



# BILLET D'ÉTAT

WEDNESDAY 28th MARCH 2007

XI  
2007

1. Projet de Loi entitled "The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Law, 2007", p. 615
2. Projet de Loi entitled "The Disclosure (Bailiwick of Guernsey) Law, 2007", p. 615
3. Projet de Loi entitled "The Mansell Trust (Guernsey) Law, 2007", p. 615
4. The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007, p. 615
5. The Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007, p. 616
6. The Prevention of Corruption (Bailiwick of Guernsey) Law 2003 (Amendment) Ordinance, 2007, p. 616
7. The Social Security (Reciprocal Agreement with The Netherlands) Ordinance, 2007, p. 616
8. The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 (Commencement) Ordinance, 2007, p. 616
9. The Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law, 2006 (Commencement) Ordinance, 2007, p. 616
10. Policy Council – Developing a Strategy for the Future of Guernsey's Eastern Seaboard, p. 617
11. Housing Department and Health and Social Services Department - an Integrated Corporate Strategy to Meet the Island's Needs for "Key Workers", p. 639
12. Public Services Department - Compensation For Oil Pollution – Supplementary Fund Protocol 2003, p. 682
13. Environment Department – Paid Parking, p. 686
14. Commerce and Employment Department – Revision of Companies Law, p. 700

### *Statutory Instrument laid before the States*

The Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2007, p. 711

### APPENDICES

1. Policy Council - Report on International Conventions and Agreements for the Year Ended 31st December, 2006, p. 712
2. Scrutiny Committee - "Scrutinising Scrutiny" Performance Report 2004-2006, p. 725

# ***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 28<sup>th</sup> MARCH, 2007,** at 9.30am, to consider the items contained in this Billet d'État which have been submitted for debate by the Policy Council.

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

The Royal Court House  
Guernsey  
9 March 2007

**PROJET DE LOI**

entitled

**THE REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY)  
(AMENDMENT) LAW, 2007**

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled "The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) 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 DISCLOSURE (BAILIWICK OF GUERNSEY) LAW, 2007**

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled "The Disclosure (Bailiwick of 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 MANSELL TRUST (GUERNSEY) LAW, 2007**

The States are asked to decide:-

III.- Whether they are of the opinion to approve the Projet de Loi entitled "The Mansell Trust (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.

**THE REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY)  
(AMENDMENT) ORDINANCE, 2007**

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled "The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE REGISTERED PLANT BREEDERS' RIGHTS  
(BAILIWICK OF GUERNSEY) ORDINANCE, 2007**

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled "The Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE PREVENTION OF CORRUPTION (BAILIWICK OF GUERNSEY) LAW  
2003 (AMENDMENT) ORDINANCE, 2007**

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled "The Prevention of Corruption (Bailiwick of Guernsey) Law 2003 (Amendment) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE SOCIAL SECURITY (RECIPROCAL AGREEMENT WITH THE  
NETHERLANDS) ORDINANCE, 2007**

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled "The Social Security (Reciprocal Agreement with The Netherlands) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE CRIMINAL JUSTICE (MISCELLANEOUS PROVISIONS) (BAILIWICK  
OF GUERNSEY) LAW, 2006 (COMMENCEMENT) ORDINANCE, 2007**

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 (Commencement) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE CRIMINAL JUSTICE (ATTEMPTS, CONSPIRACY AND  
JURISDICTION) (BAILIWICK OF GUERNSEY) LAW, 2006  
(COMMENCEMENT) ORDINANCE, 2007**

The States are asked to decide:-

IX.- Whether they are of the opinion to approve the draft Ordinance entitled "The Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law, 2006 (Commencement) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

## **POLICY COUNCIL**

### DEVELOPING A STRATEGY FOR THE FUTURE OF GUERNSEY'S EASTERN SEABOARD

#### **1.0 Executive Summary**

- 1.1 The future of Guernsey's east coast has been the subject of sustained media and public interest for many months. This report explains that the Policy Council, through the Strategic Land Planning Group, has been working towards the development of an effective, long-term strategy for the eastern seaboard since early in 2006 which will itself form part of a broader re-evaluation of strategic planning policies to prepare the ground for the review of the Urban Area Plan.
- 1.2 The report describes the advice received from people with knowledge of major strategies of this kind about optimising the public benefits to be gained whilst avoiding the sort of pitfalls that others have encountered elsewhere.
- 1.3 The Policy Council is recommending that a project appraisal based on a spectrum of scenarios for the eastern seaboard, including a 'do minimum' scenario, should now be prepared for consideration by the States, with the benefit of large-scale consultation with the public and interested parties.
- 1.4 This work, and the related strategic planning policy review, will depend heavily on the use of existing staff resources but will also involve the employment of a consultant team with expertise in projects of this size and complexity and the creation of an additional, temporary post within the Environment Department's Forward Planning Team.
- 1.5 The Policy Council wishes to ascertain that it has States' support before proceeding further with this important initiative.

#### **2.0 Introduction**

- 2.1 Since March 2006, the Policy Council's Strategic Land Planning Group (SLPG) has been actively researching the development of a comprehensive strategy for Guernsey's 'Eastern Seaboard'; the coastal strip extending from Vale Castle in the north to La Valette Bathing Places in the south.
- 2.2 The intention to develop such a strategy was explained in the 2006 Policy & Resource Plan which was approved by the States in December 2005:

*“13.34 When the SLPG was formed last year, the Policy Council envisaged that one aspect of its work would be to co-ordinate major, cross-departmental projects that would previously have been managed through ad hoc working groups. The development of a Waterfront*

*Strategy was identified as an area of work meriting this sort of approach.*

- 13.35 *Having reviewed the previous waterfront studies, the SLPG concluded that the focus of the States has, in the past, been far too narrowly concerned with single issues, like parking. At a time when the island faces the challenge of tax restructuring and is looking to broaden the economy, the group is very conscious of the need to harness Guernsey's business potential. The eastern seaboard from St Sampson's harbour to Havelet includes the Island's ports and substantial industrial and commercial areas and clearly has a role to play in this respect.*
- 13.36 *Just as importantly, however, it includes areas that are of great importance to the cultural identity and built heritage of Guernsey. Any strategy for the waterfront needs to be as sensitive to what should be conserved as to untapped potential for future development."*
- 13.37 *Until now, the SLPG has not been considering what the specific content of a strategy should be but how it might be generated accepting that any worthwhile initiative will be a very major undertaking. Investment in the waterfront will need to be largely privately funded but for this to be successfully managed it is vital that the strategy is clear about what it is seeking to achieve and the specific benefits it will deliver and that this rationale is supported by the States."*
- 2.3 Since August 2006, however, the work being done by SLPG has not so much been highlighted as eclipsed by the sustained media coverage given to proposals for the waterfront publicised by the Long Port consortium. During the intervening months, the ideas being promoted by Long Port have been the subject of regular press articles and published correspondence which have continued to generate interest in the development potential of the waterfront area.
- 2.4 Inevitably, the controversy that has been generated, particularly in relation to the possibility of major land reclamation in Belle Greve Bay, has also served to polarise public opinion either for or against the specific forms of development envisaged by Long Port with strong opinions expressed on both sides. In heated situations like this, people often fear that fundamental decisions may be made without their opinions being taken into account and so protest groups are formed to exert popular pressure. The recent public march along Belle Greve Bay is a prime example of this response to a perceived threat.
- 2.5 Without wishing to suppress public interest in Long Port's concept for the east coast, the Policy Council issued media releases in August, September and December 2006 explaining its own intended programme of action. In

September, the Policy Council said that it saw the Eastern Seaboard Initiative as entering a new phase:

*“Many ideas are now in play and the Policy Council wants the States and the public as a whole to be able to consider all the practicable options. The intention now is to consult widely, evaluate the practical feasibility and financial viability of all sorts of possibilities and develop a set of different scenarios for the future of the east coast that also relate to the wider context of St Peter Port and St Sampson. This will require a lot of technical input and a consultation process that people understand and trust and the SLPG is considering how best to manage this major piece of work.”*

2.6 Since September, SLPG has undertaken further research into the development of scenarios and how this work can be progressed in association with the review of strategic land planning policy to set the framework for the forthcoming review of the Urban Area Plan. The two projects are closely inter-related because planning for the future of the wider urban area obviously affects what might happen on the Eastern Seaboard and vice-versa.

2.7 This report describes the work that SLPG has carried out to date, summarises the expert advice that has been received and makes recommendations for taking the initiative forward if it is the wish of the States to do so.

### **3.0 The ‘Eastern Seaboard Initiative’ and the review of the Urban Area Plan**

3.1 Background information is provided in the following appendices in order to keep the main report as concise as possible:

- **Appendix 1** shows the extent of the Eastern Seaboard Initiative study area and the boundary line between the Urban and Rural Area Plans. The study area boundary is intended to be indicative only and does not represent a hard and fast demarcation line
- **Appendix 2** sets out the reasons for preparing a strategy for the area at this time
- **Appendix 3** provides a list and brief description of the many previous reports that are relevant to the study area.

3.2 It will be readily apparent from the appendices, that the Eastern Seaboard presents a wide range of opportunities and challenges but prior to 1996, the States had only considered these on a piecemeal basis rather than as part of a comprehensive strategy. The greater emphasis on corporate working brought about by reorganisation of government in 2004, however, led to the creation of the SLPG and similar policy groups and gave them the remit to look at strategic

policy from a broader, cross-departmental perspective. The mandate and current membership of the SLPG is provided for reference at **Appendix 4**.

3.3 Apart from using the 2006 Policy & Resource Plan to launch the development of the Eastern Seaboard Initiative, the SLPG also explained the need to review the continuing validity of the so called ‘Urban/Rural Split’ as the basis of land planning strategy.

3.4 The plan said that:

*“13.9 The main thrust of the Strategic Land Use Plan since its inception in 1990 has been to meet the majority of the Island’s development needs within the urban area in order to conserve the remaining countryside. The concentration of development in the urban area has also encouraged investment in major regeneration schemes (eg the Bouet and Glatigny Esplanade Mixed Use Redevelopment Areas) and has led to the re-use of brown field land rather than the development of green field sites.*

*13.10 Overall, the picture emerging from the discussions has been that the rationale behind the urban/rural split approach has proved sound and that the Island’s development needs have generally been satisfactorily met during the period since the Urban and Rural Area Plans were introduced in the mid-1990s. The forums did, however, identify areas where there is pressure for greater flexibility to allow rural development and where urban plan policies need to work more effectively. This is reflected in the revised draft Plan.*

*13.11 The SLPG recognises that further research is now needed to establish whether the Urban Plan area can continue to accommodate the majority of new development over the medium to long-term. This research will involve what are called ‘capacity studies’ and not just in relation to housing (where the Housing Target Area reserves remain largely unused) but also in terms of industrial/business land.*

*13.12 These capacity studies will also need to take place within a context that ensures that the quality of the living environment in the urban area is maintained – its sustainability, in other words. This will include an evaluation of the likely circulation and traffic impacts of further development.”*

3.5 The draft 2006 Policy & Resource Plan was published before the States debate on the comprehensive review of the Rural Area plan in November 2005 and the debate provided the opportunity for a number of States Members to raise concerns about the effects of continuing to constrain rural development while channelling growth to the Urban Area. These comments further emphasised the

importance of carrying out a strategic policy review prior to the review of the Urban Area Plan.

- 3.6 The SLPG recognised that this approach would impact on the timetable for the review of the Urban Area Plan, bearing in mind that the standard five year life of the current plan expires in July this year, but considered that extending the life of the present UAP would be far preferable to producing a new plan without properly re-examining and, if necessary, revising the guiding principles.

#### **4.0 The work of the Strategic Land Planning Group**

- 4.1 It was anticipated in the 2006 Policy & Resource Plan that a consultative group would be formed to assist the SLPG in the preparation of a brief for the development of a waterfront strategy:

*“13.38 ...The group will include representatives chosen for their knowledge and expertise and drawn from the private and voluntary sectors. The purpose of the group/team will be to complement the input provided by Ministers and civil servants and ensure that the initial process of thinking is as creative and comprehensive as possible.*

*13.39 Once the SLPG has reached a consensus on a brief and obtained the support of the Policy Council, a report and recommendations will be presented to the States. To assist in the production of the brief, the SLPG envisages the need to employ professional advisers and, therefore proposes that a sum of £50K should be allocated to assist with this work.*

*13.40 At a time when Guernsey’s economic future is under the spotlight and government is concerned with retrenchment in public spending, it is particularly important to plan positively and wisely for the medium to long-term making the best of the Island’s assets.”*

- 4.2 The consultative group under the Chairmanship of Deputy Stuart Falla was subsequently established as follows:

- Deputy Chris Brock – Vice-Chairman
- Advocate Louise Hall
- Mr James Partridge
- Mr Simon Keys
- Mr Richard Kirkpatrick – representing the Public Services Department
- Mrs Angela Lockwood – Lead Officer, Policy Council

and met on four occasions between March and August 2006.

- 4.3 A strong focus of the group’s research during this period was to identify people with knowledge and experience of large-scale waterfront strategies elsewhere

who would be able to provide valuable insight into the potential benefits and pitfalls of such projects. In June and July, the consultative group received presentations from a senior officer of the Isle of Wight Council who had extensive experience of the East Cowes/Medina Valley Project and a Reader in Urban Studies from Edinburgh University who had carried out research into the implementation of waterfront/coastal strategies worldwide. **Appendix 5** provides a composite summary of the advice they offered.

- 4.4 It was at this point that the SLPG decided to take the project back within its mainstream work as explained in paragraph 2.5 above. The consultative group was disbanded accordingly.
- 4.5 During the autumn of 2006, the SLPG worked with the Environment Department to determine how best to co-ordinate the formulation of scenarios for the Eastern Seaboard with the preparation of urban capacity studies and what resources would be needed to achieve this successfully. The scale and complexity of the work involved presented a real conundrum.
- 4.6 It was recognised that one approach would be to consider the Eastern Seaboard independently first and then, once a preferred scenario was chosen by the States, to feed this as a ‘given’ into subsequent capacity studies. Although this sequential approach had the attraction of relative simplicity, however, it also had crucial disadvantages:
- it would significantly delay the review of the strategic planning framework and consequently, the Urban Area Plan
  - scenarios would be developed without reference to a wider range of issues and options that would emerge through the capacity studies and would be much less robust as a result. It was highly likely that there would be pressure for any preferred scenario to be reappraised once the urban capacity work was completed leading to the States’ decisions being revisited with all the attendant delays and costs this involves.

Having considered the situation carefully, the SLPG came to the conclusion that the development of scenarios for the Eastern Seaboard should proceed in parallel and inter-linked with the capacity study work despite the very heavy workload this would represent.

## **5.0 Resource implications of taking the project forward**

- 5.1 In the 2006 Policy & Resource Plan, it was anticipated the £50K would be needed to employ consultants to help with the preparation of a concept brief that would then form the basis for considering tenders to produce a master-planning framework. At this time, it was envisaged that the central St Peter Port waterfront and harbour areas would be the main area of study. The project had a relatively low profile and no specific deadlines.

- 5.2 From the outset, however, the SLPG consultative group felt that the project should look at the east coast generally with a long-term perspective in mind. The media coverage generated by the Long Port proposals has also raised expectations that the Eastern Seaboard Initiative will take a comprehensive and visionary approach. These factors have increased the scope of the project and the possibilities to be researched and, at the same time, the level of public interest creates an understandable pressure for an early presentation of scenarios.
- 5.3 Having taken further independent expert advice during October 2006, the SLPG concluded that multi-disciplinary project appraisal skills will be needed to research further the latent potential of the eastern seaboard and to establish that a comprehensive strategy for the area is a worthwhile undertaking in terms of the public benefits that may be achieved. Although the project team will draw on a wide range of in-house professional skills and local knowledge as far as possible, the team will also need to be supported by external advisers.
- 5.4 The SLPG considers that consultant teams tendering for this support work will need to demonstrate expertise and relevant experience in the following areas:
- Strategy formulation
  - Master planning and civic design
  - Economic analysis and costing including market appraisal and valuation
  - Civil engineering in a marine environment including land reclamation
  - Infrastructure development (ports, waste management and energy generation)
  - Transportation
  - Environmental appraisal
  - Conservation of the built heritage
  - Community engagement
  - Delivery of major projects including via public/private funding mechanisms
  - Presentational skills especially the effective illustration of options.
- 5.5 As part of joint working with the SLPG project team, consultants will also be expected to engage with States Members, the general public and the many stakeholders with an interest in the eastern seaboard so that there can be confidence that the strategic options that are generated take into account the full spectrum of local opinion. This emphasis on the importance of consultation reflects the advice summarised in Appendix 5 under ‘Consultation and Research’ and is intended to allay the sort of concerns described in paragraph 2.6 above.
- 5.6 Primarily, the consultants team will provide the SLPG with a Strategic Project Appraisal which:

- Specifies a series of practicable scenarios *including a 'do minimum' option*
- Describes the likely social, economic and environmental costs and benefits of each option using quantitative measures as well as qualitative assessments
- Assesses the risks and uncertainties of each option and the ability to manage them
- Identifies the options for procurement in each case and how the benefits of a particular scenario will be delivered particularly in terms of value for money for public investment.

The appraisal will also take into account the advice of HM Receiver General concerning the interests of the Crown in relation to the seashore and seabed bearing in mind that these areas are within Crown, rather than States, ownership.

5.7 In November, the SLPG reported back to the Policy Council that on the basis of the evaluation it had made so far, the following resources would be needed to progress the eastern seaboard and capacity studies projects concurrently:

- The consultancy input described above
- An additional specialist within the Environment Department's Forward Planning Team with expertise in the development and implementation of major projects.

In the same report, the SLPG reported that the Treasury & Resources Department had agreed to the creation of the new Environment post on the basis that the post holder would be appointed on a temporary four year contract.

5.8 The SLPG recognises that the preparation of capacity studies and review of strategic planning policy will rely heavily on the staff support that the Environment Department can provide; the Policy Council itself has a single member of staff working part time on strategic planning matters as just one of a number of other responsibilities.

5.9 When the present land planning policy framework was put in place in 1990/1 it was the product of several major studies and reports carried out by a UK consultancy firm. To carry out a review in-house will require a substantial commitment of Forward Planning staff resources at the same time as those staff are also needed to provide input to the Eastern Seaboard Initiative. This is in addition to the normal departmental work carried out by the Forward Plans Team. The SLPG considers that the recruitment of an additional, temporary specialist to assist with both the eastern seaboard project and the associated strategic review will be an effective way of enhancing existing capacity.

5.10 The group has estimated that a budget of £125K will be needed in order to pay for the consultancy work and for the *initial* employment of the Environment Department specialist during 2007 in addition to the residual funding still

allocated to the project. Only £3K of the original £50K has, in fact, been spent to date in obtaining the external advice referred to in this report but, as part of the Policy Council's budget cuts, the sum available for the project was reduced to £20K in 2006. A combined sum of £145K will be a very tight budget and it is only deemed to be adequate because of the large amount of work to be carried out in-house. It is yet to be tested by inviting tenders.

- 5.11 Although the Policy Council agreed by a majority to transfer unspent balances from its 2006 budget to fund the project, it was subsequently agreed that this decision and the recruitment of an additional staff member to the Environment Department, should be held in abeyance pending a report to the States on the Policy Council's intentions.
- 5.12 Due to the strategic nature of the role, it is anticipated that the new temporary post will be funded from 2008 onwards via the Policy Council budget although the post will be line-managed within the Environment Department. Members are asked to note that this cost will, therefore, be taken into account as part of the Council's bid for resources in future years.

## **6.0 Conclusions and recommendations**

- 6.1 Formulating realistic and viable scenarios for the future of the eastern seaboard is a major task that becomes even more challenging when placed in the context of reviewing the island's strategic planning framework. The Policy Council considers that extra resources must be applied in order to carry out this work successfully but that the cost of the assistance described in this report represents a reasonable and justifiable investment given the potential value that a well-conceived strategy may unlock in economic, social and environmental terms.
- 6.2 Although the immediate level of funding involved can be met via unspent balances in the Policy Council's budget, and does not, in itself, require States approval, the Policy Council only wishes to proceed further if it has properly informed States support to do so. The review of the strategic planning framework (including the present urban/rural split) will have to proceed, in any event, prior to the review of the Urban Area Plan.
- 6.3 If the States agrees that the project should go ahead, it is expected that a report setting out a spectrum of scenarios, including a do-minimum scenario, will be presented to the States by late 2007/early 2008. This assumes that a satisfactory consultancy team can be recruited and be available to start work without delay.
- 6.4 The Policy Council, therefore recommends the States to:
- (a) Agree that the Eastern Seaboard Initiative should proceed as outlined in this Report;

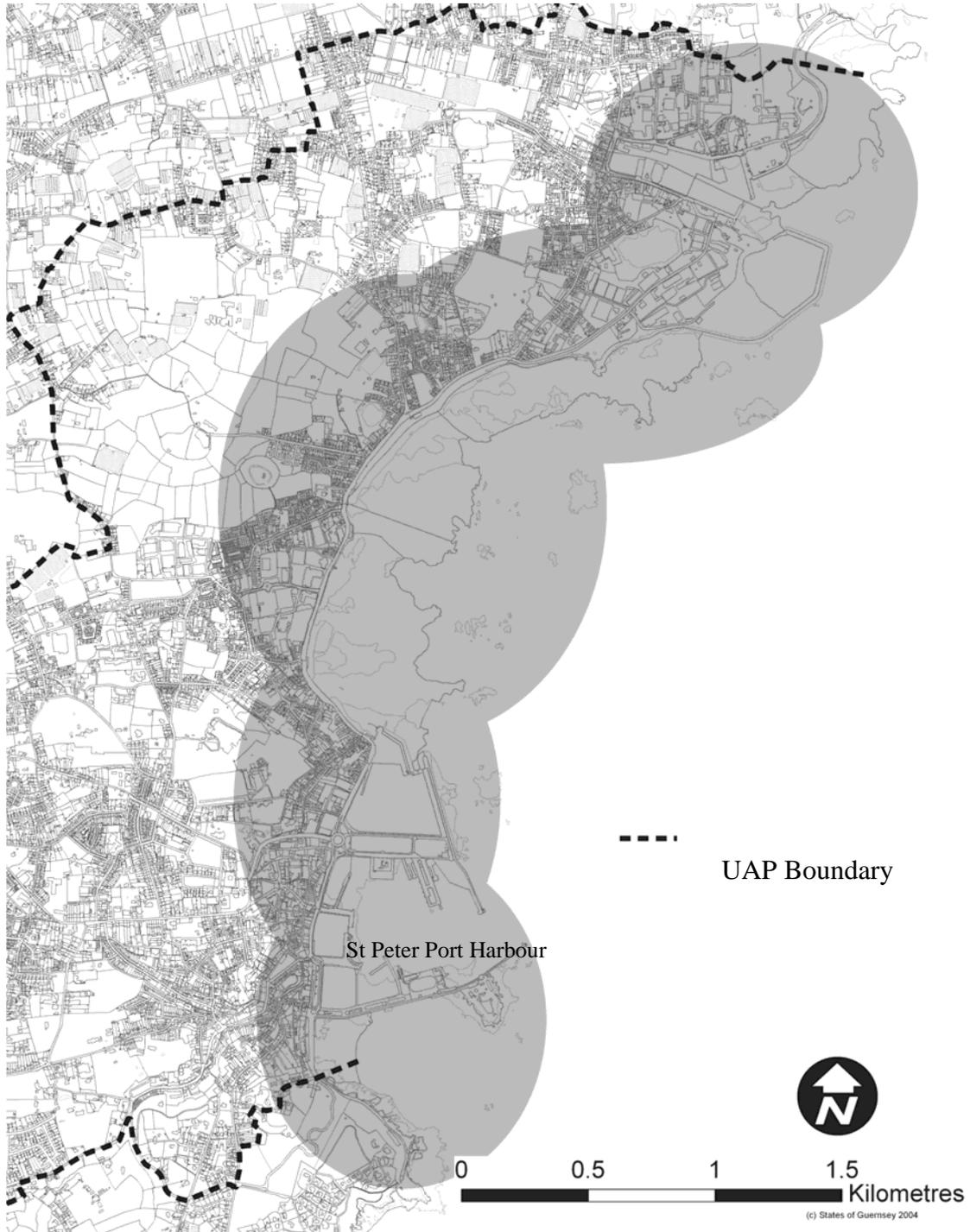
- (b) Agree that a report setting out a range of options/scenarios for the future of Guernsey's Eastern Seaboard be submitted to the States as soon as is practicable taking into account the need to consult widely and thoroughly with States Members, the general public and interested parties; and
- (c) Note the arrangements to be put in place to resource the project including the future commitment to fund the additional, temporary Environment Department post via the Policy Council's budget.

L C Morgan  
Chief Minister

22<sup>nd</sup> January 2007

**APPENDIX 1**

**ESI STUDY AREA**



## **APPENDIX 2**

### **REASONS FOR DEVELOPING A STRATEGY FOR THE EASTERN SEABOARD AT THIS TIME**

#### **The economy**

Guernsey is in the process of restructuring its tax system in a way that will greatly reduce the proportion of public revenue that is provided through corporate taxation. These changes will be enacted in 2008.

In order to minimise the adverse impacts of restructuring, the States wish to encourage a sustainable level of economic growth (this is a Government Business Plan Priority). Sustainability in the Guernsey context requires a particularly careful balance between the potential benefits economic development, the need for increased immigrant labour and pressure on very limited resources of land.

For much of its length, the east coast forms the seaward boundary to Guernsey's main urban centres: the towns of St Peter Port and St Sampson, including their port and harbour areas. Unlike many other places that have embarked on waterfront initiatives, Guernsey is fortunate that it is not being impelled to do so because of declining port activities and associated problems. The impetus is not the need for urban regeneration to tackle existing problems of dereliction and decay but to explore what greater unrealised potential the waterfront area may have to support continuing prosperity and well-being for the future particularly bearing in mind the challenge of achieving sustainable economic growth. This will include potential to enhance commercial and business activity in appropriate areas of the eastern seaboard and to support the Visitor Economy through the provision of better facilities (such as a cruise liner terminal, for example) and opportunities for leisure activities.

#### **Infrastructure**

In addition, the States is currently in the process of making major decisions about investment in major new infrastructure to treat and dispose of liquid and solid waste and, in the longer term, to protect against global warming (sea defences) and ensure the adequacy of port facilities (possible deep water harbour at St Sampson). A holistic appraisal of the east coast provides the opportunity to plan for new infrastructure in an integrated way and to explore the feasibility of cross-subsidising such projects through associated commercial development.

#### **Traffic and Parking**

The coast road linking St Peter Port and St Sampson is the island's most heavily trafficked route. It is particularly busy at peak commuting times reflecting Guernsey's very high level of car ownership (40,163 vehicles were taxed for private use as at 2005), but it also carries a lot of commercial traffic including port traffic.

In St Peter Port, the demand for long and short stay public parking is met largely by extensive surface car parks throughout the Town waterfront. Previous studies have explored the possibility of increasing parking capacity especially in the southern waterfront whilst reducing the visual impact of car parks generally.

Earlier attempts to resolve road transport and parking issues in isolation have demonstrated the need to identify solutions within the framework of a broader strategy.

