



BILLET D'ÉTAT

WEDNESDAY, 27th MARCH, 2019

V
2019

ELECTIONS AND APPOINTMENTS

1. Election of a Member of the Elizabeth College Board of Directors, P.2019/14

LEGISLATIVE BUSINESS

Legislation Laid Before the States

The Motor Vehicles (International Circulation) (Amendment) Ordinance, 2019
The Seat Belts (Amendment) Ordinance, 2019
The Road Traffic (Trailer Registration) Ordinance, 2019
The Road Traffic (Motor Vehicles and Trailers) (Periodic Technical Inspections) Ordinance, 2019
The Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 2019
The Road Traffic (Guernsey) Ordinance, 2019
The Lighting of Vehicles and Skips (Amendment) Ordinance, 2019
The Road Traffic (Miscellaneous Provisions) (Guernsey) Ordinance, 2019
The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019
The Motor Vehicles, Licensing and Traffic (Fees) (Guernsey) Regulations, 2019
The Motor Vehicles (International Circulation) (Guernsey and Alderney) (Brexit) Regulations, 2019
The Aviation Security (Bailiwick of Guernsey) (Amendment) Direction, 2018

CONTINUED OVERLEAF

Legislation for Approval

2. Committee *for* Employment & Social Security - The Social Insurance (Guernsey) (Amendment) Law, 2019, P.2019/13

OTHER BUSINESS

3. Committee *for* Health & Social Care - Hospital Modernisation Programme, P.2019/15
4. Policy & Resources Committee - Insurance - Statutory Discount Rate and Other Matters, P.2019/16
5. Committee *for* Home Affairs - Treatment of Persons Born or First Resident as Minors in Alderney or Sark under the Population Management (Guernsey) Law, 2016, P.2019/17
6. Schedule for future States' business, P.2019/18

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 **27th March, 2019** 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

4th March, 2019

**ELECTION OF A MEMBER OF THE
ELIZABETH COLLEGE BOARD OF DIRECTORS**

The States are asked:

- (1) To elect a member of the Elizabeth College Board of Directors, who need not be a member of the States, to replace Mr Michael Buchanan whose term of office expired on the 5th January 2019, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation, as set out in Section 1 of The Rules of Procedure of the States of Deliberation and their Committees.

N.B. Nominations may be made from the floor of the Assembly.



ELIZABETH COLLEGE

The Grange St Peter Port Guernsey GY1 2PY

5 February 2019

Sir Richard Collas
The Bailiff
Bailiff's Chambers
The Royal Court House
St Peter Port
GY1 2NZ

Dear Sir

I am directed by the Elizabeth College Board of Directors to say that it would be grateful if you could request the States to appoint a member of the Board to replace Mr Michael Buchanan, whose 6-year term completed on 5 January 2019.

Whilst nominations may be made by any Member of the States, it has become the practice that one nomination is made on behalf of the Board. In considering this year's nomination the Board's Selection Sub-Committee considered the appropriate skills and experience of likely candidates, whilst also maintaining the balance across the Board. They have therefore approached Mrs Michelle Galpin, who is an actuary and a Partner of the BWCI Group.

Mrs Galpin was born and educated in Guernsey and she graduated from the University of Southampton with a BSc. (Hons) degree in Mathematics. Her three sons were educated at Elizabeth College. Michelle joined the BWCI Group in 1986 as an actuarial trainee and qualified as a Fellow of the Institute of Actuaries in 1991. She became a Partner in 2003. She holds a UK Scheme Actuary Certificate and is a PRINCE2 Registered Practitioner. In 2016 Michelle became a Certificate member of the Pensions Management Institute (PMI), having completed the PMI's Certificate in DC Governance.

Mrs Galpin has confirmed her great interest in this opportunity and is honoured for her name to be put forward to the States for consideration. It is intended that her proposer in the States will be Deputy Lyndon Trott. She has signed a Declaration of Interest that she has no conflict.

I trust this letter both sufficiently informs you and is compliant with Rules 16(3) and 36 of the Rules of Procedure of the States of Deliberation and their Committees.

Yours faithfully

Mike Spiller
Clerk to the Board of Directors

Bursar and Clerk to the Board of Directors

M F Spiller MSc BSSc FCILT

Tel 01481 712542

Fax 01481 714839

E-mail bursar@elizabethcollege.gg



ELIZABETH COLLEGE

The Grange St Peter Port Guernsey GY1 2PY

5 February 2019

Mr David Way
Government Business Officer, Government Business
Policy & Research Unit – Policy Council
The States of Guernsey
Sir Charles Frossard House
La Charroterie
St Peter Port
GY1 1FH

Dear Sir

Declaration of Interest

I am satisfied that currently I would have no conflict of interest were I to be appointed as a Director of Elizabeth College, and if potentially one were to emerge, that it would be managed appropriately.

Yours faithfully



Michelle Galpin

Bursar and Clerk to the Board of Directors

M F Spiller MSc BSSc FCILT

Tel 01481 712542

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ORDINANCES LAID BEFORE THE STATES

THE MOTOR VEHICLES (INTERNATIONAL CIRCULATION) (AMENDMENT) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Motor Vehicles (International Circulation) (Amendment) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

Article 41 of the Vienna Convention provides for the recognition by contracting parties of International Driving Permits (IDPs) which are compliant with the provisions of Annex 7 of the Convention.

This Ordinance –

1. amends the Motor Vehicles (International Circulation) Ordinance, 1974 so as to empower the Committee to issue IDPs in the Vienna form to Bailiwick-resident drivers. It also makes minor changes to the 1974 Ordinance so as to remove references to British Forces driving licences, which are no longer issued, and to update the wording so that it is consistent with the corresponding UK statutory instrument,
2. inserts the necessary enabling powers into the Motor Taxation and Licensing (Guernsey) Law, 1987.

The Ordinance was approved by the Legislation Review Panel on the 7th January, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for the Environment & Infrastructure. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE SEAT BELTS (AMENDMENT) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Seat Belts (Amendment) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

This Ordinance amends the Seat Belts Ordinance, 1988, for compliance with the Vienna Convention, so as to require seat belts to be fitted to all forward-facing seats in vehicles first registered, or manufactured, before 1st April 1987, and for passengers to be required to wear seat belts in all such forward-facing passenger seats. The present exemptions, and the present prohibition on passengers sitting in seats in which seat belts should be fitted but are not, will be extended accordingly.

In addition to the compliance requirements of the Vienna Convention, the requirements for the wearing of seat belts by children under the age of 14 are clarified.

The Ordinance was approved by the Legislation Review Panel on the 7th January and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for Home Affairs. Under the proviso to Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE ROAD TRAFFIC (TRAILER REGISTRATION) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Road Traffic (Trailer Registration) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

Article 35 of the Vienna Convention requires the separate registration of every trailer exceeding 750 kg which is intended to be driven in international traffic. For compliance purposes, it is proposed to introduce mandatory registration for commercial trailers over 750 kg and non-commercial trailers over 3,500 kg, and voluntary registration for non-commercial trailers over 750g.

This Ordinance enables a scheme for the registration of trailers to be established by regulations of the Committee.

The Ordinance was approved by the Legislation Review Panel on the 7th January, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for the Environment & Infrastructure. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE ROAD TRAFFIC (MOTOR VEHICLES AND TRAILERS) (PERIODIC TECHNICAL INSPECTIONS) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Road Traffic (Motor Vehicles and Trailers) (Periodic Technical Inspections) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

The Vienna Convention requires the periodic technical inspection of all passenger-carrying vehicles with more than eight seats in addition to the driver's seat; motor vehicles used for the carriage of goods whose permissible maximum mass exceeds 3,500kg, and trailers designed to be coupled to such vehicles; and (so far as possible) all other categories of vehicle. In practice, the U.K. Department for Transport has advised, for the purposes of compliance, this means that all vehicles in domestic traffic must be tested and agreement has been reached as to a phased introduction (between 2019 and 2025) of schemes, at an appropriate level for Guernsey driving conditions, for the inspection of different categories of vehicle.

This Ordinance empowers the Committee to make regulations for the phased introduction, as agreed, of periodic testing of the different categories of vehicles.

The Ordinance was approved by the Legislation Review Panel on the 7th January, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for the Environment & Infrastructure. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE ROAD TRAFFIC (CONSTRUCTION AND USE OF MOTOR VEHICLES) (AMENDMENT) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

This Ordinance amends the Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 1971 and the Road Traffic (Construction and Use of Motor Vehicles Ordinance, 2002, for compliance with the Vienna Convention.

The Ordinance -

1. requires vehicles to carry identification marks as prescribed,
2. amends the requirements relating to brakes on vehicles and trailers,
3. inserts further provisions relating to technical requirements of the Convention, including enhanced requirements for: the safe carriage of loads; steering mechanisms; windscreens and wipers; mirrors; excessive emission of gases, smells and noise; anti-theft devices; and speedometers.

The Ordinance was approved by the Legislation Review Panel on the 7th January, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for the Environment & Infrastructure. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE ROAD TRAFFIC (GUERNSEY) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Road Traffic (Guernsey) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

This Ordinance seeks to achieve compliance with those requirements of the Vienna Convention relating to the "rules of the road".

The Ordinance –

1. gives statutory authority to the issue of a Highway Code for Guernsey, which can be achieved by incorporation of the UK Highway Code together with a supplement for matters peculiar to Guernsey,
2. repeals the *Ordonnance relative au Trafic Véhiculaire en cette île of 29th March 1929*, re-enacting the provisions which are still relevant with modifications where appropriate,
3. incorporates certain requirements of the Vienna Convention which are considered suitable for inclusion in an Ordinance rather than reliance on the Highway Code.

The Ordinance was approved by the Legislation Review Panel on the 7th January, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for the Environment & Infrastructure. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE LIGHTING OF VEHICLES AND SKIPS (AMENDMENT) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Lighting of Vehicles and Skips (Amendment) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

This Ordinance amends the Lighting of Vehicles and Skips Ordinance, 1988 so as to make additional provision necessary for compliance with the Vienna Convention. The Ordinance –

1. adds daytime running lamps, width marker lamps and side lamps to the list of permitted lamps,
2. imposes enhanced conditions as to reversing lamps, direction-indicators, lighting and reflectors on long and wide vehicles and on trailers, for vehicles and trailers manufactured after commencement,
3. requires motor cycle side-cars to carry lighting,
4. imposes enhanced provision for vehicles first used after 1991 concerning the combinations of lamps which can or cannot be illuminated simultaneously.

The Ordinance was approved by the Legislation Review Panel on the 7th January, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for the Environment & Infrastructure. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

THE ROAD TRAFFIC (MISCELLANEOUS PROVISIONS) (GUERNSEY) ORDINANCE, 2019

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The Road Traffic (Miscellaneous Provisions) (Guernsey) Ordinance, 2019", made by the Policy & Resources Committee on the 15th January, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

On 14th December, 2018 the States resolved (inter alia) that legislative measures necessary to demonstrate compliance with the requirements of the UN Convention on Road Traffic ("the Vienna Convention") should be adopted in order to facilitate extension of that Convention to Guernsey with effect from 29th March, 2019 or as soon as possible thereafter. This Ordinance is one of eight Ordinances which have been prepared pursuant to the Resolution of 14th December.

This Ordinance makes amendments to three Ordinances for the purposes of compliance with the Vienna Convention.

The Ordinance –

1. inserts into the Vehicle Noise etc. Ordinance, 1986 a prohibition against using a vehicle in a manner which causes the excessive emission of smoke, vapour or oily substance, as well as noise (this was previously included in the *Ordonnance relative au Trafic Véhiculaire en cette Île* of 29th March 1929 which has been repealed),
2. amends the Road Traffic (Speed Limits and Trials) Ordinance, 1987 so as to clarify exemptions for emergency vehicles,
3. amends the Traffic Signs and Traffic Light Signals Ordinance, 1988 in relation to the placing of danger warning signs, precedence of traffic light signals over traffic signs indicating priority, precedence of temporary signs and signals over permanent signs, and clarification that generally a traffic sign should take precedence over any other regulation that might apply to a highway,
4. makes consequential amendments to the Offences (Fixed Penalties) (Guernsey) Law, 2009.

The Ordinance was approved by the Legislation Review Panel on the 7th January, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. It will come into force on a date to be appointed by Regulations of the Committee for the Environment & Infrastructure. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

**THE EUROPEAN UNION (BREXIT) (BAILIWICK OF GUERNSEY) LAW, 2018
(COMMENCEMENT) ORDINANCE, 2019**

In pursuance of the provisions of the proviso to Article 66A(1) of The Reform (Guernsey) Law, 1948, as amended, "The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 (Commencement) Ordinance, 2019", made by the Policy & Resources Committee on the 12th February, 2019, is laid before the States.

EXPLANATORY MEMORANDUM

This Ordinance brings into force specified sections of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 ("the Law") on 13th February, 2019. It brings the remaining provisions of the Law into force on "exit day" within the meaning of the Law: i.e. 11pm on 29th March, or such other day and time as the Policy & Resources Committee appoints by regulations.

The two main substantive provisions being brought into force on 13th February are section 5 (Power to disapply, amend etc. Preserved EU law and other provisions) and section 9 (Provision in respect of the withdrawal agreement). The Ordinance also brings into effect certain consequential amendments to other legislation.

The commencement of the remainder of the Law remains flexible since "exit day" is, as noted above, subject to amendment by regulations.

