BILLET D'ÉTAT

XV
2005

WEDNESDAY, 26th OCTOBER, 2005

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B I L L E T D'É T A T

TO THE MEMBERS OF THE STATES OF

THE ISLAND OF GUERNSEY

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 **26th OCTOBER, 2005,** 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
7 October 2005

PROJET DE LOI

entitled

THE COMPANIES (GUERNSEY) (AMENDMENT) LAW, 2005

The States are asked to decide:-

I.- Whether they are of the opinion to approve the Projet de Loi entitled "The Companies (Guernsey) (Amendment) Law, 2005", 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 UNCERTIFICATED SECURITIES (ENABLING PROVISIONS) (GUERNSEY) LAW, 2005

The States are asked to decide:-

II.- Whether they are of the opinion to approve the Projet de Loi entitled "The Uncertificated Securities (Enabling Provisions) (Guernsey) Law, 2005", and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for her Royal Sanction thereto.

THE DATABASE RIGHTS (BAILIWICK OF GUERNSEY) ORDINANCE, 2005

The States are asked to decide:-

III.- Whether they are of the opinion to approve the draft Ordinance entitled "The Database Rights (Bailiwick of Guernsey) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE PROTECTED CELL COMPANIES (AMENDMENT) ORDINANCE, 2005

The States are asked to decide:-

IV.- Whether they are of the opinion to approve the draft Ordinance entitled "The Protected Cell Companies (Amendment) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE SOCIAL INSURANCE (RATES OF CONTRIBUTIONS AND BENEFITS, ETC.) ORDINANCE, 2005

The States are asked to decide:-

V.- Whether they are of the opinion to approve the draft Ordinance entitled "The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE HEALTH SERVICE (BENEFIT) (AMENDMENT) (NO.2) ORDINANCE, 2005

The States are asked to decide:-

VI.- Whether they are of the opinion to approve the draft Ordinance entitled "The Health Service (Benefit) (Amendment) (No.2) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE FAMILY ALLOWANCES ORDINANCE, 2005

The States are asked to decide:-

VII.- Whether they are of the opinion to approve the draft Ordinance entitled "The Family Allowances Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION) (AMENDMENT) (NO.2) ORDINANCE, 2005

The States are asked to decide:-

VIII.- Whether they are of the opinion to approve the draft Ordinance entitled "The Supplementary Benefit (Implementation) (Amendment) (No.2) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE LONG-TERM CARE INSURANCE (GUERNSEY) (RATES) ORDINANCE, 2005

The States are asked to decide:-

IX.- Whether they are of the opinion to approve the draft Ordinance entitled "The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE ATTENDANCE AND INVALID CARE ALLOWANCES ORDINANCE, 2005

The States are asked to decide:-

X.- Whether they are of the opinion to approve the draft Ordinance entitled "The Attendance and Invalid Care Allowances Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

CONSTITUTION OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

Executive Summary

This report proposes the enactment of legislation which would change the number of Guernsey Financial Services Commissioners from five to a minimum of five and maximum of seven.

Report

1. The number of Guernsey Financial Services Commissioners is prescribed in Section 1(1) of Schedule 1 of The Financial Services Commission (Bailiwick of Guernsey) Law, 1987, as amended. Section 14(1) of the Schedule makes provision for the Schedule to be amended by Ordinance of the States.

2. At present the number of Commissioners is five. The Policy Council believes that there would be merit in changing the number to a **minimum** of five and a **maximum** of seven. This would allow the States flexibility in deferring or bringing forward appointments depending on the availability of suitable candidates.

3. If the number of Commissioners is to be increased two consequential amendments will be needed to Section 8 of the Schedule which presently sets the quorum and determines who presides at meetings.

4. The quorum presently is *"the Chairman or the Vice-Chairman, and two other members"*. To take into account the moveable number of Commissioners it is proposed that the quorum be revised to be *"the nearest whole number above one-half of the number of commissioners for the time being which for this purpose shall include the Chairman"*.

5. There is currently no provision made for a meeting to proceed in the absence of both the Chairman and Vice-Chairman. It is proposed this be remedied by providing that if both the Chairman and Vice-Chairman are not present then the remaining ordinary members present shall appoint one of their number to preside.

6. The Guernsey Financial Services Commission supports these proposals.

Recommendation

The Policy Council recommends the States to resolve that legislation be enacted

1. to change the number of Guernsey Financial Services Commissioners to a minimum of five and a maximum of seven;

2. to amend the quorum of the Commission to be the nearest whole number above one-half of the number of commissioners for the time being which for this purpose shall include the Chairman;

3. to provide that if both the Chairman and Vice-Chairman are not present then the remaining ordinary members present shall appoint one of their number to preside.

L C Morgan
Chief Minister

19th September 2005

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 19th September, 2005 of the Policy Council, they are of the opinion:-

1. To enact legislation as set out in that Report.

2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

POLICY COUNCIL

INTERNATIONAL CONVENTIONS AFFECTING CHILDREN, YOUNG PEOPLE AND THEIR FAMILIES

Executive Summary

This report sets out the Policy Council's recommendations in respect of six International Conventions that the States have previously directed the Council to consider. In preparing this report the advice of the Law Officers has been sought.

Introduction

On the 27 October 2004, following consideration of a report presented by the Health and Social Services Department, the States resolved (inter alia) to: -

> *"Direct the Policy Council to consider whether the following conventions should be extended to Guernsey and to report back to the States within twelve months in the event of a decision being taken not to extend any of the specified conventions:*
>
> *a) Hague Convention on the Civil Aspects of International Child Abduction (1980).*
>
> *b) European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (1980).*
>
> *c) Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996) (known as the Hague Convention for the Protection of Children).*
>
> *d) United Nations Convention on the Rights of the Child.*
>
> *e) Hague Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption (1993).*
>
> *f) Council of Europe Convention on Contact Concerning Children (2003)."*

Having considered each of the Conventions and the relevant background information the Policy Council has concluded at this time that it is able to recommend the extension of only one of the six Conventions for the reasons set out below.

Considerations

Conventions that have not been ratified by the United Kingdom cannot be extended to the Crown Dependencies. This has been confirmed by the UK Department of

Constitutional Affairs. Of the six Conventions referred to above, the UK has NOT yet ratified the 1996 Hague Convention for the Protection of Children (c above) and the 2003 Council of Europe Convention on Contact Concerning Children (f above). The Department of Constitutional Affairs has indicated that ratification of these Conventions by the UK is still some way off, although it is not possible to give a precise timetable.

The Law Officers have advised that where a Convention requires domestic legislation and this is not in place or is not convention-compliant, then "*without the (necessary) legislation it will be difficult (perhaps impossible) to comply with the provisions of the Convention(s). Whilst non-compliance may not be the end of the world, it would certainly be embarrassing and the UK authorities (who are responsible for Guernsey to the other 'Contracting States') may become wary about future requests made by Guernsey to have Conventions extended.* It would therefore seem that whilst it is not necessarily a prerequisite to have all the necessary domestic legislation in place prior to seeking the extension of any Convention, it is strongly advisable to do so.

Whilst progress is being made in developing the necessary legislative framework that will underpin these six Conventions, it is likely to be some time before all of this is in place. For example, the new Children Law is not expected to return to the States for debate until early 2006 and if approved, it will then be forwarded to the Privy Council for consideration. Once this law has been enacted it will provide much of the necessary legislative framework required by these Conventions. However, in order to ensure compliance with the Conventions in all areas the Health and Social Services Department will also need to develop proposals for new legislation on 'child abduction and custody' and for rewriting the Island's adoption law. In addition, the Island's law relating to the employment of children will also need to be updated or rewritten which is a joint task for the Commerce and Employment and Education Departments.

However, a distinction can be made between Conventions that require the 'Contracting State' to take specific action (such as the return of an abducted child to a different country in specified circumstances which requires legislation) and conventions that are essentially 'aspirational', such as the United Nations Convention on the Rights of the Child (UNCRC). Almost every jurisdiction has ratified this Convention except the USA and Somalia although there are many ''Contracting States' that have yet to become fully compliant with its requirements.

Finally, the financial and human resources implications associated with the new Children Law and the requirements of the six Conventions were set out in the Report submitted to the States by the Health and Social Services Department in October 2004. This includes up to 11.5 new posts as well as several temporary contract posts. A number of Departments including Health and Social Services, Education and Commerce and Employment will be required to occasionally devote resources to assisting the Policy Council with the preparation of periodic reports once these Conventions have been extended to Guernsey. These reports necessarily provide information and statistics on the areas covered by the Conventions.

The Conventions

a) **Hague Convention on the Civil Aspects of Child Abduction (1980).**

b) **European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (1980).**

These two Conventions set out speedy, economical and well established procedures for the return of children to their country of habitual residence, where they have been wrongfully removed without the knowledge or consent of those with custody rights.

Both of these Conventions require the establishment of a 'Central Authority' for the purposes of administering various provisions contained within the Conventions. The Office of HM Procureur will initially fulfil this role although it is intended that this responsibility will be transferred to the proposed "Children's Convenor" which will be established under the new Children Law. The cost to the 'Office of HM Procureur' in fulfilling this role on an interim basis has not been determined but is not expected to be significant.

New domestic legislation, equivalent to the UK's Child Abduction and Custody Act 1978 and Part 1 of the UK's Family Law Act 1986 will be needed to meet the requirements of these two Conventions. Those involved in drafting Guernsey's 'Children Law' are considering whether the law will address this 'gap' or if a new, separate law will be required. If a separate law is required then the Health and Social Services Department hopes to place the necessary policy proposals before the States during 2006.

Under the 1980 Hague Convention, HM Government has entered a reservation so that it is not bound to assume any costs (such as parents' legal costs) unless they are covered by the national system of legal aid. It would be appropriate for Guernsey to request the same reservation at the time the Convention is extended.

The UK has ratified both of these Conventions however Guernsey does not currently have the necessary domestic legislation in place to ensure compliance with the requirements of the Conventions. Consequently, the Council's recommendation is that HM Government be advised that Guernsey will seek the extension of these two Conventions as soon as the domestic legislation is in place. At that time a reservation (as outlined above) should accompany the request for extension of the 1980 Hague Convention.

c) **Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996) (known as the Hague Convention for the Protection of Children).**

This Convention deals with similar matters to the previous two identified above but its scope is wider in that it also deals with Public Law issues most notably Child Protection. It also contains detailed rules for the recognition and enforcement by one 'Contracting State' of measures taken in another 'Contracting State'.

The new Children Law will provide the necessary legislative framework to meet the requirements of this Convention. However, as the UK has not yet ratified this Convention, Guernsey cannot currently seek its extension. The Council's recommendation is that HM Government should be advised that Guernsey will seek the extension of this Convention at the same time the UK ratifies it assuming the new Children Law is in place at that time.

d) United Nations Convention on the Rights of the Child

This is the most widely recognised human rights treaty - only Somalia and the USA have not ratified it. It establishes a set of rights for every child, regardless of where born or to whom and regardless of sex, religion or social origin. The Convention is, in essence, 'aspirational' in nature with many of the 'Contracting States' gradually moving towards full compliance.

At the last 5-year review of the UK's position in relation to this Convention, the UN Committee said that for the next review (in 2008) it would want a progress report on the position of the Crown Dependencies.

The new Children Law will provide the necessary legislative framework to meet **most** of the requirements of this Convention. There is however a 'gap' in Guernsey's domestic legislation governing the employment of children and in particular appropriate restrictions and safeguards in that the existing legislation in this area is not Convention-compliant. Prior to May 2004, the Board of Industry and Education Council had jointly prioritised this area of legislation for updating and some of the necessary work had been undertaken. The Commerce and Employment Department is now the lead Department and intends to present policy proposals to the States by the end of 2006. In the meantime the fact remains that the Island does have some, albeit limited, legislation in this area.

The UK has ratified this Convention and there is likely to be increasing international pressure for Guernsey to seek its extension. The Law Officers have indicated that against this background it would not be inappropriate for Guernsey to now seek the extension of this Convention and this is the Policy Council's recommendation.

e) Hague Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption (1993).

This Convention sets out minimum agreed international standards for adoption of children across national boundaries, with the goal of protecting children, birth

parents and prospective adopters from abuses such as child trafficking. It also affords international recognition of adoptions made in 'Contracting States'.

In order to comply fully with this Convention the Island's Adoption Law will need to be rewritten. It is understood that the Health and Social Services Department will commence this work stream in 2006 with a view to placing policy proposals before the States by the end of 2006 or early 2007.

Although the UK has ratified this Convention Guernsey does not currently have the necessary domestic legislation in place to ensure compliance with the requirements of the Convention. Consequently, the Council is recommending that HM Government should be advised that Guernsey will seek the extension of this Convention as soon as the necessary domestic legislation is in place.

f) Council of Europe Convention on Contact Concerning Children (2003)

This is a new Convention which has not yet been ratified by the UK. Its purpose is to determine general principles to be applied to 'Contact Orders', to fix appropriate safeguards for Children having contact outside of their own country and to establish co-operation between central and judicial authorities to promote and improve contact.

The new Children Law will provide the necessary legislative framework to meet the requirements of this Convention. However, as the UK has not yet ratified this Convention (and in any case the necessary domestic legislation is not in place), Guernsey cannot currently seek its extension. The Policy Council is therefore recommending that HM Government should be advised that Guernsey will seek the extension of this Convention at the same time as the UK ratifies it assuming the new Children Law is in place at that time.

Alderney and Sark

The authorities in both Alderney and Sark have been consulted for their views on each of the Conventions and at the time of preparing this report the matter is still under consideration by both Islands. Once the views of Alderney and Sark have been received these will be forwarded to HM Government.

Recommendations

The Policy Council recommends the States to agree that HM Government should be advised that: -

1. Guernsey wishes to seek the extension of the United Nations Convention on the Rights of the Child.

2. Guernsey will, once all necessary domestic legislation is in place, seek the extension of the:

- Hague Convention on the Civil Aspects of Child Abduction (1980).

- European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (1980).

- Hague Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption (1993);

3. Guernsey will, if and when the UK has ratified them and the necessary domestic legislation is in place, seek the extension of the:

    - Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996) (known as the Hague Convention for the Protection of Children);

    - Council of Europe Convention on Contact Concerning Children (2003).

L C Morgan
Chief Minister

19th September 2005

(NB The Treasury and Resources Department supports the Policy Council's proposals. However, the Department is generally becoming very concerned about the increasing financial burden on the Island that such legislation seems to cause.)

The States are asked to decide:-

XII.- Whether, after consideration of the Report dated 19th September, 2005, of the Policy Council, they are of the opinion:-

That the Policy Council should request Her Majesty's Government to seek the extension, in respect of Guernsey, of the Government's ratification of the provisions of:-

(a) the United Nations Convention on the Rights of the Child, at the first most convenient opportunity;

(b) the Hague Convention on the Civil Aspects of Child Abduction (1980), the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (1980) and the Hague Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption (1993), once all necessary domestic legislation is in place; and

(c) the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996) (known as the Hague Convention for the Protection of Children) and the Council of Europe Convention on Contact Concerning Children (2003), if and when Her Majesty's Government has ratified those Conventions in respect of the United Kingdom and the necessary domestic legislation is in place.

HOUSING DEPARTMENT

THE FEASIBILITY OF A SELF BUILD SCHEME IN GUERNSEY

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

3rd August 2005

Dear Sir

EXECUTIVE SUMMARY

This report sets out the Housing Department's findings, conclusions and recommendations following detailed investigations into the feasibility of a self build scheme in Guernsey.

The Housing Department does not support the introduction of a States subsidised self build scheme at this time and is of the view that to commit public resources to such an initiative would:

- *not deliver sustainable social or affordable housing options that are in the long-term interest of the community;*
- *not allow limited financial and land resources to be targeted at meeting the reasonable needs of those Islanders who are in the greatest need; and*
- *not be prudent use of already overstretched financial and land resources.*

The Housing Department is committed to ensuring that the limited resources available to it to address issues of housing availability, quality and affordability are targeted at those proposals which have the potential to impact positively on the maximum number of Islanders who are in the greatest need.

Accordingly, the Department recommends that the introduction of a self build scheme remains a part of the Corporate Housing Programme (CHP) and that the relative priority for the provision of funds and land for such a scheme be assessed as part of the States annual review of the complete package of CHP action plans.

BACKGROUND

1. In July 2002, the States unanimously endorsed the States Housing Strategy and the development of the Corporate Housing Programme (CHP)[1] and in December 2004, the current action plans were approved[2]. The CHP is the specific framework that translates the Housing Strategy into effective action and covers six interrelated action areas. Action Area C, which is concerned specifically with the Intermediate Housing Market, includes an action plan to report on the feasibility of a self build scheme.

2. Within this context, self build housing falls within the general definition of affordable housing. The CHP aims to make provision for increased affordable housing options via a number of routes, including through the development and enabling of affordable housing schemes (incorporating States Home Loans, partial ownership, assisted purchase, leasehold and self build schemes).

3. There is currently a group of young Islanders, backed by some States members, who have come together as the Self Build Group. The members of this group have an aspiration to own their own property but find themselves unable to afford to purchase a property outright. The group and its political supporters are keen for the States to support them in acquiring appropriate land and in the development of a feasible self build scheme.

4. In March 2004 the then Housing Authority, as part of its policy letter entitled "Schemes for the Provision of Affordable Housing: Operational and Funding Arrangements"[3], proposed a resolution that the States:

> *"direct that, in conjunction with the Environment Department, the Housing Department continue investigations and report to the States, as soon as possible, on the feasibility of a self build scheme for Guernsey."*

5. The late Deputy Burbridge proposed an amendment to this recommendation, which removed the reference to working in conjunction with the Environment Department and imposed a definite timetable. The amendment was accepted and the States resolved to:

> *"direct that the States Housing Authority, and from May 2004 the Housing Department, continue investigations into the feasibility of a self build scheme for Guernsey, and report to the States as soon as possible, but not later than their meeting in March 2005."*

6. In March 2004, the then Housing Authority arranged a public seminar on the concept of self build and invited a UK expert company, Jon Broome Architects, to speak. This seminar was well attended with the Guernsey Housing

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[1] Billet d'État XV July 2002
[2] Billet d'État XXIII December 2004
[3] Billet d'État III March 2004

Association (GHA), members of the Self Build Group and a number of States Members being present. As a result of the competence demonstrated by Mr Broome, in July 2004, the Housing Department commissioned him to assist the Department in its investigations into the feasibility of a self build scheme in Guernsey. The terms of reference for this study are attached at Annex 1.

7. The broad aim of the study by Jon Broome Architects (attached at Annex 2) was to determine to what extent and in what manner the use of a self build scheme could assist in the provision of affordable housing and to investigate and produce detailed proposals for the implementation of a self build scheme. The study included consultation with a number of groups and individuals as listed on page 65 of the appended report, including the GHA and members of the Self Build Group.

8. At the January 2005 meeting of the States, the Minister of the Housing Department made a statement to the House that explained the requirement to extend the timetable to conclude these investigations. This States Report sets out the Department's conclusions and recommendations following those detailed investigations.

SCHEME FEASIBILITY

9. Pages 24 to 26 of Jon Broome Architects' appended report evaluate the proposal for a self build scheme that has been put forward by the Self Build Group. The Housing Department does not consider that this scheme is feasible for a number of reasons outlined later in this report, but primarily because it runs contrary to current planning policy. The area of land on which the scheme is specifically based does not have development permission and, therefore, cannot be considered for development use. John Broome Architects do not recommend that this scheme is pursued and they draw the following conclusions in their report:

There are four principal obstacles –

- *The site is zoned for horticultural use and is currently the subject of a planning appeal. A residential permission would create a precedent for other landowners to develop redundant glasshouse sites all over the island.*

- *Assuming that the price of the land after planning permission had been granted could be legally fixed by covenant or some other mechanism, the benefit of cheap land would be a once only benefit to the current self-builders; it is a private development and the States could not prevent the houses passing into the private market on first sale and the self builders taking the profit. The proposal would not contribute to the long-term provision of affordable homes.*

- *The scheme is open to anyone with the inclination and access to the required level of finance. Members of the group are not necessarily those in greatest need and so again the schemes impact on provision for the intermediate market may be limited.*

- *Our preliminary assessment of the costs suggests that they are optimistic and that if costs were higher than currently anticipated some members of the group would not be able to take part.*

In short, if the States were to support this particular initiative it would put planning policy under threat without adding to the long-term stock of affordable housing.

10. Pages 27 to 54 describe, in detail, an alternative scheme recommended by Jon Broome Architects which is summarised here. The proposal is based on a pilot self build development of 12 properties constructed over an 18-month period and owned on a partial ownership basis. It is proposed that the GHA provide funding and act as development agents providing development and financial management and overseeing the organisation of the group, with a self build consultant providing expertise and advice.

11. The proposal is based on States owned land being made available at less than its full market value and for the States to provide a guarantee for the finance. It is proposed that the self builders should be able to purchase as little as 25% of the equity at the start and progress to purchase 100% of the equity (i.e. the freehold to the property) as and when they are in a position to do so. The participants would then be able to sell the property in the private market in the same way as any other owner-occupier.

12. The scheme would be targeted at young families, couples or single people who are keen to move towards owning a home of their own. Once potential participants have been assessed under the partial ownership criteria, the proposal is that preference is given to those with building skills for half of the participants. Participants would be able to build a property to suit their future needs, as long as their income could sustain a minimum equity share of 25%.

13. The proposal is that the participants in the self build scheme set themselves up as a company and are therefore able to issue contracts, gain insurance and control funding centrally. The participants will attend training provided by the College of Further Education (including on the job training), learn from each other where skills are available and make use of other specialist trainers as necessary.

14. Having engaged expert advice and following consultation with the GHA and the Self Build Group, the Housing Department has considered the merits of the two proposed schemes. The Department's considerations, outlined in the following paragraphs, fall broadly into six areas:

a) Housing Need

b) Demand for Self Build

c) Land Availability

d) Funding

e) Government Intervention

f) Consultation

a) Housing Need

15. *Long-Term Community Needs* - One of the fundamental principles that the Housing Department employs in its involvement with and delivery of *all* forms of social and affordable housing is that of sustainability. The partial ownership scheme developed by the Housing Department, and supported unanimously by the States in March 2004, provides that the partial owner may acquire not more than an 80% equity stake; and that to progress to full ownership they must buy a property in the local market that has not been provided to meet social and affordable housing need, the partially owned property being sold back to the scheme provider for re-allocation to a new partial owner. This ensures that the freehold of any partial ownership property remains within the control of the States thereby guaranteeing that land on which partial ownership properties are built, has the potential to stay within the social and affordable housing sector in perpetuity generating long-term benefit for those Islanders in housing need.

16. A fundamental principle of both of the self build schemes considered by Jon Broome Architects is that the individuals embarking on the self build scheme are able to eventually purchase the full freehold to their property, **thereby guaranteeing that the land on which these self build properties are built will be lost from the social and affordable housing sector for the future, and will generate no long-term benefit for those Islanders in housing need.**

17. *Eligibility Criteria* - The Housing Department and the GHA have recently reviewed the eligibility criteria for the various social and affordable housing options currently available. A fundamental principle of these eligibility criteria is that they are aimed at identifying those Islanders who are in the greatest need of the support on offer, thereby ensuring that public resources are targeted appropriately.

18. A fundamental principle of both of the self build schemes considered by Jon Broome Architects is that the eligibility criteria are not based wholly on need, rather on the desire and ability to participate in a scheme, **thereby targeting public resources at Islanders who are not in the greatest need of support.**

19. *Meeting Reasonable Accommodation Needs* - In terms of allocation of properties, the Housing Department and the GHA aim to provide

accommodation options that match the reasonable needs of the intended occupants. Although consideration is given to potential future accommodation needs in some cases, the Department would not consider it an efficient use of public resources intentionally to allow an individual to "under-occupy" a property solely based on their potential future accommodation needs. The partial ownership scheme endorsed by the States ensures that an individual is only able to use public subsidy to fund their reasonable accommodation needs, thereby ensuring that public resources are targeted on a needs basis.

20. A fundamental principle of both of the proposed self build schemes is that the individuals embarking on the scheme are given the opportunity to decide on the size of property that they wish to build **thereby enabling public funds to be used to build properties that could exceed the current housing needs of the participants.**

b) Demand for Self Build

21. The Housing Department and the GHA operate waiting lists for social rented accommodation. In May 2005 the level of demand on each of the waiting lists stood at 122 and 228 respectively. 103 of the 228 individuals have formally registered themselves with the GHA as having an interest in participating in a partial ownership scheme. Not all of these individuals will be eligible for support.

22. Whilst the Housing Department is not able to establish the exact level of demand for self build in Guernsey, the Self Build Group believed that the level of interest in March 2004 was in the region of 120 people. At the end of 2004, the Group had reduced to 32, with only 16 of those engaging in consultation with Jon Broome Architects regarding the development of a feasible self build scheme. During 2005, the Housing Department and GHA have attracted only between 3 and 12 responses to requests for information or invitations to meetings from the Self Build Group.

23. During consultation with Jon Broome Architects and with the Housing Department, it became apparent to some members of the Self Build Group that they may not have the resources, both in terms of time and finance, to embark on a self build project. The Group also made it clear to the Department that some of their members were not aware of all of the potential affordable housing options that were on offer. As a result of this and given that, for many of the Group, their desire was one of home ownership as opposed specifically to self build, the Housing Department set up a presentation for members of the Self Build Group with the GHA. During this presentation, the GHA detailed their affordable rental options and their current proposals for a partial ownership scheme, which are likely to prove more attractive and suitable for most members of the Self Build Group.

24. **In terms of level of demand, less than 12 individuals have formally demonstrated their interest in a self build scheme, 103 individuals have demonstrated an interest in the GHA's partial ownership scheme and there are 350 individuals on the current waiting lists for social rented housing.**

c) Land Availability

25. Given that, in land use planning terms, self build housing falls within the general definition of housing, the provision for land for this type of housing is governed by the general housing policies of the Rural Area Plans (Phases 1 & 2) and of the Urban Area Plan (Review No. 1). Whilst the above mentioned study covers the development of a self build scheme, it does not (and was not intended to) take account of the associated land availability issues. Indeed, working in conjunction with the Environment Department was specifically excluded from the amended proposition highlighted in paragraph 5 above. However, without suitable available land, no self build scheme can be progressed. Therefore, land availability for self build use has been the subject of a working group comprising staff from the Housing Department, Environment Department and Treasury and Resources Department (Strategic Property Unit). Relevant land use policy is discussed and attached at Annex 3; the Housing Department's conclusions are summarised below. It is not possible to predict the final form of the Rural Area Plan as it has yet to be debated by the States. Therefore, these land availability discussions are based, through necessity, on the draft proposals.

26. Within the Rural Area, there may be existing allocated sites that would be suitable for self build. However, if the new Rural Area Plan is adopted as drafted, the only new housing development in the Rural Area will have to be justified in terms of Policy RH2:

> *Proposals for the erection of social housing will only be permitted where:*
>
> *a) the site is suitable, having regard to its characteristics and neighbouring land-uses and is, or can be, integrated into the existing built environment;*
>
> *b) the site is within or directly adjacent to States-controlled housing;*
>
> *c) the development would be of a scale and design appropriate to the rural setting; and,*
>
> *d) adequate provision is made for the protection of the rural character of the site and appropriate measures for the general environmental enhancement of the locality.*
>
> *The erection of new housing in Areas of High Landscape Quality will not be permitted.*

~~27.~~ This policy is designed to allow exceptions in limited cases and does not imply that all sites adjacent to an existing States controlled estate will be suitable for housing. However, it is likely that a useful number of dwellings for local social need could be provided through this policy.

28. The Housing Department, in considering the Island's current and future social housing needs, is in the process of evaluating all of its estates, individual properties, in-fill opportunities and land holdings. Full details of this are contained within the Department's accompanying States Report entitled *"Social Housing Under The Corporate Housing Programme: Towards a plan for the period 2006 – 2008"* and are not repeated here; however it is unlikely, given the contents of that report, that the Housing Department would be in a position to release any available land adjacent to its existing developments in the Rural Area for self build use. These areas of land are already being targeted to meet future social rented housing needs.

29. By contrast, the Urban Area Plan offers considerable potential to find suitable sites, some of which are likely to be in States' ownership. The development at Belgrave Vinery is one opportunity to provide land for a self build scheme and, as such, self build features as part of the recently published draft Outline Planning Brief (OPB).

30. The recommended self build scheme is made financially viable for the participants through States owned land, which has development permission, being made available to the Group. The proposal outlined in the study suggests that this would lead to "negotiations not taking place in an intensely competitive context". **In fact, negotiations regarding the future use of all States' resources, including any land available to satisfy future affordable and social housing need, must become increasingly competitive in light of current, substantial States-wide restraint on revenue and capital expenditure.**

d) Funding

31. The total funding requirement for the CHP is in excess of £20 million per year for the period 2006 to 2008. It should be noted that the capital allocation of £5 million received by the Department in 2005 (which includes £1.2 million of fixed operating costs), is less than 25% of that funding requirement. Even after taking into account the £6 million rental income (2005 estimate) that the Department also receives, the funding shortfall for the CHP is already hugely significant.

32. **In the current climate of restraint on revenue and capital expenditure, it is simply not possible for the Housing Department to consider allocating already overstretched funds to any housing initiative that does not have the**

potential to have a long-term positive impact on those Islanders who are in the greatest need.

e) Government Intervention

33. The Housing Department has been carefully considering whether there should in fact be any States' involvement in the development of a self build scheme at this time. The fact that builder free plots are not readily available does not necessarily mean that government intervention is justified or warranted.

34. It is critical that when any States' department requires public funds to bring about a new policy initiative that that department is able to show what net benefit to the Island community as a whole will be generated. Two key questions need to be answered:

a) is there a better way to achieve the desired objective? and

b) are there more effective uses for the public resources required?

Having developed a prioritised series of CHP action plans for 2005 that present a balanced package of initiatives aimed at increasing affordable housing options for Islanders in need of support, the Housing Department is of the view that, at this time, the answer to both of the above questions is yes - there are better ways to achieve the desired objective of affordable housing, and there are more effective uses for the public resources that will be required to enable a self build scheme.

f) Consultation

35. Jon Broome Architects consulted the GHA during the process of writing their report. Subsequently, the Department requested formal comment from the GHA on the scheme proposal put forward in that report. Their response is attached at Annex 4. In summary, the GHA confirm that they would be prepared to act as promoters, development agents and administrators for a self build scheme, but that they would not support the scheme that is being proposed. The GHA would not be prepared to apply capital resources to a self build project. They are also of the view that the scheme may be overly complex which may restrict access for those in housing need.

36. The Department also requested, in February 2005, formal comment from the Self Build Group on the report contents. Their response is attached at Annex 5. In summary, the Self Build Group consider that parts of the report by Jon Broome Architects are valid. They believe that a scheme could be developed, with land and services being provided by the States at a discounted rate, through a lease agreement.

CONCLUSIONS

37. Having considered the merits of the proposed self build schemes, the Housing Department concludes that:

    a) the proposed self build schemes will not deliver sustainable social or affordable housing options that are in the long-term interest of the community;

    b) the proposed self build schemes do not allow limited financial and land resources to be targeted at those Islanders who are in the greatest need of housing support;

    c) the proposed self build schemes will provide accommodation that exceeds the reasonable need, and therefore exceeds the reasonable cost, for participants of the schemes and for the States;

    d) there is not sufficient demand for the proposed self build schemes;

    e) making land available for self build at uncompetitive rates is not prudent use of public resources at this time;

    f) utilising limited financial resources to fund a self build scheme is not prudent use of public resources at this time; and

    g) the development of a self build scheme, and the provision of funds and land for such a scheme, must be reviewed as part of the wider package of CHP proposals for increased affordable housing options, particularly in light of the limited financial and land resources that are currently available to the Department.

38. **The Housing Department is committed to ensuring that the limited resources available to it to address issues of housing availability, quality and affordability are targeted at those proposals which have the potential to impact positively on the maximum number of Islanders who are in the greatest need. The Housing Department, therefore, does not recommend that the States support the introduction of a self build scheme at this time.**

RECOMMENDATIONS

The Housing Department recommends the States as follows:

i) To agree that, through this report, and notwithstanding recommendations iv) and v) below, the Housing Department has discharged its obligation to investigate the feasibility of a self build scheme in Guernsey; and

ii) that public resources should not be committed to the introduction of a self build scheme based on that put forward by the Self Build Group as described in pages 24 - 26 of the appended report (Annex 2);

iii) that public resources should not be committed at this time to the introduction of a self build scheme based on that put forward by Jon Broome Architects in pages 27 - 54 of the appended report (Annex 2); and

iv) to agree that the development of a feasible self build scheme should remain a part of the Corporate Housing Programme (CHP); and

v) that the relative priority for the provision of funds and land for such a scheme be assessed as part of the States annual review of the complete package of CHP action plans.

Yours faithfully

D Jones
Minister

ANNEX 1

SELF BUILD - TERMS OF REFERENCE FOR A STUDY BY CONSULTANTS

To produce proposals for the implementation of a Self Build scheme as an effective means of providing affordable housing for Islanders on low incomes.

1 Background

1.1 Guernsey

Guernsey is an Island of 24.3 square miles situated in the Bay of St Malo off the west coast of France. The Island has a population of approximately 60,000. Just over half of the Island's population is economically active and there is virtually no unemployment.

The principal contributor to Guernsey's economy is the finance industry. Other economic sectors include manufacturing, non-financial services, tourism and, to a lesser extent, horticulture and fishing.

The local government, known as the States of Guernsey, is currently going through a major re-organisation which is aimed at streamlining the current committee system. The bringing together of related committees, together with the formation of an overarching Policy Council, will enable a more corporate approach to be taken with respect to major policy initiatives.

1.2 The Housing Market in Guernsey

There are two housing markets in Guernsey. The "Open Market" is freely available to newcomers and consists of approximately 1,600 dwellings. The "Local Market" is restricted to local people and people who are granted housing licences by the Housing Department; this consists of approximately 20,000 households.

New housing construction is only possible in the "controlled Local Market".

The demand for Local Market housing for purchase is intense and this is reflected in high house prices.

The Local Market has seen enormous growth during the 1980's and 1990's. The Local Market average house price rose by 649% in that 20-year period, from £28,135 in 1981 to £210,664 for the same period in 2001. This compares with an increase in the Retail Price Index of 165% during that same time period. (Local Market average price currently stands at £288,105.)

The Housing Department provides just over 2,100 units of social housing (9.4% of the total number of dwellings).

There is one Registered Social Landlord in Guernsey – the Guernsey Housing Association – but this has only recently been formed and currently has only one property under management. However, the Association is actively developing and its initial development programme comprises approximately 160 dwellings.

Self Build projects in the Island have historically been confined to individuals building one home for their own use. There is a group of 100 young Islanders, backed by politicians, who have formed themselves into the Self Build Group. The members of this group would fall into what is defined as the Intermediate Housing Market – those who can neither afford to purchase property outright, nor are eligible for rented accommodation provided by the States Housing Department.

1.3 The States Housing Strategy and Corporate Housing Programme

The Housing Strategy is the expression of government policy for housing and sets out a series of strategic objectives. The Corporate Housing Programme is the specific framework that translates the Housing Strategy into effective action. Through the Programme, all States committees with responsibilities for addressing housing needs are committed to working together, in a coordinated way and against an agreed timeframe, to meet stated objectives that cut across the mandates of individual committees.

2 Aims and Objectives of the Study

2.2 Aims

The Housing Department is committed to investigate the feasibility of a Self Build scheme for Guernsey. The broad aim of the study is to determine to what extent and in what manner the use of a Self Build scheme could assist in the provision of affordable housing for those Islanders who fall into the Intermediate Housing Market and to investigate and produce detailed proposals for the implementation of a Self Build scheme, evaluating the relative costs and benefits of such an approach.

2.3 Core Objectives of the Study

- To research, understand and recommend the target market for a Self Build scheme in Guernsey including the eligibility criteria for participation in a scheme. To make comparisons with existing schemes for the provision of affordable housing.

- To recommend proposals for the professional management of a Self Build scheme which will include coordination of the group, project

management and the funding and administrative controls required. This should be considered both through an independent cooperative and through the intervention of the States Housing Department in the management of a scheme.

- To review the required level of access to professionally skilled tradesmen and to recommend recruitment, training and funding mechanisms to ensure supply of adequate skills for the duration of a scheme.

- To review issues concerned with the development of site infrastructure, in particular planning, management, funding and maintenance of such.

- To consider and make recommendations for the acquisition and management of funding streams to support the Self Build scheme giving due regard to existing legislation, policy and practice.

- To analyse the financial risks involved and determine the extent to which each affect the scheme provider, any independent financier and the individuals participating in a scheme.

- To identify and recommend measures that would secure the property and/or any States subsidy within a pool of resource available for the sustainable provision of affordable housing.

3 Outline approach to the Study

3.1 Background research

The contractors will be expected to conduct primary research necessary to establish:

- The views of Islanders who participate in the Self Build group, local developers (especially housing developers), development professionals, legal practitioners and housing providers (including the Guernsey Housing Association) on the introduction of a Self Build scheme

- the appropriateness of a Self Build scheme in delivering affordable housing for those Islanders who fall into the Intermediate Housing Market

The main secondary information sources available are:

- The States Policy & Resource Plan 2003, including the Strategic Land Use Plan

- The Urban Area Plan (Review No 1) 2002

- The adopted Rural Area Plan (Phases 1 & 2) and the draft, comprehensive review of the Plan that is the subject of a current Planning Inquiry
- An Economic Study of the Guernsey Housing Market (2002)
- The States Housing Strategy and Corporate Housing Programme – various reports 2002 – 2003.

3.2 Consultation

It will be necessary to consult with a number of organisations within the Island, including:

- The Self Build Group
- The Guernsey Housing Association
- The Construction Industry Forum coordinated by the Department of Commerce & Employment
- Local development companies and property professionals

Contact details of all the relevant organisations will be provided.

3.3 International perspective

In identifying and recommending appropriate measures for the Guernsey situation, prospective tenderers will be required to draw upon experiences in other jurisdictions, including, but not restricted to, the UK, Jersey and Alderney. Indeed, the focus should be on identifying and recommending strategies for Guernsey that have proven successful elsewhere in the world.

4 Deliverables

Prospective tenderers will be required to provide the following:-

- A project proposal detailing:
  - the methods to be used.
  - a breakdown of the costs, excluding VAT (which is not chargeable in Guernsey). This figure should be inclusive of disbursements and tendered on a fixed price basis.
  - The timetable for completion of the study and submission of the final report. (NB Ideally, the project would be completed within 6-9 months of the start date.)

- Details of relevant experience, together with two references.
- CVs of the project team conducting the study, and what exactly each person will be doing in the study.

The successful contractor will be required to provide the following:-

- Regular progress reports (e-mail/fax updates)
- Copies of draft and final reports, including the following:-
  - executive summary
  - methodology and techniques used
  - detailed findings and possible options
  - conclusions
  - recommendations
  - references

(NB It is anticipated that the final report will be made public.)

- Two presentations of the findings to the States Housing Department and other interested States Committees, together with copies of any slides and briefing papers. The first presentation being at staff level, the second at political level.

5 Terms and Conditions

The following clauses from the States Tendering Procedures should be adhered to:

Payment of Income Tax and States Social Insurance
Suppliers must comply with the requirements of relevant local legislation in respect of Income Tax and States Social Insurance contributions. Appropriate action will be taken in the event of non-compliance.

Suppliers whose employees and subcontractors are found not to be paying their Income Tax and States Social Insurance contributions may be excluded from tendering for future contracts.

Acceptance of lowest tender
The States Housing Department are not obliged to accept the lowest or any tender, and reserve the right to accept the whole or part of any tender. Their decision is final.

Cancellation of a contract in the event of corrupt practices
The States Housing Department may cancel the contract and recover from the contractor any loss arising from the cancellation if it is proved that the contractor or

any other person employed by him, has received or offered any consideration other than that properly due under the contract.

Third party intellectual property rights
Tenders must provide confirmation that they, the contracting party, are not aware of any claims to intellectual property rights made or threatened against them by third parties, or any possible grounds for such claims, which may have a bearing on the proposed contract.

Value Added Tax
Under the terms negotiated by Her Majesty's Government with the European Community, the States of Guernsey is not required to apply Value Added Tax or any other Community Tax. Imports from the United Kingdom or from any other Member State of the Community must be invoiced completely free of internal tax.

Financial Stability and Professional Indemnity
The acceptance of any tender may be subject to the satisfactory outcome of enquiries into the financial stability of the tenderer.

Tenderers should provide details of their Professional Indemnity and Public Liability insurance cover and arrangements.

ANNEX 2

Study of the feasibility of a

Self-build scheme for Guernsey

for

The States of Guernsey Housing Department

February 2005

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1. Executive Summary

This report provides a brief overview of self-help housing in the UK and elsewhere which highlights that self-help housing in Britain forms a small sector of the market compared to other developed economies.

The potential benefits of self-build include lower housing costs for the self-builders although experience shows that this is often subsumed into improved standards. More important to some are the non-financial benefits of choice of design, and the sense of satisfaction to be gained from building a home for one's family. Others aim to acquire building and other life skills in the process.

There are more general social benefits which include housing which is affordable to households on low incomes provided at reduced levels of subsidy and which in Guernsey would contribute to provision for the intermediate housing market. Self-build can also create a number of vacant houses in the social housing sector for letting to those in greatest housing need.

Self-build development is viewed by some, but not all, as more risky than other housing development, however, these risks can all be managed and reduced by keeping to some simple principles which include keeping the management structure and construction as simple as possible.

In the context of the Guernsey housing market, the following options are recommended –

- To provide self-build opportunities to households which cannot take part in self-build without assistance as part of a comprehensive housing strategy as a contribution to providing accommodation for the intermediate market.
- To maximize self-help input as far as practical depending on the capabilities of the self-builders to reduce costs as far as possible.
- To employ consultants to provide project management rather than relying on the self-builders themselves in order to reduce risk.
- To offer choices of layout and specification to satisfy potential self-builders' needs and wants.
- To organize self-build as a group rather than an individual activity to avoid the complexity of dealing with individual households and to benefit from potential savings from bulk buying.
- To promote a Partial Ownership scheme to allow households on low incomes to take part.
- To permit staircasing to outright ownership. This can satisfy the potential self-builders desire for ownership whilst also providing for households on low incomes to buy in at a low level.
- New build rather than refurbishment which can be risky and difficult. There are also relatively few suitable buildings to refurbish in Guernsey.

It is difficult to assess the scale of demand for self-build in Guernsey, but over 100 households are said to have expressed an interest in the existing Guernsey Self-Build Group initiative which is a high level of interest for the size of the community.

The current self-build proposal for a landowner to make a site available at low cost is straightforward and does not require any external financial support. However, it presents a number of difficulties –

- The site is not zoned for residential development and a residential permission would create a precedent for other landowners to develop redundant glasshouse site all over the island.
- The benefit of cheap land is a one-off benefit to the members of the self-build group and does not contribute to the long term provision of affordable housing
- The members of the group are not necessarily those in greatest need who would benefit most
- Our preliminary assessment of the costs suggests that they are optimistic and that if costs were at a higher level some members of the group would not be able to take part.

In response to these issues, it is proposed that the States initiate a pilot self-build project that would establish the size of demand, confirm the priorities of the self-builders and test the funding, management, supply and construction systems. It is proposed that the project would be between 10 and 15 dwellings run by the Guernsey Housing Association as an option alongside their intended partial ownership scheme.

It is proposed that the States offer land at a discount which would effectively be repaid if and when the self-builders purchased the equity outright. This receipt could be recycled through GHA to support subsequent self-build schemes. The discount would be set at a level which is below the value of the equity in the Partial Ownership scheme retained by the housing association; in other words, it is a subsidy on the rented portion not the purchased equity and therefore difficult to criticise as a public subsidy on private gain.

It is proposed that this initial project should be set up to minimize risks and that for the pilot project a group which includes at least half the members with building skills should be recruited. It is proposed that the pilot project would be monitored and if it is successful then the experience gained would be incorporated into a small ongoing programme of self-build.

The project would be aimed at the intermediate market and targeted at young families, couples or single people who may be sharing accommodation or renting privately and who cannot afford to buy a house on the market. It is also proposed that the scheme would also be open to households currently living in social housing.

The actual mix of dwellings would be determined by the requirements of the self-builders, but it is envisaged that a mix of two and three bedroom houses would be appropriate. It is proposed that single people should be able to join the scheme and build a two-bedroom house.

The role of the States is envisaged as an enabling role which would offer support and political sponsorship and land offered at a discount.

It is proposed that the Guernsey Housing Association would act as development agents providing development and financial management and overseeing the organization of the group, with a self-build consultant from the mainland providing self-build expertise and advice. This arrangement brings together the necessary skills in a practical manner.

It is proposed that the self-build group be incorporated as a company limited by guarantee with all adult members of the group as directors.

It is proposed that suitable training courses in building skills and related matters be planned and delivered by Guernsey College of Further Education

Our recommendation is to earmark a small States owned site or group of sites if necessary, in preference to either land in private ownership or the Housing Target Areas unless a small parcel on the boundary of the Belle Grave Vineries area could be made available in advance of the overall development.

Finally, a financial model has been developed which will provide figures for the self-builders' outgoings for different equity shares of a range of dwelling sizes together with the level of discount on land value required to make a proposal viable.

2. Introduction

This study has been commissioned by The States of Guernsey Housing Department to study the feasibility of a self-build scheme for Guernsey and to form the basis of a report to the States.

The report aims to -

- assess the principles for a self-build scheme that would contribute to the provision of affordable housing to meet the needs of those Islanders who fall within the intermediate market.
- make proposals for the implementation of such a scheme.

Core Objectives of the Study

- To research, understand and recommend the target market for a Self Build scheme in Guernsey including the eligibility criteria for participation in a scheme. To make comparisons with existing schemes for the provision of affordable housing.
- To recommend proposals for the professional management of a Self Build scheme which will include coordination of the group, project management and the funding and administrative controls required. This should be considered both through an independent cooperative and through the intervention of the States Housing Department in the management of a scheme.
- To review the required level of access to professional skilled tradesmen and to recommend recruitment, training and finding mechanisms to ensure supply of adequate skills for the duration of a scheme.
- To review issues concerned with the development of the site infrastructure, in particular planning, management, funding and maintenance of such.
- To consider and make recommendations for the acquisition and management of finding streams to support the Self Build scheme giving due regard to existing legislation, policy and practice.
- To analyse the financial risks involved and determine the extent to which each affect the scheme provider, any independent financier and the individuals participating in a scheme.
- To identify and recommend measures that would secure the property and/or any States Subsidy within a pool of resource available for the sustainable provision of affordable housing.

Scope

The report draws on experience principally on the UK mainland with reference to Alderney and other developed economies in Europe, North America and Australia.

Methods of construction are considered only in general terms to avoid the danger of detailed, technical issues obscuring essential principles.

The report

The first section of the report outlines the nature of the self-help sector of the housing market in the UK and elsewhere. It then describes the main features which distinguish different types of self-build activity and suggests what choices are relevant in the context of Guernsey.

The second section outlines the potential benefits in a general sense and in the specific context of Guernsey. The potential risks are also outlined.

The third section on the Guernsey Context gives a very brief outline of the housing market which a self-build proposal will have to fit into including the need for housing. The potential demand for self-build housing is then estimated. Self-build activity in Guernsey and Alderney in the recent past are outlined.

The forth section gives an evaluation of the current proposal for a self-build scheme on the island.

The fifth and final section outlines a recommended approach for an affordable self-build scheme in Guernsey. It elaborates the target group, management arrangements, training, land, funding, financial risks, arrangements for retaining resources for affordable housing, materials and monitoring and makes recommendations in these areas. There is also a financial model which can be used to test the viability of a development on a particular site with a particular mix of households and an example of its use is given.

Case studies of schemes which illustrate some of the options for self-build are included in an appendix.

Next steps

The financial viability of a self-build scheme depends on a complex of variables the most important of which are the specific site and the household needs and desires, income and skills of the particular self-builders. It is not possible to give specific costs or benefits for a scheme but indicative figures are given which demonstrate the principles involved. A detailed development appraisal will have to be undertaken if a decision is taken to progress the self-build idea further and a site and potential self-build group is identified.

3. BACKGROUND TO SELF-BUILD

This section outlines the nature of the self-help sector of the housing market in the UK and elsewhere. It then describes the main features which distinguish different types of self-build activity and suggests what choices are relevant in the context of Guernsey.

Self-build in Britain

Generally in Britain, in the recent past, there has been an overwhelming reliance on mass housing so that Britain now has a uniquely small self-help housing sector, estimated at just 8% of the market currently, compared to one third to one half the market in other developed economies such as the US & Germany. However, there was a brief period after the First World War during which a significant number of returning soldiers and others were able to buy land at low cost due to a slump in agriculture and build their own 'plotlands' houses.

There has always been a relatively small number of individuals, and to a lesser extent, groups, building their own homes. However, during the 80's this self-help sector doubled to around 15,000 completions per annum. Of those the overwhelming majority are individuals building large, detached, typically 4 bedroom houses on their own land sometimes obtained through their family. Most employed a builder to carry out all or most of the work. People were able to obtain a larger, better house cheaper.

Around 5% of self-builders constructed homes as members of self-build groups. The organization of these groups sought to reduce risk by limiting membership to young, fit men preferably with building experience. They were building conventional designs for outright ownership and had to have an income that would support the mortgage required. Some of these groups became bankrupt when the market collapsed at the end of the 80's and now there is little activity of this kind.

Social self-build

Meanwhile, there has been a growing number of projects with a social rather than financial bias. These currently account for around 1% of the self-help sector. These projects are aimed at people who do not have the money to buy land and materials, do not have building experience and other people who would not generally be able to join a conventional self-build group but who nevertheless form most of the population.

The first of these projects was completed in Lewisham in South London in 1981. It was sponsored by the local authority and was available to anyone in private rented accommodation or in existing council accommodation. Members were selected by ballot and were not required to have any capital, building skills or a steady income and their age or personal circumstances did not prevent them from taking part. The scheme was financed by the local authority who made the houses available under a shared ownership arrangement. The 14 houses and bungalows were designed by the architect Walter Segal using his straightforward approach to timber building. The first project in Lewisham was a great

success and demonstrated that indeed anyone could build their own house given a degree of subsidy and the right support. A second project of 13 houses was completed in 1985.

Around the same time, a group of young people in Bristol, the Zenzele Self-Build group, were building a block of bedsitting rooms funded by a building society loan. The development was sponsored by a local magistrate and demonstrated that low cost homes could be created with financial and organizational support.

Scotland has several community self-build developments similar to those in England. They also have a Rural Home Ownership Grant scheme which can cover up to 35% of the development costs. These grants are usually given to individual private self-builders and are only paid when the house is completed. This makes the funding package difficult to make work for community self-build groups but there is agreement in principle for the funding agency Communities Scotland to forward fund a project.

Government support for self-build

The Housing Corporation is the government agency that provides grant for social housing in England and a small part of its remit has always been to provide support for the self-build movement. In the 70's it made development loans available on favourable terms. However, groups found that they could obtain loans on similar terms on the commercial market without the red tape involved in a loan from the Corporation.

With the advent of social self-build schemes and the cutting off of local authority finance for social housing, organizations started looking to the Corporation for alternative sources of funding. It eventually became possible to use shared ownership grants for self-build.

This was followed by an initiative for self build for rent developed by Chisel (Co-operative Housing in South East London). Generally they were local initiatives with a group of potential self-builders working with a sympathetic Housing Association. All of those accepted on the scheme had to be on the local authority waiting or transfer list to join. The group would then generally form a co-op to manage the development. The group would then be contracted to build the houses in a certain amount of time at an agreed cost. On completion each member of the group would be offered a house. As compensation for their labour they would be offered a reduced rent. Often the self-builders are also paid a lump sum when and if they leave the scheme. The exact details of each scheme varied depending on the needs of the group and the policies of the Housing Association.

Since 1991 104 self-build schemes have been completed with Housing Corporation support 17 of these were for outright ownership, 27 share ownership and 60 for rent

Self-build in other countries

It is estimated that one third of the world's population house themselves with their own hands, sometimes with government and professional intervention and sometimes in spite of it. (See Case Study on Habitat for Humanity which created 150,000 self-build homes

worldwide). In less developed economies policy has moved towards making resources of land, finance and advice available at a local level so that people can improve and build their own dwellings. The role of government is to provide a legislative framework that will provide security of tenure, low cost loans and basic infrastructure of roads and services. A great deal can be achieved in this way; for example, Columbia has over 500 self-build organizations including a school of self-build who were building over 90,000 dwellings per annum in the 80's using a wide variety of building techniques.

People in wealthier economies now live in housing provided by others to a much greater extent. In economies such as in North America and Australia most of this housing is built by private developers. (See Case Study on Australian example of self-build for outright ownership). In many European countries the public sector has a significant role in the provision of housing. (See Case Study on Stockholm where the City Council has supported self-build since the 20's) Nevertheless, most developed economies have significant self-help housing sectors providing up to half the new housing. In the United States the tradition of people building their own homes has not been lost as it has in Britain and 20% of single family dwellings are built by their owners. There is a thriving industry providing the materials, tools and services they need.

Over half the total completions from 1980 to 1989 were constructed in the self-help sector in Belgium, Germany, Austria, Italy and France. The self-help sector accounted for 40% or more in Norway, Finland and Ireland and 20% or more in the USA, Sweden, Canada and New Zealand. It was 10% or more in Australia, Denmark, Switzerland and the Netherlands. Figures were not available for Japan. Meanwhile, Britain had a self-help sector of 6% at the time which has now increased to 8%. It is projected to rise to 10% over the next 5 years.

Options for self-build

The term self-build is applied to a wide range of activity, not necessarily simply individuals building their own houses. There are a number of features which distinguish different types of self-build activity. These include –

- Are you carrying out most of the work yourself or are you employing sub-contractors to carry out all or most of the work
- Who is managing the project?
- Are you building individually or as a member of a self-build group
- Do you have the level of income that gives you access to finance to buy land and materials or are you reliant on financial support from some other source
- Are you building to own the property, to rent it or to part own it under a shared ownership arrangement
- Standard house types or individual designs?
- Are you building a new house or renovating an existing building

- Are you principally aiming to create value or are you interested in other possible benefits such as acquiring skills, building an unusual house with innovative features or creating some other opportunity

Who carries out the work?
There is a continuum between building your house entirely yourself and relying on paid contractors to do most or all of the work. In the latter case, the self-builder's role is largely one of project management. Most self-builders, however, employ a mix of their own labour supplemented by subcontractors to carry out particular parts of the construction process – often the groundworks, the drainage and foundations, which are hard work and require heavy plant, the plumbing and electrics and plastering which require specialist skills.

The common feature of these approaches is that you are in control of the process and are not buying a house designed and built by a developer.

The cost savings that can be achieved are clearly related to the proportion of self-help labour to contract labour. Typically the cost savings possible would be between 30% and 10% depending on the amount of sub-contract labour employed assuming that the project is constructed to a tight programme with tight cost control. The effect of this is that the budget for a self-build project is to a large extent generated by the need to employ sub-contractors to supplement the skills of the self-build group.

It is important, however, for self-builders to understand that their time has a value. It may be that they are unemployed, working part time or working seasonally in which case the value of their time may not be very important or it may be that they have a good job with good pay in which case the 2 or 3000 hours of hard and sometimes dirty work may not be worth it.

In Guernsey, most people are employed and earning good money so it may be cost effective to employ a relatively high proportion of sub-contract labour. However, this will tend to drive up costs which will prevent households on very low incomes taking part. The balance between self-help and sub-contract labour will have to be tailored to the needs and skills of the group and will be subject to the other variables of a particular scheme such as the nature of the site.

Assisted Self-Build
One particular mix of self-help and contractor labour is so called assisted self-build. (See Case Study on scheme in Lewisham as an example of assisted self-build). Here the self-builders carry out the finishing stages of the construction only, having taken over a partly built house shell from a contractor. This reduces risk and suits some self-builders as their commitment is much less and they can see the end of it. However, it reduces individual choice and the extent of potential cost savings.

On a typical assisted self-build scheme, contractors will be employed to run the entire build and will construct the shell of the building without self-builder involvement. When the structure is complete, the self-builders come in at the second fix stage and fit bathrooms, kitchens, doors, electrical accessories and decorating. The contractors continue to run the site, ordering materials, and providing health and safety supervision, training and project management.

The Boleyn and Forest Housing Association have pioneered a range of shared ownership assisted self build schemes in East London and Essex. In these schemes the self-builders need to be eligible for social housing and they have to be able to commit to at least 20 hours per week and 2 weeks of their annual holiday. The housing association aim to get a group that has a good cross section of skills, both building and organisational. Those taking part must also be able to undertake strenuous physical work.

The self-builders will get approximately a 25% share of the equity through their labour and must then be able to get a mortgage for a further 25%. The final 50% is on a subsidised rent. At a later date it is possible to buy further equity shares. The self-builders are responsible for all maintenance.

Boleyn and Forest have also pioneered a project to involve self-builders in the renovation of 2 old blocks of flats on a similar basis as the assisted self-build model.

In Guernsey, having a contractor erect the structural envelope of the house to be fitted out by the self-builders would reduce the uncertainties associated with self-build and provide a group with a head start but it would tend to increase costs and you would rely on the heavily committed construction industry. In England many of these schemes are a part of a much larger development which makes it economical to erect the shells of the self-build houses as part of the overall scheme. Choices for the self-builders can be reduced which may or may not be an issue for the self-builders. Many of the potential benefits of this approach can be gained from using a prefabricated kit at less cost and without relying on a contractor.

Who is managing the project?

It is estimated that two thirds of self-build projects in the UK are managed by the self-builders themselves. This can be very time consuming particularly if you are dealing with a number of sub-contractors and if you are ordering all the materials. Around 18% of projects are managed by a principal contractor or package supplier who supplies a kit for the house and a further 13% are managed by the architect. Self-build consultants are often employed in addition to the above to provide specialist advice.

In the context of a project in Guernsey, self-management can reduce costs but there is not the body of experienced self-builders or professionals to lend support and advice. It is recommended that a formal project manager is required to reduce risk and the costing of a project will have to include for this.

Individual or group self-build
Another significant distinction is between building a single house on your own or developing a group of houses together. In the UK the overwhelming majority of self-builders have access to land and/or money and are building individually with, it is estimated, around 5% building in groups. Building individually gives you complete freedom to do what you want without relying on other people.

Group schemes allow the participants to compete with developers for land and they pool the skills and resources of the members of the group to the benefit of all. Group schemes are also adopted for shared ownership or rental tenure and other forms of subsidized self-build. The inter-personal dynamics of groups have to be managed to prevent differences of opinion getting out of hand and causing splits and factions developing which have led to fights in extreme cases.

In the context of Guernsey, there has in the past been the possibility for individuals with access to land and/or finance to build their own home although this is difficult now because of the shortage of suitable building plots. This report, however, is concerned with creating opportunities for those on low incomes and we recommend a Partial Ownership self-build model that which implies group rather than individual self-build.

'Commercial' self-build or community self-build
The great majority of self-build is undertaken by people with access to sufficient finance and/or access to land, often through the family – a plot at the bottom of the parental garden for example. They often have building skills and can buy in the skills they do not have themselves. They have been referred to as 'can-do' people.

This approach, however, does not address the needs of households with limit access to finance, no land and no building skills – the great majority of the population in other words. Community self-build projects provide subsidy to make self-build affordable, training so that people without building skills can take part and often provide other support in organization and construction. The emphasis is often on building communities as well as houses and can include a specific aim to provide training to improve people's employment opportunities. (See Case Study on Southwark which outlines a project with a main aim of improving the employment chances of young, homeless, unemployed people).

There has in the past been the possibility for individuals with access to land and/or finance to build their own home in Guernsey although this is difficult now because of the shortage of suitable building plots. This report, however, is concerned with creating opportunities for people to own a house who cannot afford to buy one in the normal way and so a 'community' based project would be appropriate.

Type of tenure
The overwhelming majority of self-builders are building for outright ownership. Ownership can reward the investment of time and effort put in by the self-builders. A

number of local authorities, notably Milton Keynes, have a programme selling freehold serviced plots for self-build. In the Milton Keynes example these are at the high end of the market selling for between £250,000 and £290,000 suitable for the construction of 5 bedroom, detached houses.

We have been unable to reference any self-build developments where leasehold plots have been made available other than the Stockholm example referred to above and the scheme in Alderney described in the section on self-build in Guernsey and Alderney below.

Nearly 30 community-based developments have been built for shared ownership over the last 10 years or so in England. Most of the community based self-build projects currently planned are some form of shared ownership tenure. This reduces initial costs to the self-builders whilst at the same time providing for them to increase their share of ownership later. This can either be to outright ownership if the aim is to use shared ownership as a route to increasing home ownership or alternatively the share of equity can be capped as a mechanism to retain the dwellings in shared ownership to provide an ongoing resource of lower cost dwellings. Shared ownership is a relatively flexible tenure arrangement which can be matched to individual households' income. (See Case Study on Portsmouth which outlines a shared ownership project for skilled self-builders on relatively low incomes).

A number of self-build projects for rent have been developed in England where the co-operative which consists of all the self-builders owns the houses collectively and each household rents their individual house from the co-operative to whom they pay a rent. This arrangement has the advantage in England of attracting Social Housing Grant which permits rents to be relatively low. Rental schemes have a place where the self-builders are unemployed or on very low incomes and are looking for a cheap place to live but some degree of ownership is the aspiration of most self-builders. Rental schemes require a mechanism for a cash payment to reward self-builders for their free labour when they move out which remains untested. It is also difficult to generate a cost benefit to the self-builders because the financing is based on cost not value. (See Case Study on Brighton which outlines a scheme for rent with an emphasis on community building).

Self-build for rent is difficult to make work and is really only appropriate in limited circumstances which do not apply in Guernsey.

Standard house types or individual designs?

Having standard designs ensures equity between individual self-builders, simplifies the consultation, design, management and accounting processes, reduces costs by obtaining the maximum benefit from bulk ordering and reduces the time required to build by learning by repetition. However, many self-builders value the choices which building your own home can offer, choices over site layout, house planning, specification and finishes and this can be a good motivating force.

It is possible to achieve a compromise where the self-builders are fully consulted on the site layout and standard house types. They would then have individual choices for finishes for example which do not affect the progress of the work in a fundamental way.

Some forms of construction, particularly post-and-beam timber framing offer very considerable flexibility. Some groups also organize themselves to erect the basic structures together as a group and then fit out the shells individually to their particular requirements.

In the context of Guernsey, it is wise to start simple with the first pilot project and so we would recommend limited and defined areas of choice.