### **Quality of Life**

In reviewing land use strategy and presenting choices to the States about the way that Guernsey might meet its development needs over the next 10 – 20 years, the SLPG is aware that the capacity of the urban area (as defined by the current boundary of the Urban Area Plan) will be affected by a future strategy for the eastern seaboard. For example:

- ❑ Land reclamation could provide new land for future development taking pressure off land elsewhere
- ❑ A traffic and parking strategy that enabled the St Peter Port waterfront to be more extensively used for public open space and recreation purposes could increase the overall attractiveness of living in town and off-set the effects of higher density development
- ❑ A co-ordinated approach to implement the existing St Peter Port Streetscape Strategy would enhance the appearance of the esplanades and harbours to the benefit of residents, businesses and visitors alike. This again, would add to the general amenity of town life
- ❑ Any development along the seafront will have consequences for road transport and traffic flows in the urban area generally.

### **Natural, Marine & Built Environments**

Guernsey's east coast waterfront and harbours include individual buildings, such as Castle Cornet, and broader areas/building groups that are of great importance to the built environment and cultural heritage of the Island.

Equally, Belle Greve and Havelet Bays and the remaining areas of natural coastline that front St Peter Port and St Sampson are part of the Island's natural and marine heritage and contribute to the long-established character of the seafront.

Along its length the eastern seaboard provides iconic and much-loved views out towards Herm, Jethou and Sark and back towards the island from off-shore.

In considering the potential for change along the eastern seaboard, it is vital that irreplaceable environmental assets are conserved and where possible, enhanced for the enjoyment of future generations. The Eastern Seaboard study provides the opportunity to look afresh at the environmental potential of the area and ways in which this may be optimised for the future.

## APPENDIX 3

### SUMMARY OF PREVIOUS REPORTS THAT ARE RELEVANT TO THE EASTERN SEABOARD STUDY AREA

This list gives an indication of the range of matters that have been the subject of studies and reports since 1990. The reports vary widely in scope from the comprehensive Urban and Rural Development Plans to studies of individual topics.

#### Planning

- **Urban Area Plan Review No1** approved by the States in 2002 and due for review in 2007. The UAP is a statutory Development Plan that provides for the main development requirements of the Island.
- **Outline Planning Brief for Longue Hougue Land Reclamation Site and Key Industrial Area** approved by the States in 2002. Sets planning guidelines for the future use of the reclaimed land and environmental standards for the development of an integrated waste management facility based on an Environmental Impact Assessment.
- **St Peter Port Streetscape Design Strategy** was produced by a planning consultancy on behalf of the Environment Department in 2003. It recommends ways of enhancing the public spaces in the central areas of Town including the waterfront.
- **Outline Planning Brief for Leale's Yard Mixed Use Redevelopment Area** approved by the States in 2004. The OPB is an addition to the Urban Area Plan that provides guidance for the development and area-wide environmental improvement of the Leale's Yard area. The Environment Department is currently in discussion with a developer to bring forward proposals for the site.
- **Outline Planning Brief for Belgrave Vinery Housing Target Area** approved by the States in 2005. The OPB is an addition to the Urban Area Plan that provides a framework for future housing development and environmental enhancement. In 2006, the States agreed that no further work should be undertaken on a masterplan for the site unless so authorised via the Corporate Housing Programme.
- **Rural Area Plan Review No1** approved by the States in 2005. The RAP is a statutory Development Plan that promotes the conservation and enhancement of the countryside. A small section of the eastern seaboard study area lies within the RAP boundary.

## Land Management

- **The Sustainable Management of the Guernsey Coastline** – a report to the Board of Administration in 1994 – Heritage Coast Forum.
- **Baseline Study for use in the development of a Biodiversity Strategy for Guernsey** prepared in 1996 by University College London. Identifies principal factors that affect biodiversity in Guernsey and addresses ways in which conflicts may be overcome.
- **Guernsey Strategy for Coastal Defence and Beach Management - Volumes I & II** . The strategy was prepared in 1999 and is currently being revised by a specialist consultancy in the light of the British Irish Council report in 2003 on Scenarios of Climate Change and Beach Level Survey data.

## Heritage

- **Feasibility of a new maritime museum** to house Guernsey's Roman ship and other historic wreck from Bailiwick waters based on a report in 2000.
- **Chateau de Marais Management Plan** approved in 2004.
- **Surveys prepared by the Guernsey Museum** in 2006 cover sites of archaeological interest and historical importance (bathing pools, slipways etc). A survey of underwater sites is currently in preparation.

## Harbours

- **Port Development at St Sampson's Feasibility Studies** carried out by specialist consultants in 1989/93 focusing on the development of sheltered deepwater berths at St Sampson's.
- **Development of St Sampson's Harbour** - various studies including Environmental Impact Assessments carried out by specialist consultants in 1991-3 considering the impact of deepwater berths, other port facilities, breakwater construction, and land reclamation. Also studies on the utilisation of reclaimed land.

## Highways and Traffic

- **Bouet MURA** - Highway Access Report 1994.
- **Guernsey Markets Redevelopment** - Traffic Management Study 1997.

- **St Peter Port Waterfront Strategy** – an overall highway and parking strategy for the waterfront of St Peter Port between the Halfway and Val des Terres which was produced in 1997/8 by specialist engineering consultants for the former States Traffic Committee.
- **Interim Junction Improvements Report** – recommending measures that might be taken to improve traffic management ahead of implementing a more comprehensive strategy, 1999.
- **Bouet MURA** – Traffic Impact Assessment 1999.
- **Bus Terminus** - Proposed Relocation Study 2002.
- **Parking in St Peter Port and Quayside Enhancement** – States Report by the Board of Administration 2002.
- **Parking in St Peter Port and Quayside Enhancement – Detailed Feasibility Studies and Identification of Concept Scheme.** A States Report by the Board of Administration in 2003 identifying the Fish Quay as the preferred location for basement and ground level parking (700 spaces).
- **Royal Hotel Site** – Traffic Impact Assessment Report 2003.
- **Bouet MURA/Admiral Park** – capacity assessment of Les Banques/Elizabeth Avenue junction 2004.

### **Solid Waste Disposal**

- **Solid Waste Strategy** adopted by the States in 1998. The Board of Administration led a working party to implement the strategy which identified Longue Hougue as the site for an integrated waste management facility (see Planning reports above).
- **Comprehensive Waste Strategy Assessment** for solid *and* liquid waste carried out between 2004 & 2007.
- **Various States Reports from 2004-7 subsequent to the approval of the Longue Hougue Outline Planning Brief** reflecting the States decision to reconsider building an Energy from Waste Plant and to seek tenders for other means of waste disposal in addition to incineration.

### **Liquid Waste Disposal**

- **Liquid Waste Disposal Strategy** – approved by the States in 1997 giving highest priority to the containment of pollution of the Island's ground and

surface water systems but recommending the implementation of a sewage treatment system within 5-10 years.

- **Plans to Implement the LWD Strategy** – considered by the States on the basis of various reports between 1998 & 2000 and involving improvements to the existing drainage network and a network extension programme.
- **Sewerage & Wastewater Treatment** – joint States Report from the Public Services and Environment Departments in 2006. The States noted the Departments' intentions to commence monitoring the impact of existing marine discharges (including those into Belle Greve Bay) before considering whether to undertake a full Environmental Impact Assessment and then to report back to the States.

## APPENDIX 4

### THE MANDATE AND MEMBERSHIP OF THE STRATEGIC LAND PLANNING GROUP

#### Mandate:

- a) To advise the Policy Council on matters relating to the development of strategic land use planning/spatial policy that is in accordance with the strategic economic, social and environmental policies of the States and that enables the Policy Council to implement the Corporate Agenda approved by the States.
- b) To base that advice on an integrated approach to land use planning that identifies a sustainable balance between the development of land to meet the needs of the community and the conservation and enhancement of the built and natural environment.

And to be responsible for:-

- ❑ The preparation and review of the Strategic Land Use Plan (currently designated as the 'Strategic & Corporate Plan' under the terms of the Island Development (Guernsey) Laws 1966 – 90)
- ❑ Advising the Policy Council on the compliance of proposed, statutory Development Plans and Planning Briefs with the current Strategic Land Use Plan
- ❑ Advising the Policy Council on the appointment of independent Planning Inspectors to hold Planning Inquiries into proposed, statutory Development Plans and Planning Briefs
- ❑ The promotion and co-ordination of major cross-departmental projects and initiatives where the achievement of corporate objectives, in spatial terms, requires sustained political leadership at Policy Council level.

#### Current membership of the SLPG

**Deputy Lyndon Trott** – Chair, Treasury & Resources Minister

**Deputy Bernard Flouquet** – Environment Minister

**Deputy Dave Jones** – Housing Minister

**Deputy Peter Sirett** – Culture & Leisure Minister

**Deputy Bill Bell** – Public Services Minister

**Deputy Carla McNulty-Bauer** – Deputy Commerce & Employment Minister

**Deputy Chris Brock** – States Member of the Environment Department

## **APPENDIX 5**

### **SUMMARY OF ADVICE RECEIVED BY SLPG**

#### **Considerations for the overall Guernsey waterfront strategy:**

- The benefits to be realised from the strategy need to be the firm focus of the project from the outset and it must be ensured that those benefits are delivered whatever the changing circumstances during the lifetime of the project.
- The strategy needs to take a long-term perspective that is sustainable over many years.
- It should be established that there is sufficient confidence and commitment locally to sustain the development of a major strategy over the long term.
- The strategy must give weight to the local context and make use of the island's heritage features.
- The States should require high standards of design throughout and take an innovative approach.

#### **Consultation and Research**

- Consultation should be undertaken based on some form of framework to which people could respond. For example, a series of possible scenarios.
- Determine the skills that need to be brought in from expert consultants.
- Commitment to consult and re-consult with the public and with stakeholders represents a key aspect of these types of projects but a very demanding one.
- Contributions should be invited from as wide a variety of stakeholders as possible, including the States, the private sector, special interest groups and the local public.
- Extensive research work during the early stages of the project across a range of environmental issues is likely to create greater overall certainty for any developers coming in at a later stage. Greater certainty promotes stronger investor confidence.
- The States should get as much information and advice as possible before committing to a strategy.

### **Project Management issues**

- Risk analysis is vital and needs to be done early on. Including the management of potential conflicts between different strategic objectives.
- A multi-disciplinary team to manage the project in a very positive and active way was recommended.
- Need to establish how the various levels of involvement in the project are to be managed productively.
- Delivering results incrementally and consistently builds confidence and trust in what the project can achieve.
- The relationship between port operations and security and other uses in the harbours must be carefully managed during the development and following its completion.

### **Integration into the existing town and use of the waterfront:**

- Integration between the waterfront area and the wider urban area is vital. There must be ease of movement between the two areas and people need to be drawn into the waterfront and positively encouraged to use the area.
- The SLPG should think holistically about the project and a broad range of uses should be encouraged to promote plenty of activity – not single-use areas that are ‘dead’ for much of the time.
- The strategy should consider the timing of uses throughout the day as well as the different groups of people using the area for different activities at different times, daily, weekly and seasonally.
- Including residential development in the mix of uses can keep the area alive.
- Criteria could be set for the *sorts* of business Guernsey wishes to attract to the waterfront area rather than targeting specific activities or firms.
- Any necessary transport infrastructure should be considered first even though this may mean front-loading the costs ahead of receiving a return from other aspects of the development.

**Pitfalls to avoid:**

- Poor consultation processes that do not adequately engage with people.
- Failure to make the most of heritage assets. A scheme needs to be authentically based on the distinctiveness of its location and build on genuine local assets.
- Guernsey should avoid building its strategy around standard elements.
- Uncoordinated decision-making. The waterfront strategy needs to be coherent with the wider plans i.e. SLUP, UAP & RAP.
- Inadequate risk management and contingency planning. A strategy must be resilient enough to adapt to changes in circumstance and unforeseen failures.
- Poor delivery mechanism – there must be a robust partnership mechanism to manage the implementation of the strategy over the long-term.
- Increasing the scale of development to please developers in response to commercial pressure, against the wishes of the community. It is essential that the project remains focused on the bigger, longer-term vision and not the aspirations of individual landowners or developers.

**(NB By a majority, the Treasury and Resources Department supports the proposals.)**

The States are asked to decide:-

X.- Whether, after consideration of the Report dated 22<sup>nd</sup> January, 2007, of the Policy Council, they are of the opinion:-

1. That the Eastern Seaboard Initiative should proceed as outlined in that Report.
2. That a report setting out a range of options/scenarios for the future of Guernsey's Eastern Seaboard be submitted to the States as soon as is practicable taking into account the need to consult widely and thoroughly with States Members, the general public and interested parties.
3. To note the arrangements to be put in place to resource the project including the future commitment to fund the additional, temporary Environment Department post via the Policy Council's budget.

**HOUSING DEPARTMENT  
HEALTH AND SOCIAL SERVICES DEPARTMENT**

AN INTEGRATED CORPORATE STRATEGY TO MEET  
THE ISLAND'S NEEDS FOR "KEY WORKERS"

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

13<sup>th</sup> December 2006

Dear Sir

**EXECUTIVE SUMMARY**

1. *This States Report outlines and summarises the outcome of a major review of the policies that apply to the recruitment and retention of "key workers", which was undertaken on behalf of the Housing and Health and Social Services Departments by an inter-departmental staff working group: the Key Worker Housing Group (KWHG).*
2. *The Report takes the form of a "green paper" consultation document, which the Departments recommend is debated under Rule 12(4) of the Rules of Procedure to enable the broad policy principles to be debated without amendment.*
3. *The issues identified by the KWHG are complex and far reaching, and, in some areas, require further detailed research. Consequently, before commissioning that research or making firm recommendations, the Departments wish to take into account the views of the States and to receive feedback from all interested parties, especially those "key workers" who would be directly affected by the implementation of possible new policy initiatives. This is an important next step and will be treated as a priority by the Departments after the States have debated these reports.*
4. *Effective resourcing of "key workers" is fundamental to the delivery of core public services as high staff turnover leads to increased recruiting costs, the loss of valuable skills and experience, and reduces continuity for those in receipt of these essential services. It is therefore very relevant to examine whether current public sector expenditure on providing accommodation, subsidies and relocation benefits are an effective way of assisting "key workers" with their housing costs.*

5. *The Working Group's research examined the complex interplay between at least four factors - **pay, the availability of various housing subsidies, the type of accommodation provided** and various **housing licence policies** - affecting the recruitment and retention of public sector "key workers"; it found that these factors affected different groups of "key workers" in different ways – both by design and by accident.*
6. *In particular it showed that while the States has, over the years, adopted policy measures **at departmental level** to assist "key worker" recruitment and retention, **those policies have never previously been looked at holistically or corporately**. As a result, they are being applied inconsistently across employing departments, without any consideration of how they may support or conflict with one another. Furthermore, such policies as exist vary both in their content and application between one department and the next, which reflects the fact that they have been developed in response to their individual operational needs rather than to serve the overall interests of the States. As a consequence, their effectiveness is called into question.*
7. *The Housing and Health and Social Services Departments have carefully considered the KWHG's research and support the 19 recommendations made in its report. The Departments believe that over time these recommendations will collectively address such disparities to deliver a **framework for an integrated corporate approach to meeting the Island's needs for "key workers"**.*
8. *As a result, the Report advocates that employing departments work together to ensure, where possible, consistency in the application of "key worker" policies across the States, in order to deliver the savings that have been identified.*
9. *With this in mind, the recommendations are intended to be adopted progressively, i.e. the specific arrangements operated by individual departments will not be changed until alternatives are in place that satisfy departmental needs.*
10. *The two Departments therefore present this green paper as a starting point for addressing the issues that have been identified, refocusing resources, and finding new and more effective means of using those monies currently spent on subsidising "key worker" accommodation. In particular it focuses in detail on those proposals that have the potential to deliver the most immediate efficiencies and revenue savings across employing departments, and puts forward a clear plan of action for achieving them.*
11. *The KWHG found that revenue expenditure on "key worker" recruitment and retention through housing subsidies and relocation expenses totalled in the region of £2.8 million per annum. It concluded that these were not cost-effective ways of recruiting and retaining "key workers".*

12. *In particular, the KWHG found that significant savings could be achieved by progressively phasing out the payment of housing subsidies and reducing the dependence on housing “key workers” in the private rental sector, instead providing dedicated rental accommodation for “key workers” through a specialist housing association. The use of States-owned land for such accommodation, with minimal ongoing subsidies from employing departments, would not only allow accommodation to be provided at rents affordable for “key workers” but generate significant revenue savings year-on-year. This report demonstrates that by applying this approach to a pilot project of 100 units of “key worker” housing there is the potential to save **£470,000 per year**; a significant reduction in the current costs of renting from the private sector.*
13. *The Capital Prioritisation report debated by the States in October 2006<sup>1</sup> included “key worker” housing as a priority only if revenue savings could be made. This Report shows that providing dedicated “key worker” accommodation through a housing association, would, it is believed, become “self-funding” as those monies currently expended by the different departments would no longer be ‘lost’ by renting privately. Rents received from “key workers” and any subsidy required by the States would be ‘recycled’ by a housing association for the provision of further housing for “key workers”.*
14. *However, while this early action may help to resolve the recruitment and retention issues of certain departments and specific groups of “key workers”, it may not be the total solution. This is because the KWHG is aware that those factors impacting on “key worker” recruitment and retention affect different groups of staff in different ways and, therefore, there is a need for a variety of solutions to cater for diverse “key worker” circumstances.*
15. *Accordingly, this Report outlines other measures that have been researched by the KWHG to address recruitment and retention issues; namely, the possibility of offering equity loans for house purchase; possible modifications to the application of Housing Control licensing policies; and consideration of the effectiveness of increased remuneration.*
16. *It is concluded that increased remuneration across the board would be prohibitively expensive and have limited impact on improving recruitment and retention, albeit it may be effective if, as now, it is targeted appropriately.*
17. *Housing licence policies are acknowledged to have an impact on recruitment and retention, but the impact is shown to vary from department to department, and between different groups of staff. The Report therefore recommends that such policies be reviewed in more detail in the context of the new States strategic population policy, which applies to both public and private sector employment.*

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<sup>1</sup> Treasury and Resources Department - Capital Prioritisation - Billet d’État XVII 2006.

18. *Finally, timescales and lead departments for progressing the various recommendations are proposed. The Housing and Health and Social Services Departments will report back to the States in March 2008, earlier if feasible, based on the feedback received and the further investigations recommended, which include essential consultation with “key workers” themselves. This will provide the opportunity to inform the States of the progress that has been made, to update on those areas that require further research or commitment, and to make firm recommendations on the new measures identified as having the potential to make significant cost savings.*

## **INTRODUCTION AND BACKGROUND**

*(Paragraphs 1 to 37 of the Working Group’s report)*

19. It is generally acknowledged that Guernsey does not have sufficient people with the appropriate skills and experience to staff fully its essential public services. As a consequence, it needs to attract staff without residential qualifications to work in healthcare, to police its streets and to teach its children. This is further exacerbated by the fact that there are national and international shortages of some professional staff required to service Guernsey’s Health, Education and Home departments.
20. In March 2005, a cross-departmental working group, the Key Worker Housing Group, was established to ensure that all departments involved in recruiting and accommodating “key workers” were able to contribute to a review of current policies and procedures.
21. The Working Group comprised representatives of the following departments:
- Housing
  - Health and Social Services
  - Treasury and Resources (Strategic Property Unit)
  - Home
  - Education
  - Environment
  - Public Sector Remuneration Committee
22. The Group’s Terms of Reference, which are set out below, were agreed by all departments concerned at political level:
- *Defining the term key worker, taking into consideration the limitations of this definition.*

- *Enhancing the ability of the States to recruit and retain local and, where necessary, non-local “key workers” in priority public services.*
  - *Addressing the inequalities between residentially qualified and non-residentially qualified persons in respect of meeting housing costs.*
  - *Taking into consideration the three interrelated issues of a) key worker housing provision and funding, b) housing licence policies and c) remuneration packages.*
  - *Rationalising and enabling more cost-effective expenditure on housing subsidies/the provision of staff accommodation to support such recruitment and retention initiatives.*
  - *Integrating the provision of “key worker” accommodation with other initiatives to meet the housing needs of those on modest incomes (the “intermediate housing market”) without creating further imbalance in the market.*
  - *Developing a blueprint that can be applied corporately across all stakeholder Departments.*
23. The intention was to enable the Housing and Health and Social Services Departments to fulfil a commitment made under Action Area C of the Corporate Housing Programme ‘*to produce a green paper on key worker housing and related issues for consideration by the States.*’<sup>2</sup>
24. On behalf of those two departments, the KWHG has investigated the policies that currently apply to the provision of accommodation for “key workers”, together with those that apply to housing licences and pay for such staff. Much time has been spent collecting and analysing data in order both to evaluate these policies and to inform future policy-making.
25. **The findings of the Working Group and possible options for addressing the current situation are summarised in its report, which has been published separately.**
26. Frequent reference is made to this report in this green paper, as it details extensively the research that has been undertaken and the financial modelling that has informed the Working Group’s recommendations.
27. The Working Group’s report shows that there is a complex interplay between at least four factors - **pay, the availability of various housing subsidies, the type of accommodation provided** and various **housing licence policies** - that affect

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<sup>2</sup> Corporate Housing Programme – 2005 Action Plans - Billet d’État XXIII 2004.

the recruitment and retention of public sector “key workers”; and that these factors affect different groups of “key workers” in different ways – both by design and by accident.

28. While the States has, over the years, adopted policy measures at **departmental level** to assist recruitment and retention, **those policies have never previously been looked at holistically or corporately**. The Working Group points out that housing, population and remuneration policies have been developed independently of each other, without any consideration of how they may support or conflict with one another. Furthermore, such policies as exist vary both in their content and application between one department and the next, which reflects the fact that they have been developed in response to their individual operational needs rather than to serve the overall interests of the States. As a consequence, their effectiveness is called into question.
29. **The Housing and Health and Social Services Departments have carefully considered the KWHG’s research and support the recommendations made in its report. The departments therefore present these findings and recommendations to the States as a green paper. This paper is, in effect, an executive summary of the Working Group’s report, which has been prepared in order to guide the thinking of the States on the issues involved so that further actions, as recommended by the Working Group, can be agreed.**
30. Whilst this report will touch upon all of the Working Group’s recommendations, it will deal with those in detail that are fundamental to the understanding of the issues and those that propose tangible actions to address some of the concerns that have been identified. It also draws attention to the proposals that have the potential to deliver the most immediate efficiencies and revenue savings across the States and recommends a plan of action for achieving these aims.
31. **The ultimate aim is to facilitate an integrated and corporate approach to meet the Island’s needs for “key workers”, that ensures that all States’ departments offer appropriate relocation and accommodation options to those key staff recruited off-Island.**
32. **The Departments concur with the Working Group that by addressing the issues in this way, there is the potential to realise significant savings in the long-term, ensuring the most cost-effective use of States’ resources.**

#### **THE REVIEW** (*Paragraphs 1 to 37 of the Working Group’s report*)

##### **The definition of a “key worker”**

33. The KWHG considered the question of “*Who is a key worker?*” in the Island very carefully. It found it difficult to agree on a definition, but decided to concentrate on the policies in place affecting employees who:-

- Deliver a frontline public service; and
  - Are in receipt of incomes that do not enable them to afford to buy or rent in the general housing market; and
  - Where the recruitment and retention of staff has proven to be difficult; and
  - Are in possession of specialist/professional skills, qualifications or experience.
34. There is no dissent therefore that qualified nurses, teachers and Police Officers are examples of workers that fall into this category. The KWHG however has also decided to add the accommodation needs of some other health care staff, child care workers, and Prison and Probation Officers as priority groups. Further rationale for including these specific occupations – and excluding others - is summarised in **paragraphs 38 to 91** of the Working Group’s report.

**KWHG Recommendation 1 – that the States adopt the definition of “key worker” set out above.**

**Demand for “Key Workers”**

35. The Working Group has pointed out that there is likely to be a greater demand for “key workers” in the coming years, through a continued labour market imbalance and due to a tendency towards increasing specialisation in all aspects of the labour market.
36. It was also noted that, in response to the changes to the Island’s fiscal regime, the States has agreed actively to promote economic growth, whilst robustly controlling public expenditure with only modest annual increases. However, in achieving the economic growth desired and, if a number of higher paid jobs are created, this could create a further imbalance in the supply and demand of “key workers”, especially those with residential qualifications.
37. The Working Group also accepted that “key worker” positions are becoming increasingly competitive both nationally and worldwide.
38. **It is thus highly unlikely that the Island’s needs for “key workers” will be reduced in the short- to medium-term. Indeed, unless economic growth is managed very carefully, the very opposite is likely to be the case.**

**KWHG Recommendation 2 – that the States acknowledge that the Island’s need for “key workers” is likely to grow, not diminish, in the short- to medium-term, which has manpower and budgetary implications for the employing departments.**

39. In reaching this conclusion, the Working Group acknowledged that the draft Government Business Plan (Policy and Resource Plan 2007)<sup>3</sup> had, as a fundamental priority, the containment of public finances while maintaining economic growth. However, the Plan also acknowledged that public sector services should be maintained at standards appropriate for a modern society. In further refining the Government Business Plan the States will therefore have to determine to what extent it may accommodate these apparently conflicting objectives in respect of the likely increased need for “key workers”.

## **THE DIFFICULTIES OF RECRUITMENT AND RETENTION**

*(Paragraphs 38 to 157 of the Working Group’s report)*

### **Current policy and practice**

40. The KWHG spent much time collecting and analysing data from employing departments, in order to determine the extent of the problems that arise from the plethora of current policies. (The Working Group’s data collection exercise is described in detail in **Appendix D** of its report.)
41. It became apparent that a number of existing policies affect the recruitment and retention of public sector “key workers”. They include internal factors (i.e. States’ policies) and external factors, which often work together to hamper recruitment and retention. They are explored further below:-
- It is generally considered that Guernsey has a relatively high cost of living<sup>4</sup>: Staff recruited from outside the Island therefore need to be paid enough money to be able to afford to live in the Island - **a remuneration issue.**
  - High housing costs are believed to act as a deterrent to the recruitment of “key workers”, with the result that housing subsidies of various kinds are paid to incoming staff (but not to residentially qualified individuals who may be doing the same or similar jobs) for limited periods of time - **a housing issue and a remuneration issue.**

Such policies designed to meet the housing needs of incoming “key workers” are applied inconsistently between departments. These policies can be subdivided into: -

- Relocation policies, including removal expenses; air/boat fares for house hunting trips and relocation; Rent Allowance; and Housing Benefit.

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<sup>3</sup> Policy Council – Government Business Plan (Policy and Resource Plan 2007) Billet d’État XIX 2006.

<sup>4</sup> Oxford Economic Forecasting proved that this was not necessarily accurate. Households with incomes of £20,000 or more were shown to have the same costs of living as their UK counterparts (taking into account UK Council Tax, the availability of tax relief on all mortgage interest in Guernsey, differentials in social insurance contributions, the absence of VAT in Guernsey, etc.)

Housing Benefit and Rent Allowance are, broadly speaking, given to employees coming to the Island to work for the States, if a position cannot be filled locally. An individual can be eligible for both benefits.

These benefits are not generally available to locally qualified individuals already living in the Island. (The Relocation Directive for Established Staff [civil servants] is attached as **Appendix G** to the Working Group's report.);

Slightly different schemes apply to the Police, teachers and nurses, who are not Established Staff, but employed on different terms and conditions of service. (These are also described in **Appendix G** of the Working Group's report.)

