



# BILLET D'ÉTAT

WEDNESDAY, 21<sup>st</sup> JUNE, 2017

XIV  
2017

## LEGISLATIVE BUSINESS

### *Legislation Laid Before the States*

The Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017  
The Prison (Guernsey) (Amendment) Regulations, 2017

### *Legislation for Approval*

1. The Adoption (Guernsey) (Amendment) Law, 2017, P. 2017/52
2. The Road Traffic (Fees and Charges) (Guernsey) Law, 2017, P. 2017/54
3. The Income Tax (Pension Amendments) (Guernsey) (Ordinance), 2017, P. 2017/55
4. The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017, P. 2017/56
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1. Channel Islands Competition and Regulatory Authority (CICRA) – Annual Report 2016

# 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 **21<sup>st</sup> June, 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

9<sup>th</sup> June, 2017





## **ORDINANCE LAID BEFORE THE STATES**

### **THE VIDEO-RECORDED EVIDENCE (BAILIWICK OF GUERNSEY) ORDINANCE, 2017**

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017", made by the Policy & Resources Committee on the 16<sup>th</sup> May, 2017, is laid before the States.

#### **EXPLANATORY MEMORANDUM**

The Ordinance, made under the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003, permits a court in the Bailiwick to give a direction that a video-recording of a witness's evidence may be admitted as that witness's evidence in chief during criminal proceedings. In deciding whether to give a direction, the court would be required to consider all relevant factors, including the age and vulnerability of the witness. A court in the Bailiwick may already make such a direction in respect of a witness's evidence where the criminal proceedings are in respect of certain specified sexual offences; the Ordinance effectively extends this discretionary power to criminal proceedings in respect of any offence.

The Ordinance was made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948, and shall be deemed to have come into force on the 18<sup>th</sup> May, 2017. Under the proviso to Article 66A(1) of the Reform (Guernsey) Law, 1948, the States of Deliberation have the power to annul the Ordinance.

*N.B The Policy Letter regarding this Ordinance can be found here*

<https://gov.gg/article/160143/Video-Recorded-Evidence-in-Criminal-Proceedings>

The full text of this legislation included in this document can be found at:

<http://www.guernseylegalresources.gg/article/90617/Ordinances>

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

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

No. 28 of 2017

### **THE PRISON (GUERNSEY) (AMENDMENT) REGULATIONS, 2017**

In pursuance of Sections 49 and 51 of the Prison (Guernsey) Ordinance 2013, The Prison (Guernsey) (Amendment) Regulations 2017, made by the Committee *for* Home Affairs on 3<sup>rd</sup> April 2017, is laid before the States.

#### **EXPLANATORY NOTE**

These Regulations amend the Prison (Guernsey) Regulations, 2013 ("**the principal Regulations**") to clearly authorise the use of body-worn video cameras, digital cameras or any overt camera system where considered appropriate, and to provide for the collection, storage, retention, destruction use and disclosure of CCTV material (derived from fixed cameras or body cameras) to be governed by Prison Orders.

Regulation 1 of these Regulations provides for the principal Regulations to be amended by these Regulations.

Regulation 2(a) of these Regulations amends regulation 120(3) of the principal Regulations to authorise the Governor to exercise his functions by the use of CCTVs used in accordance with Prison Orders, including fixed CCTVs or those carried or worn by authorised persons. Regulation 2(b) and (c) of these Regulations amend regulation 120(4) of the principal Regulations to provide for the Governor to make Prison Orders for the processing of CCTV material, and insert a new regulation 120(5) to define "**processing**" by reference to the section 1(1) of the Data Protection (Bailiwick of Guernsey) Law, 2001.

Regulation 3(a) and (b) of these Regulations amend regulation 143(1) of the principal Regulations to require periodic reviews of the retention of intercepted communication material or CCTV material at minimum intervals of 30, instead of 28, days. Regulation 3(c) of these Regulations amends regulation 143(2) of the principal Regulations to confine regulation 143(2) to intercepted communication material only. Regulation 3(d) of these Regulations inserts a new regulation 143(3) that requires review, retention, and any other processing of CCTV material to be carried out in accordance with Prison Orders.

Regulation 4 amends regulation 148(1) of the principal Regulations, to include, in the definition of "**CCTV**", any other overt camera system capable of recording video, sound, or both, including a body-worn video camera or body-worn video camera system, a digital camera or a digital camera system.

Regulation 5 is the interpretation provision.

Regulations 6 and 7 are the citation and commencement provisions respectively.

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

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

## **THE ADOPTION (GUERNSEY) (AMENDMENT) LAW, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft *Projet de Loi* entitled "The Adoption (Guernsey) (Amendment) Law, 2017", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

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 Law amends the Adoption (Guernsey) Law 1960 so as to enable civil partners, and unmarried couples (whether same-sex or opposite-sex), to adopt children jointly.

At present, the Law permits adoption by a single person, or by a married couple. It does not recognise same-sex relationships, whether or not formalised by way of marriage or civil partnership, nor does it enable unmarried couples to adopt jointly.

As a result of the Same-Sex Marriage (Guernsey) Law, 2016, which came into force on 2<sup>nd</sup> May 2017, the right to adopt jointly extends to same-sex married couples. The purpose of this projet is to further extend the right to adopt jointly to couples (a) who are in a civil partnership, and (b) who are not married nor civil partners but who are living together in an enduring family relationship, whether they are of different sexes or the same sex.

# PROJET DE LOI

ENTITLED

## The Adoption (Guernsey) (Amendment) Law, 2017

THE STATES, in pursuance of their Resolution of the 24<sup>th</sup> June, 2015<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

### Amendments to 1960 Law.

1. The Adoption (Guernsey) Law, 1960<sup>b</sup> is amended as follows.
2. In section 1(1), immediately after the definition of "**body of persons**", insert the following two definitions -

""**civil partner**"" means a person who has registered as the civil partner of another person under the Civil Partnership Act 2004<sup>c</sup>, or who is treated under that Act as having formed a civil partnership by virtue of having

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<sup>a</sup> Article V of Billet d'État No. XI of 2015.

<sup>b</sup> Ordres en Conseil Vol. XVIII, p. 192; amended by Vol. XXI, p. 34; Vol. XXII, p. 521; Vol. XXIII, p. 26; Vol. XXVI, p. 264; Vol. XXXI, p. 278; Vol. XXXVII, p. 130; Order in Council No. XII of 2000; No. III of 2001; Ordinance No. XXXIII of 2003; No. VII of 2010; No. IX of 2016.

<sup>c</sup> An Act of Parliament (2004 c. 33).

registered an overseas relationship within the meaning of that Act, and whose civil partnership, or registered overseas relationship, has not been dissolved or annulled, and "**civil partners**" and "**civil partnership**" is to be construed accordingly,

"**couple**" means -

- (a) a married couple, or
- (b) two people who are civil partners of each other, or
- (c) two people, whether of different sexes or the same sex, living as partners in an enduring family relationship, not including two people one of whom is the other's parent, grandparent, sister, brother, aunt or uncle,".

3. In section 1(1), immediately after the definition of "**officer of police**", insert the following definition -

"**partner**" means one of two people in a couple,".

4. In section 2 -

- (a) in subsection (2), for "two spouses" substitute "a couple", and
- (b) in subsection (3), for "spouse" substitute "partner".

5. In section 3(2), for "two spouses" substitute "a couple".

6. For section 5(1)(b), substitute "on the application of one of a couple, except with the consent of the other".

7. In section 6(4) -

(a) for "spouse" substitute "partner", and

(b) for "spouses" substitute "couple".

8. In section 11(2), for "spouses" substitute "a couple".

9. In section 12(2), for "where two spouses are the adopters, the spouses" substitute "where a couple adopt an infant, the couple".

10. In section 16(1)(a), for "two spouses" substitute "a couple".

11. In section 26(5), for "two spouses" substitute "a couple".

#### **Amendments to 1961 Ordinance.**

12. The Children Board (Regulation of Adoption Arrangements) Ordinance, 1961<sup>d</sup> is amended as follows.

13. In section 1, insert the following additional subsection -

"(3) References in this Ordinance to **"civil partner"**, **"civil**

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<sup>d</sup> Recueil d'Ordonnances Tome XIII, p. 20; amended by Tome XXVI, p. 11; Ordinance No. XXXV of 2001; No. XXXIII of 2003; No. IX of 2016.

**partnership**", "**couple**" and "**partner**" shall have the same meanings as in the Adoption (Guernsey) Law, 1960."

14. In Part II of the Second Schedule, for paragraph 9 substitute -

"9. If there are two proposed adopters -

- (a) whether the adopters are married or civil partners or living as partners in an enduring family relationship; and the date of marriage, of the registration of civil partnership or of the commencement of living as partners, as the case may be, and
- (b) whether either proposed adopter has previously been married or in a civil partnership and, if so, whether that marriage or civil partnership was dissolved or annulled."

15. In paragraph 10 of Part II of the Second Schedule -

- (a) for "married" substitute "married, in a civil partnership or living with a partner in an enduring family relationship", and
- (b) for "spouse" substitute "partner".

#### **Interpretation.**

16. (1) In this Law -

"**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,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

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

**Citation.**

17. This Law may be cited as the Adoption (Guernsey) (Amendment) Law, 2017.

**Commencement.**

18. This Law shall come into force on the date of its registration on the records of the Island of Guernsey.

## **THE ROAD TRAFFIC (FEES AND CHARGES) (GUERNSEY) LAW, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Road Traffic (Fees and Charges) (Guernsey) Law, 2017", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

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 Law makes provision enabling the charging of fees for various road traffic permits and licences. Section 2 amends the enabling powers in the Public Transport (Guernsey) Law 1984 so as to allow charges to be made for an application for a licence under the Public Transport Ordinance 1986 whether or not the application is successful.

Section 3 enables the States, by regulations, to make provision for the charging of fees for applications for permits under three Ordinances relating respectively to (a) the use of a flashing light on a vehicle notwithstanding the general prohibition, (b) the driving of a vehicle in a prohibited or one-way street and (c) the use of a vehicle which would otherwise be in contravention of the Construction and Use requirements as to maximum width, length or weight.

# PROJET DE LOI

ENTITLED

## **The Road Traffic (Fees and Charges) (Guernsey) Law, 2017**

**THE STATES**, in pursuance of their Resolution of the 28<sup>th</sup> June, 2013<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Guernsey.

### **Amendment to 1984 Law.**

1. The Public Transport (Guernsey) Law, 1984<sup>b</sup> is amended as follows.
2. For section 3(1)(h), substitute -  
  
"(h) the charging, levying and securing the payment of fees in relation to any licence under the provisions of any such Ordinance, including (without limitation) any fee payable -  
  
(i) upon the issue, renewal or variation (including the variation of any conditions) of any such licence, or  
  
(ii) upon application for any such issue, renewal or variation,

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<sup>a</sup> Article VI of Billet d'État No. XII of 2013.

<sup>b</sup> Ordres en Conseil Vol. XXVIII, p. 423.

and, without prejudice to the generality of the foregoing, such an Ordinance may make provision for a waiver or reduction of charges at the discretion of the Committee ,".

**Charges payable for permits.**

3. (1) The States may, from time to time, by regulations make such provision as they deem necessary or expedient for the charging, levying and securing the payment of fees which may be charged upon an application for, or the issue of -

- (a) exemption under section 26(3) of the Lighting of Vehicles and Skips Ordinance, 1988<sup>c</sup> from the requirements of section 7 of that Ordinance,
- (b) any permission under section 3 of the Prohibited and One-Way Streets Ordinance, 1989<sup>d</sup>, and
- (c) any permission under section 10 of the Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 2002<sup>e</sup>.

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<sup>c</sup> Recueil d'Ordonnances Tome XXIV, p. 356; amended by Ordres en Conseil Vol. XXXI, p. 278; Recueil d'Ordonnances Tome XXV, p. 11; Tome XXVI, p. 90; Ordinance No. XXXIII of 2003; No. IX of 2016.

<sup>d</sup> Recueil d'Ordonnances Tome XXV, p. 83; amended by Tome XXVI, p. 90; Ordinance No. IX of 2016. There are other amendments not relevant to this provision.

<sup>e</sup> Ordinance No. X of 2002; amended by No. XXXIII of 2003; No. IX of 2016.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision for a waiver or reduction of charges at the discretion of the Committee.

**General provisions as to regulations.**

4. (1) Any regulations made under this Law -

- (a) may be amended or repealed by subsequent regulations hereunder, and
- (b) may contain consequential, incidental, supplementary and transitional provisions.

(2) Any power to make regulations under this Law may be exercised -

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases, and
- (b) so as to make, as respects the cases in relation to which it is exercised -
  - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
  - (ii) the same provision for all cases, or different

provision for different cases or classes of cases,  
or different provision for the same case or class  
of case for different purposes,

- (iii) any such provision either unconditionally or  
subject to any prescribed conditions.

(3) Any regulations made under this Law must be laid as soon as practicable before a meeting of the States; and if, at that or their next meeting, the States resolve to annul the regulations, they shall cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

#### **Interpretation.**

5. (1) In this Law -

"**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,

"**Committee**" means the States Committee for the Environment and Infrastructure,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

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

extended or applied.

**Citation.**

6. This Law may be cited as the Road Traffic (Fees and Charges) (Guernsey) Law, 2017.

**Commencement.**

7. This Law shall come into force on the date of its registration on the records of the Island of Guernsey.

## **THE INCOME TAX (PENSION AMENDMENTS) (GUERNSEY) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Pension Amendments) (Guernsey) 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 the Income Tax (Guernsey) Law, 1975 and amends that Law to enable the Director of Income Tax to grant formal approval to pension schemes (in this case superannuation funds, retirement annuity contract or retirement annuity trust scheme) in respect of which exemptions from income tax apply by virtue of sections 40(o) and 40(ee) of that Law.

The option for these schemes to seek approval under the Law, together with associated regulations and rules made under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000, will enable Guernsey firms to benefit from an exemption within the OECD Common Reporting Standard on financial account information reporting requirements for pension schemes (insofar as all of the relevant criteria are met). The OECD standard was implemented in Guernsey last year by the Income Tax (Approved International Agreements) (Implementation) (Common Reporting Standard) Regulations, 2015 (also made under the Income Tax Law).

The Ordinance will also make provision for the reporting of information to the Director by approved schemes both when they apply for approval and periodically thereafter, enabling the Director to ascertain that they continue to comply with the conditions of their approval. At the same time, the reporting of information obligations in respect of other approved pension schemes, funds, contracts and trusts will be tidied up and regularised.

The Policy and Resources Committee is given power to make detailed regulations (which will need to be laid before the States) prescribing any limitations, conditions, restrictions and qualifications subject to which approvals may be granted and otherwise for carrying the relevant approval provisions into effect.



# **The Income Tax (Pension Amendments)**

## **(Guernsey) Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 21<sup>st</sup> June, 2017<sup>a</sup>, and in exercise of the powers conferred on them by sections 40B, 203A and 208C of the Income Tax (Guernsey) Law, 1975<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

### **Amendment of 1975 Law.**

1. The Income Tax (Guernsey) Law, 1975, as amended, is further amended as follows.

2. In section 154 -

- (a) in subsection (1) after the words "such accounts have been drawn up" insert "and by such other documents as the Director may require", and
- (b) in subsection (2) after the words "such information" insert "and documents".

3. After section 154 insert the following section -

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<sup>a</sup> Article \*\* of Billet d'État No. \*\*\*\* of 2017.

<sup>b</sup> Ordres en Conseil Vol. XXV, p. 124; section 203A was inserted by Order in Council No. XVII of 2005 and section 208C was inserted by Order in Council No. V of 2011.

**"Application for approval of schemes, etc, exempted from tax under section 40.**

**154A. (1)** This section applies to -

- (a) a superannuation fund to which section 40(o) applies,
- (b) a retirement annuity contract or retirement annuity trust scheme entered into with an individual for the purposes of an annuity or lump sum to which section 40(ee) applies, and
- (c) such other class or description of fund, contract, scheme or trust in respect of pensions as the Committee may prescribe by regulation, including (without limitation) any class or description of fund, contract, scheme or trust set out in any other paragraph of section 40.

(2) The relevant person may make an application for the approval of the fund, contract, scheme or trust by the Director for the purposes of this section.

(3) The application shall be in such form and shall contain such information and be accompanied by such documents as the Director may require.

(4) Upon receipt of an application under subsection (2), and at any time thereafter, the Director may require the relevant person to

supply him with such additional information and documents as he may require.

(5) The information and documents required to be provided by or under subsection (3) or (4) may include (without limitation) -

- (a) a copy of the instrument under which the fund, contract, scheme or trust is established,
- (b) a copy of the rules and of the accounts of the fund, contract, scheme or trust for the last year for which such accounts have been drawn up and any other year or accounting period specified by the Director, and
- (c) information and documents in respect of -
  - (i) contributions made to the fund, contract, scheme or trust,
  - (ii) the members or beneficiaries of the fund, contract, scheme or trust and any other persons in receipt of annuities, lump sums or other payments from it,
  - (iii) the amount of the annuities, lump sums or other payments,
  - (iv) particulars of contributions repaid, and

- (v) the accounts of the fund, contract, scheme or trust.

(6) The "**relevant person**" in subsection (2) means the trustee, administrator, employer or other person having the management of the fund, contract, scheme or trust or, as the case may be, the company referred to in section 40(ee) with whom the retirement annuity contract was effected."

4. In section 155 -

- (a) in subsection (1) for "the last preceding section" substitute "section 154 or 154A",
- (b) in subsection (1)(a) -
  - (i) after "part of the pension scheme" insert "or the fund, contract, scheme or trust", and
  - (ii) for "section one hundred and fifty of this Law" substitute "section 150 or 154A, as the case may be",
- (c) in subsection (1)(c) after "part of a scheme," insert "or such a fund, contract, scheme or trust",
- (d) in subsection (2) after "part of a pension scheme" insert "or a fund, contract, scheme or trust, as the case may be",

- (e) in subsection (4)(a) after "part of a scheme" wherever appearing insert "or a fund, contract, scheme or trust, as the case may be,".

5. For section 156 substitute the following section -

**"Information and documents to be furnished."**

156. (1) Where an approval has been granted by the Director under the provisions of section 150, 154A, 157A or 157E, the trustee, employer or other person having the management of the fund, contract, scheme or trust and any other person who is a relevant person within the meaning of section 154A(6) in relation to the fund, contract, scheme or trust must provide the Director with such information and documents or class or description of information or documents as may be required -

- (a) by, under or for the purposes of this Law or any regulations made under it, or
- (b) for the purposes of the performance by the Director of his functions,

and as the Director may by notice specify.

(2) The information and documents required to be provided by or under subsection (1) include (without limitation) any information and documents described in paragraphs (a) to (c) of section 154A(5).

(3) Information and documents required to be provided

by or under subsection (1) must be provided in such form and manner, by such means, at such times or intervals and in respect of such periods of time as the Director may by notice require.

(4) For the purposes of, but without prejudice to the generality of, subsections (1) and (3), the notices referred to in those subsections may be given or published in such form and manner, by such means and at such times or intervals and for such period as the Director thinks fit, including (without limitation) by publication on the official website of the States of Guernsey Income Tax office or by being set out in a statement of practice issued under section 204.

(5) Without prejudice to subsections (3) and (4), section 68(1AAA) (giving of notice from Director) applies in relation to a notice of the Director under subsection (1) or (3) or otherwise given by him under or for the purposes of this section as it applies in relation to a notice of the Director requiring a person to deliver a return as to his income, and references (however expressed) in this Law to the giving or receipt of such a notice shall be construed accordingly.

(6) Section 68AA (returns to be submitted in electronic form and by electronic means) applies in respect of this section as if -

- (a) references in subsections (1) and (2) of that section to section 68 included references to this section,
- (b) references in subsection (1) of that section to a return as to a person's income included

references to a document or information required or authorised to be provided by, under or for the purposes of this section, and

- (c) paragraph (a) of subsection (1) of that section and, in paragraph (b) thereof, the words "in the case of a company" were omitted.

(7) Section 75M (duties of confidentiality, liens, and self-incrimination) applies in respect of this section and a notice or requirement of the Director under it as if -

- (a) in subsections (1(a) and (2)(a) the words "or 156" were included after "75KA", and
- (b) in subsection (4)(b)(ii)(A) of that section after the words "section 75L(3)" there was inserted "section 201(1) by virtue of a contravention of section 201(4)".

6. After section 156 insert the following section -

**"Regulations as to approvals."**

**156A.** (1) The Committee may by regulation -

- (a) prescribe any matter relating to approvals under section 150, 154A, 157A and 157E including, without limitation, any limitations, conditions, restrictions and qualifications, and

(b) make such other provision as they think fit for the purposes of carrying this Part of this Law, and any other provision of this Law so far as necessary for the purpose of giving effect to this Part, into effect.

(2) Any limitations, conditions, restrictions and qualifications prescribed by regulation under subsection (1) are (for the avoidance of doubt) in addition to and not in derogation from any conditions imposed by the Director in respect of an approval under section 150, 154A, 157A or 157E."

**Citation.**

7. This Ordinance may be cited as the Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017.

**Commencement.**

8. This Ordinance shall come into force on the 30<sup>th</sup> June, 2017.



**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (BAILIWICK OF GUERNSEY)  
(AMENDMENT) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) 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 the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, ("the Proceeds of Crime Law"). It amends the Proceeds of Crime Law to enable the Policy and Resources Committee ("the Committee") to make provision by regulations in respect of compliance with beneficial ownership obligations by regulated persons.

Beneficial ownership obligations for these purposes are those in respect of the beneficial ownership of legal persons under the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 (approved by the States of Deliberation on the 26<sup>th</sup> April, 2017) and the Beneficial Ownership of Legal Persons (Alderney) Law, 2017 (approved by the States of Alderney on the 19<sup>th</sup> April, 2017) or under other enactments relating to the beneficial ownership of legal persons. Regulated persons as defined in the Beneficial Ownership Laws are persons currently within the oversight of the Guernsey Financial Services Commission ("GFSC"), either because they are licensed by the GFSC or because, while not licensed by the GFSC, they come within the scope of its supervision for the purposes of anti-money laundering or combatting terrorist financing measures.

The amendment will allow the Committee to prescribe the supervisory authority for the purposes of compliance with beneficial obligations by regulated persons, and to underpin the actions of the supervisory authority by extending the scope of oversight measures at sections 49B and 49C of the Proceeds of Crime Law. These oversight measures concern site visits and related court-based enforcement powers.

The reason for making this amendment under the Proceeds of Crime Law, rather than under the dedicated beneficial ownership legislation as initially envisaged, is to ensure that the amendments apply across the Bailiwick as a whole.

# **The Criminal Justice (Proceeds of Crime)**

## **(Bailiwick of Guernsey) (Amendment)**

### **Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 16<sup>th</sup> February, 2017<sup>a</sup>, and in exercise of the powers conferred on them by sections 53A and 54 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

#### **Amendment of the Proceeds of Crime Law.**

1. After section 49D of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999 ("the Law"), insert the following section -

#### **"Compliance with beneficial ownership obligations.**

**.49DA.** (1) The Committee may by regulation prescribe supervisory authorities in respect of the duties and requirements to be complied with under the Beneficial Ownership Laws, and other enactments relating to the beneficial ownership of legal persons, by regulated persons within the meaning of the Beneficial Ownership Laws.

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<sup>a</sup> Article IV of Billet d'État No. V of 2017.

<sup>b</sup> Order in Council No. VIII of 1999; amended by No. I of 2000; No. II of 2005; No. XV of 2007; No. XIII of 2010; No. XI of 2011; Recueil d'Ordonnances Tome XXVIII, p. 266; Ordinance No. XII of 2002; No. XXXIII of 2003; No. XLVII of 2007; No. XXXVII of 2008; Nos. XVI and XXXIV of 2010; No. XVII of 2014; No. IX of 2016; G.S.I. No. 56 of 1999; G.S.I. Nos. 4 and 27 of 2002; G.S.I. No. 33 of 2007; G.S.I. Nos. 48 and 73 of 2008; G.S.I. No. 12 of 2010; G.S.I. No. 14 of 2013; and G.S.I. No. 45 of 2016.

(2) The Committee may by regulation direct that the provisions of this Law specified in subsection (3) shall extend, subject to such exceptions, adaptations and modifications as may be specified in the regulations -

(a) to regulated persons within the meaning of the Beneficial Ownership Laws, and

(b) to compliance with the provisions of the Beneficial Ownership Laws.

(3) The specified provisions are sections 49B and 49C and any other provision of this Law so far as necessary for the purpose of giving effect to those sections as extended under subsection (2).".

2. In section 51(1) of the Law, after the definition of "Bailiwick company" insert the following definition -

""**Beneficial Ownership Laws**" means the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 and the Beneficial Ownership of Legal Persons (Alderney) Law, 2017,".

3. In section 52 of the Law, after the reference to "Bailiwick company" insert the following expression -

""**Beneficial Ownership Laws**" (section 51(1)),".

#### **Interpretation.**

4. In this Ordinance, "**the Law**" means the Criminal Justice (Proceeds of

Crime) (Bailiwick of Guernsey) Law, 1999.

**Extent.**

5. This Ordinance has effect throughout the Bailiwick of Guernsey.

**Citation.**

6. This Ordinance may be cited as the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017.

**Commencement.**

7. This Ordinance shall come into force on the day appointed by regulations made by the States of Guernsey Policy and Resources Committee, and regulations made under this section may appoint different dates for different provisions of this Ordinance and for different purposes.

**THE DISCLOSURE (FINANCIAL SERVICES COMMISSION) (BAILIWICK OF GUERNSEY)  
(AMENDMENT) ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Disclosure (Financial Services Commission) (Bailiwick of Guernsey) (Amendment) 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 the Disclosure (Bailiwick of Guernsey) Law, 2007, ("the Disclosure Law"). It amends section 21(2) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987, which permits the Guernsey Financial Services Commission (GFSC) to disclose confidential information for certain specified purposes. The effect of the amendment is to permit the GFSC to provide information to the different Registrars within the Bailiwick to enable them to carry out their functions relating to the beneficial ownership of legal persons, or to investigate matters relevant to those functions.

The reason for making this amendment under the Disclosure Law, rather than under the Beneficial Ownership of Legal Persons (Guernsey) Law, 2017 (approved by the States of Deliberation on the 26<sup>th</sup> April, 2017) and the Beneficial Ownership of Legal Persons (Alderney) Law, 2017 (approved by the States of Alderney on the 19<sup>th</sup> April, 2017) as initially envisaged, is to ensure that the amendments apply across the Bailiwick as a whole.

**The Disclosure (Financial Services Commission)  
(Bailiwick of Guernsey) (Amendment)  
Ordinance, 2017**

**THE STATES**, in pursuance of their Resolution of the 16<sup>th</sup> February, 2017<sup>a</sup>, and in exercise of the powers conferred on them by sections 14 and 16 of the Disclosure (Bailiwick of Guernsey) Law, 2007<sup>b</sup> and all other powers enabling them in that behalf, hereby order:-

**Amendment of the Financial Services Commission Law.**

1. After section 21(2)(g) of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987<sup>c</sup> insert the following paragraph -

"or (h) to enable -

(i) the Registrar of Beneficial Ownership of  
Legal Persons within the meaning of the

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<sup>a</sup> Article IV of Billet d'État No. V of 2017.

<sup>b</sup> Order in Council No. XVI of 2007; amended by ; Ordinance No. XXXIX of 2008; No. VII of 2009; Nos. XIV, XIX and XXXVII of 2010; Nos. XVI and LIII of 2014; and Nos. XX and XXXIX of 2015.

<sup>c</sup> Ordres en Conseil Vol. XXX, p. 243; amended by Vol. XXXI, p. 278; Vol. XXXII, p. 471; Vol. XXXV(1), p. 271; Vol. XXXVII, p. 24; Order in Council Nos. XVII and XXI of 2002; Nos. III and XXII of 2003; Nos. XIX, XXIII and XXIV of 2008; No. XIX of 2010; No. III of 2013; No. I of 2015; Ordinance No. XXXIII of 2003; No. XXXIV of 2005; Nos. XII, XX and XXXIX of 2015; Nos. II, IX and XXII of 2016; and G.S.I. No. 29 of 2009.

Beneficial Ownership of Legal Persons  
(Guernsey) Law, 2017,

- (ii) the Registrar of Companies within the meaning of the Companies (Guernsey) Law, 2008,
- (iii) the Registrar of Limited Liability Partnerships within the meaning of the Limited Liability Partnerships (Guernsey) Law, 2013,
- (iv) the Registrar of Foundations within the meaning of the Foundations (Guernsey) Law, 2012,
- (v) Her Majesty's Greffier,
- (vi) the Registrar within the meaning of the Companies (Alderney) Law, 1994, and
- (vii) the Registrar within the meaning of the Beneficial Ownership of Legal Persons (Alderney) Law, 2017,

to carry out their functions relating to the beneficial ownership of legal persons or to investigate matters of relevance to such functions."

**Extent.**

2. This Ordinance has effect throughout the Bailiwick of Guernsey.

**Citation.**

3. This Ordinance may be cited as the Disclosure (Financial Services Commission) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017.

**Commencement.**

4. This Ordinance shall come into force on the day appointed by regulations made by the States of Guernsey Policy and Resources Committee, and regulations made under this section may appoint different dates for different provisions of this Ordinance and for different purposes.



**THE PAROCHIAL CHURCH PROPERTY (GUERNSEY) LAW, 2015 (COMMENCEMENT)  
ORDINANCE, 2017**

The States are asked to decide:-

Whether they are of the opinion to approve the draft Ordinance entitled "The Parochial Church Property (Guernsey) Law, 2015 (Commencement) 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**

This Ordinance will bring Part III, section 11 and sections 15 to 18 of the Parochial Church Property (Guernsey) Law, 2015 into force on the 22<sup>nd</sup> June, 2017.

# **The Parochial Church Property (Guernsey) Law, 2015**

## **(Commencement) Ordinance, 2017**

**THE STATES**, in exercise of the powers conferred on them by section 18 of the Parochial Church Property (Guernsey) Law, 2015<sup>a</sup>, hereby order:-

### **Commencement of the Law.**

1. The following provisions of the Parochial Church Property (Guernsey) Law, 2015 shall come into force on 22<sup>nd</sup> June 2017 -

- (a) Part III,
- (b) section 11, and
- (c) sections 15 to 18.

### **Citation.**

2. This Ordinance may be cited as the Parochial Church Property (Guernsey) Law, 2015 (Commencement) Law, 2017.

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<sup>a</sup> Order in Council No. III of 2017.

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

**COMMITTEE *for* HOME AFFAIRS**

**VIDEO-RECORDED EVIDENCE IN CRIMINAL PROCEEDINGS**

The States are asked to decide:

Whether, after consideration of the Policy Letter dated 15 May, 2017 entitled Video-Recorded Evidence in Criminal Proceedings of the Committee *for* Home Affairs, they are of the opinion:-

1. To approve the proposals to permit a court in the Bailiwick to direct that a video-recording of a witness's evidence may be admitted as that witness's evidence in chief during criminal proceedings for any offence, as set out in the Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017;

The above Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

**THE STATES OF DELIBERATION**

**of the**

**ISLAND OF GUERNSEY**

**COMMITTEE FOR HOME AFFAIRS**

**VIDEO-RECORDED EVIDENCE IN CRIMINAL PROCEEDINGS**

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

15th May, 2017

Dear Sir

**1 Executive Summary**

- 1.1 The Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 permits a Bailiwick court to give a direction that a video-recording of a witness's evidence may be admitted as that witness's evidence in chief during criminal proceedings for specified sexual offences.
- 1.2 With the advice of the Law Officers of the Crown, the Committee *for* Home Affairs, following consultation with the Bailiff, Alderney and Sark, considers that it is in the public interest to introduce a framework as soon as possible which would permit a court to give such a direction during criminal proceedings for any offence. In deciding whether to give a direction, the court would be required to consider all relevant factors, including the age and vulnerability of the witness.
- 1.3 This policy letter therefore proposes the enactment of legislation under the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 which will give the courts power to give these directions, unless it is not in the interests of justice to do so.

**2. Background**

- 2.1 Section 40 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 provides that, in criminal proceedings for a relevant sexual offence, a court may give a direction that a video recording of an interview with a witness (other than the accused) can be admitted as the evidence in chief of that witness. The court cannot give such a direction if it would not be in the interests of justice to admit the video recording. A witness whose evidence in chief is given by way of video recording must then be called for

cross-examination by live-link or any other means ordered by the court, unless the parties agree that it is not necessary.