The Ordinance was approved by the Legislation Review Panel on the 4th February, 2019 and made by the Policy & Resources Committee in exercise of its powers under Article 66A(1) of the Reform (Guernsey) Law, 1948. Under the proviso to the said Article 66A(1), the States of Deliberation have the power to annul the Ordinance.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

No. 2 of 2019

THE MOTOR VEHICLES, LICENSING AND TRAFFIC (FEES) (GUERNSEY) REGULATIONS, 2019

In pursuance of sections 2A and 2B of the Motor Taxation and Licensing (Guernsey) Law, 1987, sections 1 and 5 of the Fees, Charges and Penalties (Guernsey) Law, 2007 sections 4, 5, 8, 9, and 16 of the Registration Marks (Sale and Retention) Ordinance, 1997, and all other powers enabling it in that behalf, the Motor Vehicles, Licensing and Traffic (Fees) (Guernsey) Regulations, 2019, made by the Committee *for the Environment & Infrastructure* on 10th January, 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations increase the fees payable with effect from the 1st March, 2019 in relation to –

- the issue and renewal of driving licences and of duplicate licences
- first and subsequent registration of motor vehicles and the issue of duplicate registration certificates and certificates of export
- the exchange and retention of registration marks.

The increases are generally based on the increase in RPIX since the last review.

These Regulations come into force on the 1st day of March, 2019.

No. 10 of 2019

THE MOTOR VEHICLES (INTERNATIONAL CIRCULATION) (GUERNSEY AND ALDERNEY) (BREXIT) REGULATIONS, 2019

In pursuance of sections 5 and 11 of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, “Motor Vehicles (International Circulation) (Guernsey and Alderney) (Brexit) Regulations, 2019”, made by the Policy & Resources Committee on 22nd January 2019, are laid before the States.

EXPLANATORY NOTE

These Regulations are made in consequence of the withdrawal of the United Kingdom from the EU and the resulting necessity for International Driving Permits (IDPs) to be issued by the Committee for the Environment & Infrastructure ("the Committee") on behalf of Bailiwick residents who wish to drive in Europe.

The Committee issues domestic driving licences to Bailiwick residents under the Driving Licences (Guernsey) Ordinance, 1995, made under the Motor Taxation and Licensing (Guernsey) Law, 1987 ("the 1987 Law"). However, the Motor Vehicles (International Circulation) (Guernsey) Law, 1956 ("the 1956 Law"), and the Motor Vehicles ((International Circulation) (Alderney) Ordinance, 1961 ("the Alderney Ordinance"), made under the 1956 Law, were drafted at a time when Alderney was a separate jurisdiction for the purposes of driver licensing.

These Regulations regularise the legislative provision in this area by repealing the 1956 Law, the relevant provisions of which are being incorporated (by separate legislation) into the 1987 Law. The Alderney Ordinance will also be repealed (by regulations of the Alderney Policy and Finance Committee), and the equivalent Guernsey Ordinance, which will continue to have effect pursuant to regulation 2 of these Regulations, will henceforth apply to both Guernsey and Alderney. The effect of the repeal of the 1956 Law and the application of the Guernsey Ordinance to Alderney will be to clarify and give certainty to the power of the Committee to issue IDPs for Alderney residents as well as for Guernsey and Sark residents.

These Regulations will come into force on the same day as the Motor Vehicles (International Circulation) (Amendment) Ordinance, 2019 which inserts the new enabling powers (namely section 2(32A) and (32B)) into the 1987 Law.

No. 80 of 2018

**THE AVIATION SECURITY (BAILIWICK OF GUERNSEY) (AMENDMENT) DIRECTION,
2018**

In pursuance of section 169A, 169B and 169C of the Aviation (Bailiwick of Guernsey) Law, 2008 , by sections 12(1), 13(1), 13A(1), 14(1A), 17(1), 24A and 38(6) of the Aviation Security Act 1982 "The Aviation Security (Bailiwick of Guernsey) (Amendment) Direction, 2018", made by the Economic Development Committee on 23rd November 2018, is laid before the States.

EXPLANATORY NOTE

This Direction updates the Aviation Security (Bailiwick of Guernsey) Direction, 2012 to take account of changes in aviation security requirements.

This Direction came into force on 3rd December, 2018.

The full text of the statutory instruments and other legislation included in this document can be found at: www.guernseylegalresources.gg

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

PROJET DE LOI

Entitled

THE SOCIAL INSURANCE (GUERNSEY) (AMENDMENT) LAW, 2019

The States are asked to decide:-

Whether they are of the opinion to approve the draft Projet de Loi entitled "The Social Insurance (Guernsey) (Amendment) Law, 2019", and to authorise the Bailiff to present a most humble petition to Her Majesty praying for Her Royal Sanction thereto.

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

EXPLANATORY MEMORANDUM

This Law amends the Social Insurance (Guernsey) Law, 1978 in relation to eligibility for industrial injuries, the pension average period as regards the calculation of entitlement to old age pension, and the payment of death grant in respect of still-born children.

PROJET DE LOI

ENTITLED

The Social Insurance (Guernsey) (Amendment) Law, 2019

THE STATES, in pursuance of their Resolutions of the 31st July, 2015^a and the 26th September, 2018^b have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Alderney, Herm and Jethou.

Amendment of the Social Insurance Law.

1. (1) The Social Insurance (Guernsey) Law, 1978^c is amended as follows.

(2) In the proviso at the end of section 20(5) –

(a) for "death grant," substitute "death grant –",

(b) label the remaining text as paragraph (a),

^a Article XX of Billet d'État No. XIV of 2015.

^b Article VIII of Billet d'État No. XX of 2018.

^c Ordres en Conseil Vol. XXVI, p. 292; as amended by Ordres en Conseil Vol. XXXIV, p. 510; Ordinance No. IX of 2016.

(c) at the end of paragraph (a), for "." substitute ", and",
and

(d) after paragraph (a) insert –

"(b) in any other case, the relevant period shall not exceed forty-five years."

(3) In section 37, at the end of subsection (6) insert ", and any reference in this section to a child shall include a child who was still-born within the meaning of the Still-Birth (Definition) (Bailiwick of Guernsey) Law, 1998."

(4) In section 40(1), at the end of paragraph (b) of the interpretative provision in relation to "**employed person**", after "self-employed person," insert "and for these purposes, a person directed by the Administrator to participate in an employment training programme or course operated by or on behalf of, or approved by, the Committee shall be deemed to be gainfully occupied under a contract of service,".

(5) In section 40(2), at the end insert ", and may prescribe additional categories of persons to be treated for the purposes of industrial injuries benefits as employed persons".

Citation and Commencement.

2. This Law may be cited as the Social Insurance (Guernsey) (Amendment) Law, 2019, and shall come into force on the day of its registration on the records of the Island of Guernsey.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HEALTH & SOCIAL CARE

HOSPITAL MODERNISATION PROGRAMME

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled 'Hospital Modernisation Programme', dated 11th February, 2019 they are of the opinion:-

1. To direct the Committee *for* Health & Social Care to progress with the proposed ten year Programme to modernise the Princess Elizabeth Hospital, in support of the Partnership of Purpose;
2. To delegate authority to the Policy & Resources Committee, following approval of the necessary business cases, to open capital votes of a maximum of £44.3million, charged to the Capital Reserve, to fund Phase 1 of the Hospital Modernisation Programme, as set out in section 7 of the Policy Letter; and
3. To note that delivery of subsequent phases of the Hospital Modernisation Programme will be subject to prioritisation by the States for inclusion in future capital portfolios.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HEALTH & SOCIAL CARE

HOSPITAL MODERNISATION PROGRAMME

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

11th February, 2019

Dear Sir

1. Executive summary

- 1.1. The purpose of the Committee *for* Health & Social Care (“the Committee”) is “to protect, promote and improve the health and wellbeing of individuals and the community”. As part of the work to fulfil that purpose, the Committee set out in its Target Operating Model in the Partnership of Purpose Policy Letter (Billet d’État XXIV of 2017, Article 12)¹, its intention to improve the way in which services are delivered at the Princess Elizabeth Hospital (PEH). The Partnership of Purpose highlighted the need for alterations to the infrastructure at the PEH to make it fit for purpose, both now and for the future.
- 1.2. This Policy Letter sets out those current issues with the hospital, the reasons why the alterations are required and the proposals for how this can be done with as little disruption to business-as-usual as possible. It explains the context for the need for such changes, sets out proposals for a long-term programme of works and the initial forecasted expenditure associated with each phase.
- 1.3. The 10 year Hospital Modernisation Programme (“the Programme”) seeks to ensure that acute services are part of an integrated system of community care, provided from a hospital that is safe and modernised, with a layout which is sufficiently flexible to meet future needs and that can more easily adapt to future developments in health care. It will provide a patient focused environment that

¹ [Billet d’État XXIV, 2017 - Partnership of Purpose Policy Letter](#)

it is hoped will support improved staff morale and efforts to recruit and retain staff, improve accessibility of the site and improve the look and feel of the hospital environment. The anticipated whole Programme capital costs are in the region of £72.3m to £93.4m.

- 1.4. The Programme has been divided into three phases, with the first phase involving the relocation and modernisation of the Women's and Children's ward, the development of a new wing for the Critical Care Unit (CCU) and Theatres, as well as work to establish the most suitable location for the Medical Specialist Group. The total cost of Phase 1 is estimated to be in the range of £34.3m to £44.3m.
- 1.5. The Committee is asking the States to agree that delegated authority be given to the Policy & Resources Committee ("P&R") to approve the required funding for Phase 1 of up to £44.3m. Approval of this request will enable the Committee to quickly move forward with these critical projects to address some of the highest areas of clinical and estate risk.
- 1.6. P&R has confirmed that this proposal has been reviewed in accordance with the approved assurance pathway and the recommended investment is affordable within the Capital Portfolio. To enable P&R to exercise its delegated authority and approve future capital funding, it will be essential that the Committee submits business cases for each project which clearly demonstrates value for money, taking into account both the capital investment and the revenue costs. P&R recognises that, whilst there is a need to meet current health and social care service pressures, it is essential that all capital investment supports the transformation of health and social care and the delivery of tangible benefits.
- 1.7. Further work identified in Phases 2 and 3 of the Programme would return to the States for consideration in future rounds of capital prioritisation.

2. Policy background

- 2.1. In June 2017, (Billet d'État XII of 2017)² the States of Deliberation ("the States") approved the Policy & Resource Plan – Phase 2 ("P&R Plan"), in which the States set out its 20 year vision "to be one of the healthiest and happiest places in the world, where everyone has an equal opportunity to achieve their potential." It has long been widely recognised that, to meet this aspiration and "to ensure the continued good health of our community", the health and care system should be

² [Billet d'État XII, 2017 - Policy & Resource Plan - Phase 2](#)

transformed to meet the community's changing needs.

- 2.2. At the same time, the States approved the Medium Term Financial Plan³ (MTFP). Part of this Plan set out the proposed capital portfolio for the next period (2017 to 2021). This aspect of the MTFP has the objective of supporting the delivery of States' strategy through appropriate investment in systems and infrastructure. The Plan included the Hospital Modernisation Programme (previously the PEH Re-profiling Programme), (Phase 1) and Phase 2 as a pipeline project.
- 2.3. The two phases of the Programme were prioritised in the MTFP under the "transform"⁴ category as large projects. Phase 2 of the Programme was included as a pipeline project for consideration in the next round of capital prioritisation, in recognition of the fact that some proposals submitted were longer term in nature.
- 2.4. Phase 1, design phase, was approved on the basis that it would be "Reviewing the PEH Hospital layout and, where necessary, making changes to ward positions to help deliver the islands' health services in a more efficient and effective manner and help support the move towards treating more patients in the community." The proposals contained in this Policy Letter include the work identified in the MTFP, albeit now the Committee is recommending that the Programme is taken forward as three phases of work, rather than two as previously described, over a 10 year period.
- 2.5. In December 2017, the States approved the Committee's Partnership of Purpose Policy Letter setting out the vision for the future model of health and care in the Bailiwick. The Partnership of Purpose's overarching vision is that "by 2025, we will have designed, built and transitioned to a delivery model for services that is both sustainable and affordable within the context of the long-term fiscal and demographic forecasts".
- 2.6. Through the Partnership of Purpose, the Committee has set out to tackle some of the deep-seated challenges within the Bailiwick's health and care system, including those relating to the physical landscape of health and care. In support of this and the vision and the themes to be delivered within the P&R Plan, the Committee prioritised in its policy plan for 2017-2021 the development of the Target Operating Model (TOM) for the new model of health and care, and the optimisation of the estate infrastructure through the modernisation of the

³ [Medium Term Financial Plan 2017-2021 as amended](#)

⁴ Transform service delivery in line with public service reform

hospital site.