Self-Build refurbishment

There is of course an enormous amount of DIY activity improving, converting, renovating and extending existing houses. The complete refurbishment of existing houses and the conversion of other buildings such as church halls, warehouses and office blocks into homes is a growing area of interest. This is due to the lack of developable land on the one hand and a supply of buildings that either no longer serve their original purpose such as older office blocks or are surplus to requirements as in the case of churches on the other. Converting or renovating existing buildings minimizes the waste of resources as well as raising the quality of the existing stock.

However, converting existing buildings, can be riddled with problems for self-builders as it can be difficult to budget the work and generally the level of skill needed is higher than building a new home from scratch. The level of risk is higher as you cannot fully predict what you will find when you come to carry out the work.

The potential for self-build refurbishment on Guernsey is limited as the majority of housing stock is in good order and the amount of obsolete buildings suitable for conversion is small. Furthermore, refurbishment is not recommended for a pilot self-build project because of the additional risks and skills involved.

Type of construction

It is estimated that around two thirds of self-build projects in the UK employ conventional brick and block construction. The balance are mostly timber frame with a small number of projects that employing innovative building techniques designed either to speed construction, improve its energy performance or reduce its environmental impact. These might include light steel framing, polystyrene blocks filled with concrete or straw bales for instance. (See Bristol Case Study which describes a development which used innovative construction methods to build sustainable low energy houses without the need for subsidy).

It is estimated that around 8% of all self-build projects, including many but not all of timber construction, employ a kit assembled by a package deal company.

Whilst timber construction is not the norm in Guernsey, there have been a significant number of timber dwellings constructed over the last 20 years or so. Timber buildings can be clad in a variety of materials including brick, block and render. Timber construction offers particular advantages in a self-build context because it can eliminate difficult skills such as bricklaying and plastering whilst most self-builders can master the basic carpentry involved. Timber building tends to be quicker particularly if it is prefabricated which is a substantial advantage in a self-build context.

4. THE POTENTIAL BENEFITS & LIMITATIONS OF SELF-BUILD

This section outlines the potential benefits in a general sense and in the specific context of Guernsey. The potential risks are outlined but the methods for dealing with them are elaborated in the section describing the self-build scheme proposed for Guernsey.

Potential benefits

As we have said the majority of self-builders in the UK are building their own home designed to meet their particular needs and wants – requirements not met by the mass market. They are getting a bigger, better house built to higher standards of space and specification than a house built by a developer. They are in control of the process and are able to exercise choices in layout, design, specification, materials and finishes.

Self-builders will often build to high levels of energy efficiency and will benefit from low running costs as a consequence. Self-builders will also tend to build to a high quality of design and specification. Self-build houses will tend to be both environmentally and economically sustainable.

Many self-builders have a different view of risk to a public institution and will often adopt innovative approaches to construction to save time or money and improve standards.

Self-build housing tends to create more variety in the built environment than mass-produced housing solutions.

Self-builders have a sense of 'ownership' over their property which tends towards high levels of maintenance.

Other people are motivated principally by the need to get access to housing at a price they can afford. This in turn leads to a greater level of security of tenure if housing costs are better matched to income. Some will build to rent if that is cheaper, some for part ownership and others see self-build as a way into home ownership. Many people see self-build as a first step on the housing ladder and this appears to be the principle motivation of the potential self-builders that we have met on Guernsey.

Self-build brings additional resources into the housing process and thus reduces costs; people's individual effort and creativity is used to create value.

Some self-build developments have the acquisition of building and life skills as the primary objective. This is not seen as relevant in the Guernsey context – the need for improving people's employment opportunities is not a priority as unemployment is not an issue and there is a well established programme of apprenticeships in the building industry unlike other parts of the UK.

It is our belief that any sustainable housing system must include the residents in the process. This requirement for local involvement was identified as a necessary part of a sustainable system at the Rio summit in 1992. We believe that self-build can have an important role in creating sustainable communities.

One opinion that just about all self-builders seem to share is that they have derived huge satisfaction from the process of planning and building their own home. There is a very fundamental pleasure to be gained from creating things and from creating a shelter for one's family in particular. It is usually the largest project that people will have undertaken and they derive great pride from having overcome all obstacles to successfully complete their own home. People gain self-confidence working together and dealing with the authorities and professionals and there are long-term social benefits to be gained from this.

The Guernsey context

Self-build will never be THE answer to the housing situation and the particular need for affordable housing aimed at those who cannot afford to buy a property of the appropriate size for their household and who do not qualify for States housing; there never is one simple answer, but self-build can make a contribution towards provision in this area alongside the current programme of partial ownership housing.

Self-build can contribute to provision for the intermediate market at a lower cost to the States; in the model proposed, a financial receipt is envisaged for land made available for this purpose. Also costs may be lower because the self-builders will be making their unpaid labour contribution.

Longer term costs will be lower than rented social housing as the self-builders would be responsible for all maintenance costs.

It is possible that a low cost self-build development in Guernsey would attract households in States or Guernsey Housing Association homes which would have the effect of releasing social housing for re-letting to those in greatest housing need.

The potential limitations

A more detailed discussion of risk and how to deal with it follows later in this report but some general remarks follow here. The potential limitations can be grouped under three principal headings –

- Risk of non-completion or time and cost over-runs
- Disproportionate time and effort for the number of dwellings produced
- Unreasonable expectations of the commitment of time and effort required by self-builders

Risks
Self-build need not necessarily reduce costs and will probably not be a quick process. More or less unskilled people building can be an inefficient process – the acquisition of skill in building as in other fields includes finding out how to do things with the minimum of effort and how to avoid mistakes. The process of constant improvement that comes from repetition and learning from one's mistakes is limited which is why it is very important to seek advice, talk to people who have done it before and employ advisors who have experience of self-build.

Self-building generally takes longer – people do not know when and how they can save time on the one hand and they also make mistakes which have to be rectified on the other. Because the process often takes longer, not just because people are inexperienced but also because they are building in their spare time, costs can go up and erode the potential for cost savings.

The programme can be over extended and/or costs can rise because people have unrealistic aspirations – given a free hand they may aim for their dream home without proper regard for their capabilities and budget.

There is a risk that unskilled self-builders will not achieve a high quality of construction or will make fundamental mistakes in the construction because they are not aware of the issues. In practice self-builders are motivated to achieve a high quality of construction.

Finally, there is a risk that the self-builders may misuse funds and measures need to be in place to avoid this.

Project management must be good to keep time and cost under control, planning and training must be in place to minimize problems on site.

Management effort
Organizing a self-build project can be very time consuming- too time consuming for some organizations who have found the homes built too few to justify the input of staff time and effort. The process involves a number of individual and often demanding clients and there are additional functions such as training to deal with.

It is important to make sure that organizational arrangements are kept as simple as possible and that control and decision-making is devolved to the lowest level possible.

Self-build effort
Building your own home is a big commitment. It tends to take over your life for a couple of years to the exclusion of almost everything else. In order to achieve cost savings people need to be able to commit a minimum of around 20 hours per week for around two years to include the planning stages. This can put a considerable strain on people's relationships.

Those who are in greatest housing need are often least able to spare the time and effort to build their own home. It is important that self-build is only ever an option and never the only housing choice which is available to people to satisfy their housing needs.

Motivation has to be kept up by not raising false expectations, providing support and involving the self-builders in the decision making process.

5. THE GUERNSEY CONTEXT

This section gives a very brief outline of the housing market which a self-build proposal will have to fit into including the need for housing. The potential demand for self-build housing is then estimated. Self-build activity in Guernsey and Alderney in the recent past are outlined.

The Housing Market in Guernsey

Home ownership

Home ownership dominates the local housing market and in 2001 comprised 72% of the market, a total of 20,000 dwellings. This is similar to the level of home ownership for the UK as a whole. Although prices have risen significantly over the last 20 years, home ownership remains affordable as real interest rates are low compared to the rest of the UK. Because levels of unemployment are low, lenders will generally advance a higher multiple of income than is usual in the rest of the UK. Nevertheless, some households on low incomes cannot afford to buy their own home.

Although we are not valuers, our review on the current market and advice from estate agents suggests that current values are between £135,000 and £150,000 for one bedroom flat and from £240,000 to £270,000 for 2 bedroom house. For a 2 bed house at a value of £260,000, assuming a deposit of £10,000 and a mortgage over 20 years at an interest rate of 5.5%, to afford a two bedroom house a household income of between £60,000 and £68,000 would be required assuming a borrowing multiplier of 4.5 (The borrowing multiplier is based on current UK building society practice and takes into account higher risks for those on low incomes).

Mortgage Interest Tax relief, MITR, is available at 20%.

The States Home Loan scheme offers subsidized loans up to £130,000 for first time buyers although the number of loans has been limited in recent years. 70 new loans were made in 2002.

Private renting

The private rental sector makes up 19% of the market which is almost twice as high a proportion than in the UK as a whole. Rents have risen faster than house prices over the last 20 years but are now at a similar level to average uncontrolled private rents in the UK. Rent controls could be applied but have only been applied to 50 properties out of the 4000 in the sector. Conditions in some properties at the low cost end of this sector are poor. The cost of renting a 2 bedroom flat starts at £700 per month and a family house at £1,100 per month.

A commonly used target in the UK is that people should spend no more than 33% of their gross income on housing. This implies that they should have a minimum income of around £25,000 per annum to rent a 2 bedroom flat and £40,000 to rent a three-bedroom house.

Social Housing

The States rental sector accounts for 9% of the market, less than half the proportion than in the UK. Rents for States dwellings averaged £76 per week in 2001 which was around 40% of the economic rent. Rents are being increased in May 2005 by an average of 73% and will apply equally to Guernsey Housing Association tenancies. Typical rents are estimated to be between £105 and £125 per week for a one bedroom flat, £160 to £170 per week for a two-bedroom house and around £180 per week for a three bedroom property. At the same time rent rebates will be extended so that it is estimated that 85% of States tenants will be eligible rather than the 50% currently. There is a waiting list of around 200 households, generally limited to priority groups in need, principally, families and old people. The Guernsey Housing Association houses 75% of its tenants from the States list and the remaining 25% are households in the intermediate market, principally single people and couples.

Housing need

A deficit of 2 & 3 bedroom houses has been identified. This was estimated at 250 dwellings per annum in 2001. The planned target is to complete 300 dwellings per annum of different types and tenure. This target is currently being exceeded. The newly established Guernsey Housing Association has a target to complete at least 50 affordable dwellings per annum.

It is envisaged that the great majority of these new homes need to address the intermediate market of those unable to afford outright ownership but not eligible for States housing. The Guernsey Housing Needs Study 2001 estimated that more than half of those households seeking homes larger than they can afford on their income could afford a 50% equity stake in a Partial Ownership scheme.

Potential demand for self-build

We have argued that any comprehensive housing policy should include opportunities for people to build their own homes. This has benefits for individuals who can expect higher quality housing and the ability to exert choices all at lower cost. There would also be other less immediate benefits for the housing market as a whole.

Households with access to land and/or an adequate amount of money can always opt to commission their own house. This report is aimed at making those opportunities available to households on low incomes and thus contributing to provision for households in the intermediate market.

It is difficult to estimate the potential demand for self-build on Guernsey. We understand that around 100 households expressed an initial interest in the current self-build group.

This has now fallen to 32 households although we have received only 16 responses to a questionnaire. This is consistent with experience in England which shows that the number of households who may actually decide to pursue a self-build opportunity if it were to be made available would tend to be a small proportion of those expressing interest at the outset. This group cannot be considered as a reliable guide to the demand for self-build as it relates to a one-off opportunity of a speculative nature. However, it is a high level of response given the size of the community. It has been suggested that this is evidence for a high level of pent up demand arising from the high cost of home ownership and difficulty of access to building plots.

Meanwhile, as discussed above, consideration of other developed economies shows the proportion of the total number of completions contributed by the self-help sector to be no less than 10% and up to 60% of the total. The proportion of the self-help market in the UK is expected to rise from 8% to 10% over the next 5 years. However, there is a wide regional variation; the urban areas in the UK have a self-help sector estimated to be between 2% and 7% whilst for rural areas in England the figure is 11% with 19% in Wales and 23% in Northern Ireland. One might expect total demand for self-build to be similar to the non-urban areas of the UK.

We have not found any data on the proportion of self-builders building because it provides an affordable home or because they are not eligible for social housing except that there is evidence that there are fewer people from lower socio-economic groups self-building than has been the case in the recent past and so two surveys in England in 1999 showed that 46% and 39% respectively of self-builders were from the managerial and professional groups. It is also the case that the number of 'community' self-build projects in the UK is very small.

It is thus not possible to predict demand; there is an existing group who responded enthusiastically to the recent possibility of a self-build opportunity; once a pilot is running there may be more interest when people can see that self-build is a reality. Equally, there may be a pent up demand that has already revealed itself in response to the advertisement. The UK experience tends to suggest that real demand increases when a scheme is seen to be underway. It is possible that a scheme of 10 – 15 homes could start every year or two for quite some time, if land can be made available.

Self-build in Guernsey & Alderney

There is a tradition of self-reliance on the island which goes back to the days when Guernseymen lived by farming and fishing. Building one's own home is very much a part of this view of life and translates into recent experience in the idea of the young generation building a house for themselves at the bottom of the parental garden. This form of development is now severely limited by the application of planning control which amongst other measures divides the island into an urban area and a rural area and seeks to prevent new houses being built in the rural area.

In 1987 the States considered the principle of making plots available to young couples to build their own homes. The States Advisory and Finance Committee concluded that a limited scheme to make plots available should be operated by the States so long as it did not take precedence over other public and private building projects although this was not progressed at the time. The essence of the proposal was for the States to make plots available at cost price on land already owned by the States or acquired for this purpose. The States would provide and pay for the design of an economical house. The self-builders would pay the full cost of the building, infrastructure, services and legal fees and would have to demonstrate that they had access to the necessary finance. They may be able to obtain a loan from the Homes for Workers Loan Fund if they were eligible. The self-builders would be required to make a payment to the States if and when they sold the property within a 10 year period in recognition of the financial advantage they would have gained.

A more workable scheme has been operating on Alderney since 1962. By 2000, when the scheme was more or less complete, 71 leasehold properties had been self-built on fully serviced leasehold plots provided by he States of Alderney at very low ground rents using a fixed loan from the States of Alderney topped up with savings or private loans if necessary. The States have the option to buy back the property at market value whenever the self-builder wishes to sell the lease. In practice this has only happen on three occasions because the States has either not had the capital available or has not had the need for an additional property. In 2000 the States offered the freeholds at advantageous valuations to the self-builders and about half had taken up the offer by 2004.

Demand for the scheme has tailed off in recent years in response it is thought to the availability of low interest private loans to people on relatively low incomes who have been able to buy their own homes. The availability of bank loans has also had the effect of encouraging people to build larger, grander houses using more sub-contract labour rather than the simple bungalows in earlier years. A handful of people continue to self-build on Alderney each year without public support.

The advantage of such a scheme is its simplicity. It can provide self-build opportunities at a moderately low cost as the land is made available at little or no cost, the services are installed at no cost to the self-builders and loans are available on favourable terms. The States have the opportunity to buy back the leases when the self-builders move on but there does not appear to be any mechanism to reclaim the subsidy that the self-builders have enjoyed because the price is fixed by an independent valuation at the time. It is a less flexible arrangement than Partial Ownership where the level of equity purchased can be matched to each household's individual income.

6. THE CURRENT SELF-BUILD PROPOSAL

This section gives an evaluation of the current proposal for a self-build scheme on the island.

This scheme is based on land known as La Planque Vinery, Rue Des Marais. The owner of this land proposes selling 30 plots to local people to build their own homes for ownership. This proposal has got some publicity and support from some Deputies who petitioned the States in 2002 to investigate a Partial Ownership self-build scheme. This report has been commissioned largely as a result of this initiative.

The proposed scheme is that the landowner would sell the land at a price substantially below the normal cost of residential land to local people who would set themselves up as a self-build group. The land was independently valued several years ago when there was a plan that the States Housing Department may wish to buy it. Since then the value of land has increased but the landowner is still prepared to sell the plots at around £18,000 each. This is a very low price as a plot with residential planning permission would be expected to sell for up to ten times that much.

The initial interest in the scheme was large with over 100 households signing up. Since then the group has continued to meet and firm up the proposal. Current membership is said to be 32 households who have made cash available to contest the planning issues associated with the proposed site. However, we have to date only received 16 replies to a questionnaire. There is clearly a demand for self-build to support at least a pilot and probably a follow up scheme.

Despite the delays and uncertainties the group have contacted potential suppliers and they are looking at using some form of prefabrication to lessen the build time and give the self-builders a good start with a watertight shell. This would seem to fit well with the needs of the group who have limited spare time for building.

The group includes a large number of young, single people mostly living at home with a few households renting privately; of the households that replied, 9 were single people, 2 were couples and 5 had children. Initially all the group were interested in building houses which they would own and no one we met was interested in any other form of tenure. Most of the group then wanted 3 bedroom houses with car parking or a garage. Since then they have developed a better understanding of what is possible and the concept of Partial Ownership is accepted. Generally they were limited to a budget of £100,000 although some could only afford considerably less than this. As all the group were in full time employment the amount of time they could spend on site is limited; only 4 households suggested they could commit more than 20 hours per week which is a common minimum requirement for self-build groups. Two thirds of the members suggested they had building skills which covered a wide range including carpentry, plumbing, electrics, bricklaying,

plastering, timber framing and construction management. Some members had very few skills to bring to the scheme.

The proposal is that each self-builder would arrange a mortgage and that the proposed scheme would be entirely self-financing and would not involve the States in any financial support.

Similar developments have been built on the mainland by self-build consultants but the high cost of land has made it difficult to make it work and so they tend now to work in partnership with housing associations and local authorities who are able to make land available on better terms than the open market. The schemes are professionally run, carefully costed and continuously monitored.

The limited budget and time constraints combined with the costs of building materials on the island means that if such a scheme was to be set up it would need to be very carefully costed and the administration would need to be very thorough. The group would probably need some training, which could be provided by the College of Further Education or organised privately. Either way this would need to be paid for. Alternatively, the self-build group could be limited to those who have relevant skills. Also their wishes will probably have to be reduced to fit in with their budgets. It may be, for instance, a good idea to investigate smaller terraced houses as starter homes.

The group has obtained prices from a supplier in Guernsey for a basic prefabricated timber construction assembled on the island. The group have also obtained a quotation for a structural insulated panel system, SIPS, imported from the mainland. We have analysed these proposals in outline and conclude that the claim that the Guernsey self-build group's proposal could create three bedroom bungalows for £100,000 is unlikely. We estimate the absolute base cost including land to be around £120,000 assuming –

- That the standard of specification is absolute rock bottom
- There is no sub-contract labour except some assistance with the groundworks
- That there is no allowance for professional services which they maintain they can obtain at no cost

We have assumed sub-contract labour in our financial appraisal at £8,200 and professional services at £11,100 which would bring the cost up to around £140,000 per dwelling. It may be possible to obtain both the necessary labour and professional services for less, but a careful financial appraisal would be required to test the feasibility of the proposal. It remains our feeling that this would render the scheme beyond the means of a significant number of members of the group.

There are four principal obstacles –

- The site is zoned for horticultural use and is currently the subject of a planning appeal. A residential permission would create a precedent for other landowners to develop redundant glasshouse sites all over the island.

- Assuming that the price of the land after planning permission had been granted could be legally fixed by covenant or some other mechanism, the benefit of cheap land would be a once only benefit to the current self-builders; it is a private development and the States could not prevent the houses passing into the private market on first sale and the self builders taking the profit. The proposal would not contribute to the long-term provision of affordable homes.
- The scheme is open to anyone with the inclination and access to the required level of finance. Members of the group are not necessarily those in greatest need and so again the schemes impact on provision for the intermediate market may be limited.
- Our preliminary assessment of the costs suggests that they are optimistic and that if costs were higher than currently anticiapated some members of the group would not be able to take part.

In short, if the States were to support this particular initiative it would put planning policy under threat without adding to the long-term stock of affordable housing.

7. PROPOSED PILOT SELF-BUILD PROJECT

This section outlines a recommended approach for an affordable self-build scheme in Guernsey. It elaborates the target group, management arrangements, training, land, funding, financial risks, arrangements for retaining resources for affordable housing, materials and monitoring and makes recommendations in these areas. There is also a financial model which can be used to test the viability of a development on a particular site with a particular mix of households and an example of its use is given.

Partial Ownership self-build option

It is proposed that there should be a small, shared-ownership self-build development available as an option to people who are not able to afford to buy their own home or to build their own home without some financial assistance. The self-build option would be run alongside the housing association partial ownership provision and would make a similar contribution towards satisfying the needs of the intermediate market. The self-build option would reduce the cost of housing due to the voluntary labour provided by the self-builders. The proposal is based on land being made available by the States at a discount. It is proposed that the self-builders should be able to start as low as 25% and in due course purchase up to 100% of the equity at which time the discount is effectively repaid to the States. In the medium term the States may well effectively receive almost the full value of the land as self-builders purchase more equity; it is generally the case that as time passes it becomes beneficial for them to do so.

In practice the staircasing receipts could be held by GHA to act as capital subsidy to future self-build schemes, and possibly to a reverse staircasing approach to help out households that could no longer sustain their level of equity through changes in their circumstances. The receipts will increase with house price increases, and thus are effectively inflation proofed and so can be used to compensate for the loss of affordable housing.

The pilot project would test the level of demand. The optimum size for a self-build development is around 12 to 15 households, less than 10 and the amount of work that goes into setting up the scheme becomes disproportionate to the return and overheads affect the feasibility of the scheme. More than 15 households and it becomes difficult to manage. The aim should be for a pilot project of between 10 and 15 dwellings although the actual size would be determined by the availability of a site or sites. A pilot project would confirm the priorities of potential self-builders and test the funding, management, supply and construction systems.

It is envisaged that if the pilot project is successful and that demand is demonstrated a small ongoing programme of self-build would be established with a development of around 10 to 15 dwellings initiated every year. This is similar to the situation in a number of local authority areas in England where successful self-build projects have generated ongoing interest; Brighton has an established self-build tradition and has initiated at least another 5

schemes in recent years and the London Borough of Lewisham has supported at least 11 self-build sites over the last 20 years or so.

Target group

A self-build project on Guernsey aimed at the intermediate market would be targeted at young families, couples or single people who may be sharing accommodation with one of the parents or renting privately who cannot afford to buy a house on the market and who see self-build as a way of obtaining better housing than they would otherwise be able to afford and who are keen to move towards owning a home of their own.

It is also proposed that the scheme would also be open to households currently living in States housing thereby releasing States houses for letting to households in greatest housing need.

Those members of the Guernsey self-build group who responded to our questionnaire included 9 single people, 2 couples and 3 families with 1 child, 1 family with 3 children and 1 single parent with 1 child. This composition of this group does not necessarily reflect who may wish to join the proposed pilot project – the current group are interested in building for outright ownership not Partial Ownership and the single people in particular had high aspirations for a three bedroom house. We would expect the Partial Ownership tenure arrangements and the proposed limits on dwelling size discussed below, to tend to attract more established families wishing to improve their circumstances and fewer young single people with unrealistic expectations.

Eligibility criteria

It is important that the criteria for selecting participants are clear and fair. The intention is that a self-build scheme is not wholly needs driven but that it should be open to all who satisfy basic threshold criteria. The self-build scheme would be an option available alongside the Guernsey Housing Association Partial Ownership programme and participants would –

- be required to meet the same criteria as the partial ownership programme including income requirements.
- Be residentially qualified.
- not be permitted to be home-owners either on Guernsey or elsewhere.

Our proposal is that for the pilot project, once potential participants have been assessed under the partial ownership criteria, a degree of preference would be given to those with building skills so that at least half the group members had such skills. This will reduce risk, time and costs for the pilot project. Once the procedures for self-build are established we suggest that participants in subsequent projects would not be required to fulfil any particular skills requirements – training would be provided as part of the scheme. We believe that it is unreasonable to limit a self-build scheme to people who are or who have been in the building industry; our experience is that most people can learn enough to do most tasks. In this case, should there be more potential self-builders than places on the scheme, a ballot would be held to select those who are able to take part and to establish a

waiting list ranked in order. In practice experience shows that groups tend to be self-selecting.

Mix of dwelling types

The final mix of dwellings for a self-build project would be determined largely by the composition of the households that form the group. However, it is envisaged that the scheme would consist largely of 2 and 3 bedroom houses with perhaps one or two larger family houses if necessary. In a self-build context where people are building for the future there seems little point in building 1 bedroom flats for young people – our proposal is that they should be able to build a 2 bedroom house. The Partial Ownership mechanism would be used to match the cost of their share of the equity with their income in order to maintain affordability. Larger dwellings could be built with a similar level of under occupation subject to their gross household income being able to sustain a minimum equity share. In this way a couple with 1 child could build a 3 bedroom house subject to their income being sufficient.

Management

The principle that should be followed is to keep arrangements as simple as possible consistent with ensuring that all aspects of the development process are under control. Complex partnerships with overlapping responsibilities are to be avoided if at all possible. The development process is a complicated enough jigsaw bringing together land, money, designs, permissions, skills, people and materials for people who are not familiar with it to understand without any additional complications.

Also important is to devolve decision-making down to the lowest level whilst limiting risk as far as possible. Making sure that self-builders are involved in the process is a vital part of keeping self-builders motivated without which any scheme has a significant risk of not being a success. Some organizations have assumed close control over self-build developments and found that they were overwhelmed by the level of detail involved - one local authority found itself accounting for every invoice. Some organizations have found that their management costs have not been sustainable. It is necessary to have a level of trust in people whilst being aware of and guarding against risks, a topic that is discussed below.

The States

It is proposed that the States role would be largely an enabling role; to provide the necessary political support for the scheme, make States owned land available and to make that land available at less than its full market value and finally to provide a guarantee for the finance. This is necessary if the States were to prevent the banks disposing of the development on the open market if the scheme failed. The need for guarantees will need to be addressed through GHA's Business Plan taking in to account the build up of equity and rental income so that it does not need to raise relatively expensive development finance separately from its overall loans portfolio.

The States would get a partial receipt for the land now with the balance of its full value being received if and when the self-builders acquired the full equity of the houses, satisfied residents living in high quality houses that they could not otherwise afford and potentially a number of vacant States houses to let to households in the greatest housing need.

The housing association

The Guernsey Housing Association have agreed in principle to act as promoters of the scheme and they would retain ownership of part of the equity in the development. After completion, the housing association would also administer the transactions that may from time to time arise under the Partial Ownership arrangement.

Project management

The key to a successful self-build development is good planning – in Germany they expect to spend twice as long planning a development as building it – once the scheme is committed to site, everyone should know exactly what to do and what is expected. This is

in contrast to British practice which has sometimes been to start on site to conform to some arbitrary funding deadline without the scheme being properly prepared.

Good project management would bring experience and expertise in self-build together with knowledge of local conditions and practices.
The role would generally include –

- General self-build advice
- Managing land purchase
- Overseeing the organization of the self-build group and recruitment
- Assisting in the appointment of consultants
- Co-ordinating the necessary planning, building, insurance and financial permissions
- Obtaining start-up, development and long term mortgage finance

Other functions may be carried out by the project manager or the architect or cost consultant if there is one employed. These might include -

- Setting budgets and monitoring expenditure
- Setting a programme and monitoring progress
- Managing infrastructure requirements
- Managing sub-contracts
- Preparing final accounts

There are three principal choices –

- To employ a commercial self-build consultant
- To employ an organization such as a housing association to act as development agent or
- For the self-build group to self-manage the project.

Employing a self-build consultant brings experience and expertise which will reduce risk but they will tend to keep things simple which may limit choice more than is acceptable and they may require a high proportion of skilled members which will rule out a number of potential self-builders. We have contacted one consultant with extensive experience in England including Partial Ownership and working with housing associations. They would provide a framework for setting up a scheme in Guernsey but would not be in a position to provide day-to-day input and would be lacking local knowledge.

A development agent, in the Guernsey context, the Guernsey Housing Association, would bring development and financial expertise, local knowledge and some experience of working with groups but no particular self-build expertise. Some housing associations in England have underestimated the work involved in dealing with individual households and been unable to provide a good service in this role. The cost of this service is part of the scheme development cost.

A self-managed group would save the cost of a consultant or agent but would involve the group in considerable extra work over and above the basic building and organizing role of

the self-build group, work for which they do not have any particular expertise. The role of the architect would probably be extended and a contracts manager may be required. Many individuals of course manage their own self-build projects perfectly competently.

It is proposed that the Guernsey Housing Association act as development agents providing development and financial management and overseeing the organization of the group, with a self-build consultant from the mainland providing self-build expertise and advice. This arrangement brings together the necessary skills in a practical manner.

Consultants

It is important that the professionals involved in a self-build project have an attitude which allows them to work effectively with the members of the self-build group. They must work in a collaborative manner and not try to impose their own version of what should happen whilst at the same time ensuring that they adopt a professional approach to the project. Not everyone finds this easy mediating between the sometimes differing points of view and retaining the trust of the parties involved. Track record and recommendation are important when appointing consultants.

The self-build group

It is proposed that the self-build group would be incorporated as a company limited by guarantee. This is a model adopted by some co-operatives in England as an alternative to being incorporated as a Friendly Society. This creates a legal entity which can enter into contracts and limits members personal liability. We would recommend that all adult household members become directors which makes sure that everyone is represented and that the rivalries which can arise with an elected committee are avoided. The group will require a chair, secretary and treasurer in the usual way but the organizational arrangements may vary dependant on the preference of the group.

Other documents that may be required are a License to Occupy which governs the rent and terms under which members may move into their house before all the other houses and the common parts are completed at which time the final transfers of ownership and mortgages would be put in place.

The other agreement that many groups have are Working Regulations which set down the hours which members are expected to work and any fines which may be levied if they don't. They also cover holiday entitlements and provisions for sickness. Some groups work strictly to the principle that everyone works equally on all the houses whilst others have adopted a more flexible approach where each self-builder works largely on their own house. The former arrangement implies that all the houses are very similar with little scope for choice whereas the second can result in unmanageable variations in design, specification, effort and cost. Some midway position is probably best permitting some variation whilst ensuring that everyone works together on the main structures and communal areas whilst perhaps permitting individual working on the internal finishes where people have different ideas of specification and expectations of quality of finish.

It is suggested that the self-build group would be contracted to build the development as the main contractor using a conventional building contract with the punitive measures for not completing on time removed. As a contractor the self-build group would obtain contractor's all risks insurance cover against injury, third party risks, fire and theft.

The self-build group would be responsible for keeping a waiting list of potential self-builders informed of progress in case they need to join the group to replace a member who leaves. In practice it is during the planning stages that members can become frustrated or other more attractive housing options present themselves during this period – it is uncommon for self-builders to drop out once construction has started. A lead-in period of six months or so is required for potential self-builders to become familiar with what is involved and for them to drop out if they think it is not for them.

The self-build group would also be responsible for establishing a start-up fund to cover preliminary costs. This could be raised from loans, subscriptions, grant or sponsorship. They will need to organize the allocation of houses. Our experience has been that if members put their preferences in order it is surprising how many people can get their first choice – some wanting to be near the road whilst others want to be tucked away at the back. Finally, the self-builders should be involved in the design process from the layout, through the house plans to the construction method, specification and finishes. This process is important so that people get what they want as far as possible and are committed to the design but it can be a complex process that needs to be managed carefully.

In addition, some groups, especially those which are not equipped with a complete range of skills within the membership, employ the services of a contract manager. This would probably be a part-time position. The definition of the role varies but would commonly include assistance with obtaining quotations, placing orders for materials and components, receiving goods on site, checking them, accounting for payments as well as providing practical help with the construction on site. It is important to find someone with the right mix of skills and experience; they should be good at dealing with people as well as experienced in construction.

Training

We have identified four principal aspects of training to be considered which are -

- For any self-build scheme to be successful the participants will probably need to have some training in building skills. The specific training needed will depend on the skills the group have and their ability to share those skills.
- As well as the obvious need for training in relevant building skills the group will need training in wider areas such as Health and Safety, finance, administration and group work skills.
- There is also a need for members to become educated about the issues that are relevant to housing development so that they can participate in the decision making process and make informed choices.
- Finally, training can be used as an effective means of bringing a group together as an effective working unit and as a means of keeping enthusiasm up particularly during the planning stages.

Building skills training

Some self-build groups, particularly those organized by self-build consultants, limit those who can join to people with building skills. The most effective team is assembled with the right mix of skills. A group of this kind may include one or two individuals with more general skills such as bookkeeping. This approach is designed to reduce time and therefore cost and reduce risk. It does however limit who can take part very substantially. Without this level of selection experience shows that self-selection attracts 25% of self-builders with a building industry background. The current self-build group in Guernsey appears to have an even higher proportion of skilled members.

As discussed under eligibility criteria, we do not believe that skills should be used as a selection criteria.

A thorough skills analysis of the group would need to be undertaken before a final training programme is put in place but experience from schemes on the mainland shows that even if the group has, for example, a skilled carpenter it is still a good idea to run a basic carpentry course so that everyone has some basic training which can then be added to on site. Also the courses will include safe working methods which are essential for all participants to know and implement.

Guernsey College of Further Education could run a programme of courses based on their premises using their skilled trainers. A programme would need to be designed with them but they are able to offer training in a range of building skills including: -

- Carpentry and joinery
- Plumbing,
- Blockwork
- Plastering,
- Roofing,

- Electrics

As well as other courses in: -
- Bookkeeping
- Safe use of tools.
- Health and Safety

Guernsey does not operate the same Health and Safety legislation as the mainland but we would advise that the group operate a form of Health and Safety policy based on the CDM Regulations this will make sure everyone is actively involved in the groups Health and Safety. St.John Ambulance has been contacted and they could run a first aid course that would be suitable for the group as part of the Health and Safety plan.

These courses would be outside of the usual activities of the college and so would need to be separately funded and all costs would need to be covered. These costs would include room hire, tutors fees, materials and administration costs. The college was clear that they would make no profit from these courses but they could not subsidise them. We believe that these courses would be a worthwhile investment but could be relatively expensive. As far as we can tell there is no other funding stream available so the costs would have to come out of the build costs. This could be seen as a large extra cost but we believe that the training is essential and should be compulsory. It is hard to predict the level of training required but we made an allowance in the financial model of £1,000 for this purpose.

On some self-build schemes colleges have used the project for giving students site experience whilst providing semi-skilled labour for the self-build project at no cost to the scheme. As all the students in Guernsey College of Further Education are on apprenticeship schemes from their companies this would not be possible.

The construction industry in Guernsey is heavily committed for at least the next 5 years or so which means that a self-build group will have to compete for sub-contractors which may adversely affect both cost and programme. In this circumstance there is good reason to be as self-sufficient in skills as possible and to tailor the construction method to the skills available within the group.

This effect is countered to a significant degree because self-builders are generally able to call on an extended circle of friends and family for help and particularly so in Guernsey where many people have close extended family networks.

Other training needs

As well the training listed above we advise that the group is trained in basic skills in administration, running meetings. negotiation and dispute resolution. Experience in the past has shown that this training although seen as peripheral is fact very important if the group is going to work efficiently together throughout the scheme and remain good neighbours when the houses are complete.

Education in housing issues

In order that the self-builders can make informed judgements about design, finance, tenure, construction, cost and so on, they should have some background information. This is often best acquired by arranging visits to completed schemes and talking to other self-builders. Members can than compare notes on the way back and share their impressions. It is not clear if this is going to be possible in the Guernsey context as the airfares and hotel bills make it an expensive business taking a group to the mainland. This has not been included in the current costings.

In addition, sessions can be arranged around specific topics such as house design or building construction and run by people with experience in these fields.

Land

One of the chief drawbacks to the Guernsey Self-Build Group proposal is that the site mentioned above which is being offered at a discounted price in order to make the scheme work financially, is not in a planning zone for residential development.

The proposal we make is that the States make land suitable for and zoned for residential development available for a self-build development of between 10 and 15 dwellings. The land would be sold at a price which would be set at a level to ensure that the scheme does not run at a deficit and that the houses are affordable for households in the target group.

This generates a receipt for part of the value of the land at the outset with the balance being effectively repaid if and when the self-builders purchase the whole equity in their properties. In the short term the States receives a receipt with the balance paid in the medium term. This would seem to be an equitable arrangement because although the self-builders are benefiting from a deferred payment, they will pay the full value in the longer term.

Whilst the discount has not been paid to the States the properties remain in the social sector as affordable Partial Ownership houses. They only pass into the open market when the full equity is acquired by the self-builders and the discount is paid to the States for recycling for other purposes.

Potential sites

The requirement for land for self-build is not much different than for any other development except that complications around land acquisition and development should be avoided if at all possible. Unlike most housing developments, the future residents are involved from the outset and delays can undermine self-builders' motivation to the detriment of the scheme. A site which requires extensive enabling works because it is contaminated, requires a new access road or flood prevention work should be avoided if possible. There can be a temptation to offer a site to a self-build group that is difficult to develop and this should be resisted. Also, a site that forms part of a large-scale development may be subject to delays while master planning and consultation take place.

States owned land is preferred to a privately owned site as the negotiations are not taking place in an intensely competitive context and so there is a great deal more certainty and less chance of a delay.

Self-build developments have been successfully undertaken in London on a group of small sites in the same area with no committed plans, which would be difficult to develop for any other purpose.

Our recommendation is to pursue small States or privately owned sites within the urban area, in a group if necessary, in preference to the Housing Target Areas unless a small

parcel on the boundary of the Belle Grave Vineries area could be made available in advance of the overall development.

Infrastructure

It is proposed that the installation of the necessary road and mains services infrastructure would be designed, managed and paid for in a similar manner to any other housing development. Standard site development costs has been included in the financial model.

It is proposed that any exceptional costs for contamination or flood prevention works for example would be reflected in the value of the site. However if the site has a low value, then reducing the price paid might not generate enough capital subsidy to make the scheme viable and a cash grant would be needed to bring the scheme to viability.

It is proposed that the maintenance of any shared infrastructure, a sewerage pump for example, and any common parts, a road for example, would be the responsibility of the self-build group who would become in effect a management company after completion able to levy service charges to cover the cost and this would have to be written into the legal agreements.

Funding

Funding is required at different stages as follows –

- Start-up funding to fund a self-build group to get established and assess the feasibility of a self-build proposal.
- Development loan to fund the design and construction of the houses
- Long-term mortgage finance after completion
- On-going management and maintenance funds

The funding model is designed to be financially neutral for the housing association and to therefore provide affordable housing at a reduced level of subsidy.

Start-up funding

It is proposed that the self-build group is made responsible for raising a modest amount of start-up money to cover expenses incurred setting up a group and establishing the feasibility of a scheme prior to agreeing funding. This would cover fees for surveys and preliminary proposals as well as incorporating the group and costs for postage and stationary. This fund may need to be in the region of one or two thousand pounds. This is often raised in England from a grant giving trust or some other charitable source. However, it appears that such sources of funding are limited in Guernsey. Other possible sources include a grant or loan from the housing association, corporate sponsorship or a subscription for membership of the group. The existing group has made a levy to fund their legal costs associated with a planning appeal.

Development loan

It is proposed that the housing association would obtain development funding either as part of their existing facility or as a new loan. As an institutional borrower, the housing association should be in a good position to obtain a loan. Also, generally speaking, some, but not all, banks and building societies on the mainland view self-build as good business because the loan/value ratio is usually favourable because of the self-builder's free labour input and because they view self-build as low risk lending. Self-builders are usually relatively financially sophisticated and highly motivated to succeed and self-build is subject to close scrutiny.

The ultimate risk is that the lender is stuck with half completed houses so they will either require that they can dispose of the assets on the open market to recover their money or that the States guarantees the loan if they wish the land to remain for social housing use only.

Lenders will also need to approve the scheme; project management arrangements, professional consultants, costs, self-build group and their individual level of skills, income and prospects. They will require structural insurance cover.

The housing association would receive the rental income from retained equity. This will be use to service the loan.

It is proposed that the capital receipts from self-builders acquiring additional equity would be retained by the housing association in a fund to be used either for buying back equity from self-builders who may get into financial difficulty or to plough back into further affordable housing developments. A number of shared ownership self-build developments on the mainland are very profitable for the sponsoring associations as property values rise.

We recommend that the funds for the development be channelled through the self-builder's bank account. The self-builders can avoid bureaucracy and red tape and so pay on time and this arrangement gives them the level of control that enables them to strike the most cost effective deals. The professionals will have to check that the materials used are in accordance with the requirements and fit for purpose and that the expenditure is being properly accounted for. The self-builder's bank account would be credited with an initial float and thereafter monthly with the value of the previous month expenditure much in the manner of an interim certificate under a normal building contract. The housing association can make direct payments for exceptionally large items of expenditure. This arrangement limits the financial risk involved.

Mortgage finance

It is proposed that the self-builders would be required to take out a mortgage to buy a minimum of 40% in accordance with the Guernsey Partial Ownership model.

Mortgage Interest Tax Relief MITR would be available to borrowers and we have incorporated this into the financial model at an assumed tax rate of 20%. This has almost no effect at the bottom end of the equity range but would reduce outgoings by around £2,000 per annum for a self-builders purchasing a 75 % equity share in a three bedroom house.

The States' Home Loans Scheme would not be available to the self-builders.

Rent rebate is not available to households in the intermediate housing market.

Management and maintenance

It is proposed that the individual self-builders would be fully responsible for maintenance of their houses after completion. The rent payable to the association for that part of the equity not acquired by the self-builders could therefore be reduced to account for this as in the proposed partial ownership model. No reduction of this kind has been assumed in the financial modelling carried out to date.

It is also proposed that the self-build group, which would be incorporated as a company limited by guarantee, would be responsible for the management and maintenance of the common parts and that the group would levy service charges on the individual self-builders to cover the cost.

It is also proposed that the rents paid by the self-builders under the shared equity arrangement would cover the management costs arising from the Partial Ownership arrangements, for example, for changing individual equity shares and adjusting loans and rents accordingly.

Financial risks

The most severe risk in its effects but with a relatively low risk of it occurring is that the scheme fails to be completed and that it has to be sold and completed by others. This circumstance would affect stakeholders as follows –

- The States would not have achieved its aim of providing affordable housing on the site or may face financial losses completing the scheme.
- The housing association would have expended effort and time and therefore money without providing any affordable housing
- The financiers would either have first charge on the assets or a financial guarantee and given the likely favourable loan/value ratio would expect to cover themselves.
- The self-builders would probably find the houses unaffordable and may find that their effort so far will go unrewarded although there is a chance that there maybe enough value generated to reward them for some of their work.

Interestingly, some banks and building societies regard self-build as good business for the very reason that, amongst other things, they consider it to be low risk business; self-builders tend to be financially sophisticated and highly motivated to succeed and working within a tightly controlled development process.

Other risks include –

- Costs escalating. This can be serious for self-builders in particular because individual financial circumstances can be relatively inelastic – they cannot generally tolerate their outgoings going up – and so the risk of deadlines not being met and costs rising needs to be minimized as far as possible. If costs rise too far the houses may become unaffordable. Cost increases, as anyone familiar with construction will be aware, are not uncommon and so we have a risk which can have significant effects with a moderate degree of likelihood. A contingency is included in the financial model. It may also be possible to increase the level of subsidy or extend the terms of the loan from the 20 years assumed up to 30 years to avoid the self-builders' outgoings rising. Common reasons for costs rising include -
    - unrealistic expectations of the self-builders with respect to design and specification
    - estimating & cost control is inadequate
    - the programme is extended – see below.

- The programme becoming over extended which inevitably leads to costs rising – see above. This too is a risk which can have serious consequences with a moderate risk of occurance. Common sources of delay include –
    - securing a site
    - obtaining planning permission
    - securing funding

- delays on site include late deliveries of material, inadequate ordering procedures, bad weather, inadequate training, inadequate project planning, lack of labour on site and delays getting sub-contractors on site

- A self-builder leaving the scheme. Although some time will inevitably be lost, this need not be too disruptive if a waiting list is in place and if the people on it have been kept informed on the progress of the scheme. It is a rare event once the group has settled down. Participants would not normally be able to take any recompense for their time away with them except in special circumstances of sickness or compassionate grounds.

- Poor quality of construction. This could have serious consequences if there were structural defects. The likelihood of a serious problem of this sort is slim particularly if the training has been adequate. Self-builders have a vested interest in doing things properly and are usually building to get a better quality home. Structural insurance will be in place.

- Misuse of funds either fraudulently or through inadequate accounting. The impact of this would not be great so long as the amount of money available to the self-build group at any one time was limited to a monthly revolving fund or some similar arrangement. This is a very unlikely event.

Set against this vision of possible disasters, it has to be emphasised that self-builders are dealing with their own lives and money to a large extent and tend to act in a thoroughly responsible manner.

Risk management

Nevertheless some basic principles should be followed –

- Keep the organization, design and method of construction as simple as possible
- The self-builders motivation is the key to success and so self-builders must feel that their needs are being fully recognized
- Emphasise the need for adequate planning and do not start on site until everything is ready

And additional steps that should be taken to reduce risks include the following –

- Appoint a project manager with experience in dealing with community groups and an in depth knowledge of the development process and self-build costs.
- Ensure that the promotion of a self-build scheme is based on clear and accurate information and that false expectations are not raised.
- Recruit self-builders around one year in advance of a start on site in order that they can settle down as a group, have time to understand the scheme and what is expected of them and so that members who are not fully committed drop out before starting on site.
- Ensure that trainers have appropriate skills and experience.

- Integrate participation in the design process into the scheme at all stages including management, layout, house planning, construction and finishes to ensure that the self-builders' enthusiasm is kept high.
- Provide support for the group
- Ensure that procedures for ordering and accounting for materials are robust
- Establish a construction programme and monitor progress monthly

Resources for affordable housing

As has been outlined above, the proposal is for the States to make land available at a discount in order that the self-build homes are affordable. The discount is set at the minimum level that enables the scheme not to run at a deficit. This level is also kept below the value of the equity in the Partial Ownership scheme retained by the housing association so that the subsidy can be seen to be on the rented portion and not the self-builder's purchased equity.

It is proposed that the equity share arrangements should permit self-builders to staircase to the acquisition of a full 100% of the equity rather than the 80% maximum as in the current housing association Partial Ownership model. This is to allow the self-builders to obtain the value of the 'sweat equity' (the difference between the cost of their house to build including land and all overheads and its value on the market when complete) they will have generated by the input of their unpaid labour. There is also a strong preference amongst the current self-build group for outright ownership. The Partial Ownership arrangement in the proposed model is a means towards this end and not an end in itself. Not having the ability to staircase to outright ownership would have the effect of locking the self-builders permanently into social housing. The proposed arrangement allows the dwellings to pass into the private market whilst simultaneously reclaiming the subsidy for recycling into self-build or other affordable housing purposes.

Materials

It is not part of our brief to consider construction materials in any detail and the choice of construction method will be governed to some extent by a detailed analysis of the performance required from the houses and the cost of construction together with any planning criteria that are applied to a particular site and the skills and preferences of the self-build group. However, we have assessed the basic choices for sourcing materials and the possible advantages of prefabrication.

The costs of all building materials on the island is substantially more than on the mainland and the chances of getting better prices by shopping around are very restricted. Getting high quality materials at good prices is essential for a successful self-build scheme as it is with any major construction project. As the options are restricted a purchasing model would need to be designed. These are the main options available to the self -build group -

- Work closely with a large local supplier for the vast majority of the building materials.

If the self-builders set up an account with such a company it would be administratively easier for the group to run the scheme. It would still be necessary for the group to have good negotiating skills to get the best possible quality and prices. Another advantage of this system is that the group would form a close relationship with the supplier and this can work to their advantage. The disadvantages are that choice of materials may be limited and the area for negotiating on prices is restricted.

- Bulk Purchase on the mainland and ship over.

Technically it should be possible to make savings with this method of procurement as it would be possible to get prices from a range of suppliers as well as purchasing specialist materials. However, it would take a lot of organising and either one of the group spending some time on the mainland or employing an agent to arrange it all. Builders we spoke to who have tried this method pointed out that it is very difficult to get everything in one order and so much time can be spent going back for small items.

- Purchase in France.

It is common for self builders in easy reach of the channel ports on the mainland to go over to the big builder's centres in France as they offer good value and a better range than is found at most of the DIY sheds in the UK. However, we could not find examples of anyone shipping large amounts of building materials into Guernsey. Again this would take high levels of organisation and would be very time consuming.

- Buy on the internet

A growing area of procurement that should also be considered is mail order or via the Internet. The companies that specialise in this market generally offer good prices and comparing prices is easily done in the evenings. Companies such as QVS electrical supplies, Ironmongery Direct and Machine Mart, can deliver to Guernsey for only a small extra delivery charge especially if the orders are large.

Our advice is that the self-build group work with a local supplier for the majority of the materials but maybe investigate buying kitchen and bathrooms fittings for example from either the mainland or France where the range, price and quality may be better. Mail order would be useful for particular items.

Prefabrication

About 1 in 3 self-build projects in the UK make use of the potential for timber prefabrication to reduce time and therefore cost. Timber construction also has other advantages; it is easy to achieve high levels of thermal insulation, it is relatively easy for unskilled self-builders to acquire the necessary carpentry skills and finally it is a relatively adaptable way of building which makes it easier for self-builders to achieve their particular desires during construction and to change the house to suit changing needs and wants in the future. Prefabrication does require careful planning, however, and the potential for cost savings through self-help labour are transferred to the factory.

On-site timber construction, either frames or stick-built panels, can achieve the benefits of timber construction at a lower cost and a number of projects on the mainland have used the Segal method of timber construction in particular. This is a form of frame construction which has the potential to reduce foundation costs in particular.

Almost any cladding material; brick, stone, timber, panels or render can be used to clad a timber structure so that you would not be aware that the building is timber framed.

We believe that some form of timber frame prefabricated construction would be an appropriate form of construction in Guernsey subject to cost. The costs and performance of a number of potential suppliers should be compared.

Financial model

A model has been devised which shows the amount which self-builders would have to pay for different levels of equity share and for different sizes of dwellings and the level of income necessary to support those payments. It also shows the minimum level of subsidy that can be applied to the cost of the land to ensure that the scheme does not run at a deficit. This level of subsidy can be checked to ensure that it is not more than the value of the equity retained by the housing association.

Assumptions

The model requires the following assumptions to be made –

- Number of dwellings – this is assumed to be 12 within the range of 10 –15 which represents an ideal size of project.
- The size of dwellings – these are taken as 45 sq m for a 1 bedroom flat, 65 sq m for a 2 bedroom flat, 75 sq m for a 2 bedroom house, 80 sq m for a small 3 bedroom house with a double and two single bedrooms, 90 sq m for a larger 3 bedroom house with two doubles and a single and finally, 100 sq m for a 4 bedroom house.
- Cost of land – information that we have indicates a figure of £25,000 per habitable room.
- Mix of dwellings – this has been assumed to mirror the need for affordable 2 & 3 bedroom houses with a predominance of smaller dwellings for single people, couples and small families. The actual mix would be confirmed to meet the needs of the actual self-build group.
- Value of dwellings of different sizes – the value of a 1 bed flat is taken as £140,000, a 2-bedroom house £250,000, a 3-bedroom house between £275 – 300,000 and a 4-bedroom house at £350,000.
- Rent levels for different size dwellings - based on the upper range of the States new rent matrix. They have been assumed at £81 per week for a 1 bedroom flat, £115 per week for a 2 bedroom flat, £144 for a 2 bedroom house, £159 for a small three bedroom house, £173 for a three bedroom house with two double bedrooms and £202 per week for a 4 bed house.
- The amount of equity taken by the self-builders – this is assumed to mirror the amount of equity that households on low incomes and seeking a home could afford. This is around 40% for 75% equity, 40% for 50% equity and 20% for 25% equity.
- The income multiplier to assess the income required to support a particular level of loan -varies from 3.5 for low levels of equity share on the assumption that this will be purchased by people on relatively low incomes and therefore higher financial risk to 5 for outright ownership.
- The cost of construction – full cost of house construction taken as £1,300/sq m. including external works and basic infrastructure, roads and mains services.
- The amount of saving from self-help labour – this is assumed to be 30% as a realistic estimate of the maximum saving which could be achieved for a well managed development.

- Additional self-build costs for training @ £1,000 per group, tools @ £250 per self-builder.
- Development costs comprising 4% of land cost for legal costs, 5% of construction cost for architect, 0% of construction cost for cost consultancy, 5% of construction cost for development agency, 3% of construction cost for a bond and £400 per dwelling for structural insurance.
- Construction period – this is assumed to be 18 months representing the maximum period that should be anticipated.
- The term and interest of the loan required – taken as 20-year term at 6%.
- Contingency – this is assumed to be 5% which is the same as a normal building contract.
- Mortgage Interest tax Relief MITR has been assumed at a tax rate of 20% based on year 1 figures. This tax relief will diminish in time at an accelerating pace.

The model allows different financial outcomes to be checked when these assumptions are varied.

Possible scenario

Once the assumptions are put into the model, it will tell you the self-builder's outgoings for different sizes of dwelling and proportions of equity purchased. It will also show the level of subsidy required to ensure that the scheme does not operate in deficit and it will check that the retained equity is more than the subsidy.

The scenario enclosed shows -

- 7 two bedroom and 5 three bedroom houses.
- 2 self-builders buy 25% equity, 5 buy 40% and 5 buy 80%.
- Their outgoings are £100 per week for a 25% stake in a two bedroom house, £121 per week for a 40% stake and £175 per week for a 80% stake.
- This requires a annual gross household income of £13,400 for a 25% share, £19,800 for 40% and £32,400 for 80%.
- A 40% stake in a three bedroom house costs £190 per week and a 80% stake costs £255 per week.
- This requires and income of £34,200 for a 40% share and £48,000 for a 80% share.
- The level of income forgone/subsidy by the States is £919,000 or 80% of the value of the land.
- The receipt to the States at the outset for the land is £231,000
- The value of the equity retained by the housing association is £1,485,000 which is in excess of the income forgone by the States.

These levels of outgoings are substantially lower than a social sector rent at the bottom end and about the same as a private sector rent for a small family house at the top end.

Increasing the equity bought by the self-builders has the effect of reducing the land value forgone for the scheme to avoid deficit.

Guernsey Self Build

Feb-05

all costs are anticipated outturn

Number with equity stake of

	1b 2p	2bed 3p	2bed 4p	3b 4p	3b 5p	4b6p
25%			2			
40%			2		3	
80%			3		2	
100%						
Total homes			7		5	

Land value	£ 25,000	per habitable room	£ 1,150,000			
self build cost	£ 975	per sq m	£ 950,625			
ON costs	18.4%		£ 384,131			
			£ 2,484,756	-£ 2,203	error	

	1b 2p	2bed 3p	2bed 4p	3b 4p	3b 5p	4b6p
Per home						
Full market value	£ 140,000	£ 200,000	£ 250,000	£ 275,000	£ 300,000	£ 350,000
actual total cost to GHA	£ 111,140	£ 163,824	£ 175,367	£ 210,737	£ 251,878	£ 293,019
actual total cost as % of market value	79%	82%	70%	77%	84%	84%

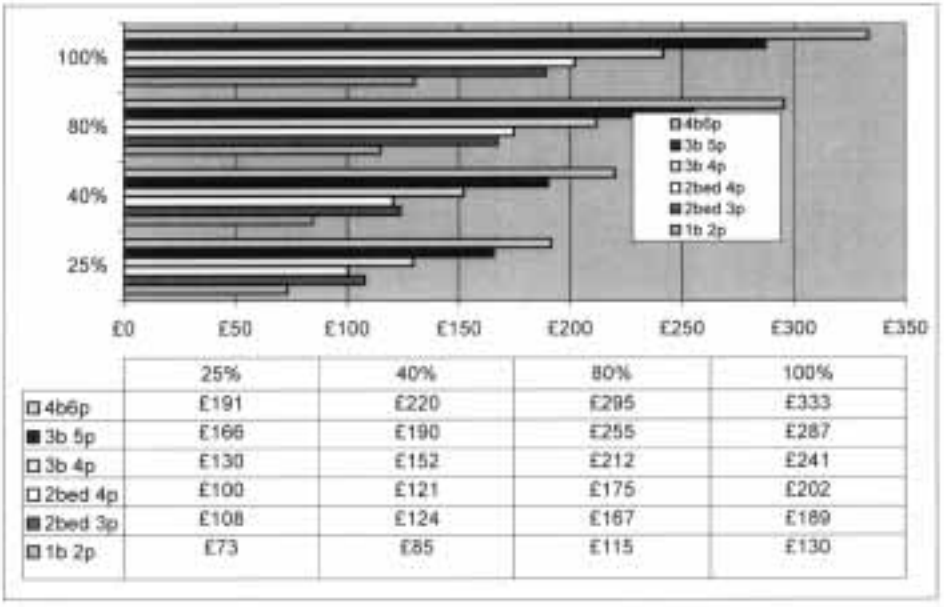
For Scheme	
100% of market value at end	£ 3,250,000
self builder's input	£ 763,041
actual total cost to GHA	£ 2,486,959
Loan raised by GHA	£ 563,670
Self builders' payments	£ 1,001,959
income from loan & sales to self builders	£ 1,565,629
Subsidy Required	£ 919,129
Result (correct to zero using iterative goal seeking)	£ 2,202

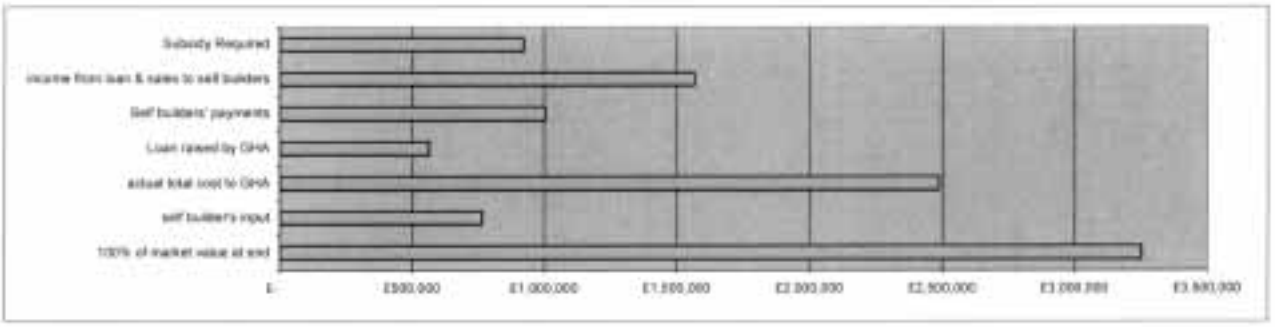
Start	Jun-06
End	Nov-07
	18 months

Self Builder's weekly payments per home

	1b 2p	2bed 3p	2bed 4p	3b 4p	3b 5p	4b6p
25%	£ 73	£ 108	£ 100	£ 130	£ 166	£ 191
40%	£ 85	£ 124	£ 121	£ 152	£ 190	£ 220
80%	£ 115	£ 167	£ 175	£ 212	£ 255	£ 295
100%	£ 130	£ 189	£ 202	£ 241	£ 287	£ 333

20% tax relief on mortgag





Monitoring

A pilot self-build scheme could remain as no more than a pilot, however, it is important to learn the lessons for when further schemes are to be considered. A structure should be set up to monitor and access the outcomes of the scheme and see where it succeeded and where it failed.

For this an agreed range of criteria should be put in place prior to the scheme starting and a monitoring system instigated. This monitoring should start along with the scheme. It should be performed in a sympathetic manner so as to gain as much feedback as possible. It should look at such things as -

- Self-builder involvement,
- Scheme costs,
- Build time,
- Build quality,
- Training provision,
- Suitability of completed housing.
- Experience of the professionals involved in the scheme, designer & project manager.
- Experience of Building Control
- Experience of housing association
- View of sub-contractors

Research from this review should be written up in such a way as to be of use to further schemes and to build up a store of knowledge in both the development agencies and amongst the self-builders. Experience shows that self-builders are very supportive to future schemes. For example, the chair of one scheme worked on the next scheme offering on-site support. Many self-builders will open their houses to other self-build groups and share their experiences both good and bad.

A monitoring system will gradually build up knowledge which will lead to well-structured projects that are better managed without mistakes being constantly repeated. Experience also shows that advice from previous schemes on suppliers, administration and outside professionals is invaluable.

This monitoring could be part of the development process or an outsider could be employed with a specific monitoring brief.

APPENDICES

Case Studies

Stockholm City Council Self-Build Department
Local authority sponsors self-build

In Sweden, 12,000 families have built their own homes in Stockholm over a fifty year period since 1926. In the 80's, around 200 to 250 dwellings per annum were being self-built in the city by some of the 10,000 households on the waiting list for a plot provided by the self-build department of the city council. The self-build development process is highly organized and is based on standard timber frame prefabricated houses. Standards and satisfaction are high and lively communities have been created in this way. This scheme has completed around 30% of all the single-family homes built in the city. The organization is and remains entirely self-financing.

The dwellings are leasehold and often available at lower costs than renting an apartment. There is an upper limit on the income of those taking part. Mortgages are provided at rates around half the commercial rate.

There is a well-established procedure for the developments. These are designed by the city council who put the infrastructure in place, often as part of a larger social housing development. There is a detailed construction manual for the 9 month construction period. The city council have a site office which houses amongst other things an exhibition of the choices of finish that are available.

The dwellings are generally terraced with high space standards of between 80 and 140 sq m. The programme will give a date for the delivery of the factory produced wall panels o be delivered and than a two week period for them to be erected by the self-builders who are organized in teams of around 10 people. Services are installed by sub-contractors.

Only one in a thousand has failed to complete their house and less than one in a hundred has been more than 2 months behind the programme – a much better record than the construction industry can boast in most places.

The self-built neighbourhoods have a very settled population of satisfied residents who value the high quality of the homes and the neighbourhood, the self-fulfilment they have experienced and the spirit off community and knowledge they have acquired in the process. They cite the time commitment, lack of choice and lack of adaptability of the system as the chief drawbacks.

Habitat for Humanity
Worldwide initiative relies on voluntary work by the wider community.

Habitat for Humanity was founded in 1976 by Millard Fuller along with his wife Linda. It is an International non-profit, ecumenical, Christian housing ministry.

Since its inception it has built more than 150,000 houses around the world, providing more than 750,000 people in more than 3,000 communities with safe, decent, affordable shelter.

It is not a giveaway program. In addition to a down payment and the monthly mortgage payments, homeowners invest hundreds of hours of their own labour -- sweat equity -- into building their Habitat house and the houses of others.

They work with local organisations, international companies and volunteers as well as the self-builders themselves. They work in many countries throughout the world as well as the USA.

When spoken to they said that they would be unlikely to work in the Channel Islands although they have undertaken a project in the UK mainland where they have found it difficult to generate the voluntary inputs on which this approach depends.

