



# BILLET D'ÉTAT

WEDNESDAY, 25th OCTOBER, 2006

XVII  
2006

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# ***B I L L E T D ' É T A T***

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

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I have the honour to inform you that a Meeting of the States of Deliberation will be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **25<sup>th</sup> OCTOBER, 2006**, at 9.30am, to consider the items contained in this Billet d'État which have been submitted for debate by the Policy Council.

**G. R. ROWLAND**  
Bailiff and Presiding Officer

The Royal Court House  
Guernsey  
6<sup>th</sup> October 2006

**PROJET DE LOI**

entitled

**THE HOUSING (CONTROL OF OCCUPATION) (GUERNSEY)  
(AMENDMENT) LAW, 2006**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled “The Housing (Control of Occupation) (Guernsey) (Amendment) Law, 2006” and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for her Royal Sanction thereto.

**THE ATTENDANCE AND INVALID CARE ALLOWANCES  
ORDINANCE, 2006**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Ordinance entitled “The Attendance and Invalid Care Allowances Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE FAMILY ALLOWANCES ORDINANCE, 2006**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled “The Family Allowances Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (BENEFIT)  
(ANNUAL GRANT AND AMENDMENT) ORDINANCE, 2006**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled “The Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE ALDERNEY eGAMBLING  
(OPERATIONS IN GUERNSEY) ORDINANCE, 2006**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled “The Alderney eGambling (Operations in Guernsey) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE LONG-TERM CARE INSURANCE (GUERNSEY)  
(ANNUAL GRANT AND RATES) ORDINANCE, 2006**

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled “The Long-term Care Insurance (Guernsey) (Annual Grant and Rates) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE REAL PROPERTY (HOUSING SCHEMES AND MISCELLANEOUS  
PROVISIONS) (GUERNSEY) (AMENDMENT) ORDINANCE, 2006**

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) (Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE SOCIAL INSURANCE  
(RATES OF CONTRIBUTIONS AND BENEFITS, ETC.) ORDINANCE, 2006**

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled “The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION)  
(AMENDMENT) ORDINANCE, 2006**

The States are asked to decide:-

IX.- Whether they are of the opinion to approve the draft Ordinance entitled “The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

## **TREASURY AND RESOURCES DEPARTMENT**

### **CAPITAL PRIORITISATION**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

5<sup>th</sup> September 2006

Dear Sir

#### **Executive Summary**

In July 2006 Policy Council requested the Treasury and Resources Department to prepare a Report to enable the undertaking of a broad overview of the States capital expenditure priorities.

In preparing its Report the Department has been very conscious that a key outcome of this Report is to assist the States in their consideration of the Health and Social Services Department's proposals for a new Clinical Block.

Furthermore, this Report seeks to:

- Set out, in summary form, the level and areas of capital expenditure in recent years.
- Show that the recent unprecedented level of capital expenditure has effectively exhausted the Capital Reserve.
- Set out the key commitments and priorities for capital expenditure in the short term.
- Highlight those capital projects which will not be progressed, at least in the short term.
- Note the Treasury and Resources Department's intention to review the method of funding and accounting for Departmental routine capital expenditure, the Housing Department's rent rebate scheme and for emergency capital works.

As set out in the 2006 Interim Financial Report, the past few years have seen a period of unprecedented expenditure on the Island's infrastructure, partly necessitated by underinvestment in the past. The Treasury and Resources Department believes that a period of measured consolidation is now required.

If, as recommended, the States agrees that the Health and Social Services Department's Clinical Block is identified as the key capital expenditure priority, it will mean that the Capital Reserve will be depleted (in fact will be overdrawn). This will mean that the States will effectively have carried out its short-term capital prioritisation.

However, investing in essential public infrastructure cannot cease. The mistakes of the past must not be repeated. Significant amounts will still need to be spent, albeit, less than the amounts of recent years. Capital prioritisation for future years will still need to be carried out and will form a major part of the next (and all) future States.

In very simple terms, the money for capital expenditure comes from the annual operating surplus which is the difference between income (taxes) and revenue expenditure. **It therefore needs to be remembered that capital expenditure levels can only be maintained if Departments restrain their revenue expenditure. If they do not, there will be little or no money left for capital projects.**

### **Capital Expenditure**

The appendices to this Report set out information on General Revenue capital expenditure over the past few years. In summary:

- Capital expenditure in the period 1998 to 2006 will be nearly £300m.
- The Balance on the Capital Reserve has decreased from a high of £112m in September 2002 to just £30m in June 2006.

This amount of capital expenditure has been necessary in order to improve essential public sector infrastructure, some of which had been neglected in previous years. The States has been able to afford these very high levels of capital expenditure in recent years because of the high annual operating surpluses of previous years and the accumulated capital reserves.

It is clear that the unprecedented levels of capital expenditure of recent years is unaffordable and unsustainable.

However, it is also clear that in future years, a reasonable level of investment in essential public sector infrastructure will be necessary, and indeed desirable. Public finances (i.e. taxation levels, revenue expenditure and the use of reserves) will need to be managed to facilitate and enable that aim. As part of the work associated with the Future Economic & Taxation Strategy (Billet d'Etat XI, June 2006) an average annual capital expenditure of around £20m was considered to be a realistic target.

### **Immediate Capital Priorities**

The Treasury and Resources Department has identified a number of capital projects that it believes should be progressed, in the foreseeable future (i.e. in the life of this House) as follows:

- Clinical Block
- Medical Patients Records & CT Scanner
- Network Extension Plan to connect to Creux Mahie
- Belle Greve Wastewater Disposal
- Town Arsenal essential repairs
- States Residential Homes
- Alderney Commercial Quay

Brief details on each of these projects are set out below:

#### Clinical Block

Full details on this project are contained within the separate States Report prepared by the Health and Social Services Department. It is emphasised that it is the Treasury and Resources Department's understanding that this is the top construction priority for that Department.

#### Medical Patients Records, CT & MRI Scanner

In addition to the above construction project, the Health and Social Services Department requires additional funding for major equipment replacement and enhancement.

It is anticipated that a major Medical Patients Record computerisation project will need to be funded. However, since it will lead to future savings in staff resources, it may receive partial funding from the Restructuring and Reorganisation Fund (established as part of the 2006 Budget).

The CT and MRI scanners are major pieces of medical equipment to be funded by a combination of public appeal, private sector income and through the normal capital allocation process.

#### Network Extension Plan to connect to Creux Mahie

As set out in the 2006 Budget Report "the Treasury and Resources Department and the Public Services Department recognise that the Network Extension Plan is no longer affordable at the same rate as in the past few years. However, it is sensible, and value for money, that the present level of expenditure continues until the existing network is extended to the Creux Mahie sewer outfall. To terminate this work prematurely would mean that substantial monies would be required to refurbish this sewer outfall."

Therefore, as part of the next two Budgets, it is intended that appropriate allocations (totalling £4m) will be made to the Public Services Department in the normal manner, i.e. no impact on Capital Reserve.

After this project the amount spent on the Network Extension will be relatively modest compared to the period since 2001 and will need to be prioritised by the Public Services Department within its overall budget or funded by increased fees and charges.

#### Belle Greve Wastewater Disposal

The Public Services Department has identified essential works in respect of the wastewater disposal facility at Belle Greve including new headworks, refurbishment of the pumping station and outfalls. The total cost of this facility is estimated to be nearly £10m, of which £6.0m will be incurred before the end of 2010.

#### Town Arsenal - Essential Repairs

The Town Arsenal (fire station) is in urgent need of essential work (including works needed to comply with health and safety requirements) including replacement of the Vehicle Bay floor. The cost of this project (£625,000 in total) will be met jointly from the existing capital allocations of the Treasury and Resources and Home Departments.

#### States Residential Homes

The States Residential Homes (Maison Maritaine and Longue Rue House) are in urgent need of renovation and upgrade. At present the Housing Department (in consultation with other interested parties) is considering the best way forward. However, it is clear that, whatever the exact solution, the provision of suitable accommodation for the elderly is a key priority.

#### Alderney Commercial Quay

Although the States approved this project in January 2005, it has yet to commence and further monies (£2m) over and above those already approved will be needed. In theory it could be cancelled, however, the Treasury and Resources Department would very strongly argue against such a course of action as it continues to believe that this remains an essential infrastructure project.

The Treasury and Resources Department's future support for these, or any other, projects will nonetheless be subject to the following:

- The overall financial position, in particular Departments ability to restrict their revenue expenditure demands.
- Once tendered for, whether the actual costs of the individual projects represent value for money.
- Strategic issues, including the capacity of the local construction industry and contractors.
- Associated ongoing running costs including savings.



- The ability of the sponsoring Department to demonstrate its ability to successfully deliver the project.

**Before any of the above projects are able to commence, the usual authorisations will need to be obtained, in most cases that will mean the production of a formal States Report.**

The above programme would be funded as follows:

|  | £m        | £m         |
|--|-----------|------------|
| Capital Reserve 30 June 2006   |           | 30.3       |
| Amounts already in Departmental capital allocations earmarked for priority projects plus anticipated savings |           | 7.0        |
| Les Nicolles Schools (Final tranche)   |           | (5.0)      |
| Corporate Housing Programme 2007   |           | (7.0)      |
| Interest income  |           | 4.5        |
| Target for capital expenditure 2007/8/9 less routine replacements (£20m-£8m) x 3                             |           | 36.0       |
| Total available  |           | <hr/> 65.8 |
| Clinical Block   | 34.3      |            |
| Medical Patients Records & CT scanner  | 5.0       |            |
| Network Extension to Creux Mahie   | 4.0       |            |
| Belle Greve  | 6.0       |            |
| Town Arsenal   | 0.6       |            |
| Residential Homes  | 1.9       |            |
| Alderney Quay – revised  | <hr/> 6.0 |            |
|  |           | (57.8)     |
| Available for other uses including extending life of buildings identified as low priority for replacement    |           | <hr/> 8.0  |

**Note: The above figures are latest available estimates.**

### **Capital Projects with Lower Priority**

Any form of prioritisation process will only have meaning if, as well as identifying areas to progress, those projects that should **not** be progressed are also agreed upon. This is a necessary but more painful process. However, the alternative is to continue to waste scarce resources in continuing to progress lower priority projects.

The Treasury and Resources Department has therefore identified a number of capital projects that it believes should not be progressed in the foreseeable future (i.e. in the life of this House).

The Department recognises that, in some cases, not progressing these projects may lead to additional (but less) expenditure as a result. For example, not replacing a building may mean that additional expenditure on maintenance or necessary partial upgrades will need to be incurred.

It is recommended that, for the life of this House, the following projects are **not** supported:

- Any further new buildings in the Education Development Programme (other than those such as Les Nicolles Schools already in progress).
- Any further stages of the Health Development programme, including Castel Hospital relocation.
- New Slaughterhouse.
- Redevelopment of Fort Richmond.
- Further major development of sporting and leisure facilities.
- Development of the foul water network extension plan at the current rate of £3m per annum.
- St Julian's House.
- Swissville site development.
- Branch library for the Guille-Alles Library.
- Coastal Defence.
- Fish Quay: Town parking project.
- Alderney Breakwater.

It is also recommended that the following projects are only advanced if compensating property disposals are made which make a significant contribution to a positive business case, including revenue savings:

- Income Tax offices.
- Home Department offices.
- Developments on land near the Royal Court site.
- Key Worker Housing.

- New archive and heritage artefact storage facilities (St John Street).

The above projects are the main schemes that the Treasury and Resources Department is already aware of. Further “self-funding” projects may come to light as Departments take a more critical look at their own aspirations and opportunities.

### **Capital Overspends**

A common misunderstanding persists that the recent capital overspends as reported by the Treasury and Resources Department have in some way contributed to the so-called “Black Hole” or have resulted in this capital reprioritisation report.

As has been stated on several previous occasions, the major capital overspends, the New Jetty, Airport Terminal and the St. Sampson’s Marina (none of which were initiated by the present House) will only impact upon the Ports Holding Account. They are unlikely to have any impact on either the ongoing income and expenditure of the States or on the Capital Reserve.

### **Other Capital Expenditure**

It is emphasised that throughout this Report only capital expenditure in respect of General Revenue Departments has been considered. Capital expenditure from other sources including the Ports Holding Account, Water, Electricity, Post, States Works, Dairy etc. has been excluded as they are all wholly funded from their own income sources rather than through general taxation.

Similarly, such major projects in respect of **waste disposal and sewage treatment** have also been excluded as such projects would need to be funded by levying fees and charges from users rather than via general taxation.

As has been endorsed on numerous previous occasions, including as part of the Future Economic & Taxation Strategy, the States of Guernsey have traditionally had a very prudent approach to borrowing and as a result the taxpayer has not had to bear the cost of interest charges. In recent decades the States have not borrowed to fund either ongoing revenue or individual capital projects. The Corporate Agenda, as approved by the States in December 2004, includes the following statement on borrowing:

“Take a cautious approach to public sector borrowing, only doing so where the debt can be serviced by a secure, associated income stream”. **This remains a sensible and prudent approach.**

Furthermore, as set out in Appendix 4, because previous States have adopted a policy of building up reserves before committing expenditure (“Save to Spend”) considerable amounts of interest have been accumulated (£40m since 1998).

## **Alternatives**

If the States decides that the Clinical Block is not its key priority there are a number of alternatives.

One option is not to undertake any alternative major capital project. At the beginning of May 2004 (i.e. the beginning of this States) the Capital Reserve had a balance of £51m. Political commitments had been made by the previous House on major capital expenditure (mainly the Education Development Plan), however, the new House still had the flexibility to decide its own priorities and options. **If this States approve the capital priorities as set out above, their successor House (which will be facing the difficult task of balancing the States finances) will have no such flexibility.** However, before taking this approach, Members should carefully weigh the case put forward by the Health and Social Services Department for the Clinical Block.

The more obvious alternatives could be to use the remainder of the Capital Reserve to:

- Make accelerated progress with the Education Development Plan (in particular La Mare de Carteret or Les Beaucamps).
- Fund alternative healthcare priorities (e.g. mental health).
- Additional Key Worker and Social Housing projects.
- Sewage treatment (rather than fund through extra fees and charges).
- Airport Runway extension.

However, the Treasury and Resources Department does not believe that any of these can be considered a higher priority than the Clinical Block.

## **Information Collection**

In preparing this Report, and its list of priorities, the Department has, amongst other sources, used the following information:

- Departmental submissions as part of the 2007 Budget process.
- Departmental submissions for the development of the States Property Plan.
- Departmental discussion on individual projects (for example the Clinical Block).
- Updated information collected as part of the 2005 Budget Report published in December 2004.

The above more formal processes have been supplemented by ad hoc political and staff level discussions.

### **Timing of Projects**

By its nature the main thrust of this Report has been on financial matters, specifically the States limited ability to fund capital expenditure. However, it must always be borne in mind that the timing of capital projects is also very important in terms of the ability of suppliers and contractors to deliver; any consequential impact on private sector work (or relative lack of it), and the States own ability to deal with a number of ongoing projects.

As set out in the Board of Industry's report on the construction industry (Billet d'Etat VI, April 2002) "while any attempt to manage activity within the private sector is fraught with difficulties, the one area where the States can influence the outcome of events is by the timing of States projects."

As the 2002 Report explains, the States, by the careful timing of capital projects, can boost the local construction industry when its private sector work is on the decline, and by doing so not only keep the industry active but obtain excellent value for money. Conversely, the States could overheat the local industry (and obtain less value for money) if the timing of too many of its projects seriously overlap. These matters are often largely subjective and require fine judgement.

Such concerns are not limited to just construction work, but are equally valid for major IT projects.

### **Routine Capital Expenditure by Departments**

As can be seen in the appendices attached to this Report, in particular Appendix 7, there is an ongoing level of routine capital expenditure by Departments of around £8m per year. This expenditure covers such items as the routine replacement of essential equipment, IT, plant and vehicles etc.

In practice (partly as a legacy of the old committee system) there has always been a degree of flexibility in the exact treatment of such expenditure. In fact, very similar items may be treated as revenue expenditure in one Department and capital in another. The issue is further complicated, also often for very good reasons, because Departments can use unspent balances (derived from savings in revenue budgets) to supplement their capital expenditure.

While such arrangements were of merit under the old committee system (when the size of the annual budgets varied widely between committees) there is less justification now.

The Treasury and Resources Department therefore believes that there is considerable merit in moving towards a system whereby Departments get one single annual cash limit which would fund, under their own discretion, both "revenue" and ongoing "capital". Such an arrangement would increase individual Department's ability to manage their own affairs although major capital items would continue to be funded specifically from central funds.

Since each Department is mandated to be “accountable for the management and safeguarding of public funds and other resources entrusted to it” and will be subject to close review by the Public Accounts Committee, Scrutiny Committee and overview by the central property function, there should be a minimal risk of Departments diverting capital monies to fund ongoing revenue expenditure.

At the time of writing this Report, the production of the annual Departmental Budgets (revenue and capital) for 2007 are well advanced and a change of procedure would be inappropriate for that year. However, pending further investigation, the Department would intend to introduce the new arrangements at the beginning of 2008.

**The States is therefore recommended to note the Treasury and Resources Department’s intention to review the method of funding and accounting for Departmental routine capital expenditure and to report back as soon as practicable.**

### **Emergency Capital Expenditure**

Although the main purpose of this Report on capital prioritisation is to provide States Departments with more certainty in their capital planning, it needs to be recognised that in the real world the unexpected happens.

At present, the Treasury and Resources Department has delegated authority to approve capital expenditure of up to £250,000 provided that the relevant Department has sufficient funds available. In theory, should there be an emergency (such as major building repair works, coastal defence work, roadworks, landfall etc.) that required expenditure above £250,000 a States Report would be necessary before any work could be carried out. Even with an emergency Billet this would take time. Clearly, in an emergency such a delay would be unacceptable.

Therefore, at the suggestion of the Policy Council, the Department is seeking delegated authority such that **in the event of an emergency**, it would be able to authorise the necessary expenditure without delay.

**It is therefore recommended that the Treasury and Resources Department be given delegated authority to approve a capital vote, and to transfer an appropriate sum from Reserves, in the event of an emergency requiring capital expenditure.**

The Treasury and Resources Department would be required to report back to the States on any amounts so authorised under its delegated authority as soon as is practicable. In most cases this would be within either the annual Budget or Interim Financial Reports.

### **Funding the Corporate Housing Programme**

As set out in its 2006 Interim Financial Report “the Treasury and Resources Department acknowledges that further work is still required concerning the existing States

resolutions regarding the funding of rent rebates for both States tenants and Guernsey Housing Association nominated tenants”.

In recent years, the Housing Department has received enhanced capital allocations (£5m in 2005 and £7m in 2006) in respect of the Corporate Housing Programme. These allocations together with interest received and rents have been used to fund a combination of repairs, maintenance and enhancements for States Houses, rent rebates, administration costs and capital transfers to the Guernsey Housing Association, i.e. a mixture of “capital” and “revenue” items.

The Treasury and Resources Department, having taken into account the Housing Department’s October 2005 States Report (Billet d’Etat XV, October 2005), believes that, in future, the Housing Department’s annual revenue Budget should be increased to take into account the Rent Rebates granted to tenants (both those in States Houses and those nominated tenants in the Guernsey Housing Association’s properties) and the capital allocations adjusted accordingly.

Due to the timing of the writing of this Report, and the fact that the new Rent Rebate Scheme (annually £6m to £8m) is still in its transitional phase, the implementation of this proposal is best introduced in 2008.

**The States is therefore recommended to note the Treasury and Resources Department’s intention to review the method of funding and accounting for the Housing Department’s rent rebate scheme and to report back as soon as practicable.**

### **Disposals**

Although the main purpose of this Report is to consider capital expenditure priorities, the ongoing programme of property disposals is worthy of mention.

When the States approved the Treasury and Resources Department’s proposals contained in the Report entitled “States Land and Property - Management and Administration” (Billet D’Etat V, February 2006), the issue of property disposals was given a higher prominence and momentum than had previously been the case.

The Treasury and Resources Department will be bringing forward a more comprehensive report on property disposals in the near future, but a summary of potential sales is included in Appendix 6 of this Report.

It is emphasised that some of these disposals will only be possible on the completion of other projects.

## **Conclusion**

The preparation of this Report has been a challenging exercise. However, the Treasury and Resources Department believes that this Report highlights the major capital expenditure of recent years and the key projects to enable Members, at a high level, to reach a consensus decision.

Whilst individual members will no doubt have different personal priorities (influenced by their own political priorities and areas of responsibility) the Department believes the priorities it has put forward are both realistic and represent the needs of a vibrant and self-confident 21<sup>st</sup> Century community.

## **Recommendations**

The Treasury and Resources Department therefore recommends the States to:

- a) Agree that the Health and Social Services Department's Clinical Block is the key capital expenditure priority for the States of Guernsey.
- b) Agree that, subject to adequate funding being available, the States capital expenditure priorities are as set out in this Report.
- c) To note the Treasury and Resources Department's intention to review the method of funding and accounting for Departmental routine capital expenditure and to report back as soon as practicable.
- d) To note the Treasury and Resources Department's intention to review the method of funding and accounting for the Housing Department's rent rebate scheme and to report back as soon as practicable.
- e) To direct the Treasury and Resources Department to take account of the above proposals when bringing forward recommendations in future Budget Reports.
- f) To give the Treasury and Resources Department delegated authority to approve a capital vote, and to transfer an appropriate sum from Reserves, in the event of an emergency requiring capital expenditure.
- g) To direct the Treasury and Resources Department to report back to the States on any amounts so authorised under its delegated authority as soon as is practicable.

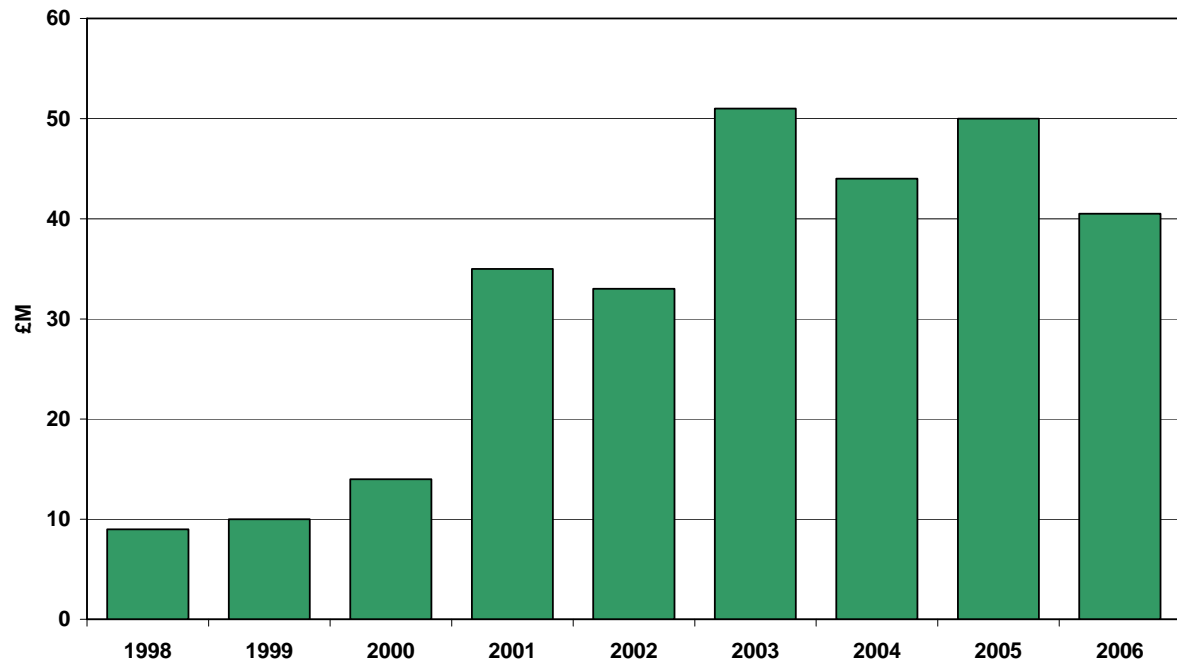
Yours faithfully

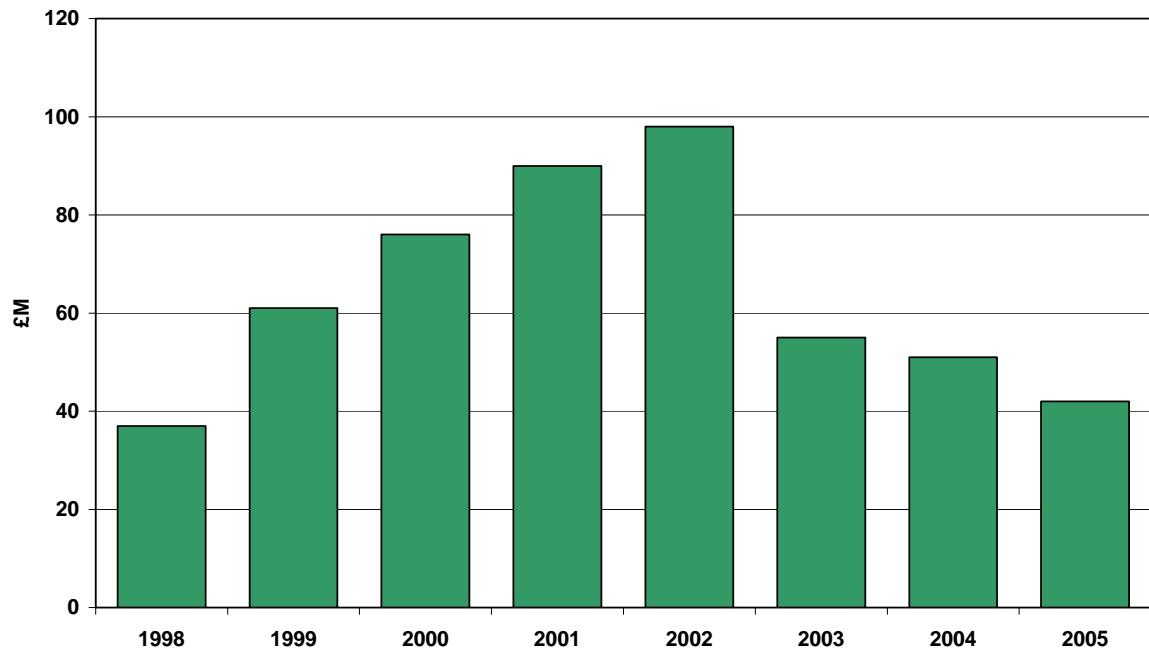
L S Trott  
Minister



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**CAPITAL EXPENDITURE 1998 to 2006**

**BALANCE ON CAPITAL RESERVE 1998 to 2005**

## Appendix 3

## Summary of Capital Expenditure 1998 to 2006

|   | £m                |
|---|-------------------|
| <u>Items under £500,000</u>                       |                   |
| Property repairs, refurbishments, upgrades etc.   | 14.3              |
| Property additions, enhancements, etc.            | 15.8              |
| IT projects                                       | 9.7               |
| Equipment additions, replacements etc.            | 17.7              |
| Vehicles  | 6.9               |
| <br>  |                   |
| Education Development Plan                        | 46.0              |
| Forest School                                     | 2.8               |
| Education ICT Strategy                            | 12.1              |
| St Anne's School extension                        | 0.8               |
| Corporate Housing Programme, Courtil Jacques etc. | 39.1              |
| Clinical Waste incinerator                        | 1.6               |
| St Martins community centre                       | 1.3               |
| Nurses Accommodation                              | 6.1               |
| La Corbinerie continuing care wards               | 6.5               |
| Mignot Memorial Hospital- Alderney                | 3.8               |
| States Analyst Laboratory                         | 2.9               |
| Health Development Plan                           | 11.6              |
| Network Extension Plan, Pumping Stations, etc     | 25.2              |
| New buses   | 3.1               |
| Traffic signals                                   | 1.3               |
| Prison extension and visitor centre               | 6.4               |
| Fire & police radio system                        | 1.6               |
| Airport CCTV                                      | 0.5               |
| Energy from waste preparatory work                | 2.4               |
| Mont Cuet Quarry site works                       | 1.6               |
| Royal Court extension and essential maintenance   | 19.7              |
| Government House refurbishment                    | 0.9               |
| Sir Charles Frossard House reorganisation         | 0.9               |
| Foulon Crematorium                                | 0.9               |
| Town Arsenal flats and control room               | 0.8               |
| Beau Sejour redevelopment                         | 10.4              |
| Footes Lane sports facilities                     | 2.2               |
| Corporate IT projects                             | 5.0               |
| St Barnabas Archive Centre                        | 2.8               |
| St James renovation                               | 0.7               |
| Alderney airport runway                           | 0.6               |
| Alderney Island Hall                              | 1.0               |
| <br>  |                   |
| Total Capital Expenditure 1998 to 2006            | <hr/> 287.0 <hr/> |

Note: the above figures are based on the amounts recorded in the year-end accounts 1998 to 2005 and an estimate for 2006. Some projects will fall outside that timescale and therefore their total cost will be more than set out above.

## Appendix 4

**Movements on the Capital Reserve 1998 to 2005**

|                                    | £m    | £m               |
|------------------------------------|-------|------------------|
| Balance 1 January 1998             |       | 23.0             |
| Appropriations:                    |       |                  |
| 1998                               | 13.0  |                  |
| 1999                               | 21.1  |                  |
| 2000                               | 13.9  |                  |
| 2001                               | 19.0  |                  |
| 2002                               | 23.0  |                  |
| 2003                               | 15.0  |                  |
| 2004                               | 7.0   |                  |
| 2005                               | 10.0  |                  |
|                                    | <hr/> | 122.0            |
| Interest 1998 to 2005              |       | 40.0             |
| Withdrawals:                       |       |                  |
| Education Development Plan         | 59.5  |                  |
| St Martins Community Centre        | 1.2   |                  |
| States Analyst Laboratory          | 3.4   |                  |
| Mignot Memorial Hospital- Alderney | 6.2   |                  |
| Health Development Plan            | 14.5  |                  |
| Prison Extension                   | 6.5   |                  |
| Courts Extension                   | 17.5  |                  |
| Royal Court Essential Maintenance  | 2.9   |                  |
| St Barnabas Archive Centre         | 2.9   |                  |
| Beau Sejour- Original Vote         | 9.0   |                  |
| Les Nicolles Swimming Pool         | 1.0   |                  |
| Footes Lane- Grandstand            | 0.6   |                  |
| Energy from Waste                  | 2.4   |                  |
| Alderney Commercial Quay           | 4.0   |                  |
| Corporate IT Project               | 3.0   |                  |
| Cable Link Consultants             | 0.4   |                  |
| Fish Quay Parking                  | 0.8   |                  |
| Sewer Rehabilitation               | 2.0   |                  |
| New Buses                          | 3.1   |                  |
| Traffic Signals                    | 1.7   |                  |
|                                    | <hr/> | (142.6)          |
| Balance 31 December 2005           |       | <hr/> 42.4 <hr/> |

**Appendix 5****Movements on the Capital Reserve 2005 to 2008**

|   | £m           |
|---|--------------|
| Balance 31 December 2005                                      | 42.4         |
| Education Development Plan                                    | (12.8)       |
| Beau Sejour Overspend   | (1.4)        |
| Interest  | <u>2.1</u>   |
| Balance 30 June 2006  | 30.3         |
| Clinical Block  | (34.3)       |
| Additional Alderney Commercial Quay                           | (2.0)        |
| Les Nicolles Schools (final tranche)                          | (5.0)        |
| Interest income (2006 to 2008)                                | 4.5          |
| Extra Funding required for Capital Reserve by the end of 2008 | <u>(6.5)</u> |

**Appendix 6****Future Capital Disposals**

| Property  | Comments   |
|---|--|
| Le Vauquiedor Farm  | Sale in progress   |
| Le Baubigny Farm  | Part disposal of property once Les Nicolles Schools finished |
| Brock Road Site, Grange House, Longfield School, La Couperderie | Dependent on various phases of Education Development Plan    |
| St John Street Stores   |  |
| Bulwer Avenue: Warehouse  |  |
| Fort Richmond   |  |
| Vale Mill   |  |
| Nelson Place  |  |

In addition there are a small number of residential units that Departments have “inherited” for historic reason which will be disposed of (unless required by the Housing Department) as and when particular circumstances allow.

It is estimated that the above sales could produce between £10 and £15m.



**Appendix 7****Routine Capital Expenditure by Department and by Type**

|                                 | £m        |
|---------------------------------|-----------|
| Policy Council                  | -         |
| Treasury & Resources            | 1.5       |
| Commerce & Employment           | 0.1       |
| Culture & Leisure               | 0.2       |
| Education                       | 1.0       |
| Environment                     | 0.4       |
| Health & Social Services        | 2.8       |
| Home                            | 1.0       |
| Housing                         | -         |
| Public Services                 | 1.0       |
| Social Security                 | -         |
|                                 | <hr/> 8.0 |
| Property repairs, upgrades etc. | 3.7       |
| IT projects                     | 1.0       |
| Equipment & vehicles            | 3.3       |
|                                 | <hr/> 8.0 |

Note: As set out in the body of the report, the above figures do not include any amounts in respect of the Corporate Housing Programme or the Network Extension Plan.

**(NB When the Policy Council asked the Treasury and Resources Department to prepare a capital prioritisation report it acknowledged that it was a challenging task. The Report that has been produced includes a wealth of information, in particular it highlights the unprecedented amounts invested in the Island's capital infrastructure in recent years.**

**Although individual members might have had different priorities, the Council believes that the way forward proposed by the Treasury and Resources Department is pragmatic and should be supported by the States.)**

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 5<sup>th</sup> September, 2006, of the Treasury and Resources Department, they are of the opinion:-

1. That the Health and Social Services Department's Clinical Block is the key capital expenditure priority for the States of Guernsey.
2. That, subject to adequate funding being available, the States capital expenditure priorities are as set out in this Report.
3. To note the Treasury and Resources Department's intention to review the method of funding and accounting for Departmental routine capital expenditure and to report back as soon as practicable.
4. To note the Treasury and Resources Department's intention to review the method of funding and accounting for the Housing Department's rent rebate scheme and to report back as soon as practicable.
5. To direct the Treasury and Resources Department to take account of the above proposals when bringing forward recommendations in future Budget Reports.
6. To give the Treasury and Resources Department delegated authority to approve a capital vote, and to transfer an appropriate sum from Reserves, in the event of an emergency requiring capital expenditure.
7. To direct the Treasury and Resources Department to report back to the States on any amounts so authorised under its delegated authority as soon as is practicable.

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **PRINCESS ELIZABETH HOSPITAL - PHASE 5 (CLINICAL BLOCK)**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

22<sup>nd</sup> August 2006

Dear Sir

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

The proposed new Clinical Block will replace existing facilities that do not meet basic minimum NHS standards and create serious risks for patient care. The new facilities would also enable the hospital to utilise the latest diagnostic and treatment technologies that are being designed throughout Europe and America to ensure Guernsey can provide a world class health service.

It comprises a new three storey clinical wing to the existing hospital to provide new medical wards and other up to date clinical services to replace the existing outdated facilities.

The project will also create suitable facilities for the vastly expanded range of cancer treatments now taking place on-island. It will also provide far better provision for training nurses in Guernsey.

In order to minimise both costs and potential disruption around the Princess Elizabeth Hospital (PEH) site, there will be some services that will require temporary accommodation during the main construction phase of the scheme. The intention is to keep these to an absolute minimum, both in terms of number and cost, by using existing facilities at La Corbinerie, which have been vacated following completion of the St Martin's Community Centre. These services will then move into accommodation within the new clinical block.

The opportunity has also been taken to include, within the Phase 5 contract, a series of urgent enabling works packages and service improvements to the Princess Elizabeth Hospital site that are explained in more detail below.

The total capital cost of this project is £36,100,219 of which £1,820,769 was voted in September 2003. Consequently, the balance needed is £34,279,450.

The tender for the construction is very competitive and, at £26,974,565, is below pre-tender estimate.

## **2. Background**

The clinical block is the major component of the Princess Elizabeth Hospital site strategy. The intention is to replace wards and departments currently occupying sub-standard or inappropriately located buildings at the Princess Elizabeth and King Edward VII Hospitals.

On several occasions (February 1995, Billet d'Etat IV; July 1999, Billet d'Etat XV; September 2003, Billet d'Etat XXI; and November 2004, Billet d'Etat XX), the former Board of Health and subsequently the Health and Social Services Department (HSSD) has laid its overall site development plan before the States, with the Phase 5 Clinical Block being the major component. On each occasion, the States have approved the proposals. There is no doubt that these new facilities are long overdue. The existing medical wards were never designed for their present purpose; rather, they were built as psychiatric wards in the 1930's. After 70 years, their useful life has more than come to an end, as their design precludes many aspects of modern health care, including the use of nursing aids and equipment. It is also inappropriate to have acute medicine at the Princess Elizabeth Hospital but assessment and rehabilitation services at the King Edward VII Hospital and the assessment and rehabilitation services are themselves in unsatisfactory accommodation.

Prior to September 2003, the Health Design and Development Group (HDDG), an out posted arm of Guernsey Technical Services, was responsible for developing the concept design strategy for Phase 5, based on a gross internal area of 6646m<sup>2</sup>.

Following the advice of the then Estates Sub Committee of the Advisory and Finance Committee and Strategic Property Unit, the appointment of Gleeds Management Services as project managers and Nightingale Associates as scheme architects was made in September 2003. Both have extensive experience in hospital design and construction, including the redevelopment of constrained sites. One of their first tasks was to undertake a full and detailed review of the original design intent.

The findings of the validation exercise concluded that the brief requirements in respect of clinical functional content did not comply with current NHS benchmark standards for hospital design and fell well short of the minimum requirements, with particular regard to Infection Control Guidelines, the control of MRSA (and other hospital acquired infections) and in respect of patients' expectations and general good practice. Similarly, the previously prepared schedules of accommodation also made insufficient allowance for circulation and communication routes and no allowance for the necessary plant rooms, services risers, IM&T hub rooms and other essential support services.

The report further concluded that the project could not be achieved within the 6646m<sup>2</sup> identified under the previous scheme and the provision of these services required a gross internal area of 8700m<sup>2</sup>.

As a consequence, the design team was requested by the HSSD to revisit the original brief to establish a compliant and workable scheme, capable of demonstrating value for money. The findings of this option appraisal report, dated 24 November 2003, were subsequently presented to the former Board of Health and approval to proceed in principle was granted on 1 December 2003. The modernised facilities will replace the existing services, which are too institutionalised and do not meet current modern day guidelines and minimum standards for achieving the required quality of care.

A number of site development projects undertaken in recent years have been part of the critical path leading to the major phase 5 (Clinical Block) development. The provision of a new 215 space car park at La Corbinerie, essential to cater for the loss of parking adjacent to the former John Henry House site, was the first stage, completed in November 2004. Further new areas of parking will be provided as an integral part of the Phase 5 development in order to improve parking facilities for patients and visitors.

The transfer of the Environmental Health Department from the Princess Elizabeth Hospital site to new premises at Burnt Lane, St Martin's, was next, with completion in March 2005.

The former John Henry House site has been developed for the staff accommodation (known as John Henry Court) comprising a total of 66 living accommodation units, divided into 44 bedsit rooms and 22 apartment style units.

Another crucial scheme is the St Martin's Community Centre, completed in June 2006, which has allowed day services for people with a learning disability and associated offices to move from La Corbinerie site. The vacated areas will be used for decant purposes during the construction of Phase 5 and, ultimately, subject to available funding, the provision of adult mental health facilities (Phase 6b), which, together with other areas vacated as a result of Phase 5, will allow for the closure of the Castel Hospital.

### **3. Proposal**

The main thrust of the HSSD's site development plan is to centralise acute healthcare resources on the PEH site and relocate those services, which do not benefit from being there. The services formerly based at the Mignot Centre have been transferred to St Martin's Community Centre and the Environmental Health Department has been relocated in Longue Rue, St Martin's. The other service which does not need to be on the PEH site and will, in time, be relocated is the home for people with a learning disability (Oberlands House).

The main factors that have influenced the HSSD in the development of its proposals for the replacement of the existing clinical accommodation are essentially sevenfold, as detailed below.

i. Medical Wards

There is a need to replace the two existing medical wards, Arnold Ward and Brock Ward, which are sub-standard and in urgent need of replacement. Their inadequacies are listed below:

- infection control risks from inadequate space between beds;
- inadequate space between beds (side by side and bed-end to bed-end) also gives rise to health and safety issues for staff providing care;
- single rooms where the doorway is not large enough for a bed to pass through, which pose a fire risk and risk of nurses being injured;
- no room to offer privacy when breaking bad news to patients or relatives;
- no isolated power supply within Medical High Dependency Unit;
- sound proofing in Medical High Dependency Unit is inadequate;
- space in Medical High Dependency Unit is inadequate for three beds and equipment;
- highly populated sleeping areas for patients, which leads to them disturbing each other at night;
- lack of privacy for patients who are in close proximity to their neighbouring patient when in bed; this is reduced further if one of them is sitting in a chair;
- inadequate space within the confines of the single rooms;
- temperature in the flat roofed annexe on Brock Ward is difficult to regulate – hot in the summer, cold in the winter and roof leaks in rainy conditions;
- annual infestations of ants, especially in Brock Ward;
- no nurses' station in either of the wards;
- lack of storage space;
- dayrooms that are inaccessible to some patients unless they want to walk through an opposite sex ward;

- temperature control in the dayrooms in winter relies upon portable heaters, which is unsafe for wandering or confused patients;
- lack of power points for modern day equipment;
- patient washroom facilities inadequate;
- lack of sufficient single rooms;
- poor lighting in corridors;
- poor visibility for staff/patient observation.

Comments/quotes received from the medical wards' staff on their working environment include the following:

- *"The toilets and washing facilities are very basic and too small to move and handle patients safely."*
- *"There's no space for nurses/physios/doctors to have a discussion about patients in private."*
- *"The 'temporary' building in Brock is more than 25 years old – it leaks in the winter and it's overheated in the summer."*
- *"The layout is poor, when we are working at one end of the ward we don't have the ability to see or hear our patients in other rooms, which is very restricting."*
- *"There should be observation bays in close proximity to a nurses' station."*
- *"It's cramped, we're always twisting, turning, bending and squeezing through gaps when trying to provide patient care."*
- *"The whole structure of the building is bad, it's cramped and there's no space."*
- *"The TVs are at the end of long wards; if patients are in a bed in the middle, they can't see anything, and if they are ill and want some rest, they can hear everything."*

Both ward areas have been inappropriate for the patients nursed there since the 1980s and, despite some small improvements which have been made, remain in decline. A previous suggestion, made some years ago, that there should be a major upgrade of the existing wards was strongly resisted by the former Capital Works Sub-Committee of the Advisory and Finance Committee. The Sub-Committee rightly pointed out that a new build replacement, while more expensive, would clearly represent better value for money.