- 2.7. The Committee recognised that “the hospital modernisation programme is an essential catalyst for change” and, through the proposed works, supports the delivery of several outcomes aligned with the P&R Plan and Public Service Reform (PSR) agenda⁵, which aims to transform the organisation, management and delivery of public services. The Transforming of Health & Social Care Services Programme, which was prioritised under the PSR agenda in the 2016 Budget (Billet d’État XIX of 2015)⁶, will deliver the Partnership of Purpose.
- 2.8. The TOM highlighted a need to continue to develop the PEH site through the integration of health and care specialists, so enabling closer cooperation in respect of the management and delivery of services, the potential for shared core and back-office services and improved working practices. The Partnership of Purpose sets out the intention for the PEH campus to continue as the “backbone of the system” with the long-term intention that it should be the focus for the delivery of secondary health care, including the acute hospital and the mental health centre, and diagnostics.
- 2.9. The Committee also envisages that the work of the policy priorities of the Supported Living and Ageing Well Strategy (SLAWS), the Disability, Equality and Inclusion Strategy and the Children and Young People’s Plan will, in part, be enabled by the changes brought about by the modernisation of the hospital site. For example, SLAWS aims to drive improvements in health and care services for all adults, in light of the ageing population, which will be supported by the Day Patient Unit project. This project will enable day surgery provision to be enhanced to reduce lengths of stay within the hospital, improve patient recovery and, therefore, their outcomes, which is essential in effectively supporting people to live happier and healthier lives. In addition, the CCU and Theatres projects will support the demands of the ageing population, for those people who may require revision surgery following joint replacements, for example.
- 2.10. In addition, the modernisation of the site will ensure that the facilities are more accessible in line with the Disability, Equality & Inclusion policy priority, which aims to ensure that people with a disability and their carers can live independently and participate fully in all aspects of life, including by being able to equally access any place that is open to the public, such as the hospital site.

⁵ <https://www.gov.gg/change>

⁶ [Billet d’État No. XIX, 2015 - 2016 Budget](#)

3. Current context

Ageing demographic

- 3.1. Similar to many other jurisdictions, it is widely recognised that the Bailiwick faces a demographic challenge resulting from an ageing population. Over time this will mean that the number of people needing to access public services, in particular to health and care services, will rise, thereby placing increased pressures on existing services. Whilst the investment in transformation will enable services to be delivered more efficiently, increasing demand will inevitably result in the provision of health and care services costing more.
- 3.2. In the 2016 Budget (Billet d'État XIX of 2015)⁷ Appendix II, the report prepared by BDO Limited set out the challenges being faced by the Bailiwick, which is similar to those challenges faced by many other health and care systems. These challenges included:
- **Financial:** A combination of pressures on funding from tax revenues together with increased cost of delivery due to changing demographics, improved but more expensive medical technologies and rates of medical inflation that exceed the Retail Price Index (RPI);
 - **Quality and outcomes:** An increase in regulation and standards required by professional bodies together with greater expertise and expectation of service users; and
 - **System reform:** A requirement to deliver a sustainable model of health and social care based on greater productivity and improved outcomes through integrated services and a move to preventative rather than reactive care.
- 3.3. The BDO report concluded that to deliver significant efficiencies, “major transformation over a number of years” was required and that to deliver this change “additional planning and infrastructure capacity” would be needed.
- 3.4. In 2017, informed by the work of BDO, KPMG set out the challenges facing the current health and care system of the Bailiwick, raising concerns around the reactive nature of the system and the substantial calls on the acute services provided at the hospital. At the same time, the modelling work identified the possible implications of the changing demographic on health and care, forecasting “that real terms public spending on health and care will increase from £195m, in 2017 to £214m by 2027, if nothing changes in the way that health and

⁷ [Billet d'État No. XIX, 2015 - 2016 Budget](#)

care is provided.”⁸

- 3.5. The report highlighted that the current system was in need of transformation to remove the reliance on expensive acute, hospital based health and care services.

Challenges, issues and opportunities at the PEH

- 3.6. The infrastructure of the PEH site presents several challenges and issues relating to:
- The current layout;
 - The difficulty with the current infrastructure to maintain the latest standards;
 - The need to upgrade the accommodation to meet current building regulations;
 - The lack of flexibility in the way the PEH can be used; and
 - The way these issues affect the recruitment and retention of staff.
- 3.7. The current layout of the PEH poses significant clinical risks, as identified by several external reviews. For example, the Paediatric Reviews carried out in 2016 and 2018, recommended that a designated area be provided for Children and Adolescent Mental Health service users and general adolescent service users. More recently, the Medicine Review (2018) identified that a lack of two medical wards means that patients are often moved between wards, causing unnecessary stress to patients and staff. In response to this, HSC has created two medical wards within the existing hospital campus, but this has been at the expense of being able to expand or modernise the current surgical provision, which also requires full modernisation. For example, the current orthopaedic ward does not allow for separate areas for trauma and elective surgery, which is now mandated by the NHS to prevent infection.
- 3.8. For several years, it has been widely accepted that the hospital site requires investment to maintain standards and proposals have been included in each of the capital portfolio submissions since 2014. Several parts of the hospital have now reached a crisis point and there were a number of instances in 2018 where the infrastructure failed, or capacity was reached, resulting in essential services being disrupted. A recent example of this was in November 2018 when, due to water ingress from a failed heat exchange, all four theatres had to be closed so that it could be repaired. This resulted in 12 operations being cancelled and Estates’ staff working solidly for 36 hours to restore all the theatres.

⁸ [2017 Partnership of Purpose Policy Letter](#)

- 3.9. Several areas within the hospital need some form of upgrading to comply with the latest building regulations. In particular, the presence of an extremely toxic form of asbestos above the theatres means that, for every unplanned failure, resources are diverted away from planned maintenance activities, as well as additional costs being incurred through the need to use contractors to manage repairs and run through the necessary decontamination procedures. The presence of asbestos provides an additional and unnecessary challenge to staff who need to make repairs or undertake ongoing maintenance programmes, slowing down the work as there is an obvious need for thorough decontamination checks to be carried out before re-opening the theatres. The Programme offers the opportunity to remove the ongoing burden of asbestos from these areas of the site.
- 3.10. The hospital infrastructure as it currently stands has been developed, extended or refurbished in parts over time and is difficult to use flexibly. Many of the current clinical facilities date back to the 1940s, 1970s and 1990s and in some areas are in a seriously poor state. The current layout will constrain any attempts at service transformation if no adaptations are made to accommodate these changes. Likewise, without investment, the facilities will not be used as efficiently and as effectively as they could be, which will have implications on how increased demand for services is met.
- 3.11. The 2019 Budget (Billet d'État XXIV of 2018)⁹ detailed the identified increased risk in the short-term, "relating to recruitment and retention of skilled nurses and allied health professionals from off-island". Although this is due to a variety of factors, not all of which fall within the mandate of Committee to address, it is recognised that the failing infrastructure is one factor influencing the recruitment and retention of staff. This is particularly true when recruiting staff from off-island, as potential employees may not be motivated to relocate to Guernsey to work in out of date facilities.

4. Overview of the Hospital Modernisation Programme

- 4.1. The proposed Programme will, through a series of interrelated projects, extend, refurbish and rebuild areas within the PEH campus to support outcomes, such as user centred care, empowered providers, integrated teams and a focus on quality. These outcomes cannot be achieved without this investment which, when coupled with modernised pathways for patient care¹⁰, will support a more

⁹ [Billet d'État XXIV, 2018 - 2019 Budget](#)

¹⁰ The term 'pathways for patient care' or 'care pathway' describes the key stages, tasks or interventions set out in an integrated healthcare plan for a specific group of patients.

service user friendly facility, such as enhanced one-stop clinics.

- 4.2. Alongside enabling the transformation of health and care, the modernisation of the hospital will address the identified clinical needs for future services and issues within the estate infrastructure. The changes to be delivered by the Programme will offer a future-proofed layout that can more easily adapt to developments in health care, while delivering a more integrated model of care on the site and to meet emerging and changing needs or health care delivery methods, such as robotics.
- 4.3. The Programme will adopt an incremental and evolutionary approach in reconfiguring the hospital. It will be supported by other areas of work, such as digital transformation, which will enable more innovative care options and closer collaboration with primary and secondary commissioned providers through sharing of data. Likewise, the work to establish Community Hubs will inform this Programme, through reviewing where certain services are located in the future, which could potentially free up space within the PEH campus for other uses, or to reconfigure existing services to meet changing demographic and/or health care needs.

5. Evaluating options for the future of the PEH site

- 5.1. During the early discussions around the transformation of health and care consideration was given as to whether a hospital, other than an emergency care service, was needed at all and if so, what alternative options were available to achieve the strategic aims of the Partnership of Purpose. This included considering a complete rebuild of the hospital, either on the existing site or by relocating to another.
- 5.2. All of these options were discounted, as it was recognised that a hospital was needed for the Committee to effectively and efficiently fulfil its mandate and that it was essential if Guernsey was to continue to be economically competitive. Furthermore, given the scale of investment in the infrastructure in previous years, including the completion of the medical wing, rehabilitation wards and oncology, physiotherapy, occupational therapy, renal and cardiology units in 2010 at a cost of £36 million and in 2015 for the new Mental Health & Wellbeing Centre at a cost of £19 million, to relocate the hospital would not be cost effective or provide any significant additional public value.
- 5.3. However, at an early stage (2014-2015) it was recognised that all but the newest parts of the hospital infrastructure required some form of upgrading to meet the challenges identified at that time. As set out in this Policy Letter, the Committee has refined the proposals to modernise the PEH site in three phases over a ten year period.

6. Identifying objectives and outcomes

6.1. In 2018, a range of stakeholders were consulted to reaffirm what the Programme should seek to achieve and the following objectives were confirmed. It was agreed that the Programme should:

- Optimise the delivery of health and care services to provide good and measurable outcomes for the people of the Bailiwick of Guernsey;
- Optimise patient flow, recovery, outcomes and care delivery in the most appropriate environment;
- Accommodate future proofing using flexible space with a vision for future innovations and regulations in health and care;
- Enhance recruitment and retention of staff by providing a welcoming, modern, attractive and 'fit for purpose' environment for all;
- Optimise the use of our local facilities and clinical resources; and
- Optimise the use of our public health and care service by providing a choice of exemplary quality private services.

6.2. At the same time, the intended outcomes that the Programme should seek to deliver were identified as being:

- Improved safety of the hospital provision and, therefore, reduced clinical risk (Effectiveness);
- Increased flexibility of the infrastructure to enable opportunities for future improvements in care and changes in clinical practice, for example, through enabling the possible use of robotics (Effectiveness);
- Increased sustainability of services so that acute health care costs can be effectively managed, i.e. managing the rate at which the costs will increase and not an overall, real terms reduction in health and care costs (Economy);
- Enhancing the private health care offering maximising the use of the site and supports any future health care initiatives, such as health tourism (Efficiency);
- Reducing costs associated with sending islanders off-island for treatment (Economy);
- Improved patient experience by making new services easier to use, tailoring the experience for patients, making better use of digital services and simplifying administration for staff and individuals (Effectiveness);
- Improved patient outcomes through improved care pathways and by greater integration of services and service providers (Effectiveness); and
- Improved recruitment and retention through improving staff moral by being able to offer greater opportunities for staff development and progression in the future services and better staff facilities (Effectiveness).

6.3. Also, the overarching principles that will be used to guide the Programme were

identified as:

- **Flexible design** that allows changes in accommodation to support changes in demands of the health service;
- **Create an environment** which improves patient pathways and access to health services;
- **Redesign and adopt applications** that support service users in managing their own conditions more effectively, reducing patient stay and future demands; and
- **Engage** service users and partners, (primary, secondary and third sector), so that their views can be incorporated into any future plans.

6.4. Throughout the initial phase of the Programme, the main stakeholders were also engaged and consulted to inform the development of the Programme Business Case (PBC). The initial phase focused on confirming the strategic fit and alignment of the Programme against the above objectives and outcomes, identifying the preferred direction of travel including: the portfolio of projects; their respective priorities and indicative costs; and understanding any dependencies that will impact on the Programme.

7. Prioritisation of projects

7.1. During the above phase of stakeholder engagement and through the Programme Governance Board, a suggested portfolio of 12 main projects were identified for inclusion in the Programme based on the outcomes that they will help to deliver and which meet the agreed objectives.

