



V  
2017

# BILLET D'ÉTAT

WEDNESDAY, 15th FEBRUARY, 2017

## *ELECTIONS*

1. Development & Planning Authority – Election of new Member, P. 2017/7

## *LEGISLATIVE BUSINESS*

### *Legislation Laid Before the States*

The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) Regulations, 2016  
The Financial Services Commission (Fees) Regulations, 2016  
The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2016  
The Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) (Fees) Regulations, 2016  
The Public Highways (Temporary Road Closures) (Fees and Penalties) Order, 2016  
The Public Highways (Al Fresco Licences) (Fees) Regulations, 2016  
The Amalgamation and Migration of Companies (Fees payable to the Guernsey Financial Services Commission) (Amendment) Regulations, 2016  
The Financial Services Commission (Limited Liability Partnerships) (Fees) Regulations, 2016

CONTINUED OVERLEAF

The Protected Cell Companies and Incorporated Cell Companies (Fees payable to the Guernsey Financial Services Commission) Regulations, 2016  
The Guernsey Finance LBG (Levy) (Guernsey) (Amendment) Regulations, 2016

The Limited Partnerships (Fees, Annual Validations and Miscellaneous Provisions) Regulations, 2016

The Income Tax (Approved International Agreements) (Implementation) (Country by Country Reporting) Regulations, 2016

*Legislation for Approval*

2. Committee *for* Employment & Social Security – The Supplementary Benefit (Residence Conditions) Ordinance, P. 2017/1

*OTHER BUSINESS*

3. States Trading Supervisory Board and Committee *for the* Environment & Infrastructure – Implementation of the Solid Waste Strategy, P. 2017/3
4. Policy & Resources Committee and Committee *for* Economic Development – Register of Beneficial Ownership, P.2017/4
5. Schedule for future States' business, P. 2017/8

# BILLET D'ÉTAT

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

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I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **15<sup>th</sup> February, 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

2<sup>nd</sup> February, 2017

**ELECTION OF A MEMBER OF THE  
DEVELOPMENT & PLANNING AUTHORITY**

The States are asked:

To elect a member of the Development & Planning Authority to complete the unexpired term of office (that is to the 30<sup>th</sup> June 2020) of Deputy J. C. S. F. Smithies 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.



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GY3 5HB

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Sir Richard Collas  
Presiding Officer, States of Guernsey  
Bailiff's Chambers  
The Royal Court House  
St Peter Port  
GY1 2NZ

27<sup>th</sup> January 2017

Dear Sir Richard,

**Resignation from Development and Planning Authority**

It is with genuine regret that I am writing to inform you of my decision to tender my resignation as a member of the Development and Planning Authority (DPA) with effect from the date of the election of my successor.

My reasons for reaching this decision are: -

- 1) I anticipate a greatly increased time commitment over the next few months, arising from my membership of the States' Trading Supervisory Board (STSB), as the Waste Strategy Implementation Board, of which I am an ex-officio member, starts to work on the eight major projects involved. This will be in addition to the work stream in many other areas for which the STSB's two political and two non-elected members are responsible.
- 2) I have already had to recuse myself from some planning decisions as these have been in conflict with the mandate of the STSB and I can foresee many other future occasions when further conflict will arise centring around applications involving States Property Services, Guernsey Water, the Waste programme, Guernsey Harbour, Guernsey Airport and Guernsey Dairy amongst others. I think that it is important that the DPA should work at its maximum capability, which my absence would adversely affect.
- 3) The necessity that I attend STSB meetings in order to maintain a quorum means that the Board must take precedence over the DPA, where achieving a quorum is less of an issue.

I communicated my decision to my colleagues on the DPA over a fortnight ago and have discussed this with them in committee. I leave them with my very best wishes and in the confidence that the strong and talented team, which they have become, will continue to function very effectively in future.

Yours sincerely

Jeremy C. S. F. Smithies  
People's Deputy for the Vale

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

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

No. 80 of 2016

### **THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (LEGAL PROFESSIONALS, ACCOUNTANTS AND ESTATE AGENTS) (BAILIWICK OF GUERNSEY) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, “The Criminal Justice (Proceeds of Crime) (Legal Professionals, Accountants and Estate Agents) (Bailiwick of Guernsey) (Amendment) Regulations, 2016”, made by the Policy & Resources Committee on 22<sup>nd</sup> December 2016, are laid before the States.

#### **EXPLANATORY NOTE**

These Regulations update the fees payable by prescribed businesses under the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999.

These Regulations come into force on the 1<sup>st</sup> January, 2017.

No. 81 of 2016

### **THE FINANCIAL SERVICES COMMISSION (FEES) REGULATIONS, 2016**

In pursuance of Section 25 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987; Section 21 of the Protection of Investors (Bailiwick of Guernsey) Law, 1987; Section 60 of the Banking Supervision (Bailiwick of Guernsey) Law, 1994; Section 86 of the Insurance Business (Bailiwick of Guernsey) Law, 2002; and Section 63 of the Insurance Managers and Insurance Intermediaries (Bailiwick of Guernsey) Law, 2002, “The Financial Services Commission (Fees) Regulations, 2016”, made by the Policy & Resources Committee on 22<sup>nd</sup> December 2016, are laid before the States.

#### **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 and the authorisation and registration of collective investment schemes, 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 service of notice of an application to the Royal Court for an order sanctioning a transfer

of long term insurance business, the licensing of an insurance manager, the licensing of an insurance intermediary, and the fees payable annually thereafter.

These Regulations come into force on the 1<sup>st</sup> January, 2017.

No. 82 of 2016

**THE PROTECTED CELL COMPANIES AND INCORPORATED CELL COMPANIES (FEES FOR INSURERS) REGULATIONS, 2016**

In pursuance of section 25 of the Financials Services Commission (Bailiwick of Guernsey) Law, 1987; and section 86 of the Insurance Business (Bailiwick of Guernsey) Law 2002, “The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2016”, made by the Policy & Resources Committee on 22<sup>nd</sup> December 2016, are laid before the States.

**EXPLANATORY NOTE**

These Regulations prescribe the fees payable to the Guernsey Financial Services Commission by any company which is a protected cell company or an incorporated cell company, and by an incorporated cell, and which applies to be licensed to conduct insurance business under the Insurance Business (Bailiwick of Guernsey) Law, 2002, and the fees payable periodically thereafter by such a company or cell when licensed and also for the creation of a new cell or the reactivation of a dormant cell by a licensed protected cell company. Furthermore, the Regulations prescribe the fee payable to the Guernsey Financial Services Commission by any company for consent for the conversion of a licensed company into a protected cell company or an incorporated cell company, for the conversion of an existing licensed protected cell company into an incorporated cell company, or for the conversion of a licensed protected cell company or incorporated cell company into a non-cellular company.

These Regulations come into force on the 1<sup>st</sup> January, 2017.

No. 83 of 2016

**THE REGISTRATION OF NON-REGULATED FINANCIAL SERVICES BUSINESSES (BAILIWICK OF GUERNSEY) (FEES) REGULATIONS, 2016**

In pursuance of Section 31 of the Registration of Non-Regulated Financial Services Business (Bailiwick of Guernsey) Law, 2008, “The Registration of Non-Regulated Financial Service Businesses (Bailiwick of Guernsey) (Fees) Regulations, 2016”, made by the Policy & Resources Committee on 22<sup>nd</sup> December 2016, are laid before the States.

**EXPLANATORY NOTE**

These Regulations make provision in respect of the payment of an application fee and an annual fee for the purposes of the Registration of Non-Regulated Financial Services Businesses (Bailiwick of Guernsey) Law, 2008.

These Regulations come into force on the 1<sup>st</sup> January 2017.

No. 86 of 2016

**THE PUBLIC HIGHWAYS (TEMPORARY ROAD CLOSURES) (FEES AND PENALTIES) ORDER,  
2016**

In pursuance of sections 2(6), 3(1) and 3(3) of the Public Highways (Co-ordination of Temporary Road Closures etc) (Guernsey) Law, 2003 and in pursuance of the Resolution of the States of 1<sup>st</sup> October 2015, made by the Committee *for the* Environment & Infrastructure on 22<sup>nd</sup> December, 2016, are laid before the States.

EXPLANATORY NOTE

The Order prescribes the fees payable to the Committee *for the* Environment & Infrastructure in respect of applications under the Public Highways (Co-ordination of Temporary Road Closures etc) (Guernsey) Law, 2003 for permission for the temporary closure of a road or pavement, or the application of traffic management measures in a road, when the relevant work will involve the resurfacing of the road or pavement. Fees are calculated by reference both to the class of the road which is the subject of the application, and how long it has been since it was last resurfaced.

The Regulations came into force on 1<sup>st</sup> January, 2017.

No. 85 of 2016

**THE PUBLIC HIGHWAYS (AL FRESCO LICENCES) (FEES) REGULATIONS, 2016**

In pursuance of sections 2(6), 3(1) and 3(3) of the Public Highways (Co-ordination of Temporary Road Closures etc.) (Guernsey) Law, 2003 and in pursuance of the Resolution of the States of 1<sup>st</sup> October 2015 made by the Committee *for the* Environment & Infrastructure on 22<sup>nd</sup> December, 2016, are laid before the States.

EXPLANATORY NOTE

The Regulations increase the fees payable to HM Greffier on applications made to the Royal Court in respect of an application for the grant, variation of the conditions or renewal of an “al fresco” licence under the Public Highways (Temporary) (Closure) Ordinance, 1999.

The Regulations came into force on 1<sup>st</sup> January, 2017.

The full text of the statutory instruments and other legislation included in this document can be found at: <http://www.guernseylegalresources.gg/article/151276/2016>





**STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

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

No.66 of 2016

**THE AMALGAMATION AND MIGRATION OF COMPANIES (FEES PAYABLE TO THE GUERNSEY FINANCIAL SERVICES COMMISSION) (AMENDMENT) REGULATIONS, 2016**

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, The Amalgamation and Migration of Companies (Fees payable to the Guernsey Financial Services Commission) (Amendment) Regulations, 2016 made by the Committee *for* Economic Development on 8<sup>th</sup> December 2016, are laid before the States.

**EXPLANATORY NOTE**

These regulations amend the Amalgamation and Migration of Companies (Fees payable to the Guernsey Financial Services Commission) Regulations, 2012 by increasing the fee payable to the Guernsey Financial Services Commission which must accompany an application for its consent for the amalgamation of companies pursuant to the provisions of Part VI of the Companies (Guernsey) Law, 2008 and for the removal of a supervised company from the Register of Companies for the purposes of becoming registered as a company under the law of a district, territory or place outside Guernsey in accordance with the provisions of Part VII of that Law. The Regulations come into force on the 1st January, 2017.

There continues to be no fee payable to the Guernsey Financial Services Commission when a non-Guernsey company migrates "inwardly" to become registered as a Guernsey company.

No.68 of 2016

**THE FINANCIAL SERVICES COMMISSION (LIMITED LIABILITY PARTNERSHIPS) (FEES) REGULATIONS, 2016**

In pursuance of section 113(4) of the Limited Liability Partnerships (Guernsey) Law, 2013, The Financial Services Commission (Limited Liability Partnerships) (Fees) Regulations, 2016 made by the Committee *for* Economic Development on 8<sup>th</sup> December 2016, are laid before the States.

**EXPLANATORY NOTE**

These regulations, made by the Committee *for* Economic Development, prescribe the fee payable to the Commission under the Limited Liability Partnerships (Guernsey) Law, 2013 in relation to an application for the consent of the Commission for a supervised LLP to be removed from the Register. They come into force on 1<sup>st</sup> January, 2017.

No.67 of 2016

**THE PROTECTED CELL COMPANIES AND INCORPORATED CELL COMPANIES (FEES PAYABLE TO THE GUERNSEY FINANCIAL SERVICES COMMISSION) REGULATIONS, 2016**

In pursuance of section 537 of the Companies (Guernsey) Law, 2008, The Protected Cell Companies and Incorporated Cell Companies (Fees payable to the Guernsey Financial Services Commission) Regulations, 2016 made by the Committee *for* Economic Development on 8<sup>th</sup> December 2016, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe the fees payable to the Guernsey Financial Services Commission by any company for consent for the conversion of a licensed company into a protected cell company or an incorporated cell company, for the conversion of an existing licensed protected cell company into an incorporated cell company, or for the conversion of a licensed protected cell company or incorporated cell company into a non-cellular company. The Regulations also specify a fee for the conversion of an existing cell of a protected cell company into a non-cellular company. These Regulations come into force on the 1<sup>st</sup> January, 2017.

