.g. they were ex officio members of the States of Deliberation until 1948 and some Rectors remained elected members thereafter. Today the Rectors remain members of the States of Election – the Electoral College that elects Jurats.
- 3.6.5 Like Guernsey, the Deanery of Guernsey (which includes Sark and Alderney) has a high degree of self-determination. The Deanery is attached to the

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The Island Archivist has explained that this is correct in terms of doctrine, however, Guernsey remains attached to the Diocese of Winchester from 1560s to the present

Diocese of Winchester under the Bishop of Winchester¹⁷. Just as the UK's Acts of Parliament do not automatically extend to Guernsey, neither do the decisions of the Church of England's General Synod unless a Measure is extended with the agreement of the Bishop of Winchester. Church legislation is capable of application in the Bailiwick pursuant to the Channel Islands (Church Legislation) Measures, 1931 and 1957. Such legislation as the Bishop proposes to apply to the Islands requires the consent of the States of Deliberation. If approved, the scheme then goes to the Privy Council to embody the measure in an Order of Council for registration in Guernsey.

- 3.6.6 The Dean of Guernsey also has a unique role. He has functions similar to those of an archdeacon with extended responsibility as Bishop's Commissary in which capacity he institutes incumbents and sits as the judge in the Ecclesiastical Court of the Bailiwick of Guernsey. Not only does Guernsey's Ecclesiastical Court deal with *faculty applications*¹⁸, as does the Registry of the Diocese of Winchester for the Archdeaconries of Bournemouth and Winchester, but it also issues licences for Church of England marriages, retains probate jurisdiction¹⁹ in all estates of *personalty*²⁰ (in this regard disputed matters are decided in the Royal Court) and issues exhumation orders when they are required. It is unique in still retaining its probate responsibilities.

3.7 Vicarage Parishes and Ancient Parishes in Guernsey

- 3.7.1 An example of Guernsey's unique ecclesiastical arrangements is reflected in the current Dean of Guernsey, the Very Reverend Canon Paul Mellor's presentation to the Diocesan Synod in October 2005²¹;

"Many aspects of church life in the Bailiwick are different. A fundamental difference is that ecclesiastical buildings, both churches and rectories, are not owned by the Church of England nor maintained at our cost. Under the parochial taxation law, the ratepayers are responsible for upkeep of church, cemetery and parsonage house. The exception to this system are (the vicarage parishes) ...which are not among the... ancient rectorial benefices, and whose trustees own the property and so have to maintain them".

- 3.7.2 In addition to the ten ancient parish churches there are four vicarage

¹⁷ Elizabeth I notified the inhabitants of Guernsey that she 'annexed and united' the Channel Islands to the Bishop of Winchester in a letter dated June 1568. Today the Diocese of Winchester covers most of Hampshire and an area of Eastern Dorset. The Channel Islands are annexed to, but not part of, the Diocese.

¹⁸ *Faculty applications*: an ecclesiastical licence that gives permission to make physical alterations to church buildings.

¹⁹ Judicial certification of the validity of a will.

²⁰ *Personalty*: personal property that is moveable (i.e. not real estate/land and buildings)

²¹ www.winchester.anglican.org/synod.

parishes²² namely Holy Trinity, St John the Evangelist and St Stephen (all in St Peter Port) and St Matthew. These vicarage parishes are self-funding and do not fall within the remit of PERRC.

3.8 Funding the Diocese of Winchester

3.8.1 As the Deanery of Guernsey is attached to the Diocese of Winchester, it raises funds towards the running of the whole Diocese. Most English parishes give a portion of their money to their diocese as a 'Parish Share'. While this is not a compulsory payment, dioceses strongly encourage it and rely on it being paid. It is usually only withheld by parishes either if they are unable to find the funds or as a specific act of protest. As well as paying central diocesan expenses such as the running of diocesan offices, the diocesan Parish Share also provides clergy pay, clergy pension contributions and in England housing expenses (which total around £260 Million per year across all dioceses).

3.8.2 The 2009 Diocesan Synod budget for Winchester was £12.2 Million and the Deanery of Guernsey's part of the Diocesan funding (its Diocesan Share) was £622,000. It covers the clergy's stipends, pension costs and training (about 81%), and also contributes towards the Diocese as part of the "family". The Dean of Guernsey arranged for PERRC to receive financial statistics including the Deanery of Guernsey's contribution to the Diocesan Share of the Diocese of Winchester for 2008 (see Table 5 for more details).

3.9 Parish Ecclesiastical Rates – Amounts raised

3.9.1 Each parish raises the parochial rates under the 1923 Law (see Appendix 5). The statistics in Table 1 (below) relate solely to the ecclesiastical part of the parish rates and are illustrative of the differing rates across the parishes.

3.9.2 Table 1 shows that the cost of the ecclesiastical rates from 2001 to 2011 was over £4.3 million. The parishes' total costs vary widely (from just over £186,000 up to almost £1.148 Million) because factors such as the size, number and condition of the parochial church property and the ability and willingness of the ratepayers to meet the likely cost will all have a significant influence on the ecclesiastical rates budgets (see overleaf).

²² There was also a fifth such vicarage parish – the now defunct ecclesiastical district of St James. All five parishes were created in the 19th century.

Table 1 - Ecclesiastical Rates by Parish 2001-2011

<u>Parishes</u> <u>(in total cost order)</u>	<u>Total Cost to Ratepayers</u> <u>2001-2011</u>	<u>Average Annual Cost</u> <u>per Ratepayer 2001-2011</u>
St Peter Port	£1,147,920	£13
St Sampson	£514,834	£10
St Pierre du Bois	£410,401	£37
Vale	£404,566	£9
St Saviour	£420,955	£25
St Martin	£357,395	£13
Forest	£314,845	£20
St Andrew	£262,845	£25
Castel	£301,947	£9
Torteval	£186,226	£36
<u>All Parishes</u>	<u>Total £4,321,934</u>	<u>Overall Average £14*</u>

* The average of the ten parish rates per ratepayer is £20.00, however, when taking into account the differing populations in each parish the overall average per ratepayer across the Island is £14.00.

- 3.9.3 It is not reasonable to infer any long-term trends about the highest or lowest spending parishes based solely on the 2001-2011 statistics. For example, there have been major extraordinary repairs undertaken on the Town Church in recent years which are noticeable in the high total cost of St Peter Port ecclesiastical rates.
- 3.9.4 Despite the parish variations, some of the ecclesiastical rates expenditure is relatively constant. Ordinary expenditure (mostly for routine maintenance) tends to be relatively low and predictable at around £10,000 per annum per parish. In contrast, extraordinary expenditure can be much more variable because it is particularly affected by one-off structural repairs/upgrading. It is clear from the Douzaines' comments to PERRC that it is extraordinary expenditure that causes the most difficulties for the parishes because of the high sums that can be involved.
- 3.9.5 After the ancient parish churches the next most significant users of the ecclesiastical rates are the parish rectories. The rectories are potentially valuable capital assets. PERRC has noted that, as with the ancient parish churches, the majority of rectory costs are for extraordinary repairs.
- 3.9.6 Table 2 below illustrates the parishes' budgets for maintenance and repairs to their rectories (2001-11). The total rectory budget was just over £857,099, i.e. approximately one fifth or 20% of the £4.322 Million total ecclesiastical rates for the same period. In other words, between 2001 and 2011, the average cost to each of the parishes of its rectories was just under £7,800 per annum,

whereas the average cost of the total ecclesiastical rates was just over £39,000.

Table 2 - Ecclesiastical Rates – Parish Rectory Budgets 2001-2011

<u>Parishes</u>	<u>Rectory Budget 2001-2011</u>	<u>Rectory Budget (% of total ecclesiastical rates) 2001-2011</u>	<u>Average Annual Cost per Ratepayer 2001-2011</u>
St Peter Port	£30,160 ²³	<1%	<£1
St Sampson	£116,149	23%	£3
St Pierre du Bois	£230,517 ²⁴	56%	£21
Vale	£36,923	10%	<£1
St Saviour	£159,582	38%	£10
St Martin	£96,443	27%	£4
Forest	£1,300 ²⁵	<1%	<£1
St Andrew	£62,043	24%	£6
Castel	£30,354	10%	<£1
Torteval	£93,628 ²⁶	50%	£18
<u>All Parishes</u>	<u>Total £857,099</u>	<u>Overall Average 20%</u>	<u>Overall Average £3</u>

* The average of the ten parish rates per ratepayer is £7, however, when taking into account the differing populations in each parish the overall average per ratepayer across the Island is £3.

3.9.7 As detailed in section 3.4.2, four rectories are either leased out or have particular funding arrangements. In respect of the remaining six parishes the rectory costs account for approximately 22% of the ecclesiastical rates raised.

3.9.8 PERRC is aware that parish ratepayers are not just affected by the budgets that are agreed at the Parish ecclesiastical meeting. A large number of ratepayers in a parish²⁷ will spread the costs more thinly and make the effect on individual ratepayers much less. And the number of ratepayers varies considerably between the parishes - from almost 500 in small, rural Torteval up to around 8,000 in urban St Peter Port. The effect of numbers alone can be seen in Table 1 where both Vale and St Pierre du Bois raised approximately

²³ From 2003 onwards rectory budget was minimal as St Peter Port ceased paying any contributions towards the rectory.

²⁴ This is the net budget, reduced by the Church of England contribution of £56,070 during 2001-2011.

²⁵ Rectory has been let out on a full repairing lease so reducing costs to nil with the exception of £1,300 in 2004.

²⁶ Rectory let out on a full repairing lease until December 2009.

²⁷ *Number of ratepayers:* The number of bill payers was confirmed with the Douzaine of each parish by PERRC in 2006

£405,000 and 410,000 respectively in ecclesiastical rates (from 2001 to 2011) yet the average annual ecclesiastical rate per ratepayer was only £9 per annum in the Vale compared to £37 per annum in St Pierre du Bois.

- 3.9.9 PERRC also notes that despite the variations in ecclesiastical rates – between years and between parishes – overall the average annual cost per ratepayer of the ecclesiastical rates is relatively low. In Table 1 the average cost ranged from £9 to £37 per annum during 2001-2011.

3.10 Parish Funding of Extraordinary Repairs

- 3.10.1 As noted in section 3.9.4, extraordinary expenditure varies greatly from year to year from parish to parish and can reach quite high levels. It is acknowledged that funding the large, one-off sums through the ecclesiastical rates causes the Douzaines the most difficulty.
- 3.10.2 When parishes have to raise large sums to fund extraordinary repairs they currently have limited funding options. These are: the parochial Owners' Rates; loans; and the Parish Reserve Funds.
- 3.10.3 The usual method of funding is through the Owners' Rates. In almost all cases this would be the preferred means of funding because it attracts no interest charges and is therefore the cheapest option for the ratepayers. However, if the impact would be great on the individual ratepayers (i.e. there are a low number of ratepayers in the parish and/or the proposed expenditure is quite large) using the Owners' Rates may be an unpopular means of funding.
- 3.10.4 Parishes could also seek loans in order to meet large items of extraordinary expenditure. However, most parochial church property does not have title deeds or other evidence of title and, in the case of the ten ancient parish churches, the Crown would have to consent to the loan as it holds bare title on behalf of the parish. Furthermore, even if it is legally possible to foreclose against the Crown it is unlikely that a bank would wish to foreclose on a parish church. So, obtaining a secured loan, whilst conceptually possible, would not be practicable and would give rise to issues of ownership. PERRC is not aware of any secured loan on parochial church property. However, some parishes have taken out unsecured loans, which are then paid back over a period of years using the parish ecclesiastical rates. The drawbacks of an unsecured loan are that repayments generally attract a higher interest rate charge and a shorter repayment term than a secured loan or mortgage although PERRC is aware that, some 35 years ago, Torteval did borrow on an unsecured basis at a favourable rate of interest.
- 3.10.5 Parishes may therefore also consider using their Parish Reserve Funds. Reserve Funds are permitted by The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997. The law allows each parish to establish and maintain one reserve fund. The Parish Reserve Fund is accrued from the parish

Owners' Rates, i.e. the same source as for the ecclesiastical rates. The raising of Parish Reserve Funds has to be properly agreed by a parish meeting, as do the parochial rates, but in the case of the Parish Reserve Fund the Remède does not have to specify at the time of raising how the reserve funds will eventually be used. This allows some flexibility to accrue a "*rainy day type fund*", which can be useful when unexpected costs occur.

- 3.10.6 When a purpose is finally identified for the Parish Reserve Funds their use has to be approved in advance at a parish meeting. Such approval "must be included in an application to the Royal Court for confirmation of a tax, or as if for confirmation of a tax, under the Parochial Taxation Laws".²⁸ Under the Law, the Parish Reserve Funds can only be used for a limited number of ecclesiastical or secular purposes, as follows:

- "(a) *extraordinary repairs to the Parish Church, Rectory or Cemeteries;*
- (b) *the purchase of land for, and establishment of, Parish Cemeteries;*
- (c) *extraordinary repairs to Parish property...*
- (d) *the purchase or construction of additional Parish property...".*²⁹

- 3.10.7 At first impression, a reserve fund would seem the most logical means of funding large extraordinary upkeep and repair bills for parochial church property. However, the Parish Reserve Fund system has some limitations:

- the maximum amount in the fund is £250,000 (an increase from £100,000 has previously been agreed by the States) – which for some extraordinary repairs may still not be enough.
- the maximum sum that can be raised in any one calendar year is restricted to "*a sum equivalent to 20% of the mean average of the total sums raised in that Parish during each of the three previous calendar years under (a) the Parochial Taxation Laws, and (b) the Refuse Laws*".³⁰ This (rather complex) formula limits the speed at which the reserve fund can be built up – particularly for rural or low spending parishes. A Parish Reserve Fund therefore needs to be built up some years in advance of being called upon if it is to reduce the impact of a large extraordinary repair bill on the parish ratepayers in any one year.

- 3.10.8 PERRC's view is that these restrictions make it difficult for the reserve funds to meet the cost of the larger extraordinary repairs, which are often unanticipated, although the increase in the maximum amount allowable in the fund has helped to ease these concerns. PERRC also notes that some parishes

²⁸ Section 3(3) of the Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997

²⁹ Section 2 of the Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997

³⁰ Section 1(4) of the Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997

do not use the Parish Reserve Fund system. During a meeting with the Guernsey Douzaine Council on 24 November 2005, there was a view expressed that to accumulate a large reserve fund was undesirable as it could encourage additional spending. However, at the same time, at least one parish - Torteval – said it was building up its Parish Reserve Fund to help meet anticipated parish church extraordinary repairs.

- 3.10.9 As it was unclear what the consensus of the Douzaines might be, PERRC consulted directly with each parish and the Guernsey Douzaine Council (by letter of 21 November 2006) and asked for their views on possible changes to the Parish Reserve Funds' legislation (see Table 3 below).
- 3.10.10 There was no general support from the parishes for a change in the rate of accumulation of the Parish Reserve Funds but there was stronger backing for increasing the Parish Reserve Fund maximum limit which, as PERRC is pleased to note, has been agreed following a recommendation to the States by the Policy Council when submitting the report of the Parochial Legislation Working Party.

Table 3 – Consultation re possible changes to Parish Reserve Funds' legislation

<u>Parish Consultation</u>	<u>Increase accumulation rate</u>	<u>Increase the maximum Reserve Fund limit (still £100,000 at the time views were sought)</u>
St Peter Port	No change	No change
St Sampson	No change	Yes – it would assist smaller parishes
St Pierre du Bois	No change	No change
St Saviour	No change	Yes - in line with local RPI (to £150K)
Vale	No change	No change
Forest	No change	Yes – No upper limit suggested
St Andrew	No response	No response
St Martin	No change	No change
Castel	No change	Yes - increase to £200K
Torteval	Yes – plus 30%	Yes - increase to £300K
Guernsey Douzaine Council	No consensus	No consensus

- 3.10.11 It has also been suggested to PERRC that the parishes could loan each other sums from their Parish Reserve Funds. The advantage of such a system would be that the bigger, more affluent parishes could provide loans to the smaller parishes, possibly at a rate below the usual commercial rate and/or over a longer-term repayment period. However, a significant disadvantage would be that an inter-parish loans system funded by the Parish Reserve Funds might encourage larger Owners' Rates demands for a purpose that is not for a true *parish need*. As a result, PERRC is not minded to recommend any legislative changes to allow Parish Reserve Funds to be used for inter-parish loans.

- 3.10.12 Generally, parishes will try to use the parochial Owners' Rates to fund extraordinary works in the first instance. This is the preferred option where the sums involved are manageable or the required works can be phased over several years (to keep the annual demand on the ratepayers down to a reasonable level). However, PERRC sees advantages in allowing the Parish Reserve Funds to become larger so that parishes, if they choose, can use them more easily to fund extraordinary repairs. The decision to increase the maximum fund allowable from £100,000 to £250,000 was therefore fully endorsed by PERRC.

3.11 Maintenance of Churches – Funding in Guernsey and Other Jurisdictions

- 3.11.1 In Guernsey the parochial church property is usually maintained using funding from the parishes' Owners' Rates with the running costs for the churches and rectories met by the congregation and Rector, respectively. The Douzaines and the Dean of Guernsey have confirmed to PERRC that this partnership system has maintained the buildings well. However, parish funding is not the only funding system that is used locally (or worldwide) to maintain churches.
- 3.11.2 Guernsey also currently has four Church of England vicarage parishes. These additional parishes were effectively new ecclesiastical parishes carved out of the original ten ancient parishes in the nineteenth century. The churches, vicarages and other associated buildings of three of the vicarage parishes (Holy Trinity, St John's and St Stephens) are held by Trustees and are kept and maintained by their congregations (not the parishioners). The fourth vicarage parish is St Matthew's, Cobo and its situation is unique because it is the only vicarage parish in plurality with an ancient parish, i.e. it shares a stipendiary priest with the Castel. The Rector lives in the former St Matthew's vicarage and this has become the ancient parish of Castel's new rectory³¹. As a result, though St Matthew's Church is still maintained by the congregation, the former St Matthew's vicarage is now maintained by the parishioners under the parish Owners' Rates (with the running costs of the rectory met by the Rector).
- 3.11.3 In Guernsey there are also approximately 40 non-Church of England but Christian churches that PERRC understands are maintained by their congregations and are not in receipt of either States funding or parish funding. PERRC is aware that where congregation numbers have fallen some churches have become redundant as places of worship and alternative uses have been found for them. Most have been converted to dwellings.

³¹ Under an Order in Council in 1999 the Rectory and Vicarage were legally swapped. The former Ancient Parish Castel Rectory was acquired by St Matthew's Trustees and the St Matthew's Rectory was taken over by the Castel Parish (and vested in the Constables of Castel, the Rector and the Churchwardens)

- 3.11.4 In Sark, there is one Church of England church building - St Peter's Church - and a vicarage. The church and its immediately surrounding land and churchyard is owned variously by the Seigneur, the Island and, for the most part, the Church itself. The Chief Pleas maintains the church tower; the local congregation maintains the Nave; and the Seigneur, in theory, owns and maintains the Chancel. The Sark Church of England vicarage is owned by the local congregation which is therefore responsible for the vicarage's upkeep and maintenance. Whilst historically, there has been no funding from Guernsey, the Deanery or the Diocese of Winchester for the maintenance of the Sark church or vicarage, it is anticipated that some assistance will be given in the near future to assist with major repairs to the vicarage. Funds are provided for the part stipend of the resident priest. The local congregation's income derives from Sunday collections, donations, legacies and fundraising events, e.g. church fairs, Christmas Bazaars etc. In effect, the congregation raises most of the funds for the two buildings and also is responsible for all the running costs and the costs of worship. Interior maintenance is the responsibility of the Parish Council.
- 3.11.5 In Alderney the funding of the only Church of England church – St Anne's – and its Vicarage is very different to Sark and Guernsey. St Anne's Church was gifted to the people of Alderney and the States of Alderney are recorded as its owner. The States of Alderney therefore maintain the fabric of St Anne's Church. The original St Anne's vicarage was also a gift and the States of Alderney are again recorded as its owner. The States of Alderney maintained the original vicarage until the building was let out on a long lease in 2001. The proceeds from the lease paid for the construction of a new vicarage with the surplus funds/interest being used for its maintenance. The building and the fund are held in trust (the trustees being the Chief Executive of the States of Alderney, the Treasurer of the States of Alderney and the Churchwardens). If there is any insufficiency in the fund for the new vicarage then the fallback responsibility lies with the States of Alderney (and this is provided in law by an Order in Council).
- 3.11.6 In Jersey the parishes, as a matter of customary law, are held to be the owners of the ancient parish churches, churchyards and rectories, and accordingly are liable for their repair and maintenance, this having been confirmed by decision of Jersey's Royal Court in the 1920s. Whilst the procedure for determining and levying rates is somewhat different in Jersey, and is regulated by relatively recent legislation, the Parish collects the requisite funds from parishioners by compulsory rates to discharge its liabilities for ecclesiastical property.³²
- 3.11.7 In England the Church of England has 16,000 church buildings in 13,000 parishes as well as 43 cathedrals. The Deanery of Guernsey³³ confirmed the

³² Source: Mr JN van Leuven, QC; 8 March 2007

³³ Source: The submission from the Deanery of Guernsey, dated 30th November 2006

current ownership and maintenance position of the Church of England in England saying: *“In England the incumbent has the real and actual possession of the church [building]. The parishioners have the right to use the Church for Divine Service but neither the Churchwardens nor the parishioners have any right of ownership...Maintaining church buildings and the activities they support lies mainly with the volunteers making up the local church community”*. In England, repair and maintenance of the Church of England rectories is not a charge on the parish ratepayers. The parsonage house is nominally vested in the incumbent but is wholly maintained by the Diocese which, in turn, is funded principally by church congregations through the Parish Share.

- 3.11.8 Today the Church of England’s wealth is in the form of assets, such as property and financial stocks and bonds, which are in the care of a body called the Church Commissioners³⁴. The greater part of the Church Commissioners’ income is committed to the payment of pensions for retired clergy and meeting Episcopal expenses. The majority of the financial burden of church upkeep and the work of local parishes in England rests with the individual parish and Diocese, which meet their requirements through donations. Direct donations to the Church of England (excluding legacies) come to around £460 million per year, whilst parish and Diocese reserve funds generate another £100 million. Funds raised by the individual parishes account for almost all of this latter sum and between 70% to 90% of these parish raised funds do not remain in the individual parishes but are transferred to the respective Diocesan Board of Finance to pay for parish ministry and other central costs whilst the remainder stays in the parish that raises it, meaning that the resources available to English parishes can vary enormously according to the level of donations they can raise.³⁵
- 3.11.9 PERRC is aware that the English funding system for parish churches, which relies on the congregation to raise funds, when combined with falling Church of England congregations, has contributed to some Church of England churches no longer being required for public worship. These redundant churches have new uses sought for them. This process is overseen at national level by the Church Commissioners. Examples³⁶ of new uses for redundant Church of England churches include: worship by other Christian bodies; civic, cultural and community use; museum and educational use; as well as residential conversion.
- 3.11.10 In France there was a major change in the relationship between the Church and the State in 1905 and the ownership of all churches was transferred to the commune or the State. As a consequence, all church buildings built before

³⁴ The funds amount to £5.3 billion (as of 2010) and generated income of approximately £190 million, just under one fifth of the Church’s overall income. Source:

www.cofe.anglican.org/about-us/structure/churchcommissioners

³⁵ Source: <http://www.cofe.anglican.org/info/funding/>

³⁶ Source: www.cofe.anglican.org/about/builtheritage/index

1905 have the responsibility for their maintenance vested in the commune or central government. Maintenance of the churches built since 1905 rests exclusively with the denomination concerned.³⁷ PERRC has been informed by several sources (including the Castel Douzaine) that the French system has led to some church buildings falling into a sad state of disrepair.

- 3.11.11 In Germany the church buildings are generally well maintained. Their upkeep is achieved under a “*voluntary*” local church tax (the kirch–steuer) to which all (except non-Christians) are expected to pay. Although there are low church attendances there has been no large-scale opting out of the tax. Churches both Lutheran and Roman Catholic benefit from the tax. And in Biberach (in the district of Baden-Württemberg) the use of the main church has for centuries been shared between the Roman Catholic and Lutheran communities.³⁸
- 3.11.12 PERRC understands from the Dean of Guernsey and the Douzaines that Guernsey’s parish churches have generally been well maintained under the parochial Owners’ Rates funding system. PERRC has also received views that the English Church of England church buildings (maintained by the parish congregation) and French churches (responsibility of the commune or the State or the denomination) can experience difficulties in funding major repairs. Finally PERRC has also had a submission from the Deanery of Guernsey that Germany’s church buildings (maintained under a local, voluntary tax) are well cared for. It seems that any system of funding (local or central) can have difficulties but that well supported, grass roots level funding from the local community can be very effective.

3.12 Congregations in Guernsey

- 3.12.1 As part of its investigations into the care of the ancient parish churches, PERRC has sought information about the size of Guernsey’s Christian congregations (Church of England and other denominations); the number of churches; and the number of ministers caring for these congregations (see Table 4 below).
- 3.12.2 The research indicates that just under 5,000 people (about 8% of Guernsey’s population) actively worship every week in Christian churches and, of these, just over 1,500 (3% of the population) belong to Church of England congregations. The Church of England in Guernsey averages 100 regular members of each congregation (14 churches and 1500 regular worshippers). The Church of England in Guernsey is still significantly larger than either of the next two largest Christian denominations – Methodism (13 churches and 900 worshippers) and Roman Catholicism (3 churches and 900 worshippers).

³⁷ Source: The submission from the Deanery of Guernsey, dated 30th November 2006

³⁸ Source: The submission from the Deanery of Guernsey, dated 30th November 2006

- 3.12.3 It has been pointed out to PERRC that, while the raw data might indicate a general fall in attendances and that it is true that fewer people attend Church of England services at least once a week, many attend on a less frequent basis and attendance at festivals, particularly at Christmas and Easter, has increased in recent years. It has also been pointed out that many Islanders, whilst not attending church regularly, want to know that the Church of England is there for them when they chose to use it or need it.
- 3.12.4 PERRC, however, considers that congregation numbers are a relatively low percentage of the Island's population, despite some churches apparently being very popular and their congregations actively growing. Overall, compared with a few decades ago, congregation numbers are falling across the Island and this could create funding difficulties for many churches.
- 3.12.5 PERRC is aware that in the last decade several denominations have reduced their number of full time ministers and/or closed some places of worship and and/or combined congregations because of falling congregations. The Church of England in Guernsey has not been immune to change either. In recent years the Church of England in Guernsey has also ceased to have 10 full time Rectors. It now has six ecclesiastical parishes (one a vicarage parish) in plurality, i.e. sharing 3 Rectors between them. Despite this apparent retrenching, the Church of England in Guernsey has not had to undergo the property rationalisation experienced by some other Christian denominations locally because 1) the parish ratepayers fund the cost of maintaining of the ancient parish churches and 2) the congregations of the vicarage parishes have raised funds for their churches.

Table 4 - Christian Churches and Congregations in Guernsey 2006

<u>Christian Denomination</u>	<u>Churches/Places of Worship</u>	<u>Ministers</u>	<u>Regular Congregation</u> ³⁹
Church of England			
Ancient Parishes	10 ⁴⁰	8 ⁴¹	1,041
Vicarage Parishes	4	3 ⁴²	508
<u>Sub total</u>	<u>14</u>	<u>11</u>	<u>1,549</u>
Other Denominations			
Methodist	13	5	932
Roman Catholic	3	2	923
Salvation Army	2	4	120
Church of Scotland	1	1	87
Kings Church	1	1	220
Society of Friends (Quaker)	1	-	12
United Reform Church	1	1	30
Baptist	7	7	364
Other Independents	9	7	509 ⁴³
<u>Sub total</u>	<u>38</u>	<u>21</u>	<u>3,197</u>
<u>All Christian Denominations</u>	<u>Total 52</u>	<u>Total 32</u>	<u>Total 4,746</u>

- 3.12.6 It has been suggested to PERRC that there are too many Church of England churches bearing in mind the relatively low congregation numbers. PERRC notes that the Church of England in Guernsey has 14 churches or 27% of the Christian places of worship currently in use in Guernsey, with 34% of the ministers and 33% of the congregation numbers. The ratio of Church of England churches to ministers to congregation members seems to be roughly similar to other Christian denominations in Guernsey, although PERRC acknowledges that the Church of England is the established Church rather than a congregational church in that the clergy has a legal obligation to minister to the whole population of the parish no matter what their individual beliefs may be. However, PERRC also notes that overall Guernsey has 52 churches serving a relatively small total population and an even smaller regular congregation.

³⁹ Sources: Church of England congregation details - Dean of Guernsey (October 2006), other denominations - Deputy Brian de Jersey (June 2006)

⁴⁰ St Mary's L'Islet is counted as a daughter church of St Sampson's (an ancient parish) rather than as a separate vicarage parish in its own right.

⁴¹ Four ancient parishes share two Rectors (in plurality) and the ancient parish of the Castel is in plurality with the vicarage parish of St Matthews, Cobo

⁴² As above re the vicarage parish of St Matthew's, Cobo

⁴³ includes figure obtained for Kings Barn Mission Hall

3.13 The Religious and Secular Uses of the Ancient Parish Churches

- 3.13.1 As part of its investigations, PERRC has investigated the former and current uses of Guernsey's ten ancient parish churches.
- 3.13.2 It is clear that, although today the churches are primarily places of Church of England worship, historically they have had a wide variety of uses and users. For example, many of the ancient parish churches are built on sites that have had a long history of human use. Some sites were places of pagan importance pre-Christianity. The Island Archivist has informed PERRC that more recently the ancient parish churches belonged to the French Catholic Abbeys that were their patrons. Notwithstanding the confiscation by the Crown in the later Middle Ages of all of the Abbeys' insular possessions, until the mid-sixteenth century the ancient parish churches continued to be used for public worship in the Roman Catholic form. After some years of instability, in the 1560s the Roman Catholic tradition was replaced by worship in the Calvinist, or Presbyterian tradition but in 1662 the Church of England became the established church in Guernsey. As well as being used as places of worship, the ancient parish churches have also had secular uses at various times. They have been utilised as meeting places, as local markets, for storage of ammunition, as places of sanctuary and for community defence etc.
- 3.13.3 Today the ancient parish churches are primarily used for Church of England worship by the congregation. However, the Deanery of Guernsey's submission included noting the Church of England's wider role today in the "rites of passage" of Islanders, i.e. their baptisms, weddings and funerals. It was pointed out that these ceremonies were not just for the benefit of the regular congregation but for all parishioners - *"The Church of England sacraments of Holy Baptism and Holy Matrimony and also funerals are available to all who reside in the parish regardless of whether they have any religious affiliation"*.⁴⁴ The Deanery estimates that *"30% of Guernsey marriages are solemnised in a Church of England Church and approximately 60% of all funeral services were held in Church of England Churches"*.
- 3.13.4 Some comments have been made to PERRC that it is unfair that the parishioners financially support the parochial church property when only a minority (3%) of all Guernsey residents are regular, frequent Church of England worshippers. There are two facts relating to ownership and community use that have been put forward to PERRC in support of the current funding arrangement. The first is that the parishioners beneficially own the parochial church property so they are maintaining their capital assets, i.e. the buildings. The second is that the ancient parish churches are used by the community and not just by the congregations. PERRC has therefore investigated the community uses of the ancient parish churches – both religious and secular.