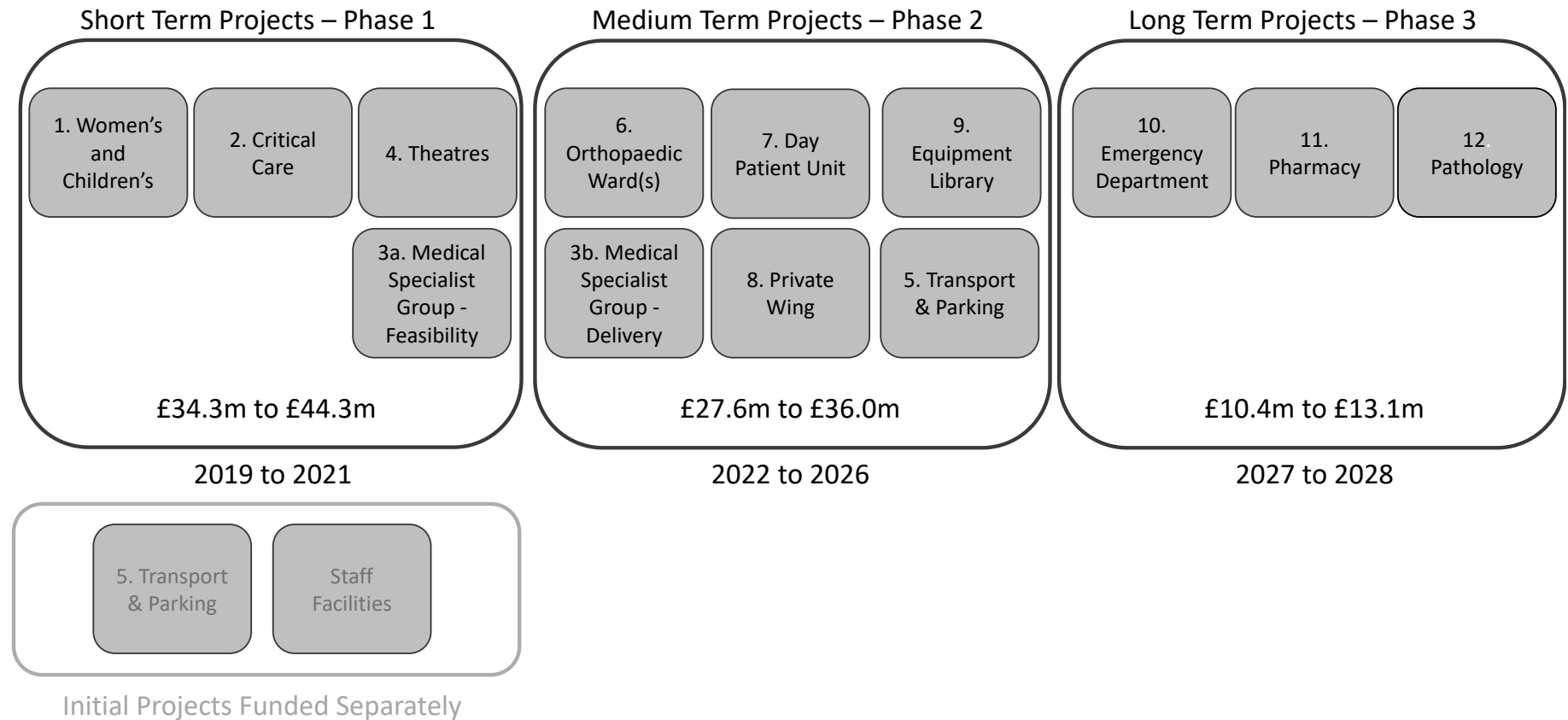
7.2. These projects were evaluated by stakeholders against different criteria relating to the impact they would have on the delivery and efficiency of services; the beneficial impact for service users; the contribution the projects would make to addressing identified clinical risks, and/or the potential impact of the projects in facilitating new ways of working. The projects were categorised into three priority areas; Short, Medium and Long-term projects and were then further prioritised based on progress to date and whether the projects could run sequentially or concurrently. This is illustrated in Figure 1.

7.3. This list of projects is not exhaustive but provides an illustration of the work needed to address the issues and meet the Programme's objectives. It may be that, after further detailed work, one or more of these projects (particularly in the later phases) are not progressed or that other projects not yet identified are recommended for inclusion into the Programme at a later date.

Phase 1 projects and funding requirements

- 7.4. Of those twelve identified projects, funding for four is requested at this time. Approval for the sum not to exceed £44.3m is sought from the Capital Reserve for the priority projects under Phase 1 and to progress the following activities:
- Commission consultants to quality assure the preferred way forward and carry out the detailed design work needed to prepare the development control plan for the Programme (anticipated to be in the region of £1.1m and included in the priority projects costs below);
 - To put in place the necessary programme and project resources to manage the change around the works, including the feasibility study for the potential MSG relocation (£0.6m);
 - Internal staff costs for Programme and project management resources to 2021 (£1.8m); and
 - Deliver the priority projects: Women's & Children's (£10.3m); Critical Care Unit (£10.8m); and Theatres (£20.8m), as outlined in further detail below.
- 7.5. This is the maximum anticipated capital cost for the progression of the Programme and delivery of these projects, within a range of costs anticipated to be between £34.3m-£44.3m. Every effort will be made to minimise expenditure and to seek best value at all stages of Programme and project development and delivery.

Figure 1: Project phasing



- * Some of the Medium Term and Long Term projects are classified as such not because they are relatively less important or less urgent than earlier projects, but because they are dependent on earlier stages of the Programme being delivered. For example, Orthopaedics (Project 4) is dependent on the relocation of the Women's and Children's into new accommodation to be delivered in Phase 1.

7.6. The four priority projects in Phase 1 are:

Project 1: Women's and Children's project – £7.9m – 10.3m

7.7. This project will primarily reduce clinical risk associated with emergency caesarean sections by moving the maternity ward closer to theatres, but it will also support a new children's pathway and will include an outpatient facility to reduce the admittance of children and young people unnecessarily into a ward environment.

7.8. The project consists of several elements including:

- Relocation of the maternity ward to be closer in proximity to theatres;
- Relocation of the paediatric ward to maintain proximity to maternity including a ligature free room to accommodate Child and Adolescent Mental Health Service (CAMHS) patients;
- Creation of an adolescent unit within the paediatric unit for older children that would be more comfortable in an adolescent setting; and
- Relocation of Neonatal Intensive Care Unit (NICU) to maintain proximity to maternity and paediatrics.

Project 2: Critical Care – £8.3m – 10.8m

7.9. To accommodate both the required increased number of critical care beds and theatre capacity to manage current and future demands, it is envisaged that a new critical care wing is required. Likewise, both this and the theatres project are inter-dependent, in that they have to happen together given their clinical relationships and physically need to be adjacent to each other. Provision of a newly-built wing also importantly allows for existing theatres to continue to be in use while construction is underway.

7.10. To address the recommendations made in several reviews of the CCU, this project will see the number of critical care beds increase from the current seven to 10 by 2021 and to 12 by 2031, and provide further opportunity to increase bed numbers, if and when required.

Project 3a: MSG relocation (feasibility study) - £0.5m - £0.6m

7.11. The first part of this project will carry out a feasibility study to determine if and where the MSG might co-locate onto the PEH campus and to seek agreement on the co-location. Any further capital funds needed for this project will be captured in Phase 2. Assessing the feasibility of such a move has to be concluded during 2019 to fit with the existing contractual arrangements in place for the MSG's current accommodation and to ensure that an alternative solution on the PEH site is deliverable within the required timescale.

Project 4: Theatres – £15.8m – 20.8m

- 7.12. This project will merge the theatre suites to allow more flexibility and efficiency in terms of staffing and potentially enable more surgical sessions to be carried out, if required. In particular, an increase in theatre capacity will enable more orthopaedic surgery to be conducted and help prevent future backlogs from building up. It is possible that, by creating more theatre capacity, that some procedures currently done off-island (for example, hip revisions) could be carried out on-island in the future.
- 7.13. Furthermore, additional theatre capacity would allow more day patient surgery to be carried out, reducing hospital length of stay as patients would not necessarily need to be admitted onto a ward. The impact has been estimated at 500 fewer overnight stays per annum, which would improve patient outcomes and reduce costs for both the Committee and MSG, whilst freeing up ward capacity.
- 7.14. To support the delivery of the above, Phase 1 will also involve more detailed design work being carried out with the support of an experienced strategic partner and to establish the required Programme resources to support the progression of the prioritised projects. This work will give more certainty around the Programme detail and will include:
- A review and quality assurance of the Programme's suggested approach, refining as needed to more effectively deliver the Programme's outcomes;
 - Carrying out of health care planning activities including transition planning;
 - Preparation of a detailed development control plan to deliver the projects, in line with the other transformational activities underway;
 - Development of the necessary business cases to seek funding for the prioritised projects: Women's & Children's; CCU; and Theatres;
 - Conduct a feasibility study on the location of MSG on the PEH campus;
 - Implementation of the hospital travel plan developed with the Committee *for the Environment & Infrastructure*. The travel plan aspect has been funded from existing resources but any future capital spend for this project will be included in the subsequent phases;
 - Refurbishment of staff changing facilities to be similarly funded by existing budget. Any future capital spend for this project will be included in the subsequent phases;
 - Establish a Programme office with the appropriate resources to take the Programme forward and manage the change around the works;
 - Development of detailed designs for each of the projects identified;
 - Determining the specifics relating to the Programme's risks, benefits and costs; and

- Commencement of construction works for the prioritised projects and completion of the Women's and Children's project.

7.15. The Committee further tentatively proposes that the work to complete the Programme should be broken down into two further phases of development.

Phase 2 (2022-2026):

7.16. Phase 2 moves into the delivery of the next set of prioritised projects, with capital funding being sought from the States towards the end of Phase 1, subject to the continued prioritisation of the Programme within the capital portfolio. At the same time, delegated authority will be sought to be given to the P&R to release funding following approval of the outline business cases for the relevant projects, as determined during the detailed design work carried out in Phase 1. At this time, these projects are estimated to be below the £10m delegated authority limit and so approvals could be sought individually, in due course, depending on the development control plan agreed.

7.17. It is estimated that Phase 2 will seek between £27.6m – £36.0m from the Capital Reserve to cover the infrastructure and resource costs for that phase and deliver the next set of projects, which are anticipated to be as follows:

- Orthopaedic wards;
- MSG relocation – to be confirmed in Phase 1;
- Day Patient Unit – admissions and discharge;
- Private wards;
- Transport and parking – needs to be determined in Phase 1; and
- Equipment library and store rooms.

Phase 3 (2027-2029):

7.18. During Phase 3 the Programme's work will come to a close, the projects will be finalised and the full profile of benefits to be realised and costs to be incurred will be established. Any funding to support this phase will be sought towards the end of Phase 2.

7.19. Phase 3 will seek the remainder of the funding estimated to be £10.4m - £13.1m from the Capital Reserve to finalise the last of the projects: Emergency Department; Pharmacy and Pathology.

Programme summary

7.20. Although the States is asked to direct the Committee to progress a full Programme of works to modernise the PEH site, Phases 2 and 3 will be subject

to separate and more detailed request to the States to approve the capital requirements at a later date.

- 7.21. An indicative summary of the objectives, benefits, range of anticipated costs and timeframes for each project, across each of the proposed phases for the Programme, are set out in Table 1 below.
- 7.22. In line with best practice, 15% has been added to the indicative figures presented below to reflect optimism bias¹¹, which will be refined as the Programme progresses. This does not include inflation costs.

¹¹ A means to redress the demonstrated, systematic, tendency for project appraisers to be overly optimistic by adjusting the estimates for costs and benefits, based on empirical evidence.

Table 1: The illustrative project portfolio

Phase	Project	Objectives	Benefits	Costs	By
1	1) Women's and Children's	<ul style="list-style-type: none"> Relocate maternity, Paediatric and Neonatal units to reduce time and distance from theatres, that will reduce clinical risks Support an extended outpatient service Improve facilities for adolescents Support staff training 	<ul style="list-style-type: none"> Fewer breaches of National Institute for Health and Care Excellence (NICE) guidelines (emergency caesarean sections) More outpatient services delivered Dedicated spaces for adolescents with mental health conditions and general adolescent patients Increased efficiencies around staff training Increased staff retention 	£7.9-10.3m	2020
1	2) Critical Care Unit	<ul style="list-style-type: none"> Manage increasing demand by increasing capacity through building a new unit Prevent risks relating to postponement of elective surgery Meet current regulatory standards 	<ul style="list-style-type: none"> Increased flexibility of areas Increased staff efficiencies Reduced surgery cancellations/postponements due to a lack of critical care capacity Improved patient dignity Reduced clinical risk 	£8.3-10.8m	2023
1	3a) MSG project (feasibility)	<ul style="list-style-type: none"> Identify and agree a future location for MSG on the PEH campus 	<ul style="list-style-type: none"> Increased collaborative working with the acute hospital More joint appointments and one stop clinics Increased operational efficiencies 	£0.5-0.6m	2019

Phase	Project	Objectives	Benefits	Costs	By
1	4) Theatres - expand and refurbish	<ul style="list-style-type: none"> • Manage increasing demand by expanding the theatres to increase capacity and refurbish the existing theatres to increase flexibility and improve the standards of all theatres • Supports merging of theatres and Day Patient Unit (DPU) facilities 	<ul style="list-style-type: none"> • Increased theatre capacity and flexibility • Reduced length of hospital stay • Reduced number of overnight stays • Reduced postponement of surgery • Increased staffing efficiencies • Improved patient outcomes 	£15.8- 20.8m	2023
1	Refurbish staff changing facilities	<ul style="list-style-type: none"> • Improve staff changing facilities 	<ul style="list-style-type: none"> • Improved standard of facilities • Increased numbers of staff who walk, run or cycle to work (reducing parking congestion) • Improved staff retention and recruitment • Improved staff morale 	£0.4m*	2019
1	Transport and parking	<ul style="list-style-type: none"> • Create additional temporary parking to house the Programme contractors 	<ul style="list-style-type: none"> • Increased temporary parking 	£0.25m*	2020
2	5) Transport and parking	<ul style="list-style-type: none"> • Design a sustainable long-term parking solution that meets the needs of service users and staff and supports the Healthy Living Strategy 	<ul style="list-style-type: none"> • Improved accessibility for service users and staff 	£0.2- 0.3m	2026