No.69 of 2016

**THE GUERNSEY FINANCE LBG (LEVY)  
(GUERNSEY) (AMENDMENT) REGULATIONS, 2016**

In pursuance of Section 25 (4) of the Guernsey Finance LBG (Levy) (Guernsey) Law, 2010, The Guernsey Finance LBG (Levy) (Guernsey) (Amendment) Regulations, 2016, made by the Committee *for* Economic Development on 8<sup>th</sup> December 2016 are laid before the States.

EXPLANATORY NOTE

These regulations amend the Guernsey Finance LBG (Levy) (Guernsey) Regulations, 2010 by providing that for the purposes of the Guernsey Finance LBG (Levy) (Guernsey) Law, 2010, the amount of the levy in respect of each full time employee of the licensed person in question shall be £110 for 2017 and subsequent years, with reductions for licensees who become subject to the levy in the course of the year. The regulations also specify that the maximum amount payable by a licensed person by way of the levy shall be £16,500 in respect of 2017 and subsequent years. These Regulations come into force on the 1<sup>st</sup> January, 2017.

No.51 of 2016

**THE LIMITED PARTNERSHIPS (FEES, ANNUAL VALIDATIONS AND MISCELLANEOUS PROVISIONS) REGULATIONS, 2016**

In pursuance of section 44(3) of the Limited Partnerships (Guernsey) Law, 1995, The Limited Partnerships (Fees, Annual Validations and Miscellaneous Provisions) Regulations, 2016 made by the Committee *for* Economic Development on 10<sup>th</sup> November 2016, are laid before the States.

EXPLANATORY NOTE

These regulations prescribe the fees payable to the Greffier in respect of services in relation to limited partnerships, including an annual £500 fee on all limited partnerships registered in Guernsey; require all such limited partnerships to file an annual validation with the Greffier setting out prescribed particulars; provide that the Greffier may rectify errors or formal defects in the limited partnership register; and make provision for electronic record keeping. These regulations came into force on 15<sup>th</sup> November 2016.

No. 93 of 2016

**THE INCOME TAX (APPROVED INTERNATIONAL AGREEMENTS) (IMPLEMENTATION) (COUNTRY BY COUNTRY REPORTING) REGULATIONS, 2016**

In pursuance of section 203A of the Income Tax (Guernsey) Law, 1975, as amended, "The Income Tax (Approved International Agreements) (Implementation) (Country by Country Reporting) Regulations, 2016" made by the Policy & Resources Committee on 20<sup>th</sup> December 2016, are laid before the States.

EXPLANATORY NOTE

These Regulations implement and enable the administration and enforcement in domestic law of Article 6 of the Convention on Mutual Administrative Assistance in Tax Matters (an approved international agreement providing for the obtaining, furnishing and exchanging of information in relation to tax), in accordance with the information exchange procedure agreed under the Multilateral Competent Authority Agreement on the exchange of Country by Country Reports signed on behalf of the States of Guernsey on 20<sup>th</sup> October 2016.

The full text of the statutory instruments and other legislation included in this document can be found at: <http://www.guernseylegalresources.gg/article/151276/2016>

**THE SUPPLEMENTARY BENEFIT (RESIDENCE CONDITIONS) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Supplementary Benefit (Residence Conditions) Ordinance, 2017", and to direct that the same shall have effect as an Ordinance of the States.

This proposition has 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.

**EXPLANATORY MEMORANDUM**

The Ordinance is made under powers contained in the Supplementary Benefit (Guernsey) Law, 1971.

Section 1(1) provides that a relevant person, who satisfies the usual conditions for eligibility for a supplementary benefit, will not be eligible for that benefit unless he or she has also at any time resided in Guernsey or Alderney for a continuous period of 5 years. Section 1(2) makes clear, for the avoidance of doubt, that the continuous period of residence in Guernsey or Alderney may comprise a period or periods of residence in Guernsey and a period or periods of residence in Alderney. Section 1(3) enables the Administrator to direct that the residence condition under 1(1) shall not apply where he or she is of the view that there are exceptional circumstances that apply in relation to the relevant person concerned. Where the Administrator makes a direction under section 1(3), section 1(4) enables the Administrator to award a supplementary benefit of such amount and for such period as is, in the opinion of the Administrator, reasonable having regard to all the circumstances of the case.

A "relevant person" is defined in section 2(1) as a person whose resources are insufficient to meet his or her means and who occupies, or is otherwise resident in, a property inscribed in Part D of the Housing Register.

The Ordinance comes into force on the same day as Part 1 of the Open Market Housing Register (Guernsey) Law, 2016 comes into force.



## **The Supplementary Benefit (Residence Conditions) Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 3<sup>rd</sup> November, 2016<sup>a</sup>, and in exercise of the powers conferred on them by sections 1(1)(a)(iv) and 15 of the Supplementary Benefit (Guernsey) Law, 1971<sup>b</sup> as amended and all other powers enabling them in that behalf, hereby order:-

### **Residence condition relating to persons occupying Part D properties.**

1. (1) A relevant person is not eligible for a supplementary benefit under and in accordance with the Law, unless he or she –

- (a) satisfies the conditions for eligibility relating to his or her circumstances under the Law, and
- (b) subject to subsection (3), has at any time resided in Guernsey or Alderney for a continuous period of five years.

(2) For the avoidance of doubt, the continuous period of residence in Guernsey or Alderney referred to in subsection (1)(b) may comprise a period or periods of residence in Guernsey and a period or periods of residence in Alderney.

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<sup>a</sup> Article 4 of Billet d'État No. XXVII of 2016.

<sup>b</sup> Ordres en Conseil Vol. XXIII, p. 26; Vol. XXVI, p. 292; Vol. XXXI, p. 278 and Vol. XXXIX, p. 107; Order in Council No. XIII of 2014; has effect in Alderney by Recueil d'Ordonnances Tome XVII, p. 168; Tome XXIV, p. 468 and Tome XXVI, pp. 177 and 317 and as varied by Tome XXXIII, p. 649; Ordinance No. VII of 2010; No. XLIX of 2014 and No. IX of 2016.

(3) The Administrator may direct that subsection (1)(b) shall not apply where he or she is of the view that there are exceptional circumstances that apply in relation to the relevant person concerned.

(4) Where the Administrator makes a direction under subsection (3), he or she may award a supplementary benefit of such amount and for such period as is, in the opinion of the Administrator, reasonable having regard to all the circumstances of the case.

**Interpretation.**

2. (1) In this Ordinance -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation,

"**Housing Register**" means the register of dwellings –

- (a) established under section 22(1) of the Housing (Control of Occupation) (Guernsey) Law, 1982<sup>c</sup>,
- (b) maintained by the States Committee for Home Affairs under the Housing (Control of Occupation) (Guernsey)

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<sup>c</sup> Ordres en Conseil Vol. XXVII, p. 448; as amended by Vol. XXXI, p. 30; Vol. XXXII, p. 88; Recueil d'Ordonnances Tome XXII, pp. 369, 470 and 548; Tome XXIII, pp. 33, 255, 256 and 438; Tome XXIV, pp. 104 and 498; Tome XXV, pp. 30, 74 and 135; and Tome VI, p. 10 and 291.



Law, 1994<sup>d</sup>, and

- (c) to be known as the Open Market Housing Register and maintained by the States Committee for the Environment & Infrastructure under the Open Market Housing Register (Guernsey) Law, 2016,

"**the Law**" means the Supplementary Benefit (Guernsey) Law, 1971,

"**relevant person**" means a person –

- (a) whose resources are insufficient to meet his or her requirements, and
- (b) who -
  - (i) occupies, or
  - (ii) is otherwise resident in,

a property inscribed in Part D of the Housing Register,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any

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<sup>d</sup> Ordres en Conseil Vol. XXXV(1), p.75; as amended by Vol. XXXVIII, p. 193; Vol. XLII(1), p. 34; Order in Council No. VIII of 2007; No. I of 2009; Ordinance No. XXXIII of 2003; No. XVII of 2008; and No. VII of 2010.

statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Extent.**

3. This Ordinance has effect in the islands of Guernsey, Herm and Jethou.

**Citation.**

4. This Ordinance may be cited as the Supplementary Benefit (Residence Conditions) Ordinance, 2017.

**Commencement.**

5. This Ordinance shall come into force on the same day as Part 1 of the Open Market Housing Register (Guernsey) Law, 2016 comes into force.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' TRADING SUPERVISORY BOARD and**  
**COMMITTEE *FOR THE* ENVIRONMENT & INFRASTRUCTURE**

IMPLEMENTATION OF THE SOLID WASTE STRATEGY

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled 'Implementation of the Solid Waste Strategy' of the States' Trading Supervisory Board and the Committee *for the* Environment & Infrastructure, they are of the opinion: -

1. To rescind Resolution 2 of 1<sup>st</sup> February, 2007 on Billet d'État I of 2007, Resolution 2 of 30<sup>th</sup> November, 2007 on Article XII of Billet d'État XXIV of 2007, Resolution 4 of 9<sup>th</sup> December, 2010 on Article V of Billet d'État XXIV of 2010 and Resolution 1 of 22<sup>nd</sup> February, 2012 on Article VII of Billet d'État IV of 2012, and approve revised recycling targets to apply only to waste generated by households as follows:
  - a. 60% by the end 2022; and
  - b. 70% by the end of 2030.
2. To rescind the following resolutions of 12<sup>th</sup> February, 2014 on Article I of Billet d'État II of 2014 –
  - a. Resolutions 4 and 5, in relation to tendering for the Transfer Station and the transportation and export of residual waste to an off-island energy from waste facility;
  - b. Resolution 6, in relation to the approval of recommended tenderers and the release of relevant funds for capital and operational costs for the Transfer Station and the transportation and export of residual waste to an off-island energy from waste facility;
  - c. Resolution 7, in relation to tendering for other on-Island infrastructure; and
  - d. Resolution 8, in relation to the approval of recommended tenderers and the release of relevant funds for capital costs up to a total sum not to exceed £29.5 million.

3. To approve the change in the method of treatment of food waste from on-island In-Vessel Composting to the export and transportation of food waste and its subsequent treatment at a suitable off-island facility.
4. To authorise the States' Trading Supervisory Board:-
  - a. to tender for the export and transportation of food waste and its subsequent treatment at a suitable off-island facility;
  - b. to continue the tender process for the export and transportation of residual waste and its subsequent treatment at an off-island energy from waste facility;
  - c. to continue the tender process for the construction or operation or the construction and operation of -
    - i. a Transfer Station;
    - ii. a Materials Recovery Facility;
    - iii. a Household Waste Recycling Centre; and
    - iv. a Repair and Reuse Centre and any other general site infrastructure at Longue Hogue,

and to direct the States' Trading Supervisory Board, on receipt of tenders, to submit a full business case or cases in relation to such infrastructure and services, to the Policy & Resources Committee, in accordance with any requirements of the Policy & Resources Committee.
5. To authorise the States' Trading Supervisory Board to approve tenderers for any of the facilities or services referred to in proposition 4, subject to prior approval of a full business case relating to the facilities or services in question by the Policy & Resources Committee and to direct the Policy & Resources Committee, upon its approval of such a full business case and the approval of the relevant tender by the States' Trading Supervisory Board, to make available a loan from the proceeds of the States of Guernsey Bond Issue (of December 2014) to fund the capital costs of such facilities or services; and to direct the States' Trading Supervisory Board to fund the loan interest and capital repayments from the Solid Waste Trading Account.
6. If any of the costs of the Solid Waste Strategy exceed those indicated in the Policy Letter, to delegate authority to the Policy & Resources Committee to approve revisions to the relevant estimated capital and operational costs.

7. To note that all solid waste management costs of the States referred to in the Policy Letter are to be managed through the Solid Waste Trading Account in accordance with Resolution 2 of 12<sup>th</sup> February, 2014 on Article I of Billet D'Etat II of 2014 and to direct the States' Trading Supervisory Board to recover such costs fully through charges to householders, businesses and other users of waste management services.

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.

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**STATES' TRADING SUPERVISORY BOARD and**  
**COMMITTEE *FOR THE* ENVIRONMENT & INFRASTRUCTURE**

IMPLEMENTATION OF THE SOLID WASTE STRATEGY

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

16<sup>th</sup> January, 2017

Dear Sir

**1 Executive Summary**

- 1.1. In 2012<sup>1</sup> the States agreed a new waste strategy for Guernsey, following extensive public consultation. It is based on the Waste Hierarchy<sup>2</sup>, and aims to minimise the waste produced by local homes and businesses, and encourage more reuse and recycling. The States also resolved that residual waste left after efforts to reduce, reuse and recycle, should be exported for energy recovery. This followed two previous unsuccessful attempts to procure an on-island Energy Recovery Facility (ERF).
- 1.2. In February 2014,<sup>3</sup> the States directed the then Public Services Department (PSD), in its capacity as the Waste Disposal Authority (WDA), to seek tenders for a range of facilities and services required to give effect to the Strategy. These included a transfer station to prepare waste for export and off-island energy recovery, and a contract with a receiving plant to treat this material. Other services included sorting of recyclables and separate treatment of food waste.

