



BILLET D'ÉTAT

WEDNESDAY, 21st MARCH, 2018

X
2018

ELECTIONS AND APPOINTMENTS

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2. Committee *for* Economic Development – Appointment of the Public Trustee, P.2018/18
3. Committee *for* Home Affairs – Independent Monitoring Panel: Appointment of Members, P.2018/12

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The Social Insurance (Contributions) (Amendment) Regulations, 2018

OTHER BUSINESS

4. Committee *for the* Environment & Infrastructure – Bus Fleet Replacement Programme – Phases 2 and 3, P.2018/20
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APPENDICES

1. Scrutiny Management Committee – Annual Report 2016-2017
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3. Guernsey Police Complaints Commission - 2016 Annual Report

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **21st March, 2018** 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

1st March, 2018

**ELECTION OF A MEMBER OF THE
STATES' ASSEMBLY & CONSTITUTION COMMITTEE**

The States are asked:

To elect, in accordance with Rule 16 of The Rules of Procedure, a member of the States' Assembly & Constitution Committee to complete the unexpired term of office (that is to the 30th June 2020) of Deputy P. J. Roffey who has been elected as the President of that Committee.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for* ECONOMIC DEVELOPMENT

APPOINTMENT OF THE PUBLIC TRUSTEE

The States are asked to decide:-

Whether, after consideration of the policy letter entitled “Appointment of the Public Trustee”, dated 12 February 2018, they are of the opinion:-

1. In accordance with paragraph 1(2) of the Public Trustee (Bailiwick of Guernsey) Law, 2002, to agree to appoint Mr David Harry as Public Trustee for a period of five years, with immediate effect.

The above 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.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for* ECONOMIC DEVELOPMENT

APPOINTMENT OF THE PUBLIC TRUSTEE

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

12 February 2018

Dear Sir

1. Executive Summary

- 1.1 The Public Trustee, Mrs Catherine Rowe, resigned from the position on 6 November 2017. It is the responsibility of the Committee *for* Economic Development (“the Committee”) to recommend to the States an alternative suitable candidate for this role. An explanation of the duties and key criteria for this statutory role is set out in Appendix 1.
- 1.2 The Committee recommends that the States of Deliberation appoint Mr David Harry as Public Trustee for a period of five years, with immediate effect.

2. Resignation of the Public Trustee

- 2.1 Catherine Rowe submitted her resignation from the role on 6 November 2017. The Committee wishes to publicly express its gratitude for all of Mrs Rowe’s hard work during her time in office as Public Trustee.
- 2.2 Paragraph 1(5) of the Public Trustee (Bailiwick of Guernsey) Law, 2002, (“the Law”), states “*The Public Trustee may resign [his/her] office at any time by notice in writing addressed to the Committee; but the resignation may not take effect until a successor takes office as Public Trustee*”. Paragraph 1(2) of the Law states that it is the responsibility of the Committee to recommend to the States an alternative suitable candidate.

3. Appointment of the Public Trustee

- 3.1 The Committee has undertaken a recruitment process to find a successor, and is pleased to recommend to the States the appointment of Mr David Harry as Public Trustee.

- 3.2 A Member of the Society of Trust and Estate Practitioners since 1995, Mr Harry has accumulated extensive experience as an Executive and Non-Executive Director of a variety of trust companies and property funds.
- 3.3 As a qualified Solicitor, Mr Harry also has over 35 years' private practice legal experience. Having retired from private practice in 2014, Mr Harry has undertaken public service roles, currently as the Chair of the Guernsey Planning Appeals Panel, and is the CEO of the Guernsey Sports Commission, his contract for which is due to cease on 31st March 2018.
- 3.4 A summary of Mr Harry's Curriculum Vitae is attached as Appendix 2.

4. Term of Office

- 4.1 Under paragraph 1(4) of the Law, *"The Public Trustee shall hold office for a term not exceeding five years and a person may, on the recommendation of the Committee... be appointed to that office by the States for more than one term of office"*.
- 4.2 The Committee recommends that the appointment of Mr Harry should be for a period of five years.
- 4.3 There are no additional finance or resource implications with regard to this successor appointment.

5. Temporary Appointment as Deputy Public Trustee

- 5.1 In accordance with the power under paragraph 4 of the Schedule to the Law, on 5 February 2018 the Public Trustee, Catherine Rowe, appointed Mr Harry to act as Deputy Public Trustee, with full authority to exercise the functions of the Public Trustee.
- 5.2 This appointment was made to enable the Committee to effect an induction process, including the provision of relevant information to Mr Harry, and to enable him to attend meetings to discuss matters relevant to the functions of the Public Trustee.

6. Compliance with Rule 4

- 6.1 In accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees, the Proposition has been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 6.2 In accordance with Rule 4(3), the Committee has included a Proposition, which requests the States to approve the appointment of Mr David Harry as Public Trustee for a period of five years, with immediate effect, in accordance with paragraph 1(2) of the Public Trustee (Bailiwick of Guernsey) Law, 2002.

6.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Proposition has the unanimous support of the Committee.

Yours faithfully

C N K Parkinson
President

A C Dudley-Owen
Vice President

J I Mooney
D de G De Lisle
D A Tindall

OFFICE OF THE PUBLIC TRUSTEE**PUBLIC TRUSTEE****POST OVERVIEW****JOB SUMMARY:**

In accordance with the Public Trustee (Bailiwick of Guernsey) Law, 2002, (the “**Trustee Law**”) the Public Trustee is required to carry out certain statutory functions under the Trustee Law to protect the trust’s assets or otherwise in the interests of the beneficiaries of the trust, or for the protection or, enhancement of the reputation of the Bailiwick in relation to the formation and management of trusts.

Further information regarding the role and responsibilities of the Public Trustee can be found in the below linked Projet De Loi entitled The Public Trustee (Bailiwick of Guernsey) Law, 2002:

<http://www.guernseylegalresources.gg/article/96912/Public-Trustee-Bailiwick-of-Guernsey-Law-2002>

The Public Trustee is paid an annual retainer fee of £7,458 per annum, based on an expected average time commitment of 1 day per month.

KEY CRITERIA:**ESSENTIAL**

1. A good understanding of the role of the Office of the Public Trustee in the Bailiwick of Guernsey;
2. An ability to administer complex trust structures in accordance with the Public Trustee (Bailiwick of Guernsey) Law, 2002 and other applicable legislation;
3. The ability to handle difficult conversations and issues professionally and in accordance with the Public Trustee (Bailiwick of Guernsey) Law, 2002;
4. An ability to work in accordance with precise legal instructions and to prepare and deliver clear and comprehensive verbal and written reports on complex issues including the exercise of the Public Trustee functions;
5. An ability to maintain personal confidentiality and public trust while carrying out the role.

Summary of Mr David Harry's Curriculum Vitae

Mr David Harry qualified as a Solicitor of the Supreme Court of England and Wales in 1977. Since that time Mr Harry has acquired a wide range of commercial and private client legal experience. He was made a Partner at Fonseca and Partners in 1980, later joining Wedlake Bell McKean in Guernsey (1990), and in 1991 was made a Partner at Wedlake Bell McKean and Wedlake Bell in London. Mr Harry has previously been appointed as a Member of the Chambre de Discipline, the body established to consider complaints of professional misconduct against members of the Guernsey Bar.

A Member of the Society of Trust and Estate Practitioners since 1995, Mr Harry has accumulated extensive experience as an Executive and Non-Executive Director of a variety of trust companies and property funds (1990–2014). Most recently, Mr Harry acted as Director of Breams Trustees Limited, UBK Trustees (Guernsey) Limited and Mercator Trust Company (Holdings) Limited, all three being Guernsey registered trust companies, where he oversaw a number of trusts with considerable asset holdings and acted for local institutions advising on and drafting trust documentation.

Since retiring from private practice in 2014, Mr Harry has held public service positions in addition to his work as a Non-Executive Director, last year being appointed Chair of the Guernsey Planning Appeals Panel, having been a Member of the Panel since 2009. Mr Harry has also undertaken voluntary roles as a former member of the Douzaines of St Peter Port and St Andrew. At present, Mr Harry is the Chief Executive Officer of the Guernsey Sports Commission, his contract for which is due to end on 31st March 2018.



Committee *for*
Economic Development

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for* ECONOMIC DEVELOPMENT

APPOINTMENT OF THE PUBLIC TRUSTEE

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

12 February 2018

Dear Sir,

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee requests that the Proposition entitled "Appointment of the Public Trustee" be considered at the States' meeting to be held on 21st March 2018.

Should the above proposition not be considered at the States' meeting at 21st March 2018, there may be adverse implications to the operational effectiveness of the Office of the Public Trustee. The existing Public Trustee has resigned (though such resignation is not deemed effective until a successor takes office), and whilst temporary measures have been put in place, it is not felt appropriate to put long term reliance upon the same.

Yours faithfully,

C N K Parkinson
President

A C Dudley-Owen
Vice President

J I Mooney
D de G De Lisle
D A Tindall

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS

INDEPENDENT MONITORING PANEL:
APPOINTMENT OF MEMBERS

The States are asked to decide: -

Whether, after consideration of the Policy Letter dated 8th January, 2018, of the Committee *for* Home Affairs, they are of the opinion:

- (a) approve the appointment of Mrs Isobel Jane Rowlinson as a member of the Independent Monitoring Panel for a period of four years with immediate effect.
- (b) approve the appointment of Mr Denis Le Marchant White as a member of the Independent Monitoring Panel for a period of four years with immediate effect.
- (c) approve the appointment of Mrs Celia Lois Allen as a member of the Independent Monitoring Panel for a period of four years with immediate effect.

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* HOME AFFAIRS

INDEPENDENT MONITORING PANEL:
APPOINTMENT OF MEMBERS

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

8th January 2018

Dear Sir

1. Executive Summary

- 1.1. The purpose of this Policy Letter is to formally appoint additional members to the Independent Monitoring Panel (“the Panel”).

2. Background

- 2.1. The Panel is an independent body made up of members of the public who make unannounced visits to Guernsey Prison. Members provide independent oversight of the day-to-day operations of the Prison and prison conditions, monitor the administration of the prison, the treatment of prisoners and whether the statutory objectives of the prison system are being met, and serve to protect the well-being of prisoners.
- 2.2. The Committee would like to take this opportunity to put on record its thanks and appreciation to Panel Members for their work and dedication to their roles.

3. Appointment of New Members to the Panel

- 3.1. The Prison (Guernsey) Ordinance, 2013 states that Panel members must be appointed by the States, following nomination by the Committee, for a period of four years or less. In recommending individuals to the States, pursuant to paragraph 1(3) of Schedule 3 to the Ordinance, the Committee must have particular regard to the need to “ensure that Panel members have a strong commitment to human rights, have a strong sense of integrity, are able to maintain confidentiality, and have effective communication and listening skills.”

- 3.2. The advertising campaign for the recruitment of panel members was designed to reach as many areas of the population as possible.
- 3.3. No formal qualifications are required for membership to the Panel, but the advertisements looked to attract individuals who were fair, objective and non-judgemental. It was expected that potential members would have experience of working with confidential material and the ability to deal with a wide variety of people from different backgrounds.
- 3.4. Following an open and transparent recruitment process, interviews were held and the Panel was impressed with the number, quality, experience and enthusiasm of all candidates. The Committee is pleased to recommend the appointment of the following individuals to the Panel.

4. Ordinary members – 4 year appointment

- 4.1. Mrs Isobel Jane Rowlinson has completed a three year post as a regional officer for a charity and wishes to contribute in the voluntary sector once more. She has demonstrated her ability to analyse information and act appropriately on the action within a team. Mrs Rowlinson also demonstrated knowledge of the reasoning behind safeguarding, data protection and human rights.
- 4.2. Mr Denis Le Marchant White is presently semi-retired. He used to work as a trading manager for the Guernsey Press. He demonstrated skills in management and through his career acting as a mediator in association. Mr White demonstrated good people skills and an ability to handle difficult situations.
- 4.3. Mrs Celia Lois Allen has extensive experience working within the prison as a volunteer and was instrumental in establishing the Listener Scheme. Mrs Allen is a retired Deputy Headteacher and has experience dealing and communicating effectively with people of all ages and abilities. Mrs Allen has a keen interest in community matters and demonstrates strong interpersonal skills with the proven ability to interact with a broad range of people whilst maintaining objectivity.
- 4.4. All of the individuals were able to identify the challenges facing the prison locally and demonstrated a strong commitment to supporting the role of the Panel. The Committee also considers that the above applicants greatly exceed the criteria in paragraph 1(3) of Schedule 3 to the Ordinance (detailed in paragraph 3.1 above), and it is believed that they will effectively supplement the skills of existing Panel Members to form a cohesive, resilient and professional panel.

5. Propositions

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

- (a) approve the appointment of Mrs Isobel Jane Rowlinson as a member of the Independent Monitoring Panel for a period of four years with immediate effect.
- (b) approve the appointment of Mr Denis Le Marchant White as a member of the Independent Monitoring Panel for a period of four years with immediate effect.
- (c) approve the appointment of Mrs Celia Lois Allen as a member of the Independent Monitoring Panel for a period of four years with immediate effect.

6. Committee Support for Propositions

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

Yours faithfully

M M Lowe
President

R H Graham
Vice-President

M P Leadbeater
V S Oliver
R G Prow

STATUTORY INSTRUMENT LAID BEFORE THE STATES

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

No. 2 of 2018

THE SOCIAL INSURANCE (CONTRIBUTIONS) (AMENDMENT) REGULATIONS, 2018

In pursuance of section 117 of the Social Insurance (Guernsey) Law, 1978, the Social Insurance (Contributions) (Amendment) Regulations, 2018 made by the Committee *for* Employment & Social Security on 9th January, 2018, are laid before the States.

EXPLANATORY NOTE

These Regulations clarify, for the avoidance of doubt (in accordance with established policy of the Committee), the calculation of reduced rate income-related Class 3 contributions for certain persons, such as employed persons over pensionable age, who are treated as non-employed for social security purposes: the contributions payable by such a person are assessed taking into account that person's total income excluding only income from employment in respect of which the person, or the employer on the person's behalf, has already paid primary contributions.

These Regulations came into force on the 10th day of January, 2018.

The full text of the statutory instrument can be found at:

<http://www.guernseylegalresources.gg/article/163343/2018>

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *for the* ENVIRONMENT & INFRASTRUCTURE

BUS FLEET REPLACEMENT PROGRAMME – PHASES 2 AND 3

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled “Bus Fleet Replacement Programme – Phases 2 and 3” dated 12th February, 2018 they are of the opinion:-

1. To note the revisions to Phases 2 and 3 of the Bus Fleet Replacement Programme as detailed in sections 5 and 8 of the Policy Letter;
2. To authorise the Committee *for the* Environment & Infrastructure to finalise contractual arrangements with Wrightbus for the supply of 22 Euro VI Diesel StreetVibe buses as Phase 2 of the Bus Fleet Replacement Programme, as detailed in section 9 of the Policy Letter, to be funded by a capital vote of a maximum of £2,905,000, charged to the Capital Reserve.

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 the* ENVIRONMENT & INFRASTRUCTURE

BUS FLEET REPLACEMENT PROGRAMME – PHASES 2 AND 3

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

12th February, 2018

Dear Sir

1 Executive Summary

- 1.1 The States of Guernsey owns a fleet of buses that are used to operate public and school bus services (“the bus service”). The Committee *for the* Environment & Infrastructure (“the Committee”) is responsible for implementing a phased replacement of the bus fleet as approved by the States in July, 2014.
- 1.2 The bus service is a key part of the Integrated Transport Strategy (“the Strategy”) and, in recognition of this, the Committee’s objective is to have the most modern, clean and efficient fleet of buses possible within the limitations of budget and practical considerations.
- 1.3 The original fleet of 33 narrow bodied Euro III Diesel Dennis Dart Myllennium buses (“Dart Myllennium”) have been serving the Island since 2003. As the service expanded and older vehicles owned by the previous operator (used to supplement the bus fleet) were retired, eight smaller second hand Euro III Diesel Dennis Dart Nimbus buses (“Dart Nimbus”) were purchased between 2008 and 2009.
- 1.4 As part of its Outline Business Case (“OBC”) approved by the States in October, 2015 the former Environment Department (“the Department”) recommended a three-phase five-year Bus Fleet Replacement Programme (“the Programme”) for a mixed fleet commencing with the purchase of 12 diesel buses and two diesel minibuses (in 2016), followed by 13 diesel buses (in 2018) and, finally, 14 electric/alternative fuel buses (in 2020).

- 1.5 In October, 2015 the States of Deliberation approved the issuing of tenders for Phase 1 of the Programme and appropriate documentation was subsequently issued in December, 2015.
- 1.6 Following thorough evaluation, a contract was signed with Wrightbus for the supply of 12 new Euro VI Diesel StreetVibes ("StreetVibes") in September, 2016. The vehicles were subsequently delivered in May and June 2017 at a total cost of £1.65m. A second-hand minibus had previously been purchased at a cost of £71,800 for the purpose of commencing a community orientated bus service.
- 1.7 Prior to delivery of the 12 new StreetVibes it was necessary to carry out extensive remedial works to approximately half of the current fleet to address corrosion issues. Further potentially more expensive repairs will need to be undertaken if the majority of the fleet is not replaced expeditiously.
- 1.8 Whilst the desire of the Committee and its predecessor to explore alternative technologies, such as electric buses, has been there since the outset of debate on this issue, the availability and suitability of these alternative options does not currently represent a viable option for Guernsey. The use of large electric buses is becoming widespread in Europe and manufacturers are beginning to apply this technology to smaller buses. As this technology develops, the cost of purchasing and operating electric buses is likely to become more affordable and the range extended to cater for a full- or near-full day of operations. However, at this stage, because alternative fuel buses of an appropriate size and range are not readily available it is accepted that a further order of diesel buses remains the most viable and economic solution for Guernsey at this time.
- 1.9 With this in mind and in light of the outcome of the detailed tendering exercise carried out in respect of Phase 1, the Committee sought approval to enter into negotiations with Wrightbus on the option of placing a further order of StreetVibes for Phase 2 without the need for another lengthy tender process. It was recognised that a negotiated solution should secure better overall value for money for the States of Guernsey.
- 1.10 Given the deteriorating condition of the existing ageing fleet and the fact that the Programme is running some 12 months behind schedule, the Committee considers it would be prudent to replace the remaining Dart Myllennium buses (built in 2002) now, as part of Phase 2, leaving just the eight Dart Nimbus buses (built in 2004/05) on the fleet pending Phase 3. This would mean purchasing 22 buses under Phase 2 as opposed to the 13 originally proposed in the OBC.
- 1.11 Following extensive negotiations with Wrightbus, conducted in accordance with existing tender exemption guidelines, staff have managed to successfully negotiate a significant discount on a further order of 22 StreetVibes at a cost of £2,893,000 (£131,500 each). This equates to a saving of £6,710 per bus based on 2018 prices, or the equivalent of £147,620 on an order for 22 buses.