Phase	Project	Objectives	Benefits	Costs	By
2	6) Orthopaedic wards	<ul style="list-style-type: none"> • Improve patient safety and infection prevention • Improve the ability of the wards to meet future demands for surgery 	<ul style="list-style-type: none"> • Increased compliance with best practice • Increased capacity and flexibility • Increased operational efficiencies • Reduced cancellations of planned surgery 	£6.3-8.3m	2021
2	3b) MSG project (relocation)	<ul style="list-style-type: none"> • (Subject to the findings of the feasibility study) • Relocate the MSG onto the PEH campus 	<ul style="list-style-type: none"> • Increased collaborative working with acute hospital and one stop clinics • More joint appointments Increased operational efficiencies 	£7.6-10.1m	2024
2	7) Day Patient unit (admissions and discharge)	<ul style="list-style-type: none"> • Locate DPU closer to new proposed theatre suite • Develop dedicated admission and discharge areas to manage increasing demand through increasing day surgery capacity and enhancing surgery pathways 	<ul style="list-style-type: none"> • Increased operational efficiencies • Reduced length of hospital stay and reduced overnight stays • Reduced pressure on in-patient beds • Reducing postponement of surgery • Improved patient outcomes 	£3.7-5m	2023
2	8) Private ward redesign	<ul style="list-style-type: none"> • Relocate and improve the private patient offer • Increase use by patients with private medical insurance and those currently required to travel off-island for private surgery 	<ul style="list-style-type: none"> • Increased income from private patients • Increased capacity to support health tourism 	£5.1-6.6m	2023

Phase	Project	Objectives	Benefits	Costs	By
2	9) New Equipment library	<ul style="list-style-type: none"> Establish a new inventory style system for equipment management within the PEH Support efficient stock control, service and maintenance of medical equipment Support increasing demand and maximise efficient use of equipment 	<ul style="list-style-type: none"> Improved sharing of equipment within wards and departments Reduced the number of procurement requests and overall procurement cost Improved patient safety Potential reduction in equipment purchases 	£3.6-4.6m	2027
3	10) Emergency Department (ED)	<ul style="list-style-type: none"> Manage increasing demand through accessing an overnight assessment unit 	<ul style="list-style-type: none"> Reduced number of ED patients admitted to hospital Reduced number of waiting time breaches Improved patient privacy and dignity 	£4.1-5.4m	2026
3	11) In-patient Pharmacy	<ul style="list-style-type: none"> Improve and expand current facilities Improve efficiency and productivity 	<ul style="list-style-type: none"> Reduced dispensing errors Increased number of items dispensed 	£1.9-2.5m	2027
3	12) Pathology	<ul style="list-style-type: none"> Improve conditions to enable efficiencies in the laboratories: Pathology and States Analyst 	<ul style="list-style-type: none"> Increased operational efficiencies Improved service quality 	£3.7-4.5m	2027

* Funded from existing resources

8. The preferred approach

8.1. The Committee's preferred approach can be summarised as follows:

- The hospital site should be modernised to accommodate current and future health care demands;
- The modernisation should address all identified clinical and estate infrastructure risks and issues;
- A development control plan should be produced setting out a detailed and defined set of projects to modernise the site in line with the Programme's objectives and to minimise the impact on the delivery of services. The funding required for this is incorporated into the priority projects;
- The Programme should be divided into phases to ensure it is manageable and allows for innovations and changes alongside any advancements in health care;
- Phasing the Programme spreads out the capital funds needed and the impact on the local construction industry across several years;
- Funding for each phase of the Programme should be sought from the States, with a request to the States for delegated authority to be given to P&R to approve the capital investments required to deliver the Phase 1 projects;
- Phase 1 projects should be progressed and related funding released following consideration and approval by P&R of the detailed business cases;
- An appropriate team of Programme and project management resources should be in place to support the Programme during this and future phases; and
- A strategic partner should be commissioned to assure the suggested way forward for the Programme and carry out the detailed design work to progress the Phase 1 projects, including the production of a development control plan.

8.2. It is expected that this approach will ensure that the Committee can, through the hospital site:

- Continue to deliver acute hospital-based services that meet the seasonal and population demands whilst refurbishment and improvement works are underway;
- Continue to deliver essential emergency services on-island that reduce admissions;
- Create an infrastructure for hospital-based services that can respond to changing practices and service models;
- Meet technical and clinical standards and best practice for health care services;
- Deliver within the current low waiting time targets;
- Enhance the private health care offering;

- Support the delivery of the Partnership of Purpose;
- Reduce off-island costs by expanding on-island services;
- Achieve best value for money by maximising the utilisation of the site;
- Improve patient experience by making new services easier to use, tailor the experience for patients, make greater use of digital services and simplify administration for members of staff and individuals;
- Enable the service to demonstrate a deeper understanding of its patients whilst increasing flexibility in handling future regulatory changes such as updating clinical practice, medicine delivery or building design;
- Allow investment in the functions that will deliver the greatest value to the islands, including providing a high quality private patient offering;
- Provide the infrastructure to support greater opportunities for staff development and progression in the future service, which will support recruitment and retention and staff morale; and
- Allow for clinical pathways to be redesigned to improve services for both service users, members of staff and partners.

8.3. Work to be carried out in the next phase will further refine and quantify the full benefits by measuring the impact of the proposed changes to be delivered by the Programme.

9. The request for delegated authority to the Policy & Resources Committee

9.1. The Committee is asking the States to agree that delegated authority be given to P&R to approve the required funding for Phase 1 of up to £44.3m. This will allow the first three critical projects to start before 2021 and allow Project 3a (a feasibility study for the relocation of the MSG) to proceed. It will also fund the specialist and Programme resources needed to progress and effectively manage the Programme and enable the Committee to quickly move forward with these critical projects to address some of the highest areas of clinical and estate risk. The requirement to produce detailed business cases for each project will still apply, as will the need for the relevant assurance reviews to be presented for P&R approval. In the case of the resources to support the Programme, the funds for these will be released upon approval by P&R of a sufficiently detailed resource request.

9.2. The rationale for making the request to the States for this approval mechanism for the Phase 1 projects combined is due to the interrelated nature and shared priority status the Committee affords to these projects. Both the critical care and theatre projects are inter-dependent and are best delivered together given their clinical relationships and the need for them to be adjacent to each other. Provision of the proposed newly-built wing will also notably allow for existing theatres to continue to be used during construction works, minimising the impact on service delivery. Through this combined approach there may also be

efficiencies in the use of resources associated with progressing the priority projects along a similar timeframe, rather than in a more piecemeal way.

10. Programme risks

10.1. There is a recognition that there are specific risks to the Programme and that further work on defining these and establishing their mitigating actions is needed during Phase 1. It is also recognised that this Programme is similar in scale to previous infrastructure developments at the hospital site over the last 10 years that the Committee (and predecessor Boards) has successfully delivered.

10.2. The main Programme risks to date have been assessed and include:

- Political support for the Programme approach set out in this Policy Letter is not received, resulting in no funding being approved to progress with the detailed design work and the immediate priority projects, delaying the modernisation of the hospital and increasing the likelihood of clinical issues occurring in these areas;
- The political landscape changes resulting in a change in political support and direction impacting costs, time and quality;
- Any delays in acquiring the suggested Programme resources could create delays to the delivery of the essential projects that could result in unacceptable levels of clinical risk in some areas that could potentially lead to life threatening implications for service users;
- The discovery of unknown asbestos causes delays and extra cost to the Programme;
- The Programme is not prioritised in the next round of capital prioritisation resulting in delays or non-completion;
- Brexit causes a devaluation of sterling that impacts currency exchange rates, which could result in higher than predicted capital expenditure;
- Planning approval for the intended use of the site may not be given, which could impact the development control plan and restrict the future effectiveness and flexibility of the site and therefore the achievement of some of the Programme's objectives; and
- The costs for the essential projects within the Programme may exceed the allocated budget possibly resulting in delay or non-completion.

11. Implementation plan

In line with best practice, a Programme Board has been established to oversee and monitor the progress of the Programme. The Hospital Modernisation Programme Board will consider the need to balance the delivery of change alongside business as usual and continue to report regularly to the Transformation of Health & Social Care Governance Board, who will, in turn,

report on progress to the Committee.

- 11.1. The Programme has been divided into phases to ensure that it is manageable and to support appropriate monitoring and decision making. An indicative Programme plan with high level costs, timeframes and projects to be commenced in each phase can be seen in Figure 1 above.
- 11.2. The early stages have focused on identifying the preferred direction for the Programme, prioritising the portfolio of projects, establishing indicative costs and an outline Programme plan and understanding the dependencies of the Programme.
- 11.3. The Programme Board will be responsible for ensuring that all stakeholders including the States and P&R are kept informed of progress. Although it will be some time before the building works begin, it is recognised that a detailed communications and engagement plan is needed to ensure that all stakeholders, including service users and members of staff, are made fully aware of the changes that will be taking place and how they might be affected. The Programme Board is also responsible for mitigating risks, or for escalating them, as necessary.
- 11.4. Given that the hospital will continue to deliver health and care services while the building and refurbishment works are taking place, it will be essential to ensure that service provision is not hampered and that disruption is kept to a minimum. This will be an important consideration to be factored into the detailed design work.
- 11.5. As with other infrastructure and change programmes this Programme will be managed according to States' guidelines and best practice such as: Managing Successful Programmes framework; Prince2 project management approach; and using the Agile change management method.
- 11.6. The Programme is an important part of the transformation of health and care and will continue to work alongside any dependent Programmes and active areas of work, including the Community HUB Programme, the Digital Transformation Programme and other Partnership of Purpose initiatives.
- 11.7. In line with best practice and the States agreed capital approach, the PBC will continue to be reviewed and assured throughout its lifecycle and each project business case will be reviewed in line with the Five Case Model approach. The independent assurance reviews will provide confidence to stakeholders that the Programme and projects will achieve their objectives, and realise the expected benefits.

12. Funding requirements and resource implications

Funding already invested into the Programme

- 12.1. To date, the Committee has spent circa. £352,000 to support the initial phase of the Programme with the necessary Programme and project resources to evaluate the current and future requirements and start the scoping work on the high priority projects, data and financial support, a Programme Assurance Review, communications and on consultant support to the development of the PBC. This has been authorised by P&R and released from the Capital Reserve.

Ongoing revenue implications

- 12.2. It is to be expected that the delivery of such an extensive capital programme will impact on the Committee's annual revenue requirements. However, at this time, only a high level indication can be drawn based on the current evidence and projections, which will be tested and validated in the next phase. The potential revenue impact of the Programme is estimated to be between £2.9m and £3.4m per year (2021 to 2029), which arises from the possible additional staffing requirements needed to support the proposed increase in beds and overheads, such as housekeeping and utilities. However, the Programme may also offset some of the additional costs that might otherwise be incurred in other areas, such as within the off-island revenue budget. These potential costs may also be offset by any financial benefits that the Programme delivers, for example, it is possible that by increasing private patient activity over the same period the income from this service would also increase. As an indication only, an increase of 10% in the number of private patients would result in additional income of approximately £780,000 per year. Further modelling would be required to ascertain whether this is a deliverable objective.
- 12.3. The details of the full revenue implications and financial benefits will be determined once the design work has been completed in the next phase. However, increasing demand will inevitably result in the provision of health and care services costing more so, even without any capital investment in the site infrastructure, there will be additional revenue funding requirements over and above those suggested by this Programme, purely based on the forecast demand increases.
- 12.4. It is hoped that providing new facilities that can more flexibly respond to changing demands will help to minimise the impact of the demographic challenges and the resulting demand on health care provision on the Committee's revenue requirements.

- 12.5. This Policy Letter is not seeking additional revenue funding for the Programme. Should it be determined during the next phase that the additional revenue funding needed cannot be met from existing resources or offset by the financial benefits of the Programme, an application will be made through the normal annual budget process.

13. Legal implications

- 13.1. If the feasibility study into the co-location of MSG onto the PEH campus proves that it is viable for MSG to locate itself onto the hospital site, changes may need to be made to the Secondary Healthcare contract.
- 13.2. It is not expected that there will be any legislation changes needed to progress this Programme.

14. Other related matters

Partnership working with the States of Jersey

- 14.1. Opportunities exist through this Programme, and the recently established Channel Islands Joint Working Group for Health and Care (2018), to explore further ways to collaborate and work in partnership with the States of Jersey. There are recognised similarities in the challenges that both islands face relating to their health and care systems and Jersey is likewise seeking to transform the landscape of their health and care services.

Review of the funding of health and care services

- 14.2. As part of the 2017 Budget (Billet d'État XXVI of 2016¹²), P&R set out its intention to work with the Committee for Employment & Social Security to reform the way in which health and care services are funded in the Bailiwick. This work is underway and it is expected that a Policy Letter will be presented to the States in 2019. The changes proposed have implications for this Programme in that if the Committee becomes solely responsible for all funding relating to health and care services, this would be an important step in accelerating the transformation of health and care.

¹² [Billet d'État XXVI of 2016 - 2017 Budget](#)

15. Conclusions and recommendations

- 15.1. This Policy Letter sets out the rationale for the estimated 10 year Hospital Modernisation Programme to address some of the most pressing clinical and estate risks at the PEH site. It describes a phased approach for the Programme and asks the States to delegate authority to P&R to approve the capital funding required for the priority projects in Phase 1 of the Programme. This method is recommended by the Committee as it does not remove the necessary and prudent assurance requirements set out in the States' capital portfolio approach, but will enable the Committee to progress swiftly with the priority projects and progress with the transformation of health and care system.
- 15.2 The Committee recommends the States to approve the Propositions to which this Policy Letter is attached.