- 2.2 Her Majesty's Procureur has written to the Committee for Home Affairs in the following terms:

*"Since the introduction of sections 39-41 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013, a court dealing with a relevant sexual offence may admit a video recording of a witness's evidence (e.g. when interviewed by Guernsey Police as part of their investigations) as their evidence in chief, removing the need for the witness to repeat what they have previously stated. This is considered to have improved the quality of evidence before the courts by allowing factfinders to see and hear the witness's evidence as it was originally reported. In addition, it is likely to have reduced the stress experienced by, and the amount of time required of, a person who would otherwise give the totality of their evidence from the witness box.*

*However, the court can only admit such video-recorded evidence during proceedings in relation to the "relevant offences" set out in the 2013 Law; there is no such power in relation to other offences. The advantages of being able to admit a video recording of a witness's evidence in relation to sexual offences have highlighted a lacuna which exists in relation to other offences. It is important that witnesses who are vulnerable (whether due to age or other characteristics) are afforded appropriate means to testify and are not discouraged or otherwise inhibited from giving evidence. I therefore propose that this power should be made available to courts dealing with any offence, unless it is not in the interests of justice to do so. This is essentially the same test as found in the 2013 Law, as well as the Live-Link Evidence (Guernsey) Ordinance, 2008 which is likely to be used in combination with the proposed new powers. In considering whether to give a direction, the court should be under a duty to consider all relevant factors including the age and vulnerability of the witness.*

*Section 85 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 provides that in relation to any criminal proceedings before any court of the Bailiwick, the States may by Ordinance make provision as appropriate in relation to the receipt of evidence and the disclosure of material in those proceedings. I would therefore propose that an Ordinance is made under this section."*

- 2.3 The Committee for Home Affairs concurs with the view expressed by Her Majesty's Procureur.

### **3. Consultation**

- 3.1 The Bailiff, Alderney and Sark have been consulted and do not object to this proposal.

### **4. Procedure**

- 4.1 The Law Officers of the Crown consider it to be necessary and expedient in the public interest that an Ordinance is enacted as soon possible.

4.2 The Policy & Resources Committee was therefore requested to exercise its powers under Article 66A of the Reform (Guernsey) Law, 1948 to enact a suitable Ordinance entitled "The Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017", which is laid before the States in accordance with the said Article 66A, the States having the power to annul the Ordinance.

5. **Propositions**

The proposition is supported unanimously by Members of the Committee *for* Home Affairs. The States are asked to decide whether they are of the opinion:-

1. To approve the proposals to permit a court in the Bailiwick to direct that a video-recording of a witness's evidence may be admitted as that witness's evidence in chief during criminal proceedings for any offence, as set out in the Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017.

Yours faithfully

Deputy M. M. Lowe  
President

Deputy R. H. Graham  
Deputy M. P. Leadbeater  
Deputy V. S. Oliver  
Deputy R. G. Prow



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The President  
Policy & Resources Committee  
Frossard House  
La Charroterie  
St Peter Port

18<sup>th</sup> May 2017

Dear Sir,

### **Preferred date for consideration by the States of Deliberation**

In accordance with Rule 4(2) of the Rules of Procedures of the States of Deliberation and their Committees, the Committee *for* Home Affairs requests that the Video-Recorded Evidence in Criminal Proceedings Policy Letter and the Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017 be considered at the States' meeting to be held on 21<sup>st</sup> June 2017.

The Policy Letter sets out that it is in the public interest to introduce a framework as soon as possible which would permit a court to give a direction that video-recording of a witness's evidence may be admitted as evidence in chief during criminal proceedings for any offence.

The Policy and Resources Committee will be aware that the Law Officers of the Crown considered it to be necessary and expedient in the public interest that an Ordinance was enacted as soon as possible. As a consequence the Policy and Resources Committee exercised its powers under Article 66A of the Reform (Guernsey) Law, 1948 and enacted the Ordinance on 16<sup>th</sup> May 2017 and it came into force the following day. For these reasons the Committee for Home Affairs considers it appropriate that the Policy Letter and Ordinance is considered by the States without delay.

Her Majesty's Procureur has confirmed that the Presiding Officer has given permission for the Policy Letter and Ordinance to appear in the same Billet.

Yours faithfully

**Deputy Mary Lowe**  
**President**  
Committee *for* Home Affairs

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**  
**COMMITTEE FOR HEALTH & SOCIAL CARE**

BOWEL CANCER SCREENING

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Bowel Cancer Screening', 19 April 2017, they are of the opinion:-

1. To affirm the policy objective of the Committee *for* Health & Social Care, that there should be a long-term programme of population-based screening for bowel cancer in Guernsey and Alderney, with the aim of prevention and early detection of disease, in order to reduce bowel cancer-related morbidity and mortality, using methods that are based on reliable scientific evidence.
2. To agree that the Committee *for* Health & Social Care, in accordance with its mandate to "develop and implement policies on matters relating to its purpose, including: [...] the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions; [...] and] public health" and its general responsibility "to ensure that public funds and other resources are used to best advantage", may, from time to time, vary the method of screening, the demographic targeted for screening, or the frequency of repeat screenings, without reverting to the States for authorisation; provided always that such changes are based on reliable clinical evidence, have regard to the ring-fenced budget available for the service, and continue to achieve the policy objective as set out in Proposition 1 above.
3. To rescind their Resolutions of 10<sup>th</sup> December 2015, which were -
  1. To offer bowel cancer screening using a flexible sigmoidoscope to all Guernsey residents as they become 60 years of age and 65 years of age.
  2. To offer bowel cancer screening using a flexible sigmoidoscope to any Guernsey resident who is between the age of 60 and 65 years of age who has not been screened.
  3. To offer screening for bowel cancer using a flexible sigmoidoscope to any Guernsey resident who has a familial history of bowel cancer, as defined by the British Society of Gastroenterology.



4. To note the intention of the Committee *for* Health & Social Care to introduce the Faecal Immunochemical Test (FIT) for bowel cancer screening for Guernsey and Alderney residents aged from 60 to 70 years old, as set out in this policy letter; with additional screening, as appropriate, for people in higher-risk groups, including people with a family history of bowel cancer.
5. To note the intention of the Committee *for* Health & Social Care to undertake a review of its full range of population-based screening programmes to ensure their effectiveness, acceptability and accessibility to the target population.

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**  
**COMMITTEE FOR HEALTH & SOCIAL CARE**

BOWEL CANCER SCREENING

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

19 April 2017

Dear Sir

**1.0 Executive Summary**

- 1.1 Bowel cancer is a significant cause of ill-health and mortality in Guernsey. Population-based bowel cancer screening programmes provide an opportunity to detect early signs of bowel cancer, at a stage where it may be possible to intervene to prevent the disease from worsening. The Committee *for* Health & Social Care (**the Committee**) is fully committed to maintaining a long-term, population-based bowel cancer screening programme in Guernsey and Alderney, with the aim of reducing bowel cancer-related ill-health and mortality in the islands.
- 1.2 There has been a bowel cancer screening programme in place in Guernsey, in one form or another, since 2011. The programme has had a fraught political history (and, consequently, a difficult operational history) in that time. For newer Members of the States, that history is summarised in brief in Appendix 1. This may help to explain some of the context of this policy letter.
- 1.3 The States of Deliberation passed resolutions on 10<sup>th</sup> December 2015 which required the Committee *for* Health & Social Care to only offer bowel cancer screening using flexible sigmoidoscopy. This enables up to 500 people a year to be screened, using a process that involves investigating the left-hand side of the colon with an endoscope.
- 1.4 In July 2016, the Committee took the difficult decision to suspend the screening programme, due to a lack of on-island capacity to deliver it at that time. An interim agreement was reached with the Aberdeen Clinic, enabling the service to be restored from September 2016 on a temporary basis. The Committee, through its clinical staff, undertook to review the service for 2017 onwards and return to the

States with proposals based on specialist advice. This policy letter is the result of that evaluation.

- 1.5 Since bowel cancer screening was put in place, a multi-disciplinary team of health professionals has been established to monitor the screening process and advise on different methods being utilised nationally to evaluate against the local service. This group has given full support to the contents of this policy letter.
- 1.6 However, as a result of the resolutions dated 10<sup>th</sup> December 2015, the Committee's flexibility to change the way the programme is delivered is restricted, unless it reverts to the States for approval. This restriction means that the Committee is unable to take advantage of recent improvements in alternative methods which provide the potential to significantly increase the cohort being screened, and thus improve the potential for prevention and early intervention across the population.
- 1.7 In bringing forward this policy letter, the Committee is asking the States to rescind the resolutions of 10<sup>th</sup> December 2015; to affirm the policy objective of a long-term, population-based bowel cancer screening programme; and simply to note the manner in which the Committee intends to deliver it now. This avoids the States defining the service too tightly, and allows the Committee the flexibility to decide what is the appropriate method for bowel cancer screening and the cohort to be tested, at any given time in future, based on the available scientific evidence and having regard to its ring-fenced budget set aside for the purpose. By way of comparison, there is no other preventive procedure or intervention across the health service in which the States stipulates precisely what equipment doctors must use; what investigative procedure they must use it in; and which patients they must see. As such, other services can more readily evolve, in order to keep abreast of advances in technology and provide the most effective service for islanders, without the lengthy and bureaucratic process of reverting to the States for approval.
- 1.8 The latest advice provided to the Committee is that the current method of bowel cancer screening using flexible sigmoidoscopy should be replaced by a simple stool test called a Faecal Immunochemical Test (FIT), which is a more effective screening tool than earlier stool tests, and which reflects what is happening in other jurisdictions.
- 1.9 Flexible sigmoidoscopy (the current method of screening) is a good method of screening, but is not without its limitations. It prevents any pre-cancerous polyps in the bowel from developing into cancer by removing them through an invasive procedure that requires patients to undergo unpleasant pre-screening treatment in the form of an enema. It is also limited to detecting polyps in the lower third of the bowel. In contrast, FIT detects early cancers and advanced pre-cancerous polyps

using a non-invasive method by detecting blood in the stool from cancers and large pre-cancerous polyps.

- 1.10 FIT is also considerably more scaleable than flexible sigmoidoscopy, because it is not nearly so resource-intensive. Converting to FIT will allow the Bowel Cancer Screening Programme to screen approximately 4,000 people per annum, compared with the current 500 per annum using flexible sigmoidoscopy. As with the current screening programme, any patient who tests positive from the FIT test would go on to have follow-up in the form of a colonoscopy that examines the entire bowel.
- 1.11 As a result of the 2016-17 evaluation of the programme, it is clear that the ring-fenced budget will not be sufficient to satisfy the full requirements of the resolutions of 10<sup>th</sup> December 2015, on a sustainable basis, using flexible sigmoidoscopy. In addition, the international shortage in suitably qualified clinicians to undertake the work means that there is no guarantee that the States could successfully recruit or contract sufficient resources to deliver the programme as currently specified, at least in the near future. This heightens the importance of seeking a States' decision on the future design of the programme, as the Committee has done in this policy letter.
- 1.12 In considering the future of the bowel cancer screening programme, the Committee has recognised that there are a number of population-based disease screening programmes available to islanders, including screening for breast cancer (which is free at the point of use) and cervical cancer (which is predominantly carried out in primary care, at a cost to the individual). The Committee believes in the fundamental importance of prevention and early intervention to reduce ill-health and mortality, and considers that population-based screening should be used wherever there is robust scientific evidence that it is an effective, and cost-effective, way to improve health outcomes. The Committee recognises that factors such as the invasiveness of any given screening procedure, or the cost of getting it done, may affect uptake among the population. Accordingly, the Committee intends to undertake a review of its full range of population-based disease screening programmes over the course of this States term, as part of its wider programme of transformation, in order to ensure their effectiveness, acceptability and accessibility to the target population, in light of current best evidence and practice.

## 2.0 Introduction and background

- 2.1 Prevention and early intervention goes to the heart of the transformation of health and social care. This is embedded in the 2020 Vision: “to promote, protect and improve health for all through the provision of hospital, community, social and public health services” and the Committee’s mandate makes it clear that it is “responsible for the prevention of acute and chronic diseases”.
- 2.2 Preventative medicine (including population-based screening) can detect serious conditions in very early stages and prevent people from becoming seriously ill. It also has the benefit of avoiding the costly treatment that results when that condition becomes serious. There are different methods of bowel cancer screening, which are set out in Appendix 2.
- 2.3 In 2011 a successful pilot bowel cancer screening study was carried out which led to the introduction of the Guernsey Bowel Cancer Screening Programme in 2012. Statistics from 2011 to 2016 can be found in Appendix 3. Initially this programme invited men and women aged 60 for screening and offered them a single sigmoidoscopy. However, the then HSSD Board felt that the programme was not covering all the ‘at risk’<sup>1</sup> population and introduced screening of a second cohort for men and women in their 66th year of life. This is supported by clinical evidence that the median age for developing bowel cancer is 71 years<sup>2</sup>.
- 2.4 From January 2012 to September 2014, the programme screened men and women in their 60th year of life. Following agreement by the then HSSD Board the programme switched over to inviting men and women as they reached 66 from October 2014.
- 2.5 The HSSD Board at the time was seeking a way that screening two cohorts could be accommodated within the budget. However, this was superseded by a Requête<sup>3</sup> dated 7<sup>th</sup> September 2015. The signatories to that Requête asked the States to direct the Health and Social Services Department:
- To offer bowel cancer screening using a flexible sigmoidoscope to all Guernsey residents as they become 60 years of age and 65 years of age.
  - To offer bowel screening using a flexible sigmoidoscope to any Guernsey resident who is between the age of 60 and 65 years of age who has not been screened.

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<sup>1</sup> HSSD 2014 - 071 - CANCER SERVICES - BOWEL CANCER SCREENING – RECOMMENDED FUTURE SCOPE - 19032014

<sup>2</sup> Chinyama CN, Mullen P, Van den Bossche M, Sarre L, Ferguson J. Colorectal cancer in Guernsey: A disease of the elderly? J Pathol 2002; 197:146A

<sup>3</sup> Billet d’Etat XX 2015, Requête – Bowel Cancer Screening

- To offer screening for bowel cancer using a flexible sigmoidoscope to any Guernsey resident who has a familial history of bowel cancer, as defined by the British Society of Gastroenterology.
- To offer bowel cancer screening by a colonoscopy to any Guernsey resident over the age of 60 for an all-inclusive fee of £750.00.
- To introduce further screening by colonoscopy by 2017 as advised by local clinicians.

All but the last two prayers were approved by the States on 10<sup>th</sup> December 2015.

- 2.6 At the end of May 2016 there was no on-island capacity available to undertake bowel cancer screening and officers attempted to recruit an alternative consultant. However, this proved impossible, reflecting the national shortage of gastroenterologists.
- 2.7 Currently, bowel cancer screening is being offered by a UK provider who offers a nurse and an endoscopist supported by the Day Patient Unit at the Princess Elizabeth Hospital. This service screens a single cohort, being men and women in their 66th year of life. The current resolutions are therefore not being fulfilled. It is intended that the current UK provider will continue to offer this service until the changeover to a new method of screening.

### **3.0 The Case for Change**

- 3.1 Flexible sigmoidoscopy is an invasive method of screening and requires skilled professionals to undertake it. This makes it costly in terms of resourcing and depends on the availability of the necessary expertise.
- 3.2 The current budget ring-fenced for bowel cancer screening is £327,000 per annum. Only £230,505 was used in 2016, due to the fact that no screening took place in June, July and August of that year. The cost of fully delivering the extant resolutions would be significantly more than the current budget due to the extra staffing requirements to cover the additional patients including: an additional Nurse Endoscopist and/or Gastroenterologist, Biomedical Scientist, extra nursing staff in Endoscopy Unit and extra administrative support.
- 3.3 Based on the 2017 forecast, the current ring-fenced budget would need to be increased by £150,947 to £476,717, in order to cover the necessary resources, as follows:

	£
HSC Administrative and Pathology Staff	82,155
HSC Nursing Staff	199,200
UK Gastroenterologist and nursing staff	144,000
Travel for UK staff	36,000
Medical Supplies	14,400
Other administration costs	962
	<hr/> £476,717

- 3.4 The above costs don't include any changes that would be needed in the Day Patient Unit to manage the increased cohort and they only cover the first resolution, to offer bowel cancer screening using a flexible sigmoidoscope, to all Guernsey and Alderney residents as they become 60 years of age and 65 years of age (approximately 1,000 people).
- 3.5 To comply with the second resolution, to provide catch-up screening to people aged 61 to 64 who have not yet been screened, extra resources would be required. It is estimated that the uptake for this could be up to 2,000 people.
- 3.6 The final resolution, to offer screening to any Guernsey and Alderney resident who has a family history of bowel cancer, as defined in the British Society of Gastroenterology guidelines, could further increase the resources required, although the size of this population group is presently unknown.
- 3.7 The resource issue is not just one of funding, but also of capacity. As demonstrated by the temporary suspension of the programme in summer 2016, the available capacity to provide bowel cancer screening with flexible sigmoidoscopy is very limited. The current provider is unable to meet the additional requirements of the second and third resolutions, and recruiting additional cover is inherently challenging, as gastroenterologists are a scarce resource. According to the Gastroenterology Workforce Report<sup>4</sup> in September 2015, 51% of advertised consultant posts were not filled. There has been an overall 21% increase in successful appointments but a 312% increase in unfilled posts, reflecting an increasing competition for resources across the UK.
- 3.8 Appointing a Nurse Endoscopist (that is, a senior nurse with specialist training in conducting flexible sigmoidoscopies) to help provide the service has also been considered but that person would not be able to work wholly independently. They would require a Consultant Gastroenterologist to be available in the event of

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<sup>4</sup> Gastroenterology Workforce Report, October 2015, Chris Romaya and Melanie Lockett  
[http://www.bsg.org.uk/pdf\\_word\\_docs/manpower\\_15.doc](http://www.bsg.org.uk/pdf_word_docs/manpower_15.doc)

complications such as bowel perforation, which is a risk due to the invasive nature of flexible sigmoidoscopy. This means that the availability of sufficient consultant capacity remains the basic challenge for any bowel cancer screening programme based on flexible sigmoidoscopy.

- 3.9 An interim bowel cancer screening service is currently being provided by an external agency, following the temporary suspension of the service in summer 2016. Although it runs relatively smoothly, there is only limited continuity through multidisciplinary team (MDT) meetings between local clinicians and the outside agency. An MDT meeting manages all patients, not only bowel cancer patients but all cancer patients. The team consists of professionals from different specialities comprising: Gastroenterologist, Surgeon, Pathologist, Clinical Nurse Specialist, MDT co-ordinator and Radiologist.
- 3.10 These professionals decide how best to manage the patient by taking into account their physical and social circumstances. There is evidence that patients managed in a multidisciplinary environment benefit more than those managed by a single handed practitioner. A separate temporary MDT meeting was set up to allow the involvement of the current external agency. If the new FIT service is established patients will be discussed at regular MDT meetings.

#### **4.0 The Case for FIT**

- 4.1 The Committee intends to introduce the Faecal Immunochemical Test (FIT) to screen people aged from 60 to 70 for bowel cancer, and to retire the flexible sigmoidoscopy screening programme. Having listened to the evidence presented by the clinical team, the Committee believes that there is a strong case for doing so, which it has set out here, so that States Members can take comfort that the Committee is not deviating from the policy objective of population-based screening for bowel cancer, to support prevention and early intervention, and to reduce bowel cancer-related ill-health and mortality.
- 4.2 FIT is a non-invasive method of screening that only requires a person to provide a single sample for testing. In contrast, flexible sigmoidoscopy is invasive and requires an enema to induce diarrhoea. Both the preparation and procedure itself can be unpleasant and uncomfortable and can deter some people from being screened by flexible sigmoidoscopy. The average uptake for bowel cancer screening in Guernsey is 60%, which is higher than the UK average of 40%, but much lower than the local cervical and breast screening programmes, which show participation rates of approximately 80% and 90% respectively. Recently there also appears to have been a reduction in those taking up their invitation for bowel cancer screening, although it is not possible to say what is causing this, or whether it will become a sustained trend.



- 4.3 Modern guidelines<sup>5,6</sup> now advocate FIT as the best non-invasive method of screening for bowel cancer. The main difference between flexible sigmoidoscopy and FIT is that the former prevents the patient from developing bowel cancer by removing polyps that could develop into bowel cancer and FIT picks up the presence of blood in the stool and therefore detects early signs of bowel cancer as well as precancerous polyps. Only patients with high risk polyps detected by flexible sigmoidoscopy are referred for colonoscopy. This has the potential of missing polyps or early cancers in the remainder of the bowel.
- 4.5 The UK uses an earlier form of stool test (the guaiacFaecal Occult Blood Test, or gFOBT) for its bowel cancer screening programme. In June 2016, the UK National Screening Committee (NCS) recommended that FIT should replace gFOBT used in the NHS Bowel Cancer Screening because it provides the opportunity to detect and prevent more cancers and it is easier to use<sup>7</sup>. It should be noted that the UK is also attempting to scale up a programme to offer one-off flexible sigmoidoscopies as a complement to its stool-testing programme, which is likely to be part of the reason why gastroenterologists are so much in demand at present.
- 4.6 The 2010 European guidelines<sup>8</sup> for quality assurance in colorectal cancer screening and diagnosis recommended the adoption of FIT as the primary screening modality for colorectal cancer instead of gFOBT. The evidence presented in those guidelines demonstrated that FIT was analytically more sensitive (i.e. is more accurate in detecting blood in the stool) and specific (detects only blood and blood products) than gFOBT and in population screening it showed greater clinical effectiveness in the detection of cancer and advanced adenomas.
- 4.7 In addition, the guidelines state that FIT has other significant practical benefits for population screening. FIT has also been promoted by the World Endoscopy Organisation, the Colorectal Cancer Screening Committee's Expert Working Group<sup>9</sup> because it enables objective (measurable) and automated measurement by a single FIT device requiring a single faecal sample, and the method used is acceptable to the population being screened (a factor which is important for uptake of the service).
- 4.8 In summary, the advantages and disadvantages of flexible sigmoidoscopy, gFOBT and FIT are outline in table 1 below:

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<sup>5</sup> UK National Screening Committee Screening for Bowel Cancer 19 November 2015

[https://www.google.com/urlegacy.screening.nhs.uk%2Fpolicydb\\_download.php%3Fdoc%3D577&](https://www.google.com/urlegacy.screening.nhs.uk%2Fpolicydb_download.php%3Fdoc%3D577&)

<sup>6</sup> European guidelines for quality assurance in colorectal cancer screening and diagnosis, First edition ed., Publications Office of the European Union, Luxembourg, 2010

<sup>7</sup> <https://www.gov.uk/government/publications/health-matters-preventing-bowel-cancer>

<sup>8</sup> Koivunen ME, Krogsrud RL. Principles of immunochemical techniques used in clinical laboratories. Lab Medicine 2006; 37: 490-497

<sup>9</sup> <http://www.worldendo.org/weo-crcsc-expert-working-group-fit-for-screening.html>

**Table 1: Comparison of methods of bowel cancer screening.**

	<b>Flexible Sigmoidoscopy</b>	<b>gFOBT</b>	<b>FIT</b>
<b>Advantages</b>	<ul style="list-style-type: none"> <li>• Very specific - When combined with histological investigation positive results are definitive;</li> <li>• Can remove precancerous polyps;</li> </ul>	<ul style="list-style-type: none"> <li>• No machine / analyser required;</li> <li>• No interfacing of I.T requirements;</li> <li>• Detects positives from entire GI tract;</li> <li>• Sample stable for 21 days;</li> <li>• Cheapest individual test costs;</li> <li>• Negative patients do not need to attend hospital</li> </ul>	<ul style="list-style-type: none"> <li>• Automated process &amp; interpretation;</li> <li>• Enhanced patient experience;</li> <li>• Single specimen;</li> <li>• More specific than gFOBT;</li> <li>• Positive cut-off can be adjusted to fit available Colonoscopy resource;</li> <li>• No procedural risks to the patient (non-invasive);</li> <li>• Negative patients do not need to attend hospital;</li> <li>• No dietary restrictions;</li> <li>• Could potentially be used for monitoring high risk families<sup>10</sup>;</li> <li>• Evidence to support greater uptake of test in the population;</li> <li>• Recommended in most modern guidelines;</li> </ul>
<b>Disadvantages</b>	<ul style="list-style-type: none"> <li>• Invasive procedure with associated risks;</li> <li>• Convoluted preparation process which is unpleasant for the participant;</li> <li>• Expensive – staff time;</li> <li>• Difficult to source specialists;</li> <li>• Does not examine the upper colon;</li> </ul>	<ul style="list-style-type: none"> <li>• Manual colormetric interpretation. (by eye);</li> <li>• Requires 3 consecutive samples;</li> <li>• Unpleasant specimen collection;</li> <li>• Strict dietary restrictions prior to test;</li> <li>• Least specific test; - false positives</li> </ul>	<ul style="list-style-type: none"> <li>• Requires purchase of a new analyser;</li> <li>• Requires new equipment and IT interfaces;</li> <li>• Potential increase in referrals to endoscopy;</li> <li>• Less specific than FS;</li> <li>• Detects positive from entire colon</li> </ul>

<sup>10</sup> Cubiella J et al Diagnostic accuracy of faecal immunochemical test in average and familial – risk colorectal cancer screening EUG J 2014; 2 (6); 522-29

## **5.0 The Population to be screened using FIT**

- 5.1 The Committee proposes to introduce FIT testing for all islanders aged from 60 to 70. The test will be offered to each person once every two years. The service will be available to men and women above the age of 60 who have never been screened before, as well as people in that age bracket who have been screened once by flexible sigmoidoscopy but who were not referred for a follow-up colonoscopy. In addition, the intention is to develop an extended screening programme for high-risk groups, including people with a family history of bowel cancer.
- 5.2 At present, the Committee is directed by resolution to screen people at ages 60 and 65 (although, as discussed above, in practice only one age group is being screened). Under these proposals, the cut-off age for screening would increase to 70 – reflecting a concern, which has often been aired in States’ and public debates on this subject, to ensure that there is appropriate screening for older islanders. Islanders would be screened every two years, rather than once only or once every five years. The Committee is currently screening up to 500 participants per year using flexible sigmoidoscopy. Based on the Guernsey electronic census in 2015, it is estimated that around 4,000 people could be screened a year, using two-yearly FIT for people aged between 60 to 70. This will increase over the coming years as more people enter the 60-70 age range.
- 5.3 It is intended to retire the flexible sigmoidoscopy programme and to phase in FIT, with a transition period commencing in the second half of 2017. Sensitive, informative communication with the target population will be key. Phasing-in will allow the Committee to monitor and review the way the system is functioning, make any changes, if required, and ensure Islanders are getting the best service available.
- 5.4 Based on an assumed 80% uptake, the Committee believes it will be possible to deliver two-yearly FIT screening to islanders aged from 60 to 70 on a sustainable basis, within the ring-fenced bowel cancer screening budget previously agreed by the States. The Committee will keep this under review and may, in future, seek to move to the English model of screening participants up to the age of 74, if resources and capacity allow – however, at present, the Committee is not confident that this would be sustainable.
- 5.5 The Committee is conscious of the need to ensure that appropriate screening is available to people in higher-risk groups, including those with a family history of bowel cancer. This may involve screening with FIT from an earlier age, or screening with an alternative methodology. Guidelines for high risk groups will continue to be

developed by the clinical team. A recent study<sup>11</sup> investigating a comparison of FIT and colonoscopy testing concluded that repeated FIT screening (once a year for 3 years) detected all colorectal cancers and proved equivalent to colonoscopy in detecting advanced neoplasia (abnormal growth) in first degree relatives of patients with colorectal cancers. It is also intended to offer FIT as part of an initial assessment for patients who present to their GP with symptoms of bowel cancer, in order to help avoid inappropriate referrals for endoscopy.

- 5.6 Using FIT will enable a larger proportion of the public to be screened than the current flexible sigmoidoscopy screening programme, providing a sustainable service which is based on sound evidence, and using a screening method which is effective, non-invasive, and likely to be acceptable to the majority of those who are invited to take part in the programme, thereby increasing uptake among those people who would benefit the most.

## **6.0 Impact on budget**

- 6.1 The current budget of £327,000 for bowel cancer screening is ring-fenced by the States for that purpose (as explained in Appendix 1). By switching from flexible sigmoidoscopy to FIT the Committee aims to screen a larger population, including those at higher risk, by deploying these ring-fenced resources as effectively as possible. The Committee is well aware that this is an area where the States does not expect it to make cash savings, or redirect funding for use elsewhere, and it will continue to use the full ring-fenced budget for this service.
- 6.2 The figures below show that in a normal year of operation, once FIT is established and running as a 'business as usual' operation, the costs to operate the service are within the ring-fenced budget. In order to set the service up ahead of a full year of normal operation, a capital investment for the required analyser is necessary, together with some one-off transition costs to implement the required software interfaces within Pathology in order to deliver the required technical capability. These one-off interface costs will be covered through the ring-fenced budget. The charity Bowel Cancer Guernsey, which has been supportive of this project, has very kindly offered to donate the new analyser, for which the Committee extends its sincere thanks.

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<sup>11</sup> Gastroenterology 2014;147(5):1021-1030 "Equivalency of FIT test and Colonoscopy in Familial Colorectal Cancer Screening"

**Revenue costs 2018**

	£
Clinical and administrative staff	176,358
Consumables	53,102
Predicted cost for follow up investigations	95,000
Total	<u>£324,460</u>

	£
<b>Revenue costs 2017 (FS; transition to FIT)</b>	
Flexible sigmoidoscopy costs	119,179
Clinical and administrative staff costs	58,994
Consumables	8,928
Predicted cost for follow up investigations	12,528
	<u>£199,629</u>

<b>Set up costs</b>	
Lab refurbishment	3,000
iO Sensor (FIT analyser) - Charitable donation	0
IT Interfacing & professional services	63,000
	<u>66,000</u>
Total	<u>£265,629</u>

**7.0 Conclusion**

- 7.1 Prevention and early intervention goes to the heart of a sustainable health and social care service. Population-based bowel cancer screening is important in reducing ill-health and mortality from bowel cancer, and is fully supported by the Committee.
- 7.2 The Committee fully believes that it is possible to provide a sustainable bowel cancer screening programme to a broad target population, in order to detect and reduce the risk of bowel cancer. However, it has found itself unable to completely fulfil the current resolutions as directed by the States in December 2015, and had to suspend the service briefly in summer 2016 owing to a lack of specialist capacity to deliver the service using the methods specified by the States. While an interim solution was found, this is not sustainable in the long term, and the current resolutions are felt to place an unnecessary and unreasonable restriction on the Committee, such that it can't take advantage of the latest medical advances or developments in best practice; nor manage its services thoughtfully and creatively to cope with any shortfall in resources or capacity that may exist.
- 7.4 Following internal evaluation and discussion of the options available, the Bowel Cancer Screening Programme team recommended population-based screening using FIT in future. Key benefits include the fact that it is non-invasive and therefore likely

to attract a greater take-up and enables a much larger population (aged 60 to 70) to be tested with more frequency (every two years). It is well-supported by modern guidelines, as a good-quality, non-invasive screening method, and is being rolled out in other jurisdictions, such as the UK.

- 7.5 In considering the future of the bowel cancer screening programme, the Committee has recognised that there are a number of population-based disease screening programmes available to islanders, including screening for breast cancer (which is free at the point of use) and cervical cancer (which is predominantly carried out in primary care, at a cost to the individual). The Committee believes in the fundamental importance of prevention and early intervention to reduce ill-health and mortality, and considers that population-based screening should be used wherever there is robust scientific evidence that it is an effective, and cost-effective, way to improve health outcomes. The Committee recognises that factors such as the invasiveness of any given screening procedure, or the cost of getting it done, may affect uptake among the population. Accordingly, the Committee intends to undertake a review of its full range of population-based disease screening programmes over the course of this States term, as part of its wider programme of transformation, in order to ensure their effectiveness, acceptability and accessibility to the target population, in light of current best evidence and practice.

## **8.0 Propositions**

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

1. To affirm the policy objective of the Committee for Health and Social Care, that there should be a long-term programme of population-based screening for bowel cancer in Guernsey and Alderney, with the aim of prevention and early detection of disease, in order to reduce bowel cancer-related morbidity and mortality, using methods that are based on reliable scientific evidence.
2. To agree that the Committee for Health & Social Care, in accordance with its mandate to “develop and implement policies on matters relating to its purpose, including: [...] the prevention, diagnosis and treatment of acute and chronic diseases, illnesses and conditions; [... and] public health” and its general responsibility “to ensure that public funds and other resources are used to best advantage”, may, from time to time, vary the method of screening, the demographic targeted for screening, or the frequency of repeat screenings, without reverting to the States for authorisation; provided always that such changes are based on reliable clinical evidence, have regard to the ring-fenced budget available for the service, and continue to achieve the policy objective as set out in Proposition 1 above.

3. To rescind their Resolutions of 10th December 2015, which were -
  1. To offer bowel cancer screening using a flexible sigmoidoscope to all Guernsey residents as they become 60 years of age and 65 years of age.
  2. To offer bowel cancer screening using a flexible sigmoidoscope to any Guernsey resident who is between the age of 60 and 65 years of age who has not been screened.
  3. To offer screening for bowel cancer using a flexible sigmoidoscope to any Guernsey resident who has a familial history of bowel cancer, as defined by the British Society of Gastroenterology.
4. To note the intention of the Committee for Health & Social Care to introduce the Faecal Immunochemical Test (FIT) for bowel cancer screening for Guernsey and Alderney residents aged from 60 to 70 years old, as set out in this policy letter; with additional screening, as appropriate, for people in higher-risk groups, including people with a family history of bowel cancer.
5. To note the intention of the Committee for Health & Social Care to undertake a review of its full range of population-based screening programmes to ensure their effectiveness, acceptability and accessibility to the target population.