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<sup>1</sup> Billet d'Etat IV of 2012, Article VII.

<sup>2</sup> The "waste hierarchy" ranks waste management options according to what is best for the environment. Top priority is preventing waste in the first place. Where waste is created, priority is to preparing it for re-use, then recycling, then recovery, and last of all disposal (e.g. landfill). Source: [www.gov.uk/government/publications/guidance-on-applying-the-waste-hierarchy](http://www.gov.uk/government/publications/guidance-on-applying-the-waste-hierarchy).

<sup>3</sup> Billet d'Etat II of 2014, Article I.

- 1.3. It was anticipated that the capital funding requirements would total approximately £29.5 million and the then Treasury & Resources Department (T&R) was given delegated authority by the States to approve funding up to this amount upon receipt of suitable business cases.
- 1.4. Since 2014 extensive work has been carried out to advance the procurement of appropriate infrastructure. As this work has progressed, various issues have come up, some of which have led to changes to some aspects of the Strategy and also about the infrastructure and services needed to deliver it.
- 1.5. As a result, this policy letter is now seeking States approval for the following amendments to the resolutions of 2012 and 2014:
- Revised recycling targets (extending the dates for meeting the 60% and 70% targets, and removing commercial waste from those targets);
  - Replacement of on-island In-Vessel Composting (IVC) with an alternative method of dealing with separated food waste at a suitable off-island facility;
  - Delegated authority for the Policy & Resources Committee (P&RC) to approve business cases and expenditure in respect of:
    - A transfer station
    - A Materials Recovery Facility (MRF)
    - A Household Waste Recycling Centre (HWRC)
    - A Repair & Reuse Centre and
    - Any other general site infrastructure needed at Longue Hougue.
- 1.6. The facilities and services now proposed will be able to support delivery of the most significant aspects of the Strategy agreed by the States. However, whilst the facilities in question still enable the aims of the Strategy to be delivered, they differ slightly from what was anticipated in 2014. This is perhaps unsurprising, as at the time of writing the 2014 report, there had been little engagement with potential providers and no formal tendering carried out.
- 1.7. The total Strategy costs over 20 years, including operating costs, has increased from the 2014 pre-tender estimates of £200-£260 million to around £298 million. A significant proportion of the increase is attributable to the fact that operating costs for the transfer station are higher than originally anticipated.
- 1.8. Capital costs, including contingencies, are now estimated to be £33 million. This is above the delegated authority given in 2014 to T&R to approve capital funding of up to £29.5 million.

- 1.9. The time scale for constructing the infrastructure needed to support delivery of the Strategy is now critical. Mont Cuét is the island's only site for putrescible waste disposal, and it is estimated it will reach effectively full capacity during the third quarter of 2018. To continue landfilling at current rates beyond then will seriously inhibit future use of the site for composting green waste. It would also begin to diminish the available void space for future disposal of specially controlled/hazardous waste (e.g. asbestos), which is not suitable for treatment as Refuse Derived Fuel.
- 1.10. A realistic timescale for the commissioning of the proposed new facilities is during quarter 4 of 2018, at which point exports will commence.
- 1.11. The time lag between Mont Cuét reaching its optimal level in Q3 2018 and the commencement of exports is currently considered manageable. On the current programme timeline, the proposed facilities at Longue Hougue will begin to receive waste during commissioning. However any delay to this is likely to impact on the future use of Mont Cuét, and incur significant additional costs.
- 1.12. The resolutions of the States in 2012 and 2014 have been progressed, with key contracts having been through procurement, contract negotiation, and design stages. Planning approval has also been received for Longue Hougue. These are all necessary stages, with considerable time scales.
- 1.13. In light of the time that would be needed, even if the Assembly were minded to consider alternatives at this late stage, they could not be achieved in the time available.
- 1.14. This policy letter therefore seeks to address the approvals needed to progress the construction of the necessary infrastructure and related matters, as set out, as a matter of extreme urgency. It is not intended to revisit previous States decisions in terms of the Strategy itself and its fundamental aims and approach. Those are still relevant and, in the view of both the States' Trading Supervisory Board (in its role as the WDA) and the Committee *for the* Environment & Infrastructure (CfE&I), appropriate to the island's requirements.
- 1.15. The States' Trading Supervisory Board (STSB) recommends that P&RC be authorised to approve business cases and approve the grant of a loan to cover the capital cost of the facilities needed to enable delivery of crucial aspects of the Waste Strategy.
- 1.16. The CfE&I supports this recommendation, approval of which is fundamental to the progression of the crucial infrastructure project that underpins so much of the Waste Strategy.



- 1.17. In summary therefore the States are asked to approve the changes to the implementation of the Waste Strategy, namely:
- To authorise P&RC to release funds for capital costs for the construction of a Waste Transfer Station, a Household Waste Recycling Centre, and general site infrastructure at Longue Hougue;
  - Replacement of an on-island IVC facility with an alternative method of dealing with separated food waste at a suitable off-island facility; and
  - To extend the date for the recycling rate target(s), in line with revised programme timescales and to revise the definition to household waste only.
- 1.18. For the avoidance of doubt, details of the new charging regime, including the timing of its introduction, will be set out in a further policy letter at a later date.

## **2 Background**

- 2.1. The CfE&I is responsible for advising the States on waste policy matters. That includes the periodic review of the Solid Waste Strategy and the Waste Management Plan (WMP).
- 2.2. The STSB is designated by Ordinance as the WDA and has various waste-related statutory functions. They include making arrangements for the island's solid waste management in accordance with the States' Waste Strategy and WMP.
- 2.3. For decades, Guernsey's primary method for disposing of thousands of tonnes of putrescible waste produced by local homes and businesses every year has been landfill - mostly using disused former quarries.
- 2.4. As far back as 1998, the States acknowledged that this could not continue indefinitely. Landfill is inferior to other disposal methods. It destroys resources in waste, does not recover usable energy, and is a hazard to the environment (leachate, odours, greenhouse gas emissions<sup>4</sup>). It also renders a site unavailable for alternative uses, such as water storage or further quarrying.
- 2.5. However, the search for an alternative to landfill has had a very long and challenging history. Proposals to construct an on-island Energy Recovery Facility (ERF) have twice been approved and then overturned by the States, at considerable financial cost. In 2010, it was estimated that in total nearly £12m had been spent on the two aborted projects.
- 2.6. Consequently the issue of waste management in Guernsey is highly emotive – not least because waste disposal in future will inevitably be more costly than the current outdated practice.

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<sup>4</sup> In 2014, landfilled waste was the second largest contributor to local greenhouse gas emissions, after power generation. (Source: 2016 Guernsey Annual GHG Bulletin).

- 2.7. At current filling rates, Mont Cuét will reach its optimum level in Q3 of 2018. Any delay to the construction and commissioning of new infrastructure will have major consequences in terms of cost, time scale, disruption to waste management services and business continuity.
- 2.8. In addition to general landfill (of residual waste), Mont Cuét is currently used for green waste processing, and that is set to continue long term.
- 2.9. Part of the site is also used for certain specially controlled/hazardous wastes not suitable for export in the form of Refuse-Derived Fuel (RDF)<sup>5</sup> (e.g. asbestos). It is important to retain the hazardous waste cell, as Mont Cuét is identified as the site for disposal of these materials for the next 25 years.

### **3 Approved Waste Strategy**

- 3.1. The Waste Strategy is based on the Waste Hierarchy, which is an internationally accepted principle and guide to sustainable waste management. It identifies the preferred order for managing waste, with the aim of extracting maximum practical benefits from products and materials and generating least amount of waste. The proper application of the waste hierarchy can have several benefits. It can help prevent emissions of greenhouse gases, reduce pollutants, save energy, conserve resources, create jobs and stimulate the development of environmental technologies.
- 3.2. It must be stressed that the Strategy is an integrated package of measures to address every level of the waste hierarchy - not just final treatment/disposal. This policy letter, however, is concerned mainly with the infrastructure needed to support the delivery of suitable waste treatment and preparation of waste for recovery and disposal where other options are no longer achievable. It does not seek to revisit the Strategy itself, which was developed after extensive public consultation and approved in 2012.
- 3.3. The infrastructure needed to support the delivery of the Waste Strategy was debated by the States in February 2014. The pre-tender estimate for the total cost of implementing the Waste Strategy, including procuring and operating that infrastructure, was up to around £260m. However it was emphasised greater cost certainty could only be achieved following procurement.

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<sup>5</sup> After undergoing on-island separation, processing and baling, residual waste is classed as refuse derived fuel and can then be legally exported for energy recovery in accordance with international transfrontier shipment of waste regulations.

- 3.4. The States resolved to proceed on that basis, and gave T&R delegated authority to approve recommended tenders for the infrastructure and services required, on receipt of suitable business cases, up to a maximum capital expenditure of £29.5 million. It was not anticipated that this matter would return to the Assembly for further consideration.
- 3.5. As well as setting a limit on the delegated authority to approve capital costs, the February 2014 resolutions directed PSD to tender for specific facilities. These were:-
- Waste Transfer Station
  - Materials Recovery Facility (MRF)
  - In-Vessel Composter (IVC)
  - Civic Amenity (CA) Site - now referred to as the HWRC
  - Repair and Reuse Centre
  - Kerbside collection vehicles (if required)
- 3.6. This precise stipulation of the elements to be tendered at that relatively early stage offered no flexibility in the subsequent procurement process. PSD and subsequently the STSB<sup>6</sup> have undertaken the procurement processes necessary to comply with these resolutions of the States.
- 3.7. In 2014, expressions of interest in tendering for the main infrastructure elements were invited. Five companies or consortia were then invited to bid, but four withdrew from the process, leaving a single bidder group:-
- Local firm Guernsey Recycling Group, to operate the MRF;
  - Local construction firm Geomarine, to build the facilities at Longue Hougue;
  - UK engineering firm Amec Foster Wheeler, for the detailed design of the Longue Hougue facilities;
  - States Works<sup>7</sup>, to operate the transfer station and HWRC at Longue Hougue;
- 3.8. With a single bidder, on the advice of the States' strategic procurement team, the tender process formally ceased and the procurement proceeded on a negotiated basis. In early 2015 the Bidder Group submitted its initial capital cost estimates, which exceeded the budget approved by the States in 2014.

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<sup>6</sup> PSD up to 30<sup>th</sup> April, 2016; STSB from 1<sup>st</sup> May, 2016.

<sup>7</sup> States Works is a States of Guernsey Trading Asset.

- 3.9. The PSD Minister made a statement in the Assembly in April 2015, to update States Members on the procurement and explain that the Department had begun to revisit the scope of the facilities to be provided, in order to reduce the estimated costs. This included removing the proposed IVC facility, and instead exploring the option of an alternative export solution for food waste treatment.
- 3.10. It is perhaps helpful to explain at this juncture that IVC is a form of treatment for organic waste, which involves heating it in a controlled environment over a period of time to produce compost which can be applied to land. It is primarily used for processing organic material such as food waste, and sewage sludge together with green waste. There are already high levels of nutrients in Guernsey farmland which limits the available land for applying IVC derived compost, and increases the risk of elevating nutrient levels in surface water within the water catchment area. Nevertheless, there were plans in place to mitigate these risks.
- 3.11. The proposal now is to export food waste and use a different treatment system, known as Anaerobic Digestion (AD). This method is widely considered to be the optimum solution for food waste<sup>8</sup>, in terms of environmental impact. It was included in the original evaluation of options when the Strategy was developed, but was deemed impractical to implement locally, not least because the output is nitrate rich liquid. With nitrates already high in farming areas on Guernsey, it was concluded that it would be unlikely to secure sufficient farmland locally to allow the long term application of outputs, without impacting on nitrate levels in local drinking water supplies. IVC was therefore adopted as a preferred alternative, at that time.
- 3.12. AD has a number of additional benefits to IVC, most notably recovery of energy and therefore better environmental performance. It also produces nutrients that can be applied to farmland (albeit not in Guernsey). As these are in liquid form they are more readily available for plant uptake than from compost produced through IVC. In addition, the export of food waste removes the risk involved in managing outputs on-island, and reduces operating risk.
- 3.13. Given the recent growth both in the renewable energy sector (increasing AD capacity) and separate food waste treatment in the UK, export to an AD facility is now a more practical solution. It is therefore a better solution for food waste treatment, which still meets the objectives of the Strategy and at the same time eliminating some risks associated with the previous approach.
- 3.14. This proposed change requires the States to authorise the STSB to tender for alternative facilities and services to manage and process food waste.