- Provision of States-owned accommodation which is let to employees at a subsidised rent.

Controls on occupation do not generally apply to properties owned by the States; housing licences are, therefore, not required for nurses living in Health and Social Services Department accommodation.

This accommodation is let to employees at a rent which, in most cases, is significantly less than the rent which would be charged if the property was being let commercially.

- Provision of States-leased accommodation which is re-let to employees at a subsidised rent (significantly less than if the property were to be let commercially).

The States also leases accommodation from the private sector, which is re-let to staff at a reduced rent, i.e. the employing department pays the difference between the commercial rent and the actual rent paid by the employee which is set by the department.

**Almost without exception, the actual rents paid by “key workers” do not cover the costs of providing this accommodation, whether directly or indirectly.**

- People recruited on housing licences are only able to occupy accommodation of a rateable value related to their remuneration package, the objective being to safeguard local market housing for Islanders (see **Appendix E** of the Working Group's report): this may provide a further deterrent to the recruitment of “key workers” - **a population policy and a housing licence issue.**

- The Home Department’s policy on work permits also affects the recruitment and retention of “key workers” (see **Appendix F** of the Working Group’s report).
- The application of States’ population policies limits the length of time a “key worker” may remain in employment in the Island, deterring some people from accepting job offers and requiring a number to leave Guernsey when their preference (and that of their employer) would be to remain - **a population policy and a housing licence issue.**

Since the early 1990’s there have been fewer 15-year licences available for “key workers” compared with preceding years. This is likely to have had a negative impact on staff retention, by increasing turnover for those on 5 year licences and arguably making jobs less attractive in the first place.

However, whilst the term of the licence may have reduced since the 1990’s, there have been increases in the number of licences issued to “key workers” over the period 2001-2005. Indeed, the number of ‘live’<sup>5</sup> essential employment licences for the Education sector increased from 133 in 2001 to 204 in 2005, and for the Health sector, the increase over the same period has been from 162 to 231. (NB These figures include some licences issued to the private, as well as the public, sector.) This confirms that there are more people working in these essential public services under licence than ever before.

- Accommodation policies differ between departments and between different types of “key worker”.

The results from the KWHG’s data collection exercise largely reflect the uncoordinated policies that are in place across the States with regard to meeting the accommodation needs of “key workers” i.e. some Education and Health and Social Services Department staff are offered States-owned or States-leased accommodation, an option that is not available to Home Department staff. “Key workers” are therefore treated differently depending on who is their employing department.

The policies also include a mix of direct provision and management of specific accommodation, the ownership and leasing of properties, through to the provision of subsidies for employees renting or purchasing privately. These policies are characterised by their lack of uniformity, their discrimination in general in favour of licence holders (and for those for whom accommodation is directly provided by the employing department),

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<sup>5</sup> A “live” licence means that the post holder was living in Guernsey on a housing licence as at 31 March in the year in question. “Live” licences are a better measure of population numbers than numbers of licence issued because the latter take no account of people who have left the Island for whatever reason, including the expiry of a licence.

and their overall lack of coordination States-wide, which results in inefficient duplication of administration.

It also became evident that staff employed by the same department were being treated differently. For example, a nurse living in Health and Social Services Department accommodation would currently be treated very differently to a nurse who is a tenant of the Housing Department or the Guernsey Housing Association in terms of the assessment of the rent they pay.

42. In light of the above, the States is asked to agree:

**KWHG Recommendation 3 – that, as far as possible, there should be consistency in the treatment of “key workers” across the States, regardless of who is their employing department.**

**KWHG Recommendation 4 – that department-specific policies that depart from the corporate strategy should have an explicit rationale and be evidence-based.**

43. *Employing departments will be encouraged to develop a consistent approach to “key worker” recruitment and retention, as appropriate, as soon as possible. This will be driven through their ongoing participation in the KWHG.*
44. The Working Group also noted that “key worker” policies that apply only to staff recruited off-Island have an effect on locally residentially qualified employees that are not entitled to the same benefits, e.g. the ineligibility for assistance with housing costs was shown to affect morale. Recommendation 17 (in paragraphs 167 to 175 of this paper and **paragraphs 364 to 373** of the Working Group’s report) addresses this in more depth.

#### **What did the data collection exercise reveal?**

45. Before considering the findings of the data collection exercise, it is important to note its limitations and to raise a note of caution with regard to drawing conclusions from the data.
46. The Working Group was only able to investigate the profile of leavers for 2004, which meant that for many employee groups the number of leavers was too small to draw any statistically meaningful conclusions. Recommendation 18 (outlined in paragraphs 176 to 180 of this paper and **paragraphs 374 to 376** of the Working Group’s report) aims to address the issue of data collection by establishing a corporate system for recording recruitment and retention information to ensure that “key worker” policies are targeted appropriately in the future.
47. The data collection exercise did however reveal that the Home Department was experiencing minimal difficulties recruiting Customs Officers and Firefighters

and had no requirement for housing licences. These occupations were excluded from further analysis by the Working Group. In addition, as all holders of employment-related housing licences had been with the Probation Service for less than 3 years, it was also difficult to evaluate the effect of relocation packages and housing licence policies without a longer series of historic information. They were therefore also excluded.

48. The key conclusions emerging from KWHG's limited analysis of the problems faced by employing departments at the time the study was undertaken is outlined below. The findings are described in full in **paragraphs 38 to 91** of the Working Group's report.

- The length of housing licence granted was not a significant factor in the recruitment and retention of **Police Officers**.
- The expiry of Rent Allowance/Housing Benefit might have been a factor that encouraged a number of **Police Officers** to leave Guernsey in 2004.
- Salary level may have been a factor in the recruitment and retention of **Prison Officers**, as 4 posts were offered but refused, on the grounds of low salary.
- The expiry of Housing Benefit/Rent Allowance was not a deterrent for many (but not all) **teachers/lecturers** remaining in the Island (although it may have encouraged them to come to the Island in the first place.)
- Over 66% of licence holders who were **teachers** either stayed for the full 5 years of their licence, or obtained/extended their housing licence or became residentially qualified.
- The expiry of a housing licence did appear to be a factor affecting the retention of **teachers/lecturers**. The view of staff from the Education Department was that many **teachers** on a 5-year licence would like to stay for longer if they were able. 36 housing licences were required by the Education Department in 2004, so considerable effort was required to keep the Island's schools staffed.
- Around 10% of **nurses** left before completing two years' service (100 in 2004), representing 50% of all leavers (even though the Health and Social Services Department awards nurses a retention bonus of £3,000 upon completion of two years' service.) Anecdotal evidence however suggests that many qualified nurses who come to the Island have no intention of staying for more than two years; they wish to gain experience before moving up the career ladder.

- The provision of housing subsidies and housing licences (or lack of) do not appear to be the main/only factors behind the difficulties experienced when recruiting and retaining **nurses**.
  - The rents being charged for accommodation in the different properties owned or leased by the Health and Social Services Department also means that “key workers” are being treated inconsistently, i.e. “key workers” pay different rents for similar types of accommodation with comparable facilities.
49. The Health and Social Services Department, unlike the other employing departments, is not reliant on housing licences for “key workers”; it is able to accommodate many of its staff – predominantly nurses – in States-owned accommodation for unlimited periods of time. While the problems experienced by Health and Social Services in respect of housing licences replicate those experienced by other departments, **the greatest retention problem – by some considerable distance – concerns those nurses that are housed in accommodation which it manages itself.**
- Out of 198 nurses who left in 2004, 133 lived in the Department’s own accommodation and paid a ‘reduced’ rent. These staff were not eligible to receive Housing Benefit/Rent Allowance to live in the private sector and, under existing policy, were not eligible for a housing licence to live outside Health and Social Services Department accommodation.
50. Despite having unlimited residence in Health and Social Services’ accommodation, there is a considerable turnover of employees, compared with those who are residentially qualified or live in the community under some form of housing licence (living as a spouse/partner of another licence holder) in which turnover is halved. Housing licenses available to senior nurses and those nurses relying on a spouse/ partner’s licence show greater stability.
51. This suggests that extending housing licences will not necessarily solve the problem of staff turnover; nor will providing accommodation at below market rents, **as it is the type of housing provided that is the main cause of high turnover.**
52. **Put another way, it is primarily the form of the accommodation, acting in conjunction with housing licence restrictions, that determines the kinds of nurses that are recruited and that, in turn, determines their probable length of stay.**
53. The Health and Social Services Department also suggest that limited access to “family friendly” working practices for those “key workers” recruited off-Island living in the Department’s own accommodation or in the community on a housing licence, restricts the pool of labour from which the Department can recruit. For example, housing licences are not normally available to part-time

workers, whereas a local nurse can request a change in hours or even a period of unpaid leave.

54. More information about these issues can be found in **paragraphs 92 to 157** of the Working Group's report.

**Financial assistance given to "key workers"**

55. Housing Benefit and Rent Allowance are schemes for assisting "key workers" with their accommodation costs and generally only apply to non-residentially qualified staff relocating to Guernsey (with the exception of returning teachers employed by the Education Department, and under certain circumstances, returning locally residentially qualified health and social service professionals.) Substantial sums are spent on these benefits. (Further details of these schemes are provided in **Appendices G and H** of the Working Group's report.)
56. **In 2004, Rent Allowance, Housing Benefit, plus indirect/hidden subsidies given to employees living in States-owned/leased accommodation, cost at least £1,795,618 (for the posts included in this report).**
57. These costs are broken down in table 1 below:

**Table 1 - The cost of providing relocation benefits to "key workers"**

<b>Employing Department</b>	<b>Assistance given to "key workers"</b>	<b>2004 figures - £</b>
<b>Police</b>	Housing Benefit & Rent Allowance	66,806
<b>Probation Service</b>	Housing Benefit & Rent Allowance	12,057
<b>Education Department</b>	Rental subsidy*	79,200
	Housing Benefit & Rent Allowance*	259,514
<b>Health and Social Services Department</b>	Rental subsidy	754,657
	Housing Benefit & Rent Allowance	623,384
<b>Sub-total of allowances paid across employing departments</b>	Rental subsidy	833,857
	Housing Benefit & Rent Allowance	961,761
<b>TOTAL RELOCATION ALLOWANCES PAID</b>		<b><u>1,795,618</u></b>

\* The subsidies paid by the Education Department include those received by returning locally qualified staff.

58. In addition, for the six months January to June 2005, for the Health and Social Services Department's staff, teachers and Police Officers (including the cost of staff time except for Health and Social Services) it is estimated that **£553,418 was spent on other expenses associated with recruitment, interviews and other relocation expenses, e.g. house hunting visit, removals.**
59. This suggests that **on top of Rent Allowance and Housing Benefit**, an additional amount in excess of **£1m per annum** is spent on the **recruitment and retention of Health staff, Police Officers and teachers.** (The other Home Department "key workers" [e.g. Probation staff and Prison Officers] have not been included in the analysis of other expenses, as the number of staff involved is much smaller.)
60. **The total financial assistance provided to "key workers" in the forms of Housing Benefit/Rent Allowance (using the 2004 figure of £1,795,618 above) and other relocation expenses (using the 2005 figure of approximately £1 million) is therefore in the region of £2,800,000 per annum.**
61. **The KWHG concluded that Housing Benefit/Rent Allowance is not the most cost-effective way of providing a subsidy to "key workers" for accommodation.**
62. Recommendation 16, discussed in paragraphs 164 to 166 of this report, considers the future of Rent Allowance and Housing Benefit and proposes that they are *progressively* phased out through the provision of alternative, more cost-effective means of providing "key workers" with affordable accommodation.
63. More information can also be found in **paragraphs 92 to 157** of the Working Group's report.

## **POSSIBLE SOLUTIONS**

*(Paragraphs 158 to 357 of the Working Group's report)*

64. The Working Group believes that maintaining the status quo is not an option, as doing nothing:
- will perpetuate the gross inefficiencies and policy contradictions that apply to the recruitment and retention of "key workers";
  - will not help "key workers" to access accommodation they can afford or that is suitable for their needs;
  - will not achieve a corporate policy on assisting "key workers" with meeting accommodation costs that sits comfortably within the States Housing Strategy and Corporate Housing Programme; and

- at a time when States' finances are under pressure, will not reduce the costs associated with staff turnover.
65. Therefore, the KWHG's report outlines three possible options to assist with the recruitment and retention of "key workers"; namely:
- **Increased remuneration;**
  - **Changes in housing licence policy; and**
  - **Accommodation/housing market intervention options.**
66. The Working Group believes that the solutions considered in detail below represent a positive means of addressing those problems that were identified as having an affect on the recruitment and retention of "key workers". They are presented in this green paper and in **paragraphs 158 to 260** of the Working Group's report, with further recommendations for future actions.

### **Increased remuneration**

67. Pay is often cited as a major reason why it is difficult to recruit and retain staff in key public sector posts. Over the years, employing departments have consistently argued that pay increases for "key workers" should not be dismissed too readily.
68. The Working Group however noted that:
- Only in recent years (the last 10) had there been widespread problems with the recruitment and retention of "key workers"; but
  - In general terms, the pay of the majority of public sector "key workers" had been well above RPI during this period.
69. The Working Party also noted that the cost of borrowing money (interest rates) has also been low, with a current base rate of 4.75%<sup>6</sup>, which means that, perhaps surprisingly, the affordability of house prices is actually better than in the early 1990's (source: 2005 Sustainable Guernsey).
70. Analysis of "key worker" rates of pay and housing affordability can be found in **paragraphs 158 to 173** of the Working Group's report, where it is explained that – whether rightly or wrongly - concerns over pay are related to the high cost of living in Guernsey, of which housing is a major element.

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<sup>6</sup> Bank of England base rate in October 2006.

71. The Working Group considered the number of people defined as a “key worker” earning below £35,000 per annum (+/- £2,000 and excluding overtime) and discovered that there were approximately **1,400** employees of the Home, Education and Health and Social Services Departments that earned less than this threshold figure. (£35,000 was chosen as those staff that earn less than this are the target of housing support provided by the NHS in the UK (NHS Housing Initiative Guidance, 2003.))
72. It was noted that a 1% pay rise would give a teacher, Police Officer or nurse an extra £4 to £7 per week. This would be an expensive option for the States and would be unlikely to make a difference to housing affordability, but would benefit many staff who already own their own properties.
73. It is also important to note that because most groups of “key workers” - Nurses, Medical Consultants, Police Officers, Firefighters and Prison Officers - have agreed pay and conditions packages formally aligned to those of their UK counterparts. This means that for those posts specified above, a Guernsey “key worker” will receive a pay and conditions package which is comparable to a “key worker” in a similar role in the UK.
74. Nevertheless there were concerns within the KWHG that for some groups of “key workers” pay had not moved far enough ahead of inflation to assist with their recruitment and retention, and a perception that the remuneration offered to a “key worker” was not sufficiently attractive to encourage a potential employee to relocate to the Island for a relatively short period of time.
75. What is less contentious is that the Working Group believes that the recruitment and retention of “key workers” has become more difficult for the following reasons:
- There is an imbalance in the market between the supply and demand of labour;
  - There is a greater demand for “key workers” as economic growth has led to population growth;
  - There have been concurrently some chronic national and international shortages of specialist staff e.g. mental health nurses, modern foreign language teachers, which is reflected in Guernsey; and
  - There has been an increase in the average price of houses/average earnings ratio<sup>7</sup>. Twenty-five years ago the cost of a fairly typical (modest) family

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<sup>7</sup> Due to low interest rates, however, house prices are actually more affordable in 2004 than they were in 1981 or in the early 1990’s (source: 2005 Sustainable Guernsey). Mike Parr’s report into the Operation of the Housing Market in Guernsey in February 2003 (Billet d’État II, 2003) said that although in historic terms current average prices, both nominal and real, are at a high as measured by the standard price/earnings ratio, the fall in nominal interest rates has meant that on average property is still affordable.

home was 3/4 times the salary of a schoolteacher; now it is about 10 times the salary (possibly more) (albeit that this is offset by the low cost of borrowing as referred to above).

76. These factors far outweigh that pay for Guernsey “key workers” has never been higher in real terms, and cast doubt upon using increased remuneration as a means to enhance recruitment and retention.
77. **Consequently, the Working Group believes that increasing pay *across the board* for “key workers” is not an option.**
78. **However, it is of the view that pay could continue to be used to address particular recruitment and retention “hot spots”, and that pay rates must be competitive: (i) in the local labour market; and (ii) in comparison with employing authorities elsewhere from which staff are sourced to work in Guernsey.**
79. Further work is however needed to establish the particular “key worker” groups to which this would apply.

**KWHG Recommendation 5 – that the Public Sector Remuneration Committee continue to give serious consideration to the pay of particular groups of “key workers” or staff with specialist skills that are proven to be in short supply in the UK or internationally, as a means of addressing identifiable recruitment and retention difficulties, as part of its normal pay determination process.**

### **Changes in housing licence policy**

80. The Housing Control Law supports the States’ population policy and is focused on maintaining sufficient housing stock for the resident population. Housing licences are therefore a strategic tool to control occupation of the local housing market and to act as a population control measure. The Housing Department has a number of long established policies in respect of the granting of licences to certain public sectors, which are outlined in **Appendix E** of the Working Group’s report.
81. Full discussion of the implications of housing licence policy on the recruitment and retention of “key workers” is outlined in **paragraphs 174 to 247** of the Working Group’s report. The implications of such policies need to be considered in the broader context of:
- States’ policy that limits the majority of essential licences to 5 years; and
  - The requirement for those staff recruited off-Island to occupy housing of a **rateable value** related to their remuneration package. (This can limit property choice and is argued may provide a further deterrent to the recruitment of “key workers”.)

82. As briefly summarised below, housing licence policies present different challenges to different employing departments:

- The length of housing licence granted would not, at the present time, appear to be a significant factor in the recruitment and retention of Police Officers;
- Housing licences are also not the only or main factor affecting the recruitment and retention of nurses; and
- Housing licences are a factor affecting the Education Department’s ability to recruit and retain staff. Rateable value policies also restrict the Education Department attempts to attract staff to the Island.

83. **From the Working Group’s research, it is undeniable that while housing licence policies do have implications for “key workers” they are by no means the only factors that influence their recruitment and retention.**

84. Nevertheless, a number of possible options for changes in policy have been identified; namely:

- Allow “key workers” to stay in the Island for an unspecified period of time, whilst they remain in their post of essential, or “key worker”, employment;
- Instead of limiting essential licences so that such licence holders do not reside in Guernsey for more than 5 consecutive years, consider issuing essential licences for longer periods of residence, such as 7 years where appropriate;
- Consider greater flexibility with regard to short-term licences and/or consider extending short-term licences to up to 5 years<sup>8</sup>;
- Devolve decisions regarding housing licences to the employing departments;
- Allow “key workers” to reside in dedicated “key worker” accommodation provided that they remain in their post of employment;
- Explore the option of providing longer licences to individual households where two or more “key workers” reside;
- Review the level of qualifications that “key workers” require to be classed as essential, with particular reference to care staff; and

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<sup>8</sup> These licences are issued for periods up to 3 years and have mandatory breaks in residence upon their expiry. Licence holders are not permitted to house dependants under these licences, which are issued for accommodation that is not self-contained.

- Review the policy of restricting properties that licence holders can inhabit according to the rateable value so that licence holders are directed to a particular part of the market and properties of lower value are kept for local residents.
85. The majority of the suggestions set out above would represent significant policy changes, the full consequences of which have yet to be examined in detail.
86. Furthermore, it must be noted that in January 2007, the Policy Council placed before the States a new Strategic Population and Migration Policy. Arising from this is a requirement for the Housing Department to review the Housing Control Law and the policies governing its administration.
87. Licences for “key workers” need to be given further consideration as part of these reviews. Consequently, even if the options listed above find favour with States’ departments, States Members, “key workers” and members of the public, **it would be inappropriate to make any firm recommendations for definitive action at this stage.**
88. However, these suggestions will not be ignored as they form a core element in the integrated “key worker” strategy that the Working Group recommends the States to adopt.

**KWHG Recommendation 6 – that the Housing Department review all the options for modification of housing licence policies in relation to “key workers”, in liaison with the employing departments, as part of the review of the Housing Control Law.**

89. *The Housing Department is committed to reviewing the Housing Control Law and will report back to the States in a separate report by the end of 2007.*

**Accommodation/housing market intervention options**

90. The following options are those that the Working Group believes can achieve the most significant improvements to current policy. This part of the green paper also establishes what the KWHG believes is reasonable for “key workers” to pay for accommodation and sets a threshold maximum salary to help to ensure that those “key workers” most in need of assistance are the target of the initiatives described.
91. **As will be discovered, the following options have the potential to deliver considerable long-term savings and efficiencies across employing departments.**

### **Private rental accommodation: problems with the current situation**

92. The Health and Social Services Department currently houses around 15% of its staff in 312 units of staff accommodation in 32 different locations in the Island.
93. It leases-in 123 of these units to house some of its “key workers” and subsidises this accommodation by charging its staff less than the rent being paid to the private landlord. This situation has arisen because, as a matter of policy, it is considered that those staff living in these privately-leased units cannot be expected to pay more rent than those residing in the Department’s directly managed accommodation.
94. **The lease costs paid to the private sector for this accommodation is £636,000 per annum. The Department however only receives rental income from its “key workers” of £328,000 per annum. This represents a shortfall or cash-loss of £308,000 per annum (or an effective States’ subsidy averaging £209 per key worker per month). This equates to a ‘loss’ of nearly £14 million over 45 years; the period over which housing development schemes are typically assessed.**
95. Renting properties from private landlords and re-letting them to staff is thus a very uneconomic way of providing accommodation for “key workers”.
96. **Accordingly, renting more accommodation in the private sector for a large number of “key workers” is not considered to be the most cost-effective option in the longer term, particularly in the light of the alternatives outlined later in this paper.**

**KWHG Recommendation 7 – that the Treasury and Resources Department be responsible for ensuring that the leasing of properties from the private sector for occupation by “key workers” are phased down, once the accommodation can be replaced by purpose-built properties owned and/or managed by the States and/or a “key worker” housing association.**

### **Alternative options: could the UK housing schemes be mirrored in Guernsey?**

97. The UK has concentrated on **housing policies** as the primary means of resolving recruitment and retention problems. The approach is to provide “key worker” accommodation to ensure the effective delivery of frontline public services to maintain thriving and sustainable communities in areas of high value house prices.
98. A Key Worker Living Scheme has been applied in London, the South East and East of England, where house prices are high and recruitment and retention is difficult. Whilst the groups of “key workers” eligible under the Scheme vary by region, the main groups include those that meet the KWHG’s definition.

99. The UK Key Worker Living Scheme is summarised in **Appendix I** of the Working Group’s report. **Paragraphs 261 to 357** of their report also gives more information.
100. The KWHG has concentrated its efforts on finding the best way to meet accommodation costs for “key workers” and considered the following options:
- Changing or increasing or removing the housing subsidies provided through the Relocation Directive;
  - Opening up social and intermediate housing options, currently available only to local residents, to incoming “key workers”;
  - Renting accommodation in the private sector for public sector staff;
  - Adopting one or more of the UK schemes;
    - Homebuy
    - Employer Guarantee Model
  - Modifying one or more of the UK schemes to suit Guernsey’s needs; including: -
    - Building additional accommodation specifically for “key workers” to rent from the States of Guernsey (either through the individual employing departments or corporately);
    - Building accommodation specifically for “key workers” to be rented from a third party provider, e.g. a housing association.
101. Two housing market intervention options, which have their origins in the “key worker” schemes in the UK, were looked at in detail:
- **a rental subsidy scheme (delivered via new, purpose-built accommodation) (paragraphs 108 to 156 of this green paper); and**
  - **equity sharing support through the provision of equity loans (paragraphs 157 to 163 of this green paper).**
102. These two schemes were examined because “key worker” research in the UK (see **Appendix I**) shows that teachers and Police Officers, in particular, tend to prefer to choose properties to buy on the open market<sup>9</sup>, rather than residing in purpose-built “key worker” developments.

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<sup>9</sup> In this paragraph “open” market is used to mean free choice.

103. The equity loan model was thus included as a potential solution to assist “key workers” whose wish is for home ownership. These are likely to be staff in receipt of higher salaries and/or longer housing licence terms and/or with larger families.
104. By contrast, “key workers” on relatively low salaries and/or shorter-term housing licences and/or no dependants are more likely to wish to occupy, or are restricted to, rented accommodation.
105. An economic appraisal of these options was prepared for the KWHG by a consultant from Cambridge Projects. Further details of the financial modelling exercise is provided in **paragraphs 261 to 357** of the Working Group’s report.
106. **Financial modelling showed how low cost rental accommodation and/or equity loans could be provided at significantly less cost to the States over a 45-year period than leasing or renting properties from the private sector, directly providing subsidised accommodation, and paying out Rent Allowances and Housing Benefit.**
107. The findings of the Cambridge Projects’ report were used to consider the potential of these schemes in a “Guernsey context” and these options are described below.

#### **Provision of submarket rental accommodation for “key workers”**

108. The Cambridge Projects’ consultant recommended using a housing association to provide submarket rental accommodation for “key workers”. He further recommended appointing a housing association that specialised in providing accommodation to “key workers”, rather than other forms of social or intermediate market housing, on the basis that being demand, rather than needs-led, it requires specialised marketing as well as tenancy management expertise.
109. The Working Group accepted these recommendations and agreed, in principle, that it would be more cost-effective for one body to manage any purpose-built “key worker” accommodation, rather than the current situation whereby each employing department manages its own.
110. **This would lead to administrative savings/efficiencies being made, and also ensure that “key worker” accommodation policies were applied corporately and consistently across the States (as proposed by recommendation 3 – see paragraphs 40 to 44 of this green paper).**
111. However, it remains to be proved whether the number of “key worker” units required would be sufficient to sustain a specialist housing association establishing itself in the Island. In this respect it would seem essential that there is a commitment to transfer the management of all existing staff accommodation to the housing association as part of the package on offer. As the Department

with the greatest number of units in its management, Health and Social Services agrees with this proposal, in principle, which is in accordance with an existing States' resolution<sup>10</sup>.

**KWHG Recommendation 8 - that the Housing Department, in liaison with the Health and Social Services Department, undertake an “expressions of interest” exercise to determine if there would be sufficient interest for a specialist “key worker” housing association to set itself up in Guernsey; to be followed by a tendering exercise if the interest were sufficient.**

**KWHG Recommendation 9 - that, in principle, the responsibility for the management of existing ‘key worker’ accommodation owned by the States be transferred to a specialist “key worker” housing association.**

112. *The Housing and Health and Social Services Departments will report back to the States on the outcomes of this research before proceeding further.*

**The establishment of an “Employers’ Consortium”**

113. The Working Group also agreed that an “Employers’ Consortium” be established from the employing departments represented on the KWHG to provide coordinated planning, ongoing reporting, and advice and recommendations on required policy revisions; for example, with regard to the eligibility criteria for accessing “key worker” accommodation.
114. Any policy decisions with regard to helping “key workers” to afford accommodation would have to be referred through the Employers’ Consortium at staff level in the first instance. The Employers’ Consortium would be responsible for both setting eligibility criteria and deciding which posts should be given priority for assistance/accommodation.
115. The third party provider would then be responsible for administering the rental scheme in line with the agreed policies.

