



BILLET D'ÉTAT

WEDNESDAY, 8th SEPTEMBER, 2021

XVII
2021

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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 **8th September, 2021** at **9.30 a.m.**, to consider the items listed in this Billet d'État which have been submitted for debate.

R. J. McMAHON
Bailiff and Presiding Officer

The Royal Court House
Guernsey

29th July, 2021

APPOINTMENT LAID BEFORE THE STATES OF DELIBERATION

APPOINTMENT OF AN ORDINARY MEMBER OF THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY

In accordance with section 1 (4A) of Schedule 1 to the Guernsey Competition and Regulatory Authority Ordinance, 2012, as amended, the following appointment by the Committee *for* Economic Development, to the Guernsey Competition and Regulatory Authority, is laid before the States of Deliberation:

- Mr. Michael Byrne as an ordinary member with effect from 24th July 2021.

Mr. Byrne has been appointed as an ordinary member until 23rd July 2025.

The States of Deliberation have the power to annul the appointment.

The Committee *for* Economic Development has concluded that Mr. Byrne is suitable to be an ordinary member of the Guernsey Competition and Regulatory Authority.

A summarised version of the curricula vitae of Mr. Byrne is provided below.

Mr. Michael Byrne

	Position/company:	Dates:
Career:	Chief Executive, Guernsey Competition and Regulatory Authority.	2014 – current
	Director of Regulation, and then Deputy Director General, Guernsey Office of Utility Regulation	2005 – 2014
	Head of Retail Competition, UK Office for Gas and Electricity Markets.	2002 – 2005
	Head of Competition & Economic Regulation, UK's Independent Television Commission.	1997 – 2002
	Branch Head, Economic Assessment Division at the Office for National Statistics.	1994 – 1997
	Head of Analysis and Data Processing, Dairy Services Organisation (South Africa).	1991 - 1993
Professional qualifications:	Diploma in Company Direction, Institute of Directors.	2010
	Post Graduate, European Competition Law, King's College London.	2009
	Masters in Business Administration, University of Warwick.	2005
	Post Graduate in UK Competition Law, UK's Competition Markets Authority (previously the Office of Fair Trading).	2001
	Bachelor of Science degree in Mathematical Statistics, University of Natal, South Africa.	1987

Current/recent Non-Executive Directorships	Ordinary member, Guernsey Competition and Regulatory Authority.	2018-current.
	Ordinary member, Jersey Competition and Regulatory Authority.	2018-2020.

**ELECTION OF A MEMBER OF THE
COMMITTEE *FOR* HOME AFFAIRS**

The States are asked:

To elect a sitting Member of the States as a member of the Committee *for* Home Affairs to complete the unexpired term of office, that is to the 30th June 2025, of Deputy C. J. Le Tissier who has resigned from that office, and whose notice of resignation is appended hereto, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees.

(N.B.

1. Pursuant to the Constitution of the Committee *for* Home Affairs, a member of the Committee shall not be the President or a member of the Policy & Resources Committee nor the President of the Scrutiny Management Committee.)

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

The States are asked:

To elect a sitting Member of the States as a member of the Development & Planning Authority to complete the unexpired term of office, that is to the 30th June 2025, of Deputy C. J. Le Tissier who has resigned from that office, and whose notice of resignation is appended hereto, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees.

(N.B.

1. Pursuant to the Constitution of the Development & Planning Authority, a member of the Authority shall not be the President or a member of the Policy & Resources Committee or the President or a member of the Committee *for the* Environment & Infrastructure.)

**ELECTION OF A MEMBER OF THE
TRANSPORT LICENSING AUTHORITY**

The States are asked:

To elect a sitting Member of the States as a member of the Transport Licensing Authority to complete the unexpired term of office, that is to the 30th June 2025, of Deputy C. J. Le Tissier who has resigned from that office, and whose notice of resignation is appended hereto, in accordance with Rule 16 of The Rules of Procedure of the States of Deliberation and their Committees.

(N.B.

1. Pursuant to the Constitution of the Transport Licensing Authority, a member of the Authority shall not be the President or a member of the Policy & Resources Committee nor the President or a member of the Committee *for* Economic Development nor the President or a member of the Committee *for the* Environment & Infrastructure nor the President or a member of the States' Trading Supervisory Board.)

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

**POLICY & RESOURCES COMMITTEE, COMMITTEE FOR ECONOMIC DEVELOPMENT
AND STATES' TRADING SUPERVISORY BOARD**

GUERNSEY ELECTRICITY – INTERIM ARRANGEMENTS FOR TARIFF REGULATION

The States are asked to decide:-

Whether, after consideration of the policy letter 'Guernsey Electricity - Regulation' dated 18th May, 2021, they are of the opinion:-

1. To agree that the Guernsey Competition & Regulatory Authority's current responsibilities for determining the tariffs and prices charged by Guernsey Electricity Ltd for the supply of electricity should be transferred to the States' of Guernsey, acting by and through the States' Trading Supervisory Board;
2. To issue a States Direction to the Guernsey Competition & Regulatory Authority that, in undertaking its responsibilities under the Electricity Law, 2001, it should ensure its actions and decisions are consistent with and support the implementation of the States' extant Energy Policy and Electricity Strategy and, in particular, reflect the Energy Policy's focus on: establishing targeted competition to support establishing on-island (including off-shore) renewable energy; and, facilitating a competitive energy supply market using shared critical infrastructure;
3. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

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, COMMITTEE *FOR* ECONOMIC DEVELOPMENT
AND STATES' TRADING SUPERVISORY BOARD**

GUERNSEY ELECTRICITY – INTERIM ARRANGEMENTS FOR TARIFF REGULATION

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

18th May, 2021

Dear Sir

1 Executive Summary

- 1.1 The Energy Policy¹ adopted by the States in 2020 established a policy framework for the effective management of Guernsey's energy needs over the period 2020-2050. It set out high-level policy direction to enable the States to manage the global transition to decarbonisation in the energy market at a local level. This policy letter proposes some interim arrangements in relation to both Guernsey Electricity's (GEL) tariffs and the licencing of the Island's electricity sector to enable that transition whilst the States develops and puts in place some of the detailed strategies and policies that are required to support the delivery of its Energy Policy.
- 1.2 The Energy Policy established emissions reduction targets for Guernsey which it anticipated would be achieved partially by facilitating targeted competition within the electricity market to potentially enable additional and local renewable or low carbon energy operators to serve the market. Two of the key work streams identified as being necessary to support that were as follows: firstly, the introduction of a licensing framework to support establishing on-island renewable energy generation; and, secondly, ensuring that cost-reflective tariff systems are put in place across all forms of energy supplies in order to provide greater clarity for investment by energy suppliers and greater transparency for consumers when choosing what to buy.

¹ Article 8 of Billet d'Etat XI of 2020: States of Guernsey Energy Policy 2020-2050

- 1.3 The Energy Policy envisages that Guernsey Electricity (GEL) will play a fundamental role in supporting the energy market transition, in particular by: continuing to invest in a conveyance and supply network that can sustain the forecast increase in electricity consumption; and, the development of a second subsea cable direct from Guernsey to France which has been agreed in principle by the States². However, decisions on such investments need to be underpinned by clarity in the future regulatory environment under which GEL will operate.
- 1.4 Historically, GEL has been subject to sector specific economic regulation by the Guernsey Competition and Regulatory Authority (GCRA). This policy letter sets out the regulatory vacuum that has existed in the electricity market following a review of that historic regulation which began in 2012. As a result, there has been no comprehensive review of GEL's tariffs since that time, even though it has invested over £115m in Guernsey's electricity infrastructure over that period. The regulatory uncertainty is likely to continue until the States puts in place the aforementioned new system of licensing for the electricity market. It is not expected that work on that system (and any new legislation that may be required) will be completed until at least 2023. However, GEL now needs to start generating additional revenues to enable it to continue investing in the electricity infrastructure at the level required to support the energy transition and the Island's new Energy Policy.
- 1.5 This policy letter also sets out a case for both a restructuring and rebalancing of GEL's current tariffs as a high priority to support the objectives of the Energy Policy. These exercises will be undertaken on a revenue neutral basis for GEL.
- 1.6 A restructuring process will ensure its tariffs properly reflect the fixed and variable costs incurred by the Company in accordance with the Energy Policy. Its current tariffs are distorting and misleading the market place by overstating the unit costs of the electricity it supplies and understating the fixed costs. This must be addressed before the electricity generation market is opened up to more competition.
- 1.7 A rebalancing exercise will enable GEL to offer a range of "innovative" and more flexible tariffs that take advantage of the times when cheaper imported renewable electricity is available. Not only should this drive behavioural change amongst consumers in support of the Energy Policy, but it will also benefit the community by reducing the average unit cost of electricity consumed.

² Article 8 of Billet d'Etat XI of 2020 - States of Guernsey Energy Policy 2020-2050: Resolution 8: To approve the cable strategy set out in 8.17 and agree in principle the need for a second interconnector, subject to the consideration of a full business case; and to direct the States Trading Supervisory Board via Guernsey Electricity Limited to revert to the States of Deliberation with the full business case.

- 1.8 The Policy and Resources Committee (P&RC), the Committee *for* Economic Development and the States' Trading Supervisory Board (STSB) (hereinafter referred to as the joint Committees) believe that a pragmatic and proportionate solution is required on an interim basis until the new licensing framework is in place. This must enable a comprehensive review of GEL's tariffs to be undertaken in support of the Energy Policy whilst allowing time for policy proposals and legislation to be brought forward to establish a new licensing framework for electricity market. The joint Committees do not believe that reverting to the historic system of regulation should be an interim option, as this would necessarily involve spending time addressing the concerns that were previously identified by the aforementioned review with that system, when the focus should be on looking forward to the development of the new licensing system.
- 1.9 Accordingly, this policy letter includes proposals for the approval of GEL's tariffs by the States, acting by and through the STSB, on an interim basis and pending the subsequent development and agreement by the States of a new licensing framework for the electricity market. It also includes proposals for States Directions to be issued to the GCRA to ensure that the current regulation of the electricity market is consistent with the Energy Policy following the end of GEL's licence exclusivity in the supply and conveyance markets on 31st January, 2022.

2 Background

2.1 Legal and Regulatory Framework

- 2.1.1 GEL is a commercialised utility established as a States Trading Company under the provisions of the States Trading Companies Law, 2001. The States' Trading Supervisory Board ("STSB") acts as shareholder in the Company on behalf of the States of Deliberation.
- 2.1.2 Under the provisions of both the Regulation of Utilities Law, 2001, and the Electricity Law, 2001, GEL has been subject to economic regulation by the GCRA. The GCRA exercises its duties in respect of GEL with reference to: firstly, the same General Duties³ that are set out for both the Authority itself and the States in the Regulation of Utilities Law, 2001; and, secondly, in accordance with any Directions that the States may give to the Authority, the provision and scope for which are set out under that Law⁴.
- 2.1.3 The electricity market in Guernsey is regulated by the GCRA in three distinct areas: generation; conveyance; and, supply. A licence is required in each area unless the scope of the activity concerned falls within the terms of a licence

³ Section 2 – General Duties - The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001;

⁴ Section 3 – States Directions - The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

exemption established by the GCRA. GEL is licensed in each area and, in the case of the supply and conveyance markets, has protected licence exclusivity under Direction from the States⁵ at least until 31st January 2022 (albeit that exemptions from the requirement to hold a supply licence are available to other operators). GEL does not have licence exclusivity in the generation markets.

2.1.4 The legal and regulatory framework set out above includes the following provisions in respect of pricing and tariffs:

- Under section 2 of the Regulation of Utilities Law, 2001, **both** the States and the GCRA have a duty to promote and balance objectives that include: firstly, protecting the interests of consumers and other users in the Bailiwick in respect of prices charged for utility services; and, secondly, securing, so far as practicable, the provision of utility services that satisfy all reasonable demands for such services within the Bailiwick;
- Under section 12 of the Electricity Law, 2001 (and subject to some provisos set out within that Law) the prices charged for electricity by the holder of an electricity supply licence have to be in accordance with tariffs approved beforehand by the GCRA; and,
- The licence issued to GEL by the GCRA includes provision for the Authority to determine the maximum level of charges that GEL may apply and, in certain circumstances, provides for the Authority to require GEL to change the charges that it is levying. Section 5 of the Electricity Law, 2001, enables the GCRA to include such conditions in the licences that it issues where the licensee has a dominant position in the market concerned.

GEL is currently the only energy supplier in Guernsey's gas, oil or electricity market whose tariffs are subject to the specific prior approval of the GCRA. Whilst a licence to generate electricity has previously been granted to the International Energy Group⁶ (IEG), it is not required to hold an electricity supply licence as a result of the aforementioned licensing exemptions established by the GCRA and, as such, its tariffs do not have to be approved by the Authority.

2.1.5 It should be noted that the summary set out above only includes legislation and provisions that are specific to the electricity sector. In addition, and like its competitors, GEL must also comply with the "general" competition legislation⁷ that was separately introduced by the States several years after the electricity sector laws. The competition legislation includes the prohibition of practices that

⁵ Resolution 11 of Article XIV of Billet d'Etat XV of 2011 – Review of Utility Regulation

⁶ Now the Islands Energy Group

⁷ The Competition (Guernsey) Ordinance 2012

are either an abuse of a dominant market position and/or are anti-competitive, including those involving the imposing or fixing of prices.

2.2 Review of Regulation

2.2.1 In 2015, the States considered a policy letter⁸ jointly submitted by the former Treasury & Resources (T&R) and Commerce & Employment (C&E) Departments (the Departments) that included proposals to exempt both GEL and Guernsey Post (GPL) from the requirement to be licensed by the GCRA. This followed a review process initiated by both Departments in 2012. One of the principal reasons for that review was to ensure that the oversight arrangements represented value for public money. The review sought to consider the overall impact, cost, effectiveness and added value derived from the current system and whether a model of 'lighter touch' regulation was possible, taking into account that both companies were owned by the States of Guernsey.

2.2.2 Having considered the matter, the States did resolve to exempt both GEL and GPL from the requirement to be licensed by the GCRA. In tandem with that decision, it was agreed that the former T&R should expand and strengthen its role and capability as sole shareholder in both companies. It would take a more proactive role in exercising its responsibilities than had previously been the case through, for example, the establishment of clear shareholder objectives for the companies and the monitoring of performance against industry benchmarks and quality standards. Importantly, it was also intended that T&R would be responsible for the approval of tariffs in future, rather than the GCRA. Those decisions were reflected in the subsequent decision of the States to establish the STSB as a new Committee of the States in 2016, which included within its mandate responsibility for acting as shareholder in GEL and GPL.

2.2.3 In 2016, the States also approved follow-up proposals⁹ from the former C&E setting out the detailed legislative amendments and consequential matters that would be necessary to implement these changes in the regulatory arrangements for GEL and GPL. Whilst work on the drafting of that legislation had reached an advanced stage by mid-2017, a number of factors meant that it was not finalised. These included:

- A decision by the GCRA in 2017 to approve an application from IEG for an electricity generation licence. The proposals approved by the States in 2015 and 2016 had not anticipated the existence of a second licensee in the electricity generation sector, meaning that additional drafting instructions would be required from the States before the legislation could be finalised;

⁸ Article 3 of Billet d'Etat VI of 2015: Alternative Framework for the Oversight of GEL and GPL

⁹ Article 17 of Billet d'Etat III of 2016: Legislative Changes Relating to the Future Oversight of GEL & GPL

- A need to review the market and regulatory structures within the electricity sector as plans evolved in 2018 for the extension of the UK's membership of the World Trade Organisation (WTO) to the Bailiwick. There was a risk that exempting GEL from the requirement to be licensed, whilst leaving a licensing regime in place for the rest of the market, would not be compliant with the obligations that WTO membership would bring; and,
- The work that was then being initiated by the Committee *for the* Environment & Infrastructure (CfE&I) for a new Energy Policy. At an early stage in that process, it was evident that the emerging policy might need some form of alternative licensing within the local energy market to support the delivery of the new policy's objectives.

2.2.4 As a result of the above, the resolutions agreed by the States in 2015/16 were never implemented. However, the resolutions were not rescinded until June, 2020, when the States agreed a new Energy Policy. That policy sets out a pathway to agreeing a new licensing framework for the electricity and wider energy sectors, albeit the details remain to be determined (see section 2.3 below).

2.2.5 The unfortunate consequence of all the above is that there has been a regulatory vacuum since 2012 for all key stakeholders, most especially GEL and the GCRA. This has inhibited and/or delayed a number of key operational and strategic decisions that need to be made by GEL, most notably in reviewing its tariff structures. There is a pressing need to ensure its tariffs are aligned with both the States' new Energy Policy and the energy market transition that is central to it so that the Island is well placed to decarbonise by taking full advantage of technological advances, particularly in renewable generation, electric vehicles and energy storage.

2.3 Energy Policy

2.3.1 In 2020, the States considered a policy letter from the CfE&I on a new Energy Policy. One of this policy letter's main conclusions was that a licensing framework in the energy sector would be required to support the development of on-island (including offshore) renewables. The policy letter did not specify either what that licensing framework or who the regulator should be, albeit it did stress that the licensing framework should be appropriate, proportionate and cost-effective.

2.3.2 Having considered the policy letter, the States resolved¹⁰, inter alia, to direct the Committee *for* Economic Development (CfED) to undertake a technical consultation on a licensing framework for targeted competition to support

¹⁰ Resolution 6 of Article 8 of Billet d'Etat XI of 2020

establishing on-island renewable energy and to report back to the States by the end of 2021. It was acknowledged that this work would supersede the States' previous resolutions in 2015 and 2016 in respect of the future regulation of GEL. Accordingly, the States also resolved¹¹ to rescind those previous resolutions insofar only as they related to GEL (noting that the resolutions in respect of GPL remain in place), thereby enabling the CfED to carry out work on a new licensing framework afresh and without the outcome being partially pre-determined.

- 2.3.3 The policy letter acknowledged that provision would need to be made to ensure that GEL could continue to maintain electricity supplies whilst awaiting a new licensing framework and recognised that the CfED might need to bring proposals to the States to enable this to happen if it was not possible to issue licences under the new licensing framework in sufficient time. It also acknowledged that any new market structures would need to be compliant with the Bailiwick's future trading relationships (such as the WTO).
- 2.3.4 The timelines envisaged in the Energy Policy were established prior to the onset of the COVID-19 pandemic and, whilst it had originally anticipated that the CfED would be in a position to report back to the States with its proposals for a new licensing framework by the end of 2021, this is no longer realistic. The Policy also anticipated that the new framework would require the introduction of new or amended legislation and, whilst it is an identified priority of the new Government Work Programme, it is unlikely to be complete before the end of 2023.
- 2.3.5 This work stream provides an important opportunity to examine whether the legislation for the electricity market can be rationalised, bearing in mind there are now three different regulation regimes that are potentially in scope, as follows:
- Firstly, the current sector specific regulation of GEL (and the wider market) by the GCRA under the aforementioned 2001 Electricity Law;
 - Secondly, the Competition Ordinance introduced by the States in 2012, which now precludes pricing practices deemed to be anti-competitive or an abuse of a dominant position; and,
 - Thirdly, the new licensing framework for the electricity market envisaged under the Energy Policy.

For example, given the stated focus in the Energy Policy on ensuring that regulation of the market is appropriate, proportionate and cost-effective, work on the development of a new licensing framework could include evaluating how the newer competition legislation might be used or modified to support the delivery of the Policy's objectives and whether that could also provide an alternative (partial or otherwise) to the current and older model of regulation

¹¹ Resolutions 17 & 18 of Article 8 of Billet d'Etat XI of 2020

under the Electricity Law.

- 2.3.6 This policy letter is concerned with the regulation of GEL's tariffs and, as such, it should be noted that the Energy Policy recognised some issues of fundamental importance in this area. The Policy stressed the importance of ensuring that a cost reflective tariff system must be put in place across all forms of energy supplies. Tariffs would need to be consistent and transparent in areas including: the costs of energy commodities themselves; the costs of the arrangements put in place for maintaining adequate security of energy supplies for the Island; and, customer and other services. The Policy's stated outcome was that costs must be properly reflected in tariffs and must be recoverable by energy providers. This would ensure greater clarity for investment by both existing suppliers and new market entrants, whilst providing customers with transparency in respect of what they choose to pay for.
- 2.3.7 In GEL's case, the issue of cost reflectivity in its tariffs will become of even greater importance as the electricity market is developed to encourage additional competition in local renewable generation in accordance with the Energy Policy. GEL's cost base is split almost 50:50 between fixed and variable costs, but this is not reflected in its tariff structures, where approximately 10% of its revenues are generated through fixed charges and 90% through its variable charges. This means that the unit costs of electricity supplied by GEL compare poorly with the unit costs of alternative suppliers of renewable generation that might be available now or in the future, as fixed costs are being recovered through the variable charges. Reform of its tariff structures is therefore essential to ensure that the Company can compete on a level playing field in the future and must be a pre-requisite to the introduction of additional competition in the market.
- 2.3.8 Therefore, in agreeing the Energy Policy, the States also resolved¹² to direct the CfED to undertake a review of structures for cost reflective tariffs (including fixed and variable costs) and to bring proposals to the States of Deliberation by the end of 2020 (noting again that this timeline was established prior to the full onset of the COVID-19 pandemic). The Policy's intended outcome of this work is that there should be an open and level playing field for competition in the electricity generation and wider energy markets and that prospective investors in renewable generation should be able to fully understand all the associated connection and power purchase arrangements.

3 Guernsey Electricity – Tariffs

- 3.1 GEL supports the commitment within the Energy Policy to establish a new licensing arrangement that will enable the development of a market structure that is fully aligned to the Policy's objectives. In conjunction with that work, it

¹² Resolution 12 of Article 8 of Billet d'Etat XI of 2020

also believes it remains critical to establish how costs should be recovered through tariffs that are transparent and properly reflective of those costs.

3.2 From GEL's perspective, the need for certainty about its future regulatory environment is of critical importance. Without that, it cannot plan effectively the long-term investment programme in the Island's electricity infrastructure that is necessary to support the energy market transition and to fulfil the role that the Energy Policy envisages for the Company in supporting and delivering its objectives.

3.3 The immediate importance of these work streams to the Company is best illustrated by the very difficult challenges GEL is facing today as a result of the regulatory vacuum that has existed since the aforementioned review of regulation that started in 2012 (see section 2.2 above) and which will continue until new licensing arrangements are agreed by the States. These challenges are discussed in more detail in sections 3.4 and 3.5 below.

3.4 Financial Performance and Investment Planning

3.4.1 The regulatory vacuum has meant that, since 2012, GEL has operated in an environment where it has had no long-term mechanisms in place that allow it to control and plan its future revenues and, as a result, the business has been unable to build up financial reserves in a consistent manner to support its investment planning.

3.4.2 The last full regulatory review of GEL's prices was undertaken by the GCRA in 2011. Since then, there has been no full and fundamental review of the Company's tariffs, with the exception of:

- A tariff increase in 2012 to address only the increased costs being incurred by GEL in on-island generation arising from the failure of the sub-sea cable between Guernsey and Jersey (GJ1) that year;
- Two separate and temporary "cost pass throughs" (CPTs) enabling GEL to recover uncontrollable costs relating to movements in foreign exchange rates and commodity prices between 2017 and 2020. The first of these was for 6.8% with effect from 1st July 2019 and the second was for 4.8% with effect from 1st September 2020. These apply to tariffs across the board, but are time limited and will expire in each case after three years.

Beyond the above, GEL has been unable to effectively adjust its tariffs and revenues to take account of any other changes in the underlying costs of the business, inflation or other. Since 2011, this has included a capital investment programme of over £115m, including: the replacement of the GJ1 cable; investments in additional importation capacity to the Channel Islands through

the Channel Islands Electricity Grid's N1 and N3 cable projects; and, the investment in two new medium speed diesel generators, enabling it to continue meeting peak demand requirements and its obligations under the N-2¹³ security of supply policies previously agreed by the States.

3.4.3 GEL currently has borrowings of £44m. This is made up of £33m in commercial borrowings and an £11m loan from the States of Guernsey bond (primarily used for the replacement of the GJ1 cable). The annualised cost of servicing this debt is circa £2.6m and this has the effect of reducing funds that would otherwise be available for reinvesting in the business by 25%. Without changes to its tariffs, the Company does not believe any further increase in borrowing is sustainable. Had GEL been able to adjust its tariffs in order to recover the agreed level of return on its regulated asset base previously determined by the GCRA, its cash position would currently be £30m better than it is today.

3.4.4 Despite a range of cost-cutting and efficiency measures introduced by the Company, GEL's financial performance is below the level required to continue funding the necessary investment in the Island's electricity infrastructure to support the energy market transition. The position has been exacerbated by the need to bring forward the replacement of the GJ1 cable by approximately 10 years following its failure in 2018. The Company's long term investment programme anticipates expenditure of £12½m per annum, but in the last financial year, it was only able to reinvest £4.6m¹⁴. The agreement and implementation of a forward-looking tariff model is now more pressing than ever to support a capital programme that can be properly funded.

3.5 Tariff Structures and Cost Reflectivity

3.5.1 Of equal importance for the Island's new Energy Policy is to ensure that GEL's current tariffs are both "rebalanced" and "restructured".

3.5.2 Guernsey Electricity's tariff structure has not significantly changed since 1993, when the Island was entirely dependent on local oil-fired generation at the power station and when hourly generation costs were relatively static. Since then, the Island has moved to a reliance on renewable electricity imported from the European grid, which now satisfies more than 90% of annual demand. Under the Power Purchase Agreements that are now in place for those imports, GEL has access to renewable electricity from Europe at costs that can vary depending on the time of day, the day of the week and the time of the year.

¹³ The N-2 criterion requires GEL to ensure that it has sufficient generating plant to meet maximum demand ("N") with its two largest sources of supply (excluding the subsea cable) simultaneously unavailable

¹⁴ Figure of £4.6m is derived on a pro-rata basis from expenditure of £7m for the 18 month period ending 30th September, 2020.

- 3.5.3 There is a substantial opportunity to “rebalance” the company’s tariffs so that they are aligned with the variable costs of imported renewable electricity. This would enable GEL to offer a range of “innovative” and more flexible tariffs that take advantage of the times when cheaper imported renewable electricity is available in order to drive behavioural change amongst consumers in support of the Energy Policy and to drive forward the energy market transition in Guernsey. For example, tariffs could be offered to encourage the use of electric vehicles or to switch to renewable or lower carbon sources of energy, particularly in the decarbonisation of heating. Additionally, lower weekend tariffs might be offered to encourage customers to switch activities that they might previously have carried out on weekdays after work (typically a peak period) to weekends. The alignment of tariffs with the costs of imported electricity will also enable GEL to encourage usage at times when there is a greater level of spare capacity on the subsea cable, thereby reducing the need to run the on-island power station.
- 3.5.4 There is also a pressing requirement to undertake a “restructuring” of GEL’s current tariffs to ensure that they properly reflect the Company’s underlying cost base. The Energy Policy sets out the importance of ensuring tariffs across the energy market are properly reflective of costs (see section 2.3 above) and, as a result, directed the CfED to report back to the States with proposals to address this matter across the energy market. However, in GEL’s case, there is an immediate need to address this matter, as its current tariff structures are distorting and misleading the market place.
- 3.5.5 GEL’s tariffs do not currently reflect the fixed and variable cost structures of generating, supplying and conveying electricity. As set out earlier in this policy letter, its cost base is split approximately 50:50 between fixed and variable costs. However, only circa 10% of its revenues are generated through fixed charges and 90% through its variable charges. Within the context of the new Energy Policy, this has two important consequences.
- 3.5.6 Firstly, GEL’s fixed cost base is primarily determined by the infrastructure it needs to have in place to satisfy the Island’s peak maximum demand (typically early on a cold winter’s evening). With the energy transition, that peak demand will increase as more customers switch to electric heating, electric vehicles and so forth. As a consequence, the capacity of the network will have to be increased in order to meet that maximum demand, even if that capacity is not being used all of the time. The energy transition will see the continuing emergence of new technologies, such as solar PV, wind and battery storage, which offer consumers the opportunity to self-generate and store energy for their own use. However, whilst this will lead to a reduction in the consumption of electricity sourced from the grid (ie GEL), it will not result in a corresponding sized decrease in maximum demand. As 90% of GEL’s revenues are generated through its variable charges, the fall in consumption will leave GEL with insufficient income to maintain the secure and resilient network on which the Island will be increasingly dependent

and which is required to meet maximum demand.

- 3.5.7 The second consequence of the current tariff structures is that the variable charge does not properly reflect the cost of each unit of electricity being consumed and, indeed, substantially overstates that cost. By way of illustration, the standard domestic tariff unit charge of electricity¹⁵ levied by GEL is 19.78 pence per kilowatt hour (kWh). This compares to an average cost of generation of c7 pence per kWh. If one takes into account GEL's two part tariffs, which have a higher daytime normal rate, then the differential is even higher. It is essential that this imbalance is corrected at as early an opportunity as possible. The current tariffs are sending misleading signals to the market place and, specifically, to customers thinking about investing in renewable and storage technologies, by overstating the actual unit costs of electricity that GEL is providing. For example, a customer thinking about investing in solar panels today might base that decision on payback calculations based on offsetting tariffs that are currently overstating the real unit costs of electricity that GEL can provide and without fully understanding the fixed costs of providing and maintaining the electricity infrastructure on which they will continue to rely when their own renewable electricity supplies are either unavailable or insufficient for their needs.
- 3.5.8 These are real issues that are already affecting Guernsey's electricity market today. They underline the importance of providing complete transparency to all electricity customers of both the fixed costs of providing reliable and secure electricity for the Island and the true variable costs of generating that electricity from the different available resources. GEL does have the ability under the aforementioned Electricity Law to enter into "bespoke" commercial agreements with customers that sit outside of its published and regulated tariffs. It has started introducing such arrangements with its largest commercial customers to start mitigating the risks that the current tariff structures are creating. These agreements represent a positive step towards a fairer pricing system because it means that those larger customers are making an appropriate contribution to the fixed costs of the infrastructure they require and that the remaining smaller domestic customer base are not unfairly subsidising them. However, the situation can only be properly resolved with a full restructuring of GEL's current tariffs.

4 Regulation of Tariffs – Interim Proposals

- 4.1 The regulatory vacuum and uncertainty that has existed since 2012 and which will continue until the States adopts new proposals for the licensing of the electricity and wider energy markets is not only prejudicing GEL's ability to invest in the infrastructure required to support the Island's transition, but it is also

¹⁵ The equivalent of the standard variable charge

sending misleading signals to the market place. Without a restructuring of GEL's tariffs, the consumers of today and tomorrow will: firstly, continue picking up the unrecovered fixed costs of the infrastructure enjoyed by yesterday's customers; and, secondly, will effectively be subsidising the fixed costs of remaining connected to the grid for those customers who have invested in, for example, solar renewables. These latter customers would have made those investment decisions based on tariffs that do not properly reflect the fixed and variable costs of the electricity they consume today.

4.2 The work being undertaken by the CfED on both a new licensing system and cost-reflective tariffs in the wider energy market should address these issues for the longer-term in due course. However, there is today an immediate need to address GEL's tariffs to ensure that: firstly, the Company's tariffs are structured in such a way to support the energy transition that has already started; and, secondly, it can fulfil the role that the Energy Policy envisages the company will provide in future by investing in and providing the secure and resilient electricity infrastructure that the Island needs. For example, this includes: an on-island conveyance network that can sustain the forecast increase in electricity consumption; and, the development of a second subsea cable direct from Guernsey to France which has been agreed¹⁶ in principle by the States as part of the cable strategy included within the Energy Policy.

4.3 The current regulatory system for the electricity market has been largely dormant since 2012. Whilst that system could now be used to address the issues relating to GEL's tariffs, the joint Committees do not believe this is the best approach for several reasons:

- Firstly, reactivating that regulatory system in full would require the investment of resources by both the GCRA and GEL at a time when the focus should be on supporting the CfED on the development of a new licensing framework as a matter of high priority;
- Secondly, whilst the resolutions agreed by the States in 2015/16 relating to the previous review of regulation have been rescinded to enable the CfED to progress with the development of a new licensing framework, it does not follow that the issues and concerns about that older regulatory system that were identified at the time have been resolved, particularly in relation to its cost and proportionality. The joint Committees believe those issues and, in particular, the previous price control mechanism for tariff setting, would need to be addressed if the system was to be fully reactivated. Resolving this

¹⁶ Resolution 8 of Article 8 of Billet d'Etat XI of 2020: To approve the cable strategy set out in 8.17 and agree in principle the need for a second interconnector, subject to the consideration of a full business case; and to direct the States Trading Supervisory Board via Guernsey Electricity Limited to revert to the States of Deliberation with the full business case.

single issue could take some significant time as no price control has been carried out since 2011. However, rather than investing resources in looking backwards, they believe that the focus should be on the development of the new modern licensing framework envisaged by the Energy Policy, acknowledging the commitments given therein that this should be proportionate and cost-effective; and,

- Thirdly, many of the issues that will need to be taken into consideration in reviewing GEL's tariffs involve factors that go beyond the principles of economic regulation that are typically involved in the current regulatory system. For example, shaping tariffs to ensure they support the Island's environmental objectives and encourage change in consumer behaviour would be one such factor. There will also be issues of social equity to take into consideration by, for example, considering how all customers can benefit from renewables, rather than just those who can afford the upfront capital investment that can often be required. In addition, the restructuring of GEL's tariffs to ensure that its standing charges properly reflect its fixed costs will have to address the impact on customers who only consume low levels of electricity and will not see corresponding savings in their variable charges that fully offset the increase in their standing charge. This may require consideration of social policy interventions.

4.4 Therefore, the joint Committees believe that there is a requirement to put in place an alternative interim arrangement that enables the issues around GEL's tariffs to be addressed whilst providing the CfED with the time to develop and bring forward policy proposals and, then, legislation for a new licensing framework. It is therefore proposed that responsibility for determining GEL's electricity prices and tariffs should be transferred from the GCRA to the States, acting by and through the STSB, on an interim basis and pending the agreement of a new licensing framework for the electricity sector, which may or may not include alternative provision for the future regulation of prices and tariffs.

4.5 The following factors have been taken into consideration in proposing this approach:

- It would mirror the arrangements that are in place for a number of the States' other trading businesses, where fees and charges are determined by the STSB. These include the Ports, Guernsey Waste, Guernsey Water and Guernsey Dairy;
- The States would, through the STSB, retain control of GEL's prices and tariffs, enabling them to ensure that they were aligned with its environmental and other policy objectives;

- To the extent that it should be necessary until a new licensing framework is determined, the GCRA could continue to exercise the other regulatory responsibilities for which it is currently responsible under the Electricity Law, 2001, such as service standards, and charge GEL such licence fees as may be necessary to fund the cost of that residual work. Such an arrangement is not uncommon; indeed, whilst the STSB is responsible for determining the tariffs charged by the Ports, Guernsey Waste, Guernsey Water and Guernsey Dairy, each of those businesses is also subject to some form of external independent qualitative regulation (for example, by the Civil Aviation Authority or the Office of Environmental Health & Pollution Regulation);
- These arrangements can be implemented without compromising the Bailiwick's WTO obligations, which are principally concerned with issues of market access, not the mechanisms for the approval of electricity tariffs and prices.

Whilst some legislation will be required to give effect to the above proposals, it is anticipated that this will be relatively minor in nature and should involve only amendments to the Laws set out in section 2.1 above. Amendments to those Laws can be made by Ordinance and do not require an Order in Council. In the event that those Laws are amended, then the GCRA would have to make some consequential amendments to the licences it has issued to GEL.

- 4.6 In the event that the States approves these proposals, then it would be the STSB's intention to adopt a phased approach to working with GEL to review its tariffs and prices.
- 4.7 The first priority would be to undertake the restructuring and rebalancing of GEL's tariffs. Restructuring the tariffs at an early opportunity is essential, given the misleading and distorting effect that the current tariffs are having on the market place and the energy transition. The second priority would be to rebalance the tariffs, given the opportunities this presents to align them with the variable cost of electricity that is available through its Power Purchase Agreements and to offer more innovative tariffs as a result. These initiatives should be revenue neutral for GEL, but do offer the opportunity to reduce the average unit cost of electricity consumed in the Island by encouraging use of imported electricity at times when it is cheaper.
- 4.8 The third priority will be to review the tariffs so that GEL can start generating additional revenues to enable it to continue investing in the electricity infrastructure at the level required to support the energy transition and the Island's new Energy Policy. The intention would be to ensure that any increases in tariffs are presented as part of a smooth tariff evolution strategy over a transitional period, thereby avoiding any price shocks for the market, particularly

as the Island's economy recovers from the COVID-19 pandemic.

4.9 It is important to note that key safeguards will remain in place under the proposed arrangements, as follows:

- Under the provisions of the Regulation of Utilities Law, 2001, the States are already and will remain under the same statutory obligation as the GCRA to promote (and balance) objectives which include: firstly, protecting the interests of consumers in respect of prices; secondly, securing the provision of utility services that satisfy all reasonable demands within the Island; and, thirdly, ensuring that utility activities are carried out in such a way to best serve the economic and social development and wellbeing of the Island; and,
- In developing its tariff proposals for consideration by the STSB, GEL would still have to comply with the requirements of the Competition (Guernsey) Ordinance, 2012 (and associated legislation), including its provisions on the prohibition of practices that are either an abuse of a dominant market position and/or are anti-competitive. This legislation was not in existence when the Electricity Law and current system of regulation was originally introduced.

The STSB's policy is that GEL should be operated on a "not for dividend" basis and that any profits earned by the Company should be either re-invested in the business for the benefits of customers and the Island's environment or "returned" to customers by freezing (or even reducing) tariffs.

4.10 In exercising its proposed responsibilities in respect of GEL's tariffs, the STSB anticipates that it will need to commission external assurance to assist it in determining the Company's future tariffs. The cost of any such assurance would, quite properly, be met by the Company. However, the STSB anticipates that this would be offset by a reduction in the licence fees that GEL pays to the GCRA, which have been set by the Authority at £180,000 in 2021 (£120,000 in 2020).

5 Supply & Conveyance Licences

5.1 Under the provisions of the Regulation of Utilities Law, 2011, the States has the authority to give Directions to the GCRA. Section 2.1 above notes that, in the case of the supply and conveyance markets, GEL has protected licence exclusivity under Direction from the States to the GCRA at least until 31st January 2022 (albeit that exemptions from the requirement to hold a supply licence are available to other operators). GEL does not have licence exclusivity in the generation markets.

5.2 Under the terms of the legislation, the term "conveyance" covers the transportation of electricity from the generating station to the final

substation. This is closely aligned to GEL's high voltage (HV) network. The term "supply" encompasses Guernsey Electricity's low voltage (LV) cabling that is provided between the final substation and the property receiving the electricity. In a small number of cases, supply activities can also encompass elements of the HV network, as some customers are supplied with HV directly. The breakdown of GEL's current network is approximately one third HV and two thirds LV. Therefore, GEL's licensed "supply" activities extend beyond simply the retail arrangements it has in place for the sale of electricity to its customers, but also involves the provision and maintenance of the substantial proportion of the Island's electricity network.

- 5.3 In accordance with the Energy Policy, the CfE&I will be bringing forward proposals in due course for an update to the Island's Electricity Strategy. It is anticipated that this Strategy will include recommendations on the establishment of a target for the generation of on-island renewable energy. In doing so, it could identify what additional detailed policies the States could put in place to facilitate more adoption of local renewable electricity. These might include: changes to the electricity market structures; adapting tariffs to incentivise the development and adoption of local renewable energy; and/or, changes to the "merit order" under which GEL is currently required to operate¹⁷.
- 5.4 In considering the future market structures, the updated Electricity Strategy will provide an opportunity for the States to consider how the development of local renewable electricity relates to the States' current N-2 security of supply requirements under which GEL is currently required to operate, noting that a key pillar of the Energy Policy is that all suppliers should in future share responsibility for security within a more open energy market.
- 5.5 It is anticipated that the updated Electricity Strategy will be submitted to the States for consideration by the CfE&I by or during the third quarter of 2022. However, with GEL's exclusivity in the supply and conveyance markets ending before then on 31st January, 2022, the States need to consider what guidance should be issued to the GCRA in respect of its licensing responsibilities from that point and until any new licensing framework is adopted by the States.
- 5.6 It is therefore recommended that a States' Direction should be issued to the GCRA that, in undertaking its responsibilities under the Electricity Law, 2001, it should ensure its actions and decisions are consistent with and support the implementation of the States' extant Energy Policy and Electricity Strategy and, in particular, reflect the Energy Policy's focus on: establishing targeted

¹⁷ The merit order ranks the electricity sources available to GEL for dispatch into the network and is based solely on their ascending order of price (such that the cheapest must always be dispatched first). Changes to the merit order could require a greater weighting or priority to be given to the dispatch of locally generated renewable electricity and would enable GEL to stimulate the market by entering into committed power purchase agreements with suppliers of such electricity.

competition to support establishing on-island (including off-shore) renewable energy; and, facilitating a competitive energy supply market using shared critical infrastructure.

6 Consultation

- 6.1 In May, 2021, the joint Committees undertook a targeted closed consultation of the GCRA and the members of the Energy Forum in respect of the potential for extending GEL's exclusivity in the case of the supply and conveyance markets. The GCRA confirmed that an extension of the arrangement would be a reasonable approach in the current context, but it was clear from the responses that there were differing views, and that overall an alternative approach was needed that would balance removing barriers for on-island businesses and market entrants in respect of renewables while preserving the approach of sharing the base network.
- 6.2 The joint Committees have also consulted with the GCRA in respect of the recommendations regarding tariff regulation. The GCRA's overall view is that maintaining the current regulatory regime "will support the expediency needed and provide the most appropriate safeguards to address the real issues identified". However, the joint Committees have set out above the reasons why the change of approach in the interim is recommended. Notwithstanding, the helpful observations made by the GCRA will be useful in ensuring an effective approach in the interim should the States support the propositions.

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.
- 7.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Policy & Resources Committee and the States' Trading Supervisory Board. The propositions have the majority support of the Committee *for* Economic Development, with Deputy Vermeulen not supporting the propositions.
- 7.4 In accordance with Rule 4(5), the Propositions relate to the duties of the: Policy & Resources Committee to promote and facilitate cross-committee policy development; the Committee *for* Economic Development to advise the States on regulation in the economy; and, the States' Trading Supervisory Board to carry

out the States' role as shareholder in Guernsey Electricity.

- 7.5 In accordance with Rule 4(5), the joint Committees consulted with the Committee *for the* Environment & Infrastructure, the Guernsey Competition & Regulatory Authority and the members of the Energy Forum. A letter of comment from the Committee *for the* Environment & Infrastructure is appended.

Yours faithfully

**Policy & Resources
Committee:**

P T R Ferbrache
President

H J Soulsby
Vice-President

M A J Helyar
J P Le Tocq
D J Mahoney

**Committee *for* Economic
Development:**

N R Inder
President

S J Falla
Vice-President

A Kazantseva-Miller
N G Moakes
S P J Vermeulen

**States' Trading
Supervisory Board:**

P J Roffey
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C N K Parkinson
Vice-President

N G Moakes
S J Falla MBE
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**Committee for the
Environment & Infrastructure**

Deputy P Ferbrache
President
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Via e-mail

27 May 2021

Dear Deputy Ferbrache

LETTER OF COMMENT ON THE INTERM TARIFF REGULATION POLICY LETTER

The Energy Policy submitted to the States Assembly by the predecessor Committee *for the Environment & Infrastructure*, and adopted by the States in 2020, established a policy framework for the effective management of Guernsey's energy needs over the period 2020-2050. It sets out high-level policy direction to enable the States to manage the global transition to decarbonisation in the energy market at a local level.

The Committee's view is that the policy letter from the joint Committees marks a significant first step in reaching the aims and objectives of the Energy Policy.

The Committee concurs that there is a strong case for restructuring and rebalancing GEL's current tariffs as a high priority to support the objectives of the Energy Policy. The Committee supports the rationale for the interim approach that is being proposed in respect of tariff regulation. This balances the need for certainty for the market, including Guernsey Electricity Limited (GEL), the need for the States to move quickly in that respect, and the need to find a pragmatic and effective approach given the significant demands on government resources in a challenging local and global environment post-Covid and post-Brexit.

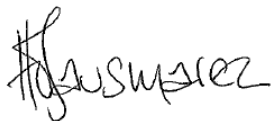
The 2020 policy letter does specifically acknowledge the importance of taking steps in the interim to ensure that GEL could continue to maintain electricity supply whilst awaiting a new licensing framework, and recognised that the States might need to enable this to happen if it was not possible to issue licences under the new licensing framework in sufficient time. This approach is consistent with that.

This approach will be further supported by the Electricity Strategy currently being developed by the Committee, for which the aim is to present it to the States Assembly in mid-2022 following consultation and engagement with energy users and the industry. This will set out work *inter alia* on source and security of supplies and merit order despatch. That policy letter will set out how the Electricity Strategy can support the on-island generation and trading of renewable energy, both to support the Energy Policy and the development of an economic sector for renewables in the Bailiwick.

The Committee also notes that GEL's licence exclusivity in the electricity supply and conveyance markets will expire on 31 January 2022. The Committee is aware that the joint Committees considered, consulted on but ultimately decided against including recommendations on any extension of the exclusivity in the policy letter and, as such, GEL's exclusivity will currently expire as scheduled early next year.

As a result of the above, the policy letter acknowledges that the States need to consider what guidance should be issued to the GCRA in respect of its licensing responsibilities from that point and until any new licensing framework is adopted by the States. Whilst supporting the overall approach, the Committee notes that its success will depend significantly on how the GCRA interprets the States' Energy Policy. This will need to be carefully monitored and, if necessary, consideration given to putting in place additional States' Directions to the GCRA. The Committee will seek to actively work with the Committee for Economic Development on such a Direction, and ensure it is reaffirmed on the Electricity Strategy that is being developed.

Yours sincerely



Deputy L De Sausmarez
President
Committee *for the* Environment & Infrastructure

Cc Deputy Peter Roffey, President, States' Trading Supervisory Board
Deputy Neil Inder, President, Committee *for* Economic Development

THE STATES OF DELIBERATION**of the****ISLAND OF GUERNSEY****COMMITTEE FOR EDUCATION, SPORT & CULTURE****SECONDARY AND POST 16 EDUCATION REORGANISATION**

The States are asked to decide:-

Whether, after consideration of the policy letter, dated 28th May, 2021, they are of the opinion:-

1. To agree that from the earliest date practicable, States' maintained secondary education should be delivered through an 11-18 learning partnership across three 11-16 schools and a Sixth Form Centre located on a site separate to those schools, and Le Murier and Les Voies Schools and St Anne's School in Alderney.
2. To agree the three 11-16 schools will be located on the existing school sites at Les Beauamps, Les Varendes and St Sampson's and the Sixth Form Centre in a new building at Les Ozouets Campus co-located with The Guernsey Institute, the development and implementation of which is estimated to have:
 - a) A capital cost of £43.5m as set out in table 8 in paragraph 9.4; and
 - b) An ongoing revenue cost which will not, in the medium term, exceed the current revenue costs associated with these phases of education.
3. To approve 'Secondary & Post 16 Education Reorganisation' as a project in the capital portfolio, subject to ratification by the States as part of the Government Work Plan debate.
4. To delegate authority to the Policy & Resources Committee, following approval of the necessary business cases, to open capital votes of up to £54m, (which includes an allowance for optimism bias as described in section 9.8) to fund the model for the reorganisation of the secondary and post 16 education infrastructure agreed by the Assembly, subject to ratification by the States as part of the Government Work Plan debate.

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 EDUCATION, SPORT & CULTURE

SECONDARY AND POST 16 EDUCATION REORGANISATION

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

28th May, 2021

Dear Sir

1 Executive Summary

- 1.1 Never has there been a time when it is more critical for government to demonstrate confident decision making and subsequent investment in its people.
- 1.2 There is a compelling case for change which is well known and understood:
 - Young people are being educated in a legacy system which is no longer fit for purpose. There is inbuilt inequity in the current model, some of the buildings and facilities in the estate are in poor condition and are not representative of a modern system of education.
 - Education staff are exhausted by the turbulence and uncertainty caused by years of indecision and changes in strategic direction.
 - Recent events in the form of the pandemic and subsequent global disruption have accelerated the need for the Bailiwick to secure its economic prosperity. Stability in a modern and forward-thinking education system is key.
- 1.3 The system of secondary and post 16 education which should replace the previous selective model in Guernsey and Alderney has been the subject of significant discussion and disagreement over an extended timeframe, and due to its emotive nature, debate has often become complex and fractured. For too long Guernsey has been without certainty and this has been to the detriment of the islands' children and young people, their families, our education profession and the community.
- 1.4 The arguments are well rehearsed. There is no silver bullet which will provide a model around which everyone will coalesce, even within the education profession itself. No one model for delivery can be all things to all people. Due to the prominence of the debate and each individual's personal experience of education, it is a subject which

is, by its nature, both subjective and emotive and consequently there are different views on what might constitute the best approach. However, there are two distinct issues at the heart of the debate;

- ensuring that educational outcomes for our learners are the very best they can be and;
- the urgent requirement for the design and implementation of a system to organise educational delivery which is appropriate for Guernsey and Alderney.

- 1.5 It is accepted that the two issues are closely linked and that there will naturally be some details of the operational delivery which will be significantly influenced, facilitated or restricted by strategic decisions.
- 1.6 Importantly, to be able to move forward confidently, the States' now needs to support a collective ambition for the way that Guernsey and Alderney's education for secondary and post 16 learners is organised and then trust that the Committee for Education, Sport & Culture ("the Committee") will fulfil its mandate 'to encourage human development by maximising opportunities for participation and excellence through education, learning, sport and culture at every stage of life.'¹
- 1.7 This policy letter provides detail about the steps the Committee is taking to ensure that the States' maintained education eco-system is ambitious and aspirational, through the development of its education strategy, which is covered in more detail in Section 2. The strategy will help deliver the Committee's aspirations for education; that it should foster and build self-esteem, creativity and confidence so that all learners can flourish and thrive. It should equip learners with the knowledge and skills to help them to achieve their aspirations. It should instil a commitment to participate within the community as a responsible citizen; and it should be enjoyed by all so that we build a lifelong passion for learning across our community.
- 1.8 The strategy will help ensure that we achieve equity, safety and inclusivity in our settings; meet the needs of our community; deliver high quality learning and excellent outcomes for all learners and provide outstanding leadership and governance of our education eco-system. The strategy will provide the golden thread to ensure that activity across schools and settings is directed to improving outcomes. Importantly, our education strategy will be ongoing and actively supporting the journey to continuous improvement, irrespective of whatever delivery model for secondary and post 16 education is approved by the States.
- 1.9 The operational detail which the Committee has been entrusted to oversee and deliver when it was elected by the Assembly will be set out in the education strategy. The education strategy is not the subject of this policy letter. Instead, what is described is the Committee's ambition for a modern delivery framework for secondary and post 16 education in the Bailiwick which is fit to meet the challenges

¹ <https://www.gov.gg/article/152829/Education-Sport--Culture>

of the 21st Century. A model which minimises the existing inequity in facilities and resources, which accounts for the unique context of the islands, which capitalises on the advantages of collaboration and partnership working and which is coordinated with relevant workstreams across government, in particular the Skills and Lifelong Learning Strategy.

- 1.10 Secondary education is a key enabler of our learners' future successes; the quality of post 16 education and the diversity of the offer available to learners as they leave statutory education is particularly crucial so that our young people can flourish and fulfil their personal ambitions but it is also critical to ensure the future prosperity and success of the islands. The Bailiwick needs to align skills with the local and global employment market and so it is essential that learners moving on to post 16 education have the opportunity to select from a broad range of options including academic, vocational and technical qualifications. This will enable them to be successful wherever they choose to live and work.
- 1.11 Equally critical is the need for the principle of lifelong learning to be embedded in our future generations so that islanders can retrain and develop new skills as the employment market changes over time.
- 1.12 In considering how to recommend a model that delivers the Committee's plans, meets the islands' needs and which can be supported by the States and by the community, the Committee developed guiding principles to help focus decision making and reach a pragmatic solution. These principles mean the Committee is seeking a solution that:
- provides greater equity for post 16 education and training and in which the Sixth Form is not split across more than one site
 - delivers improvements in equity
 - is reflective of the prevailing economic opportunities and limitations of the current financial climate
 - is deliverable in a realisable timeframe whilst being mindful of disruption to the school community and which can be easily understood by all stakeholders
- 1.13 Importantly, and throughout this process, the Committee has also sought to use the views of the profession as part of its policy development and has used the responses provided through the staff surveys published in July 2020 to inform thinking about which model is optimum for Guernsey and Alderney. More details about the consultation and engagement undertaken by the Committee and its predecessor is referenced in Appendix 4.
- 1.14 The Committee's preferred model is:
- **Three six-form entry 11-16 schools and a single post 16 campus, accommodating both The Guernsey Institute and the Sixth Form Centre, at Les Ozouets.**

- 1.15 There is no change proposed to the organisation of schools for learners with the most complex needs which will continue to be delivered at Les Voies and Le Murier. It is widely accepted that these schools, along with Le Rondin, provide a high quality of support for learners with Special Educational Needs and Disabilities (SEND) and this was recently recognised in the review undertaken by the National Association for Special Educational Needs (nasen)². The Committee's preferred model will continue and extend this support to learners with additional needs who attend the island's secondary schools.
- 1.16 The Committee proposes the 11-16 schools are based at St Sampson's, Les Beaucamps and Les Varendes. Each school would have capacity for up to 780 students, but projections indicate that a maximum of 720-740 students would attend each site after the transition period to the new model has ended. This model ensures that all learners benefit from a similar size learning environment and breadth of curriculum offer, allows for each school to develop its own culture and identity and provides for access to a more consistent quality of facilities. These priorities were considered essential or highly desirable by a majority of staff. This model also provides for a relatively quick transition to a new delivery framework and can be in place by September 2024.
- 1.17 The Committee's proposals for future post 16 provision are to create a brand new campus for all post 16 education, providing a learning environment with bespoke, high quality facilities for both further and higher education. This will ensure that academic and vocational pathways are considered as equally valid choices for the island's young people, removing some of the existing and in some quarters, historically negative perceptions around entry into technical and vocational careers. The Post 16 Campus will act as a flagship centre of ambition and aspiration for all learners progressing from the 11-16 schools. All students will have the opportunity to graduate to the new campus, irrespective of their choices at post 16 and will join a mature, adult learning environment which will prepare them for their next steps in education or work.
- 1.18 Importantly, this model proposes a valuable investment for the community which delivers a long-term and flexible solution for the future and ensures that the islands' education system can meet the increased demand for skills both locally and globally. It will set the Bailiwick apart as a forward-thinking jurisdiction where all learners are supported to realise their ambitions in the 21st Century global community. Whilst the Committee accepts that there are cheaper models, these will not deliver the long-term investment required for the islands' future prosperity.
- 1.19 The creation of a post-16 campus, where a sixth form centre and The Guernsey Institute seek to maximise operational synergies whilst remaining separate organisations, recognises the increasing maturity of post 16 learners in the 21st Century. A 16-year old can get married, they can vote and they are acknowledged as

² <https://gov.gg/CHttpHandler.ashx?id=137889&p=0>

young adults. Post-16 education plays a vital role in building the human capital – the value of knowledge, skills and experience – of our young adults, which The Bailiwick’s economic recovery and long-term prosperity relies upon. This campus will give our young adults the right environment to thrive, where they will learn, develop and be supported alongside mature students of all ages.

- 1.20 Given the unique context of the Bailiwick and the interdependencies between our settings, collaboration across the islands’ schools is key. It is through collaboration that we ensure standards are continually improving, that we maximise innovation and provide for best practice to be shared for the benefit of all learners. As part of its model, the Committee is proposing that an 11-18 learning partnership is maintained and becomes the body responsible for the operational delivery of 11-18 education across the 11-16 schools and the Sixth Form Centre. This partnership currently exists in the form of the established Secondary School Partnership (SSP). This will provide a structure of support for the settings in the Partnership and allow for a move towards increased autonomy and accountability for the islands’ secondary school system. The Committee is keen to explore how a more appropriate governance structure could be implemented across the island’s education eco-system and the SSP will provide a mechanism to develop test an appropriate local accountability framework.
- 1.21 The benefits of the Partnership extend to the education workforce. By offering development across the secondary sector and the opportunity to teach all learners across Key Stage 3 to Key Stage 5, the Bailiwick will ensure that it attracts the very best teachers into our schools. Building the leadership capacity across the secondary phase through the SSP will also allow for effective succession planning so the islands can aspire to providing the very best education system. Importantly, the partnership model will bring our schools together for positive collaboration whilst also promoting the retention of their own unique culture.
- 1.22 The Committee firmly believes that its preferred model delivers a progressive and sustainable approach to secondary and post 16 education provision for the Bailiwick in the post pandemic context. The foundations of the model are rooted in ensuring the islands’ young people are provided with the right mix of educational opportunities to enable them to become successful. Consequently, the Bailiwick will benefit from a skilled and flexible workforce able to adapt to the changing demands of the employment market and this will build economic security for the island’s future.
- 1.23 As the preferred model has been informed by the views of the community and the education workforce, the Committee believes it to be a highly credible option with the support required for implementation. Additionally, the model accounts for the financial context and while any new infrastructure will require capital investment, the Committee’s preferred option for secondary education can be delivered on a revenue basis for no more than secondary education currently costs.
- 1.24 After the extended turbulence and uncertainty, this is the time for the States to act

decisively. The island's children and young people have been let down by consecutive Assemblies and a viable solution is long overdue. This policy letter sets out a model which proposes the aspiration and ambition the islands' learners are entitled to but also takes into account the current financial context. To further delay decision-making in this critical area of our island's provision is to further jeopardise the future of the island's prosperity and risks this Assembly alienating the community further. Now is the time for confident, assured and strategic decision-making to build public trust and deliver for our future generations.