- 1.12 Provided that confirmation of an order can be secured by 31st March, 2018, the new buses can be delivered in 2018, possibly as early as September, which means that further costly repairs to existing buses can be avoided.
- 1.13 Prior to determining the type, number and capacity of vehicles required to make up the remainder of the bus fleet in Phase 3, the Committee will continue to investigate developments in alternative fuel vehicles, monitor passenger journey growth across the network (which has already increased by some 32% since the bus procurement process was started in 2013) and assess future requirements for school bus services resulting from the recent States debate on secondary education. Whilst no specific date has been set at this time, it is expected that tender documents for Phase 3 would be issued sometime during 2019 or early 2020. It is proposed that a Full Business Case and recommended tender would then be submitted to the States for final approval.
- 1.14 The Committee wishes to stress the importance of progressing with Phase 2 of the Programme in a timely manner. To not do so runs the risk of service failure and the associated financial and reputational damage that it would cause. A timely replacement of the remaining Dart Millennium buses will also likely attract savings in our (revenue) operational contract for the bus service and avoid the need for further expensive repairs to the current fleet.
- 1.15 The Committee is committed to obtaining best value for money and considers that a negotiated solution with Wrightbus for Phase 2 does exactly that.
- 1.16 Accordingly, the purpose of this Policy Letter is to update the States of Deliberation on the proposed revisions to Phases 2 and 3 of the Programme as detailed in sections 5 and 8 and to seek the necessary approval for progressing Phase 2 as detailed in section 9.

2 Background

- 2.1 The need to consider planning for the replacement of the existing fleet of Dennis Dart buses was first identified in 2012 and a bid was submitted in early 2013 as part of the Capital Prioritisation process.
- 2.2 A Strategic Outline Case ("SOC") was produced to demonstrate the need to consider replacing the existing ageing bus fleet in order to ensure that the service was able to meet the aspirations of the forthcoming Strategy and provide a fleet of buses to accommodate an anticipated increase in peoples' travel habits towards public transport. The SOC explored the various different options for how to replace the existing bus fleet but no recommended option was identified at that time. Following a Project Assurance Review ("PAR") the States subsequently approved the Programme as a "pipeline" project for funding under the States' Capital Investment Portfolio ("SCIP") on 31st July, 2014 (Billet d'État XVI, 2014 – Article 8).

- 2.3 The Programme was then subject to a detailed Outline Business Case (“OBC”) and PAR 2 review. This OBC rigorously appraised each of the various options and further detailed work was undertaken to develop a project specification, complete with estimated costs for each of the three favoured options, namely “deferred replacement”, “immediate replacement” and “phased replacement”. The case concluded by recommending a three-phase Programme at an estimated cost of £6.75m and highlighted substantial estimated savings in maintenance and fuel costs associated with operating a new fleet of buses.
- 2.4 The identified benefits of this preferred way forward were:
- a) Improved quality and reliability of service;
 - b) Enhanced network of socially inclusive and accessible services;
 - c) Reduced operating costs – value for money;
 - d) Environmental benefits, including reduced exhaust emissions; and
 - e) Improved future proofing (consideration of emerging technologies).
- 2.5 The preferred option was detailed in a report to the States approved on 2nd October, 2015 (Billet d’État XVI – Article 21). Approval was then granted for Phase 1 to proceed, under the SCIP process, to tender and Full Business Case stage with final approval to be granted by the Policy & Resources Committee. Phases 2 and 3 were to be the subject of future Policy Letters.
- 2.6 The States had by that stage approved the Strategy and, following a detailed tendering process, the Department appointed CT Plus to operate an enhanced bus service on the basis of an initial 5.5 year contract, effective from 1st April, 2015. The Strategy gave the Department clear direction in terms of the future requirements for the Island’s bus service and the Programme was seen as a key facilitator of this vision.

3 Phase 1 Tendering Process & Outcomes

- 3.1 Following an extensive tendering process Wrightbus was selected as preferred bidder for the supply of 12 StreetVibes, which at 9.04m long and 2.278m wide (the narrowest in its class) has a maximum capacity of 42 passengers (31 seated + 11 standing). This process occurred during a change in political structure and the Committee therefore endorsed the previous decision of the Department to award preferred bidder status to Wrightbus.
- 3.2 As a result of post tender negotiations, the Committee agreed a final price of £134,839 per vehicle with Wrightbus - a total contract sum of £1,618,068. This included delivery to Guernsey, training, transit insurance and warranties. A further sum of money has been retained for the provision of on-board bus Wi-Fi which is being procured locally.

- 3.3 A Full Business Case (“FBC”) and tender bid for replacing 12 of the existing buses was subsequently approved by the Policy & Resources Committee on 2nd September, 2016. A contract with Wrightbus for 12 StreetVibes was signed on 16th September, 2016 and all 12 vehicles were subsequently delivered, inspected, liveried and fully operational by the end of June, 2017.
- 3.4 In addition, Phase 1 of the project also included provision for the purchase of two minibuses to extend routes into Parish community areas. A second hand Mercedes Sprinter was purchased in 2015 at a cost of £71,800. At this time, a second minibus has not been purchased and consideration is instead being given to the possibility of leasing an alternative fuel bus or minibus in order to gauge its potential suitability for operations in Guernsey ahead of any Phase 3 tender. Other costs contained within the overall budget of £1.9m for Phase 1 included provision of Bus Wi-Fi, stage review costs and contingencies.
- 3.5 The final cost of Phase 1, excluding the purchase of any minibuses, is expected to be £1.65m as compared to a budget of £1.72m for this element of the Programme, representing a saving of £73,043 on the authorised budget. Details of costs in this regard are outlined below.

Table 1 – Analysis of Phase 1 costs

Phase 1 – Analysis of contract costs for 12 diesel buses v OBC & FBC estimates			
Tender Requirement	OBC Estimate (2015) £	FBC Budget (2016) £	Actual Cost (2017/18) £
12 Diesel Buses	£1,573,000 ¹	£1,618,068	£1,618,068 ²
Wi-Fi Antennae (fitted at factory)	N/A	Incl. below	£1,644
Wi-Fi Routers, including fitment (pending)	N/A	£21,000 ³	£21,000E ⁴
PAR 1, 2 & 3 Reviews	N/A	£9,442	£3,525 ⁵
Soft Market Testing	N/A	£5,470	£5,470
Pre-delivery inspections	N/A	£2,500	£1,250
Diagnostics	N/A	£5,348	£0 ⁶
Contingencies	£150,000	£61,172	£3,000E ⁷
Less Late delivery penalties			-£4,000
Total cost	£1,723,000	£1,723,000	£1,649,957

Notes:-

¹Based on an initial estimated cost of £130,000 per bus prior to tender process;

²Specification includes Passenger Announcement System, USB ports, full underbody wax treatment & roof hatch;

³Wi-Fi element (excluding fitment of antennae) was removed from contract price with Wrightbus and is to be facilitated by a local provider;

⁴Based on estimated costs (excluding usage charges, support and maintenance costs);

⁵PAR3 conducted internally;

⁶Equipment provided by service agent;

⁷Includes registration fees & provision for alternative driver seats, subject to trial.

- 3.6 Phase 1 of the Programme had originally included a proposal to internally refurbish up to 27 of the existing buses, thus ensuring the ability for CT Plus to continue delivering an appropriate standard of service whilst the existing fleet was being replaced. The refurbishment costs had been included within the tender submission for the bus service contract. However, following delays experienced in progressing Phase 1 (which meant that existing buses could not be released for the purposes of refurbishment) and subsequent concerns over the operational life of these ageing vehicles, the decision was taken to abort this work. By negotiating with CT Plus, the Committee is pleased to report that it has been able to reduce the cost of the revenue operating contract for the bus service by a total of £203,000 spread across the initial 5.5 year contract period from April, 2015 to September, 2020.

4 Review of operational performance of new buses

- 4.1 Now that the new StreetVibes have been in service for more than six months it has been possible to assess their operational performance, including maintenance and fuel costs, breakdowns, accident data and manoeuvrability.
- 4.2 CT Plus has confirmed that the 12 new buses have performed exceptionally well during this period with no detrimental impact on performance. The StreetVibes had already covered in excess of 230,000 miles by the end of December, 2017 equating to an average of 19,500 miles per vehicle.
- 4.3 In terms of servicing, a new StreetVibe costs considerably less to maintain than the existing fleet at circa £7,500 per annum compared to the Dart Myllennium and Nimbus buses at circa £13,400 per annum. However, thanks to a comprehensive 2-year bumper-to-bumper warranty, the StreetVibe maintenance costs are more likely to be just £4,000 per annum for the first two years. For 12 new vehicles this amounts to a saving in the region of £112,800 per annum for years 1 and 2 and a saving of £70,800 per annum thereafter. The original bid estimated annual maintenance costs of circa £8,000 per annum for the new buses.
- 4.4 With regard to breakdowns, the 29 remaining Dart Myllennium and Nimbus buses are currently averaging in the order of 12 - 15 breakdowns per month (roughly 1 breakdown per 5,300 - 6,600 miles covered). The 12 StreetVibes are currently averaging just 1 breakdown per month (roughly 1 breakdown per 32,800 miles covered).

- 4.5 There are on average 8 - 10 accidents per month involving the Dart Myllennium and Nimbus buses so that's 1 in 4 being involved in an accident every month. So far there has only been one accident involving a StreetVibe in service during the first six months. The reason for this is most likely down to the different road position adopted by drivers in a wheel forward bus and the fact that they are likely to be more cautious in the new buses. Irrespective of the reasons, the StreetVibes are proving extremely adaptable to our challenging road conditions.
- 4.6 The StreetVibes are currently averaging 11.5 mpg, although several vehicles are already regularly achieving 12.5 mpg. It is expected that the majority of the StreetVibes will achieve this target once the engines are fully bedded in. When compared to the Dart Myllenniums and Nimbus buses, with a reducing average mpg of just 9.5 mpg (based on December, 2017 data), this represents a 20% improvement on fuel consumption. This percentage difference is higher than originally estimated in the FBC in September, 2016. During the first six months of operation, the cost of fuel for the 12 StreetVibes as compared with operating 12 older buses has reduced by approximately £20,400 (based on average 2017 fuel prices). On this basis, it can be assumed that over the course of a full 12 months the fuel saving on 12 new buses would exceed £40,000 per annum.
- 4.7 These maintenance and fuel (revenue) savings are considerable and it is clear that the sooner these older vehicles are replaced, the more significant the level of savings will be (albeit that there are associated costs with releasing capital funds more quickly). Whilst the existing bus service contract already takes account of anticipated revenue savings being achieved through the Programme, it is possible that further potential savings can be negotiated with CT Plus in the event that more of the existing buses are replaced sooner than originally planned.
- 4.8 In addition to financial savings, there are considerable benefits in terms of cleaner emissions from these new Euro VI Diesels. Compared with Euro III buses, the Euro VI Diesels will deliver a 92% reduction in Nitrogen Oxide (NOx) and a 90% reduction in Particulate Matter (PM), leading to a significant reduction in air pollution levels. This is discussed further in section 5.

- 4.9 As can often be the case with the delivery of a new fleet, there have been a couple of minor mechanical issues raised under warranty, including a gearbox fault and an oil leak which have since been rectified. Aside from these initial teething problems, and a few difficulties in setting up an aftercare service with Wrightbus (for spare parts and technical advice), there have been no other issues of note.
- 4.10 Engineering and design representatives of Wrightbus Limited were also in the Island in December, 2017 to talk to drivers, primarily to address concerns relating to the layout of the cab and positioning of the seat when driving the buses. Whilst the new buses have been designed to the relevant ISO standards for ergonomic design and cab layout, the driving position in the new vehicles differs to that of the existing Dennis Darts and was presenting issues for some of the drivers. Accordingly, between CT Plus and Wrightbus they are looking to see whether any adjustments can be made to the ergonomic layout of the cab / drivers' seat to suit local driving requirements.
- 4.11 CT Plus has confirmed manoeuvrability around the Island has not been an issue with the switch to a wheel-forward vehicle. The StreetVibes have been used across the network but more specifically on Routes 12, 21, 31, 32, 42, 61, 71, 91, 92, 93, 94 & 95. A really positive outcome of the change is the much lower amount of collisions that the StreetVibes have been involved in as compared to the Dart Millennium and Nimbus buses. The new buses have had no negative impact on running times and the overall feedback from drivers and the public is positive.
- 4.12 In summary, CT Plus supports the continued use of this vehicle type for Phase 2 of the Programme and agrees that any vehicles purchased in Phase 3 need to be able to accommodate existing and future anticipated demands of the travelling public.

5 Developments in electric vehicle, hybrid and other alternative fuel options

- 5.1 In the original SOC and OBC it was expected that Phases 1 and 2 of the Programme would likely procure diesel vehicles and the initial budget estimate reflected this fact. However, the decision was taken not to preclude alternative fuel vehicles from being tendered in Phase 1 as this would allow more accurate comparisons to be drawn on the purchase and lifecycle costs of both options.

- 5.2 Two submissions were subsequently received in respect of electric or hybrid electric solutions in Phase 1. At the time these options were priced at approximately £230,000 per vehicle, as compared to the diesel equivalent at between £130,000 and £140,000 per vehicle. There were also infrastructure requirements associated with the procurement of alternative fuel buses which added further cost to the initial purchase. The fully electric bus tendered by Optare quoted a range of between 68 and 93 miles and the electric bus from TAM-Durabus 75 miles plus additional mileage provided by a range extender purported to be capable of meeting the average daily driving requirement for buses in Guernsey of between 100 and 120 miles. It was noted at the time that there would be additional operational costs associated with the provision of a bus with a range extender and that quoted and actual range of electric vehicles can vary depending on the terrain and the equipment used on the buses, possibly by as much as 30%.
- 5.3 There were a number of assumptions made in 2016 as part of the work to compare the 15 year whole life costs between electric and diesel vehicles, including:
- a) Estimated fuel and maintenance savings were based on projected analysis supplied by one of the tenderers as opposed to any hard data;
 - b) An estimated battery life of 7 years was based on research by the College of Engineering and Computer Science at the University of Tennessee;
 - c) Replacement batteries were estimated to cost £36,000 per bus;
 - d) It was noted that electric infrastructure costs could range between £50,000 and £250,000 depending on the charging solution required.
- 5.4 Whilst this assessment helped to reduce the overall price differential between the initial capital costs of purchasing an electric fleet versus a diesel fleet, it failed at the time to demonstrate electric vehicles as being a more financially or operationally attractive proposition over a 10 - 15 year period.
- 5.5 Following discussions in November, 2017 with a UK manufacturer supplying a fully electric minibus, it was ascertained that the overall range of its vehicle could reduce from the stated 110 miles to as little as 70 miles per charge depending on the level of energy required to operate on-bus systems such as lighting and heating. Fast charging was understood to take approximately 9 hours whilst an 80% rapid charge could be achieved in as little as 3 hours, but the rapid charge would necessitate greater infrastructure requirements. The indicative cost of a fully electric minibus was estimated at circa £160,000 as compared to £80,000 for a comparable diesel vehicle. Replacement batteries were estimated to be required every 8 years at an approximate cost of £30,000.

- 5.6 As part of the tender negotiations for Phase 2, it was confirmed that Wrightbus had no immediate plans to introduce an electric or hybrid range to their narrow-bodied StreetVibe product but was planning to develop a fully electric minibus in partnership with Nutrack over the next twelve months. A guide price of between £167,000 and £190,000 for such a vehicle has been provided. Electric buses produced by Wrightbus are currently restricted to their StreetLite product, which is a wider bus at 2.44m, and to various double deck vehicles.
- 5.7 In conclusion, the Committee's options for a viable alternative fuel solution remain extremely limited at this time. However, the Committee is aware that there are various alternative fuel options being actively tested at this time. Examples include electric, hybrid, hydrogen fuel cell technology, compressed natural gas (CNG), liquefied petroleum gas (LPG), ethanol and methanol. Whilst there are likely to be a number of infrastructure costs and risks associated with these alternatives, and these may vary depending on how far each technology has been tested in an operational environment, the Committee believes that a viable and affordable alternative fuel solution might become available for Phase 3.
- 5.8 Given the latest advice obtained from speaking directly with two manufacturers and from general research, it is clear that Euro VI Diesel buses remain the most cost effective and viable solution for Phase 2 at this time.
- 5.9 The Committee does, however, want to take the opportunity to trial an alternative fuel bus in Guernsey in order to test its potential suitability for Phase 3, and is therefore looking at its options for leasing such a vehicle for a period of between 12 and 18 months. Depending on the fuel type selected, matters of particular interest will include fuel price, range, charging or fuel storage requirements, reliability and public reaction.
- 5.10 In terms of emissions, the latest Euro VI diesel buses emit just a fraction of the pollutants of the vehicles which they are replacing. Emissions of the most harmful pollutants, Nitrogen Oxide (NOx) and Particulate Matter (PM) have reduced by as much as 92% and 90% respectively. The table below provides a comparison between Euro III and Euro VI emission standards.

Table 2 – Comparison of maximum permitted vehicle emissions

Emission	Euro III (g/KWh)	Euro VI (g/KWh)	% change
Nitrogen Oxide (NOx)	5.0	0.4	-92%
Particulates (PM)	0.1	0.01	-90%
Hydrocarbons (HC)	0.66	0.13	-80%
Carbon Monoxide (CO)	2.1	1.5	-29%

Source: EU Emission Standards for Heavy Duty Diesel Engines – Steady State Testing

6 Deterioration in condition of existing fleet

- 6.1 This is an important consideration in determining how to procure Phases 2 and 3 as there is a very real risk that the operation of the existing bus service could be compromised if any of the ageing fleet are considered unserviceable or deemed un-roadworthy prior to being replaced. This is a much higher risk than had previously been anticipated when submitting the OBC and follows a number of buses failing their annual public service vehicle inspections in 2016.
- 6.2 It had previously been envisaged that with a cosmetic upgrade the existing fleet would remain serviceable until at least 2020. However, between July, 2016 and June, 2017 the Committee had to spend £65,000 on a series of underbody corrosion repairs to approximately half of the existing fleet of Dennis Dart buses. This work has primarily involved repairing and replacing rusted outriggers and addressing general areas of corrosion to the underbody of the buses. During this period the two worst vehicles were stripped of any valuable assets and scrapped due to being considered beyond economical repair.
- 6.3 Evidence of further rust is already appearing on the first ten vehicles that were repaired just 18 months ago and other corrosion issues not previously identified or deemed necessary for repair during previous inspections, such as in relation to rotten floor bearers, might also need to be addressed in the future if the vehicles are not replaced soon. There are also other areas that are not easily accessible without a major strip down of the vehicle, such as the upper sections of the cross-members and outriggers that are partially visible from underneath but inaccessible for inspection or repair unless the complete floor/interior of the bus and lower side panels are removed.
- 6.4 Irrespective of any additional inspections that may be required, it has been recommended that as an absolute minimum the remaining ageing vehicles will need to be washed and undersealed to try to slow this process down if they are going to be kept on fleet beyond the latter part of 2018. This alone would cost approximately £750 per vehicle and clearly would not address any major rectification issues that might be highlighted during regular maintenance or annual inspection. Clearly, the longer the ageing buses remain in operation, the greater the risks and potential for significant additional costs to be incurred.