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.

## **9.0 Statement of Support**

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

Yours faithfully

H J R Soulsby  
President

R H Tooley  
Vice-President

J Mooney  
R G Prow  
E A Yerby

R H Allsopp, OBE  
Non-Voting Member

## **APPENDIX 1**

### **Bowel Cancer Screening in Guernsey**

In the **2007** Government Business Plan (Billet d'État XVIII, Jul. 2007), the States committed to providing best-value healthcare for the community, including through "prevention and screening, [which] will not only improve the quality of life but also reduce the need for more costly services at a later date."

As one of the actions to achieve this objective, the Health and Social Services Department (headed by Deputy Peter Roffey at the time) said that it planned to introduce colorectal (bowel) cancer screening. This was one of many 'Level 4' actions, which were not set out in great detail in the Plan. There was no specific States' approval or funding for this action.

In the **2009** States Strategic Plan (Billet d'État XVIII, Jul. 2009), the introduction of "new screening and preventative health measures, including colorectal screening and the obesity strategy" was one of a list of projects put forward for prioritisation over the period 2009-13. It was estimated that these two measures would cost about £580,000 per year, taken together. They were scored as 'high priority' (the third category of urgency, after 'essential' and 'very high priority').

The 2009 Plan came in two stages, with a second debate in October (Billet d'État XXVI, Oct. 2009) in which the States decided how to allocate funding to the proposed new projects. Policy Council did not recommend funding for colorectal cancer screening in 2010, but noted it as one of the longer-term aims for HSSD (then led by former Deputy Hunter Adam).

In that debate, several amendments were proposed. The first two, led by Deputy Mark Dorey and former Deputy Carol Steere, would have raised enough revenue to fund a number of developments, including, in both cases, the full cost of bowel cancer screening (then estimated at £261,000). A third, led by Deputy Matt Fallaize and former Deputy Andrew Le Lievre, would have struck out funding for the British Irish Council and redirected it to bowel cancer screening (£175,000). None of these amendments were successful.

In **2010**, the States went through a similar process (Billet d'État XIX, Sep. 2010). Again, bowel cancer screening was not recommended for funding as an immediate priority. Deputy Matt Fallaize and former Deputy Bernard Flouquet led an amendment that would have struck out £250,000 of funding for the storage of museum objects and reallocated £200,000 to bowel cancer screening (noting that HSSD estimated it would cost £200,000 in Year 1, reducing to £190,000 p.a. thereafter). Again, the amendment was not successful.

Following the debate, in response to the public's reaction to the States' decision, HSSD decided to launch a short-term (pilot) bowel cancer screening programme. Instead of



receiving central funding, it reallocated its own budget – but, at the time, it was reported<sup>12</sup> that this was not sustainable, and the Department would rely on receiving States’ funding in 2012 in order to carry on. The programme started in October **2011**. When it started, islanders were invited to be screened for bowel cancer at the age of 60, using flexible sigmoidoscopy.

Also in October 2011, the States updated their Strategic Plan (Billet d’État XVI, Oct. 2011). This time, the States did agree to prioritise bowel cancer screening, and allocated a sum of £328,000. The Policy Council’s covering report (para 4.92) noted that the programme had been put forward despite a relatively low score, because of the level of political support it was known to have.

The aims of the bowel cancer screening programme, as outlined in the States’ Strategic Plan (para 21.39), were to reduce the number of cases of, and deaths from, bowel cancer over a ten-year period, by inviting two age groups for screening using flexible sigmoidoscopy.

It should be noted that, over the period from 2007 to 2011, the estimated costs of the bowel cancer screening programme, as presented to the States, appeared to differ significantly from year to year. Behind the scenes, this must have been due to changes in the design of the programme and, presumably, the adoption of flexible sigmoidoscopy as the method of choice in the 2011 bid.

Once the bowel cancer screening programme started, the issue was politically quiet for a couple of years. Then, in **2013**, former Deputy Mike Hadley asked the then HSSD Minister, Deputy Mark Dorey, formal questions about the progress of the programme, which identified that the £328,000 annual budget allocated in 2011 was being under-spent, and that the programme had not been able to expand to include a second age group – it continued to invite only 60-year-olds for screening with flexible sigmoidoscopy.

This process was very politically charged at the time, and culminated in a Motion of No Confidence being brought against the Department at the start of **2014** (Billet d’État IV, Jan. 2014), led by former Deputy Hadley. The Motion failed, with just 10 votes in favour and 34 against. However, it was clear that the delivery of a successful bowel cancer screening programme remained high on the political agenda, and HSSD took steps to ensure that the issues identified through Deputy Hadley’s questioning were set to rights.

It should be noted that one of the current political members of the Committee *for* Health and Social Care, Deputy Emilie Yerby, was an employee of HSSD at the time, and was the co-author of a report to the Department which evaluated the programme and recommended

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<sup>12</sup> BBC Guernsey (2010) “Guernsey to start bowel cancer screening in 2011” - <http://www.bbc.co.uk/news/world-europe-guernsey-11895996>

next steps<sup>13</sup>. The report offers a summary of the first three years of the programme, as well as identifying certain internal weaknesses and disagreements which had affected the development of the programme to that point.

In late 2014 (for reasons unconnected to bowel cancer screening), the political members of HSSD stepped down. A new board, with former Deputy Paul Luxon as Minister, was elected in October 2014. Former Deputy Mike Hadley, who maintained a focus on bowel cancer screening throughout the remainder of his States' term, was one of the five members. Deputy Heidi Soulsby, who is now President of the Committee *for* Health and Social Care, was appointed as Deputy Minister.

Although some progress had been made at that stage, the organisation was still struggling to put the bowel cancer screening programme on a sustainable, permanent footing that met the objectives of the States. Within HSSD, members differed on how best to resolve this, and in November **2015**, former Deputy Hadley split from the rest of his board and brought a Requête on Bowel Cancer Screening to the States (Billet d'État XX, Nov. 2015).

The Requête was opposed by the majority of HSSD. Former Deputy Luxon advised the States that difficulties in establishing the service were "entirely due to management resource issues" (Hansard Vol. 4 No. 40, ln 2846) but the service specification had now been "worked on with HSSD staff and MSG colleagues" and "practical and logistical issues were discussed and had been resolved", with a draft contract "agreed by both parties" and ready to be signed off (ln 2848-53). The service, however, still depended on the parties being able to recruit the necessary staff.

In the event, the States partially approved the Requête, directing HSSD to offer bowel cancer screening using flexible sigmoidoscopy to all 60- and 65-year-olds, with additional provision for those within that age band who had not yet been screened, and those of any age who had a family history of bowel cancer. This was in line with the work HSSD was already doing, and the members and officers continued to progress it accordingly.

In **2016**, following the election of the new Committee *for* Health and Social Care, one of the first and most urgent items on the Committee's agenda was the future of the bowel cancer screening programme. The availability of sufficient, appropriately-qualified staff to deliver the service was an issue that had dogged the programme throughout its life, and came to a head in 2016 when the arrangements in place at the time came to an end. Recognising the political significance of the programme, as well as its potential to offer real health benefits to islanders, HSC did not want to let it go, and officers were able to arrange interim cover from the Aberdeen Clinic, which has allowed the service to continue running along its current lines.

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<sup>13</sup> Evans, R & Yerby, E (2014) "Report to the Members of the Health and Social Services Department on: HSSD Bowel Cancer Screening Programme 2011-2013 – Evaluation and Recommended Next Steps" [Online] Available online at: <https://www.gov.gg/CHttpHandler.ashx?id=85991&p=0>

As outlined in paragraph 1.4 of this policy letter, the Committee directed its officers and clinical staff to review the service and advise as to how best it could be delivered in future, in a way which would meet the objectives of the States and overcome some of the persistent issues which have affected its delivery to date.

With this brief synopsis, the Committee acknowledges how complex and politically sensitive an issue bowel cancer screening has become in Guernsey over the last decade; recognising that persistent concerns with the service have led to the States setting more and more specific parameters as to how it should operate, which have not necessarily been able to resolve the underlying operational challenges. The Committee is optimistic that it can find a way through, but depends on the States now to relax some of the very specific requirements it has set down over time and allow it the flexibility to explore new modalities and different ways of structuring the service. The Committee recognises that the amount of political and public concern this programme has generated in the past, and the extent to which longer-serving States Members have invested their time and energy in shaping it – clearly motivated by a real concern for the health and wellbeing of the public – means that this will necessarily be a rigorous and challenging debate, which may seem disproportionate to those without some awareness of its history.

### **Methods of Screening for Bowel Cancer**

The following paragraphs provide a description and comparison of methods used for screening for bowel cancer.

The 3 most common methods of bowel cancer screening are flexible sigmoidoscopy, gFOBT and FIT.

#### **Flexible Sigmoidoscopy**

Flexible sigmoidoscopy is carried out using a sigmoidoscope to enable the Endoscopist to view the lining of the lower third of the large bowel. The Endoscopist is a Clinical Nurse Specialist, Consultant Gastroenterologist or a Surgeon specifically trained in this procedure.

The bowel must be empty prior to the sigmoidoscopy which involves an enema to empty out the left side of the large bowel to allow the Endoscopist to see the lining. This is an invasive procedure and some people find the preparation i.e. the enema, which induces diarrhoea to be unpleasant and uncomfortable.

Any pre-cancerous polyps found during the examination are removed by the Endoscopist and so preventing them from developing into cancer. This method reduces the risk of death from bowel cancer by 40%<sup>14</sup>.

The rationale of using flexible sigmoidoscopy for screening is that 60% of cancers arise from the left side of the bowel. Furthermore, if high risk polyps are identified in the left colon, it is most likely the patient will have a high risk polyp in the right colon and these patients will undergo colonoscopic examination which examines the entire bowel using a longer tube similar to the sigmoidoscope termed a colonoscope.

#### **Guaiaac Faecal Occult Blood Test (gFOBT)**

gFOBT requires the participant to produce six consecutive samples of stool which are tested for the presence of blood. The test is referred to as occult because the blood cannot be seen on a naked eye examination. The test itself does not indicate that the participant has bowel cancer, but if positive further tests, usually colonoscopy, are carried out to establish the cause of the bleeding. Large polyps and cancers bleed when traumatised by stool and this is the reason for using gFOBT for screening.

The take up rate for this test is low (see table below) and is not considered the most accurate. Prior to being tested the participant must avoid aspirin, vitamin C and meat which

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<sup>14</sup> Atkin WS et al. Once-only flexible sigmoidoscopy screening in prevention of colorectal cancer: a multicentre randomised controlled trial. Lancet 2010, 375: 1624–1633

can interfere with the test. Evidence shows that this test decreases mortality due to bowel cancer by 16-20%<sup>15</sup>.

### **Faecal Immunochemical Test for Haemoglobin (FIT)**

FIT detects haemoglobin and early degeneration products with antibodies which are molecules designed to detect haemoglobin only, the main component of the red blood cell. This test only requires one sample, thus is easier to collect. FIT is more specific than FOBT because there is no interference from other products such as meat. In addition the sensitivity (how many positive tests are recorded per tests performed) of FIT can be graduated by setting the cut-off point of the concentration of haemoglobin. In other words, if the laboratory set the machine to detect low levels of blood in the stool, the higher number of participants referred for colonoscopy. This method has been reported to reduce the development of advanced bowel cancer by 28 – 46%<sup>16</sup>. FIT detects early cancer and advanced polyps which bleed into the stool and thus examines the entire bowel.

### **Comparison of flexible sigmoidoscopy, gFOBT and FIT**

A comparison of flexible sigmoidoscopy, gFOBT and FIT is given in the following table;

Criterion	gFOBT	FIT	FS
Participation	49.5%	61.5%	32.4%
Positive Rate	2.8%	4.8%	10.2%
Detection of advanced neoplasia	1.1%	2.4%	8.0%
Diagnosis advanced neoplasia	0.6%	1.5%	2.4%

Both FIT and flexible sigmoidoscopy compare better than gFOBT on all criteria.

FIT has lower positive rates than flexible sigmoidoscopy because it depends on polyps and cancers to bleed to detect the haemoglobin. Flexible sigmoidoscopy is a direct visualisation of the large bowel mucosa of the left side of the bowel where 60% of the cancers arise. Flexible sigmoidoscopy will therefore have a higher positive rate of detecting polyps than FIT because Flexible Sigmoidoscopy visually sees the polyps on the left side of the colon whereas FIT depends upon them bleeding and not all polyps bleed immediately. However not all polyps become cancerous. The FIT positive rate in this paper is lower than that used

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<sup>15</sup> Hardcastle JD, Chamberlain JO, Robinson MHE, Moss SM, Amar SA, Balfour TW, James PD, Mangham CM. Randomised controlled trial of faecal occult blood screening for colorectal cancer. *Lancet* 1996; 348:1472-1477

<sup>16</sup> Nakajima M et.al. Prevention of advanced colorectal cancer by screening using immunochemical faecal occult blood test: a case control study. *Br J Cancer* 2003; 89 23-284

in the UK Pilot Study which is 7.8% because they used a different level of cut off for the haemoglobin concentration.

The consultation document “Moving from guaiac faecal occult blood test (gFOBT) to a faecal immunochemical test for haemoglobin (FIT) in the bowel screening programme”<sup>17</sup> states that a high clinical sensitivity at the analytical level of around 20 µg/g stool gives the highest detection of colorectal cancer and adenomas. Thus, clinical sensitivity is highest at the lowest possible faecal haemoglobin concentration cut-off. Furthermore, not only is FIT more clinically sensitive it is also, according to the Expert Review documents, cost-effective at every sensitivity level. If the full benefits of FIT are to be achieved then it is essential the test is brought in at a more sensitive level.

The document further states that the authors understand and appreciate the impact that a low threshold could have on colonoscopy services, particularly as many centres in the UK are currently struggling to deal with increasing demand.

If FIT is to be brought in at a higher threshold, to maintain current positivity rates, there needs to be a clear and planned programme to increase capacity in endoscopy units to ensure the sensitivity can be adjusted to detect more cancers.

As screening progresses, round by round, the positivity decreases as disease is culled from the population choosing to participate in the screening programme. In this case the cut-off of faecal haemoglobin concentration can be lowered to fully occupy the available colonoscopy resource. This strategy is a much noted advantage of using quantitative FIT in a bowel cancer screening programme.

The NHS Bowel Cancer Screening Programme used a concentration of 20µg/g of stool which yielded 7.8% positive results<sup>18</sup>. Based on scientific evidence the Bowel Cancel Screening Programme will set its Haemoglobin concentration for FIT testing at 20 µgHb/g stool. This was the cut-off point used in the Pilot Study and produced a high positive yield of 7.8%. This will produce 6 – 7 positive tests per 100 participants screened i.e. 6 – 7 people out of 100 will require colonoscopy. Increasing the concentration to over 100 µgHb/g stool will only detect 1 – 2 people which will be equivalent to gFOBT.

The evidence shows that FIT has the highest participation rate compared to the other two methods and this is due to the fact it is the simplest and least invasive procedure.

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<sup>17</sup> UK National Screening Committee for Bowel Cancer, Haemoglobin cut-off point 19<sup>th</sup> November 2015

<sup>18</sup> Moss S, Mathews C, Day TJ, et al. Increased uptake and improved outcomes of bowel cancer screening with a faecal immunochemical test: results from a pilot study within the national screening programme in England Gut Published Online First: June 7, 2016 as 10.1136/gutjnl-2015-310691; doi:10.1136/gutjnl-2015-310691

All of the above tests will require follow up colonoscopy if the gFOBT and FIT tests show a positive result, or if a high risk polyp is detected in the left bowel using flexible sigmoidoscopy. The number of patients referred for colonoscopy following a FIT test will depend on the level of concentration of haemoglobin selected as a cut-off point. Flexible Sigmoidoscopy is more preventative by detecting and removing precancerous polyps but FIT detects early cancers and large precancerous polyps and thus is partly preventative.

### **Comparisons with Other Jurisdictions**

Jersey uses flexible sigmoidoscopy but only screens its population aged 60 years. There is no second cohort at 65. However this method only detects polyps in the left bowel and does not examine the right side of bowel. Furthermore there is no follow up of patients who may grow polyps or cancer at a later stage.

England uses once only flexible sigmoidoscopy at 55 years; then gFOBT (60 – 74 years) every two years; the Government announced its intention to switch to FIT in June 2016. The English Model combines prevention and detection and appears to make the right balance.

Scotland switched from gFOBT to FIT in February 2015 screening participants aged from 50 – 74 every two years. Wales and Northern Ireland uses gFOBT for the population aged 60 – 74 every two years.

### **Other methods of screening**

#### *Colonoscopy*

A colonoscopy examines the entire large bowel but this method requires the participant to take oral medication to allow complete cleansing of the bowel and sedation is then required during the procedure. This method is used routinely in the USA but not in Europe. Long term randomised controlled trials for colonoscopy are currently underway, with the endpoints of bowel cancer incidence and mortality reduction, but these studies will not be reported until 2020 or beyond.

#### *Virtual Colonoscopy/CT Colonography*

This method uses a CT scan to detect polyps and cancers in the large bowel. Again this method requires full oral bowel preparation and if a polyp is detected the participant will still require conventional colonoscopy so will, in effect, have another invasive procedure.

# Guernsey Bowel Cancer Screening Statistics

OCTOBER 2011 – DECEMBER 2016

YEAR	People who were sent an INVITE <sup>1</sup>	ACCEPTED Pre-screening appt <sup>2</sup>	SCREENED <sup>3</sup>	UPTAKE <sup>4</sup>	PRE-CANCEROUS POLYPS/ ADEMOMAS	CANCER	ADENOMA DETECTION RATE <sup>5</sup> (ADR)	COLONOSCOPY
2011	252	210	182	72%	26	1	14%	6 (24/year)*
2012	1556 (TRAK info)	836	567	36%	68	2	12%	12
2013	847	547	444	52%	40	0	9%	13
2014	643	487	418	65%	49	2	12%	10
2015	711	504	413	58%	40	1	10%	12
2016	662	484	391	59%	50	0	13%	17
								Average 15/year

<sup>1</sup> Invited names from GPs (except 2012 when data came direct from TRAK) less those automatically exempt

<sup>2</sup> People who contacted the Admin office and accepted/ booked a pre-screening appointment

<sup>3</sup> Reasons this figure is lower than <sup>2</sup> include: Found to be exempt, unsuitable, deceased or chose to decline

<sup>4</sup> Uptake is calculated as people screened ÷ people invited X 100

<sup>5</sup> ADR is calculated as people with pre-cancerous polys/ adenomas ÷ those screened X 100; used to assess how effective the screening programme is; National guideline = ADR of 10%

\* 2011 the programme ran for just 3 months so the average rate for that year would have been 24 colonoscopies



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

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

**REFERENDUM ON GUERNSEY'S VOTING SYSTEM**

The States are asked to decide whether, after consideration of the attached policy letter, they are of opinion:-

1. To agree to proceed with the holding of a referendum on the method of electing People's Deputies to the States of Deliberation;
2. To agree that the question to be put to the electorate in the referendum shall be along the following lines:

Which of the following options should be used to elect Deputies?

**Option A**

- 1 island-wide electoral district
- Each voter would have 38 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

**Option B**

- 7 electoral districts
- Each voter would have 5 or 6 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

**Option C**

- 2 electoral districts
- Each voter would have 9 or 10 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 2 years for half of Deputies each time

**Option D**

- 4 electoral districts
- Each voter would have between 9 and 11 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

**Option E**

- 1 island-wide electoral district
- Each voter would have 12 or 13 votes at each election
- Each Deputy would serve for 6 years
- An election would be held every 2 years for a third of Deputies each time

And

To agree that preferential and transferable voting (known as the Alternative Vote or Instant Run-Off) shall be used to determine which of options A to E was the most favoured.

OR, only if Proposition 2 shall have been defeated,

3. To agree that the question to be put to the electorate in the referendum shall be along the following lines:

Should Deputies be elected using the following voting system?

- 1 island-wide electoral district
  - Each voter would have 38 votes at each election
  - Each Deputy would serve for 4 years
  - An election would be held every 4 years for all Deputies at once
4. To agree to introduce the electoral system which is the most favoured in the referendum, provided that the number of persons voting in the referendum has exceeded a certain percentage of those persons inscribed on the Electoral Roll who are eligible to vote on the day of the referendum;
  5. To agree that the certain percentage referred to in the preceding Proposition shall be 40%;
  6. To agree that, in the event that turnout at the referendum is less than 40% of those persons inscribed on the Electoral Roll who are eligible to vote on the day of the referendum, the States' Assembly & Constitution Committee should within three months of the date of the referendum submit a policy letter to the States setting out any recommendations for reform to the electoral system which it considers necessary, having first taken into account how far short of 40% the turnout was, the number of votes cast for each outcome and (if the referendum was a multi-choice one) the share of the vote obtained by each of the five options A to E, and, in particular, the margin between the option which placed first and the other options;
  7. To agree that campaign groups should be permitted along the lines set out in paragraphs 13.1 to 13.9 inclusive;

8. To direct the Policy & Resources Committee to use its delegated authority to transfer funding of a maximum of £31,000 from the Budget Reserve to the 2017 revenue expenditure budget for the Royal Court to fund the 2017 costs associated with holding a referendum on the method of electing People's Deputies;
9. To direct the Policy & Resources Committee to recommend a 2018 Cash Limit for the Royal Court that includes a specific additional allowance of a maximum of £128,000, including a contingency sum of £5,000, to fund the 2018 costs associated with holding a referendum on the method of electing People's Deputies;
10. To direct the preparation of such legislation, based on the provisions of the attached policy letter, as shall be necessary to hold the referendum – such legislation to include, *inter alia*: all the provisions necessary to enable the referendum to be held, the question to be asked, arrangements for voting, provisions in respect of promotional expenditure, relevant offences including double voting, and the date on which the referendum shall be held.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

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

**STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

REFERENDUM ON GUERNSEY'S VOTING SYSTEM

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

19<sup>th</sup> May, 2017

Dear Sir,

**1 Introduction / Executive Summary**

- 1.1 This policy letter is submitted in support of P. 2017/49. It sets out the terms on which the States' Assembly & Constitution Committee proposes to hold a referendum on the method of electing People's Deputies.
- 1.2 The Committee unanimously recommends the States to approve Propositions 1, 2 and 4 to 10 inclusive on P. 2017/49. Voting for these Propositions will empower the people of Guernsey to determine *their* future electoral system – by holding a referendum which offers a reasonable range of options and produces a clear result and by the States agreeing in advance that if there is a reasonable turnout at the referendum they will bind themselves to accept the result and carry into effect the will of the people.
- 1.3 This policy letter explains why a 'multi-option' referendum has considerable advantages over a 'single-option' referendum. However, the Committee is aware of a body of opinion which holds that the referendum should not allow the people of Guernsey to express their views on a range of methods of electing People's Deputies, but instead should restrict them to expressing a view on one method only: the election of all 38 deputies on an island-wide basis in a single election on one day. Proposition 3 on P. 2017/49 allows the States, if they have rejected Proposition 2 recommended by the Committee, to agree to hold a single-option referendum.
- 1.4 The Committee's proposals *inter alia* fulfil the following Resolutions made by the States on the 19<sup>th</sup> February, 2016:

*"1. That for the 2020 General Election and thereafter all deputies shall be elected on an island-wide basis and all voters shall have the same number of votes as there are deputies' seats provided that such a system shall first have been approved in an island wide referendum.*

*2. To direct the States Assembly and Constitution Committee to report to the States as expeditiously as possible detailing the proposals to give effect to Proposition 1 including the methodology of the election and the holding of a referendum."*

## **2 Developments in the electoral system – the 20<sup>th</sup> Century**

2.1 The first Deputies were elected in 1900. Until then no member of the States of Deliberation had been elected directly by the people. Jurats were elected by the States of Election and were *ex officio* members of the States of Deliberation; the Anglican rectors were also *ex officio* members; the parish representatives were elected by their respective douzaines; and the only other members were the Bailiff and the Law Officers of the Crown. From 1900 there were nine Deputies, all elected on an island-wide basis, albeit the franchise was greatly restricted<sup>1</sup>. Gradually the franchise was extended until it included all adults, the number of directly-elected members was increased and electoral constituencies were created. In 1920 the island was split into five electoral districts which between them elected 18 Deputies and in 1948 the parishes became the electoral districts and a total of 33 Deputies were elected<sup>2</sup>.

2.2 Also in 1948 the office of Conseiller was created *"...to ensure that the States should not at any moment, so far as we could avoid it, be overloaded with inexperienced men...in the hope that this would prevent decisions which would later be regretted being taken as a result of some passing mood or possibly even some passing events."*<sup>3</sup> The 12 Conseillers were elected not by the people but by the States of Election partly because *"[i]t would be very unfortunate if experienced men lost their seats simply because the electorate was ignorant of the services they had given to this Island."*<sup>4</sup>

2.3 The 1970s, 80s and 90s featured numerous States' debates about the office of Conseiller and in particular the method of their election.

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<sup>1</sup> The electorate was only the *chefs de famille* – those persons who were liable to pay parochial rates because they owned property worth £200 sterling. In 1892 that category had been extended to women who were ratepayers and who were unmarried or widows or legally separated from their husbands.

<sup>2</sup> The People's Deputies remained in the minority until the enactment of the Reform (Guernsey) Law, 1948.

<sup>3</sup> Representations to a Committee of the Privy Council on proposed reforms in the Channel Islands – page 18 of report of March, 1947

<sup>4</sup> Representations to a Committee of the Privy Council on proposed reforms in the Channel Islands – page 18 of report of March, 1947

- 2.4 In 1976 an investigation committee of the States found “...*no justifiable reason why Conseillers should not be elected by universal suffrage...*”<sup>5</sup>, but the States voted to maintain an electoral college. In 1983 and 1986 and 1991 similar debates ended in the same outcome. On each occasion one practical effect of the States’ decision was to reject the notion that some members (around 20% of the States) should be elected on an island-wide basis.
- 2.5 In 1992, having only a few months earlier approved a proposal to abolish the office of Conseiller, the States resolved that Conseillers should be retained but elected by universal suffrage and with an island-wide mandate. The first such election was held in 1994 when there were 26 candidates for 12 seats; and a second was held in 1997 when there were 10 candidates for six seats.
- 2.6 In 2000 the office of Conseiller was abolished and there was an equivalent increase in the number of Deputies, all of whom were elected in parishes and none on an island-wide basis.
- 2.7 From the inception of the office in 1948 until its abolition more than half a century later, Conseillers served terms of six years, which was twice the term of Deputies but shorter than the nine-year term recommended for the office initially.

### **3 Developments in the electoral system – the 21<sup>st</sup> Century**

- 3.1 In the 2000-04 term, during debates on changing the machinery of government, the States rejected various amendments which proposed reintroducing island-wide elections for a portion of the seats in the Assembly, but agreed that the Island should be divided into the seven electoral districts which exist today: St Peter Port South, St Peter Port North, St Sampson, Vale, Castel, West and South East.<sup>6</sup>
- 3.2 In 2006 the States directed the House Committee “*to undertake a comprehensive review of all practicable methods of introducing island-wide voting*”. That review was carried out in the following States’ term (2008-12) by the House Committee’s successor, the States’ Assembly & Constitution Committee, and culminated in 2011 in a debate in which the States rejected two options for the election of all Deputies on an island-wide basis and a third option for the election of only some Deputies on an island-wide basis.
- 3.3 The last States (2012-16) debated several requêtes and amendments which related to the electoral system. They rejected a proposal for all Deputies to be elected on an island-wide basis in one election on a single day; they rejected a proposal for only some deputies to be elected on an island-wide basis; and they rejected (albeit on a tied vote) a proposal for a referendum on electoral reform. They made and then rescinded a resolution to establish an investigation committee to review options for

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<sup>5</sup> Billet d’État XVIII of 1976, p 831

<sup>6</sup> The office of Douzaine Representative was also abolished in 2004.

electoral reform. They then approved an amendment which proposed that in 2020 all Deputies should be elected on an island-wide basis in one election on a single day but that in 2024 there should be a return to the present district-based electoral system before scrapping the latter provision and directing that the former should be put to a referendum to be held during the present States' term and directed the Committee to report to the States with further proposals.

- 3.4 In all, over the past 40 years, there have been more than 20 substantial States' debates about the procedure for electing Members of the States. This is the long and at times rather convoluted history which preceded the Committee's development of this policy letter.

#### **4 The purpose of the Committee's proposals**

- 4.1 Since its election in May, 2016 the Committee has been clear and consistent in its commitment to fulfil the States' Resolutions which were made in February, 2016 – by delivering a referendum in which the people of Guernsey may, if they so wish, determine that, with effect from 2020, all Deputies shall be elected on an island-wide basis in one election on a single day. The Committee's proposals give effect to this clear and consistent commitment.

- 4.2 However, the Committee's single most important objective in this matter is to empower the people of Guernsey to determine their future electoral system. This can be done only by holding a referendum which provides:

- choice for voters;
- clarity in the result; and
- certainty that the will of the people shall be carried into effect.

- 4.3 Proposition 2 provides choice for voters and also provides clarity in the result of the referendum. Propositions 4 and 5 provide certainty that, once the result of the referendum is known and if there has been a reasonable turnout, the will of the people shall be carried into effect by the States.

- 4.4 In the sections which follow the Committee explains why it considers these objectives – choice, clarity and certainty – to be so important and how the States can best meet them.

#### **5 A referendum providing choice**

- 5.1 The previous States committed to hold a referendum. The Committee believes that the present States should honour that commitment, but is aware that some States' Members take a different view. Hence Proposition 1 recommends that the States proceed with the holding of a referendum.

- 5.2 The States also committed that in the referendum voters should be able to express their opinion on whether all Deputies should be elected on an island-wide basis in one election on a single day – and similarly the Committee believes that the present States should honour that commitment.
- 5.3 These commitments can be fulfilled in a referendum which provides voters with an opportunity to support or reject a reasonable range of methods of electing Deputies, thereby presenting the people of Guernsey with genuine choice when determining their future electoral system. Section 8 of this policy letter sets out the reasons why the Committee believes that there should be a choice between five different methods.
- 5.4 It has been suggested that the referendum should restrict people to voting on the general principle of island-wide voting only. This would not fulfil the States' commitment to allow voters to express their opinion on the specific electoral system in which all Deputies would be elected on an island-wide basis in one election on a single day. Then the result of the referendum would require interpretation by the States: a "yes" vote would demonstrate support for island-wide voting generally but not for any one of the many different forms of island-wide voting which have been discussed over the years and could provoke interminable debate about which particular form of island-wide voting the public had implicitly endorsed, whereas a "no" vote would demonstrate opposition to island-wide voting generally without necessarily confirming support for the present electoral system. This would undermine the whole purpose of the exercise.
- 5.5 It has also been suggested that the referendum should restrict people to voting on one method of election only: the election of all 38 Deputies on an island-wide basis in a single election on one day. This would fulfil the States' commitment to allow voters to express their opinion on that specific electoral system, but the result of the referendum might still require interpretation by the States: a "no" vote would demonstrate opposition to that specific electoral system without confirming support for the present electoral system and thus would do nothing to settle debate about whether some other electoral system (including some other form of island-wide voting) should be adopted. Doubtless the States would stand accused of having favoured the *status quo* by offering voters (depending on one's point of view) only the purest or most extreme form of island-wide voting when other opportunities for reform not permitted on the ballot paper may have been more acceptable to the public.
- 5.6 As far as possible the States should avoid creating circumstances in which the result of the referendum requires interpretation by the States when for the past 40 years they have spent innumerable hours debating the electoral system without reaching any settled view. In holding a referendum every effort must be made to bring this matter to a conclusion, at least for the foreseeable future. In addition, the States' interpretation of the result would doubtless leave many voters feeling disenfranchised.