Group Self Build Victoria, Australia
Self-build for home ownership on individual plots provided by the state.

Group Self Build is an owner builder program that provides home ownership opportunities to people who are willing to commit their time and energy to building their homes and the homes of others in groups of 12 families.

It is managed by the Department of Human Services and sponsored by the Estate Agents Guarantee Fund. This programme has housed over 640 families in 3 and 4 bedroom homes.

The scheme allows an eligible family to buy a vacant block of land from the Department's Director of Housing.

The time and effort that the self-builder puts into building the home replaces a cash deposit. The Director of Housing provides a special short-term loan to pay for the land, building materials and establishment costs. This bridging loan must be repaid when the home is completed. To do this, a self-builder will need to arrange a long-term loan from a bank, credit union, or other lender.

Basic eligibility criteria includes a commitment to a minimum 20 hours per week to building the homes and proof of your financial capacity to payout the project cost on completion.

Self-builders are required to assist with building the 12 homes with other group participants. The homes usually take around 12 months to complete. Self-builders do not have to be qualified in any building trade.

Key Features

- All training is provided.
- No cash deposit is needed.
- A variety of house designs and locations are available.
- Self-builders have a choice in decorative finishes such as painting and tiling.
- Major tools, such as nail guns and drop saws are provided.
- You have the opportunity to learn new skills.
- A self-build advisor will be provided to run the site.
- Each family must commit to 20 Hors per week on site.
- First time buyers may also be entitled to $700 grant.

Chinbrook Meadows
An assisted self-build development based on timber frame construction.

Funding body	South London Family Housing Association
Architects	Architype
Number of units	14
Building sizes	1 bed 2 storey houses
Building type	Prefabricated timber frame

This project is the latest in a series of self build projects which have been supported by Lewisham Council since the original 'Walter Segal' schemes built in the early 1980s. Once again, the council has allowed the opportunity for local people to take control of their environment by directly influencing both the design and construction of their own homes.

Built on low lying land adjacent to a river, these houses incorporate the first group self-build usage of a pre-fabricated timber frame system promoted by Fillcrete and produced and erected by Ellis Hill. Floor cassettes and wall sections have been manufactured to a tight dimensional accuracy in the factory using composite tiimber I beams, and the entire 14 houses lifted & fixed into place in under a week. The frames were spray filled with recycled newspaper cellulose fibre insulation after the first fix of services. Energy SAP ratings are in the high nineties for all dwellings.

The project has made use of a 'Design & Build' contract, with the original architects novated to produce the working details. This was in order to ensure that the original structural and design concepts were built in line with the self-builders requirements. Additional flexibility has been achieved by designing the houses with 'attic truss' roofs, thereby allowing for future expansion of the living spaces upwards into the roofs.

The contractor has been responsible for building all the groundworks, structure, cladding and first fix; the self builders have now moved onto the site to carry out the second fix of joinery and all services, the fitting out of the kitchens and bathrooms, and of course the decorations - all to their own specification.

The total length of the construction period was 14 months, with the self-builders on site for the final five months, and completed in April 2000. This project illustrates what can be achieved with a carefully considered use of resources, and represents a new approach to self-build, with a reduced timescale and fixed costs being top priorities for the developer.

Consortium Self Build
A scheme for young, homeless, unemployed people with an emphasis on skills training.

Funding body	South London Family Housing Assoc.
Supporting agency	Consortium
Architects	Architype
Number of units	9
Building sizes	1 bed 2 story units
Building type	Segal Timber Frame terraces
Training agency	Jarvis

This scheme was set up in response to research project looking at the problems facing young homeless, unemployed people in South London. The research identified several factors affecting these young people. They had no skills to offer the job market and often had a very bad education record. Many had never worked and so had no work experience and finally there was very little housing for this group.

The consortium agency looked at this report and designed a self-build scheme that confronted all of these issues. The scheme was designed to build high quality single person dwellings that were designed to be built by people with no building experience, the scheme was linked up with a local college which the group attended 1 day a week where they were given training in Carpentry and Joinery NVQ levels 1&2. Some of the group also attended classes to improve their Maths and English. These skills combined with the discipline of attending on site regularly meant that when the scheme was completed the self-builders had everything the housing market needed and indeed very soon after moving in all were in full or part time employment.

The houses were designed with very high levels of insulation which reduced the running costs for the group. Which was very important as they all had low disposable income.

Before getting on site the group did 2 weeks of team building work, 1 week in London and another in North Wales.

The scheme use some subcontract labour including, groundworks, steel roofing, gas piping and plastering. Throughout the scheme the support agency employed a support worker who worked with the young people helping them deal with personal problems, site issues and disputes as well as running courses in running meetings, acting on decisions and taking responsibility.

The scheme was subject to vandalism and finally a serious arson attack meant that some of the units had to be rebuilt by contractors but the final scheme, although a bit over ambitious, was very successful with the self builders staying in the houses until they needed a larger space as they had children.

Crossways Self-Build
A shared ownership self-build scheme for skilled self-builders on relatively low incomes.

Funding body	Portsmouth Housing Assoc.
Consultancy	Chartserve Limited
Architects	Kenn Scaddan Associates
Number of units	8
Building sizes	4 Three bed (73 Sq mtrs) 4 Two bed (84 Sq Mtrs)
Building type	Pre-fabricated Timber Frame with brickwork cladding
Tenancy	Shared Ownership

A development of 8 homes in a terrace completed in February 2004 after an 11 month build. The group started to be recruited in July 2002 and were on site by March 2003

The self builders were for the most part skilled in some building skills
1 Bricklayer
2 Carpenters
1 Window fixer
1 Plasterer
1 General builder
1 DIYer
1 Floor layer

As is common with many schemes the site was developed by a combination of sub contractor and self build labour. The main items subcontracted were the foundations- due to poor ground conditions, the timber frame- to ensure speed of erection and issue of structural warranty and the external brickwork- to ensure the structure was speedily weatherproofed. Most of the other tasks were undertaken by the self builders themselves.

This scheme worked with a company specialising in self build consultancy they costed the scheme, monitored progress and covered the complex task of administrating the build. By taking these tasks from the self builders they can concentrate on the build. The combination of both supply and fix and labour only subcontractors with the skilled self builders and good project management resulted in the short self build time.

On completion the self builders had sweat equities between of 23-28% of the value depending on value at time of completion. They took out a small mortgage to enable the minimum of 50% to be purchased. The remaining 50% is rented as a normal shared equity scheme. By taking part each member of the group now pays between £73.00 - £95.00 per week for a new home.

Hedgehog Self Build, Brighton
A timber frame development for rent with an emphasis on community building.

Funding body	South London Family Housing Assoc.
Architects	Architype
Number of units	10
Building sizes	7 Three bedroom and 3 Two bedroom bungalows
Building type	Segal Timber Frame.

The Hedgehog self-build scheme was inspired by 2 previous self builds in Brighton. As with many Self-builds the initial group was small and they spent a lot of time working out how self-build schemes were set up. They contacted Housing Associations, Self –build agencies, architects and previous self-builders. Eventually they managed to put a package in place and then expanded the group to fill all the 10 houses proposed for the development.

High on the group's list of priorities was that the completed scheme offered more than just houses and that they would live in a genuinely supportive, sustainable community. To this end the final site layout allowed for plenty of communal play areas for children. A high environmental specification was included in the brief to the architects so the completed houses have way above Building Regulation levels of insulation, use environmentally friendly paints and stains and house designs that maximised passive solar gain. The completed houses have grass roofs, water butts and verandas looking over the South Downs.

The self-builders put in 30 hours a week per house for about 20 months. As is common with most self build schemes there was some use of sub contract labour. A local specialist company completed the groundworks (foundations and services) before the site was handed over to the self-build group. Other sub contract work included, plumbing (with self-builders acting as labour), installing the roof membrane and commissioning the electrics. Towards the end of the scheme 2 local carpenters helped with second fix joinery.

Ashley Vale Bristol
Community benefits and sustainable building without relying on subsidy

The Ashley Vale Action Group (AVAG) was formed by residents who were concerned about the redevelopment of a 2 acre former scaffolding yard in the area. In May 2000, a core group of residents formed a non-profit making company to purchase and re-develop the site for the benefit of the community. Their aims were...

- to create an organisation capable of funding the buying and selling of the land;
- to divide the land into plots to re-sell for self-build housing;
- to promote ecological, innovative and affordable housing design;
- to attract a diversity of people to the community;
- to refurbish the existing office block to provide office, workshop or studio space;
- to provide a community facility and to enhance the local environment.

To finance the purchase they brought together a group of people, many of whom already lived locally, who wanted to build their own houses in the area. By sub-selling 20 plots to the self-builders and 6 plots to Redland Housing Association for homes for the elderly, they successfully bought the site in May 2001. A central plot of land and an office block remain in AVAG's ownership.

The self-builders are legally contracted to abide by AVAG's principles of ecological design. All the houses are timber-framed which is more sustainable than other building techniques, easier for first-time builders to construct, and place a lighter load on the concrete slab which covers the site. The houses will be finished using an agreed palette of materials, including wood cladding or render for the walls, with copper or clay or slate tiles on the roofs. For the overall build, the self-builders must use materials from Cateogory A of the Green Guide Housing Specification or other suitable materials as agreed by AVAG.
Most of the houses are different from each other in design and construction. Many were designed by the self-builders themselves some with architects some not. The result is an exciting development of imaginative buildings whose performance far exceeds the building regulations in areas such as insulation and the use of sustainable materials. The houses will be fitted with photovoltaic cells funded in part by the Department of Trade and Industry's domestic photovoltaic field trial.

The measures used to reduce environmental impacts included –
1) Using locally sourced materials. This reduces the energy required in their transportation to the site.
2) Using materials that have low embodied energy (the energy required to produce the product).
3) Using materials from renewable and recycled sources. We have used timber for the frame and recycled newspapers for insulation.
4) Using socially acceptable materials. Most softwood timber is called sustainable because it is replanted for future harvests. However there are many other issues

relating to forest resources, based on social, economical, ecological, cultural and spiritual needs. Obtaining certified timber is a way of encouraging the timber industry to recognise these other issues.

5) Maximising passive solar heating. We have increased the amount of solar energy entering the house by using large glazing on the south side. There will be a shelf above these windows to hold the solar photovoltaic panels which will also shield the windows in the summer preventing over heating.

6) Minimising energy loss. There are no windows in the north side of the house and we have used glazing with low u-values and insulation 200mm thick in the walls and 300mm in the roof. The frame is cross battened internally with battens to reduce cold bridging.

7) Using healthy materials and paints. We want to use paints with minimum or zero VOC (Volatile organic compounds).

Methodology

The study has been undertaken by a combination of desktop studies and interviews. Literature on the housing market, planning policy, economy and construction industry in Guernsey has been studied together with reports on the self-build market in the UK and elsewhere. This has been combined with interviews with representatives of relevant States departments, the College of Further Education, Guernsey Housing Association, developers, estate agents, architects, quantity surveyors and suppliers in Guernsey and with representatives of self-build consultants and the principal self-build agencies on the mainland. We have consulted the main Deputy promoting the idea of self-build and the Guernsey Self-Build Group. We have also obtained information from the suppliers on the mainland of the building system favoured by the Guernsey Self-Build Group. The interviewees and main references are listed below.

Interviews

Grateful thanks are due to the following people who provided the majority of the information on which this report is based.

Deputy Mike Burbridge

Mike and Debbie, Chair and Secretary of the Guernsey Self-Build Group and other group members who took time to meet us and to fill in a questionnaire.

The States of Guernsey Housing Department
Stephen Langford
Rod Lock
Nigel Vaughan
Natasha Killner

Environment Department
Bill Lockwood
Faith Rose
Jim Rowles

Commerce and Employment Department
John Le Poidevin

Guernsey Housing Association
Peter Jones

Denis Riddell, consultant, formerly of Guernsey College of Further Education

Frank O'Neill, developer

Jamie Falla, architect

Ken Morrison, Quantity Surveyor

David Collen of Norman Piette Ltd

Keith Enevoldsen & Dee Blackburn of Martel Maides, Estate Agents

Colin Parker of Chartserve Ltd, Eastbourne.

Nicholas Taylor of the Walter Segal Self-Build Trust

Community Self-Build Agency

References

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DISCUSSION AND SUMMARY DOCUMENT

Given that, in land use planning terms, self build housing falls within the general definition of housing, the provision for land for this type of housing is governed by the general housing policies of the Rural Area Plans (Phases 1 & 2) and of the Urban Area Plan (Review No. 1). The review of the two phases of the Rural Area Plans into a single plan has been published in draft and submitted to a public inquiry. The Inspector's report in now awaited, following which the Plan will be submitted to the States for approval.

In terms of housing development, the Strategic Land Use Plan requires that the majority of provision should be made within the Urban Area. The Urban Area Plan makes provision for 90% of future housing provision, and the States endorsed this interpretation of strategic policy when it adopted the Plan. Within the Rural Area, limited provision is made for essential development with an overriding objective to conserve and enhance its rural character. This strategy has been successful in shifting development pressure from the Rural to the Urban Area so that, in the last period for which figures were available, 71% of housing permissions were in the Urban Area.

Given the strategic target of 300 new dwellings per year, building development figures reveal that an effective supply for almost 3 years has been consistently achieved over a number of years.

Urban Area Plan

The Urban Area Plan (Review No. 1) provides for housing development to be brought forward in a variety of ways:

a) Mixed Use Redevelopment Areas:

These are the major opportunities for redevelopment within the Urban Area and, although all involve a substantial commercial content they also all make some provision for housing. These areas are brought forward through an Outline Planning Brief (OPB) which is a formal amendment to the Development Plan and is subject to public inquiry and States adoption in exactly the same way.

The Glategny and Bouet MURAs are already substantially complete or committed. The States adopted the Leales Yard OPB, which includes an allocation of housing, in October 2004.

b) Housing Target Areas:

These form the strategic reserve of land for housing to be brought forward if required by a specific resolution of the States. Because other sites have met and considerably

exceeded housing targets there is currently no justification to bring any Housing Target Areas forward for development.

c) "Opportunity" Sites:

The Urban Area Plan also provides for non-allocated sites to be brought forward for housing. These might be under-used sites within the Settlement Area, or previously developed sites outside the Settlement Areas.

Where a suitable site is identified, permission is subject to the preparation of a Planning and Design Statement (sites of more than 0.1 ha or of more than 4 houses) or a Planning Brief (sites of more than 0.5 ha or more than 20 houses).

A number of consents have been given on this basis and there is potential to identify further sites in public or private ownership. A number of these could be suitable in planning terms for a self build scheme.

Rural Area Plans

The current Rural Area Plan makes specific site allocations for housing. Although most have been developed over the lifetime of the Plans, some remain undeveloped. Again, in planning terms, some of these may well be suitable for self build.

The new Rural Area Plan, if adopted as drafted, will not make specific site allocations for housing. There will, however, be the opportunity to bring forward sites for social housing on the following basis:

4.2 Social housing

Where a need has been established by the Housing Authority for specific forms of social housing, then the provisions of Policy RH2 may, at the Committee's discretion, override those of Policy RH1.

The provision of social housing is part of the Corporate Housing Programme. The majority of this accommodation is expected to be provided within the Settlement Areas of the urban area. However the Committee acknowledges that an element of new social housing may be required in the rural area to ensure the local provision of social housing in different part of the Island and to meet a range of different housing needs.

It is, however, important that a satisfactory balance is struck between the provision of genuine social housing and the general objectives of the Plan, which are taken to be the primary objective of conservation and enhancement, together with the policies of the General and the Conservation and Enhancement chapters.

In order to minimise any impact on the character or appearance of the rural area, the Committee will encourage the consolidation of existing States controlled housing before exceptionally considering its limited extension onto directly adjacent land. This will enable the maximum potential of the social housing to be realised in terms of sustainability and quality of life for residents. In this respect, it is anticipated that proximity to one of the larger Rural Centres would be preferred, but other sites may also be considered where they satisfy the provisions of this particular Policy.

The creation of social housing through the conversion or replacement (on a one-for-one basis) of buildings or through the sub-division of existing dwellings will be considered under all other relevant Plan policies and in particular, Policies RH3, RCE14 and, where appropriate, RCE11 and RCE13.

Policy RH2[4]

Proposals for the erection of social housing will only be permitted where:

a) the site is suitable, having regard to its characteristics and neighbouring land-uses and is, or can be, integrated into the existing built environment;

b) the site is within or directly adjacent to States-controlled housing;

c) the development would be of a scale and design appropriate to the rural setting; and,

d) adequate provision is made for the protection of the rural character of the site and appropriate measures for the general environmental enhancement of the locality.a)

The erection of new housing in Areas of High Landscape Quality will not be permitted.

This policy is designed to allow exceptions in limited cases and does not imply that all sites adjacent to an existing States controlled estate will be suitable for housing. However, it is likely that a useful number of dwellings for local social need could be provided through this policy. Whilst prioritisation of housing need is not a planning issue, the Housing Department has already targeted available land adjacent to its existing developments in the Rural Area to meet future social rented housing needs and is therefore unlikely to be in a position to release any for self build use.

SUMMARY

In planning terms, self build housing falls within the general definition of housing. The Urban Area Plan offers considerable potential to find suitable sites. Whilst the

[4] Rural Area Plan Review No.1 – July 2003

ownership of the site is not a planning issue, it is likely that some of these sites will be in States' ownership.

The development at Belgrave Vinery presents one opportunity to provide land for a self build scheme, but it is unlikely that housing needs statistics will justify the release of this HTA within the lifetime of the UAP.

Within the Rural Area, there may be existing allocated sites that would be suitable for self build. However, once the new Rural Area Plan is adopted, the only new housing development in the Rural Area will have to be justified in terms of Policy RH2. In view of this, the Urban Area, and Belgrave Vinery in particular, is the obvious area of search in terms of current land use policy.

ANNEX 4

Guernsey Housing Association LBG
1st Floor 6 The Bridge
St Sampson
Guernsey
GY2 4QW
t : 01481 245530
f : 01481 245474
e : enquiries@gha.gg

Guernsey
Housing Association

HOUSING DEPARTMENT
29 JUN 2005
RECEIVED

Attention of:
Deputy Dave Jones
Minister
Housing Department
States of Guernsey
PO Box 43 La Charroterie
St Peter Port
Guernsey GY1 1FH

28th June 2005

Dear Dave,

SELF-BUILD

Thank-you for your letter dated 27 June 2005 concerning the proposals for a self-build scheme.

To deal with your specific enquiries:

- The Association would be prepared to provide services to administer a self-build scheme but not a scheme such as that outlined on pages 44 and 45 of the report.
- The Association would need to measure its organisational capacity nearer the event. Whist there might well be a requirement for some additional staff resource this would not require off-island recruitment.
- As we would not be prepared to apply capital resources to the project, the Association's financial exposure would be restricted to monitoring revenue income and expenditure in respect of services provided.
- There are no complications with regard other than to inform the Bank.

I must say that whilst the Board of the Association are broadly supportive of initiatives that alleviate housing need, it has severe reservations about investing its own scarce capital resources in this project.

Peter Jones has previously informed the Housing Department that, in principle, we would be prepared to act as both Self-Build Promoter and Development Agent for the project as mentioned on Pages 44 and 45 of the draft report. However we have never envisaged any form of capital investment in the scheme other than the application, pound for pound, of any grant the States might make available, with the balance of cost being met by the self-builders.
We understand that the consultant has chosen the partial ownership route on cost grounds but it is our view mixing self-build with partial ownership make the scheme overly complex thereby restricting access for those in housing need.

Please contact either myself or Peter Jones if you require any further clarification.

Yours sincerely

Quentin Spicer
Chairman

Registered Office: P.O. Box 251, Les Vardes House, La Charroterie, St. Peter Port, Guernsey, GY1 4LG.
Directors: Mr Q. Spicer, Dr S. Thornton, Mr P. le Tissier.

ANNEX 5

Guernsey Self-Build Group

c/o Debbie Help Belle-Etoile Maurepas Rd St. Peter Port Guernsey GY1 2DQ
Telephone 727318

S R Langford
Chief Officer
Housing Department
Sir Charles Frossard House
PO Box 43
La Charotterie
St Peter Port
Guernsey
GY1 1FH

HOUSING DEPARTMENT
21 JUL 2005
RECEIVED

19th May 2005

Dear Mr Langford,

Here are some comments on the Jon Broome report as requested by you. Sorry for such a delay as we didn't realise you were expecting comments, and once we realised we weren't sure what type of comments you were expecting.

Mr Broome's report can in our opinion be reduced to this simple statement

Yes! Self Build can work in Guernsey.

As we all know the first stumbling block is to acquire a plot of land that is affordable. £20,000 is affordable but £180,000 is not.

At out first and only meeting with Housing, Minister, Dave Jones made is quite clear that:

IF the States were to put up land for development he was afraid that the land would be 'lost to the States and become out of reach for future low earners to buy.'

Well why not adapt Alderney's scheme of providing the land for self builders and instead of the States losing the land after one or more sales, keep it so that the house is sold but the land and a ground rent is paid in perpetuity.

E.g. The States provide the land and services to each plot. The self builder connects to the services and builds the house at their own expense and pays ground rent for the plot of land to the States on a monthly or yearly basis. After 'X' number of years the house may be sold to a new owner who would in turn continue to pay the ground rent.

How much should the house be sold for and when?

The self builder will not want to make a loss, but at the same time it has to be affordable for new first time buyers to be able to afford. We would suggest that the

cost of building the completed house could be index linked and a minimum stay of residency would be 5 years.

We found it a very sympathetic report and realise the in depth findings that Jon has come up with. Whilst we feel all doesn't apply to us, we have tried to mention the areas we thought more applicable to us. We agree 100% with Jon Broome's suggestions.

(p.2) 1. Executive Summary 2nd paragraph

(p.2) 5th paragraph in the context of the Guernsey Housing markets.... We agree with Jon Broome's recommendations

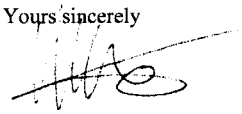
(p.3) 6th paragraph the actual mix of dwellings would be determined by the requirements of the self builder. We feel the house should be two bedroom minimum, as it is to become a family home in the future and a home for life.

(p.22) 6th paragraph the proposal is that each self builder would arrange a mortgage and that the proposed scheme would be entirely self-financing and would not involve the States for any financial support.

We still maintain and hope that the States could find a piece of land that a few people off our list could buy. We would like to build our houses independently from the States whether it be Mantle Panel, block or other, and at our own pace. Our initial request was to ask for help in re-zoning the land in the Rue Des Marais, Vale. This was the aim of the group from the beginning, and the whole idea seems to have escalated out of control. It may take some of us years to build a dwelling, and others only months, but it would be at a pace affordable to each individual's pocket. The States would not need to be involved other than to sell us the land.

We feel we must say how saddened we were to hear of Mike Burbridge's sudden death. As you know he was a strong supporter of our group, and was always available to give us advice and guidance. He will be greatly missed by us all.

Yours sincerely



For and on behalf of
Guernsey Self-build Group
Mick Lanyon
Chairperson

(NB The Policy Council supports the proposals)

(NB The Treasury and Resources Department supports the proposals)

The States are asked to decide:-

XIII.- Whether, after consideration of the Report dated 3rd August, 2005, of the Housing Department, they are of the opinion:-

1. That the Housing Department has discharged its obligation to investigate the feasibility of a self build scheme in Guernsey notwithstanding propositions 4 and 5 below.

2. That public resources should not be committed to the introduction of a self build scheme based on the current self build proposal put forward by the Self Build Group as described in pages 24 - 26 of the appended report (Annex 2).

3. That public resources should not be committed at this time to the introduction of a self build scheme based on the proposed pilot self build project put forward by Jon Broome Architects in pages 27 - 54 of the appended report (Annex 2).

4. That the development of a feasible self build scheme should remain a part of the Corporate Housing Programme (CHP).

5. That the relative priority for the provision of funds and land for such a scheme be assessed as part of the States annual review of the complete package of CHP action plans.

HOUSING DEPARTMENT

SOCIAL HOUSING UNDER THE CORPORATE HOUSING PROGRAMME:
TOWARDS A PLAN FOR THE PERIOD 2006-2008

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

18th August 2005

Dear Sir

Executive Summary

The purpose of this comprehensive report is to explain to the States how a long-term plan for social housing is crucial to the successful implementation of the States Housing Strategy through the Corporate Housing Programme.

For decades the provision of social housing has been based on crisis management by the States, rather than long-term programmes to meet social housing need.

At recurrent intervals, the States has built its way out of a housing crisis, only to let a future crisis develop as the necessary momentum was not maintained.

Similarly, the States has never invested properly in the maintenance or upgrading of its housing stock, with the result that there is a backlog of major repairs and upgrading.

This position changed in 2000 and, in particular, with the inception of the Corporate Housing Programme in 2003, as the States as a whole entered into a long-term commitment to address housing problems, with the maintenance and refurbishment of its existing social housing stock, and a new build programme through the Guernsey Housing Association, being core elements of the overall Programme.

In order that past mistakes were not repeated, the joint policy letter which the Advisory and Finance Committee and the Housing Authority presented to the States in March 2003, contained the following warning:

> "*Longer term financial planning will be of key importance to the CHP [Corporate Housing Programme] enabling agreed initiatives to be followed through to a conclusion.* ***If there is a stop/start approach to funding this will undermine any coherent programme of action***"

This report explains that this necessary continuity is in serious danger of being derailed by lack of funding, placing the future of the entire Corporate Housing Programme in jeopardy.

The major funding required by the Corporate Housing Programme is in respect of:

(i) the development programme being undertaken by the Guernsey Housing Association approved by the States in December 2004 as part of Action Area C of the Corporate Housing Programme;

(ii) the long-term programme for the refurbishment of the States' housing stock approved by the States as part of Action Area D of the Corporate Housing Programme.

The report explains how both of these programmes are currently under-funded, with the result that unless this position changes, current and future housing needs will not be able to be met, not only seriously undermining the Corporate Housing Programme, but also the States Corporate Anti-Poverty Programme of which the Corporate Housing Programme forms a major part (Action Area G).

The report describes in detail the current numbers of social housing units provided by the States and the Guernsey Housing Association.

It assesses the current needs for social housing and sets out proposals as to how these can be met in the future.

The report shows that:

- The States' housing stock is not balanced, resulting in an inefficient and wasteful use of a very valuable asset.

Specifically:

- There is an extremely high level of under-occupation predominantly by the elderly.
- If the under-occupation is addressed this will result in a surplus of 3 bed houses.
- There is an acute shortage of 1 bedroom properties, particularly properties suitable for the needs of the older tenants currently under-occupying 2 and 3 bed properties.

The report also demonstrates that:

- There are a considerable number of Housing Department properties that have either reached or are reaching the end of their useful life.

The report therefore sets out a proposed strategy to address all these issues, recommending that:

- By addressing the problem of under-occupation the size of the States' housing stock can be reduced by approximately 300 properties, i.e. from approximately 2,100 to 1,800 dwellings. (NB This means implementing a widespread programme of tenancy reviews, requiring tenants, often against their will, to relocate to properties suitable to their needs.)
- This reduction be compensated for by a building programme through the Guernsey Housing Association to address the identified shortfall of 1 bed properties.
- Both the surplus and unsuitable properties be sold off.
- The Department's estate improvements programme be sustained to prevent more properties becoming unfit.
- The rolling estate improvements programme move away from large-scale refurbishment, and instead focus on modernising and improving properties that will be retained.

However, to achieve this:

- Funding will be needed to enable housing associations to carry out the new build programme.
- Funding will be needed for the long-term estates improvement programme, to ensure that the States can continue to provide a core stock of suitably maintained social housing.

The most cost-efficient means of delivering this will be:

- For the States, through the Treasury and Resources Department, to provide funding certainty over a longer term.
- For the annual capital allocations to the Corporate Housing Programme Fund to be adequate to meet long-term development and housing maintenance needs.
- For the Housing Department to receive annually, from General Revenue, the monetary value of rent rebates provided to its tenants.
- For the funding of rebates for both States <u>and</u> Guernsey Housing Association nominated tenants to be divorced from the main capital allocation to the Corporate Housing Programme Fund, and separately funded.
- For the proceeds of all sales of surplus and unsuitable States' Housing properties to be re-cycled to help fund the building of suitable replacements by housing associations.

In the absence of the States approving such a strategy, the Housing Department:

- will be required to retain properties that are not fit for purpose and which have high maintenance costs;

- will expend monies unnecessarily in refurbishing those dwellings;
- will not be able to grant fund the building of a suitable stock of smaller properties that will be required to address the under-occupation of 3 bedroom houses..

SECTION 1 - INTRODUCTION

1. In December 2004, the States agreed, under Action Area C of the Corporate Housing Programme, that there was a requirement:

   "[To] establish a long-term programme of housing development to meet housing needs, by prioritising for development: (i) sites in the ownership of the Housing Department; and (ii) sites in States and/or private ownership that may be developed in accordance with the provisions of the Urban Area Plan and the existing and draft Rural Area Plan."

2. This report is a step towards the development of that programme. It sets out proposals for how the Housing Department can best manage and maintain its own housing stock and provide grant funding for new social housing development to ensure that the needs of both current and future tenants are met in the most cost-effective way.

3. All of these activities are integral and key parts of the Corporate Housing Programme – the implementation arm of the States Housing Strategy - which includes the following policy statements:

   - *To meet housing needs in a sustainable manner in the long-term interests of the community as a whole, making prudent use of all resources and recognising that investment in housing must be prioritised and compatible with strategic policies and the wider programme of public expenditure approved by the States.*
   - *To provide the community with a range of housing options, acknowledging that while home ownership has historically been the preferred means of meeting housing needs, good quality, fairly priced housing may be provided across the housing market by other means and through a variety or mix of agencies – public, private and voluntary.*
   - *To enable housing to be provided for those financially unable to enter the private housing market, either to purchase or rent, through a range of housing measures attuned to meeting their specific housing needs including social rented housing, partial ownership schemes etc.*
   - *To maintain and improve the quality of housing in Guernsey across all sectors bearing in mind the impact of housing conditions on the health and well-being of the community.*

4. Throughout this report the Department has been mindful of the States' current financial situation and, therefore, the proposals and actions identified reflect the Department's determination to be good stewards of both its property assets and its financial resources.

SECTION 2 - THE SOCIAL HOUSING STOCK

5. The Housing Department currently has a housing stock of 2077 units. These units are split between the following categories:

1 bedroom	604
2 bedroom	440
3 bedroom	977
4 bedroom	56

6. The Guernsey Housing Association currently has a housing stock of 121 units. These units are split between the following categories:

1 bedroom	51
2 bedroom	56
3 bedroom	12
4 bedroom	2

A further 44 units are under construction.

7. Appendix 1 provides a detailed summary of the Guernsey Housing Association's portfolio of properties, and the cost of its past and present development programme.

8. The Association was established with the approval of the States to work in partnership with the Housing Department to meet the Island's social housing needs.

9. The majority of dwellings managed by the Housing Association house tenants nominated by the Housing Department, as the Department has nomination rights for 75% of all new dwellings built by the Association that have been developed using capital grant funding from the States. This means that the Association houses tenants who historically would have been solely accommodated by the States.

10. In reading this report, it is therefore important that States' houses and those dwellings held by the Association for which the Department has nomination rights, are viewed as one housing pool, as this is the way that they are being allocated and managed.

11. There are, however, two significant differences between the Department's and the Association's respective housing stocks:

1. the Association's properties are almost exclusively newly-built, fit for purpose dwellings; by contrast, the Department's properties range in age and thus condition and, in many cases, are no longer fit for purpose;

2. while the Association receives the gross rents for its accommodation with which to maintain its properties and set aside monies for new build programmes, the Housing Department only receives rents net of rebates, which are insufficient to meet its maintenance obligations and/or fund any new build programme.

12. These two issues have major implications for the future maintenance and development of social housing in the Island, as portrayed in this report.

SECTION 3 – MEETING AND ASSESSING SOCIAL HOUSING NEED

Meeting social housing need

13. Housing need can be assessed in a number of ways but, for the purposes of this report, the focus is upon social housing – defined as that housing provided to people who cannot afford to purchase or rent without some form of financial subsidy from the States, housing association, or another provider.

14. Broadly speaking social housing can be further subdivided into that accommodation:

- rented from the Housing Department or the Guernsey Housing Association with a rent subsidy, i.e. a rent rebate;

- rented from the Guernsey Housing Association at sub-market levels with no direct rent subsidy;

- provided for purchase, either in whole or in part, with some form of subsidy from the Guernsey Housing Association or another provider, e.g. partial ownership.

15. The final two categories of social housing listed above are commonly referred to as meeting the needs of the "intermediate housing market": the client group that cannot afford to purchase or rent housing in the private sector without some form of direct or indirect financial help, but who are ineligible for States' or nominated Guernsey Housing Association accommodation.

16. Before the advent of the Guernsey Housing Association, the majority of social housing was provided by the States for rental. However, the needs of the intermediate housing market are now starting to be met by the Guernsey Housing Association. 25% of all new social rented properties that they build are being let to applicants from their independent waiting list, which comprises

persons who are ineligible for States' accommodation or nomination to the Housing Association.

17. The Corporate Housing Programme acknowledges there is a requirement to supply a broader range of affordable social housing options to meet the needs of the intermediate housing market.

18. In this respect, Partial Ownership proposals have already been approved by the States, while Assisted Purchase, Leasehold and Self-Build Schemes are under active consideration.

19. It is proposed to introduce the first units for Partial Ownership into the Guernsey Housing Association development at Roseville that is due to be completed in March 2006.

20. Once the Partial Ownership option is available to provide a means by which people with limited income can access owner occupation, the Department will be reviewing the future of the States Home Loans Scheme, and the use of the Housing Development and Loans Fund in particular. This issue is referred to briefly in the financial section that follows later in this report.

Assessing housing need

21. The starting point for any plan to maintain or develop social housing is to determine the level of housing need.

22. The prime means of assessing housing need is via a Housing Needs Survey. The first and only such Survey in Guernsey was carried out in late 2000/early 2001; therefore the information is now out of date and unreliable. A new Housing Needs Survey is due to be carried out this year; once that Survey is completed it will be necessary to analyse the information gained and to amend the social housing development programme accordingly.

23. In the meantime, other sources must be used to assess housing need, the most obvious of which are waiting list statistics.

24. Under the Housing Department's allocations policy, the following persons are eligible for States' rental accommodation or nomination to rental units provided by the Guernsey Housing Association:

- single persons aged 65 or over with weekly gross incomes of £300 or less;
- pensioner couples with weekly gross incomes of £425 or less;
- married/cohabitating couples or single parents, with dependent children, with weekly gross incomes of £600 or less[1].

[1] The Department will also house persons of any age who have a significant medical condition that is aggravated by their present accommodation, subject to the income levels quoted.

25. The "joint" waiting list for social rented housing maintained by the Housing Department has fallen steadily over the past two years, mainly due to the flow of new properties that have come on stream from Guernsey Housing Association. A breakdown of the total waiting list figures since the last Housing Needs Survey is shown in Table 1 below.

Table 1 – Number of People on States' Waiting List

Year	Total Number of People on the Waiting List
2000	170
2001	196
2002	174
2003	187
2004	148
31 May 2005	122

(NB All these persons are eligible for States' rental accommodation or nomination to rental units provided by the Guernsey Housing Association.)

26. A more detailed breakdown of the current waiting list showing the requirement by size of property is shown in Table 2.

Table 2 – Breakdown of current Housing Department Waiting List (as at end of May 2005)

	Bedroom 1	Bedroom 2	Bedroom 3	Bedroom 4	Totals
Parents with 2 or more children			13		**13**
Parents with 1 child		24			**24**
Single parent with 2 or more children			19		**19**
Single parent with 1 child		35			**35**
Single persons	25				**25**
Couples	6				**6**
Totals	**31**	**59**	**32**	**0**	**122**

(NB All these persons are eligible for States' rental accommodation or nomination to rental units provided by the Guernsey Housing Association.)

27. In addition, 25% of the Guernsey Housing Association's units are available for allocation to persons on its independent waiting list, comprising persons who are ineligible for States' rental accommodation or nomination to rental units provided by the Guernsey Housing Association. The Association's independent waiting list is thus directed at families and older people whose incomes exceed the thresholds for accommodation by the Housing Department or nomination to the Housing Association, plus single people and childless couples.

28. Specifically the Association's allocations policy provides for:

- single applicants with a weekly income of £500 or less;
- joint applicants with a weekly income of £700 or less;
- families with a weekly income of between £600 and £900.

29. Shown below is a breakdown of the Association's independent waiting list for its rental accommodation (Table 3).

Table 3 – Breakdown of current Guernsey Housing Association Waiting List (as at end of May 2005)

Bedroom 1	Bedroom 2	Bedroom 3	Bedroom 4	Total
124	71	28	5	228

30. Amalgamating the Department's and the Association's waiting lists for rental accommodation shows the following overall profile of need (Table 4).

Table 4 – Combined Housing Department/Guernsey Housing Association waiting lists (as at end of May 2005)

	Bedroom 1	Bedroom 2	Bedroom 3	Bedroom 4	Total
Total Housing Department and GHA	**155**	**130**	**60**	**5**	**350**

31. This profile of overall need is very significant given the findings set out below.

32. Finally, 103 of the 228 persons on the Guernsey Housing Association's independent waiting list have also registered an interest in Partial Ownership (although whether all such persons would meet the criteria for this scheme has yet to be assessed).

33. Taken together these figures give a broad overview of current social housing need.

SECTION 4 - UTILISATION OF THE STATES' HOUSING STOCK

34. However, these figures alone do not give the full picture as they assume perfect housing stock utilisation; consequently, it is equally important to consider how effective stock utilisation is when considering housing need and how this is to be met in the future.

35. Thus, in order to compile this report, it was necessary to gain more detailed information about the current usage of the States' housing stock and its capacity to meet housing need. An extensive survey of the profile of existing tenants was therefore carried out, and transferred to a database that has enabled the Department to have a very clear picture of the age and size of households currently occupying its accommodation. A detailed analysis of the results of the survey are attached at Appendix 2.

36. This survey has revealed the following important issues:

- There is a very high level of under-occupation of the existing States' housing stock.
- There is an over-supply of 3 bedroom houses.
- There is considerable under-supply of 1 bedroom units.
- Many of the existing 1 bed units are unsuitable to meet the needs of existing tenants many of whom are aged and suffer mobility problems. This needs to be addressed if the under-occupation problem is to be tackled effectively.
- There is a slight under-supply of 4 bed properties that would be significantly alleviated if the under-occupied 4 beds could be freed up.
- Many of the tenants under-occupying 3 bed units are not aged and will remain in the replacement property for a considerable time.
- In popular areas tenants are chosing to stay in properties unsuited to their needs rather than transferring to more suitable accommodation in unpopular areas. This highlights a need to ensure new development of the right size is built in the right areas.
- Although there are a significant number of tenant movements within the stock each year, the majority of these are to and from unpopular properties and areas and do nothing to alleviate the under-occupation problem.

37. Basically this means that the current mix of States' housing stock is not balanced to meet existing needs.

38. In order to address this and to rationalise the use of its housing stock, the Department needs to:

- Actively enforce reviews of tenancy (approved by the States earlier this year) and require tenants who are under-occupying to move to smaller more suitable accommodation.

- Ensure that all future new build development programmes are restricted to the size and type of property that will address the under-occupation of 3 and 4 bedroom properties.

- Carry out a detailed evaluation of the results of the forthcoming Housing Needs Survey to assess emerging and future housing need, and then demolish or dispose of surplus stock that is uneconomic to repair, using either the land or the sale proceeds to assist with the development of new properties that would provide the right type of accommodation to meet the needs identified.

- Ensure that the estate modernisation programme is targeted only at properties that will help to balance the equilibrium of the housing stock.

39. These points are considered further below, beginning with the implications for the estate modernisation programme.

SECTION 5 - THE HOUSING DEPARTMENT'S ESTATE IMPROVEMENTS PROGRAMME

Maintaining, improving and modernising the States' housing stock

40. In 2000 a Stock Condition Survey was commissioned that revealed that approximately £60 million (at 2000 prices) would be required over the next 30 years to renovate and improve the housing stock and ensure that it could continue to provide suitable accommodation for those in the greatest housing need[2].

41. The Survey provided a breakdown in the stock in terms of year of construction. The number of units under the Housing Department's management has since reduced, primarily through transfers of three estates to the Guernsey Housing Association for redevelopment, plus the sale of some individual "incompatible" properties. A comparison between the number of units under management in 2000 and 2005 is shown in the table below.

[2] This figure has proven to be a significant understatement of the costs involved as a result of the substantial increases in building costs experienced in the Island over the last five years.

Table 5 - Number and age of properties in the management of the States Housing Department in 2000 and 2005

	No. of Units in 2000	No. of Units 2005
Pre-1920	109	87
1920s	192	180
1930s	150	147
1940s	112	100
1950s	536	539
1960s	459	431
1970s	354	342
1980s	179	179
1990s	72	67
Totals	**2163**	**2077**

42. As a result of the Stock Condition Survey, in 2001 the States approved a rolling programme of improvements to the States' housing stock. This programme included:

- Refurbishment of pre-War houses identified as being in the worst condition but which were structurally sound so that when renovated they would provide good quality accommodation for many years to come.
- Electrical rewiring of older properties where the wiring was sub-standard.
- Estate enhancement aimed at improving parking and landscaping.
- Drainage renewal where drainage failure was causing structural instability and subsidence.
- Asbestos detection and removal.

43. This rolling programme of improvements has been carried out by the introduction of a innovative 'partnering' scheme with a local contractor (R G Falla) that has been monitored, managed and overseen by Guernsey Technical Services in conjunction with the Department.

44. Since 2001, 77 properties have been totally refurbished to a very high standard at approximately 65% of the cost of new build; 400 properties have been rewired; and improved access, parking and landscaping has been carried out on several estates.

Benefits of the estate improvements programme

45. **The continuation of the estate improvements programme is essential if the Housing Department is to retain a stock of socially rented housing that will continue to meet current and future social housing needs. Without this**

programme the fabric of many properties will deteriorate to a level where they will not be economic to repair, which has implications in that direct replacement by "new build" - if undertaken directly by the Housing Department - is likely to be over 50% more expensive.

46. Regrettably, in the past there has been significant under-investment in maintaining and modernising the States' housing stock, which has necessitated this major programme of renovation to bring the older stock up to the required standard.

47. This refurbishment adds value to the properties, their current life span is extended, and future reactive repairs costs are minimised. As the scheme has developed it has demonstrated improvements in respect of the Key Performance Indicators of Cost, Quality, Time and Tenant Satisfaction. In addition, the establishment of Target Costs for each property type has provided for improved budget planning, and incentives for continuous improvement in quality and delivery.

The future of the estate improvements programme

48. The refurbishment programme to date has focused on properties that, although in poor condition, warranted the significant investment necessary to bring them up to the required standard.

49. As originally conceived, the programme was designed to achieve 35 full-scale renovations and 150 rewires each year. However, in view of the large number of properties that clearly need a significant investment to refurbish or rebuild, coupled with the limited capital finance that is likely to be available in the future, it has become ever more vital that the Department ensures that funding is targeted only at repairing and building properties that will continue to meet the needs of both current and future tenants.

50. **Consequently, while there is a need to maintain expenditure on the programme at existing levels, the Department plans to shift the focus of the improvement programme away from full refurbishment, and concentrate on updating and modernising properties that will clearly be required in order to meet long term social housing need. This will significantly reduce the cost per unit and allow a greater number of properties to be updated each year.**

51. Using the information gained from the Stock Condition Survey, together with knowledge held within the Department, projections of future maintenance requirements for the housing stock are planned, programmed and calculated. As a result, it has been determined that in order for the Department to continue to manage its housing stock in the most cost-effective and efficient manner it is now necessary to identify properties that are at the end of their useful life and

uneconomic to repair and refurbish, or which are unsuitable to meet the current and future profile of social housing need.

SECTION 6 – RATIONALISATION OF THE STATES HOUSING STOCK

The future of properties that do not meet social housing need

52. Three estates that were uneconomic to refurbish have already been transferred, demolished and replaced by new properties built by the Guernsey Housing Association, with the assistance of grant funding provided by the Department[3]. (See also Appendix 1.)

53. However, following a major review of the Department's housing stock, there are still a number of properties, including four estates, that have been identified as in need of major repairs, and which it is either uneconomic or not possible to renovate or refurbish.

54. First, 14 single "incompatible" properties (listed in Appendix 3) have been identified. Treasury and Resources' approval has been obtained to sell them as they become vacant, with the sale proceeds being used to fund Corporate Housing Programme initiatives[4]. Based on recent valuations it is estimated that the sale of these 14 properties could realise a total price of between **£3.1 and £3.7 million.**

55. Of the four estates that are in need of urgent major repairs, the Housing Department has decided that two – Baubigny Cottages and the Petit Bouet estate – should be sold.

    (1) Baubigny Cottages were built in the 1920s. They are 6 very small, two bedroom cottages. Refurbishment cost is estimated at **£600,000**; this is economically unviable.

    Demolition and redevelopment would deliver a terrace of 8 houses at an estimated cost of **£1.2 million**; this option again is not financially viable.

    The Department considers that either the sale of the site to a developer or the sale of the dwellings individually would be preferable. Valuations have been obtained from two estate agents that estimate potential sale proceeds of between **£1.2 and £1.4 million.**

    (2) The Petit Bouet estate consists of 24 two-bedroom and 6 three-bedroom houses, built around 1930. They are in urgent need of major, but costly, refurbishment **(estimate £2.3 million).** All the properties are very small and

[3] Delancey, Rue des Marais/Rue des Lierres and Roseville.

[4] There is an existing States' policy which permits the Housing Department to sell "incompatible" properties, whose value does not exceed £500,000, without reference to the States.

even when refurbished would not be suitable to meet current or future social housing need.

Demolition and rebuild would reduce the density and result in a loss in the number of properties **(estimate £3 million).**

Consideration has been given to selling or transferring the estate to the Guernsey Housing Association, (whose development at Roseville adjoins this estate), but this would require substantial capital grant funding which could be better utilised on other developments that are set out later in this plan.

Valuations obtained from three estate agents indicate potential sale proceeds of up to **£6.3 million** from the sale of this estate depending on the method of disposal.

56. **The Department is seeking States' approval to sell these two estates, and to credit the proceeds to the Corporate Housing Programme Fund (see below) so that they can be used to fund new development of properties required to meet current and future social housing needs. The Treasury and Resources Department has been consulted and supports this initiative.**

57. The Housing Department is also considering the future of two further estates:

(3) Victoria Avenue. This estate is comprised of 18 three-bedroom houses built in the 1930s and 36 two bedroom flats built in the 1950s.

The houses are in urgent need of total refurbishment and are likely to cost **£1.4 million** to refurbish.

The flats are single wall construction and are in very poor condition as the site has been subject to subsidence that has resulted in cracking of the exterior brickwork. They cannot be repaired or refurbished, and would have to be demolished and re-built on new foundations at an estimated cost of **£4.7 million.**

It is considered that the most cost-effective solution that would make the best use of the site would be to demolish all properties and re-develop the whole site with a much higher number of new properties that would more effectively match the profile of social housing need identified earlier in this report. The Guernsey Housing Association has indicated that 84 new properties could be built on this site; a net gain of 30 properties.

The Department is seeking States approval to commence consultation with tenants, the Guernsey Housing Association and Environment Department with a view to drawing up a development proposal for this estate.

(4) The Grand Bouet is an estate of 201 houses and flats that was built in the 1970s. The properties are of non-traditional concrete aggregate construction. They were built as temporary homes with a 25-year life.

Although they have reasonably modern facilities including central heating, they have no thermal or sound insulation and the outer walls allow water ingress. Unlike traditional brick or block-work constructed buildings, these properties cannot be refurbished. This was highlighted in the Stock Condition Survey.

It is estimated that with normal repairs and maintenance these properties can be sustained for a further 5 years after which they will need to be demolished and the estate redeveloped. The estimated cost of redeveloping this estate is likely to be **£30 million.** Clearly there needs to be detailed consideration and planning of how this can be achieved before these properties reach the end of their life.

58. **The Department anticipates bringing specific proposals to the States regarding this estate (and possibly others) in 2006.**

Tenant Consultation.

59. If the identified imbalance in the utilisation of the States' housing stock is to be corrected, and the properties that are either surplus or uneconomic to retain and repair are to be vacated and disposed of, a considerable amount of consultation will be required with those tenants likely to be displaced.

60. Housing Department staff will need to identify the housing requirements of the individual householders and build this into the main project plan, to ensure that suitable future vacancies and nominations are identified and used to assist in the relocation of these tenants.

61. Initially staff will need to liaise with the States Tenants Advisory Group (STAG) to ensure that accurate and consistent advice and information is available, and the process is managed sensitively and responsibly.

SECTION 7 – BUILDING NEW AND REPLACEMENT SOCIAL HOUSING

The role of the Guernsey Housing Association

62. Throughout this report there has been mention of the Guernsey Housing Association.

63. The Guernsey Housing Association is an independent non-profit making company that was set up in 2002 to work in partnership with the Housing Department to deliver quality, affordable social housing. Its development programme is funded by a combination of a private borrowing facility of £15 million, together with direct grant funding from the Department under the Corporate Housing Programme (via the States Housing Association Fund).

64. To date the Association has provided 121 units of accommodation and a further 44 are under construction at a capital cost to the States that is far less than if the Department had undertaken the development itself. (See Appendix 1.)

65. This is significant because it has been stated on several occasions that the majority of new social rented housing will be built by the Guernsey Housing Association, rather than directly by the Housing Department, because of the capital cost advantages that accrue.

66. As a result, using the Association as the vehicle to deliver the supply of new units necessary to address the current imbalance in the Department's stock of social rented housing is not only the most cost-effective means of provision, but also the best means of meeting overall social housing need as they are able to use a mixture of private and public finance to fund their building programme.

67. The Association is jointly regulated by the Housing and Treasury and Resources Departments. A framework agreement exists to assist with this regulatory role, requiring all development activities of the Association to be approved and monitored closely.

68. One of the requirements of the framework agreement is that the Association produces a Business Plan that clearly sets out its long-term development plan.

69. This plan has been taken into account in the preparation of the total funding requirements for the Corporate Housing Programme shown in Appendix 4 to this report.

The social housing development programme

70. In determining the future social housing development programme it is intended that, for the foreseeable future, all new development will take place on land that is within or adjoining the ownership of the Department, or on sites owned or acquired by the Guernsey Housing Association, as these will be sufficient to meet known social housing need for at least the next three years.

71. For example, as referred to above, at Victoria Avenue the Department owns eighteen 3-bed houses that need totally refurbishing at considerable cost. If these were demolished along with the flats a much higher number of new more suitable properties could be built on the site.

72. Similarly, the Guernsey Housing Association is finalising plans to develop the Old Coach Station in the Grand Bouet, which is a site already in its ownership.

73. The Housing Department sees no immediate need to develop the Housing Target Areas (including Belgrave Vinery), but considers that these should be held in reserve and not developed until existing land supplies are exhausted.

74. The Department is also keen not to progress the development of other sites for social housing until the results of the Planning Agreements study it is undertaking with the Environment Department can be assessed and considered by the States, as this may provide a mechanism by which social housing may be developed more effectively and with greater cost-efficiency.

SECTION 8 – FUNDING THE MAINTENANCE AND DEVELOPMENT OF SOCIAL HOUSING

Financial Resources

75. Long-term funding certainty is required if the Housing Department is:

- to manage and maintain its housing stock effectively using a rolling programme of improvements and updating;
- address the high levels of under-occupation; and
- ensure that the correct mix of social housing stock is available to continue to meet the needs of those unable to provide their own housing solutions.

76. **However, at present funding beyond net rental income is only guaranteed for a year at a time; but it is essential to both the Housing Department and the Guernsey Housing Association that there is a minimum of three years' financial certainty in order to be able to plan effectively and deliver the economies that can be achieved when future funding guarantees are in place.**

77. This is considered in detail in the paragraphs below, but first there is need to remind the States of how finance for the Corporate Housing Programme is provided.

The Corporate Housing Programme Fund

78. In 2004, the Treasury and Resources Department and the Housing Department agreed to the creation of a "Corporate Housing Programme Fund".

79. This Corporate Housing Programme Fund was created to sit above the three existing housing funds. It will receive a single capital allocation each year that will replace the individual capital allocations previously made to the existing (now subordinate) funds. The figure below describes how each of these four funds operates.

80. In addition to the annual capital allocation to the Corporate Housing Programme Fund, the net rental income from the Department's tenants is credited to the States Houses Fund[5]. In 2005 this is estimated at £6 million.

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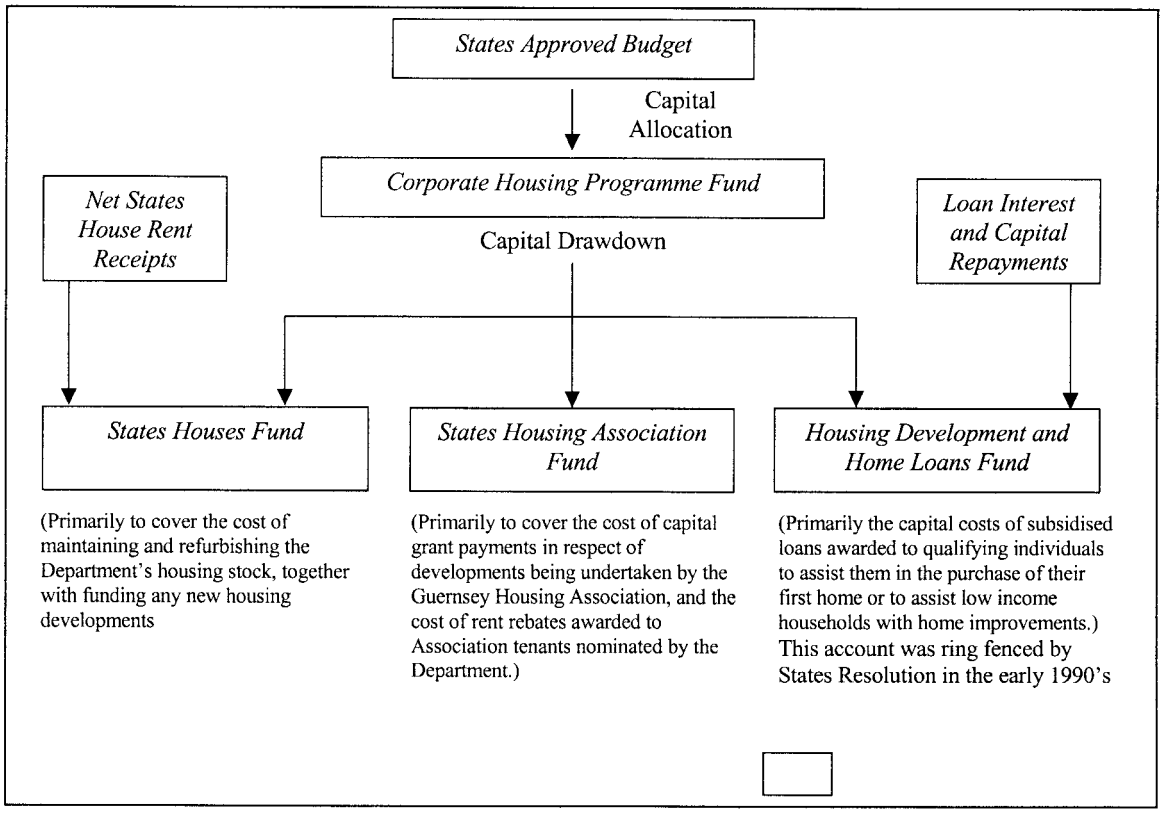
[5] The value of rent rebates – in 2005, £6.35 million – is income foregone. See paragraphs 103-112 of the report.

81. On the expenditure side, it is important to note that the Corporate Housing Programme Fund will annually have to meet a number of fixed costs from the single capital allocation made to the Fund. In 2005, this amounts to approximately £1.2 million out of the total capital allocation of £5 million, made up as follows:

- the Housing Department's operating costs relating to the Corporate Housing Programme (staff, supplies and services) – £500,000
- the funding of the First-Time Buyers' Grant Scheme – £150,000
- the annual revenue grant to the NCH Guernsey Youth Housing Project – £350,000
- provision for the engagement of consultants to carry out research projects such as the Housing Needs Survey – £150,000

82. All of these elements were previously charged to General Revenue (and thereby funded by an annual cash-limit allocation).

83. In addition, the Department is required to pay to the Guernsey Housing Association the value of rent rebates to Association tenants who have nominated by the Department. In 2005, these payments total £600,000 (but are expected to rise to £1.5 million by 2008).



Funding requirements for 2005-2008

84. Appendix 4 of this report summarises the total funding requirements of the Corporate Housing Programme Fund and two of its subsidiaries – the States Housing Association Fund and the States Houses Fund - for 2005 to 2008.

85. The Appendix excludes any provision for the Department to retain the monies from the proposed sales of properties referred to in this report. However the table below which is a summary of the appendix incorporates the likely proceeds from the sale of incompatible properties and estates into the income section.

CORPORATE HOUSING PROGRAMME FUNDING REQUIREMENTS 2005 TO 2008

	£000's
Expenditure	
Housing Association Costs (grants to G.H.A and Housing 21 plus rent rebate compensation payments)	39,100
Other Grant Costs (NCH for Guernsey Youth Housing Project)	2,000
Housing Stock Maintenance/Refurbishment Costs	42,000
Department Operating Costs	8,900
Other Costs	3,400
Total Expenditure	**95,400**
Income/Receipts	
Sale Proceeds from Incompatible House Sales	(12,800)
Rebated Rental Income	(26,700)
Capital Allocation for 2005	(5,000)
Total Income	**(44,500)**
Deficit 'CHP' Fund Balance as at 1/1/2005	400
Residual Deficit - CHP Funding Requirement	**51,300**

States Housing Association Fund

86. Appendix 4 takes account of the long-term development plan of the Guernsey Housing Association. It sets out the costs of grant funding the Association to enable the completion of developments that are already in progress, as well as future schemes that will be required if the shortfall in suitable smaller accommodation is to be addressed[6].

87. However, it is to be noted that as the Guernsey Housing Association's portfolio of properties increases, so there is a commensurate increase in the size of annual rent rebate payments to be made to the Guernsey Housing Association in respect of tenants nominated by the Housing Department. These payments, which are a contractual commitment that has been entered into by the States, are estimated to total **£1.5 million in 2008:** this is considered further below.

88. **Taken together, the development grants and rebate payments represent significant funding requirements over the period in question, but are critical to the ongoing success of the Corporate Housing Programme.**

States Houses Fund

89. Appendix 4 shows an annual deficit between income and operating expenditure in relation to the States Houses Fund of between **£4 and £5 million per annum** over the period 2006-2008. In other words, if the Department is to maintain its current responsive and long-term maintenance programmes to ensure good stewardship of its properties it cannot do so solely through rental income, net of rebates, even allowing for the increased income that will accrue following the introduction of the new rents and rebates scheme in May this year.

90. This takes on added significance given that the States Houses Fund is also the source of funding for estates that require to be redeveloped because they are uneconomical to refurbish (e.g. the Grand Bouet); and because that Fund is also the source of financing for a new build programme to address the significant under-occupancy of the Department's family houses, resulting in a requirement to build additional smaller dwellings for older people, as described earlier in this report.

91. The cost implications of addressing these issues over the period 2006-2008 are estimated at **£7 million per annum which is made up of £5 million for additional development and £2 million to cover the cost of additional repairs and maintenance that will be necessary to process more void properties that are freed up by re-housing people currently under-occupying,** although, to offset these costs, the Department intends, as explained earlier in this report, to generate some short-term income from sales of properties that are surplus to requirements, or are uneconomic to repair or improve.

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[6] In depicting these costs in the Appendix, **£3.5 million** of grant costs to the Guernsey Housing Association in respect of developments that are not due to be completed by the end of 2008 have been included.

92. The sale of incompatible properties and estates at Baubigny Cottages and the Petit Bouet discussed earlier could realise a one-off capital receipt of **£10.6 million**.

93. **It is likely that over time as the under-occupation of larger properties is rectified that a further 200 properties would be surplus to requirements: a proportion of those could also be sold and the proceeds used to fund new development.**

Corporate Housing Programme Fund

94. Bearing the above in mind, Appendix 4 shows that, after taking into account the £5 million capital allocation to the Corporate Housing Programme Fund in 2005 and assigning those resources to the appropriate funds, **the Department will still conclude the current financial year with a deficit of £2.6 million for the Corporate Housing Programme** and will sustain associated 'borrowing' costs as a consequence. This level of 'borrowing' is within the Department's authorised borrowing limit of **£3 million** (for 2005 only) set by the Treasury and Resources Department. (This is separate and in addition to the borrowing currently in place in respect of the Housing Development and Loans Fund.)

95. This shortfall has arisen partly as a result of the Department honouring its funding commitments to the Guernsey Housing Association in respect of housing development schemes approved by the former Advisory and Finance Committee, and partly because of the inherent gap between the Department's rental income stream and its regular operating and administration expenditure.

96. In this regard, it is important to note that following the reformatting of the Department's funding structure in 2004, nearly **90% of the Department's total costs** are now represented within the funding structure depicted by Appendix 4. Whilst technically the new structure provides the Department with additional flexibility as to how and where it assigns monies within each of the component funds, it also means that **the Department is heavily reliant on its *capital allocation* to fund the majority of its ordinary operating expenditure, including staffing costs.**

97. Noting the qualifications set out above, the total funding requirements for the Corporate Housing Programme for 2006 to 2008 are **£24.3 million, £15.2 million and £19.9 million** respectively; or an average of **£20.7 million per year** assuming the anticipated deficit for 2005 is carried forward into 2006. It is thus worth noting that at £5 million the capital allocation received by the Department in 2005 was less than 25% of this figure.

98. Moreover, even if grant support costs to the Guernsey Housing Association in relation to those development schemes that are still at the proposal stage were removed from the equation, then the funding requirement would still be **£16.9**

million per year. (NB This would be a retrograde step and contrary to the objectives of the Corporate Housing Programme.)

99. **The above commentary, therefore, highlights some very important issues that require urgent resolution, namely:**

    1. **without long-term funding certainty the Corporate Housing Programme cannot be as effective as it should be, nor can it be managed cost-efficiently.**

       For example, the Guernsey Housing Association has recently indicated to the Housing Department that for its own business planning it requires at least two years' advance notification of available grant funds. This contrasts vividly with the current position whereby the Housing Department does not have the funds to fulfil the grant commitments it has already entered into with the approval of the former Advisory and Finance Committee;

    2. **in its original conception, the Corporate Housing Programme Fund was to provide finance for housing initiatives managed by other States' departments approved by the States as part of the Programme's annual review process. That the Programme is under-funded militates against the fulfilment of this original objective;**

    3. **that the Housing Department receives only rental income net of rebates makes it dependent on annual capital allocations to cover its operating costs in relation to management of its housing stock.**

100. This latter point is addressed in greater detail below.

Funding of rent rebates

101. The Guernsey Housing Association receives the full gross rental for its properties. This reflects the fact that if the Association only received net rents, this would significantly impact upon the level of its private borrowing and, in turn, may also result in higher capital grant payments needing to be made by the Housing Department to fund the Association's development projects.