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<sup>8</sup> UK Department of Environment, Food and Rural Affairs: Anaerobic Digestion Strategy and Action Plan, Annual Report 2014.

#### **4 Recycling rates**

- 4.1. In 2012 the States approved a recycling rate target of 70% by 2025 (household and commercial waste combined), with interim targets of 50% by 2013 and 60% by 2018. This acknowledged increased recycling would require time and behaviour change following introduction of new services, facilities and charges.
- 4.2. When the targets were agreed, it was anticipated that the Strategy would be fully implemented by the end of 2015. Given that this is now expected to be the last quarter of 2018, the CfE&I proposes that the date for the 70% target should be adjusted to 2030.
- 4.3. It also now proposes calculations of recycling rates should be consistent with those used throughout the EU and UK that apply to householder waste (akin to municipal waste collected by local authorities). This does not in any way diminish the importance of commercial waste recycling, but the rate for that involves a separate calculation which needs to be reviewed. A target for this will be proposed in due course once an appropriate methodology is identified.
- 4.4. In 2015 the household recycling rate in Guernsey was 48.7%. A 70% target is therefore challenging, but it is worth noting that Wales recently reported 60.2% recycling in 2015/16. That is more than double their rate just 10 years earlier, and it now has targets of 64% by 2020 and 70% by 2025.
- 4.5. The type of measures that have been successful in Wales, such as kerbside recycling collections and separate food waste treatment, are important elements of the island's Waste Strategy. The progress achieved there could well also be seen here, given that culturally Wales is arguably not too dissimilar to Guernsey (compared to other mainland Europe countries such as Germany, Austria and Belgium, which are often cited for good recycling performance).
- 4.6. The Strategy is also consistent with the approach other European countries are adopting. The proposed EU Circular Economy Package proposes legally binding targets on Member States which include increasing municipal waste recycling to 65% and reducing landfill to a maximum of 10% of municipal waste by 2030. There should be benefits to Guernsey from such developments in spheres where it has little influence – for example reduction of product packaging.

#### **5 Export destination**

- 5.1. The export contract for the RDF transport and off-island energy recovery has been tendered.
- 5.2. Following the evaluation of tenders, Geminor UK was identified as the preferred bidder. Its tender scored highest in both technical and financial evaluation, and provided the most robust contingency arrangements.

- 5.3. The company has proposed export to the UK and onward transfer to a European Energy Recovery Facility (ERF). This provided a more cost effective solution than bids received from other shortlisted providers, all of which involved use of Jersey's ERF.
- 5.4. It also scored better in a separate environmental appraisal. This is because as well as generating electricity, as Jersey's facility can, the proposed ERF also uses heat from the process to feed a district heating system. This additional energy recovery more than offsets the higher transport requirement.
- 5.5. There were a number of other issues associated with all bids to use Jersey as the export destination:
- The Jersey proposals were assessed to be more expensive over five years;
  - Contingency arrangements, should there be any technical problems with the Jersey plant, were not as robust, which increases risks and potentially costs;
  - The principle of importing waste into Jersey requires the approval of its States Assembly and there is no certainty that this will be achieved. Our Law Officers advise it would also be prudent for changes to Jersey's legislation to be in place, to minimise risk; and
  - Despite the proximity of Jersey, the proposal did not offer the best environmental solution.
- 5.6. The States of Jersey also submitted an alternative bid in the form of an invitation to negotiate. This provided insufficient information to score against the evaluation criteria set out in the invitation to tender, and was considered non-compliant. Consequently, it had to be discounted.
- 5.7. It is therefore proposed to sign a three year contract with Geminor UK, with the option to extend this for a further two years. The company has identified a high efficiency ERF in Sweden as the proposed destination for Guernsey's RDF. Geminor operates contracts with numerous other facilities in Europe, and can send the material it receives to whichever is most cost-effective at the time.
- 5.8. After the initial three-year period, it is intended to retender the contract which will be an opportunity to engage Jersey in the process again. The fact that Jersey has been ruled out for the time being therefore does not mean that it is ruled out indefinitely should the current impediments be resolved. That does not however affect the specification or choice of infrastructure needed to prepare waste for export.

- 5.9. It would be imprudent to construct a facility designed solely around waste acceptance criteria for Jersey's plant. This would result in complete inflexibility regarding future export destinations and leave Guernsey vulnerable to future changes that might take place in Jersey, including financial changes (i.e. an increase in gate fees), changes in Jersey's own waste strategy (e.g. a move away from incineration) or other reasons for their plant becoming unavailable to Guernsey. For these reasons, it is vital that we have contingency options and this requires our residual waste to be treated as RDF.
- 5.10. It therefore makes sense to build a facility to produce RDF to a standard that is acceptable to plants in the UK and Europe, as well as Jersey, thereby maximising future flexibility, whilst also being willing to hold future negotiations with Jersey, should other issues such as legislation and proposed gate fees be addressed by its authorities in the meantime.

## **6 Affordability**

- 6.1. It has been known for some considerable time that the cost of dealing with the island's waste will inevitably be higher in the future. This is because we will no longer be relying on what has been the cheapest form of waste disposal. Costs will instead reflect the more sustainable, modern methods for managing waste.
- 6.2. An important priority has been to ensure any new facilities or services deliver the best value that can be achieved. Nevertheless it is inevitable that both States Members and the public will want to understand what the future costs will be to householders.
- 6.3. Currently, the average household refuse bill is equivalent to around £2.15 per week. That is estimated to rise to around £7 per week when the new infrastructure is fully operational. Therefore most households are likely to see a significant increase in their waste bills.
- 6.4. However, to assess the significance of these increases, it is important to consider waste charges in a wider context. There are a number of relevant factors:-
- The magnitude of the charges needs to be considered in the context of general levels of household expenditure, and other costs.
  - How the increases might affect those households, predominantly on low incomes, who could potentially be most impacted.
  - Flexibility in the charging structure to address individual affordability, should that be desirable.

- 6.5. There is limited benefit in benchmarking local costs with other jurisdictions. One issue is the lack of available data that is readily comparable. Another is that identifying whether the island is more (or less) expensive than another location is not necessarily evidence that greater value or efficiency can be achieved locally. Every jurisdiction's costs reflect its specific circumstances and it is not unusual for Guernsey costs to be high in comparison with others' because of the need to transport items to and/or from the island.

### **Magnitude of costs and increases**

- 6.6. According to the most recent study<sup>9</sup>, average household expenditure in 2013 was £1,046.12 per week. This is equivalent to £1,096.72 in 2016<sup>10</sup>.
- 6.7. Therefore, currently the average household waste bill (c £2.15 in 2016) equates to around 0.2% of household expenditure. The anticipated increase to £7 a week will equate to 0.6% (see Figure 1 below, which compares this to other household expenditure).
- 6.8. In other words, on average, out of every £1,000 a household currently spends, £2 is on waste services. In future, that average will be around £6 in every £1,000.

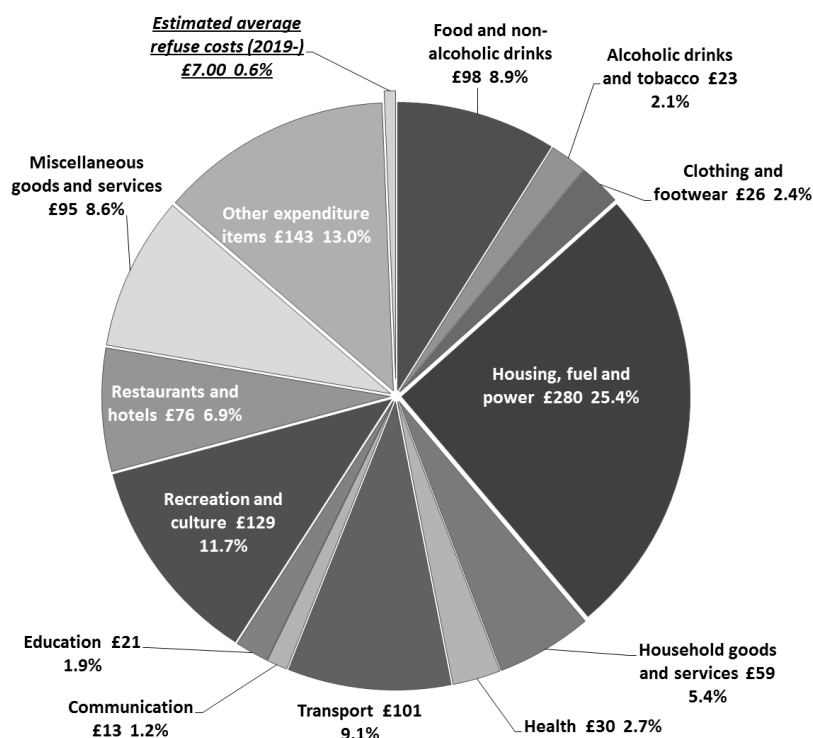


Figure 1: Average Weekly Household expenditure 2012/13, with inflation

<sup>9</sup> The Policy Council: 2012-13 Household Expenditure Survey Report. Based on data from 1,000+ households, over a 14 month period ending in June 2013.

<sup>10</sup> RPI June 2013 to September 2016 = 4.8%. [www.gov.gg/rpi](http://www.gov.gg/rpi).



### **Structure of charges**

- 6.9. Currently, a household's waste charges are based on the size of their property, as assessed for the purposes of Tax on Real Property (TRP).
- 6.10. For a small number, occupying the smallest properties, the annual refuse rate will equate to less than £1 a week for all their waste services. At the other end of the scale, a small number of households pay 20 times that amount.
- 6.11. In terms of affordability, there is a degree of fairness to TRP-based charging if one assumes those who occupy larger homes can afford to pay more. While that may generally be the case, it is not universally true.
- 6.12. TRP is based on dwelling size, not value or household income. Moderate income households may live in medium level TRP properties – possibly family homes – while high earners can own small but modern, high specification apartments.
- 6.13. The States have already resolved<sup>11</sup> to replace the TRP-based waste charges with a new system that incorporates an element of user pays. The legislation has already been approved which give the States the power to provide by Ordinance for a new system to comprise:-
- A collection charge per household, levied as a flat rate in each parish.
  - A WDA 'service' charge per household, at a flat rate across the island.
  - A per bag user charge, levied by the WDA on refuse, with an option also to charge for recycling.
- 6.14. The first two are in essence the 'standing charge' element of other utility bills. They reflect that there are fixed costs to providing waste services, irrespective of what use individual households make of these. However the 'per bag' charge provides a user pays element.
- 6.15. In 2014, PSD indicated it was minded not to apply a WDA fixed charge, and to include a recycling bag charge.
- 6.16. The STSB, the current WDA, is in favour of applying a fixed charge, but for recycling bags to remain free. In effect, households will all pay towards general recycling services within a 'standing charge' element, not at the point of use.
- 6.17. The States have previously agreed that those who produce the most waste should pay the most. The new charges therefore provide financial incentives and rewards to drive behaviour that meets this objective.

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<sup>11</sup> Billet d'État XXVI of 2014, Article X.

- 6.18. To try to design a system of charging that can achieve this and at the same time addresses every issue of individual affordability would, even if possible, run counter to the Strategy's objectives. As noted above, while the TRP system may attempt to provide a measure of 'fairness', it would not in itself protect moderate income households from relatively high waste charges in future.
- 6.19. Any issue of individual affordability is best dealt with through the existing benefits system, which can identify who is in genuine need of financial support and provide direct assistance.
- 6.20. From the perspective of the Waste Strategy, support is better addressed by providing assistance, services, and information to help low income households reduce waste and therefore bills.
- 6.21. The least desirable option would be to discount in some way the user pays element – for instance providing free refuse bags. Reducing the amount of waste the island produces, and has to deal with, will benefit the whole community, and therefore every household has a part to play. Everyone will have the opportunity to reduce black bag waste; for instance through separate food waste and kerbside recycling collections. Removing the 'user pays' element would effectively allow some to abdicate responsibility for the waste they produce, which runs counter to the objectives of the Strategy.
- 6.22. The 'standing charge' elements do however lend themselves to potential rebating. Most likely, the WDA fixed charge would be the preference, since this would be under direct control of the STSB.
- 6.23. By way of example, if the annual WDA fixed charge was £100, it would cost around £250,000 a year to provide a full rebate to one in every 10 households. That level of funding could, potentially, be raised by increasing the WDA charge by around £10 a year.
- 6.24. Any such arrangements would best be dealt with through the existing welfare system. This will therefore be progressed with the Committee *for* Employment & Social Security and with PR&C to identify what assistance might be required and the appropriate mechanisms and sources of funding.

