



# BILLET D'ÉTAT

WEDNESDAY, 31st JANUARY, 2007

III  
2007

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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 31<sup>st</sup> JANUARY, 2007**, immediately after the meetings already convened for that day, 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  
12 January 2007

**PROJET DE LOI**

entitled

**THE COMPETITION AND TRADING STANDARDS  
(ENABLING PROVISIONS) (GUERNSEY) LAW, 2007**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled "The Competition and Trading Standards (Enabling Provisions) (Guernsey) Law, 2007" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

**PROJET DE LOI**

entitled

**THE FEES, CHARGES AND PENALTIES (GUERNSEY) LAW, 2007**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled "The Fees, Charges and Penalties (Guernsey) Law, 2007" and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

## **POLICY COUNCIL**

### **APPOINTMENT OF CHAIRMAN AND ORDINARY MEMBER OF THE GUERNSEY FINANCIAL SERVICES COMMISSION**

#### **Executive Summary**

This report proposes the re-election of Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year and the re-election of Mrs. Sally-Ann Farnon (known as Susie) as an ordinary member of the Commission for three years.

#### **Report**

1. In accordance with the provisions of sub-paragraph 3(1) of Schedule 1 of the Financial Services Commission (Bailiwick of Guernsey) Law 1987, as amended, Mrs. Susie Farnon retires as an ordinary member of the Commission on the 1<sup>st</sup> February, 2007. The Policy Council is pleased to re-nominate Mrs Farnon as an ordinary member of the Commission for a three-year period to run from 2<sup>nd</sup> February, 2007 until 1<sup>st</sup> February, 2010. Mrs Farnon has been an ordinary member of the Commission since February 2006.
2. The Chairman of the Commission must be elected annually by the States, from amongst the ordinary members, having been nominated by the Policy Council. The Council is pleased to re-nominate Advocate Peter Harwood as Chairman of the Commission for a further year from 2<sup>nd</sup> February, 2007 until 1<sup>st</sup> February, 2008. Advocate Harwood has been an ordinary member of the Commission since 2004 and Chairman since February 2006.

#### **Recommendation**

The Policy Council recommends the States to:

- (a) re-elect Mrs. Sally-Ann Farnon as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2<sup>nd</sup> February, 2007;
- (b) re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2<sup>nd</sup> February, 2007.

L.C. Morgan  
Chief Minister

11 December 2006

The States are asked to decide:-

III.- Whether, after consideration of the Report dated 11<sup>th</sup> December, 2006, of the Policy Council, they are of the opinion:-

1. To re-elect Mrs. Sally-Ann Farnon as an ordinary member of the Guernsey Financial Services Commission for three years with effect from 2<sup>nd</sup> February, 2007.
2. To re-elect Advocate Peter Andrew Harwood as Chairman of the Guernsey Financial Services Commission for one year with effect from 2<sup>nd</sup> February, 2007.

## TREASURY AND RESOURCES DEPARTMENT

### FEES AND CHARGES

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

5<sup>th</sup> December 2006

Dear Sir

- 1.1 In September 2006, the Policy Council requested the Treasury and Resources Department to prepare a Report on fees and charges.
- 1.2 The purpose of this Report is to provide the States, and individual Departments, with guidance, within a corporate structure, on how and when fees and charges should be introduced, reviewed and revised. Nevertheless, it is emphasised that in every specific case it is a matter for the individual Department, and where appropriate the States, to decide.
- 1.3 The States currently collects approximately £16m per year in fees and charges. In recent months the States has already debated, and agreed, a number of increases in fees and charges which will generate an additional net £1.25m per year. Departments have already indicated that further fees and charges (of the order of £2m net) could also be raised.
- 1.4 The Report concludes that there is a need for all Departments to continually review the level of fees and charges for which they are responsible. In doing so a set of evaluation criteria should consistently be applied to assist Departments in the decision making process which will always require a degree of judgement.
- 1.5 In considering the introduction of new fees or charges, or increasing existing ones, particular emphasis needs to be placed on any potential impact on those who will bear the costs, in particular those on lower incomes.
- 1.6 Over the past 12 months the States have debated on several occasions individual Department's proposals to either introduce new fees and charges or increase existing ones. In addition, there has been a clear change in the attitude of Departments and a number of long standing fees and charges have been reviewed and increased. However, **there remains scope in a number of areas for increasing the amounts raised by the States through fees and charges.**

1.7 **It is also very important to understand that the purpose of this Report is not to initiate the widespread introduction of new fees and charges. The majority of States income should still derive from direct and indirect taxation.**

1.8 In preparing this Report the Treasury and Resources Department acknowledges the considerable amount of work that was carried out for the Public Accounts Committee by the U K National Audit Office, and published in its report “Income Generation in Guernsey”. Copies of that Report were issued to all States Members and Departments in July 2005 and it can be accessed on the States website.

### **Introduction**

2.1 As set out in the Treasury and Resources Department’s 2006 Interim Financial Report:

“The States of Guernsey for many years has levied fees and charges for a very wide variety of services. Many of these fees and charges had remained unchanged for many years (and in some cases decades).

In its report issued in June 2005, the National Audit Office (“NAO”) concluded that there were many areas where Guernsey fees and charges were well below the levels raised in other jurisdictions. The NAO also identified a number of areas currently provided free of charge for which fees were made in other jurisdictions.

Since the NAO’s report was issued, States Departments have been reviewing the levels of their existing fees and some additional areas where fees and charges could appropriately be introduced have also been identified. As a result, the States have already approved a number of increases in the level of fees and charges. For example, in March 2006 document registration fees were increased for the first time since 1977 and Births, Deaths & Marriage fees were also increased from their 1992 levels.

Although further (and possibly significant) income can be raised from similar measures, especially as such an approach is supported by the user-pays principle, care will need to be taken that raising additional charges is not overdone or carried out in manner which is uncoordinated and possibly ultimately self-defeating.

It is clear that there are opportunities for significant amounts of further income to be raised from fees and charges and that these should be explored. **It is also clear that existing fees and charges must be kept**

**under periodic review to ensure that their real values are not eroded to the extent that has happened in recent years.”**

- 2.2 Furthermore, during the development of the Future Economic & Taxation Strategy, approved by the States in June 2006, it was proposed that “a minimum of £2m” should be raised from additional fees and charges.
- 2.3 It should be noted that the proposed increases in fees and charges is, in relation to total States income, relatively modest. It was, and still remains the view, that additional fees and charges should not be seen as a replacement for direct and indirect taxation i.e. **general revenue income, which is used to fund general revenue services, should still be principally funded from direct and indirect taxation.**
- 2.4 Since it has become obvious that there was a need for general revenue Departments to look more critically at fees and charges (both existing and new ones) there has been, at least by historic standards, an increased number of instances where they have been revised.
- 2.5 An important stage in this process was in February 2006 (Billet D’Etat, VI 2006) when the States approved the Policy Council’s proposals which will allow a number of fees and charges to be increased by Regulation of the relevant Department rather than by the much more cumbersome route of Order in Council, Ordinance or States Resolution.
- 2.6 As was recognised at the time, under the previous system increasing fees and charges was often disproportionately laborious and this acted as a deterrent to Departments. As a result many fees and charges had remained unchanged for many years, in some cases, several decades.
- 2.7 It also has to be acknowledged that in the 1980s and 1990’s the States financial situation was much more liberal than it is now, meaning that less attention to the potential for raising income from fees and charges was required.
- 2.8 **Nonetheless, in the coming years, it is clearly necessary for Departments to review the fees and charges for which they are responsible on a regular basis.**

### **Fees and Charges vs Taxes**

- 3.1 Without wishing to overly complicate matters, as a rule of thumb, fees and charges are levied by a Department for the provision of specific goods and services to specific identifiable consumers. An example would be the hiring out of a sports facility to a group of users for a defined period at an agreed rate.
- 3.2 A tax is where income is raised from all, or nearly all, of the community by reference to their income or property ownership (income taxes and Tax on



Rateable Values) or because of their consumption of particular goods (even if they are sold by a third party i.e. alcohol, petrol or tobacco duties).

- 3.3 Income collected from fees and charges is generally credited to the Department responsible for its administration and/or collection and is therefore available to that Department to spend within its own annual general revenue budget.
- 3.4 When a new type of income source is introduced, or an existing one substantially increased, the Treasury and Resources Department takes that into account when making recommendations on the annual budgets.
- 3.5 In recent years, the adjustment to the administering Department's annual budget has been the subject of negotiation, on a case-by-case basis. In the majority of cases, the Department has seen an overall increase in the amount available to it to spend on its priority services (albeit sometimes less than the extra funds raised), i.e. both the administering Department and general revenue overall have benefited.
- 3.6 Taxes are collected centrally and are used to fund general revenue expenditure (capital and revenue) and set aside in reserves.

#### **Criteria for Evaluating Fees and Charges**

- 4.1 The Treasury and Resources Department believes that fees and charges should be evaluated against the following criteria:
  - How much can be raised?
  - How much will it cost (full costs of administering, policing and processing) to collect the income?
  - What is the cost of providing the service?
  - What will be the costs and impact on the customer?
  - Can the customer realistically afford to pay?
  - Does the fee or charge already exist?
  - Does the fee or charge exist in other comparable jurisdictions?
  - How easy would it be to implement, including legislative requirements?
  - How often would the amounts charged require revision?
  - What, if any, is the impact on local inflation?
  - Does the fee or charge support or restrict the agreed economic strategy?

- Does the fee or charge support or restrict social and environmentally desirable or undesirable behaviour?
  - Is the charge realistically collectable, how easily can it be avoided?
  - Is the service considered to be a potential profit making activity?
  - Is it politically deliverable?
- 4.2 **Appendix III to this Report provides further comments on the above evaluation criteria.**
- 4.3 In an ideal situation a fee or charge would be one that raises a reasonable amount of money, is easy to administer and collect, causes little or no extra administrative burden on the customer, has no inflationary aspect and supports an agreed economic, social or environmental States policy and is seen to be reasonable and therefore acceptable to the population.
- 4.4 It would be extremely unusual if a proposed fee or charge received a positive answer to all of the above as the criteria will sometimes be mutually exclusive. **Judgement and compromise will be necessary.**
- 4.5 It should be noted that while it is easy to put forward the argument that the introduction or increase of any fee or charge (or for that matter tax) is inflationary, that is not always the case. Often the raising of income via a fee or charge is a substitute mechanism. Perhaps the more relevant question is - if income needs to be generated what is the mechanism that has the least impact on inflation?
- 4.6 The above criteria list is not intended to be exhaustive or definitive, but it is a very useful guide by which fees and charges should be evaluated against. It is recognised that the evaluation criteria will need to be revised from time to time in the light of experience and changing circumstances.
- 4.7 **It is therefore recommended that when considering any revision to fees and charges, or their possible introduction or removal, Departments and Committees should take into account the evaluation criteria as set out in this Report.**
- 4.8 **Although consideration of the ability of the customer to pay is included in the above criteria list, the Treasury and Resources Department believes that, in line with the Corporate Anti-Poverty Programme, specific consideration of the possible impact on those on lower incomes must be taken into account. Hence a specific Resolution to that effect is included in this Report.**
- 4.9 In most circumstances the level of fees and charges should be set at, or close to, the costs of providing the service. However, in certain cases, a social element

may be taken into account and less than full recovery of costs made. Only in a minority of cases should fees and charges be set at a level that is in excess of the underlying costs of service provision (for example semi-trading activities such as the hire of facilities).

### **Recent Increases in Fees and Charges**

- 5.1 Since September 2005 the States have discussed the following increases in fees and charges:
- Home Department: Liquor Licensing Fees: October 2005.
  - Environment Department: Traffic Strategy: March 2006.
  - Treasury & Resources: Document, Marriage, Births and Death Registration Fees: March 2006.
  - Commerce & Employment: Greffe Company Fees: March 2006.
  - Health & Social Services: Independent Care Homes: July 2006.
  - Health & Social Services: Motor Vehicle Accidents: July 2006.
  - Home Department: Fixed Penalties: October 2006.
  - Home Department: Firearms Legislation: November 2006.
- 5.2 It is estimated that the total additional income raised by the above is in excess of £2.25m per year. However, taking into account the additional services to be introduced (and funded by the fees and charges raised) **an additional net £1.25m will be raised.**

### **Possible New Fees and Charges**

- 6.1 **The Treasury and Resources Department, having taken into account the recommendations contained in the NAO report, the above evaluation criteria and having consulted with Departments, believes that there is scope for introducing the following fees and charges in the near future:**
- Housing Department: Housing Control.
  - Environment Department: Planning Applications.
  - Various Departments: Car Parking at States Sites.
  - Public Services Department: Waste Water Charges.
- 6.2 It is estimated that the total additional net income raised by the above could be in excess of £2.0m per year.

Housing Department: Housing Control

- 6.3 The Housing Department has indicated that it is considering charging for certain aspects of the housing control functions.
- 6.4 The Housing Department's proposals would recoup a large proportion of the existing cost of administering the housing control function. Some additional resource would be needed but it is estimated that a net additional income of £500,000 could be generated.
- 6.5 **It is understood that the only charges to be levied would be in connection with the processing of applications relating directly to employment.**
- 6.7 It is emphasised that any proposed charges would be in respect of the processing costs of the existing housing control system. It is not a sale price that a party can pay to buy a licence.
- 6.8 The Department would not intend to introduce charges for residentially qualified persons requesting Status Declarations or for the processing of documents for those people (for example, the partners or spouses of residentially qualified individuals) whose primary purpose is not to seek work. In addition, no charges would be levied in respect of applications for individuals directly and solely employed by the States.

Environment Department: Planning Applications

- 6.9 The Treasury and Resources Department understands that the Environment Department is considering introducing charges in respect of planning applications and property searches. Both of these services are currently provided free and are relatively expensive to administer.
- 6.10 As identified in the NAO Report, other jurisdictions such as the Isle of Man, Jersey and the UK already charge for planning and building applications. The fees for such items as approvals in principle to applications for new buildings are in a range of between £100 and £700.
- 6.11 If Guernsey were to introduce fees and charges at levels similar to the Isle of Man and Jersey an additional £1.25m could be raised.

Various Departments: Car Parking at States Sites

- 6.12 In March 2006 the States approved the introduction of various fees and charges in respect of the Road Transport Strategy including paid parking in selected long stay car parks in St Peter Port. The States directed that the car parking fee should initially be set at 15 pence per hour.

- 6.13 A number of Departments (including Health, Education and Culture & Leisure) have indicated that when car parking charges are introduced for “public car parks”, they would consider introducing paid parking on selected States sites.

Public Services Department: Waste Water Removal Charges

- 6.14 At present waste water removal (including sewage) is funded by a combination of money from general revenue (i.e. funded from general taxation) and fees and charges (from sewage tanker fees - £1.4m annually). Hence how an individual household or business pays for the cost of waste water removal will depend upon whether the property is connected to the foul sewer network or not (at present over 75% are).
- 6.15 By contrast potable water (i.e. water delivered to domestic houses, businesses etc.) is entirely funded from water rates with no call on general taxation.
- 6.16 The Public Services Department has already indicated that it is considering introducing a waste water charge which would be sufficient to cover the operational costs of the sewage network.
- 6.17 There are approximately 24,000 households and businesses. In order to cover the operating costs of £2.4m an average household charge of £100 per annum would be necessary.

Other Comments

- 6.18 **Although details of the above fees and charges have yet to be formulated, in principle, the Treasury and Resources Department is supportive of their introduction and considers them to be in line with the evaluation criteria.**
- 6.19 It also has to be acknowledged that if Departments introduce charges (or increase existing ones) there will be an increased expectation on client services. Quite understandably members of the public and businesses will be less tolerant of poor service if they have to pay for it. In some circumstances this will mean that client services will have to improve which may have an impact on costs.

Regular Review of Fees and Charges

- 7.1 As set out in the various reports referred to above, it is essential that all Departments review on a regular basis the fees and charges (including the possibility for any new ones). **Having fees and charges stay at the same cash levels (and therefore decline in real terms) over many years or even decades in some instances is simply unacceptable.**
- 7.2 Given the vast range of possible fees and charges involved it is unrealistic to set a rigid set of rules to be applied in all circumstances.

- 7.3 **However, in most instances, fees and charges should be reviewed on an annual or biennial basis. Only in exceptional circumstances would the level of fees and charges remain the same for longer than five years.**

#### **Cessation of Existing Fees and Charges**

- 8.1 In the same way that the introduction of fees and charges should only be done after careful consideration, the continuation of existing fees should also be subject to critical review. Any fees and charges that are no longer cost effective or have a material detrimental effect on States Policies should be withdrawn.
- 8.2 It should be noted that no particular instances where existing fees and charges should no longer be collected were identified during this current review.

#### **Billing and Collection of Monies**

- 9.1 In the past few years considerable progress has been made in increasing the number of places where “States bills” can be paid (increased use of post offices), the types of payment types accepted (greater use of debit and credit cards) and methods of payment (direct debits, use of internet etc.). Nonetheless it is acknowledged that further progress is required in some areas.
- 9.2 Although the precise solution adopted in each instance of who raises the bills and maintains the debtors accounting records will need to be evaluated on a case-by-case basis, every attempt will need to be made to ensure that the number of locations and methods of payments is as wide as possible. As far as possible, centralised systems will be adopted.
- 9.3 It is worth noting that with the adoption of modern technology the overwhelming majority of general revenue payments are now processed centrally by the Treasury and that should be the aim for receipts.

#### **Cross-Departmental Charging**

- 10.1 Most Departments provide services which are used by other Departments. Even those services that are predominately used by the general public will, from time to time, be used by other Departments. Therefore the issue of cross-departmental charging arises. Sometimes such charging causes friction between Departments and leads to issues over who determines the level of service, the charges to be made, how they are increased (or decreased) and why time is wasted on what can be seen as an unnecessary paper chase.
- 10.2 Having cross-departmental charges can be a useful tool in ensuring that Departments ask the following questions. Is the service really still needed? Is the amount we are being charged reasonable and offers value for money? Could it be done better (and cheaper) by another party?

- 10.3 For the service provider, who is required to answer those questions, it is more likely to force them to ask the question - how can I provide a better (and cheaper) service?
- 10.4 Without cross-departmental charging those key questions (which are common in the private sector) may very well not be asked, or more importantly, be answered.
- 10.5 **It is clear that a balance needs to be struck between unnecessary bureaucracy (and therefore wasted cost) and the discipline that cross-departmental charging can offer.**
- 10.6 **In general, cross-departmental charging should occur where either the majority of the charges are made to the public (individuals or businesses) or a formal service level agreement exists between the Departments.**
- 10.7 **It is therefore recommended that Departments give particular consideration to the impact on other Departments when issuing fees and charges.**
- 10.8 The apportionment of costs is not deemed to be cross-departmental charging as defined above. Apportionment of costs occurs when one Department has the lead responsibility for a central contract that covers more than one other Department and the costs are apportioned or recharged so that the true costs of providing the respective services are accurately recorded. An example would be the central insurance contract which is negotiated and paid for by the Treasury and Resources Department (as part of its agreed mandate) and the relevant costs apportioned to other Departments (and Trading Boards).

### **Trading Boards**

- 11.1 Although this States Report is primarily concerned with General Revenue Departments and Committees, the basic principles still apply to the fees and charges raised by the States trading entities, such as Water, Works, Dairy and the Ports.

### **Tax Collection**

- 12.1 Although they are taxes it is worth noting that considerable effort has also been expended in updating the methods of evaluating, raising and collecting tax payments, most notably the ongoing revision of the Tax of Rateable Values and the introduction of surcharges for late payment of income tax.