- 5.7 There are two ways in which a single-option referendum – along the lines outlined in paragraphs 5.4 or 5.5 – may be seen as simply unfair or possibly to have disenfranchised the people of Guernsey. First, without justification and completely unnecessarily, it would restrict the choice available to voters when asking them to determine their future electoral system. This would be particularly unfortunate in view of the diversity of opinion which is known to exist about the Island's electoral system. When a consultation was held during the States' term before last (albeit one which was self-selecting and uncontrolled) around four in five respondents favoured some form of island-wide voting but only half wanted all Deputies to be elected on an island-wide basis and fewer than a third wanted all Deputies to be elected on an island-wide basis in one election on a single day. Second, it would provide no opportunity for voters expressly to approve or reject the current electoral system. The only way to ensure that people are able to cast a clear vote one way or the other on the current electoral system is for the current system to appear on the ballot paper at the referendum.
- 5.8 The Committee has concluded that its single most important objective in this matter – genuinely to empower the people of Guernsey to determine their future electoral system – can best be met through a referendum in which voters are invited to select between the following five options:

**Option A**

- 1 island-wide electoral district
- Each voter would have 38 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

**Option B**

- 7 electoral districts
- Each voter would have 5 or 6 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

**Option C**

- 2 electoral districts
- Each voter would have 9 or 10 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 2 years for half of Deputies each time

### **Option D**

- 4 electoral districts
- Each voter would have between 9 and 11 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

### **Option E**

- 1 island-wide electoral district
- Each voter would have 12 or 13 votes at each election
- Each Deputy would serve for 6 years
- An election would be held every 2 years for a third of Deputies each time

5.9 The order of the options was determined by the Committee by lot at its meeting on the 26<sup>th</sup> of April, 2017. In addition to the five members of the Committee and members of the Established Staff, a representative of the media was present at the meeting and was invited to draw the lots and witnessed the rest of the process.

5.10 The Committee rejects suggestions that a multi-option referendum would be unconventional or too complicated. Multi-option referendums have been held in several advanced democracies around the world. For example, in Switzerland they are common; Sweden has held them; Andorra held one to determine its future electoral system; Australia held one to determine its national anthem; and New Zealand held them to determine first its electoral system and then its national flag.

5.11 It should also be noted that the consultation exercise on the electoral system held by the States in the term before last, which is referred to in paragraph 5.7, offered a choice of four electoral systems. The response rate was very high compared with most consultations and there were no reports of respondents having found it too complicated to choose between four different electoral systems.

## **6 A referendum providing clarity**

6.1 The Committee considers it essential that, post-referendum, it should be clear which option has “won” and equally essential that, if the electoral system is to be changed, the new system should be founded on having broad support among the people of Guernsey. The referendum will provide such clarity if an appropriate system of voting is used for it.

6.2 The Committee considered a “first past the post” voting system where each person would be permitted to select only one of the options A to E and the option with the most votes would be declared the winner. Experience of this voting system suggests that it is highly likely to lead to an indecisive outcome where the winning option fails to secure broad public support.

- 6.3 In the aforementioned consultation held during the States' term before last, in which respondents were permitted to vote for one option only, four electoral systems were offered, none secured the support of more than 31.2% of respondents, the difference between the top two options was only half of one per cent and the difference between the most and least popular options was less than 15 percentage points.
- 6.4 Clearly using a first past the post voting system in the referendum would risk no one option emerging with a clear lead, the winning option securing less than half and perhaps even less than a third of votes or potentially all five options each obtaining approximately a fifth of votes. Therefore the Committee ruled out using a first past the post voting system in the referendum.
- 6.5 Instead the Committee recommends using a well-established system of preferential and transferable voting in the referendum. Each voter would be invited to rank options A to E in their order of preference. They would place a '1' next to their first choice option; then if they wished they would place a '2' next to their second choice option; a '3' next to their third choice option; and so on until they no longer wished to express any preferences or had ranked all five options. Each voter could rank as many or as few options as they liked or vote for just one option.
- 6.6 Initially only first preference votes (marked '1') would be counted. If one of the options obtained more than 50% of first preference votes, it would immediately be declared to have won the referendum and no more counting would be necessary.
- 6.7 If, however, no option obtained more than 50% of first preference votes, there would be a second round of counting. Before this second round of counting began, the option which had obtained the fewest first preference votes would be eliminated from the contest and the ballot papers on which that unsuccessful option was marked as '1' would be redistributed among the remaining options according to the second preferences shown – or, if no second preference was shown, they would be discarded from the counting process. The votes cast in favour of each option would then be recounted.
- 6.8 This process of eliminating the least popular options and transferring lower preference votes would continue until one of the options A to E had obtained more votes than the other remaining options put together and that leading option would be declared to have won the referendum. This would ensure that the winning option had secured the broad support of the people.
- 6.9 This form of preferential and transferable voting is known as the alternative vote or instant runoff voting. It is used routinely in numerous developed democracies – for example to elect the President of Ireland, the House of Representatives in Australia, most state parliaments in Australia and many city, mayoral and district offices in the United States. It is also commonly used to elect leaders of political parties. Of

particular relevance to this policy letter, it was quite recently used successfully in a multi-option referendum to decide whether to have a new national flag of New Zealand.

- 6.10 Suggestions that this form of voting would be too complicated for Guernsey are unfortunate and should quickly be dismissed. It would be particularly odd if such suggestions were made by those who most strongly advocate single-election island-wide voting when under that system the electorate would have to decide how to cast up to 38 votes from possibly as many as 90 candidates. The widespread and successful use of this form of voting in other jurisdictions provides reassurance that it would be similarly successful in Guernsey.
- 6.11 Voters in Guernsey are used to voting in multi-member districts where they have to decide how to cast up to five or six votes (and in the past more) from perhaps twice as many candidates. The proposed voting system for the referendum has similarities, but on this occasion the different choices would have to be ranked numerically in order of preference rather than by the placing of an 'X'.
- 6.12 It is important that the process of voting is not confused and conflated with the process of counting votes. Counting preferential votes could be said to be more complicated than counting first past the post votes and certainly it is likely to take longer, but that is a matter for the counters, not for the voters. For voters preferential voting is very straightforward: an elector simply uses numbers from 1 upwards to rank the list of options in order of preference and that is it.

## **7 A referendum providing certainty**

- 7.1 It is essential that well ahead of polling day there is certainty about the status of the referendum. This means resolving early the question which arises ahead of all referendums: should the result be advisory or binding? The Committee gave this matter much thought, obtained advice from the Law Officers of the Crown and studied examples of binding and advisory referendums elsewhere.
- 7.2 The idea of making the referendum legally binding, i.e. where the States would be breaking the law by not implementing the winning option or perhaps even by introducing some other electoral system in the future, gives rise to numerous constitutional and practical issues. The principle of parliamentary sovereignty needs to be considered. The pre-eminence of the States in making domestic legislation is fundamental to parliamentary democracy in Guernsey. In June, 2016 the then Her Majesty's Procureur advised the Committee as follows: *"I have only been able to think of one way in which a referendum result could be made binding as a matter of law. That is by the States approving a Projet de Loi (and its obtaining Royal Sanction) containing a clause to the effect that it comes into force only if and when some official certification is provided that a prescribed percentages of votes cast in a statutorily backed referendum were in favour of the system set out in the new Law."* Taking this approach would be particularly difficult, if not impossible, for a multi-

option referendum, but even for a single-option referendum it would prove to have been a considerable waste of time if the voting system set out in the new Law was then rejected in the referendum. The expectation may then have been created that neither that voting system nor any other voting system could ever be introduced unless first approved in a referendum and it may be considered unwise to establish such a precedent. These and other related issues have been debated at great length whenever a referendum has been held nationally in the United Kingdom and help to explain why Parliament there has never been legally bound to implement the result of any referendum, including the most recent referendum on membership of the European Union.

- 7.3 A referendum which from the outset is merely advisory would give rise to fewer constitutional issues, but practically and politically would be no more satisfactory. The Committee's objective is genuinely to empower the people of Guernsey to determine their future electoral system – and the Committee believes this objective is shared by the majority of States' Members. There is an expectation that the will of the people, as expressed through the referendum, will be carried into effect by the States. If the perception is created that the result of the referendum is likely to be disregarded by the States, doubtless turnout will be depressed, cynicism will thrive and respect for the States will be diminished.
- 7.4 The issue about whether the referendum should or should not be legally binding has the potential to consume the States in much academic but ultimately unproductive debate which in any event may make little difference in practice. The Committee believes there is a simple and pragmatic way forward which avoids the disadvantages outlined in the preceding paragraphs.
- 7.5 The Committee recommends that the States should make a Resolution now agreeing in no uncertain terms to implement the winning option in the referendum – provided that voter turnout is sufficient to justify accepting the winning option as a legitimate expression of the will of the electorate.
- 7.6 In effect the Committee is asking the States – a year or so in advance of polling day – to bind themselves politically to the result of the referendum. In a separate Proposition the Committee recommends that this commitment of the States to bind themselves to implementing the winning option in the referendum should apply as long as turnout is not below 40 per cent of those inscribed on the Electoral Roll and eligible to vote on the day. It should be noted that "turnout" means all those who attended at a polling station and were given a ballot slip, including those who submitted blank or spoilt papers.
- 7.7 Taken together Propositions 4 and 5, if approved by the States, will establish the certainty that if at least 40% of those inscribed on the Electoral Roll and eligible to vote on the day turn out to vote in the referendum the States will implement the winning option and the will of the people shall be carried into effect.

- 7.8 If the referendum were entirely advisory, a turnout threshold would be unnecessary, but if the States are to agree in advance to bind themselves to the result it is important that the result demonstrates not so much the depth of feeling among a small number of devoted campaigners for any particular cause or option but rather demonstrates the breadth of opinion among the population generally.
- 7.9 Turnout thresholds are common in referendums, especially so for those which concern constitutional amendments or changes to the electoral system. For example, in Denmark a referendum to amend the constitution is considered valid only if the proposed amendment is supported by 40% of the eligible electorate; in Italy, Portugal, Sweden and some other European countries the result of a referendum is considered valid only if turnout reaches 50% of the eligible electorate; in the Netherlands even advisory referendums require turnouts of at least 30% to be considered valid; although it should be noted that for the past 20 years the UK has decided against turnout thresholds in referendums. What is recommended by the Committee – that the States agree to bind themselves to the result of the referendum and implement the winning option as long as turnout is not less than 40% of those inscribed on the Electoral Roll and eligible to vote on the day – is neither unusual nor unreasonable. The President argued in Committee for a lower threshold; one or two members argued for a higher threshold. There is no ‘right’ or ‘wrong’ threshold – it is a matter of judgement and it is for that reason that the Committee has set it out in a separate Proposition for the States, having taken into account the Committee’s advice and recommendation, to reach a conclusion in isolation of the other issues.
- 7.10 In New Zealand the turnout figures for the past three referendums about the electoral system were 55%, 85% and 73% respectively. In the United Kingdom’s referendum on the electoral system held in 2011, turnout was 42%. The turnout figures for the two referendums which Jersey has held regarding membership of their States’ Assembly were as follows: in the 2013 referendum about the voting system turnout was 26% and in the 2014 referendum about Parish Constables’ seats in the States turnout was 39%. In Jersey turnout for island-wide senatorial elections is normally in the region of 45%. In Guernsey’s 2016 General Election turnout was 72%.
- 7.11 The Committee will ensure that the turnout threshold approved by the States is carried prominently in promotional material ahead of the referendum – as part of efforts to encourage voters to turn out and exercise the right given to them by the States to determine their future electoral system and make the result of the referendum decisive and legitimate.
- 7.12 In the event that turnout at the referendum is less than 40% of those inscribed on the Electoral Roll, the Committee should be required to report to the States on the method of electing People’s Deputies and to make any recommendations it considers necessary, having first taken into account how far short of the 40% threshold the turnout was, the number of votes cast for each outcome and (if the

referendum was a multi-choice one) the share of the vote obtained by each of the five options A to E, and, in particular, the margin between the option which placed first and the other options . P. 2017/49 includes a separate Proposition to this effect.

## **8 Number of options to include on the ballot paper**

- 8.1 As one of its first tasks the Committee considered what would be the appropriate number of options to include on the ballot paper at the referendum. There was a balance to be struck between the objective of giving the people of Guernsey genuine choice when determining their future electoral system and the need to avoid the exercise becoming inaccessible and impractical.
- 8.2 In Guernsey, voters use on average between four and five votes at general elections. This is a relevant consideration because the use of preferential voting in the referendum would allow people, if they so wished, to rank every option on the ballot paper.
- 8.3 Other considerations are the likely appetite of electors to weigh up the pros and cons of various different methods of electing deputies, the advantage of each option on the ballot paper being sufficiently different from the others and the need for clarity when explaining and promoting the options in the period leading up to the referendum.
- 8.4 The Committee also researched the number of options included in other multi-option referendums held in advanced democracies. Aforementioned referendums in Sweden contained three options, in Australia four options and in New Zealand four options in one referendum (on its electoral system) and five options in another referendum.
- 8.5 The Committee concluded that there should be five options on the ballot paper at the referendum and strongly advises the States not to add further options.

## **9 Legislative requirements**

- 9.1 Other jurisdictions which have held referendums have normally put in place legislation specific to the referendum which sets out the procedures to be adopted for the referendum, the question to be asked, arrangements for voting, limits on expenditure, turnout threshold requirements, determining the result in the event of a tie, offences of double voting, etc. In other words, they have put referendums on a similar legal footing to General Elections. The Law Officers of the Crown advise that it would be prudent for Guernsey to adopt this approach.
- 9.2 There is no record of Guernsey ever having held a referendum. The States did make a Resolution in 2002 *“that steps shall be taken to make provision for the holding of referendums in Guernsey”* but in the years since this work has not been afforded priority by successive States. In any event, general legislation providing for the

States to organise referendums would not obviate the need for legislation to be enacted for each individual referendum setting out the procedures to be adopted, the question to be asked, etc.

- 9.3 Proposition 10 in P. 2017/49 allows the States to direct the preparation of legislation to put the referendum on a proper legal footing based on the terms of this policy letter and the Resolutions made by the States after debating it. This legislation will be a *Projet de Loi* which the States will be free to debate and amend in the normal way before the approved law is sent for Royal Sanction.
- 9.4 The Committee believes that, as far as possible, the referendum should be run as if it were a General Election in the sense of using the provisions of relevant existing legislation and procedures. For General Elections, the Reform (Guernsey) Law, 1948, as amended, and the *Loi relative au Scrutin Secret*, 1899, as amended, regulate matters such as polling stations, hours of voting, the Electoral Roll, entitlement to vote, absent voters, supervision of the ballot, access to the count, etc. These should form the basis of the new law to be drafted for the referendum, albeit that some elements will need to be modified for the particular circumstances of the referendum.
- 9.5 At this stage, the Committee does not envisage the need for a further policy letter before the States consider the legislation for the referendum, but if the need for one arises to clarify any specific direction the Committee will be ready to submit one expeditiously.

## **10 Eligibility to vote**

- 10.1 The categories of persons who are entitled to vote in the referendum will need to be defined and a list of eligible voters compiled. The Committee believes it is logical that anyone who is entitled to vote in a General Election should also be entitled to vote in the referendum. People entitled to vote in a General Election have their names inscribed on the Electoral Roll. The Committee respects that responsibility *“to advise the States and to develop and implement policies on...the electoral roll”* falls to the Committee *for* Home Affairs. The Committee is grateful to the Committee *for* Home Affairs for its advice in relation to the use of the Electoral Roll and for its endorsement of paragraphs 10.2 to 10.5.
- 10.2 It is proposed that the Electoral Roll which is used for the referendum is the one compiled by the Registrar-General of Electors in accordance with the provisions of Part IV of the Reform Law. Anyone who is entitled by the terms of the Reform Law to be on the Electoral Roll and to vote in a General Election would therefore be entitled to vote in the referendum.
- 10.3 It is further proposed that the present Electoral Roll should be used for the referendum. In other words, a new Electoral Roll should not be created for the referendum. This means that anyone who is currently enrolled (and whose name or



address has not changed since enrolment) need do nothing and would be eligible to vote in the referendum. However, in view of the time which has elapsed since the Roll was compiled and in order to maximise voter participation at the referendum, there should be a publicity campaign to encourage enrolment among people who are not currently on the Roll but who are eligible to be on it. This period would also enable anyone who needed to change their details – for example a change of surname or a change of address – to notify the Registrar-General accordingly. In any event it should be noted that the Electoral Roll is open now for new enrolments, changes of voters' details, etc.

- 10.4 As happens each year before the parochial elections and quadrennially before a General Election, the Roll will need to be closed at some point before the day of the referendum in order that copies of the Roll can be prepared for use at the polling stations. As at the General Election of 2016, it is hoped that the Roll could be closed much closer to polling day rather than the longer period which was historically the case.
- 10.5 Voters should be permitted to register to vote by post. This should be in accordance with the provisions of the Reform (Amendment) (Guernsey) Law, 1972, as amended.

## **11 Polling stations and voting**

- 11.1 The vast majority of the parishes have kindly advised that on the day of the referendum they are prepared to run the polling stations in the same way they do for General Elections. The Committee is very grateful to the parishes.
- 11.2 At General Elections each electoral district is served by between two and five polling stations. The Committee believes that for the referendum voters should have the opportunity to vote at a selection of polling stations, but only within their present electoral district, i.e. the electoral district under which their name is inscribed on the Electoral Roll. If voters were to be allowed to vote at polling stations outside their electoral district, at each polling station the parish officials and volunteers would need to use the whole of the Electoral Roll rather than the sections which relate to their electoral district only, which would be unfamiliar to them and consume more time and potentially make it harder to verify that no person had voted at more than one polling station. As for General Elections, the States would work with the parishes to secure the appropriate number and location of polling stations in each electoral district.
- 11.3 Although the proposed preferential voting system has not been used before in Guernsey, the Committee envisages that the time taken for each voter to cast their ballot should be only slightly longer than at a General Election. Each voter will be making up to five marks on the ballot paper compared with casting up to five or six votes at the 2016 General Election. Therefore, assuming they would be available, the present polling stations would be suitable, although more voting booths may be needed. Consideration will also be given to having someone at each polling station

ready to explain the voting system to any voter who requested such assurance.

- 11.4 The Committee recommends that the day of the week on which the referendum is held should follow the long-established practice for General Elections and be a Wednesday. The exact date will be set out in the legislation referred to in section nine of this policy letter.
- 11.5 It is envisaged that drafting and approving the legislation and putting in place all the procedural and logistical arrangements ahead of the referendum will take around 12 months. Therefore the date of the referendum would be approximately one year from the date on which the States make Resolutions after debate on this policy letter. The Committee has requested that this policy letter be debated by the States at their meeting which starts on the 21<sup>st</sup> of June, 2017, which should allow the referendum to be held in June, 2018. There are two reasons to hold the referendum in June rather than later next year: first, from 2020, General Elections will be held in June and it makes some sense to align the months of polling days; second, and more importantly, the referendum could result in major changes to the electoral system which could take up to two years to implement ahead of the General Election in June, 2020.
- 11.6 At the General Election in 2016 all polling stations were open from 8 am to 8 pm except for those in St Sampson which were open from 10 am to 8 pm. Of course in the referendum the question and the ballot paper will be the same for every voter across the Island and the Committee considers it essential that every voter has the same right to vote, including equal access to polling stations. The Committee proposes that the hours of polling in all parts of Guernsey should be 8 am to 8 pm. The States will work with parishes to overcome any challenges which may be encountered in opening polling stations during those hours.
- 11.7 The Committee recommends that voting should be carried out using paper ballot slips and pencils, as is the case at General Elections. As far as the Committee is aware this will be the first referendum ever held in Guernsey and, if the Committee's recommendations are approved, it will also feature the use of preferential and transferable voting for the first time. It would be unwise to introduce at the same time another new feature in the form of electronic voting.

## **12 Counting of votes and declaration of result**

- 12.1 When, between 1994 and 2000, Conseillers were popularly elected on an island-wide basis votes were cast and counted district by district (or rather parish by parish, as it was then). Each district announced its own results, having first communicated them to the Presiding Officer, who later announced the final, overall result.
- 12.2 Although the Committee proposes that votes in the referendum should be cast in electoral districts, the use of preferential and transferable voting means that the votes cannot sensibly be counted district by district. Whether votes need to be

transferred to second (and lower) preferences is dependent on the total number of ballot papers returned and the number of first-preference votes cast for an option. This makes it necessary to count all the votes centrally at one location. Parish volunteers may still be able to assist at the count, albeit at a central location, and indeed one parish has already kindly suggested this to the Committee.

- 12.3 The Committee proposes that the count would be carried out under the supervision of a Returning Officer nominated by the Committee for approval by the Royal Court. The Returning Officer would have essentially the same duties and powers as district returning officers at General Elections.
- 12.4 In view of the potential number of ballot papers, the use of preferential voting, the possibility of more than one round of counting and the need to maximise the availability of volunteers, it would be sensible for the count to begin not immediately after polls close, as is the case at General Elections, but rather the following morning.
- 12.5 In the interests of openness and transparency, the Committee believes that it should be possible for interested parties and other members of the public, subject to their adhering to certain guidelines, to watch the counting of votes. This objective should be reflected in the legislation and borne in mind when organising the venue and making other logistical arrangements for the count.
- 12.6 After each round of counting, if indeed there was more than one round, the Returning Officer would announce the votes obtained by each of the options, and the lowest-placed option which had therefore been eliminated, before the next round of counting would begin. Eventually a round of voting would lead to one option obtaining more votes than the other remaining options put together and the Returning Officer would declare that option to have won the referendum.
- 12.7 The Committee recommends that votes should be counted manually, as is the case at General Elections. Paragraph 11.7 explains why it would be imprudent to use the Island's first referendum to trial new features which are not essential to the referendum itself. Security is another consideration. Recently in other jurisdictions serious doubts have been cast about the validity of election results because of allegations of interference in parts of the process carried out electronically. The Committee wishes to avoid the validity of the referendum result being questioned because of any problem with the way the referendum is administered.

### **13 Expenditure on the promotion of options, campaign groups, etc.**

- 13.1 It is important in advance of the referendum for information to be made readily available about each of the options A to E. It is also important that no individual or group should be able unduly to influence the outcome of the referendum by spending disproportionate amounts of money promoting their preferred option(s).

- 13.2 The Committee recommends that these objectives can best be met by providing for the appointment of official campaign groups to promote each of the options A to E and by imposing restrictions, which would not be dissimilar from those imposed at General Elections, on how much could be spent and by whom in the promotion of any of the options.
- 13.3 There is merit in options A to E having only one campaign group each: the Committee believes the ideal scenario would be five campaign groups in total. This approach is conventional for referendums held in other jurisdictions.
- 13.4 These officially-recognised campaign groups should be able to claim a limited grant from the States. This would encourage the formation of such groups, defray some of the costs they incur in promoting their favoured option and help create conditions in which the groups start with a fair and equal chance of succeeding. The Committee suggests that such grants need be no more than £5,000 per campaign group, i.e. a maximum of £25,000 in total. Campaign groups should be permitted to spend money in addition to any States' grant, but a cap would need to be placed on such expenditure. The Committee envisages that each campaign group would be permitted to spend in the region of £10,000. All expenditure incurred by campaign groups would need to be declared to the Returning Officer after the referendum. The Committee believes that no person or group other than an official campaign group (other than the States in the provision of technical information) should be permitted to spend any money or incur any money's worth in value to promote an outcome.
- 13.5 The Committee suggests that the process for appointing campaign groups should be along the following lines. Applications would be invited from persons wishing to work together as an official campaign group for an option. Applicants, who could be serving or former Deputies or members of the public, would be evaluated by an appointment panel of, say, three independent persons put forward by the Committee for approval by the States. The key criterion should be that persons applying to be an official campaign group for an option appear to the appointing panel to be the most able to promote the case in favour of that particular option.
- 13.6 The Committee would wish to make rules along the lines of The Electoral Roll (Availability) Rules, 2016 to permit official campaign groups to have copies of the Electoral Roll to assist them in their promotional activities.
- 13.7 A method would need to be agreed for dealing with circumstances where one (or more) of the options did not have a group wishing to be its campaign group. In other jurisdictions this has often been addressed by either not appointing any campaign groups unless each option has one or by the government acting as a surrogate and providing technical information where no campaign group exists. The Committee prefers the second solution because the first would be rather unfair on any groups which do organise themselves and submit strong applications. The Committee also believes there will be sufficient news coverage of all the options – so a satisfactory

minimum amount of publicity will be generated for every option.

- 13.8 The Committee believes that the rules which apply in the referendum regarding the display of material by supporters of the different options should as far as possible mirror those which apply in General Elections. They should also benefit from the planning exemption in relation to election signs under the *Land Planning and Development (Exemptions) Ordinance, 2007*, which would mean that campaigners would not be required to obtain planning permission to display temporary promotional signs in the period immediately preceding the referendum. There should be the usual ban on the display of material on any States-owned property except those occupied as homes.
- 13.9 The legislation referred to in section nine of this policy letter would include all the detailed rules and regulations necessary to allow for the appointment and operation of campaign groups and to govern expenditure on the promotion of options generally.

#### **14 The question on the ballot paper**

- 14.1 As explained in section nine, the legislation will include the exact wording of the question which is to appear on the ballot paper at the referendum.
- 14.2 The wording of the question must be constructed carefully. The advice of learned organisations is consistent: the question must not influence voters but rather should be presented in a neutral way; the question must not mislead voters but rather should be presented clearly and unambiguously; and the implications of the voting options should be easy to understand. There must be no danger of a voter not knowing what he or she is being asked to decide or voting differently from how he or she intended.
- 14.3 The wording of the question has been tested on members of the public in a number of focus groups. These were chaired by an independent facilitator and at no time was any member of the Committee – nor indeed any other member of the States – present at the focus groups. Their sole purpose was to test whether various forms of question were easy for the electorate to understand. Participants were chosen to ensure that the focus groups were demographically and socially diverse.
- 14.4 The results of the focus groups showed that participants understood the proposed five-option question and knew what they were being asked to vote on.
- 14.5 The Committee proposes that the question on the ballot paper should be worded along the following lines (an example of such a ballot slip is at Appendix 2):

## **Which of the following options should be used to elect Deputies?**

### **Option A**

- 1 island-wide electoral district
- Each voter would have 38 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

### **Option B**

- 7 electoral districts
- Each voter would have 5 or 6 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

### **Option C**

- 2 electoral districts
- Each voter would have 9 or 10 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 2 years for half of Deputies each time

### **Option D**

- 4 electoral districts
- Each voter would have between 9 and 11 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

### **Option E**

- 1 island-wide electoral district
- Each voter would have 12 or 13 votes at each election
- Each Deputy would serve for 6 years
- An election would be held every 2 years for a third of Deputies each time

## **15 Options A to E – general points**

- 15.1 Sections 16 to 20 of the policy letter describe in more detail the electoral systems set out at options A to E, including their advantages and disadvantages and some of the practical implications of adopting them in Guernsey. Appendix 1 sets out several other electoral systems which were considered and the reasons why the Committee is recommending that they be excluded from the ballot paper at the referendum.

- 15.2 At this stage the Committee is not proposing all of the detailed arrangements for the introduction of any of the options A to E. Once the result of the referendum is known, the Committee will report to the States proposing the detailed arrangements for the introduction of the electoral system which was successful at the referendum, unless of course option B prevails, in which case no changes would be necessary. Any future policy letter would need to include information to allow decisions to be made about, *inter alia*, the use of hustings, the distribution of manifestos, electronic voting and electronic counting of votes, costs to the States and to candidates, transitional provisions, etc.
- 15.3 In relation to costs, what can be said with certainty even at this stage is that for all of the options A to E the annualised costs to the States should be in the tens, rather than hundreds, of thousands of pounds, but clearly costs are likely to be greatest for electoral systems which require elections more often or more than one election each time.
- 15.4 It should be noted that the parishes voluntarily carry out a significant part of the running of general elections, including providing venues for hustings and voting (for which any costs incurred are reimbursed by the States) and people to administer polling stations and count votes. The Committee wishes to place on record its appreciation of the invaluable assistance of the parishes and their volunteers. The costs borne by the States would be increased should the assistance of the parishes ever be withdrawn under any of the options A to E. It may be that this would become more likely under the options which move furthest away from the present electoral system.
- 15.5 The estimated costs of the referendum, which are set out in paragraphs 22.4 and 22.10 to 22.12, are one-off costs and completely separate from the costs associated with either maintaining the electoral system at option B or introducing any of the electoral systems at options A, C, D or E.
- 15.6 In the descriptions of the electoral systems which follow it must be remembered that one person's reason to adopt a system is another person's reason not to and *vice versa*.
- 15.7 It should be noted that in the tables at the end of each option the figures for the total population vary by option. That is because the e census states how many people live in Guernsey in total but it is not able to establish the exact residential address of a small number of people. The total figures for the two single district options (A and E) therefore show the full population (62,723) while the population figures for the other options total 62,473, to reflect the fact that the exact residential addresses of 250 people are not known in the e census data.

## Section 16: Option A

**16     *In Option A all Deputies would be elected on one day for one island-wide constituency. All electors would have as many votes as there are seats, i.e. 38 at the present time. Every candidate would stand to be elected by the whole Island. Every elector, regardless of where he or she lives, would be free to choose from the entire list of candidates. All deputies would serve for a term of four years.***

16.1    Some people argue that Option A would strengthen democracy in the Island. Certainly it would enable every elector to have some influence over every seat in the States, which in the absence of political parties is seen by some people as the best way of securing a legitimate democratic mandate for the whole of the States. The vast majority of propositions which go before the States affect the whole Island and so it is understandable that some electors wish to have an influence over every seat rather than over only one-sixth or one-seventh of the Assembly, as is the case at present. Proponents of this electoral system believe that government would be improved by making every Deputy, in theory at least, electorally accountable to every elector.

16.2    Those who do not support Option A point out that allowing every elector to have some influence over every seat in the States necessarily means that the weight of each individual vote would diminish. Moreover, they doubt whether it would be practicable to ask electors to cast up to 38 votes from a list of probably between 70 and 90 candidates. In 2007 the Electoral Reform Society, which has been advising on political and electoral reform for more than 130 years, advised the States:

*“There are possible models for all-island voting, but unfortunately they all present significant practical difficulties because of the size of the States of Deliberation and the lack of political parties in Guernsey... a nationwide constituency system could only feasibly operate in Guernsey if... candidates coalesced into political parties or (at the very least) electoral blocs [or] there were fewer seats to be filled...”.*

16.3    Some proponents of Option A argue that it would make elections for sitting members more rigorous because they would face the judgement of the whole Island rather than merely one district. On the other hand some opponents of Option A argue that it would disproportionately favour well-known candidates, including sitting members of the States. They also believe – because to be elected a candidate may well require a much smaller percentage of the vote – that it would increase the likelihood of candidates being elected with the support of voters who were extremely loyal but very few in number. It is conceivable, despite the size of his or her electoral district growing six- or seven-fold, that some candidates could be elected with far fewer votes than it requires to be elected in districts today, which could lead to doubts about the legitimacy of some deputies’ mandates. Others may argue that this could make the States more representative of the full range of public opinion in the Island.



- 16.4 The absence of political parties and the effects of that on the electoral system are referred to in the aforementioned advice of the Electoral Reform Society. It may be – but it is by no means certain – that introducing Option A would encourage the formation of political parties or electoral alliances, partly to assist candidates who may fear being unable properly to promote themselves and their policies as just one among perhaps 70, 80 or 90 others, partly to provide electors with a clearer understanding of the range of choices before them and partly to make the process generally more practicable for candidates and voters. The Committee makes no comment on whether the emergence of such parties or alliances would be a good development or not, but it would be naïve not to consider it as a possibility. If parties formed then it is possible that some form of proportional representation system would need to be introduced to ensure that one party did not win all the seats.
- 16.5 There are very few democracies which conduct parliamentary elections as a single district (i.e. the equivalent of island-wide or jurisdiction-wide voting). Examples include the Knesset in Israel, where electors vote only for parties and not for individual candidates and seats are allocated by proportional representation, and the Parliament in Gibraltar, which has a well-developed party system and only 17 seats.
- 16.6 In 1994 and 1997 Conseillers were elected on an island-wide basis. Some candidates did carry out door-to-door canvassing in certain areas. However, no candidate was able to canvass the entire Island or even most of the Island in an election campaign lasting only a few weeks. Some electors greatly value the opportunity to speak on their doorstep to as many of their candidates as possible and many candidates report at least some correlation between the number of households canvassed and the number of votes obtained. Other electors would prefer not to be canvassed at home and would consider the likelihood of receiving fewer such visits to be an advantage of Option A.
- 16.7 The present, district-based electoral system allows for Returning Officers to arrange hustings meetings in their district at which electors ask candidates questions without notice, typically for up to three hours. If there were too many candidates there would be insufficient time for electors to ask a range of questions and for candidates to develop their answers. Even with only 15 candidates it is unlikely there would be time for electors to ask more than a dozen questions and for candidates to speak for more than 12 minutes each, in total. There must also be some doubt about the appetite of electors to listen to so many candidates answering the same question. Clearly Option A, with perhaps between 70 and 90 candidates standing in one election, would not allow for all candidates to face electors simultaneously in the traditional format of hustings meetings. Some electors would consider this to be a significant loss: they may argue that hustings meetings provide a valuable opportunity to assess the relative merits of all the candidates when they are answering questions under at least a degree of pressure which it could be argued tests skills which are essential in politics. Other electors would consider this to be no

loss at all: they may argue that the majority of electors do not attend hustings meetings and that there are better ways for candidates to communicate with electors. If Option A was introduced it may be that hustings meetings would still be held, but candidates would be split into batches – for example, if there were 77 candidates, there could be seven hustings meetings held on seven different occasions each featuring 11 candidates, albeit that perhaps only the most resilient elector would attend them all in order to hear from all the candidates. This could be mitigated by the use of technology such as live streaming and making the broadcast available online afterwards.

