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2017

BILLET D'ÉTAT

WEDNESDAY, 11th JANUARY, 2017

ELECTIONS

1. Election of a member of the Committee *for* Education, Sport & Culture, P. 2016/69
2. Policy & Resources Committee – Election of the Chairman of the Guernsey Financial Services Commission, P. 2016/66

BUSINESS OF THE MEETING

3. Committee *for the* Environment & Infrastructure – Extension of Wreck Removal Convention to the Bailiwick, P. 2016/65
4. Schedule for future States' business, P. 2017/1

APPENDICES

1. Independent Monitoring Panel – Annual Report 2015
2. Public Trustee – Annual Report and Audited Accounts 2015

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **11th January, 2017** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

15th December, 2016

**ELECTION OF A MEMBER OF THE
COMMITTEE *FOR* EDUCATION, SPORT & CULTURE**

The States are asked:

To elect a member of the Committee *for* Education, Sport & Culture to complete the unexpired term of office (that is to the 30th June 2020) of Deputy M. P. Leadbeater who has resigned that office, and whose letter of resignation is appended hereto, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees, as set out in Section 1 thereof.



Committee *for*
Education, Sport & Culture

The Presiding Officer
States of Guernsey
Royal Court House
ST PETER PORT
GY1 2PB

Grange Road House
The Grange
St Peter Port, Guernsey
GY1 1RQ
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12 December 2016

Dear Sir

Resignation as a Member *of the* Committee *for* Education, Sport & Culture

Following receipt of the Vote of No Confidence in the Committee *for* Education, Sport & Culture, I would like to give formal notice of my intention to resign from my position as a member of that Committee. As with the issue of selection at 11, I think it would be best for the States to decide the membership of the Committee going forward.

Yours faithfully

Deputy M Leadbeater

Member *of the* Committee *for* Education, Sport & Culture

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

ELECTION OF THE CHAIRMAN OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 21st November, 2016, of the Policy & Resources Committee, they are of the opinion:-

1. To elect Drs. Cornelis Antonius Carolus Maria Schrauwens as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February 2017.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

POLICY & RESOURCES COMMITTEE

ELECTION OF THE CHAIRMAN OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

Presiding Officer
Royal Court
St Peter Port
Guernsey

21st November 2016

Dear Sir

1. Executive Summary

- 1.1 This Report proposes the election of Drs. Cornelis Antonius Carolus Maria Schrauwens (known as Drs. Cees Schrauwens) as Chairman of the Guernsey Financial Services Commission.

2. Report

- 2.1 The Chairman of the Commission must be elected annually by the States from amongst the ordinary members of the Commission (colloquially known as Commissioners) following nomination by the Policy & Resources Committee. Drs. Cees Schrauwens' current term of office as Chairman ends on 1st February 2017; he has been a member of the Commission since 2008 and has been Chairman of the Commission since 2012.
- 2.2 Drs. Schrauwens is a Dutch citizen and has more than 35 years' financial services experience, particularly within the insurance sector. He is also a very experienced non-executive Chairman within an international context and his leadership skills and experience remain a source of significant value to the Commission. He has served as Managing Director of Aviva International, CGU Insurance and Commercial Union covering both the general insurance and life sectors. He was instrumental in the mergers with General Accident and Norwich Union which resulted in the creation of Aviva PLC. Following the mergers he was appointed Managing Director of Aviva International, gaining valuable experience in dealing with regulators across the globe, including North America. In addition he has been a Partner with Coopers & Lybrand in charge of its insurance consultancy practice and has served as Chairman of Drive Assist Holdings Limited, Senior Non-Executive Director of Brit Insurance Holdings PLC. and Brit Syndicates Limited, Non-Executive Director of Canopius Holdings UK Limited and Canopius Managing Agents Limited, Director of Munich Re (UK) PLC and as the Senior Non-Executive Director of Record PLC for nine years.

- 2.3 Two Commissioners will be retiring over the next fifteen months and the Commission's Board will continue to require some continuity as well as strong leadership during that time. The Commission will also be working closely with government over the next two years to assist it in ensuring that the Bailiwick is well positioned in relation to the UK's Brexit negotiations and the associated outcomes. The Policy & Resources Committee recognises the challenges faced by the Commission and the importance of meeting them while focusing on controlling costs and maintaining constructive relationships. It believes Drs. Schrauwens' prior experience has shown him to be well equipped to continue as Chair for another term.
- 2.4 Accordingly, the Policy & Resources Committee is pleased to re-nominate Drs. Schrauwens as Chairman of the Commission for a year from 2nd February 2017 until 1st February 2018.

3. Recommendation

- 3.1 The States are asked to decide whether they are of the opinion:-

To elect Drs. Cornelis Antonius Carolus Maria Schrauwens as Chairman of the Guernsey Financial Services Commission for one year with effect from 2nd February 2017.