### **Information Collection**

- 13.1 In preparing this Report 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 Government Business Plan.
  - A Departmental consultation exercise carried out in July and August 2006 by the Policy Council's Public Services Steering Group.
  - The Public Accounts Committee's NAO Report on Income Generation – June 2005.
- 13.2 The above more formal processes have been supplemented by ad hoc political and staff level discussions, in particular with the Environment, Housing, Public Services Departments and the Scrutiny Committee. **The Treasury and Resources Department is grateful for their assistance and support.**

### **Conclusion**

- 14.1 The Treasury and Resources Department believes that it has produced a Report which fulfils the Policy Council's request. In doing so it concurs with the previous view that:
- In some areas fees and charges should have been increased more regularly than they have been in the past.
  - There is still scope for further increases in existing fees and charges.
  - There is scope for the introduction of new fees and charges.

### **But**

- The amount of additional income generated in this area must be carefully controlled within a structured and coordinated framework and referenced to an agreed evaluation criteria.

### **And**

- The amounts of fees and charges raised should not be used as a material substitute for direct and indirect taxation.

### **Recommendations**

- 15.1 The Treasury and Resources Department therefore recommends the States to:
- a) Direct all Departments to review all of the fees and charges for which they have administrative responsibility on a regular basis and amend them accordingly.



- b) Agree that when considering any revision to fees and charges, or their possible introduction or cessation, Departments should take into account the evaluation criteria as set out in paragraph 4.1 of this Report.
- c) Direct all Departments to pay particular attention to the impact on those on lower incomes of the fees and charges for which they are responsible.
- d) Direct all Departments to pay particular attention to the impact on other Departments of fees and charges for which they are responsible.
- e) Note the introduction of various new fees and charges, as set out in paragraph 6.1 of this Report that are likely to be proposed by Departments in the near future.

Yours faithfully

L S Trott  
Minister

## Appendix 1

**Fees and Charges – 2007: General Revenue**

	£'000	£'000
Treasury and Resources:		
Digimap	260	
Foulon Cemetery	90	
Greffe & Courts	1,500	
Miscellaneous	<u>200</u>	
		2,050
Commerce and Employment		
Tourism related	300	
Trademarks	70	
Miscellaneous	<u>130</u>	
		500
Culture and Leisure		
Beau Sejour	2,780	
Museums etc.	270	
Hire of pitches etc.	<u>150</u>	
		3,200
Education		
College of Further Education	660	
Miscellaneous	<u>140</u>	
		800
Environment		
Waste Disposal & Recycling	440	
Driver Licences, tests, etc.	<u>460</u>	
		900
Health and Social Services		
Catering	550	
Private patients	1,900	
Long Stay	1,200	
Pharmacy	150	
States Analyst	200	
Miscellaneous	<u>100</u>	
		4,100
Home		
Liquor Licensing	225	
Work Permits	25	
Data Protection	50	
Miscellaneous	<u>50</u>	
		350
Housing - Residential Homes		700

Public Services	
Refuse Disposal	2,000
Sewage Tankers	<u>1,400</u>
	3,400
Total	<u>16,000</u>

## Appendix II

### Fees and Charges – 2007: Non-General Revenue

	£'000
Housing – Rents (net of rebates)	7,800
Health – Accommodation	630
Harbours	7,100
Airport	8,620
States Works	10,320
States Dairy	4,640
Water	8,390
Total	<u>47,500</u>

## Appendix III

- ***How much can be raised?***

Although in aggregate even a few £000s may be worthwhile, the greater the amounts that could be raised (subject to other criteria) the more worthwhile the introduction of fees and charges would be.

- ***How much will it cost (full costs of administering, policing and processing to collect the income)?***

It is essential that the net benefit of the fee or charge is clearly understood and made explicit.

In order to do this **all of the costs** of administering all of the processes including initiating the charges, raising bills, income collection and accounting are included.

Furthermore, the costs of legislation (including the initial introduction and the ongoing revision) need to be taken into account. The costs of policing and enforcement also need to be evaluated.

Although poor customer service should never be accepted, customers are far less likely to accept poor service if there are fees involved. This may mean that there are additional resources (i.e. costs) required to improve the service provided.

- ***What is the cost of providing the service?***

In considering the level of fees and charges the full cost of providing the underlying service should be taken account. Costs should include such things as direct costs, overheads, costs of collection, policing and any costs associated with its initial introduction and ongoing revisions.

- ***What will be the costs and impact on the customer?***

It is essential that when evaluating the costs involved that due consideration is taken of the likely impact on the customer. Introducing a system which is inefficient and overly expensive for the customer (businesses or individuals), or is seen to be, is likely to be counterproductive.

It should be borne in mind that the majority of States income will continue to be derived from taxation which requires individuals to be in well paid jobs and businesses to be competitive and profitable.

- ***Can the customer (realistically) afford to pay?***

The aims and objectives of the Corporate Anti-Poverty Programme must be adhered to. If fees and charges are to be levied then reasonable provision should be made for those who are unable to fully contribute. The Treasury and Resources Department believes that, on an ongoing basis, affordability is a key issue that should be kept under constant review by all Departments and by the Policy Council through its Social Policy Working Group.

- ***Does the fee or charge already exist?***

If a fee or charge is already being levied it is more likely to be appropriate to raise additional income from that source. Furthermore, the existing legislation, administrative and collections procedures are already in place (for both the Department and the customer).

- ***Does the fee or charge exist in other comparable jurisdictions?***

If a fee or charge is levied in other comparable jurisdictions it is more likely to be appropriate to raise additional income from that source. However, simply trying to impose a fee or charge in Guernsey just because it is levied elsewhere is the weakest of all possible arguments.

- ***How easy would it be to implement, including legislative requirements?***

When considering fees and charges the legislative framework (costs of preparation and implementation timescale) must be taken into account. Furthermore, the costs of any appeals, policing, enforcement and review procedures must also be taken into account when considering the net benefit.

- ***How often would the amounts charged require revision?***

Departments should clearly explain how often the level of fees and charges should be revised. In most instances, fees and charges should be reviewed on an annual or biennial basis. Only in exceptional circumstances would the level of fees and charges remain the same for longer than five years.

- ***What, if any, is the impact on local inflation?***

The impact on local inflation must be explicitly stated and very carefully considered.

Every effort should be made to ensure that any adverse impact on inflation, if any, is minimised.

- *Does the fee or charge support or restrict the agreed economic strategy?*

Those parties who benefit from economic growth have an enhanced ability (and incentive) to pay. However, raising excessive amounts of fees and charges must not have an overall detrimental impact on the overall economy. To do so is clearly counterproductive.

- *Does the fee or charge support or restrict social and environmentally desirable or undesirable behaviour?*

In recent years there has been a growing acceptance that fiscal measures (either taxes or fees and charges) could be used in support of agreed social and environment policies. **In particular, the user and polluter pays principles.**

Such fiscal measures could be used either to encourage desired behaviour, or discourage undesirable behaviour. However, there has to be a realistic expectation of the real impact of such measures.

- *Is the charge realistically collectable, how easily can it be avoided?*

There is very little point in seeking to raise additional revenue if in reality it is going to be difficult to collect the charges and/or there are considerable costs associated with policing any customers who wish to seek to avoid them.

- *Is the service considered to be a potential profit making activity?*

In a minority of cases fees and charges should be set at a level sufficiently high that they not only cover costs but also make a positive contribution, i.e. they are a trading or semi-trading activity.

- *Is it politically deliverable?*

When seeking to raise additional income, governments are nearly always put in the position on being required to make unpopular and difficult decisions. However, when considering the introduction or increase in fees and charges, the political realities have to be considered and the overall benefits carefully balanced.

**When considering evaluation criteria it is usually best practice to use a system of weighting. This will need to be considered on a case-by-case basis.**

**(NB The Policy Council welcomes the Report from the Treasury and Resources Department as it provides a very useful framework to assist the States and individual Departments in evaluating fees and charges.**

**The Policy Council strongly endorses the recommendation that those on lower incomes must continue to be protected.**

**The Policy Council also firmly endorses the Treasury and Resources Department's recommendation that the level of fees and charges must be kept under regular review and not allowed to decline in value in real terms.)**

The States are asked to decide:-

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

1. To direct all Departments to review all of the fees and charges for which they have administrative responsibility on a regular basis and amend them accordingly.
2. That when considering any revision to fees and charges, or their possible introduction or cessation, Departments shall take into account the evaluation criteria as set out in paragraph 4.1 of that Report.
3. To direct all Departments to pay particular attention to the impact on those on lower incomes of the fees and charges for which they are responsible.
4. To direct all Departments to pay particular attention to the impact on other Departments of fees and charges for which they are responsible.
5. To note the introduction of various new fees and charges, as set out in paragraph 6.1 of that Report, that are likely to be proposed by Departments in the near future.

## HEALTH AND SOCIAL SERVICES DEPARTMENT

### ‘PALLIATIVE CARE, ADVANCE DIRECTIVES, AND THE PROPER USE OF DOUBLE EFFECT MEDICATION’

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

15<sup>th</sup> November 2006

Dear Sir

#### **Executive Summary**

1. Following discussion of the States Report ‘*Voluntary Euthanasia (Death with Dignity)*’ in October 2004, (Billet d’Etat XVI 2004), the States directed that the Health and Social Services Department report back on the provision of palliative care, the position of advance directives, and on the proper use of double effect medication.
2. This Report restricts itself to the provision of palliative care, particularly on the recommendation contained in the Voluntary Euthanasia Report to appoint a lead clinician in palliative care and to provide management support structures to ensure ‘*palliative care of the highest standard*’.
3. The position on advanced directives and on the proper use of double effect medication is largely one of legal interpretation and clarification, and the Department is currently consulting with the Law Officers regarding this. Following such advice, the Department would intend to consult more widely, but if it seems likely that new legislation will be required, the Department would not consider that the preparation of this would be a priority at present.
4. With regard to the provision of palliative care, two models are examined. One is of a full time consultant in palliative care medicine, supported by a roster of family practitioners trained to diploma level in palliative care.
5. The alternative model is of a visiting consultant in palliative care medicine, supported by a telemedicine link to an experienced off island centre, again supported by a roster of diploma level family practitioners.
6. Under both models, there is a need for improved management and co-ordination,



with a range of professional and support staff and appropriate further training.

7. The Management Committee of Les Bourgs Hospice strongly feels that a full-time consultant in palliative care will offer a superior service, and is prepared to fund such an appointment, initially for a three year term, with review regarding ongoing funding after this time. This position is also supported by the Medical Specialist Group.
8. Whilst welcoming such support, the Health and Social Services Department strongly feels that, given its other commitments and priorities, it would not be in a position to take over the costs of such a post after three years.
9. The Department feels that, in the light of current cancer epidemiology and calculated need, the second model of medical care (an off island consultant supported by diploma trained family practitioners) offers better 'value for money, at a total cost of £248,400 for the first year, and £236,900 per annum thereafter, compared with a cost of £469,600 per annum for the alternative model.
10. Although being fully supportive of improvements to the palliative care service, the HSSD would not give highest priority to these developments, when compared with the need for other developments, such as new screening programmes, anti-poverty measures, sexual health services and speech and language therapy.

## Background

11. At the September 2002 States meeting, a Requête entitled 'Death with Dignity' received majority support. The then Advisory and Finance Committee was instructed:

*'to carry out appropriate investigation and consultations with whomever it deems fit, and thereafter, but at the earliest opportunity, to bring a report to the States of Deliberation, on the implications of allowing Doctor Assisted Death or some other similar Death with Dignity Legislation to be implemented within Guernsey, and containing the Committee's recommendations in connection with this matter.'*

12. A Working Party under the independent chairmanship of a member of the Guernsey Bar was established and duly reported back to the Policy Council (as successor to the Advisory and Finance Committee). By a majority, it recommended *inter alia* that: *'there should be no change to the present legal position on any form of euthanasia.'*
13. A Minority Report, advocating a very limited and strictly proscribed system of assisted suicide/voluntary euthanasia, which was supported by three members of the Working Party, was also received.

14. The report on Voluntary Euthanasia (Death with Dignity) was debated on Wednesday 27<sup>th</sup> October 2004. In the event, the States agreed:

*‘There is insufficient awareness and provision of palliative care in Guernsey to ensure that everyone who needs palliative care or social care within the community is receiving the best possible care. Until that situation is achieved, then any moves to legalise voluntary euthanasia are premature.’*

15. The States therefore resolved that:

*‘Guernsey should designate a lead clinician in palliative care and provide a management support structure to ensure palliative care of the highest standard.’*

16. The States also directed that the Health and Social Services Department should report back on the position of advance directives, and the position of the proper use of double effect medication. The Department considers that these areas are largely ones of legal interpretation and clarification, and has, therefore, asked the opinion of the Law Officers regarding what changes would be required in local legislation in order to address these areas. Following such advice, the Department would intend to consult with professional organisations locally, as well as with the wider healthcare community.
17. Although the present legal situation is somewhat unclear with regard to these two areas, the Department is not aware of any major jurisdictions which have felt it necessary to bring in new legislation to specifically to address them, and should the Law Officers advise that new legislation would be required, given the amount of other important healthcare legislation awaiting enactment, the Department would not consider this to be a priority for drafting.

### **What is Palliative Care?**

18. In 1990, the World Health Organisation defined palliative care as;

*‘The active total care of patients whose disease is not responsive to curative treatment. Control of pain and other symptoms, and of psychological, social and spiritual problems is paramount. The goal of palliative care is achievement of the best quality of life for patients and families. Many aspects of palliative care are also applicable earlier in the course of illness in conjunction with anti-cancer treatment.’*

19. Not all medical conditions can be cured. Each year in Guernsey, some 150 to 200 people die from progressive medical conditions, which are not amenable to cure, although treatment may sometimes prolong their lives for considerable periods.

20. The majority of such cases comprise the various forms of cancer, although other progressive medical conditions, such as heart failure, respiratory disease and progressive neurological disease, may also be associated with a prolonged, but ultimately fatal course.
21. Although such conditions may not be amenable to treatment, much can be done to reduce the physical and emotional distress associated with such prolonged illness, not only for the patient, but also for the family and those close to them.

### **Current provision of palliative care in Guernsey**

22. The more strategic approach to cancer management foreshadowed in the '*Calman Hine*' Report (1995) led to the development of the Guernsey Cancer Strategy which was accepted by the (then) Board of Health in June 2001.
23. Palliative care was a major theme of the Guernsey Cancer Strategy, which identified that components of palliative care were available in Guernsey from:
  - family practitioners, both in the community and to provide 'continuity of care' by their continuing to manage their patients admitted to Les Bourgs Hospice;
  - the medical oncologist;
  - an anaesthetist with a special interest and training in acute and chronic pain control;
  - a team of palliative care nurses who visit patients in acute and long stay wards and in their own homes, and State and privately run nursing / residential homes;
  - a network of palliative care link nurses on acute wards and elsewhere;
  - other community nurses and specialist nurses;
  - staff at Les Bourgs Hospice;
  - staff at other community based facilities such as the Guernsey Cheshire Home.
24. The recommendations contained in the Guernsey Cancer Strategy have been systematically implemented and further developments of cancer services have occurred. These include:
  - a specialist lead cancer nurse has been appointed to provide professional leadership in the provision of expert cancer nursing;
  - additional specialist nurses in breast cancer care, colorectal, respiratory, pain management, and stoma care;

- the Palliative Care Team now employs three specialist nurses, but is still only able to provide a five day a week home palliative care service;
  - close links are maintained with the Wessex Cancer Centre in Southampton, other off island centres for cancer treatment and the Central South Coast Cancer Network (CSCCN);
  - a wider range of cancer treatments, including participation in multi-centre clinical trials, (which have a beneficial effect on the quality of care given), are now available locally;
  - there is now a far clearer delineation between those services offered by the Health and Social Services Department and those available through Primary Care and community based organisations, such as Les Bourgs Hospice;
  - the palliative care nurses have also helped facilitate the introduction of the *Gold Standards Framework* into Primary Care. All surgeries now have lists of patients with palliative care needs and representatives of family practitioners, district nurses, social workers, the hospice and the palliative care nurses review the care of these patients and their families each month;
  - Les Bourgs Hospice staff also attend the weekly Oncology and Palliative Care Multidisciplinary Team meetings.
25. Despite this progress, the main outstanding recommendations contained in the Guernsey Cancer Strategy relate directly to the provision of palliative care, and particularly to the lack of medical expertise, nursing lead' and training and support from other health professionals.
26. However, as a result of this range of improved services, mortality figures provided for the Voluntary Euthanasia Report, showed that of 138 chronically ill and palliative care patients who died in 2003:
- 62 died at home
  - 44 died in hospital
  - 20 died in the hospice
  - 8 died in residential homes
  - 4 died in nursing homes
27. It will be noted that only 32% of all such patients died in hospital, compared with 47% in the Central South Coast Cancer Network area of England. Several surveys have confirmed that a majority of people state they would prefer to 'die with dignity' in their own home or in another non-clinical environment, surrounded by family and friends. If one of the objectives of palliative care is to provide the alternative of a non-institutionalised death, Guernsey has apparently achieved some success.

## Opportunities for further improvement

28. The 'Voluntary Euthanasia' Working Party concluded that:

- *'Evidence from both health care professionals and members of the public states that some patients are continuing to die in pain or distress. Some people are suffering protracted, painful and undignified deaths.'*
- *'The Working Party recognises the wide range of services currently provided and the high standards being achieved in many areas, but considers the current resources allocated to palliative care insufficient.'*
- *'It would appear that many of the pieces of the jigsaw are now in place. The Working Party considered that Guernsey now requires the designation of a lead clinician in Palliative Care and a management support structure to ensure palliative care of the highest standards.'*
- *'The review of the current palliative care services highlighted how fragmented the palliative care resources are, and the need to ensure greater focus to improve delivery. The review also highlighted the cost to the patient of palliative care being provided by GPs, and the Working Party agreed that palliative care should be available for all patients, regardless of income.'*

29. The report later commented:

- *'There appears to be a public perception that the services of Les Bourgs are largely directed towards cancer and (to a lesser extent) HIV sufferers. The Management Committee of Les Bourgs are currently considering a major refurbishment with an increase in available facilities. It is intended to fund these through major public fundraising.'*
- *'It is therefore important that the public understand that the facilities and services offered by Les Bourgs are available to all who might benefit from them, and are not restricted to cancer or other specific disease sufferers. The proposed expansion and refurbishment should ensure that Les Bourgs has the capacity to meet this expectation.'*
- *'The Guernsey Cheshire Home also provides a valuable additional resource for patients with other life long conditions, particularly physical disabilities.'*
- *'However in the light of current knowledge, palliative care should be considered the norm for all those whose illness is no longer responsive to curative treatment. The goal will be the achievement of the best quality of life for all such patients and their families.'*
- *'At present it is estimated that only 5% of non cancer terminal care patients receive adequate palliative care input. For their families, there is frequently*

*a similar lack of support; 'it is sometimes worse to watch someone else die than to die yourself'.*

- *'Despite the perception that people with other conditions may suffer unnecessary pain and loss of dignity at the end of life, local medical opinion would suggest that such cases are in fact extremely rare.'*
  - *'It is felt that much of the lack of current palliative care provision could be addressed through the appointment of a full time or substantially part time palliative physician and the development of a palliative care multidisciplinary team as recommended in the draft NICE guidelines.'*
30. As part of the research leading to the preparation of this report, a series of meetings have been held with the management and medical staff of Les Bourgs Hospice. They state that they are still committed to an expansion of the number of beds at Les Bourgs, an improvement in facilities to include *en-suite* in all rooms and separate day care facilities, plus improved facilities for clinical consultations.
  31. The Les Bourgs management and their medical advisors also continue to support the appointment of a full time Consultant in Palliative Care, and have given a firm commitment to fund such a post for up to 3 years.
  32. Letters supporting these views from the Chairman of Les Bourgs Hospice and the Chairman of the Medical Specialist Group (MSG) are appended to this report.
  33. Although recognising the undoubted benefits of such an appointment, the Health and Social Services Department feels that, with the current financial constraints which may result in cutting existing services, it is unable to accept the responsibility for such a new service development in three years time, even given the generous offer from Les Bourgs to fund this for the first three years.
  34. The Health and Social Services Department would also point out that:
    - There is a shortage of approximately 100 consultants in palliative care in England at present. It is understood that the City of Birmingham, with a regional population of over 2m people, currently has no palliative care consultants. Successful recruitment and retention might, therefore, present real problems.
    - 50% of palliative care consultants and 80% of trainees are female, and many have chosen this specialty because of their desire for flexible working. The prospect of a single handed consultant post in Guernsey might not prove attractive as it would need to be full-time to warrant an essential worker's housing licence.
    - Palliative care may be regarded as a 'high stress' specialty, and there would be clinical governance concerns for the individual and the service if a single

handed consultant, working in relative isolation, was appointed.