Brock Ward will be demolished as part of this project but Arnold Ward will be available for re-use. The options for this are being considered but there will certainly be a need for a central staff changing facility, which will be in temporary accommodation following the demolition, as part of this scheme, of the former Sherwill Ward. Arnold Ward would be a suitable location for staff changing.

ii. Assessment and Rehabilitation

The assessment and rehabilitation service needs to be moved from the King Edward VII Hospital to the Princess Elizabeth Hospital site. This unit forms the main focus of acute in-patient, outpatient and day patient services for older people and some young people with disabling conditions. It needs to be on the Princess Elizabeth Hospital site where service users can be supported by the diagnostic and other services based there. The Stroke Service will also transfer back to the Princess Elizabeth Hospital site, with the benefits of having acute treatment and rehabilitation of stroke patients in the same place. This is regarded as best medical practice and there was considerable disappointment when a pilot project to achieve this was terminated because it simply wasn't staff efficient within the present accommodation.

The inadequacies of the assessment and rehabilitation facilities are listed below:

- inadequate space around the beds on Allan Grut Ward, which restricts nursing and therapy staff when trying to use equipment or move patients;
- insufficient power points for all equipment needed (Allan Grut Ward);
- inappropriate siting of power points, making them difficult to reach (Allan Grut Ward);
- inadequate space in bathrooms (Allan Grut Ward);
- insufficient storage space for equipment (Allan Grut Ward, Day Hospital and Therapy Departments);
- insufficient day room area (Allan Grut Ward);
- uneven flooring (Allan Grut Ward);
- difficult layout of Allan Grut Ward, with three exits;
- inadequate dirty utility (sluice) area on Allan Grut Ward;
- no area for dressing renewals to be done in Day Hospital;



- lack of privacy for confidential discussion with patients or relatives (Allan Grut Ward and Day Hospital);
- inadequate consulting room in Day Hospital, with poor ventilation, no natural light, no power points and poor sound proofing;
- Day Hospital has poor ventilation;
- difficult access to Princess Elizabeth Hospital Physiotherapy Department;
- inadequate space in Princess Elizabeth Hospital Physiotherapy Department;
- no individual treatment areas in Princess Elizabeth Hospital Physiotherapy Department gym;
- no piped oxygen or suction in Princess Elizabeth Hospital Physiotherapy Department gym;
- no toilet facilities in Princess Elizabeth Hospital Physiotherapy Department gym for people with a disability;
- no changing facilities in Princess Elizabeth Hospital Physiotherapy Department;
- very small hydrotherapy pool, with poor facilities and old equipment, which is inadequate for adults and has now been closed;
- poor access to hydrotherapy pool;
- inadequate space in changing facilities at hydrotherapy pool;
- inadequate treatment space at King Edward VII Hospital Physiotherapy Department for numbers now using it;
- waste of staff time moving between Princess Elizabeth Hospital and King Edward VII Hospital (Physiotherapy);
- inadequate space at Princess Elizabeth Hospital for Occupational Therapy, leading to infection control and health and safety risks;
- patients have to be taken from Princess Elizabeth Hospital to King Edward VII Hospital for some types of Occupational Therapy assessment, due to lack of facilities at Princess Elizabeth Hospital;
- no provision for Occupational Therapy equipment to be decontaminated after use at King Edward VII Hospital;
- office space at King Edward VII Hospital is at a distance from therapy departments;

- inadequate number of rooms for Occupational Therapy at King Edward VII Hospital;
- inadequate privacy in bathing therapy area of Occupational Therapy Department at King Edward VII Hospital.

Comments/quotes from staff working in these areas include the following:

- *"The ward only has three side rooms, which is limiting when patients require isolation and limits privacy for patients and their relatives when terminally ill; space in the siderooms is also limited."*
- *"Bathrooms and toilets [on Allan Grut Ward] are not specifically designated to either sex as they are limited in number, therefore privacy and dignity of the client is compromised; this was highlighted in the privacy and dignity audit."*
- *"The main patient area [in the Day Hospital] gets extremely hot and stuffy due to large glass windows and poor ventilation; not able to put up awnings in windy weather."*
- *"Pulmonary rehabilitation and chronic pain classes are having to spread into corridors for specific tests because of limited space [in the Physiotherapy Department]."*
- *"The Quiet Room (in Occupational Therapy) which was designed to minimise distraction to enable the assessment and treatment of cognitive and affective needs has to be used as a wheelchair store, leaving very little room for treatment."*
- *"The main treatment room (in the King Edward VII Hospital Occupational Therapy Department) has to store splinting equipment and bariatric equipment. This means thermoplastics are being used in a general treatment area, with the risks associated with dry and wet heat, sharps, etc, and staff are constantly having to move stored items to make room for patient sessions."*
- *"There are no storage or decontamination facilities for the wheelchair and specialist seating service."*
- *"There is nowhere at the Princess Elizabeth Hospital for Occupational Therapy for neuro assessment and rehabilitation."*

Transfer of these services to the PEH site will allow for a reorganisation of the services remaining at the King Edward VII Hospital. The continuing care wards are particularly overcrowded and, like the medical and assessment and rehabilitation wards, do not meet current

standards for control of infection, or give patients sufficient privacy and dignity. The vacated space will enable the HSSD to address these problems.

### iii. Renal Dialysis

The renal dialysis unit needs to be replaced. It opened in September 1998 in a temporary building. Prior to that time, renal dialysis patients had to travel to Jersey frequently for treatment. A summary of the services provided by the unit is set out below:

1. care for all patients with impaired renal function on an out-patient basis;
2. dialysis and nurse led clinical support for patients with pre-end stage renal disease;
3. pre- and post-transplant education and care;
4. dialysis services for patients who come to the island on holiday.

The unit is open 6 days per week and provides renal care for over 60 patients, of whom 14 currently receive dialysis as out-patients, some 3 times a week. It is currently housed in poor, temporary accommodation which is inadequate for the service now provided as summarised below:

- accommodation too small for service provided;
- space requirements for patients on haemodialysis is not met;
- no facility to 'charge up' machines not in use (this needs to be done outside of hours);
- the lack of an additional water point also means longer treatments and inconvenience to patients in the event of machine failure with a knock on effect into the afternoon session;
- no dedicated room for transplant patients who attend the unit regularly;
- the same applies to pre-dialysis patients;
- difficulties arise in respect of patient confidentiality due to the cramped conditions and proximity of the staff base;
- access for in-patients in beds or portering chairs is difficult;
- very limited storage facilities.

Comments/quotes received from staff working in the renal unit include the following:

- *"The problem with the current accommodation is that it is too small for the service that we run."*
- *"I understand that there are building/clinical regulations in place in relation to the amount of space between each patient on haemodialysis, and the current unit does not meet those."*
- *"We have a number of patients who have been transplanted – they attend the unit regularly (anything from 1x week) for review and blood tests, but there is nowhere to do this satisfactorily – the one spare room that we have in the unit is used as the sister's office, staff room, changing room, treatment and clinic room; in addition to this, our 'pre-dialysis' patients also need to be reviewed regularly, and the same problems re space availability apply."*
- *"The nursing station is situated about two feet away from the nearest patient, and this leads to difficulties in relation to the maintenance of patient confidentiality."*
- *"The main corridor leading to the unit is not big enough to get a bed through; any in-patients needing dialysis, who need to stay on their bed, have to enter the unit through the side exit, which would be OK if it wasn't blocked on the inside by a patient on a dialysis machine."*
- *"The current unit has very limited storage facilities. A dialysis service requires bulk consumables. Currently, we have no choice but to store some of our supplies in the corridor and this has health and safety and infection control implications, but the store room is not big enough to contain what we need."*

The new unit within the clinical block will address all of the above.

The unit will be transferred to a vacated ward during Phase 5 demolition and construction works. This temporary move is necessary as it is clinically unacceptable to continue to run the unit in such close proximity to a building site and the unit has to be demolished at some point during the project.

#### iv. Cancer Centre

The Bulstrode House Oncology Unit is responsible for the delivery of the Island's non-surgical oncology service, ie. services for people with cancer. A large number of treatments, procedures and other services are provided by the unit, as summarised below.

- Specialist oncology, radiotherapy and haematological outpatient clinics;

- Oncological and haematological practical procedures;
- Safe administration of cytotoxic chemotherapy and other intravenous treatments;
- PICC line (Peripherally inserted central catheter) and central line maintenance, various dressings, hormone implants and phlebotomy (blood taking) service;
- The oncology nursing staff provide support and counselling to patients and their families, in addition to detailed information regarding their disease and its treatment;
- The Community Palliative Care Team is based within the unit. This is an essential prerequisite to the provision of a co-ordinated and efficient oncology/palliative care service;
- Provision of patient information leaflets, booklets and general literature;
- The Consultant Oncologist, Oncology and palliative care nursing staff are involved in regular teaching for other hospital and community nursing staff. Specific guidelines have also been produced and widely disseminated to improve the management of cancer;
- A research/clinical trials nurse, in close collaboration with the Consultant Oncologist and the Central South Coast Cancer Research Network, oversees a number of nationally designed clinical trials, an essential aspect of the work of all cancer units, if treatments are to be improved.

The inadequacies of Bulstrode House are listed below:

- the main treatment area has a poor layout. Treatment stations necessitate trailing electrical wires (for infusion devices, electric chairs, hand warmers for venous access etc) causing obvious clinical hazard. There is a lack of work stations for nursing staff, and a lack of chemotherapy preparation area and sink. The flooring is inappropriate (carpet);
- the secretarial office is too small, leading to insufficient space for storage. It is shared with the Guernsey Society for Cancer Relief, with the obvious potential for confidentiality problems with phone calls, answer-phone messages, correspondence etc;
- the treatment room has a poor layout. It is difficult to ensure clinically clean environment to carry out clinical procedures and difficult for nursing staff to adequately see and monitor patients post-procedures. Storage space and lighting are poor;

- the waiting area is a very limited space which means that during busy clinics outpatients may have to wait in the treatment area with patients who are undergoing treatment such as chemotherapy;
- there are insufficient rooms - most of the rooms in Bulstrode House have to be used for multiple purposes as there are insufficient rooms for the uses required (major deficiencies are lack of quiet counseling room, lack of complementary therapy room and general lack of storage space).

Following the appointment of the Consultant Physician/Medical Oncologist in 2001, the on-island service provision has undergone considerable expansion, in line with the HSSD Cancer Strategy, with many more treatments/procedures being undertaken locally. Cost savings have been effected as a result of this initiative and, in particular, with the on-island chemotherapy service. It was recognised some 4 years ago that Bulstrode House needed to expand in order to continue to develop the service, with some 6 additional rooms being required, including further treatment and consulting rooms, a complementary therapy area, storage and office space. The existing Bulstrode House design and site does not readily lend itself to such an expansion and it was agreed to provide an expanded facility within the new Clinical Block. In the meantime, a number of infection control and health and safety issues have been highlighted in the existing building. Some minor shortcomings have been rectified but other issues, such as layout of the unit, flooring and furniture coverings, need to be addressed. The accommodation in the Clinical Block has been designed accordingly.

Bulstrode House has been a victim of its own success. What started as a day centre for people with cancer now provides active treatment and means many people who need chemotherapy no longer have to go to the UK for their treatment. However, it has outgrown its accommodation and this needs to be replaced. The replacement needs to be near to the medical wards, with which it has clinical links.

Dr Peter Gomes, Consultant in Oncology, says, "It can be confidently predicted that the requirement for prolonged intravenous therapies for cancer will go on increasing and that many patients will require a combination of such treatments in order to achieve control of their disease. Indeed many cancers will become effectively chronic conditions as patients will survive for many years with their cancers. However, much of this time will be on active treatment. Thus the number of patients under treatment at any time will continue to increase putting much greater pressure on the cancer unit which is already too small, poorly designed for its current purpose and in many ways unsafe to practise modern cancer medicine."

Options for the future use of Bulstrode House are being considered.

These include provision of a nursery or a staff changing facility, if Arnold Ward is not used for the latter.

v. Medical Investigation Unit

The Medical Investigation Unit is in temporary accommodation and needs to be replaced. It is now called the Cardio-Respiratory Department as this better defines its functions, which can be summarised as tests relating to heart or lung function. These are:

- Electrocardiogram (ECG)
- Stress test
- Echocardiography
- Ambulatory monitoring
- Pacemaker check
- Tilt test
- Full lung function test
- Spirometry
- Sleep study
- Oxygen saturation test

Workload and scope of the service continues to increase and the recent appointment of the new Cardiology Physician is likely to accelerate this growth.

The unit has had to be moved within the hospital twice recently, partly to cope with the increased demands for the service but also to provide more satisfactory accommodation and location. It needs to be near the medical wards, with which it has links, and this has been achieved but it is still in a converted ward area which is not purpose-designed and less than ideal for the range of services provided.

The inadequacies of the current Medical Investigation Unit are listed below:

- access – distance from entrances, too far for many patients;
- reception is at the far end of the department from the entrance;
- open reception area – implications for confidentiality, patients can overhear telephone conversations and conversations at the

reception desk;

- no waiting area - patients and carers have to wait in a very cramped corridor and wheel chairs have to park in the main corridor outside the clinic rooms;
- poor access to rooms for in-patients attending on their bed.

Comments/quotes received from staff working in the Medical Investigation Unit include the following:

- *"Patients report feeling uncomfortable and awkward, walking all the way through the department to reach the reception. Many ask if they are in the right place as they pass the clinic rooms."*
- *"Current clinic room is very cramped and can become quite uncomfortable with prolonged use."*
- *"If a portable Echo machine is purchased, an extra clinic room would be useful to double up as a second echo room; this could be used when the department machine is being used for TOEs or stress tests."*

vi. Institute of Health and Social Care Studies

Permanent facilities are needed for the research, training and development undertaken by the Institute of Health and Social Care Studies, which is in temporary accommodation in the Duchess of Kent House. This also includes replacing the Library, which is currently separate from the Institute.

It is essential that appropriate facilities be provided or we will not continue to receive approval to train local people to be nurses or to recruit qualified staff, who need to continue their studies in order to remain eligible to practise in their profession.

The Institute is also the main provider of non-medical education and training for the HSSD. This includes a range of skills training and academic progress which can be summarised as follows:

- Mandatory staff training (eg. fire safety and safe methods of lifting)
- Induction training
- Preparation for professional roles
- Competency based training programmes
- Continuing professional development



- Leadership and management training
- Inter-disciplinary education
- Skills practice and development within a suitable environment
- Optimal use of new technologies
- Diploma and degree level programmes

All of the above are supported by access to learning and library resources.

Current premises within the Duchess of Kent House complex are inadequate as a result of increasing requirements for education and training over the past 5 years. The 3 classrooms are over-subscribed and additional alternative venues, either elsewhere within HSSD or externally (with revenue implications), are used to deliver the above programmes. This causes problems in moving equipment back and forth, coupled with loss of time and inconvenience to both trainees and trainers. The need for purpose built practical training rooms is also an important issue.

The space used by the Institute at the Duchess of Kent House will be needed to accommodate some of the services currently located at the Castel Hospital.

The library is geographically separate from the Institute, with limited space for the stock held and does not allow for expansion. The physical environment is hot and stuffy, which makes studying in there difficult. The centralisation of the library as part of the Institute will improve access to learning resources (including IT) for students, lecturers and staff in practice.

Comments/quotes received from staff working in or using the Institute of Health and Social Care Studies include the following:

- *"Having to use outside venues is expensive and inconvenient;"*
- *"There is insufficient room in the smaller rooms to carry out group activities, therefore teaching methods are limited by the accommodation and may be unsuitable for current methods of learning."*
- *"There is no room for a computer room for the students at present, so students have to walk to the library in the middle of sessions if they need to access information; this is becoming increasingly necessary and is very disruptive and wasteful of time."*

## vii. Infection Control

Research and investigation have consistently confirmed that the healthcare environment is a secondary reservoir for organisms with the potential for infecting patients. MRSA is well known as a hospital acquired infection and we must reduce the spread of this and other infections as far as possible. Good practice by the staff is essential but so is a physical environment that minimises the risks.

The current medical wards, with the lack of isolation facilities and inadequate hand washing facilities, at a time when there is increasing microbial resistance of many new evolving infectious diseases, are very difficult to manage and provide daily challenges for the infection control team. This is an equally important issue for the assessment and rehabilitation ward and infection control issues have been identified in the current therapy departments and the renal dialysis unit.

If the burden of health care associated infections is to be reduced, it is imperative that the new building is provided, as the architects and our infection control team have worked together to ensure it is suitable for today's requirements.

Best practice demands isolation rooms for infectious patients and the new building will include these, which will ensure that our staff will be able to maintain a safe environment for patients, staff and visitors. This cannot always be achieved at present.

Elaine Burgess, Lead Infection Control Nurse, says "As new infectious diseases evolve each year, and with the geographical lack of other local hospitals, we need to be prepared to cope with all eventualities. I feel the new build will aid the infection control team and staff in the prevention and containment of infectious diseases."

## 4. General Description of the new Clinical Block

The new clinical building will be directly linked to the existing hospital in order to provide essential links to the existing diagnostic and treatment departments such as A&E, imaging and theatres. It will be a three storey development. Layout plans are attached as an appendix and it can be seen that the ground floor will include facilities for renal dialysis, dietetics, a day hospital, therapies department and a 27 bed assessment ward. The first floor will include two 24 bed medical wards, a 3 bed High Dependency Unit with isolation facilities, a medical investigation unit and the re-located Bulstrode House, which provides services for cancer patients. The Institute of Health and Social Care Studies and the replacement library will be located on the second floor and will provide staff with essential space and facilities for training and education.

Although complex and highly serviced, phase 5 has been designed to have the minimum impact on both the existing hospital and the open countryside to the south of the hospital campus. It will be a three storey building, constructed from durable, low maintenance, traditional materials such as slate roofing, terracotta walling and hardwood timber from renewable resources.

An external canopy will provide a weather protected drop-off point for patients and visitors before entering a light filled reception area. The foyer will provide essential facilities such as a reception and information desk, beverage and refreshment areas, as well as visitor toilets. The foyer is a key space, providing orientation and access to all new and existing hospital departments and wards. The foyer will be a focal point for visitors, both by day and night. It will be light filled and airy, finished using natural materials to provide warmth and texture. This will be an uplifting space, which will help to allay any feeling of fear and anxiety that patients or visitors may be experiencing on their visit to hospital. The foyer leads on to the main circulation route or gallery. The gallery provides access at all levels to each new department and ward. It will be fully glazed and have views out into an enclosed and landscaped courtyard. The first floor is set well back and overlooks the ground floor, providing a visual connection between both floors, as well as a feeling of space and light. The gallery provides the perfect backdrop for displays of art.

Central to the design of Phase 5 is the ward layout. The new 24 bed ward is planned as a 'T' shape with the staff base at its centre. This light filled area at the 'heart' of the ward will provide nursing staff with an excellent view of patients and will provide patients with the reassurance and the comfort of seeing staff close at hand.

Fifty percent of patient beds will be provided in single rooms. They will be finished to the correct health standard and will have pleasant views along with the therapeutic benefits of natural light and ventilation. Internal finishes and colours will be sensitive to the needs of both patients and staff, offering a comfortable and reassuring ambience to assist the healing and caring process. Each single room will have an assisted en-suite shower and toilet with hoist assisted access from the bed to the ensuite room. These facilities are essential to providing both a feeling of privacy and dignity, as well as helping to control the spread of infection.

Benefits of single rooms include:

- increased flexibility for patient care (so that patients of different sexes, ages and with different conditions can be accommodated);
- better communication between staff and patients (as conversations are not all overheard by others);
- fewer patient falls (this has been shown through research);

- quieter environment;
- reduction in hospital acquired infections;
- reduced staff turnover (according to evidence from other hospitals).

The remainder of the beds in each ward will be in the form of 4 bed bays. The bays are based on an innovative 'cruciform' plan. This type of arrangement creates individual bed areas within the overall bed bay. This creates a feeling of personal space. Separate areas for sitting and dining as well as en-suite facilities help to personalise the room, reinforcing the sense of privacy and dignity, thereby eliminating the clinical and institutional feeling so often associated with hospitals. The cruciform plan is an effective arrangement, which helps to control the spread of infection, provides nursing staff with good observation of the patient, as well as ensuring that there is plenty of space around each bed for diagnosis, treatment, assistance and family visits. Providing this in wards where beds are next to each other requires a lot more space, as the minimum distance between the bed heads needed to control cross-infection has to be achieved.

## **5. Design status**

The only realistic location for the new clinical block that would be acceptable to the HSSD and the Environment Department is the proposed site, within the centre of the existing hospital estate.

The development needs to be located adjacent to the existing wards and clinical services to ensure efficient and effective care throughout the hospital, as originally identified by HDDG and to maintain and enhance optimum clinical services. It is both wasteful in staff time and unkind to patients if long distances have to be travelled between wards, the Accident and Emergency Department, theatres and other services which patients may have to visit.

Nightingale Associates (the architects) developed alternative layouts in close consultation with HSSD staff to evaluate the most efficient building footprint within the preferred site location. This process culminated in the final selection of the current design solution as offering the optimum clinical solution at best value for money.

The preferred design solution was then subjected to and evaluated against hospital benchmark standards utilising the NHS Achieving Excellence Design Evaluation Toolkit, which critically reviews the following issues in hospital design development:

- Functionality/Uses
- Access
- Spaces and Communication

- Character and Innovation
- Urban and Social Integration
- Performance
- Engineering Solutions
- Construction Methodology

A series of Value Engineering Workshops was held with the Design Team and HSSD staff in May, June, July and August 2004 to identify alternative options for construction solutions, materials, equipment, fixtures and fittings. Final selection was based upon value for money, and took into account the future life cycle cost in maintenance and repair. The design also meets all requirements for disabled people.

Strict adherence to the NHS standards has not been followed throughout but every aspect of the design has been reviewed systematically in consultation with our clinical staff in order to fully understand the precise operational needs of the relevant services. Consequently, the HSSD has not followed the current NHS guidance for new hospital development in a number of areas but has produced a solution which is appropriate to local needs. This has had a significant cost benefit, e.g:

- the innovative 4-bed ward design complies with all the NHS guidelines whilst, at the same time, the room layout uses less floor area than would be provided in a new NHS hospital;
- provision of 100% single bed spaces, as is currently being proposed for new UK hospitals, has not been adopted and a 50% single beds provision is considered sufficient for local needs;
- the number of highly engineered isolation rooms (for infection control) has been reduced from the standard requirements, based on the specific needs of the hospital;
- the need to provide fully acoustic doors and partitions throughout has been reviewed and they will only be used in specific locations where this is a necessity;
- a single office area specification of no more than 9 square metres, and significantly less per person for multiple occupation, has been used, which is less than in the NHS.

The design solution is, therefore, suited to the particular needs of Guernsey, with its small population and geographical isolation.

Full air cooling/conditioning throughout the hospital has not been included but an efficient energy strategy has been devised to maximise natural

ventilation/cooling to non-clinical areas. The design team, using Thermal Analysis Software, built a computer model to demonstrate actual heat gains in individual rooms, depending on the orientation of the building. Consequently, 'problem' areas have been identified and these have been designed for accordingly. The design, however, has the ability to 'bolt on' additional cooling, as and when it may be required in the future.

Following an intensive internal sign off process with HSSD staff over a period of 18 months and regular consultation meetings with staff of the Environment Department, the current design proposals have been finalised. Where practicable, the HSSD has incorporated changes to reflect the advice given by the officers of the Environment Department to develop an acceptable scheme for both parties. The adoption of such a detailed and thorough process significantly reduces the potential for change and consequently the risk to both programme and budget.

A planning consultation application was submitted to the Environment Department in November 2004. The Environment Department considered the HSSD's proposals and issued approval in principle, with no objections, subject to some minor comments regarding architectural detailing and external landscaping. The design team has taken on board the Environment Department's comments and has issued a revised package of information to the Environment Department for information. Matters to be agreed relate to soft landscape works around the car park.

At the same time, in principle meetings have been held with the Principal Building Control Officer and the layout has been modified to reflect requirements and advice given in respect of Means of Escape provisions. A Building Permit application for Building Regulation compliance has been submitted and discussions continue in respect of clarifications to the design.

The current design proposals, therefore, include provision of a 3 storey steel framed building, enclosed with a combination of terracotta rainscreen cladding panels, (as utilized on the John Henry Court project), terne coated stainless steel roofing and wall cladding, anodised aluminium external windows and doors and natural slate roofing.

Copies of the plans and elevations for the proposed new clinical block are attached as an appendix. Full size copies, plus a three dimensional model with computer generated 'walk through', can be viewed at Sir Charles Frossard House.

## **6. Enabling works**

In order to facilitate the redevelopment of the PEH, it has been necessary to develop a site wide infrastructure strategy, comprising essential services and ancillary packages of work to implement the necessary improvements across the

estate. These will include replacement of electrical switchboards, calorifiers and switch gear and other site infrastructure services, not specifically required for Phase 5 alone, but which are now at the end of their serviceable life.

Some of these site wide infrastructure works have been implemented, the funds for which have already been approved by the States, following the former Board of Health's September, 2003 Policy Letter (Billet d'Etat XXI 2003).

In 2003, the following sums were approved that relate to Phase 5:

|                                |                   |
|--------------------------------|-------------------|
| Site wide infrastructure works | £ 600,000         |
| Consultants' Fees              | £1,220,769        |
| <b>Total</b>                   | <b>£1,820,769</b> |

All of the above has been expended or committed.

The existing Phase 4 chiller plant will also need replacement within the next 5 years and separate funding will be sought for this nearer the time. Provision has been made on the Phase 5 plant deck to house the plant as, otherwise, due to its location, it would be extremely difficult to gain access to undertake these works. However, it is not considered necessary to replace it yet, as it is still working satisfactorily and it is only economic to replace it when it is at the end of its life span or it is not cost-effective to keep repairing it.

## 7. Procurement route

Alternative procurement options have been evaluated by the Design Team, including Traditional (Bill of Quantities, Specification & Drawings), Design and Build, and Management Contract routes.

The main benefits from the Design and Build route, where a contractor could influence design and buildability to achieve cost efficiencies, could not be realised on this project. By necessity, the design brief is very specific in respect of room layouts and equipment and the proposed location is on an extremely tight site. In addition, the extensive negotiations with the Environment Department have resulted in a fully designed solution. Consequently, the opportunity for any contractor design input, other than to reduce quality of materials or finishes, was considered minimal.

Management Contracting provides benefits in the overall improvement to a project programme where time is of the essence, but at the detriment of having to proceed with the contract works to a budget cost only, with actual costs being established as works progress.

Having fully designed the building, both to address the brief and to resolve the third party issues, the Traditional Specification and Drawings procurement route

has, therefore, been followed, as the client maintains control on quality issues whilst at the same time maximising contractor interest and hence competition. The works are, therefore, fully designed, with Bills of Quantities produced to identify construction rates for accurate control of cost movement throughout the project.

## **8. Tender process**

### Expressions of interest

Expressions of interest have been sought through the Guernsey and Jersey press, as well as through advertisements placed in leading UK construction publications.

In advance of the expressions of interest being sought, a tender evaluation strategy was agreed, identifying the information required, together with an agreed relevant scoring matrix, weighted to reflect the value given to the key criteria (i.e. experience of similar projects, Guernsey or relevant Channel Island experience, key personnel/team, corporate details, turnover and accounts status).

Six expressions of interest were returned to the HSSD and, despite repeated efforts to encourage further interest from both the UK and mainland Europe, no other potential short listed tenderers were identified.

Following a series of interviews with the shortlisted firms, two contractors were identified as unsuitable whilst two subsequently withdrew due to pressure of work from English NHS contracts. The decision to proceed with only two tenderers was agreed with the Treasury and Resources Department and pre-tender interviews were then held.

### Tenders

Two tenders were received initially and it is recommended that the tender from Charles Le Quesne (Gsy) Ltd. is accepted in the sum of £26,974,565.31. A lower tender was received from another company but was subsequently withdrawn.

## **9. Programme**

Subject to States approval of this project, demolition/start on site will be in January 2007, leading to practical completion by August 2009.

## **10. Capital Costs**

The procurement strategy for the Phase 5 development has always envisaged a series of small enabling works packages, prior to a single main construction, for the following reasons:



- the enabling works packages, which are mentioned in Section 6 above, are largely specialised services and can be undertaken to suit the hospital's operational requirements, out of normal working hours if necessary, by known specialised tradesmen under direct supervision of the HSSD Estates Department;
- the nature of the brief and the location of the works on site lead to a single contract as the most economical solution; the overheads and preliminary costs in phasing the main construction works would be substantial;
- phasing the works would prolong the construction period and attract a premium in costs through inflation and reduction in economies of scale;
- the operational functionality of key departments would be significantly affected by split locations and, as a consequence, the quality of patient care could be affected;
- the consequential environmental disturbance to patients, staff and visitors over a prolonged development period would represent additional risks to the States.

The HSSD reported to the States in 2004 (Billet d'Etat XX 2004) that additional funding in the order of £25m, at 2004 cost base, would be required to complete the project. The States Report stated "Accurate costs can only be provided when detailed design has been completed, but it is anticipated that, at 2004 prices and for planning purposes only, the Health and Social Services Department will be approaching the States in early 2006 for approval to commit approximately £25 million capital to the scheme."

The Stage 3 Cost Plan, produced in May 2005 for the proposed Main Contract Works for Phase 5, was based on a single contract procurement strategy, confirming a Pre Tender Estimate of £27,762,290. The anticipated projected outturn Project Development Costs, in May 2005, including all on costs for the whole of the Phase 5 project was £36,443,085.

From May 2005 until December 2005, the design team again undertook a series of value engineering workshops to identify the options for reducing the construction costs.

In agreement with the HSSD, the demolition phasing strategy was radically simplified to reduce the construction period and hence the costs. This was, however, at the expense of services which have to be relocated into alternative temporary accommodation, both on and off the Princess Elizabeth Hospital site, until completion of the Phase 5 works.

Additional changes were made to the specification without any detrimental effect on quality or life cycle costs to the project. The structural design is based

on a 60 year life, with the key elements such as mechanical and electrical services, doors, ceilings, floor coverings and equipment earmarked for replacement within that time frame, based on industry standard and product maximum life cycles.

The decision to delay tendering of Phase 5 until the downturn in the construction market has also significantly reduced tender prices and, as a result of all the above issues, the tenders received provide substantial benefits to the Guernsey population. Any further delay in proceeding with this scheme, however, is likely to result in a significant increase in cost. It is only the current situation that has enabled us to attract such competitively priced tenders.

The following schedule sets out the capital cost for the development, following the tendering process.

|   | £                 |
|---|-------------------|
| Tender sum  | 26,974,565        |
| Fixtures and fittings                                     | 2,100,000         |
| IM&T installation   | 150,000           |
| M&E infrastructure  | 850,000           |
| Risk contingency  | 2,220,000         |
| Sub-total   | 32,294,565        |
| ADD   |                   |
| Consultant/Clerk of Works/Post implementation review fees | 3,495,654         |
| Commissioning/decant cost                                 | 310,000           |
| Total   | 36,100,219        |
| LESS  |                   |
| Capital allocation already agreed                         | (1,820,769)       |
| <b>ADDITIONAL FUNDING REQUIRED</b>                        | <b>34,279,450</b> |

The M&E infrastructure works relate to 'off site' works that our Estates Department will undertake to provide the required services into the contractors' site from across the estate. These include 3 phase supplies from the new generator plant, extending new heating mains from the new calorifier plantroom, fibre-optic ring main to support the new IM&T installations and adaptations to the medical gases. These works will involve substantial disturbance across the hospital site and are best managed in-house to minimise potential contractual claims.

## **11. Revenue cost and staffing**

With a building of this size and complexity, which replaces such inadequate facilities, there will undoubtedly be some additional running costs. The design team has provided the HSSD with life cycle costings for foreseeable maintenance and replacement activities over the 60 year design life period. Indicative energy/water running costs associated with servicing the building

over the same period have also been obtained. These costs will be contained within the Department's existing revenue budgets.

We do not believe any additional nursing staff will be required, as the improved layout of the wards, compared to the existing wards, balances out any extra requirement for the increased number of single rooms. There may, however, be a requirement for a small number of extra domestic staff, who would not, of course, require housing licences. The need for more staff results from a larger area to clean than in the wards and departments which are being replaced and the increased number of toilets, baths and showers. As mentioned above, the preferred design in terms of ward layout and 50% single rooms will minimise the risk of hospital acquired infections, such as MRSA. A different design layout, unless much larger in total floor area, could increase this risk, with resultant longer hospital stays, unpleasantness for patients and increased revenue costs.

## 12. Funding

|   |                    |
|---|--------------------|
| Funding Required for Development of Phase 5 | £36,100,219        |
| Less funding approved in September 2003     | £ 1,820,769        |
| Funding required                            | <b>£34,279,450</b> |

The HSSD realises that capital is in short supply and this is a very large sum of money but it needs to be viewed in the context of the overall demand that the Department has put on the Capital Reserve over the last six years. In that time, the total transferred from the Capital Reserve to the Department has been just over £25 million or £4.2 million a year. Given that, in most developed countries, healthcare represents a major component of governments' capital spending, the HSSD believes its demands on the capital reserve have been modest.

Furthermore, it can be shown that the new clinical block is a cost effective development and extremely good value for money, as the tender for the construction is below the pre-tender estimate..

It should also be borne in mind that the new clinical block has been a decade in the planning and much of the capital that has been voted to the HSSD in recent years has been to fund enabling schemes leading to this project. Nevertheless, the Department recognises the cash flow issues that face the island in funding its vital programme of infrastructure renewal. Therefore, rather than asking for the whole sum to be transferred from the Capital Reserve to the HSSD now, we would propose that the transfers be phased through the lifetime of the contract, as shown below:

|              |                       |
|--------------|-----------------------|
| January 2007 | £17.15 million        |
| January 2008 | <u>£17.15 million</u> |
| Total        | £34.30 million        |

In order to provide an efficient building design, however, it is imperative that this work is carried out as a single phase, which, once started, has to be completed. Consequently, the States would have to commit to the full cost of the project, as it could not be stopped part-way through.

Consideration has been given to all the options of where savings could be made and these have been included wherever possible. However, the need for replacement accommodation for all the services which will be moving to the new clinical block is such that none could be omitted.

The HSSD believes that it has been a very good corporate player in containing the size of its capital programme; indeed, several elements, such as the redevelopment of the King Edward VII Hospital have been removed from the current programme, in recognition of the financial constraints. However, three projects have always been regarded as urgent, indeed long overdue. These are: the replacement of the Castel Hospital, which is now half complete – 60 patients have moved and 21 remain, together with day, out patient and community services; the replacement of the Aurigny Wing at the Mignot Memorial Hospital in Alderney, which is now well underway; and Phase 5 at the Princess Elizabeth Hospital.

The Health and Social Services Department delayed submission of this project by a year, at the request of the Treasury and Resources Department pending debate by the States on the relative priorities of capital projects across all States Departments. This was not, however, the first deferment. In 2003, the then Board of Health proposed, in the programme for its site development plan, that construction of the Phase 5 Clinical Block start in December 2005. The former Board of Industry considered how this would fit with the 'Economic Model', ie. the effect on the States Capital Spending Programme and the construction industry. The report from the Board of Industry concluded that, instead of covering the period 2004 – 2008, the Board of Health's site development plan should be delayed. It said, 'There are benefits to the States Capital Spending Programme of only proceeding with the most immediate and essential elements of the Board of Health site development plan, while phasing and spreading the remaining programme from the years 2006 onwards.'

The Health and Social Services Department has, therefore, endeavoured to time its developments to meet the needs of the States and to fit in with what is best for the local construction industry. This appears to have been successful in attracting competitively priced tenders but any further delay would significantly increase costs to the States.

### **13. Summary**

The above report details how the HSSD has come to the recommendations in Section 14. Phase 5 is not a grandiose scheme; it meets the essential NHS Hospital standards where these are appropriate to Guernsey's needs and every effort has been made to ensure that this is an efficient and cost effective design.

The main points we would wish to emphasise are:

- it is essential to provide minimum basic hospital standards to ensure safe patient care and minimise the risk of litigation;
- the scheme has to be completed as a single project;
- it is not cost or service effective to remove the top storey;
- the design has been benchmarked successfully against all appropriate criteria;
- the allocation of capital funds for this project can be phased over 2 years.

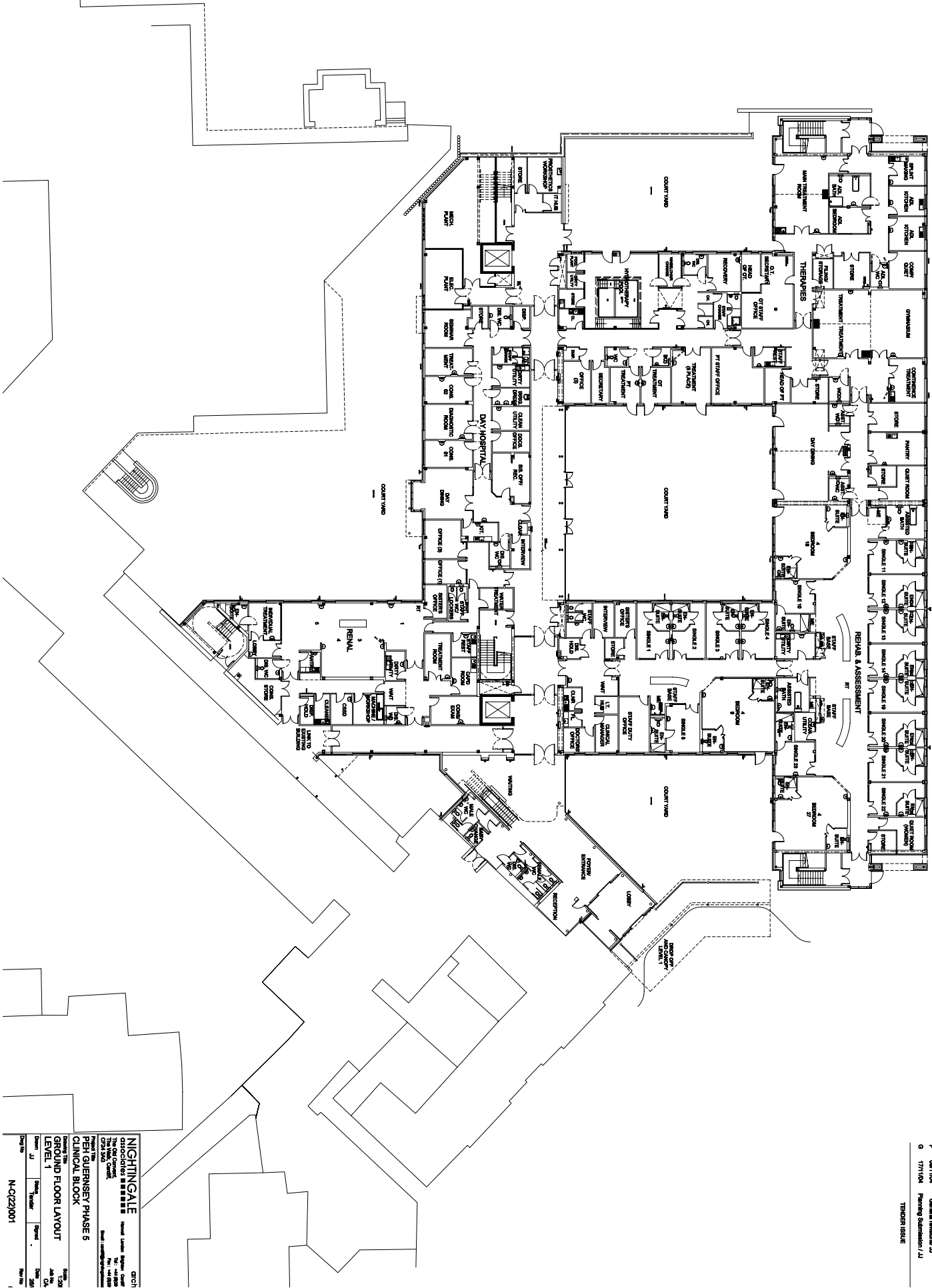
### **14. Recommendations**

The Department recommends the States:

1. to approve the construction of the clinical block as set out in this report;
2. to approve the acceptance of the tender from Charles Le Quesne (Gsy) Ltd in the sum of £26,974,565 in respect of these works;
3. to vote the Health and Social Services Department a further credit of £34,300,000 to cover the cost of the above works, such sum to be charged to its capital allocation;
4. to authorise the Treasury and Resources Department to make two transfers from the Capital Reserve to the capital allocation of the Health and Social Services Department, each of £17,150,000, in 2007 and 2008.

Yours faithfully

P J Roffey  
Minister



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| Revision | Date / Issue / Approved By | Drawn / Checked / Approved By |
|----------|----------------------------|-------------------------------|
| A        | 04/12/03                   | Project Manager / J.J.        |
| B        | 20/03/04                   | General Services / J.J.       |
| C        | 08/07/04                   | General Services / J.J.       |
| D        | 02/09/04                   | General Services / R.M.       |
| E        | 10/09/04                   | Health Team / J.M.            |
| F        | 08/11/04                   | General Services / J.J.       |
| G        | 17/11/04                   | Planning / J.J.               |

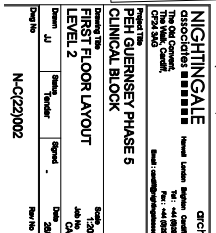
REVISIONS

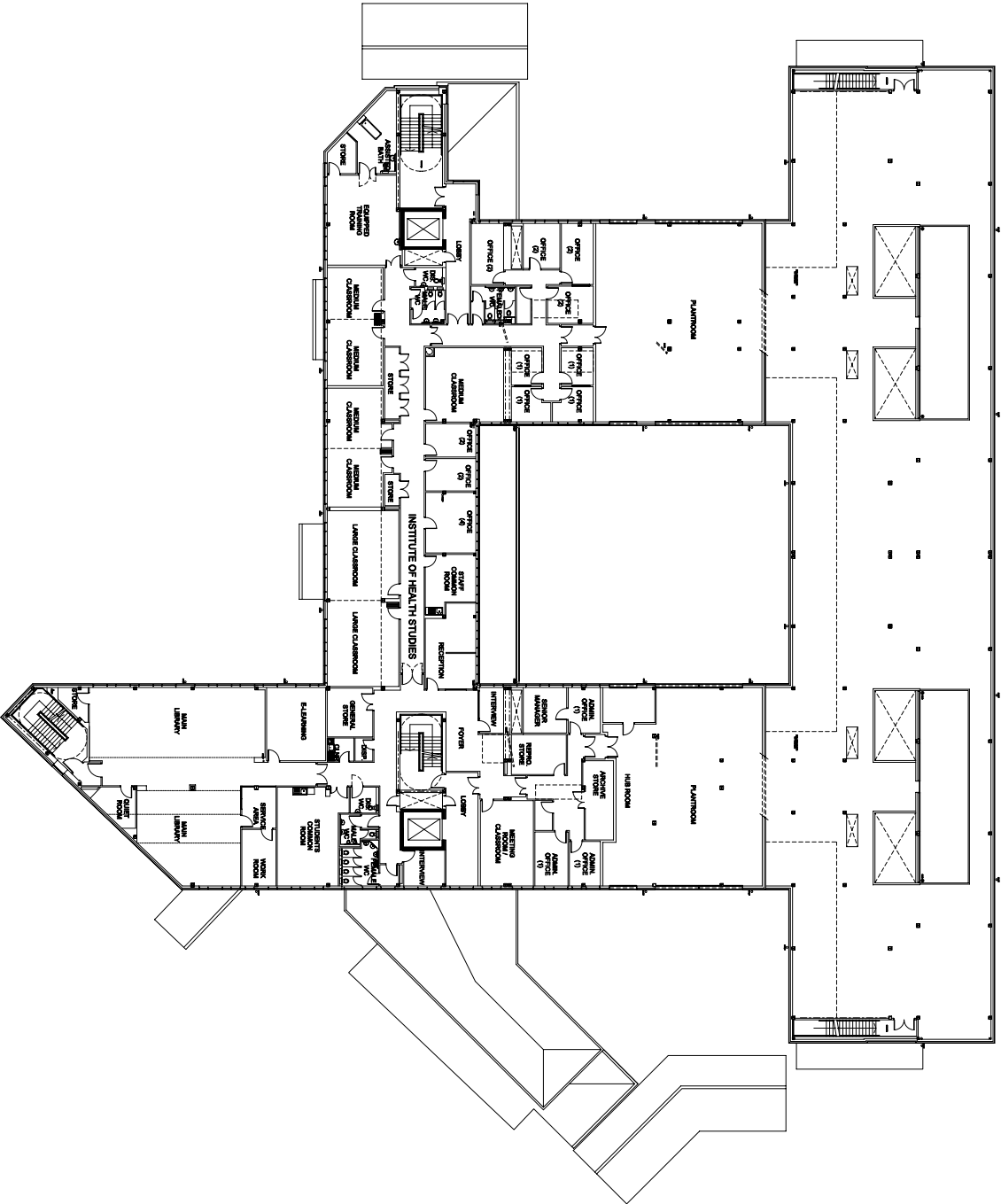
**NIGHTINGALE**  
associates

Project Name: NIGHTINGALE CLINICAL BLOCK  
Project Number: N-022/001  
Project Location: Nightingale, London  
Project Manager: J.J.  
Project Engineer: J.J.  
Project Architect: J.J.  
Project Designer: J.J.  
Project Draftsman: J.J.  
Project Checker: J.J.  
Project Approver: J.J.