4. Proposition

- 4.1 In accordance with Rule 4(4) of The Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions accompanying this policy letter are supported unanimously by the Policy & Resources Committee.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephens

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

EXTENSION OF WRECK REMOVAL CONVENTION TO THE BAILIWICK

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 23 November 2016 entitled Extension of Wreck Removal Convention to the Bailiwick, they are of the opinion:-

1. To approve the preparation of one or more Ordinances made under section 289, 290, 296 and any other relevant provisions of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 ("the Merchant Shipping Law") to –
 - (i) amend the Merchant Shipping Law to give effect within the Bailiwick and its territorial waters to the Nairobi International Convention on the Removal of Wrecks 2007, and
 - (ii) effect any corresponding or necessary repeals and amendments (including but not limited to amendments to the Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986), and any other consequential and incidental legislative provision.

The above Propositions have been submitted to Her Majesty's Procurer for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

THE COMMITTEE FOR THE ENVIRONMENT & INFRASTRUCTURE

EXTENSION OF WRECK REMOVAL CONVENTION TO THE BAILIWICK

The Presiding Officer
The States of Deliberation
The Royal Court House
St Peter Port

23rd November 2016

Dear Sir

1. Executive Summary

- 1.1 The Committee *for the* Environment & Infrastructure ("the Committee") wishes to have the Nairobi International Convention on the Removal of Wrecks 2007 ("the Convention") extended to the Bailiwick, and is requesting the States to approve the preparation of the legislation necessary to give domestic effect to it. The Convention, to which the UK has acceded, entered into force internationally in April 2015. It has the effect of making shipowners financially liable in respect of wrecks, and of requiring owners of larger vessels to take out insurance to cover the costs of wreck removal. Implementation would thus reduce the States' potential financial exposure in respect of one type of maritime risk.
- 1.2 The text of the Convention is available online at the UK government website, www.gov.uk¹. The UK has strongly recommended that the Crown Dependencies and Overseas Territories seek extension of the Convention to their jurisdictions, because of the financial protection it offers.
- 1.3 This Policy Letter is not concerned with historic wrecks, in respect of which the Committee has no wish to alter the current position.

¹ <https://www.gov.uk/government/publications/the-nairobi-international-convention-on-the-removal-of-wrecks>

- 1.4 The Policy & Resources Committee, which has responsibility in respect of international Conventions, supports the extension of the Convention.

2. The Convention

Background

- 2.1 The International Maritime Organisation summarises the purpose and effect of the Convention on its website in these terms:

“The Nairobi International Convention on the Removal of Wrecks, 2007, was adopted by an international conference held in Kenya in 2007. The Convention will provide the legal basis for States to remove, or have removed, shipwrecks that may have the potential to affect adversely the safety of lives, goods and property at sea, as well as the marine environment.

[...]

Although the incidence of marine casualties has decreased dramatically in recent years, mainly thanks to the work of IMO and the persistent efforts of Governments and industry to enhance safety in shipping operations, the number of abandoned wrecks, estimated at almost thirteen hundred worldwide, has reportedly increased and, as a result, the problems they cause to coastal States and shipping in general have, if anything, become more acute.

These problems are three-fold: first, and depending on its location, a wreck may constitute a hazard to navigation, potentially endangering other vessels and their crews; second, and of equal concern, depending on the nature of the cargo, is the potential for a wreck to cause substantial damage to the marine and coastal environments; and third, in an age where goods and services are becoming increasingly expensive, is the issue of the costs involved in the marking and removal of hazardous wrecks. The Convention attempts to resolve all of these and other, related, issues.

The Convention provides a sound legal basis for coastal States to remove, or have removed, from their coastlines, wrecks which pose a hazard to the safety of navigation or to the marine and coastal environments, or both. It will make shipowners financially liable and require them to take out insurance or provide other financial security to cover the costs of wreck removal. It will also provide States with a right of direct action against insurers.”

- 2.2 There is already local legislation in force in the Bailiwick governing wrecks and salvage, in the form of the Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986 ("the 1986 Law") as amended by the Salvage Convention (Bailiwick of Guernsey) Law, 1997. This legislation empowers the Receiver of Wreck to take steps *inter alia* to make wreck safe and, if necessary, to remove it,

and in certain circumstances to attempt to recover those costs from the sale of the vessel and cargo. However, the current provisions do not require any shipowners to have wreck removal insurance, and do not empower the States to recover the costs of wreck removal (if an owner fails to remove a wreck) directly from the owner/his insurer, in circumstances where those costs may dwarf the quantum of monies that might be recoverable from any subsequent sale.

- 2.3 Implementation of the Convention in the Bailiwick would mean that any vessel over 300 gross tons in our territorial waters would be required to have wreck removal insurance. If a vessel in our waters were to be wrecked, the owner or master would have to report it locally. If it was a hazard, the States would be required to locate and mark it (as would happen now to ensure the safety of navigation), and the owner, on being served with a notice, to remove it; if the owner did not, the States could recover the cost of removing it from him/his insurer. The costs of locating and marking the wreck would also be recoverable. It should be noted that the power to recover costs in the Convention is, as would be expected, subject to certain exceptions: *force majeure* for example (where the owner can prove that the wreck resulted from "a natural phenomenon of an exceptional, inevitable and irresistible character"), and where the wreck was "wholly caused" by an act or omission done with intent to cause damage by a third party.
- 2.4 Now that the Convention has come into force internationally, the owner or master of a Guernsey-registered vessel wrecked in an implementing State's Convention area is under a duty to report the wreck to that State and, as previously described, the owner could be liable to pay the costs of locating, marking and removing the wreck. However, no owner of a Guernsey-registered vessel is required to take out wreck removal insurance, as Guernsey does not currently register vessels of a size of 300 gross tons.