16. Compliance with Rule 4 of the Rules of Procedure

- 16.1. 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.
- 16.2. 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 be put into effect.
- 16.3. As required by Rule 4(3), the Committee has included Propositions which ask the States to open capital votes of a maximum of £44.3 million to fund Phase 1 of the Programme. Further details about the financial implications are set out in Section 7 of this Policy Letter.
- 16.4. In accordance with Rule 4(4), it is confirmed that the propositions above have the unanimous support of the Committee.
- 16.5. Furthermore, the Committee confirms that in accordance with Rule 4(5), the Propositions relate to the duties of the Committee to protect, promote and improve the health and wellbeing of individuals and the community.

Yours faithfully

H J R Soulsby
President

R H Tooley
Vice-President

R G Prow
D A Tindall
E A Yerby

R A Allsopp, OBE
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HEALTH & SOCIAL CARE

HOSPITAL MODERNISATION PROGRAMME

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

11th February, 2019

Dear Sir,

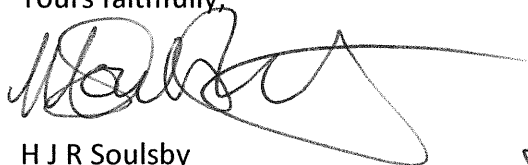
Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee *for* Health & Social Care requests that the propositions contained in its policy letter entitled 'Hospital Modernisation Programme' dated 11th February, 2019 be considered at the States' meeting to be held on 27th March, 2019.

This request is made on the basis that the agreement of the States to the proposed 10 year modernisation Programme will enable urgent and important works to upgrade, modernise and extend the hospital to progress at the earliest opportunity and to realise the intended benefits of the Programme for the community.

A timely debate by the States is also essential to ensure that the resources to further the Programme can be engaged to complete the early design work and to move forward as quickly as possible to address some of the highest areas of clinical and estate risk. In particular, work is currently underway to recruit a Strategic Partner and receiving States approval for the Programme would give certainty to this important appointment.

Yours faithfully,



H J R Soulsby
President

R H Tooley
Vice President

R G Prow
D A Tindall
E A Yerby

R Allsopp, OBE
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

INSURANCE – STATUTORY DISCOUNT RATE AND OTHER MATTERS

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'Insurance – Statutory Discount Rate and Other Matters' dated 8 February 2019 they are of the opinion:-

1. To approve the proposals set out in that Policy Letter for the preparation of the necessary Guernsey legislation to:
 - a. enable the introduction of a statutory discount rate with the setting of the rate to be by regulations of the Policy & Resources Committee;
 - b. create a power for the court to order the payment of damages for a personal injury claim by means of periodical payments;
 - c. create a power, by Ordinance, to introduce a scheme to recover costs which would otherwise fall to the States arising from a personal injury claim; and
 - d. create a power, by Ordinance, to introduce limitations to personal injury damages awards.
2. To direct the preparation of such legislation as may be necessary to give effect to the above proposition.

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

POLICY & RESOURCES COMMITTEE

INSURANCE – STATUTORY DISCOUNT RATE AND OTHER MATTERS

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

8 February, 2019

Dear Sir

1. Executive Summary

- 1.1 This Policy Letter is recommending the introduction of legislation designed to remove elements of uncertainty pertaining to the value of personal injury claim settlements. This will remove some of the risk allowance which inevitably forms part of the pricing of insurance premiums which are paid by individuals, companies and government.
- 1.2 It is understood that the absence of this legislation is a factor in local insurance rates being proportionately higher than in the United Kingdom. This is particularly relevant to insurance for medical professionals and improvements in insurers' confidence in the local market will help mitigate rises to future premiums for clinicians which will inevitably be recovered, either from the States as part of the secondary health contract or through patient charges.

2. Statutory Discount Rate

- 2.1. In some personal injury cases, where the injury is permanent or long lasting, damages are awarded to cater for the cost of future lifetime care. This means that insurers have to pay as a lump sum the full amount that it is estimated it will cost to look after that person for the likely remainder of that person's life at the time of judgment together with compensation for loss of earnings (this can run into several millions of pounds).

- 2.2. In order to cater for the fact that the award is paid up front, a discount is often given to the defendant to offset the gain that can be made in investing the full amount at the time of judgment - rather than the injured person receiving the cost of their care on a periodic basis as the needs arise. In effect, receiving the full amount decades in advance can put the injured person in a better financial position than they would have been had they had to wait for periodic payments, although this may be offset by loss caused inflation over time. Therefore, the discount rate is intended to reflect the financial gain a plaintiff will make upon investment of a lump sum damages award, balanced against the effect of inflation upon the value of that investment. The investment approach adopted by or on behalf of the person receiving an award and the resulting returns will determine whether the income is higher or lower than that expected when the award is made.
- 2.3. In England, the rate is fixed by statute by the Lord Chancellor, pursuant to s.1 of the Damages Act 1996 and the Courts in England and Wales have not departed from the statutory rate. The discount rate is kept under review and is evaluated by actuarial assessment.
- 2.4. In Guernsey, the courts used to adopt the UK discount rate but in the case of *Helmut v Simon* in 2010 the Privy Council departed from the UK rate (then 2%) and determined that the applicable discount rate was negative, i.e. effectively an increase in the amount payable rather than a decrease (-1.5% for certain losses and -0.5% for others)¹. This judgment and the consequential uncertainty concerning the level of discount rate that the court will set has increased the cost of insurance in the Bailiwick, as it has increased the underwriting risk for insurers of such potential claims.
- 2.5. To avoid uncertainty, **it is proposed to legislate to introduce a statutory discount rate which would be set by regulations of the Policy & Resources Committee and regularly reviewed.** The Policy & Resources Committee would comprehensively research and consult extensively on the appropriate rate in Guernsey with interested parties including insurers; medical professionals; advocates, actuaries, etc. This means that the States will be able to balance the interests of insurers (and those of the public paying premiums) against the needs of potential claimants by setting an appropriate rate.

¹ This was a combination of the difference between Guernsey and UK Inflation; lower income tax rates in Guernsey and limited statistical information available to track the movement of prices and earnings in Guernsey.

3. Periodic Payments

- 3.1 In cases of damages awarded for catastrophic injury, often rendering the claimant unable to support themselves financially and requiring lifelong care, the damages awarded are designed to provide funding to cover for the rest of the claimant's life. However, it is impossible to predict with accuracy how long the claimant will live; care requirements may alter from those anticipated at the time of the settlement; the cost of providing care may change; or investments returns may be above or below those assumed by the prevailing discount rate. Therefore, a lump sum award payment could result in the claimant not having sufficient funding to meet their needs during the last years of their life or receiving more funding than is necessary which cannot be recovered by the insurer.
- 3.2 The Damages Act 1996 also permits personal injury awards to be made by way of periodic payments. This is not presently possible in Guernsey, where only lump sum payments can be made. It would be sensible to have a similar provision in Guernsey to allow flexibility as to how personal injury awards can be paid.
- 3.3 Therefore, **it is proposed that legislation is introduced that enables the court to order the payment of damages by means of periodical payments.** This could be instead of, or additional to, the payment of lump sums. A claimant would receive regular damages designed to cover the financial costs and losses which arise over time. A Periodic Payment Order could be subject to regular review or on application and thus can take account of changes in circumstances.

4. Recovery of healthcare costs falling to the States

- 4.1 The United Kingdom has a Compensation Recovery Unit which '*works with insurance companies, solicitors and Department for Work and Pensions customers, to recover:*
- *amounts of social security benefits paid as a result of an accident, injury or disease, if a compensation payment has been made (the Compensation Recovery Scheme)*
 - *costs incurred by NHS hospitals and Ambulance Trusts for treatment from injuries from road traffic accidents and personal injury claims (Recovery of NHS Charges)'*
- 4.2 It is **proposed that legislation is introduced which would enable a scheme to recover costs which would otherwise fall to the States be introduced by subordinate legislation.** There would need to be States approval to introduce this subordinate legislation and a Policy Letter would be submitted following consultation with interested parties.

5. Statutory limitation to damages awards

- 5.1 The cost of personal injury awards continues to rise with consequential increases in insurance premiums. Whilst there is the principle that a claimant should be fully compensated for the losses he has incurred, there are options in how the necessary care is provided. This includes requiring claimants to make use of the services provided by the States where appropriate instead of receiving private care.
- 5.2 It is **proposed that legislation is introduced which would enable the introduction by subordinate legislation of a statutory limitation to damages awards.** There would need to be States approval to introduce this subordinate legislation and a Policy Letter would be submitted following consultation with interested parties.

6. Next Steps

- 6.1 The proposals set out in this Policy Letter are for the preparation of enabling legislation to introduce: a statutory discount rate; a scheme to recover costs which would otherwise fall to the States; and a statutory limitation to damages awards. The Policy & Resources Committee will extensively consult with interested parties prior to enacting a regulation to set a statutory discount rate and, if appropriate, submitting Policy Letters for a scheme to recover costs which would otherwise fall to the States and a statutory limitation to damages awards. The timing of the introduction of new measures will be dependent on the enactment of the enabling legislation but it is intended that the consultation exercise will commence in the second quarter of 2019.

7. Compliance with Rule 4

- 7.1 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.
- 7.2 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.
- 7.3 In accordance with Rule 4(3), the Propositions are not requesting the States to approve funding.
- 7.4 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.

7.5 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to examine issues which expressly do not fall within the mandates of other committees.

Yours faithfully

G A St Pier, President

L S Trott, Vice-President

A H Brouard

J P Le Tocq

T J Stephens

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE *FOR* HOME AFFAIRS

TREATMENT OF PERSONS BORN OR FIRST RESIDENT AS MINORS IN ALDERNEY OR SARK
UNDER THE POPULATION MANAGEMENT (GUERNSEY) LAW, 2016

The States are asked to decide:-

Whether, after consideration of 'Treatment of persons born or first resident as minors in Alderney or Sark under the Population Management (Guernsey) Law, 2016' dated 11th February 2019, they are of the opinion:-

1. To ratify the policies of the Committee *for* Home Affairs in relation to the treatment of those persons born or first resident as minors in Alderney or Sark under the Population Management (Guernsey) Law, 2016 as follows:
 - a. That a person wishing to relocate to Guernsey for the purpose of education/training/employment under the policies set out below from Alderney or Sark must:
 - (i) have eight consecutive years' ordinary residence in the Bailiwick of Guernsey immediately prior to application; and
 - (ii) have been first resident in the Bailiwick of Guernsey as a minor, in the household of their parent(s); and
 - (iii) be (or have been in the case of employment-related policies) under 29 years of age when they first relocate(d) to Guernsey.
 - b. That those looking to access education/training in Guernsey must demonstrate that they have secured a place in an educational institution or on a training course prior to a Permit being granted.
 - c. That those who have relocated to Guernsey for the purpose of employment and cannot hold a further Short or Medium Term Employment Permit due to residency restrictions, can generally expect to be granted a Discretionary Resident Permit to enable them to continue living and working in Guernsey, subject to an application for an employment permit from their employer.

- d. That those looking to live in Guernsey for the purpose of education/training must be accommodated by a householder.
- e. That a Permit holder who has relocated to Guernsey for the purpose of education/training must remain in education/training on a full-time basis.
- f. That a person who has relocated to Guernsey under these policies relating to the treatment of young people from Sark and Alderney under the Law, should be able to benefit from an Agreed Absence of up to 12 months to enable them to travel on the condition that they have been continuously resident for 3 or more years directly before the period of absence.

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

TREATMENT OF PERSONS BORN OR FIRST RESIDENT AS MINORS IN ALDERNEY OR SARK
UNDER THE POPULATION MANAGEMENT (GUERNSEY) LAW, 2016

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

11th February, 2019

Dear Sir

1 Executive Summary

- 1.1 Following debate on the Commencement of the Population Management (Guernsey) Law, 2016 (“the Law”) in March 2017, the States’ resolved to direct the Committee *for* Home Affairs (“the Committee”) to:

“bring a policy letter to the States at the earliest practical opportunity setting out its policy and proposed treatment, under the new population management regime, of children born in Alderney and/or Sark and those taken to those islands as minors and wishing to relocate to Guernsey to live and work or for the purposes of further education or training, together with a Proposition giving members of the States the opportunity through debate to comment on that policy and proposed treatment. Such a report to include a full explanation of the background to, and the considerations taken into account when formulating, the policy and proposed treatment.”

- 1.2 Having considered the background to the matter and the options proposed, the Committee is in a position to share its policies and proposed treatment of persons born or first resident as a minor in Sark and Alderney and seek the States support for their introduction.
- 1.3 In summary the Committee is recommending that:

- A person wishing to relocate to Guernsey for the purpose of education/training/employment under the policies set out below from Alderney or Sark must:
 - have eight consecutive years' ordinary residence in the Bailiwick of Guernsey immediately prior to application; and
 - have been first resident in the Bailiwick of Guernsey as a minor, in the household of their parent(s); and
 - be (or have been in the case of employment-related policies) under 29 years of age when they first relocate(d) to Guernsey.
- Those looking to access education/training in Guernsey must demonstrate that they have secured a place on a recognised educational/training course.
- Those who have relocated to Guernsey for the purpose of employment and cannot hold a further Short or Medium Term Employment Permit due to residency restrictions, can generally expect to be granted a Discretionary Resident Permit to enable them to continue living and working in Guernsey, subject to an application for an employment permit from their employer.
- Those looking to live in Guernsey for the purpose of education/training must be accommodated by a householder.
- A Permit holder who has relocated to Guernsey for the purpose of education/training must remain in education/training on a full-time basis.
- A person who has relocated to Guernsey under these policies should be able to benefit from an Agreed Absence of up to 12 months to enable them to travel on the condition that they have been continuously resident for 3 or more years directly before the period of absence.