GROUND FLOOR LAYOUT  
LEVEL 1

Scale: 1:500  
Date: 10/11/04  
Page No: 201





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| A  | 04/12/03 Preliminary Issue 1 / J1                  |
| B  | 28/03/04 CLIENT REVISION 1 / J1                    |
| C  | 09/07/04 GENERAL REVISIONS, CLIENT REVISION 2 / J1 |
| D  | 02/08/04 General Revisions / SM                    |
| E  | 08/11/04 General Revisions / SM                    |
| F  | 17/11/04 Planning Submission / J1                  |

TENDER ISSUE

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| NIGHTINGALE  |  |
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Architectural elevation drawing of a building facade, labeled "ELEVATION 03" and "1905". The drawing shows a long, low structure with a series of windows and a central entrance. The facade is divided into sections by vertical lines. The left section features a large window with a decorative frame. The middle section has a series of smaller windows. The right section shows a larger window with a decorative frame. The drawing includes dimensions and a scale bar.

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| Issued To:  | Issued To: | Issued To:  | Issued To: |
| ELEVATION   | SHEET 01   | 1/16  | 1/16       |
| Sheet 21  | Sheet 21   | Sheet 21  | Sheet 21   |
| Page No.  | Page No.   | Page No.  | Page No.   |
| N-C(3)7003  |            |   |            |

**(NB The Policy Council supports the proposals.)**

**(NB The Treasury and Resources Department's comments are set out below.)**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

5 September 2006

Dear Sir

**PRINCESS ELIZABETH HOSPITAL - PHASE 5 (CLINICAL BLOCK)**

If the PEH Clinical Block were a stand-alone project the Treasury and Resources Department would have little hesitation in supporting it for the following reasons:

- Our community clearly recognises that investment in its health care services is a key priority.
- The States have consistently supported the planning stages of the PEH development, which were a precursor to this large scale clinical block replacement
- The project has been the subject of thorough evaluation. Extensive work on all associated issues has been carried out, in particular those impacting on the contractual documentation.
- The project represents value for money.

However, the Treasury and Resources Department has the following strategic concerns over matters which are outside the control of the Health and Social Services Department:

- Impact on the Capital Reserve and other capital projects in the absence of a prioritisation debate.
- Impact on the broader local construction industry.

**Impact on Capital Reserve**

At the beginning of 2003 the Capital Reserve had a balance of over £100m. Since that time considerable investment in essential infrastructure projects has been made. This has included: Les Nicolles Schools, Sixth Form Centre, College of Further Education (first phase) Le Rondin Centre, Alderney Commercial Quay, Mignot Memorial Hospital

(Alderney), States Analyst Laboratory, PEH Critical Care Facility, St. Barnabas Renovation & Conversion, Royal Court essential maintenance and the Prison extension.

As at the 30 June 2006 the Capital Reserve had a balance of £30.3m. As set out in Appendix I, if the development of the Clinical Block is to proceed, additional monies of the order of £10m to £15m will need to be put into the Capital Reserve by the end of 2008 if the known commitments, including the completion of the Les Nicolles Schools development are to be met. This additional funding will need to come from either the annual Operating Surpluses or the Contingency Reserve.

**It therefore has to be accepted that if the States approves the Clinical Block, the scope for future capital allocations (over and above the normal repair and replacement programme) will be very limited in the foreseeable future.**

### **Local Construction Industry**

The social and economic significance of the construction industry within the general economy is considerable. It is likely that the addition of this project into the local market will consume the remaining available resources and contribute to pressure on the local construction industry in the short term. This high level of activity could be followed by a dramatic downturn as the availability of public funds is depleted for major projects.

The Treasury and Resources Department is mindful of this and would wish, as far as possible, to avert the peaks and troughs and their consequences which would be associated with the sudden decline of capital construction work available from the States.

An option would be to delay the Clinical Block project until after the proposed completion (in 2008) of Les Nicolles Schools. However, it needs to be understood that there are many problems associated with this. Much of the site wide engineering has already taken place in order to free up areas for the new build. Further delay to the replacement and refurbishment of the existing medical facilities, in particular the Renal Unit, is considered, by the HSSD at least, as unacceptable.

### **Recommendation**

**If, as a result of the debate on Capital Prioritisation, the States resolves that the Clinical Block is their key priority then, on balance, the Treasury and Resources Department recommends the States to approve the Health and Social Services Department's proposals for the development of the PEH Clinical Block.**

Yours faithfully

L S Trott  
Minister

## APPENDIX I

## MOVEMENTS ON THE CAPITAL RESERVE

|  | £m         |                     |
|--|------------|---------------------|
| Balance 1 January 2005   | 50.7       |                     |
| Appropriation (2005 Budget)  | 10.0       |                     |
| Withdrawals:   |            |                     |
| EDP 2005   | 12.8       |                     |
| Health: Purchase of "The Oaks"   | 0.5        |                     |
| Les Nicolles Swimming Pool   | 1.0        |                     |
| Mignot Memorial Hospital   | 2.3        |                     |
| Alderney Commercial Quay   | 4.0        |                     |
| Royal Court Essential Maintenance  | <u>2.8</u> |                     |
|  | (23.4)     |                     |
| Interest 2005  | <u>5.1</u> |                     |
| Balance 31 December 2005   | 42.4       |                     |
| Appropriation 2006 budget  | Nil        |                     |
| EDP 2006   | (12.8)     |                     |
| Beau Sejour Overspend  | (1.4)      |                     |
| Interest 2006  | <u>2.1</u> |                     |
| <b>Balance as at June 2006</b>   |            | <b>30.3</b>         |
| Clinical Block   |            | (34.3)              |
| Additional on Alderney Commercial Quay                                   |            | (2.0)               |
| Les Nicolles Schools (final tranche)                                     |            | (5.0)               |
| Interest income (2006-2008)  |            | <u>4.5</u>          |
| <b>Extra Funding required for Capital Reserve<br/>by the end of 2008</b> |            | <b><u>(6.5)</u></b> |

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated, 22<sup>nd</sup> August, 2006, of the Health and Social Services Department, they are of the opinion:-

1. To approve the construction of the clinical block as set out in that Report.
2. To accept the tender from Charles Le Quesne (Gsy) Ltd in the sum of £26,974,565 in respect of these works.
3. To vote the Health and Social Services Department a further credit of £34,300,000 to cover the cost of the above works, such sum to be charged to its capital allocation.
4. To authorise the Treasury and Resources Department to make two transfers from the Capital Reserve to the capital allocation of the Health and Social Services Department, each of £17,150,000, in 2007 and 2008.

## **TREASURY AND RESOURCES DEPARTMENT**

### **REVIEW OF MOTOR VEHICLE TAXATION**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

5<sup>th</sup> September 2006

Dear Sir

#### **Executive Summary**

The Treasury and Resources Department believes that the present system of motor taxation is overly complex to administer, is cumbersome for the customer and does not adequately support the environmental and social policies of the States.

The purpose of this Report is to seek States approval for the abolition of the present motor vehicle taxation system with effect from 1 January 2008.

It is proposed that in future States revenues will be raised from the motorist by imposing duty on the use of motor fuel (i.e. petrol and diesel).

Through a combination of the duty on motor spirit and motor vehicle taxation, the States currently collects approximately £8m in revenue annually (see Appendix I). The present rate of duty on petrol has been 6.8p per litre for many years. If motor vehicle taxation is abolished it is estimated that the duty on petrol and diesel will need to increase to approximately 21p per litre.

Furthermore, as set out in the Future Economic & Taxation Strategy agreed by the States in June 2006, in future extra revenue will need to be raised from this area which could see duty increase to approximately 30p per litre.

#### **Background**

The 2006 Budget Report (approved by the States in December 2005) included the following:

“Over recent years, despite outstanding Resolutions, several attempts have been made to revise the arrangements for taxing motor vehicles and fuel. The Treasury and Resources Department is firmly of the view that the present arrangements (whereby the duty on

motor spirit raises £2m annually; Licences raise £6m annually and motor vehicles that are diesel driven are charged a higher licence fee to compensate for an absence of duty on diesel fuel) is inappropriate.

It is the Department's intention to bring forward proposals, after consulting with the appropriate parties, including the Environment Department, to enable a revised system to be introduced during the life of the existing States."

**The States duly endorsed the Treasury and Resources Department's intention to conduct a review of the system of motor vehicle licences and motor spirit excise duties and to report back to the States with proposals as soon as practicable.**

The Treasury and Resources Department acknowledges that in March 2006, as part of the Environment Department's Road Transport Strategy, a specific proposition to abolish motor tax was rejected by the States.

However, now that competition in the wholesale fuel market is being addressed, the Department continues to believe that the present system is in need of reform, and that the most appropriate method of taxing the use of motor vehicles and the consumption of fuel is to abolish motor tax and increase the duty on fuel (petrol and diesel).

A letter from the Environment Department setting out its views on the environmental issues supporting the abolition of motor tax is attached.

### **Introduction of New Scheme**

Although the Home and Environment Departments and certain parts of the fuel industry have been closely involved in the formation of these proposals, their introduction will still need to be carefully handled.

In order for the necessary arrangements to be made for separate storage of duty paid and exempt fuels, and for the transitional arrangements for the abolition of motor vehicle taxation to be implemented, it is proposed that **motor tax should be abolished with effect from 1 January 2008.**

This will mean that motorists will be required to tax their vehicles until that date and that diesel will continue to be exempt from duty until that time.

### **The Future Economic & Taxation Strategy & Budgets**

The independent analysis of the responses to the second consultation document indicated that there was "general support for the increase in excise duties, TRV and other indirect taxes. Many respondents favoured measures that targeted motor vehicle usage".

The Future Economic and Taxation Strategy agreed by the States in June 2006 indicated that, on a phased basis, an additional £3m from motor vehicle usage could be collected.

The rates of duty on motor spirit and motor vehicle taxation rates are normally set as part of the annual Budget process. It is expected that this would continue to be the case.

Although the abolition of motor tax (if approved) would be with effect from 1 January 2008, the possibility of some increase in the rate of petrol duty in the December 2006 Budget should not be ruled out.

### **Impact on Inflation and Competition Law**

In theory, simply replacing motor vehicle taxation with increased duties on fuel should have no impact on inflation. However, the Department is very concerned that, in order to maintain gross profit margins, the price of fuel at the pump will increase by more than the increase in duty. This would increase inflation as measured by the Guernsey Retail Price Index. If this were to happen the Department would expect to see appropriate action from the Commerce & Employment Department and/or Director General of Competition.

If the total amount of taxation (via motor vehicle licences and fuel) were to be increased from the present £8m to £11m it would increase RPI by less than 0.2%.

### **Exemptions from Duty**

As stated above, at present diesel is exempt from duty. **The Treasury and Resources Department believes that only diesel which is used by motor vehicles that are primarily used for transportation of goods and people on public roads should be subject to duty.**

Motor vehicles, equipment and engines (although incidentally used on public roads) such as those used for agricultural and horticultural purposes, the construction, maintenance and clearance of roads (including snow clearance and gritters etc.) and other construction machinery that is not primarily used to transport goods and people should be exempt from diesel duty. It should be noted that such vehicles have preferential rates of motor taxation under the present regime.

Experience in other jurisdictions shows that a disproportionate amount of time and effort can be expended in the classification of what engines etc. can and cannot use exempt diesel. If the abolition of motor taxation is approved by the States, a simple schedule of exempted machinery will be produced as part of the necessary legislation (and therefore subject to States approval).

Exempt diesel will need to be marked with a dye and stored separately by retailers. The use of such dye is common in other jurisdictions, such as the UK, and the Customs & Excise Service has been in contact with local retailers over the practicalities involved for many years.



These consultations have concluded that “no serious impediments are foreseen if an excise duty regime on road-use diesel is introduced, provided sufficient preparation time is allowed for distributors to make the necessary changes to their in-house procedures and equipment”. The simplest method of dyeing the exempt diesel would be to mark it at the point it is withdrawn from the holding tank (at the gantry) prior to delivery to the approved retailer.

The main purpose of this Report is to consider the abolition of motor tax and its replacement by increased fuel duties on motor vehicles. However, the situation concerning marine, aviation and heating fuel has also been considered, albeit as secondary issues.

The Treasury and Resources Department believes that in order to protect the financial viability of the local fishing fleet marine diesel should continue to be exempt. This approach is also supported by the Commerce & Employment Department.

The Department recognises that the issue of duty on marine diesel (in particular non-commercial vessels) is currently under review in both Jersey and the United Kingdom. The eventual outcome of these deliberations will be an important factor in the long-term approach to be adopted in Guernsey. In assessing this issue, consideration will need to be given to environmental, revenue raising issues and any potential negative impact on visiting boat owners (whose spend is important to the local tourist and marine services sectors).

**It is therefore recommended that at this stage the States direct the Treasury and Resources Department to continue to review the matter of diesel duty on non-commercial marine vessels and to report back as soon as practicable.** In doing so, the Department will, of course, continue to liaise with the Commerce & Employment, Environment and Home Departments.

Petrol, whatever its use, would be subject to duty. Heating oil, for domestic and commercial use, and aviation fuel will continue to remain exempt from duty.

A limited amount of anti-abuse work would be required but this should be relatively low-key provided that the system does not become subject to abuse. Penalties for the misuse of dyed fuel will also need to be introduced.

The Treasury and Resources Department is extremely grateful to the Home Department and its officers for the work that they have carried out concerning this matter.

### **End of Life Disposal Levy**

As part of the 2005 Budget a £10 annual End of Life Disposal Levy was introduced with effect from 1 January 2005 in order to help defray the costs to the States of vehicle disposal. It is estimated that this measure raises £0.4m annually.

If the States agreed to the abolition of motor taxation, the End of Life Disposal Levy element would also be abolished with effect from 1 January 2008. The additional monies necessary to cover the cost of the disposals of vehicles would also be transferred to the duty on fuel.

### **Maintaining the Vehicle Registry**

Throughout all of the previous States Reports on the issue of motor taxation (most recently, Billet d'Etat VII, March 2006, Billet d'Etat IV, March 2003 and Billet d'Etat VI, February 2000) there has been general acceptance and agreement on the necessity for maintaining a Vehicle Registry.

A Vehicle Registry not only assists in enabling the local authorities, including the Law enforcement agencies to identify the ownership of a particular locally registered vehicle, but also means that such vehicles are able to travel abroad. Not maintaining a local register would probably restrict the ability of Guernsey registered vehicles to be used abroad.

Registration fees will be levied to cover the costs of maintaining the Vehicle Registry.

### **Insurance**

The issue of ensuring that motor vehicles are adequately insured has traditionally been a major concern. In its February 2000 report the former Traffic Committee considered, and rejected, adopting the display of insurance discs (as used in Jersey). Part of the reason for not adopting this approach was that consultations with the local insurance industry about the practicalities involved were inconclusive.

In its March 2006 report the Environment Department noted that this matter was still an issue and that if the insurance disc option were to be pursued then legislation would need to be implemented.

The Treasury and Resources Department understands that the Environment Department is continuing to consider and evaluate the various options, including the possibility of an island wide third party scheme centrally funded by additional duty on fuel.

**Therefore, at this stage, the States are being recommended to note the Environment Department's ongoing review of the issue of third party insurance for motor vehicles.**

### **Resource Implications**

Although establishing a new system of motor taxation will have one-off resource implications, the abolition of motor vehicle taxation will result in net on-going annual savings of approximately £75,000.

### **Alternative Way Forward**

Although the Treasury and Resources Department firmly believes that the present system of motor vehicle taxation is no longer appropriate and therefore should be abolished, it does however acknowledge that the last time this was debated by the States in March 2006 it was rejected.

Therefore, if the States were to resolve **not** to abolish motor vehicle taxation the Department would revert to the position as set out in its 2004 Interim Financial Report whereby:

- A motor vehicle taxation system that was greatly simplified and was probably based on metric weight using three or four broad bands designed to encourage the ownership of lighter vehicles.
- Although motor vehicle taxation would remain, as a general principle, any future increase in taxation would be directed towards the rate of duty on fuel.
- A duty on diesel used by motor vehicles would be introduced (with certain exemptions).

### **Conclusion**

The Treasury and Resources Department believes that a system where taxation is raised from the use of motor vehicles, i.e. through the consumption of fuel, is a fairer system and more likely to support the environmental and social strategies of the States. The Department therefore recommends that the existing system of motor vehicle taxation be abolished. In order to allow time for motorists and retailers to adjust to the new arrangements it is recommended that the new system be implemented on 1 January 2008.

### **Recommendation**

The Treasury and Resources Department therefore recommends the States to:

- a) Agree that motor vehicle taxation should be abolished with effect from 1 January 2008 and that, subject to certain exemptions, increased duties on petrol and diesel fuel should be introduced.
- b) Agree that the End Of Life Disposal Levy should be abolished with effect from 1 January 2008.
- c) Agree that diesel fuel used for exempted purposes such as agricultural and horticultural purposes, the construction, maintenance and clearance of roads and other construction machinery that is not primarily used to transport goods and people should be exempt from diesel duty and that a system of dyeing be implemented with effect from 1 January 2008.

- d) To direct the Treasury and Resources Department to continue to review the issue of diesel duty on non-commercial marine vessels and to report back as soon as practicable.
- e) To note the Environment Department's intention to continue to investigate and report back on the most appropriate method of ensuring that motor vehicles are registered and adequately insured.
- f) To direct the Treasury and Resources Department to take account of the above proposals when bringing forward recommendations as part of that Department's Budget Reports.
- g) To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

Yours faithfully

L S Trott  
Minister

**APPENDIX I****Amounts collected in recent years:**

|                  | Duty on Motor<br>Spirit (Petrol)<br>£m | Motor Vehicle<br>Taxation<br>£m |
|------------------|--|---------------------------------|
| 2006 (Estimated) | 1.9                                    | 6.3                             |
| 2005             | 1.9                                    | 6.1                             |
| 2004             | 1.9                                    | 5.5                             |
| 2003             | 2.0                                    | 5.4                             |
| 2002             | 2.1                                    | 5.1                             |
| 2001             | 2.1                                    | 4.9                             |
| 2000             | 2.2                                    | 4.8                             |
| 1999             | 2.1                                    | 4.5                             |
| 1998             | 2.0                                    | 4.4                             |
| 1997             | 2.2                                    | 4.2                             |
| 1996             | 2.2                                    | 4.2                             |

In the 2005 Budget a £10 annual End of Life Disposal Levy was introduced with effect from 1 January 2005 in order to help defray the costs to the States of vehicle disposal. It is estimated that this measure raised £0.4m annually.

The slight decrease in duty collected on petrol has been caused by a combination of more efficient petrol usage by modern cars and the increase in diesel powered vehicles.

If following the abolition of motor vehicle taxation, duty on diesel and petrol were to be increased to 30p per litre it would raise £11 to £12m annually. (Duty of 21p would raise approximately £8.4m.)

**APPENDIX II****Duty vs Pump Price**

|      | Pump Price per<br>Litre | Duty on Motor<br>Spirit (Petrol) per<br>Litre | Duty as a % of<br>Pump Price |
|------|-------------------------|---|------------------------------|
| 2006 | 57p                     | 6.8p  | 12%                          |
| 2005 | 51p                     | 6.8p  | 13%                          |
| 2004 | 45p                     | 6.8p  | 15%                          |
| 2003 | 47p                     | 6.8p  | 14%                          |
| 2002 | 43p                     | 6.8p  | 16%                          |
| 2001 | 42p                     | 6.8p  | 16%                          |
| 2000 | 41p                     | 6.8p  | 17%                          |
| 1999 | 29p                     | 6.8p  | 23%                          |
| 1998 | 32p                     | 6.8p  | 21%                          |
| 1997 | 37p                     | 6.8p  | 18%                          |
| 1996 | 32p                     | 6.8p  | 21%                          |

Prior to 2000, unleaded and leaded petrol were charged at different rates but with an average duty of 6.8 pence per litre.

The pump price per litre is the average pump price as used by the Policy Council's Policy & Research Unit when calculating changes to the Guernsey Retail Price Index.

If the duty was to be increased by 6p (i.e. to a total of 12.8p) and the pump price to rise by the same amount (i.e. to 63p) duty would represent 20% of the total price.

**APPENDIX III****Miscellaneous Information**

Number of Motor vehicles:

|        |                                       |
|--------|---------------------------------------|
| Total  | 48,000 of which 7,700 are commercial. |
| Petrol | 40,500 of which 3,000 are commercial  |
| Diesel | 7,500 of which 4,700 are commercial   |

Amount collected in Motor Vehicle Taxation (excluding End of Life Levy):

|        |       |
|--------|-------|
| Total  | £5.6m |
| Petrol | £3.9m |
| Diesel | £1.7m |

Litres of petrol sold annually: 28 million

Litres of diesel sold annually for motor vehicles: 10 to 11 million

55% of all gas oil (including diesel) imported into the Bailiwick in 2005 was for non-road use.

Estimated average annual tax take per motor vehicle (2006): £170

**APPENDIX IV**

Deputy L Trott  
Minister  
Treasury and Resources Department  
PO Box 43  
La Charroterie  
St Peter Port  
Guernsey  
GY1 1FH

17 August 2006

Dear Deputy Trott

**MOTOR VEHICLE TAXATION**

Thank you for affording the Environment Department the opportunity to comment on your Department's draft States report entitled "Review of Motor Vehicle Taxation". The Department should be grateful if you would consider appending this letter of response to your States report.

Whilst the Environment Department notes and welcomes your Department's proposals to abolish motor vehicle taxation and replace this with increased duties on petrol and diesel fuel, the Department was concerned to note that the draft States report made no environmental case for this proposed change. Whilst it is recognised that your draft States report as presented is essentially a taxation report, the Department feels that this approach is misplaced and that there should be explicit recognition of the environmental grounds behind the introduction of what is, without doubt, an environmental tax.

The Department believes that the following extracts from the Department's own "Road Transport Strategy" report are pertinent:

*"The Department believes that there is a strong environmental case to support the abolition of motor tax and introduce a corresponding increase in petrol tax. This is consistent with the polluter pays principle in that the amount of duty payable increases with the amount the vehicle is used. As such, it supports this strategy's objective of discouraging unnecessary vehicle usage and it is consistent with the guiding corporate theme set out in the 2005 Policy and Resource plan. In particular, section 2.2.12 of the plan indicates that the States would be prepared "to use taxation as an instrument to achieve States objectives in meeting social and environmental aims".*



*“In comparison to the fixed costs, the marginal costs of car usage are relatively low. With tax on fuel replacing motor tax the marginal cost of each journey would increase significantly, which will act to discourage unnecessary vehicle use. It would provide a direct and immediate connection between the cost to the driver or operator, the wider cost to the community and the usage of the vehicle. It will also provide an incentive to switch to more fuel efficient and smaller vehicles in the Island. As such, it is also consistent with the aforementioned guiding corporate themes for the use of taxation as an instrument in achieving environmental aims.*

*The marginal cost per journey of using public transport is also perceived as being higher than that of using the car. A move towards increased fuel duty would also reduce the differential between the two marginal costs and make them more readily comparable. As such, it would help to promote the use of alternative forms of transport and, in particular, the bus service.”*

Whilst the above sets out the environmental argument for moving motor vehicle taxation to tax on fuel and whilst it is noted that the title of the Treasury and Resources Department’s report is “Motor Vehicle Taxation” as opposed to fuel taxation, the Environment Department would wish to take this opportunity to stress that it firmly supports the environmental objective of reducing society’s carbon footprint. As such, the Department supports, as a general policy, the use of fiscal instruments and financial incentives to discourage use of fossil fuels. In this context, a taxation on motor vehicle fuel is considered by the Department to be just the starting point of what it hopes to be a move towards more general fuel taxation environmental policies.

Yours sincerely

**B M Flouquet**  
Minister

**(NB By a majority, the Policy Council supports the proposals.)**

The States are asked to decide:-

XII.- Whether, after consideration of the Report dated 5<sup>th</sup> September, 2006, of the Treasury and Resources Department, they are of the opinion:-

1. That motor vehicle taxation should be abolished with effect from 1 January 2008 and that, subject to certain exemptions, increased duties on petrol and diesel fuel should be introduced.
2. That the End Of Life Disposal Levy should be abolished with effect from 1 January 2008.
3. That diesel fuel used for exempted purposes such as agricultural and horticultural purposes, the construction, maintenance and clearance of roads and other construction machinery that is not primarily used to transport goods and people should be exempt from diesel duty and that a system of dyeing be implemented with effect from 1 January 2008.
4. To direct the Treasury and Resources Department to continue to review the issue of diesel duty on non-commercial marine vessels and to report back as soon as practicable.
5. To note the Environment Department's intention to continue to investigate and report back on the most appropriate method of ensuring that motor vehicles are registered and adequately insured.
6. To direct the Treasury and Resources Department to take account of the above proposals when bringing forward recommendations as part of that Department's Budget Reports.
7. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **HOME DEPARTMENT**

### **FIXED PENALTY NOTICE LEGISLATION**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

8<sup>th</sup> September 2006

Dear Sir

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

The purpose of this report is to detail the proposal for an expansion of the fixed penalty notice system, extending the range of offences for which a notice may be issued, adjusting the level of penalties according to the type of offence committed and introducing a reduced penalty for early payment.

The principal objective of extending the scope of the fixed penalty scheme is to reduce the time and expense incurred by police officers and Courts in respect of relatively minor infractions which can reasonably be dealt with without the requirement for an offender to appear in the Magistrate's Court.

The proposals do not in any way diminish the standing or seriousness of the offences which will be covered under the scheme. They remain criminal offences but police officers will have a further option in determining how the offence should be dealt with and will exercise their discretion having regard to the circumstances and seriousness of the offence.

#### **2. Background**

The States first accepted the principle of fixed penalties for certain traffic offences as long ago as 1969. The concept of fixed penalties was based on the savings in both Police and Court time in dealing with minor traffic offences. The legislation came into effect on 1<sup>st</sup> May 1972 and has been subsequently updated on a number of occasions. The current provisions are contained in the Traffic Offences (Fixed Penalties) Ordinance, 1989, as amended, and include:

- List of fixed penalty offences.

- Circumstances in which a police officer (including a special constable) may issue fixed penalty notices.
- Provision that payment of a fixed penalty notice will discharge any liability to conviction of the offence to which the notice relates.
- Time scale within which the fixed penalty may be paid.
- Level of the fixed penalty for each offence, currently £15.

The fixed penalty system is currently limited to more minor traffic offences, in particular parking offences. There has been much debate in recent years as to whether the system should be extended to cover a wider range of offences, including some non-traffic offences.

The Home Department, in consultation with the Chief Officer of Police and the Law Officers of the Crown, has undertaken a full review of the legislation and has concluded that a number of further changes should be made. The review considered the following issues:

- (a) The range of offences which could be covered by the fixed penalty system;
- (b) The level of the fixed penalty;
- (c) The banding of offences with higher penalties being attributed to more serious offences;
- (d) A two tier payment system to promote early payment of fixed penalties.

### **3. Range of Offences under the Fixed Penalty System**

The Department has considered a wide range of offences which it believes could reasonably be brought within the fixed penalty scheme.

#### **(a) Traffic Offences**

It identified a number of traffic offences which it believed could, in certain circumstances, be most appropriately dealt with by way of a fixed penalty. The proposed list of offences which may be dealt with by way of a fixed penalty notice are set out in the Appendix to this Report.

It was noted that the majority of these offences were identified by police officers and Traffic Wardens during the course of their normal duties. The Chief Officer of Police advised the Department that it would be necessary for him to draft a Protocol concerning the circumstances in which it would, might, or would not, be appropriate to issue a fixed penalty notice. He believed that such a Protocol was essential to offer

some reassurance of consistency. The Department fully supports the Chief Officer of Police's recommendations for a Protocol.

The Department noted that the decision to issue a fixed penalty was one of a range of disposals open to a police officer, ranging from an informal warning, fixed penalty notice, formal caution or prosecution. In every case the officer would exercise his discretion having regard to the circumstances and seriousness of the offence. It was noted that currently where the Police are aware that somebody is showing little regard for, say, the disc parking regulations and has received a number of fixed penalty tickets, and for example, continues to park overtime, the offender will be prosecuted rather than further fixed penalty notices being issued. Nothing in the present proposals would affect that position.

#### **(b) Non-Traffic Offences**

The Department believes that there is merit in further extending the fixed penalty system to include a number of non-motoring offences. A number of non-traffic offences have been identified as suitable for inclusion in the list of offences which may be dealt with in this way and these have been included in the Appendix to this report.

The Department acknowledges that there are further non-traffic offences which might perhaps be included under the fixed penalty system but the nature of the offence presents some potential difficulties which need to be addressed. In particular, it has been asked by the various Parochial Douzaines to consider including some offences linked to matters administered by the parishes, such as the cutting of hedges.

However, some of the offences suggested for inclusion under the fixed penalty system require action by the offender after the offence has been identified, for example, where somebody fails to cut his hedge or having done so fails to collect the cuttings. This type of offence is problematic under a fixed penalty system because if the fixed penalty notice is paid within the prescribed time the offender is absolved of any liability of prosecution for that offence. However, the hedge could remain uncut or the hedge cuttings uncollected and there is no system to compel the offender to cut the hedge or clear the cuttings or for him to be further reported for the offence as a continuing breach.

If offences such as the failure to cut hedges or to collect the cuttings were to be included there would need to be an approved Memorandum of Understanding between Her Majesty's Procureur, the Guernsey Police and the Parochial Douzaines regarding the reporting of such offences and the evidence necessary for the Police to consider whether the offence should be dealt with by way of a fixed penalty notice.

Notwithstanding the above difficulties the Department undertakes to continue discussions with the Law Officers of the Crown and the various Parochial Douzaines regarding the feasibility of extending the fixed penalty scheme to cover such offences.

#### **4. Level of the Fixed Penalty**

The Traffic Offences (Fixed Penalties) (Amendment) Ordinance, 1999 increased the level of the fixed penalty for each offence from £10 to £15, broadly in line with an increase in the Guernsey Index of Retail Prices “RPI” from 1989 to that date. In the United Kingdom the average level for fixed penalties is £60 and in Jersey it is between £30 and £50, depending on the particular offence.

The Department believes that the minimum level should be increased to ensure that there remains a deterrent element in the system and that there is a parallel between the level of a fixed penalty notice and any fine which the Court may impose for a similar offence. It proposes that the minimum level for a fixed penalty notice should be increased by £15 to £30.

#### **5. Banding of Offences under the Fixed Penalty System**

The present legislation provides for a single level of fixed penalty. The Department considers that it would be more appropriate if there were more levels of fixed penalty to reflect the relative seriousness of different categories of offence.

The Department has identified three bands for fixed penalty offences, namely:

|        |  |
|--------|--|
| Band A | £40 reduced to £30 if paid within seven days of issue  |
| Band B | £70 reduced to £60 if paid within seven days of issue  |
| Band C | £100 reduced to £90 if paid within seven days of issue |

The Appendix sets out all the offences which it is proposed should be capable of being dealt with by way of a fixed penalty notice and indicates the proposed banding for each offence. The majority of existing offences under the Traffic Offences (Fixed Penalties) Ordinance, 1989, as amended, will be included in Band A.

#### **6. Two Tier Payment**

In 2005 (2004) some 20,200 (22,500). fixed penalty notices were issued. Some 49% (49%) were paid within the seven days and a further 45% (43%) within the further fourteen day payment period. That is 6% (8%) remained unpaid after twenty one days. A small number of the unpaid notices were cancelled following consideration of representations made by the offender or where efforts to trace the offender failed. The rest of the cases resulted in the offender being prosecuted for the offence.

Whilst the level of compliance remains high, the Department believes that further Court and Police time could be saved if offenders were offered more positive encouragement to pay the fixed penalty, and recommends the introduction of reduced penalty if paid within seven days of issue of the notice. The Department recommends that if a fixed penalty is paid within seven days of the offence, the level of the fixed penalty should be decreased as shown below. It believes that this approach would provide a strong and increased incentive to anybody who is issued with a fixed penalty notice to pay it

promptly at the lower rate and this would reduce the cost of sending out reminder notices and may also reduce the overall number of prosecutions. The proposed bandings are as set out in the Table below.

**Table**

|        | <b>FPN fine</b> | <b>Reduced FPN fine payable where fine paid within 7 days of issue of the FPN</b> | <b>Procedure where FPN fine not paid within 28 days</b> |
|--------|-----------------|---|---|
| Band A | £40             | £30   | Court summons   |
| Band B | £70             | £60   | Court summons   |
| Band C | £100            | £90   | Court summons   |

The Department recognises that before a two-tiered payment system can commence it will be necessary for changes to be made within the States payments systems. It therefore proposes that, until Treasury and Resources are able to accommodate a two-tier system a single tier system should be implemented without delay and the level of fixed penalties should be set at the lower level in each band, that is the payment due if the notice is paid within 7 days under the proposed two-tier system.

## **7. Method of Payment and Format of Fixed Penalty Notices**

The Traffic Offences (Fixed Penalties) Ordinance, 1989, as amended prescribes the methods of payment for fixed penalties. The Department recommends that, in light of changing technology allowing for payments to be made via a secure internet server and other electronic means, appropriate provision should be made to enable fixed penalties to be paid by such means. It has entered into discussions with the Treasury and Resources Department to ensure that its requirements are addressed within the States-wide review of payment systems. Further, it believes that this approach should keep future administrative costs to a minimum.

The current Ordinance prescribes the format of the fixed penalty notice and this has presented significant difficulties for the Guernsey Police as it has not been possible to move over to a system whereby fixed penalty notices could be issued electronically. Such systems are in use in many other jurisdictions, including Jersey. However, these format restrictions have meant that it has not been possible to adapt any of the hardware or software in use elsewhere and the cost of developing a bespoke system for Guernsey would have been prohibitive.

The Department therefore proposes that the Ordinance be amended to prescribe the information which every fixed penalty notice must include and for the Department to approve the format of the notice. It recommends that the following information be included for each notice:

- (a) Date and time of the offence;

- (b) Location of the offence;
- (c) Nature of the offence;
- (d) Details of the person committing the offence and/or vehicle involved (*where applicable*);
- (e) Details of the Officer issuing the notice.

## **8. Paid Parking**

Following consideration by the States of the Environment Department's Road Transport Strategy, in March 2006, when the introduction of paid parking was approved, the Department has initiated some initial discussions regarding whether or not offences relating to the non-payment of parking fees should be covered under fixed penalty legislation, to parallel the present position for disc parking offences.

The Environment Department has indicated that whilst it has not as yet settled upon a system for collecting the proceeds of paid parking, initial research indicates that it is unlikely to involve parking meter or barrier controlled systems.

## **9. Resources**

### **(a) Treasury and Resources**

The introduction of banding and two tier payments is likely to result in some additional work within the Treasury and Resources Department. This has been the subject of detailed discussions between the two Departments and it is not anticipated that additional staff will be required. Further, it is anticipated that payments for fixed penalty tickets will be able to be made at Post Offices, in addition to the provision at Sir Charles Frossard House, and this should spread the burden for staff receiving payments. The Treasury and Resources Department has been consulted and has indicated its full support for these proposals.

Notwithstanding the above comments the two Departments will continue to work closely to ensure that the new procedures result in the minimum additional workload.

### **(b) Additional Revenue**

It is difficult to predict the additional revenue that may result from the Department's recommendations to introduce banding, two tier payment and additional offences. In 2005 (2004) the fixed penalty system raised some £303,000 (£337,000). Based on the proposals outlined above the income from fixed penalty notices is estimated at between £606,000 and £808,000 (based on the number of fixed penalty notices issued in 2005), that is some £303,000 to £505,000 additional revenue. That is a 100% to 140% increase in revenue income.



### **(c) Capital Costs**

An electronic system which incorporates an enhanced data file will be necessary to support the two-tier payment option and to issue reminder notices to the offender where necessary. The costs of this are estimated to be no more than £150,000. This amount would include the purchase of handheld devices for issuing the notices, the support software to process them and all installation costs, including the necessary links to the payment systems maintained by the Treasury and Resources Department to ensure that those receiving a fixed penalty notice were able to pay them at Sir Charles Frossard House or the various Post Offices which currently accept such payments.

The Department believes that this additional capital cost would be more than recouped from the additional revenue to be derived from fixed penalties

Further, it is estimated that the ongoing maintenance and/or revenue costs would be approximately £15,000 per annum.

In summary the capital costs for introducing an electronic system for the issue of fixed penalty notices will, in the first year, require up to £150,000 additional capital to be afforded to the Department's budget but this figure is offset by the increased revenue which would be derived from increasing the level of the fixed penalty notice itself. The Department anticipates that such a system would be more efficient than the current system and therefore it is likely that it will be possible for the Parking Controllers to deal with more offences.

## **10. Consultation with Her Majesty's Comptroller**

The Department has worked in close consultation with Her Majesty's Comptroller throughout this review and the proposals for new legislation have been fully considered by him.

## **11. Recommendations**

The Department recommends the States to decide:

- (1) That the present fixed penalty legislation should be replaced as set out in this Report, to include:
  - (a) A system of banding for fixed penalty offences and the addition of non-traffic offences as set out in the Appendix of this report;
  - (b) The two tier levels of fixed penalties as described at paragraph 6 of this report;
  - (c) Provision for on-line (internet) and other electronic payment of fixed penalties to be included as approved methods of payment;

- (d) Provision for the Department to prescribe the format of a fixed penalty notice as set out in paragraph 7 of this report;
- (e) Provision for the notices to be issued electronically as well as manually;
- (2) To approve a capital vote of £150,000 to fund the costs of purchasing and installing an electronic fixed penalty system to be charged to the capital allocation of the Home Department; and
- (3) To direct the Treasury and Resources Department to take account of the capital and revenue costs associated with this project when recommending Capital Allocations and Cash Limit to the States for 2007 and future years.