- Present specialists enjoy 6-7 weeks annual leave and 2 weeks study leave and are encouraged to develop an 'off island' attachment with a UK 'Centre of Excellence', to maintain their professional skills. There would thus be considerable periods of time when palliative care expertise would not be available, even were it possible to recruit and retain a consultant in palliative care.

### **An alternative model of palliative care provision**

35. Following the recommendations of the Calman Hine Report and the subsequent Guernsey Cancer Strategy, cancer services in Guernsey are closely linked with the Central South Coast Cancer Network (CSCCN).
36. A document detailing how the palliative care needs of the Central South Coast Cancer Network population can be calculated, using known demographic variables, has been produced by Mr Peter Tebbit, Palliative Development Advisor for CSCCN, under the title '*A Population Based Palliative Care Needs Assessment*', in August 2005.
37. A comparison of local, network and national variables are as follows:

	<b>Guernsey 1999-2003</b>		<b>CSCCN 2003</b>	<b>E&amp;W 2003</b>
	<b>No</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>
Population > 60 years	12,419/ 59,807	<b>20.8%</b>	<b>22.6%</b>	<b>20.9%</b>
All deaths/100,000 population	557	<b>931</b>	<b>1,050</b>	<b>1,013</b>
Cancer deaths/100,000 population	128	<b>214</b>	<b>257</b>	<b>261</b>
Cancer deaths/all deaths	128/557	<b>23%</b>	24%	26%
Deaths in hospital/all deaths		<b>52%</b>	56%	N/A
Cancers deaths in hospital/all deaths		<b>35%</b>	47%	N/A

38. In summary, it should be noted that:
  - Guernsey's proportion of those >60 years is less than the CSCCN population, and roughly equivalent to that in England and Wales;
  - overall mortality rates are lower in Guernsey than both CSCCN and England and Wales;
  - cancer death rates are 17% lower in Guernsey than across the CSCCN and 18% lower than in England and Wales;

- cancer deaths in hospital, as a proportion of all deaths, are 25% less than CSCCN.

39. In the '*Population based Palliative Care Needs Assessment*' document, the overall '*index value*' is further modified by a '*deprivation modifier*'. On this basis, because of its lack of any extensive poverty, Guernsey has a calculated '*deprivation modifier*' of 91 (cf Central South Coast 109, Surrey, West Hants and Sussex 92 and Thames Valley 85).
40. Applying this to the index value suggests that Guernsey's overall *need* for palliative care services is around 95% of that for the *best* areas of the CSCCN - the *Blackwater Valley and Hart*. Peter Tebbit suggests that, for the CSCCN (total population 2,078,946), the following palliative care provisions (shown *pro rata* for Guernsey) are desirable:

<b>Requirement</b>	<b>CSCCN Rate per million</b>	<b>CSCCN Calculated total</b>	<b>Guernsey <i>pro rata</i> 2001</b>
Population		2,078,946	<b>59,807</b>
Palliative care beds (cancer)	52	93	<b>3.12</b>
Palliative care beds (non cancer)	26	46	<b>1.86</b>
<b>Total palliative care beds</b>	<b>78</b>	<b>139</b>	<b>4.68</b>
Consultant medical staff	0.3/10 beds	4.2	<b>0.14</b>
Non consultant medical staff	1 WTE/10 beds	13.9	<b>0.47</b>

41. It should be noted that the above calculations are on the assumption that Guernsey's needs for palliative care beds and consultant and non consultant medical staff is identical with that of the Central South Coast Cancer Network.
42. In actual fact, using the modified index score, because of the lower overall cancer deaths and the generally more affluent population, calculated need is only 95% of the *best* parts of the CSCCN, and the above calculations are therefore rather more generous than need be.
43. On this basis, the five palliative care beds supplied at Les Bourgs Hospice should be sufficient numerically for normal care, although additional beds would provide spare capacity for respite and help cope with the peaks of demand which occur in a small population. A strong case can be made for these facilities to be upgraded to provide single room accommodation with en-suite facilities, and to be adequately staffed to allow them to be fully utilised.
44. Recruitment for medical staffing of 0.15 consultant staff and 0.5 non consultant



staff suggest that the best model would be three general practitioners working for approximately 4 hours per week, supported by a visiting consultant, approximately one day every two months, plus telephone/telemedicine links.

#### **Advantages of an ‘off island’ palliative care ‘telelink’**

45. Telemedicine is not new to Guernsey. It is already used in a number of specialties, including radiology, cardiology, and psychiatry. Dr Peter Hargreaves, consultant in palliative care medicine at the Midhurst Community Hospital, West Sussex is a pioneer in the use of telemedicine in palliative care and already provides a palliative care telemedicine service to a large area of North Wales.
46. He describes teleconferencing as ‘a good way of working in teams,’ ‘providing an advisory service’ and ‘providing reassurance to both staff and patients.’ A telemedicine link with three dedicated ISDN lines would provide ‘near broadcast quality’ and would be able to provide a ‘virtual ward round.’
47. In order to establish an effective telemedicine service, Dr Hargreaves has advised that a series of personal visits on a monthly basis for several months would be advantageous in establishing inter-personal links and sorting out teething problems.
48. Following establishment of the service, contact would be maintained through visits approximately every two to three months.
49. All three of the main Primary Care Practices have identified a family practitioner with a special interest in palliative care. All three would be prepared to study to take the *Diploma in Palliative Care* from the University College of Wales (or equivalent institution) and, following this, would interface with the off island consultant service and provide an ongoing source of ‘on island’ expertise between consultant visits.

#### **Need for support structure**

50. To be sure of providing ‘*palliative care of the highest standard*’ requires more than the appointment of a consultant in palliative care, whether on a full time basis or through periodic visits backed by a telemedicine link.
51. The National Institute for Health and Clinical Excellence (NICE) guidelines: ‘*Improving supportive and palliative care for adults with cancer*’ state:

*‘The active total care of patients with progressive far advanced illnesses and limited prognosis, and their families, requires a multi-professional team who have undergone recognised specialist palliative care training. This provides physical, psychological, social and spiritual support and will involve practitioners with a broad mix of skills including:*

- *Consultant in palliative care medicine*
- *Senior nursing staff*
- *Social worker*
- *Chaplain*
- *Physiotherapist*
- *Occupational Therapist*
- *Pharmacist*
- *Specialist psychiatric/psychological intervention*
- *Dietician*

52. The relatively small numbers of such patients in Guernsey at any one time suggests that most of the above appointments need not be full or substantially full time, but could be achieved through additional training and experience in palliative care techniques for existing staff.
53. However, in order to allow the non-medical aspects of palliative care delivery to match the proposed enhanced medical structure, a strong case can be made for the following posts.

*i. Lead palliative care nurse*

The need for such a post was identified in the 2001 Guernsey Cancer Strategy, and is the main outstanding recommendation yet to be implemented under the Cancer Strategy.

An appointment to such a position would allow the present limited palliative care service to be extended.

*ii. Full time social worker*

As summarised above, palliative care represents a holistic approach, and it is just as important to address non-medical needs. It is proposed that the appointment of a specialist social worker would work largely with the palliative care team but would also provide support to cancer patients receiving off island radiotherapy and chemotherapy and ongoing chemotherapy at the Princess Elizabeth Hospital.

*iii. 0.5 FTE Occupational Therapist*

With the success of palliative care in relieving pain and providing support for the sufferer and the family, come problems of attempting to lead as normal a life as possible during the remaining period of life. Expert assistance with mobility, home adaptation, etc can make a valuable contribution to this.

iv. *Clerical administrative support*

There has been a tendency for health services to grow at the ‘sharp end’, and attempt to provide the necessary infrastructure support from existing resources. Although this has been successful to a degree, in that Guernsey’s non-clinical staffing can be shown to be only around 67% of that in the NHS, there comes a limit to how much extra support can be absorbed.

In attempting to provide ‘*palliative care of the highest standard*’, it is felt that a degree of clerical/administrative support is essential. Otherwise, professional staff time is being misused on the essential clerical and administrative tasks of making appointments, typing letters, etc, which is both inefficient and demotivating for the staff concerned.

54. With regard to the additional training needed, a diploma/degree level course for healthcare professionals is run on island, and it would be appropriate for all health professionals working within the palliative care team to undertake a thirty credit module in contemporary palliative care practice, if they do not already have a specialist background in this area.

**Costs**

55. Model A:

- **Costs of full time consultant in palliative care:** £280,000 per annum.

This includes all the costs of supporting staff, such as secretarial support, and other overheads. Although this cost might be met by Les Bourgs Hospice for the first three years and then reviewed, unless additional funding were made available, the Health and Social Services Department would find taking on this commitment in future years to be an unacceptable financial burden.

*Plus*

- **3 Diploma level family practitioners:** working 4 hours x 12 weeks + 2 hours x 40 weeks x £150 per hour = £57,600.

(Part of this amount might be discounted by any fees recoverable from hospice patients.)

*Plus*

- **Diploma level family practitioners:** would also require regular annual training in order to maintain their skills. Estimated £10,000.
- **Support services:** detailed in section 57 below, costing £122,000.

**Model A Total - £469,600 per annum**

## 56. Model B:

- **Visiting Consultant in Palliative Care:** one day visit monthly for three months, thereafter 2-3 monthly visits for one day at £750 per day (including expenses).

First year £6,000, Second and subsequent years £4,500.

*Plus*

- **Telemedicine link:** set up costs £10,000. Rental and operational costs approximately £5,000 per annum.

*Plus*

- **Consultant time:** one hour weekly tele-conference plus preparation time at £3 per minute = £225 x 40 weeks = £9,000.

*Plus*

- **3 Diploma level family practitioners:** working 4 hours weekly x £150 per hour x 48 weeks = £86,400.

(Part of this amount might be discounted by any fees recoverable from hospice patients.)

*Plus*

- **Diploma level family practitioners:** would also require regular annual training in order to maintain their skills. Estimated £10,000.
- **Support services** detailed in section 57 below, costing £122,000.

**Model B Total first year - £248,400 per annum**

**Model B Total thereafter - £236,900 per annum**

## 57. Support services under either models A or B outlined above; additional support as identified in the original States Resolution would need to be provided as follows:

1.0 FTE* Lead palliative care nurse	£42,000
1.0 FTE* Social Worker	£40,000
0.5 FTE* Occupational Therapist	£20,000
1.0 FTE* Clerical/administrative support	£20,000
<b>Total</b>	<b>£122,000</b>

\* FTE = Full Time Equivalent

### **Evaluation of options**

58. Although a full time consultant in palliative care might be perceived to provide a gold standard, there might well be real difficulties in recruitment and retention to such a post. In addition, in order to provide a comprehensive palliative care service, such a post would require backup from diploma level trained family practitioners to cover the 10-12 weeks a year when the Consultant might be off island on annual or study leave, or for an off island 'attachment'.
59. The appointment to such a position has the support of Les Bourgs Hospice management, who have offered to fund such a post, initially for a three year period. They further point out that, even during such a limited appointment, a consultant could have an invaluable training role in increasing understanding and expertise amongst primary care practitioners, the Medical Specialist Group, palliative care and community nurses, etc.
60. However, given the relatively small number of patients who would stand to benefit, the Health and Social Services Department would not consider the appointment of such a post to be a present priority, and would, therefore, *not* wish to support it financially in the longer term, once financial support from Les Bourgs Hospice ended.
61. Should the management of Les Bourgs Hospice be unable to recruit to such a post, then the Health and Social Services Department believes that a model based on three diploma level family practitioners, supported by a visiting consultant and a telemedicine link, would still offer a viable service.
62. Such a model has proven effectiveness, having supplied an acceptable palliative care service to a large area of North Wales, using existing technology.
63. The Health and Social Services Department also feels that such a model would be more closely in accord with the need identified in the demographic modelling undertaken by the Central South Coast Cancer Network – namely, given the levels of cancer mortality and mortality from other chronic conditions likely to benefit from palliative care, that Guernsey requires approximately 0.15 of a Consultant and 0.5 non-consultant medical staff.

### **Prioritising for revenue spending**

64. The need for further development in palliative care in Guernsey was identified in the Guernsey Cancer Strategy accepted by the (then) Board of Health in June 2001. As its successor, the Health and Social Services Department still considers that further strengthening of the island's palliative care services along the lines set out in the report is highly desirable.
65. It would not, however, be its top priority. It would, for instance, fall behind such service developments as a screening programme for colorectal cancer

amongst the over 50s, an eye screening programme for diabetics, the appointment of a clinical nurse specialist in sexually transmitted diseases to help cope with the huge explosion of *chlamydia* amongst young people on the island, the development of a third family centre to offer early interventions as part of the Corporate Anti-Poverty Programme and speech and language therapy service for adults with disabilities.

66. Although in the past it has been customary for States Departments, when proposing new service developments, to request the Treasury and Resources Department '*to take account of the cost of the proposed measures when setting the Department's future revenue budgets*', the Health and Social Services Department recognises that, in the current financial climate, this is a largely cosmetic exercise.
67. In practice, current budgeting arrangements mean that the Treasury and Resources Department and the States effectively grant Departments global revenue budgets and then expect these Departments to prioritise their spending within those limits.
68. A States Resolution calling for service development without granting additional resources would obviously distort the priority setting process adopted by a Department. There are clear dangers in this level of micromanagement, in that, when making such decisions on individual items, the States will rarely be able to consider competing demands on revenue budgets.
69. None of the above should be taken as indicating that the Health and Social Services Department did not wish to bring these proposals, or that it does not fully support them, but with the current level of budgetary restraint and the resulting emphasis on priority setting and 'value for money', it is important that the Health and Social Services Department is very transparent in why it chooses to implement some developments ahead of others, and that other States members understand the sequence of events leading to the present proposals.
70. They flow from the States Report on Voluntary Euthanasia and Palliative Care, when these issues were considered in isolation from other potential uses of limited and scarce resources. In rejecting any possibility of euthanasia, there was a huge moral pressure on the States to promise that '*everything that could be done would be done to strengthen palliative care in Guernsey*'. This was done in the absence of any knowledge of how such extra spending would impact on other priorities for the island's health services.
71. The Health and Social Services Department is happy that the proposals are sound in themselves and that they faithfully discharge the tasks it was set by the States when considering the Report on Euthanasia. However, with regards to their implementation, the Department believes that without additional 'ring fenced' revenue, they should only be implemented within the priority setting process adopted by the Department, and as resource constraints allow.

## Conclusions

72. In October 2004, the States of Deliberation resolved that:

*‘Guernsey should designate a lead clinician in palliative care and provide a management support structure to ensure palliative care of the highest standard.’*

73. In view of the uncertainties of fundraising, recruitment and retention, the Health and Social Services Department would propose a ‘roll out’ of appointments to improve local palliative care as follows:

- a. Training of three lead GP’s to diploma level in palliative care medicine. As with other postgraduate training amongst primary care practitioners, training costs would normally be an individual or practice responsibility.
- b. Employment of three such practitioners for four hours per week each at BMA negotiated rates, cost £86,400.
- c. Appointment of a lead palliative care nurse to allow a seven day a week home palliative care nursing service and to act as ‘lead clinician’ until the medical staffing situation is clarified, cost £42,000.
- d. If Les Bourgs Hospice is unable to recruit a full time consultant in palliative care medicine, then establishment of a ‘telemedicine link’ as detailed above, cost £24,000 in the first year and £14,000 in subsequent years.
- e. Appointment of palliative care support staff (1 FTE social worker, 0.5 FTE occupational therapist, 1 FTE clerical/administrative support), total cost £80,000.

74. However, given current budgetary constraints, the Health and Social Services Department is not in a position to undertake such developments within its existing budget, and it will need a significant budget increase from 2007 and subsequent years if it is to fund this service, together with the other developments which have already been approved by the States, such as the cost of care services for the residents of the ‘extra care’ sheltered housing in Rosaire Avenue.

75. The alternative is for the Department to make cuts in its existing services or introduce a range of charges for services, neither of which would find public support, as has been demonstrated by the reaction to the cost saving measures already introduced by the Department.

### **Advance directives and the proper use of double effect medication**

76. As summarised in the Background section of this report, the Department has requested the advice of the Law Officers on advance directives and the proper use of double effect medicine, and will thereafter seek a wider consultation. The Department considers that the provision of palliative care services ‘of the highest standard’ is separate from, and does not rely on clarification or changes in these areas, which will be the subject of a future States Report.

### **Recommendations**

77. The States are requested:

to note the above report and to agree that the developments proposed in paragraph 73 be implemented within the prioritisation process adopted by the Health and Social Services Department and as available resources allow.

Yours faithfully

P J Roffey  
Minister





THE MEDICAL SPECIALIST GROUP

Dr David Jeffs  
Clinical Governance Lead  
HSSD

15 September 2006  
MGN/jt

Dear David

**RE: DRAFT STATES REPORT – PROVIDING PALLIATIVE CARE OF THE HIGHEST STANDARD**

Thank you for the opportunity to comment on the draft report, sent under your letter dated 14 August 2006. The report was discussed at our Management Board meeting on 6 September.

The Board's opinion was still that the best way forward for the population of the Bailiwick and this service is through a resident consultant. They noted your concerns about future funding for such a post, but believed that because of the history of this issue, the decision should be made by the States, and not pre-judged in this report. Similarly, your concerns about recruitment to such a post should not be used as an argument to discount this option.

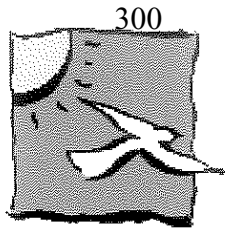
The scheme that you propose relies heavily on a tele-link which in our experience is often overhyped as it is difficult to organise for all relevant staff to be seated in front of the system at the same time and is of little, or no, use in assessing a patient.

Palliative care endorses more than just terminally ill people dying of cancer, and now covers chronic medical conditions such as MS, motor neurone disease, chronic respiratory and heart failures, and Parkinson's disease. We would see such a post supporting patients at the PEH and KEVII hospital as well as helping the palliative care community nurses to look after patients in their own homes.

Kind regards

Yours sincerely

**Gary D Yarwood**  
**Chairman**  
**Medical Specialist Group**



**Les Bourgs  
Hospice**

*Please mark your reply:*

**PRIVATE AND CONFIDENTIAL**

*and address to the writer at:*

Les Bourgs Hospice, Andrew Mitchell House,  
Rue du Tertre, St Andrews, Guernsey, GY6 8SF

Tel: 01481 727490 Fax: 01481 727490 ('phone first)

e-mail: [skogci@cwgsy.net](mailto:skogci@cwgsy.net)

4<sup>th</sup> September 2006

Dr David Jeffs  
Director of Public Health  
Department of Health and Social Services  
Le Vauquiedor  
St Andrews  
GY6 8TW

Dear Dr Jeffs

Policy Letter – November 2006  
'Providing Palliative Care of the Highest Standard'

The Board of Governors of Les Bourgs is pleased to have had the opportunity to read the draft of the above paper. We would like to be able to comment on some aspects of that document and I am writing to you to set out our views.