2 Strategic Plans for Education

Education strategy

- 2.1 The delivery of an education system is about much more than the size and location of buildings and needs to account for a myriad of considerations, including how best to provide the knowledge and skills to equip all young people for life in a complex and fast-paced global community, and how to embed a lifelong love of learning to enable citizens to upskill and retrain over the course of their career.
- 2.2 Following its appointment in October 2020, the Committee began to shape its plans for education over the course of the next administration and beyond, in order to provide a foundation for developing an overarching strategy.
- 2.3 In order to deliver efficient and effective public services which meet local needs the States and its Committees must set out a roadmap of what is required to provide a high quality education system and how it intends to achieve these aims, and this is the purpose of the education strategy. Against the backdrop of unprecedented challenges both financially and in respect of Guernsey's population demographic, characterised by a falling birth rate and ageing population, it is more crucial than ever before to ensure that the journey to delivering excellence is clearly mapped out in a transparent way. The advantages of doing this reassures the community that the future of Guernsey and Alderney's education system is well governed, is committed to continuous improvement and has the best interests of learners at its centre.
- 2.4 For many years, the subject of education has been dominated by the transformation of secondary and post 16 education following the States' decision to move away from a selective system. Transformation has come to mean different things to different people and in recent years, debate has often focused on the infrastructure necessary to deliver secondary education for an all-ability cohort of young people.
- 2.5 This focus means that, too often, understanding the main purpose and function of the island's education system has become obscured by debate over geography or buildings. In some cases, public and political discussion has centred on operational matters; these are matters which must be in the hands of our leaders and staff in our education settings and should not be decided or operationally managed by those responsible for the strategic political direction for education.

- 2.6 This strategy will set out the priorities and commitments which will act as the roadmap for the Committee's wider objectives for the island's education system; it will ensure a clear focus on ambition and aspiration for all and allow for discourse to be elevated to address the importance of continuous improvement and it will also set out what can be expected by learners, their families and the community from the States' maintained education sector. Work on the strategy is ongoing but more information is available on the States website³

Local education offer

- 2.7 The starting point for defining the local education offer is set out in the Education (Guernsey) Law 1970, which articulates that The States of Guernsey has a duty to provide an efficient, effective and sustainable public system of education:
- For all Guernsey residents of compulsory education age, without payment for admission or education fees;
 - For all other Guernsey residents who desire and are able (financially and otherwise) to pursue such educational opportunities as the States can reasonably, and within available resources, provide; and,
 - Which sets out appropriate approval, inspection and oversight of independent educational establishments.
- 2.8 The current law does not however specify the characteristics of an efficient, effective and sustainable public system of education. The Committee will consider how best to address these important considerations as part of the review of the Education Law during this political term.
- 2.9 It is widely accepted however that successful education systems are underpinned by the principle that all learners should be able to access the highest standards of education possible within the resource constraints set by Government.
- 2.10 The benefits of a system which aspires to the highest standards and which is based on a culture of continuous improvement are far reaching and extend beyond the children and young people who learn and develop in this environment.
- 2.11 Learners in receipt of an education such as this are more likely to be equipped with the knowledge and skills required to help them realise their ambitions and become responsible citizens wherever they choose to make their life. The advantages of an aspirational learning environment also extend to staff who are able to develop professionally and grow their careers, and to the wider community which will benefit from lower crime, better health and increased civic involvement. When an education system succeeds, government expenditure on crime, social benefits and healthcare⁴

³ <https://gov.gg/educationstrategy>

⁴ <https://archpublichealth.biomedcentral.com/articles/10.1186/s13690-020-00402-5>

is reduced. The social impact⁵ of an excellent education investment in this most important area is significant.

2.12 The World Bank has recognised the importance of developing human capital in its 2018 report⁶ and the critical impact that education has on society. It summarises the approach from a moral perspective in terms of investing in the health and education of people but also “an economic one as well: to be ready to compete and thrive in a rapidly changing environment. ‘Human capital’ – the potential of individuals – is going to be the most important long-term investment any country can make for its people’s future prosperity and quality of life.” The Committee recognises the fundamental importance of investing in the education system in order to deliver positive benefits for the Bailiwick.

2.13 An ambitious and aspirational education system is the essence of the emerging education strategy for Guernsey and Alderney. The Committee’s ambition for education is that it should foster and build self-esteem, creativity and confidence so that all learners can flourish and thrive. It should equip learners with the knowledge and skills to help them to achieve their aspirations. It should instil a commitment to participate within the community as a responsible citizen; and it should be enjoyed so that we build a lifelong passion for learning. This sits at the heart of the new education strategy and will underpin the focus of activity across the sector. The priorities centre on:

- achieving **equity, safety and inclusivity**;
- **meeting the needs of our community**;
- delivering **high quality learning and excellent outcomes** for all learners; and
- **providing outstanding leadership and governance**.

2.14 The Committee has prioritised the principle of equity. It is not necessary to provide sameness in our education system, rather the priority should be to consider fairness so barriers to realising personal ambition are removed for all learners. The Organisation for Economic Co-operation and Development’s (OECD) definition of equity in education is that “personal or social circumstances such as gender, socio-economic status, migrant background, age, special needs, or place of residence, do not hinder the achievement of one’s educational potential (fairness) and that all individuals reach at least a minimum level of skills (inclusion)”⁷. Everyone has a right to access the knowledge and skills to improve their life chances and participate in society. By providing the island’s learners with an equitable experience we meet international standards and ensure all learners in our community are afforded the best opportunity to reach their potential.

⁵ <http://sites.cardiff.ac.uk/issw/>

⁶ <https://www.worldbank.org/en/publication/wdr2018>

⁷ <https://gpseducation.oecd.org/revieweducationpolicies/#!node=41746&filter=all>

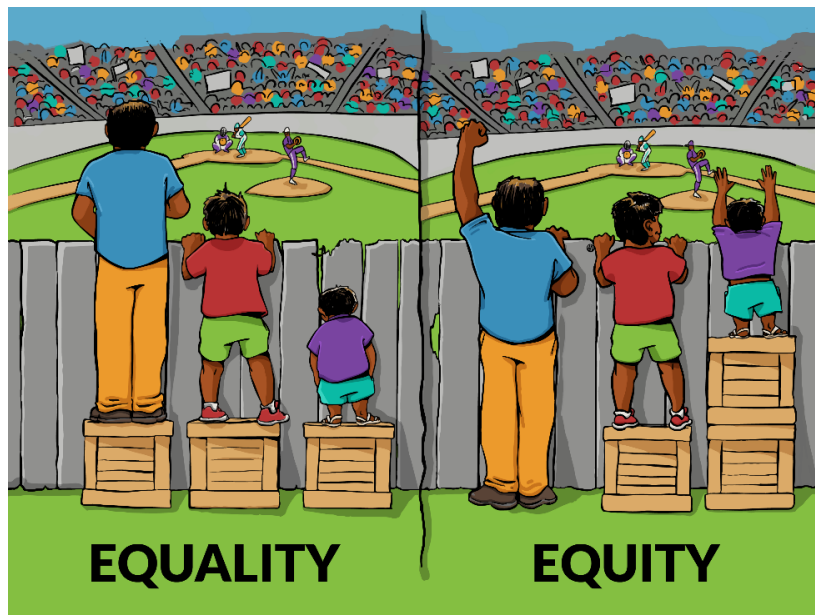


Figure 1: Equity versus equality⁸

- 2.15 Underpinning the four key priorities of the strategy are a series of commitments or promises which provide the detail about activities and measures of success which are ongoing across the education system. For example in order to ensure that the Bailiwick curriculum reflects the needs of all learners and is broad, diverse and ambitious, work will be ongoing with staff on curriculum development. The priorities and commitments are set out in figure 2.
- 2.16 The strategy will serve as a powerful framework for prioritising actions and resources and for reporting the system's progress against the Committee's ambitions, in order to make sure our education system continues to improve and facilitates the excellent outcomes our learners deserve.

⁸ <https://interactioninstitute.org/illustrating-equality-vs-equity/>



Figure 2: Education Strategy

- 2.17 The strategy is currently being developed in partnership with colleagues across the education sector and it is important to note that much of the existing practice across the profession is already aligned with the essence of the Committee's aspirations. The layers of detail which act as a foundation for the strategy are the appropriate place for describing how, for example, education settings will embed cultures and practices which promote inclusivity, and which facilitate the delivery of a broad and diverse curriculum for all learners.

- 2.18 It is essential however that learners, their families and the community understand that a system which delivers against these priorities over time, is what can be expected from States' maintained education. The Committee considers this to be the entitlement referred to in the Education (Guernsey) Law, 1970 as an "efficient, effective and sustainable public system of education."
- 2.19 An entitlement is a right provided to eligible individuals, a universal entitlement is access to a service or benefit for all citizens or a defined group which is provided more or less equally. Using this language in how we discuss education in Guernsey and Alderney demonstrates an approach where high standards are expected irrespective of aptitude or individual needs and which clarifies expectations for the community about the States' education 'offer'.

Support for learners with additional needs

- 2.20 Recommendations from the recent nasen review into SEND provision in Guernsey and Alderney highlighted the importance of providing "a clear and unambiguous expectation of the 'ordinarily-available provision' in schools [which] should provide absolute clarity for families, school leaders and teachers on what should routinely be provided in school and what might be provided centrally from other services."
- 2.21 As part of the local education offer in Guernsey and Alderney, learners with communication and interaction needs have access to Communication, Interaction and Autism Service (CIAS) support available to all schools via the advisory service and through bases located at Forest Primary School (currently located at Amherst Primary School), St Sampson's High School and La Mare de Carteret High School.
- 2.22 The nasen report went on to stress the importance that it should be common practice for every school to have a full time non-class based Special Educational Needs Coordinator (SENCO) who is part of the senior leadership team of schools so that learners with additional needs have an advocate at the highest level.
- 2.23 It was also explicit within the recommendations that the community should expect that "every teacher is a teacher of learners with SEND" and "every leader is a leader of SEND". The Committee has already stated its intention to implement the recommendations and they will be added as success criteria to the workstreams underpinning the education strategy. Importantly the community can be reassured that this support is included in the States' maintained local education offer.

Monitoring performance

- 2.24 As previously described, the strategy will provide the framework for reporting performance across the education sector. All current workstreams across the States' sector will be mapped against the commitments to ensure that operational activity meets the Committee's strategic priorities and Government Work Plan (GWP) objectives where appropriate. Workstreams will identify success criteria and Key Performance Indicators (KPIs) which will provide evidence of the impact of activity to

inform decision making. KPIs will be used to report performance to the Committee and where appropriate to the States and the community.

- 2.25 The performance of the education sector will also be monitored through a challenging new quality assurance framework delivered by the inspectorate Ofsted. The framework will evaluate the work of the island's schools and the College of Further Education (now part of The Guernsey Institute) on four key indicators including the quality of education and leadership and management. The inspections will result in judgements and reports which will help identify any areas for improvement and will inform the development of operational activity to be mapped against the strategic priorities. In this way a cycle of continuous improvement will become further embedded within the islands' education system.
- 2.26 The education strategy will formalise the Committee's aspirations for all learners across the islands and provide a common language to enable everyone to articulate how we make sure education in Guernsey and Alderney delivers what learners and the community needs it to. Through the strategy, the Committee will provide the tools to deliver an excellent education system. By targeting available resources to meet the priorities and commitments and through regular progress reporting, the community can be assured that the States' maintained sector will be of the highest possible quality. This is crucial not only to ensure we are delivering what our children and young people deserve and to secure the Bailiwick's future prosperity but also to guarantee against a backdrop of challenging fiscal circumstances, that public money is focussed where it will bring the most value and have greatest impact.

3 Policy Background

- 3.1 The Committee has inherited a complex and disparate policy legacy. Discussion and debate relating to the reorganisation of secondary and post 16 education dates back over twenty years to April 2001, when the former Education Council's proposals were rejected, a decision which triggered the building development strategy to ensure that facilities in the high schools were of equal quality to those in the selective schools.
- 3.2 There has been ongoing, often complex, debate regarding the future structure of secondary and post 16 education since this time, but no proposals for a delivery model have progressed to the point of implementation. The most recent States' decisions on secondary and post 16 education are summarised in Appendix 2. It is also of note that since January 2016, there have been four different Committees with responsibility for Education which demonstrates the high-profile nature of the role.
- 3.3 In October 2020, a new States was elected, and a new Committee took office. The global and local context into which the new Committee and the new Assembly have stepped is significantly different from previous substantive debates about the model of secondary and post 16 education.
- 3.4 The new Assembly faces unprecedented challenges in managing the ageing demographic, the ongoing impact of the COVID-19 pandemic and the implications of

two periods of lockdown in the Bailiwick, alongside the consequences of Brexit. The Committee has approached the development of policy proposals in respect of secondary and post 16 education against this changed landscape.

4 Context

Call to action

- 4.1 Setting conclusive and clear policy decisions on secondary and post 16 education has been on successive States' agendas over the last two decades, yet to date no recommendations have been agreed for long enough to be implemented. Education is an emotive subject impacting most of the community, and has vital links with the economy, wellbeing and social equality; consequently, passionate and strongly held opinions are fostered by different stakeholders and this influences decision makers, sometimes before political agreement can be translated into effective implementation.
- 4.2 The absence of a lasting decision has led to uncertainty for learners, education staff, parents and carers, and the wider community. While there is consensus that policy decisions of this magnitude should be carefully considered, there is no doubt that the States must now act so the strategic direction is determined, and plans can be implemented to bring certainty and stability.
- 4.3 Previous models, in particular the one school on two sites proposal, proved unpopular with teachers and with the community. Consequently, the Committee pledged to listen carefully to concerns by using survey feedback⁹ provided as part of the Secondary Review to inform its thinking. Debate has sometimes focused on what education systems work best in the UK and elsewhere, and while this benchmarking is important, our islands are unique; any potential solution must be appropriate for the local context.
- 4.4 There are diverse views of what constitutes the most effective model for secondary and post 16 education for Guernsey and Alderney. The Committee, through its engagement with the people who have knowledge and experience of teaching and of education systems, is proposing a model which it believes will give every 11-18 learner the best chance to flourish and thrive in an environment which builds high self-esteem and which develops creativity and confidence, and which provides access for learners to modern, high quality facilities.
- 4.5 Further delays to the development and implementation of a high quality secondary and post 16 education system will exacerbate uncertainty for teachers and staff, parents, carers and young people. Any delay in addressing the mismatch between the skills required for the island to prosper and what is taught to our future workforce will have potential implications for the economy¹⁰. Delays not only undermine the

⁹ <https://gov.gg/escsurveyresults>

¹⁰ <https://www.oecd.org/mcm/48116798.pdf>

public's confidence in this government's ability to tackle key policy issues that have a genuine impact on so many islanders. The ongoing uncertainty also diminishes the attractiveness of the island to those who want to relocate or return to live and work here, where the local offer is unclear and the model unresolved.

- 4.6 Most importantly, further delay could negatively impact upon what is every young person's right – their entitlement to the highest quality education possible in order to give them every chance to succeed in life.
- 4.7 The time to be decisive is now. The States' must seize this opportunity to resolve the ongoing uncertainty and make a real difference to people's lives. By supporting these policy proposals, Members will be taking the first step in establishing a secondary and post 16 education model that will enable learners to transition from a high-quality education experience into successful careers that will bolster and improve the local economy. Providing certainty about the re-organisation of secondary and post 16 education will translate into measurable benefits for the Bailiwick.
- 4.8 This is a call to action; now is the time to act.

Existing structure of secondary and post 16 education

- 4.9 The current structure of mainstream secondary and post 16 education in Guernsey consists of three 11-16 schools; Les Beaucamps High School, St Sampson's High School, La Mare de Carteret High School, an 11-18 school - The Guernsey Grammar School and Sixth Form Centre, and a separate College of Further Education (now part of The Guernsey Institute) for all vocational, technical and professional provision. The grant-aided Colleges, Blanchelande College, Elizabeth College and The Ladies College are also an important feature of the secondary education landscape in Guernsey. It is important to note their contribution and it is the Committee's intention that the positive working relationship with the Colleges will continue however, they are not included beyond this point in any references to secondary education in this policy letter.
- 4.10 There are unevenly distributed forms of entry with two of the four mainstream secondary schools currently operating under capacity. In Alderney, there is one all through school, St Anne's which educates learners aged 4 – 16. Young people from Alderney come to Guernsey to pursue post 16 education.
- 4.11 Access to good quality facilities across the current infrastructure is varied and therefore inequitable, which runs contrary to the Committee's aspirations for education. For example: the site at Les Varendes is the only secondary school with sixth form provision which results in financial and staffing advantages compared to other schools.
- 4.12 The current secondary education infrastructure comprises a mix of modern facilities and legacy buildings that are in poor condition. Both La Mare de Carteret High School and the three sites of the existing College of Further Education consist of ageing

buildings that are no longer fit for purpose for today's learners. Neither the condition of the buildings' fabric nor the facilities currently on offer are acceptable for the islands' learners.

- 4.13 The four secondary schools are individually led and managed by four Principals who form the Executive Leadership Team of the SSP, working collaboratively under the leadership of the Executive Principal.

Population decline

- 4.14 There is an anticipated overall decline in the secondary age population after a peak expected in the mid-2020s; the decline is rapid in the early-2030s and subsequently more gradual until 2050. In its assessment of the population data, the Committee recommends that the provision of additional building space for a relatively short-term population bulge is not prudent. To do otherwise would create significant but wasted capacity which is not an efficient use of public money. Further, the Committee's model is sustainable in light of the projected decline whilst also creating capacity should the population increase.

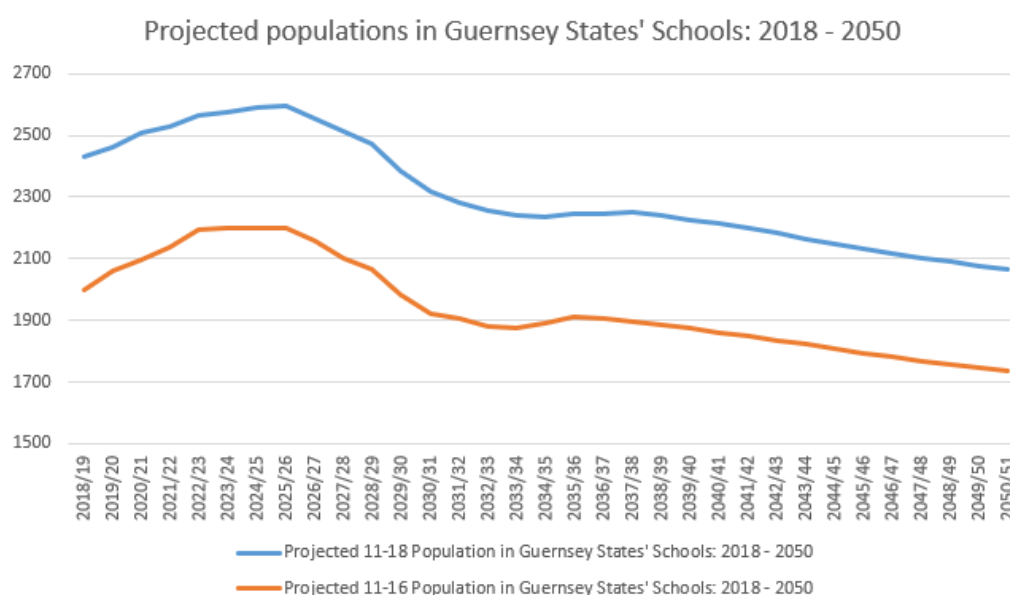


Figure 3: Guernsey Pupil Population 2018 – 2050. Data validated by States of Guernsey Data Officers in December 2020.

- 4.15 The long-term decrease in the likely demand for secondary school places is evidence for the case for change and the need for reorganisation. Schools which continue to operate below capacity are neither cost-effective nor the most efficient use of the estate. This is a further imperative to find a sustainable long-term solution for the structure of secondary and post 16 education.

Condition of La Mare de Carteret High School

- 4.16 It is well known that the La Mare de Carteret site is in a state of poor physical condition and has continued to be used many years after it was originally intended. Despite some recent remedial works, the overall condition of the site does not provide learners and staff with an equitable educational experience when compared to the facilities at the other three secondary schools. Additionally, there are substantial ongoing costs required to maintain a building which is no longer fit for purpose.
- 4.17 While it would be impractical to propose that all secondary schools have exactly the same facilities, the Committee considers equity of experience vital to its ambitions; this means that regardless of which school a learner attends, they should have access to a similar quality of educational experience, for example attending similar sized schools and accessing the same breadth of curriculum.

Financial pressures

- 4.18 It is evident from the detailed analysis recently undertaken that the current structure and arrangements for secondary and post 16 education do not represent an efficient use of public money across the current estate. Some of these inefficiencies have necessitated immediate attention to ensure best use of public funds, particularly in relation to forms of entry and the number of learners at which point a new class is created.
- 4.19 The budget for education must be used in a way which maximises opportunities for all children and young people across the whole education sector and which does this in the most equitable and efficient way. Importantly, expenditure on secondary and post 16 education must be viewed within the context of costs for the wider education system which spans primary through to the post 16 phase. The Committee has recently identified that there is inequity in how the education budget is apportioned across the different phases and is taking action to redress this imbalance now.
- 4.20 Beyond its own mandate the Committee is also acutely aware of the significant budgetary pressures that the States' now face as a result of the ageing demographic and the impact of COVID-19. Cognisant of these facts, the Committee believes that public money must be spent wisely without compromising on high quality educational provision.

Alignment with the Government Work Plan

- 4.21 The model for secondary education and post 16 provision is one of the proposed strategic recovery actions in the GWP¹¹ and aligns to the following outcome statements:

¹¹ <https://gov.gg/GWP>

Outcome statement	Description
Young people can achieve their potential	Educational inequalities generated by the pandemic are mitigated and opportunities for further education are available to all; and young people can successfully enter and progress in employment.
A resilient essential workforce	Employees in essential services are protected and the island is better positioned to train, attract and retain the employees needed in key areas.
A more cohesive and equal society	Social inequalities, and the resulting impact on health, employment, etc., will be reduced and all local people will have access to the necessary support to achieve positive results in participation, life satisfaction and self-esteem indicators.
Sustained employment and matching of skills	Full and productive employment, with a greater match between islanders' skills and available roles, enabling all islanders to reach their potential.

Table 1: Outcome statements aligned to secondary and post 16 education

- 4.22 Phase 2 of the GWP will be debated by the States at a special meeting on 21st July, 2021. A more detailed plan of the future policy and capital priorities for the current political term will be presented for debate and approval, and it is the aspiration that this process will confirm that the review of secondary and post 16 education and its implementation are high priorities for the Bailiwick. States Members ranked the resolution of secondary and post 16 education as one of their highest priorities in GWP workshops.
- 4.23 An additional recovery action to be proposed in the GWP is the development of a Skills and Lifelong Learning Strategy. This action will seek to transform the way that the Bailiwick develops its people over the next twenty years. The development of people in terms of their skills and learning is inextricably linked to the manner in which secondary and post 16 education is provided, so it is important that the proposed model is aligned to the outcomes for this strategy. It is the post 16 element of the new model which will contribute directly to the Skills and Lifelong Learning Strategy by creating a flagship hub of life-long learning for the island. This will support learners' progression from 11-16 education to the next stage of education, training and preparation for living in a global economy.
- 4.24 The States of Guernsey is committed to measuring its strategic performance in terms

of how it aligns with the UN Sustainable Goals. The 2030 Agenda for Sustainable Development, adopted by all United Nations Member States in 2015, provides a shared blueprint for peace and prosperity for people and the planet, now and into the future. At its heart are the 17 Sustainable Development Goals which are an urgent call for action by all countries - developed and developing - in a global partnership. They recognise that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.

- 4.25 Achieving the defined outcomes of the secondary and post 16 education review would align with Goal 4, Quality Education (“Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all”), and Goal 10, (“Reduce inequality within and among countries”). The proposed model does this in two ways because it recommends the development of a new CIAS Base at Les Beaucamps High School, which will give further opportunities for helping learners who require additional support to thrive educationally. This will ensure there is equitable access to such a resource, with a CIAS Base located at each of the three secondary school sites whilst still ensuring continued support across all primary schools. Furthermore, co-locating the Sixth Form with The Guernsey Institute allows for equitable access to all school leavers from 11-16 education to a post 16 campus allowing for parity of esteem in pathways.

The case for change - summary

- 4.26 It is widely accepted that the status quo is not sustainable. The Committee has determined that given the current context, the case for change can be summarised as follows:
- The poor physical condition of the La Mare de Carteret site. It is not acceptable that some of the island’s learners are educated in accommodation which is not fit for purpose. This also applies to our workforce - it is not appropriate that teachers and school staff are expected to support our young people in legacy buildings which are past their usable lifespan.
 - The projected population decline. This requires a long-term sustainable strategy to be agreed to ensure the best use of the physical estate, infrastructure and public finances.
 - The inefficiencies of running three 11-16 schools and one 11-18 school requires urgent attention now, regardless of any re-organisation, to ensure that public money is spent fairly across the education estate. These inefficiencies are most starkly apparent in the current school population data which demonstrates the inequity of experience for each learner depending on the school they attend.

	Grammar	LMDCH	LBHS	SSHS	Totals
Year 7	67	88	127	139	421
Year 8	70	110	114	157	451
Year 9	73	101	101	142	417
Year 10	75	101	95	138	409
Year 11	84	86	90	136	396
	369	486	527	712	2094

Table 2: School population data 2020/21

Resolving the long-term physical delivery model will help to ensure that all resources are used to maximum effect to deliver the very best for every learner.

- The need for urgent budgetary changes within secondary and post 16 education as part of the Committee's overall strategy and aspirations for education considering the uneven distribution of funding across the education mandate. Recently completed detailed analysis highlights significant variations and inefficiencies across secondary revenue expenditure. Action is therefore required to help resolve wider budgetary challenges faced by the Committee. Urgent steps must also be taken within the Committee's existing annual budget to address the findings of the SEND review and to address other urgent priorities such as improved professional development opportunities and improving literacy and digital literacy. Action is necessary in both the short-term and the long-term to eradicate the existing budgetary inequity across the education mandate.
- Wider pressures facing the States of Guernsey as a result of the COVID-19 pandemic and Brexit. Recovery is a vital aspect of the GWP. The Committee is acutely aware of the need to look both strategically and forensically across all areas of funding streams to ensure money is spent prudently and efficiently and in a way in which maximises opportunity and success for every learner.
- The need to align with the priorities of the GWP. Education is an essential component of recovery by investing in our young people and will be able to contribute directly to the individual GWP recovery outcomes and outcome statements. The long-term strategy for secondary and post 16 education cannot sit in isolation to the States' strategic direction.

4.27 In outlining the case for changing the current secondary and post 16 education model, it is important for the States to understand that this is centred on the re-organisation of the current education infrastructure. Achieving excellent educational outcomes through continuous school improvement, the enrichment of learning, more effective collaboration between schools and stronger leadership will be delivered through the ongoing work of the SSP and the development and delivery of the education strategy.

5 Overview of Secondary School Partnership and Plans for Post 16 Education

Partnerships in Guernsey and Alderney

- 5.1 Partnership working across secondary schools has existed in the Bailiwick since 2014 when the Guernsey Federation of Secondary Schools was formally created. At this time, the Federation, including Alderney, was intended to deliver a collaboration which would champion enhanced leadership, with a stronger focus on teaching and learning and the sharing of best practice. It was also intended to enable more efficient and effective deployment of staff and other resources, improve educational outcomes and provide equality of opportunity for all students wherever they lived in the islands. One major change was the introduction of a common timetable framework which ensured all learners accessed 25 hours of education per week¹².
- 5.2 Following the States' direction to undertake a review of models in March 2020 it was agreed that the SSP would be created to bring clarity and direction under a collaborative umbrella. While the original intention of the SSP was to provide stability for the four mainstream secondary schools, since its creation, work has taken place to develop closer collaboration.

The 11-18 Secondary School Partnership current structure

- 5.3 Within the SSP, each school continues to maintain its own unique identity whilst leaders work together to develop joint approaches to improvement for the benefit of all learners. In practice, the following areas are priorities for the SSP Executive Leadership Team;
- promoting the highest possible teaching standards and student outcomes
 - ensuring achievement for students with special educational needs or disabilities
 - harmonising access to a broad and balanced curriculum and quality facilities
 - providing extra-curricular and enrichment opportunities
 - ensuring pastoral support and the wellbeing of students and staff
- 5.4 The Partnership is an established, cooperative working group which facilitates closer relationships to work through existing challenges such as recruitment, assessment and preparation for the new inspection regime. This partnership working has been particularly important in light of the challenges that schools have faced as a result of the COVID-19 pandemic, for example, enabling peer support for staff operating in unprecedented circumstances.
- Global and national partnerships

¹² <https://gov.gg/article/114991/Statement-on-progress-with-Guernsey-Federation-of-Secondary-Schools>

- 5.5 The Committee recognises the importance of partnership and collaboration in successful education systems. There are many examples of effective international partnerships with individual schools working under an umbrella organisation which share a common purpose, and principles. The International Schools Partnership recognises that ‘running a school is difficult, especially when you do not have access to further support, advice or funding’. For many standalone schools this is a reality. There are other successful school groups such as Education Leadership Trust which is a thriving cooperative multi academy trust in Manchester¹³. The vision sets out a strong emphasis on collaboration and cooperation between partners.
- 5.6 The role of partnerships in England has evolved since 2000 and they can take many different forms; formal with tight governance and accountability structures or more informal with opportunities to bring staff together to share best practice and expertise. These are sometimes also referred to as hard or soft partnerships. There are multiple terms used to describe the different styles of partnership, such as clusters, collaborations, networks, federations and trusts.

Partnership drivers and benefits

- 5.7 One of the original drivers for partnerships in the complex landscape in England was to create a self-improving system on the basis that schools would “work with, learn from and support one another to develop localised solutions to the challenges they might face” with a focus on “specific strategies for improvement, more willing distribution of professional knowledge and schools sharing resources more efficiently than they might previously have done”¹⁴. Over the past fourteen years, there have been two key research papers which have reviewed school partnerships. Both papers, “Inter-school collaboration: a literature review, NFER, Queen’s University, Atkinson et al 2007”¹⁵ and “Effective School Partnerships and collaboration for school improvement, DFE, Armstrong 2015”¹⁶ outline some of the key shared areas and collaborative activities which drive partnerships to exist, and some of these are listed below:

- Raising achievement/attainment
- School improvement/raising standards
- Sharing good practice/professional expertise
- Inclusion
- Enriching learning opportunities
- Sharing facilities/resources

¹³ <https://www.eltrust.org/>

¹⁴ [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/467855/DFE-RR466 -
_School_improvement_effective_school_partnerships.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/467855/DFE-RR466_-_School_improvement_effective_school_partnerships.pdf)

¹⁵ <https://files.eric.ed.gov/fulltext/ED502393.pdf>

¹⁶ [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/467855/DFE-RR466 -
_School_improvement_effective_school_partnerships.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/467855/DFE-RR466_-_School_improvement_effective_school_partnerships.pdf)

- Economic/financial benefits
- Instigating change/reform
- Collaborative planning/systems/approaches
- Innovation
- Teacher recruitment and retention

5.8 With the benefit of having evidence for success in other jurisdictions as well as the underpinning rationale for the creation of a partnership, the opportunities for collaboration and continuous improvement are viewed as essential drivers, and collaboration is key in the education toolkit in England. The Committee is of the view that the existing SSP in Guernsey can build upon the collaboration already in place and to grow and develop further in order to capitalise on the opportunities which are created through effective partnership working.

Governance

5.9 There is a significant difference between the context for school partnerships in England and that of the Bailiwick and this is the level of autonomy and accountability which rests at school level. The Committee currently acts as governing body to all schools. This is not a practical situation, and the Committee has already confirmed that it will investigate a more appropriate framework for education governance over the coming months in order to contribute to a self-improving system. Further, the Committee recognises that within the current unique structures of governance locally, the potential is limited by the extent of central control. The Committee believes that empowering the leaders of our schools to really lead improvement is crucial to ensure educational outcomes for the island's children and young people are the very best they can be.

5.10 An appropriate framework across secondary education is required to support devolution. The evolution of the SSP, led by an accountable leadership team is part of a move towards effective governance and greater delegation which the Committee will actively progress. This increased delegation through the SSP will give secondary leaders autonomy to make decisions which are in the best interests of learners across the 11-18 partnership but at the same time will provide a framework for accountability to the Committee for the performance of their schools.

5.11 The Committee also notes the very real benefits in building leadership capacity which are delivered through joint leadership training and development. In a small jurisdiction such as Guernsey with a limited pool of staff, sustainability through succession planning is essential to delivering the very best secondary education system possible. It is anticipated that the SSP will also provide the opportunity to deliver more targeted Continuing Professional Development (CPD) across the secondary sector and play an important role in continuing to attract talented teachers to work in the islands' schools.

Meaningful engagement and consultation through partnership development

- 5.12 Once the long-term physical structure of secondary education is determined by the States, it is the Partnership working in close collaboration with The Guernsey Institute, which will support the Committee's overall strategy in achieving an ambitious and aspirational education system. As described in previous sections, the SSP provides a vehicle through which greater autonomy can be delegated and through which ongoing improvement can be sustained. The SSP will support the Committee's overall education strategy and priorities, irrespective of the infrastructure model.
- 5.13 The Committee's responsibility is to set strategic direction and ensure that this is implemented, therefore it has intentionally not sought to look beyond the strategy and policy for secondary reorganisation at this stage. This is because effective government is based on a system where it is the responsibility of the Politicians to establish the vision and where effective and professional delivery of these ambitions is entrusted to the skilled staff who are best placed to translate this into action. In this case it is the islands' education leaders who have the technical knowledge about what is optimum for our children and young people, and it is the SSP leadership team who will address any operational challenges that schools face within the Partnership whilst developing the best possible provision and pastoral care for every young person within the Partnership settings.
- 5.14 It is accepted that previous models have unravelled at the point at which the implications of operational detail become visible and have subsequently led to political intervention. However, the difference now is that while the Committee recognises the need to work at pace to provide certainty for the community, there is sufficient time to allow for meaningful consultation and engagement to be built into the delivery plan.
- 5.15 The Committee firmly believes that robust consultation and engagement regarding the structure of the Partnership must be undertaken as part of the implementation period and this will provide the necessary time and space to work through the detail of governance and accountability structures with relevant stakeholders. At this time, there will also be genuine opportunities to work in collaboration with educational leaders and staff to determine what the Partnership will look like from an operational perspective. As part of this work, the Committee will explore a number of key areas with school leaders including:
- Budget delegation
 - The management of staffing, recruitment and deployment across the 11-18 phase
 - Continuing professional development
 - Leadership development and succession planning

An 11-18 Secondary School Partnership for Guernsey

- 5.16 Within the context of secondary re-organisation, it is important to note that the delivery of secondary education will be through an 11-18 framework across three 11-16 schools and a separate sixth form centre. The Partnership will play an essential role in ensuring that staffing is deployed across all sites to ensure the best possible pastoral support and academic provision for all learners.
- 5.17 The 11-18 Partnership will act as a focal point for recruitment, ensuring that Guernsey continues to attract the widest possible pool of staff to its 11-18 settings. It is anticipated that the SSP will support succession planning across all leadership and curriculum areas, ensuring that there are a range of staff who are able to teach across Key Stage 3 to Key Stage 5.
- 5.18 Under any partnership model, the Committee believes it to be essential that individual schools should maintain their unique culture and character. However, it also recognises that close collaboration at Headteacher level will be vital to ensure effective staff deployment across the 11-18 partnership and a continued focus on sharing best practice, shared professional development opportunities and continuous improvement. Partnership working also allows our profession to develop a strategic view of the education system across the islands.

Vision for the Post 16 Learning Environment

- 5.19 The Committee is ambitious in its plans for secondary and post 16 education and believes that the post 16 sector is pivotal in equipping the Bailiwick's young people with a high quality of knowledge and skills in preparation for their next step in life. Parity of esteem for academic and vocational pathways is crucial in ensuring young people make the right choices to realise their aspirations, develop a lifelong passion for learning and become valuable contributors to their communities. This principle sits at the heart of the Committee's model.

Progression routes of equal value

- 5.20 Unfortunately, in Guernsey, as is in some other jurisdictions, it has not always been the case that post 16 progression routes into academic or technical and vocational pathways have been viewed as equivalent.¹⁷ By being on a shared site, the new post 16 campus will re-position technical, vocational and academic pathways as routes of equal value within the Bailiwick and allow for greater collaborative opportunities between The Guernsey Institute and the Sixth Form Centre.
- 5.21 In Guernsey, this is in part likely to have been a direct result of the significant discrepancy in the accommodation provided for the College of Further Education which has been described as 'some of the least fit for purpose, most dispersed and uninspiring further education spaces that we have ever seen in the sector' by Peter

¹⁷ <https://nfer.ac.uk/changing-attitudes-to-vocational-education>

Marsh Consulting¹⁸ - and, in part, from the island's long standing history of selection at 11, with sixth form provision as part of the Grammar School. The Committee believes that it is essential to address this discrepancy in the quality of facilities but also to recognise that technical and vocational qualifications are of equal value and to ensure that there is parity of esteem for different pathways at post 16.

- 5.22 The quality of post 16 education and diversity of offer is crucial both for individual learners and the future prosperity of the island. It is essential that students moving on to post 16 education have the opportunity to select from a broad range of options including academic, vocational and technical qualifications, and that the principle of lifelong learning is embedded to enable adults to retrain and develop new skills as the island's employment market changes over time. Developments in industry and in the delivery of learning have made blended learning increasingly appealing to employers and learners. Choice at 16 is essential.
- 5.23 Making this more visible to all post 16 students will encourage them to pursue further and higher education and training opportunities throughout their lives. It will also help them make an informed decision about what is the most appropriate post 16 choice for their unique circumstances. All learners will benefit from being part of a campus which also encompasses higher education and training, providing a broader range of role models to inspire more students to go on to study or train at a higher level.

Proposed model

- 5.24 The Committee's proposals for future post 16 provision are to create a brand new, fit for purpose campus for all post 16 education, providing a mature adult learning environment with bespoke, high quality facilities for both further and higher education. This will provide the opportunity for all learners to exploit their abilities without being stereotyped. It is essential that vocational and academic pathways should be available as far as possible to all students who have the desire, commitment and aptitude. Standard entry requirements for courses at the same level at the College of Further Education (now part of The Guernsey Institute) and the Sixth Form Centre are already in place, and both academic and vocational and technical qualifications can facilitate access to higher education. Academic, vocational and technical qualifications should be considered as pathways with parity, and students should feel empowered to make a positive choice about the route they follow and ultimately, their chosen career path.
- 5.25 The island's young people may follow a broad range of pathways across two distinct organisations, they will have access to shared facilities to study, eat, socialise and participate in sport as they will no longer be educated at separate locations at 16. If the Committee's policy proposals are approved by the States, consultation will take

¹⁸ <https://gov.gg/CHttpHandler.ashx?id=120436&p=0>

place with key stakeholders from schools and The Guernsey Institute to determine how best this can be delivered.

- 5.26 The Committee's preferred option will also support the availability of progression routes and crossover pathways for more students such as opportunities for some students to take A Levels alongside a specific vocational qualification and vice versa. Current arrangements create a barrier between academic and vocational and technical pathways, which limits the potential of young people to access mixed provision to suit their talents. Locating both the Sixth Form Centre and The Guernsey Institute on the same site will make it easier to facilitate programmes of study which combine academic and vocational and technical options in the future, building on the success of the International Baccalaureate Career-related Programme launched in September 2020. This will allow more flexibility to ensure that provision can be responsive to future skills gaps and the needs of employers.
- 5.27 The Post 16 Campus will act as a centre of ambition and aspiration for all learners progressing from the 11-16 schools including those from St Anne's in Alderney. The new model will provide the opportunity for all learners to begin their post 16 journey from an equal starting point. They will graduate from their school to the campus, irrespective of their circumstances, to join a mature, adult learning environment which will prepare them for their next steps in education or work. As the focal point on the island for all further education, higher education, training and skills and the careers service, all learners will benefit from a dynamic environment with the support of staff from both the Sixth Form Centre and The Guernsey Institute working in close collaboration to ensure all provision enables lifelong education and career progression.
- 5.28 Facilities on the same site will allow opportunities for students to access shared extracurricular or enrichment activities, allowing young people to retain connections with their peers across the campus. Consultation will take place with staff and students about how this may best be approached in the future. Co-location will also enable more operational flexibility, for example by centralising delivery of examination resits.
- 5.29 The Committee accepts that the 11-18 Partnership and the deployment of staff across 11-16 schools with a separate sixth form centre represents a substantial change from current operating procedures. It is not an operational model which has existed in Guernsey previously. It is important to note, however, that this is a model which operates highly effectively in many other jurisdictions such as Ireland, England and Wales. Training and external subject matter expertise will be provided to support the Partnership to develop proficiency in this area and to make best use of advances in new technology to support more efficient ways of working.
- 5.30 The Sixth Form Centre and The Guernsey Institute will remain operationally separate organisations, due to the need for staffing to be deployed most efficiently between the 11-16 schools and the Sixth Form. The SSP is fundamental to the success of

delivering 11-18 education and the staffing of both the Sixth Form provision and the 11-16 schools will form an integral part of the Partnership.

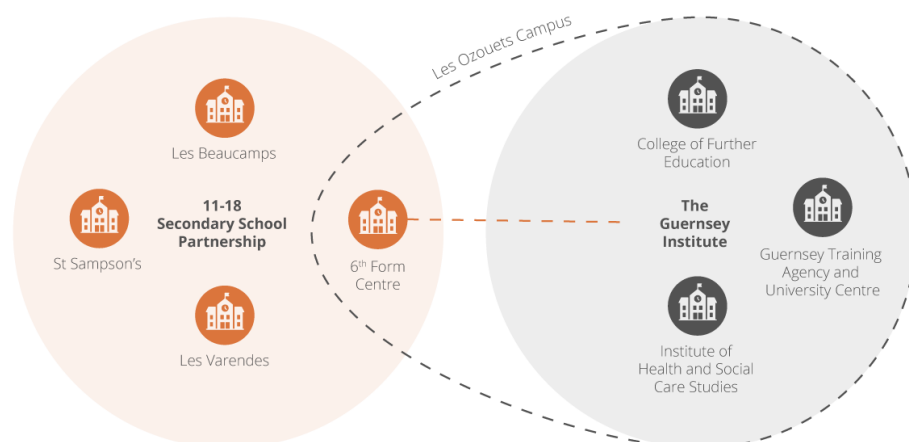


Figure 4: The Secondary School Partnership and The Guernsey Institute

- 5.31 Potential synergies and ways of working together between the Sixth Form and The Guernsey Institute, for example shared dining facilities, shared use of sport facilities and the learning resource centre are already being explored to ensure that the greatest possible benefits are realised, and that expenditure is managed as efficiently as possible. It is anticipated that these mutual benefits will evolve over time as a result of input from and consultation with leaders, staff and students.

Post 16 or 11-18

- 5.32 It is accepted that it is possible to find data and evidence to support any of the potential models for secondary education and as has already been frequently emphasised, there is no one model of secondary and post 16 education that will benefit from universal support, either within the sector or more widely across the community.
- 5.33 It is also clear that because of the complexity of education systems, it is not possible to claim that one model is 'better' than another because many different models work in many different countries and often there are different models used within the same country which lead to excellent outcomes. What is crucial is to identify a model which can deliver excellent outcomes for children and young people in the context of Guernsey and Alderney and which meets the aspirations of the community, creating an education system which is forward looking and fit to meet the challenges of the 21st Century.

International and English data

- 5.34 The OECD Programme for International Student Assessment (PISA)¹⁹ examines what students know in reading, mathematics and science, and what they can do with what they know. It provides the most comprehensive and rigorous international assessment of student learning outcomes to date. Results from PISA indicate the quality and equity of learning outcomes attained around the world and allow educators and policy makers to learn from the policies and practices applied in other countries. It is of note that the majority of the top performing countries for reading (which was the OECD focus in 2018) share similar arrangements for the structure of secondary and post 16 education. Typically, these countries have separate institutions to deliver further education,²⁰ though in some instances the transition is at 15, in upper secondary schools, vocational schools, training colleges or high schools.
- 5.35 It is interesting to note that many other jurisdictions separate post 16 education. The Committee is therefore reassured that it is adopting a model for secondary and post 16 education which is used effectively elsewhere.
- 5.36 Conversely, evidence has previously been circulated which shows that 11-18 schools appear to outperform 11-16 schools in the top 100 schools for Attainment 8 in England. This evidence has been reviewed and the conclusion is that this is a simplistic way to interpret the complex nature of data in English schools where results are measured in different ways through Attainment 8 and Progress 8 and this is outlined in Appendix 3.
- 5.37 The Attainment 8 data from 2019 for the 11-18 and 11-16 schools places them both in line with the national average with a marginal difference. Within that range, there are 11-18 and 11-16 schools performing exceptionally well, as well as schools performing exceptionally badly. It will be important for the SSP to remain outward facing and to learn from the very best of some of those highly successful 11-16 schools.

Recruitment

- 5.38 One of the arguments presented in support of 11-18 schools is that in an environment where there are both 11-16 and 11-18 schools, the 11-18 schools will have better recruitment options because more teachers want the opportunity to teach A level students. It is important to note that where appropriate recruitment for secondary schools in Guernsey currently takes place under the umbrella of the SSP and it is intended that this will continue. The reality is that some staff will naturally

¹⁹

<https://www.oecd.org/pisa/PISA20201820Insights20and20Interpretations20FINAL20PDF.pdf>

²⁰ https://eacea.ec.europa.eu/national-policies/eurydice/national-description_en
and <https://ncee.org/center-on-international-education-benchmarking/>

prefer to teach in 11-16 schools whereas others will prefer to teach the full age range up to 18.

- 5.39 The future structure of secondary and post 16 education is designed to ensure that the SSP can recruit across all schools in Key Stage 5 as required. This will ensure that the Partnership continues to attract staff who wish to teach across the 11-16 and the 11-18 age range. It is important to note that one of the greatest factors in what motivates staff to apply for a particular post, is the quality of the school itself. Good schools attract talented staff.

Role models, leadership and aspiration

- 5.40 A further stated advantage of 11-18 schools is that they benefit from older role models in the sixth form. It is accepted that sixth form students can and do act as role models for younger learners, however, this excludes other exceptional students who go on to study technical or vocational subjects. The Committee believes that learners in Year 11 are able to provide equally good leadership and act as role models for younger students, in fact this already occurs in three of the existing secondary schools.
- 5.41 The concept of all learners graduating to a post 16 campus will develop a greater shared sense of ambition and progression for all. An integral feature of the new model will be the need for the existing Post 16 Strategy Group to continue to collaborate between the SSP and The Guernsey Institute to provide meaningful opportunities for interaction between school age and post 16 learners and employers to promote a culture of lifelong learning, aspiration and ambition.

Post 16 conclusions

- 5.42 Preferences for 11-16 or 11-18 schools are often based upon a personal philosophy or personal experiences of teaching or school attendance and consequently there is often an understandable subconscious bias. However, it is clear to the Committee that it is not a simple binary choice. The decision needs to be based upon delivering the best possible solution for Guernsey's unique context, taking into account the many different challenges facing the Bailiwick such as providing equitable experiences for all, the declining pupil population and reduced financial resources.
- 5.43 The Committee considers that there is no perfect solution which will satisfy everyone, in part as a result of Guernsey's scale and size. The Committee is clear in its belief that it is the quality of the school leadership and the staff that makes the biggest difference as to whether a school is successful, rather than whether it is an 11-16 or an 11-18 school.
- 5.44 Having reviewed the English data and international evidence, the Committee remains convinced by its decision to create a post 16 campus. The English data does not provide a sufficiently compelling reason to discount 11-16 schools as a successful way to deliver secondary education.

5.45 The creation of a post 16 campus aligns with the wider strategic plans for Guernsey through its contribution to the Skills and Lifelong Learning Strategy. This is a proposed recovery action in the GWP and will be undertaken as part of strategic collaborative work across several Committee areas. The Strategy will:

- establish a clear path to upskilling for businesses and individuals, with co-investment funding from government.
- enable community access to broad digital training in addition to employment-based programmes.
- provide the foundation for the Bailiwick to be an attractive and competitive jurisdiction for business, because of the growth of its digitally enabled and innovative workforce.
- support a prosperous economy in a community able to provide the many services that are required for a modern society in terms of healthcare, construction, utilities, hospitality, agriculture, retailers, mechanical and technical services.

5.46 The Skills and Lifelong Learning Strategy is aligned with the Committee's Education Strategy and with its ambition for the post 16 sector; to provide the Bailiwick's young people with a high quality of education and skills in preparation for their entry to the workforce and future contribution to the community and the economy.

5.47 The Committee recognises that the quality of post 16 education is critical both for individual learners and for the future prosperity of the island. The creation of a brand new campus which accommodates all post 16 education means that all adult learning will be delivered in an environment with bespoke, high quality facilities for both further and higher education. The shared campus will facilitate programmes of study which combine academic and vocational and technical options in the future, building on the success of the International Baccalaureate Career-related Programme (IBCP) launched in September 2020. This will allow more flexibility to ensure that provision can be responsive to future skills gaps and the needs of employers and will contribute directly to a culture of life-long learning for the Bailiwick.

6 Committee's approach to determining the future of secondary and post 16 education

Summary of the approach to the review of models

6.1 Guernsey's General Election took place on 7th October, 2020. The current Committee was elected on 21st October, 2020, with several members having explicitly stated in their manifestos that they rejected the one school on two sites model. The Committee firmly believes that the results of the election demonstrated a preference among the community for delivery of secondary and post 16 education over three or four sites.

6.2 Following their election, the new Committee took ownership of the secondary review

which was commenced in March 2020. The models identified for inclusion were determined by the previous States and did not include the model that the new Committee considered to have the greatest potential: three 11-16 schools and a sixth form co-located with The Guernsey Institute. Conversely, the review did include models which the Committee considered it would be impossible to implement in Guernsey, including the previously proposed one school on two school sites model. Given the urgency required in determining a new model for secondary and post 16 education delivery, the Committee was keen to ensure that no further time was expended developing models which could not be implemented and for which there was no mandate.

- 6.3 An interim report of the work completed under the previous Committee was circulated to all members of the previous States' on that Committee's last day in office. The report contained a summary of the work completed up to the point of the change in Committee, including a summary of how specific versions of each of the models analysed were selected. The report also included comparative information on capital costs based on applying the assumptions underlying the one school on two sites model to each of the other models in order to provide the same facilities on each site. Although the current Committee has changed the direction of the review, this report is included in Appendix 6 in the interests of transparency.
- 6.4 Further, the like for like comparisons which had been provided as part of the interim report were based on the same set of assumptions which were included as part of the planned one school on two sites model, and the Committee wished to vary some of these. For example, all models previously included in the review were based on an assumed capacity of 20 forms of entry across the secondary education estate. Having reviewed the most recent long-term population projections, which show an expected decline in the secondary school population from a peak of 2600 in 2026 to approximately 2200 by 2040, the Committee considers that this would require unnecessary capital expenditure at a time when the island is facing greater financial pressure. The Committee therefore decided that the future model should be based on 18 forms of entry rather than 20.
- 6.5 The Committee considered it an inefficient use of time to redo work based on the previous set of assumptions and decided instead to narrow the scope of the review to focus only on models considered to be viable options, rather than adjusting the timeline of the review to provide information about models which were not considered viable.
- 6.6 These options were determined through the Committee's Guiding Principles, as set out in Table 3, which were based in part on feedback provided by staff through the surveys, as set out in Appendix 4. Three options were developed and compared, and the selected option, based on the Guiding Principles outlined by the Committee, will be compared to current provision rather than to the set of assumptions underlying the one school on two sites model.

Guiding Principles

- 6.7 In order to determine the future structure of secondary and post 16 education, the Committee has adopted a strategic approach to its decision making. Alongside developing its wider strategy, it is important that an agreed set of guiding principles support the decision-making processes and final recommendations to ensure that a pragmatic and viable solution is recommended. The Committee has spent considerable time reviewing the findings of the staff survey undertaken as part of the review which provided insight into the aspirations of the profession for any future model. This initial thinking was shared in a presentation and workshop to States Members on 7th December, 2020.
- 6.8 Following this workshop, the Committee held a full day workshop on 7th January, 2021 with a range of key stakeholders present:
- All Committee members, including the newly appointed non-voting member
 - Representatives from the Policy & Resources Committee (P&RC)
 - Senior educationalists from further and higher education, secondary education, and the curriculum and standards, SEND and Inclusion teams
 - Representative from the States' Senior Leadership Team
 - Officers from the project team, the States' central Strategy & Policy team, and the States' Communications team
- 6.9 The workshop considered a number of key areas including the survey findings, the projected pupil population decline, the implications of changes to the class size policy for the number of forms of entry required, breadth and flexibility of curriculum offer, feedback from the States' Members workshop and the wider financial challenges facing the States of Guernsey. Following substantial debate and discussion, the Committee agreed the following Guiding Principles for Secondary and post 16 education:

Principle	Description
<p><i>A solution which provides greater equity for post 16 education and training and in which the Sixth Form is not split</i></p>	<p>The Committee wants to ensure that the future model provides greater equity for post 16 education and training: it considers it essential to ensure parity of esteem for academic, vocational and technical qualifications, to ensure more students are able to follow mixed pathways in order to best meet their interests and aspirations and to provide students with a more adult environment which will support them in moving into the workplace and making a positive contribution to our island in the future. The Committee's ambition for the future post 16 campus is set out in section 5.19.</p> <p>The Committee is also keen to ensure that the Sixth Form is not split, and that all Sixth Form students remain on one site. This is based on feedback from staff, in which 81% of secondary staff considered it essential, highly desirable or desirable that the Sixth Form is not split.</p> <p>This will maximise possible option combinations within any given breadth of curriculum, avoiding the need for Sixth Form students to travel between sites in order to take their first choice combination of subjects.</p>
<p><i>A solution that delivers improvements in equity</i></p>	<p>The Committee does not consider it essential for exactly the same offer and facilities to be provided on each secondary school site: instead, the priority should be improving the quality of education on each site individually. For several reasons, the Committee does not consider the current secondary and post 16 education offer to provide equitable provision:</p> <ul style="list-style-type: none"> ○ Some students attend an 11-18 school and others attend 11-16 schools ○ Students attend schools of significantly varying sizes, with cohort sizes in current secondary schools ranging from 67 to 163. This affects the breadth of the curriculum offer to which students have access, in addition to opportunities for grouping of students. ○ Some students attend a school with significantly poorer quality facilities than students on the other sites.

Principle	Description
<i>A solution that is reflective of the prevailing economic opportunities and limitations of the current financial climate</i>	Any potential future model of education needs to be considered in the context of the current financial climate, both in terms of capital and revenue expenditure.
<i>A solution that is deliverable in a realisable timeframe whilst being mindful of disruption to the school community and which can be easily understood by all stakeholders</i>	There is a clear need for certainty for learners, parents and staff about the future of secondary education, and for a new model to be delivered as soon as practicably possible, without a long and drawn-out transition period. It is essential that disruption to the school community during the transition to the new model is minimised, and considered as part of decisions on future sites, the extent of work to be carried out on each site, and the transition model for students.

Table 3: The Committee's Guiding Principles

6.10 The Guiding Principles support the decisions which the Committee has made in relation to the future structure of secondary and post 16 education. The Committee is clear in its view that it is the SSP which will deliver the outcomes of the Committee's strategy and aspirations for secondary education. It is through the SSP that improvements and developments will be led, alongside robust challenge and support from the central education team. Relevant aspects of operational decision-making relating to the development of the SSP will take place with key stakeholders following States' approval of the overall strategic policy direction. The HM Treasury Business Case process will include consultation and engagement alongside ongoing challenge from P&RC. This is integral to the Business Case aims of ensuring best value for public money and that the benefits of the policy proposals are realised.

7 The Committee's Preferred Model

7.1 The Committee's preferred model is:

- **Three schools, each with six forms of entry with a capacity for up to 780 students**

7.2 The Committee proposes that these should be based at St Sampson's, Les Beaucamps and Les Varendes. Each school would have theoretical capacity for up to 780 students, but projections based on the draft new feeder school model indicate a maximum of 720-740 on each site after the transition period has ended.

- **A single post 16 campus, accommodating both The Guernsey Institute and the Sixth Form, at Les Ozouets.**

- 7.3 This will allow the Committee’s ambitions for post 16 education, as set out in section 5.19, to be delivered.
- 7.4 There is no change proposed to the organisation of schools for learners with the most complex needs which will continue to be delivered at Les Voies and Le Murier. It is widely accepted that these schools, along with Le Rondin, provide a high quality of support for learners with SEND and this was recently recognised in the review undertaken by nasen²¹. The Committee’s preferred model will continue and extend this support to learners with additional needs who attend the island’s secondary schools.
- 7.5 This model is viable within the current financial climate and, subject to States’ approval in both July 2021 meetings, can be delivered by September 2024 with minimal disruption to students in existing 11-16 schools.
- 7.6 The Committee has carried out a thorough analysis of the different models for secondary education and more detail about how the Committee determined its preferred model can be found in Appendix 4. A summary of the evaluation grids against the Committee’s Guiding Principles are set out below.
- 7.7 The potential future models of secondary and post 16 education included in the previous Committee’s review were evaluated in light of the current Committee’s Guiding Principles. The extent to which each model meets the Guiding Principles is summarised in the table below.