## **7 Costs**

- 7.1. Best and final offers and tendered bids have now been received for the main contracts for the proposed new facilities and services. The STSB considers the current proposals represent the best commercial deal achievable and best value for money, following a complex tender process for a number of contracts and services, detailed negotiation, and value management reviews. The current status is shown in Table 1.

Capital works and services	Current status
Transfer station infrastructure	Preferred bidder AmecFW has submitted a conditional 'best and final offer' for the capital works
Transfer station and HWRC operations	Preferred bidder States Works has submitted a 'best and final offer' for the operating service level agreements.
MRF recycling processing services	Preferred bidder Guernsey Recycling Group has submitted a 'best and final offer' for the service contract.
Export of RDF for energy recovery	Geminor UK has preferred bidder status after a successful tender for this service contract.
HWRC infrastructure	An innovative modular system has been identified and costed, and estimates obtained for groundworks. An appropriate procurement strategy is being developed.
Repair and reuse service	A pilot contract for 6 to 12 months is being explored.
Export and treatment of food waste	Soft market testing for UK anaerobic digestion facilities has been completed.
Recycling collection services	The interim kerbside scheme is extended to the end of 2017. The preferred longer term option is for separate collection of dry recyclables (including glass) and food.

Table 1 - *Waste Strategy contracts*

- 7.2. All solid waste management costs of the Waste Strategy referred to in this Policy Letter are to be managed through the Solid Waste Trading Account<sup>12</sup>.
- 7.3. Total costs over 20 years are expected to be around £298.5 million, of which capital costs are £32.2 million (Table 2) and operational costs £266.2 million (Table 3).
- 7.4. A planning application for the proposed transfer station and HWRC was submitted and published in January 2016, and planning permission was received in July 2016. This completed a significant stage in the procurement, and development of the design has also enabled more refinement of costs.

<sup>12</sup> The Solid Waste Trading Account was established in January 2014 to consolidate future financial management and reporting for all solid waste management activities, whether income and expenditures for business as usual activities, or costs of waste strategy development and delivery.

## Capital Expenditure

- 7.5. The total waste infrastructure capital budget is now estimated to be £32.2 million. A comparison with the current estimates is provided in Table 2.
- 7.6. It is intended that these costs will be funded by a loan from the proceeds of the States of Guernsey Bond Issue (of December 2014), as identified in the 2016 Budget report.

	Strategy capital expenditure		
	Pre-tender estimate (£ million)	Dec 2016 (£ million)	Variance (£ million)
<b>MRF</b>	5.6	-	↓ 5.6
<b>Food waste processing</b>	3.6	2.4	↓ 1.2
<b>Transfer Station</b>	7.8	13.1	↑ 5.3
<b>Site development</b>	5.8	9.8	↑ 4.0
<b>HWRC/Repair &amp; Reuse<sup>13</sup></b>	3.0	2.0	↓ 1.0
<b>Capping Mont Cuet</b>	2.0	0.3	↓ 1.7
<b>Kerbside vehicles</b>	1.7	-	↓ 1.7
<b>Risk contingency<sup>14</sup></b>	-	3.1	↑ 3.1
	<b>29.5</b>	<b>30.7</b>	<b>↑ 1.2</b>
<b>Professional adviser fees<sup>15</sup></b>	1.2	1.5	↑ 0.3
	<b>30.7</b>	<b>32.2</b>	<b>↑ 1.5</b>

Table 2 - *Capital expenditure on Waste Strategy infrastructure*

<sup>13</sup> A CA site and Repair & Reuse centre were identified separately in 2014. It is now proposed these can be combined within a single HWRC facility at Longue Hougue.

<sup>14</sup> The pre-tender estimate for each element included optimism bias, which is a generally accepted method of allowing for cost uncertainty at the early stages of a project. The risk contingency now is calculated on a probability weighted basis in accordance with States wide risk management practices on projects and programmes.

<sup>15</sup> Professional advisor fees were identified in the 2014 policy letter as anticipated expenditure but not included in the capital estimates.

7.7. Points to note:

- While not all facilities originally envisaged remain within scope of the programme, all the recycling and waste management services and activities that were integral to the Strategy approved in 2012 will still be delivered.
- Total capital costs for the programme, including professional adviser fees, are currently within 5% of figures put forward in the 2014 policy letter.
- MRF facilities for sorting and processing household dry recyclables are expected to be provided by the private sector. Negotiations are at an advanced stage. Capital expenditure by the States is therefore not immediately required, but space is reserved at Longue Hougue should it become necessary to construct a facility in the future.
- Food waste processing will now take place inside the transfer station, and not in a separate building. Removal of the latter element from the project scope achieved a significant reduction in potential capital costs (c. £12 million net of the increase in the cost of the transfer station to accommodate food waste processing).
- Higher design and build costs for the waste transfer station are largely attributable to an increased footprint – now approximately 3,000m<sup>2</sup> compared to the pre-design estimate of 1,800m<sup>2</sup>. Glass processing is also now included in the transfer station.
- Expenditure by the States on new kerbside collection vehicles is not anticipated, but will still be provided by private contractors as necessary in performing their operating contracts.
- Capital expenditure represents approximately 11% of total Strategy costs over 20 years.

**Operating costs**

- 7.8. Updated estimates of operating costs over 20 years for the solid waste Strategy, including collection costs, are c. £266.2 million (on an aggregated nominal basis). This is £42.6 million above the pre-tender estimate presented to the States in 2014. A breakdown of the 2014 and current estimates is provided in Table 3.
- 7.9. Unless stated otherwise, current figures are quoted based on tendered or market tested prices, reflect the position achieved in negotiations by the end of 2016, or are based on current operational costs as adjusted for anticipated changes in operations.

Strategy operating costs (20 years)			
	Pre-tender estimate (£ million)	Dec 2016 (£ million)	Variance (£ million)
<b>Collection costs</b>			
Kerbside recycling	20.2	39.9	↑ 19.7
Residual waste	14.1	20.0	↑ 5.9
	<b>34.3</b>	<b>59.9</b>	<b>↑ 25.6</b>
<b>Operating costs</b>			
RDF production & export	56.8	89.3	↑ 32.5
Food waste processing & export	4.6	8.4	↑ 3.8
Dry recycling processing & export	17.6	11.3	↓ 6.3
Commercial MRF <sup>16</sup>	11.8	-	↓ 11.8
HWRC/Repair & reuse	10.0	12.8	↑ 2.8
	<b>100.8</b>	<b>121.8</b>	<b>↑ 21.0</b>
Mont Cuet	17.6	16.7	↓ 0.9
Longue Hougue (inert)	6.9	7.7	↑ 0.8
Fontaine Vinery	-	1.4	↑ 1.4
Other costs <sup>17</sup>	30.5	23.2	↓ 7.3
	<b>55.0</b>	<b>49.0</b>	<b>↓ 6.0</b>
<b>Life cycle asset replacement<sup>18</sup></b>	5.4	7.0	↑ 1.6
<b>Provisions</b>	10.3	9.0	↓ 1.3
<b>Financing costs</b>	17.8	19.5	↑ 1.7
	<b>223.6</b>	<b>266.2</b>	<b>↑ 42.6</b>

Table 3: *Waste Strategy operating expenses*

<sup>16</sup> Since the pre-tender stage, decisions have been made regarding States participation in the commercial waste sector. It is not anticipated this will include MRF provision.

<sup>17</sup> "Other costs" are business as usual expenditure other than for waste sites separately identified. This includes, for example, waste minimisation and recycling initiatives, bulk refuse services, operational staff costs, communications and supervision by STSB.

<sup>18</sup> Provisional estimate has been made for an asset replacement cycle of approximately 7 to 10 years in line with industry norm.

7.10. Points to note:

- Collection costs are included for completeness and are indicative only. At almost £3.0 million per annum, they are considered a worst case scenario - current combined annual costs for residual waste and dry recycling collections are around £1.5 million. The estimates are conservative and were developed in consultation with external technical advisers. Generous allowances were made, for instance, for assumed investment in new vehicles. Ultimately it will be for Douzaines to tender and negotiate these contracts and recover the costs from parishioners.
- A service level agreement is being negotiated with States Works for the operation of the transfer station and HWRC, at a combined annual cost of c £3.1 million. This compares with pre-tender estimates of only c £0.8 million a year, which clearly was significantly understated. In addition to staff costs, just the wrapping for RDF bales is estimated to be around £0.3 million a year, and annual ground rent payments to Property Services a further £0.3 million.
- The tendered costs per tonne for RDF export to an identified ERF in Europe fall within the range set out in the 2014 States Report. A proportion of the underlying costs to the supplier are denominated in a foreign currency. The project team is monitoring exchange rate movements against Sterling, and provision has been made within the financial estimates for potential exchange rate and transport industry inflation risks.
- Provisions include allowance for repairs and maintenance to the site bund, buildings and equipment where these may not be covered within current contractual arrangements. These allowances are under review pending finalisation of contracts and confirmation from suppliers of lifecycle costings for processing plant and equipment.
- In line with assumptions used in the 2014 States Report, finance costs stated above are based on a loan repayable over 20 years, with an interest rate of 5%. However, the interest rate is expected to be confirmed at no more than 4% once borrowing terms are formally agreed<sup>19</sup>. This would reduce cost estimates by c. £5 million (a potential saving of around £5 per household per annum).

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<sup>19</sup> Loans advanced from the proceeds of the States of Guernsey Bond Issue have to date been made on average at 3.8%. Budget Report 2016, paragraph 9.24.

## Collection costs

- 7.11. The estimates of collection costs in Table 3 include introduction of separate food waste collection and inclusion of glass in kerbside arrangements for dry recyclables. This is in accordance with the previous decisions of the States in approving the Strategy.
- 7.12. In preparing these estimates, detailed modelling was carried out to assess a range of different options for collecting and processing household waste and recyclables. Annual costs vary depending on which materials are collected separately, and in what combinations and frequency<sup>20</sup>.
- 7.13. For completeness, the baseline was taken to be collection for residual black bag waste only and just bring banks for recycling. In other words, the arrangement that was in place before the current, interim kerbside scheme was introduced.
- **Scenario 1 - Maintain the current (interim) kerbside scheme.** The incremental cost over and above the baseline was estimated at around £27 per household per year, or approximately 50p per week. However further improvements/efficiencies can be made, in terms of rationalising vehicles, and reducing the frequency of residual collections, with the introduction of weekly food waste collection.
  - **Scenario 2 – Optimise kerbside recycling and introduce food waste collections.** With optimised arrangements for other materials, the incremental cost compared to the baseline is estimated to be around £25 per household per year, or approximately 50p per week.
  - **Scenario 3 - Introduce food waste and glass collections.** The incremental cost, compared to baseline, is estimated to be around £45 per household per year, or approximately 90p per week.
- 7.14. Therefore compared to the cost of Scenario 1 (i.e. maintaining the current kerbside collection arrangements), introducing separate food waste and glass collections, with improved efficiency, (Scenario 3) will incur incremental additional cost of around £18 per household per year, or approximately 35p per week.

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<sup>20</sup> The calculations were for comparison purposes only. Collection costs were based on detailed modelling of routes, vehicle requirements/types, and consistent labour rates. Processing costs were included for the different waste streams based on the pre- and post-tender estimates for the different treatment facilities and services being procured. Hence the additional cost of collecting food waste separately, for instance, is offset by a reduced requirement to export this material as RDF.



- 7.15. Moving from parish boundary-based collection rounds to an island-wide arrangement would potentially achieve savings of £150,000-£250,000 per year through improved efficiencies. At this stage this is not a firm proposal, but demonstrates the potential opportunities for realisable savings, which could reduce household bills by up to £10 a year. This will be explored further with the parishes, who are responsible for arranging collections.
- 7.16. For the avoidance of doubt, the estimated average household cost of £7 per week is based on adopting Scenario 3. It is therefore inclusive of the additional food waste collection agreed by the States in approving the Strategy, and the inclusion of glass in kerbside collections.
- 7.17. To revert back to bring banks only could potentially reduce the cost per household by less than £1 per week. That would however preclude achieving the agreed recycling target of 70% by 2025 (or 2030, if that change is adopted). Separate collection and processing of food waste is fundamental to that target, and is a key driver to increases being achieved elsewhere.
- 7.18. Moving back only to collection of residual waste and relying solely on bring banks for recycling would realise some saving, but is unlikely to achieve any future improvement in recycling. It would also mean too much reliance on infrastructure that sometimes struggles to cope with the demands placed upon it, something that was particularly evident prior to the introduction of kerbside collections. In addition, many bring banks are in less than ideal locations (e.g. coastal car parks) and the aspiration is to reduce, rather than increase, their number.