2 Position under the Housing Control Law

- 2.1 Controls on the occupation of housing in Guernsey were first introduced in response to a shortage of suitable properties available for occupation by islanders returning after absences necessitated by the Second World War, either on active service or because they had been evacuated.
- 2.2 The Housing (Control of Occupation) (Guernsey) Law, 1994 ("the Housing Control Law") only applied to the island of Guernsey; therefore Sark and Alderney residents were not included within its scope. This is true of the Population Management Law apart from it now includes the 3-mile limit of our nautical waters to include boat dwellers.
- 2.3 However, under the Housing Control Law, policies existed in relation to residents from the other Bailiwick islands accessing education, training and employment options in Guernsey. An outline of that policy has been included in Appendix 1

for information.

- 2.4 In summary, the previous policies, which applied equally to residents of Alderney, Herm and Sark, catered for three distinct groups of people:
- Students completing their secondary education in Guernsey.
 - People under the age of 26, with at least a 10-year history of residence in the Bailiwick whose parents lived in the Bailiwick during the person's secondary education, who are looking to relocate to Guernsey for tertiary education or employment (in respect of whom the policy confers the option for long-term residence in Guernsey).
 - People with a lesser history of residence in the Bailiwick whose parents live in the Bailiwick, who are looking to relocate to Guernsey to undertake: (i) professional training; or (ii) an apprenticeship and subsequent work experience (in respect of whom the policy does not automatically confer long-term residence in Guernsey).
- 2.5 People holding a housing licence as a result of the above policies would have needed to do so for a period of 20 consecutive years' in Guernsey to become a Qualified Resident.
- 2.6 As can be seen, the policies favours those with the strongest/longest connections with the Bailiwick. This is because there was a general concern that the absence of such a differentiation could see people from the other islands of the Bailiwick with only limited Bailiwick connections treated more favourably than people living in Guernsey's Open Market (who might have been born in – and lived all their lives in – Guernsey), and the former Housing Authority felt this was unfair.
- 2.7 The policies were designed to support young people from the other islands to develop to their full potential by enabling them to undertake secondary and tertiary education or commence employment within the Bailiwick. At the same time, the policies recognised that the differing housing control regimes in those islands meant that it was appropriate to ensure that those benefitting from the policies had long-standing connections with the Bailiwick, so as to avoid a situation where more recent movers to the other islands could use them as a "back door" to migrate to Guernsey.
- 2.8 The previous policies also prescribed the type of accommodation that individuals would be permitted to live in. To do so was appropriate as the focus of the Housing Control Law was the preservation of Local Market housing, first and foremost for Qualified Residents, and secondly for licence holders because of their "essential" employment or the strength of their connections with Guernsey as a result of their length of residence and/or their familial relationships in the island.

- 2.9 A person benefitting from these policies had no expectation that they would be able to occupy a Local Market property as a householder until they completed 20 consecutive years residence.

3 Position under the Population Management Law

- 3.1 As with the previous Housing Control Law, the Law applies only to Guernsey (although it also includes the territorial waters out to the 3-mile limit in order to bring boat dwellers into the Law's reach).
- 3.2 As the primary purpose of the Law is the management of Guernsey's population, it naturally follows that policy considerations are different to those under the Housing Control Law. As such, prior to the introduction of the Law it was considered appropriate to look afresh at the policy position for residents in the other islands of the Bailiwick. Engagement with the States of Alderney and the Chief Pleas of Sark on potential policy options under the new regime commenced in 2016 ahead of the introduction of the Law.
- 3.3 In November 2016 (Billet d'État XXIX of 2016), the States resolved that students from the other islands of the Bailiwick being accommodated under the Term Time Host Scheme administered by the Committee *for* Health & Social Care would be lawfully housed in Guernsey without the need of a Permit. It is noteworthy that under the Law a person from the other Bailiwick islands who is in Guernsey solely for the purpose of education would be considered to remain ordinarily resident in their 'home island', and thus not accruing 'qualifying residence' in Guernsey.

Alderney Resident Policy

- 3.4 Prior to the introduction of the Law in early 2017, the Committee shared a draft copy of a proposed Alderney policy (Appendix 2) with the President of the Policy & Finance Committee in Alderney. A response was received confirming that the President of the Policy & Finance Committee was content with the proposed policy recognising the need for some controls to remain. However, several days later a further response was received providing support for the successful amendment put forward by Deputy Roffey.
- 3.5 In the interim before the Committee returned to the States with its response to the amendment, the Alderney policy has been implemented to support young people coming from that Island to access education and employment opportunities.
- 3.6 In summary the policy enables a person looking to relocate to Guernsey from Alderney to do so for the purpose of:

- further education or training (evidence required of placement offer on a recognised course); or
- employment (must be employed in a job listed in the Employment Permit Policy for the first 5 years ordinary residence in Guernsey);

on the basis that they:

- have 14 consecutive years ordinary residence in the Bailiwick immediately prior to accessing a Permit under the policy;
- have been resident in the Bailiwick before their 18th birthday, in the household of their parents; and
- are under the age of 30 at the time of the Permit application.

- 3.7 It is understood that to date, there have been few cases where a young person from Alderney has not been able to live and work in Guernsey because of the restrictions of this policy. The primary restriction is that their employment opportunities are limited to jobs included in the Employment Permit Policy.

Sark residents

- 3.8 Policies for Sark had not been agreed prior to the introduction of the Law and have been on hold subject to the Committee's response to the amendment from Deputy Roffey. As such there are currently no policies in place to support young people from Sark. In other words, a person relocating to Guernsey from Sark is treated in the same manner as any other person coming to live and work in Guernsey.
- 3.9 Since the introduction of the new Law there have only been a very small number of cases where a Sark young person has been restricted by the options available to them as outlined above. This has generally not been in relation to their ability to move to Guernsey to work and live, but in relation to their access to training opportunities available through employment owing to the cap on their residence in the Open Market (Part A (lodger) or Part D) or if they held a Short or Medium Term Employment Permit. This lack of security over their long term residence has resulted in a reticence on the part of the employer to invest in someone who may have to leave the island at a later date. Generally the job roles they hold at present are not eligible to hold a Long Term Employment Permit which would provide the employer comfort in investing in training and development. As such they have been restricted, to some extent, by the options available to them.

4 Policy Principles

Purpose

- 4.1 As with the policies under the Housing Control Law, the purpose of any policy will be to support residents of the other Bailiwick islands to develop to their full potential by enabling them to undertake secondary and tertiary education or commence employment in Guernsey due to the wider opportunities available compared to their home islands. While the March 2017 States' debate in relation to this matter suggested there is support for such a policy, there was divergent opinion on how liberal any policy should be.
- 4.2 Any policies must recognise the differing housing control/population management regimes in Sark and Alderney which means that it is appropriate to ensure that those benefitting from any policies have long-standing connections with the Bailiwick, so as to avoid a situation where people moving to the other islands use them as a "back door" to migrate to Guernsey.

Scope

- 4.3 Guernsey, Alderney and Sark, while geographically close in proximity, are all self-governing islands with their own legislative assemblies, systems of local administration and laws and their own courts. However, Alderney and Guernsey have a fiscal relationship which differs from that between Sark and Guernsey.

Alderney

- 4.4 While Alderney and Guernsey have separate parliaments, they are in effect in fiscal union. Since 1948, with the agreement of the States of Alderney, the States of Guernsey has financial and administrative responsibility for certain public services in Alderney, such as: the airfield and breakwater, immigration, police, social services, health and education ('the Transferred Services'). In addition, Alderney has two representatives with full voting rights in the States of Deliberation.
- 4.5 In February 2016 (Billet d'État III of 2016), the States of Deliberation agreed that the 1948 Agreement should continue to be the basis for the financial and political relationships between Guernsey and Alderney.
- 4.6 Alderney residents contribute financially to public services that the States of Guernsey provides, such as social services, health and education. There is an argument that young persons would be able to access these same services in Alderney as in Guernsey, and therefore their residence in Guernsey would not be an additional cost. There are currently policies that support young people

from Alderney coming to Guernsey for the purpose of both secondary or tertiary education and employment.

- 4.7 Notwithstanding the fact that there would not be an additional cost to Guernsey, it is noteworthy that a more liberal approach to movement of young people from Alderney to Guernsey does have the potential to damage Alderney's economy. A further reduction of their working age population could impact their ability to fund other public services that fall outside of the Transferred Services arrangement. Representatives of the States of Alderney have indicated that they would prefer young people to be able to access opportunities in Guernsey rather than "lose" them to jurisdictions further afield where they may be less likely to return in the future.

Sark

- 4.8 The government of Sark is administered by the Chief Pleas of Sark. As with Alderney, Guernsey's States of Deliberation has power to legislate for Sark in criminal matters without the agreement of Chief Pleas, but only on any other matters with the agreement of the Chief Pleas.
- 4.9 Guernsey and Sark have no formal financial arrangement, although Guernsey provides some services which Sark's Chief Pleas or which Sark residents pay for, such as legal aid, education, healthcare, policing and work carried out by the Law Officers of the Crown.
- 4.10 It is understood that following a recent review of education services in Sark, Chief Pleas is considering options for secondary education.
- 4.11 Owing to the differences between Guernsey's relationship with Sark and that of Alderney, there is an argument that minors from Sark should not necessarily be treated in exactly the same manner as minors from Alderney. Comparatively Sark residents are no different to any other person coming to Guernsey for the purposes of employment. Other people coming to Guernsey to find work are likely to be motivated to do so because the Island offers greater opportunities than their home country, similar to Sark residents. The difference for Sark residents is that their home island is geographically closer and there is an affiliation through the relationships between the jurisdictions that make up the Bailiwick of Guernsey.
- 4.12 Education may be a different matter as larger jurisdictions will have greater opportunities, particularly in higher education, compared to Guernsey so individuals from such jurisdictions are unlikely to be motivated to move to the Island for this purpose. In comparison there are very limited opportunities for tertiary education in Sark, likely to be restricted to online learning. As such, given the close proximity of Guernsey to their home, there is greater motivation for

Sark residents to seek opportunities in Guernsey.

- 4.13 For the purpose of these policies, the numbers likely to benefit are very small. There are currently 21 people in Sark between 18 and 29 years of age, but the actual number to benefit from the policies in question would probably be even lower given the need to meet the likely criteria set in relation to previous residency in the Bailiwick. The current population of that age range will include some people who have moved to Sark as adults to work and therefore would be unlikely to be eligible to benefit from any policies related to this matter.
- 4.14 While it is recognised that Sark's and Alderney's relationships with Guernsey differ, given the low numbers that would be eligible from Sark there is limited impact from treating both islands equally under any policies related to this matter.
- 4.15 **It is recommended that both Sark and Alderney are included within the scope of the policies regarding education, training and employment.**

Residence requirements in Bailiwick

- 4.16 In December 2015 (Billet d'État XXIV of 2015), the States agreed the following strategic population objective:
- “That, as far as practicable, Guernsey's population should, in the long-term, be kept to the lowest level possible to achieve “The Statement of Aims” in this [the Policy & Resource] Plan.”
- 4.17 Both Sark and Alderney, because of their differing circumstances to both Guernsey and each other, have different arrangements in place to control those who can live and work in their island.
- 4.18 There are currently few restrictions on who can live in Alderney and there is a single property market. Alderney does operate a work permit system, but there are exemptions for some individuals, business and categories of employment.
- 4.19 Sark, like Guernsey, has a dual property market split into open and local market properties. The right to live in the local market is controlled by the Housing (Control of Occupation) (Sark) Law, 2011 (the Sark Housing Control Law) which has similarities to the repealed Housing Control Law.
- 4.20 Owing to the above it is considered sensible to have a policy principle to **impose a minimum residence requirement on those looking to relocate to Guernsey**, so as to mitigate the risk of people circumventing the Law by migrating to Guernsey via Alderney or Sark.

Age restriction

- 4.21 In addition to the strategic population objective, and mindful of Guernsey's ageing population, during the same debate in December 2015, the States confirmed:

“That, instead of absolute population numbers or migration levels, States Policies should be focused on ensuring that the Island's working population is of a size and make-up consistent with achieving the States' strategic economic, social and environmental objectives.”

- 4.22 Given that the States' focus is on Guernsey's working population, it seems prudent to **impose an upper age limit on those seeking to relocate from Alderney to Guernsey for education/training/employment reasons**, so as to ensure that there is a long period of time over which any such person has the potential to contribute to the Island as a member of its working population.

Employment options

- 4.23 There are approximately 276 in-policy roles in the Employment Permit Policy that cover a broad selection of employment types. Roles have been selected for the Employment Permit Policy (EPP) on the basis that they are important to our economy and support the States in achieving its strategic objectives. There is scope for skilled and un-skilled people to relocate to Guernsey on the basis that they are contributing not only to our economy and public services, but also support the wider States' strategic objectives in line with the purpose of the Law.
- 4.24 Furthermore, there is also opportunity for employers to make out of policy applications for roles that are not covered in the EPP on the basis that they are important to our economy and support the States in achieving its strategic objectives.
- 4.25 With the strategic population objective in mind, it is considered appropriate that those seeking to relocate to Guernsey for employment be required to hold an employment permit to live and work, as is the case for other persons looking to come to work in the Island.
- 4.26 In the case of Short or Medium Term Employment Permits a cap of five years residency applies. In the context of young people from Sark and Alderney, it is considered appropriate that, subject to an application for an employment permit being made by the employer, such persons should **be able to hold a Permit that would enable them to continue working in a role eligible for such an employment permit past the five year cap on residence**. In this case, a Discretionary Resident Permit would be issued subject to the same conditions as

applied to the type of employment permit the employer had made application for.