Implementation in domestic law

- 2.5 The Part of the Merchant Shipping Law (Part IX) that deals with wreck and salvage is not currently in force. To a significant extent, it replicates the effect of the 1986 Law (as amended), though it makes no provision in relation to historic wreck, in respect of which see below, and also differs from the current provisions in administrative terms by, *inter alia*, providing for the appointment of one or more receivers of wreck, rather than for one person to be appointed to the office of Receiver of Wreck.
- 2.6 The Committee intends to implement the Convention by inserting new provisions into the Merchant Shipping Law to give it effect. So that the more modern provisions in this area are in force, and the relevant provisions are in the same place, it also proposes that most of Part IX of the Merchant Shipping Law

should be brought into force, which will necessitate the repeal of most of the 1986 Law (as amended).

- 2.7 The 1986 Law makes discrete provision in relation to historic wreck². There is a rich legacy of historic wreck in Bailiwick waters, and the Committee has no wish to alter the position in respect of this type of wreck, which is different from other forms of wreck and which requires different treatment and protections. As such, it is expected that Part 3 of the 1986 Law, which is concerned with historic wreck, will be left in force, together with any necessary supporting provisions. However, some minor consequential amendments to Part 3 and those provisions may be required, and the precise extent of the repeals and modifications of other legislation arising from the amendments and commencement described above, together with the precise form of the main implementing legislation, will be a matter of judgement for the Law Officers in the course of the preparation of the legislation.
- 2.8 The 1986 Law applies to aircraft as it does to marine vessels. There is no wish to change the position as regards aircraft, and the legislation shall provide that the 1986 Law remain in force as regards aircraft (subject to any necessary minor consequential amendments).
- 2.9 It is proposed to effect the required legislative changes, comprising amendments to and repeals of primary legislation (Laws), by Ordinance. This is made possible by virtue of section 290 of the Merchant Shipping Law (Power to modify by Ordinance), in light of the fact that the proposed amendments would make similar provision in respect of these issues as apply in the United Kingdom through amendments made to the Merchant Shipping Act 1995 to give effect to the Convention; and section 296 (Repeals, consequential amendments and transitional provisions), which expressly allows the States to amend or repeal any provision of the 1986 Law (as amended) by Ordinance. The provisions of section 289 (General provisions as to subordinate legislation) are also relevant in this regard.

3. Consultation

- 3.1 The relevant authorities in Alderney and Sark have been consulted in relation to these matters and can confirm that both jurisdictions support the extension of the Convention and the implementation of the requisite domestic legislation. The Director of Civil Aviation has been consulted and has no objections to the proposals.

² The term "historic wreck" is defined at section 15 of the 1986 Law, and refers to a vessel (or cargo or other object) that has lain wrecked (or lost or abandoned) for 50 years or more in local waters.

3.2 Commercial operators and agents whose vessels transit Bailiwick waters have also been consulted. Two responses to the consultation were received, from companies confirming that they already had relevant insurance in place.

3.3 The Law Officers of the Crown have been consulted and assisted with preparation of this Policy Letter. They are of the view that the recommended legislative measures will enable effective implementation of the Convention in the Bailiwick.

4. Cost/Resources

4.1 These proposals would not lead to any increase in public expenditure, nor would they have any other significant impact on the public sector.

5. Propositions

5.1 The States are asked to decide whether they are of the opinion to:

- (a) Approve the preparation of one or more Ordinances made under section 289, 290, 296 and any other relevant provisions of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 ("the Merchant Shipping Law") to –
 - (i) amend the Merchant Shipping Law to give effect within the Bailiwick and its territorial waters to the Nairobi International Convention on the Removal of Wrecks 2007, and
 - (ii) effect any corresponding or necessary repeals and amendments (including but not limited to amendments to the Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986), and any other consequential and incidental legislative provision.

6. Committee Support for Propositions

6.1 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

Yours faithfully

B L Brehaut
President

M H Dorey
Vice-President

H L de Sausmarez
S T Hansmann Rouxel

S L Langlois

INDEPENDENT MONITORING PANEL- ANNUAL REPORT 2015



AUGUST 2016

CHAIR'S FOREWORD

In starting my second foreword as Chair of the Independent Monitoring Panel, I wish first to acknowledge my fellow volunteers who sit on the Independent Monitoring Panel and who collectively and tirelessly strive to ensure the independent oversight of the prison facilities. Five new members joined the Panel during 2015 and have approached the role with enthusiasm, demonstrating an empathic understanding of challenges faced in a custodial setting. The role of a Panel member is not always easy, with Members exposed to the potentially upsetting and challenging material and I would like to recognise every member for the professional and committed manner in which they approach this and the support that they provide to myself as Chair. I firmly believe that the Panel's main strength is in the diverse experience and qualities that are offered by each Member, all of whom strive to achieve the same objective.

Three individuals resigned during the course of the year, Mr John Ashby, Mrs Annette Henry and Mr Stephen Hill who collectively had approximately 20 years of service on the Panel. I would like to take this opportunity to thank all three for the commitment and integrity that they displayed during their tenure on the Panel, the diverse expertise which they brought to the role and the common sense and fair mindedness which they demonstrated in their interactions.