²¹ <https://gov.gg/CHttpHandler.ashx?id=137889&p=0>

	Two 11-18s	Three 11-18s	One 11-18 and two 11-16s	Three 11-16s where one has a co-located Sixth Form	Three 11-16s and a Sixth Form on a current secondary site ('Do minimum' option)	Three 11-16s and a Sixth Form co-located with TGI
Greater equity for post 16 education and training	No	No	No	No	No	Yes
Sixth form not split	No	No	Yes	Yes	Yes	Yes
Improvements in equity	Yes	Yes	No	No	Yes	Yes
Reflective of current financial climate – capital	The modelling carried out under the previous Committee was based on assumptions which the current Committee believed to be flawed and so no comparisons of these models were made on a cost basis.					
Reflective of current financial climate – revenue						
Deliverable in realisable timeframe	Yes	Yes	Yes	Yes	Yes	Yes
Mindful of disruption to school community	No	No	Yes	Yes	Yes	Yes

Table 4: Extent to which each of the potential models meets the Committee's Guiding Principles

Evaluation of models against Guiding Principles:

7.8 The Committee reviewed the underlying assumptions which were used as part of the previous Committee's review and concluded the following:

- It is more pragmatic to plan for a total capacity of 18 forms of entry in each cohort across the 11-16 schools, rather than the previous Committee's

plans for 20 forms of entry. Changes to the class size policy which are already being introduced mean this is achievable sooner than it would have been otherwise.

- 18 forms of entry still allow a greater level of equity across three schools because all three schools can be treated as six-form entry schools and consequently can offer the same breadth of curriculum. This is consistent with the Committee's principle to improve equity across schools and to address the current inequity of provision, particularly for GCSE subject choices in Key Stage 4 where there are differences across the schools now, meaning that it is not possible for all learners to access the same curriculum provision.
- The previous Committee's modelling was based on a principle of equality of resources and facilities which this Committee does not consider to be pragmatic, particularly given the current financial context.
- It is not necessary for each school to have identical facilities or for each school to be built to exactly the same space standards: instead, being mindful of the financial pressures the island is facing, the priority should be to consider each site individually and fund changes which are necessary to allow the building to meet the required standards to continue to deliver 11-16 education well into the future.
- It is important to be mindful of the disruption that significant development work would cause given that schools will continue to be operational.

7.9 As outlined above, the Committee directed that updated financial modelling be based on these new assumptions, with the assumptions for revenue modelling being based on current provision rather than the assumptions made for the one school on two sites model. The new baseline provides a more realistic and pragmatic approach and provides assurances that any of the models considered further by the Committee can be delivered within the existing budget for secondary education.

7.10 Once the modelling had been carried out using the new assumptions, the Committee examined the updated capital and revenue cost information and considered each model at length in light of its Guiding Principles and the additional analysis. A summary of this information is shown in table 5 below.

	Three 11-16s at LBHS, SSHS and LV and a Sixth Form co-located with TGI	Three 11-16s at LBHS, SSHS and LMDC and a Sixth Form co-located with TGI	Three 11-16s at LBHS, SSHS and LV and a Sixth Form co-located at LV
Greater equity for post 16 education and training	Sixth Form and The Guernsey Institute located on the same site - creating post 16 “campus”, contributing to parity of esteem and facilitating mixed programmes.		Sixth Form and The Guernsey Institute located on different sites as now.
Sixth Form not split	Sixth Form not split across more than one site.		
Improvements in equity	Improvement in equity because all students are in fit for purpose buildings in schools of the same size, able to offer the same breadth of curriculum		One school will have a co-located Sixth Form: more students on site, potential advantages if there is shared staffing and risk of perceived inequity.
Reflective of current financial climate - capital	Yes	No	Yes
Reflective of current financial climate - revenue	Deliverable for no more than the current level of expenditure		
Deliverable in realisable timeframe	September 2024	September 2025	September 2025
Mindful of disruption to school community	Potential disruption at Les Varendes as works required while students are on site	No internal works required while students are on site	More significant works required at Les Varendes while students are on site

Table 5: Evaluation of models included in further analysis against the Committee’s guiding principles

Transition from the current model to the preferred model

- 7.11 Given the Committee’s principle to be mindful of disruption to existing school communities, the Committee considered various options for the transition of learners and staff from the current model of secondary education to the preferred

future model. The Committee's preferred transition and feeder primary model details are set out below, but this model will be subject to further consultation and engagement with senior educationalists, primary school Headteachers and secondary school Principals prior to a final decision being confirmed. Key stakeholder groups will be consulted during the transition phase as the detailed transition plans are developed.

Secondary School	Feeder Primary Schools from September 2023
Les Beaucamps	Castel, La Houquette, Forest, St Martin's
St Sampson's	La Mare de Carteret, Hautes Capelles, Vale
Les Varendes	Amherst, Vauvert, St Mary and St Michael, Notre Dame
La Mare de Carteret	No Year 7 intake in September 2023

Table 6: Feeder Primary Model from September 2023

7.12 In September 2023 there will be no Year 7 intake into La Mare de Carteret and then, at the end of academic year in July 2024, it is proposed that learners at La Mare de Carteret in Years 8, 9 and 10 will finish the year at La Mare de Carteret and will move to join their peers at Les Varendes in Years 9, 10 and 11 in September 2024. Space will have been created to accommodate these additional learners by Year 12 students moving to start Year 13 at the Sixth Form Centre on the Les Ozouets Campus in September 2024 and Year 11 from all schools beginning their post 16 experience on the shared campus.

7.13 Several of the preferences regarding transition expressed by staff in the survey can be met by the proposed model, and the current preferred transition plan, which can be varied in light of any feedback from key stakeholder groups:

- It does not require a long transition period; provided there are no delays all learners can be in the new model from September 2024
- Disruption resulting from site moves will be minimised as far as possible:
- No learner will be required to move more than once over the course of their 11-16 education.
- No learner will be required to move between Year 7 and 8, just one year after moving from primary school to secondary school.
- Fewer than 300 students are expected to move site during their secondary education, with a single cohort (approximately 200 students) moving site between Year 12 and Year 13.
- There is no requirement to split existing cohorts of students: all students moving from La Mare de Carteret at the point that it closes can be guaranteed a place at Les Varendes, with opportunities for parental choice to move to either of the other two sites.

- There will be very limited disruption to learning for students on the school sites as works are carried out: St Sampson's requires no additional works, Les Beaucamps only a small extension in the lower car park, and Les Varendes only upgrades rather than significant restructuring or extension.
- It should be noted that current capacity at Les Beaucamps, based on the existing class policy of 26 learners per form of entry, is for 715 learners. There is no requirement for temporary accommodation for learners. Projections show that there would be approximately 702 learners on the site in 2024. The maximum anticipated learners on this site would be 726 in 2027-28.
- To maximise flexibility to create the best possible layout for the new post 16 campus, it is expected that the existing building at Les Ozouets would be demolished in advance of the start of the build programme. Students and staff based on this site will therefore be provided with suitable alternative accommodation during this period. This will mean that they are not affected by the extensive building work taking place on the site.
- The Princess Royal Performing Arts Centre will continue to operate.
- Other occupants of the Les Ozouets site, including the Music Service, Youth Commission and The Sexual Health and Relationship Educators (SHARE), will also be provided with suitable alternative accommodation.

7.14 The timeline below sets out key milestones for the development of the new model:

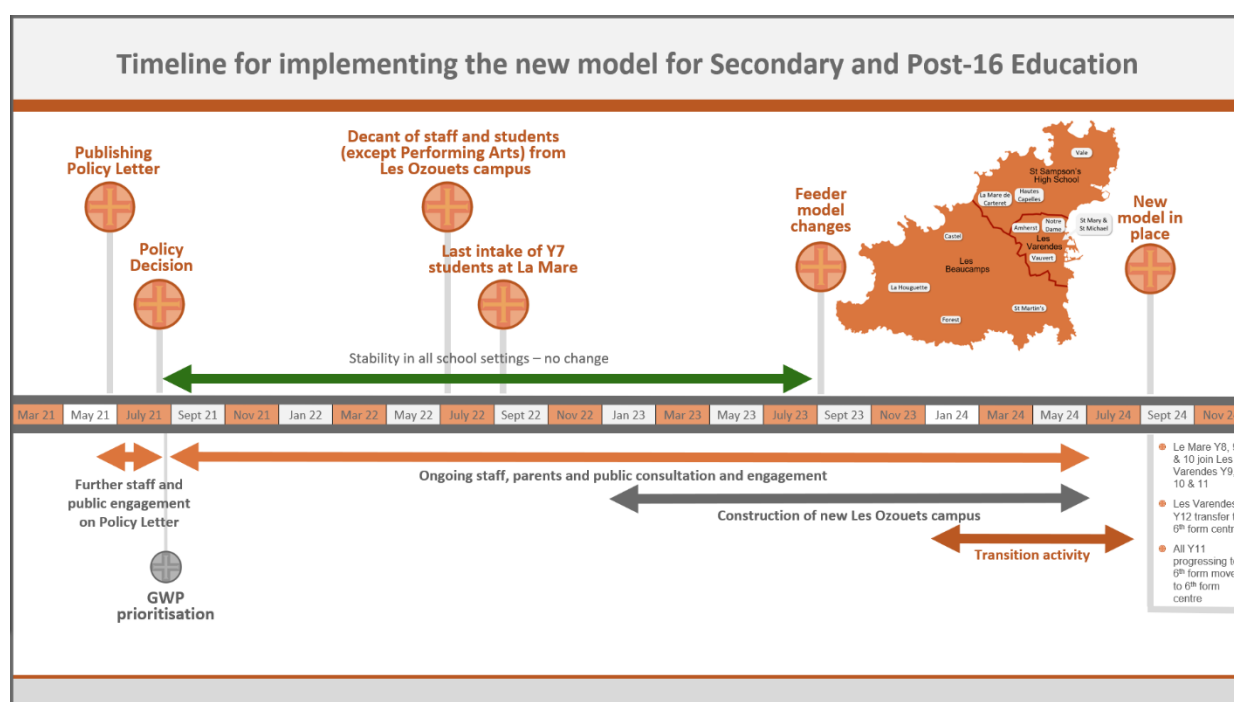


Figure 5: Timeline and key milestones

Alignment of the preferred model to the Committee's Principles

7.15 The Committee's preferred model aligns with the Guiding Principles as outlined in Table 7 below:

Principle	Preferred model
Greater equity for post 16 education and training	Sixth Form and The Guernsey Institute located on the same site - creating the Post 16 campus, contributing to parity of esteem and facilitating mixed programmes.
Sixth Form not split	Sixth Form not split across more than one site
Improvements in equity	Improvement because all students are in fit for purpose buildings in schools of the same size, able to offer the same breadth of curriculum
Reflective of current financial climate - capital	Overall capital request of £43.5m: £30.4m lower than amount delegated for the previous model of education.
Reflective of current financial climate - revenue	Deliverable for no more than the current level of expenditure
Deliverable in realisable timeframe	September 2024
Mindful of disruption to school community	Potential disruption at Les Varendes as works required while students are on site

Table 7: Alignment of preferred model to Guiding Principles

Alignment of the preferred model to preferences expressed through the staff surveys

7.16 There are several areas in which the staff survey data aligns with the Committee's decision-making, as summarised in Appendix 4. A high-level summary of these alignments is listed below:

- The model will allow each site to develop its own culture and identity.
- There will be equitable access to a more consistent quality of facilities than is the case in the existing model: currently, students at La Mare de Carteret High School experience a lower standard of facilities than students on the other three sites.
- As all three 11-16 schools will be the same size, curriculum breadth will be similar across the three schools. These priorities were considered essential or highly desirable by a majority of staff.

- Each school will have similar numbers in each cohort, and as they are all 11-16, a similar number of students in total. Current assumptions are based on retaining a primary school feeder model as opposed to a catchment system. These priorities were considered essential, highly desirable or desirable by a majority of staff.
- All three 11-16 schools will be designed for six forms of entry in each cohort; considered optimal by a greater proportion of staff (55%) than any other school size, as shown in Appendix 4. There will be no need for any learner to move site more than once during the 11-16 phase of their education, and there is unlikely to be any requirement for temporary classrooms for learners aged 11-16.
- A majority of staff also considered it at least desirable to avoid a long transition period. The preferred model can be fully in place for September 2024.
- As part of its ongoing scrutiny of revenue budgets, the Committee has decided to make adjustments to the current class size policy for reasons independent of the future model. Even with the adjusted class size policy, the vast majority of classes will remain at or below 25, with only 15% likely to fall in the 26-28 range.
- The Committee's preferred model reflects staff priorities relating to the structure of the Sixth Form:
 - The Sixth Form will be together on one site, meaning no learners need to travel between sites for Sixth Form studies, or for mixed programmes with The Guernsey Institute.
 - As all learners will attend 11-16 schools and then the Post 16 Campus, there is no issue relating to equitable access to 11-18 schools.
 - A majority of staff (53%) considered it either essential, highly desirable or desirable for the Sixth Form to be located on a separate site to 11-16 students, as is the case in the proposed model. This was further broken down by school with the following schools considering it either essential, highly desirable or desirable for the Sixth Form to be located on a separate site to 11-16 students:
 - Les Beaucamps 65%
 - La Mare de Carteret 71%
 - Les Varendes 25%
 - St Sampson's 59%

The 'Do Minimum' Option

- 7.17 There is an option to organise the delivery of secondary and post 16 education in three 11-16 schools based at Les Beaucamps, St Sampsons and Les Varendes with the Sixth Form Centre remaining as part of Les Varendes site. While this option would cost less from a capital perspective, the Committee does not consider this to be an acceptable model for a number of reasons:

- It doesn't represent a sufficiently ambitious and aspirational offer for post 16 learners or align with the skills agenda which emphasises the importance of retraining to keep up with the future employment market.
- It would continue the existing inequity in the system in that some learners would benefit from the perceived advantages associated with attending an 11-18 school.
- The increase in the student population between 2024 - 2029 would result in between 1000 – 1200 learners on the Les Varendes site. This number is more than the community and staff consider acceptable as evidenced by the results of the staff survey and the public reaction to the one school on two sites model.

La Mare de Carteret site option

7.18 The Committee considered carefully the site options for the three 11-16 schools and the La Mare de Carteret site was discounted from the Committee's preferred option for the following reasons:

- Using the site of the current High School would necessitate a rebuild requiring additional capital expenditure of a minimum of £30 - 35 million, which the Committee does not consider to be prudent given the current financial climate.
- The combination of the transition arrangements and the current primary school feeder model could place more families in the position of having to choose whether a child transfers to secondary school with their cohort of peers or attends the same school as a sibling.
- Although it would reduce the distance students in the La Mare de Carteret primary catchment area need to travel to school, it would increase the distance students in town are required to travel to school relative to the Committee's preferred option, including students in the island's other social priority primary (Amherst), as there would no longer be a secondary school located at Les Varendes.
- The current building at Les Varendes requires only minor upgrades to continue to meet required standards for education. In a model where La Mare de Carteret was the third site, Les Varendes site would not be used as a school building which is contrary to an efficient use of the estate.
- Potential developments in housing supply in the area could mean that the advantage of locating a school on the La Mare de Carteret site lessened over time.
- This option could not be fully implemented until September 2025, a year later than the Committee's preferred option, which would mean another year of the current inefficient and inequitable model and another year of uncertainty for staff, students and families.

7.19 Based on finding the most cost-effective solutions, the Committee did not consider that this site could be put forward as the preferred option.

Three 11-18 schools

7.20 The Committee is aware there is interest in a model which would reorganise secondary education delivery in three 11-18 schools. Whilst this may be cheaper to build from a capital perspective, the Committee has discounted this option for the following reasons:

- Three 11-18 schools could not be implemented before September 2025 at the earliest, causing continued uncertainty for the community in the interim.
- There would be disruption to the staff and learner population on existing school sites whilst necessary extension works are undertaken.
- Three 11-18 schools will continue the inequity which exists between academic and technical / vocational pathway choices at post 16.
- Three 11-18 schools will not provide the advantage of having all learners on one site for more flexible curriculum approaches such as the IB careers programme or other blended pathways which will develop over time.
- Learners from Alderney would not be afforded the opportunity to join post 16 provision from an equal starting point as they would in the Committee's preferred model.
- The Committee's model has in-built flexibility to allow for population changes such as changing cohort sizes between The Guernsey Institute and the Sixth Form Centre which would not be the case with three 11-18 schools.
- In light of the population decline, three sixth forms will not be sustainable or efficient. There is a significant likelihood that over time one or more of the sixth forms will be closed leading to circumstances similar to those which exist now, with an inequitable mix of 11-16 and 11-18 schools.
- Three 11-18 schools will inevitably see a proportion of learners having to change sites completely at 16 in order to access their combined subject choices whilst others will remain at their 11-16 site. This Committee does not believe that a situation where some learners are required to move is an equitable solution.
- Some learners will need to move between sites to access their subject combination unless curriculum offer is replicated on each site, which risks unnecessary and inefficient additional expenditure.
- The separation of post 16 learners will not enable the Committee's plans for a post 16 campus which will act as a hub to support the Skills and Lifelong Learning Strategy by providing the Bailiwick's young people with a high quality of education and skills in preparation for their next step in life and future contribution to the community.
- There is no certainty in respect of planning requirements for any building work. In particular, any works needed at Les Beaucamps could result in a serious compromise or loss of existing sports areas and the Multi-Use Games Area.
- In the event of a positive population policy being approved by the States in future, leading to a more permanent increase in the secondary and post

16 student population, three 11-18 schools will lead to a significant increase in school sizes which proved unpalatable for the community as part of the one school on two site model.

- Another change of policy direction will require additional resources and expenditure to develop plans and lead to a delay in the implementation of this model.

8 Preferred Approach

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

- Three 11-16 schools at Les Beaucamps, St Sampson's and Les Varendes
- The plans to build a new purpose-built campus for The Guernsey Institute at Les Ozouets to be expanded to include the Sixth Form Centre.
- A new purpose-built CIAS Base to be built at Les Beaucamps to accommodate learners transitioning from the CIAS Base at Forest Primary School.
- Each secondary school will have a CIAS Base provision that ensures learners from each feeder primary school will be able to transition with their peers at Year 6 and still receive appropriate and equitable support no matter which secondary school they attend.
- Essential refurbishment and maintenance of Les Varendes to be carried out before La Mare de Carteret is closed.
- The Music Service, the Youth Commission and SHARE, currently based at Les Ozouets, will be relocated to a refurbished area of the Les Varendes site.
- Detailed traffic impact assessments will be undertaken with active travel options promoted for all sites. The numbers of learners on each site will be manageable from an infrastructure perspective, not least because post 16 education is not delivered to the same timetable as a school day so travel will be dispersed.
- The Performing Arts Centre to continue to operate throughout the transition.
- The timeline for the design, tendering and build of the Les Ozouets will be coordinated so that the whole Post 16 Campus is built in a single phase and all opens at the same time (current plan September 2024). This will reduce costs compared to a phased approach, as well as reducing the transition period and uncertainty.
- Student transitions for secondary school learners to be kept to a minimum - with no more than one move between sites during the transition phase.
- Student transitions for post 16 learners to be kept to a minimum.
- Ensuring effective change management approaches are in place to support learners, their families and the workforce through the transition to the new delivery model of secondary education.
- Ensuring sufficient programme resourcing to reduce disruption during the transition period and to support the workforce in continuing to deliver continuous improvements in secondary education.

- Ensuring that any necessary staffing changes as a result of secondary and post 16 education reorganisation will be led by HR colleagues and senior educationalists in line with agreed policies and protocols including relevant consultation with trade unions, the profession and P&RC.
- Staff and their representatives will be consulted at key stages regarding the implementation of the model and the transition to it.
- An appropriately resourced and skilled multidisciplinary team which comprises skills in programme and change management, education leadership, estate development, HR management and others should be in place to deliver the reorganisation of secondary and post 16 education during this and future phases.

8.2 It is expected that this approach will ensure that the Committee, through the investment in fit for purpose school buildings, will be able to:

- Provide an equitable environment in which all learners can flourish and thrive.
- Provide 11-16 schools of equal sizes which will ensure improved equity and consistent curriculum breadth across all sites.
- Achieve parity of esteem for post 16 education and training.
- Provide a broad, flexible and sustainable curriculum offer for learners in the post 16 sector.
- Provide a long-term solution for the Bailiwick which will be able to accommodate fluctuations in population in a pragmatic way reflective of the current financial situation.
- Align with the Skills and Lifelong Learning Strategy and provide learners with the knowledge and skills which meet the island's needs and will prepare young people to be successful wherever they choose to make their life.

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 reorganisation programme. This will be presented as part of the Outline Business Case.

9 Secondary School Partnership Costs

9.1 In developing its plans for the reorganisation of secondary schools, the Committee has accounted for the wider financial pressures facing the Bailiwick in addition to the internal budgetary pressures facing the Committee, particularly in light of the SEND review, the need to prioritise the professional development of staff to drive continuous improvement and the need to focus on literacy and digital literacy. It is therefore essential that the annual budget for education is apportioned in an equitable way across all aspects of the education mandate from 0-25 years of age. The Committee has therefore made decisions which will ensure that budgetary changes are made in 2021 to ensure funding is spent efficiently now and in the long-term. In developing the longer-term policy direction for secondary education, the Committee has paid careful attention to the need to spend taxpayers' money wisely

from both a capital and revenue perspective.

Revenue Modelling

9.2 Modelling based on the current structure of secondary education has been undertaken to provide high level indicative costs for use as a comparison. This shows that the Committee's preferred model will cost no more than it does currently to deliver secondary education. Key changes which have been included are outlined below:

- An increased tipping point (the point at which a new form of entry is introduced to a year group) from 26 to 28 in Key Stage 3 and Key Stage 4. Changes to tipping points are planned to take place from September 2021, irrespective of the changes to secondary reorganisation.
- For Key Stage 5 there is an increased Pupil Teacher Ratio (PTR) of 12.5:1 from 11:1.
- Modelling suggests that over the first ten years of the new system class sizes in KS3 and KS4 for core subjects will average between 25 and 26. Across all subjects, class sizes would more often be lower because of the lower numbers required in subjects such as Design and Technology and the additional option subjects running at GCSE. This brings the average class size at primary and at secondary closer together than is currently the case. These changes are being introduced gradually from September 2021 and are decisions which have been made from a business-as-usual perspective. Additional remission time has also been included to account for necessary travel between the Sixth Form Centre and the 11-16 schools.

Capital Costs

9.3 The major components of capital investment required to deliver the proposed models are:

- **Construction** - new facilities and the refurbishment or repurposing of existing facilities.
- **Decant** – this includes the cost of temporary accommodation for the current residents of the Les Ozouets Campus and the costs of transferring equipment and materials from the existing premises to the new facilities.
- **Programme** - the costs of the resources required to deliver the programme both in terms of project team members and external service providers.
- **Transport** - improvements to the facilities relating to travel to and from the schools including parking for cars, motor bikes and bicycles, drop-off areas, school bus provision and initiatives to encourage active travel.

9.4 A summary of these costs for the proposed model are as follows:

Secondary	Policy Letter	2SM	3 x 11-18
Construction Costs	£29.0m	£61.8m	£16.0m
Programme Costs	£10.0m	£8.8m	£10.0m
Decant	£3m		
Transport	£1.5m	£3.3m	£1.5m
Total Capital	£43.5m	£73.9m	£27.5m
Optimism Bias	£10.5m		£15.0m

Table 8: Summary of costs for the preferred model

9.5 The Construction costs include:

- A Sixth Form Centre built at Les Ozouets as part of the overall development of the site into a post-16 campus in one single-phase development opening in September 2024
- Remedial work carried out at Les Varendes
- The Swimming Pool at Les Varendes to be repurposed to accommodate those services displaced from Les Ozouets
- CIAS base built in the lower car park at Les Beaucamps

9.6 The Programme costs include:

- The planning and management of the programme including the development of plans and budgets, resourcing of the project team and the management of dependencies, risks and issues.
- The design of the staffing structures for the new model and the transition of existing staff into the new model.
- The consultation, engagement and communication with stakeholders during the transition process.
- The design of the new facilities and the management of the tendering and construction process.
- The development of business cases in order to comply with the States' Capital Approval processes.

9.7 Subject to approval of the proposed model by The States', these estimates will be the subject of more detailed development in line with the Capital Approval process in order to refine and validate the assumptions upon which these figures have been estimated.

9.8 Since most of the above estimates have been prepared using high level estimates and assumptions, and due to the risks summarised in Appendix 5, it is recommended that a sum of £10.5m is added to the amount delegated to P&RC (see Proposition 4),

to account for optimism bias and in case any of the risks materialise or any of the assumptions underlying the high-level estimates change.

- 9.9 For comparison purposes, the table below summarises the capital costs for the preferred model with the capital amount previously approved for the one school on two sites model, as well as for a three 11-18 school model.
- 9.10 The one school on two site model also included £4m to enable the co-location of healthcare services on the sites of the colleges, which has not been included here. Further work is needed to explore the appetite and potential for co-location using existing space in the three schools and the co-located site. This will be explored following States approval of the proposals.
- 9.11 The three 11-18 school model has been estimated by applying the same assumptions in respect of class sizes, curriculum, etc. as used in the Committee's preferred model. It assumes that the Sixth Form Centre would not be built at Les Ozouets, but that extensions would be required at Les Beaucamps and St Sampson's in order to accommodate one-third of a sixth form on each site. The risks (and therefore the sum allowed for optimism bias) for this model would need to be higher to reflect that the Committee has not conducted the same level of scrutiny into these costs and the underlying assumptions.

10 Delegated Authority and the Five Case Model

- 10.1 The States' are asked to agree that authority is delegated to P&RC to approve the required funding of up to £54m for the reorganisation. This will allow the Committee to move forward quickly with this essential workstream in order to address the long-standing concerns relating to the existing secondary and post-16 education infrastructure. The requirement to produce detailed business cases will still apply, as will the need for the relevant assurance reviews to be presented for approval by P&RC.
- 10.2 This process has been approved previously by the States in relation to capital projects, for example the hospital modernisation programme led by the Committee *for* Health & Social Care.
- 10.3 Following the policy approval stage, all subsequent delivery aspects will be developed in line with the best international practice for successfully managing government projects and programmes using the approach set out in the Green Book²² published by HM Treasury which has been tailored to meet the needs of Guernsey's processes and governance. This internationally renowned approach, known as the Five Case Model, ensures that, throughout the delivery and implementation phases of all major projects and programmes, there is a robust framework within which to ensure ongoing scrutiny of deliverability, value for

²² <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government/the-green-book-2020>

money, risks, benefits realisation etc. Importantly, the Five Case Model continues into the implementation phase to ensure that there is a review of any new operating models and that benefits are delivered.

Box: The business case development framework

Determining the strategic context and undertaking the Strategic Assessment

Step 1: determining the strategic context

Gateway 0: strategic assessment

Stage 1 – Scoping the scheme and preparing the Strategic Outline Case (SOC)

Step 2: making the case for change

Step 3: exploring the preferred way forward

Gateway 1: business justification

Stage 2 – Planning the scheme and preparing the Outline Business Case (OBC)

Step 4: determining potential Value for Money (VfM)

Step 5: preparing for the potential Deal

Step 6: ascertaining affordability and funding requirement

Step 7: planning for successful delivery

Gateway 2: delivery strategy

Stage 3 – Procuring the solution and preparing the Full Business Case (FBC)

Step 8: procuring the VfM solution

Step 9: contracting for the Deal

Step 10: ensuring successful delivery

Gateway 3: investment decision

Implementation and monitoring

Gateway 4: readiness for service

Evaluation and feedback

Gateway 5: operations review and benefits realisation

Figure 6: The Business Case Development Framework²³

11 Implementation Plan

- 11.1 Strong and robust governance is essential to the delivery of any successful projects and programmes. Ongoing scrutiny and monitoring is required during the delivery and post-implementation phase to ensure that there is a focus on efficient use of public money, mitigation of emerging risks and to provide confidence that a project or programme will deliver the benefits in full and according to agreed timescales.
- 11.2 The reorganisation of secondary and post 16 education sits within a broad programme of change within education. The Transforming Education Programme is the umbrella under which a number of complex and varied projects sit, including The Guernsey Institute, Secondary Reorganisation and the Digital Roadmap. Within each project there are a range of sub-projects such as capital development, staff reorganisation, partnership development, professional development etc.

²³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749086/Project_Business_Case_2018.pdf

- 11.3 In line with best practice, a Programme Board exists to oversee and monitor the progress of the Programme, chaired by a Senior Responsible Officer accountable for the overall delivery of the programme and the realisation of benefits. The Transforming Education Programme Board provides governance and oversight to ensure that the individual projects are successfully delivered. The Secondary Reorganisation project will also have its own project board which reports up to the overall Programme Board.
- 11.4 The Secondary Reorganisation Project has been divided into phases to ensure that it is manageable in order to support appropriate monitoring and decision making.
- 11.5 A single-phase building development provides benefits such as; shorter timescale for delivery, best overall site plan layout, potentially fewer strategic planning issues, better building relationships and spaces between buildings, less impact and disruption to teaching and learning as well as better value for money due to the reduced construction period. This approach will require the Secondary Reorganisation project to accelerate the design of the Sixth Form Centre in order to align with the existing schedule for The Guernsey Institute project, which is already well-advanced.
- 11.6 There are elements within the single-phase development which can further be ‘fast-tracked’ to provide efficiency and reduce overall risk in meeting the construction and transition schedule. In summary these are:
- Relocate most of the Les Ozouets students and services from the site by summer 2022 making it available for early construction – this will be achieved by moving students and residents to other Guernsey States-owned premises such as Le Coutanchez and Sir Charles Frossard House.
 - During summer 2022 the Les Varendes pool area would be repurposed to provide facilities for the Music Service, Youth Commission and SHARE.
 - With Les Ozouets vacated this will allow for early demolition works from August – October 2022 once the site is cleared construction can begin in January 2023.
 - The sports hall and multi-usage games area at Les Ozouets can be offered as a separate contract. This has the advantage of reducing the extent of works of the main programme and supporting local industry.
- 11.7 It is anticipated that the total cost of the above fast-track plan would cost £15.5 million, which is included in the main budget. This approach would help reduce overall risk and complexity and help to protect the 18-month construction schedule. Early release of funding, in advance of the Full Business Case, will be necessary to deliver the ‘fast-tracking’ approach.
- 11.8 An indicative plan with high level timeframes and projects to be commenced in each phase can be seen in Figure 7 below. The early stages have focused on identifying the preferred direction for the project, prioritising the portfolio of sub-projects,

establishing indicative costs and an outline plan and understanding the dependencies of the projects.

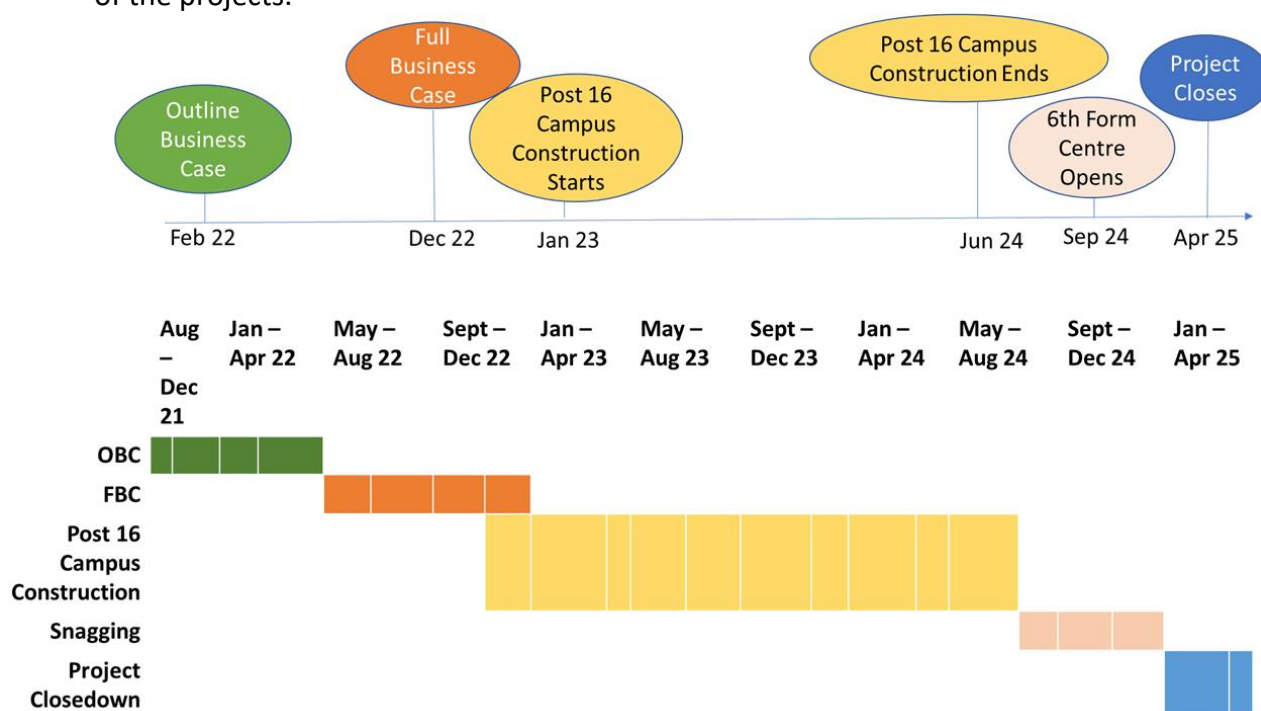


Figure 7: High level programme timeline

- 11.9 An integral aspect of the Secondary Reorganisation Project Plan is to ensure that there is sufficient resourcing included with a particular emphasis on supporting the workforce through change and transition to the new model of delivering secondary and post 16 education.
- 11.10 The Secondary Reorganisation Project Board will be responsible for ensuring that all relevant stakeholders are kept informed of project progress. Although it will be some time before the building works begin, it is recognised that detailed communications, engagement and change management plans will be required to ensure that all stakeholders, including service users and members of staff, are fully aware of the changes that will be taking place and how they might be affected.
- 11.11 The mitigation of risks will be an important responsibility of the Secondary Reorganisation Project Board and any identified risks will be escalated as necessary. Given that the schools will continue to function while the building and refurbishment works are taking place, it will be essential to ensure that service provision is not impeded, and that any disruption is kept to a minimum. This will be an important consideration to be factored into the detailed design work. As with other infrastructure and change programmes this Project will be managed according to States' guidelines and best practice.
- 11.12 The Secondary Reorganisation Project team members will continue to work alongside any interdependent programmes, projects and workstreams, including the Digital Roadmap and other government priorities. In line with best practice and the

States' agreed capital approach, the Programme Business Case will continue to be reviewed and externally validated throughout its lifecycle with each project business case being reviewed in line with the Five Case Model.

- 11.13 The periodic independent assurance reviews at agreed milestones will provide confidence to stakeholders that the Project will achieve key objectives and realise the expected benefits.

12 Risks

- 12.1 It is recognised that there are specific risks to the Secondary Reorganisation Project and that further work on defining these and establishing their mitigating actions will be required throughout the Project's phases. The main risks, consequences and mitigations identified to date have been assessed and are outlined in Appendix 5.

13 Compliance with Rule 4

- 13.1 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.
- 13.2 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.
- 13.3 In accordance with Rule 4(3), the Committee has included Propositions which ask the States to open capital votes to fund the agreed reorganisation model. Further details about the financial implications are set out in Section 9 of this policy letter.
- 13.4 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 within this policy letter have the majority support of the Committee. Please note Deputy Cameron does not support Propositions 1, 2, and 4.
- 13.5 In accordance with Rule 4(5), the Committee consulted extensively with a range of stakeholders as outlined in Section 7 and Appendix 4.

Yours faithfully

A C Dudley-Owen
President

R C Murray
Vice-President

S Aldwell

A Cameron
SP Haskins

J B Green
Non-States Member

GLOSSARY OF TERMS

Term	Definition
Attainment 8	A secondary school accountability measure, which evaluates learners' attainment across 8 qualifications including: <ul style="list-style-type: none"> • maths (double weighted) and English (double weighted, if both English language and English literature are sat) • 3 qualifications that count in the English Baccalaureate (EBacc) • 3 further qualifications that can be GCSE qualifications (including EBacc subjects) or technical awards.
Communication, Interaction and Autism Service (CIAS)	The Communication, Interaction and Autism Service (CIAS) forms part of the continuum of provision to meet the needs of children and young people with communication and interaction difficulties in the Bailiwick of Guernsey.
Educational outcomes	For the purposes of the policy letter, the Committee has adopted the OECD ²⁴ definition of human capital to reflect the importance of education in developing learners. Educational outcomes can therefore be defined as the 'knowledge, skills, competencies and attributes to facilitate the creation of personal, social and economic well-being'.
Education strategy	The roadmap for prioritising resources and activity to ensure the Bailiwick's education system is ambitious, aspirational and delivers the very best outcomes for our learners.
Executive Principal	The current terminology for a senior educational leader with responsibility for leadership across more than one site.
The Guernsey Institute (TGI)	The Guernsey Institute is a new organisation which will see the integration of the College of Further Education, The Institute of Health and Social Care Studies

²⁴ <https://www.oecd.org/insights/37967294.pdf>

	and the Guernsey Training Agency and University Centre on a shared campus.
Government Work Plan (GWP) ²⁵	<p>The Government Work Plan sets the direction for the 2020-2024 political term and captures all government priorities in one place. These are:</p> <ul style="list-style-type: none"> • responding to the COVID-19 pandemic; • managing the effects of Brexit/International Standards; • delivering the recovery actions; and • reshaping government. <p>The Plan will also include Public Service Reform and capital projects.</p>
International Baccalaureate Career-related Programme (IBCP)	<p>The IBCP is a framework of international education that incorporates the values of the IB into a unique programme addressing the needs of students engaged in career-related education.</p> <p>The programme leads to further/higher education, apprenticeships or employment.</p>
International Baccalaureate Diploma Programme (IBDP)	The IBDP is a two-year programme consisting of six subject groups and the DP core, comprising theory of knowledge (TOK), creativity, activity, service (CAS) and the extended essay.
Key Stage 3	Stage of education between year 7 and year 9.
Key Stage 4	Stage of education between year 10 and year 11 which ends with an external assessment of attainment for example GCSEs.
Key Stage 5	Stage of education between year 12 and year 13 which ends with an external assessment of attainment for example A Levels.
LBHS	Les Beaucamps High School.
LMDC	La Mare de Carteret High School.
LV	Les Varendes, the current site of The Grammar and Sixth Form Centre.
nasen	National Association for Special Educational Needs.

²⁵ <https://gov.gg/GWP>

Optimism-bias	As defined in The Green Book ²⁶ , 'optimism bias is the demonstrated systematic tendency for appraisers to be over-optimistic about key project parameters, including capital costs, operating costs, project duration and benefits delivery. Over-optimistic estimates can lock in undeliverable targets.' It is important to ensure that projected costs are realistic and take into account risks of increased costs over the course of a project/programme.
Post 16 Campus	The co-located site of the Sixth Form Centre and The Guernsey Institute at Les Ozouets.
Preferred Model	The Committee's proposed option for the reorganisation of secondary and post 16 education consisting of three 11-16 schools based at LBHS, SSHS and LV and a Sixth Form Centre co-located with TGI at Les Ozouets.
Principals	A term synonymous with Headteacher.
Secondary education	Stage of education experienced between the ages of 11-16 and at sixth form.
Secondary School Partnership (SSP)	A developing, collaborative 11-18 learning partnership which will facilitate the delivery of the new model of education.
Senior Leaders	Members of a school leadership team which includes, Headteachers, Deputy Headteachers and Assistant Headteachers.
Sixth Form Centre	A venue where sixth form learners in year 12 and year 13 are educated.
Skills	Skills are the ability to do something well. Skills refers to the way that we choose, use and apply knowledge in different circumstances. Skills are competencies which blend knowledge, attitudes and values.
Skills and Lifelong Learning Strategy	An emerging government strategy to bring together several areas to address skills supply, skills development, equity and wellbeing and sustainability and growth with an overall aim to enable the skills, knowledge and resilience for personal,

²⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/938046/The_Green_Book_2020.pdf

	social and economic wellbeing in a global economy and society.
SSHS	St Sampson's High School.
Les Varendes	The current site of The Grammar and Sixth Form Centre.

Summary of States' decisions on secondary education since 2016

Date	Billet	Policy proposal	Decision
March 2016	Billet d'Etat VII, 2016 volume I	<ul style="list-style-type: none"> To end selection at 11 One secondary school across four sites with at least one being 11-19 	<p>Approved</p> <p>Rejected in favour of three comprehensive schools in a structure to be determined by the subsequent Assembly</p>
November 2016	Billet d'Etat XXIX, 2016	<ul style="list-style-type: none"> To rescind the decision to remove selection at 11 	Rejected
January 2018	Billet d'Etat II, 2018	<ul style="list-style-type: none"> Full-time 16-19 education separate from 11-16 education, with A levels and International Baccalaureate qualifications delivered alongside full time vocational, applied general and technical courses Mainstream States' secondary school education provided on three secondary school sites from September 2021 Post 16 provision located on Les Varendes site 	Rejected in favour of the Alternative Model proposals below
January 2018	Billet d'Etat II, 2018	<ul style="list-style-type: none"> Secondary education to be organised in one 11-18 school on two sites The integration of all other post 16 provision as a single entity (The Guernsey Institute) on the Les Ozouets Campus 	<p>Approved</p> <p>Approved</p>
September 2019	Billet d'Etat XVI, 2019	<ul style="list-style-type: none"> Detailed plans and the capital costs for the 'one school on two sites' model and to delegate authority to P&RC to release funds Detailed plans and the capital costs for The Guernsey Institute 	<p>Approved</p> <p>Approved</p>

		<ul style="list-style-type: none"> To delegate authority to P&RC to release funds for the Digital Roadmap 	Approved
February 2020	Billet d'Etat V, 2020	<ul style="list-style-type: none"> To pause the development of the one 11-18 school on two sites model and carry out a comprehensive comparison with other viable models of non-selective educational delivery previously presented to and considered by the Committee 	Approved
March 2020	Billet d'Etat VIII, 2020	<ul style="list-style-type: none"> To progress one school over multiple sites model To review the 'one school on two sites' model against three other models using specified terms of reference and submit a policy letter containing the findings and subsequent proposals by 28 April 2021 	Approved
March 2021	Billet d'Etat VI, 2021	<ul style="list-style-type: none"> To rescind extant resolutions relating to the 'one school on two sites' model as part of the Government Work Plan Policy Letter 	Approved

English Performance Tables

Using the 2018-19 Validated KS4 Performance Tables (it should be noted that certain schools have been removed e.g. selective schools, single sex schools, special schools, post 16) there were 2519 schools. Of these, there were 1519 11-18 schools and 1000 11-16 schools included in the data analysis. The data indicated a notable difference in the numbers of disadvantaged learners attending 11-16 or 11-18 schools. On average, for 11-16 schools 31% of learners were FSM6 (children in receipt of free school meals for 6 years). However, on average, for 11-18 schools a lower percentage of 26% of learners were recorded as FSM6. Government research indicates that attainment in 2019 was lower for disadvantaged students.

‘In 2019, 26.5% of learners in state-funded schools at the end of key stage 4 were disadvantaged, 0.5 percentage points lower than 2018 (27.0%) Attainment was lower for disadvantaged learners compared to all other students across all headline measures in 2019 consistent with previous years’.

It should also be noted that the UK context is complicated for multiple different reasons such as the wide variety of different types of schools, free schools, multi academy trusts, community schools and schools in areas where there is selection. This makes meaningful comparisons based purely on whether a school is an 11-18 school or an 11-16 even more challenging.

Attainment 8

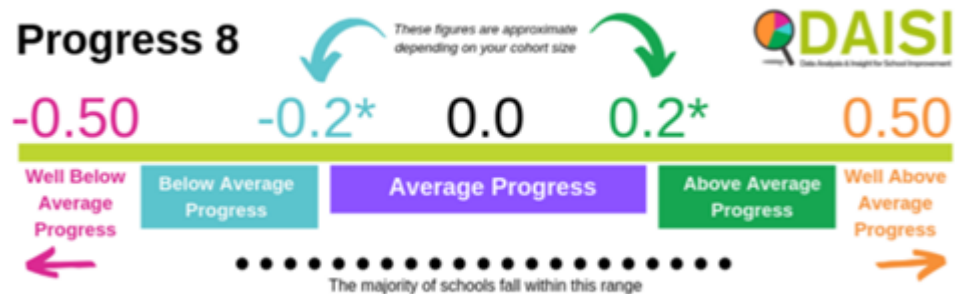
‘A school’s Attainment 8 score is the average of all learners’s individual Attainment 8 scores. The National average is around 44-46. Because changes are made to the fine-tuning to Attainment 8, one year’s Attainment 8 is not comparable with another.’

In 2019, the average Attainment 8 Pupil Score for 11-18 schools was 46.4 and the average 8 Pupil Score for 11-16 was 44.09. For this measure both 11-18 and 11-16 schools performed broadly in line with the national average. However, Attainment 8 data does not take into account prior attainment or disadvantage and it is known (from the data above) that 11-16 schools, on average, have a higher proportion of disadvantaged learners. This is why Progress 8 provides a fairer measure of value added; the impact a school has on young people. Nonetheless, the 2019 data showed that 11-16 schools performed in line with the national average, despite having more deprived intakes than the 11-18 schools.

Progress 8

Progress 8 is a fairer measure of achievement because it takes account of learners’ prior attainment. Progress 8 was introduced in 2016 (and 2015 for schools that chose to opt in early). It aims to capture the progress a learner makes from the end of primary school to the end of secondary school. It is a type of value-added measure, which means that learners’ results are compared to the actual achievements of other learners with similar prior attainment.

In 2019, the average Progress 8 Score for 11-18 schools -0.01 and the average Progress 8 Score for 11-16 schools was -0.15. though the Progress 8 Score for 11-16 schools is slightly lower, it remains within the average progress range.



<http://daisi.education/wp-content/uploads/2019/05/DAISI-GCSE-Guide.docx.pdf>

Full evaluation of models against Guiding Principles: Models included in previous review

1. The potential future models of secondary and post 16 education included in the previous Committee's review were evaluated in light of the current Committee's Guiding Principles. The extent to which each model meets the Guiding Principles is summarised in the table below.

	Two 11-18s	Three 11-18s	One 11-18 and two 11-16s	Three 11-16s where one has a co-located Sixth Form	Three 11-16s and a Sixth Form on a current secondary site – the ‘Do minimum’ option	Three 11-16s and a Sixth Form co-located with TGI
Greater equity for post 16 education and training	No	No	No	No	No	Yes
Sixth form not split	No	No	Yes	Yes	Yes	Yes
Improvements in equity	Yes	Yes	No	No	Yes	Yes
Reflective of current financial climate – capital	The modelling carried out under the previous Committee was based on assumptions which the current Committee wished to change and so no comparisons of these models were made on a cost basis.					
Reflective of current financial climate – revenue						
Deliverable in realisable timeframe	Yes	Yes	Yes	Yes	Yes	Yes
Mindful of disruption to school community	No	No	Yes	Yes	Yes	Yes

Table 1: Extent to which each of the potential models meets the Committee’s Guiding Principles

Two 11-18 schools

2. The two 11-18 school model splits the Sixth Form and does not provide greater equity for post 16 Education and Training. There is considerable opposition to the

model, from staff across all four secondary schools and from the community. Concerns about the model are wide-ranging, particularly with regard to the impact of the large numbers of students on each site and the resulting lack of outdoor space and potential traffic congestion. There are also significant concerns about the move away from smaller schools in which students are known well by a greater proportion of staff. It would be likely to cause more substantial disruption to students and staff on expanding sites than any of the other models. This model was therefore discounted from any further analysis.

Three 11-18 schools

3. The three 11-18 school model splits the Sixth Form into even smaller cohorts than the two 11-18 school model. Each Sixth Form would be below the size of the average UK Sixth Form, and numbers are expected to decline further over time. This option also does not provide greater equity for post 16 education and training. Although at around 850 the numbers of students on each site would be significantly lower than in the two 11-18 school model, they would still exceed the range considered optimal by a majority of school staff; between 600 and 800. The Committee therefore does not consider this a pragmatic option for the future of secondary and post 16 education, and it therefore was not considered further as a potential option. However, given the level of interest expressed in this option by some States' Members, the Committee has directed officers to produce further information relating to this model. This additional analysis has been carried out on the basis of the assumptions underlying the Committee's preferred model rather than those underlying the two 11-18 school model, which were used by the previous Committee.

Two 11-16 and one 11-18 school

4. Two 11-16 schools and one 11-18 school would not split the Sixth Form but would not provide greater equity for Post-16 Education and Training. It would retain (at least perceived) inequity at 11-16, as some students would attend an 11-18 school while others would attend 11-16 schools. The Committee does not consider this option pragmatic: for example, there would be significantly more students on the 11-18 site than considered optimal by staff and the wider community, with a peak of around 1150. It is likely that there would be significant opposition to this model on similar grounds to the opposition to the previously proposed two 11-18 school model. This model was therefore discounted from any further analysis.

Three 11-16 school and with a Sixth Form co-located on the same site as one of the 11-16 schools – The 'Do Minimum' Option

5. Three 11-16 schools with a Sixth Form co-located on the same site as one of the 11-16 schools would retain the perceived inequity of the two 11-16 and one 11-18 model, even if in practical terms the two organisations were run separately. Numbers on the site would also be the same as in the two 11-16 and one 11-18 model (with a total capacity of 1180-1230) and so this model is therefore not

considered pragmatic, given the significant public concerns about large numbers of students on single sites. It would not be possible to achieve the improvements in equity for post 16 education and training that the Committee considers essential, as this requires a single post 16 campus operating with some shared facilities. However, the Committee has undertaken further work to understand the cost implications of this model given that it meets the guiding principle of not splitting the Sixth Form, with greater equity than in the one 11-18 and two 11-16 model.

Three 11-16 schools and a Sixth Form Centre on a separate site

6. The analysis carried out under the previous Committee considered the option of three 11-16 schools and a Sixth Form Centre on a separate site but did not include co-location with The Guernsey Institute at Les Ozouets as a potential option. Running 11-16 and Post 16 education across five different sites is not reflective of the limitations of the current financial climate as it would require unnecessary duplication of facilities. Although this option does not split the Sixth Form, it would not allow the improvement in equity for post 16 education and training that the Committee considers essential. It was therefore discounted from any further analysis.
7. The current Committee added a further model to be evaluated according to the Guiding Principles: three 11-16s and a separate Sixth Form, co-located with The Guernsey Institute. This meets all Guiding Principles: co-locating all post 16 provision will ensure a more equitable perception of post 16 education and training and does not split the Sixth Form. It provides improvements in equity for 11-16 students because all students can attend 11-16 schools of the same size. It is deliverable given the current financial climate and with a reasonable timescale with minimal disruption at existing schools.

Narrowing of the review based on the Committee's Guiding Principles

8. Based on the Guiding Principles established above and the analysis of previously considered models relative to those principles, the Committee discounted options which it considered had no potential for future implementation and narrowed the terms of review to focus on the models which best met the Guiding Principles. This is summarised in Table 2 below.
9. Although it does not meet all principles, the Committee considered it sensible to examine further the capital costs of co-locating the Sixth Form with an 11-16 school at Les Varendes, given that this meets a majority of the Guiding Principles without splitting the Sixth Form and provides greater equity than one 11-18 schools and two 11-16 schools.
10. As three 11-16 schools and a Sixth Form co-located with The Guernsey Institute met all the Committee's Guiding Principles, the Committee directed that two variants be analysed further, with differing combinations of sites for 11-16 schools.

Models discounted for consideration and not taken forward as part of the next stage of the review	Models taken forward as part of the next stage of the review: further analysis carried out based on updated assumptions
Two 11-18 schools	Three 11-16 schools and a Sixth Form co-located with The Guernsey Institute: Option 1 (including variations 1a and 1b as set out below)
Three 11-18 schools	Three 11-16 schools and a Sixth Form co-located with one of the 11-16 schools operating as a separate organisation: Option 2
One 11-18 and two 11-16 schools	Not taken forward
Three 11-16 schools and a Sixth Form Centre on a separate site not co-located with any other educational organisation.	Not taken forward

Table 2 - Narrowing of the review

Key features of models identified for further consideration

11. Based on likely capital costs and the desire to ensure the continued use of both the Les Beaucamps High School and St Sampson's High School sites, the following site combinations were analysed for each of the models under consideration:

Option	11-16 sites	Sixth Form site
1a	Les Beaucamps St Sampson's Les Varendes	Les Ozouets
1b	Les Beaucamps St Sampson's La Mare de Carteret	Les Ozouets
2	Les Beaucamps St Sampson's Les Varendes	Les Varendes

Table 3 - Models identified for further consideration

Assumptions underlying the updated analysis

12. When the Committee took office in October 2020 it took steps to understand the assumptions underlying the analysis already carried out as part of the first stage of the review led by the previous Committee. It considered that there were several areas in which assumptions made were not pragmatic, resulting in capital costs across all models which would not be justifiable given the current financial climate.

The Committee therefore adjusted the assumptions on which modelling was based. The capital and revenue costs provided for all models included in Phase 2 of the review and are based on the new, more pragmatic set of assumptions and are therefore, importantly, not directly comparable with the cost estimates produced by the previous Committee and circulated in the interim report.

13. As part of the Committee's education mandate, it has started a process of reviewing the levels of expenditure across all phases in order to ensure available funding is distributed equitably to ensure maximum benefits for children and young people. The review has revealed that there were some areas of clear discrepancy, including across the primary and secondary phases, where there has been disproportionately high funding of secondary and post 16 students compared to other sectors. As a result, the Committee made the decision to bring the secondary class size policy in line with the primary class size policy, and to make adjustments to the assumed pupil teacher ratio (PTR) for Sixth Form students, to be introduced gradually from 2021. The Committee announced this change to staff on 23rd April 2021.
14. At 11-16, this is expected to affect only a minority of secondary cohorts, with three year groups out of the twenty across the existing four schools currently falling into the bracket which would result in an increase of class sizes by a small number of students. Overall, had this change been implemented for the 2020/21 academic year, it would have taken average class sizes in Year 7-11 across the four schools to 24.5 students in core subjects. Modelling suggests that over the first ten years of the new system class sizes in core subjects will average between 25 and 26. Across all subjects, class sizes would more often be lower because of the lower numbers required in subjects such as Design and Technology and the additional option subjects running at GCSE. This brings the average class size at primary and at secondary closer together than is currently the case.
15. At Sixth Form, it is expected that the new target PTR can be achieved without any significantly detrimental impact on provision of the core curriculum. This ratio remains more generous than per pupil funding for 11-16 year old students, in contrast with England which funds Sixth Form students at a rate on average 20% below 11-16 year old students. This will allow the Sixth Form to continue to offer a very broad range of options.
16. Although this change was introduced independently of the changes to the future model of education and would ensure more equitable provision across the primary and secondary sectors irrespective of the selected future model, it does affect projections for the number of forms of entry across the secondary sector.
17. There is a projected decline in the number of secondary aged learners on the island, after a peak in the 11-18 pupil population expected in 2025-26. The previous Committee's plans, and therefore their comparison of models which used these plans as a baseline, was based on building for this peak number of students despite

the steep decline projected shortly afterwards. This cannot be considered pragmatic given the current financial pressures the island is facing.

18. The Committee considers it much more pragmatic to plan for a total capacity of 18 forms of entry in each cohort across the 11-16 schools, rather than the previous Committee's plans for 20 forms of entry. The changes to the class size policy mean this is achievable sooner than it would have been otherwise, avoiding the timetabling problems caused when schools have to run cohorts with additional classes compared to their original designs. This also allows a greater level of equity across three schools than the previous modelling would have allowed, because all three schools can be treated as six form entry schools and thus offer the same breadth of curriculum; with 20FE across three schools they would inevitably have been of different sizes, and the resulting curriculum breadth would have differed across schools. This is consistent with the Committee's principle to improve equity across schools.
19. The previous Committee's modelling was based on a principle of equality of resources and facilities which this Committee does not consider to be pragmatic, particularly given the current financial situation. The views of staff, as expressed via the staff surveys, make it clear that staff consider it essential for each school to be able to develop its own identity. This Committee does not consider it necessary for each school to have identical facilities or for each school to be built to exactly the same space standards: instead, being mindful of the financial pressures the island is facing, the priority should be to consider each site individually and fund changes which are necessary to allow the building to meet the required standards to continue to deliver 11-16 education well into the future, being mindful of the disruption significant development work would cause given that schools will continue to be operational. The Committee considers equitable provision essential, but this does not mean that the island requires three identical schools. For example, equitable provision would ensure all students have the opportunity to learn to swim as part of their core curriculum. This does not mean that all schools require a swimming pool if they are able to access one within a short distance of their school site, and indeed it would not be prudent to suggest this level of capital expenditure in the current financial climate.
20. The Committee therefore directed that updated financial modelling be based on these new assumptions, with other assumptions for revenue modelling based on current provision rather than the assumptions made for the two 11-18 model. The new baseline provides a more realistic and pragmatic approach and provides assurances that any of the models considered further by the Committee could be delivered within the existing budget for secondary education.

Evaluation of models against Guiding Principles - Phase 2

25. Once the updated modelling described had been carried out, the Committee examined the updated capital and revenue cost information and considered each

model at length in light of its guiding principles and the additional analysis. A summary of this information is shown in table four below.