102. However, rent rebates are income foregone for the Housing Department, a position that is becoming increasingly anomalous in social housing management and provision. Indeed, quoting from paragraphs 169-172 of the Housing Department's 2004 States Report on "Proposals for a New States Rent and Rebate Scheme":

> *"..., the fact that the Department does not receive the gross rental income and that rebate values are income foregone, impacts very*

significantly on the Department's ability to manage and maintain its housing stock, and to provide new units of accommodation.

Put simply, net rental income, even after the full effect of the proposals is realised, will be insufficient for the Department to fund its general maintenance and estate refurbishment programmes, let alone provide the grant funding required to enable the Guernsey Housing Association to build the properties necessary to meet identified social housing need. There will thus be an ongoing need for the States to make capital injections to the States Houses Fund as part of the funding of the Corporate Housing Programme.

Consequently, while acknowledging the overall position of States' finances, it is the Department's firm view that steps should be taken by the Treasury and Resources Department to provide the Housing Department with the value of rebates offered to States' tenants, as the Department is receiving less than 51% of the total monies that the application of the new rental formula establishes as necessary for the Department to meet the costs of providing States' accommodation.

The Department accepts that to find £6.35m [the value of the rent rebates foregone] in one year is unrealistic, but recommends that the States directs the Treasury and Resources Department to make provision for rebate reimbursement in setting the capital allocation for the Corporate Housing Programme for 2005 and subsequent years."

103. The States accepted this recommendation, but there was no evidence that it was taken into account by Treasury and Resources in setting the capital allocation to the Corporate Housing Programme Fund in 2005.

104. However, for reasons that will be evident from reading this report, unless the funding of rent rebates is addressed, the Housing Department cannot continue to drive forward the programme of refurbishment and development that is required if the social rented housing stock in the Island is not to degenerate to a point where it is no longer fit for purpose.

105. Following further consideration and review, the Department therefore considers that the solution to this problem is to ensure that both the Housing Department and the Guernsey Housing Association receive the full value of rent rebates awarded, as these are nothing more than a "housing benefit" by another name. It is, therefore, both anomalous and unfair that, unlike any other welfare benefit paid by the States, the Housing Department does not receive guaranteed funding for the payment of this benefit.

106. States' tenants are disadvantaged by this, because the Department is unable to set aside the monies provided for in the new rent setting formula to address

maintenance and new build requirements, as these are "lost" in the rebate income foregone.

107. Put simply, the Housing Department has to make a bid to the Treasury and Resources Department for a capital allocation to receive back the monies which are rightfully its own, and further to use this allocation to fund the entire Corporate Housing Programme!

108. In addition, as noted above, as the Guernsey Housing Association's portfolio of properties increases, so there is a commensurate increase in the size of annual rent rebate payments to be made to the Guernsey Housing Association in respect of tenants nominated by the Housing Department.

109. In November 2004, the States agreed that the Treasury and Resources Department should make suitable provision to meet this contractual commitment in its annual capital allocations to the Corporate Housing Programme Fund, but again there was no evidence that it was taken into account in setting the capital allocation to the Corporate Housing Programme Fund in 2005.

110. **Having considered these matters further, the Department is of the view that in order to remove its dependence on States' capital funding, it should receive, annually, a payment from General Revenue that reflects the costs of all rent rebates. Ideally the funding of rebates should be separated from the main capital allocation and the Department wishes to work with the Treasury and Resources Department to explore how this might be achieved.**

SECTION 9 - THE WAY FORWARD

111. The following clear facts have emerged from the detailed review of the condition and utilisation of the States' housing stock.

- There are a considerable number of properties that have either reached or are reaching the end of their useful life.
- The modernisation programme needs to be sustained to prevent more properties becoming unfit.
- There is an extremely high level of under-occupation predominantly by the elderly.
- As the under-occupation is addressed this will result in a surplus of 3 bed houses.
- There is an acute shortage of 1 bedroom properties particularly properties suitable for the needs of the older tenants currently under occupying 2 and 3 bed properties.
- A building programme through the Guernsey Housing Association needs to be funded to address the identified shortfall of 1 bed properties.

- Surplus and unsuitable States' properties should be sold off and the proceeds re-cycled to help fund suitable replacements.
- Replacement properties should be in the right geographical location.
- Funding certainty is needed over a longer term, and for at least the length of this plan.
- There needs to be financial provision for the actual funding of rebates for both States and Guernsey Housing Association nominated tenants, and this needs to be separated from the main capital allocation to the Corporate Housing Programme Fund.

112. The Housing Department accepts that the issues raised in this report cannot be resolved overnight, as the Department will need to undertake a detailed appraisal of all the options that could be utilised and agree an action plan that will address all of the problems.

113. However, before this process can begin the States must accept and support the following facts.

- The States' housing stock is not balanced.
- There are too many 3 bed houses.
- There is a shortage of suitable 1 bedroom properties.
- In resolving the problem the size of the States' housing stock will be reduced by approximately 300 properties, i.e. from approximately 2,100 to 1,800 dwellings.
- That to keep capital costs to the States to a minimum, for the foreseeable future it is likely that housing associations should build, own and manage all new build social housing.
- If sufficient funding is not available many properties will become unusable and have to be boarded up and not let.

114. In the absence of the States approving such a strategy, the Housing Department:

- Will be required to retain properties that are not fit for purpose and which have high maintenance costs;
- Will expend monies unnecessarily in refurbishing those dwellings;
- Will not be able to grant fund the building of a suitable stock of smaller properties that will be required to address the under-occupation of three bed houses.

115. However, if these facts are accepted a detailed timetable and action plan can be drawn up that will include:

- Carrying out further in-depth analysis to establish which properties will eventually become surplus to requirements
- Revising the rolling estate improvement programme to move away from large- scale refurbishment, and instead focus on modernising and improving properties that will be retained.
- Agreeing a development programme with the Guernsey Housing Association that will rectify the shortfalls identified and provide a flow of new properties that can be used to eradicate the under-occupation of States' housing stock.
- Preparing and putting forward proposals for the long-term re-development of the Grand Bouet estate.
- Producing a tenant consultation strategy to assist with the relocation of tenants that will be displaced.

SECTION 10 – CONCLUSIONS

116. In the Interim Financial Report, considered by the States in July this year, Treasury and Resources wrote:

> *"4.7 Capital funding for States housing initiatives has been perhaps subject to more changes in recent years than any other single area. The former Housing Authority took significant steps to reduce the demand for States capital funding in particular by using the Guernsey Housing Association as the major provider of new social housing. Under these arrangements, the States is funding at or near 50% of the capital cost of any development project.*
>
> *4.8 Furthermore, the net rental income from States house tenants is retained within the States Houses Fund and, together with annual capital allocations, is used to fund the new build and refurbishment programmes as well as day to day maintenance of States houses and associated administration costs.*
>
> *4.12 Such a flexible and innovative approach is to be commended.* ***However, more will need to be done if the aims of the Corporate Housing Programme are to continue to be met****"*

117. This report demonstrates the truth of the statement set out in bold type above.

118. For several years now the Housing Department has been reducing States' spending in general, through measures such as:

- The prioritisation of the entire Corporate Housing Programme, as reported to the States in December 2004.
- Partnership working with the Guernsey Housing Association, which reduces the overheads in developing capital projects (as projects are part funded by commercial borrowing) and managing social rented tenancies.

- Entering into a partnership with the specialist housing association Housing 21 to provide a major scheme of affordable sheltered housing at Rosaire Avenue. Approximately 50% of the development costs for this £11.2 million project are being funded through commercial borrowing, the remainder are being met by the States.
- "Partnering" with a private contractor to manage the estate improvement programme.
- Increasing rental income through a comprehensive review of the rents and rebates system.

119. Taking two of these examples: the total costs of the combined approved development programmes of the Guernsey Housing Association and Housing 21 is £53 million. By the time these projects are completed the States will have paid around £34 million in capital grants "saving" the capital reserve £19 million. In other words, the States will only have paid 64% of the full costs of these projects.

120. The Housing Department contends that it has done more than any other department to save the States money; and this report contains additional proposals by which this self-help/good stewardship policy may be furthered, i.e. by rationalising the States' housing stock and reinvesting the proceeds in replacement properties.

121. **However, even with such initiatives, the Department cannot deliver the Corporate Housing Programme unless:**

- **It receives realistic capital allocations to the Corporate Housing Programme Fund and/or**
- **It receives the value of the rent rebates provided to its tenants.**

122. Accordingly, the States is asked to show its ongoing commitment and support for the Programme by accepting the recommendations set out below.

SECTION 11 - RECOMMENDATIONS

123. The States is asked:

(i) to accept the statements of fact set out in paragraph 113 of this report;

(ii) to note that the Housing Department will report back to the States, as soon as possible, with a detailed asset management and development plan to address the issues covered in this report;

(iii) to approve the sale of the sites of Baubigny Cottages and the Petit Bouet estate, either as individual properties or as entire estates, as set out in paragraphs 55 and 56 of this report;

(iv) to agree that the proceeds of these sales be credited to the Corporate Housing Programme Fund for the purpose of funding new development of properties required to meet current and future social housing needs as identified through the Corporate Housing Programme;

(v) to agree that the Treasury and Resources Department be empowered to approve the Housing Department's proposals for the demolition and redevelopment of the Victoria Avenue estate as soon as they are finalised;

(vi) to direct the Treasury and Resources Department to liaise with the Housing Department regarding the future funding of the Corporate Housing Programme in particular regarding: (a) the maintenance and development of social housing; and (b) the implementation of existing States' resolutions regarding the funding of rebates for both States' tenants and Guernsey Housing Association nominated tenants; and to report back to the States with the outcome of those discussions as part of the Interim Financial Report for 2006, or sooner if feasible;

(vii) to direct the Treasury and Resources Department to make recommendations to the States as part of the 2006 Budget Report, regarding the funding of the social housing elements of the Corporate Housing Programme for the period 2006-2008, based on the estate improvements and development programmes referred to in this report.

Yours faithfully

D Jones
Minister

Appendix 1

COMPLETED AND ACTIVE DEVELOPMENT SCHEMES UNDERTAKEN BY THE GUERNSEY HOUSING ASSOCIATION

Project Name	Number/Size of Units					Housing Department Nominations	Guernsey Housing Association Allocations	Total Development Cost	Housing Department Grant	
	1 Bed	2 Bed	3 Bed	4 Bed	Total			£000's	£000's	% of Total Development Costs
Completed Schemes										
Delancey	26	8	-	-	34	25 units	9 units	5,272	3,954	75%
Rue des Marais/Lierres	21	48	11	2	82	62 units	20 units	11,492	8,044	70%
Lion Cottage	1	-	-	-	1	1 unit	-	170	128	75%
Butterfield House	3	-	-	-	3	2 units	1 unit	431	0	0%
No 5 Hauteville	-	-	1	-	1	1 unit	-	70	35	50%
Active Schemes										
Roseville	20	6	6	4	36	27 units	9 units	6,063	4,244	70%
La Chaumiere	8	-	-	-	8	6 units	2 units	1,516	986	65%
Totals:	79	62	18	6	165	124 units	41 units	25,014	17,391	69%

Note: Excludes the Coach Station scheme.

Appendix 2

PROFILE OF CURRENT TENANTS AND UTILIZATION OF THE DEPARTMENT'S HOUSING STOCK

Housing stock statistics.

1) The Department currently holds **2,077 units** of stock.

2) Of the above, **100 units** are "voids" i.e. they are currently untenanted and at some stage in the process of being renovated or prepared for the next tenant.

   As a result of the above the Department had **1,977 units** of stock that were tenanted at the end of May/beginning of June 2005. If the void properties (less the 23 to be sold etc) are "added back" the gross number of units the Department has for occupation is **2,054.**

3) The 2,054 units of stock come in a variety of types and sizes but for the purposes of the initial analysis have only been broken down into the simple classifications of 1, 2, 3 and 4 bed units.

4) The different number of bed units are as follows:

• 1 Bed Units	593
• 2 Bed Units	430
• 3 Bed Units	975
• 4 Bed Units	56
Total	**2,054**

5) In percentage terms the Department's stock may be broken down as follows:

• 1 Bed Units	28.9%
• 2 Bed Units	20.9%
• 3 Bed Units	47.5%
• 4 Bed Units	2.7%
Total	**100.0%**

6) **The Department's stock breakdown is therefore dominated by 3 bed family size units with a low number of 4 bed units.**

Basic statistics about the tenants housed by the Department

7) Broken down by family size the Department houses the following groups of tenants

		(Persons)
• Single persons	486	486
• Couples	346	692
• Single person/Couple +1	436	1090
• Single person/Couple +2	362	1267
• Single person/Couple +3	225	1012
• Single person/Couple +4	77	422
• Single person/Couple +5	34	221
• Single person/Couple +6	8	60
• Single person/Couple +7	1	8
• Single person/Couple +8	1	9
• Single person/Couple +12	1	14
TOTAL TENANCIES	**1,977**	**5,381 (persons)**

8) A detailed exercise was undertaken to assess bedroom requirement based on a rating process. The basic indicators applied in this assessment were that:

- Children above the age of 10 couldn't share a room if they were of different sex;
- Ideally there should never be more than 2 children per room unless they were very young;
- Adult non-dependents should not be required to share a room with young children i.e. a 22 year old and a 2 year old would have been "given" their own rooms;
- On the other hand a 15 year old and a 20 year old would be given a 1 bed room requirement (provided they were of the same sex);
- The ratings were applied in the knowledge that the Department didn't have an endless supply of 4 bed units and that in some circumstances slight overcrowding would have to occur in 3 bed accommodation.

9) The results of this exercise indicated that the Department required:

- 830 1 Bed Units
- 300 2 Bed Units
- 744 3 Bed Units
- 103 4 Bed Units

10) Comparison of the Department's actual stock and current tenant accommodation need produces the following mismatch of ***provision v demand (ignoring voids).***

	Actual stock units	*Current demand*	*Mismatch Supply/demand*
1 Bed Units	568	830	***262 units too few***
2 Bed Units	411	300	***111 units too many***
3 Bed Units	945	744	***201 units too many***
4 Bed Units	53	103	***50 units too few***
	1,977	1,977	

11) After taking into account voids, projected changes of tenancy during the rest of 2005, Guernsey Housing Association provision and new tenants etc the unit mismatch is as follows: **(See Schedule "A")**

1 Bed Units	***216 units too few***
2 Bed Units	***141 units too many***
3 Bed Units	***241 units too many***
4 Bed Units	***48 units too few***

The Department can never expect to balance supply with demand to the extent that a mismatch will not occur; however, the current mismatch is of such a size, particularly in the number of 3 bed units, that it highlights the need to introduce measures to address this as a matter of urgency.

Movement within the housing stock.

12) During any one year the Department experiences a very large number of changes in its tenancies. Some tenants die; some go into long-term residential and nursing care; a few leave the Island; and some purchase properties in the private sector. (**Schedule "B"** is a breakdown of tenants vacating Housing Department stock.)

13) At the same time as the above new tenants are housed, whilst a number transfer "internally" as a result of partnering; under-occupation; or on medical grounds. (**Schedule "C"** – New Tenants and **Schedule "D"** – Transfers.)

14) Whilst it is important to recognise the level of movement within the Department's stock it is also important to recognise the fact that a large number of tenants can remain as tenants for a very long period. In theory a single mum can be allocated a tenancy in her early 20's and could remain a tenant into her 90's. An initial two bed requirement could expand to a 3 or 4 bed requirement

and then gradually recede as the dependent children leave home – until such time as it is only the tenant left – i.e. a requirement for a 1 bed unit.

15) The process of acquiring a new and larger tenancy is demand led i.e. the Department is required, as best as it is able, to meet the housing need of the tenant and as such the tendency, in theory at least (but often in practice), will be for growing families to move up the accommodation ladder until they are housed in a 3 or 4 bed unit. At this stage the impetus for change originating from the tenant very often reverses flow. As the size of the family diminishes the tenant is content to stay in the home and under occupy and does not request a move back down the accommodation ladder to a smaller property, thus under-utilisation occurs. **Schedule "E"** sets out under-occupation (in both 1 and 2 bed terms) for individual estates.

16) Examination of two separate and contrasting estates highlights exactly the sort of problems the Department is going to have to address if it is to improve its stock utilisation. The estates chosen are the Bas Courtils in St Saviours and Place Des Arbres in St Peter Port. Essentially the difference between the two estates is that one (Place Des Arbres) is predominantly meeting existing and growing need; whilst the other (Les Bas Courtils) is an estate where housing need (at least in 3 bed terms) is in decline.

17) Major differences between the two estates which are important from a stock utilisation point of view are as follows:

Place Des Arbres

- A high level of appropriate stock utilisation which might be expected given that over 40% of the tenancies are of 2 years duration or less;
- A very low level of under-utilisation especially related to those tenancies where there is only a 1 bed requirement – there is only 1 case and the tenant concerned is also the one with the longest tenancy (at 14½ years);
- The average length of tenancy is 6.3 years indicating a fairly rapid overall turnover of the stock which is borne out by the first bullet point;
- The number of tenants with partners is low at 31%;
- The average age of tenants/partners is 37 whilst the average age of dependents is 6.4 years. At 1.6 dependent children per household the rate is 3 times that of Les Bas Courtils.

Les Bas Courtils

- A high degree of under-utilisation due, it is presumed, almost entirely to the fact that the dependent children have moved out into their own accommodation. The long-term nature of Les Bas Courtils' tenancies is

borne out by the fact that the average length of tenancy for this estate is 21.7 years (nearly 3½ times that of Place Des Arbres);

- 45% of tenants of this estate required only 1 bed accommodation whilst a further 3 currently require 2 bed accommodation;
- 25% of the tenants had occupied their home for 40 years;
- 25% of the tenants in 3 bed units were likely to lose their requirement for 3 bedrooms within 12 months.

What conclusions might be drawn from the comparisons of the two estates?

18) Quite clearly the two estates function in a different manner.

19) Place Des Arbres might be termed "vibrant" in that the units are being utilised fully by young families with a need for a family sized home. It is used to house tenants straight from the waiting list. Given the relatively short average tenancy it is not a popular estate and tenants seek to transfer at the earliest opportunity.

20) On the other hand Les Bas Courtils is virtually the exact opposite. There is little movement; tenancies are of long standing (with one or two exceptions); and, as a result, the estate is largely under-utilised and at best could be termed "dormant". The contrast in turnover rates would lead one to assume that the tenants of Les Bas Courtils are happy where they are and would prefer to remain undisturbed. If they are forced to move they will need suitable accommodation in an area at least similar or close to where they have lived for most of their lives.

May/June 2005

SCHEDULE A — Utilisation of Housing Stock 2005

Black figures are the creation of unit spaces
Italic figures are the usage of unit spaces

Housing Stock		1 Bedder	2 Bedder	3 Bedder	4 Bedder	Totals
HIMS statistics May 2005		604	439	978	56	2077
Voids as per above		*36*	*28*	*33*	*3*	*100*
Occupied dwellings		568	411	945	53	1977
Units of accommodation where doubt exists as to continued usage						
Baubigny Cott/Brooklands Cott (Sale?)			-2			
Clairval House (Sale)		-8				
La Retraite (Sale)			-1			
Paris Street (HSSD)		-2				
Carlton Place		-1				
16/17/20/21/27 Victoria Avenue (Demolish?)			-3	-2		
Ivy Castle Cott+/3/9/31 Pet Bouet (Await dec'ons)			-3	-1		
		-11	*-9*	*-3*		
Utilisation of dwellings (May 2005)		**1 Bedder**	**2 Bedder**	**3 Bedder**	**4 Bedder**	**Totals**
Occupied dwellings		568	411	945	53	1977
Add back voids (less properties disposed of)		25	19	30	3	77
Total dwellings	"A"	593	430	975	56	2054
1 bedder Overcrowding	Requirement	*7*	*7*			
Underoccupancy	Requirement	*164*		164		
2 bedder Overcrowding	Requirement		20	*20*		
Underoccupancy	Requirement	*102*	102			
3 bedder Overcrowding	Requirement			57	*57*	
Underoccupancy	Requirement		*193**	193*		
4 bedder Overcrowding	Requirement					
Underoccupancy	Requirement	*3*	*4*	*24**	24*	
					7	
Note under current policies transfers from 4 to 3 bedders and 3 to 2 bedders does not usually occur - hence the numbers marked* are not included in the computation at this stage						
Sum.of Transfers due to Under/Over occupancy		*-262*	111	201	*-50*	
Total House Type Requirement	"B"	830	300	744	103	1977
Excess/shortfall by Property Type	("A" less "B")	*-237*	130	231	*-47*	
Estimates of change during 2005 (June-July) basd on trends over last four years						
Deaths		12	1	1	0	
Long Term Care		9	1	1	0	
Property Purchase		0	1	5	0	
Private Sector		1	3	8	0	
Others (Excluding GHA)		1	2	4	0	
		23	8	19	0	
Mismatch after above changes have been taken into consideration for the later half of 2005		*-214*	138	250	*-47*	
Estimates of new tenants to be accommodated in the period June - December 2005		*8*	*15*	*10*	*1*	
Mismatch after new tenants are accommodated in the period June - December 2005		*-222*	123	240	*-48*	
GHA Provision in June - December 2005		6	18	1	0	
Mismatch after new GHA Provision Phase 3 Rue Des Marais July 2005		*-216*	141	241	*-48*	
STOCK UTILISATION/MISMATCH AT THE END OF 2005		*-216*	141	241	*-48*	
If the Department activated policies related to transfersfrom 3 to 2 and 4 to 3 bedders the stock		*-216*	141	238	*-48*	
			193	193		
ALTERNATIVE 2005				*24*	24	
STOCK UTILISATION/MISMATCH		*-216*	*-52*	407	*-24*	

SCHEDULE B

2004	TENANTS VACATING					
	Bedsit	1 Bedder	2 Bedder	3 Bedder	4 Bedder	Totals
Deceased	3	19	1	1	1	25
Eviction/Private Sector	0	1	1	2	0	4
GHA	0	4	5	5	0	14
Health/Resid/Nursing Care	2	17	0	1	0	20
Inherited Property			1			1
Left Island	0	1	1	3		5
Moved in with another T	1					1
Private Sector	1		4	11		16
Property Purchase		1	2	11		14
TOTALS	7	43	15	34	1	100

SCHEDULE C

2004	NEW TENANTS					
Family Status	Bedsit	1 Bedder	2 Bedder	3 Bedder	4 Bedder	Total
Couple OAP	3	7				10
Couple OAP + G/C			1			1
Single OAP		6				6
Single person		2				2
Single person S/Case				1		1
Couple +1			8			8
Couple +1 +ndf				1		1
Couple +2			5	3		8
Couple +3				2		2
Couple +4						0
Couple +5				1		1
Single Parent +1			11			11
Single Parent +2			2	8		10
Single Parent +3			1	2		3
Single Parent +4				3	1	3
	3	15	28	21	1	67

SCHEDULE D

Transfers in 2004		Downsizing						Staying the same						Upsizing				
	1 to B	2 to 1	2 to B	3 to 1	3 to 2	4 to 3	*Total*	B to B	1 to 1	2 to 2	3 to 3	4 to 4	*Total*	1 to 2	2 to 3	2 to 4	3 to 4	*Total*
Medical	3	2		1			6	1	3		3		7					0
Back to BOH		2					2						0					0
Medical/Mobility	1						1		4	2			6					0
Medical/Underoccupation		1	1	2			4						0					0
Partnering Scheme		1			3		4			4	7	2	13		1		1	2
Underoccupation		6		2	2	1	11						0					0
Condition of Property/UO					1		1						0					0
Redevelopment							0		2				2					0
Change of area							0			2			2					0
Garden/medical							0			1			1					0
Priority requirement							0			1	1		2					0
Enforced move							0				2		2					0
Exchange							0				10		10					0
Moved in with new partner							0				1		1					0
Overcrowding							0				3		3		8	1	1	10
Property Demolished							0				5		5					0
Social							0				1		1	1				1
Social/Medical							0				1		1					0
Property Condition							0						0		1			1
TOTALS	4	12	1	5	6	1	29	1	9	10	34	2	56	1	10	1	2	14

Bedsit demand	4		1								5	5	Excess of Demand over Supply
1 bedder demand		12		5							17		
1 bedder vacated	-4						-1				-5	12	Excess of Demand over Supply
2 bedder demand					6		1				7		
2 bedder vacated		-12	-1					-10	-1		-24	-17	*Excess of Supply over demand*
3 bedder demand						1		10			11		
3 bedder vacated				-5	-6					-2	-13	-2	*Excess of Supply over demand*
4 bedder demand									1	2	3		
4 bedder vacated						-1					-1	2	Excess of Demand over Supply

SCHEDULE E						
UNDER OCCUPIED 3 BED UNITS BY 1 AND 2 BED REQUIREMENT						
Address	3 beds	1BR	2BR	1BR%	2BR%	Overall
						Under Occ
Les Oberlands	6	1	4	16.7	66.7	83.3
Le Felconte	4	2	1	50.0	25.0	75.0
Courtil Portier	22	6	9	27.3	40.9	68.2
Chemin Robin	16	7	3	43.8	18.8	62.5
Les Bas Courtils	20	9	3	45.0	15.0	60.0
Petit Bouet	7	0	4	0.0	57.1	57.1
Chemin Des Monts	29	9	7	31.0	24.1	55.2
Bellegreve flats	6	1	2	16.7	33.3	50.0
Rue Des Grons	14	4	3	28.6	21.4	50.0
Rue Jehannet	42	11	9	26.2	21.4	47.6
Le Hurel	28	5	8	17.9	28.6	46.4
Sandy Hook	22	6	4	27.3	18.2	45.5
Courtil Bris	38	8	9	21.1	23.7	44.7
Mill Brook	38	3	13	7.9	34.2	42.1
La Vrangue	24	2	8	8.3	33.3	41.7
Le Valnord	12	2	3	16.7	25.0	41.7
Sausmarez Mill	24	4	6	16.7	25.0	41.7
Sous Les Hougues	22	2	7	9.1	31.8	40.9
Les Islet	10	2	2	20.0	20.0	40.0
Rue de La Croix	20	3	5	15.0	25.0	40.0
Courtil Michelle	18	2	5	11.1	27.8	38.9
Victoria Avenue	18	2	5	11.1	27.8	38.9
Le Picquerel	8	2	1	25.0	12.5	37.5
Pre de L'Aumone	32	6	6	18.8	18.8	37.5
Collings Road	40	3	11	7.5	27.5	35.0
Court St Jacques	46	10	6	21.7	13.0	34.8
Pont Vaillant	26	5	4	19.2	15.4	34.6
Couture Clos	12	2	2	16.7	16.7	33.3
Les Naftiaux	15	3	2	20.0	13.3	33.3
Mais Collivet	9	2	1	22.2	11.1	33.3
Clairval	26	3	5	11.5	19.2	30.8
Mont Arrive	10	2	1	20.0	10.0	30.0
Rue Au Pretre	20	4	2	20.0	10.0	30.0
Les Genats	126	17	13	13.5	10.3	23.8
Clos du Bordage	18	1	3	5.6	16.7	22.2
Les Landes	9	0	2	0.0	22.2	22.2
La Rue Flere	19	3	1	15.8	5.3	21.1
Place Des Arbres	16	1	2	6.3	12.5	18.8
Rue Des Pins	16	1	2	6.3	12.5	18.8
Route des Coutures	24	3	1	12.5	4.2	16.7
Rue Perruque	7	0	1	0.0	14.3	14.3
Les Cottoniers	10	0	1	0.0	10.0	10.0
Mont Marche	13	0	1	0.0	7.7	7.7
Rougeval	20	0	0	0.0	0.0	0.0
	962	**159**	**188**	**16.5**		**36.1**

1BR = Requirement for 1 bed accommodation
2BR = Requirement for 2 bed accommodation

Appendix 3

LIST OF INCOMPATIBLE PROPERTIES TO BE SOLD

Property Name and Type	No of Individual Units	Occupied/Vacant
La Retraite		
Cottage: 2 Bedroom	1	Vacant
Epworth		
House: 4 bedroom	1	Occupied
Flat: 1 Bedroom: No.1 &2	2	Occupied
Brooklands Cottage		
Cottage: 2 Bedroom	1	Vacant
Highfield - La Villiaze Road		
Bungalow: 3 Bedroom	1	Occupied
Summerland - La Villiaze		
House: 4 Bedroom	1	Occupied
11 Hauteville		
Terraced House: 3 Bedroom	1	Occupied
Charroterie Cottages		
Cottage: 1 Bedroom: No.1	1	Occupied
End Terrace: 1 Bedroom	1	Occupied
La Grande Hougette		
Flat: 3 Bedroom	1	Occupied
Longfield Cottage		
Cottage: 1 Bedroom	1	Occupied
Longfield House		
Villa: 1 Bedroom: No.1 & 2	2	Occupied

Appendix 4

CORPORATE HOUSING PROGRAMME FUNDING REQUIREMENTS

(excluding Housing Development and Loans Fund)

	2005 £000s	2006 £000s	2007 £000s	2008 £000s	*Line No.*
Corporate Housing Programme Fund					
Balance Brought Forward	(200)	-	-	-	*1*
Cash Limit Transferred from General Revenue (£1.1m @ 2004 prices)	(1,200)	(1,200)	(1,200)	(1,200)	*2*
Costs Transferred from General Revenue:					
Document Duty Grant Scheme (Home Loans)	150	150	150	150	*3*
Guernsey Youth Housing Project Grant	350	350	350	350	*4*
Staff Costs	500	500	500	500	*5*
Supplies and Services	100	50	50	50	*6*
Consultants Fees	100	150	150	150	*7*
	1,200	1,200	1,200	1,200	*8*
End of Year Balance - (Surplus)/Deficit	**(200)** *Surplus*	**0**	**0**	**0**	*9*
States Houses Fund					
Balance Brought Forward - Unconsumed Reserves	(1,600)	-	-	-	*10*
Balance Brought Forward - Sale Proceeds from Incompatible Housing Stock	(2,300)	-	-	-	*11*
Rebated Rental Income	(6,000)	(6,500)	(7,000)	(7,200)	*12*
Operating Income	(9,900)	(6,500)	(7,000)	(7,200)	*13*
Housing Stock Refurbishment Costs/Partnering Programme	6,000	6,000	6,000	6,000	*14*
Housing Stock Regular Maintenance Costs	3,000	5,000	5,000	5,000	*15*
Staff Costs	1,000	1,000	1,000	1,000	*16*
Supplies and Services	300	300	300	300	*17*
Insurances, Rates and Taxes	700	900	900	900	*18*
Operating Commitments	11,000	13,200	13,200	13,200	*19*
Operating (Surplus)/Deficit	**1,100** *Deficit*	**6,700** *Deficit*	**6,200** *Deficit*	**6,000** *Deficit*	*20*
Housing Association Fund					
Balance Brought Forward - (Surplus)/Deficit	2,200	-	-	-	*21*
Housing Association Grant Costs:					
GHA Grant Costs - Completion of Current Schemes	2,400	3,900	1,400	0	*22*
GHA Grant Costs - Proposed Schemes	-	5,200	-	6,100	*23*
GHA Grant Costs - Proposed Schemes - Stock Utilisation Policy	-	5,000	5,000	5,000	*24*
Other Housing Association Grant Costs - Rosaire Sheltered Housing Scheme	-	1,200	-	-	*25*
Total 'Housing Association Grant Costs'	2,400	15,300	6,400	11,100	*26*
Other Commitments:					
Rent Rebate Compensatory Payments to GHA	800	1,000	1,300	1,500	*27*
Staff Costs	50	50	50	50	*28*
Consultants Fees	50	50	50	50	*29*
Total 'Other Commitments'	900	1,100	1,400	1,600	*30*
End of Year Balance - (Surplus)/Deficit	**5,500** *Deficit*	**16,400** *Deficit*	**7,800** *Deficit*	**12,700** *Deficit*	*31*
'CHP' Funding (Surplus)/Deficit	**6,400** *Deficit*	**23,100** *Deficit*	**14,000** *Deficit*	**18,700** *Deficit*	*32*
2005 'CHP' Capital Allocation ***(net of Cash Limit Transfer)***	(3,800)	-	-	-	*33*
Total 'CHP' Funding Requirement/Capital Allocation *(inclusive of the £1.2m [2005 prices] Cash Limit Transfer)*	**2,600**	**24,300**	**15,200**	**19,900**	*34*

Supporting Notes

Amounts are rounded to the nearest £50k.

Excludes interest charged and interest earned on 'deficit' and 'surplus' fund balances respectively.

Excludes any future income arising from the disposal of incompatible or surplus properties.

Line 12

Ignores the effect of any diminishment in rental income that may be suffered as a consequence of the Department having to carry a higher level of voided properties during the implementation of its Social Housing Development Plan. Early estimates suggest this being as high as £500k per annum.

Line 15

The £2m per annum increase from 2006 relates to the additional refurbishment costs of properties becoming vacated as a consequence of the Stock Utilisation Policy.

Line 22

Relates to the completion of the Rue des Marais, Roseville, La Chaumiere and Coach Station schemes.

Line 23

Relates to the redevelopment of the existing Victoria Avenue housing estate together with "Site B" and "Site C" as per the GHA's Development Plan.

Line 24

Relates to the grant costs of developing properties, which are in addition to those provided for in 'Line 23'.

(NB The Policy Council supports the recommendations set out in the Housing Department's Report subject to affordability and the availability of funds as explained in the accompanying letter of comment from the Treasury and Resources Department.

The Policy Council also commends the work being done by the Housing Department through the Corporate Housing Programme to provide a range of housing opportunities for those who cannot afford to buy a home at market prices and to rationalise its property assets to meet those needs in the most cost-effective way.

This year, the Policy and Resource Plan that will be presented to the December States meeting alongside the Budget Report will focus strongly on the need to prioritise public expenditure in the context of the overall Corporate Agenda or government business plan. This will be the subject of continuing work during 2006.

As the Treasury and Resources Department's letter rightly emphasises, money spent in one service area is money that cannot be spent elsewhere and it is, therefore, vitally important that decisions are taken with the broader picture in mind. In the meantime, the Policy Council considers that it would be premature for the States to make specific commitments to fund one programme in isolation.)

(NB The comments of the Treasury and Resources Department are set out below)

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

13th September 2005

Dear Sir

CORPORATE HOUSING PROGRAMME

The Treasury and Resources Department, subject to affordability and availability of funds, supports the recommendations of the Housing Department contained within the above report.

In particular, the Department supports the Housing Department's continuing efforts to raise funds by disposing of surplus and unsuitable properties. Such an approach is in line with the Treasury and Resources Department's own stated policy of property rationalisation. The Treasury and Resources Department continues to commend the Housing Department for its work in this and other areas.

Since the approval of the Corporate Housing Programme in February 2003, the States financial position has become very much tighter. The annual operating surplus for 2002 was £48.6m (2001: £57.3m). The Capital Reserve had a balance of nearly £100m with additional significant appropriations into the Reserve expected. The operating surplus for 2004 was just £9.2m and the Capital Reserve balance is £43m, most of which is already committed. At best the operating surplus for 2005 is likely to be less than in 2004.

Unless revenue expenditure is curtailed, operating surpluses will not be sufficient to cover even routine levels of capital expenditure (on essential maintenance and replacement equipment) let alone allow for capital injections into Health, Housing or Education.

When considering the Housing Department's recommendations, Members must remember that the same money cannot be spent twice. Monies expended in one area (whether capital or revenue) cannot be used again. Hence, if rent rebates are funded from general revenue that money will not be available for other Departments or capital expenditure (including Housing).

Unless drastic cuts are made in other services and the capital programmes for other areas (including Health and Education), the timetable for the delivery of the Corporate Housing Programme as originally envisaged in 2003 is simply unaffordable.

The Treasury and Resources Department fully recognises that, like all Departments, the Housing Department needs to have, as far as possible, budget certainty. In the December 2004 Policy and Resource Plan, (and again in the Interim Financial Report) a commitment was given to providing the States with the opportunity in December 2005 of discussing its capital priorities. **Until that Debate has taken place, it would be inappropriate for the Treasury and Resources Department to provide any indication of the funds it can recommend be put towards the Corporate Housing Programme on an ongoing basis.**

The Department recognises that the effect of the present financial position means that the timing of the full delivery of the Corporate Housing Programme will be delayed. However, regretfully this is also the case for other projects.

However, considerable levels of funding have been allocated to Housing in recent years and the Treasury and Resources Department remains committed to working with the Housing Department to further the aims and objectives of the Corporate Housing Programme as far as the current financial situation allows.

Yours faithfully

L S Trott
Minister

The States are asked to decide:-

XIV.- Whether, after consideration of the Report dated 18th August, 2005, of the Housing Department, they are of the opinion:-

1. To accept the statements of fact set out in paragraph 113 of that Report.

2. To note that the Housing Department will report back to the States, as soon as possible, with a detailed asset management and development plan to address the issues covered in that Report.

3. To approve the sale of the sites of Baubigny Cottages and the Petit Bouet estate, either as individual properties or as entire estates, as set out in paragraphs 55 and 56 of that Report.

4. To agree that the proceeds of these sales be credited to the Corporate Housing Programme Fund for the purpose of funding new development of properties required to meet current and future social housing needs as identified through the Corporate Housing Programme.

5. To agree that the Treasury and Resources Department be empowered to approve the Housing Department's proposals for the demolition and redevelopment of the Victoria Avenue estate as soon as they are finalised.

6. To direct the Treasury and Resources Department to liaise with the Housing Department regarding the future funding of the Corporate Housing Programme in particular regarding: (a) the maintenance and development of social housing; and (b) the implementation of existing States' resolutions regarding the funding of rebates for both States' tenants and Guernsey Housing Association nominated tenants; and to report back to the States with the outcome of those discussions as part of the Interim Financial Report for 2006, or sooner if feasible.

7. To direct the Treasury and Resources Department to make recommendations to the States as part of the 2006 Budget Report, regarding the funding of the social housing elements of the Corporate Housing Programme for the period 2006-2008, based on the estate improvements and development programmes referred to in that Report.

SCRUTINY COMMITTEE

SCRUTINY REVIEW OF COMPLAINTS POLICIES AND APPEALS PROCEDURES

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

26th August 2005

Dear Sir

1. EXECUTIVE SUMMARY

1.1 This report sets out the background to, and the conclusions and recommended actions arising from the Scrutiny Committee's review into States Department's complaints policies and appeals procedures.

1.2 The Scrutiny Committee has concluded that the opportunity to engage with the public, through Department's complaints policies and appeals procedures, is not fully grasped and encouraged. There is a need for a culture to be developed within the States that complaints and comments from the public are valued, dealt with appropriately, and used as a management tool. This should be led at a corporate level. Departments should also be encouraged to adopt the concept of a range of feedback, including compliments, comments and suggestions, as well as complaints.

1.3 Complaints policies and appeals procedures should have, as a minimum, the following characteristics:

- An emphasis on rapid resolution.
- Accessibility for the public.
- Transparency of process.
- Information to the complainant at all investigatory stages.
- Provision for independence in appeals.

- Closure.
- Cost effectiveness, both to the States and to the public.

1.4 The Scrutiny Committee will be monitoring Departments' responses and implementation of the recommended actions contained in this Report, with a view to assessing how the outcomes reflect the Review. The Committee anticipates that its recommended actions could be implemented within twelve months of the publication of this Report, and proposes to conduct a progress review shortly after that period.

1.5 The States of Deliberation are asked to note the findings, conclusions and recommended actions contained within this Report and the Scrutiny Panel's Report on Complaints Policies and Appeals Procedures, attached as Appendix 1. Further documentation has been lodged at the Greffe and is available for inspection by States Members and the General Public.

2. BACKGROUND

2.1 The Scrutiny Committee was established in May 2004, as an element of the revised machinery of government. Formal Scrutiny reviews of specific issues of public importance are a significant part of the Committee's work.

2.2 The adoption of States Departments' complaints policies and appeals procedures as the subject of the Scrutiny Committee's first public review was considered to be appropriate, as it is central to the States' relationship with the public.

2.3 The Review was conducted in accordance with the document entitled *A Guide to Scrutiny in Guernsey* (the "*Guide*"), issued by the Scrutiny Committee in January 2005. A Scrutiny Panel of four members was formed by the Committee to carry out the Review, and this Panel determined its approach and methodology for the Review. The Panel reported on progress at regular Committee meetings. The Panel's Draft Report was approved and adopted by the Committee at its meeting on 3 August 2005. The Final Report, including Departments' and the Policy Council's comments on the Report is attached as Appendix 1.

2.4 The Review focused on Departments' current policies in relation to complaints made by individuals and organisations, the identification of any gaps in provisions, and the preparation of recommendations. It did not include matters such as specific grievances, inter-departmental complaints, staff disciplinary matters, and issues subject to criminal proceedings or prejudicial to the public interest.

2.5 In carrying out the Review special attention was paid to the following aspects of complaints handling:

- The identification of complaints, their definition, classification and frequency, and how Departments identify and deal with habitual complainants.

- Departments' policies in relation to complaints, their general attitude to them, their objectives and priorities, and the extent to which they are used to improve their service delivery.

- Departments' detailed procedures, both formal and informal, documented and undocumented, for dealing with complaints.

- Staff issues, such as resources, training, support for staff, how complaints by the public against staff are handled, and whistle-blowing.

- Formal and informal appeals provisions, and any support provided for the appellant.

- Documentation, recording, analysis, monitoring, and review of complaints, and review of complaints policies and procedures.

- Provisions for public awareness of Departments' complaints procedures, including the extent to which relevant information is promulgated, and how easy it is for the public to make complaints or provide other feedback.

2.6 Subsidiary issues considered were: whether there should be a corporate approach to complaints, liability and financial considerations, and the role of non-governmental organisations and others.

2.7 To carry out the Review invitations were sent to all Departments inviting them to submit written evidence as to their policies and practices in relation to the handling of complaints. Once responses had been received and considered this was followed by all Department Ministers presenting their Departments' policies at a public hearing. A number of specific organisations were also invited to submit evidence, and a general invitation was issued to the public through the media. Several organisations and individuals responded to these invitations, and the Panel received both written evidence and evidence in person.

2.8 It became apparent during the Review that, attention having been drawn to the subject of complaints handling, a number of Departments started to prepare more comprehensive complaints policies and procedures. This, in the Committee's view, is to be welcomed, and reinforces the value of the scrutiny process. These actions have been taken into account in this Report.

2.9 The Scrutiny Committee will be monitoring Departments' responses and implementation of the recommendations contained in this Report, with a view to

assessing how the outcomes reflect the Review. The Committee anticipates that its recommendations could be implemented within 12 months of the publication of this Report, and proposes to conduct a progress review shortly after that period.

3. CONCLUSIONS

3.1 General

3.1.1 The public expect States Departments to provide quality services which are both efficient and effective. If they consider those services unsatisfactory they have a right to complain, to have their complaint investigated objectively, to receive an appropriate and timely response, and to be able to take the matter further if they are still dissatisfied. As a precursor to this process they must have access to information as to how and to whom to complain. Following the restructuring of the machinery of government it is not always evident to people as to which Department is responsible in a particular case.

3.1.2 Current mechanisms available to complainants include: individual Departments' complaints procedures (both formal and informal), approaches to States Deputies, appeals and tribunals, the courts, Judicial Review and referral to a Review Board. Some also use the media to air their complaints.

3.1.3 Feedback by members of the public to States Departments can relate to a range of issues, including:

- the policies of the Department,
- decisions made by the Department,
- services provided by the Department,
- the manner in which matters are handled by the Department,
- the actions of Department staff, and
- liability claims.

Any complaints policies must take account of this variety of issues.

3.1.4 The nature of public feedback to Departments also covers a broad range, from compliments to complaints. It can include, for example, suggestions for service improvement, and comments arising from personal experiences with States services. It must not, therefore, be assumed that all feedback is critical, or that States Departments cannot learn from positive as well as negative feedback. The Scrutiny Committee has concluded that complaints should usefully be

regarded as part of the spectrum of feedback, particularly since there are some similar considerations involved in the handling of all types of feedback.

3.1.5 The broad spectrum of public feedback, however, may well mean that no single policy or procedure is appropriate for all cases. Departments also differ markedly in the nature of their functions and operations. An appropriate policy or procedure for the Public Services Department, for example, may be quite inappropriate to, say, the Social Security Department. To some extent, therefore, policies and procedures need to be tailor-made for each Department. Nevertheless, some consistency in approach to complaints policies would, in the view of the Scrutiny Committee, benefit both the public and the States.

3.1.6 While the public expect resolution of their concerns, and redress where appropriate, Departments can, in their turn, use complaints, comments, suggestions and compliments to evaluate, remedy and improve their services. They should, therefore, be encouraged to welcome such feedback and facilitate it. They would also benefit from having a structured mechanism for recording, evaluating and reviewing feedback.

3.1.7 The representations made by the public demonstrated recurrent problems faced by people raising concerns with States Departments. These included: finding out which Department is responsible, knowing who to contact, the difficulty of making a complaint, a lack of information about how the complaint would be handled, absence of advice as to the progress of the Department's investigation, lack of consistency between Departments and in the handling of the complaint during its progress, long delays in responses from Departments, problems caused by the involvement of more than one Department, and the special conditions applied to potential liability claims.

3.1.8 The Committee has noted the distinction between complaints and appeals, made by the National Audit Office in its recent study on Citizen Redress in the UK (*Citizen Redress: What citizens can do if things go wrong with public services*, NAO, March 2005). It defined *complaints* as "expressions of dissatisfaction with any aspect of department or agency conduct" (i.e. indicators of administrative failure), and *appeals* as "expressions of dissatisfaction with substantive decisions made by the department" (i.e. concerning the accuracy or correctness of decisions). This appears to the Scrutiny Committee to be a useful distinction.

3.1.9 The Committee has also noted the conclusions of the National Audit Office (NAO) report on Citizen Redress, mentioned above. Its main conclusions are that UK government departments and agencies should ensure that citizens have easy access to information about where to seek redress, and that redress processes should be actively managed to provide accurate, timely responses to those citizens cost effectively. In many ways the Committee's conclusions echo those of the NAO. The NAO report is summarised in Appendix E to the Report

attached as Appendix 1.

3.1.10 The Committee is disappointed that the opportunity to engage with the public, through Departments' complaints policies and appeals procedures, is not fully grasped and encouraged. There is a need for a culture to be developed within the States that complaints and comments from the public are valued, dealt with appropriately, and used as a management tool. This should be led at a corporate level. Departments should also be encouraged to adopt the concept of a range of feedback, including compliments, comments and suggestions, as well as complaints.

3.1.11 Complaints policies and appeals procedures should have, as a minimum, the following characteristics:

- An emphasis on rapid resolution.
- Accessibility for the public.
- Transparency of process.
- Information to the complainant at all investigatory stages.
- Provision for independence in appeals.
- Closure.
- Cost effectiveness, both to the States and to the public.

3.2 Identification of complaints

3.2.1 Evidence presented demonstrated a lack of consistency in complaints policies and appeals procedures, both between Departments and within Departments. Not only is there no uniformly accepted definition within the States of what constitutes a complaint, but it was also evident that most Departments generally lacked any formal definition.

3.2.2 The Committee believes that the States should consider the adoption of a uniform definition of complaints at the corporate level. Several examples of such definitions are available at the Greffe. It would be useful for Departments to have a policy on identifying and dealing with habitual and vexatious complainants.

3.3 Complaints Policies

3.3.1 The Committee found that, with few exceptions, Departments are insufficiently positive about the complaints process. It believes that Departments should be

encouraged to adopt a general and concise statement of complaints policy objectives, and that this should be corporate led, with the encouragement of the Policy Council.

3.4 Procedures for the investigation of complaints

3.4.1 Very few Departments have anything approaching documented procedures for the investigation of complaints, although some have adopted, or have started preparing, procedures during the course of this Review. All Departments should be encouraged to adopt such procedures; there are many examples of best practice upon which they may be based. Procedures should focus on early and rapid resolution of the complaint, preferably at front-line staff level, and should provide for the progression of the complaint through further staff levels, if necessary. Complainants should be provided with a speedy response, a description as to how the complaint was investigated, a full explanation of the outcome, and information about how to take the matter further, including appeals provisions.

3.5 Staff Issues

3.5.1 Additional training should be provided for staff in how to deal with complaints. This training should be provided both at the corporate level, and, where appropriate, at the Department level. There should be specific provision in Departments' procedures for circumstances in which complaints are made against staff, and staff should be protected against physical and verbal abuse. There should be a corporate policy on whistle-blowing, including representations by staff about management issues. There are no significant concerns about staff resources, but Departments should keep this issue under review.

3.6 Appeals

3.6.1 Formal, statutory appeals provisions have been developed in an *ad hoc* fashion as legislation has been introduced, but there is a general lack of both formal and informal appeals procedures, and no corporate policy in respect of appeals. There is a need for a corporate policy on appeals about Departments' individual decisions, and this policy should provide for independence, accessibility, fairness, transparency, simplicity and inexpensiveness. Potential appellants should be provided with information about how to appeal and what the appeals process entails.

3.7 Evaluation of complaints

3.7.1 Few Departments have any structured method of recording, collating, analysing and evaluating public feedback. All Departments should be encouraged to develop this facility. Political Boards should regularly see categorised summaries of complaints and other feedback comments, including any resultant

changes to public services. They should also review their complaints policies and procedures regularly.

3.8 Public awareness

3.8.1 It is an essential part of good government that the public have ready access to information about the fact that they can complain, how to do so, how their complaint is investigated, and how the conclusion was reached. The present state of public awareness of most Departments' complaints policies and procedures, where they exist, is woefully inadequate, as a result of Departments' lack of pro-active attention to these public needs. As a matter of priority, therefore, all Departments should be encouraged to publish advice on how to complain or make comments on services, to whom complaints and comments should be addressed, and should facilitate them by the provision of simple leaflets, pre-addressed forms, and information on web sites, the latter being facilitated by the Treasury & Resources Department. Contact addresses and telephone numbers should be included on all relevant leaflets, correspondence and publicity, and provision should be made for non-English speakers.

3.8.2 There should also be a corporate-level leaflet, produced by the Policy Council, providing general information about Departments' respective responsibilities, who to contact and how complaints should be made. This should be duplicated on the States web site.

3.9 Corporate approach

3.9.1 While there are benefits from the adoption of a corporate policy on complaints, the Committee recognises that Departments have very different functions, management organisations and methods of operation, and distinct customer bases. Therefore, Departments should be encouraged by the Policy Council to develop their own procedures.

3.10 Liability

3.10.1 Liability and insurance considerations can have significant implications for the way complaints are dealt with, the time taken to resolve them, and the experience of the complainant. Departments are quite properly required to report potential claims to the Treasury & Resources Department so that they can be taken up with the States' insurers, and the Panel recommends that the Treasury & Resources Department should prepare appropriate guidelines, taking into account the need to deal with such complaints expeditiously, while safeguarding the States' interests.

3.11 Financial Considerations

3.11.1 Although currently unquantified, the costs to the States of handling complaints could be substantial, and Departments should seek to contain them in a manner

commensurate with good service. This could be achieved by empowering front-line staff to resolve issues rapidly as far as possible, with only difficult cases being progressed to higher staff levels.

3.12 The Role of Non-Government Organisations and Others

3.12.1 Non-government organisations, especially those dealing with the general public, may have important roles to play in Departments' handling of complaints, including the provision of information about complaints procedures, the identification of the responsible Department, to whom and how complaints should be made, assistance to the complainant, and, where appropriate, monitoring of the progress of resolution of complaints. They may also have a role in acting as mediators.

4. RECOMMENDED ACTIONS

4.1 Actions are categorised as **those to be taken at corporate level and those to be taken at Department level.**

4.2 At the corporate level the Policy Council is recommended to encourage:

4.2.1 a culture within the States that complaints and comments from the public are welcomed, valued, dealt with appropriately, and used as a management tool;

4.2.2 Departments to adopt the concept of a range of feedback, including compliments and suggestions, but highlighting complaints;

4.2.3 the adoption of a uniform definition of complaint throughout the States;

4.2.4 the adoption of a general and concise statement of complaints policy objectives, and a corporate statement of complaints policy;

4.2.5 the provision of corporate staff training in the handling of public feedback, especially complaints;

4.2.6 the development of a corporate statement of policy in respect of complaints against staff including provisions for whistle-blowing and encouragement for Departments to carry this policy into their own procedures;

4.2.7 the Human Resources Unit to review the protection of employees making disclosures of malpractice;

4.2.8 the development of a corporate policy on appeals; and

4.2.9 the provision of central advice to the public about which Department is responsible for specific matters, guidance as to the appropriate contact point within the relevant Department, and provision of information as to how to make

complaints and comments.

4.3 At the corporate level the Treasury & Resources Department is recommended to:

4.3.1 give priority to providing relevant information on States web sites, in association with other Departments; and

4.3.2 prepare guidelines for Departments in handling complaints which may have liability implications. These guidelines should take into account the need for dealing with such complaints in an expeditious manner, while safeguarding the States' interests.

4.4 At the Department level, each States Department is recommended to consider:

4.4.1 signing up to a general and concise statement of complaints policy objectives, including the adoption of a culture that complaints from the public are valued, dealt with appropriately, and used as a management tool;

4.4.2 adopting formal, documented complaints procedures, taking into account examples of best practice;

4.4.3 taking account in their complaints procedures of special provisions needed in respect of complaints against staff, and whistle-blowing;

4.4.4 adopting the principle that complaints should be resolved at the most appropriate staff level, and as rapidly as possible, in the interests of service to the public and the containment of costs;

4.4.5 adopting specific provisions for appeals, in accordance with the corporate policy;

4.4.6 taking account of the potential roles of non-government organisations, individuals and mediators in the resolution of complaints;

4.4.7 the provision of Departmental staff training in dealing with public feedback, especially complaints;

4.4.8 recording, collating, analysing and evaluating public feedback, including complaints;

4.4.9 reviewing complaints policies and procedures regularly;

4.4.10 publishing complaints policies and procedures, together with appeals procedures, in leaflet form, and on web sites, and make this information generally available; and

4.4.11 facilitating the making of complaints and comments, for example by the provision of simple forms, and ensuring that appropriate contact information is provided in correspondence.

5. RECOMMENDATIONS

5.1 The Scrutiny Committee recommends the States:

a) To note this report.

b) To recommend Departments to review their complaints policies and appeals procedures in response to this report and to request the Scrutiny Committee to monitor such action taken by Departments and report back when appropriate.

Yours faithfully

J A Pritchard
Chairman

SCRUTINY COMMITTEE

THE STATES OF GUERNSEY

Scrutiny Review

Complaints Policies and Appeals Procedures

Report of the Scrutiny Panel

August 2005

The Scrutiny Committee wishes to pay special tribute to

Deputy Mike Burbridge

a most valuable Member of the Scrutiny Panel,
who gave excellent service to the work of the Committee
and especially to this Review,
and who tragically died during the final phase
of the preparation of this Report

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C. Issues to be raised with all Department Ministers
D. Judicial Review and Administrative Review Boards
E. National Audit Office report on Citizen Redress – Summary and notes
F. Article 6 of the Human Rights Convention
G. List of examples of good practice
H. Policy Council and Departments' comments on the Final Draft Report

List of documents lodged at the Greffe

1. INTRODUCTION

1.1 The Scrutiny Committee was established in May 2004, as an element of the revised machinery of government. The Committee's terms of reference 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, page 893

1.2 Formal scrutiny reviews of specific issues of public importance are a significant part of the Committee's work. For its first public review the Committee decided to focus on States Departments' complaints policies and appeals procedures, and this Report details the results of that review.

1.3 The Scrutiny Panel members, selected from the Committee's membership, were:

Deputy Jean Pritchard, Chairman
Deputy Sam Maindonald, Vice-Chairman
The late Deputy Mike Burbridge
Deputy Brian de Jersey

1.4 The Review was planned over the latter months of 2004, with initial written responses being obtained from States Departments. It was launched publicly on 7 February 2005, representations from the public and organisations to be submitted by 25 February. A formal, public hearing was held over the period 22 to 29 March, following which all representations and Department responses were evaluated and analysed, preparatory to the drafting of this Report.

1.5 The Committee and the Scrutiny Panel would like to thank all those Departments, organisations and individuals who have contributed to, and cooperated with this Scrutiny Review.

1.6 The proposals for the establishment of the Scrutiny Committee made it clear that: "The emphasis of the scrutiny process would be on examining policy and service delivery in a constructive and objective manner. The focus of each 'review' would be to assist departments and the States as a whole to improve in these areas." (Advisory and Finance Committee: Future Machinery of Government in Guernsey, Billet d'Etat VII 2003.) The Review Panel has adopted this approach. It is not for the Scrutiny Committee to direct Departments, but to assess performance. The conclusions and recommendations contained in this Report are, therefore, designed to assist Departments, and are not intended to be prescriptive. Where it is stated that Departments "should" follow a particular course, the intention is that these should be read as suggestions, and not directions.

2. EXECUTIVE SUMMARY

2.1 Background to the Review

2.1.1 The adoption of States Departments' complaints policies and appeals procedures as the subject of the Scrutiny Committee's first public review was considered appropriate, as it is central to the States' relationship with the public. It provided experience for all Departments with the new scrutiny review process, and was, in turn, a useful exercise for the Committee in dealing with all Departments equally.

2.1.2 The Review focused on Departments' current policies in relation to complaints made by individuals and organisations, the identification of any gaps in provisions, and the preparation of recommendations. It did not include matters such as specific grievances, inter-departmental complaints, staff disciplinary matters, and issues subject to criminal proceedings or prejudicial to the public interest.

2.1.3 In accordance with the Committee's published guides, the Review was objective, evidence based, and transparent. The Panel received responses from Departments to its invitation to submit written evidence as to their policies and practices in relation to the handling of complaints, and this was followed by all Department Ministers presenting their Departments' policies at a public hearing. A number of specific organisations were also invited to submit evidence, and a general invitation was issued to the public through the media. Several organisations and individuals responded to these invitations, and the Panel received both written evidence and evidence in person.

2.1.4 The public expect States Departments to provide quality services which are both efficient and effective. If they consider those services unsatisfactory they have a right to complain, to have their complaint investigated objectively, to receive an appropriate and timely response, and to be able to take the matter further if they are still dissatisfied. As a precursor to this process they must have access to information as to how and to whom to complain. Following the restructuring of the machinery of government it is not always evident to people as to which Department is responsible in a particular case.

2.1.5 It is apparent that, attention having been drawn to the subject of complaints handling during the Review, a number of Departments started to prepare more comprehensive complaints policies and procedures. This, in the Committee's view, is to be welcomed, and reinforces the value of the scrutiny process. These actions have been taken into account in this Report.

2.1.6 Current mechanisms available to complainants include: individual Departments' complaints procedures (both formal and informal), approaches to States Deputies, appeals and tribunals, the courts, Judicial Review and referral to a Review Board. Some also use the media to air their complaints.

2.1.7 Feedback by members of the public to States Departments can relate to a range of issues, including:

- the policies of the Department,
- decisions made by the Department,
- services provided by the Department,
- the manner in which matters are handled by the Department,
- the actions of Department staff, and
- liability claims.

Any complaints policies must take account of this variety of issues.

2.1.8 The nature of public feedback to Departments also covers a broad range, from compliments to complaints. It can include, for example, suggestions for service improvement, and comments arising from personal experiences with States services. It must not, therefore, be assumed that all feedback is critical, or that States Departments cannot learn from positive as well as negative feedback. The Scrutiny Panel concluded that complaints could usefully be regarded as part of the spectrum of feedback, particularly since there are some similar considerations involved in the handling of all types of feedback.

2.1.9 The broad spectrum of public feedback, however, may well mean that no single policy or procedure is appropriate for all cases. Departments also differ markedly in the nature of their functions and operations. An appropriate policy or procedure for the Public Services Department, for example, may be quite inappropriate to, say, the Social Security Department. To some extent, therefore, policies and procedures need to be tailor-made for each Department. **Nevertheless, some consistency in approach to complaints policies would, in the view of the Scrutiny Panel, benefit both the public and the States.**

2.1.10 While the public expect resolution of their concerns, and redress where appropriate, Departments can, in their turn, use complaints, comments, suggestions and compliments to evaluate, remedy and improve their services. They should, therefore, be encouraged to welcome such feedback and facilitate it. They would also benefit from having a structured mechanism for recording, evaluating and reviewing feedback.

2.1.11 The representations made by the public to the Scrutiny Panel demonstrated recurrent problems faced by people raising concerns with States Departments. These included: finding out which Department is responsible, knowing who to contact, the difficulty of making a complaint, a lack of information about how the complaint would be handled, absence of advice as to the progress of the Department's investigation, lack of consistency between Departments and in the handling of the complaint during its progress, long delays in responses from Departments, problems caused by the involvement of more than one Department, and the special conditions applied to potential liability claims.

2.1.12 The Panel also noted the distinction between complaints and appeals, made by the National Audit Office in its recent study on Citizen Redress in the UK (*Citizen Redress: What citizens can do if things go wrong with public services*, NAO, March 2005). It defined *complaints* as "expressions of dissatisfaction with any aspect of department or agency conduct" (ie indicators of administrative failure), and *appeals* as "expressions of dissatisfaction with substantive decisions made by the department" (ie concerning the accuracy or correctness of decisions). This appeared to the Scrutiny Panel to be a useful distinction.

2.1.13 In its review the Panel paid special attention to the following aspects of complaints handling:

- The identification of complaints, their definition, classification and frequency, and how Departments identify and deal with habitual complainants.
- Departments' policies in relation to complaints, their general attitude to them, their objectives and priorities, and the extent to which they are used to improve their service delivery.
- Departments' detailed procedures, both formal and informal, documented and undocumented, for dealing with complaints.
- Staff issues, such as resources, training, support for staff, how complaints by the public against staff are handled, and whistle-blowing.
- Formal and informal appeals provisions, and any support provided for the appellant.
- Documentation, recording, analysis, monitoring, and review of complaints, and review of complaints policies and procedures.
- Provisions for public awareness of Departments' complaints procedures, including the extent to which relevant information is promulgated, and how easy it is for the public to make complaints or provide other feedback.

2.1.14 The Panel also considered several subsidiary issues: whether there should be a corporate approach to complaints, liability and financial considerations, and the role of non-governmental organisations and others.