It is often quoted that the degree of civilisation in a society can be judged by entering its prisons; the role of the Independent Monitoring Panel is to be the eyes and ears of the public, and in this regard the Panel considers the Guernsey Prison, its facilities and its staff to be a testament to this Island. The Guernsey Prison is continually improving and refining itself which can be evidenced through a number of developments that have taken place throughout the 2015 calendar year.

In May 2014, Her Majesty's Inspectorate of Prisons (HMCIP) completed a thorough inspection of the Guernsey Prison; and in the resulting report, the Guernsey Prison scored very highly. As part of the Inspectorate's report, a number of recommendations were made to improve particular areas within the Prison. Since the inspection, the Panel is pleased with the work that has been completed in order to achieve as many of the recommendations as possible within the Inspectorate's report.

One of the major observations made by HMCIP was the requirement for a separate facility in order to hold minors, who are accommodated, away from the main population of adult male and female prisoners. As a result, the Prison opened a dedicated unit for accommodating children in custody, "the Compass Unit", which was completed in 2015. The Compass Unit is a 3-6 bed unit which has purposely been designed in such a way as to distinguish it from adult accommodation in an attempt to be more "child friendly". The Compass Unit is but a single example of the ongoing improvement and development of the Guernsey Prison. The Panel applauds the continued good practices of the Prison Service in what is a difficult and challenging role to provide for the Island.

Wendy Meade

INTRODUCTION

The Guernsey Prison Service serves the public by keeping in custody those legally committed to its care. Its duty is to look after them with decency and to help them lead law-abiding lives in custody and after release. The Prison holds a diverse population, including those sentenced and on remand, men and women, young offenders and juvenile and vulnerable prisoners.

The Independent Monitoring Panel is constituted under the Prison (Guernsey) Ordinance 2013 ("the Ordinance") as an independent body made up of members of the public to make unannounced visits to Guernsey Prison. Members provide independent oversight of the day-to-day operations of the Prison and prison conditions, monitor the administration of the prison, the treatment of prisoners and whether the statutory objectives of the prison system are being met, and serve to protect the well-being of prisoners.

The Ordinance requires the Panel to prepare an annual report at the end of each calendar year, which must include the following:-

(a) a summary of the Panel's activities, including the number of –

- I. Complaints or requests received from prisoners, and
- II. Inquiries conducted by Panel members,

broken down by the topics to which they relate (e.g. food, temporary release licence, privileges, use of force) and compared to statistics from previous years,

(b) Anonymous examples of prisoner's complaints and results of the Panel's inquiries into those, including recommendations made and responses received from the Governor or the Department,

(c) the Panel's observations in relation to:-

- I. the state of the prison premises,
- II. the administration of the prison,
- III. its observations on the treatment of prisoners

(d) any advice or recommendations the Panel sees fit to make.

SUMMARY OF THE PANEL'S OBSERVATIONS/COMMENTS

Over the course of 2015, the Panel has generally been satisfied with the state of prison premises during their visits. The Guernsey Prison is continually undergoing refurbishment and routine maintenance in order to improve the living conditions for prisoners.

In the 2014 IMP Annual Report, Members conveyed a concern regarding the number of complaints that had been received in relation to the general temperature of the Prison, which was reported as being either too hot or too cold depending on the time of the year. The Panel is pleased to note that in 2015, Guernsey Prison updated its boiler heating and expansion systems which has resulted in a reduction in the number of complaints regarding the ambient temperature and it is hoped that this continues throughout 2016.

In the 2014 Annual Report, the Panel had also raised concern with regards to the cleanliness of the various wings. The Panel has since been satisfied with the Prison's overall cleanliness, however the Panel has had reason to note:-

- Dissatisfaction with the condition of the prison showers on a number of instances. The Panel noted that the showers had been flooded on occasions during unannounced visits and Members frequently received complaints from prisoners in relation to this and connected matters such as shower pressure and temperature. It is understood that officers from the Guernsey Prison have looked into the matter by reviewing the drainage system and the matter has now been resolved;
- Numerous complaints regarding minor skin irritation experienced by a small proportion inmates. The Panel had received complaints from prisoners regarding skin irritation which they believed to be linked to the shower system. Following the instalment of the replacement boiler heating and expansion system, issues relating to the pressure and temperature of the showers had been resolved, however prisoners continued to report minor skin irritations. The Panel is aware of this matter, as are officers from the Guernsey Prison who are continuing to review the matter to ensure that it is resolved.

The Panel continues to be impressed with the administration of the Prison, and Members are grateful to all of the officers who take the time to update Panel on all initiatives and developments that are taking place. The Panel is also appreciative of the opportunities given to Members to attend various meetings within the Prison, including Diversity Meetings, Prisoner Consultation Committee Meetings (PCCM) and Adjudication Meetings. In particular, the Panel believes that the introduction of the PCCM meetings has provided a stronger prisoner complaints process and the meetings have proved to be extremely successful since their inception. By allowing prisoners to submit formal complaints to a panel of senior Prison staff as well as chosen prisoner representatives, prisoners are able to see their complaints and issues dealt with formally with recorded outcomes which the Panel considers to be a more robust process.