- 16.8 Alternatively, or in addition, drop-in sessions – where candidates speak more informally to one or a few electors at a time – may come to play a greater role in election campaigns. Some districts already organise drop-in sessions ahead of elections. Some electors prefer them because it allows more personal and informal contact with candidates. If there were several drop-in sessions there would be more opportunity for contact at a time convenient to the elector. Drop-in sessions may also allow issues of particular importance to an elector to be pursued in more detail. Others are more sceptical about drop-in sessions and see them as a poor substitute for hustings meetings. There are concerns that when they are speaking only to one voter at a time it is too easy for candidates to alter their answers – and indeed to give completely contradictory answers – depending on the views of the elector with whom they are in conversation. The same thing could be said of door-to-door canvassing, but not of hustings meetings where candidates must set out their views in front of dozens and often hundreds of people who inevitably hold vastly different opinions themselves. Drop-in sessions also do not suit reserved electors who do not want to speak to candidates face-to-face. Nor are the exchanges published for the benefit of electors who were not present to hear the questions and answers. It would be difficult, if not impossible, for an elector to speak individually to 70 to 90 candidates even if he or she attended several drop-in sessions.
- 16.9 At recent elections some candidates have begun to make more use of electronic means to communicate with their electorate, e.g. audio and video manifestos, websites, e mails and social media. The use of such technology would doubtless accelerate and become more important if Option A was introduced.
- 16.10 Whichever electoral system is adopted, it is essential that candidates have every opportunity to distribute manifestos to all of their electorate. At present printed manifestos are the primary means by which candidates communicate their views to their electors and this may well continue to be the case for some time.
- 16.11 Option A would require electors to receive manifestos from probably between 70 and 90 candidates. Most candidates produce manifestos of at least two sides of A4; many candidates use four sides of A4; and a small number use six sides or more. Assuming there were 80 candidates each producing a manifesto of four sides of A4, every elector would receive manifestos totalling 320 pages of A4. Some electors would find this a daunting prospect and weighing up the merits of each manifesto

against all the others could be challenging. Other electors would consider this acceptable in order to be able to have up to 38 votes and therefore some influence over every seat in the States. The rules relating to grants to candidates could be adjusted to encourage them to limit manifestos to one or two sides of A4, which could reduce the total number of manifesto pages to around 100 or 150.

- 16.12 In the 1994 and 1997 island-wide Conseiller elections candidates' manifestos were published in a newspaper distributed as a supplement to the Guernsey Evening Press & Star. Each candidate was allocated one page. The cost of printing was borne by the States. It may be possible to adopt a similar arrangement for future elections, although it must be remembered that not every elector reads the local newspaper. In any event it may be considered unreasonable to place any restrictions on the freedom of candidates to choose the methods by which they distribute manifestos to their electorate.
- 16.13 Under the present electoral system every candidate has an electorate of between approximately 3,000 and 5,500, depending on his or her electoral district. Under Option A every candidate would have an electorate of 30,000 or more. All things being equal it has to be assumed that printing and distributing manifestos to five to ten times as many electors would increase the total cost of the exercise. The proportion of costs borne by the States and the proportion borne by the candidate would need to be carefully considered in order to limit the expense to the taxpayer while at the same time not placing an unreasonable financial burden in the way of a person who wishes to stand for election. It is possible, if the States in effect took over the role of distributing all manifestos, that the cost to the States could be offset by reducing or even eliminating the grant to candidates (which in 2016 stood at £600 per candidate).
- 16.14 Arrangements at polling stations and for the counting of votes would need to be adjusted. Electors would have 38 votes rather than five or six as at present and therefore many voters would inevitably take longer to vote and more polling booths may be required at each polling station. At the 2016 General Election around 93,000 votes were cast. Under Option A the maximum number of votes cast, if all the people who voted at the last Election voted and used all their votes, would be approximately 800,000. Even if there was a similar turnout but voters used only half their votes they might still cast 400,000 votes or more. Therefore, it may be necessary to use electronic counting. The Committee would need to work with the parishes to ascertain their willingness to be involved in such a different electoral process. Such logistical challenges are certainly not insurmountable, but they emphasise how single-election island-wide voting would completely change the character of elections in Guernsey. This would be viewed by some people as a positive step and as a negative one by others.
- 16.15 Option A would require no transitional provisions. All members could be elected under this system from the next General Election in June, 2020.

Districts	Total Population per district	Number of seats	Votes per elector
1. – All parts and areas of Guernsey, Herm and Jethou	62,723	38	38

## Section 17: Option B

**17     *Option B is the present electoral system unchanged. Guernsey is divided into seven electoral districts: St Peter Port South, St Peter Port North, St Sampson, the Vale, the Castel, the West and the South-East. Each district elects five or six deputies depending on the size of its population. Every elector has as many votes as there are seats in his or her district. All Deputies serve for a term of four years.***

17.1 For the purpose of conducting parliamentary elections most jurisdictions around the world sub-divide into electoral districts or constituencies. There are many examples of single-member districts, such as in the United Kingdom, where each district is represented by one member only; and many examples of multi-member districts, such as in Guernsey, where each district is represented by several members. As stated previously, there are very few democracies which conduct parliamentary elections as a single district (i.e. the equivalent of island-wide or jurisdiction-wide voting).

17.2 Section 2 of the policy letter explains that the whole of Guernsey was a single electoral district in the early years of the 20<sup>th</sup> Century when there were only nine directly-elected seats in the States and the franchise was greatly restricted. As the number of directly-elected seats increased and the franchise was extended, it was felt necessary to split the Island into electoral districts, and for approximately the past one hundred years all Deputies have been elected in districts (or formerly parishes).

17.3 Option B, i.e. the *status quo*, ensures that every geographic area in the Island has a number of Deputies who are elected to represent it in the States. Every Deputy is accountable at a very local level to 5,500 electors or fewer and this may encourage Deputies to be more responsive to constituency matters than they would be otherwise. Some electors feel that they are able to maintain particularly strong links and raise issues with ‘their’ Deputies in a way which could not be replicated if the Island became a single district or even if it was divided into fewer larger districts. Critics fear that maintaining relatively small electoral districts encourages narrow parochialism among Deputies who should be more concerned with issues of strategic importance to the whole Island (what would be called “the national interest” elsewhere).

- 17.4 Turnout at General Elections has increased substantially since the present, district-based electoral system was introduced in 2004. In 1994, in the first island-wide election for 12 Conseillers, 17,080 people voted. In 1997, in the second island-wide election for six Conseillers, 11,521 people voted, whereas in the district-based elections of 2016 21,803 people voted, which was an increase of nearly 90% (comparing the 2016 figures with those for 1997) despite the population of the Island increasing by only 6.5% in the same period. Nonetheless, turnout at elections in Guernsey generally remains quite low – the turnout figures are a percentage of those persons inscribed on the Electoral Roll and a substantial number of adults are not enrolled. Some people have a perception, the veracity of which is frequently contested, that district-based elections depress voter turnout because they necessarily restrict the number of candidates available to any elector and some electors regularly say they will not vote in the absence of island-wide voting.
- 17.5 Some people are undoubtedly of the view that Option B provides a greater degree of security for Deputies who it is claimed would find it harder to retain their seats if there were fewer larger districts or one single district. The logic of this view is debatable – at the last Election ten sitting Members lost their seats in the districts – but the prevalence of this view in the Island should not be under-estimated.
- 17.6 Dividing the Island into seven electoral districts means that a voter is limited to having a direct electoral influence over no more than 15% of the seats in the States – or to put it in reverse an individual voter cannot directly influence 85% or more of the seats in the States. Of course this is inherent to any electoral system based on constituencies or districts, but the feelings of disenfranchisement which it can elicit may be particularly understandable in an Island without political parties where there is often only a very loose connection between the choices made at the ballot box and the decisions made by government.
- 17.7 The way in which Option B operates in practice is well-known to candidates and the electorate. Clearly there are no major logistical concerns.
- 17.8 Candidates are able to disseminate their election literature and promote their views relatively easily and inexpensively (including with the assistance of a grant from the States). Each elector receives a manageable number of manifestos – typically around 11 or 12. Much use is made of door-to-door canvassing – many candidates call at a substantial proportion of their electors' homes and some candidates call more or less at them all. At recent elections some districts have organised drop-in sessions for electors to speak to candidates one-on-one. In every district there are traditional hustings meetings and some districts hold more than one. The preceding section of the policy letter discussed all the advantages and disadvantages of these various methods of communication between candidate and elector.
- 17.9 The parochial authorities run the polling stations, count the votes and announce the results. The electoral districts are small enough that results are announced the same night that polls close.

17.10 Proponents of Option B argue that the ease of communication between the candidate and the elector allows candidates who have little or no public profile before an election to flourish during the campaign. A relatively unknown candidate can secure considerable support through a good performance at a hustings meeting and perhaps even more so through diligent door-to-door canvassing. This is one of the reasons why some people are anxious to retain an electoral system which allows for traditional hustings meetings and door-to-door canvassing, which would become more challenging if electoral districts were enlarged and completely impracticable if the Island was made into a single electoral district.

17.11 Option B would require no transitional provisions as the present system would simply continue.

Districts	Total Population per district	Pure division	Votes per elector
1. – St Peter Port (South)	8,457	5.1	5
2. – St Peter Port (North)	10,423	6.3	6
3. – St Sampson	8,948	5.4	6
4. – Vale	9,524	5.8	6
5. – Castel	8,739	5.3	5
6. – West (St Saviour, St Pierre du Bois, Torteval and Forest)	7,439	4.5	5
7. – South East (St Martin and St Andrew)	8,929	5.4	5

17.12 Many of the arguments for and against Options A and B apply to a greater or lesser extent to the remaining three options: C, D and E. For ease of reading they are not all repeated *in extenso* in the succeeding paragraphs.

## Section 18: Option C

**18** *In Option C the Island would be split into two electoral districts. Each district would have between 18 and 20 seats. Every two years each district would elect approximately half of its Deputies (e.g. nine or ten Deputies). Every elector would have as many votes as there are seats to fill in his or her district. All Deputies would serve for a term of four years.*

- 18.1 It is possible to split the Island into two contiguous districts with very similar populations without dividing any parish other than St Peter Port in the way it is at present. There would be a “North and Centre” district comprising the Vale, St Sampson, St Peter Port North and St Andrew; and a “South and West” district comprising St Peter Port South, St Martin, the Forest, St Pierre du Bois, Torteval, St Saviour and the Castel. Using the latest e-census data, one district would comprise 31,243 people and the other district would comprise 31,216 people.
- 18.2 By splitting the Island into two electoral districts, Option C would allow every voter to have a direct influence over half the Deputies’ seats in the States. At the same time, by electing only nine or ten seats in each district each time, it is likely that elections would produce a practicable number of candidates.
- 18.3 Option C might be particularly attractive to people who believe that democracy would be strengthened by making each deputy more accountable to a much greater proportion of the population but who fear that turning the Island into a single district and electing 38 deputies from perhaps twice as many candidates on one day would be impracticable. It could be argued that Option C overcomes the most significant disadvantages, but does not necessarily share the most significant advantages, of Options A and B.
- 18.4 Some voters would welcome elections every two years; others would be content to go to the polls more often to obtain the advantages of Option C; but some voters would find it undesirable. Holding elections for half the Assembly every two years could provide the States with more continuity because the potential for turnover in membership at each election would be reduced; and also with more frequent renewal because invariably there would be at least some new members joining every two years. Improving the balance between continuity and renewal could be a significant advantage, particularly if it addressed the lacuna in activity which has tended to affect each newly-elected Assembly for several months since General Elections in their full sense were introduced in 2004. On the other hand there may be fears that elections every two years, albeit for only half the seats each time, would prove disruptive and also there is some advantage in a General Election where all seats are up for election and theoretically voters have a chance to replace their entire parliament.
- 18.5 Option C would most likely satisfy voters who believe that seven much smaller districts, i.e. the present system, encourages narrow parochialism, but it would most likely dissatisfy voters who value maintaining stronger local links with ‘their’ Deputies which the present system tends to promote.
- 18.6 A diligent candidate with sufficient time available during the day could certainly canvass one-third and possibly anything up to one-half of the districts envisaged in Option C. If turning the Island into a single district, i.e. Option A, would greatly discourage canvassing, it is felt that turning the Island into two districts, i.e. Option C, would have not nearly the same effect because many candidates would doubtless

consider it still very worthwhile to call on one-third to one-half of their electors. Nevertheless the impossibility of canvassing an entire district would perhaps slightly increase the possibility of political parties or electoral alliances developing, though the impetus for this would probably be weaker under Option C than under Option A.

- 18.7 If traditional hustings meetings were to continue under Option C, it may be that candidates would be split into two batches to avoid perhaps as many as two dozen or so appearing on the same occasion. Greater use may be made of drop-in sessions.
- 18.8 Option C may require electors to receive manifestos from perhaps between 15 and 25 candidates. This may mean receiving a total of 100 pages of A4 unless efforts have been made to encourage the production of much shorter manifestos, the advantages and disadvantages of which were discussed earlier in the policy letter.
- 18.9 There is a convention that the States do not meet after nominations for election have opened in order that serving members cannot use the Assembly as a platform from which to electioneer. At present that period when the States do not meet – which lasts about six weeks – occurs once every four years. If the convention was to be maintained, in Option C that period when the States do not meet would occur once every two years. This could be accommodated quite easily, but the calendar for States' Meetings would obviously need to be adjusted slightly.
- 18.10 Option C may lend itself to the introduction, or rather re-introduction, of electing some or all seats on States' Committees more frequently than once every four years. The Committee's predecessors consulted members of previous States on this matter and found those in favour and those against to be broadly in balance.
- 18.11 For obvious reasons it would not be possible to implement Option C in its final form immediately. Therefore, transitional arrangements would be required. One possibility would be to split the Island into two districts ahead of the next General Election in 2020, elect all seats on the same day on that one occasion (i.e. elect 18 or 20 deputies from each district) and then commence biennial elections in 2022. The transitional arrangements would need to be agreed by the States if Option C won the referendum. At the same time the States would need to decide whether to retain 38 deputies with 19 seats in each district or to have 40 deputies with 20 in each district or 36 with 18 in each district.



Districts	Total population per district	Total seats per district	Votes per elector at each election
1. – the Vale, St Sampson, St Peter Port North and St Andrew	31,243	19	9 or 10
2. – St Peter Port South, St Martin, the Forest, St Pierre du Bois, Torteval, St Saviour and the Castel	31,216	19	9 or 10

## Section 19: Option D

**19** *In Option D the Island would be split into four electoral districts. Each district would have between nine and 11 seats depending on the size of its population. Every elector would have as many votes as there are seats to fill in his or her district. All deputies would be elected on the same day to serve for a term of four years.*

19.1 It is possible to split the Island into four contiguous districts without dividing any parish other than St Peter Port in the way it is at present. The four districts would be as follows: St Peter Port South and St Martin; St Peter Port North, St Andrew and Forest; Castel, St Saviour, St Pierre du Bois and Torteval; and Vale and St Sampson. Using the latest e-census data, the first three districts would have very similar populations and the population of the fourth would be approximately 25% greater than the other three. There are alternative ways of splitting the Island into four districts but not without dividing other parishes as well as St Peter Port and the Committee does not favour doing that.

19.2 On the continuum of electoral systems, Option D, like Option C, sits somewhere between island-wide voting for all Deputies and the present seven districts. It would allow each elector to have an influence over approximately one-quarter of the seats in the States – a substantially higher proportion than at present – while retaining most of the advantages of the present system. It would also retain the concept of a General Election where all seats are elected on one day once every four years rather than requiring a portion of seats to be elected at more frequent intervals. It is, in effect, an alternative way of increasing the proportion of seats over which each elector has some influence while providing for elections with an obviously practicable number of candidates.

19.3 For many years St Peter Port, when it was one electoral district, had a similar number of electors and a similar number of seats as the four electoral districts would have in Option D. There were no indications that an electoral district of that size was unpopular or impracticable. Clearly four districts of such a size would make it easier

for a close connection to be maintained between electors and ‘their’ Deputies than would be the case if there were two districts or one single district, but some people will feel that any increase in the size of electoral districts risks creating too much distance between the electorate and the elected.

- 19.4 Perhaps the single greatest disadvantage of Option D is that it would not fully satisfy either those people who favour electing all deputies on an island-wide basis or those people who favour retaining the present seven, smaller electoral districts. If those two groups of people together comprise a clear majority of the Island, Option D is likely to prove unpopular. However, those two groups of people have objectives which are plainly mutually contradictory and it may be that a not insubstantial portion of the electorate would be content to find a compromise solution.
- 19.5 Option D would represent further evolution in the consolidation of electoral districts – seven districts having been created from the ten parochial constituencies in 2004 – without taking the more radical step of reducing the number of districts to two or even one. Option D would go some way towards satisfying the demands of electors who want an influence over more Deputies’ seats but the basic character of elections would probably be similar to what Guernsey has been used to for many years.
- 19.6 Some voters may not appreciate the merging for electoral purposes of parishes which had for decades operated as their own electoral districts, but in 2004 this concern was felt not to be sufficient to prevent the merging of six parishes into two electoral districts and the Committee is aware of no great demand to divide those electoral districts and return to ten districts strictly along parochial lines. It may be that some electors whose parishes were merged for electoral purposes in 2004 would not appreciate further reconfiguration of their electoral districts, although doubtless they would soon become accustomed to the new districts, as they did in 2004. It should be noted that in many jurisdictions constituency boundaries are frequently redrawn from one election to the next.
- 19.7 It should also be noted that population shifts around the Island mean there is no guarantee that the present electoral districts can be maintained in the long-term unless electors are prepared to return to the days when there was material over-representation of some parts of the Island and material under-representation of others. Put simply, constituency or district boundaries in Guernsey, as elsewhere, are always subject to change unless the Island is turned into one single district.
- 19.8 A diligent candidate with sufficient time available during the day could certainly canvass the majority of a district of the size envisaged in Option D. Some members of the Committee believe that the possibility of an elector canvassing the whole of his or her district would be lost under Option D, but other members who have canvassed whole districts are of the opinion that candidates could conceivably canvass all of their electors, possibly with a slight extension to the campaign period.

- 19.9 It is possible that traditional hustings meetings would continue at which all candidates could be present answering questions on the same occasion – as was the case in St Peter Port when it was a single district – although the likely increase in the number of candidates (perhaps half again as many candidates who tend to stand in the present, smaller districts) would no doubt concern those people who feel that traditional hustings meetings are already somewhat unwieldy with perhaps around a dozen candidates each answering the same questions by rotation. An alternative would be for candidates to be split into two batches, which would mean that the opportunity would be lost to compare all candidates against each other on the same occasion, as is the case in the present system, but electors who wished to hear from all their candidates in the hustings format would need to attend only two such meetings rather than the many more meetings which may be necessary if the hustings format was to be retained in the island-wide system in which all deputies would be elected from one district on one day.
- 19.10 If drop-in sessions were held under Option D, an elector could conceivably speak individually to all of his or her candidates, though clearly that would take longer than it does at present and it may be possible only if districts held multiple sessions and the elector was prepared to attend more than one.
- 19.11 Electors would have more manifestos to read than at present but fewer than in some of the other options recommended for inclusion on the ballot paper at the referendum. Whether increasing the number of seats and candidates in a district by perhaps around one-half would place too great a burden on electors to read manifestos is a matter of judgement. Similarly, voting and counting would take longer than at present but less time than in some of the other options, but it is felt that the logistics of running polling stations and counting votes would not be materially different from at present.
- 19.12 Option D would require no transitional provisions. All members could be elected under this system from the next General Election in June, 2020.

Districts	Total Population per district	Pure division	Votes per elector
1. – St Peter Port (South) and St Martin	15,038	9.1	9
2. – St Peter Port (North), St Andrew and Forest	14,349	8.7	9
3. – Vale (all) and St Sampson (all)	18,472	11.2	11
4. – Castel, St Saviour, St Pierre du Bois and Torteval	14,600	8.9	9

## Section 20: Option E

**20** *In Option E all deputies would be elected for one island-wide constituency. One-third of seats (approximately 12 to 13 seats) would be elected every two years. All electors would have as many votes as there are seats to elect. Every candidate would stand to be elected by the whole Island. Every elector, regardless of where he or she lives, would be free to choose from the entire list of candidates. All deputies would serve for a term of six years.*

20.1 Option E is 'full' island-wide voting: every Deputy would be elected on an island-wide basis. However, it overcomes, or at least mitigates, many of the logistical obstacles associated with Option A. In particular it provides for 'full' island-wide voting without the need for elections involving potentially impracticable numbers of seats, votes and candidates. Supporters are likely to argue that, if in the future all Deputies are to be elected on an island-wide basis, the sort of electoral system set out in Option E is the most practicable way of achieving that.

20.2 The Committee considered variants of this 'rolling' island-wide electoral system: for example, the election of one-half of seats (e.g. 19 seats) every two years with all Deputies serving for a term of four years. Option E is recommended for inclusion on the ballot paper at the referendum largely because of the point in the preceding paragraph – it overcomes, or at least mitigates, many of the logistical obstacles associated with Option A – and is therefore sufficiently different from Option A, whereas electing one-half of seats (e.g. 19 seats) every two years would overcome none of the logistical obstacles associated with Option A and would not be sufficiently distinct to add much to the range of choice available to voters in the referendum.

20.3 Some voters would prefer to go to the polls every four years. Some voters would welcome the opportunity which Option E would provide to renew the membership of the States biennially. It is possible that some potential candidates who would be happy to commit to serving in the Assembly for four years would be less enthusiastic about committing to a six-year term.

20.4 Holding elections for one-third of the Assembly every two years would provide the States with more continuity because the potential for turnover in membership at each election would be much reduced. Improving the balance between continuity and renewal could be a significant advantage, particularly if it addressed the lacuna in activity which has tended to affect each newly-elected Assembly for several months since General Elections in their full sense were introduced in 2004. On the other hand there may be fears that elections every two years would prove disruptive, albeit this could be greatly limited by only one-third of seats (rather than one-half of seats, as proposed in Option C) being involved in each electoral cycle. Opponents of Option E may fear that a portion of the States would be in 'election mode' more frequently than is the case at present, but equally at all times two-thirds of the States would not be involved in the next electoral cycle and indeed there

would never be a time, as there is at present for several months at either end of a States' term, when the whole Assembly has either just been elected or is soon to face another election.

- 20.5 The section of the policy letter on Option A identified a concern that it would increase the likelihood of candidates being elected with the support of voters who were extremely loyal but very few in number. Option E significantly reduces this risk because the average voter would be much more likely to use a greater proportion of 12 or 13 votes than of 38 votes.
- 20.6 There is a convention that the States do not meet after nominations for election have opened in order that serving members cannot use the Assembly as a platform from which to electioneer. At present that period when the States do not meet – which lasts about six weeks – occurs once every four years. If the convention was to be maintained, in Option E that period when the States do not meet would occur once every two years. This could be accommodated quite easily, but the calendar for States' Meetings would obviously need to be adjusted slightly.
- 20.7 Option E would go a long way towards addressing the concerns about electing all members of the States in one single district on one day (i.e. Option A) which were raised by the Electoral Reform Society and which were reproduced at paragraph 16.2.
- 20.8 Option E would be as effective as Option A at responding to the arguments which tend to be advanced in favour of every Deputy being elected on an island-wide basis. Some people argue that it would strengthen democracy in the Island. Certainly it would enable every elector to have some influence over every seat in the States, which in the absence of political parties is seen by some people as the best way of securing a legitimate democratic mandate for the whole of the States. The vast majority of propositions which go before the States affect the whole Island and so it is understandable that some electors wish to have an influence over every seat rather than over only one-sixth or one-seventh of the Assembly, as is the case at present. Proponents of Option E believe that government would be improved by making every Deputy, in theory at least, electorally accountable to every elector.
- 20.9 While it seeks to overcome or limit some of the practicable difficulties associated with island-wide voting, of course Option E carries the other disadvantages of island-wide voting which concern opponents of such a system. Allowing every elector to have some influence over every seat in the States necessarily means that the weight of each individual vote would diminish. The fear would remain of disproportionately favouring well-known candidates, including sitting members of the States – it could be argued that the experience of Senatorial elections in Jersey demonstrates that this concern is not without foundation.

- 20.10 No candidate could canvass all or even most of the Island in an election campaign lasting only a few weeks and this would be an unwelcome development for electors who greatly value the opportunity to speak on their doorstep to as many of their candidates as possible. For this reason it may be – but it is by no means certain – that introducing Option E would encourage the formation of political parties or electoral alliances to assist candidates who fear being unable properly to promote themselves and their policies as just one among perhaps 70, 80 or 90 others, although some of the other potential catalysts for parties or alliances which are evident in Option A are less evident in Option E.
- 20.11 It can safely be assumed that there would be many fewer candidates standing at each election with ‘rolling’ island-wide elections, i.e. Option E, than there would be under single-election island-wide elections, i.e. Option A, but it cannot necessarily be assumed that it would be as few as a third each time – it would depend how many unsuccessful candidates chose to re-stand at two-year intervals. It is highly likely that there would still be a significant increase in the number of manifestos which every elector would be required to read. Some electors would find this a daunting prospect and weighing up the merits of each manifesto against all the others could be challenging, though obviously much less so than under Option A. Other electors would consider this acceptable in order to be able to have some influence over every seat in the States.
- 20.12 Traditional hustings meetings – in the sense of one occasion when it is possible for an elector to compare all candidates against each other when answering the same questions without notice – would not be viable under Option E. Hustings meetings could still be held, but if so candidates would be split into batches – for example, if there were 30 candidates, there could be three hustings meetings held on three different occasions each featuring ten candidates.
- 20.13 The general observations made in preceding sections about drop-in sessions would apply equally to Option E. If drop-in sessions were held under Option E, an elector could conceivably speak individually to all of his or her candidates, though clearly that would take longer than it does at present and it would undoubtedly require multiple sessions to be held and the elector would need to attend on perhaps two or three occasions.
- 20.14 Option E may lend itself to the introduction, or rather re-introduction, of electing some or all seats on States’ Committees more frequently than once every four years. The Committee’s predecessors consulted members of previous States on this matter and found those in favour and those against to be broadly in balance.
- 20.15 For obvious reasons it would not be possible immediately to implement Option E in its final form. Therefore, transitional arrangements would be required. One possibility would be to have single-election island-wide voting for one General Election only in 2020 and then commence biennial elections in 2022. Another possibility would be to retain the present electoral districts for the next General

Election in 2020 and then commence biennial elections in 2022. The transitional arrangements would need to be agreed by the States if Option E won the referendum. At the same time the States would need to decide whether to retain 38 deputies with some biennial elections being for 12 seats and some for 13 seats or to have 39 deputies with 13 seats being elected every two years or 36 deputies with 12 seats being elected every two years.

Districts	Total Population per district	Number of seats	Votes per elector at each election
1. – All parts and areas of Guernsey, Herm and Jethou	62,723	38	12 or 13

## 21 Alderney

- 21.1 Between 1994 and 2000, when Conseillers were elected by the people, the island of Alderney was also included in the single “Bailiwick-wide” constituency. The Committee is not proposing that this should happen now if the outcome of the referendum lead to the introduction of island-wide voting systems (i.e. Options A or E).
- 21.2 Between 1948 and 1994 Conseillers were elected by the States of Election and not by the people. For the purpose of electing Conseillers (but not Jurats), the States of Election comprised the various representatives from Guernsey and also four representatives from Alderney. Having had such an input, albeit indirectly, into the election of “old-style” Conseillers, it was considered necessary to maintain the right of the Alderney electors to participate in the election of “new-style” Conseillers. That right was ended in 2000 when the office of Conseiller was abolished. The Committee does not believe that it should now be reinstated. When the office of Conseiller was abolished all Members of the States became representatives of a specific part of the Bailiwick, be that several parishes, a parish, part of St Peter Port or the island of Alderney. There are two Alderney Representatives in the States who play a full and active role in proceedings. The two Representatives represent 5% of the elected Members of the States of Guernsey whereas the population of Alderney is about 3% of the population of Guernsey and Alderney.
- 21.3 The Committee believes that, even if the electoral system changes and there is just one Guernsey district, Alderney’s representation should nevertheless remain distinct to ensure that the northern island’s interests are properly represented in the States as required by the Reform Law. The alternative would be to abolish the office of Alderney Representative and allow Alderney to join what would become a single Bailiwick-wide jurisdiction, but this could never guarantee the proper representation of Alderney’s interests.

- 21.4 The Committee wrote to the States of Alderney on the 26<sup>th</sup> January, 2017 inviting them to advise of their preference for the representation of their island in the States. At the time of submission of this policy letter no response had been received.

## **22 Compliance with Rule 4**

- 22.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 22.2 In accordance with Rule 4(1), the Propositions – and indeed more than one draft of the policy letter – have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not to be put into effect.
- 22.3 In accordance with Rule 4(2), the Committee requests that the Propositions be considered by the States at their Meeting which starts on the 21<sup>st</sup> of June, 2017. When the Policy & Resources Committee and the States consider Schedules for future States’ business, the Committee requests that they take account of the points made in paragraph 11.5 of this policy letter which support the case for it to be considered by the States on the 21<sup>st</sup> of June.
- 22.4 In accordance with Rule 4(3), the Committee has included Propositions which request the States to approve maximum funding of £159,000, including a contingency sum of £5,000, in order to fund the holding of a well-organised and credible referendum. Further details about resources are provided in paragraphs 22.9 to 22.11 below.
- 22.5 In accordance with Rule 4(4), it is confirmed that the Committee is unanimous in recommending that the States approve Propositions 1, 2 and 4 to 10 inclusive on P. 2017/49 which would mean that Proposition 3 would fall automatically.
- 22.6 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee *“to advise the States and to develop and implement policies in relation to the constitution...of the States of Deliberation [and]...elections to the office of People’s Deputy”* and also fulfil relevant Resolutions made by the States in 2016.
- 22.7 Also in accordance with Rule 4(5), the Committee consulted the following: the Committee for Home Affairs in relation to the Electoral Roll, initially at a meeting of the two Committees on the 20<sup>th</sup> February, 2017 and subsequently in correspondence; the Registrar-General of Electors on several matters, which included sending him various versions of the full policy letter as it developed; the President and senior officers of the Policy & Resources Committee in relation to resources; parish douzaines in relation to the arrangements for the day of the referendum and in relation to options A to E; the Electoral Commission in the UK;



and, as explained in the preceding section, the States of Alderney. The Committee thanks all other Committees and officers whose advice has assisted in the drafting of this policy letter.

- 22.8 The holding of a referendum is not to be undertaken casually or impulsively, perhaps especially so for a jurisdiction, like Guernsey, with no previous experience of referendums. All aspects of the referendum must meet accepted democratic principles; the terms of the referendum must be very clear in advance; and particular care must be taken to ensure that eligible voters have every opportunity freely to express their views on the subject matter of the referendum. These essential objectives cannot be met without incurring some expenditure.
- 22.9 When the referendum was first considered early in 2016 there were some estimates that it could cost up to £400,000. However, as the Committee's predecessor advised at the time, most of these costs could be avoided if the existing Electoral Roll was used. The Committee *for* Home Affairs, which has responsibility for policy in relation to the Roll, and the Registrar-General of Electors support the use of the existing Roll for the referendum. There would still be some cost to encouraging people to enrol who were not enrolled already and to processing such applications, but this would be a fraction of the cost of creating a new Electoral Roll from scratch. The Committee repeats its thanks to the Committee *for* Home Affairs and the Registrar-General of Electors for what they have agreed to do to update the existing Roll ahead of the referendum.
- 22.10 The Committee estimates that the basic cost of preparing for and running the referendum will be no greater than £64,000. This figure has been worked out after analysis of costs incurred in relation to recent General Elections. It includes efforts to promote enrolment, adding new voters to the Electoral Roll, printing of voting papers, administering postal voting, the distribution to voters of information about the question they are being asked, administration leading up to and during polling day (including reimbursement of parish expenses) and maintaining an internet presence. This figure includes a sum of £25,000 to be used for publicity about the options A to E. This money, or at least some of it, will be spent by campaign groups if the States agree to the Committee's proposal that they should be permitted and allowed to spend a modest sum of public money (the exact grant and any conditions attached to it would be set out in the referendum legislation) or, if not, by the States themselves.
- 22.11 Staff costs associated with preparing for and running the referendum have been calculated as up to £90,000. The anticipated split of the total sum of £159,000, including contingencies, between 2017 and 2018 is £31,000 and £128,000 respectively. This figure is based largely on information provided by senior States' officers. The Committee does not have a budget of its own – some years ago its predecessors agreed to a proposal from the former Treasury & Resources Department to incorporate its budget within that of the Royal Court. The Committee has been advised to include this figure for staff costs in the policy letter in case there

is a need to pay staff who do not currently work for the States either to work on the referendum project themselves or to provide cover for those seconded to work on it. It is not known at this stage how much of this sum will actually need to be spent. The Committee questions whether staff costs need to be as high as estimated, but without a budget of its own and with only 1.5 FTE the Committee acknowledges that the referendum will need to be resourced from elsewhere in the States and has therefore included a budget request largely as advised.