Our Board fully understand the difficulties for the Department of Health in endeavouring to deliver the will of the States as set out in the Resolution following the Death with Dignity debate in a period of economic restraint. Further, we recognise that you must be cautious and prudent as you look beyond the three-year time horizon that arises from the offer that we have made for the initial funding of the Palliative Care Specialist post.

However, that said, you will not be surprised to learn that we are disappointed with the conclusion and recommendations of your report. Whilst we may accept an argument that anything less than the full time appointment is the best that can be afforded we really cannot allow that the recommendations constitute *palliative care of the highest standard*. Indeed, it is almost impossible to imagine the circumstances in which a 'telemedicine' link will be superior to the appointment of a Palliative Care Specialist to deliver care to patients and support to the Primary Care practices.

Naturally, you will expect us to articulate our reasoning:

As part of the Department's reasoning for not favouring a full time on-Island appointment attention is given for the shortage of UK consultants and the annual leave, study time and off Island commitments of an appointee. We believe that exactly the same difficulties and gaps in cover will arise in establishing regular tele-links. Indeed, even in a day by day 'business as usual' referral link

the coinciding of diaries of a practitioner in Guernsey and a specialist in UK will be fraught with difficulties.

Conversely, the on-Island specialist will, as part of the job description, be involved in a training process and over time support from other clinicians within Guernsey during periods of absence will provide cover. Again, as part of the off-Island commitments of a resident Specialist, we would encourage the establishment of a 'twinning' arrangement with a Specialist in the UK. Such a twinning could provide mutual support which, by the Department own assertion, must be a problem in the UK because of the shortages.

Data is set out in the Paper that attempts to show that there is not sufficient need for a Specialist in Guernsey. On the contrary, the data does show a need, albeit less than one full time post, and so far as that need is not being met in the best way possible then, to those patients in need, care is not of the 'highest standard'.

It seems to us that the Department has taken a very narrow view of the appointment of a Specialist. The skills and experience imported into Guernsey by such an appointment will be invaluable across functions within the remit of the Department. Even if the appointee should only be in post for three years there is a value in getting experience out of such an expert into the Primary Care practices and within the Medical Specialist Group.

Even in the light of these further comments you may remain unmoved in your view and wish to retain the main thrust of your Minister's letter to the Policy Council. May we, however, ask you to consider the following more minor comments regarding the text?

We would like the wording of paragraph 5 to reflect the specific commitments given in our submissions to you; in line 2 please replace 'would' with 'will' and in the line 3 replace 'would be' with 'are'.

In para 26: we have been unequivocal about the funding – it is a caste-iron commitment and we would like you to remove the condition inserted within your Department 'once resources become available'.

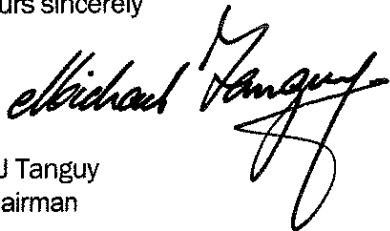
Again, at paragraph 53 please remove the words 'once resources become available'.

Similarly, at paragraphs 58 d. and 61 d. – we have never indicated anything other than a full commitment to full the post for three years. We would be grateful if you would remove the qualification 'unable to fund'.

In paragraph 58 e) we believe that there is duplication of the cost of the lead palliative nurse and that the figure should be £75,000 as is correctly shown at 61 e).

I am appreciative of all that you are seeking to achieve within the various constraints with which you have to contend but I do believe that there is a role here for Les Bourgs. The appointment of Jo Boyd as our new Director of Nursing and the property purchase that is now allowing the physical expansion of Les Bourgs and its facilities, and the appointment of a Palliative Care Specialist are integral elements of the Hospice working closely with clinicians at the PEH to delivery palliative care of the highest standard to all the people of the Bailiwick.

Yours sincerely



M J Tanguy  
Chairman

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

**(NB The Treasury and Resources Department has no comment on the proposals. However, when the matter is debated by the States, Members will vote in accordance with their individual views.)**

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 15<sup>th</sup> November, 2006, of the Health and Social Services Department, they are of the opinion:-

To note that Report and to agree that the developments proposed in paragraph 73 be implemented within the prioritisation process adopted by the Health and Social Services Department and as available resources allow.

## **PUBLIC SERVICES DEPARTMENT**

### **THE SEWERAGE (GUERNSEY) LAW 1974 – HUMAN RIGHTS COMPLIANCE**

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

28<sup>th</sup> November 2006

Dear Sir

#### **Executive Summary**

This States Report is recommending some simple amendments to The Sewerage (Guernsey) Law 1974 to ensure that it is compliant with the Human Rights Law.

The main purpose of the amendments is to provide property owners with an appeal mechanism should they wish to object to a Public Services Department decision to construct a public sewer in their land.

#### **Background**

When the States were considering the introduction of the Human Rights Convention all of the former States Committees were asked to review the extant legislation which fell within their remit to ensure they were all compliant with the Convention.

The former Public Thoroughfares Committee drew the Law Officers' attention to section 2 (1) (b) of The Sewerage (Guernsey) Law, 1974 which gave power to that Committee to construct a public sewer on land which did not form part of a public highway, in other words private property. Section 2 (2) of that Law imposed certain conditions on that Committee namely: a requirement to serve a notice in writing on the landowner notifying them of the Committee's proposals and of their right to claim compensation for any damage.

In addition the Committee was required under section 2 (3) to obtain a States Resolution with a drawing which Her Majesty's Greffier, under section 2 (4) was required to register in the "Livre des Contrats". Section 2 (5) required the Committee to serve a copy of the States resolution on the landowner concerned.

## **Legal Advice**

The Law Officers have advised that aspects of the current law may be open to challenge under Human Rights legislation.

## **Recommendation**

Based on the advice received, the Public Services Department is seeking to amend The Sewerage (Guernsey) Law, 1974 and the Department recommends the States:

1. to authorise amendments to section 2 of The Sewerage (Guernsey) Law 1974 to include a mechanism to appeal to the Royal Court;
2. 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 has no comment on the proposals.)**

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 28<sup>th</sup> November, 2006, of the Public Services Department, they are of the opinion:-

1. To authorise amendments to section 2 of The Sewerage (Guernsey) Law 1974 to include a mechanism to appeal to the Royal Court.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## PUBLIC ACCOUNTS COMMITTEE

### RISK MANAGEMENT AND INSURANCE IN THE STATES OF GUERNSEY

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

24<sup>th</sup> November 2006

Dear Sir

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

- 1.1 Risk management is an important principle of corporate governance and the Public Accounts Committee has taken up the mantle of ensuring that the States of Guernsey follows best practice in integrating risk management into the way it operates.
- 1.2 Much progress has occurred in implementing the recommendations from the Audit Commission report first issued in 2000 but there is still a long way to go before the States fully embraces the concept in its operations.
- 1.3 Although the States of Guernsey accepted a risk management strategic plan in 2003 through the Policy Planning process, this has, up to now, remained a statement of intent with little buy-in at political level. The Government Business Plan, which is being contributed to by States members during 2006, does not recognise risk management as an explicit tool in its deliberations.
- 1.4 The Treasury and Resources Department has seized the opportunity of staff changes to forward States work on risk management and insurance, and is now facilitating a number of new initiatives towards integrating risk management into Departmental thinking. The creation of a Risk Management Steering Group is a step in the right direction but in order for it to fully work all Departments, Chief Officers and politicians have to support the Group's work.
- 1.5 The States can identify risk but finds it more difficult to reduce the impact of such a risk occurring. In order to ensure that appropriate action is considered at a high enough level the Public Accounts Committee recommends that there should be some form of assurance that the Boards, sub-committees and steering groups have considered the risks when formulating their strategies, reviewing the effectiveness and efficiencies of services and internal controls.

- 1.6 The information provided to Departments in respect of insurance matters has improved considerably in 2006 and Departments now liaise directly with the insurers and pay for their insurance needs. The Public Accounts Committee supports the Treasury and Resources Department commissioning a feasibility study on whether it would be advantageous for the States to operate a captive insurance company.

## **2. Background**

- 2.1 The Public Accounts Committee (PAC) subsumed responsibility of the Audit Commission in May 2004 and undertook to follow up audit reports issued by the former body.
- 2.2 The Audit Commission first issued a report on Risk Management and Insurance in January 2000, which was appended to Billet D'Etat X, 5 April 2000. As part of the follow up process, the PAC requested the National Audit Office (NAO) to carry out a review on the progress made on the Risk Management and Insurance report. This review was the first initiated and commissioned by the PAC.
- 2.3 In January 2000 insurance fell within the responsibilities of the former Board of Administration. At that time, there was little risk management undertaken by the States of Guernsey. The Audit Commission report activated a change in the approach to risk by the States of Guernsey. In 2004, with the change in the structure of government, the Treasury and Resources Department took over responsibility for risk and insurance. In view of the qualifications that the key internal audit staff had in risk management, the section became the Risk and Assurance Unit incorporating insurance, risk and internal audit. The NAO review was commissioned to co-incide with the change in personnel as a result of the main driver for change in risk management leaving the employ of the States of Guernsey and the resultant re-structuring of the section.
- 2.4 The NAO report assesses the progress made since the Audit Commission report in 2000, but also examines the current approach to risk management against accepted good practice, focusing on arrangements for risk management and the use of insurance as a tool for mitigating risk. £3,379,050 was spent on risk management and insurance in 2005.

## **3 Risk Management<sup>1</sup> as a Principle of Corporate Governance**

- 3.1 Corporate governance had been first considered as part of the Cadbury report in 1992 when the concept was brought to the forefront following Robert Maxwell's death - corporate governance being the system determining the direction and control of an organisation.

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<sup>1</sup> HM Treasury define Risk management as "the processes involved in identifying, assessing and judging risks, assigning ownership, taking action to mitigate or anticipate them, and monitoring and reviewing progress. Good risk management helps reduce hazard, and builds confidence to innovate."



- 3.2 Corporate governance<sup>2</sup> became more important following the collapse of the Enron Corporation<sup>3</sup> in 2001 when changes were made to the way that businesses operated and were audited. In the USA they introduced the Sarbanes Oxley Act and in the UK, a Combined Code and the Turnbull Report highlighted the way forward. In addition the banking world had Basel 2 in respect of operational risk issues and IT project governance adopted Prince2 as a standard project management methodology for IT.
- 3.3 Since then there have been a number of reviews into ensuring effective corporate governance and internal controls for the way in which financial institutions operate.
- 3.4 Guernsey has a well developed and respected finance industry and the Guernsey Financial Services Commission has embraced this concept for the Island's businesses and has issued guidance on Corporate Governance and risk management and states:

**Figure 1**

“Good corporate governance practice improves safety and soundness through effective risk management and creates the ability to execute strategy and achieve business objectives in a manner that promotes confidence and protects the interest of stakeholders”

*Source: Guernsey Financial Services Commission “Guidance on Corporate Governance in the Finance Sector in Guernsey”.*

- 3.5 In the late 1990s a UK Working Party led by Nigel Turnbull developed guidance on internal controls, originally for listed companies but expanded to fit all organisations, and the need to adopt a risk based approach to establishing a system of internal control and reviewing its effectiveness.
- 3.6 The Turnbull Report led to the Institute of Chartered Accountants in England and Wales developing a boardroom briefing to provide guidance on the implementation of control over the wider aspects of business risk in such a way to add value rather than merely go through a compliance exercise<sup>4</sup>. It said:

**Figure 2**

“Good risk management has the potential to re-orient the whole organisation around performance improvement”.

*Source: Implementing Turnbull – A Boardroom Briefing.*

<sup>2</sup> In applying corporate governance to a country the system should include the degree to which its institutions and processes are transparent and accountable to the people.

<sup>3</sup> In 15 years, Enron grew from nowhere to become America's seventh largest company employing more than 21,000 people in approximately 40 countries. However, its success had developed from a scam, the company having lied about its profits and concealing debts.

<sup>4</sup> The Institute of Chartered Accountants in England and Wales “Implementing Turnbull – A Boardroom Briefing” by Martyn Jones and Gillian Sutherland.

- 3.7 The Turnbull report stated that in assessing what constitutes a sound system of internal control, deliberations should include:
- The nature and extent of the risks facing the organisation
  - The extent and categories of risk which it regards as acceptable
  - The likelihood of the risks concerned materialising
  - The organisation's ability to reduce the incidence and impact on the organisation of risks that do materialise.
- 3.8 The report also resulted in disclosure requirements in financial statements relating to internal controls one of which specifically related to risk ensured that there was a statement relating to management having an ongoing process in place for identifying, evaluating and managing significant risks.
- 3.9 Turnbull also recommended that the system of internal control should:
- Be embedded in the operation of the organisation and form part of its culture
  - Be capable of responding quickly to evolving risks
  - Include procedures for reporting any significant control failings immediately to appropriate levels of management.
- 3.10 **One of the principle components of corporate governance is risk management; another is a strong audit process to ensure that internal controls are in place.**
- 3.11 Governments throughout the world incorporate the good practices from the business world to ensure that their operations are accountable and transparent.
- 3.12 As a result of the changes taking place in the private sector, Lord Sharman of Redlynch carried out a review<sup>5</sup> to ensure that government bodies followed the principles of the Turnbull Report by instilling strong internal controls. This was partly achieved by having a formal internal control statement signed by the accounting officer (the UK equivalent of a chief officer) and by all government departments having audit committees whose work would include assessing all risks faced by the department.
- 3.13 In respect of risk management, the Sharman Review indicated that the civil service had traditionally been risk adverse for fear of failure or financial loss due to public censure. The Sharman Review also commented that reward and incentives would encourage change and innovation. In respect of governmental

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<sup>5</sup> "Holding to Account – The Review of Audit and Accountability for Central Government" Report by Lord Sharman of Redlynch

bodies the adoption of well managed risk taking could lead to sustainable improvements in service.

### Figure 3

“Risk management has been defined as a corporate and systematic process for evaluating and addressing the impact of risks in a cost effective way, and having staff with the appropriate skills to identify and assess the potential for risks to arise.”

*Source: “Holding to Account – The Review of Audit and Accountability for Central Government” Report by Lord Sharman of Redlynch.*

- 3.14 Nationally the UK Government grasped the nettle in ensuring that risk management was carried forward within Departments. In 2001, they set up a Strategic Unit on Risk and Uncertainty, developed a Risk Programme, appointed Risk Improvement Managers in each department to drive change and contribute to an interdepartmental network, set up a portal on risk, introduced “the Orange Book: Management of Risk – Principles and Concepts”, and NAO was given powers to access and audit non-Governmental bodies.

- 3.15 The principle of risk management in corporate governance is that a risk and control structure is embedded into the organisation and is monitored and reviewed by management. The States of Guernsey accepted the concept of Corporate Governance and risk management in 2000.**

## 4 Creating an effective risk management environment

- 4.1 The first steps towards integrating risk management as a concept for the States of Guernsey followed the Audit Commission report on risk management and insurance in 2000. That report was based on a Review carried out by Deloitte and Touche in 1999 to look at Insurance Practices and Procedures, and said:

### Figure 4

“Effective risk management is a vital component of good corporate governance, as the risks inherent in the operations of a large organisation such as the States can be substantial”

*Source: Billet D’Etat X, 5 April 2000, page 77*

- 4.2 As with all Audit Commission Reports, the report was appended to the Billet with no debate on the subject. The States formally accepted the concept in 2000 when the Policy and Resource Planning Report resulted in the financing of the appointment of Marsh UK and to support setting up of risk management within the States.

- 4.3 In the 2001 Policy and Resource Planning Report, Billet D'Etat XV, 18 July 2001, the then Advisory and Finance Committee wished to ensure that appropriate standards of Corporate Governance were adopted by States bodies. One specific area identified for early review was Risk Management following the Audit Commission Report. An officer level working party had been set up to consider risk management and to develop a business continuity plan.
- 4.4 The 2002 Policy plan, XV Billet D'Etat, 10 July 2002, reiterated the comments of 2001 Policy plan and the States accepted corporate governance as a corporate practice.
- 4.5 By July 2003 a Strategic Plan had been formulated and accepted by the States of Guernsey as an additional statement of Corporate Practice on Corporate Governance – Risk Management. The Policy and Resource Plan stated:

**Figure 5**

“The Committee also intends to promote increased accountability for general Corporate Governance within committees. To this end a consultation exercise will be carried out in the coming months to investigate the development of a self-assessment process to provide assurance that committees have adequate internal control and risk management processes in place or are working towards that aim. ”

*Source: Billet D'Etat XIV, 9 July 2000, page 1434*

- 4.6 The States approved acceptance of Risk Management in 2003 and this was reiterated in 2005 Policy and Resource Plan, Billet D'Etat XXII, 8 December 2004. The Corporate Governance – Risk Management Strategic Plan is restated as an Appendix to the NAO report on Page 47 and is still applicable.
- 4.7 Although the States signed up to risk management the policy remained a statement of intent as there was little drive to implement and incorporate change.
- 4.8 The Treasury and Resources Department identified the importance of risk management and insurance matters and took the opportunity of change in staff personnel within Audit and Assurance Unit in early 2006 to increase the time spent in this area and deployed an extra full time member of staff to the single staff member already fully employed on risk and insurance.
- 4.9 One of the first tasks was to update the Risk Management Strategic Plan, providing the agenda to help embed risk management procedures within the States processes for the following 12 months. Although applied at staff level within Treasury and Resources Department it has not yet been approved politically.
- 4.10 **The release of this report should bring the importance of risk management to the attention of the States.**

- 4.11 The States of Guernsey, through its Deputies, is identifying the priorities for the Island and producing a Government Business Plan (which has replaced the Policy and Resource Plan).
- 4.12 **The Public Accounts Committee is disappointed to discover that the Government Business Plan does not explicitly incorporate risk management in its formulation. It is important that part of this process should incorporate the strategic risks to the Island as a whole.**
- 4.13 The Guernsey Financial Service Commission (GFSC), a body governed by legislation, issues guidance to the Finance Sector on the way that their businesses should operate. GFSC recommends that:

**Figure 6**

“members of the Board should be proactive in recognising and understanding the risks the organisation faces in achieving its business objectives and should demonstrate effective and prudent management of those risks....

...should develop and implement appropriate and prudent risk management policies and procedures and monitor their effectiveness through timely, accurate and complete information systems. “

*Source: Guernsey Financial Services Commission “Guidance on Corporate Governance in the Finance Sector in Guernsey”.*

- 4.14 **The States of Guernsey, through the Guernsey Financial Services Commission, ensures that the business world follows corporate governance and risk management principles, but, at present, does not adopt these principles to the same extent.**
- 4.15 The Tax Strategy is an example of a high level risk that has been tackled by the Government over a prolonged period. Avian flu is another risk to the Island. Although not considered as such, the action taken is a form of risk management. A formal framework of risk management will minimise the extent to which other key risks may be missed or identified too late.
- 4.16 **As the States considers the implications of the proposed tax strategy and the resultant changes in its approach to capital and revenue expenditure, it will become increasingly important to identify and manage the risks resulting from such decisions.**
- 4.17 Whilst there is undoubtedly a need for Departments to undertake risk management at Departmental level, certain strategic and higher level risks need to be addressed and the Public Accounts Committee believes that this function should lie within the mandate of the Policy Council.