7 Growth in passenger journeys

- 7.1 The exceptional growth in passenger journeys experienced during 2016 has continued throughout 2017 with a further increase of 8% achieved across the year. 432,500 more journeys were undertaken on scheduled bus services in 2017 as compared to 2013, representing a growth in passenger journeys of some 32% in just four years. Total journeys travelled on scheduled bus services in 2017 was almost 1.79m. When adding in integrated school bus passengers and other currently unpublished journeys (“transfer” passenger and staff use journeys), the total for 2017 exceeded **2.0 million** passenger journeys.
- 7.2 The increase in published bus passenger journeys is highlighted in the following table.

Table 3 – Annual / Monthly Bus Passenger Journeys 2013 – 2017

Month	2013	2014	2015	2016	2017	Change	%
Jan	86,955	83,440	89,692	88,290	100,019	11,729	13.3
Feb	85,835	78,870	81,962	94,760	102,032	7,272	7.7
Mar	89,883	97,381	97,303	109,504	125,639	16,135	14.7
Apr	112,822	104,925	114,465	128,097	139,292	11,195	8.7
May	136,824	136,879	148,609	153,692	164,847	11,155	7.3
Jun	120,960	150,660	157,860	165,453	184,971	19,518	11.8
Jul	151,394	172,226	170,188	185,114	192,477	7,363	4.0
Aug	159,493	176,443	163,826	193,896	203,997	10,101	5.2
Sep	130,074	155,028	154,946	171,282	178,204	6,922	4.0
Oct	105,352	115,663	122,697	134,097	145,859	11,762	8.8
Nov	90,068	95,870	98,907	109,642	126,713	17,071	15.6
Dec	85,333	99,718	106,346	119,901	123,519	3,626	3.0
Total	1,354,993	1,467,103	1,506,801	1,653,728	1,787,569	133,841	8.1

Source: Monthly Ticketer Sales Summary Reports for Scheduled Bus Services

- 7.3 Importantly for the Strategy, this growth in passenger journeys is most prevalent during the shoulder months with January, March and November, 2017 recording the highest percentages, which points to the majority of the increase relating to journeys undertaken by the resident population.
- 7.4 The table on the page below shows average bus loadings on each of the scheduled routes operated in August, 2017 (the busiest month of the year) from “terminus to terminus”. In other words, a percentage of passengers will have travelled in one direction and the remainder in the other.

Table 4 – Average bus loadings by route ‘terminus to terminus’ – August, 2017

Route	Average Loading	Route	Average Loading
91	44.0	94	17.5
92	43.5	61	15.5
41	31.4	21	13.3
93	28.9	32	13.0
42	25.6	31	12.7
11	23.8	22	11.2
71	22.4	51	10.5
81	21.6	52	10.3
95	19.3	P2	7.7
12	18.2		

Source: Monthly Ticketer Type Report for August, 2017

- 7.5 Whilst there were no integrated school buses operating in August, due to the summer holidays, loadings on these dedicated school bus routes in September, October and November, 2017 averaged 26, 27 and 26 students respectively. This is arguably higher than most of the scheduled bus routes given that all of the students are on the bus at either the beginning or the end of the service (depending on whether the service is going to or from the school).
- 7.6 The introduction of additional scheduled services in April, 2015 as part of the new bus service contract have absorbed some of the recent growth in daily passenger journeys but, ultimately, “peak” time services are likely to become increasingly busy.
- 7.7 “Off-peak” service demand is easily accommodated but it is during the AM and PM “peaks” that several routes, most notably Routes 41 and 81, are now regularly carrying between 25 and 40 passengers. When adding in integrated school bus services and extra demand caused during cruise ship visits, this means that any potential switch to a smaller vehicle as part of Phase 2 is simply not going to be able to meet future demand at “peak” times.
- 7.8 The table on the next page looks in more detail at capacity issues by individual route sector (i.e. Terminus to Grandes Rocques or vice-versa) in certain different scenarios across the year.

Table 5 – Analysis of demand across the year in different scenarios

Number of service sectors operating at more than half of capacity Terminus to outbound destination (or vice-versa)				
Scenario	Scheduled Services	School Services	Total Services	
Monday 19 th June, 2017 – Summer Day with Schools and Large Cruise Ship (Arcadia, capacity of 3,796 passengers)				Totals per day
AM Services:				
20-29 passengers	24	7	31	
30-39 passengers	10	2	12	
40 or more passengers	14	0	14	
PM Services:				
20-29 passengers	34	8	42	73
30-39 passengers	14	4	18	30
40 or more passengers	10	2	12	26
Total services with 20 or more passengers				129
Thursday 7 th September, 2017 – Autumn Day with Schools				Totals per day
AM Services:				
20-29 passengers	17	6	23	
30-39 passengers	6	3	9	
40 or more passengers	5	3	8	
PM Services:				
20-29 passengers	30	5	35	58
30-39 passengers	15	2	17	26
40 or more passengers	10	9	19	27
Total services with 20 or more passengers				111
Wednesday 24 th January, 2018 – Winter Day with Schools				Totals per day
AM Schools:				
20-29 passengers	13	6	19	
30-39 passengers	2	3	5	
40 or more passengers	0	1	1	
PM Services:				
20-29 passengers	12	11	23	42
30-39 passengers	2	7	9	14
40 or more passengers	0	1	1	2
Total services with 20 or more passengers				58

Source: Ticketer Daily Journey Summary Reports for dates specified

- 7.9 As can be seen in the table above there are a significant number of services operating with 20, 30 or even 40 passengers on board. These tend to be concentrated in the AM peak between 07.30 and 09.00 and in the PM peak between 15.00 and 16.30 when the number of students using both scheduled and integrated school bus services adds significant pressure to the network.

- 7.10 On busy cruise ship days there is an increased demand for services, generally between 10.30 and 14.30 and especially on Routes 71, 91 and 92. Given the level of growth experienced across the network in recent years, vehicle capacity is now a more important consideration when looking to purchase new vehicles than it was when this Programme was initially put together in 2013. This is explored further in section 8 below.

8 Review of fleet requirements

- 8.1 As previously highlighted, the current fleet of 42 vehicles is being pushed to the limit in operational terms, especially at “peak” times allowing for breakdowns and maintenance requirements.
- 8.2 From 5th February, 2018 CT Plus will be operating two additional AM and PM commuter services to increase capacity at “peak” times. In order to do this, and in the absence of spare vehicles in the AM “peak”, two dedicated school bus services have been removed from the bus service contract and outsourced to private hire operators. However, CT Plus still provides for 12 dedicated school bus services to be operated in the mornings and 25 in the afternoons. This conflicts with some of the highest demand for public bus services and it is inevitable that arrangements will need to be reviewed if passenger demand continues to rise at current levels. Future school bus transport requirements following the recent debate of future secondary and post-16 education requirements is also going to be an important consideration moving forward.
- 8.3 Given recent growth in passenger journeys, maintaining capacity, particularly but not exclusively at “peak” times, is therefore more important than ever. Accordingly, the previous option of obtaining a slightly smaller vehicle as part of Phase 2 is no longer considered to be a viable option. In terms of the StreetVibe, the current 9.0m variant has a maximum capacity of 42 (31 seated and 11 standing) whereas a shorter 8.3m version could only have accommodated a maximum of 37 passengers (27 seated and 10 standing). Through negotiations with Wrightbus, it has also transpired that whilst redesigning the StreetVibe onto a smaller footprint is possible it would not have had any material impact on purchase cost and would only have had a marginal beneficial impact on running costs. It would, however, have led to a delay in the proposed manufacturing process.
- 8.4 As previously noted, delays experienced in progressing Phase 1 of the Programme together with the aforementioned concerns regarding the condition of the remaining ageing buses has also highlighted the need to review the proposed timing and make up of Phases 2 and 3 of the Programme. Accordingly, it is now proposed that Phase 2 increases from 13 to 22 vehicles thus allowing the majority of the ageing fleet to be retired more quickly, leaving just the 8 (14 year old) Dart Nimbus buses on the fleet.

- 8.5 This would then leave Phase 3 to replace the remaining 8 Nimbus buses. At this stage the Committee is open minded as to the type, number and size of vehicle that would be procured under Phase 3. It is possible that over the course of the next 12 to 18 months an alternative fuel vehicle will become available that is suited to our requirements. It will also be important to ensure that whatever vehicle is procured is able to meet future anticipated passenger demands. In light of this, the following revised Programme is now being proposed:

Table 6 – Revised vehicle replacement proposal (42 vehicles)

Vehicle Type on Fleet	Phase 1 (complete)			Phase 2		Phase 3
	2015	2016	2017	2018	2019	2020
Age of Dennis Darts	11-13yrs	12-14yrs	13-15yrs	14yrs	15yrs	16yrs
Dennis Darts on fleet	41	41	29	8	8	0
Sprinter minibus	1					
StreetVibe Diesel buses			12	22		
Diesel or alternative fuel buses	0	0	0	0	0	8
Plus:						
Electric vehicle lease				1		

Table 7 – Original vehicle replacement proposal (41 vehicles)

Vehicle Type on Fleet	Phase 1			Phase 2		Phase 3
	2015	2016	2,017	2018	2019	2020
Age of Dennis Darts	11-13yrs	12-14yrs	13-15yrs	14-16yrs	15-17yrs	16-18yrs
Darts on fleet	41	29	29	16	16	
Sprinter minibus	1		1			
New diesel buses		12		13		
Electric buses						14

9 Negotiated solution for Phase 2

- 9.1 Given the detailed tendering exercise undertaken in respect of Phase 1 and the need to expedite the Programme, the Bus Fleet Replacement Project Board considered the option for negotiating a further order of StreetVibes with Wrightbus. The Procurement Directorate had advised that an exception to tender would be granted as the product being purchased was the same as something which had previously been tendered within the last two years.

- 9.2 Accordingly, the Committee authorised the Director of Traffic and Highway Services in conjunction with the Director of Procurement to enter into discussions with Wrightbus on the option for a negotiated solution for Phase 2.
- 9.3 Following various exchanges of correspondence between both parties, a formal meeting between representatives of Wrightbus and the Project Board and a subsequent conference call with representatives of Wrightbus, a revised and final bid was received on 10th January, 2018. The bid is for the supply of a further 22 (9.0m) Euro VI Diesel StreetVibes in the sum of £2,893,000 and is comprised of the following elements:
- a) A unit price of £131,500 per vehicle, representing a discount of £3,339 per vehicle compared to the 2016 order;
 - b) Waiving of a proposed 2.5% increase being levied across the product range, representing a further discount of approximately £3,371 per vehicle based on the 2018 model price;
 - c) Fitment of heat circulation pumps¹ in the remaining 6 vehicles on the original order at no cost if required, representing a saving of £1,950 per vehicle;
 - d) Fitment of heat circulation pumps¹ in each of the new vehicles if required at the reduced price of £500 per vehicle, representing a saving of £1,450 per vehicle.
- ¹ Heat circulation pumps are used to aid circulation of warm water (heated by the engine) throughout the bus meaning that it warms the bus more quickly in cold weather.
- 9.4 CT Plus has confirmed that it will provide an assessment of the need or otherwise for heat circulation pumps to be fitted to all of the StreetVibes at the end of February, 2018. If the option of fitting heat circulation pumps is taken on the 22 new buses then the price increases by a further £11,000 (£500 per vehicle) plus £1,000 in First Registration fees to £2,905,000. The above negotiated bid represents a potential saving of £73,458 on the purchase cost of 22 new vehicles as compared to the 2016 price and this increases to £147,620 if you include the discounts offered from the 2018 product price list.

- 9.5 Adding in other discounts for optional extras the potential saving on a purchase of 22 vehicles increases to £179,520 at 2018 prices plus the equivalent of a £11,700 saving on Phase 1. The full list of proposed discounts is detailed below.

Table 8 – Final (negotiated) Bid from Wrightbus for Phase 2

Description	Price Per vehicle £	Discount offered per vehicle £	Revised Price for 22 vehicles £	Saving on 22 vehicles £
StreetVibe (at 2018 Price)	138,210		3,040,620	-
Less:	-	-		
Holding off 2.5% increase	134,839	3,371	2,966,458	74,162
Further negotiated reduction	131,500	3,339	2,893,000	73,458
Final Price / Saving	131,500	6,710	2,893,000	147,620
Plus optional extras:				
Heat Circulation Pumps on new vehicles	1,950	1,450	11,000	31,900
Retrofit heat pump to 6 vehicles from Phase 1	0	1,950	0	11,700
Maximum Bid 'saving'				191,220

Source: Wrightbus offer letter of 10th January 2018

- 9.6 Delivery dates will be agreed at point of order but Wrightbus has indicated that 22 new StreetVibes could be delivered as early as the end of September, 2018.
- 9.7 This negotiated tender bid provides the following specific advantages:
- A substantial saving on purchase cost of £147,620, increasing to a potential maximum of £179,520 if heat circulation pumps are fitted;
 - Accelerated delivery programme ensuring continuity of service, reduced expense on additional corrosion repairs and potential further maintenance and fuel savings (subject to negotiation with CT Plus);
 - Common spare parts and servicing requirements with a single fleet for Phases 1 and 2;

- d) Driver and passenger familiarity;
- e) Fitting of heat circulation pumps to the remaining six vehicles from Phase 1 at no charge.

9.8 The previous option of a shorter 8.3m StreetVibe has now been discounted on the grounds that it would reduce maximum capacity from 42 passengers to approximately 37 passengers at a time of exceptional passenger growth on the network. It would also not result in any financial savings on purchase and could delay the proposed delivery date for Phase 2 by up to six months.

9.9 The Committee considers that a negotiated solution offers excellent value for money and also provides the opportunity to accelerate the replacement of the ageing buses, thereby potentially saving on operating costs and avoiding the need for further remedial works to keep them operating for longer.

10 Resources

10.1 The progression of Phase 1 from inception to finish and considerations so far in relation to Phases 2 and 3 have been led by the Director of Traffic and Highway Services as Project Manager and overseen, since early 2017, by the Bus Fleet Replacement Project Board which is chaired by the President of the Committee *for the Environment & Infrastructure*. The Chief Secretary to the Committee, the Director of Procurement, the Assistant States Treasurer and Senior Finance Manager complete the membership of the Project Board. Legal advice on contractual issues in relation to Phase 1 was provided by the Commercial Law team at the Law Officers of the Crown.

10.2 It is expected that Phase 2 will require very little additional resource as the purchase would essentially be made on the same basis as Phase 1, save for a few minor changes to the contract conditions that have been agreed between Wrightbus and the Committee. However, Phase 3 will require a full tendering process and all of the associated procurement and legal advice.

11 Capital & Revenue Costs

11.1 The Committee sees it as its duty to ensure value for money from all aspects of the bus procurement process and is pleased to report that Phase 1 has delivered 12 new buses and a second hand minibus within budget at a total cost of £1.72m.

11.2 Through the results of a negotiated solution, an enhanced Phase 2 can deliver a further 22 new buses at an overall cost not exceeding £2,905,000. This represents a potential saving of up to £179,520 as compared to 2018 prices.

- 11.3 In total, 34 new buses and one second hand minibus will have been purchased at a combined capital cost of £4.63m within Phases 1 and 2, leaving just the 8 remaining Dart Nimbus buses to be replaced under Phase 3.
- 11.4 In terms of revenue costs, an enhanced Phase 2 purchase should result in further negotiated savings under the bus service contract and also avoid the need to incur further costs on corrosion repairs to the existing fleet.
- 11.5 Furthermore, the removal of the planned refurbishment of the existing ageing fleet has already realised revenue savings of £203,000 across the 5.5 year bus service contract for the period from April 2015 to September 2020.

12 Legislation

- 12.1 There are no legislative requirements.

13 Conclusions

- 13.1 The importance of the bus service to the success of the Strategy should not be underestimated. The recent significant growth in passenger journeys is testament to this and the Committee recognises the importance of ensuring that there is a modern, clean and efficient fleet of buses available to take the bus service forward over the next 10 years.
- 13.2 The original Programme was designed to manage the age of the fleet with three distinct phases scheduled for 2016, 2018 and 2020. The procurement of 12 new buses as Phase 1 is now complete, albeit some twelve months later than initially planned. Accordingly, Phase 2 needs to proceed without further delay given that the majority of the remaining ageing buses are in need of urgent replacement.
- 13.3 Accordingly, the proposed revised Programme for Phases 2 and 3 is intended to accelerate this process and address the deficiencies in the current fleet. In turn, this will provide a more robust fleet of vehicles to deal with anticipated future passenger demands on the bus service.
- 13.4 The Committee considers that the negotiated solution with Wrightbus for the supply of 22 Euro VI Diesel StreetVibes provides exceptional value for money and has the added benefit of vehicles being delivered within a short timeframe, leading to further potential savings on maintaining the existing fleet. Common spare parts and servicing requirements coupled with driver and passenger familiarity also add support to this proposed course of action.
- 13.5 The StreetVibe has already proved its worth on the local network and is therefore considered ideal to take the bus service forward over the next 10 years.

- 13.6 The Committee remains committed to providing an even more efficient and cleaner fleet, notwithstanding the already significant reductions in emissions from Euro VI buses as compared to the current Euro III fleet. The Committee therefore aspires to operate fully electric, hybrid or other alternative fuel vehicles through Phase 3 and is hopeful that technological advances will enable such a purchase to be achieved within the timeframe that it has set out.
- 13.7 Given the deteriorating condition of much of the remainder of the existing fleet, the absence of a suitable alternative fuel vehicle at this time, in light of experiences gained from Phase 1 of the Programme, the desire to achieve best value for the States of Guernsey and the fact that bus passenger journeys are continuing to grow at an exceptional rate, the Committee therefore considers that the Programme should be amended as follows:
- a) Phase 2 – purchase of 22 Euro VI Diesel StreetVibe buses from Wrightbus at a total cost not to exceed £2,905,000 with delivery expected by September 2018 (subject to confirmation at contract signing);
 - b) Phase 2 – leasing an electric or other alternative fuel bus or minibus on a trial basis to assist with determining whether such vehicles types might be suitable for future operations in Guernsey;
 - c) Phase 3 – purchase of diesel or alternative fuel buses through a full tender bid process, potentially later in 2019 or early 2020, subject to a further review of technological developments and passenger demands at the time.
- 13.8 Importantly, this revised Programme will avoid a lengthy re-tendering process for Phase 2, thereby saving money not only on the purchase cost but also on the tendering process itself and by avoiding further expenditure to keep existing ageing buses on the roads. In turn, this will put the Programme back on schedule and enable the timely replacement of the oldest Dart Millennium buses leaving just the eight Dart Nimbus buses to be replaced under Phase 3.
- 13.9 Failure to act now could place an unacceptable level of risk on the future operational stability of this essential public bus service.