**KWHG Recommendation 10 – that, under the leadership of the Housing Department, the States establish an “Employers’ Consortium” from the employing departments on the KWHG to provide coordinated planning, ongoing reporting, and advice and recommendations with regard to the eligibility criteria for accessing “key worker” accommodation, and other policy and procedural issues.**

<sup>10</sup> In debating proposals for new staff accommodation on the Princess Elizabeth Hospital site (John Henry Court) in November 2004 (Billet d’État XX 2004), the States resolved that the Housing and Health and Social Services Departments should jointly investigate the feasibility of introducing a “key worker” housing association to the Island to manage John Henry Court and other similar accommodation for “key workers” employed by the States.

### How much should “key workers” be expected to pay for rental accommodation?

116. The KWHG also considered how much “key workers” could afford to pay on accommodation costs.
117. **Currently, the Health and Social Services Department accommodation is subsidised at between 30% and 50%**, with tenants paying rent according to what the Department judges to be fair for each property, **i.e. rents are charged irrespective of a tenant’s income**. As a result, in some cases nurses living in the Health and Social Services Department’s accommodation only pay £135 per month in rent, regardless of their grade.
118. In order to achieve consistency across departments and to ensure that, for example, a “key worker” living in a States’ House is treated the same as a “key worker” living in “key worker” accommodation, **25% of gross income** has been agreed as an affordable amount for “key workers” to spend on housing costs<sup>11</sup>. Using a salary of £23,154 - the mid-point of a Band 5 nurse – 25% of income would result in a nurse being assessed as capable of paying a rent of £482.38 per month.

**KWHG Recommendation 11 – that, in principle, all “key workers” directly housed by the States (or by a housing association) be asked to pay a realistic unsubsidised, yet affordable, proportion of their income on housing costs; and that the minimum that should be applied for rent purposes be 25% of gross income.**

119. The KWHG also recommended that to keep the numbers, costs and land use requirements manageable, not all “key workers” should be eligible for purpose-built rental accommodation. Instead an income threshold should be applied whereby “key workers” earning above a certain income – say £35,000 - would be deemed able to house themselves independently. (As mentioned earlier, £35,000 was chosen as the threshold figure as those staff earning less than this are the target of support provided by the NHS in the UK.) The actual income threshold figure to be applied shall be given further consideration.

**KWHG Recommendation 12 – that, in principle, persons earning in excess of an income threshold figure (in the region of £35,000 per annum) shall not be eligible for rental accommodation provided for “key workers” by the States or a housing association. This threshold figure would be reviewed on an annual basis, in line with inflation, by the Employers Consortium.**

120. *The Housing and Health and Social Services Departments will report back to the States to confirm the “in principle” figures set out in Recommendations 11 and 12.*

<sup>11</sup> This is consistent with “key worker” housing in the UK, where “affordable” has been defined as 25 to 30% of an individual’s disposable income.

### What is the demand for “key worker” accommodation?

121. The main assumption made during the financial modelling exercise was that the demand for assistance with “key worker” accommodation would remain at the current level, i.e. it would be limited to those staff currently receiving some form of subsidy towards meeting accommodation costs. (This would, therefore, exclude any residentially qualified staff with the exception of the Education Department.) In 2004 this was **496 employees**.
122. One of the reasons that housing associations in the UK are prepared to let accommodation to “key workers” at submarket rents is that this takes place in return for the employer or local authority guaranteeing the rental stream and taking on much of the risk associated with voids and loss of rental income.
123. To mitigate this risk, the Cambridge Projects’ report recommended that 75% of the demand be met through building dedicated accommodation to let at a below market rent. The remaining 25% of the demand would be met by continuing to lease properties in the private sector and providing these to “key workers” at a subsidised rent. In so doing, this would provide a “buffer” to avoid significant “void” payments if the number of “key workers” requiring accommodation fell for whatever reason.
124. Based on these assumptions and taking into account the “key worker” accommodation already owned by the States, there was a requirement for an additional **239 units of dedicated “key worker” accommodation for rental**.
125. The rents that would need to be charged to “key workers” in order to break even, based on a 30-year loan period and a 45-year life for the building, were calculated. The modelling exercise also identified the level of subsidy that the States would be required to contribute to meet any shortfall between the rent required for the development to be financially viable and the amount that “key workers” could reasonably be expected to pay. (See **paragraphs 261 to 357** of the Working Group’s report.)
126. **Even in Year 0 providing dedicated “key worker” accommodation for rental was identified as a sound investment and more cost-effective than the current arrangements of leasing accommodation from the private sector.**
127. **In addition, the model showed a positive cash balance at Year 45 for the housing provider which could be reinvested in additional “key worker” accommodation.**
128. As a result there is the potential for the States to spend less and still provide assistance to “key workers” to meet their accommodation costs more effectively than currently.

### What are the other options for the States?

129. To achieve an “affordable” rent for “key workers” the Working Group accepted that it would be necessary for the States to subsidise the development of accommodation in some way. In the present financial climate the Group accepted that this would be challenging. There are, however, a number of options:-

- **If it so wished, the States could adopt a totally “hands off” approach to the provision of “key worker” housing.**

A specialist “key worker” housing association/provider could be engaged to purchase and develop suitable sites. Whilst this is an option that could give the States the highest financial payback - no capital investment and tenants paying the full rent based on development costs - it is not necessarily the most appropriate solution to satisfy the objectives of providing affordable housing for “key workers”.

- **The States could provide a capital loan or grant to a housing association.**

In a time of financial constraint, the Working Group accepted that this was not desirable if it could be avoided.

- **The States could use another resource – land – for “key worker” accommodation.**

The financial modelling exercise assumed that a provider would have to buy land on which to develop “key worker” housing. The rents arising from this modelling, although lower than they would be in the private rental sector, were still higher than the 25% gross income level that the KWHG set as a benchmark of an affordable rent for a large cross-section of public sector “key workers”.

130. **The Working Group considered providing States-owned land to a specialist association for the development of “key worker” housing. This is the Departments’ preferred option.**

131. If the States were to offer parcel/s of land suitable for housing for “key workers” at a peppercorn rent on a long lease, the development costs would be significantly minimised and hence the level of rent being paid by “key workers” would also be reduced. The States would retain the land as a strategic asset and, although in theory a capital injection into “key worker” housing would have been made, in practice there would not be an impact on available capital balances.

132. **The States would save significant sums in annual revenue expenditure on renting accommodation in the private sector for “key workers”.**

133. In identifying suitable sites for “key worker” housing, the Treasury and Resources and Environment Departments should therefore be asked to take account of the importance of providing States-owned land for “key worker” accommodation on the future sustainability and development of essential public services and the significant savings to general revenue that have been identified by this type of provision, as outlined above.
134. **In particular, it is vitally important that suitable sites are not sold off to generate short-term income, but instead are ring-fenced at an early stage.**

**KWHG Recommendation 13 - that, the Treasury and Resources Department, in conjunction with the Environment Department, be directed, as a matter of urgency, to identify States-owned sites that are suitable for housing development and on which “key worker” accommodation could be developed, to be sold/leased/transferred to a “key worker” housing association in order to subsidise the rentals paid by its tenants.**

135. *An update on this will be provided to the States in due course.*
136. In order to gain the full benefits from the implementation of this scheme, the Departments accept the KWHG recommendation that the States should divert the funding that is currently used on accommodation subsidies for “key workers” to provide working capital for new developments. Provided that the monies currently expended were ring-fenced for this purpose, the source of this funding could come from the transfer of existing States-owned staff accommodation to the management of the housing association (providing it with an immediate income stream); the non-renewal of some or all of the properties leased from the private sector to accommodate “key workers”; or through the sales of States-owned sites that are no longer fit for purpose for the provision of “key worker” accommodation.

**KWHG Recommendation 14 - that the Treasury and Resources Department, in collaboration with the Housing and Health and Social Services Departments, review all States-owned and States-leased “key worker” accommodation to determine: -**

- **which properties/leases should be kept for “key worker” accommodation;**
- **which properties/leases should be kept by the States for other purposes;**
- **which properties/leases should be disposed of.**

137. *The outcomes of this exercise will be reported to the States in due course.*
138. It does, however, need to be acknowledged that if a housing association were to manage “key worker” accommodation on behalf of the States, then it, not the

States, would retain the rental income from the tenants; but this would be reinvested to build further such accommodation.

139. The money that is currently included within States' departments' general revenue budgets to manage "key worker" accommodation would thus no longer be required. This could introduce some short-term cash flow issues for the Health and Social Services Department in particular, because of the large number of units it owns, and because it currently relies on this income to pay for services other than its accommodation service. This requires further investigation, the outcome of which will be included in the follow-up report to the States.

### **What about a pilot project?**

140. The Housing Department, Health and Social Services Department, Treasury and Resources Department and Guernsey Housing Association (GHA) have already collaborated over a pilot project of 10 units of "key worker" accommodation at the Priaulx Garage Site, within walking distance of the Princess Elizabeth Hospital. This is described in **paragraphs 261 to 357** of the Working Group's report.
141. This accommodation is being provided with **no capital grant funding from the States** and yet, without any further on-going revenue subsidy from Health and Social Services, the rents being charged for the accommodation will be affordable to "key workers".
142. However, applying the model outlined above, it can be demonstrated that there is even greater potential for developing the adjoining site, which is in States' ownership.

### **Applying the model: The Priaulx Garage site**

143. The Housing and Health and Social Services Department have extended the principles of the modelling exercise outlined above and believe that, if planning consent were to be obtained for a development on the Priaulx Garage site adjacent to the Princess Elizabeth Hospital, accommodation could be provided for approximately 100 "key workers"<sup>12</sup>.
144. Although this is an estimate of the number of people that could potentially be housed, this 'in principle' figure of 100 "key workers" is used in the following example to demonstrate the savings that could be realised.

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<sup>12</sup> The Environment Department would be required to prepare a Development Brief to indicate the type and density of development that would be permitted. This brief would ultimately inform the number of people that could be housed on this site.

145. A development of this size would also give the critical mass it is believed will be required to attract a specialist housing association to develop and manage this accommodation, and to achieve cost savings from the economies of scale.
146. Assuming that there would be **no site acquisition costs because the site is in States' ownership and would be transferred to the housing association at nominal cost**, based on a break-even point<sup>13</sup> for the development at year 15, the rent charged to a "key worker" would need to be £557 per month.
147. Based on mid-point of the annual salary of a Band 5 nurse (£23,154), this would require the States to pay a subsidy of £75 per "key worker" per month to meet the difference in that rent and what the nurse could afford to pay of £482 per month (based on 25% of income).
148. If this housing replaced the accommodation that is currently leased-in by the Health and Social Services Department, the States would pay £90,000 per year in rental subsidy for the accommodation for 100 "key workers" compared with the current lease costs of £560,000 that are being lost to the private sector.
149. **Over a 45-year period this would provide a gross saving for the States of over £20 million. If these future savings were to be discounted at a cost of capital of 5.48% to give an equivalent sum at today's values, this would equate to a saving of nearly £8 million for the States.**
150. Based on a break-even point for the development at year 30, the need for a States' subsidy could be removed altogether, realising even further revenue savings. Over a 45-year period the States could achieve a gross saving of over **£25 million**. Discounted at a cost of capital of 5.48% to give an equivalent sum at today's values, this would equate to a **saving of over £9 million for the States.**
151. Furthermore, even though rental subsidies would continue to be paid by the States, albeit at considerably reduced rate, the income received by the housing provider would be 'recycled' for the provision of further accommodation and not lost forever as with private sector leasing.
152. If a similar scheme to accommodate 100 "key workers" were to go ahead utilising land that was not already in States' ownership, assuming a land purchase cost of £1.6m, the rents chargeable would need to rise from £557 per month to £640 per month. This would more than double the level of States' subsidy required, from £75 to £158 per month. **This in turn would erode the savings identified by over £1.6 million over a 45-year period, but would still represent a much better situation than exists currently, as savings of £370,400 per year would still be achievable.**

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<sup>13</sup> The break-even point measures how long the scheme has to run after the units have been built and occupied before the cash flow show a surplus.

153. These savings are summarised in Table 2 below.

**Table 2 – The cost of providing subsidised rental accommodation on States’ owned and on land acquired privately, and the savings that could be made compared to the current situation, based on providing accommodation for 100 “key workers”**

	<u>Development on States owned land</u>	<u>With land purchase costs of £1.6 million</u>
(a) Rental cost of accommodation per “key worker” per month ( <i>on a break-even point for the development at year 15</i> )	£557.00	£640.00
(b) Affordable “key worker” rent per month ( <i>Band 5 nurse, salary £23,154 at 25% of income</i> )	£482.00	£482.00
(c) States’ subsidy required to meet the difference per “key worker” per month [(a) - (b)]	£75.00	£158.00
(d) States’ subsidy required to meet the difference per “key worker” per annum [(c) x 12]	£900.00	£1,896.00
(e) TOTAL States’ subsidy required to meet the difference - 100 “key workers” per annum [(d) x 100]	£90,000.00	£189,600.00
(f) Current cost of leasing 100 properties from the private sector - per annum	£560,000.00	£560,000.00
(g) <b>SAVINGS PER ANNUM [(f) - (e)] compared to current situation of private sector leasing</b>	<b>£470,000.00</b>	<b>£370,400.00</b>

154. Consequently, even though the use of States-owned land for “key worker” housing might be a relatively short-term measure that would help to facilitate the establishment of a specialist provider in the Island, the acquisition of privately-owned sites for “key worker” development still shows significant cost advantages over the current situation of leasing accommodation from the private sector.

155. **With that said, it is clearly of fundamental importance that the use of States-owned land is investigated further in the first instance as the preferred model for the delivery of “key worker” rental accommodation.**

156. The States is therefore asked to agree Recommendation 13, as outlined in paragraphs 129 to 135 of this green paper, which asks for approval in principle

to use of States-owned land for the provision of “key worker” accommodation and for suitable sites to be identified as a priority.

### **Equity Loans**

157. Under the Homebuy Scheme in the UK, participants can receive an equity loan of up to £50,000<sup>14</sup> to assist in the purchase of a property. No repayments are due on this loan until either the property is sold or the owner ceases to be a “key worker”. The amount repaid is the same percentage of the sale price as the percentage of the original purchase price that was covered by the loan. If the occupier ceases to be a “key worker” then the amount has to be repaid over a two-year period. The money can then be used to assist another “key worker”.
158. To assess the financial viability of the States introducing equity loans, the consultant from Cambridge Projects ran an equity loan risk model. This model looked at a 45-year investment period and 40 houses, each with an equity loan of £50,000, i.e. an initial investment of £2.0m. As the States would obtain a share of the equity growth in the value of the properties supported at the assumed rate of inflation, the equity loan scheme would effectively become self-funding over a period of time.
159. It was established that an equity loan model could be both more cost-effective than the Housing Benefit currently given and was a potential solution for those “key workers” whose wish is for home ownership.
160. Whilst the benefits of this scheme are, however, by no means guaranteed, at this stage of the investigations the Working Group believes that there is the potential for significant savings to be made in the long-term. However, further sensitivity analysis needs to be carried out to model the effect of changing inflation rates; and the historical relationship between house price inflation rates and general inflation rates needs to be examined.
161. Accordingly, the Working Group did not reach a final conclusion on the relative merits of the equity loan model versus its inherent risks. (Additional information on the modelling exercise relating to equity loans is outlined in **paragraphs 334 to 350** of the attached report.)
162. It is considered that further work is necessary to determine whether there is a need for such a scheme to operate in parallel with the States Home Loans Scheme or the Partial Ownership Scheme administered by the GHA, both of which are currently closed to people without residential qualifications, but which could be modified to allow “key workers” to access them, if appropriate.

**KWHG Recommendation 15 - that the concept of an equity loans scheme be researched further by the Housing Department.**

<sup>14</sup> £100,000 is available in some areas of London.

163. *The Housing Department will report back on the practicalities of an equity loans scheme in the update report to be provided to the States no later than March 2008.*

#### **OTHER IMPORTANT CONSIDERATIONS**

*(Paragraphs 261 to 376 of the Working Group's report)*

##### **The future of Rent Allowance and Housing Benefit**

164. The Working Group identified that there was an opportunity, over time, to reduce significantly the numbers of people who are receiving Housing Benefit/Rent Allowance, thereby providing a revenue saving for the States. However, it was also keen to establish how many other Civil Service post holders were receiving Rent Allowance or Housing Benefit and who would not be "key workers" as defined in its report.
165. The number of these would appear to be very small compared with the numbers from the large "key worker" employing departments (Home, Health and Social Services and Education) – see **Appendix J** of the Working Group's report. Even so, the implications of totally withdrawing these housing subsidies and replacing them with dedicated "key worker" accommodation for submarket rental (and, possibly an equity loans scheme) requires more research.

**KWHG Recommendation 16** – that Rent Allowance and Housing Benefit are progressively phased out through the provision of alternative, more cost-effective means of providing "key workers" with affordable accommodation, such as those already described.

166. For the avoidance of doubt, it is not proposed to withdraw these subsidies until they can be replaced by other means of assistance for "key workers" such as the rental subsidy accommodation managed by a housing association (as outlined above).

##### **Extending the schemes to locally residentially qualified "key workers"**

**KWHG Recommendation 17** – that "key worker" accommodation is not made available to residentially qualified staff in the short- to medium-term without first establishing the level of demand from the local population and whether this can be met without detriment to meeting the housing needs of "key workers" recruited from outside the Island.

167. In its report the KWHG make clear that while it would be desirable to open up "key worker" accommodation to residentially qualified "key workers", the Island's current financial situation may mean that this goal is an ideal which is both unrealistic and impractical; at least, in the short- to-medium term.

168. The KWHG identified that even by applying its narrow definition of “key workers”, many hundreds of employees would be potentially eligible. If this accommodation was then to be subsidised, i.e. the rents were lower than in the private rented sector, it is possible that this accommodation would be highly sought after by the local populace.
169. The States would then be faced with not only providing cost-effective affordable accommodation for those employees recruited from off the Island, but also from within the local population. This clearly would have major implications for any model of housing provision, in that the more people who are eligible, the more land and accommodation that needs to be provided and funded. In fact, the financial modelling exercise outlined above and the rents that could be offered to “key workers” in such a scenario would not be achievable if this type of accommodation were to be made available to locally residentially qualified “key workers”.
170. The KWHG also questioned whether it would be right that just because a residentially qualified person happened to work in a “key worker” job they should access subsidised accommodation, which they would be denied if they worked in a different profession.
171. The KWHG also queried why their needs could not be met through other housing options available exclusively to residentially qualified persons, e.g. States’ housing, housing association accommodation and partial ownership, as the Housing Strategy aims to assist those persons in the Island that are unable to afford housing in the general market and to ensure that they have access to accommodation to meet their reasonable needs<sup>15</sup>.
172. For example, would it be more cost-effective to provide priority to locally residentially qualified “key workers” under those schemes, rather than to allow them to access purpose-built “key worker” accommodation that is needed to house incoming workers?
173. **The boards of the two departments understood and accepted the validity of the arguments put forward by the Working Group, but were of the view that there was a basic inequity in not providing equality of access to housing schemes for residentially qualified “key workers”. Accordingly, the two departments are committed to working towards this objective.**
174. In the meantime, the level of interest from residentially qualified “key workers” will be considered further by the Housing Department as part of the questionnaire exercise referred to in paragraphs 181 to 187 below, by which it is intended to assess demand. The results will be reported to the States to assist with the determination of future policy in this regard.

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<sup>15</sup> Housing Department - Corporate Housing Programme - 2005 Action Plans - Billet d’État XXIII 2004.

175. The KWHG also identified the possibility of opening up social and intermediate housing options, such as those currently only available to local people with a housing need (as above), to incoming “key workers” (see paragraph 100). This will be looked at in conjunction with the research referred to above, as well as part of an analysis of other options (such as an Equity Loans Scheme).

### **MONITORING “KEY WORKER” RECRUITMENT AND RETENTION**

*(Paragraphs 358 to 376 of the Working Group’s report)*

176. One of the concerns arising from the KWHG’s work has been the amount of time it has taken to obtain data by which to evaluate the success of current recruitment and retention policies.
177. The samples presented in the KWHG’s analysis are statistically small and cover very limited timeframes in order to consider trends: ideally further years of accurate data would have been helpful. This is clearly a matter that needs to be urgently resolved if the States is ever to have any idea of the influence of “key worker” policies on recruitment and retention. As a result, the KWHG considers it essential for the States to adopt a central/corporate human resource database for collating cross-departmental statistics.
178. In particular, this data should include *inter alia*:
- the recording of housing benefits paid;
  - the costs of recruitment;
  - the reasons for refusal of employment; and
  - the reasons for leaving States’ employment.
179. This will allow the effect of existing policies, and any new initiatives introduced as a result of the recommendations contained in this or subsequent reports, to be regularly monitored and analysed.

**KWHG Recommendation 18 – to agree that, as a matter of urgency, the Treasury and Resources Department and Policy Council Human Resources Unit review and make recommendations as to how to improve the real-time collection of statistics identified in this report associated with the recruitment and retention of “key workers”.**

180. *This is an important objective that should be treated as a priority. Data collection methods need to be in place in order to inform these other proposals outlined in this green paper.*

### **CONSULTATION WITH “KEY WORKERS”**

*(Paragraphs 377 to 379 of the Working Group’s report)*

181. It is essential to note, in considering this green paper, that there has been no research into the housing aspirations or preferences of “key workers” before or after recruitment. The Working Group has advised that such research must be undertaken before any firm decisions are taken to implement new policies; and, in particular, before major expenditure is outlaid on new housing schemes to ensure that these are what staff (not just staff organisations) desire, and not what the States thinks they require.
182. Whilst a number of “key workers”, some nurses for example, may prefer more basic accommodation, others, such as teachers, some health workers and law enforcement staff, do not want dedicated “key worker” accommodation. The KWHG believes that they prefer to have greater anonymity in the community and to be able to separate work and home life.
183. There is also the issue of the lack of staff accommodation, or accommodation options, available to certain groups, such as mature entrants and couples/families (especially for those who have pets).
184. It is important to ascertain the particular preferences of “key workers” so that the type of accommodation provided does not lead to increases in turnover, but acts to attract staff to work in the Island.
185. **The Working Group, therefore, recognised that there was a need for a variety of solutions to cater for diverse “key worker” circumstances.**
186. Accordingly, the Housing and Health and Social Services Departments propose to ask the KWHG to develop a questionnaire to be sent out to all “key workers”, to seek their views on the issues raised by this green paper and the Working Group’s report, and to determine their future needs and aspirations.

**KWHG Recommendation 19 – that, through the KWHG, the Housing and Health and Social Services Departments issue a questionnaire to all “key workers”, to seek their views on their housing needs and the other issues raised by this report, in order to inform future policy-making.**

187. *A questionnaire will be issued as soon as possible.*

### **SUMMARY AND RECOMMENDATIONS**

*(Paragraphs 380 to 381 of the Working Group’s report)*

188. The Housing and Health and Social Services Departments agree with the KWHG that there are significant advantages to the States for the recruitment, retention and housing of “key workers” to be managed corporately and consistently, as this has the potential not only to improve their recruitment and

retention but, at the same time, to improve the cost-effectiveness of the use of States' financial and property resources.

189. In particular, the Departments are delighted to be able to put forward a scheme to provide affordable accommodation for "key workers" which, through the provision of States-owned land, the KWHG believes will require no other capital funding and will deliver significant revenue savings. This is fully in accord with the Capital Prioritisation report debated by the States in October 2006 which made clear that "key worker" housing would only be funded if revenue savings could be made.
190. Accordingly, the Housing and Health and Social Services Departments recommend the States to agree:
- (a) that, based on the recommendations set out in KWHG's report, an integrated corporate strategy be formulated on the recruitment and retention of "key workers" that encompasses the provision and funding of suitable "key worker" housing initiatives, and the adoption of tailored housing licence and remuneration policies;
  - (b) to direct the Housing and Health and Social Services Departments to report back to the States by March 2008 (earlier if feasible) with firm proposals based on the further investigations required, taking into account the views expressed by the States, together with the consultations undertaken with "key workers" and other interested parties;
  - (c) to direct that all States' Departments and Committees that are recommended to take action for specific matters in this Report do so in accordance with the Action Plan set out in Annex A, to enable the Housing and Health and Social Services Departments to report back to the States by March 2008.
191. We would be grateful if you would lay this matter before the States with appropriate propositions, for debate under Rule 12 (4) of the Rules of Procedure.

Yours faithfully

D Jones  
Housing Minister

P J Roffey  
Health and Social Services Minister

**TIMETABLE FOR IMPLEMENTING THOSE ACTIONS IDENTIFIED IN THE ‘KEY WORKER’ REPORTS - ANNEX A**

**MARCH 2007**

The States is asked to acknowledge and / or agree these recommendations.

This will enable the Housing/Health and Social Services Department to progress those initiatives, as outlined in its report, and ensure that assistance for “key workers” is targeted appropriately.

**Recommendation 1** - that the States adopt the definition of “key worker” set out in the report.

**Recommendation 2** - that the States acknowledge that the Island’s need for “key workers” is likely to grow, not diminish, in the short- to medium-term, which has manpower and budgetary implications for the employing departments.

**Recommendation 3** – that, as far as possible, there should be consistency in the treatment of “key workers” across the States, regardless of who is their employing department.

**Recommendation 4** - that department-specific policies that depart from the corporate strategy should have an explicit rationale and be evidence-based.

**Recommendation 5** – that the **Public Sector Remuneration Committee** continue to give serious consideration to the pay of particular groups of “key workers” or staff with specialist skills that are proven to be in short supply in the UK or internationally, as a means of addressing identifiable recruitment and retention difficulties.

**TIMETABLE FOR IMPLEMENTING THOSE ACTIONS IDENTIFIED IN THE ‘KEY WORKER’ REPORTS - ANNEX A**

**IMMEDIATE  
PRIORITIES**

**The States is asked to agree these recommendations.**

**They will be progressed as soon as possible after the States have considered the ‘key worker’ reports.**

**Recommendation 10** - that, under the leadership of the **Housing Department**, the States establish an "Employers Consortium" from the employing departments on the KWHG to provide coordinated planning, ongoing reporting, and advice and recommendations with regard to the eligibility criteria for accessing "key worker" accommodation, and other policy and procedural issues.

**Recommendation 18** – to agree that, as a matter of urgency, the **Treasury and Resources Department** and **Policy Council Human Resources Unit** review and make recommendations as to how to improve the real-time collection of statistics identified in this report associated with the recruitment and retention of “key workers”.

**Recommendation 19** – that, through the KWHG, the **Housing and Health and Social Services Departments** issue a questionnaire to all “key workers”, to seek their views on their housing needs and the other issues raised by this report, in order to inform future policy-making.

**TIMETABLE FOR IMPLEMENTING THOSE ACTIONS IDENTIFIED IN THE ‘KEY WORKER’ REPORTS - ANNEX A**

**DURING 2007**

**The States is asked to agree these recommendations.**

**It is intended that a report will be a presented to the States no later than March 2008 with an update on these recommendations**

**Recommendation 8** - that the **Housing Department**, in liaison with the Health and Social Services Department, undertake an “expressions of interest” exercise to determine if there would be sufficient interest for a specialist “key worker” housing association to set itself up in Guernsey; to be followed by a tendering exercise if the

**Recommendation 9** - that, in principle, the responsibility for the management of existing “key worker” accommodation owned and managed by the States be transferred to a specialist “key worker” housing association.

**Recommendation 11** - that, in principle, all “key workers” directly housed by the States (or by a housing association) be asked to pay a realistic unsubsidised, yet affordable, proportion of their income on housing costs; and that the minimum that should be applied for rent purposes be 25% of gross income.