- 4.18 Part of the mandate of the Policy Council includes developing, with departments, appropriate responses to strategic issues that confront the Island. The Public Accounts Committee considers that the Policy Council should also have a pro-active role in identifying and managing top level strategic risks.
- 4.19 Whatever risk management strategy is set for the Island, it is important that individual Departments also sign up to risk management. All chief officers are charged with developing risk management strategy but this accountability ultimately lies with the Boards of the Departments.
- 4.20 Although risk management within the States of Guernsey may have advanced since the first report in 2000 at staff level, there is no indication that there is political ownership of risk management by the Boards of the Departments.**
- 4.21 The Boards are charged with the accountability and corporate governance of the Department and should ensure that risks are discussed regularly.**
- 4.22 In the NAO report on page 12 Figure 6, it indicates the state of the risk management strategies at each of the Departments. The Treasury and Resources Department is mandated to be responsible for risk management of States activities and resources.
- 4.23 The Public Accounts Committee is disappointed to note that the Department with direct responsibility for Risk Management and Insurance has no formal strategy for its own operations, although it does have plans to write one at a later date.**
- 4.24 Following the Audit Commission report on risk and insurance the Internal Audit Section led the way in training and identifying risk management. They commenced a series of workshops to help management identify areas of risk within their organisation. These have now ceased partly as the staff who led the courses have now left the States employ and also because of the cost taken in running these courses.
- 4.25 The real challenge is to build on the risk identification by embedding risk management procedures within day to day working. A new approach is being taken in risk management and the Departments have been encouraged to appoint Risk Co-ordinators to promulgate risk management but unless the appointment is at a high enough level and the individual can assess the risks to the Department and influence the setting up of internal controls, this may not succeed. Even though this is often the first stage in taking a corporate approach **it needs the drive and commitment of those employed centrally to ensure that the Risk Co-ordinators operate effectively.**

- 4.26 The Risk Co-ordinators form a corporate Risk Management Steering Group, which met for the first time on 22 August 2006, led and chaired by the Senior Finance Support Officer as senior lead officer for risk management in the States.
- 4.27 All States Departments need to recognise their risks and the PAC is concerned that not all Departments have made a commitment to the Risk Management Steering Group. All Chief Officers' job descriptions include responsibility for risk and not to encourage participation can be seen as failing in their duties. The Public Accounts Committee will report on the progress of this Group when it follows up this report.
- 4.28 The NAO report indicates that there has been too much concentration in insurance matters and that risk management should be more led from the centre. They also recommend that the advisory role currently provided by Marsh UK should be taken on by the Risk and Insurance team.
- 4.29 As consideration is being given to modernising the civil service there is the ideal opportunity of changing the way in which risk is treated and managed and to ensure that staff have the appropriate skills to identify and assess risk. The long term benefits of taking this approach should outweigh the costs of implementation.**

## **5. Identifying and dealing with risk**

- 5.1 There is a general misconception on what risk management is. Most understand it to relate to health and safety matters and dealing with possible catastrophes which are generally covered by insurance. But risk is where there is uncertainty on the outcome, whether through positive opportunity or negative threat.
- 5.2 The subject is wide and risk management will improve performance as management concentrate on decision making leading to better use of all resources, greater efficiency and effectiveness, innovation and in providing better value for money.
- 5.3 The National Audit Office (NAO) in their conclusions in the report indicated that risk management is part of modern business practices and should be dealt with at a high enough level. Although the 2004 job descriptions of the new Chief Officers (see page 11 NAO report figure 5) ensured that their duties included risk management, it is often the case these duties are delegated. It is up to management to ensure that there is the right accountability culture within the department to promote, nurture and learn.
- 5.4 The UK Government Orange Book says:

**Figure 7**

“Managers at each level therefore need to be equipped with appropriate skills which will allow them to manage risk effectively and the organisation as a whole needs a means of being assured that risk management is being implemented in an appropriate way at each level. Every organisation should have a risk management strategy, designed to achieve the principles set out in this publication. The application of that strategy should be embedded into the organisation’s business systems, including strategy and policy setting processes, to ensure that risk management is an intrinsic part of the way that business is conducted.”

*Source: HM Treasury “The Orange Book: Management of Risk – Principles and Concepts”*

- 5.5 The NAO has identified the progress made in individual departments since the Audit Commission report in 2000 and the workshops held to assist departments identify risks. The workshops were a pilot scheme and met with rather mixed success, since in practice it was found that many of the risks identified were quite low level, and were already within the awareness of departments. The NAO reported that the workshops were beneficial but they concentrated on the low level risks, or the easily identifiable risks – such as health and safety and financial risk, omitting the strategic and environmental risks.
- 5.6 The Risk Management Steering group brings together the Departmental Risk Co-ordinators to equip them with the necessary skills to identify higher level risks for their Department. **The Public Accounts Committee endorses the NAO recommendation that Departments should focus their work on risk identification on those risks that could have a material effect on their areas of responsibility.**
- 5.7 The States of Guernsey has not carried out a full strategic risk analysis and has delegated risk analysis to Departments. Although the NAO does not highlight this fact, the Public Accounts Committee is concerned that this approach may lead to a fragmented approach to risk management. However, now that the Chief Officers Group has stated that they will actively participate in the development of corporate management policies, including risk, this concern has lessened.
- 5.8 The NAO report that the States Departments are good at identifying risk but not at how to lessen the risk. They recommend introducing internal controls, transferring the risk to a third party or terminating the activity giving rise to the risk.
- 5.9 In the UK, the NAO has introduced a toolkit to help achieve efficiency and leading to a Statement on Internal Control, which is available through its website. Risk management is a consideration within this toolkit in order to help



achieve efficiency and could be used to assist Departments in their deliberations. The risk register can also be used to form the statement of internal control.

- 5.10 Some Departments have set up risk registers to record all Departmental risks, others business resilience plans. However, once risk registers are drawn up they have to be revisited to ensure that the risks are still relevant and care has to be taken to ensure that it does not become an administrative burden. Internal Audit are tasked with checking that risk registers are in place.
- 5.11 Corporately, the proposed Risk Management Strategic Plan 2006 includes the drawing up of a corporate risk register. But this is being considered by the Risk co-ordinators and to some extent by Chief Officers. Chief Officers delegating this task to junior staff does run the risk of corporate initiatives being overlooked.
- 5.12 The States of Guernsey has few mechanisms in place to ensure that risks are considered and internal controls are put in place to counter them. There are no Audit Committees and the reduction in the staffing at Internal Audit is affecting the frequency of audits.
- 5.13 The PAC is concerned that the impetus to risk management is less now than it was in 2000 when the Audit Commission report was issued. The assurance to the States that risk management is embedded in Departmental thinking is confirmed by continual monitoring and appraising risk management. Within the States this task was delegated to the Risk and Assurance team until January 2006, and since then to the Audit and Assurance team.
- 5.14 The Audit and Assurance team have devised a risk management self-assessment questionnaire to help in targeting audit areas within a Department. **However, the ability to monitor risk management has been lessened since the decision to reduce the number of staff in the internal audit unit of the Treasury and Resources Department.**
- 5.15 Risk management is the responsibility of management and checks should be made to ensure that assessments are carried out and risks incorporated in their managerial deliberations. In the business world and more and more at governmental level, Audit Committees will monitor the Board to ensure that risk management is considered. Internal Audit would be tasked to include risk in their audits and report back to the Audit Committees.
- 5.16 Audit Committees are an important part of corporate governance and are set up mainly to help Boards monitor risk and controls. It would be desirable to conform with accepted and legislative practice of other jurisdictions, but Guernsey is only just accepting the changes from the machinery of government review and the introduction of monitoring openness and transparency through the new Public Accounts and Scrutiny Committees.

- 5.17 **The Public Accounts Committee has considered whether it should recommend audit committees as a further level of financial scrutiny and has concluded that, at this current time, the Boards of the Departments should undertake, at political level, this aspect of the Audit Committee's role.** Although it should be noted that if insufficient consideration to risk management is given, the PAC may recommend change when it reviews the impact of this report.
- 5.18 Two of the duties of an Audit Committee are currently undertaken by the PAC, in that it meets with internal and external auditors. However, this third party assurance is limited to the areas audited that year and does not encompass all Departments.
- 5.19 As part of the States of Guernsey Statement of Internal Controls within the States Annual Accounts, the States Treasurer declares that each Internal Audit report has been presented to the Boards of the Departments. There are no statements regarding the management of risks by each Department.
- 5.20 The PAC is pleased that the Treasury and Resources Department are awarding staff from Departments the opportunity to report progress made on the implementation of formal risk management processes annually within the accounting pack.
- 5.21 The States Treasurer would report the results annually when presenting the statement of internal controls with the States accounts.
- 5.22 The PAC endorses the recommendation of the NAO in that risk assessment should be a regular feature on the agendas of the Policy Council and departmental Boards. The Policy Council should consider strategic risks to the Island as a whole and Departments should consider the major risks affecting their areas of responsibility.

## **6. Using Insurance Cost-effectively**

- 6.1 A risk that is specified in an insurance policy is a contingency which might or might not occur. The policy promises to reimburse the person who suffers a loss resulting from the risk for the amount of damage done up to the financial limits of the policy. Therefore, insurance is used to cover anticipated risk.
- 6.2 The Audit Commission report of 2000 concentrated on insurance and resulted in strengthening of the arrangements. In their recent report, the NAO have indicated that these insurance arrangements could now be refocused and they have indicated a number of ways in which this can be achieved.
- 6.3 The overall approach to the award of the primary insurance package has improved considerably since the Audit Commission report. The contract was awarded to an insurance provider following the official tendering process and

covered a specific contract period. The provider and the States of Guernsey annually review the arrangements in the presence of Marsh UK. Marsh UK having also been appointed, since the Audit Commission Report and following the tendering process, to advise the States on insurance and risk matters. The NAO recommend reviewing the insurance package before re-activating the tendering process for the next period.

- 6.4 Before embarking on any re-tendering process in 2009 Departments should review the need, terms and condition of what is provided and whether indeed the service is still required.**
  
- 6.5 The primary insurance provider does not insure all areas and Marsh UK have placed insurance in some specialised areas with other insurance bodies. This work is managed and paid for by Treasury and Resources Department.
  
- 6.6 A Treasury and Resources Department proposed method of reallocating the costs to the Department, based on easily derived statistics, such as number of motor vehicles, value of properties and number of staff has now been put in abeyance. Charges will continue as before, with a small weighting for three year claims history. The NAO report suggests that opportunity for improvement to an area of risk could be lost if consideration is not made to linking the allocations to claim histories, risk appetite and risk awareness.
  
- 6.7 The Public Accounts Committee supports the NAO proposal as a fairer method of allocating the premiums between Departments and also one that should contribute to better management of risk but understands that it may not be easily achievable.**
  
- 6.8 In the seven years since the Audit Commission report there is still work to do in collecting data for insurers, mechanisms for reviewing cover requirements and procedures for claims handling and recording.
  
- 6.9 In their report, on page 30, the NAO have outlined the inefficient and cumbersome method of processing claim forms involving delay and duplication of effort. **They indicated that efficiency savings should be achieved by adapting the way that insurance claims are processed.** The NAO identified that decentralisation of insurance claims would save 80% of the Risk and Insurance Manager's time thus releasing him for other duties. Although the insurers have indicated that there could be an increased cost for dealing with departmental representatives there should be no more claims than before and indeed there would be more knowledge on the circumstances leading to the claim.
  
- 6.10 The Public Accounts Committee encourages the eradication of duplication of effort that adds no value to any process. It is particularly pleased that Departments commenced claim submissions direct to the insurers in 2006.**

- 6.11 Although received centrally, the claim data was not distributed to Departments, with some Chief Officers being unaware of number, type, detail of insurance claims. Management had difficulty being effective in their risk strategies since information on insurance claims was not made available to them.
- 6.12 The PAC endorsed the NAO recommendation that, especially with delegated responsibility for insurance payments, Departmental management are provided with the details of the claims on a regular and timely basis. **Treasury and Resources Department have already acted upon this recommendation and the Risk and Insurance team have provided Departments with a copy of the claims history from the mid 1990s with further plans to provide updated versions every six months.**
- 6.13 The States holds funds to cover additional excess above the Departmental excess of £750. Nearly a million pounds is held in the fund which also has administration costs of £31,000. The NAO recommend that the Insurance Deductible Fund is restructured for unusual, large and one-off claims that could not be budgeted for.
- 6.14 The NAO report on page 33 indicates areas where there is scope to make savings on the insurance premium costs. One of these is of particular worth because of the contribution the insurance industry makes to the economy of Guernsey.

#### Figure 8

“Guernsey has an outstanding reputation for innovation and professionalism in the world of international insurance. With our ability to continually develop new concepts in an environment of creativity, consultation and robust and flexible regulation, we have become a major force in the international insurance industry and the leading European captive domicile”

*Source: Website of Guernsey Financial Services Commission – Insurance.*

- 6.15 The NAO recommend that a detailed feasibility study is carried out on restructuring States insurance and Marsh UK has indicated how such a review could be carried out as outlined on page 36 of the NAO report.
- 6.16 **The Public Accounts Committee believes that the expertise within Guernsey should be utilised to provide value for money for the Island’s taxpayers and fully supports Treasury and Resources Department commissioning a feasibility study for restructuring States insurance with particular focus on captive insurance and the Insurance Deductible Fund.**

## 7. Conclusions

- 7.1 The PAC, in commissioning this value for money review, did not set out primarily to achieve cost savings but more to ensure that the States of Guernsey consider risk management within their approach to corporate governance and be

proactive rather than reactive to events. However, the facets of value for money, i.e. efficiency, effectiveness and economy, are never far away when considering risk.

- 7.2 The PAC appreciates that risks have to be taken but that as the risks should be identified, managed and have contingency plans in case they materialise. Lord Sharman identified that the civil service are less likely to take risk due to public censure but by adopting a true risk management environment the impact of the risk occurring is less likely to cause public reaction.
- 7.3 Since 2000 the former Advisory and Finance Committee and the Treasury and Resources Department have done much to embrace the concept and the PAC is pleased that the NAO review has sparked renewed vigour for the subject and implementation of the recommendations for both risk management and insurance.
- 7.4 Internationally it is recognised that risk management is needed to assist modern businesses compete in the market and to conform to business standards, similarly this approach is applied to governments to ensure that they are prepared for all eventualities. Risks inherent to Guernsey as 2008 approaches should be considered and incorporated in Guernsey's business plan.

## **8 Recommendations**

- 8.1 The Public Accounts Committee recommends the States to:
  - a) Note the report.
  - b) Note that the Public Accounts Committee will monitor and review the action taken by the Treasury and Resources Department in facilitating risk management and insurance matters throughout the States.
  - c) Note that the Public Accounts Committee will monitor and review the action taken by all Departments and Policy Council in addressing strategic and operational risk management policies.

Yours faithfully

Leon Gallienne  
Chairman

**(NB The full National Audit Office Report, which is appended to this Report, is published separately.)**

**(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 December 2006

Dear Sir

**RISK MANAGEMENT AND INSURANCE**

The Treasury and Resources Department welcomes the Public Accounts Committee's Report on Risk Management and Insurance.

**The Department is pleased that the Public Accounts Committee recognises the progress that has been made in this area in particular:**

- The new initiatives being implemented towards integrating risk management into Departmental thinking.
- The improved direct relationship between Departments and insurers.
- The commissioning of a feasibility study for reviewing the States insurance package, in particular investigating the possible formation of a States Captive Insurance company.

Notwithstanding the above progress, it is recognised that insurance and risk management is a constantly evolving process that requires ongoing review and updating.

Yours faithfully

L S Trott  
Minister

The States are asked to decide:-

VII.- Whether, after consideration of the Report dated 24<sup>th</sup> December, 2006, of the Public Accounts Committee, they are of the opinion:-

1. To note that Report.
2. To note that the Public Accounts Committee will monitor and review the action taken by the Treasury and Resources Department in facilitating risk management and insurance matters throughout the States.
3. To note that the Public Accounts Committee will monitor and review the action taken by all Departments and Policy Council in addressing strategic and operational risk management policies.

***ORDINANCES LAID BEFORE THE STATES*****THE MOTOR TAXATION (ABOLITION) (GUERNSEY) ORDINANCE, 2006**

In pursuance of the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, The Motor Taxation (Abolition) (Guernsey) Ordinance, 2006, made by the Legislation Select Committee on the 4<sup>th</sup> December, 2006, is laid before the States.

**THE EUROPEAN COMMUNITIES (BAILIWICK OF 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 European Communities (Bailiwick of Guernsey) (Amendment) Ordinance, 2006, made by the Legislation Select Committee on the 4<sup>th</sup> December, 2006, is laid before the States.



**STATUTORY INSTRUMENTS LAID BEFORE THE STATES**

**THE ELECTORAL ROLL (CLOSURE)  
(BY-ELECTIONS OF CONSTABLES AND DOUZENIERS) ORDER, 2006**

In pursuance of the provisions of Article 78 of the Reform (Guernsey) Law, 1948, as amended, the Electoral Roll (Closure) (By-Elections of Constables and Douzeniers) Order, 2006, made by the House Committee on 13<sup>th</sup> November, 2006, is laid before the States.

EXPLANATORY NOTE

This order specifies the period during which the Electoral Roll shall be closed in respect of by-elections of Constables and Douzeniers.

**THE WATER CHARGES (AMENDMENT) ORDER, 2006**

In pursuance of Article 17 (5) of the Law entitled “Loi ayant rapport à la Fourniture d’Eau par les États de cette Île aux Habitants de la dite Île” registered on 7<sup>th</sup> May, 1927, as amended, the Water Charges (Amendment) Order, 2006, made by the Public Services Department on 20<sup>th</sup> November, 2006, is laid before the States.

EXPLANATORY NOTE

This Order varies the charges which may be made for the supply of water, increasing charges by amounts not exceeding the annual rise in the Retail Price Index as at 30<sup>th</sup> September 2006. The new charges come into effect on 1<sup>st</sup> January 2007.

**THE CRIMINAL JUSTICE (PROCEEDS OF CRIME) (BAILIWICK OF  
GUERNSEY) (AMENDMENT) REGULATIONS, 2006**

In pursuance of section 54 (1) (c) of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999, the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) (Amendment) Regulations, 2006, made by the Policy Council on 27<sup>th</sup> November, 2006, are laid before the States.

EXPLANATORY NOTE

These Regulations make a minor amendment to Regulations made in 2002 so that customer verification documents received in paper form can be maintained in any form provided that they are readily retrievable.

**THE INCOME TAX (PENSIONS) (CONTRIBUTION LIMITS  
AND TAX-FREE LUMP SUMS) REGULATIONS, 2006**

In pursuance of Sections 153(2), 157A(2)(b)(vi), 157A(5B) and 159 of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Pensions) (Contribution Limits and Tax-Free Lump Sums) Regulations, 2006, made by the Treasury and Resources Department on 28<sup>th</sup> November, 2006, are laid before the States.

EXPLANATORY NOTE

These Regulations are substantially the same as the 2005 Regulations; the only material change being the tax-free lump sums payable from an approved occupational pension scheme or an approved annuity scheme increasing to £145,000.

**THE INCOME TAX (GUERNSEY) (VALUATION OF BENEFITS IN KIND)  
REGULATIONS, 2006**

In pursuance of Section 8(2)(b) of the Income Tax (Guernsey) Law, 1975, as amended, the Income Tax (Guernsey) (Valuation of Benefits in Kind) Regulations, 2006, made by the Treasury and Resources Department on 28<sup>th</sup> November, 2006, are laid before the States.

EXPLANATORY NOTE

These Regulations are substantially the same as the 2005 Regulations.

**THE HEALTH SERVICE (BENEFIT) (LIMITED LIST)  
(PHARMACEUTICAL BENEFIT) (AMENDMENT NO 5) REGULATIONS, 2006**

In pursuance of Section 35 of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment No 5) Regulations, 2006, made by the Social Security Department on 6<sup>th</sup> December, 2006, are laid before the States.