Yours faithfully

M W Torode  
Minister

## Appendix

### Schedule of Fixed Penalty Offences

| OFFENCE   | BROAD DESCRIPTION OF OFFENCE   | BAND | AMOUNT OF FIXED PENALTY <sup>1</sup> |
|---|--|------|--------------------------------------|
| Offences included in the Traffic Offences (Fixed Penalties Ordinance), 1989, other than those expressly listed in this Schedule | Most existing fixed penalty offences   | A    | £40 reduced to £30                   |
| Offences against section 1 of the Vehicular Traffic (Parking at Beau Sejour) (Prohibition) Ordinance, 1979                      | Prohibition of parking at Beau Sejour other than in accordance with traffic signs  | A    | £40 reduced to £30                   |
| Offences against Traffic Signs and Traffic Light Signals Ordinance, 1988  | The erection, placing or marking of traffic signs  | B    | £70 reduced to £60                   |
| Offences against section 1 of the Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 1971             | The length, width and weight of vehicles on the public highway and the condition of parts and accessories on motor vehicles; the security, distribution, weight and position of loads; the danger to persons or property due to the condition of a motor vehicle and/or its load; and the suitability of a motor vehicle and/or its load | C    | £100 reduced to £90                  |
| Offences against sections 2 and 3 of the Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 1971      | The condition and maintenance of tyres on motor vehicles   | B    | £70 reduced to £60                   |
| Offences against section 5 of the Road Traffic (Construction and Use of Motor Vehicles) (Amendment) Ordinance, 1971             | The maintenance of brakes on a motor vehicle and trailers  | C    | £100 reduced to £90                  |

<sup>1</sup> Lower amount relates to amount of penalty if paid within 7 days and higher figure the amount of the penalty if not paid within 7 days

| <b>OFFENCE</b>   | <b>BROAD DESCRIPTION OF OFFENCE</b>   | <b>BAND</b> | <b>AMOUNT OF FIXED PENALTY<sup>2</sup></b> |
|--|---|-------------|--|
| Offences against section 1 of the Vehicle Noise Etc Ordinance, 1986  | Excessive noise from vehicles   | B           | £70 reduced to £60                         |
| Offences against sections 1, 2, 3 and 4 of the Motor Vehicles and Pedal Cycles (Warning Apparatus) Ordinance, 1966   | The fitting, type and use of warning apparatus on motor vehicles, motorcycles and pedal cycles  | B           | £70 reduced to £60                         |
| Offences relating to sections 5, 18 and 20 of the Vehicular Traffic Ordinance, 1932  | The position and size of number plates  | B           | £70 reduced to £60                         |
| Offences against sections 8, 9, 10 and 11 of the Vehicular Traffic Ordinance, 1932   | The registration of motor vehicles and requirements to inform the Environment Department of changes   | B           | £70 reduced to £60                         |
| Offences relating to sections 2(3), (4), (5) and (6) of Ordonnance relative aux Licences de Commerçant accordables à l'égard d'Automobiles en usage dans un but commercial, 1932 | The use and display of trade licences   | B           | £70 reduced to £60                         |
| Offences relating to section 13 of the Road Traffic (Compulsory Third Party Insurance) (Guernsey) Law, 1936, as amended  | Failure to produce third party insurance documents when requested to do so by a police officer or following a road traffic accident if not produced within 7 days | C           | £100 reduced to £90                        |
| Offences against section 23 of the Driving Licences (Guernsey) Ordinance, 1995   | Failure to produce driving licence by persons driving motor vehicles or supervising learner drivers   | B           | £70 reduced to £60                         |
| Offences against sections 3, 4 and 5 of the Seat Belts Ordinance, 1988   | The use by adults and children and the fitting and maintenance of seatbelts and child restraints  | C           | £100 reduced to £90                        |
| Offences against section 3 of the Motor Vehicles (Miscellaneous provisions) Ordinance, 1962  | The wearing of crash helmets  | C           | £100 reduced to £90                        |

<sup>2</sup> Lower amount relates to amount of penalty if paid within 7 days and higher figure the amount of the penalty if not paid within 7 days

| <b>OFFENCE</b>  | <b>BROAD DESCRIPTION OF OFFENCE</b>  | <b>BAND</b> | <b>AMOUNT OF FIXED PENALTY<sup>3</sup></b> |
|---|--|-------------|--|
| Offences against section 3(a) of the Road Traffic (Conveyance of Plant Material) Ordinance, 1976                    | The carrying of uncovered loads of plant material                                    | B           | £70 reduced to £60                         |
| Offences against sections 24 and 25 of the Lighting of Vehicles and Skips Ordinance, 1988                           | The lighting of skips placed on the public highway                                   | B           | £70 reduced to £60                         |
| Offences against section 1 of the Road Traffic (Restriction on Use of Mobile Telephones) (Guernsey) Ordinance, 2003 | Using a telephone whilst driving a motor vehicle                                     | C           | £100 reduced to £90                        |
| Offences against section 5 of the Motor Vehicles (Miscellaneous provisions) Ordinance, 1962                         | The display of “L” plates on motor vehicles  | B           | £70 reduced to £60                         |
| Offences against sections 2, 3 and 4 of the Refuse Disposal Ordinance, 1959   | The dropping litter, and wrongful use of public litter bins, and dumping refuse      | B           | £70 reduced to £60                         |
| Offences against section 1(a) (i) and (ii) of the Places of Recreation Ordinance, 1975, as amended                  | Control on the lighting of fires and use of vehicles on certain places of recreation | C           | £100 reduced to £90                        |
| Offences against section 3(a) of the Foreshore (Riding and Driving) Ordinance, 1951, as amended                     | The use of vehicles or the riding of horses on the foreshore                         | C           | £100 reduced to £90                        |
| Offences against section 1(b) of the Places of Recreation Ordinance, 1975, as amended                               | Animals on certain places of recreation  | C           | £100 reduced to £90                        |
| Offences against sections 7 and 8 of the Dog Licences (Guernsey) Law, 1969  | The licensing and marking of dogs  | B           | £70 reduced to £60                         |
| Offences against section 4 of the Control of Dogs Ordinance, 1992   | The control of dogs, including the prohibition and clearing of fouling               | C           | £100 reduced to £90                        |

<sup>3</sup> Lower amount relates to amount of penalty if paid within 7 days and higher figure the amount of the penalty if not paid within 7 days

| <b>OFFENCE</b>  | <b>BROAD DESCRIPTION OF OFFENCE</b>   | <b>BAND</b> | <b>AMOUNT OF FIXED PENALTY<sup>4</sup></b> |
|---|---|-------------|--|
| Offences against sections 1 and 5 of the Boats and Vessels (Registration, Speed Limits and Abatement of Noise) Ordinance, 1970  | The markings on and mooring of boats  | B           | £70 reduced to £60                         |
| Offences against sections 10, 43 and 47 of the Harbours Ordinance, 1988   | Excessive noise from vessels within the Harbours                                  | B           | £70 reduced to £60                         |
| Offences against sections 44, 45 and 47 of the Harbours Ordinance, 1988   | Prohibited activities and trading within the Harbours                             | B           | £70 reduced to £60                         |
| Offences against sections 42 and 47 of the Harbours Ordinance, 1988   | Disposal of rubbish in the harbours and the surrounding areas                     | B           | £70 reduced to £60                         |
| Offences relating to section 8 of the Boats and Vessels (Registration, Speed Limits and Abatement of Noise) Ordinance, 1970 and section 2 of the Harbours Ordinance, 1988 | Vessels exceeding speed limits within the coastal restricted zones and Harbours – | C           | £100 reduced to £90                        |
| Offences relating to section 4, of the Airport Ordinance, 1950  | Controlling the destruction, escape or disposal of oil, rubbish, etc              | C           | £100 reduced to £90                        |
| Offences relating to section 5 of the Airport Ordinance, 1950   | Prohibiting smoking in any part of the airport                                    | C           | £100 reduced to £90                        |
| Offences relating to section 7 of the Airport Ordinance, 1950   | Prohibiting unauthorized use of any part of the airport                           | C           | £100 reduced to £90                        |
| Offences relating to section 8 of the Airport Ordinance, 1950   | Causing an obstruction or nuisance in any part of the airport                     | C           | £100 reduced to £90                        |
| Offences relating to section 11 of the Airport Ordinance, 1950  | Failing to remove vehicles when requested to do so                                | C           | £100 reduced to £90                        |
| Offences relating to section 15 of the Airport Ordinance, 1950  | Trespassing on restricted areas of the airport                                    | C           | £100 reduced to £90                        |

<sup>4</sup> Lower amount relates to amount of penalty if paid within 7 days and higher figure the amount of the penalty if not paid within 7 days

**(NB By a majority, the Policy Council supports the proposals.)**

**(NB The Treasury and Resources Department supports the proposals.)**

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 8<sup>th</sup> September, 2006, of the Home Department, they are of the opinion:-

- 1 That the present fixed penalty legislation shall be replaced as set out in that Report, to include:
  - (a) A system of banding for fixed penalty offences and the addition of non-traffic offences as set out in the Appendix of that Report;
  - (b) The two tier levels of fixed penalties as described at paragraph 6 of that Report;
  - (c) Provision for on-line (internet) and other electronic payment of fixed penalties to be included as approved methods of payment;
  - (d) Provision for the Department to prescribe the format of a fixed penalty notice as set out in Paragraph 7 of that Report;
  - (e) Provision for the notices to be issued electronically as well as manually.
2. To approve a capital vote of £150,000 to fund the costs of purchasing and installing an electronic fixed penalty system to be charged to the capital allocation of the Home Department.
3. To direct the Treasury and Resources Department to take account of the capital and revenue costs associated with this project when recommending Capital Allocations and Cash Limit to the States for 2007 and future years.
4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **PUBLIC SERVICES DEPARTMENT**

### **THE MANSELL TRUST**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

6<sup>th</sup> September 2006

Dear Sir

#### **Executive Summary**

This report provides background information on a long-standing charitable fund known as The Mansell Trust which is now costing more to administer than is being distributed. It therefore recommends that a Project de Loi be prepared allowing the full distribution of the funds within the Trust.

#### **Report**

The Mansell Trust was established following a legacy from Emma Carolina Mansell who died in 1927 and left £1,000 to the Hospital of the Town and parish of St Peter Port and a further £1,000 to the Country Hospital.

The Mansell Trust fund was formally registered on 30<sup>th</sup> April 1929.

The Trustees at that time were defined as "... the Presidents for the time being and their successors in office of the Board of Administration, the Central Poor Law Board, the Poor Law Board of the Parish of St Peter Port, the County Hospital Board, the Childrens Home Board and in the event of an Asylum Board being hereafter created in the President of such Asylum Board..."

The Trustees have modified since the establishment of the fund, such that they are currently the Ministers of the Public Services Department and the Health and Social Services Department.

The conditions of the Trust govern the investment of the capital, and stipulate that the income generated thereby should be for "the special benefit of the inmates for the time being of the Hospital of the Town and the parish of St Peter Port and the Country Hospital, the Town and Country Asylums, or such general Asylum as may in the future be erected in substitution for the present Town and Country asylums, and the Children's



Home in such a manner and in such proportions in accordance with the premises as the Trustees shall from time to time in their discretion think fit”.

At present the Trust holds investments valued at £5,000 and the amount of interest distributed each year is approximately £150. In practice, and according to records, the annual interest accrued has been paid to the Friends of St Julian’s Home (formerly St Julian’s Hostel) since 1992, although before that date the interest appeared to be split between the Hostel and the former Children Board.

Under the Machinery of Government changes, the administrative responsibility for the Mansell Trust Fund was moved from the Board of Administration to the Public Services Department. In practical terms the affairs of the Trust have to be administered and meetings convened and whilst this has been carried out by civil servants and politicians no direct charges have been made against the Trust funds. However, the annual administrative workload exceeds the value of the funds being distributed. As the Trust is costing more to administer than is being distributed the Public Services Department would like to make a full distribution of the remaining funds within the Trust to the Friends of St Julian’s and dissolve the Trust.

The existing Trustees i.e. the Ministers of the Public Services Department and the Health and Social Services Department are in agreement with this proposal, as are The Friends of St Julian’s who have also been consulted.

The Law Officers have advised that in order to achieve this a Projet de Loi should be enacted, with the following operative provisions:

On the date of commencement of the Law the existing funds should be paid to the Friends of St Julian’s and applied by the Friends in accordance with their Constitution for charitable purposes, thereby dissolving the Mansell Trust.

Upon receipt of the funds by the Friends of St Julian’s, the existing Trustees of the Mansell Trust will be discharged from all obligations in respect of the funds.

### **Recommendation**

The States is asked to approve the dissolution of the Mansell Trust and to direct the preparation of the necessary legislation.

Yours faithfully

William M Bell  
Minister

**(NB The Policy Council supports the proposals.)**

**(NB The Treasury and Resources Department supports the proposals.)**

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 6<sup>th</sup> September, 2006, of the Public Services Department, they are of the opinion:-

1. To approve the dissolution of the Mansell Trust.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## **PUBLIC SECTOR REMUNERATION COMMITTEE**

### **MECHANISM FOR DETERMINING PUBLIC SECTOR PAY IN GUERNSEY**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

15<sup>th</sup> August 2006

Dear Sir

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

- 1.1 The Committee has been required to look at the way in which the pay and conditions of employees of the States of Guernsey should be determined in the future.
- 1.2 A consultant employed by the Board of Industry in 2001 to look into this matter concluded that there were three realistic options and the Committee's own, more recent work has reached exactly the same conclusion.
- 1.3 However, whereas the favoured option in 2001 was for the existing centralised negotiating system to be replaced by the creation of an independent Pay Review Body, the Committee does not support such an approach.
- 1.4 The central view and recommendation of the Committee, which also reflects the overwhelming view of those it consulted, was that negotiating rights should be maintained through the continuation of a centralised, collective bargaining system.
- 1.5 The Committee is however proposing certain modifications to the existing arrangements designed to improve communication between the Committee and employing departments.

#### **2. Introduction**

- 2.1 The States of Guernsey has many important functions. Most obvious amongst these are as a legislative body, a policy maker and a provider of services to the Island's population. In respect of the service provider role the services concerned tend to be characterised by three things:

- they are essential (health, education, law and order etc);
  - there is rarely an alternative provider;
  - they are, in the main, labour intensive.
- 2.2 The provision of these services is, therefore, dependent on the States of Guernsey having sufficient numbers of appropriately trained staff to deliver them. This situation highlights another very important and distinct function of the States, namely that of an employer. As an employer the States has to consider the same sort of issues and be subject to the same legislation as all other island employers – clearly this function is fundamentally different to that of a political body and the two should not be confused.
- 2.3 Of course, the States is by far the largest employer in the Island. It currently employs some 4,500 people – roughly 15% of the island's entire workforce – working in a wide range of professions.
- 2.4 Appendix 1 gives a comprehensive departmental breakdown of these staff from which it can be noted that nurses and other health professionals, teachers and lecturers, police, customs and prison officers, firefighters, social workers, as well as a wide variety of manual, clerical, professional and technical support staff are all direct employees of the States of Guernsey. Clearly, each and every one of these employees needs to have a contract which specifies their terms and conditions of employment and this report concerns the mechanism under which those terms and conditions are determined.

### **3. The Need for a Review**

- 3.1 Towards the end of the 1990s industrial relations within the public sector were under some strain. At that time:
- the local economy was booming;
  - the Island had full employment;
  - the pay and conditions of employees in the private sector were moving ahead quite rapidly;
  - there were growing demands on public services (spurred on in part by population growth);
  - States departments were facing some quite severe difficulties with the recruitment and retention of staff;
  - the pay aspirations of States employees were extremely high.

- 3.2 This rather heady cocktail of pressures led to some very difficult negotiations in which the then Civil Service Board, trying to keep a lid on things, was accused by many staffing bodies and some employing departments of exercising unreasonable restraint.
- 3.3 In consequence the general climate of industrial relations within the public sector deteriorated and this in turn spilt over into a number of referrals for third-party assistance and conciliation. In some of these cases legally binding awards from Industrial Tribunals became necessary.
- 3.4 By the end of 2000 the Board of Industry had become so concerned about the developing situation that it felt some form of independent review of the whole pay determination mechanism within the public sector should be undertaken. In early 2001 it commissioned the services of Professor Jon Clark, a freelance independent employment advisor and specialist in disputes resolution, to look into the matter. His specific terms of reference were:
- “To conduct an independent review of the mechanism for determining public sector pay in Guernsey and to make recommendations including any implications for the current funding arrangements and legislative framework.”*
- 3.5 The report containing his findings was received by the Board of Industry at the end of April 2001 who then decided to undertake a period of consultation with all interested parties (all of whom had been seen by Professor Clark during his initial visits to the Island).
- 3.6 Accordingly Professor Clark’s report was widely circulated and the feedback it produced showed a variety of views and opinions. Clearly support for Professor Clark’s main recommendation was not overwhelming and in view of this the then Board of Industry decided to invite him back to the Island to meet the main parties again.
- 3.7 These further visits, at the end of 2001, and the subsequent consideration by the Board of Industry in 2002 over what to do next came at a time when a great deal of detailed work was being undertaken on possible changes to the Island’s system of government – changes that were subsequently introduced in 2004. In the light of this more far reaching work it was widely felt that any decision with regard to the most appropriate pay and conditions mechanism for the future had to be both consistent with, and sympathetic to, any possible change in the Island’s governmental arrangements.
- 3.8 At that time the Advisory and Finance Committee’s draft proposals for a new system of government involved, inter alia, the transfer of pay and conditions responsibilities from the Civil Service Board to a new body known as the Public Sector Remuneration Committee.

- 3.9 Against this general background, and in early 2003, the President of the Board of Industry wrote to the President of the Advisory and Finance Committee expressing his Board's view that:

*“The proposed Remuneration Committee should from the outset be viewed as a interim Committee working towards an improved structure that would embrace all or at least some of the elements identified by Professor Clarke(sic).*

*That as a first step the new Committee should be charged with taking steps to acquire the necessary labour market data that is essential to underpin any sensible pay policy in the public sector. In this connection you may recall more than one arbitrator in a public sector dispute has criticised the lack of this fundamental data which is hindering the proper conduct of good industrial relations.*

*The interim Remuneration Committee should be instructed to further review the Island's approach to public sector pay and report back to the States with the recommendations embracing all or of some of the principles contained in the Clarke(sic) report by the end of 2005”*

- 3.10 A few weeks later the Advisory and Finance Committee published its detailed policy letter on the future machinery of government in Guernsey – a report that was debated by the States in May of that year.
- 3.11 In that report the creation of a Public Sector Remuneration Committee was formally recommended and in setting out the rationale behind that recommendation (detailed on pages 895 to 898 of Billet d'Etat VII) the Advisory and Finance Committee reproduced the above words from the Board of Industry's letter. It went on to comment that:

*“The Advisory and Finance Committee shares the sentiments put forward by the Board of Industry and believes that an important early task of the Public Sector Remuneration Committee will be to review the Island's approach to public sector pay negotiations, including the proposals put forward by Professor Clarke(sic).”*

- 3.12 Following consideration of that policy letter the States made a number of resolutions and included in those was acceptance of the recommendation that a Public Sector Remuneration Committee be established from 1 May 2004.
- 3.13 Although not part of the actual resolution (nor subsequently included in the Committee's detailed mandate) there was no dissent from the general idea that this new Committee should pick up the work started by Professor Clark and this is what the Committee has now done.

- 3.14 This report explains the processes that the Committee followed and the conclusions it has reached.

#### **4. Current Arrangements**

- 4.1 Before turning to the detailed work undertaken by Professor Clark in 2001 and the Committee's own more recent consultations it is necessary to explain how the current system operates.
- 4.2 By and large the terms and conditions of all employees of the States of Guernsey are determined by a process known as "collective bargaining".
- 4.3 The process works like this.
- 4.4 The vast majority of States employees are members of trade unions or staff associations. These unions and associations have collective negotiating rights over the pay and conditions of their members – rights that, in most cases, were acquired decades ago either through custom and practice or by formal agreement with the States as the employer.
- 4.5 Typically these rights are exercised through the submission of claims for improved terms and conditions most often, but not always, as part of the annual pay review cycle. When such claims are made they are generally dealt with by a process of discussion and negotiation (bargaining) until an agreement is reached. Of course during this process the body representing the interests of the States of Guernsey (as employer) is also free to propose, negotiate and seek agreement on any changes to terms and conditions that it believes appropriate.
- 4.6 When an agreement cannot be reached on an issue raised by either party the island's Industrial Disputes Law can be used to resolve the matter. This legislation provides a range of options to achieve a settlement with the ultimate step being a legally binding award of an Industrial Tribunal.
- 4.7 In order to discharge its function as employer in the collective bargaining process the States decided many years ago that one body should act on its behalf – a decision that has since been reaffirmed on a number of occasions. For just over forty years (and until the recent changes to the system of government) that body was the Civil Service Board. From May 2004 that Board's responsibility for all public sector pay and conditions matters was transferred to the Public Sector Remuneration Committee and it is, therefore, this Committee that now acts on behalf of the States in shaping the future of its overall paybill which currently stands at approximately £150 million per annum.

#### **5. How the Committee undertook the Review**

- 5.1 Within a few weeks of its formation the new Public Sector Remuneration Committee considered how best to undertake its own review of the pay mechanism. Clearly this was a daunting prospect, not least because none of the

Members had any real first hand experience of pay and conditions matters – no Member had previously sat on the former Civil Service Board.

- 5.2 Against this general background and the fact that there were certain other pressing operational issues facing the new Committee it was decided that the first step to take in this important project was to gain some basic experience of the current mechanism. Uppermost in the Committee's mind at this time was a desire to get a proper understanding of the current arrangements and to develop sound working relationships with all the key players in the process before looking to see what changes, if any, were necessary.
- 5.3 The Committee did, of course, spend some time looking at Professor Clark's work and undoubtedly this proved helpful in getting an early insight into some of the issues that ultimately needed to be addressed.
- 5.4 By the end of 2004 the Committee felt ready to turn its attentions to the issue in earnest. What followed throughout 2005 and in the early months of 2006 was:
  - detailed research into the rationale behind the existing pay determination arrangements;
  - some careful analysis of Professor Clark's report and, in particular, its central recommendation;
  - widespread consultation with all the major players (ie all the main staffing bodies, the major employing departments and the Industrial Disputes Officer – see Appendix 2).
- 5.5 Having completed this process the Committee felt able to draw a number of conclusions and make recommendations as to the most appropriate pay mechanism for the States of Guernsey to adopt in the future.

## **6. The Clark Report**

- 6.1 Undoubtedly the work Professor Clark undertook on this issue has been of significant assistance to the Committee and, in consequence, the Committee has had no hesitation in appending a full copy of his report to this, its own, report. (Appendix 3).
- 6.2 Aside from making specific recommendations for a radically new way of determining public sector pay in the future, the early chapters of Professor Clark's 2001 report did a number of important things. In particular it:
  - explained the history of the current mechanism (Chapter 1);
  - identified the main features of the current system (Chapter 2);
  - examined critically all the principle options for the future (Chapter 3).



- 6.3 The Committee having now covered similar ground in its own deliberations generally believe that Professor Clark's report has both explained and analysed these issues well and accordingly it felt that little would be served by reproducing all this in its own document.
- 6.4 As previously explained Professor Clark's report was widely circulated to both departmental managers and employee groups (as well as certain other interested parties). All those interested parties have now spent some time discussing the conclusions and recommendations in that report both with Professor Clark himself (at the end of 2001) and, much more recently, with the Committee.
- 6.5 Sadly the Committee learnt that Professor Clark died in October of last year. It would, however, still wish to record its appreciation for all his work in the matter.

## **7. Professor Clark's Conclusions and Recommendations**

- 7.1 Having identified all the principal options for a future mechanism to determine the pay and conditions of public sector workers on the Island, Professor Clark sought to draw conclusions and recommendations as had been required under his terms of reference.
- 7.2 In essence what Professor Clark's report explained was that:
- there were five possible options for the future;
  - two of those options, namely government determination and formula-based pay, had too many shortcomings to become serious considerations;
  - the other three options, namely centralised bargaining, decentralised bargaining and an independent Pay Review Body, were each worthy of serious consideration.
- 7.3 Chapter 4 of his report then analysed those three options in detail following which he concluded that the creation of an independent Pay Review Body was, on balance, the most appropriate mechanism for the island to adopt in the future.
- 7.4 The final chapter of his report (Chapter 5) then went on to explain the practical aspects of creating such a body.

## **8. The Committee's Work**

- 8.1 The detailed work undertaken by the Committee led to the same initial conclusions that had been reached by Professor Clark in 2001 in that it identified:
- the same five principal options for a future mechanism;

and

- that two of these options (namely government determination and formula based pay) should be ruled out for reasons of practicality.

8.2 The deliberations over which of the remaining three options should be favoured was, therefore, both the cornerstone of the Committee's own research and the pivotal issue in the consultations it undertook.

8.3 In this regard the Committee's general research work highlighted certain "environmental" changes since 2001 most of which were also mentioned by consultees. In particular the following changes should be noted:-

#### 8.4 The Commercialisation/Privatisation of the Trading Boards

8.4.1 In 2001 the telecommunications, postal and electricity services were run as departments of the States and, in consequence, the Civil Service Board had been responsible for determining the pay and conditions of their staff. At that time this situation was not seen as ideal by the departments concerned nor some of the staffing bodies with representational rights for employees in these services.

8.4.2 Roughly a quarter of Professor Clark's consultees were from these trading departments (either representing the departments or their employees) and clearly the tension that existed at the time would have been reflected in the views submitted to him.

8.4.3 Of course, since 2001 all three services have had their status changed – privatisation in respect of telecommunications and States owned trading companies in respect of post and electricity. In each case the staff concerned have ceased being direct employees of the States of Guernsey and, in consequence, fall outside the mandate of the central States body responsible for determining the pay and conditions of States employees.

8.4.4 It follows from the above that the Committee was simply not required to see or get views from roughly one quarter of the people who Professor Clark had seen – a quarter which the former Civil Service Board understood had always been the most vehemently opposed to the current centralised collective bargaining system.

#### 8.5 Governmental Changes

8.5.1 The introduction of the new governmental structure from May 2004 seems to have had an impact on the public sector pay determination process in three ways.

8.5.2 Firstly, it streamlined the system of government by reducing the number of States Committees. This has significance on pay matters because the

States role as an employer is split into various parts, some administered at the centre (eg pay and conditions determination) and others the responsibility of departments (eg duties and work routines). On occasion this division can cause tension between the pay centre and the service providers – tensions that were sometimes very difficult for the Civil Service Board to address because of the large number of departments involved. Clearly having fewer employing departments simplifies matters and is more conducive to meaningful consultation between the pay centre and departments.

- 8.5.3 Secondly, the new governmental structure appears to have helped produce a more corporate approach on pay and conditions issues. (Although the changing financial position of the States has probably been more influential). Under the old structure the range of views from employing departments on pay matters tended to be very diverse. Quite naturally employing committees took a “service provider” view which was largely unfettered by any wider considerations. In contrast the new structure ensures that each departmental political head (ie its Minister) forms an integral part of the corporate centre by being a member of the Policy Council. This new arrangement seems to have created a situation where the views of departmental service providers have been tempered by wider considerations and this has led to less diversity of opinion.
- 8.5.4 Thirdly, the introduction of the new structure changed the general makeup of the pay centre itself. Under the old system, the Civil Service Board held a number of functions and these have now been split between the Policy Council (in its capacity as the employer of all civil servants), the Treasury and Resources Department (in respect of controlling the total number of States employees) and the Public Sector Remuneration Committee (in respect of all pay and conditions issues). In other words all pay and conditions matters have been put in the hands of one specialist Committee which, unlike the former Civil Service Board, has no other competing areas of responsibility.

## 8.6 The Economic Situation and States Finances

- 8.6.1 The Committee is in no doubt that changes to the island’s rate of economic growth and the financial position of the States since Professor Clark’s review of 2001 has had a bearing on its own work.
- 8.6.2 At the time of Professor Clark’s review the island had experienced several years of quite exceptional economic growth. As explained in the introduction that situation had led to:-
- an extremely tight labour market creating severe problems for just about all island employers (including the States) with regard to the recruitment and retention of staff;

- very little concern over States finances as the extra revenues from this growth fed their way through to the income of the States – the operating surplus peaked in 2001 at just over £57m.

8.6.3 With hindsight, we now know that the timing of Professor Clark's work in Guernsey coincided with the very end of that period. Although the economy has remained strong the rate of growth slowed from 2001 and this has not only helped to ease some of the pressures in the labour market but also led to a change in the financial position of the States. At the end of 2005 the operating surplus was £19m (ie a third of what it had been four years earlier).

8.6.4 Nearly all consultees seen by the Committee over the last eighteen months or so commented on these changes. Employing departments in particular, stressed the significance of the new financial reality facing the States and the problems they were experiencing in trying to maintain/improve services within very tight budgetary constraints.

8.7 With all the above factors in mind the Committee then sought the views of those most directly involved with public sector pay and condition issues. In doing so the Committee recognised, firstly the need to address the central issue, namely should the pay and conditions of States employees be determined by:

- an independent Pay Review Body (ie the “arms-length” approach favoured by Professor Clark in 2001);

or

- by some form of collective bargaining arrangement.

8.8 Secondly, and if the latter option was chosen, the Committee would then need to decide whether a centralised or decentralised (ie at departmental level) collective bargaining system would be preferable.

## **9. An Independent Pay Review Body or Collective Bargaining?**

9.1 This is undoubtedly the key issue.

9.2 The view taken by Professor Clark in 2001 was that, on balance, an independent Pay Review Body was the most appropriate mechanism for determining the pay and conditions of all States of Guernsey employees in the future. In essence what this meant was that a panel of independent people (ie independent of both States employees and the States of Guernsey as employer) would determine the pay and conditions of all public sector workers having considered evidence presented to it. Under this system there would be no claims, no negotiations, and no agreements. Both the employees and the States of Guernsey would submit evidence to that panel and then be bound by its decision.

- 9.3 Five years on the Committee has found very little support for this view. Indeed of those consulted only one staffing body and one employer expressed any support for the idea and in both cases that support was qualified.
- 9.4 Amongst employee groups there was overwhelming opposition to the idea. There were a number of reasons for this, but two stood out. These were that:
- the introduction of a Pay Review Body would effectively mean the loss of negotiating rights for employees – no staffing organisation would voluntarily surrender such rights.
  - the imposition of any third party judgement (be it an independent Pay Review Body or an industrial tribunal) should always be viewed as a “second best” solution to an agreement between the employer and its employees.
- 9.5 Additionally, the Committee heard from employee representatives that:
- the majority of public servants in the UK did not have their pay and conditions determined by review bodies – hardly an indication that such a system was a panacea for the public sector;
  - even where pay review bodies did exist, such a mechanism did not seem capable of looking at all pay and conditions issues (ie their existence did not end the need for collective bargaining);
  - industrial relations was all about fostering good long-term relationships between the employer and employees – such relationships could be achieved only if both parties were fully involved in the process and this meant getting them to agree outcomes;
  - there was never any guarantee that a Pay Review Body would get things right – in this regard evidence was offered by one union to show how a past decision of a UK independent Pay Review Body had to be unravelled and how much bad feeling this had caused.
- 9.6 The one staffing body that did give some support to the introduction of a Pay Review Body, largely because it believed that this avoided the need for potentially confrontational and drawn out negotiations, also make clear its view that:
- such a body should involve itself only in determining any general (annual) pay awards
  - all other issues (ie any other pay matters and all conditions of service issues) should be resolved by collective bargaining.

- 9.7 As far as employing departments were concerned the general feeling was that a Pay Review Body was not the right option for Guernsey. Although the view was expressed that such a system could ensure that pay and conditions settlements were achieved on time (something that was not always the case with collective bargaining) and could remove some of the adversarial aspects of negotiation, the concept was not without its weaknesses.
- 9.8 As well as sharing some of the views put forward by the employee groups (in particular, that a Pay Review Body would not deal with everything and provided no panacea for the future) it was also believed that there were inherent shortcomings in Professor Clark's model.
- 9.9 Specifically the major employing departments simply couldn't see the States of Guernsey ever being willing to surrender its own authority on payroll costs (by far the largest single element of its total expenditure) to any non elected third party, particularly as Professor Clark had recommended that whatever decisions were made the States would be obliged to fund in full. One view expressed was that because such an arrangement could never be contemplated (or tolerated) by any private sector employer why should it be acceptable in the public sector?
- 9.10 Additionally, some reservations were expressed over the detailed workings of such a body. The following specific points were made
- who would serve on it;
  - was it possible to get truly independent people involved;
  - who would provide the independent secretariat;
  - would there be a right of appeal;
  - would local labour market data (which Professor Clark said was absolutely essential in such a system) ever become available;
  - was local labour market data particularly relevant anyway when most public sector groups had no real local comparators and the local labour market was both extremely small (just over 30,000 employees in total) and dominated by one employment sector (Finance).
- 9.11 The Industrial Disputes Officer advised the Committee that, in his experience, agreements between employers and employees were always preferable to any awards imposed by a third party. This was one of several reasons why he took the view that collective bargaining was his preferred approach to determining public sector remuneration rather than by means of a Pay Review Body.
- 9.12 The Committee was also provided with data which showed that bargaining within the public sector generally resulted in agreements being reached. On the small number of occasions when disagreements occurred, a resolution was

frequently achieved through conciliation or consultation. It was only in a small number of cases each year when these processes failed that a notified dispute was referred by the Industrial Disputes Officer or his Deputy, under the provisions of The Industrial Disputes Law, for binding settlement by an independent third party.

- 9.13 In summary consultees gave very little support for the option favoured by Professor Clark.
- 9.14 The Committee's view on this matter was shaped not only by the things that were said by the consultees but also by its own experience of collective bargaining since 2004. In this regard, the Committee believed that any decision to go for a Review Body model would lead to disquiet amongst employee groups who would react badly to losing their negotiating rights (with the consequential deterioration in industrial relations). Such a decision would also fly in the face of its own experience of collective bargaining since May 2004.
- 9.15 The Committee's view, generally reinforced by the comments from employee groups and the Industrial Disputes Officer was that industrial relations within the public sector were in good general order. Negotiated settlements were routinely being achieved without much fuss – a clear sign of a mature and realistic outlook by all parties.
- 9.16 Furthermore, and although rarely used, the backstop of the Island's Industrial Disputes Law (allowing third parties to make awards on the rare occasions when the negotiation process failed) meant that the existing mechanism already made provision for certain aspects of the Pay Review Body type system favoured by Professor Clark. The important difference here was that whereas Professor Clark's recommendation was for binding awards in every case, the current arrangements meant that this was simply a default position which applied only when collective bargaining failed.
- 9.17 The Committee was also mindful of the emphasis given by Professor Clark to the importance of independently collected, statistically reliable, local labour market data. His report had even gone so far as to say that without such data any Pay Review Body

*“would not be able to carry out its work in an informed and transparent fashion.”*

- 9.18 On this point the Committee not only believed that the collection of this data by a truly independent body was still some way away, it also had serious doubts whether any local data would ever be robust enough to deliver what was required. As some consultees had mentioned the island's entire labour market was both extremely small and heavily influenced by one dominating industry. In any event the Island's base labour market for many public sector groups is the

UK because that is not only where it recruits from but also provides the historic basis of the existing pay and conditions agreements.

- 9.19 In summary, based on the overwhelming views of the consultees and its own experience, the Committee could simply not now recommend the States to endorse the introduction of an independent Pay Review Body for determining public sector pay and conditions in Guernsey.
- 9.20 It follows, therefore, that the Committee's main recommendation to the States is to keep a collective bargaining system (underpinned by the Industrial Disputes Law) as the basis for future public sector pay and conditions determination.
- 9.21 The question that now arises from that recommendation is whether such a system should remain a centralised one or one where authority is passed to individual departments. This question is addressed in the next section of this report.

## **10. Centralised or Decentralised Collective Bargaining?**

- 10.1 Having concluded that some form of collective bargaining would remain the most appropriate means of determining public sector pay and conditions in the future, the Committee then had to consider whether:
- (a) a centralised system remained appropriate;
- or
- (b) responsibility should be delegated to individual departments.
- 10.2 In reaching its judgement on this issue the Committee was, once again, able to draw on the work undertaken by Professor Clark in 2001, the views expressed during its own period of consultation and its own experience.
- 10.3 With regard to the decentralised option, which was in all probability the option favoured by the three Trading Boards in 2001, a significant issue of principle as well as a number of practical difficulties have been clearly identified.
- 10.4 The issue of principle is quite simple and has been influential in all past examinations of the public sector pay mechanism going back well over 40 years. Notwithstanding the new departmental structure (or the Committee system before that) all public sector employees are really employed by just one employer, namely, the States of Guernsey. It follows, therefore, that the best way for that employer to apply a consistent and even-handed approach to all its staff with regard to pay and conditions is to give that authority to one body not more.
- 10.5 Of course a single body is still able to apply different treatment to different groups if circumstances justify such an approach. However those different



circumstances can only be judged as such if there is a single body to weigh one against the other. Giving pay and conditions authority to individual departments would not only prevent any meaningful consideration of circumstantial differences it would also raise the distinct possibility that different treatment would be applied when circumstances were the same.

- 10.6 Chief amongst the practical considerations was the position of employees in the two largest pay groups, namely Civil Servants and Public Service Employees (previously known as States Manual Workers).
- 10.7 In both cases the groups' memberships are drawn from several States departments where pay, grading arrangements and conditions of service are common. This fact alone meant that even if a decentralised system were to be introduced some central coordination for determining the pay and conditions of the two cross-departmental groups would need to be developed. Indeed, the more thought that was applied to a decentralised approach, the more issues seemed to arise. Would, for example, the Education Department really feel free to use its authority to deal with the pay and conditions of all its teaching staff when it remained part of some wider employer forum for determining rates for all its support staff – one set of negotiations and judgements would, almost inevitably influence others.
- 10.8 In addition to the above, the major employing departments (Health, Education, Public Services and Home) had no real desire to take on pay and conditions responsibilities themselves. They felt that:
  - they had no specialist staff to undertake such roles;
  - they lacked their own individual databases of information necessary to undertake the work properly;
  - they would always be “looking over their shoulders” to see what other departments were doing for their staff on pay before deciding what to do themselves;
  - there were certain industrial relations advantages associated with having some other States body holding ultimate responsibility for pay and conditions, ie any dissatisfaction on pay and conditions by their staff would be directed at the pay centre, not at their own line managers.
- 10.9 All in all there was no support from the major employing departments for any form of decentralised pay system.
- 10.10 **However, in rejecting the idea of decentralised bargaining, employing departments were not saying that everything was fine with the existing centralised system. Clearly if the centralised arrangements were to continue, and overwhelmingly this was their view, then improvements could and should be made to that system.**

- 10.11 **Given the fact that all departments had to provide vital public services, needed an appropriately sized and motivated workforce to deliver them and had to work within tight financial constraints, they clearly wanted greater involvement in any centralised system.**
- 10.12 During consultations the Committee heard a number of employing departments express concern over what had tended to happen in the past (although most did say that things had improved since the Machinery of Government changes had been introduced) and that the Committee should use this review as a vehicle to revamp consultation arrangements between employing departments and the centre.
- 10.13 In particular, it was suggested that:
- the actual constitution of the Committee should be examined to ensure a balanced view would be taken on any departmental representations.
  - there should be regular dialogue between the pay centre and employing departments (just as there now is between the Committee and the Treasury and Resources Department);
  - prior to any negotiations with employee groups any department (or departments) directly involved should be formally consulted on issues they would like those negotiations to address;
  - departments should be kept as involved as possible/practical in the negotiating process itself.
- 10.14 From the employees' perspective there was really very little engagement over whether collective bargaining should remain centralised or decentralised. The groups that met the Committee were simply concerned to ensure that collective bargaining in some form continued.
- 10.15 One or two groups did, however, comment on the idea and here the Committee heard from two national officers who had some experience of decentralised bargaining in the UK. In the Guernsey context, they found the whole concept of a decentralised system almost incomprehensible given the relatively small size of the Island's public sector workforce. Where decentralised systems had been applied in the UK public sector (eg the civil service) the breakdown had been into units, generally akin in size to the island's entire working population.
- 10.16 Having reviewed all the evidence and reflected carefully on the views of the consultees, the Committee came to the conclusion that any form of decentralised system for public sector pay and conditions matters in Guernsey was simply not appropriate.

10.17 Not only did all the disadvantages of such a system outweigh the very few possible advantages (as identified on page 9 of Professor Clark's report) there was simply no desire for such a system coming from the employing departments (although there probably had been from the former Trading Boards in 2001).

10.18 As regards the comments made by departments about consultation and greater involvement, the Committee was of the view that it could and should do more to improve the situation. To this end it intends to do all it can to overcome some of the problems of the past and create new and productive relationships for the future. Specifically the Committee is committed to:-

- discussing issues associated with its own constitution with the House Committee;
- meeting every department to agree specific future consultation arrangements with each;
- holding regular meetings with departments to discuss the pay and conditions of their staff;
- making sure that departments are fully aware of any claims formally submitted by trade unions or staff associations that relate to their staff;
- asking departments in advance of any annual negotiations whether they have any pay and conditions issues they would wish to have raised;

and, whenever practical,

- inviting departmental representatives to attend all negotiating meetings.

10.19 **However, the Committee is also mindful that there is always likely to be some tension between a centralised pay and conditions body (which will always take the widest perspective of things) and the particular interest of a department (which is likely to focus on narrower service delivery considerations). These different perspectives have in the past, and may well in the future, lead to rather different judgements on matters that arise, but under a centralised system it must be accepted by all that it is ultimately the judgement of the pay centre that must prevail.**

10.20 Although the major employing departments do accept that under any centralised system responsibility and accountability must rest with the central body that acceptance is linked to improved consultation in the future.

## **11. Conclusion**

11.1 The Committee has now spent a considerable time looking into what would be the most appropriate mechanism for determining the pay and conditions of States' employees in the future.

11.2 In undertaking this work one of the first things the Committee recognised was that the existing arrangements had operated, largely unchanged, for several decades. This meant that it had functioned

- at all stages of the economic cycle
- during extremely tight labour markets and at times of high unemployment
- when inflation had been high and low
- throughout numerous changes in the people most closely involved in the process.

11.3 In other words the existing mechanism had shown itself capable of functioning with many different people working in widely varying circumstances.

11.4 Of course the pressures that had built up in the late 1990s and which led to the Board of Industry appointing Professor Clark to look into the matter, were particularly acute. However, even at this time, when the mood for change would have been most pronounced, Professor Clark commented that:

*“There was no consensus amongst my interviewees about which of the three main options would be best for the future”.*

11.5 Five years on and things have changed again.

11.6 Firstly, pressures are very different – nearly all consultees made this point. Secondly, and more significantly, a clear consensus has now emerged over which option is best for the future.

11.7 The clear consensus view, which is fully supported by the Committee, is that;

- the pay and conditions of public sector workers in Guernsey should continue to be determined by a process of collective bargaining

and

- the employer’s authority in that process should remain in the hands of a single central body.

11.8 Whilst the above is, effectively, a re-endorsement of the current situation the Committee is also mindful of the views it received from the major employing departments about the need for more meaningful consultation between the pay centre and employing departments.

- 11.9 To this end the Committee has decided that the issue of its own constitution should now be looked at and formal consultation arrangements with departments on the pay and conditions issues affecting their staff should be introduced. Accordingly, and subject to the States accepting the recommendations of this report, the Committee will raise the constitution issue with the House Committee and also agree the most appropriate consultation arrangements with each employing department.

### **Recommendations**

The Public Sector Remuneration Committee recommends that:

1. The pay and conditions of public sector workers in Guernsey should continue to be determined by a process of collective bargaining.
2. The employer's authority in that process should remain with the Public Sector Remuneration Committee (i.e. there should be no change to the Committee's mandate).
3. The Committee should improve consultation with employing departments by adopting the measures set out in paragraph 10.18 above.