2.2 General conclusions

2.2.1 The remainder of this Executive Summary follows the headings of the above aspects, as does the Report itself, and the relevant sections of the Report, where greater detail and discussion can be found, are here cross-referenced for ease of referral. **The Scrutiny Panel makes a number of specific recommendations, which are stated in full in section 14 of this Report, categorised as actions to be taken at corporate level and those to be taken at Department level.**

2.2.2 **The Panel is disappointed that the opportunity to engage with the public is not fully grasped and encouraged. There is a need for a culture to be developed within the States that complaints and comments from the public are valued, dealt with appropriately, and used as a management tool. This should be led at a corporate level. Departments should also be encouraged to adopt the concept of a range of feedback, including compliments, comments and suggestions, as well as complaints. Complaints policies and appeals procedures should have, as a minimum, the following characteristics:**

- **An emphasis on rapid resolution.**
- **Accessibility to the public.**
- **Transparency of process.**
- **Information to the complainant at all investigatory stages.**
- **Provision for independence in appeals.**
- **Closure.**
- **Cost effectiveness, both to the States and to the public.**

2.2.3 The Panel also notes the conclusions of the National Audit Office (NAO) report on Citizen Redress, mentioned above. Its main conclusions are that UK government departments and agencies should ensure that citizens have easy access to information about where to seek redress, and that redress processes should be actively managed to provide accurate, timely responses to those citizens cost effectively. In many ways the Panel's conclusions echo those of the NAO. The NAO report is summarised in Appendix E to this Report.

2.3 **Identification of complaints** (section 6.4)

2.3.1 Evidence presented to the Panel demonstrated a lack of consistency in complaints policies and appeals procedures, both between Departments and within Departments. Not only is there no uniformly accepted definition within the States of what constitutes a complaint, but it was also evident that most Departments generally lacked any formal definition.

2.3.2 The Panel believes that the States should consider the adoption of a uniform definition of complaints at the corporate level. Several examples of such definitions are available at the Greffe. It would be useful for Departments to have a policy on identifying and dealing with habitual and vexatious complainants.

2.4 **Complaints policies** (section 7.4)

2.4.1 The Panel found that, with few exceptions, Departments are insufficiently positive about the complaints process. It believes that Departments should be encouraged to adopt a general and concise statement of complaints policy objectives, and that this should be corporate led, with the encouragement of the Policy Council.

2.5 **Procedures for the investigation of complaints** (section 8.2)

2.5.1 Very few Departments have anything approaching documented procedures for the investigation of complaints, although some have adopted, or have started preparing, procedures during the course of this Review. All Departments should be encouraged to adopt such procedures; there are many examples of best practice upon which they may be based. Procedures should focus on early and rapid resolution of the complaint, preferably at front-line staff level, and should provide for the progression of the complaint through further staff levels, if necessary. Complainants should be provided with a speedy response, a description as to how the complaint was investigated, a full explanation of the outcome, and information about how to take the matter further, including appeals provisions.

2.6 **Staff issues** (section 9.6)

2.6.1 Additional training should be provided for staff in how to deal with complaints. This training should be provided both at the corporate level, and, where appropriate, at the Department level. There should be specific provision in Departments' procedures for circumstances in which complaints are made against staff, and staff should be protected against physical and verbal abuse. There should be a corporate policy on whistle-blowing, including representations by staff about management issues. There are no significant concerns about staff resources, but Departments should keep this issue under review.

2.7 **Appeals** (section 10.7)

2.7.1 Formal, statutory appeals provisions have been developed in an *ad hoc* fashion as legislation has been introduced, but there is a general lack of both formal and informal appeals procedures, and no corporate policy in respect of appeals. There is a need for a corporate policy on appeals about Departments' individual decisions, and this policy should provide for independence, accessibility, fairness, transparency, simplicity and inexpensiveness. Potential appellants should be provided with information about how to appeal and what the appeals process entails.

2.8 **Evaluation of complaints** (section 11.3)

2.8.1 Few Departments have any structured method of recording, collating, analysing and evaluating public feedback. All Departments should be encouraged to develop this facility. Political Boards should regularly see categorised summaries of complaints and other feedback comments, including any resultant changes to public services. They should also review their complaints policies and procedures regularly.

2.9 **Public awareness** (section 12.4)

2.9.1 It is an essential part of good government that the public have ready access to information about the fact that they can complain, how to do so, how their complaint is investigated, and how the conclusion was reached. The present state of public awareness of most Departments' complaints policies and procedures, where they exist, is woefully inadequate, as a result of Departments' lack of pro-active attention to these public needs. As a matter of priority, therefore, all Departments should be encouraged to publish advice on how to complain or make comments on services, to whom complaints and comments should be addressed, and should facilitate them by the provision of simple leaflets, pre-addressed forms, and information on web sites, the latter being facilitated by the **Treasury & Resources Department**. Contact addresses and telephone numbers should be included on all relevant leaflets, correspondence and publicity, and provision should be made for non-English speakers.

2.9.2 There should also be a corporate-level leaflet, produced by the **Policy Council**, providing general information about Departments' respective responsibilities, who to contact and how complaints should be made. This should be duplicated on the States web site.

2.10 **A corporate approach?** (section 13.1)

2.10.1 While there are benefits from the adoption of a corporate policy on complaints, the Panel recognises that Departments have very different functions, management organisations and methods of operation, and distinct customer bases. Therefore, Departments should be encouraged by the **Policy Council** to develop their own procedures.

2.11 **Liability** (section 13.2)

2.11.1 Liability and insurance considerations can have significant implications for the way complaints are dealt with, the time taken to resolve them, and the experience of the complainant. Departments are quite properly required to report potential claims to the **Treasury & Resources Department** so that they can be taken up with the States' insurers, and the Panel recommends that the **Treasury & Resources Department** should prepare appropriate guidelines, taking into account the need to deal with such complaints expeditiously, while safeguarding the States' interests.

2.12 **Financial considerations** (section 13.3)

2.12.1 Although currently unquantified, the costs to the States of handling complaints could be substantial, and Departments should seek to contain them in a manner commensurate with good service. This could be achieved by empowering front-line staff to resolve issues rapidly as far as possible, with only difficult cases being progressed to higher staff levels.

2.13 **The role of non-government organisations and others** (section 13.4)

2.13.1 Non-government organisations, especially those dealing with the general public, may have important roles to play in Departments' handling of complaints, including the provision of information about complaints procedures, the identification of the responsible Department, to whom and how complaints should be made, assistance to the complainant, and, where appropriate, monitoring of the progress of resolution of complaints. They may also have a role in acting as mediators.

2.14 **Review and monitoring**

2.14.1 In accordance with the *Guide to Scrutiny in Guernsey*, the Scrutiny Committee will be monitoring Departments' responses and implementation of the recommendations contained in this Report, with a view to assessing how the outcomes reflect the Review. The Committee anticipates that its recommendations could be implemented within 12 months of the publication of this Report, and proposes to conduct a progress review shortly after that period.

2.14.2 The Scrutiny Committee is also conducting an objective assessment of the Scrutiny Panel and its performance in carrying out the Review, in order to improve the conduct of future Reviews.

3. PURPOSE AND SCOPE OF THE REVIEW

3.1 Purpose of the Review

3.1.1 The terms of reference for this Scrutiny Review are:

> *To review the policies of States Departments and Committees for dealing with complaints, and their appeals procedures.*

3.1.2 In the view of the Scrutiny Committee, recipients of services provided by the States have a right to expect a reasonable quality of service, to be able to complain to the relevant Department if the service does not meet their expectations, to expect that the matter is investigated expeditiously and efficiently, to receive an appropriate response, and to be given the opportunity to take the matter further through an appeal process.

3.1.3 Departments, in their turn, can use complaints, expressions of concern, suggestions, or compliments, to evaluate, remedy and improve their services.

3.1.4 The Committee felt that this was an appropriate area for its first public review, and met the criteria established in the Committee's *Guide to Scrutiny in Guernsey*. It goes directly to the heart of States Departments' relationships with the public, with emphasis on the perception by which Departments' service delivery is viewed by the public, the extent to which their actions and services meet public expectations, and how States bodies inter-relate with the public when those expectations are not met. It also, importantly, gave all Departments experience of the review process, and gave the Committee experience of dealing with all Departments. It was, in short, a good subject for overviewing the workings of the new States Departments, in an area of considerable public importance, namely the method by which expressions of dissatisfaction, in whatever form, are dealt with.

3.2 Scope of the Review

3.2.1 The Review was directed at assessing Departments' current policies in relation to complaints made by individuals and organisations, identifying any gaps in their current provisions or monitoring, and making appropriate recommendations.

3.2.2 The Committee <u>excluded</u> the following matters from the Review: specific individual grievances, inter-departmental complaints, staff disciplinary matters, complaints against individual politicians, any areas of States policy being investigated by other bodies, and any issues that were subject to criminal proceedings or prejudicial to the public interest. It did, however, include policies relating to allegations of malpractice, ie whistle-blowing, by staff.

3.2.3 The type of complaints where Departments' practices were explored during the Review typically related to:

- the policies of the Department,
- decisions made by the Department,
- services provided by the Department,
- the manner in which matters are handled by the Department,
- the actions of Department staff, and
- provisions for appeal.

3.2.4 While examples of specific complaints served to clarify the issues raised, they were not themselves subject to the Review.

4. METHODOLOGY

4.1 Guides

4.1.1 The Review was conducted in accordance with the document entitled *A Guide to Scrutiny in Guernsey* (the "*Guide*"), issued by the Scrutiny Committee in January 2005. Particular attention was paid to the sections in that document relating to the conduct of Committee members, the gathering of evidence, and the conduct of the Review.

4.1.2 As provided for in the *Guide*, a *Scrutiny Proposal* was drafted, and is reproduced in Appendix A to this Report. The Scrutiny Panel of four members was agreed by the Committee, and this Panel determined its approach and methodology for the Review. The Panel reported on progress at regular Committee meetings.

4.1.3 A guide entitled *Giving Evidence to Scrutiny Panels: A Guide for Ministers and Chairpersons* was provided to all Department Ministers and Chairmen of States Committees. One entitled *Giving Evidence to Scrutiny Panels: A Guide for Individuals and Organisations* was made available generally, and was provided to those individual members of the public who approached the Panel, and to organisations invited by the Panel to submit representations, or which themselves approached the Panel. A *Briefing Paper* (see Appendix B) was also issued to all Ministers, Chairmen, and those who approached the Panel.

4.2 Invitations to submit evidence

4.2.1 Letters were sent to all Department Ministers in November 2004, inviting them to submit evidence as to their Departments' policies and practices in respect of complaints from members of the public. Responses were collated in the following weeks, and in February 2005 additional letters were sent highlighting issues which the Panel wished to explore with the Ministers at the public hearing. Correspondence was also held with Chairmen of States Committees (House, Legislation Select, Public Accounts, and Public Sector Remuneration), and it became evident that no further exploration of issues with them concerning complaints policies was necessary, as the Review had little or no relevance to them. Committee Chairmen were, however, given the opportunity of attending the hearing or submitting evidence, but none pursued this course. The Panel itself decided not to pursue evidence from the **Policy Council**, as it considered that the only matter of relevance referred to staff training, for which information was readily available.

4.2.2 The Panel invited the following non-governmental organisations to make any comments on Departments' complaints policies and procedures based on their experience:

- Association of Guernsey Civil Servants
- Guernsey Chamber of Commerce
- Citizens Advice Bureau
- Guernsey Consumer Group
- Guernsey Hotel and Tourism Association
- Information Exchange Guernsey
- States Tenants Action Group

4.2.3 Responses were received from: the Association of Guernsey Civil Servants, Citizens Advice Bureau, and Information Exchange Guernsey.

4.2.4 Letters of invitation were also sent to Guernsey Trade Unions, a response being received from the Negotiating Committee Teachers and Lecturers in Guernsey (NCTLG), and to all States Members, responses being received from Deputies Graham Guille and Carla McNulty Bauer.

4.2.5 A notice was placed in La Gazette Officielle, and a Guernsey Press advertisement and press releases were issued, inviting members of the public to make representations to the Panel. This resulted in representations from:

- Alderney Amateur Swimming Club
- Chateaux Estate Agents, on behalf of Mr & Mrs Costelloe
- Clos de Mont Arrivé Residents Committee
- Mr M F Cooper
- Mrs N Heath
- Mr & Mrs N A Lempriere
- Mr J H Lenfestey
- Mr D L Purdy
- Mr J Schute
- Mr H P Simpson

4.2.6 Four further individuals requested that their representations be kept confidential, a request which has been respected by the Committee, and one of them subsequently presented protected evidence to the Panel in a hearing. Representations from an additional two individuals were received too late for consideration.

4.2.7 Copies of written representations received from Ministers and organisations, and those individuals who did not request confidentiality have been lodged at the Greffe.

4.3 Hearing procedure

4.3.1 Essential features of the scrutiny process are that it is objective, evidence based, and transparent. This was assured in this case by the holding of a public hearing at which Ministers presented evidence on behalf of their Departments, and were questioned upon it by Scrutiny Panel members. The hearing was tape-recorded, transcripts and summaries were prepared, and the written evidence received was published.

4.3.2 A further important feature is political accountability. The Panel therefore invited Ministers to appear at the public hearing to explain their Departments' policies and procedures, and arrangements were made for civil servants to support them. It should be made clear, however, that this procedure did not imply that Ministers were themselves personally responsible or accountable for their Departments' policies, merely that they were responsible for explaining those policies.

4.3.3 In advance of the hearing the Panel provided all Ministers with a list of the general issues which it planned to raise with them. This list is included as Appendix C. In addition, each Minister was provided with a paper outlining the issues specific to their Department which the Panel proposed to discuss at the hearing. Those papers have been lodged at the Greffe.

4.3.4 Ministers were also sent copies of written representations received from the public and various organisations where those representations raised issues the Panel wished to explore with particular Ministers. Copies of the correspondence are lodged at the Greffe.

4.3.5 In accordance with the *Guide*, the location and layout of the hearing venue were selected respecting the nature of this Review. As all Departments were to be involved, the venue chosen was a neutral one, La Trelade Hotel. The layout of the hearing room was designed to retain a degree of formality, while retaining a sense of proportion, and with facilities for the public to attend.

4.3.6 In view of representations received from Alderney residents, the Panel decided to hold part of the hearing in that island. Unfortunately, due to adverse weather conditions two members of the Panel were unable to attend. Nevertheless, the hearing went ahead.

4.3.7 The hearing was held in Guernsey on 22, 23 and 24 March 2005, and in Alderney on 29 March 2005. Appropriate announcements of hearing dates and schedules were made through the media. Notes of the hearing have been lodged at the Greffe.

4.3.8 In addition to Department Ministers, the Panel invited some of the organisations and individuals who had made written representations to submit oral evidence at the hearing, and the following accepted the invitation: Association of Guernsey Civil Servants, Citizens Advice Bureau, Information Exchange Guernsey, Negotiating Committee Teachers and Lecturers in Guernsey, Clos de Mont Arrivé Residents Committee, Alderney Amateur Swimming Club, and Mrs Nicki Heath.

4.3.9 Transcripts of the hearing have been lodged at the Greffe.

4.4 **Report preparation**

4.4.1 Following the hearing, the Panel prepared a draft Report, and sent copies of the relevant sections (without the conclusions and recommendations) to all those who had submitted evidence, asking them to inform the Panel of any factual errors and any further information which they would wish to draw to the Panel's attention. The Panel then considered all responses received, and amended the Report as it felt appropriate.

4.4.2 The Panel also sent a copy of the draft, again without the conclusions and recommendations, to the **Policy Council**, as references to the Council were included in the Report, especially in relation to staff issues. The Panel subsequently met with the Chief Minister and the Head of Human Resources to discuss these issues further, and amended the Report to reflect those discussions.

4.4.3 The amended Report was submitted to the Scrutiny Committee, together with a summary of the responses received and copies of the written responses from Departments. The Scrutiny Committee approved a Final Draft of the Report, which was sent to all Departments and the Policy Council for comment. Those comments are attached as Appendix G.

4.5 **Experience gained**

The Scrutiny Committee has gained valuable experience from this first public Scrutiny Review, which will assist it in planning future hearings. The Committee is grateful for all the observations and comments it has received about the process.

5. RESPONSES AND SUBMISSIONS

5.1 This section contains a brief summary of the main points contained in responses which the Scrutiny Panel received from States Departments, and of the submissions made by non-governmental organisations and individuals. The Panel's detailed assessment of those responses and submissions are contained in sections 6 to 12 of this Report.

5.2 Departments provided initial information to the Panel, from which the Panel highlighted issues which it felt should be raised with each Department. Some Departments then provided additional information in advance of the hearing, in response to the points made by the Panel, and some provided further information after the hearing. It is also apparent that, their attention having been drawn to the subject of complaints handling during this Review, a number of Departments started to prepare more comprehensive complaints policies and procedures. This, in the Committee's view, is to be welcomed, and reinforces the value of the scrutiny process.

5.3 States Departments

5.3.1 Commerce and Employment Department

The Department has a variety of established, but largely undocumented, procedures and appeals systems for dealing with complaints relating to its respective functions: the visitor economy, fishing, agriculture, horticulture, financial services, business development services, industrial relations, trading standards, Sunday trading, health and safety, Office of Utility Regulation, and certain import controls. All of these functions have potential for complaints to be received from members of the public who may feel aggrieved by the Department's policies, decisions, actions, or staff.

The present procedures for dealing with complaints have arisen in an *ad hoc*, disjointed basis, having been inherited from the previous States Committees. The Department, however, has a positive attitude towards complaints, and is intending to develop a corporate approach to dealing with them, although this is not currently high on its priority list. It is responsible for 92 pieces of legislation, some of which contain provisions for appeal, and the Department is planning consolidation of legislation, which will give the opportunity for incorporating appropriate appeals mechanisms where none exists at present.

5.3.2 Culture and Leisure Department

The Department welcomes feedback from users of all its facilities, has written procedures in respect of comments received from customers of Beau Sejour Leisure Centre, and provides forms and information to facilitate this process. The Centre uses such feedback to improve its service delivery in response to customer demand, and has been successful in gaining a high standard of accreditation under the *Quest* scheme (the official UK Quality Scheme for Sport and Leisure).

The Department currently has limited informal complaints or comments procedures for its other sites or functions (namely arts, sports, museums, historic and archaeological sites, and the Channel Islands lottery), other than for matters that could have liability implications. It recognises the desirability of such procedures, and is in the process of preparing them, but feels that they would need to be specific to each function, rather than corporate.

5.3.3 Education Department

The Department has detailed, formal procedures for investigating complaints against individual teachers. It appears to have informal, undocumented procedures for complaints against the Department itself, and has no plans to introduce formal procedures. The Panel heard strong criticism of the Department in respect of its handling of such complaints, from teachers' representatives and others.

5.3.4 Environment Department

The Department has inherited undocumented procedures from the previous States Committees, and has no formal complaints policies or procedures, other than statutory appeals procedures in respect of planning decisions and traffic licensing. It is, however, committed to preparing them, along with a customer charter. It has informal procedures in respect of some decisions and complaints against service provision and actions of staff.

5.3.5 Health and Social Services Department

The Department welcomes complaints, and uses them to bring about improvements in the quality of service. It has formal, documented and detailed complaints policies and procedures, and it facilitates the making of comments by users of the Department's services. It also has a whistle-blowing policy. It has designated staff for handling complaints, and there is provision for recording, monitoring, training and review. These procedures are directed at health-related services, although the Department has indicated that it applies them to other services for which it is responsible. It provides a leaflet with a form for users of its services to make comments.

5.3.6 Home Department

The Department has several distinct functions (Customs & Immigration, Police, Prison, Fire Service, Probation Service, and Central Services), each of which has individual procedures. The Customs & Immigration Service has a written procedure, which deals with complaints primarily as disciplinary matters. A leaflet is available for the public. There is no information for the public wishing to make a complaint against the Police, but an independent Police Complaints Commission is being set up. The Prison Service is preparing a complaints procedure for the public, and procedures for investigations into incidents and allegations of misconduct. There are statutory provisions in relation to prisoners' complaints, and they have access to the Panel of Visitors. The Fire Service, Probation Service and Central Services have no complaints procedures.

5.3.7 Housing Department

The Department has taken a positive attitude to complaints. There are statutory appeals provisions for many of the Department's functions, and an independent Housing Tribunal has been established. The Tribunal can consider appeals against decisions on acceptance onto the waiting list, assessments under the points system, rent rebate assessments, refusal to allow a transfer or exchange, refusals on succession of tenancy, and discontinuing the right to remain the tenant of a property. Since the Review hearing the Department has approved a complaints policy, and recognises the need for the public to be informed about this policy.

5.3.8 Public Services Department

This Department also has a miscellany of policies and procedures, some formal and some informal, for its various business units (Central Services, Harbours, Airport, States Works, landfill, Technical Services, Water). The Department has considered the co-ordination and centralisation of customer service, but has concluded that this would not benefit its customers. It does, however, recognise the need for its policies and procedures for customer complaints to be harmonised, although this is currently not given a high priority. It has plans for several initiatives, including the distribution of a leaflet, development of web sites, a quality brand, agreed time frames for response, and a customer charter for water customers. It is also planning a seamless mechanism for recording site-specific complaints, to improve response times and to identify problem areas.

5.3.9 Social Security Department

The Department's complaints procedures are based primarily on provisions for statutory appeals against decisions taken by the Administrator (in respect of Social Insurance, Health Service benefit, long-term care, attendance allowance, invalid care allowance, supplementary benefit, and family allowance). These involve three tribunals covering six pieces of legislation, or, in one case, the elected members, with an appeal to the Royal Court on a point of law. Complaints about administration are dealt with by the Administrator. Complaints advice in respect of the Specialist Health Insurance Scheme (specialist medical treatment, physiotherapy treatment, hospital services, and waiting times) is given in a leaflet about the Scheme, and is on the Department's web site, but does not state how the complaint is dealt with. Other leaflets advise people who have queries to contact the Department.

5.3.10 Treasury and Resources Department

There are statutory rights to appeal to a tax tribunal, and, on a point of law, to the Royal Court. There is no set procedure or documentation relating to administrative complaints about the Income Tax Authority. There are also statutory appeals procedures relating to the Cadastre (assessments and tax on rateable value), which are currently under review. Appeals about rent control are referred to the **Housing Department**.

The Department has no policies or procedures in relation to complaints concerning its other services: treasury functions, property services, procurement, risk management, insurance, ICT (including the States web sites), and States trading companies. However, it has drafted a code of practice for handling complaints in relation to the Strategic Property Unit.

5.4 Organisations

5.4.1 Alderney Amateur Swimming Club

In October 2004 the Club complained in writing to the **Education Department** about its decision not to allow the Club to use the school pool, following representations made by the School Committee to the Department. The Club's complaint was supported in writing by a number of affected parents. The issues raised by the Club with the Scrutiny Panel were:

- Lack of opportunity for the Club to put its case to the Department.
- Lack of investigation by the Department.
- The Department's unilateral action.
- The Department's non-response to letters.
- Lack of reasons given for the Department's decision.

- Lack of transparency in the decision-making process.
- Lack of information from the Department about complaints policy or procedures.
- The escalation of a complaint because it had not been dealt with satisfactorily.
- Lack of an appeals provision.

5.4.2 Citizens Advice Bureau

The Bureau expressed concern about the lack of access to information about people's rights and responsibilities in respect of the **Health and Social Services Department's** Services for Children and Young People, and provided anonymised examples of poor response and support by the Services.

5.4.3 Information Exchange Guernsey (IEG)

The Information Exchange is a charity providing information to serve the needs of people with disabilities and health conditions. The Exchange forwarded observations made by its clients, which, it emphasised, were not necessarily the views of the Exchange or its staff. The issues raised were:

- The public feel that there is no structured means of having their voice heard by States Departments.
- There is a need for a complaints procedure with a series of timed responses.
- Some members of the public have difficulty in articulating their concerns.
- The intricacies of complaints procedures means that only the most persistent will continue.
- This leads to a perception that there is not 'open' government.
- Third-party involvement could be a useful tool in dealing with complaints, especially those concerning health, disability, education and States Departments generally. An independent negotiator/arbiter could be useful to the mediation process.
- States Departments do not in general respond, even to provide an acknowledgement. Acknowledgement of receipt of the complaint should be general practice.
- It appears to the public that inter-departmental problems arise through a lack of 'joined-up' thinking; a press office could assist.
- Some issues, such as planning decisions, require a consistent approach; others, such as health travel arrangements, require more flexibility.

- There is a need for a well-publicised, easily accessible and preferably independent system for handling enquiries.

5.4.4 Negotiating Committee Teachers and Lecturers in Guernsey (NCTLG)

The NCTLG raised a number of issues on behalf of public sector teachers:

- Uncertainty as to which Department(s) employs teachers.
- Uncertainty as to which Departments should be approached on specific matters, such as human resource issues.
- The lack of procedures for teachers to make complaints about the **Education Department**.
- The lack of response by the Department to teachers' concerns.
- A fear that complainants' careers will be disadvantaged if they complain.
- A possible conflict of interest between teachers' employing departments.

5.4.5 Association of Guernsey Civil Servants

The Association expressed the view that each Department should have a tailor-made complaints procedure, rather than one procedure applying to all Departments. It expressed satisfaction with the existing provisions for dealing with complaints against staff and in respect of whistle-blowing.

5.4.6 Clos de Mont Arrivé Residents Committee

The Residents Committee has complained since 2001 to the then Housing Authority and Board of Administration about the condition of the cliff face adjacent to the Clos de Mont Arrivé, and the condition and ownership of German tunnels beneath it. Its position is that the Clos was entirely a States building project, that the States knew about the existence and position of the tunnels, but failed to declare them when the properties were conveyed. The situation was exacerbated by the positioning of soakaways when the Clos was developed. The Residents Committee has not taken this matter up with the new States Departments, and is uncertain as to which Department is now responsible. The issues raised by the Residents Committee are:

- Long delays in responses from States bodies.
- The lack of response to requests for information.
- Lack of communication by States bodies.
- The problems of identifying which Department is primarily responsible where more than one Department is involved.
- The difficulties faced by the public in resolving problems that involve more than one Department.

- The lack of closure of complaints issues (ie what happens if complainants are just left without any resolution of their complaint, favourable or unfavourable).
- The difficulties faced by complainants whose only recourse is through the Courts.

5.5 Individuals

5.5.1 Mr M F Cooper

Mr Cooper made observations as a retired Guernsey Civil Servant. He raised the following issues:

- The need for appeals tribunals to be conducted in an informal manner, with a minimum of legislative jargon.
- The urgent need for the States to issue a comprehensive guide to the new government structure, including services, addresses, responsibilities, titles, names and phone numbers of staff.
- The need for States Departments to acknowledge receipt of questions put by members of the public, to send a response, and to avoid technical responses.
- The need for staff to display their name and position, to provide this information automatically in telephone conversations, and for letters to show the writer's and signer's name(s) and position(s). He provided examples of poor practice from the **Environment Department** and the **Public Sector Remuneration Committee**, and of good practice from the **Social Security Department**.
- The need for Departments to make available regularly updated leaflets.
- The need for official publications, such as Billets d'Etat, legislation and reports, to be made available at low cost.
- The need for a consolidated reference list of legislation to be available in the Guille-Allès Library, showing where documents are held.

5.5.2 Mr & Mrs Costelloe

Through Chateaux Estate Agents, Mr and Mrs Costelloe expressed their frustration in dealing with States Departments (the previous Board of Health and Board of Administration, and the present **Treasury & Resources Department** and **Health & Social Services Department**) in trying to resolve the problem of the collapse of a retaining wall between their property and States property, a matter which had so far taken over three years without resolution.

5.5.3 Deputy Graham Guille

Deputy Guille expressed the view that, in his experience, complaints to States Departments were generally dealt with promptly and sympathetically. States members filtered out complaints that were vexatious and unfounded. He felt that, although the present arrangements seemed to be working, there were aspects where improvements can and should be made, and he cautioned against people using complaints procedures to further their own ends or that of any faction within government.

5.5.4 Mrs N Heath

Mrs Heath raised similar issues as those raised by the Alderney Amateur Swimming Club. She also pointed out that an offer to the **Education Department** by her husband to mediate between the Club and the School was not responded to, and that the Department had not responded to other points made.

Mrs Heath had also raised concerns with the **Education Department** about the lack of information to enable her and her husband to make decisions about their children's secondary education, especially in view of the fact that they lived in Alderney and were faced with the possibility of secondary education in Guernsey. They received no response from the Department.

5.5.5 Mr & Mrs N A Lempriere

Mr and Mrs Lempriere advocated a provision for third parties to appeal against planning decisions.

5.5.6 Mr J H Lenfestey

Mr Lenfestey related a two-year process of trying to resolve a matter of the collapse of part of a roadside wall during road works, and outlined his view as to how such complaints should be dealt with. He emphasised the need for an independent officer, ie one from a Department not affected by the matter, to oversee the investigation, and for meetings to be minuted. He also proposed that if the parties could not agree the matter be put to the Board of the Department, and that there be provision for appeal against the Board's decision.

5.5.7 Deputy Carla McNulty Bauer

Deputy McNulty Bauer put forward an outline proposal for a complaints procedure to be followed by all States Departments, together with proposals for its evaluation and promulgation, and for staff training.

5.5.8 Mr D L Purdy

Mr Purdy had forwarded to the Scrutiny Committee correspondence with the **Environment Department** concerning access for disabled persons, and the Committee also had correspondence with the Department on this subject. He advocated the updating of Guernsey's Building Regulations to the UK standards relating to accessibility provision, and expressed the view that Guernsey needs a Law similar to the UK Disability Discrimination Act. The issues raised by the correspondence were the lack of a timescale for the review of the Building Regulations, and the delay in the Department's response.

5.5.9 Mr J Schute

Mr Schute raised specific complaints about the **Environment Department**, which the Panel concluded were not relevant to this Review, and raised the question of who to write to with a complaint against a States Department.

5.5.10 Mr H P Simpson

Mr Simpson related a long-running (30 years) escalation of nuisance on a neighbouring property as a result of incremental planning decisions. The Panel concluded that this would be more relevant to a review of planning procedures, rather than the present Review.

5.5.11 Others

The Panel also received the submissions from four individuals who requested anonymity:

A person who, having gone to live abroad, had been refused benefit by the **Social Security Department**, despite having made contributions. He stated that he did not know how to proceed with the complaint.

A person who was aggrieved at the way the **Health and Social Services Department** dealt with their complaint. The issues raised were:

- The defensive attitude of staff.
- The ignoring of the specific circumstances which gave rise to the complaint.
- The lack of information or assistance in resolving the matter; no information as to alternative means of pursuing it; and no information as to who to appeal to above the Chief Officer.
- The lack of cooperation in providing documentary information (this also being their experience with another States Department).

- The attitude by the Department that the matter was closed, regardless of the accuracy of the reply or the degree to which the matter had been addressed.

A person who was aggrieved by the change in Social Security rules in respect of married women, but who acknowledged the good communication they had had with the **Social Security Department**, and expressed thanks for the Department's efforts and subsequent outcome.

A person who raised significant issues concerning whistle-blowing. While the evidence was heard under protected evidence rules, the issues were subsequently raised with Departments.

6. IDENTIFICATION OF COMPLAINTS

6.1 Definition, type and recognition

6.1.1 The Panel was interested, first, in understanding whether Departments used a definition of "complaint", how they recognised complaints as such, and whether they distinguished between types of complaint. The answers given by Departments were varied and enlightening.

6.1.2 Most Departments use no articulated definition, although some have practices from which definitions can be inferred. Only two Departments (**Health & Social Services** and **Housing**, the latter since the Review hearing) have adopted clearly documented definitions, both being an inclusive one: "*an expression of dissatisfaction with some aspect of service(s) (including staff performance).*" Of those Departments which expressed a view as to a definition there is a broad spectrum. The **Education** and **Home Departments** expressed similarly inclusive definitions to the above. The **Treasury & Resources Department's** draft code of practice in respect of the Strategic Property Unit contains a similarly wide definition, although the Department says that it has received no complaints, but rather "enquiries and suggestions". The **Environment Department** excludes those complaints received from people it considers do not have sufficient knowledge of the subject to make an informed comment (especially where it is technical, such as traffic), and anything which is within States policy.

6.1.3 Several Departments, such as **Culture & Leisure** and **Public Services**, expressed the view that complaints lie on a scale of comments and feedback received from the public, ranging from compliments through suggestions, observations and minor complaints, to major complaints. Some, especially **Social Security**, referred to matters raised by the public as requiring clarification, which only become complaints if the person is dissatisfied with the explanation. Some (eg **Culture & Leisure**) distinguished between "operational" and "non-operational" complaints, the latter being related to policy matters. The **Commerce & Employment Department** referred to "tangible" and "intangible" complaints, the former meaning those that are directed to the Department by letter or telephone rather than, for example, through the media. The **Public Services Department** ignores anonymous and scurrilous complaints.

6.1.4 The nature of the Department's functions, and the legislative environment of those functions, has a significant bearing on its identification of complaints. **Housing**, **Social Security**, the Income Tax and Cadastre functions of **Treasury & Resources**, and the Customs & Immigration, Police and Prison Service functions of the **Home Department**, for example, operate under strict legislative regimes. Their senior officers have powers to make decisions under the respective laws, and there is limited political involvement. "Complaints" are invariably dealt with under one or more of a variety of appeals mechanisms provided by the legislation, and the handling of such complaints by Department staff may be limited to informing the complainant of their statutory appeal rights.

6.1.5 Other Departments, while they may be administering legislation, are not so constrained. For example, **Culture & Leisure**, **Education**, **Health & Social Services**, and **Public Services** have primarily service functions, the **Home Department** is primarily concerned with law enforcement, and the **Commerce & Employment** and **Environment Departments** administer legislation which is a mixture of service and constraint, and includes some provision for appeals.

6.2 **Habitual and vexatious complainants**

6.2.1 The Panel is aware that some Departments are subject to habitual or vexatious complainants. Indeed, the **Health & Social Services Department's** complaints policy document includes a section on this subject, and the **Housing Department's** recently adopted policy includes a similar section. It details how habitual or vexatious complainants are identified as such, and explains how to deal with them. They are so categorised if they meet any two or more of ten specified criteria (any of seven criteria in the **Housing Department's** policy), following which prescribed action is taken by the Chief Officer or his Deputy.

6.2.2 The **Treasury & Resources Department's** draft code of practice for property matters contains brief provisions concerning "abusive, persistent or vexatious complainants", stating that such cases should be referred to the Director, Strategic Property Unit.

6.2.3 Departments indicated that such complaints occur rarely, and most deal with them in the same way as other complaints, regarding them seriously. However, it is clear that Departments recognise that there are limits, and that a line has eventually to be drawn under a case when all avenues for resolution have been exhausted.

6.3 Numbers of complaints

6.3.1 The lack of a common definition of 'complaint', and the fact that few Departments keep any form of log from which the numbers and types of complaints can be ascertained, makes any attempt at gauging the volume of complaints received by Departments almost meaningless. The **Health & Social Services Department** gave a figure of 120 complaints since May 2004 (total for 2004: 133) and 6 for the former Children Board, claiming that the relatively high figures reflected the Department's policy of making it easy for people to complain. The **Commerce & Employment Department** said VisitGuernsey has "many" complaints from visitors (although relatively few against local facilities and hotels in proportion to the number of visitors), complaints against its staff are "extremely rare", and there had been one instance of a vexatious complainant in the last 12 months. The **Culture & Leisure Department** has "few" complaints from users of Beau Sejour Leisure Centre, there being no distinction, for analysis purposes, between comments and complaints.

6.3.2 The **Home Department** said that since 1 May 2004 they have received few complaints (Customs & Immigration 1, Fire Brigade 1, Prison 3, Probation Service 0) except against the Police (32). The **Housing** and **Public Services Departments** have few. The **Education Department** gave a figure of 13 formal complaints in 2004. The **Social Security Department** had no numbers, but about ten go to benefits tribunals annually. The **Treasury & Resources Department** said that all enquiries, comments and suggestions were logged. Income Tax had received no complaints outside the statutory appeals process since May 2004, and none of the Department's other services had received complaints. The **Environment Department** provided no figures.

6.4 Conclusions

6.4.1 Departments clearly cover a broad spectrum of functions. The position of the Department on that spectrum, therefore, must be taken into account when interpreting the definition of the term "complaint", and how they should be handled within the Department. Nevertheless, the public has a right to expect that if they make what they view as a complaint to a States Department it should be recognised as such. The lack of a common definition could cause confusion, and certainly causes some Departments to pay little heed to complaints which other Departments would treat seriously.

6.4.2 Consistency of both definition and acceptance of complaints is, therefore, desirable. A person should, for example, be able to assume that if one Department accepts complaints by telephone, another Department should not require complaints to be submitted on a form (although forms may facilitate the process if used optionally); if one accepts email messages, another should not require a letter.

6.4.3 The Panel can see the benefit, from the point of view of both the public and the Departments, of complaints being included in a range of feedback, from compliments and suggestions to outright complaints. Indeed, as the **Health & Social Services Department** indicated in its evidence, complaints and suggestions can often be included amongst complimentary comments. This, however, raises the question as to the identification of complaints.

6.4.4 **The Panel considers, therefore, that a uniform definition across all Departments would be desirable**. It is not for the Scrutiny Committee to direct either that there should be such a definition, or what it should be. However, the Panel would refer Departments to some of the examples listed in Appendix G and lodged at the Greffe, such as the views of the UK Cabinet Office (*How to Deal with Complaints)*:

> "A working definition of a complaint is 'any expression of dissatisfaction that needs a response'. But you should choose the most relevant and least restrictive definition to suit your circumstances. And you should then apply this definition consistently across all your services. If the person contacting you thinks it is a complaint, then it is, whatever you think. On the other hand, someone may make a comment that highlights a part of your service you could improve, and may not call it a complaint. The important thing is to record it, and take the opportunity to improve your service."

and the definition used by the **Health & Social Services Department** (*Dealing with Complaints*):

> "A complaint may be defined as an expression of dissatisfaction with some aspect of service(s) (including staff performance).
>
> The following will not be registered as complaints:
>
> - Requests for clarification on [Department] policy, services or contracts;
> - Issues arising from contracts between the [Department] and other parties."

6.4.5 There would also seem to be benefit in States Departments having a clear policy on how to identify and deal with habitual and vexatious complainants, although this does not appear to be a major problem.

6.4.6 Finally, the Panel is concerned that few Departments have any quantitative information about the volume of complaints which they receive. Rather the information is generally anecdotal and unquantified. If it is accepted that complaints are potentially a valuable management tool, leading to improved service delivery and greater efficiency, there would seem to be merit in their analysis and evaluation. This point is dealt with in more detail in section 11 of this Report.

7. COMPLAINTS POLICIES

7.1 The Panel was interested in determining each Department's attitude towards complaints, whether it valued them or regarded them as a nuisance, whether it had an established complaints policy, what priority it applied to them, and whether it learned from complaints and then applied the experience to improvements in service delivery.

7.2 Policy objectives and priorities

7.2.1 Three Departments (**Culture & Leisure**, **Health & Social Services**, and **Housing**) gave positive replies to the Panel's questions in respect of complaints policies. They recognised the importance of taking complaints seriously, responding appropriately, and applying the experience to improving services, and either had, or were in the process of developing, complaints policies.

7.2.2 The **Commerce & Employment** and **Social Security Departments** also gave positive replies. They also recognised the importance of taking complaints seriously, responding appropriately, and applying the experience to improving services. The **Commerce & Employment Department** stated that it would be reviewing its policies in due course, but in the meantime would be relying on its existing informal approach. The **Social Security Department** Minister stated that the Department saw no need to change its procedures, and would continue to rely on its informal approach.

7.2.3 The **Environment Department** stated that it valued complaints, and indicated that it is committed to preparing complaints policies as part of a "customer charter", although it did not give their preparation a high priority. The **Home Department** has policies for Customs & Immigration, and is preparing policies for the Police and the Prison Service, but has no overarching policy and none for Central Services, the Probation Service or the Fire Brigade. The **Public Services Department** accepts that the matter needs to be addressed, but does not give it a high priority, believing that its present informal systems work effectively.

7.2.4 The Panel was less convinced by the responses from the **Education** and **Treasury & Resources Departments**. While stating that it valued complaints, the **Education Department** has only an established policy on complaints against teachers, but has no plans to produce a formal policy on complaints from members of the public. It is, however, preparing a policy on whistle-blowing. The **Treasury & Resources Department** has no complaints policies, outside of the statutory provisions contained in Income Tax and Cadastre legislation, and states that it has received no complaints in respect of its other functions. It has, however, drafted a code of practice in the handling of complaints relating to the Strategic Property Unit, and, since the hearing, has indicated that it will be using this as a test case for the development of procedures applying to its other functions.

7.3 **Service delivery**

7.3.1 The Panel received a variety of responses to its questions about the extent to which complaints assist the improvement of service delivery. Only the **Culture & Leisure** and **Health & Social Services Departments** were able convincingly to demonstrate their practice of using complaints in this way. The responses from the **Commerce & Employment**, **Housing**, **Public Services**, and **Social Security Departments** implied that they did so, but they provided no supporting evidence. The **Environment** and **Education Departments** stated that they did so, but also provided no evidence. The **Home** and **Treasury & Resources Departments** made no claims for such improvements.

7.4 **Conclusions**

7.4.1 In general, the Panel found Departments' responses to its questions about complaints policies unsatisfactory. With few exceptions Departments are insufficiently positive about the complaints process. While many of them indicate good intentions, they do not have sufficiently detailed plans and schedules for improvement. Indeed, some appear to pay lip service to the concept.

7.4.2 In the Panel's view the public have a reasonable expectation that their complaints to any States Department are taken seriously. The public are directly affected by the policies and actions of Departments. They have a right to make their views known, to receive an appropriate response, and to hold Departments accountable. They should have confidence that all Departments are subject to a States policy on this subject.

7.4.3 The Panel believes, therefore, that there should be a general and concise statement of complaints policy objectives to be adopted by all Departments, covering the points that complaints are taken seriously, are responded to, and are used to improve service delivery. This may be as simple as the statement by the UK Cabinet Office, which aims to:

- treat complaints seriously and deal with them efficiently;
- resolve complaints promptly and informally whenever possible; and
- learn from complaints and take action to improve service.

Or it may be similar to the **Health & Social Services Department's**, whose basic policy statement, supported by more detailed policy objectives, is:

> "All complaints will be dealt with seriously and sympathetically to ensure that the standard of service provided by the [Department] is monitored and maintained to a high level."

7.4.4 **Most importantly, there needs to be a culture within Departments that complaints from the public are valued, dealt with appropriately, and used as a management tool.**

8. PROCEDURES FOR THE INVESTIGATION OF COMPLAINTS

8.1 Evidence

8.1.1 The Panel probed Departments' evidence in respect of any detailed procedures for the acceptance of complaints, the method and level of their investigation, and timescales for responses. Where procedures do not currently exist, the Panel questioned Departments about any plans to introduce them.

8.1.2 As with complaints definitions and policies, there are huge differences in the procedures applied by Departments to the investigation of complaints. The Panel sought evidence of the extent to which Departments had comprehensive, articulated procedures, documentation, a structured process, staff levels identified for each stage, with clear priorities and timescales for response. At the other extreme, complaints were dealt with on an informal, *ad hoc* basis.

8.1.3 The **Commerce & Employment Department** has no documented complaints procedures, although it is understood that a number of informal procedures exist for its various functions, especially the visitor economy. It says that it "is committed to dealing with all enquiries promptly and professionally", involving telephone calls, face-to-face meetings or written responses. It would expect a response to be given "in a matter of days", and has mentioned ten working days, but longer if more investigation was needed.

8.1.4 The **Culture & Leisure Department** has a clear and easy to understand "customer comments procedure" for Beau Sejour Leisure Centre. The Duty Manager has the responsibility for addressing the issue as soon as possible. All comments are forwarded to the Operations Manager, who must arrange for investigation and provide a formal response within 10 days. Copies of the comments form and action taken are forwarded to the relevant section Manager and Supervisor. The Department has begun to extend this procedure to Heritage Services (museums, historic and archaeological sites), and has recognised that its other areas of responsibility (arts, sports, Channel Islands lottery) may require specific procedures.

8.1.5 The **Education Department** has no formal, documented procedures for investigating complaints against the Department, such complaints appearing to be dealt with in an *ad hoc* fashion. It does have written *Procedures for Investigating Complaints against Teachers*, where the complaints referred to are serious. These provide for a five-stage process. Stage 1 requires the complainant to put their complaint in writing, provision of this complaint to the teacher, advice to the teacher of their rights, and the teacher asked to prepare a written statement. Stage 2 covers investigation. In stage 3 the person dealing with the complaint decides on the action to be taken, and stage 4 provides for the teacher and complainant to be informed. Stage 5 is brought into effect if disciplinary action is to be taken by the Department under its *Procedures for the Management of Conduct and Capability Applying to Teachers and Lecturers in Guernsey*.

8.1.6 The above investigation procedures appear deficient. For example, there is no indication as to the position of the person carrying out the investigation, nor of the person making the decision. There is no indication of timescales for investigation. There is no provision for recording the complaint or the results of the investigation, or the deletion of records after a specified period. And, while there is provision for appeal to the political Board, it is not necessarily an independent appeal, as the Chief Officer and the Board may also be involved in the original decision.

8.1.7 The Panel heard strong criticisms of the **Education Department's** handling of complaints from the NCTLG, the Alderney Amateur Swimming Club, and Mrs N Heath. These raised a number of issues, but centred particularly on the difficulties encountered in contacting appropriate people within the Department, its lack of response or lengthy delays in responding, its unwillingness to enter into discussions with complainants or hear their point of view, and the absence of any independent appeals system.

8.1.8 The **Environment Department** has no documented complaints procedures, outside of statutory appeals procedures for planning decisions and traffic licensing. However, it has plans to produce them, along with a customer charter. In the meantime it uses informal, undocumented procedures which involve acknowledgements, and complaints being dealt with by the lowest appropriate officer, but referred up as necessary, ultimately to the Minister or Board. No timescales are specified, and the Department sees no benefit in setting timescales. Its narrow description of complaints (as expressed in section 6.1.2 of this Report) may result in a discord between the views of the complainant and the Department in the identification of a complaint; the member of the public could regard his communication as a complaint, while the Department fails to do so. It is also unclear as to whether, in such circumstances, the Department communicates its decision back to the complainant.

8.1.9 The **Health & Social Services Department** has a documented complaints procedure in place for health services, with provisions for regular review. It contains details of who can complain (service users or their representatives), time limits for acceptance of a complaint (generally six months), contact with complainants, types of complaint (minor and formal), dealing with complaints in particular circumstances (relating to clinical judgement, external agencies, litigation, criminal proceedings), support for staff, disciplinary action, recording, habitual/vexatious complainants, training, accountability, compliance monitoring, distribution, and review. It includes a verbal complaint recording form, a protocol for complaints management where they relate to specified care functions, a complaints action plan form, a summary sheet, and flow charts.

8.1.10 The Department facilitates the making of comments, including complaints, by distributing a leaflet, including a form, to users of its services. The procedures provide for minor criticisms to be dealt with in five working days. Formal complaints are referred to the Chief Officer, and handled by the Corporate Governance Manager. An acknowledgement is sent within two working days, and a full response is made within 20 days, following investigation by a practice director. There can, however, be delays when the Department has to seek information from one or more other parties, particularly when that party is off-island, or where there are differences of view from the parties involved.

8.1.11 Although the Department stated that the procedure applied throughout its services, it provided evidence only for health services, and the Panel heard representations which indicated that it may not yet apply effectively to some of the Department's other services, including Services for Children and Young People, and property management. The Panel also received a representation alleging poor handling of a complaint which, although no details were provided, appeared to relate to the Department's children's social services functions. The Department acknowledges that there have been problems in applying the procedure to all its services, but believes that these have now been resolved. It points out, however, that there will always be the occasional human error when following procedures.

8.1.12 The **Home Department** has some individual procedures for its several distinct functions. Customs & Immigration has a simple (single sheet) procedure for oral and written complaints, which are largely treated as disciplinary matters. Oral complaints are referred first to the officer concerned, or to a senior officer or Assistant Chief Officer. Written complaints are acknowledged, investigated, and a written "full explanation of the outcome" is provided. The investigation is directed by the Deputy Chief Officer and carried out by an Investigating Officer. No timescales are included.

8.1.13 The Police have no documented procedures, other than a disciplinary code, but is setting up an independent Police Complaints Commission, as approved by the States in January 2005. The Chief Officer of Police would first attempt to resolve the matter, with the agreement of the complainant. If resolution by this means is not achieved then the complaint would be referred to the Commission, which would approve an investigating officer. That officer would submit a report to the Commission, which would in turn submit it to the Chief Officer. Any disciplinary charge resulting from this process would be heard by a tribunal consisting of the Chief Officer and two members of the Commission. Full details are available in Billet D'État I, 2005, but do not give any indication as to the timescales for investigation.

8.1.14 The Prison Service has statutory provisions in relation to prisoners' complaints, and prisoners have access to the Panel of Visitors. The Service has a brief, draft Operational Order on complaints and correspondence from the public. Verbal complaints will be referred to a Principal Officer. Written complaints will be referred to the Prison Governor, who will liaise with the Department's Chief Officer. An acknowledgement will be sent, and a substantive reply within six weeks, if possible. A further, detailed Operational Order deals with investigations into incidents and allegations of misconduct.

8.1.15 No complaints procedures exist for the Fire Service, Probation Service or Central Services, other than a Disciplinary Code Procedure for the Fire Service, which relates mainly to internal disciplinary matters.

8.1.16 Since the Review hearing the **Housing Department** has approved a complaints policy, but previously had no formal documented procedures, outside of statutory appeal provisions in respect of housing control and rent control. It used informal procedures involving investigation by senior officers, the Chief Officer signing off on letters, and appeal to the Board. The Panel heard criticisms of the former Housing Authority's and Board of Administration's handling of complaints by the Clos de Mont Arrivé Residents Committee, in respect of problems, which, it claimed, related to the States' original development of the Clos.

8.1.17 The **Public Services Department** has a disparate set of informal and undocumented practices amongst its various business functions, but plans to harmonise its procedures in due course. It aims to respond to complaints as soon as possible, providing acknowledgements, and information to the complainant about delays, but this process is currently not formalised in any way. The Panel received representations from Mr J H Lenfestey about an unresolved two-year complaint against the former Public Thoroughfares Committee. (The Panel has subsequently been informed that compensation has now been paid.)

8.1.18 The **Social Security Department** stated that it has a rapid response procedure for dealing with complaints, but this is undocumented. The Department operates in a highly structured environment, based primarily on provision for contributions and benefits under statutory rules, so most complaints are resolved by clarification. Those that are not may be referred to tribunals.

8.1.19 The **Treasury & Resources Department** has formal procedures, in respect of statutory appeals only, relating to Income Tax and Cadastre, and has drafted a Customer Complaints Procedure and a Staff Code of Practice in respect of complaints to the Strategic Property Unit. These documents, when adopted, will address such matters as complaints about property maintenance and other property issues. In the meantime the Panel heard of an unresolved three-year complaint by Mr & Mrs Costelloe about a property matter. The Department has no complaints procedures for its other functions, stating that it has received no complaints.

8.2 Conclusions

8.2.1 The Scrutiny Panel is of the view that all States Departments should consider adopting formal, documented complaints procedures. While it is not for the Panel to advise the content of those procedures, it would draw attention to procedures already used, some of which may be regarded as representing best practice. Some are listed in Appendix G, and a list of issues which documented procedures should include is also contained in that Appendix.

8.2.2 Such procedures could be part of, or contained in, more general procedures relating to the whole range of feedback received by Departments from members of the public, including compliments, suggestions and general comments, as described in section 6.4.3 of this Report. Complaints could be highlighted in those procedures.

8.2.3 **The focus of any procedure should be on early action and rapid resolution of the complaint, preferably at front-line staff level.** The Panel recognises the value of a procedure in which the handling of the complaint can progress through further stages as far as necessary, and notes the comment in the National Audit Office report on Citizen Redress that such a progressive procedure can act to prevent lower staff closing ranks.

8.2.4 Complainants should be provided, not only with a speedy response, but also with a description as to how the complaint was investigated, and a full explanation of the outcome. If the complaint is rejected by the Department then the complainant should be provided with information as to how to take the matter further, including provisions for appeal.

9. STAFF ISSUES

9.1 While making it clear that the Review was not concerned with staff grievances, the Panel did look at some other issues relating to staff: resource implications, training, complaints made against staff, and whistle-blowing.

9.2 Staff resources

9.2.1 No Department raised issues about the staff resource implications of a complaints procedure. While it is possible that the publication of complaints procedures, and the provision of facilities to help people make complaints, could result in an increase in the numbers of such representations, Departments did not see this as a real problem. Indeed, it could well be that the existence of a rational, formalised procedure for dealing with complaints might save staff time, as the current general lack of procedures can result in complaints generating a lot more work for staff, and a prolongation of the process of resolving complaints.

9.3 Training

9.3.1 The Human Resources Unit of the **Policy Council** organises corporate training and development courses for civil servants, including a *Corporate Induction* course for persons entering the Civil Service. That course does not cover complaints, but does contain a section on staff responsibilities in relation to data protection. While there are no courses specifically targeted at the handling of complaints from the public, the subject is touched upon in a number of courses. For example, *Dealing with Difficult Telephone Calls* focuses on helping staff who may have to deal with difficult and irate customers over the telephone. *Coping with Aggression* helps staff to increase their confidence in coping with aggression. *Face to Face with the Public* includes a component on managing a difficult situation in dealing with the public.

9.3.2 Most Departments rely on the corporate training programme. But some also provide their own induction training and other courses designed to reflect their specific work environment. For example, the **Health & Social Services Department** provides a training programme, especially for key staff who deal with complaints. The **Social Security Department** includes staff customer service standards in its induction course. The **Culture & Leisure Department** provides training for staff of the Beau Sejour Leisure Centre and heritage sites. In the **Home Department**, Police, Prison, and Customs & Immigration staff receive training in dealing with complaints.

9.3.3 The Human Resources Unit plans to introduce a new course in 2006 entitled *Creating a Customer Friendly Organisation*, which includes a significant component on how to deal with complaints. It also intends to offer line managers 'bite-size' two-hour training sessions, which could include one on handling complaints, if there is a clearly identified need.

9.4 Complaints against staff

9.4.1 The Panel was interested in how Departments dealt with complaints made against staff, and any evidence of support for staff while investigations are carried out.

9.4.2 The **Education Department** has a procedure for dealing with complaints against teachers, which provides some support for staff. For example, the teacher must be informed of the complaint, be given a copy of it in writing, and advised of their rights, which include the right to obtain advice from their professional association, and to be accompanied by a 'friend' at any meeting, investigation or disciplinary hearing. Complaints against **Health & Social Services Department** staff are dealt with in the same way as any other complaint. If members of staff are found to be at fault, this may lead to disciplinary proceedings, which would be held under the procedure for the appropriate staff group. **Home Department** staff can be accompanied by a 'Mackenzie friend' in any investigatory proceedings. **Social Security Department** front-line staff are supported through training modules, and by other staff.

9.4.3 The corporate terms of employment for civil servants include detailed provisions relating to disciplinary procedures, and a course on *Disciplinary and Grievance Techniques* is provided. The **Home Department** has specific disciplinary procedures for the Fire Brigade, Prison staff, Police, and Customs & Immigration, and the **Education Department** has similar procedures for teachers and lecturers. The general advice issued by the **Commerce & Employment Department** in its advisory booklet *Discipline at work*, includes a 4-stage process: investigation, a disciplinary hearing, deciding and implementing disciplinary action, and holding an appeal. The **Health & Social Services Department** has disciplinary and grievance procedures for nursing, midwifery and health visiting staff, and a new disciplinary procedure is being produced which will also apply to public service employees.

9.4.4 From time to time complaints arise which can result in criminal proceedings. Procedures are in place under the established staff (ie civil service) directives that recognise the possibility of criminal proceedings. The complaints procedures should take particular account of such possibilities, and detail how they should be dealt with. While the Panel is sure that all Departments are well aware of this issue, it appears that only the **Health & Social Services Department** has a specific provision within its complaints procedures which addresses it. It provides for the complaint to be reported immediately to the Chief Officer, and for staff to cooperate fully in any investigation. Within the **Home Department** there are specific provisions in relation to Prison and Police staff convicted of criminal offences.

9.4.5 The **Policy Council** points out that complaints against staff are received by the relevant Department, and that the role of the Human Resources Unit is to ensure that corporate policies and procedures in relation to established staff are followed, the **Policy Council** being the employing body of such staff. Power to deal with disciplinary matters has been transferred to Chief Officers of Departments, with the Human Resources Unit acting in an advisory capacity. Employees not satisfied with the decision of the Chief Officer can appeal to a panel of Chief Officers who were not previously involved in the case. Anyone making a complaint against a member of staff should be advised to put it in writing, so that it can be properly investigated.

9.4.6 With regards to non-established staff ("public sector employees" such as teachers, nurses, manual staff), who are employed by the individual Departments, the Human Resources Unit's role is to support the Departments as and when they require it. The Unit keeps close involvement with the human resources officers in each Department.

9.5 **Whistle-blowing**

9.5.1 The Panel was interested in Departments' policies and practices in respect of whistle-blowing by staff.

9.5.2 The corporate *Established Staff Directives* include limited 'Disclosure of Malpractice' provisions for civil servants making such allegations to be accorded full protection, for their allegations to be investigated thoroughly, and appropriate action taken. The directive is confined to a belief in "the commission of a criminal offence, a failure to comply with any legal obligation, a miscarriage of justice, danger to the health or safety of any individual, any damage to the environment, or any deliberate concealment of any of the above". The employee must report the information to the Chief Officer (to the Chief Executive of the **Policy Council** if it involves a Chief Officer), who has a duty to investigate it in confidence. The employee has the right to be accompanied, and anyone who makes a report in good faith is safeguarded against detrimental action. The employee is given a copy of the report on the outcome of the investigation. In its representations to the Panel the Association of Guernsey Civil Servants expressed its satisfaction with these provisions.

9.5.3 However, these provisions are limited; they do not cover allegations of mismanagement, for example. The subject is also of particular interest in relation to the Departments themselves, as, not only do they have to work within the framework of the corporate directives relating to personnel, but the new, larger Departments have themselves taken more responsibility for some of the human resources functions, the Human Resources Unit of the **Policy Council** adopting an advisory role. Few of the Departments however, had any direct experience of this subject, especially as many of them have existed in their present form for a relatively short period. All, however, said that they would treat the allegations seriously and objectively.

9.5.4 The **Policy Council** advised the Panel that *Disclosure of Malpractice* provisions were introduced in 2000 based on thorough research of best practice, including the *Whistleblowing* guidance issued by the UK Chartered Institute for Personnel and Development, and legal advice. Discussion had taken place at that time with the Law Officers about the possibility of extending the scope of the directive to include the phrase "or any other malpractice". The advice received was that if it was widened to include any allegations of malpractice then the provisions might be abused.

9.5.5 The Council also advised that, not only is there protection for established staff under the directive, but that all staff are encouraged to recognise that they have a duty to report malpractice. There have, however, been very few such cases.

9.5.6 The **Commerce & Employment Department** says that its Chief Officer is available to investigate such complaints. It has also established a new post of Director of Resources, with responsibility for staff matters. The Board has five political members with a variety of States interests, and the staff can approach the member they feel most appropriate. The **Culture & Leisure Department** says that whistle-blowing complaints would be investigated, but none has so far been received. The **Social Security Department** and the **Police** had each had one case, the former resulting in praise for the employee making the allegations, and the latter ending in a court conviction. The **Treasury & Resources Department** has issued an *Administrative and Accounting Guideline* on action to be taken in cases of fraud and other irregularities.

9.5.7 The **Education Department** says that it has received no such complaints in seven years, but if it did would take them seriously, using, as far as possible, the principles recommended by the Committee on Standards in Public Life, chaired by Lord Nolan (1997). It would respect the confidentiality of staff raising concerns, and provide the opportunity to raise concerns outside the line management structure. This description of the Department's informal practice, however, was strongly contradicted by evidence presented to the Panel by the NCTLG. Nevertheless, the Department has undertaken to initiate a formal policy and practice on whistle-blowing.

9.5.8 Whilst the corporate *Established Staff Directives* include Disclosure of Malpractice ('Whistleblowing') provisions for civil servants only the **Health & Social Services Department** has a specific policy on whistle-blowing, entitled *Raising of Concerns by Staff (Whistleblowers)*. Its policy states that "staff are able to raise genuine concerns about poor or unacceptable practice or misconduct through official channels without fear of victimisation and that these concerns will be taken seriously and investigated." It lists the concerns that can and cannot be raised, who can raise them, provides for protection against victimisation, confidentiality, staff representation, the method by which concerns can be raised, documentation, accountability and monitoring.

9.6 Conclusions

9.6.1 There appear to be no serious concerns about the effect of complaints on the level of resources, and that it is possible that a structured way of dealing with complaints might well result in a decrease in the staff resources applied to them. Departments would do well, however, to include the effect on staff resources as part of their regular reviews of complaints records.

9.6.2 There is a need for thorough training of staff in how to deal with complaints, how to treat members of the public who have concerns, and diffuse situations. Later in this report (section 13) the question of a corporate approach to complaints policies is addressed. If there is to be a corporate approach, then it would be appropriate for general training in complaints handling to be provided at the corporate level by the Human Resources Unit. This could be provided as a separate course, or appropriate modules could be provided in existing courses, and it could be provided as part of general training in dealing with public feedback. However, in addition, some Departments may well consider it desirable to run their own specific courses which reflect their procedures and functions. The Panel welcomes the initiative already shown by the Human Resources Unit of the **Policy Council** in planning the introduction of some relevant training.

9.6.3 Specific provision should be included within complaints policies and procedures in relation to complaints made against staff, and they should be taken into account in provisions for disciplinary procedures. Appropriate protection for staff, especially from physical and verbal abuse, should be provided during the investigation. Provision should also be made for complaints which could result in criminal proceedings.

9.6.4 The Scrutiny Panel recognises the context within which the directive on *Disclosure of Malpractice* was introduced in 2000, and that the Civil Service Board at that time acted with the advice of the Law Officers. Nevertheless, the Panel is concerned that the directive applies only to established staff (civil servants), and that the protection it provides is so limited. In the view of the Panel there should be a corporate policy on whistle-blowing, and this should extend beyond the present provisions relating to disclosure of malpractice, to include representations made by staff about management issues. Departments should carry this policy into their complaints procedures. In the Panel's view this could be incorporated in the procedures document, and does not require a separate one, although individual Departments may choose to do so.