**Recommendation 12** - that, in principle, persons earning in excess of an income threshold figure (in the region of £35,000 per annum) shall not be eligible for rental accommodation provided for “key workers” by the States or a housing association. This threshold figure would be reviewed on an annual basis, in line with inflation, by the Employers Consortium.

**TIMETABLE FOR IMPLEMENTING THOSE ACTIONS IDENTIFIED IN THE ‘KEY WORKER’ REPORTS - ANNEX A**

**DURING 2007**

**The States is asked to agree these recommendations.**

**It is intended that a report will be a presented to the States no later than March 2008 with an update on these recommendations**

**Recommendation 13** - that, the **Treasury and Resources Department**, in conjunction with the Environment Department, be directed, as a matter of urgency, to identify States-owned sites that are suitable for housing development and on which “key worker” accommodation could be developed, to be sold/leased/transferred to a “key worker” housing association in order to subsidise the rentals paid by its tenants.

**Recommendation 14** - that the **Treasury and Resources Department**, in collaboration with the Housing and Health and Social Services Departments, review all States-owned and States-leased “key worker” accommodation to determine:

- *which properties/leases should be kept for “key worker” accommodation;*
- *which properties/leases should be kept by the States for other purposes; and*
- *which properties/leases should be disposed of.*

**Recommendation 15** - that the concept of an equity loans scheme be researched further by the **Housing Department**.

**TIMETABLE FOR IMPLEMENTING THOSE ACTIONS IDENTIFIED IN THE ‘KEY WORKER’ REPORTS - ANNEX A**

**DURING 2007**

The States is asked to agree this recommendation. A separate report will be provided to the States by the end of 2007.

**Recommendation 6** – that the **Housing Department** review all the options for modification of housing licence policies in relation to “key workers”, in liaison with the employing departments, as part of the review of the Housing Control Law.

**AFTER MARCH 2008**

The States is asked to agree these recommendations.

An report will be provided to the States with an update on these recommendations.

**Recommendation 7** – that the **Treasury and Resources Department** be responsible for ensuring that the leasing of properties from the private sector for occupation by “key workers” are phased down, once the accommodation can be replaced by purpose-built properties owned and/or managed by the States and/or a “key worker” housing association.

**Recommendation 16** - that Rent Allowance and Housing Benefit are progressively phased out through the provision of alternative, more cost-effective means of providing “key workers” with affordable accommodation.

**Recommendation 17** - that “key worker” accommodation is not made available to residentially qualified staff in the short- to medium-term without first establishing the level of demand from the local population and whether this can be met without detriment to meeting the housing needs of “key workers” recruited from outside the

**(NB The Report of the Key Worker Housing Group is published separately.)**

**(NB The Policy Council supports the approach set out in the Report, welcomes the work that has been done to date but reserves detailed comment until firm proposals have been determined.)**

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

The States are asked to decide:-

XI.- Whether after consideration of the Report dated 13<sup>th</sup> December, 2006, of the Housing and Health and Social Services Departments, they are of the opinion:-

1. That, based on the recommendations set out in the Key Worker Housing Group's report, an integrated corporate strategy be formulated on the recruitment and retention of "key workers" that encompasses the provision and funding of suitable "key worker" housing initiatives, and the adoption of tailored housing licence and remuneration policies.
2. To direct the Housing and Health and Social Services Departments to report back to the States by March 2008 (earlier if feasible) with firm proposals based on the further investigations required, taking into account the views expressed by the States, together with the consultations undertaken with "key workers" and other interested parties.
3. To direct that all States' Departments and Committees that are recommended to take action for specific matters in this Report do so in accordance with the Action Plan set out in Annex A to that Report, to enable the Housing and Health and Social Services Departments to report back to the States by March 2008.

***(NB The Housing and Health and Social Services Departments have requested that this matter be debated in accordance with Rule 12 (4) of the Rules of Procedure of the States of Deliberation which provides***

*"Where a Department or Committee originating a matter for debate before the States is of the opinion that the proposals it is submitting to the States are ones of general policy, and where it is desirable that the general principles of that policy should be considered, the Department or Committee may request that its propositions be considered by the States without amendment, on the understanding that if the propositions are accepted, the Department or Committee would return with detailed proposals which could be accepted or rejected, together with any amendments..."*)

**PUBLIC SERVICES DEPARTMENT****COMPENSATION FOR OIL POLLUTION –  
SUPPLEMENTARY FUND PROTOCOL 2003**

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

13<sup>th</sup> February 2007

Dear Sir

**Executive Summary**

The Public Services Department wishes to extend the above International Convention to the Bailiwick and is requesting the States to approve the preparation of the necessary legislation.

**Background and History**

The regime for compensation of victims of oil pollution damage is based on two International Conventions, the International Convention on Civil Liability for Oil Pollution Damage, 1992 ("CLC Convention") and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 ("Fund Convention").

The CLC Convention and the Fund Convention were adopted by the International Community with the aim of ensuring prompt payment of compensation after an oil spill without the need for victims to prove any negligence. Both Conventions operate domestically in the Bailiwick of Guernsey by virtue of the Merchant Shipping (Oil Pollution and General Provisions) (Guernsey) Order 1998 (SI 1998/260).

The CLC Convention imposes strict liability (liability without fault) for pollution damage upon the shipowner and requires him to insure against that liability. The shipowner is normally entitled to limit his liability to an amount calculated by reference to the tonnage of his ship. In practice, the shipowner's insurer usually pays the compensation.

The Fund's purpose is to provide supplementary compensation in cases where the amount payable by the shipowner or his insurer is insufficient to provide full compensation to the

victims of oil pollution damage. The Fund is funded by contributions from receivers of "Persistent Oil" after sea transport.

"Persistent Oil" is the collective term used in the Convention to describe those oils to which the Convention applies. These comprise those oils which do not readily evaporate and which disperse and degrade very slowly - for example, crude oils, fuel oils, heavy diesel and lubricating oils. "Non-persistent oils" include petrol, diesel oil and kerosene, all of which evaporate readily and have a much higher rate of dispersion.

**The sizes of claims made under several recent incidents, such as Prestige and Erika have led to total payments below 100% of the amount of the damage suffered, ie the total values available under the existing conventions were insufficient to meet the total valid costs claimed. This situation was deemed to be less than satisfactory.**

#### The 2003 Protocol (known as the Supplementary Fund)

The aim of the 2003 protocol is to supplement the compensation available under the CLC and Fund Conventions with an additional third tier of compensation that improves the international regime for compensation of victims of oil pollution from oil tankers. The Protocol is optional and participation is open to all States Parties to the 1992 Fund Convention.

The Supplementary Fund applies to damage in the territory, including the territorial sea, of a Contracting State and in the exclusive economic zone of a Contracting State.

The Protocol was adopted by the International Maritime Organization (IMO) in May 2003 and entered into force on 3 March 2005.

The Supplementary Fund has available an amount of some US\$845 million, in addition to the amount of some US\$314 million which is available in the present 1992 Fund after the increase which took effect on 1 November 2003. As a result, the total amount available for compensation for each incident in the States that are Members of the Supplementary Fund will be 750 million Special Drawing Rights (SDRs) or approximately US\$1,159 million.

The Conventions use units of Special Drawing Rights (SDRs). Conversion to currencies in this document is approximate only.

**One important effect of the Protocol will be that, in practically all cases, it will be possible to pay compensation at 100% of the amount of the damage agreed between the Fund and the victim. It will also avoid the need to fix the level of payment below 100% of the amount of the damage suffered during the early stages of most major incidents, as has been the case in respect of several recent incidents.**

Implementation of the protocol will considerably improve the financial security of Bailiwick victims of pollution damage from persistent oil carried as cargo by tankers.

Delays in payment of compensation can arise under the existing regime, even where the overall costs of an incident do not exceed the limit available. This is because full payment of claims cannot be made until the extent of the damage is known and the final costs of an incident can be accurately assessed. Depending on the incident this process can take months or even years.

The Protocol places an additional financial burden on those companies who receive “persistent oil” in quantities above 150,000 metric tonnes per year. They will be required to contribute to compensation payments required from the Supplementary Fund, and also to modest administrative costs. The Bailiwick does not import such quantities and as such, local receivers would not be required to contribute.

The impact on the public sector is nil.

**In the light of the above, there is no reason why the Bailiwick should not take full advantage of the improved level of compensation available to victims of oil pollution damage under the terms of the Supplementary Fund Protocol.**

There are two options available to enact the above.

Firstly, the amendments effected to the 1995 Merchant Shipping Act could be extended to the Bailiwick by a further Order in Council.

A much more efficient route would be through enactment of the relevant provisions of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 relating to oil pollution contained in Chapters IV and V of Part VI of the 2002 Law. In time, this enactment would also replace those provisions applying under the extension Order in Council referred to in the above paragraph.

Section 290 of the 2002 Law enables the States, by Ordinance, to amend that Law so as to include such provisions of the same effect as UK legislation in the area of merchant shipping ‘as they may deem necessary and expedient’. The relevant UK provisions are contained within sections 1, 3 and 4 of the United Kingdom Merchant Shipping (Pollution) Act 2006. These provide for effect to be given to the Supplementary Fund Protocol 2003 and to future revisions of the international agreements relating to compensation for oil pollution from ships. They include amendment to section 178(1) of the Merchant Shipping Act 1995. Section 1 provides ‘power to give effect to revisions of the international arrangements relating to compensation for oil pollution from ships’. Sections 3 and 4 address administrative and clarification matters. No reference is made to Section 2, purely for clarity, as it addresses amendment to the MARPOL Convention to which the Bailiwick is not a signatory.

For the full text of this Act, reference can be made to:-  
<http://www.opsi.gov.uk/acts/acts2006/20060008.htm>

The Public Services Department has consulted with the relevant Alderney and Sark Authorities and can confirm that both jurisdictions support the extension of the

Convention to the Bailiwick. The Law Officers have also been consulted and have advised on the options to enact the relevant legislation.

### **Recommendation**

The Public Services Department recommends the States to direct the preparation of legislation, under the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 to give effect to the '2003 Protocol to the Supplementary Fund' in the Bailiwick, thereby maximizing access to compensation to the victims of oil pollution damage.

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:-

XII.- Whether, after consideration of the Report dated 13<sup>th</sup> January, 2007, of the Public Services Department, they are of the opinion:-

1. To enact legislation, under the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 to give effect to the '2003 Protocol to the Supplementary Fund' in the Bailiwick, thereby maximizing access to compensation to the victims of oil pollution damage.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

**ENVIRONMENT DEPARTMENT**

## PAID PARKING

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

24<sup>th</sup> January 2007

Dear Sir

**Executive Summary**

In the course of the States debate on the Environment Department's Road Transport Strategy in March 2006, Deputy Peter Roffey successfully introduced an amendment as follows:

The Environment Department

20. (1) To progress their Resolutions XXI.5, XXI.6 and XXI.7 on Billet d'État No. IV of 2003 in respect of the introduction of pay parking.
- (2) To agree that a charge shall be imposed for parking in the long-stay parking places at the Odeon, Salarie and North Beach car parks, and in such other on-street long-stay parking places in St Peter Port as shall be identified by Ordinance.
- (3) To agree that that charge shall initially be set at 15p. per hour.
- (4) To direct the Environment Department to cause an Ordinance to be placed before the States as soon as possible, to establish that charge, identify those other on-street, long-stay parking places in St Peter Port, and specify the modalities for collecting and enforcing payment of that charge.
- (5) To direct the Environment Department to report to the States within 12 months on the desirability and practicality of extending paid parking to other locations.

## **Substantive Findings and Conclusions**

This Report deals with item (5) of the above resolution and focuses on the desirability and practicality of extending paid parking to other locations within the context of the following:

- The extent to which the principles underlining the Road Transport Strategy might be furthered; i.e. to reduce the adverse environmental, economic and social impacts of vehicle use in the Island.
- To ascertain if paid parking might provide a useful source of revenue for the States (apart from providing the main source of funding for the Road Transport Strategy).

The paper examines the desirability and practicality of extending paid parking in the following areas:

- All publicly owned car parks in the Island;
- Car parking spaces used by public and civil servants;
- Car parking spaces used by school students.

Following extensive analysis this Report finds that there is little merit (principally on the grounds of practicality) in extending paid parking to areas other than those already operating as disc controlled zones in the Island.

Given the specific wording of the resolution, and accepting that there are misgivings within the Environment Department Board about paid parking having any great impact on vehicle use, the Department does not recommend extending the present proposals.

## **Recommendations**

States Members are asked to note the contents of the Report.

### **1. Background**

1.1 In the course of the States debate on the Environment Department's Road Transport Strategy in March 2006, Deputy Peter Roffey successfully introduced an amendment as follows:

1.2 The Environment Department

20. (1) To progress their Resolutions XXI.5, XXI.6 and XXI.7 on Billet d'État No. IV of 2003 in respect of the introduction of pay parking.

- (2) To agree that a charge shall be imposed for parking in the long-stay parking places at the Odeon, Salarie and North Beach car parks, and in such other on-street long-stay parking places in St Peter Port as shall be identified by Ordinance.
- (3) To agree that that charge shall initially be set at 15p. per hour.
- (4) To direct the Environment Department to cause an Ordinance to be placed before the States as soon as possible, to establish that charge, identify those other on-street, long-stay parking places in St Peter Port, and specify the modalities for collecting and enforcing payment of that charge.
- (5) To direct the Environment Department to report to the States within 12 months on the desirability and practicality of extending paid parking to other locations.

1.3 In considering how it might respond to 20. (5) above, the Environment Department first had to determine how to introduce paid parking within the Island in accordance with 20. (4). This process has taken some considerable time, especially in view of the need to ascertain the most appropriate means of collecting parking dues, where paid parking will be applied and the revamping of the Residents' Parking Scheme to reflect the new realities that its introduction will bring.

1.4 It is important to record that there are misgivings amongst Members of the Environment Department regarding the introduction of paid parking as a mechanism for delivering the objectives of the Road Transport Strategy. It is believed that it can play only a limited role in acting as a disincentive for vehicle use. It may be further stated that these misgivings would naturally reach into any proposals for extending paid parking beyond the specific measures resulting from Deputy Roffey's amendment.

1.5 Most of the issues regarding the introduction of paid parking have now been resolved and the Department has publicly announced that its preferred method of collection will be through the sale of "scratch cards", that all five and ten hour parking spaces in St Peter Port will be included in the scheme and that the operative hours will be from 8 am until 6 pm each day of the week excluding Sundays and public holidays. Work has also been carried out on devising a new scheme for residents' parking that is based upon zones within the town area.

1.6 It is against this background that the Department is now able to consider part 20. (5) of Deputy Roffey's amendment.

## **2. Criteria Used in Making Assessments**

2.1 Deputy Roffey's amendment specifically states that the Department should

report on *the desirability and practicality of extending paid parking to other locations* and this forms the basis of the analysis within this Report. However, the amendment was brought as part of the Environment Department's Road Transport Strategy and consideration must also be given to the fundamental precepts underpinning that body of work. These may be summarised as:

- to reduce the adverse environmental, economic and social impacts of vehicle use in the Island, in particular, by encouraging the use of alternative forms of transport;
- discouraging unnecessary motor vehicle usage;
- promoting more responsible use of vehicles;
- promoting more efficient use of the Island's transport infrastructure.

2.2 It is debatable whether the introduction of long-stay paid parking *per se* will help to achieve these aims. Whilst it may deliver some environmental benefits, the beneficial impact on the economy and the social well being of the people of Guernsey is at the least ambiguous. Some motorists may look to change their travel habits to take advantage of long stay parking that will be free for motorcyclists and for motorists that drive 'small cars' and some may also be encouraged to use the bus service that will work out at approximately ½ the cost of paid parking if bus users purchase bulk multi journey bus tickets. Others may look to car share in a bid to spread the cost.

2.3 In consideration of what might be *desirable* in extending paid parking to other locations, three factors have been considered:

- Would it contribute to the objectives of the Strategy as outlined above?
- Would it raise revenue in the context of the criteria put forward by the Treasury and Resources Department?<sup>1</sup>
- Would it be broadly acceptable to the motoring public and other interested parties, such as businesses and residents?

2.4 In consideration of what might be *practical* in extending paid parking to other locations, three factors have been considered:

- would it be easily enforced?
- would it be easily managed?

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<sup>1</sup> See Appendix One for an explanation of these criteria

- would it impinge on other operations, such as the Residents' Parking Scheme?

### **3. Paid Parking - Short Stay**

- 3.1 The proposals presently being considered by the Environment Department focus exclusively on long stay parking as it is already zoned in St Peter Port by the disc display system. This is in compliance with the stipulations in Deputy Roffey's amendment as approved by the States in March 2006, and designed specifically to raise sufficient funds for the Department's Road Transport Strategy.
- 3.2 Evidently, the use of paid parking as a revenue raising mechanism in long-stay areas only is based on the premise that it is commuters driving into St Peter Port (and the urban area generally) who are responsible for the periods of greatest congestion on the roads. It also reflects concerns about the impact that charges in short-stay areas could have in maintaining the commercial viability of St Peter Port.
- 3.3 Nevertheless, it could be argued that the introduction of charges to short stay as well as long stay areas would be a more equitable approach, recognising that all motorists are contributing to the Island's traffic problems. This would spread the charging "burden" amongst more drivers.
- 3.4 In terms of *desirability*, it is debatable that the introduction of short stay paid parking would make any considerable contribution to the Road Transport Strategy. It would raise revenue in accordance with some of the stipulations of the Treasury and Resources criteria for fees and charges, but would probably not be acceptable to traders and may be resented by motorists who have grown accustomed to free parking over many years. It could be further argued that this last aspect would lose relevance after the imposition had been in place for a year or two.
- 3.5 In terms of *practicality*, it is reasonable to suppose that enforcement in existing short term spaces would present no real challenges (given that the areas are already patrolled), that it would not add greatly to the requirements of managing the proposed paid parking scheme and that it would appear not to have any untoward impact on other operations, such as the Residents' Parking Scheme.

### **4. Paid Parking in Other Locations**

- 4.1 Consideration of this aspect must, by nature, involve locations both inside and outside of St Peter Port. It has been suggested, from a variety of sources, that paid parking zones should be considered for the following:
- all publicly owned car parks in the Island;

- car parking spaces used by public and civil servants;
- car parking spaces used by school students.

4.2 This provides a comprehensive list of all places which might reasonably be considered for paid parking, accepting that a directly collected charge could only be levied on parking spaces that are within public ownership

4.3 In examining each of these, the following conclusions can be drawn:

4.4 *All publicly owned car parks in the Island*

4.4.1 Apart from short stay parking, which is dealt with in part 3. above, this section of the Report is deemed to refer to all areas presently available for parking for periods of five or more hours. This includes five and ten hour disc zone parking in St Sampson and St Martin, twenty-three hour parking in various locations and unlimited parking in the areas reserved about the coast, parks, gardens and other places of interest.

4.4.2 It has been shown above in part 3. of this Report that it would not be especially difficult to introduce paid parking to areas that are presently designated disc parking zones. Bearing this in mind, there would appear to be no great problem in extending paid parking to the five and ten hour controlled public parking spaces operating in St Martin and St Sampson. In terms of desirability, there may be some grounds for exceptions regarding particular areas (such as the viewing park located at the southern end of Bulwer Avenue, which was recently designated 10 hour parking) and it should be borne in mind that the contribution to the aims of the Road Transport Strategy by such a measure would be limited.

4.4.3 Although it may be prudent to apply the examining criteria that have already been used for short stay parking to determine if there is desirability and practicality in introducing paid parking to other areas, this is not really necessary. Clearly there is little point in seeking to introduce paid parking in areas where there are presently no restrictions (such as coastal car parks). These would be difficult and expensive to police properly; the measure would probably require extensive renovation of the various sites for resurfacing in order to put down white lines and would deter visitors. It would not appear to serve any discernible environmental or traffic management purposes. Equally, motorists would simply revert to parking in non designated areas, such as on grass verges; a practice that is tolerated on days when, for example, coastal car parks are full.

4.5 *Car parking spaces used by public and civil servants*

4.5.1 It has been suggested that civil and public servants should pay for

parking, if only to ensure some balance with other employees who will have no choice after paid parking is introduced to the long stay spaces in St Peter Port.

4.5.2 There is a wide range of sites that might be considered:

- Sir Charles Frossard House
- The Princess Elizabeth Hospital
- The KG VII Hospital and vicinity
- Other Health Service sites
- Beau Sejour
- Lukis House
- Education Department Offices
- Home Department sites, including the Police and Prison Services
- The States Works Department and associated sites
- The Burnt Lane Offices, St Martin
- The Court House and Offices
- Visit Guernsey
- The St Peter Port Harbour area
- Schools and the College of Further Education

4.5.3 In terms of *desirability*, it could be argued that parking dues should be collected from public and civil servants. Collection could certainly contribute to the philosophies attaching to the Road Transport Strategy, it would meet some of the requirements of the Treasury and Resources criteria for fees and charges (although it would probably fail badly in terms of being “realistically collectable”) and it would almost certainly be popular with the public in general, if not with those affected in particular. This being said, there is also the possibility that charging, for example, school teachers and nurses, would not be popular – especially as they are likely to be occupying spaces that would not be used by other motorists.

4.5.4 However, it is evident from the above list (which is not comprehensive) that to charge for parking by all civil and public servants using the proposed scratch card system would not pass the tests of *practicality*.

4.5.5 In the first place, any system that is introduced would have to be universally applied – that is, it would have to apply to all civil and public servants. This stipulation is complicated by the fact that the States is the sole shareholder in businesses such as Cabernet Limited, Guernsey Post and Guernsey Electricity, which companies operate, for most senses and purposes, independently of the public sector. Also, the States has a direct interest in some statutory non-governmental organisations such as the Guernsey Financial Services Commission and the Office of Utility Regulation. Should it be resolved that civil and public servants must pay for parking, it would be a matter for further consideration as to whether

or not employees of these operations should also be required to pay.

- 4.5.6 It can be simply ascertained that in terms of practicality, to charge civil and public servants for parking would be just about impossible to enforce. Further, it would be extremely difficult to manage, requiring enforcement officers to have access to obscurely located car parks and compounds, some of which are locked during hours when such access is required. Most parking for civil and public servants is exclusively for their own use, often with allocated spaces. It could be argued that, with their inclusion in a general paid parking scheme, these spaces should be made available to anyone who chooses to pay for them. The consequences of this do not bear contemplation, but do give rise to the possibility that paid parking for civil and public servants could be organised under a different scheme, for example, by use of barrier control methods. Without these (which may not be practical in all cases) there would be a “burden of honesty” upon civil and public servants that would not be balanced by any discernible benefit and, it must be imagined, there would be widespread abuse.
- 4.5.7 There is also the possibility that other operations could be affected. As with many other occupations, civil and public servants are often required to move from one site to another, to carry goods or to attend meetings. Departments would have to either provide quantities of scratch cards (if this is the method employed) or spend additional time in handling claims for parking expenses.
- 4.5.8 A final consideration, in terms of practicality, is the issue of singling out a particular group of employees and rendering them liable to a charge. There may or may not be issues that need addressing in this respect.

#### 4.6 *School students who are eligible to drive motor cars*

- 4.6.1 There are three schools that take in students old enough to hold a licence for driving a motor car; these are the two Colleges and the Grammar School. Consideration is also given to students attending the College of Further Education.
- 4.6.2 Elizabeth College students presently park wherever there is availability in the town area (most especially the Odeon car park and its environs). In this respect, they will be subject to competition for spaces that will already be included in the paid parking zones, so no special arrangement is called for in this case.
- 4.6.3 Grammar School students tend to park in the area reserved for Park and Ride as well as in the vicinity of the Rugby Club, which is private land. Given the tenets of the Road Transport Strategy regarding encouraging motorists to use public transport, it would make little sense to convert the

Park and Ride area to a paid parking zone. Further, there is no authority to enforce paid parking in the Rugby Club.

- 4.6.4 The Ladies College students will be inclined to park in the roads around and about St Stephen's Church. Some of these are long stay spaces that do not presently fall into the paid parking zones and, therefore, a decision would have to be made as to whether or not to include them. If they are included, then, inevitably, there would have to be extensions to the Residents' Parking Scheme, so as not to disadvantage persons living in the vicinity.
- 4.6.5 The College of Further Education has its own car parking at both the main site in the Coutanchez and the Brock Road Annex (home of the former Boys' Grammar School). It also has a set of rooms for the teaching of art at Grange House. Student parking is permitted at both the main site and the Brock Road Annex; those attending Grange House have to compete with other motorists for time restricted spaces in the vicinity.
- 4.6.6 To introduce paid parking in the College's two principal sites would be straightforward enough, but may be difficult and expensive to police. Consideration would also have to be given to whether or not lecturers and administrators would have to pay, something that would be further complicated by the fact that they frequently move from one site to another. This consideration should be viewed in conjunction with other decisions regarding the levying of charges upon civil and public servants. There is also the complication that the Brock Road Annex is the home of the Youth Service and the Sea Cadets; many activities for young people take place there on Saturdays and during the College holidays.
- 4.6.7 Whilst it is certainly possible that paid parking could be adjusted to include the students attending the Ladies College (although some difficulties in doing so can be envisaged), and those attending Elizabeth College are already included in the paid parking zones, it seems that it cannot easily be brought in for Grammar School students. College of Further Education students could be asked to pay for parking, but there would be difficulties in policing their sites and it would appear churlish to expect volunteer groups to pay when using the facilities on Saturdays or during the College holidays.
- 4.6.8 In terms of *desirability*, therefore, the adoption of paid parking for school students who are eligible to drive motor cars would appear to meet most of the given criteria. It would certainly fit with the proposals within the Road Transport Strategy, it would comply with many of the Treasury and Resources criteria for fees and charges, though there are some exceptions, and it might be construed as a broadly acceptable measure.

4.6.9 In terms of practicality, the adoption of paid parking for school students who are eligible to drive motor cars would be fraught with difficulties. It would be extremely difficult to enforce, virtually impossible to manage on a basis that would be fair and equitable to all concerned and would have a direct effect upon others such as residents, persons using the park and ride facility and youth activity groups.

## **5. Benefit in Kind and Workplace Parking Levy**

5.1 A common criticism of parking charges in public car parks is that many motorists, who are able to take advantage of private parking spaces provided by their employers, are not affected. As such, these same motorists are not subject to any incentive to consider alternative forms of transport, nor do they contribute to the funding of those alternatives.

5.2 It is conceivable that the introduction of a “benefit in kind” charge, whereby the benefit from the use of a parking space is chargeable through the income tax system could help to address this inequity. It is considered that a relatively simple change could be made to the Income Tax (Exemption of Benefits) Ordinance, 1995, that would then make the financial benefit arising from the provision of a private parking space a chargeable benefit for income tax purposes. It is reasonable to suppose that the value of the benefit could be set by Regulation so that the 20% tax payable on it is equivalent to the cost of using the public spaces throughout the year.

5.3 Although the benefit-in-kind initiative might resolve the issues of equity associated with public parking charges, it is probable that there would be calls from the private sector for a number of concessions and exemptions. For example, these might be for staff holidays, periods of sickness, spaces that are used by employees during the course of their duties etc. These would add to the complexity of administering the system by both the Income Tax Authority and by employers who would have to maintain additional records.