⁴⁴

Source: The submission from the Deanery of Guernsey, dated 30th November 2005

- 3.13.5 The Dean of Guernsey has assisted PERRC in its investigations and he has vigorously supported both the ownership and the community use arguments in favour of the current funding system. The Deanery submission⁴⁵ considered the community use of the ancient parish churches as a “*dynamic and effective partnership*” between the parish and the Church of England. It also emphasised that: “*Apart from their use for divine worship on Sunday, the Parish Churches are generally open to the public from dawn to dusk. They are regularly used by those who wish to have a period of quiet reflection. Our experience is that many who are not churchgoers place great value on this freedom of access to Parish Churches... the Parish Churches are used for a wide range of community functions such as school carol services, concerts etc.*”
- 3.13.6 The Deanery submission also referred to the local community’s secular use of the ancient parish churches. It said “*A recent survey revealed that 100 non-Church related organisations made use of Church of England churches, halls and rectories throughout the Island. In particular, but not exclusively, the Town Church is used on an almost daily basis for secular events such as the Guernsey Eisteddfod, lectures, concerts and coffee mornings. The administration of such events takes up many hours of work annually. The majority of these functions use equipment and musical instruments such as organs and pianos provided by the Church, all of which are costly to provide and service*”.
- 3.13.7 PERRC is unable accurately to estimate to what extent generally the ancient parish churches are used for secular and community functions, rather than purely as places of worship. However, it seems that, particularly in the case of the Town Church, this type of wide ranging secular use is encouraged by the Church of England in Guernsey and is popular with the community.
- 3.13.8 During its investigations PERRC has also become aware that some churches outside Guernsey are multi-denominational, e.g. Biberach in Germany. This is an approach that does not seem to be practised in Guernsey. It seems to PERRC that Christian denominations sharing the use of places of worship has several advantages in:
- ensuring that the church buildings are well used (and therefore less likely to become empty/derelict or need to be converted to a secular use);
 - encouraging a wider cross-section of the community to visit the church buildings regularly and feel responsible for them (and therefore be more likely financially to support them);
 - avoiding the unnecessary duplication of facilities (which is more cost-effective for the congregations and parishioners);

⁴⁵ Source: The submission to PERRC from the Deanery of Guernsey, dated 30th November 2005

- enabling the costs of running, maintaining and improving the building(s) to be shared by more regular users (which, again, is more cost-effective for the congregations and parishioners).

3.13.9 PERRC has also investigated what ecclesiastical and legal restrictions there are on wider use of the ancient parish churches by non-church of England members, parishioners generally and non-Christian groups.

3.13.10 PERRC asked the former Procureur to advise on the extent to which the ancient parish churches could be used for purposes other than worship in accordance with the rites of the Church of England and, in particular, whether there were any restrictions on the parish churches being used by Ministers and/or congregations of other Christian traditions.

3.13.11 He advised⁴⁶ as follows:

- that it was firstly important to appreciate “*the role of the established Church, and in particular that its ministry in any parish is to all the souls therein, of any faith or none*”;
- that the ancient parish churches (and the churches of the vicarage parishes) were open to all-comers whether to participate in Church of England rites or to use as a place of contemplation and prayer or to view the buildings’ history, beauty and architecture;
- that parishioners could also insist on using the ancient parish churches for occasional offices (e.g. weddings and funerals) without demonstrating any congregational membership;
- that, subject to those legal rights, the use of the parish church is largely up to the discretion of the Rector and churchwardens. They would not give permission for any activity that was inconsistent with the sanctity of the ancient parish church but they regularly made the buildings in their care, including the parish churches, available for a wide range of social, cultural and other community events.

3.13.12 In conclusion, the former Procureur has advised that use of the parish churches by Christian denominations other than the Church of England is possible. He has explained that the Rectors would follow *canon law*, which “*whilst not strictly speaking having the force of law in Guernsey, provide clear guidance which would be followed ...*”. The two relevant canons referred to by the Church of England are canons A8 and 43. Canon A8 promotes the duty of the Church of England clergy and people to heal the “*separations and schisms among Christian men*”. Canon 43 makes broad provision for the circumstances in which Ministers and lay persons in good

⁴⁶

Submission dated 28th November 2006

standing in other churches might be invited to preach or undertake other duties in Church of England Services; and when Church of England Ministers might accept similar invitations issued by other churches. Canon 43 also (at B43.9) deals with joint worship (which is different from other denominations taking part in Church of England services). Canon 43 says that, with the approval of the Bishop of the Diocese, the Rector (or other incumbent) of a parish can invite members of another denomination to take part in a) joint worship with the Church of England or b) use a Church of England Church for worship with the forms of service and practice of that other denomination. The denominations recognised by Canon 43 include Roman Catholic, Methodist, Baptist, United Reform and many others. PERRC understands that in August 2007 *“a Roman Catholic Mass was celebrated for the first time in more than 450 years”* in Vale Church⁴⁷.

- 3.13.13 He also referred to Guernsey’s Marriage Laws, which allow solemnisation of marriages in Guernsey at authorised venues by a) civil ceremony, b) Christian denominations other than the clergy of the Church of England and c) other religions. The Marriage Laws do not specifically legalise marriages performed by the Church of England because Church of England wedding ceremonies are recognised under canon law, rather than civil law, regardless of where they take place (though in some Guernsey non-Church of England church venues the Church of England marriage ceremonies may also require a special licence issued by the Ecclesiastical Court). Neither do Guernsey’s Marriage Laws specifically allow for the non-Church of England Christian denominations, e.g. Methodists, to carry out the solemnisation of marriages under their own rites in a Church of England church. However, weddings of non-Church of England Christian denominations (and other religions) can take place at any place used exclusively as a place of worship, subject to the venue being licensed under the Marriage Law of 1919. As far as PERRC is aware no Anglican church has ever been licensed for marriages under the Marriage Law of 1919.
- 3.13.14 PERRC understands that the ten ancient parish churches have had various religious and secular roles during their history. PERRC’s mandate does not include recommending changes to the use of ancient parish churches to the States of Deliberation. However, it does wish to draw public attention to the potential benefits that shared places of worship might have. PERRC notes that Church of England canon law does not prevent the ancient parish churches from being more widely used by other Christian denominations recognised by the Church of England. This wider use could have benefits for Christian worshippers in Guernsey at a time when, generally, congregation numbers are not especially high.
- 3.13.15 PERRC therefore suggests that there are opportunities for the ancient parish churches to be more widely used by the community, e.g. for secular events, by other Christian denominations etc. However, until there is pressure for

⁴⁷

Source: Guernsey Press 11th August 2007

change, wider use is unlikely to happen. PERRC is concerned that without such a change to wider use most ancient parish churches will continue with Church of England congregations that are only a small fraction of the community and it will become increasingly difficult for the declining congregations to pay for the running costs of their ancient parish church, and more ratepayers will object to maintaining the parochial church property as it will be seen as a minority benefit.

3.14 Possible funding for the Repair and Maintenance of Parochial Church Property

3.14.1 PERRC's mandate is to investigate the current funding system *and also the possible alternative funding systems* for the repair and maintenance of parochial church property.

3.14.2 PERRC found that from 2001 to 2011 the parishes raised just above £4.3 Million from ecclesiastical rates (see Table 1). This averaged £39,300 per parish per year and was primarily for the extraordinary costs relating to the upkeep and maintenance of the ancient parish churches and rectories.

3.14.3 PERRC considered that there were four potential sources of future funding that required investigation and wide consultation, as follows:

- **States of Guernsey** funding
- **Church of England** funding
- **Parish Owners' Rates** funding – the current system for ecclesiastical rates
- **A voluntary parish Owners' Rates System** for ecclesiastical rates.

3.14.4 States of Guernsey funding

This first source of funding is, potentially, a brand new source of funding for parochial church property. PERRC investigated direct funding for parochial ecclesiastical property from a new central government fund or from within Departments' existing budgets. It also explored whether the funding to support these (generally) historic buildings might be extended to other (perhaps even more historic) buildings in the form of a listed building/ancient monument grant.

3.14.5 PERRC met with the then Treasury and Resources Minister in February 2006 to discuss the possibilities further. The Minister directly referred to the 2006 budget report (Billet d'État XXII 2005):

“The Policy Council strongly endorses the view that the States finances are under considerable pressure and that the trend of ever increasing revenue and capital expenditure is unsustainable. There is a clear need for control

and prioritisation of expenditure. Low priority services and projects will need to be curtailed. The Policy Council, and hence the Ministers of all Departments, remains fully committed to working with the Treasury and Resources Department in the process of reducing States expenditure to a target of £290 million by 2008.”

- 3.14.6 The then Minister for the Treasury and Resources Department confirmed that any new government grants or allowances to maintain parochial church property would fly in the face of the States’ resolution. He reiterated that the ‘user pays’ principle was the policy of the States.

- 3.14.7 PERRC members said that some historic buildings were already supported by the States – such as Ste Apolline’s Chapel and Castle Cornet. The Minister explained that the States owned these historic buildings and others like them, which was why the Culture and Leisure Department and the States Property Services Section of the Treasury and Resources Department were responsible for funding their maintenance. However, the parochial church property was (beneficially) owned by the parishes and was not therefore the responsibility of the States.

- 3.14.8 PERRC also consulted with the Environment Department and met with its then Minister in April 2006. He confirmed that his Department’s role was to encourage the retention of Guernsey’s listed historic buildings by preserving the remaining original fabric and repairing the structures with traditional materials. He confirmed that all ten of the ancient parish churches and some of the rectories were listed buildings. PERRC noted that, surprisingly, the registers of ancient monuments and listed buildings did not include any graveyards or burial monuments. The Environment Department confirmed that the registers were not complete, partly because ownership details were confused.

- 3.14.9 The Minister confirmed that whilst the Environment Department was happy to advise the Rectors and Churchwardens about the appropriate repair techniques etc. for listed buildings, it was not in a financial position to implement a grant system to pay for the repair of listed buildings. The Minister also confirmed that, although the States of Deliberation had agreed to introduce charges for planning applications in order to fund the planning applications appeals tribunal, he believed that introducing higher planning application charges to fund general Island-wide heritage grants would not meet with States Members’ approval.

- 3.14.10 The Minister was aware that in the past in the UK many listed churches had been left to deteriorate until they needed to be demolished and the sites were redeveloped. In England these problems had been overcome by giving English Heritage the ability to do the works needed and charge the owner or (as a last resort) compulsorily purchase neglected listed buildings. He did not think that either option would be acceptable in Guernsey to either the public or the States of Deliberation.

- 3.14.11 The Environment Department confirmed that it liaised directly with the Rectors and Churchwardens over planning applications involving the ancient parish churches and rectories. PERRC was concerned that, although the ancient parish churches and rectories were in the beneficial ownership of the parishes, the Douzaines were not also consulted by the Environment Department. The Environment Department confirmed that usually it would only deal with the owner of the building and not the tenant/user. PERRC members considered that the complex ownership issues relating to parochial church property had probably led to the Douzaines not being consulted by the Department whilst appreciating that they would, however, have been involved before a faculty was granted by the Ecclesiastical Court for any works.
- 3.14.12 PERRC also discussed the possibility of States of Guernsey funding with the Douzaines. The feedback was that most Douzaines felt that, although a new source of funds would be welcome, there was no enthusiasm for a centralised States bureaucracy to administer the funds or for financial responsibility being removed from the individual parishes. The parishes felt that their administration was efficient, cost-effective (as it was mainly run by volunteers) and being parish based the Douzaines were best placed to be responsible for the buildings.
- 3.14.13 Initially the possibility of government funding seemed quite promising. However, PERRC's early investigations and conclusions in this regard and the States current structural deficit, with a reduction in available capital expenditure and budgetary cuts for States Departments mean that this is currently an unrealistic avenue for funding. PERRC therefore concluded that, in the circumstances, it was unlikely that there was sufficient surplus funding available at governmental level to maintain parochial church property, regardless of whether that funding was in the form of a) a new general grant for historic listed buildings and ancient monuments or b) a new central fund specifically for parochial church property. PERRC was also concerned that, in view of the various measures that were being proposed to fill the 'black hole', a proposal to increase taxes (such as income tax) to generate new funding for the maintenance of parochial church property would also be unacceptable to States Members and the public.
- 3.14.14 **Church of England funding**

The Church of England, i.e. either the Deanery of Guernsey and/or the individual ancient parish church congregations, could be a new source of funding for the maintenance of parochial church property. Some have alleged that the Church of England is a wealthy organisation who should be able to bear some (or all) of the costs of the buildings that it uses. Others have made the opposite point – saying that the ancient parish church congregations cannot afford to take on an additional financial burden. PERRC has therefore investigated and sought more information on local Church of England income and expenditure, i.e. the mission figures for the churches, the Ecclesiastical

Court income, income tax exemptions/benefits and deeds of covenant (referred to later in this section).

- 3.14.15 The Deanery of Guernsey's submission⁴⁸ to PERRC said it did not consider it appropriate to enter into a detailed explanation as to how the Church of England in Guernsey was funded. The submission also made it clear that it believed that parishioners owned parochial church property and that the parishioners should therefore be responsible for meeting upkeep and maintenance costs.

The Deanery submission also reiterated that 1) the parish ratepayers did not directly meet the cost of Church of England rites of worship and 2) the congregation and the Rector met (most of) the running costs of every ancient parish church and all of the running costs for most of the rectories (excluding the ones not inhabited by the Rectors). Whilst accepting that the Church of England did meet some of the costs, PERRC still considered that the Church of England's finances were relevant. PERRC is therefore pleased to have received this information from the Dean of Guernsey.

- 3.14.16 Table 5 shows the 2008 mission figures for each Church of England church in the Deanery of Guernsey. Each Church's mission figure is, effectively, the congregation's income and includes, for example, money received from interest on bequests, donations, as well as fund raising etc. (but not the funding for the buildings received from the parish Owners' Rates).
- 3.14.17 Table 5 shows that in 2008 the local Church of England churches raised £1,088,426. £594,470 (55%) represented the Diocesan Share of which approximately £500,000 is used for clergy stipends, pension contributions and ordination and post-ordination training of the stipendiary ministry in the Bailiwick (see overleaf).

⁴⁸ Source: The submission from the Deanery of Guernsey, dated 30th November 2005

**Table 5 – 2008 Mission Figures for Church of England Churches
in the Deanery of Guernsey⁴⁹**

<u>Church</u>	<u>Income from Congregation</u>	<u>Total Outgoings</u>	<u>Balance</u>	<u>Diocesan Share assessed for 2008</u>
£	£	£	£	£
Ancient Parishes -				
Castel	41,754	45,309	- 3,555	31,875
Forest	34,549	32,476	2,073	19,733
St Andrew	56,811	54,137	2,374	26,596
St Martin	86,705	88,689	- 1,984	52,992
St Peter Port	77,249	78,600	- 1,351	52,992
St Pierre du Bois	46,352	45,633	719	35,571
St Sampson	79,211	47,892	31,319	52,992
St Saviour	80,214	81,882	- 1,668	33,459
Torteval	39,924	33,567	6,357	17,621
Vale	77,399	73,514	3,885	52,992
<u>Sub-Total</u>	<u>620,168</u>	<u>581,699</u>	<u>38,469</u>	<u>376,823</u>
Vicarage Parishes -				
Holy Trinity (*2007)	127,868	116,732	11,136	41,068
St John	70,027	62,928	7,099	41,068
St Stephen	97,972	113,968	- 15,996	41,068
St Matthew, Cobo	74,944	64,524	10,420	21,117
<u>Sub-Total</u>	<u>370,811</u>	<u>358,152</u>	<u>12,659</u>	<u>144,321</u>
Islands				
St Anne, Alderney	69,113	70,856	- 1,743	52,792
St Peter, Sark	28,334	31,547	- 3,213	20,534
<u>Sub-Total</u>	<u>97,447</u>	<u>102,403</u>	<u>- 4,956</u>	<u>73,326</u>
<u>All Church of England Churches</u>	<u>1,088,426</u>	<u>1,042,254</u>	<u>46,172</u>	<u>594,470</u>

3.14.18 For the ancient parishes (i.e. excluding the vicarage parishes, Alderney and Sark) the total income raised in 2008 was £620,168 of which £376,823 (55%) represented the Diocesan Share.

3.14.19 The way that the Deanery of Guernsey's proportion of the Diocesan Share is allocated between all the local Church of England parishes makes allowance for the fact that the three of the four vicarage parishes own their buildings and

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Source: Dean of Guernsey, April 2009.

have to raise extra money to fund their maintenance and repair. All the parishes in plurality also split their Diocesan Share.

- 3.14.20 The cost of the Diocesan Share is rising. The full Diocesan Share for an ancient parish church in 2008 was £52,992 compared to £47,561 in 2006 – an increase of 11.4%.⁵⁰
- 3.14.21 Another source of income for the Church of England in Guernsey is from the Ecclesiastical Court. However, although the Ecclesiastical Court is related to PERRC's area of responsibility PERRC has concluded that it does not come under the remit of its mandate. Nevertheless, PERRC does consider the funding of the Ecclesiastical Court may be worthy of review and consequently has referred the matter to the Policy Council for its consideration.
- 3.14.22 PERRC has also noted that all Guernsey churches (including the ancient parish churches) benefit from various tax benefits. Firstly, all church organisations are accepted by the Guernsey's tax authorities as being of a charitable nature.⁵¹ This means that all their income is exempt from income tax (under Section 40(k) of the Income Tax (Guernsey) Law, 1975). In addition, since 1 January 2010 donations given to a registered Guernsey charity are deemed to have been made to the charity net of income tax and consequently the donations are grossed up and a repayment of the income tax is made to the charity.⁵² Prior to 2010, tax relief was only allowed on donations given to a registered Guernsey charity by a deed of covenant. The Income Tax Office previously estimated that prior to 2010 £1.25 Million was donated annually by deed of covenant to all the Guernsey charities combined, i.e. a tax loss of £250,000. Income Tax confirmed that the majority of the deeds of covenant benefited Guernsey churches, (generally - i.e. not just the ancient parish churches). Income Tax estimated that £1 million was given to Guernsey's churches under deeds of covenant and that £200,000 was claimed as tax relief.
- 3.14.23 PERRC discussed potential Church of England funding with the Douzaines and the Guernsey Douzaine Council. It also made the Douzaines more fully aware of the legal advice received on the beneficial ownership of parochial church property vesting in the parish. This advice was new information for most Douzaines. PERRC found that most Douzaines saw no case for the Church of England taking on ownership, and therefore full responsibility, for the ancient parish churches or most parochial church property but there was a difference in the perception of the rectories because the buildings are generally used as a private residence for the Rectors. Some Douzaines saw a much stronger case for the Church of England (e.g. Rector, congregation,

⁵⁰ Source: Deanery of Guernsey 2009

⁵¹ The Income Tax Office keeps a register of Guernsey charities that have applied to be recognised under the Income Tax Laws and been given exemption.

⁵² Currently, this only applies to an individual making a donation/s to a particular charity of at least £500 and not exceeding £5,000 in a calendar year.

Deanery and/or Diocese) bearing more financial responsibility for the rectories. Some supported having a commercial or self-repairing lease rent for the rectories.

- 3.14.24 **Parish Owners' Rates funding system** – is the current system for funding the maintenance of parochial church property and is the third source of funding examined by PERRC. It is a funding system that is unique to Guernsey and it is described in more detail earlier in this report (see section 3.3 and Appendix 5), as are the actual amounts raised from the ecclesiastical rates (see section 3.9).
- 3.14.25 PERRC had anticipated that there might be controversy that the ecclesiastical rates from the Parish Owners' Rates only supported the ancient parish churches and not the Church of England vicarage parishes' churches or any other Christian denominations' places of worship. However, this targeting of parish funding seemed to cause relatively little concern amongst Douzaines and the public and no other denominations contacted PERRC asking for financial support.
- 3.14.26 Much of the feedback on the Parish Owners' Rates funding system was that most people supported the current system. The funding system was seen as historic, the "Guernsey" way and a cost-effective way of looking after buildings (particularly the ancient parish churches) that were seen as symbolic of Guernsey and the parishes. However, some of the public who supported the current parochial ecclesiastical rates system had concerns about whether the system could or would be allowed to continue in the future. The concerns were whether 1) the parishes could continue to afford to maintain the buildings and 2) the current system was Human Rights compliant. PERRC raised the affordability issue with the Guernsey Douzaine Council (see paragraph 3.14.28 below) and the individual Douzaines. PERRC also undertook to investigate the Human Rights issues in detail (see section 3.18).
- 3.14.27 However, PERRC also had contact with a number of individuals who strongly and eloquently objected to maintaining the ancient parish churches and rectories through the Owners' Rates. There tended to be several strands of argument, as follows:
- that it was unjust for parishioners to maintain buildings that were owned by the Church of England. However, PERRC was able to confirm that its most recent legal advice was that beneficial ownership vested in the parish and not the Church of England;
 - that England had moved from a compulsory to a voluntary rates system to maintain its parish churches (but not the parish rectories) in 1868 and that Guernsey should have done the same. PERRC has investigated this

matter further⁵³;

- that Guernsey's parish rectories were often large properties provided free to the Rectors as private residences. This provision was seen as anachronistic although it has been pointed out that the provision of housing is part of the remuneration package. Suggestions made by the public and some Douzaines regarding the future of the rectories included: 1) leasing on a self-repairing or commercial basis to the Church of England or, where the rectory is not used by the Rector, leasing on a commercial basis to a third party or parties; 2) downsizing and acquiring smaller, more modern buildings that would be easier and cheaper to maintain; and 3) replacing Open Market properties with smaller, cheaper Local Market properties.⁵⁴ In each case the objective was that there would be a financial surplus that could help to maintain all the parochial church property and reduce the burden on the ratepayers.

3.14.28 PERRC had anticipated that the Douzaines' views might be that the parochial ecclesiastical rates funding system was not workable in the long term – particularly in the light of the media coverage of Torteval's funding difficulties. However, the feedback from the Douzaines and the Guernsey Douzaine Council was that:

- the Torteval funding issue was seen as a one-off situation that was not likely to be repeated in other parishes;
- there was general resistance to the States taking over responsibility from the parish. The Douzaines were very positive about wanting the parish to continue caring for parochial church property, with Douzaines pointing out that the current system could be improved by giving the Douzaines more responsibility and that, in terms of its effectiveness, cheapness and parish involvement, the current parish administered system would be difficult to improve upon; and
- the status quo was generally acceptable for the ancient parish churches but that there was some disquiet about what some Douzaines saw as over-provision of rectories (in terms of numbers and size).

3.14.29 PERRC noted that there was strong support for the Parish Owners' Rates funding system, especially from the Douzaines, even from those who had some disquiet about the lack of Douzaine involvement in the works that the Rectors and Churchwardens arranged for the parochial church property.

⁵³ See section 3.19 for further details regarding the 1868 English Act

⁵⁴ PERRC has investigated the Open Market Housing Register position in more detail (see section 3.16).

- 3.14.30 **Voluntary Parish Owners' Rates System** - During the early stages of its investigations PERRC anticipated that a voluntary parochial ecclesiastical rates system was more likely to be Human Rights' compliant than the current compulsory parochial ecclesiastical rates system. Therefore the fourth area of potential funding that PERRC explored was a voluntary, parish Owners' Rates system for ecclesiastical rates.
- 3.14.31 The main drawback of the voluntary option is that it is a difficult system for the Douzaines to administer. Voluntary funding would effectively guarantee that each parish would always fall short of the amount budgeted for the care of parochial church property. Each year the actual amount raised would vary depending on the ratepayers' choices and the actual financial shortfall would only be known some time after the requests were sent out. Each parish would then need to replan for how to overcome the deficit. Options might include either 1) approaching the congregations and/or the Church of England to make up the financial deficit or 2) works not being undertaken or 3) works being delayed until enough funds are raised (perhaps during the subsequent rates' year). PERRC noted, however, that if full funding was not achieved over a prolonged period then there was potential for parochial church property to fall into disrepair.
- 3.14.32 However, the voluntary option has a clear benefit for those individuals who object to paying parochial ecclesiastical rates. They have made it clear to PERRC that they strongly believe that ratepayers should have the freedom of choice whether or not to contribute towards the upkeep of parochial church property. The voluntary option would achieve that end.
- 3.14.33 PERRC has noted that, even if there was a voluntary system, there were some ratepayers who thought that they would still continue to pay the ecclesiastical rates to support parochial church property – in particular the ancient parish church. PERRC is aware that a voluntary parish Owners' Rates system could be awkward for the Douzaines to administer, although it might be popular with those who object to paying ecclesiastical rates and could, indirectly, involve the Church of England and the congregation more in the maintenance of the properties.

3.15 National Trust of Guernsey Submission

- 3.15.1 In addition to seeking information from the Environment Department about the historical issues relating to the funding of parochial church property, PERRC sought the views of La Société Guernesiaise, the Heritage Trust and the National Trust of Guernsey. The first two bodies chose not to make a formal submission to PERRC.
- 3.15.2 The National Trust of Guernsey submitted a report in September 2006 by Mr A B Dyke RIBA on the funding of the ancient parish churches. The report had the unanimous support of the Council for the National Trust of Guernsey.

3.15.3 The National Trust of Guernsey's view was that the Island's ancient parish churches:

- tended to be the most significant architectural and historical building in each parish;
- were the focus of religion and family events and were a repository of family history;
- provided a visual centre to the parishes;
- provided a haven for flora and fauna in the churchyards and in the old stonework of the buildings;
- could not be supported financially by the dwindling congregations
- should be financially supported by the current ecclesiastical rates system, which the National Trust thought worked relatively well and was cheaply administered and run, largely by volunteers. The National Trust was concerned that a States run system would be more costly to the taxpayer as it would be run by paid staff.

3.15.4 The National Trust of Guernsey appreciated that in certain circumstances, such as Torteval Parish, there were problems where large amounts of expenditure had to be funded by a relatively small parish. It suggested two possible solutions:

- a specific Heritage grant fund for emergency situations where the cost per ratepayer exceeded a fixed amount (figure not specified); or
- to continue with quinquennial (five yearly) structural surveys and, subject to regular and proper maintenance by the parishes, exceptional very large items of expenditure should be very rare.

3.16 Housing Department

3.16.1 The Housing Department advised (in a letter dated 12 January 2006) that only the rectories of St Saviour, St Andrew, St Sampson and St Pierre du Bois were inscribed on the Housing Register of Open Market properties and that the other rectories were controlled local market dwellings, the occupants of which needed to be qualified residents or have been granted licences to occupy the specific property in question.

3.16.2 The Department also advised that:

- in principle, it would be prepared to grant housing licences to enable the Rectors to live in local market rectories;

- an essential licence of 15 years (or less if requested) was likely to be approved, in principle, provided that the holder continued to be the Rector of the parish in question. If the Rector continued to hold a valid “essential” licence for fifteen consecutive years he or she would then stand to become a qualified resident and be exempt from the need to hold a licence. The licence would enable the licensee’s spouse and children to reside as members of his/her household.

3.16.3 In the light of concerns expressed about the size of rectories and the advice from the Housing Department, PERRC has noted that the parishes of St Saviour, St Andrew, St Sampson and St Pierre du Bois could potentially downsize and change from Open Market to Local Market properties to generate a surplus (from released capital) that could be used to help fund the future maintenance of parochial church property.

3.17 Public Consultation

3.17.1 PERRC went out to public consultation in late April 2006 using a leaflet drop. The questionnaire was delivered to 21,500 island addresses by Guernsey Post Ltd. The PERRC consultation leaflet explained that parishioners had beneficial ownership of the parochial church property; that the parishes maintained the parochial church property by raising money through the Owners’ Rates and showed what the annual cost per parish ratepayer was from 2001-2005.

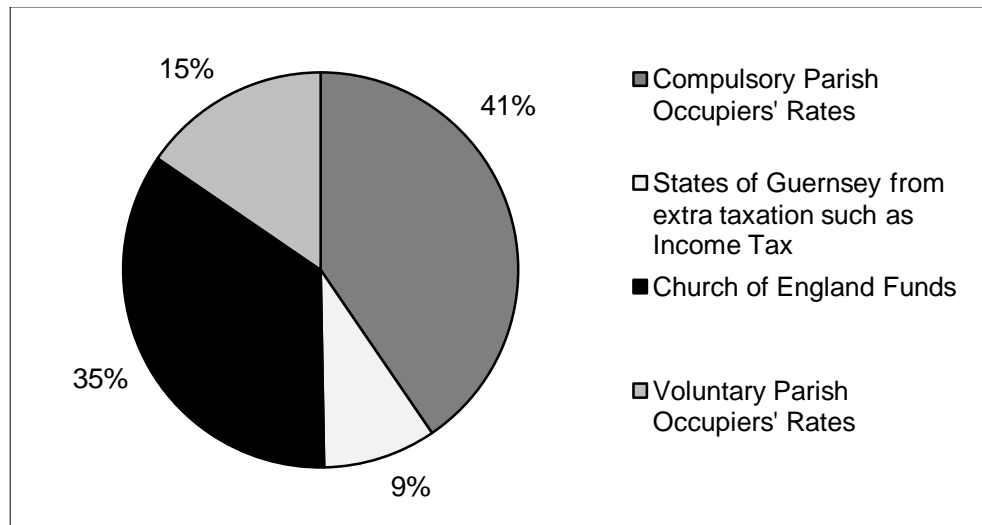
3.17.2 PERRC’s leaflet asked the public for their views on four possible sources of funding for the ancient parish churches and the rectories, as follows:

- the *compulsory* parishes’ Owners’ Rates system – i.e. the current system;
- a *voluntary* parishes Owners’ Rates – i.e. a new system based on the current one;
- the States of Guernsey – e.g. from extra taxation such as income tax;
- the Church of England.

3.17.3 The leaflet also invited the public to send in additional comments with their questionnaires. PERRC was pleased that 2,147⁵⁵ questionnaires were returned and that 430 of these had additional letters attached. All these letters were read and considered by PERRC in addition to the questionnaire responses.

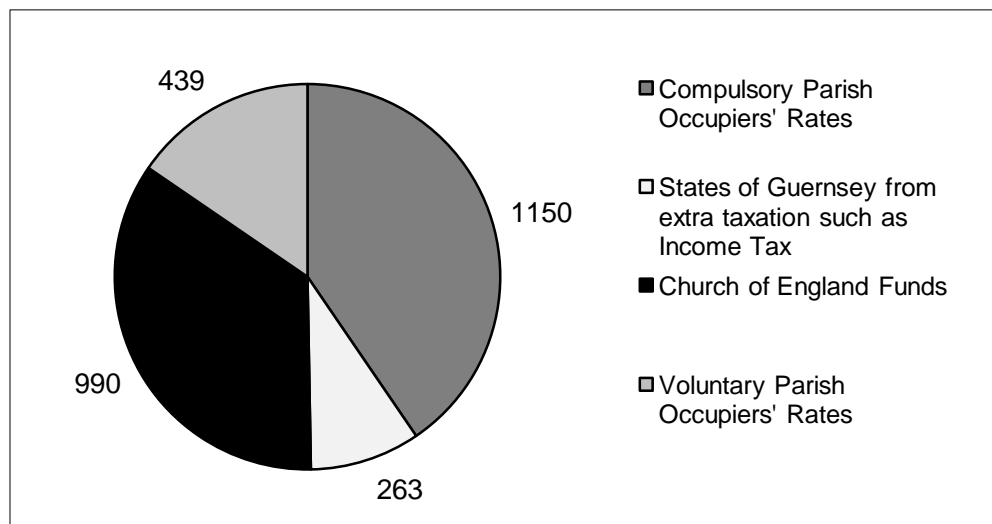
⁵⁵ Some respondents chose more than one source of funding for the upkeep and maintenance of parochial church property so the number of individual responses outnumbered the actual number of questionnaires returned to PERRC.