	1a. Three 11-16s at LBHS, SSHS and LV and a Sixth Form co-located with TGI	1b. Three 11-16s at LBHS, SSHS and LMDC and a Sixth Form co-located with TGI	2. Three 11-16s at LBHS, SSHS and LV and a Sixth Form co-located at LV
Greater equity for post 16 education and training	Sixth Form and The Guernsey Institute located on the same site - creating post 16 “campus”, contributing to parity of esteem and facilitating mixed programmes.		Sixth Form and The Guernsey Institute located on different sites as now.
Sixth Form not split	Sixth Form not split across more than one site.		
Improvements in equity	Improvement in equity because all students are in fit for purpose buildings in schools of the same size, able to offer the same breadth of curriculum		One school will have a co-located Sixth Form: more students on site, potential advantages if there is shared staffing and risk of perceived inequity.
Reflective of current financial climate - capital	Yes	No	Yes
Reflective of current financial climate - revenue	Deliverable for no more than the current level of expenditure		
Deliverable in realisable timeframe	September 2024 (assuming limited works at Les Varendes)	September 2025	September 2025
Mindful of disruption to school community	Potential disruption at Les Varendes as works required while students are on site	No internal works required while students are on site	More significant works required at Les Varendes while students are on site

Table 4 - Evaluation of models included in further analysis against the Committee’s guiding principles

26. Based on this information, three 11-16s with a co-located Sixth Form at Les Varendes (Option 2) was discounted on the grounds that it did not meet the Committee's principles to deliver improvements in equity and would lead to more significant disruption to existing students at Les Varendes than the other models. It would also result in significantly more students on the Les Varendes site than considered desirable by staff.
23. Three 11-16s including a rebuild at La Mare de Carteret (Option 1b) with the Sixth Form co-located with The Guernsey Institute at Les Ozouets was considered less pragmatic than using the existing Les Varendes building based primarily on the significant additional capital cost that would be required.
24. Three 11-16s utilising Les Varendes, Les Beaucamps and St Sampson's with the Sixth Form co-located with The Guernsey Institute at Les Ozouets was therefore confirmed as the Committee's preferred option, as it meets the guiding principles better than all other options.

Preferred model

27. Based on the Committee's Guiding Principles and the comparative information provided, the Committee's recommended model comprises the following:
 - **Three six form entry 11-16 schools, each with capacity for up to 780 students.**
26. The Committee proposes that these should be based at St Sampson's, Les Beaucamps and Les Varendes. Each school would have capacity for up to 780 students, but projections based on the draft new feeder school model indicate a maximum of 720-740 on each site after the transition period has ended.
27. The three 11-16 schools, together with the Sixth Form Centre, will operate together as the Secondary School Partnership; providing an holistic 11-18 learning partnership framework for all students attending mainstream secondary education in Guernsey. Within this Partnership, each school will retain its individual and separate identity but will work closely together to ensure equitable provision of secondary education and deliver the greatest possible value for money.
 - **A single Post 16 campus, accommodating both The Guernsey Institute and the Sixth Form, at Les Ozouets.**
29. This will allow the Committee's Vision for Post 16 Education to be delivered.
30. This model is viable within the current financial climate and can be delivered by September 2024 with minimal disruption to students in existing 11-16 schools.

Transition from the current model to the preferred model

31. Given the Committee's principle to be mindful of disruption to existing school communities it has considered various options for the transition of learners and staff from the current model of secondary education to the preferred future model. The Committee has made no firm decisions regarding this transition process to the preferred model and plans to consult key stakeholder groups before confirming any final plans but is satisfied that its proposed model is deliverable with minimal disruption.
32. Several of the preferences regarding transition expressed by staff in the staff survey can be met by the proposed model, and the current preferred transition plan, which can be varied in light of any feedback from key stakeholder groups:
- It does not require a long transition period:
 - o Provided there are no delays, all learners can be in the new model from September 2024, with entry to secondary school according to the new transition model ensuring an even distribution of students across the three 11-16 sites from 2023. This means that by September 2027 all learners in 11-16 schools will have had their full secondary education as part of the new model.
 - Disruption resulting from site moves will be minimised as far as possible:
 - o No learner will be required to move more than once over the course of their 11-16 education.
 - o No learner will be required to move between Year 7 and 8, just one year after moving from primary school to secondary school.
 - o Fewer than 300 students are expected to move site during their secondary education, with a single cohort (approximately 200 students) moving site between Y12 and Y13.
 - There is no requirement to split existing cohorts of students: all students moving from La Mare de Carteret at the point that it closes can be guaranteed a place at Les Varendes, with opportunities for parental choice to move to either of the other two sites.
 - There will be very limited disruption to learning for students on the school sites as works are carried out: St Sampson's requires no additional works, Les Beaucamps only a small extension in the lower car park, and Les Varendes only upgrades rather than significant restructuring or extension.
 - There is no requirement for temporary accommodation for learners aged 11-16: the existing Sixth Form Centre can be used during the transition phase to accommodate larger cohorts during the transition years in which this site will be above the final planned capacity after students

from La Mare de Carteret move to the site.

- To maximise flexibility to create the best possible layout for the new Post 16 campus, it is expected that the existing building at Les Ozouets would be demolished in advance of the start of the build programme. Students and staff based on this site will therefore be provided with suitable alternative accommodation during this period. This will mean that they are not affected by the extensive building work taking place on the site. The Princess Royal Performing Arts Centre will continue to operate.
- Other occupants of the Les Ozouets site, including the Music Service, Youth Commission and SHARE, will also be provided with suitable alternative accommodation.

Alignment of the preferred model to the Committee's Principles

34. The Committee's preferred model aligns with the Guiding Principles as outlined in Table five below:

Principle	Preferred model
Greater equity for Post 16 education and training	Sixth Form and The Guernsey Institute located on the same site - creating Post 16 “campus”, contributing to parity of esteem and facilitating mixed programmes.
Sixth Form not split	Sixth Form not split across more than one site
Improvements in equity	Improvement in equity because all students are in fit for purpose buildings in schools of the same size, able to offer the same breadth of curriculum
Reflective of current financial climate - capital	Overall capital request of £xx: £xx lower than amount delegated for the previous model of education.
Reflective of current financial climate - revenue	Deliverable for no more than the current level of expenditure
Deliverable in realisable timeframe	September 2024 (assuming limited works at Les Varendes)
Mindful of disruption to school community	Potential disruption at Les Varendes as works required while students are on site

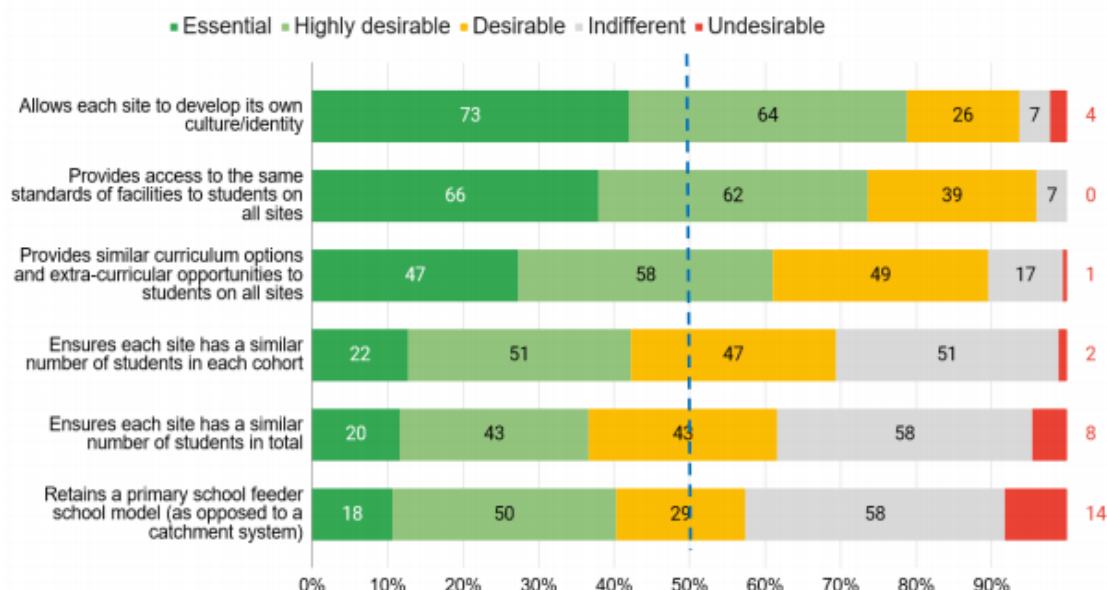
Table 5: Alignment of the preferred model to the Committee’s Guiding Principles

Alignment of the preferred model to preferences expressed through the staff surveys

35. There are several areas in which the staff survey data aligns with the Committee’s decision-making, as summarised below. Similar patterns of results were found across the secondary staff survey and the wider staff survey, consequently this data is not analysed separately here. Full secondary staff and wider staff survey results are publicly available.

Overall priorities for the future model of secondary education

All secondary staff: How important to you is it that the future model of secondary education...

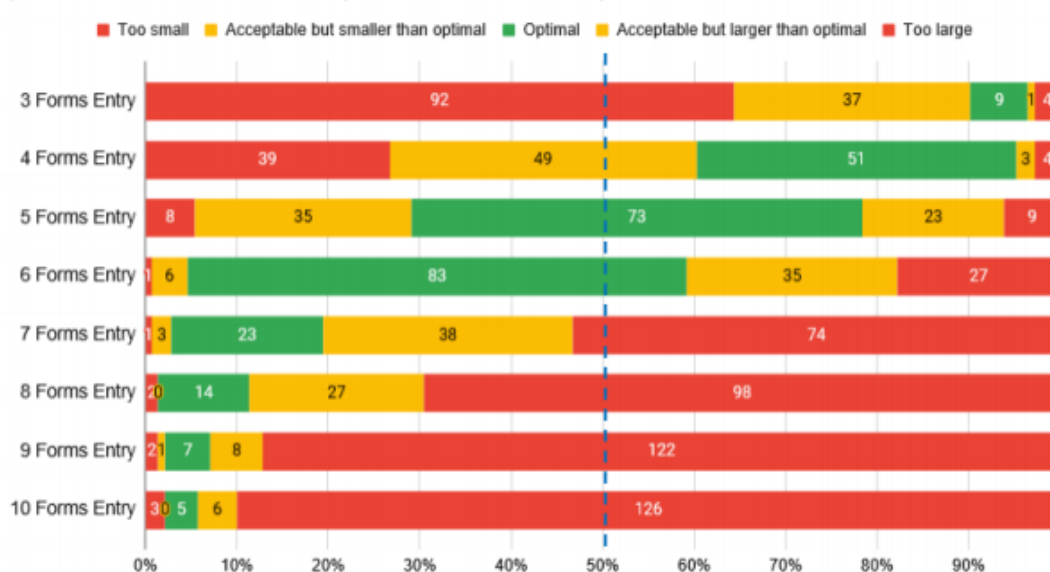


36. The Committee's preferred model is largely supported by the high-level priorities shared by secondary staff, as shown above. The model will allow each site to develop its own culture and identity. There will be equitable access to a more consistent quality of facilities than is the case in the existing model: currently, students at La Mare de Carteret High School experience a lower standard of facilities than students on the other three sites. As all three 11-16 schools will be the same size, curriculum breadth will be similar across the three schools. These priorities were considered essential or highly desirable by a majority of staff.

37. Each school will have similar numbers in each cohort, and as they are all 11-16, a similar number of students in total. Current assumptions are based on retaining a primary school feeder model as opposed to a catchment system. These priorities were considered essential, highly desirable or desirable by a majority of staff.

Optimal cohort sizes

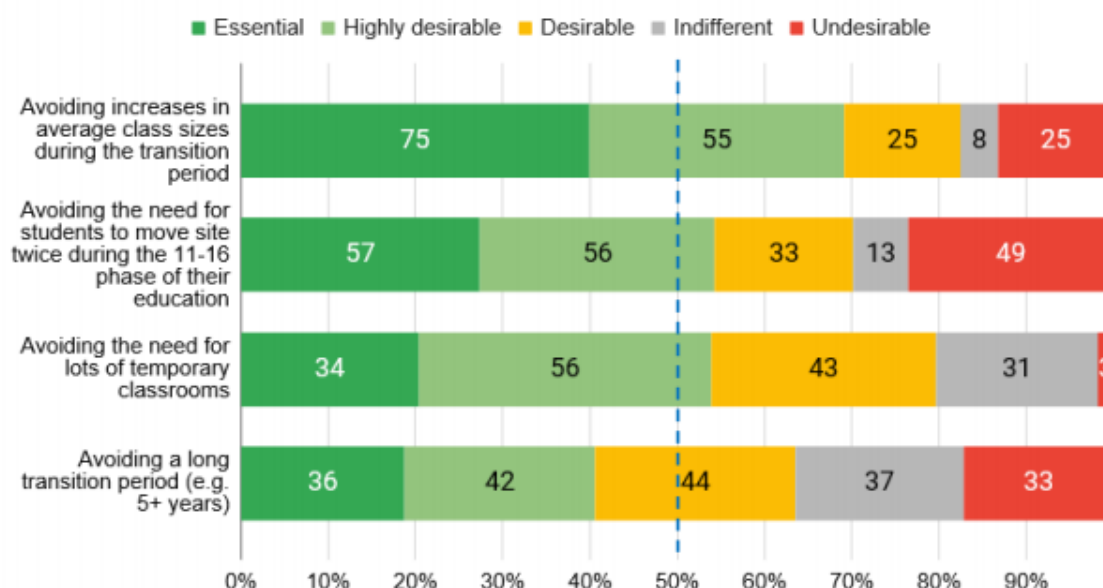
All secondary staff: What do you think is the optimal size of a cohort in Year 7 - Year 11 to provide students with the best possible educational experiences?



38. All three 11-16 schools will be designed for six forms of entry in each cohort; considered optimal by a greater proportion of staff (55%) than any other school size, as shown above.

Transition to the future model of secondary and Post 16 education

All secondary staff: How important to you are the following aspects in determining the transition model for the new model of secondary education?



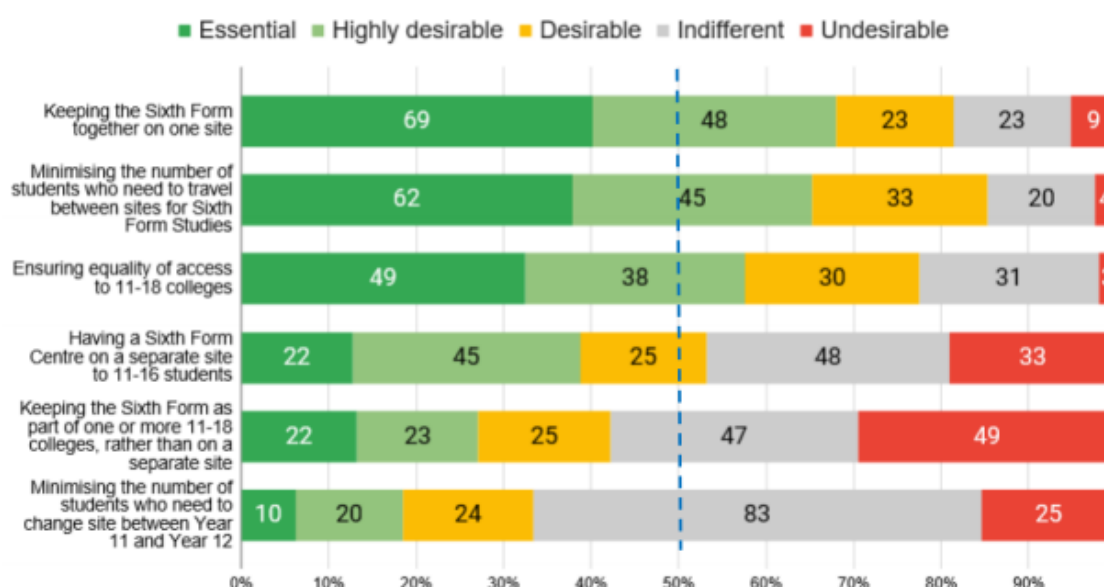
39. As outlined above the transition to the new model of secondary education is largely possible to achieve taking into account the preferences of staff. There will be no need for any learner to move site more than once during the 11-16 phase of their education, there is unlikely to be any requirement for temporary classrooms for

learners aged 11-16. All of these priorities were considered essential or highly desirable by a majority of staff.

40. A majority of staff also considered it at least desirable to avoid a long transition period. This model can be fully in place for September 2024: less than four years away, and by September 2027 all learners in 11-16 schools will have spent their full secondary education in the new model. As part of its ongoing scrutiny of revenue budgets, the Committee has decided to make adjustments to the current class size policy for reasons independent of the future model. Even with the adjusted class size policy, the vast majority of classes will remain below 25, with only 15% likely to fall in the 27-30 range.

The structure of the Sixth Form

All secondary staff: How important to you are the following considerations relating to the structure of Sixth Form?



41. The Committee's preferred model reflects staff priorities relating to the structure of the Sixth Form, as shown above, especially where there is a high degree of consensus. The Sixth Form will be together on one site, meaning no learners need to travel between sites for Sixth Form studies, or for mixed programmes with The Guernsey Institute. As all learners will attend 11-16 schools and then the Post 16 campus, there is no issue relating to equality of access to 11-18 colleges. These priorities were considered essential or highly desirable by a majority of staff.
42. A majority of staff (53%) considered it either essential, highly desirable or desirable for the Sixth Form to be located on a separate site to 11-16 students, as is the case in the proposed model. This is a greater proportion of staff than considered it desirable for the Sixth Form to remain as part of one or more 11-18 colleges (42%), with 30% considering this undesirable.

43. In the proposed model, all learners will move site between Year 11 and Year 12. The survey results suggest no strong preference amongst staff regarding moves between Y11 and 12, with 33% considering it at least desirable to minimise moves, 15% undesirable with a majority (51%) saying they were indifferent.

Capital priorities

44. The survey also asked staff to share views on a range of capital and revenue priorities. The following areas were considered essential by a majority of secondary school staff:

Facilities	Change compared to current provision
Parking for all staff	No changes to parking are planned on any of the 11-16 sites.
A separate Sixth Form work area (if the States decide on a model with one or more 11-18 colleges)	The Post 16 campus will create an adult learning environment and Sixth Form students will not be required to share a work area with 11-16 year old students.
A grass field	All sites will have a grass field as is currently the case.
Sufficient canteen/refectory space to avoid the need to stagger lunches	There are no changes planned to existing canteen/refectory spaces. All spaces meet the UK recommended space standards.
Department/faculty bases	There are no plans to change staff areas in any existing school.
Classrooms at least as large as UK recommendations for the number of students	There are no plans to make changes to classroom sizes or to build new classrooms in any of the 11-16 schools.

Table 6: Comparison of essential facilities

The following areas were considered essential or highly desirable by a majority of secondary staff:

Facilities	Change compared to current provision
Indoor social spaces for students	No changes to indoor social spaces are planned on the existing sites.
Central staffrooms at least as large as in your current school (scaled up in line with additional teachers)	No changes to central staffrooms are planned on the existing sites.
Increased areas allocated to SEND provision compared to your current school (scaled up if the number of students increases)	No changes to areas allocated to SEND provision are planned at St Sampson's.
Increased areas allocated to libraries compared to your current school (scaled up if the number of students increases):	No changes to libraries are planned on the existing sites.
A communication and autism base:	Each secondary school will have a CIAS Base provision
Separate staff showers:	no changes to separate staff showers are planned on the existing sites.
A 3G multi-use games area	no changes to sports facilities are planned on the existing sites.

Table 7: Comparison of essential and highly desirable facilities

The following areas were considered essential, highly desirable or desirable by a majority of secondary staff:

Facilities	Change compared to current provision
A swimming pool:	No changes to sports facilities are planned on the existing sites.
A second multi-use games area:	No changes to sports facilities are planned on the existing sites.
Co-location of health and social care and other staff:	No change planned.

Table 8: Comparison of essential and highly desirable and desirable facilities

45. When staff were asked to consider their top priority of those they had ranked essential, the most common top priority was increased areas allocated to SEND provision, followed by parking for all staff, followed by a grass field.

Revenue priorities

46. Staff also shared views on a range of revenue priorities. Beyond the centrally determined class size and target pupil teacher ratio policies, prioritisation within the revenue budget available to schools within the Secondary School Partnership will be the responsibility of school leaders.

Risks and Mitigations

Risk	Consequence	Mitigation
The policy proposals are not supported by the States	No funding is approved to progress with the detailed design work, thereby delaying the reorganisation of secondary and post 16 education	Ensure that sufficient opportunities are provided for the Committee to share its plans with stakeholders with opportunities to answer questions and to explain the overall strategy.
There is a lack of capacity in the construction industry (manufacturing, import of materials, lack of people etc.)	Potential delay to implementation and increased costs	Phased approach to build programme with individual tendering processes. Cross Committee working and close engagement with the construction industry.
Turbulence of change process has a detrimental impact on learner outcomes and school standards.	Learner well-being is affected by drop in standards and quality within schools. Longer-term detrimental impact on learner outcomes and skills development and preparation for the world of work which affects economic productivity.	Ongoing effective challenge and support for school leaders from the Education Office and services. Effective change management in place to support the workforce. Increased support for learners and families affected by school closure.
Delays in acquiring resources for the Secondary Reorganisation Project.	Delays to the delivery of essential workstreams and impact on quality of delivery by not having suitably skilled people in place.	Ensure internal processes facilitate agile recruitment for necessary roles takes place with enough lead-in time ready to move into the project delivery stage.
It proves impractical to align the timelines for the design and construction of the Sixth Form Centre with The Guernsey Institute, leading to two distinct capital projects focused on the same site (Les Ozouets).	Increased costs, increased disruption for learners. Delay to implementation. Loss of stakeholder confidence.	Ensure any dependencies and critical milestones are defined early in order to plan ahead successfully and prepare for critical points with mitigation plans in place to address issues.

Planning approval for The Guernsey Institute and Sixth Form site is not given.	Restricts the future effectiveness and flexibility of the site and therefore the achievement of some of the key objectives.	Ensure that the planning department is consulted as the plans are developed to ensure they align with existing policies and to avoid a situation where approval is not given.
The costs exceed the allocated budget due to assumptions made during high level modelling proving invalid or risks materialising.	Delay or non-completion.	Ensure that optimism bias is carefully managed during the planning stages in order to generate realistic project costs from the outset with contingency factored in. Continuous monitoring of risks.



Review of models of Secondary Education

2020 Interim Report

Statement on publication of Interim Report from Deputy Andrea Dudley-Owen, President of the Committee for Education, Sport & Culture

‘We have published the previous Committee’s incomplete Interim Report, which was originally circulated to all incoming States Members by the former Committee President just before he left office. This Committee has applied appropriate rigour and challenge on the assumptions it is based on and driven forward our own policy direction.

‘The detail and data contained within is incomplete, with work having stopped on it once the previous Committee left office and it is based on assumptions using the two-school model as a benchmark. Those assumptions led to capital costs attributed to the compared models that our Committee feels were not particularly useful, given our pragmatic view that it made far more sense to benchmark other models in relation to what we actually deliver today. We felt very strongly about that, which is why we directed that any assumptions when looking at new models must be based on the system currently in operation.

‘Our Committee has certainly not discounted work undertaken as part of compiling this report. We carefully reviewed it all and much of it influenced our thinking, especially the consultation exercises carried out with staff. We hope the report is of interest to those in our community who, ahead of the debate on this subject in July, would like to understand the work carried out by the previous Committee before the October 2020 General Election.’

End

Review of models of secondary education

Interim Report: Selection of versions of models for inclusion in the review of secondary education and initial comparative information

The purpose of this document is to provide an update on progress on the review of secondary models to date. This interim report ensures relevant information is available to support the new Assembly, and particularly the next Committee *for* Education, Sport & Culture which will be responsible for making recommendations, to drive forward this important work. Work is under way to develop the models under review, with the aim ultimately being to provide the States of Deliberation with enough information to make an informed decision on the future model of secondary education. The versions of models included in the detailed analysis of the review have been shared with secondary school staff as part of consultation workshops currently taking place. This report provides the relevant background information on how those decisions were reached, and how the costs provided as part of the initial analysis were calculated.

All figures contained in this report are based on either industry-standard metrics or assumptions that have been consistently applied across all education models. It will not be possible to give definitive costs for any model without significantly more detailed planning, which is beyond the scope of this review. The high level figures included in this update report indicate likely cost brackets and allow comparisons between models. These costs are likely to change as further work takes place to refine the models included in the analysis and to develop in detail whichever model the States chooses.

1. Executive Summary

- 1.1. After consideration of the Requête 'Determining the best model for secondary education' P.2020/14 dated 28th January 2020, the States of Deliberation resolved to pause and review the plans for the restructure of secondary education. This Requête and resolutions can be seen in supporting document 1.
- 1.2. The scope of the review, including the models to be compared, the criteria against which they are to be evaluated and the timeline for the review were agreed by the States on 20 March 2020 after debating the Policy Letter 'Review of the Structure of Secondary Education – Next Steps' P.2020/51, submitted by the Committee *for* Education, Sport & Culture which resolved that;
 - The Secondary Education Models to be reviewed should include:
 - Two 11-18 colleges (Option A: the baseline model against which other models should be compared)
 - Three 11-18 colleges (Option B)

- Two 11-16 colleges and one 11-18 college (Option C)
- Three 11-16 colleges and a separate sixth form college on a different site (Option D)
- The models should be compared against a range of criteria including quality of education, value for money, infrastructure and organisational considerations
- The review should allow the opportunity to discuss space standards, configuration of space and day-to-day operations
- The Policy Letter is to be submitted to the States before 28 April 2021

The full Policy Letter and resolutions can be seen in supporting document 2.

- 1.3. On 29 June 2020, the Terms of Reference for the review were published by the Committee *for* Education, Sport & Culture, after consultation with education leaders and union representatives. The full Terms of Reference are included in supporting document 3.
- 1.4. Between 29 June and 10 July 2020, staff working within the four mainstream secondary schools which are part of the review and staff across the wider education sector completed surveys to inform the initial analysis of models. The results of these surveys were shared on 23 July and are included in supporting document 4.
- 1.5. A similar survey for the wider public has also been carried out. The next Committee for Education, Sport & Culture will determine when the results of this survey will be published. These results will inform the next phase of analysis/consultation with secondary staff as well as any final recommendations.
- 1.6. The States have agreed that the review should include like for like comparisons. In order to provide sufficiently detailed comparative information, including costings, it is necessary to define (at least provisionally) key information within each of the models. This includes the sites that are likely to be selected, and the likely distribution of students across them. The aim is to compare an agreed “indicative best possible version” of each of the models. Whilst it will be possible to revisit these assumptions and make changes once the States agree on the future model of education, it will serve as a useful starting point and indicator of likely costs and potential challenges in any of the models.
- 1.7. Consultation has taken place with various stakeholder groups to agree versions of each of the models to be included in the analysis. Multiple variations of some of the models will be compared; including a variant of the two 11-18 colleges model which uses the Les Varendes site instead of the Les Beaucamps site, a variant of the two 11-16 colleges and one 11-18 college model which separates the 11-18 college into an 11-16 college and an operationally separate Sixth Form College located on the

same site, and three versions of the model which includes three 11-16 colleges and a separate sixth form college on a different site, which compares Les Beaucamps, Les Varendes and La Mare de Carteret as potential locations for a separate Sixth Form College.

- 1.8. Initial analysis has been carried out on all of these models. This report contains a high level summary, including comparisons of key aspects of each of the models and indicative costs of providing the facilities to which all students would have had access in the baseline two 11-18 colleges model in each of the other models. This is shown in sections 14 - 16. Further detail will be provided over the course of the review.
- 1.9. Further analysis will seek to create an “indicative best possible version” of each of the models at different cost brackets, through consultation with staff and other key stakeholders. This will draw on the consultation about how spending should be prioritised were the States to decide to increase or decrease the space allocation or level of capital expenditure from that agreed for the baseline two 11-18 colleges model. It will then be possible to make “like for like” comparisons between what can be delivered in each of the models at different levels of expenditure. This will enable an informed decision irrespective of whether the States are willing to spend more or less on secondary education. This is important because it may be that a model which is considered most preferable in the absence of financial information is more expensive, and for any given budget would deliver reduced facilities or compromised educational provision compared to alternatives, which may then become more preferable. Conversely, a model which is not considered preferable but is less expensive could become more preferable with consideration of the additional facilities, or improved education provision, that could be provided at the same cost bracket of a more expensive model. This analysis will be published.
- 1.10. After the October 2020 election, the new Committee *for* Education, Sport & Culture will determine any further consultation and engagement to allow staff, students and the wider community to express their views before presenting its recommendation(s) to the States, with a full evaluation of each of the models according to the criteria agreed in the March 2020 Policy Letter (listed in section 18.4). This analysis and recommendations will be detailed in a Policy Letter to be submitted to the States before 28 April 2021.
- 1.11. Whilst the information provided as part of the review can be objective, decisions about the relative importance of each factor and thus a decision about the optimal future model of education can only ever be subjective: it will be possible to draw different, valid conclusions based on the same information. The review will therefore not seek to make any overall recommendation, but to give detailed, comparative information which will support informed discussions about the relative merits of each of the possible models at different cost brackets. It is clear that there

is no model which can deliver everything considered important by key stakeholder groups, and prioritisation of these various factors will be key in determining the future model. These decisions will be made by elected representatives. The information collated as part of the review will be provided to the new Committee, once appointed, and the Policy Letter will then draw on both the information provided as part of the review and the priorities set by the Committee *for* Education, Sport & Culture. The decision about the future model will then be made by the States of Deliberation.

- 1.12. Once the States have agreed the future model of secondary education, assumptions made in the indicative versions of models included in the review can be revisited, and the Committee will return to the States with detailed plans. It will be possible to revisit assumptions about site choices, the distribution of students across sites, capital and revenue expenditure and key operational details. Consultation with staff, students and other stakeholder groups will continue over this period.

2. Consultation and engagement

2.1. Summary of approach

- 2.1.1. The review is being conducted collaboratively, taking into account the views of staff and other stakeholder groups wherever possible. Regular meetings have taken place with the Negotiating Committee for Teachers & Lecturers in Guernsey (NCTLG), which represents a range of unions of education staff. These representatives have influenced the Terms of Reference, the secondary staff survey (which formed the basis of the wider staff survey and public survey) and plans for workshops with secondary staff. Detailed information was shared with NCTLG regarding the decisions about which version of each of the models should be included in the analysis. Several changes have been made as a result of feedback shared by these representatives, including the addition of Option C2 to the list of models to be included in the review, which includes an operationally separate Sixth Form on the same site as an 11-16 school, in place of the 11-18 college included in Option C1. Meetings have also taken place with secondary Headteachers and wider education leaders, particularly regarding input into the versions of each of the models to be included in the analysis.
- 2.1.2. The review is being conducted with transparency: the Terms of Reference and survey results have been published, this interim report provides an detailed update on all work on the review completed to date and all relevant material will continue to be published as the review progresses.
- 2.1.3. The review will involve appropriate independent oversight. Advocate Peter Harwood, who was formerly Chief Minister and who is currently a member of the Scrutiny Management Committee, has been appointed as the independent overseer of the review. He will confirm that the review is conducted in a way that it is transparent, objective and consistent with the terms of reference and that any conclusions drawn are guided by evidence.

- 2.1.4. Peter Marsh Consulting (PMc) has been appointed as an independent specialist in education to verify the technical analysis of models and confirm the work is robust, accurate and comprehensive. PMc were previously jointly commissioned by the Policy & Resources Committee and the Committee for Education, Sport & Culture to provide an independent assessment of the size of the extensions that would be necessary to create the two previously planned colleges on the St Sampson's and Les Beaucamps sites. They were appointed after the decision regarding the model was taken and after the sites had been selected. They were not involved in any design work. The role of PMc during the review is not to recommend any particular model, but to verify the accuracy of the technical analysis, which will inform the recommendations made by the future Committee. It was an advantage to appoint a firm already familiar with the Guernsey education estate, particularly given travel restrictions relating to the COVID-19 pandemic. PMc are also advising on the space requirements for The Guernsey Institute development.
- 2.1.5. Gardner and Theobald (Quantity Surveyors who are specialists in the education sector and have worked on several previous education projects in Guernsey) have validated figures used in the capital cost calculations.
- 2.1.6. Phil Eyre, Founder of Leaders Consultancy and Managing Director of The Learning Company, has been appointed as an independent facilitator to facilitate workshops with secondary school staff during the autumn term to ensure full and frank debate is encouraged and all views are heard.
- 2.1.7. There have also been many contributions to aspects of the review from areas of the States beyond education, including from Property Services, Finance, Data and Analysis, Population Management Team and Human Resources.
- 2.2. **Opportunities for input into decisions about the versions of each model to be included in the analysis**
- 2.2.1. In order to provide sufficiently detailed information about the models included in the review, including likely capital costs, it is necessary to narrow the possible versions of each of the models to allow more detailed analysis. This required initial analysis and consultation to determine the version (or versions) of each of the models to be analysed in more detail as part of the review.
- 2.2.2. Analysis was shared with a number of stakeholder groups including Headteachers, wider school senior leadership teams and education leaders representing other sectors. There was a high degree of consensus about which of the version(s) of each of the models to include in the review and all of the preferred versions have been included in the detailed analysis.
- 2.2.3. Discussions were also held with union representatives to ensure they were fully sighted and had the opportunity to feed into the process.

2.3. Opportunities for input into the prioritisation within each of the models

- 2.3.1. Further analysis will seek to create an “indicative best possible version” of each of the versions of models at different cost brackets, through consultation with staff and other key stakeholders. It will then be possible to make comparisons between what can be delivered by each of the models.
- 2.3.2. Initial consultation about the structure and scope of the staff survey took place with union representatives and adjustments were made as a result of their feedback. The survey asked staff to consider the relative importance of a range of priorities for the future education system. These included priorities for the structure of the Sixth Form, the transition to the future model, optimal school sizes, and priorities for capital and revenue expenditure.
- 2.3.3. This was then adapted to create a version for wider staff across the States’ education sector, which did not include anything additional, but removed some questions which related directly to secondary staff. Detailed results of both of these surveys were shared with staff and then published and can be found in supporting document 4.
- 2.3.4. On 20th August 2020, a public version of this survey was launched. This asked the same questions with the exception of those relating to priorities for revenue expenditure, which require a deeper understanding of the operational running of schools.
- 2.3.5. The same questions, with additional explanations in language which is likely to be more accessible to students, were shared with the Youth Commission, who have run sessions with students in each of the four schools and the Sixth Form Centre. Relevant feedback from these student workshops has been shared with staff taking part in the capital workshops. Plans are also being developed to engage with other stakeholder groups, such as third sector, douzaines and business groups before any recommendations are made.
- 2.3.6. Initially, secondary staff survey results were used to provide a starting point to prioritise capital and revenue spending at different levels of expenditure. This information formed the basis for conversations in workshops with secondary school staff which are taking place over the autumn term. Staff are using this analysis, along with the results of the wider staff and public surveys and feedback from the student consultations to create an optimised version of each of the models at defined cost brackets.
- 2.3.7. Details of each of the optimised models will then be shared publicly to allow informed comparisons between the models. A further phase of further consultation is likely before recommendations are made to the States. As this will take place after the election, once new Committees have been appointed, the future Committee *for* Education, Sport & Culture will need to agree the structure and extent of this consultation, which will inform the recommendation made by that

Committee to the States of Deliberation. The aim will be to provide sufficient information about all of the models included in the comparison that a decision regarding a future model can be reached even in the event that the States do not accept the recommendations put forward by the Committee *for* Education, Sport & Culture.

3. Explanation of approach to selecting versions of models for inclusion in the review

- 3.1. The review will aim to strike an appropriate balance between the provision of detailed information about each of the models and reaching a conclusion in a reasonable timeframe and at a reasonable cost. It will be necessary to provide more specific detailed information than was provided for the proposals for the (then) Alternative Model debated in January 2018, which was approved in principle but without an indication of which sites would be used or of the likely facilities which would be delivered on those sites. It will not, however, provide the level of detail which was reached for the proposals for the two 11-18 colleges by the time of the September 2019 debate, which included detailed architectural plans. Successive Committees have taken around 18 months to develop plans for one model to this level of detail. To do so for multiple options would prove prohibitively time consuming and costly.
- 3.2. This will require moving beyond high level discussions about the theoretical merits of various models to provide quantitative information about what can be delivered in each of the models at various cost brackets. To reach this level of detail, it is necessary for at least provisional decisions to be made about the sites that would be used and the distribution of students across these sites, so that the likely capital costs of building work can be quantified. It will be possible for a future Committee to review these decisions or to adapt models from the indicative versions included in this review, but the level of detail provided should allow sufficient comparative information for a decision on the future model to be reached.
- 3.3. Reaching this level of detail requires a narrowing of the many possible options for implementation of each of the models included in the review. This requires initial assumptions to be made. These, along with the rationale for each of them, are detailed below.

4. Sites for consideration limited to existing four secondary sites

- 4.1. Successive Committees, with the support of Property Services, have evaluated potential sites for secondary education and concluded that none exist that would be more appropriate for secondary education than the existing four secondary school sites. This review has therefore proceeded on the basis that no further sites are included in the comparisons. This assumption could be revisited by a future Committee. Assuming any new site required an entirely new build, the cost information modelled for the La Mare de Carteret site as part of this review could be translated directly across to a new site with the exception of flood defences, estimated at £650,000 for the La Mare de Carteret site. This would require

additional time factored in for identification of sites, negotiating the purchase and any necessary change of use permissions.

- 4.2. The States agreed in March 2020 that progress on the development of The Guernsey Institute should not be impeded. The option of using Les Ozouets as the site for a separate Sixth Form Centre in Option D was therefore discounted, as it would have prevented the development of work on detailed plans for The Guernsey Institute until a conclusion is reached on the future of secondary education, leaving students in inadequate accommodation across the three College of Further Education sites for longer.
- 4.3. St Sampson's and Les Beaucamps are the Island's two most recently built and modern school buildings. The accommodation is currently fit for purpose and is likely to remain so for a substantial period of time. It is assumed the existing St Sampson's and Les Beaucamps sites would be extended if required to accommodate an increased number of students compared to the number for which they were originally designed. Depending on the planned number of students, some rooms in the existing buildings would be repurposed, but there is no need for significant refurbishment. The repurposing of some rooms would maximise the use of space, ensuring that the appropriate space requirements for each subject area can be met consistently across the secondary estate and allowing each subject area to remain contiguous.
- 4.4. It is assumed that while the Sixth Form Centre would only require minimal repurposing depending on the use of the site, the existing Grammar School building would need significant work to be upgraded to the standard of St Sampson's and Les Beaucamps and to ensure the building continues to be fit for purpose for education. This becomes more feasible the lower the number of students on the site, both during the transition period and in the final model. Further detail about the refurbishment required is included in section 5.
- 4.5. The La Mare de Carteret site is the lowest ranked priority for inclusion: it is included only in Option D, which requires four different sites. Plans would need to be developed in conjunction with plans for the new La Mare de Carteret Primary School. The poor physical condition of the existing school - which is now being used many years after it was originally intended - would require the construction of a new school in its entirety rather than additional development required at the Les Beaucamps and St Sampson's sites or the upgrading required on the Les Varendes site. Using La Mare de Carteret as one of the three sites in Options B and C would add significantly to the capital costs. Based on a like for like comparison in line with the baseline model, the additional cost of using the La Mare de Carteret rather than the Les Varendes site (in conjunction with the St Sampson's site and the Les Beaucamps site) would be between £19 million and £30 million more depending on the number of students on the site.
- 4.6. Based on this analysis it is considered that:
 - The Sampson's site should be included in all possible models;

- Both the Les Beaucamps site and the Les Varendes site are preferable to the La Mare de Carteret site;
- Recognition of the strength of community feeling about the necessity of generous outdoor space means it is worthwhile examining a version of Option A which utilises the Les Varendes site rather than the Les Beaucamps site.

4.7. Option A will therefore be modelled across St Sampson's and Les Varendes as an alternative to St Sampson's and Les Beaucamps. A version of Option A based at Les Beaucamps and Les Varendes has not been included because this would be less well suited to the population distribution, more expensive, and retain the concerns relating to lack of outdoor space at Les Beaucamps as well as the more challenging transition at Les Varendes. It would also remove the benefits of having a school co-located with Le Murier. Options B and C, which require three sites, will be modelled across St Sampson's, Les Beaucamps and Les Varendes. Option D, which requires four sites, will be modelled across all four existing sites. This is summarised in the table below.

Table 1: Preferred sites in each of the models included in the review.

Option	Number of sites required	Preferred sites for indicative modelling
A: Two 11-18 colleges	2	St Sampson's Les Beaucamps OR Les Varendes
B: Three 11-18 colleges	3	St Sampson's Les Beaucamps Les Varendes
C: Two 11-16 colleges and one 11-18 college (integrated or operationally separate Sixth Form)	3	St Sampson's Les Beaucamps Les Varendes
D: Three 11-16 colleges and a separate sixth form college on a different site	4	St Sampson's Les Beaucamps Les Varendes La Mare de Carteret

5. Repurposing and refurbishment at Les Varendes

5.1. The current Grammar School building at Les Varendes (excluding the Sixth Form Centre) was designed to smaller space standards than today's guidance in BB103, the current space allocation provided by the UK's Department for Education. The States have instructed that the review provides like for like comparisons with the

baseline two 11-18 colleges model, which was planned to BB103 specifications (using classroom sizes for 30 despite Guernsey's smaller average class size policy of 24). Ensuring at least these space standards was highlighted as an area of importance for staff through the staff surveys: 55% secondary staff respondents considered it essential that classrooms are at least as large as UK recommendations for the number of students, with 90% considering it at least desirable. Amongst wider education staff 50% considered this essential, with 90% considering it at least desirable. As such, modelling is based on repurposing and remodelling a proportion of rooms to meet BB103 requirements. The cost, and extent of disruption, could be reduced in any model involving Les Varendes if classrooms remained below BB103 specifications.

- 5.2. Professional property advice is that the current school buildings at Les Varendes would require extensive refurbishment to bring them up to the standards of the secondary schools built more recently. The Grammar School was opened 35 years ago and much of the building's systems and plant are at the end of their useful life. This currently adds additional costs to annual revenue budgets as significant maintenance is required. Major refurbishment needs were identified in 2013 and a request for £16.8 million was submitted in March 2013 for 2014-2017 Capital Prioritisation. Since then a total of £2.184 million has been spent on the site, but the bulk of the improvements identified in 2013 remain outstanding and the building continues to require significant maintenance work annually.
- 5.3. Any future model which utilises the Les Varendes site will require works to upgrade services (for example, plumbing and heating) as well as the continuation of replacement of key building components (for example, windows and roofing) in order to meet current statutory regulations and bring the building up to a suitable standard for longer term use. Giving parity of facilities across sites would also require improved sports facilities, including repairing the swimming pool which is currently not in use.
- 5.4. For the purposes of providing a like for like comparison across the models, initial modelling has assumed the same standards of facilities across all sites. It would be possible to reduce costs in any model that included Les Varendes if it was decided not to upgrade the site and its facilities to give parity with other sites. It is likely that this would mean higher revenue costs as a higher level of building maintenance would be required and would require further capital expenditure in the future.
- 5.5. The greater the final number of students who will be on the site, the more extensive the repurposing required and the greater the disruption to students and staff during the transition phase. It would be more cost effective to deliver this improvement programme in larger packages of works which would reduce the

overall construction programme. This refurbishment would require the number of students on the site to be significantly reduced while the works were carried out.

- 5.6. A number of transition models are being considered for each of the models included in the review. Depending on the extent of the planned repurposing and refurbishment, it may be possible to keep the site operational, albeit with a reduced number of students. Based on information provided by the current school leadership team about the proportion of rooms which could be taken out of use at any one time, the maximum number of students it is expected could be on site during refurbishment is the equivalent of three 11-16 year groups plus Sixth Form students for a minimum of two years. This would mean either: substantial investment in temporary accommodation (depending on site plans), some year groups moving to other sites or some years in which Year 7 students are split across the other three sites. This will vary depending on the planned capacity of the site. Exact plans would be refined once a conclusion is reached on the future model of secondary education.

6. Numbers of students

- 6.1. The States' resolution requires comparison to the benchmark of Option A: two 11-18 colleges. These plans were based on the assumption of a maximum capacity of 10 forms of entry/classes per year in each site, plus half of the Sixth Form students on each site: a capacity of 1200 11-16 year olds on each site, with 200-250 Sixth Formers, giving a total capacity of 2800-2900. This would have been required during the peak population years in the early-mid 2020s, and would then have declined quite quickly: current population data indicates that by 2025/26 (the earliest any new model could now be implemented), the total 11-18 school population would have dropped below 2600. This is expected to decline further, dropping below 2500 by 2028/29, below 2400 by 2029/30 and below 2300 by 2031/32. Long-term projections provided by Population Management predict a further decline, with the total currently expected to decline below 2100 by 2047/48. In other words, factoring in the later completion date, were new colleges (in any of the models) built for the previously planned capacity they would be operating at less than 90% capacity either on opening or within a year and 80% capacity within five to six years, with a continued decline in numbers expected based on Population Management data.
- 6.2. Given the need to provide a like for like comparison with the baseline model, it has been assumed that all models would be designed around a capacity of 20 forms of entry (classes in each year across all sites). However, given the expected population decline described in section 6.1 above, it would be possible in any model to adjust plans to reduce the total capacity in order to factor in the likely reduced school

population by the time the works are completed. This would reduce costs in any model.

- 6.3. It has been assumed that if capacity of 20 forms of entry was to be divided across three sites, no site should have five or fewer forms of entry or nine or more forms of entry, to ensure schools are of similar sizes. This gives rise to six possible combinations of six, seven and eight forms of entry for each combination of three sites as shown in Table 2 below.

- 6.4. Table 2: Possible distributions of 20 forms of entry (FE) across three sites included in initial analysis.

	Site A	Site B	Site C
1	8FE	6FE	6FE
2	6FE	8FE	6FE
3	6FE	6FE	8FE
4	7FE	7FE	6FE
5	7FE	6FE	7FE
6	6FE	7FE	7FE

- 6.5. It is assumed that in Options A1 and A2 students would be split evenly across the two sites.
- 6.6. It is assumed that in Option B1, Sixth Form students are split evenly across the three sites. These assumptions could be revisited to examine the implications of alternative splits.
- 6.7. It is assumed that in Model C, in which all Sixth Form are on the same site as one 11-16 school (either integrated (in C1) or operationally separate (in C2)) the site on which the Sixth Form was located would have six forms of entry of 11-16 year olds rather than seven or eight, to ensure total school sizes were kept more even.
- 6.8. The assumptions above reduce the many possible versions of models to a longlist of versions within each option. These are shown below.

Table 3: Number of versions of each option generated by assumptions detailed in Sections 4 and 6.

Option	Versions of options in longlist	Explanation
A: Two 11-18 colleges	2	10FE and half on Sixth Form on each site: two different site combinations
B: Three 11-18 colleges	6	Six possible splits of 20FE across the three selected sites, as shown in Table 2.
C: Two 11-16 colleges and one 11-18 college (integrated or operationally separate Sixth Form)	9	Six possible splits of 20FE across the three selected sites, as shown in Table 2, with a Sixth Form on the same site as any of the 6FE options.
D: Three 11-16 colleges and a separate sixth form college on a different site	24	Four possible sites for a Sixth Form College, with six possible splits of 20FE across the remaining three sites.

7. Selecting version(s) of each of the models for detailed analysis

- 7.1. All possible combinations listed in Table 3 were costed, and various other pieces of information collated and shared with stakeholder groups. This included information regarding the distribution of students and feeder school models. Educational factors were discussed; for example, the value of proximity of Sixth Form provision to The Guernsey Institute to better facilitate mixed courses and the desire for an 11-16 school to remain at St Sampson's co-located with Le Murier School. Further detail on the process of costing models is detailed in section 16.
- 7.2. A systematic approach was taken, with transparency about assumptions made. As described in section 2.2, discussions about each of the versions of each model took place with secondary headteachers and their wider senior leadership teams, as well as leaders of other education sectors, such as primary, post-16, inclusion and special educational needs and disabilities, with all groups invited to share feedback. All analysis was shared with NCTLG.
- 7.3. Education leaders considered which versions of the models could support delivering the best possible educational outcomes in order to determine which version(s) of each model should be developed in detail for inclusion in the review. The versions of the models were not assigned overall scores based on different criteria: recommendations were reached through discussion in which participants were encouraged to consider the relative importance of different factors using their

professional judgement. The factors involved are shown in the table below.

Table 4: Factors involved in determining versions of each model to be included in the review

Criterion	Explanation
Optimising the feeder school model	Survey feedback indicated that the feeder school model was considered desirable or highly desirable by a majority of all staff groups with the exception of staff at the Grammar School and Sixth Form Centre. Possible combinations of feeder school models were explored for each of the possible distributions of forms of entry. It was considered desirable for primary schools in receipt of additional social priority funding to be linked to different secondary sites.
Even distribution of students	A more even distribution of students across schools was considered preferable to a less even distribution: two seven form entry schools and a six form entry school is more desirable than one eight form entry school and two six form entry schools.
Possible transition models: minimising disruption	High level assumptions were made relating to the level of challenge a transition from the current model to possible future models might present. The main driver is the number of students expected to be on the Les Varendes site in the final model. The more students on the Les Varendes site, the more repurposing is required and the lower the capacity elsewhere in the education estate to accommodate students during the transition period: where numbers are higher on other sites, works could be phased to build these extensions first, creating additional space which would allow for numbers at Les Varendes to be reduced.
Making best use of the existing estate	Various considerations relating to the existing estate were taken into account. It was considered desirable to continue the co-location of Le Murier School with an 11-16 or 11-18 school on the St Sampson's High School site in all models. It was considered desirable to continue to utilise the existing Sixth Form Centre at Les Varendes for use by Sixth Form students, in part because of the purpose built accommodation and in part because of the proximity to Les Ozouets, to better facilitate mixed programmes with the future Guernsey Institute.
Criterion	Explanation

Costs	The costs of providing the same facilities to which all students would have had access under the previously planned two 11-18 colleges model were calculated for each of the possible options on each site, and then compared for each of the potential combinations. Further information relating to key cost drivers is detailed in section 16.1, with an explanation of how indicative costs were calculated in section 16.3.
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8. Versions of models to be included in the review

- 8.1. After the discussions detailed in section 7 above, feedback and recommendations were collated and shared with the Committee *for* Education, Sport & Culture. The Committee accepted all recommendations from senior educationalists, and therefore all recommended versions will be included in the detailed analysis.
- 8.2. The confirmed shortlist of versions of each of the models is shown in Table 5, below. Reducing the many possible variations to this shortlist will enable sufficiently detailed development of each to allow for like for like comparisons and costings to be provided. There may be evolution of these models as the analysis progresses, and variations could be revisited whichever future model is selected. Sections 9 to 12 explain the rationale for these decisions for each model.
- 8.3. Table 5: Summary of versions of models to be included in the detailed review

Option	Versions to be included in detailed review
A: Two 11-18 Colleges	A1. 10FE + half Sixth Form at Les Beaucamps 10FE + half Sixth Form at St Sampson's A2. 10FE + half Sixth Form at St Sampson's 10FE + half Sixth Form at Les Varendes
B: Three 11-18 Colleges	B1. 6FE + a third of Sixth Form at Les Beaucamps 7FE + a third of Sixth Form at St Sampson's 7FE + a third of Sixth Form at Les Varendes

C: One 11-18 College and two 11-16 Colleges	<p>C1. 7FE at Les Beaucamps 7FE at St Sampson's 6FE + full Sixth Form at Les Varendes (integrated 11-18)</p> <p>C2. 7FE at Les Beaucamps 7FE at St Sampson's 6FE + full Sixth Form at Les Varendes (operationally separate Sixth Form located on the same site as an 11-16 college)</p>
D: Three 11-16 Colleges and a separate Sixth Form Centre on a different site	<p>D1. 6FE at Les Beaucamps 6FE at St Sampson's 8FE at Les Varendes Separate Sixth Form Centre at La Mare de Carteret</p> <p>D2. Separate Sixth Form Centre at Les Beaucamps 6FE at St Sampson's 8FE at Les Varendes 6FE at La Mare de Carteret</p> <p>D3. 6FE at Les Beaucamps 6FE at St Sampson's Separate Sixth Form at Les Varendes 8FE at La Mare de Carteret</p>

9. Option A: Two 11-18 Colleges

- 9.1. Modelling is based on the assumption that in Option A, both 11-16 students and Sixth Form students would be split equally between the two colleges. This would mean capacity for 10FE (1200 11-16 year olds) plus between 200 and 250 Sixth Form students on each site, in line with the baseline model. Although this would mean capacity for 1400-1450 students on each site, population data indicates that the expected number on each site would be below 1300 by 2025/26 and below 1200 by 2029/30.
- 9.2. The baseline model selected St Sampson's and Les Beaucamps as the sites for two future 11-18 colleges. However as plans developed, it was clear that a significant number of staff and members of the public considered that Les Varendes would have been a more desirable site than Les Beaucamps. Lengthy consideration had been given to which of the two sites was most preferable prior to announcement of the decision and it was acknowledged by the Committee that each had advantages and disadvantages.

9.3. Les Beaucamps is the newest of the four schools and is built to very high specifications. The existing building needed very minimal refurbishing, which would have minimised disruption to students in the transition phase. However, the limits to the size of the Les Beaucamps site mean that for numbers higher than approximately 720 students (at previously agreed space standards) building would need to take place on the existing sports pitches. This means that the school could either have two sports pitches/multi use games areas (MUGAs), or one pitch and a grass field. The preference of the majority of school PE leads during the consultation phase was to have two sports pitches, but it is clear that there is a strong preference for the retention of a grass field from some sections of the community, and from staff, as evidenced in the recent staff surveys for this review (see supporting document 4). The Committee had explored options for purchasing additional land adjacent to or near the Les Beaucamps site in order to provide a playing field, but this had not been possible without compulsory purchase of land. A future Committee could explore this option for any model including Les Beaucamps if it chose to do so.

9.4. Les Varendes is closer to the largest urban centre in the Island, can provide sports fields on site (currently owned by the Old Intermediaries) and has a Sixth Form Centre built in 2005. It has more surrounding land but the building requires extensive refurbishment, requiring sections of the building to be vacated during works. Selecting Les Varendes as the second site in the two 11-18 colleges model would therefore mean a more expensive model to deliver the same facilities and a more disruptive transition period, but it could potentially provide a grass field in addition to two multi use games areas, as would be provided at the St Sampson's site. Les Varendes is very close to Les Ozouets, the site planned for the new purpose-built facilities for higher and further education. Using both sites could provide educational advantages and support mixed programmes across the two sites, but substantially increasing the number of students on both sites would put additional pressure on the transport infrastructure around them.

9.5. Due to the extent of concern expressed about the Les Beaucamps site for this model, a variation of Option A with 11-18 colleges at St Sampson's and Les Varendes will be explored in addition to the baseline model with colleges at St Sampson's and Les Beaucamps. This model will be referred to as A2. This will mean the States have the information available to debate the models irrespective of concerns which are limited to particular sites.

10. **Option B: Three 11-18 Colleges**

10.1. For the purposes of this review it is assumed that three 11-18 colleges would be based at St Sampson's, Les Beaucamps and Les Varendes. Financial modelling indicates that this combination is a minimum of £28 million less expensive than

building a new school at La Mare de Carteret rather than using the Les Varendes site.

- 10.2. Initial analysis is based on the assumption that the required capacity of 20FE across the 11-16 phase would be divided into either one 8FE and two 6FE colleges, or two 7FE and one 6FE colleges. Initial modelling is based on the assumption that which were discussed in detail with the stakeholder groups involved in the initial consultation.
- 10.3. Cost modelling indicated that the most cost-efficient way of implementing this model would be to retain St Sampson's as a 6FE entry school in the 11-16 phase, and extend it to accommodate a third of Sixth Formers, to extend the Les Beaucamps site to accommodate 6FE rather than the current 5.5FE, plus a third of Sixth Formers, and to have an 8FE school plus the remaining third of Sixth Formers on the Les Varendes site. However, a distribution of capacity of 7/7/6 rather than 8/6/6 is preferable because it keeps numbers across sites more even, and having fewer students on the Les Varendes site minimises disruption during the transition period. The most cost-efficient way of achieving this is to have 6FE and a third of Sixth Form students at the Les Beaucamps site, and 7FE and a third of Sixth Form students at each of St Sampson's and Les Varendes. Based on initial modelling this was estimated to cost £305,000 more than the least expensive option. This cost was judged by the stakeholders involved in the consultation to be justifiable given the benefits of a more even distribution of students and a less challenging transition as a result of the less extensive works required at Les Varendes for a 7FE college compared to an 8FE college. The Committee accepted this view and this version of Option B has therefore been selected for inclusion in the review.
- 10.4. This would mean capacity for 6FE (720 11-16 year olds) at the Les Beaucamps site, and 7FE (840 11-16 year olds) at St Sampson's and Les Varendes plus capacity for between 133 and 150 Sixth Form students on each site in line with the baseline model. Although this gives a total capacity of 2800-2900, population data indicates that the expected number on the two larger sites would be below 900 by 2026/27 and below 800 by 2031/32. On the Les Beaucamps site, expected numbers would not exceed 800 and would be below 700 by 2031/32.

11. Option C: 1 x 11-18, 2 x 11-16s

- 11.1. For the purposes of this review, it is assumed that the three colleges would be based at St Sampson's, Les Beaucamps and Les Varendes. Initial modelling indicated that this combination is a minimum of £19 million less expensive than building a new school at La Mare de Carteret rather than using the Les Varendes site.

- 11.2. Initial analysis is based on the assumption that the required capacity of 20FE across the 11-16 phase would be divided into either one 8FE and two 6FE colleges, or two 7FE and one 6FE colleges. Initial modelling is based on the assumption that the Sixth Form students would be on the same site as a 6FE 11-16 school (rather than 7FE or 8FE). This generated nine options for the distribution of students, which were discussed in detail with the stakeholder groups involved in the initial consultation.