Yours faithfully

J P Le Tocq  
Chairman

**APPENDIX 1****STATES OF GUERNSEY EMPLOYEES – DEPARTMENTAL BREAKDOWN**

|   |             |
|---|-------------|
| <b>1. HEALTH AND SOCIAL SERVICES DEPARTMENT</b>             | <b>FTE*</b> |
| Nursing Staff   | 828         |
| Public Service Employees (formerly known as Manual Workers) | 358         |
| Other Health Professionals and Technical Support Staff      | 252         |
| Clerical/Administrative and Managerial Staff                | 227         |
| <b>2. EDUCATION DEPARTMENT</b>                              |             |
| Teaching and Lecturing Staff                                | 671         |
| Teaching Assistants and Support Staff in Schools            | 93          |
| Public Service Employees (formerly known as Manual Workers) | 70          |
| Clerical/Administrative and Managerial Staff                | 48          |
| Professional Central Service Support                        | 19          |
| <b>3. PUBLIC SERVICES DEPARTMENT</b>                        |             |
| Public Service Employees (formerly known as Manual Workers) | 340         |
| Clerical/Administrative and Managerial Staff                | 138         |
| Technical/Professional Staff                                | 77          |
| Airport Firefighters  | 40          |
| <b>4. HOME DEPARTMENT</b>                                   |             |
| Police Officers   | 177         |
| Prison Officers   | 78          |
| Customs Officers  | 72          |
| Firefighters  | 64          |
| Clerical/Administrative and Managerial Staff                | 57          |
| Probation Officers  | 10          |
| Other Staff   | 14          |
| <b>5. TREASURY AND RESOURCES DEPARTMENT</b>                 |             |
| Clerical/Administrative and Managerial Staff (note 1)       | 131         |
| Surveyors and Engineers                                     | 18          |
| Public Service Employees (formerly known as Manual Workers) | 6           |
| <b>6. COMMERCE AND EMPLOYMENT DEPARTMENT</b>                |             |
| Clerical/Administrative and Managerial Staff                | 84          |
| Public Service Employees (formerly known as Manual Workers) | 31          |
| Technical/Professional Staff                                | 22          |

|   |             |
|---|-------------|
| <b>7. CULTURE AND LEISURE DEPARTMENT</b>                    | <b>FTE*</b> |
| Clerical/Administrative and Managerial Staff (note 2)       | 56          |
| Public Service Employees (formerly known as Manual Workers) | 30          |
| Swim School, Recreation Assistants and Fitness Instructors  | 20          |
| Curatorial Staff  | 7           |
| <b>8. SOCIAL SECURITY DEPARTMENT</b>                        |             |
| Clerical/Administrative and Managerial Staff                | 110         |
| Other Staff   | 2           |
| <b>9. HOUSING DEPARTMENT</b>                                |             |
| Residential Homes Staff                                     | 55          |
| Clerical/Administrative and Managerial Staff                | 50          |
| <b>10. POLICY COUNCIL</b>                                   |             |
| Clerical/Administrative and Managerial Staff (note 3)       | 74          |
| Other Staff   | 1           |
| <b>11. ENVIRONMENT DEPARTMENT</b>                           |             |
| Clerical/Administrative and Managerial Staff                | 48          |
| Technical Staff   | 28          |
| <b>12. MISCELLANEOUS DEPARTMENTS AND COMMITTEES(note 4)</b> |             |
| Clerical/Administrative and Managerial Staff                | 50          |
| Lawyers   | 20          |
| Other Staff   | 4           |
| <b>Overall Total</b>  | <b>4480</b> |

\*Full Time Equivalent

#### Notes

- (1) Includes Income Tax
- (2) Includes all administrative functions at Beau Sejour
- (3) Includes 23 Junior Executives and IT Trainees working in various departments
- (4) Includes Bailiffs Office, HM Procureur's Office, Greffe, Office of HM Sheriff & HM Sergeant, Public Accounts Committee and Scrutiny Committee

**APPENDIX 2****ORGANISATIONS CONSULTED****A EMPLOYEE GROUPS**

|  |   |
|--|---|
| The Transport and General Workers Union                          | - the body with representational rights for Public Service Employees, (previously known as Manual Workers), Sewage Cart Drivers, Airport Firefighters, Beau Sejour Catering Staff, Prison Officers and Firefighters |
| The Association of Guernsey Civil Servants                       | - the body with representational rights for Civil Servants (Established Staff)  |
| The Nurses Negotiating Committee                                 | - the body made up of four separate associations with representational rights for nursing staff   |
| The Negotiating Committee for Teachers and Lecturers in Guernsey | - a body made up of six separate associations with representational rights for teachers and lecturers   |
| The Police Association   | - the body with representational rights for Police Officers up to the rank of Inspector   |

**B EMPLOYING DEPARTMENTS**

The Health and Social Services Department

The Education Department

The Public Services Department

The Home Department

**C OTHER**

The Industrial Disputes Officer

The Commerce and Employment Department

The States of Guernsey Chief Executive



1961  
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**APPENDIX 3**

**MECHANISMS FOR DETERMINING PUBLIC SECTOR PAY IN  
GUERNSEY**

**REPORT TO STATES OF GUERNSEY, BOARD OF INDUSTRY**

**by**

**Professor Jon Clark**

**April 2001**

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### Executive Summary

- This Report was commissioned by the President of the Board of Industry, Deputy John Roper, on 7 February 2001 with the following terms of reference: "to conduct an independent review of mechanisms for determining public sector pay in Guernsey and to make recommendations, including any implications for the current funding arrangements and legislative framework". The author conducted a programme of interviews in late February/early March, which included 27 separate meetings with 57 different people.
- In the first two chapters the author discusses the history and operation of the current mechanism for determining public sector pay in Guernsey, and examines some of the main changes since 1979. Two key dates are identified. In 1963, the States resolved to set up the Civil Service Board (CSB) to negotiate on its behalf the pay and conditions of most groups of public sector employees. Then, in 1979, the States rejected a central recommendation of its own Select Committee, namely to amend the mandate of the CSB to allow the three trading boards (Electricity, Post and Telecommunications) and the Board of Health and Education Council to negotiate directly with key groups of their own staff.
- The author argues that the 1963 and 1979 debates are still highly relevant, as the two mechanisms of public sector pay determination under debate – centralised bargaining (via the Civil Service Board) and de-centralised bargaining (at "employing committee" level) – are two of the three principal options facing Guernsey today. The third option is a pay review body, a mechanism currently operating for senior civil servants, doctors and dentists, the armed forces, nurses, teachers and prison officers in various parts of the UK.
- In chapter 3 the author gives his view of the main strengths and weaknesses of these three principal options for public sector pay determination. In chapter 4 he outlines the main considerations he took into account in adjudging which of the three mechanisms is likely to be the most appropriate in the Guernsey of 2001. In his view the preferred mechanism should meet the following requirements: (i) permit an overall strategic view to be taken of pay and conditions in the public sector (ii) be responsive and flexible in order to meet the different recruitment, retention and reward needs of the wide range of public services and occupational groups in the Guernsey of today and (iii) offer the best chance of gaining the widest support of the parties – the States, employing committees, chief officers/heads of department, personnel professionals, and employees and their representative bodies.
- The author concludes that neither the current model, nor a model of de-centralised bargaining, meets these requirements as well as an Independent Pay Review Body (IPRB), tailored to the specific needs of Guernsey. In Chapters 4 and 5, a detailed framework is suggested for a Guernsey IPRB, which would differ in significant respects from its UK counterparts, eg in the process of appointing members, terms of reference, coverage, open procedure, legally binding recommendations. It would incorporate elements of collective bargaining, a court of inquiry, and an Industrial Disputes Tribunal. It would marry the need to take a strategic overall view of public sector pay levels and their affordability, with responsiveness to the needs of specialist departments and services. It would be a non-political, non-adversarial, independent, investigative, evidence-based and transparent framework. In the author's view, it would be likely to command the widest (if not unanimous) support of the parties, compared with the other options. He recommends an IPRB as the best way forward for public sector pay determination in Guernsey.

## PREFACE

### *Terms of Reference*

By letter of 7 February 2001 I was appointed by the President of the Board of Industry, Deputy John Roper, to conduct a review of public sector pay determination in Guernsey. My terms of reference were:

**To conduct an independent review of mechanisms for determining public sector pay in Guernsey and to make recommendations, including any implications for the current funding arrangements and legislative framework.**

As will become apparent at various points in the main body of the report, I have had to tread a difficult path in deciding which issues raised by various parties were relevant to my terms of reference, and which fell outside. Inevitably there was a number of grey areas. At various points I have had to make a judgement as to what to include and what not to include. It is perhaps appropriate in this Preface to identify some of the main issues which I have adjudged to be broadly outside my terms of reference (see also paragraphs 2.1 and 2.2 below). These include:

- the merits of an independent review of "base" pay and salary levels across the whole of the public sector in Guernsey
- the appropriate external (ie non-Guernsey) comparators for public sector pay
- which independent trade unions or staff associations should be recognised for bargaining purposes
- the merits and operation of the Industrial Disputes Law (which also covers the private sector)
- the merits of the States' numbers limitation policy.

Although I make reference to some of these matters when they appear to me to impinge directly or indirectly on the question of pay mechanisms, I have refrained from analysing them in detail or from making any substantive recommendations about them.

### *Protocol*

My contract with the Board of Industry also included a protocol which governed the conduct of the review:

"The full report and any recommendations will be confidential and submitted to the President, Board of Industry. All parties who have contributed to, or participated in, the review will receive an executive summary of the Report prepared by Professor Clark, and will be assured that they will not be identified in the report or executive summary unless they expressly give their permission to be so identified.

The Board of Industry will determine the employer and employee groups and any other interested parties who will be invited to contribute to the review. The Board's staff will be responsible for setting up the timetable for meetings between the relevant parties and Professor Clark and liaising with him accordingly. Liaison with the Board should be through Mr Michael Mahy, Senior Industrial Relations Advisory Officer."

*Conduct of the review*

I conducted a programme of interviews in Guernsey on 6 days in late February/early March, during which time I held 27 meetings with 57 different people. A full list of the meetings and individuals who participated in this programme is contained in Appendix 1. (\*)

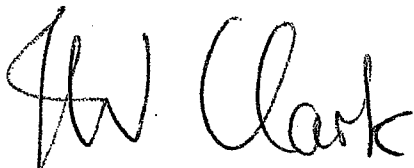
A number of individuals kindly presented me with documents or papers which I have used in compiling this report – the main public documents (and other printed sources) are listed in Appendix 6.

*Acknowledgements*

I would like to thank all those individuals who took part in the meetings from 22 February to 2 March for their willingness to participate in the review and for their candid and thought-provoking contributions. I would particularly like to thank Mike Mahy and Helen Reynolds from the Board of Industry for facilitating the whole process with exemplary professionalism and good humour.

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Professor Jon Clark  
Southampton

30 April 2001

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(\*) I also consulted with Mr N Lewis, Chief Executive, Mr S Le Maitre, Deputy Chief Executive, and Mr M Mahy, Senior Industrial Relations Advisory Officer, all Board of Industry.

## Chapter 1 History of the Current Mechanism

### *The Mechanism prior to 1963*

1.1 On 27 March 1963 the States of Deliberation accepted all the recommendations of the Report of the Board of Administration entitled *Setting-Up of States Civil Service Board* (henceforth the *1963 Report or Report*). The *Report* is arguably the crucial reference document in the history of public sector pay determination in Guernsey. An analysis of its arguments and recommendations is central to the identification of the key areas of continuity and change leading up to this review.

1.2 The *Report* began with a discussion of the origins of the Board of Administration in 1921, noting that, since 1922, it had "acted for the States on all matters affecting the salaried and waged staff which forms the Civil Service". It went on to reproduce the arguments presented to the States in 1955 and 1961 which ended the practice whereby recommendations concerning rates of pay and "cost of living" increases for certain groups of staff had to be submitted directly to the States for approval. Among the arguments cited were the following from 1955: "...it is in our opinion virtually impossible to place before the States sufficient information regarding details of the work performed by each individual officer or grade to enable the States to form an accurate opinion of the rate of pay appropriate to the post or grade. In addition, we feel sure that it will be appreciated that it is most embarrassing for senior members of staff to have their individual salaries discussed in public at a meeting of the States and possibly reported in the newspapers" (quoted in *Billet D'État VI 1963, p. 139*).

### *The Main Recommendations of the 1963 Report*

1.3 The central recommendation of the *1963 Report* was "that, in future, responsibility for all matters relating to the remuneration and conditions of service of all salaried and waged employees of the States [should], with some exceptions, be transferred to a new Committee of the States" to be called the States Civil Service Board (*Billet D'État VI 1963, p. 138*). Given its importance to the development of public sector negotiations from 1963 to the present, I would like to cite a key passage from the *1963 Report* in the section entitled "Need for Central Control" (p. 142):

"The Board of Administration is of the opinion, and it believes that view is generally accepted, that in a Service such as the Guernsey Civil Service, the States should not permit the application of different standards to the salaried and waged staff of different departments if it wants to avoid discontent and a sense of grievance, thus undermining the morale of staff. Moreover, decisions affecting employment taken in one department cannot be isolated from other departments in the same service and any departmental concessions are likely to result in demands for parallel adjustments elsewhere. Individual decisions taken by one Committee which may seem reasonable and even economical may involve the whole service in costly and unnecessary outlay in other departments which have to comply once a concession has been granted. Numerous matters involving pay and conditions of service raise questions of general principle and it is obvious that they should not be decided by one Department working in isolation; there must be a total assessment so as to try to arrive at one general solution uniformly applicable".

1.4 Three key features of the argument contained in this passage are worth highlighting:

- it used the term "Guernsey Civil Service" to subsume most salaried and waged staff in different public sector departments (there were some exceptions, eg teachers and nurses)
- it accepted that individual departments, left to their own devices, might take decisions on pay and conditions which could be both reasonable and economical for that department
- it argued, though, that decisions made separately in one Department might lead to "costly and unnecessary" adjustments in other departments "which have to comply once a concession has been granted".

1.5 In coming to my recommendations I have had to consider to what extent these arguments are still applicable nearly 40 years later. I do so in Chapters 3 and 4. I would also note the comment in the paragraph immediately following the one cited above: "the need for central control is not accepted whole-heartedly by all States members nor by all chief officers".

*The Establishment and Work of the de Putron Select Committee (1976-79)*

1.6 Initially, much of the CSB's work was concerned with the application of UK pay scales and rates to analogue groups in Guernsey and dealing with matters arising from their application. However, with the introduction of a linked pay and prices policy in the UK in the mid-1970s, the CSB took on a more direct role in the negotiation of pay. At the same time, according to the *de Putron Report* (see 1.8-1.12 below), there was a trend to give the CSB more detailed matters for separate negotiation. 74 claims were dealt with in 1976, for example.

1.7 These and other developments (in particular, concerns expressed by States members about the CSB being too generous in pay negotiations) formed the background to the appointment of a "Select Committee" by the States in October 1976, with the following terms of reference:

"To review the negotiating procedures followed by the Civil Service Board in relation to general agreements on salaries and wages in the light of recent settlements, and also the way in which settlements arising from such agreements are implemented, and to report to the States, after consultation with the interested parties, with such recommendations as are considered necessary to ensure that the arrangements are those best suited to present-day conditions".

1.8 The Select Committee held discussions with representatives of the major "employing committees"(\*), trade unions and staff associations, Advisory and Finance Committee (A & F), and the CSB. It also commissioned a survey of employing committees, and visited Jersey to examine their approach to negotiations. The Report of the Select Committee to Review the Procedures of the Civil Service Board, under the presidency of Deputy J W de Putron (the 1979 or *de Putron Report*) was dated 31 May 1979, and included sections on "present negotiating procedures", "strengths and weaknesses" and "ideal negotiating structure".

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(\*) This term already appears in the *1963 Report*. In my view it is a potential source of confusion, touching on one of the major unresolved conflicts within the current pay mechanism, ie between the roles and functions of the Civil Service Board acting on behalf of the States as negotiator of pay and conditions for all public sector employees, and of the specialist States' Boards/Councils/Departments which are responsible for providing particular public services. However, the term has such a widespread currency and acceptance that I have continued to use it as a shorthand.

*The 1979 Report of the de Putron Committee and the Resolutions of the States*

1.9 The *Report* made 10 basic recommendations. These were the subject of written comments submitted to the States by Advisory and Finance Committee and the Civil Service Board. At its meeting on 25 July 1979 the States resolved to accept half of the recommendations of the 1979 Report, including

- requirements and encouragement for the CSB to consult and, where practicable, involve "employing committees" before and during negotiations
- the appointment of at least "two skilled negotiators" (in addition to the "Establishment Officer") to deal with the increased work of the CSB.

1.10 However, it rejected the other five. In so doing it broadly accepted the arguments and views submitted to the States by A & F and the CSB. Among the key recommendations rejected were:

- to amend the mandate of the CSB to allow the three trading boards (Electricity, Telecommunications and Post Office) to negotiate the remuneration and conditions of service for their technical and manual staff "in close consultation with, and with due regard to the policy laid down by, the CSB"
- to extend the mandate of the Board of Health and the Education Council to cover negotiation and settlement of nurses' and teachers' salaries respectively.

The rejected recommendations of the *1979 Report*, and the responses submitted by A & F and the CSB at the time, have continuing relevance to the debate in 2001. Indeed the 1979 debate was between two of the pay determination mechanisms - centralised bargaining and "de-centralised" bargaining at employing committee level - which I will argue in Chapter 3 are two of the three principal options for the future. I will therefore outline the main arguments for and against these two mechanisms as presented in the debates surrounding the *1979 Report*.

1.11 The de Putron Committee's proposal for separate "de-centralised" negotiations by five employing committees (the three trading boards, Health and Education) was based on the following main arguments:

- ◆ under the current centralised system, managers were discouraged from accepting full management responsibility for their staff
- ◆ there was little or no consultation with employing committees prior to negotiations
- ◆ when disputes arose there was inevitable delay due to overload of the CSB
- ◆ the very fact that CSB conducted negotiations for all public sector groups increased the tendency for settlements in one area to create a precedent in another
- ◆ the existence of the CSB militated against expertise and experience in personnel matters being developed by staff at employing committee level.

1.12 The CSB opposed the recommendations for de-centralised negotiations, arguing that:

- ◆ separate negotiations by the three trading boards could be expected to create a situation of "claims for parity" throughout the public sector



- ◆ the trading boards would only take into account a "narrow range of factors" in their negotiations, whereas the CSB considered the effect of settlements on the States and community as a whole
- ◆ the Board of Health and the Education Council had made it clear to the CSB that they wished negotiations with nurses and teachers to be undertaken by the CSB
- ◆ de-centralisation would lead to a fragmentation and duplication of expertise, resourcing and data collection
- ◆ the proposals that the trading boards should carry out negotiations "in close consultation with and with due regard to the policy laid down by" the CSB, and that the CSB should have the right to have an adviser present at all negotiations on pay and conditions, would be a source of conflict as well as being impracticable.

### *Changes since the late 1970s*

1.13 Having reviewed the arguments for and against centralised negotiations which took place in 1979, I would like to identify a number of developments in Guernsey and the UK since the late 1970s which have changed the environment in which public sector pay determination takes place. Some of these are structural, others are more matters of public policy. This will provide the background to the discussion in the next two chapters of the main features of centralised pay determination in Guernsey today, and what I believe to be its two principal alternatives.

1.14 The first major development I wish to highlight is in fact the acceleration of a trend which was already apparent in 1979. The senior people responsible for overseeing and delivering public services in 2001 are no longer administrators of public authorities, but managers of public services, indeed in some cases directors and/or chief executives of multi-million pound businesses. If they are to be judged on the overall quality and value for money of their department or service, they wish to have a stronger influence on (some would argue, control over) the recruitment, development and reward of their staff, and what in many cases amounts to a majority of their costs, namely wages and salaries. They may also have a direct interest in using negotiations on pay and conditions to achieve wider (short-, medium- or even long-term) service or departmental objectives, eg in relation to working practices, operational requirements, etc.

1.15 Second, the economy and labour market in Guernsey has changed significantly in the last two decades. Most obviously, there has been the growth in the "finance" sector, which in 1999 accounted for 22% of the economically active population (compared with around 12.5% in 1986), and generated one third of the total remuneration and around half the profits (2000 *Economic and Statistics Review*, p. 25). As for economic growth, this was close to that of the UK for most of the 1990s, but in the 1980s - and since around mid-1999 - Guernsey has outperformed the UK. I make no judgement here (in the absence of comprehensive time series data and/or survey findings) about the impact of economic growth in general, or the growth of the finance sector in particular, on public sector pay and labour markets. However, when taken together with what some of my interviewees described as the growing differentiation of other specialised Guernsey labour markets – such as accountancy & law, IT and computing, hotels and tourism – there is no doubt that questions of public sector recruitment, retention and payment levels are at the very least more complex than 20 years ago. In addition, it seems to me likely that the forthcoming commercialisation of Posts, Telecoms, and Electricity will create a further differentiation in the Guernsey labour market. Finally, I note that, in recent

years, registered unemployment has been extremely low (since February 1998, under 0.5% of the employed population). This has created a further potential pressure on pay, recruitment and retention (again in the absence of comprehensive data I am unable to quantify the impact with any certainty, or say whether it has been uniform or more specialised).

1.16 Next, public sector pay determination in the UK has been modernised in a number of important ways in recent years to meet the changing demands of service provision. In a presentation in February 2001 at a national conference in London, Alistair Hatchett, Report Editor of the respected UK pay research organisation Incomes Data Services, identified a number of consistent trends, including:

- new simplified grading structures
- pay linked more closely to job weight
- single-status agreements putting manual and white-collar staff onto a single pay spine (abolishing distinction between manual and white collar staff)
- pay to reflect output, results and/or performance
- competency-based progression
- initiatives to remove gender bias
- greater flexibility for local managers.

This is not to imply that all these trends are uncontested, or even appropriate, in all circumstances and for all occupational groups. However, they do give an indication of the kind of positive initiatives which have been, and are being, taken to change public sector pay determination in the UK in order to align it more closely with the policy and operational requirements of the public services of today. To give one example, the introduction of single status employment (putting manual and white-collar staff onto a single pay spine) and initiatives to remove gender bias in pay systems have often been closely linked.

1.17 Finally, in those parts of the Guernsey public sector in which pay determination continues to have a strong UK reference point – nursing, teaching, police, fire, prisons – national pay frameworks have encouraged, at various times, moves to greater local pay and market flexibility, whether in setting basic pay and allowances or in rewarding and motivating staff. It should perhaps be noted that these moves have been generally pragmatic and partial, and more successful in some areas than others. The UK government has also recently made proposals on low cost housing and low cost loans in order to recruit and retain key public sector workers in London and parts of the South East of England.

## Chapter 2 Main Features of Current Operation

2.1. I will begin by outlining the key elements of the legislative framework for the determination of public sector remuneration, conditions of service and pensions in Guernsey. Any changes I recommend will of necessity have implications for this framework. According to the Constitution and Mandate of the Civil Service Board as contained in the States of Guernsey "Red Book" as of 1 February 2001 (reproduced in Appendix 2 of this Report), the CSB is responsible to the States for:

- all matters relating to the remuneration and conditions of service of all salaried and waged staff employed by the States, its duties as set out in *Billet d'État VI 1963* (these duties are also reproduced in Appendix 2 of this Report)
- making recommendations to the States concerning the pensions of employees in the service of the States, and for the administration of the scheme constituted by the Pension Rules (there is also a separate Teachers' Pension Scheme)
- investigating the salaries attaching to the posts of Lieutenant Governor, Bailiff, Deputy Bailiff, Law Officers of the Crown and Magistrate, and to submit to Advisory & Finance Committee for sanction any adjustments which in its opinion are necessary
- determining the remuneration and conditions of service applicable to HM Greffier, HM Sheriff and HM Sergeant after consultation with HM Procureur
- preparing and administering schemes to enable members of staff to undertake further training.

In preparing this review, I have decided to concentrate my attention on the mechanism used to carry out the first of these responsibilities. This mechanism, which covers the vast majority of public sector employees in Guernsey (see Appendix 3), involves a process of annual negotiation between the Civil Service Board and recognised staff associations and/or trade unions. It is underpinned by legislation dating back to 1947 - currently *The Industrial Disputes and Conditions of Employment (Guernsey) Law 1993* - which channels disputes into third party advice, assistance and conciliation, and ultimately to arbitration or the tri-partite Industrial Disputes Tribunal (IDT).

2.2. I would like to comment further on two matters mentioned above which I have decided to exclude from my review. First, I recognise that the current arrangements for pensions, which are an integral part of an employee's total remuneration package, have been established within the context of a centralised system of pay determination. Given their complexity and distinctiveness, however, I do not feel able to make any specific recommendations. However, I believe that if it is decided to move away from the current system of pay determination, it may be necessary to look at the existing mechanisms in respect of pensions. Second, I understand (although I stand to be corrected) that the current separate arrangements for determining the salaries/remuneration attached to posts such as Lieutenant Governor and HM Greffier (see paragraph 2.1 above - bullet points 3 and 4 - for a full list) work smoothly and are uncontentious. I have therefore not made any recommendation for change on these matters.

2.3 The main features of the current centralised mechanism for determining public sector pay, as I perceive them on the basis of my interviews and documents presented to me, are:

- the CSB is composed of a President (a sitting member of the States, but not President of any other standing Committee of the States), three further States members and one further member who may not be a sitting member of the States
- the CSB is advised in its policy making deliberations on remuneration and conditions of service by experienced full-time industrial relations specialists, who conduct much of the negotiations with the relevant staff associations and trade unions on behalf of the CSB
- the major employing committees are consulted by the Civil Service Board, but there was a substantial divergence of view amongst those I interviewed about the extent, timing and impact of such consultation over recent years (the majority of representatives of employing committees described it as marginal in its effect)
- the general view of my interviewees was that it is ultimately the CSB, taking into account the advice of its industrial relations specialists, which decides on employer policy in the annual negotiating round, not the employing committees or chief officers
- much of the focus of CSB policy-making tends to be around the "annual pay policy", ie the appropriate level of increase in basic pay in the annual pay round
- the most important reference point of the "annual pay policy" appears to be the Guernsey Retail Price Index (the influence of labour market factors such as recruitment and retention was a matter of contention among my interviewees - the majority argued these had only begun to play a significant role very recently, and the outcome was still uncertain)
- as I understand it there are no independently collected, statistically reliable, comprehensive labour market data, eg on pay and earnings levels/developments in the private sector, recruitment and retention, which are available to all the parties to help inform the bargaining process (for further discussion see 4.6 below)
- over the years the CSB pay policy has tended to be guided by the general principles of consistency, even-handedness, and the need to ensure that the interests of the community as a whole are put above the interests of a Department or employing committee
- according to the majority of my interviewees, there tends to be little or no "negotiation" with employee representative bodies on the level of the basic pay increase, which is decided in advance by the CSB
- with some notable exceptions, there is a major inequality in bargaining resources (funding, knowledge, expertise, experience, training) between the professional CSB negotiators and trade union or staff association representatives
- according to the CSB, 15 public sector disputes - of which five have been in the last two years, 1999 and 2000 - have been referred to third party adjudication over the past 11 years (1990-2000); six of these relate to annual pay reviews
- negotiations on basic pay are generally treated separately from wider negotiations on other matters (again there were divergent views among my interviewees on the impact of such wider negotiations, but most felt that, over recent years, it had generally been limited).

### Chapter 3 Future Mechanisms: The Principal Options

3.1 I believe there are five possible "mechanisms" or "models" of public sector pay determination which could be adopted in Guernsey. These are:

- Government (States) determination
- formula-based pay
- centralised bargaining
- de-centralised bargaining
- arm's length mechanism (pay review body)

3.2 Some of the main shortcomings of the first mechanism, which used to operate in Guernsey from 1922, was gradually modified in the 1950s and 1960s and finally superseded in 1963, have already been mentioned in Chapter 1. The second mechanism would tie annual uplifts in pay to average settlements of specified private sector groups. Such a formula applies currently to UK police officers and fire-fighters, whose basic annual pay uplift is tied to the median increase of total pay settlements of UK non-manual employees or the upper quartile of UK male manual workers' earnings respectively. The application of such a formula-based approach in Guernsey would be superficially attractive, as it would remove the need for annual basic pay negotiations. However, the operation of the mechanism in the UK relates police and fire officers' pay to a much more diversified labour market than that operating in Guernsey, in which the "finance" sector accounts for 22% of employment and around 33% of total remuneration (see paragraph 1.15 above). A formula-based approach would also involve a separation of basic pay from negotiations on other matters. In addition, its selection as a mechanism for determining public sector pay in Guernsey would open up, in my view, substantial conflicts about the appropriate private sector comparator, and whether it should relate to basic pay, earnings (ie including overtime), or the remuneration package as a whole. In short, I believe that there are major arguments against both the Government (States) determination and formula-based pay models. In addition, during my 6 days of meetings in February/March 2001, not one person mentioned even the possibility, let alone the desirability, of introducing either of these models. On all these grounds I have decided to reject them. They will play no further part in my review.

3.3 This leaves the other three models. I believe each of these options to be worthy of serious consideration. In the rest of this chapter I will summarise what in my judgement are the main strengths and weaknesses of each of them. In each case I will confine myself to identifying what I believe to be the three main strengths and weaknesses in order to focus attention on the core of the differences between them. However, in Chapters 1 and 2 I have provided a more detailed examination of the history and operation of the current centralised bargaining model. In Chapter 1, too, I have presented the key arguments for and against de-centralised bargaining to employing committee level which were advanced at the time of the last review in 1979. Finally, in Chapters 4 and 5 and in Appendix 3, I provide some background data on UK Pay Review Bodies and more details on a suggested Guernsey model.

#### *Centralised Bargaining: Civil Service Board as Negotiator on behalf of the States*

3.4 This is the mechanism which has operated in Guernsey since 1963. Its main strengths are:

- the adoption of an "island-wide" perspective on public sector pay and conditions
- the promotion of an even-handed and consistent approach across all public sector groups
- the avoidance of the duplication of effort and resources.

Its main weaknesses are:

- the power to determine the disposition of a large part of the budget of specialist departments and services while generally subordinating their interests to that of the public sector as a whole and with no responsibility for the effects of its decisions on them
- a predominantly short-term and restricted focus on basic pay, which has tended to promote an adversarial, win-lose (zero-sum) climate of collective bargaining with little emphasis on innovative packages of negotiated change (positive-sum)
- a structural inequality of bargaining resources, with full-time professional negotiating specialists facing what are, with notable exceptions, small, under-resourced, and in some cases self-confessedly amateur, employee groups.

3.5 It is possible to conceive of a number of ways in which this model could be reformed. Among the suggestions I received during my interviews were: the establishment of a greater commonality of review dates for the different employee groups, thus making equality of treatment more demonstrable (currently the headline rate of basic pay increases varies between groups, given the different annual level of the RPI on different review dates); the introduction of an independent chair to create a less adversarial and more objective climate of bargaining; devolution of all non-pay bargaining and other personnel matters to employing committees; public funding for training of employee representatives; strengthening the employee resource base by increasing recognition of UK independent trade unions; the involvement of senior members of employing committees as equal partners to the CSB on the employer side of the pay bargaining process (or even as members of the Civil Service Board itself). The latter proposal might redress some of the main weaknesses of the current model. At the same time it could undermine a number of its current strengths. Ultimately I am not convinced it would be able to reconcile satisfactorily the different priorities and demands of centralised strategic co-ordination and control on the one hand, and de-centralised responsibility for, and responsiveness to, specialist Departmental or service needs on the other.

*De-centralised Bargaining: Employing Committee as Negotiator on behalf of the States*

3.6 Some of the arguments for and against this model were rehearsed by the States in 1979 (see paragraphs 1.9 to 1.12 above). I would see its main strengths as:

- power and authority is delegated to those charged with the delivery and management of the service
- pay determination can be integrated into a wider personnel and operational strategy appropriate to the particular service or department
- employee representatives are able to negotiate directly with those who best understand, and are responsible for, the service.

Its main weaknesses are:

- a fragmentation of public sector pay and conditions, which may well exacerbate current problems as departments compete with each other to recruit, retain and reward staff
- while negotiations would be likely to take place initially within cash limited budgets, individual departments and services would be structurally and politically pre-disposed to negotiate deals in excess of cash limited budgets which could result in public campaigns to persuade the States to provide the extra money to fund the increase
- there would still need to be a central system for determining the pay of the two cross-Departmental public sector groups, thus creating a dual system of pay bargaining.

### *Arms-length Mechanism: A Pay Review Body*

3.7 I have called a pay review body an "arms-length mechanism", a term borrowed from Geoff White's recently published article on the UK system (see bibliography in Appendix 6). In fact, pay review bodies incorporate elements of three different mechanisms:

- ◆ *collective bargaining* (the process of taking written and oral evidence from employers and trade unions/staff associations, which often assumes the form of claim and counter claim, is described by White as "mirroring the collective bargaining process", p. 89)
- ◆ *a court of inquiry* (an independent fact-finding committee to investigate and make recommendations on disputed employment issues of public importance)
- ◆ *3<sup>rd</sup> party adjudication* (it is composed of a chair and members chosen for their perceived independence and integrity, and makes awards based on its terms of reference and an assessment of the evidence and arguments presented to it).

3.8 The majority of my interviewees were not directly familiar with the work of UK Pay Review Bodies (PRBs). On the other hand, PRBs have operated for UK nurses (since 1983) and teachers (since 1991), and so a number of my interviewees had knowledge of their operation in specific sectors (\*). The majority of these were broadly positive, a minority was more critical (for example, of what was held to be their perceived lack of independence of government, the perceived quality of their members, and the possibility that recommendations would be ignored or phased, as well as their "impracticality" in a Guernsey context). In order to assist in the evaluation of this mechanism, I have provided a fuller Appendix on the UK PRBs (Appendix 4). In chapter 5 I have also outlined in some detail a suggested framework for a Guernsey body which differs in a number of important respects from the UK PRBs. However, my aim here is to try and identify the main strengths and weaknesses of the mechanism:

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(\*) The PRBs for nurses and teachers in the UK (unlike those for earlier groups which had no tradition of collective bargaining) were set up in the wake of perceived "crises" in collective bargaining. For example, the Burnham system of collective bargaining for teachers achieved a negotiated settlement in only four years between 1972 and 1983 (according to White, p. 84). Having effectively abolished Burnham, and with it collective bargaining, in 1987, the teachers' body was imposed on the parties in 1991 by the then Conservative Government. In contrast, the Nurses PRB, and the recently established Prison Officers PRB, were set up, as I understand it, by agreement of the parties.

3.10 In my view the three main strengths of Pay Review Bodies, as currently operating in the UK, are:

- pay is determined by a non-adversarial process of independent judgement based on evidence and argument presented by the parties themselves (as well as independently collected data)
- review bodies are required to take into account a wide range of criteria, including labour market data, government inflation targets and cash limits, and service standards and targets
- it is a relatively transparent process in which all the relevant parties (employers, employee representative bodies, government) submit and exchange written evidence, and decisions and/or recommendations are published.

The main weaknesses are:

- the major role in determining pay is played not by the Government, employing bodies or employee representatives, but by a third party which has no responsibility for the impact of its decisions
- it is not as flexible or responsive to short-term problems or the negotiation of integrated remuneration or human resource packages as a de-centralised bargaining model
- it is the most radical of the options [there is no tradition of pay review bodies in Guernsey, and the model I am proposing is tailored to the Guernsey context and as such does not currently exist anywhere].

*Models and Mechanisms: Seeing the Wood rather than the Trees*

3.11 In concluding this chapter, I wish to make a general cautionary comment about the status of "models" and "mechanisms". Constructing models focuses our attention on their key characteristics and thus helps us evaluate their main strengths and weaknesses. This in turn can help policy-makers and citizens to make choices about which systems are most appropriate to their needs, without getting unnecessarily bogged down in the *minutiae* of day-to-day details. Models and mechanisms are, of necessity, abstractions. Empirical reality is always more complex and fuzzy. In practice, even the most centralised mechanism of pay determination is likely to show some degree of "local" flexibility, and the most de-centralised mechanism some degree of co-ordination with other de-centralised groups. It follows from this that identifying a structural weakness in a particular "mechanism" (as I have done above for the three "principal options") does not imply that, in practice, those who operate the mechanism can never do anything to mitigate this weakness. For example, a centralised public sector bargaining mechanism can be used from time to time to introduce specific tailored pay measures, for example to meet recruitment and retention problems in specific services. On the other hand, a de-centralised public sector bargaining mechanism is not always in practice "narrow" and unresponsive to the wider needs of the community it serves. Finally, a Pay Review Body can be flexible and responsive to short-term problems as well as modifying its decisions in order to show some responsibility for their likely impact. Without discussing models and mechanisms, though, there is danger that we won't be able to see the wood for the trees.



## Chapter 4 Recommendations

4.1 My terms of reference require me to make recommendations, including any implications for the current funding arrangements and legislative framework. My task has not been easy. There was no consensus among my interviewees about which of the three main options would be best for the future. Each option has strengths and weaknesses. My main recommendation is the result of a judgement about what I consider - based on my knowledge and experience of public sector pay systems, and the balance of evidence and argument presented to me – to be the most appropriate mechanism for Guernsey at this time.

### *Main Considerations*

4.2 In deciding on which mechanism to recommend, my judgement has been guided by three main considerations. The mechanism chosen should:

- (i) permit an overall strategic view – including the requirements of affordability and wider public policy - to be taken of pay and conditions in the public sector (the principle of central coordination)
- (ii) be responsive and flexible in order to meet the different recruitment, retention and reward needs of a modern and complex range of public services and occupational groups in the Guernsey of today (the principle of "local" responsiveness and flexibility)
- (iii) offer the best chance of gaining the widest support of the parties - the States, employing committees, chief officers and heads of department, personnel professionals and, last but not least, employees and their representative bodies (the principle of widest possible consent).

### *Centralised Bargaining*

4.3 In my view the current mechanism of centralised control through the CSB has a structural predisposition to emphasise universally applicable solutions (uniformity) rather than the special needs of particular groups or Departments (diversity). Indeed, the very name Civil Service Board implies an occupational and service coherence around the idea of a uniform "civil service" which I believe only exists now for a much smaller cross-departmental and cross-service group of manual workers and civil servants in the narrower sense (see paragraph 4.8 below). While I am not unsympathetic to the view that many current criticisms of the centralised pay mechanism have been influenced by the monetary outcome of recent pay settlements, I do not conclude from this that such criticisms have nothing to do with the mechanism, nor that if there was a higher level of pay settlements (or willingness to respond to specific recruitment and retention problems) criticisms of the mechanism would somehow be invalid, let alone go away. It is my judgement, too, that it is now very difficult in practice to divorce the current mechanism of centralised bargaining from a whole range of policies and practices which have operated over recent years. Rightly or wrongly, the current pay mechanism is now strongly associated in the minds of most of the employing committees, chief officers/departmental heads, and employee representative bodies I met with:

- a lack of engagement in the give and take of genuine negotiations (I should stress this by no means involves a requirement to "give in" to substantial pay demands)
- a predominantly narrow and short-term focus on basic pay
- a lack of flexibility and innovation in pay and other personnel matters
- a lack of consideration of the distinctive operational needs of specialised services
- a generally adversarial, win-lose, climate of collective bargaining.

Overall, I found a widespread loss of trust in the current system of centralised negotiations. For all these reasons, and also taking into account the three main considerations outlined in the previous paragraph, I have come to the clear conclusion that the current mechanism is not the most appropriate or effective vehicle for determining public sector pay in Guernsey in the future. In my view there is a need for a change.

### *De-Centralised Bargaining*

4.4. The model of de-centralised collective bargaining at "employing committee" level emphasises very much the opposite characteristics to the "central bargaining" model, namely diversity and responsiveness, but also lack of central coordination (fragmentation) and competition. It is these last two characteristics of the model which, despite its undoubted strengths, give me significant concerns about its appropriateness for Guernsey at this time. I do not believe currently that, with some notable exceptions, employing committees or employee representative bodies have the experience, resources, or in some cases the will, to engage in de-centralised collective bargaining. In addition, I believe that, in some parts of the public sector, the pent-up pay pressure of recent years might well be transferred to employing committees and chief executives/heads of department if they were to engage in direct bargaining with their employees. This would have one of two effects. It would either create major tensions between management and workforce which would be carried into the day-to-day operation of the service if the employer did not make significant concessions to current claims, or it would lead to the kind of risks identified in the previous chapter, ie that individual departments or services would negotiate agreements in excess of cash limited budgets and then engage in a series of competing campaigns to persuade the States or the community at large to provide the extra money to fund the increase. For all these reasons, and taking into account the considerations outlined in 4.2 above, I am not able to recommend de-centralised bargaining at employing committee level as the preferred mechanism for Guernsey.

### *An Independent Pay Review Body (IPRB) for Guernsey*

4.5 In my view an Independent Pay Review Body (\*), designed specifically to meet the needs of Guernsey, could marry the need to take a strategic overall view of public sector pay and conditions and their affordability/priority (the principle of central coordination), with responsiveness to the specific needs of particular specialist departments and services (the principle of responsiveness and flexibility). It would be a non-political, non-adversarial, independent, investigative, transparent, evidence-based, and I believe responsive and responsible framework. It would also deliver a settlement on time and mitigate to some extent the current imbalance in resources in most of the bargaining units. It is unlikely to attract the universal support of all parties, but in my view has by far the best chance of gaining the widest possible support (the principle of widest possible consent).

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(\*) I considered whether to use a different term than "Pay" Review Body, as in my suggested framework (see below and Chapter 5), the Guernsey Review Body would have a wider remit than just pay. But as pay and allowances are likely to be the major issues for determination, and as most UK "Pay" Review Bodies have dealt with matters such as pay structures, and some with wider conditions of employment, I have decided to retain the term. I do believe, though, that the Guernsey body would be distinctive, and should therefore have a title which is slightly different from its UK counterparts I have therefore proposed that it should be called the Independent Pay Review Body - or IPRB - for Guernsey.

I will outline in the next chapter a detailed framework for the new Body. In so doing, I have attempted to tailor it to the needs of Guernsey and also to take into account a number of objections or questions raised by various interviewees (see, for example, paragraph 3.8 above). The framework I am proposing builds on many of the strengths of the UK system, but diverges from it in a number of important respects:

- *appointment of members*: this would be carried out by an independent body
- *terms of reference*: it would cover pay and other monetary allowances, hours and holidays, as well as other matters by joint agreement (see 5.5 below), thus allowing a wider remuneration package to be considered [some UK Review Bodies do cover pay and conditions, and all are permitted to consider other issues as required]
- *coverage*: it would be inclusive, covering manual workers as well as professional groups
- *transparent investigative procedure*: oral evidence would take the form of an investigative hearing. Employing committees/departamental heads and representatives of employees would attend together, make their case without interruption, but also be able to engage in a dialogue both with the IPRB and with each other. [In the UK oral evidence from the parties is taken separately and in private]. Following the hearing, I recommend that the deliberations of the IPRB would take place, as in the UK, in private and in confidence.
- the decisions of the IPRB would be *legally binding* (see paragraph 4.9 below). [In the UK they are simply recommendations to Government, although since 1990 the main decisions have always been accepted, albeit sometimes with staging of the award, see Appendix 4].

**My main recommendation, therefore, is that an Independent Pay Review Body, specifically tailored to the needs of Guernsey, should be established as the most appropriate mechanism for determining public sector remuneration, hours and holidays.**

#### *Three Additional Features of the Main Recommendation*

4.6 I would now like to discuss three additional features of my recommendation. First, I place great emphasis on the need for the independent collection of statistically reliable, comparative labour market data for Guernsey (eg on pay, earnings, remuneration packages, recruitment and retention), these to be published and made available to all parties to the pay setting process. The only source of comparative survey data publicly available to all parties at present, the annual Manual Workers' Pay and Conditions Survey produced by the CSB, is limited in coverage even in its own terms, and makes no claims to the use of proper sampling techniques or the weighting of responses according to employment sector and size of company. In making this recommendation, I would go so far as to say that without this, the independent pay review body would not be able to carry out its work in an informed and transparent fashion. This is a crucial feature of the UK model, in which pay review bodies are provided with independent support by statistically qualified civil servants with knowledge of pay and industrial relations and operating within a organisation, the Office of Manpower Economics, guaranteed its independence by the UK government.

4.7 Second, while five of the seven IPRB sub-committees proposed (see 5.6 below) would have clearly identifiable "employing committees" and chief officers/executives who would be responsible for presenting "employer" evidence in relation to their specialist service, two of the sub-committees – Public Service (Manual) Employees and (Non-Manual) Civil Servants – would cover employees working across a number of Departments and/or services. I am convinced by the arguments presented to me that where specific occupational groups

(labourers, cleaners, drivers, skilled workers, craftsmen, white-collar clerical, administrative and executive grade civil servants) are not specialised but "generic" to a number of departments of the public service, the advantages of continuing with negotiations for the groups as a whole substantially outweigh the disadvantages. However, in preparing the employer submission to the IPRB, I would regard it as essential for the Heads of the operational/service groups with "generic" Public Service Employees or Civil Servants to meet each year to discuss and agree the evidence and arguments they wish to present. I also believe that these two multi-departmental employer groups should be supported and advised by specialist and experienced industrial relations/personnel experts. Indeed, it would be an essential pre-requisite of the proposal for an IPRB in Guernsey that there should be a cross-Departmental "corporate" professional personnel function for the public sector: to be a guardian of good and best practice, to provide specialist advice and support (where appropriate) to employing committees and Departments, and to avoid unnecessary duplication of effort, particularly for the smaller Departments and services.

4.8 Third, I believe that it would be timely, in establishing the new IPRB, to undertake some restructuring of the current bargaining groups. I make a number of suggestions in section 5.6 below and, more fully, in Appendix 3. Some involve re-allocating groups of specialist staff currently in one of the two generic multi-Departmental bargaining units to their specialist bargaining group/IPRB sub-committee. Others involve simply the rationalisation of bargaining groups. In addition, I believe there is a strong managerial and operational case - also to avoid claims for gender bias in pay systems - for moving, as in various parts of the public sector in the UK, to "single status" employment and a common pay spine for manual (public service employees) and non-manual (civil service) staff. Finally, although it is not directly part of my remit, I think this could be an appropriate time to consider the grounds for maintaining the longstanding distinction between established and non-established staff.