14 Compliance with Rule 4 of the Rules of Procedure

- 14.1 The Policy & Resources Committee has confirmed that this proposal has been reviewed in accordance with the approved assurance pathway and that the recommended investment is affordable within the Capital Portfolio and represents value for money.

- 14.2 The Policy & Resources Committee is pleased to note that the close involvement of the procurement team in the negotiations has resulted in a significant reduction in the cost of Phase 2 of the Programme. This underlines the benefit of taking a professional and commercial approach to negotiations.
- 14.3 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 14.4 In accordance with Rule 4(2), the President has written to the President of the Policy & Resources Committee requesting that this matter is debated at the March States meeting.
- 14.5 In accordance with Rule 4(3), the Committee has included Propositions which request the States to approve funding of £2,905,000 for Phase 2 of the Programme. Further details about the financial implications of the Propositions are detailed in section 9.
- 14.6 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.
- 14.7 In accordance with Rule 4(5), the Propositions relate to the delivery of sustainable and integrated transport policy which is fundamental to social equity and has an important role in fostering integration by providing for freedom of movement and access to transport for all whilst safeguarding vulnerable road users. This was approved as part of the Committee's policy plan approved by the States in June, 2017 (Billet d'État XII – Appendix 6).
- 14.8 Specifically, the proposals acknowledge the importance of the bus service as both an economic enabler and provider of social transport and the subsequent need to have a modern, efficient and clean fleet to meet the needs of current and future bus users in Guernsey.

Yours faithfully

B L Brehaut
President

M H Dorey
Vice-President

H L de Sausmarez
S Hansmann Rouxel
S L Langlois



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BUS FLEET REPLACEMENT PROGRAMME – PHASES 2 AND 3

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

12th February 2018

Dear Sir,

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for the* Environment & Infrastructure requests that the Propositions and associated policy letter on the bus fleet replacement programme be considered at the States' meeting to be held on 21st March 2018.

The implications of this matter not being debated in March 2018 are twofold.

Firstly, from a financial perspective, there would be an increase in the cost of placing any order for new buses as the current Wrightbus bid is only valid until 31st March 2018. The increase would amount to £77,162.

More importantly, from an operational perspective, any delay in confirming an order is likely to lead to a much later delivery timeframe for new buses, thereby requiring the existing ageing fleet to remain in service for much longer. This could place an unacceptable level of risk on bus service as there is no guarantee the existing ageing buses will continue to pass their routine maintenance checks or annual public service vehicle inspections. This, in turn, could lead to further expense being incurred in maintaining the current fleet to an appropriate standard.

Yours faithfully,

B L Brehaut
President

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

PRIORITISATION OF LEGISLATIVE DRAFTING

The States are asked to decide: -

Whether, after consideration of the Policy Letter titled 'Prioritisation of Legislative Drafting', they are of the opinion: -

- 1) To note the prioritisation of legislative drafting as laid out in the schedule in Appendix Two.

The above 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.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

PRIORITISATION OF LEGISLATIVE DRAFTING

The Presiding Officer
States of Guernsey
Royal Court
St Peter Port

13th February, 2018

Dear Sir

1. Executive Summary

- 1.1 This Policy Letter lays out the current legislative drafting priorities for the States of Guernsey as determined by the Policy & Resources Committee (P&RC) having regard to committee representations and the policy priorities set out in the Policy & Resource Plan.
- 1.2 To assist P&RC with its mandated function of prioritisation of the States' legislative programme it considers and, if appropriate, approves recommendations made by the Prioritisation of Legislation Working Group (PoLWG). This Group examines all committee requests for prioritisation of legislative drafting. This includes requests from the Principal Committees, the States' Trading & Supervisory Board, the States' Assembly & Constitution Committee and the Scrutiny Management Committee. Membership and the original terms of reference of PoLWG are attached at Appendix One.
- 1.3 The current prioritisation process endeavours to take into account the 23 policy priority areas identified by the Assembly in November 2017 as well as representations made by sponsoring committees. It is intended to ensure that the 23 policy areas are given priority and to make best use in relation to that of

the legislative drafting resources available from the Chambers of the Law Officers of the Crown.

- 1.4 P&RC is required to submit to the States annually an order of priority for the drafting of significant items of legislation for the year ahead. The current schedule of prioritised legislation as at 15 January 2018 is at Appendix Two.

2. Background

- 2.1 Following proposals from the States' Review Committee and the resulting changes to Committee structures and mandates, the new Rules of Procedure introduced the Policy & Resource Plan. An integral element of this Plan is a schedule of legislative priorities designed to support the focus on shared policy priority areas.
- 2.2 Once established, the supporting policy planning process sees from June 2018 and every 12 months thereafter the P&RC required to resubmit the Policy & Resource Plan to the States together with:
 - commentary on overall progress from the Policy & Resources Committee;
 - annual [public policy] performance reports from the Principal Committees;
 - commentary from the Scrutiny Management Committee;
 - the schedule of legislative priorities; and
 - any proposals to amend the Policy & Resource Plan which are considered necessary.
- 2.3 The P&RC fully recognises the importance of meeting its responsibility to put before the States this first report on the prioritisation of legislation. The intention has always been to do this as swiftly as possible after the States' Assembly agreed its policy priorities through the Policy & Resource Plan as set out in the Rules of Procedure. The delay in taking the prioritisation of legislation report to the States is owing to the additional phase ('2b') of policy prioritisation, directed by the States' Assembly in June 2017, the culmination of which was in the 2018 Budget Paper that the States' Assembly considered in November 2017. Following that debate, the prioritisation of legislation Policy Letter has now been finalised.
- 2.3 In future years, commencing in June 2019, the schedule of legislative priorities will simply be appended to the Plan as had been originally set out in the Rules of Procedures.

3. Legislative Priorities

- 3.1 The advisory PoLWG meets on a quarterly basis to consider the prioritisation of the legislative drafting schedule, which contains all of the details pertaining to each outstanding States' Resolution that has not yet been drafted. Any requests for prioritisation are accompanied by supporting information explaining why a particular item of legislation should be drafted before others. For an item of legislation to be given 'High' priority status, it would have to be either strongly aligned with the Policy & Resource Plan, and/or there were significant risks associated with failing to draft the legislation promptly.
- 3.2 All requests for prioritisation that have been received have been considered and prioritised. However this does not preclude reactive reprioritisation to future events in order to include and prioritise new legislative drafting requirements. In addition, there are circumstances where legislation is drafted without going through the formal prioritisation process: urgent sanctions Ordinances, for example, and certain statutory instruments.
- 3.3 The Schedule will be reviewed in light of States' Resolutions and Committee applications for prioritisation following the secondary and post-16 education debate and will be resubmitted with the P&R Plan Update in accordance with the protocol set out herein.

4. Conclusion

- 4.1 The States of Guernsey has a large number of legislative items which need drafting, so it is vital that these are carefully prioritised against the Assembly's key policy areas as set out in the Policy & Resources Plan in order to make best use of the time and expertise of our legislative draftsmen and women within St James' Chambers.
- 4.2 Progress monitoring of the drafting of the legislation forms part of the work of the PoLWG as it advises on updates the schedule during its quarterly meetings.

5. Compliance with Rule 4

- 5.1 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.

- 5.2 In accordance with Rule 4(1), the Propositions 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.
- 5.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Proposition above has the unanimous support of the Committee.
- 5.4 In accordance with Rule 4(5), the Proposition relates to the duty of the Committee (a)(12), which provides: prioritising the States' legislative programme and submitting to the States annually an order of priority for the drafting of significant items of legislation for the year ahead.
- 5.5 Also in accordance with Rule 4(5), the Committee consulted all committees of the States.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

J P Le Tocq
T J Stephens
A H Brouard

Appendix One – Prioritisation of Legislative Working Group (June 2010)

The following protocol was developed by the Policy Council in June 2010 pre-dating the States' Review Committee changes to the Rules of Procedure. In practice, the group now determines its recommendations to P&RC in accordance with this protocol but with consideration to the policy priorities within the P&R Plan.

- Membership of the Prioritisation of Legislation Working Group will be:
 - President, P&R Committee
 - Chief Executive
 - Chief Strategy & Policy Officer
 - Director of Strategy & Policy
 - HM Procureur
 - HM Comptroller
 - Director of Legislative Drafting
 - Paralegal, St James Chambers
- The Prioritisation of Legislation Working Group will meet quarterly and its role will be to consider the full list of legislation that requires drafting, as submitted by all Committees.
- The Working Group will determine the top drafting priorities for the States of Guernsey for the next three months.
- The Working Group's responsibility is to collate and moderate the committee submissions so that drafting priorities can be set for the next quarter.
- The Director of Legislative Drafting will be able to advise the Working Group on the resources available within the Drafting Team at St James' Chambers, to ensure that the top prioritised items of legislative drafting are possible within the skill set of the Drafting Team i.e. it may not be possible to efficiently draft solely financial legislation in one quarter, due to the varying drafting speciality skills within the Drafting Team. The number of items prioritised for drafting each quarter will be dependent on the size of the items of legislation and again guidance on this will be provided by the Director of Legislative Drafting.
- This Working Group will report to P&RC quarterly with its prioritised items of legislation requiring drafting. Detail will be provided to P&RC on the justification for prioritising these items above others, which will be based on the analysis of the submissions by committees.

In addition

- The Prioritisation of Legislation Working Group will meet quarterly to receive and update on the drafting progress of the priorities of the previous quarter, provided by the Director of Legislative Drafting.

- At this quarterly meeting, the Working Group will also review the outstanding list and set the drafting priorities for the subsequent quarter.
- If new legislation for drafting arises, it will first have to be prioritised at committee level against that committee's other drafting requirements and then fed back to the Working Group for consideration at the next meeting, against the complete list.
- The drafting priorities will be published in the annual P&R Plan, which enables all States Members to have the opportunity to scrutinise the effectiveness of the prioritisation process.

Appendix Two – Prioritisation of Legislative Drafting - Schedule

STATES OF GUERNSEY RESOLUTIONS REQUIRING PREPARATION OF LEGISLATION

The resolutions which were recommended for prioritisation at meetings of the Prioritisation of Legislation Working Group (PoLWG) are listed in alphabetical order by Committee and marked 'High Priority' or 'Medium Priority' in the status column. The Schedule reflects the status of items as of the 15 January, 2018.

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
1.	Employment & Social Security	XVII/2001 (art.VI)	25.07.01	Legal Aid Civil & Criminal Schemes Ordinance: Detailed provisions to be enacted under the Legal Aid (Bailiwick of Guernsey) Law, 2003	High priority.	Committee <i>for</i> Employment & Social Security	16 – Disability & Inclusion
2.	Employment & Social Security	VII/2016 (art. IX)	08.03.16	Social welfare reforms: Subject to funding being available: close rent rebate scheme; rates and capital limits for supplementary benefit; extra needs and winter fuel allowances.	High priority.	Committee <i>for</i> Employment & Social Security	17 – Social Welfare
3.	Employment & Social Security	XIV/2015 (art. XX)	31.07.15	Eligibility for Industrial Injuries Benefits Amendment of the Social Insurance (Guernsey) Law, 1978 to prescribe additional categories of persons to be treated as employed persons for the purposes of industrial injuries benefits.	High priority.	Legislation Review Panel	23 – Int'l Standards Policy
4.	Environment & Infrastructure	XVIII/2013 (art. IX)	25.09.13	Transfrontier Shipment of Waste Ordinance, 2002 Transfer functions; permit export of waste to Jersey; implement 2006 EU regulation	High priority.	Committee <i>for</i> the Environment & Infrastructure	
5.	Health & Social Care	VII/2016 (art. III)	08.03.16	Capacity Law Projet to deal with incapacity in adults based on the Mental Capacity Act 2005; tests as to capacity; appointment of guardians; taking legally binding decisions as to medical treatment; deprivation of liberty standards.	High priority.	Committee <i>for</i> Health & Social Care	10 – Health & Wellbeing 16 – Disability & Inclusion
6.	Health & Social Care	VII/2016 (art. V)	08.03.16	Adoption Repeal of the Adoption (Guernsey) Law, 1960 and all relevant legislation relating to adoption to be replaced by new legislation based on the provisions of the Adoption and Children Act 2002.	High priority.	Law Officers	16 – Disability & Inclusion
7.	Home Affairs	XXI/2009 (art.IV)	29.09.09 (adj. from July meeting 31.07.09)	Domestic Proceedings and Magistrates Court (Guernsey) Law, 1988 Amend Law to allow Court to hand down suspended sentences of imprisonment for breaches of Domestic Violence Injunctions and to permit an individual contesting a breach of a Domestic Violence Injunctions to be remanded in custody.	High priority.	Committee <i>for</i> Home Affairs	7 – Justice Policy

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
8.	Home Affairs	XXIV/2009 (art.XII)	01.10.09	People working with children and vulnerable adults: Vetting and barring scheme	High priority.	Committee <i>for</i> Home Affairs	7 – Justice Policy 15 - CYPP
9.	Home Affairs	XIII/2011 (art.IX)	28.07.11	Sexual offences: New legislation based on the Sexual Offences Act 2003; protection of complainants/witnesses; registration of sex offenders; preventative civil orders	High priority.	Committee <i>for</i> Home Affairs	7 – Justice Policy 15 - CYPP
10.	Home Affairs	XI/2015 (art.VIII)	24.06.15	Probation: Repeal the Loi relative à la Probation de Délinquants, 1929 and replace it with a new Probation Law	High priority.	Committee <i>for</i> Home Affairs	7 – Justice Policy
11.	Policy & Resources	XXI/2017 (art. III)	08.11.17	Protecting the interests of the Bailiwick as the UK leave the EU Bailiwick-wide Withdrawal Law to: repeal the European Communities (Bailiwick of Guernsey) Law, 1973; preserve effect of directly effective or otherwise binding EU law in domestic law; provide powers to amend, repeal, adapt or modify retained EU law, Ordinances giving effect to EU measures; make consequential amendments to the Implementation Law; make provision in relation to extant applicable ECJ jurisprudence (item 1 of the HMP letter which forms part of the Policy Letter)	High priority.	Law Officers	3 – Brexit Policy 23 – Int’l Standards Policy
12.	Policy & Resources	XXI/2017 (art. III)	08.11.17	Protecting the interests of the Bailiwick as the UK leave the EU Enabling law to empower the States by Ordinance to make strategic, substantive and policy amendments to retained EU law and Ordinances made under the Implementation Law (item 2 of the HMP letter which forms part of the Policy Letter)	High priority.	Law Officers	3 – Brexit Policy 23 – Int’l Standards Policy
13.	Policy & Resources	XXI/2017 (art. III)	08.11.17	Protecting the interests of the Bailiwick as the UK leave the EU Enabling law regarding implementation of international agreements relating to trade (item 3 of the HMP letter which forms part of the Policy Letter)	High priority.	Law Officers	3 – Brexit Policy 23 – Int’l Standards Policy
14.	Policy & Resources	XXI/2017 (art. III)	08.11.17	Protecting the interests of the Bailiwick as the UK leave the EU Immigration legislation (para. 6.3 of the Policy Letter)	High priority.	Law Officers	3 – Brexit Policy 19 – Strategic Population Policy 23 – Int’l Standards Policy
15.	Policy & Resources	XVIII/2015 (art. V)	30.10.15	GFSC law revision project Enact new GFSC enforcement Law containing all sanctions and powers currently set out in regulatory laws; revise individual GFSC sector laws.	High priority.	GFSC & Law Officers	7 – Justice Policy 23 – Int’l Standards Policy

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
16.	Policy & Resources	XVIII/2015 (art. VII)	30.10.15	Guernsey gross domestic product Enact Guernsey & Alderney law equivalent to the UK Statistics of Trade Act 1947 with power to require provision of data/estimates/returns from businesses to calculate GDP	High priority.	Law Officers	1 – Economic Development
17.	Policy & Resources	III/2016 (art. XVII)	16.02.16	Central register of contact details Establish a register of core data and contact details for individuals and organisations	High priority.	Law Officers	1 – Economic Development 3 – Brexit Policy 8 – Security & Cyber Security Policy 23 – Int’l Standards Policy
18.	Policy & Resources	XIX/2011 (art.XI)	30.11.11	States Official Gazette Simplification of legislative requirements for Gazette Officielle publications	High priority.	Policy & Resources Committee	N/A (governance)
19.	Policy & Resources	XIX/2002 (art. X)	01.08.02	Referendums: Legislation to introduce	High priority.	Policy & Resources Committee	
20.	States Assembly & Constitution Committee	XIV/2017 (art. IX)	22.06.17	Referendum on Guernsey’s Voting System	High priority.	Drafting complete, States of Deliberation for approval	N/A (governance)
21.	States Trading & Supervisory Board	II/2014	12.02.14	Solid waste strategy: Licensing private waste facilities; functions of Waste Disposal Authority; amend parochial waste disposal legislation; new charging system for households; Waste Disposal Authority fee-charging powers; duties on householders re parochial collections; civil fixed penalties; consequential changes to Environment Pollution & Parochial collection legislation	High priority.	States Trading & Supervisory Board	21 – Long-term Infrastructure Investment
22.	Environment & Infrastructure	XI/2017 (art.VIII)	08.06.17	Certificates of lawful use Amend the Land Planning and Development (Guernsey) Law, 2005 to make provision for certificates of lawful use.	Medium priority.	Law Officers	1 – Economic Development
23.	Home Affairs	IV/2005 (art.VII)	27.04.05	Parole legislation: Ordinance under the Parole (Guernsey) Law, 2009.	Medium priority.	Committee <i>for</i> Home Affairs	7 – Justice Policy
24.	Home Affairs	XII/2008 (art.IX)	24.09.08	Fire services Amendments to the Fire Services (Guernsey) Law, 1989; fire safety education, attendance at road traffic collisions, attendance at non-fire emergencies, mutual assistance at incidents outside Guernsey, investigation of fires.	Medium priority.	Committee <i>for</i> Home Affairs	N/A (operational)