- 11.3. Table 6: Optimal site for the location of Sixth Form students in Option C

	Advantages as a site for the Sixth Form in Option C relative to other sites	Disadvantages as a site for the Sixth Form in Option C relative to other sites
Les Beaucamps site	Relatively central island location	Outside space more limited than at other sites
Les Varendes site	Existing Sixth Form Centre Proximity to The Guernsey Institute (supporting mixed programmes) Relatively central island location No need to move Sixth Form during transition period	Transition challenging with a final model with a higher number of students on site
St Sampson's site	Largest existing site in terms of area	Not a geographically central island location

- 11.4. The consensus amongst stakeholders involved in discussions is that it would be preferable for the 11-18 site to be Les Varendes. Given the assumption that the Sixth Form would be combined with a 6FE 11-16 school (rather than 7FE or 8FE) in order to ensure a more even distribution of students across the three sites, this leaves three options for the distribution of students across the remaining two sites: 8FE at St Sampson's and 6FE at Les Beaucamps, 6FE at St Sampson's and 8FE at Les Beaucamps, or 7FE at each. Initial modelling indicated that the most cost efficient version would be to retain a 6FE school at St Sampson's and to extend Les Beaucamps to create an 8FE school, with capacity for 960. The St Sampson's site would then need only minimal works to deliver the improvements planned in the baseline model, such as improvements to sports facilities. Although this is the most cost-efficient option, it was considered less educationally desirable to have more students on the Les Beaucamps site than the St Sampson's site, given that the St Sampson's site is larger. It was also considered more desirable to have a more even

distribution of students. The additional cost of extending both St Sampson's and Les Beaucamps to 7FE (capacity for 840) was estimated at £3,845,000 more than the more cost-efficient option. It was judged by the stakeholders involved in the discussions that this option was sufficiently more desirable educationally to make this additional cost justifiable. This was accepted by the Committee. The option selected for inclusion in the review is therefore 6FE plus Sixth Form at Les Varendes (capacity for 1120 - 1170 students) and 7FE at each of St Sampson's and Les Beaucamps (capacity for 840 students). This is Option C1.

- 11.5. In response to requests received via union representatives, it was agreed that a "co-located sixth form college should also be explored". This option is referred to as C2. It would be similar to Option C1 (Two 11-16 colleges and one integrated 11-18 college) in some respects and similar to Option D (Three 11-16 colleges and a Sixth Form college on a separate site) in others. This is illustrated in Table 7. In terms of distribution of students, C2 is the same as C1 for the reasons discussed above. An integrated 11-18 college would have spaces and specialist classrooms utilised by both 11-16 and Sixth Form students. Separating the Sixth Form rather than integrating it therefore requires additional rooms. The base cost of providing the facilities to which students would have had access in the baseline model is therefore higher in Option C2 than Option C1.
- 11.6. Numbers of students across the three sites would be the same irrespective of whether the Sixth Form is integrated or operationally separate. On the Les Varendes site there would be capacity for 720 11-16 year olds and between 400 and 450 Sixth Formers; a total of 1120 - 1170. Population data indicates that the expected number on this site would be below 1100 on opening and below 1000 by 2029/30. The St Sampson's and Les Beaucamps sites would both have capacity for 840 11-16 year olds students, but expected numbers would be below 800 by 2025/26 and below 700 by 2029/30.
- 11.7. Table 7: Summary comparison of C1 "integrated Sixth Form" C2 "operationally separate Sixth Form located on the same site as an 11-16 college" and D "Sixth Form on a separate site"

White	Assumptions in line with Option C1
Grey	Assumptions in line with Option D

	Option C1 (Two 11-16 colleges and one integrated 11-18 college)	Option C2 (Two 11-16 colleges, and one 11-16 with an operationally separate Sixth Form College on the same site)	Option D (Three 11-16 colleges and a Sixth Form college on a separate site)
Number of sites	3	3	4
Distribution of students	6FE 11-16 as part of the 11-18 college (rather than 7FE or 8FE)	6FE 11-16 as part of the 11-18 college (rather than 7FE or 8FE)	All distributions of 11-16 students across other sites considered
Feeder school model		As C1	
Preferred site for Sixth Form	Les Varendes	Les Varendes	La Mare de Carteret, Les Beaucamps or Les Varendes
Staff	Shared (similar to current GGS&SFC)	Separate (but anticipated that some staff will teach across both phases)	Separate (but anticipated that some staff will teach across sites)
Leadership Team	Shared (similar to current GGS&SFC)	Separate (still part of One School)	Separate (still part of One School)
Staff room	Shared	Separate	Separate
Classrooms	Shared	Separate	Separate
Sports facilities	Shared	Shared	Separate
Outdoor social areas	Shared	Separate	Separate
Independent study areas	Separate	Separate	Separate
Traffic modelling		As C1	

12. Option D: 3 x 11-16s Colleges and a Sixth Form Centre on a separate site

12.1. It is assumed that in Option D there will be colleges on all four of the existing secondary sites. As in Options B and C, it is assumed that 20FE is divided into either one 8FE and two 6FE colleges, or two 7FE and one 6FE colleges.

12.2. Initial discussions focussed on which of the four sites would be most preferable as a separate Sixth Form College. Key advantages and disadvantages are shown in Table 8 below.

12.3. Table 8: Comparison of sites as locations for the Sixth Form College in Option D

	Advantages as a site for the Sixth Form College in Option D relative to other sites	Disadvantages as a site for the Sixth Form College in Option D relative to other sites
Les Beaucamps site	<p>Relatively central island location</p> <p>Closer to the required size than St Sampson's or Les Varendes: would make better use of the existing estate</p>	<p>Existing high quality facilities could limit options for cost adjustments if savings were required: for example, would make more sense to have parity of sports facilities across three 11-16 schools and adjust at Sixth Form College if required.</p> <p>Disparity between Sixth Form College and The Guernsey Institute in terms of facilities</p> <p>Slightly larger than necessary</p>
La Mare de Carteret site	<p>Would require a new build: could be a bespoke Sixth Form Centre</p> <p>Co-located with a primary school: potential benefits for Sixth Form students volunteering</p>	<p>Some facilities are potentially better shared between an 11-16 school and a primary school than a Sixth Form Centre and a primary school - e.g. sports facilities.</p> <p>Not a geographically central island location</p>
	Advantages as a site for the Sixth Form College in Option D relative to other sites	Disadvantages as a site for the Sixth Form College in Option D relative to other sites

Les Varendes site	Existing Sixth Form centre Proximity to The Guernsey Institute (supporting mixed programmes) Relatively central island location No need to move Sixth Form during transition period	Unnecessarily large - requires more building elsewhere and thus more expensive. Potential for co-location with other organisations, such as the Guernsey Music Service.
St Sampson's site		Unnecessarily large - requires more building elsewhere and thus more expensive. Not a geographically central island location Co-located with Le Murier School: would remove the benefits of co-location with an 11-16 school

12.4. There was a consensus amongst stakeholders involved in discussions that of the four existing sites, St Sampson's would make the least sense as a standalone Sixth Form College. St Sampson's High School and Le Murier School were deliberately co-located when the Baubigny site was developed a little over 10 years ago. The objective of co-location was to encourage the schools to operate in closer partnership to the benefit of students at both. In particular, some students at the special school would be able to access lessons and facilities within the high school and some students at the high school would receive additional support from specialist staff within the special school. A further benefit was providing students with more opportunities to mix socially. It is considered that this would continue to be desirable under all models, and would be undermined if there were no 11-16 students located on the St Sampson's site.

12.5. However, stakeholder views about which site would be the best location for the Sixth Form College were split between Les Beaucamps, La Mare de Carteret and Les Varendes, all of which have clear advantages. Versions which include a Sixth Form College at all three of these sites will therefore be included in the review.

12.6. Given that all possible versions of Option D are more expensive than Options A, B and C (using the benchmark of facilities to which all students would have access in the baseline model) stakeholders considered it more likely that compromises to

the facilities provided would be necessary in this model compared to others. The least expensive distribution of 11-16 students was therefore selected in each, despite the fact that this results in a larger discrepancy of forms of entry than in the other models in order to maximise the facilities which could be provided within this model at any given cost. A future Committee could revisit this assumption if it chose to do so.

- 12.7. Option D1 includes a bespoke new build Sixth Form Centre on the La Mare de Carteret site. Given this, the preferred arrangement of 11-16 students (assuming a benchmark of 20FE) involves an 8FE 11-16 school at Les Varendes (capacity for 960 students). St Sampson's would remain as a 6FE school (capacity of 720) and Les Beaucamps would have a small extension to increase the capacity from 5.5FE (660) to 6FE (720). The additional cost of planning for a more even distribution of students which would exceed teachers' preferred school size by less was estimated at £4,074,000: which would reduce Les Varendes to 7FE (capacity for 840 students) and increase Les Beaucamps to the same amount. This would take Les Beaucamps to a population where it became necessary to build on the existing multi-use games area, meaning it would be necessary to lose either a multi-use games area or the existing field. A split with 7FE at St Sampson's and Les Varendes and 6FE at Les Beaucamps would cost an estimated £8,186,000 more than the selected version.
- 12.8. Option D2 would use the Les Beaucamps site as a Sixth Form Centre. The works required on this site would be minimal. The most economical split of 20FE across the remaining three sites is for St Sampson's to remain as a 6FE 11-16 school and for Les Varendes to become an 8FE 11-16 school, as in Option D1. A new 6FE school (capacity for 720 students) would be built at La Mare de Carteret. A split with 7FE (capacity for 840 students) at Les Varendes and La Mare de Carteret and 6FE (capacity for 720 students) at St Sampson's would cost an estimated £3,168,000 more than the selected version.
- 12.9. Option D3 would retain the existing Sixth Form Centre at Les Varendes. This is more expensive than the other options because it would leave the site underused, and require more building elsewhere. This additional space could potentially be used to co-locate other organisations or staff at the Les Varendes site, which may result in savings in other areas. This could potentially include the Guernsey Music Service, the Youth Commission, or staff working in areas of Health and Social Care. A full analysis of potential uses of this space is beyond the scope of this review but could be conducted if the States were to select Option D as the future model of secondary education.
- 12.10. The most economical split of 20FE across the remaining three sites is to build a new 8FE college (capacity for 960 students) at La Mare de Carteret. Sampson's would remain as a 6FE school (capacity of 720) and Les Beaucamps would have a small extension to increase the capacity from 5.5FE (660) to 6FE (720). The

additional cost of planning for a more even distribution of students which would exceed teachers' preferred school size by less is estimated at £3,069,000: this would reduce the new build at La Mare to 7FE (capacity for 840) whilst increasing the extension at Les Beaucamps by the same amount. As in Option D1, this would take Les Beaucamps to a population where it became necessary to build on the existing multi-use games area, meaning it would be necessary to lose either a multi-use games area or the existing field. A split with 7FE at St Sampson's and La Mare de Carteret and 6FE at Les Beaucamps would cost an estimated £7,181,000 more than the selected version.

- 12.11. In any of the versions of D, the site with the largest population would be the 8FE 11-16 college (at Les Varendes in Options D1 and D2 and La Mare de Carteret in Option D3). It would have capacity for 960 students, but population data indicates that it would have fewer than 900 students on opening and fewer than 800 by 2029/30. The other two 11-16 schools would have capacity for 720 11-16 year old students, but expected numbers would be below 700 on opening and below 600 by 2029/30.

13. **Comparisons of models: structural priorities**

- 13.1. The structure of secondary education has been debated by the States several times in recent years;
- July 2013: Education Vision committed to bringing a report to the States about the future structure of secondary education.
 - November 2014: La Mare de Carteret schools' redevelopment project approved in principle, with independent review commissioned to determine the most appropriate scale, scope and specification for the project.
 - December 2014 - February 2015: Independent review carried out into future provision at the La Mare de Carteret site.
 - May 2015: La Mare de Carteret schools' redevelopment project approved in principle, subject to a review of the necessary size of the school and also subject to a States' debate at or before the March 2016 States Meeting on the merit or otherwise of selection at 11 and the future structure of secondary education.
 - September - November 2015: Your Schools, Your Choice Consultation.
 - March 2016: Decision to remove selection at 11 with effect from September 2019 and introduce three comprehensive schools within a structure to be determined by the next States Assembly.
 - November 2016: Proposal to rescind the decision to remove selection at 11 defeated.
 - January 2018: Plans for a model with three 11-16 schools at Les Beaucamps, St Sampson's and La Mare de Carteret, a College with all 16-18 provision currently offered by The Sixth Form Centre and the College of Further

Education (part of The Guernsey Institute) at Les Varendes, and a separate training college, rejected in favour of the “Alternative model” which included two 11-18 colleges and what is now The Guernsey Institute.

- September 2019: Detailed plans for the two 11-18 Colleges approved by the States.
- March 2020: Successful requête to review the structure of secondary education.

- 13.2. In confirming a future model of education, it will be necessary to decide a) how various competing factors ought to be prioritised and b) which model can provide the best possible education at an amount the States are willing and able to fund. This necessarily involves subjective judgements and so no definitive answer can be produced through any review. The analysis contained within the review will aim to provide accurate information upon which these judgements can be made.
- 13.3. Each of the models will be compared according to key criteria which have been highlighted as being of importance to at least some staff or members of the community. It cannot be exhaustive and there may be some considerations that are not addressed, but it will aim to provide sufficient information for a decision to be reached.
- 13.4. A considerable proportion of the debate around the future model of secondary education in Guernsey has centred around two key structural issues: the organisation of the Sixth Form (and consequently whether schools are 11-16 or 11-18) and the optimal sizes of schools. Although some relevant concerns can be mitigated with additional spending, they provide different advantages and disadvantages irrespective of the amount spent. These two issues are explored in sections 14 and 15 below. More detailed work will be carried out as part of the review, including more detailed modelling of potential Sixth Form curricula in Option B: three 11-18 schools. A third significant consideration has been the space standards (which are not model-dependent) and the consequent level of expenditure (which will vary across models, assuming the same underlying space standards). These are discussed in section 16.

14. **Considerations relating to the structure of the Sixth Form**

- 14.1. Some of the considerations that should be taken into account in relation to the organisation of the Sixth Form include the following:
- The relative importance of maximising educational opportunities and standards for students in the Sixth Form phase of their education and the 11-16 phase of their education;
 - The advantages and disadvantages to students of being in an 11-16 environment and then a separate Sixth Form environment, compared to an 11-18 environment;

- The curriculum breadth possible across one, two or three sites, factoring in possibilities of additional spending to duplicate classes, the logistics of students or staff travelling between sites or links through immersive classroom technology;
- The differing staffing structures required in models which have Sixth Form students on the same site, or different sites, to 11-16 year old students, including travelling between sites, and the potential to recruit to them;
- The potential for inequality in each of the models, how important a consideration this is, and how it might be mitigated;
- The importance of facilitating mixed programmes with The Guernsey Institute and the ease of doing so under each model;
- Available capital and revenue funding, and the relative importance of considerations relating to Sixth Form compared to other priorities.

14.2. Updated population assumptions indicate a likely total number of Sixth Form students of around 400, gradually declining to around 350 by the mid 2030s. This is lower than estimates previously used in modelling for the two 11-18 colleges model, because several underlying assumptions have been adjusted in light of information which has become available since those assumptions were made. This includes:

- Updated island population data provided by Population Management;
- The proportion of students expected to attend the grant-aided colleges adjusted to the average of the first two all-ability cohorts;
- The proportion of students attending Blanchelande College Sixth Form adjusted in light of 2020 data;
- The proportion of students expected to attend the Sixth Form (in any model) and The Guernsey Institute updated in line with previous five years' data. Although there are various considerations (breadth of choice, opportunity to continue in current school, opportunity to attend a separate Sixth Form College etc) which may influence individual choice and therefore overall proportions in each of the models, it is not possible to quantify these, and so it is assumed that these proportions would be the same under any model.

14.3. Based on the assumptions listed in section 6.5, expected Sixth Form numbers are therefore around 200 on each site with a Sixth Form in Option A, 133 on each site in Option B and 400 in Options C and D.

- 14.4. On average in 2020, School sixth forms in England had an average of 197 students while school Sixth Forms in Academies had an average of around 210 students.¹ The Ladies' College and Elizabeth College Sixth Forms, which operate in partnership over two sites, had a total of 198 pupils in 2019/2020. Options A, B and C1 include school sixth forms. In Option A each site would have around the same number of students as the English average, and around the same as the number of students at Ladies' College and Elizabeth College combined. In Option B each site would have fewer students than the English average, but more than either Ladies' College or Elizabeth College. In Option C1 the Sixth Form would be around twice the size of the average English Sixth Form and the Ladies' and Elizabeth College Sixth Forms combined.
- 14.5. On average in 2020, Sixth form colleges and 16 - 19 academies in England had an average of 1952 students. Options C1 and D include separate Sixth Form Colleges. This would be around a fifth of the size of the English average. Amongst the 78 Sixth Form Colleges and 16-19 academies in England five fall into the smallest size bracket of 700 - 999 students. A separate Sixth Form College in Guernsey would be around half this size.
- 14.6. There is not a clear consensus amongst all stakeholders about the preferred structure. For example, survey feedback from staff at St Sampson's, Les Beaucamps and La Mare de Carteret, highlighted that more staff considered it desirable to have a Sixth Form Centre on a separate site to 11-16 students than as part of an 11-18 college, whilst the opposite was true amongst staff at the Grammar School and Sixth Form Centre.

15. **Considerations relating to school size**

- 15.1. Research carried out internationally will be explored in later phases of the review. Regardless of data collected in other educational systems there is a preference amongst staff (as indicated in the staff surveys) for secondary schools that are below the English average (986 in 2019/20²), and ideally below 800.
- 15.2. Although the review has been conducted on the basis of a like for like comparison with the two 11-18 colleges baseline model, which would give capacity for 2400 11-16 years olds and 400-450 Sixth Formers across any model, expected population decline means actual numbers are likely to be below this.
- 15.3. Graph 1 and Graph 2 below show the expected number of students on the site with the maximum and minimum number of students in each of the four models.

¹ Sixth Form Colleges: 2020 Key Facts and Figures, produced by the Sixth Form Colleges Association <https://sfcawebsite.s3.amazonaws.com/uploads/document/24711-SFCA-Key-Facts-2020-AW-Interacti ve2.pdf?t=1593419685>

² [Schools, pupils and their characteristics, Academic Year 2019/20](#)

This is the same across all versions within a model, where more than one version is included in the analysis. The ranges referred to are the median responses from staff to each of the surveys: they show staff preferences rather than empirical evidence relating to school size.

15.4. Graph 1: Maximum number of students on any one site: 2025 - 2050



15.5. All models would be expected to have at least one site where the number of students exceeds that considered optimal by a majority of staff, with Options A and C exceeding that considered acceptable by a majority of staff. Within approximately five years, numbers on the largest site in Option C would be expected to reduce to the level considered acceptable by a majority of staff, whilst numbers in Options B and D decline to the level considered optimal.

15.6. Graph 2: Minimum number of students on any one site: 2025 - 2050

The figures for Option D are taken from the smaller (6FE) 11-16 schools, not the Standalone Sixth Form College.



- 15.7. In option A, students would be split equally across the two sites, and so the line shown in this graph is the same as the previous graph: it is above the population considered acceptable by a majority of staff, declining towards the acceptable level by around 2050.
- 15.8. The sites with the smallest populations in Options B, C and D are within the range considered optimal by a majority of staff at the start of the period. In Option they are expected to decline below the range considered optimal within five years, into the range considered acceptable but not optimal.
- 15.9. Over this time period, the option in which all sites would fall within the optimal range identified by staff for the greatest proportion of the time is Option B (three 11-18 colleges). The populations in Option A exceed those considered acceptable for the full time period. In Option C, the largest site exceeds the population considered optimal for the full time period. In Option D, the smallest sites are below that considered optimal for 80% of the time period.

16. **Comparisons of costs**

- 16.1. The main influences on the cost of any school model, for a given number of students, are:-
- Average class sizes: The current education policy is to aim for an average class size of 24 at KS3 and KS4. In practice this can only be a target - as the student population is rarely an exact multiple of 24, with the result that average class sizes can be slightly larger or smaller than this. The “tipping point” at which an additional class is created in any cohort is when the average class size exceeds 26. This was applied in the baseline two 11-18 colleges model at KS3, with a reduction to a tipping point of 25 at KS4. These assumptions have been translated across to all other models as part of the revenue modelling. School planning in England is based around average class sizes of 30 students. Both capital and revenue costs could be adjusted in any model if the assumed tipping point at which an additional class is created (and therefore the average class size) was changed: it would affect the overall capital costs (as it determines the number of classrooms needed) and operating costs (as it determines the number of teachers needed). If the breadth of Sixth Form curriculum is kept constant across more than one site it may involve duplicating classes in order to increase the number of possible option combinations on any one site: this decreases average class sizes and therefore increases the rooming and staffing requirements.

- The number of sites: the more sites across which the student population is spread, the more it is likely to result in additional classes being required in order to meet any class size policy. This leads to an increase in staffing costs. The greater the number of sites, the greater the cost of providing all students with access to facilities such as sports pitches, swimming pools, and communication and autism bases, which would need to be replicated across more sites in order to provide equality of access to facilities. The same assumptions regarding access to facilities have been applied across all models, but could be adjusted in any model.
- The space standards: The UK Department for Education provides guidance indicating standard space allocations for various areas of a school, including different types of classroom, depending on the total number of students, planned curriculum and assumed average class sizes. Planning for the baseline model used the current guidance (BB103) as a starting point. As these are UK guidelines, they assume an average class size of 30, which therefore result in a more generous amount of space for schools with an average class size of 24. This gave a total space allocation which was then adjusted in line with priorities for the use of space planned by the school leadership team, with additional space added to the standard UK baseline to allow for specific priorities including enhanced space to support students with special educational needs and disabilities (SEND), including communication and autism bases on both sites. The same assumptions regarding space standards have been applied across all models. They could be adjusted in any of the models.
- Curriculum: In capital terms, a curriculum plan in which students spend more time in areas which require specialist (or larger) rooms such as science, technology, food, art and music, relative to subjects which are taught in general purpose teaching classrooms such as English, maths, humanities or languages require more of these specialist rooms and are therefore more expensive. The previously planned curriculum for the baseline model has been used in all options, with the assumption that a reduced number of option combinations would be possible at Key Stage 4 if students were split across three sites compared to two, and an additional staffing allocation to allow duplication of subjects across sites in models A and B. Total curriculum time allocation across subjects is very similar to current averages across the four schools. In revenue terms, it becomes more expensive to offer any given breadth of curriculum options at Key Stage 4 and Key Stage 5 as the cohort size is reduced, as average class sizes will decrease. If average class sizes were

kept constant, the larger the cohort the greater the breadth of curriculum that can be offered.

- Utilisation rates: The utilisation rate of a classroom is the proportion of the time it is in use. Reducing utilisation rates, for example to ensure students are taught only in rooms allocated to a particular subject or to avoid staff teaching in more than one room increased the number of rooms required. In general it is easier to achieve higher utilisation rates whilst maintaining subject specific rooming in larger schools and thus reduce capital costs. More classrooms could be added in any of the models.
- Within a limited budget, prioritisation is required to determine which facilities and revenue priorities will have the most significant impact on educational outcomes. Staff are involved in this process through the consultation workshops.

16.2. The initial capital cost analysis provides a like for like comparison of providing all students with access to the same facilities in each of the models. For comparative purposes, the initial analysis has assumed that these facilities would be those to which all students would have had access in the baseline two 11-18 colleges model. Any of these facilities could be removed and others added in any of the versions of models, where they do not already exist. For example, initial modelling has assumed there would be a swimming pool on each of the sites in use. It would be possible to make savings relative to these costs if it was decided not to repair the swimming pool at Les Varendes in all versions but A1, or not to build a new pool at La Mare de Carteret in D1, D2 and D3, but the same saving could not be realised by deciding not to have a pool on either the St Sampson's or Les Beaucamps sites, where pools already exist.

16.3. The process for generating these costs was as follows:

- Room requirements for all possible scenarios were generated from the assumptions detailed in section 6.5, using the DfE Schedule of Accommodation tool.
 - 6FE 11 - 16
 - 7FE 11 - 16
 - 8FE 11 - 16
 - 6FE 11 - 16 + a third of Sixth Form
 - 7FE 11 - 16 + a third of Sixth Form
 - 8FE 11 - 16 + a third of Sixth Form
 - 6FE 11 - 16 + full Sixth Form
 - Sixth Form only
- At Les Beaucamps and St Sampson's, existing rooms on each site were subtracted from the total room allocation to give the additional number of

each type of room needed for each of the options for each of the sites. For example, it is assumed that if the Les Beaucamps site were to become a 7FE 11-16 school it would require seven Science labs. There are currently four, so if the final model included a 7FE 11-16 on this site a further three would be required.

- At Les Varendes, room requirements were mapped against floor plans to ensure BB103 recommendations were met across subject areas, given that a significant proportion of existing rooms fall below this recommendation.
- At La Mare de Carteret it was assumed that a new build would follow BB103 recommendation for all classrooms.
- The size of the total extension/build required on each site was costed, and consistent assumptions were made about the extent of repurposing required to allow subject areas to be suited together.
- Costs were added to provide further facilities on each site in order to ensure a like for like comparison. In some cases, these costs have been translated across directly: for example, it is assumed that a multi-use games area would have the same surface and dimensions irrespective of the number of students in a school. Other assumptions have been scaled: for example, it has been assumed that all sites would have enhanced areas allocated to support for students with SEND and CAS bases, but the total area allocated has remained constant: it is assumed that these would be smaller in colleges with smaller numbers.
- Consistent assumptions have been applied across models regarding allocations for circulation space, toilets etc.
- These are onsite costs only: they do not include any changes to transport infrastructure, transition costs or other associated costs such as the development of business cases to release capital funding. These are expected to add between £10 and 15 million to each of the models.

16.4. Graph 3 below shows the cost of providing all students with access to the same facilities to which they would have had access in the baseline two 11-18 colleges model. This includes, for example, sports facilities such as 3G multi use games areas and swimming pools on all sites as well as enhanced areas for students with special educational needs and disabilities. It includes the cost of bringing the Les Varendes site up to the standards of St Sampson's and Les Beaucamps where it is one of the selected sites, and building a new college at La Mare de Carteret in all versions of Option D. For any given amount the States are willing to spend, the lower the base cost the more facilities can be provided. The facilities/space standards could be improved in any model if the States were willing to spend more. Savings could be made in any model if facilities or space standards were reduced.

- 16.5. Graph 3: Cost of providing all students with access to the same facilities to which they would have had access in the baseline two 11-18 colleges model



- 16.6. All figures in Graph 3 above are for capital costs only: other associated costs including transition costs, programme team costs and associated costs such as changes to transport infrastructure are being developed separately. Transition costs and programme team costs will be higher across all models than the baseline two 11-18 colleges model (A1) in part because using the Les Varendes site will extend the transition period and is likely to mean greater use of temporary accommodation, and in part because planning is more developed for this option, and adapting it in light of new priorities is still likely to be less expensive than developing new plans. Costs relating to transport are likely to be lower where students are split across more sites and the total numbers of students on any one site are lower. The total additional cost is expected to be between £10 and £15 million for each of the models.
- 16.7. Depending on the amount the States are willing to spend on secondary education, changes could be made to the facilities that are prioritised to be included in any of the models at any given budget. For example, using feedback from the recent staff survey, facilities that staff considered more important which were not included in
- 16.9. Workshops are currently underway across the four secondary schools to prioritise capital and revenue expenditure within set cost brackets. This will help develop the 'indicative best versions' of each of the models, which the States will be able to consider at defined cost brackets for a true like-for-like comparison of what each model can offer.

- 16.10. Revenue costs for each of the models are currently being developed. Relevant information will be shared with staff during the programme of workshops to allow prioritisation within each model and will be published.

17. Next phase of the review

- 17.1. None of the models can deliver all of the features considered desirable by all stakeholders. It will be necessary to prioritise which of the features are most desirable, and which of the models can deliver the best quality of education at the cost the States are willing to spend. These judgements are necessarily subjective. It is not possible to assign scores objectively and produce a definitive answer because it requires value judgements about the relative importance of different aspects of education. It would be possible for different, valid conclusions to be drawn from the same information depending on how different aspects are prioritised. This review will attempt to provide objective information to support individuals in drawing their own conclusions about which of the models is likely to deliver most of what they consider most important. Further consultation will take place with staff to develop the “indicative best possible version” of each of the models. This information will be released in due course to provide more information.
- 17.2. The next phase of the review of models of secondary education will aim to reach an indicative best possible version of each of the eight models at different levels of expenditure, through consultation with various groups. These conversations will focus on prioritisation of different capital and revenue priorities. The aim is not to provide a definitive plan for approval by the States: once the future model is confirmed plans will be developed in detail, with further consultation, and it is likely that adjustments will be made. However, it is important to give an indication of the likely proportion of spending priorities that could be met in each model at varying levels of expenditure. For any given budget, the lower the base cost above, the more of the spending priorities identified are likely to be able to be implemented. The higher the base cost given above, the more compromises are likely to be necessary at any given level of expenditure.
- 17.3. The intention is to provide optimised versions of each of the models at four capital cost brackets: £60,000,000, £70,000,000, £80,000,000 and £90,000,000. All of these costings are for on site capital costs only, and the addition of other associated costs is likely to increase each cost by between £10 million and £15 million.
- 17.4. In addition to the consultation to develop the indicative best possible versions of each model, examples of areas in which further work is in progress or planned include:
- Review of relevant research evidence

- Analysis of traffic and transport implications in all models
- Analysis of requirements for full time staff to teach across multiple sites in all models
- Options for curriculum modelling across three Sixth Form sites (Model B)
- Transition modelling to show likely routes to move from the current model to any future model, and associated costs
- Analysis of response to public and student consultations
- Opportunities for further consultation once further information has been released

17.5. When a recommendation to the States is made based on this review, it will consider the following factors, set out in the Policy Letter entitled Review of the Structure of Secondary and Further Education: Next Steps (supporting document 2). Where possible, this will take into account both research evidence and stakeholder views. Other factors may be considered in addition.

Quality of education -

- Promoting the highest possible standards and outcomes;
- Range and equality of opportunities, including curriculum and facilities;
- Curriculum breadth and opportunities to group students flexibly;
- Standard of and access to facilities indoors and outdoors;
- Recruitment, retention, flexibility and resilience of staff teams;
- Pastoral support and wellbeing of students and staff;
- Support for students with special educational needs or disabilities;
- Pupil teacher ratios and average class sizes;
- Extra-curricular and enrichment opportunities; and
- Ease of transition between different phases of education.

Value for money -

- Capital expenditure;
- Revenue expenditure: making the best use of the funds the States are prepared to spend on secondary education annually; and
- Transition costs to move from the status quo to the new model.

Infrastructure & organisation -

- Infrastructure at the school sites;
- Infrastructure around the school sites;
- Capacity and capability of the States to implement the model;
- Consistency with States' strategic objectives; and
- School operational issues which are specific to any particular model (excluding those which are general to all models).

Supporting documents

1. [Requête 'Determining the best model for secondary education' P.2020/14 dated 28th January 2020](#)
2. [Policy Letter 'Review of the Structure of Secondary Education – Next Steps' P.2020/51, submitted by the Committee for Education, Sport & Culture](#)
3. [Terms of Reference](#)
4. [Secondary staff survey results and wider staff survey results](#)

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

COMMITTEE FOR EDUCATION, SPORT & CULTURE

SECONDARY AND POST 16 EDUCATION REORGANISATION

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

28th May, 2021

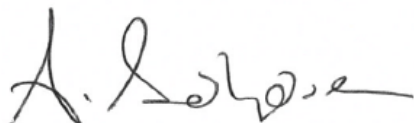
Dear Sir

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* Education, Sport & Culture request that the 'Secondary and Post 16 Education Reorganisation' Policy Letter be considered at the States' meeting to be held on 14th July, 2021.

As you are aware the Government Work Plan (GWP) is scheduled for debate at a special meeting of the States' to be held on 21st July, 2021. The reorganisation of secondary and post 16 education has been proposed for prioritisation as a recovery action as part of the GWP. In order for the States to make an informed decision in this respect, an agreed and costed model is required. Consideration of the proposals on 14th July, 2021 will provide States members with the detail necessary for the GWP prioritisation process.

Yours faithfully,



Deputy A C Dudley-Owen
President
Committee for Education, Sport & Culture

Deputy R C Murray
Vice-President

Deputy S Aldwell
Deputy A Cameron
Deputy SP Haskins

J B Green
Non-States Member

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2020:
REPORTS FROM THE CPA BIMR ELECTION EXPERT MISSION AND
THE REGISTRAR-GENERAL OF ELECTORS

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'General Election 2020: Reports from the CPA BIMR Election Expert Mission and the Registrar-General of Electors' dated 10th May 2021 submitted under Rule 17.(9) of the Rules of Procedures of the States of Deliberation and their Committees, they are of the opinion:-

1. To agree the following workstreams should be undertaken by the States' Assembly & Constitution Committee:
 - a) investigate the creation of a dedicated, independent elections body for future elections;
 - b) review the Reform Laws and other relevant legislation underpinning General Elections, including:
 - i. increasing the number of signatories on the nomination form.
 - ii. introducing provisions requiring the publication of candidates and parties' election expenditure.
 - iii. reviewing the deadline for postal vote applications.
 - iv. introducing Deputy Polling Station Officers and Deputy Central Returning Officers to support election administration.
 - v. reviewing provisions relating to the vote count and recount to ensure they meet the requirements of an electronic vote count and recount.
 - vi. reviewing the margin required to trigger a recount;
 - c) introduce proposals for a system of complaints and appeals for future elections;
 - d) investigate the merits of introducing disclosures by candidates/and or Deputies and consider the disqualification provision at Article 8(e) of the Reform Law;
 - e) review the regulation of election finance, considering the findings of the

Committee on Standards in Public Life review of electoral regulation in England.

- f) review communication initiatives including the feasibility of the States of Guernsey co-ordinating 'hustings-type' meetings.
- g) research the feasibility of introducing i-voting for a future election.
- h) undertake consultation with relevant stakeholders in order to identify, and consider how the States of Guernsey can work towards the implementation of, suitable measures for Guernsey as outlined in Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey and Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities
- i) increasing the information provided regarding the role of a States' Member, the States of Guernsey and the election process by the end of 2023.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2020:
REPORTS FROM THE CPA BIMR ELECTION EXPERT MISSION AND
THE REGISTRAR-GENERAL OF ELECTORS

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

10th May 2021

Dear Sir

1 Executive Summary

- 1.1 The States' Assembly & Constitution Committee ('the Committee') is under resolution to submit the Report of the Registrar-General of Electors, together with the Report of the Independent Election Observers, as an appendix to a Billet d'État as soon as possible, and no later than one year after the General Election.
- 1.2 The two reports are appended to this policy letter which has been submitted under Rule 17.(9) of 'The Rules of Procedure of the States of Deliberation and their Committees'¹:
- **Appendix A** **CPA BIMR Election Expert Mission Final Report**
Guernsey General Election - October 2020
 - **Appendix B** **Report of the Registrar-General of Electors**
Review of the 2020 General Election
- 1.3 It is strongly recommended that Members read the appended reports prior to considering this policy letter.
- 1.4 The Committee agreed to submit these reports with a covering policy letter setting out how it will address their findings and recommendations and to provide States' Members with the opportunity to endorse and provide feedback on the workstreams the Committee intends to undertake, and any other areas

¹ ['The Rules of Procedure of the States of Deliberation and their Committees'](#)

they believe the Committee should consider, as it prepares for the 2025 General Election.

2 Introduction

2.1 The 2020 General Election took place on 7th October 2020, having been postponed from 17th June as a result of the COVID-19 pandemic. The next General Election is due to take place in June 2025. The Committee is responsible for advising the States and developing and implementing policies in relation to elections to the office of People's Deputy.

2.2 On 12th December 2019, further to consideration of the amended propositions to the Committee's policy letter entitled 'General Election 2020 – Second Policy Letter'², the States resolved as follows³:

"To agree that, in his post-implementation review of the 2020 General Election and Island-wide voting, the Registrar-General of Electors shall seek the views of:

- *Candidates in the General Election (elected and unelected);*
- *Members of the General Election programme board;*
- *Officers, parish representatives, and volunteers involved in the delivery of the General Election;*
- *Election service providers (e.g. communications, e-count solutions);*
- *The voting public; and*
- *Any other consultees which he considers appropriate;*

and to direct the States' Assembly & Constitution Committee to submit the Report of the Registrar-General of Electors, together with the Report of the Independent Election Observers, as an appendix to a Billet d'État as soon as possible, and no later than one year after the General Election."

Report of the Independent Election Observers

2.3 The Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted a virtual Election Expert Mission to the Guernsey General Election. The CPA BIMR Election Expert Mission Final Report entitled '[Guernsey General Election October 2020](#)'⁴ was published on 7th December 2020 and is attached as Appendix A. This will be referred to as the 'CPA Report' in this policy letter.

² States' Meeting 11th December, 2019: Billet d'Etat XXIV: [General Election 2020 – Second Policy Letter](#)

³ Resolution 11 was the result of an amendment ([P.2019/132 Amdt 5](#)) lodged on behalf of the Committee.

⁴ The [report and accompanying press release](#) are available to download from the Commonwealth Parliamentary Association UK website: www.uk-cpa.org

- 2.4 The CPA BIMR Election Expert Mission “*offers 12 recommendations in this report to enhance the conduct of elections in Guernsey and to bring it fully into line with international obligations and standards for democratic elections.*”

Report of the Registrar-General of Electors

- 2.5 The Committee received the report from the Registrar-General of Electors on 6th April 2021. This is attached as Appendix B and will be referred to in this policy letter as the ‘Registrar-General’s Report’. This report offers 10 recommendations.

Structure of the policy letter

- 2.6 This policy letter will consider both reports’ findings and recommendations by grouping subjects under relevant headings as set out in the following table. The recommendations of the CPA BIMR Election Expert Mission or the Registrar-General of Electors will be shown in the relevant section (as below).

	Section	CPA	RG of E
3	Independent oversight and administration of elections	R2	R1
4	The legal framework for elections	R1	R2
5	Complaints and appeals	R12	n/a
6	Voter registration	R3	n/a
7	Standing as a candidate	R4	n/a
8	Communication initiatives by the States of Guernsey	n/a	R3
9	Political parties	R5	n/a
10	Election expenditure	R5 & 6	R10
11	Voting: Postal voting, polling stations and i-voting	R7	R4,5 & 6
12	Vote Count and Recount	R8 & 9	R7,8 & 9
13	Participation in elections	R10 & 11	n/a

Submission of the proposition under Rule 17.(9)

- 2.7 Rule 17.(9) of ‘The Rules of Procedure of the States of Deliberation and their Committees’ reads as follows:

“Where a Committee originating a matter for debate before the States is of the opinion that the proposals it is submitting to the States are of general policy, and where it is desirable that the principles of that policy should be considered, the Committee may have its propositions considered by the States without amendment on the understanding that if the propositions are accepted the Committee would return with detailed proposals which could be accepted or rejected with or without amendments. Where a Committee invokes the provisions of this paragraph it shall make express reference to it in its propositions”.

- 2.8 The Committee is submitting the policy letter under this Rule as it believes it is premature to submit firm proposals in respect of the 2025 General Election until the reviews detailed in this report are undertaken. Submitting the policy letter and the reports in this manner provides Members with the opportunity to confirm it agrees with the Committee’s next steps and to provide feedback on any other areas they believe the Committee should consider.
- 2.9 It must be noted that whilst the Committee will undertake the reviews and workstreams set out in this policy letter, given the pressures on public finances and resources that the States will face this political term, any proposals to be considered by the Committee, and the States, will take into account the priorities of the States at that time and set out the financial implications of such proposals.

3 Independent oversight and administration of elections

CPA R2	A permanent dedicated elections body should be constituted so that institutional knowledge and expertise can be embedded in the Guernsey electoral system. This body could provide continuous electoral oversight, including oversight of candidate and voter registration, political parties and campaign finance.
RG R1	It is recommended that SACC should investigate the creation of an independent body to advise on and oversee future elections.

- 3.1 In the ‘General Election 2020’ policy letter⁵, the then Committee identified that ‘the development of a permanent, independent election administration body should be investigated after the 2020 General Election with a view to such a body being established for the 2024 General Election’⁶.
- 3.2 In reaching this conclusion, the then Committee had noted the Commonwealth Parliamentary Association report ‘Recommended Benchmarks for Democratic Legislatures’⁷ stated at point 1.1.5:

⁵ States’ Meeting 24th April, 2019: Billet d’Etat VII: [General Election 2020](#) (P.2019/22)

⁶ Appendix 1, Section 3(a): Independent oversight of Elections (pages 49 – 50).

⁷ CPA [Recommended Benchmarks for Democratic Legislatures](#)

“An independent Electoral Commission or similar authority shall be established for the management of the conduct of elections and its tasks shall include monitoring the election expenses of parliamentary candidates and political parties”.

and the Venice Commission’s ‘Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report’⁸ which stated that an impartial body must be in charge of applying electoral law.

- 3.3 The CPA report states that the International Covenant on Civil and Political Rights, which applies to Guernsey, has been interpreted as requiring that an independent electoral authority should be established to supervise the electoral process.
- 3.4 The UK Electoral Commission was established in 2001 and its establishment and general functions are set out in the [Political Parties, Elections and Referendums Act 2000](#).
- 3.5 The Committee agrees independent oversight of elections to the office of People’s Deputy is a key workstream to progress and will investigate the options for the creation of a permanent, independent election administration body.
- 3.6 The Committee will consider the type of body that might be appropriate for Guernsey, undertake consultation with existing stakeholders and consider whether there might be options for a pan-Island solution and consult with Jersey, Alderney and Sark accordingly. It will also research the practicalities, costs and timeframes for creating such a body.

4 The legal framework for elections

CPA R1	Greater codification of electoral rules and procedures, either via amending existing election law or via enacting a new omnibus election law, could be considered, in order to ensure that there is certainty and consistency in the law and that it applies equally to all concerned.
RG R2	It is recommended that SACC should review the Reform Law and other legislation relating to the holding of elections and, if it thinks fit, make suitable proposals for consideration by the States, for electoral reform by way of a standalone election Law that reflects modern election practices and is easily accessible.

- 4.1 [The Reform \(Guernsey\) Law, 1948, as amended](#) and [The Reform \(Amendment\) \(Guernsey\) Law, 1972](#) (‘the Reform Laws’) are the key items of legislation which

⁸ Venice Commission’s [‘Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report’](#)

underpin elections in Guernsey. Both items of primary legislation can be found on the Guernsey Legal Resources website⁹.

- 4.2 In advance of each General Election, a number of items of secondary legislation – in the form of Ordinances for approval and Statutory Instruments – are agreed covering matters such as the date of the General Election, electoral expenditure, hours and location of polling etc.
- 4.3 The CPA report confirms that Guernsey’s legal framework for the conduct of elections complies with local, regional and international standards for democratic elections. It states the rights of political participation are well protected, with both the right to vote and the right to stand for election particularly well established.
- 4.4 The CPA report notes that it is not considered good practice to amend electoral law so close to an election, quoting the Venice Commission’s recommendation that: “The fundamental elements of electoral law, in particular the electoral system proper [...] should not be open to amendment less than one year before an election”.
- 4.5 The referendum on Guernsey’s voting system took place in October 2018 and the General Election was scheduled to place in June 2020. Given the need to amend primary legislation as a result of the referendum to implement a new electoral system, and a number of items of secondary legislation, the above principle could not be met in the intervening period. The Committee will endeavour to ensure that any changes to electoral law will be submitted to the States to be in place at least one year ahead of the General Election i.e. before May 2024.
- 4.6 In the ‘General Election 2020’ policy letter¹⁰, the then Committee stated:
- “... after the 2020 Election, it would be timely for the Reform Law to be subject to a comprehensive review from the States’ Assembly & Constitution Committee, to incorporate lessons learnt from the 2020 Election and to review existing provisions against international best practice”.*
- 4.7 The Committee agrees a review of the Reform Laws, and other electoral legislation, is a key workstream to be progressed and that part of this review should consider whether existing legislation should be amended or whether standalone election legislation should be drafted.

⁹ www.guernseylegalresources.gg

¹⁰ Appendix 1, Section 3(b): Future Review of the Reform Law (pages 50-51).

5 Complaints and appeals

CPA R12	Consideration should be given to the introduction of a system of complaints and appeals for all stages of the electoral process. Detailed procedures should be set out regarding the authority responsible to receive and adjudicate upon disputes arising in relation to voter registration, candidate nomination, voting and counting and all other aspects of the electoral cycle. Fair procedures must apply to any such regulations, with clear deadlines providing for the submission of complaints, making appeals and delivery of decisions, as well as rules of standing to lodge complaints.
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- 5.1 The CPA report states there was little detail of any procedures, in electoral law in Guernsey, to facilitate the making of complaints and appeals during the electoral process. The Registrar-General's report does not contain a specific recommendation but highlights the issues caused by the absence of an independent person or body to whom various types of complaints around election matters can be addressed.
- 5.2 Whilst the Reform (Guernsey) Law, 1948 enables the States to make by Ordinance such provisions as they may see fit in respect of the making and determining of complaints in respect of elections, no such Ordinance has ever been made by the States.
- 5.3 The Committee agrees that a system of complaints and appeals is required. This will be considered when considering the options for an independent elections body and during the review of electoral legislation.

6 Voter registration

CPA R3	Formal processes of voter registration could be introduced as part of an ongoing rolling process of registration. Voter registration could be done as part of any annual engagement that residents have with the state, such as filing tax returns.
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- 6.1 For the last three General Elections, a new Electoral Roll has been established each time. This means voters have had to register to vote prior to each General Election and has required the States of Guernsey to extensively publicise the need to register.
- 6.2 Both reports note the gap between those who are registered to vote and those that could be entitled to vote, with only 62.8% of those estimated to be eligible to vote registered on the Electoral Roll.

- 6.3 In April 2019, the States agreed that measures should be taken as may be necessary to enable elections to take place on the basis of an Electoral Roll compiled from an automatically generated list of persons eligible to vote, further to the delivery of Phase 2 of the Rolling Electronic Census Project.
- 6.4 The workstream rests with the Committee *for* Home Affairs to progress. The Committee consulted with the Committee *for* Home Affairs to receive an update on the status of this workstream and its letter of response is attached at Appendix C. The recommendation in the CPA Report should therefore be addressed via an existing workstream, if the States prioritise and resource the workstream.

7 Standing as a candidate

CPA R4	Consider removing the provision in Article 8 of the Reform (Guernsey) Law, 1948, which disqualifies candidates who have been sentenced to imprisonment for a period of six months or more, from eligibility to become a People's Deputy.
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- 7.1 Article 8 of the Reform (Guernsey) Law, 1948 sets out the eligibility criteria to stand as candidate in the General Election. The CPA report notes the disqualification in Article 8 which prevents anyone from standing who, during the five years preceding the election, was sentenced for an offence in the UK, Channel Islands or Isle of Man for a period of six months or more. It advised that the exclusion of all those sentenced to imprisonment, without regard to the nature of the offence, is unreasonable.
- 7.2 In considering the above recommendation, the Committee noted that, prior to and after the General Election, a number of people – including members of the public and Deputies – suggested that candidates and/or elected Deputies should be required to undergo checks by the Disclosure and Barring Service (DBS). It is commonplace for a number of posts of employment to require a form of Disclosure as a condition of a person taking up a post and it has been questioned why such checks are not required of candidates and Deputies.
- 7.3 The Committee has committed to look at this matter as part of its review of election procedures in advance of the 2025 General Election. It will consult with the Law Officers, the Committee *for* Home Affairs and the Office of the Data Protection Authority, as well as looking at practice in other jurisdictions, and the potential benefits and disadvantages of such disclosures being a requirement for candidates and/or elected Deputies. As part of this workstream, it will also look at Recommendation 4 of the CPA Report.
- 7.4 In the Registrar-General's report, under 'voter feedback', the substantial number

of candidates who stood in the General Election was raised by several different groups. Suggestions were put forward on processes that could be put in place to ensure candidates were committed to standing e.g. through the introduction of candidate deposits or requiring additional people to nominate a candidate.

7.5 These two suggestions were considered in the ‘General Election 2020’ policy letter¹¹. The then Committee had unanimously agreed that it would not recommend candidate deposits for the same reasons set out in the Registrar-General’s report.

7.6 At that time, the Committee did not propose increasing the number of signatories to nominate a candidate. However, the Committee has considered the arguments put forward in 2.6 to 2.12 of Appendix 1 to that report and believes the matter should be revisited in light of experience of the 2020 General Election.

8 Communication initiatives by the States of Guernsey

RG R3	It is recommended that consideration be given by SACC to how more hustings-type events can be organised by the States and/or the parishes, also having regard to how the requirements of “special interest” groups can be factored into such hustings.
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8.1 The ‘General Election 2020 – Second Policy Letter’ contained a section entitled ‘Communication initiatives’. At section 9(c) it considered face to face engagement and commented as follows regarding hustings:

“9.10 Hustings have always been organised by the Parishes historically, not the States of Guernsey. In previous General Elections, district-based hustings have provided a useful means of providing two-way communication between the voter and the candidate, in seeing how candidates answer questions under pressure and to hear their views on various issues.

9.11 The Committee does not believe it is appropriate for the States of Guernsey to set-up a series of hustings, as it does not believe they would be equitable or useful for either the candidates or the voters. It may not be possible for hustings to be held in the same manner as previous Elections. It may be possible that candidates may organise their own hustings e.g. candidates grouping together to set out their views on certain policy areas in a hustings style setting”.

8.2 The CPA report noted that there was a strong tradition of public meetings in

¹¹ Appendix 1, Section 2(b) Nominations: number of signatories; 2(c) Candidate deposits (pages 47 – 49)

Guernsey that had somewhat changed with the arrival of Island-wide voting due to the logistical challenges of hosting 119 candidates. It noted that some public events were organised by several civil society groups.

- 8.3 The Registrar-General's report noted that whilst the 'meet the candidates' event was considered useful, a number of candidates would have liked to have seen more hustings-type events. Some candidates also commented that the hustings events organised by civil society groups, whilst useful, took up considerable time in preparation and attendance. The report suggests there could be more engagement with such groups ahead of the Election to have a more co-ordinated approach.
- 8.4 The Committee notes that a number of hustings-type events were organised by not only civil society groups but candidates themselves. In the question time that followed the General Update Statement¹² delivered by the Committee at the 24th February, 2021 States' Meeting, it was suggested that the Committee look to help co-ordinate 'lobby groups' and their engagement with candidates. It was also suggested that the Committee consider arranging hustings to ensure that every candidate had the opportunity to participate in such sessions.
- 8.5 Notwithstanding the comments of the former Committee regarding the practical difficulties in holding hustings under an Island-wide voting system, given the experience in 2020, the Committee will consider how hustings-type events can be organised, and will liaise with the parishes, civil society groups, members and the public as to how this could be facilitated for 2025.

9 Political parties

CPA R5	Political parties should be subject to oversight, and their finances should be evaluated on an annual basis...
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- 9.1 Three political parties were formally created in 2020 which nominated a number of candidates:

Register of Political Parties	Registered	Candidates	Elected
Alliance Party Guernsey	12.02.2020	11	0
The Guernsey Party	05.08.2020	9	6
The Guernsey Partnership of Independents	18.08.2020	21	10

- 9.2 The CPA report noted that beyond the legislation relating to registration, filing annual accounts and election expenditure, there is no further regulation of

¹² States Meeting on 24 February 2021: [Hansard Report – Wednesday 24th February 2021](#) (page 136)

political parties. It stated that whilst this had not hindered the conduct of the election, further legislative intervention may become necessary to govern the operation of parties in political life.

- 9.3 The Committee notes that the existence of political parties in Guernsey's political life is still very much in its infancy, with only two parties remaining after the 2020 General Election, and current Members of the two political parties make up 18% and 23% of the Assembly respectively¹³. The previous Committee had taken a 'light touch' approach to regulating political parties and it is suggested this is continued, with the Committee maintaining a watching brief of the operation of parties. The Committee will give consideration as to how political parties' finances can be evaluated in line with the CPA report recommendation.

10 Election expenditure

CPA R5	Political parties should be subject to oversight, and their finances should be evaluated on an annual basis. Individual candidates' pre-election fundraising and expenditure should also be assessed and recorded. Reporting should not be onerous but simply conducted by the production of evidence.
CPA R6	Boundaries of pre-election and annual expenditure should be clearly defined. The limitations of expenditure outside the formal period of nominated candidature could be within similar boundaries to those defined for the election period, except with no additional public subsidy.
RG R10	It is recommended that the Reform Law (or any successor) should make explicit the fact that parties' and candidates' individual expenditure returns may be published.

- 10.1 The Registrar-General's report summarises the electoral expenditure rules for candidates and political parties. As noted, it was the first election where campaign finance regulations for political parties had to be introduced.

- 10.2 As part of the review of electoral legislation, the wording of the legislation around election expenditure will be carefully considered. The Committee notes that there is a particular need to clarify the boundaries of pre-election and annual expenditure and will consider this as part of its review. Whilst guidance was produced on electoral expenditure for candidates and parties, it is clear the guidance needs further finesse on how the rules work in practice, based on experience.

- 10.3 In June 2020, the Committee on Standards in Public Life announced a review of

¹³ There are currently seven members of The Guernsey Party and nine Members of the Guernsey Partnership of Independents in the States of Deliberation.

electoral regulation in England. The independent Committee on Standards in Public Life advises the Prime Minister on arrangements for upholding ethical standards of conduct across public life in England.

- 10.4 The review¹⁴ intends to identify the principles and values that should underpin the regulation of donations and campaign expenditure by candidates, political parties and non-party campaigners in election and referendum campaigns. It will also examine the Electoral Commission's remit as a regulator of election finance and associated electoral law and examine the enforcement regime for election finance offences committed by candidates, parties and non-party campaigners.
- 10.5 The review commenced with a public consultation inviting views on the way donations and campaign expenditure by candidates, political parties and non-party campaigners in election and referendum campaigns are regulated and enforced by the Electoral Commission, the Crown Prosecution Service (CPS) and the Police.
- 10.6 The Committee on Standards in Public Life intends to report with any recommendations by June 2021. The Committee believes the findings and recommendations of this review may prove an invaluable resource in reviewing the regulation of finances relating to elections in Guernsey.
- 10.7 The Committee agrees that electoral legislation should explicitly state that parties' and candidates' expenditure may be published and this will need to be communicated to all potential candidates prior to the nominated period in future. This recommendation will form part of the changes suggested further to its review of the electoral legislation.

11 Voting: Postal voting and polling stations

(a) Postal voting

RG R4	It is recommended that SACC should consider moving the deadline for postal vote applications further from polling day.
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- 11.1 69% of those on the Electoral Roll opted to register for a postal vote, with approximately 75% of all votes cast being via postal vote. In light of this uptake, it is likely that postal voting will continue to be a popular option in future elections.
- 11.2 Whilst the issue and return of postal votes was generally successful, as acknowledged by the Registrar-General's report, some problems were

¹⁴ Committee on Standards in Public Life: [Review of electoral regulation - Terms of Reference](#)

encountered, most significantly the challenges in the issuing and return of voting packs to and from overseas voters. The Committee will therefore consider whether the deadline for applications should be brought forward as part of its review of electoral legislation.

(b) Polling stations

CPA R7	The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.
RG R5	It is recommended that the Reform Law (or any successor) should in future include provision for Deputy Polling Station Officers to be formally sworn in and given the authority to act across the full range of duties in the absence of a Polling Station Officer.
RG R6	It is recommended that SACC should consider consolidating the polling stations, with a view to reducing the number and/or opening hours of the Parish polling stations and increasing the number of super polling stations.

- 11.3 The Committee would like to place on record its thanks to all the Polling Station Officers and volunteers who manned the advance and parish polling stations. The support of the parishes and volunteers was invaluable in assisting the smooth running of the General Election.
- 11.4 The Registrar-General's report addressed the recommendation in the CPA Report, confirming that the recruitment process was open and publicly advertised. The Committee noted that some felt the training for polling station staff was unnecessary, however it supports training being provided to all polling station staff to ensure consistency in electoral administration.
- 11.5 Whilst postal voting proved a popular option with voters, 42% of all voters visited a polling station, with 25% of voters completing their ballot at a polling station and 17% of postal voters putting their postal votes directly into the ballot box. Voting at polling stations therefore remains a vital part of the election process.
- 11.6 The Committee agrees that there should be provision in the Law for Deputy Polling Station Officers to be sworn in to provide support to the Polling Station Officer and to provide resilience in the process. This recommendation will form part of the changes suggested further to its review of the electoral legislation.
- 11.7 When preparing for the 2020 General Election, the then Committee had acknowledged at the time that the polling station arrangements put in place (advance polling stations on the Saturday and Sunday immediately before the

Election, and two days of parish polling and ‘super’ polling stations) were likely ‘overcompensating’ for the logistical challenges Island-wide voting presented.

- 11.8 With the benefit of experience, and feedback from the parishes, it is clear that the number of polling stations could be reduced, and the number of ‘super’ polling stations could be increased. Further consultation will be undertaken with the parishes and the Registrar-General of Electors to identify an appropriate number of polling stations for future elections.

(c) i-voting

- 11.9 The ability to introduce i-voting was explored by the former Committee as stated in its ‘General Election 2020’ policy letter. I-voting can encompass voting from a personal computer to voting via an app on a mobile device. It could take place anywhere in the world and could largely replace the need for postal voting. Given the limited time available before the 2020 General Election, the Committee concluded that introducing i-voting for 2020 was not possible.
- 11.10 During the 2020 General Election, there was a desire expressed by some that i-voting should be introduced in Guernsey. The Committee will consider the feasibility of introducing i-voting for a future Election looking at the opportunities and challenges of such an option.

12 Vote count and Recount

(a) Vote count

CPA R8	The number of ballot papers cast should be verified at the start of the vote count. Adding an additional verification step should also be explored, namely the verification of the total number of votes cast.
CPA R9	A rigorous countback audit process should be put in place, so that an original ballot paper that is ‘transposed’ can be checked against the newly transposed ballot paper that is used to replace it.
RG R7	It is recommended that SACC should give consideration to amending the Reform Law (or any successor Law) to ensure that it is possible for Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of the Central Returning Officer’s duties in his/her absence.