Figure 1 - Public's preferred future sources of funding for the Ancient Parish Churches (%)



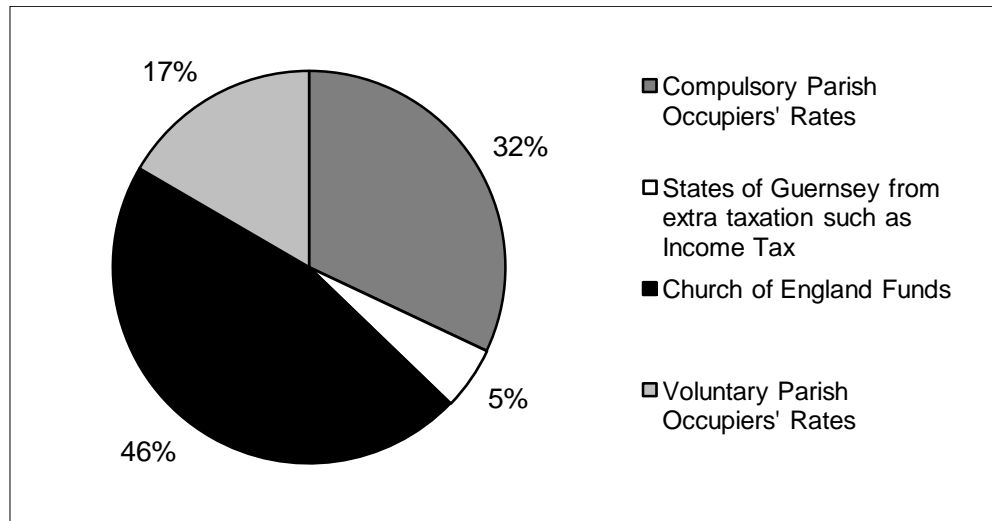
3.17.4 The public's responses regarding the *ancient parish churches* are shown in Figure 1 (by percentage) and Figure 2 (by number). Most of the responses (56%) supported funding the *ancient parish churches* by some form of ecclesiastical rates system. The current *compulsory* parish Owners' Rates system received 41% of the support and a *voluntary* compulsory parish Owners' Rates had 15%.

Figure 2 - Public's preferred future sources of funding for Ancient Parish Churches (number of responses)



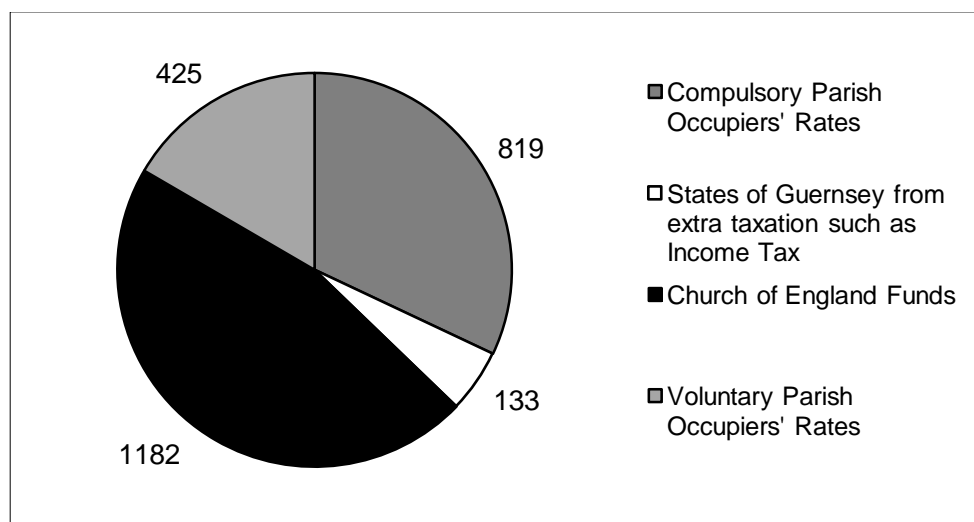
- 3.17.5 The responses on the *rectories* were significantly different to the responses on the ancient parish churches. There was a stronger view that the rectories should have financial support from the Church of England (Figures 3 & 4).

Figure 3 - Public's preferred future sources of funding for *Rectories* (%)



- 3.17.6 Figure 3 shows just under half of the respondents (49%) supported funding the *rectories* by some sort of ecclesiastical rates system (compared to 56% for the ancient parish churches). The current *compulsory* parish Owners' Rates system received 32% of the support and a *voluntary* compulsory parish Owners' Rates had 17%. There were also 46% of respondents who thought that the Church of England should provide funding for the rectories, compared to only 35% who thought the Church of England should provide funding for the ancient parish churches.

Figure 4 - Public's preferred future sources of funding for *Rectories* (by number of responses)



3.17.7 Letters of comment attached to the questionnaires showed that there was a strong sense of parish pride in the Island's ancient parish churches and a wish to preserve them in good condition. This emphasised the point that the Guernsey Douzaine Council and many of the Douzaines had already made to PERRC. In many cases the parishioners' support was not linked to the ancient parish churches' religious function. Many people said that they thought their ancient parish church was:

- a symbol of parish identity and pride;
- a parish community asset;
- historically very important.

3.17.8 In comparison to the churches the support for the rectories was more muted. They were seen as less of a community asset than the ancient parish churches and more of a work-related benefit for the Rector/Church of England that was paid for by the parish ratepayers.

3.17.9 PERRC believes that the public consultation shows that there is strong support for the continued care of the ancient parish churches by the parish but also a feeling that the Church of England should provide more financial support than at present – particularly for the rectories. However, PERRC was also left in no doubt of the strong feeling of a minority who firmly thought that they should not financially support the ancient parish churches and rectories. PERRC also notes that for many respondents more than one source of funding for parochial church property was the preferred option – with different funding sources for ancient parish churches compared to rectories.

3.18 Human Rights

3.18.1 The 2005 States Report (see Appendix 4) explains that one of the key issues that led to the recommendation to review the current ecclesiastical rates system of funding parochial church property was the concern whether it was legally acceptable, under the European Convention on Human Rights, to have a compulsory tax payable by all ratepayers (regardless of their beliefs) to maintain ancient parish churches used for Church of England worship. On behalf of PERRC, the Law Officers sought independent legal advice from Charles George QC.

3.18.2 In summary, there were three Human Rights articles that needed to be considered in relation to the 1923 Law:

- Article 1 of the First Protocol (Article 1FP1) Protection of Property, i.e. the peaceful enjoyment by a person of his possessions⁵⁶;

⁵⁶ Property or possessions in this legal context has a wide meaning and covers anything of economic value, e.g. land and buildings, money, patents, the rights to exercise a profession or run a business etc. Source: www.charity-commission.gov.uk/supportingcharities/ogs

- Article 9 – Freedom of thought, conscience and religion, i.e. that every individual can believe and worship or can choose not to;
- Article 14 – Prohibition of discrimination (as it applies to Articles 1FP1 and 9 in this case), i.e. that the rights and freedoms set out in the European Convention on Human Rights on protection of property and freedom of religion apply without discrimination on any grounds, including that of religion.

- 3.18.3 In each case Mr George looked at two distinct questions: Firstly, was there a *prima facie* interference with the human right? And, if so, was the interference unlawful or was it justified and proportional? The second aspect is essential because if the interference is deemed justified and proportional then there is, in law, no conflict with the human right.
- 3.18.4 The conclusion of Mr George was that the 1923 Law does not constitute an interference with anyone's rights under Article 1FP1 or Article 9, nor did it constitute discrimination (direct or indirect) under Article 14 (whether in respect of Article 9 or Article 1FP1). He further advised that if a legal challenge were made in future that the question of justification and proportionality would depend on the cogency of the case made in this States Report for maintaining or changing the 1923 Law.
- 3.18.5 PERRC is pleased that the independent legal advice is so clear that the 1923 Law is ECHR compliant. This advice will answer many of the concerns of the public and the Douzaines about whether legally the ecclesiastical rates system can be retained.
- 3.18.6 PERRC is also aware, from Mr George's advice that PERRC's recommendations and reasoning are key in ensuring that any decisions made by the States of Deliberation are compliant with the Human Rights (Bailiwick of Guernsey) Law, 2000, as amended.
- 3.18.7 PERRC notes that the Special Committee set up in 1920 rejected abolishing the ecclesiastical rate on the merits of the case and believed that a change was not demanded by the majority of parishioners. As a result of its deliberations the 1923 Law was enacted.
- 3.18.8 PERRC's own view is that with ownership of the parochial church property come the responsibilities of ownership, which include maintenance and upkeep. PERRC believes, as did the 1920 Special Committee in its day; that the majority of the Island's parishioners or ratepayers do not wish to abolish the ecclesiastical rate. If PERRC was wrong about this then it would have expected that to have been shown by the results of the public questionnaire in 2006 and by the ratepayers voting down the ecclesiastical budgets at the parish meetings. Neither has happened. PERRC, however, recognises that there is a significant call for change – particularly with respect to a) the

funding of rectories and b) the current compulsory nature of the ecclesiastical rates.

3.19 Compulsion and Conscience – the English 1868 Act

3.19.1 The second of the key issues that led to the review of ecclesiastical rates was the issue of “*compulsion and conscience*”. This is the principle of whether it is fair to make non-Church of England members fund parochial church property that they may object to funding on religious principles and may not use. PERRC expects that people who are opposed to funding Church of England places of worship etc. will be disappointed with the legal advice that the ecclesiastical rates system is Human Rights compliant. They are likely to look to the issue of “*compulsion and conscience*” as an alternative ground for changing the current ecclesiastical system, particularly as it was this issue (not human rights) that led to change in the parish rates system in England in 1868.

3.19.2 The English 1868 Act was the result of decades of protest from non-Church of England members who objected to paying parish rates 1) to maintain Church of England parish churches owned by the incumbents and 2) for the Church of England rites taking place in those buildings. Some of the English dissenters had protested by withholding their rates and had been imprisoned as a result. The civil dissent finally led to the English 1868 Act, which made it impossible for those who refused to pay their rates to be ordered by a court to recover the unpaid rates. In effect the English parish rate became voluntary from 1868 onwards.

3.19.3 PERRC considers that the argument that, because the English 1868 Act effectively made church rates voluntary in England, the same should happen now in Guernsey is fundamentally flawed. PERRC has considered the aspects of this argument - ownership, Church of England rites, use of taxes and supporting more than one church - as follows:

- **Ownership** - In England both before and after 1868 the churches of the Church of England were and are ordinarily owned by their incumbents (i.e. Rectors) but the parishioners paid for the upkeep etc. However, parochial church property in Guernsey is beneficially owned by the parishioners. PERRC considers that it is reasonable for the owners to be financially responsible for the upkeep of their property.

Although the parishioners have beneficial ownership of the parochial church property and bear the financial responsibility for its upkeep and maintenance, the Douzaine, as the parishioners’ elected representatives, has no direct involvement in works done or the use and the management of these properties. Notwithstanding that the Rector and Churchwardens are parochial officers and one of them, the people’s warden is elected by the ratepayers and electors, PERRC considers that this is a situation that seems unbalanced.

- **Church of England Rites** - In England before 1868, parishioners in effect paid for the celebration of Church of England rites⁵⁷, which they themselves might object to on the grounds of their own religious beliefs (or their atheism or agnosticism). The current situation in Guernsey is very different because the 1923 Law removed all the direct support for Church of England rites from the ecclesiastical rates⁵⁸. Currently half the cleaning costs are met by the ecclesiastical rates (the congregation meets the other half). PERRC would support removing this requirement from the parochial rates because it considers that the ratepayers' financial support should be for the building and not the religious activities within it.
- **Taxation** – Superficially it might seem unfair for a ratepayer whose household does not use parochial church property to be taxed to maintain it. However, it is a tried and tested legal principle of taxation that individuals cannot legitimately withhold their taxes on the grounds that they object to how some of it is spent, e.g. a pacifist cannot hold back a proportion that might otherwise be spent on the armed forces. This legal principle applies to parochial taxation. If it did not, then spending on all kinds of secular items would be potentially affected, e.g. donations to school libraries, maintenance of Douzaine Rooms, halls, the parish cemetery etc. PERRC also notes that compared to other taxes the parish Owners' Rates are particularly democratic – at an individual level the parish electors and ratepayers can vote to accept or reject the individual elements of the ecclesiastical budget put forward at the parish ecclesiastical meeting.
- **Financially supporting more than one church** - some ratepayers may be part of another congregation and thereby financially support two churches, i.e. the ancient parish church and their own church. It may seem unfair for some individuals to pay towards two places of worship. In a similar way it might seem unfair for someone with no religious affiliations to be required to financially support the ancient parish church and the private home of the Rector.

3.19.4 PERRC's view is that the position in Guernsey today is significantly different to England in 1868. Therefore, PERRC does not consider that there is a strong case under the "*compulsion and conscience*" argument (that resulted in changes to the English parish rates system in 1868) to recommend discontinuing Guernsey's parochial ecclesiastical rates.

3.20 Torteval Parish Church - Extraordinary Repairs

3.20.1 The 2005 States Report identified the problems experienced by Torteval as

⁵⁷ Source: Billet d'État IX 2005 (see Appendix 4)

⁵⁸ See Appendix 5 for what is included in the secular and ecclesiastical rates

one of the three driving forces for change behind the parochial ecclesiastical rates review.

- 3.20.2 In August 2004 the Torteval Douzaine had consulted the former Procureur because it was facing a particularly large extraordinary repair bill (estimated at £300,000) for the ancient parish church. With a small number of parish ratepayers (almost 500) in Torteval the potential cost per ratepayer was high and so there was concern that the amount sought would be successfully challenged by parishioners⁵⁹ leaving the system for funding parochial church property in disarray.
- 3.20.3 PERRC heard from the Torteval Douzaine representative at the Guernsey Douzaine Council meeting on 24 November 2005 and also met with the Torteval Douzaine on 23 March 2006. The extraordinary repair bill for the ancient parish church could mean an average bill of £600 per ratepayer (if the cost was met by a single year's Owners' Rates). Torteval was also concerned that, as horticultural property accounted for over two thirds of the rateable value of the parish, the few owners of these properties would be particularly hard hit. Subsequently, the Tax on Real Property (TRP) system has been introduced, which is more closely related to the size of the property.
- 3.20.4 PERRC was also informed by the Douzaine that:
- the extraordinary repairs could be undertaken in two or three phases, which would spread the cost and make it less onerous on all Torteval's ratepayers (both domestic and horticultural);
 - Torteval was accumulating a reserve fund (standing at £65,000 in early 2006) to assist in meeting the cost; and
 - Torteval would have an additional income (annual rental income estimated at £50,000) from the flats at the former Torteval Rectory when the lease with the Housing Department ended in 2009.
- 3.20.5 The effect of these changes was that Torteval believed it would have far less of a problem in funding the extraordinary repairs than it had anticipated in 2004. PERRC was pleased to note that the situation appears to be resolving itself but is concerned that its proposals may have an effect on the plans of Torteval and it must be noted that, in view of the uncertainty which has existed regarding future funding arrangements, the repairs have not yet been carried out.

3.21 Managing Parochial Church Property

- 3.21.1 The current day-to-day care and management of parochial church property does not reflect the ownership position. For example:

⁵⁹ Source: Guernsey Press article published 25 August 2004

- Parishes cannot take on secured loans to fund the care of the buildings because they have no legal evidence of ownership (see paragraph 3.10.4).
- Parishes feel unable to manage the property portfolio to its best advantage, e.g. arranging quinquennial surveys, being involved in proposed works and its scheduling, liaising with the Environment Department direct over planning applications and Listed Building applications etc. because they feel that they have no authority over the property. PERRC understands that the level of liaison between Churchwardens and Douzaines varies considerably – some work completely separately and others work together closely. Whilst some Douzaines appear to be happy with the status quo, other Douzaines strongly want to be more involved.

3.21.2 PERRC believes that ownership by the parish and the way in which parochial church property is managed needs to be specifically addressed in the recommendations.

4 Conclusions

4.1 Original Concerns

4.1.1 There were three main concerns that led to the creation of PERRC in 2005. These issues have been clarified by PERRC's investigations and PERRC has come to the following conclusions.

4.1.2 Firstly, there was a concern that ecclesiastical rates might not be compliant with the European Convention on Human Rights. Legal advice provided to PERRC suggests that there is no legal requirement to change the current ecclesiastical funding system because it is Human Rights compliant.

4.1.3 Secondly, there was the principle of "*compulsion and conscience*" that led to the 1868 English Act, which stopped unpaid parish rates from being legally recoverable in the English courts (i.e. the English rates for the parish churches were effectively made voluntary). PERRC's view is that the position in Guernsey today is significantly different to England in 1868. Therefore, PERRC does not consider that there is a strong case under the "*compulsion and conscience*" argument (that resulted in changes to the English parish rates system in 1868) to recommend discontinuing Guernsey's parochial ecclesiastical rates.

4.1.4 Thirdly, there was a specific problem highlighted by extraordinary repair work that was required on Torteval Parish Church because the Douzaine thought the parishioners would not be able to fund the cost. PERRC understands that there is no longer an immediate funding problem that would put Torteval Parish Church in danger of falling into disrepair in the foreseeable future.

- 4.1.5 Notwithstanding its view that the concerns which originally led to the creation of PERRC do not warrant changes in the current funding arrangements for parochial church property, PERRC has given consideration to various elements of those arrangements.
- 4.1.6 In doing so PERRC stresses that any changes must be human rights compliant and retain accountability to the parishioners through the democratic votes on the secular and ecclesiastical parish budgets.

4.2 Ownership of Parochial Church Property

- 4.2.1 It became clear to PERRC during the deliberations that there was widespread confusion about the ownership of parochial church property and there would be great benefit in clarifying that parochial church property is effectively owned by the parishes which are therefore clearly responsible for its upkeep and management. Attached in Appendix 6 are illustrative plans showing, as far as PERRC's research has established, the parochial church property of each property in each parish. These plans are by no means definitive in establishing the precise boundaries, titles to land and ownership. Should the States approve these Recommendations, a thorough investigation will be carried out once legislation in place to ensure that no parcel of land has been omitted or included in error.
- 4.2.2 PERRC accepts the advice that bare title to the ten ancient parish churches and the nine ancient parish churchyards is probably vested in the Crown but these ancient churches and churchyards are beneficially owned by the parishes.
- 4.2.3 PERRC also accepts the Law Officers' advice that the eight parish rectories and the various parcels of glebe land are held on trust by the parishes for the parishioners *en bloc*. PERRC believes that it would be beneficial if these parish rectories and glebe land were statutorily vested in the parishes. In particular, PERRC accepts legal advice that the legal title to the eight parish rectories and the various parcels of glebe should be vested in the respective Constables, on behalf of each parish, as the only entity of the parish capable of holding legal title to property.
- 4.2.4 PERRC does not propose that ownership of the ten ancient parish churches and the nine ancient parish churchyards be statutorily vested at present. The Crown would need to agree to any such change and PERRC does not see the necessity for making such an approach at this time.
- 4.2.5 The ancient parish churches are seen as the principal landmark buildings in each parish and there was strong support from the Guernsey Deanery, the Douzaines and the public for their continued care and maintenance by the parish (rather than the States or the congregations). The consultation carried out by PERRC showed broad public support for the principle that the long-term future of the ancient parish churches needs to be assured. PERRC

believes that retaining the long-standing link with the Crown would endorse this position.

- 4.2.6 There is no reason in law which would prevent the ten ancient parish churches from being more widely used by other Christian denominations recognised by the Church of England. PERRC believes that if extended use was actively taken up, it could have benefits for Christian worshippers in Guernsey at a time when, generally, congregation numbers are not especially high.
- 4.2.7 The glebe land was of relatively little concern to the parishioners and the Douzaines because the land tends not to incur such large expenditure as the other property. PERRC notes that, in some cases, the glebe land is agricultural land that generates a small income that helps towards its maintenance costs. PERRC considers that it may assist the parishes in managing the glebe land if the ownership is statutorily vested in the Constables, on behalf of the parishes.
- 4.2.8 PERRC, however, considers that there may still be concerns amongst parishioners about the use of owners' rates for the repair and maintenance of the rectories and has therefore considered whether to propose changes in this regard.
- 4.2.9 The rectories are different to other forms of parochial church property - they are primarily private residences and are not accessible to the parishioners. The rectories are seen as a financial burden on the parishioners. Though the Church of England/Rector meets some of the internal refurbishment costs and all the running costs of the rectory, there is some disquiet that in some parishes the parishioners pay for the upkeep and maintenance of a private home that is not usually open to the parishioners.
- 4.2.10 PERRC has noted that St Peter Port Rectory has for many years been in the names of the Rector and Churchwardens and that this has released the St. Peter Port ratepayers from the financial burden of maintaining the building.
- 4.2.11 PERRC has also noted that there could be both financial and practical benefits in replacing existing rectories e.g. by downsizing and/or by disposing of Open Market buildings and providing Local Market buildings.
- 4.2.12 In view of the above, PERRC initially considered recommending that the ownership of the rectories be statutorily vested in the relevant Rector and Churchwardens.

This would have meant that:

- the Rectors and Churchwardens would have had responsibility for the repair and maintenance of the rectories;

- the parochial ratepayers would have ceased to be responsible for the repair and maintenance of the rectories and that owners' rates would no longer have been levied for that purpose;
- the proceeds from the sale or lease of the rectories would accrue to the Rector and Churchwardens.

- 4.2.13 PERRC was also minded that, to take account of the past use of owners' rates for the repair and maintenance of rectories, the parishioners should be given the right to approve the sale of a rectory by the Rector and Churchwardens, with the exception of St Peter Port, at a specially convened meeting of ratepayers.
- 4.2.14 PERRC sought the views of the Douzaines, the Guernsey Douzaine Council and the Guernsey Deanery about the possibility of statutorily vesting the ownership of the rectories in their respective Rectors and Churchwardens.
- 4.2.15 The Douzaines and the Guernsey Douzaine Council were opposed to such a possibility. A number of Douzaines reinforced the point that, over many years, substantial amounts raised through the owners' rates had been committed to the repair and maintenance of their rectories. An exception was St Peter Port which supported such a change but on the basis that the ratepayers, as beneficial owners of the rectories, should expect to receive financial compensation.
- 4.2.16 There was no consensus amongst the Douzaines as to whether owners' rates should continue to be used for the repair and maintenance of the rectories but a number of Douzaines did comment that the rectories could be leased to the Church of England thus removing the need for their repair and maintenance to be paid for out of owners' rate.
- 4.2.17 Concern was also expressed that the proceeds from the sales of rectories would accrue to the Rector and Churchwarden. It was considered that, if the ownership of the rectories was statutorily vested in the parishioners the proceeds of any sales would be used for the repair and maintenance of all parochial church property.
- 4.2.18 The Guernsey Deanery advised that the possible withdrawal of support for the repair and maintenance of the rectories through the owners' rate would be regretted by every member of the local congregations concerned and by a sizeable section of the less committed in the parishes who appreciate the presence of a vibrant church community centred on the ancient parish church and rectory, particularly as it will put at risk the continued use of these important structures as homes for the clergy.
- 4.2.19 The Deanery also commented that, before ownership of the rectories was vested in the Rector and Churchwardens, each parish should have fulfilled any outstanding obligations of repair and maintenance. The Deanery also

expressed concern about the suggestion that the sale of the rectories, once vested in the Rector and Churchwardens, should require the approval of the ratepayers.

- 4.2.20 The Deanery also raised concerns about the practicality of the vesting procedure.
- 4.2.21 In view of the responses received, PERRC has concluded that the ownership of the parish rectories, with the exception of St Peter Port and the Vale, should be statutorily vested in the Constables, on behalf of the parishes. In addition, as owners of the above eight rectories, each respective parish should be free to use the proceeds of any sale of its rectory as it considers appropriate, including for secular expenses. .
- 4.2.22 It should be noted that whilst the present Castel Rectory is not the historic building and is held in the names of the Rector, Churchwardens and Constables, the cost of its repair and maintenance is met from the owners' rate and PERRC sees no reason to exempt it from these proposals.
- 4.2.23 However, it should be noted that the trustees of St Matthew's Church have first refusal to purchase the present Castel Rectory at an independent market valuation should it no longer be required to be used as a rectory.
- 4.2.24 The Vale Rectory was purpose-built in the 1970s on land specifically gifted by the Constables to the Rector and Churchwardens (only) in accordance with a resolution of a meeting of the Electors and Ratepayers of the Vale parish. PERRC therefore believes that it should not be regarded as parochial church property but should be confirmed as being in the ownership of the Rector and Churchwardens.
- 4.2.25 PERRC, however, remains of the view that, because the rectories are different from other parochial church property, further consideration should be given to the funding arrangements for the rectories.
- 4.2.26 PERRC therefore proposes that the ownership of the parish rectories, with the exception of the St Peter Port and Vale Rectories, together with the glebe land should be statutorily vested in the parishes.
- 4.2.27 PERRC considers that the vesting legislation should include provision for the sale of a rectory, subject to the approval of the parishioners, at a specially convened meeting of ratepayers. In addition, each respective parish should be free to use the proceeds of any sale of its rectory as it considers appropriate, including for secular expenses.
- 4.2.28 Although their construction was not paid for by the respective parish ratepayers, PERRC believes that Torteval Church Hall and St Martin's Community Centre and the land upon which they are built should be

statutorily vested in the ownership of their respective parishes. Both buildings were constructed on land which is parochial church property, being the equivalent of property which is being vested in the parishes and PERRC therefore believes that they should be subject to its proposals for other parochial church property.

- 4.2.29 However, PERRC would emphasise that its proposals simply put the ownership of the rectories and glebe land by parishes on a statutory footing. Its proposals are not intended to change in any way the usage of any building situated on that land nor to change the funding arrangements (with the possible exception of the rectories). Nor is PERRC suggesting that there should be any change in the responsibility for or management of Torteval Church Hall or St. Martin's Community Centre (i.e. the proposed management boards would have no day to day responsibility for running the buildings). In particular PERRC proposes that the lease of St. Martin's Community Centre to St Martin's Community Centre LBG is recognised in the Order in Council which vests the land in the parish.
- 4.2.30 PERRC concludes that it is fair and reasonable that the parish (as owners or beneficial owners of the parochial church property), should be more involved in the management of parochial church property and its care and maintenance (not just in raising and distributing the approved ecclesiastical funds). PERRC considers that the Douzaine, as the elected representatives of the parish should also be involved in the management of parochial church property. The Rector and Churchwardens also have a key role in parochial church property management. PERRC therefore suggests that the roles of the parish, the Douzaine and the Church should be recognised through representatives of each working together on joint Management Boards.
- 4.2.31 PERRC wishes to stress that the proposal to create management boards is not intended as a criticism of the current arrangements. PERRC recognises that the Rector and Church wardens have a role as parochial officers and trustees of parochial church property as well as their roles as church officers.
- 4.2.32 PERRC suggests that each parish's Management Board's responsibilities would extend to the ancient parish church, its churchyard, and the glebe land⁶⁰ but not to the rectories.
- 4.2.33 The role of each Management Board would be:
- (a) to make recommendations to the parish ecclesiastical meeting on the management of the ancient parish church, its churchyard and the glebe land, which responsibility includes the Management Board prioritising works, obtaining structural surveys and being the body responsible for liaising with the Environment Department in respect of proposed works;

⁶⁰ The St Peter Port ancient parish church, i.e. the Town Church, does not have a churchyard as such (just a small area of land within the railings) and some parishes do not have glebe land.

- (b) to recommend to the parish ecclesiastical meeting a list of sums (the proposed ecclesiastical account) to be raised by means of the Owners' Rate for the maintenance and upkeep of the ancient parish church, its churchyard and the glebe land (i.e. the ecclesiastical rate). The Management Board will be required to provide detailed estimates for extraordinary works and capital expenditure. The Management Board will require the authorisation of the parochial ecclesiastical meeting for the proposed ecclesiastical account;
- (c) to oversee the works approved by the parochial ecclesiastical meeting;
- (d) to report back to the parish ecclesiastical meeting regarding the progress on, completion of, and accounts for the works;
- (e) to certify to the parish ecclesiastical meeting on an annual basis that the insurance cover is sufficient to reinstate the ancient parish church; and
- (f) to encourage suitable, additional uses of the ancient parish churches.

4.2.34 PERRC proposes that each Management Board will comprise seven members. The Rector and the two Churchwardens of the parish will be ex officio members of the Board. Two parishioners will be elected by the parish as members of the Board and a further two members will be elected by the Douzaine and Constables of the parish from amongst their number. Consideration will need to be given to the arrangements for elections and for dealing with vacancies. The Chairman of each Management Board will be whichever Board member the Management Board elects. The Chairman will only have a casting vote.

4.2.35 PERRC anticipates that the Management Boards will, if necessary, seek professional advice from both within the parish and from outside.

4.2.36 In regards to the eight rectories, PERRC considers that they should be solely managed by the Douzaines, in the same manner in which they are responsible for other secular property.

4.2.37 Similar to the role of the Management Boards in regards to the ancient churches, the churchyards and the glebe land, the role of the Douzaines in regard to the rectories would be:

- (a) to make recommendations to the parish secular meeting on the management of the rectory, which includes the Douzaine prioritising works, obtaining structural surveys and being the body responsible for liaising with the Environment Department in respect of proposed works;
- (b) to recommend to the parish secular meeting a list of sums (the proposed secular account) to be raised by means of the Owners' Rate, if required, for the maintenance and upkeep of the rectory. The Douzaine will be required to provide detailed estimates for extraordinary works and capital

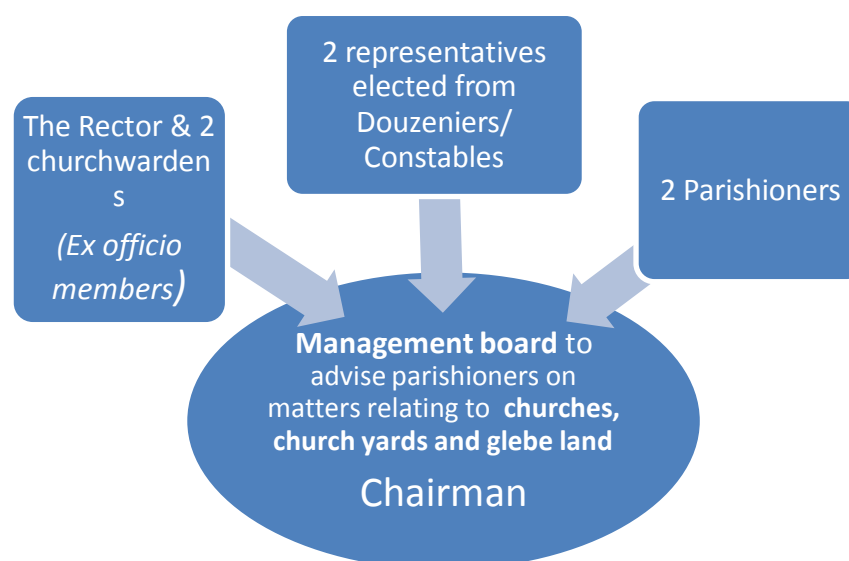
expenditure. The Douzaine will require the authorisation of the parochial secular meeting for the proposed secular account.

- (c) to recommend to the parish secular meeting arrangements for the lease (including to the Church of England) or the sale of rectories and the use of the proceeds of such lease or sale;
- (d) to oversee the works approved by the parochial secular meeting;
- (e) to report back to the parish secular meeting the progress on, completion of, and accounts for the works.

4.2.38 Similar to the Management Boards, PERRC anticipates that the Douzaines will, if necessary, seek professional advice from both within the parish and from outside.

The following diagram summarises the proposed Management Board.

Proposed Management of Parochial Church Property



4.3 Ecclesiastical Rates

- 4.3.1 PERRC has given consideration to possible changes in the funding arrangements for the repair and maintenance of parochial church property.
- 4.3.2 Firstly, PERRC has given consideration to the funding arrangements for the repair and maintenance of the rectories.
- 4.3.3 As it has decided to propose that the ownership of the rectories should be

statutorily vested in the parishes rather than in the Rector and Churchwardens, PERRC has concluded that their repair and maintenance could continue to be funded from the owners' rates and, if necessary, the Parish Reserve Funds for this purpose.