## **23 Alternative Proposition**

- 23.1 It should be noted that Propositions 2 and 3 are alternatives. For the reasons set out in this policy letter, the Committee believes that the States should resolve to hold a multi-option referendum to determine Guernsey's electoral system. Nevertheless, it is aware that some Members of the States believe that, if there is to be a referendum, voters should be asked their opinion on one electoral system only: all 38 deputies being elected on one day in a single election from a single district. If those Members wish to reject the arguments set out in this policy letter and limit the choice given to the electorate in the referendum to one option only then the Committee has set out in Proposition 3 how that can be achieved.

Yours faithfully,

Deputy M. J. Fallaize  
President

Deputy P. J. Roffey  
Vice-President

Deputy M. H. Dorey  
Deputy M. K. Le Clerc  
Deputy H. L. de Sausmarez

## List of appendices

Appendix 1 – other electoral systems

Appendix 2 – the suggested referendum ballot slip

Appendix 3.1 – sample ballot slip for option A

Appendix 3.2 – sample ballot slip for option B

Appendix 3.3 – sample ballot slip for option C

Appendix 3.4 – sample ballot slip for option D

Appendix 3.5 – sample ballot slip for option E

Appendix 4 – political parties

## Appendix 1

### **Other electoral systems**

- 1 The Committee sets out below several electoral systems which it considered and the reasons why they are not recommended for inclusion on the ballot paper at the referendum.

### **A different number of districts**

- 2 The Committee is recommending including on the ballot paper options for one, two, four and seven districts respectively.
- 3 The Committee detects no support for increasing the number of districts to more than seven, which could potentially reverse some of the reforms to boundaries which were made in 2004 or, in order to prevent over-representation in some parts of the Island and under-representation in other parts, require more parishes to be divided into separate electoral districts.
- 4 Reducing the number of districts to five or six would appear to yield few of the benefits, as perceived by some people, of rationalising districts and is insufficiently different from Options B and D to justify inclusion on the ballot paper.
- 5 The three tables below illustrate three different ways of dividing the Island into three electoral districts. The Committee is not recommending including any of them on the ballot paper because Option D – for four districts, rather than three – provide for similar outcomes but allow a more logical drawing of electoral boundaries.

Districts	Total Population per district	Pure Votes	Actual Votes
1. St Peter Port South, St Martin, Forest, St Pierre du Bois and Torteval	19,735	12.0	12
2. Vale, Castel and St Saviour	21,012	12.8	13
3. St Peter Port North, St Sampson and St Andrew	21,726	13.2	13

A slight variation on the above is to move St Andrew's parish into another district to give another option for a three-district model, namely:

Districts	Total Population per district	Pure seats	Actual votes
1. St Peter Port (North) and St Sampson	19,386	11.8	12
2. Vale, Castel and St Saviour	21,012	12.8	13
3. St Peter Port (South), St Martin, Forest, St Andrew, St Pierre du Bois, Torteval	22,075	13.4	13

Another option for a three-district model is the following:

Districts	Total Population per district	Pure Votes	Actual Votes
1. St Peter Port South, St Martin, Forest, St Saviour, St Pierre du Bois and Torteval	22,484	13.7	14
2. St Sampsons, Vale	18,472	11.2	11
3. St Peter Port North, Castel and St Andrew	21,517	13.1	13

If current internal population movements continue and new developments are concentrated in the north of the Island then this option may need to be introduced in future, if a three-district model were adopted.

**38 island-wide Deputies – half elected every two years; all Deputies serving a four-year term**

- 6 This is a variation on Option E. It was put before the States and rejected as recently as 2011. It would bring about elections every two years – but, unlike Option E, without addressing any of the logistical challenges associated with 'full' island-wide voting, in particular the likely number of candidates, seats and votes. Put simply, if the electorate is to be asked every two years to elect 19 candidates from a list of perhaps 50, as may well be the case under this model, then the electorate might as well be asked to elect 38 candidates from a list of perhaps 70 to 90 without the need to go to the polls biennially.

**38 island-wide Deputies – half elected every two years; all Deputies serving a six-year term**

- 7 This is another variation on Option E. In effect it would mean the election of the whole States on the same basis as Conseillers were elected between 1994 and 2000, i.e. six-year terms with half elected every three years. It may be that some people would prefer elections every three years rather than every two. However, this model would require all Deputies' terms of office to last six years, which would be seen by some people as a disadvantage – but unlike Option E, without addressing any of the logistical challenges associated with 'full' island-wide voting, in particular the likely number of candidates, seats and votes.
- 8 Clearly there are some people in the Island who wish to elect all Deputies on an island-wide basis. Option A would allow them to do so in one election on a single day. Option E, by substantially reducing the number of candidates, seats and votes at each election, would allow them to do so in a way which overcomes perhaps the single-greatest logistical challenges of Option A. Therefore the Committee is clear that Options A and E are the two 'full' island-wide voting models which should be included on the ballot paper at the referendum.

**Island-wide/district hybrid system**

- 9 The Committee considered models which would allow for single-election island-wide voting but also remove the risk which some people fear of their district being left without adequate representation. The succeeding paragraphs describe such an electoral system.
- 10 The election itself would be on a single-election island-wide basis: that is, all 38 Members would be elected on one day for the same term of office. Each voter would have 38 votes and could vote for any candidate. Once voting had taken place the votes would be counted on a district basis – i.e. votes cast by residents of that district for candidates resident in or representing that district, as with the current system – with no amalgamation of the votes cast. In each district, the candidate polling the highest number of votes would be elected automatically and these seven candidates would therefore not be included in the second stage of the count.
- 11 The second stage of the count would be amalgamated across all districts and the total number of votes received by each remaining candidate from across all districts would be tallied. The remaining 31 seats would be filled by the candidates polling the highest number of votes in this second stage amalgamated count.
- 12 This electoral system would ensure that none of the current electoral districts was left wholly unrepresented in the States, while also fully facilitating "full" island-wide voting. Under Option A it is theoretically possible (albeit most unlikely) that every single Member could be a resident of just one district. Although it is accepted that all Members are willing to and do represent the interests of all parts of the Island

and champion the causes of individuals wherever they might live, many people like having a particular Member or Members to whom they feel a closer affinity because they represent their specific area.

- 13 This system would ensure a continuation of some form of district representation in the States while also ensuring that voters could vote for any candidate in any part of the Island.
- 14 It would encourage candidates to undertake traditional door-to-door canvassing on a district basis and it would also enable hustings in their current format to continue. It may encourage candidates to stand who have a strong connection to their local community but are not more widely well-known, as they may perceive this system to give them a better chance of success than Option A, which is likely to favour incumbents and other well-known personalities.
- 15 As with Option A, this system would still require voters to look through the manifestos of all candidates across the Island. Voters would still also have to decide on up to 38 candidates. However, this option would not have the problems associated with either the Conseiller-type system or the Douzaine representative system set out below, such as candidates having to choose between standing in their district or island-wide, and expectations of more senior positions going to island-wide Deputies.
- 16 The counting process would be more complicated than in Option A because there would be two discrete stages. Were this option to be progressed, the Committee would suggest that voters would be able to vote only in their own district's polling stations, even though the candidates would be the same across the Island, because the first stage of the count would be a district count. Otherwise, the logistical complications could cause confusion and unnecessary expense.
- 17 The Committee is not recommending this electoral system for inclusion on the ballot paper at the referendum because it is concerned about the logic of trying to retain electoral districts while requiring all candidates and voters to participate in an island-wide election.

**Some Members elected island-wide, others by district**

- 18 This sort of electoral system would introduce an element of island-wide voting while retaining district representation. Conceptually this would be a return to the period 1994 to 2000. At that time twelve Conseillers were elected on an island-wide basis and 33 deputies were elected in electoral districts (parishes).
- 19 The exact proportion of island-wide and district seats would need to be determined. Clearly the minimum number of district Deputies would need to be seven in order for each of the districts to elect one – and in that case there would be 31 island-wide deputies. Or around half the States could be elected island-wide and around half in

districts. Or there could be more district Deputies than island-wide Deputies, although there would seem to be little point in introducing island-wide elections for fewer than, say, eight to ten seats. The advantages and disadvantages of island-wide and district elections were explored in sections 16 to 20 of this policy letter and many of them apply to the various permutations for this sort of combined island-wide/district electoral system depending on the number of seats to be reserved for each of the two categories of Deputy.

- 20 There are several reasons why the Committee does not recommend that such an electoral system be included among the Options A to E on the ballot paper at the referendum.
- 21 Creating two classes of States' Member would be detrimental to good government. Of course, after a General Election, some Members are elected to more senior offices, but all Members are elected to the States as equals. Creating different classes of Member could hardly fail to be divisive. This problem would doubtless be compounded by the inevitable conflation, which the present electoral system largely avoids, of electoral popularity and suitability for senior office – indeed this very problem was felt to be one of the principal disadvantages of the popularly-elected office of Conseiller during its short-lived existence of six years between 1994 and 2000.
- 22 When the public had the opportunity to vote for some island-wide and some parish representation, turnout at such elections was not terribly impressive. In 1994, in the first island-wide election for Conseillers, 17,080 people voted. In 1997, in the second and last island-wide election for Conseillers, only 11,521 people voted whereas in the Parish Deputies' election a month later 14,812 people voted. At last year's General Election, when of course there was only one class of Member to be elected (and all in districts), 21,803 people voted. In short, the experiment with two classes of Member both elected by the people proved was, based on the turnout figures, no more popular than it was enduring.
- 23 In this context it may be instructive to consider the experience in Jersey, which is one of very few parliaments to have some jurisdiction-wide members and some district members. Jersey held a referendum on electoral reform four years ago – and more than 80% of those who turned out cast first preference votes for options which did not include a combination of some members elected in districts and some elected island-wide.
- 24 Since the abolition of the office of Conseiller in 2000, three of the past four States' terms have debated proposals to reintroduce an electoral system which would provide for some district Deputies and some island-wide Deputies and on each occasion the proposals have been firmly rejected.



- 25 It would be necessary to determine whether island-wide deputies and district deputies should be elected on the same day or on different days. Both models create different but significant problems.
- 26 Holding the elections on the same day could result in a good candidate not succeeding in, say, the island-wide election when he or she might well have succeeded in a district election. In addition, potential candidates for senior office who have a strong base of support in their own districts may be discouraged from seeking election island-wide, which would be in conflict with the public perception which is bound to be created that the island-wide Deputies are more senior than the district deputies and should therefore hold the senior offices.
- 27 Holding elections on different days – say, for district Deputies a few weeks after island-wide deputies – would significantly extend the election period during which the States’ Assembly would be inactive. It could also create the impression that candidates who fail to secure election have another, slightly easier route to election a few weeks later. In addition, setting up two election campaign periods to run more or less one after the other and asking people to turn out twice in, say, four to six weeks to vote for different classes of States’ Member would risk creating voter fatigue.

#### **“Golden” votes**

- 28 Another possible voting system is to give each voter a number of “golden” votes, in addition to the ones they have for their district. Indeed this system was debated and rejected by the previous States.
- 29 The Island would continue to be split into a number of districts, currently seven. Each voter would have the same number of “ordinary” votes as there are seats in the district, currently either five or six, and they would cast those in the normal way. Voters would also be able to cast votes for candidates seeking election in any other electoral district as each voter would also have a number of so-called “golden votes” which could be cast in favour of any candidate standing in another district.
- 30 This would require each voter to be given either one ballot slip containing two separate lists or two separate ballot slips, in order to distinguish between the candidates in that voter’s district and the candidates in all the other districts.
- 31 Some Deputies would be elected because of the number of ordinary, district-only votes which they obtained while others would be elected with the assistance of golden votes obtained from voters in other districts.
- 32 While perhaps superficially attractive, this model has two significant weaknesses.
- 33 First, because all candidates would in effect be standing on an island-wide basis, this model incorporates all the practical challenges associated with ‘full’ island-wide

voting as set out in Option A – e.g. in relation to canvassing, hustings, number of manifestos and number of candidates – without delivering the main advantage of ‘full’ island-wide voting, which is to allow each voter to have some influence over every seat in the States.

- 34 Second, this model risks an outcome whereby a candidate who failed to obtain enough district-only votes to be elected is elected for that district anyway because of the number of golden votes he or she secured from electors in other districts.

#### **Alternative four-district models**

- 35 Option D, which the Committee recommends for inclusion on the ballot paper at the referendum, divides the Island into four electoral districts. The district boundaries preferred by the Committee are set out in paragraph 19.1 of this policy letter. The Committee did consider alternative ways of dividing the Island into four districts and these are set out in the tables below.

Districts	Total Population per district	Pure Votes	Actual Votes
1. St Peter Port (North and South)	18,798	11.4	11
2. St Martin, Forest, St Saviour, St Pierre du Bois and Torteval	14,020	8.5	9
3. Clos du Valle and St Sampson	14,791	9.0	9
4. St Andrew, Castel and Vingtaine de l’Epine	14,933	9.1	9

This produces a similar split to the option set out in option D but requires the Vale parish to be split between two electoral districts. It is, therefore, not recommended.

#### **4 Districts**

Districts	Total Population per district	Pure Votes	Actual Votes
1. St Peter Port (South), St Martin, Forest	16,616	10.1	10
2. St Peter Port (North), Vingtaine de l’Epine and St Andrew	16,466	10.0	10
3. Clos du Valle and St Sampson	14,791	9.0	9
4. Castel, St Saviour, St Pierre du Bois and Torteval	14,600	8.9	9

Although this option gives a more even distribution of seats among the districts, the Committee does not propose that it should be adopted in the event of a move to a four-district electoral system because it also requires the Vale parish to be split across two electoral districts.

REFERENDUM ON THE ELECTORAL SYSTEM IN GUERNSEY

Wednesday xx<sup>th</sup> June, 2018



REFERENDUM ON THE ELECTORAL SYSTEM

**Which of the following options should be used to elect Deputies?**

Number the boxes from 1 to 5 in the order of your preference. 1 is your first preference and you must start your numbering at 1. You do not need to use all of your 5 choices.

☐

**Option A**

- 1 island-wide electoral district
- Each voter would have 38 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

☐

**Option B**

- 7 electoral districts
- Each voter would have 5 or 6 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

☐

**Option C**

- 2 electoral districts
- Each voter would have 9 or 10 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 2 years for half of Deputies each time

☐

**Option D**

- 4 electoral districts
- Each voter would have between 9 and 11 votes at each election
- Each Deputy would serve for 4 years
- An election would be held every 4 years for all Deputies at once

☐

**Option E**

- 1 island-wide electoral district
- Each voter would have 12 or 13 votes at each election
- Each Deputy would serve for 6 years
- An election would be held every 2 years for a third of Deputies each time

GENERAL ELECTION OF PEOPLE’S DEPUTIES    xx<sup>th</sup> June, 2020



GENERAL ELECTION OF PEOPLE’S DEPUTIES

xx<sup>th</sup> June, 2020    38 PEOPLE’S DEPUTIES

Put X here

ADAM, Alexander Hunter	
ARCHER, Gregory John <i>commonly known as Greg</i>	
BEAUMONT, Michael	
BREBAN, Brian David	
BREHAUT, Barry Leslie	
BROUARD, Alvord Henry <i>commonly known as Al</i>	
BURFORD, Yvonne	
BUSH, Timothy Alan Carey	
COLLINS, Garry Michael	
DE LA MARE, Simon John	
DE LISLE, David de Garis	
DE SAUSMAREZ, Helen Lindsay <i>commonly known as Lindsay</i>	
DOREY, Mark Hirzel	
DUDLEY-OWEN, Andrea Catherine	
DUQUEMIN, Darren James	
FALLAIZE, Matthew James	
FERBRACHE, Peter Terence Richard	
FLOUQUET, Bernard Marcel	
FORMAN, Neil Edward	
GALLIENNE, Leon Roy	
GARRETT, Michael Guy Gordon	
GOLLOP, John Alfred Bannerman	
GRAHAM, Richard Harold, LVO, MBE	
GREEN, Christopher James	
HADLEY, Michael Peter James	
HALKER, John	

Put X here

HOCKEY, Trevor Brian	
INDER, Neil Richard	
JAMES, Sandra Anne, MBE	
KRUZE, Lilita	
KUTTELWASCHER, Jan	
LANGLOIS, Shane Lenfestey	
LEADBEATER, Marc Paul	
LE BRUN, Ross John	
LE CLERC, Michelle Karen	
LE CONTE, Russell Ian Carrington	
LE PELLE, Paul Raymond	
LE PREVOST, Robin Andrew	
LE TOCQ, Jonathan Paul	
LOWE, Mary May	
LOWE, Richard William <i>commonly known as Rick</i>	
MAINDONALD, Samantha Jane	
MATTHEWS, Robert Rhoderick	
MCLEAN, Raymond <i>commonly known as Marshall, Ray</i>	
M <sup>C</sup> MANUS, Caroline Jane	
MEERVELD, Carl Peter	
MERRETT, Jennifer Sue	
MOONEY, Joseph Ignatius <i>commonly known as Joe</i>	
NEWMAN, William Edward	
O’HARA, Michael George	
OLIVER, Victoria Sarah	
PAGLIARONE, Lucia Faith	
PAINT, Barry John Edward	

Put X here

PARKINSON, Charles Nigel Kennedy	
PETIT, Martin John	
PROUT, Stephen Michael	
PROW, Robert George <i>commonly known as Rob</i>	
QUERIPEL, Laurie Bryn	
QUERIPEL, Lester Carlson	
RIHOY, Ivan Frederick	
ROFFEY, Peter John	
ROUSSEL, Martyn Roy	
SHEPHERD, Neil	
SILLARS, Robert William	
SOLWAY, Karen Joy	
SOULSBY, Heidi Jean Renée	
SMITHIES, Jeremy Charles Stewart Fulford	
STEPHENS, Tania Jane <i>commonly known as Jane</i>	
STEWART, Kevin Andrew	
ST. PIER, Gavin Anthony	
TINDALL, Dawn Angela	
TITMUSS, John Austin	
TOOLEY, Rhian Helen	
TROTT, Lyndon Sean	
WEBBER, Anthony David Canivet <i>commonly known as Tony</i>	
WILKIE, Arrun Michael	
YERBY, Emilie Anna	

GENERAL ELECTION OF PEOPLE'S DEPUTIES xx<sup>th</sup> June, 2020

**Electoral District of St Sampson**



**Electoral District of  
ST SAMPSON**

**xx<sup>th</sup> June, 2020**

**6 PEOPLE'S DEPUTIES**

**Put X here**

BEAUMONT, Michael	
LE PELLE, Paul Raymond	
MAINDONALD, Samantha Jane	
MEERVELD, Carl Peter	
MERRETT, Jennifer Sue	
ROUSSEL, Martyn Roy	
SOLWAY, Karen Joy	
ST PIER, Gavin Anthony	
STEPHENS, Tania Jane	
STEWART, Kevin Andrew	
TROTT, Lyndon Sean	
WEBBER, Anthony David Canivet <i>commonly known as Tony</i>	

GENERAL ELECTION OF PEOPLE'S DEPUTIES xx<sup>th</sup> June, 2020



**GENERAL ELECTION OF PEOPLE'S DEPUTIES**

xx<sup>th</sup> June, 2020    9 PEOPLE'S DEPUTIES

DISTRICT 1

Vale, St Sampson, St Peter Port (North) & St Andrew

**Put X here**

ADAM, Alexander Hunter	
ARCHER, Gregory John <i>commonly known as Greg</i>	
BEAUMONT, Michael	
BREBAN, Brian David	
BREHAUT, Barry Leslie	
BROUARD, Alvord Henry <i>commonly known as Al</i>	
BURFORD, Yvonne	
BUSH, Timothy Alan Carey	
COLLINS, Garry Michael	
DE LA MARE, Simon John	
DE LISLE, David de Garis	

**Put X here**

DE SAUSMAREZ, Helen Lindsay <i>commonly known as Lindsay</i>	
DOREY, Mark Hirzel	
DUDLEY-OWEN, Andrea Catherine	
DUQUEMIN, Darren James	
FALLAIZE, Matthew James	
FERBRACHE, Peter Terence Richard	
FLOUQUET, Bernard Marcel	
FORMAN, Neil Edward	
GALLIENNE, Leon Roy	
GARRETT, Michael Guy Gordon	
GOLLOP, John Alfred Bannerman	

GENERAL ELECTION OF PEOPLE'S DEPUTIES xx<sup>th</sup> June, 2020



**GENERAL ELECTION OF PEOPLE'S DEPUTIES**

xx<sup>th</sup> June, 2020      10 PEOPLE'S DEPUTIES

DISTRICT 1

St Peter Port (South) & St Martin

**Put X here**

LE CONTE, Russell Ian Carrington	
LE TOCQ, Jonathan Paul	
LOWE, Mary May	
MATTHEWS, Robert Rhoderick	
MCLEAN, Raymond <i>commonly known as</i> Marshall, Ray	
MERRETT, Jennifer Sue	
MOONEY, Joseph Ignatius <i>commonly known as Joe</i>	
OLIVER, Victoria Sarah	
PAGLIARONE, Lucia Faith	
PETIT, Martin John	

**Put X here**

PROUT, Stephen Michael	
QUERIPEL, Lester Carlson	
RIHOY, Ivan Frederick	
SHEPHERD, Neil	
SILLARS, Robert William	
SMITHIES, Jeremy Charles Stewart Fulford	
STEPHENS, Tania Jane <i>commonly known as Jane</i>	
TINDALL, Dawn Angela	
TITMUSS, John Austin	
WEBBER, Anthony David Canivet <i>commonly known as Tony</i>	



GENERAL ELECTION OF PEOPLE’S DEPUTIES   xx<sup>th</sup> June, 2020



GENERAL ELECTION OF PEOPLE’S DEPUTIES

xx<sup>th</sup> June, 2020   12 /13 PEOPLE’S DEPUTIES

Put X here

BREBAN, Brian David	
BURFORD, Yvonne	
DE LISLE, David De Garis	
DE SAUSMAREZ, Helen Lindsay <i>commonly known as Lindsay</i>	
DOREY, Mark Hirzel	
DUDLEY-OWEN, Andrea Catherine <i>commonly known as Milly</i>	
DUQUEMIN, Darren James	
FALLAIZE, Matthew James	
FLOUQUET, Bernard Marcel	
FORMAN, Neil Edward	
GARRETT, Michael Guy Gordon	
GOLLOP, John Alfred Bannerman	
GRAHAM, Richard Harold, LVO, MBE	
GREEN, Christopher James	
HADLEY, Michael Peter James	
HANSMANN ROUXEL, Sarah Taryn	
INDER, Neil Richard	

Put X here

KUTTELWASCHER, Jan	
MCMANUS, Caroline Jane	
MEERVELD, Carl Peter	
MERRETT, Jennifer Sue	
MOONEY, Joseph Ignatius <i>commonly known as Joe</i>	
OLIVER, Victoria Sarah	
PAGLIARONE, Lucia Faith	
PAINT, Barry John Edward	
PARKINSON, Charles Nigel Kennedy	
PROW, Robert George <i>commonly known as Rob</i>	
PETIT, Martin John	
PROUT, Stephen Michael	
QUERIPEL, Laurie Bryn	
QUERIPEL, Lester Carlson	
ROFFEY, Peter John	
ROUSSEL, Martyn Roy	
SOULSBY, Heidi Jean Renee	
SMITHIES, Jeremy Charles Stewart Fulford	

## Appendix 4

### Political parties

1. The Committee has included this brief note on political parties because in several places in the policy letter reference is made to political parties and the absence of political parties might affect the choice of possible electoral systems for Guernsey. The Committee is certainly not suggesting that political parties be introduced simply to facilitate any particular electoral system. It strongly believes that it is not the function of any parliament to engineer the foundation of a party system.
2. Political parties - that is groups of people who hold similar political aims and opinions who have organized, usually to contest elections so that they might form a government - have never been part of the political scene in Guernsey. From time to time parties have emerged but their existence has been short-lived and only very seldom have party representatives been successful in contesting seats in the States of Deliberation.
3. In jurisdictions which have no political parties government is, of necessity, consensual and Guernsey is no exception in this regard. Indeed this has long been held out as one of the reasons why the Island has had a sound and stable government for many years. Each and every Member of the States, whether or not a Committee President, is effectively a member of the government. No proposition can succeed without the consent of a majority of the Members which means that no Committee of the States can be certain of gaining States' approval in respect of any particular proposition.
4. In a party system, however, the government is formed by the party securing most votes in a general election (or, if no party has secured a majority of the seats, by an alliance of parties). Members of a party are generally required to vote in accordance with party policy which will have been set out in the party's election manifesto published prior to the election. It can be argued that in a coalition government the alliance of parties which form the government governs by consensus, but it is not fully consensual as the views of the minority who are not in government need not necessarily be taken into consideration. An alliance of parties is often necessary in jurisdictions in which a proportional representation voting system is used as it is seldom that a single party secures a majority of the seats available.
5. The presence of political parties allows more flexibility in the choice of the method of election of the members of the assembly and also results in greater certainty in the delivery of policy but this is balanced in non-political party jurisdictions with the freedom of each member to vote according to conscience rather being obliged to hold to party policy and the greater importance of each member's vote.



# **ANNUAL REPORT 2016**

## FOREWORD

This is the fifth annual report of the Channel Islands Competition and Regulatory Authorities (CICRA) and is presented to Jersey's Chief Minister and Guernsey's Committee for Economic Development pursuant to provisions set out in the Competition Regulatory Authority (Jersey) Law 2001 and The Guernsey Competition and Regulatory Authority Ordinance, 2012. It also fulfils the requirements of the obligations on CICRA as set out in the Islands' competition laws and sector specific legislation.

### **What is CICRA?**

CICRA is the name given to the Jersey Competition Regulatory Authority (JCRA) and the Guernsey Competition and Regulatory Authority (GCRA). The JCRA and GCRA were established as bodies corporate, under the Competition Regulatory Authority (Jersey) Law 2001 and Guernsey Competition and Regulatory Authority Ordinance, 2012, respectively.

By working together, sharing resources and expertise between the islands, CICRA's aim is to ensure markets work well for consumers.

### **CICRA's functions**

Competition - CICRA is responsible for administering and enforcing competition law in Jersey and Guernsey. The aim of this legislation is to prevent consumers being harmed by anti-competitive or exploitative behaviour in the market (such as price-fixing or abuse of market power).

Advisory - CICRA can be called on to advise Jersey's Chief Minister and Guernsey's Committee for Economic Development on matters of economic regulation and competition.

Economic regulation - In common with many other jurisdictions, Jersey and Guernsey have decided to structure particular previously States-run businesses as separate companies – which are, with the exception of Sure in Guernsey, wholly-owned by each island's States. CICRA is responsible for the economic regulation of the sectors in which these companies operate. In Jersey this decision was taken in respect of the sea and airports, and the telecommunications and postal businesses now run by Ports of Jersey, JT and Jersey Post respectively. In Guernsey this decision was taken in respect of the telecommunications, postal and electricity businesses now run by Sure, Guernsey Post and Guernsey Electricity respectively. Oversight of the postal and electricity sectors in Guernsey is expected to be formally transferred to a new body during 2017.

### **Who we are**

CICRA is led by a joint Board. As at 31 December 2016 the Board comprised a Chairman, two non-executive directors and two executive directors with seven staff and offices in Jersey and Guernsey.

### **How to find out more**

More information on CICRA and its activities can be found on its website [www.cicra.je](http://www.cicra.je) / [www.cicra.gg](http://www.cicra.gg).

## CHAIRMAN'S STATEMENT



It was a privilege to be appointed, in July 2016, to Chair the Channel Islands Competition and Regulatory Authorities (CICRA). It is a relatively new body in one sense, with my predecessor, Mark Boleat, overseeing, in 2012, the successful combining of the Jersey and Guernsey bodies into a single pan-Channel Island competition and regulatory body. CICRA is a well-recognised institution in the Channel Islands, and certainly the level of media coverage of its work bears testimony to that. As the new Chair I look forward to advancing the work of the Authorities across the various areas where CICRA is tasked to play a role in ensuring markets work well for consumers.

I would also like to thank Mark Boleat for his hard work and achievements during his tenure.

During my first six months, I have been pleased to meet and discuss the work of CICRA with many of its stakeholders. It is my hope that this will continue and I, with the rest of my Board, look forward to continuing to so engage. The appointment of two new Board members, Paul Masterton and Peter Neville, will be a significant contribution to that engagement process given their local presence and it is with great pleasure that I welcome them to the CICRA Board.

The Chief Executive, Michael Byrne, discusses aspects of our 2016 work in further detail in his report. CICRA's strategic priorities reflect the nature of the sectors we regulate and the maturity of competition in those areas of the economy. But the importance of competition does not mean that there should not be pragmatic co-operation between competing telecoms firms in sharing infrastructure investment in order to avoid a situation where networks costs are duplicated without any additional benefits to consumers. Access competition, efficient wholesale charging and network sharing are matters which will therefore be high on our priorities and CICRA will be seeking policy guidance to ensure it is aligned with wider government priorities going forward.

Our role in enforcing competition law is largely in response to market events and we look to our own prioritisation principles in guiding our work in this area. The number of sectors of the economy where a few providers dominate is bound to be larger in such small economies as Jersey and Guernsey. Protection of competition where it is feasible is therefore even more important and we have shown that while we are prepared to be pragmatic we are also ready to act on behalf of business and consumers where their interests are under threat.

We continue to develop the economic regulatory mechanisms for Jersey sea and air ports at what is still a nascent stage of regulation and in a regulatory role that is fairly unique in this sector. It is essential that regulated companies understand what their customers want and that customers have trust and confidence that this will be reflected in the decisions that companies take on an ongoing basis. This is an area to which we will give priority.

We look forward to developing these aspects of our work in the interests of the wider Jersey and Guernsey economies.

**Michael O'Higgins**

## CHIEF EXECUTIVE'S REPORT



Over 2016, the promotion of competition has been a significant focus for CICRA. This has afforded Islanders greater choice and in some cases has required former monopolies to compete for customers for the first time. Competition discourages complacency amongst businesses and ultimately consumers are better served. In telecoms, we have and will continue to look at options to support better choice for Islanders by further opening up the local telecoms market to competition across a wider range of telecom services. As a result of our actions in 2015 where we further opened up the fixed landline markets, a greater range of offers was increasingly evident over 2016.

The take up of those options by telecom customers over 2016 demonstrates that consumers in both islands will take advantage of choice when it is made available to them. In mobile telecoms, over 2016 we have sought to ensure that the competing 4G mobile providers deliver on their promises to provide world-class networks with high standards of coverage across the Channel Islands.

As the regulatory and competition authority in the Channel Islands, our preferred approach is one of advocacy rather than enforcement. Nevertheless, where this more pragmatic approach does not deliver an appropriate outcome for consumers we do take enforcement action. During 2016 we took enforcement action on a number of occasions. Connectivity is crucial to the success of the Channel Islands' economies with aviation fuel and air routes being areas of particular focus. In Jersey, we found that the aviation fuel provider had infringed competition law by damaging the ability of a rival to compete and serve its customers. The new arrangement between Blue Islands and Flybe has been of significant public interest. We have afforded Blue Island and Flybe the opportunity to commit to, demonstrate and deliver the benefits of their new arrangement to consumers. However we have reason to believe that the arrangement between them requires further scrutiny to ensure consumer interests are represented and our work in this area will continue into 2017.

JT has been found to contravene its telecoms licence obligations on a number of occasions over the recent past and in 2016 there were two further substantive cases. It is unhealthy for a market to experience the number of confirmed incidents of licence contravention seen in Jersey where a dominant provider is present and competition is fragile. We have urged JT to improve its approach to compliance and in one case issued a fine. It is the case that other concerns expressed to us by JT's competitors were not found to have merit or JT took swift action to remedy concerns. While such a response is obviously helpful, the findings against JT support the view of other telecoms operators that JT's approach to compliance is simply not good enough and threatens competition. We note for example that despite a ruling by the ASA against JT it continues to ignore this decision by another regulatory body in respect of its advertising of 4G speeds.

Ensuring Islanders receive value for money from their telecoms provider is a significant part of our work. During 2016 we looked at charges for fixed telecom services including exchange line, voice calls, repairs and connection charges across the Channel Islands. We concluded that JT's charges for these services in Jersey, where it holds a powerful market position, were too high and we have required JT to reduce those charges by 13%; we expect to see fairer prices introduced as a result. We did not reach the conclusion that Sure in Guernsey should reduce its charges for similar services.

Over 2016 we reviewed 13 mergers of which one (Sandpiper/JMart) was referred to further scrutiny, with consideration of this transaction continuing into 2017. Where competitors seek to acquire their rivals and local markets are affected we will examine the proposed transaction carefully with consumers' interests a high priority.