- 12.1 The votes at the 2020 General Election were counted using electronic counting equipment, a first for Guernsey. Whilst the technology worked well, as detailed in the Registrar-General’s report, administrative issues arose which caused delays in the votes being counted. The Election Project Board have noted these

issues, along with the findings and recommendations in the CPA Report, and will look to ensure comprehensive processes are put in place to avoid a reoccurrence of these issues.

- 12.2 The Committee would like to place on record its thanks to the Central Returning Officer who excelled in their performance of their role. The Committee agrees that the role would benefit from additional support from Deputy Central Returning Officers to assist in running the vote count and dealing with returns of expenditure. This recommendation will form part of the changes suggested further to its review of the electoral legislation.

(b) Recount

RG R8	It is recommended that SACC should consider the margin of votes required to trigger a recount after a General Election and, if appropriate, make recommendations for amendments to the Reform Law (or any successor) to reduce the that margin.
RG R9	It is recommended that the Reform Law (or any successor) should, in future, provide for the possibility of an electronic recount and, accordingly, afford the Bailiff more discretion over the exact requirements for a recount.

- 12.3 Whilst the CPA Report did not make a specific recommendation in relation to the margin of votes required to trigger a recount, it highlighted it was ‘a generous margin’ which election authorities may wish to re-evaluate. Noting that in the 2020 General Election, a candidate with nearly 500 votes below the last successful candidate could request a recount, the Committee agrees that the margin should be reviewed, and will consider the CPA report’s suggestion that:

“It might be more practical if the margin of difference between the candidate placed 38th and those below him/her would relate to a percentage of the difference between these contestants in the number of votes cast, rather than a percentage of the total number of ballots issued”.

- 12.4 Electronic counting equipment will be used again in future General Elections and the relevant provisions of electoral legislation will be reviewed to ensure that it accommodates such a count, in particular offering flexibility in how a recount can be undertaken, in line with the recommendation of the Registrar-General.

13 Participation in elections

CPA R10	Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey should be pursued without delay. This will entail enactment of legislation to enable fulfilment of convention obligations in advance of the extension.
CPA R11	Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities should be pursued without delay. This will entail enactment of equality legislation to enable fulfilment of convention obligations in advance of the extension.

13.1 The Extension of Articles of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey and the Convention on the Rights of Persons with Disabilities fall within the mandate of the Committee *for* Employment & Social Security. The Committee consulted with the Committee *for* Employment & Social Security on the comments and recommendations in the CPA Report and its letter of response is attached at Appendix D.

13.2 The Committee notes that whilst the Committee *for* Employment & Social Security supports the extension of these Conventions to Guernsey at the earliest opportunity, it would not be possible to select only specific Articles for extension. It further notes that its comments that:

“...even if Guernsey meets the requirements of the priority Articles identified by the CPA BIMR Election Expert Mission, it would not be possible to seek to extend these Articles to Guernsey until we meet the pre-requisites set out above, which may or may not be relevant to those specific Articles.

Of course, the fact that the UK’s ratification of these Conventions has not yet been extended to Guernsey is no barrier to the States of Guernsey working towards the implementation of the measures outlined in Articles 4 and 7 of CEDAW and Articles 21 and 29 of CRPD”.

13.3 The Committee will undertake consultation with relevant stakeholders in order to identify, and consider how the States of Guernsey can work towards the implementation of, suitable measures for Guernsey as outlined in the aforementioned articles as part of its preparations for the 2025 General Election.

13.4 The Registrar-General’s report details the considerable effort that was made to ensure that candidates and potential candidates had access to information that would help them to understand the election process as well as gain insight into the role of a Deputy.

13.5 In a bid to reduce the barriers to people standing, the States funded and

organised the following which was available to all candidates:

- Comprehensive guidance published in advance of the Election and presentations for prospective candidates.
- A grant of £500 for each candidate.
- The ability to include a manifesto (two sides of A4 sized paper) in a candidate manifesto booklet, produced by the States of Guernsey and delivered to all homes on the Electoral Roll and published online on the election's website.
- A free dedicated web page on each candidate.
- The production of a short video promoting their candidacy published on the website.
- An event organised to facilitate voters meeting candidates at Beau Sejour.

13.6 Whilst acknowledging the improvements made to the support for candidates in advance of the 2020 General Election, the Committee is keen that work is undertaken providing information to the public about the work of Deputies and the work of the States, to demystify what being a Deputy entails in reality, for both the public and potential candidates. This will be aimed at all sectors of society but will look at some of the perceived barriers that may exist for those currently underrepresented in the States e.g. women, persons with disabilities etc.

13.7 The Committee will be working with Members, organisations and the public to ascertain what information should be produced and will be working with the Parliamentary Team to ensure this is provided as part of its outreach work. It will also seek to provide information on the General Election well in advance of it taking place (rather than just in the months immediately prior to the Election) to assist individuals who might consider standing.

14 Conclusion

14.1 As confirmed by the CPA BIMR Election Expert Mission, the 2020 General Election was a successful democratic exercise and Guernsey's legal framework for elections complies with international standards for democratic elections. The report from the Registrar-General of Electors shows that the criteria to measure the success of the 2020 General Election, set by the former Committee and the Committee *for* Home Affairs were largely met.

14.2 The only criteria that was not fully met was "A high percentage of those eligible to vote are registered on the Electoral Roll". Whilst acknowledging that those registered on the Electoral Roll exceeded 2016 figures, with only 62% of those eligible to vote registering on the Electoral Roll, it is noted that this cannot be claimed to be a high percentage. However, the workstream under the Committee *for* Home Affairs should resolve this, if the States prioritise and

resource the workstream.

14.3 The introduction of a new electoral system and its practical implementation was always expected to raise matters that would need to be reviewed. Both reports put forward constructive recommendations to assist the Committee in preparing for the next General Election and have helped to assist in identifying key areas for review by the Committee.

14.4 As set out in the policy letter, the key areas for further work, arising from consideration of the appended reports, can be summarised as follows:

- a) investigate the creation of a dedicated, independent elections body for future elections;
- b) review the Reform Laws and other relevant legislation underpinning General Elections, including:
 - i. increasing the number of signatories on the nomination form.
 - ii. introducing provisions requiring the publication of candidates and parties' election expenditure.
 - iii. reviewing the deadline for postal vote applications.
 - iv. introducing Deputy Polling Station Officers and Deputy Central Returning Officers to support election administration.
 - v. reviewing provisions relating to the vote count and recount to ensure they meet the requirements of an electronic vote count and recount.
 - vi. reviewing the margin required to trigger a re-count;
- c) introduce proposals for a system of complaints and appeals for future elections;
- d) investigate the merits of introducing disclosures by candidates/and or Deputies and consider the disqualification provision at Article 8(e) of the Reform Law;
- e) review the regulation of election finance, considering the findings of the Committee on Standards in Public Life review of electoral regulation in England;
- f) review communication initiatives including the feasibility of the States of Guernsey co-ordinating 'hustings-type' meetings;
- g) research the feasibility of introducing i-voting for a future election;
- h) undertake consultation with relevant stakeholders in order to identify, and consider how the States of Guernsey can work towards the implementation

of, suitable measures for Guernsey as outlined in Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey and Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities; and

- i) increasing the information provided regarding the role of a States' Member, the States of Guernsey and the election process by the end of 2023.

14.5 There will be other areas that the Committee will consider when undertaking its review of the General Election before reporting back to the States with proposals. The Election Project Board will also consider how improvements can be made to the administration of the electoral procedures.

15 Compliance with Rule 4

15.1 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.

15.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

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

15.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee in relation to elections to the office of People's Deputy.

15.5 Also, in accordance with Rule 4(5), the Committee consulted with the Committee *for* Home Affairs and the Committee *for* Social Security.

Yours faithfully

Deputy C.P. Meerveld
President

Deputy L.C. Queripel
Vice-President

Deputy S.P. Fairclough
Deputy J.A.B. Gollop
Deputy L.J. McKenna



GUERNSEY GENERAL ELECTION

OCTOBER 2020

CPA BIMR ELECTION EXPERT MISSION FINAL REPORT



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EXECUTIVE SUMMARY

"This was an election of firsts. The first time election observers were invited by Guernsey; the first use of a new electoral system; the first inclusion of advance polling days; and, on top of all this, the first election to be conducted during a global pandemic.

The Guernsey Election was a successful democratic exercise. Guernsey's legal framework for elections complies with international standards for democratic elections. The introduction of new island-wide voting has led to some challenges. Many of these were effectively dealt with while others still remain as outlined in our report."

Jim Wells MLA, Head of Mission

The Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted a virtual Election Expert Mission to the Guernsey General Election in October 2020. This was the first time that international election observers had been invited by the States of Guernsey. Due to the Covid-19 pandemic, research was carried out online, and interviews with a wide range of stakeholders were conducted using digital meeting platforms.

Guernsey's legal framework that provides for the conduct of elections complies with local, regional and international standards for democratic elections. The right to vote is well protected, including the voting rights of prisoners. The right to stand for election is also well protected, except for anyone who, during the five years preceding the election, was sentenced to imprisonment for a period of six months or more by a court in the UK, the Channel Islands or the Isle of Man.

Election administration in Guernsey is not a permanent aspect of the governmental infrastructure, which caused pressure on the elections team in the lead up to the election. Voter registration in Guernsey is voluntary, and an extensive media campaign took place in the lead up to the election to encourage eligible voters to register, which was temporarily interrupted due to the outbreak of COVID-19.

A record total of 119 candidates were nominated for this election. This offered voters an unprecedented level of choice, while it also required them to read a broad range of manifestos. In the lead up to the election, three new political parties were registered and presented candidates, a total of 41 between the three of them.

This election saw a variety of new measures being introduced, including new campaign finance regulations for political parties, advance polling days, and new vote count technology. Voting took a significantly different form compared to previous elections, as some two-thirds of the registered electorate registered for a postal vote.

There is an absence of equality law and of any special measures to promote the increased participation of women in political life in Guernsey. The political participation right of persons with disabilities is protected by the legal regime, and commendable efforts were made by the elections team to ensure access to polling stations for persons with physical disabilities.

The CPA BIMR Election Expert Mission offers 12 recommendations in this report to enhance the conduct of elections in Guernsey and to bring it fully into line with international obligations and standards for democratic elections.

INTRODUCTION TO THE MISSION

At the invitation of the Guernsey States' Assembly & Constitution Committee (SACC), the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted a virtual Election Expert Mission (EEM) to the Guernsey General Election in October 2020. The SACC's invitation followed consultation with the Policy & Resources Committee and agreement by the States of Deliberation. This was the first time that CPA BIMR had been invited to observe elections in Guernsey.

The Mission was composed of:

- Jim Wells MLA – Head of Mission (Northern Ireland)
- Anne Marlborough – Legal/Political Analyst (Ireland)
- John Ault – Electoral/Campaign Analyst (UK)
- Fleur ten Hacken – CPA BIMR Election Coordinator (The Netherlands)
- Jessica Onion – CPA BIMR Election Administrator (UK)

The Mission held virtual meetings between 28 September and 9 October. The Mission was guided by the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers.

The Mission conducted an independent assessment of the Guernsey election against international legal standards, commitments and obligations as well as domestic laws. Its assessment considered the legal framework, election administration, political campaign, media, and opportunities for complaints and appeals. In addition, the Mission considered a number of wider issues such as gender equality and participation of persons with a disability. The Mission met key stakeholders, including the Bailiff, the Chief Minister, HM Procureur and HM Comptroller, the Chief Officer of the Guernsey Police, the Registrar-General of Electors, election officials, candidates, political parties, civil society groups, media outlets and voters.



The CPA BIMR Team of international observers

Election observers were introduced into the law of Guernsey for the first time in anticipation of this election. Article 72B was added to the Reform (Guernsey) Law, 1948, which enables the States' Assembly & Constitution Committee, after consultation with the Policy & Resources Committee, to appoint observers. Such observers will have the right to receive a copy of the Electoral Roll, to be present at any polling station, and to be present during the counting of votes.

An invitation was accepted by CPA BIMR to observe this election. Due to the COVID-19 pandemic, the Mission was originally planned to be delivered as a hybrid mission. The observers would conduct virtual meetings with stakeholders and visit Guernsey for a limited period of time to conduct in person observations of Advance Voting, Election Day and the Vote Count in Guernsey. In consultation with Public Health Guernsey, the observers were granted Critical Worker Travel Permits and had agreed to adhere to strict regulations, including daily COVID-19 testing, while in Guernsey.

Shortly before departure to Guernsey, the Mission was informed that there was increased concern in Guernsey around interacting with observers visiting from abroad due to the risk of COVID-19. Consequently, restrictions were proposed on the observers' access to polling stations, which led to the abandonment of plans to observe the election in person. In close consultation with the Registrar-General of Electors, the decision was taken to continue the Mission virtually. CPA BIMR had prior experience with this innovative adaptation of election observation methodology, as it had carried out a successful virtual Election Expert Mission to the Anguilla General Election in June 2020.

The Mission acknowledges its limitations, in particular the inability of members to visit the island in person and to observe the proceedings on Advance Polling Day, Election Day and the Vote Count. Despite this, the Mission has striven to look at the wider electoral process to the best of its abilities.

This report will offer a number of recommendations which it is hoped will be given due consideration by all the election stakeholders, particularly the States of Guernsey, for the improvement of future elections in Guernsey.

BACKGROUND & ELECTORAL SYSTEM

The "Bailiwick of Guernsey" is one of three British Crown Dependencies and is located in the English Channel, off the coast of France. The Bailiwick of Guernsey consists of three separate sub-jurisdictions, namely Guernsey, Alderney and Sark.

Guernsey is an island of 24 square miles and has a population of around 63,000.¹ Guernsey is administered by the States of Guernsey. Its assembly is the States of Deliberation, which comprises of 38 elected People's Deputies and two representatives of the States of Alderney who are elected separately in Alderney. The Election Expert Mission's mandate covers the election of the 38 deputies in the October 2020 General Election. This was the first time that deputies were elected via a First-Past-The-Post system on an island-wide basis.

The States of Deliberation acts as the overarching executive and legislative assembly with the power to raise taxation and determine expenditure. The States of Deliberation meets every month, except in school holidays, to discuss and debate reports, draft legislation and other matters.

The States of Deliberation has three unelected ex-officio members. The Bailiff of Guernsey is a member and presides over the States. The Bailiff is unelected and non-political, and also serves as the Chief Justice of Guernsey. Both Her Majesty's Procureur (Attorney-General) and Her Majesty's Comptroller (Solicitor General) also sit ex-officio.

¹ States of Guernsey website, available on: www.gov.gg/population

COVID-19 PANDEMIC

The COVID-19 pandemic, inevitably, had an impact upon the electoral process in Guernsey. The election was initially due to take place on 17 June 2020, but in April 2020 it was postponed by a year until June 2021. However, Guernsey's policies to stop the outbreak of COVID-19 worked well, and life in Guernsey returned to normal earlier than expected. Therefore, after several weeks, some Members of the States started lobbying for the election to take place later in 2020. This would mean the delay of the election by an entire year, which had been criticised by some sitting deputies and members of the public, would be shortened to a few months. Eventually, a decision was taken by the States of Deliberation on 1 July 2020 that the election would take place on 7 October 2020.

LEGAL FRAMEWORK

The fundamental law of Guernsey governing elections is found in the Reform (Guernsey) Law, 1948. This law establishes the overarching system of government and the electoral system, including provisions on the right to vote and the right to stand for election. Amended frequently since 1948, the most recent amendments have their origins in a referendum conducted in 2018² which mandated revision of the electoral system. The Reform (Guernsey) (Amendment) (No.2) Law, 2019 gave effect to the changes arising from the decision taken in the referendum. The Reform (Guernsey) (Amendment) (No.2) Law, 2019 (Commencement) (Ordinance), 2020 brought this law into force on 22 April 2020.

This was just short of six months in advance of the election date, offering minimal time for the legal changes to be put into effect. It is usually not considered good practice to amend electoral law so close to an election. The Venice Commission³ recommends that "the fundamental elements of electoral law, in particular the electoral system proper [...] should not be open to amendment less than one year before an election".

Subsidiary legislation, in the form of ordinances and regulations, provides detail on some aspects of the electoral process, including on the registration of political parties, electoral expenditure by candidates, postal voting and the location and timing of polling. Rules on other aspects of the electoral process are dispersed across other pieces of legislation including, for example, the Land Planning and Development (Exemptions) Ordinance, 2007, which provides for an exemption from planning restrictions on the erection of election signs. Some matters are largely unregulated, such as procedures for complaints and appeals relating to voter registration and candidate nomination. Other aspects of the electoral process are governed by customary law and practice, resulting in a lack of certainty in the absence of clear written rules.

International human rights law creates obligations in relation to the conduct of elections in Guernsey. While Guernsey is a British Crown Dependency, international instruments applicable to the UK are not directly applicable in Guernsey⁴ but must rather be extended on an individual basis. Several of the main international instruments pertinent to democratic elections have been

² Conducted on 10/10/2018, five options were given to voters who chose Option A, to have a single island-wide election for 38 deputies to the States of Determination, with a four-year term in office.

³ European Commission for Democracy through Law (Venice Commission) [Opinion No. 190/2002 CDL-AD\(2002\)023rev2-cor](#) (2002) Paragraph II.2 Regulatory levels and stability of electoral law.

⁴ UN ICCPR Committee (2015) [CCPR/C/GBR/CO/7](#), in reviewing UK record, noted with concern that the human rights instrument applicable to the UK was not directly applicable to Crown Dependencies

extended to Guernsey.⁵ These include the International Covenant on Civil and Political Rights and the International Convention on the Elimination of Racial Discrimination. The Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities have not yet been extended to Guernsey. The relatively recent 2017 UK national report⁶ under the Universal Periodic Review of the UN Human Rights Council stated that work is underway on a broad equality and human rights programme in Guernsey, including on disability and inclusion.

The European Convention on Human Rights applies to Guernsey and has been given domestic effect in the Human Rights (Bailiwick of Guernsey) Law, 2000, which came into force in 2006. This legislation is binding upon public authorities and enforceable in the local courts. A broad swathe of political rights is protected in the Human Rights Law.

Guernsey's legal framework that provides for the conduct of elections complies with local, regional and international standards for democratic elections. Rights of political participation are well protected, with both the right to vote and the right to stand for election particularly well established. The Human Rights (Bailiwick of Guernsey) Law, 2000, and the access to the local courts to vindicate the rights comprised therein, is significant.

Recommendation 1: Greater codification of electoral rules and procedures, either via amending existing election law or via enacting a new omnibus election law, could be considered, in order to ensure that there is certainty and consistency in the law and that it applies equally to all concerned.

BOUNDARY DELIMITATION

Previously, the States deputies were elected in seven multi-member constituencies, called districts (Castel, St Peter Port North, St Peter Port South, St Sampson, South East, Vale and West). These districts elected between five and six deputies, depending on the population of each district. In previous elections, all candidates were independent. However, there was frustration on the island that voters could only vote for a limited number of candidates in their district. There was a call for change by supporters of island-wide votes.

Following considerable discussion in Guernsey, a multi-option referendum was conducted on 10th October 2018 which offered voters the opportunity to vote on the future structure of the electoral system. The States had agreed to adopt the outcome of the referendum if 40% of people on the electoral roll cast their ballot. The referendum was decided on via preferential and transferable voting, with voters ranking up to five options in order of preference. The details of the referendum were set out in The Electoral System Referendum (Guernsey) Law, 2018.⁷ These options were either:

- Option A, one 38-member constituency covering the whole island. Deputies would serve four-year terms;

⁵ [UN HRI/CORE/GBR/2014 Common core document](#) forming part of the reports of States parties: UK, has an extensive commentary on & catalogue of human rights instruments relevant to Guernsey

⁶ [UPR National Report of the UK, British Overseas Territories and Crown Dependencies](#) (2017)

⁷ Available on: <http://www.guernseylegalresources.gg/article/165225/Electoral-System-Referendum-Guernsey-Law-2018>

- Option B, seven districts with five or six seats. Deputies would serve four-year terms. This option was essentially the status quo;
- Option C, seven district constituencies with three, four or five seats, and one 10-member constituency covering the whole island. Voters would vote in one district constituency and the whole-island constituency. Deputies would serve four-year terms;
- Option D, four constituencies with 9, 10 or 11 seats. Deputies would serve four-year terms;
- or Option E, a single island-wide 38-member constituency with one-third of the members (12 or 13) elected every two years for a six-year term.⁸

Option A, which proposed island-wide voting, secured the greatest number of votes in the final round of counting, having received 52.48% of the votes ahead of Option C which received 47.52%. Option B came third in the referendum. The turnout was 45.1%, which meant that the referendum result was adopted.

Thus, the 2020 election saw the institution of a novel format for all stakeholders to deal with the election of States deputies. Deputies were elected in a single island-wide district for the first time. Voters had 38 votes and were able to choose from the full list of candidates. Deputies were elected to serve for a term of 4 years.⁹ The formation of political parties was provided for by law, and three parties were registered to participate in the election.

The institution of island-wide voting had the effect of creating several outcomes that perhaps had not been entirely predicted before the election, such as a complex ballot paper and a significantly elongated counting process requiring the use of ballot scanning and electronic tabulation.¹⁰

ELECTION ADMINISTRATION

Election administration in Guernsey is not a permanent aspect of the governmental infrastructure. The staff are drawn from other parts of the civil service, including the Registrar-General of Electors who maintains electoral registration. The elections team seems to have general respect among stakeholders for carrying out its activities in an independent and impartial manner and for its readiness to provide information to voters and candidates. Nonetheless, the International Covenant on Civil and Political Rights, which applies to Guernsey, has been interpreted as requiring that an independent electoral authority should be established to supervise the electoral process.¹¹

The elections team is responsible for the planning and implementation of all aspects of the election process from publicity to polling day and from staff recruitment to engaging technology to conduct the counting process. The work is extremely demanding, with fixed deadlines and limited resourcing. The staff are to be commended for their work in achieving an effective election operation and polling day.

⁸ States of Guernsey website, available on: www.gov.gg/referendum

⁹ Due to the change in election dates due to COVID-19, the States agreed that the next election should be held in June 2025. Effectively, the deputies will therefore serve a term of 4 years, 8 months and 14 days.

¹⁰ Island-wide voting had previously been used to elect a smaller number of Conseillers for the island.

¹¹ UN Committee on Human Rights (27 Aug 1996) [General Comment 25 "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service," 1510th meeting \(fiftyseventh session\)](#)

The Mission was told that nearly all arrangements for the June 2020 General Election were in place in early March, and that postponing the election to October meant a number of changes were needed, including adapting the recruitment of volunteers, amending the www.election2020.gg website, reorganising services being offered by third parties (in particular the production of ballot papers and the provision of electronic ballot scanners), reorganising training sessions, rewriting guidance and introducing contingency plans to cover all eventualities should the island move backwards in relation to COVID-19.

The restrictions imposed by the States of Guernsey to combat the spread of COVID-19 interrupted the election preparations for several months. Public outreach activities resumed once restrictions were lifted. The election administration should be commended for producing engaging public service announcements and making these available to the public on online platforms. This election took place in a context of extraordinarily challenging barriers, but the elections team still managed to deliver an effective election.

Recommendation 2: A permanent dedicated elections body should be constituted so that institutional knowledge and expertise can be embedded in the Guernsey electoral system. This body could provide continuous electoral oversight, including oversight of candidate and voter registration, political parties and campaign finance.

THE RIGHT TO VOTE

The right to vote is well protected in the law of Guernsey. Article 27 of the Reform (Guernsey) Law, 1948, sets out the qualifications to vote. Any resident on the island may apply to be included in the Electoral Roll, without any criteria as to nationality or citizenship. The only requirement is that a voter be “ordinarily resident”, which is defined as meaning that someone is living lawfully, and has a home, in Guernsey. One may be ordinarily resident without a fixed or permanent address.

In addition to being ordinarily resident when applying for inscription in the Electoral Roll, the intending voter must have been ordinarily resident for a period of at least two years immediately prior to the date of registration, or else for a period or periods of five years in total at any time prior to this. Persons aged 16 and above may vote, but they may be included in the Electoral Roll from the age of 15. Article 30 of the Reform (Guernsey) Law, 1948, provides that voting is by secret ballot.

The voting rights of prisoners are protected in the Reform (Guernsey) Law, 1948, in Article 27A. Two possibilities are available, in that prisoners may register for a postal vote or may vote in person, at the discretion of the Prison Governor. Postal voting has been available to all absent voters since 1972. Advance voting was provided for the first time in this election.



Polling stations

VOTER REGISTRATION

Voter registration in Guernsey is voluntary. There is no requirement for residents to be on the register. The Electoral Roll opened in December 2019 and was subject to an extensive media campaign. As a result of the outbreak of COVID-19 in March 2020, outreach initiatives had to be scaled back and reconsidered in light of the uncertain situation the island found itself in.

It was originally decided to delay the election from June 2020 to the same time in 2021. However, following the decision of the States of Guernsey to proceed with the election in October 2020, the election team campaigned extensively from 1st July onwards to encourage voters to register, with an extensive multi-channel approach, from radio, television, door drops, bus advertising and social media to more traditional methods.

The voting age in Guernsey is 16. In order to vote residents should have been registered by 21st August. The Election Expert Mission was informed that when the Electoral Roll closed at midnight on Friday 21st August, 31,301 voters had registered to vote. The population of Guernsey was 63,021 at the end of December 2019.¹² This number includes residents of Alderney and Sark (approximately 2,500), as well as people under the age of 16, neither of whom are eligible to vote in this election. An estimated 79% of people were eligible to vote (49,807).¹³ Of these estimated eligible voters, only 62.8% were registered on the electoral roll. So, although the number of registered voters was higher than in the past two General Elections in 2012 and 2016, there is still a significant gap between those who are registered to vote and those that could be entitled to vote. And even though this election saw a record voter turnout of registered voters (79%), only an estimated 49.6% of eligible voters voted in this election.

Voter registration is conducted on an ad hoc basis in the lead up to a General Election, and there is no rolling register of electors throughout the years in which no election is being held. This means the election team conducts voter registration campaigns, while having to organise all other aspects of the election simultaneously. The electoral roll is available for public inspection on an annual basis in March. However, access to the roll ahead of the election, as amended since March, was unclear.

Recommendation 3: Formal processes of voter registration could be introduced as part of an ongoing rolling process of registration. Voter registration could be done as part of any annual engagement that residents have with the state, such as filing tax returns.

THE RIGHT TO STAND FOR ELECTION

The right to stand for election is set out in Article 8 of the Reform (Guernsey) Law, 1948. This requires only that a candidate be of full age, which is 18 years of age, and be ordinarily resident on the island on the date of nomination. A candidate must have been ordinarily resident in the island for either a period of two years immediately before the date of nomination, or for a period or periods of at least five years in total at any time prior to nomination. The candidate must also be a registered voter, a qualification which was introduced in advance of this election.

¹² States of Guernsey (29 Oct 2020) 'Guernsey Quarterly Population, Employment and Earnings Bulletin', p.9, available on: <https://www.gov.gg/CHttpHandler.ashx?id=132534&p=0>

¹³ Ibid

Nomination requires the support in writing of two voters who are on the Electoral Roll. No deposit or fee is payable. The nominee must submit a declaration of eligibility to hold the office of People's Deputy. The person must also declare any unspent convictions which resulted in imprisonment anywhere in the world, or else the absence of such convictions.

There is a disqualification in Article 8 which excludes anyone who, during the five years preceding the election, was sentenced to imprisonment for a period of six months or more by a court in the UK, the Channel Islands or the Isle of Man. The International Covenant on Civil and Political Rights, applicable to Guernsey, provides, in Article 25, that citizens shall have the right and opportunity to take part in the conduct of public affairs. This has been interpreted to mean that the right to stand for election may be suspended or excluded only on grounds which are "objective and reasonable".¹⁴ It is arguable that the exclusion of all those sentenced to imprisonment, without regard to the nature of the offence, is unreasonable.

Recommendation 4: Consider removing the provision in Article 8 of the Reform (Guernsey) Law, 1948, which disqualifies voters who have been sentenced to imprisonment for a period of six months or more, from eligibility to become a People's Deputy.

CANDIDATE REGISTRATION

A record total of 119 candidates were nominated for this election. This offered voters an unprecedented level of choice, while it also required them to read a broad range of manifestos. Although the vast majority of candidates stood as independents, three political parties were registered and nominated candidates, a total of 41 between the three of them. These were:

- the Alliance Party, registered in February 2020, which nominated eleven candidates, two of whom were women;
- the Guernsey Party, registered in August 2020, which nominated nine candidates, including one woman;
- and the Guernsey Partnership of Independents, also registered in August 2020, which nominated 21 candidates, nine of whom were women.

Political parties are narrowly defined in the Reform (Guernsey) Law, 1948, which provides that a political party is "a free association of persons, one of the aims of which is to participate in the management of public affairs, including through the presentation of candidates to free and democratic elections." Applications for registration are made to the States' Greffier, who maintains a register of political parties. Registration depends upon a party having certain office holders, a constitution, and submission of an application signed by two party members who are registered voters, and payment of a fee of £80.¹⁵ Parties will be registered on satisfaction of these requirements, unless the name or emblem of the party is offensive or confusing.

In addition to rules on registration, political parties also have obligations to file annual accounts with the Greffier. They must also comply with the rules on election expenditure, set out in Article 45 of the Reform (Guernsey) Law, 1948, and the Electoral Expenditure Ordinance, 2020. Beyond

¹⁴ UN Committee on Human Rights (27 August 1996) [General Comment 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service \(Art. 25\)](#), paragraph 4.

¹⁵ [The Registration of Political Parties \(Fees\) Regulation, 2020](#)

these rules, there is no further regulation of political parties. While this has not hindered the conduct of the election, further legislative intervention may become necessary to govern the operation of parties in political life.

ELECTION CAMPAIGN

Not visiting the island has considerably restricted the Mission's ability to analyse the nature of the campaign in Guernsey, but aspects have been possible to assess through evidence gathered from online and social media, as well as through interlocutor meetings.

The election campaign appears to have been extremely competitive, with a large number of candidates, 119, seeking one of the 38 seats available. Independent candidates and political parties campaigned freely and peacefully, with no reports of impediments to campaign activities. The creation of party politics saw 41 candidates stand for one of the three political parties, while the remaining 78 candidates fought as independents.

There is a strong tradition of public meetings in Guernsey. This has somewhat changed with the arrival of island-wide voting due to the logistical challenges of hosting 119 candidates. Previously, these events were based in the local constituencies with a more manageable number of candidates in attendance. However, some public events were organised by several civil society groups. These include: the Guernsey Disability Alliance; Standing up for Guernsey's Environment; Life in Guernsey 2020 Work, Rights and Wellbeing Hustings; Guernsey Churches Convention for Candidates; Guernsey Institute Stakeholder event for candidates; Grammar School Meet the Candidates, and the Royal College of Nursing Hustings.

Campaigning has been different in this election, with some candidates campaigning on their own and others through one of the three parties. The introduction of parties was a focus point in the campaign of many candidates.

Candidates issued literature of their own, and posters were displayed. Whilst canvassing was once seen as the norm in smaller district constituencies, the practical limitations of candidates visiting every registered elector meant that in-person meetings and campaigning have been less frequent than in previous elections.

CAMPAIGN FINANCE

In a small jurisdiction like Guernsey, access to candidature is relatively open and the issues of campaign finance were not raised to any great extent with the Election Expert Mission. However, because of the significant change in boundary delimitation that took place for this election, moving from local smaller constituencies to an island-wide system, there are possible challenges to future potential candidates accessing the process.

Each nominated candidate received some support for their candidature from the States of Guernsey. Support took the form of:

- A candidate manifesto booklet containing a maximum of two sides of A4 sized paper per candidate, produced by the States of Guernsey and delivered to all homes on the Electoral Roll.
- A grant of £500 for each candidate.

- A free dedicated web page consistent with the manifesto booklet for each candidate.
- An event organised to facilitate voters meeting candidates. Each candidate was given an allocated table and chairs in a large sports hall. Arranged alphabetically they were either grouped by political party, or individually. Members of the public were encouraged to meet each candidate as desired. Whilst not a financial benefit there is an implicit 'in kind' financial element to this event.

There is no nomination fee or deposit required to stand for election, which facilitates ease of access to participate in the election. Campaign finance regulations for political parties were introduced for the first time this election. The regulations stated that the candidate expenditure limit would be £6,000 (including the generous £500 state support) and that the expenditure by a political party was only permissible by virtue of candidates affiliated to that party assigning a maximum of 50% of their permitted electoral expenditure to the party, and that such expenditure by a political party in any election may not exceed in total twice the permissible electoral expenditure for an individual candidate or £9,000, whichever is the lesser.¹⁶

The appearance of three registered parties in this election was a matter of considerable discussion. The nature of the parties' appearance in the election meant that their capacity to campaign, share finance and collaborate in saving on costs of their campaigns made them potentially better resourced than their independent opponents.

Some consideration should be given to the so-called pre-election period. Whilst election expenses are defined and limited for the period when the election campaign is 'live' and candidates have been nominated, no such limitations or reporting requirements exist for the period before an election, when a candidate or party has indicated its intent to contest an election. This period could potentially see high levels of spending by election campaigners without any oversight or limitation. With the advent of parties in the Guernsey context this may become an area of concern where parties exist and function throughout the period of a session of the States of Deliberation but there is limited oversight of their funding, finances or campaign expenditure except to make an annual declaration of their accounts to the nominated officer – the Greffier. This could lead to a significant imbalance in campaign parity between parties, richer individuals and ordinary citizens who wish to seek election in the future, whether as a party-affiliated candidate or as an independent candidate.

Recommendation 5: Political parties should be subject to oversight, and their finances should be evaluated on an annual basis. Individual candidates' pre-election fundraising and expenditure should also be assessed and recorded. Reporting should not be onerous but simply conducted by the production of evidence.

Recommendation 6: Boundaries of pre-election and annual expenditure should be clearly defined. The limitations of expenditure outside the formal period of nominated candidature could be within similar boundaries to those defined for the election period, except with no additional public subsidy.

¹⁶ Guernsey Election Website (August 2020): 'Information for Prospective Candidates: Guidance Notes', p.15, available on: <https://election2020.gg/media/k0ghm3qj/guidance-for-candidates-final-26-08-2020.pdf>

MEDIA

Although not extensive, Guernsey is served by an active, engaged, and local media. There is also active social media engagement, which appears to have been especially popular during the election campaign, spawning accessible processes for voters to assess who they might be most aligned with. There is a healthy media landscape which, although small, is free and open.

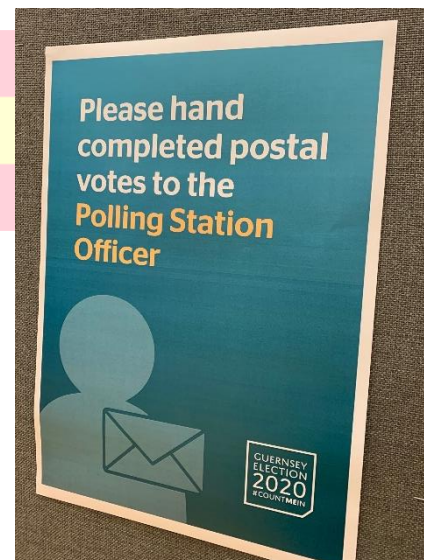
BBC Guernsey is a dedicated arm of the UK's BBC, which is funded by a license fee. It is based in Guernsey and reported on the campaign. During the election, BBC Guernsey broadcast a series of candidate hustings on the radio and it reported extensively on the various changes and novelties of the election reflecting the changing nature of the process, such as the number of candidates and the length of the ballot paper.

Guernsey is also served by ITV, in the form of Channel TV and a news website. It covers all of the Channel Islands, not simply Guernsey.

The Guernsey Press is the newspaper in Guernsey. Founded in the nineteenth century, the daily newspaper has significant coverage in Guernsey. As well as covering the election it also took paid advertising from candidates and parties. It has had no stated editorial line on support for parties or individual candidates. Guernsey is also served by The Bailiwick Express, an online media platform, which also covers Jersey.

Some media outlets faced challenges when covering the election because of quarantine restrictions in Guernsey due to COVID-19, as it impeded their ability to move equipment and personnel to Guernsey. Whilst not a limitation on press freedom, this does seem to have had some effect on the variety and depth of some of the media channels' capacity to offer its planned programming concerning the election.

Although some media respected an informal period of silence in their reporting on election-related matters during Advance Voting days and Election Day, this was not formalised. One aspect of the media coverage that was notable was the approach taken by the media towards incumbent politicians. The media's policy and practice of maintaining impartiality during the election period to afford equal and fair access to all candidates, whether incumbent or otherwise, was commendable.



Poster inside a polling station

Guernsey also has an active social media landscape, which was especially active during the island-wide election, where the 119 candidates may have been less individually known to the electorate. Interlocutors shared significant commentary that the electorate was active on social media and that it engaged with the issues of the campaign. Little or no evidence of intimidation or abuse was provided beyond the normal cut and thrust of political debate during an intensive election campaign. No comments or significant concerns were shared by the election authorities, law enforcement or candidates about intimidation, or worse, on social media.

TECHNOLOGICAL INNOVATION

Whilst much of the technology used in the election was focused on the process of encouraging residents to register to vote through social media there was also significant investment in technology to assist the vote count because of the significant change in the voting process.

As voters were offered up to thirty-eight votes on their ballot paper, scannable ballots were issued to voters that could either be cast in a polling station or by post.

As part of the counting process these ballot papers were then scanned, using commercially available scanning equipment. Optical Mark Recognition (OMR) technology was used to scan each vote on the ballot paper and record it. This was supplied by a UK-based company that was brought to Guernsey with all the necessary equipment to conduct the count. One of the challenges discussed with the interlocutors was the impact of the high number of returned postal ballots that were creased and ripped, which meant that ballots could not get scanned by the software.

This led to a high number of votes being rejected by the scanners and then being replaced (transposed) with a new non-creased ballot which the scanning equipment could accept. Whilst the equipment worked well, from the virtual observations that the Election Expert Mission could conduct, there was still a high number of human interactions with the ballots such as the 'transposition' process and the need for manual adjudication. Please see the section on Counting for further comment on this.

VOTING

Voting took a significantly different form compared to previous elections, as 69% of the registered electorate registered for a postal vote. In total, 21,271 postal votes were issued, including those sent to voters outside Guernsey.

Guernsey also saw significant extensions to the methods of voting for those who wished to vote in person at a polling station. As the information from the elections team indicates, 'it was agreed to introduce advance polling stations to increase the number of days that people on the Electoral Roll could cast their votes, and to enable voters to choose from voting in their parish polling station or at a 'super-polling' station.'¹⁷

Polls were open from 8am to 8pm as follows:

- Saturday 3 and Sunday 4 October: St Sampson's High School and The Princess Royal Performing Arts Centre;
- Tuesday 6 and Wednesday 7 October (formal polling day): all parish polling stations (14 in total) and The Princess Royal Performing Arts Centre.

Voters could attend the polls in person and vote for up to 38 deputies. Those who had been issued with a postal ballot were not eligible for a replacement ballot but could deliver their completed postal ballot to a polling station at any stage in the process.

¹⁷ Guernsey Election 2020 website, available on: <https://election2020.gg/voting/where-to-vote/>

To be issued with a ballot paper, voters are only required to give their name and no identification is required. The process depends on trust that the voter will not impersonate another voter on the electoral register, and no concerns about this practice were shared with the Mission. Voters also have the capacity, at the discretion of the Registrar General of Electors, to register to vote in the polling station on polling day if they have been inadvertently left off the register due to administrative error. The Mission was informed that this facility was used on a handful of occasions.



Polling booths inside a polling station

The staffing of polling stations is done on an unpaid voluntary basis. In previous elections, staffing of polling stations was arranged by the Douzaines, the administrative bodies of the parishes. For the first island-wide General Election the polling stations were the responsibility of the Registrar-General of Electors. The Douzaines still ran the polling stations using parish officials and volunteers and the States also advertised for volunteers to carry out various tasks on polling days. If extra staff were required, they were co-opted by members of the Douzaine from the local area as required. There did not seem to be an open process of application for these roles. With polling station staff working in shifts throughout polling days, there can be a high turnover of staff on the same day. This could potentially lead to a variable service for voters visiting the polling stations at different times throughout the day and lead to an inconsistency of electoral administration. The elections team provided training to all staff working in polling stations, which most staff attended. However, some staff felt strongly that training was unnecessary and there is evidence that some staff volunteered without having received training.

Recommendation 7: The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.

The ballot paper caused a number of concerns for third sector groups, especially those associated with voters with partial sight or motor problems. The nature of the ballot required voters to fill in small oval shapes on the ballot (which could be scanned and recorded using the electronic counting equipment). This posed challenges for some voters as these ovals were relatively indistinct on investigation.

COUNTING

Counting began on Thursday 8 October at the Beau Sejour Leisure Centre in St Peter Port. Ballot boxes started to arrive from secure storage at 6am, with staff and counting teams arriving from approximately 8am. The Chief Returning Officer briefed those candidates attending the count at 8.30am. The first ballot boxes were opened at 9am and counting began.

Counting staff are paid a fee of £15 per hour. Specialised ballot scanners and software were engaged from the UK to conduct the count. The staff associated with the scanning technology were afforded critical worker status to conduct their work in Guernsey.

Counting should have three separate stages in the following order, in line with international best practice:

1. a verification of the number of ballot papers cast;
2. a verification of the number of votes cast (this stage is only relevant if voters can vote for more than one candidate, such as in the Guernsey 2020 election);
3. a vote count verifying how many votes the candidates received.

These three steps ensure a rigorous counting process. However, in this election the first two steps did not appear to take place as separate parts of the counting process. The first step would involve the counting staff counting how many ballots were received before moving on to counting votes, which would be relatively easy to implement. The second step would be more complex. Bearing in mind each elector had anywhere between 1 and 38 votes to cast, the total number of votes cast could have been up to approximately 900,000 votes in this instance. This could potentially be labour intensive and time consuming.

Recommendation 8: The number of ballot papers cast should be verified at the start of the vote count. Adding an additional verification step should also be explored, namely the verification of the total number of votes cast.

Once the ballots had been opened, in the case of postal ballots, and emptied from ballot boxes, they were fed through the electronic scanning equipment to analyse whom the elector had chosen. Two scanning machines were used for this purpose. Ballots were checked for accuracy by staff on desktop screens and approved as required.

Numerous ballot papers were rejected because the scanning equipment was unable to assess them correctly, due to being creased when returned in the post or ripped when envelopes were opened by counting staff. In these cases, counting staff assessed the ballot paper and then 'transposed' the original information onto a fresh ballot paper that would be accepted by the ballot scanner. This was a labour-intensive process, and to third party observers it was an unusual and potentially concerning method, due to the large amount of human engagement which could facilitate possible human error. While no evidence of malpractice was observed virtually, this could have been a possibility, particularly as a significant number of ballots were transposed via this method (852 in total). Once the original ballot had been transposed, it was kept in a separate pile from the newly transposed ballots, with no apparent audit trail in place linking the two ballot papers. This could have prevented a rigorous countback audit process. If candidates or agents had wanted to check the audit trail to ensure no errors had been made in this transposition process, this would not have been possible.

Recommendation 9: A rigorous countback audit process should be put in place, so that an original ballot paper that is 'transposed' can be checked against the newly transposed ballot paper that is used to replace it.

The declaration of the results was issued in the early hours of Friday morning 9 October, broadcast live on BBC Radio Guernsey and other media outlets. All candidates were announced in alphabetical order, and those elected were listed separately in the order of their election.

Following the declaration, a recount was requested, which had been widely anticipated. As per the Reform (Guernsey) Law, 1948, a recount could be requested by unsuccessful candidates if the margin of difference between them and the successful candidate placed 38th was 2% of the total number of people voting. Under the new island-wide voting system, this translated to a margin of approximately 400-500 votes. This is a generous margin which means the chances of a recount are high. In this election, six candidates were eligible to request a recount, and four of them did. Election authorities may wish to re-evaluate the basis on which recounts can be requested in future elections under the current island-wide system. It might be more practical if the margin of difference between the candidate placed 38th and those below him/her would relate to a percentage of the difference between these contestants in the number of votes cast, rather than a percentage of the total number of ballots issued.

The recount was conducted on Saturday 10 and Sunday 11 October, with the final results being available on Sunday evening. There was no material difference between the original declaration and that made after the weekend recount.

PARTICIPATION OF WOMEN

Women have long been participants in the States of Deliberation, but in numbers which have been quite inconsistent. In 2016 twelve women were elected, amounting to 32% of the representation of Guernsey in the assembly. This was the cause of some celebration, as just five women had been elected in 2012, amounting to 11% of the then membership.

Of the 119 candidates in this election, only 28 were women. Just eight of them were elected, among the total of 38 deputies representing Guernsey, amounting to 21%. This figure falls short of the minimum advocacy goal of 30% of women in parliament espoused in the Beijing Platform for Action, and very far short of the goal of gender parity of 50% men and women.

This is a disappointing outcome from the perspective of gender equality. Guernsey's legal framework offers scant regulation promoting equality of access to political office for women. The absence of equality law, particularly in the sphere of employment rights and equal pay, offers some evidence of historical and cultural discrimination against women which has yet to be eradicated. There is also an absence of any special measures to promote the increased participation of women in political life.

The UN Convention on the Elimination of All Forms of Discrimination against Women has not yet been extended to Guernsey. Attention was drawn to this fact when the Committee on the Elimination of Discrimination against Women most recently examined the 2017 report of the UK on compliance with the treaty obligations. In its concluding observations the Committee stated¹⁸ that it remained concerned that the provisions of the Convention have not been given effect in Guernsey.

¹⁸ UN Committee on the Elimination of Discrimination against Women (14 March 2019) [CEDAW/C/GBR/CO/8 Concluding Observations on the Eighth Periodic Report of the UK](#), page 4/16.

A new Discrimination Ordinance is under preparation in Guernsey, but this is narrow in focus. Article 4 of CEDAW would, if extended to Guernsey, make provision for the enactment of temporary special measures to accelerate de facto equality for women, such as to promote the candidacy of women. Among measures to support to women, political parties, in particular, could be encouraged “to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women’s full participation and representation and ensure that women have an equal opportunity in practice to serve as party officials and to be nominated as candidates for election”.¹⁹ Article 7 of CEDAW obliges parties to the convention to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country” which includes ensuring that women “hold public office and perform all public functions at all levels of government”.

Recommendation 10: Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey should be pursued without delay. This will entail enactment of legislation to enable fulfilment of convention obligations in advance of the extension.

PARTICIPATION OF PERSONS WITH DISABILITIES

The Convention on the Rights of Persons with Disabilities makes provision in Article 29 for the participation in political and public life of persons with disabilities. Article 21 of the convention further requires that parties shall take all appropriate measures to ensure the freedom of expression and opinion and access to information of those concerned. The convention has yet to be extended to Guernsey. Legislative preparations are underway to allow such extension, as equality law in the form of a new discrimination ordinance has been drafted and appears likely to be enacted soon.

Recommendation 11: Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities should be pursued without delay. This will entail enactment of equality legislation to enable fulfilment of convention obligations in advance of the extension.

In the meantime, the present legal regime protects the political participation rights of persons with disabilities. In 2016 a provision was added to the Reform Law which abolished “the mental incapacity” to vote. Article 27B now provides that any rule of law which provides that a person is subject to a legal incapacity to vote “by reason of his or her mental state” is abolished. This represents a liberal approach to voters with intellectual disability or mental illness.

Commendable efforts were made by the Registrar-General and her team to ensure access to polling stations for persons with physical disabilities. Polling stations were almost entirely accessible independently, with the exception of the polling station in St. Andrews. This deficiency was well communicated in advance and all voters wishing to do so could vote instead at the super polling station at the Performing Arts Centre, which was accessible.

¹⁹ UN CEDAW (1997) [General Recommendation 23: Political and Public Life](#), paragraph 32.

The ballot paper, which required the careful shading in of small ovals, to be recorded by optical scanner, gave rise to some concerns regarding difficulties posed for voters with visual or motor impairments. The ovals were relatively indistinct on investigation. Magnifiers were available for those who wished to use them. Voters may, by law, be assisted to vote, but secrecy is compromised for such voters. They do not have the facility to vote independently.

ELECTORAL JUSTICE

One of the fundamental elements of a legitimate electoral process is that provision is made for access to justice to resolve any disputes which may arise. International law provides for the right to an effective remedy, which includes both fairness and timeliness.²⁰ There is little detail of any procedures, in electoral law in Guernsey, to facilitate the making of complaints and appeals during the electoral process. There is no evidence, however, that there was any denial of access to justice or fair procedures during this election.

Electoral disputes are not segregated from other legal disputes in Guernsey. There is a presumption that fair procedures will be applied throughout the electoral process, including in relation to voter registration and candidate nomination. Recourse to judicial review before the courts is available. Uniquely in the Guernsey electoral sphere, the rules on the registration of political parties provide that decisions of the Greffier may be challenged in the Royal Court, with an appeal from that decision available to the Court of Appeal.

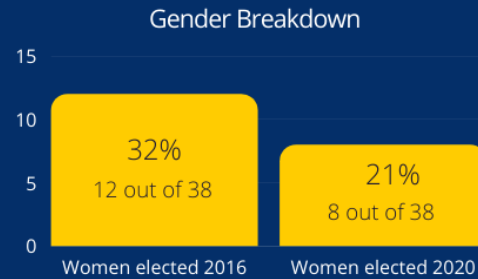
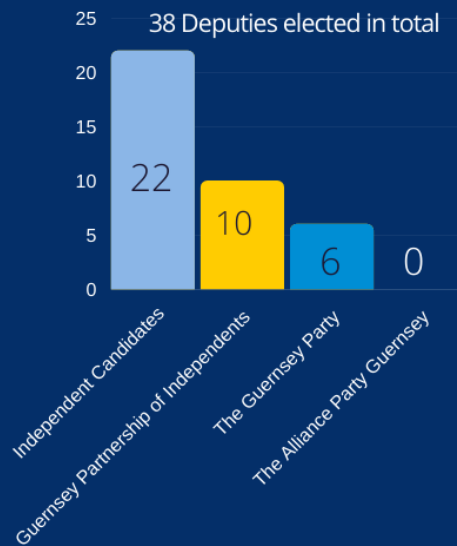
There were no complaints or appeals brought to the courts related to this election.

Recommendation 12: Consideration should be given to the introduction of a system of complaints and appeals for all stages of the electoral process. Detailed procedures should be set out regarding the authority responsible to receive and adjudicate upon disputes arising in relation to voter registration, candidate nomination, voting and counting and all other aspects of the electoral cycle. Fair procedures must apply to any such regulations, with clear deadlines providing for the submission of complaints, making appeals and delivery of decisions, as well as rules of standing to lodge complaints.

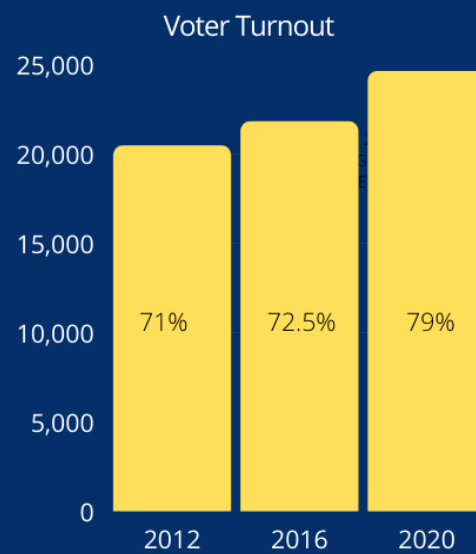
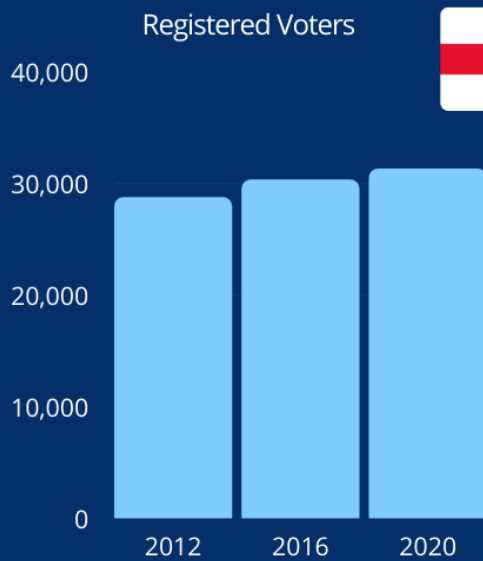
²⁰ The International Covenant on Civil and Political Rights establishes the right to an effective remedy in Article 2.3; the Universal Declaration of Human Rights also provides for an effective remedy in Article 8, and for a fair and public hearing by an independent and impartial tribunal in Article 10.

ELECTION RESULTS

Guernsey 2020 Election Results



Over 67% of registered voters opted for postal votes.



RECOMMENDATIONS

1. LEGAL CODIFICATION

Greater codification of electoral rules and procedures, either via amending existing election law or via enacting a new omnibus election law, could be considered, in order to ensure that there is certainty and consistency in the law and that it applies equally to all concerned.

2. ELECTIONS BODY

A permanent dedicated elections body should be constituted so that institutional knowledge and expertise can be embedded in the Guernsey electoral system. This body could provide continuous electoral oversight, including oversight of candidate and voter registration, political parties and campaign finance.

3. VOTER REGISTRATION

Formal processes of voter registration could be introduced as part of an ongoing rolling process of registration. Voter registration could be done as part of any annual engagement that residents have with the state, such as filing tax returns.

4. RIGHT TO STAND

Consider removing the provision in Article 8 of the Reform (Guernsey) Law, 1948, which disqualifies voters who have been sentenced to imprisonment for a period of six months or more, from eligibility to become a People's Deputy.

5. OVERSIGHT OF POLITICAL PARTIES

Political parties should be subject to oversight, and their finances should be evaluated on an annual basis. Individual candidates' pre-election fundraising and expenditure should also be assessed and recorded. Reporting should not be onerous but simply conducted by the production of evidence.

6. CAMPAIGN EXPENDITURE

Boundaries of pre-election and annual expenditure should be clearly defined. The limitations of expenditure outside the formal period of nominated candidature could be within similar boundaries to those defined for the election period, except with no additional public subsidy.

7. POLLING STATION STAFF

The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.

8. VOTE COUNT

The number of ballot papers cast should be verified at the start of the vote count. Adding an additional verification step should also be explored, namely the verification of the total number of votes cast.

9. COUNTBACK AUDIT PROCESS

A rigorous countback audit process should be put in place, so that an original ballot paper that is 'transposed' can be checked against the newly transposed ballot paper that is used to replace it.

10. PARTICIPATION OF WOMEN

Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey should be pursued without delay. This will entail enactment of legislation to enable fulfilment of convention obligations in advance of the extension.

11. PARTICIPATION OF PERSONS WITH DISABILITIES

Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities should be pursued without delay. This will entail enactment of equality legislation to enable fulfilment of convention obligations in advance of the extension.

12. ELECTORAL JUSTICE

Consideration should be given to the introduction of a system of complaints and appeals for all stages of the electoral process. Detailed procedures should be set out regarding the authority responsible to receive and adjudicate upon disputes arising in relation to voter registration, candidate nomination, voting and counting and all other aspects of the electoral cycle. Fair procedures must apply to any such regulations, with clear deadlines providing for the submission of complaints, making appeals and delivery of decisions, as well as rules of standing to lodge complaints.

ACKNOWLEDGEMENTS

The CPA BIMR Election Expert Mission wishes to express its gratitude to the States of Guernsey, election officials, candidates and to the people of Guernsey for their cooperation and assistance during the course of the virtual Mission.

For further information about this Mission, please contact cpauk@parliament.uk.

CPA BIMR ELECTION OBSERVATION SERVICES

The first objective of the BIMR Strategy is to strengthen parliaments and the skills of their members. As part of this work, CPA BIMR facilitates election observations when invited to do so.

For more information about these services, please contact the CPA BIMR Secretariat at cpauk@parliament.uk.



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REVIEW OF THE 2020 GENERAL ELECTION

REPORT OF THE REGISTRAR-GENERAL OF ELECTORS

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Introduction

The 2020 General Election took place on 7th October 2020. It was the first island-wide General Election and took place during a global pandemic. Both of these factors meant that the complexity of delivering the election was greatly increased and it is therefore a credit to all involved that it has largely been deemed a success by the community and that this was confirmed in the report of the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR), which had conducted a virtual Election Expert Mission to the election, and concluded that “[t]he Guernsey Election was a successful democratic exercise.”¹

The first island-wide General Election saw 24,647 voters turn out, which was an increase of almost 3,000 over the 2016 election. Turnout was 79.77%, again higher than in 2016 when 72.5% of those on the Electoral Roll cast their votes. There were 30,899 people on the Electoral Roll and eligible to vote, a slight increase on the 2016 figure. (There were also some under-16’s registered who were not eligible to vote on this occasion.)

Prior to the General Election, the States’ Assembly & Constitution Committee (SACC) and the Committee *for* Home Affairs agreed the following criteria to measure the success of the 2020 General Election:

- i. A high percentage of those eligible to vote are registered on the Electoral Roll;
- ii. A good number of candidates stand for election;
- iii. The majority of those on the Electoral Roll cast their votes; and
- iv. There is a fair, efficient and democratic election.