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
25.	Home Affairs	XV/2013 (art.XII)	24.09.13	International Criminal Court: Legislation to implement Rome Statute establishing the International Criminal Court	Medium priority.	Law Officers	7 – Justice Policy
26.	Home Affairs	XXIII/2016 (art. III)	21.09.16	Extradition Law Bailiwick wide Projet to put in place an extradition regime framework broadly based on the Category II procedures in the Extradition Act 2003	Medium priority.	Law Officers	7 – Justice Policy 23 – Int’l Standards Policy
27.	Policy & Resources	XV/2002 (prop. 13)	10.07.02	Tribunals Service: Legislation to establish		Policy & Resources Committee	
28.	Policy & Resources	XIX/2007 (art.VII)	25.07.07	Registration of overseas lawyers		Law Officers	
29.	Policy & Resources	II/2009 (art.XI)	30.01.09	Matrimonial causes: Amend the Matrimonial Causes (Guernsey) Law, 1939; extend powers to divide assets and transfer property		Royal Court	
30.	Policy & Resources	XXIV/2009 (art.VII.14)	02.10.09	Income tax: Consolidation of the Income Tax (Guernsey) Law, 1975		Policy & Resources Committee	
31.	Policy & Resources	XIX/2011 (art.XII)	30.11.11	Court of Appeal: Amendments to the Court of Appeal (Guernsey) Law, 1961		Royal Court	
32.	Policy & Resources	XVIII/2013 (Vol. 1 art.III)	25.09.13	Armed Forces Act 2006: Legislation re application of local criminal law and jurisdiction of local courts		Drafting complete, States of Deliberation for approval	
33.	Policy & Resources	XVI/2015 (art. XII)	29.09.15	Public Functions Law Amendments to the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991 to include those to permit functions to be transferred to a public or statutory office or body by Ordinance; encompass other descriptions of public or statutory office or body in relation to the performance of functions by officers.		Law Officers	
34.	Policy & Resources	XX/2015 (art. VIII)	27.11.15	Financial Services Commission: Amendments to Financial Services Commission (Bailiwick of Guernsey) Law, 1987 to introduce primary objectives for the GFSC and secondary matters to which they must have regard; removing the statutory cap on the number of Commissioners, term of office and compulsory retirement age; enabling power re the introduction of a regulatory decisions appeal mechanism; and complaints procedure		GFSC & Law Officers	
35.	Policy & Resources	VI/2016 (art. XIII)	02.03.16	Administrative Decisions Review Law, 1986 Amend Law to transfer functions of Chief Executive and H.M. Greffier to an independent Complaints Panel and other miscellaneous changes		Drafting complete, States of Deliberation for approval	

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
36.	Policy & Resources	XI/2017 (art. IV)	07.06.17	Implementation of International Sanctions Measures Bailiwick-wide law for the implementation of sanctions measures and Bailiwick-wide regulation making powers for the Policy & Resources Committee		Law Officers	
37.	Policy & Resources	XX/2017 (Prop. 12)	07.11.17	Amendment of section 65 of the Income Tax Law regarding liability on distributions from a company or other entity held under the control of trustees		Income Tax Office	
38.	Economic Development	IV/2002 (art.V)	27.03.02	Garden centres: Amend IDC use class; and establish registration system		Committee <i>for</i> Economic Development	
39.	Economic Development	XXIII/2002 (art.XIX)	27.11.02	Innovation warranties Drafting complete, awaiting full extension of Paris and Berne Conventions		Committee <i>for</i> Economic Development	
40.	Economic Development	XXIII/2002 (art.XIX)	27.11.02	Trade marks - geographical indications: Ordinance for Bailiwick		Committee <i>for</i> Economic Development	
41.	Economic Development	XXI/2006 (art.IX)	13.12.06	Finance sector legislation: Enable amendment of banking, insurance, fiduciary and protection of investor Laws by Ordinance		Committee <i>for</i> Economic Development	
42.	Economic Development	VI/2010 (art.XI)	25.03.10	Limited partnerships: Re-enactment of the Limited Partnerships (Guernsey) Law, 1995 with miscellaneous amendments – e.g., transfer functions to company registrar, migrations, conversions, protected cells		Committee <i>for</i> Economic Development	
43.	Economic Development	IV/2012 (art.XI)	22.02.12	EU batteries directive: Implement EC Directive 2006/66 by Ordinance under the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994		Law Officers	
44.	Economic Development	IX/2015 (art.VI)	27.05.15	Utilities - laying services in private land: Amend Public Thoroughfares (Guernsey) Law 1958 in favour of Guernsey Electricity; and consider additional powers for water/sewerage undertakers [and report back if necessary]		Committee <i>for</i> Economic Development	
45.	Economic Development	XIV/2015 (art. XV)	31.07.15	Roll On/Roll Off Ferry Services Licensing regime for Roll On/Roll Off services at St Peter Port Harbour		Committee <i>for</i> Economic Development	
46.	Economic Development	III/2016 (art. XVII)	16.02.16	Regulation of utilities: Remove postal services and electricity regulation by the Guernsey Competition and Regulatory Authority; amend Post Office and Electricity Laws to enable the CED to regulate those utilities		Committee <i>for</i> Economic Development	
47.	Economic Development	VII/2017 (art. XIV)	31.03.17	Insolvency Review Amendments to the Companies (Guernsey) Law, 2008 to reform corporate insolvency provisions.		Law Officers	

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
48.	Employment & Social Security	XXI/2003 (art. XIV)	24.09.03	Proposals for Comprehensive Equal Status and Fair Treatment Legislation 1. That legislation shall be enacted along the lines set out in that Report to make discrimination unlawful and to promote equality of opportunity and diversity. 2. To direct the preparation of such legislation as may be necessary to give effect to their above decision. 3. To agree that once the new enabling Law is in place: (a) proposals for an Ordinance dealing with gender discrimination should be brought forward at an early stage for consideration by the States; and (b) HM Government should be requested to include Guernsey in the United Kingdom's ratification of the International Convention on the Elimination of all forms of Discrimination against Women (see paragraphs 16 – 19 of that Report) at the earliest practical opportunity.		Committee <i>for</i> Employment & Social Security	
49.	Employment & Social Security	XX/2007 (art.VII)	27.09.07	Legal aid tender; and amendment of PPACE: Detailed proposals		Committee <i>for</i> Home Affairs	
50.	Employment & Social Security	XX/2010 (art.V)	30.09.10	Health Service Benefit Law: Minor amendments. Travelling Allowance Grants		Committee <i>for</i> Employment & Social Security	
51.	Employment & Social Security	XV/2017 (art. III)	06.09.17	Employment and Discrimination Tribunal Removal of the retirement age of Panel members.		Drafting complete, States of Deliberation for approval	
52.	Environment & Infrastructure	X/1996 (art.VII)	30.05.96	Traffic Signs and Traffic Light Signals Ordinance, 1988 amendment		Committee <i>for</i> Environment & Infrastructure	
53.	Environment & Infrastructure	XXII/1998 (art.XV)	29.10.98	Parking strategy:		Committee <i>for</i> Environment & Infrastructure	
54.	Environment & Infrastructure	XX/2000 (art.XVI)	11.10.00	Public transport legislation: Amend and consolidate the Public Transport Ordinance 1986		Committee <i>for</i> Environment & Infrastructure	
55.	Environment & Infrastructure	III/2003 (art. VI)	28.02.03	Animal Welfare Legislation Ordinance required for welfare of animals during international transport, regulation of professions and responsibilities and liabilities of animal owners.		Committee <i>for</i> Environment & Infrastructure	
56.	Environment & Infrastructure	XXV/2003 (art.XI)	27.11.03	Genetically modified crops: Legislation to regulate		Committee <i>for</i> Environment & Infrastructure	

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
57.	Environment & Infrastructure	VII/2006 (res. 28 on art. VIII)	31.03.06	Transport strategy: Consolidation of Driving Licences (Guernsey) Ordinance, 1995		Committee <i>for</i> Environment & Infrastructure	
58.	Environment & Infrastructure	VII/2006 (res. 15 on art.VIII)	31.03.06	Transport strategy: To ban the use of "bull bars"		Committee <i>for</i> Environment & Infrastructure	
59.	Environment & Infrastructure	VIII/2006 (art. IX)	27.04.06	Plant Health (Guernsey) Ordinance Ordinance to update Guernsey's plant health legislation and implement EU Regulations		Committee <i>for</i> Environment & Infrastructure	
60.	Environment & Infrastructure	VII/2009 (art.X)	26.02.09	Island transport strategy: To be funded by charges for residents' parking & vehicle registrations; & increase in fuel duty. See further Policy Letter of July 2015.		Committee <i>for</i> Environment & Infrastructure	
61.	Environment & Infrastructure	XXI/2012 (art.VI)	01.11.12	Environmental pollution: Amendment of the Environmental Pollution (Guernsey) Law, 2004;; water standards; exemptions from the Food and Environmental Protection Act for certain deposits in sea		Law Officers once the Transfrontier Shipment of Waste Ordinances have been finalised.	
62.	Environment & Infrastructure	IX/2014 (Vol. 1 art.VI)	14.05.14	Integrated Island transport strategy: Extensive legislative proposals (e.g., on licensing, a carbon tax and wide vehicle duty)		Committee <i>for</i> Environment & Infrastructure	
63.	Environment & Infrastructure	XXVI/2014 (art.XI)	10.12.14	Register of driving instructors: Legislation to provide for a register of driving instructors and subsequent amendments to the Driving Licences (Guernsey) Ordinance, 1995		Law Officers	
64.	Environment & Infrastructure	XIV/2015 (art. XIX)	31.07.15	Residential On-Street Parking Ordinance under the Road Traffic (Parking Fees and Charges) (Enabling Provisions) (Guernsey) Law, 2009 to provide for parking permits.		Committee <i>for</i> Environment & Infrastructure	
65.	Environment & Infrastructure	I/2017 (art. III)	11.01.17	Extension of Wreck Removal Convention to the Bailiwick Ordinance(s) under the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 to give effect to the Nairobi Convention on the Removal of Wrecks, 2007 and any corresponding repeals or amendments		Committee <i>for</i> Environment & Infrastructure	
66.	Environment & Infrastructure	III/2017 (art. III)	01.02.17	Environmental Pollution (Guernsey) Law, 2004: Air Pollution Commence Part VII of the Law and preparation of subordinate legislation under this Part		Law Officers	
67.	Health & Social Care	XX/2007 (art.XI)	27.09.07	Nursing and residential homes: Extend regulation to all care homes and care agencies		SLAWS Advisory Group	
68.	Health & Social Care	XXII/2007 (art.VII)	01.11.07	Health and Social Services Charitable Trust: To be constituted by Projet		Committee <i>for</i> Health & Social Care	

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
69.	Health & Social Care	XXIII/2012 (art. VIII)	29.11.12	Tobacco Products (Guernsey) Ordinance Ordinance to provide for confiscation of tobacco products from under-18s in public places		Committee <i>for</i> Health & Social Care	
70.	Home Affairs	VIII/2000 (art.II)	15.03.00	Fair trading - sale & supply of goods & services: Law based on 1979, 1982 and 1994 UK Acts [Superseded by Consumer protection resolution of 16.02.2016]		Committee <i>for</i> Home Affairs	
71.	Home Affairs	VIII/2000 (art.II)	15.03.00	Fair trading - unfair contract terms: Law based on 1977 UK Act [Superseded by Consumer protection resolution of 16.02.2016]		Committee <i>for</i> Home Affairs	
72.	Home Affairs	VIII/2000 (art.II)	15.03.00	Fair trading - misrepresentation: Law based on 1967 UK Act [Superseded by Consumer protection resolution of 16.02.2016]		Committee <i>for</i> Home Affairs	
73.	Home Affairs	VIII/2000 (art.II)	15.03.00	Fair trading - torts (interference with goods): Law based on 1977 UK Act		Committee <i>for</i> Home Affairs	
74.	Home Affairs	VIII/2000 (art.II)	15.03.00	Fair trading - supply of goods (implied terms): Law based on 1973 UK Act [Superseded by Consumer protection resolution of 16.02.2016]		Committee <i>for</i> Home Affairs	
75.	Home Affairs	VIII/2000 (art.II)	15.03.00	Fair trading - disposal of uncollected goods: Law based on UK Act		Committee <i>for</i> Home Affairs	
76.	Home Affairs	XVIII/2006 (art.XIII)	29.11.06	Terrorism: New offences based on Terrorism Act 2006		Law Officers	
77.	Home Affairs	XXII/2007 (art.X)	01.11.07	Gambling legislation: Comprehensive review involving repeal of existing legislation and new Projet. [Superseded by resolution of 31.07.15 which directed that the existing legislation be amended, rather than repealing and replacing the existing legislative framework]		Committee <i>for</i> Home Affairs	
78.	Home Affairs	XXIV/2007 (art.XI)	30.11.07	States property rationalisation: Inscription of 1 dwelling at Belvedere House on Register		Committee <i>for</i> Home Affairs	
79.	Home Affairs	XI/2008 (art.XVIII)	01.08.08	Sales of knives to under-18's: Amend the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 and the Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006		Committee <i>for</i> Home Affairs	
80.	Home Affairs	XV/2013 (art.X)	24.09.13	Terrorist financing, money laundering and weapons proliferation: Legislation equivalent to the provisions of schedule 7 of the UK Counter Terrorism Act 2008		Law Officers	
81.	Home Affairs	VII/2015 (art.IX)	29.04.15	Housing register - Forest Park Hotel: Ordinance to authorise inscription on Part B of Register		Committee <i>for</i> Home Affairs	

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
82.	Home Affairs	XIV/2015 (art. XVII)	31.07.15	Gambling legislation Implementation of the resolutions of 01.11.07 by amendment to existing legislation rather than repealing and replacing the existing legislative framework; introduction of gaming machines; removal of certain restrictions, including those in relation to Crown and Anchor, Sunday opening for bookmakers, betting offices being located on the ground floor of shops, and restrictions on size of television screens.		Committee <i>for</i> Home Affairs	7 – Justice Policy
83.	Home Affairs	XIV/2015 (art. XXIII)	31.07.15	Housing register – Fort Richmond: Ordinance to authorise inscription on Part A of Register		Committee <i>for</i> Home Affairs	
84.	Home Affairs	III/2016 (art. XIX)	16.02.16	Consumer Protection: Introduction of statutory consumer protection powers Preparation of Ordinance under the Trading Standards (Enabling Provisions) (Guernsey) law, 2009		Law Officers	
85.	Home Affairs	III/2017 (art. IV)	01.02.17	Housing register – former Guernsey Brewery site Inscribe eight apartments on the former Guernsey Brewery site in Part A of Register, subject to eight Part A dwellings located elsewhere in the Island first being deleted from Part A		Committee <i>for</i> Home Affairs	
86.	Home Affairs	VIII/2017 (art. VI)	26.04.17	Data Protection: EU General Data Protection Regulation New Bailiwick wide legislation aligned to the EU General Data Protection Regulation and the Directive relating to the Processing of Personal Data for the purposes of the Prevention of Crime. Law has been drafted and is awaiting Royal Sanction. Ordinances are being finalised.		Law Officers (drafting of Law complete)	
87.	Home Affairs	XIX/2017 (art. I)	18.10.17	Liquor Licensing: Permitted Hours Amend licensing hours in respect of Christmas Day and Good Friday		Drafting complete, States of Deliberation for approval	
88.	Home Affairs	XXI/2017 (art. X)	30.11.17	Amendments to Population Management Law To amend provisions relating to Part B and Part C Open Market Employment Permits and Short Term Employment Permits		Committee <i>for</i> Home Affairs	
89.	Scrutiny Management Committee	IV/2016 (art. II)	16.02.16	Scrutiny Management Committee Powers: Scrutiny Management Committee to have powers to call for persons, papers and records; extend legal privilege to witnesses providing evidence to the Scrutiny Management Committee		Scrutiny Management Committee	
90.	States Assembly & Constitution Committee	XVI/1989 (art.XII.2)	28.09.89	Reform (Guernsey) Law, 1948 and the Loi relative au Scrutin Secret Law 1899: Consolidate into a single Law		States Assembly & Constitution Committee	
91.	States Assembly & Constitution Committee	IX/2016 (art. III)	08.03.16	Reform Law – declaration of unspent convictions: Amend the Reform (Guernsey) Law, 1948 Law to require candidates for People's Deputy to declare unspent convictions under Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002		Law Officers	

	Committee/ Body	Billet & art. no.	Resol. date	Subject matter & comments	Status	Responsibility for next step to progress drafting	Link/s to P&R Plan Priorities
92.	States Trading & Supervisory Board	XVI/2006 (art.XV)	27.09.06	Sewerage - grants and loans: Miscellaneous amendments to the Sewerage (Guernsey) Law, 1974 Law		States Trading & Supervisory Board	
93.	States Trading & Supervisory Board	XXVI/2007 (art.XIV)	13.12.07	Pilotage dues and exam fees: Minor amendments		States Trading & Supervisory Board	
94.	States Trading & Supervisory Board	III/2012 (art.X)	08.02.12	Guernsey Water and Wastewater: Prepare water utility sector law to replace the Loi ayant rapport à la Fourniture d'Eau par les Etats de cette Ile aux Habitants de la dite Ile [1927] and the Sewerage (Guernsey) Law, 1974 Law.		States Trading & Supervisory Board	
95.	States Trading & Supervisory Board	XX/2014 (Vol. 2 art.XIII)	24.09.14	Channel Islands lottery: New Ordinance under Gambling (Guernsey) Law, 1971 to permit other forms of lottery; amend the Gambling (Channel Islands Lottery) (Guernsey) Ordinance, 1975; allocation of proceeds		States Trading & Supervisory Board	



Scrutiny Management
Committee

Scrutiny Management Committee

Annual Report

2016 - 2017

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1. President's Foreword

I would firstly like to thank the Elected Members, those Members independent of the States and our staff who have contributed to the Scrutiny process significantly during this political term so far for their commitment, support and for recognising the importance of working as a team.

When I reflect on the work of our Committee since May 2016, I believe that the Scrutiny Management Committee (SMC) has made real progress with its new approach to public scrutiny and has developed a certain momentum that we want to build upon.

At the beginning of this political term, the SMC decided on a two-pronged approach to the scrutiny of significant matters of policy and finances across the public sector. First, we wished to continue with a programme of major, evidence-led reviews of substantial policy issues and financial matters. These major reviews tend to be conducted over a number of months and are longer-term, in depth studies of policy, finances and other matters. For example, we have done a major review on the States of Guernsey's Bond Issue and we have made progress on the "in work" poverty review.

Secondly, we felt it important to conduct a series of regular public hearings with the major Committees of the States and where appropriate their senior officers. This is to help the SMC track the progress States Committees are making within their mandated areas and to analyse their management of resources; it also enables us to hold them to account publicly and helps identify significant areas that might justify a major review. We have now completed a full cycle of all of the major Committees of the States and have obtained much information from this process.

Overall, this two pronged approach provides an appropriate balance of short and longer-term public scrutiny on matters of true importance, value and interest. There will be other ways by which we conduct scrutiny, but these two approaches are the principal ways in which the SMC discharges its duties under the new mandate. Moreover, we do adopt a strategic approach to the topics that we scrutinise and that means that we always prioritise carefully what should - and should not - be the subject of SMC scrutiny, safe in the knowledge that we cannot hope to do it all.

In terms of the routine public hearings with Committees, whilst the questioning should be evidence-led whenever possible, the purpose of the hearings is to obtain a snapshot of progress being made, as well as an indication of where there might be concerns about a Committee's performance in the implementation of a States policy or in a financial area. The broad test of success is whether we can say after a routine public hearing that we and the general public know something significant that we did not know previously.

With the benefit of hindsight, it is clear that the general public and the media have high expectations regarding the level of activity that can or should be undertaken by the SMC

within our current system of operation and with its level of resources. Partly, this may be based on the misconception that all "Scrutiny" within government activity is driven by the SMC. That misconception must be challenged constantly.