EXPLANATORY NOTE

These Regulations add to a limited list of drugs and medicines available as pharmaceutical benefit which may be ordered to be supplied by medical prescriptions issued by medical practitioners or dentists, as the case may be.

*APPENDIX*

**COMMERCE AND EMPLOYMENT DEPARTMENT**

**ANNUAL REPORT AND ACCOUNTS 2005 OF  
THE OFFICE OF UTILITY REGULATION**

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

1<sup>st</sup> December 2006

Dear Sir

I enclose a copy of the Annual Report and Accounts 2005 of the OUR and would be grateful if you would arrange for it to be published as an Appendix to the January 2007 Billet d'État.

Yours faithfully

Stuart Falla  
Minister

A decorative graphic consisting of four circles is positioned above the title. Three circles are arranged in a horizontal row at the top: a light green solid circle on the left, a white circle with a black outline in the center, and another light green solid circle on the right. Below this row, centered horizontally, is a fourth light green solid circle. The title 'Annual Report and Accounts 2005' is centered below these circles.

# **Annual Report and Accounts 2005**

**Year ending 31st  
December 2005**

## Annual Report: 2005



28th November, 2006

Deputy Stuart Falla,  
Minister for Commerce and Employment,  
Raymond Falla House,  
Longue Rue,  
St Martins,  
Guernsey,  
GY4 6AF

Dear Deputy Falla,

I am pleased to submit this report on the activities of the Office of Utility Regulation for the period 1st January 2005 to 31st December 2005.

In accordance with section 8 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, I would be grateful if you would present this report to the States of Guernsey as soon as practicable.

Yours sincerely,

John Curran  
Director General  
of Utility Regulation

Suites B1 & B2, Hirzel Court, St Peter Port, Guernsey GY1 2NH  
Tel: +44 7781 711120 Fax: +44 7781 711140 Web: [www.regutil.gg](http://www.regutil.gg)



# Annual Report: 2005

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## Director General's Report

2005 was an important year for regulation in Guernsey. It marked the end of the first stage of regulation in the Bailiwick. Price controls were completed on all three sectors for the first time and it was the first full year of competition in all sectors of the telecommunications market. Ensuring that utility services are provided at a quality customers demand and at a price that represents value for money continues to remain a key priority for the OUR.

Through the course of 2005, the OUR continued to focus on developing a strong, constructive working relationship with the three sectors and in particular with the dominant operators in each sector. The interaction between regulation and the utilities was a key element of a major review undertaken by the National Audit Office (NAO) for the Treasury & Resources and the Commerce & Employment Departments. The OUR fully supported this review.

Having the perspective of an outside party provide a dispassionate view of our work is of enormous value. Therefore, we take a lot of comfort from the NAO's view that not only has regulation delivered substantial benefits for consumers in Guernsey, but that it remains a vital part of the commercialisation process. Equally, as Director General, I take note of the recommendations the NAO has made. Already a number of steps have been taken to implement changes in practices and approaches to regulation which will benefit both consumers and the regulated companies.

We continue to focus on ensuring that the direct cost of regulation remains appropriate. The OUR's costs fell a further 5% in 2005 compared with the previous year. In addition I am pleased that the change in our consultation procedures, which provides a more structured and open process for regulatory decisions, coupled with a willingness to seek alternative routes to resolving regulatory disputes, has delivered a 11% reduction in legal costs despite the Guernsey Post appeal.

To further improve confidence in the management of our costs and demonstrate the accountability of this Office, we have established an Audit, Risk & Remuneration Committee and I am very pleased to have such high calibre experienced members willing to work with the Office on this important task. I believe this initiative will provide additional reassurance on the way the OUR manages its costs.

## Director General's Report

We took a number of steps in 2005 to improve our contact with key stakeholders. In particular we have sought to develop more direct contact with consumer groups. We have met with the Guernsey Consumer Group on a number of occasions, a relationship I am pleased to say that strengthened substantially during the year. We also looked to have more face-to-face meetings with GIBA, the Chamber of Commerce, the Confederation of Guernsey Industry and Postwatch Guernsey so that the issues that are specific to their members can be fully considered.

Turning to the future, we will look to continue implementing the recommendations of the NAO review so that regulation in Guernsey is proportionate and continues to deliver benefits for the consumer. We have already announced a 28% cut in the licence fees to be paid by the utility companies in 2007 and 2008. A review of our approach to regulation will be undertaken in early 2007 to see where the OUR can further reduce its direct regulatory role and relax some of the reporting arrangements that companies are currently required to comply with.

I wish to thank my colleagues in the OUR. The OUR is, and will remain, a small team and their commitment and professionalism has ensured that significant progress has been made in shaping the way the OUR delivers on its key objectives and duties.

Ensuring that regulation remains a complement to the activities of the three sectors will be a key task for the future. Ensuring that regulation for the three sectors is proportionate, that it balances the sustainability of these sectors and the impact on consumers will be key challenges.



**John Curran**  
**Director General**





## The Year in Brief

### January 2005

Direction to Guernsey Post Ltd regarding Compliance with Quality of Service Standards; Consultation on Interim Price Control for C&W Guernsey Ltd published; OUR's Response to Commerce and Employment Department Consultation Document "Building Confidence", Information Notice.

### February 2005

Carrier Pre-Selection and Number Portability within the Bailiwick of Guernsey, Report on the Consultation and Decision Notice; Audit of Emissions from Radio Masts in Guernsey, Report and Information Notice.

### March 2005

Direction to Guernsey Post Ltd regarding Compliance with Quality of Service Standards; Statutory Notification of Direction; Interim Price Control for C&W Guernsey, Report on the Consultation and Decision Notice; Review of C&W Guernsey's Proposed charges for Interconnection and Access, Report

### May 2005

C&W Guernsey – Interconnection and Access Charges, Information Notice.  
Successful mediation with Guernsey Post Limited.

### June 2005

Review of C&W Guernsey Price Control, Draft Decision; Pan Channel Island Ethernet Half Circuits Notification of Investigation into C&W Guernsey's Pan Channel Island Ethernet Products, Information Notice; Audit of Broadband Services in Guernsey, Information Notice.

### July 2005

Amendment to Guernsey Post's Licence, Statutory Invitation to comment; Guernsey Post Ltd Quality of Service, Report on the Consultation, Decision Notice and Direction; Investigation into C&W Guernsey's Pan Channel Islands Ethernet Half Circuits, Summary of finding and Direction; Amendment to Guernsey Post Ltd's Licence, Report on the Consultation.

### August 2005

Price Control for C&W Guernsey, Decision Notice; Price Control Compliance Guidelines for C&W Guernsey Ltd, Information Notice.

### September 2005

Review of Market Dominance in the Guernsey Postal Market, Proposed Decision; Guernsey Post's proposed Tariff Charges, Consultation Document; Review of Guernsey Electricity Limited's Price Control, Draft Decision.

### October 2005

A public meeting to discuss the proposed Price Control for Guernsey Electricity was hosted by the Guernsey Consumer Group

### November 2005

Investigation into C&W Guernsey's Mast at Les Vardes Quarry finding in Dispute D01/05 and Direction to C&W Guernsey Ltd; Amendment to Wave Telecom's 2G Mobile Licence; Review of Market Dominance in the Guernsey Postal, Report on the Consultation and Decision Notice; Competition for Mobile Telecommunications Licence calls for Expressions of Interest and call for comments on Preliminary Tender Document; Regulation in Guernsey, Revised Consultation Procedures, Information Paper.

### December 2005

Amendment to Wave Telecom's 2G Mobile Licence Statutory Notification, Guernsey Post's Tariff Changes – Report on the Consultation and Decision Notice; Price Control on Guernsey Electricity Ltd, Decision Notice.



## The Guernsey Regulatory Environment

The States of Guernsey set out the regulatory framework for telecommunications, post and electricity in various Laws and Orders that were made in 2001 and 2002. The States has also issued a number of Directions to the Director General of Utility Regulation that develop States policy in more detail. The OUR, which was established in 2001, is charged with implementing that policy and regulating in the best interests of the Bailiwick.

### Legislation

The principal piece of regulatory legislation is the **Regulation of Utilities (Bailiwick of Guernsey) Law, 2001** which establishes the Office of Utility Regulation (OUR), sets out the governing principles of the Office, and allows the States to assign further functions to the Office over time. Three other key laws are:

- The Telecommunications (Bailiwick of Guernsey) Law, 2001;
- The Post Office (Bailiwick of Guernsey) Law, 2001; and
- The Electricity (Guernsey) Law, 2001.

Each law sets out in more detail the powers and functions of the Director General in the relevant sector. Secondary legislation has been enacted by the States on a number of issues including commencement ordinances for each of the laws, exclusion of liability ordinance and the Utility Appeals Tribunal Ordinance which sets up an appeals mechanism for decisions of the OUR.

Where empowered to do so, the Director General has also introduced regulations and orders and these, along with directions, decisions and the large body of published documentation on the OUR website, record the implementation of the legislative and policy framework for regulation of utilities in Guernsey. Texts of all relevant legislation are available from the OUR website at [www.regutil.gg](http://www.regutil.gg)

### States Directions

The Regulation Law provides that the States of Guernsey may give **States Directions** to the Director General on certain specific issues in each of the sectors. These include directions on:

- The identity of the **first licensee** in each sector to be granted a licence with a universal service obligation;
- The scope of a **universal service** or minimum level of service that all customers in the Bailiwick must receive;
- Any special or **exclusive rights** that should be granted to any licensee in any of the sectors; and
- Any requirements on licensees that might be needed for Guernsey to comply with any of its **international obligations**.

The States debated and agreed policy directions in relation to all three sectors in 2001. The full text of the directions that were in place in 2004 is included in **Annex A** to this report in accordance with section 8 of the Regulation Law.

# The Office of Utility Regulation

The OUR was set up in October 2001 to regulate the three sectors of electricity, post and telecommunications independently from government and the players in the market, and in line with States policy and the provisions in the Laws. The Regulatory Laws require the Director General to be independent, fair and impartial in carrying out his functions and to do so in a manner that is timely, transparent, objective and consistent with States policy directions.

## OUR Team

The OUR is located in its own offices in Hirzel Court in St Peter Port and, although small, continues to be independently run and staffed. During 2005 the Office had four core staff in addition to the Director General and continued its use of external specialist technical expertise to complement in-house resources and to handle specific projects.

### John Curran, Director General

John was first appointed by the States of Guernsey as Director General of Utility Regulation in February 2005, having previously been Director of Regulation from 2003. John worked with the OUR when it was initially set up in 2001 and returned in April 2003 after spending eight months as regulatory adviser with the Australian telecoms incumbent, Telstra.

John has a strong background in regulation. Before joining OUR John worked for six years in communications regulation in Ireland, four in telecommunications and two dealing with broadcasting and cable TV. He started his career in the Irish Civil Service having studied Electronic Engineering at Galway Institute of Technology.



### Jon Buckland, Director of Policy

Jon joined the OUR in October 2001 shortly after it was established. Jon has lead responsibility for the regulatory work programme in the postal sector, developing quality of service standards and setting postal price controls. He also supports OUR's projects in the telecoms and electricity sectors.

Prior to joining OUR, Jon was a Strategy and Economics Manager at the Independent Television Commission (ITC) and previously he worked for a number of consultancies specializing in environmental economics primarily in the water sector advising water companies, Ofwat, the Environment Agency, the European Commission, EBRD and the World Bank. Jon has a BSc in Economics and Politics from the University of Bath and an MBA from the University of Warwick.



# The Office of Utility Regulation

## **Michael Byrne, Director of Regulation**

Michael joined the OUR in June 2005 as Director of Regulation and is working initially on putting in place a price control for the electricity sector as well as supporting the OUR's work in the telecoms and postal sectors. Prior to joining the OUR, Michael was Head of Retail Competition at the Office for Gas and Electricity Markets (OFGEM) in the UK, leading case investigations and reviews within the domestic and non-domestic energy sectors.

He has previously worked in the area of commercial Television regulation and as a consultant, specialising in the dairy manufacturing industry. Michael has a BSc Honours degree in Mathematics, Statistics and Economics from the University of Natal. He also has a postgraduate diploma in Competition Policy and an MBA from the University of Warwick.



## **Aidan Kearney, Regulatory Manager**



Aidan joined the OUR in August 2006 as a regulatory manager and is primarily working on the price control projects in the post and electricity sectors. Prior to joining the OUR, Aidan worked for the Commission for Energy Regulation in Ireland, where he worked on the regulation of the electricity and gas networks. This work included an electricity distribution network five-year price control, the development of a business case for the mass installation of electricity smart metering, and the introduction of a new national gas connection policy.

Aidan has a BEng 1<sup>st</sup> class Honours degree in Engineering from Trinity College Dublin. He also has a diploma in Economics from the Open University.

## **Kate Ferbrache, Executive Assistant**

Kate joined the OUR Team in January 2006 as an Executive Assistant. She now manages the office logistics and provides administrative support to all the team members.

Kate maintains and updates the OUR website and is media liaison for the OUR. Kate was educated locally, completing her A Levels at the Grammar School, then worked for the Guernsey Civil Service and an Event Company before joining the OUR.



## The Office of Utility Regulation

### **Pui Jee Lia**

Pui Jee joined the OUR at the end of June 2006 upon being awarded the OUR's first student bursary. As part of the bursary Pui Jee will work at the OUR during the summer holidays and for one year upon graduation. Pui Jee assists the whole team at the OUR across a range of projects.

Pui Jee was born in Guernsey and educated locally at the Ladies' College and currently attends the University of Nottingham where she reads Management with Chinese Studies.





## The Office of Utility Regulation

It is OUR policy to operate with a small core team of **experienced professional staff** and to use expert consultants as needed on specific projects. This ensures that the Office works efficiently and effectively and keeps its skills and expertise up to date with knowledge transfer from experts in their fields.

During 2005, the following consultants and **external specialists** worked with the OUR on a range of specific projects, as well as in providing general support for the OUR work programme:

- **Brockley Consulting Ltd** provided assistance in the review of Guernsey Post Ltd's application for tariff increases.
- **Cellular Design Services Ltd** undertook a complete audit of all mobile phone masts in the Bailiwick on behalf of the OUR.
- **Design & Implement Ltd** continued to support the OUR work in the electricity sector during the year.
- **Direct Input Associates** provided media and communications support across all three sectors.
- **ESB International** provided specialist support in undertaking the efficiency review of Guernsey Electricity for the 2005 Price Control decision.
- **Frontier Economics Ltd** assisted the OUR in its work on reviewing C&W Guernsey's price control and on a number of related matters.
- **GOS Consulting Ltd** advised on a wide range of telecommunication projects including interconnections, Reference Offer review, regulatory accounts and others.
- OUR's legal advice during 2005 was provided by **AO Hall Advocates** and **Landwell Solicitors**.

### OUR Communication

OUR operates in a **transparent** and **open way**, and seeks to consult with as wide a range of stakeholders as possible on all key decisions. The OUR website ([www.regutil.gg](http://www.regutil.gg)) is heavily used as a means of communicating with the operators within the regulated industries and with interested members of the public. All consultation documents are published on the site as well as being made available in hard copy on request, and responses, where not confidential, are also published. The OUR publishes the reasons for all decisions along with a commentary on the views received.

The website has continued to be invaluable and an efficient method of conducting public consultations and disseminating information with **31 papers** published in 2005, including 10 separate consultations. A full list of all the documents published in 2005 can be found in **Annex B**.

The OUR continues to maintain strong contacts with the UK regulators such as Ofcom (who have a major role in matters relating to telephone numbers and frequency spectrum) and Postcomm (given its role in regulating Royal Mail and its work on matters of a common interest to the OUR). The OUR also looks to maintain contact with regulators from jurisdictions of a similar size to the Bailiwick and which may face similar issues, in particular the JCRA in Jersey.



## The Office of Utility Regulation

### **OUR Consultation Process**

To further increase the transparency and robustness of the decision making process, the OUR amended its consultation process in November 2005. The OUR had used '**Draft Decisions**' in key electricity and telecoms projects and believe it adds a highly beneficial and helpful step in the overall decision making process. It ensures that interested parties are fully aware of the rationale for a proposed decision but have a further opportunity to provide the Director General with any additional information which may be helpful to the OUR in making its final decision. Following the success of the trial, the OUR has now formally incorporated this additional step in its consultation process.

### **Our Bursary**

In 2005, the OUR offered a bursary to a local student to help with their studies in a discipline related to the OUR's work. The OUR believes it is important to assist in developing local expertise in the area of regulation and we are delighted that Pui Jee Lai, a former student at Guernsey's Ladies' College, successfully applied for this bursary.

Pui Jee was awarded a £1,500 bursary to help with her studies at Nottingham University studying a BA in Management and Chinese. As part of the bursary, Pui Jee has committed to work with the OUR during her summer holidays and for one year following the completion of her studies.





## Electricity: Activity Report

### Overview

During 2005 a number of major workstreams were concluded. The review of future strategic generation options led to a recommendation in November to the States by the Department of Commerce and Employment, to establish an **Energy Policy Review Group**. This recommendation also provided an important basis for the finalization of Guernsey Electricity Limited's (GEL) price control. In December 2005 GEL was subject to a price control decision following a submission by GEL for price increases primarily driven by the renegotiation of its supply agreement with EdF during 2005.

Change in the level of retail prices had implications for the maximum price at which electricity may be resold on the Island and a new maximum resale price was announced in January 2006.

### Activity Report

#### Strategic Review of Generation Options

In 2003 and 2004 the Commerce & Employment Department undertook a detailed study into a number of **strategic issues relating to the future energy needs of the Island**. This study considered the economic, environmental and security of supply issues associated with the Island's electricity needs and the trade-offs that need to be considered in formulating a coherent policy.

The Commerce & Employment Department study, aided by consultants Mott McDonald, considered a range of generation options realistically available to Guernsey to enable the States to meet its electricity needs over the foreseeable future, assessing these against other policy considerations, including security of supply, independence, environmental issues and overall cost. During 2005 Commerce & Employment consulted widely with other States Departments and agencies and on 30th November 2005, presented a policy letter to the States for consideration of an energy policy for the Island.

The OUR liaised closely with Commerce & Employment Department given the importance of its work to the framing of any price control decision. The States at its November 2005 meeting agreed to establish an Energy Policy Review Group to consider further Guernsey's preferred approach to the wider energy and environmental issues and that groups work is continuing. In the event that the future work of this group has any implications for any future price controls for GEL, the Director General will consider the implications at that time.

#### Price Control

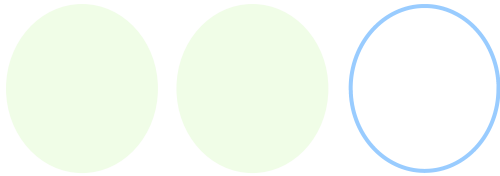
In September, following detailed work on a **new price control for GEL**, the OUR published a draft decision (**OUR 05/23**) which set out the Director General's proposals for the future regulation of GEL's prices. Following the conclusion of what was a spirited consultation period, a new price control was announced in December (**OUR 05/31**) that remains in place until 31st March 2007. A price increase of 3.8% was implemented on 1<sup>st</sup> of January 2006, with a further price increase of RPI + 1.7% taking effect on 1<sup>st</sup> of April 2006.





## Electricity: Activity Report

The price control work in 2005 highlighted a number of issues which have a fundamental bearing on both the regulation of GEL and on the level of tariffs the company may charge. A key area is the return which the States as Shareholder is entitled to, and its implication for related issues such as the use of GEL's cash reserves. The Director General believed that a pragmatic approach was to set a 15 month price control and to work with the various stakeholders to clarify the outstanding matters so that a further, longer term price control can be set from April 2007. At the time of writing this work is continuing and the Director General is hopeful of a positive outcome.