#### *Implications for the Current Legislative Framework*

4.9 I have been asked specifically to discuss any implications of my recommendations for the current funding arrangements and legislative framework. I will discuss the latter first. My recommendation would require some legislative changes. First, the mandate of the Civil Service Board would need to be reviewed, and a new mandate introduced to give the IPRB the powers outlined in paragraph 5.5 of Chapter 5. Second, the decisions of the IPRB should be legally binding, having the same status under the Industrial Disputes and Conditions of Employment (Guernsey) Law as awards of an Industrial Disputes Tribunal established under this Law. The Law would need to be altered to implement this recommendation (see paragraph 5.8 of Chapter 5 for a fuller discussion).

#### *Implications for the Current Funding Arrangements*

4.10 I turn now to the financial implications of my recommendation. Under the proposal discussed in 4.9 immediately above, the States would be required to meet the costs of any review body recommendation. However, I believe this would not be fundamentally different from the current situation, in which the States accepts its obligation to fund a binding decision of an arbitration or Industrial Disputes Tribunal. In short, a financial commitment to abide by a binding third party award already exists in Guernsey. Second, if the decisions of the IPRB were not to be made legally binding, any of the parties who disputed one or all of the

decisions would have the unilateral right under current law, as I understand it, to refer the disputed matter to arbitration or, if that could not be agreed voluntarily, an Industrial Disputes Tribunal. This would fatally undermine the integrity of the review body, in that any party which did not like the decisions would have a "second bite at the cherry". In my view, it would be far preferable - and it would also guarantee that the pay determination process was not prolonged for months as sometimes happens at present - for the IPRB decisions to be legally binding on all parties.

*Key Responsibilities on the Parties and the Review Body*

4.11 The creation of an IPRB for Guernsey would involve directly the States, political and operational service management (employing committees and chief executives/heads of departments), and employees through their trade unions and staff associations, in the process of public sector pay determination. It may perhaps be useful, in conclusion, to identify the key responsibilities and disciplines that that an IPRB would place on the parties, as well on the members of the review body itself.

- the States of Guernsey (currently, as I understand it, Advisory and Finance on behalf of the States) would need to feed into the process managed by the IPRB a budgetary/economic policy for the public sector, plus, where appropriate, guidance and priorities for public sector remuneration
- each specialist Department or service would need to be explicit about its service targets and resource plans and objectives (including personnel ones) and to produce a costed pay, conditions and personnel/staffing strategy as part of the overall strategy for the service/department (a rather different multi-service approach would be required for the two "generic" employee groups in the public sector – see 4.7 above)
- all parties would be required to present argued and reasoned cases (using where appropriate independently collected labour market data) for scrutiny by people of independence and integrity
- the chair and members of the new IRPB for Guernsey would need to (a) keep strictly to their terms of reference and (b) exercise independence of judgement at all times; and (c) be explicit about the main considerations they have taken into account in coming to their decisions.

## Chapter 5 An Independent Pay Review Body for Guernsey – A Framework

### *Membership*

5.1 I recommend, in addition to the Independent Chair, that there should be 6 members of the IPRB for Guernsey, of whom 4 would sit on each "sub-committee" (see 5.6 below). A majority of the 7 members of the IPRB should be normally resident in Guernsey. It may be worth considering whether at least one person should have experience of a UK Pay Review Body (PRB), although the current proposal does differ in important respect from the UK system. During my interviews, it was suggested to me that, for some occupational groups, consideration should be given to appointing a professional adviser to the IPRB (sub-committee) when that group is being discussed and oral evidence given. While I understand the reason for such a suggestion, I would on balance counsel against it, for two main reasons. First, it could lead to a proliferation of specialist advisers, with every distinctive occupational group (not just professional ones) requesting one. Second, and perhaps more importantly, it could change the character of the Pay Review Body, which is meant to be a panel of "lay" individuals who are chosen for their independence and ability to listen to arguments and weigh evidence, not for their inside professional knowledge (indeed, it would be one of the aims of the investigative oral hearings to clarify any specialised professional or occupational issues with the parties themselves). The majority of UK Pay Review Bodies - including, as I understand it, the new Prison Officers PRB - do not include members chosen for their specialist expertise in the particular professional area.

### *Appointment*

5.2 I would recommend that members of the IPRB should be appointed by an independent 3-person appointments committee working broadly within the guidelines of senior public appointments in the UK (see Appendix 5). The Committee would appoint the chair and 6 members of the IPRB, plus a substitute chair and a "waiting list" of substitute members. The composition of the Committee would need to be subject to further consideration in a Guernsey context. However, it could, for example, be chaired by a jurat, ACAS arbitrator or other senior person of similar standing, and also include a Guernsey Industrial Disputes Officer and/or Deputy Industrial Disputes Officer, plus a senior independent figure from the UK, eg the Director of the Office of Manpower Economics, London, which services the UK Pay Review Bodies. I suggest that the IPRB positions should be advertised widely within Guernsey, with a proper job and person specification and application form. While the Committee should not be restricted to those applying in reply to a public advertisement, all candidates chosen for interview should complete the same application form. The requirements for appointment to the IPRB should include: perceived independence, integrity, the ability to examine issues in an objective way, and a general commitment to the principles of public life and to public service (see Appendix 5 for more details). States members, ordinary members of States committees, and officer holders in employers' associations and staff associations, should be excluded. For the chair, additional requirements should be knowledge or experience of pay determination in the public sector, and a successful track record in either chairing public committees and/or employment disputes adjudication. In considering the overall composition of the IPRB, the Committee should take into account the need for diversity, eg in terms of age and gender. Appointments could be initially for 3 years, with the possibility of re-appointment for up to two more terms, ie nine years in total (replacements should be staggered in order to maintain some continuity of membership). The Committee, like the IPRB, would be serviced by an Independent Secretariat (see below).

### *Remuneration*

5.3 In the UK neither the chair nor the members of PRBs are paid a fee. This has three main advantages: it keeps costs down, it reinforces their independence (no financial dependence), and it only attracts individuals who are committed to public service. However, it does affect the choice of people prepared to act as members, eg it tends to favour the retired and those who have income and either jobs or commitments which allow them to be away for days at a time. Lack of payment also limits the range of senior people who could act as chair, where there are significant additional requirements in terms of knowledge and experience. I would recommend there is no fee for members of the Guernsey IPRB, and, on balance, none for the chair. However, if there is to be payment, the remuneration of the chair could be tied to that of ACAS arbitrators (currently £237 for each day or part day in which hearings take place), and the remuneration of members to that of part-time members of the ACAS Council (currently £139 per day). Alternatively, perhaps more appropriately in a Guernsey context, the chair (and even the members) could be paid the current "non-sitting States members" rate. Appropriate travel, subsistence and other expenses would be determined by the Board of Industry.

### *Independent Secretariat*

5.4 The IPRB should be supported by an Independent Secretariat (IS) of, say, 2 professional civil servants (one of whom would be Head of the Secretariat), plus clerical support, eg to arrange and service meetings, help prepare reports etc. At least one of the two professional civil servants should be a policy-aware, qualified statistician with experience of designing and conducting surveys and the collection and presentation of large data sets. The IS would be located in the Board of Industry, but separate from its existing Departments. Its members would report formally as civil servants (ie on "pay and rations" etc.) to the Chief Executive of the Board of Industry, but be answerable in their day-to-day IPRB work to the Chair of the IPRB. They would be responsible for servicing the work of the IPRB, including drafting its reports and conducting or commissioning research on its behalf. The IS would need a recurrent budget to enable them to produce independent and comprehensive labour market data on a regular basis, including, for example, on pay settlements and earnings in Guernsey, and, where appropriate, on other matters such as recruitment and retention. Such data would be made publicly available to the parties to the pay determination process.

### *Terms of Reference*

5.5 The mandate of the IPRB would include responsibility, on behalf of the States, to determine the remuneration (pay and other monetary allowances), hours and holidays of the public sector employee groups listed below. The IPRB (via its sub-committees, see 5.6 below) would also have the mandate to determine other terms and conditions of employment and working practices - excluding pensions - by joint agreement of the relevant negotiating parties. A sub-committee, or the IPRB as a whole, may also be asked to consider other matters by the States or by agreement of the negotiating parties. In reaching its decisions, the IPRB or its sub-committees should be required to have regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified people
- the budgetary/resource targets and policy priorities of the States of Deliberation
- the need to deliver an efficient and effective public service.

The IPRB should also be required to take careful account of the economic and other evidence submitted by (Advisory and Finance Committee on behalf of) the States, the relevant Committee(s) of the States and Chief Executives/Departmental Heads, and the recognised trade union and professional representatives.

### *Coverage*

5.6 The IPRB for Guernsey would cover the following groups: public service employees; sewage cart drivers; airport fire service; Beau Sejour bar, catering and shop staff; teachers and lecturers; nurses; civil servants; prison officers; police officers; senior police officers; States Fire Brigade. It is not recommended at this point that the salaries/remuneration attaching to posts such as Lieutenant Governor and HM Greffier (see paragraph 2.1 above - bullet points 3 and 4 - for a full list) should be determined by the IPRB. Further consideration will need to be given as to whether they retain their existing salary mechanisms or come under the ambit of the IPRB. There should be 7 separate IPRB sub-committees (see Appendix 3 for suggestions re the composition of employee groups and possible names depending on the composition):

- *Public Service Employees* (ie manual employees)
- *Civil Service* (ie non-manual employees)
- *Teachers and Lecturers* (possibly re-named Education)
- *Nurses* (possibly re-named Health or Health and Social Care)
- *Prison Officers*
- *Police Officers*
- *Fire Brigade Officers*

It only came to my attention at a very late stage that doctors and ATC officers also negotiate separately. Consideration will need to be given as to their appropriate pay mechanism.

### *Timetable and Process*

5.7 The current annual "review dates" of the employee groups identified above range from 1 January to 1 November (see Appendix 3). Consideration needs to be given as to whether the two largest multi-Department groups, ie public service manual employees, and civil servants, should harmonise their review dates. This would allow the IPRB to consider their settlements at the same time and also encourage the creation of a common pay spine with single status terms and conditions of employment (see Appendix 3). Whatever is decided on this matter, I would suggest the following timetable as a guideline for each annual "pay round":

- |         |   |
|---------|---|
| Stage 1 | Advisory and Finance makes a written annual submission to the IPRB Secretariat on budgetary targets (affordability) and, where appropriate, the policy priorities of the States. The IPRB may seek clarification on specific points in writing. The A & F submission, plus copies of any correspondence, would be sent to the parties prior to the submission of their evidence.  |
| Stage 2 | Written evidence to be submitted by the parties to IPRB Independent Secretariat at the latest <u>4 months prior to effective review date</u> (date when new arrangements are due to come into operation). All written evidence should be automatically copied by the relevant Board/Committee/ Council/Department to the designated trade union/staff representatives and vice versa. The Chief Executive of A & F should also be sent copies by the parties. |



- Stage 3            Oral hearing in front of the IPRB at the latest 3 months prior to the review date.
- Stage 4            IPRB Report circulated in confidence 6 weeks prior to review date (circulation restricted initially to the parties that appeared in front of the Review Body plus Chief Executive of A & F, in case there are any matters in the Report which need further clarification or interpretation).
- Stage 5            IPRB Report published (ie made available to the wider public) 3 weeks prior to the review date.

The timetable may need to be handled more flexibly/changed in cases where currently a UK or England and Wales settlement plays a major (even determining) role in the settlement for equivalent Guernsey staff. As long as this reference point plays such an important role, the IPRB will need to set timetables which allow it (and the parties) to take the relevant UK/England & Wales settlements into account.

Exceptionally, with the agreement of all parties, the Independent Chair of the IPRB may be requested to consider a particular urgent matter or matters within its remit outside the specified annual timetable. The Chair's decision as to (a) whether the matter or matters may be considered exceptionally outside the specified timetable (b) whether the whole IPRB, or a smaller group from within it, should consider the matter or matters and (c) whether, and if so how, the existing determination on the matter or matters should be changed, would be final.

In identifying the likely workload of the IPRB and its various sub-committees over a year, my provisional assessment would be as follows:

- 1 day - Meeting of chair and all 6 members to consider the submission from the States (A&F)
- 4 x 4 days - Chair plus 4 members attend pre-meeting to consider written submissions (1 day), oral hearing (2 days), and discussion of decisions (1 day) for the four large sub-committees/employee groups (the first four listed in 5.6 above)
- 4 x 3 days – Chair plus 4 members attend pre-meeting (1 day), oral hearing (1 day), and discussion of decisions (1 day) for the three smaller sub-committees/employee groups (the last three listed in 5.6 above)

This would imply a commitment of 29 days per annum for the chair, which could be divided into 8 blocks, alternatively some of the blocks could be grouped together. For members, the expectation would be an average of 20 days per annum, which would involve a maximum of 6 blocks of between 1 and 4 days over the year.

### *Legal Status of the IPRB and its Decisions*

5.8 The IPRB would be established by resolution of the States. Its decisions would be legally binding and have the same status under the Industrial Disputes (Guernsey) Law as awards of an Industrial Disputes Tribunal established under Section 10 of this Law. The Law will need to be altered to implement this recommendation. It may also require the insertion of a new sub-clause in Section 3 (and/or Section 18 under the definition of "industrial disputes") excluding disputes about matters within the mandate of the IPRB from the functions of the Industrial Disputes Officer. Disputes about the interpretation of any decision of the IPRB should be handled by the Independent Secretariat in consultation with the IPRB Chair.

### *Funding Implications: A Summary Conclusion*

The funding implications of the proposal to establish a Guernsey Independent Pay Review Body have been addressed at various points during the Report, most explicitly in paragraph 4.10, but also in 4.2, 4.5, 4.11, 5.5, 5.7. By way of a conclusion, I believe it could be useful if I was more explicit about some of the assumptions I have made in the Report and if I also brought together the main arguments and implications in summary form.

#### *Affordability and political priorities*

In deciding which pay determination mechanism to recommend, I was guided by three main considerations (see paragraph 4.2). The first of these is what I called the principle of central co-ordination. By this I mean the need for the States as a whole (rather than the CSB as at present) to take an overall strategic view - "including the requirements of affordability and wider public policy" (paragraph 4.2, p. 12) - of pay and conditions in the public sector, and to feed this directly into the pay determination process. In paragraph 4.11 I make this explicit by spelling out that the States of Guernsey – currently, as I understand, Advisory and Finance Committee on behalf of the States – would need to decide annually on a budgetary/economic policy for the public sector plus any guidance or priorities it wished to give for public sector remuneration.

I described the incorporation of this policy and guidance into a written submission to the IPRB as Stage 1 of the annual cycle of IPRB meetings (see paragraph 5.7). It is also reflected at two points in the terms of reference I proposed:

- it is one of the three main considerations which the IPRB would be required to take into account in coming to its decisions, ie "the budgetary/resource targets and policy priorities of the States of Deliberation" (paragraph 5.5, p. 18).
- the IPRB would also be required to take careful account of "the economic and other evidence submitted by Advisory and Finance...on behalf of the States" (*ibid*, p. 17).

In essence, the whole work of the IPRB would be framed by this evidence.

#### *Other considerations and the experience of UK Pay Review Bodies*

However, I also proposed that, as with UK Review Bodies, the IPRB would be required to take into account two other considerations, whose impact is likely to vary between different public services and occupational groups:

- labour markets/staffing ("the need to recruit, retain and motivate suitably able and qualified staff" – a formulation taken directly from the UK Pay Review Bodies)
- "best value" public service ("the need to deliver an efficient and effective public service").

In commenting on these I noted in the report (paragraph 4.11) that all parties, including employing committees, chief executives and trade unions/staff associations would be required to present argued and reasoned cases - using where appropriate independently collected labour market data - for scrutiny by people of independence, objectivity and integrity on the review body. I also noted that each specialist Department or service would need to be explicit about its service targets and resource plans and objectives, and to produce a costed pay, conditions and personnel/staffing strategy as part of their overall strategy for their service or department. These costings would clearly have to take into account the budget allocated by the States/A & F. Having reviewed this evidence, the IPRB would then need to weigh carefully any recommendations it might wish to make in the light of the affordability criteria and political priorities of the states as presented in Stage of 1 of the review process outlined above.

The recent experience of UK Review Bodies is presented in Appendix 4, pp. VIII-IX. This shows the overall cost of the main recommendations for different groups. In most years the headline costs have been fairly similar, but there are two kinds of variation: (a) occasionally one particular pay review group has done significantly better than the rest (eg nurses in 1999) and (b) within specific pay review groups, targeted increases substantially in excess of the norm have been awarded (it should be noted that this only raises the cost of the total award by a small amount). In no cases of which I am aware did recommendations for one particular pay review group or sub-group lead to leapfrogging or wage spiralling, since exceptional awards were argued for and granted on the basis of proven labour market and public service needs.

Finally, I noted in paragraph 4.10 that the requirement that the States should be legally bound to accept the awards of an IPRB has a parallel in the current obligation to fund binding decisions of an arbitration or Industrial Disputes Tribunal in relation to public sector pay. One major difference would be that the IPRB would have before it direct evidence from A & F on behalf of the States about questions of affordability and public policy.

#### *Funding of IPRB awards*

My recommendation is that awards of the IPRB should be legally binding on all the parties. If this recommendation were not to be accepted, and, for example, the States were to reserve the right to accept or reject the IPRB's recommendations, it is my view that, in the context of the Guernsey system of employment law (and the right of parties to refer matters in dispute for third party adjudication), the integrity of the pay review body system would be undermined. However, this still leaves open the question of how any IPRB awards over and above the budgets laid down by A & F (affordability and public policy criteria) should be funded.

At present, as I understand it, pay awards for specific bargaining groups which are agreed by the CSB on behalf of the States (or are awarded by arbitration or an Industrial Disputes Tribunal) are fully funded by the States, even if they are in excess of what was budgeted. The same funding system could apply to the IPRB. It would be possible, of course, to consider an alternative system whereby part or all of the excess cost of any IPRB award which was "over budget" should be met by the relevant Department or employing committee. There are powerful arguments for and against these two approaches. However, I believe one of the

most important rationales for introducing an independent pay review body system is that it is a mechanism at "arm's length" from politics, taking final decisions on pay (outputs) out of the directly political arena, even though political arguments, eg on affordability and priorities, are crucial inputs into the pay review system. It would be my fear that, if IPRB awards which were in excess of budget had to be paid in whole or in part by Departments or employing committees, there could ensue in each case a highly charged public debate as to whether (a) all, part or none of the excess should be paid by the relevant Department or employing committee and (b) whether the cuts which needed to be made in other aspects of the Department or employing Committee's work in order to fund the award were acceptable.

## Appendix 1 Schedule of Interviews

| Date   | 8.45 a.m. -<br>10.00 a.m.  | 10.15 a.m. -<br>11.30 a.m.  | 11.45 a.m. -<br>1.00 p.m.  | 2.00 p.m. -<br>3.15 p.m.  | 3.30 p.m. -<br>4.45 p.m.   | 5.00p.m.-<br>6.15 p.m.  |
|--|--|---|--|---|--|---|
| <b>22<sup>nd</sup></b><br><b>Feb</b><br><b>Thu</b> | <b>States<br/>Supervisor</b><br>Mr M Brown<br>(Chief<br>Executive of<br>Advisory &<br>Finance)<br><br>1                        | <b>Home Affairs<br/>Committee</b><br>Deputy M Torode<br>(President)<br>Mr M Wyeth<br>(Chief of Police)<br><br>2   | <b>Industrial<br/>Disputes Officer</b><br>Mr R S Taylor<br><br>3   | <b>Guernsey<br/>Police<br/>Senior Officers<br/>Association</b><br>Chief Inspector<br>Harris<br>(Secretary)<br><br>4 |  |   |
| <b>23<sup>rd</sup></b><br><b>Feb</b><br><b>Fri</b> | <b>CMA</b><br>Guernsey<br>Post Office<br>Mr C Austin<br>(Secretary)<br><br>5   | <b>Guernsey Post<br/>Office</b><br>Mr G Parker<br>(Acting<br>Chief Executive)<br>Ms L Harvey-<br>Wills (Adviser to<br>the Post Office<br>Board)<br><br>6  | <b>NCTLG</b><br>Ms C Bowker<br>(Chair)<br>Mr S McManus<br>(NUT Rep)<br>Mr B Fawcett<br>(NUT Nat Off)<br>Mr B Clegg<br>(NASUWT Nat.<br>Officer)<br>Mr J Hooker<br>(ATL)<br>Mr J Norman<br>(NATFHE Rep)<br><br>7 | <b>Former<br/>Industrial<br/>Disputes<br/>Officer</b><br>Jurat M H<br>De La Mare<br><br>8                           | <b>States<br/>Education<br/>Council</b><br>Deputy M<br>Ozanne (Pres<br>Ms J<br>Pritchard<br>(Vice Pres)<br>Mr D Neale<br>(Director of<br>Education)<br>Mr J Lamb<br>(Pers. Mgr.)<br>Mr F Flynn<br>(Ass Dir Fin/<br>Admin)<br><br>9 |   |
| <b>27<sup>th</sup></b><br><b>Feb</b><br><b>Tue</b> |  | <b>Deputy Industrial<br/>Disputes Officer</b><br>Mr M Fooks<br><br>10   |  | <b>RCN</b><br>Ms S James<br>(President)<br>Ms Bev Clark<br>(Convenor)<br><br>11                                     | <b>GPECC</b><br>Mr D Le<br>Moignan<br>(Chair)<br>Mr S<br>McManus<br>(Treasurer)<br><br>12  | <b>Guernsey<br/>Telecoms</b><br>Deputy M<br>Burbridge<br>(President)<br>Mr A<br>Mullee<br>(Chief<br>Executive)<br><br>13                          |
| <b>28<sup>th</sup></b><br><b>Feb</b><br><b>Wed</b> | <b>Advisory and<br/>Finance<br/>Committee</b><br>Mr J Dickson<br>(Head of<br>Economics<br>and<br>Statistics<br>Unit)<br><br>14 | <b>Civil Service<br/>Board</b><br>Mr B Castle<br>(Chief<br>Executive)<br>Mr S Naftel (Chief<br>Industrial<br>Relations Officer)<br>Mr T Harnden<br>(Senior Industrial<br>Relations Officer)<br><br>15 | <b>Civil Service<br/>Board</b><br>(As previous<br>session)<br><b>11.30 p.m. to<br/>2.00 p.m.</b><br><br>15   | <b>Connect<br/>Guernsey<br/>Telecoms</b><br>Mr R Hamilton<br>(Branch<br>Chairman)<br><br>16                         | <b>Civil Service<br/>Board</b><br>Mr S Naftel<br>(Chief Ind.<br>Rel. Officer)<br>Mr T<br>Harnden<br>(Senior Ind.<br>Rel. Officer)<br><b>3.15 p.m. to<br/>5.00 p.m.</b><br><br>15   | <b>GCSA</b><br>Dr S<br>Langford<br>(Vice Pres)<br>Ms W<br>McHugh<br>(Executive<br>Officer)<br>Mr J Ashby<br>Mr A<br>Castle<br>(Members)<br><br>17 |

## Schedule of Interviews (Contd.)

| Date                                  | 8.45 a.m.-<br>10.00a.m.   | 10.15 a.m.-<br>11.30 a.m.   | 11.45 a.m.-<br>1.00 p.m.   | 2.00 p.m.-<br>3.15 p.m.   | 3.30 p.m.-<br>4.45 p.m.   | 5.00 p.m.-<br>6.15 p.m.  |
|---------------------------------------|---|---|--|---|---|--|
| <b>1<sup>st</sup><br/>Mar<br/>Thu</b> | <b>Board of<br/>Admin</b><br>Mr R<br>Kirkpatrick<br>(Chief<br>Executive)<br>Mr D Parish<br>(General<br>Manager<br>States Works) | <b>TGWU</b><br>Mr J Guilbert<br>(Regional<br>Industrial<br>Organiser)<br>*                                    | <b>TGWU</b><br>Mr J Guilbert<br>(Regional<br>Industrial<br>Organiser)<br>*                             | <b>CWU</b><br>Guernsey Post<br>Office<br>Mr G Jennings<br>(Branch<br>Secretary)<br>Mr P Bowerman<br>(National Union<br>Officer)   | <b>Advisory<br/>and Finance</b><br>Ms A<br>Hughes<br>(Deputy<br>States Policy<br>Analyst) | <b>Civil Service<br/>Board</b><br>Mr A<br>Sauvarin<br>(President)<br>Mr B Castle<br>(Chief<br>Executive) |
|                                       | 18  | 19  | 19   | 20  | 21  | 22   |
| <b>2<sup>nd</sup><br/>Mar<br/>Fri</b> | <b>TSA</b><br>Guernsey<br>Electricity<br>Mr R Beebe<br>(Chairman)<br>Mr D Smart<br>(Committee<br>Member).                       | <b>Guernsey Police<br/>Association</b><br>Sgt Martin Harris<br>(Chairman)<br>Sgt R Le Poidevin<br>(Treasurer) | <b>EMA</b><br>Dr A Hajee<br>(Area Secretary)<br><br><b>PAGCS</b><br>Mr F Cusack<br>(Group<br>Chairman) | <b>Board of Health</b><br>Mr P Roffey<br>(President)<br>Mr D Hughes<br>(Chief Executive)<br>Mr A Castle<br>(Personnel<br>Manager) | <b>Advisory<br/>and<br/>Finance<br/>Committee</b><br>Deputy<br>L. Morgan<br>(President)   |  |
|                                       | 23  | 24  | 25   | 26  | 27  |  |

\* (TGWU)

Mr D Le Moignan (Fire Brigade)  
 Mr G Edwards (Airport Fire Brigade)  
 Mr R Galsworthy (Nurses)  
 Mr J Naftel (Guernsey Electricity)  
 Mr R Le Cras (Prison)  
 Mr J Waterman (States Manual Workers)  
 Mr P Duport (Harbour Staff)

## Appendix 2 Constitution, Mandate and Duties of the Civil Service Board

*Constituted by Resolution of the States of the 27th March, 1963 and 28th May, 1986  
Mandate added to by Resolutions of the 11th December, 1963, 27th April, 1966,  
30th November, 1966, 30th July, 1969, 14th December, 1972, 30th November, 1978,  
31st January, 1979 and 25th May, 1988.*

### CONSTITUTION

A President who shall be a sitting member of the States but who shall not be President of any standing Committee of the States.

Three members who shall be sitting members of the States.

One member who need not be a sitting member of the States.

### MANDATE

To be responsible to the States for all matters relating to the remuneration and conditions of service of all salaried and waged staff employed by the States, the duties being set out in detail in Billet d'État No. VI of 1963, and for making recommendations to the States concerning the pensions to be paid to persons in the service of the States and for the administration of the scheme constituted by the Pension Rules. To investigate the salaries attaching to the posts of Lieutenant Governor, Bailiff, Deputy Bailiff, Law Officers of the Crown and Magistrate and submit to the States Advisory and Finance Committee for sanction any adjustments which, in its opinion, are necessary. To determine the remuneration and conditions of service applicable to HM Greffier, HM Sheriff and HM Sergeant after consultation with HM Procureur. To prepare and administer schemes to enable members of the staff to undertake further training.

On the 25th May, 1988, the States resolved that the Board's Mandate be extended to cover the negotiation and settlement of salaries and conditions of service of teachers employed by the States in Primary and Secondary Schools and in Further Education.

2002 Deputy A. Sauvarin (President)

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2001 Deputy Miss. C. H. Le Pelley (Vice-President)

2002 Deputy P. J. R. Roffey

2001 Deputy Mrs. A. L. Robilliard

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2003 Mr. P. R. Walpole

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Chief Executive: B. P. Castle

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Source: "Red Book", p. 31 (see Appendix 6, entry under "Civil Service Board")

### The Duties of the Civil Service Board

- (1) Be responsible to the States for all matters relating to the remuneration and conditions of service of all salaried and waged staff employed by the States, other than [there follows a list of exceptions, most of which, eg teachers and nurses, now come under the mandate, JC] and in particular it shall be responsible for the appointment of all salaried members of the established staff of the Civil Service (save those members appointed by the Appointments Board) and for the dismissal of any member of the established staff.
- (2) Fix, after consultation with the appropriate Committee, the establishment for every department of the States in respect of all officers established and unestablished whose duties are wholly or mainly administrative, professional, technical or clerical other than such technical posts as may be agreed individually between the Board and the employing committee concerned.
- (3) Keep under review the establishment of all departments and terms and conditions of service attaching to all posts. No increase in the authorised establishment other than a temporary increase not exceeding six months, shall take place without the prior approval of the Board.
- (4) Consider recommendations submitted to it by States Committees on any matters affecting rates of pay or conditions of service affecting any member of the staff under their control. In the event of any such recommendation not being accepted by the Board the matter in dispute may be resolved by either side referring the dispute to the States or, if both sides agree, the dispute may be resolved by voluntary arbitration proceedings.
- (5) Decide how a vacancy on the established staff shall be filled (ie from within a particular Department after advertising through the Service, or after public advertisement) and make the necessary appointment after consultation with the Committee concerned
- (6) Appoint members to the Official Side of any Joint Negotiating Committee dealing with salaries and wages and conditions of service of all salaried and waged staff for which the Board is responsible.
- (7) Negotiate and sign, on behalf of the States, general agreements on salaries and wages.
- (8) Seek such expert advice on staff matters as it considers necessary in relation to any department, or of the service as a whole, and no individual committee may itself engage such experts save with the permission of the Board and subject to such conditions and terms of reference as the Board may approve. Where appropriate the Board shall consult with the department concerned before engaging an expert.
- (9) Submit annually to the President of the States for publication as an appendix to a Billet d'État to be published before the budget. The salaries receivable by the whole of the established staff and by HM Greffier, HM Sheriff and HM Sergeant.

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**Source:** Paragraph 23 of the **Report of Board of Administration** to the States, 16 February 1963, in *Billet d'État VI* 1963, pp. 145-6.



### Appendix 3 Bargaining Units/Pay Determination Groups – Suggestions for Reform

1. The current public sector bargaining groups, as identified by the Civil Service Board in a paper to myself, but excluding the 3 trading boards, are as follows (the numbers are approximate and relate to number of full-time and part-time employees in each group, not full or whole time equivalent numbers):

| Group                                     | Numbers | Review Date | Union(s)  |
|---|---------|-------------|---|
| 1. Public Service Employees               | 1200    | 1 January   | TGWU  |
| 2. Sewage Cart Drivers                    | 40      | 1 January   | TGWU  |
| 3. Airport Fire Service                   | 40      | 1 January   | TGWU  |
| 4. Beau Sejour bar, catering & shop staff | 40      | 1 January   | TGWU  |
| 5. St John Ambulance                      | 50      | 1 May       | TGWU  |
| 6. Teachers and Lecturers                 | 550     | 1 April     | NCTLG<br>(NUT,<br>NASUWT,<br>NAHT,<br>ATL,<br>NATFHE) |
| 7. Nurses                                 | 800     | 1 April     | RCN,<br>RCM,<br>CPHVA<br>GAN<br>(TGWU)                |
| 8. Civil Servants                         | 1850    | 1 May       | AGCS  |
| 9. Prison Officers                        | 60      | 1 July      | TGWU  |
| 10. Police Officers                       | 150     | 1 October   | GPA   |
| 11. Senior Police Officers                | 6       | 1 October   | SPOA  |
| 12. States Fire Brigade                   | 63      | 1 November  | TGWU  |

2. Irrespective of the model of public sector determination chosen, I believe it would be timely to review the composition of the current "bargaining units". However, since this is a matter of sensitivity as well as detail, I will make some tentative suggestions (rather than firm recommendations) for consideration by the parties. The principles underlying these suggestions are: efficiency/rationalisation, coherence, allocation of some specialist professional and sub-professional groups to specialist rather than generic bargaining unit; UK practice.

### **Public Service (Manual) Employees**

**Suggestion 1: that consideration should be given to integrating the current 4 bargaining units - public service employees, sewage cart drivers, airport fire service, Beau Sejour bar, catering and shop staff - into 1 unit for pay determination purposes.**

All groups have the same review date (1 January) and the same trade union representing them (TGWU). All groups would retain their current terms and conditions of employment, and it would of course be open to the trade union representing them (TGWU) to make a special case for any or all of the three smaller groups, and indeed for specific groups in the larger pay determination group. However, the outcome of the pay determination process would be reported for all four groups at the same time.

**Suggestion 2: that consideration should be given to re-allocating specialist groups in this unit, eg home helps, to their specialist pay determination group**

This recommendation would have implications for the representative bodies on the employee side in the pay determination process, and would therefore need to be subject to detailed consultation. However, in the case of home helps, for example, the trade union currently representing them (TGWU) in the public service employee group is also a member of the employee side of the Nurses group.

**Suggestion 3: that consideration should be given to assimilating the Public Service Employees group with the current Civil Servants group onto a common pay spine (single status).**

### **Civil Servants**

**Suggestion 4 - that consideration should be given to re-allocating some specialist occupational groups from this generic civil servant group to their specialist pay determination group, eg senior staff in the prison service and the States Fire Brigade, professions allied to medicine, social workers, classroom assistants.**

The complication with this suggestion is that these specialist groups (and others, too) are currently represented by a generic civil service staff association, the AGCS, which is not a party to the bargaining units/pay determination groups to which I am suggesting they should be re-allocated. If the rationale underling my suggestion is accepted on all sides, then it is a matter for negotiation and agreement as to whether they continue to be represented by the AGCS or whether it is decided by mutual agreement that they would be better served by representation from within their specialist sector. I make no judgement on this. However, in my view such a re-allocation would certainly create a smaller, more coherent civil servant occupational group. See also Suggestion 3 above about the creation of a common pay spine.

NOTE: The UK Pay Review Body for Nursing Staff includes not only midwives and health visitors/community nurses, but also "professions supplementary to medicine" and "related grades employed in the NHS". In the Guernsey context, as I understand it, the latter could be construed as including employees involved in social (as well as health) care such as social workers, care assistants and home helps.

## Appendix 4     UK Pay Review Bodies

### Establishment

- 1971    Three established: Top salaries (higher judiciary, nationalised industries, civil service, armed forces), doctors and dentists, armed forces below senior level  
 1983    Nurses, midwives, health visitors, professions allied to medicine etc.  
 1991    Teachers in England and Wales (only body established by statute)  
 2001    Prison Officers in England, Wales and Northern Ireland (not yet running)

### Coverage (as of February 2001)

UK Pay Review bodies currently cover over 1.3 million public sector workers with salary bill of over £41 billion. All review bodies have the same "effective" or "review" date of 1 April.

|   |         |
|---|---------|
| Armed Forces (NCOs, officers and others)        | 208,600 |
| NHS doctors and dentists                        | 141,500 |
| NHS nurses and midwives                         | 415,800 |
| NHS professions allied to medicine              | 54,300  |
| School teachers (England & Wales)               | 483,280 |
| Senior Salaries (senior civil servants)         | 2,963   |
| Senior Salaries (senior military and judiciary) | 1,810   |

The Senior Salaries Review Body has also made recommendations on the pay of MPs and Government Ministers, members and ministers in the Scottish Parliament and the Welsh and Northern Irish Assemblies, and the Greater London Authority (including the Mayor of London).

### Terms of Reference

Since 1997 most have common features along the following lines:

"The.....Pay Review Body is to provide independent advice, and make recommendations to the Prime Minister (and relevant Secretary of State), on the remuneration of .....

In reaching its recommendations the Review Body is to have regard to the following considerations:

- the need to recruit, retain and motivate suitably able and qualified staff
- Departments output targets for the delivery of services/Best Value
- the funds available as set out in the Government's Departmental Expenditure limits
- the Government's inflation target.

The Review Body may also be asked to consider other specific issues.

The Review Body is also required to take careful account of the economic and other evidence submitted by the Government, staff and professional representatives and others."

## **Independent View of the PRB Role**

It should be noted that, although UK Review Bodies are bound by their terms of reference, ultimately they make up their own mind in the light of the evidence placed before them. In this context it is interesting to note the comments made by the Nurses Pay Review Body in their 15<sup>th</sup> Report in 1998. The Report emphasised the following points: that the pay-review process must continue to be based on the mutual consent of the parties; its primary role was to ensure fair pay; independence and the freedom to determine its own methods of working were essential; it must remain free to give equal attention to the evidence presented by the parties and to recommend the level of awards felt to be appropriate; it could not be constrained to a pre-determined "envelope" of money.

## **Composition**

- Independent Chair (unpaid, appointed by Prime Minister on the recommendation of an independent "assessor", see below, Appendix 5)
- 6/8 lay members, appointed by relevant Secretary of State
- serviced by Office of Manpower Economics. Each review body is allocated a senior OME "manager" to oversee the process, a junior executive grade OME civil servant who acts as secretary to the body, drafts reports and organises meetings, and a professional statistician to carry out or manage the commission of any survey/statistical work required.

## **Procedure**

Written evidence required by mid-September, oral evidence taken in October/November, Report to Prime Minister/Secretary of State in December/January (confidential until Government decision, then published by Government). All reports are unanimous, there have never been minority reports. Following the implementation of the Reports, the OME holds de-briefing sessions for those who have given evidence. Members also pay visits to the various PRB 'constituencies'.

## **Government Reactions to Review Body Reports 1991-2001**

- 2001 Paid in full: 3.7% for nurses and teachers, 3.9% for doctors and dentists
- 2000 Paid in full: 3.4% for nurses, 3.3% for doctors and dentists, teachers
- 1999 Paid in full: 4.7% for nurses, 3.5% for most others
- 1998 Staged: 2% from April and 1.8% to 2.2% from December
- 1997 Staged: 2% from April and around 1.3% from December
- 1996 Staged: around 2.8% from April and 1% from December
- 1995 Paid in full (around 2.5% to 3%). Nurses received 1% national plus 2% recommended local rise subject to local negotiation
- 1994 Increases of around 3% from April, staged for armed forces (2.7% April, 0.3% to 1.7% from January 1995)
- 1993 Review Bodies were asked not to report in a year of "Pay Policy". Government imposed increases of 1.5% on the whole of the public sector
- 1992 Increases of around 6% paid in full from April. Senior civil servants' award postponed until after the General Election in May
- 1991 Around 10% total – staged (except for armed forces, who received 11.2% to 18%). Limited to 7.5% from April, remainder from December.

This list does not identify specific increases or changes within particular Pay Review Bodies to meet special needs. For example, in 2000, 60,000 Grade E nurses were given an additional increment (making a total increase of 7.8%), starting salaries for 2<sup>nd</sup> lieutenants in the army (basic graduate entry point) were raised by 15%, and there was a new pay range for classroom teachers including a performance threshold and a new upper pay range.

**Note:** Most of the information contained in this Appendix is taken from the Incomes Data Services annual publications, *Pay in the Public Services* (see bibliography for further details).

## **Appendix 5 Guidelines for Senior Public Appointments in the UK**

### **(i) Code of Practice for Public Appointments (produced by the Office of the UK Commissioner for Public Appointments)**

#### The Principles

The Code of Practice covers all ministerial appointments to the boards of executive and advisory non-departmental public bodies, health bodies, public corporations and nationalised industries. It also encompasses the Directors General of Gas and Electricity Supplies, Telecommunications and Water Services.

#### Ministerial Responsibility

The ultimate responsibility for appointments rests with Ministers.

#### Merit

All public appointments should be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who, through their abilities, experience and qualities, match the needs of the public bodies in question.

#### Independent Scrutiny

No appointment shall take place without first being scrutinised by a panel which must include an independent assessor.

#### Equal Opportunities

Departments should sustain programmes to promote and deliver the principles of equal opportunities.

#### Probity

Board members must be committed to the principles and values of public service and perform their duties with integrity

#### Openness and Transparency

The principles of open Government must be applied to the appointments process, its working must be transparent and information must be provided about appointments made.

#### Proportionality

The appointments procedures need to be subject to the principles of "proportionality", that is they should be appropriate for the nature of the post and the size and weight of its responsibilities.

**(ii) The Seven Principles of Public Life**  
**(UK Committee on Standards in Public Life, chaired by Lord Nolan)**

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, in recommending individuals for rewards or benefits, holders of public office should make choices on merit

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate for their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

## Appendix 6

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## Appendix 7    Short Curriculum Vitae – Professor Jon Clark

**Date of Birth:**            1 June 1949

**Occupation:**            Freelance Independent Employment Adviser, Mediator and Arbitrator, Specialist in Dispute Resolution

**Career History:**

- |              |   |  |
|--------------|---|--|
| 1966-67      | - | Invoice Clerk, Progress Floor Treatments, High Wycombe, Bucks.   |
| 1976-77      | - | Research Officer, Department of Industrial Relations, LSE.   |
| 1977-78      | - | Research Fellow, Groupe de Sociologie du Travail, University of Paris.                                   |
| 1978 to date | - | Lecturer/Senior Lecturer/Professor/Emeritus Professor of Industrial Relations, University of Southampton |
| 1991-93      | - | Visiting Professor, Industrial Relations Research Unit, University of Warwick                            |
| 1994-8       | - | Dean of Social Sciences; Director, New College, University of Southampton                                |

**Other appointments:**

- |        |  |
|--------|--|
| 1990   | Appointed to National Panel of Employment Arbitrators/Mediators, Advisory, Conciliation and Arbitration Service (ACAS), London   |
| 1994-6 | Chair, National Adjudication Appeal Hearings, Clinical Regrading Exercise, National Health Service   |
| 1995   | Commissioned (with lawyers Catherine Barnard and Roy Lewis) by Employment Department, London, to produce research report on "Individual Employment Rights in the EU". Published in April 1995.   |
| 1997   | Chair, ACAS Joint Working Party, charged by Department for Education and Employment (DfEE), London, with drawing up a National Capability Procedure for School Teachers. Working party was composed of representatives of the Employers' Association for Local Government, Church of England, Catholic Education Service, two national School Governors' Associations, and the 6 teacher trade unions. The Group produced a unanimous report within 4 weeks, and its recommendations were implemented by Government in 1997. |

- 1999 Chair of Guardian Newspapers Ltd/National Union of Journalists' Committee of Inquiry (with Andreas Whittam-Smith and Maureen Duffy) into copyright and terms and conditions of employment of freelance journalists at GNL. Report accepted *in toto* by the parties.
- 2000- Independent Chair, UK Police Negotiating Board (negotiates national pay, conditions and pensions for UK police service), appointed by Prime Minister
- 2000- Non-Executive Director and Chair of Pension Trustees, Bournemouth Symphony Orchestra
- 2000- Member of Probation Service National Panel of Independent Advisers
- September 2000 Independent Adviser, Redundancy Committee, British Library
- October 2000 Independent Chair, Conciliation Panel, NE London Probation Service
- November 2000 Chair/facilitator, DfEE/Equal Opportunities Commission Review Meeting on Future of "Fair Play" initiative to promote equality and combat social exclusion
- Nov/Dec 2000 Chair Royal Fleet Auxiliary/Rail, Maritime and Transport Union joint Working Group, charged by the Ministry of Defence(MoD) with resolving longstanding dispute on leave arrangements for petty officers and ratings in the RFA. Unanimous report and recommendations agreed within 4 weeks and approved *in toto* by MoD Under Secretary of State.
- February 2001 Chair, Chartered Institute of Personnel and Development Seminar on "New Reward Strategies within the Public Sector", CIPD annual Compensation Forum Conference, London
- April 2001- Independent Chair, Police Advisory Board for England and Wales, appointed by Home Secretary

#### **Other information:**

Member of Association of University Teachers 1978-1999

#### **Other Specialist Knowledge**

Experience as manager and union representative in discipline/dismissal cases. In 1993 co-authored a booklet with lawyer Roy Lewis 'Employment Rights, Industrial Tribunals and Arbitration', which argued the case for using arbitration as an alternative to the employment tribunals in dismissal cases. Proposals supported by all main political parties, employers associations and trade unions, and incorporated in *Employment Rights (Dispute Resolution) Act 1998*. The ACAS "Arbitration Scheme" is due to come into operation in April 2001.