## CHIEF EXECUTIVE'S REPORT (CONTINUED)

We continue to look for ways to improve the regulatory and competition law framework. Channel Islanders benefit from an appropriate competition regime in line with best practice and we look to play our role in further reducing bureaucracy for local business wherever appropriate.

We identified significant improvements that should be made to the merger regimes in the Channel Islands, following an extensive series of engagements. The benefit to consumers of an improved framework is that it enables us to better focus our resources on matters that are more relevant to their interests. To that end, the changes are far reaching and were proposed to both the Jersey Chief Minister's department and the Committee for Economic Development in Guernsey. I would like to register my thanks to the Channel Island law firms in particular who committed a great deal of effort to this process and provided insights that were beneficial and insightful.

There are also what are termed, 'block exemptions', in countries that apply competition law but there are none in Jersey and Guernsey. These exemptions ensure that certain types of arrangements that present little risk to competition but would be technically caught by the law are allowed to proceed without incurring the administrative application otherwise required to approve such arrangements. We have therefore championed the introduction of these block exemptions in both Jersey and Guernsey; with proposals made to the above two States departments with the aim of ensuring we are more in line with best practice.

Much of 2017 will benefit from the foundations laid by engagement with industry across a range of areas such as broadband pricing, mobile related network charges and other measures that look to advance consumer interests, either through promotion of competition or measures such as price controls that protect their interests. It has been a busy and productive year for CICRA and I pay tribute to my excellent team and for the support of the Board whose expertise and guidance has been invaluable.

My sincere thanks and best wishes to Mark Boleat, the previous CICRA Chair, who came to the end of his term during 2016 and to Regina Finn who resigned her position, given other significant commitments. Michael O'Higgins has made an immediate impact on taking over as Chair and the CICRA team look forward to working with him and the rest of the Board in looking to ensure markets work well in Jersey and Guernsey.

**Michael Byrne**



## THE BOARD



### **Michael O'Higgins - Chairman**

Michael is Chairman of the Local Pensions Partnership and of Calculus VCT, a non-executive Director of Network Rail and of the pensions company Hedgehog. He became the 'Independent Person' for Tunbridge Wells Borough Council in October 2015.

Michael chaired The Pensions Regulator from 2011 to 2014, the Audit Commission from 2006 until 2012 and the NHS Confederation from 2012 to 2015. He was also a non-executive Director of HM Treasury and Chair of the Treasury Group Audit Committee from 2008 to 2014. Previously Michael chaired the youth homelessness charity Centrepoin, was a managing partner with PA Consulting, leading its Government and IT Consulting Groups, was a partner at Price Waterhouse, worked at the OECD and has held several academic posts.



### **Philip Marsden - Non-Executive Director**

Philip is a competition lawyer with a particular interest in abuse of dominance, consumer welfare, innovation incentives and international competition issues.

He is a Deputy Chair of the UK Competition and Markets Authority, Professor of Law and Economics at the College of Europe, Bruges and is co-founder and general editor of the European Competition Journal and the Oxford Competition Law case reporter series. Philip is also a member of the Legal Services Consumer Panel.



### **Michael Byrne - Chief Executive**

Michael has extensive experience applying regulation and competition law in the UK energy, media and telecoms sectors.

Michael holds a diploma in Company Direction from the IoD, an MBA, a post graduate qualification in European Competition Law, and a BSc Honours degree in Mathematical Statistics.



### **Louise Read - Director**

Louise is a chartered accountant, with extensive experience of managing finance, personnel and operational aspects of business. She is the Board and Audit and Risk Committee secretary.

Louise is a Chartered Director of the IoD, a fellow of the Institute of Chartered Accountants in England and Wales and holds a BSc in Accounting and Management Sciences from the University of Southampton.



### **Hannah Nixon - Non-Executive Director**

Hannah has extensive experience in economic regulation and competition issues, working across a range of industries in the public and private sectors.

She is currently Chief Executive of the UK Payment Systems Regulator. Hannah was previously a Senior Partner at Ofgem, the UK gas and electricity regulator, she was also Ofgem's Head of Profession for Economics.



## THE BOARD (CONTINUED)



### **Mark Boleat – immediate past Chair**

Mark has extensive experience in regulatory policy and practice and the handling of complex public policy issues. He holds, or has held, numerous board level appointments in commercial, public and charitable organisations including Chairman of the City of London Policy and Resources Committee.

He has strong ties to Jersey having been born and educated in the island. He has written extensively on Jersey, has undertaken three significant reviews for the States of Jersey including one on consumer policy.



### **Regina Finn - Non-Executive Director – resigned 3 August 2016**

Regina has extensive experience in competition and regulatory regimes, including in the telecommunications post, electricity and gas sectors.

Between 2001 and 2005 she set up and ran the predecessor of the GCRA

Regina is also a non-executive Director of Mutual Energy Holdings Ltd, a Belfast based energy company and a Director of Lucerna Partners, a consultancy partnership specialising in regulation and public policy

## MEETINGS OF THE AUTHORITIES, MEMBER FEES AND EXPENSES

Since 1 August 2012, CICRA has been led by a joint Board. The Chairman is appointed concurrently as Chair of the GCRA by the States of Deliberation in Guernsey and Chair of the JCRA by the States of Jersey. Members are appointed to the Boards of the GCRA and JCRA by the Committee for Economic Development and the Chief Minister respectively.

### Meetings

During 2016, attendance at meeting of the Boards and their Committees was as follows:

Member	GCRA		JCRA	
	Board	Audit and Risk	Board	Audit and Risk
Michael O'Higgins*	4/4	-	4/4	-
Mark Boleat *	5/5	1/1	3/3	1/1
Philip Marsden	8/8	2/2	8/8	2/2
Regina Finn *	5/5	1/1	5/5	1/1
Hannah Nixon	7/8	2/2	8/8	2/2
Michael Byrne	8/8	2/2**	8/8	2/2**
Louise Read	8/8	2/2**	8/8	2/2**

\*2016 part year only

\*\* in attendance only

### Member fees and expenses

The Chairman's and Members' fees are approved by the Chief Minister in Jersey and the Committee for Economic Development in Guernsey. Each member's fees are split equally between the GCRA and JCRA. There has been no increase in fees since the inception of the Authority in 2012. The following table shows the actual fees paid to each member by the two Authorities.

Member	GCRA		JCRA		Shared expenses	
	2016 £	2015 £	2016 £	2015 £	2016 £	2015 £
Michael O'Higgins *	11,111	-	28,472**	-	4,135	-
Mark Boleat ***	16,539	26,406	8,018	26,406	1,322	3,161
Philip Marsden	12,000	12,000	12,000	12,000	2,378	1,356
Regina Finn *	7,130	12,000	7,130	12,000	764	1,717
Hannah Nixon	12,000	12,000	12,000	12,000	1,174	1,273
<b>Total</b>	<b>58,780</b>	<b>62,406</b>	<b>67,620</b>	<b>62,406</b>	<b>9,773</b>	<b>7,507</b>

\*2016 part year only

\*\* includes additional work commissioned by Jersey's Chief Minister's Department \*\*\* non-co-terminus end dates

Michael Byrne and Louise Read are executive members, i.e. members of each authority and employees of the GCRA and JCRA respectively. They receive no fees as members of the authorities but do receive remuneration, which is split between the JCRA and GCRA as follows:

	GCRA		JCRA	
	2016 £	2015 £	2016 £	2015 £
Michael Byrne	82,500	82,500	82,500	82,500
Louise Read*	54,641	54,100	54,641	54,100
<b>Total</b>	<b>138,041</b>	<b>137,500</b>	<b>138,041</b>	<b>137,500</b>

\* Excludes employer's pension contribution of 13.6%



## FINANCIAL REVIEW 2016

Consistent with prior years, the Guernsey Competition and Regulatory Authority (GCRA) made an accounting surplus of £1 in 2016, effectively breaking even. The GCRA accounts for income only in order to meet its actual costs during the year. It must also ensure that it receives enough income during the year in each of the areas that it covers – competition law administration and enforcement, and regulation of the telecoms, postal and electricity sectors - to fund them separately given that cross-subsidisation is not permitted. A working capital balance and an appropriate level of reserves are maintained at all times, but for the purpose of the financial statements, deferred income adjustments are made to match income with costs.

Overall costs in 2016 were £579k, (2015: £620k). Expenditure continues to be closely controlled by the GCRA maintaining strict internal guidelines with regard to purchasing and tendering procedures which, combined with appropriate best practice corporate governance, helps to ensure that it is run as an effective and efficient organisation. Independent internal auditors audit policies and procedures annually, to ensure that high standards are maintained and that appropriate processes and procedures are in place.

In line with the service level agreement between the GCRA and the Committee for Economic Development (CfED), grant funding for work under The Competition (Guernsey) Ordinance, 2012 continued to be received on a quarterly basis. During 2016 a grant of £140k (2015: £140k) was received.

Income of £21k (2015: £17k) was received from parties making applications for approval of notifiable mergers and acquisitions. These applications and costs are by their nature unpredictable. For 2016, the fees received were lower than the costs incurred in dealing with matters relating to mergers and acquisitions because of the particular nature of the notified transactions. This shortfall of £15k (2015: £46k) has to be funded from competition law grant funding.

During 2016 £580k (2015: £574k) in fees was received from telecoms licensees and at the year end telecoms licence fees exceeded costs by £117k (2015: £120k). This balance was accounted for as deferred telecommunications licence fee income. Based on budgeted costs the licence fees for 2016 were set at 1.1% of relevant turnover.

In anticipation of the imminent removal of the post and electricity sectors from economic regulation by the GCRA to a new oversight framework, the licensees (Guernsey Post and Guernsey Electricity) were not charged licence fees during 2016. Deferred income balances brought forward from 2015 were used to fund activity during 2016. Costs incurred, and therefore deferred income released for 2016 was £4k each for post and electricity. Deferred licence fee income will be released as required to fund activity during 2017.

## **GUERNSEY COMPETITION AND REGULATORY AUTHORITY**

(Incorporated in Guernsey, Channel Islands)

### **NON EXECUTIVE MEMBERS**

Michael O'Higgins	Chair – appointed Chair 7 September 2016 (appointed Member 21 July 2016 to 6 September 2016)
Philip Marsden	
Hannah Nixon	
Mark Boleat	expired effective 19 August 2016
Regina Finn	resigned effective 3 August 2016
Peter Neville	appointed 6 February 2017
Paul Masterton	appointed 13 February 2017

### **EXECUTIVE MEMBERS**

Michael Byrne	Chief Executive
Louise Read	Director

### **SECRETARY**

Louise Read

### **INDEPENDENT AUDITOR**

BDO Limited  
P O Box 180  
Place Du Pre  
Rue Du Pre  
St Peter Port  
Guernsey  
GY1 3LL

### **BANKERS**

Barclays Private Clients International Limited  
Jersey International Banking Centre  
PO Box 8  
St Helier  
Jersey  
JE4 8NE

### **REGISTERED OFFICE**

Suite 4  
1<sup>st</sup> Floor Plaiderie Chambers  
La Plaiderie  
St Peter Port  
Guernsey  
GY1 1WG

## **GUERNSEY COMPETITION AND REGULATORY AUTHORITY MEMBERS' REPORT**

The Members of the Guernsey Competition and Regulatory Authority (GCRA) present their report and financial statements for the year ended 31 December 2016.

### **MEMBERS**

The Members in office during the year and appointed subsequently are shown on page 10.

### **ACTIVITIES**

The principal activities of the GCRA during the year were the regulation of the telecommunications, electricity and postal sectors and the administration and enforcement of The Competition (Guernsey) Ordinance, 2012.

### **RESULTS**

There was a surplus for the year of £1 (2015: surplus £1).

### **EVENTS AFTER THE END OF THE REPORTING PERIOD**

There have been no events between the statement of financial position date and the date when the financial statements were authorised for issue that need to be disclosed or recognised in the financial statements.

### **LIKELY FUTURE DEVELOPMENTS IN THE ACTIVITIES OF THE GCRA**

Information on likely future developments in the activities of the GCRA has been included in the foreword on page 2.

### **INDEPENDENT AUDITOR**

The auditor, BDO Limited, who was appointed in accordance with Section 13(4)(a) of The Guernsey Competition and Regulatory Authority Ordinance, 2012, has indicated its willingness to continue in office.

All of the Members have taken all the steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that the auditor is aware of that information. The Members are not aware of any relevant audit information of which the GCRA's auditor is unaware.

### **APPROVAL**

The Members' report was approved by order of the Members on 31 March 2017.



**Louise Read**  
Secretary

## **GUERNSEY COMPETITION AND REGULATORY AUTHORITY STATEMENT OF MEMBERS' RESPONSIBILITIES**

The Members are responsible for preparing the members' report and the financial statements in accordance with applicable law and regulations.

The Guernsey Competition and Regulatory Authority Ordinance, 2012, (the Ordinance) requires Members to keep proper accounts and proper records in relation to those accounts. The Members therefore consider themselves responsible for keeping adequate accounting records that are sufficient to show and explain the GCRA's transactions and disclose with reasonable accuracy, at any time, the financial position of the GCRA and which enable them to ensure that these financial statements comply with the Ordinance. They also consider that they are responsible for safeguarding the assets of the GCRA and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Ordinance also requires Members to prepare accounts in respect of each financial year, and once audited by auditors appointed by the States of Guernsey on the recommendation of the Public Accounts Committee, to submit to the Committee for Economic Development, a statement of account giving a true and fair review of the state of the GCRA's affairs together with the auditor's report. The Committee for Economic Development, in turn, must submit the accounts and the auditor's report thereon to the States of Guernsey.

The Members have elected to prepare the GCRA's financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law).

In preparing the financial statements the Members are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK Accounting Standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the GCRA will continue in operation.

The Members confirm that these financial statements comply with these requirements.



**Louise Read**  
Secretary

## **INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY**

We have audited the financial statements of the Guernsey Competition and Regulatory Authority for the year ended 31 December 2016 which comprise the Statement of Comprehensive Income, the Statement of Cash Flows, the Statement of Financial Position and the related notes 1 to 8. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards ('United Kingdom Generally Accepted Accounting Practice').

This report is made solely to the Authority's members, as a body, in accordance with Section 13 of The Guernsey Competition and Regulatory Authority Ordinance, 2012. Our audit work is undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of the members and auditor**

As explained more fully in the Statement of Members' Responsibilities on page 12, the members are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Financial Reporting Council's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

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

### **Opinion on the financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the Authority's affairs as at 31 December 2016 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been properly prepared in accordance with the requirements of The Guernsey Competition and Regulatory Authority Ordinance, 2012.

*BDO Limited*

CHARTERED ACCOUNTANTS

Place du Pré  
Rue du Pré  
St Peter Port  
Guernsey

Date: *31 March 2017*

**GUERNSEY COMPETITION AND REGULATORY AUTHORITY**  
**STATEMENT OF COMPREHENSIVE INCOME**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

	<i>Notes</i>	<i>2016</i>	<i>2015</i>
		£	£
<b>INCOME</b>			
Telecommunications licence and application fees		462,634	454,143
Electricity licence fees		3,748	6,977
Postal licence fees		4,045	9,967
Competition law grant		87,615	131,355
Mergers and acquisitions fees		20,500	16,500
Bank interest received		288	651
		<hr/>	<hr/>
		578,830	619,593
		<hr/>	<hr/>
<b>EXPENDITURE</b>			
Salaries and staff costs		358,917	361,074
Consultancy fees		52,653	61,217
Operating lease rentals		57,300	48,612
Travel and entertainment		20,936	22,753
Conference and course fees		7,414	7,153
Depreciation		7,013	4,538
Administration expenses		12,249	12,075
Legal and professional fees		4,567	15,276
Audit and accountancy fee		9,992	9,092
Advertising and publicity		16,297	19,833
Repairs and maintenance		17,951	30,895
Heat, light and water		2,548	3,797
Recruitment		3,272	13,863
General expenses		7,720	9,414
		<hr/>	<hr/>
		578,829	619,592
		<hr/>	<hr/>
<b>SURPLUS FOR THE FINANCIAL YEAR</b>	<b>6</b>	<b>1</b>	<b>1</b>
		<hr/>	<hr/>

**Statement of total comprehensive income**

There are no differences between the surpluses for the financial years stated above and total comprehensive income.

The notes on pages 17 to 20 form an integral part of these financial statements.



**GUERNSEY COMPETITION AND REGULATORY AUTHORITY**  
**STATEMENT OF CASH FLOWS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**


	<i>2016</i>	<i>2015</i>
	<i>£</i>	<i>£</i>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
<b>Surplus for the financial year</b>	1	1
Adjustments for:		
Depreciation of tangible fixed assets	7,013	4,538
Interest received and receivable	(288)	(651)
Decrease / (increase) in debtors and prepayments	4,797	(8,109)
Increase in creditors	17,659	104,993
<b>Net cash generated from operating activities</b>	29,182	100,772
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of tangible fixed assets	(6,916)	(37,726)
Interest received	288	651
<b>Net cash used in investing activities</b>	(6,628)	(37,075)
<b>Net increase in cash and cash equivalents</b>	22,554	63,697
Cash and cash equivalents at beginning of the year	354,789	291,092
<b>CASH AND CASH EQUIVALENTS AT THE YEAR END</b>	377,343	354,789

The notes on pages 17 to 20 form an integral part of these financial statements.

**GUERNSEY COMPETITION AND REGULATORY AUTHORITY**  
**STATEMENT OF FINANCIAL POSITION**  
**AS AT 31 DECEMBER 2016**

	<i>Notes</i>	<i>2016</i> £	<i>2015</i> £
<b>FIXED ASSETS</b>			
Tangible fixed assets	3	35,187	35,284
<b>CURRENT ASSETS</b>			
Debtors and prepayments	4	40,713	45,510
Cash and cash equivalents		377,343	354,789
		418,056	400,299
<b>CURRENT LIABILITIES</b>			
Creditors: amounts falling due within one year	5	253,243	235,584
<b>NET CURRENT ASSETS</b>		164,813	164,715
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>		200,000	199,999
<b>RETAINED SURPLUS</b>	6	200,000	199,999

The financial statements on pages 14 to 20 were approved on 31 March 2017 and authorised for issue by the Members and signed on their behalf by:

  
**Michael O'Higgins**  
Chairman

**GUERNSEY COMPETITION AND REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**1. ACCOUNTING POLICIES**

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

The presentation currency of these financial statements is sterling with all amounts rounded to the nearest whole pound.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires members to exercise judgement in applying the accounting policies.

The following principal accounting policies have been consistently applied:

**a) Income**

Income is received from a government grant and other charges raised in respect of the GCRA's responsibilities as the administrator and enforcer of Guernsey's competition law and through fees raised through the licensing regime in place for certain sectors. Further details are given below:

**i) Grants and other charges**

Grants received are of a revenue nature and are recognised in the statement of comprehensive income in the same period as the related expenditure. The grant received for 2016 was £140,000 (2015: £140,000). £87,615 is reflected in the statement of comprehensive income in order to match the expenditure incurred in relation to competition law matters during 2016. 'Other charges' comprises fees received for the assessment of certain notifiable mergers and acquisitions. These fees are recognised in the statement of comprehensive income once the proposed transaction has been formally registered with the GCRA. Fees received in 2016 were £20,500 (2015: £16,500) with £35,688 (2015: £16,500) reflected in the statement of comprehensive income to recognise the expenditure incurred. Any unused funds at the financial year end are either deferred or repaid to the Committee for Economic Development. Any deficits are funded from current or future grants. Deferred grant income as at 31 December amounted to a surplus of £46,123 (2015: deficit £6,262).

**ii) Licence fees**

Licence fees across regulated sectors are set on the basis of cost recovery in accordance with sector specific legislation and are recognised in the period to which they relate. The GCRA's costs are estimated on an annual basis and these are recovered either by applying a percentage to the licensed revenue of each licensed operator (in the case of telecoms) or through charging an annual fee (in the cases of post and electricity). If fee income exceeds costs the balance is transferred to deferred income. License fee percentages / charges and deferred income balances are set out below:

	<b>2016</b>		<b>2015</b>	
	Licence fee % / charge	Deferred income balance	Licence fee % / charge	Deferred income balance
Telecoms	1.1% relevant turnover	£127,670	1% relevant turnover	£121,452
Post	-	£20,988	£35,000	£25,033
Electricity	-	£24,274	£35,000	£28,023

**b) Expenditure**

Expenditure is accounted for on an accruals basis and is measured at its transaction price.

**GUERNSEY COMPETITION AND REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**1. ACCOUNTING POLICIES (CONTINUED)**

**c) Fixed assets**

Fixed assets are stated at cost less depreciation. Depreciation is provided on all tangible fixed assets at rates calculated to write down their cost on a straight line basis to their estimated residual values over their expected useful economic lives. The depreciation rates used are as follows:

Office equipment	20% per annum
Fixtures and fittings	20% per annum
Computer equipment	20% per annum
Website costs	33% per annum
Leasehold improvements	shorter of remaining length of lease or expected useful life

The asset's residual values, useful lives and depreciation methods are reviewed, and adjusted prospectively if appropriate, if there is an indication of a significant change since the last reporting date.

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount and are recognised within 'other operating income' in the statement of comprehensive income.

**d) Leasing commitments**

All leases entered into by the GCRA are operating leases. Rentals payable under operating leases are charged in the statement of comprehensive income on a straight line basis over the lease term.

**e) Taxation**

Under section 12 of The Guernsey Competition and Regulatory Authority Ordinance, 2012 the GCRA is exempt from Guernsey income tax.

**2. JUDGEMENTS IN APPLYING ACCOUNTING POLICIES AND KEY SOURCES OF ESTIMATION UNCERTAINTY**

In preparing these financial statements, the members have made the following judgements:

- Determined whether leases entered into by the GCRA as a lessee are operating or finance leases. These decisions depend on an assessment of whether the risks and rewards of ownership have been transferred from the lessor to the lessee on a lease by lease basis.
- Determined the appropriate treatment for the lease incentive. This decision was based on the rent free period being used to bring the office accommodation into an appropriate state.
- Determined whether there are indicators of impairment of the GCRA's tangible fixed assets. Factors taken into consideration in reaching such a decision include the economic viability and expected future performance of the asset.
- Determined the split of general expenses incurred for work undertaken under the aegis of the Channel Islands Competition and Regulatory Authorities. These decisions depend on an assessment of resource allocation, including that of staff time.
- Determining the appropriate treatment for the costs incurred in developing a new website. Factors taken into consideration in reaching the decision include; the ability to separate the asset from the GCRA, the benefit of an improved website internally and externally, the intention to complete the project and bring the website into use, noting that it has the resources so to do, and the ability to reliably measure the expenditure incurred on developing the website during the development phase.

**GUERNSEY COMPETITION AND REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**2. JUDGEMENTS IN APPLYING ACCOUNTING POLICIES AND KEY SOURCES OF ESTIMATION UNCERTAINTY (CONTINUED)**

Other key sources of estimation uncertainty:

- Tangible fixed assets (see note 3)

Tangible fixed assets are depreciated over their useful lives taking into account residual values, where appropriate. The actual lives of the assets and residual values are assessed annually and may vary depending on a number of factors. In reassessing asset lives, factors such as technological innovation, product life cycles and maintenance programmes are taken into account. Residual value assessments consider issues such as future market conditions, the remaining life of the asset and projected disposal values.

**3. TANGIBLE FIXED ASSETS**

	<i>Leasehold improvements</i>	<i>Office equipment</i>	<i>Fixtures and Fittings</i>	<i>Computer equipment</i>	<i>Website costs</i>	<i>Total</i>
	£	£	£	£	£	£
<b>Cost</b>						
At 1 January 2016	31,706	497	16,242	13,300	4,125	65,870
Additions	-	-	353	-	6,563*	6,916
<b>At 31 December 2016</b>	<u>31,706</u>	<u>497</u>	<u>16,595</u>	<u>13,300</u>	<u>10,688</u>	<u>72,786</u>
<b>Depreciation</b>						
At 1 January 2016	2,771	497	15,124	8,069	4,125	30,586
Charge in the year	5,261	-	323	1,429	-	7,013
At 31 December 2016	<u>8,032</u>	<u>497</u>	<u>15,447</u>	<u>9,498</u>	<u>4,125</u>	<u>37,599</u>
<b>Net book value:</b>						
At 31 December 2016	<u>23,674</u>	<u>-</u>	<u>1,148</u>	<u>3,802</u>	<u>6,563</u>	<u>35,187</u>
At 31 December 2015	<u>28,935</u>	<u>-</u>	<u>1,118</u>	<u>5,231</u>	<u>-</u>	<u>35,284</u>

- relates to construction of a new website which was ongoing at the year end

**4. DEBTORS AND PREPAYMENTS**

	<i>2016</i>	<i>2015</i>
	£	£
Prepayments	18,459	21,262
Amount due from the Jersey Competition Regulatory Authority	22,254	24,248
	<u>40,713</u>	<u>45,510</u>

**5. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR**

	<i>2016</i>	<i>2015</i>
	£	£
Accruals	9,378	15,570
Deferred licence fee and grant income	241,871	191,061
Trade creditors	1,994	28,953
	<u>253,243</u>	<u>235,584</u>

**GUERNSEY COMPETITION AND REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**6. MOVEMENT ON RETAINED SURPLUS**

	2016	2015
	£	£
At 1 January	199,999	199,998
Surplus for the year	1	1
	<hr/>	<hr/>
At 31 December	200,000	199,999
	<hr/> <hr/>	<hr/> <hr/>

**7. COMMITMENTS UNDER OPERATING LEASES**

At 31 December 2016 the GCRA had commitments under non-cancellable operating leases as set out below:

	<i>Buildings</i>	
	2016	2015
	£	£
Operating leases which expire:		
Not later than one year	-	-
In more than one year but less than five years	255,784	-
Later than five years	-	309,784
	<hr/>	<hr/>
	255,784	309,784
	<hr/> <hr/>	<hr/> <hr/>

In February 2015, with the consent of the CfED, the GCRA entered into a six and a half year lease at a cost of £54,000 per annum, including service charge and parking for office accommodation at La Plaiderie Chambers, La Plaiderie, St Peter Port, Guernsey.

**8. RELATED PARTY DISCLOSURES**

**a) The GCRA and the Committee for Economic Development (CfED)**

The GCRA acts independently of the States of Guernsey, but is accountable to the States of Guernsey through the CfED for funding received to administer and enforce Guernsey's competition law, which is also covered by a service level agreement. The CfED acts as a conduit for requests from other States departments which may request the GCRA to carry out projects. The GCRA reports formally to the States of Guernsey through the CfED on an annual basis.

In 2016, the CfED provided £140,000 (2015: £140,000) in funding to the GCRA to finance the administration and enforcement of The Competition (Guernsey) Ordinance, 2012 under the provisions contained within that legislation. The accumulated funding surplus at 31 December 2016, which has been notified to CfED as required under the service level agreement, amounted to £46,123 (2015: deficit £6,262).

**b) The GCRA and the Jersey Competition Regulatory Authority (JCRA)**

The GCRA and the JCRA work together under the aegis of CICRA, sharing a board, resources and expertise between the islands, whilst retaining their own separate legal identities. Recharges are made for expenses incurred (including staff costs) on a no gain no loss basis.

During 2016, £321,345 (2015: £275,218) was invoiced by the GCRA to the JCRA and £95,519 (2015: £83,475) was invoiced by the JCRA to the GCRA. At the statement of financial position date the amount due by the GCRA to the JCRA was £755 (2015: £19,404) and the amount due by the JCRA to the GCRA was £22,254 (2015: £24,248).

**c) Key management personnel**

Key management personnel include all members of the GCRA who together have authority and responsibility for planning, directing and control the Authority's activities. The total compensation paid to key management personnel for services provided to the GCRA was £213,083 (2015: £215,987).

## **GUERNSEY COMPETITION AND REGULATORY AUTHORITY CORPORATE GOVERNANCE GUIDELINES**

The GCRA is an autonomous body and independent in its decision making from the States of Guernsey. But under powers in section 3 of The Guernsey Competition and Regulatory Authority Ordinance, 2012 (The “Ordinance”), the Committee for Economic Development (CfED) “may, if it considers it desirable in the public interest to do so, and after consulting the GCRA, give to the GCRA written guidance on matters relating to corporate governance, that is to say, matters relating to the system and arrangements by and under which the GCRA is directed and controlled”. The following are the Corporate Governance Guidelines as agreed between the CfED and the GCRA.

### **What is Corporate Governance?**

“Corporate Governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance.” – OECD April 1999

### **Constitution of the GCRA**

The GCRA is a statutory body corporate established under Section 1 of the Ordinance. The governing body is a Board of Members which directs regulatory, licensing, financial, operational and strategic policies of the GCRA.

### **Functions of the GCRA**

The functions of the GCRA are as set out in Section 4 of the Ordinance and may be summarised as follows:

- a) To advise the CfED generally in relation to the administration and enforcement of competition legislation and the related practice and procedures.
- b) To advise the CfED generally in relation to competition matters, and in particular:
  - The abuse of or suspected abuse of a dominant position by undertakings
  - Anti-competitive practices or suspected anti-competitive practices of undertakings
  - Mergers or Acquisitions of undertakings.
- c) Subject to the provisions of The Competition (Guernsey) Ordinance, 2012, to investigate:
  - Any abuse or suspected abuse of a dominant position by an undertaking
  - Any anti-competitive practice or suspected anti-competitive practice of an undertaking
  - Any merger or acquisition of undertakings.
- d) To administer its office and undertaking.
- e) To determine the fees payable and costs and expenses recoverable in respect of the exercise of its functions, including interest and penalties payable in the event of default.
- f) Any other functions assigned or transferred to the GCRA by legislation or Resolution of the States.

### **Constitution of the Board**

Paragraph 1(1) of Schedule 1 to the Ordinance requires that the GCRA shall consist of a minimum of three members, one of whom shall be the Chairman.

Members of the Board are appointed by the CfED after consultation with the Chairman. Vacancies which arise on the Board are filled through the use of an open and transparent process. A vacancy is usually advertised and once a suitable candidate is identified, a recommendation is made to the CfED.

## **GUERNSEY COMPETITION AND REGULATORY AUTHORITY CORPORATE GOVERNANCE GUIDELINES (CONTINUED)**

Under the provisions of the Ordinance, the appointment of the Chairman is a matter reserved for decision by the States of Guernsey on the recommendation of the CfED.

On appointment, a member will receive an induction to the work of the Board and the GCRA. This includes an opportunity to meet all members of staff.

Under the provisions of Paragraph 2(2) of Schedule 1 to the Ordinance, members are appointed for a period not exceeding five years and upon expiry of such a period are eligible for reappointment.

### **Operations of the Board**

The Board sets strategic policy and the implementation of these policies is undertaken by the Executive.

The Board has eight scheduled meetings a year and holds additional meetings when circumstances require it. Under the provisions of paragraph 6 of Schedule 1 to the Ordinance, the quorate number of members to hold a Board meeting is the nearest whole number above one half of the number of members. The Chairman or person presiding over the meeting has no vote unless there is an equality of votes, in which case he or she has a casting vote.

In advance of each meeting, members are provided with comprehensive briefing papers on the items under consideration. The Board is supported by the Board Secretary who attends and minutes all meetings of the Board.

Paragraph 13 of Schedule 1 to the Ordinance empowers the Board to delegate by an instrument in writing any of its functions to any of its members, officers or employees named or described in the instrument, including to a committee of members, officers and/or employees. However, the Board is not authorised to delegate this power of delegation, nor the function of considering representations concerning a proposed decision against which there is a right of appeal, any obligation to submit a report to the CfED, nor to determine the Chief Executive's minimum term of office.

The GCRA publishes an annual work programme detailing a number of annual objectives and prepares annual budgets. These are finalised in the last quarter of each year and may incorporate, amongst other things, any strategic issues raised by the Board, and comments received during consultation with key stakeholders including the CfED. This is considered by the Board prior to the start of the financial year.

The Board monitors the performance of the GCRA against the annual objectives and budget through reports at its regular Board meetings.

The Chairman makes recommendations to the CfED in respect of fees paid to members.

### **Committees of the Board**

Paragraph 5 of Schedule 1 to the Ordinance enables the GCRA to establish committees.

During 2014, the Board established one committee, an Audit and Risk Committee. The Members of this committee comprise the non-executive members, excluding the Chairman, and are appointed by the Board.



## **GUERNSEY COMPETITION AND REGULATORY AUTHORITY CORPORATE GOVERNANCE GUIDELINES (CONTINUED)**

The key duties of the Audit and Risk Committee are:-

- To review annually the GCRA's application of corporate governance best practice;
- To review the mechanisms for ensuring the effectiveness of the GCRA's internal controls;
- To review and agree the internal auditor's annual work plan, monitor and review the effectiveness of any internal audit work carried out and review all reports from the internal auditor, monitoring the Executive's responsiveness to the findings and recommendations.
- To meet the internal auditor at least once a year, without the presence of the Executive.
- To consider certain matters relating to the external audit of the GCRA's annual financial statements (including reviewing those financial statements prior to their consideration by the Board).