The Panel firmly believes that the progression towards a working prison has been an extremely positive direction in which to move, and Members are satisfied to see the continued diverse opportunities that are available through the Prison's learning and skills curriculum. The Panel is also pleased to acknowledge the positive publicity and public awareness that is raised by the Prison, specifically in relation to the educational and learning/skills opportunities, and the Panel recognises the desire of the Guernsey Prison to inform the public as to the reality of serving a custodial sentence on the Island.

During 2015, prisoners had the opportunity to enter submissions to the annual UK Koestler Arts and Crafts Awards. The Guernsey Prison entered 27 pieces of work and achieved 9 winners including two silvers and a gold medal for a sculpture entitled "Warrior". Panel members are also impressed with the development of the Prison Garden which was designed by staff, volunteers and prisoners alike. The garden offers fantastic horticultural learning opportunities for prisoners which can ultimately lead to the acquisition of skills which results in employment upon release from custody. In July 2015, the Guernsey Prison Open Gardens event was held for the very first time. The two day event provided the opportunity for visitors to enter the garden and it raised approximately £2,000 for the prison charity which was a great success.

The Guernsey Prison saw a significant reduction in the prison roll throughout 2015. The lowest roll throughout the calendar year was recorded in August at 76 prisoners which left approximately 54 available spaces. This reduction allowed members of prison staff to work more closely with the prison population to ensure their offending behaviour programmes were tailored to target their specific needs. The Panel is pleased to note that, in general, there were positive interactions between staff and prisoners alike and the overall attitude within the Guernsey Prison resulted in positive experiences during the Panel's visit.

UPDATE FROM 2014 RECOMMENDATIONS

Appointment of new IMP members

Within the 2014 Annual Report, the Panel expressed their concerns in relation to the restrictions on a legislative prohibition on States' employees serving on the Panel. The Panel were concerned that this unnecessarily disbarred a number of individuals who by virtue of their employment, for example within the healthcare or education arenas, would have skills readily transferable to the Panel and whose employment would not represent a conflict of interest. The Panel additionally expressed concerned in relation to the length of the appointment process, highlighting the potentially detrimental impact on the training programme.

The Panel was delighted and satisfied that the Home Department addressed both concerns in their policy letter of September 2015 which recommended that the Prison (Guernsey) Ordinance, 2013 be amended so to:-

- remove the restriction on States' employees serving on the Independent Monitoring Panel;
- enable the Home Department to make appointments to the Independent Monitoring Panel in the first instance with the requirement that such appointments would require reappointment by the States of Deliberation as soon as possible at the end of the calendar year.

The Panel was pleased that both recommendations were approved unanimously by the Assembly.

Awareness of the IMP

The Panel also recommended in its last report that increased efforts should be made to improve prisoners' knowledge and awareness of the IMP. The Panel acknowledges that newly inducted prisoners receive documentation which includes information regarding the IMP and the role that it fulfils for the Prison and prisoners alike.

However it is also understood that, due to the extent of information delivered to prisoners upon arrival into custody, the understanding of the role of the Independent Monitoring Panel can become diluted. The Panel continues to encourage members of staff to remind prisoners of the Panel's presence should they require the support of an independent body. However, the IMP remains of the opinion that there is room for additional awareness of the Panel and this has been reflected within the recommendations of this report.

RECOMMENDATIONS

Panel Awareness

As previously stated, the Panel remains of the view that there is room for increased awareness of the IMP and the role that it provides within the custodial setting. The Panel therefore aims to continue with the recommendation from the previous annual report with a view to further improving prisoners' knowledge and awareness of the Panel. However, the Panel also intends to improve the overall awareness of the IMP within the general public. The Panel intends to build upon the excellent initiatives currently provided by the Prison, to increase public awareness, so that the IMP can provide quality assurance with regards to the Island's custodial regime. The Panel will again seek to liaise with the Prison to identify potential initiatives to assist in fulfilling these objectives.

Communication between the IMP, the Prison and Prisoners

The Panel considers that there is positive communication between IMP Members and officers from the prison and prisoners alike. Part of the IMP's role is to undertake visits which are requested by prisoners originating from issues or concerns that they feel are not otherwise being resolved satisfactorily. In the majority of these visits, the concerns that are raised by prisoners, after discussion with prison staff, may be resolved and a tangible outcome can be seen by the prisoner. However, in some circumstances, an easy solution to a problem is not readily available, and Panel members are keen in these circumstances that appropriate mechanisms are in place to provide sufficient expedient feedback to prisoners, setting out, where appropriate ongoing discussions. As a result, the Panel will consider mechanisms which could be adopted so to best enable this feedback to occur so to maintain confidence within the Panel.

Please write to the Chairperson of Independent Monitoring Panel c/o Sir Charles Frossard House if further information is required in relation to any matter contained within the Report.