- 4.3.4 However, the parishes should also be able to use alternative funding including the rent or sale of the rectories as referred to in paragraph 1.9 above.
- 4.3.5 PERRC therefore proposes that each Douzaine should be responsible for recommending appropriate financial arrangements for the repair and maintenance of the rectories, which could include their sale or lease, or funding from the owners' rates.
- 4.3.6 PERRC considers that any revenue from the sale or lease of a rectory should be used as the Parish considers appropriate, including to fund parish secular expenses. This could, for example, include the provision of a replacement rectory and/or the repair and maintenance of parochial church property, including the rectory, or for any other purpose.
- 4.3.7 Secondly, PERRC has considered the funding arrangements for the repair and maintenance of all parochial church property, other than the rectories.
- 4.3.8 PERRC has concluded that the current arrangements, i.e. the owners' rate, should be retained.
- 4.3.9 PERRC, however, did consider whether to propose the introduction of an 'opt-out' provision.
- 4.3.10 The 'opt-out' provision suggested would have required, each year:
 - the publication in La Gazette Officielle of the approved ecclesiastical account on two separate weekly occasions immediately following the parish ecclesiastical meeting. Also, during the period from the parish ecclesiastical meeting until the Remède application by the Constables, the approved ecclesiastical accounts and estimates should be (a) made available at the Salle Paroissiale; and (b) displayed on the parish notice board at the Salle Paroissiale (if one is available); and (c) displayed on the ancient parish church notice board.
 - any ratepayer, who wished to opt-out, formally to notify the Parish Constables in writing no later than 4 weeks before the date of application for the Remède. The notification would have to be unconditional, unequivocal and cover the entire ecclesiastical rate; i.e. the ratepayer could not choose to pay a part only of the ecclesiastical rate.
 - in the event of any significant shortfall, the management board (see paragraphs 4.2.30 to 4.2.35 above) would have to consider how to proceed.

- 4.3.11 PERRC sought the views of the Douzaines, the Guernsey Douzaine Council and the Guernsey Deanery on the concept of an opt-out as described above.
- 4.3.12 There was no support for an opt-out. A number of points were made:
- the current system is human rights compliant and there is therefore no requirement to change the system;
 - the opt-out would be administratively unworkable;
 - if a significant number of parishioners decided to opt-out, the result could be the deterioration in the condition of the ancient parish churches;
 - this would, in effect, result in the parishioners failing to look after property which they owned;
 - such a provision would set a dangerous precedent if ratepayers/taxpayers were able to decide which elements of tax to pay.
- 4.3.13 In light of the views expressed PERRC has decided not to propose an opt-out.
- 4.3.14 PERRC accordingly proposes that the repair and maintenance of the ancient parish churches, their churchyards and glebe land should continue to be funded through the payment of owners' rates.

4.4 Proposed Minor Amendments to Legislation

The 1923 Law

- 4.4.1 PERRC also believes that it would be sensible to amend the 1923 Law as follows:
- (a) to amend Section b "*Ordinary repairs to the parish church... repairs which cannot be particularised in advance*" more clearly to define what is meant by "*ordinary repairs*", e.g. annual general maintenance and upkeep.
 - (b) to amend Section c "*The ordinary upkeep of parish cemeteries*" to differentiate between the churchyards (ecclesiastical) and the parish cemeteries (secular).
 - (c) to amend Section d "*extraordinary repairs to be carried out to the parish church... the churchwardens or the parish constables who shall beforehand furnish a detailed specification with estimate*" (1) to replace reference to detailed estimates being provided by "*churchwardens or the parish constables*" with the Management Board and (2) more clearly to define what is an "extraordinary repair" e.g. to include more major, one-off repairs (particularly structural) and improvements (but only to the

extent that improvement is necessary for the preservation and protection of the properties). Detailed extraordinary repair estimates may include preliminaries, contingencies, and professional fees and disbursements. PERRC anticipates that this revised definition of extraordinary repairs would allow the ecclesiastical rates to be used for the installation of and upgrades to (integral) heating and cooling, internal and external lighting, electricity supply, water supply, oil and gas supply, main drains, sewerage, telecommunications, security (alarms etc).

- (d) to amend Section f “*The insurance of the parish church... against all usual risks*” to remove responsibility for contents insurance which would be met by the Church as per the usual running costs.
- (e) to delete Section g “*One half of the amount of the costs of cleaning the parish church*”. This is the last cost remaining that indirectly supports the Church of England rites in the building and so PERRC recommends that the financial responsibility be removed from the parishioners with the full cost to be met in future by the Church.
- (f) to replace Section h “*The tax on the parish church and the church cemetery levied under the law relating to the maintenance of the roads of the parish of St Peter Port and the reconstitution of the Public Thoroughfares Committee sanctioned by Order of His Majesty in Council dated 25 November 1919, registered on the records of this island on the 13 December 1919; and the tax on rental value in substitution of “equivalent”⁶¹ on the parsonage and the lands belonging to the cure*”. The new TRP rules state that buildings used principally as places of worship and non-domestic property, owned by the parish (provided they are not used for commercial purposes) are exempt from TRP. The rectories will continue to be chargeable as before. Glebe land that is rented out is not exempt from TRP and the tax would need to be covered by the ecclesiastical rates.
- (g) to add “*Ordinary repairs e.g. upkeep and maintenance, of glebe land*”. This would include general maintenance of walls, hedges, mowing etc.
- (h) to add “*Extraordinary repair, e.g. one-off major works, to glebe land.... the Management Board who shall beforehand furnish a detailed specification with estimate etc*”. This would cover items like Castel parish’s glebe land wall reinstatement. Detailed extraordinary repair estimates may include preliminaries, contingencies, and professional fees and disbursements.
- (i) To add “*The reasonable expenses and costs of the Management Board*”.

⁶¹ ‘Equivalent’ was a tax first created in 1810, which was levied in order to compensate the authorities for expenditure on the maintenance of roads, hitherto the responsibility of adjoining owners. It was abolished under the *Loi relative à l’entretien des voies publiques*, 1904.

- 4.4.2 PERRC recommends that the following would not be covered by the ecclesiastical rates: the purchase, repair, replacement and insurance of the parish church organ; fittings, ornaments, objects and freestanding artefacts in the parish church; the decoration and internal refurbishment of the parish church; and the running costs of the parish church. PERRC recommends that these non-ecclesiastical rates items should remain the responsibility of the Church of England and/or the congregation.
- 4.4.3 PERRC recommends that the ancient parish church bells and bell ropes should be included under ordinary and/or extraordinary repairs. Whilst the bells are rung prior to most services they are of wider significance to the community. They are rung at times of celebration (e.g. Liberation Day) and at times of mourning. The remuneration of bell ringers on public occasions will also continue to be an allowable expense.

The Parish Reserve Fund Law

- 4.4.4 The Parish Reserve Funds are a potentially useful means of accumulating funds to meet large repair bills (particularly for extraordinary upkeep and maintenance of the ancient parish churches). PERRC therefore fully supported the agreed increase in the maximum fund allowable from £100,000 to £250,000.
- 4.4.5 The Parish Reserve Funds Law does not refer to the churchyards and therefore PERRC proposes that for the sake of clarity it should be amended to replace references to the Cemeteries with references to the churchyards (ecclesiastical) and the parish cemeteries (secular).

5. Principles of Good Governance

- 5.1.1 The Committee confirms that the contents of this States Report comply with all the Principles of Good Governance as outlined in Billet d'État IV 2011. Particular reference is drawn to the applicability of Core Principles 4 and 6, as detailed in Appendix 2.

6. Recommendations

The Committee therefore recommends the States:

1. to note that whilst the bare title to the ten ancient parish churches and the nine ancient parish churchyards may be vested in the Crown, it is acknowledged that the parishes certainly have beneficial ownership of this property;
2. that the legal ownership of the parish rectories, their grounds (with the exception of the St Peter Port and Vale Rectories), and glebe land (which for illustrative purposes only are shown in the plans in Appendix 6) shall be statutorily vested in the respective Constables, on

behalf of the parishes;

3. that the ownership of the Torteval Church Hall and St Martin's Community Centre shall be statutorily vested in the Constables of Torteval and St Martin respectively, on behalf of the parishes;
4. that the lease held by St Martin's Community Centre LBG continues to be valid after the statutory vesting in St Martin's parish of the land on which it is situated;
5. that any sale of a rectory statutorily vested in accordance with recommendation 2, shall require the approval of a meeting of the ratepayers called specifically for the purpose.
6. that a Management Board be established by and for each parish with a constitution and mandate as set out in paragraphs 4.2.30 to 4.2.35 of this Report;
7. that each Douzaine shall have responsibility for the management of the relevant parish rectory (with the exception of the St. Peter Port and Vale Rectories) as set out in paragraphs 4.2.36 to 4.2.38 of this Report;
8. that the *Loi Relative à La Taxation Paroissiale 1923*, as amended, be further amended, as set out in paragraphs 4.4.1 to 4.4.3 of this Report;
9. to amend the Parish Reserve Funds Law by deleting any reference to "cemeteries" and replacing it with the "churchyards" (ecclesiastical) and "the parish cemeteries" (secular), as set out in paragraph 4.4.5 of this Report;
10. to direct the preparation of such legislation as may be necessary to give effect to the foregoing.

I should be grateful if you would lay this matter before the States, with the appropriate propositions.

Yours faithfully

T M Le Pelley
Chairman

Deputy J.A.B Gollop (Vice Chairman)

Other Members:
Deputy B.M Flouquet
Deputy M.M Lowe
Deputy S.L Langlois

APPENDIX 1

DRAFTING OF LEGISLATION - PRIORITY RATING SCHEME

Criteria
<p>Criteria 1 - Need for legislation</p> <p>Legislation is required in order that (i) the legal ownership of the parochial church property can be transferred to the parishes and (ii) the Management Boards to be set up will have clearly defined powers to manage parochial property. In addition, amendments to the Loi Relative à La Taxation Paroissiale 1923 and the Parochial Taxation (Reserve Funds) (Guernsey) Law, 1997 can only be made by legislation.</p>
<p>Criteria 2 – Funding</p> <p>Although the creation of the Management Boards will require the creation of a new body by the parishes, it is not anticipated that the States will be required to provide any further funding.</p>
<p>Criteria 3 - Risks and benefits associated with enacting/not enacting the legislation</p> <p>The legislation would give some clarity to a clouded situation in respect of the ownership of parochial church property and would allow the parishes to deal with the rectories, which are, in the main, funded by parish ratepayers at present.</p>
<p>Criteria 4 - Estimated drafting time</p> <p>Due to the complexity of drafting legislation to deal with the different situations which pertain to each parish, it is estimated that the drafting time required would be in the region of 6 months.</p>

APPENDIX 2 – GOVERNANCE⁶²

This States Report complies with all the Principles of Good Governance as outlined in Billet d'État IV 2011. Particular reference is drawn to the applicability of Core Principles 4 and 6:

CORE PRINCIPLE 4: “*TAKING INFORMED, TRANSPARENT DECISIONS AND MANAGING RISK*”.

The Committee has based the proposals contained in this report on legal advice from the Law Officers, including the independent legal advice sought by them from Charles George QC (see paragraph 3.18), and as a result of an extensive research and consultation process over a number of years.

CORE PRINCIPLE 6: “*ENGAGING STAKEHOLDERS AND MAKING ACCOUNTABILITY REAL*.”

The Committee has consulted throughout with the Parishes, the Douzaine Liaison Council, the Dean of Guernsey and other stakeholders. The outcome of the consultation has been taken into account at every stage of the Committee's review of this matter.

⁶² Following the States' adoption of the Six Principles of Good Governance, it was decided that all States Reports from September 2011 onwards should set out their compliance with these principles.

APPENDIX 3

Glossary of Terms and Definitions

For the purposes of this Report:

*“The Church of England”*⁶³ means The English branch of the Western Church, which at the Reformation repudiated the supremacy of the Pope, and asserted that of the Sovereign over all persons and in all causes, ecclesiastical as well as temporal, in all his dominions.

“The ancient parish church(es)” means the ten Church of England places of worship attached to the ten ancient parishes⁶⁴

“The parochial church property” means all the buildings and land covered by the mandate of PERRC, i.e. the ten ancient parish churches, the nine churchyards (the land and church graveyard attached to the ancient parish churches), the eight rectories (St Peter Port and the Vale Rectories not being in parish ownership) and the many pieces of glebe land.

“Glebe land” means that portion of land assigned to a clergyman as part of his benefice or otherwise belonging or yielding profit to a parish church or an ecclesiastical parish. However, for the purposes of Recommendation 2 of this Report, “glebe land” does not include such land that:

- (a) is the property of a third party, or
- (b) has been granted to the Rector of the parish concerned, or granted to another solely for the benefit of the Rector.”

“The former Procureur” refers to J N van Leuven, QC

⁶³ Source: Oxford English Dictionary

⁶⁴ Not the four Church of England churches that are in the “new” ecclesiastical parishes carved out of the ancient parishes, i.e. Holy Trinity, St John the Evangelist, St Stephen and St Matthew’s, Cobo, or St Mary’s, L’Islet which is counted as a daughter church of St Sampson’s (an ancient parish)

APPENDIX 4

EXTRACT FROM BILLET D'ÉTAT IX 2005 POLICY COUNCIL - LOI RELATIVE À LA TAXATION PAROISSIALE 1923

EXECUTIVE SUMMARY

This Report recommends the establishment of a Special States Committee to investigate and report on the operation of the Loi Relative à La Taxation Paroissiale 1923, as amended, as to its church property aspects, with particular reference to the repair and maintenance of parochial church property, and alternative means of providing or securing the finance required to repair, maintain and support such property.

Report

HM Procureur has recently written to the Policy Council concerning the present arrangements under which ratepayers are required to support church property i.e. the ancient parish churches and rectories.

HM Procureur has advised the Policy Council that he commenced to investigate the historical and legal issues relevant to the parochial financial support for church property after being consulted by the Torteval Douzaine in August 2004 when it appeared that extensive repairs would be required to Torteval Church, which matter was widely covered in the media at the time.

HM Procureur has reported the outcome of his researches to date as follows:-

“The present system of statutorily sanctioned parochial funding by tax or rates of church property stems from the *Loi relative à la Taxation Paroissiale, 1868*. This was enacted to provide a comprehensive and formal primary legislative basis for parochial taxation, both in its ecclesiastical and secular administration and application. Parochial taxation is of ancient origin, and was originally levied for relief of the poor. Secular parochial expenditure developed to embrace such diverse matters as roads' maintenance, parish schools, street lighting and public pumps; and, of course, policing. The mode, rather than the objects, of taxation had been codified in an Ordinance of 1821, which proved controversial and which was not uniformly administered amongst the parishes. The 1868 Law recited, *inter alia*, that for many years it had been "generally acknowledged" within St Peter Port that the Ordinance then in force relating to parochial taxation was unjust in principle and ineffective in operation, and that the Royal Court had determined that any legislation to regulate parochial taxation should apply throughout the Island. Those objections were not directed so much towards the objects to which parochial taxation could be applied, but more to the basis of assessment to taxation, which had been the subject of Privy Council litigation: see *Tupper v Treasurer of Town Hospital & Constables of St. Peter Port, 1836*. Parochial taxes were based on wealth, and fell, in practice, principally upon

property owning parishioners.

The 1868 Law provided for two classes of objects for which parochial taxation might be raised: amongst the first was comprised "Les besoins du Trésor de l'Eglise, y compris l'entretien du Presbytère". The *trésor* was that parochial fund from which ecclesiastical expenses, including those attributable to the parish church, were derived, but which expenses did not ordinarily include repair and maintenance of the rectory, and one result of the 1868 Law was to put beyond doubt the requirement to repair and maintain the rectories at parochial, i.e. taxpayers', expense. It erected a formal scheme of parochial taxation, again founded on parishioners' wealth both personal and real (and which remained the basis of taxation in Sark until recently). Those liable to tax in respect of objects of the first class (which included the *trésor*, poor relief, parish schools and policing functions) were both the inhabitants of the parish, and the owners of properties in the parish wherever in Guernsey they resided; whereas those liable to parochial taxation in respect of objects of the second class (including parish road maintenance and parish pumps) were confined to parochial property owners.

In the period prior to 1868, parochial church expenses had been borne by the parishioners, by the occasional application of parochial taxation to supplement the *trésor*, which was primarily funded by rentes and donations. This pre-1868 scheme operated reasonably satisfactorily, although it has to be said that the position in which Torteval is now placed with respect to its church is not dissimilar from that by which it was faced in the early eighteen hundreds, when its former ancient church had fallen into such disrepair as to make rebuilding a necessity. Then, most of the funds for the construction of Torteval's new church were provided by the States; but some were provided out of parochial taxation, some by the Crown, and some by donation.

The 1868 Law, by including as an object of parochial taxation "Les besoins du Trésor . . ." was statutorily endorsing compulsion on taxpaying parishioners to contribute towards the repair and maintenance of the parish churches and their rectories, irrespective of adherence to Anglican doctrines or attendance at Anglican worship.

In 1920 the States resolved to introduce insular income tax. Accordingly much secular expenditure that had been borne by the parishes now fell as a charge on States' revenues: for example, primary schools, the country hospital and those public roads, lanes and paths parochially maintained. To remedy this position, a requête was presented to the May 1920 States' meeting proposing that the former system of parochial taxation be abolished, and replaced by a parochial rate levied on property occupiers, but having regard to the scope of the several objects of the first and second classes provided by the 1868 Law, including the *trésor*, so far as they remained objects of parochial expenditure. The States appointed a committee to review the matter. Ignoring for present purposes the various reports, debates and resolutions in respect of secular parochial administration and expenditure, the upkeep of church property had necessarily to be embraced by the review. At the July 1920 States' Meeting, a further requête directed towards the repair and

maintenance of church property was considered. (This requête reproduced the terms of a requête presented to the States at its July 1915 meeting, but which was not pursued on account of the Great War.) The States resolved that another committee should be charged with particularly identifying what would be the effect of abolishing parochial taxation on the needs of the *trésor* and the upkeep of the rectories. Its report was considered by the States in December 1920, and the resolutions on that debate found the 1923 Law as it relates to upkeep of church property. The report of this committee is to be found in Billet d'État No. 17 of 1920 at p.342⁶⁵.

The report includes much historical material, and is of interest in identifying issues relevant today. Those who proposed the review had sought change to make Guernsey conformable with English practice, by which compulsory parochial contributions to the upkeep of church property had been abolished by the Compulsory Church Rate Abolition Act, ironically also of 1868 the very year in which Guernsey had erected a general statutory scheme of parochial taxation by which, *inter alia*, church property was compulsorily supported. In England, prior to 1868, repair and maintenance of the rectories had never been a charge on ratepayers, which is why so many of them came to be separated from the parishes they were intended to serve and sold as private residences. Furthermore, the requête which gave rise to the report recited that modern legislation was tending to separate completely the civil parish from the ecclesiastical parish.

The English 1868 Act was the product of decades of strife, arising in part from increasing religious tolerance, not only as respects the relaxation of discrimination against adherence to Roman Catholicism, but also as the result of the growth of non-conforming or dissenting movements, of whom the Methodists were prominent exemplars. One common feature of dissent was refusal to pay church rates, and many dissenters suffered imprisonment, or distraint of their goods, rather than satisfy the rates demands of the Anglican Church. The "compulsory" church rate was not, in effect, compulsory by the regime operative in England, because before 1868 the parishioners by a majority could vote down the rate proposed, the position established as respects Guernsey by the 1923 Law. What the 1868 Act did was to make recovery of an approved rate impossible in legal proceedings, so payment of the rate effectively became voluntary for those who chose to ignore rates demands, even though approved by the majority of voting parishioners.

By English common law, parishioners were bound to maintain the fabric of their churches, and provide for the decent celebration of their services. Prior to 1868, the upkeep of the parish's church building itself was sustained by an annual rate voted by the parishioners assembled "in vestry" and levied upon all occupiers of lands within the parish according to their ability. In former times, in which the rôle of the parish church was more than spiritual – indeed its civic functions had always been crucial to its local community – the great majority of the population

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A copy of the report is attached as an Appendix to this States Report

were believers and, to a perhaps lesser but still significant extent, practitioners and professors of the established Anglican faith. By the 19th century, non-conformism had spread throughout England, and in some parishes dissenters outnumbered Anglicans. Building and repairing their own chapels, and shunning the services of their parish churches, dissenters resented the payment of church rates as being onerous and unjust, and offensive to their consciences. They insisted that the burden should be borne exclusively by Anglicans, which, they argued, had been the original basis of church rates and this principle should again be recognised. The Anglican Church stood firmly upon its rights, and claimed that the law had never acknowledged such a distinction. Its principal arguments were that the fabric of the Anglican Church as a whole was national property; and that Anglican churches were open and available to all for public worship, irrespective of belief, and were, in effect, the common property of all parishioners.

From the 1830s, Parliament grappled with the arguments. It is not relevant here to recount the course of debate but, at the same time, battle was enjoined in a number of prominent cases which set the arguments in a legal context. In landmark litigation in relation a rate sought to be levied in Braintree, the House of Lords held that a majority of the parishioners could lawfully vote down the rate proposed, with the result that it was effectively, but not legally, unenforceable. In 1859 church rates had been refused in 1,525 parishes, which was a serious inroad upon the rights and abilities of the church. The matter was complicated by measures for reforms originating in a 'liberal' House of Commons being rejected by a 'conservative' House of Lords.

What is also of interest is that by the time the 1868 Law was passed, non-conformism had taken hold in Guernsey, and numerous Methodist and other non-conformist chapels had been established. Furthermore, the profession of Roman Catholicism here was significant, partly as a result of the presence of a French community, but Roman Catholics were, even then, denied access to certain local public offices (e.g. Jurats).

The 1868 Act, which so motivated the *requerants* in 1920 as the ground of reform, led to the parochial taxation regime erected by the 1923 Law which remains in force today. By the 1923 Law the lawful objects to which parochial taxation may be applied were redefined, and of them the ecclesiastical purposes are limited to

1. ordinary repairs to the parish church, and ordinary external and structural repairs to the rectory;
2. ordinary maintenance of the parish cemeteries;
3. extraordinary repairs to the parish church, and extraordinary external and structural repairs to the rectory, and extraordinary repairs to the parochial cemeteries: in respect of each of which, a special vote is required to be taken;
4. acquisition of land for parochial cemeteries;

5. insurance of the parish church and the rectory;
6. one half of the amount of the costs of cleaning the parish church;
7. repair and maintenance of the clock of the parish church;
8. repair and maintenance of the bells of the parish church; and the remuneration of bell ringers on public occasions;
9. purchase and maintenance of parochial registers and certificates, and safes for their custody.

In its own way, the parochial taxation regime is very democratic. The respective parochial officers prepare and propose the rates to be raised for secular and church purposes. These are put to a meeting of electors and ratepayers for approval. By this means the prospective taxpayers alone determine whether or not the rate should be levied, and if so, at what rate. The options available to those voting at the meeting are limited: they can approve or reject the proposal taken as a whole; they can approve or reject the secular and ecclesiastical components of the proposal each taken as a whole; or they can approve or reject separate items of the proposal; and, in practice, items are put separately to the meeting. However, the meeting cannot propose higher rates or amounts from those proposed, but reductions in items can be proposed. Whatever the meeting approves must be put to the Royal Court as the application for the *remede*. The Royal Court is not concerned with the rate proposed, or the amount to be raised; these are taken to be matters for the meeting. However, the Royal Court is concerned to ensure that every item of the *remede* falls properly within the objects of parochial taxation provided by the 1923 Law, and is also concerned that the formalities with respect to the taxation process have been observed. Importantly, if the *remede*, so far as it concerns ordinary or extraordinary repairs to the church or rectory, has been approved at the parochial meeting, that is the end of the matter, and the Royal Court cannot hear objections to the rates or amounts proposed for those items on the application for the *remede*. Furthermore, if the meeting has voted down those items, that is also the end of the matter so far as the church property components of the *remede* are concerned, although a revised proposal may be put to a further meeting. The Royal Court does not function as some review body so as to enable the Rector and Churchwardens to ask for their claims for church property expenditure to be restored, (nor can non-church items be reviewed on the application of the secular parochial authorities). Put short, whatever the meeting has rejected cannot be reviewed, because it has, in effect, ceased to be a legitimate rate. That is why I say that the *remede* process is democratic.

In framing its report and recommendations, the 1920 review committee relied upon the different origins, customs and administrations as between local and English parishes. Its report asserted that, from remote antiquity, Guernsey parishioners had enjoyed the "ownership" of their respective churches, glebes (i.e. church lands) and church property, and that this ownership was a "kind of trust

and must be exercised in accordance with conditions which were well understood", and which was reflected in the requirement that no alterations or additions to ecclesiastical property, nor any sale or alienation of them, could be legally effected without first formally consulting and obtaining the consent of the parishioners. Bare legal ownership, whilst alluded to by the committee in its report, however, is not so certain. Every parish church in Guernsey was originally annexed to a French religious institution. Long before the Reformation, the Crown had expropriated the possessions in Guernsey of the French priories, and accordingly it is arguable that legal ownership in the strict sense of church property became, and remains, vested in the Crown. But undoubtedly, whoever has legal title to parochial church property, that property is held in trust for the benefit of the parishioners, and so their consent for any transaction in that property is necessarily required. In other words the parishioners for the time being are the beneficial owners of their parish's church property. In England, the position is different. The parish church is owned by the incumbent, and repaired and maintained at church expense, with informal parochial support."

In writing to the Policy Council, HM Procureur identified in some detail the complex legal, particularly human rights, issues relating to compulsory parochial funding by all ratepayers of church property, and also advised the Policy Council that formal legal consideration will need to be given to the potential impact of the European Convention on Human Rights, and has commented that

"At some stage it will be at least desirable if not necessary for a formal opinion on the application of the Convention to the parochial taxation regime to be taken, but of course the issues raised involve more than human rights, including as they do – and as they did in England in the debates which led to the 1868 Act – issues of compulsion and conscience, and profession of another faith or no faith at all."

The Policy Council has considered the historical and legal research presented by HM Procureur and has noted that there is a human rights aspect to the subject. It is clear to the Policy Council that the issues surrounding Guernsey's compulsory parochial church rates regime are complex, and potentially, controversial.

The parish churches are civic institutions, available to all, not only as places of worship but as places of celebration of rites of passage, including baptism, marriage and death, and the rectors have the cure not only of the souls of their Anglican parishioners but the souls of all parishioners. The parish churches are buildings of great antiquity and fascinating history and should be maintained for the benefit of the Island's heritage.

However, it cannot be assumed that a majority of parishioners will necessarily continue to agree to the use of parochial taxation to fund the repair and maintenance of church property particularly if substantial sums are required for repairs to a particular building. After careful consideration, the Policy Council has concluded that the time is right for a thorough investigation to be carried out into the Guernsey's compulsory parochial church rates regime.

The Policy Council considers that this investigation would best be carried out by a Special States Committee to be called the “Parochial Ecclesiastical Rates Review Committee” with a mandate “to investigate and report on the operation of the Loi Relative à La Taxation Paroissiale 1923, as amended, as to its church property aspects, with particular reference to the repair and maintenance of parochial church property, and alternative means of providing or securing the finance required to repair, maintain and support such property”.

It falls to the House Committee to make recommendations to the States regarding the constitution of committees. That Committee has advised in the following terms:-

“In response to a request from the Policy Council, the House Committee has given consideration as to how the proposed committee, to be styled The Parochial Ecclesiastical Rates Review Committee [“the PERRC”] should be constituted.

Unlike standing departments and committees of the States, the Rules relating to the Constitution and Operation of States Departments and Committees do not specify how special States committees are to be constituted. This is because of the diversity of matters investigated by such committees and to allow flexibility in achieving the best constitution for the particular purpose. Presently there is only one other special committee – The Inheritance Law Review Committee which has three States members (one of whom is Chairman), an Advocate of not less than 10 years standing and one person who need not be a member of the States.

Insofar as the PERRC is concerned the House Committee, by a majority, recommends that it be constituted as follows:

“A Chairman who shall be a sitting member of the States

Four sitting members of the States.

The Committee may appoint up to two non-voting members, who shall not be sitting members of the States.”

The House Committee is of the view that the PERRC should have the flexibility of deciding whether or not it needs the participation of non-States members on a permanent basis. One member of the House Committee dissents from this view”.

The Policy Council concurs with the views expressed by the House Committee. Appropriate administrative support for the PERRC will be provided by the Policy Council and the Council will fund any necessary expenditure incurred by the Committee to enable it to carry out necessary consultation and research.

Rule 2 (v), (vi) (f) and (vi) (j) of section I of the Rules for Payments to States Members provide as follows:

- (v) [The] Special Committee Membership Allowance in respect of each seat held on any States Special Committee [shall be] £2,500 per annum or

£1,250 per annum, such amount to be determined by, and subject to, resolution of the States of Deliberation upon formation of each such Special Committee taking account of the expected workload of that Committee;

(vi) [The] Special Responsibility Allowance payable in addition to the [aforementioned] Allowance is

(f) Chairman of a States Special Committee, an amount per annum of three times the relevant Special Committee Membership Allowance determined in accordance with sub-paragraph (v) of this paragraph;

(j) Vice-Chairman of a States special Committee, an amount per annum equal to the relevant Special Committee Membership Allowance determined in accordance with sub-paragraph (v) of this paragraph.

Having regard to that Rule the Policy Council recommends that the Special Committee Membership Allowance payable to members of the PERRC be £1,250 per annum. Consequently the Special Responsibility Allowance payable to the Chairman of the Committee would be £3,750 per annum and that payable to the Vice-Chairman £1,250 per annum. Should the work of the Committee prove, in due course, to be so onerous as to warrant payment at the higher level it would be open to the Committee to bring a proposition to the States in that regard.

Recommendations

The Policy Council recommends the States

1. That a Special States Committee called “The Parochial Ecclesiastical Rates Review Committee” shall be established.
2. That the Committee’s mandate shall be “To investigate and report on the operation of the Loi Relative à La Taxation Paroissiale 1923, as amended, as to its church property aspects, with particular reference to the repair and maintenance of parochial church property, and alternative means of providing or securing the finance required to repair, maintain and support such property”.
3. That the Special Committee Membership Allowance payable in accordance with Section I (2) (v) of the Rules for Payments to States Members, etc. shall be £1,250 per annum.
4. That the Committee’s constitution shall be:

A Chairman who shall be a sitting member of the States

Four sitting members of the States

The Committee may appoint up to two non-voting members, who shall not be sitting members of the States.

And, if the forgoing is approved,

5. To elect to that Committee

A Chairman who shall be a sitting member of the States

Four sitting members of the States.

L C Morgan
Chief Minister

16th May 2005

Appendix 4- continued***PART OF ORIGINAL APPENDIX I FOR BILLET D'ETAT IX 2005 –*****ABOLITION DES TAXES POUR LES BESOINS DU TRÉSOR DE L'ÉGLISE
Y COMPRIS L'ENTRETIEN DU PRESBYTÈRE****RAPPORT DU COMITÉ**

States Office, Guernsey, September 16th, 1920

Received 21st October, 1920

SIR,

On the 28th July last the States considered a petition on the above subject and passed the following resolution:

IX.--Les Etats ont été d'avis de surseoir à la considération de l'Article IX., et de nommer un Comité chargé d'examiner la question dans tous ses rapports, et particulièrement d'indiquer quels seront les effets de l'abolition des taxes obligatoires pour les besoins du Trésor de l'Eglise et de l'entretien du Presbytère; et ont nommé pour leur Comité Thomas William Mansell de Guérin et John Allés Simon, écuyers, Jurés, les Recteurs du Valle et de Saint Pierre-Port, et MM. Henri D. Ollivier, Cecil A. Carey, Thomas Ogier, Eugène T. Lainé et John E. Dorey.