5.4 An alternative approach would be to consider the introduction of a workplace-parking levy. This would take the form of a charge levied on the employer linked to the number of parking spaces provided at its premises for employees. This would limit the administration of the scheme to the employers providing the benefit, rather than the greater number of employees receiving the benefit. It would then rest with employer to determine whether or not to recover the sums payable under the levy from its employees.

5.5 It may also be possible to introduce the levy through the property rating system.

5.6 It is important to note that, in the interests of equity of treatment, the imposition of a benefit in kind or similar charge would have to be considered in the light of other decisions regarding the extension of paid parking into all areas presently designated as disc zones.

## 6. Conclusions

- 6.1 The Environment Department was instructed to report specifically on the *desirability* and *practicality* of extending paid parking to other locations. This report has attempted to address this requirement and has set out the criteria by which its assessment has been made.
- 6.2 The introduction of paid parking into disc zones presently designated for short stay parking could be construed as both desirable and practical, given the criteria used in making this assessment.
- 6.3 There appears to be no practical reason why paid parking could not be introduced to the five and ten hour controlled spaces in St Martin and St Sampson with relative ease. It may be desirable that certain areas within this category are not included as paid parking zones.
- 6.4 It is evident that it would be neither desirable nor practical to introduce paid parking to areas where there is recognised parking, but no specific restrictions (such as coastal car parks).
- 6.5 It would appear that, in general, to charge civil and public servants for parking would be desirable (with some exceptions), but not practical.
- 6.6 It would appear that, in general, to charge school students who are eligible to drive motor cars for parking would be desirable (with some exceptions), but not practical.
- 6.7 The introduction of a benefit in kind, work place levy or property rating charge for privileged parking may be viewed, according to the criteria used, as desirable. This Report is not sufficiently detailed to make a full judgement on the merit of such schemes, but there are evidently practical considerations that would have to be overcome before any such method could be introduced.
- 6.8 It is important to record that there are misgivings amongst Members of the Environment Department regarding the introduction of paid parking as a mechanism for delivering the objectives of the Road Transport Strategy. It is believed that it can play only a limited role in acting as a disincentive for vehicle use. It may be further stated that these misgivings would naturally reach into any proposals for extending paid parking beyond the specific measures resulting from Deputy Roffey's amendment.
- 6.9 With this in mind, the Department does not recommend the extension of paid parking.

**7. Recommendations**

7.1 The Environment Department recommends the States to:

7.1.1 Note this Report.

Yours faithfully

B M Flouquet  
Minister

## APPENDIX ONE

### The Principles Governing Collection of Fees and Charges

The Treasury and Resources Department has published a States Report (November 2006) under the header **Fees and Charges** in which it sets out the criteria for a corporate approach to the collection of such.

Section 4.1 of the Report, as drafted, sets out the **Criteria for Evaluating Fees and Charges**, as follows:

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?
- How much 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 it politically deliverable?

**(NB The Policy Council and the Treasury and Resources Department have no comment on the proposals. When this matter is debated by the States, Members will vote on the basis of their individual views.)**

The States are asked to decide:-

XIII-. Whether, after consideration of the Report dated 24<sup>th</sup> January, 2007, of the Environment Department, they are of the opinion:-

To note that Report

**COMMERCE AND EMPLOYMENT DEPARTMENT**

## REVISION OF COMPANIES LAW

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

26<sup>th</sup> January 2007

Dear Sir

**1. Executive Summary**

This Report proposes a complete revision of Guernsey companies law, by not only consolidating the Companies (Guernsey) Law, 1994 together with a number of other amending and extending Laws, Ordinances and Regulations but also by proposing substantial legislative changes taking into account the results of extensive consultations within the Island alongside consideration of developments in other jurisdictions.

The aim of the revision is to create a legal infrastructure in which companies want to and can do business in Guernsey, and will remain competitive in relation to other jurisdictions. It increases commercial attractiveness and at the same time enhances corporate governance and shareholder protection.

The major proposals include making incorporation of companies an efficient and speedy administrative process rather than a judicial one, creating a new office of Registrar of Companies, consolidating all existing legislation dealing with companies and moving towards solvency rather than capitalisation in corporate actions and decision making.

The Department plans to submit a further States Report dealing with the financial and administrative aspects of the Registrar of Companies.

**2. Background**

This proposal for companies law is set in the broader context of the Department's review of all commercial legislation for the Island which has already borne fruit. Within the area of companies law itself, important amendments to certain aspects have been made by Laws and Ordinances, for example:

- The Companies (Amendment) (Guernsey) Law, 2005

- The Companies (Purchase of Own Shares) (Treasury Shares) Ordinance, 2006  
and
- The Incorporated Cell Companies Ordinance, 2006

These amendments have targeted discrete issues that the Department felt important and time critical to amend. However, for some time, there has been an awareness of the need for a comprehensive overhaul of companies law which would integrate and consolidate all existing amendments as well as reviewing the entirety of companies law in a holistic manner. This need for an overarching review was identified to the States in Billet No. XIV of 2005 at Article 13. The Department proposed and the States resolved that, after further work had been carried out, a further States Report would be presented for approval to the States. This is that report.

It had been stated that the new companies law would be introduced in 2006. Unfortunately the complexity of the consultation and the pressure on drafting and legal resources for other more time critical projects has meant that it will be later this year before the law can be prepared, and the office of Registrar cannot be established before mid-2008 when it is anticipated that all the new legislation will come into force.

### **3. Existing companies legislation**

The main statute governing companies in Guernsey is the Companies (Guernsey) Law, 1994. It has been amended a number of times since it was enacted. It has also been supplemented by various Ordinances and Regulations as the need arose. The more important of these supplementary items are:

- The Companies (Guernsey) Law, 1994 (Commencement and Miscellaneous Provisions) Ordinance, 1995
- The Companies (Guernsey) Law, 1994 (Commencement) (No.2) Ordinance, 1995
- The Companies (Amendment) (Guernsey) Law, 1996
- The Companies (Enabling Provisions) (Guernsey), Law, 1996
- The Company Auditors Regulations, 1996
- The Amalgamation of Companies Ordinance, 1997
- The Guarantee Companies Ordinance, 1997
- The Migration of Companies Ordinance, 1997
- The Protected Cell Companies Ordinance, 1997
- The Companies (Purchase of Own Shares) Ordinance, 1998
- The Companies (Financial Assistance for Acquisition of Own Shares)

Ordinance, 1998

- The Protected Cell Companies (Amendment) Ordinance, 1998
  - The Companies (Amendment) (Guernsey) Law, 2001
  - The Companies (Shares of No Par Value) Ordinance, 2002
  - The Companies (Shares of No Par Value) (Modification of Legislation) Regulations, 2002
  - The Companies (Amendment) (Guernsey) Law, 2005.
  - The Uncertificated Securities (Enabling Provisions) Guernsey Law, 2005.
  - The Protected Cell Companies (Amendment) Ordinance, 2005
  - The Protected Cell Companies (Amendment) Ordinance, 2006
  - The Incorporated Cell Companies Ordinance, 2006
  - The Companies (Purchase of Own Shares) (Treasury Shares) Ordinance, 2006
- and
- The Companies (Fees and Penalties) Ordinance, 2006.

#### **4. Consultation and Policy Development Process**

In 2005 the Department commissioned a consultation paper which dealt with all aspects of the existing law and made policy proposals in a large number of those areas covered by it. It was followed by a consultation process where submissions were received from a wide cross section of the commercial and regulatory community including trust companies, accountancy firms, commercial organisations, the Guernsey Financial Services Commission, HM Greffier, the Finance Sector Group, the Guernsey International Business Association, States' bodies, the Guernsey Bar, as well as individual submissions. The Department is grateful to all those involved who devoted considerable time and resources to the review. HM Procureur has also been able to contribute to the process on the matters raised in and by both the consultation paper and the consultation process, and his input has proved both instructive and helpful.

As part of the process of determining suitable policies to recommend to the States, consideration was also given to legal developments in other jurisdictions, in particular, New Zealand, Jersey, the Isle of Man, the Cayman Islands, Singapore and the United Kingdom. The UK has recently completed a substantial review of corporate law and enacted the Companies Act 2006, weighing in at over 1300 sections, the longest piece of legislation ever passed by Parliament. Much of benefit has been gathered from the experience of other jurisdictions, some of which have far greater resources to develop policies. Much can also be discarded as adding little of value but a great deal of complexity, or else not being suitable to the particular circumstances of the Island.

The task of sifting through the welter of, sometimes conflicting, ideas and policies was carried out by a combination of lawyers in St James Chambers, external consultants, the Department and members of the Guernsey Bar. It was also encouraged by the Company Registry Steering Group, drawn from both the public and private sectors. The primary purpose of this Group is to develop concrete proposals for a new Registrar of Companies, as set out below, but it also assisted in the companies law review.

## **5. Principles underpinning companies law review**

The Department believes that a full review of companies law is essential to create and sustain:

- conditions that help maintain a prosperous and resilient business environment, able to respond quickly to changing local and international circumstances
- conditions in which Guernsey can remain competitive and an attractive place to do business in relation to other jurisdictions
- conditions that maintain Guernsey's international reputation; and
- a legislative framework that enables rather than inhibits business activity.

During the course of the Review process, two primary principles have come into focus. Firstly, to reduce regulatory requirements to make it simpler and more commercially attractive to do business in Guernsey and secondly to provide an appropriate and comprehensive system of corporate controls and governance to ensure probity and propriety in the conduct of corporate affairs. At first sight, there appears to be an inherent contradiction in these two principles. However, the consultees proposed and the Department tends to agree that these principles are complementary, not contradictory. One of the factors that makes Guernsey attractive for incorporating and administering companies is that it has such a good reputation. Therefore, the proposals seek to make business easier for companies and at the same time to enhance shareholder and creditor protection and the regulation of directors.

## **6. Major proposed changes**

### **6.1 Incorporation of companies no longer a judicial process**

It is proposed to remove the Royal Court from the process of incorporating a company in Guernsey. Incorporation will no longer be a judicial process, but an administrative one conducted by and through the auspices of the new Registrar of Companies. HM Greffier will no longer have this role, once the Royal Court is removed from the process. With this change, the current "monopoly" that Advocates have on incorporating companies will also disappear. Under the new arrangements, regulated Company Formation Agents will be the interface with the Registrar of Companies for company incorporation.

## 6.2 Creation of a new Registrar of Companies

The Companies Register will be superintended by a Registrar of Companies, appointed by the Department and responsible to it, but statutorily having the necessary degree of independence. The Registrar shall be responsible for developing the Register to enhance Guernsey's reputation. It is proposed that substantial use be made of IT to enhance the running of the new Register, to the point where companies may be formed online. This topic, obviously a broad one, will be the subject of a further States Report.

## 6.3 Solvency test model

The Department proposes to move from capital maintenance as the touchstone of certain corporate action and decision making to a solvency test. Capital maintenance is seen as too unwieldy and artificial. The proceeds of an issue of shares may be spent immediately after receipt, whereas a solvency test at the time action is prepared or a decision is made is much more relevant to the demands of business and the legitimate expectations of those doing business with, or affected by, corporate affairs. Solvency has been increasingly used in Guernsey legislation as the criterion for various decisions. It is proposed to assimilate all these tests into one, to be used for everything from dividend distribution to reduction of capital.

## 6.4 Consolidation of existing legislation

It is proposed to consolidate the many separate Laws, Ordinances, etc. governing company law into one *Projet de Loi*. These disparate pieces of legislation have all arisen in response to the developing needs of business and commerce, and reflect the responsive nature of the States to those needs. However, it has become increasingly difficult to utilise legislation from so many different sources.

## 7. **Other proposed changes**

There are a whole host of other changes also proposed. These include:

- That it be possible to create single member companies. Historically, companies have always been required to have two or more members.
- That the range of companies that may be incorporated is extended to include unlimited liability companies and mixed liability companies. Presently the liability of members can be limited by share or limited by guarantee; these new types of company will give greater flexibility.
- To give greater freedom to companies to convert into other types of companies by way of an administrative process.
- That the act of creating a company be termed "incorporation" to replace "registration". Under the proposals, an application will be made to the Registrar for incorporation. If the Registrar grants it, he will issue a certificate of incorporation which shall clearly state the date on which the company comes

into existence, if not to be the date of issue.

- To allow for incorporation to take effect, within reason, upon a day of the applicant's choosing after application rather than when it is administratively convenient for the Registrar.
- That incorporation be simplified by the creation of standardised articles of incorporation.
- To make migrations of companies to and from Guernsey easier and cheaper by turning migration into an administrative procedure operated through the Registrar rather than a court based judicial procedure.
- As far as possible to make non-contentious company applications and matters into administrative procedures dealt with by the Registrar, saving time and resources as well as giving greater flexibility and certainty to companies, with the proviso that any contentious matter, or adverse decision, may be heard or reviewed by the Royal Court.
- That the default position of a company should be that it has unlimited objects unless it specifically limits its objects.
- To make proper provision for pre-incorporation contracts. These are contracts entered into on behalf of the company before its incorporation. At present making a pre-incorporation contract is potentially a criminal offence. It is proposed to remove the criminal sanction and make pre-incorporation contracts capable of being ratified by companies and the benefit and burden under them transferred by that ratification to the company.
- To allow for company names to be reserved for a short time in contemplation of a pending application for incorporation.
- To restrict the use of company names.
- To facilitate the greater use of electronic media both in terms of storing information about a company and communicating that information to the Registrar, to its members and to other interested parties.
- To remove the requirement for companies to send annual returns of members' details to the Registrar but to expand slightly on other administrative matters to be included in the annual return.
- To change the concept of an annual return from information to be filled out by the company to an annual validation of information that the Registrar already holds about the company.
- That directors have an opportunity to be excused liability by the Royal Court for their defaults if they acted honestly and reasonably and ought fairly to be so excused. This is consistent with generally accepted international commercial practice

- To waive the requirement that companies, where the members so resolve, must always hold an Annual General Meeting.
- To develop and expand upon the existing written resolution regime.
- To ensure that a member can always appoint a proxy to act on his behalf and that the company cannot derogate from this.
- To allow changes to companies law to be made by Ordinance rather than a fresh Projet de Loi.
- To allow for a codification of directors' duties if this is deemed desirable following future consultation.
- To allow the Registrar to set fees in respect of all types of companies by way of Regulations after consultation with and approval by the Department.
- That transactions between directors and their companies be regulated to ensure that there is no abuse or potential for abuse or that directors put self interest before the interests of their company.
- To ensure that full details of directors are kept by the company and the Registrar but that residential addresses of directors need not be automatically available to the public, but are available to certain public bodies.
- To protect the residential addresses of members of companies from those who seek to use them for improper purposes.
- That a regime of civil penalties imposed by the Registrar for breaches of the law be developed to ensure compliance without the need for costly court prosecutions. At the same time, to build in appropriate appeal mechanisms.
- That responsibility of maintaining the register of disqualified company directors be transferred to the Registrar.
- To require every company to have a company secretary (who may also be a director) and that the minimum duties of company secretaries be set out in statute.
- To clarify the nature of annual reports a company must produce: i.e. directors' report, annual accounts and auditors' report.
- To enhance the powers of auditors to investigate companies.
- To give auditors rights to obtain information about resolutions and meetings of the company.
- To make provision governing the circumstances in which an auditor can be removed and to give rights to auditors to communicate with members of the company about their removal.
- To ensure compliance with EU requirements on the regulation of those local

auditors who undertake audit work for Guernsey based companies that are quoted on European stock exchanges, an enabling power to allow the Department, through subordinate legislation, to establish an equivalent regime to that in the UK and agree the delegation of responsibility for auditor oversight to the appropriate UK bodies. However, any disciplinary sanctions required as a result of such oversight will be retained by an appropriate authority on the Island.

- To update the law on beneficial ownership of companies to remove the requirement for details of beneficial ownership to be provided to the Guernsey Financial Services Commission as a pre-requisite to incorporation. To give to directors the power to require members to disclose beneficial ownership information in respect of their shareholding, this information may then be passed to relevant Island authorities together with the appropriate Company Formation Agent for a proper purpose.

## **8. Contents of proposed Companies Law**

The points set out at sections 6 and 7 deal with the changes the Department proposes to make to the existing companies law. As these changes essentially constitute a wholesale revision of the law, the proposals cover virtually all aspects of companies law.

The Department therefore proposes that the new Law contains provision for the following matters:

- Definition and incorporation of a company, including the types of company available and the manner in which companies can incorporate.
- Names a company can have, reservation of names, regulation of its registered office and use of company seal.
- Alteration of a company's constitution and conversion into different types of company.
- Amalgamations.
- Reconstructions and arrangements.
- Migrations of companies to and from Guernsey.
- Determining the capacity and powers of companies.
- Rights and duties of members of companies.
- Directors, including appointment, register, service addresses, meetings of directors, disqualification orders and transactions involving self-interest.
- Secretaries.

- Resolutions and meetings of members.
- Annual validations to the Registrar of information about companies.
- Company accounts and reports by the directors and the audit of those accounts (with exemptions) by auditors together with auditors' rights and duties.
- Protection of members against unfair prejudice.
- Prohibition of wrongful and fraudulent trading by directors.
- Maintenance of capital of companies, including solvency, reduction of capital, purchase of own shares, treasury shares, financial assistance with purchase of shares.
- Variation of members rights.
- Incorporated cell companies.
- Protected cell companies.
- Criminal and civil penalties.
- Creation of the office of Registrar of Companies.
- Beneficial ownership of companies.
- Payment of fees by all types of company.

In addition, there will be consequential and transitional changes made by the new Law which are too detailed to include fully within this Report. The Department will, as part of its proposals, ensure that these changes are included in the new Law so that transition from the current regime to the new proposed regime will occur with no disruption to Guernsey's commercial environment.

## **9. Other matters for future development**

There are two matters about which there have not yet been fully developed proposals to put before the States.

### **9.1 Company Registry Steering Group**

As mentioned above, the Company Registry Steering Group is developing policies concerning the new Companies Register.

### **9.2 Insolvency Law Review**

The current companies law deals with corporate insolvency. The Department intends to bring forward proposals to amend corporate insolvency and also to amend the law relating to personal insolvency.

## **10. Staffing and financial implications**

The full staffing and financial implications of establishing the office of Registrar of Companies will be the subject of a separate States Report later this year. However, the intention is to transfer the existing Registry Team at the Greffe to the new Registrar. The Department intends to start the process of appointing this Registrar to the post immediately in a “shadow” capacity. This will ensure that the individual works closely with the project team as the new Registry unfolds and then takes responsibility for the enterprise once the responsibility for corporate incorporation passes from the Greffe.

Furthermore, it is envisaged that, subject to States approval, income from company fees in future will maintain the current level of income to the States from this source and, in addition, fully fund the activities of the new office.

## **11. Conclusions**

The proposals contained in this Report are the result of a significant and widespread consultation within both the public and private sectors alongside consideration of the best points of other jurisdictions. The Department believes these changes are necessary to maintain and improve Guernsey's reputation as a responsible and attractive international centre for corporate affairs. HM Procureur has been involved and supports the proposals.

## **12. Recommendations**

The Department recommends the States approve the proposals for the revision of companies law in accordance with the principles set out in sections 6, 7 and 8 of this Report.

Yours faithfully

Stuart Falla  
Minister

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

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

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 26<sup>th</sup> January, 2007, of the Commerce and Employment Department, they are of the opinions:-

1. To approve the proposals for the revision of companies law in accordance with the principles set out in sections 6, 7 and 8 of that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

***STATUTORY INSTRUMENT LAID BEFORE THE STATES*****THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT) REGULATIONS, 2007**

In pursuance of Section 35 of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2007, made by the Social Security Department on 7<sup>th</sup> February, 2007, 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.

## POLICY COUNCIL

### REPORT ON INTERNATIONAL CONVENTIONS AND AGREEMENTS FOR THE YEAR ENDED 31<sup>st</sup> DECEMBER, 2006 (in accordance with Resolution VIII (2) of Billet d'État IV 1987)

#### PART I - OUTSTANDING MATTERS FROM PREVIOUS REPORTS

*(Note: Those consulted are shown as the post 1<sup>st</sup> May 2004 Departments although some of the consultations may have taken place with the Departments' predecessor Committees.)*

1. **Treaty between the United States of America and the United Kingdom on Mutual Legal Assistance in Criminal Matters**

Object: To improve the effectiveness of the Law enforcement authorities of both countries in the investigation, prosecution and combating of crime through co-operation and mutual legal assistance in criminal matters and to reaffirm the Contracting Parties' determination to enhance assistance in the fight against crime as set out in an earlier Agreement.

Consultation: H.M. Procureur  
Financial Services Commission

Action: The general question of this Treaty is still under review. A separate Agreement relating to the sharing between the representative jurisdictions of assets which have been confiscated as being the proceeds of drug trafficking was concluded in 1996.

2. **Convention for the Protection of the Marine Environment of the North East Atlantic**

Object: To provide that the Contracting Parties shall take all possible steps to prevent and eliminate pollution and shall take the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected.

Consultation: H.M. Procureur  
Commerce and Employment Department  
Health and Social Services Department

## Public Services Department

Action: The issues involved are linked to the control of environmental pollution and the implementation of the Waste Strategy Assessment. The Environmental Pollution (Guernsey) Law, 2004 was registered in the Royal Court on 4<sup>th</sup> October, 2004 but the relevant parts relating to water pollution have not yet entered into force. A decision regarding the extension of the Convention to Guernsey will be made once those parts of the Law have commenced.

3. **Extradition Treaty between the United Kingdom and the Republic of India**

Object: To make more effective the co-operation of the two countries in the suppression of crime by making further provision for the reciprocal extradition of offenders and in the recognition that concrete steps are necessary to combat terrorism.

Consultation: H.M. Procureur

Action: Consideration of this Treaty remains in abeyance pending the enactment of domestic legislation relating to extradition matters.

4. **United Nations Convention on Biological Diversity**

Object: To conserve the maximum possible biological diversity for the benefit of present and future generations and for its intrinsic value by ensuring that the use of biological resources is sustainable; and by securing economic and legal conditions favourable for the transfer of technology necessary to accomplish this objective.

Consultation: H.M. Procureur  
H.M. Government  
Commerce and Employment Department  
Environment Department

Action: Whilst progress continues to be made in achieving the criteria set by the Convention Guernsey is not yet in a position to request that the Convention be applied to the Island.

5. **Agreement establishing the World Trade Organization**

The Agreement establishing the World Trade Organization comprises three separate parts: the General Agreement on Tariffs and Trade, 1994 (GATT); the General Agreement on Trade in Services (GATS) and the Agreement on Trade-

Related Aspects of Intellectual Property Rights (TRIPS). It puts the GATT on a formal footing.

a. The General Agreement on Tariffs and Trade, 1994

Object: To increase market access by reducing or eliminating trade barriers. This objective was met by reductions in tariffs, reductions in non-tariff support in agriculture and the elimination of bilateral quantitative restrictions.

To increase the legal security of the new levels of access. This has resulted in strengthened and expanded rules, procedures and institutions.

To implement a phased reduction in tariffs on a wide range of goods.

To reduce non-tariff barriers.

To provide a new framework of rules on subsidies and trade restrictions.

To provide for a free global textile trade.

To bring agriculture fully within the GATT for the first time. This includes the conversion of all restrictions on trade to tariffs which are transparent. A minimum reduction in every tariff of 15%. A guarantee that at least 3% of domestic agricultural product markets will be open to imports. Controls will be introduced on domestic support and export subsidies.

The Multifibre Agreement will be phased out and trade in textiles will be re-integrated into the GATT system over a ten year period.

Anti-dumping rules will be strengthened and clarified.

To provide for more rapid and effective settlement of trade disputes.

b. General Agreement on Trade in Services.

Object: To introduce the principles of the GATT regarding multilateral trade rules to services, including the principles of national treatment, most-favoured-nation, transparency and progressive liberalisation.

To liberalise trade in a wide range of services as a basis for freer trade in the future.

To guarantee existing levels of access in many areas.

c. Agreement on Trade-Related Aspects of Intellectual Property Rights.

Object: To introduce a set of agreed multilateral rules requiring basic protection of intellectual property rights including the principles of national treatment and most-favoured-nation.

Consultation: H.M. Government  
H.M. Procureur  
Commerce and Employment Department

Action: This matter remains under consideration

6. Agreement on Government Procurement

Object: To broaden and improve the 1979 Agreement on Government Procurement (as amended in 1987) on the basis of mutual reciprocity and to expand the coverage of the Agreement to include Service Contracts.

Consultation: H.M. Procureur  
Commerce and Employment Department  
Culture and Leisure Department  
Education Department  
Health and Social Services Department  
Public Services Department  
Committee for Home Affairs

Action: No further action is proposed regarding this Agreement.

7. Council of Europe Convention relating to questions of copyright law and neighbouring rights in the framework of transfrontier broadcasting by satellite

Object: To promote the broadest possible harmonisation of the Law of the Member States, and the other States party to the European Cultural Convention, on copyright and neighbouring rights with regard to new technical developments in the field of broadcasting by satellite notably the need to safeguard the rights and interests of authors and other contributors when protected works and other contributions are broadcast by satellite. To

consider further legal aspects of broadcasting by satellite from the viewpoint of copyright law and neighbouring rights.

Consultation: H.M. Procureur  
Commerce and Employment Department  
Home Department

Action: Following the enactment of new intellectual property rights legislation consideration will now be given to the possible extension of this Agreement to Guernsey.

8. **International Convention for the Prevention of Pollution from Ships (MARPOL)**

Object: To achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances.

Consultation: H.M. Government  
Alderney and Sark  
H.M. Procureur  
Public Services Department

Action: The possible extension of the Convention will be considered once the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (registered in the Royal Court on 10<sup>th</sup> May, 2004) has been brought into force.

9. **Council of Europe Framework Convention for the Protection of National Minorities**

Object: To specify the legal principles which States undertake to respect in order to ensure the protection of national minorities.

Consultation: H.M. Procureur

Action: This matter remains under consideration.

10. **Agreement between the United Kingdom and Canada regarding the Sharing of Forfeited or Confiscated Assets or their equivalent funds**

Object: To enable the Parties to share confiscated criminal proceeds where the non-confiscating country has made a significant contribution to the investigation.

Consultation: H.M. Procureur

Action: H.M. Government has been asked to investigate the possibility of a separate Guernsey/Canada agreement being negotiated.

11. **Council of Europe Convention on Cyber Crime**

Object: To deter actions directed against the confidentiality, integrity and availability of computer systems, networks and computer data as well as the misuse of such systems, networks and data by providing for the criminalisation of such conduct and to facilitate the detection, investigation and prosecution of such criminal offences at both the domestic and international level.

Consultation: H.M. Procureur

Action: This matter is still under consideration.

12. **Agreement between the United Kingdom and Romania on the Return and Readmission of Persons Present without Authorization**

Object: To improve co-operation between the two contracting parties in order to contribute to the prevention and combating of illegal cross-border migration and to facilitate readmission and transiting in cases of expulsion of persons whose entry or residence on their territories is illegal.

Consultation: H.M. Procureur  
Home Department

Action: This matter is still under consideration.

13. **Convention on the Conservation of Migratory Species of Wild Animals : Agreement on the Conservation of Albatrosses and Petrels**

Object: To set out management requirements for the Conservation of Albatrosses and Petrels both in the Marine and Terrestrial Environments.

Consultation: H.M. Procureur  
Commerce and Employment Department

Action: Not extended to Guernsey as the species involved do not visit the Island.