A review of the election has been carried out, which has considered the above criteria and other matters, and, in accordance with the Resolution of the States dated 12th December 2019² the following have been consulted in preparing this review:

- Candidates in the General Election (elected and unelected);
- Members of the General Election programme board;
- Officers, parish representatives, and volunteers involved in the delivery of the General Election;
- Election service providers (e.g. communications, e-count solutions); and
- The voting public

Broadly speaking, feedback was positive, particularly around some of the communications tools that were offered to assist voters, and a number of constructive suggestions have been put forward for consideration of how future elections might be improved. This report

¹ CPA BIMR Election Expert Mission Final Report, available on: <https://www.uk-cpa.org/media/3806/final-report-cpa-bimr-eem-to-guernsey-2020.pdf>

² Billet d’Etat XXIV, 2019

considers and expands on those suggestions and includes a number of recommendations for consideration by SACC, which are repeated at the end of the document.

The report does not focus on operational improvements, as these fall within the remit of the Election Project Board and are not matters for the SACC or States to determine but, where relevant, they are mentioned to provide reassurance that they have not been overlooked.

Timing of the Election

No report on the Election would be complete without reference to the timing of the Election, which was originally scheduled to take place on 17th June 2020. When the Covid-19 global pandemic emerged, as a result of which Guernsey entered lockdown on 25th March 2020, SACC swiftly considered the implications of this for the island's ability to hold a General Election and submitted a policy letter to the States³ recommending that the Election be delayed, as it would not be possible to hold a free and fair Election if activities such as canvassing, hustings and, in particular, voting were likely to be prohibited or at least significantly impacted. On 15th April the States agreed that the Election should be postponed until 16th June 2021. Consequently, Election resources were scaled back, with temporary contracts being terminated and Election-related work streams deprioritised.

Before long it became apparent that Guernsey's lockdown measures had proved extremely successful, to the extent that, with the exception of travel restrictions, activities on island largely returned to pre-pandemic levels. Against this backdrop, SACC was asked to reconsider the feasibility of holding the election in 2020. After considering the resultant policy letter from SACC⁴, which was submitted as an urgent proposition under Rule 18 of the States' Rules of Procedure, the States resolved, on 1st July 2020, that the General Election should take place on 7th October 2020.

This meant that activity had to be stepped up immediately in order to ensure the election could be delivered in October 2020. Contracts were reinstated and work streams were resumed as soon as practicable. Whilst this meant that the election was successfully delivered on 7th October, the effort required to pick up all the work again at short notice, combined with the need for considerable contingency planning, should not be underestimated and it is important to acknowledge the contribution of everyone who played a part in making the election happen. This includes not only officers of the States but also Parish officials and volunteers, who willingly gave up their time to help.

³ Billet d'Etat VII, 2020

⁴ Proposition P.2020/117 available [here](#).

Legislative Framework

The Reform (Guernsey) Law, 1948 sets out the requirements for elections in Guernsey. The Law deals not only with General Elections but also with other separate, but related, matters such as the election of Parish officials and the constitution of the States of Deliberation. The Law has been amended many times in response to the changing requirements of democracy, and underwent extensive and significant amendment in 2019 by way of the Reform (Guernsey) (Amendment) (No. 2) Law, 2019, following the decision to move to island-wide voting.

Some of the details around elections are set out in Ordinances and Regulations made under the primary legislation. For example, the Advance and Super Polling Station Ordinance, 2020 sets out the dates, times and locations of advance polling and super polling stations, while the Elections (Presence of Candidates at Count) Rules, 2020 set out the rules around candidates attending the vote count.

The need to deal with certain matters by way of Ordinance or Regulation, rather than their being a permanent feature of the Law, can lead to “gaps” in the delivery of elections. For example, in respect of complaints regarding the conduct of elections, Article 38D of the Reform Law gives the States the power to make by Ordinance such provisions as they may see fit in respect of the making and determining complaints in relation to:

- The conduct of elections
- Breaches of procedures concerning elections
- The conduct, during elections, of candidates, returning officers and other persons or classes of persons prescribed by Rules under Article 38C of the Law and
- Breaches by such persons of their functions during elections

Any Ordinance made by the States under Article 38D may include, among other things, the person or body to whom complaints should be addressed; the persons or bodies who may make complaints; and the matters in respect of which complaints may be made.

Given the limitations on time in the lead up to the 2020 election to develop and implement a suitable solution regarding who/what would consider complaints, SACC agreed to maintain the status quo of previous elections rather than ask the States to approve an Ordinance to deal with it but that agreed that the matter would be revisited in the future.

In the absence of any legislation setting out rules around complaints, they tended to be received by the Registrar-General who, while able to give advice about many aspects of the election, had no power to arbitrate in complaints. In order to prevent this situation recurring, it is important that this is addressed. Ideally, such matters would be included in the Law rather than an Ordinance, as the latter approach means that it is possible for the matter to be left in abeyance. Inclusion of relevant provisions in the Law also provides greater certainty for all concerned.

In addition to the Reform Law, there are other relevant pieces of legislation and other guidance. For example, there is advice from the Law Officers of the Crown that dates back to 1973 regarding the display of posters and soliciting of votes inside polling stations but this is not reflected in any legislation, nor is there any consolidated guidance easily available to election officials, which is a particular concern because there has tended to be, in recent years, a lack of continuity of such officials.

Such lack of continuity is understandable because General Elections take place only once every four years and, during the period covered by a political term, officers often move on for a variety of reasons. There is also a reliance on temporary staff which will always be the case because of the intense period of activity preceding an election that cannot be absorbed by the existing workforce but more thought needs to be given to how greater continuity can be achieved between elections.

One possibility would be the creation of an Electoral Commission or similar, which would have the advantage of independence from government. Such a body could provide consistent, impartial advice as well as much-needed continuity. It also removes any potential issues around election officials having to give unwelcome advice to candidates with whom they may have a working relationship, if they are standing Deputies, or with whom they may need to work in the future if their election campaign is successful.

The CPA also commented on this in its Election Expert Mission Report, pointing out that *“the International Covenant on Civil and Political Rights, which applies to Guernsey, has been interpreted as requiring that an independent electoral authority should be established to supervise the electoral process.”*

Recommendation 1:

It is recommended that SACC should investigate the creation of an independent body to advise on and oversee future elections.

It would also assist greatly if consideration could be given to the creation of a new Law that focuses on elections and facilitates the delivery of an election in modern times. For example, as explained later in this report, the Reform Law does not give discretion to the Bailiff to carry out anything other than a full recount of votes in the event that a recount is requested. This does not reflect the use of ecount machines, which are proven to be highly accurate, which may mean that the Bailiff would be content to review only those ballot papers that have been manually adjudicated. This is the custom and practice in other jurisdictions and would reduce the resource requirement for a recount if it were the Bailiff’s preferred approach.

Recommendation 2:

It is recommended that SACC should review the Reform Law and other legislation relating to the holding of elections and, if it thinks fit, make suitable proposals for consideration by the States, for electoral reform by way of a standalone election Law that reflects modern election practices and is easily accessible.

The Electoral Roll

In April 2019, following consideration of a policy letter from the Committee *for* Home Affairs⁵, the States approved the establishment of a new Electoral Roll for the 2020 General Election of People's Deputies. This followed the practice established for the 2012 and 2016 General Elections. The new Electoral Roll opened on 1st December 2019.

Mindful of the need to ensure that a high number of those eligible to vote were registered on the Electoral Roll, considerable effort was put into publicising the fact that the Electoral Roll was open and encouraging eligible islanders to sign up. Initiatives and events included:

- The creation of a dedicated website for the election, including the facility to sign up to the Electoral Roll online
- Over 26,000 household registration forms delivered to all properties, including freepost return envelopes
- The launch of the #countmein campaign which saw some local faces backing the message that islanders needed to ensure they were able to cast their votes if they wanted to have a say in decisions
- Registration roadshows at a range of venues, where islanders could sign up to the Electoral Roll and obtain information about the election
- Frequent media releases, often supplemented with interviews
- Press and radio advertisements

Despite the fact that life in Guernsey returned to near normality in the run-up to the election, it was recognised that some sections of the community remained anxious about the possibility of contracting Covid and, in order to respect their desire to limit contact with others, the Election Project Board decided not to carry out any door-to-door enumerating as had been done in 2016, and planned visits to residential and care homes were cancelled.

Notwithstanding the fact that certain activities had to be curtailed, the number of people registered on the Electoral Roll was slightly higher than the 2016 total. The Roll closed on 21st August 2020, with 31,301 voters registered, of whom 30,899 were eligible to vote in the General Election, the remainder still being aged 15 on 7th October and not able to vote until their 16th birthdays.

Whilst this was an improvement on the 2016 numbers, only about 62% of those eligible to do so actually registered to vote, meaning that there were still potentially about 10,000 eligible residents who did not sign up. Although it is not possible to give an exact figure, as not everyone in the requisite age bracket will necessarily meet the residence criteria for signing up to the Electoral Roll, it shows that there is a significant number of islanders who are not exercising their democratic rights, despite every effort being made to ensure that signing up is as straightforward as possible. Therefore the first success criterion agreed by SACC and the

⁵ Billet d'Etat VII, 2019

Committee for Home Affairs, that a high percentage of those eligible to vote are registered on the Electoral Roll, was partially met, as the percentage is higher than in previous years but it is clear that there is room for improvement in this respect.

After the 2016 election it was noted that the process for compiling the Electoral Roll is difficult to administer and requires significant resource. Consequently a number of options were considered with the aim of making it easier for the community to sign up to the Electoral Roll as well as reducing the resources needed to administer the process. It was subsequently agreed by the States in April 2019⁶:

“5. To direct the Policy & Resources Committee when delivering Phase 2 of the Rolling Electronic Census Project (as approved by the States on 26th March 2013) to ensure that:

- i) there is included in its functionality, the capacity for automated generation of a list of persons eligible to vote; and*
- ii) any relevant legislation is submitted to the States for approval,*

in accordance with a time-scale which will enable use of the capacity for automated generation of such a list for the purposes of the 2024 general election and all elections thereafter.

6. To direct the Committee for Home Affairs to take such measures as may be necessary to enable elections to take place on the basis of an Electoral Roll compiled from an automatically generated list of persons eligible to vote, as soon as possible following delivery of Phase 2 of the Rolling Electronic Census Project in accordance with Proposition 5.”

Such an approach is in keeping with comments made by the Electoral Reform Society (ERS) in 2019: *“You shouldn’t have to opt in to your right to vote. we need to move towards automatic registration now, starting with being able to check you are registered online, and being able to register whenever you engage with government bodies or services. We know this works from other countries.”*

This work referred to in Resolution five above has been completed and the matter is now being progressed by the Committee for Home Affairs, as per Resolution six above.

⁶ Billet d’Etat VII, 2019

Candidates

There were 119 candidates in the first-ever island-wide General Election, which was a considerable increase on both 2012 (78) and 2016 (81). Therefore the second success criterion, namely that a good number of candidates stand for election, was fulfilled.

Candidate Support

In anticipation of a higher number of candidates, particularly new candidates, considerable efforts were made to ensure that candidates and potential candidates had access to information that would both help them to understand the election process as well as gain some insight into the role of a Deputy. Up to the point at which nominations closed, activities and material included:

- Officers and Deputies speaking at WEA talks for prospective candidates.
- Two presentations for prospective candidates, explaining key deadlines related to the election, both of which were well attended.
- A comprehensive pack from the Presiding Officer for candidates at the point of nomination.
- The preparation of Electoral Rolls for purchase.

Once the nomination period had closed, support for candidates continued, as follows:

- The creation of an Election website – election2020.gg – containing information for voters and candidates.
- The creation of a candidates' guide, which included comprehensive information about the Election, including links to relevant legislation, as well as a section setting out some of the demands of being a Deputy. This was made available prior to nominations opening, which meant that prospective candidates had access to a wealth of information in advance of putting themselves forward for election.
- A candidate page on election2020.gg.
- The opportunity of having two pages in the combined manifesto booklet, a printed copy of which was delivered to all households where residents had signed up for the Electoral Roll, with an electronic copy available on the website.
- The opportunity of creating a short video promoting their candidacy on the election website.
- A "meet the candidates" event at Beau Sejour, which gave the public an opportunity to speak to those candidates who participated, with the majority doing so.
- A £500 grant towards the production and distribution of campaign material.

Candidate Feedback

Of the 119 candidates, 48 provided feedback after the Election, either by responding to a short survey or direct to the Registrar-General of Electors. Just over half of those who responded were new Deputies who had not stood previously for election.

In terms of the support offered, the combined manifesto was rated as the most helpful element of the support provided, followed by the meet the candidates event.

Although respondents were generally satisfied with the support given, several constructive points were made about how it could be improved for the next General Election. Whilst, inevitably, candidates' opinions differed, there was broad agreement in a few areas.

Despite the fact that the "meet the candidates" event was considered useful, a number of candidates would have liked to have seen more hustings-type events. The difficulties inherent in organising such events for a field of 119 candidates were acknowledged but it was suggested that they could perhaps be organised by parish, open to the whole electorate but with only candidates resident in the parish in question attending.

The practicality of organising something by parish largely depends on the spread of candidates across the parishes. Based on the distribution of candidates in the 2020 election, this approach would be unlikely to work, as some parishes had very few candidates, whilst others had many, although possibly something based on the old electoral districts would be more feasible.

Some candidates found the number of hustings events organised by "special interest" groups, whilst useful, took up considerable time, both in terms of preparation and attendance. It would not be appropriate for the States to discourage such groups from holding events but more engagement with them ahead of the Election could result in a more co-ordinated approach and this is worthy of further investigation.

Recommendation 3:

It is recommended that consideration be given by SACC to how more hustings-type events can be organised by the States and/or the parishes, also having regard to how the requirements of "special interest" groups can be factored into such hustings.

It was suggested by a number of candidates and also members of the public that the "meet the candidates" event would have been of greater value if it had taken place after the distribution of the manifesto booklet, thereby giving time for the electorate to look at candidates' manifestos and formulate questions before attending. Manifestos were available online prior to the event, as well as candidate videos, but it appears that many people preferred to rely on the booklet as their prime means of finding out about candidates. This has already been acknowledged by the outgoing Election Project Board and will be passed on to the next Project Board as part of the "lessons learnt".

Voter Feedback

Feedback from voters was that they were in favour of island-wide voting but found the number of candidates, and therefore the amount of choice, overwhelming. The website and manifesto booklet were positively received but voters found it onerous to read the entire book, with some pointing out that only those with a keen interest in local politics would be likely to do so. The facility to select "yes", "no" and "maybe" via the election website was cited as being of great assistance and, as such, should be retained for future elections.

The number of candidates is something that was raised by several different groups providing feedback, which is unsurprising as it is relevant to so many different aspects of running an election, including the size of the ballot paper; organising hustings and other events; and the voter experience. Although the consensus is that election officials did a good job in addressing issues, particularly voter experience, there have been calls for limitations on the number of candidates.

Notwithstanding this, it would be contrary to the principles of democracy to seek to put barriers in the way of potential candidates. For example, it was suggested that candidates could be required to pay deposits, which would be returned only if they achieved a specified percentage of the vote. This is common in many jurisdictions around the world. In the UK, parliamentary candidates have to place a deposit of £500, which is returned if they poll over 5% of the total votes cast in the relevant constituency.

In the Republic of Ireland independent candidates for election to Dail Eireann must provide:

- A Certificate of Party Affiliation; or
- Statutory declarations signed by 30 constituents; or
- A deposit of €500

As in the UK, candidates who pay the deposit have the money refunded if they receive more than a specified percentage of votes cast in their constituency. At one time, all candidates had to pay a deposit until a High Court Ruling decreed that the obligatory payment of deposits by all candidates was “repugnant to the Constitution of Ireland”.

The UK Electoral Commission is not in favour of deposits for any candidate and its 2015 report *Standing for Election in the United Kingdom: Report and Recommendations*⁷ said the following about the use of deposits:

“... it does not seem reasonable to have a barrier to standing for election that depends on someone’s financial means. We do not think that the ability to pay a specified fee is a relevant or appropriate criterion for determining access to the ballot paper. We therefore recommend that deposit requirements are abolished.”

The purpose of requiring a deposit is to discourage any candidates who may not be serious about pursuing an election campaign but it has limited effect. In the 2017 UK General Election 1,568 candidates (47.5% of all candidates) lost their deposits and in the 2019 General Election the number who lost their deposits was 1,273.

In light of the comments above, plus the limited effectiveness of requiring deposits, it is not recommended that this approach be adopted in Guernsey, as it could make it more difficult for less affluent candidates to participate in an election and would therefore be likely to hinder achievement of the success criterion of ensuring a good number of people stand. It is also possible that some groups may be more disadvantaged than others by such an approach,

⁷ Available at: [Standing for election in the United Kingdom: Report and recommendations | Electoral Commission](#)

which could lead to a less diverse group of candidates and, ultimately, a less diverse Assembly.

It may, however, be worth exploring the possibility of requiring additional people to nominate candidates, along the lines of the UK, where nomination forms have to include the names of 10 registered electors from the constituency in question. A similar approach could help to ensure that candidates are serious about standing and would be more rigorous than the current system which requires only a proposer and seconder.

Whilst this may merit more consideration, any moves to ensure that candidates are truly serious about standing for election would need to be finely balanced with the requirement to ensure that barriers are not placed in the way of anyone seeking to become a Deputy, particularly if there is any possibility that such barriers might inadvertently disadvantage some groups more than others.

It is not yet known whether the high number of candidates will feature in future elections. The 2020 election was bound to attract a high level of interest in terms of candidates and voters, as it was the first ever island-wide general election. Whether interest remains as high in years to come remains to be seen and it may be that the issue does not recur.

Consequently, no firm recommendation for action is made in this respect, although it would be wise for SACC to keep a watching brief on this issue.

Postal Voting

In its December 2019 policy letter⁸ SACC recognised that island-wide voting would present new logistical challenges and acknowledged that it would have to address these:

“It is essential that there is sufficient capacity for all registered voters to vote either by post or in person. In light of this, the Committee has looked to offer an array of opportunities for members of the community to cast their vote.”

The Committee set targets for different elements of the suite of actions being undertaken, including a target of 30% of votes to be postal votes. In order to assist with the achievement of this target, the Election Team heavily promoted the option of postal voting.

Perhaps as a result of this promotion, the 2020 General Election saw a much bigger take-up of postal votes than in previous Elections, with 69% of those on the Electoral Roll opting to register for a postal vote. This meant that 21,271 postal votes were issued to addresses both within and outside of Guernsey. Completed ballot papers, accompanied by a Declaration of Identity, could be returned by post or placed into a ballot box at a polling station. The majority were returned by post. Approximately 75% of all votes cast were postal votes, meaning that the 30% target was exceeded by a considerable margin.

There were a number of reasons cited for the preference for postal voting. The fact that each voter was able to cast up to 38 votes was given by some as a reason for their choice, as they were able to consider their votes at their leisure in the comfort of their own homes. Covid-19 and uncertainty about the ability to attend a polling station was another relevant factor, as was the requirement for self-isolation for anyone returning to the island from elsewhere. This last factor was recognised by the States of Deliberation, which passed Regulations which meant that persons finding themselves having to self-isolate were able to register for a postal vote after the deadline for doing so had passed. The necessity of doing this was demonstrated by the fact that a handful of voters needed to rely on these Regulations.

In anticipation of a high number of voters opting for a postal vote, the preparation of postal vote packs was done by the provider of the ballot papers, UK company UK Engage (UKE), rather than, as had been the case in the past, manually by the Election Team. UKE also produced “spare” packs for use as replacement packs if necessary, or for issue after the print deadline had passed.

Postal voting has been embraced to such an extent by the electorate that it would be difficult to change the approach for the next election. It must be acknowledged, however, that potential risks have been identified in respect of postal voting, in so far as this method of voting could allow voters to be placed under undue pressure by others to vote in a certain way and also raises the possibility of “family voting”.

⁸ Billet d’Etat XXIV, 2019

The Venice Commission, in its Code of Good Practice in Electoral Matters⁹, offers the following guidance on postal voting:

“...postal voting should be allowed only where the postal service is safe and reliable; the right to vote using postal votes may be confined to people who are in hospital or imprisoned or to persons with reduced mobility or to electors residing abroad; fraud and intimidation must not be possible”.

Most of the postal votes issued went to Guernsey addresses and there are no concerns that the Guernsey postal service is anything other than safe and reliable. Whilst it would be extremely difficult to eliminate the possibility of fraud or intimidation in any voting system there is no reason to suspect it is sufficiently widespread in Guernsey to affect the result of an election. In the UK voters are given the opportunity to opt for a postal vote and it would be counterintuitive not to offer the same to voters locally, as the risks are almost certainly lower than in the UK, given the comparative scale of the two jurisdictions.

Whilst postal voting was embraced by the electorate and proved successful for most of those who opted for it, it must be acknowledged that some problems were encountered. The most significant was that logistical difficulties meant that, despite the best efforts of all involved, some overseas voters did not receive their voting packs in time to return their completed ballot papers.

There were a number of reasons for this, including the fact that contingency measures had to be developed alongside routine election preparation, thereby stretching the capacity of staff and suppliers. Whilst it is anticipated that the 2025 election will take place in less challenging circumstances, the Election Project Board has nevertheless made recommendations to its successor to ensure that postal votes are available and despatched, particularly to overseas voters, earlier.

Conversely, it is also important that postal vote packs are not sent to local addresses too early, as some candidates were frustrated to find that, during door-to-door canvassing, they were being told that postal votes had already been despatched.

Historically, the deadline for applying for postal votes has been five days prior to election day, which left only three working days to process applications received on the day of the deadline. SACC's December 2019 policy letter acknowledged that this had been problematic and, in light of the advance polling days, SACC took the opportunity to move the five day window to before the opening of polling, which therefore provided more time overall.

Consequently, the deadline for applications for postal voting was 25th September, which left seven working days before the General Election date. Notwithstanding the change, this

⁹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev2-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev2-cor-e)

remained a fairly short window within which to process the applications and despatch voting packs. It meant that UKE could not produce voting packs for those who registered later in the process and the “spares” had to be used and processed manually. Whilst this was achievable, it did create pressure and the potential for errors. In the UK, the deadline for registering for a postal vote is 11 days prior to polling day and, with the benefit of experience, it is considered that it would be helpful to ensure that in future more time is allowed between the deadline for postal vote registration and polling day.

Recommendation 4:

It is recommended that SACC should consider moving the deadline for postal vote applications further from polling day.

Polling

Polling Days

A higher than usual voter turnout was anticipated as a result of moving to island-wide voting. With each voter able to cast up to 38 votes, meaning that completing a ballot paper would take longer than previously, it was necessary to take steps to ensure that voters did not have to stand in long queues awaiting their turn to enter a polling booth.

Consequently, pre-polling days were used for the first time and the concept of super polling stations was introduced. Super polling stations could be used by voters from any parish, as distinct from parish polling stations which were only available to residents of the parish in question.

Polling stations were open from 8am to 8pm on polling days as follows:

- Saturday 3 and Sunday 4 October: St Sampson's High School and The Princess Royal Performing Arts Centre (both super polling stations);
- Tuesday 6 and Wednesday 7 October (formal polling day): all parish polling stations (14 in total) and The Princess Royal Performing Arts Centre.

Staffing of Polling Stations

Prior to the 2020 General Election, the parishes voluntarily carried out a significant part of the running of general elections, including providing venues for voting (with associated costs being reimbursed by the States) and people to administer polling stations. Polling stations were established in each district by the Constables of the Parishes in question, in accordance with relevant Resolutions of the States.

In April 2019¹⁰ the States agreed that given the move to Island-wide voting; the intention to introduce advance polling stations; and the need for flexibility as to where polling stations were established, the Law should be amended to require the Registrar-General to establish polling stations, further to consultation with the Constables of the Parishes concerned.

The Reform Law therefore now provides that: *"Polling stations shall be established by the Registrar-General in accordance with any Resolution of the States for the time being in force in that behalf and the Registrar-General may provide for the establishment of such additional polling stations as he may deem convenient to the electorate."*

With the shift of responsibility to the Registrar-General, combined with the changes to the structure of the election – i.e. moving away from Parish- or district-based voting and with the addition of pre-polling days and the introduction of super polling stations – it was considered prudent to introduce training for all volunteers, from Polling Station Officers to those providing more general assistance to the electorate. Polling station volunteers were recruited

¹⁰ Billet d'Etat VII, 2019

both through the Douzaines and directly by the Election Office. Whilst this generally worked well, it did allow for potential inconsistency. Whilst it is recognised that some Parish volunteers are very experienced in election administration, the CPA, in its Election Expert Mission Report, commented on the fact that it was possible for volunteers to attend without receiving training and the report includes the following recommendation:

“The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.”

Adverts did appear in local media, including social media, which means that the recruitment was “open and publicly advertised” but there was no requirement for training, although it was very much encouraged and most volunteers attended. While it is accepted that all concerned acted with good intentions, for the sake of good governance, plus consistency of voter experience, it is considered that the Election Mission’s recommendation should be pursued so that all helpers undergo the same recruitment and training experience.

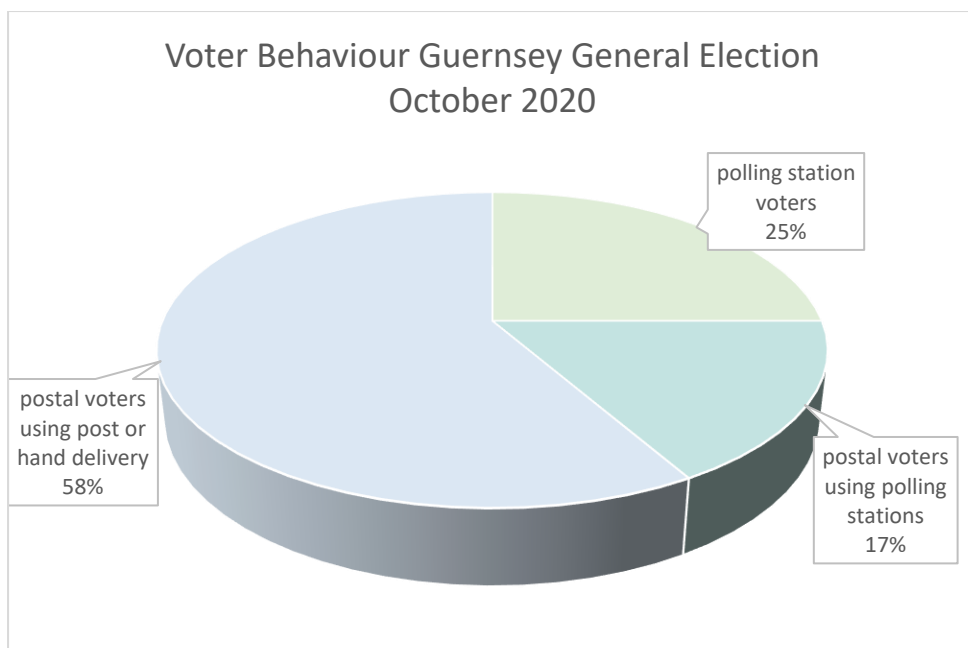
Every polling station had a designated Polling Station Officer (PSO) who was sworn in by the Royal Court. There was a great deal of responsibility placed on these officials and, while they had deputies, the responsibility was always carried by the PSO. These individuals worked long days with few breaks and should be commended for their dedication. However, for future elections, it is recommended that deputy PSOs should be formally sworn in and given sufficient authority to act in across the full range of duties in the absence of a PSO. This would mean that PSOs could take proper breaks and would also ensure greater resilience in the event that illness or unforeseen circumstances prevented a PSO from fulfilling his or her role.

Recommendation 5:

It is recommended that the Reform Law (or any successor) should in future include provision for Deputy Polling Station Officers to be formally sworn in and given the authority to act across the full range of duties in the absence of a Polling Station Officer.

Use of the Polling Stations

With 21,000 people opting for a postal vote it would be easy to overlook the importance of polling stations in the successful delivery of an Island-wide election. Approximately 18,000 postal ballots were returned, which represents 75% of all ballot papers received. However, as 4,000 of those postal voters chose to return their ballot papers via a polling station it meant that 40% of all voters visited a polling station as shown overleaf.



The number of users per polling is shown below:

Polling station	Number of users
St Andrew's Douzaine Room	293
St Sampson's Douzaine	596
Vale Douzaine Room	1232
St Martin's Parish Hall	887
Performing Arts Centre	2620
St Peter Port Constables' Office	956
Castel Douzaine Room	805
St Sampson's High School	451
St Saviour's Community Centre	414
St Sampson's Church Community Hall	320
St Pierre du Bois Community Hall	392
Castel KGV	302
Forest Douzaine Room	276
Torteval Church Hall	201

NB: The figures for the Performing Arts Centre are for four days' polling, whereas the others are for two days.

Parish Feedback

Notwithstanding the high proportion of voters who used the polling stations, it is evident from the above that some were considerably less busy than others. Feedback from the Parishes suggested that some Parish polling stations need not be open for two days and that one would suffice. The Castel Parish also felt that one polling station in the Castel Parish

would be adequate. If implemented, these measures would reduce the need for volunteers as well as bringing the cost down.

It was felt that the super polling stations had proved a great success, and it has been suggested that it would be helpful to locate one in the west/centre of the island as well as St Peter Port and St Sampson's. This idea certainly merits further consideration.

Recommendation 6:

It is recommended that SACC should consider consolidating the polling stations, with a view to reducing the number and/or opening hours of the Parish polling stations and increasing the number of super polling stations.

Vote Count

The vote count was overseen by the Central Returning Officer and, as such, sits outside the remit of the Registrar-General. However, issues that arose during the vote count will need to be addressed by SACC and/or the States and therefore need to be mentioned in this report.

In anticipation of a large number of votes being cast, SACC recommended¹¹, and the States agreed, that electronic counting equipment should be used for the 2020 election. Following a competitive tender process, a UK-based company, UKEngage (UKE), was selected to provide the necessary technology to count votes electronically. This included production of the ballot papers in order to ensure that they were of a suitable specification to be used with the technology.

In addition, as touched on previously, UKE oversaw the production of the postal ballot packs, as this would have been beyond the capacity of the small team if totally reliant on manual processing.

From the perspective of the Election Project Board, UKE provided a good service in difficult circumstances, particularly during the time leading up to the election, when representatives of the company were present on the island for the first time. This meant that they had to have daily Covid tests, isolate when not working, observe strict social distancing and hand hygiene practices and wear masks when with others. Despite these challenges, their communication with the team was of a high standard.

The vote counting machines were essentially high-powered scanners that captured images of the ballot papers and recorded a vote every time one of the ovals to the right of a candidate's name was shaded. If the mark was unclear or the voter intent was otherwise ambiguous then the ballot paper was automatically sent for adjudication; that is to say, it was examined by a small team of scrutineers, working in pairs, who made a decision as to how the ballot paper should be interpreted.

As each ballot paper listed 119 candidates they were very long, which meant that it was difficult to fit them into the envelope provided for the return of postal votes. This meant that frequently they were damaged when they were removed from the envelopes, which in turn caused problems with the scanners because the ballot papers could not pass through without difficulty and were being rejected.

Consequently, it was necessary to transcribe manually the information on such ballot papers onto fresh ballot papers. This task was undertaken by teams of civil servants working in pairs: one to read out what was on the ballot paper; one to mark the votes on a clean ballot paper. Once a ballot paper had been transcribed, the pair swapped papers and double-checked, with

¹¹ Billet d'Etat VII, 2019

the other reading out whilst his/her colleague checked that the ballot paper was marked correctly.

Whilst this activity was carefully monitored and there is no cause to suspect any fraudulent activity, it did, understandably, raise questions. It will be important to reduce the number of papers transcribed in future, whilst still maintaining the integrity of the election.

The count took place in the Sarnia Hall at Beau Sejour Leisure Centre. It commenced at 10am on the day after the election, 8th October 2020, and concluded at around 1am, with the results being announced by the Central Returning Officer at about 1.45 am. This was longer than original estimates, largely because of unforeseen difficulties with scanning the ballot papers, which are explained above. A further delaying factor was that postal ballots were not separated from other ballot papers at polling stations; they were all placed in the same ballot boxes. This meant that the outer envelopes and the Declarations of Identity could not be opened and checked until the count commenced, whereas this initial step could have been completed earlier had the postal ballots been kept separate. This point has also been picked up by the Parishes in their feedback, and should be addressed by the Election Team for the next election.

The length of time taken to complete the count featured in various stakeholder feedback, including candidate feedback. Some candidates felt that there was a sense of anti-climax when the results were issued, as few people were inclined to attend Beau Sejour at such a late hour. Others felt that the wait was too long and it would have been preferable to call a halt at some point during the evening and recommence the following morning. It has also been suggested that the count could have commenced earlier in order to bring forward the announcement of the results.

With the benefit of experience, there is every expectation that the count could be shortened in future, and it would also be worth the Central Returning Officer considering whether to commence much earlier – e.g. 8am or possibly earlier on the day after the polls close.

Central Returning Officer

Under the previous Parish-based election system, there was a Returning Officer for each district, making seven in total, each of whom had responsibility for ensuring an accurate vote count in his/her electoral district. With the move to island-wide voting, the task of overseeing the vote count fell to a Central Returning Officer who was sworn in by the Royal Court.

Whilst the appointee did an excellent job, the appointment of only one official not only placed a considerable burden on that one person but also created a single point of failure. Should he have become unavailable – for example through illness – on or close to the day of the count, it would have been extremely difficult, if not impossible, to find a suitable replacement able to take over at short notice.

There are certain parallels with the situation regarding Polling Station Officers and, as such, the recommendation is similar in so far as it is considered important that there should be provision in the Law to allow Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of duties in the absence of the Central Returning Officer. Any Deputies appointed could not only step up in the absence of the Central Returning Officer but could also act in support of the individual concerned, which would help to ease the appointee's heavy workload.

Recommendation 7:

It is recommended that SACC should give consideration to amending the Reform Law (or any successor Law) to ensure that it is possible for Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of the Central Returning Officer's duties in his/her absence.

Recount

Unsuccessful candidates had the right to ask for a recount in the event that the difference between the number of votes they received and the number of votes received by the candidate in 38th place was less than 2% of the total number of votes cast.

In the 2020 election, this was the case for six unsuccessful candidates, four of whom requested a recount. The candidate in 39th place received 126 fewer votes than the candidate who came 38th, and the candidate in 44th place, who polled 493 votes fewer than the 38th-placed candidate, was also able to seek a recount.

As pointed out by the CPA in its Election Expert Mission report:

“This is a generous margin which means the chances of a recount are high. ... Election authorities may wish to re-evaluate the basis on which recounts can be requested in future elections under the current island-wide system. It might be more practical if the margin of difference between the candidate placed 38th and those below him/her would relate to a percentage of the difference between these contestants in the number of votes cast, rather than a percentage of the total number of ballots issued.”

In light of the experience of the 2020 General Election, and given the above comments, it is recommended that SACC should consider the margin of votes required to trigger a recount.

Recommendation 8:

It is recommended that SACC should consider the margin of votes required to trigger a recount after a General Election and, if appropriate, make recommendations for amendments to the Reform Law (or any successor) to reduce the that margin.

Under the Reform Law, recounts are the responsibility of the Bailiff, who appointed a number of Jurats to oversee the administrative aspects of the recount.

UKE advised that it is usual in other jurisdictions where recounts are required, to examine only those ballot papers that had been manually adjudicated, as the ecount machines would not give a different answer, whereas different adjudicators might interpret voter intention differently.

This would be a logical approach but the Reform Law does not give such flexibility, as it was drafted with a manual count in mind and has not been updated to reflect the current reality of electronic vote counting. Consequently, there was no option but to run the entire count again, which is of course more costly and time-consuming than simply re-examining the adjudicated ballot papers.

Given that this was Guernsey’s first experience of using an e-count system, it nevertheless provided assurance when the recount did not result in any changes to those elected. It was

therefore a worthwhile exercise in the context of a new system but it is recommended that the Reform Law should be amended in order to allow the Bailiff to exercise more discretion over the exact parameters of any recount, given that electronic counting is set to become the norm.

Recommendation 9:

It is recommended that the Reform Law (or any successor) should, in future, provide for the possibility of an electronic recount and, accordingly, afford the Bailiff more discretion over the exact requirements for a recount.

Election Expenditure – Candidates and Parties

The Rules

Rules regarding the amount of expenditure permissible by candidates and political parties are governed by Article 44 of the Reform Law and the Electoral Expenditure Ordinance 2020, made under the Reform Law.

In summary, the Law and the Ordinance between them set out the permitted maximum levels of expenditure for candidates and political parties, and the transfer of permitted expenditure from candidates to parties; the value of assistance given in kind (“in money’s worth”); the need to maintain financial records; and the way in which spending before the Election period is counted towards a candidate’s or party’s permitted expenditure.

To understand the rules around expenditure it is necessary first to understand what is meant by the regulated period. This runs from the first day on which a nomination of a candidate may be delivered to the Presiding Officer (for the 2020 election 1st September, 2020) and ends on the date of the General Election.

Any money spent, and any materials used, during this period to promote a candidate’s election (or to promote a party and its policies) – regardless of when those materials were originally bought or created – must be recorded and counted towards a candidate’s (or party’s) permitted expenditure.

For the 2020 election candidates were permitted to spend up to £6,000 in money or money’s worth.

For the first time, political parties were able to form and endorse candidates for the General Election. Three political parties were registered during 2020: The Alliance Party Guernsey (registered 12th February 2020); The Guernsey Party (registered 5th August 2020); and The Guernsey Partnership of Independents (registered 18th August 2020).

Candidates who were supported or endorsed by political parties had the option of transferring up to £3,000 of their expenditure allowance to the relevant political party, to be used by the party to spend on the promotion of the party and its policies. The expenditure limit for political parties was £9,000.

The issue of campaign expenditure became contentious during the period preceding the election, with concerns being raised that political parties were being treated differently to individual candidates, and complaints that some candidates and parties might have been circumventing the rules by spending money on campaigning outside the regulated period.

With regard to candidates, the interpretation of the term “candidate” is that no-one can become a candidate until his or her nomination has been accepted. Consequently, expenditure prior to the regulated period on “one-off” items – e.g. newspaper or radio advertisements – would not contravene the rules because, although related expenditure

would have occurred outside the regulated period it would not constitute expenditure by a “candidate” and, as such, would not have to be declared in candidates’ returns.

Expenditure on items that were less discrete or short-term – for example posters displayed prior to and during the regulated period – would have to be declared because they would be being used during the regulated period, even if the expenditure had occurred in advance.

Notwithstanding the fact that it seems that candidates adhered to the letter of the Law, feedback from the community both before and after the election was that perhaps not everyone had abided by the spirit of the Law. Whether or not such claims are justified, there is little that can be done about them, providing the Law is observed.

A significant issue appears to be the point at which someone becomes an election candidate, as the expenditure rules apply only to candidates. This distinction is not well understood in the community, and it may be that it needs to be emphasised in communications.

In theory, a would-be candidate could incur considerable expenses on promoting his/her candidacy during the nomination period but not submit a nomination form until close to the deadline, meaning that one-off expenses incurred prior to the nomination date do not have to be declared. The only advantage in such an approach would be to enable expenditure in excess of the £6,000 limit. Few candidates came near the expenditure threshold and so this is unlikely to prove a motivation for many.

In the UK, the situation regarding expenditure during the regulated period is the same as in Guernsey but the determination of when someone is deemed to be a candidate, and therefore subject to expenditure rules, differs slightly.

Prior to a UK General Election, the UK Parliament is dissolved. The earliest date that anyone can officially become a candidate is the day of Parliament’s dissolution. Parliament is dissolved 25 working days before a General Election. In 2019, the General Election was held on 12th December and Parliament was therefore dissolved on 6 November.

The difference between the UK and Guernsey is that, in the former, if a person has already announced his/her intention to stand, formal nomination is not a pre-requisite for the expenditure rules to apply. A person will become a candidate on the date when Parliament is dissolved if they or others have already announced the intention to stand. If the intention to stand has not been announced by the day of the dissolution of Parliament, people will officially become candidates on the earlier of:

- the date the intention to stand is announced, which may be by the candidate or a third party; or
- the date when the candidate is nominated. This must be prior to the close of nominations.

In Guernsey there is no formal dissolution of Parliament, although the States of Deliberation do not meet during the period preceding an election. Because Guernsey's parliament and government are one and the same, the dissolution of the States would also mean the dissolution of government. Committee business can, and often does, continue throughout the election period and indeed beyond, until the elected Deputies are formally sworn in.

It is difficult to devise and enforce rules in this respect, particularly as prospective candidates can promote themselves via social media at no cost. In practical terms it would be impossible to prevent all pre-election expenditure if a prospective candidate decides to declare his/her intentions very early. However, given that this issue caused much comment from the community, it is suggested that consideration be given to ensuring that formal nomination is not a pre-requisite for the rules to apply, once nominations have opened. This would need to be reinforced with careful communications about the rules, as a lack of understanding contributed to some of the queries received.

It has to be recognised that the nature of political party spending is inherently different from that of an individual election candidate. Political parties endure beyond elections in a way that individual candidates do not. Political parties may incur ongoing expenses associated, for example, with premises from which they are operating, as well as one-off events, potentially linked to promoting the party and its policies but not necessarily directly linked to an election.

Guidance issued by the UK Electoral Commission for the 2019 General Election¹² explains that *"campaign spending is what your party spends on activities to promote the party or criticise other parties during a particular period in the run-up to the election"*, which is a helpful way to distinguish such expenditure from other party expenditure.

One of the issues in respect of party spending in 2020 was that there was little time (ranging between eight months and seven weeks) between the formal establishment of the parties and the election. In such circumstances it is perhaps understandable that there was a perception among some members of the community that parties were disregarding the rules in respect of spending, as it was difficult to separate the everyday expenditure of a political party, particularly one in its infancy, and therefore incurring costs associated with the start-up and promotion of any party, from campaign spending.

This situation is unlikely to recur, as legislation enabling the establishment and recognition of political parties is now in place, well before the next election, whereas there was a much smaller window of opportunity in respect of the 2020 election.

In the 2020 election, the Guernsey Partnership of Independents saw 11 candidates elected (although one has since opted to leave the party), and the Guernsey Party six. No Alliance Party candidates were elected and the party has been dissolved. It is not yet known how Guernsey's political system will mature in respect of political parties. Given that 2020 saw the

¹² [UK Parliamentary General Election 2019: Political Parties \(GB & NI\)](#)

first island-wide General Election which also happened to be the first election featuring political parties, it is perhaps not surprising that a degree of confusion existed around some of the rules pertaining to party expenditure.

Consequently, it is considered that more consideration needs to be given to how the rules are clarified and communicated to parties, candidates and the community but there is no overriding reason to revise the rules at this time.

Candidate Expenditure

As stated above, election candidates were permitted to spend up to £6,000 in money or money's worth. They were able to claim a grant of up to £500 in respect of receipted expenditure for the production and distribution of campaign material, as part of the overall expenditure limit.

There have been many calls for individuals' election expenses to be published but the Law does not expressly permit publication and candidates were not asked to consent to these details being made public, although they are at liberty to publish their own expenditure should they wish. The same is true of political parties' election expenditure, although they are required to file annual accounts.

In light of the understandable desire for transparency, it is recommended that the Law be amended to ensure that the ability to publish individuals' expenditure is captured.

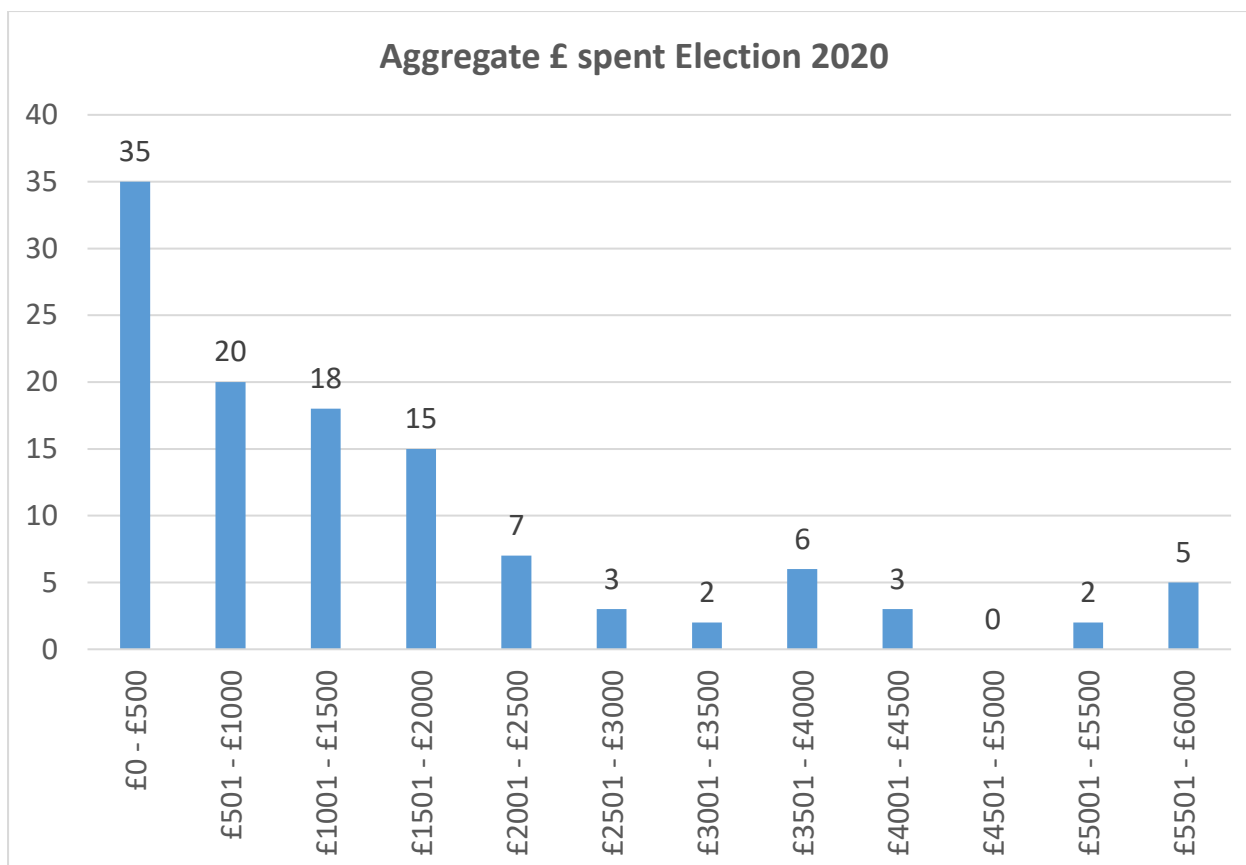
Recommendation 10:

It is recommended that the Reform Law (or any successor) should make explicit the fact that parties' and candidates' individual expenditure returns may be published.

Notwithstanding the fact that individual expenses cannot be published without consent, it has been possible to compile some aggregated data that gives an overview of expenditure.

Aggregated candidate expenditure is shown in the graph below¹³:

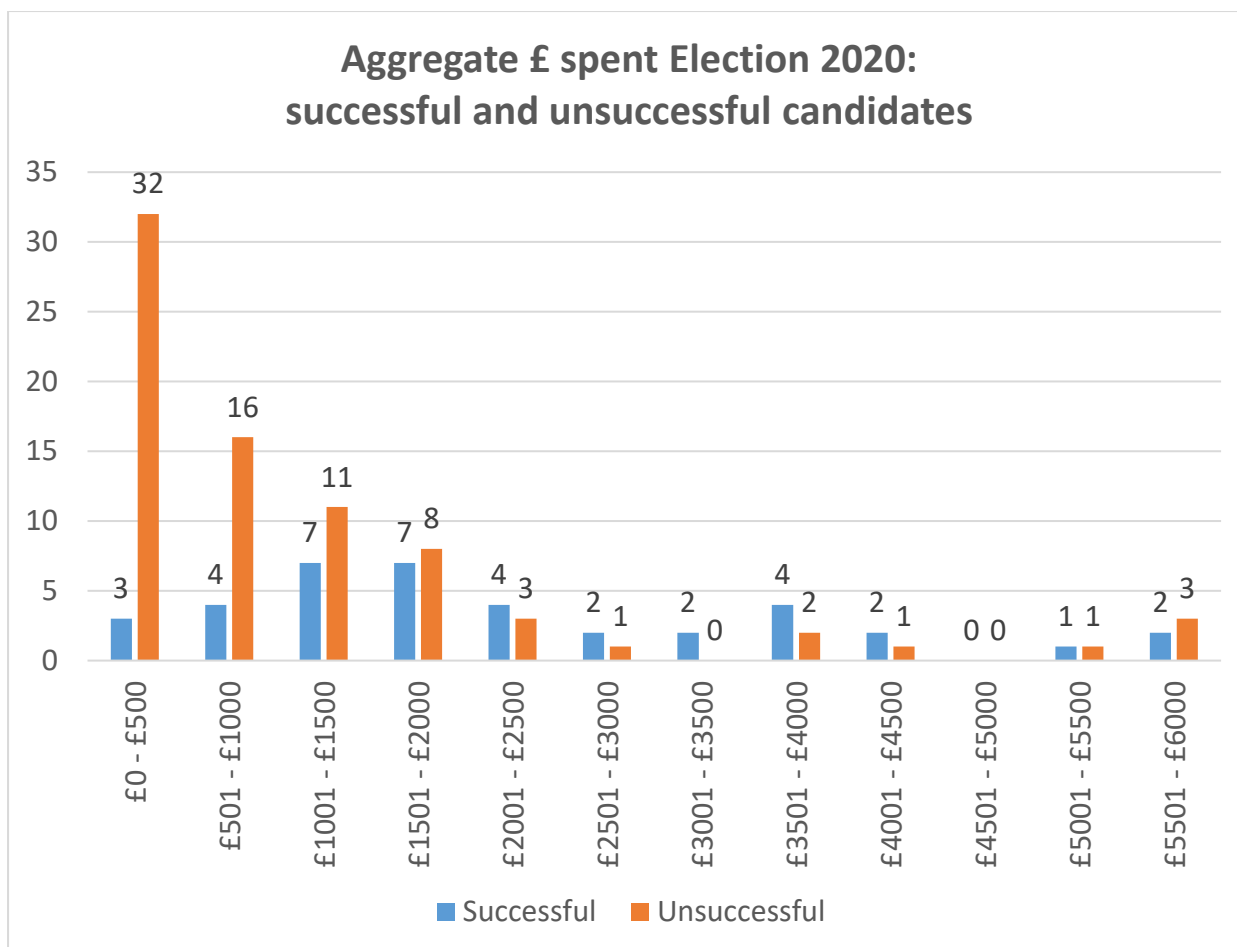
¹³ The data relates to 116 candidates, as three (all of whom were unsuccessful) did not submit any returns.



As can be seen, the majority of candidates (98 in total) spent no more than 50% of the £6,000 limit, with most spending significantly less.

There has been speculation over whether it might have been possible to “buy” election success, particularly as the expenditure limit was higher than in past elections. The graph below, which breaks down aggregated expenditure between successful and unsuccessful candidates, shows that greater spending did not necessarily mean success in the election, with three out of five of the highest spenders failing to be voted into political office. Of the successful candidates, 27 spent less than 50% of the permitted expenditure limit. Spending for successful candidates ranged from £285 to £5,859, demonstrating that election success was possible with minimal expenditure.

Despite this, on average, successful candidates spent more than those who were unsuccessful. The average spend by those who were elected was £2,242, whilst for those who were not it was £1,178. Three candidates did not incur any expenditure, none of whom was elected.



The ten successful candidates with the lowest expenditure spent between £265 and £1,034. Of these, five had been Deputies in the 2016-2020 term, whilst five had not.

It is difficult to draw any conclusions based on expenditure alone because the data relates only to those activities and items that had to be declared on an expenses return. It does not take into account the fact that many candidates also went door knocking and/or used free social media or other free activities to promote themselves, nor can it account for existing public profiles. It does show, however, that it was not necessary to spend anything close to the £6,000 expenditure limit to secure election success.

The position regarding publication of party expenditure is the same as for individuals. Aggregate expenditure across all three parties was just under £19,000, with no party exceeding the £9,000 limit. Two parties, the Guernsey Partnership of Independents and the Guernsey Party, have confirmed publicly their election expenditure as £6,500 and £6,200 respectively.

Election Costs

It was difficult to plan the budget for the first island-wide election because, understandably, there were many unknown factors, particularly in the early stages, and it also became necessary to factor in contingency planning occasioned by Covid.

The table below shows expenditure against budget for both the election and the creation of a new Electoral Roll.

Area	Expenditure Category (Per	Budget	Expenditure	Variance
Election	Staffing of Polling Stations and Vote Count	91,000	14,226	76,774
Election	Postal voting	35,000	59,951	(14,951)
Election	Postage (general)	10,000		
Election	Candidate manifesto booklet	82,000	134,505	(42,505)
Election	Printing	10,000		
Election	Contingency	25,000	3,543	21,457
Election	Advertising	24,000	189,894	7,107
Election	IT - hardware / website	38,000		
Election	E-Count Solution	110,000		
Election	Contingency	25,000		
Election	Election Observation Mission	50,000	16,611	33,389
Election	Grants for candidates	50,000	50,454	(454)
Election	Administration - meetings etc.	50,000	43,022	6,978
Election	TOTAL	600,000	512,205	87,795
Electoral Roll	Staffing	260,000	249,476	10,524
Electoral Roll	Staffing (uplift in respect of pay awards)	5,593	0	5,593
Electoral Roll	Printing	11,000	16,997	(5,997)
Electoral Roll	Postage (general)	33,500	22,258	11,242
Electoral Roll	IT - hardware / website	25,000	44,201	(19,201)
Electoral Roll	Administration / Stationery	8,500	(728)	9,228
Electoral Roll	Advertising	42,000	32,622	9,378
Electoral Roll	TOTAL	385,593	364,826	20,767
COMBINED	TOTAL	985,593	877,031	108,562

As can be seen from the table, the cost of running the election was just over £512k, whilst the cost of creating a new Electoral Roll was a little less than £365k, giving a combined total of £877k.

There were a number of factors that influenced the total expenditure. First, the high number of candidates (119) meant that the combined manifesto document was larger than anticipated, which meant that the printing and postage costs increased. The budget for candidate grants was based on 100 candidates claiming the full £500 but, as expected, not all candidates claimed the full amount and therefore the overspend in this area was marginal.

Owing to uncertainty regarding the possible re-emergence of Covid in the community, the decision was made to put a contingency in place should the island have to revert to a previous phase of lockdown over the election period. This contingency plan required a postal voting

ballot paper to be created for all persons on the electoral roll, regardless of whether they were signed up for a postal vote. The cost for this was c. £20k. Fortunately this contingency was not triggered, and thanks to careful budget management, the cost was covered from general contingency and underspends within other areas.

The uptake for postal votes was considerably higher than had originally been anticipated, which may have been influenced by both the number of candidates, meaning that voters preferred to vote in the comfort of their own homes, and also, potentially, concerns about Covid. This area exceeded the budget by c£15k. Feedback from voters has shown that postal voting was very popular and the high uptake is likely to endure, which should be noted for budget planning for future elections.

Owing to the restrictions on travel at the time of the election, it was decided that an in-person election observation mission would not be possible. A remote expert mission was undertaken instead. This meant a significant reduction in the actual cost because of savings on travel, accommodation, staffing costs, etc. The final cost of the election observation mission was £16.6k against a budget of £50k. There is no need to have an election observation mission at every General Election and this is therefore a cost that need not feature in the budget for the next election and, in all likelihood, the one after that too.

The experience gained during the 2020 General Election will help to inform budget decisions in respect of the 2025 election, meaning that a more accurate budget should be achieved.

Conclusion

The 2020 General Election was unique. It was the first General Election to be run on the basis of island-wide voting; it was the first to feature political parties; and it was organised in the middle of a global pandemic.

All of these circumstances threw up issues for those planning and running the election but, notwithstanding the challenges, it can be concluded that the success criteria agreed by SACC and the Committee *for* Home Affairs, were largely met. To recap, those criteria were:

- i. A high percentage of those eligible to vote are registered on the Electoral Roll;
- ii. A good number of candidates stand for election;
- iii. The majority of those on the Electoral Roll cast their votes; and
- iv. There is a fair, efficient and democratic election.

As set out in the report, more needs to be done in order to increase the percentage of the electorate who are registered on the Electoral Roll but that work is in train and it is hoped that it will have been concluded in time for the 2025 election.

The other criteria are considered to have been met; again the reasons for this conclusion are set out in the report.

Regardless of the success of any undertaking, lessons can always be learnt and improvements made, which is what the recommendations in the report (and attached as an appendix for ease of reference) are designed to achieve.

Finally, I should like to thank all those who contributed to the delivery of the election and also those who kindly gave up their time to provide feedback afterwards. It is much appreciated.

Colette Falla
Registrar-General of Electors

31st March 2021

Appendix: Recommendations

1. It is recommended that SACC should investigate the creation of an independent body to advise on and oversee future elections. (See p.6)
2. It is recommended that SACC should review the Reform Law and other legislation relating to the holding of elections and, if it thinks fit, make suitable proposals for consideration by the States, for electoral reform by way of a standalone election Law that reflects modern election practices and is easily accessible. (See p.6)
3. It is recommended that consideration be given by SACC to how more hustings-type events can be organised by the States and/or the parishes, also having regard to how the requirements of “special interest” groups can be factored into such hustings. (See p.11)
4. It is recommended that SACC should consider moving the deadline for postal vote applications further from polling day. (See p.16)
5. It is recommended that the Reform Law (or any successor) should in future include provision for Deputy Polling Station Officers to be formally sworn in and given the authority to act across the full range of duties in the absence of a Polling Station Officer. (See p.18)
6. It is recommended that SACC should consider consolidating the polling stations, with a view to reducing the number and/or opening hours of the Parish polling stations and increasing the number of super polling stations. (See p.20)
7. It is recommended that SACC should give consideration to amending the Reform Law (or any successor Law) to ensure that it is possible for Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of the Central Returning Officer’s duties in his/her absence. (See p.23)
8. It is recommended that SACC should consider the margin of votes required to trigger a recount after a General Election and, if appropriate, make recommendations for amendments to the Reform Law (or any successor) to reduce the that margin. (See p.24)
9. It is recommended that the Reform Law (or any successor) should, in future, provide for the possibility of an electronic recount and, accordingly, afford the Bailiff more discretion over the exact requirements for a recount. (See p.25)
10. It is recommended that the Reform Law (or any successor) should make explicit the fact that parties’ and candidates’ individual expenditure returns may be published. (See p.29)



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5th May 2021

Dear Deputy Meerveld

CPA BIMR Election Expert Mission Report – Guernsey General Election 2020

I refer to your letter of 22nd April 2021 requesting an update in respect of the development of an automated electoral roll. The Committee *for* Home Affairs (the Committee) is pleased to note that the relevant legislation necessary to support the delivery of an automated generation of a list of persons eligible to vote is now in place.