We, the undersigned members of the Committee appointed by this resolution, have the honour to report as follows:-

The petition of Jurat Hocart and others refers to the Law of 1868 relating to Parochial Taxation, and particularly to Article 2 of the Law, which includes among the objects of such taxation, "Les Besoins du Trésor de l'Eglise y compris l'entretien du Presbytère." The petition goes on to state that in the same year, 1868, an Act was passed in England entitled "The Compulsory Church Rate Abolition Act," which Act allowed the parishes in England to vote a Church Rate, but forbade the recovery of such rate by process of Law. The petition concludes with a prayer to the States to consider the question, with a view to requesting the Royal Court to draw up a *Projet de Loi* in the same terms as the aforesaid "Compulsory Church Rates Abolition Act" of 1868. It seems that the petitioners are under the impression that the situation here is on all fours with that of England, or at least resembles it so closely that it can be dealt with in the same way, by a brief *Projet de Loi* couched in the same terms as the English Act (*Billet*

d'Etat of 28th July, 1920, page 231).

The petitioners have failed to appreciate the difference between the English Compulsory Church Rate, upon the abolition of which they base their plea, and the parochial "taxe pour les besoins des Églises," &c., which has prevailed here from a remote antiquity, and is, of course, incorporated in our Law of Parochial Taxation.

The theory of the English Compulsory Church Rate was that the occupiers of property in a parish might, if they chose, vote a rate for the maintenance of the Parish Church and for a variety of other church purposes. When once such a rate had been voted by a majority of the parishioners at a meeting duly convened and assembled for the purpose, it became compulsory, and every ratepayer had to pay his share. But if the majority of the parishioners refused to vote the Church Rate, there was no power which could enforce it on the parish. This was finally determined by a judgment of the House of Lords, which decided that a Church Rate at Common Law could be legally imposed only by the majority of the parishioners duly convened and assembled in Vestry for the purpose.

Thus, the English Compulsory Church Rate did not originate out of the ownership by all the parishioners of the Parish Church. In its first stage it was a voluntary act on the part of the majority of the parishioners. The act of the majority then became binding upon all and the Church Rate became compulsory.

The Compulsory Church Rate Abolition Act did not abolish the Church Rate, but swept away its compulsory character by extending to the individual parishioner the option which previously was exercised by the parishioners assembled in Vestry. The result was the disappearance of the Compulsory Church Rate. But the Compulsory Church Rate had, in fact, already disappeared from a great number of parishes long before the passing of the Act, while it was becoming more and more anomalous and uncertain in those where it remained. Its final disappearance caused very few regrets.

Neither did it create any complications, for the relations of the parishioners with the Parish Church remained precisely as they were. These relations are determined by English Ecclesiastical Law on principles quite irrespective of payment or non-payment of a Church Rate.

In an English parish the incumbent for the time being enjoys a Freehold in which the parishioners have no part. "To him are committed the temporalities of the Church and the actual possession of the Church and Glebe." In the eye of the Law the "Church" is not a corporation able to hold property. All Church property must be held by trustees of some sort. Every incumbent in his parish is for this purpose a "corporation sole," requiring no other formalities than that of institution and induction into his benefice to exercise all rights and privileges of his freehold. The parishioners, of course, have a right to the use of the Church at the hours of Divine Service, and the Churchwardens have responsibilities which entitle them to access to the Church at other times also. But neither churchwardens nor parishioners have any right of ownership in the Parish Church itself or the things in it. The payment of the Compulsory Church Rate, where it was paid, implied neither the rights nor the responsibilities of ownership on the part of

those who paid it. And the abolition of the Compulsory Church Rate left matters exactly as they were.

In Guernsey, where our Ecclesiastical Tradition is derived from a Norman, not an English source, the condition of things is different.

To begin with : the Parson's freehold, as understood here is by no means identical with that of England. It is modified and limited by the participation of the parishioners who may be styled partners and even in some sense "predominant partners." From remote antiquity the parishioners of the ancient parishes have enjoyed the ownership of the Church and Glebe and the Church property of the parish, and all this property is, in consequence, exempt from Parochial Taxation. Of course this ownership is a kind of trust and must be exercised in accordance with conditions which are well understood. But within the limits which the Law allows it is real and effective, as is clearly shewn by the fact that no alterations or additions to Church or Rectory House or Glebe may be legally made, nor any sale or alienation of any part of any of them be legally effected, without first formally consulting the parishioners and obtaining their consent, which must be given by the votes of a majority of the chefs de famille at a meeting duly convened and assembled for the purpose. Examples of this will be found on page 235 of the Billet d'Etat of the 28th July 1920.

This ownership on the part of the parishioners is reflected in the position of the Churchwardens, whose office differs in many respects from that of Churchwardens in England.

Their original name appears to have been "Procureurs et Collecteurs de l'Eglise" – and they were, in fact, and are still, the "Proctors" or representatives of the whole body corporate of the parish in all matters respecting the Church and its belongings, and so quite contrary to the rule in England, in association with the Incumbent they form a Corporation which is able to hold the Church property and pass it on to their successors in office. But this property belongs to the parishioners, and as we have seen, the Incumbent and Churchwardens must have the consent of the parishioners before they can deal with it in any way outside of its customary and proper use. Ownership usually implies responsibility, and so the Ecclesiastical system which has prevailed here from Norman times lays upon the parishioners who own the Church and Rectory the responsibility of keeping up the property which they own. The origin of the "Taxe pour les besoins des Eglises" can, in fact, be traced back to an old Norman custom which set up a kind of partnership between the parishioners and the patron. The parishioners contributed two-thirds of the upkeep, while the remaining third was contributed by the Abbots of Mont St. Michel, Marmoutier and Blanchelande, who held the advowsons. In 1303 the parishioners of St. Peter-Port and other parishes sued the Abbot of Marmoutier for the payment of £200 tournois, his third of the cost of repairing the damage done to their churches and church property during the war with France. The pleadings in the case refer to this custom as an "ancient custom" even at that date (1303). The probability is that it dates back to early in the 11th century, when Dukes Robert and William of Normandy gave the advowsons of our parishes to the Abbeys of Mont St. Michel and Marmoutier.

Further litigation with the Abbots seems to have occurred in the time of Kings Edward II. and III., and finally a series of disputes came to an end in 1369 with the assignment by the Abbots to the "Treasurers" of the Parish Churches of certain rentes to receive yearly in perpetuity, on condition that they were released from their liability for ever. Owing to the destruction of documents the original agreements have for the most part ceased to exist, but those of the Vale and Castel are still extant in the Archives de la Manche at St. Lo, and authenticated copies are now in the Greffe.

Ever since the year 1369 therefore, the parishioners of the several parishes, having accepted a consideration from the Abbots, have had the sole responsibility for the upkeep of their Churches and Rectories and that position continues to this day, and is the ground of the "Taxe pour les besoins du Trésor" of which the petitioners complain. It will be seen that this Taxe has no analogy with the English Compulsory Church Rate and that its abolition, if it is to be abolished, will necessitate legislation of a very different character from the Compulsory Church Rate Abolition Act. It may be convenient to deal at this stage with the question, "was this custom broken, like a good many others, at the Reformation, or during the "Colloque"? The question may be answered at once in the negative. It is indeed remarkable that at such a time of change and upheaval the parishioners should have remained true to their bond, whether the form of worship was unreformed, or Anglican or Presbyterian. Of this there is abundant evidence. Thus, in the report of the Commissioners sent over by James I. in 1607, we find the complaint of the parishioners of St. Peter-Port that the Governor had seized the Rectory for his own use "and enjoyed it above 30 years, during which time the parish was constrained to find out and pay the rent of another house for the Minister." And when the Governor did give it up again "it was very ruined and decay'd, thereby the Parish hath sustained very great charges to repair ye same."

In the same report we find the complaint of the parishioners of the Vale that the same Governor had stripped off the lead roof of their parish Church for his own use, and thereby caused them to incur the great cost of covering the Church again and keeping the covering in repair.

These are typical extracts, which might be multiplied, showing clearly that there was no break in the custom of the parishioners to keep up their Parish Churches and Rectories, a custom which had existed for hundreds of years before the Orders in Council of King Charles II., and which those Orders may be more truly said to recite or at most to re-enact, than to enact.

It has also been asked whether the parishes have at any time received consideration in return for the "Taxe pour les besoins des Eglises."

The reply is in the affirmative. In the first place, from the time, probably, of Dukes Robert and William until the year 1369 the parishioners enjoyed the ownership of the Churches and Rectories and were responsible for the upkeep, &c., of these, in a kind of partnership with the Abbots (of Mont St. Michel, Marmoutier and Blanchelande). On the strength of this they sued the Abbots on more than one occasion and recovered judgement against them. In the second place, in the year 1369, they received valuable consideration from the Abbots and in return undertook the full

responsibility which from that date became binding upon them.

It is also recorded in the Order in Council of King Charles II. (1662) that the “dozeniers” had “diverted to other use” some of the revenues of the Trésor of their parishes, apparently during the time of the Colloque. This was to be expected. We know very well that Church endowments, and also those of Charitable and Educational Foundations suffered a great deal from spoliation and loss at this time. As regards the Church, this was an inevitable consequence of the state of things during the Colloque. There was no longer a resident Minister in each parish. Schickler speaks of “les quatres conducteurs de dix troupeaux.” In many churches there was but one service on Sunday and in some not even one. There were no longer churchwardens. Under such conditions, and in the absence of the resident officials, whose duty it was to safeguard the church property, the facilities for diverting it “to other use” were great, while the temptation was always present. Moreover, it was parish property, and what was taken out of one pocket could be replaced from the other. There can be no doubt that the statement in the Order in Council is accurate and that a good deal of the church property of the parishes was “diverted to other use,” to the depletion of the Trésor and corresponding increase in the Taxe.

Our mandate requires us to enquire into the consequences which would follow if the Petition were granted and the “Taxe pour les besoins des Eglises” were abolished. This is not an easy or simple task.

The first and most striking consequence would be, of course, the change that must be effected in the relation of the parishioners to the Parish Church as owners. For it is not to be supposed that they either could or would retain their ownership and control, as at present.

Legislation would be required to divest them of their ownership and vest it in others. But in whom? The problem is complex and not capable of easy solution. In England the situation is completely, if unsatisfactorily, covered by the “Parson’s Freehold” and the Law, or rather series of Laws, relating to Dilapidations. These solutions cannot be recommended here, even if they were feasible, which we doubt. Concerning dilapidations, it would, moreover, be unjust to attempt to impose upon the Incumbents of the parishes a burden from which they have been exempt from the very beginning. Some other solution would have to be found by the States. We are unable to say what it should be.

The change of ownership, with the attendant upsettall of the relations of the parishioners as a body with the Parish Church and the Ecclesiastical officials, would necessitate further changes in our Ecclesiastical system which would also require legislation. We are unable to foresee with any degree of certainty the nature and extent of the legislation that would be required, but it must obviously be of an extensive and intricate character, affecting a diversity of interests, including those of His Majesty the King, who is patron of the Benefices, and raising constitutional as well as Ecclesiastical questions. In fact, the task set by the States will be both difficult and protracted.

The English Compulsory Church Rates Abolition Act, as we have seen, involved

no such difficulties and complications, because the Compulsory Church Rate was no integral part of the Ecclesiastical Fabric, which was therefore not intimately affected by its disappearance. But our Parochial “Taxe pour les besoins des Eglises” is woven into the Fabric of our Constitution and its uprootal will affect the whole Fabric, warp and woof.

It is unnecessary, however, to speculate further on the probable consequences of the proposed Abolition of the Parochial “Taxe pour les besoins des Eglises,” because our study of the question in its entirety has satisfied us that such Abolition ought not to be recommended to the States, either on its merits or as being demanded by the great majority of parishioners of the various parishes.

We are of opinion that the Parochial “Taxe pour les besoins des Eglises” is based upon the ancient Law and unbroken custom of the Island for many centuries before the Law of Parochial Taxation of 1868. We are also of the opinion that the principle involved in the ownership by the parishes of the Churches, Rectories and Glebe., which is the foundation of the Taxe, is also well established by ancient Law and unbroken custom, and that this principle is of value intrinsically as well as by reason of its great antiquity and historic interest. It is an important asset in the life of the parish and of the Island which is likely in the future to assume even greater importance, and which we would not advise the parishes to abandon, Nor have we any reason to believe that they have either the desire or the intention to abandon it.

We are, therefore, unable to recommend the States to request the Royal Court to draw up a *Projet de Loi* in the same terms as the English Compulsory Church Rate Abolition Act of 1868.

But we are also of the opinion that a change might be made in the objects of the “Taxe pour les besoins des Eglises” with a view to excluding from it the immediate and direct expenses of Divine Service. We consider it would be more fitting that these should be borne by the worshipers than by the whole body of the parishioners.

It is true that all these expenses were included in the agreement of 1369, whereby the parishioners, in return for “value received,” released the Abbots for ever from their share of the charges, not only for upkeep of fabrics, &c., but for “books, lights, vestments, &c., for the services of the Churches.” Therefore, by the strict letter of the Law, these are included still, and the parishioners are liable for all such expenses.

Nevertheless, the actual expenses of Divine Service have in fact been dropped out of the Taxe in many of the parishes by tacit consent, while in one parish, at least, that of St. Peter-Port, they have ceased to be demanded for more than 30 years, by virtue of an agreement unanimously approved in the year 1888, and loyally adhered to ever since that date.

This agreement was drawn up by the late Rev. G. E. Lee, M.A., Rector of St. Peter-Port, whose profound knowledge of matters ecclesiastical and constitutional is acknowledged by all, and the late Rev. M. Gallienne. It enumerates the charges which ought to be borne by the parishioners at large, leaving all other charges to be defrayed

by the Trésor and the contributions of the congregation. It has proved workable in practice, and has, we understand, been adopted in principle in other parishes. We think that this principle which undoubtedly makes for smooth working and general goodwill, might now receive legislative sanction and be incorporated in the Law of Parochial Taxation.

We recommend that the charges to be included in the Parochial "Taxe pour les besoins des Eglises" should be limited to the following :

RECOMMENDATIONS

1. Ordinary repairs to the Church and the Rectory, of which no detailed estimate can be given in advance.
2. Ordinary upkeep of Parochial Churchyards.
3. Extraordinary repairs to the Church, the Rectory and the Parochial Churchyards, which shall be voted by the Chefs-de-Famille on the demand of the Churchwardens, a detailed estimate having previously been given.
4. Insurance against fire of Church and Rectory.
5. One half the cost of cleaning the Church.
6. "Taxe sur la valeur locative des propriétés au lieu de l'Equivalent."
7. Maintenance and repairs of the clock.
8. Maintenance and repair of the bells and bell-ropes as well as the pay of the ringers on public occasions.
9. Purchase and upkeep of Registers and Forms of Certificates which concern the parishioners.
10. Cost of printing all parochial publications and notices.

All the expenses of Divine Service will fall upon the Trésor, supplemented by the contributions of the congregation. It is not necessary or fitting that these expenses should be defined by Order in Council. They will naturally be at the discretion of those who are concerned with the Service.

We have therefore the honour to request you to be good enough to lay before the States the above recommendations.

We have the honour to be, Sir
Your obedient Servants,

T. M. W. DE GUÉRIN.

J. ALLÉS SIMON.

F. W. S. LE LIÈVRE

JOHN PENFOLD

Rector of S. Peter Port
and Dean of Guernsey.

H. D. OLLIVIER.

CECIL A. CAREY.

THOMAS H. OGIER.

E. T. LAINÉ.

JOHN E. DOREY

E. C. Ozanne, Esq., Bailiff,
and President of the States of Guernsey.

APPENDIX 5

TRANSLATION OF 1923 LAW, AS AMENDED

The following document is an unofficial translation of the Law relating to parochial Taxation, 1923, as amended. The French text of the consolidated copy of the Law published by the States of Guernsey House Committee contains a statement that “whilst every care has been taken to ensure its accuracy this publication is not authoritative”, and that statement should also be taken to apply mutatis mutandis to the following one. It is particularly requested that no copies of this unofficial translation should be issued without the inclusion of this paragraph.

The translation follows.

Law relating to parochial Taxation

With regard to the States’ deliberations of 9, 16 and 23 November 1921, and also those of 5 April 1921 and 5 July 1922:

Definitions

The expression ‘Contributory Value’ signifies the value called ‘rateable value’ stated from time to time in general Cadastre of the island.

“Agricultural land” signifies all arable land, meadow land or pasture, and “arable land” signifies that land worked for the cultivation of grain, cereal, and root crops.

“Contributors” includes associations and limited companies.

Article 1

The objects for which parochial tax are raised in the parishes of this island are henceforth to be the following:

- (a) ...
- (b) The ordinary repairs to be done to the parish church and the ordinary external and structural repairs to the parsonage, repairs which cannot be particularised or estimated in advance;
- (c) The ordinary upkeep of parish cemeteries;
- (d) The extraordinary repairs to be carried out to the parish church, extraordinary exterior and structural repairs to the parsonage, and extraordinary repairs to the parochial cemeteries. These repairs shall be voted by the chefs de famille⁶⁶ upon

⁶⁶ The *chefs de famille* were effectively the parish ratepayers and electors.

the demand, whether of the churchwardens or the parish constables who shall beforehand furnish a detailed specification with estimate;

- (e) The funds necessary for the purchase of land and the establishment of a parochial cemetery;
- (f) The insurance of the parish church and the parsonage against all usual risks;
- (g) One half of the amount of the costs of cleaning the parish church;
- (h) The tax on the parish church and the church cemetery levied under the law relating to the maintenance of the roads of the parish of St Peter Port and the reconstitution of the Public Thoroughfares Committee sanctioned by Order of His Majesty in Council dated 25 November 1919, registered on the records of this island on the 13 December 1919; and the tax on rental value in substitution of “equivalent”⁶⁷ on the parsonage and the lands belonging to the cure;
- (i) The maintenance of the parish church clock and the repairs to be done to it;
- (j) The maintenance of the bells of the parish church, the repairs effected thereto, as also the payment of the bell ringers upon public occasions;
- (k) The purchase and upkeep of the parish registers and the forms of certificates concerning the parishioners including strongboxes wherein to keep the same;
- (l) The amount of the costs of printing publications and parish notices for church and parochial needs;
- (m) The fire engines;
- (n) Extraordinary repairs to parish properties, save the church, parsonage, and cemeteries;
- (ii) All other parish administration and the costs incurred by the Constables in the exercise of their functions, including office costs and rentals;
- (o) Lighting;
- (p) Household rubbish collection;
- (q) Rentes owed by the parish;
- (r) Public pumps and cisterns;

⁶⁷ ‘Equivalent’ was a tax first created in 1810, which was levied in order to compensate the authorities for expenditure on the maintenance of roads, hitherto the responsibility of adjoining owners. It was abolished under the *Loi relative à l’entretien des voies publiques*, 1904.

- (s) Sanitary inspection;
- (t) Public needs which are from time to time voted by the parish;
- (u) Pipes and drains;
- (v)
 - (i) the purchase or construction of parish properties, save the church, parsonage, and cemeteries;
 - (ii) all other public improvements;
- (w) Vaccination costs;
- (x) Education needs, including the reimbursement of loans owed by the parishes. There is notwithstanding excepted the wages of masters and mistresses of the parish schools which will be paid by the States;
- (y) The costs of the Cadastre;
- (z) Contributions to the funds called 'reserve fund' created in conformity with the law entitled 'The Parochial Taxation (Reserve Funds) (Guernsey) Law, 1996'.

Article 1A

In the case of a plurality, as defined in the Rectories (Maintenance and Use in Cases of Plurality) Law, 1993, paragraphs (b), (c) and (d) of Article 1 shall be deemed, in so far as they refer to the rectory of a parish, to refer to each rectory in the plurality.

Article 2

The monies required for the objects set out in the first article after they shall have been voted by the parish chefs de famille shall be furnished by the means of a tax on the Contributory Value of the houses, edifices, buildings, and lands situate in the parish, which tax shall be levied on the occupier, save in the following cases, namely:

- (1) In the case of a house let by the proprietor or sub-let by the tenant, whether furnished or in apartments, in which case the tax shall be levied on the proprietor or tenant, as the case may be, who, having paid the said tax, shall have the right to recover the amount of it from the occupier.
- (2) In the case of land whereof the Contributory Value is less than fourteen pounds sterling per annum, in which case the tax shall be levied on the proprietor.

Article 3

There are exempted from the tax on occupiers:

- (a) real property occupied by any department whatsoever of His Majesty's Government;
- (b) the Royal Court;
- (c) the public prison;
- (d) the arsenals when occupied for military purposes;
- (e) places devoted exclusively to religious worship;
- (f) parish schools;
- (g) parish cemeteries;
- (h) States' properties forming part of the harbours of St Peter Port and St Sampson which are occupied by the States.

Article 4

Article 5

All requests to the Court for authorisation to levy a tax by virtue of Article 2 of this law shall state the sum in pounds sterling that it is proposed to raise, and details of each use of the funds called 'reserve fund' authorised by a ratepayers' meeting since the most recent previous such demand made by the parish.

Article 6

All liable for parochial taxes shall have the right to oppose the *remède* for the raising of the said taxes, including the legality of a proposed use of the funds called 'reserve fund'.

Article 7

The contributors to taxes raised by virtue of this law shall be reckoned as chefs de famille and have the right to vote in parochial meetings of the parishes wherein they pay tax, ... Provided always that a limited company and an association shall have no more than one vote and shall vote in the case of a limited company by the means of the manager or an authorisee named by the directors of the company and in the case of an association by the associate named by the other associates.

Article 8

Article 9

Article 10

The Royal Court is authorised to pass from time to time all and such ordinances as it shall consider necessary to put into execution the said law.

Article 11

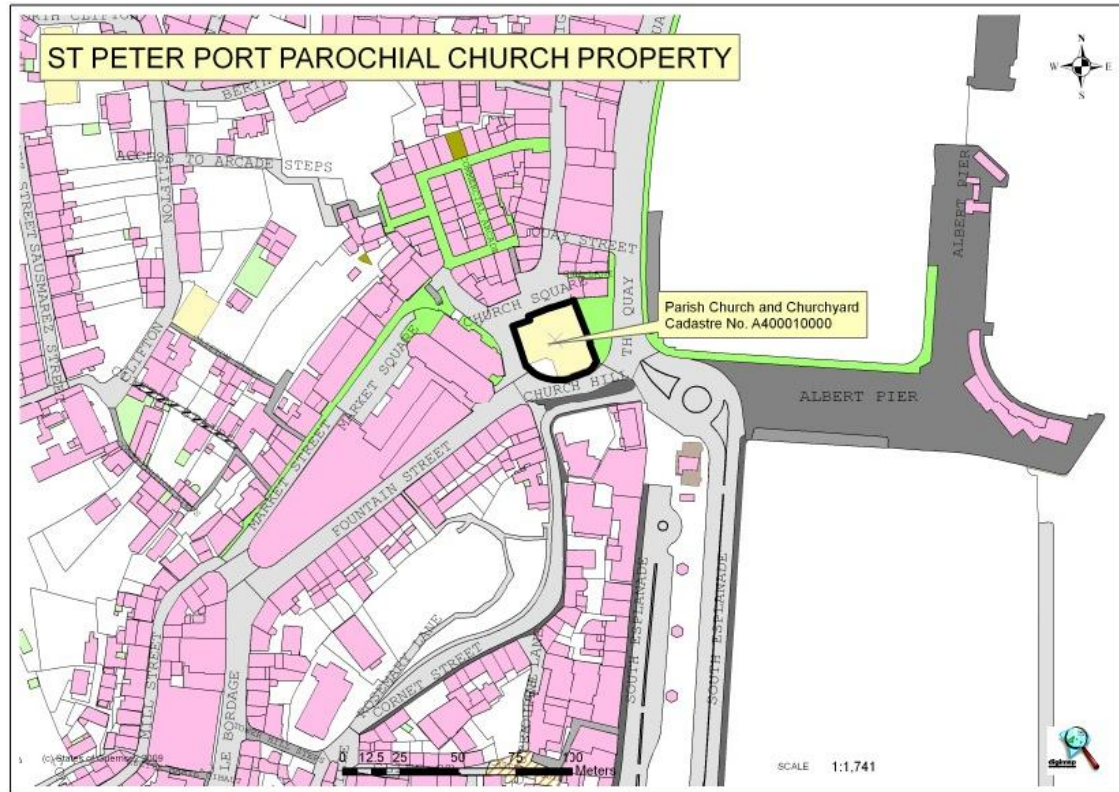
There are and remain repealed;

- (a) The Law relating to a parochial taxation sanction by Order of Her Majesty in Council dated 30 July 1868 registered on the records of this island on 29 August 1868.
- (b) The Law relating to declarations in matters of parochial taxation sanctioned by Order of Her Majesty in Council dated 9 July 1869 registered on the records of this island on 31 July 1869.
- (c) The supplementary Law relating to declarations for parochial taxation sanctioned by Order of His Majesty in Council dated 16 November 1903 on the records of this island on 28 November 1903.
- (d) The law supplementary to the Law relating to parochial taxation sanctioned by Order of His Majesty in Council dated 16 December 1911 on the records of this island on 30 December 1911.
- (e) The law supplementary to the Law relating to parochial Taxation sanction by Order of His Majesty in Council dated 11 October 1921 on the records of this island on 29 October 1921.

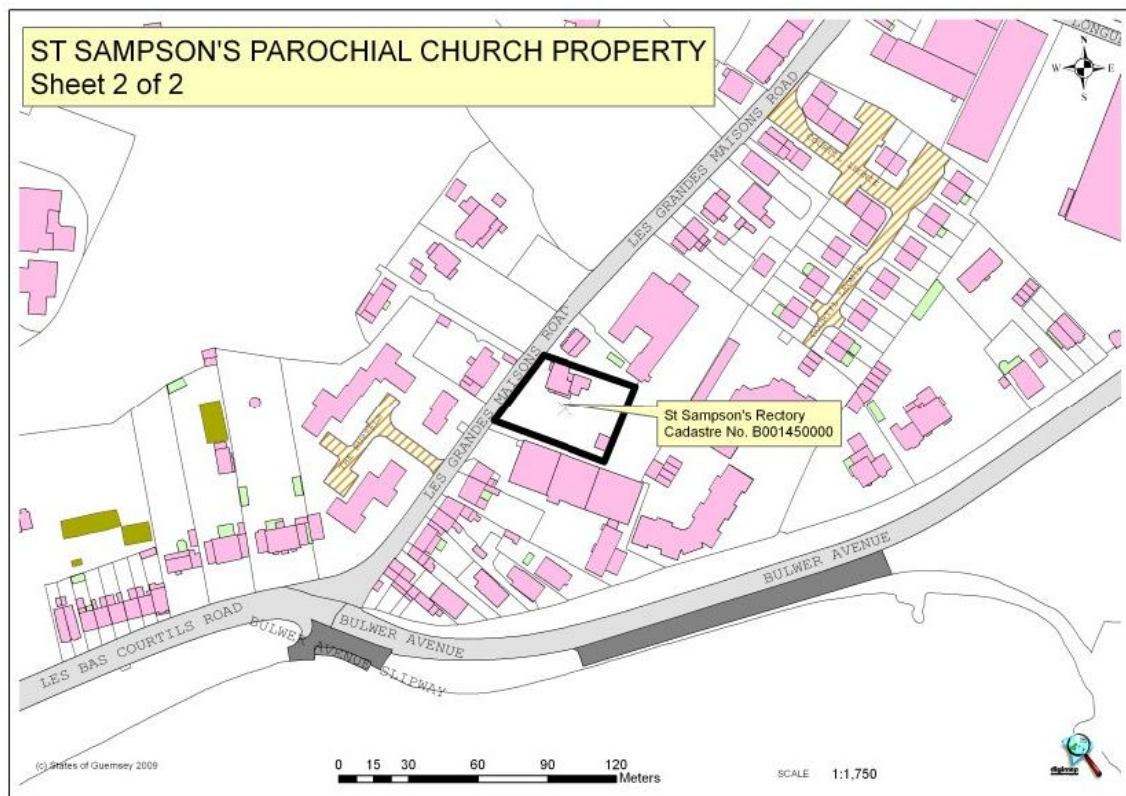
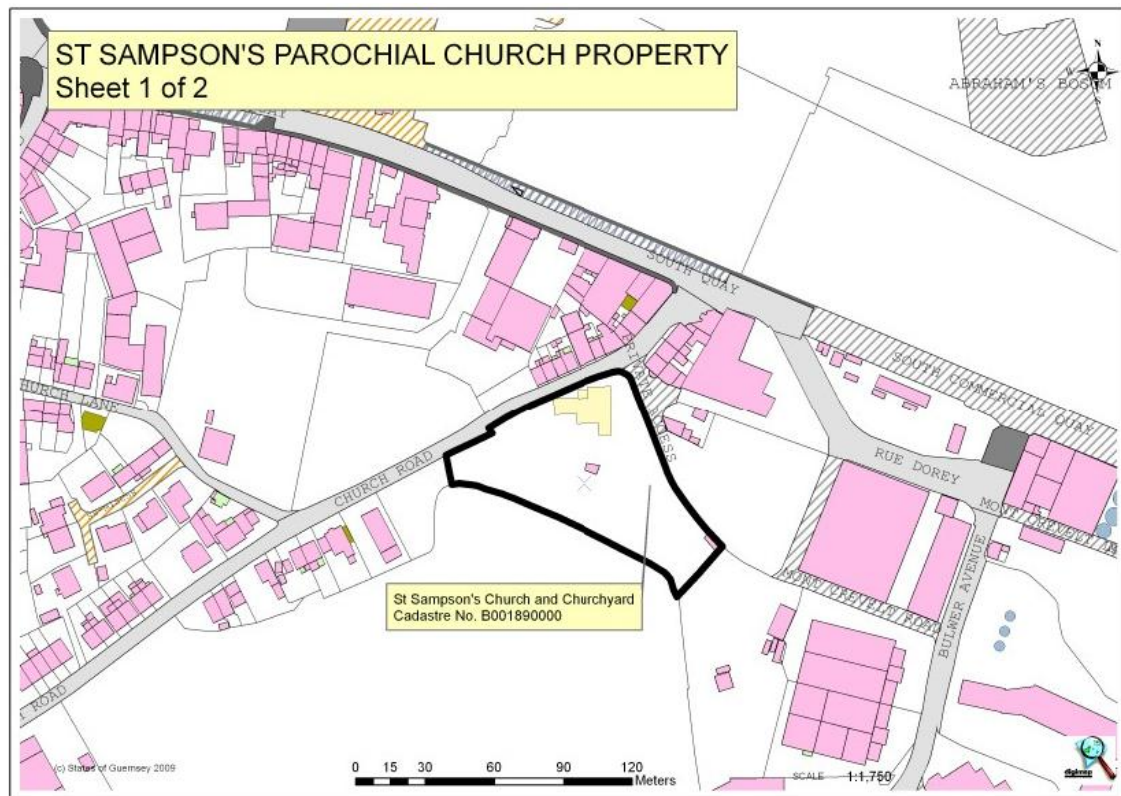
AND THIS LAW SHALL COME INTO FORCE TO RECKON FROM 1 JANUARY 1924.