9.6.5 In the UK legal protection is provided by the UK Public Interest Disclosure Act 1998 to employees making qualifying disclosures which conform with the protected disclosure provisions. The Scrutiny Panel notes that there is no equivalent legislation in Guernsey, and that employees making such disclosures are not legally protected. In view of the **Policy Council's** statement that employees have a duty to report malpractice, it would be appropriate for the Human Resources Unit to review the protection of such employees.

10. APPEALS

10.1 Formal appeals provisions are those provided by statute, such as appeals to the Royal Court or to tribunals, and any procedures formally put in place by States Departments. The Panel regarded informal appeals provisions as any administrative procedures used by Departments to refer complaints above officer level. In addition to learning what appeals provisions, both formal and informal, Departments have in place, the Panel was interested in hearing whether Departments provide any support for potential appellants, and what form that support takes.

10.2 The National Audit Office report on Citizen Redress makes a clear distinction between complaints and appeals:

> *Complaints* are defined as "expressions of dissatisfaction with any aspect of department or agency conduct". They are seen as indicators of something having gone wrong, ie administrative failure. They "concern processes and how issues have been handled. They have traditionally been considered as part of the internal business arrangements of departments and agencies. They are often thought about primarily in terms of customer responsiveness and business effectiveness."
>
> *Appeals* are "expressions of dissatisfaction with substantive decisions made by the department". They concern the accuracy or correctness of those decisions, rather than administrative failure. "They conventionally form part of the administrative justice sphere. They are often considered primarily in terms of citizens' legal rights, natural justice and a range of related quasi-judicial criteria."

10.3 In other words, *complaints* are largely about administration, the provision of services, and how matters are handled, while *appeals* generally relate to decisions made by departments in specific cases. This seems to the Panel to be a useful distinction, whilst preserving the concept of formal and informal appeals procedures.

10.4 **Formal appeals**

10.4.1 In addition to any formal appeals provisions contained in legislation administered by specific Departments, all Departments' decisions are subject to appeal to a Review Board established under the Administrative Decisions (Review) (Guernsey) Law, 1986. The legality, reasonableness and procedural propriety of States Departments may also be subject to Judicial Review by a court. Further information on these matters is provided in Appendix D. It may be noted that only two Departments (**Environment** and **Social Security**) mentioned Judicial Review in their evidence to the Panel.

10.4.2 Generally, formal appeals to a court or tribunal are invoked when other avenues of resolution of a complaint or dispute have been exhausted. In many cases the appeal to a court must be limited to points of law only, or on the grounds that a Department's decision is ultra vires or unreasonable. In some cases a court appeal on a point of law can follow a tribunal hearing.

10.4.3 The **Commerce & Employment Department** administers 92 separate pieces of legislation, most of which include no provision for appeal, having been made some decades ago. However, some, especially major and more recent ones such as health and safety at work, air transport licensing and fishing licensing, do provide for appeal to the Royal Court. Some, such as Sunday trading, industrial disputes and unfair dismissal, provide appeal to a tribunal or adjudicator. The Department is in the process of updating and consolidating its legislation, and proposes to include more generally provision for appeal. However, this is not a high priority activity, and is likely to take some years to complete.

10.4.4 Legislation administered by the **Environment Department** contains appeals provisions in respect of planning decisions and traffic licensing. The new planning law will provide for a tribunal system. The Minister advised the Scrutiny Panel that sometimes courts made decisions which were not in accordance with States policy, and that, while such a decision applied to the specific case, the Department could not itself take notice of it, and it did not result in any approach to the States for a change of policy.

10.4.5 The **Health & Social Services Department** has provisions for court appeal in respect of children's social services, and says that it has learned lessons from the Court's decisions. Some independent bodies, such as the General Medical Council and the UK Nurses and Midwives Council, have provisions for appeal in respect of their professions. The Department says that it could consider introducing an independent appeals system for its health services.

10.4.6 The **Housing Department** has various statutory rights of appeal. There are limited rights of appeal to the Royal Court in respect of decisions relating to control of occupation and rent control, and an appeal in some circumstances to a tribunal in respect of tenancy decisions. A Housing Appeals Tribunal has now been established.

10.4.7 The **Social Security Department** has several statutory tribunals dealing with decisions about benefit claims.

10.4.8 The **Treasury & Resources Department** provides a statutory right of tax appeal.

10.4.9 The remaining Departments (**Culture & Leisure, Education, Home,** and **Public Services)** have no formal appeals procedures. The **Education Department** may introduce an independent appeals system. It is notable that its *Procedures for Investigating Complaints against Teachers* contains no

provision for appeal by either the complainant or the teacher. Only if the matter results in disciplinary action can the teacher refer it to an Appeals Panel under the Department's disciplinary procedures. The **Home Department** is establishing the Police Complaints Commission, with provision for appeal to the Royal Court, and prisoners can appeal to the Panel of Visitors.

10.5 **Informal appeals**

10.5.1 Most Departments' complaints procedures, whether formal or informal, include provision for complaints to be referred upwards through staff ranks, if they cannot be resolved at the lower level. A number of Departments (**Commerce & Employment, Culture & Leisure, Education, Health & Social Services** and **Home**) have informal, undocumented, procedures for complaints to be referred to the Department's political Board if they cannot be resolved at officer level. Some recognised that the Board's independence might be questioned, but most felt that the integrity of Board members was generally sufficient to provide a measure of independence, and pointed out that they often challenged their officers' views. The Minister of the **Culture & Leisure Department** said that he could assure independence by standing down in any discussion on a complaint to the Sports Commission about the Department.

10.5.2 Some Departments (eg **Culture & Leisure, Health & Social Services**) have informal provisions for appeals to be made, in the first instance (ie if the complaint cannot be resolved at executive officer or senior officer level), to the Chief Officer.

10.5.3 In the case of the **Education Department**, the Chief Officer is not involved (for example, in matters concerning 11+ placements) until the matter goes to the Board, the Department feeling that he should remain independent of it as he would be involved in the Board's deliberations. Appeals about bullying and placement of special needs children are dealt with by senior staff. The Department stated that it is considering provision for an independent appeals process in its current review of its complaints policy.

10.5.4 The **Environment Department** felt that it would be wrong to overlay the statutory appeal procedure with an informal, administrative, one. It assumed independence by having trust in its Chief Officer, and by due diligence.

10.5.5 The Board of the **Home Department** can consider appeals against decisions of the Chief Officer of Police, pending the establishment of the Police Complaints Commission. Appeals in respect of Customs & Immigration are referred to a different senior officer from the one who carried out the initial investigation, and then can be made to the Department's Chief Officer. The Department feels that apart from the Police and Prison Services, its other sections do not receive enough complaints to warrant a formal appeals system. However, it is drafting procedures, albeit with a low priority.

10.5.6 The **Housing Department** has an internal review procedure that enables a

decision to be reviewed prior to any formal appeal being lodged. The case will be reviewed, in some cases, by a senior staff member who was not involved in the original decision-making process. In other cases, particularly those relating to the control of occupation, the Board will be asked to review the case.

10.5.7 The Board of the **Social Security Department** deals with any administrative appeals. It says it does so independently, without staff pressure, the political members taking their responsibility very seriously.

10.6 **Support for complainant**

10.6.1 Where there are provisions for appeal, whether formal or informal, the Panel was interested to learn what, if any, support is given to potential appellants. For example, are they informed of the fact that they can appeal? Are they told what the appeals provisions are, and to what body the appeal can be made? Is any help given to them, for example, in the provision of forms and their completion, or in the method of appeal application? Where there is no specific provision for appeal, are complainants informed about the possibility of appeal to a Review Board, or a Judicial Review?

10.6.2 Insofar as appellant support is concerned, the National Audit Office report on Citizen Redress found that some UK government departments have no communication with appellants (so as not to be perceived as badgering them), while others negotiate with appellants in the run-up to appeal hearings, in an effort to reach a settlement.

10.6.3 The **Commerce & Employment, Culture & Leisure,** and **Treasury & Resources Departments** gave no indication of support. The **Education Department** said that complainants would be advised about the Review Board. The **Environment Department** said that its officers can advise people on how to appeal, but that if the appeal is statutory the Department would not deal with it. The **Health & Social Services Department** gave a similar answer, saying that complainants should be informed of their appeal rights, but that if it involved a court case then support has to be limited.

10.6.4 The **Home Department** said that it can give advice and guidance on how to appeal, and could prepare an advice document, but no support, particularly legal support, should be given. There is a witness protection programme, and complainants can have a 'Mackenzie friend'. Appellants may, however, have legal aid or a States Member helping them. The **Housing Department** said that when it informs clients of its decision it advises them of their right to appeal. It also makes available user-friendly guidance notes that explain how to go about making an appeal.

10.6.5 The **Public Services Department** said that the complainant is advised of the right of appeal to the Board. The **Social Security Department** said that its staff spend a lot of time with complainants, and that they were advised to pursue an appeal course where appropriate.

10.7 Conclusions

10.7.1 The lack of appeals procedures was a recurring theme in submissions to the Panel by individuals and organisations (for example, the Alderney Amateur Swimming Club and Mr J H Lenfestey). Appeals procedures, where they exist, appear to have evolved in an *ad hoc* fashion over the years, and there is a general lack of consistency.

10.7.2 There is a need for a States policy on appeals, especially where they affect people's rights, and where they are not covered by existing appeals provisions, and especially in the light of Human Rights legislation (see Appendix F).

10.7.3 Proper appeals systems are: independent, accessible, fair, transparent, preferably public, simple, inexpensive, and provide for the appellant to be represented or accompanied. Complainants should be informed about the possibility of appeal. It is essential that the appeal be heard by persons who are independent of the Department. This need not, however, preclude the possibility of informal appeals being heard by, say, the Chief Officer and/or the political Board, as long as there is also provision for formal, independent appeals.

10.7.4 Formal appeals procedures should be specifically applied to complaints about individual decisions made by Departments, and should be considered distinct from complaints about the manner in which services are provided, or the way a particular matter has been handled.

10.7.5 The Panel is aware that court procedures can be overwhelming for some people. Departments should, therefore, consider alternative methods of formal appeal.

10.7.6 The Panel believes that, as a minimum, Departments should be prepared to provide potential appellants with information about the possibility of an appeal, how the appeal process works, to whom the appeal should be made, and how to make an appeal (eg by the provision of forms). The question of further communication and negotiation is for the individual Department to decide, but it is probably inappropriate for Departments to provide appellants with assistance.

11. EVALUATION OF COMPLAINTS

11.1 The Scrutiny Panel asked each Department about its practices in documenting, recording, analysing, and monitoring complaints, whether it regularly receives statistical or other reports about complaints, whether it has any provision for review of its complaints policies and procedures, and, if so, how that review is carried out. The Panel also attempted to determine to what extent the evaluation of complaints impacts on the Department's service delivery, ie whether improvements are made as a result of complaints.

11.2 Evidence

11.2.1 Only four Departments (**Culture & Leisure**, **Health & Social Services, Home** and **Housing**) have any form of structured monitoring and evaluation of complaints, either at officer level or at Board level. Complaints received by other Departments are, in general, simply retained in relevant files, once they have been dealt with. In those cases, there is no compilation of complaints, and no means of knowing, without further research, even how many complaints have been received, or their degree of severity. Any changes to service delivery are carried out on an *ad hoc* basis, as the result of either a single severe problem, or of anecdotal evidence about the recurrence of complaints. Departments' political Boards or Ministers will hear of them only if they are sufficiently severe to warrant their attention, or, for example, if they result in an appeal.

11.2.2 The Board of the **Culture & Leisure Department** reviews monthly statistics of comments received from customers of the Beau Sejour Leisure Centre. These are categorised from very good to very bad, and are listed by facility and service (for example, changing facilities, café/bar, cleanliness). Annual summary statistics of comments are also seen by the Board. In 2004, 253 comments forms were received (many making more than one comment), and 164 questionnaires were completed, with a total of over 2000 comments. They are graded overall by subtracting the total numbers of fair, bad and very bad comments from the good and very good ones, to give a favourable or unfavourable balance.

11.2.3 In addition, the Centre compiles monthly listings of comments, including action taken in each case. The comments have a direct impact on service delivery. The Centre also has a User Group, at which issues of concern can be raised, and the Group's minutes list the action to be taken and the person responsible for taking it. Its complaints policy is subject to review as part of its *Quest* accreditation.

11.2.4 The Board of the **Health & Social Services Department** receives quarterly and annual reports on comments, including complaints and compliments. It received 120 complaints in the ten months from May 2004. The analysis of complaints received categorises them by type and by service in order to identify any trends, so that appropriate action can be taken. The Department applies the results of its analysis to improve service delivery practices throughout the organisation. It has a formal procedure for reviewing its complaints and whistle-blowing policy every three years, when it looks for examples of best practice, for example, in the NHS, the commercial and public sector.

11.2.5 The Police compile a complaints register, which is reviewed by the Deputy Minister of the **Home Department** at least quarterly. They received 32 complaints in the ten months from May 2004. The report of the Prison Visitors Panel is presented to the Board quarterly. However, the Department has no formal complaints evaluation processes.

11.2.6 The **Housing Department's** Complaints Policy, adopted since the Review hearing, provides for a central register of complaints, a monitoring system to ensure that it meets established criteria, and quarterly reports to the Board.

11.2.7 The **Treasury & Resources Department's** draft code of practice for the Strategic Property Unit includes provision for a register, and for an annual review by the Unit Director.

11.3 **Conclusions**

11.3.1 The Panel can understand why States services such as the Beau Sejour Leisure Centre, health and social services, whose core functions are to provide personal services to large numbers of people, find the close monitoring of customer comments of considerable assistance in maintaining and improving their service delivery. It is disappointing, however, that some other States services and Departments have not grasped the same principles or seen the benefits to be gained.

11.3.2 For example, there are over 200,000 visitors a year, and it would seem desirable for the **Commerce & Employment Department** to require the analysis of visitor feedback, and to review that analysis regularly. While the Department says that complaints against local facilities or hotels are recorded and available for analysis, it provided no evidence that such analysis is actually carried out. Other Departments, such as **Housing**, **Social Security**, **Education** and **Environment**, could also usefully keep track of comments in a structured way. The **Public Services Department** claims to receive very few complaints, and the **Treasury & Resources Department** claims to have received no complaints, but both would consider keeping a register.

11.3.3 **The Panel is of the view, therefore, that each Department should have some means of recording, collating, analysing and evaluating public feedback, including complaints, in a manner appropriate to that Department.** Such analysis can give Departments valuable information about actions needing to be taken to correct ongoing problems, improve services, and amend policies. All political Boards should, therefore, see categorised summaries of complaints and other feedback comments at least annually. Those summaries should include an indication of any changes to public services which have been made as a result of public feedback.

11.3.4 All Departments should also review their complaints policies and procedures regularly, say every three years.

12. PUBLIC AWARENESS

12.1 **Public awareness of Departments' complaints policies and procedures is of paramount importance.** Unless the public are fully aware of the fact that they can complain to their government, how to complain, and what happens to their complaint, government is failing them. The Scrutiny Panel was, therefore, closely interested in the responses given to its questions about this subject. The public includes, not only individual residents of the Island, but all those in receipt of services, including customers, visitors, businesses and other organisations. There are many avenues for reaching all these sectors of the community: through the distribution of leaflets at outlets, mailings to people's homes, media announcements, and through the Internet.

12.2 The Panel was also concerned to learn what steps Departments take to ensure that their complaints policies, where they exist, are available in languages in common use in the Island, and appropriate to those likely to need them. The Panel was also aware that there may be a perception amongst some members of the public that if they complain to a Department they may suffer recriminations or retribution, or have difficulty in accessing services, and the Panel, therefore, explored this possibility. The NCTLG, for example, expressed concern that teachers had a fear that their careers might be disadvantaged if they complained.

12.3 **Evidence**

12.3.1 States Departments generally performed poorly in this area, particularly with regard to consistency between Departments and within Departments. Examples of good practice were found within elements of the approach to public awareness of complaints taken by the **Health & Social Services Department**, **Culture & Leisure Department** (Beau Sejour Leisure Centre) and **Home Department** (Customs & Immigration).

12.3.2 The **Health & Social Services Department** states that it makes feedback leaflets, entitled "*How are we doing?*" widely available in all its service areas, as well as through the Information Exchange and Citizens Advice Bureau, and says that it would be pleased to distribute them more widely. (The Bureau states, however, that it has not been provided with the leaflets, and points out that the leaflet, which it has downloaded from the Internet, does not make it clear that it applies to services for children as well as health services.) The leaflet, a simple A4 folded sheet, states that the feedback will be used to improve service standards. It suggests that customers first speak to the staff directly, but if they feel the need to take the matter further they should write to the Chief Officer on the form provided as part of the leaflet. It is available on the Internet (albeit not in the location mentioned in the leaflet), but only as a downloadable form; it cannot be completed on-line.

12.3.3 Despite its evident interest in ensuring that its customers have facilities for providing comments, the **Health and Social Services Department** was criticised by the Citizens Advice Bureau, which expressed difficulties in accessing information relating to procedures for dealing with complaints about Services for Children and Young People, despite a number of requests. The Department says that it was unaware of the problem, and that it is taking steps to resolve it. It believes that it has generally good liaison with the Bureau.

12.3.4 The **Culture & Leisure Department** has customer comments notices and forms prominently displayed at the Beau Sejour Leisure Centre. It suggests that any problem should, in the first instance, be referred to any available member of staff, who will attempt to deal with it immediately. If the complainant is not satisfied they are advised to speak to the Project and Operations Manager, whose telephone number is provided, and if still dissatisfied then to record their concerns on the customer comment form and leave it in a special post-box, for a response within ten working days. Summaries of recent comments and actions taken, together with information about User Group meetings, are posted on a notice board. Feedback forms are provided to people booking functions at the Centre, and the Centre also carries out surveys by questionnaire.

12.3.5 The **Culture & Leisure Department's** other areas of responsibility have no similar system, although work is in hand to improve the situation in respect of Heritage Services. The Museum has a comments book. The ancient monuments are to be re-branded, and new interpretation boards will identify contacts.

12.3.6 The **Home Department** makes available a complaints leaflet for the Customs & Immigration service. It states that people can complain about their treatment by an officer, or about procedure. It asks that the officer or his manager be spoken to in the first instance, and that written complaints can be made to a senior officer for a written response. The Department says that similar documents could be provided for its other service functions, but that this was not currently a high priority. It would favour an overarching document covering all services, with different sections for each service unit. This could also be made available on its web site.

12.3.7 Other Departments provided no evidence for any serious attempt at public awareness of complaints procedures. The **Education Department** said that its school prospectuses provided to parents contain details of who to complain to, and that school secretaries have lists of Department contacts, which should be posted in school staff rooms. However, the evidence given by the NCTLG contradicts this statement. The Department says that it will consider public awareness during a review of its complaints policy.

12.3.8 The **Environment Department** said that its proposed customer charter will include a complaints form, and that while it issues many public statements, the public still do not understand their rights. The **Housing Department** now provides tenants with a handout containing information about its complaints and appeals procedures, and standard forms. Information is also available on its website, and it plans to make the information available in its reception area, at its residential homes and within the family centres.

12.3.9 The **Public Services Department** provides comment cards at the Airport, and will consider methods of increasing public awareness for its other functions. However, its complaints procedures are likely to be diverse, and it doubts the benefits of publishing them. It has also expressed the view that it is not the Department's role to invite complaints.

12.3.10 The **Social Security Department** does not provide forms, but it issues leaflets about benefits and contributions, which contain contact information, including direct telephone numbers, for those wanting further information. Its leaflet on the Specialist Health Insurance Scheme (issued jointly with the **Health & Social Services Department**) contains a section entitled *What can I do if I am unhappy with the treatment received?* All these leaflets are also available on the Department's web site. It provides advice about appeals in letters, where appropriate. It has no plans, however, to provide a general complaints leaflet, and feels that the provision of its leaflets in doctors surgeries and other outlets would unnecessarily delay the resolution of queries.

12.3.11 The **Treasury & Resources Department** does not believe that a lack of public awareness about how to make complaints contributes to the lack of complaints to Income Tax. Details of the Income Tax Tribunal are available on States web site, albeit through a link from the "Government" section of the site, under "statutory bodies". Its Strategic Property Unit is planning a *Contact Us* leaflet, and has in draft a *Customer Complaints Procedure.*

12.3.12 The **Treasury & Resources Department** is also responsible for information services generally, including the maintenance of Departments' web sites and the States portal web site. It believes that their current state is generally satisfactory, although there could be room for improvement. It concedes, however, that the web could be used to support a more corporate approach to complaints after the publication of the Scrutiny Panel's report.

12.3.13 The **Commerce & Employment Department** will give consideration to providing advice to people about how to complain, but it believes that the main problem lies in a lack of public understanding about the new system of government, and that if people knew what each Department is responsible for then they would have more confidence in approaching it. It therefore proposes that the answer lies in the provision of information about the functions of each new Department.

12.3.14 Departments gave little evidence of the provision of information, such as leaflets, in languages other than English. The **Home Department's** Police Service makes available documents in various languages describing people's rights. Interpreters are used when necessary. The Prison Service does not currently have documents available in other languages, but may have Portuguese, Polish and Latvian in due course. The **Culture & Leisure Department** recognises the need for other languages, but currently only provides them on the Fort Le Marchant firing range warning signs. The **Social Security Department** says that it has not found this to be a problem; most of its customers have basic English, and can bring a friend or employer to translate for them. The **Health & Social Services Department** has an interpreter system, but recognises the need to develop literature, for example, in Portuguese and Latvian. The **Housing Department** has not considered the need, but will do so. Other Departments presented no relevant evidence.

12.3.15 On the subject of the perception of potential recriminations, no Department saw this as a problem, indicating that they would certainly not countenance such action. The **Environment Department** strongly refuted any suggestion that anyone might suffer as a result of a dispute with the Department. The **Home Department** said that, as far as the Police were concerned, while it does not have a written directive, a senior police officer would have the responsibility of monitoring to ensure that there was no undue recrimination or retribution. There are also trained police family liaison officers. The **Housing Department** said that while it was not a problem, it would consider the matter. The **Treasury and Resources Department's** draft complaints policy for the Strategic Property Unit states that any complaints made will not affect how the complainant is treated by the Department in the future.

12.4 Conclusions

12.4.1 The present state of public awareness of most Departments' complaints policies and procedures, where they exist, is inadequate, with inconsistencies between Departments and within Departments. This is clearly the result of Departments' lack of action in this area. **Departments should be encouraged to recognise that a greater public awareness will result in more feedback, with a consequent improvement in public services.**

12.4.2 All Departments should, therefore, as a matter of priority, and notwithstanding the absence of a policy, publish basic advice on how people can complain or make comments on services, to whom complaints and comments should be addressed (including positions, addresses, telephone and fax numbers, and email addresses), and should facilitate them by the provision of simple leaflets and pre-addressed forms.

12.4.3 The **Policy Council** should also make readily available general information about the responsibilities of each States Department, together with information about who to contact in respect of complaints and how complaints should be made. The intention of such a leaflet would be to complement the information published by Departments, and to provide basic information to those people who are uncertain how to make a complaint.

12.4.4 Full use should be made of the Internet, with the advice being published prominently on the States web site portal, and on Departments' individual web sites. Preferably this should include provision for the comment or complaint to be filled in and submitted on-line. As a minimum, provision should be made for the public to submit a comment by email through a web site link. Departments should make arrangements for all such email messages to be received and dealt with in the absence of the normal recipient.

12.4.5 The **Treasury & Resources Department**, as the Department responsible for ICT services, should give priority to making the changes necessary to the web sites, in association with other Departments.

12.4.6 However, use of the Internet must not be at the exclusion of other forms of publication or contact. Leaflets, correspondence and publicity issued by Departments should include, as a minimum, contact addresses and telephone numbers. This information should be provided in simple, short and clear language.

12.4.7 Where appropriate the information should also be published in languages other than English, such as Portuguese and Latvian for migrant workers, and other European languages for visitors.

12.4.8 Leaflets could be provided in as many outlets as possible, and prominently displayed, including Departments' reception desks and places where services are provided.

12.4.9 As Departments' policies and procedures are established they should also be published. In the meantime, details of any statutory appeals provisions should be included in Departments' published information.

13. OTHER ISSUES

13.1 A corporate approach?

13.1.1 In their evidence to the Scrutiny Panel some Departments expressed views about the benefits or otherwise of a corporate approach by the States to complaints policies and procedures. The **Commerce & Employment Department**, for example, expressed the hope that the Scrutiny Committee would provide "clear directions as to best practice". The **Treasury & Resources Department** also looked to the Committee to provide guidance, and saw the possibility of cost benefits in a corporate approach with standardised procedures, to which the Department would be happy to contribute. It also envisaged that a corporate approach on complaints could be applied to the States web site. The **Health & Social Services Department** favoured a corporate approach, and pointed out that while the Department had many different functions it had a single approach to complaints.

13.1.2 On the other hand, the **Education Department** saw little benefit in a corporate approach, as each Department is different. The **Environment Department** felt that there might be benefit in a corporate strategic policy on complaints, but not a separate body for dealing with them. The **Association of Guernsey Civil Servants** saw merit in a consistent set of standards, but felt that the procedures adopted by each Department should reflect the particular nature of the Department's functions, the different customer groups and customers' needs.

13.1.3 While there are arguments supporting central guidance on complaints policy, other considerations apply to complaints procedures. The Panel recognises that States Departments have very different functions, that their management organisation and methods of operation are designed to reflect the nature of those functions, and that their customer bases can be very distinct. For example, the **Social Security Department** differs fundamentally from, say, the **Public Services Department**. It may, therefore, well be considered that there would be little merit in a uniform complaints procedure applied to all Departments. However, guidance to Departments about the issues which their procedures should address would be useful, together with information about where to source examples of best practice.

13.1.4 Similarly, there would appear to be little merit in a single point of contact within the States for the public to make complaints. As described in section 12.4.3, however, there would be benefit in the provision of central advice to inform the public about which Department is responsible for specific matters, where they are uncertain about such information, to guide them to the appropriate contact point within the relevant Department, and a simple leaflet on how to make a complaint or comment.

13.1.5 There are many examples of information as to best practice to follow, some of which are listed in Appendix G. The format of suitable complaints policies, for example, are listed in section 7.4.3 of this Report, and issues to be addressed in procedures are suggested in Appendix G.

13.1.6 **The Panel therefore suggests that the approach to dealing with complaints should proceed in accordance with the principle that the purpose of a general complaints policy is:**

- to provide the public with a consistent approach throughout the States;
- to provide assurance that complaints are recognised as such, and that their resolution will be sought in a structured, transparent and expeditious manner;
- to ensure that States bodies acknowledge the benefit of feedback; and
- to lead to improvements in services and the manner of their provision.

13.1.7 The Panel is therefore of the view that there should be a corporate statement of complaints policy, and that Departments should be encouraged to develop their own procedures with the benefit of central guidance. The Panel anticipates that the **Policy Council** would coordinate this matter.

13.2 **Liability**

13.2.1 The Scrutiny Panel was aware that some complaints may have liability implications, and/or may result in an insurance claim, and the Panel, therefore, questioned Departments about any special procedures which they may have in relation to such complaints, and how liability considerations affected the processing of complaints and affected the timescales for dealing with them.

13.2.2 The **Culture & Leisure Department** said that it had formal procedures for dealing with matters that could have liability implications, but did not describe them. The **Public Services Department** said that insurance claims take longer to deal with than the normal two to three days. Its staff encourage the insurance company to respond as rapidly as possible. The **Health & Social Services Department** pointed out that insurance and/or legal implications can result in delays in dealing with complaints, and that insurance claims were dealt with centrally by the **Treasury & Resources Department**, rather than at individual Department level. It could, however, make *ex-gratia* payments for specific cases. The **Treasury & Resources Department** said that insurance implications can cause serious delays in dealing with complaints. Complex cases involve other Departments, and some can drag on for many years.

13.2.3 The dearth of information on this aspect of handling complaints makes it difficult to draw specific conclusions. It seems clear, however, that liability and insurance considerations can have significant implications for the way complaints are dealt with, the time taken to resolve them, and the experience of the complainant.

13.2.4 Where the possibility of a claim is mentioned by the complainant, or where a Department perceives the possibility of a claim, it has a duty to report the matter through the appropriate channel, ie the **Treasury & Resources Department**. The complaint is then dealt with outside of any standard rapid response procedures, normally being passed to the States insurers, who can deal direct with the claimant.

13.2.5 Departments themselves, however, have a role to play, in that they are liable for substantial excess payments under the insurance terms, so they not only have to meet these costs from their budgets upon any settlement by the States insurers, but they also may choose to settle with a claimant at an amount, for example up to the excess amount, without making an insurance claim. The Panel has not, however, explored these matters in any detail. Nevertheless, they have to be taken into account in any complaints policy and procedures, and it will be for individual Departments to do so, with guidance from the **Treasury and Resources Department**.

13.3 **Financial considerations**

13.3.1 The Panel did not explicitly seek evidence about the financial impacts of complaints policies. Nevertheless, a few conclusions can be drawn. The handling of complaints clearly has a cost implication, which costs are proportionate to the length of time a Department takes to deal with them and the level of staff involved. The States can also incur costs through the settlement of financial claims. The **Treasury & Resources Department**, in particular, saw a possible cost benefit to the States by having a corporate approach with standardised procedures.

13.3.2 There are also potential costs to the complainant as well as the States, especially if the matter goes to court. The **Social Security Department** pointed out that benefit claims can be referred to a tribunal at no cost to the claimant. There is, however, a cost to the States in staff time, and the claimant may also incur costs if they employ representatives, or lose earnings if they take time off work to attend the hearing.

13.3.3 The National Audit Office report on Citizen Redress concluded that complaints cost the UK government an average of £155 per new case, with wide variations, from as low as £10 where they are settled by front-line staff. Appeals cases cost an average of £455 per new case, and costs for independent complaints handlers and ombudsmen typically cost around £1500 to £2000. Over 9,000 staff were involved in handling some 1.4 million complaints per year, at a total annual cost of over £500 million.

13.3.4 No comparative costs for Guernsey are available, but they may be substantial. The Panel believes that it would not be cost-effective for States Departments to expend effort in an attempt to arrive at estimates of the cost of dealing with complaints. The effort needed to make such estimates is likely to be considerable, and they are unlikely to be accurate.

13.3.5 Nevertheless, it is incumbent upon the States to seek ways to avoid unnecessary expense in dealing with complaints. Costs can be contained by attempting to deal with complaints through front-line staff wherever possible and appropriate, and adopting the principle that complaints are resolved as rapidly as possible, only major matters being dealt with at the more senior levels. Such a strategy would be commensurate with the interests of the public in early resolution of complaints. It does, however, mean empowering junior staff to make decisions, within parameters set by management.

13.4 The role of non-government organisations and others

13.4.1 The Scrutiny Panel heard evidence from several organisations (Alderney Amateur Swimming Club, Citizens Advice Bureau, Information Exchange Guernsey, NCTLG, Association of Guernsey Civil Servants, and the Clos de Mont Arrivé Residents Committee).

13.4.2 Some, such as the Alderney Amateur Swimming Club and the Clos de Mont Arrivé Residents Committee, have specific interests which formed the context of their representations, and as such are in a similar position to individual members of the public, albeit with the added weight of representing a section of the public.

13.4.3 Certain organisations, such as the Citizens Advice Bureau and the Information Exchange, represent much wider interests, as they serve the general public. They provide a useful role in giving advice and guidance to people as to how to gain information and who to contact, and they and similar bodies should, therefore, continue to be supported by States Departments. The Panel notes that the National Audit Office report on Citizen Redress comments that appellants involved in UK tribunal hearings are often advised or assisted by bodies such as care workers or Citizens Advice Bureaux.

13.4.4 The submission by Information Exchange Guernsey pointed out that third-party involvement in dealing with complaints could be useful, and that an independent negotiator/arbiter could be especially helpful to the mediation process.

13.4.5 States Members also play a role in the handling of complaints. They are frequently contacted by their constituents about individual cases, and can advise them whom to contact and which Department has the relevant responsibility. In his representation to the Panel, Deputy Graham Guille expressed the view that States Members often filter out complaints that are vexatious and unfounded. The NAO report on Citizen Redress states that complainants wishing to approach the Parliamentary Ombudsman must do so through an MP, who acts as a filter.

13.4.6 In the view of the Scrutiny Panel, non-government organisations, such as the Citizens Advice Bureau, Information Exchange and trade unions, and individuals such as States Members, could have important roles to play in Departments' handling of complaints. Departments should, therefore, take account of these roles in their complaints procedures. The roles could include the provision of information about complaints procedures, which Department is responsible in a particular instance, to whom and how complaints should be made, and assistance to the complainant in dealing with the Department. They can also include, at the request of the complainant, the monitoring of the progress of complaints through the process.

13.4.7 Finally, there may be a role for organisations and individuals to act as mediators between the complainant and the Department in seeking a resolution of a complaint. Adjudication is also a possibility. The Panel did not receive specific evidence on these aspects, apart from an offer by Mr B Heath to mediate between the Alderney Amateur Swimming Club and the **Education Department**.

13.4.8 In the UK many government departments refer complaints to an independent adjudicator or mediator if they cannot be resolved by the department's front line or at senior management level. The NAO report on Citizen Redress recommended the consideration of more pro-active mediation and other ways of resolving disputes to minimise the progression of cases up the ladder.

13.4.9 It appears to the Panel that mediation might play a role in Guernsey States Departments' complaints policy. One possibility could be the referral to an adjudicator or mediator if the matter is not resolved at political Board level.

14. RECOMMENDATIONS

The conclusions reached in the various sections of this Report are here translated into specific recommendations. At the corporate level the Panel would anticipate that the **Policy Council** would coordinate the implementation of most of the recommendations. Cross-references are provided to specific sections of the Report.

14.1 **At the corporate level the Policy Council is recommended to encourage:**

14.1.1 a culture within the States that complaints and comments from the public are welcomed, valued, dealt with appropriately, and used as a management tool (see 7.4.4);

14.1.2 Departments to adopt the concept of a range of feedback, including compliments and suggestions, but highlighting complaints (see 6.4.3);

14.1.3 the adoption of a uniform definition of complaint throughout the States (see 6.4.4);

14.1.4 the adoption of a general and concise statement of complaints policy objectives, and a corporate statement of complaints policy (see 7.4.3 and 13.1.6);

14.1.5 the provision of corporate staff training in the handling of public feedback, especially complaints (see 9.6.2);

14.1.6 the development of a corporate statement of policy in respect of complaints against staff including provisions for whistle-blowing and encouragement for Departments to carry this policy into their own procedures (see 9.6.3 and 9.6.4);

14.1.7 the Human Resources Unit to review the protection of employees making disclosures of malpractice (see 9.6.5).

14.1.8 the development of a corporate policy on appeals (see 10.7); and

14.1.9 the provision of central advice to the public about which Department is responsible for specific matters, guidance as to the appropriate contact point within the relevant Department, and provision of information as to how to make complaints and comments (see 12.4.3 and 13.1.4).

14.2 **At the corporate level the Treasury & Resources Department is recommended to:**

14.2.1 give priority to providing relevant information on States web sites, in association with other Departments (see 12.4.4 and 12.4.5); and

14.2.2 prepare guidelines for Departments in handling complaints which may have liability implications. These guidelines should take into account the need for dealing with such complaints in an expeditious manner, while safeguarding the States' interests (see 13.2.5).

14.3 **At the Department level, each States Department is recommended to consider:**

14.3.1 signing up to a general and concise statement of complaints policy objectives, including the adoption of a culture that complaints from the public are valued, dealt with appropriately, and used as a management tool (see 7.4.3 and 7.4.4);

14.3.2 adopting formal, documented complaints procedures, taking into account examples of best practice (see 8.2, 13.1.6, 13.2.5 and Appendix G);

14.3.3 taking account in their complaints procedures of special provisions needed in respect of complaints against staff, and whistle-blowing (see 9.6.3 and 9.6.4);

14.3.4 adopting the principle that complaints should be resolved at the most appropriate staff level, and as rapidly as possible, in the interests of service to the public and the containment of costs (see 13.3.5);

14.3.5 adopting specific provisions for appeals, in accordance with the corporate policy (see 10.7);

14.3.6 taking account of the potential roles of non-government organisations, individuals and mediators in the resolution of complaints (see 13.4);

14.3.7 the provision of Departmental staff training in dealing with public feedback, especially complaints (see 9.6.2);

14.3.8 recording, collating, analysing and evaluating public feedback, including complaints (see 6.4.6 and 11.3.3);

14.3.9 reviewing complaints policies and procedures regularly (see 11.3.4);

14.3.10 publishing complaints policies and procedures, together with appeals procedures, in leaflet form, and on web sites, and make this information generally available (see 12.4); and

14.3.11 facilitating the making of complaints and comments, for example by the provision of simple forms, and ensuring that appropriate contact information is provided in correspondence (see 12.4).

APPENDICES

A. Scrutiny Proposal

B. Briefing paper

C. Issues to be raised with all Department Ministers

D. Judicial Review and Administrative Review Boards

E. National Audit Office report on Citizen Redress – Summary and notes

F. Article 6 of the Human Rights Convention

G. List of examples of good practice

H. Policy Council and Departments' comments on the Final Draft Report

DOCUMENTS LODGED AT THE GREFFE

Submissions by, and correspondence with, the Policy Council and States Departments

Submissions by non-government organisations

Submissions by individuals

List of issues raised with each Minister during the hearing

Transcripts of the hearing in Guernsey

Notes of the hearing in Alderney

Examples of good practice

APPENDIX A

A SCRUTINY PROPOSAL

FOR

STATES COMPLAINTS POLICIES AND APPEALS PROCEDURES

Background.

The matter of departments' policies for dealing with complaints and their appeals procedures was raised in the Committee's informal meetings with Ministers.

The responses from Ministers led Members to raise a concern that there may be gaps in such policies and procedures.

The Committee nominated four Members, Deputy Pritchard, Deputy Maindonald, Deputy Burbridge and Deputy de Jersey to research the matter.

The Chairman wrote to all Ministers asking for each Department's policies and procedures.

The responses have led to the Members presenting this Scrutiny proposal to the Committee for its consideration.

Benefits and Disadvantages of a Review.

Advantages:

- Will establish if there are confusions as to how to lodge a complaint.
- Will establish if there are confusions on how to deal with a complaint.
- Will identify the nature of the confusions.
- Will identify any gaps in policies and procedures.
- Will identify good and bad practice.
- Will raise public confidence in the procedures of government.
- Will raise the public's awareness of their rights.

Disadvantages:

- May raise unrealistic expectations.
- Risk of misunderstanding of nature of the work of the Committee.
- Uses all of Scrutiny Committee's staff resource
- Short-term human resource implications for Departments.
- Risk of long term resource implications for Departments.

R Domaille. 26 January 2005

External Bodies Views of Proposed Review.

External bodies have not been consulted. However the informal comments of some Ministers and Chief Officers made at various times are supportive of the Review.

Applicable Criteria.

- Concerned with Service Delivery.
- Concerned with poor performance.
- Will add to the overall performance of States' Departments and Committees.
- Committee Members raised the matter because of concern that complaints are not properly dealt with.
- No other States' agency has considered this topic at a cross departmental level.
- The Committee has adequate resources to carry out the Review.

Draft Terms of Reference.

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

Scope.

The Review will be concerned with the mechanisms of appeals procedures.

The Review will not be concerned with individual complaints or remedies.

The Review will not be concerned with inter departmental complaints or staff grievance procedures.

Programme

Stage 1 - Scoping/Key Lines of Enquiry
Two weeks

Stage 2 – Familiarisation
Two weeks

Stage 3 – Evidence Submission
Four Weeks

R Domaille 26 January 2005

Stage 4 – Deliberation/Option Appraisal
Three Weeks

Stage 5 – Recommendations and Reporting
Three Weeks

Stage 6. - Ongoing

Examples of Potential Witnesses.

All Ministers.
Citizens Advice Bureau.
Consumer Group.
Law Officers.
Tenants' Association.
Chamber of Commerce.
Parochial Representatives.

Has anyone else examined this issue?

Not to our knowledge.

Resource Requirements

Scrutiny Support Officer.
Five Panel Members.
Recording equipment.
Transcriber.
Typist.
Review Venue.
Consumables.

Success Indicators.

Departmental Response.
Increased Public Awareness.
Media Response.

The Review will be a success if it raises confidence in the procedures of government and the public's awareness of their rights.

R Domaille 26 January 2005

APPENDIX B

SCRUTINY REVIEW – COMPLAINTS POLICIES AND APPEALS PROCEDURES

BRIEFING PAPER

The Scrutiny Committee is conducting a Scrutiny Review with the following terms of reference:

> ***To review the policies of States Departments and Committees for dealing with complaints, and their appeals procedures.***

Purpose

Recipients of services provided by the States have a right to expect a reasonable quality of service, to be able to complain to the relevant Department or Committee if the service does not meet their expectations, to expect that the matter is investigated, to receive an appropriate response, and to be given the opportunity to take the matter further through an appeal process.

Departments and Committees can use complaints, expressions of concern, suggestions, or even compliments, to evaluate, remedy and improve their services.

Scope

The Review will assess Departments' and Committees' current policies in relation to complaints made by individuals and organisations, identify any gaps in their current provisions or monitoring, and make appropriate recommendations.

The Review will not consider specific individual grievances, inter-departmental complaints, staff disciplinary matters, any areas of States policy being investigated by other bodies, and any issues that are subject to criminal proceedings or prejudicial to the public interest.

The type of complaints where Departments' policies are to be explored during the Review may, for example, relate to decisions made, services provided, the way matters are handled, the actions of staff, and the provisions for appeal. While examples of specific complaints may serve to clarify the issues raised, they will not themselves be subject to the Review.

Method

The Scrutiny Committee has established a Scrutiny Panel, supported by a Scrutiny Support Officer, to conduct the Review. The Panel Members are:

Deputy Jean Pritchard, Chairman
Deputy Sam Maindonald, Vice-Chairman
Deputy Mike Burbridge
Deputy Brian De Jersey

The Panel will be using an evidence-based objective review process to examine, question, and, where appropriate, challenge the performance and effectiveness of States policies and service delivery.

The Committee has already received general responses to an invitation to Departments and Committees for comments on some of the issues relating to complaints policies. The Panel is now inviting Department Ministers and Committee Chairmen to a Public Hearing in order to answer Panel Members' questions and to discuss policy and service delivery issues associated with complaints and appeals. The Panel is also inviting representatives of organisations and individual members of the public to make written representations, which may be further explored in the Hearing.

Representations should be addressed to:

The Chairman
Scrutiny Committee
Sir Charles Frossard House
PO Box 43
La Charroterie
St Peter Port
Guernsey GY1 1FH

They may also be faxed to The Chief Scrutiny Officer, fax 713787, or emailed to him at roger.domaille@gov.gg. The full name and address of the representor must be provided; anonymous representations will not be accepted.

7 February 2005

Timetable

The Review was launched on 7 February 2005, with requests for written representations to be received by 25 February. The Hearing is scheduled to take place in March. Following the Hearing the Panel will evaluate the issues raised, and prepare a Report to be completed by May 2005. The Report will be submitted to the States, with the comments of States Departments and the Policy Council.

Further information

A detailed Guide on *Giving Evidence to Scrutiny Panels* is available from the Chief Scrutiny Officer, tel 717133. He can also provide any further information or assistance which may be required.

7 February 2005

APPENDIX C

SCRUTINY COMMITTEE

SCRUTINY REVIEW PANEL
COMPLAINTS POLICIES AND APPEALS PROCEDURES

ISSUES TO BE RAISED WITH ALL DEPARTMENT MINISTERS

- Identification of complaints
  - Definition, type and recognition
  - Habitual and vexatious complainants

- Complaints policies
  - Policy objectives
  - Priorities
  - Service delivery

- Investigation of complaints
  - Procedures, including timescales
  - Staff issues, including training

- Appeals
  - Definition and type
  - Policies
  - Procedures, including timescales

- Evaluation
  - Documentation
  - Recording, monitoring and reporting
  - Action taken in respect of service delivery as a result of complaints

- Public awareness

APPENDIX D

Judicial Review and Administrative Review Boards

Introduction

In Guernsey, where there is no statutory appeals process, there are two methods of challenging an administrative decision or, more accurately, the administrative decision-making process: these are (1) **Judicial Review** and (2) a statutory **Review Board**.

At the outset it is important to explain that both methods of challenge involve a review rather than an appeal. In a review the administrative process and legality of the decision is considered. An appeal is generally a challenge to a decision of a lower court or some other body which may involve a review of the legal basis for the decision and or a reconsideration of findings of fact. .

In some respects there is an overlap between the two remedies and as the nature and extent of judicial review in Guernsey develops, it is arguable that the need for Review Boards will diminish. This Paper seeks to explain the two processes, set out their similarities and differences, and identify the types of situation which might give rise to individuals accessing one or other, or even both, of the modes of challenge.

Review Boards

The Administrative Decisions (Review) (Guernsey) Law, 1986 ("the 1986 Law") provides for the appointment of a Review Board to review an administrative decision made by a Department of the States of Guernsey, or by an individual acting on behalf of any Department. Administrative decisions of the parish Douzaines are not susceptible to such review.

A person aggrieved by any decision, act or omission of a States Department, or any individual acting on behalf of the Department, which relates to an administrative matter

may request a review of the matter from the Chief Executive, or HM Greffier if the issue relates to a matter of administration concerning the Policy Council or an individual employed therein (hereafter reference will only be made to the Chief Executive).

"A person aggrieved" in the context of the 1986 Law has not been judicially defined. The precise ambit of the term, having regard to the context of the section and the purpose of the 1986 Law, is not immediately apparent. A narrow interpretation would encompass only those persons who have a legal grievance (i.e. those people who can show that there has been an interference with their legal rights) or those people who have asked for a decision and received an adverse decision. A wider construction might encompass a general presumption that any person who can demonstrate a legitimate personal grievance will be entitled to a hearing. Such a grievance would have to be real as opposed to fanciful. Obviously frivolous, vexatious or abusive complaints would be excluded; also a complaint where the complainant has no conceivable personal interest in the outcome. A complainant would not be precluded from a Review Board simply because he is unable to establish an interference with a directly enforceable legal right of his, but he would be subject to the restrictions set out immediately above. Whether a person is a "person aggrieved" will, in any case, depend on the circumstances and is likely to be broadly interpreted; but will always exclude the "busybody" without any personal interest in the matter.

A "matter of administration", in the context of the 1986 Law covers, a decision, action or omission made by a Department, or an individual acting on behalf of the Department, which is apparently made in accordance with, or in order to implement, legislation or policy. Excluded from the jurisdiction of a Review Board are operational actions and decisions of the law enforcement agencies, and all decisions taken in connection with original investigations and prosecutions.

The Chief Executive may refer a matter to the Chairman of the Panel of Members in order that he appoint a Review Board to review the decision, act or omission provided that he is satisfied that:

- The issue falls within the jurisdiction of a Review Board,
- There has been no undue delay in pursuing the complaint,
- The subject matter of the complaint is not trivial,
- The complaint is not frivolous, vexatious or made in bad faith,
- The complainant has sufficient personal interest in the matter,
- There is no other right of appeal, reference or review, or remedy, available by way of proceedings in a court of law open to the complainant unless the Chief Executive is satisfied that **in the particular circumstances** it would not be reasonable to expect the complainant to resort to that other right or remedy.

Three members will be appointed to a Review Board, drawn from a Panel comprised of those Members of the States of Deliberation who have held office for at least three years, and the Deans of each of the Island's Douzaines. Every year a Member of the States is appointed as the Chairman and a Dean of a Douzaine as the Deputy Chairman. In deciding who should sit on a particular Review Board, regard is had to both the subject matter of the complaint and the Department against which the complaint is made in order to avoid any potential conflict of interest.

A Review Board has the power to call for documents from any Department or officer or employee of any Department (apart from material which is privileged or where disclosure is prohibited) and to hear any person in connection with any complaint, that person being afforded the same immunities and privileges as if he were a witness before the Royal Court.

A Review Board has the power to regulate its own procedure but generally the review should be held in public. Having carried out a review, a Review Board must report its findings in writing. Should a Review Board find that a Department's decision was unlawful, unjust, oppressive, improperly discriminatory, based on mistaken facts and/or law, unreasonable or contrary to natural justice, the Review Board has the power to request the Department or person concerned to reconsider its decision, and the Review Board can request that it be informed of any reconsidered decision and the steps taken

to reach that decision. If it feels that a Department has failed to adequately consider or implement its findings, the Review Board can refer the matter to the States for debate.

The Chairman of the Review Board is required to report annually to the States on the complaints received, the findings of the Review Board in relation to those complaints, and any steps taken on reconsideration of a matter.

Judicial Review

Judicial review provides another means of challenging administrative action, but this process is carried out by a judge within the formal judicial process. Judicial review is a remedy of last resort, and should not be sought unless there is no alternative procedure for redress; for example, a statutory right of appeal. For this purpose, a Review Board is not an alternative procedure.

In order to apply for relief by way of judicial review, an individual must be able to show that he has sufficient standing or sufficient interest in the action complained about. Persons with a financial or legal interest are most likely to have standing, but absence of either does not necessarily negate such standing. It appears from the authorities that an interested person may not be the most obvious challenger, but he cannot simply be a "busybody".

Some decisions are not susceptible of judicial review. For a decision to be reviewable, it must be that of a public body and must be a public law decision rather than a matter affecting private law rights or interests. For example, an unlawful decision impacting on an individual's employment rights would not be appropriately challenged by judicial review but rather by a private law action. Public bodies include the courts and tribunals, and therefore the decisions of inferior courts and tribunals can be challenged in the Royal Court, which is the only court which can hear an application for judicial review. A decision made under the discretion of a prerogative power is immune from challenge, for example the issuing of passports, as also are Crown functions such as criminal prosecutorial decisions.

The traditional grounds for bringing a claim for judicial review are illegality, unreasonableness and procedural impropriety. These are broadly the same issues as would be considered by a Review Board. Once the Human Rights (Bailiwick of Guernsey) Law, 2000 comes into force, lack of compatibility with the rights enshrined in the European Convention on Human Rights set out in that Law will provide an additional, or alternative, statutory ground of judicial review.

Royal Court Practice Direction No. 3 of 2004 provides that permission must be sought from the Royal Court by an applicant before leave will be granted to commence a claim for judicial review.

The evidence before the Royal Court in determining an application for leave to bring, or a substantive claim for, judicial review will be in writing and oral evidence will not normally be heard. The responsibility for gathering information and determining the material that should be placed before the Royal Court rests initially with the party bringing the claim for review. Should permission to bring an application be granted by the Royal Court, the decision-making body will generally be obliged to file the written evidence on which it seeks to rely. Since the challenge is to the decision making process rather than the decision itself, the merits of the underlying matter are not ordinarily in issue, and therefore the facts should not be in dispute. As a result it will only be in exceptional circumstances that oral evidence will be given by witnesses. As in other matters, the procedure is essentially adversarial. This means that there are at least two parties, who are usually legally represented, with opposing viewpoints. One party presents its case to the judge and then the other party must meet or defend the case as presented.

The remedies that the Royal Court can order in proceedings for judicial review are discretionary but, once ordered, they are binding and enforceable. In England and Wales the following substantive remedies are available in proceedings for judicial review:

- **a quashing order** – an order to quash the decision complained of. The court may then direct the decision maker to reach a decision in accordance with the court's findings although this does not necessarily mean that the individual will succeed in obtaining a more favourable decision.
- **a mandatory order** – an order requiring the performance of a specified act or duty.
- **a prohibiting order** – an order preventing the decision-maker concerned from acting or continuing to act in excess of his or her jurisdiction.
- **a declaration** – a determination by the Court of the rights of the applicant in relation to the matter under challenge.
- **an injunction** – an order requiring the defendant to do, or to refrain from doing, a specified act.
- **an award of damages** (only in certain cases).

In addition interim remedies such as a **stay of proceedings** or an **interim injunction** may also be ordered.

The main differences between a Review Board and Judicial Review

1. The Royal Court is independent of the political process. It has the power to order a variety of remedies at its discretion in judicial review proceedings, whereas a Review Board is appointed from amongst States Members and Douzaine Deans, and it can only request reconsideration of a decision, and ultimately refer the matter to the States.

2. The decision of the Royal Court in proceedings for judicial review is binding on the parties, and any order made can be enforced. A Review Board can request reconsideration of a Department's decision but this is not legally enforceable, except by judicial review if the Review Board's decision making process is itself flawed. The remedy for failure to address an adverse finding of a Review Board is political, i.e. referral to the States.

3. The Royal Court, in determining judicial review proceedings, can give a definitive interpretation of the law, whereas a Review Board must work within the law as it perceives, or is advised, it is.

4. In judicial review proceedings, as in any court proceedings, precedent binds the Court. Although the Review Board should attempt to remain consistent in its findings it is not bound by its previous decisions.

5. An individual who is dissatisfied with the result of proceedings in the Royal Court for judicial review can appeal to the Court of Appeal. There is no statutory right of appeal from a decision of a Review Board, although arguably, the decision of the Review Board could be subject to judicial review if its decision-making process was substantially flawed.

6. The time scales for bringing proceedings differ. Although delay should always be avoided, proceedings for judicial review must be brought 'promptly' according to Royal Court Practice Direction No. 3 of 2004. (In England and Wales, proceedings must be brought promptly, or in any event within 3 months). A Review Board is slightly more flexible and may review a decision, act or omission provided that it is within 12 months of the complainant having knowledge of it.

7. Judicial review tends to proceed in accordance with quite strict procedural rules (although these are still developing in Guernsey), whereas a Review Board can regulate its own procedure to a large extent.

8. Despite tight timetables for progressing judicial review proceedings, any court proceedings inevitably take time. A Review Board, in contrast, can be assembled quite swiftly and can sit anywhere. Consequently a Review Board can review a matter within a shorter period of time, and perhaps more conveniently, than when the Royal Court is involved.

9. In judicial review proceedings, the onus is on the parties bringing and defending the application to produce evidence to support their arguments and to provide the material upon which the Royal Court can adjudicate. This falls within the traditional adversarial approach. In contrast, a Review Board has the power to order the production of documents and appearance of witnesses as it feels necessary and therefore can take a more inquisitorial approach (i.e. itself establishing the truth) in reviewing the matter.

10. Proceedings for judicial review are undoubtedly more financially burdensome on an aggrieved individual than referring the matter to a Review Board. In proceedings for judicial review, an aggrieved party should ideally be legally represented as legal issues are far more likely to be engaged. Furthermore, an unsuccessful party would be likely to face an order for costs. A Review Board is provided at the States' expense, i.e. free of charge to the complainant, and in addition, it is more likely that an individual will represent himself and therefore avoid legal costs.

11. Finally, a Review Board, not being a court, is visually less formal, and so less intimidating to lay participants.

Review Boards as the States enter the era of Judicial Review

Section 3(f) of the 1986 Law provides that a matter may not be referred to a Review Board "*if the complainant has, in respect of the matter complained of a right of appeal reference or review or a remedy by way of proceedings in any court of law unless, in any such case, the Chief Executive of the States of Guernsey or Her Majesty's Greffier, as the case may be, is satisfied that in the particular circumstances it is not reasonable to expect the complainant to resort to or to have resorted to that right or remedy*".

When the 1986 Law was drafted, judicial review was not thought to be available in Guernsey, or at least its nature and extent was uncertain, and it was relatively simple to identify when there was or was not a statutory right of appeal. With the advent of the

remedy of judicial review, it is arguable that there is always a remedy available in a court of law, and the 1986 Law is now redundant. To the contrary, section 3(f) includes an important proviso which enables the Chief Executive to refer a matter to a Review Board if in the particular circumstances *"it is not reasonable to expect the complainant to resort to or to have resorted to that right or remedy"* (i.e. a statutory appeal or judicial review).

There is an extant Resolution of the States in the 2002 Policy and Resource Planning Report envisaging that the Review Board will in time be replaced within the proposed Tribunals Service (Billet D' État XV 2002 at page 1161).

Where a binding decision is essential, or interim relief is urgent, judicial review will always be the best avenue. However, depending on the circumstances, it may be unreasonable to expect an individual to resort to judicial review, and indeed a Review Board may provide a more satisfactory means of review, particularly where a complainant has limited economic means (but not so limited as to qualify for Legal Aid) and/or where the complaint does not impact on the individual's substantive rights.

The Review Board has the ability to request reconsideration of a decision on the basis that the decision was 'unjust'. Arguably this allows for a wider enquiry into the merits of the case than is permissible in judicial review proceedings.

In situations where an aggrieved person has been provided with little information in relation to an administrative decision, the powers of a Review Board to require production of documents and the appearance of witnesses may make it a more appropriate forum for consideration of the grievance.

A Review Board may be better placed to consider a matter where the real complaint is insensitivity or inefficiency in the way in which an individual has been treated by a Department, rather than a complaint of the decision being legally unreasonable or unlawful. In such situations it may be impossible to establish the legal threshold to

bring proceedings for judicial review but the individual may have a legitimate grievance that requires ventilation and correction.

In the past, there have been instances when decisions relating to 'civic issues' have been referred to a Review Board. Examples of such issues might be decisions in relation to the use of particular building materials or with regard to the positioning of certain public lavatories. Individuals may have a sufficient interest for the purposes of the 1986 Law if the particular building or lavatory is close to their property but may not be so concerned that they would be willing to pay for court proceedings to question the decision making process. These types of decisions may be best referred to a Review Board.

Since the circumstances of complaints will inevitably vary, an analysis of the most appropriate form of review will now be necessary in every application to the Chief Executive for referral to a Review Board.

St James Chambers
July 2005

APPENDIX E

National Audit Office report on Citizen Redress – Summary and notes

The NAO report, entitled *Citizen Redress: What citizens can do if things go wrong with public services*, was published in March 2005. The following is a brief summary of the substantive points made by the report. The full report is available at http://www.nao.org.uk/pn/04-05/040521.htm.

The report is in four parts, preceded by an executive summary and followed by three appendices on study methods, reports on nine organisations studied in detail, and four comparator studies. The NAO also published separate reports on focus group studies, a survey of web sites, and a mystery shopper exercise. The four parts of the main report are on: citizen redress mechanisms, scale and costs, access to redress and how departments view redress issues, and how citizens view redress arrangements.

The report points out that redress mechanisms have evolved in the various departments, with little consistency. This makes is difficult for departments "to benchmark systems, identify inefficiencies and reduce costs while improving service." Most government departments define a complaint as "any expression of dissatisfaction", but some have a narrower definition. The NAO emphasises the value of redress mechanisms to departments, as a source of information about the quality of their services and about difficulties faced by their customers. If departments react quickly to the early warnings provided by complaints they can minimise the time and cost of resolving them, ideally in an informal manner (eg an apology). Some departments have "long procedural trails, often involving an escalation into more involved and expensive processes, with no reliable means to assess how efficiently and effectively the different systems operate."

The report's main conclusions are "that departments and agencies should ensure citizens have easy access to information about where to seek redress and that departments and agencies should actively manage their redress processes to provide accurate, timely responses to those citizens cost effectively." There is "a need for greater integration in complaints and appeals handling processes within government departments and agencies, with the various steps and procedures made much clearer for citizens."

The report also points out that even where complaints are unfounded, "the redress processes used should provide people with assurance that they have been fairly and properly treated or that a disputed decision has been correctly made under the relevant rules".

The main mechanisms for achieving redress from UK government departments are:

- Customer complaints procedures within departments.
- Appeals and tribunals systems.
- References to independent complaints handlers, adjudicators, and mediators.

- Ombudsmen.
- Judicial review.
- Legal action for compensation.

The report makes a clear distinction between complaints and appeals:

> *Complaints* are defined as "expressions of dissatisfaction with any aspect of department or agency conduct". They are seen as indicators of something having gone wrong, ie administrative failure. They "concern processes and how issues have been handled. They have traditionally been considered as part of the internal business arrangements of departments and agencies. They are often thought about primarily in terms of customer responsiveness and business effectiveness."
>
> *Appeals* are "expressions of dissatisfaction with substantive decisions made by the department". They concern the accuracy or correctness of those decisions, rather than administrative failure. "They conventionally form part of the administrative justice sphere. They are often considered primarily in terms of citizens' legal rights, natural justice and a range of related quasi-judicial criteria."

The report says that it makes sense to have a "progression of opportunities" from a basic, informal complaint to a more formal complaint directed at senior management, and thence (in the UK) to an ombudsman. It points out that this creates incentives "for lower ranked officials not to 'close ranks' to deny mistakes or poor treatment."

It quotes examples of the proactive approach to citizen redress in the 2004 White Paper, *Transforming Public Services*:

> "We are all entitled to receive correct decisions on our personal circumstances; where a mistake occurs we are entitled to complain and to have the mistake put right with the minimum of difficulty; where there is uncertainty we are entitled to expect a quick resolution of the issue; and we are entitled to expect that where things have gone wrong the system will learn from the problem and do better in future.
>
> 'Right First Time' [decisions] means a better result for the individual, less work for appeal mechanisms and lower costs for departments".

The report's recommendations are that each government department should:

1. Review its definition of complaint against "the widely used Cabinet Office definition."
2. Report on redress procedures in its annual report.
3. Review whether a closer alignment of procedures and the common handling of complaints and appeals would be more cost effective.
4. Review web-based information.

5. Review arrangements for people without web access.
6. Consider the individual needs of different social groups (gender, race, disability, age, sexual orientation, religion and belief).
7. Secure the views of people on the handling of complaints.
8. Collect information on complaints in a regular and systematic way, noting how many and cost.
9. Improve service quality and reduce the cost of handling complaints (but not at the expense of reducing the quality of the redress procedures).
10. Learn from successful appeals.

At a government-wide level the report recommends:

11. Consider more pro-active mediation and other ways of resolving disputes to minimise the progression of cases up the ladder.
12. Consider a single point of contact for information on where to make complaint, but not as an extra step.

The report mentions the Cabinet Office's *Charter Mark* scheme for government departments, which includes a checklist on the handling of complaints. A summary of the relevant section of the Charter Mark document is attached, and may be considered an example of best practice. It says that departments should have a well-publicised, easy to use complaints procedure; that there should be a commitment to deal with complaints in a full and timely manner; that staff should be trained and empowered; people, including staff, should be encouraged to comment on service; records should be kept and analysed; details of numbers and types of complaints and consequential service improvements should be published; people should be asked what they think of the complaints procedure; and there should be regular reviews.

The report also contains a useful flow-chart. This shows the different routes for complaints as opposed to appeals. *Complaints* are resolved at department's front line or at senior management level, thence to an independent adjudicator or mediator. *Appeals* against substantive decisions are referred straight to either an appeals process in the department or to an independent appeals body (perhaps through the department), thence to a second-tier tribunal review or to court. Tribunal decisions are binding on the department, but can be appealed on a question of law only to a higher tribunal or a court. *Complaints to MPs* are referred, after filtering by the MP, to an ombudsman, and thence to department.