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(with Lord Wedderburn) 'Juridification - a universal trend?: the British experience in labour law', in G. Teubner et al. (eds), **Juridification of Social Spheres - A Comparative Analysis in the Areas of Labor, Corporate, Antitrust and Social Welfare Law**, European University Institute Series A, No 6, Berlin/New York, de Gruyter, 1987, pp 163-90

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March 2001

**(NB The Policy Council, by a majority, supports proposition 1.**

**If proposition 1 is approved, the Policy Council supports propositions 2 and 3.**

**If the States approve all three propositions, the Policy Council considers that there would be considerable merit in reviewing the constitution and structure of the Public Sector Remuneration Committee. In this event the Policy Council will liaise with both the Public Sector Remuneration Committee and the House Committee.)**

**(NB The Treasury and Resources Department supports the proposals.)**

The States are asked to decide:-

XV.- Whether, after consideration of the report dated 15<sup>th</sup> August, 2006, of the Public Sector Remuneration Committee, they are of the opinion:-

1. That the pay and conditions of public sector workers in Guernsey shall continue to be determined by a process of collective bargaining.
2. That the employer's authority in that process shall remain with the Public Sector Remuneration Committee (i.e. there shall be no change to the Committee's mandate).
3. That the Committee shall improve consultation with employing departments by adopting the measures set out in paragraph 10.18 of that Report.

2005

## **PUBLIC SECTOR REMUNERATION COMMITTEE AND TREASURY AND RESOURCES DEPARTMENT**

### **REVIEW OF PUBLIC SECTOR PENSION SCHEMES ETC**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

13<sup>th</sup> September 2006

Dear Sir

#### **Executive Summary**

1. This is a report on work in progress by the Public Sector Remuneration Committee (the Committee) and the Treasury and Resources Department (the Department) for a review of the present arrangements for providing pensions for public sector employees. The report invites the States to endorse both the consensus view that the pensions for public sector employees in Guernsey should continue to be broadly comparable to the (changing) provisions in the UK public sector, and the approach for implementing this in principle agreement. The States are asked to note an update on the Superannuation Fund and approve the Department's recommended approach on funding levels.
2. The report also includes: amendments to the Public Servants' Pension Scheme and Teachers' Superannuation Regulations to restore the ability to pay and accept transfer values following recent UK taxation amendments; amendments to the investment regulations for the Superannuation Fund and the Guernsey Insurance and Health Service Funds; and arrangements for States Members' pensions.

### **REVIEW OF PUBLIC SECTOR EMPLOYEES' PENSION BENEFITS**

#### **Introduction**

3. In November 2005 (Billet d'Etat XX) following a report from the Department on the actuarial valuation of the Superannuation Fund (as at 31 December 2004) the States resolved:
  - “(d) To direct the Public Sector Remuneration Committee and the Treasury and Resources Department to review the present arrangements for

providing pensions for public sector employees and to report back jointly to the States with their proposals, by no later than September 2006.”

4. The public sector pension schemes encompass approximately 4,500 currently employed and 3,000 “retired” members. The Public Servants’ Pension Scheme is regularly but erroneously referred to as “the civil service pension scheme” – particularly by States Members and in the media. It is helpful, therefore, to explain that membership of the Scheme is open to all categories of States employees including: Nurses, Teachers, Police Officers, Firefighters, Prison Officers, Public Service Employees (manual workers) and members of the Established Staff (civil servants). Civil servants, who comprise the single largest group but a minority of the whole membership, encompass a multitude of occupations e.g. Medical Consultants, Air Traffic Control Officers, Recreation Assistants, Speech Therapists, Traffic Wardens, Radiographers, as well as “white collar” employees based at Sir Charles Frossard House, Raymond Falla House and Edward T Wheadon House. The scheme also encompasses in excess of 600 non-States employees, the majority being employees of Guernsey Electricity Limited, Guernsey Post Limited, and the Guernsey Financial Services Commission.
5. In undertaking the review affecting all the employees detailed above the respective responsibilities are as follows:
  - \* the Committee is responsible for determining the appropriate pension benefits within the context of employees’ overall pay and conditions packages (see paragraphs 7 – 37);
  - \* the Department is responsible for the financial arrangements to meet the liability which accrues in respect of the benefits determined as appropriate by the Committee (see paragraphs 38 – 49).
6. Deputy Geoff Mahy, Member of the Committee, would like to declare an interest as a recipient of benefits from the Public Servants’ Pension Scheme.

## Procedure

7. In explaining the procedure which the Committee has followed it is important to keep in mind that pension benefits are an integral part of the pay and conditions packages. Due to earlier confusion, amongst States Members in particular, and to clarify the position the following comments were included in the report by Peat Marwick after a major review in the mid-1980s:

“13. *Peat Marwick comment on two specific issues –*

- (i) *The benefits provided by the 1972 Pension Scheme are provided in the context of a scheme sponsored by the States acting as an employer. The States also sponsor the social security pension*

*arrangements which apply to all inhabitants of Guernsey. It is coincidental that the States is responsible for the costs of both arrangements; the capacity in which they act is as an employer in one case and the State in the other.*

- (ii) *Pension benefits are elements of the remuneration package of an employee. Employees and prospective employees are likely to compare not just their salaries, but also their pension scheme benefits, with those of other comparable groups. In general, pension benefits need to be competitive with appropriate comparators.*

14. *The [Civil Service] Board believes that these comments crystallise the role which the States should play in relation to the 1972 Pension Scheme.”*

- 8. The Committee, which assumed the Civil Service Board’s responsibilities in respect of pensions in May 2004, has, therefore, undertaken its review through:

- \* consultation with elected employee representatives within the forum of the Pensions Consultative Committee (PCC).

The PCC consists of the Employer’s Side (the members of the Committee) and the Staff Side (elected representatives from States employees’ organisations) and is the forum established by the States for discussion, consultation and negotiation of this aspect of the pay packages;

- \* consultation with the “major” employing Departments – Health, Education, Public Services and Home.

- 9. This process is in line with the Committee’s current view following a detailed review that terms and conditions should continue to be determined through collective bargaining and following consultation with employing Departments.

- 10. The Committee has also taken legal advice and met representatives of Guernsey Post Limited, Guernsey Electricity Limited and the Guernsey Financial Services Commission to advise them of developments.

## **Background to the Review**

### *General*

- 11. There are two main forms of occupational pension arrangements:

- \* defined benefit – in such schemes the benefit which the employee will receive is defined, typically calculated as a proportion of average or final

salary multiplied by years of service. The cost of the benefit is not defined but typically is met through a fixed contribution (if any) from the employee with the employer required to meet the balance of costs.

- \* defined contribution - in such schemes the contribution is defined but the benefit which the employee will receive is unknown as it depends on the rate of return on investment of the contribution and the cost of annuities to be bought at the time an employee retires.

12. A central difference between the two types of scheme is that in a defined benefit arrangement the employer bears the risk and would receive any reward of good investment performance whereas in a defined contribution scheme the employee bears the risk and would receive any reward of good investment performance.
13. Throughout the 1990s when stock markets performed exceptionally well companies with defined benefit schemes were able to reap the advantage of investment performance through reducing, or ceasing to make, contributions to their pension schemes. In defined contribution schemes the benefit was enjoyed by members.
14. In more recent years investment returns have reduced significantly. This has coincided with other developments e.g. increasing life expectancy; the removal of favourable tax treatment by the UK Government on dividends received from UK shares; and (for UK schemes) increasing regulation following various pension scheme scandals. As a result of these developments and in order to introduce a degree of certainty for companies (but not employees) there has been a significant shift in the private sector from defined benefit to defined contribution schemes. This has occurred in both the UK and Guernsey.
15. It should be noted that, in theory at least, there could be no difference in average cost for an employer between the two types of scheme – but there is greater certainty of cost for the employer with defined contribution schemes.

#### *UK Public Sector Schemes.*

16. The preceding section describes the general situation but there is a significant difference between company and public sector defined benefit schemes. In each the cost of current pensions needs to be met and liabilities are accruing in respect of current employees. Whereas companies have to make provision for the accruing liabilities (because there can be no guarantee that the companies will continue to exist) the public sector does not necessarily have to do so.
17. In the UK some public sector schemes are not funded – the notional cost of accruing liabilities is known but provision is not made for meeting these costs. As a result the increasing cost of accruing pensions, due to increasing life expectancy, is known but there is no fluctuation in investment returns and



therefore no fluctuating employer contribution rate. The cost of paying the pensions each year is met from Revenue.

18. Against this background, however, the various pension schemes encompassing several million UK public sector employees are currently under review. This review has taken place in the knowledge of a prospective increase in the State retirement age and significant changes in Income Tax arrangements in respect of pensions – both of which have considerable bearing on the reviews.
19. A key decision is that UK public sector employees will continue to have access to defined benefit schemes. However, to enable these arrangements to be sustainable within reasonable costs some radical changes will occur, most notably an increase of five years in normal retirement age for new employees. Thus “standard” employees will have a normal retirement age of 65.
20. The reviews of UK public sector pension schemes are due to be concluded within the very near future and implemented in late 2006/early 2007.

#### *Employers’ Contribution Rates*

21. Although the Department is responsible for the Superannuation Fund (and thus the employers’ contribution rates) the Committee, employees and employers are conscious that the review has been prompted by the most recent actuarial valuation of the Fund. Thus the following important points have been noted:
  - \* in general in defined benefit schemes employees’ contribution rates are fixed and the employer’s contribution rate is expected to fluctuate following actuarial valuations to meet the balance of costs. This fluctuation will take the employer’s rate above or below the true cost of benefits depending on the performance of investments. Employee contribution rates could change but only through an amendment to scheme Rules following consultation with members.
  - \* this approach was endorsed by the States following a major review in the mid-1980s at which time the main employer’s contribution rate was in the region of 13 – 14% which was approximately in line with the true cost of benefits. In endorsing this approach the States acknowledged that when investments performed well the employer (not the employees) should benefit and, in return, when investments performed poorly, the employer (not the employees) should meet the burden.
  - \* since that report and, in particular since 1997, investment performance has enabled the employer in respect of the majority of employees to contribute at approximately half the true cost of benefits – whilst not taking a contribution holiday, the employer has been operating at only part-time level. This level of contribution was made on the full understanding that the position was only temporary and that it would be

appropriate for budgetary arrangements to reflect the temporary nature of this beneficial position;

- \* the actuarial valuation as at 31 December 2004 indicated a change of circumstances – after a decade of being able to contribute at significantly below the true cost of benefits, the employer may now have to contribute for a similar length of time at a similar amount above the true cost.

NB: the most recent information from the Actuaries (see paragraph 38 et seq) indicates an improved position as at 30 June 2006.

22. Aside from the expected fluctuations described above, and of more significance to the review, the true cost of benefits has risen because of increased life expectancy. Thus, the true cost of benefits which required an employer's contribution rate in the region of 13 – 14% has risen to 15 – 16%. It is this increase which needs to be addressed.

### *Legal*

23. Prior to commencing discussions with interested parties the Committee decided that it would be prudent to seek legal advice on what changes it might be possible for the States to make – on the basis that discussions about potential changes would be pointless if the States had no power to take such action.

24. The advice (which is in line with that provided for the 1980s review) can be summarised as follows:

- (i) The benefits which retired members and current employees have already accrued in accordance with Rules freely entered into by their employer cannot be changed without their consent.

[The Committee noted that there could be no expectation that any person would agree to a reduction in benefits already accrued.]

- (ii) It would be possible to change the benefits in respect of the future service of current members by agreement with those members.

[The Committee noted that there was little prospect of such agreement and all past attempts both locally and nationally had been unsuccessful. Furthermore any attempt to change without agreement would be a legal minefield and an industrial relations disaster.]

- (iii) The States would be free to close the existing scheme to new members.

It would then be up to potential new employees to enter into a contract of employment with whatever new pension arrangements (if any) were then on offer.

## **Central Points in the Review**

25. At the commencement of the Review the Committee decided and made clear to the Staff Side that, within the legal constraints detailed above, all possible options would be considered prior to reaching a decision on the most appropriate pension arrangements for States employees (and employees of associated bodies).
26. Amongst the possibilities which were floated at an early stage was the closure of the current scheme such that no new members could join. It was quickly realised, however, that this would simply mean that the Committee would then have to enter into negotiations with the same elected representatives to achieve agreement on the arrangements which would apply to new members. The whole issue (current and new members) had to be addressed together and as a whole. Whether different arrangements (if any) for new members are enshrined in a new scheme or are a different section of the current set of Rules is neither here nor there. Indeed within the current Rules there are already benefits which apply only to those who joined before a certain date.
27. In undertaking the Guernsey Review the Committee appreciated that there were a number of fundamental or strategic points which had to be discussed and agreed. Agreement on these points would leave only the details to be resolved. Those key points are explained and the views of the parties follow.

### *A Common Scheme*

28. The Committee has noted that in times past pension arrangements varied between civil servants and manual workers and there were entirely separate arrangements for nurses, certain other hospital staff and teaching staff. Over the years and in different stages, most recently (and finally) in respect of teachers, all groups have become eligible to join the Public Servants' Pension Scheme. (The separate Teachers' Scheme is closed to new entrants and last year the majority of members transferred to the Public Servants' Pension Scheme.)

### *The Objectives for the Scheme*

29. The Committee has also noted that since occupational pension schemes were introduced for Guernsey public sector employees the benefits have closely followed, and in many cases been identical to, those provided for their UK counterparts.
30. This arrangement was formally endorsed by the States when setting objectives for the Public Servants' Pension Scheme in 1988. These objectives which remain in place are as follows:

- “(i) *The scheme should provide adequately for the needs of employees and of their immediate families for their retirement and in the case of their early death or disability.*
- (ii) *Benefits and terms should in general approximate to those available in the UK and elsewhere for equivalent groups, but this should be tempered by any special considerations applicable to Guernsey. Regard should be had to salary and wage levels, to other benefits provided, and to security of employment.*
- (iii) *In determining the levels of benefits, the States should regard itself as an employer of people, and interpret the above objectives in that light.*
- (iv) *The financial arrangements for securing the benefits should aim to minimise the cost of the scheme in the long term while providing an acceptable level of security for members.”*

31. The Committee noted that amongst the reasons for objective (ii) in particular are:

- \* many public sector employees are recruited primarily from the UK (e.g. Nurses, Teachers, Social Workers, Medical Consultants, Air Traffic Control Officers);
- \* many public sector employees have no direct private sector comparators for pay and conditions;
- \* aligning pension arrangements with the UK public sector schemes permits membership of the Public Sector Transfer Club which essentially permits employees to transfer benefits between the UK and Guernsey schemes on a year for year basis. Without this facility it would be difficult to recruit key workers from the UK. (See also paragraph 50 et seq)

*Pensions are Part of the Pay Package*

- 32. This point has been mentioned in the introduction but some further points are helpful.
- 33. Many public sector employees, whether recruited locally or from the UK, have agreed pay and conditions packages formally aligned to those of their UK counterparts – parity agreements. These include, for example, Nurses, Medical Consultants, ATCOs, Police Officers, Firefighters and Prison Officers. These arrangements include not just pay, hours etc but also, by virtue of the agreed States objectives, pension benefits.

34. It follows that if it were thought appropriate to break from alignment with UK schemes in respect of pensions consideration would have to be given to what if any adjustment should be made to pay arrangements.

### **The Views of the Parties**

35. The elected employee representatives and the major employing Departments were consulted separately, but there was a consensus of opinion on all the fundamental points outlined above. This consensus of opinion is as follows:

- (i) there should continue to be a common scheme for the whole of the public sector (with special benefits for those groups whose UK counterparts enjoyed special benefits);

Consideration has been given to whether there could be different arrangements for different parts of the public sector e.g. those recruited mainly from the UK receiving benefits broadly aligned to those of their UK counterparts with those recruited primarily from within Guernsey having different arrangements.

It has been mooted, for example, that the vast majority of ‘civil servants’ are recruited from within the Island, but such an analysis would be simplistic to say the least. A significant number of essential staff covered under these civil service conditions – Medical Consultants, Air Traffic Control Officers, Qualified Planners, Social Workers, Lawyers etc are recruited from off-island. By comparison, reference to those recruited exclusively (or almost exclusively) from within the Island would have to include, in no particular order, Crown Officers, Firefighters, Prison Officers, Police Officers, Unqualified Nurses, Public Service Employees, and employees of Guernsey Post Limited, Guernsey Electricity Limited, the Guernsey Financial Services Commission and the Training Agency. A division between local and off island recruits is considered both undesirable and inappropriate for the following reasons:

- \* there would be divisions and resentment both between and within groups, with ‘local’ employees seen as second-class members.
- \* it would be impossible to make any clear distinctions (e.g. most Qualified Nurses are recruited from the UK whereas most Unqualified Nurses are local).
- \* employees whose jobs were graded equally may have to receive different pay to reflect different levels of pension benefits.
- \* there would be difficulties moving staff, or allowing staff to move, between posts with different pension arrangements.

- \* there would be considerable administrative difficulties in implementing different arrangements for different groups.

Furthermore it should be noted that the opinion to retain a common scheme coincides with views emerging through both the Committee's own review of negotiating machinery and the Chief Executive's (separate) modernisation of the public sector programme i.e. that the terms and conditions of employees should so far as possible be aligned.

- (ii) the pension benefits of Guernsey public sector employees should continue to be broadly comparable to those of their UK counterparts;

It should be noted that this view was expressed in the full knowledge that the benefits in the UK schemes are being reviewed and, in particular, the retirement age for new members is to be increased.

- (iii) as the consensus of opinion was that pension benefits for States employees should continue to be broadly comparable to those of their UK counterparts the question of any consequential adjustment in the overall pay and conditions package did not arise.

It should be noted that, in expressing this view, there was recognition that pension arrangements for private sector employees in Guernsey were changing. However, pension arrangements had always been considered an important part of the pay and conditions package for all parts of the public sector and regularly mentioned by the employer during pay negotiations – employees should not necessarily expect to receive pay as high as that in the private sector because they had access to a quality pension scheme. Whilst the scheme should be reformed – in line with the UK public sector – if there was a change to something inferior to the UK public sector, employees would undoubtedly seek pay rises in compensation.

36. The Committee noted the consensus of opinion and endorses these views as an appropriate agreement in principle. This would mean that:

- \* current public sector employees would continue to have access to a defined benefit scheme with pensions subject to annual review, and their accrued benefits would be secure.

- \* the normal retirement age of **existing members** would be retained;

but

- \* the normal retirement age for new members would be increased by five years (i.e. to 65 for standard employees).

- \* there may be some adjustments in employee contribution rates.

### **The Way Forward**

37. Now that there is agreement in principle that benefits and terms should continue to be broadly comparable to those generally applicable to those of their UK counterparts the Committee has considered the most appropriate means of progressing the Review and recommends that the States:
  - (i) endorse the agreement in principle by confirming that the objectives for Guernsey public sector pension schemes detailed in 30 (above) should remain; and
  - (ii) direct that the necessary work to implement this agreement (arising from the imminent changes in the UK) be undertaken by a Review Panel of the PCC chaired by an independent person, acceptable to both Sides, with proven credentials in pension matters. The Review Panel would also be required to consult with the non-States bodies whose employees are members of the Public Servants' Pension Scheme but not represented on the PCC as their position also needs to be addressed. The Review Panel will be required to produce a detailed report and necessary Rule changes to be submitted for consideration by the PCC and subsequent endorsement by the States in early 2007. The level of payment, if any, that is made to the Review Panel Chairman would be determined by the Committee and is not anticipated to be significant.

N.B. These recommendations have the broad support of the Staff Side of the PCC.

### **SUPERANNUATION FUND PERFORMANCE AND FUNDING LEVELS**

38. The employers' contribution rates necessary to ensure that the Public Servants' Pension Scheme and the Teachers' Scheme (which is closed to new entrants) remain fully funded are determined following triennial actuarial valuations. The Superannuation Fund's funding level is also reported annually in accordance with Accounting Standard FRS17. However, the liabilities are calculated in a different manner under FRS17 than under the actuarial valuation and the differences can be significant. Nonetheless, the trend is similar and, therefore, an update of FRS17 figures can provide a general indication of the change in employers' contribution rates which might be necessary if a valuation were undertaken.
39. In recent years the FRS17 position, as determined by the States Actuaries, has been as follows:

|                     | <b>June<sup>†</sup></b> |             |             |             |             |             |             |
|---------------------|-------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
|                     | <b>2006</b>             | <b>2005</b> | <b>2004</b> | <b>2003</b> | <b>2002</b> | <b>2001</b> | <b>1998</b> |
|                     | <b>£m</b>               | <b>£m</b>   | <b>£m</b>   | <b>£m</b>   | <b>£m</b>   | <b>£m</b>   | <b>£m</b>   |
| Assets              | 795                     | 783         | 656         | 608         | 506         | 617         | 569         |
| Liabilities         | 877                     | 940         | 820         | 738         | 600         | 543         | 490         |
| (Deficit) / Surplus | (82)                    | (157)       | (164)       | (130)       | (94)        | 74          | 79          |
| Funding Level       | 91%                     | 83%         | 80%         | 82%         | 84%         | 114%        | 116%        |

<sup>†</sup>The Actuaries have prepared a mid-year update which shows a considerable improvement in the funding level. The market value of the Schemes' assets as at 30 June 2006 is very similar to the 31 December 2005 (during May 2006 the Superannuation Fund's assets were at their highest value of £830m – a funding level of 95%). The value of the Schemes' liabilities as at 30 June 2006 has reduced since 31 December 2005 due to an increase to 5.2% in the discount rate actuarial assumption (December 2005: 4.7%, December 2004: 5.3%). The discount rate is the interest rate used to determine the present value of the liabilities and is based on the current rate of return on high quality corporate bonds.

40. The Superannuation Fund's annual performance is reported, in line with best practice, as part of the overall States Accounts in the annual July Billet d'Etat and the most recent Accounts can be summarised as follows:

|                             | <b>2005</b> | <b>2004</b> | <b>2003</b> |
|-----------------------------|-------------|-------------|-------------|
|                             | <b>£m</b>   | <b>£m</b>   | <b>£m</b>   |
| Employer contribution       | <b>15</b>   | <b>13</b>   | <b>12</b>   |
| Employee contribution       | <b>9</b>    | <b>8</b>    | <b>8</b>    |
| Refunds and transfers (net) | <b>2</b>    | <b>(1)</b>  | <b>1</b>    |
| Pensions and lump sums paid | <b>(23)</b> | <b>(21)</b> | <b>(20)</b> |
| Net investment income       | <b>17</b>   | <b>15</b>   | <b>15</b>   |
| Net increase                | <b>20</b>   | <b>14</b>   | <b>16</b>   |
| Investment appreciation     | <b>107</b>  | <b>34</b>   | <b>86</b>   |
| Opening Balance             | <b>656</b>  | <b>608</b>  | <b>506</b>  |
| Closing Balance             | <b>783</b>  | <b>656</b>  | <b>608</b>  |

41. From the above figures it can be seen that even though the Superannuation Fund is in deficit (as calculated by the Actuaries) the amount of



**contributions (employer plus employee) and the investment income consistently exceed the pensions currently paid.**

### **Funding Target**

42. For many years the States has adopted a policy of having fully funded schemes (i.e. at any given time the target was to have sufficient assets to cover the present value of the schemes' liabilities). This means that at each triennial actuarial valuation the employer contribution rates were calculated such that the Superannuation Fund would remain fully funded, provided that the underlying assumptions are correct.
43. During the 1990s the Superannuation Fund was in surplus primarily due to very strong investment performance and therefore, following the Actuaries' advice, the employer contribution rates were set at a level which used the surplus up over a period of time.
44. It is emphasised that even when the Superannuation Fund had a substantial surplus the States merely reduced the contribution rates, in line with the Actuaries' recommendations. It did not take a "pension holiday" and, in general, the employer contribution rates were still higher than the employees' contribution rate (fixed at 6%).
45. Providing a pension is a contractual liability between the States and its employees and pensioners and forms part of the pay and conditions negotiated between employees and the Committee. The States therefore need to make financial provision for the ongoing payment of pensions and future liabilities. The States has traditionally had a policy of achieving this by maintaining a fully funded Superannuation Fund. However, the maintenance of a fully funded investment fund to support a public sector defined benefits (final-salary) scheme is a relatively unusual position. In the UK, and in many other jurisdictions, some public sector pensions are paid out of current tax collections. Little, or even no, investment fund is maintained.
46. The Department believes that maintaining a superannuation fund remains appropriate, not least because such an arrangement provides security to scheme members and also produces significant investment income. However, the level of that fund is a policy that should be examined at regular intervals.
47. The next triennial actuarial valuation is due to be carried out at 31 December 2007 with any changes to employer contribution rates being effective from 1 January 2009.

### **The Way Forward**

48. Due to the significant improvement in the funding level of the Superannuation Fund, the Department does not believe that there is an immediate need to adjust

the employer contribution rates and funding level ahead of the Review Panel report.

49. **The Department is therefore recommending that the employer contribution rates are maintained at their present level pending the results of the actuarial valuation at 31 December 2007 which would take into account any changes following the Review Panel findings.**

### **TRANSFER VALUES**

50. The Interchange Arrangements make provision for the Public Servants' Pension Scheme and the (closed to new members) Teachers' Superannuation Regulations to pay and accept transfer values in respect of benefits members have accrued in the Guernsey or UK schemes. This facility is of considerable importance to the significant number of employees who transfer between the UK and Guernsey.
51. As a result of UK tax changes effective from 6 April 2006 transfer values cannot at present be paid to or obtained from UK schemes.
52. Attached to this report (APPENDIX I) are the amendments to the Public Servants' Pension Scheme and the Teachers Superannuation Regulations necessary to restore the transfer arrangements. These amendments are of a technical nature and have no funding implications.
53. In accordance with the new UK tax arrangements transfers can be obtained only if the Public Servants' Pension Scheme guarantees that benefits in respect of transferred funds will not be paid, after 6 April 2010, before age 55. However, the UK tax arrangements provide a protected arrangement for Police Officers and Firefighters and if the Committee is able to obtain agreement for this to apply to such employees who wish to take up employment in Guernsey it will submit the necessary Rule change for endorsement by the States.

### **PERMITTED INVESTMENT RULES**

54. The rules on permitted investments for the States Superannuation Fund and the Guernsey Insurance and Health Service Funds are established by resolution of the States and set out in:
  - \* The States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 1999, and
  - \* The resolution of 15 July 1999 pursuant to section 100(4) of the Social Insurance (Guernsey) Law, 1978 and section 1(7) of the Health Service (Benefit) (Guernsey) Law 1990
55. Under Section 1(7) of the Long-Term Care Insurance (Guernsey) Law 2002, monies forming the Long-term Care Fund (established in 2003) may be invested

by the Social Security Department in investments of the descriptions authorised by the States.

56. As set out in previous Budget and Interim Financial Reports, the Department keeps its investment policies and procedures under continuous review. As part of this process, the Department, having taken professional advice, is recommending that the existing investment rules (last revised in 1999) are updated in line with best practice. The Department believes that the proposed investment rules are appropriate and will assist in ensuring that it continues to carry out its investment activities in a risk-averse manner.
57. The Social Security Department has confirmed that the same investment rules should apply to the funds which, by law, are under its control and management apart from part (v) of the Additional Powers where it is confined to the three funds under the control of the Social Security Department. These are already invested in a common investment fund and the wording of the schedule will serve only to recognise the existing practice.
58. Accordingly, the Department recommends the States:
  - \* **To rescind resolution 12 on Billet d’Etat XIII of 15 July 1999 and approve the States of Guernsey (Public Servants) (Pensions and Other Benefits) (Permitted Investments) (Amendment) Rules, 2006 set out in Appendix II of this Report.**
  - \* **To rescind resolution 13 on Billet d’Etat XIII of 15 July 1999 and replace it with the resolution set out in Appendix III of this Report.**

## **STATES MEMBERS’ PENSION SCHEMES**

59. In January 2004, the States considered a Report on the remuneration of States Members and, inter alia, resolved (by an amendment) that “The States Advisory and Finance Committee [*Treasury and Resources Department*], with the advice of the States Actuaries, shall prepare rules for a new States Members pension scheme along the lines of the current scheme but based on the Basic Allowance for approval by the States.”
60. The Review Board stated that “A scheme should continue to be available and, in fact, it will become increasingly important and necessary if the workload of Members continues to increase and membership of the States becomes the principal occupation of more Members.”

## **PRE – MAY 2004 STATES MEMBERS’ PENSION SCHEME**

61. The States Members’ Pension Scheme was established on 1 January 1990 and closed on 30 April 2004. In respect of service prior to 1 January 1990, Members are entitled to claim a non-contributory pension of £3.38 per week for each year

of service in the States up to 31 December 1989 (half-rate spouse or dependant child pension payable on death after retirement). These non-contributory pensions are paid to former States Members who ceased to hold office before 31 December 1989 directly from General Revenue and to States Members who cease to hold office after 31 December 1989 from the States Members' Pension Fund (an annual payment of £35,000 is made into the Fund from General Revenue in respect of this liability).

62. The main provisions of the contributory pre-May 2004 States Members' Pension Scheme are:

- \* Accrual rate<sup>†</sup> of 32 (i.e. it would have been theoretically possible for a member to accrue more than 32 years contributions and receive an annual pension of more than the compensation payment). With effect from 1 May 2006, this accrual rate produced a pension of £6.76 per week for each year of contributory service from 1 January 1990.

<sup>†</sup>The accrual rate is the factor by which each year's service contributes to pension benefits, which is calculated as follows:

$$\frac{1}{\text{Accrual Rate}} \times \text{Compensation Payment} \times \text{Years of Service} = \text{Annual Pension}$$

- \* Minimum age to receive a pension of 65 following retirement from the States.
  - \* Half rate spouse's pension on death in service or after retirement.
  - \* 38 States Members were in the Scheme and contributed at 6% of Compensation Payment and the States contributed at 22.9%.
  - \* Total States contribution for 2004 was budgeted to be £90,000 (2003 : £82,305).
63. **It is emphasised that there will be no change to Members pension entitlement under the pre – May 2004 Schemes (contributory post 1 January 1990 and non-contributory pre 1 January 1990).**

#### **POST - MAY 2004 STATES MEMBERS' PENSION SCHEME**

64. The Department has considered a number of possible options for the post-May 2004 States Members' Pension Scheme and, as previously advised to States Members, is recommending the following main provisions (the full proposed rules are set out in Appendix IV):

- \* **Accrual rate of 45 (pensionable service limited to 45 years) – pension of approximately £9.25 per week for each year of contributory service after 1 May 2004.**
- \* Minimum age to receive a pension of 65 following retirement from the States. (If States Members remain in service after this age, then they can continue to accrue pension and the start of their pension would be postponed until they retire from the States.)
- \* Half rate spouse's pension on death in service or after retirement.
- \* States Members contribute at 6% of the Basic Allowance and the initial States contribution be set at 25% (to be reviewed as part of the triennial actuarial valuation at 31 December 2007).
- \* Membership is not compulsory and States Members may, notwithstanding their previous indication, opt to join with effect from 1 May 2004 or any later date (upon payment of any back-dated contributions).
- \* Total States contribution will, of course, be dependent on the number of Members who opt to join the Scheme but, of the 45 States Members, 38 (with an average age at 1 May 2004 of 56) have indicated that they would join the new States Members' Pension Scheme which would cost approximately £200,000 per annum. It should be noted that the States contribution rate is high due to the age profile of Members (for example, if the average age of Members was 35 – the States contribution rate would be 17% - 2/3rds of that detailed above).

65. The above Scheme is being recommended as being the most suitable in that Members would be receiving additional benefit for the higher contribution levels although not at the very generous accrual rates of the pre-May 2004 Scheme. In addition, the employer contribution rate would be broadly similar to the pre-May 2004 rate.

## **Recommendations**

66. The States is recommended to:
- (i) confirm that the objectives for Guernsey public sector pension schemes detailed in paragraph 30 of this report should remain.
  - (ii) direct that the necessary work (arising from the imminent changes in the UK) be undertaken by a Review Panel of the PCC chaired by an independent person, acceptable to both Sides, with proven credentials in pension matters. The Review Panel would also be required to consult with the non-States bodies whose employees are members of the scheme

but not represented on the PCC as their position also needs to be addressed. The Review Panel will be required to produce a detailed report and necessary Rule changes to be submitted for consideration by the PCC and subsequent endorsement by the States in early 2007.

- (iii) agree that the employer contribution rates in respect of the States of Guernsey Superannuation Fund shall remain at the present levels.
- (iv) approve the draft States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) (No 2) Rules, 2006 and draft Teachers' Superannuation (Guernsey) (Amendment) Regulations, 2006 both of which are attached as Appendix I of this Report.
- (v) rescind resolution 12 on Billet d'Etat XIII of 15 July 1999 and approve the States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 2006 set out in Appendix II of this Report.
- (vi) rescind resolution 13 on Billet d'Etat XIII of 15 July 1999 and replace it with the resolution set out in Appendix III of this Report.
- (vii) agree the establishment of a post-May 2004 States Members Pension Scheme as set out in Appendix IV of this Report.

Yours faithfully

J P Le Tocq  
Chairman  
Public Sector Remuneration Committee

L S Trott  
Minister  
Treasury and Resources Department

## APPENDIX I

### **The States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) (No 2) Rules, 2006**

THE STATES, in pursuance of their Resolution of 25 October 2006, have approved the following Rules:-

#### **Amendments to 1972 Rules.**

1. The States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972, as amended (in these Rules referred to as “the 1972 Rules”) are further amended as follows:-

#### **New Rule 29**

Insert the following as new Rule 29

29. In relation to any member of the Scheme who has transferred benefit rights in a United Kingdom registered pension scheme to the Scheme at any time on or after 6<sup>th</sup> April 2006, and notwithstanding any other provision of these Rules, (and in particular but without limiting the generality, Rules 16, 20 – 25 and 27A),
  - (a) at least 70% of a member’s United Kingdom tax-relieved scheme funds will be designated by the Board for the purpose of providing the member with an income for life, and
  - (b) the pension benefits payable to the member under the Scheme (and any lump sum associated with those benefits) shall be payable no earlier than they would have been if pension rule 1 in Section 165 of the Finance Act 2004 applied<sup>1</sup>.

#### **Commencement**

2. The amendment to the Rules shall be treated as having come into force on 6<sup>th</sup> April 2006.

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<sup>1</sup> Pension rule 1 in section 165 Finance Act 2004 provides that no payment of pension may be made before the day on which the member reaches normal minimum pension age, unless the ill health provision in the Scheme was met immediately before the member became entitled to a pension under the Scheme. For members joining the Scheme by way of transfer after 6<sup>th</sup> April 2006 this is age 50 at any time prior to 6<sup>th</sup> April 2010 and age 55 on and after 6<sup>th</sup> April 2010.

**Construction, citation and collective title**

3.     (1)     These Rules and the 1972 Rules shall be construed as one.
- (2)     These Rules may be cited as the States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) (No 2) Rules, 2006.
4.     These Rules, and the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 to 2006, may be cited together as the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 to 2006.



**The Teachers' Superannuation (Guernsey)  
(Amendment) Regulations, 2006**

**SI 2006/[1]**

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**ARRANGEMENT OF REGULATIONS**

**Part 1**

*General*

1. Title, commencement and extent.
2. Interpretation.

**Part 2**

*Amendment to Existing Scheme*

3. Transfer of benefit rights in a United Kingdom registered pension scheme to the Teachers' Scheme on or after 6<sup>th</sup> April 2006

The Education Department, designated for the purpose of sections 1 and 3 of The Superannuation (Teachers and Teachers' Families) Guernsey Law, 1974, in exercise of the powers conferred on them by the said sections 1 and 3 and of all other powers enabling them in that behalf, hereby make the following Regulations:-

**PART 1: GENERAL**

**Title, commencement and extent**

1. (1) These Regulations may be cited as The Teachers' Superannuation (Guernsey) (Amendment) Regulations, 2006 and shall come into force with effect from 6<sup>th</sup> April 2006.
- (2) These Regulations shall have effect in the Islands of Guernsey, Herm and Alderney.

**Interpretation**

2. (1) In these Regulations,

|                         |   |
|-------------------------|---|
| ‘Teachers’ Regulations’ | means The Teachers’ Superannuation (Guernsey) Regulations, 2001 |
| ‘Teachers’ Scheme’      | means the Teachers’ Superannuation                              |

scheme being the superannuation scheme  
which at the Change Date is regulated by  
the Teachers' Regulations

- (2) The Interpretation (Guernsey) Law, 1948 shall apply to the interpretation of these Regulations.
- (3) In these Regulations,
  - (a) reference to an enactment includes a reference to that enactment as amended, repealed, replaced, extended or applied by or under any other enactment;
  - (b) reference to a section, paragraph, sub-paragraph, regulation, part or schedule is (unless otherwise stated) a reference to a section, paragraph, sub-paragraph, regulation, part or schedule of these Regulations.

## **PART 2: AMENDMENT TO EXISTING SCHEME**

### **Transfer of benefit rights in a United Kingdom registered pension scheme to the Teachers' Scheme on or after 1<sup>st</sup> April 2006**

- 3. (1) The Regulations of the Teachers Scheme are amended as follows.
- (2) In relation to any member of the Teachers' Scheme who has transferred benefit rights in a United Kingdom registered pension scheme to the Teachers' Scheme at any time on or after 6<sup>th</sup> April 2006, then notwithstanding any other provision of the Teachers' Scheme, (and in particular but without limiting the generality, Regulation 29),
  - (a) at least 70% of a members United Kingdom tax-relieved scheme funds will be designated by the Council for the purpose of providing the member with an income for life, and
  - (b) the pension benefits payable to the member under the Teachers' Scheme (and any lump sum associated with those benefits) shall be payable no earlier than they would have been if pension rule 1 in Section 165 of the Finance Act 2004 applied.

Dated

2006

M. A. OZANNE  
Minister  
Education Department

## EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Superannuation (Teachers and Teachers' Families) (Guernsey) Law, 1974 and make provision for the Teachers Scheme to satisfy the requirements of The Pensions Scheme (Category of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006 (SI 2006/206) in order for it to be recognised as an overseas pension scheme. This facilitates the transfer of benefits from registered United Kingdom Pension Schemes to the Teachers' Scheme. Under The Teachers' Superannuation (Guernsey) (Amendment) Regulations, 2005 the Teachers' Scheme was closed to new entrants with effect from 1<sup>st</sup> August 2005, but this amendment is required to facilitate the transfer by existing members of the Teachers' Scheme of benefits which they hold in a UK Scheme after 6<sup>th</sup> April 2006.

### **Regulation 1**

The Regulations shall come into force with effect from the 6<sup>th</sup> April 2006 and have effect in Guernsey, Herm and Alderney.

### **Regulation 2**

Regulation 2 defines the terms used in these Regulations.

### **Regulation 3**

This Regulation prescribes the conditions necessary to be recognized as an Overseas Scheme in that (i) at least 70% of a members UK tax relieved Scheme funds must be used for providing that person with an income for life, and (ii) except in the event of ill health no payment of pension may be made except in accordance with Pension rule 1 in section 165 Finance Act 2004. Pensions rule 1 provides that no payment of pension may be made before the day on which the member reaches normal minimum pension age (unless the ill health provision in the Scheme was met immediately before the member became entitled to a pension under the Scheme). For members transferring benefits to the Teachers' after 6<sup>th</sup> April 2006 the normal minimum pension age is 50 years at any time prior to 6<sup>th</sup> April 2010 and 55 years on and after 6<sup>th</sup> April 2010 and the existing Teachers Scheme Regulations which allow for pension benefits to be paid before these dates are, in this case, superseded by the provisions of this Regulation 3.

**APPENDIX II****The States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 2006**

THE STATES, in pursuance of their Resolution of 25 October, 2006, have approved the following Rules:

**Permitted investments**

1. For paragraphs (4), (5) and (6) of Rule 2 of the States of Guernsey (Public Servants) (Pensions and Other Benefits) Rules, 1972 there is substituted:

“(4) The States Treasury and Resources Department (hereinafter referred to as “the Department”) shall arrange for the investment of the Fund in all or any of the following descriptions:

a) Bonds

Debentures, debenture stocks, loan notes, unsecured loan stocks, bonds, structured products, secured loans and short term interest bearing instruments (such as certificates of deposit, bills and commercial paper), issued or guaranteed by, and interest bearing deposits with:

- i) any Government of any country or territory, or
- ii) the States of Guernsey, or
- iii) any local authority or other public body in any of the above countries or territories, or
- iv) any building society in the United Kingdom, or
- v) any supranational institution, or
- vi) any company incorporated in any country or territory,

b) Equities

Equity stocks and shares, whether nil paid, partly paid or fully paid, of companies incorporated in any country, provided that:

- i) they are traded on or under the rules of a Stock Exchange recognised for this purpose by the Department; and

- ii) when the investments are initially acquired the total market capitalisation of the company is not less than ten million pounds or its equivalent in any other currency; and
- iii) the total investment in the equity stocks and shares of any one company, at cost, must not at any time exceed five per centum of the market value at that time of all investments of the fund;

c) Property

Real property or interests in real property including

- i) commercial property
- ii) residential property
- iii) land for residential or commercial use
- iv) agricultural land
- v) forestry
- vi) any form of pooled investments for categories i) to v), including, but not limited to, limited partnerships, property unit trusts, fund of property unitised vehicles, societies d'investissement a capital variable (SICAVs) and real estate investment trusts.

d) Derivatives

Derivative instruments based on financial securities, currencies or financial markets such as options, warrants, futures contracts, swaps, forward foreign exchange contracts, and contracts for differences, whether quoted on a stock market or an exchange or over the counter.

e) Pooled Funds

- i) any form of pooled investment including, but not limited to, as a limited partnership, unit trust, SICAV, fund of fund or exchange traded fund
- ii) policies issued by a properly constituted insurance or assurance company

f) Other Assets

The following assets may be held, subject to an overall limit of 10% of market value of all the investments of the Fund at the time of purchase in

these categories:

- i) Hedge funds of any type including fund of hedge funds
- ii) Infrastructure assets of any type, including Private Finance Initiative investments
- iii) Private equity
- iv) Currency and currency overlays
- v) Pooled funds where the underlying assets are commodities
- vi) Collateralised debt obligations

#### Additional Powers

The Fund has power to:

- i) sub underwrite or underwrite a new issue
- ii) enter into stock lending arrangements with financial institutions
- iii) guarantee the obligation of a company owned or partly owned by the Fund
- iv) borrow on a temporary basis to a maximum of 5% of the total market value of the Fund
- v) enter into arrangements for a common investment fund with other Funds of the States of Guernsey excluding the Funds under the control and management of the Social Security Department, namely the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund.