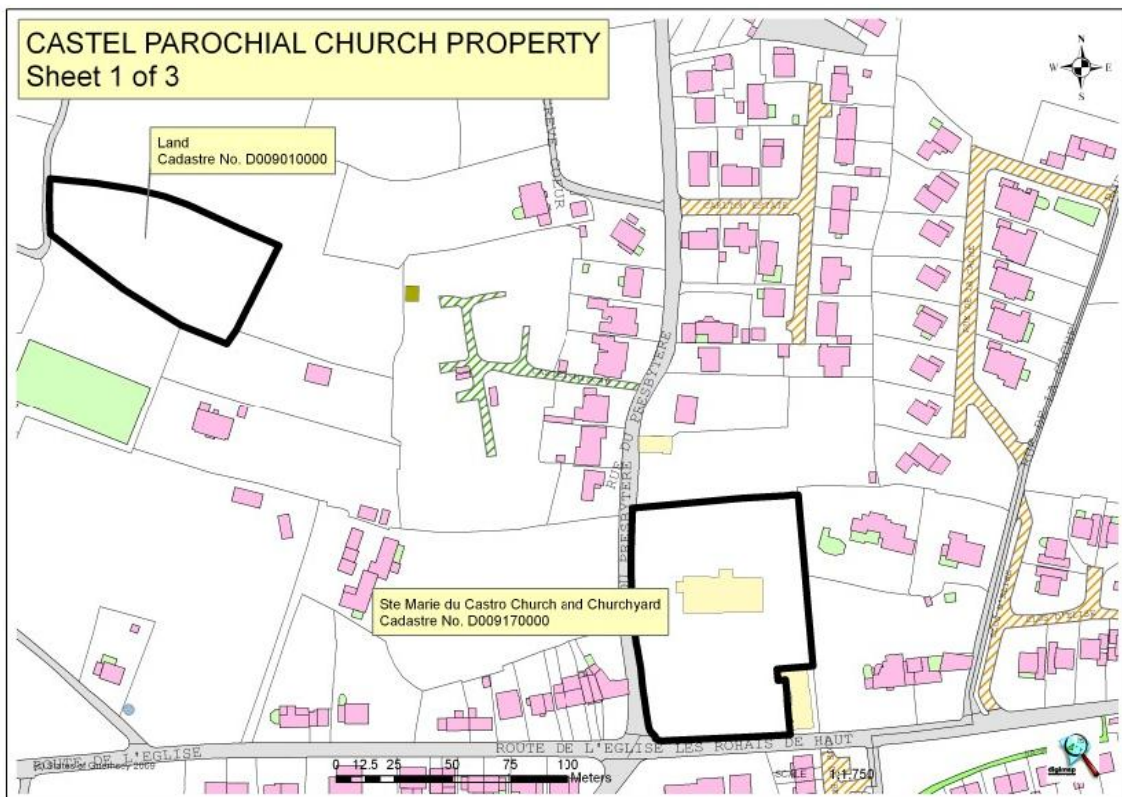
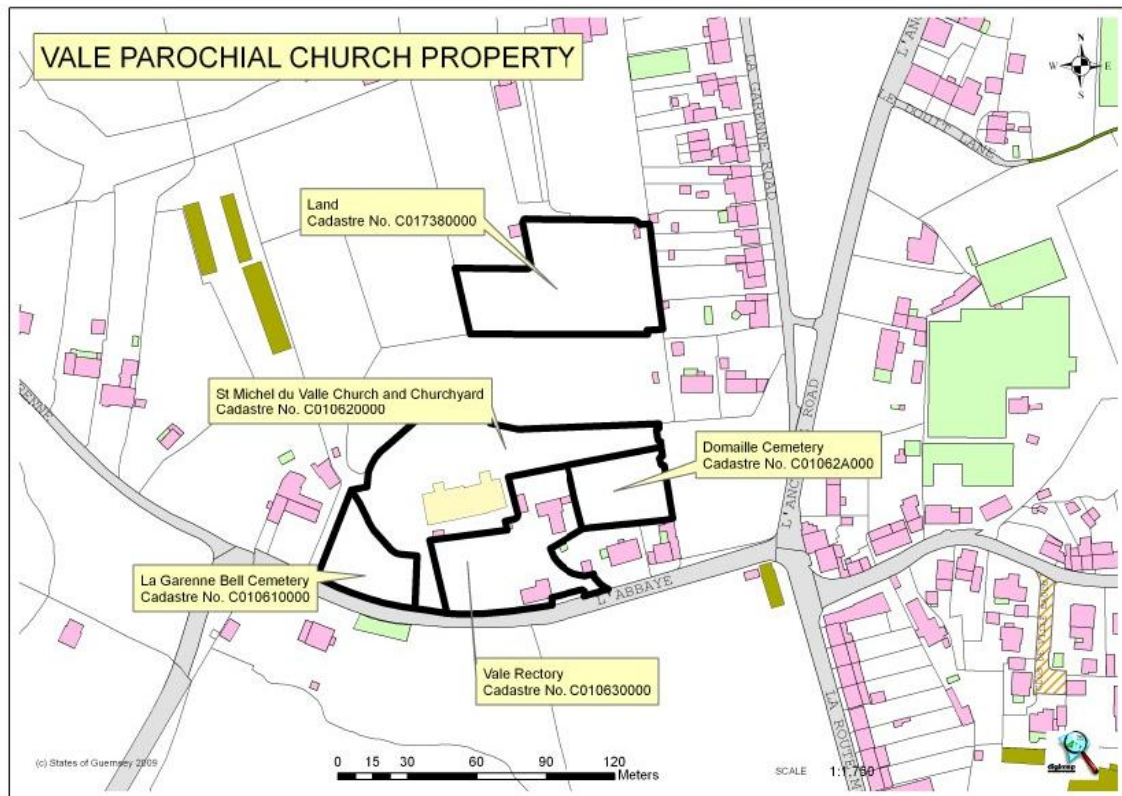
APPENDIX 6

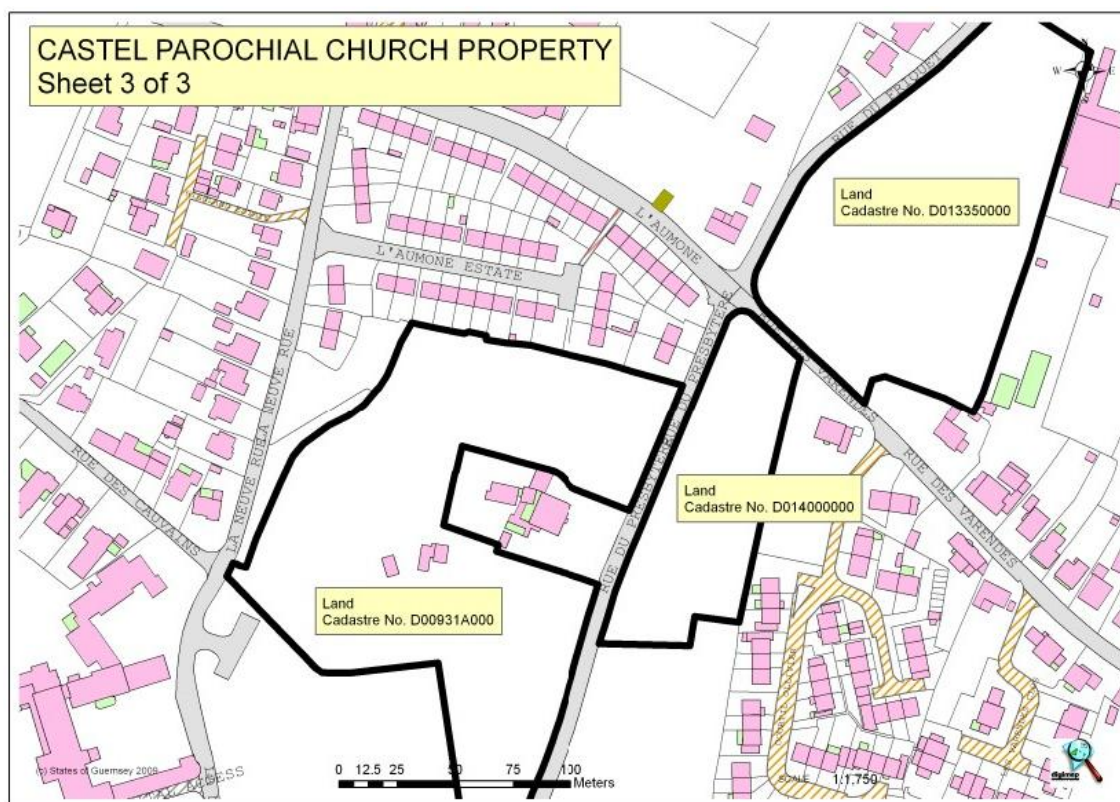
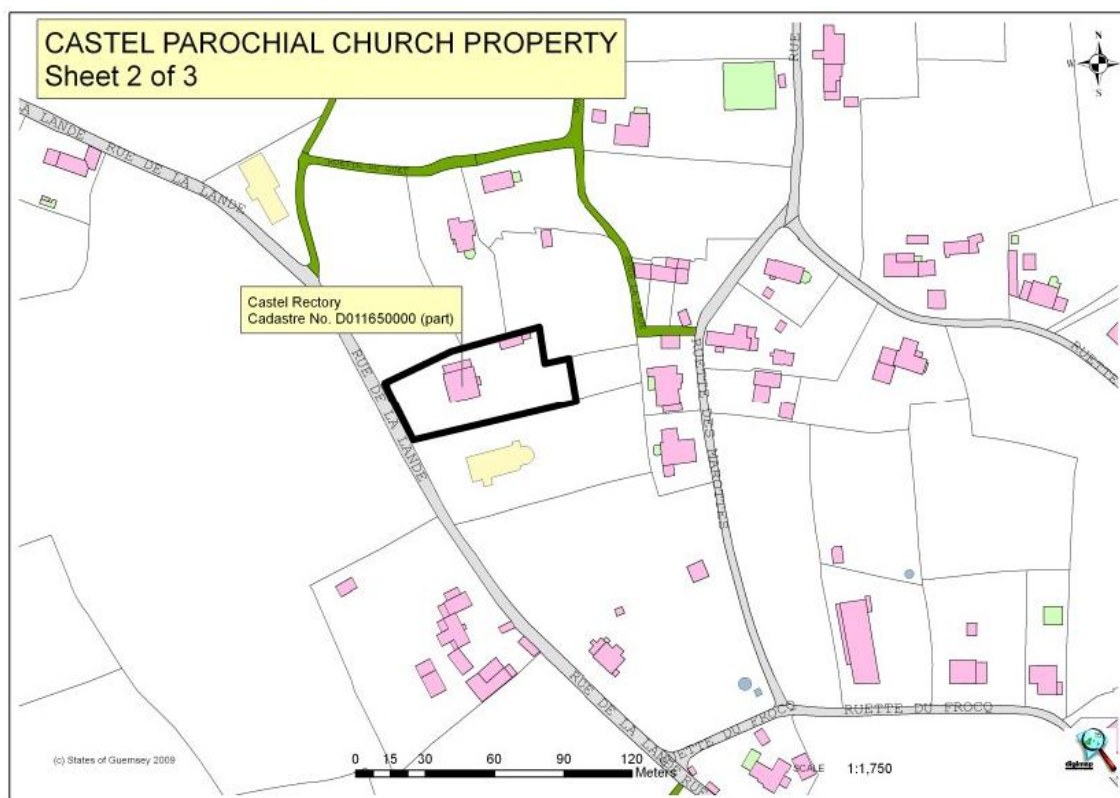
Maps showing Parochial Church Property in each Parish⁶⁸

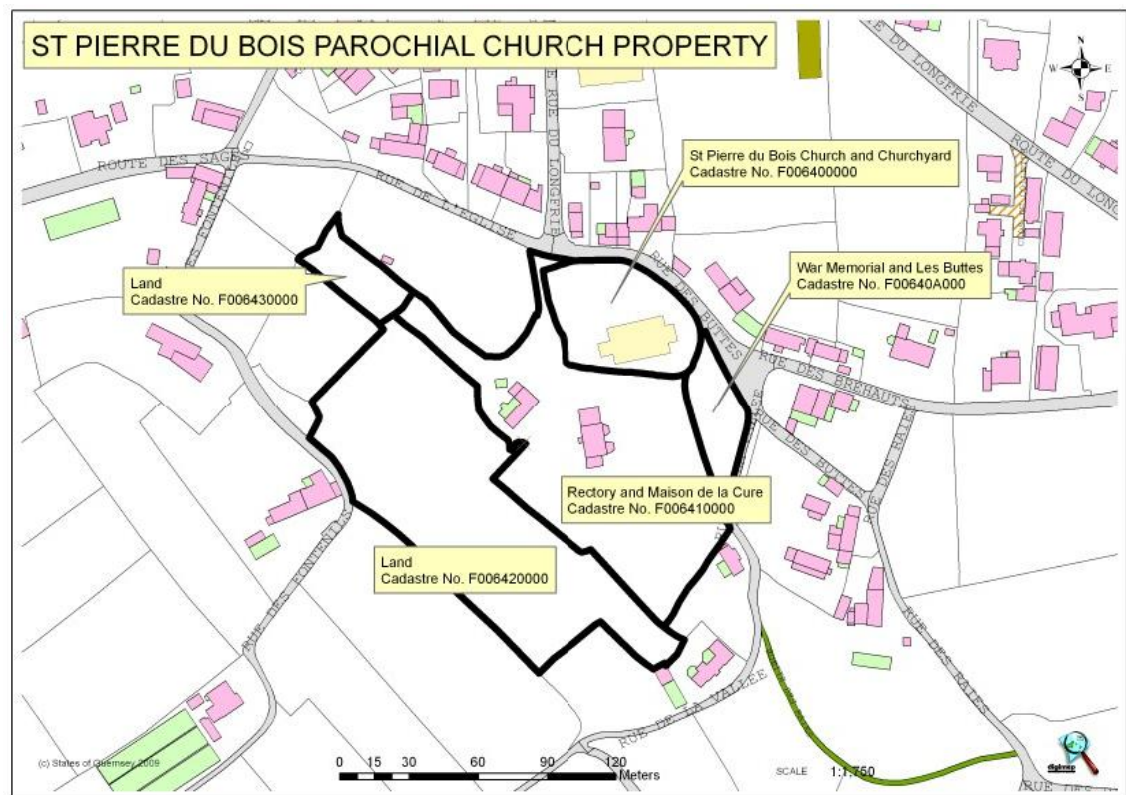
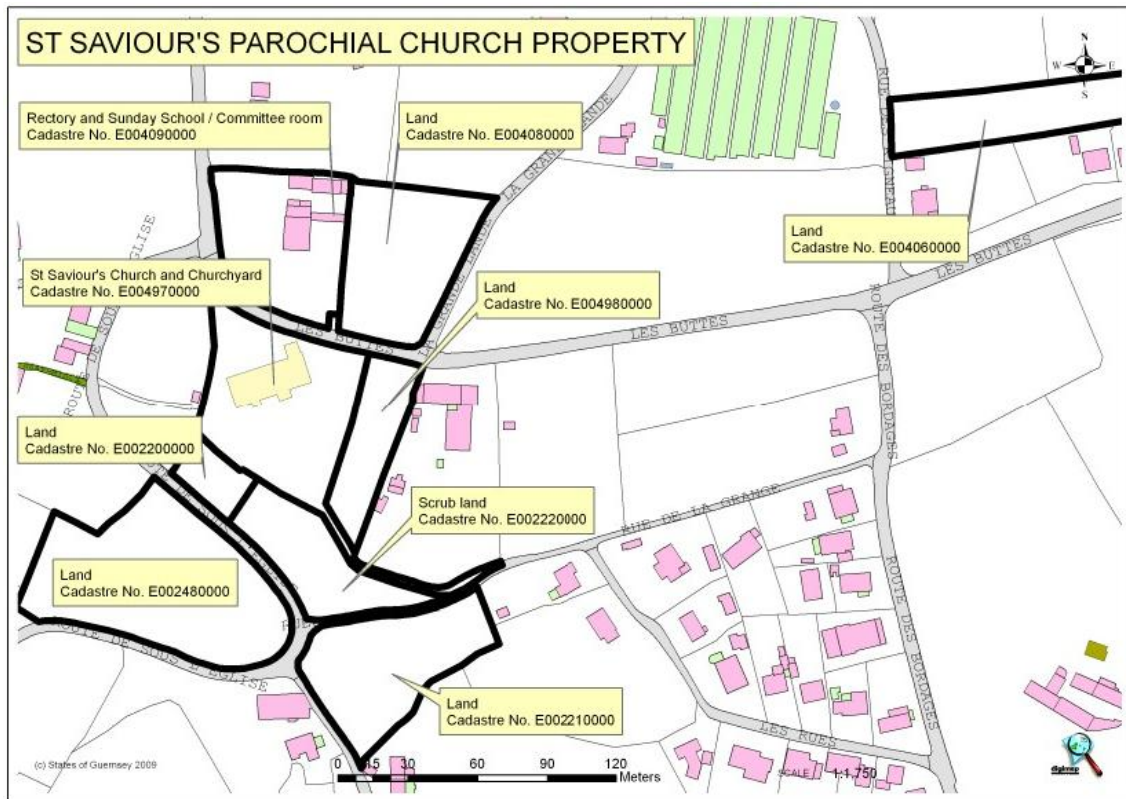


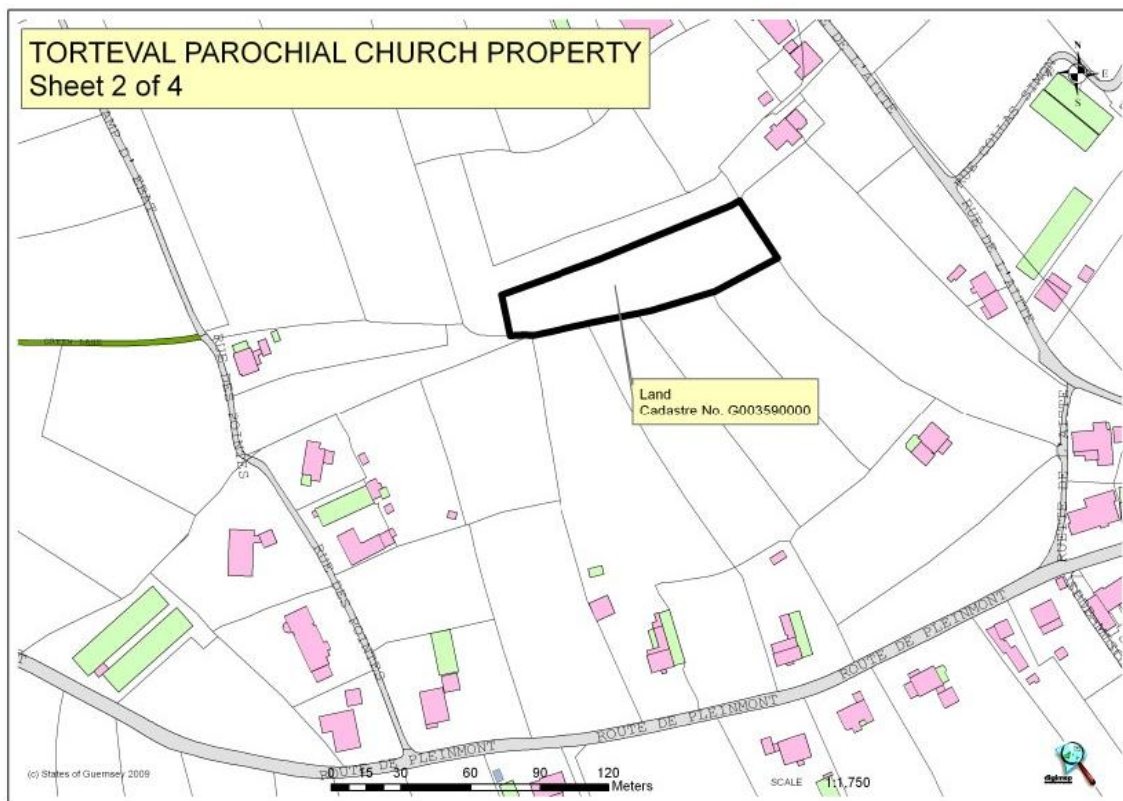
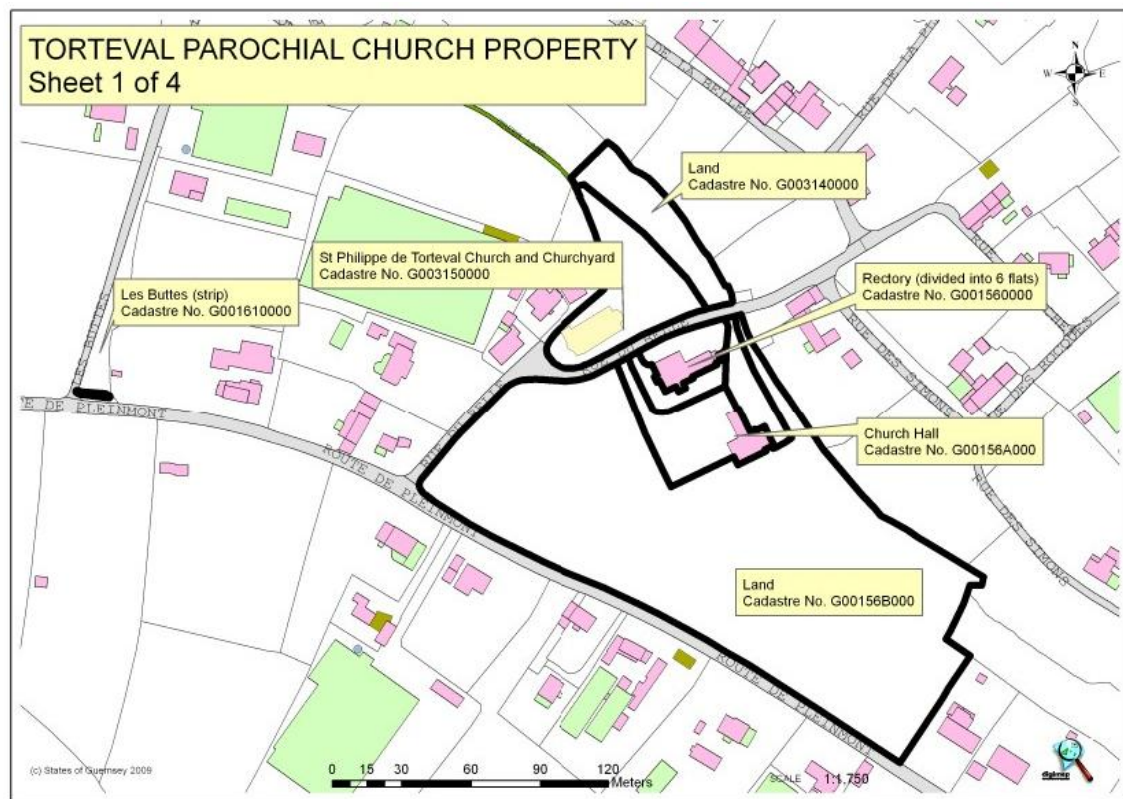
⁶⁸ These maps are for illustrative purposes only and should not be treated as definitive.

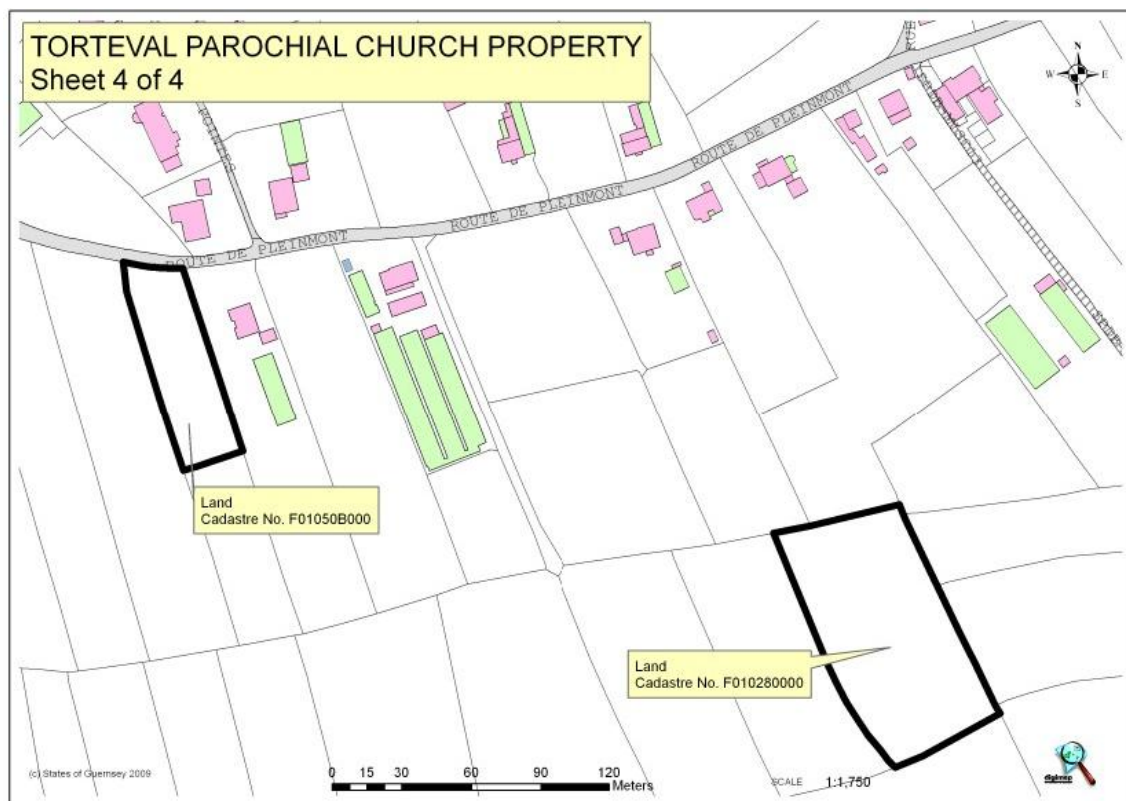
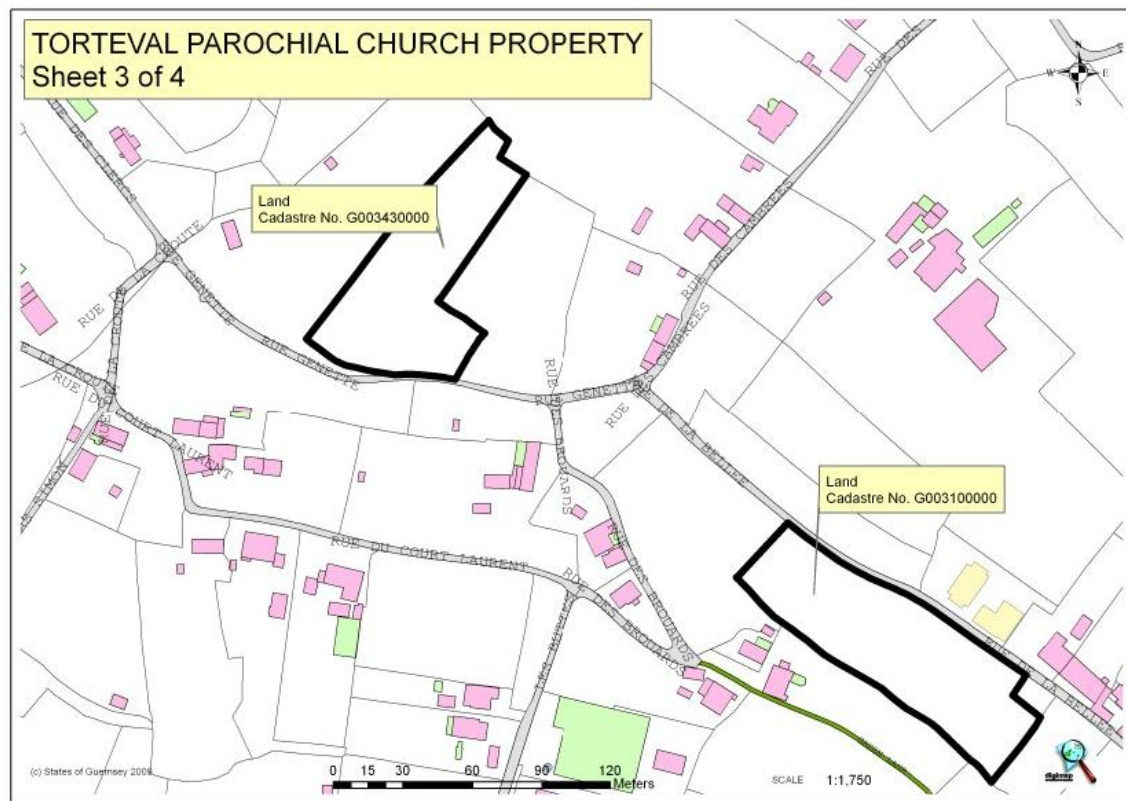


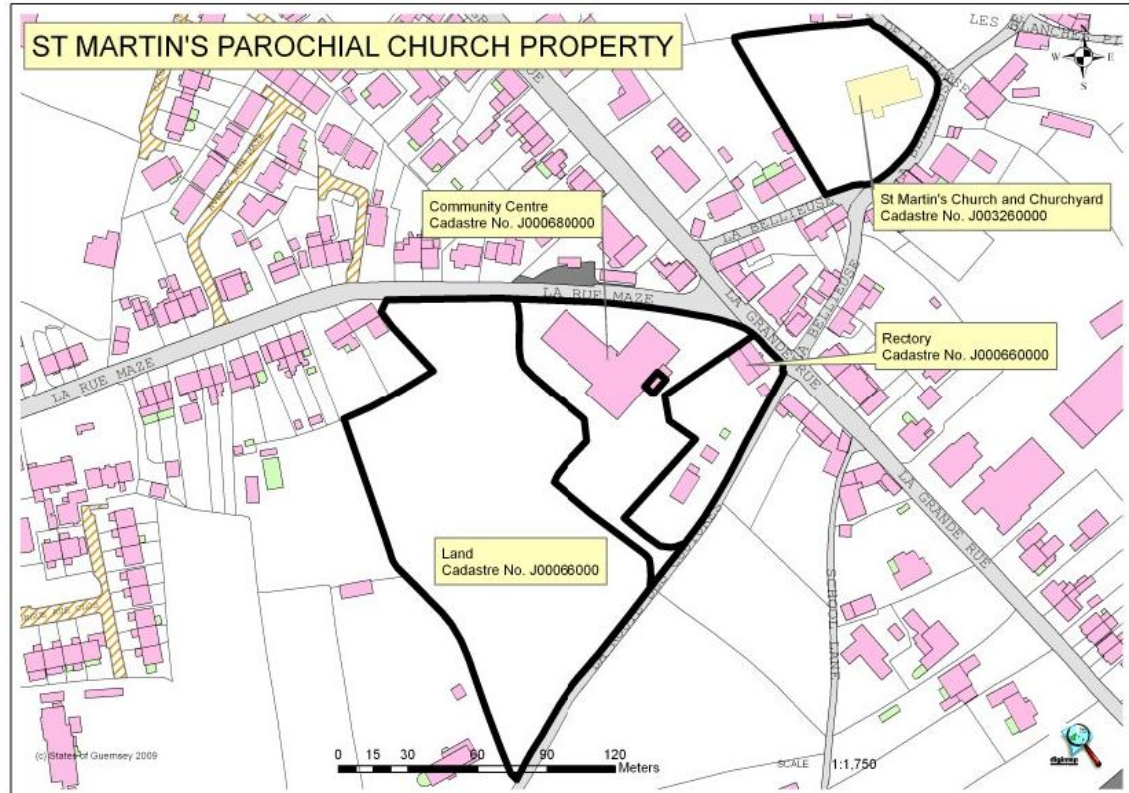
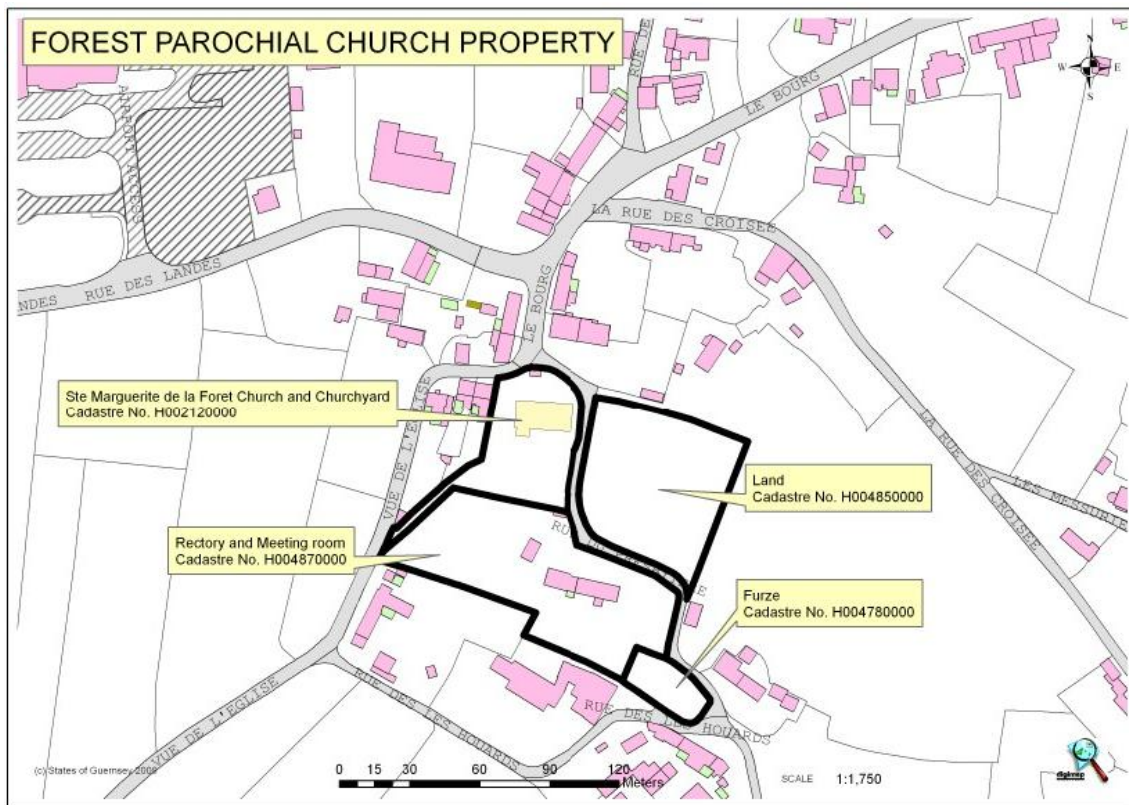