APPENDIX 1- STATISTICAL ANALYSIS

Monthly Visits- Number of complaints/ comments by theme

Theme	Number of complaints	Number of comments
Wing Cleanliness		2
Staffing Complaint	1	
Probation services	1	
Overdue IMP Visit	1	
Wages	4	
Ordering Online Goods System	3	1
Temperature	2	
Release Plan / Deportation	1	
Healthcare and Medication	4	
Prison shop	3	2
Food	1	
Laundry facilities	1	
Time Spent Outdoors	1	
Parole	2	1
Integration	1	1
Maintenance of shower facilities/ paper towel dispensers	6	
Toilet Facilities	1	
Employment opportunities	1	1
Education Opportunities	2	

Requested Visits by theme

Theme	Number
Staffing Complaint	3
Adjudication/Warning	5
Vulnerable Prisoner Visitation Regime	1
Prison Temperature	1
Employment	1
Lack of information following complaint	1

SCAPU Visits

Number of SCAPU visits	3
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Breakdown of Visits by day of week

Day	Number
Monday	4
Tuesday	4
Wednesday	6
Thursday	5
Friday	6
Saturday	2
Sunday	0

Breakdown by time of day at start of visit (where known)

Day	Number
8am – 12 noon	7
12 noon – 5pm	15
5pm – 9pm	2
Unknown	3

Length of visit (where known)

Day	Number
Less than an hour	4
Between 1 and 2 hours	6
Over 2 hours	12
Unknown	5

APPENDIX 2- ANONYMOUS

In providing anonymous examples of the queries received by the Panel, the Panel has mindful of the difficulties within a small prison population such as Guernsey in ensuring that confidentiality really is maintained. Conscious that it may be possible to identify individual prisoners by virtue of the circumstances even in the absence of names, the examples below have purposively been written in such a way so to preserve the confidentiality of those seeking the Panel's assistance, but providing an illustration of the themes addressed in prisoners' concerns.

Online Purchasing System

The Panel is aware that inmates receive wages for undertaking employment within the prison and, as part of their privileges they have the opportunity to spend their earnings by approved items from online retailers such as M&M and Amazon. In 2015, Panel Members received a number of complaints from prisoners in relation to the retention of VAT reductions on such purchases by the Prison. After raising the issue with Senior Management, the Panel was advised that the Guernsey Prison took requests for items from prisoners and would subsequently place a bulk order to avoid a more disjointed piecemeal approach. In so doing, the Prison receives the VAT deduction in one lump sum which is extremely difficult practically to return to the individual prisoners who have placed orders. So as to provide a fair solution, the Prison SMT has advised that the VAT deduction is subsequently donated to the prisoner fund which is used for the benefit of all prisoners. The Panel considers this to be a fair and reasonable solution to the issue.

Medical Provision

The Panel is conscious of the various medical requirements that can exist within a custodial environment. In 2015, there were a number of queries and concerns raised by prisoners with regards to the medical care that they were being provided; the queries ranged from the strength and type of medication to the frequency that it should be administered. The Panel was pleased to note the balance of professionalism and empathy that was offered by the Prison Healthcare staff, in what can be an extremely challenging environment, in order to ensure that all prisoners who required medical provision were offered the correct and appropriate level of healthcare to address their own specific needs.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR ECONOMIC DEVELOPMENT

PUBLIC TRUSTEE ANNUAL REPORT AND AUDITED ACCOUNTS 2015

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

20 October 2016

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in section 6(1) that the Committee for Economic Development is required to submit the report and accounts to the States of Guernsey on the exercise of the Public Trustee's functions for the preceding year.

I am pleased to enclose a copy of her report and audited accounts for the year ended 31 December 2015.

Section 6 of the Law also provides that the Committee may, at the same time, submit its own report commenting on the activities of the Public Trustee during this period.

The Committee does not wish to add further comments on the activities of the Public Trustee.

I should be grateful if you would arrange to publish this submission as an Appendix to the next available Billet.

Yours faithfully

Deputy P T R Ferbrache
President

**REPORT OF THE PUBLIC TRUSTEE
TO THE COMMITTEE FOR ECONOMIC DEVELOPMENT
FOR THE YEAR ENDED 31 DECEMBER 2015**

Introduction

1. Under Section 6(1) of The Public Trustee (Bailiwick of Guernsey) Law, 2002 (“the Law”), the Public Trustee is required in each calendar year to submit to the Committee for Economic Development a report on the exercise of his or her functions in the preceding year together with the audited accounts of the Office of the Public Trustee.

Appointments

2. On 31 July 2015, Bordeaux Services (Guernsey) Ltd (“Bordeaux”) was placed into Management Administration by the Royal Court at the request of the Guernsey Financial Services Commission. The Public Trustee was appointed by the Royal Court to act as Trustee of all trusts where Bordeaux had been acting as trustee as at that date. As a result, the Public Trustee was appointed to act as trustee on seven trusts, two of which have been terminated in 2016.

Of the remainder:

- one trust is in the process of being terminated;
 - two trusts are in the process of being transferred to an alternative service provider;
 - one trust has been identified as having substantial legal issues which are in the process of being resolved by the Public Trustee with legal input from Collas Crill; and
 - one trust is proving difficult to place with an alternative service provider as the asset value is too small to make it commercially viable.
3. At the end of 2015, as well as the above trusts the Public Trustee remained as trustee of twelve trusts. Seven of the twelve trusts are considered dormant and have been archived as they do not appear to hold any assets. It has not been possible to make contact with the Settlers, Beneficiaries etc.
 4. The Public Trustee is currently reviewing a Guernsey Pension Fund (“the Fund”) in order to establish whether to accept an appointment as trustee. Several of the members have made contact with lawyers in Guernsey as they are concerned that the assets of the Fund may have been dissipated. If the Public Trustee were to be appointed at the present time there is a risk of litigation which would most likely emanate from the person currently responsible for managing the Fund. As a consequence the Public Trustee is exercising a significant amount of caution when deciding whether to be appointed. Investigations are ongoing.