(5) The investment functions of the Department under paragraph (4) of this Rule may be delegated by the Department (in whole or in part) to professional fund or investment managers.

(6) The investment functions of the Department under paragraph (4) of this Rule may be delegated by the Department (in whole or in part) to professional fund or investment managers.

#### **Citation**

2. These Rules may be cited as the States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 2006.

**Repeal**

3. The States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 1999 are repealed.

**Commencement**

4. These Rules shall come into force on 1 November 2006.

## APPENDIX III

### **Resolution of the States pursuant to Section 100(4) of the Social Insurance (Guernsey) Law, 1978, Section 1(7) of the Health Service (Benefit) (Guernsey) Law, 1990 and Section 1(7) of the Long-term Care Insurance (Guernsey) Law, 2002**

The Social Security Department shall be authorised to invest monies forming part of the Guernsey Insurance Fund, the Guernsey Health Service Fund and the Long-term Care Insurance Fund in investments of any or all of the following descriptions:

a) Bonds

Debentures, debenture stocks, loan notes, unsecured loan stocks, bonds, structured products, secured loans and short term interest bearing instruments (such as certificates of deposit, bills and commercial paper), issued or guaranteed by, and interest bearing deposits with:

- i) any Government of any country or territory, or
- ii) the States of Guernsey, or
- iii) any local authority or other public body in any of the above countries or territories, or
- iv) any building society in the United Kingdom, or
- v) any supranational institution, or
- vi) any company incorporated in any country or territory,

b) Equities

Equity stocks and shares, whether nil paid, partly paid or fully paid, of companies incorporated in any country, provided that:

- i) they are traded on or under the rules of a Stock Exchange recognised for this purpose by the States Treasury and Resources Department; and
- ii) when the investments are initially acquired the total market capitalisation of the company is not less than ten million pounds or its equivalent in any other currency; and
- iii) the total investment in the equity stocks and shares of any one company, at cost, must not at any time exceed five per centum of the market value



at that time of all investments of the fund;

c) Property

Real property or interests in real property including

- i) commercial property
- ii) residential property
- iii) land for residential or commercial use
- iv) agricultural land
- v) forestry
- vi) any form of pooled investments for categories i) to v), including, but not limited to, limited partnerships, property unit trusts, fund of property unitised vehicles, societies d'investissement a capital variable (SICAVs) and real estate investment trusts.

d) Derivatives

Derivative instruments based on financial securities, currencies or financial markets such as options, warrants, futures contracts, swaps, forward foreign exchange contracts, and contracts for differences, whether quoted on a stock market or an exchange or over the counter.

e) Pooled Funds

- i) any form of pooled investment including, but not limited to, as a limited partnership, unit trust, SICAV, fund of fund or exchange traded fund
- ii) policies issued by a properly constituted insurance or assurance company

f) Other Assets

The following assets may be held, subject to an overall limit of 10% of market value of all the investments of the Fund at the time of purchase in these categories:

- i) Hedge funds of any type including fund of hedge funds
- ii) Infrastructure assets of any type, including Private Finance Initiative investments
- iii) Private equity

- iv) Currency and currency overlays
- v) Pooled funds where the underlying assets are commodities
- vi) Collateralised debt obligations

#### Additional Powers

The Fund has power to:

- i) sub underwrite or underwrite a new issue
- ii) enter into stock lending arrangements with financial institutions
- iii) guarantee the obligation of a company owned or partly owned by the Fund
- iv) borrow on a temporary basis to a maximum of 5% of the total market value of the Fund
- v) enter into arrangements for a common investment fund with other Funds under the control and management of the Social Security Department

## APPENDIX IV

### RULES FOR PAYMENT OF PENSIONS TO FORMER STATES MEMBERS, THEIR SURVIVING SPOUSES AND DEPENDENT CHILDREN

#### Definition of Former States Members

1. For the purpose of this Scheme a Former States Member means any Conseiller, any Deputy (excluding representatives of the States of Alderney) and any Douzaine Representative in the States of Deliberation, who:
  - (i) no longer has a seat in the States of Deliberation; and
  - (ii) has in the aggregate held a seat in the States of Deliberation for a period of four years or more; and
  - (iii)
    - (a) has attained the age of 65 years; or
    - (b) has died before attaining the age of 65 years.

#### Pension

2. Subject to the conditions set out in rule 5:
  - (A) **Former States Members who ceased to hold office on or before 31st December, 1989 (Non-contributory Scheme)**
    - (a) Former States Members who ceased to be Members of the States on or before 31st December, 1989, shall be entitled to claim a pension of up to £3.38 per week for each year of service in the States of Deliberation;
    - (b) where sub-paragraph 1 (iii) (a) applies, the surviving spouse of a Former States Member shall be entitled to claim a pension equal to fifty per centum of the sum which would have been payable to the Former States Member, subject to such pension ceasing in the event of a subsequent re-marriage;
    - (c) where sub-paragraph 1 (iii) (b) applies, the surviving spouse of a Former States Member shall be entitled to claim a pension amounting to £1.69 per week for each year of service of the Former States Member, subject to such pension ceasing in the event of a subsequent remarriage;
    - (d) where there is no surviving spouse but there is a dependent child the pension referred to in sub-paragraphs (b) and (c) of this rule

shall be payable to such person as the Department may determine on behalf of that dependent child (and, if more than one, in equal shares).

**(B) Former States Members who ceased to hold office on or before 30th April, 2004 (1st January 1990 up to and including 30th April 2004 contributory scheme)**

- (a) Former States Members who ceased to be Members of the States on or before 30th April, 2004, shall be entitled:
  - (i) in respect of service up to and including 31st December, 1989, to a pension of £3.38 per week for each year of service in the States of Deliberation; and
  - (ii) in respect of service from 1st January, 1990, unless they opt out in accordance with the rules of the Scheme, to a pension of £6.76 per week for each year of service in the States of Deliberation;
- (b) where sub-paragraph 1(iii)(a) applies, the surviving spouse of a Former States Member shall be entitled to a pension equal to fifty per centum of the sum which would have been payable to the Former States Member, subject to such pension ceasing in the event of a subsequent re-marriage;
- (c) where sub-paragraph 1 (iii)(b) applies, the surviving spouse of a Former States Member shall be entitled to a pension amounting to £1.69 per week for each year of service of the Former States Member prior to 31st December, 1989, and £3.38 per week for each year of service of the Former States Member after 1st January, 1990, subject to such pension ceasing in the event of a subsequent re-marriage;
- (d) where there is no surviving spouse but there is a dependent child the pension referred to in sub-paragraphs (b) and (c) of this rule shall be payable to such person as the Department may determine on behalf of that dependent child (and, if more than one, in equal shares).

**(C) Other Members (From 1 May 2004 contributory scheme)**

- (a) Members of the States who become Former States Members on or after 1st May, 2004, shall be entitled:
  - (i) in respect of service up to and including 31st December, 1989, to a pension of £3.38 per week for each year of service

in the States of Deliberation;

- (ii) in respect of service from 1st January, 1990 up to and including 30th April, 2004, unless they opt out in accordance with the rules of the Scheme, to a pension of £6.76 per week for each year of service in the States of Deliberation; and
  - (iii) in respect of service from 1st May, 2004, unless they opt out in accordance with the rules of the Scheme, to a pension of £9.25 per week for each year of service in the States of Deliberation;
- (b) where sub-paragraph 1(iii)(a) applies, the surviving spouse of a Former States Member shall be entitled to a pension equal to fifty per centum of the sum which would have been payable to the Former States Member, subject to such pension ceasing in the event of a subsequent re-marriage;
  - (c) where sub-paragraph 1 (iii)(b) applies, the surviving spouse of a Former States Member shall be entitled to a pension amounting to £1.69 per week for each year of service of the Former States Member prior to 31st December, 1989, £3.38 per week for each year of service of the Former States Member from the 1st January, 1990 up to and including 30th April, 2004 and £4.63 per week for each year of service of the Former States Member after 1st May, 2004 subject to such pension ceasing in the event of a subsequent re-marriage;
  - (d) where there is no surviving spouse but there is a dependent child the pension referred to in sub-paragraphs (b) and (c) of this rule shall be payable to such person as the Department may determine on behalf of that dependent child (and, if more than one, in equal shares).

### **Pension Fund**

3. There shall be a fund entitled the "States Members Pension Fund".
  - (a) There shall be paid into the Fund:
    - (i) contributions from the States Members;
    - (ii) contributions from the States of Guernsey, of such amounts as the Department may from time to time resolve.
  - (b) There shall be paid out of the Fund:

- (i) pensions in accordance with these Rules;
  - (ii) refunds of contributions in accordance with these Rules;
  - (iii) investment and professional fees and other expenses of investment.
- (c) The Fund shall be invested by the Department in a similar manner to the assets of the fund authorised under the States of Guernsey (Public Servants) (Pensions and other Benefits) Rules, 1972 as amended.
  - (d) The Department shall appoint an actuary and arrange for actuarial reviews to be effected from time to time.

### **Contributions and Repayments**

- 4 (a) Any Compensation Payment or Basic Allowance made to a Member of the States on or after 1st January, 1990, shall, unless the Member opts out in accordance with the rules of the Scheme, be subject to a deduction equal to six per centum of the amount claimed which sum shall be paid into the Fund.
- (b) Any Member who has contributed to the Fund but who does not qualify for a pension in accordance with these rules or who opts out in accordance with the rules of the Scheme shall be entitled to repayment of the aforementioned contributions together with compound interest thereon at the rate of three per centum per annum with yearly rests at the 31 December in each year.
- (c) Any Member whose contributions have been repaid in accordance with paragraph 4(b) above who subsequently qualifies for a pension shall be entitled to rejoin the Scheme upon payment into the Fund of such sum as shall be determined by the Scheme's Actuary to be necessary to make good the contributions previously returned to him.

### **Conditions**

- 5 (a) Pensions to Former States Members who ceased to be Members of the States on or before 31st December, 1989, shall be payable following application in writing to the Minister of the Department and claims will be back-dated only to the first day of the month in which the application is made. No retrospective payments shall otherwise be made.
- (b) Pensions to Members of the States who become Former States Members on or after 1st January, 1990, shall be paid without application.
- (c) The pension specified in paragraph 2 above shall be payable by monthly instalments in arrears.

- (d) Any amount specified in rule 2 may be varied by resolution of the Department in accordance with rule 6.
- (e) A Member of the States may opt out of the 1st January 1990 to 30th April 2004 contributory Scheme by notifying the Department in writing accordingly, and if he does so then:
  - (i) No pension shall be payable under rule 2(B) in respect of his service from 1st January 1990 up to and including 30th April 2004; and
  - (ii) rule 4(a) shall cease to apply in his case; and
  - (iii) he shall be entitled to repayment of his contributions together with compound interest at three per centum per annum with yearly rests at each 31st December; and
  - (iv) it is declared for the avoidance of doubt that he may not thereafter seek to gain entitlement to such a pension by paying contributions.
- (f) A Member of the States may opt out of the post 1st May 2004 contributory Scheme by notifying the Department in writing accordingly, and if he does so then:
  - (i) No pension shall be payable under rule 2(C) in respect of his service from 1st May 2004; and
  - (ii) rule 4(a) shall cease to apply in his case; and
  - (iii) he shall be entitled to repayment of his contributions together with compound interest at three per centum per annum with yearly rests at each 31st December; and
  - (iv) it is declared for the avoidance of doubt that he may not thereafter seek to gain entitlement to such a pension by paying contributions.

### **General Interpretation**

6 In these rules:

- (a) the masculine includes the feminine, the singular includes the plural, and vice versa;
- (b) a child is "dependent" if :
  - (i) he is under eighteen or is in full time education; and

- (ii) he was, in the opinion of the Department, wholly or mainly dependent on the Former States Member concerned at the date of the latter's death;
- (c) "the Department" means the "States of Guernsey Treasury and Resources Department";
- (d) "Compensation Payment" means the payment available to States Members prior to 1 May 2004.
- (e) "Basic Allowance" means a payment available to States Members under rule I.2(i) of the rules for payments to States Members;
- (f) "the Fund" means the States Members Pension Fund created pursuant to rule 3 of these rules.



**(NB The Policy Council supports the proposals.)**

The States are asked to decide:-

XVI.- Whether, after consideration of the Report dated 13<sup>th</sup> September, 2006, of the Public Sector Remuneration Committee and the Treasury and Resources Department, they are of the opinion:-

1. That the objectives for Guernsey public sector pension schemes detailed in paragraph 30 of that Report shall remain.
2. (a) To direct that the necessary work (arising from the imminent changes in the UK) shall be undertaken by a Review Panel of the PCC chaired by an independent person, acceptable to both sides, with proven credentials in pension matters.
- (b) That the Review Panel shall also be required to consult with the non-States bodies whose employees are members of the scheme but not represented on the PCC as their position also needs to be addressed.
- (c) That the Review Panel shall be required to produce a detailed report and necessary Rule changes to be submitted for consideration by the PCC and subsequent endorsement by the States in early 2007.
3. That the employer contribution rates in respect of the States of Guernsey Superannuation Scheme shall remain at the present levels.
4. To approve the draft States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) (No 2) Rules, 2006 and draft Teachers' Superannuation (Guernsey) (Amendment) Regulations, 2006 both of which are attached as Appendix I of that Report.
5. To rescind resolution 12 on Billet d'Etat XIII of 15 July 1999 and approve the States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 2006 set out in Appendix II of that Report:
6. To rescind resolution 13 on Billet d'Etat XIII of 15 July 1999 and replace it with the resolution set out in Appendix III of that Report.
7. To approve the establishment of a post-May 2004 States Members Pension Scheme as set out in Appendix IV of that Report.

***ORDINANCES LAID BEFORE THE STATES*****THE PRISON ADMINISTRATION (GUERNSEY)  
(AMENDMENT) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Prison Administration (Guernsey) (Amendment) Ordinance, 2006, made by the Legislation Select Committee on the 24<sup>th</sup> August, 2006, is laid before the States.

**THE MACHINERY OF GOVERNMENT (TRANSFER OF FUNCTIONS)  
(GUERNSEY) (NO. 3) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Machinery of Government (Transfer of Functions) (Guernsey) (No. 3) Ordinance, 2006, made by the Legislation Select Committee on the 24<sup>th</sup> August, 2006, is laid before the States.

***STATUTORY INSTRUMENT LAID BEFORE THE STATES*****THE HEALTH SERVICE (PAYMENT OF AUTHORISED SUPPLIERS)  
(AMENDMENT) REGULATIONS, 2006**

In pursuance of Section 35 of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2006, made by the Social Security Department on 12<sup>th</sup> September, 2006, are laid before the States.

**EXPLANATORY NOTE**

These Regulations amend the definition and endorsement requirements for an additional fee to be paid for dispensing zero discount items as pharmaceutical benefit.

## **CULTURE AND LEISURE DEPARTMENT**

### **CHANNEL ISLANDS LOTTERY – 2005 REPORT AND ACCOUNTS**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

16<sup>th</sup> August 2006

Dear Sir

As Members of the States will be aware the Culture and Leisure Department took over responsibility for the administration of the Channel Islands Lottery in May 2004. The Department has noted that there is a requirement within the provisions of Section 2(5) of the Gambling (Channel Islands Lottery) Ordinance, 1975, as amended, for an annual report on the Lottery to be presented to the States. This is usually in the form of an appendix to a Billet d'Etat. This is the second Lottery report to be presented by the Culture and Leisure Department.

The Department is pleased to report that Lottery sales continue to grow in popularity as evidenced by an increase in sales from £1,328,402 in 2004 to £1,598,500 in 2005 (Guernsey sales). It is worth adding that scratch cards in 2006 show an improvement over 2005, so 2006 promises to be a good year.

#### LOTTERY FORMAT

Throughout 2005 the Lottery was run on an instant prize scratch card basis, with the exception of Christmas, which also includes a draw of winning numbers.

Two separate scratch card games are run side by side. The first being the Lucky Scratch which offers a maximum prize of £10,000. The second game is called the Superscratch which offers a maximum prize of £20,000.

Changes to the structure of the game and prize structure were introduced after consultation with the Lottery Advisory Panel. The purpose of the panel is to ensure that interest is maintained in the Lottery.

SALE OF TICKETS

Five main Agents are appointed to sell Lottery tickets within the Bailiwick of Guernsey, three in Guernsey, one in Alderney and one in Sark. The Agents purchase tickets from the Department who ensure that the tickets are on sale as widely as possible through a chain of sub-agents.

Total ticket sales in 2005 were as follows:-

|                | <b>Bailiwick of<br/>Guernsey</b> | <b>Jersey</b>     | <b>Total Sales</b> |
|----------------|----------------------------------|-------------------|--------------------|
| Scratch Cards  | 1,129,500                        | 1,344,000         | 2,474,500          |
| Christmas Draw | 469,000                          | 631,000           | 1,100,000          |
| <b>Total</b>   | <b>£1,598,500</b>                | <b>£1,975,000</b> | <b>£3,573,000</b>  |

PRIZES UNCLAIMED

Prizes which are not claimed are forfeited after a given period of time. The total value of prizes unclaimed in the Bailiwick of Guernsey amounted to £26,420 in 2005. £25,855 was transferred to the Christmas Draw to support a minimum guaranteed prize structure for the draw. The balance of unclaimed prizes as at 31 December 2005 stood at £134,308.

DONATION TO THE ASSOCIATION OF GUERNSEY CHARITIES

The profits from the Christmas Bumper Draw are paid to the Association of Guernsey Charities for distribution to charitable groups. The amount paid to the association in respect of the 2005 Christmas Draw was £114,353.

With the Department's agreement the Association of Guernsey Charities has distributed the funds as detailed in the appendix to this report.

ACCOUNTS

The accounts for the Channel Islands Lottery (Guernsey) Fund for 2005 are attached, these reveal that:

The promotion of the Lottery in the Bailiwick of Guernsey produced a surplus of £274,656 which was shared within the Bailiwick in proportion to the number of tickets sold in each Island as follows:-

|                    |          |
|--------------------|----------|
| Chief Pleas - Sark | £1,794   |
| States of Alderney | £2,104   |
| States of Guernsey | £270,758 |

Finally, the Department would like to thank all those involved for helping to maintain and improve the performance of the Lottery in 2005.

Yours faithfully

Peter Sirett  
Minister

## APPENDIX

**ASSOCIATION OF GUERNSEY CHARITIES – ALLOCATION OF PROFITS  
FROM 2005 CHRISTMAS DRAW**

| <b>Charity</b>                               | <b>Purpose</b>                                   | <b>Allocation<br/>£</b> |
|--|--|-------------------------|
| Citizens Advice Bureau                       | Training, translations, software, part salary    | 11,500                  |
| Guernsey Mencap                              | Snnozlen at St Martins Community Centre          | 10,000                  |
| Guernsey Welfare Service Limited             | Vouchers for the needy, office rent              | 9,000                   |
| Relate Guernsey Limited                      | Refurbishment of offices                         | 4,000                   |
| Guernsey Cheshire Home                       | Towards heating and fuel costs                   | 13,500                  |
| Guernsey Hard of Hearing Association         | Telephones for the hard of hearing               | 138                     |
| Channel Island Air Search                    | Towards replacement navigation equipment         | 5,000                   |
| Guernsey Sports Association for the Disabled | Kitchen and storage units                        | 5,000                   |
| Western Parishes Youth and Community Centre  | Refurbishment of sports hall floor               | 3,400                   |
| Styx Playground                              | Cleaning and painting metal play equipment       | 825                     |
| Les Bourgs Hospice Charitable Trust          | Towards running costs                            | 11,000                  |
| Drug Concern                                 | Half annual rental                               | 7,000                   |
| You Can Do It Foundation                     | Cost of ski instruction on next holiday          | 5,000                   |
| St Martins Community Centre                  | Sectional staging for the hall                   | 5,000                   |
| Guernsey Bereavement Centre                  | Towards running costs and training               | 6,500                   |
| Les Naftiaux Youth & Community Centre        | Public liability insurance                       | 980                     |
| SEPS   | Towards admin expenses and road safety week      | 350                     |
| Friends of Priaulx Library                   | Preserving and displaying Caryl Toms photographs | 2,400                   |
| Guernsey Hedgehog Rescue Centre              | Construction of recovery hutches                 | 900                     |
| Philippi Guernsey LBG                        | Visiting lecturers, UK conference attendance     | 3,000                   |
| Karabiner Project                            | 9 seater minibus                                 | 10,000                  |
| Le Rondin School PSFA                        | Play equipment                                   | 1,000                   |
|  |  | <b>115,493</b>          |
|  | 2005 Lottery Funds                               | 114,353                 |
|  | Transfer from Charitable Fund                    | 1,140                   |
|  | <b>TOTAL ALLOCATED</b>                           | <b>115,493</b>          |

**CHANNEL ISLANDS LOTTERY (GUERNSEY) FUND**

2005                      2004  
£                              £

**FORFEITED PRIZE ACCOUNT**

|                               |         |         |
|-------------------------------|---------|---------|
| Balance at 1st January        | 133,743 | 110,906 |
| Share of forfeited prizes     | 26,420  | 48,562  |
| Transfer to Operating Account | -25,855 | -25,725 |

|                        |          |          |
|------------------------|----------|----------|
| Balance at 31 December | £134,308 | £133,743 |
|------------------------|----------|----------|

**OPERATING ACCOUNT**

|                  |           |           |
|------------------|-----------|-----------|
| Forfeited prizes | 25,855    | 25,725    |
| Sale of Tickets  | 1,598,500 | 1,328,402 |

|              |                  |                  |
|--------------|------------------|------------------|
| <b>TOTAL</b> | <b>1,624,355</b> | <b>1,354,127</b> |
|--------------|------------------|------------------|

|   |          |          |
|---|----------|----------|
| Agents commision                                      | -207,916 | -129,277 |
| Contribution to prize fund including forfeited prizes | -987,791 | -810,603 |
| Printing and Stationery                               | -95,610  | -88,221  |
| Promotion   | -18,005  | -14,496  |
| Staff costs   | -16,912  | -14,211  |
| States of Jersey administration charges               | -21,637  | -20,063  |
| Other expenses  | -1,828   | -12      |

|                |                |                |
|----------------|----------------|----------------|
| <b>SURPLUS</b> |                |                |
| <b>TOTAL</b>   | <b>274,656</b> | <b>277,294</b> |

|  |          |          |
|--|----------|----------|
| Chief Pleas of Sark - Share of surplus                                     | -1,794   | -1,087   |
| States of Alderney - Share of surplus                                      | -2,104   | -4,078   |
| States of Guernsey - Share of surplus transferred to Appropriation Account | -270,758 | -272,129 |

**APPROPRIATION ACCOUNT**

|   |         |         |
|---|---------|---------|
| Balance at 1st January                  | 5,266   | 4,940   |
| Share of Surplus from Operating Account | 270,758 | 272,129 |
| Balance after transfer                  | 276,024 | 277,069 |

|   |          |          |
|---|----------|----------|
| Donation to Association of Guernsey Charities | -114,353 | -81,803  |
| Transfer to Beau Sejour Centre                | -150,000 | -190,000 |

|                          |        |       |
|--------------------------|--------|-------|
| Balance at 31st December | 11,671 | 5,266 |
|--------------------------|--------|-------|

## Notes:

- a) The balance on the Appropriation Account is payable ultimately to the Beau Sejour Centre under States Resolutions I of 27 September 1972 and XXII of 26 February 1998
- b) In accordance with the States Resolution of 23 February 1995 (Billet D'Etat V, February 1995), with effect from 2000 any forfeited prize money from expired Draws which remains unused in the current year will be retained for us as a contingency to support the prize funds in future draws



*APPENDIX II*

**COMMERCE AND EMPLOYMENT DEPARTMENT**

**ANNUAL REPORT OF THE PUBLIC TRUSTEE AND AUDITED ACCOUNTS**

The Chief Minister  
Policy Council  
Sir Charles Frossard House  
La Charroterie  
St Peter Port

25<sup>th</sup> August 2006

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in Section 6, that the Commerce and Employment Department is required to submit the report and accounts to the States on the exercise of the Public Trustee's functions for the preceding year.

I am pleased to enclose a copy of his report and audited accounts for the period 1 January 2005 to 31 December 2005.

Section 6 of the Law also provides that the Department may, at the same time, submit its own report commenting on the activities of the Public Trustee during this period.

The Department recognised that the expenditure of £11,735 in 2005 represented a minimal cost. I would be most grateful if you would arrange to publish the Annual Report and Accounts 2005 as an Appendix to the October Billet.

Yours faithfully

Stuart Falla  
Minister

Enc.

**REPORT OF THE PUBLIC TRUSTEE TO THE DEPARTMENT OF  
COMMERCE AND EMPLOYMENT  
FOR THE YEAR TO 31 DECEMBER 2005**

**Introduction**

1. Under Section 6(1) of The Public Trustee (Bailiwick of Guernsey) Law, 2002, the Public Trustee is required in each calendar year to submit to the Department of Commerce and Employment a report on the exercise of his functions in the preceding year together with the audited accounts of the Office of the Public Trustee.
2. This report covers the twelve months to 31 December 2005.

**Appointments and Assets held in Trust**

3. During the period covered by the report, no appointments of the Public Trustee to act as trustee were made.
4. The Public Trustee remained as trustee of the two trusts to which he was appointed in 2004, as stated in the report for that period.
5. The only assets of the trusts were cash deposits (one in sterling and one in US dollars) of approximately similar values amounting in total at the end of 2005 to the equivalent of some £205,000.
6. The fees recoverable from the trusts for 2005 in respect of the services of the Public Trustee amounted in total to £1,314.
7. In the report for the period to the end of 2004, reference was made to the discussions in the latter part of that year held with various parties concerning a trust company's cessation of operations and the consequent possible need to appoint the Public Trustee to some of the company's client trusts. Discussions continued during the first half of 2005. However, there have been no communications since that time and no such appointment has been made.

**Accounts and Auditors' Report**

8. The accounts of the Office of the Public Trustee for the year to 31 December 2005, together with the auditors' report thereon, are attached to this report.
9. They show that the cost of operations of the Office in 2005 amounted to £11,735. Against this, £1,314 was recoverable in fees.

10. There was an excess of income (including the grant from the States) over expenditure, leaving a balance on the Public Trustee Fund of £5,683, available for use in meeting the expenses of the Office in the future.

### **Conclusion**

11. There have been no new appointments and little other call on the services of the Public Trustee during the period covered by this report. This is not unlooked for, given that the function of the Public Trustee is primarily to act as a trustee of last resort and it may be seen as an indication of the effective, orderly and well regulated conduct of trust business in the Bailiwick.
12. However, should further appointments be made, arrangements remain in place to deal with an increase in demand for the Public Trustee's services, particularly bearing in mind the power of the Public Trustee to delegate functions and the abilities of professional companies that have expressed interest in providing services.

D P Trestain  
Public Trustee  
Bailiwick of Guernsey

19 July 2006

Office of the Public Trustee

**Statement of account**

**31 December 2005**

# Office of the Public Trustee

## Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of the Office of the Public Trustee. He is responsible for selecting suitable accounting policies and, in preparing the statement of account the Public Trustee is expected to:

- apply suitable accounting policies on a consistent basis;
- make judgements and estimates that are reasonable and prudent; and
- prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The Public Trustee acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Office of the Public Trustee.

It is the responsibility of the Office of the Public Trustee to identify and install a system of internal controls, including financial control, which is adequate for its own purposes. Thus the Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.



KPMG Channel Islands Limited  
 20 New Street  
 St Peter Port  
 Guernsey  
 GY1 4AN

## **Independent auditors' report to the Office of the Public Trustee.**

We have audited the financial statements of the Office of the Public Trustee for the year ended 31 December 2005 which comprise the income and expenditure account, the balance sheet and the related notes. These financial statements have been prepared under the accounting policies set out therein.

### **Respective responsibilities of the Board and auditors**

The Office is responsible for the preparation of the financial statements in accordance with applicable Guernsey law and UK accounting standards as set out in the statement of responsibilities.

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and International Standards on Auditing (UK and Ireland).

We report to you our opinion as to whether the financial statements give a true and fair view. We also report to you if, in our opinion, the Office has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

We read the statement of activities and performance and consider the implications for our report if we become aware of any apparent misstatements within it.

### **Basis of audit opinion**

We conducted our audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Office in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Office's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

### **Opinion**

In our opinion the financial statements:

- give a true and fair view, in accordance with UK Accounting Standards, of the state of the Office's affairs as at 31 December 2005 and of its surplus for the year then ended.

*Chartered Accountants*

# Office of the Public Trustee

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## Income and expenditure account for the year ended 31 December 2005

|  | <i>Note</i> | 2005<br>£      | 1 June to<br>31 December 2004<br>£ |
|--|-------------|----------------|------------------------------------|
| <b>Income</b>  | <i>1</i>    |                |                                    |
| Grant from States General Revenue Account                  |             | 15,494         | 10,000                             |
| Trustee fees   |             | <u>1,314</u>   | <u>1,170</u>                       |
|  |             | 16,808         | 11,170                             |
| <b>Expenditure</b>   | <i>1</i>    |                |                                    |
| Advertising  |             | -              | 88                                 |
| Audit fees   |             | 3,150          | 500                                |
| Bank charges   |             | 47             | 42                                 |
| Public Trustee remuneration                                |             | 7,405          | 7,993                              |
| Management fees  |             | -              | 97                                 |
| Office administration                                      |             | <u>1,133</u>   | <u>1,840</u>                       |
|  |             | 11,735         | 10,560                             |
| <b>Excess of income over expenditure</b>                   |             | <u>5,073</u>   | <u>610</u>                         |
| Retained excess of income over expenditure brought forward |             | 610            | -                                  |
| Retained excess of income over expenditure carried forward |             | <u>£ 5,683</u> | <u>£ 610</u>                       |

# Office of the Public Trustee

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## Balance sheet

*As at 31 December 2005*

|  | <i>Note</i> | 2005<br>£      | 2004<br>£    |
|--|-------------|----------------|--------------|
| <b>Current assets</b>                      |             |                |              |
| Debtors                                    |             | -              | 1,170        |
| Bank                                       |             | <u>7,583</u>   | <u>9,311</u> |
|  |             | 7,583          | 10,481       |
| <b>Current liabilities</b>                 |             |                |              |
| Creditors                                  | 3           | -              | 9,371        |
| Accruals                                   | 3           | <u>1,900</u>   | <u>500</u>   |
|  |             | 1,900          | 9,871        |
| <b>Net assets</b>                          |             | £ <u>5,683</u> | £ <u>610</u> |
| <b>The Public Trustee Fund</b>             |             |                |              |
| Retained excess of income over expenditure |             | £ <u>5,683</u> | £ <u>610</u> |

The balance sheet was approved on

2006 by:

**D Trestain**

*Public Trustee*



## Notes to the financial statements

*year ended 31 December 2005***1. Accounting policy**

The statement of account is prepared under the historical cost convention and in accordance with UK applicable accounting standards.

*Grants*

Grants from the States of Guernsey Commerce and Employment Department are included on a cash basis. Grants have been recognised as revenue items.

*Other income and expenditure*

Other income and expenditure is included on an accruals basis.

**2. Taxation**

The Office of the Public Trustee is not subject to States of Guernsey Income Tax.

**3. Creditors and accruals**

|  | 2005<br>£      | 2004<br>£      |
|--|----------------|----------------|
| Advertising  | -              | 88             |
| Production and printing of stationery  | -              | 849            |
| Administrative support and deputy trustee fees                                 | -              | 441            |
| Public Trustee remuneration funded by Department of<br>Commerce and Employment | <u>-</u>       | <u>7,993</u>   |
|  | <u>-</u>       | £ <u>9,371</u> |
| Audit fee  | £ <u>1,900</u> | £ <u>500</u>   |

**4. Period of account**

The Public Trustee (Bailiwick of Guernsey) Law, 2002 came into effect on 1 June 2004.

**IN THE STATES OF THE ISLAND OF GUERNSEY**  
**ON THE 25TH DAY OF OCTOBER, 2006**

The States resolved as follows concerning Billet d'État No. XVII  
dated 6<sup>th</sup> October, 2006

**PROJET DE LOI**

entitled

**THE HOUSING (CONTROL OF OCCUPATION) (GUERNSEY)  
(AMENDMENT) LAW, 2006**

I.- To approve the Projet de Loi entitled "The Housing (Control of Occupation) (Guernsey) (Amendment) Law, 2006" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for her Royal Sanction thereto.

**THE ATTENDANCE AND INVALID CARE ALLOWANCES  
ORDINANCE, 2006**

II.- To approve the draft Ordinance entitled "The Attendance and Invalid Care Allowances Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

**THE FAMILY ALLOWANCES ORDINANCE, 2006**

III.- To approve the draft Ordinance entitled "The Family Allowances Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

**THE HEALTH SERVICE (BENEFIT)  
(ANNUAL GRANT AND AMENDMENT) ORDINANCE, 2006**

IV.- To approve the draft Ordinance entitled "The Health Service (Benefit) (Annual Grant and Amendment) Ordinance, 2006" and to direct that the same shall have effect as an Ordinance of the States.

**THE ALDERNEY eGAMBLING  
(OPERATIONS IN GUERNSEY) ORDINANCE, 2006**

V.- To approve the draft Ordinance entitled “The Alderney eGambling (Operations in Guernsey) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE LONG-TERM CARE INSURANCE (GUERNSEY)  
(ANNUAL GRANT AND RATES) ORDINANCE, 2006**

VI.- To approve the draft Ordinance entitled “The Long-term Care Insurance (Guernsey) (Annual Grant and Rates) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE REAL PROPERTY (HOUSING SCHEMES AND MISCELLANEOUS  
PROVISIONS) (GUERNSEY) (AMENDMENT) ORDINANCE, 2006**

VII.- To approve the draft Ordinance entitled “The Real Property (Housing Schemes and Miscellaneous Provisions) (Guernsey) (Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE SOCIAL INSURANCE  
(RATES OF CONTRIBUTIONS AND BENEFITS, ETC.) ORDINANCE, 2006**

VIII.- To approve the draft Ordinance entitled “The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

**THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION)  
(AMENDMENT) ORDINANCE, 2006**

IX.- To approve the draft Ordinance entitled “The Supplementary Benefit (Implementation) (Amendment) Ordinance, 2006” and to direct that the same shall have effect as an Ordinance of the States.

## **TREASURY AND RESOURCES DEPARTMENT**

### **CAPITAL PRIORITISATION**

X.- After consideration of the Report dated 5<sup>th</sup> September, 2006, of the Treasury and Resources Department:-

1. That the Health and Social Services Department's Clinical Block is the key capital expenditure priority for the States of Guernsey.
2. That, subject to adequate funding being available, the States capital expenditure priorities are as set out in this Report.
3. To note the Treasury and Resources Department's intention to review the method of funding and accounting for Departmental routine capital expenditure and to report back as soon as practicable.
4. To note the Treasury and Resources Department's intention to review the method of funding and accounting for the Housing Department's rent rebate scheme and to report back as soon as practicable.
5. To direct the Treasury and Resources Department to take account of the above proposals when bringing forward recommendations in future Budget Reports.
6. To give the Treasury and Resources Department delegated authority to approve a capital vote, and to transfer an appropriate sum from Reserves, in the event of an emergency requiring capital expenditure.
7. To direct the Treasury and Resources Department to report back to the States on any amounts so authorised under its delegated authority as soon as is practicable.

## **HEALTH AND SOCIAL SERVICES DEPARTMENT**

### **PRINCESS ELIZABETH HOSPITAL - PHASE 5 (CLINICAL BLOCK)**

XI.- After consideration of the Report dated, 22<sup>nd</sup> August, 2006, of the Health and Social Services Department:-

1. To approve the construction of the clinical block as set out in that Report.

2. To accept the tender from Charles Le Quesne (Gsy) Ltd in the sum of £26,974,565 in respect of these works.
3. To vote the Health and Social Services Department a further credit of £34,300,000 to cover the cost of the above works, such sum to be charged to its capital allocation.
4. To authorise the Treasury and Resources Department to make two transfers from the Capital Reserve to the capital allocation of the Health and Social Services Department, each of £17,150,000, in 2007 and 2008.
5. To instruct the Public Accounts Committee to cause to be carried out a full independent review of all the circumstances leading to the withdrawal of the lower tender (referred to in section 8 of Article 11, on page 1896) and report back to the States with the findings of that investigation as soon as possible.

## **PUBLIC SERVICES DEPARTMENT**

### **THE MANSELL TRUST**

XIV.- Whether, after consideration of the Report dated 6<sup>th</sup> September, 2006, of the Public Services Department:-

1. To approve the dissolution of the Mansell Trust.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## ***ORDINANCES LAID BEFORE THE STATES***

### **THE PRISON ADMINISTRATION (GUERNSEY) (AMENDMENT) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Prison Administration (Guernsey) (Amendment) Ordinance, 2006, made by the Legislation Select Committee on the 24<sup>th</sup> August, 2006, was laid before the States.

### **THE MACHINERY OF GOVERNMENT (TRANSFER OF FUNCTIONS) (GUERNSEY) (NO. 3) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, the Machinery of Government (Transfer of Functions) (Guernsey) (No. 3) Ordinance, 2006, made by the Legislation Select Committee on the 24<sup>th</sup> August, 2006, was laid before the States.

***STATUTORY INSTRUMENT LAID BEFORE THE STATES***

**THE HEALTH SERVICE (PAYMENT OF AUTHORISED SUPPLIERS)  
(AMENDMENT) REGULATIONS, 2006**

In pursuance of Section 35 of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Payment of Authorised Suppliers) (Amendment) Regulations, 2006, made by the Social Security Department on 12<sup>th</sup> September, 2006, were laid before the States.

**IN THE STATES OF THE ISLAND OF GUERNSEY  
ON THE 26TH DAY OF OCTOBER, 2006**

(Meeting adjourned from 25<sup>th</sup> October 2006)

The States resolved as follows concerning Billet d'État No. XVII  
dated 6<sup>th</sup> October, 2006

**TREASURY AND RESOURCES DEPARTMENT**

**REVIEW OF MOTOR VEHICLE TAXATION**

XII.- After consideration of the Report dated 5<sup>th</sup> September, 2006, of the Treasury and Resources Department:-

1. That motor vehicle taxation should be abolished with effect from 1 January 2008 and that, subject to certain exemptions, increased duties on petrol and diesel fuel should be introduced.
2. That the End Of Life Disposal Levy should be abolished with effect from 1 January 2008.
3. That diesel fuel used for exempted purposes such as agricultural and horticultural purposes, the construction, maintenance and clearance of roads and other construction machinery that is not primarily used to transport goods and people should be exempt from diesel duty and that a system of dyeing be implemented with effect from 1 January 2008.
4. To direct the Treasury and Resources Department to continue to review the issue of diesel duty on non-commercial marine vessels and to report back as soon as practicable.

5. To note the Environment Department's intention to continue to investigate and report back on the most appropriate method of ensuring that motor vehicles are registered and adequately insured.
6. To direct the Treasury and Resources Department to take account of the above proposals when bringing forward recommendations as part of that Department's Budget Reports.
7. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **HOME DEPARTMENT**

### **FIXED PENALTY NOTICE LEGISLATION**

XIII.- After consideration of the Report dated 8<sup>th</sup> September, 2006, of the Home Department:-

- 1 That the present fixed penalty legislation shall be replaced as set out in that Report, to include:
  - (a) A system of banding for fixed penalty offences and the addition of non-traffic offences as set out in the Appendix of that Report;
  - (b) The two tier levels of fixed penalties as described at paragraph 6 of that Report;
  - (c) Provision for on-line (internet) and other electronic payment of fixed penalties to be included as approved methods of payment;
  - (d) Provision for the Department to prescribe the format of a fixed penalty notice as set out in Paragraph 7 of that Report;
  - (e) Provision for the notices to be issued electronically as well as manually.
2. To approve a capital vote of £150,000 to fund the costs of purchasing and installing an electronic fixed penalty system to be charged to the capital allocation of the Home Department.
3. To direct the Treasury and Resources Department to take account of the capital and revenue costs associated with this project when recommending Capital Allocations and Cash Limit to the States for 2007 and future years.
4. To direct the preparation of such legislation as may be necessary to give effect to their above decisions.

## **PUBLIC SECTOR REMUNERATION COMMITTEE**

### **MECHANISM FOR DETERMINING PUBLIC SECTOR PAY IN GUERNSEY**

XV.- After consideration of the report dated 15<sup>th</sup> August, 2006, of the Public Sector Remuneration Committee:-

1. That the pay and conditions of public sector workers in Guernsey shall continue to be determined by a process of collective bargaining.
2. That the employer's authority in that process shall remain with the Public Sector Remuneration Committee (i.e. there shall be no change to the Committee's mandate).
3. That the Committee shall improve consultation with employing departments by adopting the measures set out in paragraph 10.18 of that Report.

### **IN THE STATES OF THE ISLAND OF GUERNSEY** **ON THE 27TH DAY OF OCTOBER, 2006**

(Meeting adjourned from 26<sup>th</sup> October 2006)

The States resolved as follows concerning Billet d'État No. XVII  
dated 6<sup>th</sup> October, 2006

## **PUBLIC SECTOR REMUNERATION COMMITTEE AND TREASURY AND RESOURCES DEPARTMENT**

### **REVIEW OF PUBLIC SECTOR PENSION SCHEMES ETC**

XVI.- Whether, after consideration of the Report dated 13<sup>th</sup> September, 2006, of the Public Sector Remuneration Committee and the Treasury and Resources Department:-

1. That the objectives for Guernsey public sector pension schemes detailed in paragraph 30 of that Report shall remain.
2. (a) To direct that the necessary work (arising from the imminent changes in the UK) shall be undertaken by a Review Panel of the PCC chaired by an independent person, acceptable to both sides, with proven credentials in pension matters.



- (b) That the Review Panel shall also be required to consult with the non-States bodies whose employees are members of the scheme but not represented on the PCC as their position also needs to be addressed.
  - (c) That the Review Panel shall be required to produce a detailed report and necessary Rule changes to be submitted for consideration by the PCC and subsequent endorsement by the States in early 2007.
- 3. That the employer contribution rates in respect of the States of Guernsey Superannuation Scheme shall remain at the present levels.
- 4. To approve the draft States of Guernsey (Public Servants) (Pensions and other Benefits) (Amendment) (No 2) Rules, 2006 and draft Teachers' Superannuation (Guernsey) (Amendment) Regulations, 2006 both of which are attached as Appendix I of that Report.
- 5. To rescind resolution 12 on Billet d'Etat XIII of 15 July 1999 and approve the States of Guernsey (Public Servants) (Pensions and other Benefits) (Permitted Investments) (Amendment) Rules, 2006 set out in Appendix II of that Report:
- 6. To rescind resolution 13 on Billet d'Etat XIII of 15 July 1999 and replace it with the resolution set out in Appendix III of that Report.
- 7. To approve the establishment of a post-May 2004 States Members Pension Scheme as set out in Appendix IV of that Report

K. H. TOUGH  
HER MAJESTY'S GREFFIER