The scrutiny of policy, financial matters and legal issues is not solely the preserve of the SMC. It is important to understand that, within our system of government, every elected Deputy is or should be a public scrutineer, both within the States of Deliberation and on their own Committees. The function of the SMC is best served if all Committees and individual States Members remember that good scrutiny at all levels is fundamental to good government. The SMC is perhaps best described as a specialist scrutiny function mandated primarily to concentrate its inquisitorial gaze on significant policy and financial matters, distinct from the everyday scrutiny that is the role and duty of every elected member of the States of Guernsey. I will never tire of making this point because it is key to understanding fully our role and function.

In this political term, we have observed that Committees of the States are now increasingly applying what might be called the "Scrutiny test" when they are making their decisions. Specifically, this process can be described as considering how the Committee would be judged in the 'court of public opinion' if they are subsequently examined on a matter in a SMC public hearing. This can only be beneficial to good governance and good government in Guernsey politics.

Moving forward, the SMC will keep a watching brief on political developments and always reserves the right to hold 'urgent business reviews' on matters of substantial political or financial interest. Indeed, a snap hearing was held in December of 2017 on the corporate governance issues surrounding a so called 'guerrilla' marketing campaign considered by the Committee *for* Education, Sport and Culture. This power to hold snap hearings is a power that should be used judiciously, as public confidence in the scrutiny process will not be improved by tackling issues that are of limited, passing, or peripheral interest.

To conclude I wish to make two further observations. Firstly, it is important to understand that the SMC is not a substitute for the Ombudsman service that the Island perhaps needs and secondly, it is important to remember that the SMC does not investigate individual complaints unless they raise a wider concern about policy or financial matters.

Finally, I look forward to continued progress throughout the remainder of this political term when the SMC will continue to examine and challenge the expenditure, legislation and policies within government. The Committee's objectives for 2018 will include continuing our focus on policies relating to access to information and working to improve financial transparency. We will also undertake an ongoing review of the major transformation programmes being undertaken by Principal Committee's and review elements of the existing benefits package in place for key staff groups.

2. Executive Summary

This Annual Report outlines the work of the SMC undertaken since their election in May 2016 up to the end of December 2017. It also provides the SMC with an opportunity to comment on the effectiveness of the scrutiny framework during the same period, following the implementation of States Review Committee's (SRC) reforms.

The SMC is intended to provide for structured and co-ordinated scrutiny of policy and services, financial affairs and expenditure and legislation. The SRC proposals intended to make better use of States' members in scrutiny roles and encourage more external challenge of the States by creating a single SMC supported by 'task and finish' panels bringing together States' members and people independent of the States.

The SMC believes that our activities since its formation have had a direct influence on shaping existing and future government policy. The updated process outlined in the SRC reports that has been put in place from May 2016 has thus far been largely accepted by Committees, and has been able to demonstrate effective, credible scrutiny.

The SMC has introduced a number of changes in the approach that had previously been taken on the scrutiny of policy and finance by the former Scrutiny and Public Accounts Committees. This SMC has introduced increasingly regular public hearings, which we believe has increased public political awareness in key policy areas. In the course of this political term we have held 11 public hearings, speaking to the Policy & Resources Committee, all Principal Committees, and the States Trading and Supervisory Board.

The SMC has undertaken several hearings on specific topics, for example; the Waste Strategy and the Bond Issue, in addition to tracking the progress Principal Committees are making within their mandated policy areas and in their management of resources.

In December 2017, the SMC held its first urgent public hearing to focus on governance issues within the Committee *for* Education, Sport & Culture. This review was executed within seven days of the issue being considered and sets the standard for future urgent action by this Committee.

In terms of the financial scrutiny role, the SMC has undertaken a major review of the implementation of the Guernsey Bond, highlighted recommendations to improve the clarity of the States' Accounts, continued to review the post-implementation reports of capital projects; examined the reports of the Internal Audit Unit (IAU); and reviewed the progress made to ensure that such recommendations are properly considered and implemented. However, although progress has been made, the States of Guernsey must provide greater financial transparency and the SMC continues to monitor developments closely. This is especially true regarding the clarity of the States Accounts where the SMC has been unable to undertake its mandated scrutiny of the audit process sufficiently.

In addition, the SMC has overseen the work of the Legislation Review Panel (LRP) which has sought, within the limited resources available, to consider the ongoing legislative programme and, when appropriate, to examine relevant legislative issues via the creation of temporary sub-groups.

This Annual Report also allows an opportunity for the SMC to present to the States of Deliberation, the reports it has produced to date during this political term, in order that they may be formally noted (see appendices).

3. The role of the Scrutiny Management Committee

The role of the SMC is to ensure all Committees are meeting the policy and financial objectives that have been outlined by the States of Guernsey and that they are delivering their services effectively and efficiently. This role is undertaken in conjunction with the collective parliamentary scrutiny process that is fulfilled by individual members of the States Assembly.

The SMC mandate includes identifying areas of policy or service delivery that might be inadequately or inappropriately addressed; identifying new areas of policy or service delivery that may require implementation; determining how well a new policy or service or project has been implemented; and promoting changes in policies and services where evidence persuades the SMC that they require amendment. After consideration of the first States Review Committee (SRC) policy letter, the States agreed significant reforms to the arrangements at committee level for scrutinising the policies, services and expenditure of the committees of the States, which the second SRC policy letter summarised in the following terms:

“The States resolved that with effect from May, 2016 there will be a single Scrutiny Management Committee responsible to the States for the scrutiny of policy, finances and legislation. The single, smaller Scrutiny Management Committee will include States’ Members and members independent of the States.”

The States agreed that the task of scrutinising policies and services, financial affairs and expenditure and legislation will in the main be carried out through scrutiny panels with: “...the objective[s] of reform include: strengthening scrutiny in the States and ensuring it is focused, proportionate and flexible, [making] the best use of the time of States’ members and [permitting] the States to benefit from the involvement in the scrutiny process of a greater number of persons independent of the States.”

The mandate highlights the role of formal scrutiny in holding policymaking committees to account for their performance against States’ objectives and policy plans. It recognises the decided advantages in scrutiny having a strong public profile.

The States resolved that the constitution of the new, combined SMC succeeding the Legislation Select Committee, the Public Accounts Committee and the Scrutiny Committee,

should be three States' Members and two members independent of the States, all elected by the States.

In May 2016 the States elected Deputy Christopher Green as President, with Deputy Peter Roffey and Deputy Laurie Queripel being elected as the other political members. Subsequently, Mrs Gill Morris and Mr Richard Digard were elected as Non-States Members of the Committee, although Mr Digard subsequently resigned and was replaced in early 2017 by Advocate Peter Harwood.

The general approach to deciding on whether to assess an issue for instigating a major review or an urgent business review is essentially: does it concern a major issue of political and public interest; does it involve significant public finances; and should the matter be a genuine priority for the SMC that would constitute a wise use of its limited public resources?

Scrutiny in Guernsey works best with the full 'cultural buy in' of States' Members and the public sector. This requires recognition that the work of scrutinising policy, services, financial matters and draft legislation, is a vital function in our system of government. That recognition of the need for rational and thoughtful challenge within our system of government has not always been a given in the recent past, but the positive response to our first round of public hearings with States Committees has, we believe, been a milestone in consolidating the SMC's role in Guernsey's new governance arrangements.

Generally speaking, the nature of the SMC's work has to be largely retrospective if it is to deal in facts and make conclusions about evidence. Whilst our Members understand the call for 'real-time' scrutiny where possible, it is not appropriate in our system of government for the SMC to be questioning each decision of every States' Committee. That real time scrutiny is or at least ought to be the role of the individual members of policy making Committees who, under our system, are not bound by collective responsibility and do benefit from appropriate and robust internal challenge. That said, the appropriate use of 'snap' hearings can help to provide more timely scrutiny when possible and feasible.

The SMC's mandate also makes it clear that it is not intended to act as an Opposition would under an executive system of government, as that is not our system. Nor should we react to every single development or issue within the Government, or in Island life.

The SMC currently enjoys a positive working relationship with all States Committees and believes those Committees should have the confidence to refer matters of concern to the SMC, to work together to identify issues and find solutions that will help move our community forward.

In the near future, the SMC wishes to pursue the case for creating the expectation and requirement that States Committees should provide a written response to the recommendations contained in SMC reviews within a two month period. It is hoped that this will create a valuable dynamic following the publication of SMC reports.

The challenges that the SMC faces should not be underestimated. They include the possibility of further budget reductions, plus potential further delays in the Committee being granted the powers, customary in most parliaments, to require the attendance of witnesses at hearings and the supply of documents. The expectations that are placed by some on the SMC within the new system of government must be recognised as unrealistic unless they are accompanied by further powers and budgetary adjustments. The SMC is unlikely ever to be empowered to have some sort of executive right to strike down policy decisions of the States within a consensus system of government. Such expectations are wide of the mark and ignore the fact that the SMC is, in reality, gradually transforming the scrutiny function within the States and improving its public standing notwithstanding the limited budget and powers. The SMC believes the implementation of the SRC's recommendations to strengthen the resources and powers available to the new SMC will allow the SMC to start to address the imbalance between expectations of the public, media and some States Members and reality.

Finally, it is important to note that the application by the SMC of its 'soft power' can and does lead to significant action within the Government. On many occasions this has involved letters, questions and face-to-face meetings being employed which have ultimately allowed issues to be progressed swiftly. Much of this activity is behind the scenes but is nevertheless significant. Sometimes, headway can be most effectively made by direct communication with Committee Presidents, as the SMC can progress issues constructively in this way, whilst always reserving the ability to hold to account those who are unwilling to tackle outstanding problems.

How the SMC works

'Good scrutiny makes for good government', wrote the late Robin Cook MP, when he was Leader of the House of Commons in the UK parliament. To scrutinise and to challenge the work of government is generally understood to be one of the three key roles of a Parliament, the others being passing legislation and authorising government expenditure.

Much of this scrutiny occurs in our system from individual members of the States, both in the States' Assembly and in committee; but the SMC concentrates on specialist scrutiny of major areas of States' activity. To that end, the full SMC meets on a regular basis to set the agenda for its programme of policy, financial and legislative scrutiny. The SMC coordinates the work of its Panels, focussing on financial scrutiny, legislative review and topic-based reviews of specific areas of government policy such as the review of In-work Poverty and the States' Bond Issue.

These review panels may contain both elected members of the SMC and other States Members and/or people independent of the States who have relevant expertise to bring to that particular review. The SMC has already been able to call upon the services of a number of current States members - who are not formally part of the SMC itself - to assist on specific

reviews and also to serve on the Legislation Review Panel. The SMC has also benefitted enormously from the input of a number of individuals from outside the States who have been prepared to get involved on scrutiny panels for specific projects. For example, members of the public have served on Panels relating to both of the major reviews the SMC has conducted hitherto, the Bond Issue and In-work Poverty.

Members of the SMC select subjects for investigation and inquiries may range from simple one-off evidence sessions to multiple evidence session inquiries running over several months. Oral and written evidence is gathered and a report is then produced, which usually contains recommendations for the Government - or sometimes for other organisations - to consider. Sometimes issues can be resolved behind the scenes but generally the SMC's approach is to insist on scrutiny taking place in public.

In our context, in Guernsey's committee system of government, all Elected Members of the States are responsible for scrutiny. That means scrutiny of decisions made by Members on the floor of the States of Deliberation; it also includes scrutiny by Members sitting on their committees; but of course the SMC also has its specialist scrutiny role, which is vital in our system. In the words of Sir Keir Starmer, KCB, QC: "the biggest mistakes are made when decisions are not scrutinised." All States Members should remember that at all times.

Public Hearings

In a mature democracy such as Guernsey's system of government, the SMC should be allowed to pursue its scrutinising role of challenging government policy and financial matters in a constructive way, without fear or favour; remembering that all States Members including SMC Members want government in Guernsey to be as good as it can be and reminding States Members that critical analysis is to be welcomed.

Since being elected in 2016, the current SMC has been committed to scrutiny being undertaken not only 'behind the scenes' but also being seen to conduct much scrutiny in the public domain. This has been accomplished by holding regular public hearings. This regular pattern of hearings has been modelled on the Select Committee system at the Westminster parliament, although the SMC does not currently have the powers, resources or facilities that our Westminster colleagues enjoy.

To date, the SMC has already conducted a full round of public hearings with (primarily) Presidents and Chief Secretaries of all of the major Committees and undertaken several on specific topics, for example; the Waste Strategy and the Bond Issue.

These hearings have a number of advantages over States' debates and parliamentary questions in States' meetings:

- questioning is of a type which allows a specific line of inquiry to be pursued for longer and in greater detail;

- both politicians and senior officials can be questioned;
- there can be an inquisitorial approach to Committee Presidents with a level of challenge that is neither discourteous nor timid;
- additional information can be extracted about States' affairs than was known before the hearing began.

The SMC public hearings are purposely not intended to be full reviews, or indeed public inquiries, but they do offer a real opportunity for the public to see their political leaders being held to account. This allows for much greater transparency in terms of the activities and progress being made by Committees in Guernsey.

The SMC considers that these routine hearings are, and must continue to be, a vital part of the transparency and communication agenda for the States. The SMC has been pleased overall with the level of cooperation received from States' Committees so far. A new norm has now been established whereby the Policy & Resources Committee, the Principal Committees of the States and the States' Trading Supervisory Board submit themselves to appear before the SMC to be questioned in a public arena.

The public hearings that have been held to date do demonstrate that there can be a constructive tension between Scrutiny panels and the other Committees of the States that is really of mutual benefit and is, moreover, beneficial to government generally and to the community we all serve.

Financial Scrutiny

In terms of the financial scrutiny role, a considerable part of the SMC's work involves reviewing post-implementation reports of capital projects; reviewing reports of the IAU; reviewing progress made following previous Public Accounts Committee (PAC), Scrutiny Committee and SMC investigations and recommendations; ensuring that such recommendations are properly considered and implemented; and monitoring the external audit process.

A portion of this work is undertaken by the SMC's Financial Scrutiny Panel (FSP) which then reports back to the full SMC with their findings and recommendations. As part of its ongoing monitoring function, the SMC has continued to receive updates and reports from the IAU and follows up any areas of concern. In addition, the IAU has been vital to the implementation throughout the States of Guernsey, of the former PAC's recommendations in regard to risk management and the prevention of fraud. The SMC believes its important relationship with the IAU has been influential in making positive changes throughout the States.

The States resolved in the last political term that the SMC has the right to actively scrutinise the annual external audit process as an independent authority. This function is intended to ensure a robust challenge to both the auditors and the Policy & Resources Committee

during the annual process. The SMC believes this challenge undertaken by the PAC in the previous political term helped to streamline the audit process both internally and externally and provided better value for money for the States of Guernsey. However, since the election in May 2016, it has proved difficult to continue with that particular approach and the SMC is disappointed that an agreed position with the Policy & Resources Committee regarding SMC's engagement with the external audit process is not yet in place.

Alongside the work undertaken by the States Capital Investment Portfolio team the SMC's function in relation to capital projects is to review post-implementation reviews to ensure efficiency and value for money has been achieved throughout the evolution of a particular project.

In the States of Guernsey, all capital projects over £1 million which commenced since 2009 and which were completed within the States' approved Capital Programme (including all routine capital maintenance and refurbishments) must be subjected to an independent post-implementation review. The fundamental part of any project review is to ensure lessons learnt on one project are applied effectively to other projects, not just within the same Committee, but to other projects across the States.

The SMC believes post-implementation reviews provide invaluable insight into the successful operation of future projects. Therefore, it is important to ensure the effective dissemination of lessons learnt. The SMC and its predecessors have, on numerous occasions, expressed their concern that reports are not routinely circulated throughout the States. It seems fundamental to the SMC that any section of the States looking to undertake a substantial capital project should be able to look back at the findings from previous relevant projects. This would ensure that any lessons to be learnt are able to be applied prior to a new project commencing. The SMC also believes that when it is sensible to do so, in the interests of openness and transparency, post-implementation reviews should be placed in the public domain.

The SMC has, in the same spirit as its predecessor the PAC, placed considerable focus this term on improving financial transparency in the States of Guernsey. As detailed in the SMC's June 2017 report, 'Presentation of States' Accounts', current reporting of financial matters could be significantly improved. The States' Accounts do not conform to generally accepted accounting standards and are difficult to understand, even for those with a financial and accounting background. Though progress has been made, the States of Guernsey must provide greater financial transparency and the SMC continues to monitor developments closely.

Legislative Scrutiny

Following the deliberations of the SRC, the SMC was required to appoint a Legislation Review Panel (LRP) to carry out the functions of legislative scrutiny which are set out in

Article 66 of the Reform (Guernsey) Law, 1948, as amended. It was proposed that, in addition to its conventional scrutiny function, the Panel should inherit from the Legislation Select Committee the right to recommend any changes to legislation from which it believes the Island may benefit and it was hoped the Panel could in time significantly develop this 'law commission' role.

The LRP has sought, within the limited resources available, to consider relevant legislative issues via the creation of temporary sub-groups, when appropriate. The first of these groups was established to consider whether the legislation surrounding election expenses would benefit from 'modernisation'. For obvious and pragmatic reasons, this review has been temporarily suspended pending the referendum on the electoral system that might lead to a whole new electoral system. It is the current intention to further develop the capability to review legislation - beyond the simple ambit of newly drafted legislation - if resources allow in the future.

The SMC does have concerns regarding whether the current procedures for considering legislation are sufficiently rigorous to ensure that legislation achieves the policy objectives for which it is intended. The short period between lodging and consideration of all stages of the legislation in the current model presents a challenge to effective scrutiny.

Proposed legislation presented to the LRP has to be considered extremely promptly (usually within a 4 week period). The absence of a 'Committee' stage or the opportunity for detailed review from a second chamber, along with the absence of any input from civil society, also places a significant burden on members of the LRP.

4. Reviews (Details in Appendix 1)

Review/Report	Status	Year
Review of the Presentation of States Accounts - Report	Completed	April 2017
Review of the States of Guernsey Bond Issue	Completed	January 2018
Review of the States of Guernsey Bond Issue – Conclusion Report	Completed	December 2017
In Work Poverty Review – Call for Evidence	Completed	May 2017
In Work Poverty - Consultation Document	Completed	Nov 2017
In Work Poverty - Final Report	Ongoing	2018
LRP Sub-Panel – Election Expenses Review	Suspended	2017

5. Public Engagement

Since its inception, the SMC has upheld its pledge to hold a series of regular public hearings with all major Committee Presidents in order to explore the progress being made or otherwise on the implementation of government policy and on the management of public resources. This has helped to inform the SMC and the public on the state of progress being made by the island's government on key issues and has also helped to shed light on the areas that may require more formal investigation.