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF ACCOUNT

31ST DECEMBER, 2015

LINCE SALISBURY

Chartered Accountants

Avenue House,

St. Julian's Avenue,

St. Peter Port,

GUERNSEY

OFFICE OF THE PUBLIC TRUSTEE

Office holder

The position of Public Trustee at the year end was held by:

Mrs C. Rowe

Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of The Office of the Public Trustee. She is responsible for selecting suitable accounting policies and, in preparing the statement of account the Public Trustee is expected to:

- * apply suitable accounting policies on a consistent basis;
- * make judgements and estimates that are reasonable and prudent;
- * state whether applicable accounting standards have been followed subject to any material departures disclosed and explained in the accounts; and
- * prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The Public Trustee acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of The Office of the Public Trustee.

It is the responsibility of The Office of the Public Trustee to identify and install a system of internal controls, including financial controls, which is adequate for its own purposes. Thus The Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Public Trustee reports that so far as she is aware there is no relevant audit information of which the auditors are unaware and that she has taken all steps to make herself aware of such audit information and to establish that the auditors are aware of that information.

INDEPENDENT AUDITOR'S REPORT TO THE OFFICE OF THE PUBLIC TRUSTEE

We have audited the financial statements of The Office of Public Trustee for the year ended 31st December, 2015 on pages 3 to 5 which have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice, under the historical cost convention and the accounting policies set out on page 5.

This report is made solely to The Office of Public Trustee. Our audit work has been undertaken so that we might state to you those matters we are required to state in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than The Office of Public Trustee for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of The Office and Auditors

As explained in the Statement of Responsibilities the Public Trustee is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards of Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to The Office's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Public Trustee; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Public Trustee's Report to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

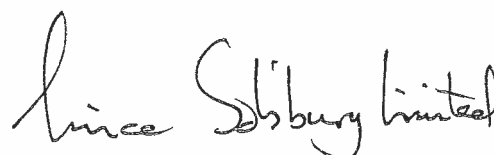
Opinion on the financial statements

In our opinion the financial statements:

- give a true and fair view of the state of The Office's affairs as at 31st December, 2015 and of its result for the year then ended;
- have been prepared in accordance with United Kingdom Generally Accepted Accounting Practice;
- the financial statements have been properly prepared in accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002.

6th October 2016

Avenue House,
St. Julian's Avenue,
St. Peter Port,
GUERNSEY



LINCE SALISBURY LIMITED
CHARTERED ACCOUNTANTS

OFFICE OF THE PUBLIC TRUSTEESTATEMENT OF INCOMEFOR THE YEAR ENDED 31st DECEMBER, 2015

	Note	2015		2014	
		£	£	£	£
Income	1				
Grant from States of Guernsey	1, 3		3		10,941
Trustee fees			<u>75,114</u>		<u>48,210</u>
			75,117		59,151
Expenditure	1				
Audit fees		2,900		3,100	
Bank charges		66		62	
Office administration		1,543		1,249	
Public Trustee remuneration		27,161		11,251	
Movement in provision for doubtful debts		(1,063)		2,079	
Trust and company administration fees		<u>46,484</u>		<u>41,847</u>	
			(77,091)		(59,588)
Operating (deficit)/surplus before tax			(1,974)		(437)
Tax	2		-		-
(Deficit) for the year			<u>£(1,974)</u>		<u>£(437)</u>

OFFICE OF THE PUBLIC TRUSTEE

STATEMENT OF FINANCIAL POSITION AT 31st DECEMBER, 2015

	Note	2015 £	2014 £
Current assets			
Debtors		405,991	334,788
Bank		<u>17,650</u>	<u>14,409</u>
		<u>423,641</u>	<u>349,197</u>
Current liabilities			
Potential liability - grants	3	389,357	314,001
Accruals	3	3,205	3,990
Creditors	3	<u>22,634</u>	<u>20,787</u>
		<u>415,196</u>	<u>338,778</u>
Net assets		<u>£8,445</u>	<u>£10,419</u>
Funded by:			
The Public Trustee Fund	4	<u>£8,445</u>	<u>£10,419</u>

The balance sheet was approved on 4th October 2016

C. Rowe

C. Rowe
Public Trustee

OFFICE OF THE PUBLIC TRUSTEE
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST DECEMBER, 2015

1. ACCOUNTING POLICIES

Basis of Preparation

The financial statements have been prepared in accordance with FRS 102, the Financial Reporting Standard applicable in the United Kingdom and Republic of Ireland.

Historical Cost Convention

The statement of account is prepared under the historical cost convention and in accordance with UK applicable accounting standards.

Grants

Grants from the States of Guernsey Commerce and Employment Department are included on a received basis. Grants have been recognised as revenue items where they are not expected to become repayable to the States of Guernsey. Where grants have been received and a corresponding debtor is considered recoverable from the underlying client the potential liability has been recognised.