## Post: Activity Report

2005 was an extremely busy year with the OUR's work programme continuing to focus on prices and quality of service.

Guernsey Post continued to improve its quality of service against the three target areas and the OUR undertook its first review of the regulatory targets it had set the company. The improvements in quality across the board provided an opportunity to **reduce the number of targets** which were set for the company and enabled the regulatory regime **to focus on those areas of key importance to postal customers**.

The Director General was grateful to Guernsey Post for the constructive approach it took towards **mediation** regarding an appeal it brought against a decision of the Office which meant that resources could concentrate on delivering benefits for Guernsey Post's customers. The mediation resulted in a modification to Guernsey Post's licence which then drove the OUR's work programme in terms of findings of market dominance and subsequently a price control at the end of 2005.

### **Licence Modification**

At the beginning of the year there was an outstanding appeal by Guernsey Post of the Director General's decision which was due to be heard early in 2005 by the Utility Appeals Tribunal. Whilst defending the position taken by the Office the Director General was convinced, based on previous experience, that litigation in this instance was not serving the interests of Guernsey consumers and sought to resolve the issue prior to any hearing being held. As a result of a successful mediation engaged in by the OUR with Guernsey Post the issue was resolved. The Director General would like to acknowledge his thanks to Guernsey Post, and its Chairman in particular, for the efforts made to resolve this matter.

The Director General issued a Statutory Invitation to Comment (**OUR 05/15**) on proposals to amend Guernsey Post's licence to specify that the scope of services which would be regulated under Condition 18 of Guernsey Post's licence. In July, following consideration of the responses the Director General formally modified condition 18 of Guernsey Post's Licence (**OUR 05/18**).

### **Review of Dominance in Relevant Markets**

In September 2005 the Director General published notice of a proposed decision of the finding of dominance in a number of relevant markets (**OUR 05/21**). The DG adopted a simplified approach to market definition, which he considered to be both **proportionate to Guernsey** and transparent, to inform his decision of dominance in a number of relevant markets within the Bailiwick. In essence by drawing upon information that was readily available the Director General believed that he would be able to reach a decision that would be no different if a more detailed and time consuming data collection exercise were undertaken.

In light of the responses from interested parties, the Director General published his decision (**OUR 05/26**) in November in which he designated Guernsey Post as dominant in the markets in the Bailiwick for: regular letter and parcel services; priority letter and



## Post: Activity Report

parcel services and outbound bulk mail services.

### Postal Tariff Application from Guernsey Post

The Director General received an application in August from Guernsey Post to amend its postal tariffs with effect from 1<sup>st</sup> April 2006. The application was then published for public consultation (**OUR 05/22**). This was the culmination of a collaborative approach between the Office and Guernsey Post in developing an economic model which sought to work with the information available to the company.

The Director General recognises that the commercial environment in which GPL now operates has changed significantly since 2001. In particular its underlying cost base has experienced a significant step change as a result of the new charging arrangements with Royal Mail. The company's proposed price increases have been driven to a large degree by external factors primarily with its major partner, Royal Mail and the changes within the UK regulatory regime. Royal Mail delivery costs now account for **over 50% of Guernsey Posts total costs**. There is therefore a continuing need to move to more cost-reflective pricing.

In December, the Director General published his decision on certain parts of the company's tariff application (**OUR 05/30**) including, amongst other things, standard local and UK mail. Whilst any price rise is regrettable for customers, Guernsey consumers will continue to have one of the **cheapest local mail** tariffs in Western Europe. Further work continued on Bulk Mail tariffs which were finalised in 2006.

As part of the decision the Director General also highlighted the need to review the States' existing definition of the Bailiwick's **Universal Service Obligation** and a consultation on this was undertaken in 2006.

### Quality of Service

At the end of October 2004, GPL submitted its first annual report on Quality of Service ("QoS") in accordance with its postal licence. The OUR reviewed the company's compliance with the QoS targets and published its report in January. Noting that the company had **achieved 15 of its 23 targets** and seven of the failures were by small amounts, the Director General only proposed to issue a direction to remedy a breach for bulk mail J+3 targets (**OUR 05/01**). Following a consultation, the Director General decided to amend the direction and require the company to achieve a bulk mail target of 91% for J+3 (**OUR 05/07**).

The importance of being able to demonstrate the level of quality customers receive in any business is important but especially so in a market where there is a dominant operator and upon whom most customers are solely relying. The Director General was pleased to note that in almost all cases **quality of service had improved since the introduction of targets in 2003**. More importantly, GPL is now positioned to demonstrate the degree to which it is in compliance with its USO requirements. The Director General consulted on possible changes to the QoS regime in



## Post: Activity Report

April and set out a number of proposed changes to the reporting system. (**OUR 05/10**).

Following the consultation there were a number of changes to QoS targets for Guernsey Post through to 2008/09 (**OUR 05/16**). The most significant changes related to:

- reporting only targets for cross border mail pending further work with regulators in other jurisdictions;
- reduction in the number of internal efficiency targets to align with changes in the company's own reporting procedures and measures;
- the requirement for Guernsey Post to work towards **individual Service Level Agreements** with its bulk mailers.



## Telecommunications: Activity Report

### Overview

2005 saw continued developments in the telecoms market with consumers benefiting from further price reductions and increasing competition. Among the developments were increasing mobile competition, price reductions on a range of fixed services, enhanced and cheaper broadband services and the launch of a process to licence a second 3G operator in the Bailiwick. The telecoms sector continues to occupy a substantial part of the OUR's workload.

### Retail Price Control for Cable & Wireless Guernsey

Following a consultation in 2004 on a further price control for key fixed services, the OUR published its decision (**OUR 05/19**) on the new control that would apply from September 2005. The former control had been extended in January 2005 (**OUR 05/08**).

Among the issues covered by the price control decisions were key regulatory matters including the OUR's review of market dominance and determining the rate of return appropriate to C&WG's price controlled markets. The OUR set a new price control which includes provision for C&WG to **increase line rental by approximately 13%** per annum and **reduce local calls by around 11%**. Charges for **leased lines**, a key service for business customers, are due to **fall by approximately 13% per annum**. This price control will apply until 31<sup>st</sup> March 2008.

The OUR also simplified a number of reporting arrangements for C&WG as part of its review.

### Broadband Market

In February 2005, the OUR commissioned a study into the provision of broadband services in Guernsey. This study was intended to look at possible issues affecting the **range and cost of broadband services**, and to compare these services and their prices with those available in a number of other countries. The results of the study were published in June 2005 (**OUR 05/14R**). Among the key conclusions reached by the consultants were that the cost of a basic internet service in Guernsey is generally more expensive than similar services in the other jurisdictions. A lack of higher bandwidth services aimed at residential users is making it **prohibitively expensive for residential customers** to get a service that offers more than the 512 kbit/s bandwidth.

The report also identified that the costs of **services aimed at business customers were consistently higher** than in other markets, including those markets which are likely to have a similar cost base to Guernsey. Further, the margins for the ISP element of residential services are very low and appeared to show provision of these services by ISPs as being unprofitable.

Following publication of the report, C&WG announced it was **doubling the speed** of its broadband service and voluntarily reduced the price for its wholesale service. The OUR initiated a **detailed review of broadband pricing** which would result in further price reductions in 2006.



## Telecommunications: Activity Report

### Audit of Mobile Phone Masts

In 2004, the OUR commenced a detailed **audit of all mast sites** in Guernsey in response to concerns about the possible health implications from mobile masts. The Director General views it as important that when providing for the deployment of radio-based networks that all operators have regard to their obligations, not just with respect to their licence conditions, but also to the wider community. The OUR has always included licence conditions in all licences to ensure operators are obliged to bear this in mind when developing their networks. The OUR insists that the standard to be met is the **International Commission for Non-Ionising Radiation Protection's (ICNIRP) standard**, the highest international standard for such emissions.

The OUR commissioned auditors to undertake a review of emissions from radio masts around the Bailiwick and to also review the internal processes and procedures that operators have in place for ensuring on-going compliance. The overall conclusion from the audit was very positive. **All mast sites were fully in compliance**. In addition, all operators were shown to take their obligations in this regard extremely seriously. The OUR will continue to monitor emissions and further **random spot checks** will be carried out in future.

### 3G Mobile Licence Competition

In November 2005, the OUR announced that it was intending to run another competition to award **one further 3G licence** for the Bailiwick. The new licence would provide for two 3G operators in Guernsey, providing competition to Wave Telecom which launched its 3G service in 2004. The licence was to be awarded by way of a **comparative selection process**, or “beauty parade”. Expressions of interest in the licence were invited (**OUR 05/27**) and following a marketing campaign, two expressions of interest were received. The OUR concluded the award process in late summer 2006.

### Interconnection & Access Charges

C&W Guernsey, as a dominant operator in the fixed and mobile telecommunications markets in Guernsey, is required to produce and publish a Reference Offer (RO). The RO is essentially a catalogue of the services that they make available to Other Licensed Operators (OLOs) and the prices for those services.

In March 2005, the OUR published a decision with regard to the manner in which such charges should be calculated by C&W Guernsey (**OUR 05/09**). C&W Guernsey was required to propose new tariffs that would comply with this direction and make these available to the market. Among the changes required was:

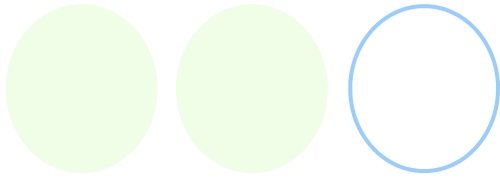
- the need to ensure charges were based on current costs;
- that the recovery of overhead costs was in line with best practice to demonstrate that the overheads attributed to interconnection were those that would be incurred by an efficient operator;
- that the new tariffs proposed by C&WG represented a significant reduction on its previous rates.



## Telecommunications: Activity Report

### **Disputes and Investigations**

During 2005 the OUR was requested to intervene in a number of disputes and investigations involving the telecoms operators. These cover issues such as disputes with regard to mast sharing - **Les Vardes Mast Sharing Dispute (OUR 05/24)** and failures to comply with licence conditions on price notifications - **Pan CI Ethernet Half Circuit Service (OUR 05/13)**. The Director General remains concerned that the number and frequency of disputes is potentially damaging to the industry as a whole. He believes certain disputes can and should have been avoided and he will be considering further what regulatory measures may be required to ensure the OUR's intervention is required on a less frequent basis in matters which should be commercial issues.



**Public Utilities Regulation Fund**  
**Report of the Director General**  
**and**  
**Report of the Independent Auditors**





# Public Utilities Regulation Fund

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## Foreword to the Accounts

Regulation of Utilities requires a keen understanding of all the facets of industry and an ability to combine expertise in law, engineering, accounting, economics and business analysis to develop innovative and practical solutions to facilitate market development.

During 2005 the fees payable to the Director General of Utility Regulation were paid into the Public Utilities Regulation Fund which was initially established in 2001. Fees were collected from licensees in the three regulated sectors of telecommunications, post and electricity. The OUR's costs in 2005 fell 5% compared with 2004 and the OUR has announced plans to substantially reduce licence fees for most operators in 2007 and 2008.

The OUR has also established an Audit, Risk and Remuneration Committee to provide an additional level of oversight to the financial management of the OUR. The OUR is conscious that it is funded by industry and that there is a need to not only ensure there is strict financial management but to be able to demonstrate this also. The 2005 audited accounts have been reviewed by the ARRC.

During 2005 the Office was staffed by four staff as well as the Director General.



## Report of the Director General for the Year Ended 31 December 2005

### Fund Information

**DIRECTOR GENERAL:** Mr John Curran

**OFFICE ADDRESS:** Suites B1 & B2  
Hirzel Court  
St Peter Port  
Guernsey  
GY1 2NH

**AUDITORS:** Chandlers Limited  
Chartered Accountants  
Anson Court  
La Route des Camps  
St Martin's  
Guernsey

## Report of the Director General for the Year Ended 31 December 2005

### **Report of the Director for the Year Ended 31 December 2005**

The Director General presents his report with the financial statements of the Fund for the year ended 31 December 2005.

#### **PRINCIPAL ACTIVITY**

The principal activity of the entity in the year under review was that of a utilities regulator.

#### **REVIEW OF BUSINESS**

The results of the year and the financial position of the Fund are as shown in the annexed financial statements.

#### **STATEMENT OF THE DIRECTOR GENERAL'S RESPONSIBILITIES**

The Director General is responsible for preparing the financial statements for each financial year which give a true and fair view of the state of affairs of the Fund and of the income or deficit of the Fund for that period. In preparing those financial statements the Director General is required to:

Select suitable accounting policies and then apply them consistently;  
Make judgements and estimates that are reasonable and prudent;  
Prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Fund will continue in operation.

The Director General is responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Fund and to ensure that the financial statements comply with the applicable accounting standards. The Director General is also responsible for safeguarding the assets of the Fund and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

In accordance with Section 13 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the Director General shall keep all proper accounts and records in relation to those accounts and shall prepare in respect of each year a statement of account giving a true and fair view of the state of affairs of the Office of the Director General.

The Law also requires the Director General to have the accounts audited annually by auditors appointed with the approval of the Department of Commerce and Employment. The Director General, with the approval of the Department of Commerce and Employment, has appointed Chandlers Limited as the auditors to the Public Utilities Regulation Fund.

The audited accounts shall be submitted to the Department of Commerce and Employment which shall in turn submit them together with the auditors' report thereon to the States of Guernsey with the Director General's annual report.

#### **AUDITORS**

The auditors, Chandlers Limited, have indicated their willingness to continue in office.



Mr J Curran  
Director General of Utility Regulation

Dated: 23 October 2006



## Report of the Independent Auditor to the Members of The Public Utilities Regulation Fund

### **Report of the Independent Auditors to the Members of Public Utilities Regulation Fund**

We have audited the financial statements of Public Utilities Regulation Fund for the year ended 31 December 2005 on pages four to seven. These financial statements have been prepared under the historical cost convention and in accordance with the accounting policies set out therein.

This report is made solely to the Fund's members, as a body, in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. Our audit work has been undertaken so that we might state to the Fund's members those matters we are required to state to them in an auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Fund and the Fund's members as a body, for our audit work, for this report, or for the opinions we have formed.

#### **Respective responsibilities of Director General and auditor**

As described on page two the Fund's Director General is responsible for the preparation of financial statements in accordance with applicable law and United Kingdom Accounting Standards.

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 and are properly prepared in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. We also report to you if, in our opinion, the Report of the Director General is not consistent with the financial statements, if the Fund has not kept proper accounting records, if we have not received all the information and explanations we require for our audit, or if information specified by law regarding the Director General's remuneration and transactions with the Fund is not disclosed.

We read the Report of the Director General 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 Director General in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Fund'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 United Kingdom Generally Accepted Accounting Practice of the Fund's affairs as at 31 December 2005 and of its surplus for the year ended; and
- Have been properly prepared in accordance with the Regulation of Utilities (Bailiwick of Guernsey) Law 2001

# The Public Utilities Regulation Fund

*Chandlers limited*

Chandlers Limited  
Chartered Accountants  
Anson Court  
La Route des Camps  
St Martin's  
Guernsey

Date: 23 October 2006



**Public Utilities Regulation Fund**

**Income and Expenditure Account**  
**for the Year Ended 31 December 2005**

	2005 £	2004 £
<b>INCOME</b>		
Licence fees	949,850	852,671
Office of Utility Regulation (OUR) conference revenue	-	12,132
Bank interest	<u>9,150</u>	<u>3,978</u>
	959,000	868,781
<b>EXPENDITURE</b>	<u>805,867</u>	<u>845,862</u>
<b>SURPLUS FOR THE YEAR ENDED 31 DECEMBER 2005</b>	153,133	22,919
<b>TRANSFER TO THE CONTINGENCY RESERVE</b>	<u>(153,133)</u>	<u>(22,919)</u>
<b>NET OPERATING RESULT FOR THE YEAR</b>	<u><u>-</u></u>	<u><u>-</u></u>

The Fund has no other gains or losses for the current or preceding financial year other than those stated in the Income and Expenditure Account.

The notes form part of these financial statements.



# Public Utilities Regulation Fund

## **Public Utilities Regulation Fund**

### **Balance Sheet**

**31 December 2005**

	Notes	2005 £	2004 £
<b>FIXED ASSETS</b>			
Tangible assets	4	14,061	21,227
<b>CURRENT ASSETS</b>			
Debtors	5	4,158	17,168
Cash at bank and in hand		<u>329,551</u>	<u>165,448</u>
		333,709	182,616
<b>CREDITORS</b>			
Amounts falling due within one year	6	<u>104,560</u>	<u>113,766</u>
<b>NET CURRENT ASSETS</b>		<u>229,149</u>	<u>68,850</u>
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>		<u>243,210</u>	<u>90,077</u>
<b>RESERVES</b>			
Contingency Reserve	7	<u>243,210</u>	<u>90,077</u>
		<u>243,210</u>	<u>90,077</u>



.....  
Mr J Curran  
Director General of Utility Regulation

Dated: 23 October 2006



# Public Utilities Regulation Fund

## Notes to the Financial Statements for the Year Ended 31 December 2005

### 1. ACCOUNTING POLICIES

#### **Accounting convention**

The financial statements have been prepared under the historical cost convention.

#### **Income**

Income represents net invoiced licence fees and income from organisation of conferences and is accounted for on an accruals basis.

#### **Tangible fixed assets**

Depreciation is provided at the following annual rates in order to write off each asset over its estimated useful life.

Office Equipment	- 20% on cost
Fixtures and fittings	- 20% on cost
Computer equipment	- 20% on cost

### 2. OPERATING PROFIT

The operating profit is stated after charging:

	2005	2004
	£	£
Depreciation - owned assets	12,005	11,803
Auditors' remuneration	<u>2,500</u>	<u>2,400</u>

### 3. TAXATION

Under Section 12 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 the Fund is exempt from Guernsey Income Tax.

### 4. TANGIBLE FIXED ASSETS

	Office Equipment £	Fixtures and fittings £	Computer equipment £	Totals £
<b>COST</b>				
At 1 January 2005	36,076	3,675	19,263	59,014
Additions	<u>-</u>	<u>-</u>	<u>4,839</u>	<u>4,839</u>
At 31 December 2005	<u>36,076</u>	<u>3,675</u>	<u>24,102</u>	<u>63,853</u>
<b>DEPRECIATION</b>				
At 1 January 2005	23,316	2,055	12,416	37,787
Charge for year	<u>7,828</u>	<u>122</u>	<u>4,055</u>	<u>12,005</u>
At 31 December 2005	<u>31,144</u>	<u>2,177</u>	<u>16,471</u>	<u>49,792</u>
<b>NET BOOK VALUE</b>				
At 31 December 2005	<u>4,932</u>	<u>1,498</u>	<u>7,631</u>	<u>14,061</u>
At 31 December 2004	<u>12,760</u>	<u>1,620</u>	<u>6,847</u>	<u>21,227</u>





# Public Utilities Regulation Fund

**Notes to the Financial Statements - continued**  
**for the Year Ended 31 December 2005**

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

	2005	2004
	£	£
Trade debtors	-	13,010
Prepayments	<u>4,158</u>	<u>4,158</u>
	<u>4,158</u>	<u>17,168</u>

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

	2005	2004
	£	£
Trade creditors	78,768	110,866
Deferred income	1,000	500
Accruals	<u>24,792</u>	<u>2,400</u>
	<u>104,560</u>	<u>113,766</u>

**7. CONTINGENCY RESERVES**

Any surpluses in the income and expenditure account are taken to the contingency reserve.