Public Hearings held during 2016 and 2017;

September 2016	Solid Waste Strategy - Committee <i>for</i> Environment and Infrastructure and States' Trading Supervisory Board
October 2016	Committee <i>for</i> Education, Sport and Culture
November 2016	The Policy & Resources Committee
January 2017	Committee <i>for</i> Employment and Social Security
March 2017	Committee <i>for</i> Economic Development
April 2017	Committee <i>for</i> Health and Social Care
June 2017	Committee <i>for</i> Home Affairs
October 2017	States' Bond – The Policy & Resources Committee
October 2017	States' Trading Supervisory Board
November 2017	Committee <i>for</i> Environment and Infrastructure
December 2017	Good Corporate Governance - Committee for Education, Sport and Culture and Policy & Resources Committee (Snap Hearing)

6. Member & Staff Personal Development

Since the SMC was formed, a number of personal development activities have been undertaken by both elected Members and staff. This has taken the form of in-house training, visits to study alternative parliamentary scrutiny arrangements and formal qualifications being undertaken as appropriate. Undoubtedly, the effectiveness of both Members and staff undertaking scrutiny has been enhanced by the experience of observing Westminster Select Committee activities.

Of particular significance during this political term, delegates from the SMC visited Westminster. The purpose of the visit was to assess the applicability of House of Commons scrutiny arrangements within the States of Guernsey model. The visit was also intended to allow comparison of existing local practice in terms of political and financial scrutiny with Westminster custom and practice. Although the Westminster parliament is not directly

analogous to Guernsey's system of government, there are obvious lessons for our jurisdiction to learn from our UK colleagues in terms of parliamentary scrutiny.

Meetings included Hilary Benn MP, Chair of the Committee on Exiting the European Union, Lindsay Hoyle, Chairman of Ways and Means, Robert Neill MP, Chair of the Justice Committee, Meg Hillier MP, Chair of the Public Accounts Committee and the Head of Financial Scrutiny, in the House of Commons Parliamentary Scrutiny Unit. The visit helped the SMC to identify a number of potential improvements that could be implemented within the context of political and financial scrutiny in Guernsey. The meetings also helped to confirm the overall validity of the 'public scrutiny' approach the SMC has embarked upon in this political term. In particular, questioning techniques and witness handling were discussed. The engagement with UK Select Committee Chairs also helped to underline the obvious structural differences in Guernsey's Scrutiny arrangements from those of the larger jurisdiction. The UK parliament clearly has substantial resources, facilities and powers to enforce its scrutiny agenda; the difference with Guernsey could not be starker in these respects.

7. Conclusions

The SMC considers that during this term it has played a significant and expanded role in scrutinising key areas of government policy and spending. It has done so not just through increasing the number and frequency of public hearings as well as undertaking substantial reviews, but also through influencing policy. In addition, the work of the SMC is now arguably much more publicly visible than the combined efforts of the former Scrutiny Committee and the Public Accounts Committee in the past. This effort to raise the public profile of the formal scrutiny process was a deliberate choice by the SMC in recent years and we are pleased by the positive feedback that we have received from members of the States and the wider community.

It is clear to the SMC that many areas of policy and government spending would benefit from additional scrutiny. However, there is only so much that the SMC can practically do. The current level of resources available (people, financial and facilities) and the absence of powers available to the SMC do limit the volume and scope of the work that is able to be undertaken. With the benefit of hindsight, the SMC realises that the general public and the media, quite rightly, have high expectations of the level of activity that can be undertaken irrespective of resources available.

In Guernsey's committee system of government, this responsibility is shared with all elected members. It includes scrutiny of decisions by members on the floor of the States of Deliberation; it also includes scrutiny by members sitting on their Principal Committees, and equally members on the Policy & Resources Committee, all share an important role to deliver the most effective scrutiny possible.

The SMC considers that in order to ensure improved governance across the States, any recommendations made by the SMC in a formal review should be officially responded to within a period of two months. This would ensure that these recommendations are formally considered by Committees or the relevant agencies in a timely manner. It would also give more 'teeth' to any Scrutiny recommendations, something that would perhaps be welcomed across the community.

Once fully implemented, the recommendations of the SRC will significantly strengthen the resources and powers available to the SMC and that will go some way to addressing the high expectations of the public, the media and of Members of the States Assembly. However, the SMC believes it has already made significant progress during this political term. The SMC will continue to strive to deliver meaningful scrutiny regardless of the limitations of its powers and resources.

Appendix 1 - Scrutiny Reviews to date in this Political Term

Review of the States of Guernsey Bond Issue

Background

During the 2015 Budget Report debate, (the then) Treasury & Resources Department proposed issuing a Bond to the value of £250m under the general premise that the existing borrowing arrangements of the States Trading Bodies and affiliates such as the Guernsey Housing Association, were not the most cost effective and the Bond issuance would *'enable a more strategic view to be taken to financing, to consolidate the existing debt and provide better overall value for the taxpayer and customers.'*

The Minister, Treasury & Resources Department outlined the details in his speech to the Assembly *"Sir, a key feature of this Budget is the proposed issue of a States of Guernsey Bond to consolidate existing debt which is either directly provided by, or guaranteed by, the States of Guernsey. This will be a much more cost effective way of borrowing by entities, including Guernsey Electricity, Aurigny and the Guernsey Housing Association."*

The States of Deliberation subsequently resolved that a Bond to the value of £250m should be issued. It also resolved that a further £80m could be issued on the delegated authority of (the then) Policy Council, which was duly sanctioned in November 2014. The £330m Bond issue completed in December 2014 with a maturity date of 2046 (a 32 year Bond), and a fixed rate of interest of 3.375%.

Scrutiny Panel Review

In late 2016, the Scrutiny Management Committee (the Committee) decided to review several areas of the Bond issue, but in particular, the governance surrounding the issuance of the Bond and the treasury management of the residual balance following any on-lending.

The Committee set up a 'task and finish' panel to oversee the review, of which the members were:

Deputy Chris Green (Panel Chair)

Mrs Gill Morris (Non-States Member of the Scrutiny Management Committee)

Deputy Mark Dorey

Advocate Peter Harwood (Non-States Member)

Mrs Jody Newark (Non-States Member)

The Panel then appointed KPMG Channel Islands Limited (KPMG) to undertake an initial review, which outlined concerns in a number of the areas of the review's Terms of Reference. KPMG's final report was released in May 2017.

The Panel decided that on the basis of the report's findings there were still areas where further clarification was required. In October 2017, a public hearing was held where questions on this subject were posed to Deputy Gavin St Pier, President of the Policy & Resources Committee and Ms Bethan Haines, the States Treasurer, by members of the review panel.

Conclusions

The Panel has now had the opportunity to assess all the information gathered during this review process and wishes to document its conclusions formally:

Portrayal of the need for the Bond issuance

The original stated aims of the Bond issue within the Budget Report, was to reduce interest costs to the States Trading Bodies, in addition to reducing the overall risk to the States'.

The Panel therefore recommends that the Policy & Resources Committee formally measure and publish the cost effectiveness of the Bond, on an ongoing basis throughout the 32 year term.

The due diligence undertaken on the States Trading Bodies requirements for funds from the Bond proceeds

Prior to the Budget debate there was limited formal due diligence performed by the Treasury & Resources Department in respect of loans outstanding (or in 'approved' status), nor any firm commitment from the entities intended to receive the funds.

It is possible that some of the States Trading Bodies could have achieved borrowing terms more favourable commercially than those proffered by the Treasury and Resources Department from the proceeds of the Bond. However, as no comparative exercise was completed prior to the Bond issue, this is uncertain.

Deputy St Pier stated during the public hearing: *"with the benefit of hindsight, could more have been done? I think that is, in essence, what the KPMG Report is saying: that in their view, probably more could have been done."*

The Panel believes that had the lack of proper commitment from the entities supposedly refinancing from the Bond proceeds been highlighted at the time of the debate, the outcome of that debate may have been different.

Fiscal Framework

The States of Guernsey Fiscal Framework at the time the Bond was proposed was not tightly defined, as it was unclear whether the 15% of GDP borrowing limit included external borrowings by the wider States Trading Bodies.

Given that the business case put forward by the Treasury and Resources Department was to refinance existing such borrowings (including those held by the States Trading Bodies), it would appear inconsistent to not include all States borrowings when comparing against the Fiscal Framework limit of 15% of GDP. Total States' borrowings (including the States Trading Bodies and the Bond), were in excess of this 15% GDP limit in 2015 and 2016.

The Panel agrees with the KPMG conclusion, that the 2016 revision to the Fiscal Policy Framework did not clarify this area sufficiently.

Treasury Management of the Funds

Once the funds had been secured, a sufficiently realistic cash-flow forecast was not in place to ensure that optimal returns would be secured quickly.

The Treasury & Resources Department and its Investment Sub-Committee made preparations to invest the additional £80m in longer term funds, but as they believed the bulk of the £250m would be on lent quickly, this was initially invested in a fund yielding significantly less than the required coupon payments.

When questioned by the Scrutiny President in the Committee's public hearing, Deputy St Pier stated that it was *"all of our expectations that a good portion of the proceeds would be lent on faster. So that explains why there was not a race to place them to be managed as part of the investment reserves."*

However, during that same public hearing, the States Treasurer stated that plans **were** in place to invest the funds as soon as they were received.

The Panel believes that had sufficient due diligence and discussion taken place with the States Trading Bodies and Guernsey Housing Association prior to the Bond issue, investment plans would have been better prepared and executed.

Overview of Financial Benefits

The principal method used by the States for monitoring the cost or benefits related to the Bond, is the Bond Reserve section in the States annual accounts. This section records the costs, interest and other investment returns derived from the Bond proceeds, but does not calculate the full cost and benefits of the States Trading Bodies who have refinanced their existing borrowing from those proceeds.

The Panel is disappointed to note that although Deputy St Pier confirmed at the Committee's public hearing that *"Aurigny's interest costs had reduced by approximately £1m in 2016 as a direct result of taking a loan from the Bond proceeds"*, there is currently no formal mechanism to detail whether any direct financial benefits have accrued to the States' in totality, from refinancing the loans made to date.

Recommendations

The Panel notes that a number of the recommendations from the KPMG report (and the previous external auditors of the States of Guernsey) have already been implemented.

These include:

- (i) the appointment of a senior member of staff to focus on investments within the Treasury staff;
- (ii) improved controls and documentation around management of the funds.

In light of the information received at its public hearing, the Committee have the following additional recommendations:

- (i) the Policy & Resources Committee should provide additional clarity to define 'meaningful compliance' with the Fiscal Framework. If all borrowings of the States', the States Trading Supervisory Board and affiliates such as the Guernsey Housing Association, in addition to all contingent liabilities were taken into account, indebtedness would be over the 15% Fiscal Framework limit. The bodies encompassed by the Fiscal Framework need to be clearly defined and all the relevant entities included. The public needs to understand how their indebtedness is recognised and monitored. The liabilities covered should be defined as well as the consequences of breaching the Fiscal Framework. Given that some entities will continue to take external finance, the Policy & Resources Committee needs to clarify whether the States' will be underwriting/guaranteeing this borrowing.
- (ii) the Policy & Resources Committee should clearly define the appropriate circumstances where loans may be granted, specifically where a robust business case is in place to allow repayment of the funds.
- (iii) the Policy & Resources Committee should carry out an ongoing cost benefit analysis on the Bond issue, to evaluate the success of the project. This should include the amount lent to date, the residual balance, interest received, interest paid, new loans made since the last statement and potential loans in the pipeline. This should also include an indication of interest that borrowers would have paid externally (assuming guarantees were in place), which would enable taxpayers to evaluate whether the States' are better off with or without the Bond.

Final Comments

It is important to state that the decisions regarding the issue of the Bond have been made. What matters now is that the funds are used for good purposes.

Key considerations moving forward should be:

- (i) to reduce the level of risk to the States of Guernsey by exposure to external investment returns;

(ii) adequate monitoring to ensure that the interest income derived from the on-lending of the proceeds of the Bond as originally intended over the life of the Bond is sufficient to cover the interest coupon and the capital repayment of the Bond; **and**

(iii) where possible by on-lending the proceeds to help drive the local economy.

The Committee will continue to monitor the governance arrangements applied to loans made from the Bond proceeds, the management of that loan book and the investment management applied to any unutilised residual balances. The Committee intends to request of the Policy and Resources Committee regular up-dates on such matters.

In-Work Poverty Review

Background

In 2003, the States of Guernsey considered a policy letter for an 'anti-poverty strategy' which was advised by research from the Townsend Centre, University of Bristol. This strategy identified a number of areas for action, namely Benefit & Tax Measures, Education & Employment Services, Services for Older People & People with Disabilities, Crime Reduction Initiatives, Fiscal & Legislative Measures, and Housing under the (then) Corporate Housing Programme.

In the subsequently years, further policy letters have been considered within the States of Guernsey that include 1) The Minimum Wage (2007); 2) The Living Wage (2015), 4) Measuring Poverty & Income Inequality (2016) and, 5) Comprehensive Social Welfare Benefits Model2 (2016).

The Committee believes an area of this importance is an appropriate topic for an in-depth review.

Scope

'The Committee will consider the following areas as part of its review:

- 1. The adequacy of Guernsey's minimum wage;*
- 2. The impact of Guernsey's taxation and Social Security System on low income households;*
- 3. The current and future provision of In-Work benefits;*
- 4. The issues related to access to affordable healthcare provision;*
- 5. The issues related to access to affordable housing; and*
- 6. The impact of other States' charges on low income households.'*

The Panel

Deputy P Roffey (Chair)
Deputy Laurie Queripel
Deputy Rhian Tooley
Mr Wayne Bulpitt
Dr Sue Fleming
Mr Paul Ingrouille

Presentation of States Accounts

Background

The previous PAC reviewed the annual accounts and budget of the States of Guernsey to meet its mandated responsibility to ensure that management of the States' financial affairs met the highest operational standards.

Throughout the previous political term, the PAC consistently expressed its concern that the overall clarity of the annual accounts should be improved, as the complex nature of the existing presentation was seen as unnecessary.

This issue of unnecessary complexity was raised annually from 2013, within the PAC Chairman's annual statement to the Assembly during the accounts and budget debates and also in the PAC's meetings with the States' Treasurer.

The PAC decided to undertake a comparative review of similar jurisdictions and UK government departments, in order to identify examples of best practice in the production of those entities' annual accounts.

The SMC completed this review in 2017.

Scope

To review how comparable jurisdictions and UK governmental departments produce and present their annual accounts, in order to provide Treasury with recommendations that would assist in the transformation of the States of Guernsey's Annual Accounts.

The Panel

Mrs Gill Morris, Non-States Member (Panel Lead)
Deputy Peter Roffey
Mr Patrick Firth, Non-States Member

Conclusion

- 1) The governance and financial management surrounding the end of year process should be strengthened by the inclusion of the following in the States of Guernsey's annual accounts:
 - (i) A Statement of Parliamentary Supply;
 - (ii) Any post Balance Sheet events;
 - (iii) A detailed statement of accounting policies;
 - (iv) The Investment Strategies of the States of Guernsey funds;
 - (v) A statement of Internal Control/Governance;
 - (vi) A detailed statement of Committees' Accounting Officers responsibilities;
 - (vii) Fixed Assets.
- 2) In order to enhance the openness and transparency of the States' financial reporting, the following should be included as a minimum by the 2016 accounts:
 - (i) An overview of the Purpose and Benefits of each new Committee following the machinery of government changes;
 - (ii) Individual Committee priorities with current ongoing projects;
 - (iii) The annual Capital Expenditure with the overall amount approved and actual spend explained (represented graphically);
 - (iv) Any substantive changes made regarding investment funds in the year, with a performance graph, along with a forecast for the coming year;
 - (v) Details of the Bond Issue including: the specific purposes of the amounts 'loaned on', interest rates charged and anticipated repayment dates;
 - (vi) An overview of the Financial Scrutiny, Internal Audit, and Risk Management functions within the States of Guernsey;
 - (vii) Senior roles within the States identified, with accompanying detailed pay costs (over 80k per annum).

Legislation Review Panel (LRP): Sub-Panel – Election Expenses Review

Background

The rules were subject to public questioning following the 2016 election which has prompted the Panel to conduct a review to provide greater clarification of the rules before and during the election process, if considered necessary.

Scope

1. How the existing rules should be applied to candidates in relation to election expenses before and during the election process;
2. What an individual candidate must declare as part of the process; and
3. The rules surrounding expenditure by persons other than candidates, including voluntary groups and the States of Guernsey.

The Panel

Deputy John Gollop (Chair)

Deputy David De Lisle

Deputy Laurie Queripel

Advocate Mark Dunster

Conclusion

The Panel met on two occasions and set out three main recommendations. It was then proposed that until a decision has been made on Island Wide Voting (IWV) that this review be suspended. However, the Panel subsequently wrote to the States' Assembly & Constitution Committee (SACC), responsible for election expenses, detailing their recommendations for future consideration.

Appendix 2 - Legislation Review Panel

The Legislation Review Panel (LRP) formerly known as the Legislation Select Committee (LSC) held its first meeting on 22nd July 2016.