## **8 Time scale and impact of delays**

- 8.1. There are now significant implications to any delay in the procurement and commissioning of the much-needed infrastructure. These include cost, but also almost inevitable disruption to waste management services and business continuity.
- 8.2. It is currently anticipated that, subject to necessary approvals, the earliest a contract for the transfer station design and build project can be awarded is April 2017.
- 8.3. From January 2017, additional costs may be incurred on the main infrastructure contract to compensate for construction industry inflation since the original bid submission in early 2015, plus internal resource costs. Together these are estimated at up to £75,000 per month. The risk register (and therefore total costs) makes allowance for a six month delay, although with best endeavours any additional costs will be negotiated to a minimum.

- 8.4. The time lag between Mont Cuét reaching its optimal level in Q3 2018 and the commencement of exports is currently considered manageable. On the current programme timeline, the proposed facilities at Longue Hougue will begin to receive waste during the commissioning phase in the second half of 2018. Any delay will impact on the future use of Mont Cuét for green waste composting and specially controlled/hazardous waste, and incur significant additional costs.
- 8.5. Securing another site for green waste processing, of suitable size and location, is likely to be prolonged and costly. It would involve a lengthy planning process, including a detailed Environmental Impact Assessment and, depending on the location, potentially a full planning inquiry. It would also require suitable engineering. It is therefore important that the optimum fill level at Mont Cuét is not exceeded.
- 8.6. Ignoring long-term arrangements for green waste and special/hazardous waste, landfill could continue at Mont Cuét at the current rate until around 2021. By then, waste would reach a fully domed profile of approximately 20m – roughly the height of the Royal Court building - above road level.

## **9 Engagement and consultation**

- 9.1. During 2010/11, the then PSD undertook an extensive engagement and consultation process<sup>21</sup>. It included an independent Consultation Review Panel to ensure transparency during the development of the Strategy. The information from that period was used to directly inform and shape the Strategy approved by the States in 2012.
- 9.2. The Law Officers of the Crown have been consulted and have provided advice and analysis throughout the implementation of the Strategy. This has been key to minimising any potential conflicts with the current WMP, relevant legislation, relevant extant States' Resolutions and the information that came to light during the procurement process for the various facilities and services required to implement the Strategy.
- 9.3. When the procurement process was at an advanced stage presentations were provided to Members from all Committees, including CfE&I, P&RC, and Scrutiny Management Committee, as well as Douzaines.
- 9.4. A stakeholder workshop programme, public drop-ins, newsletters, and numerous media briefings have also been implemented, as well as presentations to States Members at key stages, including publication of policy letters and periodic updates. Public consultation was undertaken prior to the recent approval of the Longue Hougue planning application.

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<sup>21</sup> As detailed in Billet d'État IV of 2012, Article VII, Appendices 3 and 11; also mentioned in Billet d'État II of 2014, Article I, paragraphs 9.1 and 9.2 and 30.4.

- 9.5. Previous experience has demonstrated understandable concerns within the community regarding past and present waste strategies - often vocally expressed. However there is no consensus on what represents the optimum solution, and no approach has ever achieved universal popularity.
- 9.6. As part of the public engagement in developing the Strategy, a series of workshops were attended by a wide cross-section of the community. These dealt with the issues in great detail, and it was possible to achieve an outcome that was broadly supported, and has been adopted.
- 9.7. Even if the Assembly were minded to consider alternatives at this late stage, they could not be achieved in the time available, given the lengthy process involved in implementing any new infrastructure.
- 9.8. Ideally there would not be the current urgency associated with making the necessary decisions. However on balance, to deliver the aims and objectives of the Strategy, using contracts that provide the best value for money achievable, the STSB recommends the States to approve the Propositions.

## **10 Propositions**

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

1. To rescind Resolution 2 of 1<sup>st</sup> February, 2007 on Billet d'État No. I of 2007, Resolution 2 of 30<sup>th</sup> November, 2007 on Article XII of Billet d'État No. XXIV of 2007, Resolution 4 of 9<sup>th</sup> December, 2010 on Article V of Billet d'État No. XXIV of 2010 and Resolution 1 of 22<sup>nd</sup> February, 2012 on Article VII of Billet d'État No. IV of 2012, and approve revised recycling targets to apply only to waste generated by households as follows:
  - a. 60% by the end 2022; and
  - b. 70% by the end of 2030.
2. To rescind the following resolutions of 12<sup>th</sup> February, 2014 on Article I of Billet d'État No. II of 2014 –
  - a. Resolutions 4 and 5, in relation to tendering for the Transfer Station and the transportation and export of residual waste to an off-island energy from waste facility;
  - b. Resolution 6, in relation to the approval of recommended tenderers and the release of relevant funds for capital and operational costs for the Transfer Station and the transportation and export of residual waste to an off-island energy from waste facility;

- c. Resolution 7, in relation to tendering for other on-Island infrastructure; and
  - d. Resolution 8, in relation to the approval of recommended tenderers and the release of relevant funds for capital costs up to a total sum not to exceed £29.5 million.
- 3. To approve the change in the method of treatment of food waste from on-island In-Vessel Composting to the export and transportation of food waste and its subsequent treatment at a suitable off-island facility.
- 4. To authorise the States' Trading Supervisory Board:-
  - a. to tender for the export and transportation of food waste and its subsequent treatment at a suitable off-island facility;
  - b. to continue the tender process for the export and transportation of residual waste and its subsequent treatment at an off-island energy from waste facility;
  - c. to continue the tender process for the construction or operation or the construction and operation of -
    - i. a Transfer Station;
    - ii. a Materials Recovery Facility;
    - iii. a Household Waste Recycling Centre; and
    - iv. a Repair and Reuse Centre and any other general site infrastructure at Longue Hogue,

and to direct the States' Trading Supervisory Board, on receipt of tenders, to submit a full business case or cases in relation to such infrastructure and services, to the Policy & Resources Committee, in accordance with any requirements of the Policy & Resources Committee.
- 5. To authorise the States' Trading Supervisory Board to approve tenderers for any of the facilities or services referred to in proposition 4, subject to prior approval of a full business case relating to the facilities or services in question by the Policy & Resources Committee and to direct the Policy & Resources Committee, upon its approval of such a full business case and the approval of the relevant tender by the States' Trading Supervisory Board, to make available a loan from the proceeds of the States of Guernsey Bond Issue (of December 2014) to fund the capital costs of such facilities or services; and to direct the States' Trading Supervisory Board to fund the loan interest and capital repayments from the Solid Waste Trading.

6. If any of the costs of the Solid Waste Strategy exceed those indicated in the Policy Letter, to delegate authority to the Policy & Resources Committee to approve revisions to the relevant estimated capital and operational costs.
7. To note that all solid waste management costs of the States referred to in the Policy Letter are to be managed through the Solid Waste Trading Account in accordance with Resolution 2 of 12<sup>th</sup> February, 2014 on Article I of Billet D'Etat II of 2014 and to direct the States' Trading Supervisory Board to recover such costs fully through charges to householders, businesses and other users of waste management services.

## **11 Committee support for proposals**

- 11.1. STSB member Mr Stuart Falla MBE has declared a conflict of interest and has not participated in any discussions or voting regarding the Waste Strategy implementation nor been privy to any related documentation, including minutes of meetings where such matters have been considered.
- 11.2. 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 other members of the STSB and the CfE&I.
- 11.3. In accordance with Rule 4(5), it is confirmed that Proposition 1 relates to the purpose and policy responsibilities of the CfE&I and Propositions 2 to 7 relate to the duties and powers of the STSB (see also paragraphs 2.1 and 2.2).
- 11.4. In accordance with Rule 4(5) the preparation and agreement of the propositions and content of the Policy Letter has involved joint working between the CfE&I and the STSB. The PRC have also been consulted on the propositions and Policy Letter.

Yours faithfully

C N K Parkinson  
President, STSB

J C S F Smithies  
Vice-President, STSB

J C Hollis  
Non-States Member, STSB

B L Brehaut  
President, CfE&I

M H Dorey  
Vice-President, CfE&I

S L Langlois  
H L de Sausmarez  
S T Hansmann Rouxel  
Members, CfE&I

## **APPENDIX 1 – Abbreviations and glossary**

AD	Anaerobic digestion	Treatment where bacteria digest organic waste in an oxygen-free environment. The gas produced is used to recover energy.
CA site	Civic amenity site	See HWRC.
ERF	Energy Recovery Facility	A commonly used technology, also referred to as Energy from Waste. Household and commercial waste is heat treated and energy recovered through electricity generation and/or as heat (for local use).
HWRC	Household waste recycling centre	A facility to take certain types of domestic waste for reuse or recycling.
IVC	In-vessel composting	Composting organic waste in a controlled environment to reduce odour and provide the right conditions to maintain output quality.
MRF	Materials recovery facility	A plant used to separate co-mingled recyclables, using manual and/or automated sorting. Also used to recover recyclable materials from mixed commercial waste.
RDF	Refuse derived fuel	Fuel produced from combustible waste that can be stored and transported, or used directly on site to produce heat and/or power.
Repair and reuse		Redistribution of unwanted but usable materials and equipment from one entity to another (includes repairing items where necessary).
Residual waste		Waste that remains after the removal of reusable, recyclable, or compostable material - at source or through a separation process. In a domestic sense, often referred to as 'Black Bag' waste).
Solid Waste Trading Account		Consolidates financial management and reporting for all solid waste management activities, whether income and expenditures for business as usual activities, or costs of waste strategy development and delivery.

Sustainable waste management		Efficient use of materials to reduce and manage waste so that it contributes to the economic, social and environmental goals of sustainable development.
Waste acceptance criteria		Specification a receiving facility sets for how waste is to be delivered and what it can contain. Non-compliance would incur additional cost or rejection of a load.
WDA	Waste Disposal Authority	The WDA has various statutory functions. These include making arrangements for the island's waste management, in accordance with the States' WMP, and provision of sites for reception and recovery or disposal of household and commercial waste. It is also responsible for periodic reviews of the WMP and recommending amendments to the Committee <i>for the Environment &amp; Infrastructure</i> .
WMP	Waste Management Plan	The statutory document which identifies the categories and quantities of waste to be managed, the methods and facilities for disposal, estimated costs, and arrangements for recovery of costs.
Waste transfer station		A facility where waste from household and/or commercial sources is prepared for onward transport and treatment (in accordance with Acceptance Criteria for the receiving plant).

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE AND THE COMMITTEE *FOR* ECONOMIC DEVELOPMENT**

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 20 December, 2016, of the Policy & Resources Committee and the Committee *for* Economic Development, they are of the opinion:-

1. To agree to the establishment of a register of beneficial ownership information ("the register") applicable to all forms of legal person that can be established in Guernsey;
2. To agree that the register should not be publicly accessible, and that the information on it should be treated as confidential and protected by all necessary security measures;
3. To agree to the provision of direct access to the register for the Bailiwick's law enforcement authorities and the GFSC, for the purposes of their respective criminal justice and supervisory functions;
4. To agree to the establishment of legal gateways to permit the sharing of beneficial ownership information with domestic and foreign authorities for specified purposes, such purposes to be based on those set out at Part II of the Disclosure (Bailiwick of Guernsey) Law, 2007;
5. To agree to the establishment of the office of Registrar of Beneficial Ownership, with the office holder to be appointed by the Committees;
6. To agree to the provision of proportionate oversight and enforcement powers for the Registrar, including the power to impose administrative financial penalties;
7. To agree to the extension of the powers and duties of resident agents in relation to obtaining, providing and retaining beneficial ownership information;
8. To agree to the introduction of criminal and administrative financial penalties for breaching obligations in relation to beneficial ownership information;
9. To agree to the introduction of a statutory process governing the resignation of resident agents;
10. To agree to the provision of powers to address additional matters relating to beneficial ownership information by regulations, guidance and standard forms;



11. To agree to the introduction of an express statutory prohibition on the use of bearer instruments; and
12. To direct the preparation of such legislation as may be necessary to give effect the foregoing, including any necessary consequential and incidental provision.