14. **Agreement between the United States of America and the United Kingdom regarding the Sharing of Forfeited or Confiscated Assets or their Equivalent Funds**

Object: To improve the effectiveness of law enforcement in both countries in the investigating, prosecution and suppression of crime and in the tracing, freezing, seizure and forfeiture or confiscation of assets related to crime and to create a framework for sharing the proceeds of the disposition of such assets.

Consultation: H.M. Procureur

Action: H.M. Government has been asked to investigate the possibility of a separate Guernsey/U.S.A. agreement being negotiated.

15. **Cartagena Protocol on Biosafety to the Convention on Biological Diversity**

Object: The Protocol's overall objective is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms (LMOs) resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focussing on transboundary movements. (The term genetically modified organism (GMO) is more commonly used in the EC than the term LMO, but the two terms mean the same.)

Consultation: H.M. Procureur  
H.M. Government  
Commerce and Employment Department  
Environment Department

Action: The issues involved are closely related to those under consideration in relation to the Convention on Biological Diversity (See Part I No 4) and will be examined when a decision is reached with regard to that Convention.

16. **Optional Protocol to the United Nations Convention on Torture**

Object: To prevent torture and inhuman treatment through visits by national and international independent monitoring committees to places of detention in signatory states.

Consultation: H.M. Procureur  
Health and Social Services Department  
Home Department

Action: In 1987 the States resolved that where international agreements involved questions of human rights and fundamental freedoms the terms of such agreements should be laid before the States. In pursuance of that resolution a report will be made to the States regarding this Protocol in due course.

17. **Draft Treaty between the United Kingdom and the Republic of Brazil on Mutual Legal Assistance in Criminal Matters**

Object: To provide for mutual legal assistance in criminal matters without regard to whether the conduct that is the subject of investigation, prosecution or proceeding would be punishable under the legislation of both parties, except for search, seizure, restraint and confiscation.

Consultation: H.M. Procureur

Action: This matter is still under consideration.

18. **Draft Agreement on the Working Arrangements between the United Kingdom and the Republic of Vietnam relating to Intercountry Adoptions**

Object: To establish safeguards to ensure that intercountry adoptions between the parties only take place in the best interests of the child and with respect to his international rights as recognised in international law; to establish a system of co-operation between the parties to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children.

Consultation: H.M. Procureur  
Health and Social Services Department

Action: This matter is still under consideration.

19. **Stockholm Convention on Persistent Organic Pollutants (POPs)**

Object: To protect human health and the environment from persistent organic pollutants by prohibiting or limiting their production and export; by taking measures to reduce or eliminate releases from unintentional production and by taking measures to reduce or eliminate releases from stockpiles or wastes

Consultation: H.M. Procureur  
Commerce and Employment Department  
Health and Social Services Department  
Home Department

Action: This matter is still under consideration.

20. **European Convention on the Adoption of Children - DENUNCIATION**

Object: The United Kingdom is denouncing the Convention as it is incompatible with the Adoption and Children Act which allows unmarried couples to adopt jointly.

Consultation: H.M. Procureur  
Health and Social Services Department

Action: This matter is still under consideration.

21. **Hague Convention on the Protection of Cultural Property in the event of Armed Conflict and its two Protocols of 1954 and 1999**

Object: To provide a system of general and special protection of cultural property in situations of international and non-international armed conflict. Cultural property is defined for this purposes as “movable and immovable property of great importance to the cultural heritage of every people”.

Consultation: H.M. Procureur  
Culture and Leisure Department

Action: Not extended to Guernsey.

22. **Council of Europe European Landscape Convention**

Object: To recognise landscapes in law and to establish and implement landscape policies aimed at landscape protection, management and ‘landscape planning’ (i.e. active design) through the

adoption of specific measures; to establish procedures for public participation in defining and implementing landscape policies and integrate landscape into regional and town planning policies and to cooperate on the landscape dimension of international policies.

Consultation: H.M. Procureur  
Environment Department

Action: This matter is still under consideration.

## PART II - NEW MATTERS CONSIDERED SINCE PREVIOUS REPORTS

### 23. Protocol to the Council of Europe Convention for the Suppression of Terrorism

Object: To overcome a number of practical difficulties which had arisen in connection with extradition and mutual legal assistance concerning persons accused or convicted of acts of terrorism. Problems were experienced in respect of the 'political exception rule' in many extradition treaties, whereby extradition in respect of a political offence is prohibited.

Consultation: H.M. Procureur

Action: Extension to the Bailiwick agreed in principle, subject to the enactment of legislation required to give effect to the terms of the Protocol.

### 24. Stabilisation and Association Agreement between the E. U. and Albania

Object: The Agreement has the following main elements:

- Provision for political dialogue;
- Provisions for enhanced regional cooperation, including the perspective of establishing free trade areas between the countries of the region;
- The perspective of the establishment of a free-trade area between the E. U. and Albania within 10 years;
- Provisions on the movement of workers, freedom of establishment, supply of services, current payments and movements of capital;
- The commitment by Albania to approximate legislation to that of the E. U., notably in key areas of the internal market;
- Provisions on co-operation with Albania in a wide range of fields, including justice, freedom and security;
- Provision for the establishment of a Stabilisation and Association Council which supervises the implementation of the Agreement.

Consultation: H.M. Procureur

Action: Extended to Guernsey only to the extent that that the Agreement applies within the terms established by Protocol 3 to the United Kingdom's Treaty of Accession to the treaty of Rome.

25. **Supplementary Fund Protocol to the Convention on the establishment of an International Fund for Compensation for Oil Pollution Damage, 1992**

Object: To provide for the payment of compensation to any person suffering pollution damage if such person has been unable to obtain full and adequate compensation for an established claim under the terms of the 1992 Fund Convention.

Consultation: H.M. Procureur  
Public Services Department

Action: This matter is still under consideration.

26. **Council of Europe Convention on the Transfer of Sentenced Persons**

Object: To provide that foreigners who are deprived of their liberty as a result of their commission of a criminal offence should be given the opportunity to serve their sentences within their own society.

Consultation: H.M. Procureur  
Home Department

Action: This matter is still under consideration.

27. **Treaty concerning a European Vehicle and Driving Licence Information System (EUCARIS)**

Object: To provide procedures enabling the central authorities responsible for the registration of vehicle and driving licence data to co-ordinate their actions and to exchange personal and other information concerning the registration of vehicles and driving licences with the aid of new data management and data transmission technology.

Consultation: H.M. Procureur  
Environment Department  
Home Department

Action: This matter is still under consideration.

### **PART III - REPORTS SUBMITTED BY GUERNSEY**

In March 2006 the Bailiwick submitted a report for inclusion in the United Kingdom's 17<sup>th</sup> periodic report relating to the United Nations Convention on the Elimination of all forms of Racial Discrimination.

In September 2006 the Bailiwick submitted a report for inclusion in the United Kingdom's 6<sup>th</sup> periodic report relating to the International Covenant on Civil and Political Rights together with a response to the U. N. Committee on Civil and Political Rights' concluding observations of 27<sup>th</sup> March 2000, under reference CCPR/C/79/Add.119.

Copies of the aforementioned Reports and the Committee's conclusions and recommendations, and other reports published by the United Nations Human Rights Committee, are available, free of charge, on request from the Head of Constitutional Affairs at Sir Charles Frossard House.

Copies have also been deposited at the Royal Court Library and with the Citizens' Advice Bureau, Guille-Allès Library, Priaulx Library, Alderney Library and Sark Library.

The reports are also available of the States of Guernsey website:

[www.gov.gg/ccm/navigation/government/human-rights/other-conventions-covenants/](http://www.gov.gg/ccm/navigation/government/human-rights/other-conventions-covenants/)

L C Morgan  
Chief Minister

29<sup>th</sup> January 2007

**SCRUTINY COMMITTEE**

“SCRUTINISING SCRUTINY” PERFORMANCE REPORT 2004-2006

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

26<sup>th</sup> January 2007

Dear Sir

I enclose the Scrutiny Committee’s Performance Report and would be grateful if you would arrange for it to be published as an appendix to the Billet d’Etat for March 2007.

Copies of the report will be made generally available to the public from Sir Charles Frossard House after the publication of the Billet.

Yours faithfully

J A Pritchard  
Chairman

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**SCRUTINY COMMITTEE**  
THE STATES OF GUERNSEY

**“SCRUTINISING SCRUTINY”  
PERFORMANCE REPORT  
2004 – 2006**

**JANUARY 2007**

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# CONTENTS

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	Page
Chairman's Foreword	2
Introduction	3
<ul style="list-style-type: none"> <li>▫ The Role of Scrutiny</li> <li>▫ Committee Members</li> <li>▫ The Role of Committee Members</li> </ul>	
Overview	5
<ul style="list-style-type: none"> <li>▫ Key Achievements May 2004 – December 2006</li> </ul>	
Scrutiny Work	6
<ul style="list-style-type: none"> <li>▫ Reviews</li> <li>▫ Scrutiny Studies</li> <li>▫ Scrutiny Questions</li> </ul>	
Relationships	13
<ul style="list-style-type: none"> <li>▫ The Public</li> <li>▫ Departments and Committees</li> <li>▫ Public Accounts Committee</li> </ul>	
Resources	15
Processes and Procedures	15
<ul style="list-style-type: none"> <li>▫ Disclosure of Information</li> <li>▫ 'Special Interest'</li> <li>▫ Conduct of Reviews</li> <li>▫ Co-opted Members</li> <li>▫ Training and Development</li> </ul>	
The Year Ahead	18
<ul style="list-style-type: none"> <li>▫ High-Level Objectives</li> <li>▫ Work Programme and Corporate Direction</li> <li>▫ Scrutiny Subjects</li> <li>▫ Performance Measurement of Scrutiny</li> <li>▫ Action Plan</li> </ul>	
Your Say	21
<ul style="list-style-type: none"> <li>▫ Submit Your Scrutiny Topics</li> <li>▫ General Feedback</li> <li>▫ Criteria for Scrutiny Subjects Form</li> </ul>	

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## CHAIRMAN'S FOREWORD

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This is the Scrutiny Committee's first performance report and it reflects the challenging time for the Committee since its inception in May 2004. The Committee has worked hard to establish its role scrutinising the performance of Guernsey's government. The last two and a half years have been a steep learning curve for Members and staff alike as we get to grips with our role as scrutineers, a completely new concept for Guernsey, for which we have had to develop tailor-made processes and procedures.

The evolution and development of the scrutiny process has taken place against the backdrop of the Machinery of Government reforms. Departments and Committees have had to deal with their own challenges during this period of adjustment for Guernsey's government and the Committee is grateful to all Departments and Committees for their cooperation with and support for the scrutiny process. Notably since the Committee's formation there has been an increase in demand for services, but restraint on resources to provide them, which is now particularly acute as the Island faces tax reforms and public service budget cuts to manage a financial 'black hole'. Politicians and the public sector are required to operate at a much broader level than previously and political and departmental accountability for the effectiveness and efficiency of policy and service delivery has never been more important.

Scrutiny is here to help provide that accountability. Sometimes that has meant providing constructive criticism, but also highlighting examples of good practice and offering praise where praise is due. Our focus has been on facilitating realistic improvements to the services provided to the community. This doesn't always have to be in the form of a full review process; sometimes a well-aimed question or written enquiry can have a positive effect. Even just the existence of Scrutiny gives policy-makers pause for thought.

Since our inception we have set up our processes and procedures, completed three major reviews and a Scrutiny Study, as well as researching and monitoring numerous other important policy areas, some of which are potential review subjects in progress. The work that the public sees is just the tip of the iceberg of the work that the Committee undertakes behind the scenes in investigating key issues and promulgating better corporate prioritisation, performance monitoring and, of course, accountability.

The scrutiny team, Members and support staff, are proud of what we have accomplished to date and I am confident that we will continue to build on our achievements to enhance Scrutiny's position in holding government to account and having a positive influence on policy making and service delivery for the future.



**Deputy Jean Pritchard**  
Chairman  
Scrutiny Committee

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# INTRODUCTION

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## THE ROLE OF SCRUTINY

The Scrutiny Committee was formed in May 2004 and is one of the scrutiny mechanisms in place within the States of Guernsey, following the implementation of Machinery of Government changes. Political scrutiny is a new concept for Guernsey and forms an integral part of the checks and balances within the new style of government. The sole aim of the scrutiny process is to add value to the services government provides to the community.

The terms of reference for the Scrutiny Committee are,

“to examine States’ department and committee policies and services together with the development processes in order to determine the effectiveness of those policies or services, to identify areas that might be inadequately or inappropriately addressed and to assess the performance of departments and committees in implementing policies and services.”

- Billet D’Etat VII, 2003

Unlike the system of scrutiny at Westminster, where a number of different Select Committees exist each to specifically scrutinise the work of one government department, Guernsey’s Scrutiny Committee has a much wider scope as it is responsible for scrutinising all aspects of government policy and service delivery, across all Departments and Committees.

Scrutiny is an evolving process, which includes monitoring, researching and investigating various policy and service delivery issues and conducting Scrutiny Reviews of specific issues of public importance. The Committee does not examine individual problems, concerns or complaints, operational issues or matters prejudicial to the public interest.

## COMMITTEE MEMBERS

The Membership of the Committee, up to 31<sup>st</sup> December 2006, is:

- Deputy Jean Pritchard (Chairman)
- Deputy Sam Maindonald (Vice-Chairman)
- Alderney Representative Richard Cox
- Deputy Brian de Jersey
- Deputy Brian Gabriel (until September 2006)
- Deputy John Gollop
- Deputy Ron Le Moignan
- Deputy Diane Lewis (from September 2006)
- Deputy Duncan Staples
- Deputy Eric Walters

The Committee wishes to pay special tribute to Deputy Mike Burbridge who gave excellent service to the work of the Committee and tragically died in June 2005.

## **THE ROLE OF COMMITTEE MEMBERS**

Scrutiny Members have to be involved in the research, investigation and consideration of scrutiny matters to a much larger extent than States Members are involved with the business of other Departments or Committees on which they sit. Members take ownership of the Committee's workloads and all have an active role in determining issues for scrutiny, conducting reviews and asking scrutiny questions of their political peers.

It is important to the success of the Committee to have the active involvement of its Members, who understand the role and process of scrutiny and are aware of their contribution to it. Committee Members are ambassadors of the scrutiny function. An aim of the Committee is that its membership will be seen as an attractive political career.

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# OVERVIEW

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## KEY ACHIEVEMENTS MAY 2004 – DECEMBER 2006

- Establishing and developing the role of the Scrutiny Committee and implementing the Committee's mandate.
- Developing set processes and procedures for the workings of the Committee, including producing *A Guide to Scrutiny in Guernsey*.
- Creating a good working relationship with other States of Guernsey Departments and Committees and developing an understanding of their policy and legislative focus.
- Creating a better understanding of the role of scrutiny and an atmosphere of cooperation and support for the scrutiny process within the States of Guernsey.
- Developing and publishing a Memorandum of Understanding on the differing roles of the Public Accounts Committee and the Scrutiny Committee in performing the overall scrutiny process within the States of Guernsey.
- Enhancing public awareness and the profile of Scrutiny.
- Ongoing training and development of Members and officers in the role of the scrutiny process and the part it can best play within the States of Guernsey.
- Completing three Reviews (on *Complaints*, *Milk Distribution Proposals* and the *Staff Number Limitation Policy*).
- Completing a Scrutiny Study on the development processes behind the *Future Economic and Taxation Strategy*.
- Actively monitoring and investigating a number of key policy issues, commenting from a scrutiny perspective on Billets and Departments' policy consultation papers and researching future review subjects.
- Contributing to the development of the Government Business Plan and gaining recognition of the pivotal role of Scrutiny in the planning process.
- Establishing the Scrutiny Committee website.
- Developing monitoring schedules and action programmes for taking scrutiny issues forward and measuring success.
- Establishing links with Scrutiny in Jersey and with the U.K. Centre for Public Scrutiny.

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# SCRUTINY WORK

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## REVIEWS

A Scrutiny Review is a dedicated and focused research process into specifically selected policies and service delivery issues of public concern, which concludes with recommendations for further action. The conducting of Reviews is a major element in the work of the Committee and the collection and analysis of information is extremely resource and time intensive, normally taking six months or more to complete.

Whilst the outcome of all the Committee's work is published for public scrutiny, a Review follows a much more formal process than the rest of the Committee's investigations and involves conducting hearings with key stakeholders. Public access is provided to the investigation process as well as to the final Report, including published transcripts of the hearings and usually, but not always, public involvement in the process through attendance at the hearings and submission of evidence or views.

The Committee has completed three Reviews to date and is intending to conduct at least one Review a year in future.

### **Complaints Policies and Appeals Procedures**

The first Scrutiny Review the Committee undertook was into the States Departments' complaints policies and appeals procedures.

The Committee nominated four Members to form the Scrutiny Panel and to research the matter. The Scrutiny Panel consisted of Deputy Pritchard, Deputy Maindonald, the late Deputy Burbridge and Deputy de Jersey.

The terms of reference for the Review were defined as:

“To review States' Departments and Committees' policies for dealing with complaints and their appeals procedures.”

A public consultation was launched on 7<sup>th</sup> February 2005. Following this, a formal public hearing was held over the period 22<sup>nd</sup> to 29<sup>th</sup> March 2005, when Department Ministers presented their Departments' policies. A number of specific organisations were also invited to submit evidence at the public hearing, with a general invitation to attend issued to the public through the media. All representations and Departmental responses were evaluated and analysed, with the final report and recommendations published in August 2005.

The Report concluded that the States does not fully grasp and encourage the opportunity to engage with the public. It found that there is a need for a culture to be developed within the States that complaints and comments from the public are to be valued, dealt with appropriately and used as a management tool. It identified the need for corporate leadership and the lack of adequate existing processes and procedures for dealing with complaints in most Departments.

The Scrutiny Committee places great value on monitoring the progress of Departments in the light of Scrutiny recommendations and thereby providing useful feedback on the value added by Scrutiny's work to government performance. The Committee anticipated that the recommendations could be implemented within 12 months of the Report's publication and is currently in the process of monitoring Department's responses to the Report recommendations. The Committee will be publishing a progress report in due course.

### **Milk Distribution Proposals**

This was the Committee's second public Review. The Committee published its Review Report in May 2006.

At the end of September 2005, the Commerce and Employment Department announced that it would remove the restriction on the retail price of milk by Order with effect from 30th October 2005. It would be establishing a common 'gate price' for its products with effect from that date and would be submitting a States Report to the November 2005 States meeting requesting the States to approve the repeal of the Milk Laws as well as setting out a package of measures for the future of the Dairy Industry.

The announcement caused consternation amongst milk retailers, who were most directly affected by the proposals, farmers, the public and States Members. The Commerce and Employment Department agreed to put these decisions on hold to allow the Scrutiny Committee to conduct a Review of the proposals.

Deputies Pritchard and Le Moignan and Alderney Representative Cox, acting as the Panel's Chairman, were appointed by the Committee to carry out this investigation. Deputy Pritchard subsequently withdrew from the Panel after the public hearing and before the drafting of the Report, due to a possible 'special interest' identified during the course of the investigation.

One of the fundamentals of good scrutiny is to tailor the approach to the subject matter under review. In this instance, the Committee decided to invite Mr Dudley Jehan and Mr Andrew Ozanne, well respected businessmen, to sit on the Panel. The Committee is grateful to them for their invaluable assistance, freely given, in carrying out the Review.

The Terms of Reference for the Review were:

“To review the Commerce and Employment Department's proposals for changes to the sale and distribution of milk, including its decision to revoke control over the retail price of milk and its recommendation to repeal the Milk Law.”

Overall, the Review Report found that the Commerce and Employment Department's willingness to tackle a clearly difficult situation that it had inherited and to initiate change had been positive. The Report found that the Department's proposed solution appeared to be sound, but was unable to assess this fully in the absence of the bigger

picture. It was the Department's haste to bring these changes forward ahead of its wider strategy, its plan for implementation and its inadequate communication of its intended strategy that the Report found to be flawed.

The Department's strategy for the Dairy Industry, revised in the light of the Scrutiny Committee's Review, will be presented to the States in early 2007 in conjunction with the Committee's Review Report.

### **Staff Number Limitation Policy**

The effectiveness and need for the Staff Number Limitation Policy was initially brought to the attention of the Scrutiny Committee during informal meetings with Department Ministers in 2004. The majority of Departments considered the Policy to have a detrimental effect on service delivery and, while it had been beneficial when introduced, circumstances had now changed. This led the Scrutiny Committee to question whether the Policy continued to meet its objective of limiting the growth of the public sector efficiently and effectively.

The Scrutiny Panel comprised Deputy Pritchard (Panel Chairman), Deputy Staples and Deputy de Jersey (Meeting Chairman). Deputies Maindonald, Gollop and Walters also provided assistance in the initial research of the Review.

The objective of the Review was:

“To develop evidence based recommendations for improving policies for the effective control of States staffing resources within the context of the overall States priorities and objectives”.

An initial meeting was held with the Minister of the Treasury and Resources Department, his Chief Officer and the Head of the Human Resources Unit, Policy Council to discuss the objectives, procedures and effectiveness of the Policy and of the various roles involved in its implementation. The Panel received written submissions from all Departments and the States Chief Executive outlining their views on SNLP and its implementation and heard evidence from five ‘case study’ Departments in closed hearings; Health and Social Services Department, Education Department, Environment Department, Housing Department and Home Department.

The Review Report was published on the 4<sup>th</sup> December 2006 and will be taken to the States in early 2007. It concludes that the strategic objectives of the Staff Number Limitation Policy remain valid, but that in its present form the policy is no longer effective and in operation is contrary to the States overall requirement to restrain costs and increase efficiency. The Committee recommended the replacement of the existing Policy with some form of a cash-limit model.

## **SCRUTINY STUDIES**

Not every subject for Scrutiny warrants a Review process and the Committee aims to conduct Scrutiny Studies where these are appropriate to the circumstances. The same criteria for selection of the topic is applied as for a Review, but a more informal approach is usually adopted to carry out the research and only the Committee's

findings are published rather than a record of the whole process. A Scrutiny Study format might be considered more appropriate when Scrutiny is becoming involved in the policy formulation stage in order to assist government with the decision-making process, for example on the Future Economic and Taxation Strategy. If the issue is of particular public interest, however, the Committee might decide to conduct a full public Review even when these circumstances apply, as with the Committee's Review of *Milk Distribution Proposals*. A Scrutiny Study format would also usually be appropriate for the Committee's monitoring reports that follow-up progress on the outcomes of its previous Reviews, such as the investigation currently underway on *Complaints Policies and Appeals Procedures*.

The Committee will decide the appropriate format for an investigation on a case-by-case basis. Scrutiny Studies are usually quicker to complete, an estimated average of three months, and the aim is to complete approximately two a year.

### **Future Economic and Taxation Strategy**

One of the Committee's work streams is ongoing scrutiny of the Island's economic and taxation strategies. As part of this the Committee carried out a study of the development processes behind the strategy and in June 2006 it published a briefing paper and timeline on the strategy, prior to that month's States debate.

The Committee will continue to monitor the evolution of the Future Economic and Taxation Strategy and may carry out focused research into particular elements of the Strategy as it develops.

## **SCRUTINY QUESTIONS**

The Committee carries out a continuous programme of asking questions on various policy and service delivery issues and monitoring developments in key policy areas. These issues are observed from a scrutiny perspective to examine policy development and to ensure that services and policy delivery are effectively and efficiently carried out. Some of these investigations might end in a Review or Scrutiny Study in the future, but in some instances effective scrutiny is achieved by simply asking a pertinent question. Some of the main work streams of May 2004 to December 2006 are outlined below.

### **Corporate Prioritisation**

Almost since its inception, the Committee has had concern over the absence of an agreed prioritisation process for the States of Guernsey and first looked into the issue in July 2004. Corporate priorities will eventually be addressed in the States of Guernsey Government Business Plan and the Committee will continue to monitor the development of the Plan and seek to carry out any work that might contribute to prioritisation issues. This is expanded upon in *The Year Ahead* section of this Report.

One area of the Scrutiny Committee's work with implications for the prioritisation process is its Review on the Staff Number Limitation Policy. The Committee has also highlighted the lack of prioritisation and corporate policy in **charging for States services** and, as a result of Scrutiny's questions, this has now been taken up by the

Policy Council Public Services Steering Group to progress a corporate approach with Departments. The Treasury and Resources Department was asked by the Steering Group to prepare a States Report to address fees and charges on a States wide basis and provided the Committee with early sight of the draft States Report, requesting its comments. It is likely that the States Report will be put before the States in early 2007. The Committee continues to research and investigate progress on this issue.

The Committee also raised the issue of policy fragmentation at the States debate on **Waste Water and Stone Resources**. The Policy Council Steering Group was formed to consider the interlinking resource requirements of water, waste and stone and the Committee felt that its States Report had not achieved this remit. This States Report, requesting the States to earmark Les Vardes Quarry for the use of water storage, came two months prior to the proposed debate on the Island's Waste Strategy, which would have provided the necessary information on the requirements for the future of waste. The Committee viewed this as a further example of the States considering policy in a piecemeal fashion without regard for the bigger picture.

### **Delivery of Policy and Service Commitments**

The Committee continually monitors whether Departments and Committees deliver on specific commitments they have made. Obligations to deliver upon States Resolutions are particularly important, as are those made in the Policy and Resources Plan. The Committee follows up on assurances related to policy or service delivery that politicians make in statements in the House, through the media, to the Scrutiny Committee or to members of the public.

For example, in July 2003, the States agreed that the Policy Council should take the lead on regulating **consultation processes** and be responsible for issuing guidelines and directions to Departments as appropriate.

The Committee recognises the importance of proper consultation in the policy making process, not least because it promotes openness and transparency in government. The Committee decided to investigate what progress had been made in this area and has researched a number of other jurisdictions' consultation procedures in order to assist its consideration of the effectiveness of the current processes within the States of Guernsey. We are continuing to monitor how Departments engage with the public with a view to assessing whether a more corporate approach to consultation is required.

Since October 2004, the Scrutiny Committee has been in correspondence with the lead Departments, the Housing Department and the Health and Social Services Department, to monitor the progress on the development of **policies for key workers**. As part of the Corporate Housing Programme, an inter-departmental Key Worker Working Party was set up, and met for the first time in March 2005, to review corporately and take forward the work previously undertaken on issues regarding 'key workers'. The Committee is actively monitoring the progress of the Working Party, which is due to publish a Green Paper.

The Scrutiny Committee recognises the importance of ensuring that an effective **population policy** is implemented for Guernsey. The size, nature, culture and

aspirations of the Island's population are fundamental factors behind, and have influence upon, the government of Guernsey and all States policies and objectives. In December 2004 the Policy Council established the Strategic Population Review Group, which comprises the Ministers of the Social Security Department (Chairman), the Commerce and Employment Department, the Housing Department and the Home Department. In December 2005 the Group published a Green Paper, entitled *Guernsey's Strategic Population and Migration Policy*, for consultation. The Committee has undertaken research in consideration of the Green Paper and has provided detailed feedback to the Strategic Population Review Group. The Scrutiny Committee will continue to monitor the key developments in this important strategic area and is currently awaiting with interest the results of the Group's consultation process, which was due to be reported to the States by the end of 2006, but has now been deferred until 2007.