- 4.27 By adopting this approach, a person would need to remain employed on a full-time basis (35 hours per week) until reaching eight years consecutive residence when they would become an Established Resident.
- 4.28 The Law includes the concept of two “milestones” in terms of acquiring residential qualifications. The first occurs after eight consecutive years’ residence in Local Market accommodation. At this point, a person has the status of Established Resident. This means that he or she is able to remain in Local Market accommodation in Guernsey indefinitely without any conditions as to his/her employment. These rights will however be lost if an Established Resident ceases to be ordinarily resident in Guernsey before completing a total of fourteen consecutive years’ residence in Local Market dwelling(s) (i.e. a further six years from the point at which he or she became an Established Resident).
- 4.29 At fourteen years, an individual becomes a Permanent Resident, which means that he or she enjoys all the rights conferred by Established Resident status but they can no longer be lost by a break in residence. After any absence from the Island, a Permanent Resident has the right to return and occupy a Local Market dwelling. He/she can also accommodate immediate family members, as defined in the Law.

Housing restrictions

- 4.30 While the primary focus of the population management regime is the size and make-up of the population, housing is still a secondary consideration. As stated in paragraph 3.3, under the Law a person from the other Bailiwick islands who is in Guernsey solely for the purpose of education would be considered to remain ordinarily resident in their ‘home island’, and thus not accruing ‘qualifying residence’ in Guernsey. As their home is still considered to be elsewhere then it is considered appropriate that persons living in Guernsey for the purpose of education should be restricted to being accommodated by a householder in the Local Market.
- 4.31 In relation to persons relocating to Guernsey for the purpose of employment their accommodation options will be as set out in the Law for the relevant type of employment permit. For clarity, only the holders of a Medium or Long Term Employment Permit can occupy a Local Market property as a householder and accommodate their immediate family members.

5 Policy Details

Minimum residence requirement

- 5.1 During the development of the Law it was established as a result of consultation that “After an individual has lived in Local Market property in the Island for a continuous period of 8 years, it is likely that they will have established their home, private and family life in Guernsey to such an extent that to require them to move out of Local Market property after such time would be considered to be an unreasonable interference with their Human Rights” (Billet d’État XI of 2013). This statement formed the justification for the timescale of the first of the two “milestones” in terms of acquiring residential qualification mentioned in paragraph 4.28.
- 5.2 It is considered that this principle of becoming “established” at eight years should apply to young people brought to either Sark or Alderney as minors as it is likely that such relationships will be magnified given they make up a larger proportion of a young person’s experiences.
- 5.3 **On this basis it is proposed that young persons from Alderney or Sark wishing to benefit from the policies in this paper must have completed eight consecutive years’ ordinary residence in the Bailiwick immediately prior to application.** It is further proposed that the Agreed Absences Policy should be used as a guide to assess whether a person should be treated as being ordinarily resident in the Bailiwick throughout an eight year period. For example, time spent at university when the family home was in the Bailiwick would count towards the eight year total.
- 5.4 For clarity, time spent in Guernsey as the holder of an employment permit would also count towards the eight year period. For example, a person who moved to Alderney at 15 years of age would be able to move to Guernsey to work under an employment permit at 18 years. Once they had reached the five year cap for either a Short or Medium Term Employment Permit they would be able to hold a Permit under this policy as they would have by then completed eight years continuous residence in the Bailiwick.
- 5.5 In an effort to ensure uniformity of application of the policies across the other islands of the Bailiwick, it is proposed that there should be no differentiation between those born in Sark and Alderney and those first resident in those islands as minors.
- 5.6 However, it seems prudent to distinguish between those who move to Alderney or Sark by personal choice, and those who first reside in Alderney or Sark as a minor, as the result of the actions of their parent(s).

- 5.7 Thus it is proposed that those accessing any of the policies set out in this Policy Letter **must have been first resident in the Bailiwick as a minor (under 18 years of age), in the household of their parent(s).**

Upper age limit for those relocating for education/training/employment

- 5.8 Recognising that the proposed minimum residence requirement is eight years, **it is proposed that the upper age limit applied to those accessing the policies set out in this paper for the purposes of education, training and employment is 29 years of age.** This is to ensure that all persons first resident in the Bailiwick as a minor in the household of their parents are able to benefit from these policies.
- 5.9 In relation to employment-related policies, a person should have been under 29 years of age at the time they first relocated to Guernsey from Sark or Alderney for the purpose of employment. For example, a 28 year old moving to Guernsey from Sark for employment would be able to hold Short or Medium Term Employments for their first five years of residence. When they reached the five year cap for such employment permits when they were 33 years old they would still be able to benefit from these policies.

Confirmation of an offer of education/training

- 5.10 In order to manage the policy, it is proposed that those seeking to live in Guernsey for the purposes of education/training **must demonstrate that they have secured a place at either an educational institute or on a training course prior to being issued with a Permit.** This is to avoid a situation where a person might relocate with the intention of undertaking education/training, but be unsuccessful in doing so.

Employment-related permits

- 5.11 Persons from Alderney or Sark who meet the minimum residency requirements stated above, but can no longer hold a Short or Medium Term Employment Permit due to residency restrictions, should generally expect to **be able to hold a Discretionary Resident Permit that would enable them to continue working in a role eligible for such an employment permit past the five year cap.** The Discretionary Resident Permit would be issued subject to the same conditions as applied to the type of employment permit the employer applied for.

Conditions of Permit

- 5.12 **Permits under these policies should be conditional on the person remaining in full-time education, training or employment.** If a person was to no longer meet this condition, there should be no expectation that they could remain living in

Guernsey under these policies.

Agreed Absences

- 5.13 Persons benefitting from these policies would primarily be on a route to qualify as a Permanent Resident after 14 consecutive years residence in the Local Market. While they would become Established Residents after eight years they would be tied to remaining in Guernsey until they had completed the full 14 years or risk losing their ability to return to the Island in the future.
- 5.14 It is recognised in the current Agreed Absence policies that young people may want to benefit from broader experiences of working and travelling outside of Guernsey. The current policy states that:

A person aged between 16 and 25 whose parents/guardians currently live in Guernsey, or who is over 25 and has lived in Guernsey for the last 3 or more years and who is away from Guernsey **travelling** for a continuous period of not more than 12 months will be treated as having Continuous Residence in Guernsey without needing to apply for an agreed absence.

- 5.15 As stated in paragraph 4.1, the purpose of these policies is to support young people from Alderney and Sark in accessing opportunities that are not available on their home islands. As such, it is considered in keeping with this purpose that these young people should also be able to benefit from travelling overseas without it having a detrimental effect on their future residence in Guernsey.
- 5.16 It is proposed that a person who is eligible to benefit from the Alderney and Sark minors policies should be able to take an agreed absence from Guernsey for the purpose of travelling for a continuous period of not more than 12 months on the basis that they have been living in Guernsey for the last 3 or more years. This period will be treated as Continuous Residence.

6 Review of policy

- 6.1 It is noteworthy in considering this matter than any policy of the Committee is subject to review. Based on the outcome of periodic reviews any policy can, at the discretion of the Committee, be amended or removed in order to ensure the regime continues to achieve the States' strategic population objectives.

7 Details of consultation

Other Bailiwick Islands

- 7.1 The Committee have consulted with the governments of Sark and Alderney to seek input during the development of these policies.

St James' Chambers

- 7.2 St James' Chambers have been consulted on the content of this policy letter.

8 Compliance with Rule 4

- 8.1 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.
- 8.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 8.3 In accordance with Rule 4(3), the Committee confirms that there are no significant financial implications to the States arising from these proposals.
- 8.4 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.
- 8.5 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee to advise the States on the population management regime.
- 8.6 Also in accordance with Rule 4(5), the Committee engaged with the Policy & Resources Committee given their responsibility for relations with the other islands of the Bailiwick of Guernsey and their lead on the wider strategic review of the Law.

Yours faithfully

M M Lowe
President

R G Prow
Vice-President

R H Graham, LVO, MBE
M P Leadbeater
V S Oliver

STATES HOUSING AUTHORITY

Licensing policies relating to applications from residents of the other Islands of the Bailiwick

1. By arrangement with the Guernsey Education Council the Authority grants housing licences, for Alderney, Sark and Herm students completing secondary education in Guernsey, to live with a Guernsey family.

2. Licences are issued to any person

- (i) whose parents are resident in Alderney, Sark or Herm; and
- (ii) whose parents were ordinarily resident in the Bailiwick during the person's secondary education ; and
- (iii) who is under the age of 26; and
- (iv) who is commencing tertiary education or employment in Guernsey; provided that
 - (a) the person (or his / her parent) was born in the Bailiwick and the person has been ordinarily resident in the Bailiwick for any period of ten consecutive years; or
 - (b) the person has been ordinarily resident in the Bailiwick for the last ten consecutive years.

For a person described in (iv)(a) licences will initially be issued for lodgings or en famille accommodation, but accommodation options will be extended to include a one bedroomed flat, or other appropriate accommodation approved by the Authority, when the person described has completed ten consecutive years actual residence in Guernsey or at least two years under licence.

For a person described in (iv)(b) accommodation options will remain restricted until he / she has completed either twenty years actual residence in Guernsey or eighty per cent of a specified

Note 1 – In this context only, “actual residence in Guernsey” includes the period attending school in Guernsey even though the ordinary place of residence was in another Island.

Note 2 – The Authority will consider applications for extended options at an earlier date where there are exceptional circumstances.

Note 3 – The Authority will consider on its merits any application made by two or more persons who are each eligible for licences under policy No. 2, who wish to share a self-contained dwelling, even though their individual options might otherwise be restricted.

3. Persons whose parents are resident in Alderney, Sark or Herm, who do not qualify for licences under 2 will be granted licences as follows:-
 - (a) Annual licences while temporarily resident for professional training - not automatically renewable on completion of training.
 - (b) Temporary licences for block release courses at the College of Further Education in connection with States Apprenticeship Schemes.
 - (c) Short term licences on completion of apprenticeships for "works experience".
4. Licences for Elderly Persons to occupy Residential or Nursing Home accommodation (registered under Board of Health legislation) if they are over 65 and have been resident in the Bailiwick for the last 10 consecutive years, irrespective of their eligibility under the Long Term Care Insurance Scheme.
5. Licences for persons eligible under the Long Term Care Insurance Scheme to occupy residential or nursing home accommodation (registered under Board of Health legislation) if the Board of Health's Needs Assessment Panel has determined that the person is in need of long term care, provided that the person has been resident in the Bailiwick for the last 10 consecutive years, regardless of the person's age.

December 2002

Alderney Residents Policy

Introduction

The Population Management Law applies only to the island of Guernsey and its territorial waters. This policy has been developed to provide a 'gateway' so that people meeting certain criteria can relocate from Alderney to Guernsey.

Policies are not set out in the Population Management Law. A person can usually expect that a policy will be applied to them if their situation exactly fits the description in the policy – but the Administrator can always choose not to apply a policy. If this happens, the Administrator will explain why the policy hasn't been applied. It is best for a person to make an application for a Permit under this policy and not to rely on the fact that their situation seems to fit the policy.

This policy also explains the situation for Alderney students who are completing their secondary education in Guernsey, and live with a host family in Guernsey under the 'term time host scheme'. This is set out in ["The Population Management \(Miscellaneous Provisions\) Ordinance, 2017"](#).

Moving to Guernsey for further education, training or employment

A person looking to relocate to Guernsey from Alderney under this policy should:

- have 14 consecutive years ordinary residence in the Bailiwick immediately prior to accessing a Permit under this policy
- have been resident in the Bailiwick before their 18th birthday, in the household of their parents
- be under the age of 30 at the time of the Permit application

In addition to these criteria, if the person is relocating to Guernsey from Alderney for:

further education or training - they must be able to show that they have been offered a place on a recognised educational or training course (Reference BR1); or

employment - they must be employed in a job that would attract an Employment Permit for the first 5 years ordinary residence in Guernsey. (Reference BR2)

Ordinary residence in the Bailiwick

In assessing whether a person has completed 14 consecutive years ordinary residence in the Bailiwick, the principles of the [Agreed Absences Policy](#) will be applied. This means that time outside the Bailiwick can, in certain circumstances, count as residence in the Bailiwick for the purposes of this policy. (Reference BR3)

Students in secondary education

Students from Alderney who are undertaking secondary education in Guernsey will not be treated as being ordinarily resident in Guernsey during this period. (Reference BR4)

Students from Alderney who are accommodated in Guernsey under the 'term-time host scheme' administered by the Family Placement Service can be accommodated by their host family without the need to hold a Permit. (Reference BR5)

Students from Alderney who are being accommodated under a private hosting arrangement, will need to have a Permit in place before commencing secondary education in Guernsey. The Population Management Office will not usually issue a Permit unless and until the host family has been successfully vetted by the Family Placement Service. (Reference BR6)

Policy Review

This policy will be reviewed on 2 April 2020. The policy should not be relied upon as an indication of the outcome of Permit applications made after the review date. The Administrator reserves the right to review this policy before the published review date if there is good reason to do so.