LRP Membership

Deputy C. J. Green (Chair)
Deputy L. B. Queripel
Deputy D. de G. De Lisle
Deputy J. A. B. Gollop
Deputy D. A Tindall
Non-States Member - Advocate S. W. F. Howitt
Non-States Member - Advocate M.G.A. Dunster

Legislation Reviewed by the Panel in 2016 - 2017

2016

July 22 – Emergency Meeting

1. The Protection of investors (Administration and Intervention) (Bailiwick of Guernsey) (Amendment) Ordinance, 2016

August 8

1. The Gambling (Betting and Crown and Anchor) (Amendment) Ordinance, 2016
2. The Same-Sex Marriage (Guernsey) Law, 2016

September 7 - Emergency Meeting

1. By-election (Vale) Ordinance, 2016

August 30

1. The Social Insurance (Guernsey) Law (Amendment) Ordinance, 2016

September 19

1. The Income Tax (Guernsey) (Amendment) Ordinance, 2016
2. The High Hedges (Guernsey) Law, 2016
3. The Financial Services Ombudsman (Bailiwick of Guernsey) Law, 2014
4. (Amendment) Ordinance, 2016

5. The Prison (Guernsey) (Amendment) Ordinance, 2016

October 10

1. Supplementary Benefit (Residence Conditions) Ordinance, 2016
2. Supplementary Benefit (Implementation) (Amendment) Ordinance, 2016
3. Health Service (Benefit) (Amendment) Ordinance, 2016
4. Severe Disability Benefit and Carer's Allowance Ordinance, 2016
5. Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2016
6. Family Allowances Ordinance, 2016
7. Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2016

October 27 – Emergency Meeting

1. The Al-Qaida (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2016

November 21

Meeting not held - no legislation to discuss

December 12

Meeting not held - no legislation to discuss

2017

January 4

1. Supplementary Benefit (Residence Conditions) Ordinance, 2017
2. Sark Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2017

January 23

Meeting not held - no legislation to discuss

February 13

1. Land Planning and Development (Use Classes) Ordinance, 2017
2. Land Planning and Development (Plans) (Amendment) Ordinance, 2017
3. Open Market Housing Register Ordinance, 2017
4. Population Management (Guernsey) Law, 2016 (Commencement) Ordinance, 2017
5. Population Management (Miscellaneous Provisions) Ordinance, 2017

6. Population Management (Guernsey) Law, 2016 (Amendment) Ordinance, 2017
7. Open Market Housing Register (Guernsey) Law, 2016 (Commencement) Ordinance, 2017
8. Open Market Housing Register (Part D Cap) Ordinance, 2017
9. Image Rights (Bailiwick of Guernsey) (Amendment) Ordinance, 2017

March 6

1. Protection of Investors (Limitation of Liability) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017
2. Same-Sex Marriage (Guernsey) Law, 2016 (Commencement) Ordinance, 2017
3. Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017
4. Access to Neighbouring Land (Guernsey) Law, 2016 (Commencement) Ordinance, 2017

March 27

1. Income Tax (Guernsey) (Amendment) Ordinance, 2017
2. Document Duty (Anti-Avoidance) (Guernsey) Law, 2017
3. Document Duty Law, 2017

April 19

Meeting not held - no legislation to discuss

May 8

1. Income Tax (Pension Amendments) (Guernsey) Ordinance, 2017
2. Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017
3. Disclosure (Financial Services Commission) (Bailiwick of Guernsey) (Amendment) Ordinance, 2017
4. Road Traffic (Fees and Charges) (Guernsey) Law, 2017
5. Adoption (Guernsey) (Amendment) Law, 2017
6. Transfer of Funds (Guernsey) Ordinance, 2017

May 16 – Emergency Meeting

1. Video-Recorded Evidence (Bailiwick of Guernsey) Ordinance, 2017
2. Parochial Church Property (Guernsey) Law, 2015 (Commencement) Law, 2017

May 22

1. High Hedges (Guernsey) Law, 2016 (Commencement) Ordinance, 2017
2. Social Insurance (Guernsey) Law (Amendment) Ordinance, 2017

June 6 – Emergency Meeting

1. The Transfer of Funds (Guernsey) Ordinance, 2017

August 7

1. Companies (Guernsey) Law, 2008 (Amendment) Ordinance, 2017
2. Electronic Transactions (Cheque Imaging) (Guernsey) Ordinance, 2017
3. Health Service (Approved Prescribers) Ordinance, 2017
4. Firearms and Weapons (Guernsey) Ordinance, 2017
5. Beneficial Ownership of Legal Persons (Guernsey) (Amendment) Ordinance, 2017

September 4 - Emergency Meeting

1. The North Korea (Restrictive Measures)(Guernsey) Ordinance, 2017

September 25

Meeting not held - no legislation to discuss

October 16

1. Social Insurance (Rates of Contributions and Benefits etc) Ordinance, 2017
2. Health Service (Benefit) (Amendment) Ordinance, 2017
3. Health Service (Benefit) (Annual Grant) (Amendment) Ordinance, 2017
4. Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2017
5. Severe Disability Benefit and Carer's Allowance (Guernsey) Ordinance, 2017
6. Family Allowances Ordinance, 2017
7. Supplementary Benefit (Implementation) (Amendment) Ordinance, 2017

8. Beneficial Ownership of Legal Persons (Guernsey) (Amendment) (No.2) Ordinance, 2017
9. Data Protection (Bailiwick of Guernsey) Law, 2017

October 30

1. Income Tax (Guernsey) (Amendment) (No. 2) Ordinance, 2017
2. Income Tax (Zero 10) (Company Intermediate Rate) (Amendment) (Guernsey) Ordinance, 2017
3. Document Duty (Anti-Avoidance) Law, 2017 (Commencement and Amendment) Ordinance, 2017
4. Document Duty (Anti-Avoidance) (Rates) Ordinance, 2017
5. Document Duty (Guernsey) Law, 2017 (Commencement and Amendment) Ordinance, 2017
6. Document Duty (Rates) Ordinance, 2017
7. Public Transport (Amendment) Ordinance, 2017
8. Cutting of Hedges (Amendment) Ordinance, 2017
9. Income Support (Guernsey) Law, 2017
10. Probation Law (Bailiwick of Guernsey) Law, 2017

November 20

Meeting not held - no legislation to discuss

November 22 - Emergency Meeting

1. The Venezuela (Restrictive Measures) (Guernsey) Ordinance, 2016

November 30 - Emergency Meeting

1. The Beneficial Ownership of Legal Persons (Guernsey) (Amendment) (No. 2) Ordinance, 2017

December 18

1. Electoral System Referendum (Guernsey) Law, 2018
2. Parochial Church Property (Guernsey) Law, 2015 (Commencement) Law, 2018
3. Income Tax (Guernsey) (Approval of Agreement with the Bahamas) Ordinance, 2018

Legislative Review Panel – Attendance Record August 2016 – December 2017 – Standard/Planned Meetings

Panel Members	Aug 8	Aug 30	Sept 19	Oct 10	Oct 31	Jan 4	Feb 13	March 6	March 27	May 8	May 22	Aug 7	Oct 16	Oct 30	Dec 18
Deputy C. J. Green		✓	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓
Deputy L. B. Queripel	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Deputy D. de G. De Lisle	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓
Deputy J. A. B. Gollop	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Deputy D. A. Tindall	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓
Advocate S. W. F. Howitt	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Advocate M.G.A. Dunster	✓		✓				✓				✓	✓	✓	✓	

Legislative Review Panel – Attendance Record July 2016 – December 2017 – **Emergency Meetings**

Panel Members	July 22 2016	Sept 7 2016	Oct 27 2016	May 16 2017	June 6 2017	Sept 4 2017	Nov 22 2017	Nov 30 2017			
Deputy C. J. Green	✓	✓	✓	✓		✓	✓	✓			
Deputy L. B. Queripel		✓			✓	✓	✓	✓			
Deputy D. de G. De Lisle	✓	✓	✓	✓		✓	✓	✓			
Deputy J. A. B. Gollop	✓		✓	✓	✓			✓			
Deputy D. A. Tindall	✓	✓	✓		✓	✓					
Advocate S. W. F. Howitt					✓						
Advocate M.G.A. Dunster	✓	✓	✓		✓			✓			

Appendix 3 - Scrutiny Management Committee Mandate

Constituted as a committee of the States with effect from the 1st of May, 2016 by resolutions of the States of the 9th of July, 2015 and the 27th of November, 2015.

- **Constitution**

A President who shall be a member of the States: provided that the President of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of any of the six Principal Committees; and two members who shall be members of the States: provided that a member of the Scrutiny Management Committee shall not be the President or a member of the Policy & Resources Committee or the President or a member of more than one of the six Principal Committees; and two voting members who shall not be members of the States and who shall be elected by the States.

- **Duties & Powers**

To lead and co-ordinate the scrutiny of committees of the States and those organisations which are in receipt of public funds, or which have been established by legislation, by reviewing and examining legislation, policies, services and the use of monies and other resources.

As far as is reasonably practicable, to appoint scrutiny panels (whether task and finish or standing panels) to carry out the work of reviewing and scrutinising committees' policies and services and their management of monies and other resources entrusted to them: provided that neither the President nor the members of the Policy & Resources Committee shall serve on such scrutiny panels and also provided that the Committee retains the power, if it so wishes, to carry out any review itself rather than through an appointed panel and also provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Committee and any panels it has appointed, including the content of any report issued under its name.

To appoint a Legislation Review Panel to carry out the functions of legislative scrutiny in Article 66 of the Reform Law and also to recommend any changes to legislation from which it believes the Island may benefit: provided that the Committee shall at all times be responsible, and accountable to the States, for everything done by the Legislation Review Panel; and to constitute the Legislation Review Panel as follows: a President who shall be a member of the Scrutiny Management Committee and also a member of the States, a minimum of four other States' members, a minimum of two non-voting members who shall not be members of the States, and any number of additional and occasional non-voting members as the Scrutiny Management Committee sees fit for the purposes of review of any item of legislation or any other matter: provided that such additional and occasional non-voting members may or may not be members of the States and also provided that neither the President nor the members of the Policy & Resources Committee shall serve on the Legislation Review Panel.

To scrutinise any matter contained in a policy letter which has been referred to the Committee by resolution of the States in accordance with any terms set out in the resolution and to submit to the States its findings thereon within a period of time set out in the resolution, which findings, together with the original matter, shall be laid before the States.

To promote and facilitate the participation in scrutiny of the widest possible range of States' members and persons independent of the States.

When determining the subject of its reviews and examinations, to pay particular attention to the performance of committees in contributing to States' objectives and policy plans and to matters which are of substantial importance or of significant public interest.

To recognise that the carrying out of scrutiny in public where possible is likely to contribute positively to public perceptions of scrutiny.

To submit a report to the States annually which reviews the work of the Committee and its panels over the previous 12 months and which sets out the Committee's objectives and, to the extent that it is possible while retaining a flexible and responsive approach to scrutiny, an indicative programme of work over the next 12 months.

To represent the work of scrutiny in the States, and publicly to promote and champion the value of scrutiny.

To advise the States if and when in its opinion circumstances justify the establishment of a Tribunal of Inquiry in accordance with the Tribunals of Inquiry (Evidence) (Guernsey) Law, 1949, as amended.

To exercise powers and perform duties conferred on the Committee by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the Scrutiny Management Committee and which conferred functions on the former Legislation Select Committee, Public Accounts Committee and Scrutiny Committee.

To fulfil the responsibilities set out in Annex One to the mandates of committees of the States.

- **Operational Functions**

To deliver or oversee the delivery of, and to be accountable to the States for, any operational functions conferred on the Committee by way of extant legislation or resolutions of the States or which may be allocated to the Committee in Annex Two to the mandates of committees of the State.



Committee *for*
Education, Sport & Culture

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13 February 2018

Dear Sir

Election of Non-voting member of the Committee *for* Education, Sport and Culture

In accordance with Rule 46(5) please accept this letter as notification of the election of Mr Richard Conder as a non-voting member of the Committee *for* Education, Sport & Culture.

In accordance with Rule 46(5) please publish a statement, as an appendix to a Billet d'État, setting out that Mr Conder was elected on 13 February 2018 to serve as a non-voting member of the Committee *for* Education, Sport & Culture, and that the Committee had seen a completed Declaration of Interest and a completed Declaration of Unspent Convictions before the election. The Committee *for* Education, Sport & Culture was satisfied that the appointment of Mr Conder would not lead to a conflict of interest. A Declaration of Unspent Convictions had also been seen prior to the election and lodged with the Greffier for publication in accordance with Rule 29.

Yours faithfully

Deputy M J Fallaize
President
Committee *for* Education, Sport & Culture

GUERNSEY POLICE COMPLAINTS COMMISSION

2016 Annual Report

CHAIRMAN'S FOREWORD

In beginning my second foreword as the Chair Person of the Police Complaints Commission (PCC), I firstly wish to acknowledge my fellow Commissioners. The PCC has operated with five Commissioners throughout the reporting period, all of whom have approached the role with both professionalism and an integrity that I have greatly valued throughout my tenure serving on the Commission.

The Commission is required to report to the Committee *for* Home Affairs as soon as practicable at the end of each calendar year with regards to the discharge of its duties throughout the year as well as any additional matters that should be drawn to the Committee's attention. The Commission has met regularly in 2016 with representatives of Home Affairs to discuss the ongoing developments with regards to the review of the Police Complaints legislation, in addition to the statutory supervisory work that is detailed within this Report.

The Commission supervised eight complaints throughout the 2016 calendar year, some of these complaints overlapped from previous years and some are yet to be concluded. As was the case with the drafting of the previous PCC Report, confidentiality restricts the Commission in providing specific details of the individual complaints, therefore this Report aims to provide an understanding of the work undertaken by the Commission over the 2016 calendar year as well as the Commission's hopes in terms of future developments.

The Commission is conscious that the introduction of the PCC Law in July 2011 was initially a learning process for the Guernsey Police, the Committee *for* Home Affairs (previously the Home Department) as well as the Commission itself. All parties involved in the process quickly identified a number of areas within the relevant legislation that can be added, removed or amended in order to strengthen the overall Police Complaints regime and as a consequence, we believe, enhance the trust and understanding of the general public in the PCC, the complaints process and the Police service.

The Commissioners are aware of the work that was commenced three years ago in July 2014 by Home Affairs in order to facilitate a review of the Police Complaints Law, 2008 and its accompanying Regulations. However, having commented in my report 12 months ago that there was an expectation the review would have concluded by that time, the Commission is disappointed with the continued lack of progress in producing a report and expediting the review of the legislation in order to remedy current frustrations that all parties involved in the Police Complaints process have with the current regime.

The Commission is pleased to learn that the Committee *for* Home Affairs has prioritised the review of the PCC legislation within its list of outstanding work-streams. The Commission hopes that this prioritisation will become more than a nominal gesture in the context of other priority projects and remains fully committed

to working in conjunction with Home Affairs and the Guernsey Police to review the Law in order to enhance the legislation's effectiveness and the Commission's role and to improve public confidence in the complaints process. It is the Commission's strong recommendation that a commitment to complete the review and implementation of the amended legislation and process be completed to an agreed deadline of July 2018. To this end the Commission has committed to conclude its initial contribution to the process by the end of September 2017.

Stewart Chisholm

Chairman

INTRODUCTION INTO THE POLICE COMPLAINTS PROCESS

The Police Complaints Commission was established under the Police Complaints (Guernsey) Law, 2008 ("the Law") and provides independent oversight of the investigation of complaints made against the Police with the aim of increasing public confidence and trust in the police and the complaints system as a whole. The Commission does not carry out investigations itself as, in introducing the legislation, it was the view of the States that the investigation of complaints against the Police is most appropriately carried out by the Police, where necessary with the assistance of an independent Force. The support of UK police resource has thus far been called upon on two occasions.

The Commission has sight of all complaints made against the Police – these complaints are recorded in a register which the Commission reviews.

The Commission:

- Must supervise the investigation of any complaint alleging the conduct of a police officer resulting in the death or serious injury of a person,
- Must supervise the investigation of any complaint relating to the conduct of a senior officer (Superintendent or above)
- May supervise the investigation of any complaint if it considers that it is desirable in public interest to do so,
- May supervise the investigation of any matter which is not subject to a complaint but has been referred to the Commission by reason of its gravity, public importance or any other exceptional circumstances.

Each investigation is overseen by three Commissioners - this mechanism is useful in allowing the Commission to benefit from members' varying expertise and also enabling Commissioners to remain familiar with the process whilst maintaining the impartiality of other Commissioners to supervise appealed decisions.

When supervising an investigation within the remit of the current Police Complaints legislation, the Commission is looking to satisfy itself in the first instance that the process set out in the legislation has been appropriately followed. At the end of a supervised investigation, the Commission prepares a statement explaining whether it is satisfied or not that the statutory process in relation to the investigation has been followed correctly as per the Police Complaints Law and its accompanying Regulations. This statement is provided to the Appropriate Authority (the Chief of Police in the majority of cases but the Committee *for* Home Affairs should the complaint relate to a senior officer) as well as the complainant and the officer/s subject of the complaint.

The Commission does not make judgements in relation to the content of the Investigating Officer's report at this initial stage, the Complainant is offered the opportunity to appeal to the Commission which then provides the Commission with

an opportunity to address the report including the assessment made by the Investigating Officer.

SUPPORT AND COST OF THE COMMISSION

The Commission is funded from the general revenue of the Committee *for* Home Affairs and is supported by staff from within Home Affairs, Central Services. Whilst the Commission recognises that receiving administrative and technical support from staff employed by the Committee responsible for Police is not ideal, the Commission firmly believes that the support it receives is delivered impartially and objectively. The Commission recommends that the current arrangement should be considered alongside the legislative review.

The Police Complaints Commission receives remuneration for all of the meetings that are attended; payment for Commissioners is £67 per half day attendance as set out by the States of Guernsey. The Commission supervised eight complaints throughout 2016; each differing in terms of complexity and the requirement in terms of Commission input. Some of the complaints overlapped from previous years and some are yet to be concluded. The Commission met with regularity in order to progress some of the more complex cases whereas some of the cases required significantly less Commission time to conclude. The Committee *for* Home Affairs provided £2,237 of remuneration for the Commission's time throughout the 2016 calendar year. This sum does not include estimations for the cost of time given by Home Affairs staff to support the Commission nor does it include the time given by Law Officers when they are consulted on specific Police Complaints cases.

OVERVIEW

The role of the Police Complaints Commission is to provide independent oversight of the investigation of complaints made against Police Officer conduct. In undertaking this role, the Commission has sight of all of the complaints made to the Police and actively supervises the most serious (those which might constitute misconduct or gross misconduct) and those where it is in the public interest to do so. The Commission also has a statutory role in considering various appeals in respect of the complaints process, including how lower level complaints have been dealt with.

The number of complaints that the Commission has had involvement with throughout 2016 is again a reflection of the low level of serious complaints received by the Force. The Commission is mindful that the number of complaints formally supervised under the Law is not the best, or indeed most accurate, reflection of the Commission's work. The amount of time taken to supervise the complaints has continued to vary and is ultimately dependent upon the nature of the complaint and the complexity of the resultant investigation. Some of the investigations undertaken have been adequately considered by Commissioners within a single meeting; however other complaints required active supervision by Commissioners over a longer period of time.

The Commission does not feel that it is appropriate to comment on the individual complaints that it has considered, even in an anonymised form, as it believes that within a jurisdiction of this size, officers and indeed complainants may be identified. The Commission believes that any action which could potentially draw into question the confidentiality of the complaints process is unacceptable and would undermine one of the Commission's key objectives, namely to enhance public confidence in the complaints process. The Commission has, in the main, been satisfied with the investigations that have taken place throughout the 2016 calendar year. The Commission and other involved parties have however identified a number of areas within the existing legislation that requires amendment in order to strengthen the overall regime and ensure public confidence in the Police Complaints process.

The Commission accepts that the early stages, following the introduction of the Police Complaints Law, were ultimately a learning experience for all parties involved in the process, with time being taken in order to gain familiarity with the legislation. However, the Commission believes that there is now a good understanding of the process and subsequently a number of improvements have been identified by all parties involved that would greatly improve the overall process. The Commission is disappointed with the apparent lack of progress in formulating and implementing revised Police Complaints legislation which would result in a regime much better fit for purpose, however it is noted that the Committee *for* Home Affairs have prioritised this piece of work and the PCC looks forward to working in the near future with Home Affairs and with the Police to ensure the timely completion of the legislative review to strengthen and enhance the role of the PCC and to improve public confidence in the overall Police Complaints process.

COMMISSIONERS

Commissioners are appointed by the States of Guernsey on the recommendation of the Committee *for* Home Affairs. Members and their respective dates of appointment along with their term of office, appear below

Name	Position	Start Date	End Date
^Mr Stewart Chisholm	Chairman	July 2011	July 2019
^Mr Nigel Ward	Ordinary Member	July 2011	July 2019
*Mrs Bonita Hamilton	Ordinary Member	July 2011	July 2017
*Mrs Ann Nippers	Ordinary Member	July 2011	July 2017
+Miss Alison Quinn	Ordinary Member	January 2013	April 2021
*Mr Kevin McGoldrick (deceased)	Ordinary Member	July 2011	September 2015
Mr Gavin St Pier	Ordinary Member	July 2011	April 2012

+Reappointed by the States during 2017

^Reappointed by the States during 2015

*Reappointed by the States during 2013