The Committee is also actively monitoring and chasing-up the commitments made by the Policy Council Social Policy Steering Group in developing the **Corporate Anti-Poverty Strategy**. The Committee's principal concern in its correspondence with the Group has been to promote the requirement for quantified objectives, benchmarks, targets and timescales. With this in mind, on behalf of the Committee, Deputy Pritchard presented an amendment to the Policy Council's States Report on this subject when it was debated in May 2006 (Billet X). This was approved and as a result the Policy Council was directed to produce estimated costs for all work streams not yet implemented and an assessment of their effectiveness in meeting the States approved target of halving relative poverty in Guernsey. This data is due to be presented to the States in the Policy Council's update report that is due to be published in Spring 2007. The Committee will continue to monitor the development and performance in implementation of this Strategy.

The Committee further raised concerns in October 2006 at the lack of a coordinated and corporate approach to **tax relief and benefits** as part of the Committee's monitoring of the Corporate Anti-Poverty Strategy, but also linking to its ongoing investigation into corporate prioritisation. This was instigated by the Treasury and Resources Department's consultation on its draft States Report on its review of tax on rateable value, which had included proposals for tax relief or compensation through Social Security benefits for the relatively poor, in response to a previous States Resolution on this matter. This highlighted how Departments, in good faith, consider measures for aiding the less well off, but in the absence of a corporate strategy to help them determine what measures would be appropriate to monitor their impact. The Committee has raised this with the Social Policy Steering Group and has asked that this be considered as part of the Corporate Anti-Poverty Strategy.

The Corporate Anti-Poverty Strategy also included a work stream led by the Education Department with the objective to engage disaffected young people in education. The Committee has begun initial enquiries and investigation into the Education Department's policies relating to **school exclusions and disruptive pupil behaviour**. Research has also begun on children's services generally.

In May 2004, the Committee noted the Environment Department's commitment, made to local spokesperson for people with disabilities, Mr David Purdy, to review the Building Regulations with a view to ensuring adequate **disabled access** provision

to new buildings and substantial refurbishments. The Committee followed this up with the Department and was pleased to note that the States passed the necessary amendments to the regulations in June 2006.

The Committee raised concerns with the Environment Department over its proposed States Report on the **Road Transport Strategy**. The main concern raised was over the apparent lack of monitoring objectives and performance indicators in the Strategy. As a result, the Environment Department has set up a monitoring schedule and performance indicators for the delivery of the States Resolutions resulting from the debate of the Strategy in March 2006 and is keeping the Committee informed as the Strategy develops.

The Scrutiny Committee is currently monitoring the progress of the Island's waste strategies for **liquid and solid waste**. The Environment Department presented its States Report, entitled "Export of Waste", to the States of Deliberation for debate at the July 2006 meeting. As part of its investigation, the Scrutiny Committee wrote to the Environment Department and the Public Services Department seeking clarification on their mandates, roles and responsibilities in relation to the Waste Strategy. The Environment Department is expected to return to the States with the Solid Waste Strategy in January 2007 and the Committee awaits this with interest.

In August 2006 the Committee asked the Health and Social Services Department for an update on outstanding States directives from the September 2004 debate on Voluntary Euthanasia. The Department had been directed to report back on the provision of **palliative care** and has informed the Committee that it intends to bring a States Report on this subject to the States in early 2007. No progress has been made on the other outstanding 2004 directives to report on the position on advance directives and the proper use of double effect medication. Following the Committee's advice, the Health and Social Services Department has stated its intention to report back to the States on this in its Report on Palliative Care.

The Committee is also monitoring the progress made on the **Drug and Alcohol Strategy** and was pleased to be included in the consultation process on that strategy and be provided with early sight of the draft States Report. The Committee was extremely pleased to note the changes made to the States Report to take on board Scrutiny's comments, particularly the stronger commitment to setting targets and performance indicators. This policy has had a slow start but the Committee is pleased to note that there now seems to be better leadership in taking this forward and efforts being made to address the absence of key information.

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# RELATIONSHIPS

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## THE PUBLIC

The Committee's relationship with the general public is crucial to its core values and the successful delivery of its mandate. A fundamental principle of scrutiny is to have an open and transparent process and to hold government to account for its decisions on behalf of the community it is intended to serve.

The Committee aims to encourage accessibility to, and public participation in, the scrutiny process and has an objective to reflect the concerns of the public in its investigations.

The Committee's first Review on *Complaints Policies and Appeals Procedures* included submissions from fourteen members of the public or organisations in response to a general invitation to comment through the media and directly invited comments from a further four non-governmental organisations. The Review on *Milk Distribution Proposals* attracted over 160 submissions from members of the public and a petition of 6,644 signatures. Both of these Reviews included hearings that were open to the public and attracted full audiences.

The Committee always welcomes suggestions from members of the public for subjects for Review. Two such suggestions, relating to disabled access and transport strategy respectively, were considered suitable topics for scrutiny and developed lines of enquiry. Other suggestions the Committee has received related to individual grievances and have not been deemed to be appropriate subjects for scrutiny. However, in these instances the Committee has taken a closer look at the processes followed by the relevant Departments responsible for dealing with these complaints to see how these have been handled. These are to be included in the Committee's monitoring of the actions taken by Departments following the recommendations of the Committee's *Complaints Policies and Appeals Procedures* Review Report.

The media is the Committee's primary mode of communication with the general public and the Committee is grateful to the media for the coverage it has given to Scrutiny issues. The Committee also finds that the media is a useful indicator of issues that are of public concern and that might be suitable for scrutiny.

The Committee's publications are made available from Sir Charles Frossard House and the Review files are made available for public viewing at the Greffe. The Committee is also building a larger presence on the government website, at [www.gov.gg/scrutiny](http://www.gov.gg/scrutiny), and has made its reports available for download as well as publishing general information about the Committee's work. The Committee had 1129 visitors to the scrutiny pages of the website during a six-month period January to June 2006 and intends to build on this in the future.

The Committee intends to arrange a seminar presentation of its work and to explain the role of scrutiny to States Members and the public. If resources allow, it would hope to do this in 2007, depending on the Committee's workload.

## **DEPARTMENTS AND COMMITTEES**

A key requirement for the Committee is for it to work effectively with States bodies, in particular with the political decision-makers and senior management. The establishment of mutual trust and respect with Departments and Committees is essential to achieve a robust and constructive scrutiny process.

Within the first months of the Scrutiny Committee's existence, the Members invited all Ministers and their Chief Officers, on an informal basis, to gain an insight into the role of the Scrutiny Committee and to exchange views on how they all foresaw the development of the scrutiny role and the scrutiny process within the States of Guernsey. In conjunction with this, Ministers were given the opportunity to identify their departments' policy and legislative priorities and to raise any areas of concern that they had with the scrutiny process.

The Committee has developed a good working relationship with Departments and Committees and is grateful for their full cooperation in the provision of information for scrutiny investigations, the voluntary provision of early sight of States Reports or policies under development and the useful comments provided on how the process of Scrutiny Reviews could be improved. The Committee has been particularly grateful for the support and cooperation of Ministers and Chief Officers for and with the scrutiny process.

## **PUBLIC ACCOUNTS COMMITTEE**

The Scrutiny Committee is responsible for examining and challenging policies to ensure that they meet Guernsey's needs. The Public Accounts Committee takes the policy as read and focuses on whether programmes and services are delivering value for money.

These two Committees have two very different roles and approach, but on occasions there is a crossover of interest in a subject-matter affecting service delivery. The Committees liaise with each other on a regular basis to ensure a co-ordinated approach to the activities of these two complementary, but distinct, scrutiny functions. The difference in the roles of the two Committees is set out in the published *Memorandum of Understanding*.

The Committee welcomes the review being undertaken by the Policy Council, with an anticipated deadline of 2008, looking at the respective roles of the Scrutiny and Public Accounts Committees. The Committee expects to be fully involved in the review process.

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## RESOURCES

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The Scrutiny Committee was originally limited to one member of established staff, the Chief Scrutiny Officer, until August 2005, from which point a Scrutiny Officer was appointed. A third temporary staff member joined the team from January 2006. This post was initially filled by a Junior Executive on the civil service graduate trainee scheme on a temporary placement ending in November 2006. The Committee is pleased to have been able to appoint a new supernumerary member of staff from November 2006 and a further temporary member of staff from December 2006 for two months. The Committee hopes to be able to expand the team on a more permanent basis to four members.

The Committee is grateful for the administrative support, (e.g. typing, taking minutes of meetings, photocopying etc.) provided by the Policy Council's Government Business Unit, but is concerned that with staff cuts the level of support has been reduced.

The Committee has to work within its budget of £200,000 per annum (reduced from £220,000 p.a. in 2005).

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## PROCESSES AND PROCEDURES

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The Committee has undertaken a considerable amount of work to formulate its processes and procedures and then to keep these updated. The procedures followed are published in the Committee's *Guide to Scrutiny in Guernsey*.

### **DISCLOSURE OF INFORMATION**

A particular challenge has been in developing procedures for dealing with requests to 'protect' information received during an investigation. The Committee generally follows a policy of full disclosure on principle, to ensure transparency and accountability, but also has to consider the importance of respecting privacy, encouraging the full cooperation and openness of contributors and questioning whether, on a case-by-case basis, full disclosure would be in the public interest. The Committee is developing some more detailed guidelines of the process taken to consider these issues, which will be published in due course.

### **'SPECIAL INTEREST'**

A further challenge for the Committee has arisen from the States Procedures, which include a directive that Members who have a 'special interest' in a subject matter should withdraw from discussion. Members have had difficulty in defining what constitutes a 'special interest'. The Committee has been particularly conscious of the importance of public perception and the need for scrutiny to be 'whiter-than-white' but have concerns that deciding always to err on the side of caution could potentially

lead to difficulties for the Committee in fulfilling its mandate. The Committee is drawing up guidelines for how it will consider the issue of ‘special interest’, which will be published as an example to other Departments and Committees to assist them in deciding what approach would best suit their own needs.

## CONDUCT OF REVIEWS

The Committee invites comments on the conduct of its Reviews and carries out an assessment of what worked well and where there was room for improvement. Some key lessons learnt from the first Review on *Complaints Policies and Appeals Procedures* have influenced the conduct of later Reviews. For instance, the Committee has decided that hearings or meetings should have a designated Chairman who does not usually ask any questions but has a distinct role from the rest of the Panel to ensure that the meeting is conducted properly in line with the Terms of Reference of the investigation. This frees up the other Panel Members to concentrate on their questioning and listening to the answers. The Committee will try whenever possible to have more of a gap between sessions of a hearing and has introduced ‘comfort breaks’ in hearing or meeting sessions to allow both the Panel and the contributors to the Review a chance to collect their thoughts. These changes have worked to good effect in the Reviews on *Milk Distribution Proposals* and *Staff Number Limitation Policy*.

Some Department Ministers commented on the *Complaints* Review hearing that a greater role should have been allowed for Chief Officers to support them in their answers. The Committee remains strongly of the opinion that Ministers, whilst not personally responsible or accountable for their Department’s policies, are responsible for explaining them on behalf of the Department. The Committee does consider that Chief Officers can usefully support their Ministers and provide information to a Panel’s investigation on operational matters. Accordingly, for the *Staff Number Limitation Policy* Review officers were questioned alongside their Department Ministers, with the Ministers explaining the policy issues and the officers commenting on the operational implementation. The Panel believes that this has worked well and the Committee will be considering this arrangement for future Reviews.

Careful consideration has been given to the venue chosen for Review hearings. The venue for the first hearing on *Complaints* was not ideal due to noise from aeroplanes but this was rectified for the second Review hearing using a different venue, which also had a greater audience capacity reflecting the higher public interest in the subject matter of the *Milk Distribution Proposals*. Feedback on the layout of both public venues suggests that Ministers found it a bit too confrontational, which the Committee will consider revising, if possible, for the next event. The third Review on *Staff Number Limitation Policy* has been conducted much more informally at Sir Charles Frossard House with the Panel and contributors sitting around a table and a recording being made of the discussion.

The Committee has determined that the approach adopted for each Review must be decided on a case-by-case basis according to the particular Review subject, but it has found the very different venues and styles for its first three Reviews to be an invaluable experience for determining what might be appropriate in the future.

## **CO-OPTED MEMBERS**

The Committee will from time to time appoint co-opted Members to assist with a particular review subject. This worked to good effect on the Panel for its investigation into *Milk Distribution Proposals*. The Committee will seek opportunities to co-opt private sector representatives to add expertise and experience to future Reviews where appropriate to the subject matter.

## **TRAINING AND DEVELOPMENT**

Scrutiny is a function that has not previously been carried out within the States of Guernsey and the Committee Members and staff have undertaken training to develop skills relevant to scrutiny and develop an approach that is suitable for Guernsey.

The Committee Members have observed a Parliamentary Select Committee in action at Westminster, London in July 2004, undertaken a one day training programme locally on the general scrutiny process and related matters, delivered by the Centre for Public Scrutiny, and visited Jersey to observe one of its Shadow Scrutiny Committees in action. Staff have attended Scrutiny Officer training events and the Annual Conference of the Centre for Public Scrutiny in London.

These training initiatives have provided Members of the Committee and staff with an overview of the roles and responsibilities that the scrutiny process should undertake, as well as providing them with valuable initiatives and a general grounding in effective scrutiny, which can be adapted and implemented locally.

The Committee will identify further suitable training opportunities for Members and staff according to the skills that are required for scrutiny. The Committee places particular emphasis on 'on the job' training and ensures that all its Members have an active involvement in the work of the Committee to learn from experience.

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# THE YEAR AHEAD

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## HIGH LEVEL OBJECTIVES

- Make a positive impact on service delivery
- Provide an effective challenge to government decision-makers
- Encourage accessibility to and public participation in scrutiny
- Reflect the concerns of the public and its communities
- Work effectively with Departments and Committees; politicians and their senior management
- Develop Committee Members' involvement and ownership of the scrutiny process

## WORK PROGRAMME AND CORPORATE DIRECTION

The scrutiny function usually takes its lead from the decision-makers' forward policy planning process in determining its subjects for scrutiny and proposed timetable. The policy planning process is currently being completely revised with the formulation of the Government Business Plan, which is intended to improve prioritisation and set the corporate agenda. Once this new process is in place it will be easier to determine scrutiny's own agenda and priority issues, as it will provide a clearer strategic direction for government against which policy and service delivery performance can be measured.

The first draft of the Government Business Plan recognised the importance of the role of scrutiny in monitoring policy planning and the Committee has appointed a sub-group to liaise with the Government Business Plan Task Group to develop its role. Once agreed, the scrutiny function within the business planning cycle will be the Committee's most important work stream. It is anticipated that for 2007 the Committee will formulate its own Operational Plan and monitor the development of the Operational Plans of all Departments and Committees, which will help to formulate the next draft of the Government Business Plan.

## SCRUTINY SUBJECTS

The following is a list of priority subjects for Scrutiny in 2007:

- The Government Business Plan and issues relating to corporate prioritisation
- Aspects of Social Policy
- Key Workers
- Population

- Fiscal Policy
- Consultation Processes

The Committee will also develop its monitoring programme, which in 2007 will include continued monitoring of the progress of the implementation of the Road Transport Strategy, Waste strategies, the Drug and Alcohol Strategy, Economic and Taxation Strategies and the Resolutions on Palliative Care.

## PERFORMANCE MEASUREMENT OF SCRUTINY

The Committee is beginning its assessment of its first Review on *Complaints Policies and Appeals Procedures* and has an undertaking to monitor the performance of all of its Reviews.

The Committee is also formulating some objective measures of the effectiveness of Scrutiny. The Committee is developing plans for a self-evaluation process, which it intends to incorporate into next year's performance report.

In pressing for the introduction of quantitative and qualitative measures to assess the performance and effectiveness of Department's policies and service delivery, the Committee has recognised the requirement for it to formulate objective measures against which its own performance can be gauged and to identify areas for improvement.

## ACTION PLAN

PROJECT	TIMETABLE
Present the Review Report on the <i>Milk Distribution Proposals</i> to the States in conjunction with the Commerce and Employment Department's States Report for the future of the industry.	Early 2007 (pending C&E Report)
Publish a Monitoring Report on the <i>Milk Distribution Proposals</i> Review.	2007 (Pending C&E States Report)
Publish guidelines on how the Committee will be dealing with 'Special Interest' and 'Protected Evidence' to supplement the <i>Guide to Scrutiny in Guernsey</i> .	Early 2007
Present the Committee's <i>Staff Number Limitation Policy</i> Review Report to the States of Deliberation.	February 2007
Monitor the implementation of the Committee's recommendations in its <i>Staff Number Limitation Policy</i> Review Report.	Ongoing 2007
Complete the Committee's Operational Plan for submission to the Government Business Plan.	April 2007

Monitor Departmental Operation Plans as part of the Government Business Plan process.	By July 2007
Publish a Monitoring Report on the progress made as a result of the Complaints Policies and Appeals Procedures Review.	Summer 2007
Update the Committee's processes and procedures and the <i>Guide to Scrutiny in Guernsey</i> .	Summer 2007
Develop the Committee's monitoring schedule and continued monitoring of the Road Transport Strategy, Waste strategies, the Drug and Alcohol Strategy, Economic and Taxation Strategies and the Resolutions on Palliative Care.	Ongoing
Continued research and investigation into issues relating to aspects of Social Policy, corporate prioritisation, Key Workers, Population and Consultation Processes.	Ongoing. By end 2007
Complete one Review.	By end 2007
Complete two Scrutiny Studies.	By end 2007
Develop a self-evaluation model and system for monitoring scrutiny outcomes and performance indicators.	By end 2007
Identify Scrutiny core skills and a suitable training programme.	By end 2007
Hold a seminar presentation of the role and work of scrutiny for States Members and the public.	By end 2007
Publish Scrutiny's second performance report for 2007.	January 2008
Liaise with Policy Council and House Committee on issues regarding the roles of PAC and Scrutiny and the Committee Membership.	Ongoing. By May 2008.
Monitor the progress of the Government Business Plan with a view to developing a model for Scrutiny's role in the policy planning process by end of 2008.	Ongoing. By end 2008
Improve and develop the Committee's website.	Ongoing

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# YOUR SAY

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## **SUBMIT YOUR SCRUTINY TOPICS**

Is there an issue you feel that Scrutiny should be looking at? The Committee welcomes suggestions for Review subjects from members of the public, politicians or public sector staff. Of course we cannot look at everything and we have strict criteria for subjects that are suitable for scrutiny investigation. The criteria for topic selection are set out in the **Criteria for Scrutiny Subjects Form** overleaf.

If you would like to submit a suggestion for a subject for scrutiny, please feel free to write to us by post or email, outlining the reasons why you feel it would be a suitable topic for investigation. If you would like advice before submitting your suggestion then please feel free to contact the Committee's staff on 717223.

## **GENERAL FEEDBACK**

Scrutiny is an evolving process and we are always looking for ways to improve. Let us know how you think we are doing and what we could do better. Have you contributed towards a Scrutiny investigation? What was your experience of the scrutiny process? Do you feel that the Reviews and subjects of investigation described in this Report are relevant and important to holding government to account?

If you have any views, suggestions or questions on the role, processes or procedures of Scrutiny in Guernsey, then we would welcome hearing from you.

**CRITERIA FOR SCRUTINY SUBJECTS FORM**

**TOPIC:**

**Description:**

<b>CRITERIA USED BY THE COMMITTEE IN CONSIDERING THE SUITABILITY OF SUBJECTS FOR SCRUTINY</b>	
<b>Is the issue:</b> (If the answer is “YES” to any of the five below questions, the topic is not suitable for scrutiny investigation)	
<b>Already being addressed 5by others?</b>	<b>YES/NO</b>
<b>Sub judice or prejudicial to public interest?</b>	<b>YES/NO</b>
<b>Falling within a complaints procedure?</b>	<b>YES/NO</b>
<b>An individual disciplinary/grievance matter?</b>	<b>YES/NO</b>
<b>A minor matter or unlikely to result in improved service?</b>	<b>YES/NO</b>
<b>Is the issue one of policy or service delivery? (state which applies)</b>	
<b>Is the issue one of poor performance? YES/NO</b>	
<b>Is the issue:</b> (on a scale of 1-5, 5 being to the greatest extent and 1 being to a small extent)	
<b>Of significant public concern?</b>	
e.g. Degree to which the policy or service affects the community	
Rating:	
<b>Strategic and significant?</b>	
e.g. Impacts on corporate prioritisation	
Reflects policy commitments in the States Policy & Resource Plan or by States Resolution	
Reflects corporate policy	
Impacts on cross-departmental working	
Rating:	
<b>To what extent would a Review add value to the overall performance of the States and improve the provision of services?</b>	
<b>What is the timing of this subject?</b>	
<b>How long has it been since implementation?</b>	
<b>Is policy on this subject currently under development or yet to be implemented?</b>	
<b>Is it currently a topical issue?</b>	
<b>Is it concerned with States short, medium or long-term priorities?</b>	
<b>Are there any particular resources that would be required?</b>	

AN ELECTRONIC VERSION OF THIS FORM CAN BE DOWNLOADED FROM [www.gov.gg/scrutiny](http://www.gov.gg/scrutiny)

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**IN THE STATES OF THE ISLAND OF GUERNSEY  
ON THE 28<sup>TH</sup> DAY OF MARCH 2007**

**The States resolved as follows concerning Billet d'Etat No XI  
dated 9<sup>th</sup> March 2007**

**PROJET DE LOI**

entitled

**THE REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY)  
(AMENDMENT) LAW, 2007**

- I.- To approve the Projet de Loi entitled "The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) 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 DISCLOSURE (BAILIWICK OF GUERNSEY) LAW, 2007**

- II.- At the instance of HM Procureur, TO GRANT LEAVE TO WITHDRAW this article.

**PROJET DE LOI**

entitled

**THE MANSELL TRUST (GUERNSEY) LAW, 2007**

- III.- To approve the Projet de Loi entitled "The Mansell Trust (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.

**THE REGULATION OF UTILITIES (BAILIWICK OF GUERNSEY)  
(AMENDMENT) ORDINANCE, 2007**

- IV.- To approve the draft Ordinance entitled "The Regulation of Utilities (Bailiwick of Guernsey) (Amendment) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE REGISTERED PLANT BREEDERS' RIGHTS  
(BAILIWICK OF GUERNSEY) ORDINANCE, 2007**

- V.- To approve the draft Ordinance entitled "The Registered Plant Breeders' Rights (Bailiwick of Guernsey) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE PREVENTION OF CORRUPTION (BAILIWICK OF GUERNSEY) LAW  
2003 (AMENDMENT) ORDINANCE, 2007**

- VI.- To approve the draft Ordinance entitled "The Prevention of Corruption (Bailiwick of Guernsey) Law 2003 (Amendment) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE SOCIAL SECURITY (RECIPROCAL AGREEMENT WITH THE  
NETHERLANDS) ORDINANCE, 2007**

- VII.- To approve the draft Ordinance entitled "The Social Security (Reciprocal Agreement with The Netherlands) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE CRIMINAL JUSTICE (MISCELLANEOUS PROVISIONS) (BAILIWICK  
OF GUERNSEY) LAW, 2006 (COMMENCEMENT) ORDINANCE, 2007**

- VIII.- To approve the draft Ordinance entitled "The Criminal Justice (Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2006 (Commencement) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

**THE CRIMINAL JUSTICE (ATTEMPTS, CONSPIRACY AND  
JURISDICTION) (BAILIWICK OF GUERNSEY) LAW, 2006  
(COMMENCEMENT) ORDINANCE, 2007**

- IX.- To approve the draft Ordinance entitled "The Criminal Justice (Attempts, Conspiracy and Jurisdiction) (Bailiwick of Guernsey) Law, 2006 (Commencement) Ordinance, 2007" and to direct that the same shall have effect as an Ordinance of the States.

## **POLICY COUNCIL**

### **DEVELOPING A STRATEGY FOR THE FUTURE OF GUERNSEY'S EASTERN SEABOARD**

- X.- After consideration of the Report dated 22<sup>nd</sup> January, 2007, of the Policy Council:-
1. That the Eastern Seaboard Initiative should proceed as outlined in that Report.
  2. That a report setting out a range of options/scenarios for the future of Guernsey's Eastern Seaboard be submitted to the States as soon as is practicable taking into account the need to consult widely and thoroughly with States Members, the general public and interested parties.
  3. To note the arrangements to be put in place to resource the project including the future commitment to fund the additional, temporary Environment Department post via the Policy Council's budget.

### ***STATUTORY INSTRUMENT LAID BEFORE THE STATES***

#### **THE HEALTH SERVICE (BENEFIT) (LIMITED LIST) (PHARMACEUTICAL BENEFIT) (AMENDMENT) REGULATIONS, 2007**

In pursuance of Section 35 of the Health Service (Benefit) (Guernsey) Law, 1990, the Health Service (Benefit) (Limited List) (Pharmaceutical Benefit) (Amendment) Regulations, 2007, made by the Social Security Department on 7<sup>th</sup> February, 2007, were laid before the States.

**S M D ROSS  
HER MAJESTY'S DEPUTY GREFFIER**

# **IN THE STATES OF THE ISLAND OF GUERNSEY ON THE 29<sup>TH</sup> DAY OF MARCH 2007**

(Meeting adjourned from 28<sup>th</sup> March 2007)

**The States resolved as follows concerning Billet d'Etat No XI  
dated 9<sup>th</sup> March 2007**

## **HOUSING DEPARTMENT HEALTH AND SOCIAL SERVICES DEPARTMENT**

**AN INTEGRATED CORPORATE STRATEGY TO MEET  
THE ISLAND'S NEEDS FOR "KEY WORKERS"**

- XI.- After consideration of the Report dated 13<sup>th</sup> December, 2006, of the Housing and Health and Social Services Departments:-
1. That, based on the recommendations set out in the Key Worker Housing Group's report, an integrated corporate strategy be formulated on the recruitment and retention of "key workers" that encompasses the provision and funding of suitable "key worker" housing initiatives, and the adoption of tailored housing licence and remuneration policies.
  2. To direct the Housing and Health and Social Services Departments to report back to the States by March 2008 (earlier if feasible) with firm proposals based on the further investigations required, taking into account the views expressed by the States, together with the consultations undertaken with "key workers" and other interested parties.
  3. To direct that all States' Departments and Committees that are recommended to take action for specific matters in this Report do so in accordance with the Action Plan set out in Annex A to that Report, to enable the Housing and Health and Social Services Departments to report back to the States by March 2008.

## **PUBLIC SERVICES DEPARTMENT**

**COMPENSATION FOR OIL POLLUTION –  
SUPPLEMENTARY FUND PROTOCOL 2003**

- XII.- After consideration of the Report dated 13<sup>th</sup> January, 2007, of the Public Services Department:-

1. To enact legislation, under the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 to give effect to the '2003 Protocol to the Supplementary Fund' in the Bailiwick, thereby maximizing access to compensation to the victims of oil pollution damage.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

## **ENVIRONMENT DEPARTMENT**

### **PAID PARKING**

XIII.- After consideration of the Report dated 24<sup>th</sup> January, 2007, of the Environment Department:-

TO NEGATIVE THE PROPOSITION to note that Report.

## **COMMERCE AND EMPLOYMENT DEPARTMENT**

### **REVISION OF COMPANIES LAW**

XIV.- After consideration of the Report dated 26<sup>th</sup> January, 2007, of the Commerce and Employment Department:-

1. To approve the proposals for the revision of companies law in accordance with the principles set out in sections 6, 7 and 8 of that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

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