The NAO report mentions that the Parliamentary Ombudsman expressed the view that internal complaints systems should have no more than two main stages.

It also points out that some government departments have no communication with appellants (so as not to be perceived as badgering them), while others negotiate with appellants in the run-up to appeal hearings, in an effort to reach a settlement.

Extract from UK Cabinet Office Charter Mark scheme for Government Departments

Departments should:

1. Have a well-publicised, easy-to-use complaints procedure, including a commitment to deal with problems fully and solve them wherever possible within a time limit. The complaints procedure should be set out in stages with named contacts for each stage. Customers should be able to complain in writing, by e-mail, over the phone or in person.

2. Give staff guidance and training to handle complaints and empower them to put things right. Staff should be able to put things right wherever possible (empowerment).

3. Actively encourage customers, partners and staff to comment on the Department's service, through suggestion schemes, comment and compliment forms, logbooks and e-mails.

4. Keep and analyse records of the number and type of formal and informal complaints, compliments and suggestions you receive, and how quickly they are dealt with. Act on them to improve services.

5. Publish details of the number and type of complaints, compliments and suggestions received, along with the improvements made as a result.

6. Ask people who use your complaints procedure what they think of it, through, for example, surveys and focus groups.

7. Regularly review and improve complaints procedures, taking account of the views of customers and staff.

Ref: http://www.cabinetoffice.gov.uk/chartermark/apply/sat-old/criterion4.htm

APPENDIX F

ARTICLE 6 OF THE HUMAN RIGHTS CONVENTION

Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

   a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

   b. to have adequate time and facilities for the preparation of his defence;

   c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

   d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

   e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Extract from:
The Human Rights (Bailiwick of Guernsey) Law, 2000
Core guidance for public authorities in the Bailiwick of Guernsey

Does my work involve making decisions concerning a person's private rights or lay down procedures for the determination of cases?

45. If so, Article 6 may be relevant. Article 6 guarantees a right to a fair trial in the determination of

- a person's civil rights and obligations, or
- any criminal charge.

46. Civil rights and obligations are rights and obligations that exist under private law, although they may arise in a public law context where a public authority is involved with or has affected private rights.

47. The concept of civil rights and obligations is an autonomous one, and therefore the definition in the Convention is not necessarily the same as that in Bailiwick law. It has been held to include:

- contracts
- a licence to provide a public service (eg a public transport operator)
- rights connected with land, planning decisions and certain social security benefits which are based on an insurance model.

48. The concept does not include, for example, certain tax obligations, which according to the case law of the Strasbourg court are matters of public law.

49. Decisions of public authorities are also covered where they affect private rights – for example, a decision to grant a licence to carry on a business activity or a decision in relation to disciplinary proceedings.

50. Under the Convention, anyone who is having his civil rights or obligations determined (for example by planning enforcement procedures) or is facing any criminal charge is entitled to:

- **the right of access to a court or tribunal**. The whole process needs to be considered. If the original decision is taken by an administrative body whose procedures do not satisfy Article 6, the requirement may nevertheless be met if that decision can be reviewed by a court or tribunal that does satisfy Article 6. Consequently, the review may need to be in the form of an appeal on both facts and law. What is required depends upon the nature of the case. If the conditions of Article 6 are met by the original decision, it is not necessary to provide for an appeal. The right of access to a court or tribunal is not absolute. However, restrictions on it must not impair the essence of the right and they must be for a legitimate purpose and

proportionate. The system must not be set up in such a way so as in practice to prevent access – for example, by creating inadequate time-limits, or not providing for the giving of notice of decisions - and it will in some cases require the right to legal aid or legal representation.

- **the right to a fair hearing**. There should be a reasonable opportunity to present a case and, in certain cases, to examine witnesses. There should be equality of arms i.e. one party should not be placed at a procedural disadvantage compared with the other. In criminal proceedings, there is a right to the assistance of an interpreter, if needed.

- **the right to a public hearing**. It is possible to have a system that allows an oral hearing to be dispensed with in certain cases. It is also possible to exclude the public from the hearing (though not from the judgement) where this can be justified on one of the grounds set out in Article 6, such as the protection of national security or public order.

- **the right to a hearing within a reasonable time**. A breach may arise if the public authority fails to organise its system so as to avoid delays, for example, by providing inadequate staff and resources to hear cases within a reasonable time.

- **the right to an independent and impartial tribunal**. Judges and tribunal members must be free from outside pressures, and should be independent of the executive and of the parties. The court or tribunal must not be biased. One element in securing this right is through the procedures and rules on the appointment and terms of office of judges and members of tribunals.

APPENDIX G

Examples of good practice

The following are examples of good practice, copies of which have been lodged at the Greffe. From a study of these examples, it is apparent that complaints procedures should include provision for the following issues:

- a statement of policy and policy objectives;
- who can complain;
- time limits for receipt of complaints;
- method of investigation (including investigatory stages);
- accountability for the policy;
- level of staff responsible for investigation and responding;
- timescale for responses;
- habitual and vexatious complainants;
- definition of complaint;
- types of complaint;
- any differences in dealing with different types;
- provision for appeal;
- protection and support for staff;
- disciplinary action;
- whistle-blowing;
- complaints which may result in criminal proceedings;
- a statement assuring the absence of recrimination or retribution;
- training;
- litigation and liability;
- compliance monitoring;
- recording, reporting, evaluation;
- policy and procedure review; and
- promulgation.

States of Guernsey Health & Social Services Department: *Dealing with Complaints*

States of Guernsey Health & Social Services Department: *Whistleblowing*

Cabinet Office website: *How to deal with complaints*
http://archive.cabinetoffice.gov.uk/servicefirst/1998/complaint/

UK Department of Health website: *Complaints procedure for the NHS and local social services.*
http://www.dh.gov.uk/PolicyAndGuidance/OrganisationPolicy/ComplaintsPolicy/fs/en

UK local authorities:

> Haringey Council website: *Complaints, compliments and suggestions*, as an example of a local authority with good public awareness.
> http://www.haringey.gov.uk/contact/contact_complaints.htm
>
> Redcar and Cleveland Borough Council website: *Complaints.*
> http://www.redcar-cleveland.gov.uk/YrCounc1.nsf/Web+Full+List/EA933A45C0016DCB80256BA00049DF2A?OpenDocument
>
> Tameside MBC website: *Complaints policy.*
> http://www.tameside.gov.uk/tmbc8/complaints.htm

Many other UK local authorities have websites about complaints procedures (easily accessed, for example, by typing "council complaints" into a search engine). See, for example:

> Lancashire County Council website:
> http://www.lancashire.gov.uk/corporate/complaints/index.asp
>
> Braintree District Council website:
> http://www.braintree.gov.uk/councildemocracy/complaints/default.htm

APPENDIX H

POLICY COUNCIL AND DEPARTMENTS' COMMENTS

ON

THE FINAL DRAFT REPORT

POLICY COUNCIL
THE STATES OF GUERNSEY

RECEIVED
25 AUG 2005

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Our ref: C/S/1

Deputy J Pritchard
Chairman
Scrutiny Committee
Sir Charles Frossard House
P O Box 43
La Charroterie
St Peter Port
GY1 1FH

24 August 2005

Dear Deputy Pritchard

Scrutiny Review – Complaints Policies and Procedures – Final Draft Report

I refer to your letter dated 8th August 2005, appending a copy of the above report.

The Policy Council considered this draft at its meeting on 22nd August 2005, and resolved not to make any general comments on the report at this stage.

The Council will, however, consider the final report, which will include the comments of all the Departments, when it is appended to a States Report for consideration by the States.

In reaching this decision Ministers were aware that the factual content of the report concerning its Human Resources Unit had already been discussed between the Chief Scrutiny Officer and the Head of that Unit.

I look forward to receiving the completed report in due course.

Yours sincerely

L C Morgan
Chief Minister

TREASURY AND RESOURCES
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

RECEIVED
10 AUG 2005

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The Chairman
Scrutiny Committee
Sir Charles Frossard House
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10 August 2005

Dear Deputy Pritchard

Thank you for your letter dated 5 August 2005 enclosing a final draft of your Committee's report.

As set out in my previous letter, although I would have phrased your comments slightly differently, I accept that it is your report and your wording captures the main thrust of my points.

As I said at the Panel Hearing, Treasury and Resources Department is looking to the Scrutiny Committee, through this exercise, to set some degree of standardisation across the States, which the Department would be happy to contribute to.

My Department and its staff therefore look forward to continuing to work with you to assist in that process.

Yours sincerely

L S Trott
Minister

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RECEIVED
15 AUG 2005

Our ref: DH/js

The Chairman
Scrutiny Committee
Sir Charles Frossard House
PO Box 43
La Charroterie
ST PETER PORT
Guernsey
GY1 1FH

10 August 2005

Dear Deputy Pritchard

Re: Scrutiny Review – Complaints Policies and Procedures – Final Draft Report

Thank you for your letter of 5 August 2005, enclosing a copy of your final draft of the above report.

I was pleased to see that the Health and Social Services Department's policies on Dealing with Complaints and Whistleblowing were included in the examples of good practice.

One improvement we have made since your review is to include, when acknowledging receipt of a complaint, the timescale within which the complainant can expect a response, ie 20 working days. We also say that, if a response is not possible within this time, we will write to advise the complainant.

The only comment I would make on the report is that the number of complaints received by this Department can be misleading, as it includes complaints which refer to services provided by the Medical Specialist Group, the Primary Care Practices, the Guernsey Physiotherapy Group, private residential and nursing homes and UK hospitals. In some cases, there are complaints about both one of these services and some of our own services but, in other cases, the complaint is solely about services not provided by this Department. However, it is still recorded as a complaint received, because of this Department's interest in all health and social care matters affecting the population. The complaint itself will be sent to the service provider for attention but we always request a copy of any further correspondence.

The Health and Social Services Department will certainly find your report useful, as,

although our procedures comply with the vast majority of your recommendations, there are some areas that we will review in the light of your findings.

Yours sincerely

P J ROFFEY
Health and Social Services Minister

CULTURE AND LEISURE
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

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RECEIVED
17 AUG 2005

Deputy J.A. Pritchard
Chairman
Scrutiny Committee
States of Guernsey
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

16 August 2005

Dear Deputy Pritchard

Scrutiny Review – Complaints Policies and Procedures – Final Draft Report

Thank you for your letter of 5 August and the copy of the Final Draft Report.

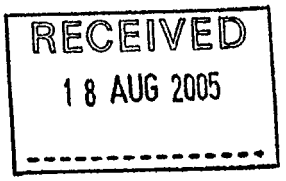
The Culture and Leisure Department has previously had the opportunity to comment on the accuracy of the Report in the Original Draft previously circulated and is pleased that those comments have been incorporated into this final draft.

As indicated in the report the Department strives to improve its service to the community by being proactive in its use of customer comments etc. This has been highlighted as a strength although where there are improvements that can be made these are currently being addressed.

Yours sincerely

Deputy Peter Sirett
Minister

HOUSING
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT



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The Chairman
Scrutiny Committee
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16 August 2005

Dear Deputy Pritchard

Complaints Policies and Appeals Procedures

I am writing in response to your letter dated 5th August regarding your Committee's final draft report on the above subject.

The Housing Department finds the report useful and its contents, particularly the examples of good practice, will be of assistance in our efforts to continuously improve customer service across our range of services.

Whilst the report is not intended to consider the details of specific complaints, the Department feels it is important that readers of the report understand that, in this forum, States Departments were not given an opportunity to respond to any points raised by members of the public who made representations to the Panel. Without this clarification, details of the representations that have been published in the report could easily be misconstrued as being facts that have resulted from an investigation, which of course they are not.

Yours sincerely

D Jones
Minister
Housing Department

POLITICAL RESPONSIBILITIES
Housing Strategy, Corporate Housing Programme, States Housing, Rent Control, Housing Associations (regulation and funding), House Purchase and Improvement Loans, Residential Homes (Maison Maritaine/Longue Rue House), Housing Control and Right to Work Laws.

PUBLIC SERVICES
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Central Services
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Our Ref: S2638

30 August 2005

Deputy J A Pritchard
Chairman
Scrutiny Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

Dear Deputy Pritchard

COMPLAINTS POLICIES AND APPEALS PROCEDURES

Thank you for your letter dated 5 August 2005, with which was enclosed the final draft Report on the above subject.

I can confirm that the Department has no further comments to make on the Report.

Yours sincerely

William M Bell
Minister

EDUCATION
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

Education Department
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www.gov.gg

Our ref: 2196/ 223 /bmw

6th September 2005

Deputy J. A. Pritchard,
The Chairman,
Scrutiny Committee,
Sir Charles Frossard House,
PO Box 43, La Charroterie,
St. Peter Port,
GY1 1FH.

Dear Deputy Pritchard,

SCRUTINY REVIEW OF COMPLAINTS AND APPEALS PROCEDURES

Thank you for your letter of 8th August 2005. The Department has little to add to the submissions it has made so far. However, before making a few final points, the Board of the Education Department would wish to express its thanks for the work of the Scrutiny Committee in assisting the Department in this area.

I am pleased to report that the Department is actively proceeding with the revision and finalisation of its formal policies and procedures for dealing with complaints, as well as the adoption of formal whistleblowing procedures.

The Board considers that the majority of complainants are happy with the Department's handling of issues. This is evident in the submissions to Scrutiny Committee which included just one complaint from the public in the form of the Alderney Swimming Club submission and, in this instance, the Board's decision in the matter, with which ASC was unhappy, was vindicated by the Administrative Decisions Review Board. Mrs Heath's complaint was partly to do with this matter as well. As you are aware, the Department has very different perspectives on the issues portrayed by ASC, and is glad that the Administrative decisions Review Board supported the Department's decision. The Board agrees with the Scrutiny Committee's recommendations that there has to be, in any procedure, a "closure." The Board felt that in this instance the Review Board's pronouncement was just that.

The Board noted that the comments made by NCTLG strictly fell outside the scope of the Review. Nevertheless, the Board admits to being somewhat perplexed by some of the claims, as it was certainly not members' experience that teachers have ever been unsure who they worked for!

1995

In drawing this letter to a close, may I once again thank you for the hard work and considerable effort which has gone into producing the report. The Board will be doing everything it can to ensure that its policy and procedures in this area are improved along the lines being suggested.

Yours sincerely,

D. P. Le Cheminant.

D. P. Le Cheminant
For Minister
Education Department

HOME
A STATES OF GUERNSEY GOVERNMENT DEPARTMENT

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The Chairman
Scrutiny Committee
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GY1 1FH

RECEIVED
07 SEP 2005

6 September 2005

Dear Deputy Pritchard

SCRUTINY REVIEW OF COMPLAINTS POLICIES AND APPEALS PROCEDURES

Thank you for your letters of 5 August and 1 September 2005 and the copy of the final draft of your Panel's Report.

The Home Department is pleased that requested amendments in our letter of 6 July 2005 have now been incorporated into the final draft.

Please accept my apologies for this late reply.

Yours sincerely

F W QUIN
Deputy Minister
Home Department

E/Scrutiny Committee/Letter to Scrutiny/060905/tmp

Environment Department
Sir Charles Frossard House
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Our Ref: ED/ADM/SCRUTINY

Deputy J A Pritchard
Chairman
Scrutiny Committee
Sir Charles Frossard House
PO Box 43
La Charroterie
St Peter Port
Guernsey
GY1 1FH

8th September 2005

Dear Deputy Pritchard

SCRUTINY REVIEW – COMPLAINTS POLICIES AND PROCEDURES – FINAL DRAFT REPORT

Thank you for your letter dated 5th August 2005 and for affording the Environment Department a further opportunity to comment on your Committee's report.

I am sure the report will prove useful to the Environment Department and its staff and that by embracing best practice in the area of complaint investigation and response, the States of Guernsey will, as a whole, deliver a better service to its clients and customers, namely the people of Guernsey.

As stated in the report (paragraph 7.2.3), the Environment Department values complaints and is committed to preparing complaints policies as part of a Customer Charter. It is hoped that the Department will be able to take this initiative forward in concert with the corporate approach recommended by your Committee.

It is, however, disappointing, particularly in light of the above statement, that your Committee chose not to correct or provide clarification to the comments attributed to the Environment Department in paragraph 6.1.2. The paragraph was the subject of correspondence between the Environment Department and your Committee in the Minister's letter dated 5th July 2005 which I note has been lodged at the Greffe. That letter fully set out the Department's position and explained why the paragraph as stated does not accurately portray the Department's approach to complaints. It is unfortunate your Committee chose not to take the opportunity to clarify the same.

Yours sincerely

I F Rihoy
Deputy Minister

Commerce and Employment
Raymond Falla House
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Deputy S J Maindonald
Vice-Chairman
Scrutiny Committee
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH

8 September 2005

Dear Deputy Maindonald

SCRUTINY REVIEW OF COMPLAINTS POLICIES AND APPEALS PROCEDURES

I refer to recent correspondence with regard to the Scrutiny Review of Complaints Policies and Appeals Procedures.

The Commerce and Employment Board do not wish to add any further comment to the final report. The Board is, however, grateful that you have taken note of our comments on the draft document and look forward to further guidance in this area following the States debate.

Yours sincerely

Carla McNulty Bauer
Deputy Minister

(NB The Policy Council recognises the need to have satisfactory complaints policies and appeals procedures across the States, and acknowledges the helpful contribution which the present States Report from the Scrutiny Committee makes to this area of work. However, the Council is also very conscious, particularly given current States finances, to ensure that an appropriate balance is struck between the legitimate rights and concerns of individuals and the wider costs to the community.)

NB The Treasury and Resources Department has no comment on the proposals)

The States are asked to decide:-

XV.- Whether, after consideration of the Report dated 26th August, 2005, of the Scrutiny Committee, they are of the opinion:-

1. To note that Report.

2. To recommend Departments to review their complaints policies and appeals procedures in response to this report and to request the Scrutiny Committee to monitor such action taken by Departments and report back when appropriate.

REQUÊTE

REVIEW OF ADMINISTRATIVE DECISIONS AND
CREATION OF OFFICE OF OMBUDSMAN

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation **SHEWS** that:-

1. The Administrative Decisions (Review) Law, 1986, as amended (the 1986 Law") was enacted to provide an informal but not judicial means of reviewing administrative decisions, at a time when the availability of judicial review in Guernsey was doubtful.

2. The powers of a board constituted under the 1986 Law are limited, and the only remedy available to a person in whose favour a board has found is political.

3. As a consequence of the development of judicial review, the 1986 Law is now no longer appropriate to deal with all complaints relating to administrative decisions.

4. Complaints against Departments of administrative decisions are becoming increasingly complex, in part in consequence of issues of legal liability and human rights.

5. Because of the high legal costs in Guernsey, and of the unavailability of legal aid, most complainants are practically unable to pursue their complaints against administrative decisions by means of judicial review.

6. Because of the reduction in the numbers of States' Members and the new Departmental structure of the States, which gives rise to greater possibilities for conflicts of interest, it is difficult for Members to represent individual complainants.

7. In the opinion of your Petitioners, there is a need for the Policy Council, as a matter of urgency and in any event by no later than May 2006

   A. to review the operation of the 1986 Law, and to consider what, if any, amendments might beneficially be made to it, including the power to award compensation; and

   B. to investigate the provision of alternative methods of reviewing administrative decisions which are informal, independent of the States, and inexpensive, and which provide remedial or compensatory powers outside the political process, including assessing the creation of the post of Ombudsman in Guernsey, based on best practice in the United Kingdom and elsewhere.

THESE PREMISES CONSIDERED, your Petitioners pray that the States may be pleased to resolve as follows:

A. to review the operation of the 1986 Law, and to consider what, if any, amendments might beneficially be made to it, including the power to award compensation; and

B. to investigate the provision of alternative methods of reviewing administrative decisions which are informal, independent of the States, and inexpensive, and which provide remedial or compensatory powers outside the political process, including assessing the creation of the post of Ombudsman in Guernsey, based on best practice in the United Kingdom and elsewhere.

C. to report back to the States on the foregoing with recommendations by no later than May 2006.

GUERNSEY, this 26th day of August, 2005

C D Brock	I F Rihoy
G H Mahy	A H Brouard
G Guille	R R Matthews
D E Lewis	B L Brehaut

(NB By a majority, the Policy Council

- **is committed to reviewing the operation of the Administrative Decisions (Review) (Guernsey) Law, 1986, as amended**
- **has been advised by the Scrutiny Committee that, whilst supporting such a review, it considers that it would be prudent to wait until States Departments have had time to introduce new and/or amended Complaints Policies and Appeal Procedures**
- **has considered the following comment made by the Treasury and Resources Department**

and therefore

- **believes that, in all the circumstances, the prayer of the petition is unnecessary.)**

(NB The Treasury and Resources Department does not support the prayer of the Requête at this time as it believes that it is not a priority use of resources.)

The States are asked to decide:-

XVI.- Whether, after consideration of the Requête, dated 26th August, 2005, signed by Deputy C D Brock and seven other Members of the States, they are of the opinion:-

To direct the Policy Council

(a) to review the operation of the Administrative Decisions (Review) Law, 1986, as amended, and to consider what, if any, amendments might beneficially be made to it, including the power to award compensation;

(b) to investigate the provision of alternative methods of reviewing administrative decisions which are informal, independent of the States, and inexpensive, and which provide remedial or compensatory powers outside the political process, including assessing the creation of the post of Ombudsman in Guernsey, based on best practice in the United Kingdom and elsewhere; and

(c) to report back to the States on the foregoing with recommendations by no later than May 2006.

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE INCOME TAX (BUSINESS PROFITS) (COMMENCEMENT AND TRANSITIONAL PROVISIONS) (GUERNSEY) REGULATIONS, 2005

In pursuance of Section 19 (3) of the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, the Income Tax (Business Profits) (Commencement and Transitional Provisions) (Guernsey) Regulations, 2005, made by the Treasury and Resources Department on 6th September, 2005, are laid before the States

EXPLANATORY NOTE

These Regulations make provision, for the purpose of the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, for the transition to the new basis on which income from the carrying on of a business is assessed to income tax. Prior to the commencement of that Law, income tax was calculated on the basis of the income of the business arising in the accounting period ending within the year preceding the year of charge ("the preceding year basis"). From the 1st January, 2006 the relevant income will be that for the accounting period ending within the year of charge ("the current year basis"), thus bringing the taxation of the income of a business into line with the taxation of the income of individuals. The year of charge 2005 is the transitional year.

THE LIMITED PARTNERSHIPS (APPLICATION OF AUDIT REQUIREMENTS) REGULATIONS, 2005

In pursuance of Section 44 (3) of the Limited Partnerships (Guernsey) Law, 1995, the Limited Partnerships (Application of Audit requirements) Regulations, 2005, made by the Commerce and Employment Department on 6th September, 2005, are laid before the States.

EXPLANATORY NOTE

These Regulations prescribe those classes and descriptions of limited partnership to which the audit requirements of the Limited Partnerships (Guernsey) Law, 1995 as amended do not apply and make minor amendments to the audit requirements of that Law.

COMMERCE AND EMPLOYMENT DEPARTMENT

ANNUAL REPORT AND ACCOUNTS 2004 –
OFFICE OF UTILITY REGULATION

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

6th September 2005

Dear Sir

The Regulation of Guernsey (Bailiwick of Guernsey) Law, 2001 provides, in Section 8, that the Board shall submit to the States annually a report on the activities of the Office of Utility Regulation (OUR) during the preceding year.

Attached is a copy of the Director General's report for 2004.

Section 8 (3) of the Law also provides that the Board may, at the same time, submit its own report commenting on the activities of the Director General during this period.

In the Board's covering letter accompanying the Director General's report for 2003, concern was expressed about the high cost of operating the OUR due, in large part, to legal costs associated with tribunals. The Board indicated at that time that it intended to approach the States with an alternative approach to dispute resolution which should result in a reduction in costs. Progress has been made in this regard and an alternative approach has been finalised, however the Board has deliberately held back presenting this to the States in the light of the wider report into the whole question of commercialisation and utility regulation which has been jointly commissioned by Commerce and Employment and the Treasury and Resources Department.

Following a tendering process the National Audit Office was appointed to research and report on this issue but regrettably there have been significant delays in receipt of the final report which is expected to be delivered shortly. The two departments hope to be in a position to report back to the States in the next few months, at which point the alternative proposals to the current tribunal system can also be laid before the States.

While the Board takes some comfort from the fact that the costs of the OUR in 2004

were less than those in 2003, nevertheless it is hopeful that, as a result of the changes it envisages may be made to the way in which regulation is undertaken in future, further, more significant savings can be made.

I would be grateful if you would place this report before the States.

Yours faithfully

Stuart Falla
Minister

2006

Office of Utility Regulation, Bailiwick of Guernsey

Annual Report and Accounts 2004

Year Ending 31st December 2004

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Annual Report: 2004

Deputy Stuart Falla
Minister for Commerce and Employment
Raymond Falla House
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Guernsey
GY4 6AF

10th August, 2005

Dear Deputy Falla,

I am pleased to submit this report on the activities of the Office of Utility Regulation for the period 1st January 2004 to 31st December 2004.

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

Yours sincerely,

John Curran

Director General of Utility Regulation

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Annual Report: 2004

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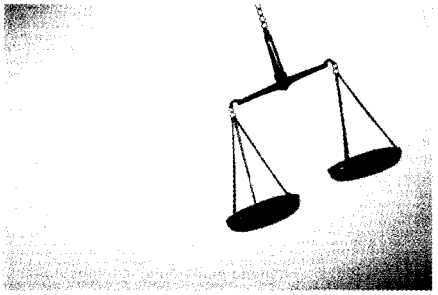
Annual Report: 2004

"One major challenge that we all face in small jurisdictions is to ensure that our economies have in place the key essential infrastructure that is essential to underpin successful economic activity. At the same time we need to make sure that the needs of our people for high quality, value for money, innovative services are met now and into the future."

Speech given by Laurie Morgan, Guernsey's Chief Minister at OUR conference

Director General's Report



The provision of first rate, high quality, competitively priced utility services is very important in a small economy such as the Bailiwick's. The OUR recognises that electricity, telecommunications and postal services underpin much of the economic and social life of the Bailiwick and ensures Guernsey can be competitive on the international stage. The OUR's core focus in 2004 continued to be ensuring that these services are provided at a quality customers demand and at a price that is value for money for the customer. The sustainability of the utility services is also crucial.

Each sector has an increasingly important role to play in ensuring the economic prosperity of the Bailiwick. The Bailiwick competes on the global stage for inward investment, the finance industry being a case in point. Guernsey needs to be able to demonstrate to the business community at large that it can provide an environment where reliable, competitively priced utility services are available that meet or better those on offer from our competitors. The regulatory regime has a vital role to play in ensuring that the utility companies contribute towards the Bailiwick's economic growth.

The record of the utility companies in meeting this goal is commendable. The range of telecoms services being provided to meet customers' needs has increased with the liberalisation of the telecoms market. It is satisfying that in 2004 Guernsey became the first Channel Island with an operating 3G service and a choice of mobile operators. Line rental charges, while increasing as C&W Guernsey rebalances its prices, still remain competitive in comparison to other jurisdictions whilst competition has driven down international call charges.

The quality of the electricity network is also worthy of note. Ensuring continuity in the supply of electricity is crucially important in maintaining existing business and attracting further inward investment. Guernsey Electricity has been successful in contributing to the promotion of Guernsey's image as a secure and reliable place to do business.

Guernsey Post has made significant improvements in its quality of service. While much work still remains to be done, Guernsey Post is positioned to assist in increasing the diversity of the Bailiwick's economy and to further support the existing bulk mail industry. Ensuring that its services are provided efficiently and cost-effectively remains a key area of focus.

Director General's Report

However, while much has been achieved much more needs to be done. Guernsey's competitors for inward investment are not standing still and we need to make sure that we are positioned to respond.

We also should not lose sight of the needs of local, home-grown businesses and ordinary residential consumers. The utility providers need to respond to, and help support these customers also. Telecoms services need to be provided at more competitive prices and the range of services on offer needs to increase even further. Postal services need to be competitively priced and quality must be kept consistently high. Reliable electricity supplies at prices that are competitive must be the main focus of Guernsey Electricity. The cost to consumers of all these utility services needs to be controlled so that consumers benefit.

At the time of writing, the review of commercialisation and regulation initiated by the Departments of Commerce & Employment and Treasury & Resources in 2004 is ongoing. However, even without this review, as with any organisation, the OUR undertakes a continuous assessment of how its activities are carried out, to ensure that our objectives are met efficiently and effectively and that regulation is targeted to achieve the aims set for it by the States.

Linked to this is the need to control costs. The OUR is very conscious that we are funded by licence fees on the three industries and that keeping our costs to a minimum is important. It was therefore disappointing that in 2004 licence fees to all sectors had to increase to cover the costs that arose directly from C&W Guernsey's appeal which has heard by the Utility Appeal Tribunal in 2003. The scale of the costs associated with that appeal — which have amounted to over 20% of the OUR's total costs in 2003 and 2004 — has been commented upon previously by the OUR. Our concerns with the appeal process were raised early in 2004 with the Department of Commerce & Employment. I am encouraged by the response to those concerns and hope that this issue will be resolved shortly.

Outside of the appeal costs, we continue to ensure that all projects that involve external advice are awarded following competitive tender and professionally managed to ensure they come in within budget. I believe that, benchmarked against other sector specific regulators in the UK, the OUR compares very favourably with those agencies. The OUR is determined to ensure that the cost of regulation is controlled on industry while at the same time representing good value for money for the consumer. It is important that the users of utility services are the primary focus. It is reassuring that past effort on certain areas are now beginning to bear fruit for the consumer.

Director General's Report

Looking forward, a key task for 2005 will be strengthening contact with business and residential consumers of utility services. By improving communications with consumers, the OUR can continue to focus efforts on areas that are of priority to consumers and to gain valuable feedback on the impact that specific regulatory measures are having. It will help the OUR target its work more effectively which should ensure that the impact to utility companies remains only the minimum required to protect consumers and promote competition.

The accountability of the OUR, given that the Office is supported by licence fees paid by the utility companies, is an area where further effort is being made. While the OUR complies with the requirements currently on it under the Regulation Law, it is important that confidence in the way that funding is managed is maintained. The OUR intends to strengthen the internal audit role prior to the commencement of the 2006 financial year. It is also intended to publish the OUR's code for financial management.

At the end of 2004, the former Director General of the OUR, Regina Finn, announced that she would be leaving to return to Ireland to take up a senior post in the energy sector there. Since 2000, Regina has been instrumental in shaping the regulatory landscape in Guernsey and it is largely due to her sterling efforts that so much has been achieved. We wish her well in her new role.

The OUR is and will remain a small core team of experienced staff. Since its inception the Office has worked with a maximum of five staff. It is due to the professionalism of the staff that so much has been achieved in a relatively short time.

It must be remembered that the regulation of the three sectors is still in its initial phase. The work to-date has been concentrated on getting a solid platform in place upon which to build future benefits for consumers. Much of the work to-date is only now beginning to have an impact. As a consequence, I would anticipate that the costs both of the Office and of compliance should continue to reduce going forward.

While much has already been achieved, I am conscious that a significant amount of work remains to be done. 2005 in particular will be an important year for this Office with the culmination of price control projects in each of the three sectors. However, we look forward to the challenge and to working with industry, consumers and the States in ensuring that the Bailiwick of Guernsey continues to be competitive.

John Curran
Director General of Utility Regulation

Balancing Interests

- Consumers not a single homogenous entity;
- Within each group there are both different priorities and both short term and long term interests;
- Regulation takes long term view and balances interest of consumers and operators within framework of States' policy; and
- Operators need to ensure that market delivers.

WEA Economic Viewpoints of
Guernsey, 2nd February 2004

The Year in Brief

January 2004

Regulation in Guernsey: Revised Consultation Procedures; Utility Appeals Tribunal delivers its first decision on an appeal taken by C&W Guernsey.

February 2004

OUR participates in the WEA Seminar Programme.

March 2004

OUR publishes decision on Guernsey Post's Proposed Tariff Increases - sets maximum prices for postal services; Vulnerable Users Workshop with Social Policy Working Group; C&W Guernsey launch Telephone Assistance Scheme for vulnerable users.

April 2004

OUR consults on C&W Guernsey's proposed Reference Offer for Interconnection and Access; New licensing scheme for ISPs introduced - lessens regulatory requirement on ISPs; Consultation on introduction of Carrier Pre-Selection (CPS) and Number Portability (NP) undertaken.

May 2004

Wave Telecom fails to launch mobile service as required under licence and OUR sets new deadline; Number of disputes relating to mobile issues investigated and resolved.

June 2004

Revised licence fees set for telecoms, postal and electricity sectors; OUR begins large project to set new price control for C&W Guernsey; OUR consults on review of market dominance, review of the scope of the price control and related issues; A seminar on Postal Misdeliveries with presentations from Guernsey Post, Postwatch UK and the OUR.

July 2004

Launch of Wave Telecom mobile service – competition introduced to whole of telecoms market; The conclusion of the OUR's review of C&W Guernsey's Regulatory Accounts published; OUR publishes findings of investigation into C&W Guernsey charges for Exchange Line Rentals which results in a significant number of consumers receiving refunds.

August 2004

Revised guidelines published for C&W Guernsey's regulatory accounts; OUR publishes advice to Internet Users on Rogue Diallers and Modem Hi-Jacking.

September 2004

OUR hosts presentation by Ofcom on Broadband Fixed Wireless Access in Guernsey and invites expressions of interest in licences; OUR consults on amending Guernsey Post's licence to cover services outside the Reserved Sector; Timetable for Guernsey Post tariff proposals review published for consultation.

October 2004

Information note on developments in ENUM – a new means of accessing multiple customer services through telephone numbers; Guernsey Post licence amended following consultation; Timetable for Guernsey Post tariff application finalised.

November 2004

OUR hosts international conference for Regulators from other small island jurisdictions; OUR begins first ever audit of emissions from radio masts licensed by the OUR; Appeal to the Utility Appeals Tribunal launched by Guernsey Post into modification of its licence.

December 2004

Regulatory Accounting Guidelines for C&W Guernsey updated: Wave Telecom launches mobile services in Alderney and Sark.

Annual Report: 2004

"The Director General shall exercise his functions and powers with fairness, impartiality and independence and in a manner that is timely, transparent, objective and consistent with the States' Directions and the provisions of this Law and any relevant sector Law"

- the Regulation of Utilities (Bailiwick of Guernsey Law) 2001

The Guernsey Regulatory Environment

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

Legislation

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

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

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

Where empowered to do so the Director General has also introduced regulations and orders and these, along with directions, decisions and the large body of published documentation on the OUR website, record the implementation of the legislative and policy framework for regulation of utilities in Guernsey.

Texts of all relevant legislation are available from the OUR website at **www.regutil.gg**

States Directions

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

- The identity of the **first licensee** in each sector to be granted a licence with a universal service obligation;
- The scope of a **universal service** or minimum level of service that all

customers in the Bailiwick must receive;

- Any special or **exclusive rights** that should be granted to any licensee in any of the sectors; and
- Any requirements on licensees that might be needed for Guernsey to comply with any of its **international obligations**.

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

The Office of Utility Regulation

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

OUR Team

OUR is located in its own separate offices in Hirzel Court in St Peter Port and, although small, continues to be independently run and staffed with its own computer network, telephone system and services.

During 2004 the Office had four core staff in addition to the Director General and continued its use of external specialist technical expertise to complement in-house resources and to handle specific projects.

John Curran

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

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

Jon Buckland

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

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

The Office of Utility Regulation

Michael Byrne

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

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

Michael Begg

Michael joined the OUR in May 2005 as Director of Economics and is working on a number of projects across the three sectors, including work on C&W Guernsey's price control, market definition issues in the postal sector and issues in the mobile market.

Prior to joining the OUR, Michael was an Economic Advisor in the UK communications regulator OFCOM from its launch in 2003 and had previously worked at the Independent Television Commission, for economic consultants NERA (specialising in transport and telecoms) and as a lecturer in economics at the University of Edinburgh. Michael has an MA in Economics and Accountancy and is currently completing a PhD in Economics

Nicola Whittaker

Nicola became part of the OUR team in May 2002 and since then has managed the Office and provided support to all the team assisting with projects across all sectors.

Nicola also manages all communications with the media, and as Customer Care Manager, is responsible for responding to and investigating complaints against OUR Licensees.

Before joining the OUR Nicola worked as an Environmental Consultant and holds a degree in Environmental Management and Technology.

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

During 2004, the following consultants and **external specialists** worked with the OUR on a range of specific projects, as well as in providing general support for the OUR work programme:

- **Brockley Consulting Ltd** provided assistance in the review of Guernsey Post Ltd's application for tariff increases.
- **Cellular Design Services** undertook an audit of all licensed telecommunications antennae in the Bailiwick to assess operators' compliance with their licence obligations.
- **Design & Implement Ltd** continued to support the OUR work in the electricity sector during the year.
- **Europe Economics Ltd** provided specialist support on both the review of C&W Guernsey's Regulatory Accounts and on C&W Guernsey's interconnection and access charges.
- **Frontier Economics Ltd** assisted the OUR in its work on reviewing C&W Guernsey's price control and on a number of related matters.
- **GOS Consulting Ltd** advised on a wide range of telecommunication projects including interconnections, Reference Offer review, regulatory accounts and others.
- **Mott MacDonald** were engaged by the Department of Commerce & Employment and OUR to assist in the strategic review of Guernsey's electricity sector.
- OUR's legal advice during 2004 was provided by **Babbe Le Pelley Tostevin, Ogier & Le Masurier** and **Landwell Solicitors**.

OUR Communication

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

the views received.

The website has continued to be invaluable and an efficient method of conducting public consultations and disseminating information with **25 papers** published in 2004. A full list of all the documents published in 2004 is at **Annex B.**

The Director General and OUR staff also held public meetings and presentations during the year on a range of issues as well as speaking to various interest groups among which were a presentation to the WEA as part of its programme of seminars on economic issues. The OUR also was involved, with **Postwatch Guernsey** and Guernsey Post in a seminar on postal mis-deliveries.

The OUR continues to maintain strong contacts with the UK regulators such as **Ofcom** (who have a major role in matters relating to telephone numbers and frequency spectrum) and Postcomm (given its role in regulating Royal Mail and its work on matters of a common interest to the OUR). The OUR also looks to maintain contact with regulators from jurisdictions of a similar size to the Bailiwick and which may face similar issues. The OUR's conference in November was extremely useful in this regard.

OUR Work Programme

The OUR publishes its indicative work programme on its website and updates this regularly. However the Office also has to be able to react to specific issues that may arise particularly where consumers are impacted unfairly. The work programme is therefore flexible and can be adjusted as necessary.

In particular, an area outside of the control of the OUR but which has the potential to impact significantly on both the resources of the office and its cost are appeals. In 2004 two separate appeals (both relating to the postal sector) were initiated. One was dismissed by the Utility Appeals Tribunal at an early stage. The second - an appeal by Guernsey Post against a modification of its licence – is currently before the Tribunal. Inevitably, with a small core team, the re-assignment of resources to litigation will have an impact upon other key work areas.

Utility Appeals Tribunal

Following the launch of an appeal against a decision of the Director General in July 2002, the Utility Appeals Tribunal (UAT) deliver its decision in January 2004. The resulting costs required the Director General to amend the licence fees that the utility companies are required to pay. **Instead of the projected decrease in licence fees**, as a direct result of the Tribunal's ruling licence fees to the telecoms sector were

increased in 2004 (OUR 04/08).

The OUR has expressed on a number of occasions, both prior to the final UAT decision and subsequent to it, its concerns with the costs that have arisen from the current appeals process. In 2004, a further charge has been made to the OUR accounts of over £50,000 to cover costs from the C&W Guernsey appeal. This Office is hopeful that the concerns expressed to-date will result in modifications to the appeals process in the near future.

OUR Consultation Process

To further increase the transparency of the consultation process, the OUR amended its consultation process in January 2004 to provide for the **full publication of responses to consultations** received from respondents. The OUR believes that increased transparency in the manner in which key decisions are made will help further with confidence in the regulatory process.

OUR Conference

In November, the OUR hosted an International Conference in Guernsey which was attended by Regulators and policy makers from 12 other small island economies. The event provided an excellent opportunity for the OUR to gain from the work that other regulators have done. In was particularly useful that these regulators were from other smaller jurisdictions – many of them with the financial sector as a key feature of their economies – so that topics were considered against a common background.

The event, which was self-funding, took place over three days at the St Pierre Park Hotel. We were delighted to welcome delegates from near and far, with representative from Mauritius, Bermuda, Jamaica, The Bahamas, Gibraltar, Jersey and Greenland.

Guernsey's Chief Minister and Regina Finn meet Derek Redman of ECTEL, St Lucia.
Source: Guernsey Press

The Office of Utility Regulation

The conference opened with a welcome address from the Chief Minister, Deputy Laurie Morgan. Speakers at the conference included members of the OUR team as well as industry experts and covered a wide range of topics ranging from the **principles of good regulation** to the more technical aspects of regulation such as price control, regulatory accounts and return on investment.

Many of the issues and challenges facing the regulatory regime in Guernsey are not unique and by bringing together regulators from other small islands this event proved to be an excellent opportunity to share each others' experiences and gain valuable contacts within this very specialised industry.

Telecommunications: Overview

The Guernsey Telecoms Market

2004 was an important year in the telecoms market with competition finally reaching the mobile market with the launch by **Wave Telecom** in July 2004 of both its **2G and 3G mobile networks** on Guernsey. By the end of the year it had rolled-out its network to Alderney and Sark. It is hoped that with two strong competitors in the mobile market customers will see the benefits through lower tariffs, an increased range of services and more innovation.

2004 saw a significant amount of investment by all the main telecoms companies in Guernsey. **Newtel Solutions** connected its fibre-optic link between Guernsey and Jersey across the Channel Island Electricity Grid link to Jersey. This was followed later in the year by **Cable & Wireless Guernsey** announcing that it had also increased its capacity off-island. Continuing investment by both mobile operators saw new services being launched throughout the year, with 2.5G and Wave Telecom's 3G services being available.

A significant amount of the work on the telecoms market in 2004 was dedicated to a number of large projects. A detailed review of Cable & Wireless Guernsey's published **Regulatory Accounts** was carried out and a number of recommendations made to further improve the usefulness. Cable & Wireless Guernsey's first set of Interconnection and Access tariffs based on those accounts had been produced at the end of 2003. However a number of issues were identified with the proposed tariffs and a detailed review of the manner in which they had been calaculated was undertaken. 2004 also saw the start of a review of the price control on Cable & Wireless Guernsey to replace the existing control which was due to end in March 2005 (but was subsequently extended to September 2005).

Following on from an earlier consultation in 2003, additional work was carried out on investigating in more detail how **Carrier Pre-Select (CPS)** and **Number Portability (NP)** might be offered in Guernsey. In November 2004, the first detailed **Audit of Emissions** from licensed telecoms networks was under taken across the Bailiwick, with the results being published in early 2005. All masts were well within the most stringent international standards.

In March 2004, Cable & Wireless Guernsey introduced new price changes for fixed services and, following discussions with the OUR, announced the creation of a scheme to assist vulnerable users, the **Telephone Assistance Scheme**, which is targeted at users who are in receipt of assistance from the Department of Social Services. The OUR also undertook an investigation into Cable & Wireless

Telecommunications: Overview

Guernsey's charges for exchange line reconnections which resulted in a significant number of customers receiving refunds from Cable & Wireless Guernsey.

The year also saw the conclusions to the first appeal against a decision of the OUR. In January 2004 the **Utility Appeals Tribunal** delivered its decision on an appeal taken by Cable & Wireless Guernsey. While the OUR was satisfied with the outcome of this appeal, it was and remains concerned about the level of costs that was incurred during the course of this appeal and believes that as a consequence confidence in the regulatory process may have been weakened. The OUR raised this matter a number of times during 2004 with the Department of Commerce & Employment and is hopeful that these concerns will be addressed in the near future.

Telecommunications: Activity Report

Introduction

Competition finally reached all sectors of the telecoms market in 2004 with the successful launch by Wave Telecom of its 2G and 3G networks across the Bailiwick. Further competition in the fixed market continued to increase with carrier select services from Wave Telecom being enhanced. Increased investment by all telecoms companies saw an increase in the range of services being made available to both business and residential customers. Ensuring an **environment which encourages on-going investment** is a central pillar of the OUR's approach to regulation.

The OUR's work on the core areas such as the development of the interconnection and access regimes, the development of the regulatory accounts system, the ongoing monitoring of Cable & Wireless Guernsey's compliance with its price control requirements and facilitating access issues on the mobile telephony sector were key work areas in 2004.

The OUR continues to work closely with **Ofcom** (the UK communications regulator) on a range of issues including spectrum and numbering issues. The OUR is extremely grateful to Ofcom for its continued assistance and for the professional and supportive manner in which assists the OUR. Without this relationship the OUR's work and role would be a more challenging task.

Fixed Telecoms Market

Having largely put in place the framework for the fixed telecoms market in 2003, the OUR's work in 2004 was focused on further strengthening that framework and on examining further measures to help promote competition and to **facilitate innovation** by new and existing licensees and the promotion of **new technologies**.

A consultation was carried out into examining further the interest in the introduction of **Carrier PreSelection** and **Number Portability (OUR 04/05)**. The consultation outlined a number of possible options for the introduction of these services and sought to establish the interest in and the ability of local operators to offer these services to consumers in the Bailiwick. This work is still ongoing with industry working groups currently examining the technical issues associated with theses services.

The OUR also looked to promote the availability of licences for **Broadband Fixed Wireless Access**. The OUR organized a presentation from Ofcom (the licensing authority for spectrum in the Bailiwick) for interested operators in September 2004. A number of licences were made available to the Bailiwick and following discussions between the OUR and Ofcom, the fees were set at levels which were aimed at encouraging the take up of that service. A further information note was

published in October 2004 on **ENUM (Electronic Numbering)** – a new numbering scheme being considered and trialled that can allow an individual to be contacted using only one set of contact details, but using any of several different communications devices (**OUR 04/21**).

The OUR also concluded its review of the **licensing arrangements for ISPs** with the publication in April 2004 of its decision **(OUR 04/04)**. The aim of this review was to ensure that the licence obligations on ISPs were **proportionate** and would be sufficient to ensure that **consumers were protected** while allowing ISPs to concentrate on developing their businesses.

Mobile Telecommunications Licensing

The Office's work on mobile issues was dominated by the launch in 2004 of Wave Telecom's 2G & 3G networks across the Bailiwick. Wave Telecom had been required under the terms of its licence to launch its service by 30th April 2004. It failed to achieve this requirement and was directed to launch its service by 1st July 2004 **(OUR 04/07).** In the intervening period a number of **formal disputes** were lodged by Wave Telecom relating to what it considered were breaches by Cable & Wireless Guernsey of its licence. These related mainly to issues of site sharing and interconnection and/or access issues. Following the OUR's intervention these issues were resolved and on 1st July 2004 competition finally reached the mobile market in Guernsey. By the end of 2004, Wave Telecom had rolled out its network to **Alderney and Sark**.

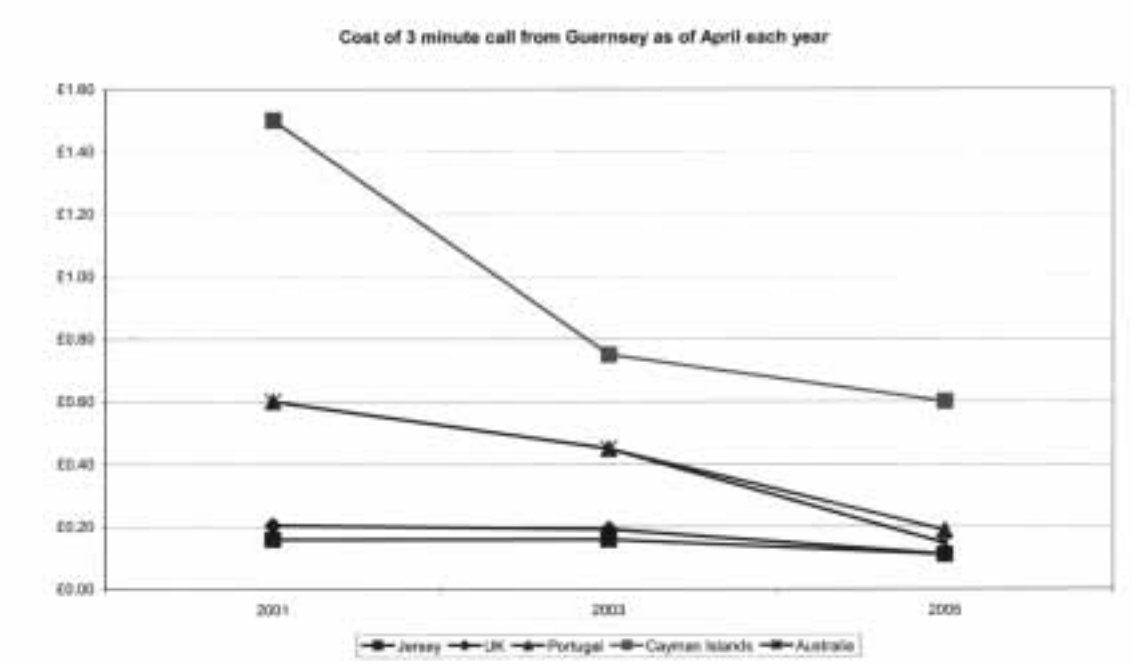
In November 2004, the OUR undertook a full audit of emissions from radio masts in the Bailiwick. The audit, undertaken on the OUR's behalf by Cellular Design Services, reviewed both the processes and procedures that each operator has in place to ensure on-going compliance with the **International Commission for Non-Ionising Radiation Protection's (ICNIRP)** standards for the maximum level of emissions from radio antennae. The audit also involved detailed measurements at **48 separate sites** through the Bailiwick. The results which were published in February 2005, showed all masts were operating well within the guidelines.

Price Control

Significant preparatory work was undertaken in 2004 on forming a new price control for Cable & Wireless Guernsey to replace the current control which was implemented in 2002. The price control, which had been introduced in 2002, sets price controls on Cable & Wireless Guernsey across four main baskets of products in

the fixed telecoms market in which the company has a dominant position. In summer 2004 a range of linked consultations were held on the scope and structure of the new price control **(OUR 04/09, 04/10 and 04/11)**.

Further work on ensuring Cable & Wireless Guernsey is in compliance with its price control obligations continued in 2004. Since the introduction of regulation and the licensing of new operators in competition with Cable & Wireless Guernsey, charges for most services in Guernsey have **fallen significantly**. The table below shows the decreases in the price paid by consumers for a three minute call to a number of popular destinations. This is reflective both of the price control work that the OUR has undertaken and of the impact that introduction of competition is starting to have for telecoms users in the Bailiwick.



Separate to the price control the OUR has also monitored on an on-going basis changes in prices applied by the company to certain services. In 2004, following complaints from the public, the OUR carried out an investigation into the charges being applied by Cable & Wireless Guernsey for re-connection of exchange lines in certain circumstances. Following the conclusion of that investigation **(OUR 04/13)** Cable & Wireless Guernsey refunded a significant number of customers who had been charged incorrectly for reconnections of their telephone line.

Telecommunications: Activity Report

Interconnection and Access

Following the submission in November 2003 by Cable & Wireless Guernsey of its proposed charges for services included in its **Reference Offer (RO) for interconnection and access** the OUR commenced a detailed review of those charges and the manner in which they had been determined. The OUR initially consulted upon a number of proposed structural changes Cable & Wireless Guernsey had proposed (**OUR 04/03**).

In tandem with this, and work on the company's Regulatory Accounts, significant effort was put into ensuring that in future the charges to be paid by other licensed operators to Cable & Wireless Guernsey for access to and interconnection with its network were more closely aligned with the costs to Cable & Wireless Guernsey of providing these services.

Regulatory Accounts

Following the publication in late 2003 of the first sets of Cable & Wireless Guernsey's Regulatory Accounts, there was a need to assess the degree to which the accounts were fit for purpose. This task, which commenced in late 2003, resulted in a direction to Cable & Wireless Guernsey (**OUR 04/12**) requiring the company to take a number of further measures to improve the transparency and manner in which the accounts are prepared.

Regulatory Accounts are a very important element of the regulatory regime and an important tool for regulators. These accounts provide clear signals to other operators of the costs of key services and they assist the OUR in a wider number of areas. They also inform the regulated company more accurately of the actual costs associated with its services and it is therefore imperative that they are accurate and fit for purpose.

Much comment has been made on the degree to which the requirements of the OUR in this area are more than is necessary for a market such as Guernsey. The OUR believes that for consumers in Guernsey to reap the benefits from the **promotion of competition**, getting this key element right is essential. While the OUR would have preferred that the development of the regulatory accounts could have occurred in a more proportionate manner, this is not an area that is solely within the control of the OUR.

The OUR does acknowledge that there has been a change in emphasis on this issue within Cable & Wireless Guernsey which has resulted in a significant amount of progress. The Director General is appreciative of the efforts now being made by Cable & Wireless Guernsey in this area.

Post: Overview

Guernsey Postal Market

The key development in the Guernsey postal market in 2004 was the conclusion in February 2004 of the OUR's review of Guernsey Post's application for revised postal charges. This resulted in increased postal prices for Guernsey's consumers. There were a number of factors which led to the increases but the primary cause has been a change in the commercial relationship between Royal Mail and Guernsey Post.

Historically Royal Mail and Guernsey Post had delivered each others mail and assumed the same amount of mail flows in each direction and that the costs balanced out. However, following a review by Royal Mail of its commercial relationship with Guernsey Post, it was identified that there was in fact significantly more mail going from Guernsey to the UK than vice versa. As a consequence, the commercial contract between the parties was renegotiated so that each postal operator paid for the other's services. The new commercial arrangements therefore resulted in a significant increase in Guernsey Post's cost base and consequently the company sought to introduced **increased tariffs** during the year.

This change in the commercial arrangements between Royal Mail and Guernsey Post will continue to increase the commercial pressure on Guernsey Post. It is important that every effort is made by the company to minimise its costs in other areas to offset as much as possible these increases. However, it is a reality that further increases are likely to arise for postal users in the Bailiwick over the coming years.

The knock-on impact of this is that charges for services such as **local mail** may also increase. This arises because while in the past Guernsey Post chose to provide these services below costs (as Guernsey Post was in a position to fund the shortfall for revenues from other services, such as revenue from mail to the UK) this is no longer the case.

During 2004 Guernsey Post proposed the closure of **L'Islet post office** and commenced a public consultation on the proposal. The OUR was among a number of respondents to this consultation. The company decided to defer a decision on the proposed closure pending clarification from the States on the scope of the Universal Service Obligation (USO).

Post: Activity Report

Overview

In 2004 the OUR concluded its review of Guernsey Post's tariff application and the first full year of quality of service standards applying to Guernsey Post's services. Whilst Guernsey Post's tariffs were increased primarily due to the changed commercial arrangements between Royal Mail and the company, postal users in the Bailiwick continue to have a very **competitively priced postal service**. In addition Guernsey, in contrast to Jersey, has quality of service standards for the delivery of a range of postal services and Guernsey Post's **performance is independently measured** and published.

The DG also consulted on and then modified GPL's licence in the autumn in order to allow the OUR to price control GPL's services outside the reserved area under its licence. This subsequent decision has been appealed by GPL and is due to be heard by the Utilities Appeal Tribunal early 2005.

New Postal Tariffs

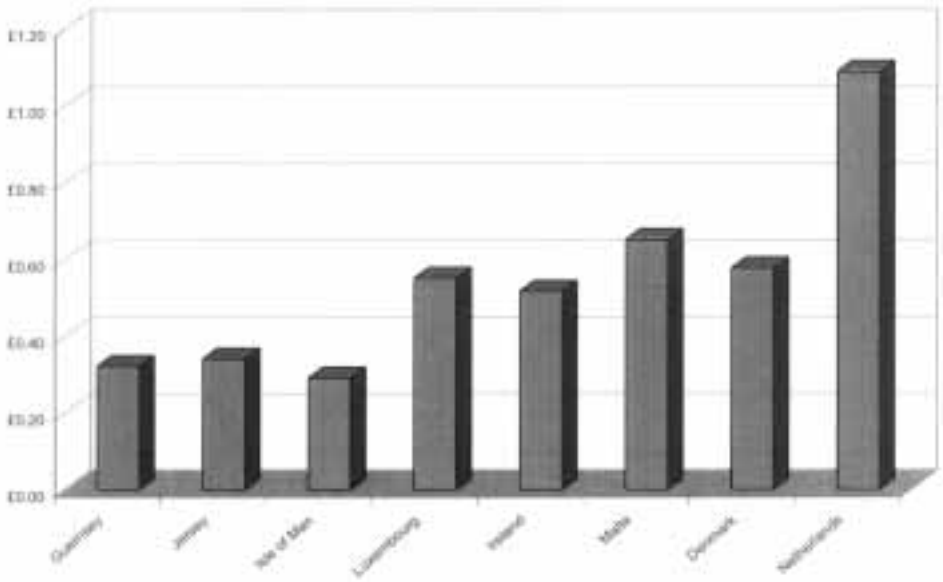
In March (**OUR 04/02**) the Director General concluded a review of Guernsey Post's tariff submission following a public consultation initiated in November 2003. The OUR received 31 replies to the consultation with some respondents providing a considerable amount of commercially confidential material to OUR to assist in the review process. There was, understandably, a general dissatisfaction with any increase in prices, while many respondents acknowledged that some increases were unavoidable.

The Director General, while mindful of the need to ensure that services should remain competitively priced, also recognized that the **underlying commercial reality for Guernsey Post** has changed from that which existed when it was a States Trading Board. In coming to a carefully balanced decision the OUR's assessment of the company's financial position has had to take account of the step change in the company's cost base due primarily to **significant new charges introduced by Royal Mail**. This applies to the charges for the delivery of Guernsey mail in the UK and elsewhere.

In addition Guernsey Post faced **increases in local costs** such as labour and transport. Following a detailed review of the proposed tariff changes, the OUR approved tariff changes that the Director General believed was more appropriate and reflective of market needs.

As a result of the decision local stamp price were capped at 26p for items up to 100g and UK stamp prices were capped at 32p for items up to 60g. Guernsey Post were also required to introduce a **new bulk mail sea tariff** based on a "straight line price" mechanism reflecting the quality of service these customers received by sending their mail by sea. The new prices were capped until 31 March 2006 with Guernsey Post likely to request further changes from 1 April 2006.

Cost of Sending 60g letter to UK



As the table above indicates, Guernsey still has very competitive postal charges when compared with other countries and the OUR's focus will be on maintaining that competitive advantage whilst ensuring that the Bailiwick retains a sustainable postal service.

Process and Timetable for 2006 Price Review

In September the OUR published consultation paper (**OUR 04/19**) explaining the process and timetable the Director General intended to follow in carrying out a review of Guernsey Post's pricing proposals for 1st April 2006. A key concern in the tariff decision in 2004 was that insufficient time was available for an appropriate level of consultation on the changes being proposed. By setting out the intended process and timetable for the review in advance, OUR hoped to make it easier for interested parties to identify how and when they could participate in the review and provide their responses to the OUR.

Post: Activity Report

The OUR concluded its consultation in October and published a report (**OUR 04/23**) setting out the timetable for a number of work streams, such as the submission of Guernsey Post's tariff submission, the subsequent public consultation with the Director General's decision by **1st December 2005.** Any new tariffs being proposed would come into effect from 1st April 2006.

Quality of Service

Guernsey Post published its first annual quality of service report on its website which covered the period 1 October 2003 to 30 September 2004 in accordance with the Director General's Quality of Service Directions. The report demonstrated that Guernsey Post's quality of service improved over the year and the company **exceeded 16 of the 23 targets** set by the OUR for 2003/04. In contrast Royal Mail met just four of its 15 annual service standards during 2004/05 (it failed all of its targets in the previous year).

The Director General believes that it is appropriate that the steps taken by Guernsey Post to improve its quality of service since commercialization be recognised. It has managed to put the issues it faced with its quality of service in early 2003 behind it. There is no doubt that the level of service customers are receiving now is vastly improved. This is not to say that there does not remain **scope for further improvement,** nor that certain customers, the bulk mail sector in particular, have on-going issues. However, the OUR is hopeful that the lessons learnt from the earlier mistakes are now being acted upon.

In June the Director General held at Seminar on **Postal Misdeliveries (OUR 04/14)** which included presentations from the OUR, Postwatch UK and Guernsey Post Limited. The principal objective of the seminar was to improve Guernsey Post's Quality of Service and to provide the company with the opportunity to set out the steps it was taking to reduce misdeliveries. The seminar was extremely useful as it provided an opportunity for Postwatch UK to share information on its "Stamp Out Misdeliveries" Campaign in the UK. The Director General must also express his appreciation for the efforts that **Postwatch Guernsey** has made during 2004 to contribute to the development of the regulatory regime.

Licence Modification

The Director General published in September a Statutory Invitation to Comment (**OUR 04/18**) on a proposed amendment to Guernsey Post's Licence which was intended to bring the company's licence in line with the primary legislation. The modification would allow the Director General to regulate Guernsey Post Ltd's

prices where it was found to be dominant in relation to a relevant market outside the monopoly reserved area. Following consideration of the comments received, the Director General decided to modified Guernsey Post's licence (**OUR 04/22**).

In November Guernsey Post appealed this decision alleging the Director General acted ultra vires and committed a material irregularity. The case is due to be heard in 2005 by the **Utility Appeals Tribunal**. The Director General is defending the position taken by the Office in this case. The Director General is very clear on what powers are available to the Office. Where the correct application of those powers is questioned, he has no choice but to vigorously defend such action.

However the Director General is firmly of the view that litigation of this nature may not best serve the interests of Guernsey consumers. It distracts both the OUR and the company taking any appeal from the important day-to-day issues that rightly should be the focus of our work. It adds costs to both parties, costs which the consumer may ultimately be asked to bear. The Director General is hopeful therefore that this issue may be resolved without further involvement of the Utility Appeals Tribunal.

"Our increasing dependence on imports for our energy supplies and the all too slow opening up of the European markets to competition will also bring fresh complexity and challenges – for companies, regulators and policy-makers."

Sir John Mogg, Chairman of Ofgem

Electricity: Activity Report

Guernsey Electricity Market

The ongoing increases in world energy prices impacts upon Guernsey's electricity market. The costs, in particular of electricity in France, due to the increasing levels of imported electricity through the **Channel Island Electricity Grid (CIEG)**, (jointly run by Guernsey Electricity and Jersey Electricity) means that we remain exposed to the general market fluctuations in those markets.