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 AND THE COMMITTEE *FOR* ECONOMIC DEVELOPMENT**

### **REGISTER OF BENEFICIAL OWNERSHIP**

Presiding Officer  
Royal Court  
St Peter Port  
Guernsey

20 December 2016

Dear Sir

#### **1. Executive Summary**

- 1.1 Guernsey has long been committed to meeting international standards aimed at tackling financial crime including those relating to transparency as to the natural persons who ultimately own or control legal persons, usually referred to as beneficial owners. The principal standards on transparency of legal persons are those set by the Financial Action Task Force (FATF), which in broad terms seek to ensure that the authorities of a jurisdiction have timely access to adequate, accurate and current information on beneficial owners of the legal persons created in that jurisdiction.
- 1.2 Guernsey has high standards in relation to transparency, which has been demonstrated on numerous occasions. This includes the evaluation report published by MoneyVal earlier in 2016, as well as previous evaluation reports of Guernsey's framework for addressing money laundering and terrorist financing. In addition, Guernsey is routinely commended by foreign authorities to whom it provides beneficial ownership information. It is nevertheless important that Guernsey's standards evolve with international standards as they continue to be developed.
- 1.3 The FATF recommends a number of possible options for meeting its standards on beneficial ownership information, and recent international attention to this issue such as the G20 initiatives and the EU's fourth money laundering directive has included looking at the particular advantages of a register of beneficial ownership. A large number of jurisdictions, including the UK, have been inspired by the FATF standards and these subsequent initiatives or by other reasons to establish registries of beneficial ownership. In addition, Jersey, which already has a register of beneficial ownership, is taking steps to enhance its existing register.
- 1.4 The Policy and Resources Committee and the Committee *for* Economic Development have considered this issue and have concluded that a private, secure, consolidated and locally-accessed register of beneficial owners of Guernsey legal persons would enhance the timeliness of access by the authorities to the relevant information. It would also help to address a point made by MoneyVal in its 2016 report about the need for an oversight process in relation to beneficial ownership obligations for

companies where directors are not licensed by the Guernsey Financial Services Commission (GFSC). Against that background, and in response to international interest in the issue, the Chief Minister of the previous States advised publicly that Guernsey will put such a register in place.

- 1.5 This will not involve a major departure from the current position. There are already obligations to obtain beneficial ownership information and provide it to the authorities applicable to the resident agents of some legal persons under commercial legislation, whether or not the resident agent is licensed and supervised by the GFSC. In addition, there are obligations to obtain beneficial ownership information in the customer due diligence requirements applicable to corporate service providers under the Criminal Justice (Proceeds of Crime) (Financial Services Businesses) (Bailiwick of Guernsey) Regulations, 2007 and the Handbook for Financial Services Businesses on Countering Financial Crime and Terrorist Financing issued by the GFSC (collectively, the AML/CFT framework). The intention is to enhance the existing beneficial ownership obligations on resident agents under commercial legislation and to extend them to all forms of legal person. Recommendations on the best way to achieve this are set out below.

## **2. The Current Position**

### **2.1 Guernsey Legal Persons**

There are four types of legal persons that can be established in Guernsey, namely:

- Companies incorporated under the Companies (Guernsey) Law, 2008 (the Companies Law)
- Foundations created under the Foundations (Guernsey) Law, 2012 (the Foundations Law)
- Limited partnerships with legal personality formed under the Limited Partnerships (Guernsey) Law, 1995 (the Limited Partnerships Law)
- Limited liability partnerships formed under the Limited Liability Partnerships (Guernsey) Law, 2013 (the LLP Law).

### **2.2 Obligations in respect of Beneficial Ownership Information**

- 2.2.1 Under the Companies Law and the LLP Law, Guernsey companies and limited liability partnerships respectively must appoint a resident agent who may be either a corporate services provider licensed by the GFSC under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000 (the Fiduciaries Law), or a locally resident official (a director in the case of companies and a member in the case of limited liability partnerships). A record of the resident agent must be kept and provided to the Registrar of Companies or Registrar of Limited Liability Partnerships (both situated within the Guernsey Registry). This record must contain the name of the resident agent and its address (unless the resident agent is a locally resident official who is in any case already subject in the legislation to an obligation to provide his or her address). A company or limited liability partnership that fails to comply with these obligations commits a

criminal offence and may be struck off. Changes to the recorded details about resident agents must be notified to the Registrar of Companies or Registrar of Limited Liability Partnerships within 14 days, subject to an administrative late filing fee for breach, underpinned by criminal sanction in the case of companies.

- 2.2.2 The resident agent must take reasonable steps to ascertain the identity of the persons who are the beneficial owners of members' interests. Where the resident agent ascertains that a member of a company or limited liability partnership is not the beneficial owner of that member's interest, it must keep a record at the registered office of the company or limited liability partnership of specified details of the beneficial owner in respect of that member. The concept of beneficial owner is not defined in the Companies Law or the LLP Law, but the language of the legislation makes it clear that beneficial owners may include companies so it is not necessary to establish the underlying natural person in all cases. In addition, beneficial ownership of companies is subject to a 10% threshold as, under the Companies (Beneficial Ownership) Regulations, 2008, there is an exemption from the requirement to keep beneficial ownership information in relation to any member who holds less than 10% of the total voting rights of all the members of the company having a right to vote at general meetings. These features are in contrast to the obligations under the AML/CFT framework, which require the natural person who ultimately owns or controls a legal person to be identified and which provide that meeting a 25% ownership threshold will generally be regarded as indicative of ownership or control.
- 2.2.3 The details that must be recorded in the record of beneficial ownership in relation to an individual are the individual's name, usual residential address, nationality and date of birth. The details that must be recorded in relation to a company are its corporate or firm name, its registered office (or, if it has no registered office, its principal office), its legal form and the law by which it is governed, and, if applicable, the register in which it is entered and its registration number in that register.
- 2.2.4 The resident agent also has information gathering powers that are exercisable against members on service of a notice. Members who fail to comply with the notice or who provide false or misleading information commit a criminal offence. In addition, if a resident agent believes that a member has failed to comply with the notice or has provided false or misleading information, it must report that to the company or limited liability partnership and the company may impose restrictions on that member's interest including suspension or cancellation. This is subject to the safeguard that the member may apply to the court for the restriction to be set aside, provided that the company or limited liability partnership is given notice. The resident agent must also maintain a record of beneficial ownership at the registered office of the company or limited liability partnership, and make beneficial ownership information available to HM Procureur, the law enforcement agencies or the GFSC if requested for the purposes of criminal or regulatory investigations and proceedings in Guernsey or elsewhere.

## 2.3 Access to Information

- 2.3.1 The effect of the obligations currently in place in commercial legislation and the AML/CFT framework is that, although beneficial ownership information is available within the jurisdiction, it is held by individual businesses and there is no central data base. This means that, if, during the course of an investigation, the law enforcement agencies or the other relevant Guernsey authorities with investigatory functions have reason to believe that several different businesses hold relevant beneficial ownership information, they must make a separate approach to each business. This clearly has the potential to cause delay. In addition, the absence of a central data base means that there is currently no quick way of carrying out a search across all beneficial ownership information to check whether a particular individual or company that is under investigation has an involvement with a Guernsey legal person that has not previously been identified. The ability to carry out a search in this way would obviously be of particular benefit for criminal investigations in cases where time is of the essence.

## 3 Proposals for Change

### 3.1 Establishment of a Register of Beneficial Ownership

- 3.1.1 It is proposed that Guernsey should establish a Register of Beneficial Ownership (the Register) in order to facilitate improved speed of access to the necessary information by the authorities. It should be applicable to limited partnerships with legal personality and foundations as well as to companies and limited liability partnerships, in order to ensure that the benefits of registration for the purposes of enhanced information gathering identified above will apply equally to all Guernsey legal persons. Although limited partnerships with legal personality and foundations are not currently subject to any specific beneficial ownership requirements corresponding to those in the Companies Law and the LLP Law, requiring them to appoint a resident agent and bringing them within the scope of the Registry in the same way as other legal persons will not present a significant departure from the present situation in practical terms. This is because all foundations are currently obliged to obtain beneficial ownership information under the AML/CFT framework (by virtue of the need for every foundation to have either an official or a resident agent who is a licensed fiduciary or authorised person as defined under the Fiduciaries Law), and although there is no corresponding requirement under the Limited Partnerships Law, in practice the vast majority of limited partnerships are subject to the beneficial ownership information obligations under the AML/CFT framework because of the nature of the activities that they undertake. In addition, the possibility of specific beneficial ownership obligations applying to limited partnerships has already been identified as part of a separate work stream and new legislation governing limited partnerships has been under active consideration for some time.
- 3.1.2 There will still be exemptions from the beneficial ownership registration requirements for legal persons that are already subject to disclosure requirements

that ensure adequate transparency of beneficial ownership. There is currently an exemption from the beneficial ownership requirements under the Companies Law for companies listed on a stock exchange recognised by the Registrar of Companies, open-ended and closed-ended investment companies and any other category of company that may be prescribed by regulations. There is a corresponding exemption from the beneficial ownership requirements under the LLP Law for open-ended and closed-ended investment schemes and any other category of limited liability partnership that may be prescribed by regulations. These exemptions will be maintained (although the regulations that have been made to date will be reviewed as part of a separate exercise) and there will be a power to amend the exemptions by regulation in line with the existing power under the Company Law and the LLP Law, to permit changes to be made as necessary to reflect any future developments in this area.

### 3.2 Administration of the Register

3.2.1 The Register would be administered by a Registrar of Beneficial Ownership (the Registrar), who would be appointed by the Policy and Resources Committee and the Committee *for* Economic Development. The Policy and Resources Committee and the Committee *for* Economic Development have given detailed consideration as to who would be the most appropriate party to act as the Registrar, including whether to appoint an individual whose only responsibility will be to discharge this office or to confer the function on an existing authority with other functions such as the Registrar of Companies or the GFSC. They have decided to appoint the Registrar of Companies as the Registrar, as they believe that government should be responsible for such an important project and for delivering the commitment that the States of Guernsey has made. This will give the international community the clearest possible signal that Guernsey is committed to meeting international standards. The decision also means that the same body will be responsible for maintaining the registers of legal persons and the register of beneficial ownership. The two functions are very closely aligned and their location within the same body has obvious practical benefits, as it greatly facilitates the cross-checking of basic and beneficial ownership information that is necessary for an effective regime and also enables those wishing to incorporate legal persons to make a single application to one organisation. This single application process will mirror the position in other jurisdictions that have beneficial ownership registries.

3.2.2 The Registrar will have powers to monitor and verify the information provided by resident agents, but to avoid duplication these powers will not be applicable to legal persons that are administered by persons licensed by the GFSC, as the provision of beneficial ownership information in relation to these legal persons is already subject to oversight under the GFSC's supervisory regime and it is anticipated that the oversight and enforcement powers of the GFSC will be extended to cover the adequacy of information provided to the Registrar. In light of this division of oversight the Registrar and the GFSC will be given information sharing powers.

3.2.3 The Registrar's powers will include issuing notices to obtain information from the legal person, the registered agent or third parties (such as financial services businesses with which the beneficial owner or another legal person owned or controlled by the beneficial owner has an established business relationship), and the right to immediate and direct access to the record of beneficial ownership maintained at a legal person's registered office, whether by attendance at the premises or otherwise. The exercise of these powers will be subject to strict safeguards including confidentiality obligations and data protection measures, and the Registrar will only be entitled to take copies of documents at the registered office where this is necessary for the purposes of enforcement action. The Registrar's monitoring and verification powers, which will be exercised on the basis of risk, taking into account matters such as the objects or areas of activities of a legal person, will assist in addressing comments made by MoneyVal about the need for an oversight process in relation to beneficial ownership information obligations for companies whose directors are not licensed by the GFSC.

### 3.3 Access to Information on the Register

3.3.1 The Register should not be publicly accessible as it is not considered that such accessibility would allow Guernsey to demonstrate the information is secure. Information on the Register would be treated as confidential and would be protected by all necessary security measures including encryption of data. Both the Policy & Resources Committee and the Committee *for* Economic Development consider sound security to be of paramount importance (soundness of security was the main concern expressed in the consultation referred to below). The only parties who would have direct access to the Register apart from the Registrar would be designated persons in Guernsey's law enforcement authorities and the GFSC for the purposes of their respective criminal justice and supervisory functions.

3.3.2 In addition, there would be legal gateways in place to permit the sharing of beneficial ownership information with other Guernsey entities such as HM Procureur and the Director of Income Tax for certain specified purposes, as well as with foreign authorities for the same purposes. The specified purposes would mirror those already in place elsewhere in Guernsey law, primarily in the Disclosure (Bailiwick of Guernsey) Law, 2007, and would include the prevention, investigation or prosecution of crime, civil forfeiture investigation or proceedings, the exercise of regulatory functions and the exercise of the functions of intelligence services, tax authorities and authorities with responsibilities in relation to international sanctions measures. There will also be a power to amend the list of purposes by regulations to permit the inclusion of any other functions that may necessary in future to keep pace with developing international standards.