Other income and expenditure

Other income and expenditure is included on an accruals basis.

2. TAXATION

The Office of the Public Trustee is not subject to States of Guernsey Income Tax.

3. CREDITORS AND ACCRUALS

	2015	2014
	<u>£</u>	<u>£</u>
<u>Creditors</u>		
Professional trust administration fees and Deputy Trustee charges from Commerce & Employment Department	£ 22,634	£ 20,787
	<hr/>	<hr/>
<u>Accruals</u>		
Audit fee	3,200	3,450
Public Trustee	-	535
Bank charges	5	5
	<hr/>	<hr/>
	£ 3,205	£ 3,990
	<hr/>	<hr/>
<u>Potential Liabilities - Grants</u>		
Grants from States of Guernsey	£ 389,357	£ 314,001
	<hr/>	<hr/>

The Grant from the States of Guernsey is paid in accordance with section 8 of The Public Trustee (Bailiwick of Guernsey) Law, 2002. Any amounts paid by the States of Guernsey to cover expenditure that are subsequently recouped from the structures within the responsibility of the Public Trustee become repayable to States of Guernsey. The potential liability due to the States of Guernsey represents the debts the Public Trustee expects to be recoverable from those structures. Disclosing this amount separately on the balance sheet reflects the understanding of the contingent nature of the corresponding debtor.

4. THE PUBLIC TRUSTEE FUND

	2015	2014
	<u>£</u>	<u>£</u>
Balance brought forward	10,419	10,856
(Deficit) for year	(1,974)	(437)
	<hr/>	<hr/>
Balance carried forward	£8,445	£10,419
	<hr/>	<hr/>

5. The Public Trustee is currently reviewing a Guernsey Unit Trust which was Authorised by the Guernsey Financial Services Commission as a Class B Open Ended Scheme. The Scheme has retained the Authorisation but was suspended in 2009 and is now in termination. The Public Trustee was approached in September 2016 by the lawyer representing the investors. The investors appear to have lost more than Euro 30m, equivalent to approximately 90% of their investment and have requested that the Public Trustee take control as they have lost confidence in the trustee. This matter is well known to the Royal Court and the retirement of the current trustee and appointment of the Public Trustee is due to be blessed by the Court in November 2016.

Accounts and Auditors' Report

6. The accounts of the Office of the Public Trustee for the year to 31 December 2015 together with the Auditors' report thereon, accompany this report.
7. Work levels during the year were significantly higher than in 2014 due to the appointment of the Public Trustee on the Bordeaux trusts.

As in previous years, two historic interrelated trusts continue to present significant difficulties and account for a reasonable proportion of the trust and company administration fees. However the bulk of the fees charged during the year by professional providers of trust services working on behalf of the Public Trustee were in respect of the Bordeaux trusts.

8. The fees charged by professional providers of trust services (£46,484) together with the Public Trustee's own charges make up the total Trustee fees of £75,114 charged to the trusts.
9. Delays continue to be experienced in recovering historic amounts due to the Office of the Public Trustee due to the lack of liquid assets in two of the trusts. However, the Public Trustee is confident that a large proportion (£361,705) of the outstanding debt in relation to this structure is recoverable.

Of the remaining debt, £34,632 was due from Bordeaux related entities and the Public Trustee can confirm that the majority of this has been recovered during 2016.

10. In November 2015, the Public Trustee recouped an amount of money (£4,434.86) from Barclays Bank plc ("Barclays") in respect of one of the dormant, archived trusts noted in (3) above. Barclays had placed the funds into a dormant funds account as the company holding the cash had been dissolved.

The company holding the cash had been 100% owned by the trust prior to the company's dissolution and Barclays agreed to retrieve the funds from the dormant funds account and transfer them to the Public Trustee in her capacity as trustee of the overlying trust.

Some of the cash (£4,091.82) was used to settle the historic debt due to the Office of the Public Trustee. The remainder will be used to settle fees which will be due in 2016.

General

11. Advice was sought in 2015 in relation to the underlying corporate entities owned by the trusts to which the Public Trustee has been appointed. The Law does not specifically state that the Public Trustee is able to act as a director of corporate entities and as a consequence she appoints external service providers to do so. As noted below, the Public Trustee is primarily a trustee of last resort and it is possible that the corporate entities held by the trusts may be experiencing difficulties including legal action and insolvency issues. As a result, it may be difficult or impossible to locate service providers willing or able to act in these cases.

The advice obtained stated that at the present time it is not considered appropriate or necessary to amend the Law to enable the Public Trustee to be appointed. This advice can be revisited if considered necessary in the future.

Conclusion

12. As pointed out in previous reports, the Public Trustee is primarily a trustee of last resort and experience has shown that appointments are usually made to problematic trusts where other professional trustees are unable or unwilling to act. That and the fact that the Public Trustee may not, under the Law, charge fees to any individual trust in excess of actual costs incurred in administering it, mean that there are inevitable implications for costs.
13. However, the general low level of appointments to act as trustee since the Office of the Public Trustee was established in 2004 is a positive factor in this respect may also be taken as an indication of the continuing good health and conduct of the trust industry in the Bailiwick.



Catherine Rowe
Public Trustee
Bailiwick of Guernsey