The members of the Audit and Risk Committee at the statement of financial position date were Philip Marsden (Chairman), and Hannah Nixon. The Executive is expected to attend the meetings of the Audit and Risk Committee in an advisory capacity.

### **Openness, Integrity and Accountability**

The GCRA abides by the principles of openness, integrity and accountability – and those standards which are widely recognised as being applicable to public service, and to the conduct of all involved in public life. In the discharge of its duties, the GCRA will ensure:

- That subject to the appropriate level of confidentiality, it maintains an openness in its public affairs, in order that the public can have confidence in the decision-making processes and actions of public service bodies, in the management of the GCRA's activities, and in the Board members and staff of the GCRA itself;
- That it maintains at all times an appropriate degree of integrity in the conduct of its affairs. Integrity comprises both straightforward dealing and completeness. The GCRA bases its integrity upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of its funds and management of its affairs; and
- That it is fully accountable in the application of the public funds with which it is entrusted and that these are properly safeguarded, and are used economically, efficiently and effectively.

The three fundamental principles, defined above in terms of public sector bodies, have been refined to include the findings and recommendations of the Nolan Committee on Standards in Public Life. The GCRA will make its best efforts to abide by Nolan's seven general principles that underpin public life, namely: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

### **Audit and Accounts**

While the GCRA is an independent body, it is accountable for its overall performance to the States of Guernsey through the CfED.

Section 13(3) of the Ordinance requires that the GCRA shall keep proper accounts and proper records in relation to those accounts and prepare in respect of each year, and submit to the CfED, a statement of account giving a true and fair view of the state of affairs of the GCRA. These accounts shall be audited annually by an auditor appointed by the States on the recommendation of the Public Accounts Committee and submitted, together with the auditor's report, to the CfED.

The CfED will in turn submit the accounts to the States in the form of an Annual Report which also details the work that the GCRA has undertaken during the relevant year.

### **General Conditions regarding States Grant Funding**

The GCRA complies with the general conditions set out by the CfED which apply to external bodies in receipt of grant funding.



## FINANCIAL REVIEW 2016

Consistent with prior years, the Jersey Competition Regulatory Authority (JCRA) made an accounting surplus of £1 in 2016, effectively breaking even. The JCRA accounts for income only in order to meet its actual costs during the year. It must also ensure that it receives enough income during the year in each of the areas that it covers – competition law administration and enforcement, and the regulation of the telecoms, postal and ports sectors – to fund them separately, given that cross-subsidisation is not permitted. A working capital balance is maintained at all times but, for the purpose of the financial statements, deferred income adjustments are made to match income with costs.

Overall costs in 2016 were £1,285k, (2015: £970k). Expenditure continues to be closely controlled by the JCRA maintaining strict internal guidelines with regard to purchasing and tendering procedures which, combined with appropriate best practice corporate governance, helps to ensure that it is run as an effective and efficient organisation. Independent internal auditors audit policies and procedures annually, to ensure that high standards are maintained and that appropriate processes and procedures are in place.

In line with the service level agreement between the JCRA and the Chief Minister's Department (CMD), grant funding for work under the Competition (Jersey) Law 2005 continued to be received on a quarterly basis. During 2016, a grant of £300k was received (2015: £300k) and additional funding of £221k was agreed comprising £198k additional cash funding and £21k released from deferred grant income (2015: £66k).

During 2016 income of £180k (2015: from incorporation October 2015: £90k) was received in licence fees from the ports licensee (Ports of Jersey Ltd).

Income of £90k (2015: £53k) was received and receivable from parties making application for approval of notifiable mergers and acquisitions. These applications and costs are by their nature unpredictable. For 2016, the fees received were lower than the costs incurred in dealing with matters relating to mergers and acquisitions because of the particular nature of the notified transaction. This shortfall of £68k (2015: £nil) has to be funded from competition law grant funding.

During 2016 £631k (2015: £683k) of telecoms licence fees were received. Based on budgeted costs, the Class II and Class III licence fees for 2016 were set at 0.75% (2015: 0.75%) of regulated turnover.

During 2016, £27k (2015: £40k) of postal licence fees were received.

## **JERSEY COMPETITION REGULATORY AUTHORITY**

(Incorporated in Jersey, Channel Islands)

### **NON EXECUTIVE MEMBERS**

Michael O'Higgins	Chair appointed 13 July 2016
Philip Marsden	
Hannah Nixon	
Mark Boleat	expired effective 20 April 2016
Regina Finn	resigned effective 3 August 2016
Peter Neville	appointed 6 February 2017
Paul Masterton	appointed 13 February 2017

### **EXECUTIVE MEMBERS**

Michael Byrne	Chief Executive
Louise Read	Director

### **SECRETARY**

Louise Read

### **INDEPENDENT AUDITOR**

BDO Limited  
P O Box 180  
Place Du Pre  
Rue Du Pre  
St Peter Port  
Guernsey  
GY1 3LL

### **BANKERS**

Barclays Private Clients International Limited  
Jersey International Banking Centre  
PO Box 8  
St Helier  
Jersey  
JE4 8NE

### **REGISTERED OFFICE**

2<sup>nd</sup> Floor Salisbury House  
1-9 Union Street  
St Helier  
Jersey  
JE2 3RF

## **JERSEY COMPETITION REGULATORY AUTHORITY MEMBERS' REPORT**

The Members of the Jersey Competition Regulatory Authority (JCRA) present their report and financial statements for the year ended 31 December 2016.

### **MEMBERS**

The Members in office during the year during the year and appointed subsequently are shown on page 25.

### **ACTIVITIES**

The principal activities of the JCRA during the year were the regulation of the telecommunications, postal and ports sectors and the administration and enforcement of the Competition (Jersey) Law 2005.

### **RESULTS**

There was a surplus for the year of £1 (2015: surplus £1).

### **EVENTS AFTER THE END OF THE REPORTING PERIOD**

The JCRA, at the year end date, was defending an appeal to the Royal Court of a decision it had taken during 2016 in relation to the Telecommunication (Jersey) Law 2002. The appellant withdrew its appeal in February 2017 and the JCRA is seeking to recover its costs. The financial statements for 2016 do not assume the successful recovery of any of the JCRA's costs.

There have been no other events between the statement of financial position date and the date when the financial statements were authorised for issue that need to be disclosed or recognised in the financial statements.

### **LIKELY FUTURE DEVELOPMENTS IN THE ACTIVITIES OF THE JCRA**

Information on likely future developments in the activities of the JCRA has been included in the foreword on page 2.

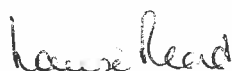
### **INDEPENDENT AUDITOR**

The auditor, BDO Limited, who was appointed in accordance with Article 17 of the Competition Regulatory Authority (Jersey) Law 2001, has indicated its willingness to continue in office.

All of the Members have taken all the steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that the auditor is aware of that information. The Members are not aware of any relevant audit information of which the JCRA's auditor is unaware.

### **APPROVAL**

The Members' report was approved by order of the Members on 31 March 2017.



**Louise Read**  
Secretary

## **JERSEY COMPETITION REGULATORY AUTHORITY STATEMENT OF MEMBERS' RESPONSIBILITIES**

The Members are responsible for preparing the members' report and the financial statements in accordance with applicable law and regulations.

The Competition Regulatory Authority (Jersey) Law 2001, (the "Law") requires Members to keep proper accounts and proper records in relation to those accounts. The Members therefore consider themselves responsible for keeping adequate accounting records that are sufficient to show and explain the JCRA's transactions and disclose with reasonable accuracy, at any time, the financial position of the JCRA and which enable them to ensure that the financial statements comply with the Law. They also consider that they are responsible for safeguarding the assets of the JCRA and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The Law also requires Members to prepare accounts in respect of each financial year, and once audited by auditors appointed by the Auditor and Comptroller General, to submit to the Chief Minister's Department the accounts together with the auditor's report. The Chief Minister's Department, in turn, must submit the accounts and auditor's report thereon to the States of Jersey.

The Members have elected to prepare the JCRA's financial statements in accordance with United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law).

In preparing financial statements the Members are required to:

- select suitable accounting policies and then apply them consistently;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK Accounting Standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the JCRA will continue in operation.

The Members confirm that these financial statements comply with these requirements.



**Louise Read**  
Secretary

## **INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF JERSEY COMPETITION REGULATORY AUTHORITY**

We have audited the financial statements of the Jersey Competition Regulatory Authority for the year ended 31 December 2016 which comprise the Statement of Comprehensive Income, the Statement of Cash Flows, the Statement of Financial Position and the related notes 1 to 12. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards ('United Kingdom Generally Accepted Accounting Practice').

This report is made solely to the Authority's members, as a body, in accordance with Article 17 of the Competition Regulatory Authority (Jersey) Law 2001. Our audit work is undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

### **Respective responsibilities of the members and auditor**

As explained more fully in the Statement of Members' Responsibilities on page 27, the members are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view.

Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Financial Reporting Council's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

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

### **Opinion on the financial statements**

In our opinion the financial statements:

- give a true and fair view of the state of the Authority's affairs as at 31 December 2016 and of its surplus for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been properly prepared in accordance with the requirements of the Competition Regulatory Authority (Jersey) Law 2001.

*BDO Emilel*

CHARTERED ACCOUNTANTS

Place du Pré

Rue du Pré

St Peter Port

Guernsey

Date: *31 March 2017*

**JERSEY COMPETITION REGULATORY AUTHORITY**  
**STATEMENT OF COMPREHENSIVE INCOME**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

	<i>Note</i>	<i>2016</i> £	<i>2015</i> £
<b>INCOME</b>			
Telecommunications licence fees		540,638	491,931
Postal licence fees		9,865	27,559
Ports of Jersey incorporation grant and licence fees		125,198	106,368
Competition law grant and other competition law funding		518,525	290,135
Mergers and acquisitions fees		89,693	52,500
Bank interest and sundry income		582	1,220
		<hr/> 1,284,501	<hr/> 969,713
<b>EXPENDITURE</b>			
Salaries and staff costs		690,385	644,660
Consultancy fees		133,842	83,139
Operating lease rentals		55,420	54,431
Travel and entertainment		20,012	17,033
Conference and course fees		7,708	8,471
Depreciation		6,051	8,645
Administration expenses		9,838	12,207
Legal and professional fees		288,571	54,446
Audit and accountancy fee		10,252	9,302
Advertising and publicity		16,440	17,874
Repairs and maintenance		19,606	20,718
Heat, light and water		3,251	3,721
Recruitment		3,336	13,889
Bad debts		-	1,000
General expenses		19,788	20,176
		<hr/> 1,284,500	<hr/> 969,712
<b>SURPLUS FOR THE FINANCIAL YEAR</b>	<b>7</b>	<hr/> <hr/> 1	<hr/> <hr/> 1

**Statement of total comprehensive income**

There are no differences between the surpluses for the financial years stated above and total comprehensive income.

The notes on pages 32 to 36 form an integral part of these financial statements.

**JERSEY COMPETITION REGULATORY AUTHORITY  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 31 DECEMBER 2016**

	<i>2016</i>	<i>2015</i>
	<i>£</i>	<i>£</i>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
<b>Surplus for the financial year</b>	1	1
Adjustments for:		
Depreciation of tangible fixed assets	6,051	8,645
Interest receivable	(582)	(1,220)
(Increase)/Decrease in debtors and prepayments	(181,182)	47,373
(Decrease)/Increase in creditors	(879,996)	39,921
<b>Net cash used in operating activities</b>	(1,055,708)	94,720
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchases of tangible fixed assets	(12,726)	(6,203)
Interest received	582	1,220
<b>Net cash used in investing activities</b>	(12,144)	(4,983)
<b>Net (decrease)/increase in cash and cash equivalents</b>	(1,067,852)	89,737
Cash and cash equivalents at beginning of the year	1,531,072	1,441,335
<b>CASH AND CASH EQUIVALENTS AT THE YEAR END</b>	463,220	1,531,072

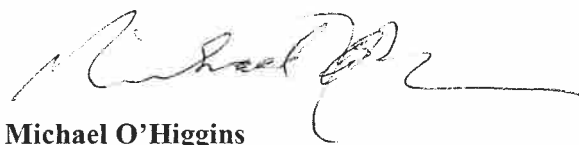
The notes on pages 32 to 36 form an integral part of these financial statements.



**JERSEY COMPETITION REGULATORY AUTHORITY**  
**STATEMENT OF FINANCIAL POSITION**  
**AS AT 31 DECEMBER 2016**

	<i>Notes</i>	<i>2016</i> £	<i>2015</i> £
<b>FIXED ASSETS</b>			
Tangible fixed assets	3	15,933	9,258
<b>CURRENT ASSETS</b>			
Debtors and prepayments	4	230,609	49,427
Cash and cash equivalents	5	463,220	1,531,072
		693,829	1,580,499
<b>CURRENT LIABILITIES</b>			
Creditors: amounts falling due within one year	6	584,307	1,464,303
<b>NET CURRENT ASSETS</b>		109,522	116,196
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>		125,455	125,454
<b>RETAINED SURPLUS</b>	7	125,455	125,454

The financial statements on pages 29 to 36 were approved on 31 March 2017 and authorised for issue by the Members and signed on their behalf by:



**Michael O'Higgins**  
Chairman

The notes on pages 32 to 36 form an integral part of these financial statements.

**JERSEY COMPETITION REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**1. ACCOUNTING POLICIES**

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

The presentation currency of these financial statements is sterling with all amounts rounded to the nearest whole pound.

The preparation of financial statements in compliance with FRS 102 requires the use of certain critical accounting estimates. It also requires members to exercise judgement in applying the accounting policies.

The following principal accounting policies have been consistently applied:

**a) Income**

Income is received from government grant and other charges raised in respect of the JCRA's responsibilities as the administrator and enforcer of Jersey's competition law and through fees raised through the licensing regime in place for certain sectors. Further details are given below:

**i) Grants and other charges**

Grants received are of a revenue nature and are recognised in the statement of comprehensive income in the same period as the related expenditure. The grant received for 2016 was £300,000 (2015: £300,000). Additional funding of £197,441 was also provided comprising £176,357 of additional cash and £21,084 released from deferred income (2015: £nil). 'Other charges' comprises fees received for the assessment of certain notifiable mergers and acquisitions. They are recognised in the statement of comprehensive income once the proposed transaction has been formally registered with the JCRA. Fees received and receivable in 2016 were £89,693 (2015: £65,000) with £158,016 (2015: £52,500) reflected in the statement of comprehensive income to recognise the expenditure incurred. Any unused funds at the financial year end are either deferred or repaid to the Chief Minister's Department. Any deficits are funded from future grants. Deferred grant income as at 31 December amounted to £82,228 (2015: £103,311).

**ii) Licence fees**

Licence fees across all regulated sectors are set on the basis of cost recovery in accordance with sector specific legislation and are recognised in the period to which they relate. The JCRA's costs are estimated on an annual basis and these are recovered either by applying a percentage to the licensed revenue of each licensed operator (in the case of telecoms) or through charging an annual fee (in the cases of post and ports). If fee income exceeds costs, the balance is transferred to deferred income. Licence fee percentages / charges and deferred income are set out below:

	<b>2016</b>		<b>2015</b>	
	Licence fee % / charge	Deferred income balance	Licence fee % / charge	Deferred income balance
Telecoms	0.75% relevant turnover	£89,900	0.75% relevant turnover	£191,395
Post	Class II £35,000 Class I £1,000	£18,802	Class II £35,000 Class I £1,000	£13,774
Ports	£180,000	£54,803	£90,000	£49,332

**b) Expenditure**

Expenditure is accounted for on an accruals basis and is measured at its transaction price.

**JERSEY COMPETITION REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**1. ACCOUNTING POLICIES (CONTINUED)**

**c) Fixed assets**

Fixed assets are stated at cost less depreciation. Depreciation is provided on all tangible fixed assets at rates calculated to write down their cost on a straight line basis to their estimated residual values over their expected useful economic lives. The depreciation rates used are as follows:

Other equipment	20% per annum
Fixtures and fittings	10% per annum
Computer equipment	33% per annum
Website costs	33% per annum
Leasehold improvements	shorter of remaining length of lease or expected useful life

The assets' residual values, useful lives and depreciation methods are reviewed, and adjusted prospectively if appropriate, if there is an indication of a significant change since the last reporting date.

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount and are recognised within 'other operating income' in the statement of comprehensive income.

**d) Leasing commitments**

All leases entered into by the JCRA are operating leases. Rentals payable under operating leases are charged in the statement of comprehensive income on a straight line basis over the lease term.

**e) Pensions**

The JCRA provides a defined contribution pension scheme to some of its employees. Contributions are charged in the statement of comprehensive income as they become payable in accordance with the rules of the scheme.

**f) Taxation**

Article 16 of the Competition Regulatory Authority (Jersey) Law 2001 provides that the income of the JCRA shall not be liable to income tax under the Income Tax (Jersey) Law 1961.

**2. JUDGEMENTS IN APPLYING ACCOUNTING POLICIES AND KEY SOURCES OF ESTIMATION UNCERTAINTY**

In preparing these financial statements, the members have made the following judgements:

- Determined whether leases entered into by the JCRA as a lessee are operating or finance leases. These decisions depend on an assessment of whether the risks and rewards of ownership have been transferred from the lessor to the lessee on a lease by lease basis.
- Determined whether there are indicators of impairment of the JCRA's tangible assets. Factors taken into consideration in reaching such a decision include the economic viability and expected future performance of the asset.
- Determined the split of expenses incurred for work undertaken under the aegis of the Channel Islands Competition and Regulatory Authorities. These decisions depend on an assessment of resource allocation, including that of staff time.
- Determining the appropriate treatment for the costs incurred in developing a new website. Factors taken into consideration in reaching the decision include; the ability to separate the asset from the JCRA, the benefit of an improved website internally and externally, the intention to complete the project and bring the website into use, noting that it considers that it has the resources so to do, and the ability to reliably measure the expenditure incurred on developing the website during the development phase.

**JERSEY COMPETITION REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**2. JUDGEMENTS IN APPLYING ACCOUNTING POLICIES AND KEY SOURCES OF ESTIMATION UNCERTAINTY (CONTINUED)**

Other key sources of estimation uncertainty

- Tangible fixed assets (see note 3)

Tangible fixed assets are depreciated over their useful lives taking into account residual values, where appropriate. The actual lives of the assets and residual values are assessed annually and may vary depending on a number of factors. In reassessing asset lives, factors such as technological innovation, product life cycles and maintenance programmes are taken into account. Residual value assessments consider issues such as future market conditions, the remaining life of the asset and projected disposal values.

**3. TANGIBLE FIXED ASSETS**

	<i>Leasehold improvements</i> £	<i>Computer equipment</i> £	<i>Website costs</i> £	<i>Fixtures and fittings</i> £	<i>Other equipment</i> £	<i>Total</i> £
<b>Cost</b>						
At 1 January 2016	35,944	37,559	4,125	21,466	1,709	100,803
Additions	2,626	622	6,563 *	2,915	-	12,726
Disposals	-	(3,044)	-	(2,115)	(720)	(5,879)
<b>At 31 December 2016</b>	<u>38,570</u>	<u>35,137</u>	<u>10,688</u>	<u>22,266</u>	<u>989</u>	<u>107,650</u>
<b>Depreciation</b>						
At 1 January 2016	33,777	32,153	4,125	19,781	1,709	91,545
Charge in the year	2,310	3,081	-	660	-	6,051
Eliminated on disposal	-	(3,044)	-	(2,115)	(720)	(5,879)
<b>At 31 December 2016</b>	<u>36,087</u>	<u>32,190</u>	<u>4,125</u>	<u>18,326</u>	<u>989</u>	<u>91,717</u>
<b>Net book value:</b>						
At 31 December 2016	<u>2,483</u>	<u>2,947</u>	<u>6,563</u>	<u>3,940</u>	<u>-</u>	<u>15,933</u>
At 31 December 2015	<u>2,167</u>	<u>5,406</u>	<u>-</u>	<u>1,685</u>	<u>-</u>	<u>9,258</u>

\* relates to construction of a new website which was ongoing at the year end

**4. DEBTORS AND PREPAYMENTS**

	<i>2016</i> £	<i>2015</i> £
Prepayments	23,714	29,095
Trade debtors	197,441	14,404
Other debtors	9,454	928
	<u>230,609</u>	<u>49,427</u>

**5. CASH NOT AVAILABLE FOR USE**

Cash and cash equivalents includes £125,517 (2015: £931,724) held in respect of financial commitments given as part of telecoms operators' bids to be awarded spectrum to enable the roll out of 4G services in the Channel Islands. The monies will be repaid to operators once they have met their commitments or will be withheld in the event that they do not meet the commitments given. At this stage there are no indications that these commitments will not be met.

**JERSEY COMPETITION REGULATORY AUTHORITY**  
**NOTES TO THE FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 31 DECEMBER 2016**

**6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR**

	2016	2015
	£	£
Monies held in respect of commitments given by telecoms operators	125,517	931,724
Accruals	11,400	23,098
Deferred grant income	82,228	103,312
Deferred licence fee income	201,894	293,028
Deferred mergers and acquisitions fee income	-	12,500
Trade creditors	141,014	76,393
Amounts due to the Guernsey Competition and Regulatory Authority	22,254	24,248
	<u>584,307</u>	<u>1,464,303</u>

**7. MOVEMENT ON RETAINED SURPLUS**

	2016	2015
	£	£
At 1 January	125,454	125,453
Surplus for the year	1	1
	<u>125,455</u>	<u>125,454</u>

**8. COMMITMENTS UNDER OPERATING LEASES**

At 31 December 2016 the JCRA had commitments under non-cancellable operating leases as set out below:

	<i>Buildings</i>	
	2016	2015
	£	£
Operating leases which expire:		
Not later than one year	-	30,482
In more than one year but less than five years	140,473	-
Later than five years	-	-
	<u>140,473</u>	<u>30,482</u>

The amount shown above relates to a five year lease with an option to break at the end of year three for the JCRA's office in Salisbury House, Union Street, St. Helier. The lease finally expires in June 2021.

**9. PENSION COMMITMENTS**

The JCRA provides a defined contribution pension scheme (the Public Employees Contributory Retirement Scheme) to some of its employees. The assets of the scheme are held separately from those of the JCRA in an independently administered fund. Contributions of £20,326 (2015: £20,125) were charged in the year. There were no unpaid contributions at the year end.

**JERSEY COMPETITION REGULATORY AUTHORITY  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2016**

**10. RELATED PARTY DISCLOSURES**

**a) The JCRA and the Chief Minister**

The JCRA acts independently of the States of Jersey, but is accountable to the States of Jersey through the Chief Minister for the funding it receives to administer and enforce Jersey's competition law which is also covered by a service level agreement. The Chief Minister acts as a conduit for requests from other Ministers who may request the JCRA to carry out projects. The JCRA reports formally to the States of Jersey through the Chief Minister on an annual basis.

In 2016, the Chief Minister's Department provided £300,000 (2015: £300,000) in funding to the JCRA to finance the administration and enforcement of the Competition (Jersey) Law 2005. Additional funding of £197,441 was also provided (2015: £65,701). As at the year end the balance of deferred grant income due to the Chief Minister Department was £82,228 (2015: £103,312).

**b) The JCRA and the Guernsey Competition and Regulatory Authority (GCRA)**

The JCRA and the GCRA work together under the aegis of CICRA, sharing a board, resources and expertise between the islands, whilst retaining their own separate legal identities. Recharges are made for expenses incurred (including staff costs) on a no gain no loss basis.

During 2016 £95,519 (2015: £83,475) was invoiced by the JCRA to the GCRA and £321,345 (2015: £275,218) was invoiced by the GCRA to the JCRA. At the statement of financial position date the amount due by the JCRA to the GCRA was £22,254 (2015: £24,248) and the amount due by the GCRA to the JCRA was £755 (2015: £19,404).

**c) Key management personnel**

Key management personnel includes all members of the JCRA who together have authority and responsibility for planning, directing and control the activities of the JCRA. The total compensation paid to key management personnel for services provided to the JCRA was £221,923 (2015: £215,987).

**11. CONTINGENT LIABILITIES**

The JCRA, at the year end date, was defending an appeal to the Royal Court of a decision it had taken during 2016 relating to an infringement of the Competition (Jersey) Law 2005. On the basis of information available at the date the financial statements were signed the appeal hearing had been set for October 2017.

The impact of defending an appeal of a decision it has taken is uncertain as there are aspects of defending an appeal that are outside of the JCRA's control.

Competition law grant funding or other sources of funding specifically designated for the purpose are required to finance the cost of defending the appeal. During 2016, additional funding of £193,274 in respect of 2016 was agreed in relation to the JCRA's costs of defending the appeal. The JCRA is continuing to discuss and agree an appropriate level of support for the JCRA for 2017.

In the event that the JCRA successfully defends the appeal it will seek to recover its costs from the appellant. In the event that the JCRA is unsuccessful in its defence of the appeal it is likely that it will be required to reimburse the appellant for a portion of its costs. The amounts are, at this stage, uncertain.

**12. CONTINGENT ASSETS**

The JCRA, at the year end date, was defending an separate appeal to the Royal Court of a decision it had taken during 2016 in relation to the Telecommunication (Jersey) Law 2002. The appellant withdrew its appeal in February 2017 and the JCRA is seeking to recover its costs. The financial statements for 2016 do not assume the successful recovery of any of the JCRA's costs.

## **JERSEY COMPETITION REGULATORY AUTHORITY CORPORATE GOVERNANCE GUIDELINES**

The JCRA is an autonomous body and entirely independent in its decision taking from the States of Jersey. But under powers in Article 10(1) of the Competition Regulatory Authority (Jersey) Law 2001 (the “CRA Law”), the Minister, “may give to the Authority written guidance, or general written directions, on matters relating to corporate governance, that is relating to the systems and arrangements by and under which the Authority is directed and controlled”. The following are the Corporate Governance Guidelines as agreed between the Minister and the JCRA.

### **What is Corporate Governance?**

“Corporate Governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance.” – OECD April 1999

### **Constitution of the JCRA**

The JCRA is a statutory body corporate established under Article 2 of the CRA Law. The governing body is a Board of Members which directs regulatory, licensing, financial, operational and strategic policies of the JCRA.

### **Functions of the JCRA**

The functions of the JCRA are set out in Article 6 of the CRA Law which states:-

- a) The JCRA shall have such functions as are conferred on it by or under this or any other Law or any other enactment.
- b) The JCRA may recognise or establish, or assist or encourage the establishment of, bodies that have expertise in, or represent persons having interests in, any matter concerning competition, monopolies, utilities or any matter connected with the provision of goods and services to which the JCRA’s functions relate.
- c) The functions of those bodies shall include one or more of the following –
  - i. the provision to the JCRA of advice, information and proposals in relation to any one or more of those matters;
  - ii. the representation of the views of any one or more of those persons.
- d) The JCRA may, on request by the Minister, provide the Minister with reports, advice, assistance and information in relation to any matter referred to in paragraph (b).
- e) The JCRA shall have power to do anything that is calculated to facilitate, or is incidental or conducive to, the performance of any of its functions.

### **Constitution of the Board**

Article 3 of the CRA Law requires that the JCRA shall consist of a Chairman and at least two other members. The appointment of Board Members is undertaken by the Minister after he has consulted with the Chairman. Vacancies which arise on the Board are filled through the use of an open and transparent process. The Minister follows the procedures recommended by the Jersey Appointments Commission – a body set up by the States of Jersey to oversee certain public sector appointments. A vacancy is usually advertised and once a suitable candidate is identified, a recommendation is made to the Minister.

Under the provisions of the CRA Law, the appointment of the Chairman is a matter reserved for decision by the States of Jersey on the recommendation of the Minister. The Minister must notify the States of the appointments.

## **JERSEY COMPETITION REGULATORY AUTHORITY CORPORATE GOVERNANCE GUIDELINES (CONTINUED)**

On appointment, a Member will receive an induction to the work of the Board and the JCRA. This includes an opportunity to meet all members of staff.

Under the provisions of the CRA Law, Members are appointed for a period not exceeding five years and upon expiry of such a period are eligible for reappointment.

### **Operations of the Board**

The Board sets strategic policy and the implementation of these policies is undertaken by the Executive.

The Board has eight scheduled meetings each year and holds additional meetings when circumstances require it. The quorate number of Members to hold a Board meeting is three, two of whom must be Non-Executives, with one acting as Chair.

In advance of each meeting, Members are provided with comprehensive briefing papers on the items under consideration. The Board is supported by the Board Secretary who attends and minutes all meetings of the Board.

Article 9 of the CRA Law empowers the Board to delegate any of its powers to the Chairman, one or more Members, or an officer or employee of the JCRA or a committee whose member or members are drawn only from the Members, officers and employees of the JCRA. However, the Board is not authorised to delegate the power of delegation or the function of reviewing any of its decisions.

The JCRA publishes an annual business plan detailing a number of annual objectives and prepares annual budgets. These are finalised in the last quarter of each year and incorporate, amongst other things, any strategic issues raised by the Board, and comments received during consultation with key stakeholders. This is considered by the Board prior to the start of the financial year.

The Board monitors the performance of the JCRA against the annual objectives and annual budget through reports at its regular Board meetings. Performance against budget is monitored by the presentation of quarterly management accounts to the Board and ad-hoc financial presentations as and when appropriate.

The JCRA has agreed a policy on travel with the Chief Minister's Department.

The Chairman makes recommendations to the Minister in respect of fees paid to the non-executive members.

### **Committees of the Board**

Article 7(1) of the CRA Law enables the JCRA to establish committees.

During 2016 the Board had established one committee; an Audit and Risk Committee. The Members of this committee comprise the non-executive members, excluding the Chairman and are appointed by the Board.

The key duties of the Audit and Risk Committee are:-

- To review annually the JCRA's application of corporate governance best practice;
- To review the mechanisms for ensuring the effectiveness of the JCRA's internal controls;
- To review and agree the internal auditor's annual work plan, monitor and review the effectiveness of any internal audit work carried out and review all reports from the internal auditor, monitoring the Executive's responsiveness to the findings and recommendations.
- To meet with the internal auditor at least once a year, without the presence of the Executive.
- To consider certain matters relating to the external audit of the JCRA's annual financial statements (including reviewing those financial statements prior to their consideration by the Board).



## **JERSEY COMPETITION REGULATORY AUTHORITY**

### **CORPORATE GOVERNANCE GUIDELINES (CONTINUED)**

Whilst the Audit and Risk Committee's Charter includes the consideration of the annual appointment of the external auditor, the actual appointment of the auditor is a matter reserved to the Comptroller and Auditor General under the Comptroller and Auditor General (Jersey) Law 2014 which amended the CRA Law to transfer the responsibility from the Treasury and Resources Minister.

The members of the Audit and Risk Committee at the statement of financial position date were Philip Marsden (Chairman), and Hannah Nixon. The Executive is expected to attend the meetings of the Audit and Risk Committee in an advisory capacity.

#### **Openness, Integrity and Accountability**

The JCRA abides by the principles of openness, integrity and accountability – and those standards which are widely recognised as being applicable to public service, and to the conduct of all involved in public life. In the discharge of its duties, the JCRA will ensure:

- That subject to the appropriate level of confidentiality, it maintains an openness in its public affairs, in order that the public can have confidence in the decision-making processes and actions of public service bodies, in the management of the JCRA's activities, and in the Board Members and staff of the JCRA itself;
- That it maintains at all times an appropriate degree of integrity in the conduct of its affairs. Integrity comprises both straightforward dealing and completeness. The JCRA bases its integrity upon honesty, selflessness and objectivity, and high standards of propriety and probity in the stewardship of its funds and management of its affairs;
- That it is fully accountable in the application of the public funds entrusted to it and that these are properly safeguarded, and are used economically, efficiently and effectively.

The three fundamental principles, defined above in terms of public sector bodies, have been refined to include the findings and recommendations of the Nolan Committee on Standards in Public Life. The JCRA will make its best efforts to abide by Nolan's seven general principles that underpin public life, namely: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

#### **Audit and Accounts**

While the JCRA is an independent body, it is accountable for its overall performance to the States of Jersey through the Minister.

Article 17 of the CRA Law requires that the JCRA shall keep proper accounts and proper records in relation to the accounts and prepares a report and financial statements in respect of each financial year and provide these to the Minister no later than four months after the year end. The Minister must lay a copy of the financial statements provided before the States as soon as practicable after he receives the report.

It is also a requirement of the CRA Law that the financial statements are audited and are prepared in accordance with generally accepted accounting principles. The appointment of the auditor of the JCRA is the responsibility of the Comptroller and Auditor General under the Comptroller and Auditor General (Jersey) Law 2014, which amended the CRA Law to transfer the responsibility from the Treasury and Resources Minister.

#### **Other Matters**

Under powers granted by Article 10 of the CRA Law, the Minister may, after first consulting with the JCRA and where it considers that it is necessary in the public interest to do so, give the JCRA written guidance, or general written directions, on matters relating to corporate governance which may include matters relating to accountability, efficiency and economy of operation of the JCRA.