### 3.4 Definition of Beneficial Owner

3.4.1 In order to ensure compliance with the FATF standards and some specific recommendations made by MoneyVal, there will be a statutory definition of beneficial ownership (introduced by regulations following further consultation) for

the purposes of providing information to the Registrar. Subject to the outcome of the consultation process, it is the intention of the committees that a beneficial owner will be defined as an individual and that the beneficial ownership information obligations will be brought closer to those under the AML/CFT framework than they are under commercial legislation at present. It is envisaged that once the definition of beneficial owner for the purposes of the legislation proposed in this policy letter has been finalised, any necessary amendments will be made to the AML/CFT framework to ensure its alignment with the registration regime as far as possible and appropriate.

- 3.4.2 It is also envisaged, again subject to the consultation process, that the definition will be based on the approach in the FATF standards with regard to ownership and control. It will apply in the case of companies to individuals who hold, either directly or indirectly through a chain of ownership, more than a specified percentage of the shares or voting rights in a company or the right to appoint or remove the majority of its directors, as well as to individuals who otherwise control the company. This definition will be modified as necessary in relation to other forms of legal person to reflect their particular characteristics. Provision will also be made for joint interests so that where two or more persons hold a share or similar right jointly both are treated as holding it. Similarly, where shares are held by a number of associated persons, for example members of the same family or persons who have entered into an arrangement to exercise their rights jointly, each person is treated as holding the combined shares or rights of them all.

### 3.5 Obligations of Resident Agents

- 3.5.1 International standards require beneficial ownership information to be adequate, accurate and timely. In order to ensure that these standards are met, the existing beneficial ownership information obligations on resident agents under the Companies Law and the LLP Law will be enhanced in three respects.
- 3.5.2 First, the required details about beneficial owners as outlined under section 2.2 above will be extended slightly to include any former name of an individual, a service address if that is different from an individual's usual residential address, the date on which the individual became a beneficial owner (only applicable to the period after the date on which the legislation comes into force) and a statement that no beneficial owner has been identified if that is the case. Second, the resident agent will now have an explicit obligation to verify these details rather than, as now, an implicit obligation to do this under the Companies Law and the LLP Law (although resident agents who come within the AML/CFT framework are already subject to an explicit verification obligation). Third, in addition to keeping its own record of these details the resident agent will be obliged to provide the details to the Registrar, together with a statement confirming that the information has been verified. For legal persons created in the future, this information will have to be provided upon incorporation, and existing legal persons will be obliged to provide the same information within time frames specified in transitional provisions. It is also important that the Registrar is made aware of changes to the beneficial ownership of



a legal person once it has been incorporated. Therefore, resident agents will be required to notify the Registrar within a specified time period of any such changes that it becomes aware of or could reasonably be expected to have become aware of, as well as to verify them and provide a confirmation statement as soon as practicable thereafter.

3.5.3 Specific requirements will also be introduced in respect of nominees. The FATF standards emphasise that nominee shareholder arrangements must not be misused, and this has long been recognised by Guernsey in the regulatory framework under the Fiduciaries Law which expressly extends to acting as or providing nominee shareholders. Where there is a nominee relationship, both the legal owner and the beneficial owner of a legal person will have to be notified to the Registrar in line with the criteria identified above. In order to meet international standards, ensure full transparency and inform the exercise of oversight functions this should be underpinned by a specific requirement to notify the fact of each nominee relationship to the Registrar, to identify the person on whose behalf the nominee is acting (the nominator) and to state why the nominee relationship has been established.

3.5.4 It is also intended that measures should be introduced to ensure that all board members or equivalent officers of a legal person who are not licensed by the GFSC are aware of the beneficial ownership of that legal person in order to facilitate compliance with the AML/CFT framework. Therefore, resident agents that are not licensed by the GFSC will be required to provide the officers of the legal person (directors of companies and the equivalent positions for other legal persons) upon request with the information that they provide to the Registrar. The introduction of measures to ensure that such officers have access to the information necessary to discharge their AML/CFT obligations will be an additional step in helping to address the comments made in the MoneyVal report about unlicensed directors referred to above.

### 3.6 Enforcement

3.6.1 As the obligations outlined above assist Guernsey to meet international standards, both for the purposes of its own information gathering powers and to assist overseas authorities, they should be underpinned by enforcement measures. These measures should include administrative and criminal penalties in addition to the criminal penalties currently in place for resident agents that fail to provide information or provide false or misleading information in respect of beneficial ownership.

3.6.2 The Registrar will therefore be given powers to issue compliance notices (for example, notices requiring confirmation that the information provided is up to date or requiring a resident agent to obtain and provide further information), issue warnings and public statements, impose administrative financial penalties and disqualify persons from acting as resident agents. As with the monitoring and verification powers outlined above, these powers will not be applicable to legal

persons that are administered by persons licensed by the GFSC and the information sharing powers referred to above will apply here also.

- 3.6.3 Alongside the enforcement powers available to the Registrar in respect of legal persons that are not administered by persons licensed by the GFSC and to the GFSC in relation to licensees that administer legal persons, breach of obligations in relation to beneficial ownership information for all legal persons will be liable to criminal penalties of fines and sentences of imprisonment, as well as to the powers of the Guernsey Registry to strike off or suspend legal persons or particular ownership interests. As now, it is envisaged that criminal penalties and strike off or suspension will only be applied in more serious cases.
  - 3.6.4 The range of available penalties will therefore be similar to those already in place for violation of comparable obligations under Guernsey law, for example failure to comply with the AML/CFT framework, failure to notify a change in directors under the Companies Law, failure to notify a change in registered particulars under the Limited Partnerships Law and failure to provide information or providing false or misleading information about beneficial ownership under the Companies Law and the LLP Law.
  - 3.6.5 The introduction of explicit obligations for resident agents in respect of responsibilities that were formerly implicit increases the exposure of resident agents to criminal penalties. This is likely to lead to resident agents who no longer wish to act for particular legal persons, for example, because they are unable to obtain information from a client, feeling obliged to resign more promptly than they do under the existing legal framework. In recognition of this, and in order to ensure that there is a mechanism in place to protect resident agents from allegations by clients that they have resigned too precipitately, the resident agent's existing powers to suspend or cancel a member's interests under the Companies Law and the LLP Law should be enhanced by the right to serve notice of intention to resign. This would apply to all resident agents and would be similar to the existing provisions under the Companies Law enabling a corporate services provider to serve notice on its directors and on the Registrar of Companies to the effect that the registered office is no longer effective. Any legal person that fails to replace a resident agent that has resigned will be liable to being struck off (or dissolved, in the case of limited partnerships), in line with the existing provisions of the Companies Law and the LLP Law referred to above.
- 3.7 Powers of resident agents
- 3.7.1 The introduction of wider obligations for resident agents necessitates the extension of their existing information gathering powers under the Companies Law and the LLP Law in relation to members, to enable them to obtain information from third parties who may hold relevant information about a potential beneficial owner. This may be, for example, from a financial institution which has an established business relationship with the individual in question or with another entity owned or controlled by that individual. This power, which would be subject to both criminal

penalties for breach and an obligation on the resident agent to treat such information as confidential, would correspond to the information gathering powers in respect of the register recently introduced in the UK.

### 3.8 Liquidations and striking off

- 3.8.1 The record keeping obligations under the AML/CFT framework ensure that, in the case of legal persons administered by licensed entities, records on beneficial ownership where a legal person ceases to exist are maintained for at least five years from the date of dissolution. Legislative provisions are required to ensure the maintenance of records for the same period where a legal person not administered by an entity subject to the AML/CFT framework has been liquidated, dissolved or struck off, either at its own request or by the Registrar of Companies. These will provide that the records must be kept by the resident agent in office immediately before the liquidation, dissolution or striking off, except where a liquidator has been appointed as this will be the responsibility of the liquidator. The authorities will continue to have access to the records for the purposes outlined above.

### 3.9 Standard forms and guidance

- 3.9.1 In order to assist resident agents in the discharge of their various functions, statutory provision will be made for the Registrar to issue standard beneficial ownership declaration forms to be completed when submitting information to the Registrar. The Registrar will also have the power to issue statutory guidance.

### 3.10 Consequential amendments

- 3.10.1 In addition to introducing new legislation governing the creation of the Register, it will be necessary to make consequential amendments to existing legislation (including the repeal of some provisions) in order to ensure consistency across Guernsey's legal framework as a whole. This will affect primarily, but not exclusively, the existing legislation for the establishment of legal persons.

## 4. Other Measures

### 4.1 Bearer Instruments

- 4.1.1 The FATF standards emphasise the importance of preventing bearer shares and bearer warrants from being misused. Guernsey's legislation for legal persons does not permit the issue of bearer shares as shareholdings in companies and interests held in other legal persons must be registered. However, there are no explicit or implicit provisions in Guernsey law in relation to bearer warrants. In light of this, it is proposed to introduce explicit prohibitions on the issuing of bearer instruments conferring ownership rights or potential ownership rights by Guernsey legal persons.

## **5. Engagement and Consultation**

- 5.1 In May 2015 a consultation paper was issued by the then Policy Council on whether or not a central registry should be established in Guernsey for the registration of information on the beneficial ownership of legal persons. This was followed in May 2016 by a technical consultation paper issued by the Policy & Resources Committee on the overarching shape of the framework to be established and the other measures referred to above. Twenty-seven responses were received from businesses, industry associations and individuals in their private capacity, as well as from the Registrar of Companies, the GFSC and the Guernsey Border Agency. The proposals in this policy letter have taken into account the responses received, as well as further input provided in subsequent discussions between industry representatives and representatives from the Policy and Resources Committee and the Committee for Economic Development Department.
- 5.2 The Law Officers have also been consulted and raise no legal objection to the proposals in this policy letter.

## **6. Resources**

- 6.1 The capital cost of establishing the register of beneficial ownership information is estimated to be a maximum of £300,000. A loan facility is considered to be the most appropriate funding arrangement and is consistent with the approach taken for the establishment of the Guernsey Registry in 2008.
- 6.2 Following consideration of the 2015 Budget Report, the States authorised the Treasury and Resources Department (Policy & Resources Committee) to *“issue a States of Guernsey Bond.....; and to lend on the capital thereby raised to States owned entities, trading accounts and funds, ..... on such terms that the Department may approve, subject to each recipient repaying such borrowing in full from a secure income stream and without direct recourse to General Revenue.”*
- 6.3 The existing business case for this project includes confirmation that any additional expenditure will be met by the Guernsey Registry (loan interest and capital repayments, together with any administrative costs) without increasing its expenditure level (i.e. by efficiencies and reprioritisation) such that there will be no negative impact on the Registry’s overall annual surplus which is transferred to General Revenue.
- 6.4 Therefore, as this project meets the criteria for accessing loan finance from the proceeds of the States of Guernsey Bond, the Policy & Resources Committee, following approval of a final business case for the capital investment necessary to establish a register of beneficial ownership information, will make available a loan to the Guernsey Registry of a maximum of £300,000 from the proceeds of the States of Guernsey bond issue, to be repaid over a period of five years, with the interest and capital repayments to be met from Guernsey Registry income already received from legal entities.

## **7. Recommendations**

### **7.1 The States are asked to decide whether they are of the opinion:-**

1. to agree to the establishment of a register of beneficial ownership information ("the register") applicable to all forms of legal person that can be established in Guernsey;
2. to agree that the register should not be publicly accessible, and that the information on it should be treated as confidential and protected by all necessary security measures;
3. to agree to the provision of direct access to the register for the Bailiwick's law enforcement authorities and the GFSC, for the purposes of their respective criminal justice and supervisory functions;
4. to agree to the establishment of legal gateways to permit the sharing of beneficial ownership information with domestic and foreign authorities for specified purposes, such purposes to be based on those set out at Part II of the Disclosure (Bailiwick of Guernsey) Law, 2007;
5. to agree to the establishment of the office of Registrar of Beneficial Ownership, with the office holder to be appointed by the Committees;
6. to agree to the provision of proportionate oversight and enforcement powers for the Registrar, including the power to impose administrative financial penalties;
7. to agree to the extension of the powers and duties of resident agents in relation to obtaining, providing and retaining beneficial ownership information;
8. to agree to the introduction of criminal and administrative financial penalties for breaching obligations in relation to beneficial ownership information;
9. to agree to the introduction of a statutory process governing the resignation of resident agents;
10. to agree to the provision of powers to address additional matters relating to beneficial ownership information by regulations, guidance and standard forms;
11. to agree to the introduction of an express statutory prohibition on the use of bearer instruments; and

12. to direct the preparation of such legislation as may be necessary to give effect the foregoing, including any necessary consequential and incidental provision.

## **8. Propositions**

- 8.1 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 and the Committee *for* Economic Development.

Yours faithfully

G A St Pier  
President

P T R Ferbrache  
President

L S Trott  
Vice-President

J Kuttelwascher  
Vice-President

A H Brouard  
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A C Dudley-Owen  
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J I Mooney