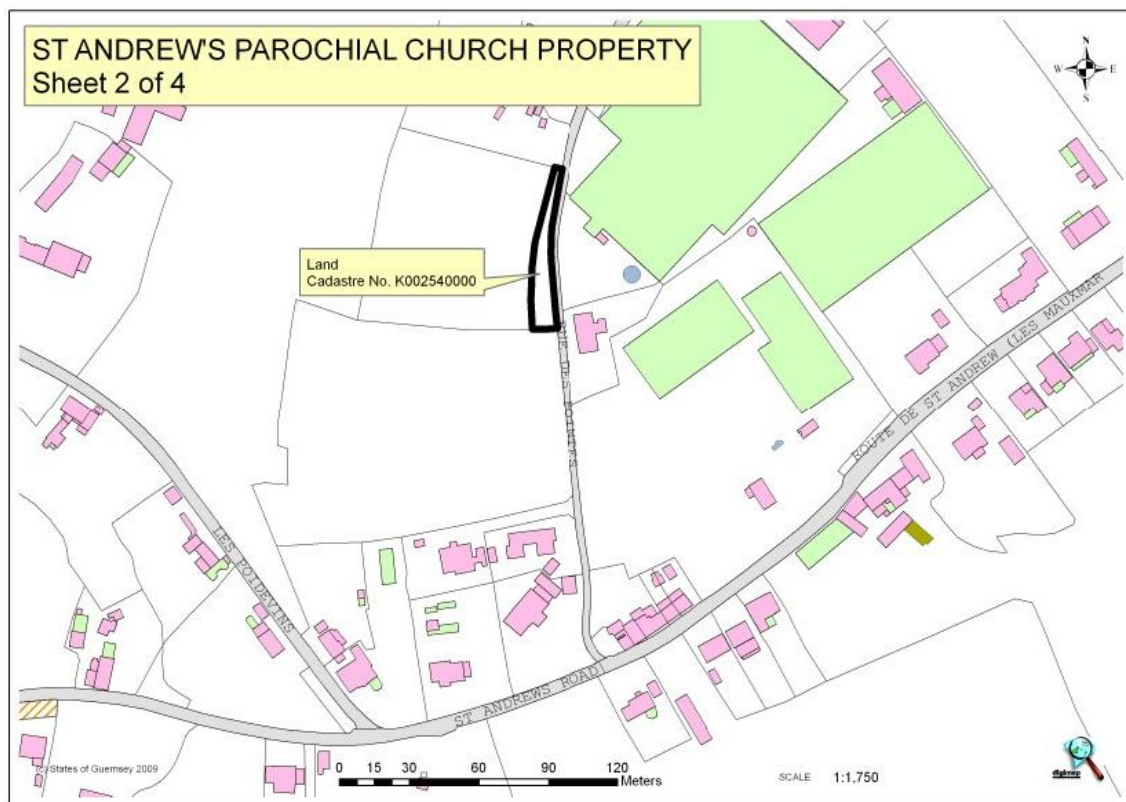
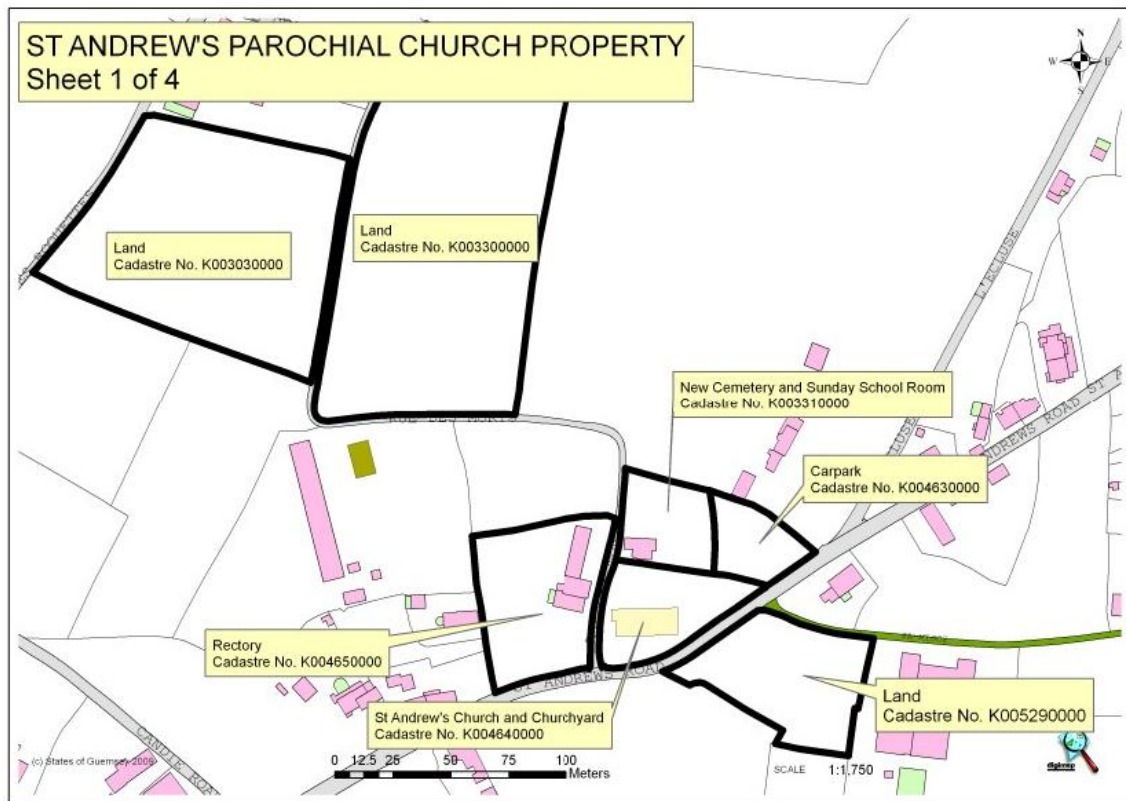


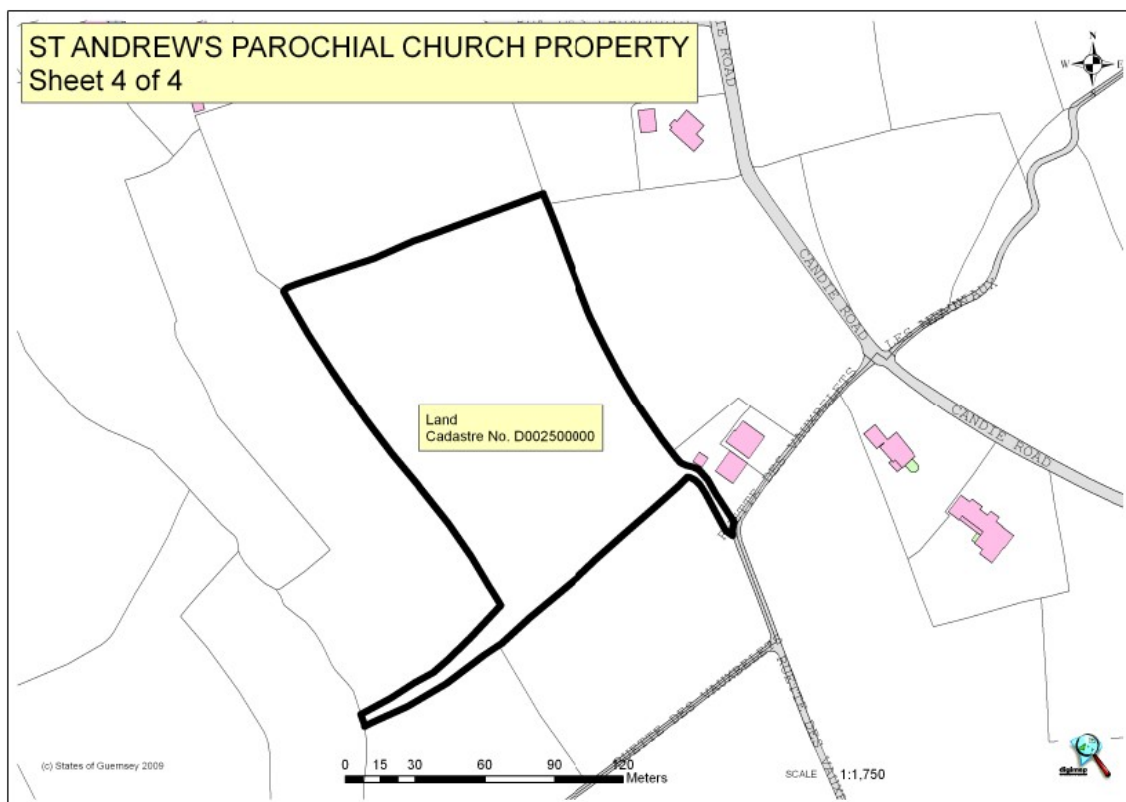
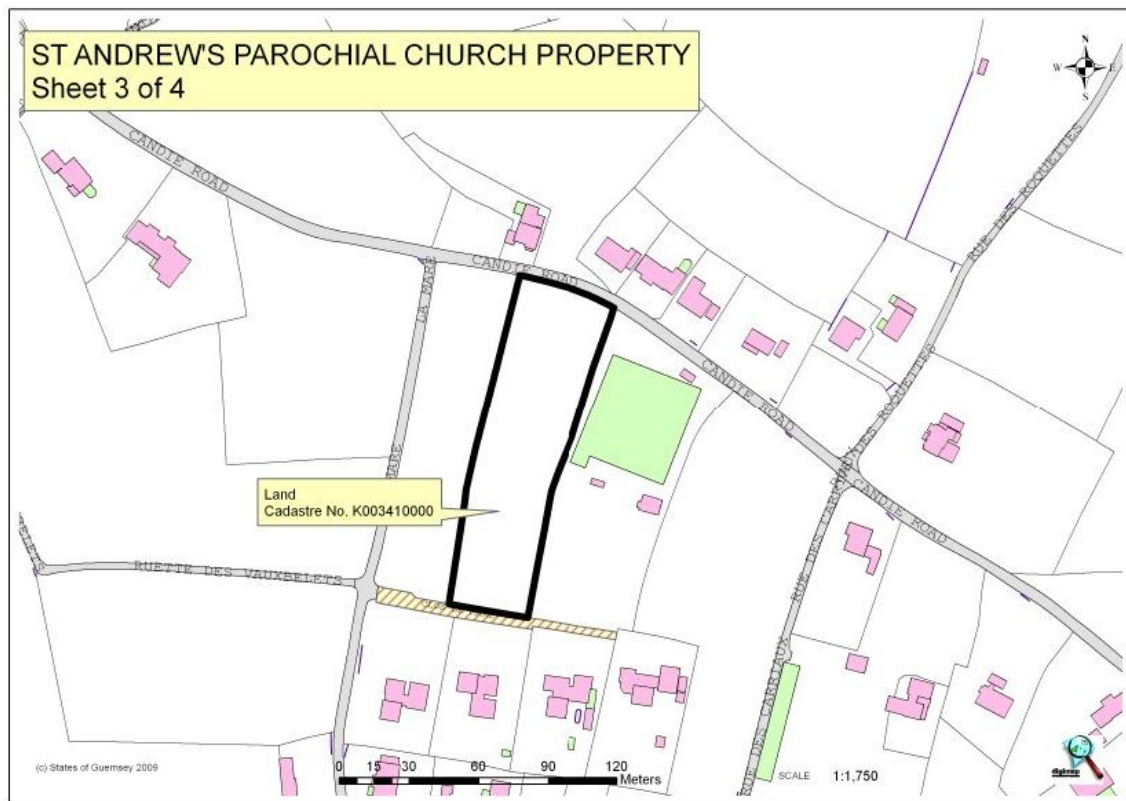














THE DEANERY OF GUERNSEY

from The Dean and Lay Chairman

Appendix 7

Letter of comment from the Dean of Guernsey

The Chairman
Parochial Ecclesiastical Rates Review Committee
Sir Charles Frossard House
La Charroterie
St. Peter Port
Guernsey
GY1 1FH

7th December 2011

Dear Deputy Le Pelley

Thank you for your letter of the 23rd November 2011 with which you enclosed the Parochial Ecclesiastical Rates Review Committee's report to the States, and also for affording the Deanery the opportunity to have this letter of comment appended to the report. It is with regret that we feel it necessary to express a degree of disappointment that we have been given only a matter of days to respond to this long report.

The table appended to this letter contains comments specifically related to particular paragraphs of the report. For the avoidance of doubt we confirm that it is our intention that the table be published as an annexe to this letter.

We are sensitive to the circumstances which led to the setting up of the Parochial Ecclesiastical Rates Review Committee. So far as we are concerned, representing the membership of the Church of England in Guernsey, we see no compelling reason for changing the existing relationship between the parishes and the churches and we do not believe that there is any general desire to do so. We fully accept that all churches and Christian congregations in the Island are finding increasing demands made on them for the provision of resources to provide for an effective witness and ministry in the 21st century and we do not want to suggest that the Church of England should be in any way privileged. However, it is clear that issues of maintenance of an important part of the Island's architectural heritage are quite distinct from those of the financing of our Church's ministry.

We welcome the report and its conclusions in a number of important areas:

1. the legal opinion of Queen's Counsel is unequivocal in stating that the present system is Human Rights compliant;
2. it has resulted in a definitive statement that the parishes have beneficial ownership of the parish churches, rectories and glebe;
3. subject to certain minor amendments to the Loi relative à la Taxation Paroissiale of 1923, it is proposed that parish churches shall continue to be maintained by the ratepayers of the parishes.

There are, however, certain major issues which are of concern:

1. The vesting of all rectories (other than those of St. Peter Port and the Vale) and glebe land in the Constables of the parishes;
2. The optional cessation of the maintenance by the ratepayers of the rectories and the consequent proposition that they be leased to the 'Church of England';
3. The establishment of management boards with responsibilities for the parish churches, the churchyards and glebe land;
4. The proposal that management committees be mandated to encourage suitable, additional uses of the ancient parish churches;
5. The proposals relating to St. Martin's Community Centre and Torteval Church Hall.

1. Vesting of rectories and glebe in parishes & the establishment of management boards

The Parish Churches of Guernsey are among the most significant historic buildings of the Island, and undoubtedly a treasure of the built heritage of the Channel Islands as a whole. By ancient usage and custom throughout Guernsey, Alderney and Jersey maintenance of the ecclesiastical built heritage as represented by the parish churches (and rectories) has rested in the hands of the parishioners of the civil parishes. In Sark responsibility is shared and in Herm the Chapel of St Tugual, is owned by and maintained by The States of Guernsey. This is also the case for St Apolline's Chapel in the Parish of St Saviour which is similarly owned and maintained by The States of Guernsey.

It has been said that, "*It is most unusual for the civil parish to be responsible for the upkeep of a church.*" This may be true from the perspective of the United Kingdom in general and England in particular, but it is not true from either a Channel Island or a wider European point of view. It is only the United Kingdom which does not have a system of rate support for the maintenance of ecclesiastical buildings. It is sadly the case that because of this the United Kingdom has the greatest deficit of outstanding maintenance and repair requirements for the ecclesiastical built heritage of any European country. Even in Latvia ecclesiastical rates maintain the ecclesiastical built heritage and in some European countries church rates and church taxes also pay for the stipends of religious professionals and much else. This is the position in Germany and

in many Scandinavian countries. It is not the case in either France or in Guernsey, Jersey or Alderney. In these jurisdictions ecclesiastical rates are **solely** concerned with the maintenance and repair of the historic fabric of the church buildings and those rectories/vicarages, which belong to the parishioners and not to the Church of England. **In no way do the rates support or promote the religious purposes of the Church of England.**

As a general rule it has long been accepted that the Ecclesiastical Rate supports the fabric while 'the Church' looks after running costs and improvements. However, if external maintenance and repair is either neglected or delayed, it may well have a drastically detrimental effect and consequence inside the building. So, while there may be a clearly perceived division of responsibility, and a theoretical differentiation in who pays for what – in practice delay in looking after the external physical integrity of the building may cause significant internal damage. Another area where this clear-cut internal / external division is compromised would be when fabric repairs and maintenance seriously damage the internal decoration of the parish church.

Having said all that, we submit that the Church is neither unwilling now, nor has been unwilling historically, to be part of a dynamic partnership with the civil parishes to ensure that one of the greatest treasures of the Island's built heritage is kept in good order. The iconic status of these buildings and the place they occupy in the community deserves and demands nothing less. It must be remembered that the Welsh Audit Office report on the condition of heritage maintenance and security of the unique heritage of Guernsey was highly critical of the way in which the Bailiwick in general cared for this valuable resource. The report failed to take into account the ecclesiastical built heritage – it would be true to say that the condition of this treasure of Island identity is in very good condition because of the existing Parish Rates system.

The Church, as well as heating and lighting the buildings, provides what might be called excellent facility management and care of parish assets. The Church also provides the necessities such as wine, wafers, candles, service books and hymn books to enable the buildings to function as living Church buildings and ensures that they never become ecclesiastical museums. In short the Church ensures that the buildings are used for the purposes for which they were created, namely to be a facility built for the spiritual welfare of all the people of their parishes. This includes the right of all parishioners – whether Anglican or not – to baptism, marriage and a funeral. The facility management and care to which we refer includes the oversight of the security of the buildings, opening and closing them every day and ensuring free access for everyone – Islanders and visitors alike. This care is provided by the Rector and Churchwardens as a service to the community and is not concerned only with the narrowly religious activity which takes place within the building, but also with the availability of the building for wider community use.

We estimate that the cost of this dynamic partnership to the Church runs at up to £70,000 per year per parish. Included in this as well as the costs for heating, lighting, and insurance are such things as the maintenance and tuning of the organ, altar and service expenses, and the provision by the Church of a stipendiary priest to supply the facility management and care to which we have referred.

This provides some indication of the commitment of the Church to the well-being and upkeep of the parish churches in partnership with the owners of the building. Without the contribution within this partnership of civil parishes the Church alone would not be able to keep the buildings in good repair. It can be seen that the Church is making a considerable financial contribution on its part towards these Island facilities.

The Church is willing and indeed eager to play its part in keeping in good order, and under excellent management, these buildings and all that they mean and represent at the heart of the communities which they serve. Over and above all that, the Church is grateful to the civil parishes for their part in the partnership, and feels privileged to act as custodian to make sure that the church buildings remain a living spiritual centre for the people of Guernsey, and seeing that they are used for community as well as religious purposes – rather than being turned into museums for which the secular authorities in some form would have to assume total and sole responsibility if the dynamic partnership were to come to an end.

Notwithstanding all the foregoing, it is implicit in the report that the present management of the churches, rectories and glebe by the Rectors and Churchwardens in some way falls short. We do not believe that there is any evidence to that effect: indeed there is much evidence to the contrary. Most of the Island's parish churches and rectories are in a very good state of repair and in the few cases where work is needed it has been identified through quinquennial inspections and plans are being formulated to carry out the required work. Furthermore in most, if not all, parishes there is an excellent relationship between the Rector and Churchwardens and the Constables and Douzaine.

The Rectors and Churchwardens are just as much parish officials as are the Constables and Douzeniers. Whilst the argument might be advanced that the Rectors and Rector's Wardens are appointed respectively by the Crown and the Rector it cannot be denied that the office of People's Warden is fully a parochial office. We submit, therefore, that the creation of management boards will do nothing but add a level of bureaucracy to a system that has served the parishes well for centuries.

Indeed, we believe that the introduction of management boards will achieve nothing other than to create discord, tension and disharmony within parishes and consequently it is our view that the States should reject this part of the proposals. However, as an alternative, we suggest that the present voluntary system be made mandatory for the Rector and Churchwardens to have prior consultation with the Douzaine before a publication for a meeting of ratepayers and electors is issued. We are not suggesting that the Douzaines should have the power of veto over the Rector and Churchwardens. The ultimate decision as to whether or not expenditure is approved should rest with the ratepayers and electors.

In recent years a number of parishes have funded substantial repairs to parish churches, and to a lesser extent, to rectories. Notwithstanding the extensive work involved only very small numbers of ratepayers and electors have attended the meetings. We submit that this is clearly indicative of support, or at the very least, disinterest in these issues. When parishioners are not content they do turn out for meetings: this was witnessed in

the parish of St. Peter Port in 2009 when opposition was raised to the construction of a new Constables' Office.

It is noted that in paragraph 4.4.1(i) provision is made for the reasonable expenses and costs of the management boards to be chargeable to the ratepayers. We note that the report is silent as to the magnitude of the costs which the management boards might incur. Our concern is particularly with regard to the inevitable, and probably considerable, legal fees which will arise in the drafting of leases.

2. The rectories

We are pleased to note that the cost of maintenance of rectories will remain a charge on the ratepayers. Any suggestion that the maintenance of the rectories by the ratepayers be discontinued seems to have been wholly predicated on the deductions which the Committee made from the questionnaires returned by the general public in April 2006. We note that 10% of the survey forms were returned and of those 46% indicated that their 'preferred option' was that the Church of England should be responsible for the maintenance of the rectories. Put another way, just 4.6% of the population favoured that option and 95.4% did not favour it or expressed no opinion.

The report also states (in table 2 at paragraph 3.9.6) that the average cost per ratepayer in the years 2001-2011 for the maintenance of the rectories was a mere £3 per annum. In our view this is a case of fixing something which is not broken and we earnestly hope that the States will reject this aspect of the report.

We are both surprised and concerned that the suggestion that the rectories might be leased to the Church of England is not given full attention: indeed the report contains no detail as to what terms or conditions might be included in such leases. It goes without saying that the proposal which suggests that priests will be required to lease the rectories which they presently freely occupy as part of their freehold or licence will be regretted by every member of the Church congregations concerned and a sizeable section of the less-committed in the parishes who appreciate the presence of a vibrant church community centred around the ancient parish church and rectory, particularly as it will put at risk the continued use of these important structures as homes for the clergy.

The report maintains that the rectories are "private residences". We challenge this as an adequate definition. All the houses occupied by the clergy are working buildings where they engage in ministry for the benefit of those who are members of the Church of England, and those who are not. In some, parts of the buildings and their out-buildings are used as church halls and meeting places where parishioners meet for various purposes. Such purposes are not adequately recognised by defining parsonage houses, owned by the parishioners, as domestic dwellings and private residences. The original provision of the houses was for the dwelling and ministering place of the clergy. Were the Constables and Douzaine to assume the rights and responsibilities outlined in the report and manage them "as they manage any secular parochial property" ancient custom and benefits of the properties would be confiscated, –taking away the long-established rights of occupancy.

The report makes no explicit reference to the rights of the Rectors to occupy the rectories and we therefore conclude that the Committee did not fully address this issue. The Rectors have what is known in Guernsey law as the “usufruit” – that is the legal right to use and derive profit or benefit from property that belongs to another person, as long as the property is not damaged. In our view it is contrary to natural justice to remove such a right without any form of compensation. We recall that some 30 years ago when the States of Deliberation decided to remove the right of private seigneurs to claim treizième the States were ultimately forced to pay compensation to the seigneurs of the fiefs over a five year period⁶⁹.

We suggest two ways in which the matter of compensation might be addressed. The first would be to continue with the present arrangements for the duration of the incumbency of the current Rector. The second possibility if the new arrangement was to be introduced immediately, would be for a phased implementation of congregational funding over a fixed period of time with the ratepayers’ contribution reducing each year as the churches and their congregations came up to speed with the financial terms of the lease. This would ease the transition for both ratepayers and congregations.

However, in our view before any lease of the rectory can be entered into, each Parish must have completely fulfilled its obligations of repair and maintenance of the rectory under the existing Law and this may require the appointment of an independent surveyor to adjudicate on the matter. We draw attention to this in the light of previous experience with the poor condition of the rectories at Torteval and the Forest when the last Rectors-in-residence left. The Church could not be expected to take on the lease of a property which, for example, included an obligation to carry out major repairs which should have been undertaken before the commencement of the lease.

It is also a matter of concern to us that the setting of a lease between the ratepayers and electors on the recommendation of the Douzaine and the church authorities will be an arbitrary process which will vary considerably from parish to parish. The report gives no indication as to the terms which might be applied.

We also note that the report does not address the issue of those rectories (St. Saviour, St. Pierre du Bois and the Forest) where a part of the rectory is used effectively as a church hall or parish rooms. In the event that those rectories were not occupied by a Rector (and this is already the case at the Forest) the congregation could be placed in the position of losing its meeting rooms if the rectory was sold by the ratepayers.

3. Additional uses of the Ancient Parish Churches

Reference is made in the report to the numerous secular and community functions which take place in the parish churches, and perhaps especially in the Town Church. In general we welcome these activities as part of our mission to the community. However, we believe it is going too far to suggest that a largely secular management committee should be charged with encouraging suitable additional uses of the ancient parish churches. It has to be remembered that all the parish churches are consecrated as holy

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See Billets d’État 1979: p. 309 and p. 638; also Ordres en Conseil Vol. XXVII, p. 251

places and dedicated to the worship of the Holy Trinity. That is not to say that uses other than divine worship cannot take place but the decision as to the appropriateness of secular functions is rightly one for the Rector, in consultation with the churchwardens. All the parish churches have been consecrated – that is set apart for sacred use in perpetuity. An act of consecration is so solemn a matter that it can only be set aside by an Order of Her Majesty in Council. We therefore submit that it is wholly inappropriate for a secular management committee to be given an unlimited power “*to encourage suitable additional uses of the ancient parish churches*” whilst the said buildings remain consecrated.

The report states that no Church of England church has ever been licensed for the solemnisation of marriages according to the rites of non-Church of England churches, pursuant to the Loi ayant rapport aux Mariages Célébrés dans les Îles de Guernesey, d’Auregny et de Serk of 1919, as amended. We note with interest the current legal opinion that it is indeed possible for such an application to be made, given that the former H. M. Greffier refused an application for a marriage to be solemnised in St. Peter’s Church Sark according to the rites and ceremonies of the Roman Catholic Church on the ground that “it was impossible”. That being so it was necessary for the marriage to take place according to the rites and ceremonies of the Church of England by the assistant priest of Sark with a Roman Catholic priest assisting only to the extent permitted by Canon law.

Consequently we express mild disappointment at the inference in the report that the Church of England is in some way at fault for the fact that no non-Church of England marriages have been held in a parish church since the coming into force of the 1919 Law. Such marriages have not taken place, not because of reticence on the part of the Church of England, but simply because we had been advised that they were not possible. However, we do submit one word of caution. Whilst there can be circumstances when it would be appropriate to allow a non-Church of England marriage to take place in a parish church (for example as in the Sark case referred to above) the sensitivities of the other denomination involved must also be taken into account.

4. St. Martin’s Community Centre and Torteval Church Hall

Whilst we accept the Committee is correct in law that the church hall at Torteval and community centre at St. Martin’s were built on glebe land we submit that in neither case did the ratepayers contribute any funds for the construction of those buildings or their subsequent maintenance. In our view those buildings should not be included in the proposal relating to the creation of management boards and that the legislation to be prepared should transfer those buildings to the Rector and Churchwardens of the respective parishes.

In conclusion, we accept that the enquiry carried out by the Parochial Ecclesiastical Rates Review Committee has been a useful exercise in determining precisely the ownership of the parish churches, rectories and glebe land and also in the determination of the human rights aspect of the current system but submit that in other respects it has shown that there is no clamour for change and that the benefits that any change might

bring are far outweighed by the disadvantages. We therefore recommend the States to reject the proposals in their entirety.

In recommending the rejection of the proposals we are, however, cognisant of the fact there may need to be some change in the way in which rectories are maintained in the future. In acknowledging this we suggest, even at this late stage, that a better way forward would be for a Working Party to be created, comprising representatives of the States, and both the ecclesiastical and secular officers of the parishes, which would be mandated to find a solution acceptable to all parties.

Finally, we feel duty bound to advise the States that we have not taken full legal advice on the totality of the issues addressed in the report. Consequently we reserve the right to petition Her Majesty in Council if necessary with a view to protecting the rights of the Church of England in Guernsey.