The Committee supports the progression of this Extant Resolution and recognises the efficiencies that an automated electoral roll are likely to deliver. However, it will be essential for this work to be prioritised and resourced in the Government Work Plan in July if a digital solution and the necessary amendments to the Reform Law are to be progressed and in place in advance for the 2025 General Election.

The Committee looks forward to working with the States' Assembly and Constitution Committee and the Policy & Resources Committee to progress arrangements for the 2025 General Election including establishing an automated electoral roll. As part of these further discussions the Committee considers that there would be merit in reviewing the 'blue book' in terms of which Committee might appropriately have mandated responsibility for the electoral roll moving forward.

Yours sincerely

Deputy Rob Prow
President
Committee *for* Home Affairs



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Deputy C P Meerveld
President
States Assembly & Constitution
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Our Ref:
Your Ref:
Date: 5 May 2021

Dear Deputy Meerveld

CPA BIMR Election Expert Mission Final Report - Guernsey General Election - October 2020

Thank you for your letter, dated 22 April 2021, inviting the Committee for Employment & Social Security ('the Committee') to submit a letter responding to recommendations 10 and 11 in the report from the CPA BIMR Election Expert Mission:

- Recommendation 10 – Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to Guernsey should be pursued without delay.
- Recommendation 11 – Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities (CRPD) should be pursued without delay.

Firstly, it is important to stress that international human rights treaties, such as CEDAW and CRPD, are extremely wide-ranging covering all areas of life, therefore, a whole government approach is required to progressively realise the requirements of these Conventions over time. That said, the Committee recognises that it has a lead role to play in advising the States of Deliberation on matters relating to equality and inclusion and in working towards the introduction of the key legislative provisions that need to be in force before H.M. Government will consider extending its signatory of either convention to Guernsey.

CRPD

I am advised that comprehensive legislation prohibiting discrimination on multiple grounds, including disability, must be in force before H.M Government will consider extending its ratification of CRPD to Guernsey.

In July 2020, following consideration of a Policy Letter entitled '[Proposals for a New Discrimination Ordinance](#)' ('the July 2020 Policy Letter'), the States agreed unanimously to the preparation of an Ordinance to outlaw discrimination on the grounds of disability, carer status and race. The States also approved an [Amendment](#) to the Committee's proposals, laid by Deputy Parkinson and seconded by former Deputy Tooley, which added religious belief and sexual orientation into the first phase of the development of the Ordinance. The States directed the Committee to develop policy proposals for phase 2 of

the development of this Ordinance, for consideration in 2023 and implementation in 2024. Phase 2 will include proposals to introduce protection from discrimination on the grounds of age and the transfer into the new Ordinance of the grounds of protection covered under the existing Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (i.e. sex (including pregnancy and maternity), gender reassignment and marriage), with any necessary adaptations.

The Committee is currently working on the implementation of phase 1 of the new Discrimination Ordinance, for entry into force in late 2022.

CEDAW

H.M. Government has previously advised the States of Guernsey that the following requirements must be met before consideration will be given to extending the UK's ratification of CEDAW to Guernsey:

1. Introduction of statutory maternity leave with pay or equivalent benefits

Statutory maternity leave was introduced with effect from 1 April 2016 and maternity benefit was replaced with a suite of parental benefits, paid at higher rates, with effect from 1 January 2017. I believe this requirement is now met.

2. Introduction of comprehensive legislation prohibiting discrimination on the grounds of sex

Sex discrimination in employment is unlawful under the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005. However, sex discrimination in the provision of goods and services, education, accommodation and membership of clubs or associations is not unlawful in Guernsey at the present time.

As noted above, the Committee has been directed to develop policy proposals for phase 2 of the new multi-ground discrimination Ordinance, for consideration in 2023 and implementation in 2024. Phase 2 will include proposals to introduce protection from discrimination on the grounds of age and modernisation of the Sex Discrimination Ordinance, which will include plugging existing gaps where sex discrimination is currently lawful.

3. Introduction of a legal right for women to equal pay for work of equal value

In relation to this matter, the July 2020 Policy Letter said:

“The Committee envisages that phase 3* will include a proposal to introduce the right to equal pay for work of equal value in respect of sex in accordance with Guernsey's obligations under the International Covenant on Economic, Social and Cultural Rights and in order to support the extension of the Convention on the Elimination of All Forms of Discrimination Against Women.”

[Please note that the three-phase approach proposed by the Committee was condensed into two phases through a successful Amendment proposed by Deputy Parkinson and seconded by former Deputy Tooley, therefore, this will feature in the phase 2 Policy Letter referred to above.]*

The CPA BIMR Election Expert Mission has recommended that extension of the UK's ratification of Articles 4 and 7 of CEDAW and Articles 21 and 29 of CRPD (the text of these Articles is provided in Appendix 1) should be pursued without delay. While the Committee supports the extension of these Conventions to Guernsey at the earliest opportunity, I understand that it is not possible to select only specific Articles for extension. I am advised that Guernsey would need to seek extension of the UK's ratification of any Convention as a whole, with the possibility of declarations or reservations being applied in line with those that apply to the United Kingdom, and perhaps some that are specific to Guernsey, subject to negotiation with the UK and where the Conventions allow. Therefore, even if Guernsey meets the requirements of the priority Articles identified by the CPA BIMR Election Expert Mission, it would not be possible to seek to extend these Articles to Guernsey until we meet the pre-requisites set out above, which may or may not be relevant to those specific Articles.

Of course, the fact that the UK's ratification of these Conventions has not yet been extended to Guernsey is no barrier to the States of Guernsey working towards the implementation of the measures outlined in Articles 4 and 7 of CEDAW and Articles 21 and 29 of CRPD. Any actions taken in this regard will, in future, assist the States of Guernsey to demonstrate to H.M Government an adequate level of compliance with the requirements of the Convention when an official approach is made.

Given the critical importance of the new Discrimination Ordinance in moving towards extension of CEDAW and CRPD to Guernsey, the Committee looks forward to receiving your wholehearted support, and that of your Committee members, in the implementation of phase 1 of that Ordinance and the development and approval of policy proposals for phase 2.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Roffey', with a stylized flourish at the end.

Deputy Peter Roffey
President

APPENDIX 1

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Article 4 – Special Measures

“1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.”

Article 7 – Political and Public Life

“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.”

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

“Article 21 – Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.”

“Article 29 – Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.”

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

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

No. 52 of 2021

THE BUILDING (GUERNSEY) (AMENDMENT) REGULATIONS, 2021

In pursuance of section 89 of the Land Planning and Development (Guernsey) Law, 2005, The Building (Guernsey) (Amendment) Regulations, 2021, made by the Development and Planning Authority are laid before the States.

EXPLANATORY NOTE

These Regulations amend the Building (Guernsey) Regulations, 2012 ("Building Regulations").

Regulation 11 inserts a new Part VIIA into the Building Regulations requiring a person carrying out specified building work to give fire safety information, in relation to the building and its services and fittings, to the owner of a building. The information is such that will assist the building to be operated and maintained with reasonable safety. The requirement applies to specified building work (including the erection of, or extension to, a building) in relation to all buildings except private dwelling-houses. The regulation also requires the owner of a building, from time to time, to give the information to a new owner and to ensure that the information is brought to the attention of occupiers and workmen carrying out works in the building. Consequential amendments are to other Parts of the Building Regulations by regulations 5(b) and 7.

Regulations 2(a) and (d), 3, 4, 10 and 13 make various amendments to the Building Regulations to provide for associated independent living units. Such units cover wings or extensions to houses or outbuildings in the garden of a house which comprise a dwelling and are occupied by a person[s] who is allowed access to the main house and its facilities. The provisions allow for such units to meet reduced requirements under the Building Regulations, compared to a new dwelling, providing they continue to be used by a person who has access to the main dwelling house and its facilities. If such a wing or outbuilding ceases to be an associated independent living unit, for example, because it is sold to be used by a person who does not have access to the main house and its facilities, then this would be a material change of use to create a new dwelling under the Building Regulations so that the wing or outbuilding etc. would have to meet all the requirements of the Building Regulations applying to ordinary independent dwellings. If a new associated independent dwelling unit is created it would still have to meet specified relevant requirements of the Building Regulations as provided in the amendments.

Regulation 14 amends Schedule 2 to reword the description of the small detached buildings exempted from most requirements of the Building Regulations in Class IV, to remove the exemption for sun lounges in Class VI and to widen the current exemption in Class VII so that it applies to free standing walls, in all locations, which meet the conditions in the exemption. Regulation 15 makes a related transitional provision for buildings which are in the course of being built in reliance on the exemption for sun lounges. The opportunity has also been taken

in regulations 2(c), 5(a), 6, 9 and 12 to make amendments to other regulations to update them or to clarify certain provisions.

Regulation 16 makes consequential amendments to Schedule 2 the Land Planning and Development (Fees and Commencement) Ordinance, 2008 in relation to fees payable on the deposit of full plans under the Building Regulations.

These Regulations will come into force on the 1st September, 2021.

No. 61 of 2021

**THE CUSTOMS AND EXCISE (SAFETY AND SECURITY) (BAILIWICK OF GUERNSEY)
(AMENDMENT) REGULATIONS, 2021**

In pursuance of sections 14B and 79 of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, The Customs and Excise (Safety and Security) (Bailiwick of Guernsey) (Amendment) Regulations, 2021, made by the Committee *for* Home Affairs on 7th June 2021, is laid before the States.

EXPLANATORY NOTE

These Regulations amend the Customs and Excise (Safety and Security) (Bailiwick of Guernsey) Regulations, 2020 to delay their coming into force from 1st July 2021 to 1st January 2022. This change has been made to assist businesses and aligns with the commencement of the equivalent United Kingdom provisions under a new timetable for introducing import border control processes after Brexit.

These Regulations came into force on being made.

No. 66 of 2021

**THE IMMIGRATION AND SOCIAL SECURITY CO-ORDINATION (EU WITHDRAWAL)
(BAILIWICK OF GUERNSEY) (AMENDMENT) REGULATIONS, 2021**

In pursuance of section 5 of the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 as extended to the Bailiwick by the Immigration (Guernsey) Order 2020, The Immigration and Social Security Co-ordination (EU Withdrawal) (Bailiwick of Guernsey) (Amendment) Regulations, 2021, made by the Committee for Home Affairs on 21st June 2021, is laid before the States.

EXPLANATORY NOTE

These Regulations amend regulation 13 of the Immigration and Social Security Co-ordination (EU Withdrawal) (Bailiwick of Guernsey) Regulations, 2020 ("the principal Regulations").

Regulation 13 of the principal Regulations revoked paragraphs 256, 257 and 257A of the Immigration (Bailiwick of Guernsey) Rules, 2008 ("the Immigration Rules") whilst deeming persons who had been given notice under any of those paragraphs that they could remain in

the Bailiwick indefinitely to have been given indefinite leave to remain.

Regulation 2 of these Regulations inserts new paragraphs (5A), (5B) and (5C) in regulation 13 of the principal Regulations. These paragraphs deem persons who, immediately before the principal Regulations commenced, were eligible to be given notice that they could remain in the Bailiwick indefinitely under the now-revoked paragraphs of the Immigration Rules, to have been given indefinite leave to remain even if they had not been given such notice under those paragraphs.

This is to preserve the position of those persons, and ensure that none of them would be in the Bailiwick unlawfully (with consequences for any application for British nationality they might make in the future), in case they fail to apply for indefinite leave to remain before 1 July 2021.

These Regulations will come into force on the 30th June 2021

The full text of the legislation can be found at: <http://www.guernseylegalresources.gg>

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

AMENDMENTS TO THE COURT OF APPEAL (GUERNSEY) LAW, 1961

The States are asked to decide:-

Whether, after consideration of the Amendments to the Court of Appeal (Guernsey) Law, 1961, Policy Letter (dated 28th May, 2021) they are of the opinion:-

1. To approve, in addition to those amendments approved by the States at their meeting held on 30th November, 2011, the further amendments to the Court of Appeal (Guernsey) Law, 1961 described in paragraphs 3.2 to 3.9 of the Policy Letter, and
2. To approve the Projet de Loi entitled "The Court of Appeal (Guernsey) (Amendment) Law, 2021" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

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.

EXPLANATORY MEMORANDUM

This Law amends the Court of Appeal (Guernsey) Law, 1961 to incorporate those changes approved by the States of Deliberation at its meeting of 30th November, 2011, as well as address certain other matters that had arisen during the subsequent drafting of the Law. The overall effect of the amended provisions will be to modernise the Law, bringing it into alignment with the Court of Appeal (Jersey) Law, 1961, and its subsequent amendments.

Specifically, those amendments made since 2011 will:

- enable Judges to be sworn in using an English language oath;
- require the remuneration rate of Judges to have the approval of the Bailiff;
- enable hearings of the Court of Appeal to take place remotely or outside the Bailiwick;

- allow an application for leave to appeal against an interlocutory order or judgment to be made to a single Judge;
- confer a right of appeal in certain circumstances where there has not been a conviction by the Royal Court;
- confer a right of appeal against forfeiture orders;
- allow the Bailiff to suspend, pending appeal or application for leave to appeal, an order of the Royal Court suspending or revoking a licence;
- require any goods which have been confiscated or forfeited as part of the order of the Royal Court to be kept by the Registrar of the Court of Appeal pending disposal of the appeal or application and;
- make various other minor and consequential amendments.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

AMENDMENTS TO THE COURT OF APPEAL (GUERNSEY) LAW, 1961

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

28th May, 2021

Dear Sir

1. Executive Summary

- 1.1 In November 2011, the States of Deliberation (“States”) resolved¹ that the Court of Appeal (Guernsey) Law, 1961², (“the Law”) should be amended in order to modernise it and to bring it into alignment with the Court of Appeal (Jersey) Law, 1961³, which has itself been amended on numerous occasions, and directed the preparation of such legislation as may be necessary to give effect to these proposals. The Resolutions arose as a result of proposals from Her Majesty’s Procureur.
- 1.2 During the drafting process and following consultation with the Bailiff and other Judges of the Court of Appeal, it became apparent that additional amendments to the Law would be necessary or expedient in order to ensure the proper administration of justice. These amendments are detailed in paragraphs 3.2-3.9.
- 1.3 This Policy Letter seeks the States’ approval of the attached Projet de Loi (“Projet”) (Appendix 1) in line with the extant Resolutions of 2011, and sets out the additional amendments, and the reasons for them, referred to in paragraph 1.2.

¹ [Billet d’État XIX of 2011, Article XII](#)

² [The Court of Appeal \(Guernsey\) Law, 1961](#)

³ [The Court of Appeal \(Jersey\) Law, 1961](#)

2. Background

- 2.1 The Guernsey Court of Appeal⁴ (“the Court”) deals with appeals, mainly from decisions of the Royal Court, where jurisdiction is vested in it by statute. It has two divisions, Criminal and Civil, dependent on the nature of the appeal. The Bailiff of Guernsey is ex-officio the President of the Court, and the other Judges are appointed by warrant of the Sovereign.
- 2.2 The Court was constituted by the Court of Appeal (Guernsey) Law, 1961 (“the Law”). The Law provides for the creation and functioning of the Court, as well as the appeal process that takes place within each of the two divisions.
- 2.3 The regime was first proposed in the form of the Court of Appeal (Channel Islands) Order, 1949 to interpose a local Appeal Court between the Royal Courts of Guernsey and Jersey and the Judicial Committee of the Privy Council. However, a single Court for the Channel Islands was found to be impractical, resulting in the enactment of the Law of 1961 and the Court of Appeal (Jersey) Law, 1961 (“the Jersey Law”).
- 2.4 Both the Law and the Jersey Law were based upon the Court of Appeal (Channel Islands) Order, 1949, and so are similar to each other. However, the Jersey Law has been amended on numerous occasions since, whilst the Guernsey Law has not been substantively amended.
- 2.5 Although many of the amendments made to the Jersey Law since 1961 are of minor or clarificatory nature, some have a more significant bearing on the constitution and function of the Court. It was for this reason that Her Majesty’s Procureur recommended in 2011 that the States amend the Law so that the legislation governing the Courts in both Bailiwicks was once again broadly similar.
- 2.6 At its meeting of 30th November, 2011, the States approved the proposals for amending the Law as set out in a letter from Her Majesty’s Procureur, and directed the preparation of legislation to give effect to the decisions. The substantial changes agreed were:
- that the Deputy Bailiff, as well as the Bailiff, should be an ex officio Judge of the Court; the qualification of 10 years' practice in the Channel Islands or United Kingdom should be broadened to include the Isle of Man; and the restriction on a Judge of the Court practising at the Guernsey Bar should be extended to being concerned with any professional matter arising within the Bailiwick;
 - to clarify the jurisdiction of the Court by conferring on it a general jurisdiction

⁴ [The Guernsey Court of Appeal](#)

to hear and determine the appeals from any judgment or order of the Royal Court when exercising jurisdiction in any civil cause or matter, other than a decision of the Full Court involving only the exercise of original or appellate discretion where no point of law is at issue (subject to the other limitations set out in the Law);

- to repeal the existing restrictions on civil appeals based only on the monetary value of disputes;
- to provide the right for appellants to be present at any oral hearing of their appeal (via video link if the Court so directs), whatever the grounds of appeal;
- to allow for retrials following appeals in criminal cases;
- to enable Her Majesty's Procureur to refer a point of law to the Court following an acquittal;
- to enable Her Majesty's Procureur to refer a case to the Court for review of the sentence if it is considered that the sentence is unduly lenient;
- to provide explicit provision for the right of appeal from confiscation orders;
- to provide that all the time which a prisoner spends in custody pending an appeal is to be taken into account, unless the Court otherwise directs, when calculating time to be served under any sentence of imprisonment;
- to transfer the responsibility for making references to the Court relating to the prerogative of mercy⁵ from the Secretary of State to the Lieutenant Governor;
- to extend the time for appealing against conviction or sentence from 10 days to 28 days;
- to make additional minor amendments to clarify and extend the powers of a single Judge and in relation to procedural matters and terminology.

3. Subsequent amendments since 2011

- 3.1 In fulfilling the States direction to prepare the necessary legislation, and through further consultation with the Bailiff and the other Judges of the Court, it became clear that further amendments to the Law would be required. These changes and the reasons for them are set out below.

Oath

- 3.2 It is proposed that section 5 of the Law is amended to include an English version of the oath in addition to the current French version set out in the First Schedule. This is considered appropriate because the majority of the Judges of the Court are senior lawyers from the United Kingdom. It is also proposed that section 5 and the First Schedule be amended to make explicit reference to the option to

⁵ The prerogative of mercy is a royal prerogative which allows the British monarch to grant pardons to convicted persons. This prerogative is now delegated, usually to government ministers responsible for justice (for example, the Lord Chancellor in England and Wales).

affirm as an alternative for a person who does not wish to swear an oath.

Remuneration of Judges

- 3.3 In section 6 of the Law, in addition to updating the terminology from “emoluments” to “remuneration,” it is proposed that remuneration paid to the ordinary Judges of the Court shall be such “as may be determined by or on behalf of the States with the approval of the Bailiff.” The Law originally provided for it to be prescribed by Resolution of the States, however it is no longer considered acceptable for a legislature to have the sole power to determine the remuneration of the judiciary. Such a provision is potentially incompatible with Article 6 of the European Convention on Human Rights⁶, because the ability of the legislature to arbitrarily reduce the remuneration of the judiciary might affect their independence and impartiality. The proposed wording is consistent with that in section 4(5) of the Royal Court (Reform) (Guernsey) Law, 2008, and section 3(5) of the Magistrate’s Court (Guernsey) Law, 2008⁷, in relation to the remuneration of the judiciary in those courts.

Venue of hearings of the Court of Appeal

- 3.4 It is proposed that section 7 of the Law incorporates on a permanent basis the ability of the Court to meet remotely, by telephone or electronic means, in appropriate cases, similar to the provisions made in the Emergency Regulations of 2020 and 2021 in response to the COVID-19 pandemic⁸. In addition, this section should also be amended to allow the Court to sit outside, as well as inside, the Bailiwick. The overall effect will facilitate the proper and timely administration of justice by adding flexibility and efficiency to the Court’s hearings.

Powers of a single Judge

- 3.5 It is proposed that, in section 15, an application to the Court for leave to appeal against an interlocutory order or judgment, where such leave is required, should be made to a single Judge (who may refer the matter to the full Court), and such Judge’s decision shall be final. This further addition to the powers of a single Judge is considered expedient in the interests of flexibility and efficiency and will ensure consistency with the Jersey Law in relation to the powers of a single Judge.

⁶ [European Convention on Human Rights](#) – Article 6, Right to a Fair Trial

⁷ [The Royal Court \(Reform\) \(Guernsey Law\), 2008](#) and [The Magistrate’s Court \(Guernsey\) Law, 2008](#)

⁸ Section 21 in, for example, [The Emergency Powers \(Coronavirus\) \(General Provision\) \(Bailiwick of Guernsey\) Regulations, 2021](#)

Rights of appeal

- 3.6 It is proposed that the Law includes a right of appeal against an order of the Royal Court which does not arise from a conviction by that Court but relates to a community service order or a probation order imposed by the Magistrate's Court. Further, it is proposed to insert explicit provision of a right of appeal against the making of a forfeiture order⁹ by the Royal Court under section 18 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002¹⁰, in addition to the right of appeal against a confiscation order which was included in the 2011 resolutions.

Effect of appeal on suspension of licences and confiscation of goods

- 3.7 It is proposed that the Law empowers the Bailiff, where notice of appeal or an application for leave to appeal has been given, to suspend any order of the Royal Court which suspends or revokes a licence or other permit pending such disposal of the appeal or application. Similarly, where goods have been confiscated or forfeited as part of the order of the Royal Court, these goods will be kept by the Registrar of the Court of Appeal on the same basis. This provision is in similar terms to Article 38 of the Jersey Law and will achieve further consistency with the powers of the Jersey Court of Appeal.

Other miscellaneous and consequential changes

- 3.8 For consistency and accuracy, it is proposed that all current references in the Law to "Her Majesty's Attorney General" be replaced with "Her Majesty's Procureur" which is the correct title of that office in the Bailiwick. It is particularly inappropriate to use the term "Her Majesty's Attorney General" in relation to the new powers to refer points of law in criminal cases to the Court, or to appeal against unduly lenient sentences, when Her Majesty's Procureur is the prosecuting authority.
- 3.9 It is also proposed that two minor references in the Law are corrected. First, to update the reference to the Clerk of the Court of Alderney in section 11 to the Greffier of Alderney to reflect the duties of that office. Second, reference to the Chief Executive of the States in section 36(6) is replaced by reference to the States Treasurer, the officer who has always de facto carried out the function in that subsection.

⁹ Forfeiture orders are made to deprive an individual of their money where it is thought to be connected to unlawful conduct. The inclusion of a right to appeal against forfeiture orders is in the interest of fairness and to ensure that everyone subject to a Court Order has the right to appeal.

¹⁰ [Terrorism and Crime \(Bailiwick of Guernsey\) Law, 2002](#)

- 3.10 The above supplementary amendment proposals have been incorporated into the Court of Appeal (Guernsey) (Amendment) Law, 2021 (Appendix 1), in addition to those approved in 2011.

4. Resource implications

- 4.1 There are no additional resource implications to progress implementing these subsequent amendments. It is likely that these amendments will reduce Court costs in some instances, for example by not incurring the costs of having to bring Judges to Guernsey by allowing remote hearings or hearings outside of the Bailiwick.

5. Legislative implications

- 5.1 There are no additional legislative implications to progress these additional amendments, other than potentially some minor consequential changes to the Rules of the Court.

6. Operational implications

- 6.1 There are no notable operational implications if these additional amendments to the Law are approved.

7. Timeframe

- 7.1 The amended legislation could be enacted in the latter half of 2021, subject to Her Majesty's Royal Sanction.

8. Conclusions and recommendations

- 8.1 The Committee considers that the proposals should proceed to enactment without further delay and recommends that the States support the Propositions to which this Policy Letter is attached.

9. Compliance with Rule 4

- 9.1 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.
- 9.2 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.

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

9.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee as set out in section (a) of its mandate.

Yours faithfully

PTR Ferbrache
President

HJR Soulsby MBE
Vice-President

J P Le Tocq
MAJ Helyar
DJ Mahoney

PROJET DE LOI

ENTITLED

The Court of Appeal (Guernsey) (Amendment) Law, 2021

THE STATES, in pursuance of their Resolution of the 30th November, 2011^a and the * 2021^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 Bailiwick of Guernsey.

Amendments to 1961 Law.

1. The Court of Appeal (Guernsey) Law, 1961^c ("**the Law**") is hereby amended as follows.
2. In section 2(1) of the Law, for "The Bailiff shall be an ex-officio judge" substitute "The Bailiff and the Deputy Bailiff shall be ex officio judges".
3. In section 3 of the Law –

^a Article XII of Billet d'État No. XIX of 2011.

^b

^c Ordres en Conseil Vol. XVIII, p. 315; amended by Vol. XXIII, p. 188; Order in Council No. III of 2012; Ordinance No. XXXIII of 2003; No. XIII of 2017; Alderney Ordinance No. VIII of 2018; Sark Ordinance No. II of 2020.

- (a) in paragraph (a), delete "British",
- (b) in paragraph (b), for "the Island of Guernsey or in the Island of Jersey" substitute "the Bailiwick of Guernsey", and
- (c) for "England, Scotland or Northern Ireland" substitute "England and Wales, Scotland, Northern Ireland, Jersey or the Isle of Man".

4. For section 4(2) of the Law substitute –

"(2) A judge of the Court of Appeal shall not during the judge's continuance in office practise at the Bar in the Bailiwick of Guernsey or be concerned directly or indirectly, whether within or without the Bailiwick, as counsel, solicitor, arbitrator or referee in any matter arising within the Bailiwick."

5. In section 5 of the Law, for "subscribe in the Royal Court to the oath" substitute "take the oath, or make the affirmation,".

6. In section 6 of the Law –

- (a) in the heading, for "**Emoluments**" substitute "**Remuneration**",
- (b) in subsection (1), for "such emoluments as may be prescribed from time to time by Resolution of the States" substitute "such remuneration as may be determined by or on behalf of the States with the approval of the Bailiff",
- (c) in subsection (3), for "emoluments" substitute "remuneration".

7. For section 7 of the Law substitute –

"Venue.

7. (1) The Court of Appeal may sit for the hearing of appeals in or outside the Bailiwick of Guernsey.

(2) For the avoidance of doubt, the Bailiff or presiding judge may give directions as to how the proceedings of the Court of Appeal shall be conducted, including (but not limited to) a direction that the proceedings, or part thereof, shall be conducted by way of telephone, live video link or any other means of telecommunications or electronic communications."

8. In section 8 of the Law –

(a) after "Bailiff" insert " or, in the absence of the Bailiff, by the Deputy Bailiff," and

(b) for the proviso substitute –

"PROVIDED that a judge of the Court of Appeal shall not sit as a judge on –

(a) the hearing of an appeal or reference from or relating to a judgment, order, conviction or sentence pronounced, made or passed by any court of which the judge was a member, or

(b) the hearing of any proceedings preliminary or incidental to any such appeal or reference."

9. For section 10 substitute –

"Presidency.

10. (1) Subject to subsection (2) and to section 8, the Bailiff shall be the President of the Court of Appeal.

(2) At any sitting of the Court of Appeal –

(a) if the Bailiff is unable to act, the Deputy Bailiff shall preside, and

(b) if the Bailiff and the Deputy Bailiff are unable to act, the ordinary member of the Court who has the longest service as such a member shall preside, unless the members of the Court at the sitting decide otherwise.

(3) The Bailiff or the Deputy Bailiff may decline to preside in any case in which, in the opinion of the Bailiff or Deputy Bailiff (as the case may be), it is undesirable or inconvenient to do so, and in any such case the provisions of this section shall have effect as if the Bailiff or Deputy Bailiff were unable to act."

10. In section 11 of the Law –

(a) at the end of subsection (1), insert **"(the Registrar)"**,

(b) in subsection (3), for "Clerk of the Court" substitute "Greffier", and

(c) after subsection (3) insert –

"(4) For the avoidance of doubt, the Court of Appeal may sit, and is properly constituted, whether or not the Registrar, Her Majesty's Sheriff or Her Majesty's Sergeant, or any of their respective deputies, is present."

11. In section 12 of the Law –

(a) in subsection (2), for "in connexion with any appeal" substitute "in connection with any appeal or reference", and

(b) after subsection (2) insert –

"(3) Subject as provided by rules of court, it shall be lawful for a party to an appeal under Part II or for an appellant under Part III, notwithstanding the foregoing provisions of this section, to address the Court of Appeal or any single judge thereof both on the hearing of the appeal and in any proceedings preliminary or incidental to the appeal and to do in any such office or to transact with any such officer as is mentioned in subsection (2) any act or thing required or necessary to be done in connection with any such appeal or proceedings."

12. For section 14 of the Law substitute –

"Jurisdiction.

14. (1) Subject as otherwise provided in this Law or in any other enactment, the Court of Appeal shall have jurisdiction to hear and determine appeals from any judgment or order of the Royal Court when exercising its jurisdiction in any civil cause or matter including its appellate jurisdiction in any such cause or matter originating in the Court of Alderney or the Court of the Seneschal of Sark.

(2) For all the purposes of and incidental to the hearing and determination of any appeal and the amendment, execution and enforcement of any judgment or order made thereon, the Court of Appeal shall have all the power, authority and jurisdiction of the Royal Court, and shall have power, if it appears to the Court of Appeal that a new trial or hearing ought to be had,

to order that the verdict and judgment be set aside and that a new trial or hearing be had.

(3) The Court of Appeal shall exercise such additional jurisdiction as may be conferred on the Court by any enactment."

13. In section 15 of the Law –

- (a) the text is re-numbered as subsection "(1)",
- (b) for the words in paragraph (d) substitute "from any judgment or order of the Royal Court sitting as a Full Court, whether exercising its original or its appellate jurisdiction, where no point of law is involved,"
- (c) in sub-paragraph (e)(i), for "infants" substitute "a child", and
- (d) insert the following additional subsection –

"(2) An application to the Court of Appeal for leave under subsection (1)(e) shall be made to a single judge of that Court and upon such application –

- (a) the single judge's decision on the application shall be final, but
- (b) the single judge may at any stage refer the application to the full Court of Appeal for decision."

14. In section 16 of the Law, delete "except where the value of the matter in dispute is equal to, or exceeds, the sum of five hundred pounds sterling".

15. In section 17 of the Law, for the words from "as nearly as may be" to the end substitute "(without prejudice to the discretion of the presiding judge to make such ruling in any particular case as is necessary to do justice) in such manner as may be directed, whether by Practice Direction or otherwise, by the Bailiff as President of the Court of Appeal or, in the absence of the Bailiff, by the Deputy Bailiff."

16. For section 21 of the Law substitute –

"Powers of a single judge.

21. (1) The powers of the Court of Appeal under this Part –
- (a) to give leave to appeal,
 - (b) to extend the time within which notice of an appeal or of an application for leave to appeal may be given,
 - (c) in any appeal pending before the Court of Appeal, to decide any matter incidental thereto not involving the decision of the appeal,
 - (d) to make any order as to costs,

may be exercised by a single judge of the Court in the same manner as they may be exercised by the Court and subject to the same provisions, and a single judge may at any time make any interim order to prevent prejudice to the claims of any parties pending an appeal as the judge may think fit.

(2) Every order made by a single judge of the Court of Appeal under this section may be discharged or varied by any judges of the Court having power to hear and determine the appeal.

(3) For the purposes of subsection (1), an appeal is pending if –

- (a) an application has been made to the Court of Appeal for leave to appeal, but has not been determined,
- (b) an application has been made to the Court for an order authorising (by whatever means) service of a notice of appeal, but has not been determined, or
- (c) an appeal has been brought, but has not yet been determined."

17. For section 23 of the Law substitute –

"Record and transcript of proceedings in court of first instance.

23. (1) In any proceedings in which an appeal lies to the Court of Appeal under this Part, a record of the proceedings, by electronic means or otherwise, shall be made, and on any appeal or application to the Court of Appeal a transcript of the record or of so much thereof as the presiding judge of the court whose decision is appealed from or sought to be appealed from or the Court of Appeal shall direct shall be made for the use of the Court of Appeal.

(2) A transcript of the record made under this section must be furnished to any party to the proceedings upon payment of the cost thereof for the time being prescribed by rules made under section 18(2)".

18. In section 24(1)(c)(i) of the Law, for "his conviction" substitute "the person for the offence (whether passed on the person's conviction or in subsequent proceedings)".

19. After section 24 of the Law, insert –

"Right of appeal in cases where there has not been a conviction."

24A. (1) Where, under –

- (a) section 7 or 10 of the Criminal Justice (Community Service Orders) (Bailiwick of Guernsey) Law, 2006, or
- (b) section 10 or 13 of the Probation (Bailiwick of Guernsey) Law, 2018,

a person has been dealt with by the Royal Court, the person may appeal under this Part to the Court of Appeal notwithstanding that the person is not a person convicted by the Royal Court.

(2) Where, under any of the provisions mentioned in subsection (1), a person has been sentenced by the Royal Court, the person may appeal against the sentence under this Part to the Court of Appeal notwithstanding that the person is not a person convicted."

20. In –

- (a) subsections (3) and (4) of section 25 of the Law, and
- (b) subsections (1), (2) and (3) of section 26 of the Law, for "at the trial" substitute "as a result of the trial".

21. After section 26 of the Law, insert -

"Power to order retrial.

26A. (1) Where the Court of Appeal allows an appeal against conviction and it appears to the Court that the interests of justice so require, it may order the appellant to be retried on a fresh indictment or summons to be brought in the Royal Court within the period of two months after the making of the order or such further period for which it may give leave for the indictment or summons to be brought.

(2) A person shall not under this section be ordered to be retried for any offence other than –

- (a) the offence of which the person was convicted at the original trial and in respect of which the person's appeal is allowed as mentioned in subsection (1),
- (b) an offence of which the person could have been convicted at the original trial on an indictment or summons for the first-mentioned offence, or
- (c) an offence charged in an alternative count of the indictment or summons in respect of which the Jurats were discharged from giving a verdict in consequence of convicting the person of the first-mentioned offence.

(3) The Court of Appeal may, on ordering a retrial, make such orders as appear to it to be necessary or expedient –

- (a) for the custody or release on bail of the person ordered to be retried pending the person's retrial, or

- (b) for the retention, pending the trial, of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.

(4) If the person ordered to be retried was, immediately before the determination of the person's appeal, liable to be detained in pursuance of an order or direction under the Mental Health (Bailiwick of Guernsey) Law, 2010, that order or direction shall continue in force pending the retrial as if the appeal had not been allowed and any order made by the Court of Appeal under this section for the person's custody or release on bail shall have effect subject to the said order or direction.

(5) Schedule 1A shall have effect with respect to the procedure in the case of a person ordered to be retried, the sentence which may be passed if the retrial results in the person's conviction and the order for costs which may be made if the person is acquitted."

22. After section 28 of the Law, insert –

"Effect of order.

28A. Subject to the other provisions of this Part, an order made by the Court of Appeal on any appeal under this Part shall have the like effect and be enforced in the like manner as if it had been made by the Royal Court."

23. In section 29(1) of the Law –

- (a) in paragraph (a), for "ten" substitute "28", and
- (b) for paragraph (b) substitute –

"(b) in cases where notice of appeal or notice of application for leave to appeal is given within 28 days after the date of the conviction, until the determination of the appeal or, in any case where an application for leave to appeal is finally refused, of the application,".

24. In section 30 of the Law –

(a) for subsection (1) substitute –

"(1) Where a convicted person wishes to appeal under this Part to the Court of Appeal, or to obtain the leave of the Court of Appeal to appeal under this Part, the person must –

(a) in the case of an appeal against conviction, within 28 days of the date of conviction, and

(b) in the case of an appeal against sentence, within 28 days of the date on which the sentence is passed,

give notice of appeal or notice of application for leave to appeal in such manner as may be prescribed by rules of court.",

(b) in subsection (3), for "Except in the case of a conviction involving sentence of death, the" substitute "The", and

(c) subsection (4) is repealed.

25. For section 31 of the Law substitute –

"Judge's report on appeal.

31. (1) This section applies in the case of –
- (a) an appeal by a person against conviction,
 - (b) an appeal by a person against sentence,
 - (c) an application by a person for leave to appeal against conviction or sentence.

(2) The presiding judge of the court before which the person is convicted or sentenced, as the case may be, may furnish to the Court of Appeal a report giving the presiding judge's opinion upon the case or upon any point arising in the case.

(3) The presiding judge of the court before which the person is convicted or sentenced, as the case may be, shall furnish such a report to the Court of Appeal if required by the Court of Appeal so to do.

- (4) Rules of court may prescribe –
- (a) the parties to whom copies of a report furnished under this section shall be given, and
 - (b) the manner in which the copies shall be so given."

26. In section 32(1) of the Law, for "are or would, if Part II of this Law were in force, be exercisable" substitute "may for the time being be exercised".

27. For section 34 of the Law substitute –

"Presence of appellant at hearing.

34. (1) Subject to subsections (2) and (3), an appellant, notwithstanding that the appellant is in custody, shall be entitled to be present (if the appellant desires it) at the hearing of any oral argument –

- (a) on the hearing of the appeal, and
- (b) on the hearing of any application for leave to appeal under this Part,

but shall not be entitled to be present where the arguments are presented in writing only.

(2) An appellant shall not be entitled to be present at proceedings preliminary or incidental to the appeal except where –

- (a) rules of court provide that the appellant shall have the right to be present,
- (b) the Court of Appeal gives the appellant leave to be present, or
- (c) the appellant is not legally represented.

(3) The Court of Appeal may direct, having first given the parties the opportunity to make representations to the Court, that the appellant's entitlement to be present at any hearing or proceedings is satisfied by the presence of the appellant at a remote location connected to the courtroom by video or other live-link, enabling the appellant to see, and be seen by, the Court, the Registrar and counsel.

(4) The power of the Court of Appeal to pass any sentence under this Part may be exercised notwithstanding that the appellant is for any reason not present."

28. In section 35 of the Law –

- (a) for "Attorney General" in each place where it appears substitute "Procureur", and
- (b) subsection (3) is repealed.

29. In section 36 of the Law –

- (a) in subsection (1), for "shorthand notes" and "shorthand note" substitute "record", and
- (b) in subsection (6), for "Chief Executive of the States of Guernsey" substitute "States Treasurer".

30. In section 37 of the Law –

- (a) after subsection (1) insert –

"(1A) The Court of Appeal may, if it thinks fit, revoke bail granted to the appellant by any court.

(1B) Subsections (1) and (1A) are without prejudice to section 26A(3).", and

- (b) subsections (3) and (5) are repealed.

31. After section 37 of the Law, insert –

"Time spent in custody pending appeal.

37A. (1) The time during which an appellant is in custody pending the determination of the appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which the appellant is for the time being subject.

(2) Where the Court of Appeal gives a contrary direction under subsection (1), it shall state its reasons for so doing.

(3) The Court of Appeal shall not give such a direction where –

- (a) leave to appeal is granted under this Part, or
- (b) any such certificate as is mentioned in section 24(1)(b) has been given for the purposes of the appeal.

Suspension of licences and custody of goods pending appeal.

37B. Where notice of appeal or of an application for leave to appeal has been given in respect of a decision which includes –

- (a) an order for the suspension or withdrawal of a licence or other permit, the Bailiff may, unless it be otherwise provided by the enactment under which the licence or permit was granted, direct that the order be suspended pending the disposal of the appeal or application,
- (b) an order for the confiscation or forfeiture of goods, the goods shall be delivered into the

custody of the Registrar pending the disposal of the appeal or application."

32. For the heading to section 38 of the Law substitute "**Duties of Registrar under Part III.**".

33. For the heading to section 39 of the Law substitute "**Rules of court under Part III.**".

34. In section 40 of the Law –

- (a) for the heading substitute "**Powers under Part III which may be exercised by a single judge.**",
- (b) for "to admit an appellant to bail, and the power of the Court to give directions under the proviso to subsection (3) of section thirty-seven of this Law (which relates to admission to bail and computation of sentence)" substitute "to grant, refuse and revoke bail, and the power of the Court to give directions under section 37A of this Law (which relates to time in custody pending appeal)".

35. In section 41 of the Law –

- (a) for the heading and subsection (1) substitute –

"Record and transcript of proceedings at trial.

41. (1) A record of the proceedings, by electronic means or otherwise, shall be made at the trial of any person who, if convicted, is entitled or may be authorised to appeal under this Part and, on any appeal or application for leave to appeal, a transcript of the record or any part thereof

shall be made if the Registrar so directs and such transcript shall be furnished to the Registrar for the use of the Court of Appeal or any judge thereof, of Her Majesty's Procureur and of the appellant:

PROVIDED that a transcript shall be furnished to any party interested, upon the payment of such amount as may be prescribed by rules of court made under subsection (2).",

(b) in subsection (2), for "note" substitute "record".

36. In section 42 of the Law –

(a) for "(other than sentence of death) passed on a person so convicted, the Secretary of State" substitute ", passed on a person so convicted, being a conviction or sentence against which an appeal lies under this Part to the Court of Appeal, His Excellency the Lieutenant-Governor and Commander-in-Chief of Guernsey", and

(b) in paragraph (b), for "the Secretary of State" substitute "His Excellency".

37. In section 43, in the definition of "**sentence**", for "made on conviction" substitute "(including a confiscation order or forfeiture order as defined in section 43M(1))".

38. After section 43, insert –

"PART IIIA

References and Appeals by Her Majesty's Procureur

Reference to Court of Appeal of point of law following acquittal.

43A. (1) Where a person tried in the Royal Court on indictment or summarily has been acquitted (whether in respect of the whole or part of the indictment or summons) Her Majesty's Procureur may, if Her Majesty's Procureur desires the opinion of the Court of Appeal on a point of law which has arisen in the case, refer that point to that Court, and that Court shall, in accordance with this section, consider the point and give its opinion on it.

(2) For the purpose of its consideration of a point referred to it under this section the Court of Appeal shall hear argument –

- (a) by Her Majesty's Procureur, and
- (b) if the acquitted person desires to present any argument to the Court, by counsel on the person's behalf or, with the leave of the Court, by the acquitted person in person.

(3) Where, on a point being referred to the Court of Appeal under this section, the acquitted person appears by counsel for the purpose of presenting any argument to the Court, the person shall be entitled to costs, that is to say to the payment out of moneys provided by the States of such sums as are reasonably sufficient to compensate the person for expenses properly incurred by the person for the purpose of being represented on the reference.

(4) A reference under this section shall not affect the trial in relation to which the reference is made or any acquittal in that trial.

Reference to Court of Appeal for review of sentence.

43B. (1) This section applies to any case in which a sentence is passed on a person for –

- (a) an offence for which the maximum penalty is imprisonment for a term of five years or longer (whether or not it is one for which any other penalty may be imposed), or
- (b) an offence to which this section applies by virtue of an Ordinance made under subsection (4),

but shall not apply in respect of a confiscation order or forfeiture order.

(2) If it appears to Her Majesty's Procureur –

- (a) that the sentencing of a person in any proceedings in the Royal Court has been unduly lenient, and
- (b) that the case is one to which this section applies,

Her Majesty's Procureur may, with the leave of the Court of Appeal, refer the case to the Court of Appeal for it to review the sentencing of that person.

(3) Without prejudice to the generality of subsection (2), the condition specified in paragraph (a) of that subsection may be satisfied if it appears to Her Majesty's Procureur that the Royal Court –

- (a) erred in law as to its powers of sentencing, or

- (b) failed to impose a sentence which it was required by law to impose.

(4) The States may by Ordinance provide that this section shall apply to any offence.

Court's powers on reference under section 43B.

43C. (1) On a reference under section 43B, the Court of Appeal may –

- (a) quash any sentence passed on the person for an offence (whether passed on the person's conviction or in subsequent proceedings), and
- (b) in place of it pass such sentence as the Court thinks appropriate for the case and as the Royal Court had the power to pass when dealing with the person.

(2) In deciding under subsection (1) the appropriate sentence to pass on a person for an offence, the Court of Appeal shall not make any allowance for the fact that the person is being sentenced for a second time in relation to the offence.

Calculation of sentence passed on review.

43D. (1) The term of any sentence passed by the Court of Appeal under section 43C shall, unless the Court otherwise directs, begin to run from the time when it would have begun to run if passed in the proceedings in respect of which the reference was made.

(2) Subsection (1) shall not apply to a custodial sentence which is passed in place of a non-custodial sentence.

(3) The time during which a person whose case has been referred for review under section 43B is in custody pending its review shall be reckoned as part of the term of any sentence to which the person is for the time being subject.

Appeal by Her Majesty's Procureur in respect of confiscation order or forfeiture order.

43E. (1) This section applies to any case in which –

- (a) sentence is passed by the Royal Court on a person for an offence,
- (b) in passing the sentence, the Royal Court has jurisdiction to make a confiscation order or forfeiture order.

(2) If, in a case to which this section applies, the Royal Court makes a confiscation order or forfeiture order, Her Majesty's Procureur may appeal to the Court of Appeal in respect of the order.

(3) If, in a case to which this section applies, the Royal Court decides not to make a confiscation order or forfeiture order, as the case may be, Her Majesty's Procureur may appeal to the Court of Appeal against the decision.

(4) Subsections (2) and (3) shall not apply to an order or decision made by virtue of any of sections 13, 14 and 19 of the 1999 Law or of any of sections 13, 14 and 19 of the 2000 Law.

(5) An appeal to the Court of Appeal under this section lies only with the leave of the Court of Appeal.

Court's powers on appeal by Her Majesty's Procureur.

43F. (1) On an appeal under section 43E(2), the Court of Appeal may confirm, quash or vary the confiscation order or forfeiture order, as the case may be.

(2) On an appeal under section 43E(3), the Court of Appeal may confirm the decision or, if it believes that the decision is wrong –

- (a) may itself proceed under subsections (2) to (10) of section 2 of the 1999 Law, subsections (2) to (8) of section 2 of the 2000 Law, or section 18 of the 2002 Law, as the case may be, or
- (b) may direct the Royal Court to proceed afresh under section 2 of the 1999 Law, section 2 of the 2000 Law, or section 18 of the 2002 Law, as the case may be.

(3) In directing the Royal Court under subsection (2)(b) to proceed afresh, the Court of Appeal may also give other directions, and if it does so the Royal Court shall comply with those directions in proceeding afresh in pursuance of this section.

Matters to be taken into account on appeal in respect of confiscation order or forfeiture order.

43G. (1) This section applies if –

- (a) the Court of Appeal makes or varies a confiscation order or forfeiture order pursuant to section 43F, or

- (b) the Royal Court makes or varies a confiscation order or forfeiture order in pursuance of a direction under subsection (2)(b) of that section.

(2) The court, in so doing, shall have regard –

- (a) to any fine imposed on the respondent in respect of the offence (or any of the offences) concerned,
- (b) in the case of an order under the 1999 Law, to any order which is specified in either of paragraphs (ii) and (iii) of section 20(1)(a) of that Law and has been made against the respondent in respect of the offence concerned (or any of the offences concerned), and
- (c) in the case of an order under the 2000 Law, to any order which is specified in either of paragraphs (ii) and (iii) of section 20(1)(a) of that Law and has been made against the respondent in respect of the offence concerned (or any of the offences concerned).

(3) The court is not required to have regard to an order to which subsection (2) refers where the order has already been taken into account by the Royal Court in deciding for the purposes of –

- (a) section 5 of the 1999 Law, or
- (b) section 5 of the 2000 Law,

as the case may be, the amount which might be realised.

(4) If, in a case in which the court is proceeding under the 1999 Law, an order has been made against the respondent in respect of the offence concerned (or any of the offences concerned) under section 1 of the Criminal Justice (Compensation) (Bailiwick of Guernsey) Law, 1990 –

- (a) the court shall have regard to the order, and
- (b) section 2(9) of the 1999 Law shall not apply.

(5) In a case in which the court is proceeding under the 1999 Law, in section 4(3) of that Law –

- (a) the assumptions in paragraph (a) of that subsection do not apply with regard to property first held by the respondent on or after the relevant date,
- (b) the assumption in paragraph (b) of that subsection does not apply with regard to expenditure incurred by the respondent on or after that date, and
- (c) the assumption in paragraph (c) of that subsection does not apply with regard to property received (or assumed to have been received) by the respondent on or after that date.

(6) In a case in which the court is proceeding under the 2000 Law, in section 4(3) of that Law –

- (a) the assumption in paragraph (a) of that subsection does not apply with regard to property first held by the respondent on or after the relevant date,
- (b) the assumption in paragraph (b) of that subsection does not apply with regard to expenditure incurred by the respondent on or after that date,
- (c) the assumption in paragraph (c) of that subsection does not apply with regard to property received (or assumed to have been received) by the respondent on or after that date.

(7) In this section –

"**court**" means –

- (a) the Court of Appeal, if that court is itself proceeding under subsections (2) to (10) of section 2 of the 1999 Law, subsections (2) to (8) of section 2 of the 2000 Law, or section 18 of the 2002 Law pursuant to section 43F(2)(a), or
- (b) the Royal Court, if that court is proceeding afresh under any of those sections on the direction of the Court of Appeal pursuant to section 43F(2)(b), and

"**relevant date**" means the date on which the Royal Court decided not to make a confiscation order or a forfeiture order, as the case may be.

Right of person to be present.

43H. (1) Subject to subsection (3), a person –

- (a) whose sentencing is the subject of a reference to the Court of Appeal under section 43B, or
- (a) who is a respondent in an appeal under section 43E,

shall be entitled to be present, notwithstanding that the person is in custody, on the hearing of the matter, except where the arguments are presented in writing only.

(2) Subject to subsection (3), a person in custody shall not be entitled to be present on any proceedings preliminary or incidental to a reference under section 43B or to an appeal under section 43E, unless the Court of Appeal gives the person leave to be present.

(3) The Court of Appeal may direct, having first given the parties the opportunity to make representations to the Court, that a person's entitlement to be present at any hearing, reference or appeal is satisfied by the presence of the person at a remote location connected to the courtroom by video or other live-link, enabling the person to see, and be seen by, the Court, the Registrar and counsel.

(4) The power of the Court of Appeal to pass sentence on a person under section 43C or to make any order under section 43F may be exercised even though the person is not present.

Time for proceeding under Part IIIA.

43I. (1) Notice of –

- (a) a reference to the Court of Appeal under section 43A,
- (b) an application for leave to refer a case to the Court of Appeal under section 43B,
- (c) an application for leave to appeal to the Court of Appeal under section 43E,

shall be given within 28 days from the day on which the sentence or the last of the sentences in the case was passed.

(2) The time during which notice of –

- (a) a reference, or
- (b) an application for leave to refer a case or for leave to appeal,

may be given may be extended at any time by the Court of Appeal.

Duties of Registrar under Part IIIA.

43J. If the Registrar is given notice of a reference under section 43A, an application or reference under section 43B or an application or appeal under section 43E, the Registrar shall –

- (a) take all necessary steps for obtaining a hearing of the matter, and
- (b) obtain and lay before the Court of Appeal in proper form all documents, exhibits and other

things which appear necessary for the proper determination of the matter.

Powers under Part IIIA which may be exercised by a single judge.

43K. (1) In respect of any application, reference or appeal under this Part -

- (a) the power of the Court of Appeal to give leave to refer a case to it or to appeal to it,
- (b) the power of the Court under section 43H to give leave to a person to be present at any proceedings in any case where the person is not entitled to be present without leave, or to give a direction under section 43H(3),
- (c) the power of the Court under section 43I(2) to extend the time for giving notice,
- (d) the powers of the Court to make any orders as to costs, and
- (e) such other powers to determine matters preliminary or incidental to the reference as may be prescribed,

may be exercised by any single judge of the Court in the same manner as they may be exercised by the Court, and subject to the same provisions.

(2) If the single judge refuses an application to exercise any power to which subsection (1) refers, the applicant shall be entitled to have the application determined by the Court of Appeal as duly constituted for the

hearing and determining of references under either of sections 43A and 43B or appeals under section 43E.

Supplementary provisions as to Part IIIA.

43L. In respect of any application, reference or appeal under this Part

—

- (a) section 27 shall apply to any judgment of the Court of Appeal as that section applies to a judgment of the Court under Part III,
- (b) the Court of Appeal shall, for the purposes of and subject to the provisions of this Part, have the same powers as are conferred on it by section 28 for the purposes of Part III,
- (c) subject to the provisions of this Part, section 28A shall apply to any order made by the Court of Appeal as it applies under Part III to an order made by it on any appeal,
- (d) section 31 shall apply as it applies under Part III to an appeal and an application for leave to appeal,
- (e) the Court of Appeal shall for the purposes of this Part have the same powers as are conferred on it by section 32 for the purposes of Part III,
- (f) section 33 shall apply to an acquitted person to whom section 43A refers and to a person to

whom section 43B(1) refers as it applies to an appellant under Part III, and

- (g) section 39 shall apply as it applies in relation to appeals under Part III.

Interpretation of Part IIIA.

43M. (1) In this Part –

"**1999 Law**" means the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,

"**2000 Law**" means the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,

"**2002 Law**" means the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002,

"**confiscation order**" means a confiscation order as defined in section 2(10) of the 1999 Law or in section 2(8) of the 2000 Law,

"**forfeiture order**" means an order made in accordance with section 18 of the 2002 Law,

"**respondent**" means a person in whose case the making, or not making, of a confiscation order or forfeiture order is the subject of an appeal under section 43E.

(2) Expressions which are used in this Part and which are also used in Part III shall have the same respective meanings as they have in Part III."

39. In section 46 of the Law, after the definition of "**prescribed**" insert –

""**Registrar**": see section 11(1),

"remote location" means a location other than the courtroom, which may, however, be within the same building as the courtroom, elsewhere within the Bailiwick of Guernsey, or anywhere else in the world,".

40. In the First Schedule to the Law –

- (a) after "que vous devez à Dieu" insert "*[Vous affirmez et promettez solennellement et sincèrement]*",
- (b) for "l'avancement de la gloire de Dieu et" substitute "*[l'avancement de la gloire de Dieu et]*",
- (c) for "Ainsi Dieu vous aide." substitute "*[Ainsi Dieu vous aide.]*",
- (d) for "DIEU SAUVE LA REINE" substitute –

"[DIEU SAUVE LA REINE]

OR

You swear and promise on the faith and oath which you owe to God [*solemnly, sincerely and truly declare and affirm*] that well and faithfully you will exercise the office and charge of Judge in the Court of Appeal of the Bailiwick of Guernsey; that you will uphold [the Glory of God and] the honour of Our Sovereign Lady Elizabeth II, by the Grace of God Queen of the United Kingdom of Great Britain and Northern Ireland and of her other realms and territories, Head of the Commonwealth, Defender of the Faith; and that you will be a true and loyal subject of Her Majesty; that well and loyally you will preserve and maintain with all your power all the laws, liberties, usages and

ancient customs of the said Bailiwick, opposing any person who might seek to violate them; and that you will administer good and concise justice to all without respect of persons.

You promise accordingly.

[So help you God]

GOD SAVE THE QUEEN".

41. After the First Schedule to the Law, insert –

"SCHEDULE 1A

Section 26A

POWERS, PROCEDURE ETC. UPON RETRIAL

1. On a retrial, a transcript of the record of the evidence given by any witness at the original trial may, with the leave of the Royal Court, be read as evidence –

- (a) by agreement between the parties, or
- (b) if the Royal Court is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or that all reasonable efforts to find the witness or to secure the witness's attendance have been made without success,

and in either case may be so read without further proof if the Royal Court is satisfied that the transcript is a true and accurate record of the witness's evidence at the trial.

2. Where a person ordered to be retried is again convicted on retrial, the Royal Court may pass in respect of the offence any sentence authorised by law, not being a sentence of greater severity than that passed on the original conviction.

3. Without prejudice to its power to impose any other sentence, the Royal Court may pass in respect of the offence any sentence passed in respect of that offence on the original conviction notwithstanding that, on the date of the conviction on retrial, the offender has ceased to be of an age at which such a sentence could otherwise be passed.

4. Where the person convicted on retrial is sentenced to imprisonment or other detention, the sentence shall begin to run from the time when a like sentence passed at the original trial would have begun to run; but in computing the term of the person's sentence or the period for which he may be detained thereunder, as the case may be, there shall be disregarded –

(a) any time before the person's conviction on retrial which would have been disregarded in computing that term or period if the sentence had been passed at the original trial and the original conviction had not been quashed, and

(b) any time during which the person was released on bail under section 26A(3).

5. Where a person is acquitted on retrial the Royal Court may, in addition to any costs which it could have ordered to be paid at the original trial or prosecution if the person had been acquitted, make an order under section 36(2) in respect of that person's expenses on appeal if the Court of Appeal has not already done so."

Interpretation.

42. In this Law, unless the context otherwise requires, "**the Law**" means the Court of Appeal (Guernsey) Law, 1961.

Extent.

43. This Law shall extend to the Bailiwick of Guernsey.

Citation.

44. This Law may be cited as the Court of Appeal (Guernsey) (Amendment) Law, 2021.

Commencement.

45. This Law shall come into force on the day of its registration on the records of the island of Guernsey.