In keeping with the trend since the CIEG link became available, Guernsey continues to import substantially more power than it generates. This is reflective of the both the cost of fuel prices for generating on-island and the favourable contract that the GIEG has agreed with its supplier in France for the period up to November 2005. However since that contract was agreed, energy prices worldwide have been increasing and realistically the costs of importing will increase from their current levels from the end of 2005 onwards.

The bulk of the OUR's work in 2004 on the electricity sector was spent assisting the Department of Commerce & Employment and its advisors, **Mott MacDonald**, on assessing **the Island's future generation options** and assessing the relative trade-offs between those options. This work commenced in 2003 following Guernsey Electricity's submission of its proposals for tariff increases at that time and the need to consider further States policy on future generation.

Guernsey has a number of generation options available to it, but in general terms it is a choice between further on-island generation (in a number of forms) or further importation (again there are a number of options on how this may work). With each of these options there are **trade-offs to be made**. These include assessing each option against the key issues of security of supply, environmental impact and independence. The report, which has looked at the longer term total costs of each option provides very useful information to enable the States consider how best to meet the Island's future electricity needs.

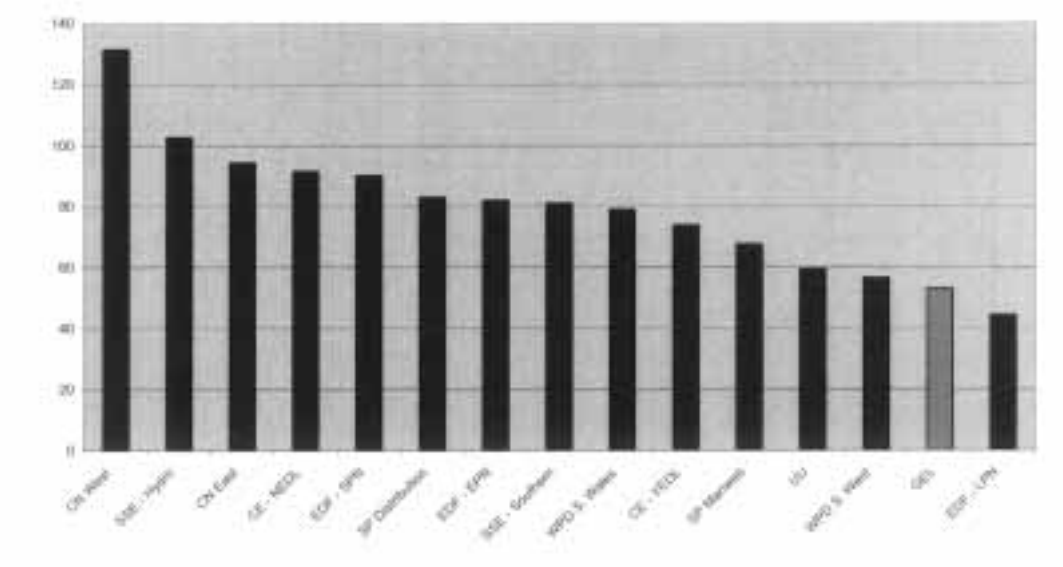
The report from Motts was submitted to the Commerce & Employment Department in December 2004 and its review and the States assessment of this will allow the OUR to set a new price control on Guernsey Electricity in 2005.

Electricity: Activity Report

The issue of renewable energy, and **tidal energy** in particular, made headlines in Guernsey's media on a number of occasions in 2004. There is no doubt that the waters around Guernsey have potential for generating a significant amount of energy. There are however substantial costs associated with developing the systems necessary to exploit this source of power and currently there are no commercially developed systems in place. Further, all evidence to-date points to the costs of such tidal power is, for the medium term, likely to be significantly higher than that for other sources of power, including other renewable technologies. Guernsey needs to very carefully assess the degree to which it is prepared to pay for such environmentally friendly sources of power and balance it against the actual environmental rewards for doing so.

The other core area where work has progressed with Guernsey Electricity is on its **quality of service targets**. For the year ending 31st March 2004 the company met all but one of the targets set by the OUR. From the 1st April 2004 Guernsey Electricity began reporting its performance against the 12 new Guaranteed Service Standards (for which customers are eligible for compensation) and seven Overall Standard targets following the OUR's review of the company's quality of service.

Comparison of 2003/04 Average Customer Minutes Lost GEL & UK Operators



Alderney and Sark

Inclusion and Equity

The Bailiwick of Guernsey comprises a number of islands including Guernsey, Alderney, Sark, Herm, Jethou, Brecqhou and Lihou. Both **Alderney** and **Sark** have their own independent parliaments separate from the States of Guernsey.

Alderney and Sark come within the regulatory regime for telecommunications and postal services and the Law explicitly recognises the inclusion of these islands. Both islands operate separate electricity arrangements from those in Guernsey.

The developments in the telecoms and postal sectors during 2004 applied equally to Alderney and Sark. The OUR remains conscious of the fundamental importance of communications services for both Islands. The OUR recognises that the regulatory regime must ensure that the specific needs of both Islands are met.

Telecommunications

In late 2004 both Alderney and Sark benefited from the roll-out of **competition in the mobile sector**. Wave Telecom, who launched its mobile service in Guernsey in July 2004, extended its network to cover Alderney and Sark by the end of the year. The scheme introduced by C&W Guernsey for vulnerable users is also available in the two islands. The OUR's work on **monitoring emissions from radio masts** also assessed all licensed masts on both islands, and the results of that audit are available on the OUR's website. Further, because of the OUR's work across the regulatory regime and States policy on universal services, the inhabitants of Alderney and Sark were affected by exactly the same price changes as Guernsey in 2004.

Postal Services

The key issue for both Islands, given their need for efficient communications services is the quality and price of those services. The OUR's **quality of service** targets, which Guernsey Post must meet, include a specific target for intra-Bailiwick mail. This helps ensure that the quality of the postal service throughout the islands is **uniform**.

"The approach to any problem must recognise and reflect the interests of all elements of the community, individually and collectively, rather than the narrow interests of a reform proponent. Why should anyone support, or even acquiesce in, a reform measure that involves no apparent benefits and perhaps a few risks? Ideally everyone is a winner. Or, more realistically, there are substantially more winners than losers. And even the losers can be shown to have been treated fairly and equitably."

Graham Samuel, Chairman, ACCC

Consumer Issues

Customer Complaints

In 2004 the OUR continued in its relationship with **Trading Standards Service** of the Department of Commerce & Employment, and their ongoing involvement in the **customer complaints process** with the regulated utility companies. The OUR is very appreciative of the assistance which we get from Trading Standards and for their on-going support.

Customers who are unable to resolve a complaint they have with their utility provider directly with the company, can contact Trading Standards Service who will act impartially and attempt to find a fair outcome for all the parties involved.

Customer Advice

Throughout 2004, the OUR continued to respond to customer queries and provide advice and information when requested. In response to a number of queries from the public, sections were introduced to the OUR website (www.regutil.gg) to assist consumers to deal with the problems with **premium rate services** and also how to stop **unsolicited sales and marketing communications** via telephone, fax, mail and email.

Internet Scam

In August, the OUR published an information note warning internet users of a scam that can cause customers who dial up to use the internet to unknowingly run up large phone bills. The document **(04/16)** provided some tips to help customer recognise whether their computer had been affected by the scam, known as "**Rogue Dialling**" or "**Modem Hi-jacking**", and also suggested some preventative measures.

Telephone Line Re-connections

In response to a number of complaints received from customers concerning the price they were being charged to re-connect a telephone line, the OUR launched an investigation into Cable & Wireless Guernsey's charging practice for exchange line reconnections. The investigation **(OUR 04/13)** found that Cable & Wireless Guernsey had changed the manner in which they charged for telephone line

reconnections which resulted in many customers paying significantly more for this service. At the conclusion of the investigation the OUR was pleased to welcome Cable & Wireless Guernsey's decision to **re-instate the original re-connection service**. Cable & Wireless Guernsey also refunded all customer who had been wrongly charged for a re-connection service.

Audit of Telecommunications Masts

With the use of mobile phones becoming more prevalent and the subsequent increase in the number of masts, concerns over the safety of such masts continue to be voiced. The OUR therefore commissioned an audit of all telecommunications masts in the Bailiwick to ensure that they comply with the **highest international standards** for emissions levels. Specialist consultants were engaged to undertake the audit which was carried out at the end of 2004 and the results published early in 2005. As mentioned earlier, all masts were well within the international standard.

Vulnerable Users

During 2004 the OUR worked with the Advisory & Finance Committee's Social Policy Working Group (SPWG) looking into the options for protecting the more vulnerable members of Guernsey's society and the affordability of vital utility services.

The OUR hosted a workshop in March 2004 to which we invited representatives from the OUR licensees and also from the non regulated sectors, including Guernsey Gas and the States Water Board, to attend and share their approaches in assisting vulnerable users. The workshop featured presentations from the OUR, the SPWG and Citizens Advice Bureau and provided a useful opportunity for the participants to consider the problems facing vulnerable users and explore the options for further improving measures to target and assist vulnerable users in Guernsey. Also participating in the discussions were Trading Standards and members of the Post, Electricity and Telecommunications Consumer Councils.

- Electricity:
  - 84% more expensive than in the UK,
  - 85% more expensive than in London
- Gas:
  - 62% more expensive than in the UK
  - 61% more expensive than in London
- Telecoms
  - 35% cheaper than in the UK
  - 35% cheaper than in London
- Post*
  - 18% Cheaper than in the UK
  - 18% Cheaper than in London

Source – Oxford Economic Forecasting
* Pre postal tariff changes on 2nd March 2004

Vulnerable Users Workshop 6

Financial Statements and Report for the Period 1 January 2004 to 31 December 2004 for the Public Utilities Regulation Fund

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Foreword to the Accounts

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

2004 was an extremely busy year for Office of Utility Regulation. During that period the fees payable to the Director General of Utility Regulation were paid into the Public Utilities Regulation Fund which was initially established in 2001. Fees were collected from licensees in the three regulated sectors of telecommunications, post and electricity. There was a necessity to increase licence fees in 2004 to cover costs associated with the appeal by C&W Guernsey to the Utility Appeals Tribunal. A further £50,000 was added to the OUR's costs in 2004 as a result of costs associated with the appeal. In spite of this costs were reduced by 7% compared with 2003.

The OUR continues to keep a tight rein on all major projects carried out by the Office in 2004 and all projects were within budget. The OUR has and will continue to use competitive tendering for the selection of external consultants for all major projects as we believe this ensures that we obtain best value for money while maintaining the high calibre of expertise required by the Office.

During 2004 the Office was staffed by four full-time staff as well as the Director General. This has been the first full year since the Office was established that it has operated with such a staff level for the full financial year. The Office occasionally used temporary staff for additional support. The OUR also used consulting expertise during 2004 to enable it to carry out its functions.

Public Utilities Regulation Fund

Fund Information

DIRECTOR GENERAL:	Mr J Curran
OFFICE ADDRESS:	Suites B1&B2 Hirzel Court St Peter Port Guernsey GY1 2NH
AUDITORS:	Chandlers Limited Chartered Accountants Anson Court La Route des Camps St Martin's Guernsey

Public Utilities Regulation Fund

Report of the Director General for the year ended 31 December 2004

The Director General presents his report with the financial statements for the Public Utilities Regulation Fund for the year ended 31st December 2004.

PRINCIPAL ACTIVITIES

The Office of the Director General of Utility Regulation was established in 2001 under the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001. The functions of the Office relate to the regulation and licensing of the telecommunications, electricity and postal industries. The Office is funded by income received from the regulated industries and some funding from the Department of Commerce and Employment.

REVIEW OF BUSINESS

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

In January 2005, Regina Finn left the post of Director General and was replaced by the then Director of Regulation, John Curran.

STATEMENT OF THE DIRECTOR GENERAL'S RESPONSIBILITIES

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

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

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

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

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

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

AUDITORS

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

Mr J Curran
Director General of Utility Regulation
13th July 2005

Public Utilities Regulation Fund

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

We have audited the financial statements of the Public Utilities Regulation Fund for the year ended 31 December 2004 on pages forty-one to forty-four. These financial statements have been prepared under the historical cost convention and the accounting policies set out therein.

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

Respective responsibilities of the Director General and auditor

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

Our responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements and United Kingdom Auditing Standards.

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

We read the Report of the Director General and consider the implications for our report if we become aware of any apparent misstatements within it.

Basis of audit opinion

We conducted our audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Director General in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Fund's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the financial statements.

Opinion

In our opinion the financial statements give a true and fair view of the state of the Fund's affairs as at 31 December 2004 and of its surplus for the year then ended and have been properly prepared in accordance with The Regulation of Utilities (Bailiwick of Guernsey) Law, 2001.

Chandlers Limited

Chandlers Limited
Chartered Accountants
Anson Court
La Route des Camps
St Martins, Guernsey
Dated: 18th July 2005

Public Utilities Regulation Fund

Income and Expenditure Account for the Year Ended 31 December 2004

	Notes	2004 £	2003 £
INCOME			
License fees		852,671	793,886
Office of Utility Regulation (OUR) conference revenue		12,132	-
Bank interest		3,978	8,319
		868,781	802,205
EXPENDITURE		845,862	905,142
SURPLUS/(DEFICIT) FOR THE YEAR ENDED 31 DECEMBER 2004		22,919	(102,937)
TRANSFER (TO)/ FROM THE CONTINGENCY RESERVE		(22,919)	102,937
NET OPERATING SURPLUS FOR THE YEAR/ PERIOD		-	-

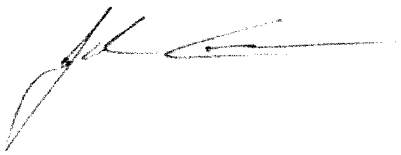
The Fund has no other gains or losses for the current or preceding financial year other than those stated in the Income and Expenditure Account.

The notes form part of these financial statements

Public Utilities Regulation Fund

Balance Sheet 31 December 2004

	Notes	2004 £	2004 £	2003 £	2003 £
FIXED ASSETS:			21,227		
Tangible assets	4				32,185
CURRENT ASSETS:					
Debtors and prepayments	5	17,168		8,294	
Cash at Bank		165,448		185,147	
		182,616		193,441	
CREDITORS: Amounts falling due within one year	6	113,766		158,468	
NET CURRENT ASSETS:			68,850		34,973
TOTAL ASSETS LESS CURENT LIABILITIES:			£90,077		£67,158
RESERVES:					
Contingency reserve	7		90,077		67,158
			£90,077		£67,158



John Curran

Director General of Utility Regulation

Dated: 13th July 2005

The notes form part of these financial statements

Notes to the Financial Statements for the Year Ended 31 December 2004

1. ACCOUNTING POLICIES

Accounting convention

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

Income

Income represents net invoiced licensed fees and income from organisation of conferences.

Tangible fixed assets

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

Office Equipment	-20% on cost
Fixtures and Fittings	-20% on cost
Computer Equipment	-20% on cost

2. OPERATING SURPLUS/(DEFICIT)

The operating surplus (2003—operating deficit) is stated after charging:

	2004	2003
	£	£
Depreciation—owned assets	11,803	11,634
Auditors' Remuneration	2,400	2,200

3. TAXATION

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

Public Utilities Regulation Fund

4. TANGIBLE FIXED ASSETS

	Office Equipment	Fixtures and Fittings	Computer Equipment	Totals
	£	£	£	£
COST:				
At 1 January 2004	36,076	3,065	19,028	58,169
Additions	-	610	235	845
At 31 December 2004	36,076	3,675	19,263	59,014
DEPRECIATION:				
At 1 January 2004	16,101	1,320	8,563	25,984
Charge for year	7,215	735	3,853	11,803
At 31 December 2004	23,316	2,055	12,416	37,787
NET BOOK VALUE:				
At 31 December 2004	12,760	1,620	6,847	21,227
At 31 December 2003	19,975	1,745	10,465	32,185

5. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2004	2003
	£	£
Trade debtors	13,010	-
Prepayments	4,158	8,294
	17,168	8,294

6. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	2004	2003
	£	£
Trade creditors	110,866	129,274
Deferred Income	500	-
Accruals	2,400	9,194
	113,766	158,468

7. CONTINGENCY RESERVE

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

Public Utilities Regulation Fund

Detailed Income and Expenditure Account

	2004		2003	
	£	£	£	£
INCOME:				
Post Office revenue	120,000		120,000	
Telecoms revenue	552,671		493,886	
Electricity revenue	180,000		180,000	
OUR conference revenue	12,132		-	
		864,803		793,886
OTHER INCOME:				
Bank interest		3,978		8,319
		868,781		802,205
EXPENDITURE:				
Salaries & Staff Costs	350,334		315,781	
Consultancy Fees	252,759		189,344	
Legal Fees	91,024		313,975	
OUR Conference costs	12,089		-	
Utility Appeals Tribunal	50,616		-	
General Overheads	77,182		71,625	
		834,004		890,725
		34,777		(88,520)
FINANCE COSTS				
Interest—States of Guernsey loan	-		2,582	
Bank charges	55		201	
		55		2,783
		34,722		(91,303)
DEPRECIATION				
Office Equipment	7,215		7,215	
Fixtures and Fittings	735		613	
Computer Equipment	3,853		3,806	
		11,803		11,634
SURPLUS/(DEFICIT)		£22,919		£(102,937)

This page does not form part of the statutory financial statements

Annex A: States Directions; Telecoms

States Directions to the Director General in relation to telecommunications that were in force during 2004 are set out below in accordance with Section 8(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

Telecommunications: Universal Service Obligation

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

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

Access at Fixed Locations:

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

Directory enquiry services and directories:

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

Public Pay telephones:

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

Special measures for disabled users and users with special needs:

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

Annex A: States Directions; Telecoms

Telecommunications: First Licensee

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

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

Telecommunications: Special or Exclusive Rights

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

The provision of telecommunications networks and services in the Bailiwick of Guernsey shall be opened up to competition at the earliest possible time consistent with the Regulation of Utilities (Bailiwick of Guernsey) Law 2001.

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

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

Annex A: States Directions; Post

States Directions to the Director General in relation to post that were in force during 2004 are set out below in accordance with Section 8(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

Post: Universal Service Obligation

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

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

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

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

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

Post: First Licensee

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

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

Annex A: States Directions; Post

Post: Special or Exclusive Rights

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

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

Annex A: States Directions; Electricity

States Directions to the Director General in relation to post that were in force during 2004 are set out below in accordance with Section 8(2) of the Regulation of Utilities (Bailiwick of Guernsey) Law, 2001:

Electricity: Universal Service Obligation

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

Electricity: First Licensee

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

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

Electricity: Special or Exclusive Rights

Conveyance

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

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

Generation

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

Supply

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

Annex A: States Directions; Electricity

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

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

Annex B: Documents Published in 2004

04/01 Regulation in Guernsey. Revised Consultation Procedures

04/02 Guernsey Post's proposed Tariff Increases. Decision Notice and Report on the Consultation Paper

04/03 Review of Cable & Wireless Guernsey's Proposed amendments to the Reference Offer for Interconnection and Access. Consultation Document

04/04 Licensing of Internet Access in the Bailiwick of Guernsey. Report on the Consultation & Decision Notice

04/05 Carrier Pre-Selection and Number Portability within the Bailiwick of Guernsey. Consultation Document

04/06 Wave Telecom Mobile Licences: Failure to Meet Launch Date. Statutory Invitation to Comment.

04/07 Wave Telecom Mobile Licences: Failure to Meet Launch Date. Statutory Notification.

04/08 Licence Fees for Telecommunications, Postal and Electricity Licences - Information Note

04/09 Market Dominance in the Telecommunications Sector in Guernsey. Consultation Document

04/10 Price Control for Telecommunications Services in Guernsey: Review of Price Control Scope and Structure. Consultation Document

04/11 Price Control for Telecommunications Services in Guernsey: Calculating Allowed Revenue and the Cost of Capital. Consultation Document

04/12 Review of Cable & Wireless Guernsey's Regulatory Accounts

04/13 Investigation into Cable & Wireless Guernsey Ltd's Charges for Exchange Line Reconnections. Finding

04/14 Postal Misdeliveries Seminar, 23rd June 2004

04/15 Update of OUR's regulatory Accounting Guidelines for C&W Guernsey. Consultation Paper

04/16 Advice to Internet Users on Rogue Diallers and Modem Hi-Jacking. Information Notice

04/17 Broadband Fixed Wireless Access in Guernsey. Licensing of 3.4GHz and 3.6GHz Spectrum. Information Note and Expressions of Interest.

04/18 Extension of Powers to Enable Control of Postal Prices outside the Reserved Sector. Statutory Invitation to Comment

04/19 2006 Postal Pricing Review – Process and Timetable. Consultation Paper

04/20 Extension of Powers to Enable Control of Postal Prices outside the Reserved Sector. Information Note: Notice of Extension of Deadline for Responses to Statutory Invitation to Comment.

Annex B: Documents Published in 2004

04/21 ENUM – Accessing multiple customer services through Telephone Numbers DTI Consultation. Information Notice.

04/22 Extension of Powers to Control Postal Prices outside the Reserved Sector. Report on the Consultation. Notice of Modification to the Licence issued to Guernsey Post Ltd under Section 2(1) of the Post Office (Bailiwick of Guernsey) Law, 2001

04/23 2006 Postal Price Control Review – Process and Timetable. Report on the Consultation

04/24 Update of OUR's Regulatory Accounting Guidelines for C&W Guernsey. Decision Notice and Report on the Consultation

04/25 Accounting Separation Regulatory Accounting Guidelines to Cable & Wireless Guernsey Limited

COMMERCE AND EMPLOYMENT DEPARTMENT

ANNUAL REPORT OF THE PUBLIC TRUSTEE AND AUDITED ACCOUNTS

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

29th July 2005

Dear Sir

The Public Trustee (Bailiwick of Guernsey) Law, 2002 provides, in Section 6, that the Commerce and Employment Department is required to submit the report and accounts to the States on the exercise of the Public Trustee's functions for the preceding year.

The work of the Public Trustee commenced on 1 June 2004 and I am now pleased to enclose a copy of his report and audited accounts for the period from 1 June 2004 to 31 December 2004.

Section 6 of the Law also provides that the Department may, at the same time, submit its own report commenting on the activities of the Public Trustee during this period.

The Department, on this occasion, has no comments to make and accordingly I would be most grateful if you would arrange to publish the Annual Report and Accounts 2004 as an appendix to the October Billet.

Yours faithfully

Stuart Falla
Minister

FIRST ANNUAL REPORT OF THE PUBLIC TRUSTEE TO THE DEPARTMENT OF COMMERCE AND EMPLOYMENT PERIOD 1 JUNE 2004 - 31 DECEMBER 2004

Introduction

1. Under Section 6(1) of the The Public Trustee (Bailiwick of Guernsey) Law, 2002 ("the Law"), the Public Trustee is required in each calendar year to submit to the Department of Commerce and Employment a report on the exercise of his functions in the preceding year together with the audited accounts of the Office of the Public Trustee.

2. This report covers the seven months from the coming into force of the Law until the end of 2004.

Commencement of functions

3. The Public Trustee was appointed by the States on 10 March 2004 and arrangements put in place for administrative and clerical facilities based at the offices of the Department of Commerce and Employment, Raymond Falla House, Longue Rue, St Martin's. When the Law subsequently came into force on 1 June 2004, the Office of the Public Trustee was therefore in a position to commence functions under the Law without further delay.

4. When the establishment of the Office of the Public Trustee was originally approved by the States, the then Advisory and Finance Committee envisaged in its report that the Public Trustee would delegate day to day trust work to suitable professionals. The power to delegate functions was included in Section 3 of the Schedule to the Law.

5. It was considered important to make contact at an early stage with such suitable professionals so that, when the Public Trustee is appointed to act as trustee of a trust, appropriate professional services can be identified and engaged as soon as possible. In this way, risks to the assets of the trust and the interests of its beneficiaries can be minimised.

6. Members of the Guernsey Association of Trustees were circulated, seeking expressions of interest in providing services to the Public Trustee. The Public Trustee is grateful for the cooperation received from the Association and its Chairman in this respect.

7. Some twenty potential service providers contacted the Public Trustee and meetings with them took place in the summer and autumn months. The companies concerned are capable of providing a comprehensive range of trust and trust-related services and have knowledge, skills and experience in most, if not all, areas of trust work.

8. Arrangements were made for legal advice, both general and in respect of specific cases, to be provided by the Law Officers of the Crown (except where the Law Officers may have a conflict of interest in the possible event of litigation in

particular cases – when advice would be sought elsewhere). The Public Trustee is most appreciative of the cooperation and service received.

9. Section 4 of the Schedule to the Law provides for the appointment of a Deputy Public Trustee to exercise the functions of the Public Trustee during any period when he is unavailable. Mr Christopher John Hurley, a senior civil servant, was appointed as Deputy Public Trustee on 9 October 2004.

Appointments

10. During the period covered by this report, the Public Trustee was appointed by the Court to act a trustee of two trusts.

11. Both cases were similar in that the beneficiaries could not be identified or found and, in the circumstances, the previous trustees, having taken all reasonable steps to identify or find the beneficiaries, were reluctant to continue to act and wished to be discharged. The Law had been amended to cater for such eventualities (The Public Trustee (Amendment) Ordinance, 2004).

12. The only assets of the trusts were cash deposits (one in sterling and one in US dollars) of approximately similar values amounting in total to the equivalent of some £200,000. Because of the exceptionally simple nature of the trusts and their assets and the need to keep the assets in a reasonably liquid form in case claims are received from beneficiaries, the administration of the trusts was not delegated to professional service providers.

13. The fees recoverable from the trusts for the period covered by this report in respect of the services of the Public Trustee amounted in total to £1,170. This sum includes the cost of time spent on preparatory work prior to appointment.

14. A significant amount of time was spent during the latter part of 2004 in communications with the representatives of a trust company and other parties concerning the intention that the company cease operations and the consequent possible need to appoint the Public Trustee to some of the company's client trusts. At the time of writing, communications were continuing and no such appointment had as yet been made.

Accounts and auditors' report

15. The accounts of the Office of the Public Trustee for the period from 1 June 2004 to 31 December 2004, together with the auditors' report thereon are attached to this report.

16. They show that the cost of establishing the Office and of operations for the period amounted to £10,560. Against this, £1,170 was recoverable in fees.

Conclusion

17. The establishment of the Office of the Public Trustee has proceeded smoothly during the period covered by this report. Given the small number of cases where the Public Trustee has been appointed to act as trustee, his capacity and that of the supporting administrative and clerical facilities have not been stretched. However, if and when further appointments are made, there can be reasonable

confidence that the arrangements so far put in place will be adequate to meet the demand put upon them, particularly bearing in mind the power of the Public Trustee to delegate functions and the abilities of the professional companies that have expressed interest in providing services.

D P Trestain
Public Trustee
Bailiwick of Guernsey

11 July 2005

Office of the Public Trustee

Statement of account

31 December 2004

Office of the Public Trustee

Statement of responsibilities for the preparation of financial statements

In accordance with The Public Trustee (Bailiwick of Guernsey) Law, 2002 the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of the Office of the Public Trustee. He is responsible for selecting suitable accounting policies and, in preparing the statement of account the Public Trustee is expected to:

- apply suitable accounting policies on a consistent basis;
- make judgements and estimates that are reasonable and prudent; and
- prepare the statement of account on a going concern basis, unless it is inappropriate to do so.

The Public Trustee acknowledges responsibility for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the Office of the Public Trustee.

It is the responsibility of the Office of the Public Trustee to identify and install a system of internal controls, including financial control, which is adequate for its own purposes. Thus the Office of the Public Trustee is responsible for safeguarding the assets in its care and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

KPMG Channel Islands Limited
2 Grange Place
The Grange
Guernsey, Channel Islands
GY1 4LD

Independent auditors' report to the Office of the Public Trustee

We have audited the accounts on pages 3 to 5 which have been prepared under the accounting policies set out on page 5.

Respective responsibilities of the Public Trustee and auditors

As described in the statement of responsibilities for the annual accounts, the Public Trustee is responsible for the preparation of a statement of account for each financial year which gives a true and fair view of the state of affairs of the Office of the Public Trustee and for selecting suitable accounting policies. Our responsibilities, as independent auditors, are established by the UK Auditing Practices Board and by our profession's ethical guidance.

We report to you our opinion as to whether the accounts give a true and fair view of the state of affairs of the Office of the Public Trustee and are prepared in accordance with the accounting policies set out on page 5. We also report if, in our opinion, the Office of the Public Trustee has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

Basis of audit opinion

We conducted our audit in accordance with UK Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the accounts. It also includes an assessment of the significant estimates and judgements made in the preparation of the accounts, and of whether the accounting policies are appropriate to the Office of the Public Trustee's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance as to whether the accounts are free of material misstatement, whether caused by fraud or other irregularity or error. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the accounts.

Opinion

In our opinion the accounts give a true and fair view of the state of affairs of the Office of the Public Trustee for the period from 1 June 2004 to 31 December 2004 and have been properly prepared in accordance with the accounting policies set out on page 5.

KPMG Channel Islands Limited
Chartered Accountants

29 June 2005

Office of the Public Trustee

Income and expenditure account

for the period from 1 June 2004 to 31 December 2004

	Note	1 June to 31 December 2004 £
Income	*1*	
Grant from States General Revenue Account		**10,000**
Trustee fees		**1,170**
		11,170
Expenditure	*1*	
Advertising		**88**
Audit fees		**500**
Bank charges		**42**
Public Trustee remuneration		**7,993**
Management fees		**97**
Office administration		**1,840**
		10,560
Excess of income over expenditure		**£ 610**

Office of the Public Trustee

Balance sheet

As at 31 December 2004

	Note	2004 £
Current assets		
Debtors		**1,170**
Bank		**9,311**
		10,481
Current liabilities		
Creditors	*3*	**9,371**
Accruals	*3*	**500**
		9,871
Net assets		**£ 610**
The Public Trustee Fund		
Excess of income over expenditure		**£ 610**

The balance sheet was approved on 29 June 2005 by:

D Trestain
Public Trustee

Office of the Public Trustee

Notes to the statement of account
period ended 31 December 2004

1. Accounting policy

The statement of account is prepared under the historical cost convention and in accordance with applicable accounting standards.

Grants

Grants from the States of Guernsey Commerce and Employment Department are included on a cash basis. Grants have been recognised as revenue items.

Other income and expenditure

Other income and expenditure is included on an accruals basis.

2. Taxation

The Office of the Public Trustee is not subject to States of Guernsey Income Tax.

3. Creditors and accruals

	2004 £
Advertising	88
Production and printing of stationery	849
Administrative support and deputy trustee fees	441
Public Trustee remuneration funded by Department of Commerce and Employment	7,993
	£ 9,371
Audit fee	£ 500

4. Period of account

The Public Trustee (Bailiwick of Guernsey) Law, 2002 came into commencement on 1 June 2004.

This first statement of account also includes preliminary expenses incurred prior to the date of commencement.

HOUSE COMMITTEE

RECORD OF MEMBERS' ATTENDANCE AT MEETINGS OF THE STATES OF DELIBERATION, THE POLICY COUNCIL, DEPARTMENTS AND COMMITTEES

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

31st August 2005

Dear Sir

On 28 January 2004 the States resolved, inter alia:

> *"That Departments and committees shall maintain a record of their States Members' attendance at, and absence from, meetings, including sub-committee meetings and the reasons for absence given shall also be recorded.*
>
> *"That the records of States Members' attendance at, absence from and reasons for absence from meetings, shall be made available to the House Committee to monitor and to take such action as it sees fit within its powers and the records shall also be available for inspection by the public.".*

The report deviates from the States resolution in that, at the request of the Policy Council, statistics relating to attendance at meetings of the States of Deliberation have also been included.

The House Committee would be grateful if the Policy Council would agree to publish this report, in respect of statistics provided by HM Greffier, Departments and Committees for the six months ended 30 April 2005, as an appendix to a Billet d'État.

Yours faithfully

D P Le Cheminant
Chairman

PART I - REPORT BY DEPARTMENT/COMMITTEE

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
POLICY COUNCIL							
L. C. Morgan	17	15	1			1	
B. M. Flouquet.	17	13	3	1			
S. J. Falla, MBE	17	14	2			1	
P. R. Sirett	17	13	1			3	
M. A. Ozanne	17	15	2				
P. J. Roffey	17	13		1		3	
M. W. Torode	17	13	2		1	1	
D. B. Jones	17	15	1			1	
W. M. Bell	17	15	1			1	
M. M. Lowe	17	17					
L. S. Trott	17	16	1				
Alternate Members:							
M. E. W. Burbridge	1	1					
M. H. Dorey	1	1					
D. A. Grut	3	3					
C. H. Le Pelley	1	1					
M. G. O'Hara	1	1					
F. W. Quin	2	2					
COMMERCE AND EMPLOYMENT DEPARTMENT							
S. J. Falla, MBE	12	12					
C. S. McNulty Bauer	12	11				1	
L. R. Gallienne	12	10				2	
M. G. O'Hara	12	10	1			1	
D. W. Staples	12	11				1	
CULTURE AND LEISURE DEPARTMENT							
P. R. Sirett	7	6				1	
C. H. Le Pelley	7	7					
M. G. O'Hara	7	6	1				
J. Honeybill	7	5	2				
C. S. McNulty Bauer	7	5	1			1	
EDUCATION DEPARTMENT							
M. A. Ozanne	15	15					
W. J. Morgan	15	12				3	
D. A. Grut	15	14				1	
A. H. Adam	15	15					
D. P. Le Cheminant	15	15					
ENVIRONMENT DEPARTMENT							
B. M. Flouquet	18	17	1				
I. F. Rihoy	18	12	2	2		2	
C. D. Brock	18	15	1			2	
J. M. Le Sauvage	18	17					1 no notice
D. de G. De Lisle	18	18					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
HEALTH AND SOCIAL SERVICES DEPARTMENT							
P. J. Roffey	11	8	1			2	
D. A. Grut	11	11					
A. H. Adam	11	10				1	
B. L. Brehaut	11	9	2				
D. E. Lewis	11	11					
HOME DEPARTMENT							
M. W. Torode	12	10			2		
F. W. Quin	12	10	1			1	
G. Guille	12	12					
S. J. Maindonald	12	7	2	1	1		1 failed transport
G. H. Mahy	12	11	1				
HOUSING DEPARTMENT							
D. B. Jones	13	12				1	
M. H. Dorey	13	13					
L. R. Gallienne	13	12				1	
B. L. Brehaut	13	13					
J. A. B. Gollop	13	12	1				
PUBLIC SERVICES DEPARTMENT							
W. M. Bell	12	12					
M. E. W. Burbridge	12	11	1				
A. H. Brouard	12	12					
R. J. Le Moignan	12	12					
T. M. Le Pelley	12	12					
SOCIAL SECURITY DEPARTMENT							
M. M. Lowe	12	12					
D. P. Le Cheminant	12	11	1				
G. H. Mahy	12	12					
D. E. Lewis	12	12					
S. J. Ogier	12	11	1				
TREASURY AND RESOURCES DEPARTMENT							
L. S. Trott	24	23			1		
C. N. K. Parkinson	24	23				1	
J. P. Le Tocq	24	19	2			3	
M. H. Dorey	24	21	2			1	
J. Honeybill	24	20	2		1	1	
HOUSE COMMITTEE							
D. P. Le Cheminant	4	4					
C. H. Le Pelley	4	4					
G. Guille	4	4					
S. J. Falla, MBE	4	1	2		1		
E. W. Walters	4	4					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
LEGISLATION SELECT COMMITTEE							
C. H. Le Pelley	3	3					
P. R. Sirett	3	3					
J. A. B. Gollop	3	3					
T. M. Le Pelley	3	3					
A. H. Brouard	3	2				1	
PUBLIC ACCOUNTS COMMITTEE							
R. R. Matthews	11	10				1	
L. R. Gallienne	11	9				1	1 C&E Dept
C. D. Brock	11	9			1	1	
B. J. Gabriel	11	7	3			1	
S. J. Ogier	11	9	1				1 no reason
PUBLIC SECTOR REMUNERATION COMMITTEE							
J. P. Le Tocq	15	13					2 no reason
A. H. Adam	15	12	2				1 no reason
G. H. Mahy	15	14	1				
J. Honeybill	15	12	2			1	
B. L. Brehaut	15	13	1	1			
SCRUTINY COMMITTEE							
J. A. Pritchard	12	11				1	
S. J. Maindonald	12	12					
B. R. de Jersey	12	8		4			
B. J. Gabriel	12	9			1	2	
R. H. F. Cox	12	9				3	
J. A. B. Gollop	12	12					
E. W. Walters	12	12					
M. E. W. Burbridge	12	11				1	
R. J. Le Moignan	12	11				1	
INHERITANCE LAW REVIEW COMMITTEE							
J. A. Pritchard	2	2					
C. H. Le Pelley	2	2					
P. R. Sirett	2	2					

PART II - REPORT BY SUB-COMMITTEES

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
POLICY COUNCIL – Strategic Population Review Group							
M. M. Lowe	3	3					
D. B. Jones	3	3					
S. J. Falla, MBE	3	3					
M. W. Torode	3	3					
POLICY COUNCIL – Social Policy Steering Group							
P. J. Roffey	4	4					
D. B. Jones	4	4					
M. M. Lowe	4	4					
M. A. Ozanne	4	3		1			
M. W. Torode	4	4					
POLICY COUNCIL Strategic Land Planning Group							
S. J. Falla, MBE	6	6					
B. M. Flouquet	6	6					
D. B. Jones	6	3		3			
L. S. Trott	6	6					
P. R. Sirett	6	5	1				
C. D. Brock	6	5		1			
POLICY COUNCIL – Fiscal and Economic Policy Steering Group							
L. C. Morgan	5	4		1			
B. M. Flouquet.	5	5					
L. S. Trott	5	5					
S. J. Falla, MBE	5	5					
POLICY COUNCIL –External Relations Group							
L. C. Morgan	1	1					
B. M. Flouquet.	1	1					
P. R. Sirett	1	1					
POLICY COUNCIL – Douzaine Liaison Group							
W. M. Bell	5	5					
B. M. Flouquet	5	4				1	
COMMERCE AND EMPLOYMENT DEPARTMENT – Energy Sub-Group							
M. G. O'Hara	4	4					
COMMERCE AND EMPLOYMENT DEPARTMENT and TREASURY AND RESOURCES DEPARTMENT– Construction Industry Joint Steering Group							
B. M. Flouquet	3	3					
S. J. Falla, MBE	3	3					
L. S. Trott	3	2	1				
M. G. O'Hara	3	3					
J. P. Le Tocq	3	0	2			1	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT			MEMBER ABSENT		
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
COMMERCE AND EMPLOYMENT DEPARTMENT – Resources Group							
L. R. Gallienne	3	2				1	
D. W. Staples	3	3					
COMMERCE AND EMPLOYMENT DEPARTMENT – Events Group							
S. J. Falla, MBE	2	2					
P. R. Sirett	2	2					
M. G. O'Hara	2	2					
COMMERCE AND EMPLOYMENT DEPARTMENT – Marketing Guernsey Group							
C. S. McNulty Bauer	1	1					
D. W. Staples	1	1					
COMMERCE AND EMPLOYMENT DEPARTMENT – Native Guide/Interface Group							
C. S. McNulty Bauer	1	1					
M. G. O'Hara	1	1					
COMMERCE AND EMPLOYMENT DEPARTMENT – Dairy Management Board							
D. W. Staples	1						1 Prior meeting
COMMERCE AND EMPLOYMENT DEPARTMENT – Guernsey Training Agency Board							
D. W. Staples	2	1					1 Prior meeting
COMMERCE AND EMPLOYMENT DEPARTMENT – Horticulture Market Development Scheme Sub-Committee							
C. S. McNulty Bauer	2	2					
L. R. Gallienne	2	1		1			
CULTURE AND LEISURE DEPARTMENT – Liberation Celebrations Working Party							
M. G. O'Hara	12	12					
CULTURE AND LEISURE DEPARTMENT – Liberation Service Working Party							
M. G. O'Hara	9	3	1			1	1 prior meeting 3 no reason given
CULTURE AND LEISURE DEPARTMENT – Channel Islands Lottery Advisory Panel							
J. Honeybill	1		1				
CULTURE AND LEISURE DEPARTMENT – Guernsey Sports Commission							
M. G. O'Hara	12	12					
EDUCATION DEPARTMENT – Training Agency							
W. J. Morgan	2	2					
EDUCATION DEPARTMENT – Guille-Allès Library							
A. H. Adam	3	3					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
EDUCATION DEPARTMENT – Blanchelande Girls' College							
W. J. Morgan	4	1				3	
D. P. Le Cheminant	4	4					
EDUCATION DEPARTMENT – Playscheme and Finance Sub-Committee							
D. P. Le Cheminant	1	1					
EDUCATION DEPARTMENT – The Ladies' College							
D. A. Grut	3	3					
EDUCATION DEPARTMENT – Elizabeth College							
D. A. Grut	1	1					
A. H. Adam	1	1					
EDUCATION DEPARTMENT – ICT Sub-Committee							
A. H. Adam	6	6					
EDUCATION DEPARTMENT – Youth Service Committee							
D. P. Le Cheminant	3	3					
EDUCATION DEPARTMENT – College Development Committee							
M. A. Ozanne	3	3					
W. J. Morgan	3	3					
EDUCATION DEPARTMENT – Apprenticeship Committee							
M. A. Ozanne	2	1		1			
W. J. Morgan	2	2					
D. W. Staples	2	2					
EDUCATION DEPARTMENT – Grammar School							
M. A. Ozanne	2	2					
A. H. Adam	2					2	
EDUCATION DEPARTMENT – Joint Advisory Committee							
M. A. Ozanne	2	2					
W. J. Morgan	2	1				1	
EDUCATION DEPARTMENT – Lifelong Learning							
M. A. Ozanne	6	3		3			
W. J. Morgan	6	6					
D. P. Le Cheminant	6	6					
D. W. Staples	6	6					
EDUCATION DEPARTMENT – Priaulx Library							
A. H. Adam	4	3	1				
M. E. W. Burbridge	4	4					
C. H. Le Pelley	4	4					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
EDUCATION DEPARTMENT – Amherst Primary and Vauvert Primary Schools Committee							
A. H. Adam	1	1					
EDUCATION DEPARTMENT – Castel Primary School Committee							
A. H. Adam	1	1					
EDUCATION DEPARTMENT – Forest Primary School							
M. A. Ozanne	1						prior meeting
EDUCATION DEPARTMENT – La Mare de Carteret Primary School Committee							
A. H. Adam	1	1					
EDUCATION DEPARTMENT – La Houguette Primary School Committee							
M. A. Ozanne	1	1					
EDUCATION DEPARTMENT – Notre Dame du Rosaire Primary School Committee							
D. P. Le Cheminant	2	2					
EDUCATION DEPARTMENT – St Andrew's Primary School Committee							
M. A. Ozanne	2	2					
EDUCATION DEPARTMENT – St Martin's Primary School Committee							
D. P. Le Cheminant	1	1					
EDUCATION DEPARTMENT – St Mary and St Michael Roman Catholic Primary School Committee							
D. P. Le Cheminant	1	1					
EDUCATION DEPARTMENT – Hautes Capelles Infants and Junior School Committee							
D. P. Le Cheminant	2	2					
EDUCATION DEPARTMENT – St Sampson's Secondary School Committee							
D. P. Le Cheminant	1	1					
W. J. Morgan	1					1	
EDUCATION DEPARTMENT – Les Beaucamps Secondary School Committee							
A. H. Adam	1	1					
EDUCATION DEPARTMENT – La Mare de Carteret Secondary School Committee							
A. H. Adam	1	1					
EDUCATION DEPARTMENT - St Anne's School Committee							
W. J. Morgan	2	2					
EDUCATION DEPARTMENT – Vale Infants and Junior and St Sampson's Infant School Committee							
W. J. Morgan	1					1	

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
ENVIRONMENT DEPARTMENT – no sub-committees							
HEALTH AND SOCIAL SERVICES DEPARTMENT – no sub-committees							
HOME DEPARTMENT – Gambling Sub-Committee							
G. Guille	3	2	1				
S. J. Maindonald	3						
HOME DEPARTMENT – Parole Working Group							
M. W. Torode	5	5					
HOME DEPARTMENT – Liquor Licensing Working Group							
F. W. Quin	5	5					
G. H. Mahy	5	5					
HOUSING DEPARTMENT – no sub-committees							
PUBLIC SERVICES DEPARTMENT – Cesspit and Drainage Working Party							
W. M. Bell	2	2					
A. H. Brouard	2	2					
R. J. Le Moignan	2	2					
PUBLIC SERVICES DEPARTMENT – Roads Working Party							
M. E. W. Burbridge	1	1					
A. H. Brouard	1	1					
PUBLIC SERVICES DEPARTMENT – Guernsey Water Working Party							
W. M. Bell	3	3					
A. H. Brouard	3	3					
R. J. Le Moignan	3	3					
PUBLIC SERVICES DEPARTMENT – Disciplinary Appeal Hearing							
W. M. Bell	1						Prior meeting
M. E. W. Burbridge	1	1					
T. M. Le Pelley	1	1					
R. J. Le Moignan	1					1	
A. H. Brouard	1	1					
SOCIAL SECURITY DEPARTMENT – no sub-committees							
TREASURY AND RESOURCES DEPARTMENT – no sub-committees							
HOUSE COMMITTEE – no sub-committees							
LEGISLATION SELECT COMMITTEE – no sub-committees							
PUBLIC ACCOUNTS COMMITTEE – Contract Review Working Party							
L. R. Gallienne	9	9					
R. R. Matthews	9	9					
B. J. Gabriel	1	1					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
PUBLIC ACCOUNTS COMMITTEE – PublicTrading Operations Working Party							
C. D. Brock	5	5					
PUBLIC ACCOUNTS COMMITTEE – Audit Working Party							
L. R. Gallienne	2	2					
R. R. Matthews	2	2					
C. D. Brock	2	2					
PUBLIC ACCOUNTS COMMITTEE – Procedure Working Party							
L. R. Gallienne	1	1					
R. R. Matthews	1	1					
PUBLIC SECTOR REMUNERATION COMMITTEE – Teachers and Lecturers Joint Council							
J. P. Le Tocq	2	2					
A. H. Adam	2	1	1				
G. H. Mahy	2	2					
J. Honeybill	2	2					
B. L. Brehaut	2	2					
PUBLIC SECTOR REMUNERATION COMMITTEE – Public Service Employees Joint Council							
J. P. Le Tocq	2	2					
A. H. Adam	2	1	1				
G. H. Mahy	2	2					
J. Honeybill	2	2					
B. L. Brehaut	2	2					
SCRUTINY COMMITTEE – no sub-committees							
INHERITANCE LAW REVIEW COMMITTEE – no sub-committees							

PART III - REPORT BY MEMBER/ELECTORAL DISTRICT

Summary of Attendances at Meetings of The Policy Council, Departments and Committees

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
ST PETER PORT SOUTH							
L. C. Morgan	23	20	1	1		1	
B. J. Gabriel	24	17	3		1	3	
J. A. B. Gollop	28	27	1				
C. S. McNulty Bauer	23	20	1			2	
B. L. Brehaut	43	39	3	1			
M. E. W. Burbridge	31	29	1			1	
ST PETER PORT NORTH							
L. R. Gallienne	53	46		1		5	1 prior meeting
J. Honeybill	51	41	7		1	2	
R. R. Matthews	23	22				1	
J. A. Pritchard	14	13				1	
C. D. Brock	42	36	1	1	1	3	
W. J. Morgan	38	29				9	
D. E. Lewis	23	23					
ST. SAMPSON							
L. S. Trott	55	52	2		1		
D. P. Le Cheminant	52	51	1				
S. J. Maindonald	24	19	2	1	1		1 failed transport
S. J. Ogier	23	20	2				1 no reason
I. F. Rihoy	18	12	2	2		2	
R. J. Le Moignan	30	28				2	
VALE							
G. H. Mahy	48	46	2				
P. J. Roffey	32	25	1	1		5	
D. B. Jones	43	37	1	3		2	
M. M. Lowe	36	36					
G. Guille	19	18	1				
B. R. de Jersey	12	8		4			
D. W. Staples	27	24				1	2 prior meetings
CASTEL							
S. J. Falla, MBE	52	46	4		1	1	
M. H. Dorey	38	35	2			1	
E. W. Walters	16	16					
J. P. Le Tocq	46	36	4			4	2 no reason
B. M. Flouquet	55	49	4	1		1	
A. H. Adam	66	57	5			3	1 no reason
T. M. Le Pelley	16	16					

NAME OF MEMBER	TOTAL NUMBER OF MEETINGS	MEMBER PRESENT		MEMBER ABSENT			
		Whole Meeting	Part of Meeting	Indisposed	Absent from Island		Other
					States business	Personal business/ holiday	
WEST							
D. A. Grut	33	32				1	
M. A. Ozanne	55	47	2	5			1 prior meeting
D. de G. De Lisle	18	18					
C. H. Le Pelley	21	21					
P. R. Sirett	36	30	2			4	
A. H. Brouard	24	23				1	
SOUTH-EAST							
M. W. Torode	41	35	2		3	1	
C. N. K. Parkinson	24	23				1	
W. M. Bell	40	37	1			1	1 prior meeting
F. W. Quin	19	17	1			1	
J. M. Le Sauvage	18	17					1 no notice
M. G. O'Hara	63	54	3			2	1 prior meeting 3 no reason
ALDERNEY REPRESENTATIVES							
P. F. Walter, MBE, MC	0						
R. H. F. Cox, TD	12	9				3	

PART IV – REPORT OF ATTENDANCE AT MEETINGS OF THE STATES OF DELIBERATION

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)
ST PETER PORT SOUTH		
L. C. Morgan	8	8
B. J. Gabriel	8	6
J. A. B. Gollop	8	8
C. S. McNulty Bauer	8	7
B. L. Brehaut	8	8
M. E. W. Burbridge	8	8
ST PETER PORT NORTH		
L. R. Gallienne	8	7
J. Honeybill	8	7
R. R. Matthews	8	8
J. A. Pritchard	8	8
C. D. Brock	8	8
W. J. Morgan	8	8
D. E. Lewis	8	8
ST SAMPSON		
L. S. Trott	8	8
D. P. Le Cheminant	8	8
S. J. Maindonald	8	7
S. J. Ogier	8	8
I. F. Rihoy	8	8
R. J. Le Moignan	8	8
VALE		
G. H. Mahy	8	8
P. J. Roffey	8	8
D. B. Jones	8	8
M. M. Lowe	8	6
G. Guille	8	8
B. R. de Jersey	8	4
D. W. Staples	8	7
CASTEL		
S. J. Falla, MBE	8	8
M. H. Dorey	8	7
E. W. Walters	8	7
J. P. Le Tocq	8	7
B. M. Flouquet	8	8
A. H. Adam	8	8
T. M. Le Pelley	8	8

NAME OF MEMBER	TOTAL NUMBER OF DAYS (or part)	DAYS ATTENDED (or part)
WEST		
D. A. Grut	8	8
M. A. Ozanne	8	8
D. de G. De Lisle	8	8
C. H. Le Pelley	8	7
P. R. Sirett	8	8
A. H. Brouard	8	8
SOUTH-EAST		
M. W. Torode	8	8
C. N. K. Parkinson	8	8
W. M. Bell	8	8
F. W. Quin	8	7
J. M. Le Sauvage	8	8
M. G. O'Hara	8	8
ALDERNEY REPRESENTATIVES		
P. F. Walter, MBE, MC	8	7
R. H. F. Cox, TD	8	7

NOMINATION OF ACTING PRESIDING OFFICERS OF THE STATES OF DELIBERATION AND THE STATES OF ELECTION

NOMINATION OF ACTING PRESIDING OFFICERS OF THE STATES OF DELIBERATION

Pursuant to paragraph (2) of Article 1 of the Reform (Guernsey) Law, 1948, as amended, I hereby nominate:-

Deputy Daniel Peter Le Cheminant
Deputy Michael William Torode
Deputy Eric William Walters

to perform the duties of Acting Presiding Officer of the States of Deliberation, whose seniority in order of appointment shall rank immediately after the Deputy Presiding Officer and in the order in which their names appear herein.

G. R ROWLAND
Presiding Officer of the States of Deliberation

NOMINATION OF AN ACTING PRESIDING OFFICER OF THE STATES OF ELECTION

Pursuant to paragraph (2) of Article 1 and to paragraph (3) of Article 4 of the Reform (Guernsey) Law, 1948, as amended, I hereby nominate Deputy Peter Daniel Le Cheminant to perform the duties of Acting Presiding Officer of the States of Election, whose seniority in order of appointment shall rank immediately after the Deputy Presiding Officer.

G. R. ROWLAND
Presiding Officer of the States of Election

IN THE STATES OF THE ISLAND OF GUERNSEY

ON THE 26th DAY OF OCTOBER 2005

The States resolved as follows concerning Billet d'État No XV
dated 7th October, 2005

PROJET DE LOI

entitled

THE COMPANIES (GUERNSEY) (AMENDMENT) LAW, 2005

I.- To approve the Projet de Loi entitled "The Companies (Guernsey) (Amendment) Law, 2005", 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 UNCERTIFICATED SECURITIES (ENABLING PROVISIONS) (GUERNSEY) LAW, 2005

II.- To approve the Projet de Loi entitled "The Uncertificated Securities (Enabling Provisions) (Guernsey) Law, 2005", and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for her Royal Sanction thereto.

THE DATABASE RIGHTS (BAILIWICK OF GUERNSEY) ORDINANCE, 2005

III.- To approve the draft Ordinance entitled "The Database Rights (Bailiwick of Guernsey) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE PROTECTED CELL COMPANIES (AMENDMENT) ORDINANCE, 2005

IV.- To approve the draft Ordinance entitled "The Protected Cell Companies (Amendment) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE SOCIAL INSURANCE (RATES OF CONTRIBUTIONS AND BENEFITS, ETC.) ORDINANCE, 2005

V.- To approve, subject to the following amendment, the draft Ordinance entitled "The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

AMENDMENT

In Part III of the First Schedule to the draft Ordinance entitled "The Social Insurance (Rates of Contributions and Benefits, etc.) Ordinance, 2005" (on p.86 of the Brochure), for "£1,333" substitute "£1,330".

THE HEALTH SERVICE (BENEFIT) (AMENDMENT) (NO.2) ORDINANCE, 2005

VI.- To approve the draft Ordinance entitled "The Health Service (Benefit) (Amendment) (No.2) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE FAMILY ALLOWANCES ORDINANCE, 2005

VII.- To approve the draft Ordinance entitled "The Family Allowances Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE SUPPLEMENTARY BENEFIT (IMPLEMENTATION) (AMENDMENT) (NO.2) ORDINANCE, 2005

VIII.- To approve, subject to the following amendment, the draft Ordinance entitled "The Supplementary Benefit (Implementation) (Amendment) (No.2) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

AMENDMENT

In the Schedule to the draft Ordinance entitled "The Supplementary Benefit (Implementation) (Amendment) No.2) Ordinance, 2005 (on pp. 95 – 96 of the Brochure):

(a) for Table 2 substitute:

"Table 2 (Paragraph 5(1))

Short-term Weekly Requirements as from week commencing 6 January 2006

Description	*Amount*
Husband and wife or other persons falling within paragraph 2(1) ("**Couple**")	£151.60
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) ("**Single householder**")	£104.60
Person who is not a householder ("**Non-householder**")	£80.40
Member of a household -	
Aged 16 years or over;	£68.10
Aged 12 years but less than 16;	£42.10
Aged 5 years but less than 12;	£30.55
Aged less than 5 years	£22.55

."

(b) for Table 3 substitute:

Table 3 (Paragraph 5(2))

Long-term Weekly Requirements as from week commencing 6 January 2006

Description	*Amount*
Husband and wife or other persons falling within paragraph 2(1) ("**Couple**")	£187.55
Person not falling within paragraph 2(1) who is directly responsible for household necessities and rent (if any) ("**Single householder**")	£129.55
Person who is not a householder ("**Non-householder**")	£100.45
Member of a household -	
Aged 16 years or over;	£85.10
Aged 12 years but less than 16;	£52.65
Aged 5 years but less than 12;	£38.15
Aged less than 5 years	£28.20"

."

THE LONG-TERM CARE INSURANCE (GUERNSEY) (RATES) ORDINANCE, 2005

IX.- To approve the draft Ordinance entitled "The Long-term Care Insurance (Guernsey) (Rates) Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

THE ATTENDANCE AND INVALID CARE ALLOWANCES ORDINANCE, 2005

X.- To approve the draft Ordinance entitled "The Attendance and Invalid Care Allowances Ordinance, 2005" and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

CONSTITUTION OF THE GUERNSEY FINANCIAL SERVICES COMMISSION

XI.- After consideration of the Report dated 19th September, 2005 of the Policy Council:-

1. To enact legislation as set out in that Report.

2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.

POLICY COUNCIL

INTERNATIONAL CONVENTIONS AFFECTING CHILDREN,
YOUNG PEOPLE AND THEIR FAMILIES

XII.- After consideration of the Report dated 19th September, 2005, of the Policy Council:-

That the Policy Council should request Her Majesty's Government to seek the extension, in respect of Guernsey, of the Government's ratification of the provisions of:-

(a) the United Nations Convention on the Rights of the Child, at the first most convenient opportunity**;**

(b) the Hague Convention on the Civil Aspects of Child Abduction (1980), the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children (1980) and the Hague Convention on Protection of Children and Co-operation in respect of Inter-Country Adoption (1993), once all necessary domestic legislation is in place; and

(c) the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (1996) (known as the Hague Convention for the Protection of Children) and the Council of Europe Convention on Contact Concerning Children (2003), if and when Her Majesty's Government has ratified those Conventions in respect of the United Kingdom and the necessary domestic legislation is in place.

HOUSING DEPARTMENT

THE FEASIBILITY OF A SELF BUILD SCHEME IN GUERNSEY

XIII.- After consideration of the Report dated 3rd August, 2005, of the Housing Department: -

1. That the Housing Department has discharged its obligation to investigate the feasibility of a self build scheme in Guernsey notwithstanding propositions 4 and 5 below.

2. That public resources should not be committed to the introduction of a self build scheme based on the current self build proposal put forward by the Self Build Group as described in pages 24 - 26 of the appended report (Annex 2).

3. That public resources should not be committed at this time to the introduction of a self build scheme based on the proposed pilot self build project put forward by Jon Broome Architects in pages 27 - 54 of the appended report (Annex 2).

4. That the development of a feasible self build scheme should remain a part of the Corporate Housing Programme (CHP).

5. That the relative priority for the provision of funds and land for such a scheme be assessed as part of the States annual review of the complete package of CHP action plans.

HOUSING DEPARTMENT

SOCIAL HOUSING UNDER THE CORPORATE HOUSING PROGRAMME: TOWARDS A PLAN FOR THE PERIOD 2006-2008

XIV.- After consideration of the Report dated 18th August, 2005, of the Housing Department:-

1. To accept the statements of fact set out in paragraph 113 of that Report.

2. To note that the Housing Department will report back to the States, as soon as possible, with a detailed asset management and development plan to address the issues covered in that Report.

3. To approve the sale of the sites of Baubigny Cottages and the Petit Bouet estate, either as individual properties or as entire estates, as set out in paragraphs 55 and 56 of that Report.

4. To agree that the proceeds of these sales be credited to the Corporate Housing Programme Fund for the purpose of funding new development of properties required to meet current and future social housing needs as identified through the Corporate Housing Programme.

5. To agree that the Treasury and Resources Department be empowered to approve the Housing Department's proposals for the demolition and redevelopment of the Victoria Avenue estate as soon as they are finalised.

6. To direct the Treasury and Resources Department to liaise with the Housing Department regarding the future funding of the Corporate Housing Programme in particular regarding: (a) the maintenance and development of social housing; and (b) the implementation of existing States' resolutions regarding the funding of rebates for both States' tenants and Guernsey Housing Association nominated tenants; and to report back to the States with the outcome of those discussions as part of the Interim Financial Report for 2006, or sooner if feasible.

7. To direct the Treasury and Resources Department to make recommendations to the States as part of the 2006 Budget Report, regarding the funding of the social housing elements of the Corporate Housing Programme for the period 2006-2008, based on the estate improvements and development programmes referred to in that Report.

(Resolutions on Billet d'Etat XV of 2005
Corrected pages 86 and 86A issued on 11th October 2007)

SCRUTINY COMMITTEE

SCRUTINY REVIEW OF COMPLAINTS POLICIES AND APPEALS PROCEDURES

XV.- After consideration of the Report dated 26th August, 2005, of the Scrutiny Committee:-

1. To note that Report.

2. To recommend Departments to review their complaints policies and appeals procedures in response to this report and to request the Scrutiny Committee to monitor such action taken by Departments and report back when appropriate.

REQUÊTE

REVIEW OF ADMINISTRATIVE DECISIONS AND CREATION OF OFFICE OF OMBUDSMAN

XVI.- After consideration of the Requête, dated 26th August, 2005, signed by Deputy C D Brock and seven other Members of the States:-

TO NEGATIVE THE PROPOSITION to direct the Policy Council

(a) to review the operation of the Administrative Decisions (Review) Law, 1986, as amended, and to consider what, if any, amendments might beneficially be made to it, including the power to award compensation;

(b) to investigate the provision of alternative methods of reviewing administrative decisions which are informal, independent of the States, and inexpensive, and which provide remedial or compensatory powers outside the political process, including assessing the creation of the post of Ombudsman in Guernsey, based on best practice in the United Kingdom and elsewhere; and

(c) to report back to the States on the foregoing with recommendations as soon as possible.

(Resolutions on Billet d'Etat XV of 2005
Corrected pages 86 and 86A issued on 11th October 2007)

STATUTORY INSTRUMENTS LAID BEFORE THE STATES

THE INCOME TAX (BUSINESS PROFITS) (COMMENCEMENT AND TRANSITIONAL PROVISIONS) (GUERNSEY) REGULATIONS, 2005

In pursuance of Section 19 (3) of the Income Tax (Business Profits) (Guernsey) (Amendment) Law, 2004, the Income Tax (Business Profits) (Commencement and Transitional Provisions) (Guernsey) Regulations, 2005, made by the Treasury and Resources Department on 6th September, 2005, were laid before the States.

THE LIMITED PARTNERSHIP (APPLICATION OF AUDIT REQUIREMENTS) REGULATIONS, 2005

In pursuance of Section 44 (3) of the Limited Partnership (Guernsey) Law, 1995, the Limited Partnerships (Application of Audit requirements) Regulations, 2005, made by the Commerce and Employment Department on 6th September, 2005, were laid before the States.

K. H. TOUGH
HER MAJESTY'S GREFFIER