Yours sincerely,

The Very Reverend Canon K. Paul Mellor
Dean of Guernsey

Peter E. Guilbert
Lay Chairman

DEANERY OF GUERNSEY

Detailed comments on the Report of the Parochial Ecclesiastical Rates Review Committee

Paragraph	Comments
3.12.5	<p>Only 2 reasons are listed explaining why ‘the Church of England’ has not had to undergo property rationalisation experienced by some other denominations. There are more – and of not a little significance is that the Church of England would not be able to rationalise property because it does not own any. Moreover the Table 4 figures are an inadequate representation of the number of Church of England ministers operating in the Bailiwick. While the Dean of Guernsey is cited as the source of the congregational numbers he did not provide the numbers of ministers – these were assumed by the Committee and represent only the stipendiary clergy while excluding the Self Supporting Ministers of which there are five with three in training which brings the total to 16 in active ministry and a potential for 19. This demonstrates the commitment of the Church of England to train and provide pastoral and liturgical ordained ministry to the people of Guernsey.</p>
3.12.6	<p>It has been suggested there are too many Church of England churches.</p> <p>We would ask by whom and on what criterion is such an opinion based? It is noted later that the Church of England as the Established Church has a ministry to the whole population and not only to congregational members, active worshippers or Deanery Electoral Roll numbers and that population most definitely sees a link to the ancient Parish Churches. Informing parishioners (usually non Church members as reckoned by denominational adherence) in the country parishes that they must have their children baptised, be married or have their dead buried from the Town Church would result in strenuous objections. Moreover if we are comparing the Church of England with, for example, the Methodist Church we have 15 places of worship compared to the 12 Methodist places of worship – but they have fewer members.</p>
3.13.4	<p>The argument advanced here is very strange indeed – ‘should not be financially supported by the parishioners when only 3% use the churches’. How big a percentage of the population use Beau Séjour or the Guille-Allès Library or the regular bus service?</p>
3.13.5	<p>The community use and facility management aspect of the Dynamic Partnership could be expanded.</p>

3.13.7	<p>PERRC is unable accurately to estimate to what extent the ancient parish churches are used for community and other functions, rather than purely as places of worship. The following is offered as an example.</p> <p>The pre-Christmas period use of the Town Church:</p> <p>Religious purposes 2.4 hrs (Sun) 9 hrs (Weekday) = 11.5 hrs Other uses = 66 hours (Carol services for various organisations – Elizabeth College, the States of Guernsey, Guernsey Police, the Latvian Community, Schroder’s Private Bank, Charities Christmas Tree Festival when 33 Guernsey Charities take part in show-casing their work, raising funds and hosting sessions of hospitality within the building using equipment provided by the Church of England congregation. That is a proportion of use which is 11.5 hours religious purposes and 66 hours other community use facilitated by the Church organisation.</p>
3.13.8	<p>‘Inter / multi denominational use ...does not seem to be practised in Guernsey’.</p> <p>While building sharing is not part of the scene, as in the example of Biberach, which is cited in the Report, it is untrue to say that the Anglican Churches are not used inter-denominationally. Wider building-sharing experiments are not in place but it is not for want of trying!</p> <p>The offer was made to the Methodist Church (when St Peter Port Methodist Church ceased to meet) to come and share the Town Church. The Dean and Methodist ministers promoted the idea and the exploration but the Methodist Church Council refused the invitation.</p> <p>Roman Catholic masses have been celebrated in the Vale Parish Church when Our Lady Star of the Sea was closed for repair.</p> <p>In Sark the RC Church uses St Peter’s Church for regular masses.</p> <p>The Salvation Army regularly use the Town Church for quiet contemplation and playing music for themselves rather than for the general public when the Army Bands are playing in the Town.</p> <p>With Churches Together in Guernsey regular inter-denominational services and events happen in the ancient Parish Churches – for example the People’s Liberation Day Service.</p> <p>At both the Forest and Torteval Parish Churches regular interchange between the Methodist churches in the two parishes</p>

	<p>and the parish churches takes place and there are examples of beginning a service in one church and continuing the same service in the other.</p> <p>The Dean is always at pains to include ministers of other denominations in civic and insular celebrations in the Town Church. There are occasions on which he has asked a member of the clergy of another denomination to conduct services in the Town Church.</p> <p>Invitations have also been extended to various Christian groups operating projects in the Town to use the facilities of the Town Church.</p> <p>We are at a loss to understand how the Committee can say that what it calls ‘multi-denominational’ approach to the use of church buildings is not practised in Guernsey and resent the implication that the Church of England is not committed to the ecumenical quest which is very much on its agenda. We remind both the Committee and The States of Deliberation of the existence of the Anglican/Methodist Covenant and the Anglican/Roman Catholic Dialogue as well as talks with the Church of Scotland as evidence of this ecumenical commitment.</p>
3.13.13	<p>The Marriage Laws do not need to legalise marriages solemnised by the Rites of the Church of England – the Church of England as the Established Church does not need the sanction of the civil law. Neither is it true that marriages by C of E rites are authorised under canon rather than civil law – they are authorised under both. Our buildings are specifically excluded from being registered under the Marriage Law of 1919 and do not need registering – so PERRC’s awareness that no Church of England building has been registered is otiose. [See our letter of comment for further details regarding this issue.]</p>
3.13.15	<p>This is untrue – pressure is not needed for us to encourage and promote community use of buildings under our care and facility management. It is an assertion we strenuously refute and must say is offensive to us. See for evidence 3.13.8 above.</p>
3.14.4	<p>Which are the ‘even more historic buildings’ than the ancient parish churches spoken of here?</p>
3.14.6	<p>Are all States actions governed by the policy – ‘user pays’ principle? This rather cuts across the idea of public service / and support of public access to institutions for which they do not pay directly. We suppose these are paid for indirectly in taxation by users and non-users alike – i.e. the heart of the principle of Parochial Rate Support</p>

3.14.7	The same argument which supports The States ‘supporting’ Ste Apolline and Castle Cornet supports the parishes ‘supporting’ the ancient parish churches.
3.14.9	Understates the case - the Department is more than ‘happy to advise’ – it has a statutory regulatory position.
3.14.10	Such a right for English Heritage has never extended to the ecclesiastical built heritage. It is the English heritage system which is so wasteful and inefficient when compared with the Guernsey status quo.
3.14.11	The Church authorities do consult with the Constable and Douzaine about works and funds (they do so prior to presenting the Ecclesiastical Need to the Spring Meetings) and so work closer with the parish officials than the States.
3.14.12	Evidence of Douzaine – present system efficient and cost effective whereas a States system would not be.
3.14.22	Is this relevant to funding historic buildings?
3.14.23	About the Rectories – to say that they are ‘generally used as private residences’ is an inappropriate description of parsonage houses. Their history and the present nature of their use is much more complex.
3.14.32	Contribution to the Ecclesiastical Rate is the most democratic of all public charges on owners. To concede this point would undermine all notions of public taxation.
3.17.9	The interpretation of figures could be challenged. We wonder how large is the minority with ‘strong feelings’? It is our experience from all the annual Parish Meetings when the Ecclesiastical Rate is put to the vote (all of which are attended by the Dean or his representative) that there is very little opposition to it at all in any parish. In nearly all the parishes the vote for the rate goes through unopposed while in perhaps one or two parishes there will be just a few people voting against. There is no evidence of a change in the current system being a demand of the people in the parishes. In fact when a campaign was organised in Torteval to vote down the Ecclesiastical rate so many people turned out to support it that it was difficult to fit them all into the hall.

3.19.3	The assertion that the Douzaine – as the parishioners’ elected representatives have no direct involvement in works done is untrue in many parishes. Also the People’s Warden is a directly elected officer of the parishioners who exercises direct management and oversight of spending the parishioners’ money. Further, permission and consultation precedes any works put in hand. If the Douzaine mean by this they would like day to day / hands on project management it can be arranged.
3.19.3	Rites – cleaning of the parish church is not a rite of the Church of England. Paying half cleaning costs is recognition that the ancient parish churches are publically accessible buildings – and as at 3.13.7 above it can be demonstrated that non Church of England religious activity is responsible for the majority of cleaning requirements of these buildings to keep them in a good and clean condition for everyone to enjoy.
3.19.3	Taxation comments are welcomed.
3.20.2	A challenge by the parishioners would by no means ‘leave the system for funding parochial church property in disarray’. It would do what the system is designed to do. The source of this comment – The Guernsey Press is a very strange place to seek expert witness. It is the view of the Deanery Committee that the way this is reported is unnecessary. The use of the passive voice – ‘there was concern’ has no basis in fact.
3.20.1 – 3.20.5	One misunderstood case – overstated by some – and sensationalised by others is cited as the whole reason for this long, expensive review and report. It is beyond belief.
3.21.1	‘... some Douzaine want to be more involved...’ - we see no evidence of this, but would be very willing to hand over day to day management and facility to them! It may be true that certain Douzaine members want more control, but we do not believe this would translate into hands-on involvement.
<u>4.1.5</u> <u>NB</u>	<u>‘Notwithstanding ... that the concerns which originally led to the creation of PERRC do not warrant changes in the current funding arrangements for parochial church property</u> <u>HERE IS THE CRUX OF THE MATTER</u> <u>IF THERE IS NO WARRANT FOR CHANGE BECAUSE THE WHOLE EXERCISE WAS BEGUN ON FALSE PREMISES – WHY RECOMMEND SUCH FUNDAMENTAL CHANGES?</u>

4.2.1 / 4.2.2.	Clarity of title – good
4.2.6	See above for the difficulties of premises sharing and the evidence of ‘the Church of England’ trying to make this sharing a greater reality.
4.2.9	<p>The definition of rectories as ‘Private residences / not accessible to the public’ is very questionable indeed. While it may be true that public access is at the Rector’s invitation or because of established custom, in many cases public access is considerably greater than in any other ‘private residence’.</p> <p>In evidence of this public access either by invitation or by established custom we would cite five rectories which have public access halls/meeting rooms within the property, in one – the usually used lavatory is within the rectory by established custom.</p> <p>So in 5 out of the 8 Rectories mentioned in PERRC the definition of the buildings as primarily private residences is much too simplistic and an overstatement of the case.</p> <p>PERRC also asserts that the C of E / rector meets SOME of the internal refurbishment costs and all the running costs - it is in fact ALL internal refurbishment costs which are met in this category.</p>
4.2.13	Sale takes account of use of owner’s rates to maintain giving right of approval of a sale. Such a sale would amount to a confiscation of an ancient customary right of secure habitation of the parson in the parsonage house. The exception should include the Vale as well as St Peter Port.
4.2.16	Raises the idea of letting to ‘the Church of England’ – in what context is ‘Church of England’ being used here?
4.2.18	The Deanery objection to change in rectories stands.
4.2.21	This proposes unrestricted use of proceeds from sales of rectories and disregards their historic uses / provision. This amounts to confiscation without compensation which in other circumstances would be called theft.
4.2.21	Would this allow notice to quit on a sitting resident?
4.2.25	Is incomprehensible – what further consideration given to funding rectories and by whom?

4.2.26	The addition of glebe land in this section is not argued at all. In some cases glebe has been a gift to the rector – historically he used to farm it to produce income. If glebe is to be vested in the Constables / Parish it should be on an individual basis after historic enquiry into the original status of the land.
<u>4.2.27</u>	<u><i>This is, for the Deanery, a key issue and raises many legal questions – not least the unconditional use of proceeds of the sale of rectories. ‘free to use the proceeds of any sale of its rectory as it considers appropriate’. What arbitration is envisaged in dispute? The Deanery rectors and churchwardens may have to consider petitioning Her Majesty in Council.</i></u>
<u>4.2.28</u>	<u><i>The idea that Torteval Church Hall and St Martin’s Community Centre should be subject to what amounts to confiscation is unfair and unjust.</i></u>
4.2.31	This is the first time rector and churchwardens are acknowledged as parochial as well as church officers.
4.2.32	Management Boards ‘manage’ parish church and glebe but not rectories. What does (f) ‘to encourage SUITABLE, additional uses of the ancient parish Churches ’ mean? Additional to what? Care should be taken here because of the legal consequences of consecration of these buildings in the case of the ancient Parish Churches. Consecration is so grave a matter that it can only be set aside by The Queen in Council.
4.2.34	Constitution of Management Boards of parochial property Rector and Churchwardens 2 elected 2 elected by Constables and Douzaine If they come into being it would be fair that the day to day ‘running’ of the Parish Church building is given over totally to them – opening and closing/bookings/seeing to heating/ ordering of fuel / Is this what is envisaged by PERRC?
4.2.36	Rectories managed by Douzaine as a secular property – what will this mean? Outlined in 4.2.37 This means that a building in ecclesiastical use according to ancient custom is secularised. We question whether such a move is human rights compliant.

4.2.37	(c) Again infers confiscation of an ancient customary benefit and the words in parentheses ‘including to the Church of England’ is a strange way to introduce such a novel idea.
4.4.1	<p>This clause enlarges Ecclesiastical Rate</p> <p>(c) enlarges scope of ecclesiastical rates to take in items not in the 1923 Law</p> <p>(e) It is incomprehensible how half the cost of cleaning even indirectly supports the Church of England <u>rites</u>. The cleaning costs are incurred because the building is a public building and most necessity for cleaning comes from public and constant access. This is an un-necessary repeal.</p>
4.4.2	<p>Organ can be an important part of the historic fabric.</p> <p>We assume that the removal of internal decoration and refurbishment excludes making good consequent on fabric maintenance work which would be covered under works set out in 4.4.1 (c).</p>
4.4.3	Welcome keeping bells and ringing on rates.

(NB The Policy Council has no comment on the proposals.)

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

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 18th November, 2011, of the Parochial Ecclesiastical Rates Review Committee, they are of the opinion:-

1. To note that whilst the bare title to the ten ancient parish churches and the nine ancient parish churchyards may be vested in the Crown, it is acknowledged that the parishes certainly have beneficial ownership of this property.
2. That the legal ownership of the parish rectories, their grounds (with the exception of the St Peter Port and Vale Rectories), and glebe land (which for illustrative purposes only are shown in the plans in Appendix 6) shall be statutorily vested in the respective Constables, on behalf of the parishes.
3. That the ownership of the Torteval Church Hall and St Martin's Community Centre shall be statutorily vested in the Constables of Torteval and St Martin respectively, on behalf of the parishes.
4. That the lease held by St Martin's Community Centre LBG continues to be valid after the statutory vesting in St Martin's parish of the land on which it is situated.
5. That any sale of a rectory statutorily vested in accordance with recommendation 2, shall require the approval of a meeting of the ratepayers called specifically for the purpose.
6. That a Management Board be established by and for each parish with a constitution and mandate as set out in paragraphs 4.2.30 to 4.2.35 of the Report.
7. That each Douzaine shall have responsibility for the management of the relevant parish rectory (with the exception of the St. Peter Port and Vale Rectories) as set out in paragraphs 4.2.36 to 4.2.38 of the Report.
8. That the *Loi Relative à La Taxation Paroissiale 1923*, as amended, be further amended, as set out in paragraphs 4.4.1 to 4.4.3 of the Report.
9. To amend the Parish Reserve Funds Law by deleting any reference to "cemeteries" and replacing it with the "churchyards" (ecclesiastical) and "the parish cemeteries" (secular), as set out in paragraph 4.4.5 of the Report.
10. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

ORDINANCE LAID BEFORE THE STATES

**THE HEALTH SERVICE (BENEFIT) (AMENDMENT) (NO. 2) ORDINANCE,
2011**

In pursuance to the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended The Health Service (Benefit) (Amendment) Ordinance, 2011, made by the Legislation Select Committee on the 12th December 2011 is laid before the States.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

**THE COMPANIES (RECOGNITION OF AUDITORS)
(AMENDMENT) REGULATIONS, 2010**

In pursuance of sections 274I, 535 and 538 of the Companies (Guernsey) Law, 2008, The Companies (Recognition of Auditors)(Amendment) Regulations, 2010, made by the Commerce and Employment Department on 14th December 2010, is laid before the States. This order comes into force on the 14th December, 2010.

EXPLANATORY NOTE

These regulations approve further rules of the Institute of Chartered Accountants in England and Wales for the purpose of the regulation of recognised auditors in the conduct of audit work under Part XVIA of the Companies (Guernsey) Law, 2008. This order comes into force on 14 December 2010.

The Department regrets the delay in laying this statutory instrument before the States which was the result of an administrative oversight that was recently discovered.

**THE SOCIAL INSURANCE (BACK TO WORK BENEFITS) (AMENDMENT)
REGULATIONS, 2011**

In pursuance of Section 117 of The Social Insurance (Guernsey) Law, 1978, The Social Insurance (Back to Work Benefits) (Amendment) Regulations, 2011 made by the Social Security Department on 16th November 2011, are laid before the States. This order comes into force on 16th November 2011.

EXPLANATORY NOTE

These Regulations amend the Social Insurance (Back to Work Benefits) Regulations, 2004 in order to enable the Department to offer assistance to any insured person seeking to return to work and not just those who are receiving, or potentially entitled to receive, benefits or contribution credits under the Social Insurance Law.

In practice, this means that jobseekers who have not paid sufficient contributions in the relevant period to qualify for contributory unemployment benefit, and who are in receipt of supplementary benefit, will be able to access back to work benefits at the expense of the Guernsey Insurance Fund.

These Regulations also extend the maximum period that a claimant may continue to receive benefit whilst undertaking an unpaid work trial for a prospective employer, from two weeks to four weeks.

These Regulations came into operation on 16th November 2011.

THE RABIES ORDER, 2011

In pursuance of Section 4 of the Rabies (Bailiwick of Guernsey) Law, 1975 as amended, The Rabies Order, 2011, made by the Commerce and Employment Department on 13th December 2011, is laid before the States. This order comes into force on 1st January 2012.

EXPLANATORY NOTE

This Order establishes the conditions under which animals that are susceptible to rabies may be imported into the Islands. The conditions are intended to permit the movement of certain pet animals where the risks of the spread of the disease are considered to be low.

The Order also establishes the powers available to the Department to deal with an outbreak or suspected outbreak of rabies in the Islands.

THE FINANCIAL SERVICES COMMISSION (FEES) REGULATIONS, 2011

In pursuance of Section 25(3) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987 as amended, the Financial Services Commission (Fees) Regulations, 2011, made by the Guernsey Financial Services Commission on 25th day of November 2011, are laid before the States. This order comes into force on 1st January 2012.

EXPLANATORY NOTE

These Regulations prescribe for the purposes of the Protection of Investors (Bailiwick of Guernsey) Law, 1987, the Banking Supervision (Bailiwick of Guernsey) Law, 1994, the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, the Insurance Business (Bailiwick of Guernsey) Law, 2002 and the Insurance Managers and Insurance Intermediaries (Bailiwick of

Guernsey) Law, 2002 the fees payable in respect of the licensing of controlled investment business, a designated territory investment business notification, a non-Guernsey open-ended collective investment scheme notification, the licensing of a bank, the licensing of fiduciaries, the licensing of an insurer, the licensing of an insurance manager, the licensing of an insurance intermediary, and the fees payable annually thereafter.

THE BOARDING PERMITS FEES ORDER, 2011

In pursuance of Section 17(3) of the Tourist Law, 1948 as amended, The Boarding Permits Fees Order, 2011, made by the Commerce and Employment Department on 13th December 2011, is laid before the States. This order comes into force on 1 April 2012.

EXPLANATORY NOTE

This Order prescribes the fees payable by the holder of a boarding permit from 1 April 2012 and replaces the Boarding Permit Fees Order, 2009. This order comes into force on 1 April 2012.

APPENDIX 1

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

ELECTION OF A CHIEF MINISTER

The Presiding Officer
The States of Guernsey
Royal Court House
St. Peter Port

12th December 2011

Dear Sir

Rule 20 (3) of the Rules of Procedure of the States of Deliberation provides that on a proposition to elect a Chief Minister nominations shall not be accepted unless they have been notified in writing to the Presiding Officer, during such period prior to the election meeting as shall be determined and published by the States Assembly and Constitution Committee.

The Rule goes on to state that any such notification between the date of a General Election of People's Deputies and the 1st May next following may only be given by a person elected (or re-elected) in that General Election or by one of the Alderney Representatives in the States of Deliberation. The Presiding Officer is required to post each such notification received in the Royal Court House, as soon as possible after its receipt.

Pursuant to this Rule, the States Assembly and Constitution Committee has determined that nominations for the office of Chief Minister in respect of the election to be held on the 1st May 2012 should be accepted by your successor from 9.00 a.m. on Friday, 20th April 2012 until 4.00 p.m. on Monday, 23rd April 2012.

I should be grateful if you would agree to publish this letter as an appendix to the February Billet d'État.

Yours faithfully

I. F. RIHOY

Chairman
States Assembly and Constitution Committee

APPENDIX 2

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

**RECORD OF MEMBERS' ATTENDANCE AT MEETINGS OF
THE STATES OF DELIBERATION, THE POLICY COUNCIL, DEPARTMENTS
AND COMMITTEES**

The Presiding Officer
The States of Guernsey
Royal Court House
St Peter Port

12th December 2011

Dear Sir

On the 29th October, 2010 the States resolved, *inter alia*:

1. ...
2. *That departments and committees shall maintain a record of their States Members' attendance at, and absence from meetings and that the reason for absence shall also be recorded.*
3. *That the records referred to in 2 above, together with a record of States Members' attendance at meetings of the States of Deliberation, shall be published from time to time as an appendix to a Billet d'État.*

I would be grateful if you would arrange for this report, in respect of statistics provided by Her Majesty's Greffier, Departments and Committees for the six months ended 31st October 2011, to be published as an appendix to a Billet d'État.

Yours faithfully

I. F. RIHOY

Chairman
States Assembly and Constitution Committee

PART I - REPORT BY DEPARTMENT/COMMITTEE

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other

POLICY COUNCIL

L. S. Trott	13	11	1		1		
B. M. Flouquet	13	12				1	
A. H. Adam	13	13					
M. H. Dorey	13	13					
D. B. Jones	13	10	2			1	
G. H. Mahy	13	12		1			
C. S. McNulty Bauer	13	12				1	
M. G. O'Hara	13	10			2	1	
C. N. K. Parkinson	13	12				1	
P. R. Sirett	13	11				2	
C. A. Steere	13	10	2			1	

Alternate Members:

F. W. Quin	2	2					
M. G. G. Garrett	2	2					
J. M. Le Sauvage	2	2					
G. Guille	1	1					
T. M. Le Pelley	1	1					
R. R. Matthews	1	1					
J. Honeybill	1	1					
A. Spruce	1	1					

COMMERCE AND EMPLOYMENT DEPARTMENT

C. S. McNulty Bauer	13	11	1		1		
R. W. Sillars	13	8	1			3	1 unknown
M. S. Lainé	13	11	2				
M. J. Storey	13	10				3	
R. R. Matthews	13	12	1				

CULTURE AND LEISURE DEPARTMENT

M. G. O'Hara	5	4	1				
M. G. G. Garrett	5	5					
G. P. Dudley-Owen	5	5					
J. A. B. Gollop	5	5					
F. W. Quin	5	5					

EDUCATION DEPARTMENT

C. A. Steere	14	13				1	
A. Spruce	14	11				3	
M. J. Fallaize	14	12				1	1 post tendering resignation
D. de G. De Lisle	14	8	1	3	1	1	
M. W. Collins	13	13					
J. M. Tasker	1				1		
R. W. Sillars	0						

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other

ENVIRONMENT DEPARTMENT							
P. R. Sirett	11	11					
J. M. Tasker	11	11					
J. Honeybill	11	10				1	
J. M. Le Sauvage	11	11					
B. J. E. Paint	11	11					

HEALTH AND SOCIAL SERVICES DEPARTMENT							
A. H. Adam	14	14					
P. L. Gillson	14	13				1	
M. M. Lowe	14	13				1	
S. L. Langlois	8	7				1	
M. P. J. Hadley	8	8					
B. L. Brehaut	6	4				2	
A. R. Le Lièvre	6	4	2				

HOME DEPARTMENT							
G. H. Mahy	9	9					
F. W. Quin	9	9					
J. M. Tasker	9	8				1	
M. S. Lainé	9	7		1	1		
B. N. Kelly	9	7		2			

HOUSING DEPARTMENT							
D. B. Jones	19	14				5	
G. Guille	19	18				1	
T. J. Stephens	19	17			1	1	
G. P. Dudley-Owen	19	15			1	3	
S. J. McManus	19	19					

PUBLIC SERVICES DEPARTMENT							
B. M. Flouquet	21	19				2	
S. J. Ogier	21	19	1			1	
T. M. Le Pelley	21	19				1	1 unknown
A. Spruce	21	17			1	3	
J. Kuttelwascher	21	20				1	

SOCIAL SECURITY DEPARTMENT							
M. H. Dorey	19	18			1		
A. H. Brouard	19	18			1		
S. J. Ogier	19	6	11		2		
A. R. Le Lièvre	19	17	1			1	
M. W. Collins	19	18				1	

TREASURY AND RESOURCES DEPARTMENT							
C. N. K. Parkinson	21	19				2	
A. H. Langlois	21	15	2		1	3	
S. L. Langlois	21	21					
R. Domaille	21	19				2	
J. Honeybill	21	17	1			3	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other

LEGISLATION SELECT COMMITTEE

J. A. B. Gollop	5	5					
R. R. Matthews	5	5					
L. R. Gallienne	5	4				1	
T. J. Stephens	5	5					
J. Kuttelwascher	5	4				1	

PUBLIC ACCOUNTS COMMITTEE

L. R. Gallienne	15	13				2	
M. G. G. Garrett	15	13	2				
B. J. E. Paint	15	15					
T. J. Stephens	15	10	2	1	1	1	
M. J. Storey	15	11				4	

PUBLIC SECTOR REMUNERATION COMMITTEE

A. H. Langlois	5	4			1		
R. W. Sillars	5	5					
S. J. Ogier	5	5					
B. J. E. Paint	5	5					
T. J. Stephens	5	5					

SCRUTINY COMMITTEE

B. L. Brehaut	9	8				1	
D. de G. De Lisle	8	5		2	1		
M. J. Fallaize	8	5	1			2	
M. G. G. Garrett	9	8				1	
J. A. B. Gollop	9	9					
M. P. J. Hadley	9	8				1	
J. Kuttelwascher	9	8				1	
S. J. McManus	9	9					
R. R. Matthews	9	7				2	

STATES ASSEMBLY AND CONSTITUTION COMMITTEE

I. F. Rihoy	8	6				2	
M. M. Lowe	8	6	1			1	
M. J. Fallaize	8	4	3				1 not aware of meeting
S. L. Langlois	8	8					
T. M. Le Pelley	8	5	1			2	

INHERITANCE LAW REVIEW COMMITTEE

M. M. Lowe	1	1					
P. R. Sirett	1	1					
R. W. Sillars	1	1					

PAROCHIAL ECCLESIASTICAL RATES REVIEW COMMITTEE

T. M. Le Pelley	2	2					
J. A. B. Gollop	2	2					
B. M. Flouquet	2	2					
M. M. Lowe	2	2					
S. L. Langlois	2	2					

PART II - REPORT BY MEMBER/ELECTORAL DISTRICT**Summary of Attendances at Meetings of the Policy Council, Departments and Committees**

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other
ST PETER PORT SOUTH							
B. L. Brehaut	15	12				3	
C. S. McNulty Bauer	26	23	1		1	1	
J. M. Tasker	21	20				1	
R. Domaille	21	19				2	
A. H. Langlois	26	19	2		2	3	
J. Kuttelwascher	35	32				3	
ST PETER PORT NORTH							
J. A. B. Gollop	21	21					
R. R. Matthews	28	25	1			2	
C. A. Steere	27	23	2			2	
M. J. Storey	28	21				7	
J. Honeybill	33	28	1			4	
L. R. Gallienne	20	17				3	
M. W. Collins	32	31			1		
ST. SAMPSON							
P. L. Gillson	14	13				1	
S. J. Maindonald	0						
S. J. Ogier	45	30	12		2	1	
I. F. Rihoy	8	6				2	
L. S. Trott	13	11	1		1		
T. J. Stephens	44	37	2	1	2	2	
VALE							
M. J. Fallaize	30	21	4			3	1 not aware of meeting 1 post tendering resignation
G. H. Mahy	22	21		1			
A. Spruce	36	29			1	6	
M. M. Lowe	25	22	1			2	
G. Guille	20	19				1	
D. B. Jones	32	24	2			6	
A. R. Le Lièvre	25	21	3			1	
CASTEL							
M. H. Dorey	32	31				1	
A. H. Adam	27	27					
T. M. Le Pelley	32	27	1			3	1 unknown
S. J. McManus	28	28					
B. J. E. Paint	31	31					
B. M. Flouquet	36	33				3	
M. G. G. Garrett	31	28	2			1	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	States business	Personal/ business/ holiday	Other
WEST							
A. H. Brouard	19	18			1		
D. de G. De Lisle	22	13	1	5	2	1	
M. S. Lainé	22	18	2	1	1		
S. L. Langlois	39	38				1	
P. R. Sirett	25	23				2	
G. P. Dudley-Owen	24	20			1	3	
SOUTH-EAST							
C. N. K. Parkinson	34	31				3	
F. W. Quin	16	16					
M. G. O'Hara	18	14	1		2	1	
R. W. Sillars	19	14	1			3	1 unknown
J. M. Le Sauvage	13	13					
M. P. J. Hadley	17	16				1	
ALDERNEY REPRESENTATIVES							
B. N. Kelly	9	7		2			
P. Arditti	0						
TOTAL							
Number of meetings	1,141	991	40	10	18	78	4*
		86.9%	3.5%	0.9%	1.6%	6.8%	0.3%
AVERAGE PER MEMBER							
	24	21	<1	<1	<1	2	<1

- * 2 unknown (ie reason not given for absence)
 1 not aware of meeting
 1 post tendering resignation

PART III – REPORT OF ATTENDANCE AND VOTING IN THE STATES OF DELIBERATION

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)	TOTAL NUMBER OF RECORDED VOTES	RECORDED VOTES ATTENDED
ST PETER PORT SOUTH				
B. L. Brehaut	13	13	33	33
C. S. McNulty Bauer	13	13	33	33
J. M. Tasker	13	12	33	30
R. Domaille	13	13	33	33
A. H. Langlois	13	12	33	31
J. Kuttelwascher	13	13	33	33
ST PETER PORT NORTH				
J. A. B. Gollop	13	13	33	33
R. R. Matthews	13	13	33	33
C. A. Steere	13	13	33	28
M. J. Storey	13	13	33	33
J. Honeybill	13	13	33	28
L. R. Gallienne	13	13	33	33
M. W. Collins	13	13	33	33
ST SAMPSON				
P. L. Gillson	13	13	33	33
S. J. Maindonald	13	10	33	19
S. J. Ogier	13	13	33	31
I. F. Rihoy	13	12	33	32
L. S. Trott	13	13	33	33
T. J. Stephens	13	13	33	29
VALE				
M. J. Fallaize	13	13	33	32
G. H. Mahy	13	10	33	25
A. Spruce	13	13	33	32
M. M. Lowe	13	13	33	33
G. Guille	13	13	33	33
D. B. Jones	13	11	33	28
A. R. Le Lièvre	13	13	33	33
CASTEL				
M. H. Dorey	13	13	33	33
A. H. Adam	13	13	33	30
T. M. Le Pelley	13	13	33	33
S. J. McManus	13	13	33	33
B. J. E. Paint	13	13	33	33
B. M. Flouquet	13	13	33	33
M. G. G. Garrett	13	12	33	29

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)	TOTAL NUMBER OF RECORDED VOTES	RECORDED VOTES ATTENDED
WEST				
A. H. Brouard	13	13	33	33
D. de G. De Lisle	13	13	33	33
M. S. Lainé	13	13	33	32
S. L. Langlois	13	13	33	33
P. R. Sirett	13	13	33	32
G. P. Dudley-Owen	13	13	33	33
SOUTH-EAST				
C. N. K. Parkinson	13	13	33	32
F. W. Quin	13	13	33	33
M. G. O'Hara	13	11	33	30
R. W. Sillars	13	13	33	33
J. M. Le Sauvage	13	13	33	33
M. P. J. Hadley	13	13	33	33
ALDERNEY REPRESENTATIVES				
B. N. Kelly	13	13	33	25
P. Arditti	13	13	33	28

Note:

The only inference which can be drawn from the attendance statistics in this part of the report is that a Member was present for the roll call or was subsequently *relévé(e)*.

Some Members recorded as absent will have been absent for reasons such as illness.

The details of all recorded votes can be found on the States' website –

<http://www.gov.gg/ccm/navigation/government/states-meetings---billets-d-etat/states-members-voting-records/>