	Totals
	£
At 1 January 2004	90,077
Movement in the year	<u>153,133</u>
At 31 December 2005	<u>243,210</u>



**Income and Expenditure Account**  
**for the Year Ended 31 December 2005**

	2005		2004	
	£	£	£	£
<b>Turnover</b>				
Post office revenue	180,000		120,000	
Telecoms revenue	589,850		552,671	
Electricity revenue	180,000		180,000	
OUR conferences revenue	-		12,132	
		949,850		864,803
<b>Other income</b>				
Bank interest		9,150		3,978
		959,000		868,781
<b>Expenditure</b>				
Salaries and staff costs	320,855		350,334	
Consultancy fees	318,197		252,759	
Legal fees	80,153		91,024	
OUR conference costs	582		12,089	
Utility Tribunals Appeal	-		50,616	
General overheads	74,035		77,182	
		793,822		834,004
		165,178		34,777
<b>Finance costs</b>				
Bank charges		40		55
		165,138		34,722
<b>Depreciation</b>				
Office equipment	7,828		7,215	
Fixtures and fittings	122		735	
Computer equipment	4,055		3,853	
		12,005		11,803
<b>SURPLUS</b>		153,133		22,919



## **OUR CORPORATE GOVERNANCE**

In 2005, the OUR established an independent Audit, Risk and Remuneration Committee (ARRC). The establishment of more robust corporate governance procedures was one issue identified during the NAO review of commercialisation and regulation.

The OUR currently complies with a very high standard of controls and the OUR's annual accounts are externally audited. However, the Director General is keen to further strengthen the controls in place and therefore sets out in this report the manner in which this will be accomplished going forward.

The members of the ARRC are:

- Mr. Stephen Jones, Chairman
- Deputy Carla McNulty Bauer
- Ms. Carol Harvey
- Ms. Jane Needham

The following sets out both the instruction to the Audit, Risk and Remuneration Committee. The members of the

### **OUR Audit, Risk & Remuneration Committee - Terms of Reference**

The following sets out the terms of reference of the OUR's Audit, Risk & Remuneration Committee (ARRC), as agreed between the Director General and the ARRC.

#### **Role of the Committee**

The role of the ARRC will be, as part of the ongoing systematic review of the control environment and governance procedures within OUR, to;

- oversee the external and internal audit function and advise the Director General in relation to the operation and development of that function
- review and advise on the Office's risk management procedures
- review and comment on the financial accounts of the Office
- review and comment on the remuneration policy of the OUR.

#### **Membership**

The ARRC will be appointed by the Director General with the approval of the Commerce & Employment Department and will consist of not more than four people, who shall be external appointees.

#### **Duties**

The duties of the ARRC shall be:-

- to approve and keep under review the Charter for Internal Audit services so as to ensure that it clearly defines the purpose, authority, roles and reporting relationships for internal audit;
- To review and approve the work programme for internal audit;
- To request the inclusion in the programme of Internal Audit reports as considered appropriate;
- To assess the outcome of the internal and external audit processes having regard to findings, recommendations and management responses;
- To assess the implementation of agreed corrective actions by management having regard to



## OUR CORPORATE GOVERNANCE

follow up audits;

- Generally to foster the development of best practice in the conduct of internal audit, risk management and external reporting;
- To advise the Director General on all matters relating to risk management, internal control, governance, external financial reporting and remuneration;
- To advise on and review the membership of the ARRC as necessary.

### **Annual Report of the External Auditors**

The ARRC will consider any report issued by the external auditors.

### **Meetings**

ARRC meetings will be held not less than twice each calendar year.

A quorum of two will be required for each meeting. The members shall decide on the appointment of the Chairperson. The Chairperson's appointment shall expire on 31<sup>st</sup> December 2008. Thereafter the term will be for a period of two years.

The ARRC may request any person who has been contracted to carry out an internal audit assignment to attend a Committee meeting. The Director General shall attend on the invitation of the ARRC. The ARRC will also have the authority to request staff members to attend meetings if necessary.

At least once a year, the ARRC will invite the external auditor to meet them to discuss matters of mutual interest including the audit approach.

The OUR will provide such administrative support to the ARRC as it may require.

### **Working Procedures**

The ARRC will adopt its own working procedures.

### **Access**

Any member of the ARRC will have right of access to the Director General and/or any staff member.

### **Reporting**

The ARRC will formally report to the Director General and will offer such advice and recommendations as it may deem appropriate. The ARRC's activities will be recorded and reported in the Annual Report of the Director General.

The ARRC may report to any States Department or States Committee, including the Public Accounts Committee and the Scrutiny Committee.

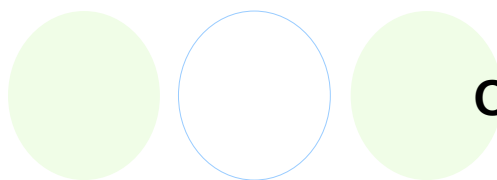
### **Access to Independent Advice**

The ARRC is authorised to:

- investigate any activity within its terms of reference,
- seek any information that it requires from any employee or external party, and all employees are directed to co-operate with any request made by the Committee, and
- obtain outside legal or other independent professional advice.

### **Amendment of Charter**

This Charter may be amended or updated in joint consultation between the Director General and the ARRC. It shall be reviewed by 31<sup>st</sup> December 2008 and thereafter as required.



# OUR CORPORATE GOVERNANCE

## Internal Audit Charter

### Introduction

This Charter sets out the purpose, authority and responsibilities of OUR's Internal Auditor. It is intended that internal audit assignments will be outsourced to an appropriate, qualified, third party and conducted under contract.

### Purpose

The Internal Audit function is an independent appraisal function established to examine, evaluate and report on the adequacy and effectiveness of the OUR's systems of financial internal control. As such, it provides management and stakeholders with assurance over the financial management of the Office of Utility Regulation, and stewardship of the resources entrusted to it.

### Authority

Internal Audit is authorised to have:

- Unrestricted access (subject to the comments below) to all functions, records, property and personnel.
- Full and free access to staff, the Audit Committee and the Director General.
- Authority to require and receive such explanations from any employee as are necessary concerning any matter under examination
- Sufficient resources and personnel with the necessary skills to perform the internal audit plan.

Access to confidential commercial information is permitted for the purpose of carrying out an internal audit solely in respect of enabling the auditors to ascertain that the Director General has carried out his functions as provided for within sections 2 and 4 of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001, the various sector specific laws and States Directions to the Director General. Access will not be given to confidential information unless it can be proven that its intended purpose falls within scope of the internal audit role.

Internal Audit is not authorised to perform any operational duties or initiate or approve accounting transactions.

### Role and Scope

The primary responsibility for identifying and implementing an adequate system of internal control rests with the Director General. The role of internal audit is to appraise the adequacy and effectiveness of those controls.

In particular, its role is to understand the key financial risks of the organisation and to examine and evaluate the adequacy and effectiveness of the system of risk management and financial control as operated by the organisation so as to ensure that:

- the systems of financial control, and their operation in practice, are adequate and effective:
- follow-up action is taken to remedy weaknesses identified by Internal Audit:
- employees and organisation actions are in compliance with policies, standards, procedures and applicable laws and regulations:
- the corporate governance arrangements of the organisation are appropriate to the organisation and comply with relevant requirements:

## OUR CORPORATE GOVERNANCE



- follow-up action is taken to remedy weaknesses identified by Internal Audit:
- employees and organisation actions are in compliance with policies, standards, procedures and applicable laws and regulations:
- the corporate governance arrangements of the organisation are appropriate to the organisation and comply with relevant requirements:

### **Responsibilities and Reporting**

The internal auditor will be accountable to OUR's ARRC and its work programme will be subject to the approval of the ARRC. No work should be undertaken without the prior approval of the ARRC.

All work undertaken should be planned and carried out in accordance with the Standards of Professional Audit Practice set by the Institute of Internal Auditors-UK.

On completion of an assignment, before a final report is issued, the internal auditor will communicate its findings to management and staff of the audited area for their views. These views will be considered and recorded in the final report. Copies of the final report will be provided to the Director General and ARRC.



## Annex A: States Directions; Telecommunications

### **Scope of Universal Service Obligation (USO)**

The States resolved to give the following direction to the Director General in accordance with Section 3(1) (c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*All users in the Bailiwick shall have available to them the services set out below at the quality specified, independently of geographical location and, in the light of local and national conditions, at an affordable price:*

#### **Access at Fixed Locations:**

- *all reasonable requests for connection to the public telephone network at a fixed location and for access to publicly available telephone services at a fixed location shall be met by at least one operator;*
- *the connection provided shall be capable of allowing users to make and receive local, national and international telephone calls, facsimile communications and data communications, at data rates that are sufficient to permit Internet access;*

#### **Directory enquiry services and directories:**

- *at least one subscriber directory covering all subscribers of direct public telephone service providers shall be made available to users and shall be updated regularly and at least once a year;*
- *at least one telephone directory enquiry service covering all listed subscribers' numbers shall be made available to all users, including users of public pay telephones;*

#### **Public Pay telephones:**

- *public pay telephones shall be provided to meet the reasonable needs of users in terms of the geographical coverage, the number of telephones and the quality of services.*

#### **Special measures for disabled users and users with special needs:**

- *these provisions shall also apply to disabled users and users with special social needs, and specific measures may be taken by the Regulator to ensure this.*

### **Identity of First Licensee with USO**

The States resolved to give the following direction to the Director General in accordance with section 3(1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The Director General of Utility Regulation shall issue the first licence to contain a telecommunications Universal Service Obligation to Guernsey Telecoms Limited, the company established to take over the functions of the States Telecommunications Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.*

### **Special or Exclusive Rights**

The States resolved to give the following direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*In accordance with section 3(1)(b) of that Law, the States directs the Regulator to decide the duration of any exclusive or special privilege granted to any licensee in relation to the provision of telecommunications networks and/or services with a view to ensuring that competition is introduced into all parts of the market at the earliest possible time.*

*The Regulator may decide on different terms for privileges granted in different markets or segments of the market. In any case, the States directs that the term of any such rights shall not exceed three years at most from the date of this Direction.*



## Annex A: States Directions; Post

### **Universal Service Obligation**

The States resolved to give the following direction to the Director General in accordance with section 3 (1)(c) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The following universal postal service shall be provided by at least one licensee throughout the Bailiwick of Guernsey at uniform and affordable prices, except in circumstances or geographical conditions that the Director General of Utility Regulation agrees are exceptional:*

- *One collection from access points on six days each week;*
- *One delivery of letter mail to the home or premises of every natural or legal person in the Bailiwick (or other appropriate installations if agreed by the Director General of Utility Regulation) on six days each week including all working days;*
- *Collections shall be for all postal items up to a weight of 20Kg;*
- *Deliveries on a minimum of five working days shall be for all postal items up to a weight of 20Kg;*
- *Services for registered and insured mail.*

*In providing these services, the licensee shall ensure that the density of access points and contact points shall take account of the needs of users.*

*“access point” shall include any post boxes or other facility provided by the Licensee for the purpose of receiving postal items for onward transmission in connection with the provision of this universal postal service.*

### **Identity of First Licensee with a USO**

The States resolved to give the following direction to the Director General in accordance with section 3 (1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The Director General of Utility Regulation shall issue the first licence to contain a postal Universal Service Obligation to Guernsey Post Limited, the company established to take over the functions of the States Post Office Board pursuant to the States agreement to the recommendations of the Advisory and Finance Policy letter published in this Billet.*

### **Post: Special or Exclusive Rights**

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Post Office Limited the exclusive right to provide postal services in the Bailiwick to the extent that such exclusive right is necessary to ensure the maintenance of the universal postal service specified by States’ directions under section 3 (1)(c) of that Law; and

To request the Director General to review and revise the award of exclusive rights from time to time with a view to opening up the Bailiwick postal services market to competition, provided that any such opening up does not prejudice the continued provision of the universal postal service.



## Annex A: States Directions; Electricity



### **Universal Service Obligation (“Public Supply Obligation”)**

The States did not make any Directions in relation to a Universal Service Obligation in the electricity markets, as it noted that the provisions of the Electricity Law adequately protected the interests of users by ensuring a Public Supply Obligation would be in place.

### **Identity of First Licensee with a USO**

The States resolved to give the following direction to the Director General in accordance with section 3 (1)(a) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

*The Director General of Utility Regulation shall issue the first licence to contain an electricity Universal Service Obligation to Guernsey Electricity Limited, once that company is established to take over the functions of the States Electricity Board.*

### **Special or Exclusive Rights**

#### **Conveyance**

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited an exclusive electricity conveyance licence in respect of the conveyance of electricity in Guernsey for a period of 10 years once that company has been formed.

Subsequently, the States resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd for conveyance activities subject to any exemptions granted by the Director General under section 1(2) of the Electricity (Guernsey) Law, 2001 for the period ending 31<sup>st</sup> January 2012.

#### **Generation**

The States made no resolution giving a direction to the Director General in relation to the period of exclusivity of any generation licence to be granted under the Electricity (Guernsey) Law, 2001.

#### **Supply**

The States resolved to give a direction to the Director General in accordance with section 3(1)(b) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001 to award to Guernsey Electricity Limited (once that company has been formed) an exclusive electricity supply licence in respect of the supply of electricity in Guernsey for a period of one year.

The States also resolved to request the Director General to investigate the impact of the introduction of competition into the electricity supply market further and to provide a recommendation and advice to the Board of Industry on the introduction of such competition.

The States subsequently resolved to give a direction to the Director General to issue an exclusive licence to Guernsey Electricity Ltd for supply activities subject to any exemptions granted by the Director General under section 1(2) of the Electricity (Guernsey) Law, 2001 for the period ending 31<sup>st</sup> January 2012.



## Annex B: Documents Published in 2005

- 05/01 Direction to Guernsey Post Ltd regarding Compliance with Quality of Service Standards. Statutory Invitation to Comment.
- 05/02 Interim Price Control for C&W Guernsey Ltd. Consultation Paper
- 05/03 OUR Response to Commerce & Employment, Department Consultation Document “Building Confidence”. Information Notice.
- 05/04 Carrier Pre-Selection and Number Portability within the Bailiwick of Guernsey. Report on the Consultation and Decision Notice.
- 05/05 Amendment to Guernsey Post’s Licence. Statutory Invitation to Comment.
- 05/05R Audit of Emissions from Radio Masts in Guernsey Report and Information Notice.
- 05/06 OUR Bursary Scheme: Information Notice.
- 05/07 Direction to Guernsey Post Ltd regarding Compliance with Quality of Service Standards. Statutory Notification of Direction.
- 05/08 Interim Price Control for C&W Guernsey. Report on the Consultation and Decision Notice.
- 05/09 Review of Cable & Wireless Guernsey’s Proposed Charges for Interconnection and Access. Report on the Consultation and Decision Notice.
- 05/10 Reviewing Guernsey Post’s Quality of Service Targets, Consultation Paper.
- 05/11 C&W Guernsey - Interconnection and Access Charges, Information Notice.
- 05/12 Review of Cable & Wireless Guernsey Price Control, Draft Decision.
- 05/13 Pan Channel Island Ethernet Half Circuits Notification of Investigation into Cable & Wireless Guernsey’s Pan Channel Island Ethernet Products – Information Notice.
- 05/14R Audit of Broadband Services in Guernsey. Information Notice.
- 05/15 Amendment to Guernsey Post Ltd’s Licence. Statutory Invitation to Comment.
- 05/16 Guernsey Post Limited: Quality of Service. Report on the Consultation, Decision Notice and Direction.
- 05/17 Investigation into Cable & Wireless Guernsey’s Pan Channel Islands Ethernet Half Circuits: Summary of Findings and Direction.
- 05/18 Amendment to Guernsey Post Ltd’s Licence. Report on the Consultation.
- 05/19 Price Control for Cable & Wireless Guernsey. Decision Notice.

## Annex B: Documents Published in 2005



- 05/20 Price Control Compliance Guidelines for C&W Guernsey Ltd, Information Notice.
- 05/21 Review of Market Dominance in the Guernsey Postal Market, Proposed Decision.
- 05/22 Guernsey Post's proposed Tariff Changes, Consultation Document.
- 05/23 Review of Guernsey Electricity Limited's Price Control, Draft Decision.
- 05/24 Investigation into C&WG's Mast at Les Vardes Quarry finding in Dispute D01/05 and Direction to Cable & Wireless Guernsey Ltd.
- 05/25 Amendment to Wave Telecom's 2G Mobile Licence, Invitation to Comment.
- 05/26 Review of Market Dominance in the Guernsey Postal Market, Report on the Consultation and Decision Notice.
- 05/27 Competition for Mobile Telecommunications Licence calls for Expressions of Interest and Call for Comments on Preliminary Tender Document.
- 05/28 Regulation in Guernsey: Revised Consultation Procedures, Information Paper.
- 05/29 Amendment to Wave Telecom's 2G Mobile Licence, Statutory Notification.
- 05/30 Guernsey Post's Tariff Changes – Report on the Consultation and Decision Notice.
- 05/31 Price Control on Guernsey Electricity Limited, Decision Notice.

# **IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 1<sup>st</sup> DAY OF FEBRUARY 2007**

(Meeting adjourned from 31<sup>st</sup> January 2007)

**The States resolved as follows concerning Billet d'État No III  
dated 12<sup>th</sup> January 2007**

## **TREASURY AND RESOURCES DEPARTMENT**

### **FEES AND CHARGES**

IV.- After consideration of the Report dated 5<sup>th</sup> December 2006 of the Treasury and Resources Department:-

1. To direct all Departments to review all of the fees and charges for which they have administrative responsibility on a regular basis and amend them accordingly.
2. That when considering any revision to fees and charges, or their possible introduction or cessation, Departments shall take into account the evaluation criteria as set out in paragraph 4.1 of that Report.
3. To direct all Departments to pay particular attention to the impact on those on lower incomes of the fees and charges for which they are responsible.
4. To direct all Departments to pay particular attention to the impact on other Departments of fees and charges for which they are responsible.
5. To note the introduction of various new fees and charges, as set out in paragraph 6.1 of that Report, that are likely to be proposed by Departments in the near future.

## **PUBLIC SERVICES DEPARTMENT**

### **THE SEWERAGE (GUERNSEY) LAW, 1974 – HUMAN RIGHTS COMPLIANCE**

VI.- After consideration of the Report dated 28<sup>th</sup> November 2006 of the Public Services Department:-

1. To authorise amendments to section 2 of The Sewerage (Guernsey) Law, 1974 to include a mechanism to appeal to the Royal Court.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

**PUBLIC ACCOUNTS COMMITTEE**

**RISK MANAGEMENT AND INSURANCE IN THE STATES OF GUERNSEY**

- VII. TO POSTPONE CONSIDERATION of this Article until the April sitting of the States.

**K.H.TOUGH**  
**HER MAJESTY'S GREFFIER**

# **IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 25<sup>TH</sup> APRIL, 2007**

(Meeting adjourned from 1<sup>st</sup> February 2007)

**The States resolved as follows concerning Billet d'État No III  
dated 12<sup>th</sup> January 2007**

## **PUBLIC ACCOUNTS COMMITTEE**

### **RISK MANAGEMENT AND INSURANCE IN THE STATES OF GUERNSEY**

VII.- After consideration of the Report dated 24<sup>th</sup> December, 2006, of the Public Accounts Committee:-

1. To note that Report.
2. To note that the Public Accounts Committee will monitor and review the action taken by the Treasury and Resources Department in facilitating risk management and insurance matters throughout the States.
3. To note that the Public Accounts Committee will monitor and review the action taken by all Departments and Policy Council in addressing strategic and operational risk management policies.

**K H TOUGH  
HER MAJESTY'S GREFFIER**